Presentation Outline: Ethics, Lies & Videotape: *Chevron v. Donziger*

Presenter: Virginia Fitt, Senior Counsel, GlaxoSmithKline

Virginia Fitt previously was an Associate with Gibson, Dunn & Crutcher LLP in Orange County, California, where she played a key role on the investigative and litigation teams for the firm's largest client and highest-profile case, representing Chevron in *Chevron v. Donziger* and associated cases. Virginia Fitt is licensed in California, a 2010 Duke University School of Law graduate, and was named to the *Legal* Elite list for Corporate Counsel by *Business North Carolina* in both 2015 and 2016.

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ETHICS, LIES & VIDEOTAPE: *CHEVRON V. DONZIGER*

Virginia Fitt
Durham, North Carolina

"The problem, my friend, is that the effects are potentially devastating in Ecuador (apart from destroying the proceeding, all of us, your attorneys, might go to jail."[1] *– E-mail from Ecuadorian plaintiffs' attorney Julio Prieto to Ecuadorian and U.S. co-counsel Juan Pablo Saenz, Pablo Fajardo and Steven Donziger.*

Outside of legal publications that follow the careers of excellent lawyers, the brilliant brief-writing, strong oral argument, or diligent preparation of lawyers and their staff members rarely overtake the story of the case in the national media. Excellent lawyers often endeavor to keep their clients' story—not their own—at the forefront of any public focus on the case.

The story of the cases surrounding a dispute over oil extraction in a region in eastern Ecuador (*El Oriente*, and specifically Lago Agrio) was eventually overshadowed by the stories of the attorneys, on opposite sides and for opposite reasons. The case[2] that started as a collection of indigenous persons and other individuals from Ecuador against Chevron Corporation eventually became the case of *Chevron v. Donziger*, a RICO action filed by Chevron in the Southern District of New York against plaintiffs' attorney Steven Donziger, his co-counsel, his clients and his litigation consultants.[3]

As plaintiffs' attorney Steven Donziger took center stage, he followed in the footsteps of his predecessor on the case and one-time mentor, Cristobal Bonifaz, who was sanctioned and fined in a U.S. court for failing to investigate his clients' false claims that they had contracted cancer due to Chevron's actions.[4] Chevron had learned that three of Bonifaz's plaintiffs had never had cancer at all.[5]

Donziger made the questionable decision to participate in a documentary by filmmaker Joe Berlinger, *Crude*. Donziger may have initially believed that his cause was just: a suit against Big Oil, ostensibly on behalf of indigenous Ecuadorians in the rainforest, over health concerns and pollution that they may have originally believed could be attributed to a company purchased by Chevron. And if he could make a billion dollars and a name for himself, all the better. He also had a theory on asymmetric

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[1] Michael D. Goldhaber, *Inside Chevron's Discovery Campaign in Ecuador*, THE AMERICAN LAWYER, July 30, 2014 (citing e-mail from Julio Prieto to Pablo Fajardo, Juan Pablo Saenz, and Steven Donziger).

[2] There are actually dozens of cases associated with the same underlying fact pattern, which have gone through a number of iterations throughout the years. For simplicity, the cases will be collectively be referred to as a single consolidated name, "*Chevron v. Donziger* (No. 1:11-cv-00691-LAK-JCF (S.D.N.Y. Mar. 4., 2014) (trial court opinion) and associated cases."

[3] Some of the original targets in the RICO action were subsequently dropped from the case after discovery or settlement with Chevron.

[4] Roger Parloff, *Three Human Rights Lawyers Fined in Chevron Case*, FORTUNE.COM, Oct. 20, 2007, http://fortune.com/2007/10/20/3-human-rights-lawyers-fined-in-chevron-case/.

