



WRIT OF SUMMONS

(Order 2 rule 3(1))

WRIT ISSUED FROM ACCRA 28/04/2023 SUIT No. G2/0769/2023

IN THE HIGH COURT OF JUSTICE

.....GENERAL JURISDICTION, ACCRA.....

BETWEEN GABBY ASARE OTCHERE - DARKO.

2 E. D. SOWA AVENUE
GD - 185 - 7429
EAST LEGON
AND
25 THIRD DADE WALK
LABONE, ACCRA.

Plaintiff *

AND

PROF. KWABENA FRIMPONG - BOATENG
ACCRA

Defendants

(PLAINTIFF TO DIRECT SERVICE)

To

AN ACTION having been commenced against you by the issue of this writ by the abovenamed Plaintiff. GABBY ASARE OTCHERE - DARKO.

YOU ARE HEREBY COMMANDED that within EIGHT DAYS after service of this writ on you inclusive of the day of service you do cause an appearance to be entered for you.

PROF. KWABENA FRIMPONG - BOATENG

AND TAKE NOTICE that in default of your so doing, judgment may be given in your absence without further notice to you.

Dated this 28 day of April, 2023

April,

2023

Chief Justice of Ghana

ANIN YEBOAH

NB: This writ is to be served within twelve calendar months from the date of issue unless, it is renewed within six calendar months from the date of that renewal.

The defendant may appear hereto by filing a notice of appearance either personally or by a lawyer at Form 5 at the Registry of the Court of issue of the writ at A defendant appearing personally may, if he desire give notice of appearance by post.

*State name, place of residence or business address of plaintiff if known (not P.O. Box number).

**State name, place of residence or business address of defendant (not P.O. Box number).

SEAL OF THE HIGH COURT OF JUSTICE
28/04/23
HIGH COURT OF JUSTICE ACCRA

STATEMENT OF CLAIM

Plaintiff claims against the Defendant as follows:

- a. The sum of Ten Million Ghana Cedis (GH¢10,000,000.00) as General Damages including Aggravated and/or Exemplary Damages for Defamation for libel uttered by Defendant particularized as follows ;

"What saddened me most was when Mr. Gabby Asare Darko called to defend a company that was actively destroying the environment, especially the forests and Rivers Offin in the Apaprama and Kobre Forest"...

"We were ready to dislodge Imperial Heritage from Kobre forest when Mr. Gabby Asare Otchere - Darko called to inform me that he was the lawyer for Heritage Imperial Limited, a company that was destroying the Kobre and Apaprama Forest Reserves and in the process had also polluted and diverted the course of the River Offin, as can be seen in the satellite images below. I informed the President about the behaviour of Mr. Gabby Asare Otchere Darko and he promised to deal with it"...

"I was expecting people such as Mr. Gabby Asare Otchere Darko, Captain Kodah and others like them, who knew the President better and certainly had his interest and success at heart, to support the fight against illegal mining"....

"I was thus horrified to receive a telephone call from Mr. Otchere Darko telling me he was the legal advisor to Mr. Donald Entsuah and his Imperial Heritage Mining Company and that the company should be allowed to work in the Kobre and Apaprama Forest Reserves"....

"You called to tell me that your client had a valid mining licence and all necessary permits. I told you that Heritage Imperial Co. Ltd. did not possess documents permitting it to undertake active mining. That notwithstanding through your intervention the Chinese, who were arrested were released by the task force."

- b. An apology for and retraction of the words complained of and particularized supra.
- c. Perpetual injunction restraining the Defendant whether by himself, his servants, agents or assigns from repeating similar or other defamatory words against the Plaintiff.

This writ was issued by BRIGHT OKYERE- ADJEKUM ESQ
ADJEKUM AND COMPANY PRUC
whose address for service is 5TH FLOOR, PYRAMID HOUSE
RING ROAD CENTRAL, ACCRA
Agent for

ADJEKUM & CO PRUC
P. O. BOX CT 7887, CANTONMENTS, ACCRA
5TH FLOOR, LEFT WING PYRAMID HOUSE
RING ROAD CENTRAL, ACCRA
TEL: 0244653179/0207960263/0302229584

Address Number and date of lawyer's current licence. eGAR 00568/23 DATED 17TH NOVEMBER, 2022

Lawyer for the plaintiff

who resides in ACCRA,

.....

Indorsement to be made within 3 days after service

This writ was served by me at

on the defendant

on the day of

endorsed the day of

Signed.....

Address.....

