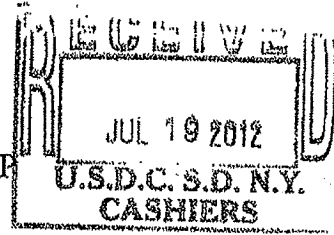


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12 CIV 5570

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KEMPERI BAIHUA HUANI, AHUA
BAIHUA CAIGA, PENTIBO BAIHUA
MIPO, DABOTO TEGA HUANI,
AHUAME HUANI BAIHUA, APARA
QUEMPERI YATE, BAI BAIHUA
MIPO, BEBANCA TEGA HUANI,
COMITA HUANI YATE, COPE TEGA
HUANI, EHUENGUINTO TEGA,
GAWARE TEGA HUANI, MARTIN
BAIHUA MIPO, MENCA Y BAIHUA
TEGA, MENEMO HUANI BAIHUA,
MIPO YATEHUE KEMPERI,
MINIHUA HUANI YATE, NAMA
BAIHUA HUANI, NAMO HUANI
YATE, OMARI APICA HUANI,
OMENE BAIHUA HUANI, YEHUA
TEGA HUANI, WAGUI COBA HUANI,
WEICA APICA HUANI, TEPAA
QUIMONTARI WAIWA, NENQUIMO
NENQUIMO VENANCIO NIHUA,
COMPA GUIQUITA, CONTA
NENQUIMO QUIMONTARI, DANIEL
EHUENGEI, NANTOQUI NENQUIMO,
OKATA QUIPA NIHUA, CAI BAIHUA
QUEMPERI, OMA YIHUE BAIHUA,
TAPARE AHUA YETE, TEWEYENE
LUCIANA NAMA TEGA, ABAMO
OMENE, ONENCA ENOMENGA,
PEGO ENOMENGA, WANE IMA,
WINA ENOMENGA. CAHUIYA

CASE NO.

COMPLAINT FOR:

- 1. DECLARATORY RELIEF;
- 2. CONSTRUCTIVE TRUST;
- 3. UNJUST ENRICHMENT; AND
- 4. ACCOUNTING

JURY TRIAL DEMANDED

1 OMACA AND MIMA YETI, SUING ON)
2 BEHALF OF THEMSELVES, ON)
3 BEHALF OF THEIR FAMILY GROUPS,)
4 ON BEHALF OF THEIR)
5 COMMUNITIES, AND ON BEHALF OF)
6 THE HUAORANI PEOPLE)

7 Plaintiffs,

8 vs.

9 STEVEN DONZIGER, an individual;)
10 THE LAW OFFICES OF STEVEN R.)
11 DONZIGER, a sole proprietorship;)
12 DONZIGER & ASSOCIATES, PLLC, a)
13 New York professional liability)
14 corporation; FRENTE DE DEFENSA DE)
15 LA AMAZONIA A/K/A AMAZON)
16 DEFENSE FRONT OR AMAZON)
17 DEFENSE COALITION, an Ecuadorian)
18 non-governmental organization; AND)
19 DOES 1 THROUGH 20, INCLUSIVE,)

20 Defendants.

21 Plaintiffs, on behalf of themselves, on behalf of their family groups, on
22 behalf of their communities, and on behalf of the Huaorani people (also spelled
23 “Waorani”), complain and allege against Defendants listed below, as follows:

24 **INTRODUCTION**

25 1. Following years of litigation in the Republic of Ecuador arising
26 out of the environmental damage and devastation caused by Chevron
27 Corporation’s (“Chevron”)¹ petroleum activities in the Ecuadorian Amazon
28 (the “Lago Agrio Litigation”), on February 14, 2011, Judge Nicolas Zambrano
Lozada, the Presiding Judge of the Provincial Court of Justice of Sucumbios in
Ecuador, rendered judgment against Chevron in the form of a comprehensive,

¹ Texaco, Inc. and its subsidiary Texaco Petroleum Company engaged in
oil extraction in the Amazon region in Ecuador. Because Chevron later
acquired Texaco, it was named as a defendant in the Lago Agrio litigation.

1 188-page decision (the “Lago Agrio Judgment”).² In his ruling, Judge
2 Zambrano found Chevron liable for more than \$18 billion in total damages,
3 approximately \$8.646 billion of which was for environmental remediation,
4 compensation and mitigation measures (“Environmental Remedial Measures”),
5 including \$600 million to remediate ground waters; \$5.396160 billion to
6 remediate soils; \$100 million to restore native flora and fauna and help remedy
7 the impact on the affected Indigenous peoples’ food supply caused by damage
8 to their sources of subsistence; \$150 million to deliver potable water supplies;
9 \$800 million to develop and implement a health plan that includes treatment
10 for people with cancer; and \$1.4 billion to implement and maintain a
11 permanent healthcare system to serve the affected populations.

12 2. The Lago Agrio Litigation was brought by forty eight (48)
13 individuals from four communities (“Lago Agrio Plaintiffs” or “LAPs”), and
14 asserted claims on behalf of all Indigenous and colonist (“Colonists”)
15 communities and community members who have been harmed by Chevron’s
16 activities in the Ecuadorian Amazon (collectively referred to as “the
17 *Afectados*”), including Plaintiffs and their communities and family groups,
18 other Huaorani, and the Huaorani people. The Lago Agrio Judgment in favor
19 of the plaintiffs is based in significant part on injuries suffered by members of
20 the Huaorani people and their communities and family groups, including
21 Plaintiffs, and recognizes their right to benefit from the Lago Agrio Judgment
22 and their right to remedies, including environmental remediation,
23 compensation and mitigation measures as well as compensation for pain and
24 suffering. Members of the Huaorani people and their communities and family

25 _____
26 ² The Lago Agrio litigation followed years of litigation in the United
27 States, which began in 1993 in the case of *Aguinda v. Texaco, Inc.* in the
28 Southern District of New York. *See Aguinda v. Texaco, Inc.*, 303 F. 3d 470
(2d Cir. 2002).

1 groups, including Plaintiffs, have a significant interest in the Lago Agrio
2 Judgment. Plaintiffs therefore seek a declaratory judgment, imposition of a
3 constructive trust, and an accounting, to defend and protect their significantly
4 protectable interest in the Lago Agrio Judgment and their right to remedies as
5 alleged and adjudged in the Lago Agrio Litigation, and additionally, bring a
6 claim for unjust enrichment.

7 3. This Complaint is brought on behalf of the Huaorani people, an
8 Indigenous people and minority group in the Amazon region in Ecuador, and
9 on behalf of Huaorani communities, family groups, and individuals, whose
10 injuries were the subject of the Lago Agrio Judgment, whose ancestral lands
11 and territory, natural resources, and environment have been contaminated,
12 destroyed, degraded, depleted, and endangered by Chevron's petroleum
13 activities in the Amazon region in Ecuador, as found by the Ecuadorian Court,
14 who were displaced from large areas of their ancestral lands and territory as a
15 result of Chevron's petroleum activities, whose culture, way of life,
16 subsistence, and economy were severely disrupted, harmed, and endangered as
17 a result of Chevron's conduct, whose health was harmed and endangered by
18 Chevron's conduct, whose rights were violated and impaired, and on whose
19 behalf, among others, the Lago Agrio Judgment was entered. The Huaorani
20 were named in the Lago Agrio Litigation as part of the group of "*Afectados*"
21 for whom the Lago Agrio Judgment was rendered. Plaintiffs seek a declaration
22 of rights and interests to their portion of the Lago Agrio Judgment, an
23 accounting, and constructive trust, and additionally, assert a claim for unjust
24 enrichment.

25 4. Recognizing that the environmental harms caused by Chevron's
26 conduct can have "especially severe consequences in cases in which the
27 ecosystem that is affected is a place where groups [of people] live whose
28 cultural integrity is firmly associated with the health of the land, inasmuch as

1 environmental degradation can potentially threaten the very existence of the
2 group,” the Environmental Remediation Measures awarded by the Ecuadorian
3 Court also included \$100 million for remedial measures to mitigate the unique
4 harm to the affected Indigenous peoples’ communities, including displacement
5 from their ancestral territories and other cultural impacts (“Cultural
6 Damages”). Plaintiffs are members of the Huaorani people. The Huaorani
7 people are one of five groups of affected Indigenous peoples.³

8 5. Huaorani culture is firmly associated with the health of their
9 rainforest environment, and environmental degradation and displacement from
10 ancestral lands and territory can threaten the very existence of Huaorani family
11 groups and the Huaorani people. The environmental harms adjudged in the
12 Lago Agrio Litigation have limited and undermined the ability of Plaintiffs and
13 other Huaorani to conduct their cultural practices and enjoy their culture, as
14 well as their ability to preserve their cultural legacy and transmit it to future
15 generations. As a consequence of said environmental harms and displacement
16 from ancestral lands and territory, and additional related changes which began
17 with Chevron’s actions in furtherance of its petroleum operations and continue
18 to the present day, Plaintiffs’ very existence as Huaorani is endangered.

19 6. Large areas of ancestral Huaorani lands and territory have been
20 contaminated and damaged by Chevron’s petroleum activities, and Huaorani

21 _____
22 ³ The other affected Indigenous groups include the Cofan people, the
23 Secoya people, the Siona people, and members of the Kichwa people. In
24 addition to the affected Indigenous communities, the Lago Agrio lawsuit
25 asserts claims on behalf of “*colonos* (colonists),” or settlers who migrated to
26 the affected areas after Chevron’s petroleum activities began and who are also
27 affected by contamination from Chevron’s operations (“Colonists”). Most
28 Colonists are *campesinos* who migrated to the Amazon region from Ecuador’s
coastal and highland regions, but some are Indigenous Kichwa or Shuar who
migrated from other areas of the Amazon. The Defendants refer to all of these
groups collectively as “the *Afectados*.”

