

REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

CASE NO: 50085/2018

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

A handwritten signature in black ink, appearing to read 'De Vos'.

Date: 6 February 2024

In the matter between:

ADVOCATE ALBERTUS JOHANNES DU TOIT

obo JWV

PLAINTIFF

and

THE ROAD ACCIDENT FUND

DEFENDANT

REASONS

[1] DE VOS AJ

[1] The central controversy in this case is whether the RAF proved Mr JVW suffered from foetal-alcohol syndrome prior to an accident, diminishing his claim for future loss of earnings. The RAF has not contested the merits, the extent of Mr JVW's injuries or the post-morbid calculations.

Background

[2] Mr JVW is a minor and was injured in a motor vehicle accident when he was 7 years old. Mr JVW was a pedestrian when he suffered moderately severe brain injuries when the bull bar of a pick-up truck collided with him. A case of reckless and negligent driving was opened against the driver of the truck. Mr JVW was rushed from the accident to Tygerberg Hospital where he had a GCS score of 11/15 and diagnosed with multiple skull base and facial fractures. He has suffered a WPI of 40%.

[3] Mr JVW is, after the accident, incapable of independent living. He requires constant supervision and often wanders off from the house, aimlessly. He cannot go to a mainstream school.

[4] The RAF does not take issue with the merits of the matter, in particular that it is 100% liable for the damages, nor the experts findings regarding his injuries or the impact it will have on young Mr JVW's life. The RAF also took no issue with the introduction of evidence by means of affidavit in terms of Rule 38(2) of the Uniform Rules of Court. The issue is whether Mr JVW suffered from alcohol-foetal syndrome.

Alcohol-foetal syndrome

[5] The neuro-psychologist, Dr de Wit does not mention a finding of alcohol-foetal syndrome. Dr Domingo, the neurosurgeon, similarly, makes no finding of alcohol-foetal syndrome. The clinical psychologist, Ms de Wit makes no finding of alcohol-foetal syndrome. Ms Kotze, the Industrial Psychologist, makes no reference to the finding of alcohol-foetal syndrome. Dr le Fevre, the psychiatrist, notes that Mr JVW has "no other accidents/illnesses of note" and makes no finding of alcohol-foetal syndrome. In fact, of the ten experts who provided reports, only two made reference to alcohol-foetal syndrome, Dr Reid and Dr Ostrofsky.

- [6] Dr Reid, a neurologist, finds the following in relation to young Mr JVW's appearance:
"low set ears, short stature, low body weight of 23,6 kg at age 9, short palpebral fissures and epicanthal folds, teeth caries"
- [7] The maxilo-facial surgeon, Dr Ostrofsky reflected that Mr JVW has "low-set ears and short palpebral fissures which was confirmed at this consultation." This "appearance does fit with that of alcohol foetal syndrome."
- [8] No further explanation is given.
- [9] The Court is not told that this is the accepted test or why no further consideration is required. No explanation is given why this is sufficient to conclude the presence of alcohol-foetal syndrome. No tests were done.
- [10] The issue is what is the Court to do with this expert view of a minority set of experts which is neither substantiated nor explained.
- [11] In *J.A obo D.M.A v Member of Executive Council for Health, Eastern Cape*¹ Van Zyl DJP summarised the position regarding expert evidence. The position is that –
"An expert's opinion represents his reasoned conclusion based on certain facts or data, which are either common cause, or established by his own evidence or that of some other competent witness. Except possibly where it is not controverted, an expert's bald statement of his opinion is not of any real assistance."²
- [12] A proper evaluation of the expert evidence in this context focuses primarily on "the process of reasoning which led to the conclusion, including the premise from which the reasoning proceeds..."³ The cogency of an expert opinion depends on its consistency with proven facts and on the reasoning by which the conclusion is reached."⁴ The source for the evaluation of this evidence for its cogency and reliability are (i) the reasons that have been provided by the expert for the position adopted by him/her; (ii) whether that reasoning has a logical basis when measured against the established facts; and (iii) the probabilities raised on the facts of the

¹ (C.A.& R: 8/2021) [2022] ZAECBHC 1; [2022] 2 All SA 112 (ECB); 2022 (3) SA 475 (ECB) (21 January 2022)

² *Coopers (South Africa) (Pty) Ltd v Deutsche Gesellschaft Für Schädlingsbekämpfung Mbh* 1976 (3) SA 352 (A) at 37H-I

