

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

2. The outbreak resulted from the negligent, reckless, and tortious conduct of

[REDACTED] United Nations

Stabilization Mission in Haiti ("MINUSTAH"): and at least two of their officers.

facilities and disposal pits overflowed in heavy rain, emitted noxious odors, and exposed

the local community to raw sewage.

Privileges and Immunities of the UN of 1946 ("CPIUN") expressly requires Defendant

UN to provide appropriate modes of settlement for third-party private law claims. The

Contract of Exchange Agreement ("SOEA") signed between Defendant UN and the

16. Plaintiff Paul brings this action individually and on behalf of her deceased

1. the Estate of Paul, his spouse and minor children; and all others similarly situated

Fritznel Paul was a citizen and resident of Haiti. Plaintiff Paul presently resides in Haiti

in 2004 and operates solely pursuant to the authority granted to it by the UN in New

1. 2. Information and belief during the time period relevant to this Complaint

employees and officers of Defendant MINUSTAH reported on their activities to

On 11/11/99, Defendant Mulet was

personally responsible for ensuring that members of MINUSTAH complied with Haitian

law as mandated by the SOFA. Upon information and belief, Defendant Mulet

CLASS ACTION ALLEGATIONS

26. The Named Plaintiffs bring this action on behalf of themselves and a class

be killed by cholera contracted in Haiti on or after October 9, 2010.

Plaintiffs Georges, Joseph, and Paul are the named representatives

of this Subclass.

d. Whether Defendants' actions proximately caused the Category I

and II Subclass members to suffer physical, emotional and/or

pecuniary harm as alleged herein;

e. Whether Defendants' actions constituted a public or private

nuisance;

f. Whether Defendants' actions give rise to liability under state law;

and

g. Whether Defendants illegally sought to cover up their actions.

adequately protect the interests of all of the members of the Class.

11 applicable to the Class making final injunctive, declaratory,

compensatory, and punitive relief appropriate.

General Facts

38. The Republic of Haiti is located on the western third of the Caribbean island of Hispaniola. As documented by Defendant UN, it is the poorest country in the

severely damaged or destroyed many public buildings and institutions and key parts of

Haiti's infrastructure.

42. The WHO, an agency of the UN, assessed the public health risks in Haiti

shortly after the earthquake and found that the earthquake had exacerbated already poor

conditions by severely damaging water, sanitation, and health infrastructure, thereby
increasing the country's vulnerability to waterborne diseases.

43. Humanitarian workers and medical experts also publicly stressed Haiti's

46 The need to prevent the transmission of cholera has been internationally

recognized since at least 1851, and Defendant UN has long known of this need. Since

1948, Defendant UN's health agency has been responsible for promulgating international

regulations to prevent the transmission of cholera, and the present International Health

51 The SOFA specifically provides that MINUSTAH shall cooperate with the

Government of Haiti "with respect to sanitary services and shall extend to each other the

...on rendering useless objects indispensable to the survival of the civilian

...population, such as drinking-water installations and supplies.”

57. At the time of the cholera outbreak in October of 2010, MINUSTAH

...approximately 9,040 military personnel and 4,391 policemen. In the 2010 to

62. Upon information and belief, after completing their training in Panchkhal,

the Nepalese soldiers spent ten days visiting their families. Many traveled to the

Kathmandu Valley and other cholera-infected areas directly prior to their deployment to

Haiti.

63. In the days immediately prior to deployment, one or more of MINUSTAH's

62 Within one day of arriving in Haiti, the soldiers were transported to their

§ 87(2)(b) through leakage and/or overflow from Defendants' pipes and sanitation

high risk that blackwater waste would either flow back through the pipes and up the

toilets or otherwise empty into the surrounding environs.

79 Defendant MINUSTAH or its agents periodically emptied the septic tanks

on the base by pumping the untreated waste into a truck and transporting it across Route

...ing the risk of harm of MINIISTAH's practices to the local population, the

surrounding environment or visitors there.

... relief Defendant MINIISTAH leaked or disposed

Victim 1 died from the Moelle Tributary. He died within twenty-four hours of the

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onset of the symptoms.

90 Epidemiologists from Partners In Health, a Boston-based non-profit health

organization determined that Victim 1 is the first documented patient who died in

1 had been reported in 21 of Haiti's 141 communes. The geographic concentration

103 . As of April 2011, researchers had confirmed twenty-three cases of cholera

in the United States associated with the Haiti epidemic, four of which were confirmed in

104 . Inon information and belief many cases go unreported because infected

109. Defendant Mulet later informed the Associated Press that Defendants UN

and MINUSTAH did not respond to allegations prior to October 26, 2010, because “it

was such a minor thing.”