[5] *Id.*

litigation he wanted to test: Donziger believed that human rights lawyers for poor clients could force settlement with large corporations through a sustained public relations campaign that threatened more harm to the corporation than a settlement, regardless of the claims. Participation in a documentary, celebrity endorsements, red carpet events focusing on his case, black tie fundraisers, and media stunts from Washington, D.C. to Chevron shareholders meetings to the homes of Chevron executives, and mass demonstrations intended to make the judges fear for their personal safety were all part of that campaign.[6]

When his case encountered setbacks or problems, Donziger did whatever it took to "solve" them. When the parties' separate chemical analyses of environmental sites weren't going well, he ordered his experts to stop testing for certain compounds.[7] When his separate analysis continued to yield unfavorable results, he engineered a "global inspection" process with an independent, court-appointed expert. Donziger then, in his own words, went over to the "dark side" and "made a bargain with the devil"—he co-opted the supposedly "independent" expert Richard Cabrera via bribery and secretly made him a part of the plaintiffs' team.[8] Donziger didn't believe that the expert was sophisticated enough to help him prove his case—so he contracted with American scientific consulting firms and others to ghostwrite the "independent expert's" report and its many appendices.[9]

To give the "independent" expert's report an air of authenticity, the *same consulting firms which drafted the original report* then drafted a subsequent report strategically criticizing parts of the report. The layers of cover-up continued: the consultants then drafted a response, ostensibly from the independent expert.[10] When damage estimates from the consultants were coming in too low, Donziger drove them up—to an astonishing $27 billion.[11]

This system of bribery and ghostwriting worked so well for the independent expert's report that Donziger then redeployed that same system for the judgment: his team bribed the judge on the case, then wrote the judgment itself, and paid a second judge to "dress up" the judgment they'd written to make it sound more official.[12]

Underlying this stunning chain of events was the assumption that U.S. legal ethics rules did not apply extraterritorially—Ecuador was different. A country with a "weak" judicial system, a strong executive branch willing to exert significant control over the judiciary, and a culture of bribery in the judicial system in Ecuador invited these actions, in Donziger's mind. It was simply how it was done in Ecuador. And besides, Donziger believed that the case (at least for review on its merits) would never return to the United States, and there was no litigation discovery in Ecuador.

Donziger was wrong, of course: Chevron's attorneys found a way to obtain discovery in the United States under 28 U.S.C. § 1782. Chevron won access to the outtakes from the documentary and

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[6] *See e.g., Chevron v. Donziger* (No. 1:11-cv-00691-LAK-JCF, at 17-49 (S.D.N.Y. Mar. 4., 2014) (trial court opinion).
[7] *Chevron v. Donziger*, No. 1:11-cv-00691-LAK-JCF, at 50-72 (S.D.N.Y. Mar. 4., 2014) (trial court opinion).
[8] *Id.* at 72-95.
[9] *Id.* at 95-115.
[10] *Id.* at 111-114.
[11] *Id.* at 41-50; *id.* at 78; *id.* at 179-82.
[12] *Id.* at 218; *id.*at 237-40; *id.* at 279-80.

wound up with over 600 hours of raw footage including discussions of case strategy, startling admissions and a plan to corrupt the judicial process that were all left on the cutting room floor.

As Donziger's case unraveled, he struggled even harder to protect his potential billion dollar windfall. But every attempted cover-up led to continued ethics violations, now in the United States, and consequences that benefited Chevron. Chevron won access to his hard drives after Donziger attempted to obstruct the discovery process, sacrificing attorney-client privilege. His local counsel in one U.S. jurisdiction withdrew, citing "ethical reasons", because he could not act in furtherance of a fraud or crime.

As Chevron's lawyers continued to reveal the story of the underlying fraud, funders fled. Subsequent law firms withdrew from representation in the RICO case for deliberate nonpayment. Key third party litigation funders eventually settled with Chevron, claiming that they had been deceived by Donziger. Many of his consultants named in the RICO suit also settled with Chevron and denounced the case. Patton Boggs, Donziger's key law firm backer, settled with Chevron. Meanwhile, Donziger testified in his trial, continuing to protect his lies with vague responses and incredible assertions that he could not recall important facts. Judge Kaplan in the Southern District of New York issued a scathing 485-page ruling in favor of Chevron, issuing finding of facts against Donziger that constitute grave violations of legal ethics, Ecuadorian law, U.S. law or both. Donziger's devastating loss was confirmed at the Second Circuit Court of Appeals. Donziger's enforcement cases have been lost or stalled out in Canada, Argentina and Brazil.

