BRINK'S SECOND RESPONSE TO LASA'S COMPLAINT

Ref: (LPC KZN) NH/mg

'Allegations of dishonesty against judges are serious.
Thus, they should never be made unless there is
evidence to support them.'

Judicial Conduct Tribunal Decision, paragraph 19
In the matter between Justices of the Constitutional Court
and Judge President M J Hlophe
9 April 2021

I, Anthony Robin Brink, affirm:

1. I am an advocate of the High Court of South Africa, admitted to practice on 12 April 1983. My professional background includes many years of judicial experience as a magistrate of the District and Regional Courts. Following four years as a full-time civil trial magistrate, I specialised in civil litigation at the Pietermaritzburg Bar, including two civil appeals to the Supreme Court of Appeal. I've also litigated a civil case in the Constitutional Court, argued by a silk, where my papers were commended by the Chief Justice from the bench. I reside at 36 Pearson Avenue, Eshowe, KwaZulu-Natal. My cellphone number is 083 779 4174 and my email address is anthonybrink.sa@gmail.com.

2. I am the respondent in a professional misconduct complaint against me by Legal Aid South Africa ('LASA'). Its primary charge is that I scandalized the judiciary in my litigations against it.

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INTRODUCTION AND PREFATORY NOTES

3. The complaint was made to the Society of Advocates of KwaZulu-Natal ('the Society') on 24 November 2015 ('the Complaint').

4. LASA charged that in my litigations against it I used 'unprofessional ... language', 'unbefitting of an officer of the Court' where it attacked the integrity of then-LASA Board chairperson Dunstan Mlambo JP, Labour Court and Labour Appeal Court Judge President Basheer Waglay, then-LASA Chief Executive Officer Vidhu Vedalankar, and LASA National Operations Executive Brian Nair – as indeed it did – and where, on appeal in my labour case against LASA, it forthrightly criticised the multitude of rudimentary, reversible errors in the judgments of Labour Court Judge Hamilton Cele dismissing my claim and then my application for leave to appeal, as well as his judicial misconduct – as indeed it also did.

5. Although I responded to the Complaint in mid-2017, a couple of months after learning of it, the Society's Bar Council still hadn't decided it by 1 November 2018, when the Legal Practice Council ('LPC') assumed disciplinary jurisdiction over all such unresolved complaints under section 116(1) of the Legal Practice Act ('LPA').

6. On 7 March 2020, the LPC duly resolved to reinvestigate the Complaint *de novo*, and three days later invited me to respond to it again – which is excellent, because in the nearly five-and-a-half years since LASA filed its Complaint with the Society in 2015, and subsequent to my first response to it in 2017, there've been many material developments, most recently in March 2021.

7. Accordingly, my second response to LASA's Complaint will be organised as follows.

(1) I'll begin by showing the contempt for the rule of law and for the truth displayed by several past and current top officers of this profoundly corrupt public entity, illustrated by the objectively demonstrable illegality and mendacity disclosed in the opening paragraphs of the Complaint.

(2) Relevant to the LPC's new investigation, I'll recount the Society's grossly irregular mishandling of the Complaint and how it made a complete hash of it to my enormous prejudice, and how and why the Bar Council ultimately left it undecided. I'll focus particularly on the disgraceful final report of Complaints Committee 2 – *not accepted by the Bar Council* – and will prove that it was drawn hurriedly, without properly considering the Complaint and my response to it, to appease LASA's repeated calls that the matter be finalised 'swiftly' after the said committee had again neglected to investigate and report on it.

(3) I'll report material developments in the ongoing, currently active investigation of my eight gross misconduct complaints against Mlambo JP by the Judicial Service Commission's Judicial Conduct Committee ('JCC'), copies of which I provided the Society as my complete answer to LASA's Complaint against me – which developments at the JCC are inconsistent and irreconcilable with the Complaint and with Complaints Committee 2's final report in September 2017 discounting and dismissing my said complaints as delusional and baseless, and in themselves professionally objectionable and additional grounds for my strike-off (*which report, the record shows, the Bar Council did not trust, believe, and rely on*).

(4) Justifying my pleadings and affidavits about which LASA complained, I'll address aspects of the Complaint that the Society's two Complaints Committees didn't – aspects they evidently thought relatively unimportant when reporting on the matter to the Bar Council, but which the LPC may see differently as it investigates the matter afresh.

(5) I'll report repeated judicial reaction to my extremely serious allegations against Mlambo JP and Waglay JP in light of two critically relevant legal

provisions – judicial reaction that is also inconsistent and irreconcilable with LASA's Complaint about them and with the final report of Complaints Committee 2 upholding it (not accepted by the Bar Council).

8. This second response to the Complaint will be made publicly available on the 'Legal Practice Council' page of an online document archive I've established for this corruption case, titled 'Illegal Aid': 'Your criminal law firm. All the evidence. Judge for yourself.' The home-page explains:

> This is a developing information resource for public officers, investigative journalists, anti-corruption and information-transparency NGOs and others concerned about rampant public sector corruption in South Africa.
>
> The colossal corruption scandal detailed here involves *documented* corruption in the judiciary, yet to be resolved by the Judicial Service Commission.

The website address is www.illegal-aid.co.za.

9. A hard copy of this response will be provided to JCC member Dumisani Zondi JA, currently seized with my eight gross misconduct complaints against Mlambo JP. I'll copy also the Minister of Justice and Correctional Services for his specific interest in the matter, explained below. And I'll copy the Office of the President for its interest already indicated to me, also mentioned below.

10. In view of their shared concern about ubiquitous, internationally notorious public sector corruption in South Africa, conveyed in their jointly-signed letter about this to President Cyril Ramaphosa in January 2019 (see news report online at bit.ly/3eEGGER), copies of this response will be furnished via their local embassies to the governments of the USA, the UK, Germany, the Netherlands and Switzerland – after an embargo of six weeks from the date of signature and delivery of this response to the LPC. For their likely similar interest and concern, I'll provide copies in the same manner to the governments

of France, Spain and Italy as well. And likewise to the governments of our country's fellow BRICS states, Russia, Brazil, India, and China.

11. I expect these governments will be concerned to note not just the extraordinarily serious corruption still festering at LASA, with its quite undeserved reputation as a model of propriety in corporate governance and operations – and the involvement of two corrupt judge presidents yet to be disciplined nearly four years after I charged them – but also by this organ of state's determined, repeated attempts to exterminate the whistleblower on it with one deadly strike after another, detailed below. My individually addressed covering letters to these foreign government embassies six weeks hence (mid-July) will be copied to the Presidency and Minister of Justice, and posted at illegal-aid.co.za.

12. The sixty-four annexures to this response, put up as supporting records, vary considerably in size from single pages to hundreds of pages each, so rather than physically appending them, I've made them available online for downloading in PDF as a combined paginated bundle of 3014 pages or individually, as preferred, at illegal-aid.co.za/LPC. (Paragraph 4.7 of the Complaint records LASA's similar approach in providing its supporting document bundle of 'over 2000 pages' 'separately'.) The supporting documents to which I refer in this response are integral to it, and it cannot be assessed properly without considering them.

13. For convenient copying and electronic distribution, this response will be posted at illegal-aid.co.za/LPC in PDF, as well as in HTML as a webpage for easy reading on a hand-held device.

14. All inverted commas that I use herein indicate quotation, never irony or derision. All ellipsis in quotation is mine for relevance, indicated by three periods, as in '...'. Senior counsel featuring herein will be introduced by their titles, 'SC', and thereafter referred to simply by their surnames.

15. As Nadira Harripersad, then of the KwaZulu-Natal Law Society, now of the LPC's KwaZulu-Natal office, underscored in her letter to a complainant in an unrelated matter, precedent practice in such professional misconduct complaints

dictates that LASA's comments on this response, if any, must be sworn: 'In order for the Complaints Committee to consider the matter properly as to whether there has been any unprofessional conduct will you please by 3 April 2017, let me have any written comments **on affidavit** which you may wish to make on any aspect of the reply which you dispute.' (emphasis in the original) The letter is annexed marked 'R1' ('R' for Response).

16. Paragraph 4.4 of current LASA CEO Mantiti Kola's letter to the LPC of 20 November 2020 records: 'I ... delegate to our current Chief Legal Executive, Patrick Hundermark, to attend to this complaint and any further issues that may arise.' Paragraph 9 of the letter reiterates: 'I confirm that I have duly authorised the current Chief Legal Executive, Mr Patrick Hundermark, to act on behalf of the organisation.' CEO Kola's letter, undoubtedly ghost-written by Hundermark, driving the Complaint, is annexed marked 'R2'.

17. So if Hundermark wants to comment on this response on LASA's behalf, he will have to do so under oath on pain of the penalty for perjury, provided by section 6 of Act 16 of 1963, which makes it a crime to tell lies in an affidavit made for extra-curial purposes and punishable like perjury with imprisonment, since perjury is 'a very serious crime' (*R v Samuels* 1930 CPD 67 at 71).

18. I emphasize this considering the culture of brazen mendacity in LASA's top ranks, including criminal mendacity, repeatedly pointed up in this response and in my complaints against Mlambo JP to the JCC to which it refers, and specifically to the fact that attorney Hundermark has already perjured himself in recent years in my litigations against LASA, concerning which a complaint to the LPC and to the National Director of Public Prosecutions will follow. (Before his resignation, then-Legal Executive Thembile Mtati was routinely made to sign perjured affidavits drawn for him, like some of the sworn Complaint canvassed below.)

19. One of Hundermark's perjuries is identified in light of LASA's records in the Second Addendum to my complaint to the Auditor-General ('AG') filed in February 2020 under the title, 'Complaint to the Auditor-General regarding

major ongoing breaches of the Public Finance Management Act involving many millions of rands and other material irregularities including crimes committed in a corruption cover-up by past and current high officers of Legal Aid South Africa'. The complaint and its addenda are dealt with and referenced below.

20. Should Hundermark deliver a sworn comment on this response, I request that the LPC provide me with a copy of it immediately for interrogation and action on any criminal lies it contains, in the usual routine, as contemplated above.

21. I request also that the LPC notify me immediately of its ruling on the Complaint when it's delivered, as section 37(3) of the LPA requires. (I believe LASA's Complaint can be decided on the papers; but should the LPC's investigating committee decide to hold an oral enquiry, I'll be delighted by the opportunity to cross-examine under oath: CEO Kola; CLE Hundermark, an attorney; and National Operations Executive Brian Nair, an advocate.)

22. I must ask for these immediate notifications because, as detailed below, in a consistently cavalier manner and with shocking disregard for my rights and interests as a fellow legal professional, the Society (a) failed to provide me with a copy of the Complaint to respond to before its Bar Council ruled on it *ex parte* against me; (b) failed to promptly provide me with LASA's reply to my first response, which I'd delivered after chancing to learn of the Bar Council's resolution against me and had requested a belated opportunity to respond to the Complaint; (c) failed to provide me with the final, second report on the Complaint by Complaints Committee 2 after it received my first response and LASA's reply to it, even though I repeatedly asked for this final report; and (d) failed to advise me of the Bar Council's resolution passed after considering the said final report (*which the Bar Council didn't accept*). Nor did the Society think to provide me at the time with Complaints Committee 1's report against me in 2017 (without hearing me), or with its Litigation Committee's reports against me to the GCB and again to the Society's Annual General Meeting in 2018 (both of which were at odds with the Bar Council's resolution passed after considering Complaints Committee 2's second and final report).

23. The result was that after the LPC advised me on 10 February 2020 that it was reinvestigating the Complaint, I had to find out how the Bar Council had disposed of it by sourcing Society records using the Promotion of Access to Information Act ('PAIA'), and so only learned years later what the final report claimed and recommended, and what the Bar Council resolved to do after considering and not accepting it. Also what the Litigation Committee wrongly said about my response to the Complaint in its reports to the GCB and then the Society's Annual General Meeting in 2018. And how the Bar Council chairperson persistently misinformed the Judicial Service Commission ('JSC') about the matter.

24. Against this appalling background of the Society's mishandling of the Complaint to my extreme prejudice, comprehensively detailed below (a trade union of solid waste removers would done a better job of it), it's to be hoped that in determining the Complaint the LPC will demonstrate more respect for my rights than the Society did.

25. Although CEO Kola states in paragraph 10 of her letter of 20 November 2020 that the current Board approved the prosecution of the Complaint on '28 November 2020' [*sic*: a week after the letter, so an obvious date error in the letter], I should mention in her and the Board's defence that both she and current Board chairperson Judge Motsamai Makume were appointed long after the central illegalities in question occurred a decade ago, so neither of them have any direct knowledge of them, much less were they involved in them. Besides Hundermark and Nair (see just below), the same goes for the rest of the Board whose structure and membership has changed completely since the said illegalities took place and I called them to the Board's attention, to no avail. That is, with the exception of Hundermark and Nair, the current Board has no direct knowledge or institutional memory of the material facts in this matter.

26. Hundermark and Nair, on the other hand, are full well aware of the true facts, having been directly involved in the criminal cover-up that took place in this case, commencing in 2010–11. Hundermark originated the first lying cover-story that was advanced to me and then repeated to the Justice Minister

and to the Justice Portfolio Committee of the National Assembly – contradicting which, Nair told multiple totally different, inconsistent and mutually destructive lying cover-stories to the Board, and then all of them together to the Labour Court. Hundermark's and Nair's radically contradictory lies to these several authorities are canvassed with reference to records refuting them in my complaints to the JCC and below.

27. A few years ago, LASA was restructured (a) by removing the salutary Chinese Wall between its directorate (policy determination and oversight) and its executive (policy implementation), originally in place to ensure effective corporate governance and independent, arms-length oversight over executive operations, and (b) by making Hundermark and Nair executive Board members. With this change of structure, the current Board is especially vulnerable to misdirection and deception by these veteran employees in LASA's national office, who, having wormed their way onto the Board, are now better placed than ever in their continuing endeavour to keep a lid on this vast corruption case by deceiving and misdirecting the new CEO and the rest of the Board as to the true facts of the matter, and by straining to eliminate the whistleblower on it.

28. *En passant*: A whistleblower is not necessarily an employee; and Labour Law protects job applicants and employees alike – as in section 9 of the Employment Equity Act ('EEA'), stipulating that for the purposes of the Act, '"employee" includes an applicant for employment.'

29. Hundermark's and Nair's membership of the Board accounts both for CEO Kola's position against me and for the Board resolution that she says 'supported my decision to continue with this complaint'.

30. Quite simply, Hundermark and Nair have successfully misled and defrauded CEO Kola and the rest of the Board – nothing unusual at LASA, where lying to the Board is the order of the day. As just said, an earlier instance of Nair's similar flagrant lying to and deception of the Board to cover up the recruitment corruption at the centre of this matter, by telling it a bunch of brand-new lies diametrically contradicting Hundermark's original lies, is detailed below. (Nair

swore to his lies in court; Hundermark swore to his completely different lies on affidavit.)

31. The LPC has confirmed in paragraph 2 of its letter to me of 18 February 2021 that it has hard copies of my eight complaints made to the JCC against Mlambo JP, which I delivered to the Society's Complaints Committee 2 as my original, first response to the Complaint. The LPC's letter is annexed marked 'R3'. In the circumstances, and for the following reasons, I've chosen to put up the single combined, indexed and paginated bundle of the PDFs that I made for the JCC from the final drafts of my complaints in MS Word, rather than annexing another set of scanned copies of the signed complaints, which the LPC already has.

32. The background of this and my reasons are these: On 31 October 2017, then-JSC Secretary Lynette Bios conveyed the JCC's request that I index and paginate my eight separate complaints against Mlambo JP and resubmit them together 'to avoid a piecemeal consideration and determination of these matters.' Since the JCC had the signed original hard-copy documents in its possession for verification if necessary, I assembled this requested combined complaints bundle from the final-draft unsigned PDFs of the individual complaints that I'd made for printing and signing, and supplied this combined indexed and paginated bundle to the JCC under a new Introduction (now out of date to the extent that much has happened since I wrote it in late 2017; see below). The several advantages of this alternative format of my complaints against Mlambo JP are as follows. First, the final PDFs are optimally legible in high definition print, as compared with the lower contrast, lower resolution, lower definition, less clearly legible scanned copies I made of the signed complaints before delivering them to the JCC; that is, the many pages of my combined complaints are much easier to read in this form. Second, unlike my scanned copies of the signed copies, the single combined PDF file of final drafts is electronically searchable. And third, a running page number series embossed on the combined complaints bundle facilitates reference to relevant parts of the complaints. But if the LPC prefers to work with the scanned master-copies of my eight separate signed complaints

delivered to the JCC, it has hard copies of them on file. My combined indexed and paginated bundle of complaints against Mlambo JP that I made for the JCC is annexed marked 'R4'.

SETTING THE TONE – PRELIMINARY OBSERVATIONS ON PARAGRAPHS THREE AND FOUR OF THE COMPLAINT: OPENLY VAUNTED FLOUTING OF THE RULE OF LAW AND CORRUPTION IN LASA'S RECRUITMENT OPERATIONS; AND PROVABLY FALSE ALLEGATIONS MADE UNDER OATH

33. Paragraph 3.1 of the Complaint is oddly true in fact but false in law, inasmuch as the so-called 'second round of interviews' mentioned in the selection panel's report recommending me for the Pietermaritzburg Senior Litigator post was a serious corruption by Mlambo JP of prescribed recruitment and appointment procedure, illustrating in cameo the lawless milieu in which LASA operated under his leadership as chairperson of LASA's Board. (The concomitant culture of casual criminal mendacity among LASA's national executives that Mlambo JP fomented by the example he set for them is treated below.)

34. Recruitment and appointment procedure at LASA is comprehensively and precisely prescribed by two internal regulations promulgated by the Board: the Policies and Procedures on Recruitment, Induction, Probation and Relocation ('Recruitment code') governing advertising, short-listing, interviewing and selection procedure (all duly followed in my case), and the Approval Framework delegating approval authority in staff appointment according to seniority and grade of the post in question (illegally disregarded in all Senior Litigator appointments).

35. According to NOE Nair, then-CEO Vedalankar and then-Human Resources Executive Amanda Clark – Nair deposing to this on affidavit, the others confirming it – the 'second round of interviews' was Mlambo JP's 'brainchild', decided 'verbally' and off the record – an illegal innovation never authorised and approved by the Board.

36. As is clear from the Recruitment code and the Approval Framework, and as LASA has formally admitted in its legal pleadings, neither of these legal instruments make any provision for a so-called 'second round of interviews' by Mlambo JP and some 'Senior Executives of Legal Aid South Africa' – even as they strain to justify this illegality very inanely as being 'rationally connected' to LASA's goal of hiring only the best, as its executives have claimed in my litigations against LASA. As if whatever the boss thinks is a good idea trumps the written law.

37. Compounding this illegality, the chairperson of LASA is a *non-executive* Board member and consequently has zero (0) legal authority to intrude himself and interfere in executive management's recruitment, procurement, and other operations – a widespread mischief plaguing public entities in South Africa that President Ramaphosa has pertinently deplored, promising that delinquent Board members misbehaving like this will be booted.

38. In particular, the Board chairperson has zero (0) legal power to again interview a Senior Litigator candidate already duly interviewed and recommended by a selection panel, and then approve or reject such a candidate in committee with some national management executives like Hundermark, also lacking such authority under the Approval Framework – even if they think it's a tremendous idea flagrantly disregarding and breaching LASA's internal regulations and breaking the law like this, since, being a very important person, Mlambo JP can just do and say whatever he feels like, in the style of a jungle village potentiate to whom the concept of the rule of law and the annoying limitations it imposes on the exercise of power is entirely foreign, alien and irrelevant to him.

39. Further illustrating the extremity of Senior Litigator recruitment corruption at LASA, NOE Nair – then a final year law student by correspondence, and just months away from getting his law degree and being admitted as an advocate soon afterwards – told the Labour Court in mid-2013, with a straight face, and with no indication that he appreciated the unbelievably stupid lawlessness of what he was saying, that it's just fine for him, Mlambo JP, Hundermark and the

rest of their so-called 'second round interview' panel to ignore and disregard a selection panel's candidate recommendation, and to interview and approve for appointment instead a candidate that the selection panel had rejected.

40. Mentioned below, LASA provided Complaints Committee 2 with the transcript of the trial of my labour case, including Nair's evidence claiming this. If the transcript was passed on to the LPC when it inherited the unresolved complaint, the LPC's investigating committee can examine it and verify my report of Nair's evidence here. If not, I can make my copy of the transcript available to the committee for this.

41. Nair's said evidence solves the mystery of why he telephoned for the CVs of all four shortlisted and interviewed candidates for the Pietermaritzburg and Durban Senior Litigator posts to be sent up to him after the interviews and candidate selections on the same day. (LASA dully volunteered this hugely telling information about this irregular phone call in its pleadings in my labour case.) This is to say, Nair called for not only the CVs of the two recommended candidates, one for each post, but also the CVs of the two disqualified and rejected candidates, for consideration in the next, final stage of the recruitment operation: the approval process.

42. Indeed, consistently with this openly vaunted corruption of LASA's recruitment operations, I'm reliably informed first-hand by the then-Regional Operations Executive and chairperson of the selection panel that interviewed for the Mahikeng Senior Litigator post that the candidate they recommended was passed over, and that in his place Mlambo JP, Hundermark, Nair *et al*. approved and appointed a candidate the selection panel had rejected.

43. Following the recommendation of a Senior Litigator candidate by a selection panel after it's interviewed all shortlisted applicants, the Approval Framework delegates approval or disapproval of his or her appointment exclusively to the National Operations Executive, subject to the agreement of the Chief Executive Officer – and to no one else.

44. Having zero (0) legal authority in Senior Litigator recruitment and appointment decisions, Mlambo JP and Hundermark's usurpation of this delegated approval authority has been illegal.

45. The gross procedural corruption of Senior Litigator recruitment at LASA is canvassed with more particularity in my complaints to the JCC. It's also the subject of a substantially complete, separate, dedicated, extensive complaint to follow.

46. Paragraph 3.2 of the Complaint is perjured in multiple respects.

47. Canvassed in my complaints to the JCC, there's no record whatsoever that 'budget uncertainties facing the organisation at the time' led to the 'second round of interviews ... not [being] proceeded with', as falsely alleged here. Quite the contrary, financial records I forced out of LASA after the trial of my labour claim show that all nine of LASA's Senior Litigator posts – six filled, three vacant – have always been budgeted by LASA and funded by the Treasury via the Justice Department. And still are.

48. Some transient financial uncertainty in 2010 – about when budgeted funding for salary increases would be transferred to LASA – had no bearing on recruitment to *critical* Senior Litigator posts at the top of LASA's professional staff establishment; and as LASA's records clearly and incontrovertibly show, the only action taken to mitigate this brief uncertainty was to *temporarily* pause recruitment (in the result for just two months) to some vacant *non-critical*, entry-level, public defender posts serving the district and regional criminal courts – so executive management duly proposed in mid-July 2010, and the Board duly resolved a fortnight later.

49. It was never proposed and resolved to *permanently* freeze the filling of LASA's three remaining budgeted and funded *critical* Senior Litigator posts – an illegality under the Public Finance Management Act ('PFMA'), as the Constitutional Court affirmed in principle in *Zungu* in January 2018. I discuss this extensively in first complaint to the AG, mentioned and referenced below.

50. Contradicting the blatant lie told by Legal Executive Mtati under oath as formal signatory of the Complaint (with Hundermark's complicity as the original author of the lie in 2010) that 'budget uncertainties facing the organisation at the time' led to the 'second round of interviews ... not [being] proceeded with' (which lie Hundermark later twice repeated under oath in affidavits filed in the High Court at Pietermaritzburg), Nair told completely different contradictory lies under oath in the Labour Court about why my recruitment was cancelled.

51. Perjuriously confirming the truth of his false 'Report to Board' in November 2011, Nair claimed that 'recruitment challenges' prevented the filling of the three remaining vacant Senior Litigator posts. In truth and in fact, there weren't any. Following their interviews by selection panels, three candidates had been recommended, one for each of the three remaining vacant posts, myself included. Stacking his lies in his 'Report to Board' like breakfast pancakes, one on the other, as if the more different lies told the merrier, Nair invented and advanced further false justifications for the off-the-record, unauthorised, illegal abortion of the three substantially complete Senior Litigator recruitments for Pietermaritzburg, Durban, and Mthatha: he claimed there was doubt as to whether LASA's six incumbent Senior Litigators were worth their salt in their specialist litigation posts, and implied that they weren't delivering as expected of them, that they were professionally incompetent, and that accordingly their professional performance was to be urgently audited by a special panel, including 'a retired judge'. This additional contradictory, also wholly fabricated, unsupported cover-story told to defraud to deceive the Board was contrived to further cover the illegal, corrupt abortion of the recruitments. In truth, refuting Nair's lies to the Board and then under oath to the Labour Court about this, (a) LASA had consistently reported that its lawyers are performing well at all levels; (b) there'd been no report that the six incumbent Senior Litigators weren't delivering the specialist legal services they'd been hired to provide; (c) there's no record of any such falsely alleged decision to professionally audit them; (d) no steps were taken to convene any such special professional performance assessment panel; and (e) there's no record of any decision to cancel the substantially complete recruitment processes for LASA's remaining three vacant

Senior Litigator posts (i.e. to cancel the finalisation of the recruitments to the posts, for each of which candidates had been selected and recommended – *duly* in the case of the Pietermaritzburg and Durban posts, *corruptly* in the case of the Mthatha post.

