

**LIFE ESIDIMENI ARBITRATION**

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

**DATE: 24<sup>th</sup> OCTOBER 2017 DAY 12**

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**DAY 11 SESSION 1 – 4.**

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**BEFORE ARBITRATOR – JUSTICE MOSENEKE**

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**WITNESSES:**

**MR LUCAS MOGWERANE**

**MR LESIBA JOHANNES LEGWABE**

**MS NTOMBIFUTHI DHLADHLA**

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24 October

## SESSION 1

**ARBITRATOR, JUSTICE MOSENEKE:** Council, good morning. You may proceed.

5 **ADV ADILA HASSIM:** Good morning Justice Mosaneke.

**ARBITRATOR, JUSTICE MOSENEKE:** Good morning council.

**ADV ADILA HASSIM:** Justice, I have been instructed to raise a concern before we call our witnesses if I may.

**ARBITRATOR, JUSTICE MOSENEKE:** Yes, of course.

10 **ADV ADILA HASSIM:** I have been instructed to place on record that we are into the third week of hearings and that the state has not requested nor have they subpoenaed the former MEC Mahlangu to be present and to testify at these hearings. Those are my instructions, simply to place that on record.

**ARBITRATOR, JUSTICE MOSENEKE:** Yes.

15 **ADV ADILA HASSIM:** And we hope that the state will be securing the MEC's presence soon.

**ARBITRATOR, JUSTICE MOSENEKE:** Ja, well let's council for the state, is there anything you want to say to that?

**ADV TEBOGO HUTAMO:** Thank you Justice. We should also place it on record  
20 that pursuant to the process that has been followed and during the pre-trial

conference and with regard to correspondence exchanged between the parties, it was agreed that Section 27 will take steps to issue subpoenas against the former MEC. That process is permitted in terms of the procedure in relation to this process. It cannot just be that it is put as if the state is not desirous to get this  
5 matter to be attended fully and properly. The attorneys on behalf of Section 27 are also obliged to take those steps to ensure that the former MEC is in attendance. So it should not be seen as if there is one party who is only obliged to ensure like there is attendance of witnesses.

**ARBITRATOR, JUSTICE MOSENEKE:** Ja, I'm not look this matter has been  
10 discussed in my chambers with council right and I think we, as I understand there is no difference between the parties in regard to the necessity to have three witnesses here, not just one. Doctor Mamelela, Doctor Silubane and former MEC (inaudible) we have talked about this in chambers and we have agreed that the parties will take the necessary steps to have those three witnesses subpoenaed and on Monday I  
15 conveyed to all of you that the matter is urgent, it's necessary and it ought to happen and that that obligation rests on all parties and the state is not excluded, nor is Section 27 excluded. Nor is the legal aid South Africa excluded. It's an obligation that sits on you to subpoena the witnesses under the arbitration act and to have them appear before me and if there is any impediment in that regard I would like to  
20 be informed about it. So I don't like to have a backwards and forwards between council, because both of you know and we have talked about this in my chambers that it will happen and will be done, and in fact it's in the public interest to make it known that in fact that is my position that those three witnesses will come before us,

ahead of and over and above the Minister, the National Minister of Health, the Premier of Gauteng province and the current MEC for Health in Gauteng. So at least those six witnesses from the state ought to appear in these proceedings. We have settled the position of the three last mentioned witnesses and I hope the parties will take all urgent steps as I have continually urged in my chambers to have them here, and let me make it clear. These proceedings will not end until those three witnesses who made these decisions about the (inaudible) project come before this hearing. So amongst you council I would like to go back and you must go and talk about it again and I'd like to have a report on the exact steps you have taken, that is all council, in order to procure the attendance and that will be on Thursday morning when we, before we resume at 09h30. Let's come to have that meeting, where I would like to have a report and nobody is exonerated. The first instance, the State should be making sure that its Employees or former Employees are here. If that doesn't happen by consent and voluntarily, all parties acquire the duty to subpoena them, and I think that is my attitude on the matter. It ought to be made quite public.

**ADV TEBOGO HUTAMO:** Justice Mosaneke, we there is some little update that we need to share with you. I think maybe it might assist. We have made contact with John (inaudible) who was the former Attorney of the MEC and there is a response from John (inaudible) which we just received it now, but the response is to the effect that he has made contact with Ms Mahlangu. She is willing to cooperate. She is just looking at her dates. She is currently busy writing exams. So she is willing to accommodate this proceedings later in the year, maybe during November

and December. So she is willing to come and testify. So attempts have been made by the Attorney to secure her attendance at this ... [interjects]

**ARBITRATOR, JUSTICE MOSENEKE:** Which Attorney?

**ADV TEBOGO HUTAMO:** That is John (inaudible).

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

**ADV TEBOGO HUTAMO:** (inaudible) was the Attorney for the Department of Health as well as the MEC at the time when this marathon project was ongoing. So he has some information on what has been going on. So we have requested his assistance and he has reported back this morning, just now that he has made  
10 contact with the, that is the former MEC and she is aware that she is being requested to come and testify here and she will come and testify.

**ARBITRATOR, JUSTICE MOSENEKE:** Well, in that event she has to be given the dates on which we will be sitting.

**ADV TEBOGO HUTAMO:** Correct. We have done that.

15 **ARBITRATOR, JUSTICE MOSENEKE:** Which will be settled and she should find time in those dates when we are here all and sitting and let's have a report on Thursday again.

**ADV TEBOGO HUTAMO:** Yes.

**ARBITRATOR, JUSTICE MOSENEKE:** Thursday morning when we meet so that  
20 we know exactly where we are on that issue. If she comes voluntarily, obviously the happier for all of us.

**ADV TEBOGO HUTAMO:** Yes.

**ARBITRATOR, JUSTICE MOSENEKE:** But we shouldn't leave it to chance. If she doesn't we have no clear confirmations. We should have subpoenas issued.

**ADV TEBOGO HUTAMO:** Correct Justice.

5 **ARBITRATOR, JUSTICE MOSENEKE:** Very well, and what about Doctor Manamelo. How are we doing council?

**ADV ADILA HASSIM:** Justice, I've been advised that the subpoena was issued on Friday and we are awaiting return of service.

10 **ARBITRATOR, JUSTICE MOSENEKE:** And it's been issued for a specific date of hearing?

**ADV ADILA HASSIM:** It's been issued for a specific date and it was issued on an urgent basis.

**ARBITRATOR, JUSTICE MOSENEKE:** Ja. So you await return of service obviously on her.

15 **ADV ADILA HASSIM:** Yes.

**ARBITRATOR, JUSTICE MOSENEKE:** Ja, very well, and Doctor Silubane, how are we doing? Council for the state.

20 **ADV TEBOGO HUTAMO:** Thank you Justice. We wanted to confirm the dates for the next sitting so that when we issue the subpoena he should have specific dates during which the witness is required to come and testify. We understood that the dates that have been discussed were yet to be confirmed, so we have not yet

received that confirmation. Once that is done, we'll then be in a position to issue a subpoena which has got specific dates during which the witness is supposed to come.

**ARBITRATOR, JUSTICE MOSENEKE:** Ja.

5 **ADV TEBOGO HUTAMO:** That is ... [interjects]

**ARBITRATOR, JUSTICE MOSENEKE:** Obakeng will give you the confirmed dates, teatime as we break up now and then we should go ahead and subpoena him. Have we asked him and is he reluctant to come or is he willing to come?

10 **ADV TEBOGO HUTAMO:** From the previous correspondence there was some resistance about the appearance in light of the ... [interjects]

**ARBITRATOR, JUSTICE MOSENEKE:** Resistance from Doctor?

**ADV TEBOGO HUTAMO:** Silubane.

**ARBITRATOR, JUSTICE MOSENEKE:** Silubane.

15 **ADV TEBOGO HUTAMO:** Yes, like particularly in relation to the steps that the department has taken against them, like the view has been in light of those processes continuing, they were not willing to actually come and appear, but we'll take appropriate and necessary steps should there be any resistance despite the issue on serving a subpoena.

20 **ARBITRATOR, JUSTICE MOSENEKE:** Very well. Let's report also on that matter on Thursday morning before we start our hearing. Let's get a firm report about

whether he is still resisting and whether the subpoena has been issued, because the dates confirmed will be given to you during the tea break.

**ADV TEBOGO HUTAMO:** Thank you Justice.

**ARBITRATOR, JUSTICE MOSENEKE:** Very well. Is there anything council?

5 You're looking at me as if you want to say something.

**ADVOCATE:** No, no, no I'm just listening.

**ARBITRATOR, JUSTICE MOSENEKE:** Oh, you're just listening attentively right. You're not like indicating willingness to talk. You started this council. I'm back at you. Is there anything else you want to say in the light of the discussion?

10 **ADV ADILA HASSIM:** Thank you for indulging this concern that the families have raised Justice Mosaneke. As long as we proceed with urgency to get the relevant people here, we're satisfied.

**ARBITRATOR, JUSTICE MOSENEKE:** Yes. Now they all know it's in the hands of the legal team. In the hands of all of the legal teams and all steps should be  
15 taken and they know that I have continually directed that those steps be taken so that we have them here and if they are not here, all three of them, this hearing will not end. Just that simple. So we're not going to run out of time, unless I die or something like that. So we will get them here and there's no need to, concerning the media that our three weeks is running out, but we're not going to run out of time  
20 until we have those witnesses here.

**ADV ADILA HASSIM:** Thank you Justice Mosaneke.



**ARBITRATOR, JUSTICE MOSENEKE:** Very well. Is there anything else on this particular issue before we get back to the proceedings?

**ADV TEBOGO HUTAMO:** No.

**ARBITRATOR, JUSTICE MOSENEKE:** Council, welcome back to Advocate Stein.

5 **ADV NIKKI STEIN:** Thank you Justice.

**ADV ADILA HASSIM:** Justice Mosaneke, we'd like to call Mr Lucas Mogwerane to take the stand and Ms Stein will lead his evidence.

**ARBITRATOR, JUSTICE MOSENEKE:** [Vernacular 00:14:43]

**MR LUCAS MOGWERANE:** [Vernacular]

10 **ARBITRATOR, JUSTICE MOSENEKE:** [Vernacular]. In what language do you want to testify?

**MR LUCAS MOGWERANE:** English please.

**ARBITRATOR, JUSTICE MOSENEKE:** In English. Will you put your full names on record?

15 **MR LUCAS MOGWERANE:** Lucas Mogwerane.

**ARBITRATOR, JUSTICE MOSENEKE:** Would you swear that the evidence you are about to give will be the truth and nothing but the truth and if so, please raise your right hand and say so help me God.

**MR LUCAS MOGWERANE:** So help me God.

20 **ARBITRATOR, JUSTICE MOSENEKE:** Ms Stein.

**ADV NIKKI STEIN:** Thank you Justice. Good morning Mr Mogwerane.

**MR LUCAS MOGWERANE:** Good morning madam.

**ADV NIKKI STEIN:** Mr Mogwerane, what was your relationship to Christopher Mogwerane?

5 **MR LUCAS MOGWERANE:** Christopher Mogwerane is my brother who was the closest to me in the family.

**ADV NIKKI STEIN:** And by the closest to you, you mean?

**MR LUCAS MOGWERANE:** By the closest to me was part of my life. So the other piece when it is no more, then I'm not in the fullest of a human being.

10 **ADV NIKKI STEIN:** Okay. Mr Mogwerane, there is a photograph in front of you marked ELAH34.

**MR LUCAS MOGWERANE:** Yes.

**ADV NIKKI STEIN:** Can you tell us who is in that picture?

**MR LUCAS MOGWERANE:** This is the handsome Christopher Mogwerane.

15 **ADV NIKKI STEIN:** And where was that picture taken?

**MR LUCAS MOGWERANE:** This picture is a good memory to us. It was taken on the 5<sup>th</sup> of November during my son's wedding.

**ARBITRATOR, JUSTICE MOSENEKE:** I think you will have to repeat the exhibit number.

20 **ADV NIKKI STEIN:** It's ELAH34.

**ARBITRATOR, JUSTICE MOSENEKE:** 34, thank you.

**ADV NIKKI STEIN:** Mr Mogwerane, you said the 5<sup>th</sup> of November, what year is that?

**MR LUCAS MOGWERANE:** 2015.

5 **ADV NIKKI STEIN:** And who took the picture?

**MR LUCAS MOGWERANE:** One of the family members took the picture.

**ADV NIKKI STEIN:** Was Christopher ever at Life Esidimeni?

**MR LUCAS MOGWERANE:** Yes.

**ADV NIKKI STEIN:** Which facility was he at?

10 **MR LUCAS MOGWERANE:** He spent most of his life in Randfontein, more years in Randfontein and towards the end of that he was taken to Waverley in Germiston, Life Esidimeni.

**ADV NIKKI STEIN:** How many years did he spend in Randfontein?

**MR LUCAS MOGWERANE:** In Randfontein you could talk about almost ten years.

15 **ADV NIKKI STEIN:** And Waverley?

**MR LUCAS MOGWERANE:** Waverley, two years.

**ADV NIKKI STEIN:** What was his condition?

**MR LUCAS MOGWERANE:** Perfect. He was just as you see me. He was so perfect. He was not sick. He was a skitsophrenia user but he was not a sick man.

**ADV NIKKI STEIN:** Did Christopher ever live with you at home?

**MR LUCAS MOGWERANE:** Yes.

**ADV NIKKI STEIN:** And how was that for you?

**MR LUCAS MOGWERANE:** May you repeat the question please?

5 **ADV NIKKI STEIN:** How was it for you living at home with Christopher?

**MR LUCAS MOGWERANE:** That was the best of the moment to have Christopher with me and that is why that prompted me to be a regular visitor. Fortnight or every week, wherever he is and that has become a habit.

**ADV NIKKI STEIN:** And was this during his stay at Life Esidimeni?

10 **MR LUCAS MOGWERANE:** It was during his stay at Life Esidimeni.

**ADV NIKKI STEIN:** And what were the conditions like there?

**MR LUCAS MOGWERANE:** You know, Christopher has got a 30 years track record of his skitsophrenia, but Life Esidimeni was the best among other places and we were happy about that.

15 **ADV NIKKI STEIN:** Can you tell us a bit, can you tell us why you say it was the best?

**MR LUCAS MOGWERANE:** Why I say that compared to the other places from Baragwaneth, Sterkfontein and others, the Life Esidimeni we appreciated nutrition. You know the feeding. We appreciated the facilities. The system. The compliant of

the machineries that they were using and of course just when you enter at the gate there's a security.

**ADV NIKKI STEIN:** And was Christopher happy there?

**MR LUCAS MOGWERANE:** Christopher was happy. I have never seen  
5 Christopher being so happy.

**ADV NIKKI STEIN:** Did you take Christopher home during the holidays?

**MR LUCAS MOGWERANE:** Of course yes, I did take him during the holidays and I saw to it that now whatever errands I am doing, whether I'm going to the workshops at the university, because I'm a developer to the students in  
10 entrepreneurship, especially those who want to take the business and faculty in the law business, Christopher was always with me.

**ADV NIKKI STEIN:** Okay. How did you find out that they were going to close Life Esidimeni?

**MR LUCAS MOGWERANE:** Well, in October there were rumours.

15 **ADV NIKKI STEIN:** October of which year?

**MR LUCAS MOGWERANE:** October, 2015. There were rumours, but those rumours you know, when we hear such rumours you ask yourself why, because you look at the place, you see now what more do people want when you see the facility is readily equipped for a human being.

20 **ARBITRATOR, JUSTICE MOSENEKE:** What rumours were circulating?

**MR LUCAS MOGWERANE:** Rumours were circulating that now there will be a move from Esidimeni. The users will be moved away from Esidimeni.

**ARBITRATOR, JUSTICE MOSENEKE:** And who did you hear these rumours from?

5 **MR LUCAS MOGWERANE:** Well, you know like we are united today as a family, I must say it has been a long walk to justice as we are here today. Two years. We knew each other when we visit. Then you hear people talking. Did you hear about that? When you didn't hear you say no, who said those? That's the kind of rumour we were hearing.

10 **ADV NIKKI STEIN:** And did you attend any meetings with the Department of Health about the closure?

**MR LUCAS MOGWERANE:** Yes, of course. Before we had a meeting with the MEC, after those rumours we communicated with Section 27. That's as families, to say we hear something like this, because you are, Section 27 is an organisation of  
15 human rights. We knew that now they will give us a way, and then we had an understanding that it shouldn't happen that people should be moved. So we met with the MEC in the new year, 20 before we met the MEC we had an open day. There was an open day and that's when the rumour spread, but in February, that was in December 2015. In February 2016 we insisted that we should have the  
20 MEC to come and explain to us about the move. Indeed she did come in February 2016 and we had questions. We had also suggestions, because we believe that we've got a democratic government which will listen to the people.

**ARBITRATOR, JUSTICE MOSENEKE:** Well, let's take it chunk by chunk. You know the way you eat an elephant.

**MR LUCAS MOGWERANE:** Okay.

**ARBITRATOR, JUSTICE MOSENEKE:** Bit by bit.

5 **MR LUCAS MOGWERANE:** Bit by bit.

**ARBITRATOR, JUSTICE MOSENEKE:** Yes. In Swahili they say mbody mbody. You don't eat everything, you take small pieces.

**MR LUCAS MOGWERANE:** Yes.

**ARBITRATOR, JUSTICE MOSENEKE:** In 2015 rumours circulate.

10 **MR LUCAS MOGWERANE:** Yes.

**ARBITRATOR, JUSTICE MOSENEKE:** And then you have an open day.

**MR LUCAS MOGWERANE:** Yes.

**ARBITRATOR, JUSTICE MOSENEKE:** Who are we who had an open day?

15 **MR LUCAS MOGWERANE:** No, normally in December there is an open day for families to come and meet the users and family to see the beautiful work that the users have. Like arts, like you know car wash, like ... [interjects]

**ARBITRATOR, JUSTICE MOSENEKE:** So you went to Esidimeni, the normal convention of an open day in December.

**MR LUCAS MOGWERANE:** Yes.

**ARBITRATOR, JUSTICE MOSENEKE:** And many family people were, of the users were there?

**MR LUCAS MOGWERANE:** Yes.

**ARBITRATOR, JUSTICE MOSENEKE:** And at the open day what happened  
5 about or what was said about the move?

**MR LUCAS MOGWERANE:** Well, it was just announced that there's a special message to be said about the move. In fact, we thought maybe there are changes. There is something additional that we are going to see about the artistic work which has been done by ... [interjects]

10 **ARBITRATOR, JUSTICE MOSENEKE:** Who announced the possible move of users in December 2015 at the open day?

**MR LUCAS MOGWERANE:** Well, the manager. The manager is the one who announced the move of the patients in 2015.

**ARBITRATOR, JUSTICE MOSENEKE:** Very well, and then you decided to meet  
15 with the MEC in February.

**MR LUCAS MOGWERANE:** In February.

**ARBITRATOR, JUSTICE MOSENEKE:** 2016.

**MR LUCAS MOGWERANE:** Yes.

**ARBITRATOR, JUSTICE MOSENEKE:** Okay, tell us about that meeting.



**MR LUCAS MOGWERANE:** That meeting was a meeting where we wanted to hear from the horse's mouth why should we move, and we had questions. You see... [interjects]

**ARBITRATOR, JUSTICE MOSENEKE:** The MEC is MEC of Health in Gauteng?

5 **MR LUCAS MOGWERANE:** MEC of Health in Gauteng.

**ARBITRATOR, JUSTICE MOSENEKE:** Ms Ketani Mahlangu?

**MR LUCAS MOGWERANE:** Ms Ketani Mahlangu.

**ARBITRATOR, JUSTICE MOSENEKE:** Yes.

10 **MR LUCAS MOGWERANE:** So now the question was could she tell us the reasons why we should move, why the users were to be moved.

**ARBITRATOR, JUSTICE MOSENEKE:** Did she attend the meeting alone?

**MR LUCAS MOGWERANE:** Yes. No, no she had some officials who attended.

**ARBITRATOR, JUSTICE MOSENEKE:** Can you remember which officials attended?

15 **MR LUCAS MOGWERANE:** Well, it was a few of them, but if I don't remember the names but they were there.

**ARBITRATOR, JUSTICE MOSENEKE:** Was the HOD there?

**MR LUCAS MOGWERANE:** There was the HOD.

**ARBITRATOR, JUSTICE MOSENEKE:** Doctor Silubane, was he there?

**MR LUCAS MOGWERANE:** Well, my colleagues will remind me, but now there were a few of them there.

**ARBITRATOR, JUSTICE MOSENEKE:** Yes, okay that's fine, and then you tell us about the meeting.

5 **MR LUCAS MOGWERANE:** And then it was proposed that the MEC was not present but she is delaying we should start the meeting, but we refused. We said until she comes we cannot start. Eventually she arrived and the meeting started.

**ADV NIKKI STEIN:** Can I interrupt you there Mr Mogwerane?

**MR LUCAS MOGWERANE:** Yes.

10 **ADV NIKKI STEIN:** Who organised the meeting?

**MR LUCAS MOGWERANE:** The manager at Esidimeni organised the meeting.

**ADV NIKKI STEIN:** Okay.

**MR LUCAS MOGWERANE:** Yes.

**ADV NIKKI STEIN:** Thank you, I interrupted you.

15 **MR LUCAS MOGWERANE:** Yes.

