

REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)

28/4/16

CASE NO: 46482/2014

(1)	REPORTABLE: NO
(2)	OF INTEREST TO OTHER JUDGES: NO
(3)	REVISED.
(4)	Signature: <i>[Signature]</i> Date: 28/04/2016

DOROTHY HELLEN CAWOOD

PLAINTIFF

and

ROAD ACCIDENT FUND

DEFENDANT

JUDGMENT

KHUMALO J

INTRODUCTION

[1] Section 17 of the Road Accident Fund Act reads:

(1) The Fund or an agent shall-

- (a) 'subject to this Act, in the case of a claim for compensation under this section arising from the driving of a motor vehicle where the identity of the owner or the driver thereof has been established;
- (b) subject to any regulation made under section 26, in the case of a claim for compensation under this section arising from the driving of a motor vehicle where the identity of neither the owner nor the driver thereof has been established,

be obliged to compensate any person (the third party) for **any loss or damage which the third party has suffered** as a result of any bodily injury to himself or herself or the death of any other person, caused by or arising from the driving of a motor vehicle by any person at any place within the Republic, if the injury or death is due

to the negligence or other wrongful act of the driver or of the owner of the motor vehicle or of his or her employee in the performance of the employee's duties as employee: Provided that the obligation of the Fund to compensate a third party for non-pecuniary loss shall be limited to compensation for a serious injury as contemplated in subsection (1A) and shall be paid by way of a lump sum.'

[2] Section 8 (3) of the Constitution of the Republic of South Africa, 1996 ("the Constitution") provides that:

(3) When applying a provision of the Bill of Rights to a natural or juristic person in terms of subsection (2), a court –

(a) in order to give effect to a right in the Bill, must apply, or if necessary develop, the common law to the extent that legislation does not give effect to that right;
and

(b) may develop rules of the common law to limit the right, provided that the limitation is in accordance with s 36 (1).

[2] Whilst Section 9 of the Constitution reads:

(1) **Everyone is equal before the law and has the right to equal protection and benefit of the law.**

(2) **Equality includes the full and equal enjoyment of all rights and freedoms. To promote the achievement of equality, legislative and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination may be taken.**

(3) The state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, **marital status**, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.

(4) No person may unfairly discriminate directly against anyone on one or more grounds in terms of subsection (3). National Legislation must be enacted to prevent or prohibit unfair discrimination.

FACTUAL BACKGROUND

[3] The Plaintiff in this matter was in a love relationship with the one Izak Johannes Roux ("the deceased") who met his demise when he was knocked over by a motor vehicle driven by an unknown driver along the R101 off-ramp between Naboomspruit and Modimolle in the Limpopo Province on 27 October 2012.

[4] At the time of the deceased's death he had fathered a child born in 2005 with the Plaintiff. Consequently the Plaintiff instituted an action against the Defendant as a statutory insurer in terms of the aforementioned s 17, in her personal capacity and in her representative capacity as the legal guardian of the minor child, for loss of maintenance and support, respectively.

[5] In the particulars of claim, the Plaintiff alleges that the deceased met his demise when they were in the final stages of preparations and arrangements for their wedding which was to take place on 15 December 2012 and have been living together as husband and wife with their minor child. The deceased was employed as a site manager at Legend Construction (Pty) Ltd on a salary of R11 173.00 and maintaining her and the minor child. As a result the deceased was in the premises in life obliged to maintain her and the minor child and which he indeed, did.

[6] The Plaintiff alleges that on that premise the unlawfully caused death of the deceased resulted in her and the minor child suffering damages as follows:

[6.1]	Her loss of support	R1 500,000.00
[6.2]	funeral expenses	R11 428.50
[6.3]	Child's loss of support	R 700,000.00

[7] The Defendant in its plea, save for admitting to the citations of the parties, denied liability, putting Plaintiff to the proof of all the allegations as *per* the particulars of claim.

[8] At the commencement of the trial, the parties confirmed that the Defendant had in the meanwhile conceded to the merits in so far as negligence and the claim of the minor child is concerned for whatever loss of support proved. The remaining issue was of Defendant's liability in respect of the Plaintiff's personal claim and quantum, with the **Defendant persisting with the denial that the relationship that Plaintiff had with the deceased entitled her to the relief she is seeking against the Defendant,**

[9] The parties applied that the issue of liability be separated from the issue of quantum with the latter postponed sine die. The order was made accordingly. The *onus* is upon the Plaintiff to prove the liability of the Defendant (that the nature of the relationship between the Plaintiff and the deceased gave rise to legally enforceable right against the Defendant).

