REPUBLIC OF SOUTH AFRICA

THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION, JOHANNESBURG

(1) REPORTABLE: NO
(2) OF INTEREST TO OTHER JUDGES: NO

15/3/18 .....
DATE

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SIGNATURE

CASE NO: 209709/2016

In the matter between:

THOKOZANI NQOBILE NTOMBELA Plaintiff

and

ROAD ACCIDENT FUND Defendant

JUDGMENT

Sutherland J

Introduction

[1] On 7 April 2015, the plaintiff, Nqobile Ntombela (Ntombela,) was injured in a motor collision. He sued the defendant, the Road Accident Fund (RAF) for compensation. Several issues have been resolved by agreement. The RAF conceded that it is liable to compensate the plaintiff. An undertaking, as regards future medical expenses, in terms of section 17(4)(a) of the Road Accident Fund Act has been tendered and accepted. A Claim for past medical expenses is at present being audited, and a decision on that head of damages has been deferred. A claim for general damages has been met with a refusal to certify that the plaintiff is eligible for such claim in that there is no serious long-term injury. That claim has also been deferred, and a decision by the plaintiff whether or not to challenge that view remains to be taken. In this trial the only issue for decision by the court is whether or not there has been any past loss of earnings and any loss of future earning capacity, and if so, the quantification of damages in respect thereof.

[2] The core issues are:

2.1. The exact nature of the sequelae of the injuries sustained.

2.2. What the appropriate sum is to award for time that will be spent convalescing after remedial surgical intervention.

2.3. Whether or not any overtime income stream with his employer, Virgin Active Health, has been forfeited in consequence of the injuries, during the initial period of convalescence, and if so, the quantification thereof.

2.4. Whether or not the career path of the plaintiff within Virgin Active South Africa (Pty) Ltd, the plaintiff's employer, has been inhibited by reason of any present disability or, in future, by any residual disability, assuming recommended surgical intervention achieves its optimal outcome, which present or future disability, in turn, might diminish his earning capacity.

2.5. Whether or not the plaintiff earned an income as a part time motor mechanic, and if so, what his earnings were and are, and in turn whether there is adequate information thereon to compute a loss.

2.6. The computation of damages.

The sequelae of the injuries

[3] The plaintiff sustained a mild head injury, a bruised sternum, and a broken left clavicle in the collision.

[4] According to the reports of the neuro-surgeons, Dr Earle and Dr Moja, there is no evidence of there being any lasting effects from the head injury. The plaintiff has

complained of what he calls some memory loss. The hard evidence for this is barely existent, and on the probabilities, as addressed hereafter, any troublesome memory is attributable to being distracted because he is often in pain owing to the clavicle injury and experiences anxiety about his job security and prospects. Tests demonstrating a lack of cognitive deficits performed by Ms Kok, a clinical Psychologist, substantiate and corroborate these conclusions. No more need be said about the head injury, nor was it seriously pressed in the trial. The Sternum injury also has caused no adverse long-term consequences and was not addressed at all during the trial.

[5] The important injury is the fracture to the left clavicle. The bone has not been properly set in place and the malunion is visible in a prominent raised position. He experiences ill effects. The plaintiff's reports of symptomology to the various medical practitioners varies considerably. There is no need to make much of these variables, as it is clear that he experiences pain. He has a slight asymmetry derived from the injured area. He feels radiated pain to the elbow, suggestive of an impingement of a nerve in the neck and shoulder region. He gets a stiff neck and headaches. He takes Grandpa powders for the headache and no medication for other pain, but he does use a warm compress against the neck and shoulder. All of these experiences of pain can be found to be genuine. The ability to go without pain killers, other the Grandpa, is significant.

[6] The obvious issue to explore is his range of movement. The Occupational Therapists, (OTs) Ms Shakoane and Ms Leshika both performed tests. The tests by Ms Shakoane show that the left arm is slightly inhibited as to flexion (hands up in air in front,

above the head) and abduction (arms stretched out laterally alongside the head). The maximum degree of movement is 180 degrees; ie parallel to the body. According to Ms Shakoane, the plaintiff achieved 160 degrees for both flexion and abduction. The test is a measure of reach limited by pain. Ms Leshika, also did these tests, but omitted the details from her report which apparently reflect that he has 'full reach' (ie, supposedly,180 degrees). The report of the Orthopod, Dr Schepers, states that he found 'full range' in the joints. The difference between 180 and 160 is the difference between hands right up compared to not quite right up, akin to a fascist salute. Pragmatically, the difference is modest. It is the endurance of such postures that is the nub of the condition and the patient's pain tolerance.

