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14 **UNITED STATES DISTRICT COURT**  
15 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

16 LUISA GONZALES, *et al.*

17 Plaintiffs,

18 v.

19 TEXACO, INC., *et al.*

20 Defendants.

Case No. C 06-02820 (WHA)

**SECOND AMENDED COMPLAINT  
FOR DAMAGES**

**JURY TRIAL DEMANDED**

1 By and through their attorneys, Plaintiffs Luisa Maribel Jame Gonzales (formerly JANE  
2 DOE I), Vilma Jacqueline Moreno Chuquiom (formerly JANE DOE II), Maria Ignacia Cano  
3 Zambrano (formerly JANE DOE III), Luz Maria Armas Cardenas (formerly JANE DOE IV),  
4 Gloria Carmina Vera Chamba (formerly JANE DOE V), Nixon Rodriguez (formerly JOHN  
5 DOE I), Tobias Alberto Canache (formerly JOHN DOE II), Arturo Alava (formerly JOHN DOE  
6 III) and Jose Bonilla (formerly JOHN DOE IV) (hereinafter collectively "Plaintiffs") allege as  
7 follows.

### 8 NATURE OF THE ACTION

9 1. This is an action brought on behalf of nine residents of the Amazonian rainforest region  
10 of Ecuador known as the "Oriente" who have contracted cancer, or who now suffer from an  
11 increased risk of contracting cancer and/or other latent diseases, because of acts and/or omissions  
12 of Defendants Texaco, Inc. ("Texaco") and Texaco Petroleum Company, Inc. ("Texpet").

13 Plaintiffs seek equitable remedies in the form of a medical monitoring trust fund, or, in the  
14 alternative, an award of compensatory and punitive damages in an amount to be determined at  
15 trial. Defendant Chevron Corporation ("Chevron"), having acquired Texaco and Texpet in or  
16 about the year 2000 or 2001, is also liable as a successor-in-interest. Alternatively, Texaco and  
17 Texpet are now subsidiaries and/or sub-subsidiaries of Chevron that are so dominated and  
18 controlled by Chevron that they are alter egos of Chevron.

19 2. In 1964, Texaco and Texpet acquired rights to explore for and to drill for oil in the  
20 Oriente. Upon information and belief, from approximately 1971 through 1992, Texaco and  
21 Texpet drilled more than 400 oil wells in the region and extracted approximately 1.4 billion  
22 barrels of crude oil.

23 3. As more fully set forth in the "Facts" section of this Complaint, Texaco and Texpet  
24 extracted crude oil in the Oriente in a manner that, at all relevant times, would have been illegal  
25 if done in the United States and fell below prevailing reasonable industry standards for  
26 environmental safety. Specifically, in conducting crude oil extraction in the Oriente, Texaco and  
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1 Texpet knowingly and intentionally dumped the waste by-product of extraction (the “produced  
2 water”) into the rainforest environment, instead of reinjecting the produced water into the well  
3 from which it came or into an adjacent well. Upon information and belief, Texaco and Texpet  
4 dumped almost one barrel of the produced water for every barrel of crude oil that they extracted  
5 from the Oriente.

6 4. While extracting oil in the Oriente, Texaco and Texpet dumped produced water  
7 continuously into “oil ponds” that it dug in the middle of the rainforest. The produced water was  
8 highly toxic, containing unsafe concentrations of crude oil and heavy metal “salts.” As Texaco  
9 and Texpet dumped the produced water into the oil ponds, decanted crude oil collected at the  
10 surface of the ponds, even as produced water continuously overflowed the ponds and entered the  
11 watershed of the Oriente. Texaco and Texpet disposed of the decanted crude oil that  
12 accumulated at the surface of the oil ponds by either burning the decanted crude oil or spreading  
13 the decanted crude oil on roads in the region. Over the course of 21 years of unsafely disposing  
14 of produced water and decanted crude oil in the Oriente, Texaco and Texpet contaminated vast  
15 areas of the rainforest with known carcinogenic toxins.

16 5. Texaco and Texpet were able to extract crude oil in the Oriente in a less costly manner  
17 than if they had followed prevailing reasonable industry standards for environmental safety by  
18 reinjecting the produced water rather than dumping it into the rainforest. Upon information and  
19 belief, Texaco and Texpet profited from their unsafe disposal of produced water and decanted  
20 crude oil in sums ranging from US \$17 million to US \$200 million per year for the period from  
21 1971 to 1992.

22 6. The toxins released by Texaco and Texpet when they unsafely disposed of produced  
23 water and decanted crude oil in the rainforest between 1971 and 1992 directly and proximately  
24 caused Plaintiffs physical injury on a cellular and subcellular level, impairing their immune  
25 systems. As a direct and proximate result of prolonged exposure to these toxins, Plaintiffs have  
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1 already contracted and/or are at a substantially increased risk of contracting cancer and/or other  
2 latent diseases.

3 **THE PARTIES**

4 A. Plaintiffs

5 7. Plaintiffs are all citizens and residents of Ecuador who live in the geographic area of the  
6 Oriente where Texaco and Texpet dumped produced water and decanted crude oil into the  
7 rainforest, resulting in Plaintiffs' prolonged exposure to toxic carcinogens.

8 8. Plaintiff Luisa Gonzales moved in 1973, when she was six years of age, to the area of the  
9 Oriente that has been adversely affected by Texaco and Texpet's oil extraction operations. She  
10 currently resides in the Canton Joya de Los Sachas in Ecuador. She is now 38 years of age and  
11 was diagnosed with breast cancer in April 2005. As a resident of the region for the last 33 years,  
12 Luisa Gonzales has been continuously exposed to the carcinogenic toxins that were released, or  
13 caused to be released, by Texaco and Texpet's oil extraction operations in the Oriente. Luisa  
14 Gonzales's exposure to these toxins has caused her physical injury on a cellular and subcellular  
15 level, impairing her immune system and substantially increasing her risk of developing cancer  
16 and/or other latent diseases. Upon information and belief, her cancer has been caused by her  
17 exposure to those toxins, and Luisa Gonzales has suffered and will continue to suffer damages  
18 that include, without limitation, pain and suffering, emotional distress, and medical expenses (for  
19 both medical monitoring and treatment). The area of the Oriente in which Luisa Gonzales lives  
20 lacks adequate medical facilities to treat her cancer, and she is unable to afford to seek such care  
21 elsewhere in Ecuador or outside the country. She is married to Plaintiff Nixon Rodriguez and  
22 has four living children.