**ADV NIKKI STEIN:** Can you continue telling us about the meeting?

**MR LUCAS MOGWERANE:** And then when she came, because she delayed we had already had an agenda from our side that we had questions, because time was just limited. So we requested that we should pose those questions to the MEC and  
20 our question was can she tell us any reason why the move should take place, and

the answer was to reduce cost. Then we said good enough. Can you describe when you say cost, can you give us a figure when you say cost? She says annually a building can cost R123 712 000-00. So that is too much for the government to spend, but because some of us, among the families we deal with property. We  
5 dealt with properties. In fact, some of us are retired. We dealt with properties, but we said ... [interjects]

**ARBITRATOR, JUSTICE MOSENEKE:** What did she mean by a building would cost 23.7 million? What building ... [interjects]

**MR LUCAS MOGWERANE:** Not only building, but include the costs of ...  
10 [interjects]

**ARBITRATOR, JUSTICE MOSENEKE:** You mean the construction costs?

**MR LUCAS MOGWERANE:** Construction cost, but including all the cost that is spent to you know ... [interjects]

**ARBITRATOR, JUSTICE MOSENEKE:** To construct the facility?

15 **MR LUCAS MOGWERANE:** Yes.

**ARBITRATOR, JUSTICE MOSENEKE:** Okay.

**ADV NIKKI STEIN:** Was she talking about the Life Esidimeni facilities?

**MR LUCAS MOGWERANE:** It was Life Esidimeni if I am correct yes.

**ADV NIKKI STEIN:** So just to clarify Mr Mogwerane, was she saying it would cost,  
20 was it a hundred and twenty three million ... [interjects]

**MR LUCAS MOGWERANE**: Yes.

**ADV NIKKI STEIN**: To continue with the care of mental health care users at that Esidimeni?

**MR LUCAS MOGWERANE**: Absolutely yes.

5 **ADV NIKKI STEIN**: Or to construct a new facility?

**MR LUCAS MOGWERANE**: No, no to continue.

**ADV NIKKI STEIN**: To continue.

**MR LUCAS MOGWERANE**: Continue yes.

**ADV NIKKI STEIN**: Business ... [interjects]

10 **MR LUCAS MOGWERANE**: And that couldn't be appreciated, it must stop.

**ADV NIKKI STEIN**: Okay.

**MR LUCAS MOGWERANE**: Yes.

**ARBITRATOR, JUSTICE MOSENEKE**: So council, what's the answer. What hundred and twenty three million for?

15 **ADV NIKKI STEIN**: Justice, it appears that the hundred and twenty three million was to continue the operation of Life Esidimeni to look after the mental health care users.

**ARBITRATOR, JUSTICE MOSENEKE**: So is it the cost of keeping the mental health care users there?

**ADV NIKKI STEIN:** That's my understanding Justice.

**ARBITRATOR, JUSTICE MOSENEKE:** Not the cost to construct a similar or comparable facility.

**ADV NIKKI STEIN:** That's my understanding.

5 **MR LUCAS MOGWERANE:** Yes, he's correct, and then we had a suggesting that yes we hear, but we are against the move. We had the suggestion that now should it be plan B, then we as the family volunteer to assist, especially with properties so that now we should cut that figure into half.

**ADV NIKKI STEIN:** What do you mean assist with properties?

10 **MR LUCAS MOGWERANE:** Assist the properties that now we believe that we should use our expertise. Put them on the table that we hear you, but now here is a suggestion. This is what can come up from the families because we have the interest of our families, our people which are the users and she noted that and then of course in conclusion it was that it will be appropriate to do that, to tell us when it  
15 is time to move and it was suggested that it should be in March, but later it was announced it will no more be in March, it will be in June 2016. The move will be in June 2016.

**ADV NIKKI STEIN:** Did you tell the MEC why you didn't want the mental health care users placed in other facilities?

**MR LUCAS MOGWERANE:** Yes, we put all the benefits that we appreciated. We even said when it comes to any funding or donations we could go all out and assist, because this is life of our people. We are prepared to sacrifice and compromise.

**ADV NIKKI STEIN:** And what was the MEC's response?

5 **MR LUCAS MOGWERANE:** Well, the MEC's response was look, since I hear you, because we requested that now should there be any move, we should be told, given an allowance of three weeks before the move happens. Remember now, it's no more March, it will be in June 2016. So that was the understanding of the ending of the meeting to say we still have some time to hear from the MEC.

10 **ARBITRATOR, JUSTICE MOSENEKE:** Did she ever agree not to move the users?

**MR LUCAS MOGWERANE:** Yes. She agreed that now I will consider your request.

**ADV NIKKI STEIN:** And the three week period you spoke about.

15 **MR LUCAS MOGWERANE:** Yes.

**ADV NIKKI STEIN:** What was the purpose of being informed three weeks before the move?

**MR LUCAS MOGWERANE:** The purpose was that should there be any deviation or changes, remember plan B was that should you insist in moving, then convince  
20 us that the next place will be as beautiful as compliant as this facility of Life Esidimeni.

**ADV NIKKI STEIN:** Did you know any of these next places that mental health care users were being moved to?

**MR LUCAS MOGWERANE:** We hardly knew of these next places. This is why we wanted to be part of you know, that investigations of those new premises.  
5 Whatever it could be, yes.

**ADV NIKKI STEIN:** And so you are saying you wanted to go and see those new premises?

**MR LUCAS MOGWERANE:** We wanted to go and see those premises.

**ADV NIKKI STEIN:** Where was Christopher ultimately moved to?

10 **MR LUCAS MOGWERANE:** Christopher was moved to the west side of Atteridgeville, which is between Diepsloot and Atteridgeville. An NGO called Rebaferi.

**ADV NIKKI STEIN:** Did you see Rebaferi before Christopher was moved there?

**MR LUCAS MOGWERANE:** I never saw Rebaferi before Christopher was moved  
15 there.

**ADV NIKKI STEIN:** Did you know that Christopher was being moved to Rebaferi?

**MR LUCAS MOGWERANE:** I never knew, until on the 27<sup>th</sup> of May while I was driving there is a call that came and say, it's from the voice of a lady that we are moving Christopher the next day, meaning on the 28<sup>th</sup> of May.

20 **ADV NIKKI STEIN:** Of what year?

**MR LUCAS MOGWERANE:** 2016.

**ADV NIKKI STEIN:** And who was the lady that called you?

**MR LUCAS MOGWERANE:** The lady sounded like Mandisa, the social worker because they are Selina and Mandisa. Yes, and then I said but this is a surprise.  
5 The ending of the last meeting, our understanding was we should be informed three weeks before, and then she said sir, I am doing my work. You should just come and take Christopher. If you don't want him to go, come and take him. Then while I was just trying to talk to her the phone was cut off and the next gentleman who phoned me after some seconds is Tisetso. This Tisetso I thought it will be  
10 somebody at, the staff of Esidimeni, but from an understanding I was told by this very lady that he is the one, because this lady didn't know the direction where Christopher was, so Tisetso is the man who gave me the direction of 165 Hennops Road, that is next to Atteridgeville. That's how I got to know about Christopher, but the problem was the next day I had some errands. I wanted to be with Christopher  
15 on the 28<sup>th</sup>. I couldn't want to miss that, because of the workshops that I'm attending you know, I should be doing with the University of Johannesburg, that I could not make it, but I made it on the 5<sup>th</sup>. I was ... [interjects]

**ADV NIKKI STEIN:** The 5<sup>th</sup> of?

**MR LUCAS MOGWERANE:** The 5<sup>th</sup> of June, and remember I just saw Christopher  
20 in the middle of May, as fit as an ox.

**ADV NIKKI STEIN:** And when you saw him on the 5<sup>th</sup> of June, is that 2016?

**MR LUCAS MOGWERANE:** Yes.



**ADV NIKKI STEIN:** What was he like?

**MR LUCAS MOGWERANE:** As I drove in, again now negativity, there was no security. Now I saw a group of men with overalls, compared to Esidimeni with beautiful uniforms, warm uniforms and shoes, but there they were bear footed, 5 footed with big overalls. I know Christopher as I know myself, but on that day I couldn't recognise him. He was as thin as ever. He was so thin that he cried like a baby. For the first time in 30 years my brother cried like that. Then I opened the doors, he jumped in because he just waved to me. It's me big brother. He used to call me like that. Then that shocked me. Around me, a group of his colleagues 10 were shouting. Some of them knows me, because I'm involved in projects in Soweto. Uncle, we know you. Take us home. Where are we. Even Christopher. Where are we big brother. They were in that subconscious mind. That also shocked me. Then as I drove in I stopped, because I had food in my boot. I had fruits. I had so much to bring as a habit that I used to bring to Christopher, but I had 15 bananas and oranges. As they were surrounding me, as I tried to give them one by one, they just grabbed these bananas and (inaudible) voraciously, without peeling, without peeling them off.

**ARBITRATOR, JUSTICE MOSENEKE:** Well, you've got to tell us what (inaudible) is.

20 **MR LUCAS MOGWERANE:** (inaudible) is not really eating, because if you eat you chew, but if you (inaudible) you just swallow.

**ARBITRATOR, JUSTICE MOSENEKE:** Yes, what language is (inaudible)?

**MR LUCAS MOGWERANE:** Well, it's just a term.

**ADV NIKKI STEIN:** Can you ... [interjects]

**ARBITRATOR, JUSTICE MOSENEKE:** [Vernacular 00:36:56]

**MR LUCAS MOGWERANE:** [Vernacular]

5 **ARBITRATOR, JUSTICE MOSENEKE:** Ja.

**MR LUCAS MOGWERANE:** But they were gone and then the manager Noeline was already next to me. Then I asked her Noeline, what am I seeing. What is happening. Is there no food here? Is there no, why people are all, they have slimmed. Christopher is just hardly few weeks I saw him, he's hardly a week from  
10 Esidimeni because he died on the second week and the track record of 30 years he's so thin. What's going on? Noeline said no you are right sir, we don't have food.

**ARBITRATOR, JUSTICE MOSENEKE:** Who is Noeline?

**MR LUCAS MOGWERANE:** Noeline is the manager of Rebafeni.

15 **ARBITRATOR, JUSTICE MOSENEKE:** What is her last name?

**MR LUCAS MOGWERANE:** I just knew Noeline, the name. Manager of Rebafeni. She just said well, we had to do what we were forced to do. I said explain what you are saying. She said we were not ready to come here and we were even not paid and we don't have food. That was the answer, and that time Christopher was still  
20 alive and the other colleagues were still alive.

**ADV NIKKI STEIN:** So what were they eating?

**MR LUCAS MOGWERANE:** Pardon?

**ADV NIKKI STEIN:** What were they eating if there was no food?

**MR LUCAS MOGWERANE:** Well, she said she is trying just from the Shoprite a little bit to come for donations and other things.

5 **ARBITRATOR, JUSTICE MOSENEKE:** Before you go on, I would like to know the geographic location of Rebafeni.

**MR LUCAS MOGWERANE:** Rebafeni ... [interjects]

**ARBITRATOR, JUSTICE MOSENEKE:** Where exactly is it?

10 **MR LUCAS MOGWERANE:** Rebafeni is between Diepsloot, that is on the other side it's Midrand and then it is western side of Atteridgeville. 165 Hennops River. That's how I can describe it.

**ARBITRATOR, JUSTICE MOSENEKE:** So you say it's between Diepsloot and Atteridgeville?

**MR LUCAS MOGWERANE:** And Atteridgeville, yes.

15 **ARBITRATOR, JUSTICE MOSENEKE:** That's a good 20 to 30 kilometres between the two.

**MR LUCAS MOGWERANE:** Yes.

**ARBITRATOR, JUSTICE MOSENEKE:** And it's located somewhere between the two.

20 **MR LUCAS MOGWERANE:** The two, yes.

**ARBITRATOR, JUSTICE MOSENEKE:** And on what, is it a building?

**MR LUCAS MOGWERANE:** It is, when you approach it, it is a double story building. It looks okay outside, but as you come in, from my knowledge of properties, as you go in, then you realise this is like a concentration camp.

5 **ARBITRATOR, JUSTICE MOSENEKE:** Is it located within a suburb, in other words with other residential homes?

**MR LUCAS MOGWERANE:** It is not, well there are scattered houses around.

**ARBITRATOR, JUSTICE MOSENEKE:** Is it on a plot?

**MR LUCAS MOGWERANE:** On the plot. This is a plot, yes.

10 **ADV NIKKI STEIN:** And how many people were there? Sorry Justice.

**MR LUCAS MOGWERANE:** Well, those I saw that day I estimated 25.

**ADV NIKKI STEIN:** Men, women?

**MR LUCAS MOGWERANE:** Males.

**ADV NIKKI STEIN:** All males?

15 **MR LUCAS MOGWERANE:** Yes. I estimated that number, but when we went inside, then the building is no more beautiful and the answer was that we were not ready. We were not prepared to come here but we were forced to come. So I could see water leaking from upstairs too. The doors were just falling and I thought I would see like the usual as Esidimeni. I saw two ladies who were supposed to be  
20 care workers, but to me they were crooks. They were crooks and from there I went

up to go and see the other portion of the building. Then I had some questions. I said I'm questioning you because I know a lot about properties. I know the compliance and I know all, but this is not a place to stay, and so I said all that and she said but now, my saying to you is that we had to come but we were not ready  
5 after my question.

**ADV NIKKI STEIN:** Who was this saying that to you?

**MR LUCAS MOGWERANE:** This is Noeline, the manager of the facility.

**ADV NIKKI STEIN:** And were there beds in the facility?

**MR LUCAS MOGWERANE:** Pardon?

10 **ADV NIKKI STEIN:** Were there beds?

**MR LUCAS MOGWERANE:** Yes, there were beds off course. There were beds that I saw there, but the most thing that worried me, food. Because all the time I was talking on behalf of this 141 people, today I'm talking about Christopher. Christopher was a food lover. All over where he was, you ask any doctor, you ask  
15 any care worker, he was talkative. Christopher needed good food. That's why it was my business to bring him good food. Christopher knew the times and reminded the care workers. When it is ten minutes after then you are in trouble. He wants his medication. So now he took a lot of water, avoiding dehydration. So now Christopher was always like that, and that is why Christopher we saw to it that now  
20 he must be well equipped with food, he must get his medication and etcetera. So now when these things did not happen, I see about the building but I was worried

also about people being bare footed and overalls. They looked like the worksmen, far different to Esidimeni.

**ADV NIKKI STEIN:** Was Christopher taking his medication?

**MR LUCAS MOGWERANE:** Christopher, even at home you don't have to tell him.

5 He would remind you. He would remind you. As you know sometimes, let me put it this way. I used to go to Esidimeni. I would go there at ten o'clock and I would go out there at four o'clock, because I had the passion, because I'm a man of projects, that is supporting the government with projects and entrepreneurship. I deal with the youth, the women. Then we as families we want to come there and want to see  
10 people doing something. Car wash, all these things, and then to us staying there with him. We wanted, it was an indication to say you are part of the family. The reasons we brought you here, we didn't dump you as we hear that we dumped our people. The reasons at home we don't have these facilities, but from time to time it was a pleasure to be allowed to stay from ten o'clock to four o'clock. That was a  
15 good habit in that.

**ADV NIKKI STEIN:** Okay. When did Christopher pass away?

**MR LUCAS MOGWERANE:** On the 15<sup>th</sup> of June 2016 I received a call from Noeline. It was and when I looked at my watch it was ten o'clock am to say Christopher has died. Then I asked, I was shocked, because I don't expect from a  
20 man who was as fit as him, but I could see already that, I mean I could understand that some things do happen. Then I ask a question to Noeline how did that happen. She says in the middle of the night, and then I asked the question where were you.

She said I was sleeping at home. Sleeping at home. Is there anybody who is in charge at night? They are not, unlike Esidimeni it was 24 hours. So there was no security, nobody looked after these people. They were just vulnerable. Vulnerable, and what time did you arrive at work? I arrived at work at seven o'clock. Then I  
5 looked seven o'clock, you only phone me at ten o'clock. That was a big question. Then I arranged for, you know the next day was the 16<sup>th</sup>. It was a holiday so I had to go on the 17<sup>th</sup>.

**ADV NIKKI STEIN:** Before you get there.

**MR LUCAS MOGWERANE:** Yes.

10 **ADV NIKKI STEIN:** Sorry. Did Noeline tell you what happened that led to Christopher's death?

**MR LUCAS MOGWERANE:** Well, the answer was that nobody saw Christopher as he fell. He was on the ground from a bathroom, from one of the bathrooms on his side and how did he fall? I wouldn't say because nobody saw, other people  
15 were sleeping. Nobody saw Christopher when he fell, and where were you? I was also sleeping at home. Then I only start at seven. That's the answer I got.

**ADV NIKKI STEIN:** Sorry, if you can give me ... [interjects]

**ARBITRATOR, JUSTICE MOSENEKE:** Was Christopher mobile? Could he walk on his own?

20 **MR LUCAS MOGWERANE:** Christopher could walk, Christopher could assist the care workers to help others, because to me it was okay and I was encouraging him

because to set the tables, to see to it you know that some of the chores are done. In fact he was motivative and I was encouraging that.

**ADV NIKKI STEIN:** Mr Mogwerane, there is a file in front of you or somewhere behind you, I think someone will assist you in getting it. File number 11.

5 **MR LUCAS MOGWERANE:** Okay.

**ADV NIKKI STEIN:** I'd like you to turn to page 3844.

**MR LUCAS MOGWERANE:** 3844?

**ADV NIKKI STEIN:** Yes.

**MR LUCAS MOGWERANE:** Yes, I've got it.

10 **ADV NIKKI STEIN:** What is that document?

**MR LUCAS MOGWERANE:** This is the death certificate.

**ADV NIKKI STEIN:** And can you read to us the cause of death?

**MR LUCAS MOGWERANE:** The big natural causes.

**ADV NIKKI STEIN:** Did you ever find out anything more about the cause of  
15 Christopher's death or the circumstances around his death on the 15<sup>th</sup> of June?

**MR LUCAS MOGWERANE:** Yes, on the 15<sup>th</sup> of June I said to Noeline you know, Christopher is hardly two weeks with you and the cause of death is natural death. This is unacceptable. This is shocking. I don't believe this. I'm not in denial but from the bottom of my heart that is ridiculous. This is what I said.

20 **ADV NIKKI STEIN:** And what was her response?



**MR LUCAS MOGWERANE:** And her response was that now well, these are the results. Firstly I said to her who did you call? She said I called the paramedics and then next who did you call? I called the police. Okay, and then the paramedics certified that your brother is dead and we took him to our mortuary not far from, in  
5 Atteridgeville. It's Oupa Funeral Service or something like that. That's what she told me.

**ADV NIKKI STEIN:** So sorry, Noeline took him to Oupa Funeral Services?

**MR LUCAS MOGWERANE:** Yes, Oupa Funeral Services. So that's where we went with my son and my nephew on the 17<sup>th</sup>, where we came to the mortuary we  
10 found Christopher in the side position with his left hand overlapping, and then you could tell the symptom that this looks like a stroke, and of course a stroke create heart attack from the other knowledge that I'm having. Then you look at the certificate, it is natural causes. Then you ask yourself, is somebody who wrote that a qualified person or just a person who has just been put into a position without any  
15 assessment? Then from there you ask yourself that can I believe this? It is not easy to believe that.

**ADV NIKKI STEIN:** Did you request a post mortem?

**MR LUCAS MOGWERANE:** Well, we requested a post mortem, but time went on and we felt look, some of these things take a process. We had to bury Christopher,  
20 but we knew that we must continue with the investigation. We must know the forensic officers that Noeline phoned and that attended to Christopher. We must know about the paramedics. If there's a doctor we must also know about that, and

from there then we should get the results, and we don't expect the results to be natural causes, and indeed yesterday, yesterday I had to peruse. I had to go to the undertaker that we used to go and fetch Christopher, a young paramedic had to submit the oath that she made. The times, the registration, her qualifications that I  
5 wish all forensic officers should come forward and do the same, because we are here for the truth. The truth and justice. So this is how she described how she saw, what she checked and the car she was using and the time frame and so on. So this when you look at this and she gave us the breakdown, that there is one up to five. There are no injuries. The top one says and number one they say the capitation of  
10 mortal disfigurement is not there. The general (inaudible) due to extensive bends is not there.

**ARBITRATOR, JUSTICE MOSENEKE:** I'm lost council, where are we now?

**ADV NIKKI STEIN:** Ja. I wonder Mr Mogwerane if we could perhaps get a copy of that and hand it up as an exhibit.

15 **MR LUCAS MOGWERANE:** Yes, you will get a copy but the last one that I want just to say, it describe you compare to the description. It is circled. Compare the description of the paramedics and compare it to natural causes. It says rego mortis, and then if you google, it will explain it is the stiffness of the mussle. So that coincided with what we saw.

20 **ARBITRATOR, JUSTICE MOSENEKE:** The document you have in your hand was compiled by?

**MR LUCAS MOGWERANE:** This document?

**ARBITRATOR, JUSTICE MOSENEKE:** Yes.

**MR LUCAS MOGWERANE:** It's from the Department of Health, (inaudible) medical services.

**ARBITRATOR, JUSTICE MOSENEKE:** Who completed the form?

5 **MR LUCAS MOGWERANE:** Here it is paramedic. We've got the name there who took the oath.

**ARBITRATOR, JUSTICE MOSENEKE:** It relates to which deceased person?

**MR LUCAS MOGWERANE:** It relates to Christopher.

**ARBITRATOR, JUSTICE MOSENEKE:** And it was completed by the same person  
10 who had examined Christopher immediately after he passed on?

**MR LUCAS MOGWERANE:** Well, as it explains, it explains that now they do some following checks until on the scene in the ambulance in the same arena until at 09h20 Christopher passed on.

**ARBITRATOR, JUSTICE MOSENEKE:** Is that the actual paramedic who saw  
15 Christopher after his death?

**MR LUCAS MOGWERANE:** Yes, this is the actual paramedic.

**ARBITRATOR, JUSTICE MOSENEKE:** And completed that form for what reason, at whose request?

**MR LUCAS MOGWERANE:** Well, how I got ... [interjects]

20 **ARBITRATOR, JUSTICE MOSENEKE:** I mean, look at page 3843 for instance.

