



## LEGAL TEAMS SEEK TO CONSOLIDATE THOUSANDS OF CASES IN HISTORIC SILICOSIS LITIGATION

**JOHANNESBURG, SOUTH AFRICA, 22 August 2013** – In the pursuit of justice for tens of thousands of mineworkers in South Africa and throughout the neighboring regions, Abrahams Kiewitz Attorneys, the Legal Resources Centre and Richard Spoor Attorneys Inc. today submitted an application for consolidation in the South Gauteng High Court. The application seeks to combine three different class actions currently pending in South African courts on behalf of current and former gold mine workers, as well as dependents of deceased workers, who contracted silicosis and tuberculosis as a result of their exposure to silica dust while working on South African gold mines. Together, the legal teams represent more than 25 000 individuals. The number of class members who stand to benefit, if the litigation is successful, is conservatively estimated at between 100 000 and 200 000.

The litigation names 32 respondent gold mining companies that owned or operated 82 different gold mines from 1956 to the present. The respondents include Harmony Gold Mining Company Limited, Avgold Limited, AngloGold Ashanti Limited, Gold Fields Limited, Village Main Reef Limited, Simmer and Jack Mines Limited, DRDGold Limited, ERPM Limited, Anglo American South Africa Limited, African Rainbow Minerals, Randgold and Exploration Company Limited and their subsidiaries.

The proposed class action seeks to certify two classes:

- Current and former mineworkers who have contracted silicosis and the dependants of mineworkers who died of silicosis, and
- Current and former mineworkers who have or had contracted pulmonary tuberculosis, and the dependants of deceased mineworkers who died of pulmonary TB (excluding silo-tuberculosis).

“The LRC is committed to this landmark pursuit, teaming up with Charles Abrahams and Richard Spoor. We are confident that this consolidation will bring justice for thousands of victims” said Sayi Nindi of the LRC. “At this time, we believe that consolidation and this class action is the best route for our clients.”

In the interest of doing what is best for all current and former gold miners suffering from silicosis and tuberculosis and their families as a result of the alleged negligence of the gold mining industry, the legal representatives for this proposed class action believe consolidation will allow justice to be served more efficiently and effectively. The purpose of the litigation is to hold the industry accountable for the harm that it has done and to put to an end to the type of conduct that has enabled it to profit at the expense of its workers.

“I strongly believe the gold mining industry created and knowingly perpetuated this health epidemic. It is time it accepts its responsibility, properly compensates mineworkers and their dependents and makes the changes required to ensure that mine-workers can enjoy their constitutional right to a safe and healthy work environment” added Richard Spoor. Spoor says that the mining companies and government acknowledge that there is a problem, but that no one is willing to take responsibility. “The failure of the industry to take responsibility for this, the largest and longest running industrial disaster in modern history, and to make redress, compels us to litigate.”



The class action route is deemed the best mechanism to secure access to justice for the thousands of sick mineworkers who would otherwise, by virtue of their isolation in remote rural areas and their poverty, never be able to bring their individual claims to court. It will also reduce the cost of litigation and significantly reduce the burden on the courts, which might otherwise be called upon to try thousands of individual claims dealing with substantially the same issues.

Charles Abrahams, who brought South Africa's first class action for damages, against bread producers charged with colluding to manipulate the bread price, states, "[t]he Supreme Court of Appeal has now laid down the criteria for class certification and the Constitutional Court has directed how the criteria should be applied. In light thereof, the class action device is the most appropriate and effective legal mechanism by which to undertake this litigation. The efficiency benefits and opportunity to serve social justice, that the claimants deserve, is advanced by the class action mechanism."

The legal teams are committed to work together to best advance the interests of their clients and the members of the classes in this case, which may be cited as *Bongani Nkala & Others v. Harmony Gold Mining Company Limited & Others*, the matter is pending in the South Gauteng High Court, Johannesburg.

View the [court documents](#) filed today and learn more about the [litigation](#).