23 9. Plaintiff Vilma Chuquiom moved in 1984, when she was 12 years of age, to the area of  
24 the Oriente that has been adversely affected by Texaco and Texpet's oil extraction operations.  
25 She currently resides in the Canton Joya de Los Sachas in Ecuador. She is now 34 years of age  
26 and was diagnosed with breast cancer in January 2005. As a resident of the region for the last 22  
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1 years, Vilma Chuquiom has been continuously exposed to the carcinogenic toxins that were  
2 released, or caused to be released, by Texaco and Texpet's oil extraction operations in the  
3 Oriente. Vilma Chuquiom's exposure to these toxins has caused her physical injury on a cellular  
4 and subcellular level, impairing her immune system and substantially increasing her risk of  
5 developing cancer and/or other latent diseases. Upon information and belief, her cancer has been  
6 caused by her exposure to those toxins, and Vilma Chuquiom has suffered and will continue to  
7 suffer damages that include, without limitation, pain and suffering, emotional distress, and  
8 medical expenses (for both medical monitoring and treatment). The area of the Oriente in which  
9 Vilma Chuquiom lives lacks adequate medical facilities to treat her cancer, and she is unable to  
10 afford to seek such care elsewhere in Ecuador or outside the country. She is married to Plaintiff  
11 Tobias Alberto and has three living children.

12 10. Plaintiff Maria Zambrano moved in 1975, when she was 21 years of age, to the area of  
13 the Oriente that has been adversely affected by Texaco and Texpet's oil extraction operations.  
14 She currently resides in the Canton Joya de Los Sachas in Ecuador. She is now 52 years of age  
15 and was diagnosed with uterine cancer in July 2002. As a resident of the region for the last 31  
16 years, Maria Zambrano has been continuously exposed to the carcinogenic toxins that were  
17 released, or caused to be released, by Texaco and Texpet's oil extraction operations in the  
18 Oriente. Maria Zambrano's exposure to these toxins has caused her physical injury on a cellular  
19 and subcellular level, impairing her immune system and substantially increasing her risk of  
20 developing cancer and/or other latent diseases. Upon information and belief, her cancer has been  
21 caused by her exposure to those toxins, and Maria Zambrano has suffered and will continue to  
22 suffer damages that include, without limitation, pain and suffering, emotional distress, and  
23 medical expenses (for both medical monitoring and treatment). The area of the Oriente in which  
24 Maria Zambrano lives lacks adequate medical facilities to treat her cancer, and she is unable to  
25 afford to seek such care elsewhere in Ecuador or outside the country. She is married to Plaintiff  
26 Arturo Alava and has six living children.

1 11. Plaintiff Luz Cardenas moved in 1972, when she was 22 years of age, to the area of the  
2 Oriente that has been adversely affected by Texaco and Texpet's oil extraction operations. She  
3 currently resides in Pimampiro, Sucumbios, Ecuador. She is now 56 years of age and was  
4 diagnosed with lymphoma and thyroid cancer in January 2003. As a resident of the region for  
5 the last 33 years, Luz Cardenas has been continuously exposed to the carcinogenic toxins that  
6 were released, or caused to be released, by Texaco and Texpet's oil extraction operations in the  
7 Oriente. Luz Cardenas's exposure to these toxins has caused her physical injury on a cellular  
8 and subcellular level, impairing her immune system and substantially increasing her risk of  
9 developing cancer and/or other latent diseases. Upon information and belief, her cancer has been  
10 caused by her exposure to those toxins, and Luz Cardenas has suffered and will continue to  
11 suffer damages that include, without limitation, pain and suffering, emotional distress, and  
12 medical expenses (for both medical monitoring and treatment). The area of the Oriente in which  
13 Luz Cardenas lives lacks adequate medical facilities to treat her cancer, and she is unable to  
14 afford to seek such care elsewhere in Ecuador or outside the country. She is married to Plaintiff  
15 Jose Bonilla and has six living children.

16 12. Plaintiff Gloria Chamba moved to the area of the Oriente that has been adversely affected  
17 by Texaco and Texpet's oil extraction operations more than twenty years ago. She is now 48  
18 years of age. She currently resides in Chuchuqui, Sucumbios, Ecuador. In October 2002,  
19 Jane Gloria Chamba's son, who was seven years old, was diagnosed with leukemia. As a  
20 resident of the region for over 20 years, Gloria Chamba has been continuously exposed to the  
21 carcinogenic toxins that were released, or caused to be released, by Texaco and Texpet's oil  
22 extraction operations in the Oriente. Gloria Chamba's exposure to these toxins has caused her  
23 physical injury on a cellular and subcellular level, impairing her immune system and  
24 substantially increasing her risk of developing cancer and/or other latent diseases. Upon  
25 information and belief, Gloria Chamba's son contracted cancer because of his exposure to those  
26 toxins. Gloria Chamba has suffered and will continue to suffer damages that include, without  
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1 limitation, emotional distress (including fear that she will contract cancer and/or other latent  
2 diseases) and medical expenses (both for her own medical monitoring and for her son's medical  
3 monitoring and treatment). The area of the Oriente in which Gloria Chamba lives lacks adequate  
4 medical facilities either to treat her son's cancer or to provide for early detection of cancer  
5 and/or other latent diseases, and she is unable to afford to seek such care elsewhere in Ecuador or  
6 outside the country. Gloria Chamba provides care to her son as he slowly deteriorates from his  
7 cancer, knowing that his condition might be treatable if there were adequate medical facilities in  
8 the region.

