

Colombia Miners' Union Sues Drummond, Again

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Murders Alleged by Paramilitary Forces on Drummond's Payroll by Stephen Flanagan Jackson

BIRMINGHAM, Ala. — A Colombia coal miners' union — already two-time losers in US Courts — filed another civil lawsuit March 20 in federal court charging Drummond Coal Company and its top Colombia employees with hiring AUC paramilitary forces to assassinate three union leaders, all Drummond employees, near the Drummond-owned coal mines in northeast Colombia.

AUC is the Spanish acronym for United Self-Defense Forces of Colombia, a right-wing armed group in Colombia's long-running civil war. The U.S. has declared the AUC "terrorists."

The "deja vu" lawsuit is assigned to Judge David Proctor in U.S. District Court in Birmingham, the corporate home of the multinational coal giant Drummond Coal. The company recently announced the opening of an additional coal mine in Colombia as well as declaring an anticipated 23 percent production increase for 2009, bringing Drummond's annual Colombia coal output to 27 million tons. Drummond strip mines, ships and sells Colombia coal internationally, and one of its main customers is Southern Company along with subsidiary Alabama Power, which burns the high-quality coal to generate electricity for its customers in the Southeast.

Garry N. Drummond, a former University of Alabama trustee, runs the day-to-day operations of Drummond, a closely-held corporation owned by the Drummond family. The company owns and operates the massive open pit coal mines, rail lines, and a port in northeast Colombia.

The current lawsuit charges that Drummond created a sham corporation — Drummond Limited — to shield the company from liability for anti-union violence. The new lawsuit is similar to the case which the Colombia labor union lost in front of a federal jury in July, 2007. That case was appealed by the union, SINTRAMIENERGETICA, to the U.S. 11th Circuit Court of Appeals, which affirmed in late December, 2008, the verdict from Judge Karon Bowdre's court that Drummond and its officials were not guilty of any involvement in the murders of the three union leaders in Colombia in 2001.

The labor union lawyers maintain that Judge Bowdre prevented key witnesses from testifying — either in person or by video — in the 2007 case. The union lawyers claim once again that one witness, **Rafael Garcia** — the "Colombia Canary" — saw murder payment funds passed from a top Drummond official, Augusto Jimenez, to a Colombian senator, Jorge Castro Pacheco, in cahoots with Jorge Cuarenta, a notorious leader of the AUC Northern Bloc in Colombia.

Union lawyers say that Garcia's testimony, as well as that of other new Colombian witnesses, is now available in the new suit brought under the names of the three Colombian murder victims' eight children.

The new suit alleges that the highest levels of the AUC, including Jorge Cuarenta (or Jorge 40) planned the murders of the three union leaders at the behest of the defendants — Drummond Co. and its Colombia employees, Augusto Jimenez and Alfredo Arajuo. The suit further charges that a close, symbiotic relationship exists between the Colombia military and paramilitaries acting under the authority of the Colombian government. The suit charges that the paramilitaries "execute trade unionists with impunity" in Colombia.

Although the U.S. 11th Circuit Court of Appeals in Atlanta ruled in Drummond's favor in December, the Court endorsed the concept that multinational corporations may be held liable for violations of the Alien Tort Claims Act of 1789 and the Torture Victim Protection Act. The federal appeals court decision made clear that multinational employers should be on notice that these claims are no longer a theoretical possibility, but a genuine source of liability.

Atchison and Starnes law firm of Birmingham handled Drummond's successful defense as local counsel in the first two rounds. Garve Ivey, Jr. of Jasper is filing the current civil suit for the Colombia labor union — this third round in the names of the octuplet children of the slain trio. Drummond's attorneys have 20 days from filing to respond which is expected to be a motion to dismiss. William Jeffress of Baker Botts in Washington, D.C. was Drummond's lead lawyer in the previous two cases. The plaintiffs' lead attorney continues to be Terry Collingsworth of Conrad and Scherer of Washington.