**MR LUCAS MOGWERANE:** Page?

**ARBITRATOR, JUSTICE MOSENEKE:** 3843.

**MR LUCAS MOGWERANE:** Yes, I've got it.

**ARBITRATOR, JUSTICE MOSENEKE:** Is it the same form as on page 3843?

5 **MR LUCAS MOGWERANE:** No, this is not the same form.

**ARBITRATOR, JUSTICE MOSENEKE:** It's not the same form.

**ADV NIKKI STEIN:** Justice, perhaps what we could do is we haven't seen the document, but perhaps we could get copies of the document and hand that up as an exhibit and return to it once we've had a chance to study it.

10 **ARBITRATOR, JUSTICE MOSENEKE:** Okay. Shall we proceed?

**ADV NIKKI STEIN:** Thank you. Mr Mogwerane, when did you bury Christopher?

**MR LUCAS MOGWERANE:** We buried Christopher on the 25<sup>th</sup>, just ten days after the 15<sup>th</sup>.

**ADV NIKKI STEIN:** The 25<sup>th</sup> of?

15 **MR LUCAS MOGWERANE:** Of June.

**ADV NIKKI STEIN:** 20?

**MR LUCAS MOGWERANE:** 2016.

**ADV NIKKI STEIN:** And how did his death affect your family?

**MR LUCAS MOGWERANE:** Well, the death came with its consequences. In fact it started with me. I'm an energetic person who can take hours working, but now a days I can do half of those hours. My elderly sister, my nieces are in and out of the hospitals. Yes.

5 **ARBITRATOR, JUSTICE MOSENEKE:** Well, you're talking about how it affected you. I want to take you back to how it affected you financially. Who paid for the burial?

**MR LUCAS MOGWERANE:** Well, I have, I hope my son isn't here. I have one son who look after his father. He's the one who did all that.

10 **ARBITRATOR, JUSTICE MOSENEKE:** And the state did not help you with the funeral expenses?

**MR LUCAS MOGWERANE:** No.

**ARBITRATOR, JUSTICE MOSENEKE:** And can you give us an estimation of the funeral expenses?

15 **MR LUCAS MOGWERANE:** I've got also the receipts here. Twenty two thousand, that is that I can mention now.

**ARBITRATOR, JUSTICE MOSENEKE:** Did any of, once you were at this funeral parlour, was there any attempt to persuade you to use them as your undertaker?

**MR LUCAS MOGWERANE:** No. Like I said we went to fetch Christopher using  
20 our own undertaker.

**ARBITRATOR, JUSTICE MOSENEKE:** I follow.

**MR LUCAS MOGWERANE:** Yes.

**ARBITRATOR, JUSTICE MOSENEKE:** You may proceed.

**ADV NIKKI STEIN:** Thank you Justice. Mr Mogwerane, did you ever hear anything from anyone in the government after Christopher's death?

5 **MR LUCAS MOGWERANE:** It's a good question madam. I had a private call, because now from there I had to appear in most of the papers, television talking about this. Speaking out. Saying this is not acceptable. I got a call, it was a private number saying Ms Ketani Mahlangu wants to see me.

**ADV NIKKI STEIN:** Who called you?

10 **MR LUCAS MOGWERANE:** It's a private number. Never told me his name or so on.

**ADV NIKKI STEIN:** And they didn't identify themselves?

**MR LUCAS MOGWERANE:** No, they didn't introduce themselves. Then I said but I was told to go to her office. Now ... [interjects]

15 **ARBITRATOR, JUSTICE MOSENEKE:** Was it the MEC who wanted to see you?

**MR LUCAS MOGWERANE:** Yes.

**ARBITRATOR, JUSTICE MOSENEKE:** Hm.

**MR LUCAS MOGWERANE:** Now what (inaudible) in my mind was it is too little, too late. It is too little too late. In that meeting, in February 2016 we wanted to put  
20 down our facts that this should not, the move shouldn't take place. Nobody heard

us. So it was too little too late, and it brought some other reasons that cannot be used for certain things. That's why I didn't want to attend to accept that call.

**ADV NIKKI STEIN:** And did you attend the meeting with the MEC?

**MR LUCAS MOGWERANE:** No, I never attended the meeting.

5 **ADV NIKKI STEIN:** Decided not to, okay.

**ARBITRATOR, JUSTICE MOSENEKE:** You know, I want to take you back to something that is still humming in my head. What did Noeline say in relation to receiving all these patients? Did she say why she did it?

**MR LUCAS MOGWERANE:** Well, she said why she did it, it was a matter of do  
10 you want or you don't want. Take it or leave it.

**ARBITRATOR, JUSTICE MOSENEKE:** No, I don't understand it. Did she say she was compelled to receive these mental health care users?

**MR LUCAS MOGWERANE:** She wanted to receive them, but now she was not ready.

15 **ARBITRATOR, JUSTICE MOSENEKE:** Did she tell you why she wanted to receive them?

**MR LUCAS MOGWERANE:** Well, she never told me why she wanted to receive them, but now the question was, the question was you were asked the question whether you want to or you don't want to. She said well, because I needed money.  
20 That's why I had to take this.

**ARBITRATOR, JUSTICE MOSENEKE:** She said she needed money?

**MR LUCAS MOGWERANE:** She needed money.

**ARBITRATOR, JUSTICE MOSENEKE:** Did she tell you why she did not have the money?

**MR LUCAS MOGWERANE:** Well, she didn't tell me why she did not have the  
5 money.

**ARBITRATOR, JUSTICE MOSENEKE:** And by the time Christopher passed on, had she received the money? Did you talk to her about this?

**MR LUCAS MOGWERANE:** She told me that she was not yet paid as yet. When I questioned around why are people so hungry, why are they you know, just an  
10 example of Christopher. Why has he lost weight? Then she said we don't have food. We haven't been paid as yet.

**ARBITRATOR, JUSTICE MOSENEKE:** Council.

**ADV NIKKI STEIN:** Was Christopher receiving a SASSA grant?

**MR LUCAS MOGWERANE:** Christopher was receiving a social grant, but what  
15 was happening, as soon as he was at Life Esidimeni it had to stop because now he is under that care.

**ADV NIKKI STEIN:** Okay.

**MR LUCAS MOGWERANE:** Yes.

**ADV NIKKI STEIN:** And do you know what happened with his social grant once he  
20 moved to Rebafereni?



**MR LUCAS MOGWERANE:** To date we don't even know what happened.

**ADV NIKKI STEIN:** Okay. Is there anything else that you'd like to say, anything you'd like to say to the government?

**MR LUCAS MOGWERANE:** Yes, in fact I want to there is plenty of things to say,  
5 but few if I summarise them. What the family of the Mogwarane's wants to know, is  
that we want to ask the government, we want to ask Noeline to say people having  
lack of food, lack of medication, lack of dehydration I mean having dehydration,  
trauma, stress and the position in which Christopher died, how does it feel like  
should it be your member of family? Is it that no it happened, life must go on? This  
10 is the question that we are asking government. This is another statement that I  
want to say. Let us see, let us see the changes that the government will be doing.  
This is a wakeup call. We want to see on the side of government, we want to see  
appropriate, we want to see appropriate counselling taking place. We want to see  
appropriate support systems or services. We want to see also very fair, very fair  
15 and good compensation on the side of government to say sorry. We want to see a  
memorial monument to be in the history since the inception of this government,  
because this is four times the Marikana. This shouldn't happen. This shouldn't  
happen. This follows the words of Madiba saying never and never and never again  
should this happen and on the side of the NPA, with the law enforcement, show us,  
20 tell us the truth. Give us justice. Let those perpetrators to come forward and be  
charged and then we will say this is the government of the people, with the people,  
by the people, then the people. Then this is democracy that Madiba wanted to see.  
Yes, those are the questions.

**ADV NIKKI STEIN:** Thank you. Mr Mogwerane, perhaps before we excuse you. My colleague has found a definition for the term (inaudible).

**ARBITRATOR, JUSTICE MOSENEKE:** Oh.

**ADV NIKKI STEIN:** I'm going to ask her to read it out to you.

5 **MR LUCAS MOGWERANE:** Okay.

**ADV ADILA HASSIM:** Justice, I thought that you may want to know that it's a word of French origin, gourmandeise and it means to eat ... [interjects]

**ARBITRATOR, JUSTICE MOSENEKE:** How do you write it?

**ADV ADILA HASSIM:** Gourmandeise.

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

**ADV ADILA HASSIM:** From the French word gourmand, and it means to eat good food especially to excess.

**ARBITRATOR, JUSTICE MOSENEKE:** [Vernacular 01:04:19]

**MR LUCAS MOGWERANE:** Thank you, thank you. Yes.

15 **ARBITRATOR, JUSTICE MOSENEKE:** [Vernacular]

**MR LUCAS MOGWERANE:** Ja, that is why we chose these representatives.

**ARBITRATOR, JUSTICE MOSENEKE:** And when I put it to you, you said maybe it's Setswana, now it's French?

**MR LUCAS MOGWERANE:** Ja, I was just saying you can understand in that way for simplicity.

**ARBITRATOR, JUSTICE MOSENEKE:** Well, it's a good word. I know now what it is to gourmandeise.

5 **MR LUCAS MOGWERANE:** Because I had good food which is nutritious, but Christopher shared it with his friends, colleagues. The people shall share. That's what happened.

**ARBITRATOR, JUSTICE MOSENEKE:** Okay.

**ADV NIKKI STEIN:** Thank you Mr Mogwerane. I know it's a painful story for you  
10 to tell. We're very sorry for your loss.

**MR LUCAS MOGWERANE:** Yes.

**ADV NIKKI STEIN:** But we appreciate your contribution to this important process.

**MR LUCAS MOGWERANE:** Thank you so much.

**ARBITRATOR, JUSTICE MOSENEKE:** Thank you Advocate Stein. Advocate  
15 Crouse?

**ADV CROUSE:** Thank you Justice, we don't have any questions thank you.

**ARBITRATOR, JUSTICE MOSENEKE:** Not even about gourmandeise?

**ADV CROUSE:** I can't even pronounce that, so I won't try. Thank you Justice.

**ARBITRATOR, JUSTICE MOSENEKE:** Okay. [Vernacular 01:05:34]. You are  
20 going to now be subjected to questions.

**MR LUCAS MOGWERANE:** Oh.

**ARBITRATOR, JUSTICE MOSENEKE:** From the different Advocates.

**MR LUCAS MOGWERANE:** Okay.

**ARBITRATOR, JUSTICE MOSENEKE:** That was a friendly session with your  
5 Advocate and now comes what we call cross-examination.

**MR LUCAS MOGWERANE:** Oh, okay.

**ARBITRATOR, JUSTICE MOSENEKE:** Very well.

**ADV GROENEWALD:** Thank you Justice, we have no questions for the witness.

**ARBITRATOR, JUSTICE MOSENEKE:** No questions Advocate Groenewald.  
10 Council?

**FEMALE SPEAKER:** Thank you Justice, we have no questions for the witness,  
thank you.

**ARBITRATOR, JUSTICE MOSENEKE:** No questions. Council for the State?

**ADV TEBOGO HUTAMO:** Thank you Justice, there are no questions to the  
15 witness. If we may be allowed just to express our sympathy to Mr Mogwerane  
regarding the loss of his brother.

**MR LUCAS MOGWERANE:** Yes.

**ADV TEBOGO HUTAMO:** As he has indicated, the government has  
acknowledged that this is indeed a wakeup call. Although it is very unfortunate that  
20 we have to find ourselves in this situation. The object of this process is obviously to

find the truth that the family of the Mogwerane's and all those who are affected, wants to know and with regard to the aspect relating to what will then happen next, the government has taken steps in order to ensure that the recommendations which were made by the report of the Ombudsman are being followed through, are being  
5 implemented. It is on record that the government has acknowledged that certain things went wrong, and they should never and never and never again happen again. So we are really sorry about what had actually occurred and we appreciate the time that you have made, to come and share your testimony with us and the government is really taking that into account and we really need to find closure  
10 regarding this situation and we hope that we'll be able to succeed in that regard. Thank you so much.

**MR LUCAS MOGWERANE:** Thank you sir.

**ARBITRATOR, JUSTICE MOSENEKE:** [Vernacular 01:08:10]. The death certificate shows that your brother was never married.

15 **MR LUCAS MOGWERANE:** Yes.

**ARBITRATOR, JUSTICE MOSENEKE:** Is that true?

**MR LUCAS MOGWERANE:** True.

**ARBITRATOR, JUSTICE MOSENEKE:** Did he have any children of his own?

**MR LUCAS MOGWERANE:** No, no children.

20 **ARBITRATOR, JUSTICE MOSENEKE:** No children of his own.

**MR LUCAS MOGWERANE:** No.

**ARBITRATOR, JUSTICE MOSENEKE:** You were a member of the family committee.

**MR LUCAS MOGWERANE:** Yes, family committee.

**ARBITRATOR, JUSTICE MOSENEKE:** Representing many families of the  
5 deceased and affected mental health care users.

**MR LUCAS MOGWERANE:** That's correct.

**ARBITRATOR, JUSTICE MOSENEKE:** And you are one of the people who had a big role in inviting somebody like me to serve as ARBITRATOR, JUSTICE MOSENEKE in this matter.

10 **MR LUCAS MOGWERANE:** Yes correct Justice, I'm one of those people who felt that a person like your calibre should be invited because we know your track record and we trust you.

**ARBITRATOR, JUSTICE MOSENEKE:** And this process sometimes it gets missed. This process is a joint process between the family committee.

15 **MR LUCAS MOGWERANE:** Yes.

**ARBITRATOR, JUSTICE MOSENEKE:** The province, and the national ministry.

**MR LUCAS MOGWERANE:** Yes.

**ARBITRATOR, JUSTICE MOSENEKE:** And the arbitration comes out of that agreement.

20 **MR LUCAS MOGWERANE:** Correct.

**ARBITRATOR, JUSTICE MOSENEKE:** Where you are part of and participated in setting up this process.

**MR LUCAS MOGWERANE:** Yes, I'm part of the setting up this process.

**ARBITRATOR, JUSTICE MOSENEKE:** Ja. Quite often it's reported as a  
5 government effort only, but as I understand it you are one of those who demanded that you wanted it and who took steps in the family committee to make sure that we have this arbitration process.

**MR LUCAS MOGWERANE:** Yes, absolutely. When I started deliberating here, I said it was a long walk of two years to justice.

10 **ARBITRATOR, JUSTICE MOSENEKE:** [Vernacular 01:10:26]

**MR LUCAS MOGWERANE:** [Vernacular]

**ARBITRATOR, JUSTICE MOSENEKE:** [Vernacular]

**MR LUCAS MOGWERANE:** [Vernacular]. What we are saying, the  
ARBITRATOR, JUSTICE MOSENEKE is a man of neutral disposition. In simplicity  
15 he's a neutral man, should be a neutral man and he is. No favours and I'm saying this, we have the most beautiful constitution and policies in the world. So let us, let the government practice what it preaches. It's not only about Barry White, it's about the facts that we should see that practice, and of course our worry lies on the national prosecution. It will be a shame if it fails and it will have disappointed people  
20 like Madiba who had a vision for this democracy and like in Setswana we say [vernacular 01:11:38] in conclusion.

**ARBITRATOR, JUSTICE MOSENEKE:** On a lighter note you know, your council took you to ELAH34. [Vernacular 01:11:50].

**MR LUCAS MOGWERANE:** [Vernacular]

**ARBITRATOR, JUSTICE MOSENEKE:** I'm asking the witness who is this  
5 beautiful lady.

**MR LUCAS MOGWERANE:** This beautiful lady ... [interjects]

**ARBITRATOR, JUSTICE MOSENEKE:** On the side of his brother.

**MR LUCAS MOGWERANE:** This beautiful lady is a girlfriend of my nephew, but she was so close to Christopher. Christopher like his clothing. He liked his fashion.  
10 He liked that women should see that he is well dressed, and especially during the wording of my son in Midrand. So I have never seen Christopher so happy. He used to tell the care workers and other people that now you must look at me. I'm so clean and I like my food and then the question as you see the journalist expressing themselves, was this man supposed to die? That's the title. I thank you.

**ARBITRATOR, JUSTICE MOSENEKE:** [Vernacular 01:12:54]. You are excused.  
15 Thank you so much.

**MR LUCAS MOGWERANE:** Thank you.

**ARBITRATOR, JUSTICE MOSENEKE:** Council, if you're ready for the next witness?

**ADV NIKKI STEIN:** Thank you Justice. Our next witness is Mr Lesiba Johannes Legwabe. I see he's making his way to the front.  
20



**ARBITRATOR, JUSTICE MOSENEKE:** Mr Legwabe, [vernacular 01:13:48]

**MR LESIBA JOHANNES LEGWABE:** No, I can speak English.

**ARBITRATOR, JUSTICE MOSENEKE:** You will use English?

**MR LESIBA JOHANNES LEGWABE:** Yes.

5 **ARBITRATOR, JUSTICE MOSENEKE:** Very well. Will you put your full names on record please?

**MR LESIBA JOHANNES LEGWABE:** My name is Lesiba Johannes Legwabe.

**ARBITRATOR, JUSTICE MOSENEKE:** Do you swear that the evidence you are about to give will be the truth, nothing but the truth and if so raise your right hand  
10 and say so help me God.

**MR LESIBA JOHANNES LEGWABE:** So help me God.

**ARBITRATOR, JUSTICE MOSENEKE:** Council.

**ADV NIKKI STEIN:** Thank you Justice. Good morning Mr Legwabe.

**MR LESIBA JOHANNES LEGWABE:** Good morning council.

15 **ADV NIKKI STEIN:** Mr Legwabe, what was your relationship to Mothofela Legwabe?

**MR LESIBA JOHANNES LEGWABE:** He was my brother. He's the last born of my late mother.

**ADV NIKKI STEIN:** There are two pictures in front of you marked ELAH33A and  
20 ELAH33B.

**MR LESIBA JOHANNES LEGWABE:** Ja, I saw them.

**ADV NIKKI STEIN:** Can you tell us who is in those, can we wait a moment just for the Justice to get those pictures?

**ARBITRATOR, JUSTICE MOSENEKE:** Yes, please. Thank you. Yes, I'm here  
5 thank you.

**ADV NIKKI STEIN:** Can you tell us who is in those pictures?

**MR LESIBA JOHANNES LEGWABE:** On this pictures it's my late brother and also my late wife.

**ADV NIKKI STEIN:** And when were the pictures taken? Were they taken on the  
10 same day?

**MR LESIBA JOHANNES LEGWABE:** They were taken on the same day at CCRC.

**ADV NIKKI STEIN:** By CCRC you mean Cullinan ... [interjects]

**MR LESIBA JOHANNES LEGWABE:** Cullinan ... [interjects]

15 **ADV NIKKI STEIN:** Care and Rehabilitation Centre.

**MR LESIBA JOHANNES LEGWABE:** Yes council.

**ADV NIKKI STEIN:** And when were they taken?

**MR LESIBA JOHANNES LEGWABE:** They were taken on the 24<sup>th</sup> of June.

**ADV NIKKI STEIN:** Of what year?

**MR LESIBA JOHANNES LEGWABE:** 2016.

**ADV NIKKI STEIN:** And who took these pictures?

**MR LESIBA JOHANNES LEGWABE:** It's my little daughter, Makaleng Legwabe.

**ADV NIKKI STEIN:** Okay.

5 **ARBITRATOR, JUSTICE MOSENEKE:** The tag refers us to 7 July 2016.

**ADV NIKKI STEIN:** Yes Justice.

**ARBITRATOR, JUSTICE MOSENEKE:** Okay.

**MR LESIBA JOHANNES LEGWABE:** Ja, sorry.

**ARBITRATOR, JUSTICE MOSENEKE:** Which of the two dates is the correct one?

10 **MR LESIBA JOHANNES LEGWABE:** Ja, no the correct one sorry. I thought that I sent the first ones, the right date. 7 July ja it's correct.

**ARBITRATOR, JUSTICE MOSENEKE:** Very well, let's continue.

**ADV NIKKI STEIN:** Thank you. Was Motafele ever at Life Esidimeni?

**MR LESIBA JOHANNES LEGWABE:** Ja, Motafele he was in Life Esidimeni. He  
15 stayed there for almost 33 years.

**ADV NIKKI STEIN:** Which facility was he in?

**MR LESIBA JOHANNES LEGWABE:** He was at Waverley.

**ADV NIKKI STEIN:** Waverley, and what was his condition?

**MR LESIBA JOHANNES LEGWABE:** He was some person who has got epilepsy and then he was falling and then he was also, he didn't come alright. When you are talking to him he was always forgetting to say and then he couldn't speak.

**ADV NIKKI STEIN:** Okay, and can you tell us a bit about the history of his illness  
5 and the facilities he stayed at?

**MR LESIBA JOHANNES LEGWABE:** Ja. Motsofele, we took him to Life Esidimeni when I was still or let me put it, when I was suspended from school in 1977 because I was active in the SRC. We took him to Waverley which previously was called Nights. At that time I didn't marry at that time, because my mother also  
10 did have strokes. He couldn't handle him, because every time when I came home I will find that he has fallen away, nobody help him because my mother couldn't walk and then this thing came to me, to my senses that even though that I am not working, I have to do something. Therefore, there was one social worker, his name is Mrs Limbani. He's, because I'm staying in Mamelodi he was staying in the same  
15 area of mine where I went and contact even in the clinic to tell him can't you assist about this thing, because nobody can take care of this younger brother of mine.

**ADV NIKKI STEIN:** So Mothofela was staying at home before he went to Life Esidimeni?

**MR LESIBA JOHANNES LEGWABE:** Ja.

**ADV NIKKI STEIN:** And who was living at home?  
20

**MR LESIBA JOHANNES LEGWABE:** Sorry?

**ADV NIKKI STEIN:** Who was staying at home? Who lived there? Were you staying with him?

**MR LESIBA JOHANNES LEGWABE:** Ja, I was staying with him before I married.

**ADV NIKKI STEIN:** And who else was staying with you and Mothofela?

5 **MR LESIBA JOHANNES LEGWABE:** It was another brother of mine who also passed away. It's Elliot Legwabe.

