

IN THE MATTER OF AN ARBITRATION BEFORE A TRIBUNAL  
CONSTITUTED  
IN ACCORDANCE WITH THE TREATY BETWEEN THE U.S.A. AND THE  
REPUBLIC OF ECUADOR CONCERNING THE ENCOURAGEMENT AND  
RECIPROCAL PROTECTION OF INVESTMENT, SIGNED AUGUST 27, 1993  
(THE "TREATY")

and

THE UNCITRAL ARBITRATION RULES 1976

- - - - -x  
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In the Matter of Arbitration :
Between: :
:
CHEVRON CORPORATION (U.S.A.), :
TEXACO PETROLEUM COMPANY (U.S.A.), :
:
Claimants, : PCA Case No.
: 2009-23
and :
:
THE REPUBLIC OF ECUADOR, :
:
Respondent. :
:
- - - - -x Volume 4

TRACK 2 PROCEDURAL MEETING

Friday, April 24, 2015

The World Bank  
700 18th Street, N.W.  
J Building  
Conference Room JB0-180  
Washington, D.C. 20003

The Hearing in the above-entitled matter convened  
at 9:30 a.m. before:

- MR. V.V. VEEDER, Q.C., President
- DR. HORACIO GRIGERA NAÓN, Arbitrator
- PROFESSOR VAUGHAN LOWE, Q.C., Arbitrator

## Registry, Permanent Court of Arbitration:

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MR. RAYMUNDO TREVES

MS. NAYA PESSOA

## Additional Secretary:

MS. JESSICA WELLS

## Tribunal Expert:

MS. KATHRYN OWEN

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09:10 1 PROCEEDINGS
2 ALBERTO GUERRA BASTIDAS, CLAIMANTS WITNESS, RESUMED
3 PRESIDENT VEEDER: Good morning, ladies and
4 gentlemen. We'll start Day 4 of this Hearing. We resume
5 the cross-examination of Mr. Guerra.
6 Mr. Guerra, I'm addressing you in English through
7 the interpreter. Can we check that the technology is
8 working?
9 Can you hear me?
10 MR. KEHOE: Check the channel, perhaps?
11 PRESIDENT VEEDER: Yes, please.
12 I'll just start again to make sure--
13 Could the interpreters repeat that, please.
14 (Pause.)
15 PRESIDENT VEEDER: Mr. Guerra, we're going to
16 resume your cross-examination from yesterday. I need to
17 remind you that you are still bound by the Declaration that
18 you made at the beginning of your evidence yesterday
19 morning.
20 Do you understand that?
21 THE INTERPRETER: Mr. President, can you hear me
22 now? This is the interpreter speaking.
23 (Pause.)
24 PRESIDENT VEEDER: Mr. Bloom.
25 CONTINUED CROSS-EXAMINATION

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WITNESS:

ALBERTO GUERRA BASTIDAS (Resumed)

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09:32 1 BY MR. BLOOM:
2 Q. Good morning, Mr. Guerra.
3 A. Good morning, Mr. Bloom.
4 Q. We have just handed up another binder of
5 documents. And just to confirm, at the bottom of the
6 binder itself, it should say "Binder 3." Can you confirm
7 that you have that?
8 A. I do have it, Mr. Bloom.
9 Q. Thank you. And we also have some additional
10 slides we'd like to show you. And I'd like to begin with a
11 couple of slides to follow up on some questions we had
12 yesterday regarding the Court Seals and hoping you can help
13 us out a little bit.
14 If we could show the first slide, which
15 corresponds to Tab 48. For the record, this is our 1545 at
16 Cuerpos 1497-0159630.
17 And you'll see this highlighted. In the lower
18 right-hand part of the page is a circular seal.
19 Could you confirm for us whether this round Court
20 Seal is placed on court documents to confirm that the
21 document itself is an authenticated copy?
22 A. The affixing of the seal on a document does not
23 necessarily indicate that the copy is authentic. For a
24 copy to be evidenced as authentic, the Clerk of the Court
25 must write something--for example, "I hereby certify that

09:34 1 this is a certified copy of the original," and then you see  
 2 the signature of the relevant Clerk.  
 3 Q. And at the top of the page--and you'll see on the  
 4 slide that we have it highlighted--you'll see the Foja  
 5 number on this page. I believe, if my eyesight is good  
 6 enough, it's 158630 [sic], or at least I'm close.  
 7 Can you tell me what the purpose is of putting the  
 8 Foja number on there?  
 9 A. Thank you very much for your question.  
 10 The correct number, the one evidenced here, is  
 11 159630. The purpose of placing there the page number, the  
 12 Foja number, in Ecuador, for procedural purposes--well,  
 13 this is called as the pagination. And the person  
 14 responsible for processing the case, the Clerk of the Court  
 15 or some auxiliary of the Court, upon receiving the document  
 16 from one of the litigants, includes in the main file the  
 17 document that was received, entered and delivered. And  
 18 then immediately thereafter, the Clerk paginates each one  
 19 of the pages chronologically, according to the sequence in  
 20 which it was delivered. That's what it refers to.  
 21 Q. Now, in your prior answer, you indicated that the  
 22 Court Seal alone does not indicate or establish the  
 23 authenticity of the copy, and you said that the Clerk of  
 24 the Court had to include some kind of further notation or  
 25 certificate.

09:36 1 Is that on the same document or on a separate  
 2 document?  
 3 A. This certification of authenticity is to be placed  
 4 on the same document, the document that is provided as a  
 5 copy, if you wish, to one of the litigants.  
 6 Q. And if you turn the pages, at Tab 49, do you see  
 7 anything on this document specifically to confirm its  
 8 authenticity?  
 9 MS. BEERS: Tab 49 or 48?  
 10 MR. KEHOE: I'm sorry. Tab 48. Thank you for  
 11 that.  
 12 THE WITNESS: This document, apart from the Seal  
 13 of the President's Clerk's office--there's also a  
 14 certification here, apart from initials as well, the Seal  
 15 of the reporting clerk Marieia Salazar Jaramillo. It  
 16 contains--it contains the signature--  
 17 The interpreter is asking for clarification.  
 18 We are saying that this ruling is authentic. It  
 19 contains the signature of the Clerk. It is an original  
 20 document.  
 21 Q. In fact, I see her signature on the last two  
 22 pages; correct?  
 23 A. I am looking at the signature at Page 159634.  
 24 Q. And if I may ask you to turn to 159633. Do you  
 25 see Ms. Jaramillo's signature at the bottom of that page as

09:39 1 well?  
 2 A. I do. I do see it, sir.  
 3 Q. Now, we're going to show you another slide, and  
 4 this corresponds to the document behind Tab 49.  
 5 For the record, this document is  
 6 R-1545TEMPSC0003306.1.  
 7 And first you'll confirm for me that neither on  
 8 Point 1, nor on the backside, Point 2, do you see the Court  
 9 Seal itself?  
 10 A. In the document that you're making reference to,  
 11 my understanding--and I can say this objectively--that this  
 12 is a pleading that contains a prayer for relief or some  
 13 kind of request to the President of the Court by Diego  
 14 Larrea Alarcon, attorney. I understand that he is an  
 15 attorney for the Chevron group.  
 16 And if you look at the lower right part overleaf  
 17 of the document, you see the Seal of the Provincial Court  
 18 of Justice of Sucumbios for the President's office, and  
 19 then you see here the certification of receipt: Received  
 20 in Nueva Loja at 5:46 p.m. on 14 October 2010. And it has  
 21 two or four annexes, according to this. This has been  
 22 signed by the Clerk of the Court--the recording Clerk of  
 23 the Court. And this is a certification of submission for  
 24 this document, a receipt of filing of this document.  
 25 Q. Can you explain why there would not be a Foja

09:42 1 number on this document at all?  
 2 A. I don't know why. But if this was included into  
 3 the file, then it must have been paginated; the number must  
 4 be there.  
 5 Q. So what is the significance of the Foja number not  
 6 being here?  
 7 A. Well, we would have to look at the case binder  
 8 (cuerpo) for that date to verify whether this document has  
 9 been included in the case file. And if it was included in  
 10 the case file, then we would have to see if the pagination  
 11 is not there.  
 12 But the document as is--well, possibly this is a  
 13 copy of the original document that was received by the  
 14 person delivering the document, and obviously the original  
 15 document, the authentic original is in the case file, and  
 16 I'm sure it has to be paginated.  
 17 And this is a copy with the filing certification,  
 18 that to this end has been provided by the interested party,  
 19 who kept this copy with the certificate of submission.  
 20 Let me conclude by saying that I mean to say that  
 21 we paginate the pages, and we exclusively paginate those  
 22 pages that are included in the case file. We did not  
 23 paginate--we do not paginate similar documents that are  
 24 held by the party delivering a document.  
 25 Q. I thank you, sir, for that clarification.

09:44 1 ARBITRATOR GRIGERA NAÓN: Excuse me. Mr. Bloom,  
2 are you done with this line of questioning? Because I have  
3 a question for Mr. Guerra.

4 MR. BLOOM: please.

5 ARBITRATOR GRIGERA NAÓN: Mr. Guerra, I am looking  
6 at this document, R-1514--R--essentially R-1514, and I am  
7 looking at the stamps on the documents. I am looking at  
8 the stamps on the documents, stamps on the documents, and I  
9 read "Presidencia of the Provincial Court of Sucumbios,  
10 "and I read "Secreteria or Secretariat of the Presidencia."

11 Does this mean that documents submitted to the  
12 Court have to be necessarily submitted at the seat of the  
13 Court, or maybe they submit it somewhere else?

14 THE WITNESS: Thank you. Generally speaking, I  
15 would say that generally 99 percent of the cases the  
16 litigants go to the offices of the competent Court during  
17 business hours, and they submit their document to the Clerk  
18 of the Court. That is the usual practice  
19 inexorably--inexorably speaking.

20 But there is a legal admissible possibility for  
21 the litigant in certain circumstances to go to the domicile  
22 of the Clerk of the Court outside of business hours, for  
23 special circumstances, and submit the relevant document for  
24 the Clerk of the Court to include the document in the case  
25 file during business hours.

09:46 1 Now, the secretary--or, rather, the Clerk of the  
2 Court must write the Certificate of Submission, when he is  
3 at his domicile, stating that date and that time.

4 This situation generally--takes place generally in  
5 civil law cases when we're talking about deadlines. And  
6 the periods of time provided by the Court start running as  
7 the law or the Court has established them.

8 In connection with the Chevron Case, each Parties  
9 were provided six days to provide evidence. And I remember  
10 that one of the Parties at one point in time--one of the  
11 litigants went to the domicile of the Clerk of the Court at  
12 night and asked the Clerk of the Court to receive the  
13 document after business hours, and that was legitimate.

14 The Clerk of the Court affixed the certificate of  
15 submission and the very next business day included this in  
16 the case file, paginated it, and sent it to the relevant  
17 judge.

18 ARBITRATOR GRIGERA NAÓN: Do I understand  
19 correctly then that this happens in very exceptional  
20 circumstances and when there is a situation of urgency  
21 because a delay--a procedural delay is about to expire?

22 THE WITNESS: That is correct, sir, Member of the  
23 Tribunal, yes.

24 BY MR. BLOOM:

25 Q. Okay. Turning subjects now, if you can please

09:48 1 turn with me to the first binder at Tab 16. Ms. Bees will  
2 help you. This is Exhibit R-1331, the so-called "Memory  
3 Aid."

4 I take it you're quite familiar with this  
5 document. You've been asked about it in prior testimony,  
6 have you not?

7 A. I know the document.

8 Q. And if I understand correctly, you allegedly told  
9 Mr. Fajardo, while you were looking at a draft Sentencia,  
10 that some sections of the draft Sentencia confused you; is  
11 that right?

12 A. If you allow me, I--I did see that there were  
13 certain issues that concerned and confused me. And I did  
14 say to him what you have just stated.

15 Q. And as yesterday, I'm just going to ask you to  
16 listen very carefully to the question that I'm asking.

17 And because certain sections confused you, you  
18 needed help from Mr. Fajardo. That's your contention?

19 A. More specifically, if you allow me, there were  
20 certain aspects of the draft Judgment that I was examining  
21 at the time, well, that created certain concerns in my  
22 mind, concerns rather than confusions.

23 And, obviously I relayed those concerns to him,  
24 and I specifically asked him to help me because in the past  
25 he had offered to help me; to send me some document to help

09:51 1 me overcome those confusions, concerns.

2 Q. And you have testified that Mr. Fajardo promised  
3 that he would provide you with what we are calling the  
4 "Memory Aid."

5 A. I am recalling the beginning of that conversation  
6 with Mr. Fajardo during our meeting. He said that he  
7 committed to provide to me the help that I needed.

8 So according to those expectations, at a--at a  
9 given point in time, I called Mr. Fajardo. I said that I  
10 had certain doubts, certain confusions in connection with  
11 certain aspects, and I determined those aspects to him.

12 And then Mr. Fajardo, because of that, told me  
13 that he was going to provide to me a document that was  
14 going to help me overcome those concerns.

15 Q. And the document you say that he provided you to  
16 help you overcome these concerns is this document that  
17 you're now looking at; correct?

18 A. That is the document that he provided to me.

19 Q. Looking at the Memory Aid now, how did it help you  
20 revise the Sentencia?

21 A. In point of fact, the truth is that Mr. Fajardo,  
22 apparently--according to what he said to me, he understood  
23 the reasons for my confusion. And he told me that he was  
24 going to give me a document that was going to help me  
25 overcome these confusions of mine.

09:53 1 But actually, the truth is that the document  
2 provided to me, the Aide Memoire, did not help me at all to  
3 overcome the confusions or concerns that I had.  
4 So this document, with all due respect, I must say  
5 to you, was not used by me at that point in time at all.  
6 Just as it was not used by me either in other situations or  
7 in connection with other--or in connection with other  
8 documents at all.  
9 Q. So it's your testimony that Mr. Fajardo provided  
10 you with absolutely no useful information, even though his  
11 whole life for years had been about this one case and even  
12 though the Plaintiffs were seeking billions of dollars. Is  
13 that your testimony?  
14 A. Would you be so kind as to repeat the question?  
15 But could you please perhaps break down your question?  
16 There are a number of parts to your question, and I  
17 wouldn't want to give you a false statement, and I wouldn't  
18 want to go against the truth.  
19 Q. Well, you--  
20 MR. KEHOE: I'm going to object to the question,  
21 if he's going to break it down--it's argumentative,  
22 obviously. I was going to let it go, but--  
23 PRESIDENT VEEDER: Let's just give him--give him a  
24 try.  
25 MR. KEHOE: Okay.

09:54 1 PRESIDENT VEEDER: Please try, Mr. Bloom. Break  
2 it down, as the Witness requested, and see what happens.  
3 MR. BLOOM: Certainly, Mr. President.  
4 BY MR. BLOOM:  
5 Q. You certainly understood that this case was a very  
6 important case for Mr. Fajardo; is that right?  
7 A. Obviously, yes. I understood that this case--this  
8 struggle, if you would like to call it that, of Mr. Fajardo  
9 and his team, was very important. Not just for the group  
10 of Plaintiffs, but also for the prestige of the justice  
11 system, the respectability of my country. I have all of  
12 that clear in my mind.  
13 Q. And you also understood that Mr. Fajardo had  
14 devoted years to this case at this point; correct?  
15 A. Perhaps I may disagree with you in that regard,  
16 because I think Mr. Fajardo is a professional, from my  
17 viewpoint a bit young, and I think that he graduated a long  
18 time after the Chevron Case started and I remember Mr.  
19 Fajardo when the case began in 2013, the court of which was  
20 my responsibility at the time. I remember and I identify  
21 Mr. Fajardo as a lawyer for this case a long time after--in  
22 2007--I think he actually obtained his degree in 2006.  
23 Q. So for his entire professional life he was acting  
24 as counsel for the Lago Agrio Plaintiffs; isn't that right?  
25 A. I would not be able to assert that. I knew him as

09:56 1 a lawyer for the Plaintiffs starting in '06 or '07,  
2 approximately around that time.  
3 Now, before that, my understanding is that he was  
4 not a lawyer, he was not practicing the legal profession,  
5 because he did not have a professional degree.  
6 Q. But it is your testimony that Mr. Fajardo provided  
7 you in this document with absolutely no useful information;  
8 isn't that correct?  
9 A. If you allow me, I would have to explain briefly  
10 this matter and to state what the concerns were that I had,  
11 and then it will be understood that I relayed my concerns  
12 to Mr. Fajardo and asked Mr. Fajardo to give me a document  
13 and help me solve these problems.  
14 And then, only in that situation, would we be able  
15 to understand the core of this case--or of this issue,  
16 rather.  
17 Q. I'd like you to take a look at the Memory Aid.  
18 And on the very first page, there is a chronology, and that  
19 is at part 1.  
20 Do you see that, sir?  
21 A. I do.  
22 Q. And the relevant dates in that chronology are as  
23 follows: 1.1 refers to a date of May 7, 2003. 1.2 refers  
24 to the date of October 21, 2003. 1.3 refers to the date of  
25 August 18, 2004. 1.4, which we have on the screen, refers

09:59 1 to the date of March 19, 2007. 1.5 refers to the date of  
2 April 1, 2008. 1.6 refers to the date of September 15 and  
3 16. And then 1.7 refers to the date of November 17, 2008,  
4 and subsequently February 5, 2009.  
5 And if you look substantively at these paragraphs,  
6 at least 1.4 through 1.7, they focus on Richard Cabrera, do  
7 they not?  
8 A. Yes, sir; that is correct.  
9 Q. And Mr. Cabrera was appointed as the global  
10 damages expert in this case, isn't that also correct?  
11 A. Yes, sir.  
12 Q. And to be clear, the Sentencia says that the Court  
13 did not consider the work done by Mr. Cabrera; isn't that  
14 correct?  
15 A. Judge Zambrano at a given point in time has stated  
16 that in the reasoning that he provided.  
17 Q. And the Judgment or the Sentencia instead  
18 expressly relied on and cited to other experts offered by  
19 the Parties in the environmental case; isn't that right?  
20 A. Such reasons or explanations are recorded in the  
21 Judgment.  
22 Q. And feel free to look at the Sentencia if you need  
23 to. It is at Tab 36.  
24 A. I got it.  
25 Q. And I can point you in the Spanish pagination to

10:02 1 Page 105. And please, sir, tell me when you are at  
 2 Page 105.  
 3 A. Yes, sir. I have it right here.  
 4 Q. Thank you.  
 5 You will see on the third and seventh lines  
 6 references to the expert, Luis Villacreces?  
 7 A. Yes, sir. I see it.  
 8 Q. You'll also see about halfway down the page the  
 9 name of another expert, José Robalino.  
 10 A. José Robalino, yes.  
 11 Q. You see that as well?  
 12 A. Yes, sir. I'm seeing it.  
 13 Q. And then two lines down, you see the name John  
 14 Connor?  
 15 A. Yes, sir.  
 16 Q. If I may ask you to turn to Page 107. And 11  
 17 lines down is the name of another expert, Edison Camino.  
 18 Can you confirm that you see that as well?  
 19 A. Yes, sir.  
 20 Q. And then just a little bit more than halfway down  
 21 is the name of another expert, Gino Bianchi.  
 22 A. Yes, sir. It says here as Gino Bianchi does it.  
 23 PRESIDENT VEEDER: Just pause for a moment, we  
 24 have a technical problem.  
 25 (Pause.)

10:04 1 PRESIDENT VEEDER: Please continue.  
 2 BY MR. BLOOM:  
 3 Q. Sir, if you turn the page to Page 108, on the  
 4 first line towards the end, you will see the name of  
 5 another expert, Bjorn Bjorkman y Gino Bianchi.  
 6 A. Yes, sir.  
 7 Q. And then a little bit more than halfway down the  
 8 page, you'll see John Connor and Gino Bianchi on the  
 9 right-hand side of the page.  
 10 A. Yes, sir. John Connor and Gino Bianchi.  
 11 Q. And then five lines down, you'll see Oscar Dávila  
 12 and Edison Camino.  
 13 A. Oscar Davila and Edison Camino. Yes, sir.  
 14 Q. And then four lines down, you'll see John Connor's  
 15 name?  
 16 A. Yes.  
 17 Q. If I could ask you, sir, to turn to Page 179. And  
 18 then 10 lines up from the bottom, you will see the name  
 19 Douglas C. Allen?  
 20 MR. BLOOM: We may have another technical  
 21 difficulty. I don't know that the expert is Hearing.  
 22 THE WITNESS: Yes, he's Hearing.  
 23 PRESIDENT VEEDER: I think the Witness may be  
 24 rather than expert. That threw me.  
 25 MR. BLOOM: I thought he signaled.