NOTE: If the plaintiff's claim is for a liquidated demand only, further proceedings will be stayed if within the time limited for appearance the defendant pays the amount claimed to the plaintiff, his lawyer or his agent or into court as provided for in Order 2 rule 3(2).

Filed on 28/04/23
at 3:00
HIGH COURT
ACCRA

IN THE SUPERIOR COURT OF JUDICATURE
IN THE HIGH COURT OF JUSTICE
GENERAL JURISDICTION
ACCRA - A.D. 2023

SUIT NO.

GABBY ASARE OTCHERE-DARKO) PLAINTIFF
2 E. D. SOWA AVENUE)
GD - 185 - 7429)
EAST LEGON)
AND)
25 THIRD DADE WALK)
LABONE, ACCRA.)

VRS

PROF. KWABENA FRIMPONG - BOATENG) DEFENDANT
ACCRA)
(PLAINTIFF TO DIRECT SERVICE))

STATEMENT OF CLAIM

1. Plaintiff is Ghanaian, a Solicitor and Barrister, a family man and also Senior Partner and Co-Founder of Africa Legal Associates (ALA), a full service Corporate Law Firm based in Labone, Accra.
2. Plaintiff is a prominent figure in society, both in Ghana and internationally, with some half a million followers on twitter alone.
3. Plaintiff is also, among other things, Chairman of the Africa Prosperity Network (organisers of the AU-supported Africa Prosperity Dialogues), Chairman of the Commonwealth Enterprise & Investment Council (Ghana hub), and Chairman of the Asaase Broadcasting Company Ltd.
4. Defendant is a Physician Surgeon and a former Minister for Environment, Science, Technology and Innovation, having occupied that position from March 2017 to 06/01/2021.
5. Defendant in his said capacity as Minister for Environment, Science Technology and Innovation, also doubled as the Chairperson of the Inter-Ministerial Committee on illegal Mining (IMCIM).

6. The said IMCIM was established by His Excellency the President in or about March, 2017 inter alia to:

Strengthen the existing stakeholder agencies that are related to the artisanal and small-scale mining sector. i.e Minerals Commission, Environmental Protection Agency (EPA), Water Resource Commission (WRC) and Forestry Commission; ensure that these agencies enforce the existing laws that are related to the artisanal and small-scale mining sector; Set-up adhoc district mining committees whose functions are to coordinate the various activities of the Ministries that constitute the IMCIM; vet and verify legally registered artisanal and small-scale mining companies and to regularize any discrepancies where possible; sanitize and regularize small-scale mining activities in the various mining district to ensure that miners work within the legal framework; train Artisanal and Small-scale Miners (ASM) in sustainable mining and mineral processing practice; reclaim degraded land and restore impacted water bodies; and coordinate activities related to alternative livelihoods for the youth, especially illegal miners in the various mining communities.

7. Defendant is also a Director and Shareholder of Symphony Limited, a company originally incorporated to conduct the business of General Merchants, Manufacturers Representative and farming but ventured into mining. The said Company at a point in 2014 had some 5 concessions in the Gyapekrom area in the then Brong Ahafo Region.
8. In or about October 2019, Heritage Imperial Company Limited (Heritage), a large-scale mining company incorporated in Ghana, approached ALA, *inter alia*, to act as an external Solicitor.
9. ALA, in keeping with its internal protocols for its new clients, conducted due diligence on Heritage and it was evident that long before approaching ALA, Heritage had already acquired all the regulatory licences and permits needed to prospect for gold in a mining concession in Ghana, namely, a Prospecting License, Mining Exploration Operating Permit, Forestry Entry Permit and a permit from EPA (an agency under Defendant's Ministry when Defendant was in charge of the Ministry).
10. On 10/12/2019, ALA agreed to offer its services to Heritage and ALA was accordingly engaged, *inter alia*, as external Solicitors for Heritage.
11. Heritage, as part of its briefing, informed ALA that on or about 06/12/2018, its concession was raided by the Task Force of the IMCIM who made away with several equipment, machinery, fuel and cash.
12. Heritage, in response thereto, had per different Counsel, instituted Suit No. C1/34/T9 entitled; Heritage Imperial Ltd vs. 1. Ministry of Lands and Natural Resources 2. Attorney General, seeking, *inter alia*, a declaration that the raid on

Plaintiff's (therein) mining site and the seizure of its excavators and other equipment were all unlawful.