110. The October 26 Statement incorrectly and misleadingly claimed that the

Meille Base had “septic tanks [that] conformed to construction standards of the [U.S.]

Environmental Protection Agency [“EPA”],” and that the management of waste was

“consistent with established international standards.”

overflowing septic tank. He observed "reeking, dark liquid flow[ing] out of [the] broken

116 Kate watched as MINNISTAH personnel opened the septic tank from

117 Kate was wearing and was immediately struck by a strong smell that he

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MINUSTAH soldier working on the pipe is seen wearing a mask over his nose and mouth.

121 Walker also observed liquid running from stalls on the perimeter of the

Meille Base and draining into the Tributary just a few yards away. A MINUSTAH

soldier on the base confirmed to Walker that the stalls contained toilets.

evidence, most notably, the smell.” The soldiers “admitted to having undertaken repairs

on the eve of [Katz’s] visit, including replacing the broken PVC pipe from the back of the

base and scrubbing a drainage canal that emptied into the river.”

128. Katz also noted that “the repairs had been superficial at best. When we went out back, we noted that a series of cracked aboveground pipes that originated at the

latrines still ran over the drainage canal, cracks showing. One pipe was held together

121 Furthermore Defendants released false statements and misleading

their operations at

136. Moreover, upon information and belief, MINUSTAH sent the water

to a general medicine doctor, Dr. Maximo Rodriguez, who

specializes in treating obesity at a MINUSTAH-contracted patient-treatment facility in

Dr. Rodriguez does not have knowledge or experience in laboratory

140. Around November 2010 as death rates were soaring around Haiti,

Defendant Mulet told Time Magazine that “[i]t’s really unfair to accuse the U.N. for

bringing cholera into Haiti.”

144 In the unpublished report which was leaked to the public in December

b1

140 On or about January 14, 2011, Nigel Fisher, Defendant Ban's Under

Secretary-General for Coordination of Humanitarian Affairs, told the Public Broadcasting

sanitation conditions were not sufficient "to prevent fecal contamination of the Meille

a. The CDC compared the entire genetic material of fifteen strains of

“either receive a prophylactic dose of appropriate antibiotics before departure or be

used whole-genome sequence typing to compare the entire genome of the cholera strain

the strain. They concluded that the evidence “all point[ed] to Nepalese UN peacekeepers

The evidence that the Nepalese UN peacekeeping troops brought cholera

the panel concluded that "the preponderance of the evidence and the weight of the

circumstantial evidence does lead to the conclusion that personnel associated with the

Mireholeis MINIJSTAH facility were the most likely source of introduction of cholera

176 On or about November 3, 2011, approximately 5,000 victims of cholera

("Petitioners") all of whom are members of the proposed Class and who were

legal justification for refusing to receive the Petitioners' claims and explained that

Petitioners had not asserted any political or policy-related claims. Petitioners also

requested (1) a meeting with the IIN's Office of Legal Affairs, (2) the engagement of a

185. At the time of this Complaint, cholera continues to kill and injure Haitians

the UN to fund the Plan, representing one percent of the total amount needed to eliminate

the cholera introduced to Haiti by Defendants UN and MINUSTAH. Defendant Ban also

ALLEGED INJURIES

104 Defendants' acts, omissions and practices have caused injury to the

Named Plaintiffs and other members of the proposed Class.

The Death of Fritznel Paul

201. Fritznel Paul is survived by his spouse; their two minor children; his

208 Lefeuve was admitted to Hospital Saint Luc in Tabarre, Port-au-Prince.

where she received intravenous hydration. She was treated for cholera at the hospital for

five days, during which time she continued to experience violent diarrhea and vomiting.

209 On or about October 13, 2011, while at the hospital, Lefeuve lost

215. Desilus Georges was married to Amarante Parisse Georges and had four adult children: Plaintiff Delama Georges, Junel Georges, Marie-Claude Georges, and Yanick Georges.

216. In November 2011, Desilus Georges and his wife were in Haiti visiting

their daughter Yanick. While there, they stayed in Bas de Sainte-Anne, a rural area on

the northern coast.

