
BRINK'S COMMENTS ON MLAMBO JP'S RESPONSE TO HIS
EIGHT GROSS MISCONDUCT COMPLAINTS

I, Anthony Brink, affirm:

1. I am the complainant in eight complaints of gross misconduct filed against Mlambo JP under section 14 of the Judicial Service Commission Act 9 of 1994 ('JSC Act'), which I submitted to the Judicial Service Commission ('JSC') in June and July 2017, and at the request of the Judicial Conduct Committee ('the Committee') again in November 2017 in a combined indexed and paginated bundle ('the bundle'). Invited by the Committee, the following are my comments on Mlambo JP's response to my complaints.
2. Mlambo JP's response is prodigiously dishonest as I'll show, and profoundly aggravates my complaints.
3. Adopting a basic offence-as-defence strategy, much of his response is aimed at gunning me down as the complainant, instead of meeting and answering my extraordinarily serious case. It does this by portraying me as an inherently unreliable witness against him, a perennially dissatisfied racist nutcase given to misfiring baseless, abusive complaints in all directions to every imaginable authority.
4. He entirely evades addressing the substance of my finely specified, particularised and documented charges; falsely characterises them as wanton defamation for which I should be sanctioned; and airily waves them away with bald and general denials.
5. To obfuscate the recorded facts and to distract from my specific charges, he makes prolific use of red herrings and other dishonest rhetorical devices.

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6. To the Chief Justice, to whom his response is addressed as Committee chairperson, he brazenly repeats lies he told the Justice Minister and Portfolio Committee, with which I've charged him; and he tells a slew of new ones.

7. He mounts a show of feigned offence taken at my charges, to cast me, the gravely injured complainant, as the actual miscreant in the matter, and not him.

8. And riding on his high office, he does all this confident that the Committee will take him at his word and that his high-toned, indignant say-so as a senior judge will suffice to put down my complaints, avert the Committee's examination of them, and shut down its investigation of him.

Ad paragraph 1 of the response.

9. In point of fact, I filed eight individual, separate complaints against Mlambo JP with the Judicial Service Commission ('JSC'), each one charging an impeachable offence, not one 'complaint'.

Ad paragraph 2.

10. Contriving to discredit my complaints against him generally by discrediting me personally, Mlambo JP kicks off with the dog-whistle language of a prosecutor raising in court the recidivist history of an habitual criminal.

11. He falsely insinuates that my several complaints since 2010 made to progressively higher levels of authority about the pervasive systemic corruption; illegal gross financial irregularity involving many millions of rands; deliberate obstruction of critical service delivery for corrupt ends; illegal and unconstitutional suppression of duly requested public records and the concealment of this with false reporting to frustrate and defeat parliamentary oversight and thereby evade accountability; and the culture of mendacity, lawlessness, criminality and contempt for the Constitution that I've run into at Legal Aid South Africa ('LASA') have been both groundless and reprehensible.

12. That I've indeed complained 'in various courts' about all this is immaterial to the merits of my specific complaints against him to the JSC, and to the Committee's determination of them on their own terms and merits.

13. Likewise immaterial to my JSC complaints is the fact that I finally¹ went to 'Parliament'² about CEO and information officer Vidhu Vedalankar's persistent and repeated, illegal and unconstitutional refusals to allow me access to LASA records I'd duly requested under the Promotion of Access to Information Act 2 of 2000 ('PAIA'), and about the unauthorised, unrecorded, silent, illegal abortion of my appointment to LASA's top legal professional post in KwaZulu-Natal, its Senior Litigator post at Pietermaritzburg,³ after I was unanimously recommended for it by a duly constituted selection panel of LASA's top lawyers in the region, and then, when I began pressing for the finalisation of my appointment eight strangely silent months later, the illegal, unauthorised, unrecorded so-called freezing of LASA's three remaining vacant Senior Litigator posts under cover of a transparently bogus financial insufficiency excuse, in response to my first PAIA request in which I was thoroughly probing the unspecified 'various reasons' the abortion of my appointment was 'due to'. (My request was illegally ignored then repeatedly expressly refused.)

14. Likewise irrelevant is that I've repeatedly complained to and sought the assistance and intervention of such 'Chapter 9 institutions' as the South African Human Rights Commission ('SAHRC') and the Public Protector, on account of (a) the repeated and persistent, illegal and unconstitutional refusals of my PAIA

¹ This is after Mlambo JP had rejected my first petition to him and the Board, then rudely rebuked my second.

² To be precise, I copied to the Minister and to the Justice Portfolio Committee my third petition to Mlambo JP and the Board on 25 February 2011, in which I appealed again for their intervention in Vedalankar's repeated illegal and unconstitutional refusals of my first two PAIA requests and illegal abortion of my appointment to the Pietermaritzburg Senior Litigator post under cover of the demonstrably false excuse eventually given me that LASA didn't have the budget to hire me. Unlike Mlambo JP, who ignored my third petition about the extraordinarily grave wrongdoing I was reporting to him, yet again, the Minister and the Portfolio Committee duly instituted separate and independent enquiries into the matter. I didn't know at the time that Mlambo JP was at the centre of the lawless corruption of which I was complaining, and only learned of it in April 2016, hence my naïve repeated appeals to him in November and December 2010 and February 2011 for his intervention to remedy it, canvassed in my Second to Fifth Complaints.

³ There's a twin post serving the Durban High Court.

requests by such 'senior officials' as LASA's information officer Vedalankar and deputy information officers Brian Nair and Thembile Mtati; and (b) LASA's repeated and persistent false annual reporting under section 32 of PAIA to conceal this from the National Assembly so as to successfully frustrate and defeat its constitutional oversight responsibility over LASA, year after year.⁴

15. Likewise irrelevant is that I've complained to the Public Service Commission about Mlambo JP's unauthorised, ultra vires, illegal active interference as a *non-executive* member of LASA's Board of Directors in the conduct of LASA's recruitment operations – which, under LASA's internal regulations, are the exclusive preserve of executive management – and about his wholesale corruption of Senior Litigator recruitment procedure with his so-called second round interview scheme, in flagrant contravention of the said legal instruments precisely governing it to achieve fairness and transparency and to eliminate recruitment corruption.⁵

16. Likewise irrelevant is that I've complained about 'other judicial officials', namely:

(a) Cele J, judge of the Labour Court, in my petition to the Judge President of the Labour Appeal Court for leave to appeal his dismissal of my action claiming my appointment (wrongly founded on unfair discrimination, I much later discovered), inter alia about his disgraceful judicial indolence in not preparing

⁴ This unbelievable saga is closely detailed in my 'Special Report on Legal Aid SA: An aggravated case of repeated wilful non-compliance with the Promotion of Access to Information Act 2 of 2000 to illegally obstruct access to duly requested records, and repeated false annual and "confidential" reporting to conceal this from the National Assembly'. It describes the SAHRC's several unsuccessful interventions at my instance to get LASA to start complying with PAIA. LASA's persistent failure to do so, to date, is now before the Pietermaritzburg High Court, where I've three pending applications under section 78 of the Act to compel its compliance with PAIA requests illegally and unconstitutionally refused as a waste of time under section 45. It's accessible online at <https://goo.gl/PveC96>

⁵ Declining jurisdiction, the PSC referred my complaint to the Public Protector, where it's been parked unresolved. On Chief Legal Executive Patrick Hundermark's advice, LASA continues suppressing duly requested records – including records it agreed to surrender under a settlement agreement it made at court – which I need for the completion of further complaints to the JSC about Mlambo JP's further breaches of his oath of office to protect and defend the Constitution, inter alia his brazen violation of the fundamental constitutional principle of legality in his illegal intrusion into recruitment operations at LASA, and involvement in *ethical* recruitment corruption. My claims to these determinedly suppressed public records are the subject of pending litigation under PAIA in the Magistrate's- and High Courts.

himself for oral argument of the case – set down for three days, after a two-week trial many months earlier – by troubling himself to read and acquaint himself with my extensive written argument (so he admitted in chambers), which I'd filed long before, meticulously footnoted to LASA's contradictory pleadings and contradictory interlocutory affidavits, and the massive indexed and paginated documentary record I'd compiled and bundled for the case;

(b) Waglay JP, head of the Labour Appeal Court, in my still pending complaint to the JSC regarding his breach of Article 4 of the Code of Judicial Conduct;⁶

(c) Senior Magistrate Gerhard van Rooyen, stationed at Emlazi, Durban – specially appointed, as a formally qualified PAIA expert, to try my five applications to the Eshowe Magistrate's Court, launched in 2014–15 for orders compelling LASA's compliance with illegally and unconstitutionally refused PAIA requests made in 2013–14, and in 2016 to compel LASA's full and proper compliance with its settlement agreement after capitulating at court to my five applications – to the Magistrates Commission regarding, inter alia, his disgraceful judicial indolence in failing to prepare himself before coming to court to try my applications by (a) familiarizing himself with the provisions of the Act he was to apply (he volunteered to me on the first day that he hadn't done so, and this was repeatedly apparent at the hearings), and (b) by troubling himself to read the extensive application papers and then the further documents filed during the case, and thereby acquainting himself with the evidence on affidavit to be argued and the amended orders to be sought (that he hadn't bothered to do so, and was ignorantly winging it on the bench, was repeatedly apparent at the hearings).⁷

17. All these previously made complaints of mine to these various other high authorities are perfectly irrelevant to the merits of my instant complaints to the

⁶ The JSC Secretariat acknowledged receipt of it on 29 August 2017, but on 14 June 2018 conveyed that it had been mislaid and requested a copy. I emailed it on the same day and it was acknowledged again. The complaint is accessible online at goo.gl/39eYx1.

⁷ The complaint can be accessed, along with notice of its dismissal on patently spurious grounds, misdirected by several obviously mistaken factual premises stated, online at goo.gl/ETHCpV.

JSC against Mlambo JP, and his dissimulation to the contrary, to distract from them and make them look bad, and maybe demented, is dishonestly misleading.

Ad 3.

