

### **Metal Refinery Limited (EPZ)**

In the year 2007, the **Metal Refinery (EPZ) limited**, begun its operations of recycling lead from old used lead-acid batteries at Owino Uhuru, an informal settlement on the outskirts of Mombasa town. Shortly after, complaints emerged from the community within the vicinity of the industry, that the company was poisoning the environment through its poor management of its liquid, solid and gaseous waste. The complaints were centered on the fact that the incidence of disease especially, respiratory diseases were tremendously increasing in the village since its operation.

It took CJGEA 7 years of persistent lobbying and advocacy to get a government funded prevalence study done in the community. Several reports have since been produced after intense lobbying, one from the senate ([click on link](#)), one from a parliamentary taskforce ([click on link](#)) and one from the Ministry of Health ([click on link](#)).

In 2016, CJGEA instituted a class action suit on behalf of the Owino Uhuru community challenging the responsibility of the state and Non state actors towards the protection of the right to a clean and healthy environment. Six respondents were served in 2016 however, Metal **Refinery EPZ LTD** (the smelter plant) and **Penguin Paper and Book Company** (the Kenyan company that housed the smelter) evaded our process server for a whole year. On 26<sup>th</sup> January 2017, our legal team defended our right to serve Metal **Refinery EPZ LTD** and **Penguin Paper and Book Company** by way of newspaper advertisement and this was published in the Standard Newspaper on 2<sup>nd</sup> February 2017. See attached newspaper advert.

Since 27<sup>th</sup> January, 2017, CJGEA members from Owino Uhuru have been receiving death threats after they have been accused of planning to evict the other community members from their land. This happened after the petition was misinterpreted to the community members misleading them by stating that the petition would evict them if it goes through. These were all false accusations as the petition seeks to ensure Owino Uhuru community is remediated and the community members compensated.

Thursday, February 2, 2017 / The Standard

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT MOMBASA  
CONSTITUTIONAL PETITION NO. 1 OF 2016**

KELVIN MUSYOKA & 9 OTHERS ..... PETITIONER

**=VERSUS=**

THE HONOURABLE ATTORNEY GENERAL & 7 OTHERS ..... RESPONDENTS

TO: 1. METAL REFINERY (EPZ) LTD  
P.O BOX 92828-80102  
**CHANGAMWE, MOMBASA**

2. PENGUIN PAPER & BOOK COMPANY EPZ LTD  
P.O BOX 85382-80100  
**MOMBASA**

**SUBSTITUTED SERVICE**

**TAKE NOTICE** that a petition has been filed in the Environment & Land Court at Mombasa being ELC Petition No. 1 of 2016 in which you are named as the 7<sup>th</sup> and 8<sup>th</sup> Respondents, respectively.

Service of the Petition upon you has been ordered by means of this advertisement.

Copies of the Petition may be obtained from the Environment and Land Court Registry at Malindi or at the offices of:

Olel, Onyango, Ingutiah & Co. Advocates  
Wedco Centre Shop Unit II Block 'A'  
P.O Box 2876-40100  
**KISUMU**

**AND TAKE FURTHER NOTICE** that unless you enter appearance within 15 days from the date of this publication, the court shall proceed to hear and determine the matter your absence notwithstanding.

**DRAWN & FILED BY:**  
OLEL, ONYANGO, INGUTIAH & CO. ADVOCATES  
WEDCO CENTRE SHOP UNIT TWO BLOCK 'A'  
P.O BOX 2876-40100  
**KISUMU**

*Inset: Metal Refinery Service notice*