### **About Silicosis**

Silicosis is a wholly preventable disease, yet thousands of new silicosis cases are diagnosed each year because of the South African gold mining industry's failure to provide adequate ventilation and to prevent the exposure of miners to harmful quantities of dust. Silicosis is a chronic, progressive and debilitating lung disease that cannot be cured. It is caused by the inhalation of respirable crystalline silica dust particles that is released into the air during mining operations. Crystalline silica, also known as quartz, is found in association with gold in the Witwatersrand and Free State goldfields. When inhaled, it damages lung tissue and results in scarring or fibrosis, which reduces lung function. The impact of silicosis on the life span and general health and functioning of the worker concerned is significant. In many instances it disqualifies the victim from further employment on the mines. Silicosis and its complications, which include progressive massive fibrosis, tuberculosis (to which silicotic persons are particularly susceptible) and heart disease, can lead to substantial disability and not infrequently to premature death.

### **About Pulmonary Tuberculosis**

Pulmonary Tuberculosis is one of the most common diseases afflicting gold mine workers and a major cause of death. More gold mine workers die of pulmonary tuberculosis each year than are killed in accidents underground. While the disease is caused by a bacterial infection, it has been known for decades that exposure to high levels of silica dust and unsanitary housing conditions are causal factors in the contracting of this disease by gold miners. By the simple expedient of reducing gold mine workers exposure to silica dust the incidence of this dread disease can be dramatically reduced.

### **About Abrahams Kiewitz Incorporated**

Abrahams Kiewitz Inc. is a boutique black law firm that has a specific focus on human rights and public interest litigation. Over the years, it has been involved in a number of land mark cases. It undertakes this litigation with Hausfeld LLP, a well-known U.S.-based law with extensive experience in complex class action litigation, mass torts and competition law. Abrahams Kiewitz Inc. and Hausfeld LLP have a historic relationship with each other dating back more than a decade. The two firms also act on behalf of victims in



the internationally well-known Apartheid litigation and have recently strengthened its efforts in competition matters.

### **About the Legal Resources Centre (LRC)**

The Legal Resources Centre (LRC) is South Africa's largest public interest, human rights law clinic. Established in 1979, the LRC uses the law as an instrument of justice for the vulnerable and marginalized, including the poor and homeless and landless people. The LRC has been involved in litigation against Anglo American South Africa since 2004 in a matter where it represents ex-gold miners diagnosed with silicosis who worked for Anglo American's President Steyn Gold Mine. The LRC is funded by Legal Aid South Africa for both its President Steyn litigation and the current class action. Legal Aid South Africa funds legal work which has the potential to positively affect the lives of a great number of indigent people such as our current clients.

### **About Richard Spoor Inc Attorneys**

Richard Spoor Inc Attorneys has a special interest in occupational health and safety and the impact of mining on host communities and the environment. In 2004 the firm secured a settlement, on behalf of former asbestos mine workers, that led to the establishment of the Asbestos Relief Trust and the Kgalagadi Relief Trusts, which have, to date, paid over R360 million in compensation to workers, their dependents and members of mine communities persons who have contracted or died of asbestos related diseases. The firm is undertaking the litigation with U.S.-based plaintiffs' law firm Motley Rice LLC which is serving in a legal consulting role. Motley Rice LLC brings extensive experience in class actions and large scale occupational health and safety litigation. The experience, skills and resources they bring to bear are critical to the success of the litigation—litigation that few, if any, South African law firms are equipped to undertake alone. For further information, please refer to [www.goldminersilicosis.co.za](http://www.goldminersilicosis.co.za).

###

### **Press office contact details:**

Ulaysha Sukhu: [ulaysha@worldonline.co.za](mailto:ulaysha@worldonline.co.za) or 083 229 6410

Charlene Dennis: [charlenedennis@iburst.co.za](mailto:charlenedennis@iburst.co.za) or 083 278 2588

Khumbulani Mpofu, LRC Communications Officer: 011 838 6601 or 082 603 4607

Marlette McLeod, Abrahams Kiewitz: [Marlette@ak.law.za](mailto:Marlette@ak.law.za) or 021 914 4842