As the District Court noted in its opinion in *Chevron v. Donziger*, "Justice is not served by inflicting injustice. The ends do not justify the means." The downfall of Donziger's Ecuadorian fraudulent attempts to collect from Chevron also demonstrates that ethical violations can result in catastrophic consequences—for the attorneys, those who participate in unethical conduct, and for the clients, who were used as pawns in an international fraud. Donziger will likely never see a dime from the $27 billion judgment he originally won (subsequently reduced to $9 billion by Ecuador's highest court) and his colleagues have been dismissed by the plaintiffs' group. In February 2017, the National Review took up the call for Donziger's prosecution, saying: "Having reported on this case for a few years now, I believe the time long ago passed for this entire madness to end, except for one aspect. Donziger needs to be prosecuted."[13]

[13] Jack Fowler, "(N)O Canada!", National Review, Feb. 7, 2017, http://www.nationalreview.com/corner/444690/chevron-steven-donziger-canada.

Forbes http://onforb.es/1ispZ8U

Daniel Fisher Forbes Staff

I cover finance, the law, and how the two interact.

PERSONAL FINANCE 5/07/2014 @ 2:34PM | 16,979 views

Patton Boggs Pays Chevron $15 Million To Rid Itself Of Ecuador Mess

Chevron claimed another high-profile scalp today as the Washington law firm Patton Boggs agreed to pay $15 million and granted Chevron extraordinary rights to question two of its partners in a settlement of litigation over a $9.5 billion environmental judgment against the oil giant in Ecuador.

In a raw demonstration of the stakes it faced, Patton Boggs issued a news release acknowledging the firm "regrets its involvement" in the lawsuit and signing over its 5% interest in the judgment — potentially worth more than half a billion dollars — to Chevron. It also agreed to cease representing plaintiffs in the Ecuadorean case and to hand over documents relating to efforts by them to enforce the judgment.

The settlement, down to the humiliating, pre-negotiated press release, resembles deals Chevron has struck with London-based Burford Capital and other parties that assisted New York attorney Steven Donziger in his attempt to make the oil company pay for widespread pollution left over from a Texaco drilling program in Ecuador in the 1970s and 1980s. Chevron inherited the litigation when it bought Texaco in 2001 and lost an $18 billion verdict, since cut to $9.5 billion, in an Ecuador court.

In March, U.S. District Judge Lewis Kaplan found the judgment was the product of "egregious fraud" and unenforceable in the U.S. He further barred Donziger and representatives of Ecuadorean villagers from profiting from the judgment, in a ruling those plaintiffs say is itself

an unenforceable attempt to exercise worldwide jurisdiction. Burford, former Donziger ally Joseph Kohn and the Colorado environmental consultants who helped produce evidence in the case have all settled with Chevron or accused Donziger of misleading them, or worse.

Fill 'er up — with Patton Boggs' money. (Photo credit: Wikipedia)

The Patton Boggs settlement reflects the bare-knuckles litigation approach of Gibson Dunn partner Randy Mastro, a former federal prosecutor. Law firms are rarely found liable for tactics they use to zealously represent their clients, and multimillion-dollar settlements are even rarer. Perhaps more unusual is the law firm's agreement to deliver partners James Tyrrell and Eric Westenberger to Gibson Dunn's New York offices for depositions overseen by a court-appointed special master. The firm has also agreed to turn over documents, provided its former clients don't prevail on challenges under the attorney-client privilege.

The object of Chevron's search is evidence of who is funding Donziger's litigation now, and structures he may have set up to hold proceeds should he win enforcement of the judgment in some foreign court. After signing on to the case in 2010, Patton Boggs drew up a game plan code-named "Invictus" to apply maximum pressure on Chevron to settle while simultaneously preparing to seize oil tankers, buildings and any other assets they can get their hands on to satisfy the judgment.

