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Randy Mastro, one of the city's most prominent attorneys and a former deputy mayor to then-Mayor Rudy Giuliani, could be headed back to City Hall. (AP Photo/Richard Drew)

POLITICS

An ex-Giuliani aide could be headed back to City Hall

BY BOBBY CUZA | NEW YORK CITY
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Randy Mastro has been in the public eye for four decades.

He served as a federal prosecutor, a deputy mayor under Rudy Giuliani and later, in private practice and played a high-profile role in a number of political controversies.

What You Need To Know

- Randy Mastro, one of the city's most prominent attorneys and a former deputy mayor to then-Mayor Rudy Giuliani, could be headed back to City Hall

Most famously, he was hired by then-New Jersey Gov. Chris Christie to conduct an internal review of the Bridgegate scandal.

“Governor Christie had no involvement in the decision to close these lanes and no prior knowledge of it,” Mastro said at a news conference in 2014 announcing his findings.

Now, Mastro may be headed back to the city government.

Mayor Eric Adams is expected to name him the corporation counsel, the top attorney representing the city government.

The hire is raising eyebrows for reasons beyond just his ties to Giuliani.

Mastro is currently representing New Jersey in its fight to block New York’s congestion pricing plan, and has frequently battled City Hall over the years, as when he argued for striking down former Mayor Bill de Blasio’s Styrofoam ban.

“This is a crazy decision by the city,” he said in a 2015 interview on NY1’s “Inside City Hall,” holding up a Styrofoam container. “As a former deputy mayor, I’ve seen some crazy ones over the years.”

But Mastro’s reputation as a bulldog may appeal to Adams, who faces a swirl of legal troubles, including an FBI investigation into his fundraising and a sexual assault lawsuit.

Mastro, who appeared alongside Adams at a mayoral announcement in 2022, has made political contributions to the mayor — a contrast to his adversarial stance toward previous administrations.

Mastro would the replace city’s current corporation counsel, Sylvia Hinds-Radix.

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HOW LEGAL/FINANCIAL PROBLEMS ARE SOLVED BY NYC CO-OPS AND CONDOS

Co-op and Condo Advocates File Lawsuit to Block Local Law 97

New York City

May 20, 2022

A coalition of **cooperatives and condominiums** is suing the city to block New York City's **Local Law 97**, which imposes ambitious greenhouse gas emissions caps on most buildings larger than 25,000 square feet, Crain's reports. The lawsuit, filed Thursday night in state **Supreme Court**, is led by two Queens cooperatives and their board presidents — **Bob Friedrich** at **Glen Oaks Village** and **Warren Schreiber** at **Bay Terrace Cooperative Section I** — along with the owner of a mixed-used Manhattan building, **9–11 Maiden Lane**. The suit names the city and its **Department of Buildings** as defendants.

"As written, the law calls for devastating penalties if buildings do not sufficiently reduce their carbon emissions by 2024 and further reductions in 2030," the **Presidents Co-op and Condo Council** says in a statement. (Friedrich and Schreiber are co-presidents of the group, which represents more than 100,000 units of housing in the city.) "We are actively engaged with both elected officials and other government officials to try to understand how the implementation of this statute will work and ways to reduce the financial burden to an already reeling co-op and condo community."

The legal challenge calls the law "ill-conceived and unconstitutional," taking issue with the annual fines levied on buildings that fail to comply with the caps: **$268 per metric ton** over limits. The caps are draconian, the suit says, as they could burden some buildings even as owners take steps to comply. The suit claims such penalties are "rendered in violation of due process, or else are improperly city-imposed taxes that lack the requisite delegation of taxing authority from New York state."

The law, the challenge argues, is disproportionately onerous on owner-occupied co-ops and condos, certain small rental buildings and high-energy-use businesses such as grocery stores and laundromats.

"Local Law 97 is simply too harsh," says **Randy Mastro**, lead counsel for the plaintiffs with **Gibson, Dunn & Crutcher**. "There's a difference between a big stick and a death sentence."

In the suit, Mastro argues that New York City's "Local Law 97 is pre-empted by New York State law," referring to the **Climate Leadership and Community Protection Act**. Passed in 2019, the law requires New York to chop its economy-wide carbon emissions from 1990 levels 40% by 2030 and 85% by 2050.

"I'm not suggesting addressing climate change isn't an issue that government should be concerned about," Mastro says. "What I am suggesting is that when you have a system that makes it impossible for certain essential businesses and smaller high-density property owners to continue to exist, that's wrong to do."

Nearly **70%** of the city's carbon emissions come from buildings, and Local Law 97 requires some 50,000 buildings to shrink their greenhouse gas emissions to meet the reduction targets.

The Department of Buildings is in the midst of crafting rules to implement the law and has said it will release additional guidance to property owners in the coming months. **Rohit Aggarwala**, the city's chief climate officer and commissioner of the **Department of Environmental Protection**, has said property owners who face a particularly steep climb to compliance and who can demonstrate that they are making every effort to comply with the law could have their fines or emission caps reduced.

Environment

THE COSTS OF CHANGE: NYC co-op and condo owners join forces with big real estate to soften Local Law 97

By Ben Brachfeld and Christian Murray

Posted on August 16, 2023

Michael Dorgan

The city's landmark building emissions law, Local Law 97, is set to go into effect next year, and the complex rule-making process has set off a frenzy of lobbying activity aimed at influencing and potentially weakening the statute aiming to help combat climate change.

Local Law 97, passed in 2019, is one of the most ambitious local climate laws in the world, requiring the owners of buildings greater than 25,000 square feet to meet strict regulations on carbon emissions starting next year, requiring many of them to retrofit their properties or face stiff penalties each year.

The law is set to go into effect in January, with the first compliance reports for affected property owners required by May 2025. Buildings must start to comply with the emissions standards next year, and future compliance periods in 2030 and beyond will require owners to

meet even stricter carbon emission limits.

But before the law can be implemented, the city's Department of Buildings (DOB) must finalize the complicated array of rules governing the vast program, which is not only turning out hundreds of New Yorkers to meetings but is also leading to the disbursement of big bucks in lobbying expenditures.

Some of the loudest voices seeking to weaken the statute are co-op and condo owners, who have packed raucous town halls across the city in recent months bemoaning what they say will be ruinous penalties for largely

working and middle-class homeowners.

But while the co-op owners present themselves as having little sway and political influence, they do have some powerful friends.

Louder voices come forth

One group, Homeowners for a Stronger New York, which is an ally, presents itself as a grassroots collective of co-op and condo owners concerned by the high cost of complying with the law come next year.

It has spent hundreds of thousands of dollars on television ads, digital ads, mailers, and lobbying expenses supporting a bill in Albany that would provide property tax breaks for building owners who make emissions-reducing retrofits to their properties.

But left out of the ads is that Homeowners for a Stronger New York gets all of its funding from a single source, another anodyne-sounding group called Taxpayers for an Affordable New York, according to state lobbying records. Just over $300,000 has

changed hands between the two groups since May.

According to its publicly-available 990 tax returns, Taxpayers for an Affordable New York lists as its president James Whelan, who is also president of the Real Estate Board of New York (REBNY), the powerful and influential trade group representing the city's landlords and developers. REBNY denied controlling the group when asked by amNewYork Metro.

Still, REBNY has made no secret that it is lobbying on Local Law 97, which represents one of the largest and most expensive mandates on property owners in the city's history. The group commissioned a study that was released January that found 3,700 properties could be out of compliance next year and collectively face $200 million in fines, rising to $900 million among 13,500 non-compliant buildings by 2030, when buildings subject to the requirements must cut their carbon emissions by 40% compared to 2005 data.

However, the group's findings for 2024 represent just a sliver of the

city's approximately 40,000 buildings covered under the law, while the tougher 2030 emission standards are still years away.

"[The year] 2024, by design of the law, was meant to be a period where we get the regulations going…and we get prepared for what is the much more aggressive cap in 2030," said John Mandyck, CEO of the Urban Green Council, a nonprofit focused on policy for decarbonizing buildings. "There's no question the law is tough, but it's completely doable, and we really have no choice because the climate isn't waiting for us to act."

The number of buildings getting in compliance with the law continues to grow. When the law was initially passed in 2019, the DOB estimated that 20% of the buildings covered by the legislation would not meet their emission limits in 2024 and would face potential penalties. The DOB announced this week that the percentage had dropped to 11% based on 2022 data.

