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THE OFFICE OF THE STATE ATTORNEY
BLOCK B, 2ND FLOOR
HIGH COURT BUILDING
CNR. BICCARD & BODENSTEIN STREETS
POLOKWANE

OUR REF / ONS VERW : ME. A L MAREE / LC 305

YOUR REF / U VERW : MR. CHUENE

DATE / DATUM : 08 APRIL 2020

Dear Mr. Chuene,

BY E-MAIL

RE: URGENT APPLICATION:

MEC FOR HEALTH, LIMPOPO PROVINCE + 1 // DR. TARYN WILLIAMS & DR. CLAIRE OLIVIER
CASE NR: 2640 / 2020

1. We refer to the above matter, and append hereto the court order that was - by agreement - issued by the court this morning.
2. We also refer to the press release issued by your client, the MEC for Health of Limpopo Province, on the morning of Wednesday, 08 April 2020 regarding the release of our clients, the contents of which we have noted with great concern.
3. The press release concerned states inter alia that "(s)ubsequent to the release of the latest results, doctors at the isolation site have recommended that the two doctors be released" and that "(t)he two doctors will be released immediately".
4. These statements are clearly false, and we struggle to avoid the conclusion that the press release and the false information contained therein is aimed at your client eventually seeking to avoid the costs order arising from our clients' opposition to the application concerned on the basis thereof.

MS. A L MAREE (DIRECTOR / DIREKTEUR)
B COMM. LLB (NORTH WEST UNIVERSITY, POTCHFSTROOM ("NWU"))
PREVIOUSLY KNOWN AS: PU FOR CHE / PU VIR CHO
ASSISTED BY: JAN SANELE MAHLANGU: N.DIP (PARALEGAL) TUT
KONSULTANT / CONSULTANT: DR. L G CURLEWIS

5. We therefore record below the true facts regarding the release of our clients - an event that already took place on Tuesday, 7 April 2020, as a result of the settlement agreement that is reflected in the appended court order and that has absolutely nothing to do with the test results that were only released after our clients were already back at their residence. These facts will be repeated in a further affidavit should the need arise, and we therefore now already provide you with an opportunity to dispute any of the understated facts, should that be your instructions:

5.1 On the morning of 06 April 2020, the Respondents' attorney provided the State Attorney acting for the Applicants' with a draft of the First and Second Respondents' unsigned affidavits together with annexures thereto and invited them to consider the contents and to revert by 16h30 pm on 06 April 2020 on the settlement proposal contained in the covering letter.

5.2 At 16h13 pm on 06 April 2020, writer hereof sent a sms to Mr. Chuene, the State Attorney containing the following message:

"Dear Mr. Chuene,

I tried to contact you on your mobile phone @16:02, today, 06 April 2020.

Kindly confirm whether you were able to obtain instructions from your clients, the Applicants with regards to the contents of our e-mail letter and the draft unsigned affidavit of the our clients (sic), the Respondents.

Await your urgent response.

Regards,

*Aletta Maree
A L MAREE INC
082 927 8664"*

5.3 We did not receive any response to this message whatsoever.

5.4 At 16h35, writer personally called Mr. Chuene. Mr. Chuene informed writer telephonically that he was still awaiting instructions from the MEC for Health of Limpopo.

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- 5.5 At 18h35 pm and again at 19h35 pm on 06 April 2020, writer again sent sms messages to Mr. Chuene as to his instructions. Only at 20:19 pm on Monday evening, 06 April 2020, did we received the following sms from Mr. Cheue:
- "We are consulting tomorrow at 09:00. We will revert thereafter"*
- 5.6 At 09h25 on Tuesday, 07 April 2020 the Respondents served a Notice of Anticipation of the Return date on the State Attorney, for the matter to be heard at 10h00 on Wednesday, 8 April 2020.
- 5.7 At 09h32 on 07 April 2020, Mr. Chuene acknowledge receipt of the Notice of Anticipation by sms.
- 5.8 At 12h14 on 07 April 2020, the signed affidavit of the Respondent's Attorneys of Record, together with annexures (total of 159 pages) thereto was served by e-mail on the State Attorney. At 12h30 pm writer informed Mr. Chuene of the service of the said affidavit. Again no response was received.
- 5.9 At 12:47 on 07 April 2020, we received the following sms from Mr. Chuene:
- "Can I have your advocate's contact details urgently. My counsel needs to talk to him/her."*
- 5.10 The contact details of our clients' counsel were immediately forwarded to Mr. Chuene.
- 5.11 At 13h01 pm on 07 April 2020, writer received a call from Mr. Chuene informing writer that the Applicants' counsel had called the Respondents' counsel and was awaiting the return call as the Respondents' counsel was then busy in a Zoom meeting regarding another matter. Mr. Chuene informed writer that the Applicants wished to settle the matter and would release the Respondents on Tuesday, 07 April 2020 as part of the

