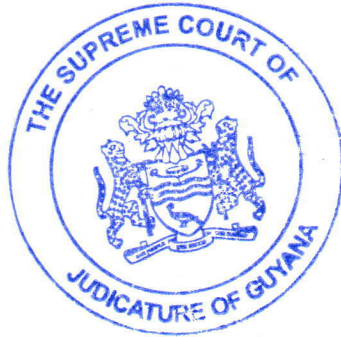


Date Filed 2022-03-03
Time 12:28

2022-HC-DEM-CIV-FDA-47

IN THE HIGH COURT OF THE SUPREME COURT OF JUDICATURE

REGULAR JURISDICTION



IN THE MATTER of **Parts 19.02 and 31**
of the **CPR, 2016**.

-and-

IN THE MATTER of an Application by
ESSO EXPLORATION AND
PRODUCTION GUYANA LIMITED to
be added as a Respondent to the Fixed Date
Application herein.

-and-

BETWEEN:-

GLENN LALL

Applicant.

-and-

THE ATTORNEY-GENERAL OF
GUYANA

Respondent.

NOTICE OF APPLICATION

The Applicant, the above-named **ESSO EXPLORATION AND PRODUCTION GUYANA LIMITED** ("the intended Added Respondent"), will make an Application to

the Court on the 10th day of March, 2022, at 10:00 a.m. or as soon after that time as the Motion can be heard, at the Law Courts, Georgetown, Guyana.

PROPOSED METHOD OF HEARING: The Application is to be heard orally and/or upon written submissions and authorities as the Court may see fit.

1. **THE APPLICATION IS FOR** an Order granting the intended Added Respondent leave to be added as a Respondent to the Fixed Date Application herein, to file an Affidavit in Defence, and to be heard upon the hearing and determination thereof, **And** such further or other Orders or relief as to this Honourable Court may be just.

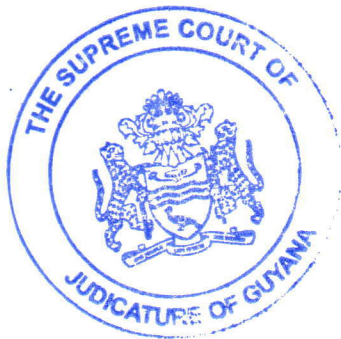
2. **THE GROUNDS FOR THE APPLICATION ARE:**

2.1 The intended Added Respondent Esso Exploration and Production Guyana Limited (“Esso”) is duly registered as an external company under the Companies Act, 1991, and whose place of business is situate at 86 Duke Street, Kingston, Georgetown.



2.2 The intended Added Respondent Esso is presently engaged in carrying on three significant petroleum exploration, development, and production activities, including three petroleum projects, in an area known as the Stabroek Block located in the Exclusive Economic Zone of the Co-operative Republic of Guyana, known as the Liza Phase 1 Development Project (“Liza Phase 1 Project”), the Liza Phase 2 Development Project (“Liza Phase 2 Project”), and the Payara Development Project (“Payara Project”).

2.3 Esso is the Operator of the Liza Phase 1 Project, the Liza Phase 2 Project and the Payara Project, as agreed with the Government of the Co-operative Republic of Guyana (“the Guyana Government”) in that certain Petroleum Agreement dated the 27th day of June, 2016 for the Stabroek Block (“Petroleum Agreement”), and its co-venturers are Hess Guyana Exploration Limited (“Hess”) and CNOOC Petroleum Guyana Limited (“CNOOC”). The Petroleum Agreement (or parts thereof) is exhibited to the Affidavit to the Fixed Date Application herein (“FDA”) of the Applicant as Exhibit “A” thereto.



2.4 Following Esso’s discovery of petroleum accumulations in the Liza-1 exploration well in the Stabroek Block, subsequent appraisal of such accumulations, and all necessary government approvals, the Liza Phase 1 Project was commenced as a result of solemn agreements between Esso, its co-venturers and the Guyana Government, as the representative of the State of Guyana. These agreements include the Petroleum Agreement and the Petroleum Production Licence for the Liza production area between Esso, its co-venturers and the Guyana Government, as the representative of the State of Guyana made and entered into consistent with the Petroleum (Exploration and Production) Act and the Regulations issued under the Act.

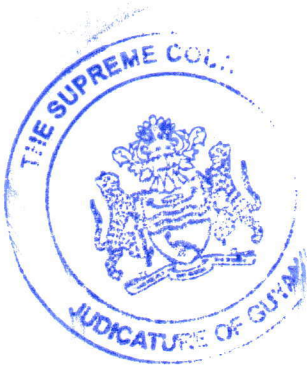
- 2.5 On the 19th day of December, 2019, Esso commenced production from the Liza Phase 1 Project onto the floating, production, storage and offloading vessel (“FPSO”) named the *Liza Destiny* with the project initially producing approximately 120,000 (one hundred and twenty thousand) barrels of oil per day or greater. To date, the Guyana Government has realised revenues from its share of oil sales and royalties in excess of \$600Mn. USD (six hundred million dollars United States’ currency) from the Liza Phase 1 Project as of the end of December 2021.
- 2.6 Following additional project delineation and all necessary Guyana Government approvals, on the 12th day of February, 2022, Esso commenced production from the Liza Phase 2 Project (which is also under the Petroleum Production Licence for the Liza production area) onto the FPSO *Liza Unity* with the project currently starting up with the target to ramp up to initially produce approximately 220,000 (two hundred and twenty thousand) barrels of oil per day or greater.
- 2.7 On the 30th day of September, 2020, following additional discoveries of petroleum accumulations by Esso on the Stabroek Block, the Guyana Government and Esso, Hess and CNOOC agreed to a Petroleum Production Licence for the Payara Project. Esso, as Operator, is currently developing the Payara Project with a target to begin production after startup in 2024.