[7] An important fact is that both OTs contradict Dr Volkersz, the orthopaedic surgeon, who asserts that abduction above the shoulder is not possible for the plaintiff. Dr Volkersz's movement range tests has the right arm flex to 160 degrees and abduction to 160. The left arm results were 120 and 85 degrees. Volkersz defers to the OTs. In my view the OTs view is to be preferred. What influences Dr Volkersz's view is his diagnosis that there is rotator cuff injury, which by its nature is a wearing-away type of injury that over time is guaranteed to deteriorate. Dr Schepers, the counterpart of Dr Volkersz, made no comment about a possible rotator cuff injury. Dr Volkersz had a sonargram performed, the supposed source of the data from which to infer that condition, Dr schepers did not. In his report Dr Volkersz says

> "[The Plaintiff] has also got limitation of abduction of the left shoulder and ultrasonographically there is evidence of damage to the left rotator cuff" .

No reference was made in evidence to the actual sonar report by Dr F C Bocchiola of Sunninghill Radiology Department. The report itself does not substantiate the conclusion of Dr Volkersz. Much of the report describes the tendons at the base of the neck which are impacted by the asymmetry caused by the malunion of the clavicle. The remarks relevant to the shoulder joint are these:

> ' .... there is no evidence of subdeltoid or sub-acromial bursitis.... The AC joints bilaterally appear maintained" (ie, in plain English, the left shoulder joint is normal and there is no inflammation of the left shoulder joint).

The accompanying X-ray report notes that the-

> 'AC joint (part of the shoulder joint) appears intact, the glenohumeral joint (ie the inner part of the shoulder joint) is intact, there is no soft tissue calcification, [and] there is no deformity of the scapula (top of shoulder bone) which appears intact and no definite evidence of fracture demonstrated'

In short, the evidence for such a condition does not seem to meet the test of being logically connected to the objective facts. (See: *Lowrens v Oldwage 2006 (2) SA 161 (SCA) at [27])* However, equally important is the contradiction with the OTs. I am unpersuaded that there is convincing evidence adduced that a rotator cuff injury exists.

[8] Both OTs are agreed that in his *present condition,* the sequelae of the injuries impact negatively on him doing physical work requiring agility. This is patently correct. Dr Volkersz also opined that the plaintiff could expect only to work until 60 years of age owing

to the condition, even after remedial surgery. This opinion, is in my view, not substantiated by anything more than an assumption that residual pain will produce such a decision to retire early, and the unsubstantiated diagnosis of a rotator cuff injury. It is pure speculation, and I cannot rely on it.

[9] As to the plaintiff's physical recovery prospects, a reset of the clavicle is recommended. This intervention can be expected to alleviate pain, and also improve agility. It is a substantial surgical intervention: in Dr Schepers' report the details are described as an "ostetomy' involving plates and a bone graft.

[10] The more important question is how his agility and strength will be affected over the long term: ie can 100 % recovery be expected? Dr Volkersz alone, opines a significant residual disability, regardless of surgical intervention. Other views tend toward either a full recovery or near full recovery, provided the surgery is performed. The differences of opinion seem to flow from whether the initial view is taken that once pain is eliminated, recovery will be 'full', or despite effective management of pain a residual inhibition will prevail.

[11] In my view, it is appropriate to make some allowance for a residual degree of pain and diminished pain-free range of movement. The delay in the remedial intervention, at least 3-4 years after the trauma may, logically, have left subtle impairment which will niggle chronically. The more important issue, for this trial about earning capacity, is whether that shall result in any *work-relevant-niggle* that cannot be reasonably overcome.

In determining the present condition, Dr Schepers, alone, in the RAF 4 form, suggests a present 3% impairment. Notably, there is no evidence of any muscle wasting, an important logical factor in the plaintiff's ability to discharge his current duties, a common cause fact.

The demands of the workplace

[12] What were the physical demands of his work? This falls into two parts.

[13] First, since 2010 he has been employed by Virgin Active. He was at the time of the collision, a maintenance operator in one of the gyms. As such he was one of 4 persons who maintained the establishment in a given gym. The tasks involved the full range of repairs to floor gym equipment, air conditioning, painting, pool maintenance, and all the incidentals including the moving of equipment, some of which was heavy. The postural positions adopted to undertake these tasks would have included above the shoulder and above the head poses, while manipulating tools and moving things, some of which are heavy. Manifestly, agility is a necessary attribute of these tasks.

