

1 Vancouver, BC
2 March 26, 2018

3 (PROCEEDINGS COMMENCING AT 10:21 A.M.)

4 HEARING OFFICER: All rise.

5 THE CHAIR: Good morning. Now, before we begin, I just thought
6 I would run through some procedural matters. I
7 have discussed these before, but given the length
8 of time it's been since we adjourned this hearing,
9 I just thought quickly for you, Mr. Johnson, you
10 might want your memory refreshed on how the
11 process will go today.

12 So, today, as you know, you'll have the
13 opportunity to present your and Mountainstar's
14 case. And so now is the time for you to introduce
15 evidence to establish the facts that you intend to
16 rely on in your defence to the allegations against
17 you and Mountainstar in the Notice of Hearing, and
18 how the facts are established is by calling
19 witnesses and producing documents that support
20 your version of the facts. And if you want to
21 introduce a document into evidence, you need to
22 call a witness to identify the document, explain
23 its relevance, and confirm it's authenticity.

24 Now, if you wish, and you don't need to do
25 this, you can make an opening statement, and it

1 just should be a brief summary of the case you
2 intend to present. You should describe the facts
3 you intend to prove and the conclusions that you
4 believe the panel should draw from those facts.

5 And at that point, you can then call your
6 first witness and question him. Once you have
7 finished, Mr. Zolnay or Mr. Isaac may cross-
8 examine that witness, and after they have finished
9 that, you can ask the witness questions, but only
10 on any new matters that arose during the cross-
11 examination. And the panel, of course, can ask
12 the witness questions as well.

13 And so I remind you that, at this stage, all,
14 all -- your only task is to establish the evidence
15 you intend to rely on in your arguments. This is
16 not the time to present your interpretation of
17 those facts or to make your arguments. You'll
18 have a chance to do that after this hearing has
19 been concluded.

20 So, do you have any questions as to
21 procedure, Mr. Johnson?

22 MR. JOHNSON: No, I don't think so, --

23 THE CHAIR: Okay.

24 MR. JOHNSON: -- Madam Chair.

25 THE CHAIR: How many witnesses do you intend to call and what's

1 the order of those witnesses?

2 MR. JOHNSON: We're calling one, one witness, Mr. Lopehandia,
3 and so that's...

4 THE CHAIR: And I confirm the Executive Director has not
5 disclosed -- has not closed its case, Mr. Zolnay.
6 Now, are there any preliminary matters?

7 No? Mr. Johnson, please go ahead then and
8 call your first witness and your only witness.

9 MR. JOHNSON: You mentioned about making a statement to start
10 with.

11 THE CHAIR: Yes. Would you like to make an opening statement?

12 MR. JOHNSON: Yes, I would.

13 THE CHAIR: Okay.

14 MR. JOHNSON: This hearing is a result of, of different things
15 that happened with Mr. Lopehandia, which we took
16 over his, his fight in Chile. Mr. Lopehandia's
17 fight with the Commission actually started before
18 2006, however, I think it mainly started in 2006.
19 We -- I met Mr. Lopehandia on the telephone on
20 December 24th, 2009.

21 The fight, I use the word "fight" because
22 that's really what it is, started when we put out
23 a very strong news release about Barrick Gold
24 Corporation on December 21st, 2011. We were
25 called in. Mr. Di Fonzo I believe sent the e-mail

1 and requested a face-to-face meeting with us on, I
2 believe it was December 28th of, it was definitely
3 2011, several days later, before New Year's.

4 MR. ZOLNAY: Excuse me, Madam Chair, I'm rising only because it
5 appears that my friend is trying to give evidence.
6 I have seen my friend's disclosure documents --

7 THE CHAIR: Hm-hmm.

8 MR. ZOLNAY: -- and I can't imagine how any of this relates to
9 the documents that he intends to rely on. So,
10 he's not outlining what evidence he intends to
11 rely on. He's trying to, in my submission, give
12 evidence --

13 THE CHAIR: Hm-hmm.

14 MR. ZOLNAY: -- and it's not the appropriate time for that.

15 THE CHAIR: Mr. Johnson, what's your response to that?

16 MR. JOHNSON: I, I, I don't agree, and that I am just stating
17 to the panel, so you're aware, that this is a
18 fight that has started long before Mountainstar
19 came onboard --

20 THE CHAIR: Hm-hmm.

21 MR. JOHNSON: -- and continues, and it's continuing in Chile
22 this morning, literally, before this -- before a
23 Criminal Court. I don't know if it's Supreme
24 Court, but it's continuing this morning in Chile.
25 And I, I think the panel very much should be aware

1 that, that all of what we see and have heard is
2 not -- it's, well, I won't give an opinion now,
3 because that's not appropriate, but we, we are,
4 Mountainstar is the -- I'll finish with this and
5 say Mountainstar is the continuing victim of this
6 fight.

7 THE CHAIR: All right.

8 MR. JOHNSON: And the fight, no matter when you, learned panel,
9 make your decision on this after the hearing
10 finishes supposedly Wednesday, it is, from a long
11 shot, being over in Chile, and it's, the serious
12 part is just beginning. I'll close with that.

13 THE CHAIR: All right, and then if you want to call your
14 witness.

15 MR. JOHNSON: Yes. Mr. Lopehandia.

16 MR. LOPEHANDIA: May I approach the witness --

17 MR. JOHNSON: Yes. We're -- up there.

18 MR. LOPEHANDIA: May I have a copy of this, madam clerk, for
19 Mr. Johnson? These are the exhibits that you are
20 allowing here in the hearing. I need a copy for
21 Mr. Johnson please.

22 THE REGISTRAR: Okay, thank you.

23 THE CHAIR: Now, Mr. Lopehandia, you are going to -- I'm
24 wondering if you could just pause for a moment
25 please before --

1 MR. LOPEHANDIA: Yes.

2 THE CHAIR: -- you start taking your things out.

3 MR. LOPEHANDIA: Go ahead.

4 JORGE RODRIGO LOPEHANDIA
5 CORTES, a witness for the
6 respondent, affirmed:

7 HEARING OFFICER: Please state your full name and spell your
8 last name for the record.

9 THE WITNESS: My full name is Jorge, J-o-r-g-e, my second name
10 is Rodrigo, R-o-d-r-i-g-o, my last name is
11 Lopehandia, L-o-p-e-h-a-n-d-i-a, and mother's name
12 is Cortes, C-o-r-t-e-s, and in Chile it's
13 mandatory to have our mother's last name.

14 THE CHAIR: Have a seat, Mr. Lopehandia.

15 THE WITNESS: Thank you.

16 THE CHAIR: Now, before we begin, could I ask, what is in the
17 box you have there?

18 THE WITNESS: Yes, thank you for the question. In this box,
19 there is a transcript of the past hearing, and I
20 have marked the errors, and I have marked the
21 libel that was judged in Chile in the proper
22 jurisdiction, which has been transformed into
23 perjury under oath.

24 THE CHAIR: Now, Mr. Lopehandia -- now, Mr. Johnson, how this
25 is going to work, you do understand that what we

1 are doing here, essentially, in the Notice of
2 Hearing, the allegation is that Mountainstar has
3 essentially made misleading disclosure regarding
4 its Chilean property. Now, the Executive Director
5 in his case identified the statements they say are
6 misleading and then introduced evidence which they
7 say proves that they are misleading.

8 So, so what you need to do here is now to
9 prove evidence, sorry, introduce evidence that you
10 say shows that the statements are true or are not
11 misleading, and I don't think that the transcript
12 of these hearings is such evidence. You need --

13 THE WITNESS: It --

14 THE CHAIR: I'm sorry, Mr. Lopehandia. So, I am not clear on
15 what evidence you are planning to introduce to
16 establish --

17 THE WITNESS: The Court decision.

18 THE CHAIR: The basis for your defence.

19 MR. JOHNSON: I, I, I have the different translated documents
20 from Mosaic.

21 THE CHAIR: Okay.

22 MR. JOHNSON: We're, we're introducing the Supreme Court
23 decision which is -- there have been several
24 Supreme Court decisions favourable in Chile. And
25 so, I, I intend to -- I've got -- I don't know

1 what the length of the answers will be, but I have
2 about seven or eight questions, and mainly of Mr.
3 Lopehandia, and so...

4 THE CHAIR: Okay.

5 MR. ZOLNAY: I don't know why Mr. Lopehandia has documents in
6 front of him.

7 THE CHAIR: I'm not quite clear either. Mr. Lopehandia, you
8 would normally --

9 THE WITNESS: These are only guidance documents because I want
10 to, I want to make sure that my words reflect
11 100 percent of the words that were uttered at the
12 hearing against Mr. Johnson and me.

13 THE CHAIR: I'm sorry, are you talking about --

14 THE WITNESS: I don't --

15 THE CHAIR: I'm sorry, are we talking about the preceding days
16 of the hearing, this hearing, is that what you are
17 talking about?

18 THE WITNESS: Yes, Madam Justice, I have submitted to my
19 honourable friend, Mr. Zolnay, and to your
20 benefit, certain evidence that is key --

21 THE CHAIR: All right, that's what we're here for --

22 THE WITNESS: -- in their defence, and that evidence, okay, it
23 jives perfectly with what I have marked the
24 hearing and, and the case that, that Mr. Zolnay
25 made on behalf of the Executive Director. He made

1 it, not me. So, to help you, to show you how
2 erroneous all of this is, I have marked their very
3 own words. They're not mine.

4 THE CHAIR: Yes.

5 THE WITNESS: So I need to be able to reflect what you say, Mr.
6 Zolnay, and to prove you why you are wrong.

7 MR. ZOLNAY: I, I agree with my friend to some extent. He does
8 have the right to comment on the evidence that was
9 given by the Executive Director, but the
10 appropriate time to do that is in the closing
11 submissions. Of course, it's not Mr. Lopehandia's
12 role to do that. It's Mr. Johnson's role.

13 THE CHAIR: Yes, exactly, exactly.

14 MR. ZOLNAY: But it's in closing argument. This is not the
15 appropriate time to be --

16 THE CHAIR: That is correct. All we are doing here is
17 introducing the evidence that will form the basis
18 for your submissions in your --

19 THE WITNESS: Yes.

20 THE CHAIR: And so at the point -- as I have said before, this
21 is not the time to, you know, give opinions on
22 interpretation of evidence, or to present your
23 legal arguments. So, it sounds very much though
24 as that's what those particular statements are,
25 and Mr. Zolnay is correct, there is a place for

1 those, absolutely, but those are in the written
2 submissions that you will make after this hearing
3 is concluded.

4 So, all we're doing today is introducing
5 evidence which you can then use as the basis for
6 your argument. And if you disagree with some of
7 the documents and the evidence introduced by the
8 Executive Director, the place to disagree with
9 that is in the written submissions and arguments
10 made after this particular phase of the hearing is
11 concluded.

12 THE WITNESS: Thank you for the enlightening. So, then on that
13 basis, I would have to ask, what of the exhibits
14 and, and evidence, and, and what of my affidavit
15 and I will say arrived to your good hands?

16 THE CHAIR: It's up to you to introduce these documents into
17 evidence. We have not seen -- the panel has not
18 yet seen any of the documents that you intend to
19 present today.

20 THE WITNESS: There was certain timing produced by this hearing
21 for Mr. Johnson and for me to deliver certain
22 evidence to Mr. Zolnay --

23 THE CHAIR: That's right.

24 THE WITNESS: -- that would count at this hearing.

25 THE CHAIR: That's correct.

1 THE WITNESS: What of that evidence was delivered to the panel
2 and was --

3 THE CHAIR: That's not how it happens. What -- you deliver the
4 evidence to Mr. Zolnay, to the --

5 THE WITNESS: Yes?

6 THE CHAIR: -- Executive Director.

7 THE WITNESS: Yes?

8 THE CHAIR: So they have a chance, just as you did with the
9 documents they delivered to you, to understand
10 what documents you intend to, to introduce to the
11 hearing. And it's only after Mr. Johnson and, and
12 if you are the witness testifying as to the
13 document, you explain to the panel what the
14 document is and, you know, what its relevance is
15 and its authenticity. That -- it's only at that
16 point the panel will have an opportunity to look
17 at it. And then the same for Mr. Zolnay. We did
18 not see the documents that he introduced at that
19 level -- at the previous days of the hearing
20 before they were actually introduced and put
21 before us.

22 THE WITNESS: I thank you for that. My question was a little
23 bit different. My question is, I did submit in
24 physical form, in the day that I was here, and
25 that Mr. Zolnay raised this booklet and said it's

1 irrelevant. And marked in this booklet there is a
2 Supreme Court decision translated by the Ministry
3 of Foreign Affairs of Chile into proper English,
4 and the Ministry of Foreign Affairs of Chile is
5 one of the most sacred institutions of the land
6 because it deals with every country in the world
7 in international law. So, this particular
8 transcript that this hearing was told is
9 irrelevant, in fact, it's extremely, highly
10 relevant to the case --

11 THE CHAIR: Okay --

12 THE WITNESS: -- and it was delivered.

13 THE CHAIR: Actually, these are arguments that Mr. Johnson --

14 THE WITNESS: So, my question is --

15 THE CHAIR: No, just --

16 THE WITNESS: -- was it delivered already or --

17 THE CHAIR: Just one moment.

18 THE WITNESS: -- I have to reintroduce it?

19 THE CHAIR: One minute, Mr. Lopehandia.

20 THE WITNESS: Yes.

21 THE CHAIR: Mr. Johnson, when we last adjourned, you were, you
22 were told, and you agreed, that any documents that
23 you wish to rely on in presenting your case were
24 to be delivered to the Executive Director by
25 February the 28th, and that deadline was extended.

1 I have no idea what this document is, but it was
2 at one of the documents that you delivered to the
3 Executive Director?

4 MR. JOHNSON: That's --

5 THE CHAIR: Mr. Johnson?

6 MR. JOHNSON: That's correct.

7 THE CHAIR: It was?

8 MR. JOHNSON: No, no. No, it was not.

9 THE WITNESS: We --

10 THE CHAIR: I'm sorry, Mr. Lopehandia. So, why was it not
11 delivered?

12 MR. JOHNSON: It was not delivered by me.

13 MR. LOPEHANDIA: Physically.

14 THE CHAIR: Mr. Zolnay, perhaps you can help us here.

15 MR. ZOLNAY: I hope I can. There was some discussion before
16 the hearing was adjourned, of course, about what
17 documents Mr. Johnson is or isn't relying on.
18 Mr. Johnson did give us two bundles of documents.
19 He couldn't identify which exactly ones he
20 considered relevant and which ones were not
21 relevant, and so the panel gave him a lot of time
22 to determine exactly which documents he intends to
23 rely on, and to obtain appropriate translations to
24 the extent that the documents were in the Spanish
25 language. And the panel gave Mr. Johnson a

1 deadline date for providing a list of his -- the
2 reliance documents, and a date by which he was to
3 provide those documents to the Commission
4 secretary, and to the Executive Director. And we
5 consented to an extension of that date --

6 THE CHAIR: Hm-hmm.

7 MR. ZOLNAY: -- I believe to March 5th. On March 5th,
8 Mr. Johnson did, in fact, provide his reliance
9 documents to the Commission secretary, and to the
10 Executive Director, and he included six documents.

11 THE CHAIR: Okay.

12 MR. ZOLNAY: After that disclosure by Mr. Johnson, I wrote to
13 him by e-mail, and I confirmed that he was relying
14 on the six documents, which I listed in my e-mail.
15 I think the confusion here is because, in the
16 meantime, Mr. Lopehandia has been sending a
17 variety of e-mail to a variety of parties, like,
18 the FBI, the Attorney General, the U.S., Scotland
19 Yard, the RCMP, various members of Parliament, and
20 most of those e-mails were copied to me and to
21 Mr. Johnson, and some of those e-mails had
22 attachments.

23 I, I wrote to Mr. Johnson by e-mail and I
24 just confirmed that Mr. Johnson is -- I'm sorry,
25 that Mr. Lopehandia is sending all these e-mails

1 to all these parties, including to various members
2 of staff. I indicated to Mr. Johnson that I had
3 no idea why Mr. Lopehandia was sending these
4 e-mails. In fact, Mr. Lopehandia indicated in
5 some of them that he was sending them under duress
6 and against his will.

7 THE CHAIR: I think that's, that's fine for now.

8 So, Mr. Johnson, I think it was made very
9 clear, before we adjourned, that any documents
10 that you planned to rely on had to be delivered by
11 the deadline, and if this document was not
12 included in it, I did tell you at the time, that
13 if they were not submitted by the deadline, that
14 they would not be included in evidence. So, I
15 don't think at this point, having had numerous
16 extensions and numerous acknowledgments and
17 agreements from you, that at this point we will be
18 admitting anything other than the documents that
19 you delivered to the Executive Director.

20 MR. JOHNSON: The only reason that I did not submit that
21 document is --

22 THE WITNESS: The judgement is here --

23 THE CHAIR: Mr. Lopehandia, --

24 MR. JOHNSON: -- because Mr. Zolnay, Mr. Zolnay said it was
25 irrelevant, and I believe he also said that it's

1 not properly translated. But I have heard what

2 Mr. Lopehandia said, how important --

3 THE WITNESS: This was -- it was delivered and is in the --

4 THE CHAIR: Well, is it part of the documents we have --

5 THE WITNESS: Yes, madam.

6 THE CHAIR: Okay, then --

7 THE WITNESS: It is part of the --

8 THE CHAIR: -- that's fine.

9 THE WITNESS: -- it is part of the transcripts.

10 THE CHAIR: That's fine.

11 THE WITNESS: What hasn't been --

12 THE CHAIR: No, no, I'm sorry, is it part of the transcript or

13 is it --

14 THE WITNESS: Oh, no, it's part of --

15 THE CHAIR: -- part of the documents --

16 THE WITNESS: -- it's part of this --

17 MADAM REPORTER: Mr. Lopehandia, please, one at a time. I

18 can't take you both down. Wait until the chair

19 finishes speaking please. Thank you.

20 THE CHAIR: So, is it one of the documents that was included in

21 the materials that Mr. Johnson gave to the hearing

22 officer, or the Commission secretary --

23 THE WITNESS: -- it appears at Exhibit ID-B with placeholder

24 00006.

25 THE CHAIR: All right, then I don't think there is --

1 THE WITNESS: It may be that document.

2 THE CHAIR: So, you don't -- if, in fact, it was included in
3 the package of materials that was submitted to the
4 Commission secretary, that is fine. We can
5 certainly deal with that in the course of the
6 hearing. Okay.

7 MR. JOHNSON: Proceed?

8 THE CHAIR: Yes, please.

9 EXAMINATION IN CHIEF BY MR. JOHNSON:

10 1 Q Okay, Mr. Lopehandia, could you please state your
11 full name and mining credentials to the panel?

12 A Madam Justice, my full name is Jorge Rodrigo
13 Lopehandia Cortes. I was born into mining. My
14 family used to do mining and deliver most of the
15 gold and silver to all the mint houses in Europe
16 in the 1800s. In the early 1900s, my family used
17 to deliver minerals to Asarco.

18 I went to mining university and I started in
19 1969, and I graduated as a mining technician in
20 the first promotion of the Universidad Tecnica del
21 Estado in Chile in the year of 1972. In order to
22 graduate as a mining technician, your honour, it
23 was mandatory for me to know back then, in 1972,
24 Chilean civil law and Chilean mining legislation.

25 Since 1972, I have carried duties in my own

1 family and friends' mining portfolio. I came to
2 Canada in 1980, and I did not go into mining
3 because my education could not be attended to at
4 the University of British Columbia. My wife was
5 pregnant with my first son, that is in the
6 audience, and I had to go to work to make my
7 family supported by myself, so I went into civil
8 engineering.

9 And, however, I continued maintaining my
10 mining portfolio in Chile. And in 1986, after Lac
11 Minerals succeeded at selling El Indio to Barrick
12 Gold, and El Indio was one of my family assets
13 that was stolen in a bad contract obligation by
14 the predecessors of Barrick Gold, I promised my
15 family that I would defend, highly, the portfolio
16 while I was trying to make Canada strong by
17 bringing all these minerals and all these projects
18 to Canada, so that our economy here in this
19 country would prosper, and so my children would
20 prosper.

21 And I set out to deliver projects to then
22 Vancouver Stock Exchange companies, and I
23 delivered projects in mining, over \$160 million in
24 contracts in 1996. In 1996, due to those
25 contracts, I was personally bound to receive

1 \$6 million in commissions, and all the brokers of
2 Chile, in mining, they were bound to receive under
3 \$2 million. So, that gives you the comparison of
4 my experience in mining back in 1996.

5 In 1996, I, I was being besieged by Dayton
6 Mining at Churrumata Gold and Andacollo Gold.
7 Dayton Mining, it was a Vancouver Stock Exchange
8 company. I complained to the BC Securities
9 Commission against Dayton Mining, against PennGold
10 Resources, against Pacific Rim, against
11 Crystallex. I, I, I actually visited the
12 Securities Commission in 1998 on the very matters
13 of Barrick Gold Corporation, and I was interviewed
14 by a staff, and some of the stuff ended up in
15 Toronto, like Mr. John Pyrick, promoted to
16 investigators --

17 MR. ZOLNAY: Excuse me, Madam Chair.

18 THE WITNESS: -- in mining and in --

19 THE CHAIR: Sorry --

20 THE WITNESS: -- in my --

21 THE CHAIR: -- Mr. Zolnay --

22 THE WITNESS: Yes.

23 MR. ZOLNAY: I'm afraid we will be here for a very, very long
24 time if Mr. Lopehandia continues on this
25 non-guided discussion about issues that don't seem

1 relevant at all --

2 THE WITNESS: Sorry, it's highly relevant.

3 MR. ZOLNAY: -- as to the allegations --

4 THE WITNESS: Please, it's my mining experience.

5 MR. ZOLNAY: That's my --

6 THE WITNESS: It's my --

7 MR. ZOLNAY: That's my --

8 THE WITNESS: It's my mining experience.

9 THE CHAIR: Mr. Lopehandia, if you could --

10 MR. ZOLNAY: It doesn't seem to me to be relevant to his, I
11 submit, his mining experience that he met with
12 Commission staff in the 1990s.

13 THE CHAIR: Thank you, Mr. Zolnay.

14 THE WITNESS: Madam, with all due respect to my friend, in
15 1998, Barrick had already stolen my asset.
16 Barrick had already had Unda Llanos going over my
17 claim.