In the March ruling, Kaplan ordered Donziger to hand over his stock in Amazonia, a Gibraltar corporation, and prohibited him and two representative plaintiffs from keeping any money from the litigation anywhere on earth. One of Donziger's many funders over the years

has been Russell DeLeon, a Harvard Law School classmate and online poker billionaire who lives in Gibraltar.

The settlement agreement with Patton Boggs is surprising since the law firm wasn't a defendant in the racketeering suit Kaplan decided in March. The law firm and Chevron traded lawsuits, however, and Kaplan's findings of fraud surely implicated Patton Boggs for helping to devise Donziger's legal strategy. Perhaps more importantly, the politically connected law firm has suffered from declining revenue and is reported to be in the final stages of a merger with Squire Sanders.

The "Invictus" memo Patton Boggs drew up in happier times laid out a strategy of seeking assets in Europe, Russia and South Korea and using maritime attachments to seize oil cargoes. So far the plaintiffs have only won orders in Ecuador, however, where Chevron has few assets besides trademarks. Texaco left the country in 1992.

The plaintiffs notched a major success in Canada last year when an appeals court overturned a ruling that held Chevron's subsidiaries in that country were not subject to the judgment against the parent company. The Canadian Supreme Court has agreed to hear Chevron's appeal. And in Argentina, a judge's order freezing Chevron's assets was overturned.

MARKET NEWS | Thu Oct 31, 2013 | 6:32pm EDT

REFILE-Lawyer 'wanted no part' of case against Chevron in Ecuador

By Nate Raymond

Oct 31 A New York lawyer testified on Thursday that he quit a team that was suing Chevron Corp over environmental pollution in Ecuador in 2010 for "ethical" reasons.

The testimony appeared to bolster Chevron's effort to prevent the lawyer who headed the litigation, Steven Donziger, from pursuing enforcement of a $19 billion award against Chevron.

Jeffrey Shinder, a partner at the law firm Constantine Cannon, said Donziger had approached him starting in late 2009 about helping enforce any award the Ecuadorean court issued.

Shinder said he quit after just eight days into his formal retention after learning that a report by an expert appointed by the Ecuadorean court had actually been written by a consulting firm working for the plaintiffs.

"I wanted no part of it," Shinder said in federal court in New York.

The testimony came in the third week of the non-jury trial before U.S. District Judge Lewis Kaplan in which Chevron claims that Donziger and others engaged in fraud and bribery to obtain the award.

In 2011, a judge in Ecuador awarded $18 billion to people from the village of Lago Agrio, who had for years been pursuing litigation over environmental contamination from 1964 and 1992 at an oil field operated by Texaco, which Chevron bought in 2001.

The award was later increased to $19 billion to cover fees. But as Chevron no longer has assets in Ecuador, the Ecuadoreans have been forced to look overseas and have

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PICTURES

pursued enforcement actions in Canada, Argentina and Brazil.

Chevron, the second-largest U.S. oil company, has refused to pay. It filed the New York lawsuit in 2011 claiming the award was the product of fraud.

At trial Thursday, Shinder, whom Chevron subpoenaed to testify, said Donziger approached him about joining the case in October 2009 as Donziger began preparing to fight to enforce an anticipated judgment.

While no award had been issued, a court-appointed expert had in April 2008 issued a report recommending the judge hold Chevron liable for up to $16.3 billion in damages.

The expert, Richard Stalin Cabrera Vega, revised his recommendation in November 2008 to $27 billion.

STRATUS CONSULTING

Chevron has long contended that Cabrera's report was ghostwritten by a consulting firm, Stratus Consulting Inc, working for the plaintiffs. Shinder said Donziger had sought to assure him Chevron's claims were "trumped up" and inaccurate.

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"He denied the allegations, but did say to me that, 'You have to understand, they do things differently in Ecuador,'" Shinder said.

In March 2010, Shinder's firm agreed to represent the plaintiffs in cases Chevron had filed in the United States seeking evidence in aid of the Ecuador litigation.

Soon after, Shinder said he flew out to Colorado at Donziger's expense to meet employees at Stratus, including co-founder Douglas Beltman.