**ADV NIKKI STEIN:** Okay, and your mother?

**MR LESIBA JOHANNES LEGWABE:** And my mother.

**ADV NIKKI STEIN:** And what was it like living with Mothofela, could he talk?

10 **MR LESIBA JOHANNES LEGWABE:** No, Mothofela couldn't talk.

**ADV NIKKI STEIN:** Could he walk?

**MR LESIBA JOHANNES LEGWABE:** He could walk.

**ADV NIKKI STEIN:** Could he eat by himself?

**MR LESIBA JOHANNES LEGWABE:** He could eat by himself.

15 **ADV NIKKI STEIN:** Could he bath by himself?

**MR LESIBA JOHANNES LEGWABE:** Ja, he could bath himself.

**ADV NIKKI STEIN:** And he could dress himself?

**MR LESIBA JOHANNES LEGWABE:** Ja, also he could dress himself. The problem is that it seems as if he was having an epilepsy, time and two, he will fall, because he has to, he needs some assistance.

**ADV NIKKI STEIN:** And you were the one you said that provided that assistance?

5 **MR LESIBA JOHANNES LEGWABE:** Ja.

**ADV NIKKI STEIN:** How old was Mothofela when he went to Life Esidimeni?

**MR LESIBA JOHANNES LEGWABE:** He was a small boy, roundabout 15 years ja.

**ADV NIKKI STEIN:** And you say that he was there for about 33 years?

10 **MR LESIBA JOHANNES LEGWABE:** Ja, 33 years.

**ADV NIKKI STEIN:** And what was it like, what were the conditions like at Life Esidimeni?

**MR LESIBA JOHANNES LEGWABE:** Ja, let me tell you Counsellor. At Life Esidimeni, in fact there was a new home for Mothofela. In fact they treat him so well because I remember the first year he was there in December, when it was open day we took him for a week, because we were instructed how should he drink his medicine and what time should he eat, what time should he start sleeping and then whatever, and then he mustn't always stay at the TV.

**ADV NIKKI STEIN:** So you took him home during the festive season?

20 **MR LESIBA JOHANNES LEGWABE:** Ja, we call it the open day.

**ADV NIKKI STEIN:** The open day.

**MR LESIBA JOHANNES LEGWABE:** Ja.

**ADV NIKKI STEIN:** And how long did he come home for?

**MR LESIBA JOHANNES LEGWABE:** Ja, most of the time if I took him this year,  
5 then the next year somebody will take him, my aunt and then we took him to  
Soweto.

**ADV NIKKI STEIN:** And when you took him home he was taking medication?

**MR LESIBA JOHANNES LEGWABE:** No, he was taking medicine.

**ADV NIKKI STEIN:** How many times a day?

10 **MR LESIBA JOHANNES LEGWABE:** Three times a day.

**ADV NIKKI STEIN:** And did he have any epileptic fits when he was at home?

**MR LESIBA JOHANNES LEGWABE:** No, at that time no. The epilepsy was  
(inaudible) or whatever. It was handled correctly with those medications.

**ADV NIKKI STEIN:** Okay, and how often during the year did you go and visit  
15 Mothofela?

**MR LESIBA JOHANNES LEGWABE:** Every end of the month I had to go there.

**ADV NIKKI STEIN:** And were you happy with how he was at Life Esidimeni?

**MR LESIBA JOHANNES LEGWABE:** Ja, that's why I said when he arrived the  
first year after he arrived at Life Esidimeni in Waverley, that was his new home. I  
20 was happy.

**ADV NIKKI STEIN:** Who would go with you to visit him?

**MR LESIBA JOHANNES LEGWABE:** Ja, always it was my late brother. Then I start to marry and then my wife start to take care, because he was a dental therapist. My late wife. Start to take care of him because he could go at any time.  
5 He was driving, go any time to go and visit and sometimes he will tell me that today I came, I was at Waverley to come and visit Mothofela because he was close to her.

**ADV NIKKI STEIN:** Okay. How did you find out that the Life Esidimeni Waverley was going to close?

**MR LESIBA JOHANNES LEGWABE:** Ja, as it was indicated here we found that  
10 on the open day it, 2015 ja. December. That it seems as if this centre is going to be closed, but they are not sure but they will come and inform us.

**ADV NIKKI STEIN:** Who told you?

**MR LESIBA JOHANNES LEGWABE:** Ja, at that time there was some other managers and sisters at Waverley. I couldn't remember their names.

15 **ADV NIKKI STEIN:** Okay, and you took Christopher, excuse me you took Mothofela home.

**MR LESIBA JOHANNES LEGWABE:** On that, ja that day on open day we took him to and then because we bring him on the 3<sup>rd</sup> of January 2016.

**ADV NIKKI STEIN:** And did you hear anything more when you brought him back  
20 about the closure of Life Esidimeni?



**MR LESIBA JOHANNES LEGWABE:** No, my wife started to ask is this true that this centre is going to close? They say to him we are still waiting for any response from the government that this thing is going to close or what.

**ADV NIKKI STEIN:** When did you find out that Mothofela had been moved?

5 **MR LESIBA JOHANNES LEGWABE:** Ja, you see now it started as an heartache. On the 6<sup>th</sup> of May ... [interjects]

**ADV NIKKI STEIN:** Of what year?

**MR LESIBA JOHANNES LEGWABE:** Ja, 2016. My wife went to Life Esidimeni to go and check. He was with his friends. They find that Mothofela is no more there.  
10 Then he asked some other sister, I think the name was Dorothy or who. To say where is Mothofela. Then the sister told him that these patients are being moved without our knowledge and then we don't know where they are going to. But he advised to say the first bench is gone we don't know and the second bench is gone, we don't know where they are, but start to look at Sterkfontein, Witpoortjie and  
15 Selpy and then the last place you can go it's Takalane in Soweto.

**ADV NIKKI STEIN:** And did you look for Mothofela at those facilities?

**MR LESIBA JOHANNES LEGWABE:** Sorry?

**ADV NIKKI STEIN:** Did you look for Mothofela?

**MR LESIBA JOHANNES LEGWABE:** Ja, we started on the 6<sup>th</sup> of, in fact it was on  
20 the 8<sup>th</sup> of May. We didn't find Mothofela. Up until on the 22<sup>nd</sup> of June where we were being informed because my wife was he's just like a nurse and then he got

some contact with nurses. He was busy phoning. We got a call that they have received another guy but they are still waiting for his ID to be brought. Then my wife must come and check if this is Mothofela.

**ADV NIKKI STEIN:** What facility was this?

5 **MR LESIBA JOHANNES LEGWABE:** It was in Cullinan.

**ADV NIKKI STEIN:** Okay.

**MR LESIBA JOHANNES LEGWABE:** So on the 23<sup>rd</sup> me and my wife went to Cullinan.

**ADV NIKKI STEIN:** Sorry, the 23<sup>rd</sup> of?

10 **MR LESIBA JOHANNES LEGWABE:** Of June. We went to Cullinan. We waited there at the reception from ten o'clock up until two o'clock. Because Daphne at that time was busy. Then at two o'clock they say ... [interjects]

**ARBITRATOR, JUSTICE MOSENEKE:** What do you mean she was busy?

**MR LESIBA JOHANNES LEGWABE:** They said Daphne was busy.

15 **ARBITRATOR, JUSTICE MOSENEKE:** But were you in the reception area?

**MR LESIBA JOHANNES LEGWABE:** Ja, I was in reception.

**ARBITRATOR, JUSTICE MOSENEKE:** Had he, she seen you when you arrived?

**MR LESIBA JOHANNES LEGWABE:** No, the nurses told us that you wait here. You are not allowed to go to any ward, because the person that you want to identify  
20 you don't know him on which ward is he belonging to. Then we went ... [interjects]

**ARBITRATOR, JUSTICE MOSENEKE:** So you were told to wait for the social worker.

**MR LESIBA JOHANNES LEGWABE:** Ja, for the social worker to come ...  
[interjects]

5 **ARBITRATOR, JUSTICE MOSENEKE:** Mrs Daphne Ndlovu.

**MR LESIBA JOHANNES LEGWABE:** Ja, Daphne Ndlovu Weighbridge Operator came and testify here.

**ARBITRATOR, JUSTICE MOSENEKE:** Yes.

**MR LESIBA JOHANNES LEGWABE:** Then round about ... [interjects]

10 **ARBITRATOR, JUSTICE MOSENEKE:** And did they tell you why you have to wait for five hours?

**MR LESIBA JOHANNES LEGWABE:** No, she couldn't explain to us. She said no she was busy.

**ARBITRATOR, JUSTICE MOSENEKE:** Four hours?

15 **MR LESIBA JOHANNES LEGWABE:** Ja, she says she was busy, because I was angry but I have to hold my horses, because I want to be helped.

**ADV NIKKI STEIN:** And what did she say when you finally ... [interjects]

**MR LESIBA JOHANNES LEGWABE:** Ja, he says can you come and identify this guy because you told us that it's somebody with epilepsy or whatever, certain  
20 people are being brought, I think it's one that time when Siyabadinga and the Anker

were closed. Then he says other people are being brought in here. Some were brought here with open bakkies. We don't know them. So can you come and identify.

**ADV NIKKI STEIN:** So she asked you to identify one of the patients that had been  
5 admitted to Cullinan/

**MR LESIBA JOHANNES LEGWABE:** Ja. We found Mothofela was sleeping, they bring the stretcher in fact. I mean the wheelchair, not the stretcher and then we find him in a wheelchair, and then we identify him as Mothofela. Then we were shocked in the state that we found Mothofela.

10 **ADV NIKKI STEIN:** Did he have identity documents with him?

**MR LESIBA JOHANNES LEGWABE:** No, the identity document we got it on the 25<sup>th</sup> of June.

**ADV NIKKI STEIN:** Did he have medical records with him?

**MR LESIBA JOHANNES LEGWABE:** No, he didn't have any medical record. If  
15 you can see from the statement that I have wrote and then there is an affidavit that I wrote to give it to Section 27. On the 16<sup>th</sup> of August or the 18<sup>th</sup> if my memory serves me well, I made a sitting in that office, because they have to call the security and then I tell the security you there, you don't know me. Then they called somebody from SAPS. Then I said to him you there ... [interjects]

20 **ADV NIKKI STEIN:** Where was this, where were you ... [interjects]

**MR LESIBA JOHANNES LEGWABE:** It was in Cullinan.

**ADV NIKKI STEIN:** Okay, and what was the purpose, what were you waiting for?

**MR LESIBA JOHANNES LEGWABE:** The purpose that I was looking for, I was worried with the medical records of Mothofela in order to attest to myself why does he look like this, what's wrong with him, did he have anything that was brought to  
5 him. The thing that we got it was only the ID.

**ADV NIKKI STEIN:** Okay.

**ARBITRATOR, JUSTICE MOSENEKE:** So that sitting was on the 25<sup>th</sup> of August. What is the date? Did I miss the date?

**MR LESIBA JOHANNES LEGWABE:** It was on the, if I may check.

10 **ARBITRATOR, JUSTICE MOSENEKE:** You went there on the 23<sup>rd</sup> of June.

**MR LESIBA JOHANNES LEGWABE:** Yes.

**ARBITRATOR, JUSTICE MOSENEKE:** 22<sup>nd</sup> you were phoned to come and check and identify. 23<sup>rd</sup> you went there and they brought him. You waited for four hours and he was brought in a wheelchair.

15 **MR LESIBA JOHANNES LEGWABE:** Ja.

**ARBITRATOR, JUSTICE MOSENEKE:** And you were asked whether there were medical records. You said not and then you tell us about the sitting where they tried to remove them and you said they are not.

**MR LESIBA JOHANNES LEGWABE:** Ja, it was the 16<sup>th</sup> of August, because I was  
20 tired about that.

**ARBITRATOR, JUSTICE MOSENEKE:** 16<sup>th</sup> of August.

**MR LESIBA JOHANNES LEGWABE:** Ja, of August.

**ARBITRATOR, JUSTICE MOSENEKE:** And your brother was still there, and he was still alive.

5 **MR LESIBA JOHANNES LEGWABE:** Ja, he was still alive, because I can see his health was deteriorating.

**ARBITRATOR, JUSTICE MOSENEKE:** Ja, so he was there alive, but you saw that his condition was worse?

**MR LESIBA JOHANNES LEGWABE:** No, on the 16<sup>th</sup>, he passed away on the  
10 15<sup>th</sup> of August sorry.

**ARBITRATOR, JUSTICE MOSENEKE:** Oh, he passed away on the 15<sup>th</sup> of August?

**MR LESIBA JOHANNES LEGWABE:** 15<sup>th</sup> of August and then on the 16<sup>th</sup> that's when now I started to make a sitting in that office of Mathilde Mabusu. I say you  
15 can lock your doors whatever, tomorrow you will still find me here. As long as I'm having my cigarette and water, I don't care. I'm used to confinement.

**ARBITRATOR, JUSTICE MOSENEKE:** But you have to tell us how did you come to know of your brother's death.

**MR LESIBA JOHANNES LEGWABE:** Ja.

20 **ARBITRATOR, JUSTICE MOSENEKE:** The last time I heard was when you went and visited, he was on a wheelchair.

**MR LESIBA JOHANNES LEGWABE:** Ja, on that day they brought him on the wheelchair. We identify him and then on the 24<sup>th</sup> we went there. It's where now they brought his identity and then Daphne told us that he's got an identity. They have sent it. Then I ask him who gave it to you. He says it's one of the officials.

5 You are too inquisitive Mr Legwabe. You are asking lots of questions. Then I said okay, it's fine. Then what about the medical records. He says that one they will provide. They say they are coming back.

**ADV NIKKI STEIN:** Perhaps we can just pause there. You mentioned that when you saw him in his wheelchair, you were shocked. He had deteriorated. Can you  
10 describe to us what he looked like?

**MR LESIBA JOHANNES LEGWABE:** No, he was bleeding sometimes on his mouth, because if you check the picture, the thing is that he was bleeding. We have to use some tissues to wipe his mouth so that we can give him food and then when you give him food you will check that everything is fine inside the plastic bag  
15 before, to make sure that all the food that we give him is done.

**ADV NIKKI STEIN:** So he was bleeding from his mouth?

**MR LESIBA JOHANNES LEGWABE:** Ja, he was bleeding from his mouth.

**ADV NIKKI STEIN:** And do you know what was causing that?

**MR LESIBA JOHANNES LEGWABE:** I asked the sisters there to say what is  
20 wrong with it. They say maybe he falls away. You know, she's got an epilepsy or whatever.

**ADV NIKKI STEIN:** Had anybody seen him fall?

**MR LESIBA JOHANNES LEGWABE:** No, nobody told me. You see, counsellor in CCRC, it's not a mental health institution. People should know about this. It's a rehabilitation for drugs. It's not a mental, so because if you enter that at that facility  
5 you will find that other people are talking to themselves alone, without nobody who scream, because that person is there, he has been brought there to come and rehabilitated. He was under the influence of drugs.

**ADV NIKKI STEIN:** So when you went to visit Mothofela in Cullinan, did you see care workers interacting with the patients?

10 **MR LESIBA JOHANNES LEGWABE:** No, no, no. We were only allowed to be in the reception and then when I tried to see I'm walking maybe on the other wards, the security will stop me to say what are you looking for.

**ADV NIKKI STEIN:** Okay, and so you're saying you tried to see other areas of Cullinan but you were stopped.

15 **MR LESIBA JOHANNES LEGWABE:** Ja. Ja.

**ADV NIKKI STEIN:** Okay.

**MR LESIBA JOHANNES LEGWABE:** Justice, I wonder I'm just looking at the time and I wonder if it's an appropriate time to take a break?

**ARBITRATOR, JUSTICE MOSENEKE:** It is indeed.

20 **ADV NIKKI STEIN:** Thank you.



**ARBITRATOR, JUSTICE MOSENEKE:** Let's adjourn. It's 11h30. We resume at twelve o'clock.

## **SESSION 2**

5 **24 OCTOBER 2017**

### **SESSION 2**

**ARBITRATOR, JUSTICE MOSENEKE:** Mr Legwabe you are under your previous oath. Counsel you may proceed please?

**ADV NIKKI STEIN:** Thank you Justice. Mr Legwabe I would just like to clarify  
10 something that arose before we took the tea adjournment and in that regard, I would like you to turn to Page 3822 of File 11 which is in front of you? Oh I'm sorry, it is not in front of you, but it's about to be.

**MR LESIBA LEGWABE:** Ja I got it Counsel.

**ADV NIKKI STEIN:** MR Legwabe that's a letter which is signed by among others,  
15 Daphne Ndlovu and Matilda Malaza confirming that Motsofela was admitted to Cullinan on the 23<sup>rd</sup> of June 2016.

**MR LESIBA LEGWABE:** Ja that's correct.

**ADV NIKKI STEIN:** Is that the date of admission that you're aware of?

**MR LESIBA LEGWABE**: Ja Counsel with your due respect and Chief Justice, is that the date that I made a sitting to make sure that they are writing this letter to me after Motsofela passed away on the 15<sup>th</sup>.

**ADV NIKKI STEIN**: And that's a confirmation that he was admitted on the 23<sup>rd</sup> of  
5 June?

**MR LESIBA LEGWABE**: Ja.

**ADV NIKKI STEIN**: And the date that you visited him that you were talking about before the tea adjournment?

**MR LESIBA LEGWABE**: The date that I talked about, they never give me any  
10 indication when he was there because-

**ADV NIKKI STEIN**: When did you visit him Mr Legwabe?

**MR LESIBA LEGWABE**: I visited him I think around about the 9<sup>th</sup> or the 10<sup>th</sup> of July when I was with my wife.

**ADV NIKKI STEIN**: Was that the first visit to Cullinan?

**MR LESIBA LEGWABE**: Ja I think that was the first visit when I start visiting him to  
15 check, because you see Counsellor from the 6<sup>th</sup> of March up until we find Motsofela, we didn't know the whereabouts of Motsofela. We were looking everywhere to check where, was Motsofela at that time.

**ADV NIKKI STEIN**: And you said before the break, that was when you looked at  
20 Weskoppies and Ntakalane?

**MR LESIBA LEGWABE**: Ja my wife has got a friend in Weskoppies. We went there in Weskoppies, she took us into the wards and checked, but they confirmed that no patient of Life Esidimeni was admitted from their department.

**ADV NIKKI STEIN**: Okay and you said before the break, that it was when you went  
5 to Cullinan to visit Motsofela that they asked you to identify him?

**MR LESIBA LEGWABE**: Ja on the 23<sup>rd</sup> ja.

**ADV NIKKI STEIN**: Of June okay.

**ARBITRATOR, JUSTICE MOSENEKE**: I don't understand still what happened on the 16<sup>th</sup> of August?

10 **MR LESIBA LEGWABE**: The 16<sup>th</sup> through you Counsellor can, I answer the Chief Justice?

**ADV NIKKI STEIN**: Please answer the Justice.

**MR LESIBA LEGWABE**: Right on the 16<sup>th</sup> of August Chief Justice with your due respect, is that the day that I requested after the death of Motsofela passed away  
15 on the 15<sup>th</sup> at Mamelodi Day Hospital.

**ADV NIKKI STEIN**: And what were you demanding on the 16<sup>th</sup>?

**MR LESIBA LEGWABE**: No I was demanding to have the records of Motsofela because if I can you through Counsellor, is that when we visited Motsofela at the Day Hospital before the 2 weeks, they told us Motsofela was playing soccer and I  
20 asked the doctor how can a person with epilepsy play soccer and then they said to us that, I was with my wife at that time, my late wife, they said that they don't know,

they have been informed by the institution that Motsofela broke his ankle when he was playing soccer.

**ADV NIKKI STEIN**: So can you just clarify for us where did you see Motsofela when he broke his ankle?

5 **MR LESIBA LEGWABE**: I saw it when he was admitted at Mamelodi Day Hospital.

**ADV NIKKI STEIN**: And where was he when he broke his ankle?

**MR LESIBA LEGWABE**: He was still at CCRC.

**ADV NIKKI STEIN**: And they said because he was playing soccer?

**MR LESIBA LEGWABE**: Ja he was playing soccer.

10 **ADV NIKKI STEIN**: Okay do you remember when this was?

**MR LESIBA LEGWABE**: No the informers after Motsofela was admitted, they say please take note they phoned my wife because they were interacting with my wife because they were saying when they start to talk to me, I become aggressive, because I need lots of things. Then they were talking to my wife because my wife  
15 was a soft spoken somebody, they could play around with her.

**ADV NIKKI STEIN**: So you went to visit Motsofela at Mamelodi Day Hospital and he had a broken ankle?

**MR LESIBA LEGWABE**: Ja.

**ADV NIKKI STEIN**: Did he have any other injuries?

20 **MR LESIBA LEGWABE**: Ja at the back, there was injuries.

**ADV NIKKI STEIN**: At the back of where?

**MR LESIBA LEGWABE**: At the back of his head.

**ADV NIKKI STEIN**: And did you ask the doctor about those injuries?

**MR LESIBA LEGWABE**: Ja I asked the doctor about the injuries. He said to me he  
5 doesn't have any medical record, Motsofela has been admitted and he has been  
assigned to deal with the ankle and the injuries at the back of the head. That is  
what was confirmed, because he was brought by ambulance.

**ADV NIKKI STEIN**: So did the doctor tell you anything about Motsofela's general  
health condition?

10 **MR LESIBA LEGWABE**: No, he said that he has only been assigned to do that  
and nothing else and then if I want to know it's better for me to get all his medical  
files so that he can start to investigate what are the causes, then that day we tried to  
go-

**ARBITRATOR, JUSTICE MOSENEKE**: Well before we go all over, how many days  
15 was it before the 15<sup>th</sup> of August 2016, i.e. the date of his death that you were told  
about the ankle injury and injuries on the back of his head?

