

LIFE ESIDIMENI ARBITRATION

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

DATE: 22nd of November.

5SESSION 1 – 3.

BEFORE ARBITRATOR –JUSTICE MOSENEKE

10WITNESSES:

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG

MR. A.N. RASIDZOGÉ

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SESSION 1

ARBITRATOR JUSTICE MOSENEKE: Okay, you may be seated. Well good morning. Where do we start?

ADV. LILLA CROUSE: Morning Justice. We have a witness that we intend to call 5now. The state had indicated that they then want to interpose and we have no objection if they do that and thereafter we will call further witnesses. The witness that we are calling now is Moelo Mofokeng, and she will testify in English and she will take the oath.

ARBITRATOR JUSTICE MOSENEKE: Yes. Interposed means what? Interposed 10to the witness?

ADV. LILLA CROUSE: After this witness is finished, the state will call another witness.

ARBITRATOR JUSTICE MOSENEKE: Counsel?

ADV. TEBOGO HUTAMO: It is indeed so Justice. We have made a request that 15we lead one of the witnesses relating to the state of mortuaries, of the mortuary at Cullinan.

ARBITRATOR JUSTICE MOSENEKE: Very good. Thank you, that is fine. Do we have a medical certificate relating to Dr Manamela?

ADV. LERATA MASHILANE: Yes Justice Moseneke. We received a document 20signed by, a certificate signed by Dr Steyn. It was only forwarded this morning at around seven via email. That is the only copy we have. We have no explanation at

all, but we are advised that a legible copy of that will be provided tomorrow, but I can read, to me it is legible I think as it appears from the attached copy.

ARBITRATOR JUSTICE MOSENEKE: Do your colleagues have a copy of the ...
[interjects]

5**ADV. LERATA MASHILANE:** I have forwarded ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: Medical certificate.

ADV. LERATA MASHILANE: I have forwarded the same email to all our colleagues Justice, and I requested Obakeng to make a copy for yourself. I am sure it will be provided in due course or it has been.

10**ARBITRATOR JUSTICE MOSENEKE:** That is the one, not so?

ADV. LERATA MASHILANE: That is the copy Justice Moseneke.

ARBITRATOR JUSTICE MOSENEKE: Yes. I think it is just in good order that we read what is on the certificate. Also for people who are here to know what developments followed on the proceedings yesterday.

15**ADV. LERATA MASHILANE:** Correct Justice Moseneke. On the face of it, it appears that she consulted on the 21st of November 2017. That is yesterday. It reads:

“This is to certify that Dr N Manamela is unfit for duty from 21 November to 22 ...” ...
[interjects]

20**ARBITRATOR JUSTICE MOSENEKE:** No, no put the full dates please.

ADV. LERATA MASHILANE: *“21 November 2011, no 2017 to 22 November 2017, due to severe stress”*

And the last entry would be:

“May resume duty on 23 November 2017.”

5And it is signed by the responsible doctor who is Dr J Steyn. The date of the certificate is 21 November 2017. That is on top of it.

ARBITRATOR JUSTICE MOSENEKE: Thank you.

ADV. LERATA MASHILANE: Thank you Justice Moseneke.

ARBITRATOR JUSTICE MOSENEKE: Do you understand the certificate to say
10Dr Manamela is unfit for duty?

ADV. LERATA MASHILANE: That is what it reads. It says she is unfit for duty from 21 November 2017 to 22 November 2017, and she may resume duty on the 23rd of November 2017. That is what it says on the face of it Justice Moseneke. Nothing more is disclosed that is on the document.

15**ARBITRATOR JUSTICE MOSENEKE:** Tomorrow, you know, whether to infer that giving evidence should be equated with duty.

ADV. LERATA MASHILANE: That is correct Justice Moseneke. It says nothing whether te unfit for duty makes reference or includes to her inability to sit here and testify or lead evidence. It is just general. It is not specific. I think it is all
20encompassing as it appears.

ARBITRATOR JUSTICE MOSENEKE: And this is due to severe stress?

ADV. LERATA MASHILANE: Correct Justice Moseneke.

ARBITRATOR JUSTICE MOSENEKE: Very well. Would any of the Counsel want to say anything before we proceed to close this little chapter? Advocate Hassim?

ADV ADILA HASSIM: Thank you Justice Moseneke. I would just like to point out for the record that the medical certificate was only provided last night. Sorry, the email I see it says 09h45 pm. I beg your pardon. An email was sent last night, without the medical certificate. The undertaking from Dr Manamela's legal representatives was that it would be sent by close of business yesterday. As of 09h45 pm last night, there was an email to Advocate Ngutshana, simply saying the following:

“Dr Manamela went to see the doctor this morning as she was not well, to the extent required and within legal bounds she will share proof thereof with the Arbitrator at her next appearance.”

It was only upon the persuasion then of my colleague, Advocate Ngutshana, that they then produced the medical certificate. It seemed that the intention was to bring the medical certificate at Dr Manamela's next appearance and there was no indication as to when that would be. The medical certificate then was sent to Advocate Ngutshana this morning at 07h17 am, and there was no courtesy from the legal representatives for Dr Manamela to send it to any of the other parties to these proceedings. I am saying that just for the record so that everybody understands exactly how we got the certificate and the process of obtaining the certificate. My understanding from the certificate is that she will resume her testimony tomorrow

and that combined with the undertaking by the legal representative that she would be able to resume the testimony tomorrow at 09h30 am. That is our understanding.

ARBITRATOR JUSTICE MOSENEKE: Very well, thank you. Advocate Crouse.

ADV. LILLA CROUSE: Thank you Justice. We have nothing to add to that.

5**ARBITRATOR JUSTICE MOSENEKE:** Advocate Groenewald?

ADV. DIRK GROENEWALD: Justice, I think we made our arguments yesterday and we have nothing further to add today. Thank you very much.

ARBITRATOR JUSTICE MOSENEKE: Is there anything else you want to say Counsel?

10**ADV. LERATA MASHILANE:** No, nothing Justice. It is correct that I did send that email advising them that an undertaking was made by their Counsel that the certificate would be provided before the end of the business day yesterday. That communication is correct as my learned colleague refers to Justice Moseneke.

ARBITRATOR JUSTICE MOSENEKE: Advocate Hutamo?

15**ADV TEBOGO HUTAMO:** Thank you Justice. We have no input.

ARBITRATOR JUSTICE MOSENEKE: Very well. Okay, then we are going to resume the evidence. I think it was important just for the interested parties to know whereat are we with this little saga. Counsel, let us proceed.

ADV. LILLA CROUSE: Thank you Justice. The witness statement is ELAH67, and
20she will speak English and she will take the oath.

ARBITRATOR JUSTICE MOSENEKE: Would you want to put your full names on record please?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes Justice. My name is Moelo Mamogotso Rebecca Mofokeng.

5**ARBITRATOR JUSTICE MOSENEKE:** Moele Mamogotso?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Mamogotso, yes.

ARBITRATOR JUSTICE MOSENEKE: Rebecca Mofokeng?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes Justice.

ARBITRATOR JUSTICE MOSENEKE: Do you swear that the evidence you are
10about 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.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: So help me God.

ARBITRATOR JUSTICE MOSENEKE: Counsel.

ADV. LILLA CROUSE: Thank you Justice.

15**ARBITRATOR JUSTICE MOSENEKE:** And that will be ELAH?

ADV. LILLA CROUSE: 67, 67 yes.

ARBITRATOR JUSTICE MOSENEKE: I see that, thank you.

ADV. LILLA CROUSE: Mrs Mofokeng, where do you reside?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: I now reside in Weltevreden Park. That is Roodepoort side.

ADV. LILLA CROUSE: Your youngest sister is the mental health care user, is that correct?

5**MRS. MOELO MAMOGOTSO REBECCA MOFOKENG:** That is correct Justice, that is correct.

ADV. LILLA CROUSE: What is her full name?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Her full name?

ADV. LILLA CROUSE: Yes.

10**MRS. MOELO MAMOGOTSO REBECCA MOFOKENG:** It is Maggie Maspiruti Mofokeng.

ADV. LILLA CROUSE: And you call her Maggie?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: We call her Maggie, yes.

ADV. LILLA CROUSE: Yes. How old is she now?

15**MRS. MOELO MAMOGOTSO REBECCA MOFOKENG:** She turned 36 in June this year.

ADV. LILLA CROUSE: What is wrong with her? Why is she a mental health care user?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Maggie fell. She was
20born a normal child. She had an accident. She was hit by a dog at home when she

was about three years old. So she went and fell on a stone. That is how she got mentally ill.

ADV. LILLA CROUSE: And you were there when it happened?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: I was with her actually when it happened, because I was, we were actually having a race watering my mother's plants outside, so she was in front of me and yes.

ARBITRATOR JUSTICE MOSENEKE: She was what by a dog? Chased by a dog?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: We had a dog Justice, in the yard. Our dog. So somebody was passing outside the streets with the group of dogs. So our dog got a little bit angry and aggressive and then it wanted to go out. So it came with a speed. So that is when we were running to the tap as well, and we cross roads. So unfortunately she was in front and the dog hit her and then she went and fell down.

ARBITRATOR JUSTICE MOSENEKE: Oh, shame. So she was knocked over by a dog?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes.

ARBITRATOR JUSTICE MOSENEKE: And then fell.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: With her head, yes.

ADV. LILLA CROUSE: And as a result she sustained injuries and she needed medical attention,.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes she did Justice.

She was taken to Sebokeng Hospital and she was seen by the doctors there, but they said to my mom she is young and it is not a major injury, it was just a cut. So they cleaned the wound, give her stitches and then she was sent home, and we my 5mother discovered, actually our GP, our personal doctor discovered when my mother took her, I think it was just for flue, just a normal illness, and then Dr Pleet was like there is something wrong with her. Then she must be referred to a specialist. That is when, when my parents got to the specialist, then they discovered that she is brain damaged.

10**ADV. LILLA CROUSE:** And as a result thereof, did she ever go to school?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: She was never sent, because she was still young. She was, for her to go to crèche, she never went to crèche. She instead went to training with two psychologists in Sebokeng Hospital about four days in a week. So my mother would take her every day so they could 15train her to touch, speech and all that up until she was six years old, and then when she was six they said they are going to send her to a normal school so that they can see if she has recovered or ... [interjects]

ADV. LILLA CROUSE: Let us just, I do not want to interrupt you too much but let us just get the details. She went to a normal school and that did not work. Is that 20so?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: No, she only went to normal school after, when she was now six years.

ADV. LILLA CROUSE: Yes.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes.

ADV. LILLA CROUSE: And she did not pass?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: It never worked.

5**ADV. LILLA CROUSE:** And where did she go then?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: She went to a normal school for two years. After two years it did not work. Then she was sent to Thabo Vuyo, it is in Sebokeng.

ADV. LILLA CROUSE: And up till when did she stay there, which age?

10**MRS. MOELO MAMOGOTSO REBECCA MOFOKENG:** She was in Thabo Vuyo, I cannot remember up until what year exactly.

ADV. LILLA CROUSE: Okay.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: But now my parents had to take her out of Thabo Vuyo because Thabo Vuyo was sort of a daily school,
15special school if I may put it that way, and after school she would just put everything there and go.

ADV. LILLA CROUSE: You felt that she was vulnerable for not staying at home?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes.

ADV. LILLA CROUSE: Could she talk?

20**MRS. MOELO MAMOGOTSO REBECCA MOFOKENG:** Yes, she can talk.

ADV. LILLA CROUSE: And she can walk?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: She can walk properly.

ADV. LILLA CROUSE: Where did she go then?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: After Thabo Vuyo?

5**ADV. LILLA CROUSE:** Yes.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Then after Thabo Vuyo she was sent, I think it was in 2002 she was then sent to Takalani.

ADV. LILLA CROUSE: Now we know that this now falls outside the timeline, but it is important for you to speak about Takalani, why is that?

10**MRS. MOELO MAMOGOTSO REBECCA MOFOKENG:** Because now after Thabo Vuyo, for some time she was at home. I must say Justice that ... [interjects]

ADV. LILLA CROUSE: No, just listen to my question. Why do you want to speak about Takalani today?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Oh.

15**ADV. LILLA CROUSE:** Although it is not inside the timeline?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Okay. I think some of the, I will say maybe some government officials who came here on the stand, they did say that Takalani was one of their NGO's that they have been using and that was recommended and of a good state, if I may say that.

ADV. LILLA CROUSE: And your finding, were they offering a good service to your sister?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: I disagree with that, because my sister went to Takalani 2002, and then she was raped. She got raped in Takalani by one of the patients.

ADV. LILLA CROUSE: And when did you find out about the rape?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: They phoned me, I think it was maybe three days or so after that, after the happening. Then I phoned my mother. My mother was called in to go there.

10 **ADV. LILLA CROUSE:** Yes, and what was found?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: What was found like there?

