

OCTOBER 2007

# RIGHTS in ACTION

A monthly e-update on developments in the work of IRAdvocates. IRAdvocates is a project of the International Labor Rights Fund ([www.ilrf.org](http://www.ilrf.org)).

## Let Us Not Forget Colombia: A Look Back at the Drummond Case

Three months since the Drummond trial in Birmingham, Alabama, IRAdvocates and its co-counsel on the case are still waiting on the outcome of an appeal they made to a ruling that found in favor of the defendant.

For those who do not know or have already forgotten, this case marks the first time that a multinational corporation has ever been brought to trial.

The suit was filed five years ago in 2002 and asserts that Drummond Company, an Alabama-based mining corporation with facilities in La Loma, Colombia, orchestrated the torture, kidnapping, and murders of three trade union leaders with the help of paramilitaries in that country.

With the help of Dan Kovalik of the United Steelworkers' Union, and Bob Childs, Rusty Johnson and Dennis Pantazis of Wiggins, Childs, Quinn and Pantazis, IRAdvocates expects to prevail against the controversial jury verdict made in



**A Colombian boy with the country's flag painted across his face. Today, Colombia is considered by The International Trade Union Confederation as the most dangerous country in the world for union activity.**

August based on the numerous errors of law made by the trial judge.

To give those interested a better sense of the kind of people fighting for our human rights and their thoughts on this case,

we contacted Rusty Johnson of Wiggins, Childs, Quinn and Pantazis, LLC, and Dan Kovalik of the United Steelworkers' Union, and asked them to answer a few questions for us regarding the case and the trial against Drummond Company. ●

# Interview: Herman N. (Rusty) Johnson, Attorney

**M**r. Johnson is an attorney for Wiggins, Childs, Quinn & Pantazis, LLC, in Birmingham, Alabama. His areas of interest are civil rights law, employment litigation, wage and hour disputes, and international human rights. He served as co-counsel with IRAdvocates attorneys in the landmark case against Drummond Coal in August of this year. Mr. Johnson holds a Juris Doctorate from Columbia Law School and has served as a law clerk for the Hon. Judge Martha Craig Daugherty, U.S. Court of Appeals, Sixth Circuit. He speaks French, Bambara, and Hausa.

**Q. Briefly describe the Drummond case for us. What was it all about?**

**A.** *In 2001, Valmore Locarno Rodriguez, Victor Hugo Orcasita Amaya, and Gustavo Soler—three trade union leaders at Drummond Ltd.'s coal mines in Colombia—were killed by paramilitary groups who were aided and abetted by Drummond. We represented the families of the union leaders in seeking justice for the murders of their loved ones.*

**Q. What about the case interested you the most?**

**A.** *Rodriguez, Orcasita, and Soler were three brave leaders seeking safer working conditions for the workers at the mines, and they paid for their courage with their lives. We believe that their sacrifice should not be in vain.*

**Q. What was it like working with IRAdvocates on this case?**

**A.** *It was a great experience to work with individuals who are truly dedicated to the ideals of human rights and worker justice. IRAdvocates has very bright and hardworking individuals.*

**Q. Did you get to meet the witnesses? What was your impression of them?**

**A.** *I met the witnesses, family members, and union leaders. They were very good, salt-of-the-earth*

*people, and they were appreciative of our endeavors on their behalf.*

**Q. How did you feel during the trial?**

**A.** *The trial was a whirlwind of activity and very tiring, but I felt enlivened each and every moment in the courtroom because of the circumstances upon which we were shedding light. Speaking truth and telling a story has a way of lightening the burden one bears, such as preparing for a major trial. And of course, such burdens are nothing compared to what our clients and friends face in Colombia.*

**Q. Can you tell us what went through your mind when you found out Judge Bowdre's decision to prevent key witnesses from testifying?**

**A.** *I did not have any expectations of how the Judge would rule, although I believed we were correct on the issues and should have prevailed. Even with the Judge's rulings, I never gave up hope that we could win the trial, and so when she made the rulings, I just thought, "we still can win this, let's go and give it our best."*

**Q. What was your reaction when you heard about the jury verdict?**

**A.** *Extremely disappointed. The Judge and other folks praised our work during the trial, especially with the evidence that was allowed to go the jury, but we still hope for a win.*

**Q. What will you take out of this experience?**

**A.** *Principally, we have to keep fighting and striving to ensure the protection of human rights for everyone. We should never let up or become complacent. ●*

# Interview: Dan Kovalik, Attorney

**D**an Kovalik is a graduate of the Columbia University School of law and a labor and human rights lawyer working in Pittsburgh. He is one of the lead counsel for plaintiffs in Alien Tort Claims Act cases against the Coca-Cola Company, Drummond and Occidental Petroleum—cases which allege that these companies were complicit in serious human rights abuses in Colombia, South America. He was also the recipient of Project Censored Award for an article he co-wrote about the unprecedented murder of trade unionists in Colombia.