18. Again, the clear purpose of this false and misleading declamation is to distract from my specific complaints against Mlambo JP to the JSC, none of which directly concern the silent, unrecorded, unauthorised, illegal decision to abort my appointment:

19. Having nothing to do with my 'non-appointment' at all, my First Complaint charges Mlambo JP with suborning perjury in regard to his totally fabricated claim – made via his instructed attorney on affidavit, to discredit me and thereby defeat my application for leave to subpoena him under section 25 of the Supreme Court Act – that after suing for my appointment, I rocked up at his chambers to hassle him about it, and that he was singularly unimpressed with my unprofessional misconduct in doing so (in truth, I've never met or even seen him and don't even know where the Johannesburg High Court is). My Second to Seventh Complaints charge him with complicity in, and with covering up, LASA information officer Vedalankar's repeated and persistent violation of my constitutional right to information, as the record reflects. My Eighth Complaint shows with reference to supporting documents that the cover-stories he told the Minister and the Portfolio Committee about why my appointment wasn't proceeded with were lies to successfully pervert their enquiries into it. Indeed, as described in that complaint, after I refuted and exposed his lies, one was retracted on affidavit, and another was dropped and substituted with completely different lies – and so forth, the whole pathetic, zigzagging, lying shambles detailed in my complaint.

20. If by my 'numerous complaints' Mlambo JP is referring to my several complaints to the other authorities mentioned in his second paragraph, they're all irrelevant to my complaints against him to the JSC. Should the Committee take a different view, I'll furnish it with copies of all the complaints I've made to these different authorities, one after another since 2010, to vouch that all of

them have been well-founded – with one error I made: my stated surmise and conviction founded on a careful conspectus of the then available evidence, which I held between early 2010 and mid-April 2016,⁸ that my appointment had been blocked on account of unfair political discrimination.⁹ Years after the trial and dismissal of my claim against LASA for my appointment, which I'd based on that completely wrong ground, I discovered that the actual reason was simply jobs for pals.

21. Certainly the fons et origo of my nearly decade-long conflict with LASA's corrupt governing and managing public officials is the illegal abortion of my recruitment to the top professional post in question.¹⁰ But this abortion is not the subject of my complaints currently before the JSC, and Mlambo JP's claim that it's 'at the heart' of them is consequently irrelevant and misleading, by falsely implying that I'm asking the Committee to revisit a stale dispute settled years ago by court judgment, and that it's none of its business.

Ad 4.

22. Adopting precisely the offence-as-defence strategy adopted by Motata J in his criminal defence, condemned as impeachably dishonest by Jappie JP in his 'Report of the Judicial Conduct Tribunal: In Re: Judge NJ Motata' of 17 April 2018,¹¹ Mlambo JP begins his response by turning the tables and rounding on me

⁸ This is when I eventually forced out of LASA, by suing for it, the selection panel's full uncensored recommendation report, and first learned of Mlambo JP's long-time judicial collegial relationship with my rival applicant for the post.

⁹ In his judgment (correctly) dismissing my unfair discrimination claim in the Durban Labour Court, Cele J had no difficulty finding that I'm acutely politically unpopular as I'd alleged, and he restated my case in this regard extensively. In paragraph 8.6 of his response, to cast me beyond the pale, and to prejudice the Committee against me, Mlambo JP himself smugly charges me with 'AIDS denialism', a deeply pejorative moral and political smear to delegitimize dissident from any aspect of the Western, media-driven propaganda-consensus in the subject. Such as that it's an excellent idea for African women to swallow exceptionally poisonous, teratogenic chemicals every day throughout their pregnancies. My original, internationally acclaimed research work in this regard is posted on my website www.tig.org.za.

¹⁰ The matter is out of my hands now, but as far as I'm concerned, as I've said before, the satisfactory resolution of my claim to the post after eight years of bitter struggle, and the death of my partner on the way, will end my personal interest in the whole matter completely. I'm literally sick of it.

¹¹ Paragraph 18 of the Report notes: 'Mr Baird [the complainant] was the main focus of the Judge's defence. In the heads of argument presented to the trial court on the Judge's behalf, it was submitted that Mr Baird was biased, unreliable, dishonest and above all that he was a racist.'

to portray me as the offender in the case, to decoy from and discredit my precisely specified, particularised and documented complaints against him; and he persists with this aggressive personal counter-attack on me throughout it.

23. My First, Seventh and Eighth complaints charge Mlambo JP with criminal misconduct; my Second to Sixth with other capital misconduct – all committed in his capacity as chairperson of LASA's Board, but incompatible with his position as a judge sworn to uphold and defend the Constitution. It's idle therefore to fuss that my 'language' used 'in all the complaints' is 'very derogatory' and 'defamatory'¹² – except to improperly and disgracefully prejudice the Committee against me and to distract from the hard point of my charges. It's like Goliath moaning that David's stones are too hard.

24. The 'language' I've used in my complaints, both to the JSC and to the other authorities Mlambo JP mentions, in relation to 'senior officials of Legal Aid South Africa and other sitting judicial officers', and whether it has been justifiably sharp or not, obviously has zero relevance to the merits of my eight complaints against him.

25. Confronted by the Committee with his capital misconduct minutely detailed and vouched in my complaints against him, Mlambo JP feigns resentment at the fact that I should say such things, to falsely imply that my complaints are empty abuse.

26. Calculated to wreck my credibility and finish me off before the Committee completely, Mlambo JP resorts to the ultimate accusation in our multi-racial

¹² The Committee will undoubtedly find highly cogent, as to its likely author, the fact that the anonymous, unsigned, undated, unstamped 'memorandum' (at page 22 of the bundle) that perverted my petition for leave to appeal the dismissal of my labour action, employed exactly the same low cunning trick to discredit me and my case on petition by attacking my allegedly objectionable language. It *begins* by charging that I've used 'vulgar and insulting language ... throughout [my] affidavits. Such conduct is unacceptable for a practicing advocate.' To discredit me personally and thereby discredit my complaints to the JSC against him, Mlambo JP likewise *begins* his response to them by charging that 'the language used by Brink in all the complaints ... has been ... very derogatory, defamatory, and at times racist'. LASA's complaints against me to the Bar and Magistrates Commission likewise again *begins* by charging that 'the conduct of Advocate Brink is not befitting an officer of the Court more to act as a Magistrate. The language used is unprofessional, the manner he relates to colleagues and Judges require sanction.' (sic: imperfect English)

democracy after apartheid: he smears me as a ‘racist’ who ‘at times’ has repeatedly revealed himself to be one.

27. He implies that my complaints as a white man against him as a black man are animated by a basic racist animus that I harbour towards him and towards Africans generally.

28. He plays the exactly same get out of jail free card that Motata J did to try getting out of his legal jam.¹³

29. Not only is Mlambo JP’s malicious, revolting lie about me to the Chief Justice entirely baseless, it’s utterly false, as I’ll presently show with reference to the incontestable facts on the ground.

30. The best and only evidence Mlambo JP provides for his charge that I’m a racist is (a) my textual analysis¹⁴ to conclude that the author of the anonymous, unsigned, undated, unstamped, criminal ‘memorandum’ turned up in the Durban Labour Appeal Court file (case DA21/14) that perverted my petition for leave to appeal¹⁵ was not a mother-tongue English speaker, and that he’d hastily dashed it off in some agitation to cut me off at the pass; and (b) my observation that Mlambo JP’s costs order in former President Zuma’s application to interdict the Public Protector’s state capture report, to which I listened on national radio, contained similar minor grammatical imperfections. Mlambo JP quotes me in this regard in his paragraph 8.13.2;¹⁶ and no honest reader can conclude from what I wrote there that I’m a racist.

¹³ See footnote 10 above.

¹⁴ I’m the author of several very well reviewed, serious specialist non-fiction books (see all books and reviews at openbooks.tig.org.za), and I’m well experienced in editing, polishing and perfecting translations of technical, philosophical and political writing from Spanish, Italian, German and Russian into natural, mother-tongue-sounding English. As a former musician, now writer, I have a keen feeling for the music, tone and rhythm of written English, and the distinctive ‘voices’ of different writers. Reading Mlambo JP’s response, for instance, I recognise instantly, from his other writing, the hand of the attorney who drafted it for him.

¹⁵ See my still pending complaint against Waglay JP. The criminal ‘memorandum’ is annexure ‘C’ to it.

¹⁶ See my similar textual analyses in my First Complaint against Mlambo JP, and in my complaint against Waglay JP at paragraph 36. And before this: Noting his recurrent, habitual fingerprint idiosyncratic syntactical errors in his writing, I employed the same exercise in the Labour Court to identify LASA National Operations Executive as the likely ghost-writer of CEO

31. Certainly my late¹⁷ partner Fezisa,¹⁸ an African woman born in Pondoland, with whom I shared a loving home for two-and-a-half years, didn't think I'm a racist. Nor do any of my family and friends, including my Zulu musician friends with whom I illegally shared my house during apartheid; nor my Indian attorney friend with whom I defiantly co-founded a multi-racial jazz club during the 'emergency' era; nor three past and sitting African and Indian judge presidents (at two of whose homes – the Africans' – I've been a guest) and any number of other judges, including in the Supreme Court of Appeal; nor my legal colleagues, including attorney comrades with whom I conducted lengthy political trials and appeals in the early nineties, including in the Supreme Court of Appeal, as an advocate acting pro bono or for picayune fees; nor my more recently made Xhosa and Zulu legal and other friends and colleagues in and around the courts in Butterworth, Eshowe and Ulundi. An Indian attorney said of me in my presence a few years ago (his exact words): 'Anthony was the most loved advocate at the Pietermaritzburg bar for his non-racist and progressive attitudes.' My entire life has been defined by my loathing of racist ideology, and it brought me into repeated conflict with the local and national apartheid security apparatus throughout my young adult life.

32. Mlambo JP's absolutely false, groundless, malicious accusation made to the Chief Justice that I'm a racist, to devastate my credibility and thereby discredit my complaints against him, massively aggravates them.

