

LIFE ESIDIMENI ARBITRATION

**HELD AT: EMOYENI CONFERENCE CENTER, 15 JUBILEE ROAD,
PARKTOWN, JOHANNESBURG**

DATE: 27th of November.

5SESSION 1 – 3.

BEFORE ARBITRATOR –JUSTICE MOSENEKE

10WITNESSES:

DR MAKGABO JOHANNA MANAMELA

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SESSION 1

ARBITRATOR JUSTICE MOSENEKE: Morning you may be seated. Dr Manemela good morning to you, do you swear that the evidence you are about to give, will be the truth and nothing but the truth and if so, raise your right hand and say so help me God?

DR MANEMELA: So help me God.

ARBITRATOR JUSTICE MOSENEKE: Advocate Crouse?

ADV LILLA CROUSE: Thank you Justice, Doctor we were on the 25th of August 2016 on Friday, that's the date on which [Sharma] Service Agreement was signed, remember that?

DR MANAMELA: Yes Counsel.

ADV LILLA CROUSE: At that stage, 64 people had died. The 64th person was an unknown person and who is still unknown at this stage, who, died, on the 25th of August. Are you aware of that?

DR MANAMELA: Thank you Counsel I am aware now, but at that time, I was not aware of the 64 people that have already passed on.

ADV LILLA CROUSE: And I have put it to you on Friday that as a responsible manager, you should have been aware of it and you should have stopped [Sharma's] service agreement.

DR MANAMELA: Through you Justice, can I just explain this, that we started placing from May and July, so it appears that the number to be at that level, should have included the other patient that went out of Life Esidimeni through 200 bed reduction process and through 20% reduction, I think that was the reason why maybe the number was as high as that and at that time, we were looking at the placement process and which by that time, even when we reported to legislature, we didn't include those who passed on before placement, but I acknowledge that those who pass on during discharge, we cannot send them out of the process.

ADV LILLA CROUSE: What question did you answer now Dr Manemela?

10**DR MANAMELA**: The one that you just asked that at that time, when the [Sharma] service agreement was signed, there were 64 patients who died-

ADV LILLA CROUSE: My question was as a responsible manager, you would have not made sure that the service level agreement was not entered with [Sharma]?

15**DR MANAMELA**: I will ensure, however, the service level agreement is signed at the district.

ADV LILLA CROUSE: Yes Doctor you have explained that to us before and I don't want to belabour the point, but as a responsible manager, you should have checked those things and you should have made sure that that did not happen. Don't you
20agree with me?

DR MANAMELA: Yes it's okay, that's correct.

ADV LILLA CROUSE: Thank you very much. Now on the 30th of August 2016, there were questions answered by the MEC in the legislature, is that right, you are aware of that?

DR MANAMELA: I am aware of-

5**ADV LILLA CROUSE**: And she already gave written answers I think on the 11th of August, but she also presented them in the legislature on the 30th of August, you are aware of that?

DR MANAMELA: I can't remember.

ADV LILLA CROUSE: Who would have given her the information to present to the
10legislature?

DR MANAMELA: I think the information would have been from the project manager and the immediate team and myself as project-

ADV LILLA CROUSE: So you would have checked as the responsible manager, that the information is correct?

15**DR MANAMELA**: As the deputy project manager.

ADV LILLA CROUSE: Now at that stage Dr Manemela, there were already 67 people that have passed away and yet, on the 30th of August, no mention is made of any people dying, what do you say to that?

DR MANAMELA: I don't have that document I am unable to answer it.

20**ADV LILLA CROUSE**: Okay maybe I can just give it to you it's in Volume 3 Page 1063. Do you have Page 1063? That is what happened in the legislature. If one

looks at the bottom of the page, about 10 lines from the bottom, the speaker is a Mr Bloom and he says they are not getting food even, I am told that they are living in shacks in Braamfisherville NGO and I have heard complaints about Takalani and various others and then if you turn the page again Page 1064, at the bottom of the 5page, the MEC says and it's again probably 10 lines from the bottom, Takalani for instance that you talk about Mr Bloom-

ARBITRATOR JUSTICE MOSENEKE: Sorry let the witness find the place, have you found the passage that is being referred to on Page 1064?

DR MANAMELA: Line 10?

10**ADV LILLA CROUSE**: No, no at the bottom, from the bottom upwards, 8 lines from the bottom.

DR MANAMELA: Yes I found it Counsel.

ADV LILLA CROUSE: The MEC says Takalani for instance that you talk about member Bloom, you can go there now, my team was there last week Friday and I 15am going on Thursday, that facility is doing exceptional work and then a few lines further, so I do not think it's fair for you to come here and rubbish the work that is being done by the diligent NGO's that are continuously looking after some of these members whose families are no longer interested in looking after them. Did that information come from you?

20**DR MANAMELA**: I don't think the deliberation between [inaudible] MEC and the MEC can be the one I can account for.

ADV LILLA CROUSE: No I'm just asking that the information that Takalani is doing excellent work, come from you?

DR MANAMELA: I don't know where she got it, but I knew by then, that Takalani was doing well.

5**ADV LILLA CROUSE**: So you agreed with that?

DR MANAMELA: Yes.

ADV LILLA CROUSE: And was it information from you that the families didn't want to look after the-

DR MANAMELA: No it was not what I know. MEC says it very well here that my
10team was there on Friday, I think I mentioned the chief director, myself and
Professor Moosa, we went immediately after the meeting, so I will believe although I
can't speak for her, that she was speaking to around us visiting that, but the other
information, we must also look at what made her to say whatever she said, I won't
be able to answer, but when she-

15**ADV LILLA CROUSE**: Doctor the papers are now before you, if you turn a few
pages back, you will find the written answers to the questions and nowhere does it
say that at this stage, 67 people have died, 7 at Takalani itself had died at that
stage, so why was that kept away from the legislature?

DR MANAMELA: When this was presented, I don't know, but what I know, is that
20we were, by that time, we have started working on those who had passed on from
the time of placement, so I don't know how this was presented and I-

ADV LILLA CROUSE: Yes but what I am wanting from you is, that 67 people had at this time, died, 7 had died at Takalani itself and there is nothing said in the legislature about that. Do you agree with that?

DR MANAMELA: When I look at this document, nothing was said about that.

5**ADV LILLA CROUSE**: Thank you and when questions are asked, the person asking the questions, are belittled and the family members are belittled, so my question to you is why did the deaths not feature in that report?

DR MANAMELA: Counsel it's very simple, the legislature question at this time, here, didn't ask about the deaths. When we answered the legislature question, we
10answered what the question, but as far as the deliberation between Mr Bloom and Ms Mahlangu, I can't answer for that, but what I know, we will answer according to what the legislature wants and they haven't put the issue of death here. Even if we had some deaths that we know from May to July, we couldn't have sent them, because it was not here.

15**ADV LILLA CROUSE**: Yes Doctor, two things from your answer now, the first is did the MEC know about these deaths at the time that those questions were answered on the 30th of August 2016?

DR MANAMELA: I don't know if she knew about that.

ADV LILLA CROUSE: You did not tell her about the deaths?

20**DR MANAMELA**: We were reporting to MEC in the meeting that she was chairing almost every 2 weeks, so I don't know.

ADV LILLA CROUSE: Can I just get a straight answer, did you tell her about the deaths, yes or no?

DR MANAMELA: Can I get it so well? When she presented or you want to know if she ever heard anything about the deaths? I need to get it right.

5**ADV LILLA CROUSE**: On the 30th of August 2016, did the MEC know about the deaths in the NGO's?

DR MANAMELA: I will say I don't know if she knew, but I know in the meeting, we reported, like the first death that I knew after the process, I reported about that, but I think she will be able to answer that question.

10**ADV LILLA CROUSE**: I am asking you Dr Manamela, did you tell her before the 30th of August that people were dying in the NGO's?

DR MANAMELA: We reported that people died in the NGO's that we knew about.

ADV LILLA CROUSE: So you told the MEC, just yes or no Dr Manamela?

DR MANAMELA: I said yes.

15**ADV LILLA CROUSE**: Thank you. Now the second issue that resulted from what you have just told the Court, is that you will keep the truth away from the legislature if they don't ask you, is that what you are saying?

DR MANAMELA: It's not what I'm saying, but I am not the one who presents to the legislature, the legislature can ask anybody who presented to them, but if the
20question was sent to my office, we will present the question, we will respond to the question that was sent to my office.

ADV LILLA CROUSE: And you didn't think it important to say yes, you are right, there are problems, people are dying, isn't that the whole truth?

DR MANAMELA: I cannot accept that, I didn't think.

ADV LILLA CROUSE: Okay let us move on. On the 1st of September, this was also at the time when 67 people have died, a letter was written wherein Section 27 asked for a meeting and the letter was also addressed to you. Now my question to you is, do you agree the letter was also addressed to you my learned friend took you through it the other day.

DR MANAMELA: That's correct.

10 **ADV LILLA CROUSE**: And you didn't do anything on that letter.

DR MANAMELA: The meeting, the stakeholder meetings were not chaired by myself.

ADV LILLA CROUSE: I'm not asking about the stakeholder meetings Doctor, I am asking here is another warning to you on the 1st of September and you don't feel
15 yourself compelled to do anything, is that right?

DR MANAMELA: It's not right.

ADV LILLA CROUSE: Now what did you do as a result of the letter on the 1st of September?

DR MANAMELA: The HOD was the one who was contacting the meeting that we
20 need to meet with the stakeholder because they are no longer meeting with us. In

the meantime, we were busy from my unit, to ensure that the service is improving in the NGO's.

ADV LILLA CROUSE: I am asking you what did you do, not what other people did, what did you do to ensure that no further people died?

5**DR MANAMELA**: I strengthened the support of the NGO's.

ADV LILLA CROUSE: How did you do that?

DR MANAMELA: I allocated people to adopt NGO's in my office to say you will adopt this NGO, it's your baby and then assist them and where I could manage to visit, I did visit.

10**ADV LILLA CROUSE**: Is that all that you did?

DR MANAMELA: It's all that we have done.

ADV LILLA CROUSE: I am not talking about other people Doctor I am asking is that all that you did?

DR MANAMELA: That's correct.

15**ADV LILLA CROUSE**: Now if we can go on, 12 days later, on the 13th of September 2016, there were again questions before the legislature, do you agree?

DR MANAMELA: I don't have the date, but I will agree because we are dealing with a lot of legislature questions.

ADV LILLA CROUSE: Now at that stage, more than 70 people have died, do you
20agree?

DR MANAMELA: I don't have the data, but I was told, I saw from the Ombud's report that people died.

ADV LILLA CROUSE: Now can I ask you, who provided the info for that meeting to the legislature?

5**DR MANAMELA**: Always during the process, the legislature question will come either to the project manager or to my office and then we start compiling the information.

ADV LILLA CROUSE: Yes I'm asking you who compiled the information for the legislature. Was it you?

10**DR MANAMELA**: We compiled a draft and sent it to MEC and they finalised it.

ADV LILLA CROUSE: Did you prepare the information for the MEC?

DR MANAMELA: Yes.

ADV LILLA CROUSE: Thank you. And it says that each patient only received one set of clothes from Life Esidimeni. Did that information come from you?

15**DR MANAMELA**: I don't have what you have, but I know that it was reported in the project team meeting, that patients received one set of clothes from Life Esidimeni, I know about that.

ADV LILLA CROUSE: And you didn't speak to the patients to find out whether that was in fact so?

20**DR MANAMELA**: I spoke to Life Esidimeni because there are people who are speaking with the patients at their level there. I spoke to the team, the project team

members are the ones who reported that, the clinicians that were team members and the hospital and the NGO's, so we speak about that and I had to take it back to the Life Esidimeni that we cannot accept the one set of clothes.

ADV LILLA CROUSE: Did you say that there were only 8 new NGO's to the MEC?

5 **DR MANAMELA**: I don't remember how many we said, but all of them, were not new NGO's.

ADV LILLA CROUSE: So you can't remember whether you told the truth or not?

DR MANAMELA: No I always tell the truth, I was not telling lies, but whatever you are saying now, I don't have the data and I can't remember 2 years ago, but I know
10 we had new NGO's, we had old NGO's.

ADV LILLA CROUSE: The MEC said there was only one complaint about an NGO. Did that information come from you?

DR MANAMELA: If it's in the legislature, it might have come from me, or it was- let me say, people will complain straight to MEC, most of the complaints that I handled,
15 were coming from MEC, so I cannot say for certain that that one complaint came from me or came from the MEC.

ADV LILLA CROUSE: And there were no other complaints, so only one complaint about one NGO? That is what was said in the legislature. Is that correct?

DR MANAMELA: I don't know I was not there.

20 **ADV LILLA CROUSE**: No you know DR MANAMELA anemela, you know about all the family members complaining to you about the NGO's.

DR MANAMELA: Counsel I know they complained, they toy-toyed, including Mr Bloom was there, SADAG were there toy-toying but I cannot answer for things that I didn't write, that's my problem. I am in a predicament, because I am being asked to respond on what MEC said to legislature. I don't sit in the legislature I am too junior to be there, unless they really want me.

ADV LILLA CROUSE: But you didn't provide the information now, is that what you are saying?

DR MANAMELA: I am not saying we didn't provide the information, but some of the information that you are directing to me, I can't remember them unless I see them.

ADV LILLA CROUSE: I am going to move on from that, except to say that the information provided is that 36 patients had died at that stage, whereas we know much more have died. Why is it that that information was wrong?

DR MANAMELA: Can I explain that? Like I said in this proceedings and I also said to the Ombud, that at the time when we prepared that legislature question, we had 36 patients who died and we were only looking at the people because the question was say from Life Esidimeni life project, so because of that, we looked at those who died from May, June, July and August, so these are the numbers that we gave, but if we were told that everyone who was sent to the NGO or to hospital, let's get the number, there will be nothing that we will hide, because we will inform the NGO and the district will inform the NGO and then we will get all the data, but that is what was asked and we look at placement period and that is not the same period that the

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Ombudsman and you are referring me to, because it was period from March, while we looked at the period from May and June.

ADV LILLA CROUSE: I'm just going to put it again to you Doctor, if you were in proper control, you would have known that this move caused more people to die, do you agree with me?

DR MANAMELA: I was in proper control and I don't dispute that, but the timelines, we need to look at the timelines.

ADV LILLA CROUSE: I am going to move on on the timeline. In October, the Ombud became involved, do you agree to October 2016?

10 **DR MANAMELA**: That's correct.

ADV LILLA CROUSE: At that stage, you must have known something big is wrong, is that right?

DR MANAMELA: That's correct.

ADV LILLA CROUSE: Now in the time that the Ombud was busy with his report until it was released in February, 30 more people had died. What did you do to ensure that no more people died?

DR MANAMELA: There are a lot of things that I believe we have done, although because I didn't have time to prepare for this question that I didn't know, but what I can tell you, is that one patient died, we never folded our hands and said they are dying or a patient died, we had to find out, I indicated I asked the Board member to assist us in investigating the death. We developed a rigorous programme to go to

the NGO's where deaths were reported and to find out and again, we also have to say those NGO's where we think there are challenges, we can move them, or we can move the patient.

ADV LILLA CROUSE: Why didn't you move the patients? 30 more people died 5after you were aware that there was a huge problem.

DR MANAMELA: We did move some of the patients, but we didn't know who was going to die at the time, but we tried our best to move the patients, we tried our best to ensure that the clinicians around the NGO's are visiting the NGO, to an extent that I also went back to the Board and said clinicians who are Board members 10because they were also working before their Board members, they worked at Life Esidimeni, I asked them to say Mama Masondo, can we allow this clinician to go to this NGO and assess the patient on our behalf, so we didn't fold our hands.

ADV LILLA CROUSE: Why do you have to get the consent of Ms Masondo to do your work?

15**DR MANAMELA**: She is the Board chairperson, she cannot just see the Board people left without her knowing and to tell the truth, she never had problems and then she released the doctors.

ADV LILLA CROUSE: Doctor why was it necessary to get Ms Masondo to do the work that you were supposed to do?

20**DR MANAMELA**: She was not doing the work that I was supposed to do. It was said here that the Board felt that [inaudible] I had to ask her, she was the chairperson of the board. If we need legal advice, we will go through Mrs Masondo,

that is how government works, if we need clinicians, we will go through her and ask her to release the people.

ADV LILLA CROUSE: I am going to leave that for legal argument, because that is just wrong. What I want to put to you after the report came out on the 1st of 5February, you still had 15 days in office before you were suspended and in that time, further patients died. Why didn't you at that stage, stop the dying, made a plan to stop the dying?

DR MANAMELA: I think the plan was there already, the plan was there.

ADV LILLA CROUSE: Doctor I must just put it to you to finalise this point, you had 10an opportunity to speak out over a long period and you did not, just yes or no?

DR MANAMELA: Through Justice, you said I had opportunity to speak out.

ADV LILLA CROUSE: Yes we went through the timeline and I showed you on the timeline all the times that you had the opportunity to speak out even to the legislature and you didn't.

15**DR MANAMELA**: It's just a pity, you said I didn't and you were not with us, I don't know who reported that, but I didn't say anything, I didn't do anything, I just went to the office and go home, that's the implication I get now and that is untrue.

ADV LILLA CROUSE: Dr Manamela I want to put it to you that if you had spoken out, people would not have died.

20**DR MANAMELA**: I don't know how I should answer that question, because it appears that according to the question, I just kept quiet all the time, yet we had

meetings, yet we were in pain, yet we reported, but you are saying if I spoke out. I don't know maybe what I should have spoken out.

ADV LILLA CROUSE: When you prepared the questions for the legislature, you should have said people are dying, you should have told the MEC people are dying, stop this now.

DR MANAMELA: I don't understand what makes you to think I didn't say anything, I don't understand.

ADV LILLA CROUSE: You said that. Okay let us continue.

ARBITRATOR JUSTICE MOSENEKE: Let's try again, you don't ask questions, just listen to the question, we must make progress, listen to the question and answer. The question is why did you not say anything? You could say I have said this and give us the details of what you said okay, don't shout back at Counsel, I would like you to listen to the question and answer it please.

ADV LILLA CROUSE: We have also through the timeline, showed that you did not listen to what was being said to you and I want to put it to you, had you listened, people's lives would have been saved. What do you say to that?

DR MANAMELA: I will say I was not the decision maker for the program, so that is why I say it or not, I was not making the final decision, people were toy-toying, the [inaudible] MEC was also there and the MEC was receiving the memorandum-

ARBITRATOR JUSTICE MOSENEKE: The question is you did not listen, just deal with that please, you are all over the show, just deal with that.

DR MANAMELA: I listened I gave my time to listen to what people were saying.

ADV LILLA CROUSE: Dr Manamela, even now in November 2017, you are still not prepared to speak out against what has happened, what do you say to that?

DR MANAMELA: I am prepared to speak out, that is why I'm here.

5**ADV LILLA CROUSE**: But you are deflecting and you are denying isn't that so?

DR MANAMELA: No what I deny, is what I don't know or what I know, is not correct.

ADV LILLA CROUSE: Doctor I want to put it to you that your attitude is not bringing the truth to this Commission. What do you say to that?

10**DR MANAMELA**: That's how you perceive me, because I know what I went through and some of you were not there and if that is how you perceive it, there is nothing more I can say and I will ask myself I am here to assist, but it's like the decision is taken already about my submission.

ADV LILLA CROUSE: I am also, wanting, to put it to you that your attitude is not
15bringing closure to the families. Do you want to answer that?

DR MANAMELA: I still don't agree, because I am telling you what I know and it is difficult for me to be telling you maybe what you want to know is difficult maybe because I am just telling you and what I know we did during the process.

ADV LILLA CROUSE: I am also putting it to you that your attitude is not bringing
20healing.

DR MANAMELA: I don't know.

ADV LILLA CROUSE: What do you say to that?

DR MANAMELA: I don't agree.

ADV LILLA CROUSE: Doctor I just want to speak to you about the people that went missing in this whole marathon project. A lot of our people that we represent will come and testify that their mental healthcare user went missing for a period from a few days to 3 months. Can you deny that that had happened?

DR MANAMELA: Through Justice, can I just get it clear whether they went missing from our NGO or went missing from hospital or from Life Esidimeni?

ADV LILLA CROUSE: Sorry Doctor, the question wasn't clear. Can I just make it clear? That for a period of a few days to about 3 months, some of them did not know where the mental healthcare user was being kept and I am sorry for the ineloquent put of that question.

DR MANAMELA: That one I know about it.

ADV LILLA CROUSE: And the reason for that is that there was not proper communication.

DR MANAMELA: I guess so.

ADV LILLA CROUSE: Yes and that caused stress and harm to the families and the mental healthcare users, do you agree?

DR MANAMELA: I agree –

20**ADV LILLA CROUSE**: Thank you.

DR MANAMELA: But can I qualify it?

ARBITRATOR JUSTICE MOSENEKE: [Xhosa] you are not going to heckle please, [Xhosa] from time to time [Xhosa] in a heckling arrangement, not in an arbitration Tribunal certainly not [Xhosa]. You can't heckle here please.

5**ADV LILLA CROUSE**: You wanted to qualify Doctor?

DR MANAMELA: Yes Counsel, I told you that at the beginning of our normal process with Life, they reported 773 patients that do not have families, that's number one. The other thing was that when the Department commissioned the high report, high to investigate, they also indicated 59% of the patients did not have 10families, so I am not saying those who didn't know, it's because they didn't have families, but I am just trying to let you understand it might be some of the reason. The second thing that I mentioned, was that Life Esidimeni in our agreement of planning of placement process, they were expected to inform the family that they have contact numbers and before the patient left and we informed the patient's 15family when they arrived at us, so those might have been a problem as I gave my report last week. Some of them, they send a text, no answer, they phone, no answer, but I know that some of the family members, didn't know and I don't know if they fall within the reasons I gave.

ADV LILLA CROUSE: Doctor I am just going to not ask you a question further on 20that.

ARBITRATOR JUSTICE MOSENEKE: But tell me something, where we can look at a comprehensive schedule of all mental healthcare users who were moved from Life Esidimeni to the specific NGO's?

DR MANAMELA: I have given last week, the report of those who moved from 5Randfontein and those who moved from Waverley-

ARBITRATOR JUSTICE MOSENEKE: I am not looking for numbers, I have seen your plan, they are just numbers, is there a schedule with names of mental healthcare users who were at Life Esidimeni and to where they were moved?

DR MANAMELA: Yes Justice there is a schedule where they were moved.

10**ARBITRATOR JUSTICE MOSENEKE**: With their names?

DR MANAMELA: With their names.

ARBITRATOR JUSTICE MOSENEKE: Where do we find that?

DR MANAMELA: It can be in my office.

ARBITRATOR JUSTICE MOSENEKE: How was it compiled and by whom?

15**DR MANAMELA**: Okay the two DD's and social workers in each and every area where they were placed, they compiled the schedule and also indicating where they are going and indicating the names of the patients, so and so is at this NGO, so and so went to this NGO. Also, whether they found the family informed or not, the schedule should be there in my office.

ARBITRATOR JUSTICE MOSENEKE: How would anybody be missing if there is a comprehensive schedule of patients and where they were taken to? How would hundreds be missing?

DR MANAMELA: Justice I don't know how they would be missing, but I was thinking I understand that the family never knew where they were, which I admitted that there is a possibility, most families didn't know where they were, but that 100 patients were missing, that one I was not aware.

ARBITRATOR JUSTICE MOSENEKE: How do we get this schedule you are talking about?

10**DR MANAMELA**: We can ask from the Department from my office, because they were reporting to me. If people will go to El Shaddai we will know the names that so many patients went to El Shaddai today, just like that, they went to Takalani so many people went to this place.

ARBITRATOR JUSTICE MOSENEKE: Not how many, I mean names of people.
15Your schedule talks of numbers, I am talking about breathing and living people who have names, ages, gender, is there a schedule like that?

DR MANAMELA: Yes Justice there is a schedule like that.

ARBITRATOR JUSTICE MOSENEKE: And when they died, why didn't you know of it?

20**DR MANAMELA**: As soon as-

ARBITRATOR JUSTICE MOSENEKE: You know this morning when the Advocate was taking you through the steps and showing the pileup of corpses, that is what she was doing and wanting to know why were you not alive to that and why didn't you report it and why didn't you respond to it, so if there is such a schedule, why didn't you know when everybody went quiet? In other words, when they passed on?

DR MANAMELA: Justice when a patient passed on, they were reported through the district to us and then we will follow-up if we need anything, but there are documents that indicate who passed on, we knew about that. The only hassle that maybe Counsel was asking, was that it was 64 while we reported 36 and then I said-

ARBITRATOR JUSTICE MOSENEKE: It's much more than that Mam. From the beginning every time somebody died under the State's care, appearing on your schedule, this grand schedule with all the details, you would know isn't it?

15**DR MANAMELA**: That's correct.

ARBITRATOR JUSTICE MOSENEKE: Why didn't you know?

DR MANAMELA: We knew about them Justice.

ARBITRATOR JUSTICE MOSENEKE: Your answer is different to Advocate Crouse.

