

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

CHEVRON CORP.,

Plaintiff,

-against-

Case No. 1:12-mc-00065-LK-CFH

Hon. Lewis A. Kaplan

STEVEN DONZIGER, *et al.*,

Defendants.

NOTICE OF FILING IN CAMERA AND UNDER SEAL

Pursuant to the Court's February 13, 2013 order, the Non-Party John Doe Movants hereby file in camera and under seal (1) the declaration of Nathan D. Cardozo identifying each individual or entity on behalf of which the motion to quash has been made, and, attached thereto (2) the original declarations, signed with the declarants' true names and signatures, copies of which the movants previously filed publicly under anonymous names. Redacted copies of the documents filed under seal are attached hereto and will be served on all parties.

Should this Court deny the Non-Party John Doe Movants' pending motion to quash Chevron's subpoena to Microsoft, Inc. (ECF No. 2), movants respectfully request that the Court delay any order to unseal any of the documents filed today or to otherwise disclose the user information sought by the subpoena for 30 days to give the movants an opportunity to appeal the ruling.

DATED: February 19, 2013

Respectfully submitted,

/s/ Mitchell L. Stoltz
Mitchell L. Stoltz, Esq.
(Bar Roll No. 517844)

Marcia Hofmann, Esq.
(admitted *pro hac vice*)
ELECTRONIC FRONTIER FOUNDATION
454 Shotwell Street
San Francisco, CA 94110
Telephone: (415) 436-9333
Facsimile: (415) 436-9993

Marco Simons, Esq.
marco@earthrights.org
EARTHRIGHTS INTERNATIONAL
1612 K Street NW, Suite 401
Washington, DC 20006
Telephone: (202) 466-5188

Counsel for Non-Party John Doe Movants

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

CHEVRON CORP.,

Plaintiff,

-against-

Case No. 1:12-mc-00065-LK-CFH

Hon. Lewis A. Kaplan

STEVEN DONZIGER, *et al.*,

Defendants.

REDACTED DECLARATION OF NATHAN D. CARDOZO

1. I, Nathan D. Cardozo, have personal knowledge of all matters set forth in this declaration. If called upon to do so, I could and would testify to all matters set forth herein, as ordered by the Court on February 13, 2013.

2. I am a staff attorney with the Electronic Frontier Foundation, counsel of record for Non-Party John Doe Movants, and licensed to practice law in the State of California.

3. EarthRights International and the Electronic Frontier Foundation represent the owners of the Microsoft email accounts simeontegel@hotmail.com, mey_1802@hotmail.com, pirancha@hotmail.com, and duruti@hotmail.com.

4. [REDACTED]

5. [REDACTED]

[REDACTED]

6. [REDACTED]

[REDACTED]

7. [REDACTED]

8. Attached hereto as Exhibit A is a true and correct copy of the declaration of simentegel@hotmail.com, signed by [REDACTED].

9. Attached hereto as Exhibit B is a true and correct copy of the declaration of pirancha@hotmail.com, signed by [REDACTED].

[REDACTED]

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on February 19, 2013.



NATHAN D. CARDOZO

Exhibit A

[Redacted]

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

CHEVRON CORP.,

Plaintiffs,

-against-

Case No. 1:12-mc-65

Hon. Gary L. Sharpe

STEVEN DONZIGER, *et al.*,

Defendants.

**DECLARATION OF JOHN DOE (OWNER OF SIMEONTEGEL@HOTMAIL.COM) IN
SUPPORT OF MOTION OF NON-PARTY JOHN DOE MOVANTS TO QUASH
SUBPOENA TO MICROSOFT INC. SEEKING IDENTITY AND EMAIL USAGE
INFORMATION**

Using my email address, simeontegel@hotmail.com, instead of my actual name, in order to protect my identity pursuant to my rights under the First Amendment and New York law, I declare as follows:

1. I am the owner of the email account simeontegel@hotmail.com. I have personal knowledge of all matters set forth in this declaration. If called upon to do so, I could and would testify to all matters set forth herein.

2. I am providing this declaration under my email address because I wish to protect my rights to free speech and participation in associational activities. I also wish to avoid making moot these very issues, which I have raised in this motion. A true and correct copy of my actual signature for this document resides with my attorneys.