52. There's no likewise record whatsoever of a decision taken by any competent authority at LASA, or indeed by anyone at all, to 'freez[e]' the substantially complete 'recruitment of all the Senior Litigators' who'd been selected and recommended for the critical, long-vacant, budgeted and funded posts on account of 'budget uncertainties facing the organisation at the time'. (Which anyway passed within a couple of months, when the transfer of salary increase funding was assured by inclusion in the national mid-term budget, and it was paid over two months after that – so that the transient budgetary uncertainty in 2010 over when the funding for legal staff salary increases would be transferred wasn't even mentioned in LASA's annual report for the year, which recorded an increase over the previous year in annual operating budget received. Making the *no-money-to-fill-the-posts* story a joke.)

53. Nor were 'All candidates recommended for the second round of interviews ... duly informed of the position', as falsely alleged here. Quite the contrary, I was deliberately kept in the dark, hoping I'd just walk away so that my rival applicant for the Pietermaritzburg Senior Litigator post, Mlambo JP's former judicial colleague, a long-time acting labour judge could be slipped into the post instead (even though he'd been disqualified and rejected by the selection panel, for lack of right of appearance in the High Court and consequently no litigation experience on his feet there, let alone in the Supreme Court of Appeal and Constitutional Courts, as contemplated in the advertisement). My enquiries of then-HRE Clark in April 2010 as to the upshot of the interviews, five strangely silent months after they'd taken place in November 2009 (at which, the selection panel's report reflects I'd been selected and recommended) were answered, after an initially friendly undertaking to enquire for me, with studied evasion and obvious lies, *inter alia* that it wasn't clear who'd been selected – when it was perfectly clear from the selection panels' recommendation report; and it wasn't

clear if the recruitment process would be finalised – when in truth nothing lawful prevented it.

54. After four more silent months, I wrote to then-CEO Vedalankar in July 2010, now eight months after my successful interview, pressing for the finalisation of my appointment (Clark had inadvertently confirmed backhandedly that I was the lucky boy). In August, NOE Nair answered my letter with more lies, unsupported by any record, that it had been decided not to fill the post, no reason given me.

55. Vouched by supporting records, I canvass all this in my complaints against Mlambo JP to the JCC.

56. Paragraphs 4.1 and 4.2 falsely and deceptively insinuate that my two early record requests under PAIA in 2010 were duly responded to – along with those made after the trial of my labour case, *inter alia* testing novel claims Nair made while giving evidence in the Labour Court. In truth and in fact, from day one, my PAIA requests were consistently and repeatedly refused, illegally and unconstitutionally, on fatuous shifting grounds. After Mlambo JP laughed off my entreaty to remedy this (one of my complaints to the JCC), I escalated to the Justice Minister and the Justice Portfolio Committee my complaint about LASA's (Hundermark's) strenuous, malicious, corrupt obstruction of my investigation with PAIA into why my recruitment had been silently aborted.

57. Properly and justifiably concerned, both the Minister and the chairperson of the Portfolio Committee instituted separate and independent enquiries into this gravely unlawful suppression of public information. Mlambo JP's dishonestly false reports to them to pervert their enquiries into LASA's repeated non-compliance with my PAIA requests – in which the records show he repeatedly connived and was complicit – is the subject of my complaints to the JCC.

58. Finally, it's so that I founded my claim for my appointment on covert unfair discrimination, which, on the evidence then available to me in 2011, seemed to me to be the most likely reason my appointment had been silently cancelled and

then dishonestly falsely explained nearly a year later, under rising pressure to account, with a succession of multiple false, different, contradictory cover-stories.

59. Years after the *correct* dismissal of my labour action (because my cause of action was wrong), I discovered in 2016 from a complete record I'd sued for – which LASA had assiduously and repeatedly suppressed since 2010, when I first asked for it, by refusing it *in toto*, then supplying it heavily redacted, then again refusing the complete, uncensored record, then surrendering at legal sword-point at the last minute in court after I'd sued for it under PAIA, and was about to argue for it, after being strenuously opposed with several lever-arch files full of useless answering papers all the way there – that the obstacle to my appointment wasn't unfair discrimination as I'd wrongly apprehended, but just everyday nepotism in the form of cronyism. I deal with this in my complaints to the JCC and below.

60. In short, the Complaint made by the continent's biggest law firm, as LASA proudly bills itself – headed by a judge as a putative guarantee of legal, constitutional and ethical probity in the conduct of its operations – begins by shamelessly trumpeting the abject lawlessness and corruption of its recruitment operations, and follows this with multiple criminal lies told under oath.

THE SOCIETY OF ADVOCATES OF KWAZULU-NATAL'S ATROCIOUS, GROSSLY IRREGULAR HANDLING OF THE COMPLAINT TO MY ENORMOUS PREJUDICE; AND THE PECULIAR CIRCUMSTANCES IN WHICH IT LEFT IT UNRESOLVED

61. It's necessary to treat this baleful episode in some detail, because it's important to show to the LPC's investigating committee how and why the Society's Complaints Committee 2 arrived at its findings and recommendation against me in its second and final report on the Complaint, after receiving and rejecting my first response to it, comprising copies of my eight complaints to the JCC against LASA Board chairperson Mlambo JP, and after reading LASA's reply to it.

62. Although the Bar Council didn't accept and didn't resolve to act on this second report, the LPC considered it before duly resolving on 7 March 2020 to reinvestigate the Complaint (see the LPC's confirmation of this in its letter to me on 18 February 2021: annexure 'R3', paragraph 6(iv)). It's therefore crucial that the circumstances in which the report was drawn and why it recommended that I be struck off be thoroughly unpacked and laid out. Recounting and analyzing this dismal history is no small task, because as predicted by Brandolini's Law, 'The amount of energy needed to refute bullshit is an order of magnitude larger than to produce it.'

63. The Complaint was made to the Society on 28 November 2015. The Complaint and its covering letter are annexed marked 'R5'.

64. I've never been given the bundle of source documents that LASA made and gave the Society in support of its Complaint, so I can't put it up here, but no matter because the Complaint substantially correctly quotes excerpts from my legal papers included in the bundle, and I don't dispute that I made the allegations about which LASA complains. (I imagine the LPC received LASA's supporting document bundle from the Society when it took the Complaint over from it.)

65. On receiving the Complaint, the Bar Council referred it to both of the Society's Complaints Committees 1 and 2.

66. In its report on the Complaint, the Society's Complaints Committee 1 (Callum SC *et al.*) stated very incorrectly that 'a letter [was] addressed to Brink ... calling on him to make representations, if any, before the Society considers [the matter].' The report of Complaints Committee 1 is annexed marked 'R6'.

67. I wasn't given the full report, which went on to deal with other matters, and don't have its final signature page bearing its date, so I don't know it and can't state it; but as discussed below, it was considered by the Bar Council at its February 2017 meeting.

68. The delay of *fifteen months* between the filing of the Complaint and the Bar Council's consideration of the report, presumably drawn shortly before the February meeting, is unexplained, but for the reason mentioned below it was massively prejudicial to me in almost certainly costing me a permanent appointment as a civil magistrate.

69. When in January 2020 I asked the Society to produce this letter allegedly sent to me – it never was – its Administrative Secretary replied: 'The letter is not annexed to the report that I have on file.' The email record of my request for this alleged letter (see item 2) and her reply is annexed marked 'R7'.

70. Complaints Committee 2 later confirmed directly in paragraph 4 of its second report in September 2017 that indeed 'a right to respond to the allegations made about him by Legal Aid South Africa ... had not been afforded him [Brink] before the decision to strike off was taken.' Discussed extensively, this second report is referenced below.

71. In its report on the Complaint, Complaints Committee 1 claimed that I'd:

> gratuitously defamed the Chairman of the Board, the Honourable Justice Mlambo, and specifically alleged that he colluded with other members of the Board to avoid appointing Brink to a position that had been advertised. ... Brink's behaviour towards a respected member of the judiciary is so manifestly reprehensible that it would be appropriate to have him struck off, alternatively suspended from practice due to his scurrilous attack on the dignity of the Court which he has a duty to uphold.

72. In their frisson of precious sanctimony inspiring their rush to judge and condemn me, Callum and his Complaints Committee 1 weren't troubled to get even their most basic facts straight.

73. Their claim that in my litigations I'd charged Mlambo JP with not 'appointing Brink to a position that had been advertised' was right out of LASA's bent playbook – true in fact but false in substance. More than just being an

applicant for 'the position that had been advertised', I'd been unanimously recommended for it in glowing terms, even as the selection panel disqualified and rejected my rival applicants, including and especially Mlambo JP's former judicial colleague in the Labour Court, a long-time acting judge. Again and again in my litigations against LASA, it (Hundermark) strained to mislead and misdirect the courts by dishonestly playing down this most disagreeable and inconvenient fact, by simply omitting to mention it, like Complaints Committee 1 did, so as to paint me as an obsessive, unsuccessful sore loser in my application for the top job, unjustifiably and unreasonably demanding my appointment to which I had no right. (So I was surprised to see LASA stating in its Complaint, with uncharacteristic candour, that I'd indeed been recommended.)

74. As mentioned in the first part of this response, Mlambo JP was a non-executive Board member with zero (0) legal authority in executive management's recruitment operations, both at selection or approval level. I drummed this point repeatedly in my court papers put up by LASA in support of its Complaint, but evidently Callum and his Complaints Committee 1 didn't read them.

75. Also, my entire attack on Mlambo JP in my several litigations against LASA, quoted in the Complaint, was directed at his documented misconduct, including his crimes committed, as chairperson of LASA's Board, and not as a judge *per se*. So my identification of Mlambo JP's misconduct as LASA Board chairperson was in no wise 'a scurrilous attack on the dignity of the Court'. It was a justified, substantiated attack on his lack of integrity displayed as chairperson of LASA's Board.

76. Nor was my attack on Mlambo JP 'gratuitous'; it was in every case vouched by supporting documents, as my legal papers made clear, which supporting documents I later furnished to the JCC in mid-2017 in support of gross misconduct complaints against him, copies of which complaints I simultaneously provided Complaints Committee 2. And if by 'gratuitous', Callum and his Complaints Committee 1 meant my charges against Mlambo JP were manifestly

without merit, the JCC didn't agree, because it required Mlambo JP to respond to them, and repeatedly. I discuss this further below.

77. Nor did I allege Mlambo JP had 'colluded with other members of the Board'. Quite the contrary, the 'other members of the Board' had nothing to do with it, weren't involved in any way, and were lied to by NOE Nair to keep them ignorant of the illegality he was covering.

78. Discussed in my pleadings and affidavits contained in LASA's bundle supporting its Complaint, Nair told the Board a succession of cock and bull tales in his 'Report to Board' in November 2011, unsupported by and contradicted by LASA's records, to cover the true reason for the immediate, unrecorded, unauthorised, off-the-record, silent, illegal abortion of my appointment following my successful interview, and later on, when I began pressurising LASA to finalise my recruitment, the equally corrupt cancellation of two other such top-level recruitments to construct a financial insufficiency alibi. Which alibi, having collapsed, Nair replaced with his new, different, substitute stories in his 'Report to Board' – leaked to me by a sympathetic, top-level insider at LASA.

79. My actual complaint was that Mlambo JP had repeatedly colluded with certain national management executives – not with the rest of the Board – as indeed proved dead to rights by the records I put up.

80. Among multiple other documented instances of this collusion between Mlambo JP and LASA's management executives, here's a nice bright example: The 'Author' metadata of his (wrongly dated) letter emailed to me in December 2010 cursorily dismissing in two sentences my finely detailed sixty-page petition the month before – imploring his intervention as Board chairperson in the recruitment corruption I'd run into and the lies I'd been told to cover it, and in LASA's obstruction of my investigation of it by illegally withholding documents duly requested under PAIA – revealed that CEO Vedalankar, the very subject of my petition, had ghost-written his letter for him on her computer. Caught pants down on this collusion in the *mala fide*, fraudulent disposal of my petition,

LASA was bound to formally admit it in my first litigation against it. I deal with all this at page 32 of my combined bundle of complaints against Mlambo JP.

81. Because he'd been astute to keep himself behind the scenes at all times and had avoided engaging with me directly (until relatively recently, when Legal Executive Mtati resigned and was no longer available to front for him), I only realised many years later from two perjured affidavits he filed in the High Court at Pietermaritzburg that Hundermark was the author of the original budgetary insufficiency lie told to cover the recruitment corruption in question, and that as the architect of the cover-up it's almost certain that he was directing Vedalankar's drafting of Mlambo JP's terse letter chucking my petition into the can.

82. Obviously when I petitioned Mlambo JP in November 2010, I had no idea that he was precisely at the centre of the recruitment corruption I was complaining of.

83. And at that stage I still believed that unfair discrimination was the bar to my appointment to the top post for which the selection panel had duly recommended me – whereas, as I discovered many years later, it was just everyday cronyism in favour of Mlambo JP's long-time former judicial pal, one of the shortlisted and interviewed applicants for the post whom the selection panel had disqualified and rejected.

84. In another clear-cut case of such collusion between Mlambo JP and executive management, also proved by the real evidence I found of it in its 'Author' metadata, 'Briann', i.e. NOE Brian Nair, ghost-wrote Mlambo JP's lying 'Confidential ... Report ... Re: Advocate Anthony Brink' to the Justice Minister in March 2011 to successfully pervert his enquiry, instituted at my instance, into recruitment corruption at LASA, and into its malicious, repeated non-compliance with my early record requests in 2010 made under PAIA to investigate it. I deal with this at page 128 of my combined complaints bundle.

85. Amplified and 'updated' by Mlambo JP (or quite possibly, even likely, by Hundermark, because Nair insisted very adamantly at the trial of my labour

action that it wasn't him), the same lying report was then submitted by Mlambo JP in June 2011 to the chairperson of the Portfolio Committee – who'd instituted an independent and separate parliamentary enquiry into the same two serious governance issues at LASA – and thereby achieved the same corrupt purpose, this time a crime, inasmuch as providing deliberately false information and dishonestly falsely reporting to a Portfolio Committee is criminal under section 17(2)(d) and (e) of the Powers, Privileges and Immunities of Parliaments and Provincial Legislatures Act ('Powers and Privileges Act'). I deal with all this extensively in my sixth to eighth complaints against Mlambo JP to the JCC.

86. Mlambo JP's repeated documented connivance at and collusion in LASA executive management's illegal and unconstitutional withholding of duly requested documents to obstruct my corruption investigation is the subject of my second to fifth complaints to the JCC against him.

87. On an aside: Callum and his Complaints Committee 1's billing of Mlambo JP as 'a respected member of the judiciary' to heat up their denunciation of me for criticizing his capital misconduct as LASA Board chairperson carries with it the logical implication that other members of the judiciary aren't respected because they aren't worthy of respect. One might contend that in this manner Callum made 'a scurrilous attack on the dignity of the Court which he has a duty to uphold.' The further logical corollary of this foolish, ill-considered language in his report to stoke animus against me is that it's unprofessional to criticise a judge with a good reputation but quite acceptable to criticise a judge with a poor one, irrespective of whether he's ever been found guilty of any sort of misconduct. In other words, what counts is the general perception generated by the newspapers and corridor talk, not the facts. So if a judge is not generally considered 'respected', thanks to all the talk about him, it's open season on him, no problem; but if he's perceived to be 'respected', he's off limits to any criticism, and any advocate misjudging the distinction risks getting struck off for it. By the same token, if an advocate is not 'respected' because he's politically incorrect, and is suspected of being mental for this reason, heaven help him if accused of

misconduct by a corrupt public entity headed by 'a respected member of the judiciary'.

88. Well over a year after the complaint was filed in November 2015, Complaints Committee 2, comprising Rob Mossop SC and two juniors, Manikam and Konigkramer, finally got around to reporting to the Bar Council on 17 February 2017 – like Complaints Committee 1 did – that my allegations in my several litigations against LASA, quoted both in the Complaint and in the report, were professionally unacceptable, especially where they stung Mlambo JP, and that my name should be struck off the roll of advocates for making them. The report is annexed marked 'R8'.

89. It was evidently unimaginable to the several members of the two Complaints Committees that a judge might repeatedly misconduct himself so egregiously that he should be removed from the bench, as precisely envisaged by section 177 of the Constitution and sections 14(4)(e) and 20(4) of the Judicial Service Commission Act ('JSC Act').

90. To the senior and junior advocates on these two Complaints Committees, protesting such extreme misconduct by a judge committed in his capacity as chairperson of a public entity amounts to a 'scurrilous attack on the dignity of the Court'.

91. And for an advocate to plead such misconduct, including criminal misconduct, in his litigations against the public entity headed by that judge, for assessment and determination on the evidence by another trial judge, amounts to a breach of his 'duty to uphold' 'the dignity of the Court'.

92. To these estimable members of the Bar, such a duty is absolute, and never mind that the accused judge's extra-curial misbehaviour might be so foul, so contemptuous of the truth, the law and the Constitution – so criminal even – that it falls squarely within the purview of the Code of Judicial Conduct, the JSC Act, and the said constitutional provision.

93. To 'uphold' 'the dignity of the Court', therefore, an advocate has a 'duty' to look away from such misconduct, including criminal misconduct; abandon any thought of vindicating his rights when they're violated by this judge; and just shut up. More especially if the judge is 'a respected member of the judiciary', in which case such misconduct charges against him are *ipso facto* 'scurrilous'.

94. In the uniform view of the members of the Society's Complaints Committees, for an advocate to call out in his pleadings and affidavits in legal proceedings extreme, documented misconduct by the Board chairperson of a public entity is to disgracefully unprofessionally bring the judiciary into contempt, because he's also a judge. This was the hanging offence the Society's two Complaints Committees sent me down for.

95. At its meeting on 23 February 2017, the Bar Council accepted the clamorous, harmonic reports and recommendations of both Complaints Committees 1 and 2 that I be professionally garrotted, and 'resolved that the complaint against Brink would be referred to the Litigation Committee to launch an application for Brink's striking off.' The resolution is annexed marked 'R9'.

96. Violating the most basic principle of natural justice, known even to first-year law students, namely the *audi alteram partem* rule, with which my learned friends on the Bar Council were evidently unfamiliar, they didn't think to afford me the opportunity to respond to the Complaint, or even tell me about it, before (a) considering the matter *ex parte*; (b) delivering their unanimous guilty verdict on the basis of the two Complaints Committees' reports; and (c) proceeding to sentence me to professional death. Apparently these advocates running their Society all figured that the more serious the charge is, the less the need to try it. All that was necessary, as they saw it, was to righteously mumble some hot words about it between themselves gathered in a backroom, and then go out and fetch a rope.

97. When living in distant Mtunzini at this time – February/March 2017 – I got an unexpected text message on my cellphone out of the blue from an attorney in Pietermaritzburg, asking 'Are you OK?', I couldn't make sense of it, and it

perplexed me for days. It was only several weeks later that I learned of the Bar Council's resolution against me and understood that his solicitous enquiry about my well-being had been prompted by the news spread among my legal colleagues of my impending strike-off. He obviously assumed I knew of the extreme professional disgrace that I'd fallen into. But I had no idea.

98. In April 2017 I chanced to learn of the Society's intentions against me, resolved on in February, upon coming across a letter to LASA by the Society's Administrative Secretary on '23 March 2013' (*sic*: 2017), communicating the Bar Council's resolution that I be struck off. As the letter correctly mentions, Mossop and his Complaints Committee's first report made the month before was annexed to it. The letter is annexed marked 'R10'.

99. No such letter was sent to me. Not only had I been tried and sentenced by my professional colleagues *in absentia*, with complete disregard for *audi et altera pars*, I wasn't even notified of my condemnation.

100. This is how the leadership of the Society of Advocates of KwaZulu-Natal does things, even as its members yearn to become judges one day.

101. The letter and report were annexed – quite irrelevantly, for their prejudicial effect only – to LASA's replying affidavit signed a week later on 31 March 2017 in its (Hundermark's) last-ditch, abortive attempt to shut down my corruption investigation by applying to the High Court at Pietermaritzburg for orders (a) interdicting me from accessing LASA's records – including records it (he) had expressly agreed to hand over in a settlement agreement signed at the Eshowe Magistrate's Court (Hundermark was instructing LASA's lawyers at court over the phone from his office) after LASA (he) totally capitulated, moments before argument, to five PAIA applications I'd brought there and set down together for orders compelling LASA's surrender of duly requested documents it had sedulously been withholding from me – and (b) barring me from approaching the courts in the ordinary course in the exercise of my fundamental right to do so, entrenched by section 34 of the Constitution and given effect by section 78 of PAIA, so as to enforce my fundamental right of

access to LASA's public records, guaranteed by section 32 of the Constitution and given effect by section 11 of PAIA, when duly requested under section 18 of the Act, but illegally and unconstitutionally refused. LASA's (Hundermark's) outrageous, malicious, corruptly-driven, public revenue-abusing, quickly rejected application to get me declared a vexatious litigant ('the vexatious application') is further discussed below.

102. Any fried and blackened survivor of an unexpected lightning strike to his person on an otherwise pleasant day in the country will surely report the same exhilaration I experienced on coming across this most unpleasant second-hand news from the Society reaching me all of a sudden about my impending professional execution.

103. Opposing LASA's (Hundermark's) vexatious application launched the year before, I'd recently completed a massive answering affidavit, comprising multiple volumes, detailing the extreme, top-level corruption at LASA that I'd already uncovered.

104. The object of the vexatious application was to strip me of my most basic human rights to access public information and to approach the courts, entrenched by Chapter 2 of the Constitution, by having me declared a vexatious litigant and listed in the Government Gazette like a 'Communist' in the olden days by the apartheid Minister of Justice.

105. Now I discovered these gangsters were also trying to assassinate me professionally. Here were Mlambo JP's criminal lawyers Attorney Hundermark and Advocate Nair trying to kill the witness by firing one headshot at me after another from every possible angle.

106. I'd been sorely winged by one such shot already. To try strangling me financially, they'd got me thrown off the bench as a magistrate. Discussed further below, I only learned of their hand in this on June 2017, a couple of months after chancing to learn of the Society's intention to apply for my strike-off, and eighteen months after it happened. The shot didn't kill me, but

the intense stress of it on my partner was a major reason for the collapse of her health and death a few months later.

107. This is when I realised that this corrupt public entity was intent on destroying me, and that it had come down to them or me: either they had to go or I did. This was going to be a fight to the death.

108. On 24 April 2017, I requested an opportunity to answer the Complaint before the Society proceeded with its plans to take me out. My request for a hearing is annexed marked 'R11'.

109. The Society's chairperson Van Niekerk SC granted my request, and told me the strike-off resolution would be rescinded at the next Bar Council meeting. His letter conveying this is annexed marked 'R12'.

110. It's noteworthy that in his letter, Van Niekerk didn't deign to address me by my professional title, or, more professionally and courteously, simply by my surname in the cordial convention as between advocates, such as I'd observed in my letter to him (and later in my correspondence with Mossop, the convenor of Complaints Committee 2, who didn't extend me this basic collegial courtesy either).

111. The reason for this is that in Van Niekerk's opinion (and Mossop's) I was indisputably guilty as charged, and that it was a foregone conclusion that I'd be stripped of my professional title and rights. Certainly his ludicrously pompous letter reflected his *idée fixe* that 'the merits of the complaint' were beyond serious 'debate', so I shouldn't go wasting the Society's time mounting a full and proper defence to it:

> I do not wish the Society to become embroiled in a lengthy debate with you about the merits of the complaint and will accordingly request your representations to be made expeditiously and as brief as you can possibly make them.

Unlike LASA's 'lengthy', multi-pronged complaint that went on and on and on.

112. It's clear that as Van Niekerk saw it he was begrudgingly granting me a limited indulgence for the sake of form only, and not recognizing my basic right to mount a full and proper defence in a matter affecting me very seriously indeed.

113. What the Society wanted, Van Niekerk told me, in as many words, was that at most I should put up a perfunctory, token show of defending my professional life, to make everything look nice for the Society as it got on with its plans, following the irksome hiccup I'd just caused, to apply for my strike-off as soon as possible, just as the Bar Council had already decided, before I bobbed up inconveniently pleading for a hearing. And that the Society didn't want to be hassled with any detailed answer to the Complaint, since saying too much in defending myself would only frustrate and delay the Society's settled plans to cut off my professional head.

114. In other words, as he made clear, Van Niekerk wanted me to cooperate with the Society as it went through the formal motions of entertaining and rejecting my nominal defence, while paying lip service to the *audi* rule of which I'd had to remind him and his Bar Council, so that it could claim to the High Court that it had observed due process in investigating and upholding the Complaint.

115. In short, what this arse was telling me was to stretch my neck out for the axe and not go making too big a fuss over it.

116. Ultimately, as Van Niekerk made unequivocally clear to me, I was facing a professional lynch-mob with no real interest in anything I had to say in my defence; there wasn't going to be any proper enquiry; the process was rigged; its outcome was an inexorably certain thumbs-down for me; and it was only time before I was led off to be strung up.

117. To their credit, though, the Bar Council's other members later demonstrated that they didn't share their ridiculously bumptious colleague's remarkably uncivilised notion of justice enunciated by him as the very head of the illustrious Society of Advocates of KwaZulu-Natal.

118. Van Niekerk's ineluctable conviction that the Complaint was ironclad and that I had no defence to it, irrespective of the Bar Council's evident doubt about this minuted several months later when it came to consider the matter further, would come up again in the untruthfully false, seriously misleading and prejudicial information he gave the Secretary of the JSC later on.