- settlement. The precise terms and conditions of the settlement proposal would be discussed between the respective counsel.
- 5.12 We emphasise that when the statement was first made at about 13h01 on Tuesday, 07 April 2020 that the Respondents would be released as part of a proposed settlement, the results of their latest test were not known, and that such results also did not play a role - and were not mentioned - in the settlement negotiations that then followed.
- 5.13 The parties respective counsel discussed the Applicants' settlement proposal in a telephone conversation that lasted from 13h24 to 13h35. At the end of the conversation, the Respondents' counsel undertook to convey the full terms and conditions of the proposed settlement to the Respondents and their attorneys for consideration, and this was in fact done. At no time during the above-mentioned 11+ minute discussion between counsel was the results of the tests raised as an issue in the settlement proposal. It was also agreed that, should the Applicants' proposal be acceptable, the Respondents' counsel would formulate the draft order that would reflect the terms of the agreement and provide it to the Applicants' counsel for comment.
- 5.14 The Applicants settlement proposal was conveyed to the Respondents immediately, and accepted by them without any counter proposal being made. The acceptance of the Applicants proposal on the terms in which it was made was conveyed to the Applicants' counsel in a sms at 13h57 on 07 April 2020, and the formulation of the draft order commenced.
- 5.15 At 14h24 on 07 April 2020, the Applicants advised the Respondents that the Department were giving instructions for the Respondents' removal from the facility. At that stage, the results of the Respondents' latest tests were not known and were not raised as an issue or reason for the instructions for them to be "removed" from the facility.

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- 5.16 The proposed draft order containing the terms of the settlement proposal was sent to the Applicants at 16h34 on 07 April 2020, after the wording thereof had been approved of by the Respondents' attorneys.
- 5.17 At 17h04 on 07 April 2020, the Applicants proposed minor amendments to the wording of the draft order, to which the Respondents immediately acceded. It should be emphasised that these amendments do not relate to the test results of the Respondents, nor to any recommendations by the doctors at the facility.
- 5.18 At 17h30 on 07 April 2020, writer sent a sms to Mr. Chuene and confirmed having forwarded the draft court order as per agreement reflecting the settlement as agreed between the parties to be made an order of court on 08 April 2020.
- 5.19 The Respondents were released from the isolation facility as a result of the abovementioned settlement agreement and arrived home at about 20h00 on 07 April 2020.
- 5.20 The latest test results of the Respondents only became available sometime after their release and played no role in the settlement agreement or their release from the facility.
6. We further point out that your client's recent media release - in which it is falsely stated that our clients were released as a result of the results of the recent tests - raises the following issue: If the reason for the release was the fact that our clients have tested negative and the consequent recommendations of the doctors of the facility for them to be released, why does the court order taken this morning then require of our clients to self-isolate? Persons who test negative are not obliged by law to self-isolate. Thus, the fact that the settlement agreement as contained in the court order provides that our clients would self-isolate incontrovertibly shows that the agreement was reached before the results of the tests were known, and that the release of our clients did not follow on, nor was motivated by the test results.

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7. We also record that our clients' domestic assistant has informed them that officials of the Department of Health have been in contact with her and have attempted to convince her to contradict our clients' version of events relevant to her, as set out in our clients' Answering Affidavit - but that she refused. We caution your clients against attempts to unduly influence witnesses.

8. Our clients reserve their rights arising from their unlawful detention and the numerous false statements made in regard to them by your clients, and shall act as advised in this regard as soon as the National Lockdown ends.

Yours faithfully,



A L MAREE INCORPORATED

PER: MS. A L MAREE

PER: DR. L G CURLEWIS

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**IN THE HIGH COURT OF SOUTH AFRICA
(LIMPOPO DIVISION, POLOKWANE)**

DATE: 08 APRIL 2020

CASE NO: 2640/2020

BEFORE THE HONOURABLE JUDGE PRESIDENT MAKGOBA

In the matter between:

MEC FOR HEALTH, LIMPOPO PROVINCE

FIRST APPLICANT

THE HEAD OF THE DEPARTMENT OF HEALTH,

SECOND APPLICANT

LIMPOPO PROVINCE

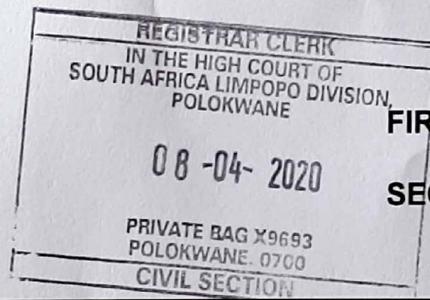
and

DR TARYN WILLIAMS

FIRST RESPONDENT

DR CLAIRE OLIVIER

SECOND RESPONDENT



Having considered the documents filed of record and By agreement between the parties,

IT IS ORDERED THAT:

1. The First and Second Respondents are released from isolation at the MDR TB Hospital, Modimolle, Limpopo Province, as recommended by the Minister of Health, and shall self-isolate at their home address at 2B Magazyn Street, Modimolle, Limpopo Province for as long as required by law.
2. The Applicants shall be entitled to file their Replying Affidavit within the time frames provided in the Rules.

3. The costs of the application are reserved for future determination, and any party shall be entitled to enrol the matter in due course for determination of the issue of the costs.

BY ORDER OF THIS COURT



THE REGISTRAR

REGISTRAR CLERK
IN THE HIGH COURT OF
SOUTH AFRICA LIMPOPO DIVISION,
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