



24 November 2015

R B G Choudree SC
The Society of Advocates of KwaZulu Natal
3rd Floor, Durban Club Place
Durban,
KwaZulu-Natal, 4001
Email: kznbar@law.co.za;

29 De Beer Street
Braamfontein
Johannesburg 2017
Private Box X76
Braamfontein 2017
Tel: 011 877 2000
Fax: 011 877 2222
www.legal-aid.co.za

Dear Choudree SC,

RE: COMPLAINT ON THE UNPROFESSIONAL CONDUCT OF ADVOCATE ANTHONY ROBIN BRINK

Please find the complaint which is self-explanatory.

Yours Faithfully,

Thembile Mtati
Attorney of Legal Aid South Africa

AND

ANTHONY ROBIN BRINK

RESPONDENT

**WRITTEN DECLARATION UNDER OATH INSTITUTING A COMPLAINT AGAINST
ADVOCATE ANTHONY ROBIN BRINK**

I, the undersigned

THEMBILE VUYO MTATI,

do hereby make oath and state as follows:-

1.

- 1.1 I am an adult male Attorney employed as the Corporate Services Executive by Legal Aid South Africa with its offices situated at Legal Aid House, 29 De Beer Street, Braamfontein, Johannesburg, and I am duly authorised to depose to this affidavit.
- 1.2 The facts contained herein fall within my personal knowledge and are both true and correct, except where it appears otherwise from the context.

2.

- 2.1 The purpose of this affidavit is to institute a complaint against Advocate Anthony Robin Brink, a major male Advocate of the High Court of South Africa currently employed in the capacity of an acting magistrate in Eshowe Magistrates Court.



- 2.2. This complaint is brought in terms of section 7 (2) of the Admission of Advocates Act 74 of 1964 as amended.
- 2.3. The nature of the complaint deals with the manner in which Advocate Brink conducts his litigation, unwarranted, abusive and defamatory statements made against members of the bench including his colleagues and other officials.
- 2.4. The statements referred to above relate to, among others, Judge President Mlambo of North and South Gauteng Divisions of High Court, Judge President Waglay of the Labour Court Division and Judge Cele of the Labour Court.
- 2.5. I deal below with the specific causes of my complaint but deem it appropriate to start with the background of the matter.

3.

BCKGROUND

- 3.1 Advocate Brink applied for a vacant position of a Senior Litigator in our Pietermaritzburg Justice Centre. He was interviewed and recommended to proceed to the second round of interviews which was to be held at Johannesburg consisting of Senior Executives of Legal Aid SA including the Chairperson of the Board of Legal Aid SA, Judge President D. Mlambo.
- 3.2. The second round of interviews was not proceeded with as a result of budget uncertainties facing the organisation at the time. The budget uncertainties led to ultimate freezing of all recruitment of the Senior Litigators. All candidates recommended for the second round of interviews were duly informed of the position.

4.

ADVOCATE BRINK'S CASE

- 4.1. Advocate Brink wrote a number of letters through electronic mail enquiring of progress on his recruitment which were responded to. He then resorted to sending requests in terms of Promotion of Access to Information Act (PAIA) seeking certain information.
- 4.2. Every response given in terms of PAIA led to another until when Advocate Brink instituted action against Legal Aid SA in the Durban Labour Court. His case was briefly that he was not appointed to the position of Senior Litigator because of his stance against provision of anti-retrovirals and race. The statement of claim, which forms part of the complaint to which I will revert, is attached marked "TVM1". All other annexures are separately binded and annexed to this affidavit.

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- 4.3. Advocate Brink's claim was dismissed with costs at the Labour Court, Durban by Honourable Judge Cele. Application for Leave to Appeal was also dismissed. Advocate Brink filed a petition which was also dismissed.
- 4.4. Towards the end of September 2015, we received an urgent application from Advocate Brink seeking to interdict the Taxing Master from finalising taxation of the Labour Court case to enable us to get our *allocator*. In this urgent application, Advocate Brink made further unwarranted allegations against the Honourable Judge President Waglay.
- 4.5. The urgent application was dismissed with costs accompanied by concerns by Honourable Judge Pillay about the conduct of Advocate Brink.
- 4.6. Advocate Brink also sends his concerns about his non-appointment to the Office of the Public Protector, South African Human Rights Commission, Portfolio Committee on Justice and Constitutional Development (as it then was) and to every other person he thinks might agree with his view that he was discriminated against.
- 4.7. Without unnecessarily compounding this affidavit with all annexures, below we make reference to specific letters, record of the trial and pleadings and all these will be separately attached to this complaint. The annexures only are just over 2000 pages.

5.

COMPLAINT

5.1. It is my submission that the conduct of Advocate Brink is not befitting of an officer of the Court more so to act as a Magistrate. The language used is unprofessional, the manner he relates to colleagues and Judges requires sanction. Below is an extract of statements and language used against fellow Advocates, Judges, Attorneys and other professionals.

UNFOUNDED DEFAMATORY, DEMEANING AND INSULTING ALLEGATIONS MADE BY ADVOCATE BRINK IN HIS STATEMENT OF CASE AT THE LABOUR COURT UNDER CASE D529/11 AGAINST MLAMBO JP AND VEDALANKAR.