ADV. LILLA CROUSE: Yes.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Okay. When my mother
15 got there they said she has been locked, like she has been in a ward. Like she never wanted to wake up for some time. I think she was seen by a cleaner, and then it was a day one, day two, day three as they explained. We do not know how many days exactly, because we were not there, but they said about three days she has been sleeping, not waking up. Then that is where they saw and there was a
20 smell in the room where she was sleeping, and that is when they realised that she was sick, and then that is when they phoned us. Only after so many days. So

when my mother got there they took her to Baragwanath Hospital and she was septic. Like her private part was ... [interjects]

ADV. LILLA CROUSE: Yes. She was also then tested for HIV. Is that correct?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: She had to yes. They wanted my mother to consent.

ADV. LILLA CROUSE: And she was not HIV?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: She was not, yes.

ARBITRATOR JUSTICE MOSENEKE: How old was she then?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: That was 2003 Justice. I cannot remember well how old she was in 2003.

ARBITRATOR JUSTICE MOSENEKE: Well, we can work back.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes.

ARBITRATOR JUSTICE MOSENEKE: She is now ... [interjects]

ADV. LILLA CROUSE: 20.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: She was born in 81.

ARBITRATOR JUSTICE MOSENEKE: 1981. In 2003 she was 22?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes.

ARBITRATOR JUSTICE MOSENEKE: Okay, thank you.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes Justice.

ADV. LILLA CROUSE: Okay. Did she stay at Takalani after that, after she came back from the hospital?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes Justice, she was treated and then she was taken back to Takalani.

5**ADV. LILLA CROUSE:** Okay. Now is your sister still HIV free?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: She is now HIV positive.

ADV. LILLA CROUSE: And she needs medicine?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes, she is taking medicine.

10**ADV. LILLA CROUSE:** Okay. So and you do not know how that happened?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: We do not know Justice how that happened.

ADV. LILLA CROUSE: She was at some stage ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: But was she institutionalised throughout, 15to 2015, 2016?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes Justice. She okay, I must say about Takalani I am sorry Justice, she went back to Takalani and there was an incident whereby she got aggressive and she beat up every person there. Like nurses and everybody. She fought. They again, because I was the contact 20person, they phoned me to say we must come fetch my sister, she is not going to sleep there another night. That is what they know. They want her out of the

institution immediately, and that was in the afternoon and my mother is in Vereeniging in Sharpsville. So we had to make means and ways that we go fetch her, because they told us that they are not going to keep her inside the institution no matter what.

5 **ADV. LILLA CROUSE**: And could you handle her?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: We had to Justice. We had to handle it. We were panicking, but we had to make means and ways and go fetch her.

ADV. LILLA CROUSE: Was she aggressive at home as well?

10 **MRS. MOELO MAMOGOTSO REBECCA MOFOKENG**: She would turn aggressive at home at certain times. Like if she disagrees with what you tell her, she would get aggressive. Sometimes she would not want to take medication, she would turn aggressive.

ADV. LILLA CROUSE: Okay. We are going to walk off from this now and go to
15 May 2010, when she was admitted to Waverley.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes.

ADV. LILLA CROUSE: How did she do at Waverley?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: You know, I must say since my sister has been to so many institutions in and out, Waverley was the only
20 institution which kept her and which could really handle her so well.

ADV. LILLA CROUSE: Did the aggression subside?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: It did, it did.

ADV. LILLA CROUSE: Okay. Now we know that there was the possibility of a move. When did you find out about this move away from Waverley?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: In 2015 early, her birthday is in June. So we were there with my sister. Yes, it was in June when we were there. June 2015 with my sister. So when we were there, there was one of the nurse who told us that she is not 100 percent sure, but she heard rumours that Waverley will be closing, and that is when we panicked with my sister, because I remember I said to her should we maybe start finding her another place, because we cannot afford her to go back home. Then she was like no, do not do that, I do not know yet, but that is what we heard.

ADV. LILLA CROUSE: Eventually she was moved?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Eventually she was moved.

15 **ARBITRATOR JUSTICE MOSENEKE:** Just before you give more details of the move, you talked about her being brain damaged.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes.

ARBITRATOR JUSTICE MOSENEKE: Do you know any more details about her condition?

20 **MRS. MOELO MAMOGOTSO REBECCA MOFOKENG:** Not really Justice. That is the only thing I know that she got, she had a clot and they said to my dad they

can operate her, but it is a ... [inaudible] chances situation. She might not make it after that operation.

ARBITRATOR JUSTICE MOSENEKE: Yes, but subsequently when she became aggressive and so on, did they tell you any more, what ... [interjects]

5**MRS. MOELO MAMOGOTSO REBECCA MOFOKENG:** Causes that?

ARBITRATOR JUSTICE MOSENEKE: Ja, how had the brain damage evolved? Was it a specific tag put on the condition?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Not that I know of Justice, not that I know of.

10**ARBITRATOR JUSTICE MOSENEKE:** Ja, thank you. You may proceed.

ADV. LILLA CROUSE: Thank you Justice. She was moved at some stage.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes Justice.

ADV. LILLA CROUSE: To which NGO was she moved?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: She was moved to Anani
15in Vereeniging.

ADV. LILLA CROUSE: Okay, and do you know when she was moved?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: She was moved in May, the 16th of May if I am not mistaken. Yes, 16th of May.

ADV. LILLA CROUSE: 11th?

20**MRS. MOELO MAMOGOTSO REBECCA MOFOKENG:** 2016.

ADV. LILLA CROUSE: 11 May 2016 according to your affidavit.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes Justice, I am sorry.

ADV. LILLA CROUSE: Okay. Did you know about that move?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: We were told yes. If I
5 may just refer back a little bit, in 2015 now on the 5th of December open day, my
mother was there and I did not go, but that is when now we were like families were
addressed that there is going to be a closure of Waverley and patients are going to
be moved, but now we did not know where, how. So in January there was like we
had meetings like Mr Pietersen was testifying yesterday. Then there was follow up
10 meetings, because we were concerned now as families that ... [interjects]

ADV. LILLA CROUSE: Yes. That evidence is before this arbitration. I am just
trying to establish did you know beforehand that she was going to go to Anani or
how did you find out?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Then, yes they phoned
15 my mother. The institution phoned my mother to say Maggie will be moved in one
of the NGO's in Vereeniging, Anani, but then as the move happened we did not
know. One of our family members posted, because we were in communication.
Then he posted to say there are patients moved in Waverley. There are busses
there of patients being moved, and then that is when I remember I was at work and
20 I phoned ... [interjects]

ADV. LILLA CROUSE: I am going to just try to curtail your detail a little bit. I
understand that it is a traumatic thing and you want to tell the whole story, but let us

ry to get the story out this way. When she was moved, did you know she was being moved on that day?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: We did not.

ADV. LILLA CROUSE: When did you find out about that?

5**MRS. MOELO MAMOGOTSO REBECCA MOFOKENG:** We found out a few days after she was moved.

ADV. LILLA CROUSE: And did you go to Anani?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: We went to Anani.

ADV. LILLA CROUSE: Can you more or less tell the court how long after the move
10did you go to Anani?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: When we got there, I think it was a Monday, because ja I remember I think they moved her on Friday and then we went there on a Monday.

ADV. LILLA CROUSE: Okay.

15**MRS. MOELO MAMOGOTSO REBECCA MOFOKENG:** She only had, so that lady there, Debbie she was the owner of the NGO. So, oh I am sorry.

ADV. LILLA CROUSE: And how did you know to go to Anani?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: We had, she gave us the address, because what happened is we phoned the sister in, my mother had a
20contact number with one of the sisters in Waverley.

ADV. LILLA CROUSE: Okay.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: So she is the one who actually give us an information of whereabouts of my sister.

ADV. LILLA CROUSE: Okay, and then you went to Anani?

5**MRS. MOELO MAMOGOTSO REBECCA MOFOKENG:** And then we went to Anani.

ADV. LILLA CROUSE: I want you to tell us what did you find at Anani?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Look, we went around because it is an existing house. We could not really, we were expecting you know
10to find, if you did not know you would expect to find a board or see something that says NGO whatever, but it was just an existing house. My older sister though went during when we were doing ... [interjects]

ADV. LILLA CROUSE: What did you find?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Okay. It is a house. It
15was a normal house with a normal existing like half of a, not a palisade, what you call this? Asbestos gate or what you call it?

ADV. LILLA CROUSE: A fence.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: A fence sort of yes.

ADV. LILLA CROUSE: Yes.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: And we had ...
[interjects]

ADV. LILLA CROUSE: A single storey?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes, single storey.

5**ADV. LILLA CROUSE:** Yes.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: They had a kitchen.
When you come in there was a smaller office just before you go into inside the house. There was an office and then there was an open area where they had these steel tables. That is where they will sit and eat.

10**ADV. LILLA CROUSE:** Okay. Did you see Maggie there?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: We saw Maggie there,
yes.

ADV. LILLA CROUSE: And how did Maggie look?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Look, she was not happy
15because she really loved being at Waverley. She was not happy, and so ja we did not have much to do and then the other thing is her clothing because we questioned where is her clothing. She did not have any clothing with her. She had a refuse bag with clothes, but clothes which they were not even her clothes.

ADV. LILLA CROUSE: And how would you describe the contents of that black bag
20of clothes?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: That refuse bag it was different things like tops, anything. A dress. It was different clothes but which were not hers and because every patient what you call at Waverley, I do not know about other institutions, they would want us to label their clothes so that they would not swap their clothes, and from Waverley they had cupboards. So we do not even know how did that happen, because they had, each and every one of them had their own cupboards, but now those clothes were not even hers. So my mother had to ...
[interjects]

ADV. LILLA CROUSE: Okay.

10 **MRS. MOELO MAMOGOTSO REBECCA MOFOKENG:** Burn them.

ADV. LILLA CROUSE: Was it clean clothes?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: They were not clean clothes.

ADV. LILLA CROUSE: Why do you say that?

15 **MRS. MOELO MAMOGOTSO REBECCA MOFOKENG:** Because they were dirty. It was dirty clothes. It was dirty clothes altogether. There were no shoes.

ADV. LILLA CROUSE: How was it smelling?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Bad. Like they look, it is clothes that you would not even take yourself and wear them. So the lady told us
20 that is how she came when they brought them there.

ADV. LILLA CROUSE: So the clothing in the black bag was taken and it was burnt?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Ja no, we could not even want to wash something that you do not know who it belonged to so we burnt them.

5**ADV. LILLA CROUSE:** Okay. How long did Maggie stay at Anani?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: She was there 2016 up until 2017 in April. I think she moved in ... [interjects]

ADV. LILLA CROUSE: So it was nearly a year that she was there?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Correct.

10**ADV. LILLA CROUSE:** And how did her weight, did her weight remain the same or did she become fatter or did she become leaner?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: She was thin. She was thin. Her legs were so thin. She was dark again in complexion. Naturally she is more darker than me, but she was like dark. Very dark skinned and she was thin as
15well.

ADV. LILLA CROUSE: Did she become thinner at Anani? Did she lose weight?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes, she lost weight when she got to Anani.

ADV. LILLA CROUSE: Okay, and did she have medicine at Anani?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: She was luckily Maggie, the other thing is she was never brought even with her file, but luckily because she is a patient at Kopanong and Kopanong was the one who referred her to Waverley initially. So and that is where my mother would go and collect the treatment from. 5So Debbie was able to take her to Kopanong Hospital and Kopanong was able to give her treatment as according to the file they had for her at Kopanong.

ADV. LILLA CROUSE: But when you first came there, there were no medicine and there was no file?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: No, there was no file. 10There was no file at all.

ADV. LILLA CROUSE: And the medicine?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: There was no medicine. They have given them medicine for few days I guess, but I never saw that medicine. My mother told me that.

15**ADV. LILLA CROUSE:** And the HIV medicine, was that given to her initially?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: No, no.

ADV. LILLA CROUSE: And you spoke about the file. Did you see any sort of file at Anani?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Not at all. There were 20no files. Even the owner, Debbie the owner of Anani, did say that she was never given any files.

ADV. LILLA CROUSE: The owner's name is Debbie?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Debbie, yes.

ADV. LILLA CROUSE: And she told you that there were no files?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes, because we went
5with my sister and now we wanted to know everything and ja, there was no files.

ADV. LILLA CROUSE: Your sister was eventually moved from Anani to Paneng
after the Ombud's report and thereafter she was moved back to Waverley. Is that
correct?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Correct Justice.

10**ADV. LILLA CROUSE**: And can you tell us how she is doing at the moment?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: She is quite happy. I do
not know Justice, if you may allow me to say something else about when she was at
Anani. That lady there we asked her if she is getting any grants for my sister, if she
has received any payment for my sister, and she said she has not received anything
15from the government, and she told us that she comes to Joburg. There are some
hotels whereby she comes and collect food for them, because she cannot afford to
feed them, and we even asked her about why does she not have a proper signage
outside and all that. She did not have security. That is the other thing. She did not
have any nurses as well in place. It was caregivers that she was working with and
20then she says instead of putting up a board, I might rather use that money for doing
other things or maybe getting them food or other things. So ja.