10:06 1 BY MR BLOOM:  
 2 Q. Just to confirm at Page 179, 10 lines up from the  
 3 bottom of the page, you will see the name of another  
 4 expert, Douglas Allen. Can you please confirm that his  
 5 name, in fact, is cited in the Sentencia on this page.  
 6 A. Yes, sir.  
 7 Q. If I could ask you to turn to Page 182, six lines  
 8 down you will also see the name of Dr. Lawrence  
 9 W. Barnthouse.  
 10 A. On the sixth line from the bottom I see--it says:  
 11 Expert Barros states." Excuse me, page 182?  
 12 Q. Correct that it is at Page 182, six lines from the  
 13 top towards the left-hand side.  
 14 A. Yes, sir, Dr. Lawrence W. Barnthouse.  
 15 Q. Sir, you're able to confirm that the Sentencia, in  
 16 fact, specifically cites to a number of experts. And am I  
 17 correct that none of the names that we just went through in  
 18 the Sentencia are, in fact, contained in the Memory Aid?  
 19 And if you want to take a moment or two to look  
 20 through the Memory Aid, certainly you should feel free to.  
 21 A. If you allow me to tell you, I am not sure that  
 22 the names of the experts that we just reviewed and are  
 23 included in the contents of the Judgment are--are included  
 24 in the Aide Memoire.  
 25 Q. Do you want more time to look, or shall we move

10:10 1 on, Mr. Guerra?  
 2 A. I do not have any issues with that. If you think  
 3 that any of those names are here in any page and you are  
 4 certain about that, would you please show me the page and  
 5 the line number? Otherwise, I think that we can move on.  
 6 Q. You do not believe that those names are contained  
 7 in the document.  
 8 Now, sir, in the chronology contained in the  
 9 Memory Aid at Paragraph 1.7 the last date you will see here  
 10 is February 5, 2009. Do you see that?  
 11 A. Yes, sir. I am seeing it.  
 12 Q. And you purportedly received a copy of the Memory  
 13 Aid while you were revising or reviewing the draft  
 14 Sentencia when?  
 15 A. The review of the Judgment was done by me  
 16 approximately a couple of weeks before it was issued. This  
 17 was the first week in February or days before, the last  
 18 week in January 2011.  
 19 The timeline that you are referring to refers to  
 20 up to February 5th, 2009, and that is the key of the  
 21 issue. Since you have not asked me, with all due respect I  
 22 want to tell you that one of the main concerns when  
 23 reviewing the draft Judgment was the swearing in of expert  
 24 Cabrera, Witness Cabrera, because I had enough information  
 25 in the sense that Cabrera was appointed under the law by

10:12 1 the Judge at some time and it was ordered that expert  
 2 Cabrera would be sworn in at a certain date a few days  
 3 after designation date.  
 4 But, in this case, expert Cabrera, as far as I  
 5 know, he was sworn in established by the Judge.  
 6 And based on the information I had, Expert Cabrera  
 7 at no time sent any documents to the Judge indicating that  
 8 he was accepting his appointment and that he was not going  
 9 to be able to be sworn in on the designated date.  
 10 If this is true from the procedural point, this  
 11 would have led to the--to the expiration of that  
 12 appointment. And according to my understanding and my own  
 13 opinion, my concern was that if this aspect was seen from  
 14 the legal standpoint, the report by expert Cabrera was null  
 15 and void.  
 16 Thus, it would have also been seen, given this  
 17 situation, that due process would have been--was violated.  
 18 And this, in my opinion, my legal opinion, this was another  
 19 ground to declare the process null and void since this  
 20 nullity would have actually taken place.  
 21 This was one of my concerns, and this is something  
 22 that I mentioned to Mr. Fajardo. And I thought he clearly  
 23 understood my position. But far from sending any document  
 24 to focus this procedural concern, he sent me a general  
 25 document, as you can see. And clearly from my own legal

10:15 1 procedural point of view, and also given my modest  
 2 knowledge in the civil area, being in the law area for 32  
 3 years as a practitioner, you may understand that clearly it  
 4 wasn't enough for me to understand and offer a solution or  
 5 clarify that concern.  
 6 Thank you very much for listening to me.  
 7 MR. BLOOM: Mr. President, if I may ask you to  
 8 instruct the Witness as to how the system works when he  
 9 begins an answer with the phrase "and you haven't asked me  
 10 but," that should be a signal that it's not an appropriate  
 11 subject for him then to be expounding on.  
 12 MR. KEHOE: Mr. President, in fairness, if the  
 13 Witness is being asked questions completely irrelevant to  
 14 the document that he's being shown, it's difficult for a  
 15 witness to understand the questions and to give answers  
 16 without giving actual answers to what actually happened.  
 17 MR. BLOOM: Well, I certainly object to that  
 18 characterization.  
 19 PRESIDENT VEEDER: Let me stop the debate now  
 20 before it gets more difficult. I think the Witness has  
 21 been doing pretty well in answering the question.  
 22 Inevitably, he's going to want to add things, but I'll  
 23 certainly speak to him.  
 24 Mr. Guerra, we have a limited time for questions  
 25 for you. If you can answer your question--sorry. If you

10:16 1 can briefly with an answer, please do so.  
 2 But again, if you feel you need to add something,  
 3 again, please feel free to do so.  
 4 But if you can, try and keep your answers  
 5 responsive to the particular question asked by Counsel,  
 6 whether it be the Claimants or the Respondent.  
 7 THE WITNESS: Very well, Mr. President.  
 8 BY MR. BLOOM:  
 9 Q. The chronology in the Memory Aid ends on  
 10 February 5, 2009, does it not?  
 11 A. Yes, sir.  
 12 Q. And you purportedly did not begin to review the  
 13 Sentencia until approximately two years later; correct?  
 14 A. Yes, sir.  
 15 Q. And therefore, the events between February 5,  
 16 2009, through the remainder of 2009 through the remainder  
 17 of 2010 are not included anywhere in this Memory Aid; isn't  
 18 that also right?  
 19 A. That is correct, sir.  
 20 Q. And just like there was no mention of the Experts  
 21 specifically relied on in the Sentencia, there's no mention  
 22 of the so-called "supplemental experts' reports" that were  
 23 filed in 2010 by both parties; isn't that correct?  
 24 A. Yes, sir.  
 25 Q. I was corrected so I want to be more specific.

10:18 1 There were a number of supplemental experts--there was a  
 2 Plaintiffs' expert named Picone, P-I-C-O-N-E.  
 3 Do you know, sir, whether his supplemental expert  
 4 report was contained in the Memory Aid?  
 5 A. I'm sorry. What supplementary report are you  
 6 referring to?  
 7 Q. Were you aware of the fact that the Plaintiffs  
 8 filed supplemental Expert Reports in the last quarter of  
 9 2010, what Chevron has referred to as cleansing reports?  
 10 A. I recall that when I reviewed the file, the  
 11 record, when I was the ghostwriter, several objections were  
 12 logged by both Parties in connection with the Experts'  
 13 reports. And I think that motions were also presented in  
 14 connection with essential errors with regard to most of the  
 15 reports, by the Parties, in particular, by the Plaintiffs  
 16 suing Chevron.  
 17 Q. Well, the Plaintiffs' Expert Picone filed a report  
 18 in the last quarter of 2010. The Plaintiffs' Expert  
 19 Shefftz, S-H-E-F-F-T-Z; the Plaintiffs' Expert Scardinia,  
 20 there was an expert report by a Mr. Rourke, R-O-U-R-K-E.  
 21 There were Expert Reports of an Expert Barnhouse, and an  
 22 Expert Allen.  
 23 And none of these people are mentioned in the  
 24 chronology, are they, in the Memory Aid?  
 25 A. Yes. I do see that those certain names are not



10:21 1 included in the Aide Memoire.  
 2 Q. And as said, the chronology is focused on  
 3 Mr. Cabrera.  
 4 A. It's because of what I explained before, which was  
 5 also my concern.  
 6 Q. You're aware, are you not, that in December 2009,  
 7 Chevron began investigating, through U.S. Court procedures,  
 8 Cabrera's relationship with the Plaintiffs' Attorneys?  
 9 A. No, sir.  
 10 Q. Are you aware of the fact that Chevron, in fact,  
 11 attained U.S. Court orders to review the Plaintiffs'  
 12 lawyers' documents?  
 13 A. I heard or I learned through the news articles.  
 14 But this was a very superficial information I had. It was  
 15 not in-depth.  
 16 Q. Are you aware of the fact that Chevron began  
 17 providing to the Lago Agrio Court in 2010 some of the  
 18 evidence that Chevron received through the U.S. Court  
 19 procedures?  
 20 A. No, sir.  
 21 Q. And Chevron--withdraw that.  
 22 Sir, have you ever written any article related to  
 23 the environmental conditions in Ecuador whether published  
 24 or not?  
 25 A. Yes, sir.

10:23 1 ARBITRATOR GRIGERA NAÓN: I'm sorry, Mr. Bloom,  
 2 sorry, because I see you are getting a different--  
 3 MR. BLOOM: Related, but--  
 4 ARBITRATOR GRIGERA NAÓN: But before, you know,  
 5 when I was looking at the list of experts on the pages that  
 6 you mentioned, Page 105, of the Spanish version of the  
 7 decision, I see another name Pilamunga.  
 8 And when I go to the last page, you mentioned,  
 9 Page 182, I see a reference to another Expert Barros. I do  
 10 not know if, to make the record complete, whether you  
 11 should also consider those names when putting a question to  
 12 see if those names are in the Aide Memoire or not because  
 13 they don't seem to be any of the other names that you  
 14 mentioned.  
 15 MR. BLOOM: And my list was not intended to be  
 16 exhaustive.  
 17 ARBITRATOR GRIGERA NAÓN: Oh, I'm sorry.  
 18 MR. BLOOM: It was merely to show that there are a  
 19 number of experts' names not in the Memory Aid.  
 20 ARBITRATOR GRIGERA NAÓN: It's up to you, I just--  
 21 MR. BLOOM: I appreciate that.  
 22 ARBITRATOR GRIGERA NAÓN: Okay.  
 23 BY MR. BLOOM:  
 24 Q. So, sir, you said that you have written one or  
 25 more articles related to the environmental conditions in

10:24 1 Ecuador; is that correct?  
 2 A. Yes, sir.  
 3 Q. Approximately how many essays?  
 4 A. Several. I do not remember the number because I  
 5 was I was also a master's degree student in Ecuador  
 6 University--at Central Ecuador University, and I also had  
 7 those documents prepared as semester papers based on  
 8 important documents that I had, such as the claim against  
 9 Chevron and also the reply to that lawsuit or that claim.  
 10 Q. And, in fact, the essays related mostly to  
 11 environmental damages occurring as a result of oil and gas  
 12 production in the Oriente region?  
 13 A. Yes, sir.  
 14 Q. And in some of these essays you, in fact,  
 15 discussed the litigation against Chevron?  
 16 A. That is correct, sir.  
 17 Q. And you have previously testified that you wanted  
 18 to have enough information about the case in the article so  
 19 that it would be clear that the person writing the article  
 20 was familiar with the case and, in fact, was a Judge in the  
 21 case; isn't this correct?  
 22 A. Yes. Somehow that was the case. But clearly, the  
 23 final idea went beyond that, that is to say to write a  
 24 piece of an article specifically that would be published as  
 25 an idea, a goal, an intention, and at some point, I'd even

10:26 1 draf a draft Judgment from my own point of view.  
 2 Q. Who is Ms. Orellana, Magali Orellana?  
 3 A. Magali Orellana an Assembly member from the  
 4 Republic of Ecuador representing the Republic of  
 5 Orellana--the Province of Orellana.  
 6 Q. And have you ever worked with her?  
 7 A. Yes. I worked as an adviser at the National  
 8 Assembly for this Member to her benefit in 2010 up to  
 9 August 2010, and I think starting in November 2009.  
 10 Q. Just to confirm, you worked with this  
 11 Assemblywoman from November 2009 through August 2010. Are  
 12 those the correct dates?  
 13 A. Approximately. I understand that, yes, they are  
 14 correct; and I am just trusting that my recollection is  
 15 correct.  
 16 Q. And as her aide, you helped her prepare for  
 17 conferences?  
 18 A. Yes. I was her legal adviser. Therefore, I had  
 19 to advise her, study and provide guidance; and I was also  
 20 asked to review documents for her to use during her  
 21 presentation before the National Assembly in connection  
 22 with the topics in which she participated.  
 23 Q. And you also helped her prepare articles and  
 24 prepare for lectures?  
 25 A. Preferably for presentations on TV or interviews

10:30 1 that she had, radio interviews in Quito.  
 2 Q. Now, sir, when you first described the drafting of  
 3 the Sentencia, you specifically affirmed that you had given  
 4 to Judge Zambrano the Draft Judgment on a flash drive;  
 5 isn't that right?  
 6 A. I assume--well, at that time, that's how I  
 7 recalled it.  
 8 Q. And do you remember telling Chevron's  
 9 representatives that in June of 2012?  
 10 In fact, Mr. Rivero and you specifically discussed  
 11 you receiving the Sentencia on the flash drive; is that  
 12 correct?  
 13 A. That statement, which was very light on my part,  
 14 was due to the fact that practically every week--almost  
 15 every week I received documents from Zambrano and the  
 16 relevant flash drives. And my perception evidently was  
 17 that everything had been managed by means of that  
 18 mechanism, usually.  
 19 Q. And this may be a translation issue, but when you  
 20 say that statement was made "very lightly," what do you  
 21 mean by that term?  
 22 A. I meant to say that I wasn't ready to answer those  
 23 questions and to provide answers to them.  
 24 I was to meet with Chevron's representatives at  
 25 that time. I considered at that time that I was not the

10:32 1 objective; it didn't have to do with investigating me,  
 2 et cetera. But I was just to be a link for the future  
 3 meetings that they were going to hold shortly thereafter  
 4 with Mr. Zambrano.  
 5 Q. Were you deliberately lying to them?  
 6 A. If you allow me, not at all. I was careless. I  
 7 didn't think about the answers that I gave them. I  
 8 provided general answers, careless answers, because I was  
 9 being posed questions that were abrupt or that were  
 10 unexpected.  
 11 Q. And at the same time, you told Chevron's  
 12 representatives this not on a single occasion but on two  
 13 occasions, correct, both on May 6th, 2012, and again on  
 14 June 25, 2012?  
 15 And you had a little time to reflect between the  
 16 two, did you not?  
 17 A. I must tell you that immediately after the meeting  
 18 with these gentlemen, I focused on other things; and I  
 19 didn't think too much--I didn't really concern myself too  
 20 much with that, if you allow me to say it that way.  
 21 Q. When you told Chevron that you had given Judge  
 22 Zambrano the Draft Judgment on a flash drive, you were sure  
 23 of that at that time, were you not?  
 24 A. I had in mind, in my conscience, that I saw the  
 25 Draft Judgment, the one I made the changes to, corrections,

10:35 1 touched up if you will. And obviously, with time that  
 2 became scattered, it got confused in my memory, that of me  
 3 having worked on the draft at home, that I received it via  
 4 flash drive--I originally believed that, so much so that I  
 5 thought that that document was to be found somewhere in the  
 6 computer that I generally used.  
 7 But, obviously, when I delivered the computer to  
 8 Chevron's representatives, which was in July 2012, and then  
 9 days later at the end of the month, later, when I was told  
 10 that the Draft Judgment was not found in that computer, the  
 11 one that I had referred to during our discussions at that  
 12 time, well, I became concerned. And I said, "Well, how is  
 13 it? It should be there. What happens--what happened?  
 14 Where was it? Where is it?"  
 15 And then, when I decided, since this was an  
 16 important matter, to talk to Chevron to share the truth in  
 17 connection with my involvement, I thought hard, and I  
 18 remember that--that I worked with that document in Lago  
 19 Agrio, not in Quito, as I have already said in my prior  
 20 statements.  
 21 Q. And I want to walk through this a little slower,  
 22 so if you will indulge me, Mr. Guerra.  
 23 You went into great detail about how you used the  
 24 flash drive. You said that you, quote, put it in your CPU,  
 25 correct?

10:36 1 A. Those details--well, those situations, as far as I  
 2 understand, have to do with the time when I worked in  
 3 Quito. When I stated that the document was done in Quito,  
 4 that statement must be correct.  
 5 Q. And you said that you copied it; correct?  
 6 A. For purposes of the changes that have been  
 7 suggested to me, the review, the touch up, to straighten it  
 8 up, if you will, I indeed copied that document on a  
 9 different page in the same computer.  
 10 Q. And you made some changes; correct?  
 11 A. Yes, sir.  
 12 Q. And when you were done, you said, "Once again, I  
 13 copied in the flash drive, and I gave it to him"; correct?  
 14 A. I am making reference, sir, to the time when I saw  
 15 that document in the city of Lago Agria in Mr. Fajardo's  
 16 computer in Mr. Fajardo's residence. I'm not referring to  
 17 the timeline that you are referring to.  
 18 Q. I will refer you to Tab 1 of the very first  
 19 binder, because these statements were made on May 6, 2012.  
 20 Will that help you place the timing? It is at Page 5 of  
 21 Tab 1.  
 22 And you can also look at Pages 5, 7, and 14.  
 23 Those are the three references on the slide.  
 24 MR. KEHOE: Mr. President, I'm going to object,  
 25 because this is obviously a sensitive area.

10:39 1 The first question was, "And you said that you  
 2 copied it; correct?" And the Witness answered that  
 3 question.  
 4 And then Mr. Bloom asked, "You said you copied it  
 5 on a flash drive."  
 6 Those are two different questions, and that's  
 7 what--that's why the Witness is confused right now.  
 8 MR. BLOOM: I think his language speaks for  
 9 itself. "And, once again, I copied in the--in the flash  
 10 drive, and I gave it to him." Those were his words.  
 11 PRESIDENT VEEDER: Let's not argue about what the  
 12 witness has answered, but you might want to clear it up to  
 13 avoid any risk of misunderstanding, Mr. Bloom.  
 14 MR. KEHOE: Line 10 of the transcript of the page  
 15 we're on, Mr. Bloom, was your question.  
 16 PRESIDENT VEEDER: You can pick it up from Page 5.  
 17 BY MR. BLOOM:  
 18 Q. Sir, did you say, at the bottom of Page 5 of Tab  
 19 1, "He sent me that he gave me--gave it to me on a flash  
 20 drive?"  
 21 Did you say that?  
 22 A. Yes, sir.  
 23 Q. And then did you also say, "So what I did then was  
 24 put it in my CPU. I made some changes, because it didn't  
 25 have ruling-like material, meaning from the point of view

10:41 1 of moderately related to the environment, something more  
 2 legal. Somewhat more grammatical, something like that?"  
 3 Did you say that?  
 4 A. Yes, sir.  
 5 Q. And then at the bottom of Page 6, carrying over to  
 6 Page 7, did you say, "So then for corrections, I had barely  
 7 two days to--to--to write, a Friday to--to--to Sunday  
 8 evening, when Buddy himself came over, when he or I wasn't  
 9 there, the way we would always do things. So already I  
 10 waited for him at the airport. Then--then I obviously--I  
 11 made the changes I considered the most appropriate, bam,  
 12 bam, bam. And, once again, I copied in the--in the flash  
 13 drive, and I gave it to him?"  
 14 Was that what you told the Chevron investigators  
 15 on this date?  
 16 A. I said what you have mentioned and what has been  
 17 stated in this document, but I did not say this to  
 18 Chevron's representatives. These are the contents of a  
 19 conversation that I had with John Doe 2 telephonically.  
 20 Q. Okay. You said this; correct?  
 21 A. Yes, sir. Yes, sir.  
 22 PRESIDENT VEEDER: Mr. Bloom, are you leaving  
 23 Page 5?  
 24 MR. BLOOM: Yes.  
 25 PRESIDENT VEEDER: I'd like to ask you a question,

10:43 1 Mr. Guerra, about Page 5. You've acknowledged that you  
 2 used the words--and I speak in English--that set out at the  
 3 bottom of Page 5: "So what I did then was put it"--and  
 4 that is the flash drive--"in my CPU."  
 5 Do you see those words in Spanish?  
 6 THE WITNESS: Yes, sir.  
 7 PRESIDENT VEEDER: What do you mean by--when you  
 8 say you put the flash drive in your CPU? Electronically  
 9 what happens, or physically what happens? Can you describe  
 10 what you did?  
 11 THE WITNESS: Now, in connection with this  
 12 citation, Mr. President, what I am mentioning is the fact  
 13 that I took the flash drive--and I think they also call it  
 14 USB Drive--and I put it in the CPU to be able to copy it or  
 15 to look at it. That is what I am referring to here.  
 16 PRESIDENT VEEDER: Well, there are two different  
 17 things: One, you can look at a document on a flash drive  
 18 without copying it onto the hard drive of the computer; and  
 19 you can also save the document from the flash drive onto  
 20 the hard drive of your computer.  
 21 Now, in your answer just now, you used both  
 22 phrases.  
 23 Do you recall if you copied it over onto the hard  
 24 drive of the computer or you only looked at the document on  
 25 the flash drive?

