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File No.:	0224-006	Date:	August 13, 2014
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Re: Chevron Corporation, et al. v. Daniel Carlos Lusitande Yaiguaje, et al.
SCC File No.: 35682

Please find enclosed Reply of JCAP to the Response of the Appellant to the Motion for Leave to Intervene which we are serving upon you pursuant to the *Rules of the Supreme Court of Canada*.


Marie-France Major

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Delivered By Courier

August 11, 2014

Mr. Roger Bilodeau, Q.C.
Registrar
Supreme Court of Canada
301 Wellington Street
Ottawa, ON K1A 0J1

Dear Mr. Bilodeau:

**Re: *Chevron Corporation, et al. v Daniel Carlos Lusitande Yaiguaje, et al.*
Supreme Court of Canada File No.: 35682**

We are counsel for the proposed intervener the Justice and Corporate Accountability Project (“JCAP”). We submit the following in reply to the appellant Chevron Corporation’s letter dated August 7, 2014, regarding JCAP’s motion for leave to intervene in the above-noted appeal. Contrary to assertions made in that letter, JCAP’s proposed submissions as outlined in its memorandum of argument directly engage the issues raised in this appeal.

Pursuant to Rule 57, JCAP’s memorandum of argument on this motion sets out JCAP’s *position* on the issues on appeal, as well as JCAP’s *interest* in the issues on appeal. Respectfully, the appellant Chevron Corporation seems to have conflated the two concepts. Chevron’s reference to the purported subject-matter of JCAP’s submissions – i.e. “the forum of necessity doctrine and the question of corporate separateness in jurisdictional analysis where a foreign plaintiff brings a first instance claim against a Canadian parent corporation conducting business abroad through a subsidiary”¹ – relates to the latter, not the former.

JCAP does, in fact, take a position that directly engages the issues raised in this appeal. This position is set out in JCAP’s memorandum of argument on this motion.²

JCAP further disputes Chevron Corporation’s assertion that the forum of necessity doctrine is not itself at issue in this appeal. This doctrine is actually directly at issue in this appeal, as Chevron Corporation has itself included a section on forum of necessity in its appeal factum, setting out reasons why it believes the doctrine is not applicable in this case.³ In light of this, JCAP also disputes Chevron Corporation’s assertion that JCAP has acknowledged forum of

¹ Chevron Corporation letter to Roger Bilodeau of August 7, 2014.

² Motion for Leave to Intervene (Justice and Corporate Accountability Project, Proposed Intervener), Memorandum of Argument at paras. 17-22.

³ Factum of the Appellant Chevron Corporation at paras. 144-46.

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necessity not to be an issue, on the grounds that this assertion does not have a basis in the record.

In any event, JCAP notes that in the *Van Breda* appeal, Amnesty International, Canadian Centre for International Justice, and Canadian Lawyers for International Human Rights were granted leave to intervene on the question of forum of necessity, even though forum of necessity was not directly raised in that appeal, as the Court ultimately noted in its decision.⁴

As for the corporate veil issue, JCAP emphasizes that its interest is not limited to the situation “where a foreign plaintiff brings a first instance claim against a Canadian parent corporation conducting business abroad through a subsidiary.” Given its mandate, JCAP clearly takes an interest in the situation presented in this appeal as well. However, its interest in the corporate veil issue also extends beyond the specific situation in the case at hand, making its perspective different from that of the parties.

More broadly, this appeal is at the Supreme Court because it raises questions of national importance whose implications reverberate far beyond the direct parties to this appeal. In deciding such questions the Court has always invited participation from interveners providing the perspective of others who are affected by these implications.

For instance, Chevron Corporation raises the constitutional aspect of the real and substantial connection test as an issue in this appeal.⁵ The constitutionalization of private international law is a tremendously important issue that the Court has long grappled with but has yet to fully develop. It also significantly affects everyone who has the potential to become involved in Canadian litigation with cross-border elements. As noted in its memorandum of argument on this motion, JCAP plans to speak to specific issues – such as this one – concerning the real and substantial connection test that the parties have raised in this appeal.⁶ JCAP can provide a useful perspective on how the resolution of this and other important issues raised in this appeal affect a particularly vulnerable sector of society.

All of which is respectfully submitted.

Siskinds LLP



A. Dimitri Lascaris

James Yap

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⁴ *Club Resorts Ltd v Van Breda*, 2012 SCC 17 at paras. 59, 86, 100.

⁵ Chevron Corporation Appeal Factum at para. 47.

⁶ JCAP Memorandum of Argument at para. 18.

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