ADV. LILLA CROUSE: The Ombud says in his report that Anani was one of the NGO's where patients were moved to without being ready.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes.

ADV. LILLA CROUSE: Was that the impression you got there?

5**MRS. MOELO MAMOGOTSO REBECCA MOFOKENG:** Yes, because this lady was given about 20 patients from Waverley and it is like these were her first patients, like she just opened an NGO. So so much was not really ready, because I remember the other thing was, or the other concern for us was the security and the fencing around, because my sister has got a history of running away. We were
10concerned that what if she walks out of the yard. It was going to be so easy for her to jump out and go.

ADV. LILLA CROUSE: Yes, that was also one of the issues that the Ombud raised. That there was not sufficient security at Anani.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes.

15**ADV. LILLA CROUSE:** You saw that?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes Justice.

ADV. LILLA CROUSE: Now we, according to the Ombud's report, it seems on my reading that no patients died at Anani.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes Justice.

20**ADV. LILLA CROUSE:** Are you aware of any patients that died at Anani?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Not at all. There were not any patients who died there.

ADV. LILLA CROUSE: Okay. I am just going back a little bit to Anani. Did you see the beds where the patients slept?

5**MRS. MOELO MAMOGOTSO REBECCA MOFOKENG:** Yes, we did. They had double beds.

ADV. LILLA CROUSE: Double bunks?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes, double bunk beds and others were just flat, like single beds in rooms.

10**ADV. LILLA CROUSE:** And was there sufficient space?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: There was sufficient space if I may say that. There were cupboards as well. She built in cupboards for them in those rooms as well and it was only females.

ADV. LILLA CROUSE: Sufficient bathrooms?

15**MRS. MOELO MAMOGOTSO REBECCA MOFOKENG:** Bathrooms I would not really say. I cannot remember. We never went to an extent of checking out everything in the house.

ADV. LILLA CROUSE: And bedding, did you see the bedding?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes, bedding was even
20the beds were well off what you call, done.

ADV. LILLA CROUSE: Could you just repeat that, sorry?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: The beds were well done. Like ... [interjects]

ADV. LILLA CROUSE: You were satisfied with the bedding?

5**MRS. MOELO MAMOGOTSO REBECCA MOFOKENG**: We were satisfied with the bedding.

ADV. LILLA CROUSE: Yes. So except for the food and the medicine situation ... [interjects]

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: And security.

10**ADV. LILLA CROUSE**: And the security, those were the issues?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Those were our issues.

ADV. LILLA CROUSE: And ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: Who else was at Anani? I am talking about mental health care users?

15**MRS. MOELO MAMOGOTSO REBECCA MOFOKENG**: Justice, we do not know the patients at all, but we saw the patients, because even when we go visit my sister we will see other patients, but we do not know them from Waverley.

ARBITRATOR JUSTICE MOSENEKE: You said there were 20 of them?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: There were about 20 of
20them, yes.

ARBITRATOR JUSTICE MOSENEKE: Were they males and females?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: It was only females.

ARBITRATOR JUSTICE MOSENEKE: The rape of your sister bothers me. Who, was there anybody who was arrested while she was at Takalani?

5**MRS. MOELO MAMOGOTSO REBECCA MOFOKENG:** Unfortunately not. What they told us at Takalani was that guy he has been in Takalani for so many years and he is a very calm and humble guy. So they do not ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: Which guy?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: The guy who raped her.

10**ARBITRATOR JUSTICE MOSENEKE:** He was known?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: He was known. He was one of the patients. So they told us to them it could not have been that guy. It is our sister who led everything.

ARBITRATOR JUSTICE MOSENEKE: So the man who was fingered by your
15sister, did she finger anybody? Did your sister point at anybody?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: No, she never pointed anybody then Justice, because by the time we went to see her she was very ill. So we did not even have time to see who is this guy and all that, but they never really said anything. That is what they told us.

20**ARBITRATOR JUSTICE MOSENEKE:** She seems to have been institutionalised throughout. Was it so?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes Justice.

ARBITRATOR JUSTICE MOSENEKE: Do you know how she might have become HIV positive?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Justice, there was time where she was discharged from Waverley and she was moved back home in March 2012, and what they told us was she is coping, so she is ready to can go home. That is what they told us. We thought that because we told them that this is a different story. Yes, she may seem okay because that is the thing about my sister.

ARBITRATOR JUSTICE MOSENEKE: And how long was she home?

10**MRS. MOELO MAMOGOTSO REBECCA MOFOKENG:** She went back again in 2013. So it was a period of a year or so. She was discharged in March 2010.

ARBITRATOR JUSTICE MOSENEKE: So for about a year she was home, staying with you.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Staying with my mother.

15**ARBITRATOR JUSTICE MOSENEKE:** Your mother.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes Justice.

ARBITRATOR JUSTICE MOSENEKE: And you think she might have been infected then?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: I think so Justice, 20because the, our concern actually about my sister is when she is home she does not stay home. She wakes up, when she opens her eyes, she is right at the streets

and she will come back as somebody who has been to work and we will never know where she went.

ARBITRATOR JUSTICE MOSENEKE: Okay.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: And ja, but what we realised was that people were taking an advantage of her.

ARBITRATOR JUSTICE MOSENEKE: Okay. Counsel.

ADV. LILLA CROUSE: Thank you Justice. Can I just ask you as a family, have you spent money on finding her or buying new clothes for her?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes, we did. My sister, we used to buy her clothes since she was in Waverley. We did not have a thing of they give them clothes you know. If it is winter we would take some warm clothes, buy her some warm clothes. Morning slippers and stuff like that and when she come back home as well, because there will be times where we go and fetch her. If it is holidays and stuff like that, we would want her to look best as well, so we buy her clothes. So when she went again, was when she was released to Baneng by the ... [interjects]

ADV. LILLA CROUSE: Okay, let me just cut that short.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Okay.

ADV. LILLA CROUSE: You have bought her clothes.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: We bought her clothes.

ADV. LILLA CROUSE: And we know that her clothes went missing. How much did you spend on clothes?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Look Justice, I cannot really say how much we have spent. Maybe inbetween Waverley and Baneng, because when she got to Baneng as well she did not have clothes.

ADV. LILLA CROUSE: Yes. More or less?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Maybe less or so about R3 000-00 that we spent on her clothes.

ADV. LILLA CROUSE: And finding her, petrol, telephone?

10 **MRS. MOELO MAMOGOTSO REBECCA MOFOKENG:** And finding her, because again when she was moved to Baneng, that lady did not know where she was moved from Anani. So I had to phone again the department and find out where is my sister. So because already there was a move of taking patients out of NGO's, they had a database of all patients who had been in different NGO's and they told
15 me my sister is in Baneng. So I had to go, I have never been to Baneng. I had to travel to Baneng, look for it and ... [interjects]

ADV. LILLA CROUSE: The question is did you spend any money?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: I did, I did.

ADV. LILLA CROUSE: Can you tell us how much?

20 **MRS. MOELO MAMOGOTSO REBECCA MOFOKENG:** Unfortunately I cannot Justice. I just put petrol and go there.

ADV. LILLA CROUSE: Okay.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes.

ADV. LILLA CROUSE: And what effect did this move to these three places now had on you as a family, her being missing, her losing weight, all of that. What effect did this have on you as a family?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: We, well it drained us because day in and out like we were worried what is going to happen. Is she ever, like is she ever going to be like in a stable home or like institution if we may say that, and we were worried that okay, if now nothing is happening and she has to come back home, how are we going to handle it, because our concern again is my mother stayed with my sister's daughter and my mother is very scared of my sister, and I think my sister knows that. So it was not nice. It was not nice honestly. I do not even know how to describe it, but we really, we did not sleep like day in and out like I say. We think about it and think about, in advance think about okay, let us say in case they say she has to now come back home what do we do. We used to talk to ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: Where is she now? Is she still at Waverley?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: She is now at Waverley, but ja she loves it there. She was so happy that she is going to Waverley, because the day when I went to fetch her again at Baneng she said to me, the sister told me that we are moving to Waverley. I am so happy I am going back to Waverley.

ADV. LILLA CROUSE: Did it have, the whole situation did it have any effect medically on your mother?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: It did, it did. My mother, she is a person with high blood, so and my mother lost weight as well, because she was worried, she was worried. She was worried of my sister coming back home. She was worried and I think actually when my sister now was moved, already there were patients who were dead already. So it was a concern.

ADV. LILLA CROUSE: Thank you.

ARBITRATOR JUSTICE MOSENEKE: I do not understand that. Were dead where?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Like from Esidimeni. Patients who were in other NGO's, already there were patients who were already dead.

ARBITRATOR JUSTICE MOSENEKE: How would she had known that? You mean she would have received reports of deaths?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: No, because me and my sister we have been in what you call, family representative. So we knew of everything and movements that were happening, so we would tell her everything that was happening. So ja.

ARBITRATOR JUSTICE MOSENEKE: Let me get it properly. You say when patients, mental health care users started dying, you were worried but you also told ... [inaudible] that people are dying?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: No, we did not tell here.

5We could not.

ARBITRATOR JUSTICE MOSENEKE: Okay.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: No Justice, we did not tell her.

ARBITRATOR JUSTICE MOSENEKE: You are talking about the impact on
10yourselves?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes Justice.

ARBITRATOR JUSTICE MOSENEKE: Okay.

ADV. LILLA CROUSE: And your mother knew about the deaths?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: She knew everything
15about it.

ADV. LILLA CROUSE: And that impacted on your mother?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes, it did. It did.

ADV. LILLA CROUSE: Now you have sat through many of these hearings.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes.

ADV. LILLA CROUSE: I am going to ask you as to give an indication as to what redress you think will help you as a family?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Justice, the first thing if people could just come and tell the truth of the matter as is, and stop really pointing 5fingers, because I must say since day one I never heard of anyone who is taking responsibility. Everybody is sitting here, pointing on another person, on another person. It looks like it would even get to the president in a way they are saying, because it is taking levels up. So it is not really helping us you know? Being here it helps, it is painful. It has got mixed feelings for all of us I may say, but what will help 10really is for people to take responsibility and account of their actions. Justice, some of the officials who have been here, the likes of Dr Manamela, Mr Mosonoge, we have been, these are the people that we sat with as family representatives, and these are the people who promised us because we were concerned as families that where is our patients going? Are you definite that they will be catered for as where 15they are now, and they promised us. Mrs Masondo is one of those people who were saying to us I am sending, we are going out with my teams and we are checking out these NGO's and we assure you guys that everything will be sorted, your patients will be cared for in a way even us we would want them to be cared for.

ARBITRATOR JUSTICE MOSENEKE: And that was before the move, right?

20**MRS. MOELO MAMOGOTSO REBECCA MOFOKENG:** That was before the move Justice.

ARBITRATOR JUSTICE MOSENEKE: And did that happen? Did the promises ...
[interjects]

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Absolutely not.

ARBITRATOR JUSTICE MOSENEKE: Were the promises true?

5**MRS. MOELO MAMOGOTSO REBECCA MOFOKENG:** Absolutely not.
Everything, it was opposite of what we sat around the table with them and
discussed. It was opposite of that. They went, and they told us positive things. We
were of positive mind and we sat around the table and discussed positively and the
picture they gave us was okay promising, but now as a matter of fact Justice we
10had maybe a meeting whereby they projected all the NGO's. It was a lot of NGO's
and they said they are checking all the NGO's just to find out which ones will be
suitable. The second meeting that we had, the last maybe second meeting that we
had with them was okay, here is a shortlist of NGO's but some of them Dr
Manamela herself says to us some of these NGO's they are still busy renovating. I
15have given them two weeks to finish their renovations. If they are not done in two
weeks, then I am going to take whatever NGO is not ready on our list and we said
how sure are you with the renovations. She said no she promised that they will be
done, but we can, we will only use NGO's which are ready, which are suitable,
which has got licences, which has got nurses. Everything promised, as the report
20says, as it was said by other professionals like Dr Thalathala like what are
requirements for want to run an NGO for mentally ill patients, but none of that
happened. I think about two days after that meeting or a few days if I am not
mistaken Justice, this was in 2017. I am sure early may. That was our last meeting

that we had as family representatives and the government officials. Then we had the move. They did not even tell us. We were awaiting them to send us now a complete list of NGO's that are ready so that we can actually as families we were prepared to do everything, to go and check them ourselves.

5 **ARBITRATOR JUSTICE MOSENEKE:** So your negotiations do you think helped?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Our negotiations unfortunately did not help, because look at the situation that we find ourselves in. They never listened to us. We feel as family that we sat there and we were brushed with paint on our faces and nothing really happened as we wished as families
10 because we really care for, we really care about our loved ones.

