

Rights Action
November 14, 2013
info@rightsaction.org

Klippensteins Barristers & Solicitors Concern About Intimidation Against Mayan Qeqchi Plaintiffs In Hudbay Minerals Lawsuits

"[Klippensteins Barristers and Solicitors] are very concerned about the harassment of our clients in what appears to be an attempt to pressure our clients to withdraw from legal proceedings in Canada."

Below: Letter from the Klippensteins law firm to the PDH (Human Rights Ombudsperson) in Guatemala

Background: Open Letter to Hudbay Minerals and CGN:

<http://rightsaction.org/action-content/stop-intimidation-mayan-qeqchi-women-plaintiffs-guatemala>

What To Do: See below

September 24, 2013

Licenciada Astrid Franco Bailey
Auxiliar Departamental de Izabal,
Procuraduría de Derechos Humanos
auxizapdh@gmail.com

Dear Licenciada Franco,

We are lawyers for eleven women from the community of Lote Ocho: Margarita Caal Caal; Rosa Elbira Coc Ich; Olivia Asig Xol; Amalía Cac Tiul; Lucia Caal Chún; Luisa Caal Chún; Carmelina Caal Ical; Irma Yolanda Choc Cac; Elvira Choc Chub; Elena Choc Quib; and Irma Yolanda Choc Quib.

Our clients are plaintiffs in the lawsuit of Margarita Caal Caal v. Hudbay Minerals, currently proceeding before the Superior Court of Justice in Toronto, Canada. We write your esteemed office to register our grave concerns regarding recent interference with our clients' right to seek justice and to participate in the Canadian judicial process.

In particular, we are very concerned about the harassment of our clients in what appears to be an attempt to pressure our clients to withdraw from legal proceedings in Canada.

We would like to take this opportunity to register our concerns, to provide up-to-date and accurate information regarding the lawsuit in Canada, and to respectfully request that your office take appropriate steps to prevent future interference with our clients' legal right to seek access to justice.

Concerns regarding harassment and interference with Canadian legal proceedings, Cory Wanless, a lawyer from our firm, just returned from a trip to El Estor, Guatemala, where he met with both our clients and with Martha Garcia, a Guatemalan lawyer who has been working with the community of Lote Ocho. We understand from information gathered by him during this recent trip that starting in early 2013, our clients started to be harassed and pressured to withdraw from their lawsuit in Canada. These pressures culminated with a series of meetings called by the mining company Compañía Guatemateca de Níquel ("CGN") that were attended by CGN employees, community leaders from Lote Ocho and some of our clients. These meetings were conducted at CGN offices.

At these meetings, our clients were pressured to withdraw their allegations against CGN and their lawsuit against Hudbay Minerals. In particular, we understand that at these meetings:

- CGN told community leaders that families in Lote Ocho would receive land only if the community leaders could convince our clients to withdraw their lawsuits in Canada;
- CGN threatened to bring criminal defamation charges against our clients if they did not withdraw their allegations;
- CGN falsely stated that Rosa Coc, Margarita Caal and others who traveled to Canada to participate in their lawsuits in November 2012 were paid significant amounts of money.

These actions on the part of CGN, if true, are a grave violation of our clients' legal right to pursue legal action for harms they allege were caused by Hudbay Minerals and directly committed by CGN personnel. It is entirely inappropriate for CGN or anyone else to make any attempt to undermine or interfere with our clients' legal right to participate in legal proceedings in Canada. We strongly protest any such interference, and we respectfully request that your office provide support to help stop such interference.

In particular, we respectfully request that your office:

- take appropriate steps to prevent this kind of interference and harassment from happening in future;
- correct any misinformation that is circulating regarding our clients and their lawsuits, particularly the false rumor that some of our clients have received payment of money (which they have not); and,
- work with the community of Lote Ocho to help them resolve the tensions within Lote Ocho in a respectful and productive manner.

Information On The Legal Proceedings In Canada

For your information, and in the interest of providing accurate and up-to-date information, I have included below further information regarding the lawsuits in Canada.

In the lawsuit of Margarita Caal Caal v. HudBay Minerals, our clients assert that they were raped by security personnel employed by Compañía

Guatemalteca de Niquel during the forced eviction of Lote Ocho on January 17, 2007.

This lawsuit is proceeding in the Superior Court of Justice together with the lawsuits of Angelia Choc v. Hudbay Minerals, regarding the killing of Adolfo Ich Chaman and German Chub Choc v. Hudbay Minerals, regarding the shooting and paralyzation of German Chub (collectively "the Hudbay Lawsuits").

These three lawsuits seek reparations under Canadian law for the harms suffered by our clients related to the Fenix Mining Project, located in the El Estor in Guatemala and formerly owned by Canadian mining company HudBay Minerals through its Guatemalan subsidiary, Compañía Guatemalteca de Niquel ("CGN"). The claims are primarily against the Canadian mining company that used to own the mines, HudBay Minerals, though there are also claims against its Guatemalan subsidiary, CGN, which are also being heard in Canada.