5.2. Advocate Brink, in his statement of case before the Labour Court, made several defamatory, derogatory, demeaning and insulting allegations including the following:

Paragraph Number	Excerpts
Par 4	<i>The applicant will show on a conspectus of the open facts weighed with the probabilities that following his selection and recommendation by the professional selection panel for appointment as Senior Litigator, Pietermaritzburg, the respondent's chairperson Dunstan Mlambo and Chief Executive</i>

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	<p>Officer Vidhu Vedalankar, motivated by unlawful political (alternatively racial) prejudice aborted his appointment off the record and without announcing the fact; and that many months later, under pressure to account, Mlambo and Vedalankar attempted to camouflage their direct discrimination against the applicant on prohibited grounds by concocting and advancing a false cover story for it based on a fake financial justification-unsupported and contradicted by the respondent's business record; conflicting with Vedalankar's CEO report for 2009/10; conflicting with deliberately misleading statements Vedalankar made on two occasions to the Portfolio Committee on Justice and Constitutional Development (as it then was); and contradicting the express wishes of the Minister of Justice and Constitutional Development known to both Mlambo and Vedalankar.</p>
<p>Par 5</p>	<p>The Applicant will further show that in furtherance of Mlambo's and Vedalankar's scheme to cover up their unfair discrimination against the Applicant, Mlambo lied to the Minister on several scores in a "Confidential report to him Re: Adv Anthony Brink, which lies Mlambo repeated to the Chairperson of the Portfolio Committee and by so doing Mlambo deliberately misled the respondent's executive authority and Parliament in order to (a) allay their further enquiries into the complaints against the Respondent, which he had copied to the Minister and Committee Chairperson, of unfair discrimination against him and unlawful refusal to surrender material records duly requested under the Promotion of Access to Information Act and (b) to put them off discovering the falsity of the bogus financial justification for their abortion of the Applicant's recruitment dishonestly advanced by Vedalankar to the applicant and by Mlambo to the Minister and to the Committee chairperson."</p>
<p>Par 31</p>	<p>Because Vedalankar informed Nair that she did not agree with the applicant's recruitment as a political (or racial) undesirable, Nair never 'signed off' the Motivation to record 'RECOMMENDATION ACCEPTED' by him of the professional selection panel's selection and recommendation of the applicant for appointment, and the recruitment process to appoint the applicant was thus brought to an end.</p>
<p>Par 33</p>	<p>The first strategy adopted by Mlambo and Vedalankar to conceal from the applicant their unfair discrimination against him was deliberate inaction and silence.</p>
<p>Par 34</p>	<p>The reason Mlambo and Vedalankar opted for this initial simple strategy was because:</p>

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	<p>(a) it entailed the minimum possible risk that the applicant would discover their unfair discrimination against him; and,</p> <p>(b) they bargained that after being kept waiting in the dark for several months, the applicant would lose hope, conclude that he had been unsuccessful at his interview, give up pursuing the post for which he had applied, and withdraw himself from the recruitment process of his own accord, thus achieving Mlambo's and Vedalankar's objectives in shutting him out and concealing their decision to do so."</p>
Par 55	<p>Appreciating (a) that the applicant had not been put off by Mlambo's and Vedalankar's inaction and silence strategy, and that half a year after his interview he was still agitating for the finalisation of his appointment, and (b) that Mlambo's and Vedalankar's scheme to covertly discriminate against the applicant therefore needed elaboration, the complication posed by Mngadi's stalled internal promotion to the Durban Senior Litigator post was disposed of by Vedalankar's and Mlambo's decision to finally abort his appointment too; and in April/May 2010 Mngadi was notified seemingly by Brijlal by e-mail that the respondent had decided not to fill the post for which he had applied, alternatively that the respondent had decided not to fill its remaining vacant Senior Litigator posts, no reason given him (Mngadi assumed some 'internal restructuring' had taken place)."</p>

RECORD OF THE PROCEEDINGS UNDER CASE NUMBER: 529/11

5.3. It is worth mentioning that at the hearing of his case and under cross examination (it is on record), Advocate Brink withdrew all the defamatory, derogatory, demeaning, and insulting allegations against Mlambo JP and Vedalankar. His only explanation was that he was at all times under the impression that both Mlambo JP and V. Vedalankar were involved and had now (in court) realised that it was only Brian Nair(National Operations Executive).

5.4. For the purpose of convenience, I refer to the following relevant pages and paragraphs of the record:-

Page 133 Lines 2 to 5	<p>Mr Du Toit "Then just by the way, Judge Mlambo you say is one of the top judges in the country is the person you called a liar about 30 times?"---</p> <p>Mr Brink "This is before I discovered that Nair was abusing his office, abusing his name to convey falsehoods to Parliament and to the Minister."</p>
Page 137 Lines 7 to 9	<p>Mr Du Toit "What are you saying?"</p> <p>Mr Brink "I am saying that Judge Mlambo and I mean it with absolutely no disrespect and I really rule about my misconceptions about Judge Mlambo's role in this matter."</p>