³ *Coopers* at 371 H

⁴ *MEC for Health and Social Development, Gauteng v TM obo MM (380/2019)* [2021] ZASCA 110 (10 August 2021) at para [125]. Also *Buthelezi v Ndaba* 2013 (5) SA 437(SCA) (*Buthelezi*) at para [14]

matter.⁵ It means that the opinion must be logical in its own context, that is, it must accord with, and be consistent with all the established facts, and must not postulate facts which have not been proved.⁶ In general, it is important to bear in mind that it is ultimately the task of the court to determine the probative value of expert evidence placed before it and to make its own finding with regards to the issues raised.⁷

[13] The evidence by Dr Reid and Dr Ostrofsky do not explain why Mr JVW's appearance is enough. It is a bald statement and it is controverted, and so more is required for the Court to give it sufficient weight.

[14] The Court is left with a sense of discomfort with a conclusion being drawn about young Mr JVW, based solely on his appearance. That discomfort is not alleviated by either expert explaining that such an approach is sufficient or scientific. The Court is left guessing why the experts drew this solely on Mr JVW's appearance.

[15] On this basis alone the Court would be cautious to accept this evidence.

[16] However this evidence must then be considered against the evidence of the other eight experts. Not one of the other experts drew this conclusion. The views of Dr Reid and Dr Ostrovsky are overshadowed by the eight other experts not drawing this conclusion. The Court must also weigh the objective evidence. The Road to Health card collaborates that Mr JVW's birth was normal. He was born at 40 weeks with birth weight of 3.620 kg. Mr JVW had an Apgar of 9/10 at 1 min and then an Apgar of 10/10 at 5 min. All these are contra-indications of alcohol-foetal syndrome.⁸ In addition, the uncontested evidence before the Court is that Mr JVW achieved all his developmental milestone.

[17] The Court rejects the references to alcohol-foetal syndrome in the two expert reports. The reference is premised, solely, on a conclusion drawn from Mr JVW's appearance. No other objective or factual basis for the finding appears in the reports of these two experts. No clear diagnosis or application of an accepted test is provided. No scientific or rational basis is provided as to why this is sufficient to

⁵ *Oppelt v Department of Health* 2016 (1) SA 325 (CC) at para [35]

⁶ *MEC for Health and Social Development, Gauteng v TM obo MM supra* at para [126] and *BEE v Road Accident Fund* 2018 (4) SA 366 (SCA) at para [23]

⁷ *JVW v Lewis* 1924 AD 438 at 447; *S v Gouws* 1967 (4) SA 527 (E) at 528D and *Buthelezi supra* at para [14]. See also *Schmidt and Rademeyer op cit* at page 17 – 16.

⁸ Ms Bekker's expert report

conclude Mr JVW suffers from alcohol-foetal syndrome. The Court is not told why it is sufficient to conclude based on Mr JVW's appearance that he suffers from the syndrome. Not one of the other eight experts drew the same conclusion.

[18] The RAF did not provide an expert report, and relied on this contested, unsubstantiated, contradicted and minority view of two of the experts to diminish the claim for future loss of earnings.

Quantum of future loss of earnings

[19] The plaintiff indicated to the Court that the Industrial Psychologist amended the report, Initially Mr JVW was placed at a median income and in the second report in the upper quartile. The plaintiff argued that nothing had changed between these reports. There appears to be no basis to move from median to an upper quartile. The plaintiff therefore contended for the median approach suggested in the first report. The suggested approach is therefore conservative.

[20] The plaintiff also brought to the court's attention that the actuary's first calculation premised on 15% contingency is incorrect. There is a sliding scale which applies in the context of a child's injuries which sets a general contingency of 25%. The plaintiff suggested a 30% contingency be applied. This decreases Mr JVW's claim with almost a million rand. In this second way, the plaintiff's approach is conservative.

[21] Not only has the plaintiff been conservative, it also weighs with the Court that even if the Court were to accept the minority expert's view – they still find Mr JVW was seriously injured. They do not disagree as to his injuries nor the extent of those injuries. They conclude that the injury caused a WPI of 35%. Even accepting the pre-existing alcohol-foetal syndrome, these experts conclude that Mr JVW was seriously injured and that he will never be able to live independently.

