

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

-----X	
CHEVRON CORPORATION,	:
	:
Plaintiff,	:
	:
-against-	: Case No. 1:12-MC-65 GLS/CFH
	:
STEVEN DONZIGER, et al.,	:
	:
Defendants.	:
	:
-----X	

**DECLARATION OF ALEXANDER T. MARX ON BEHALF OF CHEVRON CORPORATION IN OPPOSITION TO THE RICO DEFENDANTS' MOTION TO QUASH SUBPOENAS TO MICROSOFT CORPORATION**

I, Alexander T. Marx, declare:

1. I am an attorney duly admitted to the State Bar of New York and an associate at the law firm of Gibson, Dunn & Crutcher LLP, attorneys of record for Chevron Corporation in the above-captioned action. I am over the age of eighteen years and am not a party to this action. I have personal knowledge of the facts set forth in this declaration. Each of the exhibits identified below is a true and correct copy of the respective document as it is maintained in the files of Gibson, Dunn & Crutcher LLP in the normal course of business.

2. Attached hereto as "Exhibit 1" is a true and correct copy of an email dated August 1, 2008 from D. Beltman to P. Fajardo and S. Donziger, with the subject "Plan de Trabajo -- Texpet Cleanup," produced by Stratus and bearing Bates number STRATUS-NATIVE063668.

3. Attached hereto as "Exhibit 2" is a true and correct copy of the subpoena to Microsoft Corporation issued by Chevron Corporation, dated September 10, 2012.

4. Attached hereto as "Exhibit 3" are true and correct copies of three subpoenas on Yahoo! Inc. by Friedman, Kaplan, Seiler & Adelman LLP, counsel for S. Donziger, respectively dated November 29, 2010, December 9, 2010, and January 3, 2011.

5. Attached hereto as "Exhibit 4" is a true and correct copy of a letter from Yahoo! Inc. to Friedman, Kaplan, Seiler & Adelman LLP, counsel for S. Donziger, dated December 7, 2010.

6. Attached hereto as "Exhibit 5" is a true and correct copy of a letter from Yahoo! Inc. to Friedman, Kaplan, Seiler & Adelman LLP, counsel for S. Donziger, dated December 20, 2010.

7. Attached hereto as "Exhibit 6" is a true and correct copy of a letter from Yahoo! Inc. to Friedman, Kaplan, Seiler & Adelman LLP, counsel for S. Donziger, dated January 7, 2011.

8. Attached hereto as "Exhibit 7" is a true and correct copy of a report titled "Yahoo Account Management Tool," associated with the email account "documents2010@ymail.com," and dated January 24, 2011.

9. Attached hereto as "Exhibit 8" is a true and correct copy of a transcript of September 25, 2012 proceedings in *Chevron Corp. v. Donziger*, 11 Civ. 691 LAK (S.D.N.Y.).

10. Attached hereto as "Exhibit 9" is a true and correct copy of Microsoft Corporation's Online Privacy Statement, downloaded from the Internet on January 9, 2013.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 15 day of January, 2013, in Los Angeles, California.

  
\_\_\_\_\_  
Alexander T. Marx

# **EXHIBIT 1**

**From:** Doug Beltman <dbeltman@stratus consulting.com>  
**Sent:** Friday, August 1, 2008 4:27 PM  
**To:** Pablo Fajardo Mendoza <pafabibi@gmail.com>; STEVEN DONZIGER <sdonziger@gmail.com>  
**Subject:** Plan de Trabajo -- Texpet cleanup

---

Pablo y Steven:

Una de nuestras tareas para los comentarios sobre el informe de Cabrera en el Plan de Trabajo es conducir un análisis técnico de si la limpieza de Texpet en los años 90 se conformó con los requisitos técnicos para la limpieza. Cabrera menciona ya que el trabajo de Texpet no limpió realmente las piscinas, y la idea de este análisis era determinar si podríamos criticar más la limpieza de Texpet para no conformarse con los requisitos técnicos. Repasé cuidadosamente los requisitos técnicos para la limpieza en los cuales se especifican:

- El contrato del mayo de 1995 para ejecutar el trabajo y el lanzamiento remediadores de obligaciones, de la responsabilidad, y de demandas
- La Declaración del Trabajo de marzo de 1995 para la limpieza que se añade al contrato
- El Plan de Actuación Remediador (RAP) del agosto de 1995 escrito por un contratista de Texpet y aprobado por ROE.

Comparé los requisitos técnicos contenidos en esos documentos contra la descripción de la remediación y los resultados de la prueba que se describen en el informe 2000 de Woodward Clyde.

Aunque haya algunas ambigüedades de la lengua y de cuestiones legales potenciales (tales como contradicciones evidentes entre la declaración del marzo de 1995 del trabajo y el RAP), no encontré ninguna casos clara donde Texpet no cumplió las condiciones requeridas en la limpieza. La excepción muy grande, por supuesto, es que el muestreo durante las inspecciones judiciales y por Cabrera demostrado que las piscinas "limpiados" de hecho todavía están contaminados- sin embargo, el muestreo hecho por la poste-limpieza de Woodward Clyde demostró las piscinas para estar de acuerdo con los requisitos de contrato. Esta discrepancia importante alocución ya por Cabrera en su informe. Hay también la edición que el RAP está en conflicto con leyes del Ecuadorian, pero otra vez yo no hice evalúa eso aquí.

Por lo tanto, no tengo ninguna comentarios a prepararse en este aspecto del informe de Cabrera.

ENGLISH:

Pablo y Steven:

One of our tasks for the comments on the Cabrera Report in the Plan de Trabajo is to conduct a technical analysis of whether the Texpet cleanup in the 1990s complied with the technical requirements for the cleanup. Cabrera already points out that the Texpet work did not actually clean up the pits, and the idea of this analysis was to determine if we could further criticize the Texpet cleanup for not complying with the technical requirements.

I carefully reviewed the technical requirements for the cleanup that are specified in:

- The May 1995 contract for implementing remedial work and release from obligations, liability, and claims
- The March 1995 Statement of Work for the cleanup that is appended to the contract
- The August 1995 Remedial Action Plan (RAP) written by a Texpet contractor and approved by ROE.

I compared the technical requirements contained in those documents against the description of the remediation and the testing results that are described in the 2000 Woodward Clyde report.

Although there are some ambiguities of language and potential legal issues (such as apparent contradictions between the March 1995 Statement of Work and the RAP), I did not find any clear instances where Texpet did not meet the conditions required in the cleanup. The very large exception, of course, is that sampling during the Judicial Inspections and by Cabrera showed that the "cleaned" pits are in fact still contaminated - however, the sampling done by Woodward Clyde post-cleanup showed the pits to be in compliance with the contract requirements. This important discrepancy has already been addressed by Cabrera in his report. There is also the issue that the RAP conflicts with Ecuadorian laws, but again I didn't evaluate that here.

Therefore, I do not have any comments to prepare on this aspect of the Cabrera report.

=====  
Douglas Beltman  
Executive Vice President  
Stratus Consulting Inc.  
303.381.8000  
303.381.8200 (fax)  
[www.stratusconsulting.com](http://www.stratusconsulting.com)

# **EXHIBIT 2**

AO 88B (Rev. 06/09) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

UNITED STATES DISTRICT COURT

for the

Northern District of New York

CHEVRON CORP. )
Plaintiff )
v. ) Civil Action No. 11 Civ. 0691 (LAK)
STEVEN DONZIGER, et al., )
Defendant ) (If the action is pending in another district, state where:
Southern District of New York )

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Microsoft Registered Agent, Corporation Service Company, 80 State Street, Albany, NY 12207

Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material:

Table with 2 columns: Place (GIBSON, DUNN & CRUTCHER LLP, 200 Park Avenue, New York, NY 10166-0193 c/o Alex Marx) and Date and Time (10/08/2012 9:00 am)

Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Table with 2 columns: Place and Date and Time (empty)

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 09/10/2012

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk Rachel Brook Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party) Chevron Corporation, who issues or requests this subpoena, are:

Rachel Brook, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, NY 10166-0193 Telephone: (212)351-2609, rbrook@gibsondunn.com

Civil Action No. 11 Civ. 0691 (LAK)

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

This subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

I served the subpoena by delivering a copy to the named person as follows: \_\_\_\_\_

\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the subpoena unexecuted because: \_\_\_\_\_

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of  
\$ \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00 \_\_\_\_\_.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:



**Federal Rule of Civil Procedure 45 (c), (d), and (e) (Effective 12/1/07)****(c) Protecting a Person Subject to a Subpoena.**

**(1) Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney’s fees — on a party or attorney who fails to comply.

**(2) Command to Produce Materials or Permit Inspection.**

**(A) Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

**(B) Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

**(i)** At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

**(ii)** These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party’s officer from significant expense resulting from compliance.

**(3) Quashing or Modifying a Subpoena.**

**(A) When Required.** On timely motion, the issuing court must quash or modify a subpoena that:

**(i)** fails to allow a reasonable time to comply;

**(ii)** requires a person who is neither a party nor a party’s officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

**(iii)** requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

**(iv)** subjects a person to undue burden.

**(B) When Permitted.** To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

**(i)** disclosing a trade secret or other confidential research, development, or commercial information;

**(ii)** disclosing an unretained expert’s opinion or information that does not describe specific occurrences in dispute and results from the expert’s study that was not requested by a party; or

**(iii)** a person who is neither a party nor a party’s officer to incur substantial expense to travel more than 100 miles to attend trial.

**(C) Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

**(i)** shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

**(ii)** ensures that the subpoenaed person will be reasonably compensated.

**(d) Duties in Responding to a Subpoena.****(1) Producing Documents or Electronically Stored Information.**

These procedures apply to producing documents or electronically stored information:

**(A) Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

**(B) Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

**(C) Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

**(D) Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

**(2) Claiming Privilege or Protection.**

**(A) Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

**(i)** expressly make the claim; and

**(ii)** describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

**(B) Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(e) Contempt.** The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty’s failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(i).

## **SCHEDULE A**

### **DEFINITIONS**

1. "DOCUMENT" has the full meaning ascribed to it in Rule 34 of the Federal Rules of Civil Procedure and Rule 26.3 of the Local Rules for the United States District Court for the Southern District of New York and shall include all originals of any nature whatsoever and all non-identical copies thereof, whether different from the originals by reason of any notation made on such copies or otherwise, including but not limited to all writings in any form, notes, memoranda, manuals, reports, records, correspondence, drawings, graphs, charts, photographs, phone records, data compilations of whatever nature (including those from which information can be obtained or translated if necessary), audio tapes, electronic mail messages, and electronic data (including any exchange of information between computers, all information stored in an electronic form or computer database, and all forms and formats of storage).

2. "RELATED TO," "RELATING TO," "IN RELATION TO," "REGARDING" and "CONCERNING" means in relation to, related to, consisting of, referring to, reflecting, concerning, discussing, evidencing, commenting on, describing, constituting, supporting, contradicting or having any logical or factual connection with the matter identified, in whole or in part.

### **INSTRUCTIONS**

1. These requests are governed by Rules 26 and 45 of the Federal Rules of Civil Procedure and any applicable law and Local Rule.

2. You are requested to produce all DOCUMENTS and things described below at Gibson, Dunn & Crutcher, LLP, c/o Alex Marx, 200 Park Avenue, New York, NY 10166-0193, on or before October 8, 2012.

3. In answering and responding to these document requests, you are requested to produce all DOCUMENTS that are in your possession, custody, or control, or that are in the possession, custody, or control of your principals, agents, employees, attorneys, representatives, insurers, and any other persons or entities, acting on your behalf.

4. If any of the information or DOCUMENTS supplied in response to these document requests does not come from your records, please specify the source of the DOCUMENTS.

5. If you refuse to produce any requested DOCUMENT under a claim of attorney-client privilege, work product privilege, or any other privilege or protection, it is requested that you submit for each DOCUMENT withheld a written statement that: specifies the privilege or other asserted basis for withholding the DOCUMENT; summarizes the substance of the DOCUMENT; identifies the person or entity who prepared the DOCUMENT and any persons or entities to which the DOCUMENT was sent or disclosed; and specifies the dates on which the DOCUMENT was prepared, transmitted, or received.

6. The time period covered by these document requests runs from 2003 to the present. This is a continuing request. Any DOCUMENT obtained or located after the date of production that would have been produced had it been available or had its existence been known at that time should be produced immediately.

7. If an objection is made to any numbered request, or any subpart thereof, state with specificity all grounds for the objection.

8. All responsive and potentially responsive documents and tangible things should be preserved and maintained pending the outcome of this matter.

### **DOCUMENTS REQUESTED**

All DOCUMENTS RELATED TO (A) the identity of the user of the following email addresses, including but not limited to DOCUMENTS that provide all names, mailing addresses, phone numbers, billing information, date of account creation, account information and all other identifying information associated with the email address under any and all names, aliases, identities or designations RELATED TO the email address; and (B) the usage of the following email addresses, including but not limited to DOCUMENTS that provide IP logs, IP address information at time of registration and subsequent usage, computer usage logs, or other means of recording information concerning the email or Internet usage of the email address.

1. Examen\_pericial@hotmail.com
2. muerteenlaselva@hotmail.com
3. ingracabrerav@hotmail.com
4. rcabrerav@hotmail.com
5. crisobalvillao@hotmail.com
6. luisvillacreces@hotmail.com
7. julprieto@hotmail.com
8. juanpasaenz@hotmail.com
9. gaer69chzpr@hotmail.com
10. donaldmoncayo@hotmail.com
11. alex\_anchundia2007@hotmail.com
12. erikatorres\_19@hotmail.com
13. gabrielitaep@hotmail.com
14. hannagoanna@hotmail.com

15. [duruti@hotmail.com](mailto:duruti@hotmail.com)
16. [aulestiajuan@hotmail.com](mailto:aulestiajuan@hotmail.com)
17. [maryelji20@hotmail.com](mailto:maryelji20@hotmail.com)
18. [mey\\_1802@hotmail.com](mailto:mey_1802@hotmail.com)
19. [monica\\_pareja@hotmail.com](mailto:monica_pareja@hotmail.com)
20. [pirancha@hotmail.com](mailto:pirancha@hotmail.com)
21. [nick\\_aussie@hotmail.com](mailto:nick_aussie@hotmail.com)
22. [renatog85@hotmail.com](mailto:renatog85@hotmail.com)
23. [selvaviva2004@hotmail.com](mailto:selvaviva2004@hotmail.com)
24. [simeontegel@hotmail.com](mailto:simeontegel@hotmail.com)
25. [patriciogarcia\\_2009@hotmail.com](mailto:patriciogarcia_2009@hotmail.com)
26. [criscadena@hotmail.com](mailto:criscadena@hotmail.com)
27. [albertoguerrab@hotmail.com](mailto:albertoguerrab@hotmail.com)
28. [faisal\\_baki@hotmail.com](mailto:faisal_baki@hotmail.com)
29. [Hjploro@hotmail.com](mailto:Hjploro@hotmail.com)
30. [osimonc@hotmail.com](mailto:osimonc@hotmail.com)

# **EXHIBIT 3**

AO 88B (Rev. 06/09) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of New York

In re Application of Chevron Corporation, et al

Plaintiff

v.

Defendant

Civil Action No. 10-MC-0002

(If the action is pending in another district, state where:

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Yahoo! Inc. (c/o Registered Agent CT Corporation System, 111 Eighth Avenue, New York, New York 10011)

Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material: Documents adequate to permit the account holder of "documents2010@gmail.com" to access the e-mail stored in the account. The account password would satisfy this request. This request is made with the consent of the account holder/subscriber, Steven R. Donziger (the account was created by Mr. Donziger's assistant, Andrew M. Woods, who also consents to this request).

Table with 2 columns: Place (Friedman Kaplan Seiler & Adelman LLP, 1633 Broadway, 46th Floor, New York, New York 10019) and Date and Time (12/03/2010 9:00 am)

Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Table with 2 columns: Place and Date and Time (empty)

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 11/29/2010

CLERK OF COURT

Signature of Clerk or Deputy Clerk

OR

Handwritten signature of Steven R. Donziger

Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party) Steven R. Donziger, who issues or requests this subpoena, are:

Bruce S. Kaplan, Friedman Kaplan Seiler & Adelman LLP, 1633 Broadway, 46th Floor, NY, NY 10019

AO 88B (Rev. 06/09) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

UNITED STATES DISTRICT COURT

for the

Northern District of California

In re Chevron Corporation

Plaintiff

v.

Defendant

Civil Action No. 10-MC-0002

(If the action is pending in another district, state where: Southern District of New York )

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Yahoo! Inc. Custodian of Records, Legal Department, 701 1st Avenue, Sunnyvale, CA 94089

Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material: The contents, including all e-mail, of the account "documents2010@ymail.com"

This request is made with the consent of the account holder/subscriber, Steven R. Donziger (the account was created by Mr. Donziger's assistant, Andrew M. Woods, who also consents to this request).

Table with 2 columns: Place (Friedman Kaplan Seiler & Adelman LLP, 1633 Broadway, 46th Floor, New York, NY 10019) and Date and Time (12/16/2010 9:00 am)

Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Table with 2 columns: Place and Date and Time (empty)

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 12/09/2010

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party) Steven R. Donziger, who issues or requests this subpoena, are:

Bruce S. Kaplan, Friedman Kaplan Seiler & Adelman LLP, 1633 Broadway, 46th Floor, NY, NY 10019

AO 88B (Rev. 06/09) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

UNITED STATES DISTRICT COURT

for the

Northern District of California

In re Chevron Corporation

Plaintiff

v.

Defendant

Civil Action No. 10-MC-0002

(If the action is pending in another district, state where: Southern District of New York)

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Yahoo! Inc. Custodian of Records, Legal Department, 701 1st Avenue, Sunnyvale, CA 94089

Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material: The documents identified in the attached "Exhibit A."

This request is made with the consent of the account holder/subscriber, Steven R. Donziger (the account was created by Mr. Donziger's assistant, Andrew M. Woods, who also consents to this request).

Table with 2 columns: Place (Friedman Kaplan Seiler & Adelman LLP, 1633 Broadway, 46th Floor, New York, NY 10019) and Date and Time (01/07/2011 9:00 am)

Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Table with 2 columns: Place and Date and Time (empty)

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 01/03/2011

CLERK OF COURT

Signature of Clerk or Deputy Clerk

OR

Handwritten signature of Steven R. Donziger

Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party) Steven R. Donziger, who issues or requests this subpoena, are:

Bruce S. Kaplan, Friedman Kaplan Seiler & Adelman LLP, 1633 Broadway, 46th Floor, NY, NY 10019 (FAX: 212-833-1250) (EMAIL: bkaplan@fklaw.com)



**EXHIBIT A**

1. All documents identifying IP addresses associated with attempts to access the account “documents2010@ymail.com”.
2. All documents providing any information about attempts (whether successful or unsuccessful) to gain access to the account “documents2010@ymail.com”. This would include, but is not limited to, documents identifying the dates and times of such attempts and/or the location (whether by IP address or otherwise) of the attempts.
3. All documents reflecting any information provided to Yahoo! when the account “documents2010@ymail.com” was created. This would include, but is not limited to, documents reflecting any information provided by the user of the account. It would also include documents that reflect the time and date of the account creation, and the location (whether by IP address or otherwise) of the user who created the account.
4. All documents reflecting information about transactional activity associated with the account “documents2010@ymail.com.” This would include, but is not limited to, documents reflecting the time(s) that the account is accessed, and the nature of activity in the account (such as transmission or receipt of e-mails).

# **EXHIBIT 4**



December 7, 2010

*Via Facsimile and U.S. Mail*  
212-373-7901

Bruce Kaplan, Esq.  
Friedman Kaplan Seller & Adelman LLP,  
1633 Broadway, 46 Floor  
New York, NY 10019

Re: *In re: Application of Chevron Corporation, et al.*  
*United States District Court, Southern District of New York, case no. 10-MC-*  
*0002*  
(Internal Reference No. 167122)

Dear Mr. Kaplan:

Yahoo! Inc. ("Yahoo!") is in receipt of a subpoena dated November 29, 2010 issued in the above-referenced matter.

As we understand it, you are seeking data relating to a Yahoo! subscriber. Yahoo! is a resident of California and the vast majority of documents and information regarding its business is retrievable from its headquarters in Sunnyvale, California. Our understanding of Rule 45 of the Federal Rules of Civil Procedure is that a subpoena for production of documents should be issued from the court in the district where the production is to be made. As such, your subpoena should be issued from the U.S. District Court for the Northern District of California.

Subpoenas must be personally served or sent by certified mail or express delivery to Yahoo! at 701 First Avenue, Sunnyvale, California, 94089, to the attention of the Yahoo! Custodian of Records.

Please be advised that Yahoo! does not have access to user passwords. Password information is encrypted for the safety and security of the user account. As such, we are unable to provide user passwords for production in response to your request.

To the extent that the subpoena may be requesting email content for the Yahoo! subscriber identified in the subpoena, please be advised that pursuant to the Stored Communications Act ("SCA"), 18 U.S.C. §2701, *et seq.*, Yahoo! is prohibited from disclosing the contents of electronic communications absent certain exceptions. 18 U.S.C. § 2702(b). As courts have repeatedly recognized, this statute has no exception for civil discovery. *See, e.g., O'Grady v. Superior Court*, 2006 Cal. App. LEXIS 802, \*2-3 (Ct. App. Cal. May 26, 2006) (no SCA exception for disclosure of communications pursuant to civil discovery subpoenas); *In re: Subpoena Duces Tecum to AOL, LLC*, 550 F.Supp.2d 606, 609-612 (E.D. Va. 2008).



The primary exception under which disclosure is permitted is subscriber consent. Accordingly, if you seek to compel lawful disclosure from Yahoo!, we suggest you obtain consent of the subscriber in question. 18 U.S.C. § 2702(b)(3). Upon receipt of your confirmation that the subscriber identified in your request will consent to Yahoo!'s disclosure of the email or other content stored in his account, Yahoo! will provide you with its Consent to Search and Account Verification ("CSAV") form, which requires the subscriber to (1) provide information used by Yahoo! to verify their identity as the account holder; (2) identify the individual(s) to whom Yahoo! should send the requested documents after they have been collected and; (3) define the scope of Yahoo!'s disclosure.

Please note that with regard to email content, Yahoo! only maintains and has access to the contents a user retains in his or her email account.

Additionally, please be advised that upon receipt of a subpoena or other legal process, Yahoo! preserves the requested information and sends notice to the user indicating that the subpoena was issued requesting information regarding their account. It is Yahoo!'s policy that if a user objects to the production of the requested information by filing a Motion to Quash (or other legally proper objection) with the Court, Yahoo! will not produce any responsive documents until the court has ruled on the motion or objection.

At this time, Yahoo! does not have any documents responsive to the subpoena.

By this letter, Yahoo! does not waive any objection to further proceedings in this matter.

Please contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Christian Lee', with a long, wavy horizontal line extending to the right.

Christian Lee  
Legal Assistant  
408-349-8511

Enclosure

**Consent to Search**

I, \_\_\_\_\_, the account holder of the email address, \_\_\_\_\_, understand that my email communications are being sought in connection with a subpoena. I hereby grant my consent to authorize the following law firm: \_\_\_\_\_, to receive, review, copy, and otherwise obtain access to all information of any kind held by Yahoo! relating to my email communications maintained by Yahoo! relating to me or my email address.

In connection with this authority to release information, I do hereby agree to hold harmless and do forever hold harmless Yahoo! for the disclosure of such information and do forever waive on my behalf, and on behalf of my heirs and assigns, any and all claims resulting from Yahoo!'s disclosure of any information relating to my account pursuant to this authorization.

I acknowledge that this Consent to Search is not complete until I send an email from my account, \_\_\_\_\_, to notice-user@yahoo-inc.com verifying that this account belongs to me.

# **EXHIBIT 5**



December 20, 2010

*Via U.S. Mail*

Bruce Kaplan, Esq.  
Friedman Kaplan Seiler & Adelman LLP  
1633 Broadway, 46th Floor  
New York, NY 10019

Re: *In re: Chevron Corporation, case no. 10MC0002*  
*United States District Court, Northern District of California*  
(Internal Reference No. 168264)

Dear Mr. Kaplan:

Yahoo! Inc. ("Yahoo!") is in receipt of a subpoena dated December 9, 2010 issued in the above-referenced matter.

At this time, Yahoo! does not have any documents responsive to your request.

Please note that with regard to email content, Yahoo! only maintains and has access to the contents a user retains in his or her email account.

By this letter, Yahoo! does not waive any objection to further proceedings in this matter.

Please contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Christian Lee".

Christian Lee  
Legal Assistant  
408-349-8511



# **EXHIBIT 6**





January 7, 2011

*Via Facsimile and U.S. Mail*  
212-833-1250

Bruce S. Kaplan, Esq.  
Friedman Kaplan Seiler & Adelman LLP  
1633 Broadway, 46th Floor  
New York, NY 10019-6708

**Re: *In re Chevron Corporation***  
**United States District Court for the Northern District of California (Pending in**  
**Southern District of New York), Case # 10-MC-0002**  
**(Internal Reference No.169381)**

Dear Mr. Kaplan:

Yahoo! Inc. ("Yahoo!") is in receipt of a Subpoena dated January 3, 2011 issued in the above-referenced matter.

This letter is to advise you that on January 7, 2011, Yahoo! sent an email notification to the user named in the subpoena indicating that a subpoena dated January 3, 2011 was issued. Yahoo! will wait for a period of 15 days after the email notice was sent before producing responsive documents to the subpoenaing party or will produce on the date specified in the subpoena, whichever is later. If the user objects to the production of the requested information by filing a Motion to Quash (or other legally proper objection) with the Court, Yahoo! will not produce any responsive documents until the court has ruled on the motion or objection. If no objections are lodged, Yahoo! will produce responsive documents on January 24, 2011.

By this letter, Yahoo! does not waive any objection to further proceedings in this matter.

Please contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Svetlana'.