119. Anyway, the Bar Council duly rescinded its strike-off resolution against me on 25 May 2017. The rescission resolution is annexed marked 'R13'.

120. Although the Complaint concerned my allegedly unprofessional criticism of several judges and LASA officers in my various litigations against LASA, I understood that it was my attack on Mlambo JP's integrity that Complaints Committee 2 found reason to have me struck off. Indeed, quoted above, Complaints Committee 1 took exactly this position in its report, as did Complaints Committee 2 in its second report (both of which reports I obtained from the Society via PAIA many years later). Accordingly I confined my response to justifying my heavy charges against Mlambo JP, and not my criticism of other judges or other LASA officers. (As said above, in this, my second response, now to the LPC, I'll also answer LASA's complaint about my criticism of these others.)

121. My response to the Complaint was to furnish Mossop and his Complaints Committee 2 with copies of my eight gross misconduct complaints just made against Mlambo JP to the JCC under section 14 of the JSC Act. As and when I completed and dispatched them in successive batches to the JCC in the period June–July 2017, I simultaneously couriered three copies of each complaint to Mossop, one for each of his committee's three members.

122. I interacted only with Mossop of Complaints Committee 2, and not with Complaints Committee 1, because after the strike-off resolution against me was rescinded, Mossop provided me with the Complaint and invited my response to it. Also, whether right or wrong, I had the impression that the report of Complaints Committee 1 was based on that of Complaints Committee 2. Mossop's letter to me is annexed marked 'R14'.

123. Summarised in a letter I wrote to JSC chairperson Mogoeng CJ two-and-a-half years later (discussed and referenced below) my complaints to the JCC charged Mlambo JP with:

> suborning perjury; repeatedly conniving at and colluding in the illegal and unconstitutional suppression of public records duly requested under the Promotion of Access to Information Act 2 of 2000 ('PAIA') to obstruct an investigation of jobs-for-pals recruitment corruption at LASA in which he was centrally involved; and lying and false 'confidential' reporting on multiple scores to the Minister of Justice and Constitutional Development (as the Department was then called), and then to the Portfolio Committee of the National Assembly for the same Department, to put down and pervert enquiries they'd separately and independently instituted into this corruption and its cover-up, involving *inter alia* the said persistent illegal and unconstitutional withholding of duly requested records to hinder its exposure.

124. I interpose to mention here that having no fear of justice, feeling quite assured of complete impunity, and confident that he's above the law and will never be held to account for breaking it (and it remains to be seen whether his confidence is justified), Mlambo JP recently compounded the first crime with which I charged him, namely suborning perjury, by committing another, namely statutory perjury (as it's commonly called) to try getting himself off the hook, by telling outright lies under oath in an affidavit he made on 4 November 2020, supported by a confirmatory affidavit that he got his former secretary to make for him on the same day – squarely refuted by records in my possession directly contradicting him. I discuss this below.

125. In mid-2017, I also filed a complaint to the JCC against Waglay JP for capital judicial misconduct in betraying his judicial oath and succumbing to improper influence behind the scenes (almost certainly exerted by Mlambo JP, as I showed in my comments on Waglay JP's response) and corruptly throwing a case LASA's way – the staggering written evidence of which I'd found in the

relevant court file a few months afterwards and put up with my complaint. I discuss all this in more detail below.

126. On 25 July 2017, Complaints Committee 2 (hereafter simply the 'Complaints Committee') invited LASA's comments on my response to its Complaint, comprising my eight complaints against Mlambo JP to the JCC, which the committee had copied on to LASA in turn. The invitation is annexed marked 'R15'.

127. LASA disdained the opportunity on 23 August 2017: 'It is not our intention to respond to his complaints' – my complaints to the JCC in which I'd charged Mlambo JP with the most extreme misconduct, including two crimes, on the back of supporting records put up as real evidence of them. LASA's reply is annexed marked 'R16'.

128. Whereas my response had been provided under affirmation on pain of the penalty for perjury, Mossop didn't impose the same penal discipline on LASA, namely that its comments on my response be sworn or affirmed, and in the result LASA gushed lies in its reply like a burst sewer. The obvious snowstorm of prevarication in LASA's reply, to which Mossop was wilfully blind in his disgracefully indolent handling of the matter, is addressed below.

129. Actually it wouldn't have made any practical difference even had LASA's reply been sworn. In my experience of its national office executives since my second, unpleasant interaction with then-HRE Clark in April 2010 (her first communication open and friendly; her second, after consulting Nair, mendaciously opaque and hostile) these people lie freely, regardless of whether they're under oath or not. This culture of mendacity in LASA's top ranks pioneered by Mlambo JP is discussed in my complaints to the JCC and also to the AG, discussed and referenced below.

130. The Complaints Committee didn't immediately provide me with LASA's response, so I didn't know about it at the time. A call from LASA in November three months later about a different matter prompted Mossop to do so. The chain of email correspondence recording this is annexed marked 'R17'.

131. From the amiable tone of my emails to Mossop in the just-mentioned chain, it will be clear to the LPC's investigating committee that I believed without a moment's doubt at the time that he was acting professionally and *bona fide*. It was unthinkable to me that any diligent, intelligent, honest silk would not appreciate the extraordinary gravity of my complaints against Mlambo JP and not see that the purpose of the Complaint was to snuff out a whistleblower calling out the most egregious criminal corruption in LASA's top ranks.

132. The said email chain further records that on 30 November 2017 I asked Mossop for a copy of his Complaints Committee's second report to the Bar Council: 'In your letter to Sekgota of 14 September 2017, I read that "A recommendation will today be sent to the Bar Council after consideration of the detailed representations made by Adv Brink." Please let me have a copy of your Complaints Committee's recommendation.' And later in the day I reminded him: 'Looking forward to the recommendation in September please.'

133. Mossop strangely didn't respond to my repeatedly made request for his and his Complaints Committee's second report in September 2017, notwithstanding his own advice in it 'that Advocate Brink be advised' of the 'recommendation' made in it. (The report is more fully quoted, discussed and referenced just below and further on.)

134. Considering that he'd been impressively forthcoming in promptly responding to my other document requests – for which I'd thanked him, as the above mentioned email correspondence records – Mossop appears to have been reluctant to share his report with me. Obtaining and reading it three years later, it's not hard to see why.

135. Frankly exhausted after a year of litigation on exceptionally voluminous papers that I'd just won against LASA a month earlier (Hundermark's vexatious application), I didn't follow up at the time on Mossop's failure to provide me with his second report in September 2017, as I'd requested; and I only did so in 2020 while gathering material documents from the Society in preparation for drawing

this response, after being informed in March that year that the LPC had resolved to investigate the Complaint afresh.

136. The reason I didn't press Mossop for a copy of his second report was that I assumed from his deferential, accurate description in his correspondence with LASA of my 'detailed representations' (my eight indeed closely 'detailed', documented, capital complaints against Mlambo JP to the JCC), that (a) he'd duly studied them along with all their supporting documents; (b) he'd appreciated that they were extraordinarily grave; (c) he'd concluded in light of them that the Complaint against me was both idle and malicious; and (d) his and his Complaints Committee's second report had accordingly recommended to the Bar Council that the Complaint be dismissed.

137. And assuming all this, I never gave the matter another thought – more especially because I didn't hear another word from the Society in the several years after that.

138. It's why I claimed *inter alia* in my correspondence with the Chief Justice in November 2019 and with the LPC in April 2020 (both mentioned and referenced below) that the Complaint had fizzled out after I'd furnished the Complaints Committee with copies of my complaints against Mlambo JP to the JSC.

139. Actually, as I'll show below, it *had* fizzled out, but not then, only some months afterwards, and no thanks to Mossop and his Complaints Committee for this.

140. So I was just astounded to learn years later in September 2020 from Society records requested and obtained under PAIA that my natural inference that the Complaints Committee had recommended the dismissal of the Complaint was incorrect. I discovered that in their second report to the Bar Council on 14 September 2017, Mossop and his Complaints Committee had claimed that in making my eight documented, quite diverse gross misconduct complaints against Mlambo JP to the JSC, constituting my response to LASA's Complaint against me, I'd:

> persisted in his allegations against the Judge [Mlambo JP] and has constructed the most elaborate conspiracy theory in an attempt to try and prove what he alleges. He has failed in this regard as the response is verbose and rambling but ultimately lacks substance. The committee, after a fresh consideration of the matter, believes that the matter still warrants a striking off application be brought.

Mossop and his Complaints Committee's second report of 14 September 2017 is annexed marked 'R18'.

141. Obtained from the LPC in February 2021 (the Society neglected to provide it to me in September 2020, along with the Complaints Committee's second report that I'd requested under PAIA), I've appended Complaints Committee member Manikam's 'Note' to the second report, a partial dissent in which he proposed that the Bar Council 'show deference' to the JCC by awaiting its decision of my complaints to it, seeing as 'Brink's allegations to the JSC overlap with his responses made by him to our committee' and the JCC is 'by its nature' a 'higher forum' as a 'disciplinary organ', given that under 'section 8 of the Judicial Service Commission Act 9 of 1994, the judicial conduct committee is chaired by the Chief Justice and the rest of the committee's members consist of judges.'

142. As discussed below, Manikam's proposal didn't impress the Bar Council, which wasn't persuaded by it and didn't resolve to adopt it. And this is because unlike Manikam – 'I agree with the views of Mossop SC in the report of committee 2 regarding Adv Brink' – the Bar Council didn't. As its resolution in the matter passed in January 2018 makes clear, the Bar Council didn't trust, believe, accept and rely on the alleged 'views of Mossop SC in the report of committee 2 regarding Adv Brink'.

143. Importantly, Manikam's 'Note' reveals that Mossop wrote the second report of Complaints Committee 2 in September 2017 and that it stated his 'views'.

144. From his focus in paragraph 1 of the second report on my 'conduct in certain litigation in which he [Brink], **inter alia**, called Mr Justice D. Mlambo a

liar and claimed that the Judge had misled a select committee of parliament', it was clear that it was especially these charges of mine – which I'd repeated, with supporting documents, in my complaints to the JCC – that Mossop and his Complaints Committee thought warranted my expulsion from my profession.

145. Indeed, in paragraph 2.3 of the Complaint, LASA had protested 'the manner in which Advocate Brink conducts his litigation, [with] unwarranted, abusive and defamatory statements made against members of the bench including his colleagues and other officials.' More specifically, and evidently of principle concern to LASA's rogue officers driving the Complaint (per paragraph 2.4), 'The statements referred to above relate to, among others, Judge President Mlambo of [the] North and South Gauteng Divisions of [the] High Court, Judge President Waglay of the Labour Court Division [*sic*] and Judge Cele of the Labour Court.'

146. In other words, as Mossop unambiguously implied in his unctuous, nauseating legalese dismissing my response, (a) the Complaint was valid; (b) I'm a paranoid nutcase with no good defence to it; (c) I'd unjustifiably repeated in my complaints to the JCC my false charges against Mlambo JP, and maliciously dribbled out an incoherent, unfocused babble of wild, baseless, fanciful allegations in a futile and specious attempt to counter the Complaint; and (d) I'd thus demonstrated myself to be unfit to remain on the roll of advocates.

147. Not only were my complaints against Mlambo JP to the JCC wholly meritless, alleged Mossop to the Bar Council, supported by Manikam and Konigkramer, they were essentially a perversely motivated publicity stunt:

> The committee again comments that a striking off application will offer Advocate Brink the sort of platform (and potentially publicity) that he appears to relish in order to advance his theories.

148. In truth and in fact, the Complaints Committee hadn't made such a 'comment' before and Mossop's claim that it had was a blatant lie told to demean me. (Luckily for him, he didn't tell it on affidavit or to a judge in court.) Mossop's

lie about this was no innocent, aberrant error, because as I'll show at length below, it was consistent with other lies he told in his report and with its generally dishonest tenor.

149. The entire foundation of Mossop's crude smear to falsely imply I'm a narcissistic attention-seeker peddling bizarre delusions was that (a) I'd 'drawn the matter to the attention of Noseweek magazine' by providing hard copies of my complaints made to the JCC against Mlambo JP and Waglay JP to veteran investigative journalist (and qualified attorney) Martin Welz, editor and publisher of that magazine (he telephoned me about them for over an hour); and (b) I'd engaged with such 'international organisations' as Transparency International headquartered in Berlin.

150. According to Mossop, the contact I'd made with our country's leading investigative journalist and with local and international anti-corruption and information transparency organisations about the extraordinary judicial corruption I'd encountered only went to show what a contemptible publicity hound I was. Quite clearly, Mossop had no good, proper, honest basis for defaming me to the Bar Council like this.

151. But in cavilling in this unfounded and transparently disingenuous manner, Mossop appears to have been trying to daunt the Bar Council from acting on what he alleged to be his considered opinion of my answer to LASA's complaint, well appreciating that, contrary to his dissimulation about this, it was not his considered opinion at all, because unlike Vahed J of the KwaZulu-Natal Division of the High Court, and later on Zondi JA of the Supreme Court of Appeal and investigating member of the JCC (see below), it's abundantly clear that he and his Complaints Committee never took the trouble to carefully study my admittedly voluminous complaints and all their supporting records. Indeed, on his own version recorded in correspondence quoted below, he couldn't have. The further multiple cogent indications of his failure to have properly investigated the matter are likewise canvassed below.

152. Actually, as I'll show below, cheaply denigrating me on the way, Mossop actually succeeded in his manoeuvre to plant doubt in the minds of the Bar Council's members as to whether my legal pleading quoted in the Complaint and especially my impenitent, aggravating response to it – by filing eight capital complaints against Mlambo JP to the JCC – merited my strike-off.

153. What my alleged 'conspiracy theory' was, what my strange 'theories' were, Mossop didn't say. The reason may be traced to the fact that my complaints to the JCC copied to him as my response to the Complaint (a) alleged nothing more exciting than everyday recruitment corruption in the form of cronyism; (b) quoted the several contradictory, mutually destructive, completely different stories to cover it up told to me, to LASA's Board, to the Justice Minister, to the Justice Portfolio Committee, and to the Labour Court; and (c) detailed chairperson Mlambo JP and LASA executive management's documented collusion in the disintegrated cover-up of this recruitment corruption, including by illegally and unconstitutionally withholding documents I'd duly requested under PAIA, and then falsely reporting to the Justice Minister and Justice Portfolio Committee to successfully pervert their separate, independent enquiries instituted into this corruption and suppression of records to obstruct my investigation of it.

154. A 'conspiracy', the Oxford English Dictionary tells us, means 'The action of conspiring; [a] combination of persons for an evil or unlawful purpose'. The word is consequently used routinely, neutrally, and matter-of-factly by criminal prosecutors in their indictments, and by judges in their judgments, in regard to criminals who've planned their crimes together with a common purpose. Deriving from the Latin word for 'breathe together', historically the word had a positive meaning. Cicero, for instance, observed that a civilized society is essentially a '*conspiratio plurium in unum*', formed '*conspiratione hominum atque consensu*'.

155. On the other hand, as more intelligent and discerning people understand, the expression 'conspiracy theory' is popularly used nowadays for its pejorative charge by intellectually mediocre and dishonest promoters and guardians of false

official, institutional and commercial narratives to prejudice readers against examining them and subjecting them to scrutiny. The expression gets eyes rolling, brings mental shutters down, and blocks thoughtful consideration of whatever critical claim is being derided in this way, at least among more gullible and uninquisitive persons.

156. This prejudice is achieved by insinuating that the person alleging a 'conspiracy theory' in relation to such a false narrative has no, or no sufficient, empirical foundation for what he or she is claiming, and moreover that he or she has drawn and advanced such outlandish conclusions that he or she obviously suffers from a defective capacity to think straight and maybe even frank mental perturbation. Conversely, by levelling the 'conspiracy theory' charge, the person doing so implies that he or she is well informed, right-thinking, and has carefully examined the issue at hand and come out on the correct side of it.

157. This is why newspaper hacks shilling for corrupt corporate and institutional power regularly use the potently negatively-loaded epithet 'conspiracy theorist' to ridicule and discredit those seriously and dangerously challenging its false claims and deleterious agendas, knowing that their more stupid readers will be deterred from giving serious consideration to the information presented contradicting and opposing them. As it turned out, though, the Bar Council's members weren't as stupid as Mossop took them for.

158. Weaponizing the same expression against me to imply that I was paranoid and unworthy of credence, Mlambo JP had pulled the same move in his lying reports to the Justice Minister and to the Justice Portfolio Committee – successfully in his case, because both authorities immediately closed their enquiries. And not unreasonably, because who could have imagined that Mlambo JP is a complete stranger to the truth? I deal with this in my complaints to the JCC.

159. But the notable difference between Mlambo JP's and Mossop's equally dishonest and manipulative use of the same jeering put-down is as follows.

160. In his lying reports to the Minister and to the Portfolio Committee in March and June 2011, Mlambo JP used the expression to scoff at my inference (*incorrect*, as it later turned out) based on the then-available evidence that the obstacle to my appointment to LASA's most senior, specialist legal professional post in KwaZulu-Natal – for which I'd been unanimously recommended by a duly constituted selection panel, after LASA had spent years trying to find the right candidate to appoint to it, and had repeatedly advertised and repeatedly interviewed for it – was covert unfair discrimination.

161. It was this wrong inference of unfair discrimination that I'd drawn, pleaded, gone to court on, and pressed on appeal, which LASA described in the last paragraph of its Complaint as my 'delusionary theory ... without any factual basis'.

162. I should explain here, for the information of the LPC's investigating committee possibly unaware of this recondite aspect of labour jurisprudence, that international and local labour law recognizes that precisely because it's unlawful, unfair discrimination in employment decision-making is invariably covert, undeclared and concealed by employers under a pretext or a totally false justification; and that for this reason such unlawful discrimination must necessarily be inferred by the aggrieved job applicant perceiving it, and by the court trying his or her complaint about it, from the surrounding countryside of material facts in the particular case, such as false explanations advanced for the adverse employment decision (several radically contradictory, mutually destructive explanations in my case, contradicted and unsupported by the records, eventually advanced under rising pressure to account many months after my successful interview), unusual procedural irregularities (a multitude of them in my case), snarling, insulting hostility to eminently patient, polite, friendly enquiry as to the result of the recruitment process made after an untoward, strangely long silence following the interviews and conclusion of the selection process (as in my case), persistent, repeated, strenuous, furtive, illegal refusal to share duly requested, centrally relevant records (as in my case) etc.

163. To assist plaintiffs prove such inherently difficult claims in court, the International Labour Organisation – whose prescripts our country is bound by treaty to observe – prescribes that the onus of proof in unfair discrimination claims is reversed and shifted to employers to prove that no such discrimination occurred. Accordingly, under 'Burden of proof', section 11(1) of the EEA provides: 'If unfair discrimination is alleged on a ground listed in section 6(1), the employer against whom the allegation is made must prove, on a balance of probabilities, that such discrimination– (a) did not take place as alleged; or (b) is rational and not unfair, or is otherwise justifiable.'

164. In my opening address I tried teaching the labour judge about this unusual reversed onus, but he wasn't interested, cut me short, and never got the lesson, even when repeated for him nicely in my closely detailed and referenced heads of argument – which in chambers he jocosely confessed he hadn't even read in preparation for the oral argument set down over three days, many months after the two-week trial, and which argument in court he cut short to an hour or so – as his judgment misallocating the final burden of proof and imposed it on me sadly shows. LASA itself conceded this fundamental mistake, as did the judge himself in his following judgment refusing leave to appeal – even though this root blunder of his obviously vitiated his entire judgment dismissing my main claim.

165. In short, my inference of covert unfair discrimination on the then-available evidence as the reason I wasn't given the top job for which I'd been duly picked was both reasonable and legitimate under modern labour law principles. And on page after page of his judgment, the labour judge gave unfair discrimination serious consideration as the possible reason for the backroom abortion of my appointment, before ultimately dismissing it – and correctly so, as things turned out.

166. Though my inference of unfair discrimination was wrong as I much later discovered, it was reasonably and legitimately drawn and pleaded on the facts known to me at the time (the all-explanatory fact of Mlambo JP's professional relationship with my rival applicant having been maliciously concealed from me

by blacking it out from the recommendation report with a Koki pen, criminally illegally under section 90 of PAIA), and this inference was not a completely unfounded 'conspiracy theory' in the dizzy, pejorative sense that Mlambo JP intended, so as to discredit my complaints to the Minister and Portfolio Committee. Certainly the labour judge never thought this.

167. But in my complaints to the JCC against Mlambo JP in 2017, six years later, I pointed out my discovery that the problem wasn't unfair discrimination at all, as I'd wrongly surmised, it was just everyday cronyism, as became evident from the just-mentioned long-suppressed complete document finally prised out of LASA in April 2016 by suing for it and pressing my claim to it all the way to the courtroom.

168. Had Mossop troubled himself to carefully study my complaints to the JCC, and it's certain he didn't, it could only have been this new conclusion of mine as to everyday jobs-for-pals recruitment corruption involving Mlambo JP's pal and its cover-up by him in collusion with executive management, *inter alia,* in hiding records and lying to me, to the Minister and to the Portfolio Committee, that Mossop called 'the most elaborate conspiracy theory' that I'd now 'constructed ... in an attempt to try and proves what he alleges'.

169. This is to say, according to Mossop, my *new* 'conspiracy theory' about *cronyism* and its cover-up detailed in my complaints to the JCC against Mlambo JP was freshly invented by me to substantiate my *old* allegations of *unfair discrimination*, which Mlambo JP had also called a 'conspiracy theory' in his lying reports to the Minister and to the Portfolio Committee, and which LASA called 'delusionary' in its Complaint.

170. To the extent that Mossop was referring to my complaints made to the JCC that Mlambo JP had, on four documented occasions, colluded in and connived at Vedalankar's (actually Hundermark's) illegal suppression of duly requested documents – that is, Mlambo JP conspired with executive management to obstruct my corruption investigation – the complaints weren't baseless

supposition; quite the contrary, they were founded on the supporting documents that I put up to prove them.

171. To claim then, as Mossop did, that I'd 'constructed the most elaborate conspiracy theory' in making my documented complaints, in order to discredit them before the Bar Council, was extraordinarily dishonest.

172. In ridiculing in this way my several different, exceedingly serious, documented gross misconduct complaints against Mlambo JP to the JCC, and in suggesting they'd dropped from the rear end of a horse, Mossop's transparent *mala fide* intention was (a) to deter the Bar Council from taking my complaints seriously and from giving them any further consideration; (b) to defraud it into believing that he'd diligently studied my complaints and found them to be baseless, evidence-free, and unfounded on any objective facts (the JCC didn't think so; see below); and (c) to persuade it that I'd wildly and viciously attacked Mlambo JP for no good reason, like a crazed dog needing to be put down.

173. But, as said, Mossop's crooked scheme didn't work out so well. The Bar Council wasn't convinced by his report and wasn't so easily put off by him from investigating my exceptionally serious charges against Mlambo JP; quite the opposite, as I'll show. (Even if the Bar Council then failed to conduct the very investigation that it resolved itself to conduct, after not accepting Mossop's report.)

174. It appears that even before I filed my complaints against Mlambo JP to the JCC and furnished Mossop and his Complaints Committee with copies of them, he'd already formed the firmly biased impression that I'm one of those deluded 'conspiracy theorist' types. I say this having regard to the fact that, as they (Mossop) put it in their first report, I'm a 'well known, self taught, dissident in this field [i.e. the molecular and clinical pharmacology of nucleoside analogue drugs – true, and acknowledged as such on the record by many top-ranking scientists and academics around the world], believing that ARV's kill rather than cure.'

175. The issue isn't directly relevant to the decision of the complaint, but it merits a discursive digression to counter Mossop's suggestion that my minority, dissentient position in the subject is ridiculous and weak-headed, just as he'd later suggest in his second report that my complaints against Mlambo JP to the JCC were.

176. As is 'well known' to Mossop and the general public in the prevailing propaganda climate, only a deluded conspiracy theorist would very perversely claim (a) that there's a mountain of research literature reporting that ARVs don't 'cure' anything at all (not even their manufacturers and promoters claim they do), and that, like Calomel (mercury) and Salvarsan (arsenic) back in their day, they're exceptionally toxic, and that furthermore the largest clinical review of these drugs yet conducted and reported, in which over 22 000 clinical case files were examined and analyzed, found that ARVs actually accelerate disease progression and death; and (b) that the first, most aggressively promoted, and once biggest-selling of these drugs, pushed extraordinarily hard on our new government at the turn of the century, a nucleoside analogue reverse transcriptase inhibitor called 3'-Azido-3'-deoxythymidine (AZT), first synthesized in 1961 by Professor Richard Beltz (he wrote to support me) as an experimental cell poison for possible use as a cancer chemotherapy to poison cells, is indeed a very efficacious cell poison, lethal to all cells its reaches, and especially to the rapidly replicating brain- and other cells of unborn and newly born babies, in this country practically all African.

177. Which explains the deadly skull-and-crossbones decal alongside a hair-raising hazard warning on the orange (for dangerously toxic) label of the minutest amount of AZT sold in tiny bottles for laboratory research use, containing just a quarter of what's contained in a single capsule hawked by the drug companies for swallowing deliberately on their criminal advice, many of them every day, especially by pregnant women: 'TOXIC: Toxic to inhalation, in contact with skin and if swallowed. Target organ(s): Blood Bone marrow. In case of accident or you if you feel unwell, seek medical advice immediately (show the label where possible). Wear suitable protective clothing.'

