

JUN 18 2014

No.
Vancouver Registry



In the Supreme Court of British Columbia

Between

**Adolfo Agustín García, Luis Fernando García Monroy,
Erick Fernando Castillo Pérez, Artemio Humberto
Castillo Herrera, Wilmer Francisco Pérez Martínez, Noé
Aguilar Castillo, and Misael Eberto Martínez Sasvín**

Plaintiffs

and

Tahoe Resources Inc.

Defendant

NOTICE OF CIVIL CLAIM

This action has been started by the plaintiffs for the relief set out in Part 2 below.

If you intend to respond to this action, you or your lawyer must

- (a) file a response to civil claim in Form 2 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim on the plaintiff.

If you intend to make a counterclaim, you or your lawyer must

- (c) file a response to civil claim in Form 2 and a counterclaim in Form 3 in the above-named registry of this court within the time for response to civil claim described below, and
- (d) serve a copy of the filed response to civil claim and counterclaim on the plaintiff and on any new parties named in the counterclaim.

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to civil claim within the time for response to civil claim described below.

Time for response to civil claim

A response to civil claim must be filed and served on the plaintiffs,

- (a) if you were served with the notice of civil claim anywhere in Canada, within 21 days after that service,
- (b) if you were served the notice of civil claim anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the notice of civil claim anywhere else, within 49 days after that service, or
- (d) if the time for response to civil claim has been set by order of the court, within that time.

PART 1: STATEMENT OF FACTS

Overview

1. Vancouver mining company Tahoe Resources Inc. ("Tahoe") owns, manages and controls the Escobal Mine, a high-grade silver, gold, lead and zinc mining project in southeast Guatemala in the municipality of San Rafael Las Flores.
2. The plaintiffs are residents of San Rafael Las Flores.
3. On the evening of April 27, 2013, the plaintiffs were shot at close range by Tahoe security personnel during a peaceful protest on the public road outside of the gates of the Escobal Mine.
4. The shooting was planned, ordered and directed by Tahoe's Guatemala Security Manager, Alberto Rotondo Dall'Orso ("Rotondo").
5. As a result of the shooting, the plaintiffs suffered serious injuries, including wounds to their backs, faces, feet and legs.

6. Tahoe controls all significant aspects of the operation of the Escobal Mine including security policies and practices and community relations.
7. Tahoe expressly or implicitly authorized the use of excessive force by Rotondo and the security personnel against the plaintiffs or was negligent in failing to prevent Rotondo and the security personnel from using excessive force.
8. In the alternative, Tahoe's wholly owned subsidiary Minera San Rafael ("MSR") expressly or implicitly authorized the use of excessive force by Rotondo and the security personnel against the plaintiffs and Tahoe is vicariously liable for the conduct of MSR.
9. In the further alternative, Tahoe is vicariously liable for the conduct of Rotondo and the security personnel.

The Parties

The Plaintiffs

10. The plaintiff Adolfo Agustín García is a farmer and resides in San Rafael Las Flores, Guatemala.
11. The plaintiff Luis Fernando García Monroy is a farmer and resides in San Rafael Las Flores, Guatemala.
12. The plaintiff Erick Fernando Castillo Pérez is a farmer and resides in San Rafael Las Flores, Guatemala.
13. The plaintiff Artemio Humberto Castillo Herrera is a farmer and resides in San Rafael Las Flores, Guatemala.
14. The plaintiff Wilmer Francisco Pérez Martínez is a student and resides in San Rafael Las Flores, Guatemala.
15. The plaintiff Noé Aguilar Castillo is a farmer and resides in San Rafael Las Flores, Guatemala.

