

Rights Action
June 30, 2015

What Is Hudbay Minerals Hiding? * Ontario Court Orders Disclosure Of Corporate Documentation * Hudbay Lawyer Claims Guatemalan Plaintiffs "Concocted Stories" About Gang-rapes

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How to support? Rights Action has 'Matching Donor' (until July 15)

- To support the Mayan victims/plaintiffs as they struggle to end the impunity of Hudbay and CGN – See Below

Ontario Court Orders Hudbay Minerals To Disclose Internal Corporate Documentation In Guatemalan Human Rights Lawsuit

Klippensteins, Barristers & Solicitors
Press Advisory, June 30, 2015

TORONTO - In a decision released today, the Ontario Court of Justice in Toronto ordered Hudbay Minerals to disclose extensive internal corporate documentation to the Guatemalan plaintiffs who are suing Hudbay Minerals in Ontario for alleged murder, shooting and gang rapes that occurred at the company's Fenix mine in Guatemala in 2007 and 2009.

Lawyer Cory Wanless, who argued the case for the in-depth documentary disclosure, said this was the first time a court in Canada had ordered production of internal documentation from a Canadian multinational corporation for alleged abuses overseas. "We expect production of a very large number of confidential internal company documents and communications, which we think will show that the company is in fact and in law responsible, here in Canada, for the devastating events in Guatemala".

The court ordered Hudbay to disclose extensive documentation relating to its corporate structure and its control over its subsidiary in Guatemala, saying:

[19] "I accept the submission of the plaintiffs that most of the proposed categories of documents with respect to the corporate control exercised by HudBay are relevant to either the "direct negligence" theory of liability or to the issue of whether the corporate veil of its subsidiary corporations should be pierced based on an agency relationship. The direct negligence of HudBay, in failing to prevent the harms allegedly committed by security

personnel in Guatemala, could result from acts or omissions in management functions exercised by HudBay through its subsidiary CGN. Similarly, the nature of the control exercised by HudBay over CGN could inform the trial court's decision as to whether CGN was acting as its agent."

Mr. Wanless said "Canadian companies operating abroad should realize that Canadian law permits and requires extensive examination of exactly what was done and not done inside the company and the company's subsidiaries when their operations abroad result in abuses."

The court further ruled that Hudbay must reveal its security policies at its other mining operations, such as those in Manitoba, saying:

[9] "The court's determination of the standard of care applicable to the defendants' management of their security personnel mining operations in Guatemala could plausibly be based on the defendants' own policies governing security personnel at their other mining operations. Any differences between such policies would be the basis for legitimate enquiries as to the reason for such differences, for example, why there might be differences between security policies in Guatemala and Manitoba."

In commenting on the importance of comparing the security policies between Hudbay's Canadian and Guatemalan mining operations, Mr. Wanless stated: "It is important that Canadian companies are not able to get away with serious abuses abroad that would never be tolerated in their home country".

The court also ordered Hudbay to disclose its documentation relating to the corporation's relations with the plaintiffs' communities in Guatemala:

[12] "... Specifically, the documents relating to the defendants' community relations with the Q'eqchi' populations will help provide the context for the defendants' conduct in relation to their security forces. The court's ultimate finding as to what, if anything, the defendants should or should not have done in relation to their security personnel could very well turn on the state of their relations with the populations affected."

Wanless said, "Hudbay's internal documents will, we think, reveal serious deficiencies regarding Hudbay's interactions and relationships with the plaintiffs' communities that contributed to the alleged gang rapes, shooting and murder committed by Hudbay's security forces."

For further information contact:

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Cory Wanless, (647) 886-1914 (cell phone) [Note: Mr. Wanless is currently outside the country and may not be immediately available]

“Concocted Stories” About Gang-rapes, Hudbay Minerals Lawyer Asserts

By Grahame Russell, June 30, 2015

“Hudbay Minerals asserts that those stories [of 11 Mayan Q’eqchi’ women being gang-raped by Hudbay’s private security guards and Guatemalan soldiers and police] are concocted”, argued Robert Harrison, lead lawyer from the Fasken Martineau law firm, for Hudbay Minerals and its co-defendant CGN (Guatemala Nickel Company).