DR MANAMELA: Yes with the qualification that I was giving, but we knew because once we realised a lot of patients are now passing on, we had to ensure that we get even weekly reports.

ARBITRATOR JUSTICE MOSENEKE: Why didn't the MEC tell the whole nation
5you said because the questions did not ask about that?

DR MANAMELA: Ja the one I prepared Justice didn't ask about it, but the deaths were reported.

ARBITRATOR JUSTICE MOSENEKE: But why didn't you make it public that
10people who you, you, decided to place in different NGO's were dying? That is really
10what the debate was with Advocate Crouse.

DR MANAMELA: Justice it was not reported by me and I don't know reasons why-

ARBITRATOR JUSTICE MOSENEKE: Ja but why didn't you report it?

DR MANAMELA: I reported to the project manager, I reported through the
channels, but I am not the one to report-

15**ARBITRATOR JUSTICE MOSENEKE**: No I am not talking channels, give me
names, I want people.

DR MANAMELA: People?

ARBITRATOR JUSTICE MOSENEKE: Yes.

DR MANAMELA: I reported to Mr Masonoge that people are starting to die. Also
20the DDG was also made aware, the HOD and-

ARBITRATOR JUSTICE MOSENEKE: Who is the DDG?

DR MANAMELA: Dr Labete and then we had the HOD Dr Selebano and we have the MEC.

ARBITRATOR JUSTICE MOSENEKE: So you told them about people dying as well as the MEC I suppose Ms Mahlangu?

DR MANAMELA: Yes they were also part of the meeting.

ARBITRATOR JUSTICE MOSENEKE: What was their response?

DR MANAMELA: Although I can't give you the written response, but nobody in the department was really happy, we were all saddened by the death of the patients.

10 **ARBITRATOR JUSTICE MOSENEKE**: What you had started, why didn't you call it off? All of you were these powerful executives, why didn't you say people are dying, something went wrong? As it happened in October 2016, the project was called off right, so the debate between you and Advocate Crouse is why didn't you do that, so that fewer and fewer people die?

15 **DR MANAMELA**: It was not within my delegation to stop the project.

ARBITRATOR JUSTICE MOSENEKE: Whose power was it to stop?

DR MANAMELA: The power was the MEC and the HOD.

ARBITRATOR JUSTICE MOSENEKE: If you had the power, would you have stopped the project?

20 **DR MANAMELA**: I believe so.

ARBITRATOR JUSTICE MOSENEKE: When people started dying, would you have been worried and stopped it?

DR MANAMELA: I was actually worried really Justice.

ARBITRATOR JUSTICE MOSENEKE: Show me a letter where you recommended
5to the MEC or anybody to stop it?

DR MANAMELA: I didn't write a letter because at that time, we already finished
with placement in June, so what we were supposed to have done now, is to look for
the place if we take the patient, we take them, because Life Esidimeni was already
closed, no staff, no resources were there, so it was within us to say let's see what
10we can do and where can we take these patients to and we tried to do something
like that Justice.

ARBITRATOR JUSTICE MOSENEKE: On another matter, do you know what
happened to the people who worked at Life Esidimeni, the nurses, the clinicians, the
cleaners and other support staff?

15**DR MANAMELA**: I would say I can partly tell you what I know, I don't know all of
them, but what I know is that during the process, there was an HR team that was
planning to appoint the Life Esidimeni staff and it is indicated, I think you have it in
my report, that how many staff from Life Esidimeni were appointed at Weskoppies,
Cullinan and Sterkfontein-

20**ARBITRATOR JUSTICE MOSENEKE**: You haven't told me yet what happened to
the staff members. You are telling me there was a plan. What happened to their
jobs?

DR MANAMELA: Some of them were appointed by the Department.

ARBITRATOR JUSTICE MOSENEKE: How many people lost their jobs?

DR MANAMELA: I am not quite sure, if I can be given time, I can check, because I've got a list of those the Department has appointed.

5**ARBITRATOR JUSTICE MOSENEKE**: I'm asking about those who lost their jobs at Life Esidimeni. Many things might have happened to them thereafter, they might have been appointed, they might have been whatever else, I want to know when it shut down, how many people lost their jobs?

DR MANAMELA: I don't know Justice.

10**ARBITRATOR JUSTICE MOSENEKE**: Mr Mosonoge told us. I want you to tell us.

DR MANAMELA: I don't know how many lost, because there might be many. Why I'm saying that is that Life Esidimeni has been operating-

ARBITRATOR JUSTICE MOSENEKE: Hundreds isn't it?

DR MANAMELA: Yes it can be hundreds, we didn't appoint all of them, that can be
15true, but I don't have the exact number.

ARBITRATOR JUSTICE MOSENEKE: Psychiatric nurses like you, clinicians, doctors, ground staff and people who did cleaning work, we told lost their jobs. Did you think about that when you got into this project?

DR MANAMELA: Yes.

ARBITRATOR JUSTICE MOSENEKE: On the one end, it's people who lost their lives and the other one, people who lost their jobs.

DR MANAMELA: Yes Justice, we thought about it, that is why we recommended that if they can be appointed in the Department, let them be appointed. If the Department can just absorb them all, or use one of their facility let it be, so that is –

ARBITRATOR JUSTICE MOSENEKE: What do you mean let it be?

DR MANAMELA: So we ask, we asked the leadership to say if we can absorb all of them that will help and then again, if this-

ARBITRATOR JUSTICE MOSENEKE: The number that Mr Mosonoge gave us was a small percentage of nearly 300 people or so. I can check the numbers that lost their jobs. Now I want to know you, as the head of mental healthcare, were you worried about that?

DR MANAMELA: Yes Justice I was worried about that.

ARBITRATOR JUSTICE MOSENEKE: But you nonetheless went ahead with the plan?

DR MANAMELA: It was not my decision to go ahead with the plan, but I worried about it, we met and it was also presented how many people are going to lose jobs and how many people may not even qualify in our own work, like the care workers, we didn't have care workers in the department, so that is why the MEC and the HOD asked after we advised, that let there be an HR team to work and see how can we assist these people, so that is what we recommended.

ARBITRATOR JUSTICE MOSENEKE: Did you care that so many people would lose their jobs and they are healthcare givers?

DR MANAMELA: Yes Justice I did care. Can I tell you that I even had to ask the NGO if they can appoint the care workers from Life Esidimeni, because I was worried, I was concerned, because we know what mental health is.

ARBITRATOR JUSTICE MOSENEKE: And were any appointed at NGO's?

DR MANAMELA: The report that came back to me, was that Life Esidimeni was paying them more money, because –

ARBITRATOR JUSTICE MOSENEKE: Were any appointed at NGO's?

10 **DR MANAMELA**: I don't know about it.

ARBITRATOR JUSTICE MOSENEKE: Counsel?

ADV LILLA CROUSE: Doctor I want to come to the patients that were discharged home during this project. I see- am I correct that you anticipated that about 50 patients would be sent home when you started the project, in your initial plan?

15 **DR MANAMELA**: That's correct.

ADV LILLA CROUSE: Thank you and when the MEC first spoke in Parliament or when she spoke in November, she also said 50 were going to be sent home, do you agree with that?

DR MANAMELA: I agree although we will just know who will go home, because in
20 our thinking-

ADV LILLA CROUSE: Let us just answer the questions please Doctor.

DR MANAMELA: Okay fine, I agree.

ADV LILLA CROUSE: Thank you, now we know when people go home and this is also according to Dr Talatala, there is insufficient community care for them do you agree with that?

DR MANAMELA: Not 100% agreeing with that.

ADV LILLA CROUSE: Okay and we also know in terms of the policy, often the mental healthcare users end up on the streets because their families can't care for them, isn't that so?

10**DR MANAMELA**: That we know.

ADV LILLA CROUSE: And also often they land in the criminal justice centre, do you agree with that?

DR MANAMELA: There are patients that will end in the criminal justice centre.

ADV LILLA CROUSE: Yes and the reason for that is that there is not sufficient support for families and mental healthcare users at the community level, do you agree with that?

DR MANAMELA: I partly agree with that, but it's not all that I can say, that is the reason.

ADV LILLA CROUSE: Now we also know that eventually close to 400 people were sent home, 393 people were sent home, do you agree with that?

DR MANAMELA: That's correct.

ADV LILLA CROUSE: And Mr Kenoshi testified that 59 of those people are still missing, are you aware of that?

DR MANAMELA: I am not aware of that.

5**ADV LILLA CROUSE**: Did you not track the patients that were sent home to make sure that they get community service?

DR MANAMELA: Can I explain that, how we did it?

ADV LILLA CROUSE: No first answer my question and then you can explain. Did you not track what happened to the patients that you sent home?

10**DR MANAMELA**: We did track.

ADV LILLA CROUSE: No I'm asking did you track?

DR MANAMELA: Yes let me say yes.

ADV LILLA CROUSE: You tracked?

DR MANAMELA: Yes.

15**ADV LILLA CROUSE**: So what happened to these 59 people that are missing?

DR MANAMELA: Can I explain that? I am not sure what I am going to explain will cover everything for all who were missing, but what I know is that once the patients are in the hands of the family, they have been linked to the nearest clinic so that the family at the time for collection of medication, or at the time when the patient's
20behaviour changes, they can take the patient to the nearest clinic. At that time, they

will take them to the nearest clinic where they are seen by the community mental healthcare staff. If they were not taken there, or maybe the patient didn't want to go, they also called the clinic and say can you come and help us. When they needed assistance, they were given how will, they get assistance from us.

5 **ADV LILLA CROUSE**: You wanted to explain what you were doing. What did you do?

DR MANAMELA: What I said is what we did.

ADV LILLA CROUSE: Okay I am going to ask the question again. What did you do?

10 **DR MANAMELA**: What I just explained, it's what we did. Should I explain again?

ARBITRATOR JUSTICE MOSENEKE: But again, are they on your schedule of people who left Life Esidimeni?

DR MANAMELA: The people who left who were discharged from Life Esidimeni, they are given if they go home they are given treatment sheet that they take to the
15 clinic.

ARBITRATOR JUSTICE MOSENEKE: No listen to me, you told us that you have a master sheet that contains all the people who you caused to be moved out of Life Esidimeni. Were these patients included on that schedule?

DR MANAMELA: No they were not included.

20 **ARBITRATOR JUSTICE MOSENEKE**: Why not?

DR MANAMELA: When they are discharged from Life Esidimeni, it was like the way it used to happen, they are given what I just explained to the Counsel and they take that note to the clinic so that when the clinic orders medication, they also include them. So it was not in the provincial level at that time.

5**ARBITRATOR JUSTICE MOSENEKE**: And you were asked did you track them and you said yes.

DR MANAMELA: Yes in the meetings we had with the coordinator, we checked if all the patients that came, that were discharged, went to their clinics, because the clinics belong to the district.

10**ARBITRATOR JUSTICE MOSENEKE**: How do you track people whose names you have not kept?

DR MANAMELA: The way it has been tracked Justice, is through the district, it was not through my office, because if the families said we are taking our member to home, then we will ask what is your nearest clinic and the letter is sent with the
15family to the nearest clinic and they will take the letter so that the treatment for that patient, will be ordered before the patient comes to the clinic and that function is done by the district coordinators who will report in the meeting if they had any challenges.

ARBITRATOR JUSTICE MOSENEKE: And how did your 59 people go missing?

20**DR MANAMELA**: I don't know Justice.

ARBITRATOR JUSTICE MOSENEKE: It can't be any answer that comes to your mind is okay to give. We are talking about human beings who were under your care, that is what you are being asked about, who you caused to be discharged presumably to their homes and they go missing and this is what this enquiry is about. If you can just bring your mind to the core issue that the Advocate is trying to understand, it will help all of us so much and you know why, you owe us a duty of explanation, you were paid every day to do the work, you are not doing anybody a favour, it was your work to look after these people and for it, you were paid. So she is entitled to ask you what happened to these 59 people, who again are also vulnerable. That you chose to discharge them does not mean that they cease to be vulnerable. What is your response?

DR MANAMELA: Justice I am giving you the procedure as it happened, because these patients are not sent to the provincial level, they are community and in the community, we have got community offices, so that is why I am trying to give to this proceeding and if it doesn't I don't know, that is what I'm giving, this is how it worked. It doesn't mean that they will send to DR MANAMELA in the province, it will still be the same process that we are using because we wanted to include these people in the community, all of them.

ADV LILLA CROUSE: Doctor your answer in short, is that you didn't do anything to track them.

DR MANAMELA: That's not true.

ADV LILLA CROUSE: Can I just interrogate your answer further? Putting the blame on the clinics is really not going to work. Being in the Department of Health, you know that they are under-staffed, you know that they don't have all the medicine that they should have, isn't that so? Just yes or no please Doctor?

5**DR MANAMELA**: Yes.

ADV LILLA CROUSE: Now as a responsible manager, you would have known that sending them to the clinics, is no answer at all, isn't that so?

DR MANAMELA: No.

ADV LILLA CROUSE: Okay let us move on, I only have a few questions left for
10you. We have established that this project wasn't about money. Now if it wasn't about money, why was the project initiated, do you know?

DR MANAMELA: I don't know.

ADV LILLA CROUSE: Okay. We also established from you that you had no written instruction whatsoever, is that right to do this project?

15**DR MANAMELA**: No, that is not right, because the written instruction was the termination letter.

ADV LILLA CROUSE: No but you started this termination project please Doctor, you started this project long before the termination letter. You said you didn't have a written instruction, are you changing that now?

20**DR MANAMELA**: Maybe you didn't hear me very well, but I am changing it because the first 200 beds we started to work on, is on the strategy. The strategy

that was signed by the HOD which to me is a written instruction and the second 20% is also on the letter that I gave last week which is also saying we are going to reduce. I didn't start the project on my own as the director.

ADV LILLA CROUSE: Before the letter, you developed a plan. Now I want to know did you have a written instruction for that plan?

DR MANAMELA: The written instruction I had, was the strategy for mental healthcare services which I have, I can hand it to you, signed by the HOD.

ADV LILLA CROUSE: Doctor did you have a written instruction to remove all patients from Life Esidimeni?

10 **DR MANAMELA**: All patients, the termination letter is the written instruction that I had.

ADV LILLA CROUSE: So at the time that you prepared the plan to do that, you didn't have a written instruction according to you?

DR MANAMELA: I had a written instruction of 2 letters. I am not sure of the date the HOD signed 20%, but I am sure of the date for the strategy to be implemented.

ADV LILLA CROUSE: I will leave that for argument. Can I just have a few quick answers from you, who, is, the NGO manager who prepared your licences?

DR MANAMELA: It's Ms J-A-C-O-B-U-S.

ADV LILLA CROUSE: Hannah Jacobus?

20 **DR MANAMELA**: Yes.

ADV LILLA CROUSE: So she is the person that told you to sign these licences?

DR MANAMELA: She is the person who prepared the licences.

ARBITRATOR JUSTICE MOSENEKE: What was her designation?

DR MANAMELA: She is the Deputy Director Mental Health responsible for NGO's
5in the province.

ARBITRATOR JUSTICE MOSENEKE: Where is she now?

DR MANAMELA: I guess she is in the office, because I am not in the office, I am
suspended I guess she is still in the office.

ARBITRATOR JUSTICE MOSENEKE: And when you say she prepared the
10licences, you mean what? You mean she did all the due diligence, the work and just
gave you a written out licence to sign?

DR MANAMELA: What I meant Justice, is that she went out with the team to
evaluate and when they come back, they agreed that she will prepare the licence. In
some areas, she will just get the request for the licence from the district and she will
15prepare the licence.

ARBITRATOR JUSTICE MOSENEKE: Have you ever refused to sign a licence
she prepared before?

DR MANAMELA: Ja there were many that I refused to sign, but I can't remember
which ones.

20**ARBITRATOR JUSTICE MOSENEKE**: For which reason?

DR MANAMELA: Like if maybe I am not in agreement with what the report said, or maybe I was there as well, I saw that we can't give licence to this one, I will refuse.

ARBITRATOR JUSTICE MOSENEKE: So if we call Ms Hannah Jacobus, she will tell us that she prepared all these licences for you to sign?

5**DR MANAMELA**: That's correct Justice.

ARBITRATOR JUSTICE MOSENEKE: Counsel?

ADV LILLA CROUSE: Doctor the Justice asked you whether your job was advertised and you said no and you also said that you are not a political appointment, so how did you get your job?

10**DR MANAMELA**: Okay.

ADV LILLA CROUSE: Just the short version if you don't mind.

DR MANAMELA: Okay the Department will restructure and appoint people same as like Mr [inaudible] was in the district and was called to do-

ADV LILLA CROUSE: It was a restructuring process?

15**DR MANAMELA**: Yes.

ADV LILLA CROUSE: Okay thank you. Could you give us the name-

ARBITRATOR JUSTICE MOSENEKE: Why did you leave your position as CEO of Natalspruit?

DR MANAMELA: I was advised to come to the head office.

20**ARBITRATOR JUSTICE MOSENEKE**: By whom?

DR MANAMELA: At that time, the chief of operations was Dr [Rachman] and the MEC was also, she was still in the Department but it was Dr [Rachman]

ARBITRATOR JUSTICE MOSENEKE: No who terminated your appointment as CEO at Natalspruit?

5**DR MANAMELA**: Dr [Rachman]

ARBITRATOR JUSTICE MOSENEKE: Why did Dr [Rachman] terminate your appointment?

DR MANAMELA: In one meeting, she told me that the MEC said I must be recalled, because many CEO's were recalled from the hospital to the province.

10**ARBITRATOR JUSTICE MOSENEKE**: Were you told why you were recalled?

DR MANAMELA: Because they called, they made a phone call, they didn't give me a letter, it was me and the other executive.

ARBITRATOR JUSTICE MOSENEKE: No but you were called back before the end of your term as CEO and I am asking you, right it was before the end of your
15term?

DR MANAMELA: That's correct.

ARBITRATOR JUSTICE MOSENEKE: I'm asking you why were you recalled, do you know?

DR MANAMELA: I said Dr [Rachman] indicated that she was instructed to recall
20me and my other team members.

ARBITRATOR JUSTICE MOSENEKE: Do you know why?

DR MANAMELA: He didn't indicate the reason, but what I know, was that there were some union activities in the hospital and they felt that maybe they should recall the management.

5**ARBITRATOR JUSTICE MOSENEKE**: The union activity demanded that you be removed right?

DR MANAMELA: I am just guessing that, because I was not told-

ARBITRATOR JUSTICE MOSENEKE: In your own knowledge, you were there, you were the CEO, the union wanted you and the union was NEHAWU right?

10**DR MANAMELA**: That's correct.

ARBITRATOR JUSTICE MOSENEKE: And they wanted you to be removed as CEO.

DR MANAMELA: That's correct.

ARBITRATOR JUSTICE MOSENEKE: Was that the first and only time that you
15were removed as a CEO of a hospital?

DR MANAMELA: That's the first time.

ARBITRATOR JUSTICE MOSENEKE: And the only time?

DR MANAMELA: And the only time.

ARBITRATOR JUSTICE MOSENEKE: Where else were you CEO of a hospital?

20**DR MANAMELA**: Mamelodi Hospital.

ARBITRATOR JUSTICE MOSENEKE: Yes and did you leave there after a full term?

DR MANAMELA: Ja even beyond that.

ARBITRATOR JUSTICE MOSENEKE: I want to know whether your contract was terminated after a term, or did you stay out a full term? It's not a difficult fact, we can call Dr Kenoshi.

DR MANAMELA: I stayed full term.

ARBITRATOR JUSTICE MOSENEKE: We can ask him, because there are records about these things.

10 **DR MANAMELA:** No I stayed over full-term.

ARBITRATOR JUSTICE MOSENEKE: And then transferred to Natalspruit?

DR MANAMELA: Appointed at Natalspruit. They advertised a post at Natalspruit and then I went for interviews and I was appointed.

ARBITRATOR JUSTICE MOSENEKE: What were the unions unhappy about do
15 you know at Natalspruit Hospital?

DR MANAMELA: I think the union will always complain, so they complained about HR processes. I think the main issue was the HR processes.

ARBITRATOR JUSTICE MOSENEKE: Now after your departure from Natalspruit Hospital, short of your full term, how did you get appointed head of mental
20 healthcare and by whom?

DR MANAMELA: Alright letters were written to almost most of us, there were doctors- it was a restructuring process where they said we run short of some doctors in the institution, so I received a letter that said I am appointed as the director for mental health services.

5**ARBITRATOR JUSTICE MOSENEKE**: Do you know by now after we have spent 4 days together, I don't like letters were sent, the subject, a verb and an object, a basic simple sentence. Who sent a letter to you?

DR MANAMELA: Dr [Rachman] office. I am not quite sure, but it appears all letters were signed by the MEC, but the enquiry was from Dr [Rachman] or HR.

10**ARBITRATOR JUSTICE MOSENEKE**: So your appointment, we could track down with the MEC?

DR MANAMELA: Yes.

ARBITRATOR JUSTICE MOSENEKE: And ask her about your appointment when she comes?

15**DR MANAMELA**: Can I suggest that you- ja I think it's still okay, but you can also track it down with HR.

ARBITRATOR JUSTICE MOSENEKE: And who signed your letter of appointment?

DR MANAMELA: I am not sure now because I didn't have time to check, but it is either the HR manager or the HR chief director or the MEC, I am not sure, because
20the whole process of taking doctors to hospital and others to others, I think it was on

the advice of the MEC, but I am not sure if it was signed by MEC or the HR chief director, that we can still check.

ARBITRATOR JUSTICE MOSENEKE: Counsel?

ADV LILLA CROUSE: Thank you Justice, can I also ask you what is the name of the company that provided clothing and linen to the NGO's?

DR MANAMELA: The name of the company I am not sure, but I know they said it is Mr Stevens and Ms Hannah Jacobus is the one who organised that and when I went to the NGO, I saw the linen.

ADV LILLA CROUSE: So you don't know the name of the company?

10 **DR MANAMELA**: The name of the company I don't know, but it was reported in the meeting, it is Mr Stevens, but I don't know the name of his company.

ADV LILLA CROUSE: So it is not something you organised?

DR MANAMELA: No it's something that was brought to me and I organised, it's not me, it is still the NGO manager who should take it further, it is not me who will
15 organise it.

ADV LILLA CROUSE: Doctor did you sign any death certificates?

DR MANAMELA: No.

ADV LILLA CROUSE: So the name Manamela on the death certificates wasn't you?

20 **DR MANAMELA**: No.

ADV LILLA CROUSE: Then just lastly Doctor, the family members knew before the start of this marathon project, that this is going to turn out badly, do you agree with that? Just yes or no?

DR MANAMELA: If the families said they know, there is nothing I can say.

5**ADV LILLA CROUSE**: They told you that.

DR MANAMELA: Yes they told me.

ADV LILLA CROUSE: Yes thank you. The professionals told you that this is not going to turn out good, do you agree with that?

DR MANAMELA: Yes they wrote letters.

10**ADV LILLA CROUSE**: Now a reasonable person would have realised that this is not going to turn out good, do you agree?

DR MANAMELA: I agree.

ADV LILLA CROUSE: Do you agree with me that the reasonable expert would have known that there are going to be huge problems in this project?

15**DR MANAMELA**: I do not fully agree with that one.

ADV LILLA CROUSE: And I lastly want to put it to you, you should have known that people were going to die.

DR MANAMELA: When we planned, we never planned that any person would die, so I cannot say I knew that they are going to die. If I knew, I should have written a
20letter and say I am not part of the project if the leadership carries on.

ADV LILLA CROUSE: And Doctor even after people had died, you didn't do that, isn't that so?

DR MANAMELA: We were already terminated at that time, so I had to work hard to ensure that the rest are not going to die, because it was done already.

5**ADV LILLA CROUSE**: Doctor I want to just put it to you that the deaths of so many of these people lies before your feet do you agree?

DR MANAMELA: No.

ADV LILLA CROUSE: Thank you Justice.

ARBITRATOR JUSTICE MOSENEKE: Thank you Counsel. Advocate
10Groenewald?

ADV DIRK GROENEWALD: Thank you Justice. Morning Dr Manamela, my name is Dirk Groenewald, I represent 4 family members who lost a loved one as a consequence of this marathon project. Now my colleagues have asked you a number of questions and they have canvassed a lot of issues with you and
15unfortunately I also need to ask you a few questions. I will start off by asking you Mam, I trust that you have gathered from the comments by the family members during your testimony, that they are angry with you, do you agree?

DR MANAMELA: That's correct.

ADV DIRK GROENEWALD: Do you know why they are angry with you?

20**DR MANAMELA**: They haven't indicated that to me, but what I know, is that they lost their loved one, which is also a pain to me.

ADV DIRK GROENEWALD: Mam I put it to you they are angry at you, because you issued licences to NGO's under whose care their loved ones died, do you agree and do you understand why they are angry at you?

DR MANAMELA: That's correct.

5**ADV DIRK GROENEWALD**: That's correct. Mam you will agree that if you did not sign and issued those licences, their loved ones would still have been with them.