33. As said, Motata J employed exactly the same low-kicking, shamefully dishonest tactic – as Jappie JP and his Judicial Conduct Tribunal noted in their report finding such misconduct impeachable. And which identical foul charge

Vedalankar's illegal and unconstitutional blanket refusal in October 2010 of my entire first PAIA request in August two months earlier, and the lies her letter told to justify it.

¹⁷ Understandably convinced that the corruption I'm up against at LASA is too powerful to overcome, since it radiates from Mlambo JP, more especially since this corruption has metastasized into the judiciary – see my complaint against Waglay JP – and that our prospects together were consequently hopeless (LASA had got me fired as a magistrate without a hearing, by complaining to the Magistrates Commission that I'd outrageously criticized Mlambo JP before and after my labour action), she fell ill in despair and died two years ago this month.

¹⁸ Pictures at goo.gl/eC2JPr and goo.gl/htCiL7.

levelled by Motata J at the complainant in his case, they found to be an abject lie. Like Mlambo JP's abject lie about me.

34. But Mlambo JP's lie that I'm a racist is highly material in the Committee's determination of the veracity of other disputed claims he makes in his response, identified in these comments, and of his general denials, because it provides the clearest evidence that, when in a corner, the Judge President of the Gauteng Division of the High Court of South Africa will lie freely, about anything, to anyone, even to the Chief Justice. Further multiple objectively demonstrable lies that he tells in his response will be refuted and exposed below.¹⁹

Ad 6.

35. Pretending to provide a 'SUMMARY OF THE COMPLAINTS', Mlambo JP quotes some of my complaints, but not the *evidence* I provide supporting them; naturally he doesn't 'summarise' the chapter and verse of all that. In truth, he provides no 'summary' at all. His object in reciting some of my extraordinarily serious charges without mentioning the supporting evidence I provide seems to be to make them appear outlandish, outrageous, and fit for summary dismissal.

Ad 7.

36. Mlambo JP evades responding to the evidence I present against him i by dissembling inanely that to answer it in any detail would be 'unjust to both myself and the Judicial Service (sic: Conduct) Committee', 'as doing so' would 'burden it with unnecessary and irrelevant information.'

37. Afforded an opportunity under the audi alteram partem rule to answer and refute my capital complaints,²⁰ all closely particularised and vouched by supporting documents, he declines to do so under a ludicrous pretext, varnished

¹⁹ In his response, Mlambo JP talks himself deeper and deeper into the mire, in an illustration of the adage after Watergate, 'The cover-up is always worse than the crime.'

²⁰ Neither the Magistrates Commission and Department of Justice, nor the KwaZulu-Natal Society of Advocates thought to afford me the same benefit of this elementary principle of natural justice before sacking me as a magistrate and deciding to strike me off as an advocate for criticizing Mlambo JP in my labour claim. (After chancing to hear about the Bar's decision, I got it reversed.)

with lofty-sounding talk of justice in the matter. The true reason he evades meeting my case against him is that it's unanswerable on all counts.

38. Giving away the disingenuity of his ridiculous excuse for not answering my charges, Mlambo JP then proceeds to 'burden' the Committee precisely 'with unnecessary and irrelevant information' in the form of a lengthy counter-offensive against me, as if I'm the accused, in the course of which he tells many lies, all easily demonstrated.

39. It obviously doesn't do in an enquiry like this to avoid dealing with detailed, documented misconduct allegations and to deny them generally, like counsel pleading minimally to an action. My comprehensively made case against him consequently stands unrefuted, and is fit for investigation and reporting on by a Tribunal appointed under section 16 of the JSC Act.

Ad 8.

40. Mlambo JP's real purpose in presenting 'the background to the complaints' is manifestly not 'for the convenience of the Committee' as he smoothly but falsely pretends, but to distract from my specific complaints, by providing a tendentious, deceptively incomplete, and, in all, a demonstrably untruthful history of my underlying dispute with LASA over the abortion of my appointment to the top professional post for which I was picked instead of his judicial friend. Ultimately his clear object is to represent me as an unreliable witness against him whose allegations against him have already been tried and dismissed. In fact they're different.

Ad 8.1.

41. Mlambo JP's allegations in this subparagraph epitomise the brazen dishonesty of his response generally, and his personal distance from the truth, which is to say the documented, objectively established, incontrovertible facts.

42. It's trivial error, and nothing turns on it, but an early pointer to his carelessness with the basic facts of the case, even as he's writing to the Chief

Justice, is his claim that I was interviewed at ‘the Pietermaritzburg offices of Legal Aid SA’. Actually it was at LASA’s regional HQ in Pinetown.

43. Much more to the point, Mlambo JP tells the Chief Justice the blatant lie that following my interview I was ‘shortlisted for the second round of interviews as a candidate for the Senior Litigator post at the Pietermaritzburg offices of Legal Aid SA.’

44. There was no shortlist. The contrary truth of it, shown by the selection panel’s recommendation report, is that I was picked by the selection panel as the best man for the job, in fulfilment of its mandate under LASA’s Policies and Procedures on Recruitment (‘Recruitment code’) to interview the shortlisted candidates and ‘identif[y] ... the most suitable candidate for appointment in a post.’

45. I wasn’t ‘shortlisted’ with other candidates for another interview. Quite the contrary, the recommendation report records that the other applicants for the post, including and especially Mlambo JP’s judicial friend Ngcamu, were disqualified and eliminated.²¹

46. Mlambo JP can’t be referring to Bongani Mngadi, head of the High Court Unit at the Durban Justice Centre, who was also selected and recommended, because this was in relation to a different post: the simultaneously advertised Senior Litigator post at LASA’s Durban office. And it became common cause at the second pre-trial conference before the trial of my labour claim that although the recommendation report didn’t specify this, I was selected and recommended for the Pietermaritzburg post for which I’d applied and Mngadi for the Durban one for which he had.

²¹ The selection panel’s full, unredacted, uncensored recommendation report was determinedly concealed from me for years. First requested under PAIA in August 2010, I was only able to see it in April 2016, years after the trial of my labour claim in mid-2013, after suing for it under section 78 of PAIA. Opposing me all the way to argument, LASA finally agreed at court to surrender it, and under the settlement agreement turned it over two months later. How LASA persistently suppressed the report to prevent me seeing it, and my repeated attempts to access it, ultimately successful, but too late, is closely detailed in my Special Report to the SAHRC.

47. Mlambo JP's lie that I was 'shortlisted' for another interview²² is not just another factual slip: he talks about 'the second round of interviews' – 'interviews' *plural* – in relation to the Pietermaritzburg post, to imply that it wasn't only me who was to be re-interviewed for the post; one or more of the unsuccessful applicants for it were to be re-interviewed too.

48. Indeed, so utterly corrupt is Senior Litigator recruitment at LASA, thanks to Mlambo JP's corruption of it, that National Operations Executive Nair (LASA's 2IC) told the labour judge in his evidence in mid-2013 that Mlambo JP and his so-called second round interview panel are free to interview and appoint anyone they feel like, including a candidate rejected and eliminated by the selection panel.²³

49. The reason Mlambo JP tells this lie – that I was shortlisted, implicitly with others, for a second interview for the Pietermaritzburg post, after I was *solely* selected by the selection panel from among the shortlisted applicants for it – is to fudge the unwelcome fact to him that in my application for the post I was the lucky boy recommended for it, and very irksomely to him not his judicial chum Ngcamu.

50. In other words, Mlambo JP persists with repeating the foolish lie told me by CEO Vedalankar in October 2010 – even as she illegally and unconstitutionally refused my PAIA request for the selection panel's recommendation report²⁴ flatly

²² To be conducted by him and some management executives – illegally on multiple scores in contravention of LASA's Recruitment code and Approval Framework.

²³ Thereby clumsily giving the game away: they'd intended appointing Ngcamu, after I'd concluded from the long silence after my interview that I'd not been selected, and walked away (indeed I was clumsily asked in cross-examination why I hadn't done so), which is precisely why *Ngcamu wasn't also sent a letter telling him the recruitment had been cancelled, like the other candidates were, both successful and unsuccessful*. Only, I boggled the plan by persistently pursuing my appointment, after HRE Clark backhandedly confirmed in April 2010 that I'd been recommended.

²⁴ Under SAHRC pressure, it was released to me in January 2011, but heavily redacted with a black Koki marker pen to conceal two critically material facts, namely Mlambo JP's long-time judicial relationship with my rival applicant for the post, and the fact that he'd been disqualified and eliminated by the selection panel. The report showed I'd been selected and recommended for the post and no one else. (Bongani Mngadi, an internal candidate, was selected and recommended for the simultaneously advertised twin post at Durban.) After the failure of my ill-founded labour action I requested the full, unredacted recommendation report under PAIA. It was illegally refused, and as said, my application for an order to compel its surrender was resisted all the way to the point of argument, when at court LASA capitulated, and agreed to

refuting and exposing it²⁵ – that (per Vedalankar) I was ‘recommended together with other candidates’.

51. To sum up: I wasn’t ‘shortlisted’ by the selection panel for ‘the second round of interviews’ for the Pietermaritzburg post, as Mlambo JP dishonestly alleges to the Chief Justice; I was the only candidate recommended for the post. (Internal candidate Bongani Mngadi was recommended for the simultaneously advertised *Durban* post.) No other candidates were included on any shortlist. Quite the contrary, of the four of us, the two other shortlisted candidates interviewed for the Pietermaritzburg and Durban posts were both disqualified and eliminated.²⁶

52. Beyond the scope of these comments is Mlambo JP’s illegal procedural corruption of Senior Litigator recruitment at LASA, and his illegal intrusion into and interference with such operations as a *non-executive* director of LASA’s Board, in breach of LASA’s internal regulations – its Recruitment code and its Approval Framework,²⁷ which give him no power whatsoever to interview, vet and approve or overrule a selection panel’s recommendation as to the best candidate it has interviewed and identified for a vacant Senior Litigator post. These binding legal instruments make no provision for so-called second round interviews by him or by anyone else. To put it bluntly, Mlambo JP has no say in Senior Litigator recruitment at all. (Under his leadership of the continent’s biggest law firm, legal anarchy reigns.) Mlambo JP’s violation of the rule of law in this regard, as a judge sworn to uphold it, will be the subject of a separate, independent complaint, once I’ve forced out of LASA by court order the duly requested, formally promised records I need to complete it,²⁸ which it continues

hand it over – nearly five years after I’d originally asked for it. Furnished in April 2016 (page 75 of the bundle), it revealed Mlambo JP’s long judicial collegial relationship with Ngcamu AJ (as he used to be). Mlambo JP’s extraordinary, hitherto inexplicable misconduct detailed in my eight complaints suddenly made sense.

