

IN THE HIGH COURT OF SOUTH AFRICA
WITWATERSRAND LOCAL DIVISION

Case No: 22312/08

In the matter between:

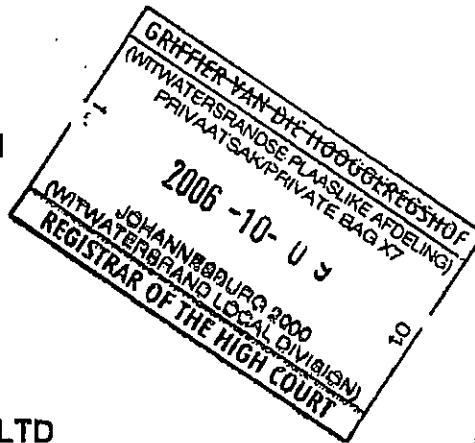
THEMBEKILE MANKAYI

PLAINTIFF

and

ANGLOGOLD ASHANTI LTD

DEFENDANT



COMBINED SUMMONS

To the Sheriff or his deputy:

INFORM

ANGLOGOLD ASHANTI LTD, a company incorporated in South Africa, with the company registration number 1944/017354/06, having its registered and principal place of business at 11 Diagonal Street, Johannesburg, Gauteng, South Africa (hereinafter called the Defendant(s)) that -

THEMBEKILE MANKAYI, an adult male, unemployed mine worker of Khambi Location, Mthatha, Eastern Cape Province (hereinafter called the Plaintiff(s)) hereby institutes action against him/her in which action the Plaintiff(s) claim the relief and on the grounds set out in the particulars annexed hereto.

INFORM the Defendant(s) further that if Defendant(s) disputes/dispute the claim and wishes/wish to defend the action, the Defendant(s) shall -

- (i) Within 10 (TEN) days of the service upon the Defendant(s) of this summons, file with the Registrar of this Court at PRITCHARD STREET, JOHANNESBURG, notice of Defendant's intention to defend and serve a copy thereof on the attorneys of the Plaintiff(s), which notice shall give an address (not being a post office or poste restante) referred to in rule 19(3) for the service upon the Defendant(s) of all notices and documents in the action.
- (ii) Thereafter and within (TWENTY) 20 days after filing and serving notice of intention to defend as aforesaid, file with the registrar and service upon the Plaintiff a Plea, Exception, Notice to strike out, with or without a counter claim.

INFORM the Defendant(s) further that if the Defendant(s) fails/fail to file and serve notice as aforesaid, judgment as claimed may be given against the Defendant(s) without further notice to the Defendant(s), or if having filed and served such notice, the Defendant(s) fails/fail to plead, except, make application to strike out or counter claim, judgment may be given against the Defendant(s).

AND immediately thereafter serve on the Defendant(s) a copy of this summons and return the same to the registrar with whatsoever you have done thereupon.

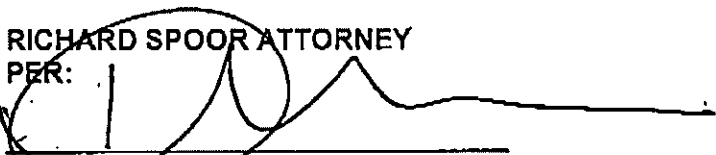
SIGNED at JOHANNESBURG on the 9 October 2006 .

REGISTRAR OF THE HIGH COURT

Plaintiff's Attorneys

RICHARD SPOOR ATTORNEY

PER:


RICHARD SPOOR

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(Ref: D Naidoo)

**IN THE HIGH COURT OF SOUTH AFRICA
WITWATERSRAND LOCAL DIVISION**

CASE NO.:

In the matter between

MANKAYI THEMBEKILE

PLAINTIFF

and

ANGLOGOLD ASHANTI LTD

DEFENDANT

PLAINTIFF'S PARTICULARS OF CLAIM

1. THE PLAINTIFF

- 1.1 The Plaintiff is Thembekile Mankayi, an adult male, unemployed mine worker of Khambi Location, Mthatha, Eastern Cape Province.