2.8 The Applicant Glenn Lall has now instituted a challenge to the Petroleum Agreement and the arrangements agreed between Esso, its co-venturers, and the Guyana Government since the 16th day of June, 2016, by way of the present FDA.

2.9 In his FDA, the Applicant is seeking *inter alia*, the following Declaratory reliefs:-

- (1) A Declaration that Article 15.1 of the Petroleum Agreement between Esso, CNOOC and Hess, and the Guyana Government violates sections 10 and 51 of the Petroleum (Exploration and Production) Act, 1986, (“the Petroleum Act”) and is thereby unlawful, null, void and of no effect in law;
- (2) A Declaration that Article 15.1 of the Petroleum Agreement between Esso, CNOOC and Hess, and the Guyana Government violates sub-sections 1A and 1B of section 6 of the Financial Administration and Audit Act, (as amended) (“the FAA Act”) and is thereby unlawful, null, void and of no effect in law;
- (3) A Declaration that Article 15.4 of the Petroleum Agreement between Esso, CNOOC and Hess, and the Guyana Government violates sections 10 and 51 of the Petroleum Act and is thereby unlawful, null, void and of no effect in law;



- (4) A Declaration that Article 15.4 of the Petroleum Agreement between Esso, CNOOC and Hess, and the Guyana Government violates sub-sections 1A and 1B of section 6 of the FAA Act and is thereby unlawful, null, void and of no effect in law;
- (5) A Declaration that section 49 of the Petroleum Act violates sub-sections 1A and 1B of section 6 of the FAA Act and is thereby unlawful, null, void and of no effect in law;
- (6) A Declaration that Article 15.7 of the Petroleum Agreement between Esso, CNOOC and Hess, and the Guyana Government violates sub-sections 1A and 1B of section 6 of the FAA Act and is thereby unlawful, null, void and of no effect in law;
- (7) A Declaration that Article 15.9 of the Petroleum Agreement between Esso, CNOOC and Hess, and the Guyana Government violates sub-sections 1A and 1B of section 6 of the FAA Act and is thereby unlawful, null, void and of no effect in law;
- (8) A Declaration that the second paragraph of Article 15.10 of the Petroleum Agreement between Esso, CNOOC and Hess, and the Guyana Government violates sections 10 and 51 of the Petroleum Act and is thereby unlawful, null, void and of no effect in law;



- (9) A Declaration that Article 15.10 of the Petroleum Agreement between Esso, CNOOC and Hess, and the Guyana Government violates sub-sections 1A and 1B of section 6 of the FAA Act and is thereby unlawful, null, void and of no effect in law;
- (10) A Declaration that Article 15.11 of the Petroleum Agreement between Esso, CNOOC and Hess, and the Guyana Government grants exemptions to persons other than licensees and is to that extent unlawful, null, void and of no effect in law;
- (11) A Declaration that Article 15.11 of the Petroleum Agreement between Esso, CNOOC and Hess, and the Guyana Government violates sections 10 and 51 of the Petroleum Act and is thereby unlawful, null, void and of no effect in law;
- (12) A Declaration that Article 15.11 of the Petroleum Agreement between Esso, CNOOC and Hess, and the Guyana Government violates sub-sections 1A and 1B of section 6 of the FAA Act and is thereby unlawful, null, void and of no effect in law;
- (13) A Declaration that Article 15.12 of the Petroleum Agreement between Esso, CNOOC and Hess, and the Guyana Government violates section 5 of the Prevention of



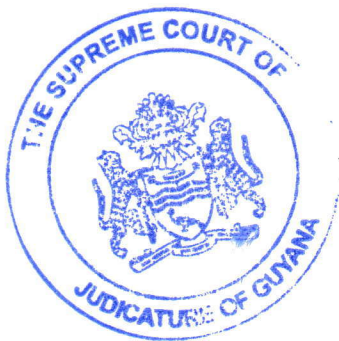
Discrimination Act, Cap. 99:08 and is thereby unlawful, null, void and of no effect in law;

(14) A Declaration that Article 15.12 of the Petroleum Agreement between Esso, CNOOC and Hess, and the Guyana Government violates Article 149 of the Constitution of Guyana, and is thereby unlawful, null, void and of no effect in law;

(15) A Declaration that Article 15.12 of the Petroleum Agreement between Esso, CNOOC and Hess, and the Guyana Government violates section 51 of the Petroleum Act and is thereby unlawful, null, void and of no effect in law;

(16) A Declaration that Article 15.13 of the Petroleum Agreement between Esso, CNOOC and Hess, and the Guyana Government violates sections 10 and 51 of the Petroleum Act and is thereby unlawful, null, void and of no effect in law;

(17) A Declaration that Order No. 10 of 2016 the Petroleum (Exploration and Production) (Tax Laws) (Esso Exploration and Production Limited, CNOOC/Nexen Petroleum Guyana Limited, and Hess Guyana Exploration Limited) ("the Section 51 Order") made under the Petroleum Act is ultra vires, null, void and of no legal effect; and



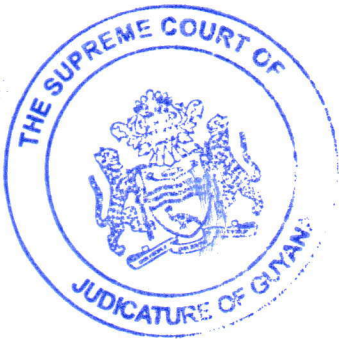
(18) Alternatively, a Declaration that to the extent that the Section 51 Order is valid, its validity only extends to licensees.

