

From: **Steven Donziger**
Date: Mon, Sep 22, 2014 at 10:38 AM
Subject: Information for your reporting
To: Joe Nocera

Joe,

I talked to Karen Hinton who indicated you seem to be writing to a great extent off of Judge Kaplan's opinion. If Karen's impression is indeed the case, please try to reflect the gist of the following in your column:

1) My 130-page appeal challenges every significant factual finding of Kaplan. I hope you have read it -- particularly the fact section which is the first 70 pages. There is a detailed TOC that can easily refer you to specific passages. I believe it is not enough in this context to write off Kaplan and Barrett and say "Donziger has appealed the decision" and leave it that. I ask you to actually get in the summary of my actual responses to the four main allegations, all of which have been rejected by courts in Ecuador, including in a unanimous decision by the country's highest court, the National Court of Justice. Also, remember Chevron initially sued me for billions, but dropped all damages claims on the eve of trial to avoid a jury. That should tell you about their degree of confidence in their evidence.

2) Kaplan's decision is an outlier. Eight separate appellate judges in Ecuador unanimously rejected Chevron's allegations and affirmed the company's liability. Ecuador is the country where Chevron insisted the trial be held and promised to abide by any adverse judgment subject only to narrow defenses that do not include the U.S. RICO statute. It's judicial system ranks in the top half of those in all of Latin America, according to an independent expert report in evidence that Barrett ignored. Ecuadorian judges are the **ONLY** judges to hear all of the relevant evidence of what Chevron did (Kaplan refused to hear any evidence of Chevron's contamination or efforts to corrupt and sabotage the trial).

The idea that an American trial judge thinks he can somehow overrule a final decision from Ecuador's Supreme Court on questions of Ecuadorain law is preposterous. Imagine a trial judge from another country trying to overrule a decision by our Supreme Court on a question of American law. It would never stand.

3) I would caution you against putting too much stock in Judge Kaplan's decision determining much of anything in this case. **He already was overturned once in unanimous fashion by the Second Circuit Court of Appeals the first business day after oral argument after he tried to block enforcement of the Ecuador judgment.** Judge Kaplan has a documented track record of bias against the Ecuadorians and me. Legal experts the world over have filed briefs saying his decision violates international law and principles of comity and is otherwise based at least in part on corrupt evidence. In any event, **he has zero legal authority** to block enforcement actions in other countries which will continue regardless of whether he gets overturned in this latest skirmish.

4) Judge Kaplan, Paul Barrett, and Chevron agree on one thing above all else -- that Steven Donziger should be the focus, not what Chevron did in Ecuador. I strongly disagree. I am the target of what is probably the most well-funded corporate retaliation campaign in U.S. history. Chevron has openly tried to demonize me and I have emails from them to that effect.

Regardless of what happens to me from a legal standpoint in the U.S. -- and make no mistake, I vigorously contest the allegations and expect to prevail on appeal -- the Ecuadorians **will continue to pursue enforcement actions against Chevron's strategic assets in other countries.** The Ecuadorians are represented in those countries with highly prominent local counsel, including Alan Lenzner in Canada, Sergio Bermudes in Brazil, and Enrique Bruchou in Argentina. If Kaplan gets overturned, enforcement actions could be filed against it in this country as well, further increasing its risk.

5) With regard to Barrett's claim that I somehow "blocked" his work in Ecuador: I made a decision, based on advice of counsel as well as my own opinion that Barrett had a strong animus against me personally, not to cooperate with his book. I shared my assessment with my clients. They too felt extremely uncomfortable cooperating with Barrett after having read his reporting. They made their own decision not to grant him interviews. This is entirely reasonable as people decide not to cooperate with reporters for a variety of reasons on a regular basis. It is preposterous to claim that I had the power to "block" Barrett's reporting; the reality is that he did very little reporting in Ecuador, talked to almost nobody who has been affected, and based his book mostly on Kaplan's and Chevron's work. This is why it is deeply flawed for the reasons I have made clear. He also could have spent real time in Ecuador and tried to win the confidence of more people. But he only spent a handful of days in the country.

If you have any questions, I am available today only until 3:30 pm.

Please acknowledge receipt.

Best, Steven