1.2 The Plaintiff was born on 19 March 1958.

2. THE DEFENDANT

2.1 The Defendant is AngloGold Ashanti Limited, a company incorporated in South Africa, with the company registration number 1944/017354/06, having its registered and principal place of business at 11 Diagonal Street, Johannesburg, Gauteng, South Africa.

2.2 The Defendant was, from the date of its incorporation in 1944, called the Vaal Reefs Exploration and Mining Company Limited (hereinafter referred to as "Vaal Reefs"). On or about 30 March 1998 its name was changed to AngloGold Limited and on or about 26 April 2004 its name was again changed to AngloGold Ashanti Limited.

2.3 The Defendant owned and operated a gold mine known as the Vaal Reefs near Klerksdorp in the Northwest Province at certain material times and more particularly during the period of employment referred in paragraph 3.1 below.

2.4 The Defendant's registered office and principal place of business is situated within the jurisdiction of this Court.

3. THE PLAINTIFF'S EMPLOYMENT WITH THE DEFENDANT

3.1 From on or about 4 January 1979 until on or about 11 September 1995 the Plaintiff was employed by the Defendant (which period is hereinafter referred to as the "period of employment").

3.1.1 The Plaintiff was employed as a mineworker in terms of one or more employment contracts. The plaintiff does not have copies of the contract or contracts in his possession and has no knowledge of the terms stipulated therein;

3.1.2 Throughout the period of employment, the Plaintiff worked under the direct control and supervision of the Defendant and/or its servants acting in the course and scope of their employment with the Defendant (for the purposes of convenience, save where the context indicates otherwise, a reference to Defendant shall be a reference to the Defendant and to its servants acting in the course and scope of their employment as such).

3.2 Throughout the period of employment:

3.2.1 The Plaintiff diligently carried out all the tasks, duties and responsibilities as he was directed or as were assigned to him by the Defendant.

3.2.2 The Plaintiff was exposed to environmental conditions in the workplace that were determined, regulated and controlled by the Defendant.

4. DUTIES OWED TO THE DEFENDANT

4.1 Throughout the period of employment the Defendant owed the Plaintiff a duty to provide a safe and healthy work environment that was not injurious to his health. Such duty arose from:

4.1.1 the common law duty of care owed by the Defendant, in its capacity as employer, to the Plaintiff and its other employees to provide a safe and healthy work environment that was not injurious to his or her fellow employee's health, and / or

4.1.2 the statutory duty owed by the Defendant to the Plaintiff and its other employees to comply with the health and safety regulations stipulated in the regulations to the Mines and Works Act , Act No 27 of 1956, (hereinafter referred to as "the regulations") which regulations had application to the Plaintiff and the Defendant during the period of employment.

5. THE DEFENDANT'S KNOWLEDGE IN RELATION TO HARMFUL DUSTS AND GASES

5.1 At all times material hereto, the Defendant was aware or ought reasonably to have been aware that ;

5.1.1 the Plaintiff worked underground in the mine and that in so doing he would, in the absence of appropriate and effective control measures, be exposed in the work environment to potentially dangerous quantities of harmful dusts and gasses,

5.1.2 the exposure of the Plaintiff to harmful dusts and gasses in the work environment might reasonably cause, or might reasonably and materially contribute to, or materially increase the risk of, contracting a disease or diseases of the cardio respiratory organs and in particular silicosis, the joint condition of silicosis and tuberculosis (also referred to as silico-tuberculosis), obstructive airways disease and pulmonary tuberculosis, and that

5.1.3 in order to prevent or to minimise the risk of the Plaintiff contracting such disease or diseases, the Plaintiff's exposure to harmful dusts and gasses had to be eliminated from, or

minimised in, the workplace to below the prescribed or generally accepted safe levels at which nearly all workers may be repeatedly exposed day after day without adverse health effects, and that

5.1.4 the levels of harmful dusts and gasses in the workplace could reasonably be eliminated or minimised, to below the prescribed or generally accepted safe levels by the application of appropriate and effective control measures, and/or by compliance with the regulations.