**Q. How did you learn about what was going on with Drummond?**

**A.** *I was on a USW delegation to Colombia meeting with mining workers the night Valmore Locarno and Victor Orcasita were killed. We learned of these killings the next day at the CUT office in Bogota.*

**Q. Why did you decide to take this case on? Weren't you intimidated by the idea of fighting against a**

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## Interview: Dan Kovalik, Attorney

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**multinational corporation as big as Drummond?**

**A.** *We took this on because we were outraged by the killings and wanted to bring justice to the families of the slain unionists and the union.*

**Q. What was your first reaction when you found out about the situation in Colombia?**

**A.** *The day we found out about the murders, USW President Leo Gerard sent out a press statement denouncing the killings and calling for the Colombian government to bring the killers to justice.*

**Q. When did your research start on this case?**

**A.** *Just after the killings.*

**Q. What was it like looking for witnesses? Were people very open to talk?**

**A.** *This has probably been the most difficult part of prosecuting this case— finding witnesses who were willing to talk in the face of almost certain retaliation by the paramilitaries.*

**Q. Briefly tell us the process you went through to get this case together.**

**A.** *Through the union Sintramienergetica, we were able to get in touch with the families of the deceased as well as with our initial witnesses. We then continued to find witnesses through contacts we have made over the years.*

**Q. Did you run into many difficulties to get this case to court?**

**A.** *Again, the biggest difficulty was finding willing witnesses in the context of a human rights situation in Colombia wherein those who speak out against abuses by the paramilitaries risk almost certain violent retaliation.*

**Q. What has been your feeling about this case since the jury verdict in August?**

**A.** *While we were all disappointed by the verdict, we have remained confident in the rightness of our case and in the hope that we will ultimately prevail. ●*

## Case Against ExxonMobil Currently in Discovery

In June 2001 a suit was filed under the Alien Tort Claims Act against ExxonMobil Corporation in U.S. Federal Court on behalf of 11 villagers from Aceh, Indonesia, who suffered from grave human rights abuses including genocide, murder, torture, crimes against humanity, sexual violence, and kidnapping, at the hands of Indonesian security forces paid and directed by the American oil giant. The case is currently in discovery.

According to the filed complaint, Mobil Oil, an ExxonMobil Corporation predecessor company, contracted with the repressive Suharto regime to “obtain exclusive rights to explore for and produce natural gas in the Arun area” in exchange for providing the Suharto family for different forms of direct and

indirect payment. The claim asserts that ExxonMobil paid and directed Indonesian security forces known as the Tentara Nasional Indonesia (TNI) to provide “security” for the company’s Arun Project, an extraction and liquefaction project that the company established in Aceh’s lucrative natural gas field in and around Arun.

As a part of living in Suharto’s designated “military operational area”, thousands of Achenese were slaughtered, tortured, maimed, raped, and “disappeared” until Suharto’s dictatorship was overthrown in mid-1998. Until that time and even afterwards, the defendants were well aware of the atrocities being committed by the regime, but continuously and consistently paid to have the TNI forces “secure” the project precisely



**PT Arun is a joint venture company that is significantly owned and controlled by ExxonMobil in Indonesia. IRAdvocates has filed suit against ExxonMobil for its complicity in committing egregious human rights violations against villagers in Aceh, Indonesia, in exchange for profit.**

because of the extreme unpopularity of the government. Even after the merger between Mobil Oil and Exxon

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## ExxonMobil Currently in Discovery

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Corporation, public records were clear on the egregious human rights violations being committed by the TNI forces upon the noncombatant villagers in Aceh, yet the corporation still willfully continued to pay those same forces to protect its Arun project, at one time even demanding an increase in the number of troops.

Due to a massive campaign effort by the ILRF, in 2005 the company finally yielded to pressure and placed ads in *The New York Times* stating its commitment to transparency.

Though the corporation filed a routine motion to dismiss, the U.S. Appeals Court has ruled against ExxonMobil's plea to dismiss IRAdvocates' lawsuit and ordered that it must respond to the allegations being made against them.