Near the end of his two-hour conversation with Beltman, Shinder said the "truth came out" as he admitted Stratus had written portions of Cabrera's report.

After discussing the matter with other lawyers at his firm, Shinder said he told Donziger he would be withdrawing, primarily for "ethical reasons."

"It bothered me and still bothers me that we'll never know if there was a case against Chevron," Shinder said.

Stratus Consulting, once a co-defendant in the New York case, settled with Chevron in April. It has also disavowed any and all findings and conclusions of reports it issued in the Ecuador litigation.

The case is Chevron Corp v. Steven Donziger et al, U.S. District Court for the Southern District of New York, No. 11-0691.

NEXT IN MARKET NEWS

UPDATE 1-"Significant uncertainty" about fiscal policy under Trump - Fed's Fischer

* Dodd-Frank may not be repealed, but adjusted (Adds quotes, background)

Significant uncertainty about U.S. fiscal policy under Trump - Fed's Fischer

COVENTRY, Feb 11 U.S. Federal Reserve Vice Chair Stanley Fischer said there was significant uncertainty about U.S. fiscal policy under the Trump administration, but the Fed would stick to its targets of creating full employment and getting inflation to 2 percent.

Photos of the week

POLITICO

PATTON BOGGS

The Fall of the House of Boggs

The bizarre Ecuadorean lawsuit that destroyed a Washington institution.

By PAUL M. BARRETT | September 15, 2014

In 2012, a remarkable battle unfolded in U.S. District Court in Washington, D.C. Patton Boggs, the D.C. lobbying-and-law powerhouse co-founded by Thomas Hale Boggs Jr., faced off against Chevron, the sort of multinational corporation Patton Boggs normally represents. To the amazement of legal observers, the giant oil company accused Patton Boggs of participating in an extortion campaign rooted in the rain forest in Ecuador.

Arguing for Patton Boggs, James Tyrrell Jr. sputtered with indignation. “If someone seriously suggests that the 50-year-old law firm of Patton Boggs would wreck, would risk its professional reputation for a group of Ecuadorians whose case we feel strongly about, that we would be involved in a broad fraud, I suggest [to] whoever might believe that: I have a bridge in New York I might like to try to sell them.”

Randy Mastro, a partner with Gibson, Dunn & Crutcher and Chevron's lead outside counsel, responded with equal vehemence: "Your Honor, Mr. Tyrrell asks the question, would Patton Boggs be risking their reputation on these Ecuadorian plaintiffs." Mastro, a former mob prosecutor from New York, couldn't have framed the issue better himself. "The answer, unfortunately, from their own documents, is yes. The answer is: A firm getting a contingency fee on $18.2 billion will do a lot of things that shock the conscience, and what they did here shocks the conscience."

The clash did not end well for Patton Boggs. In 2014, tainted by Chevron's allegations and hobbled by partner defections, one of the capital's best connected law firms lost its independence and was absorbed into a less august partnership based in Cleveland. As a condition of its rescue by the Squire Sanders firm, Patton Boggs did the unthinkable: On bended knee, it withdrew from the rain forest-contamination case, paid a $15 million settlement to Chevron and issued a public statement of regret. Tyrrell, the rainmaker who'd persuaded fellow members of Patton Boggs leadership, to jump into the Chevron case in the first place, left the firm humiliated by his ex-partners' acquiescence.

The tale of Patton Boggs' being brought low illustrates how even the most sophisticated law and lobbying firms are willing to gamble with their reputations and balance sheets in the face of stiffening competition. Other vaunted firms hit even harder than Patton Boggs include Washington antitrust ace Howrey, defunct as of 2010, and New York-based Dewey & LeBoeuf, which collapsed two years later.

The end of Patton Boggs' half-century as an independent firm brought down the curtain on a style of Washington influence-peddling that Tommy Boggs , who died at age 73 on Monday, helped invent and rode to phenomenal success and riches. Last May, when an enfeebled Patton Boggs — reduced to 330 lawyers from a peak of 550 — announced its merger into 1,300-attorney Squire Sanders, the PR spin was unpersuasive. Patton Boggs boasted that it had been "an industry game-changer" and "through our combination with Squire Sanders we are doing it again." Hardly. The formation of the new Squire Patton Boggs revealed how a storied D.C. institution risked its standing for a quick score — and lost.