Svetlana Shatnenko  
Paralegal  
408-349-1099



# **EXHIBIT 7**

**YAHOO! ACCOUNT MANAGEMENT TOOL**

Login Name: **documents2010@ymail.com**  
GUID: **5H3QSY4HBFIX4NV5D75J7EQNM4**  
Yahoo Mail Name: **documents2010@ymail.com**  
Registration IP address: **67.243.11.39**  
Account Created (reg): **Sun Jan 03 20:38:14 2010 GMT**  
Other Identities: **documents2010@ymail.com (Yahoo! Mail)**  
Full Name **Mr Not Applicable**  
Address1:  
Address2:  
City:  
State, territory or province:  
Country: **United States**  
Zip/Postal Code: **94583**  
Phone:  
Time Zone:  
Birthday: **██████**  
Gender: **Male**  
Occupation:  
Business Name:  
Business Address:  
Business City:  
Business State:  
Business Country: **us**  
Business Zip:  
Business Phone:  
Business Email:  
Additional IP Addresses: **Sun Jan 03 20:38:14 2010 GMT 67.243.11.39**  
Account Status: **Active**

Search for documents2010@ymail.com  
Date Range 07-Jan-2010 00:00:00 / 05-Jan-2011 23:59:59  
Total Results 18

Yahoo ID	IP Address	Login Time
documents2010@ymail.com	67.243.11.39	Tue 15:41:31 (GMT) 27-Apr-2010
documents2010@ymail.com	69.204.232.104	Mon 19:23:10 (GMT) 15-Mar-2010
documents2010@ymail.com	69.204.232.104	Thu 18:11:37 (GMT) 11-Mar-2010
documents2010@ymail.com	69.204.232.104	Mon 15:24:40 (GMT) 08-Mar-2010
documents2010@ymail.com	67.243.11.39	Mon 00:25:05 (GMT) 08-Mar-2010
documents2010@ymail.com	67.243.11.39	Wed 22:13:40 (GMT) 03-Mar-2010
documents2010@ymail.com	69.204.232.104	Thu 18:01:04 (GMT) 04-Feb-2010
documents2010@ymail.com	67.243.11.39	Mon 12:48:09 (GMT) 25-Jan-2010
documents2010@ymail.com	67.243.11.39	Fri 15:38:23 (GMT) 22-Jan-2010
documents2010@ymail.com	69.204.232.104	Thu 21:54:46 (GMT) 21-Jan-2010
documents2010@ymail.com	69.204.232.104	Thu 19:17:30 (GMT) 21-Jan-2010
documents2010@ymail.com	67.243.11.39	Wed 05:31:13 (GMT) 20-Jan-2010
documents2010@ymail.com	69.204.232.104	Sat 21:09:29 (GMT) 16-Jan-2010
documents2010@ymail.com	69.204.232.104	Wed 20:12:13 (GMT) 13-Jan-2010
documents2010@ymail.com	69.204.232.104	Wed 18:30:33 (GMT) 13-Jan-2010
documents2010@ymail.com	69.204.232.104	Wed 18:20:55 (GMT) 13-Jan-2010
documents2010@ymail.com	69.204.232.104	Mon 23:41:20 (GMT) 11-Jan-2010
documents2010@ymail.com	24.129.41.67	Sat 14:03:28 (GMT) 09-Jan-2010

Search for documents2010@ymail.com  
Date Range 07-Dec-2009 00:00:00 / 05-Dec-2010 23:59:59  
Total Results 22

Yahoo ID	IP Address	Login Time
documents2010@ymail.c	67.243.11.39	Tue 15:41:31 (GMT) 27-Apr-2010
documents2010@ymail.c	69.204.232.104	Mon 19:23:10 (GMT) 15-Mar-2010
documents2010@ymail.c	69.204.232.104	Thu 18:11:37 (GMT) 11-Mar-2010
documents2010@ymail.c	69.204.232.104	Mon 15:24:40 (GMT) 08-Mar-2010
documents2010@ymail.c	67.243.11.39	Mon 00:25:05 (GMT) 08-Mar-2010
documents2010@ymail.c	67.243.11.39	Wed 22:13:40 (GMT) 03-Mar-2010
documents2010@ymail.c	69.204.232.104	Thu 18:01:04 (GMT) 04-Feb-2010
documents2010@ymail.c	67.243.11.39	Mon 12:48:09 (GMT) 25-Jan-2010
documents2010@ymail.c	67.243.11.39	Fri 15:38:23 (GMT) 22-Jan-2010
documents2010@ymail.c	69.204.232.104	Thu 21:54:46 (GMT) 21-Jan-2010
documents2010@ymail.c	69.204.232.104	Thu 19:17:30 (GMT) 21-Jan-2010
documents2010@ymail.c	67.243.11.39	Wed 05:31:13 (GMT) 20-Jan-2010
documents2010@ymail.c	69.204.232.104	Sat 21:09:29 (GMT) 16-Jan-2010
documents2010@ymail.c	69.204.232.104	Wed 20:12:13 (GMT) 13-Jan-2010
documents2010@ymail.c	69.204.232.104	Wed 18:30:33 (GMT) 13-Jan-2010
documents2010@ymail.c	69.204.232.104	Wed 18:20:55 (GMT) 13-Jan-2010
documents2010@ymail.c	69.204.232.104	Mon 23:41:20 (GMT) 11-Jan-2010
documents2010@ymail.c	24.129.41.67	Sat 14:03:28 (GMT) 09-Jan-2010
documents2010@ymail.c	69.204.232.104	Wed 20:05:57 (GMT) 06-Jan-2010
documents2010@ymail.c	67.243.11.39	Wed 18:48:43 (GMT) 06-Jan-2010
documents2010@ymail.c	69.204.232.104	Tue 14:25:47 (GMT) 05-Jan-2010
documents2010@ymail.c	67.243.11.39	Sun 23:48:18 (GMT) 03-Jan-2010

# **EXHIBIT 8**

**In The Matter Of:**  
*CHEVRON CORP v*  
*STEVEN DONZIGER, ET AL*

---

*September 25, 2012*

---

*SOUTHERN DISTRICT REPORTERS*  
*500 PEARL STREET*  
*NEW YORK, NY 10007*  
*212 805-0330*

Original File C9PDCHEM.txt

Min-U-Script® with Word Index

C9pdchem Conference Page 1

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK  
3 -----x  
4 CHEVRON CORPORATION,  
5 Plaintiff,  
6 v. 11 Civ. 691 (LAK)  
7 STEVEN DONZIGER, et al.,  
8 Defendants.  
9 -----x  
10 September 25, 2012  
11 11:20 a.m.  
12 Before:  
13 HON. LEWIS A. KAPLAN  
14 District Judge  
15 APPEARANCES  
16 GIBSON DUNN & CRUTCHER  
17 Attorneys for Plaintiff  
18 BY: RANDY MASTRO  
19 LAUREN ELLIOT  
20 PETER SELEY  
21 ANNE CHAMPION  
22 BILL W. THOMSON  
23 RICHARD MARK  
24  
25 GOMEZ LLC  
26 Attorneys for Hugo Geraldo Cammacho and  
27 Javier Piaguaje  
28 BY: JULIO C. GOMEZ  
29 - and -  
30 SMYSER KAPLAN & VESELKA, LLP  
31 BY: GARLAND "Land" D. MURPHY IV  
32  
33 LEADER & BERKON  
34 Attorneys for Non-Party  
35 Patton Boggs LLP  
36 BY: JAMES K. LEADER

C9pdchem Conference Page 2

1 APPEARANCES CONTINUED  
2 - also present -  
3 PATTON BOGGS LLP  
4 Non-Party Respondent  
5 BY: ERIC WESTENBERGER  
6 EDWARD YENNOCK  
7 JONATHAN PECK  
8  
9 oOo  
10 THE CLERK: Chevron against Donziger.  
11 Counsel for plaintiff Chevron, are you ready?  
12 MR. MASTRO: I'm ready, your Honor.  
13 THE CLERK: Counsel for defendants Cammacho and  
14 Piaguaje, are you ready?  
15 MR. MURPHY: Yes, your Honor. We are ready.  
16 MR. GOMEZ: Yes, your Honor.  
17 THE CLERK: And counsel for Patton Boggs, are you  
18 ready?  
19 MR. LEADER: Yes, we are.  
20 THE COURT: Mr. Leader, right?  
21 MR. LEADER: Yes. Good morning, your Honor.  
22 THE COURT: Long time no see.  
23 MR. LEADER: Yes, sir.  
24 THE COURT: Nice to see you again.  
25 MR. LEADER: Thank you, your Honor. Nice to see you  
as well.  
Could I have just one housekeeping matter before we  
start the formal proceeding?

C9pdchem Conference Page 3

1 THE COURT: Yes.  
2 MR. LEADER: I would like to introduce to the Court  
3 the managing partner of Patton Boggs Ed Newberry. Obviously,  
4 his law firm has a substantial interest in today's proceedings  
5 and he wanted to be here.  
6 THE COURT: I gather. He will be more than welcome.  
7 MR. LEADER: Thank you.  
8 THE COURT: Also on the subject of housekeeping, since  
9 this was scheduled, I drew a 34-defendant indictment in which I  
10 have to have an initial appearance at 2:30. So we are going to  
11 go until the lunch break and then we will resume, depending on  
12 what I'm told about whether it is really feasible to go for a  
13 half hour or so before that starts, either right after the  
14 lunch break and then break again or resume after that  
15 conference, which will probably be done by about 3, if we are  
16 not done by then.  
17 MR. LEADER: Your Honor, I have a religious problem  
18 after 2 or 3 o'clock.  
19 THE COURT: Well, OK. So we will do the best we can  
20 and just continue on another day.  
21 MR. LEADER: I would appreciate that, your Honor.  
22 THE COURT: All right. Now, before we get started  
23 this morning, I think it is useful to put what we are doing in  
24 context.  
25 I'm not going to dress the general background of the

C9pdchem Conference Page 4

1 litigation. Everybody here knows it and, God knows, it has  
2 been written about enough. But I do want to make a few points  
3 within the narrative.  
4 First of all, we are concerned today with a subpoena  
5 duces tecum served on Patton Boggs, which has not appeared in  
6 this case in this court, but it is involved in litigation  
7 between Chevron and the Lago Agrio plaintiffs on behalf of the  
8 latter and, in addition, it has been the plaintiff and is the  
9 plaintiff in a number of lawsuits against Chevron on its own  
10 behalf. I think one of those remains pending, though I am not  
11 absolutely certain. In addition, Patton Boggs is named as a  
12 co-conspirator in an amended complaint in this case.  
13 Secondly, the crux of the dispute over the subpoena is  
14 essentially twofold. The first part of it is whether the  
15 documents sought are all or substantially all protected from  
16 disclosure by attorney-client privilege or the work product  
17 doctrine and whether compliance with the subpoena or, for that  
18 matter, even production of a privilege log would be unduly  
19 burdensome. For reasons already discussed in my  
20 August 24th decision, the privilege and work product claims in  
21 some respects cannot properly be evaluated without a privilege  
22 log.  
23 Thirdly, there are substantial disputes, at least in  
24 number, as to the proper scope of the subpoena considered  
25 without regard to questions of privilege and burden. Patton



<p>C9pdchem Conference Page 5</p> <p>1 Boggs has served 186 pages of objections to the 52                  2 specifications of the subpoena. It would be most sensible to                  3 resolve those issues before definitively addressing the                  4 privilege and, in some respects, the burden claims, as the                  5 resolution of the specific objections in the 186 pages could                  6 well alter the breadth of the material sought, affect the                  7 alleged burden, and focus the subpoena on the most important                  8 matters.</p> <p>9 With that in mind, I am going to try to deal with the                  10 objections to the subpoena in this framework.</p> <p>11 First, Patton Boggs has interposed close to 37 pages                  12 of general objections and objections to definitions and                  13 instructions in the subpoena. With two exceptions, I don't                  14 think oral argument will be helpful to me in ruling on those                  15 objections. I am going to rule on them shortly. We are not                  16 going to deal with them today, except for general objections 8                  17 and 9, which address contentions by Patton Boggs that it should                  18 not be obliged to collect, produce or log documents from                  19 attorneys and professionals working fewer than 50 hours on the                  20 Chevron litigation and, in some respects, from legal                  21 secretaries.</p> <p>22 Secondly, there is one respect in which we will                  23 address burden questions. To the extent there are claims of                  24 undue burden that are enumerated in the 186 pages and that are                  25 unique to individual subpoena specifications, as distinguished</p>	<p>C9pdchem Conference Page 7</p> <p>1 might, after any production that ultimately is ordered has been                  2 made, appear in a different light. To the extent that I may                  3 modify or limit the scope of or sustain objections to                  4 individual specifications today, those rulings will be without                  5 prejudice to the plaintiff later seeking to require broader                  6 compliance in light of production that's actually made. It                  7 should be clear, however, that I do not intend to order further                  8 production likely, and no such request should be made or likely                  9 would be granted unless there is a very convincing reason.</p> <p>10 If it is at all possible, we should do this enterprise                  11 once -- not more than once.</p> <p>12 Finally, I'm commencing this process of attempting to                  13 hear argument on the objections to individual specifications in                  14 the hope that it's going to be efficient and helpful. I must                  15 say that given the manner in which the parties -- and I mean                  16 "the parties" -- and the lawyers for the parties -- and I mean                  17 "for the parties" -- have behaved thus far in this and related                  18 litigation, I really have substantial doubt that we're going to                  19 get anyplace worth getting by this process. If I come to the                  20 conclusion that this is not efficient, or not helpful, I'm                  21 going to terminate these arguments, and I'll rule on the                  22 objections without oral argument. I do not intend the oral                  23 argument to add to the confusion and waste of time. I hope to                  24 cut through it.</p> <p>25 With that in mind, let's proceed. And we'll start</p>
<p>C9pdchem Conference Page 6</p> <p>1 from a claim that the overall burden of complying with the                  2 subpoena would be undue, I intend to resolve them.</p> <p>3 Third, it ought to be clear that at least to a very                  4 substantial degree, and possibly -- well, strike "and                  5 possibly" -- what we are really talking about here is, in the                  6 first instance, and today, in major part, is how extensive the                  7 privilege log needs to be and on the basis of how extensive a                  8 search.</p> <p>9 Fourthly, it ought to be plainly understood that I'm                  10 approaching this, first and foremost, with Rule 26(b)(2)(C) in                  11 mind. That gives district courts discretion to limit the                  12 extent of discovery, even of relevant matters, for several                  13 reasons. One of them is that its burden or expense outweighs                  14 its likely benefit, considering the needs of the case, the                  15 amount in controversy, the parties' resources, the importance                  16 of the issues at stake, and the importance of the discovery in                  17 resolving the issues.</p> <p>18 Unless I otherwise indicate, the rulings that I make                  19 should be understood as practical judgments about the                  20 appropriate scope of the subpoena in light of these                  21 considerations in the present posture of the case, rather than                  22 rulings as to relevance as a purely legal matter of the                  23 material sought.</p> <p>24 Fifth, I understand that the specifications, that at                  25 the moment might seem to go beyond what seems productive,</p>	<p>C9pdchem Conference Page 8</p> <p>1 with general objection 8, which is on page 7 of the Patton                  2 Boggs responses and objections to the subpoena.</p> <p>3 As I understand it, the fundamental dispute here is                  4 that Patton Boggs proposes to collect documents, which, as I                  5 understand it in the present posture, means a log for privilege                  6 in the main, only from attorneys and professionals who have                  7 worked 50 or fewer hours -- or I misstated that slightly -- who                  8 have worked less than 50 hours on the Chevron litigation. The                  9 plaintiff, as I understand it, doesn't accept that limitation,                  10 at least without a list of who would be excluded by it.</p> <p>11 Is that a fair statement of where you two are?</p> <p>12 MR. MASTRO: Your Honor, actually, we've agreed to the                  13 50-hour limit, and we've received a list that we are reviewing.</p> <p>14 THE COURT: Bless you. We will move on.</p> <p>15 I take it, Mr. Leader, that is correct; is that right?</p> <p>16 MR. LEADER: Yes, your Honor.</p> <p>17 THE COURT: All right.</p> <p>18 MR. MASTRO: Progress already, your Honor.</p> <p>19 THE COURT: Well, this is -- I won't say. We'll move                  20 on to general objection number 9, which has to do with                  21 documents from legal secretaries.</p> <p>22 What Patton Boggs' objection is is that it does not                  23 wish to collect electronic documents of legal secretaries that                  24 primarily used and relied on Patton Boggs' firm-wide document                  25 management computer applications.</p>

C9pdchem Conference Page 9	C9pdchem Conference Page 11
<p>1 What's the problem, Mr. Mastro?</p> <p>2 MR. MASTRO: Your Honor, again, I think we have</p> <p>3 reached the point of substantial agreement.</p> <p>4 All we have asked is that they confirm that the</p> <p>5 secretaries on this matter have not maintained documents</p> <p>6 separately in some fashion or data separately from the firm's</p> <p>7 server, and as long as we have that confirmation -- and they</p> <p>8 have thus been confirming that -- which ultimately they don't</p> <p>9 have to serve secretaries.</p> <p>10 THE COURT: Is that agreed, Mr. Leader?</p> <p>11 MR. LEADER: Yes, your Honor.</p> <p>12 THE COURT: OK. That takes care of that.</p> <p>13 You see, we're already up to page 37.</p> <p>14 Document request number 1. Where are we on this?</p> <p>15 MS. YOUNG: Your Honor, I can speak to that. Alyssa</p> <p>16 Young with Patton Boggs.</p> <p>17 Patton Boggs has agreed to provide a retainer</p> <p>18 agreement with its clients redacted of any privileged</p> <p>19 communications or work product. It was unclear in the</p> <p>20 meet-and-confer what other documents Chevron is looking for,</p> <p>21 but that is what Patton Boggs has agreed to produce at this</p> <p>22 point.</p> <p>23 THE COURT: Mr. Mastro, what else do you want? And</p> <p>24 why?</p> <p>25 MR. MASTRO: Sure. Your Honor, we believe that the</p>	<p>1 their authority from, and how they have been exercising it.</p> <p>2 So we think that the scope of potentially relevant</p> <p>3 documents is broader than just a redacted retention agreement.</p> <p>4 So we think they probably have had other exchanges on this very</p> <p>5 subject of Mr. Fajardo, Mr. Donziger. It would be interesting</p> <p>6 to see if they had any exchanges with their so-called clients.</p> <p>7 I think we have a right to get those documents to see if they</p> <p>8 even exist and if they've ever even had any communication with</p> <p>9 their clients.</p> <p>10 So we think it is definitely broader, your Honor, than</p> <p>11 just a redacted retention agreement.</p> <p>12 THE COURT: Ms. Young.</p> <p>13 MS. YOUNG: What Mr. Mastro has just described goes</p> <p>14 exactly to how Patton Boggs conducts this litigation, what</p> <p>15 interactions it has with various parties related to the</p> <p>16 litigation, and basically how the work is divided up and done.</p> <p>17 That goes right to the heart of privileged work product</p> <p>18 materials, and, frankly, they have very little to do with this</p> <p>19 case and more to do with trying to invade Patton Boggs' files</p> <p>20 to understand how its strategy works.</p> <p>21 MR. MASTRO: Your Honor, may I add one thing?</p> <p>22 THE COURT: Briefly.</p> <p>23 MR. MASTRO: Yes. This again -- and I think this is</p> <p>24 going to come up time and time again -- really goes to a</p> <p>25 logging issue and whether they should have to collect the</p>
<p>C9pdchem Conference Page 10</p> <p>1 retention agreement redacted will not cover the entirety of the</p> <p>2 scope of the request. We're concerned about the scope of</p> <p>3 Patton Boggs' authority to represent or act on behalf of the</p> <p>4 LAPs. We think it is relevant to the fraud and conspiracy</p> <p>5 claims. We think there are serious questions about whether</p> <p>6 Patton Boggs has properly, even acting on behalf of the LAPs,</p> <p>7 are they really acting more on behalf of itself, other law</p> <p>8 firms and financiers? And, therefore, we think that it's</p> <p>9 important in that regard to know whether they are properly</p> <p>10 authorized.</p> <p>11 It also goes directly to personal jurisdiction issues</p> <p>12 and whether agents of the LAPs have been acting on their behalf</p> <p>13 in New York and that Patton Boggs is an appropriate agent.</p> <p>14 We think this goes to really, you know, the heart of</p> <p>15 the RICO conspiracy and the fraud claims, whether persons are</p> <p>16 acting with or without authority and what they're doing. So we</p> <p>17 think it is not just the retention to deal with, your Honor, it</p> <p>18 is also the other exchanges that have occurred about what</p> <p>19 they're authorized to do or not authorized to do and by whom.</p> <p>20 And your Honor will recall that this became an</p> <p>21 important issue at an earlier point in time even before the</p> <p>22 RICO case about whether certain of the lawyers who have been</p> <p>23 running around the world supposedly acting on behalf of,</p> <p>24 quote-unquote, indigenous people are really authorized to act</p> <p>25 on their behalf. We even know those people, where they get</p>	<p>C9pdchem Conference Page 12</p> <p>1 documents. And if they think that they are privileged, put</p> <p>2 them on a log and we have already, you know, to try to bridge</p> <p>3 the gap here, agreed to categorical logging in the fashion that</p> <p>4 they requested.</p> <p>5 So, really, the objection here doesn't go to the</p> <p>6 relevance of the information, it goes to whether they are going</p> <p>7 to have a valid privilege claim, and that should be logged and</p> <p>8 in a categorical log. And if there are rulings later on</p> <p>9 whether they have a privilege there and whether there is an in</p> <p>10 camera review, the documents will be there for production or</p> <p>11 for your Honor to review.</p> <p>12 THE COURT: Suppose, Ms. Young, that this request were</p> <p>13 modified on the basis I indicated before, that is to say,</p> <p>14 without prejudice, to read all documents discussing,</p> <p>15 conferring, or evidencing your authority; doesn't that solve</p> <p>16 the problem you claim exists?</p> <p>17 MS. YOUNG: Does your Honor mean to exclude work</p> <p>18 product and other documents in which Patton Boggs analyzed</p> <p>19 Chevron's allegations that it had acted outside of its</p> <p>20 authority?</p> <p>21 THE COURT: No.</p> <p>22 MS. YOUNG: Without that limitation, I believe the</p> <p>23 request would still be impermissibly broad and likely to get at</p> <p>24 documents that are subject to privilege.</p> <p>25 THE COURT: Yes. But you understand that I'm not</p>

C9pdchem Conference Page 13	C9pdchem Conference Page 15
<p>1 passing on privilege questions today. So on that basis I'm 2 going to modify it without prejudice, as I indicated, and then 3 otherwise overrule the objection; that is, I overrule the 4 objection to the request as modified.</p> <p>5 OK. Number 2, which I gather the parties have already 6 agreed in one respect is modified by striking the words "actual 7 or potential."</p> <p>8 MR. MASTRO: Correct, your Honor.</p> <p>9 THE COURT: OK. What is the essence of the dispute?</p> <p>10 MR. MASTRO: Well, your Honor, we are seeking 11 documents in which Patton Boggs was involved in the preparation 12 of briefs, motions, pleadings in connection with the Lago Agrio 13 litigation or the Lago Agrio appeal. The relevance of it, your 14 Honor, we think goes to the heart of the case. Patton Boggs is 15 a named co-conspirator, and we have argued that, and provided 16 evidence to the Court, that the manner in which the judgment 17 was procured and the ways in which the judgment was written 18 reflect that it was in fact ghostwritten and there was 19 involvement on the plaintiff's side, including the plaintiffs' 20 lawyers, in that process. Patton Boggs actually played an 21 integral role in the briefing -- the final briefing, called the 22 alegato, and differences between that final briefing and the 23 judgment and the changes in the earlier drafts that show up 24 nevertheless in the final judgment, meaning the work product of 25 the plaintiffs that was never submitted to the Court, that</p>	<p>1 drafting. There are -- and subsequent motions about cleansing 2 the -- I'm sorry. We know that they made certain choices to 3 take things out. We want the documents that reflect their 4 involvement, how that came about, what choices were made to try 5 and show what wasn't part of the court record, what was part of 6 the court record, and their knowledge of what was not actually 7 submitted on the record but nevertheless must have made it to 8 the Court anyway.</p> <p>9 Number two. They are also the party that drafted what 10 we call the cleansing memo or motion. That's the one where 11 they made application to the Court in mid-2010 to say to the 12 Court, on the eve of the Stratus documents coming out, Patton 13 Boggs does the drafting of the submission that was made by the 14 LAPs in Ecuador to permit them to put in cleansing experts to 15 try and paper over and cleanse the Cabrera fraud. So we want 16 to see their documents on that process, what they knew, what 17 their colleagues knew, the admissions that they were making. 18 We do have some documents in this regard, your Honor, but we 19 don't have their internal documents, and we don't necessarily 20 have all of the communications. It was by tooth and nail and 21 only production of the hard drive that we got what we did from 22 Donziger.</p> <p>23 So we don't certainly think we have the full universe 24 that tells that story, the story of coming on the case -- 25 knowing the case was falling apart because the Cabrera fraud</p>
<p>1 Patton Boggs edited and knows wasn't submitted to the Court, 2 nevertheless shows up in the judgment.</p> <p>3 Your Honor, we think that their role then in trying to 4 style those briefs what it knew or didn't know in the drafting 5 process --</p> <p>6 THE COURT: I'm sorry. I'm confused. The argument is 7 that if you get at their drafts, the drafts may provide 8 evidence that there is a remarkable similarity between drafts 9 that were not filed and portions of the judgment; is that about 10 it?</p> <p>11 MR. MASTRO: That's not the entirety of it, but, yes, 12 that is a major part of it.</p> <p>13 THE COURT: That is part of it.</p> <p>14 MR. MASTRO: Their involvement in the drafting -- and 15 they were involved in the redrafting of the final brief, the 16 final statement of the case that's submitted to the Court, so 17 it is referred to as the closing argument, those rewrote that 18 brief. The draft contained literally whole sections of 19 material that Patton Boggs took out of the final product that 20 was submitted to the Court that nevertheless somehow show up 21 almost word for word in the judgment.</p> <p>22 THE COURT: Yeah, I got that. But you tell me you 23 know that now.</p> <p>24 MR. MASTRO: We know those pieces. These are the 25 documents about their involvement in the preparation of</p>	<p>1 was about to be revealed, Patton Boggs coming on the case and 2 drafting a critically important document to be submitted to the 3 Ecuadorian Court to be able to put in these so-called cleansing 4 experts, who turned out to be just derivative of Cabrera to try 5 to paper it over.</p> <p>6 So for both of those reasons, both in the judgments, 7 ghostwriting fraud, and in the context of this really, you 8 know, fraud on the process to try and paper over Cabrera as the 9 fraud was unraveling, Patton Boggs was there at the heart of 10 it. And we want to see their documents that reflect their 11 preparation, their involvement, what they knew, what other 12 people knew, and what they were saying about these things as 13 they did them.</p> <p>14 THE COURT: What about the appeal?</p> <p>15 MR. MASTRO: Yes. Well, your Honor, that's important, 16 too, because, you know, we don't have transparency into the 17 process since the Donziger documents only go up to a point in 18 early February. We don't have transparency about the 19 judgment's aftermath. Yet there have been many questions 20 raised about the motions that were submitted. Patton Boggs, we 21 believe, participated in the preparation of them to try and fix 22 problems in the judgment, anticipating attacks later. They win 23 the case --</p> <p>24 THE COURT: My question was what about the appeal? 25 Documents relating to submissions --</p>



C9pdchem Conference Page 17	C9pdchem Conference Page 19
<p>1 MR. MASTRO: And on the appeal, your Honor, questions 2 about the composition of the panel and how the appellate panel 3 went about doing its work, because the trial judge who issues 4 the judgment is also the judge who basically oversees who was 5 on the appellate panel. And there are a lot of issues about 6 the continue manipulation and ghostwriting that occurred even 7 after that, and we need to see -- it will actually be our first 8 chance to see the role of the plaintiffs' team in how there 9 were modifications to the judgment and then how the appellate 10 process worked and the role they played in helping to craft or 11 cause the crafting of the appellate opinion. We have had no 12 transparency there.</p> <p>13 THE COURT: Ms. Young or Mr. Leader?</p> <p>14 MS. YOUNG: I would like to point out that the request 15 is actually directed to all documents related to Patton Boggs' 16 involvement in the preparation of any brief, any motion, any 17 pleading in connection with the Lago Agrio litigation.</p> <p>18 Mr. Master just spoke to two or three examples of 19 specific documents that were filed, and, in fact, Patton Boggs 20 requested such a list from them during the meet-and-confer. It 21 is still obvious that we had privilege issues with this 22 document request. And, of course, Patton Boggs denies the 23 allegations put forth by Mr. Mastro and --</p> <p>24 THE COURT: OK. Look, in the interest of not having 25 this repeated every time -- and I don't mean to be unkind -- I</p>	<p>1 MR. MASTRO: Your Honor, it emerges starkly in 2 May 2010 and really continues thereafter.</p> <p>3 Patton Boggs, under a draft retention agreement that 4 we saw, says they are to be primarily responsible for U.S. and 5 non-Ecuadorian litigation. Yet, it appears that from May 2010 6 on they were integrally involved in the key briefing in 7 Ecuador, the cleansing expert request relating to the final 8 alegato and the judgment, and then subsequently, post-judgment 9 and on appeal, it appears that they were involved including 10 even moving for clarification on the fraud issue to try and 11 improve their prospects in enforcement later when they had won. 12 Apparently in Ecuador you can make motions when you win to say 13 I would like even better language in my opinions.</p> <p>14 THE COURT: It has been known to happen in America, 15 too.</p> <p>16 MR. MASTRO: It can't happen quite so transparently, 17 your Honor. I don't think that I could move to appeal a 18 complete victory because I wanted some little better language 19 in an opinion. But in any event, I'm just saying that it's 20 really, you know, the beginning of May 2010 on that it appears 21 Patton Boggs took over in substantial respects briefing and 22 engineering the strategy, too. The first 1782 was filed in 23 late 2009 in this case.</p> <p>24 THE COURT: Hold on a second while I look something 25 up.</p>
<p>C9pdchem Conference Page 18</p> <p>1 know, as well as you do, that there are privilege issues that 2 I'm not ruling on today, and what we're talking about today is 3 the scope. So let's just save the time of talking about the 4 privilege issues, except to the extent, if we ever get to an 5 appropriate point, where we did some appropriate narrowing that 6 might in one degree or another reduce or minimize any questions 7 about privilege. OK?</p> <p>8 MS. YOUNG: OK. Understood.</p> <p>9 Also, to the extent that Mr. Mastro is asking for 10 documents that aren't in the court record, he can certainly -- 11 he is certainly aware of the court record in Ecuador and 12 doesn't need Patton Boggs' documents to show that.</p> <p>13 THE COURT: No. But he is not asking you to produce 14 documents from the court record in Ecuador. He is asking you 15 to produce documents related to Patton Boggs' involvement in 16 the preparation of various documents, which is a separate 17 matter.</p> <p>18 MS. YOUNG: Understood. And that goes to virtually 19 everything that Patton Boggs did in the course of the 20 Ecuadorian litigation.</p> <p>21 THE COURT: Now, Patton Boggs' involvement dates to 22 exactly when?</p> <p>23 MS. YOUNG: Early 2010.</p> <p>24 THE COURT: Mr. Mastro, when in your submission does 25 the risk of Cabrera being discredited emerge?</p>	<p>C9pdchem Conference Page 20</p> <p>1 (Pause)</p> <p>2 All right. So we are talking here about the time 3 period from early 2010 until whatever ultimately the cutoff is.</p> <p>4 Now, you've identified, Mr. Mastro, the alegato. 5 You've identified what else specifically?</p> <p>6 MR. MASTRO: Your Honor, I identified the cleansing 7 motion, to be able to submit cleansing expert reports, which 8 was filed in mid-2010. I've identified the alegato, which I 9 believe was filed in December of 2010, and I've identified the 10 post-judgment motion practice, the appellate briefing, and the 11 post-appellate decision motion practice, all which went to 12 trying to manipulate or change the language.</p> <p>13 And I would just add one thing, your Honor. This is 14 going to come up again and again, so I am really trying to cut 15 through things. They're going to repeatedly raise we should 16 have provided them a list of what we know --</p> <p>17 THE COURT: Let's deal with it if, as, and when we get 18 it. OK?</p> <p>19 MR. MASTRO: No problem. But they raised it here, 20 too, that we should give them a list. They know which list --</p> <p>21 THE COURT: OK. Again, without prejudice, as I've 22 indicated -- and I'm going to stop repeating that -- we're 23 going to modify this, at least temporarily, to documents 24 relating to Patton Boggs' involvement in the preparation of the 25 alegato, the so-called cleansing motion, as defined by</p>