Evidence

[10] The court had to decide the issue on the sole version of the Plaintiff being the only witness that testified before the court. Her testimony was that when she first met the deceased in 2000 whom she called "Sakkie" (for ease of reference I shall refer to the deceased as "Sakkie henceforth) he **has been a lodger at her parent's house since 1998**. In 2005 Plaintiff gave birth to Sakkie's child, a love relationship having developed between them through the years since 2000. They however only started living together as husband and wife in January

2011. Sakkie worked in a remote place to where Plaintiff's parent's home was located in Modimmole. Before the child was born, Sakkie would return to his abode at her parents' home when he is not working. After the child was born he would return and reside with her and the child at her parent's place. She was also working then so **they would put together their salaries. Sakkie would pay for some of the stuff.**

[11] However by the time Sakkie died, she says there had been a change in their lives. In January 2011, she through work moved to Mokgophong. Sakkie then moved in with her **because Mokgophong was now closer to his work. Sakkie was maintaining both her and the minor child, as she was not working.** They had lived together as a family for a period of a year and were going to get married in December 2012 when Sakkie died, less than six weeks before the wedding. She has not been in a relationship with another man since she met Sakkie in 2000.

[12] According to the Plaintiff, when Sakkie died **they had already decided on a guest list, venue, photographer, menu and she had done dress fittings. To prove that** she presented a document with information about a certain wedding venue she confirmed to have obtained when she and a friend made enquiries. She said Sakkie was only with her once when she made some of the enquiries. She also had obtained a document from a cake place in Lynwood to look at styles of cake and kind of feelings. She and Sakkie had completed a guest list of their family and friends, which was in her handwriting. The guests were going to arrive on 14 December 2012 and the wedding planned to take place the next day on a Saturday at 16h00. She had paid a deposit to a shop for fitting a maximum of 4 dresses and had a receipt but was not sure of its whereabouts. The shop was going to send her a voucher with different styles of dresses she had fitted and their different prizes so that she could make her choice. She indicated to have paid a deposit of R4000 to a lady who owns a photography business who had given her an option to either pay a deposit of R1 000 then or on the day of the wedding. She confirmed from a question by her counsel that Sakkie would have continued to maintain her even after marriage as she was not working.

[13] Her evidence during cross examination was that their relationship gradually developed into a love relationship probably eight (8) years before Sakkie moved in with her in 2011. She said when she came back from overseas in 2000, Sakkie was living with her parents, **as her brother's friend.** Around 2005 their child was born. **They were kind of thrown together so she cannot be able to give an exact date when their relationship started, it could have been in 2002 or earlier. Around 2002 Sakkie was working somewhere else,** so they were apart although they were still in a relationship, he would come back to her parent's home. At that time he did not support her. **He started to support her in 2011 when she stopped working and after he moved in with her.** It was not a question of whose salary. When asked to mention the exact date Sakkie moved in with her she said it was after her father suffered a stroke in 2010 and her parents had to relocate to a farm they had bought in Mokgophong. Sakkie moved in with her in her parents' farm on **January 2011.** She lived with Sakkie and their child in a separate house detached from the main house which was occupied by her parents. They did not pay rent, in return it was expected that they would assist to take care of her wheelchair bound father when his caregiver has knocked off. He sometimes needed to be carried around. At the time of Sakkie's death she had stopped working since August 2011 and for the whole of 2012 Sakkie supported her. When asked where she was working she said she ran her own catering business that she gave away to her sister as it was

failing. Sakkie then maintained her and the minor child from then onwards until he died. A lot of people were aware of their relationship, family, relatives and the community and could come to court to testify about the relationship.

[14] The Plaintiff confirmed during cross examination **that** the document with information on the venue with a variety of options and the price list of flowers was obtained only on enquiries she made and no booking or order was placed. Nevertheless **the lady who furnished her with the undated price list of flowers was available to come and testify**. Also that it would not have been possible for her to do the cake tasting for their wedding because the document provided for a cake tasting in January 2013, after the date of the wedding even though the cake list was for 2012. She said the documents were obtained not long after Sakkie had asked her to marry him, it could have been June or July, she was not sure, mostly did not have dates, but she had not yet put an order six weeks before the wedding. On the wedding dress and fittings she said she paid a deposit and fitted up to 4 dresses as is required by the shop but did not have the brochure that had pictures of her fitted dresses that the supplier was supposed to furnish her with so that she can finalise her selection on the dress. **She said the supplier was however available to come and give evidence regarding the dress**. She did not sign the terms on the back of any of the quotations since that could have meant she was agreeing to purchase a dress. After which it was then going to be fixed. They also **still have not send out invitations to their guests, friends and family or decided on the design and what they were going to say in the invitation cards**. Sakkie passed away six (6) weeks before the wedding day.

