

To: The Honourable Deputy Chief Justice Mbuyiseli Madlanga,  
Delegated Chairperson of the Judicial Service Commission's  
Judicial Conduct Committee<sup>1</sup>

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IN THE MATTER OF:

ADV ANTHONY BRINK v JUDGE PRESIDENT BASHEER WAGLAY

JUDICIAL CORRUPTION COMPLAINT: JSC 533/17<sup>2</sup>

NOTICE OF APPEAL

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INTRODUCTION, ESTABLISHING THAT THIS APPEAL HAS BEEN FILED  
WITHIN THE PRESCRIBED TIME

*Icala aliboli*

– Zulu proverb

1. None of the following is intended to throw any shade on Judicial Service Commission ('JSC') Chairperson Mandisa Maya CJ or Judicial Conduct Committee ('JCC') Chairperson Mbuyiseli Madlanga DCJ, because the events recounted below as regards these bodies' appalling conduct in the disposal of this ancient complaint occurred long before they assumed their said offices.
2. In mid-2017 I lodged a squarely documented complaint of judicial corruption against Basheer Waglay JP (now retired; 'the Respondent').<sup>3</sup>
3. Then-JSC Secretary Lynette Bios duly acknowledged it a few weeks later.<sup>4</sup>

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<sup>1</sup> And for information to:

The Honourable Dana M. Brown, Acting United States Ambassador to South Africa;  
And other interested parties.

Covering emails are accessible at [corrupt-judges.co.za/Waglay\\_JP/Appeal-notice-copied-to](http://corrupt-judges.co.za/Waglay_JP/Appeal-notice-copied-to).

<sup>2</sup> The JSC Secretary oddly allocated the same reference number to my complaint against Waglay JP as it did to my complaints against Mlambo JP, filed around the same time.

<sup>3</sup> My complaint and all further case documents, including this appeal notice, are accessible at [corrupt-judges.co.za/Waglay\\_JP](http://corrupt-judges.co.za/Waglay_JP).

<sup>4</sup> *Ibid.*

4. An entire year passed before the Respondent responded to my complaint in June 2018 – fantastically dishonestly and pathetically evasively, as I demonstrated beyond intelligent contention in my extensive comments invited by the JCC and delivered by me later in the month.<sup>5</sup>
5. I then sweated blood as the years rolled by, trying to get the JCC to decide my complaint. This included providing duplicate copies at its request on no less than three occasions,<sup>6</sup> and writing four successive letters to then-JSC chair Mogoeng Mogoeng CJ<sup>7</sup> and to then-JCC chair Raymond Zondo DCJ,<sup>8</sup> plus one to Secretary Bios’s successor Sello Chiloane, in which I implored that my long-outstanding complaint be decided.<sup>9</sup> All my letters proved fruitless, inasmuch as I heard nothing back from the JCC about this.
6. In mounting desperation, and having by now concluded that the JCC chaired by Zondo DJP (as he then was) was as useless, as ineffective, and as corrupt as all those other failed or failing public entities in the New South Africa hauled before his State Capture Commission and indicted in his final report,<sup>10</sup> and that the JCC was determined to quietly cover for the

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<sup>5</sup> *Ibid.*

<sup>6</sup> I detail this in paragraphs 18-24 of my letter to Maya CJ on 31 January 2025, mentioned in paragraph 9 below and accessible at [corrupt-judges.co.za/Waglay\\_JP/Final\\_demand](http://corrupt-judges.co.za/Waglay_JP/Final_demand).

<sup>7</sup> Mogoeng CJ undoubtedly passed my two letters to him on to Zondo DCJ, being the delegated head of the JCC finally responsible for seeing to the decision of my complaint.

<sup>8</sup> All this correspondence, acknowledged by then-Judiciary Spokesman Nathi Mncube, is accessible online at [corrupt-judges.co.za/Correspondence](http://corrupt-judges.co.za/Correspondence).

<sup>9</sup> My letters concerned also the JCC’s failure at the time to have resolved my eight complaints against Dunstan Mlambo JP, including my criminal and other capital complaints against him, subsequently found well made by the JCC Appeal Committee, discussed below.

<sup>10</sup> During the hearings, then-Acting SSA DG Loyiso Jafta testified about ‘Project Justice’, a rogue SSA operation to bribe unnamed judges for factional political ends, at least one of whom he said was suspected on strong circumstantial grounds of having indeed been so bribed. Jafta’s evidence in this regard was corroborated by former Safety and Security Minister Sydney Mufamadi, who’d recently chaired a high-level review of the SSA, and who also testified before the commission. And by other protected witnesses as well. (The then-Minister of State Security reportedly tried preventing Jafta giving this evidence, came out denying it, and sacked him soon afterwards.) Former SSA DG Fraser has the names of these corrupt judges – so his counsel Muzi Sikhakane SC stated when appearing before the Commission on his behalf. Here’s a video clip of him saying so, at 1min 50sec: [corrupt-judges.co.za/Sikhakane\\_at\\_Zondo\\_Commission.mp4](http://corrupt-judges.co.za/Sikhakane_at_Zondo_Commission.mp4)

As far as I’m aware, the JSC has shown no interest in finding out who these corrupt judges are.

As said, Zondo DCJ accepted the evidence of multiple witnesses testifying about this judicial corruption, including about the many millions of rands physically delivered in hard cash to then State Security Minister David Mahlobo for this crooked purpose. No clear evidence was presented as to which judges were corrupted in this way, and obviously so since Mahlobo baldly denied everything, but as mentioned, former SSA Director General Arthur Fraser told Zondo DCJ through his counsel that he has the names.

Respondent – just as the JSC did later on for Dunstan Mlambo JP, openly and actively, after Constitutional Court Justice Elizabeth Nkabinde and Supreme Court of Appeal Justice Ephraim Makgoka on the JCC Appeal Committee found he had a case to answer before a Judicial Conduct Tribunal on my criminal and other charges against him<sup>11</sup> – I turned to approaching the State Security Agency (‘SSA’) by way of a specimen draft intelligence report (‘Report’) prepared and submitted to its Director General for submission to the President after editing at will.<sup>12</sup>

7. The Report outlined the exceedingly serious nature of my complaint and described the real evidence supporting it; recorded the JCC’s inaction on it despite all my efforts to get it decided; and pointed up the immense harm all this threatened public confidence in the integrity of our country’s judicial system if it blew up locally and abroad especially<sup>13</sup> – an inevitability if the Respondent’s judicial colleagues on the JSC/JCC weren’t prepared to hold him to account, and continued conducting themselves like a mutually protective judicial defence union or criminal cartel practising the *omerta*.

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I’ve excerpted and highlighted material excerpts from the State Capture Commission’s report on the SSA, delivered to the President on 12 June 2022, concerning the SSA’s ‘Project Justice’ judicial bribery operation, and have posted them for public information at [corrupt-judges.co.za/Project\\_Justice/Project\\_Justice.pdf](http://corrupt-judges.co.za/Project_Justice/Project_Justice.pdf) .

<sup>11</sup> See [corrupt-judges.co.za/Mlambo\\_JP](http://corrupt-judges.co.za/Mlambo_JP). The JSC’s decision is headed for judicial review, precisely as then-JSC Chairperson Zondo CJ chairing the meeting repeatedly warned and predicted – on account of his fellow commissioner’s deliberate violation of my right to respond to the masses of new (false) evidence and documents Mlambo JP slipped into what ought to have been his submissions only, without my knowledge until I obtained under PAIA the transcript of the JSC meeting and a copy of these irregular and mendacious submissions.

<sup>12</sup> The Report can be accessed at [corrupt-judges.co.za/SSA](http://corrupt-judges.co.za/SSA), along with the responses it drew, including then-Chief Justice Zondo’s shockingly cavalier, prejudicial rejection of my judicial corruption allegations summarised in it, still pending before the JCC (thus misconducting himself *à la* the Hlophe JP impeachment case), as well as newspaper reporting on its ‘false “judicial corruption” claims’. But quite the contrary, just a couple of months later, the JCC Appeal Committee majority concluded its commendably conscientious 42-page review of the documentary and other evidence I’d adduced in my complaints against Mlambo JP and found my four criminal and other impeachable charges against him well made and answerable, and recommended that he be called to answer them before a Judicial Conduct Tribunal. All case documents in that matter are accessible at [www.corrupt-judges.co.za/Mlambo\\_JP](http://www.corrupt-judges.co.za/Mlambo_JP). These include the JCC Appeal Committee’s decision, and the transcript of the subsequent complete Goon Show that passed for the JSC virtual meeting to consider the decision, at which nine of the twelve commissioners rejected it without any serious discussion, despite then-JSC Chairperson Zondo CJ’s repeatedly expressed warning that the proceedings were being conducted grossly irregularly to my prejudice, and that if I was denied the benefit of the *audi alteram partem* rule they would be exposed to judicial review and being set aside accordingly. (Indeed, the whole shambles is headed for review.)