[14] After the injuries, he was promoted to maintenance technician. He had qualified himself in the maintenance of air-conditioning and in health and safety regulations. Also, he was by then an experienced operator. This job involved doing the exact same tasks but spending less time directly engaged therein on account of the role requiring him to oversee 4 other operators and attend to the administration. He would assess what needed to be done, and if need be, call in assistance or expertise to cater for the exigencies of

the moment. The role is in the nature of a leading hand, ie the senior 'operator' charged with guiding the less experienced workers.

[15] The industrial Psychologist, Ms Van der Westhuizen, got information from Karl McGuiness, ostensibly a club manager, who was at one time the plaintif'sf direct superior, that 30%-40% of 'job' now involved physical work. The value of McGuiness's input is evaluated later. However, on face value, what does this mean? It does not explain how much *time* is spent doing physical tasks. The Plaintiff's own evidence did not address the time ratio of paperwork/oversight/physical labour. Ms Leshika, the OT performed an 'ergo-science' set of assessments. This compares patient performance with assumed postures necessary in the job, taken to be of a 'medium' character in the spectrum light-medium-heavy. She reports that he experiences pain in lifting a 20L can of paint. He also experiences pain moving a punch bag; what weight a bag is, is not stated, but we can accept that it is notoriously heavy. Indeed, the notion of one person having to unhitch the punch bag as the default method is not obvious. However, the upshot is that he performs all the necessary tasks, albeit with attendant pain.

[16] Second, he undertook work as a mechanic in a backyard operation in his home neighbourhood, when he had free time from work in the gym. For present purposes, only, the agility-demands in this role are addressed. In the main, it involved delving into engines and the axillary parts of a car which efforts do not represent a significantly different set of demands from his day job; ie, leaning, stretching and twiddling with tools at the end of his reach. One additional task that was distinctive, however, was the removing of engine

blocks and replacing them, apparently undertaken without the aid of a hoist. Plainly, strength and agile posture are essential. Of course, this was not done alone, but as one of a number of men, at least two, perhaps more, depending on the size of the engine.

[17] He performs all the tasks of his job at Virgin Active and has not provoked any performance complaints. However, he cannot perform the physical tasks pain free. It is owing to his apprehension about managerial disapproval of poor performance that motivates him to endure the discomforts.

[18] As to the part-time mechanic job, the plaintiff's evidence was that he resumed this work after about one year after the injury was sustained. The inability to bear heavy loads on that scale has meant that he cannot participate in lifting functions. He gets help. Otherwise, he perseveres despite the discomfort. But, apparently, he continues to work as such, though less often than before the injuries.

The Plaintiff's psychological condition

[19] The plaintiff reports memory problems and anxiety. The examinations explored these complaints and their probable causes.

[20] On Ms Kok's evidence, clinical depression was ruled out. In Ms Modipa's view he had depression. In my view Ms Kok's view is to be preferred. First, no observation from the neuro- surgeons, Dr Earle and Dr Moja support any presence of mood disorder; Ms

Modipa's view is an outlier. The poor memory is a supposed symptom to consider. But, as alluded to earlier, logically, if pain niggles. and the relationship with a new boss causes uneasiness, as stated by the plaintiff, such circumstances cause distractions from the minutiae of the job which requires attention to a range of disparate issues. Having to plan ahead and make a 'to do list' is the behaviour of a person who is in control of life, not a depressive.

[21] Indeed, in his own evidence and his various reports to the experts, the plaintiff describes himself in terms of a fully functioning personality, attuned to his situation, and rationally concerned with the risk of negative employer views of any fall in optimal performance. Precisely because of his appreciation of that circumstance, he exerts himself to maintain performance, despite enduring discomfort. Moreover, the curse of chronic pain even if merely continual rather than continuous, is bound to put a person on edge. On Ms Kok's assessment he remains in essence a positive person. This is corroborated by my impression of him as a witness.

[22] Among his concrete allusions in reports to the experts, although no mention was made in his evidence, is a hyper-cautious approach to travelling since the accident and apparently the occasional flashback. These attitudinal changes and re-visiting of the initial trauma are not pathological.