1 family groups, including Plaintiffs' family groups, have been displaced from
2 large areas of their ancestral lands and territory as a consequence of Chevron's
3 activities for which Chevron was held liable in the Lago Agrio Judgment. In
4 addition, natural resources that provided the Huaorani with secure and
5 sustainable sources of food, water, medicines, shelter, and other means of
6 subsistence have been degraded and destroyed as a result of Chevron's
7 activities, and the access of Huaorani individuals, family groups, and
8 communities to the rainforest flora and fauna that is needed to sustain both
9 Huaorani culture and Huaorani subsistence activities has been harmed.
10 Without access to effective remedies, as adjudicated in the Lago Agrio
11 Judgment, the threat of even greater harms to Plaintiffs and other Huaorani will
12 remain.

13 7. The objective of the Environmental Remedial Measures is "to
14 return things to their natural state," and restore natural resources and
15 environmental conditions to the way they were before Chevron caused the
16 environmental damage and devastation that gave rise to the Lago Agrio
17 litigation. The Lago Agrio Judgment recognizes, however, that it will be
18 impossible to achieve that objective in many cases, and for that reason, the
19 Environmental Remedial Measures include three types of remedies:
20 "principal" remedial measures" to remediate soils and ground waters;
21 "complementary" remedial measures to compensate for the inability to fully
22 restore natural resources; and "mitigation" remedial measures to address the
23 impacts on Indigenous cultures and impacts on human health that cannot be
24 reversed or fully repaired..

25 8. The Lago Agrio Judgment also orders Chevron to pay punitive
26 damages in an amount equal to the total aggregate value of the Environmental
27 Remedial Measures (\$8,646,160,000) or, alternatively, to publicly apologize to
28

1 the affected populations within fifteen days. Chevron failed to apologize and
2 thus is further obligated to pay \$8.64616 billion in punitive damages.

3 9. The purpose of the punitive damages is to compensate the affected
4 Indigenous communities and community members, including Plaintiffs and
5 other Huaorani, as well as the Colonists who also have been harmed by the
6 environmental damage, for their pain and suffering, and to punish Chevron for
7 unreasonable and malicious conduct in the Lago Agrio Litigation which
8 prolonged the suffering of the affected communities and community members.
9 Plaintiffs and other Huaorani and their communities have experienced
10 considerable pain and suffering as a result of the damage caused to their
11 ecosystem, lives, culture, and health.

12 10. The Lago Agrio Judgment further directs the parties to establish a
13 trust fund for the judgment monies with the Ecuadorian nongovernmental
14 organization Frente de Defensa de la Amazonia a/k/a Amazon Defense Front
15 or Amazon Defense Coalition (“ADF”) or the person or persons it designates
16 as the beneficiary of the trust, and with ADF or the person or persons it
17 designates as the directors of the trust tasked with distributing such monies.⁴

18 11. By decision dated January 3, 2012, the Appellate Division of the
19 Provincial Court of Justice of Sucumbios affirmed the Lago Agrio Judgment in
20 all material respects, and ordered Chevron to pay the judgment and an
21 additional 0.10 percent (0.10%) of the value of the judgment as legal fees. The
22 Appellate Division also directed the parties to establish a second trust fund to
23 administer the punitive damages monies, leaving its instructions and direction
24 to the same board of directors that will manage the trust with the monies for the
25

26 ⁴ The Lago Agrio Judgment further orders Chevron to pay an amount
27 equal to ten percent (10%) of the total aggregate values of the Environmental
28 Remedial Measures, or \$864,616,000, to ADF.

1 Environmental Remedial Measures. The judgment of the Appellate Division is
2 a final judgment in Ecuador.⁵

3 12. On February 1, 2011, Chevron filed an action in the Southern
4 District of New York entitled *Chevron Corporation v. Steven Donziger*, Case
5 No. 11 Civ. 0691(LAK) (“Chevron Action”) against (i) the named plaintiffs in
6 the Lago Agrio Litigation (the LAPs); (ii) their New York counsel, Steven
7 Donziger (“Donziger”), the Law Offices of Steven R. Donziger, and Donziger
8 and Associates, PLLC (collectively the “Donziger Defendants”); (iii) U.S.-
9 based environmental consultants hired by Donziger; and (iv) Donziger’s
10 Ecuadorian colleagues and their alleged “front organizations,” including ADF
11 and ADF’s lawyer, Pablo Fajardo Mendoza. *See* Chevron Action, Amended
12 Complaint at ¶ 1. In the Amended Complaint, Chevron alleges, *inter alia*, that
13 the Donziger Defendants and ADF conspired, together and with others, to
14 “extort, defraud and otherwise tortuously injure” Chevron, by, among other
15 things, bringing a “sham” lawsuit in Lago Agrio and obtaining the Lago Agrio
16 Judgment against Chevron through a variety of illegal and corrupt means.
17 Chevron seeks damages and injunctive relief against the Donziger Defendants
18 and ADF.⁶

19 _____
20 ⁵ Clarifications of the Appellate Division judgment were issued by
21 decision dated January 13, 2012.

22 ⁶ The Amended Complaint asserted nine causes of action, including
23 substantive and conspiracy claims under the Racketeer Influenced and Corrupt
24 Organizations Act (“RICO”) (against all defendants except the Lago Agrio
25 Plaintiffs), fraud, civil conspiracy under state law, unjust enrichment, and
26 (against the Donziger Defendants only) violation of Section 487 of the New
27 York Judiciary Law. Chevron also sought a judicial declaration that the Lago
28 Agrio Judgment is non-recognizable and unenforceable, and an injunction
precluding any attempt to enforce the Lago Agrio Judgment in any court or
tribunal in the United States or abroad. In connection with such claim,
Chevron requested, and the District Court granted, a preliminary injunction
precluding enforcement of the judgment outside Ecuador. However, in

1 13. Chevron further alleges, *inter alia*, that the Donziger Defendants
2 and ADF are planning to unlawfully control nearly all of the proceeds from the
3 Lago Agrio Judgment, including remedial monies that were earmarked for
4 environmental remediation, compensation and mitigation measures for the
5 benefit of the affected communities and their members, including Plaintiffs.
6 *See* Chevron Action, Amended Complaint at ¶¶ 65-66. Indeed, Chevron has
7 alleged that any amounts that the Donziger Defendants and ADF collect on the
8 Lago Agrio Judgment will be “dissipated and funneled to off-shore havens
9 beyond the reach of U.S. Courts.”⁷ *See* Chevron Action, Dkt. 405 at 8.
10 Chevron has also alleged that the Donziger Defendants and ADF have made
11 agreements with funders and third party investors in exchange for interests in
12 the Lago Agrio Judgment, and have already collected more than \$10 million by
13 selling shares in the Lago Agrio Judgment. *See* Chevron Action, Dkt. 405 at
14 10, 16. Chevron has further alleged that the Donziger Defendants and ADF
15 “admit their intention to continue selling off pieces” of the Lago Agrio
16 Judgment. *See* Chevron Action, Dkt. 405 at 16 (citing to Dkt. 365 at 13-15).

17 14. Chevron further alleges that the Republic of Ecuador reportedly
18 expects to receive ninety percent (90%) of the proceeds of the Lago Agrio
19 Judgment. *See* Chevron Action, Amended Complaint at ¶ 65.

20
21 September 2011, the Second Circuit vacated the preliminary injunction and
22 stated that an opinion would follow, and on January 26, 2012, the Second
23 Circuit remanded to the District Court with instructions to dismiss Chevron’s
24 claim for declaratory and injunctive relief. Chevron’s current request for
25 injunctive relief is based on the RICO claims and also seeks to enjoin the Lago
26 Agrio plaintiffs, Donziger Defendants, ADF, and others acting in concert with
27 them, from enforcing the Lago Agrio Judgment.

28 ⁷ Chevron has further alleged in the Chevron Action that the Donziger
29 Defendants and ADF intend to assign away their interest in the Lago Agrio
30 Judgment in exchange for money. *See* Dkt. 405 at 12 (citing to Dkt. 365 at 6-
31 8).

1 15. ADF is not a plaintiff in the Lago Agrio Litigation but claims to
2 represent all of the *Afectados*, including the Huaorani. Upon information and
3 belief, ADF's in-house lawyer, Pablo Fajardo Mendoza, is counsel of record
4 for both the ADF and the LAPs, and is funded by the Donziger Defendants,
5 and thus appears to have a conflict of interest.

6 16. Plaintiffs dispute the claim by ADF to represent all of the
7 *Afectados*, including the Huaorani, as ADF was never authorized to represent
8 the interests of Plaintiffs or the Huaorani in connection with the Lago Agrio
9 Litigation. Indeed, none of the Plaintiffs ever entered into a retainer agreement
10 with the Donziger Defendants, ADF, and/or any of their associates, and are
11 informed and believe and thereon allege, that no Huaorani ever entered into a
12 retainer agreement with the Donziger Defendants, ADF, and/or any of their
13 associates to represent their interests in the Lago Agrio Litigation. While the
14 Donziger Defendants and ADF appear to have represented to the Lago Agrio
15 Court that they represent Plaintiffs' interests, and while the Lago Agrio
16 Judgment, which directs that the proceeds of the litigation be held in trust for
17 the benefit of the affected communities and community members (including
18 Plaintiffs), appears to have been entered in reliance upon such representations,
19 there is no client retainer or other express agreement between Plaintiffs and the
20 Donziger Defendants, ADF, and/or any of their associates setting forth the
21 Donziger Defendants' and ADF's obligations to Plaintiffs in connection with
22 the Lago Agrio Litigation. Nonetheless, as a result of the Donziger
23 Defendants' and ADF's actions in connection with the Lago Agrio Litigation,
24 and of the Lago Agrio Judgment consequently entered and affirmed on appeal,
25 the Donziger Defendants and ADF owe a fiduciary duty to Plaintiffs,
26 including, *inter alia*, a duty to protect their interests in the Lago Agrio
27 Judgment, a duty to notify Plaintiffs of any arrangements with third parties,
28 including but not limited to investors, funders, and/or the Republic of Ecuador,

1 to receive or administer any proceeds from the Lago Agrio Judgment, a duty to
2 notify Plaintiffs of any actions taken by the Donziger Defendants and/or ADF
3 to enforce the Lago Agrio Judgment and/or judgment of the Appellate Division
4 affirming the Lago Agrio Judgment, and a duty to provide an accounting of any
5 proceeds received from such judgment.