2.10 The Petroleum Agreement was solemnly negotiated with the Guyana Government. Certain fiscal arrangements therein agreed with the Guyana Government make the Liza Phase 1 Project, the Liza Phase 2 Project and the Payara Project financially feasible and commercially viable.

2.11 In reliance upon the said arrangements contained in the said Petroleum Agreement, Esso and its co-venturers have been able to develop the Stabroek Block offshore Guyana into a series of world-class projects.

2.12 In addition to the above-mentioned Projects, Esso and its co-venturers and the Guyana Government anticipate being able to establish several other Projects within the Stabroek Block, such as the Yellowtail Project, thus further enhancing the Stabroek Block's productivity as a world-class producing petroleum resource. As a result of the agreements reached in the Petroleum Agreement, Esso and its co-venturers have committed themselves to massive and substantial expenditures both past, present, and future totaling billions of US dollars.

2.13 Esso and its co-venturers' constant position is that there is no legal justification for any change to these arrangements which were solemnly agreed between the parties. But if the basis on which the Petroleum Agreement was negotiated and agreed is changed, that would cause Esso and its co-venturers considerable economic disruption, confusion, and uncertainty. If the Declaratory reliefs the Applicant is seeking are granted,



it would similarly cause Esso and its co-venturers to sustain substantial and potentially unsustainable financial loss and damage.

2.14 The subject matter of the instant litigation is whether Esso and its co-venturers are entitled to enjoy the fiscal arrangements negotiated and agreed in good faith with the Guyana Government. Esso and its co-venturers have expended sums in excess of \$US4.0Bn. (four billion dollars United States' currency) of total expenditures to execute the Liza Phase 1 Project. Esso and its co-venturers are also in the process of expending another \$US6.0Bn. (six billion dollars United States' currency) to execute the Liza Phase 2 Project and yet another \$US9.0Bn. (nine billion dollars United States' currency) to execute the Payara Project. Naturally, as these expenditures were premised on the agreements contained in the Petroleum Agreement inclusive of its fiscal arrangements (including tax exemptions/reductions for Esso and its contractors), Esso and its co-venturers have a very real and vested interest in maintaining the Petroleum Agreement in the form which was agreed.

2.15 Esso has a very real and substantial interest in the subject matter of these proceedings, namely, whether the terms and provisions of its Petroleum Agreement with the Guyana Government are lawful and valid, and whether it would be entitled to carry out the above-described projects based on the said provisions of its Petroleum Agreement, and it is thereby entitled to be a party to the said proceeding.



2.16 In addition to the foregoing, if the Declarations sought by the Applicant are granted, Esso and its co-venturers would be faced with substantial additional costs.

2.17 Rule 31:01 of Part 31 of the CPR, 2016 *Intervention* provides as follows:-

“Application for Permission to Intervene

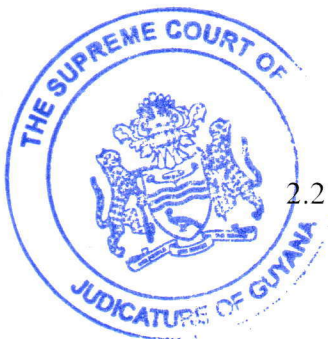
- (1) A person who is not a party to a proceeding may make an application for permission to intervene as an added party if the person claims,
- (a) an interest in the subject matter of the proceeding;
 - (b) that the person may be adversely affected by a judgment in the proceeding....”

2.18 By the standard of Rule 31.01 of the CPR, 2016, the Applicant Esso is entitled to be added as a party to the proceeding herein.

2.19 Esso has a very real and vested interest in the subject matter of the proceeding, namely, whether the fiscal arrangements agreed with the Guyana Government and granted to it and its co-venturers for the Projects are valid and lawful.

2.20 Esso for itself and as Operator on behalf of its co-venturers, is also the person who would be most adversely affected by such a judgment as it and they would be faced with substantial additional costs it would have to pay. Esso is literally the party who would have to “*foot the bill*”.

2.21 Further, where Declaratory relief is sought, it is desirable that all persons who appear to have a real interest in objecting to the grant of a declaration claimed in the proceeding should be made parties. If they are not, although

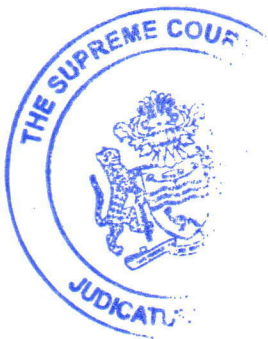


they were not parties, they may nevertheless be prejudiced by a decision made or given in the proceeding.