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<p>Page 154 Lines 5 to 14</p>	<p>Mr Du Toit "Okay. By the way, Mr Brink, having called Mrs Vedalankar a liar and dishonest in concocting defenses, do you really think that you could possibly be appointed in an organisation where she continues to be the chief executive officer?"---</p> <p>Mr Brink "It is my conclusion from reading her two letters to me, that they were written by Brian Nair, consequently it is my relatively late conclusion, after the case began and consequently I believe that the CEO as Judge Mlambo was, the CEO's higher office and Gormy abused by Nair to convey lies to me. Sir I hold CEO Vedalankar clear in this matter."</p>
<p>Page 158 Lines 3 to 8</p>	<p>Mr Du Toit "But you have said that it was the chief executive officer who was involved in this plot"---</p> <p>Mr Brink "But I thought so; I thought so, because of her letters to me. But later I discovered I faulted and I am sure it will be confirmed, but she did not write those letters, so I was misled."</p>
<p>Page 159 Lines 1 to 24.</p>	<p>Mr Brink "In the early days for the better, before one discover that Judge Mlambo was innocent in this thing and I have since formed the conclusion that Vedalankar too. You see, I had her letters to me, full of lies. Judge Mlambo's report to the Minister, full of lies, what could I conclude, it was a nightmare, it was very shocking, so I had to draw what conclusion but that they are the authors, but now I know they are not the authors."---</p> <p>Mr Du Toit "Well let us clarify exactly what you are withdrawing now. You are saying firstly that Ms. Vedalankar not plot or struck your appointment, is that what you are saying?"---</p> <p>Mr Brink "This is my current conclusion in the fullness of the evidence."---</p> <p>Mr Du Toit "And you are saying that Judge Mlambo did not plot to obstruct your appointment"---</p> <p>Mr Brink "Correct"</p> <p>Mr Du Toit "That is right, okay. So she is out of the picture, she did not discriminate against you that is what you say now?"---</p> <p>Mr Brink "That is the look of it to me now, neither (I think it meant Nair) may well surprise us all and say, no, no, I neatly discussed it with Vedalankar and she agreed. He may tell us that, I do not know, but the look of it on the evidence before me, that I have assembled, the look of it now, that Vedalankar was not involved, not involved."</p>

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<p>Pages 172(Lines 1-25) Continue at Lines 1 to 2 page 173.</p>	<p>Mr Du Toit "But you now say this falls away?"--- Mr Brink "It does. I hold her clear, unless Mr Nair implicates her, but we will have to see, but I have no knowledge here."--- Mr Du Toit "And then in paragraph 17, you again say that the chairperson of the respondent's board, Dunstan Mlambo, supported and was partied to the decisions took, to abort the applicant's recruitment and thereafter to camouflage the true reason for doing so, under the cover of a lying alibi"--- Mr Brink "That is right, and that conclusion was founded on my receipt from the chairperson, the portfolio of Judge Mlambo's updated report to parliament, a pack of lies, including the manifestly untruthful alibi."--- Mr Du Toit "And this falls away as well?"--- Mr Brink "Oh yes"--- "Then"---(intervene) "Just about everything falls away in my first claim." Mr Du Toit. "I see---" Mr Brink- "Ja" Mr Du Toit "Well, let's just get it clear, because I think it is necessary both for your sake and for the sake of Judge Mlambo at least to get this absolutely clear"--- Mr Brink "Yes, yes"--- Mr Du Toit "And then in paragraph 18, we refer to the grounds, Mlambo and Vedalankar rejected was because you were politically undesirable and well, if there was no plot, then this must fall away as well."--- Mr Brink "Right. It falls away to the extent that they were not the actors, but Nair was."--- Mr Du Toit "I see, okay. And then in 19 Mlambo's and Vedalankar's decision to reject the applicant's appointment on prohibited ground was taken, communicated to Nair behind the scenes and off the record and accordingly no record exists. Now if there was no decision by them, then it could not have been communicated."-- Mr Brink "It is quite obvious."---</p>
<p>Page 173 Lines 3 to 8</p>	<p>Mr Du Toit "Okay, so that falls away. I just want to make a note of these allegations that now are...Withdrawn?"--- Mr Brink "Withdrawn, yes." Mr Du Toit "Then in paragraph 20 you have here at page 44, Mlambo neither consulted nor informed the rest of the board of his decision jointly, Ms. Vedalankar's discriminate, does that also fall away?" Mr Brink "Ja"</p>
<p>Page 188 Lines 15 to 20</p>	<p>Mr Du Toit "Now why would Ms. Vedalankar who you have exonerated already from any participation and any unfair discrimination against you why would she tell you a lie?"---</p>

