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As we reported in *Of Counsel*, November 2022, Searcy Denney has spent years fighting legal battles on behalf of thousands of Colombians to hold a U.S. company, Chiquita Brands International, responsible for financially backing terrorist organizations that ravaged their country. After 17-years of litigation, an American jury has, for the first time, held a major U.S. corporation accountable for its complicity in severe human rights abuses abroad. In June 2024, a landmark verdict of \$38.3 million was returned by a Federal jury for the claims of the surviving family members of seven victims of narco-terrorist violence in Colombia.

Chiquita grew, harvested, purchased, and shipped, to the United States and elsewhere, bananas grown in Colombia. During the 1980s, the Colombian government and big business were harassed, sometimes violently, by a left-wing guerilla organization (the FARC) supporting worker's rights and agrarian reform. FARC's intimidation and violent actions were causing great problems for business interests and the Colombian government. Chiquita provided regular payments to the FARC to ensure protection and support for the company and its workers. Eventually, the Colombian government and various businesses including Chiquita sought the help of a right-wing terrorist organization, known as the AUC, to defend against the guerillas. A civil war began escalating between the pro-government, pro-business AUC, and the anti-government, anti-business FARC. In the late 1990s, Chiquita discontinued its payments to the FARC and began to make regular cash payments to the AUC as well as to provide the AUC with other forms of material assistance including providing the facilities to export drugs and import multiple shipments of weapons. In exchange, the AUC controlled Chiquita's labor force and thwarted union organizing by using violence including murder, public executions, beheadings, brutality, and disappearances, against the workers, their families, union organizers, and the local population in general.

Over 7,000 victims of violence - workers, union organizers, general population - murdered, brutalized, disappeared, over 30 years.



In all, many thousands of people were killed by the AUC while it was being actively supported by Chiquita.

In 2010, Chiquita pled guilty to U.S. federal criminal charges that it had funneled \$1.8 million to the AUC after the AUC had been officially designated as a foreign terrorist organization and all financial transactions between the AUC and U.S. companies were strictly prohibited. Chiquita paid \$25 million to the U.S. government in criminal fines, the largest ever imposed under global terrorism sanctions, but none of those funds went to compensate the victims of the violence Chiquita had sponsored.

Following the criminal case, the surviving families of thousands of victims of the AUC/Chiquita brutality began filing claims against Chiquita for having knowingly provided substantial assistance to the AUC and creating a foreseeable risk of harm to the civilian population. Claims filed by multiple law firms in various jurisdictions around the country were consolidated in the U.S. District Court, Southern District of Florida. To logistically manage the thousands of claims, the Court directed the selection of "bellwether" cases to be tried before a jury in small groups. Each bellwether trial was organized to address the claims **(Continued on page thirteen.)**



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of the survivors of several victims. Both plaintiff and defense attorneys separately chose claimants for each bellwether trial. Initially, the Court ruled that plaintiffs had not presented sufficient evidence to link specific murders and brutality to the Chiquita-supported paramilitaries. Plaintiffs appealed that decision and in September 2022, the 11th Circuit Court of Appeals reversed the decision and sent the dismissed claims back for trial.

Searcy Denney attorneys **Jack Scarola**, **Mariano Garcia**, and **Victoria Mesa-Estrada** led a team of law firms from around the country to prosecute the first bellwether trial which addressed the claims of the families of multiple victims of Chiquita’s support for the AUC’s violence.

Chiquita had violated both U.S. and Colombian law. Chiquita attempted to defend its payments to AUC as an extortion, that the company was itself a victim of AUC which had required such payments in an attempt to avoid violence to workers and others and avoid damage to its facilities. The jury expressly rejected that defense. In June 2024, after a 17-year long prosecution effort, the jury ruled in favor of the Plaintiffs, awarding a total of \$38.3 million to the surviving family members of seven of Chiquita’s Colombian victims—approximately 7,000 more violent deaths remain waiting to be addressed.

Mr. Scarola said, “Only when the cost of doing business includes the reasonable value of making sure business is done ethically and responsibly will corporate behavior change.

Together, we can push for a world where justice prevails and human rights are respected.” “This verdict is a monumental step toward corporate accountability and human rights. It is the first time a U.S. corporation has been held responsible in a U.S. courtroom for violating the human rights of foreign nationals. It sets a precedent that no corporation, regardless of size or influence, is above the law,” said Mr. Garcia. Ms. Mesa-Estrada added, “Significant verdicts like this have the potential to change corporate behavior, a wake-up call for businesses worldwide to re-evaluate their operations and ensure violence and human rights abuses are not supported – directly or indirectly.”

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Searcy Denney’s lawyers are proud of their leadership role in achieving this historic result, but they acknowledge the vital contributions of a team of highly skilled and dedicated co-counsel who have fought along side them for nearly two decades: Jim Green, Earth Rights International, Conrad Scherer, Cohen Milstein, Law Offices of Judith Brown Chomsky, Schonbrun Seplow, Boies Schiller, Jonathan Reiter, Terry Collingsworth and William Wichmann. ♦