[22] In addition, the evidence of the Educational Psychologist stands uncontradicted before the Court and states that Mr JVW would have been semi-skilled and earned the median of R 88 000 per annum. The actuarial calculations were premised on this opinion.

[23] The RAF contended for a 50% contingency. This is double the norm. The submission is premised on a finding of alcohol-foetal syndrome, which the RAF has

not proven. Nor has the RAF explained why even if there as a finding of the syndrome, why double the usual contingency ought to apply.

[24] The Court is engaged with the impossible exercise of determining what a person's life would have looked like were it not for this life changing accident. It is sophistry and abounds with uncertainty. It must be accepted that Mr JVW's life contained an unfortunate amount of uncertainty, through no fault of his own. In order to cater for these uncertainties the Court did not apply a 25% contingency, as is the norm, but rather an increased contingency of 30%.

General Damages

[25] The neuro-psychologist, Dr de Wit states that Mr JVW suffered, at least, a moderately severe brain injury. At a follow-up visit Dr de Witt notes that Mr JVW, who was 15 years old at the time of the consultation, was unable to write his name and could not correctly recite the days of the week or the month of the year, he did not know his birthday, address, could not recognise numbers between one and ten, did not know plus and minus symbols, nor could he name basic shapes. Dr de Wit noted that at the time of the initial report, it was 3 years 6 months post-accident and at the time of this second assessment it was 7 years 8 months post-accident. From a neuropsychological perspective, Mr JVW's deficits are permanent.

[26] The important part is this:

“Pre-accident: Mr JVW would probably have been able to attend a mainstream school, like most of his siblings. It is noted that Ms Bekker, Educational Psychologist, is of the opinion that he would have been able to obtain Grade 12 if it was not for the accident.

Post-accident: Mr JVW is nearly 15 years old, and it is highly unlikely that he will be accepted at any educational facility at his age. He will most probably remain illiterate, his numeracy concepts will remain poor, and he will arrive in adulthood without any skill.

Prior to the accident he would most probably have been employable in the open labour market, even if he did not complete Grade 12.

Post-accident, in addition to him having received no formal education and being illiterate, he experiences accident-related neuropsychological and significant behaviour difficulties, and the chances of him obtaining and sustaining employment in the open labour market are very poor. He should be considered unemployable in any capacity. As reported previously, given the nature of the brain injury he sustained, i.e. frontal brain injury with resultant executive functioning difficulties, he is at high risk of being exploited, including by his mother who has an extensive

criminal record, and he is at high risk of falling victim to substance abuse and criminal activity.”

[27] All the experts share this view.

[28] The neurosurgeon, Dr Domingo states categorically that Mr JVW is unemployable in the open market. He notes that Mr JVW suffered a diffuse axonal injury as evidenced by the CT scan. The clinical psychologist, Ms de Wit agrees with the findings of the neuro-psychologist and the neurosurgeon. Ms Kotze the Industrial Psychologist, states she believes were it not for the accident, Mr JVW could have completed grade 12 and would have been employable on the open market. Dr le Fevre, a psychiatrist, says that Mr JVW’s chances of “a normal life with a partner, raising a family and being employed are effectively zero.” Dr Reid, the neurologist, concludes that the injuries sustained were serious and will result in long term impairment”. Dr Ogilvy, the maxillo-facial surgeon attributes Mr JVW’s impairment to that of a traumatic head injury requiring “urgent protection and intervention”.

[29] The experts all agree that Mr JVW has suffered a moderately severe head injury and will never be capable of independent living.

[30] In *ME v RAF*⁹ Moshidi J awarded general damages of R1 900 000-00, with a current value of R2 414 000-00 (R1 900 000-00 x 8899/7004 – see Koch Quantum Yearbook: 2023 on page 2), to a 27-year-old stock clerk at the time of the accident and 30 years of age at the time of judgment. He was a front seat passenger. He lost consciousness at the scene of the accident and was taken by ambulance to OR Tambo Memorial Hospital. His GCS was 9/15 and this dropped further. He sustained a severe traumatic brain injury with both diffuse and focal components. He presented with significant physical limitations, cognitive defects, emotional difficulties, limitations in speech and language skills. He should for all practical purposes be regarded as unemployable.