The prospects of recovery after medical intervention

[23] All opinions strongly advise the surgery referred to above. The plaintiff indicates he wants it. The failure to have it done earlier is not properly explained, but nothing turns on that.

[24] There cannot be real doubt that the intervention will significantly reduce, even if not eliminate all pain over time. Naturally, post-operative treatment in the form of physiotherapy and a lot of self-discipline in the appropriate strength building exercises are crucial to an optimal result.

[25] In my view, the plaintiff's present condition is temporary, and a marked improvement can be expected as a result of the contemplated surgery. Dr Volkersz view alone suggests the contrary, and for the reasons already mentioned, I am of the view that they are unreliable.

Past loss of Earnings

[26] This claim is limited to forfeited overtime for ten months. His evidence is he worked overtime once in four weeks and was paid R350.00 per overtime shift. The loss is R3500.00

Future Loss of earning capacity: Career prospects in Virgin Active Health

[27] The principal controversy is whether his promotion prospects have been dented because of his diminished physical agility.

[28] The plaintiff apparently established a reputation as a reliable and competent worker. He was promoted once. Are there further prospects?

[29] The evidence about the existence of further opportunities is confused. In the reports to the two Industrial Phycologists, the plaintiff alluded to the chance to get an 'operations manager' job, and his immediate boss, Karl McGuiness gave information in this regard. This 'operations manager' job was addressed as being club-size related as to remuneration rates, which suggested a location bound post. Yet the plaintiff's evidence was that the next rung on the ladder is 'regional maintenance manager'(RMM). The plaintiff's case before court was based on the latter post. It involves being in charge of, say 6, clubs and overseeing the technicians in each, being the trouble-shooter when they cannot manage an issue and being on permanent standby to deal with emergencies. According to the plaintiff this distinctly managerial sounding role would nevertheless require him from time to time to do the physical work on his own without assistance. The pay for the "operations manager' which the industrial phycologists had to address was in a range of R10, 000 and R16,000 pm. They translated it to R13,500 to resolve an argument on a norm to use. The impression left was that this sum applied to a RMM too, though why remained unexplained.

[30] McGuiness is the font of glowing appraisals of the plaintiff's work ethic and competence. There is a danger that McGuiness is a champion whose effusiveness makes him an unreliable source for the real career prospects of the plaintiff. The plaintiff was accommodated by McGuinesss during his convalescence by being excused physical work and deployed to attend to the administration of the work. Upon recovery, fit for work, he was promoted owing, according to the plaintiff himself, to McGuiness's intervention, whose thorough personal acquaintance of his historical capacity for good work tipped the scale. This veers towards a measure of nepotism contaminating the promotion. Moreover, McGuiness left for another post in December, and the relationship with the Plaintiff and his new immediate superior is not cordial. The Plaintiff has lost his champion. The champion somewhat vaguely, asserts that the plaintiff is the top candidate for operations manager, if a vacancy arises, within a year. This report is in my view is wishy-washy and unsubstantiated. McGuiness is not the person to speak for the employer, the Human Resources Department were not contacted nor was any executive asked to supply information about the structure, policies, vacancies, recruitment plans and so forth of Virgin Active. The reports of McGuiness are unauthorised and unreliable. Moreover, he did not testify.

[31] The conclusion to which I must come is that there is no real prospect of promotion on the near horizon, regardless of any meritorious credentials, nor is there a concrete basis to infer that a career path exists within the business at all. Moving up the ladder is as much a matter of chance as it is of self-development, and other than a sort of *spes*, nothing usable has been put before the court to assess the prognosis offered. That a

diligent competent worker is "promotable" is a post that can tap his competencies exists or becomes available, is a logical inference, but not seriously substantiated in this case.

[32] Much of what the Industrial Phycologists have addressed is premised uncritically on what McGuiness has to say. In this respect, the value of those prognostications are not stronger than the source upon which they are based. Both agree in a joint minute that the plaintiff will not achieve his pre-morbid earnings level. But no proper foundation exists to reach this conclusion. The mere fact that some degree of pain may be residual does not translate into that conclusion. This is an example of sloppy thinking. I shall address these shortcomings in a discrete part of the judgment addressing the conduct of the expert witnesses called in this matter.

[33] Lastly, it bears mention that the plaintiff states that in order not to expose himself as physically limited he will not apply for the next job up, ie the RMM. I am sceptical about that evidence. It is equally likely, on common sense principles, that he is feeling stretched in the present job. Once the intervention has been complete, and he experiences less pain and an improved agility, the probabilities are he shall be more bullish.