**MR LESIBA LEGWABE**: He was admitted 2 weeks before he died.

**ARBITRATOR, JUSTICE MOSENEKE**: So it would have been around the  
beginning of August?

20 **MR LESIBA LEGWABE**: Ja the beginning of August.

**ARBITRATOR, JUSTICE MOSENEKE**: That is when you were told that he had these injuries and they would be looked after?

**MR LESIBA LEGWABE**: Ja.

**ARBITRATOR, JUSTICE MOSENEKE**: You went to visit?

5 **MR LESIBA LEGWABE**: Ja we went to visit him at Mamelodi Day Hospital.

**ARBITRATOR, JUSTICE MOSENEKE**: And how did he look?

**MR LESIBA LEGWABE**: He was pale at that time, he was losing weight.

**ARBITRATOR, JUSTICE MOSENEKE**: Did you talk to him?

**MR LESIBA LEGWABE**: I tried to talk to him. In fact, he was puzzled to see us  
10 here because he wants to get up and go with us you see.

**ARBITRATOR, JUSTICE MOSENEKE**: What did he say about the soccer?

**MR LESIBA LEGWABE**: No the Sister who was there, he told us that they bring him here because he was playing soccer.

**ARBITRATOR, JUSTICE MOSENEKE**: No what did Motsofela say about the  
15 soccer?

**MR LESIBA LEGWABE**: No he couldn't speak. Motsofela couldn't speak.

**ARBITRATOR, JUSTICE MOSENEKE**: Okay Counsel?

**ADV NIKKI STEIN**: Thank you Justice, was he still admitted at Mamelodi Day Hospital when he passed away?

**MR LESIBA LEGWABE**: Ja he was still admitted.

**ADV NIKKI STEIN**: And if you turn to Page 3823, which I think is just the next page in that file, what is that document?

**MR LESIBA LEGWABE**: It's a death certificate from Home Affairs.

5 **ADV NIKKI STEIN**: And what is the cause of Motsofela's death on that?

**MR LESIBA LEGWABE**: They say natural cause.

**ADV NIKKI STEIN**: Did you ever find anything else out about why he died, what caused his death?

**MR LESIBA LEGWABE**: No I didn't find anything, because even now, I am still  
10 puzzled.

**ADV NIKKI STEIN**: And it was the following day that you went to Cullinan and got the letter on Page 3822?

**MR LESIBA LEGWABE**: Ja because I was amazed and then I was angry when they say this is natural causes. That is when I said to myself because my wife tried  
15 to stop me, I said you better not do that.

**ADV NIKKI STEIN**: And did you ask Mrs Ndlovu and Mrs Malava about the circumstances of his death?

**MR LESIBA LEGWABE**: Ja I tried to ask them and then, you see I couldn't talk to them correctly because sometimes the security have to usher me out, then I resist  
20 and then also, in that CCRC, for your info, there were also soldiers, I don't know what they were doing. They were inside the CCRC.

**ADV NIKKI STEIN**: I'd like to refer you Mr Legwabe to Page 3828, can you tell us what that document is?

**MR LESIBA LEGWABE**: This is a funeral service that the funeral parlour of Joe Kane when he was taken from Mamelodi Day Hospital.

5 **ADV NIKKI STEIN**: And so this is the list of funeral expenses?

**MR LESIBA LEGWABE**: Ja these are some of the list that we used in order to bury Motsofela.

**ADV NIKKI STEIN**: When did you bury Motsofela?

**MR LESIBA LEGWABE**: We buried him on the 20<sup>th</sup>.

10 **ADV NIKKI STEIN**: Of which month?

**MR LESIBA LEGWABE**: Of August.

**ADV NIKKI STEIN**: And who paid the funeral expenses?

**MR LESIBA LEGWABE**: It's me and my late wife.

**ADV NIKKI STEIN**: You and your late wife?

15 **MR LESIBA LEGWABE**: Ja.

**ADV NIKKI STEIN**: In addition to these expenses listed at Page 3828, can you tell us approximately how much you paid?

**MR LESIBA LEGWABE**: I can say that I paid almost like R40 000.

**ADV NIKKI STEIN**: R40 000?



**MR LESIBA LEGWABE**: Ja R40 000, because I had to buy a casket.

**ADV NIKKI STEIN**: Okay and that includes the expenses listed on Page 3828?

**MR LESIBA LEGWABE**: Ja.

**ADV NIKKI STEIN**: Okay Mr Legwabe, did you hear from anyone in the  
5 government after Motsofela passed away?

**MR LESIBA LEGWABE**: No, no nothing at all. I am still waiting for them.

**ADV NIKKI STEIN**: And anything from Mrs Ndlovu?

**MR LESIBA LEGWABE**: No, she came here and testified, I thought that she is  
going to tell us some of the patients that died at CCRC, how was the cause, but she  
10 didn't.

**ADV NIKKI STEIN**: Anything from Mrs Malata?

**MR LESIBA LEGWABE**: No nothing, since I last met her the day when I making a  
sit-in in her office.

**ADV NIKKI STEIN**: Okay so there are still a lot of mysteries around.

15 **MR LESIBA LEGWABE**: Ja there are still a lot of mysteries.

**ARBITRATOR, JUSTICE MOSENEKE**: So how long did this sit-in last?

**MR LESIBA LEGWABE**: It lasted for almost 7 hours.

**ARBITRATOR, JUSTICE MOSENEKE**: And where were these 2 ladies?

**MR LESIBA LEGWABE**: No you see what I did Chief Justice, let me be honest, I took the keys of the office and put them inside my pocket in order to make sure that nobody leaves.

**ARBITRATOR, JUSTICE MOSENEKE**: Did you lock them out?

5 **MR LESIBA LEGWABE**: We locked ourselves in so that they must write that letter for me.

**ARBITRATOR, JUSTICE MOSENEKE**: So you locked yourself in together with these 2 ladies?

**MR LESIBA LEGWABE**: Ladies so that they must write it. The security, you see, it  
10 was a security door, the security was standing, outside and then even one security said that he will call soldiers. I said you had better bring the canon. It is not for the first time when the soldiers arrested me. They arrested me in 1976 it won't be the first time.

**ARBITRATOR, JUSTICE MOSENEKE**: So you locked yourself in there with the  
15 ladies and where were they, closest to the computer and the papers?

**MR LESIBA LEGWABE**: No there were computers there.

**ARBITRATOR, JUSTICE MOSENEKE**: Oh right there?

**MR LESIBA LEGWABE**: Yes and then Mrs Malaza was shivering. I said do you need water I give him the water to drink so that he can type for me that letter.

20 **ARBITRATOR, JUSTICE MOSENEKE**: Ja I read the letter, it's well typed, there are no mistakes.

**MR LESIBA LEGWABE**: Ja no because I interpreted what should they write, because they didn't have any information of Motsofela, but when I go out, I found that we have missed one critical point which was Motsofela just came in with an ID and nothing else.

5 **ARBITRATOR, JUSTICE MOSENEKE**: The one on Page 3827, where did that come from, there is an ID there?

**MR LESIBA LEGWABE**: Ja this ID we got it on the 23<sup>rd</sup>.

**ARBITRATOR, JUSTICE MOSENEKE**: Where at Home Affairs?

10 **MR LESIBA LEGWABE**: No they say somebody is going to bring it and then I said to them they must bring it with all the files, because they were telling me that you are not a medical doctor, why do you need medical records of a patient, because it's confidential. I said this is my brother, it's no more confidential.

**ARBITRATOR, JUSTICE MOSENEKE**: So it does help sometimes to toy-toy right?

**MR LESIBA LEGWABE**: Ja.

15 **ARBITRATOR, JUSTICE MOSENEKE**: It helps a lot?

**MR LESIBA LEGWABE**: No it helped me to get this letter.

**ARBITRATOR, JUSTICE MOSENEKE**: Okay, Counsel any more questions?

20 **ADV NIKKI STEIN**: Thank you Justice, just to thank Mr Legwabe for coming and telling your story and contributing to this very important process. There are no further questions.

**ARBITRATOR, JUSTICE MOSENEKE**: Was your brother ever married?

**MR LESIBA LEGWABE**: No he was not married.

**ARBITRATOR, JUSTICE MOSENEKE**: Did he have any children of his own?

**MR LESIBA LEGWABE**: No.

5 **ARBITRATOR, JUSTICE MOSENEKE**: Okay Advocate Crouse?

**ADV LILLA CROUSE**: Thank you Justice, we have no questions.

**ARBITRATOR, JUSTICE MOSENEKE**: Counsel?

**ADV DIRK GROENEWALD**: Sir, I only have 2 possible questions. The one is when last do you know that your brother was at Life Esidimeni? When was he  
10 discharged at Life Esidimeni according to you?

**MR LESIBA LEGWABE**: No since from the 6<sup>th</sup> of March, we found that my brother was released from Life Esidimeni in Waverley.

**ADV DIRK GROENEWALD**: March or May, I think you testified May?

**MR LESIBA LEGWABE**: May sorry.

15 **ADV DIRK GROENEWALD**: The 6<sup>th</sup> of May.

**MR LESIBA LEGWABE**: Ja.

**ADV DIRK GROENEWALD**: Now Sir there is a document ELAH9 that's a report from CCRC, we will provide you with the document just now, if you can just turn to Page 21 of that document? The first name there, is that your brother?

**MR LESIBA LEGWABE**: Ja that's my brother.

**ADV DIRK GROENEWALD**: That's your brother. Now Sir you see that there are 2 columns there. Now the first one is the date that he was discharged at Life Esidimeni, well that is the alleged date that he was discharged at Life Esidimeni, so according to the individuals from the CCRC, he was admitted on the 23<sup>rd</sup> of June 5 2016. We now also know that from the document you received from CCRC that they confirmed that he was admitted on the 23<sup>rd</sup> of June. You testified that he was actually discharged from Esidimeni on the 6<sup>th</sup> of May, so there is a period of more than a month that we don't know exactly where your brother was?

10 **MR LESIBA LEGWABE**: No we were looking at Takalani wherever, at Weskoppies, Selbi, we travelled lot Counsel.

**ADV DIRK GROENEWALD**: But nobody has filled you in on that month, more than a month?

**MR LESIBA LEGWABE**: No because when we go back to Waverley, we still meet 15 other patients that were travelling with an open bakkie, they were being taken somewhere, we don't know where and then when I asked to say where is Motsofela, where is he being transferred, they couldn't tell me. They said people come and choose their patients, I don't know who are those patients. Maybe those were the NGO's I start to find out in this arbitration that these were the NGO's that 20 were choosing their own patients.

**ADV DIRK GROENEWALD**: Thank you very much Sir that is all that I wanted to ask.

**ARBITRATOR, JUSTICE MOSENEKE**: But do you know in the light of the questions asked by Advocate Groenewald, where was your brother between 6<sup>th</sup> of May and 23<sup>rd</sup> of June?

**MR LESIBA LEGWABE**: I don't know, I'm still worried where was, he.

5 **ARBITRATOR, JUSTICE MOSENEKE**: You see because they say they only got him on the 23<sup>rd</sup> of June. [inaudible] the letter?

**MR LESIBA LEGWABE**: Ja it was according to the letter because the letter was saying that they didn't have any medical record. Even now, I went there even to Waverley, it's a rehab.

10 **ARBITRATOR, JUSTICE MOSENEKE**: What about Anchor Life and Siyabadinga? Didn't they tell you anything about those two?

**MR LESIBA LEGWABE**: No they never told me, they never told me where he was.

**ARBITRATOR, JUSTICE MOSENEKE**: But when you went to see him at the hospital, where was he? I mean at the rehabilitation centre?

15 **MR LESIBA LEGWABE**: He was in CCRC.

**ARBITRATOR, JUSTICE MOSENEKE**: But did you know about the division that part of CCRC was used as Siyabadinga and the other part used as Anchor Life?

**MR LESIBA LEGWABE**: No you see the people at CCRC they were so confidential I don't know, maybe somebody told them to shut up and pay them lots  
20 of money I don't know. They didn't give us any confirmation where are these patients coming from.

**ARBITRATOR, JUSTICE MOSENEKE**: What do you think killed your brother?

**MR LESIBA LEGWABE**: I think it's because he didn't have the right medicine, because according to my understanding, is that people at Life Esidimeni, were treated well, they were treated well. That is why we took our brother every open day  
5 to go to my house with my wife, so that he must visit us and then we were being directed that he must drink these pills and then this time, we must order him to go and sleep.

**ARBITRATOR, JUSTICE MOSENEKE**: You see the evidence before me up to now, has been that the hunger, the poverty and the poor conditions really obtained  
10 at Siyabandinga and at Anchor Life, that is where people were not fed properly, medical health care users were neglected in a variety of ways and that by and large from the evidence, the weight of the evidence suggests that they died of dehydration, of malnourishment and of course, of absence of proper medication, besides other care, like bathing, etcetera. What do you say to that?

**MR LESIBA LEGWABE**: Ja it can be true Justice, because if they were honest, they should have told me that when I moved from Waverley, they should have told me which NGO, because I remember on the- I take you back, on the 8<sup>th</sup> of February when I was with other families at Waverley when the former MEC Qedani Mahlangu, I don't know why that's why they call him [inaudible] because he wants to  
20 get rid of us I don't know, he came late at 2:00, he was so arrogant and at that time, they were already demands that we put to her-

**ARBITRATOR, JUSTICE MOSENEKE**: She came where, to the family meeting?

**MR LESIBA LEGWABE**: Ja to the family meeting.

**ARBITRATOR, JUSTICE MOSENEKE**: Which was held where?

**MR LESIBA LEGWABE**: At Waverley Life Esidimeni.

**ARBITRATOR, JUSTICE MOSENEKE**: At Waverley?

5 **MR LESIBA LEGWABE**: Ja.

**ARBITRATOR, JUSTICE MOSENEKE**: And how many family people were there?

**MR LESIBA LEGWABE**: I think we were plus 25, ja 25 or 50.

**ARBITRATOR, JUSTICE MOSENEKE**: And did she come on time, or you had to wait for her?

10 **MR LESIBA LEGWABE**: No she was late she was late, because she wants the students to conduct the meeting and then we refused and some of the people-

**ARBITRATOR, JUSTICE MOSENEKE**: What students did she want to conduct the meeting?

**MR LESIBA LEGWABE**: No there were other students at Life Esidimeni.

15 **ARBITRATOR, JUSTICE MOSENEKE**: Medical students?

**MR LESIBA LEGWABE**: Ja medical students, she wanted the medical students to address us and then we were so arrogant, we shouted that we don't need any student to come and address us.

**ARBITRATOR, JUSTICE MOSENEKE**: And then you waited for the MEC and she  
20 came and what happened?



**MR LESIBA LEGWABE**: Ja and then she came, she was so arrogant. She told us that the Department have made their minds, they want to save costs and then therefore, this project should go on, even though we gave a list of the demands, she couldn't even read those demands.

5 **ARBITRATOR, JUSTICE MOSENEKE**: Were the demands written?

**MR LESIBA LEGWABE**: Ja they were written to her to say that these are the demands.

**ARBITRATOR, JUSTICE MOSENEKE**: And given to her?

10 **MR LESIBA LEGWABE**: Ja given to her, but she was so arrogant. It's for the first time I see a woman so arrogant. I thought that is a soldier.

**ARBITRATOR, JUSTICE MOSENEKE**: No, no we shouldn't go there, there are many arrogant people, men and women, but what did she say? Why do you say she is arrogant?

15 **MR LESIBA LEGWABE**: No she says to us ladies and gentlemen, you know the Department is in financial constraint and then therefore, we want to try and restructure this programme because I have taken other people to make sure that this project goes well and then therefore we want to save costs and then from Treasury, we don't have financial to maintain these people. Then on that day, she said-

20 **ARBITRATOR, JUSTICE MOSENEKE**: She said from the Treasury?

**MR LESIBA LEGWABE**: There is no money.

**ARBITRATOR, JUSTICE MOSENEKE**: There is no money to maintain the mental health care users?

**MR LESIBA LEGWABE**: Ja and then she said to us, for your info, when these people are going to be moved to other places, you will be informed where they will  
5 be landing.

**ARBITRATOR, JUSTICE MOSENEKE**: And your evidence is that you were never informed?

**MR LESIBA LEGWABE**: We were never informed.

**ARBITRATOR, JUSTICE MOSENEKE**: Did she tell you where she is going to take  
10 the mental health care users?

**MR LESIBA LEGWABE**: No, she never told us. She said everything is in the pipeline they are working on a project.

**ARBITRATOR, JUSTICE MOSENEKE**: But you and the other families were quite clear that you did not want the patients to move?

15 **MR LESIBA LEGWABE**: No we didn't want, because we were saying that maybe let's raise some donations, we can go to churches and whatever or even to other Shoprite's and whatever.

**ARBITRATOR, JUSTICE MOSENEKE**: And you made it clear to her?

**MR LESIBA LEGWABE**: Ja we made it very clear to her. We said you can't close  
20 this facility like this, some of these patients it is already their home and they have been taken good care of, so therefore, it's either we raise certain funds, can you

give us time to go and raise funds so that we can come back to you. Because I am staying in Mamelodi, I was going to go to Motsepe and ask him for a donation.

**ARBITRATOR, JUSTICE MOSENEKE**: Who is Motsepe?

**MR LESIBA LEGWABE**: Patrick Motsepe of Mamelodi Sundowns.

5 **ARBITRATOR, JUSTICE MOSENEKE**: You are a Mamelodi Sundowns guy are you?

**MR LESIBA LEGWABE**: Ja.

**ARBITRATOR, JUSTICE MOSENEKE**: Very well, Counsel any further questions? Advocate Groenewald are you done?

10 **ADV DIRK GROENWALD**: Yes thank you very much Justice.

**ARBITRATOR, JUSTICE MOSENEKE**: Counsel evidence leader?

**ADV NONTLANTLA YINADV ADILA HASSIM** Thank you Justice, we have no questions.

**ARBITRATOR, JUSTICE MOSENEKE**: No questions alright.

15 **ADV TEBOGO HUTAMO**: Thank you Justice, Mr Legwabe we are very sorry about the passing of your brother Motsfela. We just want to give you the assurance that the government is really taking steps in this process, to ensure that the wrongs which occurred are corrected and history does not repeat itself. You are aware that there are family members or family committees which are working with the  
20 government departments. The National Department of Health together as the Provincial Department of Health, they are committed in ensuring that what has been

recommended by the Office of the Ombudsman, relating to the tragedy that has occurred, those recommendations are implemented and what we want to assure everyone, yourself, the family members and all the family members who are affected by this tragedy, we want to assure you as well as the nation, that the government is committed and no impression should be made to the public that there is resistance in the efforts that the government is taking in order to ensure that the truth is being told about the events that had actually occurred. We all know that this process that we are engaged in, is in relation to- the process is formed in the form of an arbitration which requires legal representatives of the affected family members as well as those of the government and these legal representatives work together in order to ensure that the process is led and everyone is being informed of the progress that is being made and therefore, we say as government, that the family members and affected people, should know that every effort is being made to ensure that people with information, will be called before these proceedings and let's allow the process to take its course [interjects]

**ADV ADILA HASSIM**: Counsel my learned friend from the State, we appreciate his efforts and we appreciate his acknowledgement of the time that has been made by the witnesses to come here and testify, but at this point, my learned friend is making submissions and making statements to the witness. I'm not sure whether it's leading to a question, but it appears to be, if he could put his question if that's what he intends to do. That would be preferable and refrain from commenting on the process of the arbitration.

**ARBITRATOR, JUSTICE MOSENEKE**: Sure it's time to put questions, but he could make a statement and invite the witness to comment. That is why at the end of the statement, I normally say to the witness do you want to respond. If he were to say as he does and say the government is doing all in its power to remedy past omissions, stop and then ask the witness and the witness would say yes I think they will or I don't think they will. So he is entitled to put statements provided the witness is allowed to respond to that. Do you agree with that?

**ADV ADILA HASSIM**: I do agree with that, except that that wasn't [interjects]

**ARBITRATOR, JUSTICE MOSENEKE**: Shall we ask him to make them shorter, so the witness can have an opportunity to respond.

**ADV ADILA HASSIM**: That's fair enough, the content of the past couple of minutes however of the statement, is of a different nature to the statements he has been making to the other witnesses thus far and that's why I thought compelled to raise my objection.

**ARBITRATION**: Okay there is an objection before us. Counsel what is your response to the objection?

**ADV TEBOGO HUTAMO**: Thank you Justice, what we make in the form of a statement, is the acknowledgement on the part of government that it is indeed unfortunate of the events which have occurred. We want to assure the witness who has just given an account of his experience and as we are sitting here, we acknowledge that and we have to assure the witness as well as other family

members and the nation, about what the government's involvement is in relation to  
[interjects]

**ARBITRATOR, JUSTICE MOSENEKE**: You see the objection is a procedural one.

It is this and that is that this is the time to examine the witness or to put statements

5 to the witness. Cross-examination includes putting propositions to a witness and

the witness may say yay or nah or I have no comment, so it's procedural in nature,  
but you cannot be stopped saying whatever you want to put to the witness frankly.

So I suggest you might overcome the objection by putting snippets and by giving

the witness an opportunity to respond. On most of the things you say, the witness

10 will probably have no response, because you are talking about the government and

its intentions, but procedurally, it is time to put propositions to the witness and you

will have time to argue [inaudible].

**ADV TEBOGO HUTAMO**: Thank you Justice.

**ARBITRATOR, JUSTICE MOSENEKE**: Very well.

15 **ADV TEBOGO HUTAMO**: Mr Legwabe the government has taken steps to

establish these arbitration proceedings in order to ensure that the wrongs which

were committed are being corrected, will you acknowledge that?