18 THE CHAIR: Mr. Lopehandia, I think that really what you are
19 trying to -- you should -- I understand, that
20 response to Mr. Johnson's question, you are
21 outlining your mining credentials and experience.

22 THE WITNESS: Yes.

23 THE CHAIR: And, you know, if you start expanding into things
24 like "Barrick stole my assets" and things like
25 that, that is not relevant to what we're doing

1 here.

2 THE WITNESS: Okay.

3 THE CHAIR: So, if you could limit --

4 THE WITNESS: Go very short -- okay.

5 THE CHAIR: -- that would be great.

6 THE WITNESS: So, after doing my business with Andacollo and
7 Churrumata, and Dayton Mining was compromised by
8 Barrick Gold Corporation, I entered into business
9 with Homestake Mining at the areas of Mina Pascua
10 that are part of this hearing. And Nathan Brewer,
11 the vice-president of world exploration of mining,
12 Homestake Mining promised me to defend Chile and
13 the Andes against the predatory act of Barrick
14 Gold Corporation. He must have talked to Barrick,
15 because three weeks later, Barrick absorbed my
16 client, Homestake Mining, in a hostile takeover.

17 I came to Canada, and I spoke with Dan
18 Lindsay of Placer Dome, and then Lindsay sent me
19 the top geologist in Chile for Placer Dome,
20 Marcial Vergara, and I personally took Marcial
21 Vergara to the properties and they were going to
22 do business in Pascua, and the result was that
23 Barrick did a hostile takeover of Pascua and
24 Placer Dome.

25 So, all along, and systematically, there has

1 been an interference with justice, in this
2 particular file at this particular hearing. And
3 it needs to be said that none of the people who
4 are against me in the Securities Commission, or at
5 Barrick, have more knowledge of Chilean mining
6 legislation, civil legislation, the history of
7 Barrick Gold Corporation, the history of the very
8 concessions that, at this hearing, they're putting
9 it to me that I'm supposed to look at a Miss
10 Universe, and they are showing me a window that I
11 only see the belly button, 2011, 2015, and I'm
12 curious at what do they [indiscernible] from 1978
13 to 2018.

14 So, you understand, Madam Justice, I want the
15 truth, but the whole truth. I don't want
16 censorship, because I have been censored by this,
17 the regulators in the favour of Barrick for
18 22 years, and that destroyed my life, my marriage,
19 my family, Mr. Johnson's corporation, Infinex
20 Venture. It destroyed Mountain-West Resources.
21 It destroyed families that they are sitting in
22 this courtroom --

23 THE CHAIR: Okay --

24 THE WITNESS: -- and destroyed their financials. I need the
25 truth to be out.

1 THE CHAIR: Well, we are, we are more than open to hearing the
2 truth, but what we need is actual evidence showing
3 that the allegations in the Notice of Hearing are
4 untrue. So, what we will need, I believe you do
5 have some documents to introduce.

6 THE WITNESS: Yes, Madam Justice, if I may.

7 MR. JOHNSON: Yes.

8 THE CHAIR: Yes.

9 THE WITNESS: If I may, let us, let us visit the key evidence
10 that was delivered to our friend --

11 THE CHAIR: No, no.

12 THE WITNESS: -- before the recess --

13 THE CHAIR: No, the place to do that, as I explained, Mr.
14 Lopehandia, --

15 THE WITNESS: But I don't know if it was --

16 THE CHAIR: -- is --

17 THE WITNESS: -- filed, because it's not here on the list. I
18 deliver it and it is not here.

19 THE CHAIR: I'm sorry, Mr. Lopehandia, what are you talking
20 about?

21 THE WITNESS: I am talking that there is a list of exhibits
22 that was presented.

23 THE CHAIR: Yes?

24 THE WITNESS: -- that they were shrank to one page.

25 THE CHAIR: No. All that -- I don't believe -- madam hearing

1 officer, --

2 HEARING OFFICER: Yes.

3 THE CHAIR: -- I believe there is a full list of all of the

4 exhibits. It looks as though Mr. Lopehandia just

5 has the last page of it; is that correct?

6 THE WITNESS: No, I have --

7 HEARING OFFICER: That is -- it's an update. It's the updated

8 page that was provided to Mr. Johnson.

9 THE CHAIR: Okay. Is that the complete list, --

10 HEARING OFFICER: I do have --

11 THE CHAIR: -- the one page?

12 HEARING OFFICER: I do have a full list from January 31st --

13 THE CHAIR: Yes, yes.

14 HEARING OFFICER: -- if you would like.

15 THE CHAIR: Yes, there is a full list. That --

16 THE WITNESS: Marvelous.

17 THE CHAIR: -- is, I believe, madam hearing officer, is that --

18 THE WITNESS: Yes.

19 THE CHAIR: -- showing the new --

20 HEARING OFFICER: The respondents --

21 THE CHAIR: Well --

22 THE WITNESS: This, this --

23 MADAM REPORTER: Please, please, please, Mr. Lopehandia --

24 THE WITNESS: Yes.

25 MADAM REPORTER: -- I can't write three people at once.

1 THE WITNESS: Thank you.

2 MADAM REPORTER: One at a time please. Thank you.

3 THE WITNESS: Yes, this letter of December 16th, 2015,
4 bilingual, produced to Executive Director, it
5 seems to not be here and it was delivered and is a
6 key --

7 THE CHAIR: Just, Mr. Lopehandia, I believe we just went
8 through this very issue. Are we not talking about
9 the same document we discussed five minutes ago?

10 THE WITNESS: No. No, no, no. No.

11 THE CHAIR: Mr. Johnson, was that included in the materials
12 that you delivered to the Executive Director?

13 MR. JOHNSON: The -- I believe Mr. Lopehandia is referring to
14 the charges that --

15 THE WITNESS: No, no, no, the letter to Mr. Brady of
16 December 16th --

17 MR. JOHNSON: Yeah, yeah, it is in -- it's not a direct
18 document that was submitted on March 5th, but the
19 whole case is relevant to that December 16th of
20 2015, I think it is, document from, from Mr.
21 Brady.

22 THE CHAIR: Just to, to go through this one more time. The
23 documents that you want to rely on to establish
24 your defence, they were to have been delivered
25 actually by many days, and the ultimate one, which

1 again, you asked for an extension of, they
2 ultimately were delivered on March the 3rd. Those
3 are the documents that we will be -- you are free
4 to introduce and have Mr. Lopehandia explain the
5 relevance and significance and all of those
6 things.

7 But if there are documents that were not
8 included in that package that you sent to the
9 Executive Director, as I, as I explained the last
10 day of the hearing, we will not be admitting them
11 today. I, I was very clear, and you acknowledged
12 it, and, and I don't think there is any issue
13 here.

14 THE WITNESS: Madam Justice, if I may, actually, this evidence
15 was delivered and introduced, and if that evidence
16 is weighed --

17 THE CHAIR: If it is -- excuse me, Mr. Lopehandia -- it was --
18 I don't know how it was delivered and introduced.
19 There certainly --

20 THE WITNESS: Well, in electronic form and in physical form but
21 it's not here.

22 THE CHAIR: We seem to have this confusion a lot as to what has
23 been, what you say, Mr. Lopehandia, has been
24 delivered, and what, in fact, has been delivered.

25 THE WITNESS: Yes.

1 THE CHAIR: Mr. Zolnay, do you have any way of knowing if that
2 is one of the documents that was delivered to the
3 Commission secretary and subsequently to you?

4 MR. ZOLNAY: The six documents that were delivered are
5 available presumably --

6 THE CHAIR: Yes.

7 MR. ZOLNAY: -- electronically.

8 THE CHAIR: Yes.

9 MR. ZOLNAY: And I don't, again, I don't know why Mr.
10 Lopehandia has paper documents in front of him.

11 THE CHAIR: Okay. So, Mr. Lopehandia, if it is one of the
12 documents that has been included and is in an
13 electronic form, you are more than free to testify
14 as to its contents and its relevance and its
15 authenticity. But if it is not included in that
16 package, we will not be dealing with it today.

17 THE WITNESS: Madam Justice, with all due respect, for me, it
18 is impossible to know what he received and what he
19 is accepting --

20 THE CHAIR: Well, no, that's because you --

21 THE WITNESS: -- but what I can only see by this list, --

22 THE CHAIR: Yes?

23 THE WITNESS: -- that this December 16th letter to Executive
24 Director that could have rendered this hearing
25 moot, null and void, and never taken place, I

1 deliver it physically, I deliver it
2 electronically, but it doesn't seem to be here in
3 the list of evidence.

4 THE CHAIR: No, how -- who was supposed to be delivering the
5 documents, and I think this was made clear, Mr.
6 Johnson, was you, on your behalf, on behalf of
7 Mountainstar. So, did you include that in those
8 documents?

9 THE WITNESS: It was not in the submission --

10 THE CHAIR: All right. Well, that, Mr. Lopehandia, you are a
11 witness in these proceedings. You do not have a
12 separate right to submit documents. You are a
13 witness and, as I understood it, you, you will be
14 testifying on behalf of Mountainstar and Mr.
15 Johnson. But you do not have an independent right
16 to introduce documents into evidence.

17 THE WITNESS: Yes. Thank you, Madam Justice, for saying that.
18 I really thank you. But I'm not trying to
19 introduce any document. That document was
20 delivered to the BC Securities Commission,
21 Executive Director, and the staff historically for
22 more than two years several times.

23 THE CHAIR: Mr. Lopehandia, --

24 THE WITNESS: So, he didn't bring it here. It's --

25 THE CHAIR: Mr. Lopehandia --

1 THE WITNESS: It's not my fault --

2 THE CHAIR: Mr. Lopehandia, it was made very clear how
3 documents for this particular proceeding were to
4 be delivered. It was explained at the set date
5 hearing. It was explained at the hearing
6 management meeting. It was explained at the
7 beginning of this hearing. And then it was
8 explained again just before we adjourned. And
9 it's been very clear that the documents that
10 Mountainstar intends to rely on, and Mr. Johnson,
11 were to have been included in the package that was
12 delivered to the Commission secretary and the
13 Executive Director. If it is not in there, we
14 will not be considering it today, and that is
15 simply the end of it. You do not have a right as
16 a witness, or as someone, somehow, related to
17 these proceedings, to submit documents. And that,
18 that is the beginning and the end of it.

19 THE WITNESS: Thank you, Madam Justice. I just wanted to
20 remind you that it was you who told Mr. Zolnay to
21 accept this document before the end of last year,
22 and I'm not going against your word.

23 THE CHAIR: I'm sorry, I did not, I did not instruct Mr. Zolnay
24 to accept this document. I believe that that may
25 have been one of the documents we were trying to

1 determine if there was an English translation.

2 THE WITNESS: Yes, yes.

3 THE CHAIR: But that was the only reason. I have, I have not
4 seen the document. The only way a document can be
5 introduced into this hearing is if someone
6 testifies as to it and it's marked as an exhibit.
7 And so it is not being --

8 THE WITNESS: Perfect. Carry on, Mr. Johnson.

9 MR. JOHNSON:

10 2 Q Further to my opening statement, I just wanted to
11 ask one question, because I referred to it. Mr.
12 Lopehandia, this morning in Santiago, Chile, a
13 legal questioning took place at the criminal trial
14 of Mountainstar, Lopehandia vs. Unda Llanos, the
15 key witness that the prosecution, Mr. Zolnay and
16 Mr. Leon referred to more times than I could have
17 imagined. Did anything interesting come as what
18 has been reported to you this morning by Mr. Juan
19 Guillermo Torres from that hearing this morning?

20 A Thank you, Madam Justice. This is 100 percent
21 affecting this hearing, and is 100 percent
22 affecting what has been said at this hearing. At
23 this hearing, you have heard that Mr. Héctor Unda
24 Llanos is an agent of Barrick. And you have heard
25 that because Mr. Héctor Unda Llanos lifted my

1 injunction on January 18th, that Barrick is, all
2 of a sudden, the owner of my asset, and that
3 Barrick is all clear in the exchanges in Canada,
4 because Mr. Héctor Unda Llanos, at all times, was
5 an agent of Barrick. I have bad news for this
6 hearing. Number one, Mr. Héctor Unda Llanos has
7 denied in the very injunction trial for 22 years
8 that he knows Barrick, that he's an agent of
9 Barrick, that he's linked to Barrick, and
10 executive director, I need him in Chile because he
11 made my case. Staff, I need him in Chile, because
12 what they are saying is exactly the same thing
13 that I have been presented to Securities
14 Commission since 1998 and they have not believed
15 me.

16 THE CHAIR: Mr. Zolnay.

17 MR. ZOLNAY: Again, if Mr. Johnson wants to make these, I'll
18 call them arguments, in his closing submissions,
19 he's free to do so. But I would ask that the
20 witness not be given the leeway to make arguments
21 on behalf of Mr. Johnson. What he should be doing
22 is giving evidence and answering the questions
23 that are put to him by Mr. Johnson based on
24 matters that are relevant to the allegations in
25 the Notice of Hearing, and I look forward to my

1 friend finally taking us to the documents that he
2 said he's relying on and not continuing to attempt
3 to use Mr. Lopehandia to, to make these
4 submissions.

5 THE CHAIR: I agree with Mr. Zolnay. Any arguments you want to
6 make you can do so in your submissions. And you
7 should be -- Mr. Lopehandia is a witness. What we
8 are looking to is for you to introduce evidence
9 and certainly ask Mr. Lopehandia questions in
10 connection with the evidence you want to introduce
11 that you say, you know, establishes your defence.
12 So, could we proceed with that, Mr. Johnson?

13 MR. JOHNSON: Yes. I'll, I'll reword that question for a
14 simple answer, because this question we were just
15 dealing with is relevant to C-719-2011, which the
16 document is submitted.

17 THE CHAIR: Sorry. Okay, could we call that up then please on
18 the screen, madam hearing officer?

19 HEARING OFFICER: I need to identify which document it is.

20 THE CHAIR: Okay. All right.

21 MR. JOHNSON: I think it might have been the first one
22 submitted.

23 HEARING OFFICER: Thank you.

24 THE CHAIR: Is that the document, Mr. Johnson?

25 MR. JOHNSON: Yes -- no.

1 THE CHAIR: No? All right.

2 MR. ZOLNAY: Maybe I can help. If my friend is referring to
3 that particular proceeding, I think he's referring
4 to the document --

5 MR. JOHNSON: It's the Mosaic translation.

6 MR. ZOLNAY: -- marked as E.

7 THE WITNESS: No, this is not it.

8 THE CHAIR: Is that the one, Mr. Johnson, the -- is this the --

9 MR. JOHNSON: Yes, that C-719-2011.

10 THE CHAIR: All right.

11 MR. JOHNSON: Which is a continuation of that --

12 THE CHAIR: All right. What I need you then to do is, perhaps
13 Mr. Lopehandia could explain what this document,
14 whoever, if you intend to ask him. We need to
15 understand what this document is and its
16 relevance. So, if you could proceed with it.

17 MR. JOHNSON:

18 3 Q Okay. Will you kindly --

19 A Yes.

20 4 Q -- explain it please. Thanks.

21 A Yes. Madam Justice, this is a proceeding in
22 Vallendar that is called the Cristóbal Proceeding.
23 And the Cristóbal Proceeding was in Vallendar under
24 trial roll 719-2011. 719 is the order of coming
25 in, and 2011 is the year that the action was

1 presented. So 719-2011 is 100 percent pertinent
2 to the hearing, this document.

3 And if you care to see, there is naming
4 Tesoros, the concessions. We brought this case
5 about for several reasons, your honour. Number
6 one is because I was expecting that one day it
7 would come to the attention of a hearing in
8 Canada, this particular trial.

9 THE CHAIR: I'm sorry, could you just explain then who is
10 bringing this proceeding, Mr. Lopehandia, and who
11 the proceeding is against?

12 THE WITNESS: Yes, this proceeding started by me in the name of
13 my brother, Cristóbal, through, your honour, my
14 lawyer then, Juan Guillermo Torres, so that we
15 could expose the fact that Barrick Gold
16 Corporation was trading in the stock exchange with
17 concessions of salts and nitrates since 1994 and
18 that is illegal in Chile, and in Canada it falls
19 under the criminal act of peddling a false
20 prospectus under section 400(1) of the Criminal
21 Act.

22 And what we wanted to do is to bring to the
23 attention of Chile, and to bring to the attention
24 of Canada, that effectively Barrick Gold
25 Corporation, as ABX-TSE, not TSX, TSE, was already

1 peddling this false prospectus with concessions
2 of salts and nitrates that they acquire from Lac
3 Minerals in 1994, because that's the asset that
4 Lac sold. Okay?

5 So, now the Tesoros concessions are the
6 second concession that is metallic in the history
7 of Chile in mining legislation. The first
8 metallic concession in the history of Chile over
9 Mina Pascua is my concession, Your Honour. That's
10 why I have the discovery right that has been
11 upheld all the way to Supreme Court.

12 So, Tesoros concessions is an asset that
13 Barrick has trading at the stock exchange as the
14 property of Minera Nevada SpA, and it has been
15 trading at the stocks exchange in Toronto and in
16 New York, saying and sustaining that they are the
17 owner of Tesoros concessions, just like you heard
18 from counsel, the witness, and just like you heard
19 from a letter from Barrick Gold Corporation here,
20 that they are the owners of Tesoros. To secure
21 their ownership, and at that time, in 2011, they
22 had already sued with false testimony Madam
23 Justice Reyes Kokisch, and they did it --

24 THE CHAIR: I'm sorry, just to stop you, Mr. Lopehandia, --

25 THE WITNESS: Yes.

1 THE CHAIR: -- if we could just understand that what is this --
2 is this document a ruling in the proceeding?

3 What, what is this --

4 THE WITNESS: What this document reflects, Madam Justice, is us
5 taking Tesoros to request -- produce the title,
6 okay? I sue Barrick four blocks away from the
7 mining commissioner. And why did I sue him four
8 blocks away from the mining commissioner? Because
9 I wanted the opportunity to have your honour to
10 send Barrick to fetch title. Okay?

11 THE CHAIR: So, is this -- sorry -- is this a ruling of a
12 Court? What, what, what is this document?

13 THE WITNESS: I don't have a mouse, your honour, to be able to
14 scroll down.

15 THE CHAIR: Okay. Can you -- yes, we can scroll down. So, is
16 this, is this a ruling? Is this -- what, in fact,
17 is this?

18 THE WITNESS: What this shows, your honour, is, if you go to
19 where it says --

20 THE CHAIR: Where it says the page?

21 THE WITNESS: Let's go to point 2 in the start. It says, in
22 point of fact, this document, Empressa Minera
23 Nevada SpA is being asked to produce (a) ruling
24 attesting to the formal registration of mining
25 concession known as Tesoros 1. That was asked

1 from Empressa Minera Nevada SpA, and Empressa
2 Minera Nevada SpA is Barrick Gold Corporation of
3 TSX.

4 THE CHAIR: So, I'm sorry, Mr. Lopehandia, so, is this your
5 application requesting all of these things to a
6 court? I'm still not clear on --

7 THE WITNESS: Yes, what, what this is, is a court order to
8 Barrick to produce these documents.

9 THE CHAIR: Okay. It's a court order. Okay.

10 THE WITNESS: Yeah. And Barrick, why was I asked to produce
11 these documents? Because it's trading on the
12 stock exchange with Tesoros as property of Minera
13 Nevada SpA, the company that is mentioned there.
14 Okay?

15 And this trial is key. Why? Because Barrick
16 had to go to the mines commissioner for the first
17 time and deliver the title, that they did not want
18 to show in BC Supreme Court against me. And when
19 they were ordered to respond, this was the
20 response. For Barrick -- for Minera Nevada
21 Limitada. And Minera Nevada Limitada, your
22 honour, is the one that owns the Pascua-Lama
23 Protocol. In both companies, Minera Nevada
24 Limitada and Minera Nevada SpA, which is the one
25 that trades as Barrick in TSX, were ordered the

1 same. Okay? Where is your title of Tesoros?
2 Response: Your honour, the titles do not exist.
3 THE CHAIR: Do you have any evidence to --
4 THE WITNESS: Just, it has been delivered to Executive
5 Director, it has been delivered to staff --
6 THE CHAIR: I'm sorry, Mr. Lopehandia. So, this is -- so,
7 this, you're saying, was a court ruling requiring
8 Barrick to deliver certain documents --
9 THE WITNESS: Yes.
10 THE CHAIR: -- which I -- that, that I understand. Now, on the
11 response though, do you have any evidence --
12 THE WITNESS: To the response?
13 THE CHAIR: -- as to their response?
14 THE WITNESS: Affirmative, Madam Justice. It's the first
15 paragraph --
16 THE CHAIR: Can you --
17 THE WITNESS: -- it's the first paragraph of the Supreme Court
18 decision validated process against Barrick, that
19 it says they have two positions --
20 THE CHAIR: So, do you, do you --
21 THE WITNESS: -- before Supreme Court.
22 THE CHAIR: Do you have that document --
23 THE WITNESS: It's part of the hearing evidence, and when it
24 comes to it, I shall expand on that for your
25 benefit.

1 But if I may, let me just tell you what the
2 proceeding was all about and what happened. So,
3 Barrick first said, Jorge Lopehandia cannot talk,
4 because we did them in Canada with the libel
5 decision, and I go, "thank you, your honour, for
6 Barrick bringing the Canada action to this court,"
7 because that gives me the right to retort, and I
8 did. I said, your honour, I have certain titles
9 here in my name, and those titles were published
10 in SEDAR by my client, okay? And your honour,
11 these titles of Amarillo Sur and Amarillo Norte
12 that you heard in this court, Madam Justice, that
13 they were mere applications, okay?

14 But Madam Justice, a point of order right
15 there, a mere application, okay, is called
16 providencia in Chilean mining law. And
17 providencia is a piece of paper that is
18 handwritten to -- machine written, and is part of
19 the evidence that was delivered, and this
20 particular providencia only last eight to 10 days.
21 That's an application. It last eight to 10 days.
22 When accepted, and provided by the justice, we
23 take it to the mines commissioner to produce the
24 title that you saw of my properties.