6. CONTRACTION OF OCCUPATIONAL DISEASES

6.1 In 1993 and while in the employ of the Defendant, the Plaintiff was diagnosed to be suffering from pulmonary tuberculosis for which he was treated over a six month period. Again in 1998 the Plaintiff was diagnosed to be suffering from pulmonary tuberculosis for which he as again treated over a six month period. The Plaintiff was again diagnosed to be suffering from pulmonary tuberculosis in December 2005 for which he receives and continues to receive treatment.

6.2 The Plaintiff's exposure to harmful dusts, namely silica dust in the workplace, during his period of employment with the Defendant

contributed materially to the Plaintiff's contracting of pulmonary tuberculosis.

6.3 In August 2006 the Plaintiff was informed that he had contracted silicosis and obstructive airways disease. He was so informed, pursuant to a chest x-ray and a clinical examination, by a pulmonologist, Professor A. A. Awotedu.

6.4 The Plaintiff's exposure to harmful silica dust in the workplace during his period of employment with the Defendant caused him to develop silicosis.

6.5 The Plaintiff's exposure to harmful dusts and gasses in the workplace during his period of employment with the Defendant contributed materially to the Plaintiff's contracting of obstructive airways disease.

6.6 The diseases contracted by the plaintiff as set out above will hereinafter be referred to as "the occupational diseases"

7. THE DEFENDANT'S BREACH OF ITS DUTIES

7.1 Breach of Common Law Duty of Care

7.1.1 The Defendant negligently, wrongfully and unlawfully breached the common law duty of care that it owed to the Plaintiff which breach caused the Plaintiff to contract the occupational diseases, alternatively materially contributed to the Plaintiff's contracting the occupational diseases.

7.1.2 The Defendant breached its common law duty of care that it owed to the Plaintiff in the following respects: The Defendant

7.1.2.1 caused and/or allowed the Plaintiff to be exposed to levels of harmful dusts and gasses above the prescribed or generally accepted safe levels at which nearly all workers may be repeatedly exposed day after day without adverse health effects (these levels will hereinafter be referred to as "the safe levels").

7.1.2.2 failed to establish any program, alternatively failed to establish any effective program, to identify the potentially harmful dusts and gasses that may be encountered in the workplace and to assess the risk

to employee's health posed by such substances (a risk assessment program).

7.1.2.3 failed to establish any program, alternatively failed to establish any effective program, for the regular assessment and measurement of employees in the workplace's exposure to harmful dusts and gasses for the purposes of determining or confirming that employees were not exposed to levels of harmful dusts and gasses above the safe levels, for the purpose of taking remedial action where such conditions were established (a dust sampling program).

7.1.2.4 failed to establish any program, alternatively failed to establish any effective program, to monitor the health effects of workplace exposure to harmful dusts and gasses for risk assessment and prevention purposes (a medical surveillance program).

7.1.2.5 failed to establish effective measures to prevent, alternatively to minimise, the release of harmful dust and fumes into the work environment from blasting,

drilling, crushing, scraping, barring, lashing, tipping and loading activities.

7.1.2.6 failed to establish effective measures to prevent, alternatively to minimise, the release of harmful dust emissions at source, through the use of ventilation hoods, ducting and filters.

7.1.2.7 failed to ensure that sufficient clean air was supplied to dilute such harmful dusts and gasses as were released into the work environment to below the safe levels.

7.1.2.8 failed to ensure that blasting fumes had been thoroughly cleared before allowing employees back into their workplaces after blasting.

7.1.2.9 failed to provide any appropriate respiratory protective equipment in work environments where levels of harmful dust and gas exceeded the safe levels.

and /or alternatively

7.2 Breach of Statutory Duty of Care

7.2.1 The Defendant negligently, wrongfully and unlawfully breached the statutory duty of care that it owed to the Plaintiff, to comply with the regulations that had been enacted for the benefit or protection of persons, such as the Plaintiff, who were employed by the Defendant. The Defendant's breach of its statutory duty of care caused, alternatively materially contributed to the Plaintiff's contracting of the occupational diseases.