6 17. Plaintiffs bring this action because the interests of the Donziger
7 Defendants and ADF are at present not aligned with Plaintiffs and are, in fact,
8 in conflict with Plaintiffs.

9 18. On January 18, 2012, various representatives of Plaintiffs sent a
10 letter to ADF seeking clarification regarding the basis of ADF's and its
11 lawyers' purported representation of Plaintiffs and the Huaorani people. The
12 letter also questioned claims by ADF's *Asemblea de Afectados y Afectadas por*
13 *Texaco* (Assembly of Persons Affected by Texaco) ("ADAT"), which similarly
14 purports to represent all of the *Afectados*, including the Huaorani, and
15 additionally, asked ADF to provide the names of the members of ADAT. The
16 letter further explained that Plaintiffs had learned about claims by ADF that the
17 Lago Agrio Litigation would remedy harms suffered by the Huaorani as a
18 result of Chevron's activities, and requested meaningful information about
19 plans to distribute any portion of the Lago Agrio Judgment to repair and
20 compensate harms to Plaintiffs and the Huaorani. The letter further inquired
21 about reports that the plaintiffs and lawyers in the Lago Agrio Litigation had
22 made an agreement with the Republic of Ecuador for the government of
23 Ecuador to administer proceeds of the litigation, and asked ADF to tell
24 Plaintiffs if those reports are true, and provide them with a copy of all
25 agreements between ADF and Ecuador. The letter was directed to Luis Yanza
26 and Pablo Fajardo [Mendoza], and asked ADF to provide the requested
27 information in writing.

28

1 19. ADF responded to the January 18, 2012 letter from the Huaorani
2 representatives by letter dated January 26, 2012, and signed by Luis Yanza and
3 Pablo Fajardo. In said response, ADF admitted that it had attempted to
4 communicate with Plaintiffs and other Huaorani, but had not been able to do so
5 – clearly acknowledging that ADF and its lawyers have never obtained
6 authorization to represent the interests of Plaintiffs or any other Huaorani in the
7 Lago Agrio Litigation, and further acknowledging that ADF and the lawyers
8 who work with ADF in the litigation have never informed or consulted with
9 Plaintiffs or other representatives of the Huaorani in that matter, or included
10 them in decision-making related to their interests or to the conduct of the
11 litigation. The response letter from ADF further admitted that the Huaorani
12 people should benefit from the Lago Agrio Litigation, and proposed that the
13 Huaorani representatives organize a meeting for ADF to attend and give them
14 the information they require.

15 20. By letter dated February 10, 2012, a Huaorani leader and
16 representative of Plaintiffs responded to the January 26, 2012 letter from ADF.
17 The February 10, 2012 letter stated that the Huaorani representatives would be
18 happy to meet with ADF, and explained that, in order to have a “serious
19 meeting” and not just talk in the air, they would need to get the information
20 they had already requested in their January 18, 2012 letter, before organizing
21 the meeting to talk. After learning about said information, the Huaorani
22 representatives would be able to engage in a meaningful dialogue with ADF
23 and, as the February 10, 2012 letter further explained, would then like to
24 organize a meeting with ADF in order to talk and find a solution. To date,
25 ADF has not responded to the February 10, 2012 letter, or provided any of the
26 information requested by Plaintiffs’ representatives in their January 18, 2012
27 letter.

28

1 21. ADF has refused to acknowledge what portion of the Lago Agrio
2 Judgment corresponds to Plaintiffs and other Huaorani. ADF has also refused
3 to acknowledge how any portion of the Lago Agrio Judgment would be used to
4 remediate, compensate, and/or mitigate the harms that Plaintiffs and other
5 Huaorani have suffered. In addition, ADF has refused to disclose the names of
6 other persons (members of ADAT) who purportedly work with ADF and the
7 Donziger Defendants to ostensibly represent the interests of Plaintiffs in the
8 litigation, and who purport to make decisions in their name of all of the
9 *Afectados*, including Plaintiffs. ADF has further refused to disclose whether
10 reports regarding a possible arrangement or deal with the Republic of Ecuador
11 that would entrust Ecuador's government to receive and administer monies
12 from the Lago Agrio Judgment are true.

13 22. Based on the foregoing, Plaintiffs have reason to believe that
14 should the Lago Agrio Plaintiffs succeed at enforcement proceedings, ADF
15 will not properly distribute any portion of the judgment proceeds to
16 compensate, mitigate, and remediate the harm to Plaintiffs. Plaintiffs have
17 reason to further believe that ADF will not properly distribute any portion of
18 the judgment proceeds to compensate, mitigate, and remediate the harm to
19 other Huaorani.

20 23. Conversely, should the Court in the Chevron Action find that
21 Chevron's rights were violated due to any alleged fraud or illegal conduct by
22 the Donziger Defendants and/or ADF, Plaintiffs will be required to pursue
23 redress for the harm suffered at the hands of Chevron. Although counsel for
24 the Lago Agrio Plaintiffs and ADF were never authorized to represent the
25 interests of Plaintiffs and other Huaorani in the Lago Agrio Litigation, their
26 continued assertions to the contrary may have collateral estoppel effect on
27 Plaintiffs' ability to seek redress for the damages caused to them, their
28 communities and family groups, and the Huaorani people.

1 24. Specifically, Plaintiffs request that this Court declare that
2 Plaintiffs and their communities have right and/or title to a portion of the Lago
3 Agrio Judgment, and additionally, that every Huaorani and Huaorani
4 community has right and/or title to a portion of the Lago Agrio Judgment, so
5 that they may be recompensed for the significant harm and damage caused to
6 their ancestral lands, territory and natural resources, and to their environment,
7 subsistence, economy, cultural practices, way of life, and health, which were
8 adversely affected and disrupted by Chevron's misconduct, as alleged and
9 adjudged in the Lago Agrio Litigation; so that they may implement effective
10 mitigation measures to address the human and cultural consequences of the
11 environmental harms which were alleged and adjudged in the Lago Agrio
12 litigation, including but not limited to displacement from ancestral lands and
13 territory and impacts on human health; and so that they may be indemnified for
14 their pain and suffering. Plaintiffs seek such compensation and funds for
15 mitigation measures through the imposition of a constructive trust on the Lago
16 Agrio Judgment and any proceeds collected on it and/or the final judgment
17 affirming the Lago Agrio Judgment in enforcement proceedings by ADF
18 and/or the Donziger Defendants, including but not limited to, the \$100 million
19 awarded for Cultural Damages, the \$200 million awarded for damages to flora
20 and fauna, the \$1.4 billion awarded for health care, the \$150 million awarded
21 for potable water supplies, and the \$8.64616 billion awarded as punitive
22 damages by the Ecuadorian court.

JURISDICTION AND VENUE

23
24 25. This Court has subject matter jurisdiction under 28 U.S.C. § 1332
25 and 28 U.S.C. § 1367 (supplemental jurisdiction). As further detailed below, a
26 justiciable controversy exists between Plaintiffs, the Donziger Defendants and
27 ADF concerning the right and title of Plaintiffs and other Huaorani to the Lago
28

1 Agrio Judgment. There is also complete diversity of citizenship between the
2 parties, and the amount in controversy exceeds \$75,000.

3 26. Personal jurisdiction over Steven Donziger is proper because
4 Donziger is a citizen of the State of New York and because he conducts
5 extensive business activities within the state. Upon information and belief,
6 Donziger is the sole proprietor of the Law Offices of Steven R. Donziger,
7 which is located and does business in New York.

8 27. Personal jurisdiction over the Law Offices of Steven R. Donziger
9 and Donziger and Associates, PLLC is proper because such entities are citizens
10 of the State of New York, and because they conduct extensive business
11 activities within the state.

12 28. Personal jurisdiction over ADF is proper pursuant to N.Y.
13 C.P.L.R. 301 and 302, because ADF has been designated as the beneficiary of
14 the trust that will administer the environmental remedial monies from the Lago
15 Agrio Judgment and as the entity that will select the directors of said trust and
16 a second trust that will administer the punitive damages monies, and stands to
17 benefit if such proceeds are not used to remedy harms to Plaintiffs and
18 compensate Plaintiffs for their pain and suffering, as required by the
19 Ecuadorian court. Upon information and belief, at all times relevant herein,
20 Donziger is or has been acting as an agent and/or alter ego of ADF with respect
21 to the Lago Agrio Litigation. Through his activities in New York, Donziger
22 has directly controlled and/or managed ADF, including, *inter alia*, supervising
23 and controlling efforts by the Donziger Defendants and ADF to enforce the
24 Lago Agrio Judgment, as well as the efforts to sell interests in the Lago Agrio
25 Judgment to third party investors. Plaintiffs are further informed and believe
26 and thereon allege that through its agents and representatives, including Pablo
27 Fajardo Mendoza and Luis Yanza, ADF has transacted business and engaged in
28 conduct in the United States and New York which give rise in part to Plaintiffs'

1 claims. In particular, upon information and belief, representatives of ADF
2 have visited the United States and New York, and have directed numerous
3 telephone calls, emails and other forms of communication to Donziger in New
4 York for the purpose of furthering and controlling the Lago Agrio Litigation
5 and the efforts to enforce the Lago Agrio Judgment. In addition, upon
6 information and belief, ADF maintains or causes to be maintained a website
7 intentionally directed towards the United States and New York called
8 www.texacotoxico.org through which ADF seeks to provide information
9 regarding the Lago Agrio Litigation and its collection efforts, and garner
10 support in the United States and New York for its activities related to the
11 litigation and collection efforts. Moreover, on information and belief, ADF,
12 through its agents and Donziger, has solicited and received funds from persons
13 in the United States and New York, including funds received in exchange for
14 interests in the Lago Agrio Judgment and funds for the purpose of enforcing
15 said Judgment.

