

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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In re Application of

CHEVRON CORPORATION,

Petitioner,

14-mc-0392 (LAK)

for an Order Pursuant to 28 U.S.C. § 1782
to Conduct Discovery from MCSquared PR,
Inc. for Use in Foreign Proceedings.

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ORDER

LEWIS A. KAPLAN, *District Judge.*

On November 25, 2014, the Court granted Chevron's *ex parte* application for an order, pursuant to 28 U.S.C. § 1782, to conduct discovery from MCSquared PR, Inc. ("MCS"), and, more specifically, to authorize the issuance of a subpoena addressed to MCS requiring the production of documents and the giving of a deposition without prejudice to any motion by MCS to quash or modify the subpoena.

MCS now has filed three motions. The first seeks to have vacated the November 25, 2014 order, principally on the grounds that the requirements of Section 1782 had not been satisfied and that the order in any case was based on incomplete or inaccurate information. The second seeks to have quashed the subpoena issued in consequence of the November 25, 2014 order, principally on the grounds that the subpoena is overbroad and seeks confidential or privileged information. The third seeks a stay of compliance with the subpoena pending resolution of the first two motions.

In addition, the Republic of Ecuador (the "ROE") has moved to intervene to "protect[] its rights as a sovereign to claim immunity and privilege over the documents and testimony Chevron is seeking," and for a "briefing order." DI 12, at 4. Chevron has filed an opposition to the ROE motion. The ROE motion, however, was not "accompanied by a pleading that sets out the claim or defense for which intervention is sought" as Rule 24(c) requires.

Neither MCS nor the ROE has filed a privilege log or otherwise specified the documents in respect of which privilege is asserted or the basis for the claims of privilege.

In all the circumstances, it is appropriate that a scheduling order be entered and that it (a) provide for hearing the objections and arguments of both MCS and, if it is permitted to intervene, the ROE on the same timetable, (b) ensure that the complete submissions by both are before the Court at the same time, (c) afford Chevron an opportunity to respond comprehensively

to those submissions, and (d) afford MCS and, if it is permitted to intervene, the ROE an opportunity to reply comprehensively to Chevron's submission. Accordingly, the Court directs as follows:

1. On or before December 31, 2014, the ROE shall serve and file any motion to quash or modify the subpoena to MCS or for other relief with respect thereto or to the November 25, 2014 order. Any such motion or motions shall include all contentions by the ROE with respect to its apparent claim of immunity as a sovereign and of privilege, as well as any other bases asserted in support of relief. The Court will consider any such submissions in determining whether the ROE has complied with Fed. R. Civ. P. 24(c).

2. The ROE shall file any reply papers in support of its motion to intervene on or before December 22, 2014.

3. Chevron shall serve and file any papers in opposition to the submissions of MCS and the ROE (other than its motion to intervene, which will have been fully briefed on or before December 22, 2014) on or before January 14, 2015.


4. MCS and the ROE shall serve and file any reply papers on or before January 21, 2015.

5. Unless otherwise ordered, the service of a privilege log or logs is deferred until the fourteenth day after the date on which the Court rules on MCS's pending motions.

6. Nothing herein shall be construed as reflecting any determination or view with respect to the ROE motion to intervene, which will be decided in due course. It is intended only to avoid piecemeal presentation and determination of arguments.

SO ORDERED.

Dated: December 16, 2014



Lewis A. Kaplan
United States District Judge