While most building owners will meet the 2024 requirements, older co-op buildings in

particular will struggle to comply. Modern condo developments and office buildings are mostly in compliance.

A town hall was held in Sunnyside Queens in July where co-op owners were informed about the impact of Local Law 97

Michael Dorgan

Seeking a 'good-faith effort' to avoid penalties

REBNY is hoping DOB adopts a broad definition of the law's so-called "good-faith effort" – during the rulemaking process.

A broad definition would provide the owners of non-compliant buildings with the ability to avoid penalties if they are able to show that they have taken steps to make their buildings more sustainable.

"I think our concern is Local Law 97 is gonna lead to a lot of penalties instead of a lot of emissions reductions," said Zachary Steinberg, REBNY's senior vice president of policy, in an interview with amNewYork Metro.

But Pete Sikora, climate campaigns director with New York Communities for Change, worries that a broad definition of good-faith effort, even if well-meaning, could effectively provide a lucrative loophole for the city's largest landlords and significantly weaken the purpose of the legislation.

"That's the $64,000 question for the law," Sikora told amNewYork Metro. "If you create a system where good faith is a definition that can be easily manipulated by a group of consultants and lawyers, then you create an easy out for landlords who don't want to reduce pollution for their buildings through energy efficiency."

The definition needs to be strict, advocates say, or else the law will be ineffective, and its emission targets won't be met. The purpose of the bill is to reduce building emissions by 40% by 2030 — compared to 2005 levels — and 80% by 2050.

Many co-op and condo owners are also seeking clarity on what "good faith" means, but like REBNY are looking for latitude.

In contrast to the advocates, Bob Friedrich, co-op board president at the 2,900-unit Glen Oaks Village in Queens, argues that good faith efforts can be easily documented to ensure that owners are not flouting the rules.

“I think a good faith effort can be corroborated very, very easily,” Friedrich told amNewYork Metro. “Did they spend money, did they do it properly?”

Bob Friedrich, president of the board of directors at Glen Oaks Village

Michael Dorgan

Suing to kill the law entirely

Friedrich believes that co-op owners should be exempt from the law, arguing that individual unit holders will be charged thousands.

“There’s never been a shred of evidence to show that co-ops are even marginal contributors of pollution. Maybe the big commercial buildings are, but

there's been nothing, not a shred of evidence," he said.

Friedrich, in fact, is calling for the law to be scrapped entirely.

"I think the law should be overturned, I think the law was not well thought out," he said.

Friedrich says that his development faces penalties of $394,000 per year from 2024 to 2029, before going up to $1.5 million in 2030. He says for Glen Oaks Village to fully comply with the law in years to come — and go fully electric — it will cost $50 million or $20,000 per unit.

He is a co-plaintiff in a lawsuit against the city seeking to have Local Law 97 rendered unconstitutional and overturned. The lawsuit claims that Local Law 97 is preempted by the state's 2019 Climate Leadership and Community Protection Act, which requires the state's emissions to be reduced 85% below 1990 levels by 2050. The suit also alleges that the law is too vague and is an undeclared tax.

Friedrich is one of four plaintiffs who are part of the lawsuit, along with his Glen Oaks Village co-op,

as well as the 200-unit Bay Terrace Co-Op and its board president Warren Schreiber. They are being represented by Randy Mastro, a high-powered and highly-compensated litigator.

Mastro is currently representing New Jersey in its fight to overturn New York's congestion pricing program and is also defending Madison Square Garden against lawyers who say they were unreasonably banned from the venue. He also represented New Jersey Gov. Chris Christie during the infamous BridgeGate scandal at a $650-per-hour tab.

The plaintiffs are, as it turns out, not paying Mastro's hefty legal bill, but they won't say who is.

Friedrich said he didn't know who's paying the legal fees; Schreiber told amNewYork Metro that there's an outside "funder" but wouldn't say who, contending he signed a retainer agreement forbidding disclosure of the benefactor. Mastro did not return a request for comment.

Friedrich and Schreiber are the founders of the Presidents Co-op and Condo Council (PCCC), which self-describes as a "problem-solving think tank" and forum for board presidents to discuss common issues and solutions. The group has been hosting town halls all over Queens for worried residents to learn about Local Law 97 and register concerns.

But Sikora argues that they have been havens of misinformation and fearmongering about the law. For instance, he said that the penalties associated with non-compliance between 2024-2029 are being exaggerated, and that building owners have to upgrade their infrastructure periodically in any case.

For instance, in Friedrich's Glen Oaks building, the penalty based on the figures he has presented — $394,000 per year — would equate to $136 per unit per year, or $11 per month, spread across the 2,904-unit development through 2029. While significant upgrades would be needed in years to come, the costs could be spread over time, and ongoing maintenance is needed in any case, Sikora argues.

Geoff Mazel, a lawyer representing PCCC, told the audience at a June town hall in Douglaston that "nobody is looking out for co-op and condos." He claims tenants in rent-stabilized apartments are well represented but co-op and condo owners are not.

"You can turn the news on and if [the Rent Guidelines Board] say they want to raise rent 2%, it's a front-page story," he said, asserting that little is written about rising costs for co-op and condo owners.

The PCCC is not registered as a lobby group despite hosting the town halls. Mazel said the group is not required to register since the meetings are technically

sponsored by someone else — such as elected officials or a co-op board — and its members are volunteers.

PCCC is not a party to the lawsuit, and so is technically not paying Mastro for his legal representation of its de facto leaders.

“This is a lawsuit over implementation of a law, and the people who have direct interests in it are plaintiffs,” said Rachael Fauss, senior policy advisor at the watchdog group Reinvent Albany. “But when you look at the web of activity here, at the end of the day someone is going to have to pay for it and someone is lobbying.”

A waiting game

The long rulemaking process is frustrating both property owners and environmental advocates. Building owners, for one, are seeking clarity on what exactly will be required of them regarding work on their buildings.

“With hundreds of millions of dollars in financial penalties set to begin in just a few months, we are concerned that many very

important rules regarding compliance have still not been addressed and few tools have been offered by the City to help building owners reduce emissions," REBNY said in a statement.

Advocates, on the other hand, are worried the lengthy delay could mean the Adams administration is bowing to the pressure campaign to soften it.

DOB, for its part, says that more rules, including those for noncompliance, will be publicized later this summer, and recommends building owners start doing retrofits now instead of waiting until the last minute. The term "good faith effort" will also be defined later this summer.

"Since we published our first major rule back in January, building owners have had all of the information they need to meet their emission reduction targets, and we are continuing to urge building owners to start their retrofit projects as soon as possible," said DOB spokesperson David Maggiotto. "Our rulemaking process is proceeding on time and in full

compliance with Local Law 97, and we will continue the inclusive, collaborative approach that has been a hallmark of the process since the beginning."

Maggiotto insisted that "the city is fully implementing Local Law 97."

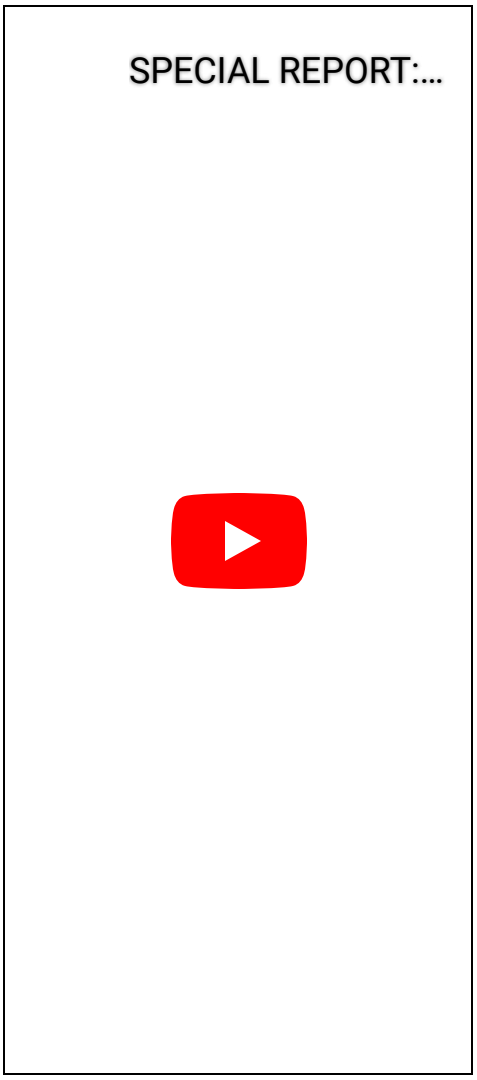
Some city lawmakers have proposed delaying the implementation of the law by seven years so property owners, particularly co-op and condo owners, have more time to get into compliance.

