

FORM 2: FIXED DATE CLAIM FORM

[Rule 8.1 (5)]

Submitted Date:16/07/2024 14:20

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**THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
(COMMERCIAL DIVISION)**

VIRGIN ISLANDS

CLAIM NO.: BVIHC (COM) OF 2024

In the Matter of Section 218 of the BVI Business Companies Act, 2004 as amended,
(the "Act")

and

In the Matter of an application to

- (i) declare the dissolution of a Company void; and
- (ii) restore the name of Black Rock Mining Ltd to the Register of Companies

BETWEEN:

ERROL DAVID ELSDON

Claimant

AND

REGISTRAR OF CORPORATE AFFAIRS

Defendant

FIXED DATE CLAIM FORM

The Claimant, **ERROL DAVID ELSDON**, claims to the Court for an order that:

- (a) The Company be restored as a BVI Business Company pursuant to section 218 of the BVI Business Companies Act, 2004 (the "BVIBC Act") by the Registrar of Corporate Affairs upon payment of any outstanding fees and penalties pursuant to and in accordance with the BVIBC Act.
- (b) The Court make such directions or give such orders as it considers necessary or desirable.
- (c) The Claimant shall serve a sealed copy of the Order on the Defendant.
- (d) The Claimant pays the costs to the FSC in the sum of \$1,000.00.
- (e) Such further and or other relief as the Court deems fit.

LB

The affidavit of Errol David Elsdon setting out the facts and giving full details of the claim is filed herewith.

A Draft Order is attached hereto.

CERTIFICATE OF TRUTH

I, **ERROL DAVID ELSDON**, believe that the facts stated in this Fixed Date Claim Form are true to the best of my knowledge, information and belief.

Dated the 16 day of July, 2024



ERROL DAVID ELSDON

Dated the 16th day of July, 2024



Ayodeji D. Bernard
For and on behalf of
SAMUELS RICHARDSON & CO
Legal Practitioners for the Claimant

Notice to the Defendant –

The first hearing of this claim will take place at the High Court of Justice on _____ day of _____, at _____

If you do not attend this hearing, judgment may be entered against you in accordance with the claim.

If you do attend, the judge may-

- (a) deal with the claim, or
- (b) give directions for the preparation of the case for a further hearing.

A statement of claim or an affidavit giving full details of the claimant's claim should be served on you with this claim form. If not and there is no order permitting the claimant not to serve the statement of claim or affidavit you should contact the court office immediately.

You should complete the form of acknowledgement of service served on you with this claim form and deliver or send it to the court office (address below) so that they receive it within 14/28 days of service of this claim form on you. The form of acknowledgement of service may be completed by you or a legal practitioner acting for you.

You should consider obtaining legal advice with regard to this claim. See the notes on the back of this form or on the next page.

This claim form has no validity if it is not served within 6 months of the date of Filing unless it is accompanied by an order extending that time or is a claim form filing pursuant to rule 8.12 (2).

The court office is located at 3rd Floor, Sakal Place, Wickham's Cay, PO Box 418, Road Town, Tortola, British Virgin Islands, telephone number +1-284-468-5001 or +1-284-468-4909, e-mail: supremecourt@gov.vg. The office is open between 9:00 a.m. and 3:00 p.m. Monday to Friday except for public holidays.

The claimant's address for service is: Samuels Richardson & Co, 2nd Floor, Wattle Building, Road Town, Tortola, British Virgin Islands.

NOTES FOR THE DEFENDANT (FIXED DATE CLAIM)

The claimant is seeking an order from the court as set out in the claim form on the basis of the facts or evidence set out in the statement of claim or affidavit served with it. The claimant will not be entitled to enter judgment against you without a hearing.

You may:

A. Admit the claim

If so, you should complete and return the form of acknowledgment of service to the court office within 14/28 days starting this. You may attend the first hearing if you wish to do so.