16 29. Venue is proper within this district under 28 U.S.C. § 1391(b)(1)-
17 (2) because Defendants Donziger, the Law Offices of Steven R. Donziger, and
18 Donziger & Associates, PLLC, are residents of the State of New York in which
19 this district is located and a substantial part of the property that is the subject of
20 this action is situated in this district. Further, the related Chevron Action, as
21 described above, is already pending within this district.

22 PARTIES

23 30. Plaintiffs are, and at all times mentioned herein were, members of
24 the Indigenous Huaorani people, and citizens and residents of Ecuador.
25 Plaintiffs Kemperi Baihua Huani, Ahua Baihua Caiga, Pentibo Baihua Miipo,
26 Daboto Tega Huani, Ahuame Huani Baihua, Apará Quemperi Yate, Bai Baihua
27 Miipo, Bebanca Tega Huani, Comita Huani Yate, Cope Tega Huani,
28 Ehuenguinto Tega, Gaware Tega Huani, Martín Baihua Miipo, Mencay Baihua

1 Tega, Meñemo Huani Baihua, Miipo Yatehue Kemperi, Miñihua Huani Yate,
2 Ñama Baihua Huani, Namó Huani Yate, Omari Apica Huani, Omene Baihua
3 Huani, Yehua Tega Huani, Wagui Coba Huani, and Weica Apica Huani are
4 members of the Huaorani community Bameno. Plaintiffs Tepaa Quimontari
5 Waiwa, Nenquimo Nenquimo Venancio Nihua, Compa Guiquita, Conta
6 Nenquimo Quimontari, Daniel Ehuengei, Nantoqui Nenquimo, and Okata
7 Quipa Nihua are members of the Huaorani community Yawepare. Plaintiffs
8 Cai Baihua Quemperi, Omayihue Baihua, Tapare Ahua Yete, and Teweyene
9 Luciana Ñama Tega are members of the Huaorani community Boanamo.
10 Plaintiffs Abamo Omene, Onenca Enomenga, Pego Enomenga, Wane Ima, and
11 Wiña Enomenga are members of the Huaorani community Mihuaguno.
12 Plaintiffs Cahuiya Omaca and Mima Yeti are members of the Huaorani
13 community Wema.

14 31. Plaintiffs are informed and believe and thereon allege that
15 Defendant Donziger is currently a “consulting attorney” for ADF and the LAPs
16 in the Lago Agrio Litigation. On further information and belief, Donziger is an
17 individual residing in New York, New York.

18 32. Plaintiffs are informed and believe and thereon allege that
19 Defendant the Law Offices of Steven R. Donziger, is a sole proprietorship
20 located at 245 W. 104th Street, #7D, New York, New York 10025, and is
21 therefore a citizen of the State of New York.

22 33. Plaintiffs are informed and believe and thereon allege that
23 Defendant Donziger & Associates, PLLC, is a professional limited liability
24 corporation located at 245 W. 104th Street, #7D, New York, New York 10025,
25 and is therefore a citizen of the State of New York.

26 34. Plaintiffs are informed and believe and thereon allege that
27 Defendant ADF is a “non-profit” organization purporting to represent the
28 plaintiffs and all of the *Afectados* in the Lago Agrio Litigation. On further

1 information and belief, ADF is the designated beneficiary of a trust ordered by
2 judgment in the Lago Agrio Litigation to receive the monies awarded by the
3 court for environmental remediation, compensation and mitigation measures
4 (the Environmental Remedial Measures), and is also designated as the entity
5 that will select the directors of said trust and of a second trust ordered by the
6 court to receive punitive damages monies for indemnification of pain and
7 suffering. On further information and belief, ADF intends to administer the
8 proceeds from the Lago Agrio Judgment or designate another person or
9 persons and/or entity to administer all or part of said proceeds. On further
10 information and belief, ADF is a non-profit organization registered under the
11 laws of Ecuador with offices located in the town of Nueva Loja (Lago Agrio)
12 in the province of Sucumbios, Ecuador, and in the city of Quito, in the
13 province of Pichincha, Ecuador, and is therefore a citizen of Ecuador.

14 35. The true names and capacities, whether individual, corporate,
15 associate or otherwise, of Defendants sued herein as DOES 1 through 20,
16 inclusive, are unknown to Plaintiffs at this time ("Doe Defendants"), who
17 therefore sue said Doe Defendants by such fictitious names. When the true
18 names and capacities of said Doe Defendants have been ascertained, Plaintiffs
19 will seek leave to amend this Complaint accordingly. Plaintiffs are informed
20 and believe and thereupon allege that each defendant designated herein as a
21 Doe Defendant is liable and/or responsible in some manner for the events and
22 happenings herein complained of and have caused injuries and damages
23 thereby to Plaintiffs, as hereinafter alleged.

24 36. Plaintiffs are informed and believe and thereon allege that at all
25 times herein mentioned, each of the Defendants sued herein was the agent
26 and/or employee of each of the remaining Defendants and at all times were
27 acting within the purpose and scope of such agency and employment, with the
28 permission and consent of their Co-Defendants and with the knowledge,

1 authorization, permission and consent and/or subsequent ratification and
2 approval of each Co-Defendant.

3 **BACKGROUND OF THE LAGO AGRIO LITIGATION**

4 37. For purposes of this Complaint, the background facts relevant to
5 the history of the Lago Agrio Litigation and related litigation in the United
6 States are succinctly stated by the Second Circuit in its January 26, 2012
7 Decision regarding the preliminary injunction issued by the District Court. *See*
8 *Chevron Corp. v. Camacho Naranjo*, 667 F.3d 232, 234-239 (2d Cir. 2012).

9 **BRIEF FACTUAL BACKGROUND**

10 38. The Amazon region in Ecuador forms part of the Upper Amazon
11 basin. Plaintiffs are Indigenous persons who are members of the Huaorani
12 people, whose Indigenous ancestors have lived in the forests of the Amazon
13 basin (“Amazon Rainforest”) since before written history. The Huaorani have
14 developed a rich cultural heritage in harmony with their rainforest
15 environment, and believe that their rainforest ecosystem territory “gives” them
16 life and their way of life.

17 39. Huaorani culture co-evolved with the Huaorani’s rainforest
18 ecosystem, so there is an inextricable relationship between Huaorani culture
19 and the Huaorani’s ecosystem, which includes relationships with specific
20 plants and animals in their environment, and with specific places in their
21 ancestral territory. The ability of the Huaorani to conduct their cultural
22 practices, and to preserve their culture and transmit it to future generations, is
23 firmly associated with the health of the rainforest ecosystem in their ancestral
24 lands and territory. In addition to cultural survival, the means of subsistence,
25 health, and well-being of the Huaorani also depend on their ancestral lands,
26 territory and natural resources, and on maintaining a high level of
27 environmental quality, and thus are also firmly associated with the health of the
28 ecosystem in their ancestral lands and territory.

1 40. Plaintiffs live in the Amazon Rainforest in Ecuador, and represent
2 Indigenous Huaorani communities and family groups whose existence,
3 identity, culture, subsistence, health, well-being, economic livelihood, and way
4 of life are closely associated with their ancestral lands, territory, and natural
5 resources.

6 41. From 1964 through 1992, Chevron and its subsidiary Texaco
7 Petroleum, with various partners, including the Ecuadorian government,
8 engaged in oil exploration and extraction in the Amazon Rainforest in Ecuador.
9 The environmental contamination and destruction caused by those operations
10 are well-documented, and have received well-deserved national and
11 international condemnation.

12 42. Chevron made the first discovery of commercial quantities of
13 petroleum in the Ecuadorian Amazon in 1967, to the north of Huaorani
14 territory, and soon expanded its operations to find and extract petroleum in
15 other locations, including ancestral Huaorani lands and territory, which had
16 been inhabited, occupied, and used by Huaorani family groups since time
17 immemorial.

18 43. The Huaorani family groups who lived in the lands where
19 Chevron wanted to carry out petroleum activities had little or no peaceful
20 contact with the outside world at that time. They were semi-nomadic hunters
21 and gatherers, who lived freely and in accordance with their culture, in
22 voluntary isolation in the forest. They cultivated manioc and other subsistence
23 crops, but relied mainly on hunting, gathering, and fishing for their daily
24 consumption. They were economically self-sufficient, and depended on their
25 rainforest environment to survive. Ecuadorian institutions had little or no
26 presence or influence in said lands, and the Huaorani effectively exercised
27 political sovereignty and self-determination.

28

1 44. In furtherance of Chevron's petroleum activities which were the
2 subject of the Lago Agrio Judgment, in order to locate and extract oil resources
3 in ancestral Huaorani lands and territory, the government of Ecuador and
4 Chevron collaborated with missionaries from the U.S.-based Summer Institute
5 of Linguistics to displace and pacify the Huaorani family groups who inhabited
6 the areas where Chevron wanted to operate, including Plaintiffs' family groups,
7 by making (first) "contact" and trying to "civilize" them, change their culture,
8 and end their way of life. Plaintiffs refer to that period as the time "when the
9 civilization arrived" and recall it as a time of great suffering, when outsiders
10 first invaded and damaged their rainforest territory, and when new diseases
11 sickened and, in numerous cases, killed many family members.