C9pdchem Conference Page 21	C9pdchem Conference Page 23
<p>1 Mr. Mastro, and any post-judgment motion or avocation, and 2 otherwise the objection is going to be sustained for the time 3 being. 4 OK. Number 3. Have you reached agreement on this, I 5 hope? 6 MS. YOUNG: I think the only disagreement remaining on 7 this is whether Patton Boggs can create one travel log, or 8 Chevron has demanded a separate log, signed under penalty of 9 perjury, by each Patton Boggs' attorney who traveled to Ecuador 10 identifying -- and they're asking for a whole host of 11 information -- meetings, start and end times, locations, 12 attendees, photographs, video recordings. 13 I think what we offered to do was to put forth a 14 single log identifying Patton Boggs' lawyers who traveled to 15 Ecuador in connection with the Chevron litigation, dates of 16 travel, and cities or towns visited. 17 THE COURT: Mr. Mastro. 18 MR. MASTRO: I think, your Honor, the only area of 19 disagreement at this point is what that log would look like. 20 We wanted not only arrival and departure dates and the 21 identification of the Patton Boggs' lawyers but who they met 22 with, who were at these meetings. Were they meeting with a 23 judge? Were they meeting with others in Ecuador? And if they 24 are able to provide it, the basic durations of the meetings. 25 So we think it's a positive step that they will</p>	<p>1 MR. MASTRO: Your Honor, here we're seeking documents 2 relating to travel to certain countries where we're already 3 aware, or have reason to believe, might be subjects of 4 enforcement actions. There have already been enforcement 5 actions filed in Brazil and Canada. 6 To us, your Honor, this goes to an essential part of 7 the conspiracy that Patton Boggs came on to the case to 8 execute. This is the Invictus enforcement strategy. This is 9 the extortion shakedown pressure strategy. This is -- these 10 are the documents that relate to the travel that goes to the 11 very heart of that. So we think its relevance to the RICO and 12 fraud case are evident, and we think we are entitled to get 13 them. 14 Patton Boggs objects in its entirety. Some of these 15 things in the travel records wouldn't be subject to any kind of 16 privilege claim anyway, but to the extent they have a privilege 17 claim, they put it on the categorical log. But they've just 18 object categorically to this, and we think it is clearly 19 relevant and we are entitled to see it. 20 THE COURT: I am going to sustain that objection. 21 Number 5. Ms. Young, these people are asserting 22 jurisdictional objections in the case of the two who have 23 appeared. It seems relevant more broadly than that. Why 24 shouldn't you produce this? 25 MS. YOUNG: Your Honor, we have asked Chevron to -- we</p>
C9pdchem Conference Page 22	C9pdchem Conference Page 24
<p>1 identify when they went to Ecuador and who from Patton Boggs 2 went there, but we want to know who they met with and for how 3 long. It seems to me that that's the key information that we 4 are entitled to as well in trying to determine what they were 5 doing. 6 THE COURT: What about that, Ms. Young? 7 MS. YOUNG: I think it's-- Chevron wants to know did 8 we meet with a judge, did we -- you know, in keeping with their 9 allegations that we did any improper activity, I think we can 10 certainly respond to that that we did not. 11 THE COURT: I would rather imagine that most parties 12 accused of misconduct are perfectly prepared in discovery to 13 say you don't need discovery, we didn't do it, and you should 14 just accept our word for it. So we're not going down that 15 course of an approach. 16 And, furthermore, as I'm sure you know, the crime 17 fraud exception doesn't even require misconduct by the attorney 18 in order to pierce the privilege, if indeed there is such a 19 privilege, with respect to anything here. 20 And so I'll go along with the one log concept, and the 21 log is to contain the identity of each attorney, the arrival 22 and departure dates of each trip, and with respect to each 23 meeting relating to the case in any way the dates and times and 24 durations and participants. 25 OK. Number 4. Mr. Mastro, how do you justify this?</p>	<p>1 have agreed that we will perform a reasonable search for these 2 documents, and we've suggested ways in which to go about doing 3 that. 4 Searching a set of e-mails, you know, dealing with 5 other people's travel, it's difficult to come up with a search 6 that would potentially target those documents. I think -- the 7 example that Chevron has used is if there is an internal 8 communication at Patton Boggs referring to Pablo Fajardo coming 9 to the United States for a meeting, that's what they are 10 looking for, and we have suggested that we come up with some 11 search terms that might be designed to get at that information. 12 The problem is that Chevron has been unwilling to 13 engage in that discussion on what it will accept as a 14 reasonable search for these types of documents. 15 THE COURT: These are two separate questions. One 16 question is whether the request is appropriate. The second 17 question is, given the respondent's obligation to make a 18 reasonable search, what is a reasonable search? 19 I overrule the objection. Now, the parties are going 20 to have to work it out, or if you can't, the Court will decide 21 what a reasonable search is. 22 I understand there are always problems in designing 23 search terms and the like, and in electronic discovery, as in 24 all other things in life, perfection, desirable as it may be, 25 is not always achievable.</p>

C9pdchem Conference Page 25	C9pdchem Conference Page 27
<p>1 OK. Number 6.</p> <p>2 I see that that follows, unless I hear good reason to</p> <p>3 the contrary, the ruling I made with respect to number 4. Any</p> <p>4 reason why not, Mr. Mastro?</p> <p>5 MR. MASTRO: Your Honor, I think it would be</p> <p>6 controlled by your ruling on number 4, but when it comes to</p> <p>7 documents relating to the enforcement actions, I would like to</p> <p>8 be heard more on that, as opposed to the travel documents, and</p> <p>9 then we will come to those later requests.</p> <p>10 THE COURT: Then we will deal with it then.</p> <p>11 MR. MASTRO: Thank you, your Honor.</p> <p>12 THE COURT: Number 7 has been withdrawn by Chevron.</p> <p>13 What remains in dispute as to this?</p> <p>14 MS. YOUNG: Patton Boggs has agreed to produce power</p> <p>15 of attorney documents. I'm not sure what else is at issue.</p> <p>16 THE COURT: Including drafts?</p> <p>17 MS. YOUNG: Drafts would -- we would have the same</p> <p>18 problem with work product, but I believe we could log those.</p> <p>19 MR. MASTRO: OK.</p> <p>20 THE COURT: OK. So the objection is overruled,</p> <p>21 except, of course, that identical -- well, what about this?</p> <p>22 Let me raise the question.</p> <p>23 Shouldn't this exclude or should it exclude identical</p> <p>24 copies of documents that were produced -- actually produced in</p> <p>25 the 1782 case against Mr. Donziger?</p>	<p>1 as a result if they were able to collect on the entirety of</p> <p>2 that judgment for that firm. And it goes to, you know, the</p> <p>3 individuals or financiers who were recruited to either join the</p> <p>4 conspiracy as active participants or, in some cases, including</p> <p>5 Burford and Joe Kohn, who backed out at some point -- Joe Kohn,</p> <p>6 as we say, with noise. So we think that this really will be</p> <p>7 highly relevant to the RICO conspiracy and its scope, structure</p> <p>8 and membership.</p> <p>9 THE COURT: Is there any dispute that Patton Boggs has</p> <p>10 a contingent fee arrangement and has a nine-figure benefit to</p> <p>11 be gained if and to the extent the judgment is collected?</p> <p>12 MR. MASTRO: There is not, your Honor.</p> <p>13 THE COURT: You are not in a position to answer that.</p> <p>14 MR. MASTRO: Sorry, your Honor.</p> <p>15 (Pause)</p> <p>16 MS. YOUNG: Excuse me, your Honor. I just need to</p> <p>17 confer with my client.</p> <p>18 THE COURT: I understand.</p> <p>19 (Pause)</p> <p>20 MR. MASTRO: Your Honor, could I add just one more</p> <p>21 thing while she is conferring?</p> <p>22 THE COURT: No. Let's do one thing at a time.</p> <p>23 MR. MASTRO: No problem, your Honor.</p> <p>24 (Pause)</p> <p>25 MS. YOUNG: Your Honor, Patton Boggs is not</p>
<p>1 MS. YOUNG: We don't currently have that production so</p> <p>2 Chevron would need to identify those for us.</p> <p>3 MR. MASTRO: Well, your Honor, we don't have a problem</p> <p>4 with that. So, you know, but it is not clear to us in terms of</p> <p>5 burden and everything else, you know, should we give them</p> <p>6 everything in the Donziger production that relates to this</p> <p>7 issue? Is that how they --</p> <p>8 THE COURT: This is really, I guess, silly.</p> <p>9 MR. MASTRO: Right. I don't want to --</p> <p>10 THE COURT: Because, obviously, I mean, Mr. Donziger</p> <p>11 represents these people and you are working -- not you, Leader</p> <p>12 &amp; Berkon, but you Patton Boggs are working hand and glove with</p> <p>13 the Keker firm, or at least that's the only logical assumption</p> <p>14 to draw, and so I will just overrule the objection. You are</p> <p>15 perfectly able to find out what was in these things.</p> <p>16 Number 9.</p> <p>17 (Pause)</p> <p>18 Anybody wish to address it?</p> <p>19 MR. MASTRO: Your Honor, again, we think this goes to</p> <p>20 the heart of the RICO claim because these documents potentially</p> <p>21 relate to membership in the conspiracy, its scope, its</p> <p>22 structure, the motives of individuals and their interests,</p> <p>23 including the Patton Boggs firm which recruited certain of the</p> <p>24 funders, including Burford. The Patton Boggs firm, which has a</p> <p>25 contingency arrangement that should generate over 400 million</p>	<p>1 comfortable with discussing the financial arrangements relating</p> <p>2 to its potential payment from this litigation.</p> <p>3 THE COURT: Well, I mean, you may have your choice</p> <p>4 between getting comfortable with it or producing all the</p> <p>5 documents about it.</p> <p>6 MS. YOUNG: We've agreed to produce the retainer</p> <p>7 agreement, and I believe it will be redacted of sensitive</p> <p>8 financial information.</p> <p>9 THE COURT: Well, that's your version. I don't see</p> <p>10 any basis for that redaction.</p> <p>11 MS. YOUNG: The --</p> <p>12 THE COURT: So maybe you can persuade me.</p> <p>13 MS. YOUNG: The funding arrangements as it relates to</p> <p>14 Patton Boggs, that has no bearing on the RICO litigation.</p> <p>15 THE COURT: It has to do with motive, doesn't it?</p> <p>16 MS. YOUNG: Patton Boggs isn't a defendant in the RICO</p> <p>17 litigation.</p> <p>18 THE COURT: It is an alleged co-conspirator, isn't it?</p> <p>19 Right in the complaint.</p> <p>20 MS. YOUNG: Understood, your Honor.</p> <p>21 (Pause)</p> <p>22 At a minimum, your Honor, Patton Boggs requests a</p> <p>23 protective order, a confidentiality order so that the</p> <p>24 information relating to its payment or potential payment is not</p> <p>25 disclosed outside of this litigation.</p>



C9pdchem Conference Page 29

1 THE COURT: Any problem with that, Mr. Mastro?  
 2 MR. MASTRO: Your Honor, there has already been  
 3 disclosures with no protective order that give that amount. I  
 4 don't have any problem with a protective order, that I won't  
 5 reveal what they say they'll get out of the litigation.  
 6 MS. YOUNG: Your Honor, if the plaintiffs already have  
 7 this information, why does it need to come from Patton Boggs  
 8 again?  
 9 THE COURT: Do you know that the United States  
 10 government takes the position that terrorists who have been  
 11 held in certain foreign countries, as reported by every media  
 12 outlet in the world, are in the position where the government  
 13 will not confirm nor deny which foreign countries even though  
 14 everybody in the world knows it? Do you understand that? And  
 15 the reason it doesn't is because they don't want to be bound by  
 16 the admission, which is why you don't want to be bound by the  
 17 admission. But the admission is relevant in the lawsuit. And  
 18 for them to say somebody else said that Patton Boggs' interest  
 19 is X is different from Patton Boggs saying it or producing the  
 20 documents.  
 21 Now, let's use this time productively. Is there any  
 22 problem with a protective order of the standard garden variety  
 23 form that would enable them in the first instance to designate  
 24 that piece of information as for use in this litigation only  
 25 and would not restrict you, Mr. Mastro, as in all other cases,

C9pdchem Conference Page 30

1 if you have that information from someplace else, using it?  
 2 MR. MASTRO: And I said, it will be fine with me, your  
 3 Honor.  
 4 THE COURT: OK. So that solves that problem, right,  
 5 Ms. Young?  
 6 MS. YOUNG: Understood, your Honor. Yes.  
 7 THE COURT: OK. Now, what about the limitation to  
 8 executed funding agreements?  
 9 MR. MASTRO: Your Honor, the reason why it shouldn't  
 10 be limited to executed funding agreements is because part of  
 11 the fraud -- part of the third-party fraud is that  
 12 misrepresentations by Patton Boggs and others on the  
 13 plaintiff's team were made to induce people to fund the  
 14 litigation. In some cases they decided not to, because they  
 15 concluded not to. In other cases they decided to and later  
 16 withdrew, apparently because they considered themselves to have  
 17 been defrauded. So we think we should be able to get documents  
 18 that go to their efforts to induce funders as well as the  
 19 funding agreements themselves.  
 20 THE COURT: And how is that relevant to whether they  
 21 did what you claim they have done to Chevron?  
 22 MR. MASTRO: Because, your Honor, take a Burford as an  
 23 example. We believe that since Burford cut off its funding --  
 24 and of the limited documents we have seen, we have seen that  
 25 they are now in some controversy -- we hope the discovery from

C9pdchem Conference Page 31

1 Patton Boggs will show why Burford stopped funding. But it did  
 2 provide millions in seed capital at Patton Boggs' behest, based  
 3 on representations like those in Invictus about the so-called  
 4 merit of what they were going to try to do, that, you know,  
 5 funded the enterprise, kept the scheme going, gave them the  
 6 lifeblood capital they needed. And if those parties -- some of  
 7 those parties -- I can't say whether that is going to be the  
 8 case for Burford, but we think we have a good faith basis  
 9 arising from the discovery, and of others, you know, were  
 10 induced to fund, to keep this thing going, the scheme going,  
 11 and later came to realize they had been hoodwinked. That's  
 12 third-party fraud. That's extremely relevant to the RICO. So  
 13 we believe we're entitled to those documents.  
 14 THE COURT: Ms. Young.  
 15 MS. YOUNG: I think that's pure speculation as to why  
 16 somebody stopped providing funding or continued. And, again,  
 17 the fact of someone funding or not funding, we are OK with  
 18 disclosing that. You know, the discussions back and forth  
 19 touching on the merits of the case or anything else we think  
 20 should be off limits.  
 21 THE COURT: Well, why? It is not exactly privileged,  
 22 is it, even if there is a privilege?  
 23 MS. YOUNG: Well, there may be work product revealed  
 24 in those discussions, yes, about strategy, about planning,  
 25 about --

C9pdchem Conference Page 32

1 THE COURT: Which may very well blow even the work  
 2 product protection.  
 3 MS. YOUNG: I believe --  
 4 THE COURT: Because you are dealing with an adverse  
 5 party at arms' length.  
 6 MS. YOUNG: Well, I think it is actually the opposite,  
 7 that they have a common interest in the litigation if they're  
 8 funding it.  
 9 THE COURT: Maybe not if they are pulling out. Maybe  
 10 not if they say no. Maybe not until they decide to fund it.  
 11 MS. YOUNG: It is a collateral issue. It is  
 12 speculative. If we're trying to reduce the scope of the  
 13 subpoena, you know, I don't think there is any meaningful  
 14 information that's going to come out of that inquiry.  
 15 THE COURT: I am going to come back to that one. I  
 16 will think about that a little more.  
 17 Number 10.  
 18 MS. YOUNG: 10 is the identical problem. It just  
 19 lists names.  
 20 THE COURT: Is that right?  
 21 MR. MASTRO: These are all parties we believe that are  
 22 related to funding issues. Your Honor, if I may suggest one  
 23 other thing that might help you resolve 9 and 10?  
 24 From the documents we have seen, that we have been  
 25 able to obtain in discovery, we see the breakdown between the

C9pdchem Conference Page 33	C9pdchem Conference Page 35
<p>1 plaintiffs and Burford, and we have seen from the plaintiff's</p> <p>2 side some hostile exchanges with Burford when Burford withdrew</p> <p>3 its funding. There must be Burford letters to the plaintiffs,</p> <p>4 and we believe they will show exactly what we need to prove,</p> <p>5 third-party fraud and --</p> <p>6 THE COURT: Yes. But you haven't persuaded me yet</p> <p>7 that evidence that third-party investors were snookered, if</p> <p>8 indeed that's the case, is particularly probative of anything</p> <p>9 in this case.</p> <p>10 MR. MASTRO: But, your Honor, it is critically</p> <p>11 important, because without that money -- without that seed</p> <p>12 money from Burford, we think the documents will show Patton</p> <p>13 Boggs never would have gotten involved in this case and not</p> <p>14 gotten the seed money, because they had a mixed-fee contingency</p> <p>15 fee arrangement.</p> <p>16 THE COURT: Without the word processor, they couldn't</p> <p>17 have gotten involved either and we are not examining IBM.</p> <p>18 MR. MASTRO: No. But, your Honor, I do believe this</p> <p>19 is actually critically important, because it was the going out</p> <p>20 and obtaining of funders, sometimes who became co-conspirators,</p> <p>21 sometimes who later felt they were duped and were part of a</p> <p>22 third-party fraud, it was the only reason they could sustain</p> <p>23 the action they way they did and litigate all around the world</p> <p>24 and bring in the Patton Boggses of the world and the many</p> <p>25 national firms --</p>	<p>1 THE COURT: And why are you entitled to all documents</p> <p>2 relating to him?</p> <p>3 MR. MASTRO: He is a person who both participated in</p> <p>4 helping them arrange funding and also served as a consultant --</p> <p>5 as we understand it, a consultant to the LAPs on the foreign</p> <p>6 enforcement or Invictus strategy.</p> <p>7 THE COURT: Sustained.</p> <p>8 MR. MASTRO: Your Honor, may I just ask one more</p> <p>9 question?</p> <p>10 THE COURT: Yes.</p> <p>11 MR. MASTRO: In terms of the limited production on 9</p> <p>12 and 10, I would strongly implore your Honor that if there are</p> <p>13 exchanges with Burford that would reflect that Burford backed</p> <p>14 out of the funding agreement because they felt they were</p> <p>15 defrauded, that that would be highly relevant.</p> <p>16 THE COURT: Nobody is stopping you from taking</p> <p>17 Burford's deposition and let's see where that goes, if you</p> <p>18 decide to do it.</p> <p>19 MR. MASTRO: All right. We will, your Honor. We</p> <p>20 will.</p> <p>21 THE COURT: Number 12.</p> <p>22 MS. YOUNG: Number 12. Nextant is, I believe, under</p> <p>23 Snaider's company.</p> <p>24 THE COURT: Is that right, Mr. --</p> <p>25 MS. YOUNG: We have the same objection.</p>
<p>1 THE COURT: This is true of every law school that</p> <p>2 would have accepted anybody of Patton Boggs as a student.</p> <p>3 Without that, they wouldn't be here.</p> <p>4 MR. MASTRO: Your Honor, as an essential part of the</p> <p>5 scheme, part the RICO scheme was to defraud -- to either get</p> <p>6 co-conspirators or to defraud them into investing and thereby</p> <p>7 be able to support the ability to try to extort Chevron not</p> <p>8 only by continuing the Lago Agrio litigation but the</p> <p>9 litigations around the country. And the common law fraud claim</p> <p>10 that has been sustained was one of defrauding third parties to</p> <p>11 the detriment of Chevron. If we are correct that the documents</p> <p>12 will show Burford, maybe Kohn, others felt that they had been</p> <p>13 defrauded at certain points into funding, that was integral to</p> <p>14 the LAPs being able to continue their effort to extort Chevron.</p> <p>15 THE COURT: Thank you.</p> <p>16 I'm sustaining, for the time being anyway, the</p> <p>17 objections to 9 and 10, save that Patton Boggs will produce</p> <p>18 executed funding agreements.</p> <p>19 11. Are you guys capable of agreeing as to whether</p> <p>20 Andres Snaider is a lawyer or not?</p> <p>21 MR. MASTRO: Your Honor, he apparently at times in his</p> <p>22 life was a lawyer but we do not believe he is functioning as a</p> <p>23 lawyer more recently and certainly not in the capacities in</p> <p>24 which he participated in this case. In his more recent life he</p> <p>25 hasn't been, to our understanding, practicing law.</p>	<p>1 THE COURT: -- Mr. Mastro?</p> <p>2 MR. MASTRO: Nextant is his company.</p> <p>3 THE COURT: Sustained.</p> <p>4 13.</p> <p>5 (Pause)</p> <p>6 Anybody have anything to say?</p> <p>7 MR. MASTRO: Well, your Honor, the relevance of the</p> <p>8 documents, I think your Honor --</p> <p>9 THE COURT: I'm fully appreciative of why you want to</p> <p>10 see them.</p> <p>11 MR. MASTRO: Right.</p> <p>12 THE COURT: Which is not the same thing as relevance.</p> <p>13 MR. MASTRO: I understand, your Honor.</p> <p>14 But since at the heart of the conspiracy it was the</p> <p>15 RICO defendants colluding with government officials to procure</p> <p>16 a thumb on the scale of fraudulent judgment in Ecuador, the</p> <p>17 communications with the government officials we believe are</p> <p>18 highly relevant. We don't see how they could be privileged.</p> <p>19 We don't see how there could be a sovereign immunity question.</p> <p>20 And, you know, we therefore think that they should have to</p> <p>21 produce those documents.</p> <p>22 THE COURT: Ms. Young.</p> <p>23 MR. MASTRO: To the extent they have a privilege</p> <p>24 claim, they can put it on a categorical log.</p> <p>25 THE COURT: I don't understand that point.</p>



C9pdchem Conference Page 37	C9pdchem Conference Page 39
<p>1 MS. YOUNG: I just want to clarify that the sovereign 2 immunity objection relates to a completely separate 3 representation of Patton Boggs for the Republic of Ecuador, and 4 although in the meet-and-confer I believe Chevron loosely 5 stated it wasn't really interested in that, they haven't 6 committed to narrowing the scope of the request. So that 7 really relates to things separate from the litigation. 8 THE COURT: Can you enlighten me? Because I take it 9 that since the document request is for documents regarding 10 Chevron for the Chevron litigations, it would be hard to 11 imagine if there were a separate representation in an unrelated 12 litigation, or representation of the Republic of Ecuador, that 13 you would have any responsive documents in connection with that 14 representation; isn't that right? 15 MS. YOUNG: Understood. I mean, if it's related to 16 the Chevron litigation -- 17 THE COURT: Or to Chevron. 18 MS. YOUNG: As we -- with that limitation, yes, we 19 understand, and we'll respond as we've indicated. 20 THE COURT: So that limitation is in fact not a 21 limitation, it is the scope of the question in the first place. 22 And so I take it, then, that there is no sovereign 23 immunity objection, right? 24 MS. YOUNG: Correct. 25 THE COURT: OK. Now, with that established, is there</p>	<p>1 MS. YOUNG: Right. And the only allegations that 2 Chevron has made relate to the judgment, the Cabrera motion, 3 and, I think, the appeal. If they're willing to limit it to 4 those items, I believe we would be prepared to respond. 5 THE COURT: Do you have a lot of these documents 6 relating to other -- 7 MS. YOUNG: No. But what we do have are a lot of 8 documents relating to Patton Boggs' analysis of Chevron's 9 allegations in that regard. So every time Chevron -- 10 THE COURT: Just let me stay with your point and then 11 I'll let you go on. 12 But you're saying if they had flagged two or three or 13 four specific documents, because those are the ones they know 14 about -- there may or may not be others -- and your problem is 15 with your analysis of those. And the way you propose to solve 16 that problem is have them tell you the ones they suspect are 17 problematic, which they've already told you. You know what 18 those are because that's what you are giving right back to me. 19 And the point of their request is to find out if there are 20 others that they don't know about yet, and you want me to cut 21 that out. 22 MS. YOUNG: Well, as drafted, this would also get to 23 all of Patton Boggs' work done in connection with Chevron's 24 allegations. If there is a way to carve that out so that we 25 don't have to log every single time that Patton Boggs weighed</p>
<p>C9pdchem Conference Page 38</p> <p>1 any further reason why there is anything to sustain here? That 2 resolves the objection subject -- 3 MS. YOUNG: That resolves the objection subject to the 4 privilege log. 5 THE COURT: OK. So the objection is overruled. 6 Number 14. This, I take it, is the specific question 7 that underlay the earlier much more general request that we 8 talked about for quite some time. Right? 9 MR. MASTRO: Yes, your Honor. 10 THE COURT: OK. Any reason why I shouldn't overrule 11 this? 12 MS. YOUNG: Your Honor, this request relates to -- 13 it's so overbroad and it relates to any official communication, 14 order, statement, ruling, report, judgment, sentencia, escrito, 15 providencia, edict, or other writing issued by the Lago Agrio 16 Court, and also includes the appeal. 17 THE COURT: Yes. So? 18 MS. YOUNG: So, again, this goes to -- we've asked 19 Chevron to specify and in particular orders or rulings or 20 judgments that they're interested in rather than pretty much 21 everything related to the Lago Agrio litigation. 22 THE COURT: Yes. But it is not everything related to 23 the Lago Agrio litigation. It relates to the writing of court 24 documents issued by those courts. I mean, I, of course, I say 25 "writing," there are more words, but it all amounts to that.</p>	<p>C9pdchem Conference Page 40</p> <p>1 in or analyzed an allegation, that would be helpful. 2 THE COURT: OK. Mr. Mastro, what about that? 3 MS. YOUNG: I just want to clarify also, it is not as 4 if we've identified documents that do relate to advance 5 knowledge of the judgment or anything like that. We don't 6 believe that those exist at all. 7 MR. MASTRO: Right -- 8 THE COURT: I mean, you know, the fact is if you limit 9 that specifically to the judgment, I don't know one way or 10 another, but I certainly have seen documents in this case in 11 which, if memory serves, it was Mr. Fajardo saying to 12 Mr. Donziger he knew exactly what the judge was going to do 13 about either terminating judicial inspections or whom he was 14 going to appoint as the global expert, etc., etc., there surely 15 are documents. Now, I don't know if Patton Boggs has them and 16 so forth, but there are such documents that have emerged at one 17 point or another. I haven't seen many but there are some. 18 Mr. Mastro. 19 MR. MASTRO: Yes. Correct, your Honor. But I don't 20 think the fact that we've been so diligent in discovery that we 21 have a sense of some of them now, I'm not a soothsayer. I'm 22 shocked at how many we are already aware of. 23 I think that this is a pretty straightforward, 24 targeted request -- the writing, drafting of orders, opinions, 25 decisions by anyone in the Lago-related team. So they are the</p>

C9pdchem Conference Page 41	C9pdchem Conference Page 43
<p>1 ones who will know that. I was able to say "several" because  2 of what we've been fortunate enough to be able to learn, but  3 they're going to know whether there are more. There could well  4 be more. And I shouldn't have to tell them what my (1)  5 suspicions are or what else I may have done as a matter of my  6 own work product to know. OK? They should know, and produce.  7 THE COURT: That objection is overruled.  8 MS. YOUNG: Your Honor, may I just clarify?  9 THE COURT: Yeah. Sure.  10 MS. YOUNG: Are you expecting, in response to Request  11 Number 14, that Patton Boggs will need to log all of its  12 internal communications relating to Chevron's allegations, as  13 opposed to documents evidencing the, you know, ghostwriting or  14 advance knowledge?  15 THE COURT: I'm expecting you to comply with this as  16 written.  17 MS. YOUNG: I believe as written it would seek  18 documents that are purely Patton Boggs' analysis and not  19 evidence of some other fraud. Patton Boggs has spent a  20 considerable amount of time analyzing Chevron's allegations  21 relating to ghostwriting and advance knowledge of things.  22 THE COURT: I'm not elaborating on what I've said.  23 Number 15. What the heck does this got to do with  24 anything, Mr. Mastro?  25 MR. MASTRO: Well, your Honor, it goes to affirmative</p>	<p>1 MR. MASTRO: Yes. Just one other thing, your Honor,  2 just on 15, just to close the loop, and we will come back to  3 their affirmative defense.  4 It is also the case that among our allegations is the  5 Lago Agrio litigation was itself a fraudulent act or an attempt  6 to get around the settlement and release agreements that would  7 have precluded it. So I just wanted to put that on the record,  8 your Honor, as to why it would be relevant to that.  9 THE COURT: We are all indebted to you for that.  10 MR. MASTRO: Thank you, your Honor.  11 THE COURT: Number 16. This is the two criminal cases  12 that we were all dealing with at the beginning of all the  13 1782s, right?  14 MR. MASTRO: Yes, your Honor.  15 THE COURT: OK. So where are we on this?  16 MR. MASTRO: Your Honor, it's those criminal cases and  17 any attempts to initiate criminal investigations, that those  18 ones obviously led to prosecution that later had to be dropped,  19 and we think they are clearly relevant to the case. It was  20 part of their scheme to get these Chevron --  21 THE COURT: This all began before Patton Boggs was on  22 the job, right?  23 MR. MASTRO: It did, your Honor, but Patton Boggs was  24 on the job when the criminal charges got dropped against the  25 lawyers in Ecuador and may well have documents reflecting the</p>
<p>C9pdchem Conference Page 42</p> <p>1 defenses that have been raised in this case.  2 THE COURT: What the affirmative defense?  3 MR. MASTRO: Well, they raised affirmative defenses  4 relating to fraud where they accuse Chevron and its  5 predecessors of having engaged in fraudulent activity in  6 connection with the remediation.  7 THE COURT: What pleading are you referring to? And  8 I'm also -- you know, let's suppose it is there. We'll then go  9 on to the question of what difference it makes.  10 MR. MASTRO: Well, obviously, your Honor, we don't  11 think there was any fraud or failure to perform, so we wanted  12 to see if they've got any beef there.  13 THE COURT: OK. On the subject of where is the beef,  14 what pleading and what defense?  15 MR. MASTRO: They are pulling it up now, your Honor.  16 That was one of the affirmative defenses that they alleged  17 alleging fraud.  18 (Pause)  19 Well, we will pull it up for your Honor and give it to  20 you.  21 THE COURT: Do you want to come back to that?  22 MR. MASTRO: Yes. We will, your Honor.  23 THE COURT: All right. Number 16. I take it the  24 criminal case is defined as the Veiga and Pallares; is that  25 right, Pallares?</p>	<p>C9pdchem Conference Page 44</p> <p>1 back and forth on that. I think that it was widely recognized  2 that on the LAPs-related team that the pendency of those  3 criminal charges reflected poorly on justice in Ecuador, and we  4 believe that there will be relevant documents there. The  5 exchanges that Patton Boggs had with others about those cases,  6 or any other investigations that -- the criminal investigation  7 that the LAPs were trying to get initiated against Chevron  8 there.  9 THE COURT: Ms. Young.  10 MS. YOUNG: Patton Boggs was not involved in any  11 effort to encourage prosecution of Chevron's attorneys in  12 Ecuador, and Chevron knows that because it has Mr. Donziger's  13 files.  14 You know, to the extent that Patton Boggs --  15 THE COURT: Well, then you won't have many documents,  16 right?  17 MS. YOUNG: True. Although, you know, again, Patton  18 Boggs had discussions about the criminal proceedings with its  19 co-counsel and internally, and I don't see any reason why  20 Patton Boggs should be burdened with reviewing and logging  21 those documents where they are not relevant to these  22 proceedings.  23 THE COURT: What would you do differently if this  24 request were in the case in the subpoena than you would do if  25 it were not in terms of searching and things like that -- in</p>