The Hudbay Lawsuits are in the preliminary phase. Hudbay continues to defend against the lawsuits in court and to date has not paid any of the plaintiffs anything for any of the harm suffered by them. To be clear, none of the Plaintiffs have received any money from anyone for their participation in the lawsuit. In other words, any rumors to the effect that Margarita Caal, Rosa Coc, Angelia Choc, German Chub, or any other plaintiffs received any payments for participation in the lawsuits are absolutely false.

Recent Steps In The Lawsuit Include:

In November 2012, Hudbay Minerals required Margarita Caal Caal and Rosa Elbira Coc Ich from Lote Ocho, along with Angelica Choc and German Chub, to travel to Toronto to provide witness testimony for use in court. Contrary to the assertions of CGN, none of the plaintiffs who traveled to Canada received any payment during their trip to Canada.

On March 4 and 5, 2013, a court hearing was held on the preliminary issue of whether the lawsuit could proceed in Canadian courts.

On July 22, 2013, Justice Carole Brown of the Superior Court of Justice issued a judgment regarding the March 2013 hearing. Justice Brown ruled that the lawsuits can proceed, and will therefore be heard in Canada. This judgment is a major victory for our clients, and is the first time in Canadian history that a lawsuit against a Canadian mining company regarding human rights abuse abroad has been permitted to proceed to trial in Canadian courts.

CGN is a participant in the legal proceedings in Canada, and is represented by the same Canadian lawyers as Hudbay Minerals. In particular, CGN is represented by Robert Harrison and Tracy Pratt of the firm Fasken Martineau DuMulin, based in Toronto, Ontario.

As interested parties in the lawsuit, CGN has complete knowledge regarding the status of the litigation in Canada. Moreover, as an interested party

and defendant in the litigation, CGN should know that it is highly improper to make any attempt to threaten our clients with potential criminal charges, or to pressure them to abandon their claims in Canadian courts.

Please feel free to contact our office if you have any questions, or require any further information regarding the lawsuits in Canada. We can be reached by email at murray.klippenstein@klippensteins.ca or cory.wanless@klippensteins.ca, or by telephone a 1-416-598-0288.

Sincerely,

Murray Klippenstein

Cory Wanless

Canadian lawyers for Margarita Caal Caal; Rosa Elbira Coc Ich; Olivia Asig Xol; Amalía Cac Tiul; Lucia Caal Chún; Luisa Caal Chún; Carmelina Caal Ical; Irma Yolanda Choc Cac; Elvira Choc Chub; Elena Choc Quib; and Irma Yolanda Choc Quib.

Cc: Sóstenes Misraí Leiva Morataya, Alcalde Municipal del Municipio de El Estor, Izabal

What To Do?

Please write your own letter to Hudbay Minerals, with copies to your Member of Parliament and local media, demanding that Hudbay take all measures necessary to protect and defend the plaintiff's rights to a fair trial, without threats, intimidation or coercion.

Addresses:

- Member Of Parliament:

<http://www2.parl.gc.ca/Parlinfo/Compilations/HouseOfCommons/MemberByPostalCode.aspx?Menu=HOC>

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Tom A. Goodman, Senior Vice President, and Chief Operating Officer

Ken Gillis, Senior Vice President, Corporate Development

Brad W. Lantz, Vice President, Mining

Cashel Meagher, Vice President, Exploration

John Vincic, Vice President, Investor Relations and Corporate Communications

David Clarry, Vice President, Corporate Social Responsibility

Sharon Sanzo, Vice President, Human Resources

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**Organize A Screening Of "DEFENSORA"
(... and invite your Member of Parliament)**

Since its Premiere in Toronto, October 26, Defensora has been screening across Canada and the U.S. The film documents the struggles of Mayan Q'eqchi communities in eastern Guatemala, who are resisting the illegal and violent incursions of global (mainly Canadian) mining companies, while seeking justice and remedy in Canadian courts against Hudbay Minerals for human rights violations suffered in 2007 and 2009 when Hudbay was trying to operate its "Fenix" mine.

"Defensora is a deeply moving testimony to incredible courage in the face of wanton brutality and a shining tribute to the human search for justice." (Maude Barlow, Council of Canadians)

For more information: www.defensorathefilm.com, www.facebook.com/Defensora.

Make Tax-Deductible Donations (Canada & U.S.)

To support the community, environment and human rights defense struggles of the Mayan Qeqchi people in Guatemala, make check payable to "Rights Action" and mail to:

- United States: Box 50887, Washington DC, 20091-0887
- Canada: (Box 552) 351 Queen St. E, Toronto ON, M5A-1T8

Credit-Card Donations Can Be Made (Canada & U.S.):

<http://www.rightsaction.org/tax-deductible-donations>

Be a monthly credit card donor (Canada & U.S.) or to donate stock, contact: info@rightsaction.org

For More Information / Questions

- Defensora: wulf@telus.net, www.defensorathefilm.com, www.facebook.com/Defensora

- Rights Action: info@rightsaction.org, www.rightsaction.org,
www.facebook.org/RightsAction