217. On or about November 8, 2011, Amarante Georges experienced a sudden

onset of vomiting and had profuse, continuous diarrhea. Within a few hours, she became

221 On or about November 10, 2011, while his wife lay unconscious by his

side, Desilus Georges, then age 79, died. Prior to contracting cholera, he had been in

good health.

222. The medical personnel did not permit Yanick to touch Desilus Georges'

1. The first part of the document is a header section containing the title "Annual Report of the Board of Directors of the [Company Name] for the year ending [Date]" and the names of the directors and officers.

2. The second part is a table of contents listing the various sections of the report and their corresponding page numbers.

3. The third part is the main body of the report, which is divided into several sections:

- A. A general statement of the company's performance and financial results.
- B. A detailed account of the company's operations and the progress of its various departments.
- C. A statement of the company's financial position, including a balance sheet and a statement of income.
- D. A statement of the company's assets and liabilities.
- E. A statement of the company's cash and cash equivalents.
- F. A statement of the company's investments and other financial activities.
- G. A statement of the company's dividends and other distributions to its shareholders.
- H. A statement of the company's compliance with applicable laws and regulations.
- I. A statement of the company's environmental and social performance.
- J. A statement of the company's corporate governance and ethical standards.
- K. A statement of the company's risk management and internal controls.
- L. A statement of the company's future outlook and strategic plan.

4. The fourth part is a section for the directors' report, which includes a statement of the directors' responsibilities and a statement of the company's performance from their perspective.

5. The fifth part is a section for the auditors' report, which includes a statement of the auditors' findings and a statement of the company's financial statements.

6. The sixth part is a section for the shareholders' report, which includes a statement of the shareholders' responsibilities and a statement of the company's performance from their perspective.

7. The seventh part is a section for the public, which includes a statement of the company's commitment to transparency and accountability.

8. The eighth part is a section for the future, which includes a statement of the company's vision and mission.

9. The ninth part is a section for the appendix, which includes additional information and documents.

10. The tenth part is a section for the index, which provides a quick reference to the various sections of the report.

She has also experienced unusual changes such as loss of appetite, changes in weight,

nervousness and nausea. She is no longer able to work as she did prior to contracting

240. Shortly thereafter, Plaintiff Silfort began experiencing a sudden onset of

and for about six days he

Plaintiffs and the putative Subclass relied upon as their primary water source. Moreover,

care to prevent introducing a contagious disease to the local population and its visitors.

247 Defendants also breached their duties by defectively and inadequately

designing, constructing, operating, and maintaining their facilities on the Meille Base,

outbreak, thus causing further harm to Plaintiffs and the putative class by impeding a

more quick and effective response to the epidemic.

relied on as a primary water source, and that thousands of Haitians consume untreated

259 Defendants knew or should have known that contamination of the

Artibonite River with cholera-ridden waste would cause massive, widespread injury and

death. Even so, Defendants consciously disregarded that risk and failed to correct the

representatives of the estate

d Plaintiffs Joseph and Paul sustained pecuniary losses, when they

received medical treatment, including transportation, that Decedents required as a result of

contracting cholera prior to their deaths.

272. Defendant Mulet, as the Special Representative to the Secretary-General

for MINUSTAH, had a duty under the SOFA to oversee all of MINUSTAH's operations

in Haiti and to ensure that it did not cause harm to the local population or those visiting

there. Specifically, Defendant Mulet had a duty under the SOFA to respect all local laws

279. Defendants negligently transmitted cholera to Haiti as described in the

First Claim for Relief.

279. As a result, the Named Plaintiffs and other members of the Class or their

immediate family members contracted cholera.

280. Experiencing, or watching their close family members experience, acute

nausea and discomfort and die in their presence caused these plaintiffs to suffer

that were prone to and in fact did overflow into the Meille Tributary and surrounding

these waters flood. Moreover, noxious odors have caused these plaintiffs to lose sleep

290. Defendants knew or should have known, and consciously disregarded the

unreasonable risk that contamination of the Artibonite River with cholera was

297. By contaminating the Artibonite River with the cholera bacteria.

4 Defendants IUI and Ran breached the SOFA by refusing to establish a

standing claims commission to receive and settle claims. Members of the Class

4. Awarding pre-judgment and post-judgment interest, to the extent

allowable by law; and

5. Granting all other and further relief as this Court may deem necessary and appropriate.

DEMAND FOR JURY TRIAL

Plaintiff, et al. demand a trial by jury on all issues so triable.

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