

Press Advisory

Ontario court orders Hudbay Minerals to disclose internal corporate documentation in Guatemalan human rights lawsuit

June 30, 2015

TORONTO - In a decision released today, the Ontario Court of Justice in Toronto ordered Hudbay Minerals to disclose extensive internal corporate documentation to the Guatemalan plaintiffs who are suing Hudbay Minerals in Ontario for alleged murder, shooting and gang rapes that occurred at the company's Fenix mine in Guatemala in 2007 and 2009.

Lawyer Cory Wanless, who argued the case for the in-depth documentary disclosure, said this was the first time a court in Canada had ordered production of internal documentation from a Canadian multinational corporation for alleged abuses overseas. "We expect production of a very large number of confidential internal company documents and communications, which we think will show that the company is in fact and in law responsible, here in Canada, for the devastating events in Guatemala".

The court ordered Hudbay to disclose extensive documentation relating to its corporate structure and its control over its subsidiary in Guatemala, saying:

[19] I accept the submission of the plaintiffs that most of the proposed categories of documents with respect to the corporate control exercised by HudBay are relevant to either the "direct negligence" theory of liability or to the issue of whether the corporate veil of its subsidiary corporations should be pierced based on an agency relationship. The direct negligence of HudBay, in failing to prevent the harms allegedly committed by security personnel in Guatemala, could result from acts or omissions in management functions exercised by HudBay through its subsidiary CGN. Similarly, the nature of the control exercised by HudBay over CGN could inform the trial court's decision as to whether CGN was acting as its agent.

Mr. Wanless said "Canadian companies operating abroad should realize that Canadian law permits and requires extensive examination of exactly what was done and not done inside the company and the company's subsidiaries when their operations abroad result in abuses."

The court further ruled that Hudbay must reveal its security policies at its other mining operations, such as those in Manitoba, saying:

[9] The court's determination of the standard of care applicable to the defendants' management of their security personnel mining operations in Guatemala could plausibly be based on the defendants' own policies governing security personnel at their other mining operations. Any differences between such policies would be the basis for legitimate enquiries as to the reason for such differences, for example, why there might be differences between security policies in Guatemala and Manitoba.

In commenting on the importance of comparing the security polices between Hudbay's Canadian and Guatemalan mining operations, Mr. Wanless stated: "It is important that Canadian companies are not able to get away with serious abuses abroad that would never be tolerated in their home country".

The court also ordered Hudbay to disclose its documentation relating to the corporation's relations with the plaintiffs' communities in Guatemala:

[12] ...Specifically, the documents relating to the defendants' community relations with the Q'eqchi' populations will help provide the context for the defendants' conduct in relation to their security forces. The court's ultimate finding as to what, if anything, the defendants should or should not have done in relation to their security personnel could very well turn on the state of their relations with the populations affected.

Wanless said, "Hudbay's internal documents will, we think, reveal serious deficiencies regarding Hudbay's interactions and relationships with the plaintiffs' communities that contributed to the alleged gang rapes, shooting and murder committed by Hudbay's security forces."

A copy of the court's ruling is enclosed.

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