But Sikora says the consequences of such a move would be dire, with the United Nations pressing members to undertake large-scale decarbonization and sustainability projects as the world approaches the "point of no return" on temperature increases.

"If that's delayed, there's no margin of error anymore, and then you get into increasingly dire global catastrophe," Sikora said. "Every extra ton of climate pollution dumped into the sky, which we're currently using as an open sewer, every extra ton matters."

Michael Dorgan contributed to this article.

This story is part of "The Costs of Change" series that looks at Local Law 97.



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FORBES > MONEY > INVESTING

Courts Are Not A Weapon: How Corporations Like Chevron Use The Law To Get Their Way

Morgan Simon Senior Contributor
Morgan Simon covers the intersection of finance and social justice.

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May 26, 2022, 02:30pm EDT

Updated Jun 6, 2022, 03:09pm EDT

This article is more than 2 years old.

In 2008, I attended Chevron's CVX +0.6% annual meeting in Richmond, California, alongside indigenous activists from Ecuador concerned about their ownership of Texaco and the legacy of environmental destruction in Ecuador. I will never forget an Ecuadorian woman who went up to the mic during the public comment period, in front of perhaps 300 audience members and opened her shirt to reveal a shocking red rash all over her chest. She asked the CEO directly, to the best of my recollection, "Why do I and my children all have this rash? When will your company clean up the environmental damage it has caused?"

I carpooled with a group of people in a minivan, and parked in a parking lot across the street. We piled in for the long ride back to San Francisco and were in the process of getting our seatbelts on. We hadn't even left the parking lot when cops pulled us over and promptly cited us for seatbelt violations.

A few months later, I received a $500 fine and the news that my license had even been suspended. This wasn't exactly life-threatening, but it was certainly annoying. I was a passenger, not the driver…why suspend my

license? While I cannot prove that the local cops were in cahoots with Chevron, it certainly seemed fishy that cops would take such an interest in seatbelt safety inside a parking lot, if not motivated by the "safety" of one of its largest taxpayers.

My story, however, is nothing compared to that of Steven Donziger, the lawyer who stood up to Chevron's environmental abuses in Ecuador and lost his personal freedom as a result. (My story of being sued by CoreCivic for $55M for defamation is perhaps a bit more comparable, but at least I have not lost my personal freedom). Both stories should be a cautionary tale for shareholders who think that corporate money should be focused on fulfilling a company's mission, not prosecuting those who may challenge it.

The Steven Donziger Story

NEW YORK, NEW YORK - MAY 10, 2021. Attorney Steven Donziger arrives for a court appearance at Daniel ... [+] GETTY IMAGES

Steven Donziger has recently been released after more than two years under house arrest in Manhattan, following six months in jail. Collectively, it's the longest sentence for a misdemeanor ever in the US. The detention was

linked to his decades-long battle with oil titan Chevron in which he won a $9.5 billion settlement against the company for its destruction of the Amazon AMZN -0.9% rainforest in Ecuador. That victory, nearly unparalleled in its scale and scope, prompted Chevron to shuffle assets out of Ecuador to avoid repaying the Indigenous Cofán people, whose lands had been poisoned by drilling and dumping. Chevron later brought its vast resources to bear, launching an extensive campaign against Donziger for his work.

The multi-billion dollar suit was the result of a class-action lawsuit brought against Texaco by 30,000 Indigenous people and local farmers. Donziger represented the plaintiffs for years. Texaco (purchased by Chevron in 2000), began operating the Lago Agrio oil fields in the 1960s, but by 1990, millions of gallons of crude oil had been spilled throughout the region. Toxic waste from drilling and refining was stored in unprotected pits, toxifying the soil and contaminating water supplies.

The case took almost 18 years to resolve, but in 2011 an Ecuadorian court ruled against Chevron, ordering it to pay $18 billion. While that figure was later reduced to $9.5 billion, it still represents one of the largest judgments in history. And Chevron wasn't happy.

Their solution? Deny and demonize. Even before the ruling, Chevron internal emails showed that the company wanted to "demonize Donziger." In 2012, the company brought a racketeering suit against Donziger, and Chevron's manipulation of the case was swift.

Before the trial, Chevron dropped all monetary claims, depriving Doniger and two other defendants a right to a jury. In 2014, Chevron-linked US Judge Lewis A. Kaplan ruled that Donziger was guilty based on testimony from a witness who admitted their prior testimony was a lie. That witness, a keystone of the prosecution, had also accepted hundreds of thousands of dollars and met with Chevron's lawyers many times before the trial. Chevron's team consisted of hundreds of lawyers from several dozen firms. They froze Donziger's bank accounts, put a lien on his apartment, and even created a special publication just to smear him.

Kaplan called Chevron "a company of considerable importance to our economy," and barred Donziger and other defendants from mentioning Chevron's poisoning of the Amazon during the trial. Kaplan also ordered Donziger to turn over his cell phone and other digital devices, but Donziger refused, citing attorney-client privilege.

In 2019, Kaplan asked federal prosecutors to bring contempt charges against Donziger for refusing to hand over devices. When the government declined to prosecute, Kaplan appointed a private team of prosecutors to pursue Donziger — a first in US history. Kaplan also bypassed random prosecutor assignment to hand-pick someone, who later sentenced Donziger to several times the maximum allowable six months of detention for contempt. Even after all this, Donziger still might be required by Judge Kaplan to pay

millions to Chevron to compensate the company for its mercenary army of lawyers.

For now, though, Donziger has some peace."It's over. Just left with release papers in hand," Donziger posted to Twitter on April 25, the day of his release. "Completely unjust that I spent even one day in this Kafkaesque situation. Not looking back. Onward."

Where We Go From Here

So what can we do about this unprecedented use of corporate power? First off, we can remember that corporations are owned by shareholders (i.e. all of us!) and that means we can influence their behavior. We can encourage the companies we are invested in to be responsible corporate citizens, including, not burdening their critics with ridiculous lawsuits.

As I noted in a previous article, a report found that over 355 frivolous lawsuits have been filed by corporations over the past 5 years. Most of these take the form of strategic lawsuits against public participation (SLAPPs), which are typically designed to suppress speech. Not all companies find suing activists to be a prudent use of shareholder money, however. Some view particular human rights activists as critical eyes and ears on the ground

to help identify risk and seek to maintain open lines of communication. The Business and Human Rights Resource Center (BHRC), which wrote the report, notes that "a cluster of progressive companies have adopted a zero-tolerance approach to violence against defenders and understand defenders' critiques as important early warnings of abuse or risks in their operations and supply chains. Adidas, for instance, has a human rights defenders' policy that states that both the company and its business partners should not 'inhibit the lawful actions of a human rights defender or restrict their freedom of expression, freedom of association, or right to peaceful assembly.'"

In general, BHRC provides the following recommendations; initially intended regarding SLAPP suits, but relevant to various forms of corporate intimidation:

1. *Investors and companies should commit to a clear public policy of non-retaliation against defenders and organizations that raise concerns about their practices, and adopt a zero-tolerance approach on reprisals and attacks on defenders in their operations, value chains, and business relationships.*

2. As part of this, investors should review potential investees for their history of SLAPPs and avoid investing in companies with a track record of SLAPPs. They should also urge portfolio companies to drop lawsuits that might be SLAPPs and provide an appropriate remedy in consultation with the defenders affected.

3. *Governments should reform any laws that criminalize freedom of expression, assembly, and association, and facilitate an environment where criticism is part of the healthy debate on any issue of public concern. They should also hold businesses accountable for any acts of retaliation against defenders.*

4. Law firms and lawyers should refrain from representing companies in SLAPP suits. Bar Associations should develop and update ethics codes to ensure that SLAPPs are a sanctionable offense for members.

