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Sent: Sunday, March 21, 2010 11:48 AM
To: sdonziger@gmail.com
Cc: Englert, Ericka F. <EEnglert@BHFS.com>; Hoke, Michael D. <MHoke@BHFS.com>
Subject: Chevron v. Stratus

Steven,

Based upon what we have learned regarding Stratus and Cabrera, including the troubling information we gathered in our call with you and Andrew and conversations with Jeff Shinder, and our as yet unresolved questions regarding Ecuadorian laws of privilege or confidentiality of materials submitted to the court, we are in an untenable position.

At this point we are not sure what position we can reasonably take in opposition to the discovery Chevron is seeking. We presently have no reliable basis for asserting a privilege, either under US or Ecuadorian law, in part because we have no authoritative pronouncement of any relevant Ecuadorian law on which we can reasonably rely. Nor can we reasonably argue that the materials Chevron seeks are not "for use" in the BIT proceeding. Rather, based on our current understanding, the best we might be able to do is negotiate to narrow the scope of discovery somewhat. But, having been left out of the fact-gathering efforts in Boulder and without reliable materials relating to Ecuadorian law, we lack the information necessary to meet and confer with Gibson Dunn in good faith, and we are therefore unprepared to meet and confer on Monday.

As a result, we are concerned about our ability to satisfy our obligations to Judge Kane and to the court if we continue in our representation of the Lago Agrio plaintiffs in this case. Accordingly, we will not participate in the meet and confer on Monday, and early next week we will seek permission from the court to withdraw our representation pursuant to Local Rule 83.3(D). We regret that we are unable to assist further, but we must satisfy our obligations to the court.

Steven, I am available Monday at 7:45 am or 9:30 am Denver time to discuss this. I'm sorry it has come to this but I feel if we proceed I may be compromising this firm's reputation and ethical stature and I cannot do that.

John

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