**MR LESIBA LEGWABE**: Counsel I will respond, you can go on?

**ARBITRATOR, JUSTICE MOSENEKE**: Well you have an opportunity now to say

20 whether you-

**MR LESIBA LEGWABE**: No I don't agree Chief Justice with due respect. Why I'm saying this, the Health Department I don't know, 2007 this thing was done, during that in a separate NGO and then I don't know whether your office is archiving all the records or the history of the health, because if this thing, you were aware of it and then from a legal point of view and from your advisors as doctors, you should have known when people were questioning you that this thing, you mustn't do that. For us, it's too late for you to come and tell us that the government is doing this. For me, it's painful and then also, I want to tell you that the death of my brother caused the death of my wife. Now I'm a widow. You cannot tell me that the government is doing something. My wife was running around like a headless chicken running all over the show, until she was depressed and then she died or aortic dissection where her-

**ARBITRATOR, JUSTICE MOSENEKE**: She died of what?

**MR LESIBA LEGWABE**: Aortic dissection, it's a certain sickness when a person is depressed, it means the veins that control the blood to go to the heart, it starts, to burst and that's why I am a widow now. I buried my brother on the 20<sup>th</sup> of August I have to bury my wife on the 30<sup>th</sup> of December. It means I have to carry 2 deaths with my own expenses, so your apology Counsellor, it doesn't sit well with me, because you knew if you should have learnt on 2007 when those children were dying in those NGO's, you shouldn't have done this. We pleaded with you because you've got a stubborn MEC and arrogant, you didn't listen to us. It's painful for me. At this point, you Counsellor, you are having your wife I don't have any wife at all. I have lost the wife that I took in, she was having a Standard 8, I took her to school

up until she became a dental therapist she was going to open her surgery. I have lost all the investment of my money, it's gone. For the period of 30 years, I lost somebody. Your apology to say the government is taking care of, to me, it's a drop in the ocean and it won't catch you any fish.

5 **ARBITRATOR, JUSTICE MOSENEKE**: Counsel any further propositions? As I say, the witness is entitled to respond to any proposition that is put in cross-examination.

**ADV TEBOGO HUTAMO**: Indeed so. Mr Legwabe, we do acknowledge the pain that you have suffered and we are sorry. It is just unfortunate that the events  
10 occurred in the manner that they did, but what we say as government, is that consequent to the unfortunate tragedy that has occurred, this process seeks to get the families who are affected, together as government in order to find closure to the difficulties that everyone is experiencing. It is indeed a painful situation that you are going through, but it needs to be attended and which is the very reason the  
15 government is taking these steps and it is on that note that we really appreciate the time that you have taken to give an account and we hope that this process will come up with ways of finding redress, thank you.

**ARBITRATOR, JUSTICE MOSENEKE**: You are entitled to respond?

**MR LESIBA LEGWABE**: Okay he is still repeating the same thing. I thought that  
20 he is going to come up with some other new things that will motivate me in order to carry on with my life. It's just like striking a rock and saying the water must come out and then it's only Moses who did that and nothing else, so Counsellor Chief Justice



what I want to say, is that we elect people to be in government in order to lead us, not to kill us. We elect people in order to be on certain institutions in order to make sure that they know and they've got the knowledge, but what I see in this government, is that most of the Ministers, you will find them in the mall, we don't  
5 know, even during the week, I don't know what they are doing in the mall, maybe they are on pension, they are with you, because you are on pension Chief Justice they want to visit you I don't know, but Ministers they are not working, always they are in a meeting, I don't know which meeting. It is painful for us to do this and then I don't know what to say-

10 **ARBITRATOR, JUSTICE MOSENEKE**: Ja but the proposition by the State Counsel, was that his instructions, remember he is an Advocate, is that the State is in the future, going to do better, they will never repeat this mistake again, so that is really what he is saying and either you could say you believe that, it is going to happen or it is not going to happen. You've got to meet the point he is making  
15 which is that the State pledges, so that is what you must respond to and say-

**MR LESIBA LEGWABE**: No I don't believe because I thought that he is going to tell me that even on these deaths, the NPA or the Hawks will be included when they are addressing this situation, so that even in future, this thing doesn't happen, but I just hear him that the State is taking this and this and this, but to me, it doesn't ogle  
20 well, but for your info Chief Justice, I am not going to waste your time, I have said what I've said and then I think my wife will rest peacefully because before she died, she asked me did you find out what killed your brother. Even now I don't know, maybe the State will come one day and then I will make a ceremony to the grave of

my wife and tell her that these are the people that killed your brother-in-law, thank you Chief Justice.

**ARBITRATOR, JUSTICE MOSENEKE**: Counsel do you have any further questions, any propositions to make?

5 **ADV TEBOGO HUTAMO**: Well it is just one aspect like I do not intend to keep the witness long-

**ARBITRATOR, JUSTICE MOSENEKE**: Remember you are free to do so, there is no inhibition whatsoever. What answers you will elicit, is another matter, but you are free to put any proposition to your witness.

10 **ADV TEBOGO HUTAMO**: Thank you Justice. Mr Legwabe do you acknowledge that this arbitration process headed by Mr Justice Moseneke is necessary in order to assist you as well as other family members in an effort to find closure?

**MR LESIBA LEGWABE**: I hope so Counsel, I hope so. Let me re-assure myself, I hope so that one day we will know the truth.

15 **ARBITRATOR, JUSTICE MOSENEKE**: Thank you, it's a fair answer.

**ADV TEBOGO HUTAMO**: Thank you.

**ARBITRATOR, JUSTICE MOSENEKE**: And it's a process which is authorised and agreed to by the parties. We must have hope.

**MR LESIBA LEGWABE**: You see Chief Justice, they have undermined the  
20 leadership of Section 27 of when it was advising them you see about this matter. If they should have listened, we shouldn't be in this arbitration and then they were

saying they were trying to save costs. How much are we using here, food and whatever, we should have provided for necessary mental health users rather than sitting here, we have wasted. Is this what we call project Esidimeni or this is a project to death of the lives of mental users, thank you Justice.

5 **ARBITRATOR, JUSTICE MOSENEKE**: Thank you ever so much. I think it's time to release you from there. Again I thank you for being here and for making yourself available and sharing with us, these difficult experiences and your views are important and that's why we are all sitting quietly to listen to them. But you see before you stage a sit-in, I must let you go.

10 **MR LESIBA LEGWABE**: No Chief Justice I won't do that, I am free to go now.

**ARBITRATOR, JUSTICE MOSENEKE**: Okay thank you.

**MR LESIBA LEGWABE**: Thank you.

**ADV ADILA HASSIM** Chief Justice we would like to call Mrs Ntombifuthi Dhladhla.

**ARBITRATOR, JUSTICE MOSENEKE**: [inaudible]

15 **MS NTOMBIFUTHI DHLADHLA**: Good afternoon to you.

**ARBITRATOR, JUSTICE MOSENEKE**: [inaudible]

**MS NTOMBIFUTHI DHLADHLA**: I prefer to speak my language Zulu.

**ARBITRATOR, JUSTICE MOSENEKE**: May I ask you to place your full names on record please?

20 **MS NTOMBIFUTHI DHLADHLA**: I'm Ntombifuthi Olga Dhladhla.

**ARBITRATOR, JUSTICE MOSENEKE:** 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?

**MS NTOMBIFUTHI DHLADHLA:** So help me God.

5 **ARBITRATOR, JUSTICE MOSENEKE:** Counsel?

**ADV ADILA HASSIM:** Good afternoon Mrs Dhladhla, can you tell us what, is your relationship to the late Joseph Gumede?

**MS NTOMBIFUTHI DHLADHLA:** He was my brother. I'm the third one after him.

**ADV ADILA HASSIM:** He was your older brother?

10 **MS NTOMBIFUTHI DHLADHLA:** Yes.

**ADV ADILA HASSIM:** Was Joseph at Life Esidimeni?

**MS NTOMBIFUTHI DHLADHLA:** Yes.

**ADV ADILA HASSIM:** Which Life Esidimeni facility was he at? Was he at Witpoortjie, the Randfontein?

15 **MS NTOMBIFUTHI DHLADHLA:** Randfontein.

**ADV ADILA HASSIM:** How long was he there?

**MS NTOMBIFUTHI DHLADHLA:** He was admitted in the year 2015. I am not clear on the month, but he was transferred there from Chris Hani Baragwanath Hospital.

**ADV ADILA HASSIM:** What was Joseph's mental health condition?

**MS NTOMBIFUTHI DHLADHLA:** He was mentally ill. He was very violent, up to the point that even family members couldn't deal with him except me of course. Up to a point that when he was at home in Meadowlands, my mother's home, he would be violent and he would break the windows and hit people. As I speak, my mother

5 suffered a stroke because of that. It's when I decided that because I understood his behaviour, then I took it upon myself for him to come and live with me. He stayed with me for a very long time even though it was difficult to deal with him. He was doing the very same things he was doing at home when I was absent when he was left alone with my children and he said to me that I'm controlling him and I wanted to

10 be his mother. He wanted his own place to stay. I went to the councillor in Tsepesong where I reside and I talked to the councillor asking him to give him his own place and then he did so. He would be better and then he would relapse again. After he got his place, he was not far from where I live, so I would go early in the mornings and check on him and how he's doing. He didn't want to stay with his

15 family. From time to time, he would go and roam around the streets up to a point that in a certain year, a White man called me and then he said he knocked him off with his car and he was admitted at Johannesburg Hospital. He asked me if I knew him and then I said yes he was my brother and then he told me that he was admitted at Johannesburg Hospital and I went there to see him. I saw that he was

20 injured. When the White man came and he asked why he is roaming the streets and then I had to explain his condition to him. He advised me that I should talk to social workers so that they would find a place of safety for him. I took his advice and talked to the social workers here at Johannesburg Hospital. The social worker

that I talked to was a male by the surname of Matabula. I went to visit him until he was discharged from the hospital and then he came to live with me after he was discharged. When he was discharged from the hospital, his health was stable, because the doctors took care of him and they made sure that he is taking his  
5 medications, but he would be disturbed because he would again go the streets and he wouldn't take his medication when he was roaming around the streets.

**ADV ADILA HASSIM:** When was this? When was he discharged from Johannesburg General Hospital?

**MS NTOMBIFUTHI DHLADHLA:** If I'm not mistaken, around the year 2007.

10 **ADV ADILA HASSIM:** Did Joseph live with you until he was admitted to Life Esidimeni?

**MS NTOMBIFUTHI DHLADHLA:** Yes he was living with me, but when he got admitted at Life Esidimeni, I got a phone call from Chris Hani Baragwanath and they again told me that do I know this person and then I confirmed that yes it was my  
15 brother.

**ADV ADILA HASSIM:** Why was he at Chris Hani Baragwanath?

**MS NTOMBIFUTHI DHLADHLA:** They found him in the streets, he was beaten by people and then a stranger took him to Chris Hani Baragwanath Hospital. He stayed there a very long time because he couldn't speak to tell them who he was or  
20 where he was living.

**ADV ADILA HASSIM:** When was this that he was admitted to Chris Hani Baragwanath?

**MS NTOMBIFUTHI DHLADHLA:** It was 2009.

**ADV ADILA HASSIM:** Did you visit him when he was at Chris Hani Baragwanath?

5 **MS NTOMBIFUTHI DHLADHLA:** Yes I did go after receiving the news that he was admitted at Baragwanath.

**ADV ADILA HASSIM:** And when was he discharged from Chris Hani Baragwanath?

**MS NTOMBIFUTHI DHLADHLA:** I'm not sure because I didn't record the dates,  
10 but after that, they transferred him to Leratong because that was the nearest hospital from where we lived.

**ADV ADILA HASSIM:** Okay and then from Leratong Hospital, did he then return home?

**MS NTOMBIFUTHI DHLADHLA:** He was discharged at Chris Hani Baragwanath,  
15 but they referred him to Leratong so that he could get his medication there or his follow-up on his medication.

**ADV ADILA HASSIM:** So he then did come back home?

**MS NTOMBIFUTHI DHLADHLA:** Yes he did.

**ADV ADILA HASSIM:** And you said he was admitted to Life Esidimeni Randfontein  
20 in 2015?

**MS NTOMBIFUTHI DHLADHLA:** Yes.

**ADV ADILA HASSIM:** And did you visit him at Life Esidimeni?

**MS NTOMBIFUTHI DHLADHLA:** Yes I did visit him.

**ADV ADILA HASSIM:** How often did you visit him?

5 **MS NTOMBIFUTHI DHLADHLA:** I visited him from time to time because I had to take care of my mother as well because of the stroke and I also got temporary jobs in the meantime, so when I go to the specific job, I had to ask someone to come and take care of my mother.

**ADV ADILA HASSIM:** And when you visited him at Life Esidimeni, how was he?

10 Was he able to talk, what was his condition like and did you take anything for him?

**MS NTOMBIFUTHI DHLADHLA:** I love my brother and he was happy and he was handsome as well while he was at Life Esidimeni.

**ADV ADILA HASSIM:** Did you speak to him? Was he able to talk to you?

**MS NTOMBIFUTHI DHLADHLA:** Yes he could talk to me.

15 **ADV ADILA HASSIM:** And what would you talk about?

**MS NTOMBIFUTHI DHLADHLA:** He would say he misses me and he would ask me to take him home whenever I come to visit and then I would explain that if I take him home, I can't take care of you because you disappear and you roam around the streets so I can't take care of you.



**ADV ADILA HASSIM:** When was the last time you visited Joseph at Life Esidimeni?

**MS NTOMBIFUTHI DHLADHLA:** I last spoke to him on the 23<sup>rd</sup> of December 2015 because every Christmas and New Year, I would make sure that we celebrate it  
5 together.

**ADV ADILA HASSIM:** And how was he when you saw him on that occasion at Life Esidimeni?

**MS NTOMBIFUTHI DHLADHLA:** He was okay the situation was okay he was handsome as always. I regret, I should have taken him on that day, but I regret  
10 leaving him on that day. That was the last day I saw him on the 23<sup>rd</sup> of December. They did say that Life Esidimeni was going to be closed.

**ADV ADILA HASSIM:** And did they tell you where Joseph would be taken?

**MS NTOMBIFUTHI DHLADHLA:** They said no, because the facility was going to be closed, so I can't come and see him in January, but they would tell me where  
15 they were going to transfer Joseph, but they didn't.

**ADV ADILA HASSIM:** Did they not contact you once Joseph had been moved?

**MS NTOMBIFUTHI DHLADHLA:** There is a lady that I know that we go to church together, she was working at Life Esidimeni, I would ask since from January because they said they were going to call me in January, then I would ask her if  
20 they have transferred Joseph from that day and she said no, it means if they haven't

contacted you, it means they haven't moved Joseph, but initially they did call me in June.

**ADV ADILA HASSIM:** They called you in June to tell you, what did they tell you when they called you in June?

5 **MS NTOMBIFUTHI DHLADHLA:** They told me that he is going to be transferred today. I asked where they were transferring him to. They said they didn't know, but once he arrived there at that facility, they would tell me where is Joseph.

**ADV ADILA HASSIM:** Did you visit Life Esidimeni again?

10 **MS NTOMBIFUTHI DHLADHLA:** I did go after I received the phone call, but I went there in September-

**ADV ADILA HASSIM:** Is that September 2016?

15 **MS NTOMBIFUTHI DHLADHLA:** Yes September 2016 and I only found security guards there at the gate. The security guards told me that the patients were moved already, but they gave me a list of the places where they possibly could have taken my brother. They talked about since I lived here around Tsepesong, they would have taken my brother maybe to Krugersdorp. They also told me about Sterkfontein as well. The lady that I go to church with explained to me that the last batch that was moved, was transferred to Krugersdorp.

20 **ARBITRATOR, JUSTICE MOSENEKE:** But from June 2016 to September, once you had been told that he had been transferred, didn't you try and find him?

**MS NTOMBIFUTHI DHLADHLA:** I did try to call them. I asked them where they have taken my brother, but it wasn't clear where-

**ARBITRATOR, JUSTICE MOSENEKE:** Who did you call?

**MS NTOMBIFUTHI DHLADHLA:** I don't know the name of that person, but I  
5 phoned the number that the security guards gave me at the gate. The lady that I go  
to church with gave me the numbers of the NGO's and their addresses and I went  
from one NGO to another looking for my brother. Because this lady also went with  
other patients to Pretoria, I asked her if there are any other patients with her in  
Pretoria and then I asked her where she is living in Pretoria and then she said she  
10 is in Cullinan.

**ADV ADILA HASSIM:** Who was in Cullinan?

**MS NTOMBIFUTHI DHLADHLA:** The lady that I went to church with.

**ADV ADILA HASSIM:** Do you remember the name of this lady?

**MS NTOMBIFUTHI DHLADHLA:** Her name is Katherine.

15 **ADV ADILA HASSIM:** Okay continue?

**MS NTOMBIFUTHI DHLADHLA:** She is the one who was helping me find or locate  
these places. She was the one who told me about Takalana and I went there and  
she told me about another place in Benoni as well.

**ADV ADILA HASSIM:** And was Joseph there?

20 **MS NTOMBIFUTHI DHLADHLA:** I was looking around and I couldn't find my  
brother, even when I went to Benoni on the 30<sup>th</sup> of January, I couldn't find my

brother and then I called my friend and he advised me to go to the Department of Health to talk to them.

**ARBITRATOR, JUSTICE MOSENEKE:** This is now 20<sup>th</sup> of January 2017?

**MS NTOMBIFUTHI DHLADHLA:** Yes.

5 **ADV ADILA HASSIM:** So did you go to the Department of Health?

**MS NTOMBIFUTHI DHLADHLA:** Straight from there, I went to the Department, but I asked my friend to help me locate because I didn't know their premises. I asked him to Google the address for me and send the location to me and he did so. I took the taxi there but I ran out of funds. I had to call my mother for her to send someone  
10 to Shoprite to deposit the money there for me so that I can have money to carry on with my journey. I went to the Department of Health here in Sauer Street in JHB, but when I got there, it was already closed. I went back home.

**ADV ADILA HASSIM:** Did you ever go back to the Department of Health?

**MS NTOMBIFUTHI DHLADHLA:** I went back there the following Monday.

15 **ADV ADILA HASSIM:** And who did you speak to?

**MS NTOMBIFUTHI DHLADHLA:** When I got there, they told me that I should go to Diagonal Street, they wrote down the address for me. I went there. When I got there, the security guards escorted me to the relevant floor and when I got there, there were ladies sitting there. At Sauer, they had written down that when I get to  
20 Diagonal Street, I should ask for Dr Manamela. I requested to see him and then they asked me if I had an appointment. Then I said no, because I don't know him.

Then the lady asked me if they could be of assistance to me and I said yes. I told them that I'm here looking for my brother, he was at Life Esidimeni in Randfontein. I have searched many places, but I can't find him. That's why I took the decision to come here. There was a file on top of the table and she asked me the name of my  
5 brother and then I said it was Joseph Gumede. She searched for his name through that file and then she said the file that I have, contains the name of people who have died and then she said luckily your brother is not there. I was very happy, but she was lying, there was no such. Then she requested me to sit there and there was a lady who was going to assist me regarding the patients from Life Esidimeni.  
10 Then they told this lady that I was here looking for my brother Joseph Gumede from Life Esidimeni.

**ADV ADILA HASSIM:** Who was the lady that they were now asking to assist?

**MS NTOMBIFUTHI DHLADHLA:** I don't know her name, but I can point her out if she could come here. She asked me how was I related to Joseph Gumede and I  
15 said he was my brother. She was carrying a laptop and then she typed my brother's name and asked if I knew Joseph's ID number and I said no, I don't know his ID number off my head. Then she told me the ID and then I said wait right there. I had my brother's ID on me. I got his ID from the security guard in Roodepoort at the Courts because he liked to stay there. When she told me the numbers, they  
20 corresponded with the ID document I had. Then she said I will refer you to a social worker and she is the one who is going to explain where your brother is, but he is alive and he is in Pretoria.

**ADV ADILA HASSIM:** What was the name of the social worker that you were referred to?

**MS NTOMBIFUTHI DHLADHLA:** It was Daphne. I don't know her surname, but it's Daphne.

5 **ARBITRATOR, JUSTICE MOSENEKE:** Was Daphne at Diagonal Street in Johannesburg?

**MS NTOMBIFUTHI DHLADHLA:** She said she would call the social worker and the social worker would-

**ADV ADILA HASSIM:** Did the social worker call you?

10 **MS NTOMBIFUTHI DHLADHLA:** She called me right there before I even went out of the building and then she asked me how I knew Joseph Gumede and then I said he was my brother. Then she told me that she was busy, she was on the road, she was busy with other things, but she would call me. She said she was going to call me the following day, but she didn't, she didn't even phone on the same day or  
15 come back to me on the same day, even on the following day. She phoned me on the third day. She phoned me and apologised that she couldn't get back to me because she was busy with what her boss was instructing her to do.

**ADV ADILA HASSIM:** What did she say to you now when she called you?

**MS NTOMBIFUTHI DHLADHLA:** She said she wanted to come and visit me. I  
20 said I have no problem with that you can come and visit me. I told her that please, don't, come on the weekend because I am planning to visit my brother on the

weekend. Then she phoned me on the Monday the following Monday, but she didn't come. Then she apologised as well. Then she said she was going to come on Wednesday.

**ADV ADILA HASSIM:** What date was that?

5 **MS NTOMBIFUTHI DHLADHLA:** I don't remember the exact date.

**ADV ADILA HASSIM:** Was it in January 2017 still or was it February?

**MS NTOMBIFUTHI DHLADHLA:** This was February. She didn't pitch on Wednesday that she made an appointment on and she said definitely she was going to come on Friday and then I told her that I am tired of waiting.

10 **ADV ADILA HASSIM:** Did she ever arrive?