B. Dispute the claim

If so, you should complete and return the form of acknowledgment of service as under A. You should also file at the court office and serve on the claimant's legal practitioner (or the claimant if the claimant has no legal practitioner):

- (a) a defence if the claim form was accomplished by the claimant's statement of claim, OR
- (b) an affidavit in answer if the claim form is accompanied by an affidavit sworn by or on behalf of the claimant.

Within 28/42 days of the day on which the claim form was served on you. Your defence or affidavit must set out briefly ALL the facts on which you will rely to dispute the claim made against you.

You should also attend the first hearing. If you do not the judge may deal with the claim in your absence.

C. Make a claim against the claimant

If so, you should complete and return the form of acknowledgment of service as under A. You must file a statement of claim (a counterclaim) setting out full details of what you claim against the claimant and the facts on which you will rely. This must be done within 28/42 days of the date on which the claim form was served on you. The statement of claim should set out ALL the facts on which you rely in disputing any part of the claimant's claim against you.

You should also attend the first hearing. If you do not the judge may deal with the claim in your absence.

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AND

REGISTRAR OF CORPORATE AFFAIRS

Defendant

ACKNOWLEDGEMENT OF SERVICE FIXED DATE CLAIM FORM

WARNING: This form should be completed and returned to the court at the address below within 14/28 days of service of the claim form on you. However, the claimant will not be entitled to have judgment entered against you except at the first or subsequent hearing of the claim.

1. Have you received the claim form with the above number? YES/NO

2. If so, when did you receive it? —/—/—

3. Did you also receive the claimant’s statement of claim or affidavit in support? YES/NO

4. If so, on what date did you receive them? _/ _/ _

5. Are your names properly stated on the claim form? YES/NO

If not, what are your full names?

6. Do you intend to defend the claim? YES/NO

If so you must file a defence within 28/42 days of the service of the claim form on you.

7. Do you admit the whole claim? YES/NO

8. Do you admit any part of the claim? YES/NO

9. If so, what do you admit?

10. What is your own address?

.....

.....

11. What is your address for service?

If you are acting in person you must give an address within miles of the court office to which documents may be sent either from other parties or from the court. You should also give your telephone number and FAX number, if any.

Dated

Signed

[Defendant in person] [Defendant's legal practitioner]

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Defendant

DEFENCE and COUNTERCLAIM

Defence

I dispute the claim on the following grounds-

I certify that all the facts set out in my defence are true to the best of my knowledge, information and belief.

My address for service is:

Telephone no.

Dated

Signed.....

[defendant in person]

We are acting for the defendant; our address for service is:

Signed

Legal Practitioner for the defendants

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Counterclaim

I claim against the Claimant

(set out details of the remedy or relief sought)

on the following grounds –

I certify that all the facts set out in my counterclaim are true to the best of my knowledge, information and belief and that I am entitled to the remedy claimed.

Dated

Signed.....

[defendant in person]

We are acting for the defendant; our address for service is:

Signed

Legal Practitioner for the defendant

Notes:

The defendant may set out the defendant's defence in another manner – it is not necessary to use this form.

The defendant must:

state which allegations in the claim are admitted

which are denied

which are neither admitted or denied because the defendant does not know whether they are true.

identify any documents considered necessary to the defendant's case.

The defendant must give reasons for denying any allegations made by the claimant.

The defendant must set out clearly all the facts on which the defendant relies to dispute the claim and must set out any different version of events on which the defendant relies.

The defendant may not be allowed to give evidence about any fact which is not set out in the defence.

If the defendant wishes to counterclaim the defendant must

specify any remedy that the defendant seeks against the claimant.

include a short statement of all facts on which the defendant relies.

identify any documents which the defendant considers necessary to the defendant's case.

If the defendant is represented by a legal practitioner, the defendant must also sign the form and give the defendant's address for service.

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DEFENCE and COUNTERCLAIM

Ayodeji D. Bernard
For and on behalf of
SAMUELS RICHARDSON & CO
Legal Practitioners for the Claimant
Wattley Building, 2nd Floor
PO Box 3410
Road Town, Tortola
British Virgin Islands
Tel: (284) 494-3577
Fax: (284) 494-7367

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