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## JUDICIAL CONDUCT COMMITTEE

Enq: Lynette Bios

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Advocate A Brink

25 Balcomb Avenue

Zini River Estate

Mtunzini

Per email: [anthonybrink.sa@gmail.com](mailto:anthonybrink.sa@gmail.com)

Our Ref: JSC/533/17

Dear Advocate Brink

**RE: COMPLAINT AGAINST JUDGE PRESIDENT WAGLAY OF THE LABOUR AND LABOUR  
APPEAL COURTS**

Kindly find the attached response from Judge President Waglay.

The Secretariat requests you to submit your comments (if any) by the close of business on 09 July 2018.

Yours sincerely,



L BIOS

Secretariat for the Judicial Service Commission

Date: 28/06/2018





The office of the Honorable Mr. Justice Basheer Waglay  
Judge President of the Labour Appeal Court and the Labour Court Of  
South Africa

and Judge of the High Court of South Africa (Western Cape)

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The Chairperson

Judicial Conduct Committee

RE: Complaint; Adv. Brink.

1. I refer to the letter addressed to me by the secretary of the Judicial Service Commission, Ms L Bios, regarding the complaint filed by Adv. Brink.
  
2. Adv. Brink's complaint is four fold;
  - i. That Judges President Mlambo, Davis and I and Judge of Appeal Sutherland conspired against him in that Judge President Davis, Sutherland JA and I refused his petition after taking into account superfluous documents particularly an unsigned and unfiled affidavit;

- ii. That we did not properly consider his petition because we did not give him a proper opportunity to oppose the condonation which was sought by the Respondent for filling their opposition out of time;
  - iii. That in any event we did not consider his petition as some junior clerk made the decision and not us as the panel; and finally,
  - iv. That there was a conspiracy managed by Mlambo JP who sought to and eventually appointed his “colleague” one Ngcamu to the post which the complainant should have been appointed.
  
3. All of the above is patent nonsense.
  
4. The petition was considered by Davis JP, (or JA as he is in the Labour Appeal Court) Sutherland JA and me. We did not consider the condonation application of the respondent as we concluded that the petition was without merit and we unanimously decided to refuse his petition. I may add that the Registrar of Labour Appeal Court (LAC) collects the petitions, makes copies of only the relevant documents, collates them and places them in three individual files and has them delivered to the three judges who are allocated the petitions. The files only contain relevant documents properly filed. All petitions are considered on the same day in the boardroom, after appropriate debate. Once the decision is made it is communicated to the Registrar who then informs the parties.
  
5. In this matter the complainant’s petition was properly considered and refused and he was informed about it.
  
6. The complainant talks about documents he found in the Labour Court file. That has nothing to do with the Labour Appeal Court (LAC). The LAC has its own files, retained by its registrar Mr Phophi who is based in Johannesburg.

7. Finally, although it does not need to be said, I say it anyway. Mlambo JP has no role to play in the decisions of the LAC. Although I understand that the complainant has also filed a complaint against Mlambo JP in connection with this matter and intends to do so against Davis JP and Sutherland JA. I doubt that either of them will have anything further to add on this matter.

Yours faithfully

Basheer Waglay JP