<p>C9pdchem Conference Page 45</p> <p>1 terms of searching?</p> <p>2 MS. YOUNG: In terms of searching, I think we would</p> <p>3 probably need to do a search for "criminal," using language</p> <p>4 around "criminal," the word "criminal."</p> <p>5 THE COURT: And the incremental cost of sticking that</p> <p>6 one-word search term in there is what?</p> <p>7 MS. YOUNG: We don't have a figure on the incremental</p> <p>8 cost of that figure alone.</p> <p>9 THE COURT: Right. But it's got to be essentially de</p> <p>10 minimis, right? And so the difference is that if I leave it</p> <p>11 in, you're going to get a certain number of hits that you</p> <p>12 wouldn't otherwise have gotten, and then, presumably, somebody</p> <p>13 is going to have to look at the hits and may have to schedule</p> <p>14 it.</p> <p>15 Mr. Mastro, why should I conclude that the likelihood</p> <p>16 that doing that will lead to anything of significance is</p> <p>17 sufficiently likely to go to the trouble?</p> <p>18 MR. MASTRO: Two reasons, your Honor. I don't think</p> <p>19 that it's much of a burden at all, since they claim such a</p> <p>20 limited universe.</p> <p>21 Two --</p> <p>22 THE COURT: Well, it depends on how many hits.</p> <p>23 MR. MASTRO: Two, your Honor, it seems to me it is</p> <p>24 extremely relevant. I didn't say, as Ms. Young implied, that</p> <p>25 Patton Boggs was involved in the inception of trying to get</p>	<p>C9pdchem Conference Page 47</p> <p>1 Honor, what's the logical import of that? Criminal charges</p> <p>2 were pending. The government prosecutor was already pursuing</p> <p>3 criminal charges. It means that Patton Boggs is telling the</p> <p>4 LAPs, who have such a cozy relationship with the government,</p> <p>5 can't you see if you can make this go away. And they go to the</p> <p>6 government and somehow make it go away. That's extremely</p> <p>7 relevant.</p> <p>8 And, your Honor, the premise of the question was</p> <p>9 that's not necessarily something that reflects poorly on Patton</p> <p>10 Boggs. The discovery is to go after the RICO defendants. Now,</p> <p>11 they are a co-conspirator.</p> <p>12 THE COURT: I understand.</p> <p>13 MR. MASTRO: So we think it goes to the heart of the</p> <p>14 case and the kind of things that went on in Ecuador, and that</p> <p>15 the very limited burden -- they don't suggest a huge number of</p> <p>16 hits. We never heard about any kind of huge number of hits.</p> <p>17 We heard they don't think they have anything or much on this</p> <p>18 subject. But if we get hits, even of the type your Honor</p> <p>19 describes, hugely relevant to us.</p> <p>20 THE COURT: Ms. Young, what about Mr. Mastro's last</p> <p>21 point?</p> <p>22 MS. YOUNG: Well, first of all, the two attorneys were</p> <p>23 1782 parties, and, therefore, I do believe a large number of</p> <p>24 hits will result from this type of search. And it just adds to</p> <p>25 the burden of -- while, in and of itself it may be a small</p>
<p>C9pdchem Conference Page 46</p> <p>1 them prosecuted. I said to the Court that Patton Boggs was on</p> <p>2 the scene in an important role in the overarching litigation</p> <p>3 when the decisions were made to drop the criminal charges, so</p> <p>4 they likely had communications with their colleagues.</p> <p>5 THE COURT: Right. I understand that.</p> <p>6 Now, to hit a home run in this, what you would need to</p> <p>7 find -- and I don't suggest it exists, I don't know one way or</p> <p>8 the other -- what you would need to find is the document in</p> <p>9 which somebody who was involved earlier says to Patton Boggs</p> <p>10 this was a put-up job, the fix was in in Ecuador -- and, again,</p> <p>11 I'm not saying that's the case, but you would have to hit that</p> <p>12 kind of a long ball, and it wouldn't reflect adversely on</p> <p>13 Patton Boggs -- just a second -- if in fact, as you seem to</p> <p>14 assume, they said, My God, stop it.</p> <p>15 Isn't it much more likely that if we go down this path</p> <p>16 what happens is, putting aside all the work product issues and</p> <p>17 so forth, you come up with documents in which, whether on</p> <p>18 recommendation of Patton Boggs or otherwise, a conclusion is</p> <p>19 reached that it would be really nice if these things went away</p> <p>20 because they were getting killed in the 1782 cases because of</p> <p>21 the criminal prosecutions in Ecuador, certainly on timing, and</p> <p>22 probably more broadly in some respects, and this is an</p> <p>23 unnecessary and unhelpful distraction in the United States?</p> <p>24 Isn't that the more likely place it comes out?</p> <p>25 MR. MASTRO: Even if that's where it came out, your</p>	<p>C9pdchem Conference Page 48</p> <p>1 number, it adds to the overall burden in responding to the</p> <p>2 subpoena.</p> <p>3 THE COURT: Everything adds to the overall burden.</p> <p>4 That is true in a nine-document case.</p> <p>5 MS. YOUNG: Right. With respect to whether -- I mean,</p> <p>6 if you will assume that Patton Boggs had some say or control in</p> <p>7 how the criminal proceedings unfolded in Ecuador, even if</p> <p>8 Patton Boggs did say, oh, you know, these proceedings should go</p> <p>9 away, that to me is not relevant to the RICO action. It</p> <p>10 certainly isn't -- getting them off the hook isn't a predicate</p> <p>11 act under RICO, and I just think that the burden here outweighs</p> <p>12 any potential location of any relevant documents.</p> <p>13 THE COURT: I am certainly not satisfied by the burden</p> <p>14 argument here, because there is really no basis for me to</p> <p>15 conclude that the burden would be appreciable at all, the</p> <p>16 incremental burden, so that's overruled. And the objection</p> <p>17 altogether is overruled.</p> <p>18 I think it's, you know, a reasonably close call as to</p> <p>19 relevance, but I think the likelihoods are that it may be -- it</p> <p>20 is quite possibly probative of material issues in the case.</p> <p>21 And so in the absence of a convincing reason not to allow it, I</p> <p>22 will allow it.</p> <p>23 OK. 17.</p> <p>24 MR. MASTRO: Once again, your Honor, we think this</p> <p>25 goes to a central element of the RICO conspiracy. The RICO</p>



C9pdchem Conference Page 49	C9pdchem Conference Page 51
<p>1 defendants engaged in, you know, fraudulent testing, 2 manipulative test results. They ran what they called a Selva 3 Viva lab out of a hotel room. They then used something called 4 a Havoc lab that the crew depicts Donziger running in ex parte 5 to a judge to get him to vacate an inspection order because in 6 his private documents he said it would be a disaster. And 7 there was testimony that, you know, from Stratus and Sand made 8 that they didn't even have equipment to do the tests they said 9 they did.</p> <p>10 THE COURT: These were the original judicial 11 inspections, or something else?</p> <p>12 MR. MASTRO: This, your Honor, includes both the 13 original judicial inspections and what the plaintiffs' team did 14 subsequently.</p> <p>15 Their whole case, their whole PR campaign in this 16 Court, they've, oh, but there really was an environmental 17 disaster there. They called it Chernobyl and everything else. 18 Yet the tests they did were fraudulent; the scientific evidence 19 wasn't there. You will recall Donziger and the crew outtakes 20 talking to his own experts just after they had briefed Cabrera 21 prior to his appointment, Donziger turns to his experts after 22 they tell him the groundwater contamination evidence isn't 23 there, he says: Don't worry about it. This is Ecuador. For 24 the Court, it's all smoke and mirrors and bullshit.</p> <p>25 So this is a central part of the fraud, to create the</p>	<p>1 THE COURT: Overruled.</p> <p>2 MR. MASTRO: Your Honor wanted to know where in the 3 complaint a reference is to --</p> <p>4 THE COURT: Do you want to go back to that one? This 5 was number 15.</p> <p>6 MR. MASTRO: Yes. Number 15, your Honor.</p> <p>7 THE COURT: I thought it was not in the complaint. I 8 thought it was in a responsive pleading.</p> <p>9 MR. MASTRO: It's mentioned both in the complaint and 10 in responsive pleading -- or I should say Donziger's proposed 11 responsive pleading. He alleges fraud in the remediation at 12 paragraphs 128 and 138. That's docket 561 -- 567-1. Of 13 course, we hope that he will not be permitted to do that 14 proposed amended answer and counterclaims because we have 15 opposed it on grounds of futility.</p> <p>16 But we also reference it with -- remediation fraud was 17 the basis for the criminal indictments of the two Chevron 18 attorneys. We allege it as a RICO predicate, and it's in the 19 first amended complaint at paragraph 69 and paragraphs 199 20 through 213. So it is directly related to the criminal charges 21 that were brought and ultimately dismissed against the two 22 Chevron attorneys.</p> <p>23 THE COURT: Let me get it in front of me. 24 (Pause) 25 What is the docket item of the amended criminal</p>
<p>C9pdchem Conference Page 50</p> <p>1 fiction that there actually was evidence to support their 2 claims, when in so many respects the scientific evidence -- the 3 genuine testing, even their own testing that wasn't fraudulent, 4 showed that the environmental contamination they alleged, they 5 trumpeted to the world, and they continue to trumpet to the 6 world, was not -- the evidence was not there, and that 7 certainly there was no environmental contamination attributable 8 to Texaco 20 years before, having left the country and 9 remediated before it left. So we think we're entitled to that 10 evidence because it shows a core -- it debunks a core element 11 of their defense and proves a core element of our RICO 12 conspiracy -- the fraud, the big fraud, which was that they 13 lied about the science and there wasn't an environmental 14 disaster attributable to Texaco that occurred there in Ecuador.</p> <p>15 THE COURT: Ms. Young.</p> <p>16 MS. YOUNG: This request, like several others, relates 17 to events that happened well before Patton Boggs' involvement 18 in this litigation, and we believe that it is inappropriate for 19 Patton Boggs to have to even respond to these or search for 20 documents that relate to events that predate their involvement.</p> <p>21 You know, Patton Boggs was not a witness to these 22 events. If anything, it learned about the allegations relating 23 to these events later.</p> <p>24 THE COURT: That's the objection? 25 MS. YOUNG: Yes.</p>	<p>C9pdchem Conference Page 52</p> <p>1 complaint?</p> <p>2 MR. MASTRO: The document number of the first amended 3 complaint is --</p> <p>4 THE COURT: I got it. OK. Tell me the paragraphs 5 again, please.</p> <p>6 MR. MASTRO: The paragraphs, your Honor, are 7 paragraphs 69 and paragraphs 199 through 213.</p> <p>8 (Pause)</p> <p>9 THE COURT: All right. Ms. Young, what about 15? 10 MS. YOUNG: With respect to 15, and, again, a number 11 of others, your Honor, when you ordered Mr. Donziger to respond 12 to the subpoena, your reasoning was based on the fact that the 13 proposed discovery focused on matters where Donziger was an 14 actor and a witness. Here we have the exact opposite 15 situation. We have a case where Chevron is seeking access to 16 information that Patton Boggs gathered the way attorneys 17 normally gather such information in the course of a litigation.</p> <p>18 THE COURT: Yes. I'm familiar with your argument and 19 I understand what your argument is, but, with respect, you have 20 taken what I said out of context and you are attempting to 21 misapply it here.</p> <p>22 What I said was that, among other things supporting a 23 deposition of Mr. Donziger under Section 1782, was that this 24 was a case that saw his knowledge as a percipient witness and a 25 principal actor, right? That was not the basis on which I</p>

C9pdchem Conference Page 53	C9pdchem Conference Page 55
<p>1 ordered discovery. It was a factor I considered. And it's a 2 relevant factor, all right, but it doesn't sweep the boards -- 3 not even close. 4 MS. YOUNG: As we've -- 5 THE COURT: I'm not finished. 6 And was all made in the context of rejecting a 7 Friedman argument that was made on behalf of Mr. Donziger. 8 Now, I do fully appreciate the broader point that you 9 are making, and I think in more than a few degrees the rulings 10 that I have made, a good many of which this morning have 11 favored you, took that into account in the equation that led me 12 to the results I came to. But the simple fact that the 13 allegations -- excuse me, that the alleged fraud with respect 14 to the Texpet remediation and release predated Patton Boggs' 15 arrival on the scene is not a get-out-of-jail-free card on 16 discovery. It may have learned things. Things may have been 17 said to it that they may be protected by privilege; they may 18 not be protected by privilege. They may be work product; they 19 may not be work product. If they are work product, there maybe 20 be good cause shown for overcoming work product even in the 21 absence of any crime fraud exception. Now, it just doesn't get 22 you all the way home. 23 With that said, on this one I'm going to go your way, 24 despite the fact that I'm not doing it on the basis that you 25 suggested. It is a factor but it is only one factor.</p>	<p>1 Lago Agrio Court, including the settling experts. 2 THE COURT: Who are the settling experts? 3 MR. MASTRO: They would have been persons appointed by 4 the Court. Each side had their own experts and then there were 5 settling experts -- 6 THE COURT: This is back in the judicial inspections 7 era? 8 MR. MASTRO: Correct, your Honor. 9 We gave a long list of the people in that category, so 10 this is not one where they don't know who we're talking about. 11 So it included Cabrera and his technical team, but it also 12 included, but not necessarily limited to, if they are aware of 13 others in this category that we haven't listed, but we list the 14 20 or so persons who fell into this category. 15 THE COURT: And this is all before Patton Boggs gets 16 involved, right? 17 MR. MASTRO: Your Honor, it is before they became 18 involved that these people were doing their work, but, your 19 Honor, as you know, Patton Boggs came on the scene to deal with 20 the crisis. So -- 21 THE COURT: I understand. The Cabrera crisis? 22 MR. MASTRO: The Cabrera crisis, that related in part 23 to the difference between the joint judicial inspections and 24 then going to a single global damage expert. So there are 25 likely to be documents that Patton Boggs has, exchanges it had</p>
<p>C9pdchem Conference Page 54</p> <p>1 The objection to 15 is sustained. 2 OK. I think we are up to 18, are we not? Maybe not. 3 Yes. What happened to 17? 4 There is no 17 on the joint submission that you guys 5 gave to me. 6 MR. MASTRO: There is, your Honor. That was the 7 fraudulent testing, your Honor. 8 THE COURT: I thought that was 16. No, that was 9 criminal cases. 10 I see. Page 19 has gone awry on me. I'll find it. 11 So we are up to 18. I found it. OK. What about 18? 12 MS. YOUNG: Patton Boggs has the same objection as to 13 the timing of the events that predated Patton Boggs' 14 involvement. 15 THE COURT: This one is overruled. This is right at 16 the heart of what the plaintiff is halfway home on with respect 17 to the crime fraud exception -- or nearly halfway home, I 18 should say. 19 19. Now, Mr. Mastro, when you say "Court experts" 20 here, I realize I could go back to the Mathison definitions, 21 but just tell me who they are. 22 MR. MASTRO: Sure, your Honor. 23 THE COURT: Is this Cabrera? Is it Cabrera plus the 24 cleansing experts, so-called, or is it a broader universe? 25 MR. MASTRO: It refers to the experts appointed by the</p>	<p>C9pdchem Conference Page 56</p> <p>1 with co-counsel or others, about that process, about particular 2 experts, about communications with particular experts as they 3 tried to salvage or resuscitate the fraud. 4 THE COURT: Ms. Young. 5 MS. YOUNG: This is actually a category of documents 6 that I would like to talk about with more specifics about the 7 burden on Patton Boggs. 8 First, as you just heard, there is a long list of 9 experts, and their involvement predated Patton Boggs' 10 involvement in the case. 11 We did a search -- I mean, just isolating Cabrera -- 12 obviously, he is the one that has been discussed the most 13 here -- just looking at our top 22 document custodians' e-mail 14 only, there were over 33,000 documents relating to Cabrera. 15 Within Patton Boggs' document management system, there were 16 another 11,000-plus documents related to Cabrera alone. That 17 in and of itself is a huge burden, and those documents are 18 likely to be only privileged documents, only documents where 19 Patton Boggs is analyzing and dealing with Chevron allegations. 20 So when we talk about burden and the burden of logging 21 all of these communications, even where it is a categorical 22 privilege log, it still requires a significant amount of review 23 and analysis to comply with this request. 24 THE COURT: Right. Look, we got two questions here. 25 We got Cabrera and we got everybody else.</p>

C9pdchem Conference Page 57	C9pdchem Conference Page 59
<p>1 Now, let's put Cabrera to one side. Cabrera was after 2 this introductory point -- I mean, Cabrera is what this whole 3 fight has been about for a period of time. It's moved beyond 4 it. It's broadened. But that was the flashpoint where this 5 really all blew up. Right? 6 And counsel is nodding yes. 7 MS. YOUNG: Yes. 8 THE COURT: And that there should be a lot of hits on 9 Cabrera is not in the slightest surprising. 10 Given the evidence so far, it also ought not be 11 surprising that the case for telling you to do the review and 12 to proceed further with Cabrera without making a final judgment 13 on it now is pretty compelling. But we're talking about a 14 whole bunch of other people that I never heard of before this 15 morning except in generic terms, and I don't hear you saying 16 anything about any likelihood of a lot of hits with respect to 17 them. And I don't have any reason to think that there is any 18 particular burden problem with respect to them, because they've 19 just not been a focus of any of the litigation that's been 20 before me since 2010, I think. 21 Why is that not a perfectly reasonable view? 22 MS. YOUNG: Maybe that is an indication of the 23 relevance of these other experts. 24 THE COURT: Well, you may be right, first of all. And 25 it may be, alternatively, that it is because Chevron hasn't</p>	<p>1 probable cause, whether particular documents are in furtherance 2 of that fraud. 3 Now, it may well be that there are a lot in Patton 4 Boggs' files, if indeed there are any, that aren't in 5 furtherance; there may be others that are. I can't tell even 6 how to approach that until and unless they are scheduled. 7 So at least for now I'm going to overrule that 8 objection and we'll see where we get. 9 Number 20. 10 MR. MASTRO: Yes, your Honor. 11 THE COURT: Isn't this covered by something already, 12 or perhaps not? 13 MR. MASTRO: Yes, your Honor. I think there is 14 substantial overlap with number 14. 15 THE COURT: All right. So why shouldn't my ruling be 16 the same on this one? 17 MR. MASTRO: It should be the same. It includes 18 Cabrera-related submissions to the court is the only 19 difference. 20 THE COURT: OK. 21 MR. MASTRO: Thank you, your Honor. 22 THE COURT: And 21, also an overlap? 23 MR. MASTRO: It looks like -- your Honor, it has 24 overlap with 19, but it's more comprehensive about Cabrera and 25 Cabrera's team and all documents relating to Cabrera and</p>
<p>C9pdchem Conference Page 58</p> <p>1 figured out that there was other stuff going on with some of 2 these people. 3 Now, I've got a complaint that alleges that there was 4 corruption with this process in Ecuador, and this is a very 5 logical place to look at it; isn't it? 6 MS. YOUNG: Again, the fact that it predates Patton 7 Boggs' involvement in the litigation, you know, tells us that 8 it is likely to only involve privileged communications and a 9 large number of them, potentially. 10 THE COURT: Yes. But you are overlooking the fact 11 that there has effectively been, as I remember it, summary 12 judgment for the proposition that there was corruption in the 13 appointment of Cabrera, that Cabrera's report was in 14 significant degrees ghostwritten by Patton Boggs' clients, and 15 it is not illogical in those circumstances for a reasonable 16 person to suspect, which I think is essentially the standard, 17 that that may have happened before the global expert framework 18 came on the scene with earlier experts. 19 Now, they don't have to prove summary judgment to get 20 over that hurdle; all they have to prove is probable cause. 21 Now, I'm not there yet. I don't know whether we get there or 22 not. I want to hear you guys fully on that subject. But it's 23 not an unreasonable point of view to think it is possible that 24 we get there. 25 And then the next question is, assuming there is</p>	<p>C9pdchem Conference Page 60</p> <p>1 Cabrera's team and his reports. It does appear to be, you 2 know, within the scope of your prior rulings as an overall 3 objection. 4 THE COURT: Don't you think it would have been a good 5 idea to have read through this stuff before you served the 6 subpoena? 7 MR. MASTRO: Your Honor, I think that there are some 8 requests that overlap, so my apologies for that. 9 THE COURT: All right. The ruling is the same as on 10 19. 11 I'll probably take a closer look at those three before 12 I sign an order and may modify it slightly, but unless you hear 13 otherwise, that's the ruling. 14 22. Uhl, Baron Rana &amp; Associates? 15 MR. MASTRO: Your Honor, UBR was a consulting firm 16 that was working for the plaintiffs and became an integral part 17 of the Cabrera fraud because the plaintiffs basically 18 assigned -- 19 THE COURT: They gave him part of the Cabrera report, 20 right? 21 MR. MASTRO: Exactly. And they wrote it and they 22 passed him off in the Cabrera report as if he was part of 23 Cabrera's technical team when he was really on the plaintiffs' 24 payroll. 25 THE COURT: I see.</p>



C9pdchem Conference Page 61	C9pdchem Conference Page 63
<p>1 MR. MASTRO: So we think it is highly relevant. They 2 are refusing to produce anything. They have been fighting 3 tooth and nail on the 1782 in New Jersey and only produced some 4 documents there. We are not asking them to produce the same 5 documents they produced in New Jersey, but we're trying to get 6 the UBR-related documents and we have not yet gotten a full 7 production there.</p> <p>8 THE COURT: What about it, Ms. Young?</p> <p>9 MS. YOUNG: First of all, Patton Boggs represents UBR 10 in the 1782 proceeding that I believe is ongoing in New Jersey. 11 You know, I think it is more appropriate, since Chevron is 12 pursuing the same discovery in that litigation, that it 13 continue to pursue it there and be bound by whatever rulings 14 are made in New Jersey. It is entirely duplicative.</p> <p>15 THE COURT: The standards are different; right?</p> <p>16 MS. YOUNG: Your Honor, the standards may be 17 different, but I believe the relevant documents that they are 18 seeking is all the same.</p> <p>19 THE COURT: That may be. But if they are entitled to 20 them in one action and not in the other, the fact that the 21 standards are different matters, doesn't it?</p> <p>22 MS. YOUNG: Chevron hasn't indicated what it believes 23 Patton Boggs has in its possession that it is not able to get 24 through the 1782 action.</p> <p>25 THE COURT: Do you normally when you seek discovery,</p>	<p>1 So we would think it is clearly relevant. To the extent they 2 think there are privilege claims involved -- although these are 3 testifying experts, hard to imagine what the privilege claims 4 would be -- they can categorically log them.</p> <p>5 THE COURT: Well, but your request is for all 6 documents relating to the work of these people.</p> <p>7 MR. MASTRO: Yes, your Honor.</p> <p>8 THE COURT: And that would include not just documents 9 from UBR or -- I'm sorry, not UBR but the other persons, it 10 would include Patton Boggs' internal stuff, right?</p> <p>11 MR. MASTRO: Yes. But, your Honor, we believe and we 12 hope that your Honor will ultimately rule that the whole 13 cleansing expert process, as Judge Francis already ruled in the 14 Count Nine case, was part of a crime fraud and privilege was 15 vitiated because that was part of the crime fraud. It was the 16 coverup of the Cabrera fraud and the attempt to whitewash it.</p> <p>17 So we believe there are internal communication on this 18 that will also not be privileged. We think it is an example 19 of -- it is not simply whether it was in furtherance of a crime 20 fraud, and they didn't necessarily know that it was being used 21 to further a crime fraud. Here they knew exactly what they 22 were doing, and they are the ones who engineered it to try to 23 cover up the Cabrera fraud and to, you know, salvage the case 24 in a way that was a transparent, in our view, fraud at the end 25 of the day.</p>
<p>C9pdchem Conference Page 62</p> <p>1 Ms. Young, tell the other side what it is that you think you 2 can get from them that you don't otherwise have? I would 3 answer that rhetorical question myself. I never heard of 4 lawyers doing that.</p> <p>5 MS. YOUNG: No. But this is an unusual situation in 6 which a law firm is being subpoenaed for client documents. I 7 think it is more appropriate for those documents to be sought 8 within the pending 1782 proceeding.</p> <p>9 THE COURT: Overruled.</p> <p>10 23.</p> <p>11 MR. MASTRO: Well, your Honor, again I think the 12 relevance of the documents is clear. Patton Boggs is refusing 13 to produce anything in this regard even though this was an 14 essential role it played in the conspiracy. It came up with 15 the cleansing experts' concept and ran with it, and coordinated 16 those cleansing experts to try and whitewash the Cabrera fraud, 17 even though those cleansing experts did no independent work, 18 did not go to Ecuador independently. The Patton Boggs' 19 coordinating consultant wrote two of their reports -- never 20 disclosed that. And those experts were never told about the 21 lack of independence of the Cabrera report and largely 22 piggybacked on what Cabrera did, which was not done by Cabrera 23 at all, it was done by plaintiff's consultants.</p> <p>24 So this is an essential part of the RICO conspiracy 25 and fraud claim that Patton Boggs engineered in every respect.</p>	<p>C9pdchem Conference Page 64</p> <p>1 So we believe that they should categorically log their 2 internal documents, and when your Honor makes a crime fraud 3 ruling or reviews those internal documents you will see that. 4 I could be quoting chapter and verse of what we already have 5 that I think establishes the whole cleansing expert process and 6 the internal deliberations they had that were a crime fraud. 7 There have been a number of documents produce out of Donziger 8 which I think go to this already. And Patton Boggs' lawyers 9 admitting exactly what they were doing to cleanse, to try to 10 salvage the Cabrera fraud, and we think their own internal 11 documents will be even more candid on this subject. So we 12 think this goes really to one of the hearts of the case, 13 because at the end of the day the judgment purports to rely on 14 some of these folks who themselves relied on Cabrera and did 15 nothing independent. So this really goes to the heart of the 16 fraud in Ecuador.</p> <p>17 THE COURT: Wasn't there disclosure that they did 18 nothing independent?</p> <p>19 MR. MASTRO: Their reports do not -- their reports are 20 carefully crafted to give the impression that they reached 21 independent conclusions based on their own work. There are in 22 one or two them a reference to Cabrera, but they were carefully 23 crafted, working with the Weinberg group, Patton Boggs 24 hand-picked consultants to coordinate them and a group that 25 drafted two of those reports, such that when each of those six</p>