9 13. Plaintiff Nixon Rodriguez is the husband of Plaintiff Luisa Gonzales. He currently  
10 resides in the Canton Joya de Los Sachas in Ecuador. As a resident of the region for more than  
11 30 years, he has been continuously exposed to the carcinogenic toxins that were released, or  
12 caused to be released, by Texaco and Texpet's oil extraction operations in the Oriente. Plaintiff  
13 Nixon Rodriguez's exposure to these toxins has caused him physical injury on a cellular and  
14 subcellular level, impairing his immune system and substantially increasing his risk of  
15 developing cancer and/or other latent diseases. Upon information and belief, his wife Jane  
16 Luisa Gonzales contracted cancer because of her exposure to those toxins. Plaintiff Nixon  
17 Rodriguez has suffered and will continue to suffer damages that include, without limitation,  
18 emotional distress (including fear that he will contract cancer and/or other latent diseases),  
19 medical expenses (both for his own medical monitoring and for his wife's medical monitoring  
20 and treatment), and loss of consortium. The area of the Oriente in which Nixon Rodriguez lives  
21 lacks adequate medical facilities either to treat his wife's cancer or to provide for early detection  
22 of cancer and/or other latent diseases, and he is unable to afford to seek such care elsewhere in  
23 Ecuador or outside the country. Nixon Rodriguez provides care to his wife as she slowly  
24 deteriorates from her cancer, knowing that her condition might be treatable if there were  
25 adequate medical facilities in the region.

1 14. Plaintiff Tobias Alberto is the husband of Plaintiff Vilma Chuquiom. He currently  
2 resides in the Canton Joya de Los Sachas in Ecuador. As a resident of the region for more than  
3 20 years, Plaintiff Tobias Alberto has been continuously exposed to the carcinogenic toxins that  
4 were released, or caused to be released, by Texaco and Texpet's oil extraction operations in the  
5 Oriente. His exposure to these toxins has caused him physical injury on a cellular and  
6 subcellular level, impairing his immune system and substantially increasing his risk of  
7 developing cancer and/or other latent diseases. Upon information and belief, Tobias Alberto's  
8 wife Vilma Chuquiom contracted cancer because of her exposure to those toxins. Plaintiff  
9 Tobias Alberto has suffered and will continue to suffer damages that include, without limitation,  
10 emotional distress (including fear that he will contract cancer and/or other latent diseases),  
11 medical expenses (both for his own medical monitoring and for his wife's medical monitoring  
12 and treatment), and loss of consortium. The area of the Oriente in which Tobias Alberto lives  
13 lacks adequate medical facilities either to treat his wife's cancer or to provide for early detection  
14 of cancer and/or other latent diseases, and he is unable to afford to seek such care elsewhere in  
15 Ecuador or outside the country. Plaintiff Tobias Alberto provides care to his wife as she slowly  
16 deteriorates from her cancer, knowing that her condition might be treatable if there were  
17 adequate medical facilities in the region.

18 15. Plaintiff Arturo Alava is the husband of Plaintiff Maria Zambrano. He currently resides  
19 in the Canton Joya de Los Sachas in Ecuador. As a resident of the region for more than 30 years,  
20 Arturo Alava has been continuously exposed to the carcinogenic toxins that were released, or  
21 caused to be released, by Texaco and Texpet's oil extraction operations in the Oriente. Plaintiff  
22 Arturo Alava's exposure to these toxins has caused him physical injury on a cellular and  
23 subcellular level, impairing his immune system and substantially increasing his risk of  
24 developing cancer and/or other latent diseases. Upon information and belief, Arturo Alava's  
25 wife Maria Zambrano contracted cancer because of her exposure to those toxins. Plaintiff Arturo  
26 Alava has suffered and will continue to suffer damages that include, without limitation,

1 emotional distress (including fear that he will contract cancer and/or other latent diseases),  
2 medical expenses (both for his own medical monitoring and for his wife's medical monitoring  
3 and treatment), and loss of consortium. The area of the Oriente in which Arturo Alava lives  
4 lacks adequate medical facilities either to treat his wife's cancer or to provide for early detection  
5 of cancer and/or other latent diseases, and he is unable to afford to seek such care elsewhere in  
6 Ecuador or outside the country. Plaintiff Arturo Alava provides care to his wife, Maria  
7 Zambrano, as she slowly deteriorates from her cancer, knowing that her condition might be  
8 treatable if there were adequate medical facilities in the region.

9 16. Plaintiff Jose Bonilla is the husband of Plaintiff Luz Cardenas. He currently resides in  
10 Pimampiro, Sucumbios, Ecuador. As a resident of the region for more than 30 years, Jose  
11 Bonilla has been continuously exposed to the carcinogenic toxins that were released, or caused  
12 to be released, by Texaco and Texpet's oil extraction operations in the Oriente. Plaintiff Jose  
13 Bonilla's exposure to these toxins has caused him physical injury on a cellular and subcellular  
14 level, impairing his immune system and substantially increasing his risk of developing cancer  
15 and/or other latent diseases. Upon information and belief, Jose Bonilla's wife Luz Cardenas  
16 contracted cancer because of her exposure to those toxins. Plaintiff Jose Bonilla has suffered  
17 and will continue to suffer damages that include, without limitation, emotional distress  
18 (including fear that he will contract cancer and/or other latent diseases), medical expenses (both  
19 for his own medical monitoring and for his wife's medical monitoring and treatment), and loss of  
20 consortium. The area of the Oriente in which Jose Bonilla lives lacks adequate medical facilities  
21 either to treat his wife's cancer or to provide for early detection of cancer and/or other latent  
22 diseases, and he is unable to afford to seek such care elsewhere in Ecuador or outside the  
23 country. Plaintiff Jose Bonilla provides care to his wife, Luz Cardenas, as she slowly  
24 deteriorates from her cancer, knowing that her condition might be treatable if there were  
25 adequate medical facilities in the region.