2.22 The Guyana Government issued the Petroleum Production Licences to Esso and its co-venturers pursuant to their entry into the Petroleum Agreement. These Licences and the sole and exclusive rights accruing to Esso and its co-venturers to win petroleum from the projects described above would be meaningless without the Petroleum Agreement. If the Petroleum Agreement is varied or abrogated, Esso's rights would be very adversely affected. Yet if the Applicant is successful, he would have succeeded in depriving Esso of its rights without giving Esso an opportunity to be heard in its own defence and in defence of its rights. This would constitute a grave and serious breach of an elementary rule of natural justice which a court should not allow to happen.

2.23 In proceedings for Declaratory relief, the Court ought to take into account the interests of *all persons* who would be affected in reaching its decision. Also, it is important that all parties appropriately entitled to contest the issue who may wish to advance arguments on their certain positions should be before the Court.

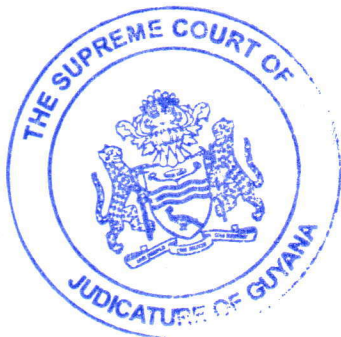
2.24 As presently formulated, although Esso has a very real and substantial interest, and is the person who would be most adversely affected by the making of the 17 (seventeen) Declaratory Judgments sought by the Applicant, it has not been named as a party. This is improper and Esso ought to be added as a Respondent to the proceeding.



- 2.25 It is necessary and appropriate for Esso to be added as a Respondent to the FDA on such terms as this Honourable Court may see fit and just. Nor can there be any prejudice to the Applicant from so doing. As it were, he ought to have named Esso as a Respondent in the first place and it is because of his deliberate omission that Esso is now forced to make this Application to correct the said omission.
- 2.26 Not joining Esso would constitute a grave and serious breach of the rules of natural justice and in particular, the *audi alteram partem* rule.
- 2.27 Further, there is no prejudice the Applicant would suffer if Esso were added as a party to defend its interests and to object to the declaratory reliefs sought against it.
- 2.28 Application is therefore respectfully made for the Orders and/or reliefs set out in paragraph 1. hereof.

3 **THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the Application, namely:

- (1) Affidavit of **Alistair Routledge**.



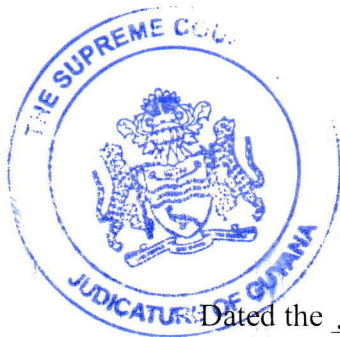
4 **A DRAFT OF THE ORDER** that the Applicant seeks is attached.



Andrew M.F. Pollard, SC.
Attorney-at-Law for the intended Added Respondent,
Messrs. **Hughes, Fields & Stoby**,
62 Hadfield and Cross Streets,
Werk-en-Rust,
Georgetown.
Tel: +592-227-7814/226-4978
Email: amfpollard@gmail.com



Edward A. Luckhoo, SC.
Attorney-at-Law for the Intended Added Respondent,
Messrs. **Luckhoo & Luckhoo**,
Lot 1 Croal Street,
Stabroek,
Georgetown.
Tel: +592-225-9232
Email: luckhoo@solutions2000.net



Dated the 2nd day of March, 2022.

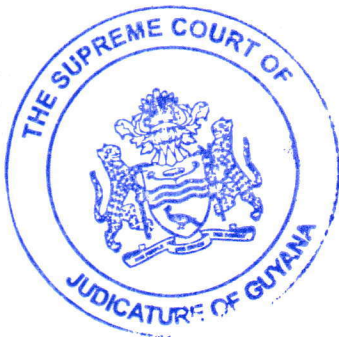
TO:- **Mr. Mohamed R. Ali**,
Attorney-at-Law for Applicant,
Lot 185 Charlotte & King Streets,
Lacytown,
Georgetown.
Tel: 592-23-9442 592-226-2885 592-227-3459
Email: mohamedralilawyer@gmail.com

Date: 2022/03/03

Shazad J. Rasand
Signature of Registry.

Issued by: Shazad J. Rasand
Address of Registry where issued:
The Law Courts, South Road and
Avenue of the Republic, Lacytown,
Georgetown.

**CERTIFIED A TRUE
COPY OF THE ORIGINAL**
Shazad J. Rasand
Assistant Sworn Clerk
Supreme Court of Judicature



2022-HC-DEM-CIV-FDA-47

IN THE HIGH COURT OF THE SUPREME COURT OF JUDICATURE

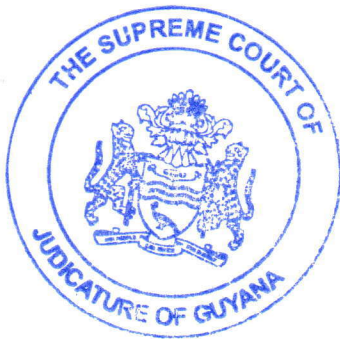
REGULAR JURISDICTION

IN THE MATTER of **Parts 19.02 and 31**
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-and-

IN THE MATTER of an Application by
ESSO EXPLORATION AND
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be added as a Respondent to the Fixed Date
Application herein.