<sup>13</sup> For which reason, I entreated that a global final compromise settlement be pursued, to put the whole *kilombo* to bed.

8. Even after my submission of that Report, the JCC remained silent about the decision of my complaint<sup>14</sup> – perhaps because the newspapers quoted Zondo CJ (as he now was) very prejudicially and improperly dismissing as unfounded drivel my documented judicial corruption complaints (including those against Mlambo JP) still pending before the JCC, and stating that the judiciary should be protected from discreditable persons like me making such horribly false allegations.<sup>15</sup>
9. Finally, placing my draining hopes for resolution on the changed guard at the head of the JSC and the JCC, which is to say the new blood there, I wrote to incumbent JSC Chairperson Maya CJ on 31 January 2025, comprehensively recounting – over one hundred paragraphs, referencing forty-five annexures – the whole miserable history of the matter, and pleading for the decision of my complaint at last, now more than seven-and-a-half years since I’d filed it.<sup>16</sup>
10. My letter informed Maya CJ that Patricia Goliath DJP was handling the case,<sup>17</sup> which fact I’d established with great difficulty, to wit by having to sue the JSC out of the High Court at Pietermaritzburg under the Promotion of Access to Information Act (‘PAIA’) for an order compelling it to respond to my duly made request for the record of the allocation of my complaint for decision, after this particular record request (and all my others) had been ignored and thereby tacitly refused under section 27 of that Act – unjustifiably, illegally, unconstitutionally, and very reprehensibly and disgracefully for this official judicial watchdog.<sup>18</sup> The JSC substantially conceded my application in its answering affidavit – even as it now actively suppressed certain incriminating records<sup>19</sup> – and told me Judge Goliath was

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<sup>14</sup> The ensuing brouhaha in the newspapers over the Report, after a Member of Parliament got hold of it and demanded a parliamentary enquiry into its contents, appears to have spurred the long overdue, ultimately successful, decision of my appeal in the Mlambo JP case, also mentioned in the Report.

<sup>15</sup> These reports are accessible at [corrupt-judges.co.za/SSA/Responses/Media](http://corrupt-judges.co.za/SSA/Responses/Media).

<sup>16</sup> My letter to Maya CJ is accessible at [corrupt-judges.co.za/Waglay\\_JP/Final\\_demand](http://corrupt-judges.co.za/Waglay_JP/Final_demand).

<sup>17</sup> Paragraph 33 of the said letter.

<sup>18</sup> Paragraphs 31 and 32 of the said letter. As mentioned in para 35 thereof, all the papers in that litigation are accessible at [illegal-aid.co.za/JSC/PAIA/Application](http://illegal-aid.co.za/JSC/PAIA/Application).

<sup>19</sup> For some really hair-raising corruption both in the judiciary and at the JSC, see Part Two of my previous PAIA request for JSC records, accessible at [illegal-aid.co.za/JSC/PAIA](http://illegal-aid.co.za/JSC/PAIA). To protect Mlambo JP, implicated in Part Two,

dealing with my complaint, but that no record existed of its allocation to her<sup>20</sup> – which is to say Zondo DCJ was running his JCC without proper record-keeping, like a spaza shop.

11. On 14 February 2025, a fortnight after my letter, JSC Secretary Mbali Songca emailed me: *‘Please find the attached ruling I found in relation to this matter.’*<sup>21</sup>
12. The decision she sent me is undated, so I don’t know when it was made, but I surmise it was shortly after February 2020 when the then-JSC Secretary asked for, and I supplied, yet another copy of my complaint, for the third and last time.<sup>22</sup>
13. Plainly the decision hadn’t recently been delivered in response to my letter, because the language of Secretary Songca’s email suggests to a certainty that she’d *‘found’* it during an examination of the case file after receiving my letter; that it had been sitting there for ages; and that I’d been left in the dark about it.
14. In her concluding ‘RECOMMENDATION’ announcing her decision to dismiss my complaint, Judge Goliath stated she was doing so under section 15(2)(d) of the Judicial Service Commission Act (‘JSC Act’).
15. Judge Goliath got the section wrong. Section 15 had no application to the case. Subsection 1 provides:

*(a) If the Chairperson or the Head of Court designated in terms of section 14(2) is of the view that the complaint falls within the*

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the JSC is strenuously resisting responding to the record requests in that Part on manifestly spurious and bad faith grounds asserted in its answering affidavit opposing my application to compel the delivery of these refused records, namely that the records are both ‘privileged’ (which is not a ground for refusal permitted by PAIA, and anyway false, because no litigation was pending against the JSC when the request was made) and my request for them is ‘frivolous’ (when plainly my request for all the very different records I’d specified was extraordinarily serious, and the information the records contained was serious, hence allegedly ‘privileged’ to hide it). Such was the lawless ineptitude and corruption of the JSC, and its contempt for its constitutional information transparency obligations, before Maya CJ took charge of it. The court papers are accessible at [illegal-aid.co.za/JSC/PAIA/Application](http://illegal-aid.co.za/JSC/PAIA/Application).

<sup>20</sup> My request for this record and the JSC’s response are accessible at [corrupt-judges.co.za/PAIA\\_2](http://corrupt-judges.co.za/PAIA_2).

<sup>21</sup> Both the decision and its covering email are accessible at [corrupt-judges.co.za/Waglay\\_JP](http://corrupt-judges.co.za/Waglay_JP).

<sup>22</sup> Letter to Maya CJ, paragraph 24, accessible at [corrupt-judges.co.za/Waglay\\_JP/Final\\_demand](http://corrupt-judges.co.za/Waglay_JP/Final_demand).

*parameters of the grounds set out in subsection (2), he or she must dismiss the complaint.*

*(b) If the Head of Court designated in terms of section 14(2) is of the view that the complaint should not be dismissed under paragraph (a), he or she must refer the complaint to the Chairperson to be dealt with in terms of section 16 or 17.*

16. The ‘*grounds set out in subsection (2)*’ to which Judge Goliath alluded in dismissing my complaint under ‘*section (2)(d)*’, were that in her learned opinion my documented complaint was, per that subsection, ‘*frivolous or lacking in substance*’.
17. But under section 15(1)(a), only the JCC chairperson, or the Head of Court to which he or she has referred it, may dismiss such ‘*Lesser complaints*’.<sup>23</sup> And Zondo DCJ (as he then was) couldn’t have referred the complaint to Judge Goliath as Head of Court, first because she wasn’t ever Head of the Labour and Labour Appeal Courts<sup>24</sup> (the Respondent was at the time), and secondly because she was anyway only a Deputy Judge President, and furthermore of the Western Cape High Court Division, a quite different court, so (a) my complaint couldn’t have been allocated to her to dispose of under section 15, and (b) she therefore didn’t have the power to dismiss it under that section.
18. Clearly section 17 – ‘*Inquiry into serious, non-impeachable complaints by Chairperson or member of Committee*’ – was the applicable provision under which Judge Goliath decided my complaint after then-JCC Chairperson Zondo DCJ<sup>25</sup> very wrongly referred it to her, a single judge, as a ‘*non-impeachable complaint*’ for disposal under that section. Plainly Zondo DJP hadn’t bothered reading it to determine its gravity, and consequently whether it should be disposed of under section 16 or section 17, and hadn’t

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<sup>23</sup> Per the heading of section 15.