DR MANAMELA: I cannot say I agree on that, can I qualify it, because I didn't know if they will be dying, I didn't know and in our plan, we never planned for anyone to die and again, the signing of the licences, was within the legal
10consideration, so I didn't know. If I knew, I shouldn't have carried on.

ADV DIRK GROENEWALD: Mam your employer, has conceded that these patients died due to the Department's reckless and negligent conduct, so are you saying that your employer was wrong?

DR MANAMELA: I am not saying that, because they are the employer, they can
15say what they believed is what they believe, but from our project team and where I was seated, we were doing our best to ensure that no patients died.

ADV DIRK GROENEWALD: Mam but you are not facing the reality. The reality is that you issued licences to NGO's and under the care of those NGO's, 143 human beings died. Do you accept that?

20**DR MANAMELA**: That is true.

ADV DIRK GROENEWALD: That is true, so now we must understand why did you issue those licences, because if you didn't issue those licences, as I have indicated, these patients might well have still been alive.

DR MANAMELA: Can I say the licence was issued because the contract was terminated, so I didn't wake up and issue licences-

ADV DIRK GROENEWALD: No Mam I am going to stop you there, the licences weren't issued because the Life Esidimeni contract was terminated. You issue licences because you say this NGO is capable of looking after patients, that is when you issued licences, not when one contract gets terminated and then you just dish out licences, do you agree with that?

DR MANAMELA: You are right, I didn't just dish out licences. The licences that I signed, for the licenced NGO, that were assessed and reported to me to be eligible. If you look at the document of the licences, some of the NGO's were not even given the patient because of their condition, so there were NGO's we licenced and we gave patients and some we didn't.

ADV DIRK GROENEWALD: Mam do you know a Mrs Matsotsu?

DR MANAMELA: That's correct Counsel.

ADV DIRK GROENEWALD: Who is she Mam?

DR MANAMELA: She is the Director General for health in the country.

ADV DIRK GROENEWALD: Do you know she testified here at these proceedings?

DR MANAMELA: I know she did.

ADV DIRK GROENEWALD: Ja.

ARBITRATOR JUSTICE MOSENEKE: And you watched her evidence, you said the other day?

DR MANAMELA: Yes I watched some of the evidence.

5**ADV DIRK GROENEWALD**: Justice just for the sake of my colleagues and yourself, I am going to refer to Day 4 of the proceedings, it's on the 12th of October at Pages 4 of the transcript. Now Mam Mrs Motsotsu testified as follows, she said out of the 27 facilities prior to the Ombud's report, the ministerial task team had already recommended that there be closure of some of the facilities. So by the time
10the report was released, there were facilities that were already closed, so out of 20 facilities, there was a recommendation that 14 had to be closed and patients had to be relocated to more adequate private facilities. So before you were suspended Mam, a number of NGO's were closed down, you will agree?

DR MANAMELA: That's correct.

15**ADV DIRK GROENEWALD**: Now the Ombud also tells us in his report, that he knew at the time that he was requested to do the investigation, Bopolong, Suurman, Anchor, Bokang and Siyabadinga was already closed.

DR MANAMELA: That's correct and we were the ones who closed some of them.

ADV DIRK GROENEWALD: Exactly Mam, now let's keep it short and sweet. How
20is it possible that you having issued licences, saying that the NGO is fit to take in

patients and within 3 months of those NGO's receiving patients, you close them down and you say they are not fit, how is that possible?

DR MANAMELA: I have indicated last week that some were not paid and the staff left, so we couldn't force, because the NGO takes care of these patients on their own, they are not being forced, so if we found that they are not having staff members anymore, the patients were still in our care and then we have to move the patient where we can ensure that the patient will receive better care.

ADV DIRK GROENEWALD: So is it your testimony Mam that these NGO's which you issued licences for and which were closed down within 3 months of receiving 10 patients, they were simply closed down because they didn't have staff? Is that the only reason they were closed down?

DR MANAMELA: It may not be the only reason, but the staff was another thing. The payment was not being done for them, so without the staff who need to be paid, the resources they may need if they were not willing to get the clothes from the 15 company and the meals and then we will have no choice, like we have been doing that throughout the process.

ADV DIRK GROENEWALD: You are shifting blame, I am putting it to you that you are shifting blame, you are now trying to blame the finance department.

DR MANAMELA: No I am not shifting blame.

20 **ADV DIRK GROENEWALD:** Yes Mam, then take responsibility and say well there were a number of issues I shouldn't have issued these licences and I know it now.

DR MANAMELA: It was presented to me that the NGO can be able to manage. We did some visits and some of the psychiatrists went with us, the engineers went with us, there are others that I didn't go because you don't deliver by yourself all the time, but we had all these records that this NGO can deliver the services.

5**ARBITRATOR JUSTICE MOSENEKE**: No but listen to the question, you know now according to you, what you did not know then, but you know now that you should not have issued the licences, that is what Counsel is asking you. What is your response to that?

DR MANAMELA: I know now but I still say that I didn't issue the licence-

10**ARBITRATOR JUSTICE MOSENEKE**: No do you know now that you should not have issued the licences?

DR MANAMELA: That is what these proceedings are saying, but-

ARBITRATOR JUSTICE MOSENEKE: No, no Counsel wants your answer, do you know now?

15**DR MANAMELA**: I know now, although I don't agree with the now, because at the time when I issued the licences, the NGO's were eligible to take care of the patients.

ARBITRATOR JUSTICE MOSENEKE: Where you sit where you sit now, knowing your statutory responsibilities and it's another matter whether you have them in law,
20we can debate it some other time, knowing that now, do you think you did the right thing in issuing the licences where 143 people died that is the question put to you?

DR MANAMELA: But I said at that time, I knew, at that time it was right and now I know that you are saying it was not right.

ARBITRATOR JUSTICE MOSENEKE: You are saying?

DR MANAMELA: I am saying according to the legal document I have, I still know that there was no request that I be delegated and last week, I was told that what I know is not right, that is what you said to me.

ARBITRATOR JUSTICE MOSENEKE: Advocate Groenewald says to you, do you now know that whatever you might have thought then, you were wrong in issuing the licences?

10 **DR MANAMELA**: That I was wrong in issuing the licences?

ARBITRATOR JUSTICE MOSENEKE: Do you know now that that was the wrong decision?

DR MANAMELA: I know now from you, but by then, it was not wrong.

ARBITRATOR JUSTICE MOSENEKE: Counsel you go ahead.

15 **ADV DIRK GROENEWALD**: So you admit that you should not have issued the licences Mam? I want a yes or a no?

DR MANAMELA: No.

ADV DIRK GROENEWALD: So you still persist that you rightfully even in hindsight, you rightfully issued the licences?

20 **DR MANAMELA**: I legally issued the licences.

ADV DIRK GROENEWALD: So you are saying that nothing was wrong with these NGO's, the Department was in fact incorrect, they shouldn't have closed these NGO's down, is that what you are saying? There was Precious Angels, Anchor, all of those NGO's according to you should still be open and functioning?

5**DR MANAMELA**: No.

ADV DIRK GROENEWALD: Why not?

DR MANAMELA: I haven't said that.

ADV DIRK GROENEWALD: Why should they not be open?

DR MANAMELA: Because when we realised the NGO's have got challenges, then
10we have to do something like closing them and that is what I said we have been
doing throughout the 5 years that I have been in this. If the NGO at the beginning is
legible to take care, we go regularly and find they are not we have been closing, so
we would still have been closing even after the Life Esidimeni termination contract.

ADV DIRK GROENEWALD: Mam let's move on, I will get back to this point, but
15let's move on. What are the legal requirements to obtaining a licence to admit, treat
and accommodate patients? What is the legal requirement for issuing a licence?

DR MANAMELA: The area needs to be assessed and audited.

ADV DIRK GROENEWALD: Area being the premises?

DR MANAMELA: The premises.

20**ADV DIRK GROENEWALD**: Okay I am going to take you slowly through that, so
you need premises. That premises needs to be assessed.

DR MANAMELA: That's correct.

ADV DIRK GROENEWALD: Yes and found suitable?

DR MANAMELA: Correct.

ADV DIRK GROENEWALD: Alright next?

5**DR MANAMELA**: And the staff as well for that NGO and the type of patient they can be taking care of is also considered and that the NGO has been registered with the social development. I think there are others that I maybe I might have left, but-

ADV DIRK GROENEWALD: Mam you are the director, you should know this at the top of your fingers you should know exactly what, is, the legal requirement for a
10licence to be issued to a NGO.

DR MANAMELA: Ja but I gave you the most important one that I remember.

ADV DIRK GROENEWALD: Alright we will get to each of these just now. Now Mrs Motsotsu testified and she said that there is basically 4 key requirements. She said that the first is that before an NGO can operate, the Department of Social
15Development must issue them with a registration, do you agree?

DR MANAMELA: I agree.

ADV DIRK GROENEWALD: She testified further, before an NGO can operate, they must have a municipality licence, do you agree?

DR MANAMELA: I agree.

ADV DIRK GROENEWALD: Thirdly before an NGO can operate to render mental health services, if they are also going to render health services, they must have a licence to render health services in terms of the National Health Act, but they must also have a licence in terms of the Mental Health Act, do you agree?

5**DR MANAMELA**: In terms of national health care, I didn't know about that, it was not one of the lists of the requirements, again in terms of the municipality at that time, it was not, but I knew later about that.

ADV DIRK GROENEWALD: Justice I will request to hand out new ELA85 if I may? I have provided it to my colleagues, Mam do you know this document?

10**DR MANAMELA**: Yes Counsel I know the document.

ADV DIRK GROENEWALD: What is this document?

DR MANAMELA: It's about basic requirement for NGO licence under the Mental Health Care.

ADV DIRK GROENEWALD: So they need to comply with these standards for you
15to issue a licence, this is the checklist that needs to be complied with?

DR MANAMELA: Correct.

ADV DIRK GROENEWALD: That's correct, so let's just go through some of these, signed and dated copy of the current service level agreement, you need a service level agreement before you can give a licence, do you agree?

20**DR MANAMELA**: I agree.

ADV DIRK GROENEWALD: Yes Mam now we heard testimony of at least that I can recall, Precious Angels and Anchor which took in patients prior to signing a service level agreement with the Department, so the licence issued to them, was not correct, was not lawful.

5**DR MANAMELA**: Can I explain that?

ADV DIRK GROENEWALD: Mam you just testified and you said that a service level agreement is a requirement for issuing a licence. I put it to you that the evidence at these proceedings were, that at least Precious Angels and Anchor did not have signed service level agreements with the Department at the time when
10they took in patients and therefore, I put it to you that those licences issued to them, were unlawful.

DR MANAMELA: Can I explain that?

ADV DIRK GROENEWALD: I want a yes or no answer please Mam?

ARBITRATOR JUSTICE MOSENEKE: Will you answer the question please?

15**DR MANAMELA**: Justice through you, can I answer the question and also explain?

ARBITRATOR JUSTICE MOSENEKE: Just answer the question and it might be necessary to explain, but first answer the question?

DR MANAMELA: Yes.

ADV DIRK GROENEWALD: Yes thank you Mam it was unlawful.

20**ARBITRATOR JUSTICE MOSENEKE**: And what explanation do you want to make?

DR MANAMELA: The explanation I want to make, was that the service level agreement is signed by the district and there was a meeting that they called and these NGO's were given the copy of the service level agreement to go and discuss further with their board and sign and bring it back, so the date that you saw there 5that the chief director signed, it's the date when they were sent back, but in that meeting, it was in principle agreed, that they will be taking care of the patient, but they must go and discuss first with the board, that is why the DD in my office, planned and submit the request for licences.

ADV DIRK GROENEWALD: Mam have you heard what you just testified?

10**DR MANAMELA**: Yes.

ADV DIRK GROENEWALD: Have you heard?

DR MANAMELA: I heard.

ADV DIRK GROENEWALD: Yes, you say ag well, you know we said to the NGO's this is in principle, the service level agreement, sort it out and sign it and bring it 15back to us, but we will issue licences in the meantime.

DR MANAMELA: No it's not what I am saying.

ADV DIRK GROENEWALD: Your testimony confirms what we have heard throughout this arbitration proceedings that you were reckless and you were negligent in issuing these licences.

20**DR MANAMELA**: So if this is what you are saying, then what do I say, because it is how you are saying it.

ARBITRATOR JUSTICE MOSENEKE: No we can't, listen you are asked a simple question, you issued licences without service level agreements having been signed and Counsel says that shows recklessness and negligence besides unlawful conduct, just deal with that.

5**DR MANAMELA**: Justice I am trying to deal with that, because we are sitting here, some of us we are not in health and I am trying to explain how it came to be in that manner, but I am told I am reckless and whatever, but I am trying to explain so that you understand what was happening. We trained these people first. In the training, before you give them the service level agreement document, you train them on what
10is in the service level agreement, they take it and go back to the board and discuss it with the board, so if they don't want to be part, they won't be part even if we gave licence, that is what I was saying, so just for you to understand the process-

ADV DIRK GROENEWALD: Mam once again, you are saying you issued licences to NGO's which you said well they can still decide whether or not they wanted to
15provide the service. Do you listen to what you are testifying?

DR MANAMELA: They agreed they can render the services, but we trained them. When we trained them, it is then that we said this is the service level agreement, look at it and take it to your board because it is the board who must sign.

ADV DIRK GROENEWALD: Mam I stand to be corrected, but none of the NGO's
20that testified here, testified that you provided training to them. That was in fact one of the main concerns to say that you promised them training but you never delivered. What is your answer to that Mam?

DR MANAMELA: My answer to that was that the managers were trained by, you know you look at it what is it that you want them to know first, for example, in terms of service level agreement, we called the finance, there are documents where the finance were meeting with the NGO's and train them on the service level agreement, but if they said that, it is their word against my word and I don't know what to say any more about that.

ARBITRATOR JUSTICE MOSENEKE: But are you going to answer the question of Counsel that you issued licences before service level agreements were signed? There might be an explanation for that, but do we understand you to say you did?

10 **DR MANAMELA**: That's correct.

ADV DIRK GROENEWALD: Mam there are quite a number of issues here. Admission of users, if you go down, it's the second last bullet point there before the middle of the page, admission of criteria, screening process, means test, fee structure and it says all the above documents must be kept updated on a file for 15 easy access. Now Mam we have seen from the reviews conducted by your own department as early as June/July of 2016, that a number of the NGO's did not comply with any of these requirements. What is your response to that?

DR MANAMELA: I don't know what to say, but the issue was that because of the period I am not sure of that because I didn't see that and prepare myself, but 20 because of the time period, that is why we asked for 3 months extension, maybe that was the reason that when the DD was preparing the licence, these other things were not there, because what is here Justice, is taken to the document that we used

at the NGO's, so what they presented to me, was not this one, it was that document of-

ARBITRATOR JUSTICE MOSENEKE: What are you saying now?

DR MANAMELA: I am saying Justice it can be true that most of them were not meeting this requirement as they are here.

ARBITRATOR JUSTICE MOSENEKE: Okay we have an answer. The answer is of most of the NGO's who you issued licences to, did not comply with most of the requirements on ELA89, is that what you are saying?

DR MANAMELA: Yes I am saying that.

10 **ARBITRATOR JUSTICE MOSENEKE**: Okay Counsel there is your answer.

ADV DIRK GROENEWALD: Thank you Justice.

ARBITRATOR JUSTICE MOSENEKE: Now there is an explanation and you might want to hear it or not hear it, but the answer is that they did not comply with most of these requirements.

15 **ADV DIRK GROENEWALD**: Mam I want to highlight one specific issue, but you will see there, licence, it's in the middle of the page and then there are 6 bullets, it's marked there, licence, only the number of users specified on the licence, may be in the NGO at any time. The last one, only the type of users specified on the licence, may be in the NGO at any time, so if your licence tells you that you have X amount
20 of patients that you can care for, no more than that.

DR MANAMELA: That's correct.

ADV DIRK GROENEWALD: And if your licence says you are licenced to look after a said category of patients, you cannot look after any other sort of category of patient that is correct?

DR MANAMELA: Correct.

5**ADV DIRK GROENEWALD:** But you agree that during your testimony in these proceedings, you admitted that that was not in fact followed. NGO's received patients in terms of licences that they weren't entitled to receive. Can you clarify that? Do you concede and do you admit that NGO's received patients other than those specified in their licence?

10**DR MANAMELA:** Yes in some NGO's it was like that.

ADV DIRK GROENEWALD: Yes so there was non-compliance with that, I don't know how you want to clarify or qualify that?

DR MANAMELA: I want to qualify it, if I am allowed, can I? The mentally ill patients you may find that they are diagnosed as mentally disabled coupled with
15mental illness, so that at times, you find the person with mentally disabled, is still in the hospital with the other type of patient, but it is not all of them all the time, so that is what we look at, what is the predominant diagnosis of this person, he is there maybe being mentally disabled and the next time, he is also a schizophrenic patient, so that's why you find that there were patients who can be in fully mentally
20ill institutions or fully in mentally disabled institution like Cullinan, so that is why we were at that- it was made in that-

ADV DIRK GROENEWALD: So Mam if I understand you correctly, you deliberately and wilfully did not comply with the licences of the NGO's, you sent them patients which you knew in terms of their licence, they actually may not take in?

DR MANAMELA: Not deliberately, but considering their diagnosis and other problems the patient had, so like I said, you may find that the patient who predominantly suffers from mental disability, is also having mental illness, psychiatric conditions, so that was a condition that you find-

ARBITRATOR JUSTICE MOSENEKE: Counsel what are you and Dr Manamela talking about?

10**ADV DIRK GROENEWALD**: Hopefully Justice you are understanding my line of questioning. The long and the short is that they send patients to NGO's which they knew in terms of their licence, those NGO's could not take, the licences weren't qualified to take those kinds of patients and we heard the evidence that yes that is so, but we played around with the diagnosis of the patients, but the long and the
15short is, the conduct was wilful and you knew that those NGO's could not take those patients.

DR MANAMELA: I didn't know that they cannot take care of the patient, because we didn't force these patients to them.

ADV DIRK GROENEWALD: Alright so you didn't force. Justice perhaps if we can
20adjourn now because we are going to get to a very important part of the cross-examination.

ARBITRATOR JUSTICE MOSENEKE: Yes but the witness knows about ELA85 and she knows that this is what she should do.

ADV DIRK GROENEWALD: She has admitted to that.

ARBITRATOR JUSTICE MOSENEKE: And she accepts that she didn't comply with these requirements.

ADV DIRK GROENEWALD: Indeed so Justice.

ARBITRATOR JUSTICE MOSENEKE: I think it's a good time to take the adjournment. We are going to adjourn up to 12:00.

SESSION 2

ARBITRATOR JUSTICE MOSENEKE: Thank you, you may be seated. Despite the interruption you are still under your previous oath to tell the truth and nothing but the truth. Counsel.

5**ADV. DIRK GROENEWALD:** Thank you very much Justice. Dr Manamela, you testified my colleague from Section 27 asked you when did you sign the licences, and you said you signed it on the 1st of April 2016. She asked you but is that not, that is a huge number of licences to sign on one day and was it not extraordinary and you said no, all the licences were signed on the 1st of April 2016. Is that
10correct?

DR. MANAMELA: The licences are signed, are prepared only revealing that the NGO will start operating from the 1st. It does not mean it is my date. Under my ...
[interjects]

ARBITRATOR JUSTICE MOSENEKE: Dr Manamela, you have been defensive.
15The first question is were they signed on the same day.

DR. MANAMELA: Okay, no.

ARBITRATOR JUSTICE MOSENEKE: The normal answer to such a crisp short question is yes or no and then the next thing would be why did you sign them on the same day. Then we could go to that explanation. You do not have to be so
20defensive. Answer the question yes, and then he will ask you why did you do it, so that we can make progress. This is the fourth day of evidence. Please. Counsel.

ADV. DIRK GROENEWALD: Are you saying you did not sign it on the 1st of April 2016?

DR. MANAMELA: They are not signed on the 1st of April all of them before, it should be before.

5**ADV. DIRK GROENEWALD:** Madam, the licences read signed under my hand on this date, on the 1st of April. So when you signed the licences you already lied, because the licences reads quite, and you do not need to be a genius to read the licence. It said signed under my hand on this day, the 1st of April 2016. So when you signed the licences you actually made yourself guilty of fraud because you 10knew it was not the 1st of April 2016.

DR. MANAMELA: Not all licences were signed on the 1st of April.

ADV. DIRK GROENEWALD: Madam, just listen carefully to my question. I am putting it to you that the licences reads signed under my hand on the 1st of April 2016. You testified that not all licences were signed on the 1st of April 2016. I am 15putting it to you that that conduct of yourself by signing a licence and dating it the 1st of April when you know it is not the 1st of April, that per say is fraud on your part.

DR. MANAMELA: I will say no and qualify it. The date indicates that the NGO can only operate from the 1st of April of that year, meaning that at the next year we will give another licence that say they can only operate from the 1st. That was the 20meaning. It might have not been captured right the way you are seeing it, but the meaning was that from the 1st of April the NGO can start operating.

ADV. DIRK GROENEWALD: So but signed under my hand on the 1st of April, on do this day the 1st of April that is not correct. Do you agree with me?

DR. MANAMELA: It may not be correct.

ADV. DIRK GROENEWALD: No, no, no.

5**DR. MANAMELA:** ... [inaudible]

ADV. DIRK GROENEWALD: It is correct or it is not correct.

DR. MANAMELA: It may not be correct, it may be correct.

ADV. DIRK GROENEWALD: Madam, you just testified that you did not sign all the licences on the 1st of April. So you agree with me that it is not correct. You did not
10sign the licences on the 1st of April 2016.

DR. MANAMELA: I got that, not all the licences and I say it can be correct. It cannot be correct.

ADV. DIRK GROENEWALD: Well madam, we will leave it for General Johnson to take it further.

15**ARBITRATOR JUSTICE MOSENEKE:** Well, as you leave it Counsel, I want you to look at any licence of the licence you signed. Let us see where we find that. In volume 7. I went to look again. Look for instance on page 2370. That is a licence presumably for St Michael Home or St Michelle Home. Can you see that? The very first one. We can choose any one for that matter.

20**DR. MANAMELA:** Justice.

ARBITRATOR JUSTICE MOSENEKE: You have got it before you. Look at the bottom, the questions you were asked. Given under my hand at Johannesburg on the 1st of April 2016. Signed by you, and you have explained why you put the date 1st April 2016, to show the commencement of the date of validity. Right.

5 **DR. MANAMELA:** That is correct.

ARBITRATOR JUSTICE MOSENEKE: But look at the body, look at the body of the licence. Can you see that? Five lines from the bottom. Can you see the sixth line from the bottom?

DR. MANAMELA: That is correct Justice.

10 **ARBITRATOR JUSTICE MOSENEKE:** What does it read?

DR. MANAMELA: *“Permission is granted for admission treatment.”*

ARBITRATOR JUSTICE MOSENEKE: No, no the sixth line from the bottom. Higher up.

DR. MANAMELA: *“This licence is valid for period 1 April to 31 March 2017.”*

15 **ARBITRATOR JUSTICE MOSENEKE:** You see, so the term of the licence is in the body. It is set out in the body. Is it not?

DR. MANAMELA: That is correct.

ARBITRATOR JUSTICE MOSENEKE: So why do you not write the correct date on which you signed it, because the licence tells you in its body what is the term of
20 validity.

DR. MANAMELA: I think this was just a procedural error.

ARBITRATOR JUSTICE MOSENEKE: What was a procedural error?

DR. MANAMELA: The very same, this first day of April. This is how we have been licencing our licence and it can be Saturday, it can be when, but for us to give 5the patient before the 1st of April, that is why I am saying this is a procedural error that I think the whole of us we did not notice that.

ARBITRATOR JUSTICE MOSENEKE: Whose error was that?

DR. MANAMELA: It is the mental health unit that I need error, because all our licences are like that.

10**ARBITRATOR JUSTICE MOSENEKE:** You see, even if you signed it any date, the validity is in the body. So you do not have to falsify the date of signature. So whose error is that?

DR. MANAMELA: I think the person who prepared and myself signing for this date, the person who prepared and the sign, I am not sure whether the 26 April was 15the first day we were on duty, but I am saying I think I might be corrected by the NGO manager. This is a procedural error, because if you go to all our NGO, we put it this way. It is a procedural error.

ARBITRATOR JUSTICE MOSENEKE: Ja, but you understand that. You, with your level of education you did not have to misrepresent the date, because the 20licence already makes provision for the terms of the licence. Why would you make such a procedural error?

DR. MANAMELA: As the lessons were prepared to me, maybe I signed, maybe I was under pressure. Maybe, I am not sure because I am not sure of the date, but it is a procedural error, because as the date is up there, we may not have been put the date here, this date because I would have signed and attached my date in a written form.

ARBITRATOR JUSTICE MOSENEKE: Why did you not do that?

DR. MANAMELA: Ja, that is how, maybe because that is how we have been doing it and now I am opening that I should have, in other areas I used to put the date behind me, but I do not know what happened with these ones.