-and-



BETWEEN:-

GLENN LALL

Applicant.

-and-

THE ATTORNEY-GENERAL OF
GUYANA

Respondent.

AFFIDAVIT

I, **Alistair Routledge** of 86 Duke Street, Kingston, Georgetown, being duly sworn
make oath and say as follows:-

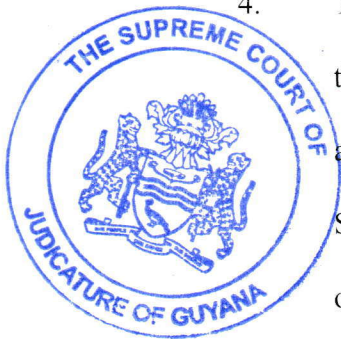
1. I am the President of Esso Exploration and Production Guyana Limited ("Esso") the intended Added Respondent herein, and I am duly authorised to and do swear this Affidavit on its behalf.

2. From my position with Esso, I have personal knowledge of the matters deposed to herein, save and except where I expressly so state.

3. The intended Added Respondent Esso is duly registered as an external company under the Companies Act, 1991, and whose place of business is situate at 86 Duke Street, Kingston, Georgetown.

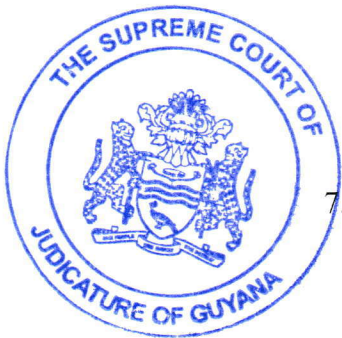
4. The intended Added Respondent Esso is presently engaged in carrying on three significant petroleum exploration, development, and production activities, including three petroleum projects, in an area known as the Stabroek Block located in the Exclusive Economic Zone of the Co-operative Republic of Guyana, known as the Liza Phase 1 Development Project ("Liza Phase 1 Project"), the Liza Phase 2 Development Project ("Liza Phase 2 Project"), and the Payara Development Project ("Payara Project").

5. Esso is the Operator of the Liza Phase 1 Project, the Liza Phase 2 Project and the Payara Project, as agreed with the Government of the Co-operative Republic of Guyana ("the Guyana Government") in that certain Petroleum Agreement dated the 27th day of June, 2016 for the Stabroek Block ("Petroleum Agreement"), and its co-venturers are Hess Guyana Exploration Limited ("Hess") and CNOOC Petroleum Guyana Limited ("CNOOC"). The Petroleum Agreement (or parts thereof) is exhibited to



the Affidavit to the Fixed Date Application herein (“FDA”) of the Applicant as Exhibit “A” thereto.

6. Following Esso’s discovery of petroleum accumulations in the Liza-1 exploration well in the Stabroek Block, subsequent appraisal of such accumulations, and all necessary government approvals, the Liza Phase 1 Project was commenced as a result of solemn agreements between Esso, its co-venturers and the Guyana Government, as the representative of the State of Guyana. These agreements include the Petroleum Agreement and the Petroleum Production Licence for the Liza production area between Esso, its co-venturers and the Guyana Government, as the representative of the State of Guyana made and entered into consistent with the Petroleum (Exploration and Production) Act and the Regulations issued under the Act.
7. On the 19th day of December, 2019, Esso commenced production from the Liza Phase 1 Project onto the floating, production, storage and offloading vessel (“FPSO”) named the *Liza Destiny* with the project initially producing approximately 120,000 (one hundred and twenty thousand) barrels of oil per day or greater. To date, the Guyana Government has realised revenues from its share of oil sales and royalties in excess of \$600Mn. USD (six hundred million dollars United States’ currency) from the Liza Phase 1 Project as of the end of December 2021.
8. Following additional project delineation and all necessary Guyana Government approvals, on the 12th day of February, 2022, Esso commenced



production from the Liza Phase 2 Project (which is also under the Petroleum Production Licence for the Liza production area) onto the FPSO *Liza Unity* with the project currently starting up with the target to ramp up to initially produce approximately 220,000 (two hundred and twenty thousand) barrels of oil per day or greater.

9. On the 30th day of September, 2020, following additional discoveries of petroleum accumulations by Esso on the Stabroek Block, the Guyana Government and Esso, Hess and CNOOC agreed to a Petroleum Production Licence for the Payara Project. Esso, as Operator, is currently developing the Payara Project with a target to begin production after startup in 2024.

10. The Applicant Glenn Lall has now instituted a challenge to the Petroleum Agreement and the arrangements agreed between Esso, its co-venturers, and the Guyana Government since the 16th day of June, 2016, by way of the present FDA.