<sup>24</sup> She briefly acted as head of the Western Cape High Court Division after Hlophe JP was suspended: [news24.com/news24/southafrica/news/ramaphosa-suspends-judge-president-hlophe-deputy-goliath-to-take-helm-20221214?form=MG0AV3](https://news24.com/news24/southafrica/news/ramaphosa-suspends-judge-president-hlophe-deputy-goliath-to-take-helm-20221214?form=MG0AV3)

<sup>25</sup> See paragraphs 22 and 23 below.

appreciated that it was a manifestly impeachable complaint for disposal as such under section 16, headed ‘*Committee may recommend appointment of Tribunal in respect of impeachable complaints*’: ‘(1) *If the Chairperson is satisfied that, in the event of a valid complaint being established, it is likely to lead to a finding by the Commission that the respondent suffers from an incapacity, is grossly incompetent or is guilty of gross misconduct, as envisaged in section 14(4)(a), the Chairperson must— (a) refer the complaint to the Committee in order to consider whether it should recommend to the Commission that the complaint should be investigated and reported on by a Tribunal.*

19. Section 17(1) provides: ‘*If— (a) the Chairperson is satisfied that, in the event of a valid complaint being established, the appropriate remedial action will be limited to one or more of the steps envisaged in subsection (8) – namely ‘Apologising to the complainant’, ‘A reprimand’, ‘A written warning’ etc – then ‘(b) ... the Chairperson or a member of the Committee designated by the Chairperson must inquire into the complaint in order to determine the merits of the complaint.’* (Imagine reckoning a case of documented judicial corruption warrants no greater sanction than an apology, or reprimand, or written warning etc.)
20. Section 17(6) prescribes: ‘*The Chairperson or member concerned must in writing inform the Committee, the complainant and the respondent of— (a) a dismissal*’.<sup>26</sup>
21. Judge Zondo was Deputy Chief Justice between 1 June 2017<sup>27</sup> and 1 April 2022, when he became Chief Justice<sup>28</sup> – retiring on 31 August 2024.<sup>29</sup>
22. Under section 1 of the JSC Act, the ‘*“chairperson” means the Chief Justice*’. That is, the JSC Chairperson is the Chief Justice *ex officio*. Under section

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<sup>26</sup> For what it's worth: since Judge Goliath mentioned section 15, its subsection 4 similarly requires that the JCC ‘Chairperson must inform the complainant in writing of— (a) the reasons for the dismissal’.

<sup>27</sup> [judiciary.org.za/index.php/20-commission-personnel/deputy-chief-justice-raymond-zondo-chairperson/130-deputy-chief-justice-raymond-zondo-chairperson](http://judiciary.org.za/index.php/20-commission-personnel/deputy-chief-justice-raymond-zondo-chairperson/130-deputy-chief-justice-raymond-zondo-chairperson)

<sup>28</sup> [thepresidency.gov.za/president-ramaphosa-appoints-justice-zondo-chief-justice?form=MG0AV3&form=MG0AV3](http://thepresidency.gov.za/president-ramaphosa-appoints-justice-zondo-chief-justice?form=MG0AV3&form=MG0AV3)

<sup>29</sup> [justice.gov.za/m\\_statements/2024/20240725-ChiefJusticeMaya.html?form=MG0AV3&form=MG0AV3](http://justice.gov.za/m_statements/2024/20240725-ChiefJusticeMaya.html?form=MG0AV3&form=MG0AV3)

8(1), the JSC Chairperson is also the Chairperson of the JCC, but may delegate the Deputy Chief Justice to chair the JCC under section 8(3). And he (and now she) always does.

23. Between 1 June 2017 (or shortly afterwards) and 1 April 2022, then-Deputy Chief Justice Zondo was the delegated Chairperson of the JCC; received my complaint lodged a few weeks after he took office; and referred it to Judge Goliath for decision only under section 17, and not as obviously merited under section 16,<sup>30</sup> governing '*impeachable complaints*'.<sup>31</sup>
24. In unlawful breach of their prescribed obligation to inform me that my complaint had been dismissed and of the reasons for this, then-JCC Chairperson Zondo DCJ or Judge Goliath failed to do so, with the result that the first I heard of it was when I received Secretary Songca's email on 14 February 2025 covering Judge Goliath's undated decision that she'd apparently turned up during an examination of the case file.
25. Section 17(5) affords me '*one month after receiving notice of that decision, [to] appeal to the Committee in writing against that decision, specifying the grounds for the appeal*', and I've duly delivered this written appeal and the grounds on which it's based within a month of receiving the decision.
26. All the above explains why this appeal against Judge Goliath's decision to dismiss my complaint, likely delivered around February 2020 or so, after I lodged my complaint in mid-2017 over seven-and-half years ago, has only been filed now, five years later in February 2025, but in good time under section 17(5) of the JSC Act.

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<sup>30</sup> Subsection 1 provides: '*If the Chairperson is satisfied that, in the event of a valid complaint being established, it is likely to lead to a finding by the Commission that the respondent ... is guilty of gross misconduct, as envisaged in section 14(4)(a), the Chairperson must— (a) refer the complaint to the Committee in order to consider whether it should recommend to the Commission that the complaint should be investigated and reported on by a Tribunal*'.

<sup>31</sup> Per the section heading.

## GROUNDS OF APPEAL

*As the court tries the case, so the case tries the court.*

– Robert Jackson, Justice of the U.S. Supreme Court, 1941-54

27. I regret the inordinate length of this appeal notice, but it's necessitated by the plethora of appallingly careless, absolutely false, and gravely prejudicial statements with which Judge Goliath's decision is riddled; by her misleading assertion of key facts as common cause that I'd pointedly placed in issue; and by her core errors in deciding the central question: Did the Respondent violate his judicial oath in corruptly dismissing under improper written influence my petition for leave to appeal submitted to him under Case No. DA21/14?
28. In sum, I'll show that Judge Goliath's stated reasoning in arriving at her decision is so grossly irrational, so shockingly bad, so logic-defying, and so grotesquely perverse that no sensible and sober person applying his or her sound mind to my complaint would have rejected it as she did on the '*grounds set out in subsection (2)*' of section 15, namely that it was '*frivolous or lacking in substance*'.<sup>32</sup>

## AD PARAGRAPH 1 OF THE DECISION

*Judges ... are picked out from the most dextrous lawyers, who are grown old or lazy, and having been biased all their lives against truth or equity, are under such a fatal necessity of favouring fraud, perjury and oppression, that I have known several of them to refuse a large bribe from the side where justice lay, rather than injure the faculty by doing anything unbecoming their nature in office.*

– Jonathan Swift, Anglo-Irish satirist, 1667-1745

29. In her first paragraph, Judge Goliath quite irrelevantly but very prejudicially sets the stage for the rest of her dismal show by uncritically restating one of the several internally contradictory, unsupported, and objectively contradicted, manifestly false justifications concocted in the national office of Legal Aid South Africa ('LASA') for not appointing me to the top professional post for which I'd successfully tendered my services in November 2009, in a crude cover-up of just another perfectly normal,

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<sup>32</sup> Per the language of '*section (2)(d)*', to which section she referred at the conclusion of her decision.

everyday instance of goods and services tender corruption in the New South Africa.

30. Which self-same lying '*budgetary constraints*' justification Mlambo JP told the Justice Minister and the Justice Portfolio Parliament of the National Assembly in his '*confidential*' reports to them to successfully pervert their separate and independently instituted enquiries into the high-level recruitment corruption at LASA that I'd reported to them – as Justices Nkabinde and Makgoka observed very correctly in their commendably conscientious, 42-page review and assessment of the documentary and other evidence I presented in my complaints against him regarding his criminal and other impeachable mendacity to these highest executive and oversight authorities, concluding with their recommendation that this criminally corrupt, lying judge be called to appear before a Judicial Conduct Tribunal to please explain all this under oath on pain of penalty for perjury, which is being locked up in jail. Just as you get jailed for lying to a Portfolio Committee of the National Assembly, and for lying in court – at least under law, if not in practice in the New South Africa, especially if you're a 'New Generation Judge'.<sup>33</sup>
31. Marked up for relevance, I annex relevant excerpts of Justices Nkabinde and Makgoka's brilliant ruling in which they comprehensive dealt with and saw clean through this stupid '*budgetary constraints*' lie, thoughtlessly restated by Judge Goliath to make me look like an irrationally disgruntled loser in a misfired job application.
32. Of course, whether this '*budgetary constraints*' excuse for not appointing me was God's own truth or a filthy abject lie told by then-LASA Board chairman Mlambo JP and at various other times by his equally criminally mendacious national management executives, initially in their correspondence with me and then under oath: to the Justice Minister, to Parliament, to several superior and lower courts, and to the JCC (but not to

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<sup>33</sup> As Mlambo JP billed himself to the JSC at his successful interview for the presidency of the Gauteng Division of the High Court.