As SLAPPs become more consistently and publicly recognized as a tool and trend of intimidation, they will hopefully become less easily tolerated by investors, entrepreneurs and legal professionals who seek to align their business practices and public reputations with their values. And whether it's SLAPP suits, racketeering charges, or other excuses to harass activists, hopefully, legal and investor ethics will kick in to help the truth rule the day as that is ultimately what best protects corporations, activists and shareholders alike.

Thanks to Starkey Baker for their contributions to this piece. Full disclosures related to my work available here. This post does not constitute investment, tax, or legal advice, and the author is not responsible for any actions taken based on the information provided herein. Certain information referenced in this article is provided via third-party sources and while such information is believed to be reliable, the author and Candide Group assume no responsibility for such information.

CoreCivic CXW -1.7% *filed a lawsuit in March of 2020 against author Morgan Simon and her firm Candide Group, claiming that certain of her prior statements on Forbes.com regarding their involvement in family detention and lobbying activities are "defamatory." While we won dismissal of the case in November of 2020, CoreCivic has appealed such that the lawsuit is still active. This is a classic SLAPP suit, as referenced in the article.*

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D **David**

12 August, 2023

Unfortunately for the author here, none of the lawsuits mentioned by Chevron qualify as SLAPP lawsuits.

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INTERVIEW | ENVIRONMENT & HEALTH

How Chevron Polluted the Amazon and Fought Environmental Lawyer Steven Donziger

Polluters want to use me as a symbol to silence the advocacy that is needed to save the planet, says Steven Donziger.

By Eve Ottenberg, TRUTHOUT
September 10, 2022

Steven Donziger appears at a rally in front of the Manhattan Court House in New York City on October 1, 2021.

TAYFUN COSKUN / ANADOLU AGENCY VIA GETTY IMAGES

Decades ago, the U.S.-based petroleum corporation Texaco devastated Lago Agrio in the Ecuadorian Amazon with pollution, in what came to be known as "the Amazon Chernobyl." It resulted in roughly 1,000 carcinogenic waste pits (https://www.upi.com/Energy-News/2009/06/25/Chevrons-Amazon-fake-cleanup-trial/23901245936759/) and 16 billion gallons of toxic wastewater dumped into pristine rivers. Among local people who drank and bathed in these waters, cancers and miscarriages skyrocketed. Represented by Steven Donziger, Indigenous peoples sued the company (https://amazonwatch.org/news/2005/0522-texaco-sued-over-pollution), which had been bought by Chevron in 2000, and won over $9 billion. Chevron, however, ignored the Ecuadorian courts and took its case to New York, where it found a friendly judge, amenable to its aim of not paying and of destroying Donziger. Contacted for comment, Chevron noted it paid roughly $40 million for environmental remediation and accused Donziger of being a disbarred racketeer convicted of criminal contempt. Details provided by Donziger, however, tell a different tale altogether. In this exclusive interview with *Truthout*, Donziger discusses the ongoing disaster in the Amazon, how he was targeted for his advocacy and why we must continue to confront corporate polluters.

Eve Ottenberg: What did Texaco do in Lago Agrio?

Steven Donziger: Texaco, now Chevron, deliberately made a series of decisions that led to what experts believe is the world's worst oil contamination. They did three things that were completely out of line with normal operating procedure that resulted in massive pollution. Number one is when they drilled for oil, they did it improperly. The drilling muds come up from thousands of feet under the ground when you perforate a well, and these muds contain heavy metals as well as synthetic chemicals that are cancer-causing and extremely harmful to the environment, to animal life and to humans.

Instead of disposing of it properly, Chevron just dumped it into the environment by gouging large pits out of the floor of the jungle, and putting these cancer-causing substances there for permanent waste disposal. They didn't line the pits. They also built pipes into the sides of the pits to drain the contents into rivers and streams that Indigenous peoples and farmers relied on for drinking water, bathing and fishing. So, this one problem alone — that is, the construction of these pits at hundreds of drilling sites around the Amazon — caused a massive outbreak of cancer that, according to data, is still killing people and causing tremendous harm in a region that's 1,500 square miles in size.

I read there were 900 of these pits, maybe more.

Roughly 1,000 pits. Various peer-reviewed health studies (https://chevroninecuador.org/assets/docs/cancer-summary.pdf), done by respected academics, show extremely high incidences of cancers, including childhood leukemia, which you almost never see in the world, including ovarian cancer and all sorts of cancers related to the toxic substances that are in oil. Not to mention a huge number of miscarriages, much higher than the norm.

On top of that, Chevron did two other things that completely violated industry norms. Number two is they took production waters — which is the scalding hot wastewater that comes out of the ground with the oil, and contains benzene and other cancer-causing chemicals — and they separated it out and dumped it into waterways instead of reinjecting it deep into the ground, as is the norm. They just dumped it. They ran it off into rivers and streams that local communities relied on for their drinking water. And this happened on a daily basis, literally millions of gallons a day of these cancer-causing substances were being dumped into these beautiful Amazon rivers that the local communities relied on for their sustenance, with zero explanation or warning to the communities.

How long did they do this?

They did it for 25 years. Started in the 1960s and lasted until the 1990s when they left Ecuador. On a daily basis, seven days a week, 24-hours a day, for well over two decades. Four million gallons a day of cancer-causing oil waste dumped into waterways in the middle of Indigenous ancestral lands.

Then the final thing they did is they flared the natural gas that comes out of the wells into the air. This flared natural gas contains poisons, dioxins, and other toxins that also cause cancer. The flaring also produces a "black rain" phenomenon where the air gets so dark with pollution that when it rains, the rain comes down with soot in it. So even capturing rainwater as an alternative to the river water becomes futile. The irony is that in a few short years, because of these illegal practices, Chevron poisoned one of the most beautiful ecosystems on Earth. Thousands of people lost access to clean water and other materials, including food sources that they needed to sustain life and all the ecosystems. And Indigenous peoples and farmer communities in the area generally do not have money to buy bottled water. So, Chevron has determined, out of what I would argue is pure greed and focus on profit, that tens of thousands of people must suffer and die so it could elevate its already high profits to obscene levels, and it has refused to clean it up in light of court orders that it do so.

And what did Chevron do to you?

I worked with a team of lawyers in Ecuador and around the world to litigate a legal case in Ecuador over the pollution. The reason the case was in Ecuador was that Chevron wanted it there and accepted jurisdiction there. Once they started to lose the case and the evidence mounted against them, they came back to the United States where I live in New York, and began to sue me in a civil legal case. [Chevron] sued me for $60 billion. That's far more money than any individual in U.S. history has ever been sued for, and I'm a human rights lawyer working at my kitchen table in a small two-bedroom apartment in Manhattan where I live with my wife and my son. So, this was an intimidation play to get me to stop, to try to intimidate others on our team or who might work on our team, and to win by corrupt means what they could never win on the merits.

Chevron engaged in these preposterous legal attacks, facilitated by a particular U.S. federal judge, who has investments in Chevron (https://truthout.org/articles/judge-tied-to-chevron-sends-lawyer-who-sued-oil-giant-to-prison-for-6-months/) and is a pro-corporate ideologue, an activist named Louis Kaplan. When that didn't work, when we continued to litigate the case, and won the case, Chevron stepped up its attacks on me. They worked with Judge Kaplan to get the court to order me to pay them literally millions of dollars to reimburse them for their legal fees for going after me in this bogus case. This essentially bankrupted me. I have no money. I'm dependent now on a defense fund to live.

Chevron also leveraged Judge Kaplan's various decisions against me based on a witness (https://www.vice.com/en/article/neye7z/chevrons-star-witness-admits-to-lying-in-the-amazon-pollution-case) to whom they paid $2 million, who admitted he lied in court (https://www.commondreams.org/news/2015/10/27/yes-i-lied-vindicating-villagers-star-chevron-witness-busted-perjury), to take away my law license, depriving me of an ability to earn a living. Ultimately, they convinced Judge Kaplan to order me to give them my computer and cellphone, which contain troves of confidential information. When I appealed that order, Judge Kaplan charged me with criminal contempt of court for appealing an unprecedented order that I turn over my confidential communications to my adversary. While this order was on appeal, Kaplan had me locked up in my home with an ankle bracelet. His contempt charges were rejected by the regular federal prosecutor. Kaplan then appointed a private Chevron law firm to prosecute me in the name of the U.S. government, which again is unprecedented. During the three years of my home detention, they sent me to federal prison in Danbury, Connecticut, for 45 days. It was during the COVID outbreak and we were locked down in cells; I literally expected to die in there if I didn't get out.