25 So, you were misinformed that my title and

1 the properties were actual applications, and they
2 were not. Applications is just the mere first
3 eight to 10-day step of arriving to where I had
4 title. So, I said, "Your honour, send Barrick to
5 fetch its title to the mines commissioner and see
6 what they have," okay? I had introduced mine,
7 that they were in my name already. Just like I
8 introduced them to staff, just like MSX file at
9 SEDAR, just like I would deliver it to Executive
10 Director, just like we deliver to the Fifth Civil
11 Court of Santiago, to the illustrious Court of
12 Appeals in Santiago, and to the most excellent
13 Supreme Court of Chile where Executive Director,
14 the staff, Barrick Gold, had an ample opportunity
15 to make this case that I'm making before you.
16 They had already the opportunity in the proper
17 jurisdiction, may I add. Because Chile is the
18 only jurisdiction applicable to this contract. We
19 contracted under Chilean law. The properties are
20 in Chile and therefore --

21 THE CHAIR: I think actually, Mr. Lopehandia, here you're
22 venturing into arguments --

23 THE WITNESS: No, no --

24 THE CHAIR: -- and so --

25 THE WITNESS: -- I'm just trying --

1 THE CHAIR: -- and so if you could --

2 THE WITNESS: -- to explain that.

3 THE CHAIR: Yes, okay.

4 THE WITNESS: So, Madam Justice, Barrick could not produce
5 title, and when they couldn't, they switched the
6 position of Unda Llanos a week later to what you
7 heard here, that Unda Llanos is an employee of
8 Barrick, okay? And that is why I launched the
9 parallel action in Vallenar under my name, to mine
10 that information.

11 So, whereas it is made believe in this
12 hearing that I usher in this lawsuit merely to
13 quash down the Amarillo 1 to 3,000 concessions, I
14 did not do it to quash it down, Madam Justice. I
15 did it to mine information that was critical to
16 the Supreme Court decision I enjoy today. Okay?

17 And it succeeded. I succeeded at that
18 because Unda Llanos first was found titleless;
19 Barrick titleless. Then Unda Llanos had to change
20 his legal position. So, when he changed it, I go
21 into the first court and I say, "Mr. Unda Llanos,
22 I don't believe you that you are an employee of
23 Barrick." "Oh, yeah, I am." "Okay, show me
24 your" --

25 THE CHAIR: Mr. Lopehandia, I --

1 THE WITNESS: Madam, madam, it's this lawsuit that I'm talking
2 about.

3 THE CHAIR: Okay.

4 THE WITNESS: This lawsuit is so important, because it found
5 Barrick without title, in Canada. Then also in
6 this lawsuit, and in this particular 719 case,
7 Unda Llanos reverted his historical position in
8 C-1912-2001, to the position that you heard, that
9 it was made by counsel and Executive Director,
10 which is totally wrong, in any event.

11 THE CHAIR: So, do you have a document then that, Mr. Johnson,
12 that you want to introduce to deal with the court
13 order that Mr. Lopehandia is referring to?

14 MR. JOHNSON: Yes.

15 THE WITNESS: It's already been produced but we will reproduce
16 it.

17 THE CHAIR: No, it has not been -- is it one of the documents
18 that's already been admitted into evidence by the
19 Executive Director?

20 THE WITNESS: Yes, madam, it is cited in the first paragraph of
21 the Supreme Court decision. That's the dis --

22 THE CHAIR: I'm not sure -- I don't know what decision you are
23 talking about. So, in fact, is it a document
24 that's been introduced already, or is it one of
25 the documents that you want to introduce today,

1 Mr. Johnson?

2 MR. JOHNSON: It's the document that was referred to with the
3 international subpoenas and, and the foreign,
4 Ministry of Foreign Affairs in Chile that, that
5 was discussed and that it was -- it was stated
6 that, that their translation at the embassy was
7 not -- the word Mosaic translation wasn't, but it
8 wasn't an adequate translation.

9 THE CHAIR: So, sorry, but has it -- is it a document that you
10 have delivered --

11 MR. JOHNSON: I, I, I --

12 THE CHAIR: -- to the --

13 MR. JOHNSON: I did not --

14 THE CHAIR: -- Executive Director?

15 MR. JOHNSON: -- deliver that.

16 THE CHAIR: All right. Then so it's not, and it has not been
17 introduced into evidence by the Executive
18 Director. Okay. All right, go ahead, Mr.
19 Lopehandia.

20 THE WITNESS: Yes. And so this particular trial of 719-2011,
21 you heard in this court assertions by Executive
22 Director, assertions by counsel, and assertions by
23 a witness saying that this trial was lost by the
24 Lopehandias in Vallenar, they lost all three
25 levels of justice. You heard that. I heard that.

1 The public heard that.

2 Your honour, nothing is farther from the
3 truth. This 719 Cristóbal case, yes, my brother
4 lost in first instance, but he lost as Barrick
5 Gold Corporation, because he was going to be
6 bribed by \$200 million U.S. to go against his own
7 brother, and he lost that particular trial.

8 MR. JOHNSON:

9 5 Q Could, could -- do you mind just mentioning what
10 they did with Cristóbal to bring him into that?

11 A Please, --

12 6 Q Yes.

13 A -- I will get to that.

14 So, you heard your witness saying that, when
15 a person wins in first instance, it's because he
16 has the case in spades. Okay? And you heard here
17 that the Cristóbal case was lost by Cristóbal.
18 But Cristóbal lost with Barrick. I won, me, Jorge
19 Lopehandia, as Mr. Lopehandia, in first instance,
20 madam, this particular trial, with costs.

21 And then we went to fight in the illustrious
22 Court of Appeals of Copiapó. And again, my
23 brother trying to get \$200 million bribe from
24 Barrick, went against his own brother, me. And I
25 said, "Brother, when are you going to stop this?"

1 And he says, "Brother, I have to do it because you
2 know how Barrick has put our family in, in
3 problems. We are all with nothing. So, if I win,
4 I look after your family. But if you win, I will
5 tell you everything."

6 Your honour, I won an entire -- in Copiapó's
7 court against my brother and against Barrick Gold
8 Corporation.

9 THE CHAIR: Do we have --

10 THE WITNESS: My brother lost his life --

11 THE CHAIR: Do we have --

12 THE WITNESS: -- 14 hours later.

13 THE CHAIR: Do we have -- do you have then --

14 THE WITNESS: Yes. Yes, yes.

15 THE CHAIR: -- the court --

16 THE WITNESS: Yes, we have all the, the --

17 THE CHAIR: All right. So --

18 THE WITNESS: -- the courts, and that's why I was surprised to
19 hear that my brother lost the first two instance,
20 but it was more painful to me to have
21 [indiscernible] here, and I believe that it was my
22 head that wanted to be rolled, okay? Is because
23 my brother was dead, when it was told to you that
24 he was defending this case in Supreme Court of
25 Chile.

1 THE CHAIR: Now, just to -- Mr. Lopehandia, you have said that
2 you were, in fact, successful before the courts.
3 So, do you have that court decision?

4 THE WITNESS: Both decisions, your honour.

5 THE CHAIR: And Mr. Johnson, are you introducing those into the
6 evidence?

7 THE WITNESS: Madam Justice, if I may --

8 THE CHAIR: No, I'm sorry, Mr. Lopehandia, I'm asking Mr.
9 Johnson.

10 THE WITNESS: There's no English for it.

11 MR. JOHNSON: There's not an English document, so just strictly
12 Spanish.

13 THE CHAIR: Well, as we explained, --

14 MR. JOHNSON: So, the answer is "no."

15 THE CHAIR: Okay.

16 THE WITNESS: The answer is "no."

17 THE CHAIR: All right. Well --

18 MR. ZOLNAY: Well, actually, I'm, I'm concerned that my friend
19 is suggesting there's some Spanish language
20 decision that goes in favour of Mr. Lopehandia.
21 The court decisions are all in evidence, and it's
22 clear from the court decisions and from the
23 affidavit of Mr. Ossa that they lost at every
24 level. The decisions are in evidence. They're --

25 THE CHAIR: Now, Mr. --

1 MR. ZOLNAY: They're translated.

2 THE CHAIR: Mr. Johnson, I guess the issue is, and I did
3 explain this to you, that if there is a court
4 decision that you want this panel to consider, it
5 would have to be translated, and you acknowledged
6 that. And so, we, you know, --

7 MR. JOHNSON: Yes, yes.

8 THE CHAIR: There is -- he's ref -- he is talking about a
9 Spanish decision that is before us --

10 MR. JOHNSON: Madam, Madam Chair, I didn't add up the number of
11 months, but since December 21st of 2011, through
12 orders of these staff, we have been cease traded
13 for -- we have been two and a half years right now
14 it's -- and, and when we got back trading the last
15 time, which Mr. McColm allowed it on, around the
16 end of July of 2015 I guess it was, and we were
17 back cease traded by the 8th of September. So,
18 six weeks we were trading. And we hadn't traded
19 further in 2015. And we have been halted so many
20 times that that's why you don't have translated
21 documents from us, because --

22 THE CHAIR: I'm sorry, what, what does the halt trade have to
23 do with the inability to --

24 MR. JOHNSON: Well, it has to do with the fact that we're a
25 public company and that's how public companies

1 raise their money. But we, we, of course, have
2 raised money, and as you have heard this morning,
3 that there was a -- there's a trial going on, a
4 serious trial this morning, four hours later in
5 Santiago than it is here. So, that's why we know
6 the result of this already.

7 THE CHAIR: All right. So --

8 MR. JOHNSON: You know, I, I, I --

9 THE CHAIR: So --

10 MR. JOHNSON: I, I know that's not relevant to my promise for
11 March 5th, you people are totally correct, and if
12 we could have done that, we would have done that.

13 THE CHAIR: Okay. So, all I -- Mr. Lopehandia, really, all I
14 can say is that if this -- we are not going to be
15 able to consider the decision that Mr. Lopehandia
16 is talking about, simply because you have not
17 presented it, we don't have an English version,
18 and that decision was obviously rendered some time
19 ago, so, you have had ample time to translate it.
20 And just so that you understand, as I have
21 explained already, we will not be able to consider
22 it, because we don't have it in front of us in
23 English. So, just to make that clear.

24 THE WITNESS: Madam Justice, if I may, I am surprised. If I,
25 if I may, as a Canadian citizen, I am surprised.

1 I am surprised at the fact that I have been
2 invited by Toronto Stock Exchange and BC
3 Securities Commission, since 1998, to enter all my
4 documents in Spanish, because BC Securities
5 Commission and Toronto Stock Exchange have a
6 Spanish staff.

7 THE CHAIR: Now, Mr. Lopehandia, first of all, you are a
8 witness in this proceeding --

9 THE WITNESS: Yes.

10 THE CHAIR: -- and what your dealings, I have no idea what they
11 were in connection with the stock exchange or
12 whatever. It was made abundantly clear, without
13 question, we can pull up the transcript, that for
14 the panel to consider these documents, they would
15 need to be in English. So, I'm -- there's really
16 nothing more --

17 MR. ZOLNAY: Madam chair, I feel compelled, I know this is
18 getting to be a little bizarre because I don't
19 want to give evidence, but I need to put on the
20 record there is no such decision, --

21 THE CHAIR: That I --

22 MR. ZOLNAY: -- there is no Spanish language decision that was
23 given to us that decides any of the issues
24 relevant, except for the ones that we have
25 produced, which all go against Mr. Lopehandia.

1 THE CHAIR: All we can say -- thank you, Mr. Zolnay, --

2 THE WITNESS: Well, that's hearsay too.

3 THE CHAIR: Mr., Mr. Lopehandia, all we can say, all we can
4 look at are the documents that are on the record
5 and have been introduced, and any documents that,
6 of course, Mountainstar and Mr. Johnson choose to
7 introduce today, and that is what we're limited to
8 in making our decision. And there's, there's no
9 point discussing it any further, Mr. Lopehandia.

10 THE WITNESS: Hm-hmm. Hm-hmm. Thank you, Madam Chair. Thank
11 you.

12 THE CHAIR: Perhaps we will take a break now. Maybe we will
13 take a short break because we started later. So,
14 let's come back at 25 to noon.

15 (PROCEEDINGS ADJOURNED AT 11:24 A.M.)

16 (PROCEEDINGS RESUMED AT 11:35 A.M.)

17 HEARING OFFICER: All rise.

18 THE CHAIR: Now, Mr. Lopehandia, I remind you that you remain
19 under oath.

20 THE WITNESS: Thank you, madam.

21 THE CHAIR: And Mr. Johnson, do you want to continue?

22 MR. JOHNSON: Yes.

23 7 Q What I would like, Mr. Lopehandia, would like you
24 to do now, is to explain the 2007 judgment, being
25 the version Mosaic translated, please.

1 THE CHAIR: Well, could -- do we have that document before us?
2 MR. JOHNSON: Yes.
3 THE CHAIR: Has that been --
4 MR. JOHNSON: It is submitted, yes.
5 THE CHAIR: Okay. So, is this the document here? Because we
6 should admit this as an --
7 MR. JOHNSON: It's -- I think that one is the 719.
8 THE CHAIR: Okay. Now, did you want this to be marked as an
9 exhibit then, Mr. Johnson?
10 MR. JOHNSON: Yes, please.
11 THE CHAIR: All right.
12 MR. JOHNSON: It's ID-B.
13 THE WITNESS: You've got my list.
14 THE CHAIR: Just a moment. Let's just -- madam hearing
15 officer, so, this is the document --
16 THE WITNESS: Yeah, --
17 MR. JOHNSON: How about this one?
18 THE CHAIR: This is --
19 MR. JOHNSON: This one, yes.
20 THE CHAIR: This is the document then that the placeholder is
21 ID-B, is that correct, the one on --
22 MR. JOHNSON: ID --
23 THE CHAIR: -- the screen now?
24 MR. JOHNSON: ID-B.
25 THE CHAIR: I'm sorry, I am asking madam hearing officer.

1 MR. JOHNSON: Sorry.

2 THE CHAIR: Is that correct, madam hearing officer?

3 HEARING OFFICER: Yes.

4 THE CHAIR: All right. So, we will mark this as Exhibit 145
5 with the description case C-719-2011, page 313,
6 English translation.
7 **(EXHIBIT NO. 145: Case C-719-2011, page 313,**
8 **English translation - placeholder ID-E)**

9 MR. ZOLNAY: That was marked as E, I believe.

10 THE CHAIR: I'm sorry?

11 MR. ZOLNAY: The document that was just entered is marked as E?

12 HEARING OFFICER: Identification E.

13 THE CHAIR: ID-E.

14 MR. ZOLNAY: Is now exhibit?

15 THE CHAIR: It's now Exhibit 145. Oh, 145; is that correct,
16 madam hearing officer?

17 HEARING OFFICER: Yes.

18 THE CHAIR: Yes.

19 MR. ZOLNAY: Well, okay. If we go in order, it should be 147,
20 I believe, but --

21 THE CHAIR: According to our list, the list that madam hearing
22 officer provided, the last one marked was 144. Is
23 there some --

24 HEARING OFFICER: I have the next exhibit number is 145.

25 MR. ZOLNAY: Okay, that's fine. Thank you.

1 THE CHAIR: Okay. All right. So, the placeholder ID, ID-E
2 will be marked as Exhibit 145 with the description
3 I read out a few moments ago.

4 MR. JOHNSON: Now, Jorge was --

5 THE CHAIR: Sorry, so then let's get, Mr. Johnson, sorry, to
6 the next document, the one that you were going to
7 ask --

8 MR. JOHNSON: Oh, okay.

9 THE CHAIR: -- Mr. Lopehandia about now. Now, which one is
10 that?

11 MR. JOHNSON: It's ID-B.

12 THE CHAIR: ID-B.

13 MR. JOHNSON: 2007 judgment, English.

14 THE CHAIR: Okay. And so we will get that one up on the screen
15 as well. All right. Okay.

16 THE WITNESS: We have all the receipts. That's the only thing
17 that --

18 MR. JOHNSON: Yes, but one -- we can do that one at a time.

19 THE CHAIR: Yes, we're going to do that one at a -- so, now, do
20 you have some questions then for Mr. Lopehandia?

21 MR. JOHNSON: I want, I want Mr. Lopehandia please to explain
22 what this document means. Obviously, again, it's
23 a Mosaic-translated decision from the court.

24 THE CHAIR: Yes, if he could explain what, what the document
25 is, you know, what court it was issued by; if it's

1 a decision or if it's something else, that would
2 be helpful.

3 THE WITNESS: Madam, I do not have the use of a mouse to be
4 able to scroll --

5 THE CHAIR: Well, if you want to scroll down, you simply ask
6 madam --

7 THE WITNESS: Right.

8 THE CHAIR: -- hearing officer to scroll down and she will do
9 it for you.

10 THE WITNESS: Right. Would you please go slowly? Go to the
11 top please. Thank you. It says, "Appeal
12 decision. Clerk's office. Santiago, Chile."
13 Okay. And it's a recourse of casación. That
14 means it's a recourse to know some additional
15 facts and to see if you can obstruct the actual
16 decision. Okay? Having read the documents and
17 the hearing in -- and following page 42 --

18 MADAM REPORTER: I'm sorry, if you are going to read, read
19 slowly please. Thank you.

20 THE WITNESS: Could you please scroll up a little bit, like, a
21 half a -- a quarter page. That's good. Thank
22 you. Okay. This decision is a decision from the
23 illustrious Court of Appeals of Santiago, it
24 appears, okay, and it's a decision on regards of
25 the fact that this court did upheld the fact that

1 Mr. Héctor Unda Llanos is no agent of Barrick, is
2 not related to Barrick, is extra parte. He has
3 never known or done anything for Barrick in his
4 life.

5 So, that was the case that I've been fighting
6 with Unda Llanos at C-1912-2001 trial and
7 injunction. Why? Because Mr. Unda Llanos, I did
8 know he was an employee of Barrick as early as
9 2000, because I had, I had a document, the same
10 document that I used in the second case of
11 Vallenar, to sue him. And that document, it was a
12 document from his lawyer requesting --

13 THE CHAIR: We don't have those documents before us, do we, Mr.
14 Lopehandia? I think what we're dealing with is --

15 THE WITNESS: Thank you, Madam chair, I accept that. I accept
16 that.

17 So, specifically Mr. Unda Llanos, in this
18 particular case, in C-1912 does not know Barrick
19 and he has for 22 years maintained, "I have
20 nothing to do with them," and Barrick, "I have --
21 we don't even know the guy." But in, in the
22 screen, you have 719-2011. And in 719-2011, when
23 I said, "Barrick, show me your title," and they
24 didn't have title for the properties they are
25 trading in the stock exchange, all they could

1 resort to is saying, "Unda Llanos, reverse your
2 position. Become our employee, become our agent."
3 And Unda Llanos entered a brand-new document. "I
4 was an employee of" -- and this is a big
5 mistake -- "I was an employee of Minera Nevada SpA
6 since 1995."

7 THE CHAIR: So, I'm sorry, just to understand, Mr. Lopehandia,
8 is that what this document -- is this his
9 statement? What, what is --

10 THE WITNESS: What this, what this document, and the court, it
11 says, is the decision that Mr. Unda Llanos has
12 denied to have anything to do with Barrick, and
13 basically the courts have believed him, and they
14 said, "Well, if Mr. Unda Llanos has nothing do
15 with Barrick, then Barrick is out, boom" (Foreign
16 language spoken).

17 MR. ZOLNAY: Okay, I am hesitant to rise. I just want to
18 express the concern that my friend seems to be
19 interpreting court decisions, which is really a
20 matter for expert evidence. I am prepared to give
21 my friend some leeway --

22 THE CHAIR: And that, and that is a question of -- thank you,
23 Mr. Zolnay -- that is a question of weight, and in
24 terms of the weight that we will give to your
25 testimony --

1 THE WITNESS: If I, if I may, Madam Justice, I'm not
2 interpreting. I'm giving actually the factual
3 terminology under which the Court gave the
4 decision, and under which Mr. Unda Llanos got that
5 decision with Barrick. And, and the decision was,
6 "We don't know each other. We have never known
7 each other. I don't work for Barrick. The
8 properties are mine." And the Court said, "Yes,
9 Mr. Unda Llanos, we agree. The title is in your
10 name. The properties are yours and you have
11 nothing to do with Barrick."

12 THE CHAIR: So, now, Mr. Johnson, are you -- so, would you like
13 to introduce this as an exhibit then, to --

14 MR. JOHNSON: Yes, please. Yes.

15 THE CHAIR: All right. So, this will be Exhibit 146. It's
16 ID-B, will become Exhibit 146, will be 2007
17 judgment, English, Court of Appeals 2375-2002,
18 pages 1 to 3.

19 **(EXHIBIT NO. 146: 2007 judgment, English, Court**
20 **of Appeals 2375-2002, pages 1 to 3 - placeholder**
21 **ID-B)**

22 THE CHAIR: Mr. Johnson, do you have some more questions for --

23 MR. JOHNSON: Yes. Next I would like to introduce as an
24 exhibit and identified as ID-A.

25 THE CHAIR: Did you --

1 MR. ZOLNAY: Before we do that, Madam Chair, there's one issue
2 that I wanted to raise, is that my friend has
3 provided a Spanish language version of the last
4 document that was entered, and in my submission,
5 that should go in as well, the Spanish language
6 original of the English language decision. And
7 that was my friend's --

8 THE CHAIR: Is this, because I don't have the full text of
9 this, so, this is just the certified translation
10 with no document attached; is that correct?

11 MR. ZOLNAY: That's right. That's right. The Spanish language
12 version and the certificate from the translator is
13 a separate document.

14 THE CHAIR: Okay. But related to this?

15 MR. ZOLNAY: Exactly, yes.

16 THE CHAIR: All right. Now, is it also one of the, the ID
17 placeholders?

18 MR. ZOLNAY: Yes.

19 THE CHAIR: All right. So, Mr. Johnson, is that correct, that
20 one of the other documents you have that's listed
21 here is, in fact, related to the document? What,
22 what --

23 MR. JOHNSON: It's this --

24 THE CHAIR: -- what ID-B appears to be is just the English
25 translation and --

1 MR. JOHNSON: Yes.

2 THE CHAIR: -- and I think what Mr. Zolnay is saying, the
3 Spanish part of it is also one of these documents.

4 MR. JOHNSON: Is ID-C, correct?

5 THE WITNESS: Yes.

6 THE CHAIR: All right. So, so that --

7 MR. JOHNSON: That should be --

8 THE CHAIR: I think that's a good idea.

9 MR. JOHNSON: Yes.

10 THE CHAIR: If the two are related, why don't we enter that as
11 well at the same time, --

12 MR. JOHNSON: I agree.

13 THE CHAIR: -- so that it will be easy to, to link the two
14 together. So, let's enter ID-C, we will enter it
15 as a separate exhibit, 147, but in the
16 description, let's make reference to Exhibit 146.
17 So, we can say, "Spanish version of Exhibit 146,"
18 and we will then just put "2007 judgment, Spanish,
19 Court of Appeals 0001-0004, 2375-2002."