LASA's Board, which was told totally different, contradictory lies by then-National Operations Executive Brian Nair told, as Justices Nkabinde and Makgoka smartly spotted) has nothing whatsoever to do with the merits of my complaint against the Respondent, which is that he violated his judicial oath in succumbing to improper influence recorded in and exerted by a 'memorandum', as it's headed, slipped to him round the side, suborning him to toss my petition for leave to appeal the dismissal of my labour claim against LASA in the Durban Labour Court. Which, unfortunately for him but fortunately for me, he left in the Labour Appeal Court file for me to stumble across a few months later.<sup>34</sup>

33. This is after Hamilton Cele J had completely botched the case, down to misallocating the final burden of persuasion,<sup>35</sup> even though I tried repeatedly explaining this critical, pivotal, unusual procedural aspect of the particular case to him no less than three times: in my opening address, again in my written heads of argument, and yet again in in my oral argument. Apparently, however, this novel concept of a reversed onus in the trial of an unfair discrimination claim<sup>36</sup> was too complicated to comprehend. (The penny did eventually drop, but too late, because he effectively conceded this crucial point after I raised it yet again in my application to

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<sup>34</sup> A copy is annexed to my complaint.

<sup>35</sup> Judgment paragraph 65: *'The applicant accordingly carried the burden to prove the existence of the discrimination he complained of'*, and paragraph 67: *'In this matter the applicant had to surmount an arduous task of discharging the onus resting on him through circumstantial evidence.'* Quite the contrary, under Labour Law the 'arduous task' fell on LASA to prove I hadn't been discriminated against as complained; and I bore zero final burden to prove I'd been discriminated against once I'd set up a plausible case (which the judge accepted on several pages of his judgment reviewing the circumstantial evidence that I'd presented for this). Given that (also from paragraph 67), *'The applicant pointed out a number of facts and circumstances in the case of the respondent to suggest that Mr Nair was not generous with the truth and that the respondent's version was a pretext'* – and the judge didn't take issue with any of these pointers to the mendacity of LASA's single witness – had he approached his evaluation of the evidence from the correct – that is opposite – direction, it's unlikely that he'd have believed Nair's internally contradictory, unsupported, objectively contradicted lies.)

Cele J's judgment is accessible at [corrupt-judges.co.za/LC](http://corrupt-judges.co.za/LC).

<sup>36</sup> My cause of action, based on the then-available evidence. Years after the case, a record I disgorged from LASA by suing for it under PAIA revealed my true cause of action to have been simple nepotism. I deal with this in more detail in footnote 39 shortly below.

appeal his judgment; only, he claimed it made no difference because LASA had presented a tremendous defence.)<sup>37</sup>

34. On top which, this trial judge failed to notice the glaring problems with LASA's defence case, which, as said, he reckoned was excellent – namely that, as emerged at trial, it was unsupported and contradicted by LASA's own records, and contradicted by completely different bogus justifications given to LASA's Board for not appointing me to LASA's top specialist legal professional post in KwaZulu-Natal, right after I'd been selected and recommended for it in glowing terms – as sharply spotted by Justices Nkabinde and Makgoka on page after page of their clear-headed decision against Mlambo JP.
35. In short, Judge Goliath's opening statement was completely irrelevant to the merits of my complaint. But to any new reader unfamiliar with the background, she made me look a distracted fool with a bee in his bonnet who just couldn't accept the genuine, valid, honest, true reason given to me, to the Minister, and to Parliament (before all the litigation began, in which this lying reason was repeated in pleadings and affidavits) for why LASA's hitherto energetic and persistent drive over the three-year period November 2006 to November 2009 to find the right man for its thrice advertised, twice-interviewed for Senior Litigator post at Pietermaritzburg came to a sudden grinding halt right after I got picked for it, and not the other guy secretly earmarked for it in the standard corrupt goods and services tender routine in the New South Africa, like I said. In other words, Judge Goliath began writing her decision by straining to undermine my credibility as the complainant in the case.

## AD PARAGRAPH 2

36. Her second paragraph works to the same effect. You'd never know reading it that LASA's '*budgetary constraints*' excuse for not concluding my appointment was a flat-out lie for all the reasons Justices Nkabinde and

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<sup>37</sup> Cele J's dismissal of my application for leave to appeal is accessible at [corrupt-judges.co.za/LC](http://corrupt-judges.co.za/LC).

Makgoka recognised and enumerated on page after page of their outstanding decision in the Mlambo JP case.

37. But Judge Goliath is incapable of getting it, because she can't or won't entertain the possibility that the Respondent is guilty as charged. Her mind is closed. (Which is why, as I'll show below, she didn't conduct the proper enquiry section 17(3)(b) empowered to do.) Her protective instinct towards her brother on the bench reflexively kicks in against this annoyingly insistent complainant making the most terrible, completely wild-sounding accusations. Even as he comes with receipts.

#### AD PARA 3

38. The inaccuracies in this paragraph are insufficiently relevant to the issues in this appeal, and straightening them out here would consume more ink than it's worth.

#### AD PARA 4

39. Quite irrelevantly to the complaint, but again displaying and generating further bias against me as the complainant, Judge Goliath implies I'm a professionally inept somebody who doesn't know what he's doing, because I took the wrong legal road in litigating my case against LASA: '*Apparently the court held that he should have taken LASA's abortion of his appointment on review.*'
40. Sure, the clueless labour judge dropped into paragraph 74 of his chaotic judgment this arbitrary, pointless remark, logically disconnected from the rest of it, but no doubt sounding impressively erudite and learned to ignorant persons unfamiliar with our labour legislation and labour litigation conducted under it: '*It was the choice of the applicant not to seek to review the decision of the respondent in not appointing him.*'<sup>38</sup>
41. Judge Goliath's unmistakeable, unequivocal implication in repeating this nonsense was that in bringing my claim under section 50 of the

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<sup>38</sup> Cele J's judgment dismissing my labour claim is accessible at [corrupt-judges.co.za/LC](http://corrupt-judges.co.za/LC).

Employment Equity Act, I didn't know whether I was coming or going; that I took the wrong legal road in seeking my appointment;<sup>39</sup> and that in making my spurious complaint against the Respondent I was equally misguided, and my complaint was as spurious as my labour claim. But not even my opponent LASA suggested my perfectly correctly formulated action under the just said statutory provision was procedurally misconceived. On the contrary, it duly pleaded to it and off we went to trial.

42. Judge Goliath asserts as a hard fact that '*Waglay JP, Davis JA and Sutherland JA considered the matter and dismissed the petition for leave to appeal*', and she does so even though, as my complaint made plain, Labour Appeal Court judges Denis Davis and Roland Sutherland JJA's participation in the case was very much in issue – having regard to the fact that, as my thorough investigation of the whole rotten matter turned up, and as I noted in my complaint, these three judges were presiding in different courts in different cities on the day my petition was allegedly considered and dismissed in Durban, per the dismissal order issued by the registrar.
43. In other words, contrary to Judge Goliath's misrepresentation of the position here, whether '*Waglay JP, Davis JA and Sutherland JA considered the matter and dismissed the petition for leave to appeal*', or whether the Respondent threw it out on his own, is hotly in dispute.
44. Instead of stating this truthfully and frankly, Judge Goliath grudgingly hints at the existence of a dispute about this extraordinarily serious matter by baldly stating, without mention of the available supporting evidence I said I possessed proving it, '*According to him the panel of judges did not consider the petition*'.

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<sup>39</sup> Sure I chose not to take the matter on review, because under the law applicable this would have been the wrong legal route to follow. I duly litigated in the Labour Court under section 50 of the Employment Equity Act, believing at the time on the information then available to me that I'd been unfairly discriminated against. As mentioned above, information that I eventually succeeded in disgorging from LASA very reluctantly via PAIA litigation after my labour case revealed the actual problem to have been just everyday jobs-for-pals corruption. Critically relevant information about my rival applicant's professional background contained in the eventually surrendered unredacted selection panel's recommendation report had originally been concealed from me with a black Koki marker pen, in criminal contravention of section 90 of PAIA.

45. Had Judge Goliath been concerned to investigate the matter with an open mind, as section 17(3)(b) required of her,<sup>40</sup> in other words had she been motivated to conduct a proper enquiry, she'd have asked Davis and Sutherland JJA whether they'd indeed participated in the dismissal of my petition, as alleged in the dismissal order, and whether they really thought it was completely meritless.
46. It wasn't the nub of my charge that Davis and Sutherland JJA had no hand in the case,<sup>41</sup> but had Judge Goliath enquired of them about this and had they confirmed that they knew nothing of the matter, it would have been extremely cogent evidence showing that my petition was indeed corruptly rejected by the Respondent, prematurely and procedurally irregularly, without the participation of the other two judges named in the dismissal order, and, on an overwhelming preponderance of probabilities in all the circumstances, motivated by that criminal 'memorandum'.
47. Judge Goliath proceeds to foul her vague hint of my evidenced claim that '*the panel of judges did not consider the petition*' ('*According to him*') by stating a complete and total falsehood in the second half of her sentence: '*and he avers that the decision was in fact made by a junior clerk.*' As the cold print of my complaint shows, I never made any such averment at all, and Judge Goliath's dishonest claim that I did is absolutely and contemptibly false.
48. Quite the contrary, where I did mention '*a junior law clerk*' in paragraph 35 of my complaint, it was in my discussion of the probabilities regarding the identity of the criminal who forged and uttered that anonymous, unsigned 'memorandum' to defeat the ends of justice, lying at the centre of my complaint, and I show that it couldn't have been and wasn't any '*junior law clerk*'.