²⁵ Under SAHRC pressure, the recommendation report was released to me heavily redacted three months later in January 2011, and it showed that the recommended candidates for the Pietermaritzburg and Durban posts, for which we’d respectively applied, were me and Bongani Mngadi and no one else. The redacted report is at page 101 of the bundle.

²⁶ This is recorded in the full, unredacted recommendation report finally crow-barred out of LASA through legal action in April 2016: see page 75 of the bundle.

²⁷ See bundle, page 7, paragraphs 27–30, and page 20, paragraph 39.

²⁸ The illegally and unconstitutionally suppressed records are the subject of two pending PAIA applications, namely:

withholding in breach of its settlement agreement it made with me at the Eshowe Magistrate's Court on 11 February 2016 to hand them over, and generally in contempt of its constitutional information transparency obligations in our open democracy under section 32(1)(a) of the Constitution and section 11 of PAIA.

53. Contrary to Mlambo JP's false allegation here, not 'one of the complaints' I made to the JSC charge him with 'alleged involvement in the appointment of Mr Ngcamu'. First off, Ngcamu wasn't appointed as a Senior Litigator. Second, my eight complaints charge Mlambo JP with gross misconduct in relation to *the cover-up that followed the abortion of my appointment*, not with his 'alleged involvement in' it, after learning to his irritation that his judicial friend had been rejected by the selection panel, having assumed that as a former long-time acting judge he'd be a shoo-in, even though he lacked right of appearance in the High Court and had never litigated a case on his feet there, much less in Bloemfontein or Braamfontein.

Ad 8.2.

54. To the Chief Justice, Mlambo JP tells the lies that LASA 'subsequently abandoned the filling of the remaining vacant senior litigator posts due to budgetary constraints and Brink was informed of the decision.' Mlambo JP's identical lies told the Minister and the Portfolio Committee in his 'confidential' (secret, behind my back) reports 'Re: Advocate Anthony Brink' in March and June 2011 to pervert their enquiries – i.e. 'pressing financial constraints facing Legal Aid SA resulted in a decision being made not to proceed with the filling of vacant senior litigator posts. Adv Brink was subsequently informed of this

(a) my pending application in the Magistrate's Court to compel full and proper compliance with the settlement agreement – the latter long delayed by LASA's application to block it by applying to have me declared a vexatious litigant, and then by the Magistrates Commission's tardiness in responding to a PAIA request for records vouching the appointed magistrate's qualification under section 91A of PAIA to try the case, thrown into doubt by the SAHRC's section 84 report for 2015–17. (See request and response online at goo.gl/ak8MmL.) The case will be set down in the coming weeks. And,

(b) my application to the Pietermaritzburg High Court under case number 11187/16 – to be set down together with two subsequently brought PAIA applications in that court (14224/17 and 5239/18) for other records, once all the affidavits have been filed in the most recent case, launched in May 2018.

decision’ – are precisely the subject of my Eighth Complaint, in which I expose and refute them in light of LASA’s own records.²⁹

55. What further aggravates these lies that Mlambo JP told the Minister, the Portfolio Committee, and now the Chief Justice, is the deep cunning and criminally ingenious fraud involved in them, because there are grains of truth buried in each of them. Only, as the Jewish proverb goes: ‘A half-truth is whole lie.’

56. There are three deceitful half-truths in Mlambo JP’s whole lie that ‘Legal Aid SA subsequently abandoned the filling of the remaining vacant senior litigator posts due to budgetary constraints and Brink was informed of the decision.’ As discussed in fine detail in my Eighth Complaint:

57. ‘[T]he filling of the remaining vacant senior litigator posts’ was indeed ‘abandoned’ but not by ‘*Legal Aid SA*’ as Mlambo JP untruthfully alleges. Had *Legal Aid SA* taken such a decision, there’d be a record of it, but NOE Nair repeatedly confirmed on affidavit and again in the Labour Court there’s none, which means no decision to this effect was taken by any competent authority at LASA. So it wasn’t *Legal Aid SA* that ‘abandoned’ its substantially complete recruitments for the Pietermaritzburg, Durban and Mthatha Senior Litigator posts after three suitable candidates had been selected and recommended for each of the three posts, after all the advertising and interviewing, all the time and money spent on the recruitments; and it wasn’t *Legal Aid SA* that decided to permanently freeze ‘the filling of the remaining vacant senior litigator posts’, all budgeted by LASA and funded via the Department by the Treasury. The substantially complete recruitments were aborted off the record, irregularly and unlawfully *by unauthorised person(s)*, and in an unapproved unlawful deviation from LASA’s Strategic Plan 2009–12, presented both to the Minister and the Portfolio Committee. And in illegal contravention of the Public Finance Management Act, as I complained, and as the Constitutional Court confirmed earlier this year in *Zungu v Premier of the Province of KwaZulu-Natal* and

²⁹ Bundle, pages 198–228, paragraphs 42–150.

Others [2018] ZACC 1 (22 January 2018), observing in paragraphs 8 and 9 of its judgment that to allow a budgeted, funded post to be 'left vacant' constitutes a 'breach of the provisions of the Public Finance Management Act (PFMA) which preclude ... leaving the position ... vacant.' Exactly as I've been saying.

58. As for the 'budgetary constraints' alleged by Mlambo JP, LASA did indeed experience some *transient financial uncertainty* in regard to when it would receive from the Department its *extra budget* for staff salary increases under the OSD scheme for legal professionals in the public service, which was promised and paid to LASA during the year, like the year before. But LASA's own records show this uncertainty had zero bearing on Senior Litigator recruitment, and it didn't even warrant a passing mention in LASA's annual report. As discussed in my Eighth Complaint, NOE Nair later told the Board totally different stories (also lies, exposed by PAIA requests testing and refuting them) regarding why LASA's remaining three Senior Litigator posts hadn't been filled.³⁰

59. Mlambo JP's allegation that 'Brink was informed of the decision' (taken off the record, by unauthorised persons, irregularly and unlawfully) is true on its face but false in substance, which is to say it's another lie Mlambo JP has told the Chief Justice. In truth and in fact, as emerged from a blundering question put to me at the trial of my labour claim, discussed at page 197, paragraph 41.7 of the bundle, I was deliberately kept *uninformed*, hoping I'd conclude from the deliberate silence that I'd been unsuccessful at the interviews and walk away. It was only in August 2010, *more than eight silent months after my successful interview* in November 2009, and only when I pressed CEO Vedalankar in July 2010 to see to the finalisation of my appointment, that I was now told that 'we' had decided not to finalise the Senior Litigator recruitments, no reasons given me. After I filed a searching PAIA request in August 2010³¹ to investigate this

³⁰ The November 2011 Board meeting, chaired by Mlambo JP according to the minute, merely 'noted' Nair's radically different lies from the lies he, Mlambo JP, had told the Minister and the Portfolio Committee in the lying report to them that Nair had drafted for him a few months earlier (see further below). According to the minute, Mlambo JP didn't ask Nair, Why have you changed our story? Why are you coming along with all these different stories now? Is it because Brink has blown our financial one? (Nair's November 2011 Report to Board containing his new lies was leaked to me by a sympathetic insider.)

³¹ Mlambo JP mentions it in his paragraph 8.3.

story, and called in the SAHRC's PAIA Unit for support when it was ignored, I was then fed the financial excuse by Vedalankar as she now refused my entire request expressly.³²

Ad 8.3.

60. This is correct. As said, my first PAIA request was initially ignored before being expressly refused in October 2010 and again, for completely different reasons, in January 2011.³³

Ad 8.4.

61. Both of Mlambo JP's sentences in this paragraph are dishonestly misleading:

62. He omits to mention that my request was initially illegally ignored, a deemed refusal under section 27 and that I had to call in the SAHRC to assist me under its section 83(3)(c) powers. And that it was then expressly refused in toto, right after Chief Legal Executive Patrick Hundermark had given the director of the SAHRC's PAIA Unit his assurance that my request would be duly responded to.

63. In my first petition to Mlambo JP and the Board in November 2010, I showed incontrovertibly that the refusal of my request was illegal and unconstitutional, being based on grounds advanced that were not contemplated and permitted by PAIA (later abandoned, see below), and, a whole lot worse, were justified by a faked dictum claimed to be quoted from a reported judgment, inverting what the judge actually said – which squarely supported my claim to sight of the records I was requesting.

64. Being insupportable, the reasons advanced in October 2000 for refusing my first PAIA request were later dropped and replaced with others when I called for the SAHRC's intervention a second time – the second, substituted reasons also eventually abandoned, after protracted dilatory resistance, as I pursued the illegally suppressed documents determinedly through round after round of document discovery procedure in the Labour Court.

³² Mlambo JP mentions it in his paragraph 8.4.

³³ What few records were given me in January 2011 were not to comply with my request but 'To demonstrate' Vedalankar's several contentions, mostly false.

65. At all times, Mlambo JP has fully appreciated from the information I placed before him in my repeated petitions for his intervention that Vedalankar's total refusal of my first PAIA request was illegal, unconstitutional and indefensible. Yet he dishonestly implies to the Chief Justice that the refusal was just fine.

Ad 8.5.