1 B. Defendants

2 17. Texaco is a Delaware corporation with its current principal place of business at 6001  
3 Bollinger Canyon Road, San Ramon, California 94583. Between 1964 and 1992, Texaco's  
4 principal place of business was located at 2000 West Chester Avenue, White Plains, New York  
5 10650. At that time, Texaco was a vertically integrated enterprise engaged in the exploration,  
6 extraction, production, transportation, refining, distributing and marketing of oil, natural gas, and  
7 petroleum products worldwide. Between 1964 and 1992, Texaco operated oil exploration,  
8 drilling, and crude transportation activities in the Oriente region of Ecuador through its agent and  
9 alter ego, its fourth-tier subsidiary Texpet. Texpet's activities were designed, conceived,  
10 supervised, directed, controlled, and/or ratified by Texaco in the United States. Upon  
11 information and belief, in or about the year 2000 or 2001, Texaco merged with Chevron and all  
12 its assets and liabilities became part of Chevron, making Chevron the successor-in-interest to  
13 Texaco, even though Chevron nominally continued Texaco's corporate existence as a "paper  
14 corporation" that is a wholly-owned subsidiary or sub-subsubsidiary of Chevron. In its current form  
15 of existence, Texaco is so dominated and controlled by Chevron that it is an alter ego of  
16 Chevron.

17 18. Texpet is a Delaware corporation with its current principal place of business at 6001  
18 Bollinger Canyon Road, San Ramon, California 94583. Between 1964 and 2000 or 2001,  
19 Texpet was Texaco's alter ego and agent in Ecuador and was a fourth-tier subsidiary of Texaco.  
20 Upon information and belief, when Chevron acquired the assets and liabilities of Texaco,  
21 Chevron nominally continued Texpet's corporate existence as a "paper corporation" that is  
22 wholly owned by Chevron and/or one of Chevron's wholly-owned subsidiaries (acting as an  
23 agent and/or alter ego of Chevron). In its current form of existence, Texpet is so dominated and  
24 controlled by Chevron that it is an alter ego of Chevron.

25 19. Chevron is a Delaware Corporation with principal place of business located at 6001  
26 Bollinger Road, San Ramon, California 94583. Chevron is a vertically integrated enterprise

1 engaged in the exploration, extraction, production, transportation, refining, distributing,  
2 marketing, and retail of oil, natural gas, and petroleum products worldwide, including substantial  
3 operations in California. Chevron conducts marketing and retail of petroleum products to the  
4 general consumer public under both the “Chevron” and “Texaco” brands. Upon information and  
5 belief, as a result of Chevron’s merger with Texaco in or about the year 2000 or 2001, Chevron  
6 acquired not only all the assets of Texaco and those of all its subsidiaries and sub-subsidiaries,  
7 but also the liabilities of Texaco and those of all its subsidiaries and sub-subsidiaries, making  
8 Chevron the successor-in-interest to Texaco.

### 9 JURISDICTION AND VENUE

10 20. This Court has jurisdiction over this action under 28 U.S.C. § 1332(a)(2). Plaintiffs are  
11 all citizens of Ecuador. Defendants are all Delaware corporations with their current principal  
12 places of business in California. The matter in controversy for each Plaintiff, exclusive of  
13 interest and costs, exceeds the sum or value of US \$75,000. To the extent that the claims of any  
14 Plaintiff do not exceed US \$75,000, this Court may exercise jurisdiction over their claims under  
15 28 U.S.C. § 1367.

16 21. Venue is proper in this district under 28 U.S.C. § 1391(a)(1), in that all Defendants  
17 currently maintain their principal places of business in this judicial district.

### 18 FACTS

19 22. In 1964, Texaco acquired rights to explore for and to drill for oil in the Oriente region of  
20 the Ecuadorian rainforest. Upon information and belief, from approximately 1971 through 1992,  
21 Texaco and Texpet drilled more than 400 oil wells in the region and extracted approximately 1.4  
22 billion barrels of crude oil.

23 23. In conducting crude oil extraction in the Oriente, Texaco and Texpet knowingly and  
24 intentionally dumped the waste by-product of extraction (the “produced water”) into the  
25 rainforest environment, instead of reinjecting the produced water into the well from which it  
26 came or an adjacent well.

1 24. Produced water is the water that co-mingles with crude oil at the extraction depths where  
2 crude oil is found. Because of high pressure at these depths this water is supersaturated with  
3 toxic heavy metal salts that contaminate surface water at ground atmospheric pressures.

4 25. In addition to a high concentration of heavy metals, produced water contains between  
5 100 and 5,000 parts per million of oil dissolved or emulsified in the water.

6 26. Upon information and belief, Texaco and Texpet dumped almost one barrel of produced  
7 water for every barrel of crude oil that they extracted from the Oriente.

8 27. Texaco, acting from the United States, made all the technical decisions as to what  
9 technology was used to extract crude oil and to dispose of produced water and decanted crude oil  
10 in the Oriente.

11 28. Texaco made the conscious decision when oil extraction began in the Oriente in 1971  
12 that the industry-accepted practice of reinjecting produced water into wells, although legally  
13 required in the United States to prevent fresh water contamination, was not going to be followed  
14 in Ecuador.

15 29. Instead of reinjecting the produced water when extracting oil in the Oriente, Texaco  
16 decided to excavate large open pits (or "oil ponds") in the ground adjacent to the wells and to  
17 dump all the produced water into those pits. In these oil ponds, which were engineered in the  
18 Oriente by Texaco and Texpet, further decantation of crude oil occurred, and the decanted crude  
19 oil accumulated at the surface of the ponds.

20 30. The produced water dumped into the oil ponds by Texaco and Texpet flowed  
21 continuously as crude oil was extracted, with run-off from the ponds being discharged into  
22 nearby wetlands and rivers.

23 31. As for the decanted crude oil from the surface of the oil ponds, it was either set on fire or  
24 dumped onto roads that had been built by Texaco and Texpet in the region to facilitate their oil  
25 extraction operations.

1 32. Upon information and belief, between 1971 and 1992, the volume of produced water that  
2 was discharged into the Oriente rainforest by Texaco and Texpet was in excess of 140,000  
3 barrels per day. At an estimated concentration of 5,000 parts per million of dissolve or  
4 emulsified oil in the produced water, this means that between 1971 and 1992 more than 600  
5 barrels of dissolved or emulsified oil were discharged every day into the Oriente rainforest as a  
6 result of the policies, procedures, and practices that Texaco and Texpet decided upon and  
7 implemented for disposal of produced water in the Oriente.

8 33. Through its method of disposing produced water and decanted crude oil, Texaco and  
9 Texpet contaminated vast areas of the Oriente rainforest with carcinogenic toxins.