12 45. The forced "contact" with Plaintiffs' family groups and other
13 Huaorani caused great suffering and harm to Plaintiffs and other Huaorani,
14 and changed their world forever. Because of that unique history, and because
15 the Huaorani are a recently-contacted Indigenous people, Plaintiffs and other
16 Huaorani have been especially hard hit by Chevron's petroleum activities and
17 the environmental harms caused thereby and adjudged in the Lago Agrio
18 Judgment. As a consequence of said activities and harms to ancestral Huaorani
19 lands, territory, and natural resources, Plaintiffs and other Huaorani have been
20 forced to adapt and make changes to their way of life and, additionally, have
21 been harmed by new illnesses and diseases, and continue to face an ongoing
22 and ever-increasing risk of further adverse impacts on their health and culture.⁸

23
24 ⁸ Part of one Huaorani family group has continued to resist "contact" with
25 the outside world (the Tagaeri, or family of Taga). Upon information and
26 belief, the surviving Tagaeri reportedly now live with another Huaorani family
27 group (the Taromenane) in voluntary isolation in the forest, in an extremely
28 vulnerable situation due to the loss of ancestral lands and territory, damage to
natural resources, and ongoing and ever-increasing external pressures which
include the continued expansion of petroleum activities and colonization in
ancestral Huaorani lands and territory.

1 46. When Chevron first arrived, Huaorani territory was unspoiled
2 rainforest, which had been inhabited, occupied and used by Huaorani family
3 groups since time immemorial, in harmony with the environment. In
4 furtherance of its petroleum activities in Plaintiffs' oil-rich ancestral homeland,
5 Chevron contaminated and damaged large areas of Plaintiffs' ancestral lands
6 and territory, and destroyed and degraded natural resources that provided
7 sustainable sources of food, water and, medicine, among other things, and
8 which "gave" the Huaorani life and their way of life.

9 47. In 1994-98, Chevron negotiated and undertook what it describes
10 as an "environmental remediation," based on a series of agreements that it
11 negotiated behind closed doors with Ecuador's government and state oil
12 company (Petroecuador). Plaintiffs did not participate in the negotiations or
13 agreements, and were not consulted by the parties. The so-called remedial
14 activities ("Remedial Activities") were not properly designed or implemented,
15 and did not remedy or alleviate the injuries or threats suffered by Plaintiffs and
16 other Huaorani, as described in this Complaint and as adjudged by the Lago
17 Agrio Court. Plaintiffs and other Huaorani have not released, acquitted or
18 discharged Chevron, Petroecuador or the Republic of Ecuador from any claims
19 or liabilities to them, or renounced any rights or claims arising out of
20 Chevron's petroleum operations and so-called Remedial Activities.

21 48. The Lago Agrio Judgment adjudged that Chevron is responsible
22 for widespread environmental damage that has harmed and continues to harm
23 and threaten the environment, health, culture, way of life, and subsistence of
24 the Huaorani, including Plaintiffs, and other *Afectados*.

25 49. Plaintiffs' ancestral lands and territory include lands where a
26 significant portion of the oil extraction infrastructure that Chevron built and
27 operated is located, as well as lands that were colonized by settlers from other
28 areas (Colonists) after the Huaorani had been displaced. Said infrastructure

1 includes the so-called "*Via Auca* (Auca Road)"⁹ and the wells, platforms, waste
2 pits, pipelines, production stations, and other roads and facilities which were
3 built and operated in order to locate and extract petroleum from the following
4 oil fields: Auca, South Auca, Cononaco, Culebra, Rumiyaçu, Yuca, South
5 Yuca, and Yulebra.

6 50. Plaintiffs' ancestral lands and territory include large areas that
7 have been severely contaminated, degraded, and damaged by Chevron's
8 petroleum activities, as alleged and adjudged in the Lago Agrio litigation.
9 Plaintiffs' ancestral lands and territory also include large areas where natural
10 resources have been contaminated, degraded, and destroyed, as alleged and
11 adjudged in the Lago Agrio Litigation. The affected areas of Plaintiffs'
12 ancestral lands and territory include areas where the environmental damage is
13 so severe that Plaintiffs have been displaced, and can no longer live there or
14 use the lands, territory, and natural resources they relied on for their culture,
15 subsistence, health, and way of life, as well as areas that are threatened with
16 further harm because of the ongoing contamination, as alleged and adjudged in
17 the Lago Agrio Judgment.

18 51. As a result of Chevron's petroleum activities and the
19 environmental harms caused thereby, Plaintiffs and other Huaorani have been
20 displaced and dispossessed of lands and territory; additional lands and territory
21 have been degraded and damaged; and the access of Plaintiffs and other
22 Huaorani to the territory and natural resources they need for physical and
23 cultural survival has been impaired, reduced, and endangered.

24 52. As a result of Chevron's petroleum activities and the
25 environmental harms caused thereby, the lives, cultural practices, and way of
26

27 ⁹ Plaintiffs refer to that road as "the road" or "the Tiguino Road" because
28 Auca is a derogatory term used to refer to the Huaorani, which means
"savages" and is considered deeply insulting by the Huaorani.

1 life of Plaintiffs and other Huaorani were severely disrupted and harmed, and
2 they were forced to make changes and adapt in order to survive; their means of
3 subsistence, food security, economy, health, well-being, and ability to maintain
4 a self-reliant and sustainable way of life were impaired and harmed; their
5 ability to conduct their cultural practices and to preserve their culture and
6 transmit it to future generations were impaired and harmed; they suffered from
7 culture shock, hunger, and new diseases; they were exposed to toxic substances
8 and an increased and ever-increasing risk of disease, illness, and malnutrition;
9 they endured, and continue to endure, pain and suffering; and their health,
10 means of subsistence, well-being, and very existence as Huaorani have become
11 endangered.

12 53. Additionally, the ongoing damage and continuing threats to
13 human health and the environment caused by Chevron's conduct, as alleged
14 and adjudged in the Lago Agrio Litigation, continue to threaten Plaintiffs and
15 other Huaorani with ongoing and ever-increasing risks of further harm.

16 **FIRST CLAIM FOR RELIEF**

17 **(Declaratory Judgment)**

18 **(Against All Defendants)**

19 54. Plaintiffs re-allege and incorporate by reference the allegations set
20 forth in paragraphs 1 through 53 above.

21 55. Pursuant to the Lago Agrio Judgment, Chevron was ordered to
22 pay more than \$18 billion (\$18,156,936,000) to remedy damages caused by
23 Chevron's petroleum activities in the Ecuadorian Amazon, including damage
24 to both the environment and the affected Indigenous and Colonist communities
25 and community members. Said damages include, *inter alia*, \$600 million to
26 remediate ground waters, \$5.39616 billion to remediate soils, \$100 million to
27 restore native flora and fauna and help remedy the impact on the affected
28 Indigenous peoples' food supply caused by damage to their sources of

1 subsistence, \$150 million to deliver potable water supplies, \$800 million to
2 develop and implement a health plan that includes treatment for people with
3 cancer, and \$1.4 billion to establish and maintain a permanent healthcare
4 system to serve the affected populations. In addition, Chevron was ordered to
5 pay \$100 million for remedial measures to mitigate the unique harm to the
6 affected Indigenous peoples' communities, including displacement from their
7 ancestral lands and territories and other cultural impacts, and \$8.64616 billion
8 in punitive damages to compensate the *Afectados* for their pain and suffering.

9 56. The Lago Agrio Judgment further directed the parties to establish
10 a trust fund to administer the monies for the Environmental Remedial
11 Measures set forth in the judgment, with ADF or the person or persons it
12 designates as the beneficiary of the trust, and with ADF or the person or
13 persons selected by ADF in the name of the *Afectados* as the directors of the
14 trust. The decision of the Appellate Division of the Provincial Court of Justice
15 of Sucumbios affirming the Lago Agrio Judgment in all material respects
16 further directed the parties to establish a second trust to administer the punitive
17 damages monies, leaving its instructions and direction to the same board of
18 directors as the trust that will manage the monies for the Environmental
19 Remedial Measures.

20 57. Plaintiffs are informed and believe and thereon allege that the
21 decision to award control over the judgment monies to ADF – which is not a
22 plaintiff in the Lago Agrio litigation – was made by the Donziger Defendants
23 and ADF, without consulting Plaintiffs and/or the other affected Indigenous
24 groups.

25 58. ADF claims to represent all of the *Afectados* affected by
26 Chevron's actions in the Ecuadorian Amazon, including all of the affected
27 Indigenous peoples, communities, and community members. Plaintiffs,
28 however, dispute such representation, asserting that ADF was never authorized

1 to represent their interests in connection with the Lago Agrio Litigation.
2 Indeed, none of the Plaintiffs ever entered into a retainer agreement with the
3 Donziger Defendants, ADF, and/or any of their associates, and are informed
4 and believe and thereon allege that no member of the Huaorani people entered
5 into a retainer agreement with the Donziger Defendants, ADF and/or any of
6 their associates providing that Donziger and/or ADF would represent their
7 interests in the Lago Agrio Litigation. While the Donziger Defendants and
8 ADF appear to have represented to the Lago Agrio Court that they represented
9 Plaintiffs' interests and while the Lago Agrio Judgment, which directs that the
10 funds be held in trust for the affected communities and community members
11 (including Plaintiffs), appears to have been entered in reliance upon such
12 representations, there is no client retainer or other express agreement between
13 Plaintiffs and the Donziger Defendants, ADF, and/or any of their associates
14 setting forth the Donziger Defendants' and ADF's obligations to Plaintiffs in
15 connection with the Lago Agrio Litigation.