[Chevron] sued me for $60 billion. That's far more money than any individual in U.S. history has ever been sued for.

I got out of my detention on April 25 of this year, and since then, we've been trying to refocus our energy on the people of Ecuador to have the judgment enforced, so they can get the compensation they need to clean up their ancestral lands, so these Indigenous groups can survive and not become extinct, and can have clean water and have their health needs treated. There's a massive humanitarian crisis in Ecuador. People are dying every day and not even the Ecuador government wants to acknowledge it. Attention needs to be paid to the people of Ecuador, and that's what I'm going to try to do now going forward.

Did you get your law license back?

Chevron stripped me of my ability to practice law. I'm not going to get into the technicalities of this. Essentially, they leveraged Kaplan's decision that I committed fraud in Ecuador to convince a law licensing committee in Manhattan to disbar me. This committee denied me a hearing. Chevron's lawyers orchestrated the entire proceeding, feeding the committee its arguments to "prosecute" me. They claimed I got a hearing before Kaplan, even though he refused to let me testify in my defense and allowed Chevron pay $2 million to a corrupt witness to lie about me. So, I was disbarred without a hearing in the United States of America.

The judgment in Ecuador has been affirmed by six different appellate courts and 28 different appellate judges in Ecuador and Canada, including the Supreme Courts of both countries. So, this was all a subterfuge by Chevron and the judge to try to discredit me and to disable my advocacy. I don't have my law license back; I don't know if I'll ever get it back. Let me be very, very clear: it's not because I did anything wrong. It's actually because I did a lot of things right. The bar that controls lawyer licensing here in New York is totally dominated by corporate law firms, including by the Gibson Dunn firm to whom Chevron paid hundreds of millions of dollars to have me detained.

What can the Indigenous peoples do now?

Number one, the Indigenous peoples and farmer communities in Ecuador's Amazon are organizing a new legal team to go after Chevron's assets in many different countries where they operate. If a debtor won't pay a legitimate court judgment, as Chevron continues to refuse to do, then they are subject to enforcement actions that could result in the seizure of their assets. They are also focused on calling attention to the humanitarian crisis so there can be some immediate relief sent to this region. I'm doing my best to help them. And finally, they are trying to protect all the lawyers and advocates who are working on the case because attacks by the fossil fuel industry on advocates is a major issue affecting all environmental campaigners and activists around the world. We cannot live in a society where a corporation can lock someone up for being a successful human rights advocate and for holding them accountable. That's what happened to me; we must be sure it never happens again. It certainly shouldn't happen in any rule-of-law country, and it shouldn't happen in the United States of America.

So, we're going to focus on that issue too, which is central to our ability to protect our planet from global warming. If we cannot confront the major polluters without being locked up, we stand little chance of surviving. The attack on me is meant to intimidate thousands if not millions of people around the world and we need to protect me going forward as a way to protect our movement. I have 68 Nobel laureates backing me, and thousands of people around the world have stepped up, and I'm so grateful. But we need to understand the stakes here. They want to use me as a symbol to silence the advocacy that is needed to save the planet. We cannot let them succeed. The work continues.

This interview has been lightly edited for clarity.

EVE OTTENBERG (HTTPS://TRUTHOUT.ORG/AUTHORS/EVE-OTTENBERG/)

Eve Ottenberg is a journalist who has reviewed books for *The New York Times Book Review*, *The Philadelphia Inquirer*, *The Baltimore Sun*, *The Washington Post*, *Vanity Fair*, *The New Yorker*'s "Briefly Noted" section, *USA Today*, and many other newspapers and magazines. She is also a novelist. Two of her novels, *Dead in Iraq* and *The Walkout*, deal explicitly with recent political issues. Two others, *Sojourn at Dusk* and *Dark Is the Night* focus on 1960s political activism.

Mayor de Blasio Announces Ban On Single-use Styrofoam Products In New York City Will Be In Effect Beginning 2019

June 13, 2018

NEW YORK— Mayor de Blasio today announced that the City's styrofoam ban will go into effect by January 1, 2019, following the dismissal of a lawsuit preventing the implementation of the ban. This means that food service establishments, stores, and manufacturers may not possess, sell, or offer for use single service Expanded Polystyrene (EPS) foam food service articles or loose fill packaging, such as "packing peanuts" in New York City beginning in 2019. Over the next six months, the de Blasio administration will work with businesses across the City to ensure they understand the law and help them transition to new materials to replace foam products.

"New York City's ban on styrofoam is long overdue, and New Yorkers are ready to start using recyclable alternatives. There's no reason to continue allowing this environmentally unfriendly substance to flood our streets, landfills, and waterways," said **Mayor Bill de Blasio**.

Following the dismissal of a lawsuit delaying the ban on Expanded Polystyrene (EPS) foam food service articles and packing peanuts in New York City, the city is now able to begin the process of implementing the ban. After consultation with corporations, non-profits, vendors, and other stakeholders, the Department of Sanitation (DSNY) determined that EPS Foam cannot be recycled. DSNY also determined that there currently is no recycling market for post-consumer EPS collected in a curbside metal, glass, and plastic recycling program.

As a result of the ban, manufacturers and stores may not sell or offer single-use foam items such as cups, plates, trays, or clamshell containers in the City. The sale of polystyrene loose fill packaging, such as "packing peanuts" is also banned. There is a six month grace period from when the ban goes into effect on January 1, 2019 before fines can be imposed. DSNY, the Department of Health and Mental Hygiene, and the Department of Consumer Affairs will conduct outreach and education in multiple languages to businesses throughout all five boroughs beginning now and during this period.

Local Law 142, passed by the City Council in December 2013, required the DSNY Commissioner to determine whether EPS single service articles can be recycled in an “economically feasible” and “environmentally effective” way. Under the law, if the Commissioner found that EPS was not recyclable, foam food service items and packaging peanuts were then banned.

Non-profits and small businesses with less than $500,000 in revenue per year may apply for hardship exemptions from the Department of Small Business Services (SBS) if they can prove that the purchase of alternative products not composed of EPS would create undue financial hardship. SBS will begin accepting applications for hardship waivers in the fall.

“As we had previously determined, plain and simple, expanded polystyrene cannot be recycled, and we are pleased that the court decision will allow us to remove this problematic material from our waste stream. This necessary step will help us as we continue to move towards our goal of sending zero waste to landfills,” said **Sanitation Commissioner Kathryn Garcia.** “We will now restart our outreach and education work to ensure all city businesses are aware of the new rule, and prepared for its upcoming implementation.”

Corporation Counsel Zachary W. Carter said, “In dismissing a lawsuit that sought to block this important environmental initiative, the Court recognized that the City’s determination to ban food service foam products was ‘a painstakingly studied decision’ and ‘was in no way rendered arbitrarily or capriciously.’ The Court has cleared the way for the City to begin its outreach to businesses so they are aware of and can prepare for the law’s specific requirements before any enforcement occurs.”

“This is a pivotal and long-overdue step to protect New York City from the unnecessary damage Styrofoam does to our streets, water, and people,” said **Mark Chambers, Director of the Mayor’s Office of Sustainability**.

“I am thrilled that the Courts have finally determined what many of us have known all along – Expanded Polystyrene (EPS) is not recyclable” said **Council Member Antonio Reynoso.** “If we are going to reach our goal of zero waste to landfill by 2030, we must begin targeting materials like styrofoam that have no post-consumer application and I strongly support the Mayor’s decision to begin implementation of the ban quickly. I want to thank my Council colleagues and all the advocates who fought so hard to throw styrofoam onto the trash heap of history. I’m very much looking forward to a future in which EPS no longer contaminates our City’s waste stream, waterways, and environment.”

"I am thrilled that NYC can finally implement its styrofoam ban, without the Council having to pass new legislation," said **Council Member Brad Lander**, who introduced a bill to advance a styrofoam ban without having to wait for the decision of the courts. "Styrofoam is not recyclable, and it doesn't matter how many times that plastic and styrofoam industries claim otherwise. The fact is that styrofoam chokes our oceans, litters our streets and is ultimately sent to landfills where it will remain there, literally, forever. There are simple steps we can take as a city to do our part. This is one of them, and I'm grateful to Mayor de Blasio, Commissioner Garcia, and DSNY for sticking with this issue over the years and for moving forward with implementation as quickly as possible. I also want to give a huge shout out to Sanitation Chair, Council Member Antonio Reynoso, NRDC, NYPLI, Cafeteria Culture, NYC Environmental Justice Alliance, Citizens Campaign for the Environment and so many more tireless advocates and community leaders who have helped make this ban a reality in NYC.”