ARBITRATOR JUSTICE MOSENEKE: You are a family rep. Did Dr Manamela know about the protest marches that you had?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: She knew.

ARBITRATOR JUSTICE MOSENEKE: And the memoranda that you prepared?

15 **MRS. MOELO MAMOGOTSO REBECCA MOFOKENG:** Definitely knew, yes. The last memorandum actually was signed by Mr Mosonogi.

ARBITRATOR JUSTICE MOSENEKE: And did they know that you are organised and you are representing families of mental health care users were deeply concerned?

20 **MRS. MOELO MAMOGOTSO REBECCA MOFOKENG:** Absolutely Justice. Absolutely.

ARBITRATOR JUSTICE MOSENEKE: And what came out of all that?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Negativity. All that is bad and ugly came out of that. Everything. We tried, Justice we have been to Sour Street. There is a government, I forgot that government building, seventh floor. We used to sit there with them. This whole team, your Frans Thobani, Dr Manamela and other representatives which were there, we used to sit in those meetings just to see that the movement will be a good, would be a better movement and our patients will receive the good care that we are expecting and that we want them to have.

ARBITRATOR JUSTICE MOSENEKE: Why do you think they ignored you?

10**MRS. MOELO MAMOGOTSO REBECCA MOFOKENG:** To my thinking these people were running a business. These people were like after their own benefits. Everybody was looking at where they are seated, their positions. That is how now we see it. It was everything about them.

ARBITRATOR JUSTICE MOSENEKE: Tell me about the business. You think
15they were running?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: I am thinking, because Justice they said to us this is a cost saving, because department is getting a strain. What they told us was they are paying about R10 000-00 for a patient at Life Esidimeni.

20**ARBITRATOR JUSTICE MOSENEKE:** Per what?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Per month if I am no mistaken Justice.

ARBITRATOR JUSTICE MOSENEKE: Right.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: And they were like that is 5a lot. Government cannot really handle that anymore, but I was surprised like sitting in this hearing to hear people getting like R150 000-00 in a month and so on, and I am thinking and they are getting grants as well on top of that. So I was thinking what is it that they were trying to save.

ARBITRATOR JUSTICE MOSENEKE: Who do you think benefitted in this 10marathon project. I am talking financially for a moment.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Justice, as NGO's I believe some of the NGO's they actually even took extra patients because they were promised money. That this is how much you would get if you have so many patients and that is why some of them could not even say no Justice. They took so 15many patients, because it was or it is a plus in my account if I have so many patients.

ARBITRATOR JUSTICE MOSENEKE: And do you think they were properly checked to make sure that they can deliver on the money they were going to receive?

20**MRS. MOELO MAMOGOTSO REBECCA MOFOKENG:** I do not think so Justice. I do not think so. I believe actually even some of the NGO's, because if I remember well, when we went to view the NGO's, that is the other thing that I feel that

department is getting away with something. They are trying to maybe make us not to be present to go view these NGO's. At night you will receive an email saying tomorrow families we decided that we are going to view maybe Cullinan you know and we would like okay if Frans Thobani is the guy who used to send us these 5 emails. He was a deputy, what was Frans Thobani, deputy director to Dr Manamela. He is the one who used to send us emails and informations. Tomorrow we are viewing this. That would happen like at night you would receive an email saying we are going to view whatever NGO, and some of us could not even go, because you have to request leave from work. It is at night. They are saying 10 tomorrow morning you have to be at whatever place. How do you do that. It is money, it is ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: Let us go back to the business thing. I just want to explore that a little more. I asked you who did you think gained financially and you said ... [interjects]

15 **MRS. MOELO MAMOGOTSO REBECCA MOFOKENG:** NGO's.

ARBITRATOR JUSTICE MOSENEKE: ... [inaudible] of NGO's.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes Justice.

ARBITRATOR JUSTICE MOSENEKE: Do you think there is anybody else who had a financial benefit out of ... [interjects]

20 **MRS. MOELO MAMOGOTSO REBECCA MOFOKENG:** I am not too sure Jusitce. Maybe even yes, the officials or the people who were running the project, they were going to get something if they minimise costs and if maybe their budget

maybe go down or whatever or if they minimise costs towards this project, then the extra they make will go to them.

ARBITRATOR JUSTICE MOSENEKE: You see, as a family committee member, you would have lived with this through the transition.

5**MRS. MOELO MAMOGOTSO REBECCA MOFOKENG:** Yes Justice.

ARBITRATOR JUSTICE MOSENEKE: That is why I am trying to get benefit of your impressions. In other words it is another way of saying why did the provincial officials do it. Why did they take your family members and placed them the way they did in circumstances that threatened their lives? What do you think, what do
10you say?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Hence I say Justice, this looks like I do not know how, but it looks like somebody was going to benefit somewhere in a way. NGO's or government officials. I am not too sure how, but yes, it looks like everything would now come to them, because I do not understand
15how do you just out of nothing, if you are not going to gain anything, why would you even make such means and which are absolutely so wrong if you are not looking at something on the other side.

ARBITRATOR JUSTICE MOSENEKE: Do you know why the doctors in the project team did not resist this move?

20**MRS. MOELO MAMOGOTSO REBECCA MOFOKENG:** Again, on that one it is just positions. Somebody, look Justice. I believe that government officials they put themselves first. Actually the project was the last thing. They put themselves first.

It was about my position, my job, where I am now, what I am getting. If I do not do this, I may be told tomorrow that take a hike you know. So they would have rather sacrificed the lives of our patients, of our loved ones than to lose maybe their jobs for doing something which is right.

5 **ARBITRATOR JUSTICE MOSENEKE:** Counsel.

ADV. LILLA CROUSE: Thank you Justice. We were speaking about redress. You said that you wanted to know the truth and you have given reasons why you wanted the truth.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes.

10 **ADV. LILLA CROUSE:** What other redress do you want?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: The other thing, Justice, I wish every person who was part of this project to be arrested. People must be arrested, because this is a criminal offence. Honestly, it is a criminal offence.

ADV. LILLA CROUSE: Any other redress that you were thinking about?

15 **ARBITRATOR JUSTICE MOSENEKE:** But you understand that this arbitration cannot cause people to be arrested?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: I do ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: It can set out findings, it makes available the evidence given here by yourselves and some of the people who are responsible
20 for this, but it is the National Director of Public Prosecutions, after investigation by police who decides who must be charged. I hope you understand that.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: I do understand Justice.

ARBITRATOR JUSTICE MOSENEKE: Yes.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: I do understand, but I honestly would wish whoever is listening where ever, who is in authority to can do this, I wish that they can go back and put everything, everybody like charge everybody who was part of this project, being it NGO's whom caused harm to our loved ones, to be arrested. Because everybody did everything, they saw it happening. I could see that I cannot feed these people, but I went, I went ahead and do it still.

10 **ARBITRATOR JUSTICE MOSENEKE:** Do you think that this was a mistake by these decision makers or they did it wide eyed? In other words with their eyes wide open?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: They did it with their eyes wide open. Conscious clear. They did it with a clean conscious this thing. It is Justice, if there was family who, families who were concerned, who were saying but do you not think if we get to that level something can happen? Are you ready as government to can take such steps and then there is ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: What did they say? What was their answer?

20 **MRS. MOELO MAMOGOTSO REBECCA MOFOKENG:** They were ready. No they were ready. I was shocked to hear that Hannah Jacobus ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: Were they ready or did they say they were ready?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: They say they were ready. They say they were ready and they said they are actually trying by all means, like Dr Manamela was saying on Monday that they are assessing NGO's. That is what they told us as well that every NGO is being put to an assessment. We checked A, B, C, D. There was a list of things that they say they are checking with NGO's, which gave us at least hope that it is going to be well.

ARBITRATOR JUSTICE MOSENEKE: Do you think they were aware and knew that if the NGO's were not ready, patients might die?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: They were. I believe they were. If we could see, we are not, some of us are not even medical doctors or medical, in a medical field if I may put it that way, but we could see ahead that if we do not handle this well, if loved ones are not taken to places which are well off for them, if they do not receive such care as they are receiving now, things might happen here.

ARBITRATOR JUSTICE MOSENEKE: What things did you think might happen?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: We could see that our patients could relapse. That is the first thing. That they are going to relapse. They are going to stress. Some of the things that causes them to even change colour, lose weight is stress, because they were not ready to be moved, and one of the things that Dr Manamela promised us Justice, is that they are going to do

counselling on our patients, prepare them before they move, and that was never happened. They were waking up this morning to say get into busses, they did not know where they are going.

ARBITRATOR JUSTICE MOSENEKE: And you as a lay person but member of the family representatives, could you sense that some of the patients might relapse, deteriorate and die?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: We did, we did Justice. Hence we were concerned that, this must be said. As government you must be certain that where ever you are taking our patients, we even asked okay, can there be something that you can maybe negotiate with Life Esidimeni, for our patients to remain there rather than closing them off?

ARBITRATOR JUSTICE MOSENEKE: Do you think that officials like Mr Mosenoge, Mr Thobani, Dr Manamela, Dr Selobano could reasonably foresee that if they moved patients from where they were to NGO's which were unready, those people could relapse, could suffer harm or some could die?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: They foresee that I am absolutely sure Justice that they could see. They knew what could happen. Mr Mosenoge sat here as well and said Justice, I saw, I could see as well that this is not going to be functional at all. But again, him himself as well because he was afraid of losing his status, his job.

ARBITRATOR JUSTICE MOSENEKE: So they could reasonably foresee that death might ensue.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes.

ARBITRATOR JUSTICE MOSENEKE: And none the less proceeded. Is that what you are saying?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes Justice.

5**ARBITRATOR JUSTICE MOSENEKE:** Very well. Counsel?

ADV. LILLA CROUSE: Thank you Justice. Any other issue in redress that you want to raise?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Not really Counsel. The other thing that we are concerned with as surviving, as surviving the what you call
10family members Justice, there was a move, we were told that the Life Esidimeni is, the contract has been terminated, and within no time our patients were taken back to the very same institution. We do not know if there is any contract now signed with Life Esidimeni, is that has that been done? We are not too sure. From where we are sitting now as families, we feel like our patients can be chased out at any
15given time. We do not know. We do not know what is the status now, who is managing, what is happening, because some of or members of Life Esidimeni, nurses which were there, they lost their jobs, they left the places, so it is new persons whom are there now. I think some of them are caregivers or something like that. So we are not really too sure what is going to happen.

20**ADV. LILLA CROUSE:** Yes.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Or where are we now
as ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: And you remind me in the early evidence
we were told that hundreds of people worked at Life Esidimeni lost their jobs.

5**MRS. MOELO MAMOGOTSO REBECCA MOFOKENG:** Yes Justice.

ARBITRATOR JUSTICE MOSENEKE: In your discussions as family committee
with the officials, was there an awareness that the termination of the contract might
make so many professional and non professional people working at Life Esidimeni
to lose their jobs.

10**MRS. MOELO MAMOGOTSO REBECCA MOFOKENG:** That Justice, we did not
really actually raise. Then our concern was just patients.

ARBITRATOR JUSTICE MOSENEKE: With patients.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes Justice.

ARBITRATOR JUSTICE MOSENEKE: Okay, thank you.

15**ADV. LILLA CROUSE:** Anything else in redress that you want to put forward, what
about counselling?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Counselling as well,
because we none of us family members has ever okay in my family I do not know
maybe about others, we have never even be called for counselling. Our patients as
20well, I do not remember Maggie saying there were counselling, because she can
talk you know, and when you ask her of the happenings and what is happening, like

are you eating, like now I was asking her are you happy here, do you are you eating? She was like yes there is a lot of food we eat, we play netball and do what. So there has not been any counselling given to our patients, neither to the family members.

5 **ADV. LILLA CROUSE:** I just as a result of the questions that the Honourable Justice has asked you, I am going to hand you a document ELAH79. Could you just identify this document for us please.

ARBITRATOR JUSTICE MOSENEKE: Thank you.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes Justice.

10 **ADV. LILLA CROUSE:** Do you know this document?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: I know this document.

ADV. LILLA CROUSE: What is that about?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: This was one of the marches that we had as family members to the department of health. Raising our
15 concerns of you know our loved ones and ... [interjects]

ADV. LILLA CROUSE: Is this a flyer for the march?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes Justice.

ADV. LILLA CROUSE: And could you read just the heading?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: It is march for dignity in
20 mental illness.

ADV. LILLA CROUSE: And as committee was that your aim?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: It was, it was.

ADV. LILLA CROUSE: And the photograph was that of a previous march?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes Justice.

5**ADV. LILLA CROUSE**: Thank you. The pupil at the bottom Andrew, is that the witness that testified yesterday?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes Justice.

ADV. LILLA CROUSE: And Nomvula and Nompilo are family members that are in attendance?