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<sup>40</sup> The investigating judge '*may obtain, in the manner that he or she deems appropriate, any other information which may be relevant to the complaint*'.

<sup>41</sup> Discussed below, the Respondent's dissimulation in his dismissal order that they concurred with him was/is the intended basis of a second complaint to follow.

49. But Judge Goliath's untruthful misrepresentation here reveals how she approached my extremely serious complaint with incredulity, with unshakeable bias, her mind made up before she started, portraying me as some silly person making ridiculous claims (to which she added another she'd just invented), and implying my exceedingly grave complaint was a load of rubbish.
50. She says, '*He contends that he had identified a multitude of reversible, fundamental, and critical procedural and evidential errors made by the trial Judge, and believed he'd had objectively justified sound grounds of appeal*, which statement, although quite correct, she leaves in the air, as if it's doubtful.
51. But the labour judge himself ultimately implicitly admitted his fundamental '*procedural ... error*' as to who carried the final burden of proof in the case.<sup>42</sup> And in their decision on appeal against Mlambo JP regarding my complaints that he lied to the Minister and to Parliament in giving his false '*budgetary constraints*' alibi for the silent, unrecorded, illegal backroom abortion of my appointment, Justices Nkabinde and Makgoka recognised precisely the labour judge's '*evidential errors*' in accepting LASA's lying, unsupported, contradictory, objectively contradicted, radically different, mutually contradictory and destructive excuses for aborting my recruitment,<sup>43</sup> immediately after the selection panel recommended me and disqualified and rejected my rival applicant for not meeting the advertised qualifying criteria, namely a Zulu attorney, a repeatedly appointed acting judge of the Labour Court over a period of about six years before his interview for the post.
52. The main thing is, though, that the merits of my labour case on appeal were completely different from and immaterial to the merits of my case against the Respondent in my complaint against him, which is that in breach of his

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<sup>42</sup> See paragraph 5 of Cele J's refusal of leave to appeal, accessible at [corrupt-judges.co.za/LC](http://corrupt-judges.co.za/LC).

<sup>43</sup> See marked up material excerpts of their decision annexed hereto.

judicial oath he yielded to improper influence in dismissing my petition for leave to appeal.

#### AD PARA 5

53. With studied vagueness, Judge Goliath omits to mention exactly what it was about ‘*the manner in which the petition was dealt with by the Appeal Court*’, which I indeed ‘*criticised*’, namely that – besides the improper influence issue – my petition had been dismissed irregularly prematurely and unlawfully:

(a) before LASA’s interlocutory application for condonation for opposing me out of time had been answered by me, even as I still had time available under the court rules to file (thus violating natural justice by denying me the benefit of the *audi alteram partem* rule);

(b) before LASA had replied to this intended answering affidavit of mine, exposing its lies under oath, if it wanted to try doing so – the lies under oath its in-house corporate attorney had told the Respondent in fabricating an untruthfully false case for seeking his pardon for not complying with the Labour Court Rules, prescribing just ten days for filing both petitions and then opposing papers;

(c) before the Respondent had considered, evaluated and decided on the complete set of application papers whether LASA had a true case for condonation, in light of my intended demonstration that it was an objectively demonstrable fabrication, meaning a pack of lies; in other words before the Respondent had considered, evaluated and decided LASA’s condonation application in his otherwise usual thoughtful manner – as witness, in sharp contrast, his extensive, carefully considered judgment in such a condonation application in the *Eberspächer* case, cited in paragraph 19.2 of my complaint.

And although not part of my complaint – being the intended subject of a second one to follow – I pointed out that my petition was not in fact ‘*dealt*

*with by the Appeal Court* of three appeal judges, as required by the Labour Court Rules for the decision of petitions for leave to appeal, but by the Respondent alone, on his own, as court records that I dug out during my thorough investigation of the whole mess proved irrefragably.

54. Judge Goliath obligingly discounts the shockingly false, insulting denigration of me personally by the anonymous author of the ‘memorandum’ as having been merely ‘*critical*’ – a respectable, neutral word, suggesting there was substance to the criticism – rather than a lying depiction of me, contrived to poison and prejudice the Respondent against me by portraying me as a low-life, even before he got to look my case on petition for leave to appeal Cele J’s bungled judgment in LASA’s favour.<sup>44</sup>
55. Again Judge Goliath says very misleadingly that the ‘memorandum’ ‘*contained information relating to the dispute between him and LASA and commented on the merits of his petition*’. As I showed in my complaint, however, the ‘*information relating to the dispute*’ that it contained was utterly false. In other words, it wasn’t ‘*information*’, it was a heap of lies – lies about the issues on trial before the Labour Court and more lies about the issues on petition before the Labour Appeal Court. And the ‘memorandum’ never ‘*commented on the merits of his petition*’ either, as Judge Goliath discounts it so sweetly. Quite the contrary, as my complaint details, it told more blatant lies to paint my petition as baseless and fit only for the trash can.

#### AD PARA 6

56. Judge Goliath states completely and untruthfully falsely, ‘*He contends that the panel of judges relied on the memorandum to summarily dismiss his petition*’. In truth and in fact, I contended no such thing; quite the opposite.

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<sup>44</sup> Even wrongly awarding massive costs against me in this *labour* not *civil* case – in doing so disregarding and flouting the relevant provisions of the Labour Relations Act regarding costs in labour litigation, in which very different award principles apply from those in civil litigation, as the Constitutional Court has twice underscored in its decisions.

57. As said, I discovered that the ‘*panel of judges*’ named in the dismissal order were in different courts all over the country on the day it’s falsely alleged in the order that they deliberated together in Durban and decided to dismiss my petition. And I pointedly said so in my complaint. But that’s anyway not its main point, which is that the Respondent dismissed my petition under improper influence.

#### AD PARA 7

58. In this garrulous paragraph, Judge Goliath doesn’t remark on the salient fact that on the Respondent’s own version LASA’s out-of-time affidavit opposing my petition was not properly before him, with the result that that the petition case, both for and against, wasn’t ripe for consideration and decision. She finds nothing remiss in the Respondent casually disregarding his own court’s precisely regulated processes for the orderly and just adjudication of disputes, having strikingly contrariwise given the excuse given by another condonation applicant in other litigation<sup>45</sup> the most careful attention, and putting it under the magnifying glass.

59. I’ve shown that ‘*the three judges*’ never ‘*duly considered the complainant’s petition*’, first because it wasn’t ripe for consideration and decision, so it wasn’t ‘*duly considered*’; secondly because they were in different places on the day it’s alleged they sat together, so didn’t consider it at all; and thirdly because even a wet-behind-the-ears law student in his first-year would appreciate instantly that a trial judge’s misallocation of the final onus of proof onto the plaintiff instead of the defendant completely misdirects his adjudication of the main dispute, is a radical error entirely vitiating his judgment and affords an eminently arguable ground for appeal – meaning my petition was obviously merited on this solid ground alone. And it’s absolutely inconceivable that Davis and Sutherland JJA would have missed my point on petition that the trial judge wrote his judgment upside down.

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<sup>45</sup> Cited in my complaint, paragraph 9.2.