10:45 1 THE WITNESS: This conversation, Mr. President, I  
 2 held it with a friend telephonically. But, the truth, the  
 3 truth--I have later clarified this--the content of the  
 4 Draft Judgment, I found it, or it was shown to me in a  
 5 different computer, not in the computer in my house in  
 6 Quito, but in a computer belonging to Mr. Fajardo, which  
 7 was in Mr. Zambrano's residence in Lago Agria. I made a  
 8 duplicate of that document, and I made changes to the  
 9 duplicate of the document in the way that I have stated in  
 10 my statement.  
 11 This statement--this assertion was an assertion  
 12 made in June, on or about 2012, before I agreed to provide  
 13 sworn statements in this regard. And this was a statement  
 14 that was evidenced here.  
 15 At that time, I assumed that all documents were to  
 16 be worked on my computer and all flash documents were going  
 17 to be worked in my computer in the city of Quito.  
 18 PRESIDENT VEEDER: Thank you.  
 19 BY MR. BLOOM:  
 20 Q. By saying that you had a flash drive of the Draft  
 21 Judgment, you understood that that would make you pretty  
 22 valuable to Chevron; isn't that right?  
 23 A. Not precisely. However, I did consider that if  
 24 the Draft Judgment was found in my computer this would have  
 25 really made me felt relieved because they would see that I

10:48 1 had not lied.  
 2 Now, in connection with valuable, like you  
 3 said--well, I think in those circumstances, I would have  
 4 received perhaps not the 18,000 but an additional amount.  
 5 Q. If you had a flash drive of the Draft Judgment, it  
 6 would also show a direct connection between you and Judge  
 7 Zambrano; isn't that right?  
 8 A. Well, I don't know how to answer that.  
 9 Possibly yes, now that you're saying it.  
 10 Q. And saying that you had a copy of the Sentencia on  
 11 your own computer would also show a direct connection  
 12 between you and Mr. Zambrano; isn't that right?  
 13 A. Yes, sir. Yes. But just like the payment of  
 14 \$1,000 by Fajardo by Ximena Centeno--well, that fact--that  
 15 fact evidences that there was also a connection between us.  
 16 Perhaps at some point in time I could have kept  
 17 Fajardo's computer and not return it to him, and that would  
 18 have shown that as well.  
 19 But at that time, I didn't think that things were  
 20 going to come to this point, that I was going to intervene  
 21 later on, but such is life.  
 22 Q. You wanted to be valuable to Chevron and receive a  
 23 financial benefit for being valuable to Chevron; isn't that  
 24 also right?  
 25 A. I was hoping to get some kind of benefit somehow,

10:50 1 but I wasn't hoping to become a millionaire or anything  
 2 like that. I was hoping to receive something, like a good  
 3 set of fees.  
 4 Q. And if you got \$10,000 for a Memory Aid, a flash  
 5 drive would be worth more money in your view, the flash  
 6 draft of the Sentencia; isn't that right?  
 7 A. Possibly, yes.  
 8 Q. And at some point you had to hand over to the  
 9 Chevron representatives all of your hard drives; correct?  
 10 A. I voluntarily handed over those materials.  
 11 Q. And the Draft Sentencia was not on any of your  
 12 flash drives; correct?  
 13 A. The technical people that worked with these  
 14 gentlemen indicated that they had not--had not found them.  
 15 Q. And you were concerned that that did not make you  
 16 look very honest; wouldn't you agree with me?  
 17 A. I was concerned that I would be told that possibly  
 18 I had lied. Possibly that was it.  
 19 Q. And because you could not help them in the way you  
 20 said you could, you had an incentive to try to help them in  
 21 other ways; isn't that also right?  
 22 A. No. I have come here only to tell the truth about  
 23 the contents of my statement. I have not said that I  
 24 authored the Judgment or things of that nature. I have not  
 25 said that I helped prepare the report of Richard Cabrera.

10:52 1 I am saying and asserting and reaffirming only and  
 2 exclusively those aspects related to my personal  
 3 intervention or of which I have personal knowledge. That  
 4 is all, Mr. Bloom.  
 5 Q. I want to ask the question again. I'm not asking  
 6 you about your testimony today.  
 7 I'm asking you: Because you could not help  
 8 Che--Chevron in the way you said you could, at that time  
 9 you had an incentive to try to help them in other ways;  
 10 isn't that correct?  
 11 MR. KEHOE: I'm going to object to the question.  
 12 He can ask the question: Did you then go out and  
 13 help them in other ways?  
 14 But this incentive part of the question is  
 15 confusing and objectionable.  
 16 MR. BLOOM: I think we have--  
 17 MR. KEHOE: It's argumentative.  
 18 MR. BLOOM: I think we have a former judge who can  
 19 answer questions without the assistance of counsel.  
 20 PRESIDENT VEEDER: I don't think it's that. I  
 21 think it's the language. I don't know how "incentive" is  
 22 coming out in Spanish for this witness.  
 23 Can you reformulate your question?  
 24 It's a perfectly appropriate question, but just  
 25 try and make it clear, beyond misunderstanding.

10:53 1 And then, by all means, ask the second question  
 2 suggested by Mr. Kehoe.  
 3 BY MR. BLOOM:  
 4 Q. Because you could not help Chevron in the way you  
 5 promised, you wanted to help them in other ways; isn't that  
 6 correct?  
 7 A. I wish I could feel capable of helping Chevron. I  
 8 wish I could help myself, help my family, help my children.  
 9 But help Chevron? No, sir. I think Chevron does not need  
 10 my help.  
 11 Q. Your recollection as it related to the flash  
 12 drive, again, in the New York trial you testified, "Upon  
 13 learning from the Chevron representatives the statement  
 14 that the Draft Judgment had not been found on any of the  
 15 flash drives or on my home computer, and after engaging in  
 16 a mental process strengthening my memory regarding these  
 17 events in time and space, I was able to recall that I had  
 18 worked on that project in Lago Agrio."  
 19 That was your testimony in New York; correct?  
 20 A. Yes, sir.  
 21 Q. Now, when you spoke with Chevron's representatives  
 22 in June of 2012, you not only remembered that you allegedly  
 23 received the Draft Judgment on a flash drive, but you also  
 24 remembered then receiving the flash drive in person from  
 25 Judge Zambrano; correct?

10:55 1 A. That is how I recalled it at that point in time,  
 2 and that is why I stated--stated it that way, sir.  
 3 Q. And you also then remembered that Judge Zambrano  
 4 allegedly gave you the flash drive at the Quito airport;  
 5 isn't that right?  
 6 A. Yes, sir.  
 7 Q. And you further represented then that this all  
 8 happened a couple of weeks before the Sentencia was issued;  
 9 is that right?  
 10 A. Yes, sir.  
 11 Q. So to be clear, your June 2012 version of the  
 12 events was that Judge Zambrano gave you a Draft Judgment by  
 13 way of a flash drive; correct?  
 14 A. If you allow me, during a period of about three  
 15 and a half years, I had received from Mr. Zambrano,  
 16 generally every week, documents--well, on Fridays, when he  
 17 came by Quito to go to his house in Manta, Guayaquil.  
 18 And that perception that I received everything  
 19 personally from Mr. Zambrano, well, that led me to say at  
 20 that time to Chevron's representatives, well, because I  
 21 assumed that I received it from him, I could not have  
 22 received it from Fajardo, nor from Donziger, generally, all  
 23 the material I received from Judge Zambrano, who was the  
 24 person of trust, the confidante.  
 25 And because of that confidence, I stated what I

10:57 1 stated at the date you indicated. But then later on, I  
 2 rectified things, my memory became stronger, et cetera.  
 3 And that is how the mind works.  
 4 And finally, I remembered that the document I  
 5 received and worked on in the city of Lago Agrio.  
 6 Q. In which case, you would agree with me that every  
 7 time you represented that Judge Zambrano gave you a Draft  
 8 Judgment by way of a flash drive was incorrect; you were  
 9 wrong every time you said that?  
 10 A. Yes, sir.  
 11 Q. You were wrong every time that you represented  
 12 that the flash drive was provided to you personally by  
 13 Judge Zambrano, and you were wrong every time you said that  
 14 this transaction occurred at the Quito airport?  
 15 A. I have stated in--that in that regard. I have  
 16 stated that I was wrong.  
 17 Q. In fact, you never told Chevron, prior to July 31,  
 18 2012, that you had worked on any part of the Sentencia on a  
 19 separate computer in Lago Agrio; correct?  
 20 A. No, because my perception and my recollection--or  
 21 my perception was that that document I had worked on in  
 22 Quito and that it was somewhere in my computer.  
 23 Q. Do you remember being asked this identical  
 24 question during your May 2, 2013 deposition? And I will  
 25 quote.

10:59 1 You were asked, quote: "You had not told Chevron  
 2 that you had worked on any part of the project on a  
 3 separate computer in Lago Agrio before July 31st;  
 4 correct?"  
 5 And you answered: "I told Chevron several things.  
 6 Some of them were true; others were exaggerations."  
 7 That's what you testified that day under oath,  
 8 isn't it?  
 9 A. Yes, sir. Yes, sir.  
 10 Q. And Judge Zambrano never gave you a flash drive  
 11 with the Draft Judgment on it; correct?  
 12 A. With due respect, I several times said that it is  
 13 correct. Correct. He never gave it to me.  
 14 Q. So you exaggerated a lot to Chevron's  
 15 investigators; would you agree?  
 16 A. If you allow me, possibly, the exaggerations are  
 17 three or four but you are making it seel like there are  
 18 40,000, but they are not.  
 19 Q. Well, that was an exaggeration, was it not?  
 20 That's what you called it.  
 21 A. That's the way I recalled it. Exaggeration was  
 22 like when I said that I received 1,500 or 2,000 from the  
 23 Plaintiffs or from Mr. Zambrano when in reality I received  
 24 1,000. I lied- that's correct- when I said that I was  
 25 going to receive 300,000 from the Plaintiffs to help with

11:01 1 the Judgment when in reality, there was no offer of payment  
 2 in this sense help with the Judgment when there was no  
 3 offer of payment.  
 4 MR. KEHOE: Mr. President, we're covering old  
 5 ground now. Is it a good time for a break? It's been an  
 6 hour and a half.  
 7 MR. BLOOM: I have no objection.  
 8 PRESIDENT VEEDER: Let's have a 15-minute break.  
 9 We'll come back--let's make it quarter past, quarter past  
 10 11.  
 11 MR. BLOOM: Thank you.  
 12 PRESIDENT VEEDER: Again, we ask you, as  
 13 yesterday, Mr. Guerra, not to discuss the case or your  
 14 testimony away from the Tribunal.  
 15 (Brief recess.)  
 16 PRESIDENT VEEDER: Let's resume.  
 17 BY MR. BLOOM:  
 18 Q. Mr. Guerra, just to clarify a couple of points.  
 19 You testified today that Parties to a proceeding  
 20 usually submit documents to the Court at the courthouse; is  
 21 that correct?  
 22 A. Usually the Parties, when submitting the  
 23 documents, do so at the Office of the Clerk where the case  
 24 is pending.  
 25 Q. And you also explained that there are instances

11:19 1 where Ecuadorian law permits a party to submit documents  
 2 outside of the courthouse. Is that also right?  
 3 A. When it's almost at the end of a deadline, for  
 4 example, as warned by one of the Judges, it could be that  
 5 this is submitted directly to the Clerk of the Court.  
 6 Q. And when the Court is conducting a legal  
 7 proceeding outside the courthouse, may Parties submit  
 8 documents to the Court at that time?  
 9 A. In cases of a judicial inspection, for example, it  
 10 is clearly admissible to file, and for the authorized judge  
 11 to receive, and the clerk, the clerk for that case,  
 12 inevitably must be present for that procedure, he can  
 13 receive documents.  
 14 (Pause.)  
 15 BY MR. BLOOM:  
 16 Q. Did Chevron tell you on July 13, 2012, that you  
 17 would be left with nothing if you did not deliver Judge  
 18 Zambrano to them?  
 19 A. Yes, they did so.  
 20 Q. And you understood at that time that without Judge  
 21 Zambrano in order for you to reap the maximal financial  
 22 benefit that you had to become even more valuable to  
 23 Chevron in some other way?  
 24 A. I understood that Chevron intended to deal  
 25 directly with Judge Zambrano, and I was the link for that.

11:22 1 And in the end, if I wasn't able to do so, I think that  
 2 that was their perception, that I couldn't facilitate that  
 3 approach and I understood; and they told me that I was not  
 4 going to reap any financial benefits.  
 5 Q. And you actually admitted in your early  
 6 discussions with Chevron that you had a weak case, that you  
 7 said to them that with the very little that you had that  
 8 your story is very weak. Do you recall that?  
 9 A. Yes. I do remember that.  
 10 Q. Mr. Guerra, you have three children, do you not?  
 11 A. Yes, sir.  
 12 Q. And am I correct that your two youngest children  
 13 were living in the United States long before Chevron moved  
 14 you to the United States?  
 15 A. That is correct, sir.  
 16 Q. And your son has lived here in the United States  
 17 since October 2003; is that right?  
 18 A. That is correct.  
 19 Q. And does he have children? Do you have  
 20 grandchildren from him?  
 21 A. Yes, sir.  
 22 Q. And how often did you get a chance to see your son  
 23 and his children before you moved to the United States?  
 24 A. It was a very low frequency; every two or three  
 25 years.

11:25 1 Q. He lives in Chicago?  
 2 A. Correct.  
 3 Q. How often do you get to see him now--or, let me  
 4 rephrase that.  
 5 How often have you seen him or his family over the  
 6 last two years?  
 7 A. Quite frequently over the last two years.  
 8 Q. And your daughter has been living in the United  
 9 States since October 2009; is that right?  
 10 A. Yes.  
 11 Q. And prior to Chevron moving you here to the United  
 12 States, how often did you see her?  
 13 A. Once; possibly once.  
 14 Q. And does she have children?  
 15 A. Currently, she does.  
 16 Q. So two of your children have been living in the  
 17 United States for some time previous to you moving here;  
 18 correct?  
 19 A. That is correct.  
 20 Q. Now, your son entered the United States legally  
 21 with a valid Visa; correct?  
 22 A. Yes, sir.  
 23 Q. And his Visa later expired; correct?  
 24 A. Yes.  
 25 Q. And your son has not returned to Ecuador for more

11:26 1 than 10 years now; is that right?  
 2 A. That is true.  
 3 Q. And that has been a subject of concern for you;  
 4 correct?  
 5 A. Yes.  
 6 Q. And both you and your wife have been concerned for  
 7 some time that your son, who has a wife and children in the  
 8 United States, could be deported; is that right?  
 9 A. Yes, sir.  
 10 Q. And at the time that you made contact with Chevron  
 11 in 2012, you actually had not seen your son or daughter for  
 12 several years; is that right?  
 13 A. Yes, sir.  
 14 Q. You had not seen your daughter since 2009?  
 15 A. Possibly, yes.  
 16 Q. And you hadn't seen your son since 2008?  
 17 A. Possibly, the answer is yes.  
 18 Q. And you were moved to the United States when? Am  
 19 I remembering correctly that it was at the end of 2012?  
 20 A. I was moved to--with intent to stay here in the  
 21 U.S. in January 2013.  
 22 Q. And, in fact, Chevron has been trying to help your  
 23 son stay in the United States legally; isn't that right?  
 24 A. Yes.  
 25 Q. Does your son or his family have an immigration

11:28 1 Attorney working on their behalf?  
 2 A. Yes.  
 3 Q. And I'm guessing that they are not paying for  
 4 immigration counsel, are they?  
 5 A. That is correct. That is correct.  
 6 Q. Chevron is paying?  
 7 A. Yes, sir.  
 8 Q. Do you, by chance, know how much the immigration  
 9 Counsel has been paid by Chevron?  
 10 A. No, sir.  
 11 Q. And is the same immigration Counsel also  
 12 representing you for immigration purposes?  
 13 A. Yes, sir.  
 14 Q. And you do not know how much Chevron has paid this  
 15 immigration counsel on your behalf?  
 16 A. No, sir.  
 17 Q. And you have your own personal counsel here today;  
 18 correct?  
 19 A. Dr. Clayman, yes, that is correct.  
 20 Q. And am I correct that he attended all 53 meetings  
 21 with you when you met with the Gibson, Dunn attorneys from  
 22 about November 2000 and--2012 through November 2013?  
 23 A. My attorney, Dr. Clayman, was always present in  
 24 all meetings that I've held. And he has come with me to  
 25 the different errands that had to be performed at offices

11:30 1 of the Government, et cetera, but not starting in  
 2 November 2012, but after he was retained, January 2013.  
 3 Q. Thank you for that clarification.  
 4 And I don't want to know the substance of  
 5 discussions between you and your attorney, but I assume  
 6 that there have been times when you have met with him  
 7 without Chevron's counsel present.  
 8 Can you confirm that?  
 9 A. Yes, sir.  
 10 Q. And you're not paying his attorneys' fees, are  
 11 you?  
 12 A. I do not, no, sir.  
 13 Q. Chevron is paying his fees; correct?  
 14 A. I consider that Chevron should pay the attorneys'  
 15 fees for my lawyer.  
 16 Q. And are you represented also by a tax attorney?  
 17 A. Yes, currently I do. As far as I know, he's  
 18 working in connection with issues related to taxes.  
 19 Q. And who is paying his fees?  
 20 A. It is my understanding that Chevron does.  
 21 Q. Do you have an accountant here in the United  
 22 States?  
 23 A. I don't know if I have one, but what I do know is  
 24 that Chevron has hired--via my lawyer, has hired an  
 25 accountant or somebody specialized in the field of taxes.

11:33 1 Q. And you're not paying that person's fees either;  
 2 correct?  
 3 A. That is correct.  
 4 Q. And I'm assuming that you are most grateful to  
 5 Chevron for helping your son and his family; are you not?  
 6 A. In some way, I am grateful for the support  
 7 provided to--for me to maintain my emotional balance, my  
 8 safety, et cetera--et cetera, yes.  
 9 Q. By the way, at this point in time, am I correct  
 10 that just two of your children are currently living in the  
 11 United States?  
 12 A. Yes.  
 13 Q. You had one son move with you to the United States  
 14 who has since left the United States; is that right?  
 15 A. That is correct.  
 16 Q. And where is he living now?  
 17 PRESIDENT VEEDER: Is that relevant?  
 18 MR. BLOOM: Depending on the answer, yeah.  
 19 PRESIDENT VEEDER: Well, I'm asking you--  
 20 THE INTERPRETER: Microphone, please.  
 21 MR. BLOOM: Depending on the answer, yes. And I'm  
 22 happy to do a sidebar.  
 23 MR. KEHOE: I'd like to confer with Mr. Clayman  
 24 for a moment, please.  
 25 PRESIDENT VEEDER: Let's just take time out.