7.2.2 The contracting of the occupational diseases by the Plaintiff was the kind of harm or damage contemplated in the regulations.

7.2.3 The fact that the Plaintiff pleads that the Defendant's breach of its statutory duty owed to the Plaintiff, was negligent, should not be construed as an admission that negligence is an essential requirement to establish liability for breach of statutory duty.

7.2.4 The regulations in respect of which there was no compliance, alternatively no proper compliance on the part of the Defendant, included the following:

- 7.2.4.1 **Regulation 10.6.2** *The workings of every part of the mine where persons are required to travel, work shall be properly ventilated to maintain safe and healthy environmental conditions for the workmen and the ventilating air shall be such that it will dilute and render harmless any flammable or noxious gasses and dust in the ambient air.*
- 7.2.4.2 *In casu* the Defendant failed to ensure that the workings of the parts of the mine where the Plaintiff was required to travel and work was properly ventilated to maintain safe and healthy environmental conditions for the Plaintiff and his fellow workmen or to ensure that the ventilating air was such that it diluted and rendered harmless any flammable or noxious gasses and dust in the ambient air. This failure was a *sine qua non* to the contracting of the occupational diseases by the Plaintiff.
- 7.2.4.3 **Regulation 10.6.4** *No person shall enter or remain in or cause or permit any other person to enter or remain in any part of the workings of a mine if the air contains harmful smoke, gas, fumes or dust perceptible by sight, smell or other senses unless such person is wearing effective apparatus approved for the purpose*

by the Chief Inspector to prevent the inhalation of such smoke, gas, fumes or dust.

7.2.4.4 *In casu* the Defendant repeatedly caused or permitted the plaintiff and his fellow workmen to enter or remain in the workings of the mine when the air contained harmful dusts and gasses perceptible by sight or smell even though the Plaintiff and his fellow workmen were not wearing any effective apparatus, whether approved for the purpose by the *Chief Inspector* or not, to prevent the inhalation of such dust and gasses. The dust in question contained silica dust and the gasses in question included those formed by the detonation of nitro-explosives that were used in the mine.

7.2.4.5 **Regulation 10.6.6** *In the general body of the air at any place where persons are required to work or travel, under normal working conditions –*

- a.) *the amount of carbon dioxide shall not exceed 5 000 parts per 1 000 000 of air volume,*
- b.) *the amount of carbon monoxide shall not exceed 100 parts per 1 000 000 of air by volume,*

- c.) *the amount of oxides of nitrogen shall not exceed 5 parts per 1 000 000 of air by volume,*
- d.) *the amount of hydrogen sulphide shall not exceed 20 parts per 1 000 000 of air by volume,*
- e.) *the amount of flammable gas shall not exceed one comma four parts per hundred by volume and*
- f.) *the concentration of dust shall not exceed such standards as may from time to time be specified by the Chief Inspector.*
- g.) *the amount of oxygen shall not be less than 19 parts per 100 of air by volume.*

7.2.4.6 *In Casu* the Defendant failed to monitor the specified levels of dusts and gasses in the Plaintiff's workplace regularly, effectively or at all, thereby evading its responsibility to comply with the provisions of this regulation. Further and in any event dust and gas levels in the Plaintiff's workplace regularly exceeded the prescribed levels.

7.2.4.7 **Regulation 10.7.1** *(In every metalliferous or diamond mine unless exempted in writing by the Principal*

Inspector of Mines) the velocity of the air current along the working face of any stope shall average not less than 0,25 metre per second over the working height;

7.2.4.8 *In Casu* the Defendant failed to monitor the velocity of the air current in the Plaintiff's workplace regularly or effectively thereby evading its responsibility to comply with the provisions of this regulation. Further and in any event the velocity of the air current in the Plaintiff's workplace regularly dropped below the prescribed velocity. The Plaintiff worked in stopes during the last 12 years of his employment with the Defendant as a member of a stope team.

