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14 COUNSEL FOR APPLICANTS SAM RAINSY  
 and ICC FILING VICTIMS

15  
 16 **UNITED STATES DISTRICT COURT**  
 17 **NORTHERN DISTRICT OF CALIFORNIA**  
 18 **OAKLAND DIVISION**

19 *In re* Ex Parte Application of SAM RAINSY and  
 20 FILING VICTIMS BEFORE THE  
 INTERNATIONAL CRIMINAL COURT,

21 Applicants,

22 For an Order Pursuant to 28 U.S.C. § 1782  
 23 Granting Leave to Obtain Discovery for use in  
 Foreign Proceedings from:

24 CHEVRON CORPORATION, a  
 25 Delaware corporation headquartered in San  
 Ramon, California.

27 Respondent.

Case No. 4:16-mc-80258-DMR

**JOINT STIPULATION AND**  
**~~PROPOSED~~ ORDER**

1 Pursuant to N.D. Cal. Local Rule 7-12, by and through their respective undersigned  
2 counsel, Applicants Sam Rainsy and the Filing Victims (collectively, the “Applicants”) on the one  
3 side, and Respondent Chevron Corporation on the other side, hereby stipulate as follows:

4 **RECITALS**

5 **WHEREAS**, Applicants filed an *ex parte* Application for an order pursuant to 28 U.S.C.  
6 § 1782 granting leave to obtain six specified categories of documents from Chevron Corporation on  
7 December 13, 2016 (Dkt. 1) related to two then-pending foreign proceedings: (1) A pending  
8 Communication (complaint) submitted by attorney Richard Rogers on behalf of the Filing Victims  
9 to the International Criminal Court (“ICC”); and (2) a defamation action brought by a member of  
10 the Cambodian government against Sam Rainsy pending in a Cambodian court.

11 **WHEREAS**, the Honorable Donna M. Ryu granted the *ex parte* application on  
12 February 9, 2017 (Dkt. 10, the “Order”), expressly noting Chevron Corporation’s rights to  
13 challenge the Order in further proceedings before Magistrate Judge Ryu and/or District Judge  
14 Gonzales Rogers.

15 **WHEREAS**, pursuant to the Order, Applicants served Chevron Corporation with a  
16 Subpoena on or about February 14, 2017 (the “Subpoena”), requiring, subject to Chevron  
17 Corporation’s objections and/or a Motion to Quash, the production of the same six categories of  
18 documents in the possession, custody, and/or control of Chevron Corporation as follows:

19 1. All audio or video recordings taken during the period of July 1-14, 2016  
20 (collectively, the “Surveillance Videos”) in, around and/or at the Caltex gas station and onsite Star  
21 Mart cafe therein located at the intersection of Monivong and Mao Tse Toung boulevards in Phnom  
22 Penh, Cambodia (the “Caltex Station”).

23 2. All documents and communications related to the Surveillance Videos,  
24 including without limitation, their preservation, dissemination, editing and/or destruction.

25 3. Documents sufficient to identify the names of managers and employees of the  
26 Caltex Station during the period of July 1-14.

27 4. Documents sufficient to identify managers or employees of the Caltex Station  
28 who were terminated or resigned between July 10 and July 31.



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manager(s), if any, who had communications about the Incident with any Cambodian governmental officials, agents, or representatives (including police or military).

- Global Security and Environmental and Safety personnel, if any, who conducted or commissioned any investigation into the Incident.
- Any other Chevron Corporation (or subsidiary) custodian identified by reasonable and customary due diligence as having relevant, unique information regarding the Incident (*e.g.*, mere receipt of a news report regarding the Incident does not qualify).

b. Search terms (in English and Khmer script/unicode, with the Khmer script/unicode to be provided by Applicants in **Appendix A**, attached):

- Kem
- Ley
- (Cambodia or Phnom or Bokor or Caltex or Monivong) **and** (assassin! or kill! or shoot! or murder! or death or victim)
- CCP
- “Hun Sen”

c. Chevron Corporation will produce responsive, non-privileged or otherwise unprotected hard copy (non-ESI) documents in the possession, custody or control of the custodians identified in Paragraph 1(a).

2. Chevron Corporation represents that it and its relevant subsidiar(ies)’ interactions with the Cambodian government, agencies and/or officials related to the Incident were limited to cooperating with police inquiries and providing testimony at trial. Chevron Corporation further represents and warrants that (a) neither it nor its relevant subsidiar(ies) prepared any formal investigative report or conducted an investigation into the Incident as it was an external event being investigated and addressed by the Cambodian authorities. Neither Chevron Corporation nor its relevant subsidiar(ies) have any information or belief that documents in such categories (regarding

1 communications with the Cambodian government or an investigation or report of the Incident), if  
2 they exist, would not be captured by the agreed-upon searches noted in Paragraph 1 above.

3 3. The Parties agree that Chevron Corporation's production of all responsive, non-  
4 privileged or non-work-product-protected documents located pursuant to Paragraph 1 above,  
5 excluding documents or portions of documents related to human resource issues, such as  
6 counseling, and business impact and accounting related issues (for avoidance of doubt, statements  
7 about details of the Incident itself will be produced, with redactions excluding portions related to  
8 human resource issues, such as counseling, and business impact and accounting related issues), and  
9 its production of the log described in Paragraph 5 below will constitute full and complete  
10 compliance by Chevron Corporation with the subpoena.

11 4. The time period applicable to the foregoing searches and document productions  
12 shall be from July 1, 2016 to December 31, 2016.

13 5. All responsive documents will be produced within 21 days of the Court's entry of  
14 the [Proposed] Production and Protective Order addressed in paragraph 7 below. Chevron  
15 Corporation will produce a privilege log conforming to the Federal Rules of Civil Procedure for  
16 any document or thing withheld on the basis of any applicable privilege or protection.

17 6. Chevron Entities will produce to Applicants a sworn witness declaration in the form  
18 appended as **Appendix B** (the "Chevron Declaration").

19 7. Within 21 days of entry of this stipulation, the parties will submit to this Court a  
20 [Proposed] Production and Protective Order in substantially the same form as the Model Protective  
21 Order for cases in this District. Chevron Corporation may mark relevant documents as  
22 "Confidential" pursuant to the terms of the Production and Protective Order.

23 8. As consideration for this declaration as well as Chevron's agreement to the other  
24 terms of this Stipulation and [Proposed] Order, Applicants agree, represent and warrant that no  
25 additional subpoenas have been or shall be served and/or discovery requests shall be made on  
26 Chevron Corporation or its subsidiaries or affiliates in connection with any of the foreign  
27 proceedings at issue in this matter.

28 **IT IS SO STIPULATED.**

1 DATED: August 3, 2017

GIBSON, DUNN & CRUTCHER LLP

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By: /s/ William E. Thomson  
William E. Thomson

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*Attorneys for Respondent Chevron Corporation*

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5 Pursuant to Local Civil Rule 5-1(i)(3), the above-listed filing attorney certifies that all other  
6 signatories listed, and on whose behalf this filing is submitted, concur in this filing's content and  
7 have authorized its filing.

8

DATED: August 3, 2017

BRAUNHAGEY & BORDEN LLP

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By: /s/ Jonas Noah Hagey  
Noah Hagey

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*Attorneys for Applicants Sam Rainsy and Filing  
Victims*

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13 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

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DATED: August <sup>4</sup>~~3~~, 2017

Honorable Donna M. Ryu  
United States Magistrate Judge

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