66. The dishonesty of Mlambo JP's ostensibly neutral matter-of-fact statement here is manifold.

67. *First*, as described in my Second Complaint, Mlambo JP's letter dismissing my complaints about Vedalankar's total, illegal and unconstitutional refusal of my first PAIA request and the manifestly irregular abortion of my appointment under a transparently false financial excuse – my complaints on both scores made out in fine detail, and presenting the clear evidence supporting them – was, it's common cause, prepared on Vedalankar's own office computer. This proves that Mlambo JP conspired with the very subject of my complaint to forge a response to it, and to email it to him, for him to email to me a fortnight later.³⁴

68. *Second*, Mlambo JP doesn't mention that he corruptly dismissed my 59-page petition in two sentences, claiming untruthfully that he'd considered my complaints to him and found them meritless, while in truth well appreciating that both my extensively stated complaints were sound, for all the reasons reiterated in my Second and Eighth Complaints.

69. *Third*, Mlambo JP falsely implies that his response to my complaints, closely detailed and supported in my petition, was in order, and that he rightly rejected them. But neither the Minister nor the chairperson of the Portfolio Committee thought so, because when I repeated them in my *third* petition to Mlambo JP and the Board in February 2011, and copied it to those highest authorities, they were so concerned that they separately and independently called on Mlambo JP to please explain. (His perversion of their enquiries with lies is the subject of my Sixth, Seventh and Eighth Complaints.) That my first three PAIA requests in 2010 and 2011 were illegally and unconstitutionally refused is not a matter of

³⁴ This is the subject of my Second Complaint.

any intelligent dispute. Indeed, at a special remedial training workshop on PAIA held for them at my instance by the SAHRC in November 2011, LASA's head office lawyers repeatedly admitted that as far as applying PAIA went, they'd no idea what they were doing. It's because the suppression of the records I'd requested under PAIA was indefensible that they were later surrendered under unremitting legal pressure.

70. *Fourth*, Mlambo JP knew full well that my appointment to the Pietermaritzburg Senior Litigator post hadn't been aborted for any financial reason, and that the Board had never approved such an alleged major decision – which is why, it's common cause, there's no record of any such decision and approval of such major deviation from LASA's Strategic- and Business Plans, as would have been required by the Approval Framework. LASA's Senior Litigator posts, both filled and vacant have at all material times been budgeted and funded, and Mlambo JP is full well aware of this.

Ad 8.6.

71. This is right, only I was barking up the wrong tree completely. The abortion of my appointment turned out much later to have had nothing to do with any specific antipathy towards me, as I'd wrongly apprehended and pleaded, just with preference in Johannesburg for my rival.

Ad 8.7.

72. Indeed I brought an application for leave to subpoena Mlambo JP, but contrary to his false claim here, I never withdrew it '[j]ust before the hearing of the matter' or at any other time. I didn't pursue it for the reason stated in my First Complaint, and quietly dropped it.

Ad 8.8.

73. In truth and in fact, contrary to Mlambo JP's false claim about this, my 'statement of claim before court', on which I went to trial, was my amended statement of claim, and (a) it didn't mention Mlambo JP at all, or (b) raise as

issues for decision by the labour judge any of my 'complaints forming part of the current enquiry.'

74. Considered in light of their extraordinarily serious misconduct, none of my original statement of claim comprised 'defamatory statements against [Mlambo JP] and the CEO of Legal Aid SA.' They certainly lied about the reason my recruitment was aborted, as I pleaded – but not to cover unfair discrimination; rather to cover everyday recruitment corruption in the form of cronyism. The plan went awry when I began knocking, and then pounding on the door.

Ad 8.8.1.

75. That's indeed what I very wrongly surmised and pleaded, deliberately kept ignorant of *the KEY material fact* of Mlambo JP's long judicial relationship with my rival applicant for the post, Ngcamu, his repeated appointee as an acting judge of the Labour Court. As I've described, this hotly relevant information was illegally concealed from me with a Koki pen until years after the trial, when I finally forced it to the surface by suing for the full, uncensored recommendation report submitted by the selection panel that interviewed us.

Ad 8.8.2.

76. The justification eventually fed me, eight months after my successful interview, in response to my PAIA request for all material documents, even as they were all illegally and unconstitutionally refused, was that LASA's 'baseline budget' had been unexpectedly cut 'due to the recession', and that LASA had accordingly aborted its recruitments of Senior Litigators for its Pietermaritzburg, Durban and Mthatha posts for this reason: a nice tight cover-story. Mlambo JP repeated this lie to the Minister and to the Portfolio Committee,³⁵ and he does so again to the Chief Justice in his response. In truth and in fact, LASA's nine Senior Litigator posts, six filled and three vacant, have always been and remain budgeted and funded posts. There was no reduction of LASA's baseline budget in 2010/11; to the contrary, it increased substantially

³⁵ See Eighth Complaint.

over the previous year. LASA even enjoyed a substantial budget surplus that year, and the next. I deal with all this in my Eighth Complaint.

77. The ‘financial justification’ for the abortion of my appointment was indeed ‘fake’, as even a child can see from LASA’s own records.

Ad 8.8.3.

78. He sure did, and I prove it in my Sixth to Eighth Complaints.

Ad 8.9.

79. In truth and in fact, *it was right at the outset of the hearing* before evidence, even before my opening address. During the hearing of LASA’s frantic, failed application to quash my subpoenas of its CEO, NOE and HRE – whom I dragged very unwillingly into court for cross-examination, under oath on penalty of being jailed for perjury, on all the lies they’d told me, along with a Board member who, informed about them, had just sat on his hands – I told the judge I held Mlambo JP and Vedalankar clear in the case; and I indeed, as Mlambo JP states, I repeated this under cross-examination by LASA’s counsel.

80. Part 2 of the Endnote to my Sixth Complaint (pages 128–9 of the bundle) explains fully and precisely what led me to make this mistake, and describes two stunning discoveries I made on the eve of trial that caused me to turn my legal guns away from them. It further explains what led me to change my mind again within a week or so (seeing Nair performing so feebly in the witness stand) and revert to indicting Mlambo JP’s misconduct in the matter in my petition for leave to appeal.

81. By failing to mention my change of mind again, Mlambo JP creates the false impression that I long ago dropped my empty charges against him and then vexatiously revived them many years later by spuriously complaining about him to the JSC. And that my charges are unworthy of serious consideration accordingly.

Ad 8.10.

82. This is mix of true and false. At the hearing I indeed 'withdrew' my *originally pleaded* allegations against Mlambo JP – but *for the purpose of the action*. The trial record shows that right from the start the case, and throughout it, the expression I consistently used in relation to Mlambo JP was 'hold clear'; 'I hold him clear'. That is, I was no longer pressing for a finding against him.

83. Even before my amazing discoveries on the eve of trial that misled me to think Nair and not Mlambo JP was my real opponent in blocking my appointment, my amended particulars of claim, drawn by a silk friend of mine, pleaded the barest *facta probabanda*, without mentioning Mlambo JP at all. So my change of course, my change of strategy, caused by my unsettling discoveries, didn't require further amendment of my stated claim for trial.

84. It's like this: Trial lawyers understand that a litigant's objective is to win his case. To achieve this, the honest litigant need not prove all the true facts on all the available evidence – only enough to tip the balance of probabilities.

85. Indeed, to go beyond what's necessary may be counter-productive. In his chambers, the trial judge revealed he was sharp to this elementary principle of trial strategy when he warned me ominously – after I'd presented the essential history of the case comprising the core facts enumerated in my Timeline, and mentioned that I had a whole lot more evidence still to give – 'Don't make the mistake of throwing your net so far out that you catch more than you can bring in' (his exact words), by which I understood him to mean what he'd unequivocally implied: Lead enough evidence to win and stop there; don't go after fish too big to land, or you'll capsize your boat and lose.

86. The principle is well illustrated by a war crimes trial held by the victor, charging an officer from the defeated enemy with participation in a sensational atrocity alleged to have been committed during a total war. The officer's interest is keeping his neck intact, not to establish all the true facts for the history books, such as that the atrocity charged is sheer war propaganda and nothing more. To outrageously dispute the fact of the atrocity, treated by the tribunal as an

indisputable given, and the very basis of the trial, is to inflame the tribunal and guarantee a conviction. So the officer doesn't plead all the true facts within his knowledge. He just pleads enough to get off, that he wasn't there, that he was occupied with something else, or similar. Albert Speer's success at Nuremberg is the best known of this kind of *pragmatic limited defence*. Conversely, at trial, upon a last-minute reassessment of the lie of the land, I engaged in a *pragmatic limited offensive*.

87. My discovery a fortnight before trial (from its PDF 'Author' properties) that NOE Nair had ghost-written Mlambo JP's 'Confidential Report Re Adv Anthony Brink' to the Minister and to the chairperson of the Portfolio Committee hit me like a wrecking-ball, and caused me to lower my sights from Mlambo JP to Nair. I detail this in my Third and Fourth Complaints.

88. At that stage, the fact of Mlambo JP's long judicial relationship with my rival for the post was unknown to me, because LASA had assiduously concealed it. In my JSC complaints, and above, I've detail how LASA hid this pivotal information from me between 2010 and 2016.³⁶

89. My next discovery just before trial – from his parvenu broken syntax in habitually commencing his written (and at trial spoken) sentences with, 'Noting that, [etc]' (which characteristic clumsy tic he admitted and owned at trial) – was that Nair had ghost-written Vedalankar's first letter to me, advancing the unbelievably stupid lying budgetary insufficiency excuse for cancelling my recruitment to the top post, among other obvious lies.

90. These new discoveries, that Nair was doing the lying writing – of Vedalankar's letter, of Mlambo JP's secret report – led me to conclude that he was my principal enemy at LASA responsible for knifing me behind the scenes, so I decided to turn my guns on him, and told the judge so at the very start.

91. This didn't change the documented facts of Mlambo JP's impeachable misconduct – charged, with supporting documents, in my several complaints to the JSC. But I estimated, on the evidence suddenly to hand of Nair's lying

³⁶ See footnote 24.

ghost-writing of the major documents that it was no longer necessary to pitch my case for trial at Mlambo JP and ask the court to find against him. I reckoned this shift of focus made it easier on the trial judge, and therefore easier for me to carry my case. It didn't in the result, because I still lost – and correctly so, I now accept, in that the reason my appointment was blocked had nothing to do with unfair discrimination against me, as pleaded and contended at trial and on petition, and everything to do with Mlambo JP wanting his former judicial brother in the post instead of me.³⁷

Ad 8.11.