7.2.4.9 **Regulation 10.7.2** *the quantity of air supplied at the working face of every development end such as a tunnel, drive, crosscut, raise or winze which is being advanced and at the bottom of any shaft in the course of being sunk shall not be less than 150 cubic decimetres per second for each square metre of the average cross-sectional area of the excavation.*

7.2.4.10 *In casu* the Defendant failed to monitor the quantity of air supplied into such workplaces regularly or effectively thereby evading its responsibility to comply with the terms of this regulation. Further and in any event the quantity of air supplied in the Plaintiff's workplace regularly dropped below the prescribed quantity. The Plaintiff worked in such workplaces from time to time during the first 4 years of his employment with the Defendant

7.2.4.11 **Regulation 10.10.3** *blasting procedures shall be so arranged that no person is exposed to harmful dust, smoke, gas or fumes from blasting;*

7.2.4.12 *In Casu* the Defendant did not take effective measures to ensure that the Plaintiff was not exposed to harmful dust, smoke, gas or fumes from blasting.

7.2.4.13 **Regulation 10.10.4** *after blasting has taken place in any part of the workings no person shall enter, or cause or permit any other person to enter, such part or any place liable to be contaminated until a sufficient quantity of fresh air has been caused to flow through*

such part or place to clear it of harmful dust, smoke, gas or fumes from blasting.

7.2.4.14 *In Casu* the Defendant regularly caused the Plaintiff to enter places that had not been cleared of harmful dust, smoke, gas or fumes from blasting.

7.2.4.15 **Regulation 8.10.44** *(Blasting at a time to be fixed by manager) shall be, in any metalliferous or diamond mine, fire charges only at a time to be fixed by the manager except for removing obstructions for the purpose of making the working safe or for refiring misfired holes in development faces, and then only with the permission in each instance of the mine manager, overseer or shift boss. No such permission shall be given unless reasonable precautions have been taken to prevent, as far as possible any person being exposed to smoke and fumes from such firing. Before firing charges in any controlled metalliferous mine for the removal of such obstructions or for making the workings safe, the ganger or miner shall wet the ground thoroughly within a distance of at least 10 metres of the charges to be fired;*

7.2.4.16 *In Casu* the servants of the Defendant referred to in the regulation regularly gave permission to fire charges at a time not fixed by the manager without taking reasonable precautions to prevent as far as possible the Plaintiff being exposed to smoke and fumes from such firing.

7.2.4.17 **Regulation 10.20.1** *(In the workings of every mine) every machine for ripping, picking, cutting, drilling or loading rock, coal or other mineral shall be fitted with means, or means shall be provided, whether for applying water effectively to prevent dust being created by the operation of such machine, or for effectively trapping such dust by some suitable apparatus approved by the Principal Inspector of Mines. The Chief Inspector may prohibit the use of any type or make of machine for ripping, picking, cutting, drilling or loading rock, coal or other mineral where there is evidence that the use of such type or make of machine may seriously and materially endanger the health of workmen;*

7.2.4.18 *In Casu* the Defendant failed to ensure that the said machines were fitted with means, or provided with means, for applying water effectively to prevent dust being created by the operation of such machines, or for effectively trapping such dust by some apparatus approved by the Principal Inspector of Mines.

7.2.4.19 **Regulation 10.20.2** *where rock, coal or other mineral is discharged into any main bin, ore-pass or at any transfer point of a conveyor belt or of an ore-pass system, constant supply of clean water shall be applied by means of efficient atomisers or sprays which shall be kept at all times in good working order, or a dust extraction system shall be provided and operated, to prevent the escape of dust into the air while rock, coal or other mineral is being discharged into the openings of such bins or ore-passes or at transfer points;*

7.2.4.20 *In Casu* the Defendant failed to ensure that where rock was discharged into any main bin, ore-pass or at any transfer point of a conveyor belt or of an ore-pass system, a constant supply of clean water was applied by means of efficient atomisers or sprays or that such

atomisers and sprays were kept at all times in good working order, or that a dust extraction system was provided and operated, to prevent the escape of dust into the air while rock was being discharged into the openings of bins or ore-passes or at transfer points.