10 34. Texaco and Texpet's method of disposing produced water and decanted crude oil in the  
11 Oriente would have been illegal if done in any oil-producing state in the United States at that  
12 time.

13 35. Furthermore, Texaco and Texpet's method of disposing produced water and decanted  
14 crude oil fell below reasonable minimum standards for environmental safety that prevailed in the  
15 oil industry at the time, and that Texaco itself recognized, ratified, and claimed to adhere to.

16 36. Although it has been accepted oil industry practice in the United States for over sixty  
17 years for companies to design and provide facilities for reinjection of the produced water into  
18 new or old wells as part of any extraction operation, Texaco and Texpet failed to design,  
19 provide, and/or utilize such facilities in connection with its operations in the Oriente.

20 37. Since the 1940s and 1950s, the typical oil extraction facility in the United States has  
21 consisted of an oil well through which a mixture of the produced water and crude oil are pumped  
22 to the ground surface. At the surface, the produced water/crude oil mixture is placed into tanks  
23 where the majority of the oil separates from the mixture forming a layer on top of the produced  
24 water. Given solubility considerations, not all the crude oil separates into a top layer.

25 Significant amounts of crude ranging from 100 to 5,000 parts per million of oil remain dissolved  
26 or emulsified in the produced water. The crude oil that has separated into the top layer at the  
27

1 tank is pumped through a pipeline to be transported or refined. The industry practice in the  
2 United States, as far back as the 1930s, and certainly after 1955, was that the produced water –  
3 because of its extreme toxicity – was then either reinjected into dry wells or into the same wells  
4 from which the produced water/crude oil mixture had been extracted. This remains the standard  
5 industry practice in the United States today.

6 38. In 1971, the United States Congress debated whether or not to regulate produced water  
7 under the provisions of the then-proposed Clean Water Act. At that time, Texaco was a member  
8 of the Texas Mid-Continental Oil & Gas Association.

9 39 Kenneth Montague, who was President of the Texas Mid-Continent Oil & Gas  
10 Association, testified under oath on behalf of the oil industry at Hearings before the Committee  
11 of Public Works of the House of Representatives held by the Ninety Second Congress in 1971,  
12 urging Congress not to establish federal regulation of produced water under the auspices of the  
13 United States Environmental Protection Agency (“EPA”) because it would be unnecessary and  
14 unduly burdensome. According to Montague’s testimony, the oil industry’s policies, procedures,  
15 and practices for disposal of produced water in the United States were already strictly and  
16 adequately regulated by state law, which made it illegal for the oil industry to contaminate fresh  
17 water through the disposal of produced water. Montague testified that reinjection of produced  
18 water was required under most circumstances:

19 The only alternatives to subsurface disposal of produced [] water  
20 in inland fields is the use of pits on the surface . . . . This practice  
21 has been outlawed in Texas, except under a few special  
circumstances. In coastal areas, these brines can be safely mixed  
with tidal waters.

22 Later in his testimony, Montague stated that, in Texas, the general oil industry practice (as of  
23 1971) was “to cement pipe down through the fresh water zones and inject the water back into the  
24 same formation, generally, from which it came.” Montague also admitted in his testimony that  
25 the practice of disposing of produced water in open pits was harmful to people and the  
26 environment.

1 40. Reinjection of produced water was required by the laws and/or regulations of all  
2 principal oil-producing states in the United States in 1971.

3 41. For example, Texas enacted environmental regulations in 1919 forbidding the  
4 contamination of all “[f]resh water, whether above or below the surface,” from oil operations,  
5 “whether in drilling or plugging.”

6 42. In his 1971 testimony before Congress, Kenneth Montague made clear that this 1919  
7 Texas environmental regulation applied to forbid any and all fresh water contamination from the  
8 disposal of produced water.

9 43. As another example, Louisiana enacted environmental regulations in 1953 forbidding  
10 discharge of produced water (described therein as “oil field brine”) “into any stream, lake or  
11 other body of water, or into any ditch or surface drainage leading to any stream, lake or other  
12 body of water,” when a regulatory body, the Stream Control Commission, determined, among  
13 other things, that such a discharge “would adversely affect the palatability of a source of potable  
14 water to an appreciable degree, or would be deleterious to public health.” The 1953 Louisiana  
15 environmental regulations also state that, “[w]herever possible, disposition of oil field brine shall  
16 be accomplished by discharge through disposal wells to underground horizons below the fresh  
17 water level, such wells to be so drilled, cased, cemented, equipped, and operated that no fresh  
18 water horizon shall be polluted,” except when determined by the Stream Control Commission  
19 that the body of water that was at risk of pollution was “normally or seasonably sufficiently  
20 saline to preclude any actual or potential pollution hazard due to such discharge.”

21 44. In 1976, Texaco assisted the EPA in developing Guidelines for Best Available  
22 Technology Economically Achievable (the “Guidelines”) for the disposal of produced water.  
23 That year, the EPA recommended that produced water be disposed of only through subsurface  
24 disposal methods (*i.e.*, reinjection), even for offshore and coastal subcategories of extraction.

25 45. The Guidelines describe in detail the concentrations of toxins present in produced water.  
26 Dissolved or emulsified oil was described as present in amounts ranging from 7 to 1,300 parts  
27

1 per million. Organic carbon was described as present in amounts ranging from 30 to 1,580 parts  
2 per million.

3 46. In addition to assisting the EPA in developing the Guidelines during the 1970s, Texaco  
4 was also actively involved at the same time in significant research on produced water reinjection.

5 47. Texaco obtained at least two United States patents, one in 1971 and one in 1974, for  
6 improved technologies for reinjection of produced water.

7 48. Texaco also published an extensive summary of the laws governing discharges of oil in  
8 the Proceedings of the American Petroleum Institute in 1971.

9 49. Despite Texaco's longstanding knowledge of the harmful effects of doing so, Texaco and  
10 Texpet, in their extraction operations in the Oriente in Ecuador, knowingly and intentionally  
11 decided upon and implemented policies, procedures, and practices to dispose of produced water  
12 and decanted crude oil in the Oriente that resulted in the dumping of produced water and  
13 decanted crude oil into the Oriente rainforest.