10**MRS. MOELO MAMOGOTSO REBECCA MOFOKENG**: Yes Justice.

ARBITRATOR JUSTICE MOSENEKE: And they are family representatives, are they?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes Justice.

ARBITRATOR JUSTICE MOSENEKE: Well, one of them reads there, would you
15read that for me onto the record? I see the one facing more towards the very first one. Over the shoulder of the gentleman in the light blue shirt. What is on that plackade?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: It says:

“[Vernacular 01:07:17]

I think it is, I am not too sure with that small writing there. I cannot see it very well, but the other word, the first word it says:

“[Vernacular]”

ARBITRATOR JUSTICE MOSENEKE: Which means?

5**ARBITRATOR JUSTICE MOSENEKE:** What is wrong with you? I am not Zulu, I am Sotho Justice, but I think it says what is wrong with you. Like what is this about. But why.

ARBITRATOR JUSTICE MOSENEKE: I see, and there is another plackade there of the gentleman more on extreme right. What is on that plackade? [Vernacular 1001:08:06], please think human is it?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: I cannot see that one Justice. On your extreme right?

ARBITRATOR JUSTICE MOSENEKE: No, no on the front end of the picture, just below the steps. Can you see the lady in reflective clothing? Can you see to the 15right of the lady with reflective clothing?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Ja, I think is that not the one that I have, that says the minister, no no. I see the one that says the minister must fall, and the one that ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: I can see the one that says the minister 20must fall.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes.

ARBITRATOR JUSTICE MOSENEKE: And the other one that says please think human.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes, I can see that.

ARBITRATOR JUSTICE MOSENEKE: Can you see that?

5**MRS. MOELO MAMOGOTSO REBECCA MOFOKENG:** The one Andrew is holding yes, I can see that.

ARBITRATOR JUSTICE MOSENEKE: Is that what it reads? [Vernacular] please think human? I am asking you because you were there.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes, because all they
10were doing, they were treating our patients as in they are inhumane, and you know she was not, whatever they were doing she was not acting like a human being. You know treating other human being, because you must be human enough. I mean you are dealing here with mentally ill patients. You know, people who cannot say much for themselves. They cannot, you take them from this point to the other.
15They will just go, even if they do not like they will just get oppressed and so when you are dealing with them, you must think yourself and think for themselves too.

ADV. LILLA CROUSE: Thank you Justice. Anything else that you want to say madam?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: I think I have said
20Justice all that I wanted to say. Like I said I wish whoever is sitting wherever in authority, can really make first thing, starting with the NGO's you know, charge

them. Those greedy people who felt that they can really make money from our loved ones, you know, they cost lives so they must be charged. I think if that is not going to happen, I do not know. My sister is still alive, but personally I would not have rest. I would not have rest. I would take it upon my shoulders that I go to court or whatever that is to make whoever did this be arrested on a personal level.

ADV. LILLA CROUSE: Thank you Justice.

ARBITRATOR JUSTICE MOSENEKE: Thank you. Advocate Hassim.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: And, I am sorry. And the other thing Justice is this is not really about, we are thinking about the future of any mental ill patients. You know, going forward. Can we have an organised structure. Can we have proper structure for them. Can we think for them. Even where they are. Facilities. Can we have better and best facilities for them. Can we have professional people who will really take care of them.

ARBITRATOR JUSTICE MOSENEKE: You said nothing about money.

15 **MRS. MOELO MAMOGOTSO REBECCA MOFOKENG:** Yes, I did not Justice.

ARBITRATOR JUSTICE MOSENEKE: I know you are not here for money.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes Justice.

ARBITRATOR JUSTICE MOSENEKE: But it is part of my job to give you money.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: If you give me money Justice, I would love to. I would love that. If you give me money I will accept it, and make use of it.

ARBITRATOR JUSTICE MOSENEKE: And how would it help your sister?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Look, if that will help in a way that at least my mother would be able to go visit my sister often you know, or whenever she feels like going, because we really can go and visit my sister any 5given day.

ARBITRATOR JUSTICE MOSENEKE: Does she come home on ... [interjects]

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: She does come home.

ARBITRATOR JUSTICE MOSENEKE: On leave.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes, she does. She 10does. Like now on the 9th, next month we are going to fetch her to come spend holidays with us at home.

ARBITRATOR JUSTICE MOSENEKE: You know she is only 34.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: 36.

ARBITRATOR JUSTICE MOSENEKE: 36?

15**MRS. MOELO MAMOGOTSO REBECCA MOFOKENG:** Yes Justice.

ARBITRATOR JUSTICE MOSENEKE: You add another 30 years, ja. Of institutionalisation. It is a long time, not so?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes Justice.

ARBITRATOR JUSTICE MOSENEKE: So you say money will help to help you 20look after her?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: It will help Justice, because even now where they are, sometimes you go there maybe somebody took the clothes or whatever that is. You have to buy. Hence I say every time we go we have to check what is missing or whatever or get her something like that, because
5the grant does not really come to us. Not at all. It gets ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: Is she on a grant?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: She is on a grant.

ARBITRATOR JUSTICE MOSENEKE: But you do not see the money?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Never, not at all.

10**ARBITRATOR JUSTICE MOSENEKE:** Is it collected by Waverley?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: It is collected by the institution where ever she is. The grant goes there.

ADV. LILLA CROUSE: Justice, sorry. Might I just touch on the issues that was just raised if the court, we discussed the possibility of that there might be some
15money coming. Could you just tell the court how would you see money coming in? To who would it go and who will utilise it for what?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: That will go to my mother. My dad is no more, he passed on in 2008. So my mother, she is a pensioner now. So the money will go to my mother and she really takes care of my
20sister. Should my mother be not there, my older sister and myself we are the ones taking care of my sister now, so we will see that my sister is well taken care of.

ADV. LILLA CROUSE: So the idea of money is to better the life of your sister?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes.

ADV. LILLA CROUSE: Thank you Justice.

ARBITRATOR JUSTICE MOSENEKE: Advocate Hassim?

5**ADV ADILA HASSIM:** Thank you Justice Moseneke. Good morning Mrs Mofokeng.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Morning Justice.

ADV ADILA HASSIM: I just want to begin with something you mentioned earlier in your testimony about the rape of your sister.

10**MRS. MOELO MAMOGOTSO REBECCA MOFOKENG:** Yes.

ADV ADILA HASSIM: At Takalani.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes.

ADV ADILA HASSIM: And that it was outside the time frame of reference for this arbitration, and I do not know how much of the testimony and the proceedings you
15have been watching, but to corroborate what you say, there one of the deceased that is in the family that is being represented in these proceedings, had a similar experience at Takalani.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes.

ADV ADILA HASSIM: Justice, if I may refer to the record?

20**ARBITRATOR JUSTICE MOSENEKE:** Yes.

ADV ADILA HASSIM: And it is file 10, at page 3306.

ARBITRATOR JUSTICE MOSENEKE: Thank you.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: It is file?

ADV ADILA HASSIM: File 10, page 3306.

5**MRS. MOELO MAMOGOTSO REBECCA MOFOKENG:** Okay, I am on it.

ADV ADILA HASSIM: It is an affidavit by Mojanilo Celina Clause.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes.

ADV ADILA HASSIM: And it is in relation to the death of her cousin, Benica Mokoneng who was at Takalani. If I can ask you to turn to page 3309,

10**MRS. MOELO MAMOGOTSO REBECCA MOFOKENG:** I am there.

ADV ADILA HASSIM: And here her cousin is talking about the visit to Benica at Takalani.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes.

ADV ADILA HASSIM: And at paragraph 15 she says the following:

15*"A man walked past us and she started pointing at him to draw my attention to him."*

Benica did not speak, okay.

"Pointing at him to draw my attention to him. She then gestured, pulling up her skirt and mimicking being strangled. I understood from her that she had been raped."

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: I was actually here, I heard this testimony.

ADV ADILA HASSIM: And it would seem that it was somebody who worked at Takalani. It was raised with the nurse, but the nurse did not take it any further according to this affidavit.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes.

ADV ADILA HASSIM: Do you know anything further? Has there been any follow up at Takalani in relation to these two incidents?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Not at all. Not at all. Hence I was saying to Justice, like what we were in fact told was the behaviour of this guy, how they trust him, how well behaved he is since he has been in Takalani, that is all. Worse, no concerns or so ever they mentioned about my sister or maybe like no, it was just a one side story and that was the end of it. There was never follow up. Not at all. Nothing whatsoever.

15 **ADV ADILA HASSIM:** Is the man still there at Takalani?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: I would not know, because my sister has since moved from Takalani a long time ago. I am sure maybe he is still there or so.

ADV ADILA HASSIM: Do you know whether Takalani still accommodates male and female mental health care users?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: They do, because one of our family members, her sister was there. Just around the move. So there were men there.

ADV ADILA HASSIM: You, I mean all of this ... [interjects]

5**ARBITRATOR JUSTICE MOSENEKE:** Had you remembered Mrs Masondo?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes.

ARBITRATOR JUSTICE MOSENEKE: Why now are they saying Takalani was their best NGO?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: I was listening. I was
10here Justice.

ARBITRATOR JUSTICE MOSENEKE: And that they have been there, looked at it and she was asked why the men and women share wards.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes Justice, and at
some point she pretended as if she was not aware of so much. She was still in
15probation or something like that and that was a surprise.

ADV ADILA HASSIM: Had you not been updated as a representative of the family. So while your sister may no longer be there, has there been any update as to the conditions at the NGO's including Takalani in order to prevent these kind of incidents from happening again?

20**MRS. MOELO MAMOGOTSO REBECCA MOFOKENG:** Look, myself I do not have any update whatsoever or just to follow up to see you know what is happening

now. What is the situation now at Takalani, but I think I believe there are some family members who will come and relate, who have their patients actually who has been there like lately just before they were moved out of Takalani, who would give you an experience in Takalani. It is quite shocking.

5 **ADV ADILA HASSIM:** Is there a representative from the government who is being tasked with communicating with representatives of the family and for updating the families of the survivors?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: No, not that I know of. Since after the Ombud report I have not been so much active Justice, so but yes we 10 do have actually a group as family members, so we put updates on the group as to whatever the happenings there or so, but I have not, I do not know of anybody who is now taking care of ... [interjects]

ADV ADILA HASSIM: So let me ask you this. If you were concerned about something now, who would you go to? Is there one person that you know you can 15 call?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: There is Dr, I cannot remember her name now, who is, I think she is now the directorate at the Department of Health. We have been given her contact numbers, so if there is anything, I cannot remember so well but yes, we have been given her contact 20 numbers in case maybe there is something that we want to know of or if we want to report something or if we want clarity of something we can contact her.

ADV ADILA HASSIM: But is there any information coming from their side to you without you asking?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: No, not at all. Not at all.

ADV ADILA HASSIM: Why did you feel it necessary to march and to protest outside the government's offices?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: You know what, we thought when we are out there when the public can as well see that this is happening, because the public was so misinformed. The public knew like nothing. I saw, I only saw now that actually mentally ill patients in South Africa they are like nonexistent to so many people. To the community, to the public. Like even at home, like some people will be even people who grew up with you who know the situation they will behave like oh what the hell. Excuse my language. Like they are not engaging. They are not even helping. They can actually even make situations worse for you rather.

15**ADV ADILA HASSIM:** So you are saying that mental health care users were stigmatised and discriminated against?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes, yes.

ADV ADILA HASSIM: But of course the government has a responsibility to the mental health care users in their care.

20**MRS. MOELO MAMOGOTSO REBECCA MOFOKENG:** Yes.

ADV ADILA HASSIM: So you are saying that you felt that those mental health patients were dispensable in the eyes of government too?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Absolutely. Absolutely. One of the things, like I said to you Justice earlier on, that they even mentioned going back to our communities, because they said some of the patients will be maybe released to home. Those who can see that they can be fit to go back home. They were like we are going to provide a team who will go back to communities around where, let us say your patient is. Like maybe home, they will come back to my community at home and just you know, talk to them. Counsel them and get them to understand the situation of mental ill patients, and the patients that will be around them. But even that never happened. It was a black and white paper exercise.

ADV ADILA HASSIM: You said you handed a memo, at one of your marches, you handed a memo to ..

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: To Dr Mosenoge, yes.

ADV ADILA HASSIM: And what was his response?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: No look, he came out there because we waited. We have been there since morning. It was cold and hot. It became hot. We waited there, we could not because we wanted to meet with the MEC of health. She was never there. We were told she is where ever. The only thing when we got there, everything there was closed off. They would not allow us in and then lately when now we denied going back home before we see her, that is

where Dr Mosenoge was now sent out. He came to address us. It was long, after so many hours we have been waiting for the MEC.

ADV ADILA HASSIM: What did he say in his address to you? Did he address the concerns in the memorandum?