178. I've written several books on the subject and lectured on it dozens of times at conferences and auditoriums here and abroad for years, including to medical students here and in Berlin; but two leaflets I made, excerpting the scientific research literature crisply point up these issues. They're not directly material to the decision of the Complaint, but they vouch my point on this verifiable background matter and counter Mossop's smirking insinuation in his first report that I'm obviously funny in the head for opposing the murderously fraudulent marketing of AZT and similar cell poisons as life-saving drugs, like Salvarsan for about five decades in the 20th Century and Calomel for about five centuries before that. The leaflets are annexed marked 'R19' and 'R20'.

179. Also, only a loony conspiracy theorist would point out that dozens of research investigations published in the peer-reviewed scientific literature uniformly report that AZT isn't triphosphorylated intracellularly, as the pharmaceutical corporations fraudulently claim it is in their Product Information sheets, so it can't terminate DNA chain formation as also falsely claimed, and therefore can't be 'anti-retroviral' as further falsely claimed, which means the risk/benefit ratio of swallowing this extremely toxic chemical is infinite; but that's another matter.

180. But to Mossop, whose certain, confident, comfortable understanding of ARVs, indicated in his first report, derives entirely from what he read in the newspaper, heard on the radio on the M4 driving home to his TV and saw on the news after *Days of our Lives*, AZT 'cure[s]' rather than 'kill[s]'.

181. This is after all the progressive consensus inculcated by the said media in the absent minds of those to whom it's never occurred to look into why, tipped off by me, then-President Mbeki sounded the alarm against the drug in the National Council of Provinces on 28 October 1999 and was backed by the Health Minister in short order, even as all the newspapers screamed blue murder against us. (See generally tig.org.za; and specifically 'For very great is the number of the stupid' (per Galileo) at tig.org.za/openbooks/JSY/'stupid'.html.)

182. And only a self-promoting conspiracy nut would have spent a decade of his life, working every nerve and sinew full-time in the public interest for the literally voiceless – the unborn – on bread-and-butter grant support by concerned specialist medical doctors in Europe, raising the hue and cry against it in this country, all over Europe, and in Russia too, especially since this gargantuan corporate crime was not his problem or concern, and he really should just have stuck to his civil practice at the Pietermaritzburg Bar, enjoyed his family, sports-car and swimming pool, and kept out of it like any normal, sensible, money-driven lawyer like Mossop would have done. Unlike some fruitcake who 'appears to relish' 'publicity ... in order to advance his theories.' Being quite obviously bonkers.

183. Even Mossop's description of me as a 'dissident' had a negative gravamen in relation to the purely scientific medical issues I was raising, which had become intensely politicised, polarized, and emotionally inflamed thanks to the propaganda apparatus at the disposal of the transnational pharmaceutical industry, and the intolerant hysteria it fomented.

184. Until the AIDS age, the word 'dissident' had a positive connotation, signifying courageous opposition to oppressive, totalitarian government, especially in the former USSR. Then its meaning became inverted in all the newspapers, epitomised by the banner that the drug-pushing NGO *Médecins Sans Frontières* marched behind in a street demonstration in Cape Town, bearing the slogan, 'One dissident, one bullet' – meaning death to those opposing the marketing agenda of the medical-industrial complex and its assets in the newspapers and comprador NGOs with multi-million rand budgets, promoting ARV drugs for a jet-set living.

185. Another indication that Mossop had formed an intractably negative impression of me and my charges against Mlambo JP and others which I'd levelled in my litigations against LASA, of which it had complained, is the giveaway hollow vehemence of his second report in rejecting my complaints to the JCC as evincing mental disorder. The report palpably seethes with personal contempt.

186. It's a commonplace that challenges to tightly-held opinions posed by facts and arguments contradicting them tend to make their firm believers feel uncomfortable, so that they react not coolly and with interest, attention and curiosity, but instead with aversion, intense personal antipathy sometimes, and even charges of lunacy. This overpowering emotional sensation prevents them rationally thinking their beliefs over and replacing them with conclusions indicated by the new facts and arguments presented to them, especially when these new conclusions are disagreeable. It makes people making such challenges seem evil, monstrous, and beyond the pale.

187. This is why, rather than approaching with an open mind what Mossop himself had correctly described as my finely 'detailed representations' (as Vahed J and Zondi JA did later on; see below), being my complaints to the JCC against Mlambo JP, and rather than carefully re-evaluating, in light of my complaints, both the Complaint and his Complaints Committee's original report upholding it, Mossop rejected them as the 'delusional' fiction of a cracked pot (as LASA had alleged), disparaging my complaints to the JCC as being underpinned by 'the most elaborate conspiracy theory', for which I should be driven out of the profession:

> The recommendation is therefore that the striking off application continues and that Advocate Brink be advised, as well as Legal Aid South Africa.

188. In their second report, Mossop and his Complaints Committee stated uncritically and with implicit approval that LASA had 'contented itself with a general statement that Advocate Brink had *raised nothing new in his answer* but persisted in his allegations made against Mr. Justice Mlambo *as well as another Judge*' (my emphases).

189. The first highlighted statement was manifestly false even to Mossop, inasmuch as it was contradicted by his own purported finding that in my complaints to the JSC against Mlambo JP, copies of which I'd submitted as my complete answer to the Complaint, I'd now 'constructed the most elaborate

conspiracy theory in an attempt to try and prove what he alleges'. Which is to say, my complaints to the JCC contained a a whole bunch of baseless, mad new claims freshly made up to butress my previous ones. My 'allegations made against another judge', namely Waglay JP, I'll deal with shortly below.

190. As pointed out in my complaints against Mlambo JP, I'd sued LASA in July 2011 and gone to court in July 2013 believing that the obstacle to my appointment was covert unfair discrimination, in that one or more of its top officers didn't want me in the organisation on account of my extreme political malodour at the time (the latter fact not disputed by LASA, and accepted by unreservedly the labour judge in his judgment); but in 2016, years after the dismissal of my claim, I'd learned from information contained in a record that LASA had determinedly suppressed since my first request for it in 2010 that the real reason I wasn't appointed was just everyday recruitment corruption in the form of jobs-for-pals cronyism: LASA chairperson Mlambo JP just wanted his former judicial colleague appointed to the top job, not me. Perfectly understandable.

191. Other recruitment corruption outside of LASA in which Mlambo JP has been engaged – according to a former national management executive at LASA who detailed it to me, one instance of it later directly confirmed to me first-hand by the judge prejudiced by it – is detailed in my correspondence with Mogoeng CJ and Zondo DCJ mentioned below. (I have other reliable, detailed, first-hand reports from the same and from another very well-placed source outside LASA of more such grossly unethical jobs-for-pals corruption on Mlambo JP's part; but this for another day.)

192. In short, contrary to LASA's lie about this as it avoided engaging with the substance of my eight complaints against Mlambo JP to the JCC, being my 'answer' to the Complaint, they indeed 'raised' something 'new', something fundamentally 'new', as just described. In fact, my complaints to the JCC 'raised' many 'new' things.

193. Also 'new', my second to fifth complaints to the JSC against Mlambo JP charged him, on the strength of supporting records, with repeatedly colluding in and conniving at LASA's management executives' illegal and unconstitutional refusals to allow me access to records I'd duly requested under PAIA, in order to obstruct my investigation of the true reason for the silent, unrecorded, unauthorised, illegal backroom abortion of my appointment to the repeatedly advertised, repeatedly interviewed for, critical, top professional post for which I'd been duly and unanimously selected and recommended – to Mlambo JP's annoyance, since he wanted his pal in it instead.

194. LASA's claim that I'd 'raised nothing new' in my JCC complaints, tacitly accepted by Mossop, was absolutely false. And Mossop would have appreciated this had he really 'considered the answer of Advocate Brink' by carefully studying my complaints as he pretended to have done in claiming that 'after a fresh consideration of the matter' in light of my response, he and his Complaints Committee 'believes that the matter still warrants a striking off application be brought.'

195. Also entirely 'new' and very importantly 'new' was my incidental charge mentioned in my first complaint against Mlambo JP for suborning perjury that LASA had perverted the decision of my petition for leave to appeal by getting to the appeal judge behind the scenes: see annexure 'R4', page 12, paragraphs 47–8.

196. Dismissing Mossop's invitation to reply to my response, LASA pointedly referred to its successfully committed prodigiously gigantic crime of defeating the ends of justice in this way by claiming I'd made 'unsubstantiated inflammatory statements against Judge President Waglay.'

197. It shows that Hundermark and/or Nair read and noted this exceedingly serious new complaint. Their impudent reaction to it, expressed in LASA's letter brushing off Mossop's invitation to comment on my response, should have alerted Mossop to the extreme criminal depravity he was facing, because there was no alarm expressed in LASA's letter about the written evidence of LASA's perversion of the judicial process that I'd placed before the JCC and copied to

Mossop and his Complaints Committee, nor any mention of any undertaking to investigate and find out who slipped Waglay JP that anonymous, unsigned, undated, and unstamped criminal instrument to persuade him to toss my petition. Instead, LASA demanded the punishment of the complainant reporting this phenomenally serious crime committed by one of its top officers and the top-level corruption of a court of appeal that it achieved. And Mossop just went along with it.

198. In his second report, Mossop unequivocally implicitly accepted LASA's allegation that I'd made 'unsubstantiated inflammatory statements against Judge President Waglay' by stating that LASA had 'contented itself with a general statement that Advocate Brink had ... persisted in his allegations made against Mr. Justice Mlambo *as well as another Judge*' (my emphasis), and that on account of this, 'The recommendation is therefore that the striking off application continues'.

199. Clearly Mossop 'contented' himself with mindlessly parroting LASA's new beef that I'd now also impeached Waglay JP's integrity for no good reason at all, without investigating its veracity by studying my first complaint against Mlambo JP and examining its supporting documents concerning the corrupt disposal of my petition for leave to appeal by Waglay JP.

200. Clearly Mossop let LASA decide for him whether my response – my eight complaints against then-LASA Board chairperson Mlambo JP – had any substance to them or not.

201. Clearly Mossop simply deferred to LASA and cravenly accepted whatever it had to say about the matter, on the assumption that it was entirely inconceivable that my extremely serious complaints to the JCC might be solidly founded and sound, since LASA had told him I'm 'delusional'. And anyway he already thought so.

202. In sum, Mossop behaved like LASA's stenographer and loudspeaker, laundering and ratifying its lies.

203. In reporting to the Bar Council that LASA had decided not to 'reply in detail' to my eight complaints, Mossop risibly pimped up LASA's evasion of the substance of my unanswerable, documented complaints by alleging that this decision had been taken after 'substantial reflection'. In truth and in fact, contrary to this fabrication laid on to further persuade the Bar Council that my complaints to the JCC were meritless, there was zero evidence before by him of any 'substantial reflection' by LASA before spurning his invitation to comment on my complaints to the JCC – telling its usual lies as it did so, and continuing to cast me, the complainant, as the miscreant in the matter, and not the criminal accused, Mlambo JP.

204. Nominally writing for LASA, Legal Executive Mtati alleged that he and/or a colleague had 'read through all' my complaints and that 'it was apparent that there are no new issues that Advocate Brink is raising.'

205. From the facts that LASA failed to address a single documented charge levelled against Mlambo JP in my complaints, and lied in claiming I'd said nothing new in them – contradicted by Mossop himself in his second report, and by the other new matters raised in my complaints mentioned above – it was perfectly obvious that no LASA officer had engaged in any 'substantial reflection' on my complaints, even if they took a month to reply to the invitation to do so, because actually 'it was apparent' from my complaints, to anyone reading them, that there were multiple serious 'new' issues that they were indeed raising.

206. Had Mossop studied my complaints with any attention and intelligence, he'd have appreciated that the author of LASA's letter was obviously lying in alleging that 'The substantial part of the complaints have [*sic*] already been ventilated and dealt with at the Durban Labour Court and the Labour Appeal Court.'

207. Six of my eight complaints concerned Mlambo JP's documented complicity in and connivance at Vedalankar's (Hundermark's) repeated and persistent, illegal and unconstitutional suppression of duly requested records, and his false reporting about this to the Minister and then the Portfolio Committee to pervert

their enquiries into this violation of my fundamental right to public body information in service of a top-level corruption cover-up.

208. Mossop would have appreciated that Mlambo JP and LASA's executive management's corrupt, illegal and unconstitutional conduct in this regard – the suppression of records and then lying about this to the Minister and Portfolio Committee – was obviously none of the Labour- and Labour Appeal Courts' business.

209. In its said letter, LASA records that it had 'furnished you [Mossop] with a record of the Labour Court proceedings'. Had he read this record, he'd have seen that LASA's repeated and persistent non-compliance with my early PAIA requests, and Mlambo JP's documented complicity in and connivance at this, was not 'ventilated and dealt with' in the Labour Court, as LASA falsely claimed to him – because it was not concerned with the matter of LASA's early non-compliance with PAIA, not having been pleaded for decision in my claim for my appointment, and therefore not showing up in the judgment (discussed and referenced below).

210. For the same reason, the Labour Appeal Court similarly had no interest in the matter, which is why Mlambo JP's involvement in the illegal and unconstitutional suppression of records duly requested under PAIA, wasn't 'ventilated' as an issue for decision in my petition for leave to appeal either as, nor 'dealt with' in the very brief order dismissing it (discussed and referenced below).

211. Had Mossop given the matter his serious, open-minded attention, and not acted like retired Appeal Judge Willie Seriti at the Arms Deal Enquiry, he'd have appreciated the obvious vacuity of LASA's further allegation made in low-IQ, high-cunning, dishonestly obfuscatory faux-legal gibberish that 'Other matters raised arise out of the applications he made at Eshowe Magistrate's Court which now form part of two applications set down for 27 October 2017 at the Pietermaritzburg High Court.'

212. My first complaint charged, as one of the brand-new 'matters raised', that Mlambo JP suborned Mtati's perjury in alleging in an affidavit made on his instructions and filed in the Labour Court that I'd very disrespectfully and unprofessionally travelled up to see him (impliedly, to harass him) at his judge's chambers in Johannesburg right in the middle of my pending labour case, and that he'd been outraged by this. (Discussed below, Mlambo JP recently himself directly repeated this pure invention on affidavit, which is to say he perjured himself.)

213. This first complaint quite obviously had nothing to do with the five 'applications he [Brink] made at Eshowe Magistrates Court' under PAIA to compel the delivery of duly requested, illegally refused LASA records, to which applications LASA had totally capitulated at court on the morning of argument, nor to my further application to that court to compel its full and proper compliance with its undertakings recorded in its surrender treaty to hand over the records I'd had to sue for and to deliver a compliant section 23 affidavit regarding non-existent records. (LASA's total surrender, and then breach of its surrender treaty, is canvassed repeatedly in my complaints to the JCC (annexure 'R4'), starting at page 8, paragraph 32, and many times thereafter: search on 'capitulat'.)

214. Nor did my subornation of perjury complaint against Mlambo JP have anything to do with my subsequently launched PAIA application in the High Court at Pietermaritzburg or with Hundermark's vexatious application – both of which cases were set down together on 27 October 2017 by order of the Judge President for argument on the same day. (The perjured allegation that I travelled up to Mlambo JP's chambers to vex him was quietly dropped and not repeated in LASA's vexatious application papers in support of its failed claim that I'm a vexatious character.)

215. Nor were my PAIA applications to the Magistrate's Court, which LASA had conceded in the courtroom at the very last minute, 'part of' of my subsequent PAIA application made to the High Court. Quite obviously my PAIA application to the High Court was in respect of different documents. Not being retarded, I'd

hardly have sued for the same documents in both courts. Especially since LASA had capitulated to my claims for the documents I'd sued for in the Magistrate's Court, and pledged in the settlement agreement to hand them over, and after giving me a box full but continuing to withhold promised key records I was chasing these remaining outstanding records with a further application to compel full and proper compliance with the settlement agreement in the same court, as contemplated in the agreement in the event of LASA's default.

216. But with no 'reflection', let alone any 'substantial reflection' on it, Mossop eagerly swallowed all this trash-talk in LASA's letter without stopping to chew.

217. Had Mossop studied my complaints, he'd have appreciated that LASA's claim that 'he [Brink] makes unsubstantiated inflammatory statements against Judge President Waglay' was contradicted and exposed as a flat-out lie, in the usual LASA manner, by the copy of the 'memorandum' I found in the court file and put up with my first complaint against Mlambo JP as annexure 'E', supported by the registrar's certification of an inventory of the case file's contents, including this 'memorandum' as a document indeed contained in the file, put up as annexure 'F' (see annexure 'R4' hereto, page 12, paragraphs 47–8).

218. That is, contrary to LASA's contemptibly stupid lie about it, my exceedingly serious complaint about this judicial corruption on Waglay JP's part was indeed *substantiated* by real evidence.

219. Had Mossop studied my complaints against Mlambo JP, he'd also have seen that I'd filed an affirmed complaint against Waglay JP to the JCC about this (see annexure 'R4', page 178, paragraph 6.5), so LASA's charge that my complaint (about Waglay JP having been improperly influenced to throw my petition LASA's way) was 'inflammatory' was a patently and stupidly dishonest attempt to shout down the extremely serious cold facts with hot air. But it worked just swell on Mossop, hogging it all down.

220. In his rush to condemn me without a careful, proper consideration of the evidence I'd placed before him, there was no room in Mossop's narrow and lethargic mind, blinkered with bias and prejudiced by his inflexible adverse

impression of me and my complaints, to squeeze into it the stupefying possibility that he was staring at a judicial corruption scandal of unprecedented magnitude involving not one but two judge presidents.

221. It's why Mossop avidly embraced LASA's lie that I'd made 'unsubstantiated inflammatory statements against Judge President Waglay', and then mindlessly recommended that my legal head be struck off also for making these new 'allegations' against 'another Judge'.

222. One understands that Mossop didn't want to harm his prospects of being promoted to the bench one day by coming down on my side against two judge presidents and thereby situating himself on the wrong side of the judicial establishment. Which is where an honest and diligent appraisal of the Complaint and my response to it would have led him. In effect, Mossop closed ranks around the criminal cover-up and judicial corruption detailed in my pleadings and affidavits that LASA wanted me struck off for, and thereby perpetuated it.

223. To sell to the Bar Council his ill-considered, insupportable recommendation that I be expelled for indicting Mlambo JP and Waglay JP's capital misconduct detailed in my complaints to the JCC and copied to him, without having done the necessary homework to arrive at it, and wantonly trashing my professional reputation on the way, Mossop just fabricated out of thin air his impressive 'substantial reflection' puffery – just as he also fabricated his equally untruthful claim to have previously 'comment[ed]', as he was now doing 'again', that 'a striking off application' would give me some more jollies as an attention-seeker missing some of his head screws.

224. Ordinary people call these sorts of false claims lies, even when lawyers tell them. Devious salesmen perpetrating such frauds to sell lemons at downtown used-car marts get sued for them.

225. Mossop's unfounded claim that LASA had decided not to reply to my complaints after 'substantial reflection', indirectly implied that he'd himself carefully deliberated on my 'detailed representations', and that he'd rejected them after 'substantial reflection' on them of his own. In other words, the reason

he falsely claimed that LASA had avoided replying directly to my complaints after 'substantial reflection' was to dishonestly cover his own failure to have afforded them any 'substantial reflection' himself.

226. Indeed, the record of Mossop's correspondence with LASA shows beyond doubt that he never 'considered the answer of Advocate Brink' in the sense that he implied to the Bar Council, namely that he'd taken the necessary time to carefully study my complaints to the JCC against Mlambo JP, as well as the smoking-gun proof that I put up in support of my complaint against Waglay JP.

227. That is, contrary to his pretence about this to the Bar Council, Mossop never conducted a proper investigation of the Complaint in light of my answer to it, as he'd been commissioned to do.

228. Mossop's letter to LASA on 14 September 2017, in which he stated 'A recommendation will today be sent to the Bar Council after consideration of the detailed representations made by Adv Brink' (see annexure 'R17', page 9), records that by that date he still hadn't read my gross misconduct complaints against Mlambo JP, despite having been in possession of copies since June-July 2017, when I'd couriered them directly to him post-haste for his urgent attention as and when I completed and signed the originals, and successively dispatched them to the JCC. That is, after receiving them, Mossop sat on my complaints for about three months without bothering to read them.

229. Even after getting LASA's reply on 23 August 2017, evading the substance of my complaints against Mlambo JP, Mossop continued to sit on my 'detailed representations' unread for a further three weeks.

230. Mossop's email to LASA on 14 September 2017 to inform it that 'A recommendation will today be sent to the Bar Council after consideration of the detailed representations made by Adv Brink' puts beyond doubt that he was responding obsequiously to a telephone call from LASA (there's no email record) pressing him again to deliver his second and final report 'swiftly', as its letter in August had done.

231. There's no other conceivable explanation for Mossop's assurance to LASA that he'd be reporting to the Bar Council later on the same day. He'd no reason to give LASA this undertaking other than to mollify an impatient enquiry about progress in the matter, having dilly-dallied for three weeks after receiving LASA's letter declining to reply directly to my response, in which LASA stated it wanted me professionally killed 'swiftly'. And before that, having done nothing for over a year before condemning me the first time in February 2017, without thinking to hear me.

232. Quite unnecessarily and unjustifiably, and enormously prejudicially to me, Mossop committed himself to obliging LASA's impatient request on or about 14 September 2017 that he file his report on the Complaint, *by undertaking to conduct his entire investigation and write and file his report in the remaining hours of the same day .*

233. No competent, reasonable, diligent, honest commissioner charged with holding an important enquiry with a man's professional life at stake, galvanised by a repeated demand by one of the parties that he 'swiftly' make his determination in a complex dispute with many issues for decision, launched nearly two years earlier, would commit himself to studying and assessing the thousands of pages of written evidence filling several bound volumes and to reporting his determination of the dispute all within a few hours of being pressed to get on with it. And no competent, reasonable, diligent, honest commissioner would actually do such a thing. Only a disgracefully derelict commissioner, immovably biased against the other party, and dishonestly making a mere show of doing his job, would behave so grossly improperly.

234. The fact that Mossop's second report was dated 14 September 2017 – the same day on which he emailed LASA his assurance that he'd be reporting to the Bar Council 'after consideration of the detailed representations made by Adv Brink' later in the day – shows that his 'recommendation ... to the Bar Council' was indeed written on the same day, which means he indeed drew it 'today', 14 September 2017, as he said he would, falsely claiming this was 'after consideration of the detailed representations made by Adv Brink'.

235. On his own version recorded in his email to LASA of 14 September 2017, considered with the same date of his second report, Mossop hadn't yet studied my eight complaints against Mlambo JP when he assured LASA that he'd do so and report to the Bar Council later in the day.

236. What this means incontrovertibly is that on the same day that Mossop assured LASA he'd be reporting to the Bar Council in a few hours' time, he dashed out his second report, pretending to have given the Complaint and my response to it due 'consideration' in the discharge of his solemn mandate from the Bar Council to investigate the Complaint on its behalf and to report in light of my response to it as to whether I should ignominiously be thrown out of my profession like a bum into the street.

237. Fact is, it was not humanly possible for Mossop to have carefully read and understood all 52 802 words of my 'detailed representations' presented in tight 1.5 pt line spacing over '264 pages', comprising my eight complaints against Mlambo JP and all their supporting documents – not to mention the transcript of the trial of my two-week-long labour case and my huge answering affidavit in many volumes opposing LASA's vexatious application, also provided to him by LASA to study, comprising thousands more pages in about two dozen bundles – and then draw a considered report on them, all in just a few hours.

238. There's furthermore every objective indication that indeed Mossop neither studied my complaints carefully nor wrote a duly considered report on them.

239. Not only did he not report in any 'detail' on my complaints, he didn't deal with their contents at all. Several specific pointers to his failure to have studied my complaints are noted above.

240. Having already made up his mind against me before considering the real evidence of the documents I'd placed before him, Mossop clearly just went along with LASA by uncritically quoting its blatant, easily demonstrable lie that I'd 'raised nothing new in [my] answer' – contradicted *inter alia* by his own purported finding otherwise, namely that in my complaints to the JCC I'd 'constructed the most elaborate conspiracy theory in an attempt to try and prove

what he alleges' in my court pleadings and affidavits about which LASA was complaining.

241. Of course, by 'most elaborate', Mossop didn't mean that in my complaints to the JCC I'd *comprehensively detailed* Mlambo JP and executive management's thoroughly documented *collusion* in recruitment corruption and their far-reaching, criminal cover-up of it, brazenly escalated all the way to the Minister, to Parliament, and to the courts. What he meant by 'most elaborate' was that my complaints were evidence of a pathologically disordered mind, inasmuch as I'd 'constructed the most elaborate conspiracy theory' without any ground support for it in the form of supporting documents. In this manner, and to discredit them, Mossop fraudulently implied to the Bar Council that my complaints to the JCC, in which I'd laid the most serious imaginable charges against Mlambo JP and Waglay JP, evinced that I was psychotically divorced from reality.

242. Since he wasn't getting paid to take the necessary long time out from his practice to carefully study my closely detailed, exhaustively referenced and footnoted complaints, vouched by manifold supporting records, and having already formed the impression, in keeping with popular opinion, that I'm a witless fanatic, as he implied in paragraph 4.1 of his original first report in February 2017, Mossop didn't actually do so, as his fraudulent report to the Bar Council to my vast prejudice makes clear.