11. In his FDA, the Applicant is seeking *inter alia*, the following Declaratory reliefs:-

- (1) A Declaration that Article 15.1 of the Petroleum Agreement between Esso, CNOOC and Hess, and the Guyana Government violates sections 10 and 51 of the Petroleum (Exploration and Production) Act, 1986, (“the Petroleum Act”) and is thereby unlawful, null, void and of no effect in law;
- (2) A Declaration that Article 15.1 of the Petroleum Agreement between Esso, CNOOC and Hess, and the Guyana Government



violates sub-sections 1A and 1B of section 6 of the Financial Administration and Audit Act, (as amended) (“the FAA Act”) and is thereby unlawful, null, void and of no effect in law;

(3) A Declaration that Article 15.4 of the Petroleum Agreement between Esso, CNOOC and Hess, and the Guyana Government violates sections 10 and 51 of the Petroleum Act and is thereby unlawful, null, void and of no effect in law;

(4) A Declaration that Article 15.4 of the Petroleum Agreement between Esso, CNOOC and Hess, and the Guyana Government violates sub-sections 1A and 1B of section 6 of the FAA Act and is thereby unlawful, null, void and of no effect in law;

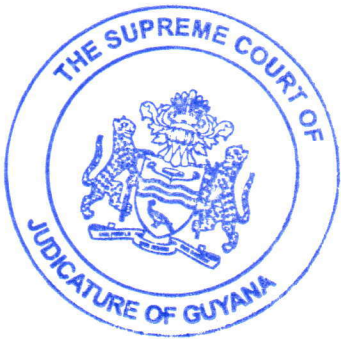


(5) A Declaration that section 49 of the Petroleum Act violates sub-sections 1A and 1B of section 6 of the FAA Act and is thereby unlawful, null, void and of no effect in law;

(6) A Declaration that Article 15.7 of the Petroleum Agreement between Esso, CNOOC and Hess, and the Guyana Government violates sub-sections 1A and 1B of section 6 of the FAA Act and is thereby unlawful, null, void and of no effect in law;

(7) A Declaration that Article 15.9 of the Petroleum Agreement between Esso, CNOOC and Hess, and the Guyana Government violates sub-sections 1A and 1B of section 6 of the FAA Act and is thereby unlawful, null, void and of no effect in law;

- (8) A Declaration that the second paragraph of Article 15.10 of the Petroleum Agreement between Esso, CNOOC and Hess, and the Guyana Government violates sections 10 and 51 of the Petroleum Act and is thereby unlawful, null, void and of no effect in law;
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- (13) A Declaration that Article 15.12 of the Petroleum Agreement between Esso, CNOOC and Hess, and the Guyana Government



violates section 5 of the Prevention of Discrimination Act, Cap. 99:08 and is thereby unlawful, null, void and of no effect in law;

- (14) A Declaration that Article 15.12 of the Petroleum Agreement between Esso, CNOOC and Hess, and the Guyana Government violates Article 149 of the Constitution of Guyana, and is thereby unlawful, null, void and of no effect in law;
- (15) A Declaration that Article 15.12 of the Petroleum Agreement between Esso, CNOOC and Hess, and the Guyana Government violates section 51 of the Petroleum Act and is thereby unlawful, null, void and of no effect in law;
- (16) A Declaration that Article 15.13 of the Petroleum Agreement between Esso, CNOOC and Hess, and the Guyana Government violates sections 10 and 51 of the Petroleum Act and is thereby unlawful, null, void and of no effect in law;
- (17) A Declaration that Order No. 10 of 2016 the Petroleum (Exploration and Production) (Tax Laws) (Esso Exploration and Production Limited, CNOOC/Nexen Petroleum Guyana Limited, and Hess Guyana Exploration Limited) ("the Section 51 Order") made under the Petroleum Act is ultra vires, null, void and of no legal effect; and
- (18) Alternatively, a Declaration that to the extent that the Section 51 Order is valid, its validity only extends to licensees.

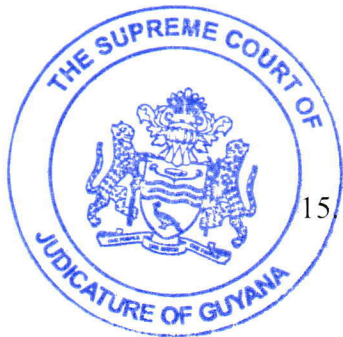
12. The Petroleum Agreement was solemnly negotiated with the Guyana Government. Certain fiscal arrangements therein agreed with the Guyana



Government make the Liza Phase 1 Project, the Liza Phase 2 Project and the Payara Project financially feasible and commercially viable.

13. In reliance upon the said arrangements contained in the said Petroleum Agreement, Esso and its co-venturers have been able to develop the Stabroek Block offshore Guyana into a series of world-class projects.

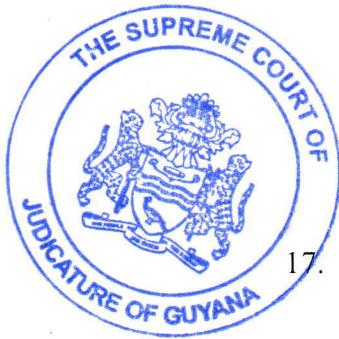
14. In addition to the above-mentioned Projects, Esso and its co-venturers and the Guyana Government anticipate being able to establish several other Projects within the Stabroek Block, such as the Yellowtail Project, thus further enhancing the Stabroek Block's productivity as a world-class producing petroleum resource. As a result of the agreements reached in the Petroleum Agreement, Esso and its co-venturers have committed themselves to massive and substantial expenditures both past, present, and future totaling billions of US dollars.



15. Esso and its co-venturers' constant position is that there is no legal justification for any change to these arrangements which were solemnly agreed between the parties. But if the basis on which the Petroleum Agreement was negotiated and agreed is changed, that would cause Esso and its co-venturers considerable economic disruption, confusion, and uncertainty. If the Declaratory reliefs the Applicant is seeking are granted, it would similarly cause Esso and its co-venturers to sustain substantial and potentially unsustainable financial loss and damage.

