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## PRESS RELEASE

### **U.S. Attorney Steven Donziger Files Human Rights Petition Claiming U.S. Judicial Authorities Failed to Protect Him from Vicious Chevron Retaliation Campaign**

*Case Raises Larger Issues of Corporate “SLAPP” Retaliation Lawsuits Against Critics and Human Rights Advocates; Global Witness, Greenpeace, and UN Agencies Monitoring Situation and Raising Alarms*

Washington, D.C. / Sept. 25, 2018 – Renowned U.S. human rights attorney Steven Donziger, who has helped impoverished communities in the Ecuadorian Amazon maintain a global litigation and advocacy effort against Chevron for over 25 years, [filed a petition](#) with the Inter-American Commission on Human Rights (IAHCR) on Monday. The petition details how Donziger has suffered a massive campaign of retaliatory litigation and media attacks from Chevron that has been facilitated by U.S. judicial and other institutions. Chevron has openly bragged of its efforts to “demonize Donziger,” has frozen Donziger’s bank accounts, and recently asked a U.S. court to imprison him.

The new petition raises broader issues of the ability of corporations to abuse the legal process to silence critics and punish adversaries with “Strategic Lawsuits Against Public Participation,” or SLAPPs. The SLAPP problem has been identified for decades, but recent years have seen a massive uptick in such cases. Greenpeace, Human Rights Watch, and other organizations recently [launched a national campaign](#) to raise awareness and push back on SLAPPs, using the Twitter hashtags [#SLAPPtaskforce](#) and [#ProtectTheProtest](#). The groups identify Chevron’s attacks on Donziger as the seed from which a whole new generation of attacks has grown.

Judicial harassment of human rights defenders by corporations and governments is also a high-profile issue for human rights organizations and UN agencies at the global level. The UN has a dedicated research office or “rapporteur” focused on the problem, and organizations including [Amnesty International](#), [Global Witness](#), and [Frontline Defenders](#) regularly issue reports expressing alarm at the growing incidence of retaliation. Global Witness recently indicated that it would be closely monitoring the Donziger case.

While the retaliation and outright “demonization” of Donziger has been driven by Chevron, acting as a private party hoping to “taint” the legitimacy of the \$12 billion environmental liability that four layers of Ecuadorian courts have imposed on the company, the petition asserts that ultimately responsibility lies with the U.S. institutions which have tolerated, facilitated, and at times openly encouraged the attacks.

In one example of the problematic judicial conduct in the case, in September 2010, U.S. federal judge Lewis A. Kaplan mocked Donziger from the bench as a supposed “plaintiff’s lawyer” with a big “imagination” for daring to sue Chevron in Ecuador. Shortly thereafter, Chevron filed a civil “racketeering” lawsuit against Donziger and the U.S. judge, Lewis A. Kaplan, took extraordinary

steps to assign it to himself. At the first hearing in the racketeering case, Kaplan praised Chevron as “a company of considerable importance to our economy” and worried that U.S. consumers would be hurt by enforcement of the Ecuadorian environmental liability. “I don’t think there is anybody in this courtroom who wants to pull his car into a gas station to fill up and finds that there isn’t any gas there because [Donziger’s clients have enforced their environmental judgment] in Singapore or wherever else,” the judge said.

Kaplan refused to seat a jury—unprecedented in a racketeering case—and ultimately decided the merits of Chevron’s claims himself, in a 500-page decision that concluded that the Ecuadorian environmental judgment was tantamount to “extortion” by Donziger against Chevron. The court acknowledged it could not stop efforts to enforce the judgment in other countries, but issued the lengthy decision in response to Chevron’s calls for “a freestanding determination” of the facts as Chevron saw them, that the oil company could then use to try to shut down enforcement efforts elsewhere.

Kaplan’s judgment was decided under a low civil standard of proof—“more likely than not”—even though it purported to find Donziger responsible for criminal acts under U.S. federal law that normally require findings “beyond a reasonable doubt.” Other authorities, such as the lawyer “grievance” committee in New York which regulates the licensing of attorneys, are now seeking to strip Donziger of his license to practice law based on this alleged criminal responsibility. The New York state court hearing the matter has preliminarily decided it can invoke “collateral estoppel,” refusing to hear any of Donziger’s evidence or claims of innocence on account of Judge Kaplan’s decision, even though many of Kaplan’s findings have been contradicted by four layers of Ecuadorian courts and effectively disproven in collateral proceedings.

“What seems to be happening to Steven Donziger, given evidence in the public domain, is a serious case of judicial harassment - a sham process, wrapped up by the gentile world of the New York Bar as legitimate,” said Simon Taylor, a co-founder and director of Global Witness. “Instead, the attacks on Steven seem to have all the hallmarks of the kind of bullying and persecution we have documented and witnessed in countries around the world, where threats to corporate interests result in vicious counter-attacks. I am particularly concerned about what appears to be a continuing effort, invoking collateral estoppel, to deny Mr Donziger a public hearing to defend himself and to provide evidence.

