

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

**ANGELICA CHOC, individually
and as personal representative of the estate of
ADOLFO ICH CHAMÁN, deceased**

Plaintiffs

and

**HUDBAY MINERALS INC.,
HMI NICKEL INC. and
COMPAÑÍA GUATEMALTECA DE NÍQUEL S.A.**

Defendants

REPLY

1. The plaintiff adopts all definitions as set out in the third amended fresh as amended statement of claim in this action.
2. The plaintiff admits the allegations contained in paragraphs 4, 5 (except that the plaintiff has no knowledge regarding when CGN was incorporated), 6, 7, 9, 11 (only to the extent that security for the Fenix Project was provided by several CGN employees and a third party contractor retained by CGN named Integración Total S.A.), 12 (only to the extent of the first two sentences), 15 (only that the town of El Estor is located less than one kilometer from La Colonia), and 44 of the amended statement of defence, filed on May 27, 2015 (the “**Amended Statement of Defence**”).

3. The plaintiff denies the allegations in paragraphs 13-14, 16-19, 23, 25-43 and 45-54 of the Amended Statement of Defence.
4. The plaintiff has no knowledge in respect of the allegations contained in paragraphs 8, 10, 20-22, and 24 of the Amended Statement of Defence.

Events of September 27, 2009

5. In response to paragraphs 25-30, the plaintiff states that Mr. Ich was not part of any "mob" or other large group of individuals when he was hacked with a machete and shot by Fenix Security Forces. At the time in which Mr. Ich was attacked and killed by Fenix Security Forces, Mr. Ich was on the north side of the Fenix Compound, separated from the main protests that were occurring on the south side of the Fenix Compound by a distance of several hundred meters as well as fences and buildings. Contrary to the allegations of the defendants, Mr. Ich was not carrying a machete, rocks or any other weapons.
6. The defendants allege in paragraphs 27-30 of their Amended Statement of Defence that Fenix Security Forces were subject to a violent attack by a "mob" in which the Fenix Security Forces were "significantly outnumbered and surrounded", "could not match the firepower of their attackers" and "feared for their lives". These allegations are hyperbolic and false.
7. The large number of serious injuries suffered by members of the community at the hands of Fenix Security Forces on September 27, 2009 is in contrast to the few minor injuries sustained by the Fenix Security Forces. Nine members of the community were shot by Fenix Security Forces on September 27, 2009 with either handguns or shotguns. In addition to German Chub (shot and paralyzed), and Adolfo Ich (struck with machetes, shot in the head and killed), the following other individuals from the community were also shot by Fenix Security Forces on September 27, 2009 (with estimated age in brackets):

- (a) Haroldo Cucul Cucul (30) – suffered shotgun wounds to the right shoulder and a fractured humerus;
 - (b) Ricardo Acté Coc (28) – suffered shotgun wounds to the face;
 - (c) Samuel Coc Chub (14-20) – suffered shotgun wounds to the chest and upper limbs;
 - (d) Alfredo Tzi Ich (20) – suffered shotgun wounds to the left knee;
 - (e) Alejandro Acté Coc (35) – suffered shotgun wounds to the chest and right arm, resulting in hemorrhaging and hemopneumothorax (air and blood in the chest cavity);
 - (f) Oscar Anibal Cac Caal (15) – suffered shotgun wounds to the face and right arm; and
 - (g) Luciano Choc (41) – suffered shotgun wounds to the right shoulder.
8. In contrast, the only injury sustained by a member of the Fenix Security Forces requiring medical treatment on September 27, 2009 was some kind of injury to one member's hand. The cause and nature of this injury are unknown.

No attempt to influence testimony

9. In paragraphs 33-35 of the Amended Statement of Defence, the defendants plead that the plaintiff has “concocted a story” about how her husband died and who killed him, and further “coerced or intimidated witnesses into lying about what happened on September 27, 2009 by threatening to take away their land in La Union if they did not provide false testimony” and “asked, demanded or persuaded her son José Ich to provide false testimony about what happened on September 27, 2009”. These allegations are entirely false and without foundation.
10. At no time did the plaintiff either directly or indirectly attempt to make others provide false testimony or to otherwise influence the testimony of others. At no time did the plaintiff encourage her son or anyone else to testify to anything other than the truth.

11. Ms. Choc has no power over land distribution in La Union, nor does she have the ability to take away anyone's land.

Date: June 1, 2015

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ANGELICA CHOC et al.
Plaintiffs

v. **HUBBAY MINERALS INC. et al.**
Defendants

Court File No.

CV-10-411159

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

REPLY

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