5**MRS. MOELO MAMOGOTSO REBECCA MOFOKENG:** Not really. He did say that he is accepting the memorandum on behalf of the MEC. Unfortunately the MEC could not be there, and I mean with everything that we do, we will like sort of put in an application and enquire with the office and request before we do anything, but then she was just so invisible and that is when, because we threatened that we
10 were going to go now to the premier's office and then Mr Mosenoge was there. He accepted, but he could not say much, except for yes there are concerns he can see, but he would take the memorandum to the MEC.

ADV ADILA HASSIM: And did the MEC then respond to your memorandum? The memorandum is not handed up just for no reason.

15**MRS. MOELO MAMOGOTSO REBECCA MOFOKENG:** Yes.

ADV ADILA HASSIM: The memorandum is there in order to have your concerns addressed.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Never. Maybe one of the family members ... [inaudible] never. We never got any response from the
20 MEC.

ARBITRATOR JUSTICE MOSENEKE: You know what worries me, sorry Counsel to interrupt. When I look at the schedule of the Ombud, I think you must be given please ELAH57 and page 8 of ELAH57.

ADV ADILA HASSIM: Page 8, paginated.

5**MRS. MOELO MAMOGOTSO REBECCA MOFOKENG:** Yes Justice.

ARBITRATOR JUSTICE MOSENEKE: Can you see that?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes Justice.

ARBITRATOR JUSTICE MOSENEKE: Look at the month of June 2016.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: I can see that Justice.

10**ARBITRATOR JUSTICE MOSENEKE:** I am looking at your plackade. ELAH79. It is two, it is dated the 9th of June 2016.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: 2016, yes I can see that Justice.

ARBITRATOR JUSTICE MOSENEKE: In June 2016 14 mental health care users
15died.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes.

ARBITRATOR JUSTICE MOSENEKE: So when you were protesting and having a march and pleading with Mr Mosenoge and his senior, the MEC and Dr Manamela, 14 mental health care users that they had ordered to be moved, were dying.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: That is the thing, and in my testimony earlier I even said that already patients were dying. That was early days. Patients were dying already, but still despite of what we did, we got no answers. Actually that time they were so invisible. I think no one of them wanted to stalk to us.

ARBITRATOR JUSTICE MOSENEKE: And do you know why they would wait while you are protesting as you did, and you had a committee of families talking to them? They would wait for people to die in July. 32 people died in July.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes Justice.

10 **ARBITRATOR JUSTICE MOSENEKE:** 25 people died in August. Nine in September, 12 in October and 11 mental health care users died in November. Five more in December and this runs into January 2017.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes Justice.

ARBITRATOR JUSTICE MOSENEKE: Do you know why they did not respond? It
15 was one thing to ignore you at the beginning.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Ja.

ARBITRATOR JUSTICE MOSENEKE: But once people died and you marched, was there no comeback?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: That is what we were
20 wondering as well, because we thought then something will be done. We though

because early days as in May, I believe Christine's sister died. Actually, was it in June? Christine Numalo's sister.

ADV ADILA HASSIM: Died in August.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: They found out later, but I think it was earlier, like earlier already there were patients who were dying. There were patients who were lapsing already, relapsing already, but we could not, we were trying to penetrate them. When we had a march and we were trying to shout out loud, and honestly because when we sit and organise this, we were like maybe when we go out there and we involve the media and everybody else is aware, then government will stand up. What can really fix the government is when the media maybe is involved. Hence the march, but still unfortunately they were very hardened whoever they were.

ARBITRATOR JUSTICE MOSENEKE: Counsel, I am sorry I interrupted you.

ADV ADILA HASSIM: Not at all Justice.

15**ARBITRATOR JUSTICE MOSENEKE:** I could not resist. This is just such a shocking feature of this marathon project. That there were warning and amber lights and bright lights all over, suggesting do not do it, stop.

ADV ADILA HASSIM: And that is lay people. The family members.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes.

20**ADV ADILA HASSIM:** Could see what was going on, and the people who were responsible for the health of the mental health care users and the people who were

professionals and should have known better could not see it and you have just said that your strategy was to make it a public issue.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes.

ADV ADILA HASSIM: And so, and for the media to report on it.

5**MRS. MOELO MAMOGOTSO REBECCA MOFOKENG:** Yes.

ADV ADILA HASSIM: And did they report also that people were dying?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: The media did, because you know, I think somewhere that is maybe something that helped. Media helped us that this whole thing, that it is not being put under carpet, because it looks like
10government would do such and there has been other cases which actually the public, the community never knew of. They just put things under carpet. You know.

ADV ADILA HASSIM: Yes.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: So we were hoping that
15the media would you know shout, if it is everywhere on radios and on television and everywhere, now even communities would like okay, what is happening you know, and the government would now give us attention and say okay, let us talk or let us do something.

ADV ADILA HASSIM: So it was covered in the media?

20**MRS. MOELO MAMOGOTSO REBECCA MOFOKENG:** It was covered.

ADV ADILA HASSIM: And it was on TV programs.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Everywhere.

Newspapers, I can give you. Like it was everywhere.

ADV ADILA HASSIM: And this was in June 2016, around that time it was getting ... [interjects]

5**MRS. MOELO MAMOGOTSO REBECCA MOFOKENG:** Around that time even in, because when we had our marches already, we had about three marches. In May, was it in April if I am not mistaken, already and media people were involved. 702 used to do interviews and you know, of family members. We were giving them information that this is happening and nothing still happened.

10**ADV ADILA HASSIM:** So there could not have been anybody who did not know.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: There could not have been anybody who did not know. I heard some officials sitting here, someone was like I saw on the headlines I did not know. I saw on what I did not know, but it was all over there. It was all over there. Even the community, because even people
15around us, some would phone and say Moelo, we saw such and such. What is this about? Oh, we did not know. You know, so it was painted everywhere.

ADV ADILA HASSIM: Thank you. Finally, just in relation to your plea for criminal charges to be brought against the officials that are responsible and again I am not sure whether you were here during that testimony of Major General Johnson and
20the SAPS is investigating.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes.

ADV ADILA HASSIM: However, there were criminal charges that were laid at the police station by the EFF and by the DA, very early on. I cannot remember the date now, but Major General Johnson told us that the files were closed. The criminal charges were for murder and it was brought against the former MEC Mahlangu. But the files were closed according to Major General Johnson's testimony.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: I heard that. Hence I say that is the other thing. I do not know how our government operates, honestly. Because nothing is being done. How do we trust them going forward. You know, how do we deal with them going forward. It is draining. It is all ugly. I do not know, but hence I said again repeating myself I am hoping that this time maybe they will do something right.

ADV ADILA HASSIM: Mrs Mofokeng, there is some that would say that your, the reason that you were so public in your protest and the reason you went to the media, is because it had to do with politics, because you were playing a political game. What would you say to that?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: I would rubbish that. Excuse my language, because we were not, even as family representatives we were not formed against, no party was with us. In actual fact we have been saying, because I remember one person in our group posted to say you know, I know one of the I think it was the DA counsellor or whatever, we can maybe involve them and whatsoever, and then we said no, we do not want to attach ourselves with any political party or whatsoever that concerns with politics. This is just us and this is how we feel as families and this is just what we want to see happening for our

patients. For our family, for our what you call loved ones. So it was absolutely nothing to do with politics. Absolutely nothing. Not even close. Not even something that we were thinking about.

ADV ADILA HASSIM: Thank you Mrs Mofokeng. I do not have any further questions for you. Thank you for testifying and I wish your sister good health.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Thank you Counsel.

ARBITRATOR JUSTICE MOSENEKE: Just I am sure you will be, the neglect of putting men and women in the same ward at NGO's still continues to worry me. We had similar evidence, I am sure it might be put to you in relation to Siyabadinga.

10 **MRS. MOELO MAMOGOTSO REBECCA MOFOKENG:** Yes Justice.

ARBITRATOR JUSTICE MOSENEKE: Where the family representatives wrote a letter through one of them.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes Justice.

ARBITRATOR JUSTICE MOSENEKE: Complaining that sexually active men were being put in the same wards as women and that letter was handed in here as an exhibit by Mr Groenewald, but the more specific question to you is this. You have a sister who can speak and who has made the allegation and [vernacular
01:38:05]

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes Justice.

20 **ARBITRATOR JUSTICE MOSENEKE:** Somebody can interpret that. In our language we have an idiom that says a crime never goes bad. It never rots. So

should there not be a formal charge made by you helping your sister and others about the Takalani rape?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: I think that will help, because that will say no to the next patient. We must put a stop to this, otherwise it will continue.

ARBITRATOR JUSTICE MOSENEKE: Is that good enough for the sisters to say this is a good patient? I am just saying to you this is not directly relevant to what we are doing. But connected because NGO's at least three we know now Precious Angels, Siyabadinga, Takalani just through men and women into the same space and we have at least two direct allegations of rape. So I am just saying should you and your sister not support ... [inaudible] to relive that, make the accusation and the charge?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: We will consider that Justice.

15 **ARBITRATOR JUSTICE MOSENEKE:** Yes, and that the person will not be found guilty in the end or whatever, is neither here nor there.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes Justice.

ARBITRATOR JUSTICE MOSENEKE: It is an important ascertainment of herself, her dignity and her right to her body being respected and protected.

20 **MRS. MOELO MAMOGOTSO REBECCA MOFOKENG:** Yes Justice.

ARBITRATOR JUSTICE MOSENEKE: Very well, I said my swine song, but it has happened in the relevant period, and it leaves me wondering just how many female patients might have fallen victim.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: So many Justice, and again you know, with our government because some of the cases we, there was another case at home. We reported that and the guy, the next thing we saw the guy walking the streets, and when we enquire with the police they were like there were not enough evidence.

ARBITRATOR JUSTICE MOSENEKE: But within this project and you being a member of the family committee, do you know of other allegations of rape during the move, during the placement?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Not really Justice. Not really.

ARBITRATOR JUSTICE MOSENEKE: Counsel Groenewald?

ADV. DIRK GROENEWALD: Thank you very much Justice. Mrs Mofokeng, first of all I would like to thank you for coming and testifying. I know that to testify in such public proceedings is can be severely stressful but I want to thank you for coming and testifying. Being part of the family members that consulted with government, I would just like to take you to file 1, page 180. Someone can assist you.

ARBITRATOR JUSTICE MOSENEKE: While you are being assisted, Obakeng somebody should give this medical certificate an exhibit number please. Thank you. You may proceed Counsel.

ADV. DIRK GROENEWALD: Thank you Justice. File 1 page 180. 180.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: 180?

ADV. DIRK GROENEWALD: 180. It is the one in the black marker.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Okay, I can see this.

5**ADV. DIRK GROENEWALD:** Ja.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Okay, I am there.

ADV. DIRK GROENEWALD: Thank you madam. Madam, now this is minutes of a meeting between the Department of Health and SADAC. Now you can note there it is on the 30th of November 2015. The attendees your name is not there. You were
10not part of this meeting.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: I was, no on the 30th of November, I could not attend this meeting.

ADV. DIRK GROENEWALD: Okay. You could not ... [interjects]

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: I could not attend this
15meeting.

ADV. DIRK GROENEWALD: Okay. But you were informed of this meeting and you knew about the meeting.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes.

ADV. DIRK GROENEWALD: Alright. Now I am going to take you to the next page,
20page 181. I want to take you to the first sentence on that page:

“The HOD”

Which we know is Mr Selobano:

“The HOD discussed the need to desegregate patients from the Life facilities and to assess the social impact on patients and Employees of Life Esidimeni as instructed by the premier.”

Now my question is the following or before I make the question. It seems like the evidence of the government is that what happened with this marathon project was isolated to well the three main rogue employees. The MEC, the HOD and the project team and leaders, and that the top structures did not know anything of what happened.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: That is what we received.

ADV. DIRK GROENEWALD: Now from my reading here it seems like the premier had knowledge of the marathon project and knew of as the instruction to desegregate patients from Life Esidimeni, and I would just like to know from you being part of the consultations with government and so on, do you have any knowledge, first hand knowledge as to whether or not the premier, the minister or any high officials had knowledge of the marathon project and to what extent?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: First time actually when we knew from the premier’s mouth direct, is the day when the report of the Ombud was put out to the public. Right after the report the premier requested a meeting with family members. We all sat around the table. He said himself he was not

aware of all this. How sorry he was. He was so sympathetic. The minister, like they knew nothing. That is what we received from them. They were not aware of such, and we were like you would wonder, because I think in every work place, I am not too sure where other people work, but there will be reports and updates and 5 minutes and everything that is being done. Like you know, you send out reports like that. You report things as they happen. It does not matter what level you are sitting in a company. You can be a CEO but you will know. You would have people who would bring in, feed in information to say such and such is happening. This was a project and a huge project of mentally ill patients you know. We were surprised that 10 it was out of his knowledge as he was telling us, and then Mrs Masondo was sitting here and she says te premier knew, and everybody is just contradicting themselves. Like everybody from government, they are passing the ... [inaudible] like that. So we are actually, I myself I am very like I am disturbed. I am very angry with that. That how could he sit and, but now we are thinking okay, this is how they operate. 15 It is like it is running in their blood. It runs, that is how they operate all of them.