10 **ARBITRATOR JUSTICE MOSENEKE:** Shall we be quiet please. Sorry. Too many of you are talking and we cannot hear what we are saying. Again I must plead with you so that we can be able to make progress. I could hear you talk about a procedural error and pressure. What pressure?

DR. MANAMELA: No, I will say Justice it is a procedural error, because as I signed, most document that I signed I do write in my own, on my own handwriting the date, but with the licence as they were coming, I just check the report and sign and maybe that is why I am saying it is a procedural error. It is an error this one that I signed this on this day without putting my handwriting.

ARBITRATOR JUSTICE MOSENEKE: A few minutes ago you had an explanation that you signed because that is the effective date.

DR. MANAMELA: Yes.

ARBITRATOR JUSTICE MOSENEKE: Now you signed in error.

DR. MANAMELA: Yes, if there are two dates, it means one of the dates is an error, because it should have been one date. So there are two dates. One of the dates was made in an erroneous manner, so I will say that and agree that that was an error.

ARBITRATOR JUSTICE MOSENEKE: Let me leave you with this thought doctor, you do not seem to understand the centrality of licensing by a state entity. From which flows a number of obligations. Both constitutional and legal. If you permit somebody to have the power and the entitlement to be paid for looking after mentally, mental health care patients, you are making a decision about other people's lives, whose lives may be enhanced or lost. So it is not just about, you are not asking questions about the date and the what and the little error. We want you to appreciate that you were given power by a law and that law gave you the power to make certain decisions that will affect the lives of mental health care patients, and you have exercised that power and the result is that the patients died. Do you see that connection? It is not how clever you can explain something. Just understanding the fundamental issue we are dealing with. You made the decision, you granted the licence to people incompetent to do the job and somebody else died. What is your response to that?

DR. MANAMELA: My response to that Justice will be that even it is a procedural error, the NGO that was assessed, I had the report of the assessed NGO, and if they made a mistake, we still have to can terminate and withdraw the licence, so the

procedural error that I am not disputing, it does not mean that we were saying because the date is 1st of April then the patient must not be taken care of.

ARBITRATOR JUSTICE MOSENEKE: Again you do not get it.

DR. MANAMELA: No, I get it.

5**ARBITRATOR JUSTICE MOSENEKE:** You do not gamble and say I will do it and I might withdraw it. You make sure that you do not send people, living people in need of care to places where you willy nilly make procedural errors or you have not checked properly and you might withdraw it. Who do not have a service level agreement. Who do not have tax compliance certificates. Who, you saw that list.
10Who do not have a proper board of governors who must produce their CV's. It is not what the law requires. You did not observe any of those and it still blows over your head what a big omission it is, because it led to deaths.

DR. MANAMELA: Justice, if I say something on that, I did not dispute the date, but I am not quite sure of the causes of death at the moment. It might be that the
15NGO which was presented to me, were not as qualified as the report was saying and then I will say in that area it can be the issue, but there are other variables that might have led to the death of the mental health care users. Like the illnesses they might be having ... [inaudible] for example. The medication, the blood levels and maybe lack of the staff that left, because they were not paid. There can be other
20many variables that may led to that, and there was no intention in signing the licence that we must just give it or dish it to anyone who said I want to take care of

the patient. That was not part of my idea and those of my team. That is why I had to check the area.

ARBITRATOR JUSTICE MOSENEKE: Have the police visited you already?

DR. MANAMELA: What?

5**ARBITRATOR JUSTICE MOSENEKE:** Have the police visited you?

DR. MANAMELA: The police?

ARBITRATOR JUSTICE MOSENEKE: To seek, yes members of the South African Police Services. Have they visited you to ask for a statement from you?

DR. MANAMELA: Not yet Counsel.

10**ARBITRATOR JUSTICE MOSENEKE:** Do you expect them to come to you?

DR. MANAMELA: ANYbody who wants to know about this process, I am willing to let them know.

ARBITRATOR JUSTICE MOSENEKE: Advocate Groenewald.

ADV. DIRK GROENEWALD: Thank you Justice. Madam, I put it to you that you
15manipulated the licences to suit your needs, the department's needs. You cancelled the, sorry respond to that firstly. Thank you.

DR. MANAMELA: I am a professional who observed the rules and I cannot manipulate anybody while I am dealing with the people's life. I do not agree with that manipulation.

ADV. DIRK GROENEWALD: Madam, you have already conceded that you have manipulated the rules. You did not comply. The NGO's to which you issued licences did not comply with the standards and the requirements. You conceded that.

5 **DR. MANAMELA:** I conceded that.

ADV. DIRK GROENEWALD: Yes.

DR. MANAMELA: Based on the report that I had, I signed the licences.

ADV. DIRK GROENEWALD: No madam, no. We have not seen those reports. We have not seen those reports and the long and the short is the evidence before
10 this arbitration proceedings is clear beyond reasonable doubt that those facilities was not fit to accommodate any patient and that was so at the time that you issued those licences. No warm water. No toilet seats. No construction. No recreational space. Those are things that were there prior to you issuing the licences. It is not something that came afterwards. I put it to you madam that you manipulated the
15 licences. Do you know Dorothy Franks?

DR. MANAMELA: I know Dorothy, but I did not manipulate anything.

ADV. DIRK GROENEWALD: Alright. No, we will look at that. Justice, I am going to refer to the testimony of Mrs Franks. It is, sorry I will just provide, it is on page 164 and 165 of the transcript.

20 **ARBITRATOR JUSTICE MOSENEKE:** Yes.

ADV. DIRK GROENEWALD: I think it is day 15 or seven Justice, but I will confirm.

Now madam, we heard the evidence of Mrs Franks. The question was put to Mrs Franks that whether or not she applied for a licence for 150 patients. Her response was as follows. The Arbitrator, Justice Moseneke said:

5 *“Yes, you are putting it on everyone else. I want to know that you gave them the number 150.”*

Mrs Franks said:

“They came and check how many patients. No, but you applied. Did you say how many people you wanted?”

10 Mrs Franks said:

“No, I did not say that. Okay. How many did you say you could accommodate in your application? I did not give them a number. So they wrote the number 150? Ja. And that was going to be Dr Manamela? Yes.”

You manipulated the licencing process madam, and the evidence before this
15 arbitration proceedings is clear to that effect. Do you want to respond to that?

DR. MANAMELA: I think I do not appreciate the word that I am a manipulator. In the first place I never knew Dorothy. The district sent the document for me from Dorothy and when I met Dorothy for the first time ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: We are going to call her Mrs Franks.

20 **DR. MANAMELA:** Mrs Franks, the first day I met her she was already at Kalafong, and I was told by the district and the DD NGO that Dorothy is going to take 150

patient. I am not a manipulator and I really feel that if there is a ... [inaudible] like that between me and the people who are hurting, it will cause me a danger and my family in the next coming days, because things need to be coming right. Dorothy's statement ... [interjects]

5 **ARBITRATOR JUSTICE MOSENEKE:** No madam. I do insist ... [interjects]

DR. MANAMELA: It is not agreed.

ARBITRATOR JUSTICE MOSENEKE: I insist you must call her Mrs Franks.

DR. MANAMELA: I am sorry. I am sorry Justice.

ARBITRATOR JUSTICE MOSENEKE: We do not go running around with first
10 names here okay. We do not use your first name and I do not expect you to, let us
accord respect to everybody we are dealing with.

DR. MANAMELA: I am so sorry about that Justice.

ARBITRATOR JUSTICE MOSENEKE: Please keep to that, yes.

DR. MANAMELA: I was just saying Counsel that everybody who came and
15 testified before me, these proceedings accepted their testimony and when I give my
version I am told that I am a manipulator. I am a professional person who function
within my professional ability, apart from that even my professional ability in terms
of management, I always uprooted that. I cannot manipulate anybody and I will ask
that through you Justice, let my version be given then you will come and judge,
20 because now Dorothy told you that as I tell you what I know, now I am a
manipulator, and it does not fair me very well.

ADV. DIRK GROENEWALD: Yes madam, I hear what you are telling us, but at the end of the day the evidence, the evidence suggest otherwise. The evidence is quite clear. Mrs Franks testified that you, Dr Manamela said well, 150 beds. You will take 150 beds. That is the evidence.

5**DR. MANAMELA:** I am not working the district.

ADV. DIRK GROENEWALD: I am asking your response. Yes or no.

DR. MANAMELA: No, I said no.

ADV. DIRK GROENEWALD: No, you did not say that.

DR. MANAMELA: No, I did not say that. I was told that.

10**ADV. DIRK GROENEWALD:** Now on the same issue, do you know, Dr Manamela, do you know Mrs Daphne Ndlovu?

DR. MANAMELA: Daphne?

ADV. DIRK GROENEWALD: Daphne Ndlovu.

DR. MANAMELA: Yes, I know Mrs Ndlovu.

15**ADV. DIRK GROENEWALD:** You know Mrs Ndlovu. Now Mrs Ndlovu testified also here at these proceedings, and in respect of the situation at CCRC she testified that they went to Anchor. They went to Anchor. She said, but as a team, as a team of CCRC multi disciplinary team, we went to the facility to check if whether the facility will be suitable to admit the patients. The bedding it was well prepared, 20things was good and with their kitchen it was also good, but the main important thing that I have seen that there was not user friendly for the patients it was the

staff. There was no professionalism. There was no social worker. There was no doctor who assessed the patients on arrival from CCRC. The social worker inspected Anchor, not your team. You are the director madam. You did not go and assess Anchor. Would you like to respond to that?

5 **DR. MANAMELA:** Firstly I do not know which date they went there.

ADV. DIRK GROENEWALD: 23rd of June 2016.

DR. MANAMELA: 23rd of June 2016. Secondly, the Mrs Franks was working closely with the NGO identifying teams at that time. So the report for Mrs Ndlovu did enrich my, did not reach me but the report from the NGO manager was that Mrs
10 Franks has got staff. So I signed the licence based on that, and on that date I believe that is the early date of us placing the last group of patients.

ADV. DIRK GROENEWALD: Madam, the long and short is, is Mrs Ndlovu lying?

DR. MANAMELA: Mrs Ndlovu is not reporting to me. I do not know if he is lying, but what I know is about myself is I am not lying.

15 **ADV. DIRK GROENEWALD:** Well madam, the evidence suggest otherwise, but let us move on. Madam, in respect of the transfers, I put it to you that you, you decided where patients should go. What is your response to that?

DR. MANAMELA: I did not decide where patients should go. The conditions of the patients will decide where the patient should go.

20 **ADV. DIRK GROENEWALD:** Let me take you to ELAH9. Somebody can assist you there. ELAH9. Do you have it madam?

DR. MANAMELA: Yes Counsel.

ADV. DIRK GROENEWALD: It is the Cullinan Care and Rehabilitation Centre. It is a report from the CEO. The subject is Cullinan Care and Rehabilitation Centre report around transferring of patients from Life Esidimeni. I would like you to go to, let us start off at pages 6. Perhaps if you go to, this is a breakdown at page 4. Let us start there. The following is a list, at page 4. You will see the following is a list of admitted patients from Life according to dates of admission, and they set out the dates. Patients admitted from Life Esidimeni Randfontein in May 2016. So they put there, and then if you go to page 5 you will see there is a list and then it says 10th of 10 May and then they give a breakdown of the patients that they received and how they received them and who went to collect the patients, and then we get to page 6. Just before the table there, the last sentence. The eight highlighted mental health care users in the list above were subsequently discharged to Anchor NGO on the 23rd of June 2016, as instructed by Dr Manamela. We go on. Page 7. The nine ...

15[interjects]

ARBITRATOR JUSTICE MOSENEKE: Sorry, let the witness respond to that.

ADV. DIRK GROENEWALD: Yes, thank you Justice.

ARBITRATOR JUSTICE MOSENEKE: I am sure there are other references.

ADV. DIRK GROENEWALD: Yes.

20**ARBITRATOR JUSTICE MOSENEKE:** But it is easier reference by reference.

ADV. DIRK GROENEWALD: You gave the instruction that those eight patients should be discharged to Anchor.

DR. MANAMELA: I did not give instruction per say, but when the NGO identifying team was saying we do not have space anymore in Cullinan, but we have got space 5in Anchor, we are going to take the patient in Anchor, I had no objection on that. I was not instruction.

ADV. DIRK GROENEWALD: Madam, we will get to the specific evidence, but let us just deal with what you have just said. From what I heard of your testimony is two things. One, is that you clearly did not plan properly, because there arrived 10more patients at CCRC than could be admitted. Is that correct?

DR. MANAMELA: We planned properly for CCRC.

ADV. DIRK GROENEWALD: Madam, you have just testified that there arrived too many patients. They could not be admitted at CCRC, and then you said they must go to Anchor.

15**DR. MANAMELA:** Yes, can I qualify that?

ADV. DIRK GROENEWALD: So you did not plan properly madam, because the patients that were supposed to go to CCRC, there were not any place for them?

DR. MANAMELA: Can I qualify that? I said yes, but can I qualify for that?

ADV. DIRK GROENEWALD: Qualify madam.

20**DR. MANAMELA:** Okay. Cullinan Care and Rehabilitation Centre was planned to accommodate 100 patients. So when they cannot, when the CEO gave the patient

73 to Anchor there was still space. So now instead of the patient who were in Cullinan, to move fully all of them to Siyabadinga, there was no space, because Siyabadinga said they cannot manage more than that, but there was space for Anchor. That is why my team led by the NGO identified team, asked that can we stake them to Anchor and I said I do not have any objection for that. So it does not mean that we did not plan.

ADV. DIRK GROENEWALD: Madam, the evidence is quite clear. The eight patients were transferred on instructions of Dr Manamela. Do you admit or deny that?

10**DR. MANAMELA:** I deny the word instruction.

ADV. DIRK GROENEWALD: You deny that you gave that instruction? The drafters of this document, are they lying?

DR. MANAMELA: I do not agree with they are saying that I have instructed them.

ADV. DIRK GROENEWALD: Alright. Let us move on. Page 7, the nine
15highlighted mental health care users in the list above was subsequently discharged to Anchor NGO on the 23rd, as instructed by Dr Manamela. Once again a further nine patients were discharged on your instructions. Your response to that?

DR. MANAMELA: It is still the same. My response is still the same.

ADV. DIRK GROENEWALD: Okay.

20**DR. MANAMELA:** I did not instruct.

ADV. DIRK GROENEWALD: Then page 9.

ARBITRATOR JUSTICE MOSENEKE: Do you know who instructed? That the patients be discharged from CCRC and taken to an NGO where they died. Who gave that instruction?

DR. MANAMELA: Justice, I was phoned to say we have got the patient who cannot be accommodated in Cullinan, but we have got space in Anchor. Can we, we are planning to take them there, and I agreed, but I did not instruct that you must do it.

ARBITRATOR JUSTICE MOSENEKE: Why did they phone you?

DR. MANAMELA: Because there were, they had some challenges that at that time, we I did not want to touch that now, at that time, when it was planned the CEO was not supportive anymore because of the department's issue with Anchor.

ARBITRATOR JUSTICE MOSENEKE: Is that just your opinion, I mean you have many words. I mean I am just asking you why did they phone you?

DR. MANAMELA: Because the NGO identifying manager Mrs Jacobus is reporting to me. Daphne has never phoned me, because she was and she is still not ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: You have just told us they phoned you. I am saying why did they phone you?

DR. MANAMELA: No, I did not receive any call from Daphne. I received all the calls from Mrs Jacobus. Daphne was reporting to Cullinan CEO and CEO, if there

are problems, CEO of Cullinan will call me, not Daphne. I did not receive any call from Daphne. I received calls from the NGO manager from my office.

ARBITRATOR JUSTICE MOSENEKE: Are you okay doctor? Are you okay?

DR. MANAMELA: Why do you ask?

5**ARBITRATOR JUSTICE MOSENEKE:** No, no you have just told me now that you did not instruct, you were called. So I want to know why were you phoned.

DR. MANAMELA: Yes.

ARBITRATOR JUSTICE MOSENEKE: And then I get this birage of words. You did not instruct. This document, we have been through this, we have had full
10evidence on this document.

DR. MANAMELA: Justice, I did not instruct Daphne. That is why I am qualifying it. I did not instruct anybody, but my NGO manager like I said first, let me give you the process. NGO manager called me and informed me of this, and then when she called and she already had a plan, and I said it is okay. I did not become against
15the plan. But Daphne did not call me. The CEO did not call me. The NGO manager, Mrs Jacobus is the one who called me. She was there who was overseeing placement from Anchor and Cullinan on that day.

ARBITRATOR JUSTICE MOSENEKE: You talked about calling. Nobody did. You started this calling stuff.

20**DR. MANAMELA:** Yes.

ARBITRATOR JUSTICE MOSENEKE: And I asked you why did they call you.
What were they looking for?

DR. MANAMELA: So that I can know the change of plan.

ARBITRATOR JUSTICE MOSENEKE: Were they looking for, could you have said
5no?

DR. MANAMELA: Ja.

ARBITRATOR JUSTICE MOSENEKE: You had the power to say no?

DR. MANAMELA: No, I could not just say no, but I will find out the reason and if I
did not agree with the reason, I will say what can we do, so but when they called
10me, I did not have problems. That is why they placed the patients there, but it is not
Daphne who called me. It is the NGO manager in my office who called me.

ARBITRATOR JUSTICE MOSENEKE: You know what Advocate Groenewald is
talking to you about? These patients were discharged from Cullinan. You know
that. They lost their beds in CCRS and the manager say at your instructions. That
15is what it is about, and there were consequences for them losing their beds at
CCRC. The consequence is that they died. That is what this report is about. Did
you instruct that the patients be discharged?

DR. MANAMELA: No Justice.

ARBITRATOR JUSTICE MOSENEKE: The patients referred to on page 7 of 25.
20No. Who gave that instruction if not you?

DR. MANAMELA: I did not give that instruction and I did not see the patient, but I was phoned by my DD manager that there are patients that we can still place in Anchor, and I did not have a problem with that.

ARBITRATOR JUSTICE MOSENEKE: Is Mrs Jacobus who told you that?

5**DR. MANAMELA:** Yes. She told me that.

ARBITRATOR JUSTICE MOSENEKE: Is she the one who gave the instruction?

DR. MANAMELA: I will not say she gave instruction, but she is the one who told me that and I had no problems with that.

ARBITRATOR JUSTICE MOSENEKE: And you could have stopped that if you
10wanted to?

DR. MANAMELA: If from what she said because it is a long time ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: You had the power to stop it. The discharge of this patients to an NGO where they ultimately died. Did you have the power to stop that?

15**DR. MANAMELA:** I did not have, I am not quite sure Justice whether I will say I had the power or I do not have the power, because the discharge process was done according to the termination. So I will not say I had the power to stop it, but what I can qualify and explain to these proceedings is that the 100 beds which was planned for CCRC, were not yet full. That is why only those patients from CCRC
20were accommodated there.

ARBITRATOR JUSTICE MOSENEKE: Counsel, the witness is yours.

ADV. DIRK GROENEWALD: Thank you Justice. Madam, I am going to pause a bit at this whole transfer issue, because it is quite important and we have heard evidence of the impact that the transfer had on a number of patients and the fact that the psychiatric state of the transfers might have even led to their death, but it was put to Mrs Ndlovu in these proceedings when she testified on the transfer of the patients from CCRC to Siyabadinga and Anchor, Justice Moseneke asked you:

“Is that a normal procedure for discharging patients, that they must go away to make room for other patients?”

Mrs Ndlovu testified:

10 *“I can say it is not the normal way of discharging a patient, because if a patient is discharged from the institution, it means the patient can adjust where he is going. So just because this was, it was like forcefully to create a space for the patients.”*

The question is again put to the witness:

15 *“Was it desirable from your experience as a social worker in a mental health care facility, was it desirable to forcefully transfer patients in order to make space for those coming from Life Esidimeni?”*

She later on replied:

“It is not Judge. It was not the correct way of discharging patients Judge. That one, I can acknowledge.”

20 What is your response to her testimony?

DR. MANAMELA: My response will be the forcefulness, I do not know about that, but I can take you through the process of Cullinan, because Cullinan even before the termination, they already planned that they have got patients who has got no families and some patients whose family are unable to take care of them and they have got the building. They feel that they will have to renovate the building and they let the NGO manage the building. So ... [interjects]

ADV. DIRK GROENEWALD: Madam, what are you ... [interjects]

DR. MANAMELA: So I am trying to explain to you why I say no for forceful, but it was planned by Cullinan. Fortunate or unfortunately when the termination came, we then said the hospital that you identified, the wards, will be renovated by the hospital, and then the patient that you already have will be going there not forcefully. The CEO was the one who was coming to our meeting. Not Daphne. It was never mentioned forcefully to go there. That is why when the CEO of Siyabadinga said I cannot take 100, nobody forced her to take 100. So the forceful word never came to my mouth or from my directorate and even the NGO manager. No one was forced.

ADV. DIRK GROENEWALD: We will go through the evidence madam, and I submit that the evidence unfortunately shows differently. We, my apologies. Do you know Mrs Dianne Noyile?

DR. MANAMELA: Yes Counsel.

ADV. DIRK GROENEWALD: Who is she?

DR. MANAMELA: She was reported to me as the CEO of Siyabadinga NGO.

ADV. DIRK GROENEWALD: Mrs Noyile testified at these proceedings as follows:

“The three from Life Esidimeni came on the 1st of July and they were brought in by Dr Manamela and Mathilda Malaza.”

Then there is a debate as to who is Mathilda Malaza and it is clarified and it is asked:

“Did they tell you why they bring these patients to you?”

Mrs Noyile testified:

“Justice, it was late afternoon. There was a bus full of people in our yard and they did not know where to take the patients. They just said can you please take these 10 patients, because we do not know where to take them. Dr Manamela was making some phone calls. I am not sure who she was calling. They did not have ID’s, they did not have identifications. We did not know their names or their age. They had nothing. It was just what they were wearing at that time. It was three male patients.”

15 Then she goes further:

“Did you choose which patients you wanted? I did not choose. As I said before Justice, these patients they did not know where to put them, because all of the others were allocated at Anchor and these three were ... [inaudible]. So they asked me to take these patients. I did not just take them. We had a problem of space. 20 So I said we did not have space for them. Where are we going to put them? What are they going to eat because we did not have any money from the mental health

department and Dr Manamela said she was going to come and fetch them on the following Monday. If I am not mistaken it was a Friday that day. So we had to stay with these patients over the weekend, but they were never taken back.”

Madam, you still stand by your testimony that there was no forceful removal or pressure placed on NGO's to accept patients?

DR. MANAMELA: There was no pressure, and can I say that everybody who testified before me, all their evidence are taken as correct, like it happened with Ombud. Everybody who testified against me, their evidence are not tested. They are not here for me to ask them questions. It happen. History just repeat itself in this country. But I must explain to you Justice, Counsel through the Justice, what happened with these patient.

ARBITRATOR JUSTICE MOSENEKE: Let us go quiet please. Let us listen to the witness.

DR. MANAMELA: I will start from the beginning. When you say they were never being taken back, because Mrs Noyile at that time she occupied the ward illegally.

ADV. DIRK GROENEWALD: Madam, I am going to interrupt you.

DR. MANAMELA: And can I ... [interjects]

ADV. DIRK GROENEWALD: I am going to interrupt you, because I want you to start from the correct point. The correct point is you forced three patients on Mrs Dianne Noyile. Let us start off there.

DR. MANAMELA: I did not force the three patients.

ADV. DIRK GROENEWALD: You did not force the three patients.

DR. MANAMELA: No, we did not forced. We just asked that can you accommodate the three patient, because there were five patient who went on leave of absence. That is why the notion at the end say we will have to fetch them on Monday because they were five patients who were on leave of absence. She had beds but those beds cannot be permanently used. We did not know when the patient will be coming back.

ADV. DIRK GROENEWALD: So Mrs Noyile was lying. Was that your testimony?

ARBITRATOR JUSTICE MOSENEKE: Is there an answer to the proposition?

10**DR. MANAMELA:** I did not force Mrs Noyile to take the patient.

ADV. DIRK GROENEWALD: Okay. Madam, that is now the third witness that is lying to these proceedings and you are the only one that is telling the truth.

DR. MANAMELA: I did not force anybody Counsel. I did not force anybody. From the beginning the NGO will take the patient according to their ability. I did not force anybody. I did not, even if when we planned 100 beds, Mrs Noyile said I cannot take 100 patients. We did not force her.

ADV. DIRK GROENEWALD: Yes, and then you brought in Anchor. That is what you did. You do not want to take extra patients, we are going to force you into two wards, and we are going to put 50 patients in a ward that is only supposed to take 2025 patients. That is the evidence, and you did it madam. So was Mrs Noyile also lying about that?

DR. MANAMELA: Counsel, the wards the ward that were planned, were planned for 100 beds. If you look at our plan, you will see.

ADV. DIRK GROENEWALD: How many patients in a ward? 25.

DR. MANAMELA: 25.

5**ADV. DIRK GROENEWALD:** Yes.

DR. MANAMELA: But there was extra space.