243. Instead, bending over to oblige LASA in its repeating urging that 'the matter be finalised swiftly', Mossop at best skimmed my JSC complaints; calculated that he could ride on the general negative opinion of me at the time (treated at length in the Labour Court's judgment, discussed and referenced below); reckoned he could safely dismiss them all as drivel; and dashed out his fake report, with its dishonest implication that he'd carefully investigated the Complaint in light of my 'detailed representations' made in response to it.

244. Treating LASA's crude and stupid lies about my complaints as holy gospel and the indubitable truth, Mossop then mindlessly repeated his original

recommendation made *ex parte* that I should be struck off – even as he now hedged by discouragingly suggesting to the Bar Council that the disadvantage for the Society of a strike-off application against me would be to gratify my unhinged hunger for the limelight.

245. Which low estimation of me he'd come to since only a self-promoting crank would go calling the attention of our country's top investigative journalist to the judicial corruption he'd run into. Just as only a self-interested oddball, soft in the head, would have worked day and night, networking and lecturing internationally with concerned scientists, doctors and others, to call government and public attention to the horror he was onto: an extremely harmful corporate fraud, targeting the most vulnerable, by the world's then-largest transnational pharmaceutical corporation, a recidivist habitual corporate criminal with a long rap-sheet listing a multitude of convictions and record-breaking fines imposed on it for its many other dangerous frauds on the world.

246. In straining to conceal his grossly unprofessional breach of his commission by the Bar Council to assess the Complaint in light of my unattractively encyclopaedic response, and to report his determination of the matter – presenting a tediously time-consuming task to him – Mossop then over-egged his pudding with the grotesquely dishonest claim that my eight complaints against Mlambo JP to the JCC were the baseless frothing of a mental case.

247. In this manner, and by further falsely and dishonestly defaming me to the Bar Council as a mere publicity-seeker, in doing so telling the additional lie that he'd warned the Bar Council about my demented craving for the public stage before, Mossop instantiated the universal infamy among the laity throughout the ages of lawyers being a generally mendacious, noxious, execrable and despicable element of society, as Christ, Shakespeare and Lenin all famously observed – the 'scum of the intelligentsia' indifferent to truth and justice, who'll say whatever they think sounds good in the moment when spewing their slimy lawyer-talk in their fancy clothes. That unpleasant reputation that honest lawyers like myself find ourselves so often having to ward off in our social encounters.

248. The lawless corruption of LASA's Senior Litigator recruitment operations disclosed by paragraph 3 of the Complaint, and the lies told in paragraph 4, identified and discussed above in the second chapter of this second response ('Setting the Tone') would have become obvious to Mossop had he studied my complaints to the JCC. Likewise had he read my answering affidavit opposing LASA's vexatious application, which LASA provided him with its reply and wanted him to read as further evidence of my alleged unprofessional disrespect for the judiciary. But none of this corruption and mendacity registered on Mossop, and it passed unremarked by him for the simple reason that he didn't study these documents, even as he cozened the Bar Council with his lie that he'd given due 'consideration [to] the detailed representations made by Adv Brink'.

249. Because it was convenient and less trouble to him to do so, Mossop simply assumed that LASA had given him a correct account of lawful recruitment procedure for Senior Litigators in the organisation and had told the truth about why my recruitment was cancelled following my selection and recommendation for the big-ticket gig. In his absolute bias for LASA and against me in approaching the Complaint, it never entered Mossop's head that he was dealing with an extraordinarily corrupt public entity, like any number of other extraordinarily corrupt public entities in South Africa, internationally notorious even to the several foreign governments that wrote to President Ramaphosa about the problem in January 2019 and told him to get a grip on it. Even before the worst of the public sector corruption revelations were aired before Zondo DJP's Commission on State Capture and broadcast on television for all the world to see.

250. Everything I've said about Mossop's disgraceful dereliction of his mandate from the Bar Council and his many deceptive misrepresentations in his second and final report counts also for the other two members of his Complaints Committee, Manikam and Konigkramer, both of whom dishonestly subscribed it, also pretending to the Bar Council to have given the matter their due consideration.

251. With my entire professional reputation and future in their hands, it goes without saying that Mossop, Manikam and Konigkramer all bore a duty of care both to me and to the Bar Council to duly investigate the Complaint and properly report on it in light of my response to it. All three of them recklessly disregarded this obligation of theirs, maliciously calumniating me as they did so – even if the Bar Council rightly smelt a rat and didn't accept their second report. Supremely indifferent to my rights, Mossop, Manikam and Konigkramer trashed my infinitely valuable professional reputation utterly and ground it to dust. I'll return to this and its consequences for me at the end.

252. On receiving Mossop and his Complaints Committee's second report in September 2017, the Bar Council decided at its next meeting on 26 October 2017 to avoid dealing with the matter itself and to rather pass the baby on to the GCB.

253. The relevant part of the minute begins:

> The complaints committee had recommended that an application be brought for the striking off of Brink who is currently acting as a magistrate.

254. For the record, the latter statement, echoing the Complaints Committee's same incorrect claim in both its first and second reports, is wrong. By simultaneously copying the Complaint in November 2015 to the Magistrates Commission, which promptly forwarded it to the Justice Department, LASA had got me summarily sacked at the end of that month, without a hearing or even notice of the Complaint, and blacklisted from any further acting appointments – as designed, since paragraph 5.1 of the Complaint alleged my 'conduct ... is not befitting of an officer of the Court more so to act as a Magistrate'.

255. I only learned of LASA's hand in knifing me through the curtain on 1 June 2017, eighteen months later. After emailing the Chief Magistrate in Pietermaritzburg my application the day before for an acting appointment to another post, for which she'd asked me by telephone to apply, needing me to relieve there for a few months, she emailed back that the Deputy Minister had

refused to appoint me on account of the 'pending complaint from Legal Aid against you'.

256. To conceal LASA's malicious role in getting me fired in November 2015, the false reasons given me at the time for not renewing my rolling three-month contracts in the usual routine was that acting magistrates couldn't serve for more than two years and that the Deputy Minister wanted to give bench experience to someone else – both lies I discovered.

257. The first lie was exposed by the fact that a few days after I'd cleared out, I was asked to come back for the rest of December to help out until my replacement arrived, which obviously meant the Department didn't have anyone lined up when I was abruptly sacked, and that the Department hadn't planned on my departure.

258. The second lie was exposed by information given me very much later by an attorney at Ulundi, namely that other identified magistrates at other specified courts had acted on contract for many more than two years, and were still on the bench.

259. The colleague who told me these lies had her own perverse, petty, personal reasons for wanting me out, not relevant to detail here. When I mentioned to her that something didn't feel right and that I was thinking of looking into and maybe challenging my sudden, unexpected dismissal, I remember being puzzled by her intensity in dissuading me from doing so, insisting that it would be best for me to just let it go.

260. Despite this, when a friend said soon afterwards that he was sure LASA was behind my dismissal, I rejected his suggestion as absurd. I just couldn't countenance that LASA could have pulled such a low move on me. Yet he was right and I was wrong.

261. LASA's malicious Complaint also cost me a permanent appointment as a civil magistrate in 2017. Shortlisted in February and interviewed in August by the Magistrate's Commission in Pretoria, I was bound to disclose in reply to an

opening enquiry that there were indeed disciplinary proceedings pending against me. I'd been unaware of the Complaint when I applied for the post in May 2016, and only learned of it in April 2017. Since the chairperson of the Magistrates Commission remarked warmly at my interview, 'Mr Brink, you have a very impressive CV' – indeed especially strong in civil experience, both as a magistrate and as an advocate, making me an ideal candidate for the civil post – I've no doubt that the Complaint pending before the Society torpedoed my eligibility for appointment.

262. Had the Society informed me of the Complaint in November 2015 when it was made or even within a couple of months of that, I'd have refuted it soon afterwards. By April 2016 the cat was out the bag with the disclosure of Mlambo JP's long professional relationship with my rival applicant for the Pietermaritzburg Senior Litigator post, following LASA's capitulation in February to my PAIA applications in the Magistrate's Court.

263. By August 2017, when I was interviewed for that permanent civil magistrate post, the Complaint would likely have been resolved, and there would have been no impediment to my appointment. The Society's failure to inform me of the Complaint when it was made or soon aftrerwards – indeed at all – and its failure to invite my response to it almost certainly cost me the post.

264. The sum of it is that, like others blowing the whistle on corruption at public entities in our country, I've suffered extreme occupational detriment for calling out the corruption I've found at LASA. The ongoing, personal cost to me and those closest to me has been extremely painful and irrecoverable, and doesn't bear relating. But by successfully depriving me of my livelihood as a lawyer, LASA's corrupt officers set me working on exposing their corruption full-time, with all my energy applied to it undiluted. What I've endured at their hands has only fortified not weakened my resolve.

265. A concluding important point to highlight regarding Mossop and his Complaints Committee's second report in September 2017 is that whereas their first report in February had convicted me of *dishonesty* for changing my trial

strategy, their second report dropped this bum rap. (My entirely proper, changed trial strategy, *inter alia* on senior counsel's advice, is comprehensively explained below.) Nonetheless, it's likely that in cooking up his fake second report that was so crudely biased against me, Mossop had in mind that I was a discreditably *dishonest* person in his view, as he'd already found and reported – even though *LASA never alleged and charged this* in its Complaint.

266. The Bar Council's October 2017 minute continued:

> In the light of Brink's response to the complaint, the chairman stated that it could be anticipated that this would be a lengthy and expensive process.
>
> It was resolved that:
>
> The complaint would be referred to the GCB for action by it.

267. The minute of this meeting is annexed marked 'R21'. Notably, it doesn't record that the Bar Council was itself satisfied that my response to the Complaint was bad, as the Mossop and his Complaints Committee contended. Instead, it reflects the Bar Council's keen appreciation that should the Society try knocking me out in the High Court, I'd have a hell of a lot to say about the merits of the matter in my answering papers, going on about two corrupt judge presidents and everything, supporting documents galore.

268. Consistently with this resolution, chairperson Van Niekerk told the Bar Council at its next meeting on 23 November 2017 that he'd request the GCB 'to attend to litigating against Brink because our membership is unable to finance such protracted and costly litigation.' The minute recording this is annexed marked 'R22'.

269. At the Bar Council's meeting on 25 January 2018, Van Niekerk reported that at the GCB executive meeting in December 2017 he'd indeed asked the GCB to bring the application to strike me off because the Society couldn't afford the cost of it, but that the GCB had declined to do so and instead had resolved to fund the Society's application against me.

270. The minute records that Van Niekerk then recapitulated the history of the matter for the benefit of the Bar Council's other members in deciding their next move.

271. According to the minutes of its previous two meetings in October and November 2017, the only impediment to the Bar Council resolving to apply to strike me off had been the unaffordable likely expense of this. In December 2017, this obstacle had been removed by the GCB's resolution to underwrite the cost of the application, as the Bar Council was told in January 2018. In the circumstances then, all that remained to get me struck off was for the Bar Council to pass a resolution authorising the Society to bring the application and to hire an advocate to pull on a black hood and get on with it.

272. What the Bar Council resolved to do instead shows clearly that the anticipated cost of the application wasn't the real issue, and that the expense story was a pretext for its reluctance to ask the High Court to strike me off. Actually the Bar Council had a very different reason for getting cold feet about going after me.

273. Seemingly sensing from their professional experience of palpably dishonest legal pleading and familiar with its tell-tale reek, and finding that Mossop's oleaginous second report in September 2017 had a strikingly tinny and unconvincing ring, the Bar Council didn't trust, didn't believe, and didn't accept the unpersuasive over-baked claim it made, in as many words, that my eight gross misconduct complaints against Mlambo JP to the JCC were the worthless effluvia of a rabid lunatic.

274. The Bar Council evidently wasn't prepared to risk taking their known legal colleague Mossop at his word and on faith and relying on his crude aspersion of me and my complaints, that was so very obviously transparently contrived to prejudice the Bar Council against me in deciding whether or not to apply for my strike-off; because instead of unhesitatingly trusting, believing, accepting, and relying on his findings and resolving to adopt his recommendation that the

Society should apply for my strike-off on the GCB's dime, they passed a quite different, most unusual resolution, surely unique in its history.

275. Clearly doubting that Mossop had rendered an honest, carefully considered, reliable assessment of my response (my eight complaints against Mlambo JP to the JCC) and manifestly distrusting his alleged judgment and derisive stated opinion of my complaints, the Bar Council very reasonably double-guessed him by unanimously passing what really amounted to a vote of no-confidence in him and his Complaints Committee.

276. The Bar Council did not resolve to apply for my strike-off as Mossop and his Complaints Committee had recommended, or even to delay doing so until the JCC's decision of my complaints as Manikam had proposed. Instead:

> It was resolved that:
>
> Brink's representations and the report of the complaints committee headed by Mossop SC which had previously reported on the matter, be circulated amongst council members for their consideration and that they would notify the chairman of their decision as to whether the council should resolve to apply for Brink's removal from the roll of advocates.

277. In other words, before its second report was formally accepted or rejected by resolution of the Bar Council, Mossop and his Complaints Committee were practically relieved of their delegation, relieved of the commission with which they'd been entrusted to investigate the Complaint on the Bar Council's behalf and to report on it in light of my response to it and LASA's reply. The Bar Council's members decided to individually verify what Mossop had to say about my complaints to the JCC against Mlambo JP and to see for themselves whether Mossop was justified in deriding them as he'd done and in claiming that my complaints were themselves unprofessional and provided an additional reason why I should be struck off. In short, the members of the Bar Council decided to check whether Mossop had told them the truth or not.

278. Annexed marked 'R23' is the minute of the Bar Council's resolution of 25 January 2018 that each and every one of its members should him/herself (a) study my eight complaints against Mlambo JP to the JCC plus the Complaints Committee's second report claiming in as many words that these affirmed, finely particularised, comprehensively documented, extraordinarily serious gross misconduct complaints were a pile of worthless garbage dumped by a mentally disordered publicity-seeker – and (b) thereafter report to the chairperson whether or not they agreed with Mossop and his Complaints Committee that I should be struck off for making my complaints, more especially since in doing so I'd 'persisted in [my] allegations made against Mr. Justice Mlambo as well as another Judge'.

279. The next amazing thing is that the Bar Council then failed to implement its own resolution. The minute of its next meeting on 22 February 2018 records: 'The chairperson apologised for not providing the complaint against Brink and his response thereto but pointed out that it was not possible to provide Brink's response which ran into 8 volumes of documents.'

280. Actually, the minute of the previous meeting records that Bar Council hadn't resolved that 'the complaint against Brink' be circulated, but rather 'the report of the complaints committee headed by Mossop SC' plus 'Brink's response' to the Complaint. But this seems to have been an error in the recordal, because obviously each member of the Bar Council will have been briefed with a copy of Mossop and his Complaints Committee's second and final report for consideration at the meeting. And what the Bar Council's members had resolved was to study the matter themselves, which is to say the Complaint and my response to it, and then report to their chairperson their own independent opinion as to whether I should be struck off or not, as Mossop and his Complaints Committee had recommended.

281. It goes without saying that the comprehensive detail of my meticulously documented response to the Complaint, my 'detailed representations', as Mossop had accurately put it to LASA, was no valid excuse, much less any lawful justification for the Bar Council flouting its own resolution passed the month

before upon a consideration of Mossop and his Complaints Committee's report, and for breaching the obligation to which it had bound itself concerning the process it would now follow in determining the Complaint in light of my response to it. And this is more especially so because when the Bar Council committed itself by formal resolution to studying my response and coming to its own conclusion as to whether I should be struck off or not, as Mossop and his Complaints Committee had recommended in their second report, the chairperson and all other members were perfectly well aware from paragraph 6 of the report that 'The eight complaints (and therefore the representations), contained in nine volumes, cover 264 pages.'

282. At any rate, the upshot was that copies of my complaints against Mlambo JP to the JCC were not 'circulated amongst council members for their consideration' as had been duly resolved, with the result that none of the 'council members' at the time, namely chairperson GO van Niekerk SC, J Nxusani SC, KC McIntosh, S Mahabeer, WAJ Nicholson, BZ Mthethwa, CB Buthelezi, GR Thatcher SC, D Pillay, VM Naidoo, L Law, AR Khan, V Moodley and M Mazibuko (per the minute) studied them as resolved; none of them reported their assessments of them to their chairperson as resolved; and none of them reported their 'decision as to whether the council should resolve to apply for Brink's removal from the roll of advocates' as resolved.

283. Had these Bar Council members studied my complaints as they'd formally agreed to do, and were therefore legally obliged to do, they'd have quickly been undeceived of Mossop's pretensions to have duly considered them. They'd have realized that Mossop's characterisation of my complaints as completely meritless, professionally disgraceful, and themselves reason to strike me off was manifestly false, insupportable, indefensible, and dishonest. And they'd have dismissed the Complaint without further delay, thereby redeeming my professional reputation that they'd massively injured by condemning me without a hearing one year earlier in February 2017.

284. To paper over their unlawful failure to comply with their obligation to which they'd formally bound themselves, namely to themselves individually

evaluate my response to the Complaint – not trusting, not believing, not accepting, and not relying on Mossop's claims that I had no good defence to it and that my mentally unsound response in too many incoherent words and with too many irrelevant supporting documents was itself reason to strike me off – the Bar Council's members then kicked the can down the road with high-sounding faffing: 'The chairman raised a query regarding the status of the complaint at the Judicial Services Commission and whether we should await the outcome of that decision before embarking on litigation.' Therefore,

> It was resolved:
>
> That a letter be written to the JSC enquiring as to the status of the complaint and that Nxusani SC is to provide a memorandum as to whether it would be proper to bring a striking off application if Brink was at the time acting as a magistrate.

285. The implication of Nxusani's opinion brief – that an advocate is immune to disciplinary proceedings for capital misconduct committed as such, because he's 'at the time acting as a magistrate' – was patently fatuous and the Bar Council's members all knew it, as they'd reveal at their next meeting.

286. LASA's Complaint stated:

> The purpose of this affidavit is to institute a complaint against Advocate Anthony Robin Brink, a major male Advocate of the High Court of South Africa currently employed in the capacity of an acting magistrate in Eshowe Magistrates Court. This complaint is brought in terms of section 7 (2) of the Admission of Advocates Act 74 of 1964 as amended. ... It is my submission that the conduct of Advocate Brink is not befitting of an officer of the Court more so to act as a Magistrate. The language used is unprofessional, the manner he relates to colleagues and Judges requires sanction. Below is an extract of statements and language used against fellow Advocates, Judges, Attorneys and other professionals.

287. The fact that I might have held an acting magistrate post at the time was manifestly irrelevant to the Society's disciplinary obligations under the Admission of Advocates Act to hold me to account for any professional misconduct I might have committed.

288. The fact of it, however, unknown to the Bar Council, is that on receiving a copy of the Complaint, the Justice Department immediately kicked me off the bench, so I wasn't 'at the time acting as a magistrate', as the minute wrongly put it.

289. It's because the Bar Council's members already knew the answer to the empty question put to Nxusani to investigate and report on, that they didn't press for his opinion when he didn't play along and deliver it at their next meeting.

290. Plainly the Bar Council was improvising pretexts for its dereliction in my matter, its unlawful failure to comply with its own resolution, only because it would have been too much trouble to do so. Even as my entire professional life and reputation lay on the line. The minute of the February 2018 meeting is annexed marked 'R24'.

291. The minute of the Bar Council's next meeting on 19 March 2018 records: 'At the previous council meeting it was resolved that Nxusani SC would provide a memorandum as to whether it would be proper to bring a striking off application if Brink was at the time of the alleged offence acting as a magistrate. No memorandum had been received.'

292. Actually I wasn't yet an acting magistrate when in July 2013 I sued LASA in the Labour Court (although I was indeed on the bench when I petitioned for leave to appeal the dismissal of my claim), and one week after LASA made its Complaint to the Society and copied it to the Magistrates Commission in November 2015, I was fired, so no longer a magistrate at the time I sued LASA in the High Court in August 2016 to interdict it from proceeding with the taxation of its bill of costs in my labour case after I discovered that it had criminally got to Waglay JP to pervert the decision of my petition for leave to

appeal. The Bar Council mistakenly thought otherwise – that 'at the time of the alleged offence' (in fact several offences at different times were charged) I was 'acting as a magistrate' – but whatever; it was anyway academic.

293. Since the Bar Council understood perfectly well that the obvious answer to its question for Nxusani was *Yes*, and that an acting appointment was no bar to a strike-off application, it didn't remind him to deliver his 'memorandum' on the matter, and the non-issue was simply forgotten.

294. The minute further records that chairperson Van Niekerk mentioned that he'd:

> communicated with the Judicial Services [*sic*: Service] Commission who had reported that Brink had lodged a complaint against Mlambo JP and Waglay JP which a committee of the JSC was investigating. The JSC had however advised the chairman that the Society should proceed with an application to strike Brink off. The chairman reported that it would be appropriate that the outcome of the JSC committee's investigation should be awaited since if that committee determined that Brink's complaint was without merit, the way would then be clear to move an application for the striking off of Brink from the roll. The chairman did note that in those circumstances in all probability this complaint would be dealt with by the Legal [Practice] Council.

295. Van Niekerk was undoubtedly talking to then-JSC Secretary Bios (now deceased); indeed, discussed below, the record reflects that he was communicating with her later in the year. Certainly the advice purportedly from the JSC that the Society should apply for my strike-off forthwith, even before the determination of my complaints against Mlambo JP and Waglay JP, couldn't have emanated from any judge on the JCC, because it hadn't even sought these accused judges' responses yet, even less my comments on them, which were only delivered much later in the year (see below).

296. It follows that the adverse advice about me, which Van Niekerk reported he got from 'the JSC', was almost certainly provided by a glorified office clerk.

297. The minute of the Bar Council's March 2018 meeting, quoted above, records (a) Van Niekerk's disagreement with Secretary Bios's advice (*semble*) 'that the Society should proceed with an application to strike Brink off', and (b) that he recommended that the Society await the outcome of the JCC's decision of my complaints instead. (Manikam had made the same suggestion in his 'Note' concerning the Complaints Committee's second report.)

298. In other words, Van Niekerk proposed that the Bar Council abdicate its statutory obligation to decide the Complaint before it, and just stand and wait to see what the JCC decided, which is to say, he proposed to make the Bar Council's decision contingent on the JCC's.

299. Van Niekerk's suggestion that 'the way' wasn't already 'clear' for my strike-off should the Bar Council resolve on this was obviously false, because in truth the GCB had 'clear[ed]' 'the way' for this by removing the financial obstacle.

300. But the minute of the meeting shows that the Bar Council didn't take up Van Niekerk's proposal not to decide the Complaint and instead to hang around waiting for the JCC to make up its mind about my complaints against Mlambo JP, because it passed no such resolution. It simply moved on to discuss other more important things to it like 'Parking' (item 4.12), leaving the Complaint against me in the air, undecided.

301. The burning question arising is on what basis JSC Secretary Bios (*semble*) 'advised the chairman that the Society should proceed with an application to strike Brink off', considering that (a) after Mossop dismissed my response (my eights complaints) as the drooling of a deranged person and recommended that I be struck off for repeating to the JCC, under affirmation, with supporting documents, my charges against Mlambo JP that he'd repeatedly lied – to me, to the Justice Minister, to the Justice Portfolio Committee, and to the Labour Court – and also that Waglay JP had betrayed his judicial oath in succumbing to

improper influence *exerted in writing* to decide a case LASA's way (and practically Mlambo JP's way), the Bar Council hadn't agreed with this: it didn't trust, believe, accept, and rely on Mossop's September 2017 report, and it didn't resolve that I be struck off; and (b) as said, the JCC hadn't decided my complaints against Mlambo JP and Waglay JP, which is to say, they hadn't been found to be a lot of crazy nonsense as Mossop claimed they were, and fit only for lining the cat-box. The minute of the March 2018 meeting is annexed marked 'R25'.

302. The answer to this important question – why in February or March 2018 JSC Secretary Bios (*semble*) had advised that the Bar Council get on with applying for my strike-off – is suggested by Van Niekerk's lie, discussed below, told her a few months later in August, namely that it was only the 'cost implications of ... an application' to strike me off that were holding up the show, which implied that it had indeed been resolved that I be struck off. When it hadn't.

303. It's almost certain therefore (a) that Van Niekerk failed to tell Secretary Bios that the Bar Council hadn't accepted Mossop and his Complaints Committee's findings and recommendation that I be struck off, and (b) that he misled her to understand very incorrectly to the contrary, namely that the Bar Council was satisfied that I'd conducted myself unprofessionally, as LASA had alleged, and that it had resolved to apply for my strike-off accordingly.

304. From that point on, to my immense, incalculable professional and personal prejudice, LASA's Complaint against me was left drifting unresolved, with my reputation among my colleagues and judges of the KwaZulu-Natal Division of the High Court (many of them my former colleagues at the Pietermaritzburg Bar) lying in the gutter – except that I didn't know it at the time, and only found out what had happened two-and-a-half years later in September 2020 from records turned up by a general PAIA request for relevant Society records, as I was piecing together the history of the Bar Council's disgusting mishandling of the matter.

