

**STEVEN R. DONZIGER, ESQ.**

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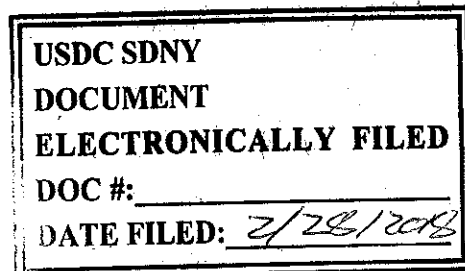
212-570-4499 (O)  
917-566-2526 (CELL)

MEMO ENDORSED

February 27, 2018

**VIA ECF**

Honorable Lewis A. Kaplan  
United States District Judge  
Daniel Patrick Moynihan U.S. Courthouse  
500 Pearl Street  
New York, New York 10007



RE: *Chevron v. Donziger*, Case No. 11 Civ. 691 (LAK)

Dear Judge Kaplan:

I file this supplemental request for information in response to the recent motion for admission *pro hac vice* by Mr. Herbert J. Stern to appear on behalf of Chevron. Dkt. 1953. Despite the fact that this matter is essentially concluded, I am not entirely surprised to see Mr. Stern's attempted appearance. As I have noted in several recent filings, the evidence now shows that the leading members of Chevron's trial and appellate counsel from Gibson Dunn & Crutcher—specifically, Randy Mastro, Andrea Neuman, Avi Weitzman, Reed Brodsky, William Thomson, and likely others—were all deeply involved in what appears to be a conspiracy to present paid-for “fact” testimony from Alberto Guerra to this Court, despite knowledge of or reckless disregard for the fact that Guerra's testimony was utterly false. This has been outlined in numerous submissions with citations to primary materials, *see, e.g.*, Dkt. 1927 at 5-6; Dkt. 1936 at 4-6, and additionally was the substance of a referral letter sent on behalf of my Ecuadorian clients in the Amazon rainforest to the U.S. Department of Justice and the offices of the U.S. Attorneys in New York, San Francisco, and Chicago. *See, e.g.*, Dkt. 1941-2.

In short, Chevron's existing counsel at Gibson Dunn & Crutcher is deeply tainted by the fraud Chevron and certain of its counsel now appear to have carried out as part of their desperate efforts to taint the Ecuador liability with allegations of fraud. Thus, on one level, it makes sense for new counsel to appear and I do not necessarily oppose such a development. There are, however, three profound problems with the present admission of Mr. Stern:

1. Within hours of the filing of Mr. Stern's admission motion, the Court granted it without giving me or other defendants any opportunity to oppose. As indicated below, the requested admission implicates the public interest and the ethical administration of justice, and defendants should be given sufficient time—and information—to consider an appropriate opposition. *Cf. E.E.O.C. v. Lockheed Martin*, 2007 WL 4468658, at \*5 (D. Haw. Dec. 18,

Memorandum Endorsement

Chevron Corp. v. Donziger, 11-cv-691 (LAK)

The Court construes the attached letter as a request for reconsideration of the order granting leave to Herbert J. Stern to appear *pro hac vice*.

The letter rehashes yet again Donziger's arguments with respect to the credibility of Alberto Guerra, who testified at trial, but now attempts to bring those arguments to bear by (1) accusing Chevron's trial counsel in substance of having been complicit in bribing or suborning Guerra, and (2) using that as an excuse to demand information relating to Judge Stern's involvement, if any, in connection with his application to appear *pro hac vice*. But there is nothing to any of this.

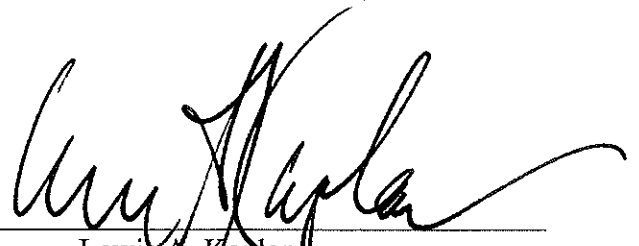
As has been pointed out previously, most recently in other rulings today, the circumstances in which Guerra came to be a witness and Chevron's actions in that regard were gone into at great length at trial. *See, e.g., Chevron Corp. v. Donziger*, 974 F. Supp.2d 362, 502-05, 513-16 (S.D.N.Y. 2014), *aff'd*, 833 F.3d 74 (2d Cir. 2016), *cert. denied*, 137 S. Ct. 2268 (2017). Chevron offered extensive evidence concerning its contacts with Guerra prior to trial, including long interview transcripts, as well as its payments and other assistance to him. Donziger and the other defendants cross-examined Guerra at length on these among other subjects. Defendants submitted in evidence also portions of a long deposition of Andres Rivero, who had many contacts with Guerra on Chevron's behalf before trial. The Court carefully considered this and all other evidence bearing on Guerra's credibility. It ultimately accepted part of his account and rejected another part. 974 F. Supp.2d at 534. To the extent that the Court accepted Guerra's testimony on points that Donziger disputed – and he did not dispute a good deal of that testimony – Donziger litigated and lost. He did not even challenge any of the Court's factual findings or appeal.

Donziger's letter does not offer any new evidence. Even if it had, a motion by a Chevron lawyer for leave to appear *pro hac vice* would not have been an appropriate vehicle for a thinly disguised attempt to relitigate aspects of this case that long since have been concluded. And certainly he will not be heard to repackage his failed arguments regarding Guerra and Chevron's actions with respect to Guerra in the guise of asking for information concerning a routine *pro hac vice* application.

Motion denied.

SO ORDERED.

Dated: February 28, 2018



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Lewis A. Kaplan  
United States District Judge