16. The plaintiff Misael Eberto Martínez Sasvín is a farmer and resides in San Rafael Las Flores, Guatemala.

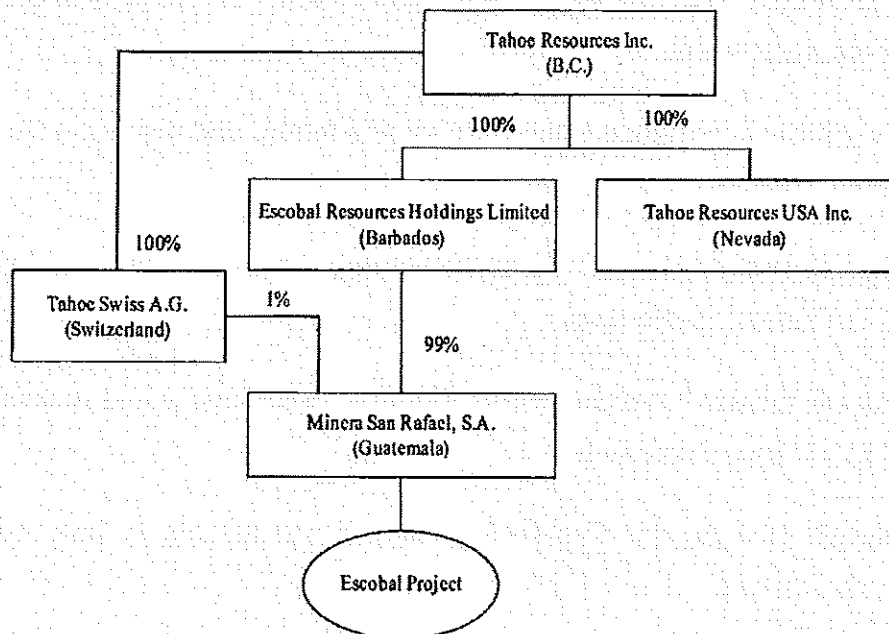
Tahoe Resources Inc.

17. The defendant Tahoe Resources Inc. is a Canadian mining company that is incorporated under the laws of British Columbia, with a registered and records office at 1500 Royal Centre, 1055 West Georgia Street, P.O. Box 11117, Vancouver, B.C.
18. Tahoe is listed for trading on the Toronto Stock Exchange, is regulated in Canada by the British Columbia Securities Commission and conducts its annual general meetings in Vancouver.

Facts

Tahoe's Control over the Escobal Mine

19. Tahoe was incorporated for the purpose of acquiring control over and developing the Escobal Mine. At all material times, Tahoe owned 100% of the Escobal Mine through its Guatemalan subsidiary MSR according to the following corporate structure:



20. Tahoe's only asset is the Escobal Mine. The valuation of the company and the remuneration of senior management are directly linked to the Escobal Mine.
21. Tahoe controls all significant aspects of the operation of MSR and the Escobal Mine including the establishment and implementation of security and community relations policies and practices in Guatemala. Particulars of Tahoe's control include:
 - (a) Tahoe adopted a corporate social responsibility policy applicable to its activities in Guatemala;
 - (b) Tahoe has committed to the Voluntary Principles on Security and Human Rights and the Ruggie Guiding Principles on Business and Human Rights, as described below;
 - (c) Tahoe's Chief Operating Officer and Vice President of Exploration are responsible for continuously monitoring and improving community relations;
 - (d) the Health, Safety, Environment and Community Committee ("HSEC") of Tahoe's Board of Directors is responsible for monitoring and implementing community relations policies as described below;
 - (e) Tahoe appoints a Guatemala Country Manager to manage and oversee the daily operations of MSR and the Escobal Mine; and
 - (f) the Guatemala Country Manager is an employee of Tahoe and also serves as President of MSR.

Tahoe's Policies and Commitments Regarding Community Relations

22. At all material times, Tahoe had in place a corporate social responsibility policy which governed the manner in which Tahoe and MSR engaged with the local community in Guatemala. Particulars of Tahoe's corporate social responsibility include:
- (a) commitments by Tahoe, its employees and its contractors to uphold the spirit and the letter of governing laws; and
 - (b) commitments by Tahoe, its employees and its contractors to deal with community issues in a lawful manner.
23. Tahoe committed to the Voluntary Principles on Security and Human Rights. These principles require Tahoe to:
- (a) ensure that any private security personnel engaged by Tahoe observe Tahoe's policies regarding ethical conduct and human rights;
 - (b) ensure that any private security personnel engaged by Tahoe observe the law and professional standards of the country in which they operate;
 - (c) ensure that any private security personnel engaged by Tahoe adhere to emerging best practices for security and observe international humanitarian law;
 - (d) ensure that any private security personnel engaged by Tahoe act in a lawful manner and exercise restraint and caution in a manner consistent with applicable international guidelines regarding the local use of force, including the United Nations Principles on the Use of Force and Firearms by Law Enforcement Officials and the United Nations Code of Conduct for Law Enforcement Officials;