7.2.4.21 Regulation 10.20.3 *the floor of every main travelling road as defined in regulation 6.10, shall be kept wet or otherwise treated to prevent the escape of dust into the air.*

7.2.4.22 In Casu the Defendant failed to keep the floor of every main travelling road as defined in regulation 6.10, wet or otherwise treated to prevent the escape of dust into the air.

8. THE SEQUELAE TO THE PLAINTIFF'S CONTRACTING OF THE OCCUPATIONAL DISEASES.

8.1 The Plaintiff was dismissed from his employment with the Defendant on 11 September 1995.

8.2 As a result of having contracted silicosis, obstructive airways disease and pulmonary tuberculosis the Plaintiff has lost certain amenities and has been left with certain disabilities, the nature, effects and duration thereof being as follows:

8.2.1 On clinical examination, his respiratory system is abnormal with bilateral basal crackles;

8.2.2 Chest radiograph of the Plaintiff shows bilateral reticular nodular opacities;

8.2.3 The Plaintiff has a markedly reduced lung function consistent with moderately severe silicosis and a moderate degree of airflow obstruction. This condition is permanent and will deteriorate over time;

8.2.4 The Plaintiff suffers from intermittent chest pains and coughing since he first contracted pulmonary tuberculosis. This condition is permanent;

8.2.5 The Plaintiff suffers from breathlessness when walking at a normal pace on level ground;

8.2.6 The Plaintiff suffers from night sweats, weight loss and and general weakness;

8.2.7 It is likely that the Plaintiff will suffer a reduction of life expectancy, the precise extent of which is presently unknown;

8.2.8 The Plaintiff was dismissed by the Defendant because of his medical condition and can no longer work as a mineworker or in any other occupation for which his education and experience qualify him. The Plaintiff will therefore remain unemployed for the rest of his life;

8.2.9 The Plaintiff cannot perform any strenuous activities including herding his cattle, ploughing and homestead maintenance and improvements;

8.2.10 The plaintiff is at increased risk of contracting pulmonary tuberculosis and respiratory tract infections. This will reasonably cause him to be hospitalised and require him to take lengthy courses of medication on a regular basis; and

8.2.11 The Plaintiff feels depressed by his inability to work and to contribute to the support of his family.

8.3 Mitigation of Damages

8.3.1 The Plaintiff's highest educational qualification is Standard 5 and his only work experience is that of a mineworker / manual labourer.

8.3.2 Due to the diseases set out in paragraph 6 above the Plaintiff can no longer perform manual labour.

8.3.3 The Plaintiff has been unable to find gainful employment since the termination of his employment by the Defendant.

9. QUANTUM OF THE PLAINTIFF'S DAMAGES

9.1 By reason of the foregoing, the Plaintiff suffered damages in the sum of R 2 612 747.10 made up as follows:

9.1.1 Past loss of earnings: R 177 899.16

9.1.1.1 The Plaintiff was earning a salary of R 800.00 per month prior to his employment being terminated by the Defendant on 11 September 1995;

9.1.1.2 The Plaintiff's loss of earnings to date amounts to R 177,899.16 calculated on the following basis:

- a) R 9 600.00 (monthly salary at 12 September 1995) x 12 (12 months to September 1996)
- b) R 10 560.00 (annual salary to September 1997)
- c) R 11 616.00 (annual salary to September 1998)
- d) R 12 777.60 (annual salary to September 1999)
- e) R 14 055.36 (annual salary to September 2000)
- f) R 15 460.89 (annual salary to September 2001)
- g) R 17 006.98 (annual salary to September 2002)
- h) R 18 707.68 (annual salary to September 2003)
- i) R 20 578.45 (annual salary to September 2004)
- j) R 22 636.29 (annual salary to September 2005)
- k) R 24 899.91 (annual salary to September 2006)

9.1.1.3 The above figures have been adjusted with a 10% annual increase. No provision has been made for taxation, inflation or any other contingencies.

9.1.2 Future loss of earnings: R 560 247.98

9.1.2.1 Had he not contracted the occupational diseases, it is anticipated that he would have continued to work until the end of March 2029, by which time he would have reached the age of 65;

9.1.2.2 As a result of the Plaintiff having contracted the occupational diseases, it is anticipated that he would never be able to work again.