16. The subject matter of the instant litigation is whether Esso and its co-venturers are entitled to enjoy the fiscal arrangements negotiated and agreed

in good faith with the Guyana Government. Esso and its co-venturers have expended sums in excess of \$US4.0Bn. (four billion dollars United States' currency) of total expenditures to execute the Liza Phase 1 Project. Esso and its co-venturers are also in the process of expending another \$US6.0Bn. (six billion dollars United States' currency) to execute the Liza Phase 2 Project and yet another \$US9.0Bn. (nine billion dollars United States' currency) to execute the Payara Project. Naturally, as these expenditures were premised on the agreements contained in the Petroleum Agreement inclusive of its fiscal arrangements (including tax exemptions/reductions for Esso and its contractors), Esso and its co-venturers have a very real and vested interest in maintaining the Petroleum Agreement in the form which was agreed.



17. I am advised by Esso's Attorneys-at-Law Messrs. Andrew M.F. Pollard, SC, and Edward Luckhoo, SC, and verily believe that as Esso has a very real and substantial interest in the subject matter of these proceedings, namely, whether the terms and provisions of its Petroleum Agreement with the Guyana Government are lawful and valid, and whether it would be entitled to carry out the above-described projects based on the said provisions of its Petroleum Agreement, it is thereby entitled to be a party to the said proceeding.

18. In addition to the foregoing, if the Declarations sought by the Applicant are granted, Esso and its co-venturers would be faced with substantial additional costs.

A person who is not a party to a proceeding may make an

application for permission to intervene as an added party if the person claims.

(a) an interest in the subject matter of the proceeding;

(a) an interest in the subject matter of the proceeding;

(a) an interest in the subject matter of the proceeding;

that the person may be adversely affected by a judgment in the proceeding....”

20. I am advised by Esso’s aforesaid Attorneys-at-Law and verily believe that by the standard of Rule 31.01 of the CPR, 2016, the Applicant Esso is entitled to be added as a party to the proceeding herein.

21. Esso has a very real and vested interest in the subject matter of the proceeding, namely, whether the fiscal arrangements agreed with the Guyana Government and granted to it and its co-venturers for the Projects are valid and lawful.

22. Esso for itself and as Operator on behalf of its co-venturers, is also the person who would be most adversely affected by such a judgment as it and they would be faced with substantial additional costs it would have to pay. Esso is literally the party who would have to “*foot the bill*”.

23. Further, I am advised by Esso’s aforesaid Attorneys-at-Law and verily believe that where Declaratory relief is sought, it is desirable that all persons who appear to have a real interest in objecting to the grant of a declaration claimed in the proceeding should be made parties. If they are not, although



they were not parties, they may nevertheless be prejudiced by a decision made or given in the proceeding.

24. The Guyana Government issued the Petroleum Production Licences to Esso and its co-venturers pursuant to their entry into the Petroleum Agreement. These Licences and the sole and exclusive rights accruing to Esso and its co-venturers to win petroleum from the projects described above would be meaningless without the Petroleum Agreement. If the Petroleum Agreement is varied or abrogated, Esso's rights would be very adversely affected. Yet if the Applicant is successful, he would have succeeded in depriving Esso of its rights without giving Esso an opportunity to be heard in its own defence and in defence of its rights. I am advised by Esso's aforesaid Attorneys-at-Law and verily believe that this would constitute a grave and serious breach of an elementary rule of natural justice which a court should not allow to happen.



25. I am advised by Esso's aforesaid Attorneys-at-Law and verily believe that in proceedings for Declaratory relief, the Court ought to take into account the interests of all persons who would be affected in reaching its decision. Also, it is important that all parties appropriately entitled to contest the issue who may wish to advance arguments on their certain positions should be before the Court.

26. As presently formulated, although Esso has a very real and substantial interest, and is the person who would be most adversely affected by the making of the 17 (seventeen) Declaratory Judgments sought by the

Applicant, it has not been named as a party. This is improper and Esso ought to be added as a Respondent to the proceeding.

27. It is necessary and appropriate for Esso to be added as a Respondent to the FDA on such terms as this Honourable Court may see fit and just. Nor can there be any prejudice to the Applicant from so doing. As it were, he ought to have named Esso as a Respondent in the first place and it is because of his deliberate omission that Esso is now forced to make this Application to correct the said omission.

28. I am advised by Esso's aforesaid Attorneys-at-Law and verily believe that not joining Esso would constitute a grave and serious breach of the rules of natural justice and in particular, the *audi alteram partem* rule.

29. Further, there is no prejudice the Applicant would suffer if Esso were added as a party to defend its interests and to object to the declaratory reliefs sought against it.


30. Application is therefore respectfully made for the Orders and/or reliefs set out in paragraph 1. of the Fixed Date Application herein.



31. That this Affidavit is drawn by Messrs. Andrew M.F. Pollard, SC, and Edward Luckhoo, SC, upon my instructions.

Sworn to at Georgetown, Demerara,)

This 3rd day of March, 2022,)
Before me,)


Alistair Routledge



A COMMISSIONER FOR OATHS



2022-HC-DEM-CIV-FDA-47

IN THE HIGH COURT OF THE SUPREME COURT OF JUDICATURE

REGULAR JURISDICTION

IN THE MATTER of **Parts 19.02 and 31**
of the **CPR, 2016**.