Legal framework

[15] The legal basis for the entitlement of persons, to claim from the Defendant (RAF) due to the death of or bodily injury to any other person, is the existence of a legal duty of the deceased or injured person to support the claimant, without which the Defendant would not be held liable for such a claim.

[16] It is accepted that whilst there is a reciprocal duty of support between married persons that arises by operation of law, no such duty exists in the case of unmarried cohabitants. The maintenance benefit in terms of section 2(1) of the Maintenance of Surviving Spouses Act 88 of 1984 ("the Act") falls within the scope of the maintenance support obligation attached to marriage. The Act applies to persons in respect of whom the deceased person (spouse) would have remained legally liable for maintenance, by operation of law, had he or she not died.

[16] The emphasis however, as it should be, is on the object of the remedy outlined to be the common law dependants' action, being to place the dependants of the deceased, to whom the deceased owed legally enforceable duty to support and maintain in the same position as they would have been, as regards support and maintenance, had the deceased not been unlawfully killed by a wrongdoer."

[17] A conclusion is made in *Paixao and Another v Road Accident Fund* 2012 [ZASCA] 130 2012 (6) SA at 377 that given the *sui generis* character of the common law dependant's action remedy, there seems to be no proper reason to restrict it only to family or blood relationship when social changes no longer require this. It was agreed that it had been extended to include **permanent heterosexual relationships who have to prove on a balance of probabilities the**

tacit undertaking of reciprocal duty of support/ maintenance.

[18] So, although as aforesaid, the court in *Paixao* stated that no reciprocal duty of support arises by operation of law in the case of unmarried cohabitants it also said that this does not preclude such a duty from being fixed by agreement, tacit or express. Parties in casu were agreed on that principle which was in conformity with what is articulated in s 9 of the Constitution and the development of our common law taking into account the interest of society. So therefore the right can be conferred as long as such agreement or facts establishing a tacit agreement are proven.

Analysis of the evidence

[19] On that premise, Mr Potgieter on behalf of the Plaintiff argued that the Plaintiff had made a proper case for the relief that she was seeking. **She has testified to facts that proves that the relationship that was between herself and Sakkie was of a nature that established a reciprocal duty of maintenance and from which a tacit agreement of mutual support can be inferred.** Counsel further argued that due to the Defendant's failure to lead evidence in rebuttal **the uncontested version of the Plaintiff should be found by the court not only to be reliable but to sufficiently establish the necessary facts from which the inference of a tacit agreement to support each other that is enforceable against the Defendant, can be drawn.** The Plaintiff's case was grounded on **the nature of the relationship that Counsel argued was akin to a family relationship, such that it is deserving of the law's protection.**

[20] On the other hand Mr Malesa the Defendant's counsel being not able to adduce any evidence in rebuttal, argued to persuade the court that notwithstanding Defendant's failure to rebut, the facts that are alleged to establish the nature of the relationship that supposedly gave rise to the reciprocal duty of maintenance are not only **less probable but also insufficient** (in terms of its weightiness or probative value) in that the essential facts have not been established.

[21] Both parties based their argument on the principles enunciated in *Paixao*. Therefore the court had to decide if there was such an agreement express or to be tacitly inferred from the alleged surrounding circumstances and how the parties had conducted their relationship.

[22] There was no express agreement in the case of Plaintiff and Sakkie, and so the Plaintiff sought to rely on the nature of the relationship she had with Sakkie alleging it to have been akin to a family relationship from which a binding reciprocal agreement to support her can be inferred since Sakkie also intended to make it formal by marrying her. Plaintiff is therefore seeking the protection of the right arising therefrom alleging her circumstances to be similar to those in *Paixao*. The Defendant conversely argued that the matter of *Paixao* is distinguishable there being a striking difference in the facts and quality of evidence that was led.