11:34 1 MR. KEHOE: Thank you.  
 2 (Pause.)  
 3 MR. KEHOE: Mr. President, we're going to object  
 4 to that question and ask that you direct that the witness  
 5 not have to answer it for security reasons, for  
 6 Mr. Guerra's son.  
 7 MR. BLOOM: May I be heard on a sidebar?  
 8 PRESIDENT VEEDER: We don't really have sidebars  
 9 in arbitrations. That's the trouble.  
 10 THE INTERPRETER: Your microphone, sir.  
 11 PRESIDENT VEEDER: As I said, we don't really have  
 12 sidebars in arbitration.  
 13 We need to know a little bit more where you're  
 14 going. We may have to ask the Witness to leave while  
 15 that's happening, or can you explain it in his presence, if  
 16 it's not translated?  
 17 MR. KEHOE: I can assure you that Mr. Guerra does  
 18 not read or speak any English to any degree whatsoever.  
 19 MR. BLOOM: I would prefer that the witness not be  
 20 present.  
 21 PRESIDENT VEEDER: Mr. Guerra, a question has come  
 22 up where we have to discuss the matter with counsel, and  
 23 it's best done if you're not in the room.  
 24 Would you mind going with our secretary or--who is  
 25 coming, just to wait outside for five or so minutes.

11:35 1 Please don't go away, but it's best if you are not in the  
2 room.  
3 (Whereupon the Witness exits the proceeding room.)  
4 PRESIDENT VEEDER: Okay. I'm also going to ask  
5 that the transcript from now on is strictly confidential,  
6 and its circulation will be limited, depending on our  
7 ruling. But now we can hear the purpose of the question.  
8 MR. BLOOM: He obviously--part of Chevron's story  
9 has been security concerns in Ecuador.  
10 My question really is--and I don't know the  
11 answer--is: Is he back in Ecuador?  
12 That certainly would suggest that there's not a  
13 lot of great fear of family safety.  
14 MR. KEHOE: We have a lot of--we have history of  
15 transcripts in these proceedings are--not as much the  
16 transcripts, but reports that the Tribunal has designated  
17 as confidential being leaked out into the public.  
18 MR. BLOOM: Should we just do this off the record  
19 then?  
20 MR. BISHOP: Yeah. I think we should do this off  
21 the record, if that's all right with the President.  
22 PRESIDENT VEEDER: Let's stop the Transcript now.  
23 There will be no transcript and no recording until we order  
24 others in a few moments. But we can also write it on a  
25 piece of paper for the Tribunal, if it's even more

11:37 1 sensitive.  
2 (Discussion off the stenographic and audio  
3 record.)  
4 (Whereupon the Witness reenters the proceeding  
5 room.)  
6 PRESIDENT VEEDER: Mr. Guerra, thank you for  
7 stepping out. We've resolved the difficulty. We're going  
8 to move on with a different question.  
9 MR. BLOOM: Thank you for your indulgence, sir.  
10 BY MR. BLOOM:  
11 Q. Just to finish that line of questions, just some  
12 summary questions, to be clear, right as of now, you have  
13 two children in the United States; correct?  
14 A. Yes.  
15 Q. And your grandchildren?  
16 A. Yes.  
17 Q. And you also have a brother living in the United  
18 States; correct?  
19 A. Two brothers.  
20 Q. And even before you made contact with Chevron, you  
21 had a not insubstantial part of your immediate family in  
22 the United States; is that correct?  
23 A. Yes, sir.  
24 Q. Now, moving on to another subject, let me ask you  
25 this:

11:42 1 In confirming something I believe that you said  
2 yesterday, that you, in fact, gave to Chevron's  
3 representatives access to your email account, am I  
4 remembering that correctly?  
5 A. Yes, sir.  
6 Q. And, in fact, you provided the Chevron  
7 representatives with your email passwords; correct?  
8 A. Yes.  
9 Q. And you know that no email from Pablo Fajardo was  
10 ever found in your email account. You were told that, were  
11 you not?  
12 A. Yes, sir.  
13 Q. And if I can have you take a look at Tab 42.  
14 Ms. Bees will assist you. For the record, that's  
15 Exhibit R-1332. This document lists your contact  
16 information from your Hotmail account.  
17 From this list, it appears that Mr. Fajardo's  
18 email does not appear; correct?  
19 A. Yes, that is correct.  
20 Q. You don't see it there even once; correct?  
21 A. Yes, sir.  
22 Q. And you previously testified that you and he  
23 emailed each other not infrequently; correct?  
24 A. On some occasions we exchanged emails, yes, sir.  
25 Q. By telling Chevron that you had emails between

11:45 1 Mr. Fajardo and yourself, you assumed that your value to  
2 Chevron would have been enhanced; isn't that right?  
3 To the extent you were able to show connections  
4 between you and Plaintiffs' counsel, you understood that  
5 that would increase your value to Chevron?  
6 A. At that time, no, I did not think about that.  
7 Q. And it's also true that you told Chevron's  
8 representatives, in June of 2012, that you had calendars  
9 showing notes of meetings with Pablo Fajardo; isn't that  
10 correct?  
11 A. Yes.  
12 Q. And you understood that if you could produce  
13 calendars showing notes of meetings with Pablo Fajardo,  
14 that that would make you valuable to Chevron; isn't that  
15 right?  
16 A. No. Not precisely, no.  
17 Q. You did not understand that, even though the  
18 investigator specifically told you, on June 25, 2012, "That  
19 would be very valuable for us" and even though Chevron's  
20 counsel told you, "It would be very valuable, yes?"  
21 So notwithstanding the fact that they told you it  
22 would be very valuable, you did not understand that that  
23 would make you more valuable, if you provided that to them;  
24 is that your testimony?  
25 MR. KEHOE: Mr. Veeder, I need to lodge an



11:47 1 objection. Throughout this entire examination, the Witness  
2 has had words on screens in front of him in language that  
3 he does not speak. I know that the translator--the  
4 interpreters are interpreting Mr. Bloom's questions. But  
5 it's entirely unclear the extent to which he is  
6 interpreting words on the screen or simply asking a  
7 question, and it's--it's--

8 MR. BLOOM: I'm happy to clarify, certainly.

9 MR. KEHOE: Thank you.

10 And the transcripts exist in Spanish. We do have  
11 Spanish transcripts.

12 BY MR. BLOOM:

13 Q. I think another thing which would help the  
14 Tribunal is, if--when you are referring to a PowerPoint, if  
15 you just indicate the slide number, where later on in the  
16 transcript we're going to have difficulty making sure to  
17 what reference is being made. But sometimes no reference  
18 is being made even implicitly to a slide number.

19 MR. KEHOE: Right.

20 PRESIDENT VEEDER: So I think we just ought to be  
21 clear, when you're referring to it, please refer to it  
22 expressly. That's advice to both sides.

23 MR. BLOOM: Certainly.

24 MR. KEHOE: Thank you, Mr. President.

25 And one further point, these transcripts exist in

11:50 1 and 114 of that exhibit.

2 Sir, do you see that now?

3 A. I do, sir, yes. I do see it.

4 Q. So on this date, on June 25, 2012, there was a  
5 discussion with Chevron's investigator and Chevron's  
6 attorney regarding calendars that belonged to you with  
7 notes of meetings with Pablo Fajardo. Do you recall that?

8 A. I do, sir, yes, I recall.

9 Q. And now that you have had an opportunity to review  
10 this transcript, you also recall that the investigator told  
11 you, "That would be very valuable for us."

12 A. Yes, sir. That is what the document evidences.

13 Q. And that Chevron's counsel reaffirmed that that  
14 would be very valuable; isn't that also right?

15 A. Yes, that is what is stated here in the document.

16 Q. So would you now agree that you understood, as of  
17 at least June 25, 2012, that if you could provide calendars  
18 to Chevron referencing notes of meetings with Pablo  
19 Fajardo, that that would be very valuable?

20 A. Very valuable for them, yes.

21 Q. But you have not produced any calendar showing  
22 notes of any meetings with Mr. Fajardo; isn't that right?

23 A. I have not.

24 Q. And it's also true that you told Chevron's  
25 representatives in June of 2012 that you had calendars

11:48 1 Spanish. We all have them. It would be more fair, I  
2 think, to show the Witness the Transcript in Spanish than  
3 in English.

4 PRESIDENT VEEDER: I think we've been watching  
5 that. When the Witness feels comfortable answering the  
6 question immediately, as he has, it seems to be unnecessary  
7 to take the Witness to the Spanish--

8 MR. KEHOE: I agree with that.

9 PRESIDENT VEEDER: But I think there should be a  
10 standing offer--and I can say it, or perhaps you can say  
11 it, Mr. Bloom--that when he wants to look at something he  
12 has said to have said, you show him what he did say in the  
13 deposition or the Transcript or the statement.

14 MR. BLOOM: I will do that now. I did do it in  
15 the beginning. And in response to Mr. Kehoe's objection, I  
16 was going to do with this specific case.

17 BY MR. BLOOM:

18 Q. Sir, I want to renew my offer to you, as I did at  
19 the beginning of the testimony yesterday, that you have a  
20 standing offer at any time to be looking at any of the 20  
21 statements made by you in that first binder.

22 With respect to this specific line of questions, I  
23 am now referring for the record to slide 117 that can be  
24 found at Tab 11 of the first binder. It is Exhibit R-1213.  
25 And I would refer your attention specifically to Pages 113

11:53 1 showing notes of meetings with Steven Donziger?

2 A. That is true.

3 Q. But you never produced any such notes of meetings  
4 with Steven Donziger; isn't that right?

5 A. That is correct, sir.

6 Q. In fact, do you recall telling Chevron's  
7 investigators that you had, quote/unquote, everything that  
8 would indicate or prove your meetings with Mr. Fajardo and  
9 Mr. Donziger?

10 A. At that point in time, I considered that I had all  
11 the day planners stored in my home. But when I looked for  
12 them and reviewed them, I had lost them. I wasn't able to  
13 find them.

14 Q. Do you remember being asked almost this identical  
15 question during the New York RICO trial?

16 A. Yes, I do.

17 Q. You were specifically asked--and do you recall  
18 telling the Chevron representatives that you had  
19 everything, everything that would indicate your meetings  
20 with Pablo Fajardo and Mr. Donziger? And rather than  
21 saying that you lost them, your answer, instead, was, "I  
22 said many things to the gentlemen, to their representatives  
23 from Chevron. On many of those, I was exaggerating. I  
24 wanted to improve my position regarding these gentlemen in  
25 the face of what was expected to be a sure agreement

11:55 1 between them and Mr. Zambrano. I really wasn't--I really  
2 didn't consider that I was Chevron's objective. My intent  
3 was to negotiate for Mr. Zambrano, to be the link with  
4 Mr. Zambrano."

5 That, for the record, is at slide 119. We have  
6 that in the binder, but I do apologize that that's only in  
7 English, but we can translate that back, if you want.

8 But my question here is: Do you recall that that  
9 was your testimony?

10 And that's also at Tab 19.

11 A. Yes, sir, that is what I answered that time, when  
12 that question was posed to me.

13 Q. So when you answered to Chevron's investigators  
14 that you had everything to prove that you had meetings with  
15 Mr. Fajardo and Mr. Donziger, this was another exaggeration  
16 to the Chevron representatives? That's essentially what  
17 you are saying under oath in the New York trial; correct?

18 A. If you allow me, look. The meeting between myself  
19 and Mr. Donziger did take place. Generally, I wrote down  
20 important day-to-day issues, such as this, in day planners  
21 that I generally have every year.

22 The answer that I provided was correct in its full  
23 magnitude in connection with the meetings with Mr. Donziger  
24 and in connection with the fact that I thought that the  
25 objective was Mr. Zambrano, so much so that I ratify my

11:59 1 don't recall, but they said not that--well, they didn't  
2 take them.

3 Q. None of the calendars that you provided to Chevron  
4 actually showed a meeting with Pablo Fajardo?

5 THE INTERPRETER: I'm sorry. The interpreter  
6 needs to ask a question. Is there a difference between  
7 calendar and day planner? Are you making a difference  
8 between a calendar and day planner, or are you using them  
9 interchangeably?

10 I'm asking you, Mr. Bloom, if you're using them  
11 interchangeably, day planner and calendar?

12 THE INTERPRETER: I'm asking you, Mr. Bloom, if  
13 you're using them interchangeably, day planner and  
14 calendar.

15 MR. BLOOM: I'm not using them interchangeably.

16 THE INTERPRETER: Okay. I understand. Thank you.

17 MR. BLOOM: Certainly.

18 BY MR. BLOOM:

19 Q. Sir, none of the calendars that you provided to  
20 Chevron actually showed a meeting with Pablo Fajardo; isn't  
21 that right?

22 A. They did not because these day planners say:  
23 regarding the period from July 2011 to July 2012. And my  
24 meeting with Mr. Pablo Fajardo, the last meeting with Pablo  
25 Fajardo, as far as I can remember, took place between May

11:57 1 position in that regard.

2 Finally, I'd like to clarify that, indeed, I  
3 assumed that the day planner in which I had my notes of  
4 those meetings with Mr. Donziger and the conversations with  
5 Fajardo, well--and matters related thereto, well, I thought  
6 that I had the relevant day planners.

7 But when I went to look for those day planners, I  
8 was not able to find a couple of day planners that were  
9 vital, specifically those related to 2010 and 2011.

10 Q. Sir, did you turn over your calendars to the  
11 Chevron representatives?

12 A. At a given point in time, I put, at the disposal  
13 of Chevron's representatives, a number of day planners,  
14 possibly six or eight.

15 They chose those that were more contemporaneous to  
16 the date of our conversations and the others they  
17 considered were not relevant, and they discarded them.

18 Q. And did you turn over to Chevron representatives  
19 daily planners that you maintained?

20 A. I remember that I gave to them a day planner that  
21 has to do with July 2011 to December 2011, and the day  
22 planner contemporaneous to January 2012 to July 2012. They  
23 considered that pair of day planners, they asked me for  
24 them, and I gave them to them. The other day planners they  
25 saw related to 2007, 2008, 2005, et cetera, et cetera, I

12:00 1 and June 2011.

2 Q. Just so that the record is clear, none of the  
3 calendars or day planners that you provided to Chevron  
4 actually showed a meeting with Pablo Fajardo or Steven  
5 Donziger; isn't that right?

6 A. Yes, sir.

7 Q. And did the Chevron representatives ask you to  
8 sign a permission slip for them to get access to your phone  
9 records?

10 A. I remember that that was the case. Yes, sir.

11 Q. And did Chevron get access to your phone records?

12 A. It is my understanding that a petition was made to  
13 the relevant telephone company, and they said that some  
14 technical issue had taken place; they had been lost and  
15 they weren't able to give them the oldest records. But  
16 they were able to provide the period of time, two or three  
17 months contemporaneous to the date where those records were  
18 requested.

19 Q. And had you retained any of your bills or invoices  
20 reflecting telephone calls that you made or received in  
21 2010 or 2011?

22 A. I have been somewhat organized in that regard.  
23 And the invoices for services of telephone service, water,  
24 gas--I maintained them for some time. But then when I  
25 moved to the U.S., I discarded all those documents and I

12:02 1 threw it out.  
 2 Q. Did you offer to Chevron the opportunity for them  
 3 to review your cell phone records, your personal cell phone  
 4 records before you threw them out?  
 5 A. I do not understand the content of your question,  
 6 because I don't remember having a specific phone record.  
 7 I've not been in the habit of asking IETEL, in this case,  
 8 for a monthly record of details of all of the calls. I  
 9 haven't done so, and I do not know whether they were able  
 10 to obtain that document on my behalf.  
 11 Q. You're not aware of any currently existing record,  
 12 documentary phone record evidencing any phone calls between  
 13 you and either Mr. Donziger or Mr. Fajardo; isn't that  
 14 right?  
 15 A. No, I do not know. I haven't seen any.  
 16 Q. Now, Mr. Guerra, would you agree with me that you  
 17 have previously characterized Judge Zambrano as very  
 18 distrustful?  
 19 A. I referred to Mr. Zambrano, based on my view, and  
 20 I had said that he was a strong, rigorous person who didn't  
 21 trust very easily and somehow unpredictable. That's what I  
 22 had said about him.  
 23 Q. At Slide 120 which makes reference to Mr. Guerra's  
 24 November 17, 2012 Declaration at Claimants 1616a, it is in  
 25 the white binder in Spanish. It is Tab 4 of Respondent's

12:05 1 binder. And if I may refer you to Paragraph 8--and again,  
 2 we have this on the screen--but you said that "Mr. Zambrano  
 3 is very careful and distrustful; and therefore, he would  
 4 tell me we had to be careful and not leave any evidence  
 5 regarding this."  
 6 And that was what you wrote and what you signed?  
 7 A. That is correct.  
 8 MR. KEHOE: Mr. President, I'm going to object  
 9 again. It's being presented as some type of impeachment  
 10 when, in fact, it was entirely consistent. I just don't  
 11 understand the process that's happening right now.  
 12 MR. BLOOM: I'm happy to do this any which way.  
 13 I'm happy to ask and keep going back and forth to the  
 14 documents. I was trying expedite this.  
 15 And at your suggestion, I'm now trying to give him  
 16 the testimony. I'm just trying to get through this. I  
 17 don't think these are controversial points.  
 18 MR. KEHOE: Okay. My only point is that the  
 19 witness answered the question. What's the reason to then  
 20 bring him to the place in his transcript where he said the  
 21 same thing?  
 22 MR. BLOOM: I guess I would appreciate a little  
 23 latitude with the understanding that I'm trying to move  
 24 this along.  
 25 MR. KEHOE: Okay.

12:06 1 PRESIDENT VEEDER: I think we understand the  
 2 problem, and let's continue.  
 3 BY MR. BLOOM:  
 4 Q. But at the same time that you said this, even  
 5 though you understood that Chevron believed you were Judge  
 6 Zambrano's ghostwriter and even though you had twice  
 7 approached Chevron for a bribe, you also have testified  
 8 that you and Judge Zambrano would meet at the airport to  
 9 exchange Court files and flash drives; isn't that right?  
 10 A. Yes, sir; that is correct.  
 11 Q. And the airport is a pretty public place, is it  
 12 not?  
 13 A. Yes, sir.  
 14 Q. And Mr. Fajardo allegedly worked from Judge  
 15 Zambrano's apartment; isn't that also right?  
 16 A. The question is a little bit confusing. Would you  
 17 please repeat me that?  
 18 Q. You have previously testified that Mr. Fajardo  
 19 worked on the Sentencia from Judge Zambrano's apartment;  
 20 isn't that right?  
 21 A. No, sir. You are wrong as to certain facts and  
 22 circumstances.  
 23 Q. Is it your understanding that Mr. Fajardo met with  
 24 Judge Zambrano in his apartment?  
 25 A. That's what I said, that once I got to Lago Agrio

12:08 1 to observe the document at the request of Mr. Zambrano, I  
 2 found Mr. Zambrano and Mr. Fajardo already there together,  
 3 they greeted me because I had traveled to that city.  
 4 Q. So you and Mr. Fajardo were both at Judge  
 5 Zambrano's apartment; correct?  
 6 A. Together with Mr. Zambrano.  
 7 Q. And you all would do this even after Chevron's  
 8 contractor secretly videotaped meetings with Judge Nuñez;  
 9 correct?  
 10 A. The question is a little bit confusing to me. But  
 11 if you allow me, the issue of Judge Nuñez, had happened  
 12 long time before. The issue regarding Judge Nuñez, the  
 13 videos on Judge Nuñez were previous to August 2009 or took  
 14 place in or happened in August 2009.  
 15 And the meeting I'm referring to, the meeting I  
 16 had with Mr. Fajardo and Mr. Zambrano took place a couple  
 17 of weeks before January 14th, 2011.  
 18 Q. And I guess that's my point, sir. You understood  
 19 that Judge Nuñez was secretly videotaped in 2009; correct?  
 20 A. Based on the news, I know that Judge Nuñez was  
 21 secretly videotaped in 2009.  
 22 Q. And here you are allegedly exchanging flash drives  
 23 and documents at the Quito airport and going along with  
 24 Mr. Fajardo to the apartment of Judge Zambrano in late 2010  
 25 or early 2011.