305. Reading Mossop's sickeningly dishonest, greasy second report in September 2017 finally made sense to me of the awkward and sometimes startlingly hostile reception I'd got in the years after that from ancient briefing attorneys of mine whom I ran into at court, and especially from judges I appeared before, all quite inexplicable and incomprehensible to me at the time. Like to a leper who couldn't see and smell his sores, and therefore couldn't fathom his unpopularity around town. Word that Mossop and his Complaints Committee had recommended I be struck off, amplified by the Litigation Committee's false and misleading statements about this to the GCB and to the Society's Annual General Meeting (see next) – even though no such resolution had been passed by the Bar Council after I'd responded to the Complaint – had obviously travelled down the professional grape-vine. Only, I was the last to hear of it, more than three years later.

306. On 14 July 2018, the Society's Litigation Committee – Pammenter SC, Potgieter SC, Collins SC, and Gani – reported to the GCB that 'the Society is of the view that there is no substance to Brink's complaint[s]' and stated its 'view that it would be advisable to await the decision of the Judicial Misconduct Sub-Committee [*sic*] on the complaints, before proceeding with the striking-off application.' The report is annexed marked 'R26'. (In the report, and its next one, the committee described itself as a 'sub-committee'. For simplicity, I've followed the Bar Council's more apposite designation of it as 'the Litigation Committee' – see for example annexure 'R9' – for indeed it wasn't any sub-committee, but an independent committee of Society members, none of whom were on the Bar Council.)

307. Flying off the page, the obvious serious inaccuracies in the first paragraph of the Litigation Committee's report show that its authors were regurgitating and garbling hearsay. Unfortunately, the LPC later repeated these errors. I discuss and correct them below.

308. The Litigation Committee's allegation that 'the Society is of the view that there is no substance to Brink's complaint[s]' against Mlambo JP can only have

been founded on Mossop's depiction of my complaints as complete junk – a conclusion that the Bar Council hadn't accepted.

309. There's no record that my complaints to the JCC were copied and provided to the Litigation Committee's members for their assessment as to whether there was any 'substance' to them or not. Relying on Mossop's reported dismissive view of my complaints, and perhaps assuming that the Bar Council had believed him, relied upon his report, and resolved to strike me off as he'd recommended, the Litigation Committee just assumed that 'there is no substance to Brink's complaint[s]' and then went around repeating this everywhere.

310. Mentioned below, the JCC disagreed with the Litigation Committee's claim about this and found contrariwise that I'd made an answerable case on every count, because it required both Mlambo JP and Waglay JP to respond to them, and in Mlambo JP's case, repeatedly.

311. The falsity of the Litigation Committee's claim that 'the Society is of the view that there is no substance to Brink's complaint[s]' against Mlambo JP is plain from the fact that Mossop and his Complaints Committee of three advocates was not 'the Society' – just three of its hundreds of members – and moreover, the Bar Council, the Society's representative board of which Mossop and his Complaints Committee weren't even members, hadn't accepted their 'view' expressed in their second report that my response to the Complaint (my complaints to the JCC against Mlambo JP) 'lacks substance'.

312. Furthermore, the Litigation Committee had no basis for falsely claiming to the GCB, massively injuring my professional reputation at national level (made at law school, I've friendships with advocates around the country), that there was any basis for 'proceeding with the striking-off application', because, as said, the Bar Council hadn't resolved to apply to have me struck off; rather, it had resolved that all its members should study my eight complaints against Mlambo JP for themselves and report to their chairperson whether they agreed with Mossop and his Complaints Committee (a) that they were the empty raving of a dangerous maniac undermining the judiciary, and (b) with their

recommendation that I be struck off for going to the JCC with them. In short, there was no 'striking-off application' to 'proceed...' with.

313. On 8 August 2018, Bar Council chairperson Van Niekerk emailed his answer to an enquiry by then-JSC Secretary Bios as to progress in the Bar Council's prosecution of the Complaint against me. His email is annexed marked 'R27'.

314. Secretary Bios's enquiry was made over the phone, according to the Society's Administrative Secretary's information to me about this, as Van Niekerk advised her when she asked him about it for me (see annexure 'R7', 'Item 3').

315. Van Niekerk answered Secretary Bios's enquiry by telling her the compound lie that the 'cost implications of ... an application' to strike me off had led to a decision being taken to await the JCC's decision of my complaints against Mlambo JP. This was untrue in two respects. In the first place, with the GCB's resolution in December 2017 to fund the application, the cost implications for the Society had evaporated, so there were no longer any 'cost implications' discouraging the Society from applying to have me struck off. And in the second, (a) although Van Niekerk had proposed pegging the Bar Council's decision to apply for my strike-off on the JCC's decision of my complaints, the Bar Council hadn't voted to accept his proposal and hadn't passed such a resolution; and (b) although the Litigation Committee had likewise recommended such a delay for such reason the month before Van Niekerk's email to Secretary Bios, all the Bar Council's resolutions in my matter show that it never passed any such resolution 'that it will for the time being not institute strike-off proceedings against Brink and that it will await the outcome of the complaint to the Judicial Service Commission', as Van Niekerk falsely alleged. The actual resolution passed by the Bar Council was that its members would each individually study my response to the Complaint and Mossop and his Complaints Committee's second and final report on the Complaint in light of it (*semble*: the Complaint itself), and report to the chairperson their own views of whether I should be struck off for (a) persisting with my charges against Mlambo JP to the JCC, (b)

laying crazy new ones, and (c) now also charging Waglay JP with judicial corruption as well.

316. Van Niekerk's further false and misleading claim, 'We are aware that there is nothing preventing the Society from moving an application' to strike me off, is contradicted by the fact that on receiving Mossop and his Complaints Committee's second report in September 2017, the Bar Council had not resolved to apply for my strike-off in accordance with the report's recommendation that it do so. Obviously an application by the Society to strike me off without a supporting resolution of the Bar Council authorizing this would have been incompetent and unlawful. What was indeed 'preventing the Society from moving an application' was the fact that there was no supporting resolution authorising such an application.

317. Equally dishonest was Van Niekerk's low-rent rhetorical trick in claiming 'We are aware' of what he was falsely claiming, to pump it up and make it sound more credible, when neither 'We' nor he couldn't have been 'aware', for the simple reason that what he was claiming wasn't true, and he was full well 'aware' of it, having chaired every Bar Council meeting at which the Complaint was treated.

318. At the end of his email, Van Niekerk told Secretary Bios that there'd be no movement on the Complaint until the JCC had decided my complaints: 'We will know where we stand once the complaint [*sic*: complaints] to you has been dealt with and a decision will then be made as to the question of an application [to strike off].' But that's not what the Bar Council had resolved, which was that its members would individually study my response and report their assessment as to whether I should be struck off or not – in other words, assess my complaints for themselves and determine whether there was sufficient meat to them to counter and defeat the Complaint. The Bar Council didn't resolve to postpone its decision of the Complaint; stick around waiting for the JCC to decide my complaints; and then follow the JCC's determination of my complaints in deciding whether or not to apply for my strike-off. That's not what was decided.

319. Van Niekerk's grave misinformation of JSC Secretary Bios, in which he unambiguously implied and gave her the false impression that (a) the Bar Council was satisfied that I'd professionally misconducted myself in impeaching Mlambo JP's integrity, when this wasn't true because the question was still open inasmuch as the members of Bar Council hadn't individually satisfied themselves in this regard, as they'd resolved to do; and (b) the road was clear to apply for my strike-off, when no such resolution had been passed – even though he also claimed that the Bar Council was awaiting the JCC's decision of my complaints to it – might explain the JCC's deplorable tardiness in dealing with my complaints, and why it took a letter to the Chief Justice in November 2019 to get things moving.

320. On 16 August 2018, copying and pasting from its report to the GCB in July, the Society's Litigation Committee repeated its claim, now to the Society's Annual General Meeting held on 8 September 2018 – in other words announced to my legal colleagues at the Pietermaritzburg and Durban Bars generally – that 'the Society is of the view that there is no substance to Brink's complaint[s]'.

321. The claim was absolutely false. As said, this was Mossop's and his Complaints Committee's alleged view only – namely that my response 'lacks substance' – which was not accepted by the Bar Council, as the minute of its January 2018 meeting shows; so on no proper basis could the Litigation Committee correctly and truthfully claim it to have been the Society's view as a whole.

322. It certainly can't have been the view of the Society's representative Bar Council members, because, as said, they hadn't individually studied my complaints themselves, as they'd resolved to do at the said meeting, and therefore hadn't reported to their chairperson their agreement or disagreement with Mossop's reported estimation of my complaints to the JCC as comprising 'a most elaborate conspiracy theory' lacking any foundation, in which I unprofessionally disgracefully persisted with my charges against Mlambo JP – namely that he was 'a liar [who'd] misled a select committee of parliament', for making which charges to the JCC they said I should be struck off. (As explained

above, some of my charges against Mlambo JP to the JCC were radically different from those levelled at him in my litigations against LASA before I'd finally accessed the uncensored selection panel's recommendation report.) In its report, the Litigation Committee reiterated its view that the Bar Council should await the JCC's decision of my complaints against Mlambo JP and Waglay JP before proceeding with its striking-off application against me, thereby falsely implying that the Bar Council had indeed resolved to bring such an application. The Litigation Committee's report to the Society's Annual General Meeting is annexed marked 'R28'.

323. There's no record that anyone on the Bar Council who attended the Annual General Meeting stood up and pointed out for the correct information of the hall full of other advocates present that, after the Complaints Committee had received my complaints to the JCC and dismissed them as meritless and psychologically unsound, the Bar Council's members (a) had not been persuaded by the Complaints Committee's claim that my response to the Complaint 'lacks substance', mindlessly parroted by the Litigation Committee's claim to the General Meeting: 'there is no substance to Brink's complaint[s]'; (b) had not individually studied my complaints themselves, in order to come to such an assessment or otherwise, as they'd resolved to do; and (c) had not resolved that I be struck off, as Mossop and his Complaints Committee had recommended.

324. In concluding this part, it bears emphasizing that the Society's records show unequivocally that:

- after (a) the Bar Council revoked its initial resolution to apply for my strike-off so as to afford me a belated opportunity to answer the Complaint that the Complaints Committee had upheld *ex parte* in February 2017; and (b) I did so by furnishing the Complaints Committee with copies of my eight complaints against Mlambo JP to the JCC in mid-2017 as my complete answer to the Complaint; and (c) LASA declined to comment directly on my response; and (d) the Complaints Committee dismissed my complaints as the worthless scribbling of a garrulously distempered person and recommended again that I be struck off – especially now that

I'd 'persisted in [my] allegations against the Judge', i.e. had repeated in affirmed complaints to the JCC, supported by documents substantiating them, my charges that Mlambo JP had repeatedly lied, including criminally to the Labour Court to defeat the ends of justice, and again criminally to the Justice Portfolio Committee to pervert its enquiry into recruitment corruption at LASA and, to obstruct an investigation of it, LASA's persistent malicious non-compliance with duly made requests under PAIA for access to its records; and,

- the Bar Council didn't trust, believe, accept, and rely on Mossop and his Complaints Committee's second report in September 2017, and did not resolve to apply to have me struck off as they'd recommended; and instead resolved that its members should themselves individually study my eight complaints against Mlambo JP to the JCC and report to the chairperson of the Bar Council whether I should be struck off or not – which they never did, because Bar Council chairperson Van Niekerk failed to circulate copies among all members, for which he apologised with a hollow and vapid excuse

– after all of this, the Bar Council did not resolve that I be struck off.

325. In other words, (a) contrary to the false and seriously misleading implications of the Litigation Committee's report to the GCB at its Annual General Meeting on 14 July 2018, repeated by the Litigation Committee to the Society's Annual General Meeting on 8 September 2018; and (b) contrary to the false and seriously misleading information that Bar Council chairperson Van Niekerk gave then-JSC Secretary Bios the month before – contrary to all this, after the hearing formally afforded me and after the Complaints Committee's receipt of my complaints against Mlambo JP as my complete response to the Complaint, the Bar Council had not passed such a capital sentence on me, and the Complaint was consequently still undecided when the LPC acquired jurisdiction over it on 1 November 2018 by operation of law, and then on 7 February 2020 duly resolved to investigate it *de novo.*

THE LEGAL PRACTICE COUNCIL'S INVESTIGATION OF THE COMPLAINT

326. The Society's file on the unresolved Complaint was delivered to the LPC on 30 August 2019. An email recording this is annexed marked 'R29'.

327. The LPC's first report on the matter (before the current investigation was resolved upon) regrettably echoed the false information in the Society's Litigation Committee's reports that my 'allegations' against Mlambo JP and Waglay JP 'arose from their refusal to recommend Brink for appointment to the staff of the Legal Aid Board in Pietermaritzburg. Brink alleged that the two Judges acted mala fides in doing so with the intention of damaging his career.' The LPC's August 2019 report on pending disciplinary matters (repeated the following month) is annexed marked 'R30'. (I've cut irrelevant pages and redacted the names of the complainants and respondents in other unrelated complaints mentioned in the report.)

328. In the first place, Waglay JP didn't work for LASA and had nothing to do with recommending me or not; and in the second, I'd already been unanimously recommended by the duly constituted selection panel that interviewed me – of which Mlambo JP wasn't a member. Under LASA's Approval Framework, and as a non-executive director of the Board, Mlambo JP had no legal say whatsoever in Senior Litigator appointment decisions, either at selection or approval level. Trouble is, as mentioned at the beginning, in flagrant breach of the rule of law while chairperson of the Board, Mlambo JP gravely corrupted recruitment and appointment procedure precisely governed by the Board's Recruitment code and Approval Framework, by disregarding and failing to comply with these internal regulations binding on all LASA officers, and by openly and on the record interfering with and making employment decisions reserved to delegated management executives in the conduct of their recruitment operations, thereby opening the doors to ethical recruitment corruption too. Like jobs for his pals. I canvass this in my complaints to the JSC.

329. Also, even under the procedurally corrupt, unauthorised, illegal 'second round interview' scheme 'verbally' devised by Mlambo JP without Board

approval, I wasn't interviewed again by Mlambo JP, Hundermark *et al*. On LASA's own version advanced on affidavit in my labour case by then-Legal Executive Mtati on Mlambo JP's behalf – confirmed on affidavit by Nair – my recruitment was 'immediately' aborted after my recommendation by the selection panel (when my name came up in the national office as the wrong applicant recommended, instead of Mlambo JP's judicial chum). I deal with this in my JCC complaints.

330. The claim in the LPC's report that I'd 'alleged the two Judges acted mala fides in doing so [i.e. in refusing to recommend me for appointment, as alleged by the LPC] with the intention of damaging [my] career' is way off the mark. My actual, very different allegations against the two judges were considerably more serious than that.

331. There's no record that the Litigation Committee advised the Bar Council in accordance with the note in the report: 'If a decision is not received before the next report of the Litigation Committee falls due, the Litigation Committee will advise the Bar Council on resolving to institute a strike-off application against Brink.'

332. Notified on 10 March 2020 that the LPC had three days earlier resolved to reinvestigate the Complaint, and asked to respond to it, I replied on the due date with a request for certain information and documents necessary for me to do so. The LPC's letter is annexed marked 'R31', and my said request with its covering email is annexure 'R32'. (At that stage I still believed incorrectly, from the enormous gravity of my documented complaints against Mlambo JP to the JCC and from the Bar Council's total silence after I delivered copies of them to the Complaints Committee, that the Complaint had been dismissed years earlier in 2017, and that LASA was improperly trying to revive it.) A substantially similar formal PAIA request followed on 22 July 2020, with which the LPC eventually complied on 18 February 2021, thus equipping me to respond to the Complaint for the second time. My PAIA request and the LPC's response to it are annexed marked 'R33' and 'R34' respectively. (I've put up the LPC's letter only, not its annexures, many of which I've used in support of this response.)

333. The several months that it took for the LPC to provide me with the information and documents I requested are satisfactorily explained by its correspondence with LASA, including reminders sent it, which it provided me. In the circumstances, I've no complaint about the delay, so I've not annexed it all.

334. As said at the start, the considerable benefit for the LPC of the long time passed since the Complaint was filed in 2015, and I answered it for the first time in mid-2017, is that many highly relevant developments have since occurred that are directly material to the LPC's determination of the Complaint in light of this, my second response. These directly material developments are canvassed below.

THE JUDICIAL SERVICE COMMISSION'S JUDICIAL CONDUCT COMMITTEE'S HANDLING OF MY COMPLAINTS AGAINST MLAMBO JP AND WAGLAY JP, AND RECENT DEVELOPMENTS

335. Section 15(2) of the JSC Act peremptorily prescribes: 'A complaint must be dismissed if – ... (d) it is frivolous or lacking in substance'. Unlike Mossop and his Complaints Committee, who claimed in an effusion of yellow rhetoric that my response to the Complaint, comprising my complaints to the JCC against Mlambo JP, 'lacks substance', the JCC evidently found the opposite, namely that my complaints were not 'frivolous or lacking in substance' and that I'd indeed made an answerable case against Mlambo JP on all eight counts, because it didn't dismiss my complaints under that section as it would have been bound to do had it found my complaints bundle 'lacks substance', like Mossop and his Complaints Committee falsely claimed they did; instead the JCC called on Mlambo JP to respond, which he did on 7 June 2018. His response, covered by the JSC's invitation to me to comment on it, is annexed marked 'R35'. (Discussed below, the JCC called on him again in late 2020 to respond directly to my first complaint, which he did by characteristically perjuring himself, since he lies as naturally as he breathes.)

336. On 28 June 2018 I commented on Mlambo JP's fantastically dishonest, aggravating response in forthright and uncompromising terms. My comments are annexed marked 'R36'.

337. Likewise evidently satisfied that I'd made out a *prima facie* case against Waglay JP, the JCC called on him also to respond to my complaint against him, and he did so. His response is undated, but the JSC sent it to me on 26 June 2018, inviting me to comment on it, which I did on 9 July 2018. (As the Commissioner of Oaths' date stamp shows, my affidavit mistakenly has 'June' typed in, not July). My complaint bundled with a confirmatory affidavit is annexed marked 'R37'. Waglay JP's response to it is annexed marked 'R38'. My equally hard comments on it are annexed marked 'R39'.

338. For more than a year after that, I received no word of progress in the prosecution of my complaints against these two corrupt judge presidents, leading me to write on 29 November 2019 to Chief Justice Mogoeng in his capacity as chairperson of the JSC (also of the JCC), protesting *inter alia* the JCC's scandalous inaction, at odds with his repeated public assurances that the JSC gave due attention to misconduct complaints against judges. Bundled with proof of dispatch and delivery by courier, my letter to Mogoeng CJ is annexed marked 'R40'.

339. My letter wasn't formally acknowledged (not until 17 February 2021, more than a year later, when the JCC noted receipt of a further copy I'd sent of it; see below), but the concrete response it elicited came in the form of an after-hours telephone call from JCC Secretary Sello Chiloane on 14 February 2020 at about half-past eight at night, in which he asked that I urgently provide him with copies of my complaints, the judges' responses, and my comments on them.

340. I'd saved his number when he called me in November 2017 about a PAIA request I'd made, so his name showed up on my cellphone when he phoned. The log of his call is annexed marked 'R41'.

341. Underscoring the sudden urgency, clearly sparked by my letter to Mogoeng CJ, Chiloane told me well into our conversation that he was still in his office (now approaching 9 pm; we'd been speaking quite a while when I asked him where he was phoning from) and that he was willing to wait there for the documents, despite my concern expressed to him that it would take me a good

couple of hours to locate them all in their different folders on my computer and upload them to a Dropbox folder for him, since the files were large and many. This meant a wait in his office until at least 11 pm; and his willingness to wait in his office until then suggested strongly that the Chief Justice or another judge on the JCC had cracked a whip, and wanted the documents on his desk pronto.

342. Chiloane's request for yet further copies of my complaints seemed symptomatic of the pitiful administrative disorder and dysfunction in the JSC's office that I'd encountered, variously and repeatedly indicated by the following. (1) I'd already provided two sets of my complaints against Mlambo JP, first in their original form, and then again, at the JCC's request, as a combined indexed and paginated bundle. They appear to have been lost, like my original complaint against Waglay JP was – a copy of which I had to supply at the request of JSC Secretary Bios, as mentioned in my November 2019 letter to Mogoeng CJ. (2) Very unprofessionally, my important correspondence with the JSC invariably went unacknowledged. (3) None of my PAIA requests for JSC documents were ever responded to. And (4) Zondo DCJ's public statement on 9 April 2021 – 'The one thing the nation must be reminded of is that on a number of occasions, the Chief Justice has said if anybody has evidence of corruption on the part of any judge, they must come forward. To the best of my knowledge, no one has come forward other than what I heard here' – reported by News24 (see bit.ly/3aTeZHh), suggests that he was never handed and hadn't read my letters written to him in November 2020 and January 2021 (see below).

343. As undertaken, I provided Chiloane with the requested documents later that night at 22h48 by emailing him a hyperlink to the Dropbox folder I'd created for him, to which I'd uploaded the documents in PDF; and, unusually, he acknowledged receipt the following day. My email with the Dropbox link and his acknowledgment is annexed marked 'R42'. (I see from my mail that I apologised for taking a bit longer than expected – computed from the time his call began; in fact I sent him the documents within the time I undertook to him, given him late in our quite long call. I was bitterly aggrieved by the JCC's inaction on my

complaints and by the JSC's failure to respond to my PAIA requests, and had a lot to say about it.)

344. Six silent months later, and no further word on progress, despite Chiloane's assurance during his call to me that my complaints were now being attended to, I wrote to him complaining about the continuing delay in their prosecution. My letter dated 18 August 2019, with proof of delivery by email, is annexed marked 'R43'. Chiloane didn't respond.

345. Three further silent months passed, so I raised my dissatisfaction about the JCC's apparent inaction (I was wrong; see below) in a letter to JCC member Zondo DCJ on 29 November 2020. My letter and its waybill vouching dispatch by courier are bundled and annexed marked 'R44'. I copied it to Mogoeng CJ and to multiple JSC administrative staff by ordinary mail, calling attention to the importance of the matter. My bundled letters are annexed marked 'R45'.

346. Due to the inefficiency of the Post Office's courier service, my letter wasn't delivered (not until many weeks later; see just below), so I wrote to Zondo DCJ again on 29 January 2021, explaining the delivery problem and enclosing my first letter to him, as well as my letter written to Mogoeng CJ more than a year earlier. Because the courier service had proved unreliable, and I've repeatedly found that public officers don't collect registered mail, I used ordinary mail, but to guarantee delivery I copied my letter and its enclosures to Chiloane by email. My second letter to Zondo DCJ and my email to Chiloane are bundled and annexed marked 'R46'.

347. On 17 February 2021, the JSC acknowledged receipt of my first letter to Zondo DCJ in November 2020, which the courier had eventually delivered very late a week earlier on the 11th, and also of my letter to Mogoeng CJ in November 2019, a copy of which I'd provided Zondo DCJ. This acknowledgment is annexed marked 'R47'. My second letter to Zondo DCJ wasn't acknowledged.

348. A few days later I was surprised to get a request from former President Jacob Zuma, via an attorney who used to instruct me in political cases for ANC clients in the nineties, that I meet him at his house at Nkandla to brief him

about my misconduct complaints against Mlambo JP and the JCC's (apparent) failure to prosecute them.

349. The former President's interest in meeting for this purpose was apparent from his pointed criticism of Mlambo JP by name in his media statement of 15 February 2021 (see bit.ly/3k2GNwd).

350. On 22 February 2021, I met the former President at around 9 pm for about half an hour. Briefing him about Mlambo JP's and Waglay JP's gross misconduct documented in my complaints to the JCC, I handed him an indexed bundle of my correspondence to Mogoeng CJ, Chiloane, and Zondo DCJ about the JCC's failure to have prosecuted them, mentioned above, and suggested he pass them directly to his lawyers.

351. My own interest in meeting the former President was to call his and his legal and political support bases' attention to the JCC's failure to have held Mlambo JP and Waglay JP to account for their capital misconduct of which I'd duly complained under section 14 of the JSC Act in mid-2017, many years earlier. Quite simply, I wanted them to publicly raise it to spur the JCC into action. In fact, as I discovered right afterwards, the JCC was already moving on my complaints.

352. On my return home from the meeting late that night, I found an email from Chiloane, sent earlier in the afternoon, attached to which were a letter and affidavits by Mlambo JP and one 'Tumi' – so I could see from the names given the attached PDF files.

353. I decided to prioritize work on reporting my meeting with the former President to Mogoeng CJ; and upon completing my letter to him three days later, I opened and read the said email attachments. I then added a postscript to the final draft of my letter, referring to the contents of Mlambo JP's and his former secretary's affidavits, which I'd just read, before emailing the letter to Chiloane and several other JSC staff for Mogoeng CJ's attention a couple of hours later. This second letter to Mogoeng CJ, bundled with my covering email and my email to Zondo DCJ's secretary, furnishing him with a copy, is annexed marked 'R48'.

354. I copied my second letter to Mogoeng CJ to President Ramaphosa's office, and after an initial automatic boilerplate acknowledgment I received a personalised one, copied to several officers in the Office of the Presidency. My letter had apparently caught the Presidency's attention. The email chain is annexed marked 'R49'.

355. The affidavits by Mlambo JP and his former secretary, which Chiloane had emailed me, comprised his second response to my first complaint against him in mid-2017. Since his first response was vague, Zondi JA appears to have called on him to answer my first complaint directly. Chiloane's letter is annexed marked 'R50'; Mlambo JP's affidavit is annexed marked 'R51'; and his former secretary's confirmatory affidavit is annexed marked 'R52'.

