

Women Criticize NOW For Taking Money from Chevron In Ecuador Pollution Case

NEW YORK, N.Y., Oct. 17 /CSRwire/ - The legal arm of the National Organization for Woman (“NOW”) is under attack from rainforest indigenous villagers and their allies for accepting a large donation from Chevron and then filing a legal brief in favor of the oil company in its campaign to evade an Ecuador court judgment ordering it to clean up extensive oil contamination in the Amazon.

The NOW legal group never disclosed its financial ties to Chevron in the “friend of the court” brief filed recently before the United States Court of Appeals in New York, raising ethical concerns and infuriating women in Ecuador who have battled for two decades to hold Chevron accountable for dumping billions of gallons of toxic waste onto their ancestral lands.

“This is a very disturbing example of how NOW’s legal advocates are both deceiving courts and openly betraying the women of Ecuador who have suffered hugely at the hands of Chevron,” said Mariana Jimenez, a resident of Lago Agrio, a small town in the rainforest that served as the headquarters of Chevron’s operations in the country from 1964 to 1992.

NOW’s legal arm -- which used to be known as the NOW Legal Defense and Education Fund but now goes by the name “Legal Momentum” -- received a major donation from Chevron and a separate donation from Chevron’s lead outside law firm just months before filing a surprise legal brief in favor of the oil giant in the U.S. portion of the Ecuador case. (By rule, an amicus brief comes from a disinterested party that offers information that bears on the issues being decided by the appellate court. The rules bar payments by a party for an amicus brief.)

Both Chevron and the outside law firm, Gibson Dunn & Crutcher, each gave the organization between \$25,000 and \$50,000 sometime in the fiscal year ending in 2013, according to Legal Momentum’s website. Only three entities (two of them foundations) donated more money to the organization than Chevron, which was the only oil and gas company listed among Legal Momentum’s contributors.

Pablo Fajardo, the lead Ecuadorian lawyer for the affected communities, called on both Chevron and Legal Momentum to disclose the exact amount and dates of all contributions made by the oil company or any of the estimated 60 outside law firms it has used to defend the Ecuador case. Legal Momentum’s website does not disclose whether Chevron continues to contribute to the organization.

“It is critical that both Chevron and Legal Momentum need to come clean to the court about the full extent of their financial relationship,” Fajardo said.

“It certainly appears that Chevron has paid for a legal brief while trying to make it seem to the court like it came from a disinterested party,” he added. “Those of us who are deeply involved in the Ecuador litigation know that pay to play is a normal practice for Chevron. As a civil rights group, NOW should not enable such a practice by any entity, much less a corporate polluter that has caused a public health catastrophe affecting thousands of people.”

Chris Gowen, a legal ethics professor from the Washington College of Law who is part of the trial team representing the villagers, said Legal Momentum appears to have a conflict of interest that should immediately be disclosed to the federal appellate court.

“Legal Momentum should disclose its financial ties to Chevron because it greatly affects the court’s ability to assess the organization’s credibility as a so-called disinterested party,” Gowen said.

In 2011, after an eight-year trial that produced more than 100 technical reports documenting extensive contamination, an Ecuador court found Chevron guilty of deliberately discharging billions of gallons of toxic waste and imposed a \$19 billion liability. Five justices from Ecuador's Supreme Court unanimously affirmed the judgment last year, but lowered the liability to \$9.5 billion by eliminating a punitive penalty. Because Chevron refuses to pay, the villagers have filed collection actions to seize company assets in Canada, Brazil, and Argentina.

Chevron, with the help of NOW's Legal Momentum, is asking a U.S. appellate court to uphold a ruling from a New York trial judge allowing a private party to enjoin collection of the Ecuador judgment in courts throughout the world based on a novel expansion of U.S. racketeering laws. In the past, NOW has tried to use the same racketeering laws against anti-abortion protestors. Both the U.S. Department of Justice and almost all federal courts to deal with the issue have opposed the use of the racketeering laws by a private party in this fashion, claiming that they violate free speech and were never authorized by Congress.

The Ecuadorian villagers argue that no U.S. judge has the authority to block a foreign court judgment from being enforced overseas. An unprecedented decision in 2011 by the same New York trial judge (Lewis A. Kaplan) that purported to block enforcement of the Ecuador judgment throughout the world was unanimously overturned on appeal, dealing a stunning blow to Chevron's prospects. Chevron then went back to Kaplan and got the same injunction under the racketeering law.