ADV. DIRK GROENEWALD: Alright. So they had 75 patients.

DR. MANAMELA: Yes.

ADV. DIRK GROENEWALD: And you moved them. They had four wards and you
10moved 75 patients into two wards.

DR. MANAMELA: Can I ... [interjects]

ADV. DIRK GROENEWALD: Yes or no.

DR. MANAMELA: I did not move 75 patients to two wards, but I can tell you the
number ... [interjects]

15**ADV. DIRK GROENEWALD:** Yes or no.

DR. MANAMELA: Of patient. We moved patient to the two wards, but we cannot
say at the moment it was 75 patient in the two wards, because I want to inform this
court, that at that time when it was nurses, there was a nursing station which can
take plus minus six patient and the renovation had extra space. If you go to
20Cullinan you can count the beds that were there.

ADV. DIRK GROENEWALD: Madam, you are giving all this clever answers, but at the end of the day you are saying nothing. My question is simple. Siyabadinga had 75 patients. You came and you said to them from now on you are only going to have two wards. You confirmed that a ward can take 25 patients. So 75 patients moved into two wards. The evidence was that in one ward there was 50 patients. You actually went and you physically moved the patients yourself.

DR. MANAMELA: Counsel, I do not know why I am really here, because you said I said nothing. So whatever I am saying is nothing. I am qualifying why, because I am telling you I know the ward and the CEO was there. There is a ward that was used as a nursing station in each and every ward that can accommodate plus minus six wards, six beds. So those are the reasons that you saw us to say we can still push, we can still put place, not push some patient in the ward, but those are the things that you do not want to hear. I said nothing.

ADV. DIRK GROENEWALD: Madam, because what are you telling us? Are you denying that there was 50, over 50 patients in a ward?

DR. MANAMELA: I am denying that.

ADV. DIRK GROENEWALD: You are denying. Now I am going to put ...
[interjects]

DR. MANAMELA: Because I am telling you the structure of the ward which you do not want to take.

ADV. DIRK GROENEWALD: Madam ... [interjects]

DR. MANAMELA: I am trying to explain.

ADV. DIRK GROENEWALD: I want you to know that purgery is a criminal offence.

I want you to know that.

DR. MANAMELA: I know that Counsel.

5**ADV. DIRK GROENEWALD:** I want you to know that everything you testify here can be used against you in criminal proceedings.

DR. MANAMELA: That is why I wanted to have all the record, because I know that it can be used against me, but if I am explaining to you Counsel, the NGO ...
[interjects]

10**ADV. DIRK GROENEWALD:** You are not explaining anything to me madam.

DR. MANAMELA: Yes, you know that is the thing. Then I must just Justice, I must just keep quiet because I am explaining nothing.

ARBITRATOR JUSTICE MOSENEKE: Hallo, hallo. This is an arbitration tribunal okay. That is formal name. You wanted to know what it is. The second under the
15law of arbitration. The second thing is it could help all of us to keep on having a proper dequorum and exchange of views, and thirdly when you talk you must face me and talk to me.

DR. MANAMELA: Okay.

ARBITRATOR JUSTICE MOSENEKE: You were asked a question by the
20advocate, but you are addressing the Arbitrator and let us just keep to that dequorum. That is why I have been protecting you every time there are hackles,

because we must keep going and we must keep what, the right thing to be done. I ask you and plead with you please. Wait for the advocate, so should the advocate wait if you are still speaking. But he is entitled to insist that you answer the question and there should be no allegations backwards and forwards please. Certainly you should not be making allegations, so that we can come to the end of your evidence which has been rather long. I again ask you to stay calm, listen to the question and talk to me. If you think anything is unfair, you ask me to intervene. Do not shout back please. Counsel.

ADV TEBOGO HUTAMO: Justice, whilst we are on the dequorum of the proceedings, may I just call upon my learned friend to desist from pointing a finger at the witness when he poses questions. It does not come quite okay like for these proceedings.

ARBITRATOR JUSTICE MOSENEKE: Yes, that is a fair point Counsel. I think he said point your finger up in the roof.

15**ADV. DIRK GROENEWALD:** I think that is what I tried to do.

ARBITRATOR JUSTICE MOSENEKE: You can always make te point like this, but not that, but go.

ADV. DIRK GROENEWALD: My apologies for that Dr Manamela if I was pointing to you.

20**ARBITRATOR JUSTICE MOSENEKE:** Yes, when I was a young advocate I was told that, and I learnt to say witness, I say this to you. But keep your finger in check.

ADV. DIRK GROENEWALD: I will do so. My apologies Justice.

ARBITRATOR JUSTICE MOSENEKE: Thank you.

ADV. DIRK GROENEWALD: Madam, before I move off from this forceful placement of patients, I am going to put Mrs Noyile's testimony to you exactly. She said:

"She told us."

Now that is you:

"She told us there is another NGO that is coming that is going to take over two wards. The capacity of the wards is 25 patients. At that time we only occupied three wards, which was we had 73 patients, and then she came and literally moved the patients herself from the wards, from one of the wards to pack patients in one ward. We ended up having around 52 patients in a ward of 25. So that is an example I would use of acting aggressively to the staff. She literally pushed the patients."

Now do you admit or deny this conduct as testified by Mrs Noyile?

DR. MANAMELA: As for pushing the patient, placing the patient I was there and Mrs Noyile's team and my NGO placement team and we, we assisted each other. But as for the number I think I should give you what were the numbers on that day and also to explain to you that there was a nursing station which for the NGO cannot be used as the nursing ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: You can give us the correct numbers.

DR. MANAMELA: Okay.

ARBITRATOR JUSTICE MOSENEKE: Let us move on please.

DR. MANAMELA: I am checking it.

ARBITRATOR JUSTICE MOSENEKE: Yes. According to your version ...

5[interjects]

DR. MANAMELA: If I think very well, I think I will find it here. There was five patients who went on leave of absence and then by that day, time I think two patients already passed on, and in other wards, if I remember very well as I said I must check, there was one ward with 12 patients and the other ward with 17
10patients where the ward, the patient are already on leave of absence. So we went and checked the two wards and find that the nursing station, that if that renovated place was going to be used as a nurse ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: Can you give us the numbers please Dr Manamela.

15**DR. MANAMELA:** I am ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: Numbers were put to you.

DR. MANAMELA: I am trying to ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: That a ward of 25 had 50 people or so, or 75 patients in two wards. Just respond to that allegation.

20**DR. MANAMELA:** Yes.

ARBITRATOR JUSTICE MOSENEKE: The crisp one and let us go on.

DR. MANAMELA: Okay. Can I just read it, how I wrote it Justice?

ARBITRATOR JUSTICE MOSENEKE: Yes.

DR. MANAMELA: Each ward had 25 bed occupancy which I agree with you
5 Counsel, and each ward reported to have formal nursing station that can
accommodate plus minus six beds. Meaning that 24 beds can still be placed in the
four, in each and every 25 ward beds and the other ward, the Siyabadinga was
using as laundry and throwing things there, and that can make space, as I added 49
beds plus six for those reported to be on ... [inaudible]. Hence 25 beds could still be
10 used. So then the NGO placing team asked me that we can still use that place and
realising these numbers and the type of services provided by NGO that they do not
need a nursing station, I agreed that we can use it and I was there on one of the
day when we were, when we were counting the beds.

ARBITRATOR JUSTICE MOSENEKE: Yes, okay Counsel. Let us move on.

15 **ADV. DIRK GROENEWALD:** Thank you Justice. Madam, I put it to you that your
testimony now just make no sense at all, but let us ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: Just before you leave the instructions
thing I want you to go back to what Counsel put to you which is ELAH9. You have
ELAH9 in front of you?

20 **DR. MANAMELA:** I think so Justice.

ARBITRATOR JUSTICE MOSENEKE: Cullinan Care and Rehabilitation Centre, ELAH9. Yes.

DR. MANAMELA: Yes Justice.

ARBITRATOR JUSTICE MOSENEKE: Can you see from where does that report come? We were told that it is a collective report emanating from the acting CEO of CCRC. Can you see that?

DR. MANAMELA: Yes Justice.

ARBITRATOR JUSTICE MOSENEKE: Very well. Now you are being referred to some parts up to 7 of 25. I ask you to look at 10 of 25. On the right corner of that 10document. Can you see 10 of 25?

DR. MANAMELA: Yes Justice.

ARBITRATOR JUSTICE MOSENEKE: Just above that block of names, could you read that sentence there. The four highlighted MHCUs, from there.

DR. MANAMELA: Yes. I can see it Justice.

15**ARBITRATOR JUSTICE MOSENEKE:** And it ends up with instructed by Dr Manamela.

DR. MANAMELA: Yes, I see it Justice.

ARBITRATOR JUSTICE MOSENEKE: What is your response to that?

DR. MANAMELA: Justice, my response is still the same. It is still the same that I did not instruct anybody. It was as like in the beginning when Siyabadinga, not Siyabadinga ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: Did you ask Cullinan to discharge the 5patients they had listed there to Anchor? That is the allegation there.

DR. MANAMELA: I did not ask them to discharge patient, but I need to qualify that, because Cullinan were in anyway going to discharge the patient to Life Disciples, 100 of them, but when Mrs Noyile only can accommodate 73.

ARBITRATOR JUSTICE MOSENEKE: On whose instructions were they ...
10[interjects]

DR. MANAMELA: It was done through them. The CEO's instruction, because they are the one who knew the patient. I did not know the patient. They were the one who knew which patient will go to Life Disciples, and then when there was the Siyabadinga could not take them all, the CEO was right not to force the Siyabadinga
15to take all of them, and even my team and myself, I said ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: Okay. So this is ... [interjects]

DR. MANAMELA: We cannot take them to Siyabadinga. Let us find another NGO that can use the place that the Siyabadinga cannot use.

ARBITRATOR JUSTICE MOSENEKE: Did you instruct them to do this? They say
20so. It is simple, no you did not.

DR. MANAMELA: I did not instruct.

ARBITRATOR JUSTICE MOSENEKE: So they are untruthful when they put this onto you, right?

DR. MANAMELA: The word instruction, I did not Justice.

ARBITRATOR JUSTICE MOSENEKE: Okay, let us move on.

5**DR. MANAMELA:** I just advised.

ARBITRATOR JUSTICE MOSENEKE: Let us move on. We have very little time in our hands. Look at 12, page 12 of 25. Above that, another sentence. Above that block of names, can you see that?

DR. MANAMELA: Yes Justice.

10**ARBITRATOR JUSTICE MOSENEKE:** Eight highlight MCHU's in the list above were subsequently discharged to Anchor on the instructions of Dr Manamela. On page 12. Can you see that?

DR. MANAMELA: I ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: You did not do that either, did you?

15**DR. MANAMELA:** I did not instruct, but I do not have, my page 12 yes I see it. Eight, I see it here Justice.

ARBITRATOR JUSTICE MOSENEKE: Have you seen it?

DR. MANAMELA: Yes.

ARBITRATOR JUSTICE MOSENEKE: They say you issued those instructions.

20The answer is what, no you did not?

DR. MANAMELA: I did not instruct, just advised.

ARBITRATOR JUSTICE MOSENEKE: Now look at page 14. At the top of page 14 again did they wrongly put this to you? They said Dr Manamela sent correspondence to the institution with information that 30 MHCUs are to be sent for admission at CCRC. Did you send, did you do that?

DR. MANAMELA: I did not send information, because the placing team from there these patient were, were the one who knew how many patients are going to Cullinan and when there were problem it is then that they will contact me.

ARBITRATOR JUSTICE MOSENEKE: So the CEO, acting CEO and the rest of the staff who compiled this, are accusing you wrongly when they say you even sent correspondence telling them that 30 more patients are coming and they better find space for them? Did that happen? No?

DR. MANAMELA: Justice, I did not send them any correspondence, because I was in no position to have time to write at that time. I did not send them any correspondence and you need to remember I was suspended when they compiled this report. I was never even consulted and find out from myself and the new CEO was not even part. The person who wrote this report. It was not what I did Justice.

ARBITRATOR JUSTICE MOSENEKE: So all those instructions, they are many. I just want to show you how many times they say you instructed them to do, to move patients and lastly, according to the law, what are the, who is entitled to discharge a patient? Let us start off with you. Are you entitled to discharge any patient?

DR. MANAMELA: Where I am working and appointed, I am not entitled to discharge patient.

ARBITRATOR JUSTICE MOSENEKE: You are not a clinician in psychiatry.

DR. MANAMELA: If you look at that, I am part of the clinicians in psychiatry, but my function was not at the level of that clinician but at the level of management.

ARBITRATOR JUSTICE MOSENEKE: Yes, unless you are part of an inter disciplinary team, you yourself, you have no power to discharge any patient.

DR. MANAMELA: That is correct.

ARBITRATOR JUSTICE MOSENEKE: Then how did you find it right to issue instructions for people to be discharged in large numbers to arbitrarily. Where is the legal authority for that?

DR. MANAMELA: Justice, these patients were not discharged, but were placed. So I had no legal right to discharge them, but I ensured that before they are placed, they are seen by the medical officers and together with the practitioners including my colleagues who were in my office.

ARBITRATOR JUSTICE MOSENEKE: Mrs Ndlovu says she assessed the patients with no doctor there, to take them to Anchor or Siyabadinga. Was that lawful?

DR. MANAMELA: Justice, that was not because the patient were already assessed ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: That was not lawful, right?

DR. MANAMELA: Yes, they were assessed at Life Esidimeni and Mrs Ndlovu is not reporting to me. I do not know what they were, what was the situation in Cullinan, but what I know she is part of the multi disciplinary team at Cullinan hospital not at Life Esidimeni.

5**ARBITRATOR JUSTICE MOSENEKE:** Counsel.

ADV. DIRK GROENEWALD: Thank you Justice. Madam, I am going to take that point further. You say that you never gave instruction that 38 patients should be discharged from CCRC to Anchor.

DR. MANAMELA: No.

10**ADV. DIRK GROENEWALD:** No.

DR. MANAMELA: Anchor was one of the NGO planned to place the patient, not to discharge.

ADV. DIRK GROENEWALD: Do you know Mrs Manaka?

DR. MANAMELA: That is correct, I know her.

15**ADV. DIRK GROENEWALD:** During cross-examination we asked Mrs Manaka how did they go about in discharging patients from CCRC to Siyabadinga and Anchor. Are you still persisting with your testimony that you had no interaction or you issued no instructions in respect of the discharge of the patients from CCRC to Anchor or Siyabadinga?

20**DR. MANAMELA:** I said the patient that went from CCRC to Anchor.

ADV. DIRK GROENEWALD: Yes.

DR. MANAMELA: I was called and I gave advice and I did not have any objection, but I did not instruct, because I did not see the condition of the patient.

ADV. DIRK GROENEWALD: Now madam, Justice it is the testimony of Mrs Manaka. It is the 15th of November. It is from pages 120. Now we asked her how 5did they go about in discharging the patients. Now this is what she testified, and this is specific 38 patients that she said was discharged to Anchor. She says:

“I am not denying Counsel. I want you to understand what I understood when I was giving my answers. The batches that went before the doctor was there, if she did not write I would not say why. I do not know why she did not write, but I was 10speaking in terms of we did not have a doctor. It is for the last batch that came in, because it came in the doctor was not there, and there were more patients than we can accommodate and that is where now the CEO, Dr Manamela said check those that appear to be stable and check with the NGO’s to take them so that you accommodate all the patients that came in on the 23rd. Those are the ones that I 15am talking about.”

She testified here, she said:

“There came a point in time where there was not enough space for the patients. There was not a doctor to discharge the patients from CCRC to Anchor. They phoned you. You said well, go and look at who appears to be stable and check is 20there is space at the NGO and just move them over to the NGO.”

That was her testimony. Now is she not telling the truth or are you not telling the truth?

DR. MANAMELA: Counsel, the patient was planned to go and accommodate, be accommodated in the place where Anchor was but by different NGO. So there was no need for me to give instruction. The NGO team were there and this, the CEO was still there who was very much aware that Siyabadinga only took 73 patient. So there was no need to give instructions. Lastly, these patients were assessed from Life Esidimeni by the doctor. The one that the CCRC assessed, it is their policy how they assess them. It is not, I will not say they were assessed and seen by doctors at Life, but I ensured at my capacity as the director to ensure that every patient will be assessed by a doctor before they are sent to CCRC, Weskoppies or 10 NGO's.

ARBITRATOR JUSTICE MOSENEKE: Did you instruct that they be moved to the NGO and they must look around and see who might look stable?

DR. MANAMELA: Justice, I did not instruct. The team that were there... [interjects]

15 **ARBITRATOR JUSTICE MOSENEKE:** Did you tell them to look around and see who might be stable?

DR. MANAMELA: I did not even speak to Manaka at that time. I was speaking to the NGO manager. So I do not know if what ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: Again it is Mrs Hanna Jacobs ... [interjects]

20 **DR. MANAMELA:** Mrs Hanna Jacobs was communicating with me, it is true, but I knew that when they plan, when we plan that Anchor will accommodate patient in

other wards. There will be patients that are suitable around the patient that are in CCRC. If they are not from CCRC ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: Did you instruct that the people should be discharged who looked stable and move to Anchor?

5**DR. MANAMELA:** I did not instruct that people should be discharged who looks stable, because the CCRC CEO has already reported that there are 100 patients who will be moving to the building that was renovated. So I did not know the patient's name at that time and I did not know what team, which team assessed the patient, but when they told me that because of the issue of Siyabadinga we have 10got Anchor, that one I agreed. I said okay, it is fine, but I did not give an instruction that you must do whether you assess or not. I did not do that Justice.

ADV. DIRK GROENEWALD: Madam, I put it to you that you issued licences to NGO's well knowing that those institutions, NGO's, were not capable of caring for the loved ones of these family members.

15**DR. MANAMELA:** Through you Counsel, I think I am answering to your question, and I have sensed that there is a ... [inaudible] of family members that they should be angry continuously towards me, and I believe I need protection for that, but my worry is that the steering of Anchor towards me might put my life and that of my family in danger. That I must record.

20**ARBITRATOR JUSTICE MOSENEKE:** I think you should talk to me.

DR. MANAMELA: Then I talk to, yes.

ARBITRATOR JUSTICE MOSENEKE: You should talk to me. I am here to make sure you are protected and you do your, what you have to do is to give evidence, and I ask all of you again please you must give the witness an opportunity to testify. That is what she is here for. I understand how you feel, but you still have to show
5that respect, please. Yes, can we get an answer?

DR. MANAMELA: Counsel, my apology. Can I get the question again? It is like I missed the mark. I am sorry Justice.

ARBITRATOR JUSTICE MOSENEKE: Yes.

ADV. DIRK GROENEWALD: Madam, I put it to you that you issued licences to
10NGO's that you knew were not capable of caring and looking after the loved ones of these family members sitting behind me.

DR. MANAMELA: Thank you Counsel. I, at the time that I issued the licences, the NGO's were eligible to be able to take care of the patients. That is what I can say. I did not know at that time that they will have challenges that at the end they will not
15be capable of taking care of the patients, because I was basing all the issue on the reports that I was given.

ARBITRATOR JUSTICE MOSENEKE: And again it is Mrs Hanna Jacobus who gave you those reports that all was fine, that Siyabadinga was fine, Anchor fine, is that right?

20**DR. MANAMELA:** Siyabadinga was not fine Justice, because for Siyabadinga the only fine thing was the ward. The NGO that we knew ill occupy Siyabadinga ...
[interjects]

ARBITRATOR JUSTICE MOSENEKE: We were talking about issuing licences.

DR. MANAMELA: Ja, I am saying I did not issue any licence to Siyabadinga, but I did to Anchor, so I will not say it is Mrs Jacobus.

ARBITRATOR JUSTICE MOSENEKE: Did she say to you it is fine to issue a licence to Anchor?

DR. MANAMELA: The team that assessed, including the engineer, after that she wrote a report and I signed.

ARBITRATOR JUSTICE MOSENEKE: She. Who is she?

DR. MANAMELA: Mrs Jacobus. She did not assess alone. It was Mrs Jacobus and Mr Thobani who were working to look at final touches of the NGO. So when they wrote a report and say Anchor is ready, I signed the licence for Anchor.

ARBITRATOR JUSTICE MOSENEKE: You could have said yes, you followed recommendation of Mrs Jacobus. Where is she?

DR. MANAMELA: She is in the office like I said.

15 **ARBITRATOR JUSTICE MOSENEKE:** Okay, okay we will find her. We will find her. Counsel.

ADV. DIRK GROENEWALD: Thank you Justice. Now madam, and I put it to you that you dictated where these patients should be transferred to. That you had no proper plan to do so.

20 **DR. MANAMELA:** No Counsel, I did not dictate. We looked at the condition of the patient. After they had been assessed by the doctor, those who were like the three

that Siyabadinga manager was talking about, I did not dictate anybody. Like it is not lawful to dictate any NGO to take mental health care patients who are responsibility of the state. Only those who were willing were given the patients.

ARBITRATOR JUSTICE MOSENEKE: And what about the patients? Did you ever ask anybody or their families may we? Have you ever asked any of their families we want to do this, may we?

DR. MANAMELA: Yes Justice. In the meeting that we had with the families, we asked them, I even develop a one page research, research for me to understand which family can be able to take patients if they are discharged with family can let us take the patient to the NGO, and that document I believe it is there and also included in the final report.

ARBITRATOR JUSTICE MOSENEKE: And the families who managed to attend the meeting with you and the MEC, said no.

DR. MANAMELA: That is correct Counsel.

15 **ARBITRATOR JUSTICE MOSENEKE:** And none the less you went ahead.

DR. MANAMELA: That is correct, because it was not my call to make.

ARBITRATOR JUSTICE MOSENEKE: Why did their views not matter?

DR. MANAMELA: Justice, I do not think I will be able, I am the right person to answer that, because of my level of function at that time.

20 **ARBITRATOR JUSTICE MOSENEKE:** Who is the right person to answer?

DR. MANAMELA: The MEC and the HOD, they can help you why they did not stop that.

ARBITRATOR JUSTICE MOSENEKE: The families say to you no, please no in meetings, in protest marches, in memoranda. You go ahead none the less and you say repeat those who would be able to answer that responsibly?

DR. MANAMELA: I said ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: Who will tell us why they ignored the families?

DR. MANAMELA: I said I was not in a position to say we terminate the contract. The people above me were in a position to say that.

ARBITRATOR JUSTICE MOSENEKE: Just put their names on record?

DR. MANAMELA: I was reporting to the deputy, to the project manager. There was also deputy director clinical services, the HOD and the MEC.

ARBITRATOR JUSTICE MOSENEKE: And they are the ones who could have said we have heard you families and we are not going on.

DR. MANAMELA: I believe so. I might be, I believe so because they had the power.

ARBITRATOR JUSTICE MOSENEKE: Okay, but why did you none the less proceed, knowing that the families do not want the marathon project to go on? I mean you. Why did you none the less proceed?

DR. MANAMELA: Okay. As I said we were planning. The plan was not to plan that people will pass on, but I look ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: I am not talking about dying here.

DR. MANAMELA: Okay.

5**ARBITRATOR JUSTICE MOSENEKE:** I know that is ... [inaudible]. Why did you ... [interjects]

DR. MANAMELA: Because ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: None the less go ahead against the wishes of the family members of the loved ones?

10**DR. MANAMELA:** There were two reasons. First one I was carrying the instruction of my seniors. Secondly, which is very important, I did check whether I am covered by the acts and policies of the department, including service level agreement. So if I found that this were not covering me, I would have written to the leadership to say I am not going to carry on.

15**ARBITRATOR JUSTICE MOSENEKE:** Now we know that you have, 90 percent almost of these requirements you did not comply with when you issued the licences. Why did you go ahead? I still want to know that. Why did you, forget about your superiors for a moment. Did you do it only because they instructed you or you wanted to do it?

20**DR. MANAMELA:** Justice, I was instructed and again it was within the law and the third one is that the project team, no one in the meeting that I attended said it must

stop. So there was nowhere I will deny the legal instruction that I think myself I will not be able to stand and clarify to the judge today.

ARBITRATOR JUSTICE MOSENEKE: Sure. Let us leave out the families who clearly you ignored. You and your command structure. Why did you ignore years 5of psychiatry within your own hospitals, who worked for the state and who warned that this could be very disastrous for the patients. Why did you ignore them?

DR. MANAMELA: Justice, although I just did not ignore them, but they wrote a letter to me that was sent to the leadership. They were called and appointed as the project team members and in the meetings that I sit with them, no one indicated to 10te leadership that it cannot be a success or they do not buy in.

ARBITRATOR JUSTICE MOSENEKE: No, but they have already written a letter, joint letter all of them to say do not do it.

DR. MANAMELA: But after ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: I am asking you at that point why did you 15listen to them.

DR. MANAMELA: Okay. I took that to the leadership and the leadership called them for a meeting and in that meeting no one presented that it must be stopped. So that is why I could not just on my own say I must stop it. No one, they were there. They were called, the good doctors if I can say in the meeting and they never 20advised that this must stop.