[23] **It is therefore significant to briefly set out the facts in *Paixao*:** The deceased, who was involved with Paixao, was taken in by the family to be nursed during his illness. He continued living with the Paixaos after his recovery. **The court found their living together to have been in a mature, committed and loving family relationship, accepted by relatives, community and friends as a family unit. The relationship was attested to not only by the mother and daughter appellants but also by a close family friend from the community who also was**

involved in the arrangement of the couple's wedding. The couple practically pooled their resources together when they were both working and when Mrs *Paixao* was retrenched the deceased supported the entire family as if his own. The deceased **expressly stated that he regarded the *Paixaos* as his own family. He made his intentions to support them clear all this time, before and after his divorce from his ex-wife that took place in South Africa. He still had to divorce in Portugal where the marriage was concluded, before he marries *Paixao*.** In fulfilment of his intentions, he paid for everything and did not want her to work, undertaking to support her and the children. Two major acts also followed the undertaking, the deceased in the meantime concluded a joint will with *Paixao* and in terms of the content of the will she was the sole heir of their amassed estate, nominating their children as their heirs and as beneficiaries of a trust. All this done while planning to get married. His divorce came through in Portugal after which they embarked on preparations for the wedding. By the time the deceased passed away *Paixao* had been to Portugal to meet her prospective in laws and made preparations for the wedding there. The court clearly found those major acts to have resulted in a tacit agreement to assume the duty to support them before marriage.

[24] In *casu*, considering their living circumstances, Sakkie was living with Plaintiff's parents as a lodger for a considerable part of their relationship and she had not attached any linkage or exclusivity to such lodging as she did not regard their situation as living together. She actually described the relationship to have been of a casual nature and gradually developing into a love relationship. During that time Sakkie would go to his work at a remote location and when he was not working, return to her parents' home where he was a lodger, or as indicated later as her brother's friend, not sure which one applicable. After their child was born in 2005, Sakkie would come back and they will put their resources together, but then again she alleged that Sakkie would buy certain stuff, which is contrary to putting their resources together. Notably, she did not allege to have been living together with Sakkie as a family at the time. So from these circumstances nothing can be inferred.

[25] According to her, the determining fact was her move to Mokgophong in 2011 when Sakkie moved in with her and they lived together as a family. Plaintiff had initially alleged to have moved to Mokgophong due to work. On answering the court's questions it came out that the move was actually necessitated by her parents who had relocated to Mokgophong. The same set up continued. She continued staying at her parents' home allegedly now in a detached house where she then lived separately with Sakkie and their child as a family. Sakkie had been living with her parents all along, therefore inherently expected and probable that the relocation necessitated his move too. It was also closer to Sakkie's work. These facts therefore do not signify any major event. The detail furnished on the court's question that they lived in their own house separate from her parent's house was not substantiated. Therefore the defendant's argument is correct that it is less probable that the arrangement would have been different when they moved to Mokgophong due to the Plaintiff's father's stroke.

[26] None of the relatives, friends or community members were called to attest to this alleged significant change of circumstances, even though Plaintiff indicated that they are available. The evidence was insufficient and just mere assertion by the Plaintiff. Moreover, the discrepant reason she gave for the move and the fact that several probabilities may be inferred from the circumstances makes her evidence not sufficient to be relied upon. The

probity thereof is questionable without any substantial proof or corroboration. No credible inference that can be drawn from such facts.

[27] Further it was her testimony that Sakkie did not pay rent but in lieu thereof assisted in taking care of her father. When asked by the court for clarification, she indicated that it would be when her father's caregiver had knocked off. If Sakkie had moved in with her, it is unlikely that he would be paying rent, except if his tenancy was continuing albeit under the new conditions. Otherwise why would it be necessary for him to have been exonerated from paying rent under such conditions except as being a lodger? The evidence leave the status of Sakkie's stay at the two properties belonging to the Plaintiff's parents indistinguishable. It also does not sufficiently prove the nature of the relationship alleged by the Plaintiff. She again testified that Sakkie would still go to work and when he is not working return to the farm.

[28] Plaintiff also said a year prior to Sakkie's death she was working and they **shared responsibilities**. And for the rest of the period after that she did not work and was supported by Sakkie until he passed away. During that period Sakkie asked her parents for her hand in marriage. Their sharing of responsibilities was not adequately explained, as the facts alleged were unclear and contradictory, making it less probable. Her mother would have been a perfect witness to testify in substantiation of all these allegations but was not called. She would have corroborated her allegation on their cohabitation in 2011 that was allegedly akin to a family relationship and on Sakkie supporting her. Her failure to testify was not explained, regrettably it is only the Plaintiff's assertion that is before court.