16 59. Nonetheless, as a result of the Donziger Defendants' and ADF's
17 actions in connection with the Lago Agrio Litigation and of the Lago Agrio
18 Judgment consequently entered and affirmed on appeal, the Donziger
19 Defendants and ADF owe fiduciary duties to Plaintiffs, including, *inter alia*, a
20 duty to protect their interests in the Lago Agrio Judgment and their right to
21 adjudicated remedies, a duty to notify Plaintiffs of any arrangements with third
22 parties, including but not limited to investors, funders, and/or the Republic of
23 Ecuador, to receive or administer any proceeds from the Lago Agrio Judgment,
24 a duty to notify Plaintiffs of the status of any enforcement proceedings and
25 efforts undertaken by the Donziger Defendants and/or ADF to enforce or
26 collect on the Lago Agrio Judgment and/or Appellate Division judgment
27 affirming the Lago Agrio Judgment, a duty to provide an accounting of any
28 proceeds received from such judgment, and a duty to remit to Plaintiffs and

1 their communities their rightful portion of the Lago Agrio Judgment
2 corresponding to their injuries for which Chevron was held liable, and
3 additionally, a duty to remit to other Huaorani and their communities their
4 rightful portion of the Lago Agrio Judgment corresponding to their injuries for
5 which Chevron was held liable.

6 60. In conjunction with the foregoing, on or about January 18, 2012,
7 various representatives of Plaintiffs sent a letter to Luis Yanza (“Yanza”) and
8 Pablo Fajardo Mendoza (“Fajardo”) of ADF, to inquire into the status of and
9 process for administration and distribution of the Lago Agrio Judgment
10 proceeds.

11 61. More specifically, the letter requested that ADF provide
12 information regarding which portion of the Lago Agrio Judgment corresponds
13 to Plaintiffs and other Huaorani, and regarding how and when it would repair
14 and compensate the damages sustained by Plaintiffs and other Huaorani as a
15 result of Chevron’s petroleum activities. In addition, the letter requested that
16 ADF clarify and explain the basis for its claim and the claim of its lawyers to
17 represent Plaintiffs and other Huaorani (including the claim of ADF’s ADAT
18 to represent Plaintiffs and the Huaorani people, and the claim by the Donziger
19 Defendants to represent Plaintiffs and the Huaorani people.) The letter further
20 inquired about reports that plaintiffs and lawyers in the Lago Agrio Litigation
21 had made an agreement with the Republic of Ecuador for the government of
22 Ecuador to administer the proceeds of the litigation, and asked ADF to tell
23 Plaintiffs if those reports are true and provide them with a copy of any
24 agreements between ADF and Ecuador. The letter demanded that ADF
25 respond and provide the requested information in writing within fifteen (15)
26 days, otherwise Plaintiffs would seek legal measures against ADF to defend
27 their rights. The Huaorani representatives who signed the letter are members
28 of four Huaorani communities (Bameno, Boanamo, Wema and Yawepare).

1 62. Thereafter, on or about January 26, 2012, Yanza and Fajardo sent
2 a letter on behalf of ADF responding to Plaintiffs. In their letter, Yanza and
3 Fajardo advised Plaintiffs that they [ADF] had tried to speak with Plaintiffs and
4 other Huaorani since a long time ago, through the leaders and other members
5 of the Huaorani people, but that it had not been possible to do so.

6 63. The letter from Yanza and Fajardo further stated that ADF hoped
7 to establish a relationship with Plaintiffs, as “*afectados*” (affected parties) who
8 should be beneficiaries of the outcome of the Lago Agrio Litigation. The letter
9 suggested that Plaintiffs organize a meeting for ADF to attend to discuss the
10 litigation. The letter, however, did not provide any information regarding the
11 distribution of judgment proceeds to remedy the harms to Plaintiffs, or the
12 basis for ADF’s and its lawyers’ claims to represent Plaintiffs and other
13 Huaorani. The letter also failed to disclose the names of the members of
14 ADF’s ADAT, or provide any information regarding the basis for ADF’s claim
15 that ADAT represents Plaintiffs and the Huaorani people, and further failed to
16 provide any information regarding possible agreements with the government of
17 Ecuador related to the Lago Agrio Litigation.

18 64. On February 10, 2012, Plaintiff Pentibo (Nagaipe) Baihua Miipo
19 (“Penti”), Coordinator of the Huaorani community Bamenó and General
20 Coordinator of the Huaorani community alliance *Ome Gompote Kiwigimoni*
21 *Huaorani* (We Defend Our Huaorani Territory), sent a letter to Yanza and
22 Fajardo responding, on behalf of Plaintiffs, to the January 26, 2012 letter from
23 ADF. In his letter, Penti explained that Plaintiffs would welcome a meeting
24 with ADF but that in order to have a “serious meeting” and not simply talk in
25 the air, ADF would first need to provide the information requested in the
26 January 18 letter. After learning about said information, the Huaorani
27 representatives would be able to engage in a meaningful dialogue with ADF
28 and, as the February 10 letter further explained, would then like to organize a

1 meeting with ADF in order to talk and find a solution. Yanza and Fajardo,
2 however, failed to respond to the February 10 letter, and have not provided any
3 of the information requested in the January 18 letter.

4 65. Efforts by Plaintiffs to obtain meaningful information from ADF
5 regarding the scope and basis of its (and its lawyers) purported representation
6 of the Huaorani and the identity of other persons (members of ADAT) who
7 work with ADF and purport to make decisions in the name of Plaintiffs and the
8 Huaorani people, regarding which portion of the Lago Agrio Judgment
9 corresponds to the Huaorani and whether ADF will distribute any portion of
10 the judgment to Plaintiffs and other Huaorani or expend any proceeds to
11 remedy the harms suffered by the Huaorani, and regarding whether reports of a
12 possible agreement between ADF and Ecuador that would turn over judgment
13 monies to the government of Ecuador are true, have been systematically
14 rebuffed.

15 66. Moreover, Plaintiffs are informed and believe and thereon allege
16 that the Donziger Defendants' and ADF's interests in the Lago Agrio
17 Litigation lie not in securing the Plaintiffs' rights and interest in the Lago
18 Agrio Judgment, but rather in collecting as much of the judgment as possible
19 for their own use and benefit.

20 67. Indeed, as noted above, in the Chevron Action, Chevron has
21 asserted numerous claims, including claims for fraud and racketeering against
22 the Donziger Defendants and ADF seeking hundreds of millions of dollars in
23 damages and injunctive relief. Plaintiffs are informed and believe and thereon
24 allege that the Donziger Defendants and/or ADF have incurred tremendous
25 debt, both in litigating the Lago Agrio Litigation and in defending Chevron's
26 claims in the Chevron Action, and are further informed and believe and thereon
27 allege that the Donziger Defendants and/or ADF have sold interests in the Lago
28 Agrio Judgment to investors and/or funders. Accordingly, upon information

1 and belief, the Donziger Defendants and ADF do not intend to distribute any
2 portion of the Lago Agrio Judgment proceeds to Plaintiffs to remedy their
3 harms, as any judgment proceeds recovered from Chevron will go first to
4 filling the coffers of the Donziger Defendants and ADF, not to compensating
5 Plaintiffs and other Huaorani for the harm that they suffered at the hands of
6 Chevron or otherwise remedying said harm.

7 68. Declaratory relief is therefore appropriate and necessary here
8 because a conflict of rights and justiciable controversy exists between
9 Plaintiffs, the Donziger Defendants and ADF concerning Plaintiffs' right
10 and/or title to their portion of the Lago Agrio Judgment, and as to whether the
11 Donziger Defendants and ADF owe Plaintiffs fiduciary duties, including the
12 duty to protect their interests in the Lago Agrio Judgment.

13 69. Plaintiffs therefore request a declaratory judgment from this Court
14 pursuant to Federal Rule of Civil Procedure 57 and 28 U.S.C. § 2201 that
15 Plaintiffs and their family groups and their communities are entitled to recover
16 their proportionate share of the judgment proceeds awarded under the Lago
17 Agrio Judgment, and additionally, that every Huaorani community and every
18 Huaorani is also entitled to recover their proportionate share of the judgment
19 proceeds, and that the Donziger Defendants and ADF owe Plaintiffs fiduciary
20 duties, including, *inter alia*, a duty to protect their interests in the Lago Agrio
21 Judgment and their right to remedies, a duty to notify Plaintiffs of any
22 arrangements with third parties, including but not limited to investors, funders,
23 and/or the Republic of Ecuador, to receive or administer any proceeds of the
24 Lago Agrio Judgment, a duty to notify Plaintiffs of the status of any
25 enforcement proceedings and efforts undertaken by the Donziger Defendants
26 and/or ADF to enforce or collect on the Lago Agrio Judgment and/or appellate
27 judgment affirming the Lago Agrio Judgment, and a duty to provide an
28 accounting of any proceeds received from such judgment.

SECOND CLAIM FOR RELIEF

(Constructive Trust)

(Against All Defendants)

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2
3
4 70. Plaintiffs re-allege and incorporate by reference the allegations set
5 forth in paragraphs 1 through 69 above.

6 71. The Lago Agrio Judgment provides that the judgment monies for
7 environmental remediation, compensation and mitigation measures (the
8 Environmental Remedial Measures) are to be deposited into a trust fund, with
9 the beneficiary to be ADF or the person or persons it designates, and with the
10 directors to be ADF or any person or persons it selects in the name of the
11 *Afectados*. Per the order of the Ecuadorian court, ADF is obligated to
12 administer the trust monies for the benefit of the affected communities and
13 community members, including Plaintiffs and other Huaorani. The decision of
14 the Appellate Division affirming the Lago Agrio Judgment in all material
15 respects further provides that the punitive damages monies awarded to
16 compensate the *Afectados* for their pain and suffering and to punish Chevron
17 for prolonging said pain and suffering through unreasonable and malicious
18 conduct in the Lago Agrio Litigation, are to be deposited in a second trust fund,
19 with the same directors as the trust that will manage the monies for
20 environmental remediation, compensation and mitigation. Per the order of the
21 Ecuadorian court, ADF is obliged to select the directors of the trust funds for
22 the benefit of the *Afectados*, and the directors of the trust that receives the
23 punitive damages monies are also obligated to administer those monies for the
24 benefit of the affected communities and community members, including
25 Plaintiffs and other Huaorani.