[31] In *ZARRABI V RAF*¹⁰ in this court, De Vos J on 6 April 2006, awarded general damages of R800 000-00, with a current value of R 2 067 000-00 (Koch: 2023 on page 46), to a 30-year-old female trainee medical specialist who sustained a severe

⁹ 12601/2017 [2018] ZAGPJHC 438

¹⁰ 2006 (5B4) QOD 231 (T)

diffuse axonal brain injury with severe neuro-physical, neuro-cognitive and neuro-psychiatric consequences.

[32] The RAF referred the Court to the judgment of Flatela J in *P obo LP v Road Accident Fund*¹¹ where a child received R 1.85 million for a similar injury. I note that the impact of the accident is not similar. As the plaintiff before Flatela J could communicate with ease,¹² whilst Mr JVW's injuries appear to render him subject to the need of constant care.

[33] The Court further relies on *Road Accident Fund v Marunga*¹³ where the SCA stated that, in comparison to a young person as opposed to an older person who sustains similar injuries, the older the plaintiff is, the lower the award of general damages. It should therefore follow that the same is true the other way around.¹⁴

[34] Using these decisions as a guideline and taking into account the respective injuries and ages of the injured persons, as compared those of Mr JVW, the plaintiff sought an award of R 2.2 million in damages. The RAF contend for R 1.5 million The Court considered R 2 million would be more appropriate in light of the case law referred to above.

Further considerations

[35] It is accepted that the monies had to be placed in trust. Most experts expressly made this request. The funds require protection and in the order which was granted, provision was made for a trust.

[36] Aside from this, some of the experts requested the Court to seek the assistance of social services. There are references to Mr JVW appearing to not have eaten on the day of a consultation nor on the previous day. There appears to be have been no steps taken to place him in a special school. Ms De Wit expressly requested that the Department of Social Services be informed to investigate Mr JVW's position. Dr Ogilvy, specifically requested that the information be shared Metro East Education District and shared with Department of Social Services.

¹¹ (1675/19) [2022] ZAGPJHC 1001 (7 December 2022)

¹² Compared to Flatela J's description of the plaintiff in that matter. Id at para 72

¹³ Road Accident Fund v Marunga 2003 (5) SA 164 (SCA)

¹⁴ P obo P v RAF para 61

[37] The Court erred in not adding this to its order of 21 November 2023. It was an oversight capable of being correction by the Court at this stage. The Court, through its registrar, wrote to the parties prior to handing down this judgment to find out if either party would object to such an order being added to the order. The parties responded that they did not object to such a prayer being added.

Conclusion

[38] The Court is uncomfortable with the only description of Mr JVW being that presented by the two dissenting experts.

[39] To counter this and for this judgment to contain a more rounded recordal of young Mr JVW, I rely on the clinical observations of Dr Ogilvy, who saw that Mr JVW -

“came bounding into the office, he was not unruly, he used polite forms, he was highly responsive to the examiner and he showed good social awareness and sensitivity. He impressed as one physically robust and agile as noted in his play outside whilst waiting for the driver at the end of the assessment. His play was structured and organised. He was keen to engage in tasks and tests. He impressed as not unintelligent, as judged by his social awareness and interaction.”

Order

[40] As a result, an order in the following terms is made -

- a) The Defendant is ordered to pay to the Plaintiff the amount of R 4 203 320-00 (Four Million Two Hundred and Three Thousand Three Hundred and Twenty Rand only) (“the capital”), by way of a lump sum payment within 180 (one hundred and eighty) calendar days of service of the order, by way of electronic transfer to the trust account, details of which are set out hereunder (“the capital payment”).
- b) The capital amount is made up as follows:
- c) Loss of earnings / earning capacity – R 2 203 320-00 (Two Million Two Hundred and Three Thousand Three Hundred and Twenty Rand only).
- d) General Damages – R 2 000 000-00 (Two Million Rand only).
- e) Payment of the aforesaid sum must be made directly to the Plaintiff’s Attorneys of Record, ADENDORFF INC by direct transfer into their trust account with the following details:

ACCOUNT HOLDER : ADENDORFF INC

BANK : **FIRST NATIONAL BANK**
BRANCH CODE : **201 409**
ACCOUNT NUMBER : **621 131 979 76**
REFERENCE NUMBER : **VAN121/0001**