[34] The plaintiff will risk loss of income during the period of convalescence after surgery. No proper evidence that is helpful in this regard has been adduced. In Dr Schepers' report, he suggests a period of 6 weeks off work. I am driven to speculate from common sense principles based on what is a serious surgical intervention. I prefer to err on the generous side. I estimate that the recovery period would be 3-4 months, including

a period of physiotherapy and regular exercises. I take four months as the yardstick. At his present rate of earnings of R6600 pm his loss would be R26,400. Overtime loss is 4 shifts at a total of R1400. Allowing for a possible waiting time for the surgery of 1 year from now, and an inflation rated salary increase, I settle on the rounded off figure of R 30,000.

The additional Income stream from car repairs

[35] I accept that the plaintiff indulges in this sort of work, and that his physical capacity to carry has been diminished. He nevertheless continues from time to time.

[36] However, the evidence necessary to rationally compute a sum of his loss is absent. No records exist, nor ever existed. To say he was employed is incorrect; he along with others assisted in the repair work and shared out the profits as payment was received. There is no reliable evidence of what was charged for the service still less what was earned. The sums offered as illustration by the plaintiff were double and triple the sums suggested by Theo Ranatshane, the rain maker of the operation who we are told dished out sums at his discretion after each job was complete. This demonstrates the sheer guess-work in these figures. A specious guestimate of "good" and "bad" weeks varying by thousands was offered, with nothing bar a recollection and a thumb to suck as the source of the figures. It seems to me that neither Ranatshane nor the plaintiff can reliably say what their average earnings over time were because they themselves have no genuine idea.

[37] The evidence exaggerates the frequency of the times he worked, suggesting that on each of the three weekends a month he had no overtime at Virgin Active, he worked with Ranatshane. But there was not always work according to Ranatshane. The probability that they worked seven days a week, endlessly, is slim, however keen they were for extra income. On the probabilities this venture responded to opportunities, and they sprang into action as needs arose. At times they may have had no work at all and at others a queue.

[38] In my view, there is therefore insufficient evidence to establish what the operation generated in revenue or what sums were handed over to the plaintiff. For the purposes of computing any damages this source has to be ignored.

Conclusions

[39] In summary I find that:

39.1. The plaintiff shall regain substantially his pre-accident agility after surgery and rehabilitative treatment.

39.2. No concrete promotion prospects, such as may exist, have been forfeited.

39.3. No sum of damages is quantifiable as arose out of the plaintiff's weekend motor mechanic activities.

39.4. The risk of some niggling pain is real. However, I am unable on this body of evidence to conclude that it shall have a material effect on the capacity to fulfil the tasks of the job. It does not now, and on the probabilities, after surgery it will not then. (*Cf; Rudman v Road accident Fund 2003 (2) SA 234 (SCA) at 241C- G*)

The Computation of Damages

[40] The Damages that I award are as follows:

40.1. R3,500 for loss of overtime during his initial convalescence.

40.2. R30,000 for the risk of loss of future earnings during convalescence.

The scandal of unprofessionalism by the expert professionals

[41] The experts witnesses uniformly did not present their joint minutes in accordance with the Gauteng Local division Practice Manual prescripts. One said she did not know of the prescripts, another said she did, but in any event did not follow it. The directive is plain: tabulate what is agreed, tabulate what is dispute stating whether the difference of opinion rests on factual findings or opinion and explain why the difference exists. The purpose of joint minutes is to serve as a tool to clarify the issues for a court.

[42] I tabulate the practice manual provisions with due emphasis.

[43] The provisions in chapter 6.12 at paragraph 14 state:

"Joint Minutes of Experts:

14.1 Where there are overlapping experts, the experts shall meet and produce joint minutes indicating ***their endeavour to settle, and failing settlement, narrowly defining their differences***, as contemplated in paragraph **6.5.5** of the Practice Manual;"

[44] The provision in Chapter 6.5 at paragraph 5 states:

"In all trials in which the parties have opposing expert witnesses, such opposing expert witnesses ***must meet*** and ***reduce their agreements and disagreements to writing*** in joint expert minutes, signed by them and which minutes must be compliant with the prescripts of paragraph 6.15.11 of this manual"

[45] The provisions in chapter 6.15, at paragraph 9.9 state:

"Furthermore:

9.9.1 Expert reports must be drafted in a format designed for lucidity, brevity, and convenient cross-referencing and, to this end, must be in numbered paragraphs, and when referring to other expert reports refer to the numbered paragraphs therein.