-and-

IN THE MATTER of an Application by
ESSO EXPLORATION AND
PRODUCTION GUYANA LIMITED to
be added as a Respondent to the Fixed Date
Application herein.

-and-

BETWEEN:-

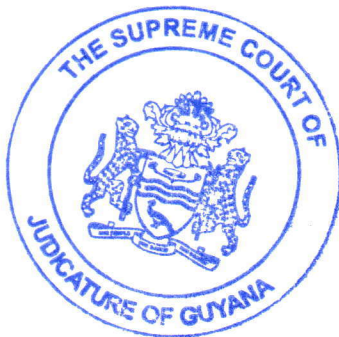
GLENN LALL

Applicant.

-and-

THE ATTORNEY-GENERAL OF
GUYANA

Respondent.



NOTICE OF APPOINTMENT OF ATTORNEY-AT-LAW:-

The Applicant the Intended Added Respondent herein **ESSO EXPLORATION AND PRODUCTION GUYANA LIMITED** has appointed Messrs. **ANDREW M.F. POLLARD, SC,** and **EDWARD A. LUCKHOO, SC,** and Mesdames **ASHLEY**

HENRY, ELEANOR LUCKHOO and **GINA MACEDO-SINGH** as Attorneys-at-Law
of record.

Date: 2/3/2022 Signed by: Paul R. With
Applicant.



ANDREW M.F. POLLARD, SC
Messrs. **HUGHES, FIELDS & STOBY**
Attorneys-at-Law for Applicant
Lot 62 Hadfield and Cross Streets
Werk-en-Rust,
GEORGETOWN.
(Tel:) +592-227-7814/226-4978
(Fax:) +592-225-8896
(Email:) amfpollard@gmail.com

Edward A. Luckhoo, SC.
Attorney-at-Law for the Intended Added
Respondent,
Messrs. **Luckhoo & Luckhoo,**
Lot 1 Croal Street,
Stabroek,
Georgetown.
Tel: +592-225-9232
Email: luckhoo@solutions2000.net

2022-HC-DEM-CIV-FDA-47

IN THE HIGH COURT OF THE SUPREME COURT OF JUDICATURE

REGULAR JURISDICTION

IN THE MATTER of Parts 19.02 and 31
of the **CPR, 2016.**

-and-

IN THE MATTER of an Application by
**ESSO EXPLORATION AND
PRODUCTION GUYANA LIMITED** to
be added as a Respondent to the Fixed Date
Application herein.

-and-

BETWEEN:-



GLENN LALL

Applicant.

-and-

**THE ATTORNEY-GENERAL OF
GUYANA**

Respondent.

BEFORE THE HONOURABLE JUSTICE NARESHWAR HARNANAN:-

DATED THE DAY OF MARCH, 2022.

ENTERED THE DAY OF MARCH, 2022.

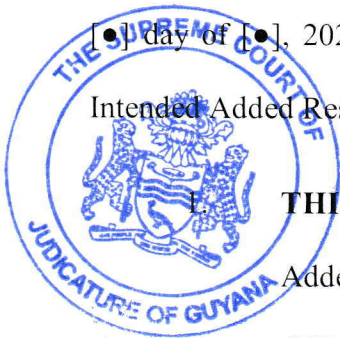
Messrs. **Andrew M.F. Pollard, SC**, and **Edward A. Luckhoo, SC**, and Mesdames **Ashley Henry, Eleanor Luckhoo** and **Gina Macedo-Singh** for Intended Added Respondent.

Mr. **Mohamed R. Ali** for Applicant.

ORDER

THIS APPLICATION MADE BY the Intended Added Respondent **ESSO EXPLORATION AND PRODUCTION GUYANA LIMITED** for the relief(s) more fully set out in paragraph 1. of the Fixed Date Application herein, was heard this [●] day of [●], 2022, at the Victoria Law Courts, Georgetown.

ON READING the Fixed Date Application and the Affidavit of Alistair Routledge sworn to on the [●] day of [●], 2022, and the Affidavit of Glenn Lall sworn to on the [●] day of [●], 2022, and the Affidavit in Reply of the said Alistair Routledge sworn to on the [●] day of [●], 2022, and on hearing the submissions of the Attorneys-at-Law for the Intended Added Respondent and the Applicant and the Respondent:



THIS COURT ORDERS THAT leave is hereby granted to the intended Added Respondent **ESSO EXPLORATION AND PRODUCTION GUYANA LIMITED** to be added as a Respondent to the Fixed Date Application herein, **And** for the said Fixed Date Application to be served on the Added Respondent, **And** leave is hereby granted to the said Added Respondent to file an Affidavit in Defence and to be heard upon the hearing and determination thereof as fully and effectually as if it had been made a party hereto from the commencement of the said Fixed Date Application.

2. **THIS COURT ORDERS THAT** the Costs of and occasioned by this Application shall be costs in the cause herein.

FOR REGISTRAR

**IF YOU FAIL TO COMPLY WITH THE TERMS OF THIS ORDER YOU WILL
BE IN CONTEMPT OF COURT AND MAY BE LIABLE TO IMPRISONMENT
OR TO HAVE YOUR ASSETS CONFISCATED.**