92. Correct, and although the judge made a multitude of basic reversible errors,³⁸ he was quite right in the practical result to dismiss my unfair discrimination claim, because, as I discovered years after the case through further litigation against LASA under section 78 of PAIA, the reason my appointment was aborted had nothing to do with unfair discrimination. In plain terms, it's not that in Johannesburg they disliked me in particular; they just wanted the other guy in.

Ad 8.12.

93. I stand by every word of my petition – except to the extent that I still believed, when I delivered it, that I'd been the victim of unfair discrimination. Having succeeded long after the trial and judgment in forcing out of LASA the selection panel's full uncensored recommendation report revealing Mlambo JP's connection with my rival for the post, I'm satisfied that the abortion of my appointment had nothing to do with unfair discrimination, and that, calamitously misled by the unconstitutional, indeed criminal,³⁹ suppression of

³⁷ In my answering affidavit in Pietermaritzburg High Court case 12124/16, namely LASA's failed application to kick me out of court as an alleged vexatious litigant, I describe Mlambo JP's history of irregular job fixing, above and beyond his total disregard for LASA's governing instruments regulating recruitment at LASA: its Recruitment code and Approval Framework.

³⁸ These mistakes are identified in my lengthy application for leave to appeal comprising 323 paragraphs, the most important of which mistakes are reiterated in my 50-paragraph petition for leave to appeal, which the Labour Court rules specifically required be much shorter.

³⁹ Section 90(1)(a) of PAIA proscribes the alteration of a record to deny a right to information, and renders it a criminal offence.

the just-mentioned information, my cause of action at trial and on appeal was completely wrong.

94. Labour Appeal Court Judge President Waglay found nothing objectionable about my petition, or he'd have stung me with costs. He made no such order.

95. As regards my 'vitriolic attitude and cumulative conduct', I'm locked in mortal combat with a profoundly corrupt public entity, so I make no apologies for having an 'attitude' towards its officers and taking them to task in uncompromising terms: In my experience, plain and direct speech works best when exposing humbug and dishonesty; fancy, elliptical lawyer-talk is usually calculated to obscure it.

96. As described in my First Complaint against Mlambo JP and in my complaint against Waglay JP, my petition for leave to appeal failed because it was perverted through improper influence, the real evidence of which I put up with both complaints. So it's useless for Mlambo JP to trumpet that my petition failed. We both know it did, and we both know why it did.

Ad 8.13.

97. It was a semi-urgent application, derailed by unanticipated difficulty achieving service of the papers. The principal complaint I made in it, namely that Waglay JP had summarily and prematurely dismissed my petition on account of improper influence exercised on him, is charged in my separate complaint to the JSC against him.⁴⁰

Ad 8.14.

98. Sure I don't have a spare million and half⁴¹ to pay LASA costs (in both cases mistakenly awarded),⁴² but this hardly bears on the merits of my gross

⁴⁰ Depending on the outcome, more complaints against Waglay JP may follow.

⁴¹ LASA hasn't taxed its bill for my interdict case, so the 'total amount' that Mlambo JP claims I'm 'indebted to' LASA for is wrong. It's not all 'taxed costs' that he states.

⁴² So the Constitutional Court pointed out as a matter of general principle in regard to my labour claim in paragraphs 23 and 24 of its judgment in *Zungu* cited above: 'The correct approach in labour matters in terms of the LRA is that the losing party is not as a norm ordered to pay the successful party's costs. ... The rule of practice that costs follow the result does not apply in

misconduct complaints against Mlambo JP. In stating this irrelevant fact in his response to my complaints, his purpose seems to be to discredit them by discrediting me as a bum not worth an audience.

Ad 8.15

99. Indeed I intend reagitating my claim to my appointment to the still vacant, still budgeted, still funded post, and the Pietermaritzburg High Court sees no legal impediment to my doing so:

100. At the hearing on 27 October 2017 of LASA's failed application to knock me down as a vexatious litigant, Vahed J reiterated to LASA's counsel with implicit approval my intention stated in paragraph 92 of my answering affidavit to apply to the Labour Court for (a) rescission of its judgment dismissing my unfair discrimination claim, on the ground that it was fraudulently misdirected by the 'pack of lies' Nair told it (Vahed J's own description of Nair's patently obvious perjuries, demonstrated with supporting records in my said answering affidavit), and (b) the substitution of its dismissal order with one of absolution from the instance, so that I might press my claim to my appointment to the post for which I was recommended, on fresh pleadings, having regard inter alia to pivotal documentary evidence as to the true reason my recruitment was quietly cancelled off the record – sedulously suppressed and concealed from me before trial, and surfaced under legal pressure nearly three years later: the full uncensored recommendation report disclosing Mlambo JP's long judicial relationship with my rival applicant for the post.

101. Mlambo JP's allegations that I 'now seek.. to abuse the PAIA Act [sic], Court processes and even the JSC complaint mechanism in my misguided pursuit to this end' (my pursuit of my appointment) have already been considered by the Pietermaritzburg High Court and found to be a load of

Labour Court matters.' And so Vahed J pointed out to LASA's counsel at the hearing of its failed application to have me declared me a vexatious litigant. Seeing as the merits of my application to interdict the taxation of LASA's bill of cost in my labour case weren't treated, and my application wasn't entertained only for want of urgency in the judge's opinion, it should have been struck from the roll, Vahed J observed, not dismissed, and without an order for costs being sought and made against me.

rubbish. Unlike Mlambo JP, Vahed J doesn't think my announced intention to return to the Labour Court is 'misguided' at all. Knowing civil procedure, he well understands our ancient settled law that fraud on a court and newly uncovered documents can found an application for rescission of a judgment made after the trial of an action.

102. In view of LASA's gloating in its replying affidavit in its just-mentioned vexatious application that the Bar had resolved to apply for my strike-off as an advocate (the first I heard of it), I put up a supplementary affidavit, annexing (a) the record of the Bar's reversal of its decision, and (b) copies of my eight complaints against Mlambo JP to the JSC as my complete answer to LASA's charge that I'd unprofessionally impugned his integrity as a judge. LASA formally applied to have my supplementary affidavit struck out, and it failed.

103. After spending a full week, Vahed J said, reading all the papers (mine were exceptionally long and finely detailed), he didn't come to the conclusion that my apprising him of all the unpleasant material facts was an 'abuse ... of Court processes'. He didn't suggest I'd abused 'the JSC complaint mechanism' in filing eight gross misconduct complaints against Mlambo JP with the JSC, and in placing them before him to illustrate the scale and the level of the corruption at LASA that I'm up against.

104. My repeated use of PAIA to access public records (section 18) and to apply to court to compel their surrender when illegally and unconstitutionally refused (section 78), and my announced intention to return to the Labour Court for my appointment to the post in question, were central to LASA's case to bar my way as a vexatious litigant.

105. During his debate of the case with LASA's counsel, however, and before dismissing LASA's case, Vahed J pertinently considered (a) the legal propriety of my repeated use of PAIA to access records and my repeated resort to court to compel access to them, and (b) my intention to return to the Labour Court in pursuit of my appointment.

106. Vahed J didn't think my repeated use of PAIA to access LASA's records, and my repeated necessary applications to court to compel them, was an 'abuse' of 'PAIA' and 'Court processes', nor that my intention to return to the Labour Court to claim my appointment was an 'abuse' of 'Court processes', as LASA had claimed in as many words in its vexatious application, and as Mlambo JP persists in claiming in his response, in those exact words, contradicting Vahed J's considered judgment in the matter.

107. Vahed J well understands that (a) my reliance on PAIA as my basic tool to expose the full extent of the corruption at LASA that I'm onto, and (b) my intention to apply for rescission of judgment in my labour case and leave to prosecute my claim to the post I was picked for on fresh pleadings and with new evidence, is legally sound.

Ad 9.

108. Mlambo JP protests too much. His opening denial of involvement in recruitment corruption is a red herring, but revealing. None of my eight complaints specifically charge him with recruitment corruption, as is clear from a glance at his own 'SUMMARY' OF THE COMPLAINTS' in his paragraph 6. Mentioned in paragraph 12 of my Eighth Complaint (page 184 of the bundle), however, his direct involvement in procedural and ethical recruitment corruption will be specifically charged in future, separate complaints – which, as I also mention, are being held up by LASA's persistent ongoing illegal and unconstitutional suppression of records needed for the complaints, duly requested under PAIA, and formally promised me in a settlement of five court applications I brought to disgorge them, but still being determinedly withheld from me. Litigation to compel LASA to hand them over is pending.

109. Mlambo JP's second red herring, served with a plethora of irrelevant detail contrived to obfuscate and distract, is his claim to have been 'advised by officials of Legal Aid SA [that] when the recruitment process commenced for the filling of the Senior Litigator positions in Pietermaritzburg and Durban, Mr Ngcamu was not in the employ of Legal Aid.' So what? We both know this perfectly well, and

I've never suggested otherwise. The selection panel's recommendation report records that, like me, Ngcamu was an external candidate. This is noise contrived to confound and misdirect the Committee.

110. A third red herring is Mlambo JP's statement that 'the Senior Litigator [recruitment] process began long before Mr Ngcamu joined Legal Aid SA'. So what? We both know this perfectly well. This is more noise to the same rotten end.

111. His fourth red herring is his statement that 'the process of recruitment [to fill LASA's long vacant, thrice advertised Senior Litigator posts at Pietermaritzburg and Durban] was stalled before he joined the organisation' – by being appointed to a succession of other posts.⁴³ So what? We both know this, and it has zero bearing on my complaints, all of which concern his gross misconduct *after* 'the process of recruitment was stalled' illegally, off the record, without any decision duly taken by any authorized person(s), and in contravention of the PFMA, as the Constitutional Court pointed out in *Zungu*.