14 50. Texaco and Texpet decided upon and implemented the policies, procedures, and practices  
15 for disposal of produced water and decanted crude oil in the Oriente that resulted in the  
16 discharge of produced water and decanted crude oil into the Oriente rainforest purely for their  
17 own economic gain, as dumping the produced water was substantially less costly than reinjecting  
18 the produced water into new or old wells.

19 51. There is a direct relationship between profits and the dumping of produced water.  
20 According to a 1995 study by the Gas Research Institute, the costs of reinjection of produced  
21 water can range from as low as US \$0.35 to as high as US \$4.00 for each barrel of produced  
22 water that is reinjected.

23 52. Upon information and belief, Texaco and Texpet's average production costs of crude oil  
24 at the wellhead in the rainforest of the Oriente without reinjection of the produced water were  
25 less than US \$1.00 per barrel. If Texaco and Texpet had instead reinjected the produced water  
26 into wells, the average production costs of crude oil would have ranged from US \$1.35 per barrel  
27

1 to US \$5.00 per barrel. In other words, by dumping the produced water rather than reinjecting it  
2 into wells, Texaco and Texpet profited between approximately US \$0.35 to US \$4.00 per barrel  
3 for every barrel of crude oil that it extracted from the Oriente between 1971 and 1992.

4 53. For the entire period between 1971 and 1992, Texaco and Texpet's profits from dumping  
5 produced water rather than reinjecting it totaled somewhere between US \$1.4 billion and  
6 US \$5.6 billion.

7 54. On August 16, 1973, Texaco, through its agent and alter ego Texpet, entered into a  
8 contract (the "1973 Contract") with the Government of Ecuador and a subsidiary of Gulf Oil  
9 Company ("Gulf") that governed Texaco and Texpet's oil exploration and extraction activities in  
10 the Oriente.

11 55. The parties to the 1973 Contract were, on the one hand, the Government of Ecuador, and,  
12 on the other hand, Texpet and Gulf, who were defined as "the contractors." Texpet and Gulf  
13 agreed to be "severally responsible" for all obligations deriving from the contract.

14 56. Under the 1973 Contract, the activities of "the contractors" included production, storage,  
15 transport, commercialization, exportation, drilling, supply of production installations,  
16 construction of gathering centers and "other operations that are accepted by the petroleum  
17 industry as necessary and adequate."

18 57. The disposal of produced water through reinjection was accepted as a necessary  
19 petroleum industry practice at the time that the 1973 Contract was signed.

20 58. The terms of the 1973 Contract governed Texaco and Texpet's activities in the Oriente  
21 from August 16, 1973 to June 6, 1992.

22 59. By agreement with Gulf, Texaco and Texpet made all operational decisions concerning  
23 how crude oil was extracted in the Oriente pursuant to the 1973 Contract.

24 60. Under the 1973 Contract, the Government of Ecuador accepted a royalty of 12.5% of the  
25 gross production of crude oil as full remuneration for allowing Texaco and Texpet, in  
26 partnership with Gulf, to extract, export and sell crude oil in the international market.

1 61. The Government of Ecuador did not profit from the dumping of produced water because  
2 its royalty was exactly the same whether produced water was or was not reinjected.

3 62. Under the terms of the 1973 Contract, Texpet and Gulf agreed to “adopt all convenient  
4 measures for the protection of the flora, fauna, and other natural resources.”

5 63. Texaco and Texpet’s practice of dumping produced water and decanted crude oil into the  
6 rainforest was not protective of the flora, fauna, and other natural resources.

7 64. The 1973 Contract granted Ecuador’s state-owned oil company (“CEPE”) the right to  
8 acquire by June 6, 1977, a 25% ownership share of the crude oil extraction operating rights that  
9 had been conferred jointly to Texpet and Gulf in the 1973 Contract. CEPE exercised this right  
10 and purchased a 25% share in 1973, leaving Texpet and Gulf each with a 37.5% share. Even  
11 after CEPE acquired these rights, however, Texaco and Texpet continued to make all operational  
12 decisions concerning how oil was extracted in the Oriente, including all decisions concerning the  
13 disposal of produced water and decanted crude oil.

14 65. In 1974, CEPE purchased Gulf’s 37.5% share of ownership over the crude oil extraction  
15 operations in the Oriente. Even after CEPE acquired this ownership share, however, Texaco and  
16 Texpet continued to make all operational decisions concerning how crude oil was extracted in  
17 the Oriente, including all decisions concerning disposal of produced water and decanted crude  
18 oil.

19 66. At no point between 1965 and 1992 did any agent of the Government of Ecuador or  
20 CEPE participate in or formally ratify Texaco’s decision to dump produced water and decanted  
21 crude oil rather than reinjecting it into wells.

22 67. Between 1965 and 1992, Texaco and Texpet were solely responsible for the  
23 implementation and maintenance of the practice of dumping produced water and decanted crude  
24 oil.

25 68. Between 1965 and 1992, the Government of Ecuador and CEPE (and their agents) relied  
26 on Texaco to use reasonable, industry-accepted standards for environmental safety and to follow  
27

1 prevailing industry “best practices,” and they assumed that the technology employed in Ecuador  
2 by Texaco and Texpet for the extraction of crude oil and the disposal of produced water and  
3 decanted crude oil was industry-standard, first-rate technology – *i.e.*, technology equivalent to  
4 that Texaco and other large petroleum companies utilized in the United States and in other  
5 countries.

6 69. The Government of Ecuador and CEPE (and their agents) did not have sufficient  
7 independent knowledge and expertise to judge whether Texaco and Texpet were taking  
8 reasonable minimum safety precautions and following reasonable, industry-accepted standards  
9 for environmental safety and prevailing industry “best practices.”

10 70. Texaco and Texpet, during the period that they operated in the Oriente, trained and  
11 instructed local technicians in the policies, practices, and procedures that they had chosen for  
12 disposal of produced water and decanted crude oil.