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	Mr Brink "Because she did not write the letter; I am pretty sure she did not write the letter. I could be surprised by this, but I do not think she wrote the letter; I think it was Nair who wrote the letter"
Pages 205-206 Lines 21 to line 11 on page 206.	Mr Du Toit "Then you go on in paragraph 32 at page 49, not only had you expand on this, you say, Nair having been instructed as it were by Vedalankar, informed by Vedalankar, he then deliberately does not do something, because he is now carrying out his CEO's instruction. He is astute not to note, because appreciating the decision to abort was unlawful, so in other words he is now part of the plot, construed by Ms. Vedalankar."--- Mr Brink "This is my conclusion, because I am many miles away, I am on the other end of the world and I am peacefully developing about bits and pieces that the American Right is taller than these things, bits and pieces. And the accumulation evidence, someone required quite recently as profoundly shifted my understanding of what actually happened in this matter. Now, sir, you can hammer away that my early statement declare but I tell you it was based on numerous fundamental misconceptions to which I had been led by Nair."
Page 213 Lines 14 to 16	Mr Du Toit "But she could not have joined Vedalankar's scheme, because you already accepted that there was no scheme by Vedalankar."--- Mr Brink "Correct."---
Page 214 Line 4 to 5	Mr Du Toit "Paragraph 48 stands, paragraph 49 stands, 50 stands, 51 stands, save that is no longer Mlambo and Vedalankar's scheme, but Nair's"
Page 215 Lines 18 to 20	Mr Du Toit "And then the heading, page 57, the scheme, that is also wrong."--- Mr Brink "Ja, it was wrong to the extent that Mlambo and Vedalankar are named the Nair scheme."
Page 219 Lines 23 to 24	Mr Du Toit "Right, and in paragraph 90, or 89 you attribute lies to Ms. Vedalankar."--- Mr Brink "Ja."
Page 220 Lines 1 to 2	Mr Du Toit "That must fall away?--- Mr Brink "No you must reallocate the blame to Nair."
Page 221 Lines 5 to 8	Mr Du Toit "In paragraph 99 on page 68, you describe to Judge Mlambo a desire to obstruct your efforts under the Promotional Access to Information Act. Do you stand by those contentions?"- --- Mr Brink "You know I do not." -----
Page 221 Lines 22 to 24	Mr Du Toit "You really are challenging, I asked you, are you still attributing falsity against Judge Mlambo?"---

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	Mr Brink "I have said it a hundred times, that I am not doing so, I am not attributing."
Page 223 Lines 8 to 10	Mr Brink "Really, I have no quarrel with Judge Mlambo, I think he was misled, he was given a bad picture and that is the start of this irritable e-mail on the..."
Page 224 Lines 3 to 5	Mr Du Toit "Now, in paragraph 108, page 73, you have accused Judge Mlambo of a blatant lie."--- Mr Brink "Ja, it is Nair's blatant lie, it is so easy to show and indeed it is going to be retracted."
Page 227 Lines 11 to 13	Mr Brink "I do not, do you want me to repeat bluntly, I do not think Judge Mlambo is a liar, and that is it, I used to I mean what else was there to conclude from the secret report?"
Page 228 Lines 22 to 24	Mr Du Toit "You slandered a senior judge in a most disgraceful way."--- Mr Brink "I agree, I agree, M'Lord, I agree and I tell you it was inadvertent and I regret it."
Page 231 Lines 10 to 14	Mr Du Toit "You make the allegation that Judge Mlambo made a false allegation concerning the knowledge of the executives; do you attribute falsity against Judge Mlambo?" Mr Brink "I do not. But the rest of the paragraph is absolutely sound, to the actual extent that it is Nair's false allegation via Judge Mlambo."
Page 241 Lines 23 to 24	Mr Brink "Well, we got over and over, but you know I hold Judge Mlambo clear..."
Page 242 Lines 11 to 13	Mr Brink "No. The financial cover story and the report were fake, but Judge Mlambo is not the author of that lie."
Page 264 Lines 10 to 11 and lines 19 to 22.	Mr Du Toit "Paragraph 265, 122 and I imagine you do not attribute falsity to Judge Mlambo."--- Mr Brink "That is right" ----- Mr Du Toit "Well, just to save us the agony of going through the rest, can we assume that for the rest you have assume I think, exonerated Judge Mlambo and Mrs Vedalankar from any accusation of dishonesty and discrimination?"--- Mr Brink "Yes"
Page 269 Lines 1 to 3	Mr Du Toit "And you have attributed delinquency to persons involved in this matter."--- Mr Brink "Correct. My scope was broaden, it was broader then than it is now. Because I thought Vedalankar was involved and so on."



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UNFOUNDED DEFAMATORY, DEMEANING AND INSULTING ALLEGATIONS MADE BY ADVOCATE BRINK IN HIS PETITION FOR LEAVE TO APPEAL TO LABOUR APPEAL COURT UNDER CASE D529/11 AGAINST MLAMBO JP, CELE J, V. VEDALAKAR, AND B. NAIR.

Par 2	<i>"This is an extraordinarily serious matter with colossal implications extending way beyond my personal interest in its resolution. It concerns the personal and professional integrity of a sitting judge president, formerly of this court, and that of the most senior management executives of a major public entity. I speak of the perversion of separate Ministerial and Parliamentary enquiries by dint of multiple, objectively demonstrable lies, and different lies told to me, to the LASA Board, to the SAHRC, and to court(different lies told in the pleadings and interlocutory affidavits, and then at trial), and of the gross breakdown of proper corporate governance and the rule of law at LASA, all of which the trial judge looked past in his seemingly clear and definitive, but in fact deplorably inattentive, glib, crude and perfunctory judgement, riddled with the most basic legal and factual misdirection, omissions and non-sequiturs, and characterized by his failures over and over again to consider the radical contradictions and the ludicrously improbable, manifestly untruthful, and objectively contradicted evidence of LASA's single witness at trial, National Operations Executive Brian Nair"</i>
Par 3	<i>"I'll advert later in this affidavit to the capital misconduct and massive and pervasive corruption to which I allude here, as well as to the judge's own gravely prejudicial misconduct in the case that thwarted a full and proper ventilation of the issues that I looked to him and trusted him to try."</i>
Par 4	<i>"In his refusal the judge didn't treat the clear-cut new evidence surfaced after trial showing unequivocally that Nair had lied to him on oath in two respects. To the judge, Nair's categorically proven repeated mendacity in court made no difference to his assessment of the credibility of his evidence."</i>
Par 5	<i>"The judge elliptically conceded his fundamental legal misdirection, identified in my application, that in deciding the case he'd misallocated the final onus of proof, which he'd placed on me instead of on LASA. He then sought to avoid the fatal ramifications of the radical error by two means:"</i>
Par 6	<i>"The judge's response was to silently look away."</i>
Par 7	<i>"And second by asserting that even if I was right about the incidence of onus, irrespective of where it lay his decision wouldn't have been any different-notwithstanding that LASA relied on the mere say-so of its single witness Nair, unsupported by any records, and indeed contradicted by them, a witness the judge acknowledged I'd shown to have been 'not generous with the truth' on numerous scores. Instead of considering the implications of this for Nair's credibility as a witness, he took him at his word, mechanically reciting his evidence as gospel, without any endeavor to assay its veracity. It seems to have been</i>