- (e) ensure that any private security firms engaged by Tahoe have policies in place regarding appropriate conduct and the local use of force including rules of engagement;
- (f) ensure that the practices of any private security personnel engaged by Tahoe be capable of being monitored by Tahoe and/or independent third parties;
- (g) ensure that any private security personnel engaged by Tahoe provide only preventative and defensive services and do not engage in activities exclusively the responsibility of state military or law enforcement authorities;
- (h) ensure that policies and procedures are in place to designate services, technology and equipment capable of offensive and defensive purposes as being for defensive use only;
- (i) ensure that any private security firm engaged by Tahoe does not employ individuals credibly implicated in human rights abuses to provide security services;
- (j) ensure that any private security personnel engaged by Tahoe use force only when strictly necessary and to an extent proportional to the threat;
- (k) ensure that any private security personnel engaged by Tahoe do not violate community members' rights of freedom of association and peaceful assembly;
- (l) include the principles outlined above as contractual provisions in agreements with private security personnel or providers;
- (m) ensure that any private security personnel engaged by Tahoe are adequately trained to respect the rights of employees and the local community;

- (n) monitor private security personnel to ensure they fulfill their obligation to provide security in a manner consistent with the principles outlined above; and
 - (o) review the background of private security personnel they intend to employ, particularly with regard to any history of using excessive force.
24. Tahoe committed to the Ruggie Guiding Principles on Business and Human Rights. These principles require Tahoe to:
- (a) adopt a policy of respect for human rights that is approved at the most senior level of the company;
 - (b) communicate to Tahoe's personnel, business partners and private security providers its expectation that human rights will be respected;
 - (c) adopt such policies, procedures and practices as are necessary to embed respect for human rights throughout Tahoe's business enterprise;
 - (d) assess actual and potential human rights impacts from its activity in Guatemala;
 - (e) identify, prevent, mitigate and account for human rights impacts arising from its activity in Guatemala; and
 - (f) ensure that internal decision-making, budget allocations and oversight processes enable effective responses to human rights impacts.
25. Tahoe's HSEC Committee is responsible for:
- (a) implementing Tahoe's corporate social responsibility policy including the Voluntary Principles on Security and Human Rights and the Ruggie Guiding Principles on Business and Human Rights;

- (b) reviewing management reports on community relations in Guatemala to determine if they contain issues of major concern and assessing the adequacy of Tahoe's response to such situations;
 - (c) reviewing community relations responses, compliance issues and incidents to determine on behalf of the Board of Directors that Tahoe is taking all necessary action in respect of those matters;
 - (d) identifying the principle areas of community risks and impacts in Guatemala and ensuring that sufficient resources are allocated to address them;
 - (e) making periodic visits to Tahoe's sites to become familiar with the nature of the operations and to review relevant objectives, procedures and performance with respect to community relations matters;
 - (f) reviewing the competence and organizational structure established, and key resources committed to, developing a positive relationship with the communities and public impacted by Tahoe's operations; and
 - (g) reporting all of its activity to the Board of Directors.
26. Tahoe's control over security policies and practices and community relations at the Escobal Mine includes:
- (a) implementing and monitoring compliance with Tahoe's corporate social responsibility policy;
 - (b) implementing and monitoring compliance with the Voluntary Principles on Security and Human Rights as described above;
 - (c) implementing and monitoring compliance with the Ruggie Guiding Principles on Business and Human Rights as described above;

- (d) formulating strategies for dealing with local opposition to the Escobal Mine;
- (e) recruiting, selecting and appointing Rotondo to the position of Guatemala Security Manager; and
- (f) expressly or implicitly authorizing Rotondo to carry out a campaign against local opposition to the Escobal Mine.