13 71. The operation and management of crude oil extraction in the Oriente between 1971 and  
14 1992 was designed, conceived, supervised, directed, controlled, and/or ratified by Texaco  
15 directly from the United States. In particular, Texaco made a substantial part of the operational,  
16 technical, and management decisions for Texaco and Texpet’s oil extraction operations in  
17 Ecuador at its corporate headquarters in New York, New York.

18 72. Employees of Texpet have testified in depositions taken in other litigation that all  
19 significant decisions as to the operation and management of crude oil extraction in the Oriente  
20 were made by Texaco in the United States.

21 73. Acting as the parent corporation of Texpet, Texaco controlled all of Texpet’s budgetary  
22 decisions from the United States, and through the budgetary process Texaco maintained direct  
23 control over all major decisions made in Texpet’s field operations in the Oriente.

24 74. The dumping of produced water and decanted crude oil into the rainforest in the Oriente  
25 day after day for twenty years devastated the environment there, heavily polluting the region  
26 with carcinogenic toxins. The Oriente rainforest became pockmarked with open oil ponds.

1 Runoffs of produced water from the oil ponds entered the watershed of the Oriente and  
2 contaminated the region's rivers and wetlands.

3 75. Since Texaco and Texpet began extracting oil from the Oriente in 1971, the indigenous  
4 people who live in the Oriente and other residents of the region have been forced to live in close  
5 contact with the oil ponds and the oil-tarred roads, and they are constantly breathing airborne  
6 contaminants. As other water supplies are practically non-existent, residents often bathe in the  
7 contaminated waters of the rivers and drink contaminated surface water.

8 76. The produced water that was discharged into the rainforest environment of the Oriente  
9 contained very high levels of volatile organic compounds ("VOCs") and polycyclic aromatic  
10 hydrocarbons ("PAHs"). After the produced water entered the watershed, these VOCs and  
11 PAHs were released into the surface waters used by local residents. Many of the PAHs and  
12 VOCs are carcinogenic.

13 77. The residents of the Oriente suffer from a high incidence of spontaneous abortions, as  
14 well as illnesses that one would not expect in the rainforest, such as terminal lung cancer.

15 78. Risk estimates by scientists who have studied the Oriente have estimated that the  
16 residents' drinking of the heavily contaminated water of the region has caused the residents to  
17 incur a risk of cancer that ranges, depending on the location of the drinking water, from 12  
18 cancers to 1000 cancers per million exposures.

19 79. The EPA accepted risk standard is only one cancer per million exposures for a similar  
20 toxic exposure situation in the United States.

21 80. Texaco and Texpet's crude oil extraction operations in the Oriente, and in particular the  
22 method implemented by Texaco and Texpet for disposal of the produced water, caused heavy  
23 pollution of the rainforest environment, introducing carcinogenic toxins into an environment that  
24 would otherwise have been without any significant pollution or other major sources of  
25 carcinogens.

1 **LEGAL CLAIMS**

2 **COUNT ONE: NEGLIGENCE**

3 81. Plaintiffs reallege and incorporate, as if fully set forth herein, the allegations of all  
4 preceding paragraphs of this Complaint.

5 82. Texaco and Texpet owed a duty to Plaintiffs to exercise reasonable and ordinary care in  
6 extracting crude oil and disposing of produced water and decanted crude oil in the Oriente, in  
7 order to ensure that neither they nor their agents or alter egos engaged in conduct leading to or  
8 likely to lead to foreseeable harm or injury to Plaintiffs. Texaco and Texpet's duty of care owed  
9 to Plaintiffs included a duty to exercise reasonable and ordinary care in supervising and directing  
10 their agents and alter egos operating in the Oriente, in order to monitor and inspect their  
11 activities in the region to ensure that they were not unfit, incompetent, or otherwise engaging in  
12 conduct that would lead to or would likely lead to foreseeable harm or injury to Plaintiffs.

13 83. During the period in which they extracted oil from the Oriente, Texaco and Texpet knew  
14 or should have known that produced water and decanted crude oil contained dangerously toxic  
15 carcinogenic substances.

16 84. Texaco and Texpet did foresee or should have reasonably foreseen that their method of  
17 disposing produced water and decanted crude oil in the rainforest of the Oriente would cause  
18 Plaintiffs physical injury, placing them at a high risk of developing cancer and/or other latent  
19 diseases.

20 85. Texaco and Texpet breached their duty of care by deciding upon and implementing a  
21 method of extracting crude oil and disposing of produced water and decanted crude oil that:

22 (a) fell below reasonable minimum standards of care, and failed to take reasonable  
23 precautions to prevent foreseeable harms;

24 (b) fell below reasonable minimum standards for environmentally safe disposal of  
25 produced water and decanted crude oil that were accepted by and prevailed in the oil industry at  
26 the time; and

1 (c) would have been illegal if used in any of the oil-producing states of the United  
2 States at the time.

3 86. Texaco and Texpet failed to exercise reasonable and ordinary care to protect Plaintiffs  
4 from foreseeable harm and injury. In engaging in the conduct in the Oriente alleged herein,  
5 Texaco and Texpet did not act as ordinarily prudent and careful persons would act in similar  
6 circumstances.

7 87. At all relevant times, Texaco and Texpet and/or their agents and alter egos had the  
8 power, ability, authority, and duty to stop engaging in the conduct in the Oriente alleged herein  
9 and to intervene to prevent or prohibit such conduct. Texaco and Texpet knew or reasonably  
10 should have known that unless they intervened to protect Plaintiffs and to properly supervise,  
11 prohibit, control and/or regulate the conduct alleged herein, their agents and/or alter egos would  
12 perceive their acts and omissions as being ratified and condoned.

13 88. Texaco and Texpet's breach of duty was willful, wanton, outrageous, reckless, and  
14 intentional. Texaco and Texpet knowingly and intentionally disposed of produced water and  
15 decanted crude oil in the pristine rainforest environment of the Oriente purely for their own  
16 economic gain, and thereby exposed Plaintiffs to carcinogenic toxins in crude oil and produced  
17 water, knowing that such substances were toxic to humans, thereby acting with conscious  
18 disregard of Plaintiffs' safety. As more fully set forth above, Texaco and Texpet directly  
19 profited from dumping produced water in the Oriente, a method of disposing produced water that  
20 was significantly less costly than if they had reinjected the produced water into new or old wells.  
21 Upon information and belief, as explained above, Texaco and Texpet's profits from dumping  
22 produced water in the Oriente approximately totaled between US \$1.4 billion and US \$5.6  
23 billion.