**MS NTOMBIFUTHI DHLADHLA:** Yes, she did come on Friday. She came very late on that day. They phoned me, they were in Krugersdorp and they were asking for directions to my house. Then I gave them the directions and I told them that from where I have directed you, just wait there until I come and fetch you. Then  
15 they called me when they arrived and then I fetched them. When we were approaching the gate at my house, when I was opening the gate, then she said to me who else are you with because I see that you are opening the gate. Then I said there is no one here, it is just me because everyone has gone to work and school. Then she said okay, let's go in.

20 **ADV ADILA HASSIM:** Is this Daphne?

**MS NTOMBIFUTHI DHLADHLA:** Yes this was Daphne. She took out my brother's picture. Before she could say anything else, she wanted to confirm if this was the same person we are talking about and I said yes it was him.

**ADV ADILA HASSIM:** Is that photograph that you're holding up numbered  
5 ELAH35?

**MS NTOMBIFUTHI DHLADHLA:** Yes.

**ADV ADILA HASSIM:** Is that a photograph of your brother?

**MS NTOMBIFUTHI DHLADHLA:** Yes this is a picture of my brother.

**ADV ADILA HASSIM:** When was this photograph taken?

10 **MS NTOMBIFUTHI DHLADHLA:** It was November 2014.

**ADV ADILA HASSIM:** Who took this photograph?

**MS NTOMBIFUTHI DHLADHLA:** It was just a random photograph [inaudible] of taking pictures.

**ADV ADILA HASSIM:** And is this the photograph that Daphne showed you?

15 **MS NTOMBIFUTHI DHLADHLA:** No it's not this picture. It's a ID picture, it wasn't a full body picture and then I confirmed that yes, it was my brother. She also recited the numbers of the ID and I said please wait there and then I went to my bedroom and then I took his ID document. When she called the ID number, they corresponded from the ID document. Then she asked again and said Sister Mfuthi  
20 who are you with and I said like I've said I am all alone. Then she said I have bad news for you. I couldn't sit down and then I asked her me standing up, what is



going on and then she said your brother has passed on. If I didn't kill her that time, I don't think I ever will. I couldn't even cry, I just screamed because there were no tears coming out. My neighbours heard and then they came to my house.

**ADV ADILA HASSIM** Did Daphne tell, you when your brother had passed away?

5 **MS NTOMBIFUTHI DHLADHLA:** She said he passed on the 24<sup>th</sup> of July and I said-

**ARBITRATOR, JUSTICE MOSENEKE:** 24<sup>th</sup> of July of which year?

**MS NTOMBIFUTHI DHLADHLA:** 2016.

**ARBITRATOR, JUSTICE MOSENEKE:** Thank you.

10 **MS NTOMBIFUTHI DHLADHLA:** Then, I asked her why, are you telling me this today. I asked where is his corpse, where were they keeping him all along and then she said he was in the mortuary. I asked her why now, why are you telling me this now, because all this time, they couldn't tell me where my brother was, why are you telling me this now. Then she said I am so sorry, I am just a messenger. I told her  
15 that I can't break this news to my mother because my mother suffered a stroke because of my brother, so I want to go with you to her and you are the one who is going to tell my mother the news. We went to my mother's place in Meadowlands. When we were approaching my mother's house, there was another car that was leaving my mother's house. When I took a good look at the car, I saw that it was  
20 my brother-in-law's car that was leaving the house. It made a U-turn coming towards us and then I stopped them. I said to Sibongile which is my sister, the last born in my house and then I requested them to come out of the car. I asked them

where, were they going and then she said she was taking my mother to a doctor's check-up. Then I told them that she can't go anymore and then I asked my brother-in-law aside and then I told him that please don't go because my brother has passed on. Then we took our mother inside the house. It is then that Daphne  
5 broke the news, but she couldn't say, she didn't know how to break the news, because she saw my mother's condition. Then I said to her there is no alternative, you have to speak, because this is her son. Then she broke the news that my brother has passed on. Then we were crying and my sister asked when did my brother pass on and then she told them and she asked where did they keep him for  
10 such a long time, why didn't they say. Then she said he is at Mamelodi in the mortuary.

**ADV ADILA HASSIM:** Justice Moseneke there are a few more questions I still have for this witness, but I note the time and I wonder whether this may be an appropriate time for an adjournment.

15 **ARBITRATOR, JUSTICE MOSENEKE:** Time is good as any, I think we should adjourn and then resume at 2:30.

### **SESSION 3**

**ARBITRATOR, JUSTICE MOSENEKE:** Council. Yes, there is something not connecting between yours and mine. Can you see that?

20 **ADV ADILA HASSIM:** Yes I see that.

**ARBITRATOR, JUSTICE MOSENEKE:** Mine doesn't work if yours is on I think ...

**ADV ADILA HASSIM:** Without both speak at the same time.

**ARBITRATOR, JUSTICE MOSENEKE:** Which helps a lot I think. Shall we proceed?

**ADV ADILA HASSIM:** Yes, please.

5 **ARBITRATOR, JUSTICE MOSENEKE:** You are still under your previous auth.

**ADV ADILA HASSIM:** Ntombi the last time we left of you were explaining to us that Daphney accompanied you to break the news to your mother of Josef's death. How did your mother react?

**NTOMBI DHALADLA:** She didn't take the news very well. We had to the following  
10 day or the day after they broke the news we had to take her to the doctor because she was so sick and she couldn't have made it to various [inaudible 01:43] the way she was so sick.

**ADV ADILA HASSIM:** And did Daphney tell you where Josef's body was?

**NTOMBI DHALADLA:** She said government, she said she was in the government  
15 mortuary at Mamelodi Hospital.

**ADV ADILA HASSIM:** Did you go to collect Joseph's body?

**NTOMBI DHALADLA:** Yes, we did collect his body.

**ADV ADILA HASSIM:** Who accompanied you?

**NTOMBI DHALADLA:** It was my sister and the people from the undertaker, there  
20 where three gentlemen from the undertaker or the funeral parlor.

**ADV ADILA HASSIM:** What was the name of the funeral parlor?

**NTOMBI DHALADLA:** Khago funerals.

**ADV ADILA HASSIM:** And when did you go to the mortuary to collect Josef?

**NTOMBI DHALADLA:** Daphney arrived on the 10<sup>th</sup>, I wanted to go that very same  
5 Saturday but the undertaker told us that they are very busy because they are  
conducting funerals. So they suggested that we go on the Monday.

**ADV ADILA HASSIM:** And did you identify Josef's body?

**NTOMBI DHALADLA:** I didn't want to go and identify his body. But Daphney  
insisted that I do so, the gentleman from the mortuary came to us and then they  
10 said to us that we have to prepare us because what we are about to see will shock  
us. That is why I didn't want to go in and identify his body. Daphney insisted that we  
go and identify the body and told us that it is unlawful for us not to go and identify  
the body because we can end up with the wrong corpse. So that is when my sister  
stood up and went then I followed my sister.

15 **ARBITRATOR, JUSTICE MOSENEKE:** Where was the corpse?

**NTOMBI DHALADLA:** Mamelodi it was in Mamelodi.

**ARBITRATOR, JUSTICE MOSENEKE:** Ok.

**NTOMBI DHALADLA:** As I went in my sister was coming out and then I asked her  
if that was indeed our brother and then she said yes it was him, I went in and  
20 identified the body as well. I couldn't see him but what I saw was not my brother, but  
what made me confirm that it was my brother is because he didn't have legs and

there was a sticker that was written Josef Komede. That is when I said this is indeed my brother.

**ARBITRATOR, JUSTICE MOSENEKE:** While we are there ELH 35, could you again look at ELH 35?

5 **TRANSLATOR:** Please look again at the ELH 35 picture.

**ARBITRATOR, JUSTICE MOSENEKE:** In your evidence, you said that this picture was taken November 2014.

**NTOMBI DHALADLA:** Yes.

**ARBITRATOR, JUSTICE MOSENEKE:** Already forward?

10 **NTOMBI DHALADLA:** Yes.

**ARBITRATOR, JUSTICE MOSENEKE:** And then your brother was still at [inaudible] was he?

**NTOMBI DHALADLA:** No in 2014.

**ARBITRATOR, JUSTICE MOSENEKE:** So he had not gone there?

15 **NTOMBI DHALADLA:** Yes, he had not gone there.

**ARBITRATOR, JUSTICE MOSENEKE:** Now [inaudible] 2015?

**NTOMBI DHALADLA:** He was admitted in the year 2015.

**ARBITRATOR, JUSTICE MOSENEKE:** You did say that sorry my mistake. What, pro-evidence suggest that your brother was very violent? And he wondered out  
20 there in the streets and the roads?

**NTOMBI DHALADLA:** Yes, it was like that he didn't want to leave at home.

**ARBITRATOR, JUSTICE MOSENEKE:** Look at the picture, he seems to have amputations at knee level?

**NTOMBI DHALADLA:** Yes, it is so.

5 **ARBITRATOR, JUSTICE MOSENEKE:** So the time that when he were violent and moved a lot and so on, had he been amputated already?

**NTOMBI DHALADLA:** He was violent even when he had his both legs, even before it was amputated. He wasn't amputated both legs at the same time, they started with one leg.

10 **ARBITRATOR, JUSTICE MOSENEKE:** When was the one leg amputated can you remember?

**NTOMBI DHALADLA:** She said that she cannot recall correctly but 2006 or 7.

**ARBITRATOR, JUSTICE MOSENEKE:** And the second amputation? I don't want the exact date but I want to know roughly when.

15 **NTOMBI DHALADLA:** She is also speculating that it was around the same years 2007 and 8. And she said that when he was first amputated she was sure that he wouldn't come the streets anymore. But this wheelchair enabled him to move around, I remember people from Oakland Park called me and they were not nice on the phone they were violent.

20 **ARBITRATOR, JUSTICE MOSENEKE:** When he was admitted to Baraguana being injured, was he already in a wheelchair?

**NTOMBI DHALADLA:** Yes, but one leg was then amputated at the time.

**ARBITRATOR, JUSTICE MOSENEKE:** So when you went to identify the body you knew that you would have to look for somebody who had a dual amputation?

**NTOMBI DHALADLA:** Yes, we knew that.

5 **ARBITRATOR, JUSTICE MOSENEKE:** And it brings me to the real question which really was, you said he was a painful site to look at that his body was a painful site to look at. Why do you say that? I just want to understand his condition the time you were identifying his body.

**NTOMBI DHALADLA:** His corpse was decaying and it had an unpleasant smell.  
10 We couldn't enter they had to put masks on us to enter there because of the unpleasant smell. It was so unpleasant to travel with this corpse because the undertaker did not bring the proper trailer for the corpse. They broad a combee so we had to travel with the body there and each time I would pray that the car don't stop on the traffic lights because each time we stopped flies would come flying in  
15 because of the unpleasant smell of the corpse.

**ARBITRATOR, JUSTICE MOSENEKE:** And was the body at the Cullinan the CRC mortuary?

**NTOMBI DHALADLA:** No it was in the Mamelodi Hospital.

**ARBITRATOR, JUSTICE MOSENEKE:** The Mamelodi day hospital?

20 **NTOMBI DHALADLA:** Yes, it was the government mortuary there.

**ARBITRATOR, JUSTICE MOSENEKE:** Did you walk into the mortuary?

**NTOMBI DHALADLA:** We didn't go inside of the wards, we were in the reception. We had to wait for Daphney there and she was the one who took us there.

**ARBITRATOR, JUSTICE MOSENEKE:** And what did she say, what did Miss Daphney Ndhlovu say about all of this, about the condition of our brother's body?

5 **NTOMBI DHALADLA:** She said that we should just be strong. And she said what happened to your brother is very painful, but you have to identify the body.

**ARBITRATOR, JUSTICE MOSENEKE:** And did she say anything about the poor refrigeration, your brother was there for well over 6 months isn't it?

10 **NTOMBI DHALADLA:** The only person who asked about the condition of the mortuary was the gentleman from the funeral parlor. And he asked "why is this body like this, where was this men kept?".

**ARBITRATOR, JUSTICE MOSENEKE:** And what did she say about the decomposed state of the body?

15 **NTOMBI DHALADLA:** She said that she didn't know, what she was told is that the body was at the government mortuary in Mamelodi. She said her brother died at Enchar that is where they took the body and also was she working at Enchar and then she said " No, I was working at Cullinan". But Enchar doesn't have any social workers, they just asked her to oversee this particular case.

20 **ARBITRATOR, JUSTICE MOSENEKE:** Were you here when Daphney Ndhlovu [Foreign]?



TRANSLATOR: Were you here when Daphney Ndhlovu was a witness or when she was testifying?

**NTOMBI DHALADLA:** Yes, I was here. And I didn't want to listen to her, I just went outside I didn't hear very much.

5 **ARBITRATOR, JUSTICE MOSENEKE:** And from Mamelodi day hospital your brother's body was taken to?

**NTOMBI DHALADLA:** In Orlando Soweto where the undertaker was. We took the body, it was a Monday and then the following day on the Tuesday the undertaker called me to come to their offices. And I told the gentleman that I can't come  
10 because I'm busy with the funeral arrangements. He said " I want you to come and see your brothers corpse because now maggots was coming out of the body". So the guys said "He doesn't know because since the maggots is coming, how would they clothe the corpse because they wanted to burry him in his clothes". And she said 'No we won't dress the corpse or cloth him, we will just put clothes inside the  
15 coffin'. And he suggested that we buy blankets so that we can wrap him with the blankets and we did like he advised. We couldn't let the coffin come back to home he arrived the same day that the funeral. And we went to the grave site with his coffin and he was buried on top of his son.

**ARBITRATOR, JUSTICE MOSENEKE:** [Foreign]

20 **NTOMBI DHALADLA:** I didn't want us to go there the story is really [inaudible] or painful.

**ARBITRATOR, JUSTICE MOSENEKE:** But sometimes the truth becomes necessary even if it is this painful.

**NTOMBI DHALADLA:** What hurt me the most about my brother, what hurt me the most is that I tried to take my brother to a place of safety only to find out I'll be the  
5 one to sign off his death. I can't even face my family because it looks like I was the one who killed my brother. All I was trying to do is to find a place of safety so that he won't wrong the streets and be safe. But I didn't know that he would end up dead, he survived the streets and whenever we would find him his alive, he would survived the streets. We thought that finally, he would have some rest because he  
10 is finally at a safe place and my mother was happy and she was happy that I found a place of safety for my brother. But less did I know that it will only kill him.

**ADV ADILA HASSIM:** Justice Moseneke I'm not sure if the witness would like a break for a minute or two before we continue or?

**ARBITRATOR, JUSTICE MOSENEKE:** Ja, let's find out in a moment I will, I will  
15 enquire. Do you want us to continue or would you like us to take a break?

**NTOMBI DHALADLA:** She said she can't go on.

**ARBITRATOR, JUSTICE MOSENEKE:** Ok she said she can't continue, frankly so I think we should allow, we will take an adjournment and let me know once it is possible to continue.

20 **ADV ADILA HASSIM:** We will do that MR Moseneke.

**ARBITRATOR, JUSTICE MOSENEKE:** We are going to adjourn until I'm advised by the council.

## SESSION 4

**ARBITRATOR, JUSTICE MOSENEKE:** Ok, you may be seated. Council?

5 **ADV ADILA HASSIM:** MR Moseneke, Miss Dhaladla has indicated that she would like to finish her testimony.

**ARBITRATOR, JUSTICE MOSENEKE:** Very well. Do you want us to continue and finish off?

**NTOMBI DHALADLA:** Yes.

10 **ADV ADILA HASSIM:** Miss Dhaladla can I please ask you to have a look at file 11. It might be behind you, page 3915.

**NTOMBI DHALADLA:** 39?

**ADV ADILA HASSIM:** 3915, number 3915. That is the death certificate for Josef Komeded.

15 **NTOMBI DHALADLA:** Yes it is.

**ADV ADILA HASSIM:** And it notes the date of death as 24 July 2016.

**NTOMBI DHALADLA:** Yes.

**ADV ADILA HASSIM:** And it says the place of death is Pretoria.

**NTOMBI DHALADLA:** Yes council.

**ADV ADILA HASSIM:** And it also says the cause of death was natural causes?

**NTOMBI DHALADLA:** I don't know that is what they say, I'm not sure about that.

**ADV ADILA HASSIM:** Do you know whether a post-mortem was performed on your brother?

5 **NTOMBI DHALADLA:** When he arrived there that was the initial step that would be taken to the mortuary so that that the post-mortem can be preformed. But Daphney said that already the government has performed a post-mortem on the body. I said 'How come or where did they get the permission to do so' and then she answered and said " It is because they were trying to locate us and they couldn't find us". And  
10 I asked her 'How come because even when he was running in the streets the first person who would call me is me because he always had my details and you should have had my details as well. And he even knew my phone numbers by the heart.'

**ADV ADILA HASSIM:** And did you receive the post-mortem report?

**NTOMBI DHALADLA:** No we didn't receive the report. I even asked her when she  
15 was here and then she said everything is taken care of by the government.

**ADV ADILA HASSIM:** Miss Dhaladla do not turn the page just yet. But you are aware that on pages 3917,3918, 3919, 3920 and 3921 are photographs of Josef's body?

**NTOMBI DHALADLA:** Yes I know.

20 **ADV ADILA HASSIM:** Justice Moseneke I would love to ask the witness to have regard to the photographs but I think that the witness can confirm that she has seen

them, she knows which ones they are. And Ms. Dhaladla if you could please tell us who took those photographs?

**NTOMBI DHALADLA:** It was the undertaker that they used [Inaudible 06:13]. Because they couldn't perform the post-mortem they said that it is better if it is a picture so that you have evidence of the condition of when you discovered your brother's body.

**ADV ADILA HASSIM:** It would appear from the marks on the body that a post-mortem was conducted. Do you recall seeing a scar on Josef's body?

**NTOMBI DHALADLA:** Yes, because I could see the scars from his body from his chest down to his...

**ADV ADILA HASSIM:** Yes. If you turn to page 3922.

**ARBITRATOR, JUSTICE MOSENEKE:** [Foreign] go straight to page 3922.

**NTOMBI DHALADLA:** Yes justice I didn't show the pictures.

**ADV ADILA HASSIM:** 3922 is a notice of death and it states that the date of death as it does on the death certificate is 24 July 2016?

**NTOMBI DHALADLA:** Yes.

**ADV ADILA HASSIM:** And it says the place of death is Cullinan?

**NTOMBI DHALADLA:** When I called Daphney she said to me 'Yes my brother was at Enhar'. But Enchar is in the same premises as the Cullinan hospital, they are using the same premises. It was only then when I discovered that he was at Cullinan.

**ADV ADILA HASSIM:** And then on page 3923...

**ARBITRATOR, JUSTICE MOSENEKE:** Before you move away from 3922 council.

Do you see the block where the finger prints is supposed to be placed are you going to ... that?

5 **ADV ADILA HASSIM:** Yes. But let me go there right now.

**ARBITRATOR, JUSTICE MOSENEKE:** I'll leave it to you.

**ADV ADILA HASSIM:** Ill go there right now. Miss Dhaladla on page 3922 there is a square block on the right-hand side of the page and someone wrote in the block, and it says tell me if you can see it. It says " His finger prints was not taken due to  
10 decomposition of the body."

**NTOMBI DHALADLA:** Yes, she has confirmed it is so. She can see the box.

**ADV ADILA HASSIM:** Did anybody explain to you where Josef's body was kept for the 7 months since he died between the time he died and you identified the body?

15 **NTOMBI DHALADLA:** When I asked Daphney where my brother's body was kept she said she doesn't have any idea, but she only knew of this case because she was instructed to take over this case because she was in Cullinan.

**ADV ADILA HASSIM:** So no one was able to tell you where his body has been kept?

20 **NTOMBI DHALADLA:** No. No one told me.

**ADV ADILA HASSIM:** On page...

**ARBITRATOR, JUSTICE MOSENEKE:** Where did you find the body?

**NTOMBI DHALADLA:** It was in the government mortuary in Mamelodi hospital.

**ARBITRATOR, JUSTICE MOSENEKE:** Council, is there any way of knowing that the Mamelodi hospital is a provincial hospital, how are we going to establish that?

5 Because I truly want to know who's responsibility is it to keep and manage a mortuary there. It can't be just a source of terrible pain and crime who in law or in practice is obliged to keep a proper mortuary. And why is the mortuary in the state that it is and I'm sure council for the state can hear me, I would like to have that information? I would want to know whether it is a provincial hospital and I want to  
10 know who best obligation to keep a mortuary at their hospital. And I want to know why this mortuary did not work, how does a body get decomposed in a mortuary, in the extend that these pictures show and the evidence has shown. Can we do some work on that, I would like to know that? Either place on record or bring evidence which I would like to follow up. You may proceed council.

15 **ADV ADILA HASSIM:** Justice Moseneke the two issues in that regard the one is the Mamelodi hospital mortuary, and I understand that Mamelodi to be a regional hospital. But there is also the Cullinan mortuary that we have heard evidence in the days before today about the hot mortuary in Cullinan. And so one of the things that we have not been able to establish with this particular client is the chain of custody  
20 of the body from Enchor to Cullinan to Mamelodi so perhaps that could be added to the investigation?

**ARBITRATOR, JUSTICE MOSENEKE:** Yes, indeed. I mean mortuaries are public facilities and they are set up for a public purpose that plain. The human being will die and if you are not refrigerated you will decompose, it is just that play. And when you have that duty then you have got to follow it up and fulfil it, if you don't you end  
5 up with 5 pictures which we have that you have shown me today and the evidence we had. It is such a [inaudible] oration of citizens or any other uses of the mortuary or those who lose their lives or those who live and we have to live with it and deal with the corpses. So I would really like to know and council for the state should try and do some work for us around that, about these mortuaries and why they where  
10 in this display that they where. And we should place this evidence if relevant factor in assessing the kind of detours that the health cares uses with who died and entitled to. Lady De Wet do you have time to do that, and on Thursday when we meet I need a report about what is the outcome of that investigation. You may proceed council.