Like Unocal, ExxonMobil's primary defense appears to be that the human rights violations may very well be occurring, but the company did not specifically intend this result, and therefore cannot be held liable.

IRAdvocates is co-operating with attorneys Michael D. Hausfeld and Agnieszka M. Fryszman from Cohen, Milstein, Hausfeld & Toll. ●

### Q. What kind of work do you do?

**A.** As a graphic designer, I have the great privilege and challenge of visually communicating concepts based on a client's needs. So much of what we do, I think is subjective, but ultimately the challenge of doing good work is to please

## IRAdvocates Expects Del Monte Case to Win on

**O**n Sunday, September 23, 2007, around 5:45am, Marco Tulio Ramirez Portela, leader of the SITRABI trade union representing plantation workers in Guatemala, was gunned down by masked assailants believed to be connected with the military in front of his family, just three days after military officers were disciplined by Guatemala's Ministry of Defense in response to SITRABI complaints. The brutal assassination of Ramirez highlights how wrong and dangerous a recent order issued by Judge Federico A. Moreno of the United States District Court for the Southern District of Florida is. Despite IRAdvocates' insistence that it is too dangerous to try a case related to the abuses against SITRABI officials in Guatemala, that is what the judge ordered. IRAdvocates plans to appeal the decisions.

Plaintiffs in the Del Monte case are all former leaders of SITRABI and fear that Judge Moreno's order will require them to return to Guatemala and consequently put their own lives at risk. The Ramirez assassination corroborates the plaintiffs' fears that Guatemala remains a dangerous environment for trade unionists. Given Ramirez's recent murder and the credible likelihood of death the plaintiffs would face, IRAdvocates expects the case to win on appeal hoping to bring the multinational banana company to justice for its principal role in collaborating with paramilitaries to terrorize the plaintiffs in this case for organizing. ●

## Staff Volunteer Spotlight

### Interview: Tilky L. Fernandez, Graphic Designer

So that we do not forget to recognize the hard-working individuals who devote much time and effort to advance the work of IRAdvocates, and as a token of our appreciation, we have decided to feature our newsletter graphic designer, Tilky L. Fernandez, for our staff spotlight this month.

**T**ilky L. Fernandez is our staff volunteer graphic designer. She is responsible for producing the layout of the monthly e-newsletter posted on our website, [www.iradvocates.org](http://www.iradvocates.org). She has been volunteering her time and talents with us since IRAdvocates began its operations in July of this year. She and her husband live in Miami, Florida.

*an objective audience that's constantly surrounded by images in our culture, so people's standards and expectations are pretty high—as they should be for good design!*

**Q. How did you decide on the design of**

**the header for the newsletter?**

**A.** At the heart of what IRAdvocates does is making a difference in the lives of people from distinctly different backgrounds. It was important to me that

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## Interview: Tilky L. Fernandez, Graphic Designer

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this was the ultimate impression viewers would be impacted with. The choice of a bold type and color was also meant to represent the organization's presence and courage in being involved with such relevant cases.

### Q. How did you get involved with IRAdvocates?

A. My husband Dino Kritsiotis and Todd Howland, have known one another for many years. About five years ago, I met Todd through Dino and have always appreciated the integrity in his work and his passionate commitment to the pursuit of justice in such a selfless way. He approached me a few months ago to assist with IRAdvocates visuals and I was thrilled to oblige.

### Q. Are you aware of what is going on in any of the cases that IRAdvocates is

### currently working on?

A. As a result of producing the newsletter, yes, I am able to keep up with many of the cases IRAdvocates is involved with. It's always exciting to see what the next chapter in the story holds.

### Q. Is there any case in particular that has caught your attention? Why?

A. The Drummond case in Alabama has interested me. In the same way that large businesses and corporations in the U.S. are accountable for their actions on our soil, should they have locations outside the U.S., the same standards and fairness to employees ought to apply.

### Q. Do you think that corporate social responsibility is important? Why or why not?

A. Absolutely. John F. Kennedy said in his Inauguration speech "to whom

much is given, much is required".

This is certainly true of large corporations that are able to give back to the communities they serve. More importantly, to be fair and honest managers of what they already have. Corruption can occur at any level, but hopefully with the appropriate checks and balances in place, we will see fewer cases of this than we have recent years.