C9pdchem Conference Page 65	C9pdchem Conference Page 67
<p>1 cleansing experts actually testified, some of them expressed 2 shock that Cabrera wasn't independent. All of them admitted, 3 well, I didn't actually do anything independently. Some of 4 them admitted they wouldn't have reached those conclusions or 5 they viewed them as hypothetical conclusions based on premises 6 that they were given, not on any independent work they did or 7 any independent data they collected. They just used what was 8 in the Cabrera report, which was drafted by the plaintiffs and 9 with their tainted data. So they didn't -- they weren't a 10 model of clarity admitting how little they did or that they 11 weren't relying on anybody else.</p> <p>12 THE COURT: Thank you.</p> <p>13 Ms. Young.</p> <p>14 MS. YOUNG: Your Honor, a couple of points here.</p> <p>15 One is that these so-called cleansing experts 16 certainly did disclose their reliance on the Cabrera data. 17 And, in fact, I think almost all of the listed individuals are 18 the subject of various 1782 proceedings around the country, and 19 in none of those proceedings has the Court found a crime fraud 20 exception.</p> <p>21 THE COURT: Judge Francis did, right?</p> <p>22 MR. MASTRO: So did the Weinberg court, your Honor, 23 D.C.</p> <p>24 MS. YOUNG: As the Southern District of Ohio said in 25 the Barnthouse 1782 action --</p>	<p>1 Eric Westenberger from Patton Boggs, Edward Yennock from Patton 2 Boggs, and Jonathan Peck from Patton Boggs.</p> <p>3 THE COURT: And it was Mr. Westenberger whom you've 4 identified at page 67, lines 19 and 20 of the transcript 5 moments ago as your counsel; is that correct?</p> <p>6 MS. YOUNG: I was referring to Patton Boggs, who is my 7 client. I misspoke.</p> <p>8 (Pause)</p> <p>9 THE COURT: The objection is overruled. You can at 10 least schedule the documents. Then we'll see whether there is 11 crime fraud here.</p> <p>12 All right. I think this is a good point to break, and 13 we will resume at 2:15 on Thursday.</p> <p>14 OK. I thank you all. This has been moving better 15 than I expected.</p> <p>16 MR. MASTRO: Thank you very much, your Honor. I 17 appreciate all the time.</p> <p>18 THE COURT: Thank you.</p> <p>19 MR. MASTRO: Thank you.</p> <p>20 (Adjourned to 2:15 p m., Thursday, September 27, 2012)</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p>C9pdchem Conference Page 66</p> <p>1 THE COURT: May I have an answer to my question?</p> <p>2 MS. YOUNG: I'm sorry, your Honor.</p> <p>3 THE COURT: Judge Francis did, correct?</p> <p>4 MS. YOUNG: I believe that finding was vacated, your 5 Honor.</p> <p>6 THE COURT: By whom?</p> <p>7 MS. YOUNG: According to my counsel, with the Weinberg 8 decision it was vacated.</p> <p>9 THE COURT: Judge Francis didn't write the Weinberg 10 decision, did he?</p> <p>11 Counsel, do you know who Judge Francis is.</p> <p>12 MS. YOUNG: Yes, I do, your Honor.</p> <p>13 May I confer with my client for a minute?</p> <p>14 THE COURT: Yes.</p> <p>15 (Pause)</p> <p>16 MS. YOUNG: Your Honor, it is my understanding, after 17 conferring with counsel, that Judge Francis relied entirely on 18 your Honor's decision on crime fraud, which was vacated by the 19 Second Circuit.</p> <p>20 THE COURT: I haven't rendered a decision on crime 21 fraud, and no such decision has gone to the Second Circuit, let 22 alone been vacated by it.</p> <p>23 Now, Ms. Young, would you identify the three other 24 people at the table with you other than Mr. Leader?</p> <p>25 MS. YOUNG: I stand corrected, your Honor. This is</p>	



<b>A</b>	<p>47:24;48:1,3  <b>Adjourned (1)</b>          67:20  <b>admission (3)</b>          29:16,17,17  <b>admissions (1)</b>          15:17  <b>admitted (2)</b>          65:2,4  <b>admitting (2)</b>          64:9;65:10  <b>advance (3)</b>          40:4;41:14,21  <b>adverse (1)</b>          32:4  <b>adversely (1)</b>          46:12  <b>affect (1)</b>          5:6  <b>affirmative (5)</b>          41:25;42:2,3,16;43:3  <b>aftermath (1)</b>          16:19  <b>again (18)</b>          3:14;9:2;11:23,24;          20:14,14,21;26:19;          29:8;31:16;38:18;          44:17;46:10;48:24;          52:5,10;58:6;62:11  <b>against (5)</b>          4:9;25:25;43:24;          44:7;51:21  <b>agent (1)</b>          10:13  <b>agents (1)</b>          10:12  <b>ago (1)</b>          67:5  <b>agreed (9)</b>          8:12;9:10,17,21;          12:3;13:6;24:1;25:14;          28:6  <b>agreeing (1)</b>          34:19  <b>agreement (9)</b>          9:3,18;10:1;11:3,11;          19:3;21:4;28:7;35:14  <b>agreements (5)</b>          30:8,10,19;34:18;          43:6  <b>Agrio (10)</b>          4:7;13:12,13;17:17;          34:8;38:15,21,23;43:5;          55:1  <b>alegato (5)</b>          13:22;19:8;20:4,8,25  <b>allegation (1)</b>          40:1  <b>allegations (12)</b>          12:19;17:23;22:9;          39:1,9,24;41:12,20;          43:4,50;22;53:13;          56:19</p>	<p><b>allege (1)</b>          51:18  <b>alleged (5)</b>          5:7;28:18;42:16;          50:4;53:13  <b>alleges (2)</b>          51:11;58:3  <b>alleging (1)</b>          42:17  <b>allow (2)</b>          48:21,22  <b>almost (2)</b>          14:21;65:17  <b>alone (3)</b>          45:8;56:16;66:22  <b>along (1)</b>          22:20  <b>alter (1)</b>          5:6  <b>alternatively (1)</b>          57:25  <b>although (3)</b>          37:4;44:17;63:2  <b>altogether (1)</b>          48:17  <b>always (2)</b>          24:22,25  <b>Alyssa (1)</b>          9:15  <b>amended (5)</b>          4:12;51:14,19,25;          52:2  <b>America (1)</b>          19:14  <b>among (2)</b>          43:4;52:22  <b>amount (4)</b>          6:15;29:3;41:20;          56:22  <b>amounts (1)</b>          38:25  <b>analysis (4)</b>          39:8,15;41:18;56:23  <b>analyzed (2)</b>          12:18;40:1  <b>analyzing (2)</b>          41:20;56:19  <b>Andres (1)</b>          34:20  <b>anticipating (1)</b>          16:22  <b>anyplace (1)</b>          7:19  <b>apart (1)</b>          15:25  <b>apologies (1)</b>          60:8  <b>Apparently (3)</b>          19:12;30:16;34:21  <b>appeal (8)</b>          13:13;16:14,24;17:1;          19:9,17;38:16;39:3  <b>appear (2)</b></p>	<p>7:2;60:1  <b>appearance (1)</b>          3:10  <b>appeared (2)</b>          4:5;23:23  <b>appears (3)</b>          19:5,9,20  <b>appellate (5)</b>          17:2,5,9,11;20:10  <b>application (1)</b>          15:11  <b>applications (1)</b>          8:25  <b>appoint (1)</b>          40:14  <b>appointed (2)</b>          54:25;55:3  <b>appointment (2)</b>          49:21;58:13  <b>appreciable (1)</b>          48:15  <b>appreciate (3)</b>          3:21;53:8;67:17  <b>appreciative (1)</b>          36:9  <b>approach (2)</b>          22:15;59:6  <b>approaching (1)</b>          6:10  <b>appropriate (7)</b>          6:20;10:13;18:5,5;          24:16;61:11;62:7  <b>area (1)</b>          21:18  <b>argued (1)</b>          13:15  <b>argument (10)</b>          5:14;7:13,22,23;          14:6,17;48:14;52:18,          19;53:7  <b>arguments (1)</b>          7:21  <b>arising (1)</b>          31:9  <b>arms' (1)</b>          32:5  <b>around (6)</b>          10:23;33:23;34:9;          43:6;45:4;65:18  <b>arrange (1)</b>          35:4  <b>arrangement (3)</b>          26:25;27:10;33:15  <b>arrangements (2)</b>          28:1,13  <b>arrival (3)</b>          21:20;22:21;53:15  <b>aside (1)</b>          46:16  <b>asserting (1)</b>          23:21  <b>assigned (1)</b>          60:18</p>	<p><b>Associates (1)</b>          60:14  <b>assume (2)</b>          46:14;48:6  <b>assuming (1)</b>          58:25  <b>assumption (1)</b>          26:13  <b>attacks (1)</b>          16:22  <b>attempt (2)</b>          43:5;63:16  <b>attempting (2)</b>          7:12;52:20  <b>attempts (1)</b>          43:17  <b>attendees (1)</b>          21:12  <b>attorney (4)</b>          21:9;22:17,21;25:15  <b>attorney-client (1)</b>          4:16  <b>attorneys (7)</b>          5:19;8:6;44:11;          47:22;51:18,22;52:16  <b>attributable (2)</b>          50:7,14  <b>August (1)</b>          4:20  <b>authority (5)</b>          10:3,16;11:1;12:15,          20  <b>authorized (4)</b>          10:10,19,19,24  <b>avocation (1)</b>          21:1  <b>aware (4)</b>          18:11;23:3;40:22;          55:12  <b>away (4)</b>          46:19;47:5,6;48:9  <b>awry (1)</b>          54:10</p>
			<b>B</b>	
			<p><b>back (9)</b>          31:18;32:15;39:18;          42:21;43:2;44:1;51:4;          54:20;55:6  <b>backed (2)</b>          27:5;35:13  <b>background (1)</b>          3:25  <b>ball (1)</b>          46:12  <b>Barnthouse (1)</b>          65:25  <b>Baron (1)</b>          60:14  <b>based (4)</b>          31:2;52:12;64:21;          65:5</p>	

<b>basic (1)</b> 21:24	18;47:3,10;48:6,8; 50:19,21;52:16;54:12;	<b>burdened (1)</b> 44:20	10:22;11:19;13:14; 14:16;15:24,25;16:1,	15:2,4
<b>basically (3)</b> 11:16;17:4;60:17	55:15,19,25;56:7,19; 61:9,23;62:12,25; 64:23;67:1,2,2,6	<b>burdensome (1)</b> 4:19	23;19:23;22:23;23:7, 12,22;25:25;31:8,19; 33:8,9,13;34:24;40:10;	<b>Circuit (2)</b> 66:19,21
<b>basis (9)</b> 6:7;12:13;13:1; 28:10;31:8;48:14; 51:17;52:25;53:24	<b>Boggs' (28)</b> 8:22,24;10:3;11:19; 17:15;18:12,15,21; 20:24;21:9,14,21; 29:18;31:2;39:8,23; 41:18;50:17;53:14; 54:13;56:9,15;58:7,14; 59:4;62:18;63:10;64:8	<b>Burford (14)</b> 26:24;27:5;30:22,23; 31:1,8;33:1,2,2,3,12; 34:12;35:13,13	42:1,24;43:4,19;44:24; 46:11;47:14;48:4,20; 49:15;52:15,24;56:10; 57:11;63:14,23;64:12	<b>circumstances (1)</b> 58:15
<b>bearing (1)</b> 28:14		<b>Burford's (1)</b> 35:17	<b>cases (9)</b> 27:4;29:25;30:14,15; 43:11,16;44:5;46:20; 54:9	<b>cities (1)</b> 21:16
<b>became (4)</b> 10:20;33:20;55:17; 60:16		<b>C</b>		<b>claim (11)</b> 6:1;12:7,16;23:16, 17;26:20;30:21;34:9; 36:24;45:19;62:25
<b>beef (2)</b> 42:12,13	<b>Boggses (1)</b> 33:24	<b>Cabrera (39)</b> 15:15,25;16:4,8; 18:25;39:2;49:20; 54:23,23;55:11,21,22; 56:11,14,16,25;57:1,1, 2,9,12;58:13;59:24,25; 60:17,19,22;62:16,21, 22,22;63:16,23;64:10, 14,22;65:2,8,16	<b>category (5)</b> 12:3,8;23:17;36:24; 56:21	<b>claims (8)</b> 4:20;5:4,23;10:5,15; 50:2;63:2,3
<b>began (1)</b> 43:21	<b>both (5)</b> 16:6,6;35:3;49:12; 51:9	<b>Cabrera-related (1)</b> 59:18	<b>categorically (3)</b> 23:18;63:4;64:1	<b>clarification (1)</b> 19:10
<b>beginning (2)</b> 19:20;43:12	<b>bound (3)</b> 29:15,16;61:13	<b>Cabrera's (4)</b> 58:13;59:25;60:1,2,3	<b>category (4)</b> 55:9,13,14;56:5	<b>clarify (3)</b> 37:1;40:3;41:8
<b>behalf (9)</b> 4:7,10;10:3,6,7,12, 23,25;53:7	<b>Brazil (1)</b> 23:5	<b>call (2)</b> 15:10;48:18	<b>cause (4)</b> 17:11;53:20;58:20; 59:1	<b>clarity (1)</b> 65:10
<b>behaved (1)</b> 7:17	<b>breadth (1)</b> 5:6	<b>called (4)</b> 13:21;49:2,3,17	<b>central (2)</b> 48:25;49:25	<b>cleanse (2)</b> 15:15;64:9
<b>behest (1)</b> 31:2	<b>break (4)</b> 3:11,14,14;67:12	<b>came (8)</b> 15:4;23:7;31:11; 46:25;53:12;55:19; 58:18;62:14	<b>certain (8)</b> 4:11;10:22;15:2; 23:2;26:23;29:11; 34:13;45:11	<b>cleansing (16)</b> 15:1,10,14;16:3; 19:7;20:6,7,25;54:24; 62:15,16,17;63:13; 64:5;65:1,15
<b>believes (1)</b> 61:22	<b>breakdown (1)</b> 32:25	<b>camera (1)</b> 12:10	<b>certainly (11)</b> 15:23;18:10,11; 22:10;34:23;40:10; 46:21;48:10,13;50:7; 65:16	<b>clear (4)</b> 6:3;7:7;26:4;62:12
<b>benefit (2)</b> 6:14;27:10	<b>bridge (1)</b> 12:2	<b>campaign (1)</b> 49:15	<b>chance (1)</b> 17:8	<b>clearly (3)</b> 23:18;43:19;63:1
<b>Berkon (1)</b> 26:12	<b>brief (3)</b> 14:15,18;17:16	<b>can (13)</b> 3:19;9:15;18:10; 19:12;21:7;22:9;28:12; 36:24;37:8;47:5;62:2; 63:4;67:9	<b>change (1)</b> 20:12	<b>client (4)</b> 27:17;62:6;66:13; 67:7
<b>best (1)</b> 3:19	<b>briefed (1)</b> 49:20	<b>Canada (1)</b> 23:5	<b>changes (1)</b> 13:23	<b>clients (4)</b> 9:18;11:6,9;58:14
<b>better (3)</b> 19:13,18;67:14	<b>briefing (6)</b> 13:21,21,22;19:6,21; 20:10	<b>candid (1)</b> 64:11	<b>chapter (1)</b> 64:4	<b>close (4)</b> 5:11;43:2;48:18; 53:3
<b>beyond (2)</b> 6:25;57:3	<b>Briefly (1)</b> 11:22	<b>capable (1)</b> 34:19	<b>charges (6)</b> 43:24;44:3;46:3; 47:1,3;51:20	<b>closer (1)</b> 60:11
<b>big (1)</b> 50:12	<b>briefs (2)</b> 13:12;14:4	<b>capacities (1)</b> 34:23	<b>Chernobyl (1)</b> 49:17	<b>closing (1)</b> 14:17
<b>Bless (1)</b> 8:14	<b>bring (1)</b> 33:24	<b>capital (2)</b> 31:2,6	<b>Chevron (36)</b> 4:7,9;5:20;8:8,9;20; 21:8,15;22:7;23:25; 24:7,12;25:12;26:2; 30:21;34:7,11,14;37:4, 10,10,16,17;38:19; 39:2,9;42:4;43:20; 44:7,12;51:17,22; 52:15;56:19;57:25; 61:11,22	<b>co-conspirator (4)</b> 4:12;13:15;28:18; 47:11
<b>blew (1)</b> 57:5	<b>broad (1)</b> 12:23	<b>card (1)</b> 53:15	<b>choices (2)</b> 28:3	<b>co-conspirators (2)</b> 33:20;34:6
<b>blow (1)</b> 32:1	<b>broadened (1)</b> 57:4	<b>care (1)</b> 9:12		<b>co-counsel (2)</b> 44:19;56:1
<b>boards (1)</b> 53:2	<b>broader (5)</b> 7:5;11:3,10;53:8; 54:24	<b>carefully (2)</b> 64:20,22		<b>collateral (1)</b> 32:11
<b>Boggs (89)</b> 3:3;4:5,11;5:1,11,17; 8:2,4;9:16,17,21;10:6, 13;11:14;12:18;13:11, 14,20;14:1,19;15:13; 16:1,9,20;17:19,22; 18:19;19:3,21;21:7; 22:1;23:7,14;24:8; 25:14;26:12,23,24; 27:9,25;28:14,16,22; 29:7,19;30:12;31:1; 33:13;34:2,17;37:3; 39:25;40:15;41:11,19; 43:21,23;44:5,10,14, 18,20;45:25;46:1,9,13,	<b>broadly (2)</b> 23:23;46:22	<b>carve (1)</b> 39:24		<b>colleagues (2)</b> 15:17;46:4
	<b>brought (1)</b> 51:21	<b>case (42)</b> 4:6,12;6:14,21;		<b>collect (5)</b> 5:18;8:4,23;11:25; 27:1
	<b>bullshit (1)</b> 49:24			<b>collected (2)</b> 27:11;65:7
	<b>bunch (1)</b> 57:14			<b>colluding (1)</b> 36:15
	<b>burden (22)</b> 4:25;5:4,7,23,24;6:1, 13;26:5;45:19;47:15, 25;48:1,3,11,13,15,16; 56:7,17,20,20;57:18			<b>comfortable (2)</b> 28:1,4

<b>coming (4)</b> 15:12,24;16:1;24:8	9:7	64:24	64:17;65:12,19,21,22; 66:1,3,6,9,14,20;67:3, 9,18	<b>deal (6)</b> 5:9,16;10:17;20:17; 25:10;55:19
<b>commencing (1)</b> 7:12	<b>confirming (1)</b> 9:8	<b>coordinated (1)</b> 62:15	<b>courts (2)</b> 6:11;38:24	<b>dealing (4)</b> 24:4;32:4;43:12; 56:19
<b>committed (1)</b> 37:6	<b>confused (1)</b> 14:6	<b>coordinating (1)</b> 62:19	<b>cover (2)</b> 10:1;63:23	<b>debunks (1)</b> 50:10
<b>common (2)</b> 32:7;34:9	<b>confusion (1)</b> 7:23	<b>copies (1)</b> 25:24	<b>covered (1)</b> 59:11	<b>December (1)</b> 20:9
<b>communication (4)</b> 11:8;24:8;38:13; 63:17	<b>connection (6)</b> 13:12;17:17;21:15; 37:13;39:23;42:6	<b>core (3)</b> 50:10,10,11	<b>coverup (1)</b> 63:16	<b>decide (3)</b> 24:20;32:10;35:18
<b>communications (8)</b> 9:19;15:20;36:17; 41:12;46:4;56:2,21; 58:8	<b>considerable (1)</b> 41:20	<b>corrected (1)</b> 66:25	<b>cozy (1)</b> 47:4	<b>decided (2)</b> 30:14,15
<b>company (2)</b> 35:23;36:2	<b>considerations (1)</b> 6:21	<b>corruption (2)</b> 58:4,12	<b>craft (1)</b> 17:10	<b>decision (7)</b> 4:20;20:11;66:8,10, 18,20,21
<b>compelling (1)</b> 57:13	<b>considered (3)</b> 4:24;30:16;53:1	<b>counsel (5)</b> 57:6;66:7,11,17;67:5	<b>crafted (2)</b> 64:20,23	<b>decisions (2)</b> 40:25;46:3
<b>complaint (9)</b> 4:12;28:19;51:3,7,9, 19;52:1,3;58:3	<b>considering (1)</b> 6:14	<b>Count (1)</b> 63:14	<b>crafting (1)</b> 17:11	<b>defendant (1)</b> 28:16
<b>complete (1)</b> 19:18	<b>conspiracy (11)</b> 10:4,15;23:7;26:21; 27:4,7;36:14;48:25; 50:12;62:14,24	<b>counterclaims (1)</b> 51:14	<b>create (2)</b> 21:7;49:25	<b>defendants (3)</b> 36:15;47:10;49:1
<b>completely (1)</b> 37:2	<b>consultant (3)</b> 35:4,5;62:19	<b>countries (3)</b> 23:2;29:11,13	<b>crew (2)</b> 49:4,19	<b>defense (4)</b> 42:2,14;43:3;50:11
<b>compliance (2)</b> 4:17;7:6	<b>consultants (2)</b> 62:23;64:24	<b>country (3)</b> 34:9;50:8;65:18	<b>crime (13)</b> 22:16;53:21;54:17; 63:14,15,19,21;64:2,6; 65:19;66:18,20;67:11	<b>defenses (3)</b> 42:1,3,16
<b>comply (2)</b> 41:15;56:23	<b>consulting (1)</b> 60:15	<b>couple (1)</b> 65:14	<b>criminal (20)</b> 42:24;43:11,16,17, 24;44:3,6,18;45:3,4,4; 46:3,21;47:1,3;48:7; 51:17,20,25;54:9	<b>defined (2)</b> 20:25;42:24
<b>complying (1)</b> 6:1	<b>contain (1)</b> 22:21	<b>course (7)</b> 17:22;18:19;22:15; 25:21;38:24;51:13; 52:17	<b>crisis (3)</b> 55:20,21,22	<b>definitely (1)</b> 11:10
<b>composition (1)</b> 17:2	<b>contained (1)</b> 14:18	<b>COURT (193)</b> 3:1,2,6,8,19,22;4:6; 8:14,17,19;9:10,12,23; 11:12,22;12:12,21,25; 13:9,16,25;14:1,6,13, 16,20,22;15:5,6,8,11, 12;16:3,14,24;17:13, 24;18:10,11,13,14,21, 24;19:14,24;20:17,21; 21:17,22;6,11;23:20; 24:15,20;25:10,12,16, 20;26:8,10;27:9,13,18, 22;28:3,9,12,15,18; 29:1,9;30:4,7,20;31:14, 21;32:1,4,9,15,20;33:6, 16;34:1,15;35:1,7,10, 16,21,24;36:1,3,9,12, 22,25;37:8,17,20,25; 38:5,10,16,17,22,23; 39:5,10;40:2,8;41:7,9, 15,22;42:2,7,13,21,23; 43:9,11,15,21;44:9,15, 23;45:5,9,22;46:1,5; 47:12,20;48:3,13; 49:10,16,24;50:15,24; 51:1,4,7,23;52:4,9,18; 53:5;54:8,15,19,23; 55:1,2,4,6,15,21;56:4, 24;57:8,24;58:10; 59:11,15,18,20,22; 60:4,9,19,25;61:8,15, 19,25;62:9;63:5,8;	<b>critically (3)</b> 16:2;33:10,19	<b>definitions (2)</b> 5:12;54:20
<b>computer (1)</b> 8:25	<b>contamination (3)</b> 49:22;50:4,7		<b>crux (1)</b> 4:13	<b>defraud (2)</b> 34:5,6
<b>concept (2)</b> 22:20;62:15	<b>contentions (1)</b> 5:17		<b>currently (1)</b> 26:1	<b>defrauded (3)</b> 30:17;34:13;35:15
<b>concerned (2)</b> 4:4;10:2	<b>context (4)</b> 3:24;16:7;52:20; 53:6		<b>custodians' (1)</b> 56:13	<b>defrauding (1)</b> 34:10
<b>conclude (2)</b> 45:15;48:15	<b>contingency (2)</b> 26:25;33:14		<b>cut (4)</b> 7:24;20:14;30:23; 39:20	<b>degree (2)</b> 6:4;18:6
<b>concluded (1)</b> 30:15	<b>contingent (1)</b> 27:10		<b>cutoff (1)</b> 20:3	<b>degrees (2)</b> 53:9;58:14
<b>conclusion (2)</b> 7:20;46:18	<b>continue (5)</b> 3:20;17:6;34:14; 50:5;61:13			<b>deliberations (1)</b> 64:6
<b>conclusions (3)</b> 64:21;65:4,5	<b>continued (1)</b> 31:16		<b>D</b>	<b>demand (1)</b> 21:8
<b>conducts (1)</b> 11:14	<b>continues (1)</b> 19:2		<b>damage (1)</b> 55:24	<b>denies (1)</b> 17:22
<b>confer (2)</b> 27:17;66:13	<b>continuing (1)</b> 34:8		<b>data (4)</b> 9:6;65:7,9,16	<b>deny (1)</b> 29:13
<b>conference (1)</b> 3:15	<b>contrary (1)</b> 25:3		<b>dates (5)</b> 18:21;21:15,20; 22:22,23	<b>departure (2)</b> 21:20;22:22
<b>conferring (3)</b> 12:15;27:21;66:17	<b>control (1)</b> 48:6		<b>day (3)</b> 3:20;63:25;64:13	<b>depending (1)</b> 3:11
<b>confidentiality (1)</b> 28:23	<b>controlled (1)</b> 25:6		<b>DC (1)</b> 65:23	<b>depends (1)</b> 45:22
<b>confirm (2)</b> 9:4;29:13	<b>controversy (2)</b> 6:15;30:25		<b>de (1)</b> 45:9	<b>depicts (1)</b> 49:4
<b>confirmation (1)</b>	<b>convincing (2)</b> 7:9;48:21			<b>deposition (2)</b> 35:17;52:23

<p><b>derivative (1)</b> 16:4 <b>described (1)</b> 11:13 <b>describes (1)</b> 47:19 <b>designate (1)</b> 29:23 <b>designed (1)</b> 24:11 <b>designing (1)</b> 24:22 <b>desirable (1)</b> 24:24 <b>despite (1)</b> 53:24 <b>determine (1)</b> 22:4 <b>detriment (1)</b> 34:11 <b>difference (4)</b> 42:9;45:10;55:23; 59:19 <b>differences (1)</b> 13:22 <b>different (5)</b> 7:2;29:19;61:15,17, 21 <b>differently (1)</b> 44:23 <b>difficult (1)</b> 24:5 <b>diligent (1)</b> 40:20 <b>directed (1)</b> 17:15 <b>directly (2)</b> 10:11;51:20 <b>disagreement (2)</b> 21:6,19 <b>disaster (3)</b> 49:6,17;50:14 <b>disclose (1)</b> 65:16 <b>disclosed (2)</b> 28:25;62:20 <b>disclosing (1)</b> 31:18 <b>disclosure (2)</b> 4:16;64:17 <b>disclosures (1)</b> 29:3 <b>discovery (15)</b> 6:12,16;22:12,13; 24:23;30:25;31:9; 32:25;40:20;47:10; 52:13;53:1,16;61:12, 25 <b>discredited (1)</b> 18:25 <b>discretion (1)</b> 6:11 <b>discussed (2)</b></p>	<p>4:19;56:12 <b>discussing (2)</b> 12:14;28:1 <b>discussion (1)</b> 24:13 <b>discussions (3)</b> 31:18,24;44:18 <b>dismissed (1)</b> 51:21 <b>dispute (5)</b> 4:13;8:3;13:9;25:13; 27:9 <b>disputes (1)</b> 4:23 <b>distinguished (1)</b> 5:25 <b>distraction (1)</b> 46:23 <b>district (2)</b> 6:11;65:24 <b>divided (1)</b> 11:16 <b>docket (2)</b> 51:12,25 <b>doctrine (1)</b> 4:17 <b>document (9)</b> 8:24;9:14;16:2; 17:22;37:9;46:8;52:2; 56:13,15 <b>documents (96)</b> 4:15;5:18;8:4,21,23; 9:5,20;11:3,7;12:1,10, 14,18,24;13:11;14:25; 15:3,12,16,18,19; 16:10,17,25;17:15,19; 18:10,12,14,15,16; 20:23;23:1,10;24:2,6, 14;25:7,8,15,24;26:20; 28:5;29:20;30:17,24; 31:13;32:24;33:12; 34:11;35:1;36:8,21; 37:9,13;38:24;39:5,8, 13;40:4,10,15,16; 41:13,18;43:25;44:4, 15,21;46:17;48:12; 49:6;50:20;55:25;56:5, 14,16,17,18,18;59:1, 25;61:4,5,6,17;62:6,7, 12;63:6,8;64:2,3,7,11; 67:10 <b>done (8)</b> 3:15,16;11:16;30:21; 39:23;41:5;62:22,23 <b>Donziger (15)</b> 11:5;15:22;16:17; 25:25;26:6,10;40:12; 49:4,19,21;52:11,13, 23;53:7;64:7 <b>Donziger's (2)</b> 44:12;51:10 <b>doubt (1)</b> 7:18</p>	<p><b>down (2)</b> 22:14;46:15 <b>draft (2)</b> 14:18;19:3 <b>drafted (4)</b> 15:9;39:22;64:25; 65:8 <b>drafting (6)</b> 14:4,14;15:1,13; 16:2;40:24 <b>drafts (6)</b> 13:23;14:7,7,8; 25:16,17 <b>draw (1)</b> 26:14 <b>dress (1)</b> 3:25 <b>drew (1)</b> 3:9 <b>drive (1)</b> 15:21 <b>drop (1)</b> 46:3 <b>dropped (2)</b> 43:18,24 <b>duces (1)</b> 4:5 <b>duped (1)</b> 33:21 <b>duplicative (1)</b> 61:14 <b>durations (2)</b> 21:24;22:24 <b>during (1)</b> 17:20</p>	<p><b>efficient (2)</b> 7:14,20 <b>effort (2)</b> 34:14;44:11 <b>efforts (1)</b> 30:18 <b>either (5)</b> 3:13;27:3;33:17; 34:5;40:13 <b>elaborating (1)</b> 41:22 <b>electronic (2)</b> 8:23;24:23 <b>element (3)</b> 48:25;50:10,11 <b>else (12)</b> 9:23;20:5;25:15; 26:5;29:18;30:1;31:19; 41:5;49:11,17;56:25; 65:11 <b>e-mail (1)</b> 56:13 <b>e-mails (1)</b> 24:4 <b>emerge (1)</b> 18:25 <b>emerged (1)</b> 40:16 <b>emerges (1)</b> 19:1 <b>enable (1)</b> 29:23 <b>encourage (1)</b> 44:11 <b>end (3)</b> 21:11;63:24;64:13 <b>enforcement (6)</b> 19:11;23:4,4,8;25:7; 35:6 <b>engage (1)</b> 24:13 <b>engaged (2)</b> 42:5;49:1 <b>engineered (2)</b> 62:25;63:22 <b>engineering (1)</b> 19:22 <b>enlighten (1)</b> 37:8 <b>enough (2)</b> 4:2;41:2 <b>enterprise (2)</b> 7:10;31:5 <b>entirely (2)</b> 61:14;66:17 <b>entirety (4)</b> 10:1;14:11;23:14; 27:1 <b>entitled (7)</b> 22:4;23:12,19;31:13; 35:1;50:9;61:19 <b>enumerated (1)</b> 5:24</p>	<p><b>environmental (4)</b> 49:16;50:4,7,13 <b>equation (1)</b> 53:11 <b>equipment (1)</b> 49:8 <b>era (1)</b> 55:7 <b>Eric (1)</b> 67:1 <b>escrito (1)</b> 38:14 <b>essence (1)</b> 13:9 <b>essential (4)</b> 23:6;34:4;62:14,24 <b>essentially (3)</b> 4:14;45:9;58:16 <b>established (1)</b> 37:25 <b>establishes (1)</b> 64:5 <b>etc (2)</b> 40:14,14 <b>evaluated (1)</b> 4:21 <b>eve (1)</b> 15:12 <b>even (27)</b> 4:18;6:12;10:6,21, 25;11:8,8;17:6;19:10, 13;22:17;29:13;31:22; 32:1;46:25;47:18;48:7; 49:8;50:3,19;53:3,20; 56:21;59:5;62:13,17; 64:11 <b>event (1)</b> 19:19 <b>events (5)</b> 50:17,20,22,23; 54:13 <b>Everybody (3)</b> 4:1;29:14;56:25 <b>evidence (11)</b> 13:16;14:8;33:7; 41:19;49:18,22;50:1,2, 6,10;57:10 <b>evidencing (2)</b> 12:15;41:13 <b>evident (1)</b> 23:12 <b>ex (1)</b> 49:4 <b>exact (1)</b> 52:14 <b>exactly (8)</b> 11:14;18:22;31:21; 33:4;40:12;60:21; 63:21;64:9 <b>examining (1)</b> 33:17 <b>example (3)</b> 24:7;30:23;63:18</p>
		<b>E</b>		
		<p><b>earlier (5)</b> 10:21;13:23;38:7; 46:9;58:18 <b>early (3)</b> 16:18;18:23;20:3 <b>Ecuador (24)</b> 15:14;18:11,14;19:7, 12;21:9,15,23;22:1; 36:16;37:3,12;43:25; 44:3,12;46:10,21; 47:14;48:7;49:23; 50:14;58:4;62:18; 64:16 <b>Ecuadorian (2)</b> 16:3;18:20 <b>Ed (1)</b> 3:3 <b>edict (1)</b> 38:15 <b>edited (1)</b> 14:1 <b>Edward (1)</b> 67:1 <b>effectively (1)</b> 58:11</p>		



