



COAL MINERS FILE CLASS ACTION AGAINST SOUTH32, BHP BILLITON PLC AND SERITI POWER.

***Profits come at a devastating cost to workers and families, miners
allege in new litigation***

JOHANNESBURG, SOUTH AFRICA, August 15, 2023 – Today, South African human rights lawyers filed an action against global mining companies South32, BHP Billiton PLC and Seriti Power seeking legal remedies for sick miners and the families of workers who died due to coal mine dust lung disease (CMDLD) in the form of pneumoconiosis and chronic obstructive pulmonary disease (COPD).

Filed by Richard Spoor in the High Court of South Africa, Gauteng Local Division, this application for certification of a class action seeks recourse for current and former coal miners, as well as dependents of deceased workers who contracted the illness.

Every breath can be a struggle in the life of a coal miner suffering from CMDLD. In exchange for backbreaking work that has generated enormous wealth for more than a century, miners far too often walk away with incurable lung diseases that require life-long treatments they cannot afford. Many have tragically lost their lives.

“We know that there is a long and difficult road ahead for miners who are already paying a heavy price for their labor. While compensation will not restore their health, we seek justice for those whose work has sent them home bearing the high cost of coal on their bodies,” said Richard Spoor.

Motley Rice LLC, one of the largest plaintiffs’ litigation firms in the United States, is supporting the workers’ legal team as consultants. The litigation comes roughly five years after the two firms negotiated the historic class action settlement for injured workers in *Nkala and Others v Harmony Gold Mining Company Limited and Others*. In that matter gold mine workers and their families were compensated after contracting silicosis caused by occupational exposure to silica dust in gold mines.

“Motley Rice attorneys have been working on behalf of injured workers for over 50 years and on behalf of sick workers in Africa for over a decade. We are proud to share our experience to assist coal miners and their families in their fight for justice in South Africa,” stated U.S. based litigator, Michael Elsner, leading the coal litigation for Motley Rice.

Common health problems

Coal mine dust can cause miners to develop lung diseases including pneumoconiosis and COPD. Coal miners’ pneumoconiosis is a scarring or fibrosis of the lungs. COPD is a chronic lung disease that can be characterized by breathing difficulty and airflow limitations. Both pneumoconiosis and COPD caused by coal dust are wholly preventable diseases. Despite knowing the risks to coal miners, members of the coal mining industry failed to provide their workers with adequate training, equipment, and a safe working environment, the litigation alleges.

Applicant Maiwana Jan Nkosi (65), who worked on a mine between 1981 and 2016, was diagnosed with Coal Mine Dust Lung Disease in 2020.



“I experience constant chest pain. At night I have to sleep in a particular position to try to relieve the chest pain. My coughing and wheezing sometimes wakes me up at night. When I walk quickly it feels like my chest is blocked, and I must stop and rest for a while. When I walk up an incline, I experience chest pain and can only walk very slowly. I often run out of breath,” Nkosi explained.

“The impact this illness has had on myself, and my family has led to my inability to work after leaving the mine. My breathing is labored and I am not able to do physical work. Maintaining a job in my condition would be near impossible,” he added.

Nkosi, whose three younger brothers all became mineworkers, supports his wife and two children.

The Filing

The applicants seek to hold South32, BHP Billiton PLC and Seriti Power responsible for actions from March 12, 1965, to the present. The proposed applicant classes include:

- × Current and former coal miners who contracted CMDLD in the form of pneumoconiosis (with or without COPD).
- × Current and former coal miners who contracted COPD after working in a South32, BHP Billiton PLC and Seriti Power.
- × Dependents of coal miners who have died due to the illness.

The applicants argue that South32, BHP Billiton PLC and Seriti Power breached the legal duties owed to the miners by failing to implement statutorily mandated procedures and protections. As a result, the miners developed incurable lung diseases.

This class action is a first step toward obtaining justice for all coal miners who have suffered, often without any form of compensation. If approved by the Court, the litigation will cover coal mine workers and dependents from many regions and rural communities given that miners often travel from afar to gain employment.

The case was initiated by the Southern African Catholic Bishops’ Conference.

“Very often workers do not have the means to seek legal recourse from large companies which have huge resources at their disposal. The Church is always concerned about the well-being of people with whom we work and live. It is thus incumbent on the Church to give assistance where it can so that the rights of the vulnerable are respected and so that they can access compensation that is legally due to them. Many companies are amenable to settling such cases, but in some instances court action is necessary,” said Cardinal-elect Stephen Brislin, the Archbishop of Cape Town.

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