



OIL SLICK

Chevron wins sanctions against a plaintiffs lawyer.

FOR 15 YEARS AN Ecuadorean-born American lawyer named Cristobal Bonifaz was an impassioned voice for Ecuadoreans suffering the environmental after-effects of oil drilling in the Amazon basin. But now that a federal judge has questioned his motives and dismissed his latest case, Bonifaz has been pushed aside from his life's work.

Bonifaz's chief target has long been Texaco (now part of Chevron Corporation), which operated in the Ecuadorean rainforest from 1972 to 1992. In a 2006 case he filed in federal district court in San Francisco, Bonifaz and two other attorneys accused the oil giant of inflicting personal injury, including cancer, on their Ecuadorean clients.

But Chevron's Jones Day lawyers discovered that two of the plaintiffs' cancer claims were false and that some of Bonifaz's clients might not have known that the suit was filed in their names. U.S. district court judge William Alsup, who had earlier accused Bonifaz of manufacturing the case "as part of a larger scheme against the defendants," sanctioned Bonifaz and his cocounsel in October. "Counsel were obligated to investigate first and sue second, not the other way around," he wrote.

The California case was dismissed in November. Bonifaz had to pay \$45,000 to cover Jones Day's costs in deposing plaintiffs in Ecuador. He says he regrets the erroneous cancer claims but stands by the allegations in the suit.

The sanction delighted Chevron, which took out full-page ads in Ecuadorean newspapers quoting from the decision. It also created headaches for plaintiffs lawyers still battling Chevron in a separate case that Bonifaz brought years earlier, which is now being litigated in

an Ecuadorean court ["Jungle Warfare," *Litigation Supplement* 2006]. "People had associated the case with Bonifaz for so long," says Steven Donziger, an independent lawyer in the ongoing Ecuadorean case. "We were getting calls from people saying they heard our case got dismissed."

Bonifaz first sued the oil company in 1993 in federal district court in New York. After the U.S. Court of Appeals for the Second Circuit upheld the dismissal of the suit in 2002, Bonifaz helped file a nearly identical suit in Ecuador. That case could yield a decision—

and a potential billion-dollar judgment—this year.

But Bonifaz was fired from the case in 2006 by the plaintiffs group. The group cited his conflicts of interest and "a grave lack of respect" for their wishes, according to documents that emerged in the

California case; Bonifaz claims that the Ecuadorean lawyers pushed the plaintiffs to sever ties with him for political reasons.

Soon after he was dismissed from the case in Ecuador, Bonifaz filed the California suit. He asserts it was intended to keep pressure on Chevron, since the company is working hard to ensure that any judgment in the Ecuadorean courts is unenforceable.

Chevron lawyer Thomas Cullen, Jr., of Jones Day doesn't buy that rationale. "He went from being the lead of the effort to the point where he lost all credibility with all the parties," Cullen says. "I think he just wanted to stay in the game."

Instead, Bonifaz is forced to watch from his home office in rural Conway, Massachusetts, as litigation against the oil giant unfolds far away. But he insists that he might still sue Chevron again. "I think I'll leave that up in the air," he says. "For now."

—DAVID BARIO



CRISTOBAL BONIFAZ