



MBUYISA NEALE ATTORNEYS

Leigh Day

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Gold Miners express their emotions at historic Silicosis settlement at press conference

Former gold miners and relatives of deceased ex-miners have reached a landmark settlement of their long-running legal battle against Anglo American South Africa Ltd and AngloGold Ashanti Ltd.

The 4,365 Claimants sued the mining companies for dust-related lung diseases, silicosis and silico-tuberculosis, which they claim were contracted from working in unsafe conditions in the mines. The claims were instituted from 2012 and are completely separate from the silicosis class action proceedings that are currently awaiting a decision on certification from the Johannesburg High Court.

The claimants are represented by Zanele Mbuyisa of Mbuyisa Neale attorneys (Johannesburg) assisted by human rights lawyers, Leigh Day (London).

The settlement was announced today at a press conference in Johannesburg by Zanele Mbuyisa, and Leigh Day partners, Richard Meeran and Shanta Martin. Binyana Benson Qubeka, who was one of the lead claimants in the litigation attended the conference. Mr Qubeka worked at AngloGold mines for 15 years and at other Anglo American operations for 10 years. He was diagnosed with silicosis in 1998.

A trust to be set up under the settlement has been named *Q(h)ubeka*, meaning 'go forward' in Xhosa in honour of the thousands of claimants who have struggled for decades without proper compensation from the mining companies.

The overall value of the settlement is estimated to be more than R500 million (£23 million). A total of R464 million (£21 million) will be paid into the Q(h)ubeka Trust for distribution, while a further amount will be paid to assist the Trust to enable payment of ODMWA compensation to Claimants who qualify for it. In addition, Anglo American and AngloGold will fund the costs of the Trust and the medical evaluations.

In order to qualify for compensation, claimants will need to be medically diagnosed with silicosis and to have worked on Anglo American or AngloGold mines for at least two years.

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The Trust will arrange medical evaluations of the claimants locally to determine the existence and severity of silicosis.

Payments will be based on a tariff system, which will reflect the severity of disease and age of the claimant. Relatives of deceased claimants who meet the criteria will be included. Since the overall amount of the settlement is a fixed amount, the level of the tariffs will depend on the number of claimants who qualify. Based on an analysis of a random sample it is anticipated that approximately 60% of the group may qualify.

In addition to payment from the Trust, the Trust will arrange for claims to be submitted to the Medical Bureau of Diseases for compensation under ODMWA. Anglo American and Anglo Gold have promised to use their best efforts to facilitate the ODMWA payments.

The Q(h)ubeka Trustees, chaired by Doctor Sophia Kisting, are experts in the fields of occupational disease, financial administration and law.

Welcoming the settlement, Zanele Mbuyisa said:

"The epidemic of silicosis and TB has caused widespread suffering and misery for ex-miners, their families and communities. Sick ex-miners have effectively been left on the scrap heap by the mines and thousands of silicosis victims must have died uncompensated during a period when the industry should have been well aware of their predicament and its cause.

"A six-week trial had been scheduled in April 2016. Based on the evidence amassed and the powerful support from an array of eminent experts we were confident of winning. However, continuing with the litigation, rather than settling, would have meant a further substantial delay in receipt of compensation, which the claimants and their families cannot afford."

Richard Meeran from Leigh Day said:

"This settlement is a triumph for justice and accountability. It will bring much needed financial relief to the victims and their families. This settlement scheme provides a model and, we hope, the necessary impetus for an industry-wide settlement for all gold mining silicosis victims."

Background

Silicosis among South African gold miners

Black miners undertook the dustiest jobs on the gold mines, unprotected by effective respirators. During the apartheid era the industry was focused on production and displayed a flagrant disregard for the health of miners.

A series of published studies on black former gold miners have confirmed high rates (20-30%) of silicosis in those who were employed long-term. Miners with silicosis have a greatly increased risk of contracting tuberculosis, a disease that is endemic in rural areas and to which black miners are therefore especially vulnerable. Epidemic rates of silicosis and tuberculosis have occurred in black South African gold miners. The combination of silicosis and tuberculosis ("silico-tuberculosis") is very serious and often fatal.

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The claimants

The claimants live in impoverished regions of the Eastern Cape (65%), Lesotho (27%) and the Free State (7%). Their average age is 61. They are ex-underground miners (or widows of deceased miners) employed on one or more of 12 Anglo American South Africa mines before 1998 or on AngloGold's Vaal Reefs mine.

Payment of the R464M (£21M)

An initial payment of SAR300M will be paid within 2 weeks of the Q(h)ubeka Trust's bank account being established. Further payments will be paid out in tranches to the Trust in accordance with the number of claimants with proof of more than 2 years' employment on AngloAmerican or AngloGold operations. The Trust will receive SAR464M (£21M) upon proof of at least 4,168 claimants having 2 years' employment. This will be in addition to the Trust's operational costs and a further amount relating to ODMWA.

Second settlement in 3 years

Today's settlement follows the September 2013 settlement of test case litigation brought by 23 President Steyn miners against Anglo American SA. The test cases were the first silicosis claims in South Africa and were run by Leigh Day and the Legal Resources Centre from 2004-2013. The test cases were intended from the outset to provide the foundation for today's settlement.

About ODMWA

The Occupational Diseases in Mines & Works Act 78 of 1973 (ODMWA) stipulates that ex-miners are entitled to a two-yearly benefit medical examination and for payment of compensation on a no-fault basis to those suffering from specified occupational diseases.

The ODMWA system is presently in a state of chaos: most miners cannot access a benefit medical examination facility and those who are certified with an occupational disease often have to wait years before they are paid. In addition, the amount of compensation under ODMWA is modest and does not cover pain and suffering

About the trustees and medical panel

Dr Sophia Kisting (Chair) is National Executive Director of the National Institute for Occupational Health & National Cancer Registry (Jbg) prior to which she was Director of Global International Labour Organisation Programme on HIV/AIDS and the World of Work in Geneva.

Goolam Aboobaker is a trained economist and also a trustee of the Kagiso Trust established in May 1985 as a mechanism to channel funds to promote the struggle against apartheid as well as uplift and empower communities deprived by the system. He was a senior advisor to the IMF Executive Director and was Deputy Director General of the National Treasury.

John Doidge is an attorney who is Managing Director of the Geneva Management Group. He is a trustee on the Asbestos Relief Trust.

Bridgitte Mathews has been a member of the African Women Chartered Accountants since 2007 and a member of the Institute of Directors since 2011.

The medical evaluations will be run by Dr Jim teWaterNaude, a specialist at the University of Cape Town who coordinated the medical evaluation system for the Asbestos Relief Trust.