ARBITRATOR JUSTICE MOSENEKE: Why did you ignore the South African Society of Psychiatrists? They wrote and warned and said awful consequences might ensue. Why did you ignore them?

DR. MANAMELA: Justice, they were also part of our meeting. We were sharing same sentiments at some area, but I could not have power. I still do not have power to should have say we terminate. That is why I asked them also to say can we also involve the leadership, maybe they will listen to you.

ARBITRATOR JUSTICE MOSENEKE: And when the cases came to court, why did you fight back and even attest affidavits, fighting the cases brought by the same entities who had warned of this risk what was inevitable?

DR. MANAMELA: When the case was brought to court, we were not yet starting with the placement. It was just discharge that SADAC reported that Life Esidimeni told them that there will be a lot of patient were going out. So we did not start with placement. Maybe if that time the court would have said stop the placement, we should have stopped, but I could not say we are stopping, because at that time it was the normal discharge that Life Esidimeni has been doing throughout the years. So I did not lie to the court by attaching my affidavit.

ARBITRATOR JUSTICE MOSENEKE: Counsel.

ADV. DIRK GROENEWALD: Thank you very much Justice. We have no further questions for the witness.

ARBITRATOR JUSTICE MOSENEKE: Thank you. We are going to take the lunch adjournment now up to two thirty. When we come back there will be

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questions put to you by Counsel for the province, for the state. So I ask you and I warn you to be back here at two thirty to take further questions under cross-examination. We are adjourned.

27 November 2017

SESSION 3

ARBITRATOR, JUSTICE MOSENEKE: Thank you. Thank you. You may be seated. Dr Manamela, you are still under oath. Counsel for the State.

5**ADV. TEBOGO HUTAMO:** Thank you Justice. Dr Manamela, good afternoon.

DR MAKGABO JOHANNA MANAMELA: Afternoon Counsel.

ADV. TEBOGO HUTAMO: We have really spent quite some time listening to your evidence and there has been quite a lot of questions that has been put to you, which you offered answers. Unfortunately we will not repeat most of those 10questions which have already been posed to you. Our questions will really be limited and if you can just confine yourself to the questions, we'll be able to get through. What I just want to find out from you is, at the time the project was implemented and when you issued the licenses to the various NGOs, did you anticipate death occurring to those mental health care users to be transferred to 15those NGOs?

DR MAKGABO JOHANNA MANAMELA: No Counsel.

ADV. TEBOGO HUTAMO: From the report of the Health Ombud and from what we have heard before these proceedings, it has come out that subsequent to the implementation of the project and the transfer of the mental health care users, there 20has been a number of users who unfortunately passed away. I take it that you have heard of that.

DR MAKGABO JOHANNA MANAMELA: That is correct Counsel.

ADV. TEBOGO HUTAMO: Do you have any regret to the loss of lives in respect of those mental health care users?

DR MAKGABO JOHANNA MANAMELA: Yes Counsel.

5**ADV. TEBOGO HUTAMO:** And if you look back at how the project was implemented and with a bit of hindsight regarding to the testimonies that have been led before these proceedings, what do you think could have contributed to the loss of life?

DR MAKGABO JOHANNA MANAMELA: When I look at what has taken place, I
10realise that firstly the patients that were placed from Life Esidimeni were placed there with no supply of medication that was supposed to – that is number 1. That made a delay for our doctors in the province to find the medication. The second thing on medication was the polypharmacy that Life Esidimeni was practicing, you'll find one patient on six to seven medication. And on top of that polypharmacy we
15were not given the records, the records that will indicate that patient so and so might have suffered this type of side effect, so we didn't know about that. the second thing was that the records that will indicate to us that a patient for example, a patient on a treatment called lithium therapy, you need to continuously take blood levels, no blood level report was given to us. So we just had patients without
20knowing what is it that they had undergone when they were at Life Esidimeni. And the other thing, the condition in which we received them back from Life Esidimeni does not guarantee that after the notice of termination, the situation at Life was still

as it was before the notice of termination and that might also have contributed to the lower response of patient to the support of the NGOs and hospital. I am saying this because patients didn't just die in the NGOs, they also died in the hospitals. And again also I will say when we took patients with mental disability they are also coupled with physical disability. And that alone, physical disability is a concern, because people with physical disability, apart from mental disability, they've got challenges, physically because of the structure of their body and that would have needed more of the staff. And the other thing is that the issue of finances, although we tried to help, but the finances should have been ready by the right time and that decision, as it was taken, we should have had the finances. And also the support of the family, we needed the support of the family as well. Because if people left home with problems or like some of our mentally ill patients will have destroyed and become aggressive, we should have ensured that the families are well trained, those who took the patients back, so that they will be able to manage them at home.

15 **ADV. TEBOGO HUTAMO:** Okay. Thank you. Is that all that you think have led to the unfortunate death of these mental health care users.

DR MAKGABO JOHANNA MANAMELA: It is just some of the contributory factors, I will not say they just led, only all, because the support is also very important, as the whole process was not properly supported, even from government within. It was an issue, because we knew that as we terminate, Life was going to lose their funds that we have been sending to them. And then we also knew that some of our team who used to explore in providing services in Life Esidimeni, they will lose that benefit as well. And as a result the support that we needed was not really rallied as

we may look at. And again the NGOs as well, when a call was made, some NGOs that were new and presented to us what they can offer and we thought some of the staff at that time, although we knew that we didn't have enough funds, we didn't pay them in time, but we hoped that the NGOs should have acted as the legal entity to respond quickly, if they didn't respond quickly to our patients who were sick, to send them to the clinic. And also in the clinic and the hospital, the whole support that we were looking for, it was like a difficult endeavour that we were trying. Because when the NGOs were visiting the places in some clinics and hospitals, they were not properly supported. And also, as much as I regret for the death, like maybe if there was a call and all the toi-tois and the rest, maybe although it was extended by three months, maybe another three months should have helped. But all in all the Department never planned that anyone should lose his life. And it was a whole process of pain to most of us who were working with these patients.

ADV. TEBOGO HUTAMO: Thank you. But having given an account of the factors that you say they have contributed, do you have any remorse to the deaths of these mental health care users who were affected by the transfers from Life Esidimeni?

DR MAKGABO JOHANNA MANAMELA: Yes Counsel, it was so painful for me to learn, even of the first death. In the Department and where I am working, one death is one death too much. So it was a very strenuous and painful words or news to know of even one first patient that died. And I really feel I was so saddened, I don't know how I can explain that and the pain that the family also undergo because of the process.

ADV. TEBOGO HUTAMO: We know now that people in attendance in these proceedings, they are family members of those who were affected by the implementation of the project and what can you say to these family members with regard to the loss of lives of their loved ones?

5**DR MAKGABO JOHANNA MANAMELA:** You know, to the family members, I will say to them I regret that their loved ones passed and I am saddened and I feel that I am so sorry for their loss – that is what I can say. And they are never alone in that although we know that the pain will hit the family more than any other person. But that was very-very painful news to learn. And I want to say I will appreciate if the
10family can really find closure in this, if possible, with them.

ADV. TEBOGO HUTAMO: Thank you Dr Manamela. Justice ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: But closure comes from hearing the truth, does it not? Just (inaudible) situation where you lost a family member, what would you most want to hear?

15**DR MAKGABO JOHANNA MANAMELA:** Justice, I will want to hear what happened and what was the condition, what should have been done to prevent, if possible, and what... yes, what should have been done. I think I would want to know the condition that led to the loss and what should have been done to prevent that.

20**ARBITRATOR, JUSTICE MOSENEKE:** Yes.

DR MAKGABO JOHANNA MANAMELA: And the people, also the truth about the whole issue.

ARBITRATOR, JUSTICE MOSENEKE: Yes, particularly the truth from those who should know the truth, is it not so?

DR MAKGABO JOHANNA MANAMELA: That's correct Justice.

ARBITRATOR, JUSTICE MOSENEKE: In other words those with power and who have access to the knowledge and to the truth. Do you think you've done well on this score in the four days that you were talking to the families and to me?

DR MAKGABO JOHANNA MANAMELA: I think I have done well, because I gave what I know. Sometimes what we know may not be what people expect. But from the point where I am, supported with the evidence that I have, which was not asking to this... I did my best to answer the question according to how I know them and also ask to give some further discussion or explanation, so that the team here and the family will know what actually took place. So I tried my best.

ARBITRATOR, JUSTICE MOSENEKE: Because when one says I am remorseful or I regret what happened, isn't it necessary that one then identifies the harmful things that one apologises for?

DR MAKGABO JOHANNA MANAMELA: That is correct, Justice.

ARBITRATOR, JUSTICE MOSENEKE: For instance, there are family members here whose loved ones were at Siyabadinga. Shouldn't it be you in your authority to say yes indeed the conditions at Siyabadinga were not ideal for psychiatric care? Shouldn't it be you who leads that charge who says it to them, I acknowledge that the conditions at Siyabadinga were not proper for psychiatric care?

DR MAKGABO JOHANNA MANAMELA: That is correct, Justice. I think I also said that.

ARBITRATOR, JUSTICE MOSENEKE: Shouldn't you go on and say yes, I acknowledge that the conditions at Anchor were not, according to your knowledge professionally and your position executive wise, were not what they should have been when their loved ones were there and they lost their lives? Shouldn't you have at least said that to them?

DR MAKGABO JOHANNA MANAMELA: It might have been missed, Justice, because I said although at the beginning when we were giving license, things looked so well. I even mentioned the word that the test is in the pudding. When the patients were there, not only in the two, in Anchor and maybe Siyabadinga, but we realised that things are not as it was presented at the beginning, I mentioned that. And that also, Justice, it really pained me, because at that time, when we issued them with the authority to take care of the patients, as the legal entity acting on their own, things were seeming so okay. But thereafter I indicated that those challenges were emerging and emerging and emerging and it never fare me very well.

ARBITRATOR, JUSTICE MOSENEKE: Yes but without being defensive, shouldn't you as a bare minimum, Dr Manamela, as a bare minimum to say to those that are paining, I thought Takalani was okay, but in fact from all the evidence I have heard, it was not appropriate to take care of the mental health care users moved from Life Esidimeni? Shouldn't they hear that from you who were in charge of the project?

DR MAKGABO JOHANNA MANAMELA: That is correct.

ARBITRATOR, JUSTICE MOSENEKE: Will you say it with your own lips to them?

Will you say it?

DR MAKGABO JOHANNA MANAMELA: Yes, Justice, I can say it that in some of the NGOs that we believed or based on the report that was given to me, the NGOs were suitable at that time, but later we found that there were challenges and that made me to feel saddened and I regret that at the end we found that the NGOs, some of them were not as we planned and advised what needs to be happening. And I was really saddened and I know the families who found whatever they found what they testified about, they will also be in a very heartfelt situation. And I feel that it is not what we wanted to see and we feel that it was very much painful for the family. And we feel as the Department that, I feel from my unit that that should not have happened, it has not happened in the past and we'll try that it shouldn't happen again.

ARBITRATOR, JUSTICE MOSENEKE: Let's go to another area that caused a lot of pain in this hearing. You know all about last offices of deceased loved ones, isn't it so?

DR MAKGABO JOHANNA MANAMELA: That is correct, Justice.

ARBITRATOR, JUSTICE MOSENEKE: And in your profession as a nurse, you were trained on how to give due respect to a deceased patient.

DR MAKGABO JOHANNA MANAMELA: That is correct, Justice.

ARBITRATOR, JUSTICE MOSENEKE: Do you think your unit paid due respect to the deceased who came out of this project?

DR MAKGABO JOHANNA MANAMELA: Justice, it can be both ways, but I know for sure where there are professional nurses like in our Cullinan, the last offices should or must have done properly, if it is not, the area that hurt so much was for informing the family while the last offices procedure has been done properly and then the family were not informed properly and that is really regrettable, Justice.

ARBITRATOR, JUSTICE MOSENEKE: But you heard the evidence. I know you've been following the evidence, you told us so. Those bodies were not handled with dignity and I want to hear you as a leader acknowledge that and apologise for that. How could bodies from Precious Angel, undressed, in large quantities, be placed in a walk-in cooler or freezer of a butchery? Now we passed the death, death has happened in ways that we heard about, why was the Department not there to intervene as people died and try and give them last offices, give them the final respect and left it to these NGOs under resourced, no money, no training, no professional ability to deal with corpses? What do you want to say about that?

DR MAKGABO JOHANNA MANAMELA: That is regrettable, Justice, and it is just so much painful, because the NGOs as they were busy with the last offices, the Department will only be informed later. And hearing that horrible state that was said, it is not something that any person will take in so easily, it is really regrettable.

ARBITRATOR, JUSTICE MOSENEKE: Yes particularly your department sent them there and they go and die there at NGOs and you are not there to help the NGOs to deal with the victims of the Marathon Project. I mean I would like to hear you tell these family members what you think about that and whether you had a role to ensure that there are proper last offices.

DR MAKGABO JOHANNA MANAMELA: Justice, our role was that when the patients were sick, we never planned or anticipated that the patients should die in the NGO, because we gave the list of the clinics and the hospital. We were under the impression that they will take the patient to the nearest hospital according to severity of illness and they will pass on there, if they have to pass on there, and there will be the process of last offices and informing the families, will be dealt with properly with the hospital, not in the clinic. That is why I say it was really regrettable of those who were managed by the NGO at their last offices.

ARBITRATOR, JUSTICE MOSENEKE: What about those who were at Cullinan with a mortuary that did not work properly and the decomposition occurred that is under your authority?

DR MAKGABO JOHANNA MANAMELA: Although those who are in Cullinan were under seahorse (?) authority, as we were not interfering as such, but there is a policy in the Department, if I still remember, that when your mortuary is full, you can maybe send the patient to government mortuary, you cannot pile the patients. Because at the end of the day we must bury these patients in a very dignified way. So the Cullinan ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: Yes, but are you prepared to tell the family members that you heard the evidence, it is unacceptable, and you apologise for that?

DR MAKGABO JOHANNA MANAMELA: That was very much unacceptable and I feel from my unit we really, we really not happy about the situation and we

apologise that if you found your family member in that area, that was not one of the plans of the Department, it is really regrettable.

ARBITRATOR, JUSTICE MOSENEKE: You know, Dr Manamela, the evidence here indicates that several bodies were in the mortuary for months, weeks to 5months. Is that ideal? Is that... part of the people that you transferred from Esidimeni. And when Dr Kenoshi testified there was still at least one body which had not been identified. Is that ideal? Is that helpful to these loved ones and respectful to the deceased?

DR MAKGABO JOHANNA MANAMELA: It is not Counsel, it is not. The 10challenge of some not having families and found the addresses in time, contributed to that. But that cannot make it to be okay, it was not.

ARBITRATOR, JUSTICE MOSENEKE: And after all said and done, who do you think should be held accountable from what you've just described variously as not okay? Who should be held accountable?

15**DR MAKGABO JOHANNA MANAMELA:** Justice, accountability and responsibility, they are two interchangeable statements. And I will say, I don't know if I can clarify a few points for this ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: Yes.

DR MAKGABO JOHANNA MANAMELA: I will say firstly on Friday in these 20proceedings it was said there is some legal regulations and act that says I need to be given the delegation letter, which I haven't come across it, because the act was silent. If that is how it is then I will take the accountability for those licenses. But as

for now I haven't had that. But based on what my team has given me that put me to say if they gave me the right or the wrong information, I can be accountable for what they have given me. The second one is that on the basis of all these team members, the project team members, including the DDs in my office and myself and 5 project manager who went out and evaluated the places, although not all, including some of the SASOP doctors who went with us, we have to take responsibility for what we put, although we put that that at that time it was legible but later things happened. So that is one of the areas that we should have looked at. But I will say the whole team will have to take that responsibility, the whole team that visited the 10 areas will not be dismissed away from that. And my, the leadership of the project, the leadership of this project will also be accountable. But they didn't go with us and we didn't go to each and every one.

ARBITRATOR, JUSTICE MOSENEKE: Why would the leadership be accountable if they didn't go out ...intervened.

15 **DR MAKGABO JOHANNA MANAMELA:** It is the same thing like ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: To the operations on the ground.

DR MAKGABO JOHANNA MANAMELA: Isn't it that when you are a leader you deliver through people?

ARBITRATOR, JUSTICE MOSENEKE: Yes.

20 **DR MAKGABO JOHANNA MANAMELA:** And what people are providing, it is their responsibility, but the accountability still coming back to you – so that is the reason I am saying that.

ARBITRATOR, JUSTICE MOSENEKE: And which of the leaders do you think should be held accountable, starting with you, who are they?

DR MAKGABO JOHANNA MANAMELA: There are specific areas that the leader will take responsibility, that is what I wanted just to list to the Justice and the team
5here.

ARBITRATOR, JUSTICE MOSENEKE: Yes.

DR MAKGABO JOHANNA MANAMELA: I dealt with the license and the assessment of those licenses, but with assessment of those licenses, all these people including engineers, at the end of the day the accountability came to my unit,
10because we signed, I signed the license. But the responsibility is with everyone who went out to look at the area where we are going to send the patients, including SASOP doctors and our own doctors. And the second thing is that the action that led to patients' death, without questioning them and you know without questioning anything about the death, because death is death, we cannot justify that. And
15everyone who took action towards that, will be responsible, especially the people who will be given care. For example if he is in the hospital, the ward, those people will be responsible, but the CEO accountable. The NGO will be responsible if they are found to be following wrong processes. But as the province, my unit will take that accountability together with the district. And there was also the issue of
20financial issues, financial challenges, where we found that there were also NGOs that also contributed, because they took their service level agreement home and brought it back late. And with that one they will also be taking responsibility for sending them late, while the district and ourselves in the head office, taking

accountability for not paying them in time and that is something that if this project will ever be repeated, should not be overlooked or under looked as such. And it also, something that I want to bring to you, Justice, although I mentioned death is death and it is one death too much, but there were, at the moment where I am sitting I have been suspended, I don't know the progress in terms of the post mortem and issues. But looking at this, the refusal of 30 days' treatment by Life Esidimeni, cannot be undermined.

ARBITRATOR, JUSTICE MOSENEKE: Who should have ensured that there were post mortems made after the patients that you have placed had died?

10 **DR MAKGABO JOHANNA MANAMELA:** We have got the DDG that was working with them, it is in the government mortuary, but that government mortuary is not falling within us.

ARBITRATOR, JUSTICE MOSENEKE: The DDG, just give us the name.

DR MAKGABO JOHANNA MANAMELA: The DDG Lebeta was working towards
15 that. So, however, Justice ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: And you think your unit did their work in order to procure the post mortem reports?

DR MAKGABO JOHANNA MANAMELA: That function does not fall within my unit.

ARBITRATOR, JUSTICE MOSENEKE: Ja, but once you placed the people and they died, didn't you have responsibility to follow up and make sure that there are post mortem reports?

DR MAKGABO JOHANNA MANAMELA: We followed it up and it was reported that Dr Lebete will handle it, because he was in the past the leader for government mortuary, for forensic. So that forensic part does not fall within my unit. But following it up, if I was still in the department, we were following it up. That's why some of the family, I went and I asked them that let us do the post mortem.

ARBITRATOR, JUSTICE MOSENEKE: So you didn't think the families died of natural courses, did you?

DR MAKGABO JOHANNA MANAMELA: I cannot say I didn't think or I think, but in the health profession, we know which patients are automatically classified of natural and not died of natural. But because of this process, we felt that let's find out what actually happened with these patients. Because there were a lot of variables that needed to be conceptualise for us to find out what did actually happen to these patients. Because I will say this, Justice, because at that time, even at Life Esidimeni patients were still passing on and we never let them go just like that. We did the same thing that we were doing when they were passing on at Life Esidimeni. So we wanted also to do it as ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: And why didn't you do it here? Of the 143, if my memory serves me well, post mortems are quite limited, about only a third of

them or even slightly less than a third. Why didn't you ensure that the post mortems in relation to every body, deceased body as you did in Life Esidimeni?

DR MAKGABO JOHANNA MANAMELA: Justice, in Life Esidimeni also it was not done to every body, but with this process ...intervened.

5**ARBITRATOR, JUSTICE MOSENEKE:** But why didn't you do it here in this case?

DR MAKGABO JOHANNA MANAMELA: We recommended ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: You started a project, it was going wrong, people were dying. Why didn't you make sure that there were post mortem reports?

DR MAKGABO JOHANNA MANAMELA: We recommended that we made sure
10that the post mortem is done.

ARBITRATOR, JUSTICE MOSENEKE: Who are we and recommended to who?

DR MAKGABO JOHANNA MANAMELA: Myself and the project team, and the project leader, we asked that and it was said that Dr Lebete will handle that, because it is falling outside my responsibility at that level. So we were... by the time
15we left we knew there were patients whose body were taken for autopsy. But because I left, I am not having any information at how far the Department is at the moment. What I can say here is ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: No, I am talking about when you were there, ma'am. People have died, you heard, in March, in April, in May, in June, in
20July, in August, in September, in October, when the Ombud came in to... In that

period why didn't you secure post mortem reports for everybody who died in these circumstances?

DR MAKGABO JOHANNA MANAMELA: Okay Justice. Post mortem report under normal circumstances is being recommended by the doctor who saw the patient and they know which areas they must recommend for post mortem and it is not done in the department, it is done in the forensic section and the police also have to be involved. So as a result of our project, when we saw that we do have a lot of patients passing on, we wanted to know what actually took place and that is when it was handled in that fashion.

10 **ARBITRATOR, JUSTICE MOSENEKE:** But why didn't you take active steps if you wanted to know what happened, to make sure that there is a post mortem in every case – that's my real question?

DR MAKGABO JOHANNA MANAMELA: Like I said, Justice, it is not within my delegated duty, even if we talked about it. Because when we were asked that if... 15 you know there are areas where there is a must and even the police will not ask you about that. And now when you need the post mortem where it was saying it is a natural death, there should be an explanation. That is why it was handled by a person at a higher level.

ARBITRATOR, JUSTICE MOSENEKE: And so we must ask Dr Lebetse about all 20 this. I thought we were making progress about apologising to the families, the regrettable things that happened here out of the Marathon Project. In any event, do

you think anybody should be charged criminally for what has happened in these deaths?

DR MAKGABO JOHANNA MANAMELA: Justice, this project was managed by a lot of team members, so I may not be able to make that decision to say, or 5 recommendation that I think... I think from the autopsy and what you gathered, a decision can still be made, but I am not in a position to say so and so must be charged.

ARBITRATOR, JUSTICE MOSENEKE: If you were the HOD currently, who would you hold to account? Who would you charge? Let's start first internally, 10 disciplinarily, who would you hold accountable for the things that went wrong and led to the deaths?

DR MAKGABO JOHANNA MANAMELA: I think the first thing will be to investigate on what went wrong. Because without such evidence, it was going to be difficult for me if I was the HOD to say so and so must be charged. I will have to let the 15 investigation take place and look at the report and then I can decide after that.

ARBITRATOR, JUSTICE MOSENEKE: Knowing what you know now, who would you charge?

DR MAKGABO JOHANNA MANAMELA: The challenge of knowing what I know now, Justice, is that from these proceedings, many people said a lot of things, 20 documents were read, and there are specific people who were implicated. And when those people, for example I'll talk for myself, from what I have heard here, there were a lot of areas where I was implicated. And when I wanted to present the

truth that I knew, it was not something that was accepted by the Counsel and the Justice in most of the time. It was like I am bringing new stories. But I don't know, Justice, but I will say if the South African law is as great as we know, it will come out with the relevant people who should be charged. Because I came here asking for records so that I can prepare. Some of the records I was just referred from this, and I was treated most of the time like the accused – that's my feeling, but I felt that way that I am already being accused. And that to me, Justice, didn't fare me well. That is why I am saying the law should just take its course and whatever the law will say, I believe everyone will abide by the law. The only problem and challenge is that we have lost people, but let the law take its course.

ARBITRATOR, JUSTICE MOSENEKE: What equitable redress do you think the families of the deceased and the survivors are entitled or should be given? That is my work ultimately, if you don't know, it is not a criminal hearing, it is an arbitration hearing. So I am asking for your guidance. What form of redress do you think the families are entitled to?

DR MAKGABO JOHANNA MANAMELA: Justice, I think the family – it is what I am thinking, I may not be right.

ARBITRATOR, JUSTICE MOSENEKE: Yes, no, I am asking for your opinion.

DR MAKGABO JOHANNA MANAMELA: My opinion will be there are several things that can be managed to assist the family.

ARBITRATOR, JUSTICE MOSENEKE: Yes, what are they?

DR MAKGABO JOHANNA MANAMELA: The first thing, I think you started with the first step to find closure. The second thing can be taking the family by hand and exposing them for counselling and support. And the other thing that can be done is the family therapy where specific families, according to how they cope with the loss of their loved one, can be taken as a group and be exposed to family therapy. And then – I will just give you what I am thinking.

ARBITRATOR, JUSTICE MOSENEKE: Sure.