20 **(EXHIBIT NO. 147: Spanish version of Exhibit 146,**
21 **2007 judgment, Spanish, Court of Appeals**
22 **0001-0004, 2375-2002, placeholder ID-C)**

23 THE CHAIR: All right. And I'm sorry, Mr. Johnson, I
24 interrupted you, but --

25 MR. JOHNSON: No, that's fine. Thank you.

1 THE CHAIR: Sorry. So, now you are going to ID-A; is that
2 right?

3 MR. JOHNSON: Correct. I would like to enter as an exhibit
4 ID-A.

5 THE CHAIR: All right, we need to understand what this -- so,
6 if you could perhaps ask Mr. Lopehandia some
7 questions so --

8 MR. JOHNSON: Yes.

9 THE CHAIR: -- that we understand what --

10 MR. JOHNSON: That, and again --

11 THE CHAIR: -- this document is.

12 MR. JOHNSON: Yes.

13 8 Q And that's, that's the 2006 judgment by Justice
14 Kokisch. Mr. Lopehandia, can you explain what
15 this document and this decision is about?

16 A Madam Justice, may I ask a question please in
17 point of order?

18 THE CHAIR: Hm-hmm.

19 THE WITNESS: I noticed that when I came to this hearing, the,
20 the BC Securities Commission and counsel and
21 Executive Director allowed themselves to introduce
22 a witness, allowed the witness to introduce an
23 affidavit and exhibits, and an I will say. And
24 those, the affidavit of the witness was brought
25 into the hearing, the exhibits of the witness were

1 brought into the hearing and permitted to be part
2 of the charges against my client.

3 THE CHAIR: Yes, Mr. Lopehandia, what happened was, the
4 Executive Director --

5 THE WITNESS: Yes.

6 THE CHAIR: -- that that affidavit and attached exhibits --

7 THE WITNESS: Yes?

8 THE CHAIR: -- were prepared in advance and were part of the
9 materials that were -- that was delivered to
10 Mountainstar and Mr. Johnson as some of the
11 documents they were going to rely on. So --

12 THE WITNESS: I understand.

13 THE CHAIR: -- if, in fact, there was an affidavit that
14 Mountainstar and Mr. Johnson wanted to include and
15 introduce into evidence, that should have been
16 provided by Mr. Johnson to Mr. Zolnay by the, what
17 was originally, well, I can't remember what the
18 original deadline was, but ultimately the extended
19 deadline, and I think it was March the 3rd or the
20 4th.

21 THE WITNESS: Understandable, your honour. I just want to
22 remind you that my, my honourable client does not
23 know your court procedures, nor does he know here
24 in procedures, nor he is a lawyer, he is not
25 helped by a lawyer, and, and I noticed that from

1 the evidence that is at this hearing, my affidavit
2 and all my exhibits and all of my evidence has
3 been dropped.

4 THE CHAIR: Mr. Johnson -- first of all, Mr. Lopehandia, I
5 think that the procedure here has been explained
6 many times. It was explained at the set date
7 hearing. It was explained at the hearing
8 management meeting. It was explained at the
9 beginning of this hearing. If Mr. Johnson and
10 Mountainstar chose not to have counsel, that was
11 their decision.

12 And as far as the affidavit, Mr. Johnson,
13 was, was that part of the materials that you
14 delivered to the Executive Director, the affidavit
15 that Mr. Lopehandia is referring to?

16 MR. JOHNSON: Well, I did not deliver that.

17 THE CHAIR: All right. Well then, I think --

18 MR. JOHNSON: Are we referring specifically to Ossa's
19 affidavit?

20 THE CHAIR: No, I -- no, I think he is talking -- are you
21 talking about your own affidavit? I have no --

22 THE WITNESS: Madam, I did deliver to my friend, Mr. Zolnay, an
23 affidavit of I will say, --

24 THE CHAIR: Yes?

25 THE WITNESS: -- I will say, what I intend to say at this

1 hearing, and the exhibits that I intend to rely
2 on, and it's not here.

3 MR. JOHNSON: Mr. Lopehandia, that is what is called a will-say
4 statement.

5 THE WITNESS: Yes.

6 THE CHAIR: Again, the witness does not have a separate right
7 to introduce documents. I think I was very clear
8 on explaining that any documents that Mountainstar
9 and Mr. Johnson wanted to rely on and introduce as
10 evidence should be delivered to the Commission
11 secretary by the prescribed date. So, again, I
12 think we have already had this discussion this
13 morning, but unless it was part of the package
14 that was delivered by Mountainstar and Mr.
15 Johnson, we are not going to introduce it at this
16 hearing.

17 THE WITNESS: So, can I ask in point of order then, if these
18 two documents, that they were authorized by this
19 hearing, or Mr. Zolnay to receive it, in hard copy
20 on behalf of Mr. Johnson, and that he did receive
21 them, and that they do contain the Supreme Court
22 decision of Chile that bears into this hearing,
23 will this be allowed to be evidence?

24 THE CHAIR: Mr. Lopehandia, we actually have already had this
25 discussion earlier this morning with respect to

1 that very document, and the same analysis applies,
2 that, and I will just say this one more time, but
3 it was explained very clearly to Mr. Johnson and
4 Mountainstar, that any documents that they wanted
5 to rely on and introduce into evidence had to be
6 delivered by Mountainstar and Mr. Johnson to the
7 Commission secretary by a specific date. I have
8 seen all those documents, but if that was not part
9 of the package, it's not going to be considered
10 today, it will not be admitted today, and I was
11 very clear on that.

12 MR. JOHNSON: Madam Chair, and I'll just -- I believe he
13 already said about it earlier, Mr. Zolnay, at the
14 end of February 2nd, in the afternoon, stated that
15 the Canadian embassy was not a Mosaic translator,
16 he didn't use the word "Mosaic" I don't believe,
17 and, and so he, he, he believed the document was
18 irrelevant. Anyway, I did not submit it because I
19 didn't believe the Commission would accept it.

20 THE CHAIR: I think, Mr. Johnson, I think we had a discussion
21 about translated documents. I don't actually
22 remember Mr. Zolnay saying it wasn't relevant. I
23 don't -- we would have to look at the transcript.

24 MR. ZOLNAY: I'm sorry, Madam Chair, I need to interject again,
25 and I say this with respect. My friends live in

1 some kind of alternative reality where they say
2 documents exist that simply do not exist. Staff
3 have never seen any Supreme Court decision in Mr.
4 Lopehandia's favour that -- period. And so I
5 don't want to leave the impression --

6 THE CHAIR: That's, that's fine. No, Mr. Lopehandia. So, --

7 THE WITNESS: So, then allow me --

8 THE CHAIR: No, excuse me --

9 THE WITNESS: -- to introduce it.

10 THE CHAIR: Excuse me, Mr. Lopehandia. Mr. Johnson, I, I
11 cannot imagine how more clear I could have been,
12 and so I think --

13 MR. JOHNSON: I understand, yes.

14 THE CHAIR: Yes, okay. Thank you.

15 MR. JOHNSON: Yes.

16 THE CHAIR: All right.

17 MR. JOHNSON: And I might just add, to retort to Mr. Zolnay, I
18 find his statement just absolutely ludicrous.
19 There are a lot of --

20 THE CHAIR: All right.

21 MR. JOHNSON: -- Supreme Court decisions that --

22 THE CHAIR: So then now what is your next question then for Mr.
23 Lopehandia?

24 MR. JOHNSON: My next question is if -- I would like to Mr.
25 Lopehandia to explain, I guess it's -- is it

1 Exhibit 147? But it's, it's IDA, ID-A, 2006
2 judgment, Kokisch, English, and again, it is --

3 THE CHAIR: All right. All right.

4 MR. JOHNSON: -- Mosaic translated.

5 THE CHAIR: So, I'm sorry, which was that? ID?

6 MR. JOHNSON: -A.

7 THE CHAIR: ID-A?

8 MR. JOHNSON: Yes.

9 THE WITNESS: Madam Justice, if I may, the 2006 judgment is a
10 legally correct judgment. You heard in the
11 hearing that Madam Justice Reyes Kokisch, having
12 heard in illegal, in quasi-criminal activity
13 against Barrick Gold Corporation and its
14 subsidiary in Chile, and there is nothing further
15 from the truth. I heard here that there was
16 prepared criminal charges against the Honourable
17 Madam Justice. There is nothing farther from the
18 truth. Is the same thing that I write somebody an
19 e-mail in here, and I say that you will go to jail
20 for the bad things that you have done, and it's
21 not true.

22 Madam Justice Kokisch still presides next
23 door to my chambers where I have Barrick on the
24 ropes today. She presides on the 7th Civil Court.
25 The person who did the quasi-criminal act, it was

1 a senior officer that had control of the
2 electronic delivery of the judgment of Madam
3 Kokisch to Barrick. And this particular
4 functionary that was sanctioned by Supreme Court,
5 Mr. Aguila, eagle in English, he is the one who
6 neglected to serve Barrick the electronic defeat.
7 And Barrick, of course, seize that electronic
8 defeat non-delivery opportunity and sue the judge
9 for eliminating their constitutional right to
10 receive the defeat on time.

11 THE CHAIR: So, sorry, Mr. Lopehandia, then what is this
12 document? Is this --

13 THE WITNESS: This document, all it reflects is that Madam
14 Justice Kokisch review the file and she said:
15 Nonsense to the position of Barrick. The rights
16 of discovery, or discoverer, belong to Jorge
17 Lopehandia. Have the Tesoros concessions die,
18 eliminate them from the mining registrar. There
19 are no rights there. First, the contract that was
20 signed between Barrick Gold Corporation and
21 Villar, it was not a contract. It was a
22 unilateral act. And in Chile, there is no
23 unilateral contracts. It defeats the well-known
24 legislation of the contract itself. There are
25 teachings and, and, and there are absolute law

1 that the contract itself has to have two parties,
2 a part and a counterpart. In the malficious
3 (phonetics) contract of Barrick with Villar, it
4 only is a unilateral contract. It was done by
5 Barrick itself for its benefit. Villar is, in
6 this trial, in this judgment, clearly saying, I
7 never negotiated contract, price, terms of
8 conditions with Barrick. I did it. It was me,
9 Jorge Lopehandia. I shook hands with the
10 president of Barrick in Chile in 1996 and the Lac
11 vs. Corona jurisprudence, and I was Canadian then.
12 Okay?

13 So, this judgment only reflects, is that
14 Madam Justice Kokisch reviewed the entire file and
15 said: Under no circumstances my court will allow
16 for a unilateral contract to take place, because
17 in Chile, there are no unilateral contracts.

18 Second, one of the most important conditions
19 of contract is that it has to have and enjoy a
20 fair price for what is being transacted. A fair
21 price is the basis of the validity of a contract
22 in Chile. And here we have Barrick taking away
23 from me, via a third party, a third party,
24 Alejandro Moreno Prohens, that is in the --
25 Alejandro Moreno Prohens, P-r-o-h-e-n-s -- who has

1 filed in a lawsuit against me by Barrick in
2 Canada. Now, that particular lawyer, he sold a
3 few [indiscernible] to Barrick and added --

4 MADAM REPORTER: A few?

5 THE WITNESS: -- my concessions --

6 MADAM REPORTER: A few which?

7 THE WITNESS: He sold something like a few hundred hectares,
8 and added 8,600 hectares of my concessions. Eight
9 thousand, six hundred hectares, Madam Justice, is
10 22 Stanley Parks in size.

11 And Barrick, in the unilateral contract to
12 hurt me to their utmost until today, they put the
13 price of \$20 equivalent for my land. That's not
14 enough. That's not even the price of a legal
15 stamp. That's why Madam Justice Kokisch decided
16 that that particular contract and that particular
17 action should have been finished right there and
18 then, and she did.

19 THE CHAIR: All right.

20 THE WITNESS: She passed this judgment, and this judgment is
21 quite revealing, Madam Justice, because this
22 judgment speaks of the unilateral contract. It
23 speaks of the fact that Barrick Gold Corporation
24 forced Villar not to be able to claim any areas
25 around Mina Pascua, okay, which is

1 unconstitutional. Nobody, foreign or a national
2 person, can impeach from a miner to constitute
3 concessions anywhere in Chile. It's our God-given
4 right, as citizens. So, why a foreign company
5 would sign a bad contract and then force the miner
6 not to claim in areas that they are around, that's
7 bullying. And so that's why Madam Justice, she
8 thought, within her wisdom, that her decision was
9 right.

10 THE CHAIR: Okay. Mr. Johnson, do you want this entered as an
11 exhibit then?

12 MR. JOHNSON: Yes, --

13 THE CHAIR: All right.

14 MR. JOHNSON: -- Madam Chair.

15 THE CHAIR: We will enter this as -- this is ID-A. It will be
16 entered as Exhibit 148, a 2006 judgment, English,
17 C-1912-2001, pages 1308 to 1367.

18 **(EXHIBIT NO. 148: 2006 judgment, English,**
19 **C-1912-2001, pages 1308 to 1367 - placeholder**
20 **ID-A)**

21 MR. ZOLNAY: Madam Chair, with respect to that document, I
22 don't object, or we don't object to it being
23 admitted, but I, I think the panel should be aware
24 that this document was not translated by a
25 certified translator, as far as we know. There's

1 no original Spanish language provided --

2 THE CHAIR: That's fine, we will take that into --

3 MR. JOHNSON: This, this, this judgment in English is not
4 translated? It was translated --

5 THE WITNESS: Mosaic.

6 MR. JOHNSON: That one might not have -- I, I have to --

7 THE WITNESS: The notary public. It was notary public.

8 MR. JOHNSON: Sure. No, no, I'll tell you when we come back, I
9 have got a quick memory block on it, but the
10 gentleman is a law professor, is or was a law
11 professor at BCIT. He is a certified Spanish/
12 English or English/Spanish translator.

13 THE CHAIR: Do you have a certificate? It would just -- it
14 would help in terms of the weight we can give to
15 this evidence.

16 MR. JOHNSON: Yeah, I thought it was in there, but I guess it
17 wasn't, and so...

18 THE CHAIR: Okay. If you could perhaps give us a certificate
19 of qualifications and the underlying Spanish
20 document, that would just be very helpful --

21 MR. JOHNSON: Yes.

22 THE CHAIR: -- in terms of us being able to understand the
23 document.

24 THE WITNESS: Madam Justice, could I ask a question --

25 THE CHAIR: Certainly, Mr. Lopehandia.

1 THE WITNESS: -- point of order. Madam Justice, I cannot help
2 but to observe that this particular exhibit list
3 of disclosures delivered in the past hearing is
4 dated January the 30th, the very day of the
5 hearing. And I also noticed that both, and we
6 have seen the transcripts, that's why I marked
7 them, there are interventions, both from counsel
8 and the witness, where they are introducing
9 particular new documents. And I ask myself, the
10 permission from this court in order to arrive to
11 the truth, that there, there are some vital
12 documents that, it appears to me, that sensitively
13 somebody doesn't want them to be known to the
14 public, or to you, --

15 THE CHAIR: I would --

16 THE WITNESS: -- or we committed the error, --

17 THE CHAIR: I would say --

18 THE WITNESS: -- or Mr. Johnson didn't have the ability or
19 money to translate properly.

20 THE CHAIR: Mr. Lopehandia, it would seem to me that if people
21 don't -- you, not you, but Mountainstar and Mr.
22 Johnson have been given ample opportunity to
23 reduce the documents that they say are key to
24 their defence. These documents are not new
25 documents. They have been in existence, it sounds

1 like court orders, things like that, for some
2 time. And I, as I -- again, I will repeat myself
3 one more time.

4 Mr. Johnson acknowledged and was gimp several
5 deadlines, and the final deadline, to produce
6 anything he wanted to rely on in structuring
7 Mountainstar and his defence. If it was a key
8 document, and if it was as critical as you say it
9 is, I'm not actually quite clear on why that
10 document wasn't translated and provided to us.
11 Certainly, there was opportunity that Mountainstar
12 and Mr. Johnson did not take advantage of, and I
13 think --

14 THE WITNESS: Perhaps I could explain that.

15 THE CHAIR: No, I think --

16 MR. JOHNSON: It was procedures. It was --

17 THE CHAIR: I'm sorry, --

18 THE WITNESS: It was procedures.

19 THE CHAIR: -- Mr. --

20 THE WITNESS: We didn't know.

21 THE CHAIR: Yes, you did know. It was explained very clearly.

22 And Mr. Lopehandia, you are a witness, and if
23 there were any comments, I would hear them from
24 Mr. Johnson. But I think we have been over this
25 ground already, Mr. Johnson.

1 MR. JOHNSON: I explained, I explained why everything isn't
2 translated. Translating, legally translating, as
3 your learned panel would, I think, I'm sure you
4 know, is extremely expensive.

5 THE CHAIR: Yes. But I would have thought that if this was as
6 critical a document as Mr. Lopehandia is making it
7 out to be, that it would have been worth the
8 expense of translating. But that's simply -- that
9 was your decision and, as I say, I think that the
10 procedure was very clearly explained. So, I don't
11 think we need to talk about it further. Okay?
12 Mr. Lopehandia? Sorry, Mr. Johnson. So, we have
13 finished then I think with Exhibit 148. Are you
14 going to introduce some other documents here?

15 THE WITNESS: Yes, Madam Justice, can I ask for --

16 THE CHAIR: Yes.

17 THE WITNESS: Again, as a witness, I'm not allowed to introduce
18 my I will say, or my exhibits, or, or my evidence,
19 because it doesn't appear here and I deliver it to
20 Mr. Zolnay. And I would like to ask you, if I
21 can, if it's not permissible, that, that I will
22 say, my evidence and my exhibits listed, all
23 chronologically, that include for you to be able
24 to arrive to the truth, it's, it is not here.

25 THE CHAIR: Mr. Lopehandia, --

1 THE WITNESS: And so I wonder if it doesn't count.

2 THE CHAIR: -- I think --

3 THE WITNESS: I just need to know --

4 THE CHAIR: -- I think --

5 THE WITNESS: -- that it counts or not.

6 THE CHAIR: I think -- no, it does not. As I said, I don't
7 know how many times I have to say this, but for it
8 to -- it is Mountainstar and Mr. Johnson who are
9 introducing the documents they want to use to
10 establish their defence, and they have delivered
11 the documents they obviously identified by the
12 required extended deadline. And that is, and I
13 made it clear, that any documents that would be --
14 going to be relied upon, would have to be
15 delivered by that date. So, I don't -- if they
16 were not included in Mr. Johnson's package, they
17 are not before us today, and we have discussed
18 this now several times this morning, and I think
19 that's it.

20 THE WITNESS: Madam Justice, if I may, --

21 THE CHAIR: No, you know what, Mr. Lopehandia? I think we have
22 to move on.

23 THE WITNESS: Yeah, I want to move on, but I want to move on --

24 THE CHAIR: No, I think --

25 THE WITNESS: -- knowing the ground that I am stepping on,

1 because --

2 THE CHAIR: The ground is very simple. It's -- you are simply
3 a witness here testifying. It's Mr. Johnson who
4 has conduct of the presentation of this case. So,
5 I think that, Mr. Johnson, I will now turn it back
6 to you, to see where you -- are you introducing
7 another document or where are we going?

8 MR. JOHNSON:

9 9 Q Mr. Lopehandia, have you finished responding on
10 the ID-A 2006 Kokisch judgment?

11 A I was requested to stop my presentation regarding
12 what the judgment means. Perhaps --

13 THE CHAIR: No, I did not -- I thought you were finished. If
14 you -- I did not, I did not ask you to stop your
15 presentation. If you have more to say on this --

16 THE WITNESS: Yes.

17 THE CHAIR: -- particular judgment, please --

18 THE WITNESS: Yes, if I may. So, this particular judgment,
19 what it reflected, it was that there was an
20 improper transaction in Chile. It was a contract
21 that was a unilateral contract, therefore, is
22 unconstitutional, okay?

23 It was also determined that because of the
24 virtue of this particular decision, okay, the
25 Tesoros concession had to die, and it's a place --

1 a replacement of my original first discovery
2 because Tesoros is the second discovery in the
3 history of Chile. The first discovery should be
4 reconstituted. Okay?

5 And the judgment was specifically on the fact
6 that in Chile, there is not acceptance to a
7 unilateral contract, where there are not two
8 parties to sign off on the contract, and it did
9 not have a correct valid price in accordance to
10 the constitutional aspect of the contract law,
11 that it says that the price that the person
12 receives in exchange for what the party
13 contracted, it ought to be of good value for the
14 exchanged merchandise or considerations of the
15 contract. In this case, there was none of that.

16 And so, therefore, Madam Justice, declare
17 this particular contract unconstitutional, and she
18 ordered this particular contract to be null and
19 void, and for the properties to be reconstituted.
20 Of course, as Chile has three levels of justice,
21 this particular judgment was immediately contested
22 by my counterpart on record, and the, the contest,
23 it was a key technicality that you have to
24 remind -- remember very clearly from here on
25 onwards. The key technicality is that Barrick

1 says, "That has nothing to do with us. Unda
2 Llanos, we don't even know him, the properties are
3 under. So, you are suing Barrick. Heh, heh. We
4 don't know the guy." And they have had me for
5 22 years in that way, or at least from 2001 to
6 2018, 17 years, five years before that.

7 So, for 17 years, all the way to Supreme
8 Court, Barrick has insisted, "We don't know the
9 guy. We never seen him. Poof, we don't know
10 him." Okay?

11 But it so happens that we have a second
12 ruling, and a second Supreme Court decision, in
13 [indiscernible], the previous evidence that you
14 saw, which is 719-2011, the Vallenar trial, and in
15 that particular trial, Mr. Unda Llanos is no
16 longer not known. Because Barrick was found
17 titleless, he had to come and say, "No, no, no, I
18 was always an employee of Barrick." And that's
19 what you hear here. But he said it in 2012, in
20 trial 719-2011, and in 2012/'13, we opened the
21 criminal charges, until today, until this morning,
22 that Mr. Unda Llanos pulled the plug on this
23 hearing, pulled the plug on Barrick, and has said
24 to the court in Chile, "I have not authorized
25 Barrick to get my property in the stock exchange

1 in Canada." And I go, "Thanks, my God," because
2 this morning I have set -- been set free by Unda
3 Llanos himself over the matters that afflict my
4 client at this hearing.