<p><b>examples (1)</b> 17:18 <b>except (4)</b> 5:16;18:4;25:21; 57:15 <b>exception (4)</b> 22:17;53:21;54:17; 65:20 <b>exceptions (1)</b> 5:13 <b>exchanges (7)</b> 10:18;11:4,6;33:2; 35:13;44:5;55:25 <b>exclude (3)</b> 12:17;25:23,23 <b>excluded (1)</b> 8:10 <b>Excuse (2)</b> 27:16;53:13 <b>execute (1)</b> 23:8 <b>executed (3)</b> 30:8,10;34:18 <b>exercising (1)</b> 11:1 <b>exist (2)</b> 11:8;40:6 <b>exists (2)</b> 12:16;46:7 <b>expected (1)</b> 67:15 <b>expecting (2)</b> 41:10,15 <b>expense (1)</b> 6:13 <b>expert (7)</b> 19:7;20:7;40:14; 55:24;58:17;63:13; 64:5 <b>experts (22)</b> 15:14;16:4;49:20,21; 54:19,24,25;55:1,2,4,5; 56:2,2,9;57:23;58:18; 62:16,17,20;63:3;65:1, 15 <b>experts' (1)</b> 62:15 <b>expressed (1)</b> 65:1 <b>extensive (2)</b> 6:6,7 <b>extent (10)</b> 5:23;6:12;7:2;18:4, 9;23:16;27:11;36:23; 44:14;63:1 <b>extort (2)</b> 34:7,14 <b>extortion (1)</b> 23:9 <b>extremely (3)</b> 31:12;45:24;47:6</p>	<p style="text-align: center;"><b>F</b></p> <p><b>fact (14)</b> 13:18;17:19;31:17; 37:20;40:8,20;46:13; 52:12;53:12,24;58:6, 10;61:20;65:17 <b>factor (4)</b> 53:1,2,25,25 <b>failure (1)</b> 42:11 <b>fair (1)</b> 8:11 <b>faith (1)</b> 31:8 <b>Fajardo (3)</b> 11:5;24:8;40:11 <b>falling (1)</b> 15:25 <b>familiar (1)</b> 52:18 <b>far (2)</b> 7:17;57:10 <b>fashion (2)</b> 9:6;12:3 <b>favored (1)</b> 53:11 <b>feasible (1)</b> 3:12 <b>February (1)</b> 16:18 <b>fee (2)</b> 27:10;33:15 <b>fell (1)</b> 55:14 <b>felt (3)</b> 33:21;34:12;35:14 <b>few (2)</b> 4:2;53:9 <b>fewer (2)</b> 5:19;8:7 <b>fiction (1)</b> 50:1 <b>Fifth (1)</b> 6:24 <b>fight (1)</b> 57:3 <b>fighting (1)</b> 61:2 <b>figure (2)</b> 45:7,8 <b>figured (1)</b> 58:1 <b>filed (6)</b> 14:9;17:19;19:22; 20:8,9;23:5 <b>files (3)</b> 11:19;44:13;59:4 <b>final (8)</b> 13:21,22,24;14:15, 16,19;19:7;57:12 <b>Finally (1)</b></p>	<p>7:12 <b>financial (2)</b> 28:1,8 <b>financiers (2)</b> 10:8;27:3 <b>find (5)</b> 26:15;39:19;46:7,8; 54:10 <b>finding (1)</b> 66:4 <b>fine (1)</b> 30:2 <b>finished (1)</b> 53:5 <b>firm (7)</b> 3:4;26:13,23,24; 27:2;60:15;62:6 <b>firms (2)</b> 10:8;33:25 <b>firm's (1)</b> 9:6 <b>firm-wide (1)</b> 8:24 <b>First (15)</b> 4:4,14;5:11;6:6,10; 17:7;19:22;29:23; 37:21;47:22;51:19; 52:2;56:8;57:24;61:9 <b>fix (2)</b> 16:21;46:10 <b>flagged (1)</b> 39:12 <b>flashpoint (1)</b> 57:4 <b>focus (2)</b> 5:7;57:19 <b>focused (1)</b> 52:13 <b>folks (1)</b> 64:14 <b>follows (1)</b> 25:2 <b>foreign (3)</b> 29:11,13;35:5 <b>foremost (1)</b> 6:10 <b>form (1)</b> 29:23 <b>forth (6)</b> 17:23;21:13;31:18; 40:16;44:1;46:17 <b>fortunate (1)</b> 41:2 <b>found (2)</b> 54:11;65:19 <b>four (1)</b> 39:13 <b>Fourthly (1)</b> 6:9 <b>framework (2)</b> 5:10;58:17 <b>Francis (6)</b> 63:13;65:21;66:3,9,</p>	<p>11,17 <b>frankly (1)</b> 11:18 <b>fraud (48)</b> 10:4,15;15:15,25; 16:7,8,9;19:10;22:17; 23:12;30:11,11;31:12; 33:5,22;34:9;41:19; 42:4,11,17;49:25; 50:12,12;51:11,16; 53:13,21;54:17;56:3; 59:2;60:17;62:16,25; 63:14,15,16,20,21,23, 24;64:2,6,10,16;65:19; 66:18,21;67:11 <b>fraudulent (7)</b> 36:16;42:5;43:5; 49:1,18;50:3;54:7 <b>Friedman (1)</b> 53:7 <b>front (1)</b> 51:23 <b>full (2)</b> 15:23;61:6 <b>fully (3)</b> 36:9;53:8;58:22 <b>functioning (1)</b> 34:22 <b>fund (3)</b> 30:13;31:10;32:10 <b>fundamental (1)</b> 8:3 <b>funded (1)</b> 31:5 <b>funders (3)</b> 26:24;30:18;33:20 <b>funding (16)</b> 28:13;30:8,10,19,23; 31:1,16,17,17;32:8,22; 33:3;34:13,18;35:4,14 <b>further (4)</b> 7:7;38:1;57:12; 63:21 <b>furtherance (3)</b> 59:1,5;63:19 <b>furthermore (1)</b> 22:16 <b>futility (1)</b> 51:15</p>	<p>31:5;54:5;55:9; 60:19 <b>general (6)</b> 3:25;5:12,16;8:1,20; 38:7 <b>generate (1)</b> 26:25 <b>generic (1)</b> 57:15 <b>genuine (1)</b> 50:3 <b>get-out-of-jail-free (1)</b> 53:15 <b>gets (1)</b> 55:15 <b>ghostwriting (4)</b> 16:7;17:6;41:13,21 <b>ghostwritten (2)</b> 13:18;58:14 <b>given (4)</b> 7:15;24:17;57:10; 65:6 <b>gives (1)</b> 6:11 <b>giving (1)</b> 39:18 <b>global (3)</b> 40:14;55:24;58:17 <b>glove (1)</b> 26:12 <b>God (2)</b> 4:1;46:14 <b>goes (19)</b> 10:11,14;11:13,17, 24;12:6;13:14;18:18; 23:6,10;26:19;27:2; 35:17;38:18;41:25; 47:13;48:25;64:12,15 <b>good (6)</b> 25:2;31:8;53:10,20; 60:4;67:12 <b>government (7)</b> 29:10,12;36:15,17; 47:2,4,6 <b>granted (1)</b> 7:9 <b>grounds (1)</b> 51:15 <b>groundwater (1)</b> 49:22 <b>group (2)</b> 64:23,24 <b>guess (1)</b> 26:8 <b>guys (3)</b> 34:19;54:4;58:22</p> <p style="text-align: center;"><b>H</b></p> <p><b>half (1)</b> 3:13 <b>halfway (2)</b> 54:16,17</p>
---	--	---	---	---

<b>hand (1)</b> 26:12	15,19,22;43:1,8,10,14, 16,23;45:18,23;47:1,8, 18;48:24;49:12;51:2,6; 52:6,11;54:6,7,22;55:8, 17,19;59:10,13,21,23; 60:7,15;61:16;62:11; 63:7,11,12;64:2;65:14, 22;66:2,5,12,16,25; 67:16	36:19;37:2,23 <b>impermissibly (1)</b> 12:23 <b>implied (1)</b> 45:24 <b>implore (1)</b> 35:12 <b>import (1)</b> 47:1 <b>importance (2)</b> 6:15,16 <b>important (8)</b> 5:7;10:9,21;16:2,15; 33:11,19;46:2 <b>impression (1)</b> 64:20 <b>improper (1)</b> 22:9 <b>improve (1)</b> 19:11 <b>inappropriate (1)</b> 50:18 <b>inception (1)</b> 45:25 <b>include (2)</b> 63:8,10 <b>included (2)</b> 55:11,12 <b>includes (3)</b> 38:16;49:12;59:17 <b>including (7)</b> 13:19;19:9;25:16; 26:23,24;27:4;55:1 <b>incremental (3)</b> 45:5,7;48:16 <b>indebted (1)</b> 43:9 <b>indeed (3)</b> 22:18;33:8;59:4 <b>independence (1)</b> 62:21 <b>independent (7)</b> 62:17;64:15,18,21; 65:2,6,7 <b>independently (2)</b> 62:18;65:3 <b>indicate (1)</b> 6:18 <b>indicated (5)</b> 12:13;13:2;20:22; 37:19;61:22 <b>indication (1)</b> 57:22 <b>indictment (1)</b> 3:9 <b>indictments (1)</b> 51:17 <b>indigenous (1)</b> 10:24 <b>individual (3)</b> 5:25;7:4,13 <b>individuals (3)</b> 26:22;27:3;65:17	<b>induce (2)</b> 30:13,18 <b>induced (1)</b> 31:10 <b>information (12)</b> 12:6;21:11;22:3; 24:11;28:8,24;29:7,24; 30:1;32:14;52:16,17 <b>initial (1)</b> 3:10 <b>initiate (1)</b> 43:17 <b>initiated (1)</b> 44:7 <b>inquiry (1)</b> 32:14 <b>inspection (1)</b> 49:5 <b>inspections (5)</b> 40:13;49:11,13;55:6, 23 <b>instance (2)</b> 6:6;29:23 <b>instructions (1)</b> 5:13 <b>integral (3)</b> 13:21;34:13;60:16 <b>integrally (1)</b> 19:6 <b>intend (3)</b> 6:2;7:7,22 <b>interactions (1)</b> 11:15 <b>interest (4)</b> 3:4;17:24;29:18; 32:7 <b>interested (2)</b> 37:5;38:20 <b>interesting (1)</b> 11:5 <b>interests (1)</b> 26:22 <b>internal (9)</b> 15:19;24:7;41:12; 63:10,17;64:2,3,6,10 <b>internally (1)</b> 44:19 <b>interposed (1)</b> 5:11 <b>into (5)</b> 16:16;34:6,13;53:11; 55:14 <b>introduce (1)</b> 3:2 <b>introductory (1)</b> 57:2 <b>invade (1)</b> 11:19 <b>investigation (1)</b> 44:6 <b>investigations (2)</b> 43:17;44:6 <b>investing (1)</b>	34:6 <b>investors (1)</b> 33:7 <b>Invictus (3)</b> 23:8;31:3;35:6 <b>involve (1)</b> 58:8 <b>involved (13)</b> 4:6;13:11;14:15; 19:6,9;33:13,17;44:10; 45:25;46:9;55:16,18; 63:2 <b>involvement (15)</b> 13:19;14:14,25;15:4; 16:11;17:16;18:15,21; 20:24;50:17,20;54:14; 56:9,10;58:7 <b>isolating (1)</b> 56:11 <b>issue (6)</b> 10:21;11:25;19:10; 25:15;26:7;32:11 <b>issued (2)</b> 38:15,24 <b>issues (12)</b> 5:3;6:16,17;10:11; 17:3,5,21;18:1,4; 32:22;46:16;48:20 <b>item (1)</b> 51:25 <b>items (1)</b> 39:4 <b>it's- (1)</b> 22:7
	<b>I</b>		<b>J</b>	
<b>hit (2)</b> 46:6,11 <b>hits (9)</b> 45:11,13,22;47:16, 16,18,24;57:8,16 <b>Hold (1)</b> 19:24 <b>home (4)</b> 46:6;53:22;54:16,17 <b>Honor (111)</b> 3:17,21;8:12,16,18; 9:2,11,15,25;10:17,20; 11:10,21;12:11,17; 13:8,10,14;14:3;15:18; 16:15;17:1;19:1,17; 20:6,13;21:18;23:1,6, 25;25:5,11;26:3,19; 27:12,14,16,20,23,25; 28:20,22;29:2,6;30:3,6, 9,22;32:22;33:10,18; 34:4,21;35:8,12,19; 36:7,8,13;38:9,12; 40:19;41:8,25;42:10,	<b>IBM (1)</b> 33:17 <b>idea (1)</b> 60:5 <b>identical (3)</b> 25:21,23;32:18 <b>identification (1)</b> 21:21 <b>identified (7)</b> 20:4,5,6,8,9;40:4; 67:4 <b>identify (3)</b> 22:1;26:2;66:23 <b>identifying (2)</b> 21:10,14 <b>identity (1)</b> 22:21 <b>illogical (1)</b> 58:15 <b>imagine (3)</b> 22:11;37:11;63:3 <b>immunity (3)</b>	<b>Jersey (4)</b> 61:3,5,10,14 <b>job (3)</b> 43:22,24;46:10 <b>Joe (2)</b> 27:5,5 <b>join (1)</b> 27:3 <b>joint (2)</b> 54:4;55:23 <b>Jonathan (1)</b> 67:2 <b>judge (12)</b> 17:3,4;21:23;22:8; 40:12;49:5;63:13; 65:21;66:3,9,11,17 <b>judgment (22)</b> 13:16,17,23,24;14:2, 9,21;16:22;17:4,9; 19:8;27:2,11;36:16; 38:14;39:2;40:5,9; 57:12;58:12,19;64:13 <b>judgments (3)</b> 6:19;16:6;38:20 <b>judgment's (1)</b> 16:19		

<b>judicial (5)</b> 40:13;49:10,13;55:6,23 <b>jurisdiction (1)</b> 10:11 <b>jurisdictional (1)</b> 23:22 <b>justice (1)</b> 44:3 <b>justify (1)</b> 22:25	44:2 <b>large (2)</b> 47:23;58:9 <b>largely (1)</b> 62:21 <b>last (1)</b> 47:20 <b>late (1)</b> 19:23 <b>later (10)</b> 7:5;12:8;16:22; 19:11;25:9;30:15; 31:11;33:21;43:18; 50:23 <b>latter (1)</b> 4:8 <b>law (6)</b> 3:4;10:7;34:1,9,25; 62:6 <b>lawsuit (1)</b> 29:17 <b>lawsuits (1)</b> 4:9 <b>lawyer (3)</b> 34:20,22,23 <b>lawyers (8)</b> 7:16;10:22;13:20; 21:14,21;43:25;62:4; 64:8 <b>lead (1)</b> 45:16 <b>LEADER (11)</b> 3:2,7,17,21;8:15,16; 9:10,11;17:13;26:11; 66:24 <b>learn (1)</b> 41:2 <b>learned (2)</b> 50:22;53:16 <b>least (7)</b> 4:23;6:3;8:10;20:23; 26:13;59:7;67:10 <b>leave (1)</b> 45:10 <b>led (2)</b> 43:18;53:11 <b>left (2)</b> 50:8,9 <b>legal (4)</b> 5:20;6:22;8:21,23 <b>length (1)</b> 32:5 <b>less (1)</b> 8:8 <b>letters (1)</b> 33:3 <b>lied (1)</b> 50:13 <b>life (3)</b> 24:24;34:22,24 <b>lifeblood (1)</b> 31:6 <b>light (3)</b>	6:20;7:2,6 <b>likelihood (2)</b> 45:15;57:16 <b>likelihoods (1)</b> 48:19 <b>likely (11)</b> 6:14;7:8,8;12:23; 45:17;46:4,15,24; 55:25;56:18;58:8 <b>limit (5)</b> 6:11;7:3;8:13;39:3; 40:8 <b>limitation (6)</b> 8:9;12:22;30:7; 37:18,20,21 <b>limited (6)</b> 30:10,24;35:11; 45:20;47:15;55:12 <b>limits (1)</b> 31:20 <b>lines (1)</b> 67:4 <b>list (9)</b> 8:10,13;17:20;20:16, 20,20;55:9,13;56:8 <b>listed (2)</b> 55:13;65:17 <b>lists (1)</b> 32:19 <b>literally (1)</b> 14:18 <b>litigate (1)</b> 33:23 <b>litigation (33)</b> 4:1,6;5:20;7:18;8:8; 11:14,16;13:13;17:17; 18:20;19:5;21:15;28:2, 14,17,25;29:5,24; 30:14;32:7;34:8;37:7, 12,16;38:21,23;43:5; 46:2;50:18;52:17; 57:19;58:7;61:12 <b>litigations (2)</b> 34:9;37:10 <b>little (4)</b> 11:18;19:18;32:16; 65:10 <b>location (1)</b> 48:12 <b>locations (1)</b> 21:11 <b>log (22)</b> 4:18,22;5:18;6:7; 8:5;12:2,8;21:7,8,14, 19;22:20,21;23:17; 25:18;36:24;38:4; 39:25;41:11;56:22; 63:4;64:1 <b>logged (1)</b> 12:7 <b>logging (4)</b> 11:25;12:3;44:20; 56:20	<b>logical (3)</b> 26:13;47:1;58:5 <b>long (5)</b> 9:7;22:3;46:12;55:9; 56:8 <b>Look (7)</b> 17:24;19:24;21:19; 45:13;56:24;58:5; 60:11 <b>looking (3)</b> 9:20;24:10;56:13 <b>looks (1)</b> 59:23 <b>loop (1)</b> 43:2 <b>loosely (1)</b> 37:4 <b>lot (6)</b> 17:5;39:5,7;57:8,16; 59:3 <b>lunch (2)</b> 3:11,14	18;34:4,21;35:3,8,11, 19;36:1,2,7,11,13,23; 38:9;40:2,7,18,19; 41:24,25;42:3,10,15, 22;43:1,10,14,16,23; 45:15,18,23;46:25; 47:13;48:24;49:12; 51:2,6,9;52:2,6;54:6, 19,22,25;55:3,8,17,22; 59:10,13,17,21,23; 60:7,15,21;61:1;62:11; 63:7,11;64:19;65:22; 67:16,19 <b>Mastro's (1)</b> 47:20 <b>material (4)</b> 5:6;6:23;14:19; 48:20 <b>materials (1)</b> 11:18 <b>Mathison (1)</b> 54:20 <b>matter (5)</b> 4:18;6:22;9:5;18:17; 41:5 <b>matters (4)</b> 5:8;6:12;52:13; 61:21 <b>may (36)</b> 7:2;11:21;14:7;19:2, 5,20;24:24;28:3;31:23; 32:1,22;35:8;39:14,14; 41:5,8;43:25;45:13; 47:25;48:19;53:16,16, 17,17,18,19;57:24,25; 58:17;59:3,5;60:12; 61:16,19;66:1,13 <b>maybe (8)</b> 28:12;32:9,9,10; 34:12;53:19;54:2; 57:22 <b>mean (12)</b> 7:15,16;12:17;17:25; 26:10;28:3;37:15; 38:24;40:8;48:5;56:11; 57:2 <b>meaning (1)</b> 13:24 <b>meaningful (1)</b> 32:13 <b>means (2)</b> 8:5;47:3 <b>media (1)</b> 29:11 <b>meet (1)</b> 22:8 <b>meet-and-confer (3)</b> 9:20;17:20;37:4 <b>meeting (4)</b> 21:22,23;22:23;24:9 <b>meetings (3)</b> 21:11,22,24 <b>membership (2)</b>
<b>K</b>			<b>M</b>	
<b>keep (1)</b> 31:10 <b>keeping (1)</b> 22:8 <b>Keker (1)</b> 26:13 <b>kept (1)</b> 31:5 <b>key (2)</b> 19:6;22:3 <b>killed (1)</b> 46:20 <b>kind (4)</b> 23:15;46:12;47:14, 16 <b>knew (7)</b> 14:4;15:16,17;16:11, 12;40:12;63:21 <b>knowing (1)</b> 15:25 <b>knowledge (5)</b> 15:6;40:5;41:14,21; 52:24 <b>known (1)</b> 19:14 <b>knows (5)</b> 4:1,1;14:1;29:14; 44:12 <b>Kohn (3)</b> 27:5,5;34:12				
<b>L</b>				
<b>lab (2)</b> 49:3,4 <b>lack (1)</b> 62:21 <b>Lago (10)</b> 4:7;13:12,13;17:17; 34:8;38:15,21,23;43:5; 55:1 <b>Lago-related (1)</b> 40:25 <b>language (4)</b> 19:13,18;20:12;45:3 <b>LAPs (8)</b> 10:4,6,12;15:14; 34:14;35:5;44:7;47:4 <b>LAPs-related (1)</b>				

26:21;27:8 <b>memo (1)</b> 15:10 <b>memory (1)</b> 40:11 <b>mentioned (1)</b> 51:9 <b>merit (1)</b> 31:4 <b>merits (1)</b> 31:19 <b>met (2)</b> 21:21;22:2 <b>mid-2010 (2)</b> 15:11;20:8 <b>might (6)</b> 6:25;7:1;18:6;23:3; 24:11;32:23 <b>million (1)</b> 26:25 <b>millions (1)</b> 31:2 <b>mind (3)</b> 5:9;6:11;7:25 <b>minimis (1)</b> 45:10 <b>minimize (1)</b> 18:6 <b>minimum (1)</b> 28:22 <b>minute (1)</b> 66:13 <b>mirrors (1)</b> 49:24 <b>misapply (1)</b> 52:21 <b>misconduct (2)</b> 22:12,17 <b>misrepresentations (1)</b> 30:12 <b>misspoke (1)</b> 67:7 <b>misstated (1)</b> 8:7 <b>mixed-fee (1)</b> 33:14 <b>model (1)</b> 65:10 <b>modifications (1)</b> 17:9 <b>modified (3)</b> 12:13;13:4,6 <b>modify (4)</b> 7:3;13:2;20:23; 60:12 <b>moment (1)</b> 6:25 <b>moments (1)</b> 67:5 <b>money (3)</b> 33:11,12,14 <b>more (24)</b> 3:6;7:11;10:7;11:19;	23:23;25:8;27:20; 32:16;34:23,24;35:8; 38:7,25;41:3,4;46:15, 22,24;53:9;56:6;59:24; 61:11;62:7;64:11 <b>morning (3)</b> 3:23;53:10;57:15 <b>most (4)</b> 5:2,7;22:11;56:12 <b>motion (8)</b> 15:10;17:16;20:7,10, 11,25;21:1;39:2 <b>motions (4)</b> 13:12;15:1;16:20; 19:12 <b>motive (1)</b> 28:15 <b>motives (1)</b> 26:22 <b>move (3)</b> 8:14,19;19:17 <b>moved (1)</b> 57:3 <b>moving (2)</b> 19:10;67:14 <b>much (6)</b> 38:7,20;45:19;46:15; 47:17;67:16 <b>must (3)</b> 7:14;15:7;33:3 <b>myself (1)</b> 62:3	10:13;61:3,5,10,14 <b>Newberry (1)</b> 3:3 <b>next (1)</b> 58:25 <b>Nextant (2)</b> 35:22;36:2 <b>nice (1)</b> 46:19 <b>Nine (1)</b> 63:14 <b>nine-document (1)</b> 48:4 <b>nine-figure (1)</b> 27:10 <b>Nobody (1)</b> 35:16 <b>nodding (1)</b> 57:6 <b>noise (1)</b> 27:6 <b>none (1)</b> 65:19 <b>non-Ecuadorian (1)</b> 19:5 <b>nor (1)</b> 29:13 <b>normally (2)</b> 52:17;61:25 <b>number (35)</b> 4:9,24;8:20;9:14; 13:5;15:9;21:4;22:25; 23:21;25:1,3,6,12; 26:16;32:17;35:21,22; 38:6;41:11,23;42:23; 43:11;45:11;47:15,16, 23;48:1;51:5,6;52:2, 10;58:9;59:9,14;64:7	33:20 <b>obvious (1)</b> 17:21 <b>Obviously (5)</b> 3:3;26:10;42:10; 43:18;56:12 <b>occurred (3)</b> 10:18;17:6;50:14 <b>o'clock (1)</b> 3:18 <b>off (4)</b> 30:23;31:20;48:10; 60:22 <b>offered (1)</b> 21:13 <b>official (1)</b> 38:13 <b>officials (2)</b> 36:15,17 <b>Ohio (1)</b> 65:24 <b>OK (30)</b> 3:19;9:12;13:5,9; 17:24;18:7,8;20:18,21; 21:4;22:25;25:1,19,20; 30:4,7;31:17;37:25; 38:5,10;40:2;41:6; 42:13;43:15;48:23; 52:4;54:2,11;59:20; 67:14 <b>once (3)</b> 7:11,11;48:24 <b>one (34)</b> 4:10;5:22;6:13; 11:21;13:6;15:10;18:6; 20:13;21:7;22:20; 24:15;27:20,22;32:15, 22;34:10;35:8;40:9,16; 42:16;43:1;46:7;51:4; 53:23,25;54:15;55:10; 56:12;57:1;59:16; 61:20;64:12,22;65:15 <b>ones (5)</b> 39:13,16;41:1;43:18; 63:22 <b>one-word (1)</b> 45:6 <b>ongoing (1)</b> 61:10 <b>only (18)</b> 8:6;15:21;16:17; 21:6,18,20;26:13; 29:24;33:22;34:8;39:1; 53:25;56:14,18,18; 58:8;59:18;61:3 <b>opinion (2)</b> 17:11;19:19 <b>opinions (2)</b> 19:13;40:24 <b>opposed (3)</b> 25:8;41:13;51:15 <b>opposite (2)</b> 32:6;52:14	<b>oral (3)</b> 5:14;7:22,22 <b>order (10)</b> 7:7;22:18;28:23,23; 29:3,4,22;38:14;49:5; 60:12 <b>ordered (3)</b> 7:1;52:11;53:1 <b>orders (2)</b> 38:19;40:24 <b>original (2)</b> 49:10,13 <b>others (12)</b> 21:23;30:12;31:9; 34:12;39:14,20;44:5; 50:16;52:11;55:13; 56:1;59:5 <b>otherwise (7)</b> 6:18;13:3;21:2; 45:12;46:18;60:13; 62:2 <b>ought (3)</b> 6:3,9;57:10 <b>out (22)</b> 14:19;15:3,12;16:4; 17:14;24:20;26:15; 27:5;29:5;32:9,14; 33:19;35:14;39:19,21, 24;46:24,25;49:3; 52:20;58:1;64:7 <b>outlet (1)</b> 29:12 <b>outside (2)</b> 12:19;28:25 <b>outtakes (1)</b> 49:19 <b>outweighs (2)</b> 6:13;48:11 <b>over (8)</b> 4:13;15:15;16:5,8; 19:21;26:25;56:14; 58:20 <b>overall (4)</b> 6:1;48:1,3;60:2 <b>overarching (1)</b> 46:2 <b>overbroad (1)</b> 38:13 <b>overcoming (1)</b> 53:20 <b>overlap (4)</b> 59:14,22,24;60:8 <b>overlooking (1)</b> 58:10 <b>overrule (6)</b> 13:3,3;24:19;26:14; 38:10;59:7 <b>overruled (9)</b> 25:20;38:5;41:7; 48:16,17;51:1;54:15; 62:9;67:9 <b>oversees (1)</b> 17:4
	<b>N</b>			
	<b>nail (2)</b> 15:20;61:3 <b>named (2)</b> 4:11;13:15 <b>names (1)</b> 32:19 <b>narrative (1)</b> 4:3 <b>narrowing (2)</b> 18:5;37:6 <b>national (1)</b> 33:25 <b>nearly (1)</b> 54:17 <b>necessarily (4)</b> 15:19;47:9;55:12; 63:20 <b>need (11)</b> 17:7;18:12;22:13; 26:2;27:16;29:7;33:4; 41:11;45:3;46:6,8 <b>needed (1)</b> 31:6 <b>needs (2)</b> 6:7,14 <b>nevertheless (4)</b> 13:24;14:2,20;15:7 <b>New (5)</b>			
		<b>O</b>		
		<b>object (1)</b> 23:18 <b>objection (25)</b> 8:1,20,22;12:5;13:3, 4;21:2;23:20;24:19; 25:20;26:14;35:25; 37:2,23;38:2,3,5;41:7; 48:16;50:24;54:1,12; 59:8;60:3;67:9 <b>objections (13)</b> 5:1,5,10,12,12,15,16; 7:3,13,22;8:2;23:22; 34:17 <b>objects (1)</b> 23:14 <b>obligation (1)</b> 24:17 <b>obliged (1)</b> 5:18 <b>obtain (1)</b> 32:25 <b>obtaining (1)</b>		