9.1.2.3 The above amount is calculated on the basis of an annual salary of R 24,899.91 over a period of 22 years and 6 months. No provision has been made for wage increases taxation, inflation or any other contingencies.

9.1.3 Future medical expenses: R 1,374 600.00**9.1.3.1 Radiology and pathology expenses: R 192,000.00.**

The Plaintiff will require chest X-rays and sputum sample analyses to monitor his condition. It is probable that his condition will worsen and that X-rays and sputum samples/microscopy culture and sensitivity tests ("MCC") will have to be taken four times a year ("quarterly"). X-rays: R 350.00 per quarter. Sputum and MCC tests: R 250.00 per quarter.

9.1.3.2 The Plaintiff will also require annual lung function tests and CT scans to monitor his condition: lung function tests: R 1,500.00 per annum, CT scans: R 2,500.00 per annum.**9.1.3.3 The above figure is calculated on the basis that the expenses will be incurred over a 30 year period.****9.1.3.4 Medication: R 90,000.00. The Plaintiff will require chronic medication for pain relief and the alleviation of the symptoms of his disease, intermittent antibiotic treatment arising from recurrent episodes of respiratory tract infections and tuberculosis. It is**

estimated that the costs of such medication over a 30-year period would be more than R 250.00 per month.

- 9.1.3.5 **Physiotherapy: R 108,000.00.** The Plaintiff requires regular physiotherapy for his condition. The above figure is calculated on an average of one physiotherapy session per month at a fee of R 300.00 per session over a period of 30 years.
- 9.1.3.6 **Doctor's fees: R 36,000.00.** Due to the likelihood of the Plaintiff's condition worsening and leading to increased recurrence of tuberculosis and respiratory tract infections, the Plaintiff will require quarterly medical examinations, and if his condition deteriorates further at any particular time, additional medical treatment. The above figure is calculated on the basis of R 200.00 per consultation over a period of 30 years and an additional average annual amount of R 400.00 to cover additional consultations to deal with acute phases of his condition.
- 9.1.3.7 **Hospitalisation: R 945,000.00.** In particular the acute phases, the Plaintiff is likely to require hospitalisation. The above figure is an estimate of the overall likely costs over the remaining life of the Plaintiff at a rate of

R 1,500.00 per day for three weeks per year for a period of 30 years.

9.1.3.8 Transport: R 3,600.00. Plaintiff will require transport to hospitals and expert medical treatment on a regular basis. Assume that the Plaintiff is able to arrange to travel to such facilities on a monthly basis and assume he requires such facility for 30 years and assume that the cost of a journey to and from such facility is R 10.00.

9.1.4 General Damages

9.1.4.1 General damages for Pain, Suffering, Loss of Amenities of Life, Disablement and Reduced Life Expectancy R 500,000.00.

9.1.4.2 The Plaintiff does not find it reasonably practicable to separate his claim for general damages under the various heads of damages as these overlap.

WHEREFORE THE PLAINTIFF CLAIMS FROM THE DEFENDANT

1. Payment of the sum of R 2 612 747.10;

2. Interest on the sum of the damages awarded from the date of judgement to date of payment at the mora rate applicable on the date of judgement;

3. further and/or alternative relief;

4. Costs of suit.

DATED AT JOHANNESBURG THIS^{9th} DAY OF OCTOBER 2006

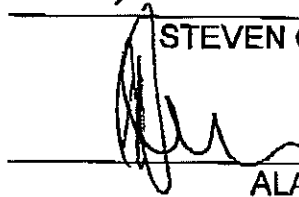
Plaintiff's Counsel



DAVID UNTERHALTER S.C.



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ALAN DODSON

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 PER:

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(Ref: D Naidoo)

**AND TO: THE REGISTRAR
THE ABOVE HONOURABLE COURT
JOHANNESBURG**

**AND TO: ANGLOGOLD ASHANTI
11 Diagonal Street
Johannesburg**

Received copy hereof this
.....Day of October 2006

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