356. I don't know why it took nearly four months to get me the two affidavits to comment on in late February 2021, because they were both signed on 4 November 2020; but the disgracefully tardy pace at which the JCC typically gets things done has been fairly deplored by the NGO, Judges Matter, as 'glacial'; and the unexplained delay of several months was quite in keeping with the long time the JCC had already taken over my complaints, thanks in part to (a) then-JSC Secretary Bios's abysmal inefficiency and clueless, incompetent advice as an office secretary furnished Bar Council chairperson Van Niekerk – without any basis or authority to give it – that I should be struck off for complaining of Mlambo JP's repeated capital misconduct, and (b) the tremendously prejudicial false information Van Niekerk gave this secretary, to the effect that the Bar Council had agreed I should be struck off, and it was just the big cash that was holding this up.

357. The dates of the affidavits revealed that I'd been incorrect in concluding from the JCC's long silence since Chiloane's phone call to me in February 2020 that the JCC wasn't actively dealing with my complaints against Mlambo JP – as the delay of four months in providing me with the affidavits misled me to protest in my letters to Zondo DCJ and Mogoeng CJ in the period November 2020 to February 2021.

358. Chiloane's February 2021 letter to me conveying JCC member Zondi JA's invitation to comment on Mlambo JP's second response in November 2020 to my first complaint against him in June 2017 revealed that (a) Zondi JA had been assigned to investigate my eight complaints against Mlambo JP, and possibly my complaint against Waglay JP too; (b) had likely been handed my letter to Mogoeng CJ at the end of 2019 and had instructed Chiloane in February 2020 to immediately obtain copies of my complaints, the judges' responses, and my comments on them for his consideration; and (c) had been unimpressed by the evasiveness of Mlambo JP's original response to my first complaint, and that he'd required him to answer it again, directly. Which Mlambo JP did, by confidently telling the JCC criminal lies under oath, easily refuted by the record contradicting them (see just below).

359. After asking for a bit more time than Chiloane had proposed in his February 2021 covering letter to comment on Mlambo JP's second response to my first complaint, I emailed him my comments on 24 March 2021, and the following day posted the hard-copy original to him by registered mail. My comments are annexed marked 'R53'. Proof of delivery by email and my registered post voucher are bundled marked 'R54'. Chiloane acknowledged receipt of my comments delivered by email, in a telephone call to me on 25 May 2021, a couple of days ago.

360. Based on the documentary evidence I provided the JCC, contradicting and exposing the mendacity of Mlambo JP's claims in his November 2020 affidavit, my comments on his second, now sworn response to my first complaint against him conclude with a call for his criminal prosecution on a charge of statutory perjury (c/s 6 of Act 16 of 1963).

361. Unlike my second to eighth complaints, all entirely and squarely based on supporting records, my first complaint against Mlambo JP had, until 4 November 2020, come down to my word against his: a mere advocate's denial, under affirmation, of a judge president's serious professional misconduct allegation against him made via his attorney in an affidavit deposed to on his behalf, authority, and instructions.

362. Mlambo JP then changed the game with an audacious move he schemed would clinch the dispute his way: he inserted into his tall story a novel factual allegation with a date reference, and now alleged it all directly himself, under oath, in an affidavit purportedly supported by a confirmatory affidavit drawn for his former secretary to sign.

363. Evidently thinking, very traditionally, that what the chief says goes, more especially since it's just about unthinkable that a head of court might tell lies on oath with his hand in the air before his own registrar, and make his former secretary sign a false confirmatory affidavit, Mlambo JP fatally overplayed his hand, never imagining and not anticipating that I possessed and would adduce documents showing categorically that his allegations are provably untrue and that he's incontrovertibly a criminal liar, as I'd shown before. My comments on Mlambo JP's second response and the supporting documents I put up with it show what I mean. It's a classic case of the multiplying, spiralling dynamic of a disintegrating cover-up, going from bad to worse, descending into crime.

364. Bottom line to all this is that my eight gross misconduct complaints to the JCC against Mlambo JP, which the Society's Complaints Committee (Mossop *et al.*) and its Litigation Committee both called a load of rubbish are currently under active investigation by Zondi JA of the JCC, and things aren't going very well for him.

365. As said above, in mid-2017 I also filed a gross misconduct complaint against Waglay JP for violating his judicial oath and submitting to improper influence in deciding a case – the written evidence of which I'd been staggered to come across in the case file.

366. To be precise: Since I was occupied on the bench in Eshowe, I asked a friend in Durban to go to court and inspect the file for me in 2015. I was looking for a record that Davis and Sutherland JJA, the two other appeal judges who'd allegedly decided my petition with Waglay JP, prematurely and irregularly before all the papers were in, had signified their participation in this by their signature. But as my friend reported to me on the telephone that evening, there

was no such record. When reading the list he'd drawn of the file contents he mentioned also the 'memorandum' he'd seen in the file, summarising what it contained, I asked him to return to court the next day to get a copy made for me and have its presence in the court file certified by the registrar. Which he did, and later recorded all this in a confirmatory affidavit, which I put up in support of my complaint to the JCC.

367. Despite the fact that I complained to the Chief Justice in my November 2019 letter also of the JCC's failure to determine my complaint against Waglay JP, I've had no word from the JCC about it since then. But in view of Zondi JA's active investigation of my complaints against Mlambo JP, indicated by Chiloane's letter on 22 February 2021 and the affidavits it covered, it would appear that my complaint against Waglay JP is currently receiving similar attention.

ALLEGEDLY 'UNPROFESSIONAL' 'LANGUAGE USED' IN MY LITIGATIONS AGAINST LASA

368. I'll now justify the 'language' that I 'used' in my litigations against LASA quoted in paragraph 5 of the Complaint, which its corrupt officers allege is 'unprofessional'. I've kept the headings in that paragraph, but italicized them to distinguish them from my own.

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

369. Actually I went to trial on a quite different, very much shorter, amended statement of claim, and not on the original pleading quoted here (my amended claim is annexed to the Complaint, but not quoted in it or complained about), so what LASA quotes here was not my pleaded case for trial before the trial judge, Cele J. (Discussed extensively below are the express and other unequivocal indications that Cele J found no fault with any of my pleading in the case, including my original pleading that I was cross-examined on.)

370. Apropos of Mlambo JP, his gross misconduct – including his crimes in suborning perjury in the Labour Court and in lying to the Justice Portfolio Committee in a false report to pervert its enquiry into my complaints to it about recruitment corruption at LASA covered with lies, and the repeated and persistent illegal and unconstitutional suppression of duly requested documents to obstruct an investigation of this corruption and these lies – is the subject of my capital misconduct complaints against him pending against him before the JCC.

371. As I've noted above, the JCC was satisfied that my charges against Mlambo JP were not 'frivolous or lacking in substance' within the contemplation of section 15(2) of the JSC Act, which requires in peremptory terms that such obviously spurious complaints 'must be dismissed'.

372. On the contrary, the JCC was satisfied I'd made a *prima facie* case against Mlambo JP on all counts charged in my eight complaints and required that he answer them all – and late last year, required him to respond again, directly, to my first complaint which he'd evaded.

373. As also mentioned above, Mlambo JP recently, in November 2020, lied under oath to the JCC in an affidavit he made, thereby committing statutory perjury, as he attempted to escape culpability for his crime charged in my first complaint against him: suborning the perjury of his attorney to defeat my application for leave to subpoena him for cross-examination, *inter alia*, on the profusion of lies he'd told the Justice Minister and then the Justice Portfolio Committee in his 'Confidential Report Re: Adv Anthony Brink' in March and June 2011 respectively to pervert their separately and independently instituted enquiries into top-level recruitment corruption at LASA and its malicious suppression of duly requested records to obstruct an investigation of it. (My sixth, seventh and eighth complaints to the JCC concern Mlambo JP's lies in his false reports to these authorities.)

374. My complaints about Mlambo JP's dishonest, illegal, unconstitutional and criminal misconduct concerns his behaviour as head of LASA's Board, not on the

bench. Nonetheless, as I point out in my complaints, it's a matter within the JCC's remit having regard to the provisions of the Code of Judicial Conduct ('CJC') governing extra-judicial conduct by judges (see annexure 'R4', page 1, paragraph 4).

375. Apropos of Vedalankar, the many criminal lies she told on affidavit and on different occasions to the Justice Portfolio Committee, and her criminal and other illegal contraventions of the PFMA, are charged, with supporting documents, in twelve criminal complaints filed with the AG in June 2020. These are annexed marked 'R55'.

376. Vedalankar's crimes are of direct formal interest to the AG having regard to the definition of 'material irregularity' in section 1 of the Public Audit Act, which includes 'non-compliance with, or contravention of, legislation [and] fraud'.

377. My preceding complaint to the AG in February 2020, headed 'Complaint to the Auditor-General regarding major ongoing breaches of the Public Finance Management Act involving many millions of rands and other material irregularities including crimes committed in a corruption cover-up by past and current high officers of Legal Aid South Africa' is annexed marked 'R56'.

378. My two subsequently filed Addenda to the latter complaint, in which I demonstrated in light of supporting records that then-CFO Rebecca Hlabatau and CLE Hundermark are also directly implicated in the illegality – in Hundermark's case, criminally – are annexed marked 'R57' and 'R58' respectively.

379. I'll now deal specifically with the excerpted paragraphs from my original statement of claim in the Labour Court, quoted by LASA in paragraph 5.2 of its Complaint.

380. As said, I didn't go to trial on it, but on a different, substituted, amended pleading. That is, my averments complained of by LASA were not before the judge in court as my case for trial. Moreover, not only did I not stand on and lead evidence to prove the averments I made in my original very detailed statement of

claim, implicating Mlambo JP, I expressly informed the judge right at the start of the hearing that I wouldn't be seeking to implicate him in the trial and that I 'held him clear'.

381. But this is by the way, because surprised to see Nair's feeble tergiversation in the witness stand, I quickly realised that my changed conclusion drawn just before trial that he was my real opponent couldn't be right and was certainly wrong, and I revived my charges against Mlambo JP in my petition to Waglay JP as Judge President of the Labour Appeal Court for leave to appeal. (Discussed extensively below are the unequivocal indications that Waglay JP found no fault with the allegations I made against Mlambo JP in my petition.)

382. Ad paragraphs 4 and 5. All this is correct as my documented complaints to the AG show, except that, as I explain in them and in my complaints to the JCC, I went to court believing, as I'd pleaded, that I'd been covertly unfairly discriminated against; whereas, as I discovered years after the trial from a document forced out of LASA by suing for it under section 78 of PAIA, namely the full uncensored selection panel's recommendation report with its information about my rival applicant's long professional relationship with Mlambo JP, the reason I wasn't appointed to the top post I'd been recommended for was just that Mlambo JP wanted him in the job instead of me.

383. Ad paragraph 31. I was mistaken about two things in surmising and pleading this.

384. First, as said above, on the then available facts I'd incorrectly inferred unfair discrimination as the obstacle to my appointment, when the problem was just everyday jobs-for-pals cronyism, as a subsequently surfaced document revealed.

385. Second, as then-Legal Executive Mtati alleged on oath very correctly on Mlambo JP's behalf, confirmed on oath by NOE Nair in a confirmatory affidavit, my recruitment was aborted 'immediately' after I was recommended by the selection panel in November 2009. Vedalankar wasn't told at the time, and only learned of it when I wrote to her eight months later in July 2010, pressing for the

finalisation of my appointment after then-HRE Clark had backhandedly confirmed in April that I'd been selected. When I filed a PAIA request testing what Nair had falsely alleged to me in his brief, vague response written at Vedalankar's request a few days after receiving my letter, she signed the response, prepared for her, illegally and unconstitutionally totally refusing my records request on legally spurious grounds later abandoned, then replaced with other spurious ones, themselves later abandoned, thereby joining the cover-up, because as she was fully aware, the letter was full of lies about why my recruitment had been aborted, which story she perjuriously confirmed under oath a few months later, along with Nair and Clark. (The lying letter refusing my first PAIA request was almost certainly ghost-written by Hundermark; I initially thought by Nair.) I canvass all this extensively in my affirmed, documented complaints to the AG, to which I refer the LPC's investigating committee for careful study.

386. Ad paragraphs 33 and 34. Except that Vedalankar wasn't yet involved, and the problem wasn't unfair discrimination but just Mlambo JP's preference for his former colleague in the Labour Court to be appointed instead of me, all this is correct. I was indeed kept in the dark – and on purpose. Indeed, giving the game away, I was clumsily asked at the trial of my labour claim why I hadn't concluded from the silence that I'd been unsuccessful and walked away.

387. Ad paragraph 55. Subject to the two provisos above, this is correct. It's common cause that whereas I was told nothing, the recommended candidate for the Durban post interviewed on the same day that I was, Bongani Mngadi (now a judge), was told that the KwaZulu-Natal Senior Litigator recruitments had been cancelled 'in April/May' 2010 – his words to me on the telephone, which I contemporaneously recorded – after I began pressing Clark for information about the upshot of the interviews in November 2009. As I also contemporaneously recorded, no reason was given him for this, leading him to assume – he also told me – 'internal restructuring'.

388. The virtually complete recruitments were cancelled behind the scenes, off the record, and irregularly, because no such resolution was passed by any

competent authority at LASA, or indeed by anyone at all, as the non-existence of any record of any such resolution or decision shows.

389. The unauthorised, unrecorded cancellation of the substantially finalized recruitments was illegal under multiple relevant provisions of the PFMA, as the Constitutional Court affirmed in *Zungu* in January 2018 pointing up the illegality of a public entity deliberately not filling a budgeted and funded post – all comprehensively canvassed in my complaints to the AG.

'RECORD OF THE PROCEEDINGS UNDER CASE NUMBER [LC D]529/11'

390. The transcription of what I said in court is clearly garbled here and there, but nothing much turns on it.

391. Ad paragraph 5.3. As explained above, just a couple of weeks before the trial of my labour case I was rocked by my discovery that Nair had ghost-written Mlambo JP's false reports to the Minister and Portfolio Committee, according to the 'Author' metadata of the report to the Minister in Microsoft Word emailed to me after the second pre-trial conference at court. (Both of these extra, second and third conferences under judicial supervision held at my instance were necessary to crow-bar records out of LASA that I needed for trial, which it was withholding in breach of its undertaking to turn them over to me, belatedly given during the first prescribed conference, after initially totally refusing my entire list of documents, and again after the first conference at court.) I'd fortuitously been given Mlambo JP's false report to the Portfolio Committee by its chairperson after writing to him in a different connection, or I'd never have seen it and known about it.

392. My stunning discovery that Nair had authored the said reports swayed me into thinking that Nair was my real opponent, not Mlambo JP. But as said, Nair's pathetically weak performance as a witness shortly afterwards changed my mind, and I retrained my guns on Mlambo JP in my later petition for leave to appeal. Also, Nair was very adamant on the witness stand that he'd not added to the 'updated' report before it was submitted to the Portfolio Committee a few months later, which suggests that Mlambo JP (or Hundermark) had done so

393. Another important thing is that in redrawing my statement of claim for me *pro amico*, my senior counsel friend urged that it was strategically prudent to narrow the issues to the minimum and not to gun unnecessarily at Mlambo JP in my pleadings and at trial, having regard especially to his presidency of the Labour Court at the time, the very court in which I was suing. Indeed, when he learned of this appalling fact, he insisted very hotly, 'You've got to get your case out the Labour Court.' (I couldn't, I was stuck there, no other court had jurisdiction.) So I lowered my sights off Mlambo JP just before and at trial. But as said, I was also genuinely confused for a couple of crucial weeks about the extent of Mlambo JP's culpability. Finding Nair's name in the metadata of Mlambo JP's report to the Minister hit me like a wrecking ball. Vedalankar then also appeared to me at the time to have been used. (Much later, from transcripts of Justice Portfolio Committee meetings released by the Parliamentary Monitoring Group, I discovered her repeated criminal misinformation of the said committee – detailed in my criminal complaints against her filed with the AG.) This is why I said repeatedly at trial that I held Mlambo JP and Vedalankar clear.

394. And I said this initially in my opening address, long before I was cross-examined. Mossop and his Complaints Committee's claim in paragraph 5.2 of its first report, drawn before hearing me, that I was 'forced to retract' my charges against Mlambo JP and Vedalankar '[u]nder cross-examination' is absolutely false. To the contrary, in its Complaint LASA quotes my petition for leave to appeal, in which I recorded in paragraph 35: 'My discoveries about Nair's authorship led me to inform the judge on the first day that I held them [Mlambo JP and Vedalankar] clear, and that I held Nair solely responsible for the lies these documents contained.'

395. My incorrect, changed opinion just before and at trial concerning Mlambo JP and Vedalankar's roles in the illegal cancellation of my recruitment and its cover-up doesn't change the documented facts, many of which only surfaced after trial through my repeated use of section 18 of PAIA to access LASA's records, and, when refused, my repeated resort to section 78 of the Act in

going to court to disgorge documents that LASA (Hundermark) was determinedly hiding from me. Vouched by these records eventually forced out of LASA, these documented facts were subsequently set out in my affirmed complaints to the JCC in 2017 and to the AG in 2020.

396. Quoted on pages 11 and 13 of the Complaint, my shifts in focus on, off, and then back on Mlambo JP in particular are completely explained in paragraphs 25 and 35 of my petition for leave to appeal.

'UNFOUNDED DEFAMATORY, DEMEANING AND INSULTING ALLEGATIONS MADE BY ADVOCATE BRINK IN HIS PETITION FOR LEAVE TO APPEAL TO LABOUR APPEAL COURT UNDER CASE D 529/11 [*SIC:* CASE NUMBER LAC D21/14] *AGAINST MLAMBO JP, CELE J, V. VEDALANKAR AND B. NAIR'.*

397. I stand by every word of my petition quoted here, save that it turned out that Cele J was right in the end not to uphold my unfair discrimination claim launched in 2011, because, as I discovered years later in 2016 on seeing the full uncensored selection panel's recommendation report extracted very unwillingly from LASA by suing for it, I'd based my claim on the wrong cause of action entirely. It wasn't *unfair discrimination* barring my appointment, it was just everyday recruitment corruption in the form of *jobs-for-pals nepotism*: Mlambo JP wanted my rival applicant in the post for which I'd been selected and recommended – a long-time judicial colleague of his in the Labour Court, who'd acted as a labour judge for about six-and-a-half years, according to the professional background information he gave the selection panel.

398. This critical, all-explanatory, key information, which LASA (Hundermark) had been so determined to conceal from me, is recorded in the panel's full, uncensored recommendation report that I finally got my hands on, after long legal struggle, in April 2016, following LASA's (Hundermark's) total capitulation in February to my PAIA applications in the Magistrate's Court.

399. First requested in August 2010, the report showing who the recommended candidate was – me – had been strangely furtively refused. LASA (Hundermark)

was very concerned that I shouldn't know for a fact that I was the selected and recommended candidate. After repeated appeals to the PAIA Unit of the South African Human Rights Commission for support, and after months of resistance, the recommendation report was eventually turned over to me in January 2011, but not before being carefully redacted with a black Koki pen to conceal Mlambo JP's professional connection with my rival for the post.

400. The recommendation report records that the panel rejected Mlambo JP's former brother in the Labour Court as a possible candidate for appointment as a Senior Litigator, even though he'd acted as a labour judge for many years, because he lacked right of appearance in the High Court and consequently had no litigation experience on his feet there, let alone in the Supreme Court of Appeal and Constitutional Courts, as contemplated in the job advertisement. Still, this is the guy Mlambo JP, Nair and Hundermark all wanted appointed instead of me. Since over at LASA, it's not what you know, it's who you know.

401. My application for leave to appeal identifying Cele J's manifold basic reversible errors is annexed marked 'R59'. My petition to Waglay JP for leave to appeal, when Cele J refused my application for it, is annexed marked 'R60'. Clearly there's nothing professionally objectionable about these court documents.

402. Another error: as said above, I'm now certain that Hundermark, not Nair, ghost-wrote Vedalankar's letters in 2010 and 2011, illegally and unconstitutionally refusing my first two PAIA requests to obstruct my corruption investigation, and telling me a profusion of smooth-sounding lies about why my recruitment had been cancelled: illegally, corruptly, off the record, silently, without authority, and in criminal and other unlawful contravention of several applicable provisions of the PFMA specified in my first complaint to the AG. I'm certain of this, because when it was Nair's turn to explain to the Board in November 2011 why LASA's remaining vacant, budgeted and funded Senior Litigator posts hadn't been filled (as required by the PFMA and the Public Service Regulations) he went off telling it totally different lies from the lies Vedalankar (Hundermark) had told me in her (his) correspondence with me in

October 2010 and January 2011. (I deal with this in my complaints to the JCC and AG.)

'UNFOUNDED DEFAMATORY, DEMEANING AND INSULTING ALLEGATIONS MADE BY ADVOCATE BRINK IN HIS SUPPORTING AFFIDAVIT TO URGENT APPLICATION AT PIETERMARITZBURG HIGH COURT UNDER CASE 12977/16 AGAINST WAGLAY JP'

403. I stand by all I said in my founding affidavit in that case, based on the supporting documents I put up with it; and I refer the LPC's investigating committee to my capital gross misconduct complaint against Waglay JP currently pending before the JCC, in which I repeat my core charge that he corruptly and prematurely rejected my petition for leave to appeal at the *written behest* of a top LASA officer (in all likelihood Mlambo JP, as I show in my comments on Waglay JP's response to my complaint), without the concurrence of the two other appeal judges named in the order dismissing the petition.

404. As discussed below, when Vahed J of the same High Court Division later drew the court file from the archives at his own initiative and considered and reassessed my extremely serious allegations made against Waglay JP in my founding affidavit in that taxation interdict application, about which LASA moans in its Complaint, he found nothing remiss about them at all.

TWO CRUCIALLY RELEVANT LEGAL PROVISIONS CONCERNING 'THE CONDUCT OF THE PARTIES' IN LITIGATION AND 'SERIOUS PROFESSIONAL MISCONDUCT' BY LEGAL PRACTITIONERS, ONE DISCRETIONARY, THE OTHER MANDATORY, AND IN LIGHT OF THEM THE VIEWS OF MY PLEADINGS AND AFFIDAVITS EVIDENTLY TAKEN BY JUDGES CELE, PILLAY, VAHED AND WAGLAY – INCONSISTENT AND IRRECONCILABLE WITH BOTH LASA'S COMPLAINT ABOUT THEM AND WITH THE SOCIETY OF ADVOCATES' TWO COMPLAINTS COMMITTEES' REPORTS UPHOLDING IT

405. On 'Costs', section 179 of the Labour Relations Act ('LRA') provides in discretionary terms:

> (1) The Labour Appeal Court may make an order for the payment of costs, according to the requirements of the law and fairness.
> (2) When deciding whether or not to order the payment of costs, the Labour Appeal Court may take into account–
> ...
>
> (b) the conduct of the parties–
>
> (i) in proceeding with or defending the matter before the Court[.]

406. Article 16(1) of the CJC peremptorily prescribes:

> A judge with clear and reliable evidence of serious professional misconduct ... on the part of a legal practitioner ... must inform the relevant professional body ... of such misconduct[.]

407. Cele J found no fault with any aspect of my pleading or conduct of my case in the Labour Court. I can state this with absolute certainty as a cold fact, because I pertinently asked him during argument after the trial whether he was minded to fault my case in any way at all so that I might justify it. The reason I did so was that LASA was claiming punitive costs against me. Cele J's response was to literally wave me away, signifying unequivocally that he found nothing objectionable or problematic about my statement and presentation of my case.

408. Consistently with this, Cele J noted no fault at all in his judgment with anything about my (originally) pleaded case – later complained of by LASA to the Society. Quite the contrary, right after delivering his reserved judgment some months later, Cele J expressly complimented me and LASA from the bench for the way we'd presented and conducted our cases. I don't have the record of the oral argument of my labour case to put up to vouch my claims here, but the LPC's investigating committee can verify them by having this part of the case transcribed and examining it.

409. Nevertheless, wrongly assuming that costs follow the result in labour cases, as in civil cases, Cele J ordered me to pay LASA's costs upon dismissing my

claim – very incorrectly, as the Constitutional Court later pointed out in *Zungu* in 2018 and again in *Long* in 2019, clarifying that costs don't ordinarily follow the result in labour claims. (In both those labour cases, even the Labour Appeal Court made the same ignorant mistake about costs.)

410. Crucially, Cele J didn't order costs against me on account of any misconduct in the litigation, such as LASA would later complain of. A copy of his judgment is annexed marked 'R61'.

411. Nor did Cele J find any fault with my vigorous attack on his judgment made in my application for leave to appeal his dismissal of my labour claim, because in his judgment dismissing that application he took no exception to it and made no costs order against me in doing so. Cele J's judgment dismissing my said application, with no order as to costs, is annexed marked 'R62'.

412. Had Cele J considered any aspect of my case in the Labour Court unprofessional, as LASA spuriously alleges, Article 16(1) of the CJC would have obliged him to report me to the Society for disciplinary action. He didn't, because in his judicial opinion it wasn't.

413. Nor did Labour Appeal Court head Waglay JP find any fault with my petition drawn in uncompromisingly robust terms, criticising (a) Cele J's two judgments and misconduct, both during the trial and before and during argument of the case several months later, and (b) Mlambo JP and LASA's management executives' misconduct – which criticism levelled in the petition LASA alleges is unprofessional – because in dismissing my petition he made no costs order against me. And tellingly so in light of section 179(2) of the LRA, which provides that in deciding whether to make an award of costs, the appeal judge may have regard to 'the conduct of the parties ... in proceeding' with the case before the Labour Appeal Court. A copy of the registrar's entry on the cover of the case file noting his order dismissing my petition with no order as to costs is annexed marked 'R63'.