12:10 1 Am I understanding the chronology correctly?  
 2 A. No, sir. With due respect, you are  
 3 misunderstanding it. If you allow me, the meetings that I  
 4 usually had with Mr. Zambrano were held on Friday afternoon  
 5 at the Quito airport or in the nearby area to the airport  
 6 in an area close to the main entrance to the airport where  
 7 there is the TAME freight--the freight department for TAME.  
 8 This is the place where shipments are sent or received.  
 9 And our meetings, as agreed over the phone, were  
 10 held at the Aeropuerto Shopping Center, that's what it's  
 11 called, that's it's name, that is across from the Quito  
 12 airport. I am talking about Quito's old airport on La  
 13 Prensa Avenue in Quito. This Aeropuerto Shopping Center is  
 14 approximately around 150-200 meters from the main entrance  
 15 to the Quito airport.  
 16 Q. Sir, when was the last time you were in Judge  
 17 Zambrano's apartment?  
 18 A. This was when we introduced cosmetic changes to  
 19 the ruling in the Chevron Case.  
 20 Q. Thank you. And in May 2012, isn't it true that  
 21 you actually told Chevron's investigators that Mr. Zambrano  
 22 didn't want you to be seen in Lago Agrio?  
 23 A. If you allow me to look at the quote, I may  
 24 confirm it as you say that you have it. But I do  
 25 understand that I was told that, as many other things.

12:13 1 MR. BLOOM: If I may refer the Witness to Tab 1 of  
 2 our binder at Page 15; for the record, it's reflected in  
 3 Slide 121, and the document is Respondent's Exhibit 1214.  
 4 (Pause.)  
 5 BY MR. BLOOM:  
 6 Q. Sir, have you had a chance to look at the  
 7 document?  
 8 A. Yes, sir.  
 9 Q. And you would agree that Mr. Zambrano didn't want  
 10 you to be seen in Lago Agrio?  
 11 A. Mr. Zambrano and I agreed that it was not the best  
 12 to be seen together on the streets of Lago Agrio. But we  
 13 had no problems meeting in his own domicile or when I went  
 14 to his personal office--or rather, the office he had at the  
 15 Courthouse. But we were careful not to be seen together on  
 16 the street.  
 17 Q. Because it couldn't be known that you guys were  
 18 part of the same office--you couldn't be known as part of  
 19 his office; is that correct?  
 20 A. Yes. Perception--the perception was that people  
 21 could think that we were conspiring on some things;  
 22 especially the local lawyers.  
 23 Q. Now, sir, in June of 2012, did you tell Chevron's  
 24 representatives that there was no reason for you to consult  
 25 with Judge Zambrano during the weekend, you were allegedly

12:17 1 working on the Sentencia?  
 2 A. Yes. I told them that.  
 3 Q. And that's because you understood that Judge  
 4 Zambrano had enough confidence in you that he trusted that  
 5 you would do what was proper and prudent?  
 6 A. That is correct.  
 7 Q. And because you told Chevron's investigators how  
 8 much trust and confidence Judge Zambrano had in you, you  
 9 thought that made you even more valuable to Chevron; isn't  
 10 that right?  
 11 A. No. That was not my understanding. I had been  
 12 working already for several years, assisting with law suits  
 13 on civil law matters Mr. Zambrano had, and he trusted me  
 14 that I was doing it right.  
 15 Q. But isn't it true that about a year later in  
 16 May 2013, you allegedly remembered that you had had dinner  
 17 together with Judge Zambrano in the evening when you were  
 18 actually working on the draft Sentencia?  
 19 A. Yes. That's my view that that actually happened.  
 20 Q. And in the New York trial, do you recall  
 21 testifying that you were in constant communication with  
 22 Mr. Zambrano during the days when you were working on the  
 23 Judgment?  
 24 A. I possibly said it. But the telephone  
 25 communication with Judge Zambrano took place when I was

12:19 1 trying to find out whether he was ready--whether I was  
 2 ready to go out for dinner, or if I had concluded, or  
 3 whether I had made progress in that sense. It was not on  
 4 the topics that I was addressing when working on the Draft  
 5 Judgment.  
 6 Q. Sir, when you made your edits to the Sentencia,  
 7 you did it electronically. That's your testimony. It was  
 8 actually in a computer; correct?  
 9 A. Yes, sir.  
 10 Q. And you did not use redline or track changes or  
 11 whatever it might be called in Spanish?  
 12 A. I was not an expert on those topics and under--and  
 13 in underlining.  
 14 Q. So how did Judge Zambrano even know what changes  
 15 you made?  
 16 THE INTERPRETER: I'm just trying to clarify his  
 17 answer. I didn't understand completely what he said.  
 18 PRESIDENT VEEDER: Please repeat your answer.  
 19 THE WITNESS: What I would like to say is that I  
 20 did not know how to, for example, highlight yellow or  
 21 introduce colors. That's the reason why I did not use that  
 22 mechanism.  
 23 But I did underlined words or sentences.  
 24 BY MR. BLOOM:  
 25 Q. You knew how to underline in the document?

12:21 1 A. Yes, sir.  
 2 Q. Did you delete any words?  
 3 A. On the original document I was given, the answer  
 4 is no. I copied that document in the same computer, and I  
 5 worked on the duplicate copy that I created.  
 6 Q. And then when you were revising the document, did  
 7 you suggest the deletion of any words? Did your edits  
 8 include any deletions of even a single word?  
 9 A. Yes, sir, some; some words, some phrases, the  
 10 order of some things.  
 11 Q. And how would Judge Zambrano know which words you  
 12 were deleting?  
 13 A. Because they were already in the duplicate copy.  
 14 Q. So you expected him to look and compare the two  
 15 copies?  
 16 A. Preferably not him but Mr. Fajardo, because  
 17 Zambrano was not very good like--and I wasn't either in  
 18 handling the computer. But Mr. Fajardo is as good as many  
 19 others.  
 20 Q. So you have a 188-page document. You deleted a  
 21 few words, and you wanted Mr. Fajardo to find those words  
 22 that you deleted?  
 23 A. If it was not going to be Mr. Fajardo, at least  
 24 the assistant, the assistant Mr. Zambrano had because I  
 25 knew, I had observed that his personal assistant was the

12:23 1 one who transferred from the actual document, the physical  
 2 copies that Mr. Zambrano received from me as the assistant,  
 3 to transfer those physical documents into the computer.  
 4 Q. Sir, returning for a moment to your contention  
 5 that you were to receive 20 percent or so of the \$500,000  
 6 you say was promised to Judge Zambrano, let me ask you a  
 7 couple of questions.  
 8 Exactly how much money did you personally expect  
 9 to receive if Judge Zambrano received \$500,000?  
 10 A. Whatever Mr. Zambrano decided to give me, there  
 11 wouldn't be any problem with that.  
 12 Q. But you've also testified--and I'm happy to take  
 13 you through the documents. But I want to first establish  
 14 whether you'll agree with me that you have testified that  
 15 you expected to receive 20 percent; is that correct?  
 16 A. Yes, sir, at some point, I said that. But it was  
 17 my perception there was no specific offer by Mr. Zambrano.  
 18 But that was the habit, the tradition we had. I  
 19 would receive 20 percent of what he would receive. And if  
 20 at some point he received a thousand dollars, he would give  
 21 me 200.  
 22 Q. So your expectation was that you would receive  
 23 20 percent of \$500,000, which is \$100,000; correct?  
 24 A. Yes, sir.  
 25 Q. And what value do you contend that you added to

12:25 1 the final Sentencia?  
 2 A. The goal of my work in connection with the  
 3 Judgment was to have a Judgment that would seem to the  
 4 naked eye and would leave no doubt to have been drafted in  
 5 a normal way by the Superior Court of Justice in  
 6 conformance with the tradition, the form, the style. That  
 7 was the idea. That was the goal and also to have some  
 8 elegance in the text in the expression of the ideas, in the  
 9 use of syntax, the sentences, the use of terms. That was  
 10 my goal.  
 11 Q. And you were kind enough just now to tell us what  
 12 your goal was. My question is a little bit different.  
 13 What value did you actually add to the final  
 14 Sentencia as it was issued?  
 15 A. The fact that it would seem an original--a  
 16 document that would seem a document that originated at the  
 17 Superior Court of Sucumbíos.  
 18 Q. So you would make it look more legal; correct?  
 19 A. If you allow me more than a legal aspect, more in  
 20 terms of formatting, it had to do with a form with what was  
 21 usually done back then at the Court of Justice.  
 22 Q. You were trying to make it more proper, more  
 23 appropriate, more official-looking; correct?  
 24 A. That it would look--yes, as drafted by Judge  
 25 Zambrano.

12:28 1 Q. But, in fact, sir, you made very few changes to  
 2 the document; isn't that right?  
 3 A. Yes, sir.  
 4 Q. And your changes were mostly word changes. Would  
 5 you agree with me?  
 6 A. Words; and in some cases, stylistic formalities,  
 7 if you can use that term.  
 8 Q. And the word changes were due to your personal  
 9 preference; correct?  
 10 A. In some cases. But in others, it had to do with  
 11 the customary way--the natural way of drafting a ruling of  
 12 this sort by the Second Instance Court in Ecuador.  
 13 Q. In fact, according to your own Declaration--and  
 14 I'll give you the citation, if you want to look at it--you  
 15 returned the document to Judge Zambrano in a form that was  
 16 not too different from the one that you received,  
 17 allegedly, from the Plaintiffs; isn't that correct?  
 18 And let me know if you want to look at your  
 19 Declaration.  
 20 A. Yes. It is correct.  
 21 Q. And if, as you contend, Judge Zambrano solicited  
 22 and agreed to a bribe in exchange to let the Plaintiffs  
 23 prepare the Judgment, isn't it true that Judge Zambrano  
 24 didn't need you for a deal at all?  
 25 A. I cannot characterize whether I was essential for

12:30 1 Judge Zambrano or not. The truth is that during the time  
 2 during which Mr. Zambrano was the Judge of the Chevron  
 3 Case, I cooperated with him.  
 4 And the truth is that during the time that Judge  
 5 Zambrano was the Judge in civil cases, I wrote for him  
 6 between 300 to 400 judgments in different cases.  
 7 So I think that I must have added some value and  
 8 perhaps I was in some way necessary for Judge Zambrano.  
 9 Q. But the suggestions and changes that you made were  
 10 not taken into account, were they?  
 11 A. Upon reading the Judgment, something that happened  
 12 here in the United States when I read it in detail, I  
 13 noticed that, indeed, possibly the suggestions and changes  
 14 that I had recommended had not been taken into account.  
 15 Q. So I want to return to the question that I asked  
 16 you previously. And that is, what value did you contribute  
 17 to the final Sentencia?  
 18 A. I've explained this to you. For it to be seen as  
 19 issued out of the President of the Superior Court of  
 20 Justice of Sucumbíos, that it would seem that it was  
 21 prepared by the alternate President of the Superior Court  
 22 of Justice of Sucumbíos and not as it was stated, for  
 23 example.  
 24 Q. I understand that you have already testified as to  
 25 what your goal was, what you were trying to accomplish.

12:32 1 But I also understood you to confirm for me that your  
 2 changes and suggestions were not taken into account.  
 3 First, am I misunderstanding those two  
 4 conclusions?  
 5 A. No, you did not misunderstand. But I do want to  
 6 indicate that the changes that I suggested and I  
 7 noticed--and I noted those changes in the document, I then  
 8 later saw that those changes were not included in the  
 9 Judgment.  
 10 For example, the Judgment seems to have been  
 11 issued out of the panel of the Court of Justice of  
 12 Sucumbíos; but the panel of the Court of Justice represents  
 13 an Appellate Court, whereas the President of the is the  
 14 first instance court in the cases at issue.  
 15 Q. So let me try this one more time, sir; and then we  
 16 can move on.  
 17 If all of your suggestions and comments and edits  
 18 were rejected in the final Sentencia as issued, then does  
 19 that not mean that you did not make any contribution to the  
 20 final issued Sentencia?  
 21 MR. KEHOE: I'm going to object to the question.  
 22 It's argumentative. It's been answered twice. He's been  
 23 given all of the facts, and Mr. Bloom is looking for some  
 24 kind of a sound bite that will mischaracterize the facts.  
 25 PRESIDENT VEEDER: Mr. Bloom, ask your question.

12:34 1 MR. BLOOM: Thank you, sir.  
 2 BY MR. BLOOM:  
 3 Q. Now that we have our understanding, my question is  
 4 this: Given the fact that all of your edits and  
 5 suggestions and comments were rejected and did not find  
 6 their way into the final Sentencia as issued, would you  
 7 agree with me that, in fact, you provided no contribution  
 8 to the final Sentencia?  
 9 A. Rather, I'd agree with the fact that because of a  
 10 given circumstance they erased or they lost the document on  
 11 which I worked.  
 12 Q. Do they even see the document that you worked on?  
 13 A. Mr. Zambrano saw the final document that I worked  
 14 on. Evidently, it was not too, almost not to different  
 15 from the original document. But, rather the document I  
 16 worked on, the duplicate I made the relevant changes. I  
 17 changed terms, the format, words; and that document was  
 18 seen by Mr. Zambrano.  
 19 Q. Let me ask you this, sir.  
 20 By bringing you--well, strike that.  
 21 You believed you expected to receive about  
 22 \$100,000 for edits you did to a Sentencia that were never  
 23 accepted?  
 24 A. Well, not precisely. It wasn't about receiving  
 25 things exclusively for what you have stated.

12:36 1 The matter was that I--that I was going to  
 2 share--it was about me sharing a percentage, I hoped that  
 3 it would be 20 percent of what Judge Zambrano would receive  
 4 at the end or was going to receive at the end from the  
 5 Plaintiffs, for the fact of my having coparticipated  
 6 specifically in the rulings, in studying the record the  
 7 court order during Judge Zambrano's two periods, and that  
 8 whole general context, not exclusively for having gone a  
 9 couple of days to review one document, no. But rather for  
 10 keeping--this includes my continuing to keep the secret of  
 11 my ghostwriting and all those kinds of things.  
 12 It had to do with keeping this ghostwriting secret  
 13 secret and all those kinds of things.  
 14 Q. Now, sir, you've testified previously that the  
 15 deal was struck directly between Judge Zambrano and the  
 16 Plaintiffs and that you only learned about this alleged  
 17 bribe of \$500,000 through Judge Zambrano; isn't that  
 18 correct?  
 19 A. Yes, sir. But with the precedent that the initial  
 20 proposal related to the \$500,000 that I told Mr. Fajardo  
 21 then I confirmed it before Mr. Donziger and Mr. Yanza, all  
 22 of this suggest and requested by Mr. Zambrano.  
 23 Q. But allegedly only after Mr. Zambrano had already  
 24 spoken with the Plaintiffs. That's your testimony; isn't  
 25 that right?

12:38 1 A. No. Mr. Zambrano was the one who asked me to talk  
 2 to Plaintiff representatives in connection with the  
 3 \$500,000 and the drafting of the Judgment. And I spoke  
 4 about this initially with Mr. Fajardo.  
 5 A few days later, I ratified the same proposal to  
 6 Mr. Donziger, Mr. Yanza; Mr. Zambrano was also present at  
 7 that time. And later on, Mr. Zambrano told me that in  
 8 connection with this matter, this agreement, he had agreed  
 9 directly with Plaintiffs' lawyers.  
 10 Q. But he didn't need you to cut a deal with the  
 11 Plaintiffs. He could have done that himself, could he not?  
 12 A. Mr. Zambrano, as I said, was very careful. He was  
 13 very distrustful. And I think that he asked me to put  
 14 forth that proposal on his behalf because, ultimately, if  
 15 that proposal that I made was recorded, he said, "Oh, I  
 16 don't know anything about this."  
 17 But if this proposal was recorded and this came to  
 18 light in the media and juricially, Judge Zambran would have  
 19 come off poorly, and he wanted to avoid that risk.  
 20 Q. Well, in fact, you told Chevron that Fajardo did  
 21 once approach Mr. Zambrano, and Zambrano threw him out of  
 22 his office; isn't that right?  
 23 A. In connection with that, Mr. Fajardo told me about  
 24 that event personally to me.  
 25 This occurred when Zambrano took over the Chevron

12:42 1 Sir, you told Chevron's investigators: "Fajardo  
 2 is the one telling me, once he finds me, says, But, damn, I  
 3 almost died. This monkey made me, had me leave; and, damn,  
 4 he is impossible. There is no, damn, I just--not even, I  
 5 damn. It would have been worse had I gone to propose  
 6 something, he would have killed me. Damn."  
 7 So this is the story that you personally remember  
 8 Mr. Fajardo telling you that you conveyed in this instance  
 9 to the Chevron investigators; correct?  
 10 A. Yes, sir.  
 11 Q. And you also told the investigators that Zambrano  
 12 wouldn't give them a chance--that's what you told Chevron's  
 13 investigators; correct?  
 14 And that's at Page 70 of Tab 11. If you want to  
 15 look at it, we have that on Slide 129.  
 16 Just so you understand the question, you told  
 17 the investigators that Mr. Zambrano wouldn't give the  
 18 Plaintiffs a chance; isn't that right?  
 19 A. Yes, sir.  
 20 Q. Then you continued, Zambrano "is not like me, for  
 21 example, as far as temperament with everyone."  
 22 "Um, yes, come in, let's take a look, let's take a  
 23 look. We'll do all that's possible. Be well."  
 24 And sometimes I would I would say, "Have some  
 25 candy."

12:41 1 Case the first time, well, in this connection with this  
 2 matter, Mr. Zambrano also corroborated about that somewhat  
 3 aggressive attitude that he took.  
 4 Q. I'd like to show you a slide.  
 5 And for Counsels' edification, it's not for  
 6 purpose of impeachment, it's for purpose of facilitation.  
 7 MR. KEHOE: Okay. On the issue of facilitation,  
 8 can we get an estimate of when we might break for lunch?  
 9 PRESIDENT VEEDER: It's nearly quarter do 1:00.  
 10 You were hoping you might finish this morning. How's it  
 11 going?  
 12 MR. BLOOM: Great. What I would suggest is this  
 13 line of questions, we'll break, I'll consult with my  
 14 colleagues; and I might have five or ten minutes after.  
 15 PRESIDENT VEEDER: Fine. And this line of  
 16 questioning will last?  
 17 MR. BLOOM: A couple of minutes.  
 18 PRESIDENT VEEDER: A couple of minutes. Thank  
 19 you.  
 20 BY MR. BLOOM:  
 21 Q. So we have Slide 128 on the screen. For the  
 22 Witness, this is Tab 11. This is Respondent's  
 23 Exhibit 1213. And if I could refer you to Page 69 of the  
 24 document--but again, I will read it from the screen to  
 25 facilitate.

12:45 1 So you understand that you have a very inviting  
 2 personality, and that's very different than Mr. Zambrano's  
 3 personality; correct?  
 4 A. Yes, sir.  
 5 Q. And, in fact, you called Zambrano a tyrant,  
 6 because he would not talk to the Plaintiffs; isn't that  
 7 right?  
 8 A. I am answering that, sir, yes.  
 9 Q. And after Mr. Zambrano threw the Plaintiffs out  
 10 the door, you told Chevron's investigators that the  
 11 Plaintiffs had to work through you; isn't that right?  
 12 A. Possibly I did that, sir. If it's stated there,  
 13 yes.  
 14 MR. BLOOM: Now would be an appropriate time for  
 15 lunch, Mr. President.  
 16 PRESIDENT VEEDER: We have one question from the  
 17 Tribunal.  
 18 ARBITRATOR LOWE: It's just a point--  
 19 THE INTERPRETER: Microphone, please.  
 20 ARBITRATOR LOWE: It's a small point of  
 21 clarification that I can probably best put through  
 22 Mr. Bloom.  
 23 I understood the Witness to say that the day  
 24 planners for 2010, 2011 had been lost and he couldn't find  
 25 them.