5 So, if Unda Llanos is saying that he never
6 authorized Barrick to trade at the stock exchange
7 with these particular titles, and I have been
8 telling the same thing to the Securities
9 Commission since 1998, why is my family and my
10 children paying for the fact that Barrick Gold
11 Corporation invested \$1.05 in Chile in my project,
12 and the rest of the money in Cayman Islands to,
13 to, to pry up leftist governments where they have
14 all --

15 THE CHAIR: Okay, I --

16 THE WITNESS: -- the gold properties --

17 THE CHAIR: Mr. Lopehandia, --

18 THE WITNESS: -- in Latin America.

19 THE CHAIR: -- I think we're getting a bit off track.

20 THE WITNESS: I'm sorry, Madam, I'm sorry, but it is the truth,
21 and nothing but the truth, so help me God. You
22 can take my words and they will be affirmed by
23 history and affirmed by the Supreme Court of
24 Chile. I can assure you of that.

25 THE CHAIR: All right.

1 THE WITNESS: So, so, this decision was contested because of
2 one reason, Madam Justice. I was at Supreme Court
3 of British Columbia defeating Barrick. I was
4 before at first a Madam Justice that was removed
5 because she sympathized with my case; and then
6 came another Master Justice -- and I'm going with
7 surnames because I don't want to speak of any
8 justice, I respect them all -- and Mr. Justice was
9 deceived by Barrick Gold Corporation. And, and it
10 was told to the BC Supreme Court that Madam
11 Justice Kokisch has defrauded Barrick. Of course,
12 Mr. Justice has said, "I can't believe this. You
13 are out of my court. Go and get justice in Chile
14 first." Okay? And I did.

15 I went to RCMP and the RCMP said the same
16 thing, "Mr. Lopehandia, every time we talk to the
17 commissioners, they have another story. Every
18 time we talk to Barrick, they have another story.
19 Go and get a decision in Chile." I did, and I got
20 it.

21 In the year 2016, okay, when all of what you
22 hear at the hearing had been saturated of lies, we
23 could no longer accept that, so we took it to the
24 courts. And as you heard your witness, the
25 Executive Director witness, he said, in the

1 exceptional case that there is the same lawyer,
2 the same accused party, and they go to the Supreme
3 Court and they have two different positions, this
4 is going to be a problem there, that there will be
5 a new decision that will encompass everything.
6 That's what I have today. That's what I have
7 today.

8 I have a new decision that encompasses the
9 fact that Mr. Unda Llanos is in one Supreme Court
10 decision saying, "I don't know Barrick," and in
11 the other Supreme Court decision he is espousing
12 the position that has been taken at this hearing,
13 that he's an employee of Barrick. But he's an
14 employee of Barrick from 2013 to 2018, between
15 ourselves and, wink wink. Because this morning he
16 said, "I did not allow Barrick to have my
17 properties in the stock exchange in Canada."
18 That's incredible, because you heard at this
19 hearing that Mr. Unda Llanos is an agent of
20 Barrick, and I couldn't take it out of the man or
21 Barrick would have court, screw in Court for
22 20 years. And now it's being used against me
23 here.

24 And I remind you, Madam Justice, that my
25 client will get a slap on the hand, but I go to

1 jail because I peddle the false prospectus under
2 section 400(1) of the *Criminal Act of Canada*. I
3 am a criminal for all intents and purposes, thanks
4 to the false allegations. And I am not a
5 criminal. And I have my son in here that has been
6 in this case with me since he was 15. My little
7 child, 19, lived the whole year -- life in crime,
8 okay? And this crime will not use my name to
9 legitimize fraud to the financial markets of
10 Canada. I'm out. I want the truth.

11 THE CHAIR: Thank you, Mr. Lopehandia.

12 THE WITNESS: Thank you, madam.

13 THE CHAIR: All right. Mr. Johnson, do you have another
14 document you want to introduce?

15 MR. JOHNSON: Yes. ID-D, bottom of the list respondents, the
16 2008 judgment in English.

17 THE WITNESS: I think -- D did you say?

18 MR. JOHNSON: The bottom of the page, the last document.

19 THE WITNESS: Yeah, no, that's not it. A civil complaint,
20 respondents to a judgment in civil complaint.
21 Yes, yes, yes. Bring it up.

22 MR. JOHNSON:

23 10 Q Mr. Lopehandia, can you please explain that
24 decision?

25 A Could you please scroll up please?

1 THE CHAIR: I think you mean scroll down.

2 THE WITNESS: Yes, please, scroll down, if I may. Thank you,
3 Madam Justice. You are quite correct. Keep
4 going, continue going down. Scroll down please.
5 Thank you. Yes, there. Hold it. Okay. I'm
6 ready, Madam Justice.

7 Madam Justice, this is an application that is
8 not presented by my legal team. This is an
9 application that was presented by Rodolfo Villar
10 Garcia legal team. Rodolfo Villar Garcia was my
11 mining agent, and he got defrauded by Barrick out
12 of that 10,000 pesos contract that I was saying
13 was unconstitutional.

14 On or around the times of this hearing, on or
15 around the times of this hearing, I got approached
16 by a company of Toronto that belongs to Michael J.
17 Brown, an officer of Barrick, in Crystallex, in
18 Barrick Gold Corporation, in Palisades Capital,
19 which is the company that approached me, and they
20 offered me \$17 million U.S., Madam Justice, so
21 that they could, could help me to defeat Barrick.
22 I did not know that Michael J. Brown of Barrick
23 Gold Corporation was part of Palisades Capital.
24 I, I didn't know that.

25 So, trusting, I confided all my legal case to

1 these particular individuals, and they went to
2 Chile and they bribed Villar, and they separated
3 Villar from me forever, since that day until
4 today. And what they did is they hired that
5 lawyer that it says there, Hernán Montealegre.
6 Hernán Montealegre were very public in Chile,
7 offering to be bribed -- that he wanted 200
8 million to be bribed and he would give away the
9 case, on record. I admonished Mr. Montealegre and
10 I told him, and I warned him, that if he took one
11 cent over my properties, I would disbar him in
12 Chile, and I'm serious. I'm very serious. And
13 Mr. Montealegre withdrew his intensive attempts to
14 do that.

15 And when Barrick discovered that Villar was
16 only my mining agent, he was not the true owner of
17 my assets, they stopped cooperating with
18 Montealegre and Villar. But there is -- somebody
19 was paying Montealegre to drop my case.

20 And when the judgment that I just spoke about
21 of Madam Kokisch, went to appeals in 2007, okay,
22 in 2008, it's not like you were told here, that it
23 went back to the Civil Court. Everybody is wrong
24 on that one: the witness, counsels and Executive
25 Director. The case continue from appeals to

1 Supreme Court of Chile in 2008. And in Supreme
2 Court of Chile, Madam Justice Kokisch was not
3 found guilty. In fact, there is one sentence that
4 coined the Supreme Court in that judgment, the
5 judge act of her place, meaning she was correct.
6 Where did this hearing get it that she had
7 conducted quasi-criminal activities when it's
8 totally untruth.

9 And the second order, and the 2008 judgment
10 at Supreme Court, that was deleted from this
11 hearing, in that judgment it says clearly, go back
12 to here judgment. At no place, your honour, was
13 there turned down the judgment and arrived to a
14 different decision than Madam Kokisch 2006. That
15 wasn't said by Supreme Court.

16 So, what happened to get a different decision
17 in 2010? Hernán Montealegre, Villar's lawyer,
18 that guy. He conspired with Barrick, for money of
19 course, and he allowed Barrick to reopen the
20 Supreme Court decision. Impossible, but they did
21 it. They reopened the Supreme Court decision and
22 readmitted new evidence that Unda Llanos has
23 nothing to do with Barrick. And that's -- and so
24 the final decision of the trial is Unda Llanos is
25 extra parte. He has never known Barrick. He was

1 never an agent. He was never an employee of
2 Barrick in -- we're talking about the injunction,
3 trial. Right? The, the most important trial that
4 I had been with this Executive Director and the
5 staff for 20 years trying to say, "please believe
6 me." "No, we don't believe you. Barrick will,
7 will beat you in Supreme Court."

8 We went to Supreme Court, your honour, and
9 that was deleted here in this hearing. There was
10 no evidence given at the 2008 hearing when the
11 Supreme Court of Chile found Madam Justice Kokisch
12 to have ruled on her place. You didn't hear that.
13 You also did not hear that Madam Justice Kokisch
14 was not found guilty of criminal activity, but Mr.
15 Aguila, eagle, was found guilty of criminal
16 activity, and that Madam Justice Kokisch returned
17 to chambers in the 17th Civil Court. If a justice
18 was involved in criminal activity, will be
19 disbarred, and she wasn't. She was a very honest
20 Chilean citizen that fought a multinational
21 corporation, a malfeasance of fraud to the stock
22 exchange. That's what she is. And I'm not going
23 to accept in any court of law, Madam Justice, that
24 Madam Justice Kokisch name is blemished in front
25 of me, because she is the most honest judge that

1 we could possibly have to find truth, where the
2 truth was, and to deny the fraud, where the fraud
3 was. She put her career and name on the line
4 against the most powerful company of the world,
5 and she was attacked merciless like me, but she's
6 innocent. And innocent, it sounds the same in
7 Spanish, inocente. In English, innocent.

8 And I'm being told in this court, Madam
9 Justice, that the truth does not want to be heard
10 in Spanish. (Foreign language spoken). Madam
11 Justice, if you were to translate all the
12 documents into French, the truth would remain the
13 same. I'm innocent. My client is innocent. Unda
14 Llanos pulled the plug on Barrick this morning,
15 okay? You have no case. There is no case here.
16 My children are innocent, and they're suffering,
17 this morning, because of all of this. I don't
18 want that anymore in my life.

19 THE CHAIR: Thank you. Thank you, Mr. Lopehandia.

20 Now, Mr. Johnson then, did you want to
21 introduce this, this document as an exhibit then?

22 MR. JOHNSON: Yes, Madam Chair.

23 THE CHAIR: All right. So, that will be -- so, ID-D will be
24 Exhibit 149, 2008 judgment, English, civil
25 complaint pages 1 to 30.

1 **(EXHIBIT NO. 149: 2008 judgment, English, civil**
2 **complaint pages 1 to 30 - placeholder ID-D)**

3 MR. ZOLNAY: And again, I note the same concern, that there is
4 no certificates from a translator or any kind of
5 declaration from a translator has been provided by
6 Mr. Johnson.

7 MR. JOHNSON: I will get that, I guarantee you. John
8 Stroud-Drinkwater is his name. He did our initial
9 translations, and then he, because of his teaching
10 law at BCIT, he said, "I can't do anymore. You'll
11 have to move to possibly Mosaic or whoever."

12 THE CHAIR: If you could --

13 MR. JOHNSON: Yes --

14 THE CHAIR: -- provide a complete document, because it will go
15 to the weight, obviously, to be given to the
16 document. That would be very helpful, Mr.
17 Johnson.

18 I think at this point, since it's almost
19 12:30, that we will take our lunch break and we
20 will resume at 2 o'clock. Thank you.

21 MR. JOHNSON: Thank you.

22 (PROCEEDINGS ADJOURNED AT 12:27 P.M.)

23 (PROCEEDINGS RESUMED AT 2:00 P.M.)

24 HEARING OFFICER: Please rise.

25 MR. ZOLNAY: Just one minor point, Madam Chair. I have been

1 advised that someone in the hearing room is
2 videotaping the proceedings and --

3 THE CHAIR: If that's the case, videotaping is not allowed in
4 the Commission hearing room and that's posted
5 outside. Who is the -- who is videotaping here?

6 MR. JOHNSON: Your honour, Madam Chair, I don't know of anybody
7 doing that but, so...

8 THE CHAIR: All right. Will please everyone turn off their
9 phones, now, and do not either make any recording,
10 either visual or audible, of the hearings.

11 Okay, Mr. Johnson, now you have introduced
12 your various pieces of evidence. Do you have some
13 more questions for Mr. Lopehandia?

14 MR. JOHNSON: Yes, I do.

15 THE CHAIR: Just before, sorry, just before you start, I just
16 want to remind you, Mr. Lopehandia, that you
17 remain under oath.

18 THE WITNESS: Thank you, Madam.

19 MR. JOHNSON:

20 11 Q Mr. Lopehandia, I don't believe we finished with
21 you addressing the present document on the screen.

22 THE CHAIR: Oh. So, are we still then -- sorry, I thought we
23 were finished on that document. So, we are on
24 then, sorry, the document that's currently before
25 us here?

1 MR. JOHNSON: Yes.

2 THE CHAIR: All right. And that is document what, Exhibit 149.
3 So, please go ahead.

4 THE WITNESS: Thank you, Madam Justice. If you were to closely
5 look at the document that you have in your screen,
6 this document was produced at the illustrious
7 Court of Appeals of Santiago, and the document
8 that you have before you, is a complaint against
9 Madam Justice Gloria Ana Chevesich, and other
10 couple of magistrates in the manner that they
11 conducted this particular trial. Personally, I'm
12 not in, in, in a position to, to try to create an
13 innuendo against the judge. So, therefore, I
14 shall maintain the facts and only the facts.
15 Okay?

16 As you may notice, down the page, the lawyer
17 for Mr. Villar who, at that point, had been
18 intentionally separated from me by Barrick Gold
19 Corporation and some associates, Villar is here
20 represented by Hernán Montealegre Klenner, and
21 he's also represented by an ex-Minister of
22 Justice, Madam Monica Madariaga, rest in peace.
23 And Monica Madariaga was one of the most gifted
24 mining lawyers in Chile, and she was also Minister
25 of Justice, and, and she had tremendous knowledge

1 of mining.

2 So, when she presented this particular
3 document to the Court, she reminded the judges,
4 and admonishing them and asking for their own
5 sanction for what they have done, that they are
6 using two procedural errors that they haven't been
7 justified to the Court, or not even demonstrated,
8 and, and a procedural error has to have prejudice.
9 If there is no prejudice, the, the procedural
10 error is just a circumstantial thing. Okay? And
11 the procedural errors that they called here in
12 this particular decision at the illustrious Court
13 of Appeals are two.

14 First procedural error accusing, with false
15 testimony, may I add, Madam Justice Maria Isabelle
16 Reyes Kokisch, that she actually render a flawed
17 decision, which she didn't.

18 And the second procedural point of order that
19 was tried to highlight here by, by this particular
20 opposition to the Court of Appeals decision, is
21 that Mr. Héctor Unda Llanos, Unda Llanos, the
22 named agent of Barrick at this hearing, the name
23 holder of the Tesoros titles for Barrick at this
24 hearing, in this particular Court of Appeals,
25 illustrious Court of Appeals of Santiago, the fine

1 gentleman is winning against me purporting that he
2 doesn't know Barrick and that he is an extra
3 parte. That means somebody who has nothing to do
4 with Barrick. So, therefore, my lawsuit was
5 completely wrong, as Villar, because Villar was my
6 agent, and I launched this lawsuit in 2001 in
7 Villar's name because he was defrauded of my
8 rights. They are saying, you cannot sue Barrick,
9 because Barrick has nothing to do with Unda
10 Llanos.

11 That is the significance of this particular
12 appeal by an ex-Supreme Court and ex-Minister of
13 Justice saying: You guys, there is no wrong in
14 this thing. There was procedures that you are
15 saying that they have prejudice against your
16 client, and they don't.

17 So, let us go to the essence of this
18 particular Court of Appeal's decision. They are
19 complaining against Madam Justice Gloria Ana
20 Chevesich, and Madam Justice Gloria Ana Chevesich
21 is not just a, a, a magistrate, a magistrate. She
22 presided over this decision at the Courts of
23 Appeals and she was elected and appointed to
24 Supreme Court within months of this particular
25 decision.

1 THE CHAIR: So, sorry, just so I understand, Mr. Lopehandia,
2 so, so this document we're looking at is the
3 application for the appeal setting out the grounds
4 for the appeal? Is that, is that what --

5 THE WITNESS: This document is revealing that the decision of
6 the Court of Appeals is flawed, okay?

7 THE CHAIR: I'm sorry, but --

8 THE WITNESS: Did not succeed.

9 THE CHAIR: Just so I understand, --

10 THE WITNESS: Yes.

11 THE CHAIR: Just so I understand --

12 THE WITNESS: Yes, and --

13 THE CHAIR: Sorry, just so I understand what it is. So, this
14 is the application that was made for the appeal
15 outlining the various grounds for the appeal?

16 THE WITNESS: And that would be in the case of C-1912-2001
17 where you were told that it was ended in 2010.
18 But here we're in 2013 and still in Court of
19 Appeals. So, it did not end in 2010.

20 THE CHAIR: Okay.

21 THE WITNESS: So, let us keep going --

22 THE CHAIR: So -- but it is the application --

23 THE WITNESS: Yes, madam. Correct.

24 THE CHAIR: Okay, okay.

25 THE WITNESS: All right. So, Master Justice at this endeavor

1 was Ana Gloria Chevesich. And when she finishes
2 this decision, after years, saying, "absolutely,
3 Unda Llanos does not know Barrick," she ascends
4 six months later to Supreme Court, and she is the
5 relator, the person, the judge that writes the
6 decision of 719-2011 lower court, and 23178-214 in
7 Supreme Court. So, she was elevated from this
8 decision where she asserted that Unda Llanos does
9 not know Barrick, and in the next decision six
10 months later, she finds Unda Llanos being the
11 rightful employee of Barrick since 1995 to date.

12 For me, it's impossible, and I cannot believe
13 that a magistrate would forget in a prominent case
14 that she found a guy that didn't know him, and six
15 months later, she find that he is the rightful
16 employee.

17 But the situation is, Madam Justice, in
18 Chile, like in Canada, you can only judge upon the
19 things that they get presented before you. So, if
20 I was threatened to death, like I was for 10
21 years, and I wasn't able to go and defend in
22 Chile, they could come to the courts and say
23 anything they want and they won, but it doesn't
24 mean that they have the truth. Because in order
25 to win, they had to have Unda Llanos as an unknown

1 party to Barrick in C-1912, and as Barrick's
2 employee in Cristóbal case, 719, because I had it
3 -- I forced them to tell the truth, because we
4 found Barrick without title, the titles do not
5 exist. So, how could they be traded in the stock
6 exchange in Canada without titles in the
7 [indiscernible] asset. So, they had to ask Unda
8 Llanos, change the position. But it was so rushed
9 that they did incredible mistakes, your honour.

10 One of the mistakes, Unda Llanos says in 2013
11 at 719-2011, "I am a rightful employee of Barrick
12 and through Minera Nevada SpA," which is the
13 company that trades in the stock exchange today,
14 in Toronto Stock Exchange as Barrick, since 1995.
15 Wow.

16 Madam Justice, in 1994, Barrick Gold
17 Corporation acquire Minera Nevada, and here they
18 call it only Minera Nevada. But I will tell you
19 the true names. Minera Nevada SA is the first
20 corporation that it used to be Lac Minerals of
21 Canada since 1978 until the moment that Barrick
22 acquires in the stock exchange in 1994. So, that
23 particular Minera Nevada SA, okay, it was Lac
24 Minerals, and the owners of that company, would
25 you believe that they are still the owners of

1 Barrick? They are.

2 And so the problem was that, in 1994, Barrick
3 acquires concessions of salts and nitrates. And
4 you heard your witness, that concessions of salts
5 and nitrates, that they are only good for selling
6 salts and nitrates. So, Barrick was selling a
7 false prospectus to the stock exchange between
8 1994 and 2000.

9 When I knew that they had concession of salts
10 and nitrates, I laid the first old metallic
11 mineral concessions over Pascua area, but not just
12 a little dot of a Dalmation dog that they had. I
13 put the whole dog. Okay? And I cover it, because
14 I conscientiously, as a mining executive and a
15 mining knowledgeable man, I separate the grounds
16 that they are going to exploitation, with the
17 grounds that they will go for a metallurgical
18 processing, with the grounds that will be the
19 headquarters for the people, so, that when I blast
20 here, the rocks are not going to come on their
21 heads, unlike the project that Barrick has on the
22 stock exchange that has the facilities on top of
23 their own buddy. So, every time they blow up the
24 minerals, everybody will blow up.

25 So, let us -- in 1994, Lac Minerals sells to

1 Barrick Gold Corporation concessions of salts and
2 nitrates and they go into the markets to still
3 mine, because that's it. You cannot sell gold
4 with concessions of salts and nitrates. That is a
5 fraud in accordance to RCMP breach of section
6 400(1) of the *Criminal Act*, peddling a false
7 prospectus.

8 So, when I met with John Lill of Barrick, he
9 says to me, "Oh, my God, Mr. Lopehandia, what am I
10 going to do to fix this?"

11 THE CHAIR: I think, Mr. Lopehandia, I think we are straying
12 from the --

13 THE WITNESS: No, no, let me go back to --

14 THE CHAIR: -- from the allegations --

15 THE WITNESS: -- to, to this particular thing.

16 THE CHAIR: Okay --

17 THE WITNESS: No, it's this particular thing that --

18 THE CHAIR: -- if you could tie it back --

19 THE WITNESS: Yes, yes --

20 THE CHAIR: -- that would be great.

21 THE WITNESS: I am trying. So, Barrick Gold Corporation has no
22 other option, okay, no other option than say to
23 me, "Mr. Lopehandia, do you have the real first
24 mineral metallic concession in the history of
25 Chile in Pascua?" And I go, "yes." "Okay, give

1 us up your paper and we will do a business. If
2 it's true, we'll do a business." So, I said,
3 "John, here it is," and that's John Lill, John W.
4 Lill, president of Barrick Chile in 1996. And
5 John takes my information and he calls Unda
6 Llanos, "Unda, check if it's true." And Unda
7 Llanos goes, "Yes, it's true. They got the first
8 metallic concession in the history of Chile, and
9 we only have salts and nitrates." So, what does
10 Barrick do? Says, "Unda, one claim on our
11 behalf."

12 And Barrick got a lawyer that they knew and
13 says, "Call Villar, we've got to, we've got to
14 take away this progress from Lopehandia any which
15 way." And they concoct the \$10 contract or \$20
16 contract, 10,000 pesos.

17 So, they call Villar and they said, "Your
18 boss said that you are selling us the areas."
19 Villar says, "Yes, Jorge said that I have to come
20 to sign with Barrick." So, they say, "Okay, here
21 is the contract."