26 72. While the Donziger Defendants and ADF appear to have
27 represented to the Lago Agrio Court that they represent Plaintiffs' interests and
28 while the Lago Agrio Judgment, which directs that the proceeds of the

1 judgment be held in trust for the affected communities (including Plaintiffs),
2 appears to have been entered in reliance upon such representations, there is no
3 client retainer or other express agreement between Plaintiffs and the Donziger
4 Defendants, ADF, and/or their associates setting forth the Donziger
5 Defendants' and ADF's obligations to the Plaintiffs in connection with the
6 Lago Agrio Litigation. Nonetheless, as a result of the Donziger Defendants'
7 and ADF's actions in connection with the Lago Agrio Litigation and of the
8 Lago Agrio Judgment consequently entered and affirmed on appeal, the
9 Donziger Defendants and ADF owe a fiduciary duty to Plaintiffs, including a
10 duty to protect their interests in the Lago Agrio Judgment.

11 73. Efforts by Plaintiffs to obtain meaningful information from the
12 Donziger Defendants and ADF concerning the scope and basis of their
13 purported representation of the Huaorani people, regarding which portion of
14 the Lago Agrio Judgment corresponds to the Huaorani and whether they will
15 distribute any portion of the Lago Agrio Judgment to Plaintiffs and other
16 Huaorani, or expend any proceeds to remedy harms to Plaintiffs and other
17 Huaorani, and regarding whether reports of a possible agreement between ADF
18 and Ecuador that would turn over judgment monies to the government of
19 Ecuador are true, have been systematically rebuffed.

20 74. Plaintiffs are informed and believe and thereon allege that the
21 Donziger Defendants and/or ADF have monetized a portion of the Lago Agrio
22 Judgment by selling shares in it to third-party investors. Indeed, according to
23 allegations made by Chevron in the Chevron Action, the Donziger Defendants
24 and/or ADF have entered into funding agreements with various third parties
25 through which the Donziger Defendants and/or ADF have already been paid in
26 excess of \$10.760 million, and the Donziger Defendants and ADF intend to
27 continue selling off pieces of the judgment to investors. *See* Chevron Action,
28 Dkt. 405 at 10, 16 (citing to Dkt. 365 at 13-15); and Dkt.410 at 10.

1 75. In fact, Chevron has produced copies of several funding
2 agreements made after the February 14, 2011 Lago Agrio Judgment was
3 announced, including, *inter alia*: (1) the Torvia Limited May 16, 2011 funding
4 agreement (Dkt 355-32, Ex. 1101); (2) the David Sherman funding agreement
5 (Dkt. 355-36, Ex. 1114; (3) the Glen Krevlin funding agreement (Dkt. 355-36,
6 Ex. 1115); (4) the Michael Donziger funding agreement (Dkt. 370-9, Ex.
7 1227); and (5) the Russell O' Wiese funding agreement (Dkt. 355-36, Ex.
8 1116). According to Chevron, since 2010, the Donziger Defendants have
9 obtained funding commitments of over \$25 million from twelve (12) different
10 companies and individuals. In return for each such investment, these third
11 parties or funders are entitled to recover a portion of the total amount that the
12 Donziger Defendants and/or ADF collect on the Lago Agrio Judgment. *See*
13 *Chevron Action*, Dkt. 409 at 3.

14 76. Moreover, Chevron estimates the current market value of the Lago
15 Agrio Judgment to be at least \$200 million based on an analysis of the shares
16 already sold by the Donziger Defendants and ADF to third party investors. *See*
17 *Chevron Action*, Dkt. 405 at 16-17.

18 77. Chevron further alleges that the Republic of Ecuador reportedly
19 expects to receive ninety percent (90%) of the proceeds of the Lago Agrio
20 Judgment. *See Chevron Action*, Amended Complaint at ¶ 65.

21 78. Pursuant to the Lago Agrio Judgment, ADF has been designated
22 as the beneficiary of the trust that will receive the proceeds of the judgment
23 which have been awarded for Environmental Remedial Measures, as well as
24 the entity that selects the directors of said trust and of a second trust that will
25 receive the punitive damages monies awarded by the judgment, and thus has
26 obtained legal title to the Lago Agrio Judgment and any proceeds or monies
27 paid in connection with said Judgment, which it is supposed to hold for the
28 benefit of the affected communities and community members, including

1 Plaintiffs and other Huaorani and their communities, who are in good
2 conscience entitled to a portion of said proceeds.

3 79. The Donziger Defendants and ADF owe fiduciary duties to
4 Plaintiffs, including the duty to protect their interests in the Lago Agrio
5 Judgment and to not encumber, diminish or dissipate proceeds of the Lago
6 Agrio Judgment to the detriment of Plaintiffs.

7 80. The Donziger Defendants and ADF have wrongfully refused to
8 inform Plaintiffs regarding their efforts to enforce the Lago Agrio Judgment,
9 have failed to disclose to Plaintiffs their actions to sell to third parties interests
10 in the Judgment to the detriment of Plaintiffs, have refused to disclose to
11 Plaintiffs whether they will distribute any portion of the judgment proceeds to
12 the government of Ecuador, and have refused to agree to distribute any portion
13 of the judgment proceeds to Plaintiffs or expend any portion of the proceeds to
14 remedy harms to Plaintiffs and other Huaorani, who are the intended
15 beneficiaries of a significant portion of such proceeds since their ancestral
16 lands, territory and natural resources were contaminated and damaged by
17 Chevron's petroleum activities, and their means of subsistence, health, way of
18 life, and ability to enjoy their culture and transmit it to future generations were
19 harmed thereby, and who have endured considerable pain and suffering.

20 81. Defendants' actions as alleged herein have, on information and
21 belief, allowed Defendants to obtain putative title, possession, or other
22 apparent right to property rightfully belonging to Plaintiffs under the Lago
23 Agrio Judgment, as well as property rightfully belonging to other Huaorani,
24 that the Donziger Defendants and ADF, in equity and good conscience, should
25 not be allowed to hold and enjoy.

26 82. By refusing to inform Plaintiffs of the status of enforcement
27 proceedings and of the Donziger Defendants' and ADF's plans for distribution
28 of any proceeds collected on the judgment, by pursuing the Lago Agrio

1 Litigation based on the asserted interests, claims and rights of Plaintiff and
2 other Huaorani, by refusing to inform Plaintiffs regarding which portion of the
3 Lago Agrio Judgment proceeds correspond to Plaintiffs and other Huaorani, by
4 refusing to agree to pay Plaintiffs any portion of the Lago Agrio Judgment
5 proceeds and/or expend any portion of the judgment proceeds to remedy the
6 harms to Plaintiffs and other Huaorani, by refusing to disclose to Plaintiffs
7 whether they (the Donziger Defendants and/or ADF) intend to distribute any
8 portion of the judgment proceeds to the government of Ecuador to the
9 detriment of Plaintiffs, and by selling interests in the Judgment to third parties
10 to the detriment of Plaintiffs, the Donziger Defendants and ADF have breached
11 their fiduciary duties to Plaintiffs and have been, and will continue to be
12 unjustly enriched, by the possession of those monies awarded for the benefit of
13 Plaintiffs and other Huaorani, unless the Court issues a constructive trust
14 against the Donziger Defendants and ADF and in favor of Plaintiffs.

15 83. Justice is effectuated by establishing a constructive trust over any
16 monies collected on the Lago Agrio Judgment because the trust prevents the
17 Donziger Defendants and ADF from breaching their duties to Plaintiffs and
18 from profiting from their own wrong doing - the wrongful retention and/or
19 siphoning away of any judgment proceeds owed to Plaintiffs and other
20 Huaorani.

21 **THIRD CLAIM FOR RELIEF**

22 **(Unjust Enrichment)**

23 **(Against All Defendants)**

24 84. Plaintiffs re-allege and incorporate by reference the allegations set
25 forth in paragraphs 1 through 83 above.

26 85. The Lago Agrio Judgment provides that the judgment monies for
27 Environmental Remedial Measures are to be deposited in a trust fund, with the
28 beneficiary to be ADF or the person or persons it designates, and the directors

1 to be ADF or any person or persons it selects in the name of the *Afectados*. Per
2 the order of the Ecuadorian court, ADF is obligated to pay that portion of the
3 judgment proceeds to remediate, compensate and mitigate harms to the
4 affected communities and community members, including Plaintiffs and other
5 Huaorani.

6 86. The decision of the Appellate Division affirming the Lago Agrio
7 Judgment in all material respects further provides that the punitive damages
8 monies for indemnification for pain and suffering are to be deposited in a trust
9 fund, with the same directors as the trust which will administer the judgment
10 monies for the Environmental Remedial Measures. Per the order of the
11 Ecuadorian court, ADF (and the board it designates) are obliged to administer
12 the punitive damages monies for the benefit of the affected communities and
13 community members, including Plaintiffs and other Huaorani, and to pay that
14 portion of the judgment proceeds to compensate the affected communities and
15 community members, including Plaintiffs and other Huaorani and their
16 communities, for their pain and suffering.

17 87. Plaintiffs are informed and believe and thereon allege that the
18 Donziger Defendants and ADF have monetized a portion of the Lago Agrio
19 Judgment by selling shares in it to third-party investors. Indeed, according to
20 allegations made by Chevron in the Chevron Action, the Donziger Defendants
21 and/or ADF have entered into funding agreements with various third parties
22 through which the Donziger Defendants and/or ADF have already been paid in
23 excess of \$10.760 million, and the Donziger Defendants and ADF intend to
24 continue selling off pieces of the judgment to investors. *See* Chevron Action,
25 Dkt. 405 at 10, 16 (citing to Dkt. 365 at 13-15); and Dkt.410 at 10.