112. It's disingenuous of Mlambo JP to state that 'Mr Ngcamu' – his former brother in the Labour Court, repeatedly favoured with acting appointments by him over about six years – 'was apparently interviewed' for the KwaZulu-Natal Senior Litigator posts, pretending not to know this for a hard fact, and trying to scuttle away from it, only to give his game away and betray his full knowledge of it in his concluding sentence: 'Furthermore, Mr Ngcamu was not even recommended for the second round of interviews during the Provincial selection process' (treated below). Mlambo JP knows full well that his former brother on the labour bench applied, was interviewed, and was bounced by the selection panel.

113. Mlambo JP's fifth red herring is his irrelevant, anxious disclaimer: 'I did not form part of [the selection] panel.' Again, so what? We both know this, and I've never suggested otherwise. This is yet more distracting and misleading noise.

⁴³ Per Mlambo JP's paragraph 9.

114. He concludes with a sixth red herring, as if he's again refuting a false claim, implication or assumption: 'Furthermore, Mr Ngcamu was not even recommended for the second round of interviews during the Provincial selection process.' Yet again, so what? We both know this perfectly well, and I've never suggested otherwise. (Under the Recruitment code there's no such thing as a Provincial selection panel; this is Mlambo JP's invention.) Here though, Mlambo JP contradicts the blatant lie that CEO Vedalankar told me on 18 October 2010: 'You were recommended together with other candidates.' (Except he implied the same in lying that I was shortlisted for the second round interviews for the Pietermaritzburg post.) The truth of it is I wasn't, as the selection panel's recommendation report clearly records; I was recommended for the post alone, and nobody else. (Mngadi was recommended for a different post.) So I saw from the heavily censored report given me on 28 January 2011, after calling in the PAIA Unit of the SAHRC for the second time following Vedalankar's strangely furtive mute then express refusals in September and October 2010 to let me see it.

115. Mlambo JP's very correct statement that Ngcamu wasn't recommended is true on its face, but deceptive and misleading in light of the unstated corrupt factual context. To Mlambo JP and the national management executives on his so-called second round interview panel, the fact that Ngcamu was rejected didn't matter a bit. Without joking, without blinking, and apparently without feeling moronic saying this, NOE Nair told the labour judge that Mlambo JP and his so-called second round interview panel were free to re-interview any of the originally shortlisted applicants they liked, and weren't limited to interviewing and vetting the recommended candidate; they were free to interview and consider a rejected candidate for appointment.⁴⁴

⁴⁴ Indeed, according to information given me by the chairperson of the selection panel that interviewed applicants for the Senior Litigator post at Mahikeng, a rejected candidate wound up being appointed, and not the candidate that he and his selection panel recommended. Duly requested under PAIA, LASA is determinedly illegally suppressing the selection panel's recommendation for the post, claiming under section 45 of PAIA that my request for it is a waste of its time. I've sued for it out of the Pietermaritzburg High Court, and the opposed but unanswered application is pending, and will be set down imminently together with two subsequently launched PAIA applications, once all the papers are in. In contempt for the

116. Such is the extent of the lawless corruption of Senior Litigator recruitment at LASA, illegally controlled by Mlambo JP, ultra vires, and without any authority vested in him by LASA's relevant regulatory instruments: its Recruitment code and Approval Framework.

117. To sum up: Mlambo JP begins by pleading not guilty to a count not yet charged: the original sin, the illegal, unauthorised, unrecorded, silent backroom abortion of my appointment to the top job for which I was duly selected and recommended; and in pleading his defence to it he over-eggs his pudding. All my complaints concern *the cover-up after the abortion of my appointment*, not the abortion itself, which cover-up by him entailed his collusion in and conniving at Vedalankar's refusals to comply with my PAIA requests probing it, telling me patent lie after lie in her letters justifying this; and his lies to the Minister, to the Portfolio Committee, and to the Labour Court about me and my complaints.

Ad 10.

118. Speaking to my First Complaint of subornation of perjury, supported by material excerpts of the affidavit containing it, Mlambo JP doesn't deal with the particulars of my complaint. He doesn't dispute that the affidavit I put up was made and filed on his behalf and on his instructions as alleged in it. He doesn't suggest that unbeknown to him his attorney just went off and made up the colourful story the affidavit tells: that I travelled across the country to remonstrate with him at his chambers about my case and that he was unimpressed by this. He just leaves it all in the air.

119. As said, it's untrue that I 'withdrew the subpoena against' him, because none had been issued so there wasn't any to withdraw. After he ignored my request for leave to subpoena him, and I then brought my application for leave to do so, I didn't pursue it for the reason stated in my First Complaint.

Constitution and the law on public information transparency in our open democracy, these rogues, advised by CLE Hundermark, are determinedly concealing the documentary evidence of this endemic recruitment corruption at LASA.

120. Why I decided to hold Mlambo JP clear at the trial of my labour case is explained above. As said, the phrase I used repeatedly was ‘hold clear’, which any lawyer knows has a different meaning from ‘exonerate’, which was LASA’s counsel’s and now Mlambo JP’s word, not mine.

121. In his letter to the Chief Justice, denying my charges, Mlambo JP brazenly persists with his major lie – radically contradicted by NOE Nair’s very different lies told to the Board – that ‘the reason for not proceeding with the second round of interviews was budget related’. After I refuted it in 2011, Nair changed the story, abandoned this financial lie, and replaced it with new, different lies to account for the abortion of my appointment, namely ‘recruitment challenges’ and doubtful professional performance by LASA’s six incumbent Senior Litigators, on account of which they were to be urgently audited by a special panel led by ‘possibly a retired judge’ (all pure invention). How the original financial lie, revived and pleaded for trial, was told to the labour judge along with the new, different lies – as if the more contradictory lies told in court the merrier – is thoroughly treated in my Eighth Complaint.

122. Mlambo JP doesn’t repeat to the Chief Justice the first part of his lying excuse for not proceeding with the recruitment process, which he told the Minister and the Portfolio Committee, namely difficulty encountered in coordinating a date on which he and various management executives would all be available to interview me again. And the reason he doesn’t repeat to the Chief Justice this blatant lie told to mislead the Minister, this criminal lie he told to mislead the Portfolio Committee, is that the lie was twice retracted on affidavit as ‘an error’, ‘palpably an error’, after I exposed and refuted it before trial. (I deal with this in my Eighth Complaint.)

123. By stating to the Chief Justice, ‘the report to the Justice Portfolio Committee confirmed that the reason for not proceeding with the second round of interviews was budget related which I still maintain’, Mlambo JP compounds his criminal lie⁴⁵ to the Portfolio Committee infinitely.

⁴⁵ It’s comprehensively treated and refuted in my Eighth Complaint.

Ad 11.

124. Indeed, 'The report to the Minister also explains the reasons why the second round of interviews was not proceeded with which related to budgetary constraints.' I've already dealt with Mlambo JP's lie to the Minister, also to the Portfolio Committee, and repeated to the Chief Justice, that my appointment was aborted for on account of 'budgetary constraints.'

125. Mlambo JP repeats to the Chief Justice his lie to the Minister⁴⁶ that 'there is nothing illegal and unconstitutional in all the refusals to records in accordance with PAIA.' In light of the facts set out and vouched in my Second to Fifth Complaints, the statement is absurd, and cannot have been made in good faith by anyone with a smidgeon of legal knowledge, let alone by a senior judge. It follows that this assertion by Mlambo JP is a lie.

126. To the extent that Mlambo JP is also referring to my PAIA requests made after 2013 (my Second to Sixth Complaints concern my PAIA requests made in 2010–11 only), LASA consistently refused them on the grounds that they were a waste of its time (section 45) because related to my labour claim (section 7). When I sued in the Magistrate's Court⁴⁷ to compel compliance with the requests, LASA opposed me all the way to court. Just as I was about to move my applications, however, LASA dropped these stories and agreed to comply with my requests at last, after years of delay, implicitly conceding that my requests weren't 'frivolous and vexatious' and unreasonably time-consuming to respond to, as previously falsely alleged – or this would have been argued. As for section 7, it doesn't even afford a ground for refusing a request, not being among the 'Grounds for Refusal of Access to Records' allowed by sections 34 and 45. Yet both these section 7 and 45 justifications have been revived to block my access to further records I've requested in my corruption investigation, requiring that I

⁴⁶ It was criminally repeated, with amplification, to the Portfolio Committee.

⁴⁷ As provided by the definition of 'court' in section 1 of PAIA.

bring three High Court applications to compel compliance with my requests for them.⁴⁸

127. Seeing as when push came to shove in the Magistrate's Court LASA timorously abandoned⁴⁹ its waste-of-time and relating-to-litigation excuses for denying me access to its duly requested records, rather than arguing it, its same excuses for blocking my access to subsequently requested records (sought for the serious purposes stated in every case) can hardly be 'in accordance with PAIA', and the Judge President of the Gauteng High Court's claim to the Chief Justice, 'I submit that there is nothing illegal and unconstitutional in all the refusals to records' (sic), is dumbfounding and reflects his gross dishonesty or gross judicial incompetence or both.

128. Mlambo JP's statement to the Chief Justice, 'According to the information at my disposal, all the records requested by Brink and as far as legally permissible by the Act, were duly provided to him', is an outright lie. In truth and in fact, from 'the information at [his] disposal' contained in my three petitions addressed to him and the Board, in which I implored his and the Board's intervention, but which he dismissed and finally ignored in the scandalous manner described in my Second to Fifth Complaints, he well appreciated that Vedalankar⁵⁰ had repeatedly blatantly illegally and unconstitutionally refused my requests, even forging and uttering a fake dictum from a reported judgment claimed to support her refusal – with the first set of spurious justifications for suppressing the records I'd requested abandoned and replaced by other obviously spurious ones, themselves later abandoned under unrelenting discovery pressure in the run-up to trial of my labour claim.