9.9.2 ***Joint minutes must identify exactly what is agreed and what is not agreed, with reasons stated why disagreement cannot be achieved, especially as to whether the disagreement relates to a fact clinically observed or an interpretation of facts.***

9.9.3 The attorney responsible for the procurement of the reports shall be responsible for compliance in this regard; failure to adhere hereto may imperil certification."

[46] It is plain that the preparation of joint minutes is being treated a clerical chore. All the experts communicated by email, and one claimed to have had a telephone conversation. This is the result of dereliction not merely by the experts by also by the attorneys whose duty it is to prepare court documents in the appropriate form. Save for the neuro-surgeons, every other pair of experts is in default of compliance. Variously, the joint minutes are padded with quotations and other waffle, fail to engage on the critical issues, merely state in circumlocutory terms a difference of view, ignore the counterpart's view, and never interrogate it.

[47] The purpose of a joint minute is to capture the intellectual input of two experts who interrogate each other's views and lay out for a court what the issue is that has to decided. To fudge, hedge and generally obfuscate is counter-productive.

[48] I propose to disallow all costs for joint minutes and interdict parties from paying any fees for that work, save for that of the neuro-surgeons. Further, the attorneys may not charge their clients any fees or for disbursements relating to the joint minutes. The reason for this is that the attorneys are at fault for either their own sheer neglect, or their

wimpish attitude to the superficial content of these minutes as presented by their experts. It should have been patently apparent to any attorney who had read the practice manual that they are non-compliant.

[49] The industrial phycologists' performance warrant special mention. Their inadequate and superficial conduct has already been alluded to. It appears that persons practising in this field regard themselves as mere conduits of data which they wrap up in jargonised waffle. It is hard to seek out of these reports the aspects in which the expertise they profess is evident. The entire edifice of these reports was built on the say-so of a person who any professional ought to have appreciated was not in a position to express the views that he did, still less that they slavishly and uncritically relied upon such views. They have short-changed their clients. I shall disallow their costs in whole.

[50] In future, a failure to comply ought to be met with a refusal to hear the matter at all, on the grounds that the documents are not in order. However, more importantly, professionals must behave professionally and *treat the task of seeking agreement seriously*. If delinquency persists, punitive measures shall have to be taken. Attorneys must see to it that there is proper compliance.

The Costs

[51] The plaintiff had to come to court to get an order. The degree of success it has achieved is modest. Most of the four days on trial were spent on issues in respect of which

he did not succeed. The need for a fourth day was occasioned by a decision at the last moment to apply to reopen the case to call a witness that they had not intended to call at all until a chance remark by counsel for the Defendant pointed out a weakness in their case; ie it relied on hearsay. On the fourth day the witness was not called. Accordingly, Plaintiff should get only one day of trial by way of costs; the defendant, three days.

[52] For the reasons alluded to above, the whole of the fees of the two industrial Phycologists are disallowed. For the rest of the experts, save Drs Moja and Earle, the fees relating to the joint minutes are disallowed. The attorneys shall not charge the parties fees for their work on these minutes nor debit a fee or recovery any disbursements in respect of mentioned delinquent report and the delinquent joint minutes.

[53] The actuaries' Reports made no contribution to the resolution of the case and no costs shall be allowed for them.

The Order

1. The Defendant shall pay the plaintiff the sum of R33,500.00.
2. The Plaintiff is awarded the costs of the first day on trial.
3. The defendant is awarded the costs of the second, third and fourth days on trial.
4. The qualifying fees of the experts are allowed as follows:
    a. Dr Moja
    b. Dr Earle

c. Dr Volkersz

d. Dr Schepers

e. Ms Modipa

f. Ms Kok

g. Ms shakoane

h. Ms Lushika

5. The attorneys of record shall not charge the parties any fees that relate to the Industrial phycologists reports nor in respect of any joint minutes, save that of Drs Moja and Earle.

Roland Sutherland
Judge of the High Court,
Gauteng Local Division, Johannesburg.

HEARD: 6 - 9 March 2018
JUDGMENT: 19 March 2018

For the Plaintiff:
Adv M Putuka,
instructed by Nemavhulani attorneys.

For the Defendant:
Adv B D Molojoa,
instructed by Lindsay Keller.