24 89. Plaintiffs have suffered injuries to their persons that were directly and proximately  
25 caused by Defendants' breaches of duty, having been exposed to known carcinogenic substances  
26 that caused them cellular and subcellular damage and impaired their immune systems, and  
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1 thereby having either already contracted or being at a substantially increased risk of contracting  
2 cancer and/or other latent diseases. As a result of these injuries, Plaintiffs have suffered and will  
3 continue to suffer damages, as set forth above.

4 90. Defendants' conduct constitutes negligence and is actionable under the laws of  
5 New York, the laws of California, the laws of the United States, and the laws of Ecuador.

6 91. Early detection and medical treatment of cancer and/or other latent diseases is medically  
7 necessary and advisable to prevent Plaintiffs from suffering much greater harm.

8 92. Plaintiffs do not have an adequate remedy at law for their injuries, in that the harm that  
9 has been inflicted on Plaintiffs cannot be undone by mere compensation. Plaintiffs are poor  
10 indigenous people who live in the remote Oriente region of the Ecuadorian Amazon that has  
11 been adversely affected by Texaco and Texpet's oil extraction operations and that lacks adequate  
12 medical facilities for Plaintiffs to receive medically necessary and advisable detection and  
13 treatment of those diseases caused by Texaco and Texpet's conduct in the Oriente. A damages  
14 remedy is not adequate for Plaintiffs, because even if Plaintiffs were able to afford to seek  
15 medical monitoring and treatment elsewhere in Ecuador or outside the country, seeking such  
16 treatment would require them to leave their homeland and, in the process, to abandon their  
17 indigenous way of life and cultural identity. Consequently, in the absence of equitable remedies,  
18 Plaintiffs will suffer irreparable harm. In equity and fairness, Plaintiffs are entitled to equitable  
19 remedies, in the form of a medical monitoring trust fund to establish adequate medical facilities  
20 in the region where Plaintiffs reside.

21 93. In the alternative, should this Court determine that Plaintiffs are not entitled to equitable  
22 remedies, Plaintiffs are entitled to recover compensatory and punitive damages from Defendants  
23 in amounts to be ascertained at trial.

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1 **COUNT TWO: INTENTIONAL OR RECKLESS**

2 **INFLECTION OF EMOTIONAL DISTRESS**

3 94. Plaintiffs reallege and incorporate, as if fully set forth herein, the allegations of all  
4 preceding paragraphs of this Complaint.

5 95. As set forth in the preceding paragraphs of this Complaint, Defendants and/or their  
6 agents and alter egos knowingly, intentionally, and/or recklessly committed acts that resulted in  
7 Plaintiffs' exposure to toxic substances contained in produced water and decanted crude oil.

8 These acts of Defendants and/or their agents and alter egos were so outrageous in character and  
9 so extreme in degree as to go beyond all possible bounds of decency and must be regarded as  
10 atrocious and utterly intolerable in a civilized society. As a direct and proximate result of these  
11 acts, Plaintiffs suffered severe emotional distress, causing them injury, damage, loss, and harm.

12 96. The acts described herein constitute intentional or reckless infliction of emotional distress  
13 and are actionable under the laws of New York, the laws of California, the laws of the United  
14 States, and the laws of Ecuador.

15 97. As set forth above, Plaintiffs have no adequate remedy at law and will suffer irreparable  
16 harm if they do not receive equitable relief. In the alternative, should this Court determine that  
17 Plaintiffs are not entitled to equitable remedies, Plaintiffs are entitled to recover compensatory  
18 and punitive damages from Defendants in amounts to be ascertained at trial.

19 **COUNT THREE: BATTERY**

20 98. Plaintiffs reallege and incorporate, as if fully set forth herein, the allegations of all  
21 preceding paragraphs of this Complaint.

22 99. As set forth in the preceding paragraphs of this Complaint, Defendants and/or their  
23 agents and alter egos committed acts that they knew or should have known with substantial  
24 certainty would result (and did result) in toxic substances contained in produced water and  
25 decanted crude oil coming into harmful or offensive contact with the bodies of Plaintiffs.

1 Plaintiffs did not consent to this contact, which caused injury, damage, loss, and harm to  
2 Plaintiffs.

3 100. The acts described herein constitute battery and are actionable under the laws of  
4 New York, the laws of California, the laws of the United States, and the laws of Ecuador.

5 101. As set forth above, Plaintiffs have no adequate remedy at law and will suffer irreparable  
6 harm if they do not receive equitable relief. In the alternative, should this Court determine that  
7 Plaintiffs are not entitled to equitable remedies, Plaintiffs are entitled to recover compensatory  
8 and punitive damages from Defendants in amounts to be ascertained at trial.

9 **DEMAND FOR JURY TRIAL**

10 102. Plaintiffs demand a trial by jury on all issues so triable.

11 **PRAYER FOR RELIEF**

12 WHEREFORE, Plaintiffs respectfully request the Court to:

- 13 (a) enter judgment in favor of Plaintiffs and against Defendants on all counts of the  
14 Complaint;
- 15 (b) award Plaintiffs equitable relief, in the form of a medical monitoring trust fund to  
16 establish adequate medical facilities in the region where Plaintiffs reside; or, in the  
17 alternative, award Plaintiffs compensatory and punitive damages in amounts to be  
18 ascertained at trial;
- 19 (c) award Plaintiffs pre-judgment interest;
- 20 (d) award Plaintiffs the costs of suit including reasonable attorney's fees; and
- 21 (e) award Plaintiffs such other and further relief as the Court deems just under the  
22 circumstances.

23 Dated: October 12, 2006

24 Respectfully submitted,  
25 SCHONBRUN, DE SIMONE, SEPLOW,  
26 HARRIS & HOFFMAN, LLP;  
27 LAW OFFICES OF CRISTÓBAL BONIFAZ;  
28 INTERNATIONAL LABOR RIGHTS FUND



By: \_\_\_\_\_  
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