own (7) 4:9;41:6;49:20;50:3; 55:4;64:10,21	20:24;21:7,9,14,21; 22:1;23:7,14;24:8; 25:14;26:12,23,24; 27:9,25;28:14,16,22; 29:7,18,19;30:12;31:1, 2,33;12,24;34:2,17; 37:3;39:8,23,25;40:15; 41:11,18,19;43:21,23; 44:5,10,14,17,20; 45:25;46:1,9,13,18; 47:3,9;48:6,8;50:17,19, 21;52:16;53:14;54:12, 13;55:15,19,25;56:7,9, 15,19;58:6,14;59:3; 61:9,23;62:12,18,25; 63:10;64:8,23;67:1,1,2, 6	10:15;55:3,14;63:9 <b>persuade (1)</b> 28:12 <b>persuaded (1)</b> 33:6 <b>photographs (1)</b> 21:12 <b>piece (1)</b> 29:24 <b>pieces (1)</b> 14:24 <b>pierce (1)</b> 22:18 <b>piggybacked (1)</b> 62:22 <b>place (3)</b> 37:21;46:24;58:5 <b>plainly (1)</b> 6:9 <b>plaintiff (5)</b> 4:8,9;7:5;8:9;54:16 <b>plaintiffs (8)</b> 4:7;13:25;29:6;33:1, 3;60:16,17;65:8 <b>plaintiff's (4)</b> 13:19;30:13;33:1; 62:23 <b>plaintiffs' (4)</b> 13:19;17:8;49:13; 60:23 <b>planning (1)</b> 31:24 <b>played (3)</b> 13:20;17:10;62:14 <b>pleading (6)</b> 17:17;42:7,14;51:8, 10,11 <b>pleadings (1)</b> 13:12 <b>please (1)</b> 52:5 <b>plus (1)</b> 54:23 <b>pm (1)</b> 67:20 <b>point (17)</b> 9:3,22;10:21;16:17; 17:14;18:5;21:19;27:5; 36:25;39:10,19;40:17; 47:21;53:8;57:2;58:23; 67:12 <b>points (3)</b> 4:2;34:13;65:14 <b>poorly (2)</b> 44:3;47:9 <b>portions (1)</b> 14:9 <b>position (3)</b> 27:13;29:10,12 <b>positive (1)</b> 21:25 <b>possession (1)</b> 61:23	<b>possible (2)</b> 7:10;58:23 <b>possibly (3)</b> 6:4,5;48:20 <b>post-appellate (1)</b> 20:11 <b>post-judgment (3)</b> 19:8;20:10;21:1 <b>posture (2)</b> 6:21;8:5 <b>potential (4)</b> 13:7;28:2,24;48:12 <b>potentially (4)</b> 11:2;24:6;26:20; 58:9 <b>power (1)</b> 25:14 <b>PR (1)</b> 49:15 <b>practical (1)</b> 6:19 <b>practice (2)</b> 20:10,11 <b>practicing (1)</b> 34:25 <b>precluded (1)</b> 43:7 <b>predate (1)</b> 50:20 <b>predated (3)</b> 53:14;54:13;56:9 <b>predates (1)</b> 58:6 <b>predecessors (1)</b> 42:5 <b>predicate (2)</b> 48:10;51:18 <b>prejudice (4)</b> 7:5;12:14;13:2; 20:21 <b>premise (1)</b> 47:8 <b>premises (1)</b> 65:5 <b>preparation (7)</b> 13:11;14:25;16:11, 21;17:16;18:16;20:24 <b>prepared (2)</b> 22:12;39:4 <b>present (2)</b> 6:21;8:5 <b>pressure (1)</b> 23:9 <b>presumably (1)</b> 45:12 <b>pretty (3)</b> 38:20;40:23;57:13 <b>primarily (2)</b> 8:24;19:4 <b>principal (1)</b> 52:25 <b>prior (2)</b> 49:21;60:2	<b>private (1)</b> 49:6 <b>privilege (29)</b> 4:16,18,20,21,25; 5:4;6:7;8:5;12:7,9,24; 13:1;17:21;18:1,4,7; 22:18,19;23:16,16; 31:22;36:23;38:4; 53:17,18;56:22;63:2,3, 14 <b>privileged (8)</b> 9:18;11:17;12:1; 31:21;36:18;56:18; 58:8;63:18 <b>probable (2)</b> 58:20;59:1 <b>probably (5)</b> 3:15;11:4;45:3; 46:22;60:11 <b>probative (2)</b> 33:8;48:20 <b>problem (16)</b> 3:17;9:1;12:16; 20:19;24:12;25:18; 26:3;27:23;29:1,4,22; 30:4;32:18;39:14,16; 57:18 <b>problematic (1)</b> 39:17 <b>problems (2)</b> 16:22;24:22 <b>proceed (2)</b> 7:25;57:12 <b>proceeding (2)</b> 61:10;62:8 <b>proceedings (7)</b> 3:4;44:18,22;48:7,8; 65:18,19 <b>process (12)</b> 7:12,19;13:20;14:5; 15:16;16:8,17;17:10; 56:1;58:4;63:13;64:5 <b>processor (1)</b> 33:16 <b>procure (1)</b> 36:15 <b>procured (1)</b> 13:17 <b>produce (14)</b> 5:18;9:21;18:13,15; 23:24;25:14;28:6; 34:17;36:21;41:6;61:2, 4;62:13;64:7 <b>produced (4)</b> 25:24,24;61:3,5 <b>producing (2)</b> 28:4;29:19 <b>product (16)</b> 4:16,20;9:19;11:17; 12:18;13:24;14:19; 25:18;31:23;32:2;41:6; 46:16;53:18,19,19,20 <b>production (10)</b>
<b>P</b>	<b>Pause (12)</b> 20:1;26:17;27:15,19, 24;28:21;36:5;42:18; 51:24;52:8;66:15;67:8 <b>payment (3)</b> 28:2,24,24 <b>payroll (1)</b> 60:24 <b>Peck (1)</b> 67:2 <b>penalty (1)</b> 21:8 <b>pendency (1)</b> 44:2 <b>pending (3)</b> 4:10;47:2;62:8 <b>people (12)</b> 10:24,25;16:12; 23:21;26:11;30:13; 55:9,18;57:14;58:2; 63:6;66:24 <b>people's (1)</b> 24:5 <b>recipient (1)</b> 52:24 <b>perfection (1)</b> 24:24 <b>perfectly (3)</b> 22:12;26:15;57:21 <b>perform (2)</b> 24:1;42:11 <b>perhaps (1)</b> 59:12 <b>period (2)</b> 20:3;57:3 <b>perjury (1)</b> 21:9 <b>permit (1)</b> 15:14 <b>permitted (1)</b> 51:13 <b>person (2)</b> 35:3;58:16 <b>personal (1)</b> 10:11 <b>persons (4)</b>			

4:18;7:1,6,8;12:10; 15:21;26:1,6;35:11; 61:7	61:13	<b>received (1)</b> 8:13	26:6;28:13;37:2,7; 38:12,13,23;50:16	<b>representation (4)</b> 37:3,11,12,14
<b>productive (1)</b> 6:25	<b>pursuing (2)</b> 47:2;61:12	<b>recent (1)</b> 34:24	<b>relating (18)</b> 16:25;19:7;20:24; 22:23;23:2;25:7;28:1, 24:35;2;39:6,8;41:12, 21:42;4;50:22;56:14; 59:25;63:6	<b>representations (1)</b> 31:3
<b>productively (1)</b> 29:21	3:23;12:1;15:14; 16:3;17:23;21:13; 23:17;36:24;43:7;57:1	<b>recently (1)</b> 34:23	<b>relationship (1)</b> 47:4	<b>represents (2)</b> 26:11;61:9
<b>professionals (2)</b> 5:19;8:6	<b>putting (1)</b> 46:16	<b>recognized (1)</b> 44:1	<b>release (2)</b> 43:6;53:14	<b>Republic (2)</b> 37:3,12
<b>Progress (1)</b> 8:18	<b>put-up (1)</b> 46:10	<b>recommendation (1)</b> 46:18	<b>relevance (9)</b> 6:22;12:6;13:13; 23:11;36:7,12;48:19; 57:23;62:12	<b>request (21)</b> 7:8;9:14;10:2;12:12, 23:13;4;17:14,22;19:7; 24:16;37:6,9;38:7,12; 39:19;40:24;41:10; 44:24;50:16;56:23; 63:5
<b>proper (1)</b> 4:24	<b>Q</b>	<b>record (7)</b> 15:5,6,7;18:10,11, 14;43:7	<b>relevant (24)</b> 6:12;10:4;11:2; 23:19,23;27:7;29:17; 30:20;31:12;35:15; 36:18;43:8,19;44:4,21; 45:24;47:7,19;48:9,12; 53:2;61:1,17;63:1	<b>requested (2)</b> 12:4;17:20
<b>properly (3)</b> 4:21;10:6,9	<b>quite (3)</b> 19:16;38:8;48:20	<b>recordings (1)</b> 21:12	<b>reliance (1)</b> 65:16	<b>requests (3)</b> 25:9;28:22;60:8
<b>propose (1)</b> 39:15	<b>quote-unquote (1)</b> 10:24	<b>records (1)</b> 23:15	<b>relied (3)</b> 8:24;64:14;66:17	<b>require (2)</b> 7:5;22:17
<b>proposed (3)</b> 51:10,14;52:13	<b>quoting (1)</b> 64:4	<b>recruited (2)</b> 26:23;27:3	<b>religious (1)</b> 3:17	<b>requires (1)</b> 56:22
<b>proposes (1)</b> 8:4	<b>R</b>	<b>redacted (5)</b> 9:18;10:1;11:3,11; 28:7	<b>rely (1)</b> 64:13	<b>resolution (1)</b> 5:5
<b>proposition (1)</b> 58:12	<b>raise (2)</b> 20:15;25:22	<b>redaction (1)</b> 28:10	<b>relying (1)</b> 65:11	<b>resolves (2)</b> 38:2,3
<b>prosecuted (1)</b> 46:1	<b>raised (4)</b> 16:20;20:19;42:1,3	<b>redrafting (1)</b> 14:15	<b>remains (2)</b> 4:10;25:13	<b>resolving (1)</b> 6:17
<b>prosecution (2)</b> 43:18;44:11	<b>ran (2)</b> 49:2;62:15	<b>reduce (2)</b> 18:6;32:12	<b>remarkable (1)</b> 14:8	<b>resources (1)</b> 6:15
<b>prosecutions (1)</b> 46:21	<b>Rana (1)</b> 60:14	<b>reference (3)</b> 51:3,16;64:22	<b>remediated (1)</b> 50:9	<b>respect (13)</b> 5:22;13:6;22:19,22; 25:3;48:5;52:10,19; 53:13;54:16;57:16,18; 62:25
<b>prosecutor (1)</b> 47:2	<b>rather (3)</b> 6:21;22:11;38:20	<b>referred (1)</b> 14:17	<b>remediation (4)</b> 42:6;51:11,16;53:14	<b>respects (6)</b> 4:21;5:4,20;19:21; 46:22;50:2
<b>prospects (1)</b> 19:11	<b>reached (5)</b> 9:3;21:4;46:19; 64:20;65:4	<b>referring (3)</b> 24:8;42:7;67:6	<b>remember (1)</b> 58:11	<b>respond (5)</b> 22:10;37:19;39:4; 50:19;52:11
<b>protected (3)</b> 4:15;53:17,18	<b>read (2)</b> 12:14;60:5	<b>refers (1)</b> 54:25	<b>rendered (1)</b> 66:20	<b>respondent's (1)</b> 24:17
<b>protection (1)</b> 32:2	<b>realize (2)</b> 31:11;54:20	<b>reflect (5)</b> 13:18;15:3;16:10; 35:13;46:12	<b>repeated (1)</b> 17:25	<b>responding (1)</b> 48:1
<b>protective (4)</b> 28:23;29:3,4,22	<b>really (23)</b> 3:12;6:5;7:18;10:7, 14,24;11:24;12:5;16:7; 19:2,20;20:14;26:8; 27:6;37:5,7;46:19; 48:14;49:16;57:5; 60:23;64:12,15	<b>reflected (1)</b> 44:3	<b>repeatedly (1)</b> 20:15	<b>responses (1)</b> 8:2
<b>prove (3)</b> 33:4;58:19,20	<b>reason (12)</b> 7:9;23:3;25:2,4; 29:15;30:9;33:22;38:1, 10;44:19;48:21;57:17	<b>reflecting (1)</b> 43:25	<b>report (6)</b> 38:14;58:13;60:19, 22:62;21;65:8	<b>responsible (1)</b> 19:4
<b>proves (1)</b> 50:11	<b>reasonable (7)</b> 24:1,14,18,18,21; 57:21;58:15	<b>reflects (1)</b> 47:9	<b>reported (1)</b> 29:11	<b>result (2)</b> 27:1;47:24
<b>provide (4)</b> 9:17;14:7;21:24; 31:2	<b>reasonably (1)</b> 48:18	<b>refusing (2)</b> 61:2;62:12	<b>reports (6)</b> 20:7;60:1;62:19; 64:19,19,25	<b>results (2)</b> 49:2;53:12
<b>provided (2)</b> 13:15;20:16	<b>reasoning (1)</b> 52:12	<b>regard (5)</b> 4:25;10:9;15:18; 39:9;62:13	<b>represent (1)</b> 10:3	<b>resume (3)</b>
<b>providencia (1)</b> 38:15	<b>reasons (4)</b> 4:19;6:13;16:6; 45:18	<b>regarding (1)</b> 37:9		
<b>providing (1)</b> 31:16	<b>recall (2)</b> 10:20;49:19	<b>rejecting (1)</b> 53:6		
<b>pull (1)</b> 42:19		<b>relate (5)</b> 23:10;26:21;39:2; 40:4;50:20		
<b>pulling (2)</b> 32:9;42:15		<b>related (11)</b> 7:17;11:15;17:15; 18:15;32:22;37:15; 38:21,22;51:20;55:22; 56:16		
<b>pure (1)</b> 31:15		<b>relates (8)</b>		
<b>purely (2)</b> 6:22;41:18				
<b>purports (1)</b> 64:13				
<b>pursue (1)</b>				

3:11,14;67:13 <b>resuscitate (1)</b> 56:3 <b>retainer (2)</b> 9:17;28:6 <b>retention (5)</b> 10:1,17;11:3,11;19:3 <b>reveal (1)</b> 29:5 <b>revealed (2)</b> 16:1;31:23 <b>review (4)</b> 12:10,11;56:22; 57:11 <b>reviewing (2)</b> 8:13;44:20 <b>reviews (1)</b> 64:3 <b>rewrote (1)</b> 14:17 <b>rhetorical (1)</b> 62:3 <b>RICO (18)</b> 10:15,22;23:11; 26:20;27:7;28:14,16; 31:12;34:5;36:15; 47:10;48:9,11,25,25; 50:11;51:18;62:24 <b>right (44)</b> 3:13,22;8:15,17; 11:7,17;20:2;26:9; 28:19;30:4;32:20; 35:19,24;36:11;37:14, 23;38:8;39:1,18;40:7; 42:23,25;43:13,22; 44:16;45:9,10;46:5; 48:5;52:9,25;53:2; 54:15;55:16;56:24; 57:5,24;59:15;60:9,20; 61:15;63:10;65:21; 67:12 <b>risk (1)</b> 18:25 <b>role (6)</b> 13:21;14:3;17:8,10; 46:2;62:14 <b>room (1)</b> 49:3 <b>rule (4)</b> 5:15;6:10;7:21; 63:12 <b>ruled (1)</b> 63:13 <b>ruling (9)</b> 5:14;18:2;25:3,6; 38:14;59:15;60:9,13; 64:3 <b>rulings (8)</b> 6:18,22;7:4;12:8; 38:19;53:9;60:2;61:13 <b>run (1)</b> 46:6 <b>running (2)</b>	10:23;49:4  <b>S</b> <b>salvage (3)</b> 56:3;63:23;64:10 <b>same (10)</b> 25:17;35:25;36:12; 54:12;59:16,17;60:9; 61:4,12,18 <b>Sand (1)</b> 49:7 <b>satisfied (1)</b> 48:13 <b>save (2)</b> 18:3;34:17 <b>saw (2)</b> 19:4;52:24 <b>saying (7)</b> 16:12;19:19;29:19; 39:12;40:11;46:11; 57:15 <b>scale (1)</b> 36:16 <b>scene (4)</b> 46:2;53:15;55:19; 58:18 <b>schedule (2)</b> 45:13;67:10 <b>scheduled (2)</b> 3:9;59:6 <b>scheme (5)</b> 31:5,10;34:5,5;43:20 <b>school (1)</b> 34:1 <b>science (1)</b> 50:13 <b>scientific (2)</b> 49:18;50:2 <b>scope (13)</b> 4:24;6:20;7:3;10:2, 2;11:2;18:3;26:21; 27:7;32:12;37:6,21; 60:2 <b>search (14)</b> 6:8;24:1,5,11,14,18, 18,21,23;45:3,6;47:24; 50:19;56:11 <b>Searching (4)</b> 24:4;44:25;45:1,2 <b>second (5)</b> 19:24;24:16;46:13; 66:19,21 <b>Secondly (2)</b> 4:13;5:22 <b>secretaries (5)</b> 5:21;8:21,23;9:5,9 <b>Section (1)</b> 52:23 <b>sections (1)</b> 14:18 <b>seed (3)</b> 31:2;33:11,14	<b>seek (2)</b> 41:17;61:25 <b>seeking (5)</b> 7:5;13:10;23:1; 52:15;61:18 <b>seem (2)</b> 6:25;46:13 <b>seems (4)</b> 6:25;22:3;23:23; 45:23 <b>Selva (1)</b> 49:2 <b>sense (1)</b> 40:21 <b>sensible (1)</b> 5:2 <b>sensitive (1)</b> 28:7 <b>sentencia (1)</b> 38:14 <b>separate (6)</b> 18:16;21:8;24:15; 37:2,7,11 <b>separately (2)</b> 9:6,6 <b>September (1)</b> 67:20 <b>serious (1)</b> 10:5 <b>serve (1)</b> 9:9 <b>served (4)</b> 4:5;5:1;35:4;60:5 <b>server (1)</b> 9:7 <b>serves (1)</b> 40:11 <b>set (1)</b> 24:4 <b>settlement (1)</b> 43:6 <b>settling (3)</b> 55:1,2,5 <b>several (3)</b> 6:12;41:1;50:16 <b>shakedown (1)</b> 23:9 <b>shock (1)</b> 65:2 <b>shocked (1)</b> 40:22 <b>shortly (1)</b> 5:15 <b>show (8)</b> 13:23;14:20;15:5; 18:12;31:1;33:4,12; 34:12 <b>showed (1)</b> 50:4 <b>shown (1)</b> 53:20 <b>shows (2)</b> 14:2;50:10	<b>side (5)</b> 13:19;33:2;55:4; 57:1;62:1 <b>sign (1)</b> 60:12 <b>signed (1)</b> 21:8 <b>significance (1)</b> 45:16 <b>significant (2)</b> 56:22;58:14 <b>silly (1)</b> 26:8 <b>similarity (1)</b> 14:8 <b>simple (1)</b> 53:12 <b>simply (1)</b> 63:19 <b>single (3)</b> 21:14;39:25;55:24 <b>situation (2)</b> 52:15;62:5 <b>six (1)</b> 64:25 <b>slightest (1)</b> 57:9 <b>slightly (2)</b> 8:7;60:12 <b>small (1)</b> 47:25 <b>smoke (1)</b> 49:24 <b>Snaider (1)</b> 34:20 <b>Snaider's (1)</b> 35:23 <b>snookered (1)</b> 33:7 <b>so-called (6)</b> 11:6;16:3;20:25; 31:3;54:24;65:15 <b>solve (2)</b> 12:15;39:15 <b>solves (1)</b> 30:4 <b>somebody (4)</b> 29:18;31:16;45:12; 46:9 <b>somehow (2)</b> 14:20;47:6 <b>someone (1)</b> 31:17 <b>someplace (1)</b> 30:1 <b>sometimes (2)</b> 33:20,21 <b>soothsayer (1)</b> 40:21 <b>sorry (5)</b> 14:6;15:2;27:14; 63:9;66:2 <b>sought (4)</b>	4:15;5:6;6:23;62:7 <b>Southern (1)</b> 65:24 <b>sovereign (3)</b> 36:19;37:1,22 <b>speak (1)</b> 9:15 <b>specific (4)</b> 5:5;17:19;38:6; 39:13 <b>specifically (2)</b> 20:5;40:9 <b>specifications (5)</b> 5:2,25;6:24;7:4,13 <b>specifics (1)</b> 56:6 <b>specify (1)</b> 38:19 <b>speculation (1)</b> 31:15 <b>speculative (1)</b> 32:12 <b>spent (1)</b> 41:19 <b>spoke (1)</b> 17:18 <b>stake (1)</b> 6:16 <b>stand (1)</b> 66:25 <b>standard (2)</b> 29:22;58:16 <b>standards (3)</b> 61:15,16,21 <b>starkly (1)</b> 19:1 <b>start (2)</b> 7:25;21:11 <b>started (1)</b> 3:22 <b>starts (1)</b> 3:13 <b>stated (1)</b> 37:5 <b>statement (3)</b> 8:11;14:16;38:14 <b>States (3)</b> 24:9;29:9;46:23 <b>stay (1)</b> 39:10 <b>step (1)</b> 21:25 <b>sticking (1)</b> 45:5 <b>still (3)</b> 12:23;17:21;56:22 <b>stop (2)</b> 20:22;46:14 <b>stopped (2)</b> 31:1,16 <b>stopping (1)</b> 35:16 <b>story (2)</b>
--	---	---	--	---

15:24,24 <b>straightforward (1)</b> 40:23 <b>strategy (6)</b> 11:20;19:22;23:8,9; 31:24;35:6 <b>Stratus (2)</b> 15:12;49:7 <b>strike (1)</b> 6:4 <b>striking (1)</b> 13:6 <b>strongly (1)</b> 35:12 <b>structure (2)</b> 26:22;27:7 <b>student (1)</b> 34:2 <b>stuff (3)</b> 58:1;60:5;63:10 <b>style (1)</b> 14:4 <b>subject (11)</b> 3:8;11:5;12:24; 23:15;38:2,3;42:13; 47:18;58:22;64:11; 65:18 <b>subjects (1)</b> 23:3 <b>submission (3)</b> 15:13;18:24;54:4 <b>submissions (2)</b> 16:25;59:18 <b>submit (1)</b> 20:7 <b>submitted (7)</b> 13:25;14:1,16,20; 15:7;16:2,20 <b>subpoena (17)</b> 4:4,13,17,24;5:2,7, 10,13,25;6:2,20;8:2; 32:13;44:24;48:2; 52:12;60:6 <b>subpoenaed (1)</b> 62:6 <b>subsequent (1)</b> 15:1 <b>subsequently (2)</b> 19:8;49:14 <b>substantial (7)</b> 3:4;4:23;6:4;7:18; 9:3;19:21;59:14 <b>substantially (1)</b> 4:15 <b>sufficiently (1)</b> 45:17 <b>suggest (3)</b> 32:22;46:7;47:15 <b>suggested (3)</b> 24:2,10;53:25 <b>summary (2)</b> 58:11,19 <b>support (2)</b>	34:7;50:1 <b>supporting (1)</b> 52:22 <b>Suppose (2)</b> 12:12;42:8 <b>supposedly (1)</b> 10:23 <b>Sure (5)</b> 9:25;22:16;25:15; 41:9;54:22 <b>surely (1)</b> 40:14 <b>surprising (2)</b> 57:9,11 <b>suspect (2)</b> 39:16;58:16 <b>suspicious (1)</b> 41:5 <b>sustain (4)</b> 7:3;23:20;33:22; 38:1 <b>sustained (5)</b> 21:2;34:10;35:7; 36:3;54:1 <b>sustaining (1)</b> 34:16 <b>sweep (1)</b> 53:2 <b>system (1)</b> 56:15	45:6 <b>terminate (1)</b> 7:21 <b>terminating (1)</b> 40:13 <b>terms (8)</b> 24:11,23;26:4;35:11; 44:25;45:1,2;57:15 <b>terrorists (1)</b> 29:10 <b>test (1)</b> 49:2 <b>testified (1)</b> 65:1 <b>testifying (1)</b> 63:3 <b>testimony (1)</b> 49:7 <b>testing (4)</b> 49:1;50:3,3;54:7 <b>tests (2)</b> 49:8,18 <b>Texaco (2)</b> 50:8,14 <b>Texpet (1)</b> 53:14 <b>thereafter (1)</b> 19:2 <b>thereby (1)</b> 34:6 <b>therefore (3)</b> 10:8;36:20;47:23 <b>Third (2)</b> 6:3;34:10 <b>Thirdly (1)</b> 4:23 <b>third-party (5)</b> 30:11;31:12;33:5,7, 22 <b>though (4)</b> 4:10;29:13;62:13,17 <b>thought (3)</b> 51:7,8;54:8 <b>three (4)</b> 17:18;39:12;60:11; 66:23 <b>thumb (1)</b> 36:16 <b>Thursday (2)</b> 67:13,20 <b>thus (2)</b> 7:17;9:8 <b>times (3)</b> 21:11;22:23;34:21 <b>timing (2)</b> 46:21;54:13 <b>today (7)</b> 4:4;5:16;6:6;7:4; 13:1;18:2,2 <b>today's (1)</b> 3:4 <b>told (3)</b> 3:12;39:17;62:20	<b>took (3)</b> 14:19;19:21;53:11 <b>tooth (2)</b> 15:20;61:3 <b>top (1)</b> 56:13 <b>touching (1)</b> 31:19 <b>towns (1)</b> 21:16 <b>transcript (1)</b> 67:4 <b>transparency (3)</b> 16:16,18;17:12 <b>transparent (1)</b> 63:24 <b>transparently (1)</b> 19:16 <b>travel (7)</b> 21:7,16;23:2,10,15; 24:5;25:8 <b>traveled (2)</b> 21:9,14 <b>trial (1)</b> 17:3 <b>tried (1)</b> 56:3 <b>trip (1)</b> 22:22 <b>trouble (1)</b> 45:17 <b>true (3)</b> 34:1;44:17;48:4 <b>trumpet (1)</b> 50:5 <b>trumpeted (1)</b> 50:5 <b>try (13)</b> 5:9;12:2;15:4,15; 16:4,8,21;19:10;31:4; 34:7;62:16;63:22;64:9 <b>trying (9)</b> 11:19;14:3;20:12,14; 22:4;32:12;44:7;45:25; 61:5 <b>turned (1)</b> 16:4 <b>turns (1)</b> 49:21 <b>two (18)</b> 5:13;8:11;15:9; 17:18;23:22;24:15; 39:12;43:11;45:18,21, 23;47:22;51:17,21; 56:24;62:19;64:22,25 <b>twofold (1)</b> 4:14 <b>type (2)</b> 47:18,24 <b>types (1)</b> 24:14	<b>U</b> <b>UBR (4)</b> 60:15;61:9;63:9,9 <b>UBR-related (1)</b> 61:6 <b>Uhl (1)</b> 60:14 <b>ultimately (5)</b> 7:1;9:8;20:3;51:21; 63:12 <b>unclear (1)</b> 9:19 <b>under (5)</b> 19:3;21:8;35:22; 48:11;52:23 <b>underlay (1)</b> 38:7 <b>understood (7)</b> 6:9,19;18:8,18; 28:20;30:6;37:15 <b>undue (2)</b> 5:24;6:2 <b>unduly (1)</b> 4:18 <b>unfolded (1)</b> 48:7 <b>unhelpful (1)</b> 46:23 <b>unique (1)</b> 5:25 <b>United (3)</b> 24:9;29:9;46:23 <b>universe (3)</b> 15:23;45:20;54:24 <b>unkind (1)</b> 17:25 <b>Unless (5)</b> 6:18;7:9;25:2;59:6; 60:12 <b>unnecessary (1)</b> 46:23 <b>unraveling (1)</b> 16:9 <b>unreasonable (1)</b> 58:23 <b>unrelated (1)</b> 37:11 <b>unusual (1)</b> 62:5 <b>unwilling (1)</b> 24:12 <b>up (19)</b> 9:13;11:16,24;13:23; 14:2,20;16:17;19:25; 20:14;24:5,10;42:15, 19;46:17;54:2,11;57:5; 62:14;63:23 <b>use (2)</b> 29:21,24 <b>used (5)</b> 8:24;24:7;49:3;
	<b>T</b>			
	<b>table (1)</b> 66:24 <b>tainted (1)</b> 65:9 <b>talk (2)</b> 56:6,20 <b>talked (1)</b> 38:8 <b>talking (7)</b> 6:5;18:2,3;20:2; 49:20;55:10;57:13 <b>target (1)</b> 24:6 <b>targeted (1)</b> 40:24 <b>team (9)</b> 17:8;30:13;40:25; 44:2;49:13;55:11; 59:25;60:1,23 <b>technical (2)</b> 55:11;60:23 <b>tecum (1)</b> 4:5 <b>telling (2)</b> 47:3;57:11 <b>tells (2)</b> 15:24;58:7 <b>temporarily (1)</b> 20:23 <b>term (1)</b>			