12:46 1 I'm not entirely clear in my mind what the word is  
 2 that we're using to describe the document which appeared on  
 3 Slide 13. Is that not a day planner or a calendar? What  
 4 do we call that?  
 5 It's Slide 13. It's from the Torres report, and  
 6 it appears also as Tab 22 in the second binder.  
 7 MR. BLOOM: My understanding is that's a day  
 8 planner.  
 9 ARBITRATOR LOWE: And which year is it for?  
 10 MR. BLOOM: It's 2011. It looks like June and  
 11 July of 2011.  
 12 ARBITRATOR LOWE: Maybe that's something that I  
 13 can look at after lunch, because at Page 815, Line 11 of  
 14 the transcript today, I understood the Witness to say that  
 15 he couldn't find that document. Maybe that's something we  
 16 could check on after lunch.  
 17 PRESIDENT VEEDER: Before we break for lunch, one  
 18 other further item, we'd like to welcome Ms. Kathryn Owen,  
 19 the Tribunal's expert, who is coming to listen to the  
 20 technical witnesses starting at Monday morning. But  
 21 Ms. Owen has come early and is sitting with our  
 22 ICSID--sorry, PCA Secretariat. I think many of you know  
 23 her already.  
 24 So we'll break for lunch. We'll come back at 10  
 25 to 2:00. And again, Mr. Guerra, we ask you not to discuss

12:48 1 the case or your testimony away from the Tribunal.  
 2 (Whereupon, at 12:54 p.m., the proceedings were  
 3 adjourned until 2:00 p.m., the same day.)  
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01:42 1 AFTERNOON SESSION  
 2 PRESIDENT VEEDER: Let's resume.  
 3 BY MR. BLOOM:  
 4 Q. Mr. Guerra, we're coming towards the close of the  
 5 cross-examination, and I thank you for being patient with  
 6 me.  
 7 Sir, have you paid any U.S. taxes on all income  
 8 received while in the United States?  
 9 A. Thank you. Not yet. But as far as I know,  
 10 Chevron is going to do it--to do it in due time.  
 11 Q. Do you know what your income was for 2013?  
 12 A. Yes. I have been receiving the amount of \$12,000  
 13 a month during 2013. And we're talking about 12 by 12,  
 14 we're talking about \$144,000.  
 15 Q. Do you understand that your U.S. income would  
 16 include finance benefits beyond \$12,000 a month? For  
 17 example, payments made on your behalf for your counsel?  
 18 A. I sincerely have to tell you that I have no  
 19 knowledge about those kinds of details.  
 20 Q. So you don't know whether your income, for U.S.  
 21 tax purposes, would include payments made by Chevron on  
 22 your behalf, even if not made directly to you?  
 23 A. I am getting that information from you at this  
 24 point in time. I don't know anything about that matter.  
 25 Q. And you don't know how much you may be required to

02:03 1 pay in 2013; correct?  
 2 A. I do not.  
 3 Q. Or for the tax year of 2014?  
 4 A. The same answer: No.  
 5 Q. You only know that Chevron will be paying all of  
 6 your taxes for 2013 and 2014?  
 7 A. In a supplementary agreement, the last one that  
 8 was signed about a month ago, in March of 2015, that  
 9 Agreement was made in the sense that Chevron offered to pay  
 10 the taxes that I owe for the years 2013 and 2014, because  
 11 of taxes that I owe the U.S. government.  
 12 Q. Did Chevron offer or did you ask Chevron to pay  
 13 for the taxes?  
 14 A. Frankly speaking, I have to say that I asked  
 15 Chevron to do that.  
 16 Q. And Chevron agreed?  
 17 A. It did.  
 18 Q. Sir, I want to ask you to turn to--or at least I  
 19 want to reference a document provided to Respondent by  
 20 Claimants, and it is in your binder at R-39--I'm sorry--Tab  
 21 39. It is Respondents' Exhibit 892.  
 22 And for the record, we also have Slide 131 on the  
 23 screen.  
 24 Are you with me, sir, so far?  
 25 A. I have not found it in Spanish.



02:05 1 Q. Let me first ask you to turn to Page 6 of that  
 2 document and confirm for me that your signature may be  
 3 found towards the bottom of that page.  
 4 A. Yes, that is my signature.  
 5 Q. And I will represent to you that this appears to  
 6 be an agreement between you and Chevron.  
 7 And you anticipated my question: Is this  
 8 document--is the contract dated January 27, 2013, that you  
 9 signed, also in Spanish?  
 10 A. Yes, sir.  
 11 Q. Since we do not have the Spanish version here, I'm  
 12 going to have to rely on the court reporter and interpreter  
 13 to help me. But I will be referencing, on Page 4 of that  
 14 document, at Tab 39, at Paragraph 5.  
 15 And this paragraph reads, in English--and we will  
 16 have it translated for you, sir: "Chevron is under no  
 17 obligation to make any further payments to Guerra pursuant  
 18 to this agreement after the 24th month. Chevron will  
 19 obtain, at least one month prior to the last of the 24  
 20 monthly payments, an independent third-party assessment of  
 21 the ongoing risk, if any, to Guerra's personal safety and  
 22 security at that time, and the nature and time horizon of  
 23 any such risks. If that independent assessment finds  
 24 substantial evidence of a risk to Guerra's personal safety  
 25 and security, Chevron and Guerra will act in good faith to

02:07 1 reach an agreement on new terms (including the provisions  
 2 of Section II(B)(1) and the duration of any agreement) to  
 3 address Guerra's personal safety and security concerns  
 4 under all the circumstances as they exist at that time.  
 5 Chevron shall base any agreement in this regard on that  
 6 independent assessment. Any further agreement will not be  
 7 contingent on the content of Guerra's statements or  
 8 testimony or the outcome of any matter in which Guerra  
 9 testifies, or on the outcome of any investigation in which  
 10 he provides statements or testimony."  
 11 Sir, do you remember generally the substance of  
 12 this paragraph as I read it to you?  
 13 A. I do, sir.  
 14 Q. And you knew when you prepared and executed your  
 15 Declarations and provided deposition and trial testimony,  
 16 that a new contract might one day still be negotiated for  
 17 you at the conclusion of the 24th month of this  
 18 agreement; isn't that right?  
 19 A. Yes. I understood that, as of 27 January 2013,  
 20 then two years after that, the validity of this agreement  
 21 would end, according to the terms stated therein.  
 22 Q. And, in fact, you executed a supplemental  
 23 agreement, did you not?  
 24 A. I did.  
 25 Q. And that supplemental agreement, again, only in

02:10 1 English, with apologies, is at Tab 38, behind the  
 2 green-colored page.  
 3 And I would ask you, sir, to turn to Page 6 of  
 4 this document and confirm for us that you, in fact, signed  
 5 this document.  
 6 A. Yes, I did. My signature appears therein.  
 7 Q. And do you recall--and please let me know if you  
 8 don't, because we can, again, read out the paragraph and  
 9 have it translated.  
 10 But do you generally recall a similar provision as  
 11 the one that I just read, except it says that Chevron is  
 12 under no obligation to make any further payments to Guerra  
 13 pursuant to this agreement after the 12th month, whereas  
 14 the predecessor agreement said after the 24th month, but  
 15 raised the possibility of yet a further agreement with you?  
 16 Do you recall that?  
 17 A. I do recall that, yes, sir.  
 18 Q. And you understand that this current agreement  
 19 with Chevron will expire in March of 2016?  
 20 A. That is correct, yes.  
 21 Q. And today, as you testify, you also understand  
 22 that a new agreement might be negotiated to cover a  
 23 timeframe after March of 2016; is that correct?  
 24 A. Yes. If the circumstances referred to in one of  
 25 the clauses of this agreement occurs, yes.

02:12 1 MR. BLOOM: And with that, Members of the  
 2 Tribunal, I tender the Witness.  
 3 PRESIDENT VEEDER: Thank you very much.  
 4 Do you want a short break, or should we proceed  
 5 immediately with the reexamination?  
 6 MR. KEHOE: I think we can just proceed  
 7 immediately. Thank you.  
 8 PRESIDENT VEEDER: Again, just for planning  
 9 purposes, time estimate?  
 10 MR. KEHOE: Yes. As I had mentioned to Mr. Bloom  
 11 during the lunch break, I expect to be less than one hour.  
 12 PRESIDENT VEEDER: Okay.  
 13 MR. KEHOE: Thank you.  
 14 Mr. Guerra--  
 15 Oh, if you wouldn't mind, I'm going to just hand  
 16 out one single binder, and that way we can eliminate the  
 17 multitude of binders that are in front of everyone.  
 18 THE INTERPRETER: Microphone, please.  
 19 (Pause.)  
 20 THE INTERPRETER: There is no microphone.  
 21 MR. KEHOE: It's--I find it difficult to read the  
 22 TAME shipping record in such small type, which is Exhibit 3  
 23 in the binder that--or Tab No. 3 in the binder that I just  
 24 gave you, so we've had it blown up. It's an exact  
 25 duplicate of Exhibit 1616a, Attachment F, like "Frank."

02:14 1 REDIRECT EXAMINATION  
 2 BY MR. KEHOE:  
 3 Q. Mr. Guerra, I just want to clear up something from  
 4 your testimony this morning. I believe it's--you just made  
 5 a misstatement. It's not a big deal, but we may as well  
 6 clarify the record.  
 7 On Page 84 of the transcript, you were being--  
 8 asked.  
 9 (Pause.)  
 10 PRESIDENT VEEDER: You might start again, given  
 11 the technical problem.  
 12 MR. KEHOE: Sure.  
 13 BY MR. KEHOE:  
 14 Q. Mr. Guerra, can you hear me in Spanish?  
 15 A. I do, yes. Right now I do.  
 16 Q. Thank you.  
 17 Mr. Guerra, I want to ask you just a few questions  
 18 to clarify, I think, a misstatement by you in the record.  
 19 I think you just got two names confused. It's not a big  
 20 deal, but we may as well clean it up while we're here.  
 21 On page 83 of the transcript, you were asked,  
 22 "Now, sir, you've testified previously that the deal was  
 23 struck directly between Judge Zambrano and the Plaintiffs,  
 24 and that you only learned about this alleged bribe of  
 25 \$500,000 through Judge Zambrano; isn't that correct?"

02:15 1 And you said, "Yes, sir, but with the precedent  
 2 that the initial proposal related to the \$500,000 that I  
 3 had told Mr. Fajardo then I confirmed it before  
 4 Mr. Donziger and Mr. Yanza, all this as suggested and  
 5 requested by Mr. Zambrano."  
 6 So that's all good.  
 7 But then you were asked, "But allegedly  
 8 after--only after Mr. Zambrano had already spoken with the  
 9 Plaintiffs--that's your testimony; isn't that right?"  
 10 And you said, "No. Mr. Zambrano was the one who  
 11 asked me to talk to the Plaintiffs' representatives in  
 12 connection with the \$500,000 and the drafting of the  
 13 Judgment. And I spoke about this initially with  
 14 Mr. Fajardo, and a few days later I ratified the same  
 15 proposal to Mr. Donziger, Mr. Yanza--and Mr. Zambrano was  
 16 always present at the time. And later on Mr. Zambrano told  
 17 me, in connection with this matter, this agreement--he had  
 18 agreed directly with the Plaintiffs lawyers."  
 19 At the end there, where you said that Mr. Donziger  
 20 and Mr. Yanza were joined by Mr. Zambrano, did you mean to  
 21 say Mr. Fajardo?  
 22 MR. BLOOM: Objection.  
 23 PRESIDENT VEEDER: For the moment, please don't  
 24 translate what I'm saying into Spanish.  
 25 MR. KEHOE: There is no dispute about this between

02:17 1 the Parties.  
 2 PRESIDENT VEEDER: Well, there is obviously a  
 3 dispute, because there's an objection.  
 4 MR. KEHOE: Okay.  
 5 PRESIDENT VEEDER: But in a sense, this is  
 6 something that's--the Witness has said--I can see the point  
 7 you're making, but can you really do this by way of  
 8 redirect in the way you've done it?  
 9 To put it mildly, it's about as leading as it can  
 10 possibly be.  
 11 MR. KEHOE: It is, and the reason that I did it  
 12 that way is because, frankly, the Parties do not  
 13 disagree--Mr. Donziger has admitted under oath that he was  
 14 in the Honey Honey restaurant with these people--  
 15 PRESIDENT VEEDER: We understand that.  
 16 MR. KEHOE: -- and not Judge Zambrano.  
 17 PRESIDENT VEEDER: We understand that. It's just  
 18 a question of--the witness has actually said what he said.  
 19 It's for us really to work out whether it's a  
 20 mistake or whether it's a genuine statement on his behalf.  
 21 MR. KEHOE: Okay.  
 22 PRESIDENT VEEDER: I just query whether you can do  
 23 it in the way you indicated.  
 24 MR. KEHOE: That's fair enough. I'll ask it  
 25 differently.

02:18 1 BY MR. KEHOE:  
 2 Q. Mr. Guerra --  
 3 MR. KEHOE: Oh, if we can have the translation  
 4 back, please.  
 5 PRESIDENT VEEDER: Yes. I'm sorry.  
 6 Could you please start translating into Spanish  
 7 again?  
 8 BY MR. KEHOE:  
 9 Q. Mr. Guerra, I'm going to ask you a different  
 10 question.  
 11 Who was present at the meeting in September or  
 12 October of 2010 at the Honey Honey restaurant? Yourself  
 13 and who else?  
 14 A. Mr. Donziger, Mr. Fajardo, and Mr. Yanza. Those  
 15 three individuals, including myself. So four exclusively.  
 16 Q. Thank you. I'm moving on to a different topic  
 17 now.  
 18 Mr. Guerra, you were asked quite a few times  
 19 yesterday about the extent to which the physical evidence  
 20 supports your claim that you ghostwrote orders for  
 21 Mr. Zambrano in the Chevron Case beyond simply taking your  
 22 word for it.  
 23 Do you remember that, those lines of questions?  
 24 A. Yes, I do remember it.  
 25 Q. And similarly, on the same topic, I'm going to ask

02:19 1 you some questions about this.  
 2 Do you remember you were asked quite a few times  
 3 about the physical evidence and the extent to which it  
 4 supports your claim that the Lago Agrio Plaintiffs were  
 5 paying you to move the case along faster in your role as a  
 6 ghostwriter for Mr. Zambrano, other than simply taking your  
 7 word for it? Do you remember all those questions?  
 8 A. Yes, I do.  
 9 Sir, a little slower, please.  
 10 Yes, I remember these questions that were related  
 11 to this matter, and I also remember the content of the  
 12 answers that I provided in that regard.  
 13 Q. Okay. I'd like to look at some physical evidence  
 14 with you, and I'll ask you to please open the binder in  
 15 front of you to Tab 5A. It is Exhibit 1616a, which is your  
 16 November 17, 2012, Declaration, Attachment O.  
 17 Do you recognize that document, sir?  
 18 A. I do, sir, yes. I recognize it. It is the first  
 19 Ruling that I wrote for Mr. Zambrano during his first  
 20 tenure in the context of the Chevron Case.  
 21 Q. Looking five or six lines down, you wrote, "I  
 22 hereby assume jurisdiction over Case No. 2-2003," filed by  
 23 Maria Aguinda against Chevron for environmental damage.  
 24 Why did you write that? What was the timing and  
 25 the context of this October 20, 2009, draft order?

02:21 1 A. Yes, thank you.  
 2 Procedurally, the law in Ecuador establishes that  
 3 the judge upon taking over a case as in this case it was  
 4 Judge Zambrano's first turn, he expressly has to issue a  
 5 court order. The order is different from a decree, because  
 6 here we find the term "whereas," "vistos." And, in this  
 7 order which is the first order issued by Mr. Zambrano, it  
 8 expressly provides reasons for the background that  
 9 determined the reason why Judge Zambrano took over the case  
 10 as the Judge presiding over the case.  
 11 After making reference to those background events  
 12 very briefly in this ruling, he states: Consequently, in  
 13 my capacity as Alternate President of the Court or  
 14 Alternate Judge, I take over of the Case No. XXX, that  
 15 Maria Aguinda has brought against, Chevron, et cetera.  
 16 And so once he has the power to act as a judge in  
 17 this case, he indicates that procedurally he's going to  
 18 make decisions and resolutions, and then he starts  
 19 indicating each one of the points that have to do with the  
 20 Orders that he has issued in order to move the case along.  
 21 I hope that I've answered your question.  
 22 Q. You have.  
 23 And did you write that language that you just  
 24 talked about?  
 25 A. I did, sir, yes.

02:23 1 Q. Turn the page, if it you would, please. The  
 2 paragraphs are numbered paragraphs. Down near the bottom,  
 3 we see paragraph numbered 13.  
 4 And tell me when you're there.  
 5 A. Yes, I have it before me.  
 6 MR. BLOOM: Mr. President--and I don't want to be  
 7 intervening for my friend's redirect, but I am a little bit  
 8 concerned in terms of where we're going and whether this is  
 9 exceeding the scope of cross. I did not get into the  
 10 substance of any of the Orders or the nine Orders that were  
 11 on his hard drive.  
 12 We--this is beginning to sound like maybe a direct  
 13 examination that they were preparing, but I'm very  
 14 concerned that we are going down a road--and if the only  
 15 link is that I asked the Witness about physical evidence,  
 16 that cannot be an invitation for them to now use that to  
 17 basically make whatever affirmative case that's beyond the  
 18 scope of my cross-examination.  
 19 PRESIDENT VEEDER: Let's see where it goes.  
 20 Please continue.  
 21 MR. KEHOE: Thank you.  
 22 BY MR. KEHOE:  
 23 Q. So paragraph numbered 13 refers to a brief filed  
 24 by Dr. Adolfo Callejas, counsel for the defendant, on  
 25 September 11, 2009.

02:24 1 Sir, what was Dr. Callejas asking for on behalf of  
 2 Texaco in this application, and what was your ghostwritten  
 3 ruling with respect to that request?  
 4 A. Mr. Callejas, in his motion--in the motion in  
 5 connection with the ruling stated in numeral 13, asked  
 6 that all the procedural steps taken by the former judge,  
 7 Juan Nuñez, for all of that to be declared null and void,  
 8 absolutely null and void. That was the motion.  
 9 That was the claim, and in accordance with what is  
 10 stated under 13, that you make a reference to, I expressly  
 11 stated that the grounds for procedural nullity determined  
 12 by the law, Articles 346 and Article 1014 of the Code of  
 13 Civil Procedure that had to be applied to this case, did  
 14 not include as grounds for nullity what was stated or  
 15 singled out in the motion filed by Mr. Callejas. And that  
 16 was precisely the support and grounds that were the basis  
 17 for denying Mr. Callejas his motion to annul all of the  
 18 Court's proceedings during Judge Nuñez's tenure.  
 19 MR. BLOOM: And I'd like to renew the objection,  
 20 Mr. President. We've had five years or more of briefing on  
 21 these subjects. This is not a subject matter that I  
 22 covered in the cross-examination at all.  
 23 MR. KEHOE: I respectfully disagree completely  
 24 with Counsel's argument.  
 25 Most of the cross-examination was spent on an

02:27 1 effort to undermine the credibility of the witness by  
 2 suggesting that this Tribunal needs only to rely on the  
 3 Witness' word, including an extensive period of time on the  
 4 TAME shipping records, which I'm going to get to in a  
 5 minute, where Counsel was attempting to show that  
 6 Mr. Guerra was not shipping Chevron Orders.  
 7 This goes to the heart of one of the two main bits  
 8 of testimony that Mr. Bloom was soliciting. I don't see  
 9 how it could be remotely outside the scope.  
 10 MR. BLOOM: The substance of the Orders have  
 11 nothing to do with that.  
 12 PRESIDENT VEEDER: Let the Counsel deliberate.  
 13 (Pause.)  
 14 (Comments off the record.)  
 15 PRESIDENT VEEDER: Thank you for your submission.  
 16 The Tribunal has deliberated, and the objection is  
 17 overruled. Please continue.  
 18 BY MR. KEHOE:  
 19 Q. Mr. Guerra, please turn to Tab B in the binder in  
 20 front of you. It's Exhibit 1616a, your  
 21 November 12th--November 2013 Declaration Attachment P,  
 22 like "Paul."  
 23 Tell me when you're there.  
 24 A. I do, sir, yes.  
 25 Q. Now, do you recognize this document?