[29] The inadequacy of Plaintiff's evidence created problems with regard also to the weight to be placed on the assertions she made to prove that they were on the final stages of preparation and arrangement of their wedding as revealed by the cross-examination. In her evidence in chief, she said Sakkie passed away when they had already decided on a guest list, venue, photographer, menu and had also done dress fittings. However the only proof she could present were papers, quotations and pamphlets allegedly obtained on enquiries she made. The Plaintiff confirmed **that in actual fact** no booking for the venue or order for the flowers was placed yet. Also that it would not have been possible for her to do the cake tasting for their wedding because the document provided for a cake tasting in January 2013, after the date of the wedding even though the cake list was for 2012. There was no menu decided upon. On the wedding dress she did not have proof of the deposit she paid for the dress fittings. She did not sign the terms on the back of any of the quotations since that could have meant she was agreeing to purchase a dress. Their purported guest list is scribbled in her own hand writing. There was no **design or what was going to be in the invitation cards** six (6) weeks before the wedding day. According to the documents presented for photography a deposit of R1000 was payable and she says she paid an amount of R4000 without furnishing any proof thereof. There was actually no real evidence tendered to prove or **sustain the allegation that the deceased and the Plaintiff were at their final stage of preparation or arrangement for their wedding.**

[30] On the presentation of such less convincing and inadequate evidence one expected that the Plaintiff will substantiate her evidence with receipts of deposits paid or use the opportunity to call the people she alleged to have engaged their services or with whom he had made any arrangements regarding the wedding to come and testify, especially the ones

she confirmed their willingness and availability, none of them was called. Any of the relatives, family or friends could have expounded and verified on the nature of the relationship. The court is bound to draw a negative inference that such corroboration would probably not have materialised.

[31] Counsel's argument that since her version is uncontested, it should be regarded as reliable and sufficient is misguided. In the same case of *Piaxao* that he relies on, the court clearly stated that the fact that the Defendant cannot refute the allegations by the Plaintiff does not mean that her say so will be enough. It is stated on [29] that:

"A plaintiff's assertion, without more, that he or she was in a life partnership, cannot be taken as sufficient proof of this fact." (In this case the fund conceded that the relationship was a life partnership.) Proving the existence of a life partnership entails more than showing that the parties cohabited and jointly contributed to the upkeep of the common home. It entails, in my view, demonstrating that the partnership was akin to and had similar characteristics – particularly a reciprocal duty of support – to a marriage. Its existence would have to be proved by credible evidence of a conjugal relationship in which the parties supported and maintained each other. The implied inference to be drawn from these proven facts must be that the parties, in the absence of an express agreement, agreed tacitly that their cohabitation included assuming reciprocal commitments – ie a duty to support-to each other." (my emphasis)

[32] Also the fact that the Defendant did not call any witnesses does not necessarily affect his ability to meet the Plaintiff's case, if there is a case to meet. As an onus to rebut can of course be discharged without the party on whom the onus lies presenting evidence. It is confirmed by Frank AJ in *Shiimi v Mutual and Federal Insurance Company of Namibia Ltd* (Case no (P) I 2269/2007) [2008] NAHC 109 (28 July 2008)

[33] There are no reliable and sufficient proven facts from which an implied inference can be drawn that the parties were in cohabitation and in the absence of an express agreement, that they agreed tacitly that their relationship included assuming a reciprocal commitment of a duty of support to each other, such exercise is not achievable. There is therefore no evidence to establish the essential elements of the Plaintiff's dependant action for loss of support, that is that their relationship was of a nature similar to a marriage, an order of absolution from the instance would then be appropriate.

[34] I therefore under the circumstances make the following order,

[34.1] In respect of the Plaintiff's claim, the order is absolution from the instance;

[34.2] The Defendant is only liable to pay the Plaintiff's loss of support in her representative capacity on behalf of Alannah Zoe Cawood, entitling her (in the aforesaid capacity) to 100% of her proven or agreed damages.

AND By agreement between the parties incorporate the Draft order annexed hereto marked "X" that has been made an order of court

[34.3] The Defendant pays Plaintiff's taxed or agreed Party and Party costs on the High Court scale in respect of liability, up to and including 22 April 2016. Such Party and Party costs will include (but not limited thereto)

[34.3.1] Costs of senior counsel (including his day fee for 23 March 2016 and fee for noting the judgment on 22 April 2016);

[34.3.2] Costs of the reports, including follow-up and addendum reports, if any, of:

[34.3.2.1] Prof J W van der Spuy;

[34.3.2.2] Prof G Lemmer.