60. This is quite aside from the transparent falsity of LASA's '*budgetary constraints*' justification for not appointing me, later readily recognised by Justices Nkabinde and Makgoka – which financial justification LASA's National Operations Executive ('NOE') changed completely, telling a totally different, contradictory story (actually two new stories) both to LASA's board (as Justices Nkabinde and Makgoka also noted) and to the labour judge, along with the financial one, all strangely unnoticed and unremarked by him, as I pressed in my petition. Again Davis and Sutherland JJA would never have missed the obvious trouble with LASA's defence case that Justices Nkabinde and Makgoka saw so easily. Because like the latter, the former are very intelligent, experienced, competent, and unquestionably honest judges.
61. But we're supposed to believe that, unlike Justices Nkabinde and Makgoka, the Respondent, Davis and Sutherland JJA were dull and insensible to the obvious merits of my petition and really thought I'd advanced no arguable case for appeal and for reversing the labour judge's plainly incorrect dismissal of my claim on a profusion of procedural and evidential grounds.<sup>46</sup>
62. Sure the ordinary practice of the registrar is that he '*collects the petitions, makes copies of relevant documents, collates them and places them in three individual files and has it delivered to the three judges who are allocated the petitions*', so all this fluff is quite pointless. The issue before Judge Goliath was whether the Respondent rejected my petition illegally, suborned to do so by that poisonous, disparaging, and lying criminal 'memorandum'.
63. And sure in the ordinary course, '*All petitions are considered on the same day in the boardroom after appropriate debate.*' Trouble is, on the '*same day*' the dismissal order claims the three judges sat together and decided to

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<sup>46</sup> Since LASA's pleaded defence fell to pieces at trial, the judge ought to have ruled that LASA had failed to discharge the reversed final onus it bore to justify its abortion of my recruitment, and ought to have upheld my claim. As said, I discovered years later, after suing LASA under PAIA, that the real problem wasn't unfair discrimination against me, as appeared to me on all the available evidence at the time, it was just plain old jobs-for-pals recruitment corruption.

dismiss my petition, they couldn't have '*met in the boardroom*' at the Durban Labour- and Labour Appeal Courts to '*debate*' the obvious merits of my petition, because as my investigation revealed they were in different courts in different parts of the country. So my petition couldn't have been '*properly considered and refused*' by the three of them '*in the boardroom*'.

#### AD PARA 8

64. As I showed in my invited comments on the Respondent's response, his waffle about the Labour Appeal Court having its own files, different from the Labour Court files, is just slimy diversion to throw sand in the reader's eyes and escape the pinch of my complaint, because as noted in my comments, the 'memorandum' was found precisely in the Labour Appeal Court case file in Durban and not in the Labour Court file there. But Judge Goliath doesn't deal with this. She lets the Respondent's greasy chicanery pass without comment.
65. Of course Mlambo JP has no proper '*role to play in the decisions of the Labour Appeal Court.*' This is more high-toned distraction. I'm satisfied that he did indeed '*play*' a criminal '*role*' in the '*decision*' of my petition by then-'*Labour Appeal Court* Judge President Waglay, the Respondent, acting alone, but this was not an issue or charge relevant and necessary for Judge Goliath to decide.
66. For the Respondent to say he '*denies that any irregularities occurred in the handling of the complainant's petition*' is as ridiculous as a child caught with a pocket full of stolen sweets saying, 'I never.' Fact is, there were multiple objectively evident irregularities, and they aren't even denied: My petition was rejected before all the prescribed papers were in and the matter was ready for decision; I found a 'memorandum' in the appeal court case file insulting me and making out that my case on petition was worthless, effectively importuning the Respondent to throw it out as unmerited; and Davis and Sutherland JJA, who, unlike the Respondent, I know to be honest judges, will confirm that they had no hand in the decision

of the matter because they weren't in the boardroom of the Labour Appeal Court at Durban on the day the dismissal order falsely claims they considered my petition together there and decided it made no arguable case for appeal. As if she were the Respondent's defence attorney, Judge Goliath mechanically and dutifully repeats the Respondent's laughably lame line: he '*denies that any irregularities occurred in the handling of the complainant's petition*'.

67. On the Respondent's version, he, Davis and Sutherland JJA all reckoned a trial judge's misallocation of the final burden of persuasion, totally and radically misdirecting his approach to the evidence, isn't the most basic, fatal, and eminently appealable and reversible error.
68. On the Respondent's version, he, Davis and Sutherland JJA all reckoned the fact that LASA's bogus '*budgetary constraints*' defence was unsupported and contradicted by its own records, and that there was no record whatsoever of any decision to freeze the post for which I'd just been duly picked, was not a ground for appealing the trial judge's acceptance of LASA's story that my post was frozen for want of funds to fill it, despite that fact that, quite the contrary, the record shows that LASA's Board pertinently prioritised such critical posts for filling during some transient budgetary uncertainty in 2010 concerning when LASA could expect the transfer of funding for budgeted salary increases, to which LASA's Board responded by resolving to temporarily stall recruitment to some entry-level posts only, and for just two months in the result, after which the rate at which LASA filled its vacant posts rocketed. But somehow not the top post I'd won fair and square, even as a white man in the New South Africa.
69. On the Respondent's version, he, Davis and Sutherland JJA all reckoned that LASA's single witness's contradiction of this pleaded '*budgetary constraints*' defence – by giving evidence at trial of two completely different, mutually destructive stories, which he'd invented and told the Board as the reason I wasn't appointed – did not afford a viable ground for arguing on appeal that the labour judge had mistakenly accepted LASA's original

pleaded '*budgetary constraints*' defence for not having appointed me – equally unsupported and objectively contradicted by LASA's own records.

70. On the Respondent's version, he, Davis and Sutherland JJA all sat together in the boardroom at the Durban Labour and Labour Appeal Courts and thoughtfully discussed and debated all these points raised in my petition, and all of them agreed with each other that none of these points afforded good grounds for appeal. Even as Justices Nkabinde and Makgoka had no difficulty recognising that LASA's '*budgetary constraints*' story for not appointing me and its claim to have frozen the post for which I'd just been picked – which story Mlambo JP told the Justice Minister and Justice Portfolio Committee – were transparent, stupid lies.
71. On the Respondent's version, such experienced, intelligent, competent, and honest judges as Davis and Sutherland JJA were unable to see all these glaring problems with the Labour Court's judgment enumerated in my petition, bristling with footnoted references to the case document-bundles comprising hundreds of pages each, and didn't think these problems constituted arguable grounds for appeal.
72. No one with any brains would believe this.

#### AD PARA 9

73. All this is correct, at least as at the material time. (I hear that LASA's staff establishment has since been restructured, but I don't know for sure.)

#### AD PARA 10

74. This incoherent nonsense by Judge Goliath discloses her deplorably lazy inattention to the recorded facts right in front of her.
75. She persistently claims my petition was decided by the three said judges as if this is common cause, when my complaint clearly puts this in issue, even stating that this fraud – the disposal of my petition by the Respondent alone, contrary to the false claim of the dismissal order – would be the

subject of a second complaint to follow the instant complaint, headed '*First Complaint*' accordingly.<sup>47</sup>

76. Contrary to her absurd claim about this, I obviously didn't '*concede*' that '*LASA came to court late to oppose the petition*'. Quite the opposite, I raised it and I objected to it.<sup>48</sup>
77. Her claim in her decision that '*the complainant ... objects to the fact that he was not given an opportunity to answer LASA's opposing affidavit*' is absolutely and untruthfully false.
78. What I actually objected to was the Respondent's denial of my opportunity to answer and refute LASA's case for condonation, and to show that its excuses given under oath for coming to court late were objectively refutable, easily exposed lies, in keeping with the culture of casual criminal mendacity I'd encountered in that phenomenally corrupt organisation. Which lies about coming late obviously bore on the credibility of the lies it told in its out-of-time affidavit opposing my petition.
79. But my complaint to the JCC is not this gross procedural irregularity in denying me my right under the rules of court to answer and refute LASA's lying excuses for opposing my petition out of time – which irregularity would have been a matter for judicial review by the High Court. My complaint is that after reading the 'memorandum', the Respondent obliged its criminal author by corruptly throwing my petition out on the turn.
80. In doing this, the Respondent didn't think to make a pretence of following due process in the disposal of my petition (a) by waiting for the filing of my answering affidavit refuting LASA's lying case for condonation and then for LASA's filing of its reply; and (b) by deciding the interlocutory application before rejecting my petition – as he'd immediately decided to do on reading

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<sup>47</sup> Since it appeared as the years went by that the JCC wasn't interested in deciding my first complaint before it, I didn't bother wasting my time drawing and submitting this envisaged second complaint. Since what was the point if it was just going to be dropped into the bottom drawer as well?

<sup>48</sup> As said, I was ordinarily indulgent about time limits in my litigation against LASA, but on this occasion I had specific strategic reasons to hold LASA strictly to the court rules and to force it to make a condonation application for not complying with them.

that ‘memorandum’ portraying me as a reprobate and my petition as a waste of time and not worth the bother of studying and debating it with his brother judges of appeal.