DR MAKGABO JOHANNA MANAMELA: If maybe, I am not quite sure, some of the things, if there is any way that you can compensate the family from the funds and support that they used during the burial, that one also I will say is something that you can do to support the family. And again also to say much more that is needed will be to have the families together with all the community to understand what is mental health, what are the challenges in mental health and how can the Department or how should the community or the country support the families, even those who are not families. Because some of our patients that died and some who committed suicide, they were not supported by the mere community, we know. So that the whole community also should be supported. We understand like we worked so hard when we struck by HIV and no one is now, you know, against that. But with mental health there is still a stigma. Mental patients passing there, people who laugh at them or the family is passing there, they will say this family of people who are mentally ill. You know in our vernacular language it is very hurting. So I will say that can be one of the things that the mental health services in the community are strengthened to reach and every community member.

ARBITRATOR, JUSTICE MOSENEKE: There is one thing... you said nothing about apology, you've mentioned many things but you haven't mentioned apology.

DR MAKGABO JOHANNA MANAMELA: I thought I mentioned it before, but it is okay, the apology that we have been doing throughout, that is very critical, Justice, 5that there should be an apology to the family that loss their loved ones and the families that had sleepless nights and thinking about what will happen to my loved one.

ARBITRATOR, JUSTICE MOSENEKE: Including the survivors of the Marathon Project, isn't it so?

10**DR MAKGABO JOHANNA MANAMELA:** Yes Counsel.

ARBITRATOR, JUSTICE MOSENEKE: Anyway, re-examination.

ADV. NONTLANTLA YINA: Thank you, Justice. Justice, I would like to introduce three documents, two of which came from Dr Manamela, for the sake of completeness, it is ELAH87 and ELAH88. They relate to information that there was 15an enquiry on from Legal Aid and from Justice.

ARBITRATOR, JUSTICE MOSENEKE: Yes.

ADV. NONTLANTLA YINA: If maybe Dr Manamela could just explain what those documents are. Maybe we can start with ELAH87 which says Annexure 13 Waverly Care Centre placements.

20**DR MAKGABO JOHANNA MANAMELA:** Okay, these documents came out... okay I will start with 13. These documents indicate the placements that took place

from the two facilities of Life Esidimeni. Why I was giving them to the Chief Justice was when we were trying to say there were people who were contacted, the family members were contacted. And then this document indicates who was contacted and where they couldn't make it to contact a person. It was supporting what I said, there were families who were contacted, some they said they didn't find them, some they were not just being contacted before the patients were leaving to the NGOs and hospitals.

ADV. NONTLANTLA YINA: According to these documents, it would seem that most of the patients have contact details, like address and phone numbers and the contact person. Am I correct? Annexure 13 in respect of Waverly Care Centre.

DR MAKGABO JOHANNA MANAMELA: Yes.

ADV. NONTLANTLA YINA: Was that the case?

DR MAKGABO JOHANNA MANAMELA: Yes.

ADV. NONTLANTLA YINA: If we can then go to ELAH88 which relates to Randfontein Complex. If you could also take us through those columns that appear on ELAH88.

DR MAKGABO JOHANNA MANAMELA: So this one went further to indicate where the patients were placed and also date on which the family was notified and where they didn't find anybody, they also indicated not yet contacted. But it also indicate where the mentally ill patients were sent.

ADV. NONTLANTLA YINA: So not yet contacted meant that they were not contacted or they were, you were unable to get hold of the family members.

DR MAKGABO JOHANNA MANAMELA: From the report to my office was that they were unable to find anyone on the contact numbers that were indicated. It was also going further to say that there were some patients who were given seven days' treatment. And this document was prepared by Life Esidimeni.

ADV. NONTLANTLA YINA: Yes, I see that some were given 28 days' supply.

DR MAKGABO JOHANNA MANAMELA: Yes that is what the service level agreement was requiring. But somewhere Life Esidimeni decided to give seven 10days. And when it was brought to my attention, I referred them back to service level agreement and from there others were given 28 days' medical supply.

ADV. NONTLANTLA YINA: So that was rectified, in other words, the seven days' supply was rectified.

DR MAKGABO JOHANNA MANAMELA: Yes, in the following ones, but the 15others were already gone and then what we were supposed to do was to find our own doctors to look at the medication for this. We also asked the hospital to supply the medication, because they were already out of Life Esidimeni.

ADV. NONTLANTLA YINA: But in a nutshell, all patients were given proper medication when they left Life Esidimeni and when they were placed with the NGOs 20according to these documents and your evidence.

DR MAKGABO JOHANNA MANAMELA: Yes, those that were on medication were given medication. It is just that when you look on the death reports of some of the patients, you'll see, because they must tell you exactly how the patients were arriving and what was the treatment. You will see the polypharmacy, you will see 5that they didn't have the records that will indicate whether blood levels were taken. You will see how the patients was receiving, most of them it was said here that they were not well-kept when they were received, something like that, in the death reports that were sent at that time. But we were still, because this project, we were working with Life Esidimeni, although they were not so keen, but we had to work 10with them to say we don't know the family, we've got the contact number of the family, we've got the file of the patient, so we'll need you. That is why the last meeting we agreed on who should report when and how.

ADV. NONTLANTLA YINA: Okay just lastly on the medication, what I want to find out, in light of your evidence and the evidence that is before the tribunal of the fact 15that patients were transported in busses to the NGOs, how would... people transporting them, how would they know that this medication belonged to this patient?

DR MAKGABO JOHANNA MANAMELA: Okay, Counsel, just as I said I allocated two DDs to each and every area. So the two DDs were planning the transfer, so 20they will know this is for this patient. Again every patient had a photo, this is so and so. Because you may call the mentally ill patient by name and they may not even know their name. So you've got their photo and their name and they will prepare

the treatment. And when they go to the bus the treatment is labelled, this is for this one, this is for this one.

ADV. NONTLANTLA YINA: And then when they arrive at the NGO, who would orientate the NGO carers or caregivers on how to administer medication?

DR MAKGABO JOHANNA MANAMELA: Okay, as we already assessed the NGO, we know there is a professional nurse or nursing auxiliary or enrolled nurse, who will be receiving the patient as they are handed over by our staff. The staff from the district went... in some cases Life Esidimeni they took along the patient we transferred them there. So when they received the patient, everything was labelled, 10 they had their photos and the photo will be put at the bed of every patient so that they mustn't forget who is this one. So the orientation will be done there. And we sent nurses, my DDs again and the team that MEC assigned, which will be multi-disciplinary team from the district to visit the NGO at the beginning, so that when they have got any problem, they will be able to assist them in time.

ADV. NONTLANTLA YINA: Thank you. Just the other aspect that I wanted to clear before we move on, in respect of the causes of death. You were quizzed a lot about what could have caused the death and you had your own theories. I would like to refer you to file number, two files, the first file will be file number 9, please. In the spirit of also trying to assist the families to find closure, maybe it will be better if 20 you base your responses to what appears on the documents. So on file number 9 I would refer you to page 3000. This is a notice of death in respect of Busisiwe Tshabalala. It was completed by Dr Kenoshi that appears on 3001 and then the

cause of death appears on 3003, just in the middle of the page under paragraph G, can you see it?

DR MAKGABO JOHANNA MANAMELA: Yes Counsel.

ADV. NONTLANTLA YINA: Can you please read it on record?

5**DR MAKGABO JOHANNA MANAMELA:** Hyperthermia is A and B is severe dehydration.

ADV. NONTLANTLA YINA: Will you just explain in your experience, what would lead to severe dehydration?

DR MAKGABO JOHANNA MANAMELA: There are many areas or factors that
10may lead to severe dehydration.

ADV. NONTLANTLA YINA: In light of the evidence that is before this tribunal that in some NGOs patients are not given food and water, will that result in severe dehydration?

DR MAKGABO JOHANNA MANAMELA: If they are not given food and water, it
15can be the result. But there are other reasons for severe dehydration. If a person has got diarrhoea overnight, the following day he/she can present with severe ...intervened.

ADV. NONTLANTLA YINA: But in this case, Dr Manamela, there is no evidence that Busisiwe had diarrhoea before. You know the reason I am asking this, I am not
20really trying to prove anything. I just want us, as you were leading your evidence earlier on in the spirit of trying to help the families to find closure, just to show to you

that these patients did not receive proper care at the NGOs and in this case the cause of death is severe dehydration. And there was evidence that they were not getting food and they were not given water in some NGOs. It is only in that light that I am asking this question.

DR MAKGABO JOHANNA MANAMELA: Yes, and which is really not acceptable because Busisiwe seems to have been in the hospital, not even in the NGO.

ADV. NONTLANTLA YINA: Yes, she was transferred to the hospital because she was not well, otherwise she was in a NGO. If you go to page 2988 you will see she was at Cullinan Care and Rehabilitation Centre.

DR MAKGABO JOHANNA MANAMELA: Before I even answer or go to that. Cullinan Care and Rehabilitation Centre is a hospital, it is classified as a hospital for mentally disabled. We made that aware during the process of Ombud. Cullinan was not a NGO and that is why they have got Me. Nldovu, CEO. So I was going to that page, but I felt I must clarify what Cullinan is. It is one of the hospitals that is
15designated by the Minister, not even a NGO.

ADV. NONTLANTLA YINA: Okay. If you can just go to file number 10 please, the last one, just the last example. All I want to show you Doctor is that ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: But don't you know... you should know isn't it, that the patients that you placed at Anchor, many of them, when the place
20had to shut down, they had to go back to Cullinan. Don't you know that?

DR MAKGABO JOHANNA MANAMELA: I heard so, Justice.

ARBITRATOR, JUSTICE MOSENEKE: Why did you hear so?

DR MAKGABO JOHANNA MANAMELA: Because that is when I left. That is when I was suspended, by the time they were taking them back, so I heard so. But when the patient was sick and Cullinan cannot manage the hyperthermia and dehydration, because they are for mentally disabled, they will take them to our general hospital. Anchor also won't take the patient who is having hyperthermia and dehydration to Cullinan, but they will take them to general hospital where the treatment for such physical problems is available.

ARBITRATOR, JUSTICE MOSENEKE: Did you follow Me. Manaka's evidence?

10**DR MAKGABO JOHANNA MANAMELA:** Some of the evidence were not audible, but I saw her.

ARBITRATOR, JUSTICE MOSENEKE: Some of the evidence was what?

DR MAKGABO JOHANNA MANAMELA: Was not audible on the resources that I was using.

15**ARBITRATOR, JUSTICE MOSENEKE:** You go ahead, Counsel.

ADV. NONTLANTLA YINA: Thank you Justice. The last one appears on page 3531 on the file that I just gave you. This is a post mortem in respect of Deborah Phehla. The post mortem was conducted by Dr Mosu Paul Morule. It was conducted on the 31st of March 2016, that is the affidavit that appears on page 203531, can you see that affidavit? Now if you go to page 3534... are you on page 3534, Dr Manamela?

DR MAKGABO JOHANNA MANAMELA: It is a little bit... Counsel... let me read.

The death register number it is the one that starts with that, because the number 35 is there but 3 something is cancelled and you may say it is 32 or...?

ADV. NONTLANTLA YINA: It is 3534, it is clearly marked, otherwise it is page 5 number 4 of the document. On top it says death register number DK52 of 2016. If you go right the second last paragraph there, that is the contents that were found in her stomach. “The stomach is pale and intact. It contains two bottled up plastics which are a size of a fist, several pieces of brown papers are found in the stomach, partially digested food resembles samp and beans.” And if you just keep your finger 10 there and go back to page 3530, the cause is noted there, the immediate cause of death.

DR MAKGABO JOHANNA MANAMELA: 3530?

ADV. NONTLANTLA YINA: Yes. Do you see it in the middle of the page?

DR MAKGABO JOHANNA MANAMELA: Yes, I can see it.

15 **ADV. NONTLANTLA YINA:** Can you read it on record?

DR MAKGABO JOHANNA MANAMELA: I can see it.

ADV. NONTLANTLA YINA: Can you read it on record?

DR MAKGABO JOHANNA MANAMELA: Asphyxia due to aspiration of blood.

ADV. NONTLANTLA YINA: What does that mean?

20 **DR MAKGABO JOHANNA MANAMELA:** I am not a medical doctor, but I will attempt to answer it.

ADV. NONTLANTLA YINA: Yes please, you may.

DR MAKGABO JOHANNA MANAMELA: I will attempt to answer it.

ADV. NONTLANTLA YINA: Yes.

DR MAKGABO JOHANNA MANAMELA: It means, from my level, this person has
5inhaled blood.

ADV. NONTLANTLA YINA: Coming from? In light of what I have showed you on
page, on the stuff that was found in her tummy?

DR MAKGABO JOHANNA MANAMELA: I am not a specialist to can be able to
clarify this to the team. Maybe if we get the specialist we will be able to clarify why
10the aspiration.

ADV. NONTLANTLA YINA: The only reason I am showing you this, is because
you kept saying if you could see the post mortem reports. So I just took only two,
which shows that these patients were neglected and that caused their death. Do
you agree?

15**DR MAKGABO JOHANNA MANAMELA:** Yes, if the doctor has written it, I agree.
Although under this they are not talking about the aspiration of blood ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: We have to hear the witness, please.
Would you keep quiet, please?

DR MAKGABO JOHANNA MANAMELA: I will ask further to find out about the
20blood as well, because to me we need to get to the bottom of this.

ADV. NONTLANTLA YINA: Thank you, Justice. The last document that I would like to refer you to, just on a few aspects, is ELAH86 and that will be the interview that you conducted with Prof Makgoba, the Ombud. Earlier on you were quizzed, during cross-examination about many warnings that you received and be it from your stakeholders, your colleagues, etcetera. So I just want to take you to some of those, which appears on the interview. I am not sure if you have the document ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: Does the patient have ELAH86?

ADV. NONTLANTLA YINA: Yes, it does.

10**ARBITRATOR, JUSTICE MOSENEKE:** Oh.

DR MAKGABO JOHANNA MANAMELA: I don't have it.

ARBITRATOR, JUSTICE MOSENEKE: Did I say the patient? The witness. I beg your pardon.

ADV. NONTLANTLA YINA: Yes, if you can just go to page 14 of the document,
15please?

ARBITRATOR, JUSTICE MOSENEKE: Well do you remember this interview with Prof Makgoba?

ADV. NONTLANTLA YINA: Thank you Justice. The date appears on the first page, it is 23 November 2015, the date of the interview.

20**DR MAKGABO JOHANNA MANAMELA:** Yes, I remember the date, Counsel.

ADV. NONTLANTLA YINA: The interview was recorded and then it was transcribed and this is the transcript of the interview. Do you confirm?

DR MAKGABO JOHANNA MANAMELA: I didn't receive my transcription, my document, even if I have asked, but you can carry on with it.

5**ADV. NONTLANTLA YINA:** Thank you.

ARBITRATOR, JUSTICE MOSENEKE: But there was an interview with Prof Makgoba.

DR MAKGABO JOHANNA MANAMELA: Yes.

ARBITRATOR, JUSTICE MOSENEKE: And it was visibly taped, is that right?

10**DR MAKGABO JOHANNA MANAMELA:** That is correct.

ARBITRATOR, JUSTICE MOSENEKE: And in it he tells you this is a voluntary interview and he is going to tape the answers, but he would like you to affirm that you are going to tell him the truth and nothing but the truth, is that right?

DR MAKGABO JOHANNA MANAMELA: That's correct.

15**ARBITRATOR, JUSTICE MOSENEKE:** And then the interview started. Very well.

ADV. NONTLANTLA YINA: Thank you Justice. I am corrected, it would appear that the interview was on the 23rd of November 2016 and not 2015.

ARBITRATOR, JUSTICE MOSENEKE: Yes, it would have been in 2016.

ADV. NONTLANTLA YINA: Yes. That appears in the last page of the transcript,
20Justice. It says date health 23 November 2016.

ARBITRATOR, JUSTICE MOSENEKE: Yes even the very following page it has the right date, except on the front page.

ADV. NONTLANTLA YINA: Yes.

ARBITRATOR, JUSTICE MOSENEKE: Ja.

5**ADV. NONTLANTLA YINA:** Thank you. And if we can quickly go to page 14, please. At the beginning of your evidence in chief, I referred you to a file which had a minute, it was file number 8 where there was a minute of a meeting that you had where Prof Gina had raised some concerns in respect of the NGOs, do you remember that?

10**DR MAKGABO JOHANNA MANAMELA:** Yes Counsel.

ADV. NONTLANTLA YINA: So from paragraph number 6 of page 14, it would seem that there was a letter that Prof Gina had written with her colleagues, Dr Maligwe and Dr Grobler, that they have written to you raising concerns. And if we could read it, the actual letter appears or an extract of the letter appears from
15paragraph number 25.

ARBITRATOR, JUSTICE MOSENEKE: Paragraph or you mean line?

ADV. NONTLANTLA YINA: Line number 25, Justice, thank you. Are you familiar with that letter?

DR MAKGABO JOHANNA MANAMELA: The letter from the psychiatrists?

20**ADV. NONTLANTLA YINA:** Yes.

DR MAKGABO JOHANNA MANAMELA: Yes. I don't see it here, but I know they wrote a letter.

ADV. NONTLANTLA YINA: Yes. Can you read from line number 24, please, where it starts with "we wish to reiterate"?

5**DR MAKGABO JOHANNA MANAMELA:** "We wish to reiterate our support for the deinstitutionalisation of mental health care users, as envisioned in our national mental health policy framework and strategic plan. We are, however, greatly concerned that the decision to reduce beds at Life Esidimeni does not follow the process outlined in the same plan." Should I carry on?

10**ADV. NONTLANTLA YINA:** Yes please, up to the end of that extract.

DR MAKGABO JOHANNA MANAMELA: "We know that this decision will have devastating impact on the health and social wellbeing of mental health care users. I note devastating impact on health and social health being of mental health care users, the health care system and members of the community. We also know that 15the decision will likely escalate health care costs in our province. We therefore request an urgent meeting with the honourable MEC, Me. Mahlangu Q.D, to discuss this concern in our quest to contribute to the provision of quality health care services for all communities in Gauteng as mandated by our mission statement.]"

ADV. NONTLANTLA YINA: Thank you. You were asked a lot of questions by my 20learned friend, Adv. Crouse and Adv. Hassim on the warnings that you have received in respect of implementing this project. It would seem that this was one of the warnings. Will you please explain if you took a hid of these warnings?

DR MAKGABO JOHANNA MANAMELA: As the Director for Mental Health Services, I took this very seriously, because I am the one who advised them to write a letter to MEC, but unfortunately they wrote to me. I took it further with the leadership and they were called in a meeting to be a project team. And from that time I didn't hear any concerns from the psychiatrists.

ARBITRATOR, JUSTICE MOSENEKE: Who are leadership?

DR MAKGABO JOHANNA MANAMELA: They were, like I always said, Mr. Mosenogi was a project manager and the DDG Dr Lebete, HOD Dr Selebano, and MEC and other chief directors that I don't know who were actually called upon. But after this letter we were still continuing with our planning meeting. I indicated to them properly that this letter should be directed to MEC and we discussed it there and I don't know what happened. What I just saw was when the MEC appointed these people, HOD appointed this, the very same people to be part of project team, they became part of project team and never mentioned their concerns in the same meeting.

ADV. NONTLANTLA YINA: I see. And if you go to the last one, if you go to page 84... are you on page 84? From line number 19 which reads, this is your evidence to the Ombud: "The media never supported the process. The people who stand to say that they are in the community, they never supported the process. to me it is like you are a family of one, one family and then you keep on fighting, you are creating a space for your enemies and this is what I saw with this process." What were you trying to say to the Ombud?

DR MAKGABO JOHANNA MANAMELA: Counsel, because I asked this document for my appeal and it was not given to me and I can't remember what I was going to say. And as it was not given to me at the time I was looking for, then I am unable to comment on this one, because it is like the construction of the words
5also, I don't know if I don't understand it now.

ADV. NONTLANTLA YINA: But you were not suggesting, one, that the media did not support the project. Were you suggesting that they didn't support the project?

DR MAKGABO JOHANNA MANAMELA: I am not sure on this one, but what I know is that the media was out to tarnish the department about the project.

10**ADV. NONTLANTLA YINA:** That is how you saw them yes.

DR MAKGABO JOHANNA MANAMELA: That is how I saw, but on this context ...intervened.

ADV. NONTLANTLA YINA: And the families?

DR MAKGABO JOHANNA MANAMELA: The families, as it was indicated, they toi-
15toi'ed, they are also not so keen to support the project.

ADV. NONTLANTLA YINA: Did you see them as enemies of the project?

DR MAKGABO JOHANNA MANAMELA: No, I never say anybody as enemies of the project, that is why when the psychiatrists who initially were showing and clearly talking in the meeting that they don't support, when they agreed, I never saw
20anyone as the enemy.

ADV. NONTLANTLA YINA: So with that in mind, it is apparent, it is on record that concerns were raised by the media, by the families and by your colleagues. And Dr Talatala when he was giving evidence, he said he reached a point where he said time will tell and he waited for time to tell and the time did tell. So I just want, in
5concluding your evidence, what do you want to say to the families who also toi-
toi'ed even if they didn't have any medical background to understand the consequences, but they somehow foresaw the consequences. And the media whom you are saying you saw them as enemies, as well as the stakeholders. What do you want to say in light of what happened, in light of the deaths of 143 mental
10health care users?

DR MAKGABO JOHANNA MANAMELA: Like I said all deaths are regrettable, whether they happened in the hospital, in the community or the NGOs, they are really regrettable.

ADV. NONTLANTLA YINA: Yes but I just want you to say it in a very crystal clear
15sentence, whether you believe you were right in going ahead with the project in spite of all these concerns that were raised, or you now know that they were right – that is the family, the media and the stakeholders and your colleagues. Do you think that they were right all along?

DR MAKGABO JOHANNA MANAMELA: Counsel, I really don't know, I don't
20know what to say on that. But what I can say is that this is saddening me and I was so, it was so painful to learn of the deaths. And I cannot say who was wrong, who was not wrong, who was right.

ARBITRATOR, JUSTICE MOSENEKE: Dr Manamela, I know the Counsel asked a number of things, but the essence of it is, all of the people who warned that disastrous consequences may happen or eventuate, time and events have shown that they were correct, it did, those consequences happened. What do you say?
5 Were they correct and were you wrong in your assessment? It is a different question from whether you intended people to die or not. Now that exact science called hindsight, now we know the families were afraid, we know some people were afraid, who wrote to you and so on. We know that Dr Talatala said time will tell and the disastrous consequences have occurred. And the question is, do you accept
10 and admit that whatever you thought you were doing, you were wrong? That is the question.

DR MAKGABO JOHANNA MANAMELA: Justice, it is not just as easy as it can be, because of a lot of factors that need to be there. But from what I see now, most of the areas proves that the process came up with negative consequences. But we
15 need to have everything, like during this investigation, it was never investigated about the medication, about lack of records, other variables, the sexes of the patient, life expectancy. So those other variables still need to be taken care. And what happened in Life Esidimeni, how many patients died there in Life Esidimeni and what have we done. So at the end of the day we regret, but there are other
20 variables that needed to be considered.

ARBITRATOR, JUSTICE MOSENEKE: I am totally surprised by that answer. Look, whatever the variables are, people warned you that dire consequences might occur. You ignored them and went ahead and the consequences eventuated. So

the simple question is, were they correct to be concerned and to warn you not to do it, now that 143 people died – whatever the variables, they died. And the question is, do you admit that their prediction was correct and your prediction was wrong?

DR MAKGABO JOHANNA MANAMELA: That is correct, Justice.

5**ARBITRATOR, JUSTICE MOSENEKE:** You do admit that. You do realise that now.

DR MAKGABO JOHANNA MANAMELA: That is correct.

ADV. NONTLANTLA YINA: That will be all. Thank you Justice.

ARBITRATOR, JUSTICE MOSENEKE: That is re-examination. I can see some
10counsel straitening her mic. Adv. Hassim?

ADV. ADILA HASSIM: Justice, with respect and with your indulgence, there is one piece of information that has only a few minutes ago come to light and I am trying to have it printed and I would ask that we don't release this witness until we are able to put this piece of information to her. We may need a 5 minute adjournment, if you
15are inclined to grant me the indulgence.

ARBITRATOR, JUSTICE MOSENEKE: Yes, but can we go ahead with (inaudible) or do you want to put your information first?

ADV. ADILA HASSIM: I think it would be preferable to put it to the witness before she finishes.

ARBITRATOR, JUSTICE MOSENEKE: Okay that is fine. Is there any counsel who is opposed to that? Is there any counsel who is adverse to this request for a short adjournment? How short is short? It is 16:00 now.

ADV. ADILA HASSIM: Yes Justice. Obakeng has just advised me that the printer is working, so if we can just have 5 minutes to print it, it is just a letter.

ARBITRATOR, JUSTICE MOSENEKE: Which you would like to put the witness before the witness is ...intervened.

ADV. ADILA HASSIM: Which I would like to put to the witness and obviously to everybody else before the witness.

10 **ARBITRATOR, JUSTICE MOSENEKE:** (Vernac). So I am going to adjourn ...intervened.

