

CC:

B 2019

NO:

**IN THE HIGH COURT OF SIERRA LEONE**  
**(GENERAL CIVIL DIVISION)**

Sierra Leone  
(TO WIT)

**BETWEEN:**

ADIKALIE BANGURA

NO. 9 JABBAH STREET, SAQUEE TOWN

PLAINTIFF

**AND**

OCTEA LIMITED

1<sup>st</sup> DEFENDANT

THE MANAGING DIRECTOR OCTEA LIMITED

2<sup>nd</sup> DEFENDANT

OCTEA DIAMOND LTD

3<sup>rd</sup> DEFENDANT

THE MANAGING DIRECTOR OCTEA DIAMOND LIMITED

4<sup>th</sup> DEFENDANT

OCTEA MINING LIMITED

5<sup>th</sup> DEFENDANT

THE MANAGING DIRECTOR OCTEA MINING LIMITED

6<sup>th</sup> DEFENDANT

OCTEA SERVICES LIMITED

7<sup>th</sup> DEFENDANT

THE MANAGING DIRECTOR OCTEA SERVICES LIMITED

8<sup>th</sup> DEFENDANT

OCTEA FOUNDATION LIMITED

9<sup>th</sup> DEFENDANT

THE MANAGING DIRECTOR OCTEA FOUNDATION LIMITED

10<sup>th</sup> DEFENDANT

KOIDU LIMITED

11<sup>th</sup>DEFENDANT

THE MANAGING DIRECTOR

KOIDU LIMITED

12<sup>th</sup> DEFENDANT

**ALL OF 84 WILKINGSON ROAD FREETOWN, SIERRA LEONE**

**BY HIS EXCELLENCY THE PRESIDENT OF THE REPUBLIC OF SIERRA LEONE SUPREME HEAD OF STATE, GRAND COMMANDER OF THE ORDER OF THE REPUBLIC, COMMANDER-IN-CHIEF OF THE ARMED FORCES, FOUNTAIN HEAD OF UNITY, HONOUR, FREEDOM, AND JUSTICE.**

**TO: OCTEA LIMITED, THE MANAGING DIRECTOR OCTEA LIMITED, OCTEA DIAMOND LTD, THE MANAGING DIRECTOR OCTEA DIAMOND LIMITED, OCTEA MINING LIMITED, THE MANAGING DIRECTOR OCTEA MINING LIMITED, OCTEA SERVICES LIMITED, THE MANAGING DIRECTOR OCTEA SERVICES LIMITED, OCTEA FOUNDATION LIMITED, THE MANAGING DIRECTOR OCTEA FOUNDATION LIMITED, KOIDU LIMITED, THE MANAGING DIRECTOR KOIDU LIMITED**

WE command you that within 14 days after service of the Writ on you, exclusive of the day of such service, you do cause an appearance to be entered for you in the High Court of Sierra Leone in an Action at the suit of **ADIKALIE BANGURA**. And take notice that in default of your so doing the Plaintiff may proceed herein and judgment may be given in your absence.

WITNESS the Honorable **MR.JUSTICE DESMOND BABATUNDE EDWARDS**, Chief Justice of the Republic of Sierra Leone, the        day of                                  in the Year of our Lord, 2019.

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**MASTER AND REGISTRAR**

N.S

This Writ is to be served within twelve calendar months, from the date thereon, or if renewed, within six calendar months from the date of such renewal, inclusive of the day of such date, and not afterwards. The Defendant may appear hereto by entering an Appearance either personally or by a Solicitor at the master's office, High Court of Sierra Leone Kenema District Registry.

A Defendant appearing personally may, if he desires, enter his appearance by post and appropriate forms may be obtained by sending a postal order for Le300.00 with an addressed envelope, foolscap size, to the Master and Registrar, High Court Kenema District Registry.

If the Defendant enters an appearance, he must also deliver a Defence within ten (10) days from the last day of the time limited for appearance unless such time is extended by the Court or a judge; otherwise judgment may be entered against him without notice, unless he has in the meantime been served with a summons for judgment.

## **STATEMENTS OF CLAIM**

The Plaintiff's Claim against the Defendants jointly and/or severally is for the following:

1. General Damages
2. Special Damages
3. Damages for unlawful deprivation of property
4. Damages for extreme emotional distress
5. Compensatory damages for breach of contract, in particular the Community Development Agreement (CDA) and other Resettlement Agreements
6. A Declaration that the Defendants have failed to comply with Section 38(1) of the Mines and Minerals Act 2009 Act No. 12 of 2009.
7. Enforcement of Section 38(1) of the Mines and Minerals Act, in particular with respect to resettlement and forced acquisition of land
8. A Declaration that the Defendants have failed to comply with Terms and Conditions of their Environmental Impact Assessment License.
9. Specific Performance of Article 3 of the Community Development Agreement (CDA 2017)
10. Specific Performance of Clause 15.13 of the Mining Lease Agreement of 2010
11. Abatement of the nuisance, in particular the emission of dust, toxic fumes, and loud noises that impinge on Plaintiffs' enjoyment of their property.
12. Damages for Nuisance suffered by the Plaintiffs.
13. An Order requiring the 11<sup>th</sup> Defendant to provide an accounting of its compliance with Section 15.13 of the Mining Lease Agreement 2010 and article 3 (i) of the Community Development Agreement (CDA 2017)
14. Interest pursuant to Section 4 (1) of the Law Reform (Miscellaneous Provisions) Cap 19 of the Laws of Sierra Leone 1960 till date of Judgment.
15. Any further or other Order(s) as this Honourable Court may deem fit and just.
16. Costs