Council Member Costa Constantinides said: “At long last, New York City’s foam ban can take effect. The industry tried lobbying, and they tried litigation, but nothing they did could obscure the simple fact

that polystyrene cannot be recycled in any practical way. Now the city can begin the process of rolling out the ban in a way that meets our sustainability goals while making the transition as easy as possible for our small businesses. I want to thank Mayor de Blasio and Sanitation Commissioner Kathryn Garcia for their perseverance in fighting to make New York one of the greenest cities in the nation."

Council Member Justin Brannan said, "New York City banning styrofoam is a win for our planet. There are plenty of alternatives out there so it makes no sense to continue using a product that doesn't biodegrade, can't be recycled and harms wildlife."

"The data speaks for itself: non-biodegradable, non-recyclable styrofoam products clog our storm drains and beaches, pollute our streets and pose long-term dangers to the future of our environment. Through this victory, New York City will continue as one of the leading municipalities to take bold action in achieving environmental justice," said **Council Member Margaret S. Chin**. "I thank Mayor De Blasio for his unwavering commitment to building a greener, sustainable city and, just as importantly, for partnering with local businesses to ensure they have the support they need to transition to environmentally-friendly alternatives."

"This styrofoam ban will make NYC cleaner and healthier for all," said **Council Member Daniel Dromm.** "Expanded Polystyrene (EPS) foam is notorious for spoiling compost and impeding the recycling process. Even worse, it is hazardous to fish and other marine creatures. In this day and age, with the many affordable and environmentally friendly substitutes available, a ban on EPS makes perfect sense. By coordinating a multilingual outreach plan and offering businesses this six month grace period, Mayor de Blasio has signified his desire to work with small business owners to ensure a smooth transition. As a co-sponsor of the legislation that created the styrofoam ban, I am pleased by this progress."

"The days of styrofoam are over," said **Council Member Rafael Espinal.** "It has become increasingly clear that styrofoam cannot be recycled and that these items are contributing to our global waste problem. I am a proud supporter of this ban and others, which take aim at reducing single use items, especially single-use plastics and I congratulate Mayor de Blasio and all those involved."

"Implementation of the ban on single-use Expanded Polystyrene is a major step forward in making New York a cleaner city, with a smaller environmental footprint. With this success in hand, we must continue to look for ways to eliminate single-use and non-biodegradable products, like plastic bags and straws, that are filling our landfills, littering our neighborhoods, and polluting our waterways. Thank you to all the New Yorkers who spoke out and fought to make our city more sustainable for generations to come, and to my colleagues on the Council and in the Mayor's Office for their leadership in making this ban possible," said **Council Member Helen Rosenthal.**

State Senator Brad Hoylman said, "Styrofoam is a major environmental problem. Every day, approximately 1,369 tons of styrofoam is buried into U.S. landfills because it can't be recycled. Mayor de Blasio's support of Local Law 142 that bans single use styrofoam products will ensure that New York City does its part to reduce this harmful waste."

"Single use styrofoam food containers and packing peanuts clog our waterways, litter our streets, and poison our planet. These products are bad for the environment — and that means they're bad for New Yorkers," **State Senator Brian Kavanagh** said. "With this ban, New York City will leave behind a record of innovative environmental protections — instead of tons of non-biodegradable styrofoam waste. I'd like to congratulate Mayor de Blasio on this legal victory and thank the Mayor, Sanitation Commissioner

Garcia, the advocates who have worked on this issue, and everyone who has pushed so hard to ban these outdated, unhealthy products."

"Dozens of cities across the country have already banned single-use styrofoam products and I'm pleased that New York City has finally joined that list," said **Assembly Member Steven Cymbrowitz.** "We're taking an important step in creating a safer, more environmentally friendly world for our children and grandchildren."

Assembly Member Deborah Glick said, "In our crowded city, proper disposal of the waste stream has become increasingly challenging. The Manhattan Supreme Court's appropriate decision will allow New York City to make significant progress in eliminating wasteful, environmentally detrimental packaging. I look forward to additional opportunities to improve our environment."

"This is a sensible schedule that balances the urgency of addressing litter and pollution problems from single-use foam plastic, with the need to give restaurants sufficient time to use up existing inventories and obtain environmentally preferable substitutes. When this law is fully implemented, residents of every city neighborhood will see cleaner streets, parks, beaches and waterways. Commissioner Kathryn Garcia is continuing to move the city's Sanitation Department into a position of national leadership on sustainability issues," said **Eric A. Goldstein, New York City Environment Director at the Natural Resources Defense Council**.

About EPS:

- Expanded polystyrene is a plastic resin manufactured into consumer products such as "foam" cups, containers, trays, plates, clamshell cases and egg cartons.
- DSNY collected approximately 28,500 tons of expanded polystyrene in Fiscal Year 2014 and estimates that approximately 90 percent of that is from single-use food service products like cups, trays and containers.
- EPS is a major source of neighborhood litter and hazardous to marine life. EPS foam is a lightweight material that can clog storm drains and can also end up on our beaches and in New York Harbor. EPS containers can break down into smaller pieces, which marine animals may mistake for food. The environmental assessment prepared for the bill found that expanded polystyrene particles can wind up in the harbor, and in the floating gyre of non-biodegradable plastic debris that has been found in the Atlantic Ocean – creating a hazard for marine life such as sea turtles and fish.
- EPS is a contaminant of the city's organics program. The presence of EPS foam in NYC's waste stream has a detrimental effect on the City's organic collection program. During the collection process, foam can break down into small pieces that get mixed in with and contaminate organic material, rendering it unmarketable for anaerobic digestion or composting.
- EPS is already banned in cities across the country, including Washington, DC, Minneapolis, San Francisco, Oakland, Portland, Albany, and Seattle. In total, more than seventy cities have banned foam and businesses large and small have shifted to alternative products that are biodegradable or otherwise recyclable.

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%20and%20commerce%20also%20make%20it%20bad%20for%20the%20environment.&source=SEJ)

Styrofoam Facts — Why You May Want To Bring Your Own Cup

April 10, 2019

(/publications/backgrounders)

Issue Backgrounder: Styrofoam Facts — Why You May Want To Bring Your Own Cup

By Joseph A. Davis

Styrofoam may be good for keeping coffee hot, but it is also good for stirring up political controversy. That's because many of the things that make styrofoam good for consumers and commerce also make it bad for the environment.

There is much for people (and journalists) to understand about the technical and environmental aspects of the plastic. This month's Backgrounder gives this long-troubling pollution source a deeper look. Plus, for the latest developments, explore recent headlines (/search/node/styrofoam%20type%3Aheadline) on styrofoam and read this TipSheet (/publications/tipsheet/styrofoam-container-bans-may-be-trending).

What is styrofoam?

First, we are duty-bound to warn you that "Styrofoam" is, legally, a trademarked name (https://en.wikipedia.org/wiki/Styrofoam) for a particular Dow product typically used as a building material.

But the word styrofoam is widely used in conversation and media when referring to expanded polystyrene foam (https://en.wikipedia.org/wiki/Polystyrene#Extruded_polystyrene_foam) — which you may use in that disposable cup or as "peanuts" to pack fragile things for shipping.

Technical and legal sticklers may prefer the term expanded polystyrene, or EPS. The AP Stylebook settles for "plastic foam."

Polystyrene is the name for a whole family of plastics ... but the foam forms have disproportional environmental impact.

Polystyrene is the name for a whole family of plastics, and in various forms they are used for many other things than foam. This backgrounder will focus on the foam forms, since they have disproportional environmental impact.

e was discovered way back in 1839 (https://en.wikipedia.org/wiki/Polystyrene#History), was manufactured the 1930s, then was first foamed in the 1940s, and first sold as coffee cups in the 1960s.

The term polystyrene refers to a polymer (long chain molecule) of the monomer (smaller molecule) styrene. Various gases have been used to blow it up into foam form. The raw materials from which it is made are hydrocarbons (ethylene and benzene) that come from petroleum and natural gas.