22 Villar signs, and they change the page of the
23 price, and at the price, at the end of the day, it
24 read \$20, and \$20 in the contract that is worth
25 \$70 billion or thereabouts in the stock exchange

1 in the books of Barrick. So, there are -- there
2 is the discrepancy there in the value of the
3 contract. That's why Madam Justice Kokisch, in
4 this particular action, she found it totally
5 wrong. "Unconstitutional" was her word. Okay?

6 But you know that everybody has to defend any
7 which way they can, and they use false testimony
8 against the judge. Okay? So, in the appeals
9 court, they had false testimony running against
10 the judge, false testimony running against the
11 trial itself, saying that Unda is not known to
12 Barrick, is extra parte, okay? So, this
13 particular appeal, I knew already, at that
14 particular time, from my file 791-2011 [sic] that
15 Unda Llanos had revealed to be an employee of
16 Barrick.

17 So, I already knew 2013 that this particular
18 situation that you see here in the Court of
19 Appeals was, not only flawed, but was a fraud, a
20 rampant fraud. So, what did I have to do, your
21 honour? I had to allow both decisions to go to
22 Supreme Court unchallenged. So, that's why
23 counsel, witness, Executive Director, is saying,
24 "Barrick had two victories against Lopehandia and
25 Lopehandia never had victories." Of course, I let

1 him win, so that I can prove that in one court
2 they said that they were a tall giant, and in the
3 other court they said that the same party was a,
4 an African pigmy practically, and they cannot
5 reconcile it, --

6 MR. ZOLNAY: Madam Chair --

7 THE WITNESS: -- and I'm not reconciling this particular action
8 and not reconciling this particular appeal with
9 the particular contract. We have a new Supreme
10 Court-validated decision, your honour, that takes
11 into account everything that is placed forward
12 before you at this hearing, and it also takes into
13 account the evidence that I cannot present, the
14 evidence that is suppressed from Mr. Johnson, the
15 evidence that is available, and it was all taken
16 into account. The story of 20 years of the BC
17 Securities Commission and Barrick together as one
18 party, my counterparts, and my story, and guess
19 what? In the proper jurisdiction, I am a free man
20 and Barrick and the, and staff of the Securities
21 Commission libel me and libel Mr. Johnson.

22 So, what I want to warn here, is that every
23 libel that was found there is being repeated
24 against me in a humiliating manner, and it becomes
25 perjury, and when it becomes perjury, it --

1 THE CHAIR: I think --

2 THE WITNESS: -- will become criminal in Chile.

3 THE CHAIR: Okay. But I think at this point, Mr. Zolnay, I

4 think you had an objection?

5 MR. ZOLNAY: Well, I, I think I'm stating the obvious when I

6 say that my friend is deviating significantly from

7 what is alleged in the notice of hearing, and I

8 don't see the relevance of all this --

9 THE CHAIR: Okay.

10 MR. ZOLNAY: -- testimony, if you want to call it that.

11 The other point I would like to raise, --

12 THE CHAIR: Just one second.

13 MR. ZOLNAY: -- Madam Chair, is with respect to the

14 videotaping.

15 THE CHAIR: Yes.

16 MR. ZOLNAY: I understand there's a gentleman sitting in the

17 hearing room, grey top, white pants, who has his

18 cellphone camera. I just ask him to put it in his

19 pocket.

20 UNIDENTIFIED SPEAKER: If you prove me, I'll leave the room.

21 THE CHAIR: I'm sorry, --

22 MR. ZOLNAY: The camera, the camera, I'm told that the camera

23 is pointing out --

24 THE CHAIR: Oh, out of the pocket?

25 MR. ZOLNAY: If he could just put it in his pocket. Put the --

1 THE CHAIR: Yes, could you please put that in your pocket?

2 UNIDENTIFIED SPEAKER: Your honour, if he proves me, --

3 THE CHAIR: If you could just --

4 UNIDENTIFIED SPEAKER: -- I leave the room. If he proves me.

5 I was texting, you know, my --

6 THE CHAIR: If you could please.

7 UNIDENTIFIED SPEAKER: -- my girlfriend.

8 THE CHAIR: If you could just please, just to avoid any issue.

9 No, I don't need to see the phone, but if you
10 could just put it in, --

11 UNIDENTIFIED SPEAKER: Oh, no, it wasn't in my --

12 THE CHAIR: Can you maybe put it in one of your pants pockets

13 so that there is, there is no issue. Because as

14 -- no, can you please put it in one of your --

15 yes. Or your jacket, that would be great. Thank

16 you.

17 UNIDENTIFIED SPEAKER: Okay.

18 MR. JOHNSON: Madam Chair, I would just like to say to what Mr.

19 Zolnay just said, what is being said by our key

20 witness, the person who knows mining law in Chile,

21 and knows this case better than anyone on this

22 planet, he is bringing out the extreme fraud in

23 this, and Mr. Zolnay might not think it's

24 relevant, because he didn't think that the

25 subpoenas from Chile were relevant. It's going to

1 be demonstrated that they are relevant, and it's
2 not very far off. When the key witness in this
3 whole case, Unda Llanos, changes, changes horses
4 this morning, in a criminal trial, I am going to
5 make a little prediction here, because it happened
6 to Cristóbal, but I'm really wondering how long
7 he's going to live, because he's a big risk now.

8 THE CHAIR: Well, I think actually, Mr. Johnson, --

9 MR. JOHNSON: I know, I know I'm going overboard there. I
10 agree with you.

11 THE CHAIR: No, and I think that we certainly have got all of
12 Mr. Lopehandia's testimony on the record --

13 MR. JOHNSON: Yes.

14 THE CHAIR: -- and that will certainly be -- we will be
15 considering that in our, in our deliberations.
16 But I think that's where --

17 MR. JOHNSON: Thank you.

18 THE WITNESS: Get back to the questions.

19 MR. JOHNSON: Pardon?

20 THE WITNESS: The questions.

21 MR. JOHNSON: Yeah, I'm going to go back to from this morning.

22 THE WITNESS: So, if I may close --

23 THE CHAIR: Just one sec.

24 THE WITNESS: -- from that particular item, Madam Justice?

25 THE CHAIR: Oh, okay. I'm sorry, I thought you were finished.

1 THE WITNESS: So, I want to, I want to close saying that this
2 particular Superior Court of Appeals decision was
3 obtained in fraud to the Chilean court system by
4 the witness that this morning appear in criminal
5 trial, Mr. Héctor Unda Llanos. He pulled the plug
6 on all the story that Barrick has made and that
7 you have heard at this hearing. Mr. Unda Llanos
8 has deposed this morning that he never authorized
9 Barrick to trade with his concessions at the stock
10 exchange. So --

11 THE CHAIR: And I think actually we have your point already,
12 Mr. Lopehandia.

13 THE WITNESS: Yes, and the biggest problem --

14 THE CHAIR: Yes.

15 THE WITNESS: -- that I want to warn is that these criminal
16 charges are being expanded to staff of this
17 particular institution.

18 THE CHAIR: Mr. Lopehandia, --

19 THE WITNESS: And they are being expanded today --

20 THE CHAIR: Mr. Lopehandia, --

21 THE WITNESS: -- because of what was --

22 THE CHAIR: -- I --

23 THE WITNESS: -- said at this hearing.

24 THE CHAIR: Mr. Lopehandia, I think that, really, now we are
25 really far away from the allegations in the notice

1 of hearing.

2 THE WITNESS: Thank you.

3 THE CHAIR: I think you are speculating on the future, so I
4 think we will hold it there.

5 THE WITNESS: Thank you.

6 THE CHAIR: And do you have any other questions for Mr.
7 Lopehandia?

8 MR. JOHNSON: Yes, Madam Chair.

9 12 Q I'm going to bring up my -- I have several, not,
10 not a large number, but I want to bring one thing
11 up further that was briefly discussed this
12 morning, brought up by me.

13 But, Mr. Lopehandia, before the hearing was
14 suspended on February 2nd, you heard counsel for
15 the Executive Director refer to your tendered
16 Supreme Court of Chile validated international
17 subpoena to Mr. Romolo Di Fonzo and Mr. Roy Leon.
18 You, you heard it said that the subpoenas were
19 irrelevant. In your opinion, on the Chile
20 subpoena case, was it relevant to the BC hearing?

21 A I thank you for your question. If I may, Madam
22 Justice, --

23 THE CHAIR: I think, actually, again, I think what we have got
24 here, as I explained at the beginning of the
25 hearing, it sounds as though that was part of the

1 testimony, and what you are doing, which is, you
2 are entitled to do, is, is disagree with the
3 interpretation that the panel should put on those
4 subpoenas and --

5 THE WITNESS: Well, --

6 THE CHAIR: -- and the statements --

7 THE WITNESS: Well, actually --

8 THE CHAIR: Mr. Lopehandia, let me finish.

9 -- and the statements made by the Executive
10 Director's witness.

11 Now, as I say, as I said in the, earlier in
12 the hearing, you are free to disagree and make
13 your submissions on that point. But as I have
14 said, this isn't the point when we're -- you are
15 making argument or submissions on how we should
16 view evidence that was presented at the hearing,
17 and the testimony of the Commission investigator
18 would be considered evidence, and we are very open
19 to any submissions you may want to make in your
20 arguments that you give to us after the fact. But
21 this isn't the time to be arguing about how we
22 should be looking at that evidence.

23 THE WITNESS: Thank you, madam.

24 MR. JOHNSON: Fine. That's fine, thank you.

25 13 Q Okay, Mr. Lopehandia, what prompted you to change

1 your mind to become a witness for MSX back in
2 January when you were asked what your involvement
3 was to be?

4 A Thank you, Mr. Johnson, for the question, and
5 Madam Justice. I wasn't planning to come here to,
6 to this court, because I enjoy a validated Supreme
7 Court decision against BC Securities Commission,
8 Executive Director and against staff, and that
9 Supreme Court decision was obtained after I went
10 through the three levels of justice in the proper
11 jurisdiction that I contracted with Mr. Johnson.

12 THE CHAIR: I'm sorry, do we have that Supreme Court decision
13 before us?

14 THE WITNESS: The Supreme Court decision actually is the same
15 paper that I believe are before you, that you --

16 THE CHAIR: No --

17 THE WITNESS: -- said that I could give --

18 THE CHAIR: -- I'm sorry --

19 THE WITNESS: -- it to Mr. Zolnay.

20 THE CHAIR: No, no, I'm sorry. If it is part of the material
21 that Mountainstar, did you submit this to --

22 MR. JOHNSON: Well, I did not --

23 THE CHAIR: -- or is this the one we talked about before that's
24 in English --

25 MR. JOHNSON: I did not --

1 THE WITNESS: Madam Justice --

2 THE CHAIR: Okay. All right. I just wanted to --

3 THE WITNESS: This particular material, this particular
4 material --

5 THE CHAIR: Yes.

6 THE WITNESS: -- was delivered by me in person here, and it was
7 also delivered by me thinking that I would have
8 the same privilege than the witness, Mr. Ossa,
9 that he deliver an affidavit, exhibits and I will
10 say. So, thinking that I had the same privilege,
11 I did deliver the exhibits, my I will say, the
12 Supreme Court decision, everything that was
13 required, and is properly translated by the
14 Ministry of Foreign Affairs of Chile, and
15 accepted, the translation, by the Canadian
16 embassy, by Global Affairs Canada, and every
17 Canadian institution did accept that translation.

18 THE CHAIR: Actually, I think, Mr. Lopehandia, I think we are
19 going over the same ground that we went --

20 THE WITNESS: Exactly. So, what I'm saying --

21 THE CHAIR: -- over. I wonder --

22 THE WITNESS: -- you asked me if I had delivered --

23 MADAM REPORTER: One at a time --

24 THE CHAIR: Sorry, wait, wait, wait until I'm finished and then
25 say.

1 I think that we did discuss this, I think at
2 least twice this morning, and I explained to you
3 the procedure, and all of the things that have
4 gone on, and I think that that -- I think that
5 avenue of, of discussion has sort of been dealt
6 with. So --

7 THE WITNESS: Yes. So --

8 THE CHAIR: -- I'm not clear on what else --

9 THE WITNESS: -- when Mr. Johnson asked me, then I, I said to
10 him, "Mr. Johnson, it is very difficult to put a
11 case together in two or three weeks and to
12 successfully obtain translation of all the key
13 documents by an accredited translator," okay?
14 It's almost impossible. But there is material
15 that I submitted, right or wrong, erroneously or
16 goodwill, that I estimated that it would be
17 accepted by my friend, Mr. Zolnay, and by the
18 honourable panel, which is my I will say, my
19 exhibits, my affidavit, as a witness. I thought
20 that I may enjoy the same right than --

21 THE CHAIR: I'm sorry, Mr. Lopehandia, but we are just going
22 over --

23 THE WITNESS: Yeah, yeah. So --

24 THE CHAIR: -- the same ground --

25 THE WITNESS: -- I did it.

1 THE CHAIR: -- over and over again. So --

2 THE WITNESS: So, in order for me to be able to speak the truth
3 and nothing but the truth, so help me God, in
4 order for me to be able to say what my friend
5 said, and the witness said, without me erring in
6 one comma, I'm going to have, since I'm not having
7 the benefit of my exhibit, I'm not having the
8 benefit of my evidence, I have to have the benefit
9 of something so that I'm accurate.

10 So, I have the transcripts of the hearing,
11 the previous hearing, that I have marked them and
12 highlighted and the points of interest so I can
13 help your honour to arrive to the truth, and I
14 have taken careful analysis of the case. Because,
15 remember, that Mr. Zolnay told you, Madam Justice,
16 I comprised the case for you in four point
17 scenario. The four points in the left are MSX --

18 THE CHAIR: Sorry, again, --

19 THE WITNESS: -- and the four points on the right the Executive
20 Director.

21 THE CHAIR: Sorry, Mr. Lopehandia, --

22 THE WITNESS: Yes.

23 THE CHAIR: -- I think we keep going around and around on the
24 same point here. As I have said, again, you are
25 talking about the comments you have on the

1 transcript would be, which would be the testimony
2 of the Executive Director's witness from when we
3 were -- before this hearing was adjourned, to
4 allow you, to allow Mountainstar time to prepare
5 documents.

6 Now, again, you are -- Mountainstar, not you,
7 Mountainstar and Mr. Johnson, and you can
8 certainly help them do this, can certainly give
9 your views on how we should look at the testimony
10 of the investigator, and the evidence produced by
11 the Executive Directors, but now is not the time
12 for you to do that.

13 THE WITNESS: Oh, okay.

14 THE CHAIR: We are simply looking at putting the evidence
15 before us. Then both parties go away and give
16 their views on how we should view that evidence.

17 And I will just also point out, you said
18 there were -- that two to three weeks was not a
19 sufficient time to prepare a case. I will point
20 out, Mr. Johnson, it has certainly been a lot
21 longer than two or three weeks. The hearing
22 management meeting was in early December and, of
23 course, the set date hearing was sometime before
24 that. So, actually, there's been quite a long
25 time to allow Mountainstar and you to prepare this

1 case.

2 THE WITNESS: Hm-hmm. You are quite correct, Madam Justice.
3 The time that you afforded, it is a good time to
4 Mr. Johnson. What, what happened is that truly,
5 truly, truly, okay, Chilean counsel, and for MSX,
6 and for me, okay, they indicated to both of us,
7 Mr. Lopehandia and Mr. Johnson, the Securities
8 Commission, they are being charged in Chile, and
9 if they were to ask you, they would taint the
10 witness testimony --

11 THE CHAIR: Okay --

12 THE WITNESS: -- meaning Mr. Brent Johnson is my witness in
13 Chile, and his testimony is being requested at
14 this court in advance by the very people who are
15 charged. Now, under international law, --

16 THE CHAIR: Mr. Lopehandia --

17 THE WITNESS: -- that's not --

18 THE CHAIR: -- no, I'm sorry, --

19 THE WITNESS: -- permitted --

20 THE CHAIR: I'm sorry, I've already -- as I say, we keep going
21 around and around and around. I think the
22 question really is, I think we have all your
23 points and you have presented them very ably, your
24 views on the unfolding of the legislation and the
25 litigation that has been commenced in Chile

1 against the Commission, and I think we have your
2 testimony on that point.

3 But at this point, rather than, again,
4 presenting your arguments and, you know, giving
5 your views on how we should be looking at all
6 this, that's going to happen after this hearing is
7 concluded. So, what we really need now, is there
8 any other evidence that you, Mr. Johnson, would
9 like to put before us --

10 THE WITNESS: Yes.

11 THE CHAIR: -- on either Mountainstar or your behalf?

12 THE WITNESS: Yes, you want to put forward the Supreme Court
13 decision, right?

14 MR. JOHNSON: That's not translated, so --

15 THE WITNESS: It is translated by the Ministry of Foreign
16 Affairs.

17 MR. JOHNSON: Yes, but we, we haven't submitted it by the 5th
18 of March. So, I, I just -- I would like to make
19 one correction, honourable panel, is you referred
20 to litigation commenced in Chile. Litigation in
21 Chile is complete.

22 THE CHAIR: Okay.

23 MR. JOHNSON: Criminal trials are in motion now, and some of
24 them are complete. So -- but I don't -- I have
25 not got that --

1 THE WITNESS: Canadian embassy --

2 THE CHAIR: Just --

3 MR. JOHNSON: I surely wish they did, but --

4 THE CHAIR: No, and Mr. Johnson, obviously, in your submissions
5 that you make on your behalf and Mountainstar, you
6 make submissions on how these Chilean proceedings
7 are relevant to what's going on here, and then of
8 course we will fully consider those arguments.

9 THE WITNESS: Madam Justice, if I may, true, true, true, there
10 is an error in the part of this side to deliver
11 the evidence that exists properly. So, I, I, I
12 want to pick up, in your words, and say the
13 following.

14 Mr. Johnson and counsel have had the properly
15 translated Supreme Court decision in English by
16 the Ministry of Foreign Affairs, and accepted by
17 the Canadian embassy in Chile to process. Okay?
18 That was delivered on time to counsel, but it was
19 delivered by me only. Mr. Johnson has it at a
20 click of a mouse, and he has it in English, to be
21 able to be --

22 THE CHAIR: Mr. --

23 THE WITNESS: -- delivered, but he's out of time.

24 THE CHAIR: Mr., Mr. Lopehandia, we have -- I think the first
25 deadline was set, and it was made very clear,

1 Mr. Johnson and I, I think I have your
2 acknowledgement in the transcripts, that you
3 understood --

4 MR. JOHNSON: You do, yes.

5 THE CHAIR: -- exactly, that when the documents, the first
6 deadline was December the 29th, which passed; and
7 we extended it to the beginning of the hearing;
8 and then new deadlines were set during the course
9 of the hearing; and then ultimately, for the
10 benefit of Mountainstar and Mr. Johnson, we
11 adjourned the hearing for, what, five or six
12 weeks, to give you the time --

13 MR. JOHNSON: Yes.

14 THE CHAIR: -- to get translations, because at that point, we
15 said -- you said you had documents in Spanish that
16 you wanted us to consider, and we adjourned for a
17 lengthy period of time to allow you to go and get
18 the necessary translations of all of the documents
19 you regarded as critical in this case.

20 But I did set a deadline and told you that
21 that was the final extension, because we had
22 extended any number of times, and you acknowledged
23 it was the final extension, and I said, anything
24 beyond that point, any existing documents that
25 aren't received by us, that you submit by that

1 date, will not be admitted into evidence, and you
2 told me you understood that.

3 Now, it's clear that this Supreme Court
4 document, this decision, because we have heard
5 mention of it many times, it has clearly been in
6 existence for some, for some time. And I, as I
7 said to you when we extended yet again the hard-
8 and-fast date for another four or five days, that
9 that had to be it. And we, we simply -- you've
10 had, Mountainstar and you have had ample
11 opportunity to present this document that you say
12 is key to your case, and you have not. So, I
13 think you have had plenty of warning. We have
14 bent over backwards trying to give you the
15 opportunity and the time that you need to prepare,
16 and I think the time has passed.

17 MR. JOHNSON: I, I agree with all what you have said. The only
18 one point I say is that, it was stated by Mr.
19 Zolnay on February 2nd, that, that the Canadian
20 embassy translation of the decision was not
21 adequate. It's adequate for everybody else but
22 it's, you know, it's not adequate for the hearing
23 here. So, that's my only disagreement. So --

24 MR. ZOLNAY: Madam Justice, if there were a Supreme Court of
25 Chile decision that was relevant, I would have

1 provided it to the panel, and no such decision
2 exists. There is no subpoena. My friend keeps
3 referring to the subpoenas. They do not exist, to
4 the best of my knowledge. So, I just want to put
5 that on the record, that there is no -- this
6 mystery Supreme Court decision, the reason why my
7 friend isn't producing it is because it does not
8 exist.

9 THE CHAIR: Be that as it may, Mr. Zolnay, --

10 MR. JOHNSON: I, I must add to that, that that is the most
11 ludicrous thing I have heard in days --

12 THE CHAIR: Be that --

13 MR. JOHNSON: -- by --

14 THE CHAIR: -- as it may, --

15 MR. JOHNSON: Yes. I, I understand.

16 THE CHAIR: -- we really have reached a point --

17 THE WITNESS: Madam Justice --

18 THE CHAIR: No, I'm sorry, Mr. Lopehandia. We, we've really
19 done --

20 MR. JOHNSON: Okay. Let's --

21 THE CHAIR: -- almost everything we can, so.

22 MR. JOHNSON: Let's, let's move on --

23 THE CHAIR: Yes, let's move on. Exactly. Exactly.

24 MR. JOHNSON: -- and I do understand.

25 14 Q Mr. Lopehandia, could you please explain to the

1 panel what your Chilean mining law opinion is
2 regarding the charges made by the Executive
3 Director and staff, and manner in which they were
4 delivered?

5 THE CHAIR: Again, that, that is something you would make
6 submissions on in your case, because, again, you
7 are calling for his opinion on the evidence that
8 has been presented, and again, so that is
9 something that you would deal with in your
10 submissions and we are more than happy to
11 entertain them.

12 MR. JOHNSON: Hm-hmm. Okay.

13 THE CHAIR: Mr. Lopehandia, no, you are the witness. Just...

14 MR. JOHNSON:

15 15 Q Mr. Lopehandia, you witnessed the hearing in the
16 four days we were here previously and received it
17 transcripts. In your own expertise, and given all
18 the documentation you have provided to the
19 Executive Director and staff prior to these
20 hearings which -- was it lawful to call this
21 hearing?