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	<i>inconceivable to the judge that such a high public officer could be a practiced, confident, spontaneously inventive, unctuous, bare-faced, abject liar."</i>
Par 8	<i>"In his refusal, the judge failed utterly to address and deal with the rest of my attack on his judgment in my application, in which I demonstrated all his basic errors, too many to recite here, including the huge prejudice he caused me by refusing to allow me to cross-examine LASA's officers I'd subpoenaed for the purpose, thus depriving me of some major artillery I'd lined up; and he swept the whole thing-all 59 pages and 323 paragraphs-off the table in a single dismissive paragraph."</i>
Par 22	<i>"Nonetheless, in view of Nair's unbelievably foolish dissimulation at trial-he was a pathetic liar- contradicted by the documentary record and by LASA's pleaded case, that LASA's entry-level lower criminal court public defender posts were critical, and not its top professional echelon specialist Senior Litigator posts, I showed at trial and called the judge's attention in my heads to all the manifold evidence that Senior Litigator posts are indeed critical, and that the bottom-rung lower criminal court posts can't possibly be and aren't. The judge evidently didn't read that far."</i>
Par 24	<i>"And what they unequivocally show is that she (Vedalankar) lied to me in October 2010 about the reason my appointment was aborted. That is, to camouflage the true reason, she'd fed me a false cover-story, as very smooth and convincing as it sounded...The lies then multiplied chaotically in all directions in the classic dynamic of a disintegrating cover-up."</i>
Par 25	<i>"At trial I mentioned my conclusions from the evidence I'd found of this that Nair had ghost-written Vedalankar's letters, and Board chairperson Mlambo JP's subsequent false reports to the Minister and to Parliament to pervert their enquiries into my complaints, <u>and for this reason I held them both clear.</u> (my underlining and this must be read with paragraph 13 above). But in his evidence, Nair denied any hand in Vedalankar's letters to me; and although in evidence he ultimately admitted writing Mlambo JP's reports, he could 'only assume the Judge personally wrote that' (having first insinuated it might have been Vedalankar and then again) i.e. that Mlambo JP had amplified the report for the Minister before sending it to Parliament, with its further lies added about LASA's compliance with my three PAIA requests, and the nature and scale of my claim I'd just referred to the CCMA for conciliation. (It's quite clear Nair lied to the judge about this, and that he, not Mlambo JP, amplified the report with these additional lies.) That is to say, after I'd told the Judge that I held them clear (more about this below), Nair went on to directly implicate Vedalankar and Mlambo JP in lying to me, to the Minister and to Parliament."</i>
Par 26	<i>"True to the Minister's assurance, the OSD money was indeed included in the mid-term budget in October 2010, as Vedalankar informed the Portfolio Committee on the 12th-but not me, from who she</i>

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	<p>concealed this hotly material fact in her letter to me six days late, ^{R5} better to maintain her pretense that LASA was still too skint to hire me."</p>
Par 28	<p>"In her second letter to me in January 2011, illegally refusing my second PAIA request testing her financial alibi for the abortion of my appointment, not only did Vedalankar conceal this payment from me, she positively lied to me, again and again, that LASA was still in a financial jam----- (And Vedalankar, Nair and other national management executives took home magnificent, unprecedented bonuses.)</p>
Par 29	<p>"In March 2011, responding to my third PAIA application, Vedalankar, Nair and Clark all confirmed the lying budgetary excuse on affidavit. That is, LASA's CEO, NOE, and HRE all swore the lie was true."</p>
Par 30	<p>"Even though it was already obviously false, the financial alibi was inadequate to cover and explain Nair's inaction in finalizing my appointment in the initial three-and-a-half month period between the dates he received my recommendation on 26 November 2009 and when the OSD uncertainty arose on 10 March 2010. So to patch the gap he concocted another story-later twice retracted by him on affidavit as an obvious error, and consequently nowhere pleaded or alleged in any interlocutory affidavit, then contradicted with a different story he told the judge. Who didn't think to note any of this dismal shambles in his judgment"</p>
Par 31	<p>"In his reports written for Mlambo JP to sign and submit to pervert the ministerial and parliamentary enquiries I'd initiated, Nair now claimed that what initially held up the alleged next step in my recruitment-a so-called second round interview-was difficulty encountered in coordinating a date suitable for all members of this panel to meet. Another smooth and ostensibly convincing story. After I exposed and refuted it as an outright lie in my original statement of claim, Nair retracted it on oath as 'an error...palpably an error' that Mlambo JP had made. Except that Nair himself was the author of this brazen lie to the Minister and to Parliament; it was not Mlambo JP's 'error'.</p>
Par 32	<p>"But Mlambo JP knew full well that this new story was false, because as a member of this so-called second round interview panel he'd never been contacted for a date. At trial Nair claimed, quite absurdly, that he never opened the recommendation and CV email attachments that he'd specially telephoned for, not until more than a year later, when he did so out of simple curiosity. (The judge found this perfectly credible, even though Nair had told a different story on affidavit before trial, which destructive contradiction I pressed in my heads. The judge didn't note this, and accepted and believed Nair's childishly obvious, self-contradicted new lie told in court, which had featured nowhere in any correspondence, report, pleading or affidavit before trial, all justifying LASA's failure to proceed with my appointment. This was one of the fundamental failures of the judgment.)</p>
Par 33	<p>"So, contrary to his lie told to the Minister and Parliament in Mlambo JP's name about this, there was no difficulty fixing a date for it because</p>