### Q. What do you think about the work that IRAdvocates does?

A. It is essential that those who cannot speak for themselves be able to have a voice, especially if there is an abuse of power. The work that IRAdvocates does is therefore invaluable. ●

## IRAdvocates Executive Director in Panel with Prize-Winning Author Adam Hochschild

On Tuesday, October 9, 2007, IRAdvocates Executive Director/General Counsel Terry Collingsworth spoke alongside prize-winning author Adam Hochschild and Emira Woods, Co-Director of Foreign Policy in Focus at the Institute for Policy Studies (IPS), in a panel discussion to talk about the historical legacy of exploitation in the rubber industry.

During the forum, held at the IPS Conference Room, Woods, who served as moderator of the discussion, gave some introductory remarks, stating that the purpose of the discussion was to "remind us about rubber." She then gave the floor over to Hochschild, who described the role of the rubber industry in the historical context of King Leopold II of Belgium and the Belgian Congo.

"This rubber boom hit just after the European land-grab in Africa got under way," Hochschild said in a small conference room packed with interested listeners, including members from the International Labor Rights Fund (ILRF).

The person who had the most rubber-bearing land in the world was King Leopold II of Belgium, who owned a vast territory that today is the Democratic Republic of Congo. After realizing that rubber had more value than ivory, he started harvesting wild rubber by sending private African conscript soldiers into the villages to take the women hostage in order to coerce the men of each village to gather a monthly quota of wild rubber. As price of rubber went up, the quota went up. Workers who rebelled were immediately killed.



Prize-winning author Adam Hochschild, writer of the critically acclaimed book *Bury the Chains: Prophets and Rebels in the Fight to Free an Empire's Slaves*. Mr. Hochschild sat with IRAdvocates Executive Director Terry Collingsworth and Emira Woods to discuss the history of exploitation in the rubber industry and Firestone's complicity in perpetuating this terrible legacy.

"This set of atrocities was the occasion for what was really the first great international human rights movement of the twentieth century," Hochschild noted before he discussed the efforts of the first whistle-

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## Adam Hochschild *Continued from page 5*

blowers on this situation, such as British journalist Edmund Denne Morel, who led a campaign against slavery in the Congo.

Hochschild described the situation in the Congo's rubber industry as "the best-known human rights atrocity in the early years of the twentieth-century."

Moving on to the story of the rubber industry today, Woods briefly spoke about the case of Liberia, explaining that Firestone started its operations in that country in 1926 and established the world's largest rubber plantation right around the time that demand for tires began to increase because of a booming automobile industry and looming Second World War.

Firestone agreed to pay 5 cents per acre for land in Liberia and brought on as much forced labor as they could to provide services on the plantation.

"Unlike the case in the Congo, which was kind of wild rubber, this was a plantation economy. So it was really structured--rows and rows of rubber trees," Ms. Woods said.

Workers were ordered to collect raw latex from hundreds of trees by tapping them throughout the day. Given the impossible quotas that the workers were forced to meet, they had no other option but to conscript their children to labor as well.

Collingsworth, who spoke about IRAdvocates' child labor case against Bridgestone-Firestone, said that after Ms. Woods introduced him to Liberia, the situation "didn't strike me in the abstract that it was as bad as it was."

Describing his experience of visiting the plantation, Collingsworth noted, "The thing that struck me immediately [...] you just see kids. Everywhere. And everyone's working."

He also spoke about how CNN's interview with Firestone President, Dan Adromitis,

helped move the case against the multinational corporation forward.

Evidently, Adromitis publicly stated that workers on the Firestone plantation in Liberia only have to tap 750 trees in a day, and that it only takes a couple minutes to tap each tree, insinuating that the job is not as difficult as it seems.

CNN did the mathematics of Adromitis' claim and concluded that it would take a total of 23 hours for one person to complete this particular quota.

Collingsworth said that the real quota is actually 1150 trees and that it would take one person 37 hours to accomplish this task. He also noted that the expatriate managers of the plantation live in beautiful and palatial villas overlooking the plantation.

"It's colonialism as extreme as it can get. And it's here today," Collingsworth said.

Speaking more specifically about the child labor issue, he explained that early each morning around 4AM, every child worker must go out and collect all of the cups used to tap the trees and clean them out.

If a family has been assigned to the task of tapping 1125 trees a day, this would mean that the child would be required to collect and clean 1125 cups.

The children also put pesticides on the tree trunks at the end of the day without safety equipment.

There are between 7,000 and 10,000 children working on the plantation today as forced laborers.

The forum was presented by the Stop Firestone Coalition, which is a unique group of environmental, civil rights, labor rights organizations, and trade unions from around the world seeking to end child labor in Liberia. The Coalition was launched by the International Labor Rights Fund (ILRF).



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