(Chevron, which transferred the pollution trial from the U.S. to Ecuador in 2002 on the condition that it would abide by any adverse decision, alleges the judgment was obtained by fraud. The villagers and their counsel categorically reject the allegations and say they are a smokescreen invented by the company to hide evidence of its toxic dumping and fraud in Ecuador. For a comprehensive account of the evidence that convicted Chevron as well as the company's attempts to sabotage the proceedings in Ecuador, read the appellate brief of New York human rights attorney Steven Donziger, available [here](#); and this summary of the evidence).

The filing of the NOW brief on behalf of Chevron angered women in Ecuador who live in the rainforest communities affected by the company's operations, which took place between 1964 and 1992. Ms. Jimenez asserted that Legal Momentum "has taken a stand in favor of a polluter and against women and children who are suffering from cancer and other grievous harm because of Chevron's outrageous and reckless behavior."

"We are furious that a major American advocacy group that purports to advocate on behalf of women would sell out the women of Ecuador in this fashion," she added.

Mercedes Jaramillo, another villager, said she was "astounded" that a women's group would side with Chevron. "This is a terrible betrayal of female solidarity on a global scale," she said. "A lot of people down here are suffering from cancer, including women and children. It is shocking to us that NOW would side with Chevron under these circumstances."

American allies of the Ecuadorian women also weighed in against Legal Momentum's decision.

"It seems outright unethical for a prominent woman's rights organization to take money from Chevron and then support the company's legal attack against the women the oil giant poisoned in Ecuador," said Atossa Soltani, the Founder and Executive Director of Amazon Watch, a U.S.-based environmental organization that works with the affected Ecuadorian communities. "We hope that NOW's members will voice their concerns and push back against this clear lapse in judgment."

"Historically, NOW has done solid legal work but has been justly criticized for ignoring women of color in both its membership and its policies," said Karen Hinton, an independent blogger who has served as a

spokesperson for the affected communities. “The decision to align itself with Chevron suggests an insensitivity to attacks by private polluters on vulnerable women of color across the globe.”

The website for Legal Momentum indicates that Chevron’s donation arrived as it became clear the U.S. appeal would come at a critical juncture in the litigation, which began in 1993. The pending appeal, by Donziger and two of his clients in Ecuador, is considered particularly strong given the obvious animus of Judge Kaplan against the villagers, the lack of jurisdiction, and the fact Chevron paid more than \$1 million for key witness testimony, according to this analysis of the case.

The relationship between NOW and Chevron also fits into a broader pattern of Chevron hiding its financial ties to non-profit organizations that are filing “friend of the court” briefs on the company’s behalf in the Ecuador case.

For example, the U.S. Chamber of Commerce – which has received millions of dollars in contributions from Chevron in recent years – also filed an amicus brief in favor of the oil company as a supposed disinterested party but did not disclose its financial ties. Nor did the Business Roundtable, which receives substantial contributions from the oil giant but failed to disclose them in its separate amicus brief.

Chevron’s controversial practices with “amicus” briefs also has spread to Canada.

Just this week, the Canadian Bar Association withdrew its own “amicus” brief in favor of Chevron – one written “pro bono” by an outside law firm used by the oil company for its oil and gas business in Calgary -- after a near revolt by hundreds of CBA members. That brief concerned issues in the enforcement action brought by the villagers targeting Chevron’s assets in the country, which is being heard by the Canada Supreme Court in December. Background on Chevron’s growing troubles in Canada can be read [here](#).

While Chevron tried to use the filing of Legal Momentum’s brief as a public relations coup, a vast array of human rights and civil society organizations are supporting the affected communities before the court without any payments at all. More than 35 international law scholars from 11 countries filed a brief in support of the communities arguing that Chevron’s legal position clearly violates fundamental principles of international law. They also were joined by 17 U.S. advocacy groups, including Amnesty International, Rainforest Action Network, and Greenpeace.

For a summary of the legal support given to the Ecuadorian villagers, see this brief from U.S. civil society organizations; this brief from the international legal scholars; and this letter signed by 43 U.S. advocacy groups criticizing Chevron’s use of the racketeering laws to try to silence its critics.

For general background on the case, see this recent article from Rolling Stone; this report from 60 Minutes documenting Chevron’s deliberate dumping in Ecuador; and this photo essay on the human impact of the pollution that was published on The Huffington Post by award-winning photojournalist Lou Dematteis.