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	<p><i>no attempt was ever made to do so...So Mlambo JP knew full well that the report, which Nair had written for him to sign and to give the Minister and the chairperson of the Portfolio Committee to put down my complaints and pervert their independent enquiries contained in a flagrant lie about why no steps were taken to finalise my recruitment in the first few months before the OSD uncertainty arose several months after my selection."</i></p>
<p>Par 34</p>	<p><i>"Mlambo JP also knew full well that the budgetary justification Vedalankar had fed me to cover the true reason my appointment had been aborted, which Nair repeated in the reports he drew for him, was another lie, because he'd chaired the meeting of the Board in July 2010 at which it approved executive management's proposal to trim costs by temporarily freezing recruitment to some lower criminal court posts only...Deceptively silent about it, Vedalankar repeatedly falsely reported LASA's Strategic Plan 2009/12 to have been implemented and completed as regards the employment of Senior Litigators in her CEO report for 2011/12 to the Minister and the National Assembly."</i></p>
<p>Par 35</p>	<p><i><u>"My discoveries about Nair's authorship led me to inform the judge on the first day that I held them clear, and that I held Nair solely responsible for the lies these documents contained."</u></i>(my underlining and this statement must be read with paragraph 13 which he withdrew all allegations against Mlambo JP and Vedalankar)</p>
<p>Par 36</p>	<p><i>"In his chambers on the second day, when I told the judge I still had a lot more evidence to lead, having already blown the fake budgetary pretext to pieces on the facts set out in my Timeline, he warned me: 'I don't want to tell you how to run your case, but don't make the mistake of throwing your net so far out that you catch more than you can bring in.' These were his exact words, spoken off the record, but contemporaneously recorded that evening in emailed reports of the court day to my family and friends. I understood the judge was giving me an indication, as we lawyers say, and a severe indication at that, namely to limit the spray of my case, and keep it fixed on Nair alone, as I'd indicated I intended doing at commencement, and not present any further evidence implicating the big fish; for if I dared make the dangerous mistake of doing so, this would be too much, and it would doom my prospects of succeeding in his court with my claim. It seemed clear to me that the judge wanted the evidence contained. He did not want me to lead more evidence beyond the smaller fry."</i></p>
<p>Par 38</p>	<p><i>"After I'd discredited the budgetary pretext fed me for not appointing me, and then the initial delay pretext fed to the Minister and Parliament for not immediately proceeding with my appointment, Nair cooked up and fed the Board two brand-new, totally different stories to justify his failure to finalise my appointment at Pietermaritzburg, an internal candidate's promotion at Durban, and another internal candidate's transfer to Mthatha, namely 'recruitment challenges' encountered in filling the posts, and alleged uncertainty that the six incumbent Senior Litigators were up to professional scratch. Both lies. Waffling feebly,</i></p>

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	<i>Nair was unable to support his first new story and radically changed his second, before which it was repeatedly exposed as a lie by LASA's records."</i>
Par 40	<i>"It was a risible new lie, sharply contradicting LASA's pleaded and sworn version before trial, unsupported by any record, not alleged in any affidavit or pleading, and contradicted by LASA's recruitment/vacancy statistics for June 2010. But Nair's new lie in evidence made no impression on the judge, as said, he didn't mention it."</i>
Par 41	<i>"The LAC is also certain to treat an important aspect of the case, entirely disregarded by the judge (notwithstanding his fine grasp of the specifics of public service appointment procedure displayed in his Baxter judgment), namely Nair's incompetent and illegal so-called second round interview scheme for Senior Litigator candidates-unauthorised by the Board's Recruitment code and inconsistent with its Approval Framework. Unlike the judge, the LAC is certain to remark on the disgraceful breakdown of lawful recruitment procedure at LASA, in blatant disregard of the Board's said regulatory instruments which precisely govern this, and on Mlambo JP's participation in a grossly irregular, prejudicial, and unlawful recruitment practice."</i>
Par 42	<i>"His lies proliferating in court as he was trying to shore up his collapsing story about why he never signed his approval (or disapproval) of my recommendation by the selection panel as the Approval Framework required of him, and as provided at the foot of the document (with its legal nonsense, at his instance, about a further interview), Nair claimed in court that he didn't have to-a lie repeatedly and squarely contradicted by LASA's pleadings and interlocutory affidavits. The judge didn't note this; again the LAC is sure to."</i>
Par 43	<i>"Unlike the judge who accepted and believed it, the LAC is also sure to find stupidly ridiculous and manifestly false Nair's evidence, building on his just-mentioned lie, but again explicitly contradicted by LASA's pleadings and interlocutory affidavits..."</i>
Par 44	<i>"The LAC is certain to find Nair's evidence to have been obviously untruthful just about whenever he opened his mouth...It failed to do so, because its various explanations given were obviously untrue. So what?"</i>
Par 47	<i>"I did not expect the judge to be nodding off during the afternoon sessions, and finally claiming perversely, but revealing to his negative animus, that I ought rather to have taken LASA's abortion of my appointment on 'review'. As if I shouldn't have come bothering him to deliver the justice I craved, and had laboured bitterly year after year before trial to achieve, in the face of every obstacle corruptly placed in my way, viciously defamed all the while, contemptuously redoubled when I complained of it. In a matter of such enormous importance, and with so much on the line extending far beyond my personal interest in the case, and with so much fact to traverse and complex argument to present, including relevant, applicable international labour law</i>