Polystyrene is a plastic — meaning that when it is heated, it takes a liquid form that can be molded, shaped or extruded. And then when cooled again to room temperature, it becomes solid. This is what makes it useful for commercial products.

In manufacturing, polystyrene usually starts as small beads. These dense, hard beads are softened by heat and expanded using things like steam and blowing agents, becoming much larger and less dense beads.

During expansion, the beads become skinned cells that may be as little as 3 percent as heavy as the original bead, with most of the volume being gas. These expanded cells may then be formed and bonded into useful shapes.

In finished form, EPS has a number of useful properties. It insulates; that is, it slows heat transmission. It absorbs shock. It is not dissolved by common liquids like water, serving as a barrier.

So it may be great for boiling hot coffee, picnic coolers, bicycle helmets, home insulation, packing materials, restaurant carry-out containers and egg cartons.

This is not to say that styrofoam is the only, or the best, material for these applications. We love a radio-video piece (https://wamu.org/story/19/04/05/the-very-scientific-egg-carton-test/) by Jacob Fenston and Tyrone Turner of WAMU, who showed that styrofoam egg cartons are not necessarily better at protecting eggs.

So what is the problem with styrofoam?

Why, then, is styrofoam of environmental concern? Simply put, it gets into the ocean and other environmental realms, and it does not go away for a very, very long time.

Worse yet, it disassembles into its component little cells, which float away and can be consumed by aquatic and marine creatures.

A lot of styrofoam waste does go into landfills (better than the ocean, but hardly great). But styrofoam is notoriously hard to recycle, and is not accepted by most municipal recycling programs.

Styrofoam is not exactly a, um, health food either. If your kid swallowed a piece of it, it probably would not hurt them, as long as it passed through. But the styrene monomer from which it is made is suspected of causing cancer (https://www.drweil.com/health-wellness/balanced-living/healthy-living/is-styrofoam-safe/) and other health problems (https://toxnet.nlm.nih.gov/cgi-bin/sis/search/a?dbs+hsdb:@term+@DOCNO+171), and miniscule amounts of styrene could leach into your hot coffee.

(/sites/default/files/polystyrenegranules.jpg)

Styrofoam can break down into polystyrene beads, which can be consumed by aquatic and marine creatures. Photo (https://www.flickr.com/photos/moreton/271089528/): Andrew

Potential releases of styrene and its precursors during manufacture could also present problems.

Will use of styrofoam expose you to styrene in worrisome amounts? That's the question.

For the occasional coffee, it may not be a big concern. But certain conditions cause polystyrene to break down chemically and possibly leach styrene.

Heat and hot liquids may be a problem. And microwaving your styrofoam may be iffy. There's also acid (lemon in your tea?), as well as red wine and some oily foods (http://seasickfish.com/eco-ocean/the-dangers-of-polystyrene/).

Moreton, Flickr Creative Commons. Click to enlarge (https://www.sej.org/sites/default/files/polystyrenegranules.jpg).

There are also a number of solvents (https://www.hunker.com/12003633/household-chemicals-that-eat-through-styrofoam) (e.g., acetone nail polish remover and gasoline) that can break down polystyrene.

A 1986 U.S. Environmental Protection Agency study found (https://www.ejnet.org/plastics/polystyrene/health.html) styrene residues, however infinitesimal, in 100 percent of the human fat tissue samples taken. Styrene toxicity may be much greater for people exposed occupationally or via air pollution.

Cells from broken-down styrofoam find their way into streams, lakes and oceans. There, they may be consumed by fish and other marine and aquatic animals (https://news.nationalgeographic.com/2017/08/ocean-life-eats-plastic-larvaceans-anchovy-environment/), who easily mistake them for food.

This is not good for the sea creatures (they may choke or starve), nor for the creatures who consume them — which may ultimately include us humans.

Another environmental issue may arise from the blowing agents used to foam EPS. In the past, some fluorinated hydrocarbon gases were used because of their stability. More recently, their effects on the ozone layer or global warming have prompted a shift to substitutes (https://www.epa.gov/snap/substitutes-foam-blowing-agents).

The fate of styrofoam waste

So let's imagine that your foam coffee cup goes into a trash can and ends up buried in a legally permitted municipal landfill. It may still be a problem there.

One issue is volume. Styrofoam takes up a lot of room per unit of weight. Remember that as foam it has been expanded 40-to-80 times its original volume. A lot of landfills are running out of room.

One common estimate is that styrofoam can take up 30 percent of the space in some landfills. And some estimates put the lifespan of styrofoam in a landfill around 500 years.

One common estimate is that styrofoam can take up 30 percent (https://www.livestrong.com/article/159954-facts-about-landfill-styrofoam/) of the space in some landfills. Once in the landfill, it does not decompose quickly. Some estimates put the lifespan of styrofoam in a landfill around 500 years (https://greendiningalliance.org/2016/12/the-real-cost-of-styrofoam/), and some put it way beyond (https://sciencing.com/long-styrofoam-break-down-5407877.html) that.

Of course, some fraction of all discarded styrofoam does not go into landfills. Some estimate that fraction at 20 percent (https://greendiningalliance.org/2016/12/the-real-cost-of-styrofoam/), at least in the United States. A lot of that is just littered around the landscape, and a lot of that ends up in water. It does not biodegrade. It is chemically stable, and bacteria and microorganisms do not feed on it.

It is common wisdom that styrofoam can not be recycled, which is not true (https://lifehacker.com/yes-you-can-recycle-styrofoam-1831783128) in a very technical sense. It is true that the vast majority of municipal recycling programs will not accept it. But there are a few facilities that will take it.

One reason is that most styrofoam waste (think carryout food containers) is not clean and cannot be easily cleaned. Recycling operations can't handle the contaminated waste. A second important reason is that nobody can make any money (https://earth911.com/uncategorized/recycling-styrofoam/) recycling styrofoam.

This is where you have to distinguish styrofoam (EPS) from polystyrene.

Ordinary hard, unexpanded, polystyrene is common in commercial use — an example may be that yogurt or sour cream container in your refrigerator. It will have the triangular recyclable logo on it and the number 6, meaning polystyrene. Clean these and recycle them. Most cities will take them.

Joseph A. Davis (/about-sej/board-and-staff#DavisJ) is a freelance writer/editor in Washington, D.C. who has been writing about the environment since 1976. He writes SEJournal Online's Issue Backgrounders (/publications/backgrounders) and TipSheet (/publications/tipsheet/overview) columns, directs SEJ's WatchDog Project and writes WatchDog Tipsheet (/publications/watchdog-tipsheet/overview) and also compiles SEJ's daily news headlines, EJToday (/headlines/list).

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National (U.S.) (/category/region/national)
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The Chevron Way

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As corporate values statements go, there are few more stirring than the "Chevron Way" espoused by the nation's third largest corporation. Chevron aspires to be "the global energy company most admired for its people, partnership and performance," one that conducts business "in a socially responsible and ethical manner," and "respects the law, supports universal human rights, protects the environment and benefits the communities where we work." That's heady stuff.

Like most corporations today, Chevron has worked hard to learn the lessons of the corporate and social responsibility movement. It spends significant sums of advertising dollars marketing itself as an environmentally sensitive company. No matter how one might feel about oil companies, most entrepreneurs would agree that Chevron has every right to turn a robust profit--as long as it conducts itself in an ethical, legal and responsible manner consistent with its own high-minded rhetoric.

Yet for all the nice words, Chevron's actions--and values--have not always been so responsible. In fact, there is increasing evidence that some of those actions have been downright harmful to the environment and continue to create health risks for thousands of men, woman and children.

Which brings us to Ecuador.

Ecuador is where Chevron currently faces a potentially $27.3 billion financial liability in a long-running legal case over the consequences of Texaco's alleged sub-standard operational practices in the Amazon

rainforest. In 2001, Chevron acquired Texaco. And evidence in the lawsuit, plaintiffs say, demonstrates that from 1964 to 1992 Texaco deliberately dumped billions of gallons of toxic waste into Amazon waterways, abandoned more than 900 unlined waste pits, burned millions of cubic meters of noxious gases, and spilled more than 17 million gallons of oil due to pipeline ruptures. A court-appointed special master who conducted a damages assessment found that 173 out of 196 former waste pits operated by Texaco and inspected during the trial are contaminated with petroleum hydrocarbons in violation of Ecuadorian standards (each of Texaco's 356 well sites in Ecuador had multiple waste pits.) One plaintiff's expert said he believes cleaning this mess would be one of the largest decontamination efforts ever attempted.