## **PARTICULARS OF CLAIM**

1. That the Plaintiff is and was at all material times a resident and fee simple owner of 2 Town Lots of land situated at No. 9 Jabbah Street, Saquee Town, Tankoro Chiefdom, Koidu Town, Kono District in the Eastern Province of the Republic of Sierra Leone.
2. That the Plaintiff is and was at all material times the fee simple owner of 1 home located on the said property.
3. That the 1<sup>st</sup>, 3<sup>rd</sup>, 5<sup>th</sup>, 7<sup>th</sup>, 9<sup>th</sup> & 11<sup>th</sup> Defendants are a group of Mining Companies engaged in Mining Activities in the Tankoro and Gbense Chiefdoms respectively in Kono District in the Eastern Province of the Republic of Sierra Leone.
4. That the 2<sup>nd</sup>, 4<sup>th</sup>, 6<sup>th</sup>, 8<sup>th</sup>, 10<sup>th</sup> & 12<sup>th</sup> Defendants are Managing Directors of the 1<sup>st</sup>, 3<sup>rd</sup>, 5<sup>th</sup>, 7<sup>th</sup>, 9<sup>th</sup> & 11<sup>th</sup> Defendants respectively.
5. In 2003, the 11<sup>th</sup> Defendant, on behalf of the 1<sup>st</sup>, 3<sup>rd</sup>, 5<sup>th</sup>, 7<sup>th</sup>, and 9<sup>th</sup> Defendants or their predecessors, entered into a Mining Lease Agreement with the Government of Sierra Leone that was revised, amended and updated in 2010.

6. The said Mining Lease Agreement granted the Defendants Mineral Rights over the concession areas of Tankoro and Gbense Chiefdoms respectively, within which the Plaintiff resides and owns properties.
7. The 1<sup>st</sup> Defendant has at all material times (and jointly with the 5<sup>th</sup> Defendant, since 2011) been the owner of all mining assets including the Koidu Kimberlite Project in Koidu operated by the 11<sup>th</sup> & 12<sup>th</sup> Defendants.
8. The 1<sup>st</sup>, 3<sup>rd</sup>, 5<sup>th</sup>, 7<sup>th</sup>, 9<sup>th</sup>, and 11<sup>th</sup> defendants are all under common control and are operated as a joint enterprise, by their parent company, BSG Resources Ltd., and the operations complained of in this Statement are personally directed by the 2<sup>nd</sup>, 4<sup>th</sup>, 6<sup>th</sup>, 8<sup>th</sup>, 10<sup>th</sup>, and 12<sup>th</sup> Defendants, respectively.
9. The 1<sup>st</sup> and 5<sup>th</sup> Defendants – Ocea Ltd. and Ocea Mining Ltd., respectively – control the financial decisions of the 11<sup>th</sup> Defendant – their subsidiary, Koidu Ltd. – and are directly involved in the resettlement of affected communities in Tankoro and Gbense Chiefdoms of Kono District.
10. The Koidu Kimberlite Project produces many severe impacts on the Plaintiff and his property.
11. That the 11<sup>th</sup> Defendant frequently detonates powerful explosives. These explosions have caused stones to fall on Plaintiff's home. Before the blasting moved underground two years ago, the constant barrage damaged his zinc roof repeatedly.
12. That on one occasion, a stone crashed through his wall, destroying personal property including a television and a computer. On another occasion, stones from the mine destroyed two rooms of his house, which he has never had the resources to repair.
13. That the above-ground blasting – now discontinued – and the dust that Defendants' trucks kick up as they speed down the road that runs between his house and the mining rubble pile frequently cause dust to rain down on Plaintiff and his property, leaving white patches on his skin that erupt into itchiness and rashes.
14. That Plaintiff is an herbalist who harvested plants and leaves from his around his home to make traditional medicines. Since the Koidu Kimberlite Project began, water has been scarce on his property and soil fertility has dropped. The leaves and herbs no longer grow, and as a result his income has been reduced.
15. Knowing that the people living in the areas surrounding the mine would suffer some or all of these impacts, the 11<sup>th</sup> & 12<sup>th</sup> Defendants knew that they would be required to create a program to resettle the affected population pursuant to Sierra Leone Law.