Tahoe Security Personnel

- 27. Tahoe's security personnel at the Escobal Mine were comprised of Rotondo and private security personnel employed under contract with the security companies Grupo Golan (a.k.a. Alfa Uno) and Counter Risk S.A.
- 28. At all material times, the security personnel at the Escobal Mine were under the direction and control of Rotondo.
- 29. At all material times, Rotondo and the security personnel were agents of Tahoe. Tahoe is vicariously responsible for their conduct.
- 30. At all material times, MSR was an agent of Tahoe for the purposes of implementing security policies and practices. Tahoe is vicariously responsible for MSR's conduct.
- 31. Rotondo is a retired Captain in the Peruvian Navy with training and experience in special warfare, mining security and risk management. Rotondo received U.S. military training in Political Theory, Psychological Operations, Counter-Terrorism, Naval Special Warfare and Underwater Demolition as well as U.S. Navy Seal training.

The Conduct of Rotondo

32. In his position as Tahoe's Guatemala Security Manager at the Escobal Mine, Rotondo carried out a campaign of undermining and intimidating local opposition to the mine. In particular:
 - (a) in 2012, Rotondo urged MSR to bring legal action and engage in a public relations campaign against members of a nearby community opposed to the Escobal Mine, including members of the Catholic Church; and
 - (b) on or about April 8, 2013, Rotondo threatened protestors at a peaceful protest near the mine gate by stating that he would run a truck over them.
33. On or about April 8, 2013, members of the local community who were committed to peaceful protest against the Escobal Mine, including the plaintiffs, established a camp on private farmland neighbouring the Escobal Mine approximately 50 meters from the gates of the mine.
34. Rotondo was concerned that the protest camp could become a permanent feature and that protests on the public road outside the mine gates would result in significant interference with the operation of the mine. In particular, Rotondo was concerned that a permanent protest camp could lead to a situation similar to the "La Puya" protest near the El Tambor mine in San José del Golfo where local opposition resulted in delays and interruptions in mining operations.
35. Rotondo and Tahoe were aware that there was strong opposition to the Escobal Mine not only in San Rafael Las Flores but also other surrounding communities.
36. Rotondo planned a show of force to intimidate the peaceful protestors as well as other members of the local community opposed to the mine.

The Shooting

37. On the evening of April 27, 2013, a group of protestors including the plaintiffs and Adolfo Agustín García's nine-year-old son walked down the public dirt road from the protest camp and assembled peacefully in front of the mine gates.
38. In the few minutes that the group of protesters, including the plaintiffs, stood in front of the mine gates, they took no action that threatened the mine or its personnel.
39. Rotondo ordered the Tahoe security personnel to assemble and use force to break up the protest.
40. When the protestors saw the security personnel assembling behind the mine gates, the protestors started to retreat down the public road towards the protest camp and away from the mine gates.
41. The mine gates were opened and the security personnel opened fire on the protestors using weapons that included shotguns, pepper spray, buck shot and rubber bullets.
42. Even as the protestors were retreating, the security personnel pursued them down the road and continued firing.
43. The plaintiff Adolfo Agustín García was shot in the back while retreating down the road. A projectile lodged near his spine and remained there for approximately three weeks until doctors were able to remove it. During that time, he endured severe pain and was unable to work.
44. The plaintiff Luis Fernando García Monroy was shot in the face, including his lip and nose, and then in the back while retreating down the road. He bled profusely, was hospitalized, underwent multiple operations and continues to experience difficulty breathing which impairs his ability to work. He has also lost his sense of smell.

