

CANADIAN COURT STRIKES OUT ECUADORIAN LAWSUIT  
AGAINST CANADIAN MINING COMPANY AND TSX  
May 7, 2010

Toronto: An Ontario court today struck out a lawsuit brought in Ontario by three Ecuadorian campesinos against a Canadian mining company and its directors, whose security forces they say assaulted them in Ecuador for opposing an open pit mine. The Court also dismissed their lawsuit against the TSX, which they say listed the mining company on its stock exchange, after having been warned that the money from the listing would lead to violence.

Murray Klippenstein, legal counsel for the Ecuadorians, said he is instructed to appeal the decision. If the appeal were successful, the case would be allowed to go forward. “Marcia, Polivio and Israel do not want to live in fear of the Canadian mining industry, and they look to Canadians and our legal system to protect them,” he said. “Ordinary folks all over the world should be warned that, as it stands, Canadian laws and courts will not protect them against Canadian mining companies.”

The Court, in its decision, said that “...there is no connection between the Plaintiffs and the TSX Defendants ... [so as to] impose an obligation on the TSX Defendants to be mindful of the Plaintiffs’ interests when conducting their affairs.”

As to the Company and its directors, the court said “...“silence” from the Directors cannot establish the requisite personal nexus between the acts and omissions of the Directors and what allegedly occurred in Ecuador to the Plaintiffs” (para. 46).

However, the Court also noted that “I can well understand the concern on the part of citizens of countries in which Canadian companies do business to ensure that the actions of those companies are carried out with the same care and attention as if they were conducted in Canada” (para. 51), but the Court said that that would be a matter for legislatures and not the courts.