

## Spotlight

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### LATINAMERICAN POST™

27 million tons & what do you get?

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By Stephen Flanagan Jackson

BIRMINGHAM, ALA.---Three Colombia labor leaders are long dead---all felled in 2001 at the hands of Colombian right-wing assassins near the Drummond coal mines in northeastern Colombia where they labored and led a coal miners' union.

From their graves, the shadows of the obscure trio continues to cast a pall over the powerful, profitable US multinational Drummond.

Undaunted by two losses in US Courts, lawyers this Spring have filed back-to-back blockbuster civil lawsuits for wrongful deaths against the Alabama coal giant Drummond Co.,Inc. The latest legal gauntlet was launched May 28 in US Court in Birmingham on behalf of 252 Colombian plaintiffs, all relatives of 67 Colombia unionists, farm workers and other victims of the mortal wrath of the Colombia paramilitary also known as right-wing terrorists or death squads.

The newest lawsuit claims Drummond collaborated with the AUC (the Spanish acronym for the United Self Defense Force of Colombia) to ostensibly protect Drummond's interests from the violence and terror of the left-wing communist guerilla in the Cesar and Magdalena regions of Colombia.

The suit pulls no punches, documenting charges that Drummond paid the AUC to kill and to terrorize innocent residents perceived as supportive of Colombia union activities and sympathetic to the leftist guerilla. Named as defendants in the civil action are Drummond Co.; Augusto Jimenez, president of Drummond Limited in Colombia; Alfredo Araujo, Drummond director of community relations in Colombia; and Jim Atkins, Drummond security chief in Colombia and a former CIA operative in Bolivia.

**A shocking charge in the latest lawsuit claims that Drummond also provided assistance to the AUC's drug trafficking and that Drummond management in Colombia received a portion of the profits from the paramilitary drug trade and international smuggling.**

The lawsuit renders a bloody and brutal microcosm of the interminable civil war in Colombia. A 60-page complaint, the civil action contains allegation after allegation, describing how innocent Colombians were killed in or near their homes or kidnapped and "disappeared," their spouses and children tied up and beaten, and people snatched off buses and summarily executed on the spot.

Implicated in the lawsuit along with Drummond executives are notorious paramilitary such as Rodrigo Tovar Pupo known as "Jorge 40," Oscar Jose Ospino alias "Tolemaida," and Alcides Manuel Mattos alias "Samario." The list of other AUC key players includes Jhon Jairo Esquivel alias "El Tigre" as well as other paras specified in the lawsuit only by their alias, such as Kener, El Chino, El Toro, Machoman, 05, Pelo de Puya, Cortico, El Enano, Pirulo, Amin, Don Luis, and Cachaco. Area politicians and government officials charged with conspiring in

the violent "cleansing" scheme concocted by Drummond and the AUC include Jorge Castro Pacheco and Guillermo Sanchez Quintero.

The lawsuit reiterates negative references to former DAS (Colombia's version of the FBI) director Jorge Noguera, saying Noguera acted as a liaison with the AUC Northern Block. The lawsuit claims that "the AUC leaders are in prison for their role in a shared crime, while the businessmen and politicians who were their partners remain free and are enjoying the substantial fruits of their criminal enterprise." Explaining the rationale for filing the lawsuit in the US, plaintiffs' lawyers say "there is almost complete legal impunity for murders committed in Cesar province by the AUC."

The allegations do not stop there, however, continuing to charge that "the collaboration between the AUC and the government of Colombia goes to the highest levels and ensures that no serious action will be taken to bring justice in Colombia."

A similar suit charges "symbiotic relations between the Colombia military (funded by US taxpayers) and paramilitary" in its support of Drummond. That suit also seeking monetary damages from Drummond was filed several weeks ago in March at the same Hugo L. Black Federal Courthouse here in the names of eight children of the three murdered Colombia coal miners.

Gustavo Soler, Valmore Locarno, and Victor Hugo Orcasita were murdered eight years ago in two separate violent---and unsolved---incidents near multinational Drummond's gigantic complex of strip coal mines, railways and sea port facilities in Colombia's wild, untamed northeast.

This particular "deja vu" legal action is assigned to Judge David Proctor in US District Court in Birmingham, Drummond's corporate home. Proctor is expected to rule by mid-June on Drummond's request to dismiss the charges in the March filing.

Ironically, Drummond Co. recently announced the opening of an additional coal mine in Colombia as well as declaring an anticipated 23 percent production increase for 2009. Drummond's annual Colombia coal output is expected to spike to 27 million tons. Drummond strip mines, ships, and sells Colombia coal internationally.

One of Drummond's main customers is the Southern Company and its subsidiary, Alabama Power, which receives coal shipments through the Port of Alabama in Mobile and burns the high-quality coal to generate electricity for customers in the US southeast. Drummond's largest global customer is Israel.

Garry Neil Drummond, a former University of Alabama trustee, runs the day-to--day operations of Drummond Co., a closely-held corporation owned by the Drummond family.

The March lawsuit charges that Drummond Co. created a sham corporation---Drummond Limited---to shield the company from liability for anti-union violence in Colombia. This earlier Spring 2009 lawsuit is similar to the case which the Colombia labor union lost in front of Judge Karon Bowdre and a Federal jury in July 2007.

Several union colleagues and widows of the three assassinated Colombia workers were the unsuccessful plaintiffs in that litigation. Their appeal to the US 11th Circuit Court in Atlanta

also met defeat in December, 2008. William Pryor, the former Alabama Attorney General, is a Bush appointee on that Court. Although it ruled in Drummond's favor, the Appeals Court agreed that US multinationals operating abroad may be held liable for violations of the US Alien Tort Claims Act of 1789 and the Torture Victim Protection Act. This is the first ATCA case to go to a jury trial.

Atchison and Starnes law firm of Birmingham handled Drummond's successful defense as local counsel in the first two rounds and is in the same role now. William Jeffress of Baker Botts in Washington, DC is once again Drummond's lead attorney. Garve Ivey, Jr. of Jasper filed the two latest suits this Spring---the first in the names of the children of the slain Colombia trio.

The plaintiffs' lead counsel in both cases remains Terry Collingsworth of Conrad and Scherer of Washington, DC.

Collingsworth postulates the axiom of "double jeopardy" does not apply since the eight children of the murdered Drummond employees and the 252 unnamed relatives of the 67 victims were not participants in prior cases and are not bound by that judgement.

**Collingsworth says a key plaintiffs' witness in now released from prison and "in a safe place and ready to testify." Collingsworth is referring to Rafael Garcia, the Colombian Canary who served a stretch in La Modela prison in Colombia where he told a LatinAmericanPost.com journalist that he saw money passed from a Drummond employee to the right-wing paramilitary for the killings of union leaders at Drummond coal mines.**

**Collingsworth anticipates other key Colombia witnesses are now available to testify as to Drummond's involvement in the planning, the payoffs, and the execution of the murders in cahoots with Colombia right-wing paramilitary who have been declared "terrorists" by the US government.**

One of those potential witnesses is Salvatore Mancuso, a former top Colombia paramilitary, held in a US jail on drug charges. Mancuso recently squawked to Colombia authorities about Drummond's complicity with the AUC in the murders of Soler, Locarno, and Orcasita.

"We absolutely maintain our innocence," responds a Drummond spokesman.

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