22 THE CHAIR: Again, that's, that's not -- he's not a legal
23 expert, particularly in British Columbia law. So,
24 I don't know if he really has the expertise to
25 give you an answer to that question, Mr. Johnson.

1 THE WITNESS: Okay. If I may --

2 THE CHAIR: No, I'm sorry, Mr. Lopehandia.

3 MR. JOHNSON: Okay.

4 16 Q I think this question, you are qualified to --
5 qualified to answer here is, does this hearing
6 break the laws of Chile which is the jurisdiction
7 under which you and MWR/MSX, which we contracted?

8 A Am I allowed to answer that question, Madam
9 Justice?

10 THE CHAIR: Mr. Zolnay, do you have a --

11 MR. ZOLNAY: I didn't understand the question.

12 THE CHAIR: Okay. I'm not quite sure. Could you please just
13 sort of rephrase that, just so that we're sure we
14 understand it?

15 MR. JOHNSON: Sure.

16 17 Q Does this hearing break the laws of Chile, which
17 Chile is the jurisdiction under which this
18 contract is valid? I might, I might expand
19 further in respect to something that I know
20 factual about BC mining law. When we filed a
21 lawsuit years ago, if, if you are wanting a
22 property back, and this is apparently standard
23 throughout the world, but you -- and say the
24 property is in Washington State, you file that
25 lawsuit in Washington State where the property is,

1 because the legal people there, the judges, et
2 cetera, they know the property laws of Washington
3 State better than anybody else on the planet, and
4 so that, that's what I'm getting at regarding --

5 THE CHAIR: I guess the only issue here, Mr. Johnson, this puts
6 before us, is actually not a question of Chilean
7 mining law. What it really is is the requirement
8 of BC securities law that, you know, accurate
9 disclosure be provided in public filings about the
10 property, in this case, the properties owned by
11 the company. So that actually is a matter of BC
12 laws. It's -- the allegations are brought under
13 the --

14 THE WITNESS: So, ask me if appropriate disclosures were --

15 THE CHAIR: Sorry, one sec --

16 THE WITNESS: Ask me about disclosures --

17 THE CHAIR: Sorry, I --

18 MR. JOHNSON: I certainly will.

19 18 Q I, I understand your statement, and, and did,
20 did --

21 THE CHAIR: Okay, sorry, so just before you go there, because
22 Mr. Zolnay, did you have -- you started to -- you,
23 at this point, you asked if you -- you asked him
24 to repeat the question, and you're okay then with
25 the --

1 MR. ZOLNAY: I think my --

2 THE CHAIR: -- continuing?

3 MR. ZOLNAY: I thought my friend was withdrawing that question.

4 Am I wrong about that? I thought you were.

5 MR. JOHNSON: No, I'm, I'm asking -- I'm going to ask a

6 different question. It's not, it's not --

7 THE CHAIR: Okay. All right.

8 MR. JOHNSON: This question, you know, was, did it break the

9 laws, this hearing break the laws of Chile. I

10 already know the answer to that, but we won't --

11 we're not going to ask that question. I, I have

12 just derailed slightly.

13 19 Q Did, did -- oh, did Mountainstar, Mountain-West,

14 as we were known in 2011, prior to 2011, did we

15 falsely disclose in any of our reports on SEDAR

16 news releases or to the commission?

17 A Thank you for the question --

18 MR. ZOLNAY: I do object to that question, Madam Chair.

19 MR. JOHNSON: Pardon?

20 MR. ZOLNAY: I do object to that question.

21 THE CHAIR: Let Mr. Zolnay have -- okay, go ahead, Mr. Zolnay.

22 MR. ZOLNAY: That's ultimately the issue that the panel will

23 have to decide. And again, if my friend wants to

24 make arguments about whether the allegations have

25 been proven or not, that's something that he

1 should do in his closing submissions. It's not a
2 matter for Mr. Lopehandia to provide opinion
3 evidence about.

4 THE CHAIR: That -- Mr. Johnson, I agree with Mr. Zolnay. That
5 is ultimately, the question you asked, is
6 ultimately the decision that we have to make,
7 considering all of the other things.

8 MR. JOHNSON: Yes.

9 THE CHAIR: And that's our, our issue to deal with.

10 MR. JOHNSON: Okay. Thank you, Madam Chair.

11 20 Q We, we -- a short statement. We heard during the
12 hearing a number of legal errors against
13 Mountainstar and several of the people, including
14 myself, including Mr. Juan Guillermo Torres.
15 Question. I just want to make sure it's on two
16 pages. It, it bothers me greatly to know the fact
17 that your brother, Cristóbal, was never present at
18 the Supreme Court of Chile to defend his --

19 THE CHAIR: I'm sorry, Mr. Johnson --

20 MR. JOHNSON:

21 21 Q -- and this goes to case C-719-2011. It's
22 relative to that. That Cristóbal was never
23 present at the Supreme Court of Chile to defend
24 his Vallenar case, as was alleged by the Executive
25 Director, the counsels and the expert at Chilean

1 law witness, which obviously was Mr. Ossa. Could
2 you please explain to the panel why he was not
3 there? Which I know that that's been answered
4 today already.

5 THE CHAIR: I think that has been answered today. And Mr., Mr.
6 Lopehandia did explain that, and we do have his
7 answer on the record. So, if we could perhaps --

8 MR. JOHNSON: Yes. Fine.

9 22 Q Mr. Lopehandia, Mr. Zolnay did a condensed, a
10 condensing of the case in a booklet whereby he
11 placed the four main points of the Executive
12 Director with an applicable comment made by Mr.
13 Zolnay, for and on behalf of the Executive
14 Director and BCSC staff, countering Mountainstar's
15 published facts of record. I noticed that you
16 marked the official transcripts of the depositions
17 of Mr. Roy Leon, counsels, and the BCSC witness
18 depositions with coloured stickers. Please tell
19 the honorable panel why each sticker is present
20 and do you know --

21 THE CHAIR: I'm afraid, Mr. Johnson, we have already dealt with
22 that and --

23 MR. JOHNSON: Yes.

24 THE CHAIR: Because I think we've dealt with it twice actually.

25 MR. JOHNSON: Yes, we have dealt with a lot of things --

1 THE CHAIR: Yes, it has been dealt with a lot of times --

2 MR. JOHNSON: -- here or there and --

3 THE CHAIR: -- and as I've said several times before, if any,
4 any views, your submissions you want to make on
5 that, the testimony by the Commission investigator
6 or the other evidence, please, please feel free to
7 make it, but it does --

8 THE WITNESS: But when can --

9 THE CHAIR: -- in your written submissions.

10 THE WITNESS: When can that be submitted --

11 THE CHAIR: Well, when we get to the end of this phase, I will
12 explain.

13 MR. JOHNSON: Okay, that, that does appear at -- other than --
14 one further question at the moment.

15 23 Q In respect to the four charges, Mr. Lopehandia,
16 could you please explain --

17 THE CHAIR: I'm sorry, just, sorry, which four charges are
18 you --

19 MR. JOHNSON: That, that, that the Executive Director laid
20 out --

21 THE CHAIR: Oh, the one in the outline?

22 MR. JOHNSON: -- against me and the company.

23 THE WITNESS: Yes.

24 THE CHAIR: Okay. Yes?

25 MR. JOHNSON:

1 24 Q Yes. Could you, Mr. Lopehandia, explain them on a
2 singular basis what --

3 THE CHAIR: Well, no, again, I think what you are doing is
4 asking for Mr. Lopehandia's opinion on those
5 charges, and that's really, that's our -- that is
6 our, the decision for the panel to make. We look
7 at those charges. We consider all the evidence,
8 you know, including Mr. Lopehandia's, Mr.
9 Lopehandia's testimony and everything else. So,
10 it's not a matter for, for Mr. Lopehandia's
11 opinion.

12 He's -- presumably he -- what he should be
13 doing is testifying as to specific facts and
14 evidence that we would take into consideration,
15 and his opinion is not part of, part of that.

16 THE WITNESS: The facts. Ask me the facts.

17 MR. JOHNSON:

18 25 Q The, the one thing was discussed last -- a
19 question that was asked of Mr. Roy Leon, and it
20 was responded to by Mr. Ossa after, was regarding
21 the Tesoros claims. We have heard lots about Mr.
22 Unda Llanos today. And when the claims are, are
23 listed and, and recorded, and in the margin it has
24 somebody else's name, in the Tesoros claims, there
25 was a different name in the margin, and, and that

1 name was Mr. Jorge Lopehandia has the litigious
2 rights. Can you please explain, because -- I
3 won't say that, because that's my opinion -- could
4 you please explain what that means?

5 THE WITNESS: May I?

6 MR. ZOLNAY: It sounds like opinion to me, Madam Chair. It
7 sounds like opinion on a matter of Chilean law,
8 which we have already heard evidence about from a
9 properly qualified expert, and on that basis, I do
10 object to Mr. Lopehandia providing his
11 interpretation of, of these documents.

12 THE WITNESS: Your honour, if I may.

13 THE CHAIR: We will allow Mr. Lopehandia to give his, his
14 opinion on this. Although, we will -- of course,
15 the weight we will attribute to it, because you
16 have not been qualified as an expert in Chilean
17 law the way that Mr. Ossa was; and the relevance,
18 of course, we will consider subsequently.

19 THE WITNESS: I thank you, Madam Justice. And before I
20 initiate my presentation, I want to make a
21 preamble. I do accept that my friend counsel
22 feels Mr. Ossa as an expert in, in --

23 THE CHAIR: No, I'm sorry, you cannot give us your opinion --

24 THE WITNESS: No, I'm not giving opinion. I'm --

25 THE CHAIR: -- of his expertise. We, we --

1 THE WITNESS: I am accepting --

2 THE CHAIR: We, we -- okay --

3 THE WITNESS: I'm accepting.

4 THE CHAIR: We are more than happy, --

5 THE WITNESS: Yes.

6 THE CHAIR: -- if you would now just proceed though with

7 your --

8 THE WITNESS: You see, I'm accepting that Mr. Ossa presented,

9 Mr. Felipe Ossa, as an expert witness. Okay? I'm

10 accepting that he's an expert witness in Chilean

11 civil law, and --

12 THE CHAIR: Mr. Lopehandia, you know, I'm sorry, you, you

13 cannot --- this is not the time to be giving your

14 opinion on Mr. Lopehandia's, sorry, Mr. Ossa's

15 qualifications. We said to you that we are, and

16 we are giving you a lot of latitude here, --

17 THE WITNESS: Yeah.

18 THE CHAIR: -- that you are free at this particular point to

19 tell us what you think that those notations should

20 be. So, please, that's what you, rather than

21 giving us your opinion on Mr. Ossa --

22 THE WITNESS: Okay. So then, here is the, the case that was

23 resumed in, in, in the four points by Executive

24 Director. In the left column is what --

25 THE CHAIR: No, Mr. Lopehandia, this is maybe the sixth time

1 you have tried to introduce that document --

2 THE WITNESS: I am not introducing.

3 THE CHAIR: All right. Then please --

4 THE WITNESS: I am trying to speak about the facts.

5 THE CHAIR: -- please don't refer to it, because we have
6 already made a decision.

7 THE WITNESS: Okay. Thank you.

8 THE CHAIR: Now, what Mr. Johnson asked you to do, was simply
9 to give your view on what the handwritten
10 notations in the columns of those documents are.

11 THE WITNESS: All right.

12 THE CHAIR: So, if you could please -- that's what Mr. Johnson
13 asked you. So, if you could please give your
14 answer on that.

15 THE WITNESS: There is, there is a law in Chile that affects
16 the mining title in the centre, and when that law
17 is taken into account at a court of law and there
18 is an order, an injunction can be placed against
19 the title, a mining title, and the nature of the
20 injunction is controlled by the civil code charges
21 against the particular title. The injunction
22 against the title of Tesoros went in place in the
23 year 2001, and it went into place and it got
24 accepted at a court of law because I had a case.
25 Simple as that. I had a case and I proved that

1 Unda Llanos was, effectively, an employee of
2 Barrick, and that he had filed at trial
3 C-1912-2001 that he wasn't, and because of that, I
4 did deserve an injunction. And that injunction, I
5 have held it since 2001 until today, until January
6 the 18th, as you heard that they lifted it up.

7 So, what the injunction does, it prevents the
8 owner in the middle from effecting any act or
9 contract or valid commercial transaction or
10 operation, like your witness said, with that
11 particular title. In other words, Unda Llanos had
12 no business, or Barrick had no business to have
13 Tesoros in the stock exchange. Barrick has no
14 business at putting Tesoros in Pascua-Lama
15 protocol. By national treaty, that I brought it
16 down for fraud, and, and I sue the government of
17 Chile, and I won, and they have dozens of the best
18 lawyers in Chile.

19 THE CHAIR: I think we're getting beyond the immediate --

20 THE WITNESS: Yeah, but we are talking about these --

21 THE CHAIR: -- dynamics of --

22 THE WITNESS: -- particular string of the thing.

23 THE CHAIR: Yes.

24 THE WITNESS: So, let us start with the point number 1. The
25 Executive Director does --

1 THE CHAIR: No, no, no, no.

2 THE WITNESS: Amarillo Sur --

3 THE CHAIR: No, the question was, and I think you have given
4 your view on that, that it was an injunction, it
5 was lifted, and the impact of the injunction which
6 stopped the parties from dealing with it. But I
7 think that was --

8 THE WITNESS: But it goes --

9 THE CHAIR: -- the question that you answered --

10 THE WITNESS: -- it goes -- yeah, yeah. But that annotation,
11 your honour, it not only went in the Tesoros
12 title. It also went in the Amarillo Sur. That's
13 what I'm trying to explain. Because what the, the
14 injunction is, is over the UTM, and UTM is the
15 actual coordinates, geographical coordinates. So,
16 what is impounded and seized are the geographical
17 coordinates where those mining concessions are,
18 okay? So, basically, that is what prevented
19 Barrick from opening Pascua Lama. Not the fact
20 that there was salt and nitrates or, or not the
21 fact that there was in Argentina some glaciers, or
22 that they invented Lama, another project that has
23 no metals. No. It was the fact that they were
24 prevented in title by that annotation in the
25 margin, from 2001, not to touch the property, not

1 to contract with the property, not to include the
2 property in any transaction or any act or
3 contract. And they did. They filed it in
4 exchange, they traded with it, they sold mineral
5 forward, they created Pascua Lama protocol. Is
6 all null and void.

7 So, that notation went in 2001 in the name of
8 Villar. It was transferred, as Mr. Johnson called
9 it, why did it go in 2007 in my name? Because I'm
10 the rightful owner.

11 And at 2006 came the judicial decision of
12 Madam Kokisch and I get brother, Rodolfo Villar,
13 transfer that injunction to me because I'm going
14 to go in Canada, and let 'em know, and I did. But
15 the doors were shut on me. Slammed. Bang, bang.

16 THE CHAIR: Okay. Now, we're --

17 THE WITNESS: And so --

18 THE CHAIR: -- really --

19 THE WITNESS: -- I couldn't --

20 THE CHAIR: -- Mr. Lopehandia --

21 THE WITNESS: -- I couldn't deliver --

22 THE CHAIR: -- now we hare very far away.

23 THE WITNESS: Let's go to the notation --

24 THE CHAIR: No, no.

25 THE WITNESS: -- of the margin --

1 THE CHAIR: No. I think you --

2 THE WITNESS: That notation in the margin is important.

3 THE CHAIR: I think we have already covered that.

4 THE WITNESS: It's important.

5 THE CHAIR: I know, and --

6 THE WITNESS: I presented the annotation of the margin in 2007
7 in my name. My name. In 2007, I already held the
8 Tesoros title. Not Unda Llanos. Me. And in
9 2007, I went in and contracted with the company, a
10 public company called Infinex Ventures and, and
11 the Securities Commission went and fought it, and
12 we were out of there as fast as MWR was out of
13 TSX, and as fast as MSX is now being kicked out of
14 BC Securities Commission again. Nobody believed
15 it. Okay? There are notation in the margin. In
16 2007, it said clearly, this title, Tesoros, they
17 are under the legal control of the person on the
18 edge of the margin. Otherwise, why would there be
19 an injunction if you cannot effect the title in
20 the middle?

21 THE CHAIR: Okay. So, we have your answer. That's --

22 THE WITNESS: So, the answer is, Mr. Johnson, the annotation in
23 the margin is what prevented Pascua Lama from
24 opening, --

25 MR. JOHNSON:

1 26 Q I know.

2 A -- what prevented Barrick from having a straight-
3 forward project in the stock exchange, and that is
4 what created the criminality of violation of
5 section 400(1) of the Criminal Code of Canada for
6 Barrick Gold Corporation and anybody who helped
7 them in Canada.

8 MR. JOHNSON: I have one comment and one question and, and
9 suggestion, that we continue with our questioning
10 tomorrow.

11 THE CHAIR: Unless -- we still have another --

12 MR. JOHNSON: Yeah.

13 THE CHAIR: -- hour and a half in the day, so I would like to
14 use the full time.

15 THE WITNESS: Yes. Carry on, carry on.

16 MR. JOHNSON: Madam Chair, I don't have any problem with that.

17 THE CHAIR: Okay.

18 MR. JOHNSON: Maybe if we can have a slight --

19 THE CHAIR: Would you like a break now?

20 MR. JOHNSON: -- break, and then so we can --

21 THE CHAIR: All right.

22 MR. JOHNSON: Because my questions, a lot of them were, were
23 denied, because of the nature of them obviously,
24 and so, so I -- we need to huddle again.

25 THE CHAIR: Okay. All right. Well then, why don't we take a

1 15-minute break and we will resume at 10 after
2 3:00.

3 MR. JOHNSON: Thank you.

4 (PROCEEDINGS ADJOURNED AT 2:55 P.M.)

5 (PROCEEDINGS RESUMED AT 3:12 P.M.)

6 HEARING OFFICER: Please rise.

7 THE CHAIR: Mr. Johnson.

8 MR. JOHNSON: Thank you.

9 27 Q Mr. Lopehandia, Mountainstar is facing charges --

10 THE CHAIR: Sorry, before you start, I remind you, you remain
11 under oath, Mr. Lopehandia.

12 THE WITNESS: Thank you, Madam.

13 THE CHAIR: Sorry. Go ahead.

14 MR. JOHNSON:

15 28 Q Mountainstar is facing charges of producing false
16 public releases between 2011 and 2015.

17 Mountainstar published mainly information provided
18 to our company by Mountainstar lawyer Juan
19 Guillermo Torres. Question: Were all our PRs a
20 product of previous judicial decisions in Chile?

21 THE CHAIR: I think that actually, again, that is something
22 that the panel is going to be looking at the
23 evidence to see whether there is evidence to
24 support, you know, your defence that these --
25 whatever your defence may be. So, I don't know --

1 I suppose, Mr. Lopehandia, you could answer
2 whether it was based on certain --

3 THE WITNESS: Thank you, Madam Justice --

4 THE CHAIR: -- but that's just a factual --

5 THE WITNESS: Yes --

6 THE CHAIR: That's a factual --

7 THE WITNESS: I understand.

8 THE CHAIR: Okay.

9 THE WITNESS: The truth of the matter is, Madam Justice, that
10 these processes have been very dynamic and it has
11 been followed in a number of courts, additional to
12 the court trials that you have heard at this
13 hearing. What you have heard at this hearing is
14 about 20, 25 percent of the actual truth, legally
15 speaking. There are other trials that they were
16 mentioned. There are other judicial decisions
17 that they're extremely relevant to this hearing
18 and they have not even brought to the attention;
19 and there is the most important decision, which is
20 that the BC Securities Commission, Executive
21 Director and the staff, with Barrick Gold
22 Corporation, they had an opportunity to present
23 everything that they did here at the hearing in
24 Chile, in the proper jurisdiction --

25 THE CHAIR: I'm sorry, but I think the question was --

1 THE WITNESS: -- and --

2 THE CHAIR: -- whether, Mr. Lopehandia -- could you please
3 repeat the question, Mr. Johnson? I think it was,
4 --

5 MR. JOHNSON: Yes.

6 THE CHAIR: I think it was a little different than what Mr.
7 Lopehandia is answering.

8 MR. JOHNSON:

9 29 Q Were all our public news releases a product of
10 previous judicial decisions in Chile?

11 THE CHAIR: Okay.

12 THE WITNESS: And the answer is "yes."

13 THE CHAIR: Okay.

14 THE WITNESS: And so that's what I'm trying to get at.

15 THE CHAIR: All right.

16 THE WITNESS: There are so many complicated different trials
17 that, on the surface, it would appear to --and I'm
18 not blaming for that error my friend's counsels,
19 it appears, on surface, that the case is
20 different, but it is not. It appears in surface
21 that whatever Barrick said and, and prejudiced my
22 case and Mr. Johnson, has been taken as absolute
23 truth, and unfortunately for the BC Securities
24 Commission Executive Director, for the BC
25 Securities Commission staff, the 20 years that

1 they fought against me and the positions that they
2 gave at this hearing, they only make my case at
3 C-1912-2001 in spades. They give it to me. In
4 fact, I wouldn't be --

5 THE CHAIR: Okay. I think --

6 THE WITNESS: -- able to pay somebody to --

7 THE CHAIR: I think we have answered, --

8 THE WITNESS: Yes.

9 THE CHAIR: -- I think we've answers Mr. Johnson's question.

10 THE WITNESS: So, all the press releases were true.

11 THE CHAIR: Okay. That's, that's his, that's his --

12 MR. JOHNSON:

13 30 Q Mr. Lopehandia, could you explain to the panel the
14 relationship of the mining properties Amarillos 1
15 to 3,000 and Amarillo Sur, Amarillos Sur?

16 A Thank you, Mr. Johnson, and Madam, if I may.
17 Amarillos 1 to 3,000 is at the centre of this
18 hearing with number 1, in, in the case, comprised
19 case presented by Executive Director and very well
20 laid out by counsel Zolnay. Amarillos 1 to 3,000
21 are the properties that they were acquired by
22 Barrick Gold Corporation from Lac Minerals in
23 1994, and those properties, they were a fraud.
24 They are mining concessions of salts and nitrates,
25 but they do not allow Barrick Gold Corporation to

1 have been trade in gold or selling gold in the
2 stock exchange since 1994 until today under those
3 concessions. It's even worse, Amarillos 1 to
4 3,000, they were unlawfully and illegally included
5 in the binational Pascua-Lama protocol. And it
6 was that, the reason why I defeated the Chilean
7 government, because, under no circumstance, can a
8 company produce, to back up its gold prospectus in
9 Canada, a concession of salts and nitrates.
10 That's against the law. That is, in fact, a
11 criminal breach of section 400(1) of the *Criminal*
12 *Act of Canada* peddling a false prospectus. And
13 that is all that Lac Minerals of Australia sold to
14 Barrick Gold Corporation in 1994 as the Mina
15 Pascua prospectus that traded in criminal activity
16 in Canada at the Toronto Stock Exchange, TSE, when
17 I presented my first complaint, and the Toronto
18 Stock Exchange, TSE, disappeared with my
19 complainant.