It is Hudbay’s contention that “none of the [11 women plaintiffs] are believed to have been there” on January 17, 2007, in their home community of Lote 8 where the rapes took place. (The rapes took place in the context of an illegal, violent eviction of the village of Lote 8 on behalf of the Canadian nickel mining company, that included the burning of 100 homes to the ground and the destroying of personal property and crops.)

On June 25, 2014, Hudbay’s lawyers were arguing before a Master of the Ontario Superior Court of Justice (OSJ) to limit access to information by the Mayan Q’eqchi’ plaintiffs, as represented by the Klippensteins law firm.

This hearing stems from the negligence lawsuits filed in Canadian courts against Hudbay Minerals and CGN in 2010 and 2011, for the September 27, 2009 murder of community leader and teacher Adolfo Ich and shooting-paralyzing of German Chub Choc, and the January 17, 2007 gang-rapes of 11 women in the isolated village of Lote 8.

For three years, Hudbay’s lawyers fought to have these lawsuits dismissed, arguing that Canada was not the right jurisdiction and, separately, that Hudbay could not be held accountable for what its former subsidiary CGN did in Guatemala.

On July 22, 2013, a precedent was set in Canadian law (long overdue!), when the OSJ ruled that Canada was the appropriate jurisdiction, that Hudbay could be held legally accountable for what its subsidiary might have done, and that the Guatemalan company CGN could stand as co-defendant specifically related to the murder of Adolfo Ich. The court ordered the case to proceed with next steps toward trial.

The evidence gathering, discovery phase then began. Now, for two years, Hudbay has been fighting to severely limit the plaintiffs’ access to company (Hudbay and CGN) information related to the murder, the shooting-paralyzing and the gang-rapes. The plaintiffs were forced to file a motion before the OSJ to have a Master rule on what information Hudbay and CGN must make available.

Chuckling All The Way To The Bank

To date, the Fasken Martinau lawyers are seemingly the winners in these lawsuits. For 5 years now, Hudbay has been paying a team of lawyers presumably top corporate law rates to fight tooth and nail to use legal and procedural steps and hurdles to make the legal process as difficult as possible.

What Are They Hiding?

The big question is, of course, what information are Hudbay and CGN trying to hide? On repeated occasions, including before the OSCJ Master on June 25th, Hudbay has maintained that the plaintiffs have concocted stories (ie, they have made up lies) about the murder, shooting-paralyzing and gang-rapes.

Why then is Hudbay spending so much money to limit the plaintiffs' access to company information related to the allegations? Why not release all their corporate information and then proceed to trial as soon as possible?

A clear legal decision in favour of proper information disclosure (and indeed, corporate transparency) has just been rendered by the OSCJ. See the June 30, 2015, press release from the Klippensteins Law Firm.

This inspiring struggle for justice continues. Stay tuned!

Tax-Deductible Donations ~ Matching donor until July 15

To support the Mayan Q'eqchi' victims/plaintiffs as they struggle to end the impunity of Hudbay and CGN and achieve justice in the criminal trial in Guatemala and the precedent setting civil lawsuits in Canada, 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 (Canada & U.S.): <http://www.rightsaction.org/tax-deductible-donations>
- To donate stock, contact: info@rightsaction.org

"Defensora"

Screen this award winning film by Rachel Schmidt that documents the lives and vision of the Mayan Qeqchi people and their efforts to seek justice in Canadian courts against Hudbay Minerals and CGN.

- Trailer/Information: www.defensorathefilm.com

More Information

- Grahame Russell, 416-807-4436, info@rightsaction.org
- Get on/off our listserv: www.rightsaction.org
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