81. Judge Goliath continues waffling in tragically broken logic, gushing more patent nonsense, and just making stuff up as she goes along, all of it to deflect from the burning point of my complaint: ‘*However, Waglay JP indicated that the application for condonation was not considered by the bench. Consequently, the complainant was not prejudiced in any manner, as it is evident that the judges considered the petition on the basis of the trial court record. In other words, the petition was duly considered based on the merits of the case.*’
82. We all know LASA’s condonation application wasn’t considered. As said in my complaint, with reference to a judgment of his in another condonation case, the Respondent ordinarily took such applications seriously and carefully examined and assessed the excuse(s) advanced by the party seeking pardon for not complying with the timeframes prescribed by the rules of court – but not in my case, despite my notice of objection,<sup>49</sup> enumerating my reasons for opposing LASA’s late filing of its prodigiously perjured affidavit opposing my petition, promptly followed by a supporting affidavit.<sup>50</sup>
83. Just sucking it out of her thumb, Judge Goliath claims ‘*it is evident that the judges considered the petition on the basis of the trial court record.*’ In truth and in fact, and contrary to her pure invention and misrepresentation about this, ‘*the trial court record*’ wasn’t before the Respondent when my petition was thrown out.
84. Under the Labour Court Rules, a petition for leave to appeal is decided on a consideration of its case made on oath in its supporting affidavit and the opposite party’s grounds of opposition, set out on oath in its opposing

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<sup>49</sup> Accessible at [corrupt-judges.co.za/LC](http://corrupt-judges.co.za/LC).

<sup>50</sup> *Ibid*

affidavit, and nothing else. The point of the affidavit requirement is to scare the parties to tell the perfect truth and not tell lies under oath and be sent to jail for them. (As I discovered litigating against LASA, where lying on oath is a way of life, being corrupt from the top down, this measure never achieved its intended purpose to get the truth stated and nothing else.)<sup>51</sup>

85. Only in Judge Goliath's dreams was it '*evident that the judges considered the petition on the basis of the trial court record.*'

86. With that false premise down the pipe, her corollary '*In other words, the petition was duly considered based on the merits of the case*' follows with the next flush.

#### AD PARA 11

87. It's marvellous that Judge Goliath should advise me so assuredly and so very ignorantly that '*The complainant incorrectly assumes that the outcome of the appeal would have been different had he been given an opportunity to respond to the condonation application of LASA, as well as their opposing papers.*' Actually, under the court rules I had no '*opportunity to respond to ...their opposing papers.*' This is because, as said above, unlike an application, a petition case before the Labour Appeal Court comprises only a petition and its supporting affidavit, and the respondent's opposing affidavit, and that's it – no reply, no '*opportunity to respond to ...their opposing papers.*'

88. And this is why, in not troubling to file its opposing affidavit within ten days of my petition – which petition I'd duly filed within my own ten days allowed after the labour judge's dismissal of my application for leave to appeal<sup>52</sup> – LASA dropped into my lap a Heaven-sent opportunity to show in my intended answering affidavit opposing its condonation application that,

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<sup>51</sup> The website [illegal-aid.co.za](http://illegal-aid.co.za) – '*Your criminal law firm*' – gives the full picture.

<sup>52</sup> Even as he eventually practically admitted that he'd got the final onus of proof wrong. And LASA itself conceded this.

as I pointed out in my notice of objection,<sup>53</sup> and demonstrated in an affidavit<sup>54</sup> supporting it, LASA's affidavit opposing my petition was:

*'out of time and non-compliant with Labour Appeal Court rule 4(6); comprises hearsay on all material points, unconfirmed and uncorroborated by the respondent's National Operations Executive and Chief Executive Officer directly involved in and having personal knowledge of the case; repeatedly contradicts the respondent's own case at trial, and in its pleadings, interlocutory affidavits, reports and correspondence; contains novel false claims not made at trial and in the respondent's pleadings, interlocutory affidavits, reports and correspondence; conflates unrelated and irrelevant facts and issues in a new manner at odds with the respondent's case at trial; is dishonest, misleading, and shot through with demonstrable perjury; employs red herrings to distract from the documented, objective facts inconsistent with and destructive of the defence version, which hard facts summarised in the petition the respondent entirely avoids answering; falsely disputes the trial court's finding that the respondent's single witness was shown to be repeatedly mendacious in his evidence; and further falsely disputes the petitioner's exact quotation of the judge's language in making this finding; and, repeatedly resorts to meretricious displays of high-toned indignation, baseless attacks on the petitioner's personal and professional integrity, obloquy, and derision to prejudice the court against the petitioner and to distract from the merits of his case and the gravity of his contentions, particularly apropos the misconduct, on the record, of the respondent's Board chairperson Mlambo JP in the matter, – all intended to pervert the just decision of the petition on an appraisal of the objectively established facts, and all precisely identified in the petitioner's supporting affidavit to follow.'*

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<sup>53</sup> Accessible at [corrupt-judges.co.za/LC](http://corrupt-judges.co.za/LC).

<sup>54</sup> *Ibid.*

89. So in stating '*The complainant incorrectly assumes that the outcome of the appeal would have been different had he been given an opportunity to respond to the condonation application of LASA, as well as their opposing papers*', Judge Goliath doesn't know what she's talking about.
90. Her soothing bromide that '*Ultimately, the petition can only be determined on its merits*' ducks the entire point of my complaint, which is that in my particular case my petition indubitably wasn't '*determined on its merits*'. It was rejected on account of that 'memorandum' instructing the Respondent to bin it.
91. Judge Goliath's pitifully confused, tendentious claim to protect her accused brother judge that '*the complainant was not prejudiced in any manner because the application for condonation was filed late, and not considered by the court*' mixes up LASA's opposing affidavit, which was indeed '*filed late*', and its '*application for condonation*', which wasn't.
92. The truly honest reader might fairly wonder whether Judge Goliath didn't write this shameful junk after a long Friday lunch.
93. As stated above, in not waiting for my answering affidavit opposing LASA's condonation application, the Respondent grossly irregularly and unlawfully stole from me the God-given windfall presented by LASA's failure to oppose me in time, and by its blatantly perjured case for condonation, that I would otherwise never have enjoyed under the Labour Court Rules, namely to dismantle and refute, with hard records put up, its lying excuses for coming to court late, along with all the other lies and dirt in its papers, as outlined above. In other words, Judge Goliath's airy assertion that I '*was not prejudiced in any manner*' is flat wrong.

#### AD PARA 12

94. If all this isn't clueless enough, Judge Goliath really hits her stride here as a DEI judge: '*Similarly, the contents of an anonymous memorandum cannot have any bearing on a consideration of the merits of a petition.*' This is as

ludicrous as saying a bribe proved to have been paid to a judge ‘*cannot have any bearing on a consideration of the merits of*’ a case before him. The assertion is so utterly foolish on its face that it warrants no further unpicking, save to say the clear merits of my petition were plainly never considered.

95. And then, just when you think it can’t get any worse: ‘*In any event, if the complainant is aggrieved by the outcome of a petition, he is at liberty to resort to further legal remedies.*’ But my grievance before the JCC was not ‘*the outcome of [my] petition*’; it was that the Respondent disposed of it corruptly, having been improperly influenced by the criminal author of that criminal ‘memorandum’, in flagrant breach of his judicial oath.
96. Judge Goliath’s unambiguous insinuation that I shouldn’t have complained to the JCC about the Respondent’s corruption, but that I ought rather to have turned to the courts and/or the police and pursued my ‘*further legal remedies*’ with them is not just risibly asinine, it’s contrived to run cover for the documented judicial corruption of her fellow co-ethnic Cape Town judge, a likely professional friend or good acquaintance of hers.
97. I duly filed an impeachable judicial misconduct complaint against the corrupt judge under section 14 of the JSC Act, with a view to seeing him impeached and removed from the bench by the National Assembly. In other words, my objective was to have him disciplined as hard as the Constitution envisages. That the High Court had jurisdiction to review and set aside the irregular and corrupt dismissal of my petition,<sup>55</sup> and that the police could have investigated a criminal charge of defeating the ends of justice, was another matter altogether and quite irrelevant to the determination of my complaint duly made to the JCC.

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<sup>55</sup> In fact, I did indeed report the corrupt disposal of my petition to the High Court at Pietermaritzburg. Showing by way of court records annexed to my founding affidavit that the three appeal judges alleged to have decided my petition together weren’t in Durban on the day the dismissal order claimed they were, I was sent packing with a punitive costs order against me for, you guessed, outrageously attacking the integrity of a sitting judge. Such is the indifference of the judiciary in the New South Africa to documented corruption in its ranks. The court papers are accessible at [corrupt-judges.co.za/Pillay\\_J](http://corrupt-judges.co.za/Pillay_J).