[34.3.3] The reasonable reservation (full day fee), preparation and qualifying fees, if any, as the Taxing Master may on taxation determine, of the following experts:

[34.3.3.1] Prof J W van der Spuy;

[34.3.3.2] Prof G Lemmer.

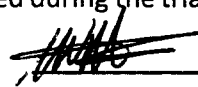
[34.4] Costs related to the consultation with the experts as set out in paragraph 3.3 above and Plaintiff, on 22 March 2016, including travelling expenses incurred by Plaintiff and/or Plaintiff's Attorneys as well as experts, as well as travelling and waiting time at the full hourly Party and Party rate. Such costs will also include the airfare and accommodation costs of Prof J W van der Spuy for attendance of the aforesaid consultation and trial on 23 March 2016;

[34.5] ...

[34.6] Costs of the preparation of 5 (five) trial bundles;

[34.7] Assessors fee for obtaining SAPS Dossier in the sum of R3, 632.05 (copy of account to be attached to Plaintiff's party and party bill of costs)

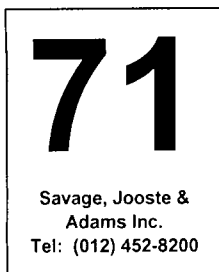
NB: paragraph 3. 5 excluded, there was no interpreter used during the trial on 23 March 2016.



N V KHUMALO J
JUDGE OF THE HIGH COURT
GAUTENG DIVISION: PRETORIA

On behalf of the Plaintiff: Adv T A L L Potgieter
Instructed by: Tsebane Molaba Attorneys

On behalf of the Defendant: Adv J Malesa
Instructed by: T M Chauke Attorneys



IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)

PRETORIA, on this the 22nd day of APRIL 2016

BEFORE Her Honourable Lady KHUMALO J

In the matter between:-

CASE NUMBER: 46482/2014

DOROTHY HELEN CAWOOD

(SELF and on behalf of ALANNAH ZOË CAWOOD)

Plaintiff

and

ROAD ACCIDENT FUND

Defendant

DRAFT ORDER

AFTER HAVING HEARD COUNSEL FOR BOTH PARTIES AND HAVING READ THE PAPERS FILED HEREIN, it is ordered that:

1. The issues of liability and *quantum* are separated in terms of Court Rule 33(4).
2. Defendant is only liable to pay Plaintiff's loss of support in her representative capacity on behalf of Alannah Zoë Cawood, entitling her (in the aforesaid capacity) to 100% of her proven or agreed damages.
3. Defendant pays Plaintiff's taxed or agreed Party and Party costs on the High Court scale in respect of liability, up to and including 22 April 2016. Such Party and Party costs will include (but not limited thereto):

- 3.1 Costs of Senior Counsel (including his day fee for 23 March 2016 and fee for noting the Judgment on 22 April 2016);
- 3.2 Costs of the reports, including follow-up and addendum reports, if any, of:
 - 3.2.1 Prof J W van der Spuy;
 - 3.2.2 Prof G Lemmer.
- 3.3 The reasonable reservation (full day fee), preparation and qualifying fees, if any, as the Taxing Master may on taxation determine, of the following experts:
 - 3.3.1 Prof J W van der Spuy;
 - 3.3.2 Prof G Lemmer.
- 3.4 Costs related to the consultation with the experts as set out in paragraph 3.3 above and Plaintiff, on 22 March 2016, including travelling expenses incurred by Plaintiff and/or Plaintiff's Attorneys as well as experts ~~at R3.50 per kilometre travelled~~, as well as travelling and waiting time at the full hourly Party and Party rate. Such costs will also include the airfare and accommodation costs of Prof J W van der Spuy for attendance of the aforesaid consultation and trial on 23 March 2016;
- 3.5 Costs of the interpreter, Mr R Buda, for trial on 23 March 2016;
- 3.6 Costs of the preparation of 5 (five) trial bundles;
- 3.7 Assessor's fee for obtaining SAPS Dossier in the sum of R3,632.05 (copy of account to be attached to Plaintiff's Party and Party bill of costs).

4. The issue of *quantum* is postponed *sine die*.

BY ORDER

REGISTRAR

71. SAVAGE, JOOSTE & ADAMS INC.
REF: MR BOOYENS/dp/SC223