02:29 1 A. I do, yes. This is a Ruling prepared by me in my  
 2 computer at the date stated here.  
 3 Q. On the date. Now, let me ask you about that.  
 4 On the page on the left--right, it's up's the  
 5 screen--it says "metadata fields." And I am told that the  
 6 "docdate," the fourth line down, dated November 18, 2009,  
 7 is the last date that you worked on this document,  
 8 according to your computer.  
 9 And my question to you is, if you look at the next  
 10 page, the date is November 20th, 2009, which is two days  
 11 later.  
 12 Do you know why that is, why those dates are  
 13 different?  
 14 A. I used to place an estimated date--perhaps two or  
 15 three days later on because, generally, when I was working  
 16 on these Orders, I worked late Friday evening and Saturday  
 17 or Sunday. So the dates that I wrote was possibly the very  
 18 first or second business day after that weekend, and I did  
 19 it for purposes of having both Mr. Zambrano and his  
 20 assistant--or his assistant who would transfer these  
 21 Rulings to their computers for later editing.  
 22 Well, they didn't--I didn't want them to make a  
 23 mistake. I was scared that if I wrote the date of a  
 24 Saturday, perhaps they thought, well, they're going to  
 25 include a Saturday date on the ruling and then may cause a

02:31 1 problem.  
 2 So, they knew, Mr. Zambrano knew, that I placed  
 3 this date. Sometimes this date, as I remember it was  
 4 respected by him. Or, otherwise, this date was respected  
 5 by him, or he placed the date when the ruling was asked of  
 6 them, two, three, or four days after I prepared it.  
 7 Q. Like the last Order, Mr. Guerra, this one is  
 8 sequentially numbered paragraphs. Where does this Order  
 9 end, the actual Order?  
 10 A. Thank you very much.  
 11 The Order finishes at No. 12 where it says "be it  
 12 notified." All of the Rulings are completed with that  
 13 formal text, be it notified, or it is so ordered.  
 14 Q. Now, turn the page. Even though you've just  
 15 testified the Order is ended with notice to be given, we  
 16 see lots of--more words.  
 17 What is that? Why was that in your computer as  
 18 part of this order?  
 19 A. The truth of the matter is that due to lack of  
 20 technique or time, I was hurried here. Generally I used to  
 21 copy the first ruling to develop a second one. And in this  
 22 second one which was contemporaneous with the documents  
 23 that I received, so I used some literature that was already  
 24 used in the first Ruling.  
 25 For example, generally at the very beginning

02:33 1 where it says President of the Superior Court of Justice of  
 2 Sucumbíos the trial of Mrs. Aguinda against Chevron, number  
 3 such and such, generally that--obviously, so I wouldn't  
 4 have to Retype because that would perhaps take time. And  
 5 that's how I did it, that's how I did it one after the  
 6 other, one after the other, to the point that it  
 7 accumulated it became, it accumulated. I didn't believe  
 8 that with time this would leave a bad impression of me -  
 9 but there it is. These were the accumulated remnants of the  
 10 previous court orders, one after the other.  
 11 Q. And, sir, just to be clear, neither I nor anyone  
 12 else is suggesting that this creates a bad impression on  
 13 you. I'm just asking you the facts of how this document  
 14 was created.  
 15 Please turn to C, Tab 5C, which is C 1616a,  
 16 Attachment Q.  
 17 Do you recognize this document?  
 18 A. Are you referring to the document dated  
 19 December 1st, 2009? Yes.  
 20 Q. Yes, sir. That's exactly what I'm referring to.  
 21 So you're there?  
 22 A. Yes, sir.  
 23 Q. Now, again, we see the paragraphs are numbered  
 24 sequentially. And I'm going to ask you to turn to  
 25 paragraph numbered 4.

02:35 1 A. Yes, sir.  
 2 Q. And you don't need to read the entire paragraph.  
 3 I'm not going to be asking you about the substance of it.  
 4 But I note that, until the end, until the  
 5 parenthetical at the end, all of the text is in normal type  
 6 of capital and lower case letters. And then at the end,  
 7 you have a Note in all caps.  
 8 And my question to you is, why did you write that  
 9 Note? Why did you write it in all caps? What does it have  
 10 to do with?  
 11 A. In that note I said: Watch out, note to Judge  
 12 Zambrano or his assistant, precisely so they would comply  
 13 with the suggestions I was making as to how to fill in the  
 14 blanks.  
 15 In this case, it refers to including  
 16 the--inserting the names of the professionals, of the  
 17 corresponding experts, which I did not include and which I  
 18 was unable to complete.  
 19 And this is clear, since the list of the experts  
 20 that were accepted or qualified by the Public Prosecutor is  
 21 found in the Secretary of the Judiciary, and I did not have  
 22 that information.  
 23 In the case of this case, Judge Zambrano usually  
 24 invited the Parties to the proceeding before naming the  
 25 Parties and before recording the names, Judge Zambrano had

02:37 1 the habit of inviting the litigants and saying to them:  
 2 Look, gentlemen, I have these names for this expert  
 3 assignment. Do you agree? Let's do an internal draw, et  
 4 cetera. And clearly those names had to be recorded once  
 5 Judge Zambrano, by draw, or in their presence revealed the  
 6 appointment based on the list he had.  
 7 Thank you, Mr. Guerra.  
 8 In this same document, please turn to the last  
 9 page numbered--paragraph numbered 17. And here again we  
 10 see a Note in this same order--referring back to Section 4  
 11 that you just testified to about appointing experts. Why  
 12 did you write this Note here at the end of the order?  
 13 A. This was just a second reminder in connection with  
 14 numeral 4.  
 15 I did it because I believed that Judge Zambrano,  
 16 because of all of the tasks he had to complete, he would  
 17 allow the assistant, the young assistant to do it. And  
 18 this assistant, who was very young, could have made  
 19 mistakes or could have had some omissions; and I just  
 20 wanted to make sure that that did not happen with this  
 21 ruling.  
 22 Q. Please turn to the next tab, which is D in your  
 23 binder. It's an order dated December 7, 2009. It's  
 24 Attachment R to your November Declaration, sir. Tell me  
 25 when you're there.

02:39 1 A. Yes, got it.  
 2 Q. Did you write this Draft Order?  
 3 A. Yes.  
 4 Q. Please turn to paragraph numbered 10, and read it  
 5 to yourself, if you would, please, and let me know when  
 6 you're done reading it.  
 7 A. Yes.  
 8 Q. Towards the bottom of Paragraph 10 about five  
 9 lines up from the bottom, you wrote: "It is provided that  
 10 ordinary timeframes may not exceed those given under  
 11 Article 288 of the Code of Civil Procedure with regard to  
 12 issuing judgments. This is done in accordance with the  
 13 provisions of Articles 303 to 319 ibidem, which without  
 14 fail must be observed by the Parties as applicable."  
 15 Sir, what was your aim or goal or purpose for  
 16 rendering that particular ruling in draft form for Judge  
 17 Zambrano?  
 18 A. It was to streamline the process. Basically, that  
 19 was the reason, and also to avoid any delays as we had seen  
 20 throughout the proceeding starting from this day backwards,  
 21 and also for several years too.  
 22 Q. And did you make this ruling, at least in part  
 23 because of your agreement with the Lago Agrio Plaintiffs to  
 24 move the case along quickly through your ghostwritten  
 25 Orders?

02:41 1 A. It could be said that the answer is yes, and also  
 2 in agreement with the Judge of the proceeding, Judge  
 3 Zambrano.  
 4 Q. Well, when you say "it could be said," what do you  
 5 mean by that?  
 6 A. If you allow me, and briefly, from the onset, when  
 7 judicial inspection started--and that was late 2004 onwards  
 8 and almost up to the date that we're discussing in this  
 9 ruling, 2009, for five years, approximately--the Parties  
 10 were used to having very long deadlines, very long periods.  
 11 For example, 100 days for the Expert to issue a report, 150  
 12 days for the parties to the proceeding to issue a decision  
 13 on the Expert's report, 45 days for one Party to provide  
 14 comments as to whether the lab will be paid given the work  
 15 that has been conducted. And that was the way the case was  
 16 being handled.  
 17 Numeral 10 was part of a legal warning. It was  
 18 analyzed, and it was--it basically conveyed the idea that  
 19 we wanted to prevent very long deadlines or terms. And  
 20 here, at this number, says, the law states that every  
 21 Judgment should be issued within the following six days,  
 22 starting from the date the decision is passed.  
 23 So according to the law, there could be the  
 24 recusal of a judge if that judge does not issue a Judgment  
 25 in three times--three times the deadline provided for under

02:44 1 the regulations, under the law. So we need to include all  
2 of the conditions, all of the terms, and to make clear that  
3 they should not go beyond 18 days.

4 This way we were trying to avoid for Chevron  
5 people who were always asking for 40, 50 days for  
6 something, or 25 days; and when they got there, when the 25  
7 days expired, the day before they would request an  
8 extension of the deadline. And the same happened with the  
9 Plaintiffs in the case, the same story.

10 So all in all, this order at 10 says, Gentlemen,  
11 enough. We're not going to give you more than 18 days for  
12 Expert Reports, et cetera, et cetera, et cetera.

13 So that's the reason why, later on, the terms are  
14 more reasonable, such as three days for the Expert to  
15 elaborate on the report; three days for the Parties to  
16 issue decision on such and such a thing and no more than  
17 five days for the other thing, so that was the reason for  
18 this order. Well, at least that was the idea behind the  
19 order.

20 It was drafted with that legal idea so as to speed  
21 up the proceeding and try to prevent any sort of delays.

22 And I hope I satisfied your--your curiosity or  
23 your question with this.

24 Q. You have, to a great degree. So I understand the  
25 legal basis for the ruling.

02:48 1 A. This is part of a ruling that denies the intention  
2 of Chevron's attorneys to dismiss the provision to limit  
3 the deadlines to no more than 18 days.

4 Q. Sir, you stated in your written Declaration that  
5 you personally ghostwrote all nine Orders that were found  
6 on your computer which were attached to your November 2012  
7 sworn Declaration.

8 I've just reviewed five of them with you. In the  
9 interest of time, I won't go through the remaining four.  
10 But as you sit here today in these proceedings, do you  
11 reaffirm and confirm that you, Alberto Guerra, wrote all  
12 Orders that were found on your computer that you  
13 voluntarily provided to Chevron?

14 A. Yes, sir.

15 Q. Now, the nine Orders that we just reviewed were  
16 dated between October 20, 2009 and December 19, 2010. And  
17 this coincides, if I have your testimony correctly and the  
18 record, with Mr. Zambrano's first term as Judge on the case  
19 which spanned from October 21st, 2009, to March 11th,  
20 2012.

21 A. Yes. That is correct.

22 Q. Do you know why there are no Draft Orders on your  
23 computer during Mr. Zambrano's second term?

24 A. Precisely because I prepared those rulings from  
25 the Chevron Case in Lago Agrio in Mr. Fajardo's computer.

02:46 1 And a follow-up question is: Did you figure out  
2 that legal basis and write it into this Draft Order, at  
3 least in part because you were being paid by the Lago Agrio  
4 Plaintiffs to speed the case along?

5 A. We had agreed that; and clearly, I did it based on  
6 that commitment.

7 Q. Please turn to Tab 5E, which is Annex S, like Sam.  
8 It's dated December 14, 2009.

9 Do you recognize this one, sir?

10 A. Yes, sir.

11 Q. Please turn to paragraph numbered 12. You don't  
12 have to read the whole thing. I'm just going to ask you  
13 why you left blank spaces there.

14 A. As I explained before, I did not have the names of  
15 the qualified experts. The Clerk's office to the President  
16 of the Court was the one that had the names, and The intent  
17 was that when the time came, in order for these names to be  
18 entered by the judge in the case, Judge Zambrano would  
19 become aware that he had to certify the names of the  
20 qualified experts.

21 Q. And if you'll turn to Paragraph 18, just read it  
22 to yourself. Let me know when you're finished.

23 (Pause.)

24 A. Yes.

25 Q. What is this?

02:50 1 Q. Thank you, and I misspoke. Just I'll clarify the  
2 record earlier. I said that Mr. Zambrano's term ended in  
3 2012. It was actually March 11, 2010; is that right?

4 MR. BLOOM: May I just also seek a clarification  
5 after this?

6 MR. KEHOE: Sure.

7 BY MR. KEHOE:

8 Q. Sir, is that right? When did Mr. Zambrano's first  
9 term end as Judge? Do you remember?

10 A. Mr. Zambrano concluded the term immediately after  
11 Judge Ordoñez was appointed the Judge of the Court.

12 Q. Do you remember when that was?

13 A. I remember that, in that meeting of the tribunal.  
14 It was was sitting en banc. This took place on  
15 February 28, 2010.

16 Q. Mr. Zambrano--or Mr. Guerra, did Mr. Zambrano  
17 normally pay you in cash or some other way for your  
18 ghostwriting?

19 A. It generally was in cash. Occasionally--only  
20 occasionally he did it differently, like by deposits, money  
21 into my savings account, but that was very occasional.

22 Q. Please turn to Tab 1A in your binder, Annex H to  
23 your Declaration. Again, you were asked a lot of questions  
24 on cross-examination about physical evidence and your  
25 testimony and your word.

02:52 1 I'm going to ask you if you recognize this  
 2 document.  
 3 A. Yes, sir. This document is a deposit slip. And  
 4 this is a deposit into my savings account with Pinchincha  
 5 Bank in Ecuador.  
 6 And this is--this was done in Nueva Loja or Lago  
 7 Agrio on June 24th, 2011, for \$300; and the party making  
 8 the deposit was Judge Nicolas Zambrano. I'm familiar with  
 9 his signature.  
 10 Q. Is that his signature down in the lower right-hand  
 11 corner?  
 12 A. To the right, this is my note. But the signature  
 13 that looks like a seal of the Pinchincha Bank, that was  
 14 entered by an employee at the bank.  
 15 Q. And where is Mr. Zambrano's signature?  
 16 A. It is to the lower right of this deposit slip.  
 17 Q. And how do you know that's his signature?  
 18 A. I am familiar with his signature. It is typical  
 19 of him. I have seen him doing it several times. It's his  
 20 signature.  
 21 Q. Okay. Moving on, Mr. Guerra, Ecuador's Counsel  
 22 asked you a series of questions about the TAME shipments  
 23 between you and Mr. Zambrano and some intermediaries.  
 24 And demonstrative exhibits were used that  
 25 reordered and re-categorized the information, so I need for

02:55 1 us to go back to the actual document. You should have it  
 2 in front of you in a larger piece of paper that's easier to  
 3 read for everyone.  
 4 It's Exhibit 3 in the binders in front of  
 5 everyone, if anyone would prefer to look at the smaller  
 6 version.  
 7 Sir, did you personally request the TAME shipping  
 8 records from TAME?  
 9 A. Yes, sir; personally, I did.  
 10 Q. Now, let me clarify what I said previously.  
 11 Did you testify yesterday that Mr. Zambrano's  
 12 first term on the Chevron Case lasted approximately four  
 13 months, from October 2009 to March 2010?  
 14 A. Yes.  
 15 Q. Now, the first four shipments on this TAME  
 16 shipping record shows shipments from you during this period  
 17 of time that we just mentioned, Mr. Zambrano's first term;  
 18 is that right? The first four?  
 19 A. Yes, sir. That is correct.  
 20 Q. And the first one is to Narcisa Leon. The first  
 21 two are Narcisa Leon, actually. Who is Narcisa Leon again?  
 22 A. Narcisa Leon back then worked with the Superior  
 23 Court of Justice of Nueva Loja. And later on, I learned  
 24 that she was hired by the Council of the Judiciary to  
 25 continue working as an assistant with that

02:57 1 Secretariate--with that Secretary; and today, I'm not  
 2 aware.  
 3 Q. Now, you testified yesterday on cross-examination  
 4 that she was used as an intermediary, that you were  
 5 actually shipping the documents to Mr. Zambrano when you  
 6 were shipping them to her. Do you remember that?  
 7 A. Yes, sir.  
 8 Q. Why didn't you ship them directly to Mr. Zambrano  
 9 during this period of time?  
 10 A. Mr. Zambrano was very careful, very possessive of  
 11 these things.  
 12 He told me that I shouldn't put any documents  
 13 under his name, and that's the reason why I send them to  
 14 Narcisa Leon so that she could receive them or withdraw  
 15 them from the TAME office in Lago Agria and then give them  
 16 to him in person.  
 17 Q. Now a few moments ago, you and I reviewed an Order  
 18 that was on your computer. It was in Tab 5B, like boy, you  
 19 don't need to go there. It's Annex P to your Witness  
 20 Statement, and you can look at it if you need to. But you  
 21 worked on it on November 18th, 2009.  
 22 Do you remember I showed you the metadata field?  
 23 A. Yes, sir, I do remember that.  
 24 Q. And the first entry on this exhibit that we're  
 25 looking at is dated one day later, November 19th, 2009;

02:58 1 is that right?  
 2 A. Yes, sir. That is correct.  
 3 Q. Do you know whether the package of documents that  
 4 you sent on November 19th included the Order that you  
 5 drafted in the Chevron Case the day before?  
 6 A. I am completely sure that it was included in this  
 7 shipment.  
 8 Q. How are you so completely sure?  
 9 A. When it was not possible for me to give the  
 10 rulings personally to Judge Zambrano, because he did not  
 11 travel to travel from Lago Agrio to Manta or because  
 12 sometimes he told me that he was going to be delayed, that  
 13 he was in Guayaquil, he was going to take a different way  
 14 to get to Guaya--to Lago Agrio and that he would not be  
 15 able to pass through Quito. Generally Sunday evenings he  
 16 told me that oftentimes I had to send the documentation  
 17 through TAME.  
 18 And if I prepared the documentation on  
 19 November 18th, in this particular case, and I sent it on  
 20 the 19th, it was because once the Ruling was ready--the  
 21 specific Ruling was ready; in identical fashion to what  
 22 happened with other civil court cases, I prepared the box  
 23 with all of the Rulings to be returned, including the  
 24 rulings inside the packages and even the flash--the USB  
 25 drive that contained all of the rulings that I had handled.

03:00 1 And if possible, the same evening I would drop it  
 2 off at TAME. And if it was not possible, I would do it  
 3 early in the morning the next day so that this could be  
 4 sent on the plane because there was only one shift in the  
 5 morning. I think that the plane left Lago Agrio at  
 6 9:00 a.m. So that means that I needed to drop off the  
 7 package no later than 7:00 a.m.--6:00-6:30 a.m., to  
 8 guarantee that package left on that flight. Otherwise,  
 9 we--we could have had that package delayed until the next  
 10 day.  
 11 So if I prepared the ruling on the 18th and I  
 12 have a shipment on the 19th, I am completely sure that,  
 13 in that case, that Ruling left with the shipment.  
 14 Q. The fifth entry is July 22nd, 2010.  
 15 Am I right that this was during the six-month  
 16 period when Judge Zambrano--or Mr. Zambrano was not  
 17 presiding over the Chevron Case?  
 18 A. Yes, I see that.  
 19 Q. Why did you send the shipment directly to him?  
 20 Why didn't you use an intermediary in that case?  
 21 THE INTERPRETER: Sorry. The interpreter pressed  
 22 the wrong button, Mr. President, to be perfectly honest.  
 23 So--  
 24 PRESIDENT VEEDER: I've done that before.  
 25 THE INTERPRETER: -- my deepest apologies.

03:03 1 PRESIDENT VEEDER: I think it's best if you ask  
 2 your question again.  
 3 Pointing to the Witness, I'm very sorry. We had a  
 4 technical problem, so we didn't catch your answer. The  
 5 question will be put again, and then you can give your  
 6 answer again and complete it.  
 7 Please proceed.  
 8 BY MR. KEHOE:  
 9 Q. You just acknowledged that the fifth  
 10 shipment--Mr. Guerra, you had just acknowledged that the  
 11 fifth shipment was made during the period when Judge  
 12 Zambrano was not presiding over the Chevron Case.  
 13 And I asked you why did you ship directly to  
 14 Mr. Zambrano in--with this fifth shipment rather than  
 15 through an intermediary.  
 16 And you gave, I'm sure, a wonderful answer, but  
 17 half the room didn't hear it.  
 18 A. Thank you.  
 19 At that date, Judge Zambrano actually threw in the  
 20 towel, as--so to speak. He was no longer concerned with  
 21 the Chevron case. He didn't handle the Chevron Case. This  
 22 is a case that really concerned him, because he thought  
 23 that he was being spied on, he was being followed, and he  
 24 got tired of that. And he said, "Okay. Just send all the  
 25 rulings to my name, and we will avoid all problems."