ADV. TEBOGO HUTAMO: We just wanted to enquire whether this questioning will be part of the cross-examination or will it be part of re-examination, this piece of evidence?

15 **ARBITRATOR, JUSTICE MOSENEKE:** Well it will have to be an application for reopening of the examination.

ADV. TEBOGO HUTAMO: Yes, because like ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: Which can either be opposed or be by agreement. If it is opposed, obviously we will hear argument and decide whether to
20reopen.

ADV. TEBOGO HUTAMO: Well we just wanted to get clarity so that we avoid a situation where Counsel always get a second bite of a cherry when a case is not made out. Because like otherwise it will just prolong these proceedings. Because if from that line of questioning, other counsel would also want to have an opportunity to deal with those aspects.

ARBITRATOR, JUSTICE MOSENEKE: Indeed. The rule is well-known, every counsel who is not leading, there is only one bite of the cherry.

ADV. TEBOGO HUTAMO: Indeed so.

ARBITRATOR, JUSTICE MOSENEKE: So Adv. Hassim will have to apply for reopening and she will have to say why she didn't do it at the right time, if the application is opposed. If it is not opposed and there is no demonstration of prejudice, I would allow her to reopen. But what we must first get clear is, an application to reopen, that's what I understand it to be, and that always entitles everybody else and that is why it must be justified to cross-examine on the basis of the new line of cross-examination.

ADV. TEBOGO HUTAMO: Well if that is the approach that the Justice is taking, we will not have any opposition. We were just concerned that it should not be trend that one will simply just seek an opportunity to put further questions to the witness, when an opportunity has come and passed.

ARBITRATOR, JUSTICE MOSENEKE: Yes, it is not there for the taking.

ADV. TEBOGO HUTAMO: Indeed.

ARBITRATOR, JUSTICE MOSENEKE: That is why you apply and she has to apply and that is why I asked all of you if there is an objection. If there is an objection, she must substantiate the application. If there is no objection, the task of the Arbitrator becomes easier. But in any event, I have to satisfy myself that it is justified for you to reopen, why only now?

ADV. ADILA HASSIM: Justice, it is not really reopening. It is relevant to evidence that has emerged from Dr Manamela's testimony. It is not a new issue and it is only information that has been brought to our attention within the last few minutes. In order to, I mean it will become apparent if I am entitled to hand in the document, which is a letter. And part of the purpose of these proceedings, and it is why I prevised my request with the acknowledgement that I am seeking the indulgence of this hearing. Part of the purpose of the hearing is to get to the truth and the merits have been conceded. So in that sense it is not a typical case of getting a second bite of the cherry.

ARBITRATOR, JUSTICE MOSENEKE: I mean this witness has been here for four days.

ADV. ADILA HASSIM: I fully appreciate that and I would not like to keep her unduly long and I am willing to constrain myself ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: What I mean is, the application could have been done earlier, not the last moment.

ADV. ADILA HASSIM: It couldn't have been done earlier, Justice, because I only received the document about 10 minutes ago. And I am willing to constrain myself ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: Well technically this is reopening of your cross-examination, which allows everybody else to follow on – that is the impact of what you are doing now, is that we will have to allow everybody another slice at the cherry and that is why courts and tribunals are so slow at allowing it.

ADV. ADILA HASSIM: I fully appreciate that Justice. The only point that I have to make in that regard is that we do want to get to the truth. And it is a short question, it is to clarify something that the witness has already said and I am willing to limit myself to two questions.

ARBITRATOR, JUSTICE MOSENEKE: Again, starting from my left, is there any objection from you, Counsel?

ADV. LILLA CROUSE: Thank you Justice. We have seen the document and we also think that it is in the interest of justice. We won't have any cross-examination after that.

ARBITRATOR, JUSTICE MOSENEKE: Any objection from you, Counsel? Have you seen the document? Let's start there.

ADV. DIRK GROENEWALD: We have seen the document, we have no objection and we welcome it. Thank you Justice.

ARBITRATOR, JUSTICE MOSENEKE: Counsel, have you seen the document?

ADV. TEBOGO HUTAMO: Justice, we have not had the opportunity to consider the document. But we will leave the decision in the discretion of the Justice. We will not take the matter further.

ARBITRATOR, JUSTICE MOSENEKE: Well I see no document, I have been given nothing yet. I suppose that I will be given some document. Thank you. Adv. Yina?

ADV. NONTLANTLA YINA: Thank you Justice. We have received the document and we have no objection to the questioning.

ARBITRATOR, JUSTICE MOSENEKE: Well let me look at the document and then make up my mind, whether in fact we ought to go down that route. Ja, I did get a copy of the... ultimately you are going to give the witness a copy of the letter. Very well, you may proceed with putting questions to the witness.

ADV. ADILA HASSIM: Thank you Justice. Dr Manamela, earlier in your testimony you said that the SAPS has not requested you to provide any information or to make a statement to them. Do you recall that?

15 **DR MAKGABO JOHANNA MANAMELA:** That is correct.

ADV. ADILA HASSIM: And you also said that you will be more than willing to cooperate with the SAPS, do you recall that?

DR MAKGABO JOHANNA MANAMELA: That is correct.

ADV. ADILA HASSIM: Have you seen this letter before that is before you?

20 **DR MAKGABO JOHANNA MANAMELA:** That's correct.

ADV. ADILA HASSIM: Is it a letter from your attorneys?

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DR MAKGABO JOHANNA MANAMELA: That is corrected.

ADV. ADILA HASSIM: Dated 2nd of November 2017.

DR MAKGABO JOHANNA MANAMELA: That is correct.

ADV. ADILA HASSIM: To a Dr Kobie Marais.

5**DR MAKGABO JOHANNA MANAMELA:** That's correct.

ADV. ADILA HASSIM: Do you know who Dr Kobie Marais is?

DR MAKGABO JOHANNA MANAMELA: I know her.

ADV. ADILA HASSIM: In what position is she in the Gauteng Department of Health?

10**DR MAKGABO JOHANNA MANAMELA:** She is the Acting Director Mental Health Services.

ADV. ADILA HASSIM: So if we can have regard to this letter and if we can just get straight to the point, and I would like you to take paragraph 4 of the letter.

ARBITRATOR, JUSTICE MOSENEKE: But who are ACM Inc. Attorneys, are they
15your attorneys?

ADV. ADILA HASSIM: The witness said they are her attorneys.

ARBITRATOR, JUSTICE MOSENEKE: Oh you said that already?

ADV. ADILA HASSIM: Yes.

ARBITRATOR, JUSTICE MOSENEKE: Did I miss that? Okay.

ADV. ADILA HASSIM: In paragraph 4 it says: “Your request for our client to attend to SAPS Diagonal Street today, 2 November 2017, at 10 am to give a statement with regard to the death of mental health care users, is an extremely short and prejudicial notice to our client.” Do you see that?

5**DR MAKGABO JOHANNA MANAMELA:** That is correct.

ADV. ADILA HASSIM: Do you recall this request being made of you?

DR MAKGABO JOHANNA MANAMELA: That’s correct.

ADV. ADILA HASSIM: And then in paragraph 6 it says: “Our instructions are that the circumstances surrounding the death of the mental health care users, have
10been dealt with by the Health Ombud. The Health Ombud issued his report on 1 February 2017. And so far” – paragraph 6 – “And so far as the Health Mud’s report relates to our client, our client has appealed against the adverse findings and recommendations of that report.” Do you see that and so on, in paragraph 7?

DR MAKGABO JOHANNA MANAMELA: That’s correct.

15**ADV. ADILA HASSIM:** And finally it ends: “Our client is unable to attend to SAPS as requested and all her rights are reserved.” Why did you say that you had not been approached to make a statement and that you are willing to cooperate in the light of this letter?

DR MAKGABO JOHANNA MANAMELA: I am going to answer this letter, but
20firstly I want to present to the Judge, I thought I will say that, if Justice will agree. Section 27, they testified against me to the Ombud. I was never given chance to

ask them questions. They came to my appeal, they testified, I was never given chance to ask them questions. We are here, they asked me question, I agreed, I availed myself, but the challenges ...intervened.

ADV. ADILA HASSIM: Dr Manamela, I am not sure what question you are answering.

DR MAKGABO JOHANNA MANAMELA: I said, I asked to say something before I answer. I am going to answer this one, but I want that to be known.

ARBITRATOR, JUSTICE MOSENEKE: Let's allow Dr Manamela to say what she wants to say and you can continue with the questions. Yes ma'am.

10**DR MAKGABO JOHANNA MANAMELA:** According to the National Amendment Act of Health, I should have asked all those people who gave evidence against me, I was not called to do that. Even in this one I am not given chance to ask anyone who gave evidence against me. But I am saying Section 27 was silent when we didn't get the record of the patient, they never said anything. Now we are almost
15done, they are bringing this. I am going to answer it, Justice, I just want that to come out, because I thought I mustn't. With this report I was still waiting for my appeal result. And when Dr Kobie called me, it was in the afternoon and she said come tomorrow. And I discussed with her that I won't be available tomorrow. But at a stage that will be planned that can happen. Then I gave my letter, because she
20insisted and said we are paying you, you must be there... you don't know what is happening in my life, because I am no longer at work. So that is why I said my legal rep, you need to look at that. And then I just felt, Justice, there is a lot of unfairness

on my side here. This letter can be explained better by my legal team, but I still said I am willing to be questioned by SAPS, if they are willing, as long as process is followed properly. Because it was just a call after 16:00, come tomorrow. When I spoke to her she said I didn't even get your email well, because I was in the bus at home, in the bus in Pretoria. So I am just saying to you, I never said I won't do anything. My legal team was also concerned that if they call you now and say tomorrow and they don't know what is happening and you are still waiting for appeal result that is another thing.

ARBITRATOR, JUSTICE MOSENEKE: The question must be put again. Please answer the question.

ADV. ADILA HASSIM: Perhaps Dr Manamela, and we just want to get straight to the point, regardless of your antipathies to certain people and their lawyers. The last sentence says the following: "Our client is unable to attend to SAPS as requested and all her rights are reserved." It was a refusal to attend. Would you agree?

DR MAKGABO JOHANNA MANAMELA: That was a refusal not to attend to the following day.

ADV. ADILA HASSIM: Why did you not refer to this when ...intervened.

DR MAKGABO JOHANNA MANAMELA: The following day, because I was told today that come tomorrow.

ADV. ADILA HASSIM: Hold on Dr Manamela. The question was the following, it was related to your own testimony. This is not a new issue that is being introduced.

It is a question that had been put to you by the Honourable Justice as to whether you had been approached by the SAPS for a statement and your answer was no.

DR MAKGABO JOHANNA MANAMELA: Dr Kobie is not SAPS that is why I said no. Because we were looking at the relevant process, the right process for me to appear, like what happened with others. I might be suspended but it doesn't mean that I am just a fool at home. People were approached properly, were asked to ...intervened.

ADV. ADILA HASSIM: Are you saying you have no duties under your paid suspension?

10**DR MAKGABO JOHANNA MANAMELA:** Can I finish? I have got a duty when I am still there, but people who were approached properly, they were told what to bring along and what not to bring along. I was just receiving a call after 16:00 and say come tomorrow and I was not even around here.

ADV. ADILA HASSIM: Okay so it wasn't possible at that time.

15**DR MAKGABO JOHANNA MANAMELA:** Yes. But I agreed, take me from what I said.

ADV. ADILA HASSIM: So did you then offer to meet with the SAPS at a date that would be at your convenience?

DR MAKGABO JOHANNA MANAMELA: At the time that the proper letter was
20sent to me, I'll meet them, even if I am not in the province, I'll come back to the province.

ADV. ADILA HASSIM: Did you offer to meet them at a date of your convenience?

DR MAKGABO JOHANNA MANAMELA: We never received a reply from this letter from Dr Kobie or anybody in the Department or SAPS. But I am aware that people who were identified, my name was there and they were told what to bring along. I was just called. Because everybody is washing their hands (vernac). I was just called, come tomorrow at this time, I'll make sure you are safe. It cannot be. I needed, I am waiting for the SAPS, when they call me I will go and they will call me properly like they did to others. It means that if I am guilty here, anybody sees me as guilty person, because I came here as a witness.

10 **ADV. ADILA HASSIM:** Yes.

DR MAKGABO JOHANNA MANAMELA: But now I am being questioned as an accused.

ADV. ADILA HASSIM: No, you see, Dr Manamela, you are the one who said you were not aware and you had not been approached.

15 **DR MAKGABO JOHANNA MANAMELA:** Yes, because ...intervened.

ADV. ADILA HASSIM: And I am just putting it to you that in fact that is not true. That you had been aware, you had been approached and if you were willing to cooperate, as you earlier said, you would have made yourself available to the SAPS and you haven't done so, isn't that correct?

20 **DR MAKGABO JOHANNA MANAMELA:** Counsel, I didn't want to take Justice's time. Because even this letter said it is a short notice and we were waiting for the

response, which we didn't get. Then I will say I was not willing, if I got the response. We never got any response from this letter. So that is why I said I have got no problem for whoever wants to know about the project, I was part of the project team. But it needs to be done properly and rightly and without any discrimination or violation of anyone's ...intervened.

ADV. ADILA HASSIM: Do you know that you are not the only person who has been requested to make a statement to the SAPS?

DR MAKGABO JOHANNA MANAMELA: It can be, yes, and I don't have a problem with that.

10**ADV. ADILA HASSIM:** So there was no discrimination.

DR MAKGABO JOHANNA MANAMELA: The way I was informed, there is discrimination, because I was prohibited to put my thoughts together, to think what might be needed. I was told after 16:00, towards 17:00 to say come tomorrow. So it was not fair and it was not in a dignified way. So I was hoping to get a response and ...intervened.

ADV. ADILA HASSIM: Thanks. And you haven't been in contact with Dr Kobie Marais again?

DR MAKGABO JOHANNA MANAMELA: No, she hasn't contacted me about that.

ADV. ADILA HASSIM: And you are on paid suspension.

20**DR MAKGABO JOHANNA MANAMELA:** I think ...intervened.

ADV. ADILA HASSIM: Do you not think that while you are on paid suspension... let me just finish the question and then you can have your say. Do you not think that while you are on paid suspension, you still have the duty of accountability at the very least? You have not been dismissed from the Department yet?

DR MAKGABO JOHANNA MANAMELA: I think the issue of me being paid and being paid all the time, I think I earned the money in terms of my qualifications and in terms of me being appointed. It cannot always arise... and it is like the way it was also said, you repeat it again, you know you are on suspension and we are paying you. I know that. How come I should be reminded all the time? And I said I 10am available. I even indicated to Dr Kobie maybe if we look at this date, but she never came back to me with those dates and I couldn't go ...intervened.

ADV. ADILA HASSIM: And you never contacted her yourself, is that so?

DR MAKGABO JOHANNA MANAMELA: She never came back to me.

ADV. ADILA HASSIM: And you never contacted her yourself afterwards, is that 15correct?

DR MAKGABO JOHANNA MANAMELA: I contacted her through this legal document.

ADV. ADILA HASSIM: But after this document, did you contact her?

DR MAKGABO JOHANNA MANAMELA: I was hoping that she would also contact 20me through the document, the same document.

ADV. ADILA HASSIM: Dr Manamela, if you could just answer my question, I will top. Did you contact Dr Kobie Marais after this letter?

DR MAKGABO JOHANNA MANAMELA: I couldn't contact her.

ADV. ADILA HASSIM: Thank you Justice.

5**ARBITRATOR, JUSTICE MOSENEKE:** Thank you. Adv. Crouse.

ADV. LILLA CROUSE: No cross-examination. Thank you Justice.

ARBITRATOR, JUSTICE MOSENEKE: Adv. Groenewald.

ADV. DIRK GROENEWALD: We will leave it at that. Thank you Justice.

ADV. NONTLANTLA YINA: No questions, thank you Justice.

10**ARBITRATOR, JUSTICE MOSENEKE:** Adv. Yina. Adv. Hutamo.

ADV. TEBOGO HUTAMO: Justice, I think I'll have one or two questions.

ARBITRATOR, JUSTICE MOSENEKE: Yes certainly.

ADV. TEBOGO HUTAMO: Dr Manamela, were you ever contacted by any member of the South African Police Service in relation to the issues arising from the project?

15**DR MAKGABO JOHANNA MANAMELA:** Around immediately when I was suspended, somebody called me and said she wants to meet me. I was not in the province and I said I am not in the province, can you send me your details. And then he said okay who are other people... it was in relation to one patient. He asked me who are the other people we were with when we visited the family. Then
20I gave him the names of the people I went with the family. She said no if I need any

further information, I will come back to you. So he didn't come back to me. In my own thinking it means the two officials I gave the number to, it means they helped him, he never came back to me. Then I was only contacted by Dr Kobie on the date that I indicated here. That is all. No one else ever contacted me about that.

5 **ADV. TEBOGO HUTAMO:** We all know that everybody is anxious and wanted to know exactly what had occurred with regard to the implementation of the project. Should the members of the South African Police contact you, will you fully cooperate with them in their investigations, in order to uncover the truth?

DR MAKGABO JOHANNA MANAMELA: That is correct, that is what I will do.

10 **ADV. TEBOGO HUTAMO:** Thank you. No further questions.

ARBITRATOR, JUSTICE MOSENEKE: Thank you. But when I asked you whether members of the South African Police had been in touch with you, why didn't you tell me yes through a letter through the acting head of your department? Why did you just say no?

15 **DR MAKGABO JOHANNA MANAMELA:** You know, Justice, she called me, it just slipped my mind because she called me. And we responded, we were waiting. So I was thinking I am waiting to be contacted because you know the people who were contacted, they were told they have to bring one, two, three to that, so that is what I was waiting for. And again because I have got no objection in cooperating with
20 them, I just felt that as soon as they contact me, the way they contacted others, then I will carry on with them and give them the information.

ARBITRATOR, JUSTICE MOSENEKE: You see, ma'am, the question had nothing to do with whether you are an accused or not. Let me explain it to you. In our law, any person who dies in circumstances that may not be natural, the police are obliged to open a docket, you know that.

5 **DR MAKGABO JOHANNA MANAMELA:** That is correct, Justice.

ARBITRATOR, JUSTICE MOSENEKE: And have an enquiry, an inquest into the death.

DR MAKGABO JOHANNA MANAMELA: That is correct.

ARBITRATOR, JUSTICE MOSENEKE: And now we all know as the State has
10 conceded, these deaths were unlawful. So the State is obliged by law to investigate the causes of death. That is what I was interested in. are there inquests going on to get to the bottom of the question whether there is criminal liability that attaches to the deaths, which we now know have been caused unlawfully and recklessly. So that is where I was going with this and that is why I asked you the question. And I
15 would have hoped that you would say to me, well yes, one of my colleagues in the Department said I must go meet with the SAPS. Why didn't you tell me that?

DR MAKGABO JOHANNA MANAMELA: I think on the issue of inquest, as it was debated on Monday the 20th when I was here, I always knew it will happen, but when I was contacted by Dr Kobie who is the Health Department employee, not an
20 officer of safety and SAPS. So I got your question that you are looking for me to give you answers related to SAPS. So that is why I said no, because I was still

waiting. So not knowing that if she phoned me, that is what I should have done.
But I was waiting to say ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: When she phoned you, did she say you should go and meet with the South African Police Service officers?

5**DR MAKGABO JOHANNA MANAMELA:** She said I must come to the office and then I will find the South African Police officer and she'll make sure that I am safe. And then I said okay can you ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: Safe from what?

DR MAKGABO JOHANNA MANAMELA: I don't know. Maybe she felt I am a little
10bit afraid to go to the office. Because one question I asked her, I wanted a letter, when I was suspended it was clearly indicated that I can go to the office only through the invitation by the head of department. So that is why I asked her and then she said no I will just ensure that you are safe. But only to realise that some people, if they need information, they are supposed to be prepared. Why am I
15expected to appear everywhere without being prepared and then we ask ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: I was only asking why didn't you tell me about this approach, that's all.

DR MAKGABO JOHANNA MANAMELA: Okay, as I was saying, as she was not a
20police officer I was waiting... actually I am still waiting for the police officers to contact me. If they do it by themselves or through the HOD, that is what I am still waiting.

ARBITRATOR, JUSTICE MOSENEKE: Okay thank you very much. I think we have come to the end of your evidence and I thank you for coming and for being here and for responding to the subpoena. And I also want to thank you as Arbitrator and head of this tribunal for your participation. It is important at many levels, including just a plain level of being held to account for the decisions that you have made, a principle we find in our constitution... we so value that we even wrote it into our constitution. It is one of the founding principles in chapter 1 of our constitution, so it is a very important thing that we are doing. Those who willed public power are liable to be called to explain the decisions that they have made and the consequences that flow from their decisions. So thank you for coming and being part of this process. We have developed a practice here that at the end of the evidence of anyone who visits us as a witness, that they be given the last word. And this is your opportunity to say whatever you may choose to say, particularly to family members of mental health care users who were implicated by the Marathon Project and to South Africa, those who may care to listen, it is your opportunity to do so.

DR MAKGABO JOHANNA MANAMELA: Thank you Justice. Thank you also for inviting me here. Two things that I want to say before I come to the family. I believe that somehow somewhere during these proceedings I was termed or seen as an accused. My right to dignity and privacy were violated. My medical condition was published without my consent. And I have witnessed a lot of bias in this proceeding. However, for the sake of the patients that we really loved, I really had to endure that. And I just wanted this to be recorded that I came here looking for

documents, thinking I will get documents to be ready if I am accused, but I was placed to be a witness. But the proceeding process put it to me that most were in the accusing line of me as the Director Mental Health. However, thank you so much for allowing me to come. And I have to reiterate that I am deeply saddened by the death of the mental health care users, regardless of where they died and how they died, that is a regrettable moment for me, which kept me also, for almost over a year with pain. And I empathise with the families for the pain they had that they experienced, the sleepless nights, I really empathise with them. And in areas where we haven't done things properly to satisfy the family, I want to say my apologies on that area and say I hope at the end of this process no matter what the outcome will be, the family will find closure from the hardship they went through. I thank you.

ARBITRATOR, JUSTICE MOSENEKE: Thank you Dr Manamela. You are free to leave if you so choose. There might be one or two housekeeping matters for us to deal with. Again I thank you and we are done with your evidence.

DR MAKGABO JOHANNA MANAMELA: Thanks.

ARBITRATOR, JUSTICE MOSENEKE: Counsel, shall we talk about Wednesday?

ADV. PATRICK NGUTSHANA: Justice Moseneke, we were supposed to deal with Legal Aid clients today. They have now been pushed back to Wednesday. We will take off from the witnesses of the legal aid clients and thereafter I see from the program that we might have someone else to speak on the state of the mortuaries, I think on behalf of the State. I am not sure whether we are still going to hear evidence on that, having heard somebody else coming from CRCC. I am sure my

colleague, Adv. Hutamo, would give us some more information on that, whether we are still yet to receive evidence on the state of mortuaries or not.

ARBITRATOR, JUSTICE MOSENEKE: Let me start with you, Adv. Crouse.

ADV. LILLA CROUSE: Justice, we have witnesses ready and available and we could, if the mortuary person is not available, we could lead those witnesses.

ARBITRATOR, JUSTICE MOSENEKE: That will be tomorrow?

ADV. LILLA CROUSE: On Wednesday Justice.

ARBITRATOR, JUSTICE MOSENEKE: On Wednesday, I beg your pardon, Wednesday, yes, indeed Wednesday.

10 **ADV. LILLA CROUSE:** That is so.

ARBITRATOR, JUSTICE MOSENEKE: Very well. Adv. Hutamo?

ADV. TEBOGO HUTAMO: Justice, I have been made to understand that from the request of the Mamelodi Hospital, the witness will only be available from the 30th of November 2017.

15 **ARBITRATOR, JUSTICE MOSENEKE:** When is that?

ADV. TEBOGO HUTAMO: That will be on Thursday. So in light of that the witnesses represented by Legal Aid may proceed with their evidence on Wednesday.

ARBITRATOR, JUSTICE MOSENEKE: Where is Me. Hannah Jacobus?

ADV. TEBOGO HUTAMO: Justice, for now we do not know but we do understand that she is based in Pretoria. We will make a follow-up, we will report back on Wednesday when we reconvene.

ARBITRATOR, JUSTICE MOSENEKE: Yes. I think we should try and find her and hear from her.

ADV. TEBOGO HUTAMO: Correct. We have already started when evidence began coming up from Dr Manamela to find out their contact details. But we'll report back on Wednesday.

ARBITRATOR, JUSTICE MOSENEKE: Okay.

10 **ADV. TEBOGO HUTAMO:** Thanks Judge.

ARBITRATOR, JUSTICE MOSENEKE: Well very well. I suppose that the balance of the program will stay as is, unless otherwise advised.

ADV. TEBOGO HUTAMO: Correct Justice Moseneke.

ARBITRATOR, JUSTICE MOSENEKE: Very well. We are done and I am not
15 unhappy that we are done. So we are going to at 16:30 adjourn until Wednesday morning at 9:30. Thanks. We are adjourned.

END OF SESSION 3