And the plaintiffs have presented evidence that Texaco acted knowingly. An extraordinary memo dated July 17, 1972, from R.C. Shields, then-head of all Latin American production for Texaco, issued a blunt directive to Texaco's acting manager in Ecuador: "No reports are to be kept on a routine basis, and all previous reports are to be removed from field and division offices and destroyed." Good corporate citizens don't demand that reports documenting environmental damage be destroyed.

In 1992, on the eve of its departure from Ecuador, Texaco quietly hired two outside consulting firms to assess the environmental impact of the company's practices. The audits, which were submitted by Chevron as evidence, found that hydrocarbon contamination "requires remediation at all production facilities and a majority of the drill sites," that "produced water was disposed of into a local creek or river or in some instances directly into the jungle," and that in general, "spills of hydrocarbons and chemicals were not cleaned up." One report found that well site spills occurred at 158 of the 163 assessed sites. It also found, shockingly, that under Texaco's watch, prior to 1990 no spill prevention methods were in place, little maintenance had been done on any of the pits, and there was no groundwater monitoring to assess contamination.

There is also a living record of the contamination from witness testimony: the indigenous people and campesinos of the region, whose children bathed in, played in and drank petroleum-laced water. Evidence has been presented from peer-reviewed academic journals that post-Texaco life on the Amazon saw cancer rates--including childhood leukemia--three times higher than rates in the rest of Ecuador. There is also evidence of elevated rates of miscarriages due to exposure to oil contamination and extensive anecdotal evidence of birth defects. After visiting the region last year, U.S. Rep. James P. McGovern wrote in a letter to President Barack Obama, "As an American citizen, the degradation and contamination left behind by this U.S. company in a poor part of the world made me angry and ashamed."

Douglas Beltman, a former EPA official who serves as a scientific consultant to the affected indigenous groups, summarized the problem succinctly: "Texaco treated Ecuador's Amazon like a garbage dump. Almost everything an oil company could do wrong, Texaco did do wrong."

With the complaints about contamination ignored, I and several other lawyers filed a lawsuit in 1993 on behalf of thousands of affected Ecuadorian citizens. The case was filed in New York federal court, within miles of Texaco's corporate headquarters. The objective was to compel the company responsible for what has been called the "Amazon Chernobyl" to pay for a clean-up. Texaco fought for nine years to move the case to Ecuador, filing 14 sworn affidavits asserting that the country's courts were a fair and adequate forum. In 2002, Texaco--by then, ChevronTexaco (and since renamed, simply, Chevron)--won that battle on the condition that it accept jurisdiction and abide by any ruling in Ecuador.

In May 2003, the Amazon communities re-filed the lawsuit in Ecuador. Over the course of the long trial, more than 60,000 soil and water sampling results culled by the parties and an independent expert have been tested by independent laboratories. These results have then been re-confirmed by yet other independent sources, including a court-appointed special master and

U.S. scientists who formerly worked for the EPA and Department of Justice who consult with the local communities. The results show extensive toxic contamination in soils at 100% of Texaco's former well sites.

As the scientific evidence against Chevron mounted, the company went on the attack. It attacked the trial process as unfair--even though it had signed off on the process. It attacked the Ecuadorian judge as corrupt--even though it had filed countless affidavits praising Ecuador's judiciary. It hired lobbyists in Washington to bring pressure on Ecuador President Rafael Correa to quash the case. It promised decades of litigation to prevent a final judgment. In short, Chevron did everything it could to undermine the court system that it had previously praised.

Chevron then tried to shift the blame to Petroecuador, Texaco's consortium partner from 1964 to 1990 and Ecuador's state-owned oil company. Yet records in evidence show that Texaco was the sole operator in Ecuador--exclusively designing, installing and running the massive operation. Internal company documents from the discovery process demonstrate Texaco made all significant production and business decisions, even down to how much could be spent to purchase a file cabinet. It is customary in the oil industry for the operator of oil fields to bear 100% of the responsibility for environmental contamination--and to be compensated for the additional risk.

Chevron also claims it is not liable because in 1995 it paid $40 million to "clean" a portion of the well sites and waste pits in exchange for a release from liability from Ecuador's government. Interestingly, Chevron received the release before remediating a single site. Evidence at trial submitted by the plaintiffs demonstrates that Texaco's purported clean-up ignored the contaminated groundwater, rivers and streams, and consisted primarily of dumping dirt over waste pits without adequately cleaning out the toxins--akin to treating skin cancer with make-up. Evidence submitted by the plaintiffs shows that one well site, Lago Agrio 2, today has levels of TPH

3,250 times higher than allowed in the U.S. and 325 times higher than allowed under Ecuadorian law even though it had been certified by Texaco as "remediated" to secure its release. Worse, two former Texaco lawyers (now Chevron employees) and seven former Ecuadorian government officials are under criminal indictment in Ecuador for allegedly lying about the clean-up. Chevron announced this sad fact in its own press release.

On Forbes.com recently, writer Silvia Santacruz rolled out the latest of Chevron's counter-attacks: that Ecuadorian President Rafael Correa has publicly supported the plaintiffs and made a fair trial impossible; that plaintiff attorneys have made a career out of pursuing Chevron; and that this is really just a case of radical environmentalism at work. What Chevron doesn't say is that it has been afforded more due process rights than probably any defendant in the history of environmental litigation. The company has submitted more than 100,000 pages of evidence and more than 50,000 chemical sampling results to the court, most of which were found by the special master to corroborate the allegations of the plaintiffs that the company's former well sites pose a high risk to human health. The indigenous communities already have waited 16 years for a resolution of their claims.

At the end of August, the case took its strangest turn yet, when Chevron claimed it had video footage implicating the Ecuadoran judge presiding over the trial in a "$3 million bribery scheme." "Except," as Han Shan editorialized on the Huffington Post, "it didn't. The company revealed videos showing a former Chevron contractor named Diego Borja and an American businessman named Wayne Hansen, who appear to be trying fruitlessly to entrap the presiding judge, Juan Nunez." As the *Financial Times* pointed out in a Sept. 1 article, "The judge refuses several times on the tape to reveal the verdict, before saying, 'Yes sir,' when asked if he will find Chevron guilty. Nonetheless, the video begs the question whether Judge Nunez understood what he was being asked." The Ecuadoran government says it will

investigate, and Nunez has recused himself from the case for any appearance of impropriety.

But, as the *Los Angeles Times* put it in an editorial, Ecuador's government "should probe not just the judge's actions but those of Chevron." While claiming to have no role in the sting operation, Chevron admits it paid for the relocation of Borja and his family to the U.S., and provided support. It has also admitted that it had the videotape in its possession since June, but didn't notify American or Ecuadoran officials before its media blitz. And, equally suspicious, Chevron has not allowed reporters covering the story to speak with either Borja or Hansen about the incident--which, in Shan's words, "raises more troubling questions about Chevron than about the judge or Ecuador's judicial process."

In the meantime, the U.S. Supreme Court and U.S. federal trial courts have dealt Chevron five consecutive defeats in the company's attempt to shift the liability to Petroecuador. New York Attorney General Andrew Cuomo--at the request of several Chevron shareholders, including the state's pension fund--has launched an investigation to determine whether Chevron is misleading the financial markets about the risk it faces in Ecuador. And an award-winning independent documentary by Joe Berlinger, *Crude*, will land in theaters in September.

The humanitarian crisis could be quickly addressed if Chevron chose to clean up its mess, as any responsible company would do. Instead, it has decided to violate the values in the "Chevron Way" and reach into its deep pockets, to litigate indefinitely because it is cheaper than funding a clean-up. It has told shareholders it will not pay even if found guilty--a brazen sign of disrespect for the law that not only violates Chevron's previous obligation to a U.S. court, but also damages the image of the United States throughout Latin America. And all the while, Chevron is running ads singing the praises of its environmental and human rights practices.

Until Chevron addresses the consequences of Texaco's rogue behavior in Ecuador, besmirching its reputation and giving American companies a bad name will be the real meaning of the Chevron Way.

Steven Donziger, a New York lawyer, represents Ecuadorian plaintiffs in their suit against Chevron.

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