13. Plaintiff says that ALA was further notified that on 05/12/2019, Heritage obtained an Order of Interlocutory Injunction in the above-mentioned Suit as follows:

"IT IS HEREBY ORDERED that the defendants, their privies, agents, servants, assigns and all persons claiming under them are restrained from entering the concession of the plaintiff for the purpose of mining until the final determination of the case.

IT IS FURTHER ORDERED that the defendants cannot be restrained from collecting evidence from the concession of the plaintiff since that will be tantamount to putting the plaintiff above the law."

14. On 14/02/2020, Heritage informed ALA that soldiers of the Vanguard Group had been dispatched to raid its mining concession soon after they remobilized to return on site, despite the subsistence of the Order of Interlocutory Injunction. Officers of Heritage were in serious apprehension as they had then recently leased new equipment and machinery after the first raid in order to return to the concession to continue with its legitimate prospecting activities.
15. Plaintiff says that the matter was escalated to his attention as Senior Partner by the ALA Lawyer handling the Heritage brief. Plaintiff confirmed the information and was informed that the raid had been at the instance of the Defendant.
16. In discharge of his professional obligations to Heritage as Counsel, the Plaintiff, seeing the sense of urgency in the matter, after apprising himself with the facts, quickly sought audience with the Defendant to ascertain the basis of the raid, which Plaintiff considered unlawful, and explain the legal position of his client's case to the Defendant in the hope of resolving the matter lawfully.
17. Plaintiff says that he notified the Defendant that there was a subsisting Order for Interlocutory Injunction in favour of Heritage and also the fact that Heritage had at the time, a valid Prospecting License, a valid Mineral Exploration Operating Permit, a valid Environmental Protection Agency Permit and a valid Forest Entry Permit.
18. Defendant's response to the Plaintiff's professional inquiry was that Heritage, even though it only possessed a Prospecting License, was undertaking actual mining on the concession and inferring that Heritage was using excavators in its

operations to prospect and that it suggests that they were mining instead of prospecting.

19. Plaintiff, who had been informed that the client had only just returned to site, enquired from the Defendant if the equipment for prospecting were different from those used in actual mining. Plaintiff recalls that the Defendant only offered a vague answer, merely repeating his allegation that Heritage was mining. Although Plaintiff was not satisfied with the Defendant's answer, Plaintiff did not request, persuade or force the Defendant or any of his subordinates to do anything unlawful in the brief conversation between the Plaintiff and the Defendant.
20. The discussion ended inconclusively and the Plaintiff never returned to the subject. It was the last and only time the Plaintiff had a conversation on that matter or any mining related issue with the Defendant.
21. Plaintiff states unequivocally that his intervention was rather to challenge what he saw as an unlawful interference with his client's legitimate business. Plaintiff never interfered in nor sought to interfere in the job of the Defendant. Plaintiff's intervention was limited to a professional legal inquiry for and on behalf of the client of his Law Firm, Heritage. Plaintiff never ordered nor instructed the Defendant to do or refrain from taking any lawful action, as he had no such power to so do.
22. Having earlier applied, Heritage was subsequently issued a Mining Lease on 22/06/2020 for 10 years, with the implied endorsement of the IMCIM, headed by the Defendant. The Lease was ratified by Parliament on 22/12/2020.
23. ALA, in any event, ceased rendering legal services to Heritage on 06/05/ 2021 and ALA and the Plaintiff have had nothing further to do with Heritage therefrom.
24. Heritage, per its other Counsel, pursued the case and on 30/07/2021 obtained Judgment against the state for the following reliefs:
 - i. Declaration that the invasion of Plaintiffs mining site and the seizure of its excavators and equipment is unlawful.
 - ii. Recovery of the sum of Fifteen Million, Three Hundred and Four Thousand, Seven Hundred and Fourteen US Dollars, Twenty Cents (**\$15,304.714. 20**) being the value of the machinery and the equipment seized from the Plaintiffs site by the Inter-Ministerial Taskforce on Illegal Mining on the 6th day of December, 2018 or its current value in Cedis.

- iii. General damages of Five Hundred Thousand Ghana Cedis (GHC500,000.00) and cost of One Hundred Thousand Ghana Cedis (GHC100,000.00).

25. In a report dated 19/03/2021 authored solely by the Defendant after leaving office and not having been renominated, Defendant wrote and published the following words defamatory of the Plaintiff;

"What saddened me most was when Mr. Gabby Asare Darko called to defend a company that was actively destroying the environment, especially the forests and Rivers Offin in the Apaprama and Kopro Forest"...