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In 2010, Patton Boggs had an august Washington pedigree but an uncertain future. The scion of the Boggs political family from Louisiana — former House Majority Leader Thomas Hale Boggs Sr. and Lindy Boggs, who succeeded her husband in Congress after he died — Tommy Boggs worked in the Lyndon Johnson administration and then, in

1966, helped start the firm that became Patton Boggs. In the 1970s, he pioneered a combination of lobbying-and-law practice that defined a new industry just as "K Street" was becoming the premier address for corporate influence in Washington. In 2011, the firm had revenue of $340 million, according to *American Lawyer* and placed 83 rd on the trade publication's top-200 ranking of U.S. law firms.

In its heyday, Patton Boggs had grown alongside an expanding federal government, attracting top former officials as they moved through the revolving door to the private sector. Tommy Boggs had rivals — Robert Strauss of Akin Gump was one — but no one boasted more pull.

In the wake of the 2008 housing bust and recession, however, Patton Boggs faced head winds in a shifting business environment. Over the years, many major corporations had opened stand-alone lobbying offices. Industry-specific boutiques had proliferated, as had trade associations. The days were long gone when Tommy Boggs could pick up the phone and orchestrate a corporate bailout, as he did for Chrysler in 1979.

Yet even as competition intensified, Patton Boggs had expanded tremendously, increasing its overhead. During the 1990s and 2000s, it grew from a 150-lawyer firm to one with 550 attorneys and hundreds of other well-paid employees. Tyrrell's talk of a quick score against Chevron thus found a mostly receptive audience, although some Patton Boggs partners expressed hesitation about getting in bed with the kind of freewheeling plaintiffs' attorney who had been steering the case.

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Patton Boggs' involvement in the Chevron case began in 2009, when Tyrrell, the lead partner in the firm's Newark office, pitched the D.C.-based executive committee on an unconventional and potentially lucrative assignment to enforce a multibillion-dollar judgment that didn't yet exist in Ecuador. Tyrrell, a member of the committee, explained that a New York hedge fund called Burford Capital was considering a major investment backing the plaintiffs in pending pollution litigation in Ecuador. Burford wanted Patton Boggs to enter the case at its side, so that if the plaintiffs were successful, the potent Washington law firm could make sure they got paid. Patton Boggs would get a quarter of the contingency fee.

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BUSINESS 8/18/2016 @ 10:32AM | 1,759 views

WLF: Disbarment, Criminal Charges Should Be Possibilities For Corrupt Attorney Donziger

POST WRITTEN BY
Karen Kidd
I am a freelance reporter.

Steven Donziger gestures during a press conference in 2014 in Quito, Ecuador. Recently, the U.S. Court of Appeals for the Second Circuit affirmed a district court ruling that said the multibillion-dollar verdict he obtained in Ecuador was the product of fraud. (RODRIGO BUENDIA/AFP/Getty Images)

Federal prosecutors should consider criminal charges against the lawyer who pursued Chevron for alleged contamination of the Ecuadoran Amazon after two courts ruled that it was all a fraud, a public interest attorney says.

The New York State Bar Association also should consider disbarring Steven Donziger for the alleged fraud and racketeering that led to a multibillion-dollar judgment by an Ecuadoran court against Chevron, Washington Legal Foundation Chief Counsel Richard Samp said during a *Legal Newsline* interview.

WLF is a public interest law firm and policy center that regularly advocates for upholding legal ethics.

"The district court made damning factual findings about Donziger's fraudulent conduct," Samp said. "At the very least, federal prosecutors should take a careful look at the possibility of bringing criminal charges, and New York Bar authorities should take a careful look at the possibility of revoking his law license."

If federal prosecutors or the Bar are considering those steps, it won't be disclosed because such investigations generally aren't publicly announced.

