



C L A R E L O C K E

L L P

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By Email

**Confidential
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Re: In Berta Cáceres Murder Trial in Honduras, Prosecutors Will Fall Short

Dear Mr. Dudley, Mr. McDermott, and Ms. Byrd:

I write on behalf of my clients, Banco Ficohsa ("Ficohsa") and its majority owners (five members of the Atala Faraj family) regarding an article titled *In Berta Cáceres Murder Trial in Honduras, Prosecutors Will Fall Short*.¹ The article was authored by Parker Asmann and was published by InSight Crime on its website yesterday, on September 17, 2018. Yesterday evening, InSight Crime published a revised edition of the article. Both editions describe the killing of Honduran activist, Berta Cáceres, and efforts to bring her killers to justice, including updates and information related to the forthcoming murder trial.

The Atala Faraj family and Ficohsa fully support efforts to see justice done in the reprehensible murder of Ms. Cáceres, and they hope that all those responsible for her murder are captured, judged, and punished. To that end, innocent people should not be falsely accused of defamatory accusations of murder and conspiracy to commit murder. I write because both editions

¹ See <https://www.insightcrime.org/news/analysis/bertha-caceres-murder-trial-honduras-fall-short/>.



of the article falsely charge my clients with these heinous crimes, even though they had nothing to do with the murder or the DESA / Agua Zarca project Ms. Cáceres protested. Both editions do so by truncating the surname “Atala Zablah” to “Atala.” In addition, the original edition of the article falsely stated that “the owners of DESA . . . own[] numerous businesses, including Ficohsa . . .” In the revised edition, InSight Crime moved the reference to “Ficohsa” from the body of the article into a hyperlink included in the article, thereby preserving the false and defamatory meaning of the original edition. Specifically, by falsely conflating Ficohsa and its owners (members of the Atala Faraj family) with the Atala Zablah family that owns DESA, InSight Crime falsely accused them of the murder of Ms. Cáceres.²

As InSight Crime is well aware, the structure of family names in Latin America is a matter not just of custom but of law, and therefore there is an automatic distinction between the Atala Faraj family and the Atala Zablah family. Indeed, the article does *not* truncate the surnames of Berta Zúñiga Cáceres, the daughter of the murder victim, nor of Henry Javier Hernández Rodríguez, Edilson Atilio Duarte Meza, or Roberto David Castillo Mejía, who are on trial.

In addition, it is a matter of public knowledge that neither Ficohsa nor the Atala Faraj family have ever had any interest in the DESA / Agua Zarca project, and that there are no overlapping investments between the Atala Farajs and the Atala Zablahs. The Atala Zablah family is affiliated with the DESA / Agua Zarca project, but they have no ownership interest in Ficohsa. Indeed, the New York Times and Foreign Affairs magazine have already corrected articles that—like InSight Crime—truncated the surname Atala Zablah to “Atala” and thereby falsely accused the Atala Faraj family and Ficohsa of the murder of Ms. Cáceres. On October 28, 2017, the New York Times published the article, *Who Ordered Killing of Honduran Activist? Evidence of Broad Plot Is Found*,³ which originally falsely associated the Atala Faraj family and Ficohsa with the DESA / Agua Zarca project. The Times promptly published the following correction:

Correction: November 1, 2017
An article on Sunday about the investigation surrounding the killing of a Honduran land rights activist referred incorrectly to investors in the proposed dam project. They are members of the Atala Zablah family, not “the Atala family” (no members of the Atala Faraj family have been investors in Desa or the Agua Zarca project).

A version of this article appears in print on Oct. 29, 2017, on Page A16 of the New York edition with the headline: Honduran Murder Case Points to Sweeping Plot. Order Reprints | Today's Paper | Subscribe

² Nothing in this letter should be considered as supporting or accepting any allegations against institutions, families, or individuals that have been involved as investors with the DESA / Agua Zarca project. The Atala Farajs were not involved in the project and they have no knowledge of the truth or falsity of the accusations against those involved in the project.

³ See <https://www.nytimes.com/2017/10/28/world/americas/honduras-berta-caceres-desa.html>.



Foreign Affairs also promptly issued a similar correction to one of its articles that had made similar false claims, writing:

An earlier version of this piece incorrectly stated that the owners of the Ficohsa bank are involved in the Agua Zarca project, and DESA. Neither the Atala Faraj family nor Ficohsa have ever been shareholders or investors in DESA or the Agua Zarca project.⁴

InSight Crime's decision to disregard Latin American naming conventions, to truncate the Atala Zablah surname, and to disregard the prior corrections by the New York Times and Foreign Affairs are clear evidence of actual malice. Like the New York Times and Foreign Affairs, InSight Crime should immediately and prominently correct its errors.

Specifically, InSight Crime should immediately correct the article to refer to the Atala **Zablah** family (and not to the Atala family generally) and remove the hyperlink from the word "owns" in the following sentence in the article: "The family owns numerous businesses and has longstanding political influence." We also demand that InSight Crime append the following correction to the article and prominently publicize the correction through all of its social media accounts (including Twitter) and to all email addresses to which the article was sent (by including the correction below with a link to the corrected version of the article):

Correction: A prior version of this article referred incorrectly to the investors in the DESA / Agua Zarca dam project that Ms. Cáceres protested. They are members of the Atala Zablah family. The prior version also failed to distinguish between two different families that have different business interests. No member of the Atala Zablah family has ever held any ownership interests in Ficohsa. Neither Ficohsa, nor its owners, the Atala Faraj family, have ever had any financial interest, as investors or otherwise, in the DESA / Agua Zarca dam project. We regret the error.

We are sure you understand the seriousness of these issues. The Atala Faraj family and Ficohsa have worked hard for many years to build excellent reputations as pillars of Honduran society and the international business community. They will take all appropriate steps, including litigation if necessary, to protect their reputations and business, to repair and recover damages, and to set the record straight.⁵

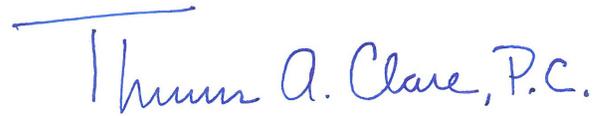
⁴ See <https://www.foreignaffairs.com/articles/honduras/2016-03-22/voice-honduras-voiceless>.

⁵ In light of the contemplated litigation, you must preserve and retain all documents, data, and electronically stored information relating in any way to Ficohsa, the Atala Faraj family, the Atala Zablah family, or the funding, reporting, drafting, editing, fact checking, publishing, distributing, or promoting of the article. Your ongoing obligation to preserve and retain documents relating to these topics includes emails and their attachments, text messages, instant messages, voice messages, and other communications; drafts and versions of the report; notes and work files; audio recordings, video recordings, photographs, images, and transcripts; social media posts, comments, and messages; paper documents; records relating to compensation paid to anyone who worked or contributed to the article; Google Analytics data relating to the article; metadata; word processing documents,



We look forward to your prompt action.

Very truly yours,



Thomas A. Clare, P.C.

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spreadsheets, presentation slides, databases, calendars and calendar entries, diaries, meeting notes, telephone logs, contact manager information, internet usage files, web browser histories, and web search histories (which are typically automatically deleted after a period of time and must therefore be proactively preserved); offline storage for information stored on removable media, information contained on laptops or other portable devices, and network access information. Please forward a copy of this letter to all people and entities with custodial responsibility for any of the items mentioned in this letter. Failure to honor this request could result in serious penalties.