129. I wasn't writing about this to a shunter on the railways, I was writing to a senior judge with at least a slightly better than lay understanding of constitutional information law in our open democracy after the secretive,

⁴⁸ Immediately after filing these comments, I'll be replying to LASA's just-delivered answering affidavit in my most recent application, and then applying forthwith for date on the opposed roll to argue the three cases together.

⁴⁹ On CLE Hundermark's telephoned instructions.

⁵⁰ On CLE Hundermark's advice.

fundamentally corrupt apartheid administration, and therefore, one must assume, readily able to comprehend what I was telling him and appreciate the enormity of the constitutional violations I was reporting to him in my repeated petitions.

130. The simple truth of it is that Mlambo JP didn't want me nosing about with PAIA, investigating the illegal abortion of my appointment and the true reason for it, and this is why – as detailed and vouched in my Second to Fifth Complaints – he went along with Vedalankar's illegal and unconstitutional obstruction of my access to the records I'd duly requested, to which records he appreciated full well as a senior judge I was constitutionally entitled. And this is why he tersely then rudely rebuked my first two petitions to him and ignored my third.

131. It's correct that I currently have 'various applications ... subject to determination by the Courts', but these have nothing whatsoever to do with my eight complaints to the JSC, most of which concern Mlambo JP's collusion in and connivance at Vedalankar's and then Nair's manifestly illegal and unconstitutional refusals of my first three PAIA requests in August and December 2010 and March 2011, and his lying reports to the Minister and the Portfolio Committee to pervert the enquiries they instituted into this.

132. None of my complaints against Mlambo JP to the JSC concern the consistent blanket refusals of my several PAIA requests made years later, after the trial of my labour claim in mid-2013 – nearly all refused on the basis alleged under section 45 that they were an obvious waste of LASA's time – and none of my complaints concern my indeed pending several applications to compel compliance with them.

133. Due to his documented collusion in, connivance at, and false reporting about the illegal and unconstitutional refusals of my first three PAIA requests in 2010–11, I didn't waste my time appealing for LASA Board chairperson Mlambo JP's intervention in the continuing illegal and unconstitutional refusals of my PAIA requests made after the trial of my labour claim in 2013 and

thereafter. (He would have told me to get lost again.) So I've no evidence that he supported the latter refusals and I'm not complaining to the JSC that he did. Even though it's plain from his paragraph 11 that he supports these more recent illegal and unconstitutional refusals of my requests on the basis that they're just a waste of time, despite my serious purposes in making my requests stated every time.

Ad 12.

134. Mlambo JP's opening counter-charge in his 'CONCLUSION', to discredit me and thereby my complaints, that I'm 'susceptible to make allegations without factual substantiation' is contradicted and exposed as a flagrant lie by the minutely detailed 'factual substantiation' and supporting documents I provide for my 'allegations' contained in my eight complaints against him.

135. His charge that I do 'not spare anyone holding a different view to [mine], as can be demonstrated with my attacks on [him], later Cele J and thereafter with Waglay JP as well as various senior officials of Legal Aid SA' is irrelevant noise. The merits of my separate complaints about all their particular misconduct – not their 'views'⁵¹ – is irrelevant to a determination of the particular gross misconduct charges that I've levelled at Mlambo JP before the JSC.

136. Besides being baseless, Mlambo JP's accusation that I've been 'openly disrespectful and downright malicious to [him] in particular' is transparently calculated to distract from the hard specifics of my complaints against him.⁵²

137. His claim that I've 'used [the] complaint[s], PAIA and Parliamentary Portfolio processes to harass [him] and other officials over the years', which he bumps up by claiming to 'hold' this as his 'firm view', is a risible and obvious lie. My Second to Seventh Complaints concern my first three PAIA requests only,

⁵¹ Such as Cele J's mistaken 'view', to my immense prejudice, that the applicant bears the overall final onus in an unfair discrimination claim, not the accused respondent; and that a party may not cross-examine witnesses he's subpoenaed with the very object of taxing them under oath on the lies they've told him in correspondence, to show the court, in light of contradicting records, what liars they are.

⁵² Too long at LASA, and running it like their personal fiefdom, Mlambo JP 'and other officials' aren't used to be held to account in our open democracy under the rule of law, and clearly don't like it. Further complaints about jobs for pals will follow, once I have the records I've sued for.

and it's not seriously contestable by anyone with any nous that they were illegally, unconstitutionally and dishonestly refused.

138. In referring to Mlambo JP's 'handing down of the Public Protector Judgement' (sic), I specifically disavowed any intention 'to be rude', and no reason exists to doubt my sincerity, so his allegation that I meant to 'insult' him is a lie.

139. His claim that I'm 'perpetuating' this 'conduct' in allegedly 'insult[ing]' him by making my 'complaint[s] to the Judicial Conduct Committee against [him]' is a similar obvious lie.

140. His claim that I 'retracted' my 'allegations against [him]' is only partially true, and then again only for the limited purpose of narrowing the lis at the trial of my 'failed Labour Court matter' in the particular circumstances discussed at length above and in my complaints to which I refer. My amended statement of claim filed months before the trial didn't mention Mlambo JP and his misconduct at all; and on my amended – even original – pleadings, his misconduct in relation to the repeated and persistent illegal and unconstitutional refusals of my early PAIA requests in violation of my fundamental right to information (Second to Fifth Complaints), and the cover-up of this that followed (Sixth and Seventh Complaints), weren't issues for decision by the Labour Court, which had no interest in adjudicating LASA executive management's repeated PAIA violations and Mlambo JP's support for them in this, all being beyond its jurisdiction.

141. My complaint about Mlambo JP's subornation of perjury (my First Complaint) was certainly not withdrawn at any stage; to the contrary, during my cross-examination of Nair (LASA's single witness at trial) I bitterly protested the depraved lie Mlambo JP told about me going up to harass him at his chambers, but he said he said he knew nothing about it. Which I accept.

142. Mlambo JP conspicuously fails to mention that I promptly revived my 'withdrawn' complaints against him in my petition for leave to appeal to the Labour Appeal Court. His lack of candour in presenting all the material facts creates the false impression, as intended, that my complaints against him were

long ago withdrawn in the Labour Court in mid-2013 and remained so for the next four years until I capriciously revived and filed the same baseless complaints against him at the JSC in mid-2017.

143. The reason Mlambo JP has ‘an unblemished record’ is that he’s not yet been impeached on the capital charges I make in my first eight complaints against him. Unfortunately I can’t toot the same horn: discussed below, my own ‘unblemished record’ as an advocate admitted thirty-five years ago has been thoroughly trashed.

144. As to Mlambo JP’s imprecation that I be ‘censured in the strongest terms’ for making my complaints against him, I record that I’ve already been severely punished for having had the temerity to complain of his gross misconduct in my original statement of claim in the Labour Court and in my petition for leave to appeal to the Labour Appeal Court. Claiming to the KwaZulu-Natal Society of Advocates and to the Magistrates Commission in November 2016 that ‘the conduct of Advocate Brink is not befitting an officer of the Court more to act as a Magistrate. The language used is unprofessional, the manner he relates to colleagues and Judges require sanction’, LASA – undoubtedly with Mlambo JP’s knowledge and approval – got me summarily thrown off the bench as a magistrate and professionally disgraced as an advocate in the manner described in the Introduction to the bundle.

145. Blacklisted by the Justice Department, as I discovered in mid-2017, I’m currently unable to get acting appointments, despite the need for my services on relief in the Zululand region, so the Pietermaritzburg Chief Magistrate told me.

146. And I’m convinced that LASA’s complaint to the Magistrates Commission and to the Bar cost me a permanent appointment to a civil magistrate post for which I was shortlisted and interviewed in Pretoria in July 2017. The very first question I was asked was whether there were any professional misconduct complaints against me, and I was bound to confess them. After which, it didn’t help much that ‘You have a very impressive CV’, as the chairperson of the selection panel warmly remarked to me.

147. Were I to put my CV about to attorneys in Zululand where I'm now based, one call to the KwaZulu-Natal Society of Advocates or to any of my advocate colleagues to find out more about me, and I'd be finished. Despite my having copied to the Society my eight complaints against Mlambo JP in June and July 2017, a full year later it's still to finally determine LASA's complaint against me that I outrageously and unprofessionally impeached his integrity as a judge. So I'm out of practice and sans an income until this mess is cleaned up.

148. In every dimension of my life, the extreme personal cost to me and to those closest to me – my late partner, my two sons – of taking Mlambo JP on has been incalculable. (Had I foreseen the road ahead in 2010, I'd have just left it, and let LASA fester in its corruption like any number of other corrupt public entities gone bad in the Zuma era.) In short, I've been more than 'censured in the strongest terms'; I've been professionally paralysed and economically strangled. Exactly as vindictively intended.

149. By posturing that he does 'not deserve to be treated in this fashion by anyone including Mr Brink', and by demanding that I be strung up for reporting his impeachable misconduct, Mlambo JP perversely inverts the reality of the matter. In the language of the Supreme Court of Appeal in paragraph 58 of its judgment in *Gauteng Gambling Board and Another v MEC for Economic Development, Gauteng* (620/2012) [2013] ZASCA 67; 2013 (5) SA 24 (SCA); [2013] 3 All SA 370 (SCA) (27 May 2013), he's 'attempted to turn turpitude into rectitude', has 'appeared indignant and played the victim', and has demonstrated a 'flagrant disregard of constitutional norms'.

150. Wherefore I persist with my complaints.

Signed at Eshowe on 28 June 2018.



ANTHONY BRINK

Signed before me at Eshowe on 28 June 2018 by the deponent who has acknowledged that he knows and understands the contents of this affidavit and affirmed its contents to be true to the best of his knowledge and belief.

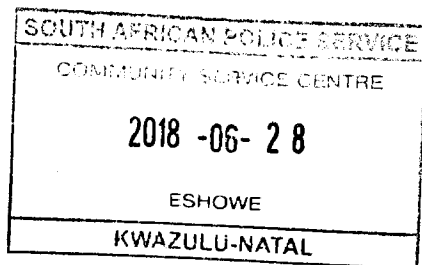
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MMB MATHI

COMMISSIONER OF OATHS

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