In furtherance of the fulfilment of this obligation, it produced 2 Resettlement Action Plan Documents (RAP) – an Original RAP in 2003 and an Upgraded RAP in 2012.

16. On May 13, 2017, the 11<sup>th</sup> & 12<sup>th</sup> defendants entered into the latest of a series of Community Development Agreements (CDAs) with representatives of Tankoro and Gbense Chiefdoms for the benefit of the people of the two Chiefdoms. According to this Agreement – and, on information and belief, all the previous CDAs, the 11<sup>th</sup> & 12<sup>th</sup> Defendants are required to follow Sierra Leone law and International Standards with respect to all its mining activities.
17. According to the said RAP and the International Standards that the Defendants are required to follow pursuant to the Mining Lease Agreement, the CDA, and Sierra Leone law, the persons in zones that were likely to be affected by the mining operations were to be resettled on appropriate land with adequate structures and facilities before mining activity started to affect their lives.
18. That beginning in 2010, the Defendants attempted to induce Plaintiff to leave his home so they could take over his land. First, representatives of the 11<sup>th</sup> Defendant came to his land to assess his home, but he refused to accept the assessment because there was no home for him in the relocation site.
19. That the Defendants' efforts to evict Plaintiff became increasingly extreme. Acting through their allies, the Town Chief and the Paramount Chief, they caused him to be brought to court for eviction, but the court ruled in his favour. They also fraudulently attempted to pay his son and ex-wife for his crops and property in his stead, without his permission.
20. That the Defendants entered onto Plaintiff's land with a bulldozer, installed a boundary marker in the middle of his land, and destroyed 15 of his economic trees without compensation. The Defendants built a road on the portion of land.
21. Defendant continues to live in his home, on his land, where he cannot afford to repair his blast-damaged house and is no longer able to make an adequate income.
22. As a result of these impacts, Plaintiff has suffered in the following ways:
  - a. Extreme emotional distress and psychological harm
  - b. Loss of income from economic trees
  - c. Loss of income as an herbalist
  - d. Expenditures to repair his home
  - e. Nuisance/interference with enjoyment of property
  - f. Breach of contract

### **PARTICULARS OF SPECIAL DAMAGES**

1. Plaintiff's loss of income from economic trees destroyed by Defendants' bulldozers at Le 80,000,000 (Le 450,000 per orange tree per year x 20 years x 5 trees, plus Le 400,000 per mango tree per year x 20 years x 4 trees, plus Le 50,000 per guava tree per year x 10 years x 6 trees)
2. Plaintiff's expenditure of Le 4,000,000 to repair his home that was damaged by defendants' explosions.
3. Plaintiff's loss of income from herbalist practice as a result disappearance of leaves and plants due to diminished water supply caused by Defendants' mining activities at Le 81,000,000 (reduction of Le 9,000,000 per year x 9 years)

### **PARTICULARS OF EMOTIONAL DISTRESS**

1. Plaintiff is in a constant state of worry because he knows that the Defendants' mining activities are causing physical harm to his body. He is exposed to chemicals and dust from the trucks, the blasting, and the mining effluent, and he cannot get adequate or clean water on his land anymore. This creates a lot of stress for him.
2. Defendants caused the Plaintiff severe emotional distress when they fraudulently tried to induce his son and ex-wife to accept payment for his own property and confronted him with evidence that the son and ex-wife had in fact improperly accepted the compensation.

### **PARTICULARS OF NUISANCE**

1. Defendants' blasting operations and its trucks, which speed down the road that passes just behind Plaintiff's house, cause dust and noxious fumes to enter upon Plaintiff's land. These nuisances cause respiratory and skin illnesses and interfere with his enjoyment of his property.
2. Defendants' blasting operations create noise pollution that enters onto Plaintiff's land prevents him from enjoying his land peaceably.
3. Defendants' above-ground blasting operations caused stones to fly onto Plaintiff's property, damaging his home and disturbing his peace of mind.

**WHEREFORE THE PLAINTIFF CLAIMS:**

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16. Costs

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**COUNSEL**

This writ is issued by C&J Partners whose address for service is No. 1Jalloh Terrace, Makeni-Kabala Highway, Panlap for and on behalf of the Plaintiff herein.

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KOIDU LIMITED	11 <sup>th</sup> DEFENDANT
THE MANAGING DIRECTOR KOIDU LIMITED	12 <sup>th</sup> DEFENDANT

**ALL OF 84 WILKINGSON ROAD FREETOWN, SIERRA LEONE**

**This writ was served by**

**on**  
**The defendant**

**On the**                      **day of**  
**Dated this**              **day of**

**2019**  
**2019**

**Address**  
**Signed**

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WRIT OF SUMMONS  
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**C & J PARTNERS**  
**1 JALLOH TERRACE ESTATE**  
**MAKENI- KABALA HIGHWAY, PANLAP**  
**MAKENI**