45. The plaintiff Erick Fernando Castillo Pérez was shot in the leg while retreating down the road. A projectile lodged in his leg and remained there for over a week until removed by doctors. He suffered severe pain, inflammation, had difficulty walking and was unable to work for over five months.
46. The plaintiff Artemio Humberto Castillo Herrera was shot in the left leg and foot while retreating down the road. He suffered a broken toe which required surgery to repair and was unable to work for a significant period of time.
47. The plaintiff Wilmer Francisco Pérez Martínez was shot in the back while retreating down the road resulting in bleeding and severe pain. He was a minor at the time of the shooting.
48. The plaintiff Noé Aguilar Castillo was shot in the left knee while retreating down the road.
49. The plaintiff Misael Eberto Martínez Sasvín was shot in the right leg and in the back while retreating down the road resulting in bruising and severe pain.
50. The shooting was intentional and was intended to intimidate protestors and suppress peaceful opposition to the Escobal Mine. Particulars of the intentional conduct include:
 - (a) Immediately prior to the shooting, Rotondo spoke by phone to an unknown person, advised him that protestors had arrived at the intersection outside the mine gates and said "I'm going to get them out of here with force";
 - (b) Rotondo viewed his mandate as Tahoe's Guatemala Security Manager to be preventing the establishment of a long-standing community protest like at La Puya; and
 - (c) Rotondo had an openly hostile and demeaning attitude towards protestors and viewed them as "faggots" and "sons of bitches".

Post Shooting Conduct

51. Following the shooting, Rotondo instructed the Tahoe security personnel to falsify accounts of the shooting and destroy or cover up evidence. Particulars of this conduct include:
- (a) ordering security personnel to retrieve evidence of spent shotgun cartridges and other ammunition from the scene;
 - (b) ordering security personnel to clean their weapons;
 - (c) ordering security personnel to break their riot shields in order to claim that they had been attacked by the protestors;
 - (d) instructing security personnel to say if questioned that "they entered and attacked us and we have fended them off"; and
 - (e) instructing security personnel to dispose of or erase any video recording of the shooting from the Escobal Mine security camera system.
52. Following the shooting, Rotondo attempted to flee the country, with the assistance of MSR, to avoid criminal prosecution.
53. Tahoe has consistently blamed the victims for the shooting.

PART 2: RELIEF SOUGHT

54. The plaintiffs seek damages against Tahoe for battery, either directly or on the basis of Tahoe's vicarious liability for the conduct of Rotondo and MSR. In the alternative, the plaintiffs seek damages against Tahoe for negligence.
55. As a result of the shooting, the plaintiffs have suffered harm including:
- (a) pain, suffering, and loss of enjoyment of life;
 - (b) loss of income and earning capacity;
 - (c) loss of opportunity;

- (d) loss of capacity to perform household work;
 - (e) past and future medical and rehabilitation costs;
 - (f) costs of care provided by family members; and
 - (g) such further and other particulars of damages as may be proven at the trial of this action.
56. The plaintiffs claim:
- (a) general damages;
 - (b) special damages;
 - (c) punitive damages;
 - (d) pre-judgment and post-judgment interest pursuant to the *Court Order Interest Act*, R.S.B.C. 1996, c. 79;
 - (e) costs of this action; and
 - (f) such further and other relief as this Honourable Court may deem just.

PART 3: LEGAL BASIS

Battery

57. The conduct of Rotondo and the Tahoe security personnel in shooting the plaintiffs constitutes battery.
58. Tahoe expressly or implicitly authorized the conduct of Rotondo and the security personnel and is therefore liable for the battery.
59. In the alternative, MSR expressly or implicitly authorized the conduct of Rotondo and the security personnel and Tahoe is therefore vicariously liable for the battery.

60. In the further alternative, Tahoe is vicariously liable for the battery committed by Rotondo and the security personnel.

Negligence

61. Tahoe owed a duty of care to the plaintiffs. The duty of care is founded on the material facts stated above and the following:

- (a) Tahoe knew that the plaintiffs were members of the local community, which had set up a peaceful protest camp on private property neighbouring the Escobal Mine;
- (b) Tahoe knew that its mine operations, including security operations, had the potential to negatively impact members of the local community;
- (c) Tahoe has made representations regarding its responsibility to the local community in the San Rafael area;
- (d) Tahoe knew that there was a high risk of harm to the local community if Rotondo and the Tahoe security personnel failed to adhere to internationally accepted standards on the use of private security personnel; and
- (e) Tahoe knew that there was a high risk of harm to the local community if Rotondo and the Tahoe security personnel failed to adhere to Tahoe's corporate social responsibility policy.