ADV. DIRK GROENEWALD: Thank you madam. I fully understand and I agree with your testimony that if you have regard to the media reports and so on, you know it is impossible that they could not know about it.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes.

20 **ADV. DIRK GROENEWALD:** But my question is a bit more specific. I want to know that you as a family that were part of the family members, the group that consulted with government, did you have any first hand knowledge, did somebody tell you well, it is the instruction of the premier or the premier has been informed or

do you have any first hand knowledge as to whether or not any higher official had knowledge of the marathon project?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Not really. Not really.

Even the meetings that we have been sitting at, we only knew of the people who were running the project that time and what they were giving us was that government, we do not have sufficient funds. This, the Life Esidimeni this is draining us. The funds are running dry, so we have to make some means and way to minimise that. But they did not mention any of saying maybe, or the minister said or the premier said.

10 **ADV. DIRK GROENEWALD:** Okay, and then madam just a second question. If we go further down the third last paragraph, stated there:

“While the ideal is for patients with psychiatric conditions to be deinstitutionalised, there is a pressing need for communities, families, NGO’s and day care facilities to be upskilled. The institutionalisation cannot take place without this. In order to ...
15 *[inaudible] fears and panic, it is crucial to involve families and give them information. Dr Manamela said that the families do not have to run around looking for alternative places. That is the job of the department.”*

Now my question is two fold. Firstly, do you know of any upskill projects that Dr Manamela and her team conducted with NGO’s?

20 **MRS. MOELO MAMOGOTSO REBECCA MOFOKENG:** Not of any.

ADV. DIRK GROENEWALD: Any. And it is clear that Dr Manamela tried to give the family reassurance that everything will be okay and will be fine.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: She did not try, she actually assured us.

ADV. DIRK GROENEWALD: She gave you an assurance.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes.

5**ADV. DIRK GROENEWALD:** And that was not the truth.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Opposite.

ADV. DIRK GROENEWALD: The opposite. Thank you very much madam, thank you for everything ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: Well, before you go away there Counsel,
10thank you for the reference, but look at middle of the page, just after the five bullet points:

“The HOD admitted that state wards are full and that is a concern. Dr Manamela mentioned that caregivers need to be upskilled and NGO facilities need to be licenced before they can take on any users.”

15Can you see that?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: I can see that Justice.

ARBITRATOR JUSTICE MOSENEKE: Did that happen?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Never. None of this happened. I think I mentioned earlier on my testimony that this is what we have
20been promised. That they were sure that the NGO’s are licenced. There is people

who will be there, being it nurses, whoever will be taking care of the patients will be people who are well skilled and who can very well take care of our patients. They will be in facilities which are of good, how shall I put it? Care. You know. For them. Suitable for them. They would not make a mistake of putting them somewhere
5where they would not cope.

ARBITRATOR JUSTICE MOSENEKE: Well, look at the minutes. The minutes says exactly that.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes.

ARBITRATOR JUSTICE MOSENEKE: At the top of 181. Can you see that?

10*“The HOD discussed the need to desegregate patients from the Life facility and to assess the social impact on patients and Employees of Life Esidimeni.”*

So they were aware that they had to assess the impact, not only on patients.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes.

ARBITRATOR JUSTICE MOSENEKE: But also on employees of Life Esidimeni.

15Remember we talked about it.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes Justice.

ARBITRATOR JUSTICE MOSENEKE: So they were aware that they had to do that.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes.

ARBITRATOR JUSTICE MOSENEKE: And later the HOD stated that when the Life contract was terminated, they did not want to endanger patients.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Correct Justice.

ARBITRATOR JUSTICE MOSENEKE: However, they looked only at costs and not at patient profiles. Do you know what that means? They do not want to endanger patients, but they only look at costs.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: That is what they have been, even when we had meetings with Dr Manamela and his team, when the project now has kicked in, that is what Dr Manamela told us. That no look, yes because we felt like is this really necessary for you to be done, and they were like yes, costs here has to be like saved and well managed. So unfortunately the exercise like it or not, has to happen. But the assurance is we would consider every angle necessarily that all is done correct in the right way. But hence I said even earlier on in my testimony that everything was in black and white, positively so. But the actions were an absolute different thing altogether.

ARBITRATOR JUSTICE MOSENEKE: Any more questions Counsel?

ADV. DIRK GROENEWALD: Justice, perhaps just one more question. Madam, if I could take you to page 169 of the same bundle. Once again and we are actually just reiterating the point, but I think it needs to be reiterated, but this is a letter again from SADAC dated the 26th of November 2015. You will note the termination of contract with Life, paragraph 2 it says:

“This letter serves to record a meeting and to request a response to various questions.”

Were you part of this meeting? The meeting was on the 23rd of November 2015.

Do you know of that meeting?

5 **MRS. MOELO MAMOGOTSO REBECCA MOFOKENG:** No. I was not part of this meeting.

ADV. DIRK GROENEWALD: You were not part of that meeting.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: No, I was not.

ADV. DIRK GROENEWALD: I just want to highlight one point further point there.

10 Page 170, paragraph 10.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Page 170?

ADV. DIRK GROENEWALD: 170, paragraph 10.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes.

ADV. DIRK GROENEWALD: *“Dr Manamela stated that families would be supported and that the department would work with the families through the process. The project team would be asked for time lines and a proper project plan would be compiled, together with a communication strategy.”*

Do you know whether or not that happened?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: This did not materialise
20 unfortunately. It was planned, that is how it was planned yes and it was a good plan

and that is how we wanted things to happen as well as family members, but unfortunately not.

ADV. DIRK GROENEWALD: Thank you very much madam.

ARBITRATOR JUSTICE MOSENEKE: Well, Dr Manamela gave us a project plan. 5A placement and discharge plan. It is one page. Look at ELAH71.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes Justice.

ARBITRATOR JUSTICE MOSENEKE: It is dated the 26th of April 2016. Can you see that?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: I can see that Justice.

10**ARBITRATOR JUSTICE MOSENEKE:** Signed by MJ Manamela, director mental health services. The title of this is Life Esidimeni LE contract termination, placement and discharge plans in the plural. Plans. Can you see that?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes Justice.

ARBITRATOR JUSTICE MOSENEKE: On one page.

15**MRS. MOELO MAMOGOTSO REBECCA MOFOKENG:** Yes Justice, I can yes.

ARBITRATOR JUSTICE MOSENEKE: What do you make of this? Did you ever see it before now?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: If I am not mistaken we, I think this was one of the, this was I think this was projected if I am not, ja this was

projected in one of our meetings that we had with the team and Dr Manamela as we were having meetings before the move.

ARBITRATOR JUSTICE MOSENEKE: It was put up on a projector, on a screen.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes Justice.

5**ARBITRATOR JUSTICE MOSENEKE:** But what does it tell us. We can see the year 2016. I can see the names of the institutions at the top. What do you make of it?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: They were giving, here I think they were trying to give us numbers on how are they going to make their 10moves, patients.

ARBITRATOR JUSTICE MOSENEKE: But my problem is that there are no how's there. There are just numbers.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes. That is the problem.

15**ARBITRATOR JUSTICE MOSENEKE:** And dates. Can you share any more light on this? You may not?

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: We, hence I said we, the last meeting that we have, the Mr Frans Thobani said to us they will send us now the final names of NGO's which have been now assessed and licensed, approved 20by the department and that will have now a number of patients that will be moved to particular NGO's. So ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: Well I see 604 as an example, patients from Waverley and adults at Baneng. 604 of them.

MRS. MOELO MAMOGOTSO REBECCA MOFOKENG: Yes Justice, but then unfortunately like you say it does not have any places. So now we never received 5that list. So we do not know ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: It is not clear when they will be taken, who they will be, what would be their illnesses or conditions, where would they be taken to, by whom and what kind of records and medication would be required to follow them. It is supposed to be the placement and discharge plan.

10**MRS. MOELO MAMOGOTSO REBECCA MOFOKENG:** Yes, that was the list that was supposed to be sent to us by Mr Frans Thobani, but then that never materialised. It was promised that because they have not done a final list, they can rather email that to us as family members, but we have never received that.

ARBITRATOR JUSTICE MOSENEKE: She said she had a plan and this is what 15she produced. That is why I was asking whether you had seen it and what your views are on it. Thank you. We are going to take the tea, any more questions? Are you done Counsel?

ADV. DIRK GROENEWALD: I am done.

ARBITRATOR JUSTICE MOSENEKE: Ja, when we come back after tea we will 20then call on Advocate Ngutshana and Advocate Hutamo and re-examination. We are adjourned to twelve o'clock.

22 NOVEMBER 2017

SESSION 2

ARBITRATOR JUSTICE MOSENEKE JUSTICE MOSENEKE: You are still under your previous oath to tell the truth. Advocate Ngutshana?

5**ADV PATRICK NGUTSHANA:** Thank you Justice Moseneke. Miss Mofokeng this march of June 2016, did you leave a memorandum?

MS MOELO MOFOKENG: No this one we didn't leave any memorandum.

ADV PATRICK NGUTSHANA: At which of these marches did you leave memorandums?

10**MS MOELO MOFOKENG:** It's the one which was from Methodist Church to Department of Health premises, that was after this date, later after this, that was the last march we had actually.

ADV PATRICK NGUTSHANA: After 9 June 2016?

MS MOELO MOFOKENG: Yes.

15**ADV PATRICK NGUTSHANA:** Do you still have a copy of the memorandum?

MS MOELO MOFOKENG: I should have, even though I am not too sure where it is, but that can be organised.

ADV PATRICK NGUTSHANA: Okay and in brief, what issues did you raise, in the memorandum?

MS MOELO MOFOKENG: We had concerns about the movement, the NGO's because already now patients were moved and we were now aware because we were going around NGO's families, families were going around finding where their loved ones are, so already we were experiencing discrepancies at NGO's.

5 **ADV PATRICK NGUTSHANA:** Would I be correct that already at the time there were deaths which had occurred?

MS MOELO MOFOKENG: Ja there were deaths that had already occurred that time, though maybe it wasn't much, but ja, we had concerns about the NGO's because the state of so many NGO's were not well off and then, we realised that
10 well, some of them didn't even have nurses and what is going to happen. So we had so many concerns.

ADV PATRICK NGUTSHANA: Yes and at one of these meetings you have had with these officials, did you also get an impression that- let me refer you to Peterson's evidence, Peterson's evidence was that Mosonoge was keen to listen to
15 you, but he seemed somehow to be under some power or control?

MS MOELO MOFOKENG: That's correct.

ADV PATRICK NGUTSHANA: Did you get the impression that this is what occurred with all the officials you dealt with?

MS MOELO MOFOKENG: Well that is what we found out when we got here, but
20 yes, with Mr Mosonoge like you could see that he would listen and I am sure he wanted to do something or he wanted things to be done differently, but unfortunately, there was like a force behind him. Even the day when he was

receiving the memorandum, it was like he was helpless, he was just, he couldn't say much, he couldn't tell us much, he couldn't answer us.

ADV PATRICK NGUTSHANA: So from the impression that you obtained, was that these people were simply under instructions, or did they have the power to decide on what is to happen on the project?

MS MOELO MOFOKENG: Not quite the time, but maybe particularly with him, it was like no, we will try and fix whatever, we will try and get things done appropriately and stuff like that, but otherwise with all of them, they were just giving us this is what we are promising you, we are going to do this project correctly so and we guarantee you that the lives of your loved ones will be cared for accordingly.

ADV PATRICK NGUTSHANA: And they understood all of the problems you had raised with them? They did not raise any issues?

MS MOELO MOFOKENG: Perfectly, they understood all of the problems and the concerns that we had and they were agreeing with us as well to say no, we know of mental patients, so this is what we are doing with so much care.

ADV PATRICK NGUTSHANA: And despite this understanding which you took note of, none of the assistants you requested, was received by any one of you, like for example being involved in the actual movement?

MS MOELO MOFOKENG: None, we initially- they invited us to come to go and view the NGO's with them, but like I was saying earlier on, they would notice us like later, at a very late stage, like if you are told now today, not even at night, you receive a mail maybe to say tomorrow, we are going to Cullinan. It is far, you have

to make arrangements, some of the family members didn't even have transport, some of us we are at work and we have to make arrangements to be absent at work before we go there, so we couldn't go, so those who were available, could manage to go on our behalf.

5 **ADV PATRICK NGUTSHANA**: So what would you say despite having raised all of these issues and you were not assisted, would you say that you were deliberately ignored?

MS MOELO MOFOKENG: Come again Counsel?

ADV PATRICK NGUTSHANA: Would you say that you were deliberately ignored
10 by these officials?