- f) The Defendant is ordered to, furnish the Plaintiff with an statutory undertaking within 30 days from date hereof, free from caveats and qualifications, in terms of section 17(4)(a) of the Road Accident Fund Act, for 100% (one hundred percent) of the costs of the future accommodation of the Plaintiff in a hospital or nursing home or treatment of or rendering of a service to the Plaintiff or supplying of goods to the Plaintiff arising out of the Plaintiff's injuries sustained in the motor vehicle collision which gave rise to the action, after such costs have been incurred and upon proof thereof.
- g) The Defendant indemnifies the Plaintiff against any claims by suppliers in respect hereof.
- h) The Defendant shall pay the reasonable costs of the Trustee appointed in terms of paragraph 9 hereof, in respect of establishing a Trust and any other reasonable costs that the Trustee may incur in the administration thereof including her fees in this regard, which shall be recoverable in terms of the Section 17(4)(a) Undertaking, and which may also include and be subject to the following:
- i) The fees and administration costs shall be determined in accordance with the Trust Property Control Act, 57 of 1988 (the Trust Act), as amended from time to time, and shall include but not be limited to disbursements incurred.
 - ii) The costs associated with the yearly audit of the Trust by a chartered accountant.
 - iii) The reasonable costs of the furnishing of security in obtaining an annual bond, if required by the Master of the High Court.
 - iv) The costs incurred in administering the Undertaking in terms of Section 17(4) (a).
 - v) That the net proceeds of the amount referred to in paragraph 1 above, after the deduction of Plaintiff's attorney's attorney and client costs ("the capital

amount”), shall be payable to a Trust in respect of the JUNAID JW, to be established within 6 months from date of receipt of the “capital amount”.

- i) Upon the establishment of the Trust referred to in paragraph 7 above and opening of a bank account of the Trust, the Plaintiff’s attorneys shall pay the capital amount as referred to in paragraph 7 above, including the accrued interest, into the Trust’s said bank account.
- j) The Terms of the Trust are as follows:
 - i) The proposed Trustee is Shalene Schreuder (ID Number: 680723 0034 086), whose written consent to act as Trustee in the Trust is loaded on case lines.
 - ii) If Shalene Schreuder (ID Number: 680723 0034 086), failing which, a nominee of Shalene Schreuder Attorneys is unable or unwilling to accept appointment or for any reason becomes unable to continue to act once having been appointed, then the Master of the High Court will in his/her sole discretion be entitled to appoint and/or nominate another trustee.
 - iii) The trustee is required to furnish security for the administration of the assets of the trust.
 - iv) The Trustee’s fees for the administration of the trust are to be calculated at the rate of 1% per annum of the trust assets under administration.
 - v) The trustee shall administer the trust subject to the powers and terms, which follow as from paragraph (9.6) to (9.22) herein below.
 - vi) The trustee must in writing accept her appointment as such and the benefits and duties conveyed by the trust deed and acknowledge receipt of the donation in terms of which the trust will be established.
 - vii) The trustee may at any time in writing appoint additional trustees limited to one additional trustee.
 - viii) A trustee shall cease to act as such if he/she resigns, or becomes mentally disturbed or ill, or alcoholic, or incompetent or unable to act as trustee, or being a corporate body, it is liquidated. If any trustee ceases to act, the remaining trustee/s shall continue to act and shall have full powers in terms hereof.

- ix) In administering the trust, the trustee shall follow such procedure as they deem fit.
- x) Proper books of account shall be kept.
- xi) The trustee may appoint an auditor for the trust but are not obliged to do so. Shalene Schreuder (ID Number: 680723 0034 086), shall have the sole signing powers on all banking accounts and shall have the power to veto any decision. Nevertheless, she shall consult with the other trustees, if any, as to any distributions.
- xii) The trustee has the power to perform in the name of the trust or in their own name on behalf of the trust, any acts and enter into any contracts and undertake any obligations, whether commercial or otherwise, which may be done by a natural person of full legal capacity, which powers include but are not limited to the following:
 - xiii) To purchase necessary movable and immovable property for the beneficiary once she requires same.
 - xiv) To insure, build on and improve all or any part of its property and assets, if so required.
 - xv) To borrow money, only for the necessary living expenses of the beneficiary, only until such time as the Road Accident Fund claim is finalised, 100% (one hundred percent) of the remainder of the claim.
 - xvi) To invest money in in any financial institution accredited by the South African Reserve Bank, in an investment, or investments that is risk averse, such as a money market account.
 - xvii) To open and operate a banking account.
 - xviii) To make donations to the beneficiary.
 - xix) To pay gratuities and pensions and establish pension schemes, profit-sharing and plans and other incentive schemes for the benefit of the beneficiary where applicable.
- xx) The trustee may determine her own procedure.