03:04 1 That, in essence, was what happened.  
 2 Q. And the next seven shipments all went to Fernando  
 3 Albán, and all of--all of them were shipped during the  
 4 period when Judge Zambrano was presiding over the Chevron  
 5 Case for his second term; is that right?  
 6 A. Yes.  
 7 Q. And why did you go back to using--well, who were  
 8 those shipments intended for, the ones that you shipped to  
 9 Fernando Albán?  
 10 A. They were intended for Mr. Zambrano.  
 11 Specifically, these were the Rulings that I had prepared in  
 12 the civil cases that Mr. Zambrano was Hearing, with the  
 13 exception of the Chevron Case.  
 14 The Rulings for the second term of Mr. Zambrano in  
 15 the Chevron Case, those were worked on in the city of Lago  
 16 Agrio itself.  
 17 The other matters I worked on in my computer in  
 18 the city of Quito, and evidently it was necessary for them  
 19 to be sent in this manner. When I travel to Lago Agrio to  
 20 prepare the Lago Agrio Rulings. I didn't want to bring the  
 21 package with me because, generally speaking, this was very  
 22 voluminous. It was a--very voluminous documents that were  
 23 very heavy.  
 24 I went by bus, and I was uncomfortable. And I  
 25 also thought of the possibility of a traffic accident, for

03:06 1 example, and I thought, well, if there's a traffic  
 2 accident, well, these Rulings, these original files are  
 3 going to be found in this accident, and a scandal could  
 4 ensue of national proportions. And if the plane crashes,  
 5 much less probable, well, that situation would not  
 6 transpire.  
 7 That is why I sent this to Mr. Zambrano, but  
 8 through Fernando Albán, because Zambrano requested this,  
 9 and Mr. Albán was very happy to act as an intermediary.  
 10 Q. And then my final question on this document,  
 11 Mr. Guerra, is to look at the bottom nine shipments, and  
 12 those are all shipped from you directly to Mr. Zambrano,  
 13 and these are all after he is off the Chevron Case; is that  
 14 right?  
 15 A. Yes, sir.  
 16 Q. And this is a similar question to one I asked you  
 17 a moment ago: Why did you start shipping directly to him?  
 18 Why didn't you continue to use an intermediary after he was  
 19 off the case--the Chevron Case?  
 20 A. Yes. Mr. Zambrano had left the Chevron Case. He  
 21 had put it aside, and he was no longer--no longer concerned  
 22 with this matter, and he asked at this time that all  
 23 documents were sent to his name.  
 24 Q. Okay. We're done with the TAME shipping record.  
 25 Moving to some more issues of physical evidence



03:08 1 that you say supports your word.  
 2 How did the Plaintiffs' representatives normally  
 3 get you the \$1,000 a month, physically? How did they get  
 4 it to you usually?  
 5 A. Mr. Fajardo delivered the \$1,000 monthly to me in  
 6 our occasional meetings, whether they be in the city of  
 7 Quito or Lago Agrio. They were provided personally to me,  
 8 given personally to me.  
 9 There are a couple of aspects that justify the  
 10 fact that some of those payments were made via deposits in  
 11 my savings account by Ms. Ximena Centeno, and I don't know  
 12 Ms. Centeno up to now.  
 13 Q. I'll ask you about that. I won't belabor the  
 14 point, because it was covered extensively on cross.  
 15 But do please turn to Tab 4C, C like "Charlie."  
 16 This is Attachment N to your November Declaration.  
 17 And please tell us what this document is that you  
 18 attached to your November Declaration.  
 19 A. Yes, thank you very much.  
 20 This is exactly the same--or, well, very similar  
 21 to the document in connection with which I already made my  
 22 statement. This is a deposit slip--a cash deposit slip for  
 23 the amount of \$1,000, that it is made to be deposited in my  
 24 account in the Banco de Pinchincha. It says here  
 25 February 5, 2010, and then here you see, on the lower left

03:10 1 side of the document, a signature.  
 2 And there is another document that identifies the  
 3 number of the--the document card right below the signature.  
 4 Q. And you testified that you didn't know Ms. Centeno  
 5 at the time that these deposits were made; is that right?  
 6 A. Yes. I have not met her up until today--I mean, I  
 7 don't know her at all.  
 8 Q. Did you know one way or the other whether or not  
 9 these deposits at the time were deposits by the Lago Agrio  
 10 Plaintiffs as their payment to you for your ghostwriting on  
 11 their behalf to move the case forward?  
 12 A. Yes. No other commitment has existed.  
 13 And the way in which I found out about this  
 14 deposit is that, at a given time, Mr. Fajardo called me on  
 15 the phone--well, he used to call me on the phone, and he  
 16 told me that the amount of \$1,000 had been deposited in my  
 17 account. And he had my account number, because I provided  
 18 it to him.  
 19 MR. KEHOE: Mr. President, I probably have another  
 20 15 minutes. If we could take a short break, I might even  
 21 shorten that further.  
 22 PRESIDENT VEEDER: That's an application which  
 23 never fails. We'll take a 15-minute break. We'll come  
 24 back at 3:30.  
 25 Mr. Guerra, please don't discuss the case or your

03:12 1 testimony away from the Tribunal.  
 2 (Brief recess.)  
 3 PRESIDENT VEEDER: Let's resume.  
 4 MR. KEHOE: Thank you, Mr. President.  
 5 BY MR. KEHOE:  
 6 Q. Mr. Guerra, would you please turn to Tab 6B in  
 7 your binder--for the record, this is Torres Exhibit 26--and  
 8 tell me when you're there.  
 9 A. Yes, I have it.  
 10 Q. Sir, do you see at the bottom right-hand  
 11 correspond a series of numbers--letters and then numbers?  
 12 It says DONZ00059141.  
 13 Do you see that?  
 14 A. Yes, on the lower portion of the document.  
 15 Are you referring to that?  
 16 MR. KEHOE: I'm not able to hear the lower--  
 17 THE WITNESS: Are you referring to the lower  
 18 portion of the document?  
 19 BY MR. KEHOE:  
 20 Q. I'm sorry. Yes, the lower portion of the  
 21 document, sir, the lower right-hand corner. There should  
 22 be, if it's the same as the one I have, DONZ00059141.  
 23 A. Yes, sir. Yes.  
 24 Q. And can you identify this document?  
 25 It says it's from you to Steven Donziger on

03:28 1 Sunday, September 5th, 2010.  
 2 Did you send him this email?  
 3 A. I sent this email from my computer in Quito, and I  
 4 sent it to Mr. Donziger, yes.  
 5 Q. In the email, down at the bottom, about, you know,  
 6 three or four lines up from the bottom, you say, "By the  
 7 way, my daughter is in Chicago. I will support the matter  
 8 of Pablo Fajardo so that it will come out soon and well.  
 9 Affectionately."  
 10 Sir, what are you referring to when you wrote  
 11 those words, "I will support the matter of Pablo Fajardo so  
 12 it will come out soon and well"?  
 13 A. Specifically speaking, I wanted to motivate  
 14 Mr. Donziger--so that he would concern himself with the  
 15 request that I made to legal advice for my daughter. And  
 16 it says here, "I will support the matter of Pablo Fajardo  
 17 so it will come out soon and well." Specifically and  
 18 concretely, I was speaking about the action of Lago Agrio  
 19 that they had brought against Chevron.  
 20 MR. KEHOE: I have no further questions,  
 21 Mr. Veeder.  
 22 PRESIDENT VEEDER: Thank you.  
 23 The Tribunal may have questions.  
 24 QUESTIONS OF THE TRIBUNAL  
 25 ARBITRATOR LOWE: I wonder if I could get an

03:30 1 answer to the point I raised before the lunch break.  
 2 My understanding, sir, was that you had said that  
 3 you had lost your day planners for the years 2010 and 2011,  
 4 but one of the documents appeared to be taken from one of  
 5 the year planners for 2011. And I'm confused as to the  
 6 evidence on that. It's a reference to Slide 13 in the  
 7 slides that we had from Respondents. And you'll see there,  
 8 under the heading "Torres Expert Report," Exhibit 36, the  
 9 extract that I've got in mine.  
 10 Could you just explain--clarify the relationship  
 11 between this document and the planners which you said you  
 12 were unable to find, please.  
 13 THE WITNESS: Thank you very much. If you allow  
 14 me.  
 15 In early 2011, I had purchased the day planner for  
 16 2011 that goes January 1st to December 31st, clearly  
 17 and I was making notes in chronological order, if you will,  
 18 on January 1st, January 3rd, February 2nd, et cetera.  
 19 But for some reason, I lost that day planner in July 2011.  
 20 And instead of going to a bookstore for a new day  
 21 planner for 2011 to continue taking notes starting on that  
 22 date--that is to say the date when I lost my previous day  
 23 planner--instead of doing that, which would have been  
 24 advisable, I took one of the old day planners from 2002 or  
 25 2003 that had not been used and that I had at home. I just

03:32 1 took any of those, which was empty, and old one, and I get  
 2 more or less to the same date, July. But just to make sure  
 3 that I was using the right date--because July 5th of  
 4 2010, Saturday, will hardly be Saturday on July 5th,  
 5 2011.  
 6 So to avoid that situation, I started to take  
 7 notes in that day planner at the various dates: July  
 8 11th, July 12th, so on and so forth, as the situation  
 9 called for.  
 10 I hope I was able to clarify your doubt, Member of  
 11 the Tribunal.  
 12 ARBITRATOR LOWE: That's very helpful. If I can  
 13 just ask two other points then.  
 14 Is it the case that the 2010 day planner was lost;  
 15 that you're unable to find that one at all?  
 16 THE WITNESS: Back then, I said at some point that  
 17 I was looking into the details of the construction of the  
 18 house. There I wrote down all of the nails and boards and  
 19 material that was needed for the construction. And  
 20 generally I maintained these agenda, these day planners,  
 21 and I went into the various hardware stores, and I remember  
 22 it is under those circumstances that I lost those day  
 23 planners.  
 24 ARBITRATOR LOWE: The second and last  
 25 clarification.

03:34 1 Do I understand you correctly to be saying that,  
 2 from July 2011 onwards, your day planner is complete, or as  
 3 complete as a day planner ever is?  
 4 THE WITNESS: Excuse me, I didn't catch, I  
 5 apologize, please. Would you repeat the question? I did not  
 6 understand it.  
 7 ARBITRATOR LOWE: I understood you to say that  
 8 having mislaid--having lost your 2011 day planner in July,  
 9 instead of buying a new one, you decided to reuse an old  
 10 one.  
 11 Do I understand you properly? Did you, in  
 12 July 2011, start again the practice of making entries into  
 13 a day planner, and you are now able to find that day  
 14 planner in which you made those entries, so that the  
 15 position from July 2011 onwards is complete?  
 16 THE WITNESS: If you allow me, there is  
 17 information from July 2011 to mid-July 2012, when I  
 18 willingly gave my day planner to Chevron's representatives.  
 19 ARBITRATOR LOWE: Thank you.  
 20 THE WITNESS: Thank you.  
 21 PRESIDENT VEEDER: I just have one topic to raise  
 22 with you. If you could take--or be shown Binder 3 of the  
 23 cross-examination bundles prepared by the Respondent. And  
 24 if you could turn to Tab 40. This is the Supplemental  
 25 Agreement No. 1 of the 31st of July, 2013.

03:36 1 Again, we only have the English version in the  
 2 file, although there is a Spanish translation elsewhere.  
 3 I'm going to ask you to look at Paragraph 10 and  
 4 11 on the second page, and I'm going to read each paragraph  
 5 out slowly so that the interpreters can translate for you.  
 6 But you will see the heading to those two  
 7 paragraphs is C, "Fajardo's Criminal Complaint against  
 8 Guerra in Ecuador." And in Paragraph 10: "In or about  
 9 February 2013, after Guerra and Chevron entered into the  
 10 Agreement"--and we take that to be the original agreement  
 11 of the 27th of January, 2013--"Pablo Fajardo Mendoza  
 12 caused a criminal Complaint to be filed against Guerra with  
 13 a Provincial Prosecutor's Office of Sucumbios. Said  
 14 criminal Complaint accuses Guerra of various crimes in  
 15 connection with declaration sworn to in Chicago, Illinois,  
 16 on November the 17th, 2012."  
 17 And we understand that to be your first statement,  
 18 which, for our purposes, is Exhibit C-1616a.  
 19 Now, can you tell us what you understand about the  
 20 Complaint and of what crimes the complaint addressed?  
 21 THE WITNESS: Thank you.  
 22 Immediately after the Declaration of November  
 23 17th, 2012, became public, there were many reactions of all  
 24 kinds in the Republic of Ecuador, my country, from the  
 25 Government, from various entities, and in particular,

03:39 1 obviously, from the attorneys representing the Plaintiffs  
 2 against Chevron there, Mr. Pablo Fajardo, and another  
 3 individual representing the Amazon Defense Front, et  
 4 cetera. The groups backing the matter, the claim against  
 5 Chevron.  
 6 So a Complaint was filed in Lago at the Sucumbíos  
 7 Office of the Prosecutor through which obviously the accuse  
 8 me of countless acts of irresponsibility, actions precisely  
 9 grounded on the text of the declaration I drew up here in  
 10 November before the notary public. And among the crimes  
 11 I'm accused of are attempting against the State's  
 12 authorities, the State's institutions, promoting  
 13 separatism, which is a crime that is part of or is related  
 14 to those that in my country are deemed to be in the class  
 15 of treason to the homeland, perjury, false testimony, to  
 16 mention a few I recall.  
 17 And the Prosecutor's Office that receives this  
 18 criminal complaint, obviously--based on that--it is my  
 19 understanding that it began a preliminary investigation so  
 20 as to carry out the corresponding investigation and, in the  
 21 long term, decide to criminally prosecute me or not.  
 22 Given that circumstance, given the Agreement and  
 23 also knowing of this, and upon my request, agreed to have  
 24 an attorney hired in Ecuador on my behalf by Chevron for  
 25 that attorney to be in charge of my defense and also to

03:42 1 be prison. Whereas for perjury it's jail.  
 2 PRESIDENT VEEDER: And I think the last  
 3 question--but you've answered it, I think: You don't know  
 4 anything more about the current status of this  
 5 investigation at the Office of the Prosecutor General; is  
 6 that correct?  
 7 THE WITNESS: No, it's not at--if you allow me,  
 8 this case is not in the hands of the Attorney General's  
 9 Office or any of its provincial delegations. This is in  
 10 the hands of the Public Prosecutor, meaning the Office of  
 11 the Prosecutor General, in this case, it is a Provincial  
 12 Prosecutor's Office in Pinchincha.  
 13 PRESIDENT VEEDER: Are there any questions from  
 14 Counsel arising from the Tribunal's question?  
 15 We ask the Respondent first.  
 16 MR. BLOOM: None from Respondent.  
 17 PRESIDENT VEEDER: From the Claimants?  
 18 MR. KEHOE: None from the Claimants.  
 19 Mr. President, I would--just for your benefit,  
 20 C-1944 is the Fajardo Complaint.  
 21 PRESIDENT VEEDER: Thank you.  
 22 MR. KEHOE: You're welcome.  
 23 PRESIDENT VEEDER: Thank you very much.  
 24 MR. BLOOM: May I just make one clarification so  
 25 that the record is clear?

03:40 1 represent me in any other lawsuit. And I'm sure there will  
 2 be several.  
 3 But I suggested the name of the attorney, and  
 4 Chevron hired the attorney in Ecuador that I suggested, and  
 5 he's working on that. I am unaware of the current  
 6 situation of that case, but I was told that the case is no  
 7 longer with Sucumbíos, Lago Agrío. It has been transferred  
 8 to the provincial capital, not because of an appeal but  
 9 rather because of jurisdiction. It seems they consider I  
 10 committed this crime outside the territory of the Republic.  
 11 Therefore, the Judge of the Capital of the Republic is the  
 12 one that has jurisdiction to hear in this case; and this is  
 13 still pending. And I think that it will take some time  
 14 until we finish with all of the legal details.  
 15 PRESIDENT VEEDER: Well, thank you. You've  
 16 answered a few questions I was coming to.  
 17 But coming back to my first question: The crimes  
 18 of which you were accused include, as I understand from  
 19 what you said, are perjury, separatism. And was there  
 20 anything else by way of a crime alleged against you by  
 21 Mr. Fajardo?  
 22 THE WITNESS: Yes, an offrent against the  
 23 institutions of the State. This is also a serious crime,  
 24 no less--somewhat more serious than perjury. And possibly  
 25 the punishment in this case, if memory serves me well, may

03:44 1 PRESIDENT VEEDER: Of course.  
 2 MR. BLOOM: And I don't know whether we need to do  
 3 it by--by way of a question. But--unless there is a  
 4 dispute. But the Prosecutor General is different than the  
 5 Attorney General.  
 6 PRESIDENT VEEDER: I understood that. Please.  
 7 MR. BLOOM: Okay.  
 8 PRESIDENT VEEDER: That I understood. Thank you.  
 9 We've come to the end of your testimony--sorry.  
 10 Maybe we haven't.  
 11 MR. KEHOE: I'm sorry. We may not have. May I--  
 12 PRESIDENT VEEDER: Of course you may.  
 13 MR. KEHOE: --converse with Mr. Bishop for just a  
 14 minute?  
 15 (Pause.)  
 16 MR. KEHOE: Thank you. I would like to ask one  
 17 follow-up question.  
 18 PRESIDENT VEEDER: Does it arise from the  
 19 Tribunal's question?  
 20 MR. KEHOE: It does.  
 21 PRESIDENT VEEDER: Please continue.  
 22 FURTHER REDIRECT EXAMINATION  
 23 BY MR. KEHOE:  
 24 Q. Mr. Guerra, now that the Complaint, as you  
 25 understand it, the criminal action against you, has been

03:45 1 transferred to the Capital, do you know whether it's now  
 2 being handled by the Prosecutor General or the Attorney  
 3 General's office, if you know?

4 A. Yes. The Office of the Attorney General  
 5 represented by its Attorney General, that becomes the  
 6 attorney of the State, is an independent body from the  
 7 Office of the Prosecutor General; and at some point,  
 8 depending on the Complaint and the type of lawsuit, it may  
 9 change.

10 But in my case, the Office of the Attorney General  
 11 so far has not participated, and I understand that they  
 12 will not do so. This is a matter that belongs with the  
 13 Office of the Solicitor General.

14 MR. KEHOE: Thank you, Mr. President.

15 PRESIDENT VEEDER: No questions?

16 MR. BLOOM: As long as the same understanding that  
 17 we discussed is still clear. I'm not sure that answer was  
 18 clear to the Tribunal and whether a follow-up is required,  
 19 but I'm not sure, so I'm deferring here.

20 PRESIDENT VEEDER: I thought it was clear.

21 MR. BLOOM: Okay.

22 PRESIDENT VEEDER: Thank you very much,  
 23 Mr. Guerra. We've come to the end of your testimony.  
 24 Thank you for your patience. You may leave the table.

25 THE WITNESS: Thank you very much. I would like

03:58 [REDACTED]

03:46 1 to thank you for having me here, and thank you all. And  
 2 those representing my country, I want to convey my respect.  
 3 My respect. Thank you.

4 (Witness steps down.)

5 PRESIDENT VEEDER: Well, thank you. We'll take a  
 6 10-minute break. We then have some housekeeping matters to  
 7 address, but obviously we'll finish early this afternoon,  
 8 and we won't start Mr. Lynch until Monday morning. So just  
 9 a 10-minute break.

10 (Brief recess.)

11 PRESIDENT VEEDER: Let's resume. We just need to  
 12 touch base on some housekeeping matters. And I'm going  
 13 into ascending order, starting with the very easy ones.

[REDACTED]

03:59 [REDACTED]

04:01

[REDACTED]

04:03

[REDACTED]

04:02

[REDACTED]

04:04

[REDACTED]

04:06

[REDACTED]

04:08

[REDACTED]

04:07

[REDACTED]

04:10

[REDACTED]

04:11 [REDACTED]

04:14 [REDACTED]

04:13 [REDACTED]

04:16 [REDACTED]

04:17

[REDACTED]

04:20

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CERTIFICATE OF REPORTER

I, Gail Inghram Verbano, RDR, CRR, CSR, Court Reporter, do hereby certify that the foregoing proceedings were stenographically recorded by me and thereafter reduced to typewritten form by computer-assisted transcription under my direction and supervision; and that the foregoing transcript is a true and accurate record of the proceedings.

I further certify that I am neither counsel for, related to, nor employed by any of the parties to this action in this proceeding, nor financially or otherwise interested in the outcome of this litigation.

  
 GAIL INGHRAM VERBANO

04:26

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

16 Is there anything else we need to address now?

17 We ask the Claimants first.

18 MR. BISHOP: No, Mr. President.

19 PRESIDENT VEEDER: And the Respondent?

20 MR. BLOOM: No.

21 PRESIDENT VEEDER: We stand adjourned. It's an

22 early start. It's 4:30. We'll see you at 9:30 on Monday.

23 Thank you very much.

24 (Whereupon, at 4:27 p.m., the Hearing was

25 adjourned until 9:30 a.m. Monday, April 27, 2015.)