“Mr Donziger now appears to have joined a long list of the persecuted, and I am particularly shocked that this is taking place in New York—a jurisdiction with a proud reputation for its fight against corruption and the corrupt,” Mr. Taylor added. “The fact that this is happening on the basis of highly suspect evidence, and possibly false witness testimony, raises the distinct possibility that Mr. Donziger is being framed. It is critical that this ‘process’ be monitored by all concerned to protect the rule of law and the maintenance of free, open, and accountable societies - and that is precisely what we will be doing.”

The central evidence in the racketeering trial against Donziger was testimony from a witness recruited by elite corporate espionage firms on behalf of Chevron. The witness had an acknowledged history of paying and receiving bribes and had actively sought to “sell” false testimony and corrupt outcomes to both parties in the Ecuadorian environmental lawsuit. Chevron has paid him in excess of \$2 million, despite legal and ethical prohibitions on paying “fact”

witnesses. While Judge Kaplan credited the witness' testimony in the racketeering trial, the witness later admitted to intentionally lying on the stand in that trial, and the core of his testimony (claiming that a bribe was agreed to but never paid in the Ecuador case) was disproven by a forensic analysis of the Ecuadorian judge's courthouse hard drives.

Donziger presented the petition with the assistance of Forum Nobis PLLC, a human rights firm in Washington, D.C. that also represents the Ecuadorian communities that brought the environmental lawsuit in Ecuador. Aaron Marr Page, the managing attorney at the firm who also litigates cases involving the denial of human rights in U.S. state and federal courts, said that the case illustrated the critical role of the Inter-American Commission as regards national justice systems, especially in cases involving "important" domestic political and economic interests, situations of vast disparities of resources, and other factors involved in the Donziger case.

"Americans hate to hear this, but our court systems, including our appellate and other curative mechanisms, aren't flawless," said Page. "Just as in other systems in the hemisphere that we have no problem criticizing, cases in our own system do sometimes go off the rails. The involvement of 'a company of considerable importance to our economy,' as the courts characterized Steven's case, can in particular often lead to skewed results."

Page added that certain features of the U.S. justice system made it particularly vulnerable to abuse, including the availability of the "civil racketeering" action—called by one judicial critic "the litigation equivalent of a thermonuclear device"—as well as the enormous financial costs of litigating in a system distinguished by its elaborate document discovery protocols and motion practice burdens, which can make it impossible less well-resourced human rights defenders to fight off even the most bogus claims. "It all leads to the cynical aphorism all lawyers dislike but recognize: 'you get the justice you pay for,'" said Page. Chevron is reported to have spent well over \$1 billion in legal fees and expert costs in its prosecution of the civil case against Donziger.

In the four years since the racketeering judgment, Chevron has kept up a steady press of discovery requests, contempt motions, and other legal harassment techniques to keep Donziger tied up in court. "I know this is all an attempt to silence legitimate advocacy and help Chevron escape from its responsibility for the hundreds of toxic waste pits abandoned at its former operations sites in Ecuador," Donziger said. "But that doesn't make it any easier to bear personally, especially when the attacks are starting to threaten my ability to provide for my wife and son."

A particularly disturbing feature of the racketeering trial was that Chevron, two weeks prior to trial, agreed to forfeit "all money damages claims" against Donziger because that allowed Judge Kaplan to refuse to seat a jury and instead decide the merits of Chevron's claims himself. It was widely reported at the time that mock juries assembled by Chevron's legal team were rejecting the company's claims. Despite having forfeited its money damages claims, Chevron later moved Kaplan to order \$33 million in money judgments against Donziger. After Judge Kaplan began granting these requests, Chevron froze Donziger's bank accounts and has recently asked Kaplan to send Donziger to jail until he complies with certain requests to transfer his property to Chevron.

The Inter-American petition raises claims of denial of due process on multiple grounds, and violation of the rights to freedom of association, expression, privacy, and property, as guaranteed by the American Declaration of the Rights and Duties of Man and other international agreements.

The petition already has received significant attention from the leading civil society groups already mentioned, as well as leading First Amendment lawyers, environmentalists, and Indigenous leaders around the world.

The following media articles detail the treatment by Mr. Donziger by U.S. authorities over the last few years:

- Rex Weyler, [Chevron's SLAPP suit against Ecuadorians](#) (Greenpeace, 2018)
- Katie Redford, [The New Corporate Playbook, Or What To Do When Environmentalists Stand In Your Way](#) (Huffington Post, 2016)
- Alexander Zaitchek, [Sludge Match: Inside Chevron's \\$9 Billion Legal Battle With Ecuadorean Villagers](#) (Rolling Stone, 2014)

The following videos discuss the merits of the underlying environmental litigation that Mr. Donziger assisted with in Ecuador:

- [A Cancer in the Amazon](#) (TeleSUR, 2018)
- [The true story of Chevron's Ecuador Disaster](#) (Amazon Defense Coalition, 2012)
- [The Chevron Tapes](#) (Amazon Watch, 2015) (Chevron internal video produced by a whistleblower showing Chevron technicians discovering oil contamination at inspections sites that the company's technicians later sought to hide from the Ecuadorian court)
- A [documentary on Mr. Donziger](#) from his website, <http://stevendonziger.com/>

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