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	<p><i>jurisprudence mentioned in my opening address, I did not expect the judge to prescribe that our heads shouldn't exceed a manifestly insufficient 'fifteen to twenty pages' suggesting that he'd already made up his mind to toss my case. I did not expect that five months after I filed my replying argument the judge hadn't troubled himself to read our heads, and was hearing our oral argument without having prepared for it ten months after the evidence, and relying only on his fading and defective memory of it presented in the course of a nine-day trial concluded the best part of a year earlier. In giving judgment, I did not expect the judge to misstate my case, omitting critical facts and including irrelevant matter, and portray as maladroit and whimsical my precisely considered tactical and strategic decisions taken, wrongly forced by him on the record and improperly pressed by him off it. I did not expect the judge to sugar Nair's lies for his judgment, by stretching and exaggerating them to help them go down. And that besides getting the final onus wrong, he should also have placed on me an impossible, pivotal, evidential onus I very obviously didn't bear and couldn't possibly have discharged."</i></p>
<p>Par 48</p>	<p><i>"Professional and personal networks and loyalties being what they are in the real world, I appreciated from the outset that I was up against very long odds, and that notwithstanding his oath of office it would be no easy thing for a judge to impeach the conduct of his own (then) court president, and now president of the biggest, most important high court in the country, and thereby trigger a gargantuan scandal. But the truth must be out, and justice needs doing fearlessly."</i></p>
<p>Par 49</p>	<p><i>"An unattended splinter, so easily removed, has led to a widespread gangrene at the top of a major public entity, generally perceived to be the jewel in the crown of the Justice cluster, and a model of good governance."</i></p>
<p>Par 50</p>	<p><i>"Having regard to the profusion of contradictory lies that have spewed out of LASA, including to the highest authorities, in the cover-up following the illegal abortion of my appointment, to get away with and escape accountability for it-successfully so far, like Nixon nearly did after Watergate-your lordships can expect absolutely any lie from LASA in its answering papers, any subterfuge to persuade you to shut down further enquiry into this matter by refusing this petition. Since in-house attorney Mtati acting on instruction can offer you no more than hearsay about the case, and hasn't stinted at committing the most grotesque, poisonous perjury on affidavit on Nair's instructions to prejudice me in the court's eyes before trial, and since the judge found Nair to have been untruthful under oath on any number of scores, I respectfully entreat your lordships to require CEO Vedalankar, and not the former discreditable and unreliable persons, to depose to any answering affidavit under LAC rule 4(6) in regard to why I should be denied leave to argue my case before three senior, experienced, and attentive judges of appeal...The prospect of being jailed may chill any</i></p>

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inclination she might have to repeat under oath to your lordship, the lies she told me."

UNFOUNDED DEFAMATORY, DEMEANING AND INSULTING ALLEGATIONS MADE BY ADVOCATE BRINK IN HIS SUPPORTING AFFIDAVIT TO URGENT APPLICATION AT PIETERMARITZBURG HIGH COURT UNDER CASE 12977/15 AGAINST WAGLAY JP,