"We were ready to dislodge Imperial Heritage from Kopro forest when Mr. Gabby Asare Otchere – Darko called to inform me that he was the lawyer for Heritage Imperial Limited, a company that was destroying the Kopro and Apaprama Forest Reserves and in the process had also polluted and diverted the course of the River Offin, as can be seen in the satellite images below. I informed the President about the behaviour of Mr. Gabby Asare Otchere Darko and he promised to deal with it"...

"I was expecting people such as Mr. Gabby Asare Otchere Darko, Captain Kodah and others like them, who knew the President better and certainly had his interest and success at heart, to support the fight against illegal mining"....

"I was thus horrified to receive a telephone call from Mr. Otchere Darko telling me he was the legal advisor to Mr. Donald Entsuaah and his Imperial Heritage Mining Company and that the company should be allowed to work in the Kopro and Apaprama Forest Reserves..."

26. The said Report which Defendant claimed to have submitted to the Chief of Staff in March 2021 has recently found its place in the media and has been a subject of public discourse.

27. Defendant has further published the following scandalous words concerning the Plaintiff on 23/04/2023 in a Statement titled **"FRIMPONG-BOATENG'S RESPONSE TO MR. GABBY OTCHERE DARKO INTERVIEW ON CITI FM"**,

"You called to tell me that your client had a valid mining licence and all necessary permits. I told you that Heritage Imperial Co. Ltd. did not possess documents permitting it to undertake active mining. That notwithstanding through your intervention the Chinese, who were arrested were released by the task force."

28. The said words as set out in **Paragraphs 25 and 27** supra in their natural and ordinary meaning meant and were understood to mean inter alia;

- a. That Plaintiff is a saboteur
 - b. That Plaintiff is disloyal
 - c. That Plaintiff is a law unto himself
 - d. That Plaintiff is an obstruction to the fight against Galamsey
 - e. That Plaintiff acts with impunity and
 - f. That Plaintiff obstructs justice.
29. By reason of the foregoing Plaintiff has been greatly injured in his credit, character and reputation, and has been brought into public scandal, ridicule, distress and embarrassment and has thereby suffered damage.
30. Plaintiff will rely on the following matters in support of a claim for aggravated and/or exemplary damages.

Particulars

- a. Defendant from his Report sought to sensationalize the telephone conversation with the Plaintiff as Plaintiff never sought to direct or instruct Defendant on his dealings with Heritage.
- b. Defendant placed a slant on his telephone conversation with the Plaintiff only to justify his self-acclaimed position that he was the last man standing in the fight against Galamsey and thereby enhance his reputation at Plaintiff's expense.
- c. Defendant's false statements about the Plaintiff, which have gone viral, have generated and continue to feed several insults against Plaintiff, especially on the internet, including Plaintiff being derisively called "**Galamsey Lawyer.**"
- d. Plaintiff's conversation with Defendant did not involve any illegal Chinese miners. Defendant is deliberately and maliciously confusing issues, events and dates.
- e. By the records available to Plaintiff, the only Chinese nationals with work permits engaged by Heritage as its subcontractors who were

arrested were discharged by a Court of Competent jurisdiction in July 2019. This was even before Heritage engaged ALA as its Lawyers and Plaintiff had nothing to do with that at all.

- f. Notwithstanding the fact that the Plaintiff has made it clear that the allegations made against him by the Defendant are false, the Defendant has not offered the Plaintiff any apology or retraction. Instead, he has made more damning false allegations against Plaintiff. It is to be inferred that Defendant has cynically failed to do so because he is indifferent to the truth, deliberate about causing reputational damage to Plaintiff, has a total disregard for Plaintiff's reputation and only seeks to court huge publicity at Plaintiff's expense.

31. Plaintiff contends that unless restrained by the Court, Defendant will continue to publish or cause to be published same or similar defamatory words concerning the Plaintiff.

Wherefore Plaintiff Claims against the Defendant as per the Writ of Summons.

DATED AT ADJEKUM AND COMPANY PRUC, 5TH FLOOR, PYRAMID HOUSE,
RING ROAD CENTRAL, ACCRA THIS 28TH DAY OF APRIL, 2023.

ADJEKUM & CO PRUC
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SOLICITOR FOR PLAINTIFF
BRIGHT OKYERE-ADJEKUM
LICENCE NO. eGAR 00568/23
TIN. P0005655552
CHAMBER'S REG. NO. ePP00497/22
CHAMBER'S BP NO. 3000068190

THE REGISTRAR
HIGH COURT
GENERAL JURISDICTION
ACCRA.

AND TO THE ABOVE NAMED DEFENDANT.