"So they may already be taking place," Samp said. "A criminal conviction requires a higher standard of proof than the one applied in the civil cause of action on which Chevron prevailed, so Chevron's victory is not necessarily an indication that prosecutors could get a conviction.

"But the New York Bar employs the same preponderance-of-the-evidence standard employed in civil litigation, so there should be little doubt that bar authorities could muster sufficient evidence against Donziger to warrant imposition of bar discipline."

The U.S. Court of Appeals for the Second Circuit earlier this month unanimously confirmed a 2014 district court decision that the 2011 Ecuadoran court's once-$9.5 billion ruling resulted from fraud and racketeering.

The recent decision makes clear that the Second Circuit's earlier hands-off approach only goes so far, Samp said. "The Second Circuit held unequivocally that the Ecuadoran judgment was illegitimate and was not to be enforced anywhere in the United States."

Donziger did not return *Legal Newsline* requests for comment, and no mention is made of the Second Circuit's decision on a page devoted to updates about the case on his website.

Donziger was the driving legal force behind the Ecuadoran court's ruling in February 2011 that Chevron was liable for the dumping of billions of gallons of toxic waste into the Amazon Basin. The

dumping caused disease and decimated the area's indigenous groups, the Ecuadoran court ruled.

Chevron never paid the judgment. Instead, it pursued Donziger in American courts, claiming fraud and racketeering was behind the Ecuadoran judgment. In 2014, the U.S. District Court for the Southern District of New York agreed, handing down a decision in March of that year.

"This ruling is a resounding victory for Chevron and our stockholders," the oil giant said in a press release issued shortly after the district court ruling. It confirms that the Ecuadoran judgment against Chevron is a fraud and the product of a criminal enterprise. Steven Donziger and his associates can now be held accountable and will not be allowed to profit from their illegal acts. Any court that respects the rule of law will find the Lago Agrio judgment to be illegitimate and unenforceable."

The Second Circuit, in a lengthy, 127-page opinion, said the record "reveals a parade of corrupt actions by the (Lago Agrio plaintiffs') legal team, including coercion, fraud and bribery."

As Donziger's legal troubles continued to mount, many of his supporters and investors fell away. Burford Capital and the Patton Boggs law firm both renounced Donziger and their involvement with his litigation against Chevron.

Amazon Watch, a nonprofit organization founded in 1996 to protect the South American rainforest and advance the rights of the area's indigenous peoples, issued a strong statement days after the Second Circuit decision. Chevron's Racketeer Influenced and Corrupt Organizations Act (RICO) litigation was retaliatory and an effort to get out of the 2011 judgment handed by the court in Ecuador, the statement said.

"It is extremely disturbing that rather than assist in the pursuit of justice for environmental and human rights crimes, the U.S. judicial system has instead played a role in aiding a U.S. company found liable for one of the worst environmental disasters in history based on overwhelming evidence," the statement said.

"The Ecuadorans – and those of us who support their fight for justice – will ultimately succeed despite this indefensible decision."

However, Samp said he doesn't believe the case is over.

"I think there will be an appeal to the Supreme Court," Samp said. "Counsel for Donziger has already promised an appeal. And there is a reasonably good chance that the Supreme Court would grant review on one of the issues of law decided by the Second Circuit."

What may get the attention of U.S. Supreme Court justices in this case is the Second Circuit ruling that federal racketeering law allows plaintiffs to sue for an injunction even when are not seeking a monetary recovery, as in this case, Samp said.

"Other federal courts have held that private plaintiffs may not sue for an injunction under RICO," Samp said. "The Supreme Court might hear this case in order to resolve the split on this issue of law."

Samp also noted that the district court's factual findings remain essentially uncontested.

"Donziger did not challenge those findings in connection with his appeal to the Second Circuit, and thus he is not permitted to ask the Supreme Court to review the factual findings," Samp said.

"If the Supreme Court agrees to hear the case, it won't be passing on whether Donziger was guilty of a massive fraud, as the lower courts held. Rather, it would confine itself to deciding the disputed issue of law described above."

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