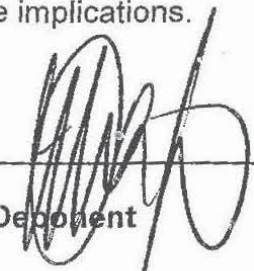
Par 14	<i>"...(ii) my covering letters to Labour Appeal Court judges Davis and Sutherland JJA, falsely implicated by the order in the perversion of my petition..."</i>
Par 21	<i>"I've been busy with my draft complaint to the JSC for months- it's quite intricate, and includes similar fact evidence of the surreptitious perversion, by dint of multiple easily demonstrable lies, of separate Ministerial and Parliamentary enquiries I'd caused to be initiated; the subornation of perjury; and other grave corruption, all clearly shown..."</i>
Par 22	<i>"...(ii) that the order is a demonstrable fake..."</i>
ANNEXURE A: LETTER DATED 7 SEPTEMBER 2015 TO REGISTRAR OF THE LABOUR COURT, THULANI VILAKAZI WHICH FORMS PART OF ADVOCATE BRINK'S SUPPORTING AFFIDAVIT	
Par 32	<i>"The document is a forgery."</i>
Par 5- page 2	<i>"The registrar of the Labour Appeal Court in Johannesburg isn't your superior; and doesn't have the power to issue orders on judicial decisions made in your court. Had my petition been decided in Durban, as alleged in Phophi's order, it would have been signed and issued by you, and not by him in Johannesburg."</i>
Par 6, page 3	<i>"Davis and Sutherland JJA wouldn't have associated themselves with such a dull contradictory order. Nor with the pitifully defective logic in its second paragraph."</i>
Par 11- page 4	<i>"...according to the fake order..."</i>
Par 13, page 4	<i>"...phoney dismissal order..."</i>
Par 14- page 4	<i>"(Unlike Cele J, who shamelessly admitted in his chambers before the argument of my case a whole ten months after the two-week trial-set down for three days since my main heads alone were a phone-book thick bristling with 857 footnotes to the 1037 pages of bundled trial documents and to LASA's dense, lengthy pleadings (tactically elicited) and several interlocutory affidavits contradicted again and again by its single trial witness, but which argument he cut to a few hours, saying he just wanted our leading points-that he hadn't troubled to prepare himself in this manner; as might have been expected of a highly paid judge trying an exceptionally serious case involving fundamental rights</i>

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	<i>violations, millions of rand in damages, and serious maladministration, abuse of power and pervasive corruption in the top echelons of a major public entity headed by a Judge President. It explains his abysmal judgment whitewashing it a further three-and-a-half months later, disgracefully enabling the guilty to evade accountability and to walk away smirking.)</i>
Par 20- page 6	<i>"Contrary to the false implication of the order that the dismissal of my petition was the unanimous decision of the three named judges-and Phophi later repeated this lie to me expressly in a letter ghost-written for him (Annexure 'L'), his second paragraph perfectly irrelevant, his third a flourish of dismally obtuse contradiction and illogic... You've got the file in your office; you can see for yourself."</i>
Par 21, page 6	<i>"To pre-empt any tampering with the real evidence of judicial corruption that the file closes..."</i>
Par 23, page 6	<i>"Contrary to the false information uttered in the forged order; calculated to defraud me into abandoning my pursuit of justice after years of struggle-with criminal prosecution and terrible sanctions in store for those who brazenly lied to the Justice Portfolio Committee in the National Assembly about my matter, and perjured themselves in the Labour Court and in the Labour Appeal Court-Davis and Sutherland JJA weren't involved in rejecting my petition, and their names were abused in the perpetration of the fraud on me without their knowledge. Ask them, they'll tell you."</i>
Par 25, page 7	<i>"He then covered up his malicious obstruction of my right to appeal (if, under LAC rule 4(8), at least two designated appeal judges thought I was in with a chance), firstly by ordering his registrar in Johannesburg to issue a counterfeit order he'd ghost-written, pretending that he, Davis and Sutherland JJA had considered and unanimously rejected my petition in Durban on 18 February 2015, and secondly by ghost-writing a letter for the said registrar to send to me, repeating this lie and basically telling me to push off and stop asking dangerous questions threatening to blow the lid on his impeachable misconduct."</i>
Par 26, page 7	<i>"It isn't any mystery why Waglay JP intentionally violated my fundamental right to due process guaranteed by section 34 of the Constitution by blocking my access to the Labour Appeal Court to appeal and remedy the complete hash that Cele J made of my case. In a magnificent stroke of good fortune, I landed the written evidence of the stunningly dishonest improper influence that caused him to do so."</i>
Par 28, page 7	<i>"I've substantially completed drawing such a complaint regarding the perversion of my petition, identifying the other corrupt judges responsible for it and his motives, and I'll be filing it imminently."</i>
Par 29, page 8	<i>"...as the bogus order falsely implies..."</i>
Par 30, page 8	<i>"...in full knowledge that the so-called order on which it relies is a fraud, and that contrary to false appearances my case is still very much alive</i>

	<i>and has yet to be properly determined on petition and then on appeal, you'll be acting improperly, in bad faith and unlawfully."</i>
Par 31, page 8	<i>"...and will put this letter up with my application to demonstrate that you turned a deliberate blind eye to the true facts that I brought to your attention, and proceeded to tax a bill you well knew is not yet due."</i>

Having set the excerpts above and in totality looking at the tone and language used by Brink, it is my submission that he has no respect to his office and other officers of Court. He is treading on the path of demeaning, insulting and defaming any person who holds a divergent view to his own. He is quick to make conclusions that are based on his delusionary theory and without any factual basis. It is my submission that, as an officer of the court, based on his conduct, the public can be susceptible to far reaching negative implications.


Deponent

THUS SWORN AND SIGNED BEFORE ME AT JOHANNESBURG ON THIS ___ DAY OF NOVEMBER 2015. THE DEPONENT HAVING ACKNOWLEDGED TO ME THAT SHE KNOWS AND UNDERSTANDS THE CONTENTS OF THIS AFFIDAVIT, SHE CONSIDERS THE CONTENTS THEREIN TO BE BINDING ON HER CONSCIENCE AND SHE HAS NO OBJECTION TO THE TAKING OF THE PRESCRIBED OATH.



COMMISSIONER OF OATHS

FULL NAMES :

Angelo Mkhomo

DESIGNATION :

CP

ADDRESS

*No 41 Clementine Place
Hillbrow Saps*