98. Judge Goliath admonishes me huffing and puffing: ‘*The complainant is legally trained and should be fully aware that he should desist from making unsubstantiated statements of improper influence.*’ Now as a seasoned trial lawyer of three decades vintage with ample experience on both sides of the bar<sup>56</sup> and bench, and a sterling record on appeal, I’m full well aware, and entirely agree, that ‘*Allegations of dishonesty against judges are serious. Thus, they should never be made unless there is evidence to support them*’, as the Judicial Conduct Tribunal held in paragraph 19 of its decision of the Justices of the Constitutional Court’s complaint against John Hlophe JP delivered on 9 April 2021.
99. But my complaint of improper influence in the decision of my petition was indeed ‘*substantiated*’: by the photocopy of the ‘memorandum’ made by the registrar; by the registrar’s certification of an inventory of the appeal court file’s contents including this ‘memorandum’; and by the peculiar, procedurally irregular and thus unlawful circumstances in which my petition was prematurely rejected, which tipped me to something remiss and set me investigating. Only to discover horrors in the appeal court file and in other court records beyond my wildest imagination, even in the New South Africa, in which, as is universally known, the rankest corruption is completely normal across all tiers of state, from the President down to my local municipality.
100. So Judge Goliath’s rebuke of me is not just unfounded, it’s patently false. It’s contrived to divert attention from the corrupt judge, by fingering me as the miscreant in the matter instead of him. As clear as crystal, her crooked game is to flip the narrative by substituting the complainant for the accused and *vice versa*, the better to assist the guilty Respondent escape being held to account for his impeachable corruption.

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<sup>56</sup> No doubt at Mlambo JP’s instance, LASA is currently trying to get me struck off the roll of advocates for complaining of his corruption; see my letter to Justices Nkabinde and Makgoka of 5 December 2024 reporting this, accessible at [corrupt-judges.co.za/LPC](http://corrupt-judges.co.za/LPC). As described therein, LASA (Mlambo JP) had already succeeded in getting me fired as a contract magistrate and blacklisted from any further such appointments. Such are the occupational detriments of taking on judicial corruption in the New South Africa.

101. Judge Goliath says, '*Lastly, the complainant also unequivocally referred to the handling of his matter as a violation of his fundamental rights to access to courts which are guaranteed by section 34 of the Constitution, which itself would trigger constitutional remedies.*' All this high falutin jive to dupe the dull-witted is not only perfectly irrelevant, it obfuscates the sharp point of my complaint, which is that the Respondent threw my case under improper influence.
102. She concludes, '*In my view all the allegations of impropriety on the part of the judicial officers, including Mlambo JP, is unfounded and speculative.*' Her alleged '*view*' is palpably irrational. My '*allegations*' that the Respondent violated his judicial oath in corruptly rejecting my petition, moved to do so by that criminal '*memorandum*', is precisely '*..founded*' on the real evidence of its existence in the appeal case file; on the photocopy made of it by the court registrar; and on the inventory of the file's contents he certified, both of which key documents I put up in support of my complaint – considered against the undisputed evidence that the Respondent rejected my petition irregularly prematurely before the case was ripe for decision, because LASA's condonation application was in mid flight; I hadn't answered it yet; LASA hadn't replied to me; the condonation application hadn't been decided; and LASA's affidavit opposing my petition, filed out of time, wasn't properly before the court. Against the fact also that, in bright contradistinction, the law reports show the Respondent, unlike in the instant case, ordinarily took condonations very seriously, and carefully canvassed and evaluated the explanation advanced for not complying with the rules of court and not filing in the prescribed time.
103. So my complaint that the Respondent corruptly rejected my petition can hardly be discounted rationally as '*speculative*' by any honest person with an IQ above room temperature. By untruthfully portraying my complaint in this way, Judge Goliath's unmistakable intention was to sweep it under the carpet in defence of her brother judge.

104. Then-LASA board chairman Mlambo JP, who I'm satisfied authored the 'memorandum',<sup>57</sup> is not the formal accused in my complaint, and no finding for or against him is/was relevant in deciding it.

#### AD PARA 13

105. Judge Goliath's claim that she's '*satisfied that there is no evidence of any irregular or improper conduct by Waglay JP in the handling of the complainant's petition*' and that '*the complaint lacks substance and falls to be dismissed*' would be a flat joke were her conduct in covering for her corrupt judicial colleague so manifestly indefensible, so egregiously unethical, and so corrupt in itself.

106. Unfortunately, however, as I learned from Justices Dumisani Zondi<sup>58</sup> and Rammaka Mathopo's<sup>59</sup> acquittal of Mlambo JP in the teeth of all the documentary and other evidence I'd stacked against him, followed by the JSC's cursory rejection<sup>60</sup> of Justices Nkabinde and Makgoka's magnificently careful, finely detailed review of this evidence and finding that it set up an answerable case fit for trial before a Judicial Conduct Tribunal, JSC and JCC judges covering for corrupt judges has been unexceptional in the New South Africa. At least before Maya CJ and Madlanga DCJ took over the leadership of these bodies.

107. The dismissal of my complaint against the Respondent obviously falls to be set aside, with (a) a finding that I've established an answerable case against the Respondent, namely that acting under improper influence he corruptly rejected my petition for leave to appeal the dismissal of my labour claim against LASA, and (b) that the complaint should be investigated by a Judicial Conduct Tribunal.

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<sup>57</sup> As said, Justices Nkabinde and Makgoka found my various complaints of criminal and other impeachable dishonesty against Mlambo JP well made on the documentary and other evidence I adduced in my four most serious complaints against him, and recommended that he be called to answer them before a Judicial Conduct Tribunal. See marked up material excerpts of their decision annexed hereto.

<sup>58</sup> His decision is accessible at [corrupt-judges.co.za/Mlambo\\_JP](http://corrupt-judges.co.za/Mlambo_JP).

<sup>59</sup> His dissent is accessible at [corrupt-judges.co.za/Mlambo\\_JP](http://corrupt-judges.co.za/Mlambo_JP).

<sup>60</sup> The JSC's decision, and the transcript I obtained under PAIA of its atrociously irregular and unlawful handling of the matter during a virtual conference to discuss the case, are accessible at [corrupt-judges.co.za/Mlambo\\_JP](http://corrupt-judges.co.za/Mlambo_JP).

108. In which event, on being so advised, I'll immediately draw and file that long-intended Second Complaint about the Respondent's fraudulent dissimulation to me in his dismissal order, issued by his registrar on his instructions, that Appeal Judges Davis and Sutherland sat with him in the boardroom of the Durban Labour and Labour Appeal Courts on the date stated in the order; saw fit and agreed to consider the case before LASA's condonation application was ripe for decision on all the prescribed papers, before that crucial interlocutory application had been decided and LASA's out-of-time affidavit opposing my petition was properly before court; and that they debated the merits of my petition together and unanimously agreed it was a pile of trash without any viably arguable points for appeal, and dismissed it. The two impeachable complaints can then be decided by a Tribunal together. (In the most unlikely event that the JCC Appeal Committee closes ranks around the Respondent – as Zondi JA and Mathopo J did around Mlambo JP<sup>61</sup> – and this appeal is dismissed, I obviously won't bother drawing that second complaint, and will pursue elsewhere the unprecedented judicial corruption I've proved in this matter.)
109. Wherefore I seek (a) a finding by you, the Honourable Justices on the JCC Appeal Committee considering this appeal, that I've set out good grounds for appealing Judge Goliath's shambolic, irrational, unsustainable decision to dismiss my complaint, and that I've indeed made a facially answerable case against the Respondent, and (b) a ruling that Judge Goliath's decision be set aside and substituted with a recommendation under section 17(4)(c) that the JCC propose to the JSC that it request the President to appoint a Judicial Conduct Tribunal to investigate and try my complaint.

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<sup>61</sup> JCC member Zondi JA's perfunctory dismissal of my eight criminal and other impeachable complaints against Mlambo JP, and JCC Appeal Committee member Mathopo J's special pleading for and acquittal of him in his minority dissent against Justices Nkabinde and Makgoka's true decision to uphold my appeal and recommend that Mlambo JP be tried before a Judicial Conduct Tribunal, are accessible at [corrupt-judges.co.za/Mlambo\\_JP](http://corrupt-judges.co.za/Mlambo_JP).

Signed electronically at Eshowe on 12 March 2025

A handwritten signature in black ink, consisting of several overlapping loops and lines, appearing to be the name 'Anthony Brink'.

ANTHONY BRINK

ADVOCATE OF THE HIGH COURT OF SOUTH AFRICA

APPELLANT

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