- xxi) The assets of the trust must be held in the name of the trust.
 - xxii) The trustee has an absolute and unlimited discretion, in all matters relating to the trust but may not act contrary to this order and the trust deed to be drafted in accordance herewith.
 - xxiii) The trustee and/or her successor or successors shall be required to provide security for the due administration of the trust.
 - xxiv) The trustee shall not be personally liable to the beneficiaries for any trust losses, except caused by gross negligence or deliberate wrong.
 - xxv) The trustee shall under no circumstances be personally liable to creditors of the trust.
- k) The beneficiary, JUNAID JVW, who for income and capital, is JUNAID JVW.
 - l) No asset, capital or income of the trust will vest in any beneficiary until such is actually paid over, handed over or delivered by the trustee to the beneficiary. No capital or income benefit to which any beneficiary is or may become entitled by virtue of this trust deed shall, prior to actual payment or transfer thereof by the trustees to the beneficiary, be capable of being ceded, assigned or pledged, or transferred in any way, or be capable of attachment by any creditor or trustee of a beneficiary upon insolvency, unless the trustees consent thereto in writing.
 - m) Any asset or money which beneficiary receives pursuant to this trust deed shall not form part of any joint estate, and shall not be subject to any marital power.
 - n) The trust deed can only be amended in writing with the consent of the Master of the High Court and, failing such consent, with the leave of this Court provided however that no amendment which is in conflict with the provisions of the Court Order may be effected without the prior leave of the Court having been granted thereto.
 - o) The Master of the Western Cape High Court, is directed to register the Trust.
 - p) The Defendant shall pay the Plaintiff's taxed or agreed High Court Scale party and party costs, subject to the discretion of the Taxing Master, inclusive of the costs related to any motions and applications and including for the sake of clarity, but not limited, to the costs of the Plaintiff's instructing attorneys, Adendorff Incorporated in

Cape Town and the correspondent attorneys in Pretoria, Savage Jooste and Adams Inc, as well as the other costs set out hereunder;

- i) The costs of the experts employed as per case lines, inclusive of reports, consultations and confirmatory affidavits, being:
 - (1) Dr Zayne Domingo (Neurosurgeon).
 - (2) Dr Johan Reid (Neurologist).
 - (3) Dr Keir Le Fevre (Psychiatrist).
 - (4) Dr Michael Ostrofsky (Maxillo-facial and Oral Surgeon).
 - (5) Dr Dale Ogilvy (Speech and Language Therapist).
 - (6) Ms Renee De Wit (Clinical Psychologist).
 - (7) Ms Yolande Bekker (Educational Psychologist).
 - (8) Ms Michelle Bester (Occupational Therapist).
 - (9) Ms Karen – Jerling Kotze (Industrial Psychologist).
 - (10) Munro Consulting (Actuary).
- ii) The costs of Plaintiff's counsel, inclusive of preparation, day fees and Heads of Argument.
- iii) The costs of the Curator ad Litem, inclusive of day fees.
- iv) The application costs of appointing the Curator ad Litem.
- q) The capital is to be paid within 180 days of service of this order, but interest shall accrue at the prescribed interest rate, from the 15th day of service of this order.
- r) Costs are to be paid within 14 days of settlement or taxation, failing which interest shall accrue at the prescribed interest rate.
- s) The above costs shall be paid into the Applicant attorney's trust account as mentioned in paragraph 3 above.
- t) It is recorded that the Plaintiff entered into a contingency fee agreement and that same complies with the Act.

u) Mr du Toit, the plaintiff's curator ad litem, is to contact the Department of Social Services to investigate Mr JVW's position as well as the Metro East Education District.



I de Vos
Acting Judge of the High Court

Delivered: This judgment is handed down electronically by uploading it to the electronic file of this matter on CaseLines. As a courtesy gesture, it will be sent to the parties/their legal representatives by email.

Counsel for the plaintiff:	A Laubscher
Instructed by:	Savage Jooste & Adams
Counsel for the defendant:	T Mukasi
Instructed by:	State Attorney
Date of the hearing:	21 November 2023
Date of request for reasons:	27 November 2023
Date of reasons:	6 February 2024