

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

B E T W E E N :

DANIEL CARLOS LUSITANDE YAIGUAJE, BENANCIO FREDY CHIMBO GREFA, MIGUEL MARIO PAYAGUAJE PAYAGUAJE, TEODORO GONZALO PIAGUAJE PAYAGUAJE, SIMON LUSITANDE YAIGUAJE, ARMANDO WILMER PIAGUAJE PAYAGUAJE, ANGEL JUSTINO PIAGUAJE LUCITANTE, JAVIER PIAGUAJE PAYAGUAJE, FERMIN PIAGUAJE, LUIS AGUSTIN PAYAGUAJE PIAGUAJE, EMILIO MARTIN LUSITANDE YAIGUAJE, REINALDO LUSITANDE YAIGUAJE, MARIA VICTORIA AGUINDA SALAZAR, CARLOS GREFA HUATATOCA, CATALINA ANTONIA AGUINDA SALAZAR, LIDIA ALEXANDRIA AGUINDA AGUINDA, CLIDE RAMIRO AGUINDA AGUINDA, LUIS ARMANDO CHIMBO YUMBO, BEATRIZ MERCEDES GREFA TANGUILA, LUCIO ENRIQUE GREFA TANGUILA, PATRICIO WILSON AGUINDA AGUINDA, PATRICIO ALBERTO CHIMBO YUMBO, SEGUNDO ANGEL AMANTA MILAN, FRANCISCO MATIAS ALVARADO YUMBO, OLGA GLORIA GREFA CERDA, NARCISA AIDA TANGUILA NARVAEZ, BERTHA ANTONIA YUMBO TANGUILA, GLORIA LUCRECIA TANGUILA GREFA, FRANCISCO VICTOR TANGUILA GREFA, ROSA TERESA CHIMBO TANGUILA, MARIA CLELIA REASCOS REVELO, HELEODORO PATARON GUARACA, CELIA IRENE VIVEROS CUSANGUA, LORENZO JOSE ALVARADO YUMBO, FRANCISCO ALVARADO YUMBO, JOSE GABRIEL REVELO LLORE, LUISA DELIA TANGUILA NARVAEZ, JOSE MIGUEL IPIALES CHICAIZA, HUGO GERARDO CAMACHO NARANJO, MARIA MAGDALENA RODRIGUEZ BARCENES, ELIAS ROBERTO PIYAHUAJE PAYAHUAJE, LOURDES BEATRIZ CHIMBO TANGUILA, OCTAVIO ISMAEL CORDOVA HUANCA, MARIA HORTENCIA VIVEROS CUSANGUA, GUILLERMO VINCENTE PAYAGUAJE LUSITANTE, ALFREDO DONALDO PAYAGUAJE PAYAGUAJE and DELFIN LEONIDAS PAYAGUAJE PAYAGUAJE

Plaintiffs

- and -

CHEVRON CORPORATION, CHEVRON CANADA LIMITED and CHEVRON CANADA
FINANCE LIMITED

Defendants

NOTICE OF MOTION

The Defendant Chevron Corporation (**Chevron Corp.**) will make a motion to a judge presiding over the Commercial List, on a date to be fixed, at 10:00 a.m. or as soon after that time as the motion can be heard, at 330 University Avenue, Toronto, Ontario, M5G 1R7.

PROPOSED METHOD OF HEARING: The motion is to be heard orally.

THE MOTION IS FOR:

- (a) An order granting summary judgment, dismissing the plaintiffs' claims in this action (the **Ontario Action**) in and relating to paragraphs 1(c), 1(d), 18-20, and 23-26 of the Amended Amended Statement of Claim, which paragraphs assert that they can ignore the separate corporate and legal personality of Chevron Canada Limited (**Chevron Canada**) in order to access Chevron Canada's assets to satisfy an alleged judgment debt of Chevron Corp.;
- (b) Costs of this Motion; and
- (c) Such further and other relief as counsel may advise and this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

- (a) The Ontario Action seeks to have this Court recognize and enforce a judgment from the court of Ecuador against Chevron Corp., as described in paragraphs 1 and 9 to 16 of the Amended Amended Statement of Claim (the **Ecuador Judgment**) against the assets and shares of Chevron Canada, and for other relief against or relating to Chevron Canada;
- (b) The plaintiffs have no claim against Chevron Canada because:
 - (i) Chevron Corp. is a company incorporated under the laws of Delaware, U.S.A., with its registered office in San Ramon, California, U.S.A.;
 - (ii) Chevron Corp. does not reside or conduct business in Ontario;

- (iii) Chevron Canada is a Canadian corporation incorporated in 1966 under the *Canada Corporations Act* and later continued under the *Canada Business Corporations Act*. Its registered office is in Calgary, Alberta;
 - (iv) Chevron Canada is a distinct and legally separate entity from Chevron Corp.;
 - (v) The Ecuador Judgment is only against, and is only alleged by the plaintiffs to be against, Chevron Corp.;
 - (vi) Chevron Canada is not named in, and is not a judgment debtor under, the Ecuador Judgment, and had no involvement in the events that gave rise to the Ecuador Judgment;
 - (vii) Chevron Corp. does not own the shares of Chevron Canada;
 - (viii) Chevron Canada is not dominated and controlled by, or the agent of, Chevron Corp.;
 - (ix) The plaintiffs do not allege any wrongdoing against Chevron Canada;
- (c) The Amended Amended Statement of Claim does not allege any facts that might allow a court to disregard Chevron Canada's separate corporate and legal personality;
- (d) Consequently, the assets of Chevron Canada are not exigible to satisfy any alleged debts of Chevron Corp.;
- (e) There is no genuine issue requiring a trial in respect of the plaintiffs' claims that they can ignore Chevron Canada's separate corporate and legal personality in

order to access Chevron Canada's assets to satisfy an alleged judgment debt of Chevron Corp. Summary judgment is a proportionate, expeditious and less expensive means than a trial to achieve a fair and just result in respect of this issue;

- (f) Rules 1.04, 20, and 37 of the *Rules of Civil Procedure*;
- (g) Sections 106 of the *Courts of Justice Act*, R.S.O. 1990, C. c-43, as amended;
and
- (h) Such further and other grounds as counsel may advise and this Honourable Court may deem just.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

- (a) The Affidavit of Jeffrey Wasko, sworn August 8, 2012 and the exhibits attached thereto;
- (b) The Affidavit of Frank Soler, sworn August 7, 2012 and the exhibits attached thereto;
- (c) The public exhibits to the cross-examination of Frank Soler conducted on October 17 and 31, 2012;
- (d) Subject either to confirmation that the Protective Order dated October 1, 2012 will remain in force with respect to the within summary judgment motion or to the granting of a further protective order:

- (i) The cross-examination of Jeffrey Wasko conducted on October 18 and 31, 2012 and the exhibits and answers to undertakings to that cross-examination;
 - (ii) The cross-examination of Frank Soler conducted on October 17 and 31, 2012 and the confidential exhibits and answers to undertakings to that cross-examination;
- (e) The pleadings in this action; and
- (f) Such further and other evidence as counsel may advise and this Honourable Court may deem just.

October 2, 2015

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Plaintiffs

CHEVRON CORPORATION et al.
Defendants

Court File No. CV-12-9808-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

Proceeding commenced at Toronto

NOTICE OF MOTION



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