26 88. In fact, Chevron has produced copies of several funding
27 agreements made after the February 14, 2011 Lago Agrio Judgment was
28 announced including, *inter alia*: (1) the Torvia Limited May 16, 2011 funding

1 agreement (Dkt 355-32, Ex. 1101); (2) the David Sherman funding agreement
2 (Dkt. 355-36, Ex. 1114; (3) the Glen Krevlin funding agreement (Dkt. 355-36,
3 Ex. 1115); (4) the Michael Donziger funding agreement (Dkt. 370-9, Ex.
4 1227); and (5) the Russell O' Wiese funding agreement (Dkt. 355-36, Ex.
5 1116). According to Chevron, since 2010, the Donziger Defendants have
6 obtained funding commitments of over \$25 million from twelve (12) different
7 companies and individuals. In return for each such investment, these third
8 parties or funders are entitled to recover a portion of the total amount that the
9 Donziger Defendants and/or ADF collect on the Lago Agrio Judgment. *See*
10 *Chevron Action*, Dkt. 409 at 3.

11 89. Moreover, Chevron estimates the current market value of the Lago
12 Agrio Judgment to be at least \$200 million based on an analysis of the shares
13 already sold by the Donziger Defendants and ADF to third party investors. *See*
14 *Chevron Action*, Dkt. 405 at 16-17.

15 90. Chevron further alleges that the Republic of Ecuador reportedly
16 expects to receive ninety percent (90%) of the proceeds of the Lago Agrio
17 Litigation. *See Chevron Action*, Amended Complaint at ¶ 65.

18 91. Pursuant to the Lago Agrio Judgment, ADF has been designated
19 the beneficiary of the trust that will receive the proceeds of the judgment which
20 have been awarded for Environmental Remedial Measures, as well as the entity
21 that selects the directors of said trust and of a second trust that will receive the
22 punitive damages monies awarded by the judgment, and thus has obtained legal
23 title to the Lago Agrio Judgment and any proceeds or monies paid in
24 connection with said Judgment, which it is supposed to hold for the benefit of
25 the affected communities and community members, including Plaintiffs and
26 other Huaorani and their communities, who are in good conscience entitled to a
27 portion of said proceeds.

28

1 92. The Donziger Defendants and ADF owe fiduciary duties to
2 Plaintiffs, including the duty to protect their interests in the Lago Agrio
3 Judgment and to not encumber, diminish or dissipate proceeds of the Lago
4 Agrio Judgment to the detriment of Plaintiffs.

5 93. The Donziger Defendants and ADF have wrongfully refused to
6 inform Plaintiffs regarding their efforts to enforce the Lago Agrio Judgment,
7 have failed to disclose to Plaintiffs their actions to sell to third parties interests
8 in the Judgment to the detriment of Plaintiffs, have refused to disclose to
9 Plaintiffs whether they will distribute any portion of the judgment proceeds to
10 the government of Ecuador, and have refused to agree to distribute any portion
11 of the judgment proceeds to Plaintiffs or expend any portion of the proceeds to
12 remedy the harms to Plaintiffs and other Huaorani, who are the intended
13 beneficiaries of a significant portion of such proceeds since their ancestral
14 lands, territory and natural resources were contaminated and damaged by
15 Chevron's petroleum activities, and their means of subsistence, health, way of
16 life, and ability to enjoy their culture and transmit it to future generations were
17 harmed thereby, and who have endured great pain and suffering.

18 94. The actions by the Donziger Defendants and ADF, as alleged
19 herein have, on information and belief, allowed the Donziger Defendants and
20 ADF to obtain putative title, possession, or other apparent right to property
21 rightfully belonging to Plaintiffs and their communities under the Lago Agrio
22 Judgment, as well as to property rightfully belonging to other Huaorani and
23 their communities, which the Donziger Defendants and ADF, in equity and
24 good conscience, should not be allowed to hold and enjoy.

25 95. By selling interests in the Judgment to third parties, the Donziger
26 Defendants and ADF have attempted to diminish and encumber Plaintiffs'
27 interests in the Judgment proceeds without agreement or approval of Plaintiffs,
28 and have benefited to the detriment of Plaintiffs and other Huaorani. The

1 Donziger Defendants and ADF have been, and will continue to be unjustly
2 enriched by the possession of those monies received as a result of the Lago
3 Agrio Judgment which was awarded for the benefit of Plaintiffs and other
4 Huaorani. Under the principles of equity and law, the Donziger Defendants
5 and ADF must disgorge such enrichment to Plaintiffs and make restitution to
6 Plaintiffs and other Huaorani.

7 **FOURTH CLAIM FOR RELIEF**

8 **(Accounting)**

9 **(Against All Defendants)**

10 96. Plaintiffs re-allege and incorporate by reference the allegations set
11 forth in paragraphs 1 through 95 above.

12 97. As a direct result of the Donziger Defendants' and ADF's actions
13 as alleged herein above, the Donziger Defendants and ADF have received and
14 are in possession of assets and/or monies which rightfully belong to Plaintiffs
15 as well as assets and/or monies which rightfully belong to other Huaorani. The
16 amount of monies and/or property due to Plaintiffs and other Huaorani and
17 their communities from the Donziger Defendants and ADF is unknown to
18 Plaintiffs and cannot be ascertained without an accounting thereof. The
19 Donziger Defendants and ADF have refused to share any information
20 regarding any of the proceeds or monies they have been paid in connection
21 with the Lago Agrio Judgment, including, *inter alia*, monies received from
22 third parties in exchange for interests in the judgment. The Donziger
23 Defendants and ADF have also refused to disclose whether they have agreed to
24 pay any portion of the judgment proceeds to the government of Ecuador. As
25 such, Plaintiffs cannot calculate the sum certain that they are owed by the
26 Donziger Defendants and ADF. An accounting from the Donziger Defendants
27 and ADF is therefore required to determine the portion of the judgment
28 proceeds to be paid Plaintiffs and their communities in accordance with the

1 Lago Agrio Judgment, and the portion to be paid to other Huaorani and their
2 communities.

3 98. Plaintiffs have demanded an accounting, but the Donziger
4 Defendants and ADF have failed and/or refused, and continue to fail and/or
5 refuse to provide Plaintiffs with any information regarding what portion of the
6 judgment proceeds is to be paid to Plaintiffs and other Huaorani and/or used to
7 remedy harms to Plaintiffs and other Huaorani, and what portion of the
8 judgment has been sold, encumbered, diminished or dissipated to the detriment
9 of Plaintiffs, and thus an accounting is necessary.

10 **PRAYER FOR RELIEF**

11 **WHEREFORE**, Plaintiffs pray for relief against the Donziger
12 Defendants and ADF, as set forth below:

13 1. For entry of judgment in favor of Plaintiffs and against the
14 Donziger Defendants and ADF declaring that Plaintiffs and their communities
15 and family groups are entitled to recover their proportionate share of the
16 judgment proceeds awarded under the Lago Agrio Judgment, and additionally,
17 that every Huaorani community and every Huaorani is also entitled to recover
18 their proportionate share of the judgment proceeds; and that the Donziger
19 Defendants and ADF owe Plaintiffs fiduciary duties including a duty to protect
20 their interests in the Lago Agrio Judgment and their right to remedies, a duty to
21 notify Plaintiffs of any arrangements with third parties, including but not
22 limited to investors, funders, and/or the Republic of Ecuador, to receive or
23 administer any proceeds of the Lago Agrio Judgment, a duty to notify Plaintiffs
24 of the status of any enforcement proceedings and efforts undertaken by the
25 Donziger Defendants and/or ADF to enforce or collect on the Lago Agrio
26 Judgment and/or appellate judgment affirming the Lago Agrio Judgment, and a
27 duty to provide an accounting of any proceeds received from such judgment.

28

1 2. For the imposition of a constructive trust in favor of Plaintiffs and
2 against the Donziger Defendants and ADF over the Lago Agrio Judgment and
3 any judgment proceeds recovered therefrom by the Donziger Defendants
4 and/or ADF, as well as any monies received by virtue of selling interests in the
5 Lago Agrio Judgment;

6 3. For restitution in an amount to be determined at trial;

7 4. For an accounting of any interests in the Lago Agrio Judgment
8 purportedly sold, of any monies received thereby, of any interests in the Lago
9 Agrio Judgment otherwise encumbered, of any arrangements with the Republic
10 of Ecuador to receive or administer any proceeds of the judgment, and of any
11 judgment proceeds paid to or collected by the Donziger Defendants and/or
12 ADF and/or their associates in connection with the Lago Agrio Judgment;

13 5. For interest at the legal rate in an amount to be proved at trial;

14 6. For costs and attorneys' fees awardable under the law; and

15 7. For such other and further relief as the Court may deem just and
16 proper.

17
18 Respectfully submitted,

19 SCHWARZ, RIMBERG, BOYD & RADER,
20 LLP

21
22 By: 

Kathryn Lee-Boyd Crawford
Attorney for Plaintiffs

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24
25 By: 

Judith Kimerling
Attorney for Plaintiffs

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DEMAND FOR JURY TRIAL

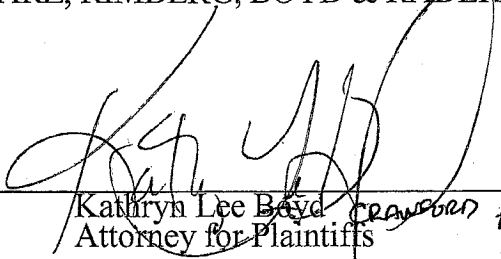
Plaintiffs hereby demand a trial by jury herein.

Respectfully submitted,

Dated: July 17, 2012

SCHWARZ, RIMBERG, BOYD & RADER,
LLP

By:



Kathryn Lee Boyd
Attorney for Plaintiffs

CRANFORD RD