414. It's so that Pillay J ordered costs against me when dismissing my application to the High Court at Pietermaritzburg for an order interdicting the

taxation of LASA's bill of costs in my labour case. But, as Vahed J later pointed out, she was quite wrong to do so.

415. I'd launched the taxation interdict application after discovering, among other gross irregularities, that LASA had perverted the decision of my petition by getting to Waglay JP behind the scenes, to wit by slipping him a poisonous, lying 'memorandum' to prejudice him against me and my case on petition. That is, as the saying goes, Waglay JP literally *got the memo*. He then tossed the case – even before all the papers had been filed and the matter was ripe for decision.

416. Photocopied for me by the registrar's office, and certified as a document indeed contained in the court file, I annexed it to my later complaint against Waglay JP to the JCC about this capital judicial corruption.

417. In my invited comment on Waglay JP's response to my complaint, I enumerated the several clear indications that Mlambo JP was the author of that 'memorandum' and that it was he who gave it to his long-time former brother in the Labour Appeal Court. (Before Mlambo JP was appointed to head the North and South Gauteng Division of the High Court, he'd been Judge President of the Labour and Labour Appeal Courts. Waglay JP was Deputy Judge President under him at the time. When Mlambo JP moved on, Waglay JP was appointed to succeed him as head of those courts.)

418. My attorney with right of appearance, Jon White (now deceased), who appeared for me in court (I wasn't there), reported afterwards that in making her costs order Pillay J rebuked my attack on Waglay JP's integrity in my founding affidavit, and said that if I wanted to allege fraud in the disposal of my petition I could go to the police and the JSC about it. As if the High Court was no place to be making such awful allegations; as if there was some doubt that I really believed the terrible things I was saying; as if my interdict application was merely an abuse of court to frustrate LASA's collection of its fabulous bill run up extravagantly in opposing my labour claim – sliced in half by the taxing master. (As said, I did indeed later file a complaint with the JCC about Waglay JP's corrupt and fraudulent disposal of my petition.)

419. Consistently with my attorney's report to me, LASA states in paragraph 4.5 of its Complaint: 'The urgent application was dismissed with costs accompanied by concerns by Honourable Judge Pillay about the conduct of Advocate Brink.'

420. And not just 'with costs'. Pillay J made a special punitive costs order against me, in directing me to pay LASA's costs as between attorney and client.

421. Precedent case law governing such unusual costs awards reserves them to cases where litigants have grossly misconducted themselves in the litigation or have acted fraudulently. The order is made to signify the court's displeasure at such misconduct. The nut of it is that Pillay J treated me as the delinquent, not Waglay JP and LASA.

422. But Pillay J didn't dismiss my application with punitive costs on its merits – because she didn't get as far as determining them. She didn't make any considered assessment of whether the facts I was alleging were true or not, having regard to the supporting records annexed to my papers. She dismissed it because she wasn't persuaded by the case I'd made for a semi-urgent hearing.

423. Evident from her punitive censure of my attack on Waglay JP's judicial integrity, and her statement that I should rather have taken my complaint about it to the police or to the JSC (if I really believed in it), and not come along to her with it, she appears to have thought my main case before her incredible, preposterous, and wholly devoid of merit.

424. Even though as the only really interested opposing party LASA (a) had filed a notice of opposition, (b) had drawn and filed an answering affidavit resisting my application – which application I'd considerately emailed to all respondents right after completing it so as to afford them maximum possible time to oppose and draw and file their answering affidavits even before formal service – and (c) was represented in court by counsel, and was therefore all ready to go, Pillay J dismissed the case I made *in limine* for the abridgment of the usual timeframes for the service and hearing of applications.

425. Pillay J wasn't interested in the facts that LASA had actually received my application, had filed its notice of opposition and answering affidavit, was in court represented by counsel, and was placed to argue against the grant of the relief I sought on the extraordinarily serious main case I was making, with a great wad of supporting documents annexed to my founding affidavit. By reproaching me for not coming to court sooner, Pillay J avoided dealing with my main case with its enormous ramifications for her former colleague in the Labour Court in which she'd also once presided.

426. In short, I was blown out of court on a technicality, so to say, having nothing to do with the exceptionally serious merits of my application.

427. It's highly significant that during the argument of LASA's (Hundermark's) vexatious application the following year – its (his) failed, corrupt attempt to halt my continuing investigation of top-level recruitment corruption at LASA and its cover-up by applying to interdict me from accessing its records and from enforcing my constitutional right to them in the courts when illegally and unconstitutionally refused (see below) – Vahed J took a very different view of my taxation interdict application from that of Pillay J.

428. As he was dealing with LASA's counsel's contention, made during his argument of LASA's vexatious application, that Pillay J's costs order against me in my taxation interdict case and my failed taxation interdict case itself evinced that I was a vexatious litigant, Vahed J stated on the record quite forcefully that Pillay J shouldn't have condemned me in costs and that her costs order against me was quite unjustified, pointing out that she should have simply struck my application from the roll if not persuaded by my case for a semi-urgent hearing.

429. Clearly appreciating the injustice of Pillay J's costs order against me, Vahed J hammered LASA's counsel with some energy about this wrongly made order, who didn't argue back and attempt to justify it. That is, LASA tacitly conceded Vahed J's point on this costs question: that the costs order made against me was obviously wrong, and that Pillay J shouldn't have made it.

430. By April 2017, all the usual three sets of affidavits in LASA's vexatious application had been filed and the case was ripe for argument later in the year. But after LASA delivered its replying affidavit, several material developments occurred which needed calling to the court's attention, including (a) the Bar Council's rescission of its strike-off resolution, on which LASA had stood crowing that I was an opprobrious reprobate, from whose ranks my own colleagues had decided to eject me, and (b) my delivery of my complaints to the JCC against Mlambo JP and Waglay JP. So I filed a supplementary affidavit mentioning these things, and annexed to it, *inter alia*, copies of my complaints to the JCC.

431. Predictably, LASA (Hundermark) tried suppressing this critically relevant new information by applying to have my supplementary answering affidavit and its annexures affidavit struck out, but Vahed J was unimpressed and showed LASA (him) the door.

432. When he read my complaint against Waglay JP to the JCC – just as he read the papers in my taxation interdict case, in which I'd indicted his capital misconduct – Vahed J could see that I wasn't making wild, unsupported, disgraceful charges against him; on the contrary, my complaint was supported by a photocopy made by the Labour Court registrar of the 'memorandum' that Waglay JP been given (and had inadvertently left in the file for me to discover later), denigrating me, lying about my case at trial and lying about my case on petition, all to influence him to dismiss my petition and thereby look after LASA. And, as said, my complaint was further supported by an inventory of the case file's contents, including mention of this 'memorandum', which the registrar had certified as true and correct.

433. So Vahed J could see that my very direct attack on Waglay JP's integrity was justified, and not insupportable and unprofessional as LASA later complained. Unlike Pillay J, who reflexively rejected my allegations against her former brother in the Labour Court, Vahed J did not suggest from the bench, or in his reasons given several months later for immediately dismissing LASA's vexatious application, that my charges against Waglay JP were damnable.

434. I was in court representing myself in opposing the vexatious application, so I heard all this with my own ears. I don't have and therefore can't put up the record of the argument to vouch my claims about what Vahed J said in court about Pillay J's clearly wrongly made cost order, but the LPC's investigating committee can verify my critically relevant information about this by having the record transcribed and examining it. The case number is 12124/16P. The record will vouch my several further claims below about what transpired and what was said in court at the hearing of the vexatious application. My answering papers in the case will also bear out what I have to say here about their contents.

435. Because I was acting and appearing *pro se*, and as a seasoned civil trial lawyer had drawn all my papers myself, I made no claim for costs against LASA at the end of my answering affidavit and later heads of argument seeking the dismissal of LASA's case, and in court I repeated from the bar this disavowal of any claim for costs. Accordingly Vahed J made no costs order against LASA when I won the case.

436. During LASA's counsel's argument that I should be declared a vexatious litigant – for (a) necessarily suing repeatedly to compel LASA's compliance with my PAIA requests that it had persistently and repeatedly, illegally and unconstitutionally vexatiously refused; (b) necessarily suing LASA again to compel its full and proper compliance with the settlement agreement made with me at the Magistrate's Court upon its total capitulation moments before the argument of my first five PAIA applications against it, set down together, when it vexatiously reneged on the settlement agreement by continuing to withhold records it had pledged to hand over, along with a compliant section 23 affidavit regarding records that don't exist; and (c) necessarily suing yet again when LASA further reneged on the settlement agreement by vexatiously refusing to respond to an agreed final PAIA request expressly provided for in the agreement, and by also vexatiously refusing to turn over all its litigation cost records showing how much public money it (Hundermark) had corruptly squandered in obstructing until the last minute in the Magistrate's Court my access to LASA's records – Vahed J mentioned that he'd spent a week studying the very

substantial papers in the case. Indeed, in court he impressed me as thoroughly prepared and well on top of the case.

437. For instance, alluding to my complaint in my answering affidavit, backed by supporting documents, that Nair had successfully lied to the labour judge to defeat my labour claim, Vahed J remarked knowingly to LASA's counsel that all trial lawyers are aware that cases are won by perjury sometimes. In other words, he revealed his appreciation that Nair had defrauded the Labour Court with barefaced lies told the trial judge under oath. (Indeed, in his judgment Cele J noted that Nair had been 'not generous with the truth' 'a number' of times, which is to say perjured himself in not keeping his oath to tell the truth, the whole truth and nothing but the truth, yet believed his lies anyway.)

438. It's relevant to mention here that in its letter to Mossop on 23 August 2017, declining his invitation to reply to my response to the Complaint, LASA notes that it gave him a copy of my answering affidavit opposing its vexatious application 'to indicate his [Brink's] continued unrepentance towards the judiciary' (see annexure R16, final paragraph).

439. But when a couple of weeks later, Vahed J carefully read my affidavit in the week he said he took to prepare for the hearing of LASA's vexatious application on 27 October 2017, he found no 'unrepentance towards the judiciary' displayed in it; in fact he found no problem with it at all (besides a mistaken idea of one thing he thought I'd said in it, discussed below).

440. This is despite the fact that my answering affidavit impeached Mlambo JP and Waglay JP's integrity in charging them with the most serious misconduct, which charges I reiterated a few months later in my complaints against them to the JCC and placed before the High Court (Vahed J) as annexures to my supplementary answering affidavit.

441. Vahed J stated on the record that off his own bat he'd drawn from the court archives my abortive application to interdict the taxation of LASA's costs order in my lost labour case – which Pillay J had dismissed without entering into the merits of the main case – and that he'd studied the papers.

442. Unlike Pillay J, who my late attorney told me had bridled at the seemingly unbelievable allegations I'd made in my founding affidavit, boiling down to Waglay JP having been corruptly influenced by LASA to prematurely dismiss my petition for leave to appeal Cele J's dismissal of my labour claim against it, Vahed J didn't find anything professionally objectionable about my charges against Waglay JP made in my abortive taxation interdict application, when he considered and assessed the matter in his chambers in the week he said he took to prepare for the argument of LASA's vexatious case. Which charges I repeated in my complaint against Waglay JP to the JCC, and placed before Vahed J as an annexure to my supplementary answering affidavit.

443. Also like Vahed J, who evidently appreciated the substance and extreme gravity of the case I'd made in my taxation interdict application, the JCC didn't find my complaint against Waglay JP in this regard 'frivolous or lacking in substance', in the language of section 15(2) of the JSC Act, and consequently fit for summary dismissal, as mandated by that section, because contrariwise the JCC demanded that Waglay JP answer it.

444. Had Vahed J thought my taxation interdict application a professionally disgraceful, unfounded attack on Waglay JP's integrity as a judge, as LASA alleged in its Complaint, he'd have agreed with LASA's counsel who was contending exactly that during his hopeless, sweating-uphill argument of LASA's vexatious application (defective both in law and on the facts), and he'd have said so on the record when LASA's counsel raised Pillay J's dismissal of my taxation interdict application with costs and used it as ammo for his useless, clueless argument that I'm a vexatious person.

445. In short, Pillay J's cost order against me – clearly wrongly made, as her own judicial brother Vahed J pointed out (and as said, LASA's counsel didn't disagree) – has no bearing on whether my allegations in my taxation interdict application that came before her were unprofessional or not, more especially because she never adjudicated my allegations, never decided whether they were true or not in light of the supporting records I put up. (As said, in my later complaint made against Waglay JP to the JCC, I repeated my core allegations

oppugning his judicial integrity, and the JCC demanded his response and is currently dealing with the matter.)

446. Crucially, as extreme as my allegations in my founding affidavit were (the main ones later repeated to the JCC), Pillay J evidently didn't consider them to be 'clear and reliable evidence of serious professional misconduct', as LASA later complained in as many words to the Society, because she didn't 'inform the relevant professional body ... of such misconduct' as she 'must' under Article 16(1) of the CJC, had she thought this.

447. And whereas (a) LASA complained to the Society about my criticism made in my various litigations against it of Mlambo JP's repeated lies, including his many lies told to the Justice Portfolio Committee in criminal contravention of section 17(2)(d) and (e) of the Powers and Privileges Act, and (b) Mossop and his Complaints Committee reckoned (unlike JCC member Zondi JA) that my 'answer' to the Complaint (comprising my complaints to the JCC), 'lacks substance' and warranted my strike-off, more especially because I'd 'persisted with [my] allegations against the Judge' in my complaints to the JCC and had 'constructed the most elaborate conspiracy theory in an attempt to try and prove what he alleges', Vahed J evidently took a very different view.

448. Had Vahed J thought professionally objectionable (a) my allegations in my answering affidavit (opposing LASA's vexatious application) about the top-level recruitment corruption I'd run into at LASA and its repeated malicious non-compliance with PAIA to hinder my investigation of it, in all of which corruption and illegality the record implicates Mlambo JP, Vedalankar and Nair (and now Hundermark); and (b) my complaints to the JCC against Mlambo JP and Waglay JP annexed to my supplementary answering affidavit, to be 'clear and reliable evidence of serious professional misconduct ... on the part of a legal practitioner' per Article 16(1) of the CJC, and particularly my capital charges (which Mossop and his Complaints Committee had found unprofessional six weeks earlier) namely that Mlambo JP had lied repeatedly to me, to the Minister, to the Portfolio Committee, and to the Labour Court, Vahed J would have mentioned this in court, and possibly nailed me with costs, or would have

mentioned this some months later when giving his reserved reasons for dismissing LASA's vexatious application on the spot, and he'd have reported me to the Society to be sanctioned, as Article 16(1) of the CJC would have required of him.

449. Unlike Mossop and his Complaints Committee, Vahed J didn't view as professionally reprehensible and warranting disciplinary sanction my exceedingly serious charges against Mlambo JP and Waglay JP – originally made in my several litigations against LASA, and now repeated in my complaints to the JCC, copies of which I annexed for the court's information to my supplementary answering affidavit opposing LASA's (Hundermark's) corrupt attempt to cripple my corruption investigation by shutting me down as a vexatious litigant.

450. Finally, and this is extremely important: it's not as if Vahed J was indifferent to unprofessional criticism of the judiciary; quite the opposite.

451. Vahed J came into court with the idea in mind that I'd insulted Cele J in my papers as 'a half-brain' or some similar expression, and he raised the matter with me when it was time to talk costs after LASA's pitiful argument had failed to leave the starting blocks: Vahed J found LASA's (Hundermark's) case that I'd been litigating vexatiously against it such obvious manure that I wasn't even called to respond to it. When I got up to argue, after LASA's counsel's had finished thrashing about like a fish dying on the beach, I was immediately invited to resume my seat with those always pleasing words in court: 'No need to hear you.'

452. Like I did with Cele J in the Labour Court, I specifically asked Vahed J if there was anything about the case I'd made in opposing the vexatious application that he thought objectionable, so that I might address and justify it. That's when his notion that I'd insulted Cele J came up.

453. In other words, as Vahed J saw it, what he thought was my unprofessional, gratuitous insult of Cele J was going to be relevant to the costs award he was

going to make. Or to put it more directly, he was he fixing to penalise me in costs for insulting Cele J.

454. Vahed J was incorrect and his impression was mistaken, and I said so; but he was convinced otherwise and not immediately disabused by my 'absolute assurance as an officer of court that I'd never said such a thing.'

455. I think his mistake sprung from my very blunt appeal papers, in which I showed Cele J's adjudication of my labour case had been an unbelievably inept shambles, *inter alia* in misallocating the all-important final onus of proof, and setting this final burden of persuasion on me, not on LASA; disallowing me from cross-examining LASA's top officers whom I'd subpoenaed especially for the purpose; and accepting the internally contradictory oral evidence of LASA's single witness, flatly contradicted by the documentary record, even though he found he'd repeatedly been 'not generous with the truth', i.e. hadn't been a frank and honest witness under oath. And in my petition for leave to appeal, I complained that Cele J had visibly dozed during the afternoon sessions, and later joked disgracefully in his chambers about not having prepared for the oral argument of the case several months after the trial by taking the trouble to read my extensive heads, meticulously referenced with footnotes to the trial documents.

456. Anyway, evidently taking the matter of my imagined insult of Cele J seriously, Vahed J wasn't quick to let the matter go, and he took quite a while silently paging through my lengthy answering affidavit, as we waited for him, hunting for that offensive expression he thought I'd used; but he couldn't find it, because I hadn't used it.

457. Seeing him concerned about it and not immediately satisfied with my assurance that he was wrong, and wanting the issue decisively resolved, I mentioned that I had my laptop computer with me in court, and proposed running a search of the unsigned final-draft PDF of my answering affidavit on the word 'brain' as a search term. Vahed J leapt at the suggestion, and I

proceeded with the search. When no such insult of Cele J turned up, Vahed J was bound to concede his mistake about this and left it.

458. In the several months he took to deliver his reserved reasons for immediately dismissing the vexatious application, Vahed J had all the time in the world to go looking again for this imagined unprofessional criticism of Cele J in my papers and come after me for it. He didn't, because I'd said no such thing, and in his reasons for judgment against LASA, he said nothing more about the matter.

459. The point is this: Had Vahed J considered my actual criticism of Cele J, Mlambo JP and Waglay JP in my papers before him objectionable – as LASA alleged in its Complaint – he certainly wouldn't have let it pass unremarked and unpunished.

460. And it's not as if Vahed J was unaware of his strict obligation imposed by the CJC to refer an advocate's misconduct to the Society for disciplinary action, or that he was reluctant to comply with it. Quite the opposite again, because the LPC's 'Pending Litigation Matters' report in August 2019 (annexure 'R30') shows that in the complaint mentioned just before mine, Vahed J had been the complainant who'd reported the accused advocate concerned.

461. To sum up this part of my response: In contradistinction to LASA and Mossop and his Complaints Committee, Cele J, Waglay JP, Pillay J (with qualification), and Vahed J evidently all took a very different judicial view of my extraordinarily grave charges against Mlambo JP and Waglay J levelled against them in my litigations against LASA.

462. Most certainly, none of them agreed with LASA and with Mossop and his Complaints Committee that my charges against these two judge presidents were professionally disgraceful and that I should be struck off for making them, and all the more for repeating them to the JCC.

463. Had Judges Cele, Waglay, Pillay, and Vahed thought I was guilty of 'serious professional misconduct', in the language of Article 16(1) of the CJC, in

making my charges against Mlambo JP and Waglay JP in my litigations against LASA, and then again in my complaints to the JCC which I placed before Vahed J, they'd all have been legally obliged by that provision of the CJC to 'inform the relevant professional body ... of such misconduct'.

464. Moreover, had they thought I'd committed 'serious professional misconduct', then in failing to 'inform the relevant professional body ... of such misconduct' they'd all themselves have been guilty of contravening section 10 of the Preamble to the CJC, which provides that 'any wilful or grossly negligent breach of the Code may amount to misconduct which will lead to disciplinary action in terms of section 14 of the [JSC] Act.'

465. It's not my understanding that LASA's corrupt, unconvicted criminal management executives maliciously driving this Complaint, Attorney Hundermark and Advocate Nair, believe Judges Cele, Waglay, Pillay, and Vahed to be guilty of judicial misconduct for not reporting me to the Society under Article 16(1) of the CJC, despite having 'clear and reliable evidence of serious professional misconduct ... on [my] part [as] a legal practitioner' before them – as alleged in as many words by LASA's said executives, and supported by Mossop and his Complaints Committee – and that all of these judges should be subject to 'disciplinary action in terms of section 14 of the [JSC] Act', and under section 17(8) be issued with a 'reprimand' or written warning' or be required to undergo 'appropriate counselling' or be subject to 'any other appropriate corrective measure' like being fined or having their salaries docked.

466. And after studying my complaints to the JCC against Mlambo JP and Waglay JP, along with their responses and my invited comments on them, I doubt very much that the LPC's investigating committee will take such a view against the above-mentioned judges either.

CONCLUSION

467. I request that this long pending Complaint, laid five-and-a-half years ago, be considered and dismissed as soon as possible. The manner in which the

Society and the Justice Department mishandled it has crippled me professionally, wiped me out financially, and paralysed my private life.

468. I mentioned above the bristling negative animus I've picked up at the High Court in Pietermaritzburg, and in my current situation, half-way to professional hell as my colleagues and judges see it, I cannot in good conscience accept briefs to act in that court or in the Durban Local Division, given the professional stench I carry and the prejudice to which this exposes any litigants I might represent. It's why I haven't told local attorneys' firms that I'm in town and available. Among tight friends of mine here in Eshowe are some exceptionally wealthy farmers and businessmen with potentially lucrative legal matters they've raised with me, and I've always had to scuttle away from them, reluctant to say why.

469. Nor can I confidently appear in other Divisions of the High Court, thanks to the Society's Litigation Committee's hugely prejudicial false statements about my response to the Complaint in its July 2018 report to the GCB, wrecking my professional reputation among my colleagues nationally.

470. Taking a case in the Gauteng Division where Mlambo JP reigns as head of court is obviously out of the question, even at roulette odds of drawing him to try it. Accordingly, for that principle reason I was bound to turn away an offer of major work in Gauteng a few weeks ago. The emailed enquiry about my availability and my response are annexed marked 'R64'.

471. The unresolved Complaint and my blacklisting by the Justice Department, mentioned above, prevents me from acting as a magistrate here in Zululand where I've chosen to settle, and where I've repeatedly been told my services are needed. Nor, as I've shown, can I apply for any permanent magistrate's post.

472. As a lawyer, I'm practically under an apartheid banning order and prevented from practising my profession. In today's money, the Complaint has thoroughly and completely *cancelled* me, in the colloquial sense of the word used nowadays, exactly as intended and wished for by the corrupt LASA officers who made it and are still driving it – and it hasn't even been decided yet.

473. I've no less than four PAIA matters against LASA currently pending in the High Court at Pietermaritzburg, and the toxic cloud I'm under there is highly prejudicial to my prospects of winning them, notwithstanding the clear merits of my claims. As said, I've experienced the poison of it from the bench repeatedly.

474. Some months after one such unpleasant experience, I found the clear objective evidence in the court file that the judge hadn't even read my papers before banging me in costs for opposing LASA's application to force the postponement of my first PAIA case in the High Court (on the legally irrelevant basis – trite in our law – that its preferred counsel was busy with another case in another court on the day), which PAIA case, after being delayed for years by dint of one trick by LASA after another, I'd finally been able to set down on the earliest available date the registrar offered me. Or to be more precise, the judge had started reading my papers, commendably diligently annotating and flagging them, and then abruptly stopped doing so, early on. As if she'd *got the message*. But for sure, she hadn't read the papers when she came into court, as I discovered some months later while preparing the file before the next date I got for the argument of the case. In other words, she'd decided in chambers to bounce my case even before hearing me in court bitterly opposing the further delay of the case on the legally spurious grounds LASA was relying on.

475. But more important than any of this, my personal and professional reputation has been devastated by the Society's mishandling of LASA's malicious Complaint, made in pursuit of a cynical offence-as-defence strategy carried on over the years by different means in an ongoing endeavour to thwart my adamantine intention to see addressed, purged and punished the criminal corruption that I've uncovered in the organisation through relentless investigation in the face of every obstacle set up to block and frustrate me.

476. My determination to vindicate and redeem my name, my honour and my reputation without further unnecessary delay is unshakeable and absolute; and I remind the LPC here of its obligation as an organ of state to decide the Complaint expeditiously, having regard to the provisions of the Promotion of Administrative Justice Act, and specifically to the legal remedies it provides

where ‘there has been unreasonable delay in taking the decision’ (per section 6(3)(a)(iii)) by an ‘organ of state, when ... exercising a public power or performing a public function in terms of any legislation’ (per the definition of ‘administrative action’ in section 1).

477. Section 37(3)(b) of the LPA prescribes that where ‘the conduct in question does not necessarily warrant misconduct proceedings’ – and I’ve certainly shown this – the LPC’s ‘investigating committee’ ‘must dismiss the complaint’.

478. Wherefore the Complaint must be dismissed.

Signed at Eshowe on 31 May 2021

ANTHONY ROBIN BRINK

Signed before me at Eshowe on 31 May 2021 by the deponent who has acknowledged that he knows and understands the contents of this affidavit and affirms its contents to be true to the best of his knowledge and belief.

COMMISSIONER OF OATHS

Name:

Address:

Capacity: