

Proof of Corruption in Costa Rica Arbitration Ruling

You will see with certainty clear proof of corruption by the Arbitrators own Words, in this Costa Rica Arbitration case titled: David Aven et el vs Costa Rica.

CHICAGO, ILLINOIS, UNITED STATES,
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Who were the arbitrators in this corrupt ruling?

Eduardo Siqueiros,
Chairman of the Arbitration Panel,
Partner in Hogan Lovells, BSTL Law
Firm, Mexico City

Pedro Nikken, Venezuela Attorney. No
Law Firm Affiliation we can find.

Mark Baker, Norton Rose Fulbright Law
Firm, Houston, Texas

ISCID selects their Arbitrators,
supposedly the best of best, like most
countries selects their top Federal
Judges. You decide if the Arbitrators
ruling rose to the standard of the
following statement made recently by a
US Federal Judge.

"Our ruling needs to be accurate and correct because they affect peoples' lives. The Ruling must be clearly explained so that both parties, even the losing party, understands how we came to our decision and that it was a just and fair judgment."

Proof of Corruption by the Arbitrators in the Costa Rica Arbitration

In Paragraph 558 of their ruling the arbitrators say: "If Claimants had submitted in their D1 Application the information relating to the existence of potential wetlands as described in the so-called Protti Report, it is more likely than not that SETENA would have exercised its powers and verify the conditions on site prior to issuing the Environmental Viability and perhaps SETENA would have subject the Las Olas Project to some limitations in its development to protect the potential wetlands identified. In such instance, the real estate development would likely have proceeded to conclusion, albeit with some additional costs, but the Parties would not be



Arbitrator Eduardo Siqueiros, Mexico City



Arbitrator Pedro Nikken from Caracas, Venezuela

involved in this case.”

What's most startling in the above arbitrators statement? it's a demonstrable LIE! Although it's poorly written, unclear and not explained well, their meaning is this. If Claimants would have told SETENA about the "potential wetlands", SETENA probably would have done a site inspection and discovered the wetlands. At the time the arbitrators made that statement in P-558, they knew, or should have known, that clear evidence showed that SETENA DID MAKE A SITE INSPECTION.

In SETENA resolution No 1597-2008-SETENA dated June 2, 2008, SETENA said in their Resolution: "On January 10, 2008, Mr. Eduardo Segnin Zamora, member of the department of institutional management, and company officials of the developer, conducted a field inspection on the project area."



Arbitrator Mark Baker, Houston, Texas

The above is clear evidence that shows the arbitrators lied in their statement in P-558 and intentionally misrepresented the facts in their ruling. It's outrageous, improper and clear proof of judicial malpractice.

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Words have Meaning". "By Your Words You will be Justified and by Your Words You Will be Condemned". "Know the Truth and the truth will set you free"

The Claimants

The above Arbitrators statements are hearsay and conclusory, because SETENA never providing direct testimony from any of their key agencies. Costa Rica failed to produce key witnesses from (SETENA-MIANE-SINCA-INTA- or PROTTI) to give direct testimony in the arbitration. Competent Judges would have disallowed all such hearsay statements

Notice all the speculative words the Arbitrators use, "If claimants had, "potential wetlands, more likely than not,

perhaps SETENA would, likely have". The paragraph is riddled with speculative words, not facts-and-evidence. What do the arbitrators mean by the "so called PROTTI Report?"

Furthermore, Dr. Diogenes Cubero Fernandez', contradicted the Arbitrators conclusions in his INTA wetland report. Here are Dr. Cubero's own words: "It's clear that there was no invasion by the project of an area previously and technically defined as a wetland. On the contrary it's based on the technical reports and inspections that the project members continue to develop the works in question. The developer is not under the obligation of knowing technical criteria for the definition of a wetland ecosystem, because it should be provided by studies of the corresponding offices." INTA is Costa Rica's top wetland authority and in fact teaches MINAE how to determine wetlands.

There are two obvious contradictions between the INTA Report and the findings in the Arbitrators Ruling, (1)The INTA report says, soil studies showed no wetlands and (2) The INTA report said the developer/claimants had no obligation to know what wetlands are. It's a total outrage that the Arbitrators threw INTA's objective evidence right out the window and replaced it with proxy hearsay evidence in ruling against the Claimants.

The arbitrators then make another incredulously false statement in P-551, which was also contradiction by Dr. Cubero's INTA report. Here they are from P-551"

"Respondent acknowledges that SETENA and other competent authorities may have overlooked the existence of wetlands, or determined that none existed when they did carry out an inspection. But, it adds, this is incidental to the conclusions reached by its agencies, because the permits were obtained unlawfully, since Claimants were responsible to search for, identify, and disclose the existence (or even the "possible existence" of wetlands.")

Again just a blatant disregard for factual evidence. Neither SETENA, MINAE, SINAC or INTA ever said the permits were "obtained unlawfully" and that statement is more hearsay, as well as slanderous and defaming against Claimants. In fact, documentary evidence, in the arbitration, shows the exact opposite to be true. Knowing that, the Arbitrators improperly adopted Costa Rica proxy hearsay testimony and built their entire Arbitration ruling upon false hearsay statements, not supported with factual evidence by the key Government agency representative; who were never called for direct testimony, but instead were hidden by the state from appearing in the Arbitration. ICSID needs to change their arbitration rules so Claimants can call their accusers for trial. Without the key agencies direct statements from their representatives, all statements made by the arbitrators, or the State's attorneys, are hearsay and conclusory and should have been disregarded in their ruling.

Why didn't Costa Rica produced their Accusers (the State's Witnesses) to face the accused (the Claimants)? Could it be because if the State produced them they would have told the truth and testified for the Claimants? It was the State that turned them into in-absentia accusers and then spoke on their behalf.

There are only two possible explanations for this outrageous Arbitration Ruling. The arbitrators were either GROSSLY INCOMPETENT or GROSSLY CORRUPT. Since ICSID has a strong vetting process for their arbitrators, we can rule out incompetence. That only leaves GROSSLY CORRUPT, and it's clearly seen, on full display, in this report. See full report at <http://crbuzz.com/autopsy-of-a-corrupt-cafta-icsid-ruling/>

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