



FOR IMMEDIATE RELEASE: JULY 24 2014

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HUMAN RIGHTS ADVOCATES DENOUNCE DISMISSAL OF
COLOMBIAN VICTIMS' LAWSUIT AGAINST CHIQUITA

Lawsuit alleging Chiquita's complicity in financing and arming Colombian paramilitary terrorist groups will continue under Torture Victim Protection Act and Colombian law.

JULY 24, 2014, WEST PALM BEACH, FLA. — Colombian villagers suing Chiquita Brands International for its complicity in atrocities committed by paramilitary groups will not have their international human rights claims under the Alien Tort Statute (ATS) considered by a federal court, according to a ruling today by the U.S. Court of Appeals for the Eleventh Circuit. The victims believe the case will go forward, however, as the decision does not affect their additional claims for damages under Colombian or state law, or their claims against individual Chiquita executives under the Torture Victim Protection Act. The victims are also confident that today's decision will be reversed on further appeal.

Chiquita has admitted to paying the paramilitaries from 1997 to 2004 and pled guilty to federal criminal charges for providing material support to a terrorist group. In 2007, victims filed a class-action lawsuit alleging that, in order to maintain its profitable control of banana growing regions, Chiquita abetted the paramilitaries in the commission of numerous human rights abuses. Documents obtained under FOIA and released by the National Security Archive in 2011 demonstrate that Chiquita knowingly paid the paramilitaries to provide security services for its operations, and then covered up the transactions. In addition to the payments, to which it has confessed, Chiquita is alleged to have helped the paramilitaries ship drugs out and smuggle arms in by giving the armed groups free access to its private port at Turbo, on Colombia's Caribbean coast.

The ruling, which was penned by Judge David Sentelle, a visiting judge from the D.C. Circuit, concerns plaintiffs' claims under the ATS, a U.S. federal law that incorporates international human rights standards. In *Kiobel v. Royal Dutch Petroleum*, the U.S. Supreme Court recently held that the ATS does not apply to claims that have only a weak connection to the United States. Judge Sentelle's decision goes farther, holding that the ATS does not cover cases where human rights abuse occurred abroad, even if there are very strong ties to the United States. This conclusion conflicts with the Supreme Court's *Kiobel* decision, however, in which just two out of nine Justices supported the view that the ATS applies only when the abuse occurred in this country.

"The court's decision misreads *Kiobel* and the statute's history, so we're confident it will be reversed by the full Eleventh Circuit," said Richard L. Herz, Litigation Coordinator of EarthRights



International (ERI), co-counsel for the plaintiffs. Judge Beverly Martin writes in her dissent: "By failing to enforce the ATS under these circumstances, I fear we disarm innocents against American corporations that engage in human rights violations abroad. I understand the ATS to have been deliberately crafted to avoid this regrettable result."

Among the plaintiffs harmed by today's decision are the families of thousands of community organizers, trade union leaders, social activists, and banana workers who were assassinated in the paramilitaries' campaign of terrorizing civilians.

"We're disappointed that the court found that Chiquita can escape ATS liability for its illegal decision to finance brutal death squads," said Paul Hoffman, who argued the case in the Court of Appeals. "When a U.S. company funds killers that our government has designated to be a terrorist organization, in violation of U.S. criminal law, and then pulls all its assets from the foreign country where the terrorists operate, it's clearly the business of the United States. What kind of stronger connection to the U.S. could you possibly need?"

"The plaintiffs have been waiting for justice for a decade and more. While this is a setback, the victims will still be able to hold Chiquita to account under Colombian and state law. We look forward to the day, sometime soon, when they will finally have their claims heard by a jury," added Agnieszka Fryszman of Cohen Milstein Sellers & Toll, also counsel for the plaintiffs.

Co-counsel for the plaintiffs include Arturo Carrillo, Judith Brown Chomsky, and John DeLeon.

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EarthRights International (ERI) is a nongovernmental, nonprofit organization that combines the power of law and the power of people in defense of human rights and the environment, which we define as "earth rights." We specialize in fact-finding, legal actions against perpetrators of earth rights abuses, training grassroots and community leaders, and advocacy campaigns, and have offices in Southeast Asia, the United States and Peru. More information on ERI is available at <http://www.earthrights.org>.