63:20;65:7 <b>useful (1)</b> 3:23 <b>using (2)</b> 30:1;45:3	<b>What's (2)</b> 9:1;47:1 <b>whitewash (2)</b> 62:16;63:16 <b>whole (8)</b> 14:18;21:10;49:15, 15:57:2,14;63:12;64:5	60:21;62:19	43:13 <b>18 (3)</b> 54:2,11,11 <b>186 (3)</b> 5:1,5,24 <b>19 (5)</b> 54:10,19;59:24; 60:10;67:4 <b>199 (2)</b> 51:19;52:7	<b>5</b>
<b>V</b>	<b>widely (1)</b> 44:1 <b>willing (1)</b> 39:3 <b>win (2)</b> 16:22;19:12 <b>wish (2)</b> 8:23;26:18 <b>withdrawn (1)</b> 25:12 <b>withdrew (2)</b> 30:16;33:2 <b>within (4)</b> 4:3;56:15;60:2;62:8 <b>without (15)</b> 4:21,25;7:4,22;8:10; 10:16;12:14,22;13:2; 20:21;33:11,11,16; 34:3;57:12 <b>witness (3)</b> 50:21;52:14,24 <b>won (1)</b> 19:11 <b>word (5)</b> 14:21,21;22:14; 33:16;45:4 <b>words (2)</b> 13:6;38:25 <b>work (24)</b> 4:16,20;9:19;11:16, 17;12:17;13:24;17:3; 24:20;25:18;31:23; 32:1;39:23;41:6;46:16; 53:18,19,19,20;55:18; 62:17;63:6;64:21;65:6 <b>worked (3)</b> 8:7,8;17:10 <b>working (5)</b> 5:19;26:11,12;60:16; 64:23 <b>works (1)</b> 11:20 <b>world (7)</b> 10:23;29:12,14; 33:23,24;50:5,6 <b>worry (1)</b> 49:23 <b>worth (1)</b> 7:19 <b>write (1)</b> 66:9 <b>writing (4)</b> 38:15,23,25;40:24 <b>written (4)</b> 4:2;13:17;41:16,17 <b>wrote (2)</b>	<b>years (1)</b> 50:8 <b>Yennock (1)</b> 67:1 <b>York (1)</b> 10:13 <b>YOUNG (92)</b> 9:15,16;11:12,13; 12:12,17,22;17:13,14; 18:8,18,23;21:6;22:6, 7;23:21,25;25:14,17; 26:1;27:16,25;28:6,11, 13,16,20;29:6;30:5,6; 31:14,15,23;32:3,6,11, 18;35:22,25;36:22; 37:1,15,18,24;38:3,12, 18;39:1,7,22;40:3; 41:8,10,17;44:9,10,17; 45:2,7,24;47:20,22; 48:5;50:15,16,25;52:9, 10;53:4;54:12;56:4,5; 57:7,22;58:6;61:8,9,16, 22;62:1,5;65:13,14,24; 66:2,4,7,12,16,23,25; 67:6	<b>2</b> <b>2 (2)</b> 3:18;13:5 <b>2:15 (2)</b> 67:13,20 <b>2:30 (1)</b> 3:10 <b>20 (4)</b> 50:8;55:14;59:9; 67:4 <b>2009 (1)</b> 19:23 <b>2010 (7)</b> 18:23;19:2,5,20; 20:3,9;57:20 <b>2012 (1)</b> 67:20 <b>21 (1)</b> 59:22 <b>213 (2)</b> 51:20;52:7 <b>22 (2)</b> 56:13;60:14 <b>23 (1)</b> 62:10 <b>24th (1)</b> 4:20 <b>26b2C (1)</b> 6:10 <b>27 (1)</b> 67:20	<b>5 (1)</b> 23:21 <b>50 (3)</b> 5:19;8:7,8 <b>50-hour (1)</b> 8:13 <b>52 (1)</b> 5:1 <b>561 (1)</b> 51:12 <b>567-1 (1)</b> 51:12
		<b>1</b>	<b>2</b>	<b>6</b>
		<b>1 (2)</b> 9:14;41:4 <b>10 (5)</b> 32:17,18,23;34:17; 35:12 <b>11 (1)</b> 34:19 <b>11,000-plus (1)</b> 56:16 <b>12 (2)</b> 35:21,22 <b>128 (1)</b> 51:12 <b>13 (1)</b> 36:4 <b>138 (1)</b> 51:12 <b>14 (3)</b> 38:6;41:11;59:14 <b>15 (7)</b> 41:23;43:2;51:5,6; 52:9,10;54:1 <b>16 (3)</b> 42:23;43:11;54:8 <b>17 (3)</b> 48:23;54:3,4 <b>1782 (11)</b> 19:22;25:25;46:20; 47:23;52:23;61:3,10, 24;62:8;65:18,25 <b>1782s (1)</b>	<b>3</b> <b>3 (3)</b> 3:15,18;21:4 <b>33,000 (1)</b> 56:14 <b>34-defendant (1)</b> 3:9 <b>37 (2)</b> 5:11;9:13	<b>6 (1)</b> 25:1 <b>67 (1)</b> 67:4 <b>69 (2)</b> 51:19;52:7
			<b>4</b>	<b>7</b>
<b>W</b>				<b>7 (2)</b> 8:1;25:12
<b>wants (1)</b> 22:7 <b>waste (1)</b> 7:23 <b>way (10)</b> 22:23;33:23;39:15, 24;40:9;46:7;52:16; 53:22,23;63:24 <b>ways (2)</b> 13:17;24:2 <b>weighed (1)</b> 39:25 <b>Weinberg (4)</b> 64:23;65:22;66:7,9 <b>welcome (1)</b> 3:6 <b>weren't (2)</b> 65:9,11 <b>Westenberger (2)</b> 67:1,3				<b>8</b>
				<b>8 (2)</b> 5:16;8:1
				<b>9</b>
				<b>9 (6)</b> 5:17;8:20;26:16; 32:23;34:17;35:11



# **EXHIBIT 9**



## Microsoft Online Privacy Statement

(last updated April 2012)

[view the privacy statement highlights](#)

### On This Page

- ↓ [Collection of Your Personal Information](#)
- ↓ [Use of Your Personal Information](#)
- ↓ [Sharing of Your Personal Information](#)
- ↓ [Accessing Your Personal Information](#)
- ↓ [Communication Preferences](#)
- ↓ [Display of Advertising \(Opt-Out\)](#)
- ↓ [Security of Your Personal Information](#)
- ↓ [Collection and Use of Children's Personal Information](#)
- ↓ [Use of Cookies](#)
- ↓ [Use of Web Beacons](#)
- ↓ [Controlling Unsolicited E-mail \("Spam"\)](#)
- ↓ [TRUSTe Certification](#)
- ↓ [Enforcement of This Privacy Statement](#)
- ↓ [Changes to This Privacy Statement](#)
- ↓ [How to Contact Us](#)

We self-certify compliance with:



This privacy statement applies to websites and services of Microsoft that collect data and display these terms, as well as its offline product support services. It does not apply to those Microsoft sites, services and products that do not display or link to this statement or that have their own privacy statements.

Please read the Microsoft Online Privacy Statement below and also any supplemental information listed to the right for further details about particular Microsoft sites and services you use. Some products, services

or features mentioned in this statement may not be available in all markets at this time. Additional information on Microsoft's commitment to protecting your privacy can be found at <http://www.microsoft.com/privacy>.

### Collection of Your Personal Information

We collect information as part of operating our Websites and services.

- At some Microsoft sites, we ask you to provide personal information, such as your e-mail address, name, home or work address, or telephone number. We may also collect demographic information, such as your ZIP code, age, gender, preferences, interests and favorites. If you choose to make a purchase or sign up for a paid subscription service, we will ask for additional information, such as your credit card number and billing address.
- In order to access some Microsoft services, you will be asked to sign in with an e-mail address and password, which we refer to as your Microsoft account. By signing in on one Microsoft site or service, you may be automatically signed into other Microsoft sites and services that use Microsoft account. For more information, see the Windows Live ID privacy supplement.
- We collect additional information about your interaction with Microsoft sites and services without identifying you as an individual. For example, we receive certain standard information that your browser sends to every website you visit, such as your IP address, browser type and language, access times and referring Web site addresses. We also use Web site analytics tools on our sites to retrieve information from your browser, including the site you came from, the search engine(s) and the keywords you used to find our site, the pages you view within our site, your browser add-ons, and your browser's width and height.
- We use technologies, such as cookies and web beacons (described below), to collect information about the pages you view, the links you click and other actions you take on our sites and services.
- We also deliver advertisements (see the Display of Advertising section below) and provide Web site analytics tools on non-Microsoft sites and services, and we collect information about page views on these third party sites as well.
- When you receive newsletters or promotional e-mail from Microsoft, we may use web beacons (described below), customized links or similar technologies to determine whether the e-mail has been opened and which links you click in order to provide you more focused e-mail communications or other information.

In order to offer you a more consistent and personalized experience in your interactions with Microsoft, information collected through one Microsoft service may be combined with information obtained through other Microsoft services. We may also supplement the information we collect with information obtained from other companies. For example, we may use services from other companies that enable us to derive a general geographic area based on your IP address in order to customize certain services to your geographic area.

↑ [Top of page](#)

### Use of Your Personal Information

Microsoft collects and uses your personal information to operate and improve its sites and services. These uses include providing you with more effective customer service;

#### Supplemental Privacy Information

- [Bing](#)
- [Messenger](#)
- [Microsoft Advertising](#)
- [Microsoft Employment Candidates](#)
- [Microsoft Tag Reader](#)
- [MSN](#)
- [Office.com](#)
- [Support Services](#)
- [Windows Live](#)
- [Windows Live ID](#)
- [WindowsMedia.com](#)
- [Xbox LIVE, Games for Windows LIVE and Xbox.com](#)

#### Related Links

- [FTC Privacy Initiatives](#)
- [Security at Home](#)
- [Silverlight Privacy Statement](#)
- [Trustworthy Computing](#)

making the sites or services easier to use by eliminating the need for you to repeatedly enter the same information; performing research and analysis aimed at improving our products, services and technologies; and displaying content and advertising that are customized to your interests and preferences. For more information about the use of information for advertising, see the [Display of Advertising](#) section below.

We also use your personal information to communicate with you. We may send certain mandatory service communications such as welcome letters, billing reminders, information on technical service issues, and security announcements. Some Microsoft services, such as Windows Live Hotmail, may send periodic member letters that are considered part of the service. Additionally, with your permission, we may also occasionally send you product surveys or promotional mailings to inform you of other products or services available from Microsoft and its affiliates, and/or share your personal information with Microsoft partners so they may send you information about their products and services. You can opt-out from receiving newsletters or promotional e-mail anytime by using this web form or by following the steps as described in the respective newsletter or promotional e-mail.

Personal information collected on Microsoft sites and services may be stored and processed in the United States or any other country in which Microsoft or its affiliates, subsidiaries or service providers maintain facilities. Microsoft abides by the U.S.-EU Safe Harbor Framework and the U.S.-Swiss Safe Harbor Framework as set forth by the U.S. Department of Commerce regarding the collection, use, and retention of data from the European Economic Area, and Switzerland. To learn more about the Safe Harbor program, and to view our certification, please visit <http://www.export.gov/safeharbor>.

↑ [Top of page](#)

## Sharing of Your Personal Information

Except as described in this statement, we will not disclose your personal information outside of Microsoft and its controlled subsidiaries and affiliates without your consent. Some Microsoft sites allow you to choose to share your personal information with select Microsoft partners so that they can contact you about their products, services or offers. Other sites, such as MSN instead may give you a separate choice as to whether you wish to receive communications from Microsoft about a partner's particular offering (without transferring your personal information to the third party). See the Communication Preferences section below for more information.

Some Microsoft services are co-branded by Microsoft and another company (partner). If you register to or use such a service, both a Microsoft privacy statement and the partner's privacy statement may be displayed. If so, both Microsoft and the partner will receive information you provide such as on registration forms.

Microsoft occasionally hires other companies (vendor) to provide limited services on our behalf, such as handling the processing and delivery of mailings, providing customer support, hosting websites, processing transactions, or performing statistical analysis of our services. Those service providers will be permitted to obtain only the personal information they need to deliver the service. They are required to maintain the confidentiality of the information and are prohibited from using it for any other purpose than for delivering the service to Microsoft in accordance with Microsoft's instructions and policies. However, our vendors may use aggregate data for fraud detection to help improve their services. This helps them to more accurately detect fraudulent transactions. We may access or disclose information about you, including the content of your communications, in order to: (a) comply with the law or respond to lawful requests or legal process; (b) protect the rights or property of Microsoft or our customers, including the enforcement of our agreements or policies governing your use of the services; or (c) act on a good faith belief that such access or disclosure is necessary to protect the personal safety of Microsoft employees, customers or the public. We may also disclose personal information as part of a corporate transaction such as a merger or sale of assets.

↑ [Top of page](#)

## Accessing Your Personal Information

Some Microsoft services give you the ability to view or edit your personal information online. To help prevent your personal information from being viewed by others, you first will be required to sign in. The method(s) for accessing your personal information will depend on which sites or services you have used.

- **Microsoft.com** - You can access and update your profile on microsoft.com by visiting the [Microsoft.com Profile Center](#).
- **Microsoft Billing and Account Services** - If you have a Microsoft Billing account, you can add to or update your information at the [Microsoft Billing Web site](#) by clicking on the "Personal Information" or "Billing Information" links.
- **Microsoft Connect** - If you are a registered user of Microsoft Connect, you can access and edit your personal information by clicking [Manage Your Connect Profile](#) at the Microsoft Connect Web site.
- **Windows Live** - If you have used Windows Live services, you can update your profile information, change your password, view the unique ID associated with your credentials, or close certain accounts by visiting Windows Live [Account Services](#).
- **Windows Live Public Profile** - If you have created a public profile on Windows Live, you may also edit or delete information in your public profile by going to your [Windows Live profile](#).
- **Search Advertising** - If you buy search advertising through Microsoft Advertising, you can review and edit your personal information at the [Microsoft adCenter Web site](#).
- **Microsoft Partner Programs** - If you are registered with Microsoft Partner Programs, you can review and edit your profile by clicking [Manage Your Account](#) on the Partner Program Web site.
- **Xbox** - If you are a Xbox LIVE or Xbox.com user, you can view or edit your personal information, including billing and account information, privacy settings, online safety and data sharing preferences by accessing [My Xbox](#) on the Xbox 360 console or on the Xbox.com website. For account information select My Xbox, Accounts. For other personal information settings, select My Xbox, Profile then Online Safety Settings.
- **Zune** - If you have a Zune account or a Zune Pass subscription, you can view and edit your personal information at [Zune.net](#) (sign in, access your Zune tag then My Account or through the Zune software, (sign in, access your Zune tag, then select Zune.net profile.)"

In case you cannot access personal data collected by Microsoft sites or services via the links above, these sites and services may provide you with alternative means of access to your data. In any case, you can contact Microsoft by using the [web form](#).

↑ [Top of page](#)

## Communication Preferences

You can stop the delivery of future promotional e-mail from Microsoft sites and services by following the specific instructions in the e-mail you receive.

Depending on the respective service, you may also have the option of proactively making choices about the receipt of promotional e-mail, telephone calls, and postal mail from particular Microsoft sites or services by visiting and signing into the following pages:

- Microsoft's [Promotional Communications Manager](#) allows you to update contact information, manage Microsoft-wide contact preferences, opt out of subscriptions, and choose whether to share your contact information with Microsoft partners. If you do not have a Microsoft account, you can manage your Microsoft email communication preferences by using this [web form](#).
- The [Microsoft.com Profile Center](#) allows you to choose whether you wish to receive marketing communications from Microsoft.com, to select whether Microsoft.com may share your contact information with selected third parties, and to subscribe or unsubscribe to newsletters about our products and services.



- The [MSN & Windows Live Communications Preferences](#) page allows you to choose whether you wish to receive marketing material from MSN or Windows Live. You may subscribe and unsubscribe to MSN Newsletters by going to the [MSN Newsletters website](#).
- If you have an Xbox.com or Xbox LIVE account, you can set your contact preferences and choose whether to share your contact information with Xbox partners by accessing [My Xbox](#) on the Xbox 360 console or on the Xbox.com website. To access these settings on the Xbox.com website, select My Xbox, Profile then Contact Preferences. On the Xbox 360 console, select My Xbox, Profile then Online Safety.
- If you are registered with Microsoft Partner Programs, you can set your contact preferences or choose to share your contact information with other Microsoft partners by clicking [Manage Your Account](#) on the Partner Program Web site.
- If you have a Zune account or a Zune Pass subscription, you can set your contact preferences and choose whether to share your contact information with Zune partners at [Zune.net](#) (sign in, access your Zune tag then My Account, Newsletter options or through the Zune software (sign in, access your Zune tag, then select Zune.net profile.)

In any case, you can inform Microsoft by using this web form about your wish to stop the delivery of future promotional e-mail. These choices do not apply to the display of online advertising: please refer to the section "Display of Advertising (Opt-out)" for information on this matter. Nor do they apply to the receipt of mandatory service communications that are considered part of certain Microsoft services, which you may receive periodically unless you cancel the service.

↑ [Top of page](#)

## Display of Advertising (Opt-Out)

Many of our Web sites and online services are supported by advertising.

Most of the online advertisements on Microsoft sites are displayed by Microsoft Advertising. When we display online advertisements to you, we will place one or more persistent cookies on your computer in order to recognize your computer each time we display an ad to you. Because we serve advertisements on our own websites as well as those of our advertising and publisher partners, we are able to compile information over time about the types of pages, content and ads you, or others who are using your computer, visited or viewed. This information is used for many purposes, for example, it helps us try to ensure that you do not see the same advertisements over and over again. We also use this information to help select and display targeted advertisements that we believe may be of interest to you.

**You may opt-out of receiving targeted ads from Microsoft Advertising by visiting our [opt-out page](#).** For more information about how Microsoft Advertising collects and uses information, please see the [Microsoft Advertising Privacy Supplement](#).

We also allow third-party ad companies, including other ad networks, to display advertisements on our sites. In some cases, these third parties may also place cookies on your computer. These companies currently include, but are not limited to: [24/7 Real Media](#), [aCerno, Inc](#), [AdBlade](#), [AdConion](#), [AdFusion](#), [Advertising.com](#), [AppNexus](#), [Bane Media](#), [Brand.net](#), [CasaleMedia](#), [Collective Media](#), [Fox Interactive](#), [Interclick](#), [Millennial](#), [PrecisionClick](#), [ROI Media](#), [Social Media](#), [SpecificMedia](#), [TrafficMarketplace](#), [Tribal Fusion](#), [ValueClick](#), [Yahoo!](#), [YuMe](#), and [Zumobi](#). These companies may offer you a way to opt-out of ad targeting based on their cookies. You may find more information by clicking on the company names above and following the links to the Web sites of each company. Many of them are also members of the [Network Advertising Initiative](#) or the [Digital Advertising Alliance](#), which each provide a simple way to opt-out of ad targeting from participating companies.

↑ [Top of page](#)

## Security of Your Personal Information

Microsoft is committed to protecting the security of your personal information. We use a variety of security technologies and procedures to help protect your personal information from unauthorized access, use, or disclosure. For example, we store the personal information we collect on computer systems with limited access, which are located in controlled facilities. When we transmit highly confidential information (such as a credit card number or password) over the Internet, we protect it through the use of encryption, such as the Secure Socket Layer (SSL) protocol.

If a password is used to help protect your accounts and personal information, it is your responsibility to keep your password confidential. Do not share this information with anyone. If you are sharing a computer with anyone you should always log out before leaving a site or service to protect access to your information from subsequent users.

↑ [Top of page](#)

## Collection and Use of Children's Personal Information

Many Microsoft sites and services are intended for general audiences and do not knowingly collect any personal information from children. When a Microsoft site does collect age information, and users identify themselves as under 13, the site will either block such users from providing personal information, or will seek to obtain consent from parents for the collection, use and sharing of their children's personal information. We will not knowingly ask children under the age of 13 to provide more information than is reasonably necessary to provide our services.

Please note that if you grant consent for your child to use Microsoft services, this will include such general audience communication services as e-mail, instant messaging, and online groups, and your child will be able to communicate with, and disclose personal information to, other users of all ages. Parents can change or revoke the consent choices previously made, and review, edit or request the deletion of their children's personal information. For example, on MSN and Windows Live, parents can visit Account Services, and click on "Permission for kids." If we change this privacy statement in a way that expands the collection, use or disclosure of children's personal information to which a parent has previously consented, the parent will be notified and we will be required to obtain the parent's additional consent.

If you have an MSN Premium, MSN Plus, or MSN 9 Dial-Up account, and use MSN Client software version 9.5 or below, you can choose to set up MSN Parental Controls for the other users of that account. Please read the supplemental privacy information for [MSN](#) for further information.

We encourage you to talk with your children about communicating with strangers and disclosing personal information online. You and your child can visit our [online safety resources](#) for additional information about using the Internet safely.

↑ [Top of page](#)

## Use of Cookies

Most Microsoft Web sites use "cookies," which are small text files placed on your hard disk by a Web server. Cookies contain information that can later be read by a Web server in the domain that issued the cookie to you.

One of the primary purposes of cookies is to store your preferences and other information on your computer in order to save you time by eliminating the need to repeatedly enter the same information and to display your personalized content and targeted advertising on your later visits to these sites. Microsoft Web sites also use cookies as described in the [Display of Advertising](#) sections of this privacy statement.

When you sign in to a site using your Microsoft account, we store your unique ID number, and the time you signed in, in an encrypted cookie on your hard disk. This cookie allows you to move from page to page at the site without having to sign in again on each page. When you sign out, these cookies are deleted from your computer. We also use cookies to improve the sign in experience. For example, your e-mail address may be stored in a cookie that will remain on your computer after you sign out. This cookie allows your e-mail address to be pre-populated, so that you will only need to type your password the next time you sign in. If you are using a public computer or do not otherwise

want this information to be stored, you can select the appropriate radio button on the sign-in page, and this cookie will not be used.

You have the ability to accept or decline cookies. Most Web browsers automatically accept cookies, but you can usually modify your browser setting to decline cookies if you prefer. If you choose to decline cookies, you may not be able to sign in or use other interactive features of Microsoft sites and services that depend on cookies, and some advertising preferences that are dependent on cookies may not be able to be respected.

If you choose to accept cookies, you also have the ability to later delete cookies that you have accepted. For example, in Internet Explorer 8, you can delete cookies by selecting "Tools", "Delete browsing history". Then select the control box "Cookies" and click the "Delete" button. If you choose to delete cookies, any settings and preferences controlled by those cookies, including advertising preferences, will be deleted and may need to be recreated.

[↑ Top of page](#)

## Use of Web Beacons

Microsoft Web pages may contain electronic images known as Web beacons - sometimes called single-pixel gifs - that may be used to assist in delivering cookies on our sites and allow us to count users who have visited those pages and to deliver co-branded services. We may include Web beacons in promotional e-mail messages or our newsletters in order to determine whether messages have been opened and acted upon.

Microsoft may also employ Web beacons from third parties in order to help us compile aggregated statistics regarding the effectiveness of our promotional campaigns or other operations of our sites. We prohibit Web beacons on our sites from being used by third parties to collect or access your personal information.

Finally, we may work with other companies that advertise on Microsoft sites to place Web beacons on their sites in order to allow us to develop statistics on how often clicking on an advertisement on a Microsoft site results in a purchase or other action on the advertiser's site.

[↑ Top of page](#)

## Controlling Unsolicited E-mail ("Spam")

Microsoft is concerned about controlling unsolicited commercial e-mail, or "spam." Microsoft has a strict [Anti-Spam Policy](#) prohibiting the use of a Windows Live Hotmail or other Microsoft-provided e-mail account to send spam. Microsoft will not sell, lease or rent its e-mail subscriber lists to third parties. . While Microsoft continues to actively review and implement new technology, such as expanded filtering features, there is no technology that will totally prevent the sending and receiving of unsolicited e-mail. Using junk e-mail tools and being cautious about the sharing of your e-mail address while online will help reduce the amount of unsolicited e-mail you receive.

[↑ Top of page](#)

## TRUSTe Certification

Microsoft has been awarded TRUSTe's Privacy Seal signifying that this privacy statement and our practices have been reviewed by TRUSTe for compliance with TRUSTe's program requirements including transparency, accountability and choice regarding the collection and use of your personal information. The TRUSTe program does not cover information that may be collected through downloadable software. TRUSTe's mission, as an independent third party, is to accelerate online trust among consumers and organizations globally through its leading privacy trustmark and innovative trust solutions.

[↑ Top of page](#)

## Enforcement of This Privacy Statement

If you have questions regarding this statement, you should first contact us by using our [Web form](#). If you do not receive acknowledgement of your inquiry or your inquiry has not been satisfactorily addressed, you should then contact TRUSTe at [http://www.truste.org/consumers/watchdog\\_complaint.php](http://www.truste.org/consumers/watchdog_complaint.php). TRUSTe will serve as a liaison with Microsoft to resolve your concerns.

[↑ Top of page](#)

## Changes to This Privacy Statement

We will occasionally update this privacy statement to reflect changes in our services and customer feedback. When we post changes to this Statement, we will revise the "last updated" date at the top of this statement. If there are material changes to this statement or in how Microsoft will use your personal information, we will notify you either by prominently posting a notice of such changes prior to implementing the change or by directly sending you a notification. We encourage you to periodically review this statement to be informed of how Microsoft is protecting your information.

[↑ Top of page](#)

## How to Contact Us

For more information about our privacy practices, go to the full [Microsoft Online Privacy Statement](#).

- If you have a technical or general support question, please visit <http://support.microsoft.com/> to learn more about Microsoft Support offerings.
- If you suspect your Hotmail/Live account has been hacked or taken over, please visit [Live Help](#).
- If you have a Hotmail/Live password question, please visit [Live Help](#).
- For general Microsoft Privacy issues, please contact us by using our [Web form](#).

Microsoft Privacy, Microsoft Corporation, One Microsoft Way, Redmond, Washington 98052 USA • 425-882-8080

To find the Microsoft subsidiary in your country or region, see <http://www.microsoft.com/worldwide/>.

[Anti-Spam Policy](#)

[↑ Top of page](#)

