



## **Gibson Dunn Crutcher’s “Legal Thuggery” and Chevron’s Pollution in Ecuador**

Excerpt from a forthcoming report by the Protect the Protest Task Force, 2021  
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***“We are the firm that clients in distress have turned to when they are facing their worst problems, or when they have in fact faced defeat.”***

Gibson Dunn partner Randy Mastro  
([The American Lawyer](#), 2011)

***“In short, GDC’s use of the judicial system amounts to legal thuggery.”***

Montana State Supreme Court Justice James C. Nelson  
([2007 MT 62, No. 05-378](#), via [Wall Street Journal](#), 2007)

### **Introduction:**

An ever-expanding corporate dominion over society is garnering calls for action from humanitarians, labor advocates, environmentalists, and good governance groups.

A growing realm of concern is the role that many corporate law firms play in undermining human rights and international law so that profit-seeking interests are not held accountable for harm. One firm of particular concern is Gibson Dunn Crutcher (GDC), which often defends white collar criminals and has advanced regressive political strategies for wealthy corporations.

Recent reports from [Law Students for Climate Accountability](#) and from the [People's Parity Project & Revolving Door Project](#) cast a spotlight on numerous harms advanced or projected by GDC’s litigation and lobbying practices.

This document is an excerpt from a forthcoming report, focusing solely on the Chevron litigation related to the company’s oil pollution in Ecuador. The full report will complement scrutiny of

GDC's work for many other companies and people, toward the end of shining the light on the companies causing global harm, and on the law firms that help them evade justice.

### **Chevron and GDC Flout Justice in Ecuador:**

Chevron [acquired](#) Texaco in 2001, along [with](#) Texaco's legacy of [oil pollution](#) in the water and land that is home to numerous indigenous and rural communities in Ecuador.

Gibson Dunn Crutcher (GDC) was brought in to rescue Chevron from the liability for this oil pollution after multiple losses in the courts of Ecuador, over many [years of litigation](#).

Ironically, Chevron initially [fought](#) to keep the case out of U.S. courts. Instead, Chevron [favored](#) trial in Ecuador, where a less-regulated legal system may have appeared more likely to favor the company.

This miscalculation led to repeatedly rulings against Chevron by multiple Ecuadorian courts and ultimately [resulted](#) in a [\\$9.5 billion judgment](#) against Chevron. The company was [ordered](#) to compensate over 30,000 people whose homes and livelihoods were [harmed](#) by the oil [pollution](#).

After losing in the courts of Ecuador, Chevron and GDC sought to [interrupt](#) efforts to collect the money Chevron owes to the Ecuadorian people, using a well-known tactic from politics: if you are losing, change the subject.

### **The Attack on Plaintiff Attorney Steven Donziger:**

Instead of paying indigenous and Ecuadorian plaintiffs what they are owed for withstanding Chevron's oil pollution, Chevron and GDC waged a campaign against their lawyer, [Steven Donziger](#).

Even before the judgment in Ecuador was final, GDC [sued](#) Donziger for racketeering using a law designed to go after organized crime. Chevron [fortuitously](#) found a very [favorable](#) federal judge, Lewis A. Kaplan, to preside over the lawsuit.

While billing Chevron at [over \\$1,000 per hour](#), GDC attorneys executed a strategy to "[demonize](#)" Donziger and sow doubt against the legitimacy of the judgements of Ecuador's courts.

As Chevron and GDC worked to [destroy](#) Donziger's reputation and professional life, they built a foundation from which to evade the \$9.5 billion judgement. GDC and Chevron used the litigation to turn the media against Donziger to shift focus away from pollution in the Ecuadorian Amazon and the [ongoing harm](#) to the local residents.

### **GDC Coached Chevron's Star Witness, who Lied to a Federal Judge:**

Chevron and GDC's key witness in the racketeering lawsuit against Donziger was [disgraced Ecuadorian judge](#) Alberto Guerra.

Guerra told U.S. District Judge Lewis A. Kaplan that he had been offered a large bribe by the plaintiffs, a [claim](#) to which he later admitted, "[I lied there.](#)" Guerra was [coached](#) by GDC attorneys at least 53 times in preparation to delivery his testimony to Judge Kaplan.

Guerra also accused Donziger of secretly writing the court determination of another Ecuadorian judge, a claim that both Guerra and independent digital forensic experts were [unable](#) to support with any [evidence](#), as reported by [VICE](#) and [Courthouse News](#).

Guerra was [paid](#) vast sums of money as a witness for Chevron and GDC, as Guerra later disclosed. Guerra and his family were relocated to the U.S., [paid](#) \$12,000 per month, and compensated in other various ways by Chevron.

These payments allegedly flouted ethics rules set forth by the American Bar Association, [according](#) to 2013 [testimony](#) of the UC Irvine's Erwin Chemerinsky, a dean and law professor with expertise in legal ethics.

Despite Guerra's admitted lies, contradictions, and payments from Chevron, Judge Kaplan chose to let Guerra's testimony stand. Kaplan dismissed concerns over Guerra's lack of credibility by claiming to rely on other corroborating evidence. As Courthouse News [reported](#) at the time, "Both that credibility and the corroborating evidence came under withering attack this year during closed-door proceedings before an international arbitration tribunal."

(See [full transcript](#) of Guerra's deposition at the international arbitration tribunal. Amy Westervelt's [Drilled podcast](#), season 5, [episode 4](#), offers more details these tribunals.)

### **Donziger: Demonized, Disbarred, and Sentenced**

The case against Donziger was [turned down](#) by the U.S. Prosecutor for the Southern District of New York (SDNY) before being handed to a privately-appointed [prosecutor](#) with [ties](#) to Chevron. Judge Kaplan [charged](#) Donziger with criminal contempt, stemming from Donziger's [attempts](#) to protect private communications with his clients.

Kaplan [handpicked](#) a second judge, Loretta Preska, to preside over the criminal contempt trial. Judge Preska is [affiliated](#) with the Federalist Society, which has received [funding](#) from Chevron. During the COVID-19 pandemic, while Donziger awaited trial over the criminal contempt charges, the attorney was disbarred and spent over two years under [house arrest](#).

Judge Preska recently [ruled against](#) Donziger. In October, 2021, Donziger was [sentenced](#) to six months in prison.

The case is [expected](#) to be [appealed](#).

Joining an international chorus of respected [legal professionals](#) and [thought-leaders](#), the United Nations Human Rights Council's Working Group on Arbitrary Detention recently [demanded](#) an end to Donziger's [unprecedented](#) confinement and called for him to be compensated for violations of his rights.

### **Ecuador: Uncompensated by Chevron**

While Chevron has spent untold time and money going after the attorneys who represented the Ecuadorian people, GDC has shielded Chevron from accepting responsibility and compensating the Ecuadorians and indigenous communities that [still live](#) with land and water poisoned by oil pollution.

*This excerpt of the forthcoming report was authored by Connor Gibson, with financial support from the Protect the Protest Taskforce, and with generous assistance from Rex Weyler, Stephanie Tidwell, Paul Paz y Miño, Jim Wheaton, and Lauren Regan.*

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