15 **ADV ADILA HASSIM:** Thank you Justice Moseneke there are regulations that cover the manner in which mortuary is out to be run and operated in what conditions need to be present. The regulations governing did that disposal of human remains and we will investigate that as well.

**ARBITRATOR, JUSTICE MOSENEKE:** Yes indeed. That will be helpful as the  
20 legal part of it and then, of course, the compliance end of it?

**ADV ADILA HASSIM:** Yes.

**ARBITRATOR, JUSTICE MOSENEKE:** Thank you.



**ADV ADILA HASSIM:** On page 3923 there is Miss Dhaladla there is a signature about halfway down the page by the medical practitioner. The attending medical practitioner and the name that is recorded is Rachel Makoma Kenoshi do you see that?

5 **NTOMBI DHALADLA:** Yes I can see that.

**ADV ADILA HASSIM:** And then the date that the doctor signed this notice of death is on the 25<sup>th</sup> July 2016?

**NTOMBI DHALADLA:** Yes I can see.

10 **ADV ADILA HASSIM:** But when we look lower down the page under the heading of particulars and informant we will see your details and your signature with the date 13 February 2017.

**NTOMBI DHALADLA:** Yes I see that.

**ADV ADILA HASSIM:** When where you provided this form to sign, and who gave you the forms to sign?

15 **NTOMBI DHALADLA:** The undertaker. It was the gentleman from the undertaker, the very same day we arrived with the corpse at the undertaker. He is the one who took out these forms and I had to sign them.

**ADV ADILA HASSIM:** And if you turn over the page to page 3925, halfway down the page again it says causes of death. And it list only one handwritten word that  
20 says Sepsis.

**NTOMBI DHALADLA:** Yes I can see counselor.

**ADV ADILA HASSIM:** Did anybody explain to you what the meaning of this is, what is the meaning of Sepsis and how did it cause Josef's death?

**NTOMBI DHALADLA:** No one explained to me what it means. But I asked Daphney and Daphney said there is nothing that she can say only the doctors  
5 know.

**ADV ADILA HASSIM:** When did you lay Josef to rest?

**NTOMBI DHALADLA:** It was the 16<sup>th</sup> of February.

**ADV ADILA HASSIM:** 16<sup>th</sup> February 2017?

**NTOMBI DHALADLA:** Yes.

10 **ADV ADILA HASSIM:** And who paid for the funeral costs?

**NTOMBI DHALADLA:** It was me.

**ADV ADILA HASSIM:** Do you know how much it cost you, do you recall?

**NTOMBI DHALADLA:** It was nearly 55 thousand including food and everything.

**ADV ADILA HASSIM:** And has anybody from the government contacted you,  
15 anyone from the Gauteng department of health in particular. Did anyone contact you after, or first of all did anyone of the department of health attend the funeral?

**NTOMBI DHALADLA:** Daphney before she left she assured that they would come the following week, but if we took Daphney's word then we wouldn't have buried my brother. Because the undertaker advised us that we should bury my brother

because there are maggots coming out of his body so we couldn't delay the period of his corpse.

**ADV ADILA HASSIM:** Did anybody of the government attend the funeral?

**NTOMBI DHALADLA:** No one came.

5 **ADV ADILA HASSIM:** Did anyone of the government call you at any time after the funeral?

**NTOMBI DHALADLA:** Not even one.

**ADV ADILA HASSIM:** Miss Dhaladla I'm not going to ask you what the impact has been it is quite obvious the pain that has been caused as a result of this tragedy.

10 Thank you for having the courage to not only testify today but to return to plead your testimony. Is there anything else that you would like to say that you have not already said to the government?

**NTOMBI DHALADLA:** Our government really hurt me a lot. I have never experienced such pain in my life, the very thing that I avoided for my brother is that  
15 he was going to be safe where he was. But it is where my brother died and I discovered his body after 7 months, I won't forgive Ntate Manglango I won't rest until justice is done. Even her name stands out because she finished off our loved ones if they only listened to the doctors and took their advice not to repeat what happened in 2007 we won't be sitting here today. It is because they did this  
20 because they are greedy and they want their relatives too, they give contracts to their families so that they can gain. There are many South African who are qualified to do this kind of work but they only awarded the contracts to their relatives to gain.

And I thought my brother would be here alive today but he is dead. Because I don't have qualifications to do this job they wouldn't have given me this job, but they awarded the contracts to people they know because they are relatives. Even though she realized that many people were dying but she continued and accepted  
5 more patients because she wanted more money out of that. I am so glad today that we have got it here because we loved our family members. I want the president to summon [Inaudible] Manglangu to be here because if it was one of his children then [inaudible] would be here. She wouldn't have gone overseas.

**ADV ADILA HASSIM:** Misses Dhaladla would you accept counseling if it was  
10 offered to you?

**NTOMBI DHALADLA:** Yes, my mother and I really do need counseling.

**ADV ADILA HASSIM:** Ok. For you and your mother?

**NTOMBI DHALADLA:** Yes and for my sister as well. She is very sorry, thank you.

**ADV ADILA HASSIM:** Siyabonga. Thank you very much.

15 **ARBITRATOR, JUSTICE MOSENEKE:** Siyabonga.

**Translator:** Thank you counsel, thank you Dhaladla.

**ARBITRATOR, JUSTICE MOSENEKE:** You know council I can see your discomfort with the paperwork in 3922 and 23,24 let me tell you what it is. Let's go to 3925 there is a part of notice of death as I really though it phase It is just  
20 confirmation for medical and health use only. And it is just after completion sealed to confirm confidentiality. Now the Sepsis is a diagnosis immediate cause of death,

if you look a little lower you get item 79. It is an option method used to a certain cause of death tick all the apply and here the tick is option of a registered provisional nurse. The other options like the option of attending the medical practitioner 79.4, 79.3 post-mortem examinations is on another option, that you might ask for. Another one is simply for a registered professional nurse to diagnose cause of death. Now if you look at the form you go further down the further conclusion of cause of death is blank at the bottom. And you don't see who signed this, they used a professional nurse that make this diagnosis a decision. And I've seen this in many of the paper work that you gave me which is in quite an appalling stage which is in a sense that they are obvious in accuracies. I wonder what you say to that? I don't think nudging the witness would help me much.

**ADV ADILA HASSIM:** The first thing I would like to point out is that the documents on 3922, 3923 and 3924 seem to belong to one set of documents, it goes up to page 3 of 3 and then on 3925, the confirmation for medical and health use only start as page 1 of 1, which doesn't help you Justice Moseneke, because all it does is complicates matters further, because the same Rachel Kenochi signed on page 3923 as did on page 3925, although there isn't a signature, it's just a name.

**ARBITRATOR, JUSTICE MOSENEKE:** Yes, that's signed NO Dhaladha, does the witness confirmed that as her signature?

**ADV ADILA HASSIM:** On page 3923?

**ARBITRATOR, JUSTICE MOSENEKE:** Yes.

**ADV ADILA HASSIM:** Yes, she did confirm that is her signature.

**ARBITRATOR, JUSTICE MOSENEKE:** And this was completed when she was there, isn't it, on the 25<sup>th</sup> of July?

**ADV ADILA HASSIM:** No. So, the testimony of the witness was that these forms were brought to her by the undertaker on the 13<sup>th</sup> of July and she simply filled in the  
5 bottom most part of the form.

**ARBITRATOR, JUSTICE MOSENEKE:** But look at all those dates don't talk to that date at all.

**ADV ADILA HASSIM:** No.

**ARBITRATOR, JUSTICE MOSENEKE:** If you look at the official stamp, it is 13<sup>th</sup>  
10 February 2017. Look at the date on the, signature of the date, the first top half, 25<sup>th</sup>, clearly altered, but 25<sup>th</sup> July 2016. At the bottom is yet another date, unconnected with the top one. Can you see date signed at the bottom?

**ADV ADILA HASSIM:** Yes.

**ARBITRATOR, JUSTICE MOSENEKE:** It almost seems like these forms get filled  
15 out just to get going with burial and get the body going. I don't see the signature of the sister, nor of the doctor, assuming that was a valid option.

**ADV ADILA HASSIM:** To add to your words, it is not only the notice of death forms that appear to be hap-hazardly been filled out, but even the death certificates vary in terms of the type of information they have from deceased to deceased. At times  
20 they will say the place of death was Tswane, sometimes Pretoria, sometimes they

will very specifically they will say Cullinan Rehab Centre, for example, I am just using those as examples.

**ARBITRATOR, JUSTICE MOSENEKE:** The burial order, who authorised it, who signed it? I can't see the official who ordered it. I can see the recipient of the order,  
5 is this witness?

**ADV ADILA HASSIM:** Yes, and it is stamped by the department of Home Affairs on the 15<sup>th</sup> of February and on the stamp it says Bara Hospital.

**ARBITRATOR, JUSTICE MOSENEKE:** Yes, but there was long – from 15<sup>th</sup> of February 2017 ... what connection does it have to the burial date?

10 **ADV ADILA HASSIM:** The burial date is the day later, the 16<sup>th</sup> of February, so this...

**ARBITRATOR, JUSTICE MOSENEKE:** So the undertaker simply went to Bara to get somebody to issue a burial order. I am just trying to find the connection between ...

15 **ADV ADILA HASSIM:** My understanding is that the undertakers facilitates the process of obtaining death certificates, burial orders and the like and so this would have been provided by the undertaker, this would have been procured by the undertaker rather.

**ARBITRATOR, JUSTICE MOSENEKE:** Yes, and what does Baragwanath, Chris  
20 Hane Baragwanath Hospital got to do with it? I am just making a point, I am struck by the inaptness of the paperwork, and this paperwork is meant to prevent people

being unlawfully interred. People dying and nobody checks and knows why and they get buried, let's all gets done. That is why this legislation to regulate disposal of dead bodies.

**ADV ADILA HASSIM:** Yes.

5 **ARBITRATOR, JUSTICE MOSENEKE:** But then you look at this and try to follow carefully. I am just trying, by looking at these five documents and who accepts this? I mean how wrote Sepsis, and how to identify the person who wrote, who made the diagnosis?

**ADV ADILA HASSIM:** Well, it seems to be a Rachel Kenoshi, whether she is a  
10 registered nurse, or a medical practitioner is not known, but that is the name that is reflected and there is a signature on one of the pages that is meant to be her signature, on page 3923. In the middle of the page there is a signature that begins what a 'R'.

**ARBITRATOR, JUSTICE MOSENEKE:** Yes, and then, would she be the one who  
15 would have been responsible for 3925?

**ADV ADILA HASSIM:** She would have been the one responsible for 3925. Her name is reflected on page 3925 and her rank is reflected as medical officer.

**ARBITRATOR, JUSTICE MOSENEKE:** On 3925?

**ADV ADILA HASSIM:** Her role / rank, on 3925, alongside paragraph 76.

20 **ARBITRATOR, JUSTICE MOSENEKE:** Yes, ranked medical officer?

**ADV ADILA HASSIM:** Yes.



**ARBITRATOR, JUSTICE MOSENEKE:** ..., but the option chosen is registered professional nurse.

**ADV ADILA HASSIM:** Yes.

**ARBITRATOR, JUSTICE MOSENEKE:** So all these necessary certifying people,  
5 so this one purposely done by a professional nurse and another part she signs as medical officer.

**ADV ADILA HASSIM:** The other concern is, to go back to the death certificate, is that it says cause of death – natural causes, and one should ordinarily be able to rely on the official death certificate to confirm the cause of death, but we know that  
10 this, that a post mortem has been conducted on this body, and it was conducted after and we don't know what the cause of death was yet on the death certificate as on the other death certificates that is in these files, it says natural causes.

**ARBITRATOR, JUSTICE MOSENEKE:** Yes, and we know death is a legislation confers a presumption of correctness on the death certificate or a birth certificate,  
15 unless shown otherwise and this is the state of paperwork that we get confronted with, which may very well speak to a much larger melody. Anyway... I was just questioning those papers because they have many discrepancies. Yes, anyway,  
ADV Crouse

**ADV LILLA CROUSE:** Thank you Justice Moseneke, the witness was trying to say  
20 something, I don't know whether she was, I don't want to interrupt her.

**ARBITRATOR, JUSTICE MOSENEKE:** Was the witness about to say something?

**ADV LILLA CROUSE:** Yes.

**NTOMBI DHALADLA:** She is just explaining that she was so confused at that time, there were papers she signed in Pretoria and others she signed when she was with the undertaker, but all of the papers are signed by her, so the justice was confirming  
5 if this was her signature.

**ARBITRATOR, JUSTICE MOSENEKE:** Did you go to Baragwanath, Chris Hane Baragwanath Hospital and was it the undertaker who completed all of those forms?

**NTOMBI DHALADHA:** No, we did not go to Chris Hane Baragwanath Hospital, no, we didn't. We only went to that hospital in Pretoria.

10 **ARBITRATOR, JUSTICE MOSENEKE:** ...and after his death, was your brother's body ever taken to Baragwanath – Chris Hane Baragwanath Hospital?

**NTOMBI DHALADHA:** No, the body was not been taken there.

**ARBITRATOR, JUSTICE MOSENEKE:** Okay, very well.

**ADV LILLA CROUSE:** Thank you justice. Ms Dhaladha, I just want to know, was  
15 there, up to today, you have not received any counselling?

**NTOMBI DHALADHA:** No, I haven't received any counselling.

**ADV LILLA CROUSE:** Was any counselling offered to you up to today?

**NTOMBI DHALADHA:** It was only section 27 who advised me to go to counselling.

**ADV LILLA CROUSE:** Thank you very much. Thank you justice.

20 **ARBITRATOR, JUSTICE MOSENEKE:** Thank you. Advocate Groenewald.

**ADV DIRK GROENEWALD:** Thank you justice. We have no questions for the witness.

**ARBITRATOR, JUSTICE MOSENEKE:** What does your schedule show? I thought what you would say, the schedule shows that Mr Dhaladha died on that particular  
5 day. I'm quite curious to know – did you have a look at that?

**ADV DIRK GROENEWALD:** We indeed have. It's on page 23 justice of ELAH 9, the second last individual on the list there and the date of death is correct, 24<sup>th</sup> of July 2016. The date at which Mr Komede to Anchor is not specified, so that's unclear and it is confirmed that Mr Komede indeed died at Anchor, but no further  
10 remarks is made there, so, it seems like there is no contradictions - a lot of missing facts, but no contradictions per se justice.

**ARBITRATOR, JUSTICE MOSENEKE:** But it help to tell us, so that Mrs Dhaladha, he doesn't know that his brother went to Anchor.

**ADV DIRK GROENEWALD:** Indeed so justice.

15 **ARBITRATOR, JUSTICE MOSENEKE:** We know that we have evidence of conditions at Anchor, which give us a link between the deterioration, the likely deterioration of his condition and his ultimate death.

**ADV DIRK GROENEWALD:** Indeed so justice.

**ARBITRATOR, JUSTICE MOSENEKE:** Which I've suggested earlier, it will be  
20 difficult to talk about Cullinan itself in those circumstances, because it is a rehab

centre which seem to have a budget that was adequate for each operations, from the evidence.

**ADV ADILA HASSIM:** I think just, the witness has clarified it – one of the main missing links here justice, is that with the previous witnesses, is the fact that we cannot find any medical records, because if we have patients files, we might know what was the patient's issues, what was the treatment given and I can only say that is one of the issues we still need to clarify and hopefully before the end of these proceedings.

**ARBITRATOR, JUSTICE MOSENEKE:** Did they give you any medical record so that you could see for yourself what was written in those records?

**NTOMBI DHALADHA:** When I've asked Daphney about the files, she said that the patients came to Pretoria without any file or medical record.

**ARBITRATOR, JUSTICE MOSENEKE:** Yes. It's a good one council, you're right. If we have the records, we can give it to the experts, doctors to look at them and we can track and see the fate of the patient from what they call bed letters, because you can trace that.

**ADV DIRK GROENEWALD:** Indeed so justice, and I think one point to be made and I think the witness can perhaps just clarify that – these patients, some of them were admitted back at CCRC, but at the end of the day it was confirmed by the government that they took over Anchor and they took over Siyabadinga. So, clearly, they must have been placed in possession of the documentations, which included the patient's files. So, I think what we need to know is where is those files and was

there any files and what happened to those files? But surely, unfortunately this witness cannot clarify that.

**ARBITRATOR, JUSTICE MOSENEKE:** Sure, the witness did responded that she asked for the file from Ms Ndhlovu and Ms Ndhlovu said she had no records and  
5 your point is good – if it was a proper transfer, then the state, ie. CRC should be able to show us the record, which would resolve a lot of the puzzle around the cause of death. It is one thing that we are still struggling with, the actual cause of death.

**ADV DIRK GROENEWALD:** Indeed so justice, and from our two witnesses who  
10 followed, they still have those questions and they hope those questions will be answered at some or other point.

**ARBITRATOR, JUSTICE MOSENEKE:** Yes

**ADV DIRK GROENEWALD:** Thank you justice.

**ARBITRATOR, JUSTICE MOSENEKE:** Thank you. Adv. Ngutshana?

15 **ADV PATRICK NGUTSHANA:** Thank you justice Moseneke, no questions.

**ARBITRATOR, JUSTICE MOSENEKE:** Yes – you know ADV Ngutshana – I hope I am not overlooking you council.

**ADV PATRICK NGUTSHANA:** No.

**ARBITRATOR, JUSTICE MOSENEKE:** ADV Hutamo.

20 **ADV TEBOGO HUTAMO:** Thank you justice. Ms Dhaladha, greetings to you. The pain that you are going through is obvious to us and everyone else. On behalf of the

government, we are really sorry and regret the passing of your brother, Joseph Komede. We are thankful for the time that you have taken to give account of your testimony and we trust that...

**ARBITRATOR, JUSTICE MOSENEKE:** We've agreed that you will pause to give  
5 the witness and allow the witness to comment all the way.

**ADV TEBOGO HUTAMO:** Thank you justice.

**ARBITRATOR, JUSTICE MOSENEKE:** Are you putting a proposition to her and she may say AY or NAY or nothing. So, you should allow her to do that.

**NTOMBI DHALADHA:** What makes me even more angry, when the parliament  
10 opened the political party when the DA was speaking there, when they asked for a moment of silence from the house for the people who have died from Life City – our president, our president, he refused. He refused, why...why, because ... our president refused for that to take place as because it wasn't the first time of this kind of a thing happening, that is why he refused to do so, and he knew this was going to  
15 happen.

**ARBITRATOR, JUSTICE MOSENEKE:** Wasn't it the speaker who refused that moment?

**NTOMBI DHALADHA:** I can't remember who opposed to that, but as our president, as the father of the nation, he should have stood up and allowed for that moment of  
20 silence.

**ARBITRATOR, JUSTICE MOSENEKE:** Fair enough, I hear the answer. Council, you may proceed.

**ADV TEBOGO HUTAMO:** Thank you. Ms Dhaladha, we trust that this arbitration proceedings will help us as the government as well as the family members and all  
5 those who are affected to find a way in getting closure and redress in this matter and we thank you for having made the time to give your testimony.

**NTOMBI DHALADHA:** They should have used the tax payers money of South Africa to avoid what they did at Life City (inaudible) mainly, now they would want to compensate us with money and money would not close the gap that our loved ones  
10 died, so, it doesn't close that gap, it doesn't make it right.

**ARBITRATOR, JUSTICE MOSENEKE:** Council?

**ADV TEBOGO HUTAMO:** Thank you very much Ms Dhaladha, there are no further questions.

**NTOMBI DHALADHA:** Thank you very much.

15 **ARBITRATOR, JUSTICE MOSENEKE:** Council, re-examination?

**ADV ADILA HASSIM:** There is no re-examination justice Moseneke.

**ARBITRATOR, JUSTICE MOSENEKE:** Your story has really made us painful or it really hurts us to hear what you had to say and I personally wish you well and I hope you will ultimately find and you are right when you say we must pursue just  
20 outcome at every cost as you've said, because when an injustice happens there should be all effort to find that equilibrium of the law to try and find possible redress.

So, on a personal level, I truly wish you well to find some space and peace and at a legal level you are entitled to pursue this until, in your view, there has been justice and we will try and do justice within the powers we might have. Thank you very much.

5 **NTOMBI DHALADHA:** Thank you justice. I wish you were the president.

**ARBITRATOR, JUSTICE MOSENEKE:** Council – it is already half past four.

**ADV ADILA HASSIM:** Yes, our next witness is present, but it is highly unlikely that we will be able to complete her testimony by five.

**ARBITRATOR, JUSTICE MOSENEKE:** No, we can't help it in a way, it was a  
10 difficult day. I think we are all entitled to take a breather. Very soon, all of us might  
need counselling at this rate. So, it is quite well known by now we are not sitting  
tomorrow, we are going to sit again on Thursday and Friday and this was arranged  
right from the beginning. Council have more than enough to do on their plates and  
give me certain reports on Monday – I'm sorry, on Thursday. We will be resuming  
15 Thursday morning at 09:30 and I hope none of you will going to take a rest  
tomorrow and be back only on Thursday at 09:30 and whatever matter might be  
necessary to converse, I think we should reserve that for meeting with all legal  
representatives at 09:15 on Thursday, unless there is some pressing matter which  
council wish to raise now.

20 **ADV ADILA HASSIM:** Justice Moseneke, I won't be here on Thursday and Friday  
and I would like to apologise for that – I have other court commitments that I have to  
attend.



**ARBITRATOR, JUSTICE MOSENEKE:** Very well.

**ADV ADILA HASSIM:** I am sorry.

**ARBITRATOR, JUSTICE MOSENEKE:** That is your right.

**ADV ADILA HASSIM:** I have a very competent colleague tomorrow.

5 **ARBITRATOR, JUSTICE MOSENEKE:** Yes indeed, I agree. So, we will miss you for two days, but we will see you on Monday again. Any council – any matter to raise before we adjourn? No? In Pretoria we say “siek en sat” – I had enough for the day. We adjourn.

END OF AUDIO

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