20 MR. ZOLNAY: Ma'am Chair, I object. This is getting out of
21 hand, and my friend is making a lot of allegations
22 against a public company that isn't even here
23 today to defend itself, and it's completely
24 irrelevant to the allegations that were made
25 against Mountainstar, and it's not responsive to

1 the question that was asked either.

2 THE CHAIR: Mr. Lopehandia, I think that a lot of what you were
3 saying, in fact, you have testified to already.
4 You have spoken on a lot of those matters already,
5 and think we have heard you earlier today. But
6 Mr. --

7 THE WITNESS: So, the secretary --

8 THE CHAIR: Just, sorry, Mr. Johnson, could you please just
9 repeat the question just so that he could maybe
10 focus on the question and the answer, which I
11 think just related to those specific mining
12 claims.

13 MR. JOHNSON:

14 31 Q Could you explain to the panel the relationship of
15 the mining properties Amarillos 1 to 3,000 and
16 Amarillo Sur?

17 A Yes. So Amarillos 1 to 3,000 is the first mining
18 concession ever laid over Mina Pascua area in
19 Chile. It was the first mining concession that
20 was laid over the whole body in Chile, and it was
21 laid in 1978 by Lac Minerals. But in Chile, there
22 are two type of mining concessions, your honour,
23 metallic and non-metallic. The non-metallic
24 concessions, they pay about 1/30th of the, of the
25 taxes to the government. So, big companies, they

1 want to have lots of mining property, they asked
2 first as a concession of salts and nitrates, they
3 explore it, they find something. By virtue of
4 Chilean mining legislation, they do have the
5 authority and the so God-given right to transform
6 those concessions of salts and nitrates to go with
7 concessions.

8 THE CHAIR: What?

9 THE WITNESS: It's, it's a God-given right. But why could
10 Barrick not do it? Because the Amarillos 1 to
11 3,000, they were Lac Minerals' possession. For
12 some strange reason, the mining registrar of Chile
13 was burnt down, and Lac Minerals could only
14 reconstitute, like, in a very flimsy way, about
15 800 hectares out of the 3,000. So, even the name
16 is bogus. And with those 800 hectares, they set
17 out to sell Barrick Gold prospectus for the stock
18 exchange, Toronto Stock Exchange.

19 Barrick acquired the concessions of salts and
20 nitrates, but it found out that, because of the
21 defects that they had, they could not be properly
22 transformed into gold concessions. And when I
23 found that out, I laid my first metallic
24 concessions, in the history of Chile, the first
25 metallic mining concessions ever laid out over

1 Mina Pascua asset. Ever. And that's why I do
2 have the first right of the discovery, your
3 honour, because I laid the proper concession.

4 And so Amarillo 1 to 3,000 ended up being a,
5 a piece of garbage to the stock exchange, ended up
6 being a fraud for Barrick Gold Corporation on its
7 books. And when I went and told the story to, to
8 John Lill of Barrick, he goes, like, "oh" --

9 THE CHAIR: No, I'm sorry, no, no --

10 THE WITNESS: -- "I'm going to Tesoros" --

11 THE CHAIR: No, I'm sorry. Mr. --

12 THE WITNESS: -- went to the Tesoros --

13 THE CHAIR: I'm sorry --

14 THE WITNESS: Yes, I was asked to make a relationship. So,
15 that's the birth of Tesoros. The birth of Tesoros
16 is when Barrick finds out that they don't have a
17 gold body. And they go, "Oh, my God, and you have
18 the first one." "Ah, what do we do?" So --

19 THE CHAIR: No, I think actually, --

20 THE WITNESS: -- there comes Tesoros --

21 THE CHAIR: -- Mr. Lopehandia, --

22 THE WITNESS: There comes Tesoros.

23 THE CHAIR: Okay, I think we have --

24 THE WITNESS: Okay, and so the relationship is this.

25 THE CHAIR: Mr. Lopehandia, if you could just stop for a

1 second.

2 THE WITNESS: Yes.

3 THE CHAIR: I think you actually have given this testimony
4 before earlier today. I think I recall almost
5 exactly the same.

6 THE WITNESS: It appears, too, because there is another
7 question that will appear almost exactly the same,
8 and it's not.

9 THE CHAIR: Okay.

10 THE WITNESS: That's how complicated this is. So, please bear
11 with me.

12 THE CHAIR: Okay.

13 THE WITNESS: Okay. So, Amarillos 1 to 3,000 first mining
14 concession ever over Mina Pascua ore body, but it
15 was salts and nitrates. Amarillos Sur, my
16 concession, what I contracted with Mr. Johnson is
17 the first metallic concession in the history of
18 Chile that gives right over the gold, silver and
19 the copper of Mina Pascua. That's mine, my first.

20 Then comes the new ceiling, Tesoros, that you
21 have heard of Unda Llanos, okay. When Barrick
22 gets my information and they, they decided, "No,
23 we better not cooperate or [indiscernible] will
24 take our own concession, and they didn't. But I
25 got the right of the discovery. And I do have the

1 right on discovering who is Unda Llanos working
2 for? Oh, Barrick, injunction, and I did put the
3 injunction. Now, --

4 THE CHAIR: You actually described that to us I think --

5 THE WITNESS: That's right, and so the relationship between the
6 two properties is that one does not give any
7 rights to sell gold in the exchanges, that's
8 Amarillos 1 to 3,000; and the second one is one is
9 that is legally impounded by me that also does not
10 give Barrick one permission to sell gold to the
11 markets. So, they have nothing. Nothing. They
12 have no --

13 THE CHAIR: I think that's --

14 THE WITNESS: Yes.

15 THE CHAIR: Okay, that's great.

16 MR. JOHNSON:

17 32 Q Could you, Mr. Lopehandia, please explain again
18 the Vallendar case 719-2011 and its relevancy, also
19 explaining, I believe, case 560 --

20 A One other --

21 THE CHAIR: I'm sorry, I think you have explained both of those
22 things, as you have just noted in your question,
23 this would be, again, and I think we did get quite
24 a lot of detail on that. So, if there is some
25 salient, specific viewpoints, yes, but I don't

1 think we need to go through a general description
2 of that litigation again, because I think actually
3 we have been through it I think twice already
4 today. So, unless there's something new and
5 material that hasn't been said --

6 THE WITNESS: Yes, salient, salient, madam.

7 THE CHAIR: Yes, yes.

8 THE WITNESS: Madam Justice, in, in, in the very point number 1
9 of the case presented by Executive Director, and
10 beautifully outlined by, by our friend, Mr.
11 Zolnay, he indicated that there was two cases in
12 Vallendar of the Lopehandia brothers, and that
13 those two cases we lost both parties, me and my
14 brother, lost in the three instances, and that
15 they were, like, just lost cases.

16 In actual fact, your honour, there's nothing
17 farther from the truth, okay? The first thing is
18 that those two cases obeyed two very distinct,
19 clear legal strategies to be able to arrive to the
20 truth. So, whereas the first case 719-2011 was
21 launched in the name of my brother, Cristóbal, but
22 I ran the trial, I pay for the trial, I put the
23 lawyer for the trial, it was mainly to discover
24 whether Barrick had title or not. And we did
25 discover that the titles did not exist, and they

1 were forced to counter with an affidavit, the
2 positions that they had in trial C-1912-2001, and
3 it was then we decided, this is too beautiful.
4 This is too beautiful. So, we have to run these
5 two cases very fast to Supreme Court to clash with
6 the other one, and we did.

7 And that's why you hear here that I had all
8 kinds of defeats. I didn't. I mined my
9 information, and I put my hands down to get to
10 Supreme Court as fast as possible. Check the
11 dates. 1912-2001 made it to Supreme Court in
12 2008, Seven years after. And then we made another
13 round, and it's in 2014, another seven years
14 after, right? They -- for example, the case
15 719-2011, that case, it started in 2011, and it
16 made it to Supreme Court right around 2015.

17 And look at the second case I started,
18 560-2002. I started in 2002 and I arrived to
19 Supreme Court in 2004. Why? Why? It's because
20 it's by design, by legal design, because the truth
21 will always prevail against the false statements,
22 lies and the human need and feeling of being lied
23 in your face, by a powerful company that can bully
24 anybody onto submission. And that, in the very
25 words of their CEO, Madam Justice, Barrick is not

1 a mining company. And so I have to fight in
2 Chilean courts and in Canada a monster that
3 doesn't even care about truth, that is prepared to
4 deliver false testimony against a judge. So,
5 what? So, I'm here, in this hearing, I feel,
6 honestly, I feel, like, very [indiscernible], but
7 at the same time, I feel free, because I have my
8 consciousness free, I have my heart free, my mind
9 is free, my intellect is 100 percent free, and I
10 have the Supreme Court decision validating my
11 process of 20 years, and they found that what I
12 told you, Madam Justice, is true.

13 THE CHAIR: Thank you, Mr. Lopehandia. Mr. Johnson, any other
14 questions?

15 MR. JOHNSON:

16 33 Q I have something here. I think it's probably more
17 of a statement. But, Mr. Lopehandia, is it
18 acceptable that our better and latest evidence
19 properly translated is available to the hearing
20 when --

21 THE CHAIR: I'm sorry, Mr. -- all right, go ahead. Go ahead.

22 MR. JOHNSON:

23 34 Q -- where -- is available to the hearing where we
24 are late and to the BCSC who has an obligation to
25 the public?

1 THE CHAIR: No, I'm sorry, could you maybe rephrase that
2 question, because I'm not really sure what the
3 question is.

4 MR. JOHNSON: What, what the question really is, is, is further
5 evidence as to where this has gone.

6 THE WITNESS: Where --

7 THE CHAIR: Sorry, sorry, let's hear the question before -- I
8 need to understand the question before --

9 MR. JOHNSON: I will read it again exactly how it's written
10 and --

11 THE CHAIR: All right.

12 MR. JOHNSON:

13 35 Q It is acceptable that our better and latest
14 evidence, properly translated, is available to the
15 hearing where we are late and to the BCSC who has
16 an obligation to the public. Just one more line
17 here.

18 A I think I understand what he's trying to say,
19 madam. Can I help?

20 THE CHAIR: I think Mr. Johnson has put the question. Sorry,
21 Mr. --

22 MR. ZOLNAY: Well, I object to the question. I don't see how
23 that's something that Mr. Lopehandia should be --

24 THE CHAIR: No --

25 MR. ZOLNAY: -- making submissions on.

1 THE CHAIR: I think it is, it's a procedural issue, Mr.
2 Lopehandia, and it's not something a witness can
3 really give an opinion on.

4 THE WITNESS: I'm not going to give an opinion.

5 THE CHAIR: So --

6 THE WITNESS: It's just a question of -- a point of interest
7 that we --

8 THE CHAIR: No, I don't -- it's, it's a question of, to answer
9 that question, it's somebody has to have expertise
10 in the procedures and all of the other things
11 relating to commission hearings. So, I don't
12 think that you have that expertise.

13 THE WITNESS: If I may, I think I understood what he wants to
14 say. Could I please be able to clarify that? I
15 think that what Mr. Johnson, with all dual
16 respect, Mr. Zolnay, when he's trying to say is
17 the following. We understand, as human beings,
18 and as a person who is being charged, and as a
19 witness, that we were given, thanks, Madam
20 Justice, ample time to submit our evidence. And
21 we do understand that because of our own errors,
22 and maybe omissions, not all of that evidence has
23 made it into the hearing, though it's so extremely
24 important that you have it.

25 So, what Mr. Johnson is trying to say, and I

1 even have the same curiosity, if you may, okay,
2 let us separate the hearing --

3 THE CHAIR: No --

4 THE WITNESS: -- from the --

5 THE CHAIR: -- I'm sorry --

6 THE WITNESS: Madam --

7 THE CHAIR: I'm sorry. I'm sorry, no, these are not -- a
8 witness is not making submission on these issues.
9 I think its procedure was explained at least four
10 times. The rules were set out. Mr. Johnson
11 acknowledged and agreed with them, and as I have
12 said, I think three or four times already today,
13 --

14 THE WITNESS: These have nothing --

15 THE CHAIR: No, I'm sorry, Mr. Lopehandia --

16 THE WITNESS: -- to do with procedures.

17 THE CHAIR: Yes, it does. You are talking about whether, you
18 know, this, this evidence should be admitted, and
19 --

20 THE WITNESS: No, no, no, madam, I'm sorry, I may have spoken
21 wrong.

22 THE CHAIR: All right.

23 THE WITNESS: The only -- the question that is -- really, the
24 true question is this. We do accept that in the
25 hearing it's all said and done. There is nothing

1 we can grow. You line up the field. We do accept
2 that, a hundred percent accept it.

3 My question remains, as a Canadian citizen,
4 and as a Canadian citizen, and a person who is
5 responsible for a contract that I signed with,
6 with Mr. Johnson, my question is --

7 THE CHAIR: Mr. Lopehandia, I'm sorry, these are not -- you are
8 a witness. You are here to testify. These sound,
9 like, make they are submissions, and they belong
10 in your legal arguments, that I'm going to set the
11 dates for and set the procedure for. But that's
12 not, it's not something that --

13 THE WITNESS: So, it wasn't related --

14 THE CHAIR: -- as a witness you --

15 THE WITNESS: -- related to the hearing, madam. My question
16 was following --

17 THE CHAIR: No --

18 THE WITNESS: -- does the information we deliver to the
19 Securities Commission --

20 THE CHAIR: Yes?

21 THE WITNESS: -- and counsel --

22 THE CHAIR: Yes?

23 THE WITNESS: -- and other regulators --

24 THE CHAIR: Yes?

25 THE WITNESS: -- count as information given by a Canadian

1 citizen of a crime in progress. I'm not asking
2 you for the hearing. I'm asking you for the --

3 THE CHAIR: I, I am not --

4 THE WITNESS: -- BC Securities Commission at large.

5 THE CHAIR: If, if there is a crime in progress, you should be
6 discussing it with the RCMP and the police. What
7 we are talking about here is simply, there's a
8 Notice of Hearing. The allegations are that
9 Mountainstar made misleading disclosure regarding
10 it's Chilean mining claims.

11 If you are concerned about other things, as I
12 say, like, crimes in progress and other things, we
13 are not the body that deals with those things.
14 You should be contacting the police and, and/or
15 the RCMP, depending on what you think the nature
16 of the crime is.

17 THE WITNESS: Yeah, and with the information that we deliver to
18 BC Securities Commission independent, that it will
19 not come from this hearing, does the BC Securities
20 Commission have an obligation to follow on behalf
21 of the public of Canada, yes or no?

22 THE CHAIR: No, I'm sorry, I don't even understand the
23 question.

24 THE WITNESS: I, I, I have delivered sensitive information to
25 the BC Securities Commission, independent that it

1 doesn't come to 0 this hearing, will that
2 information count as --

3 THE CHAIR: For what?

4 THE WITNESS: -- as somebody in the public saying to the BC
5 Securities Commission, maybe there is something
6 that you should be looking into? Does that count?

7 THE CHAIR: That is a separate matter dealing with --

8 THE WITNESS: I know that. I know that.

9 THE CHAIR: -- the investigations, and it's not something the
10 panel rules on. We are here simply to deal with
11 this specific set of allegations. There is a
12 procedure established for Mountainstar and
13 Mr. Johnson being able to submit whatever
14 documents they feel are important to their case.
15 And, and aside that, we really, in terms of other
16 complaints or procedures, other things, that's
17 just simply not within --

18 THE WITNESS: Fully understood.

19 THE CHAIR: -- the ambit of this --

20 THE WITNESS: Fully understood. So, the, the term of time for
21 Mr. Johnson to present, say, a proper English
22 translation has already expired, right?

23 THE CHAIR: I think that was made abundantly clear --

24 THE WITNESS: No. Thank you.

25 THE CHAIR: -- some time ago, and has been repeated several

1 times today.

2 THE WITNESS: Yes, yes. Carry on, Mr. Johnson.

3 MR. JOHNSON: I don't have any further questions.

4 THE CHAIR: Okay. All right. Mr. Zolnay, do you have, or Mr.
5 Isaac, do you have any cross-examination, any
6 questions in cross-examination for --

7 MR. ZOLNAY: No, I don't, Madam Chair.

8 THE CHAIR: All right, that's fine. Panel members, any
9 questions?

10 Mr. Lopehandia, you are excused as a witness.

11 THE WITNESS: Thank you, madam.

12 (WITNESS EXCUSED)

13 THE CHAIR: Now, Mr. Zolnay, I don't know at this point if you
14 have any evidence in reply or you are prepared to
15 close your case, or how you -- I'm sorry. Mr. --
16 I should have asked Mr. Johnson. So, you have
17 then closed your case? You have no further
18 witnesses to call or evidence to introduce at this
19 time?

20 MR. JOHNSON: No, no further witnesses.

21 THE CHAIR: Thank you.

22 MR. ZOLNAY: And I have the same answer, Madam Chair, no
23 further evidence, no further witnesses.

24 THE CHAIR: And you have closed your case?

25 MR. ZOLNAY: Yes, Madam Chair.

1 THE CHAIR: So, the next step is to present arguments. Now,
2 Mr. Johnson, the Executive Director is going to
3 put in writing the arguments why we should find
4 Mountainstar and you liable for the allegations in
5 the Notice of Hearing, based on the law and the
6 evidence presented to the hearing. You are going
7 to be given a copy, and then you'll have time to
8 respond in writing outlining your submissions, the
9 very things that we were talking about today, on
10 why you should not be found liable, you and
11 Mountainstar should not be found liable, and this
12 is when you can argue the law on how to interpret
13 the evidence that's been presented in the hearing.
14 And, and after receiving your submissions, then
15 the Executive Director can decide whether he will
16 make or reply to them also in writing, and you
17 will be given copies of anything that the
18 Executive Director submits.

19 So, what I think we will do is canvass some
20 dates now for those submissions. Typically, we
21 would give -- oh, yes -- typically, the Executive
22 Director has three weeks to prepare written
23 submissions, and I believe, Mr. Zolnay, that would
24 take it to around April the 17th. Does that work
25 for the Executive Director?

1 MR. ZOLNAY: In light of the April long weekend, --

2 THE CHAIR: Yes.

3 MR. ZOLNAY: -- and in light of our other commitments, I would
4 ask if it's acceptable to the panel that we have
5 more time than that --

6 THE CHAIR: All right. What would you, what would you --

7 MR. ZOLNAY: -- to file our written submissions? I wonder if
8 we could have until Friday, May 4th.

9 THE CHAIR: That is -- could we not perhaps bring it a little
10 -- how about April the 20 -- Friday, April the
11 27th? Is that acceptable for --

12 MR. ZOLNAY: Yes, it is. Thank you.

13 THE CHAIR: So, April the 27th. So, that gives you about four
14 weeks. Let's just see what that is. Just bear
15 with me here. That gives you about four and a
16 half weeks.

17 Now, Mr. Johnson, I think I will give you a
18 similar period of time. Normally, the respondent
19 has a bit less, but let's do a similar period of
20 time. So, we will give you until -- why don't we
21 make it Monday, May the 28th to file your
22 submissions?

23 MR. JOHNSON: Thank you.

24 THE CHAIR: Does that, does that work for you?

25 MR. JOHNSON: Yes, Madam Chair.

1 THE CHAIR: All right, let's make that. And then we will make
2 the reply due a week after that, which would be
3 June the 4th, Mr. Zolnay, for reply.

4 MR. JOHNSON: Madam Chair, would the reply be from the
5 following --

6 THE CHAIR: The reply would be from Mr. -- from the Executive
7 Director.

8 MR. JOHNSON: Okay.

9 THE CHAIR: And they would just be replying to any new points
10 that you might raise, essentially, in your --

11 MR. JOHNSON: What dates did you say? June 4th?

12 THE CHAIR: Yes, but that's then -- so, then that you would
13 just receive a copy of that. You, you, you
14 wouldn't be replying. You have the four-plus
15 weeks to make all your arguments and submissions.
16 That's four weeks after you receive the arguments
17 from the Executive Director.

18 MR. JOHNSON: Yes.

19 THE CHAIR: And what I would also suggest doing at this time
20 is, Mr. Johnson, the parties also have an
21 opportunity, if they wish, to argue their written
22 submissions before the panel. Mr. Zolnay and
23 Mr. Johnson, is that something that you would like
24 to do? Because we can sort of canvass some dates
25 now potentially for that.

1 MR. ZOLNAY: In my view, this is a case where written
2 submissions should be adequate.

3 THE CHAIR: But Mr. Johnson, would you --

4 MR. JOHNSON: I would, I would absolutely like to argue the
5 written submissions.

6 THE CHAIR: All right. Okay. So, then why don't we set some
7 dates then for the submissions. I think we would
8 be looking into June. Let's just see what we have
9 here. The week of June 18th, we have the 18th and
10 19th both available. Do those work for --

11 MR. JOHNSON: That's fine.

12 THE CHAIR: Is that all right with you, Mr. Zolnay?

13 MR. ZOLNAY: Yes, that's fine.

14 THE CHAIR: All right. All right, we will set the oral
15 submissions for June the 18th. All right. Now,
16 are there --

17 MR. ZOLNAY: Sorry, Madam Chair, I am wondering if we could
18 have June 19th.

19 THE CHAIR: Oh, sure.

20 MR. ZOLNAY: Thank you.

21 THE CHAIR: June 19th. That works for you, Mr. Johnson?

22 MR. JOHNSON: Yes.

23 THE CHAIR: All right. So, let's make it June the 19th.

24 MR. JOHNSON: And not the 18th.

25 THE CHAIR: Yes, Mr. Zolnay has just asked if we could make it

1 -- so, we will make oral submissions for June the
2 19th, which is a Tuesday. All right. Any other,
3 any other matters?

4 MR. JOHNSON: No, Madam Chair.

5 THE CHAIR: All right. I think we are adjourned.

6 (PROCEEDINGS ADJOURNED AT 3:41 P.M.)

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