3. On September 12, 2012, I received notice from Microsoft of a subpoena issued in relation to the *Chevron, Corp. v. Donziger et al.*, Case No. 11-cv-0691 (LAK) (S.D.N.Y.) for identifying and email usage information associated with my Hotmail address. I am not a defendant in that case. On September 17, 2012, I received a notice from Google of another

subpoena in the same case issued in the District Court for the Northern District of California seeking information from Google about a Gmail address of mine. I am now moving to quash the subpoena issued to Microsoft for information associated with my Hotmail account. I am separately moving to quash the subpoena seeking my Gmail account information in the District Court for the Northern District of California, as well.

4. I am a full-time journalist. I worked for a non-profit advocacy organization from 2005 to 2008, but prior to and after that period, I worked as a professional journalist. My articles are frequently published in a number of prominent international media outlets.

5. I was involved in an advocacy campaign concerning the environmental impact of Chevron's former oil concession in the Amazon for less than three years, ending in 2008. I was never directly involved in the litigation against Chevron in Ecuador, but performed advocacy on behalf of the communities affected by the activities giving rise to that litigation.

6. I have had my Hotmail email address since at least 1999 and I have used it as my primary address ever since.

7. I almost never used my Hotmail address in connection with my advocacy work concerning Chevron. I had a separate address for correspondence related to that campaign.

8. Keeping my Hotmail account and location information private is very important to me for personal and professional reasons. I am a professional journalist and maintaining journalistic confidentiality regarding my communications has been, and continues to be, an important part of my job.

9. I have used my Hotmail account to engage in personal and professional communications for approximately thirteen years. It is important to me that Chevron not have access to my email usage information and locations during that time period.

10. As a journalist based in Latin America, I work on many stories where my personal security, and that of my confidential sources, is an issue of great concern.

11. Had I known that my email usage information and location would be revealed, my political activity at the time I was assisting with the advocacy campaign related to Chevron would have been chilled.

12. I am no longer active in the advocacy campaign and have not been for some time, but should Chevron gain access to my private email usage records, it would intimidate me and deter me from engaging in activism or litigation against Chevron in the future.

13. Should Chevron gain access to my account information, it would chill my activity more generally as well, knowing that personal information about my email use and location could be revealed concerning any activity that I might engage in. Because privacy and confidentiality is of the utmost importance in my line of work, and my sources rightfully expect our communications will remain confidential, my use of my email account will be chilled if Microsoft releases my account information to Chevron. My participation in future political and activism campaigns will also be chilled should this information be released.

14. I feel harassed by Chevron's attempt to obtain my email usage records and fear further harassment should Chevron gain access to the details of my past involvement in the advocacy campaign against Chevron.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on October 22, 2012.

Exhibit B

[Redacted]

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

CHEVRON CORP.,

Plaintiffs,

-against-

Case No. 1:12-MC-00065-LK-CFH

Hon. Lewis A. Kaplan

STEVEN DONZIGER, *et al.*,

Defendants.

**DECLARATION OF JOHN DOE #2 (OWNER OF PIRANCHA@HOTMAIL.COM) IN
SUPPORT OF MOTION OF NON-PARTY JOHN DOE MOVANTS TO QUASH
SUBPOENA TO MICROSOFT INC. SEEKING IDENTITY AND EMAIL USAGE
INFORMATION**

Using my email address, pirancha@hotmail.com, instead of my actual name, in order to protect my identity pursuant to my rights under the First Amendment and New York law, I declare as follows:

1. I am the owner of the email account pirancha@hotmail.com. I have personal knowledge of all matters set forth in this declaration. If called upon to do so, I could and would testify to all matters set forth herein.
2. I am providing this declaration under my email address because I wish to protect my rights to free speech and participation in associational activities. I also wish to avoid making moot these very issues, which I have raised in this motion. A true and correct copy of my actual signature for this document resides with my attorneys.
3. In September 2012, I received notice from Microsoft of a subpoena issued in relation to the *Chevron, Corp. v. Donziger et al.*, Case No. 11-0691 (LAK) (S.D.N.Y.) for identifying and email usage information associated with my Hotmail address. I am not a defendant in that case. I also received notice from Google and Yahoo! about other subpoenas in the same case issued in the District Court for the Northern District of California seeking information about Gmail and Yahoo! addresses of mine. I am now moving to quash the subpoena issued to Microsoft for information associated with my Hotmail account. I am separately moving to quash

the subpoenas seeking my Gmail and Yahoo! account information in the District Court for the Northern District of California.