62. Tahoe was aware that there was extensive local opposition to the Escobal Mine and that without adequate security policies and practices in place, there was a high risk that security personnel would use excessive force against protestors.
63. It was foreseeable that if Tahoe failed to properly select, train, supervise, instruct and monitor security personnel, harm would result to the plaintiffs.

64. Tahoe breached the duty of care required of it. Particulars of Tahoe's negligence include:

- (a) failing to conduct an adequate background check on Rotondo prior to selecting or approving him for the position of Guatemala Security Manager;
- (b) failing to conduct adequate background checks on the Tahoe security personnel;
- (c) failing to institute procedures and safeguards to ensure that Rotondo and private security personnel engaged by Tahoe would comply with international and local guidelines pertaining to the use of force;
- (d) failing to establish and enforce clear rules of engagement for Rotondo and the security personnel;
- (e) failing to establish and enforce clear rules regarding the use of force against protestors;
- (f) failing to adequately monitor Rotondo's activities and those of the security personnel;
- (g) failing to require Rotondo and the private security personnel to adhere to internationally accepted standards on the use of private security personnel;
- (h) failing to require Rotondo and the private security personnel to adhere to Tahoe's corporate social responsibility policy;
- (i) failing to adequately monitor the security personnel under Rotondo's command;

- (j) failing to detect or properly act upon the fact that Rotondo did not view his role as Guatemala Security Manager as being strictly defensive in nature; and
- (k) failing to detect or properly act upon the fact that Rotondo had an openly hostile attitude toward all local community members opposed to the Escobal Mine.

Punitive Damages

65. The actions of Tahoe, MSR, Rotondo and the security personnel were malicious, arbitrary, highly reprehensible and undertaken for the purpose of intimidating peaceful protestors opposed to the Escobal Mine, in order to advance Tahoe's business interests. The actions depart to a marked degree from ordinary standards of decent behaviour and warrant condemnation by this Court by an award of punitive damages. Particulars of the reprehensible conduct include:

- (a) shooting peaceful protestors;
- (b) instructing security personnel to destroy and/or alter evidence of the shooting; and
- (c) blaming the victims.

Plaintiffs' address for service:

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Email: service@cfmlawyers.ca

Place of trial: Vancouver Law Courts

Address of the registry: 800 Smithe Street, Vancouver, BC V6Z 2E1

Date: 18/06/2014



Signature of lawyer
for the plaintiffs
JOE FIORANTE, Q.C.

Rule 7-1 (1) of the Supreme Court Civil Rules states:

- (1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,
 - (a) prepare a list of documents in Form 22 that lists
 - (i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and
 - (ii) all other documents to which the party intends to refer at trial, and
 - (b) serve the list on all parties of record.

APPENDIX

CONCISE SUMMARY OF NATURE OF CLAIM:

This action involves a claim for personal injury at a mine site in Guatemala owned and operated by the defendant, a BC company.

THIS CLAIM ARISES FROM THE FOLLOWING:

A personal injury arising out of:

- ☐ a motor vehicle accident
- ☐ medical malpractice
- ☒ another cause

A dispute concerning:

- ☐ contaminated sites
- ☐ construction defects
- ☐ real property (real estate)
- ☐ personal property
- ☐ the provision of goods or services or other general commercial matters
- ☐ investment losses
- ☐ the lending of money
- ☐ an employment relationship
- ☐ a will or other issues concerning the probate of an estate
- ☒ a matter not listed here

THIS CLAIM INVOLVES:

- ☐ a class action
- ☐ maritime law
- ☐ aboriginal law
- ☐ constitutional law
- ☐ conflict of laws
- ☒ none of the above
- ☐ do not know

1. *Court Order Interest Act, R.S.B.C. 1996, c. 7.*
2. *Court Jurisdiction and Proceedings Transfer Act, S.B.C. 2003, c. 28.*