4. I am a full-time independent journalist, as well as an environmental and human rights activist.

5. I provided professional public relations services to environmental activists and lawyers working in the Ecuadorian Amazon from 2005 to 2010, and continue to perform these functions occasionally on a volunteer basis. My roles have included providing translation services, editing newsletters, serving as a public spokesperson, managing international press relations, planning special events, and coordinating press conferences, among other activities.

6. I estimate that I have had my Hotmail email address since 2005. I have used my Hotmail account to engage in both personal and professional communications for approximately seven years. It is important to me that Chevron not have access to all my email usage information and locations during that time period.

7. Keeping my Hotmail account and location information private is very important to me for personal and professional reasons. I am a professional journalist and maintaining journalistic confidentiality regarding my communications and locations has been, and continues to be, an important part of my job.

8. During the course of my environmental and human rights activism work in Ecuador, I have been subjected to physical threats and believe that my life and family's safety have been endangered. I believe that the threats against me were due to my role in the public environmental advocacy campaign against Chevron.

9. I feel harassed by Chevron's attempt to obtain my email usage records and feel that it violates my rights.

10. I know other people who have been harassed because of their environmental advocacy work against Chevron.

11. I know other people who have stopped participating in or have decided not to participate in advocacy against Chevron because they fear harassment and retribution.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on January ____ 2013.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

CHEVRON CORP.,

Plaintiff,

-against-

Case No. 1:12-mc-65 lk/CFH

Hon. Lewis A. Kaplan

STEVEN DONZIGER, *et al.*,

Defendants.

CERTIFICATE OF SERVICE

I hereby certify that on February 19, 2013, I caused to be manually lodged under seal the following documents:

NOTICE OF FILING IN CAMERA AND UNDER SEAL

DECLARATION OF NATHAN D. CARDOZO WITH EXHIBITS

I also hereby certify that I have mailed by the United States Postal Service redacted copies of the foregoing documents to the following parties:

Randy M. Mastro
GIBSON, DUNN & CRUTCHER, LLP
200 Park Avenue, 47th Floor
New York, NY 10166-0193

Howard S. Hogan
GIBSON, DUNN & CRUTCHER, LLP
1050 Connecticut Avenue, N.W.
Washington, DC 20036-5306

Paul DerOhannesian, II
DEROHANNESIAN & DEROHANNESIAN
677 Broadway, Suite 202
Albany, NY 12207

Attorneys for Plaintiff Chevron Corporation

Craig Smyser
Larry R. Veselka
SMYSER KAPLAN & VESELKA, L.L.P.
Bank of America Center
700 Louisiana Street, Suite 2300
Houston, TX 77002

John W. Kecker
Jan Nielsen Little
Matthew M. Werdegar
KEKER & VAN NEST, LLP
633 Battery Street
San Francisco, CA 94111
(415)-391-5400
Fax: (415)-397-7188

Justin W. Gray
MAYNARD, O'CONNOR, SMITH & CATALINOTTO, LLP
6 Tower Place
Albany, NY 12203

Attorneys for Defendants Steven Donziger, The Law Offices of Steven R. Donziger, Donziger & Associates, PLLC, Javier Piaguaje Payaguaje, and Hugo Gerardo Camacho Naranjo

Microsoft Corporation
c/o Corporation Service Company
80 State Street
Albany, NY 12207
Brien Jacobsen <brienj@microsoft.com>

I declare under penalty of perjury that the foregoing is true and correct. Executed on
February 19, 2013.



Stephanie Shattuck
Legal Secretary
On behalf of:
Mitchell L. Stoltz, Esq.
Marcia Hofmann, Esq.
ELECTRONIC FRONTIER FOUNDATION
454 Shotwell Street
San Francisco, CA 94110
Telephone: (415) 436-9333
Facsimile: (415) 436-9993
Counsel for John Doe Movants