MS MOELO MOFOKENG: I will say so, because we were clear of what we want, or our wishes were very clear.

ADV PATRICK NGUTSHANA: So they could not have been mistaken about what issues you had with the project?

15 **MS MOELO MOFOKENG**: Not at all.

ADV PATRICK NGUTSHANA: Especially so that you had handed in memorandums to them.

MS MOELO MOFOKENG: Correct.

ADV PATRICK NGUTSHANA: And in these memorandums, you spelt out what
20 issues you had problems with?

MS MOELO MOFOKENG: Yes.

ADV PATRICK NGUTSHANA: Okay and you had been referred to a minute of 30 November 2015 on Page, that is Volume 1 Page 101, you don't have to go there, it is recorded that the HOD was concerned with costs, but the patients' profiles had not been looked into and it came out in your evidence, not only in your evidence, 5but the other witnesses, that there was SASSA grants which were paid to these institutions and there were monies which also came from the Department, so what I want to find out from you, a payment came through SASSA and from the Department and in the same breath, the concern was about costs. Would that be a cost saving exercise when you are receiving payments from different sources?

10**MS MOELO MOFOKENG:** It didn't make sense at all.

ADV PATRICK NGUTSHANA: Okay. Did you know whether there were other sources of income which were paid to these NGO's from government other than this?

MS MOELO MOFOKENG: If I may talk of the one that held my sister, that lady was 15not getting anything from government, but yes, she did say, we asked her about my sister's grant, so she was receiving my sister's grant and at a later stage, I think maybe after a few months, she said the Department was paying her to 2.5.

ADV PATRICK NGUTSHANA: That is monthly?

MS MOELO MOFOKENG: That is for monthly.

20**ADV PATRICK NGUTSHANA:** 2.5 that she was receiving from the Department and then over and above the 2.5 monthly for your sister, she received grant's as well I suppose?

MS MOELO MOFOKENG: Well she said to us that she doesn't have other ID's and cards for other patients, so she is not receiving for all of them.

ARBITRATOR JUSTICE MOSENEKE JUSTICE MOSENEKE: The R2 500 is that a monthly figure?

5**MS MOELO MOFOKENG**: That is what she said she was given monthly.

ADV PATRICK NGUTSHANA: So again, coming back to the issue of costs, would you agree with the claim that this was about a cost saving exercise?

MS MOELO MOFOKENG: I wouldn't agree, I am not too sure how they were saving costs here, as you heard other evidence that came forth. An owner of an
10NGO was receiving grants for these patients and they were getting paid by the Department, a lump sum whatever, so how they were saving costs and again, our concern was that yes, our patients are getting grants, so from that grant, I am sure there is an additional of money that goes that maybe the government is putting in for them to survive going forward, so what is the problem exactly.

15**ADV PATRICK NGUTSHANA**: Yes so it doesn't make sense all these claims that they were saving costs.

MS MOELO MOFOKENG: Altogether.

ADV PATRICK NGUTSHANA: Okay, then lastly you had made mention that your sister was in Takalani in 2010. Is it 2010?

20**MS MOELO MOFOKENG**: 2002 to 2003 she was in Takalani.

ADV PATRICK NGUTSHANA: Sorry 2010, she was in Waverly, Life Esidimeni?

MS MOELO MOFOKENG: Yes.

ADV PATRICK NGUTSHANA: In 2002 to 2003 at Takalani, that is where this incident, this unfortunate incident of rape occurred?

MS MOELO MOFOKENG: Correct Counsel.

5**ADV PATRICK NGUTSHANA**: Okay and you have not taken any steps to report this within the institution?

MS MOELO MOFOKENG: Well we did not at all, we didn't do anything.

ADV PATRICK NGUTSHANA: Okay and from back then, I know that it may not be, but seeing there is some form of corroboration of a similar incident, it appears that it
10was not an isolated incident, I want to find out about this, what was the- if you still remember, what was the ratio of females to males then at Takalani?

MS MOELO MOFOKENG: I cannot really say, I am not too sure.

ADV PATRICK NGUTSHANA: And in the ward in which your sister was in?

MS MOELO MOFOKENG: Even in the ward where she was in, I can't remember
15so well, but in her ward, it was just females.

ADV PATRICK NGUTSHANA: But they would freely mix amongst themselves?

MS MOELO MOFOKENG: Exactly, that's now what we have learnt, that it means they will just mix around any time, whether it be lunch time, or whether when they have to go and play outside or whatever, they would just get mixed around and it
20means they were not monitored.

ADV PATRICK NGUTSHANA: And now we have this incident which apparently occurred in 2015 and 2016 from the affidavit that you referred to that apparently there was another rape. Would you confirm that this is as it appears, not an isolated incident?

5**MS MOELO MOFOKENG**: I confirm that yes.

ADV PATRICK NGUTSHANA: Okay thank you Justice Moseneke, I have nothing further.

ARBITRATOR JUSTICE MOSENEKE JUSTICE MOSENEKE: Thank you. Counsel?

10**ADV TEBOGO HUTAMO**: Thank you Justice. Ms Mofokeng good afternoon, we really want to thank you for coming through to give an account relating to your involvement in relation to the relocation or the transfer of your sister from Waverley to [Anani] and you have testified that pursuant to the transfer of your sister to [Anani], you made efforts to visit the facility?

15**MS MOELO MOFOKENG**: Yes.

ADV TEBOGO HUTAMO: And of your concern were issues relating to food and security?

MS MOELO MOFOKENG: Correct Counsel.

ADV TEBOGO HUTAMO: And we want to express our regret in the manner in
20which the project was actually managed and from your evidence, it came out that

you are concerned about the future of the mental healthcare users at these facilities?

MS MOELO MOFOKENG: Correct Counsel.

ADV TEBOGO HUTAMO: We have heard evidence from Mr Andrew Peterson, do you know him?

MS MOELO MOFOKENG: Yes I do.

ADV TEBOGO HUTAMO: He has been appointed to the Review Board which oversees the facilities which assist or essentially he is the ears and the eyes on behalf of the family members in respect of the mental healthcare users, are you aware of that?

MS MOELO MOFOKENG: Correct Counsel I am aware.

ADV TEBOGO HUTAMO: Have you been able to make contact with him with regard to any issues which may be of your concern in relation to your sister at Waverly?

15 **MS MOELO MOFOKENG**: Not really per say to him, but we have had a meeting recently with other family members of surviving patients and we all raised our concerns in that meeting of now where patients are and what is happening, are we happy, have we seen now the facilities back at Life Esidimeni, have we seen how things are, is there anything that we are not happy about and every issue or
20 concern raised in that meeting, were drafted down to be submitted to his department.

ADV TEBOGO HUTAMO: And from your testimony, it came out that you have said that your sister appears to be happy after being relocated back to Waverly?

MS MOELO MOFOKENG: Correct Counsel.

ADV TEBOGO HUTAMO: And if there are any concerns, you know the channel to follow to raise those issues?

MS MOELO MOFOKENG: Correct Counsel.

ADV TEBOGO HUTAMO: On that note, we just want to thank you for your contribution, as the government is committed to try and ensure that the interests of the mental healthcare users are being looked after, hence there has been an appointment of one of the family members affected by the marathon project and we hope that we should be able to find a way forward in ensuring that the rights and interests of the mental healthcare users are being catered for. We just want to say we have to put effort from the government point of view as well as from the families' side and in that way, we will be able to achieve positive results in relation to the interests of the mental healthcare users and on that basis, we will not pose any further questions to you.

MS MOELO MOFOKENG: Thank you Counsel.

ARBITRATOR JUSTICE MOSENEKE JUSTICE MOSENEKE: Ms Moelo Mofokeng [Xhosa]

MS MOELO MOFOKENG: She was named after one of my grandmother's.

ARBITRATOR JUSTICE MOSENEKE JUSTICE MOSENEKE: So you have a grandmother with [inaudible] spirit?

MS MOELO MOFOKENG: Yes.

ARBITRATOR JUSTICE MOSENEKE: And what does that mean?

5**MS MOELO MOFOKENG:** I don't know.

ARBITRATOR JUSTICE MOSENEKE: [Xhosa]

MS MOELO MOFOKENG: I don't know, I was also named after my 2 grandmother's.

ARBITRATOR JUSTICE MOSENEKE: So it's a family name, it comes out the
10lineage.

MS MOELO MOFOKENG: Yes Counsel.

ARBITRATOR JUSTICE MOSENEKE: Okay I accept that.

MS MOELO MOFOKENG: Justice like I said earlier on, I hope there are measures taken as government, to see that mental ill patients are well taken care of. Where
15there is a gap or a need to fix things, like this is what the Department of Health is working on, I believe so and I hope everything will transpire at the end of the day, we will see the works that have been done behind the scenes. I am sure like it should be visible at all facilities because if I may put it here, we struggle Justice actually to even locate mentally ill patients. It is a hassle to get your patients placed
20in one of these facilities, so I hope that the Minister of Health is really up in arms to fix this and to make it easier for us, because if you have a cry and you come and

say- look I cannot just push a patient or my family member to a hospital or to any medical institution to say take care of this patient unless there is a concern and because we lack resources, I think that is one of the things that government will look at in the Department of Health, that there are enough resources for our patients, 5where they are, how they are treated and again, even the issue of communities being trained or being made aware of what mental illness is and in your community if there are such patients, we have seen in the past, there was a story of a lady who was gang-raped, she was mentally ill and that was in Soweto I believe, it was all over in the news and in media. The mother went to the police to report and she 10tried really for her child to be placed and that really took her forever, it never happened until everything was on media and that was when the Department of Health came in and took her child to an institution, but damage was done already, so I am sure Justice everybody is getting paid for what they do. Nobody is doing anybody a favour, so can people occupy offices with respect and can they occupy 15offices and do exactly what they, when they got there and say this is the job I am looking for, or this is what I can do, can they just go there and do exactly that without being pushed, without any favours. I think then things will be better.

ARBITRATOR JUSTICE MOSENEKE: Thank you Mam. Again from my side, thank you for coming, this tale has to be told and we should constantly search for 20solutions and we can't do that unless we know what the problem is, so your evidence was very important, you are excused.

MS MOELO MOFOKENG: Thank you Justice.

ARBITRATOR JUSTICE MOSENEKE: Counsel Hutamo?

ADV TEBOGO HUTAMO: Thank you Justice, we would like to call a witness on behalf of the government, Alfred Rasidzoge.

ARBITRATOR JUSTICE MOSENEKE: Your full names?

MR A.N. RASIDZOG: Alfred Rasidzoge Nwagu.

5**ARBITRATOR JUSTICE MOSENEKE**: Would you spell your last name?

MR A.N. RASIDZOG: N-W-A-G-U.

ARBITRATOR JUSTICE MOSENEKE: Rasidzoge is your middle name?

MR A.N. RASIDZOG: That's my surname.

ARBITRATOR JUSTICE MOSENEKE: Well that's what I'm trying to get at your
10surname. For the record, I would like you to help me spell your surname?

MR A.N. RASIDZOG: R-A-S-I-D-Z-O-G-E

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

15**MR A.N. RASIDZOG**: So help me God.

ARBITRATOR JUSTICE MOSENEKE: In what language do you choose to testify?

MR A.N. RASIDZOG: English.

ARBITRATOR JUSTICE MOSENEKE: In English, very well Counsel?

ADV TEBOGO HUTAMO: Thank you Justice. Can you just tell this Tribunal where are you currently employed?

MR A.N. RASIDZOGÉ: I am stationed at Cullinan Care and Rehab Centre.

ADV TEBOGO HUTAMO: Under which department?

5**MR A.N. RASIDZOGÉ**: Department of Health.

ADV TEBOGO HUTAMO: In what capacity are you employed at the Cullinan Rehabilitation Centre?

MR A.N. RASIDZOGÉ: I am the Manager for FMU, Facility Management Unit.

ADV TEBOGO HUTAMO: And what would your responsibilities at the facility
10entail?

MR A.N. RASIDZOGÉ: Okay that would be the management of the buildings, machinery and also the mortuary.

ADV TEBOGO HUTAMO: Okay thank you, if I can just take you back, since when have you been employed in that capacity?

15**MR A.N. RASIDZOGÉ**: That would be 1st September 2012.

ADV TEBOGO HUTAMO: And you have been in that position since to-date?

MR A.N. RASIDZOGÉ: Yes.

ADV TEBOGO HUTAMO: Can you just assist this Tribunal by giving an account of the state of the mortuaries during the period 2015 and 2016?

MR A.N. RASIDZOGÉ: Okay in fact every year, our mortuary needs to be serviced around the first quarter and then we will have to request the service from the DID people-

ADV TEBOGO HUTAMO: Okay before you proceed, can you just give an indication of the capacity of the mortuary at the centre?

MR A.N. RASIDZOGÉ: Okay the building itself is something like 4 x 5 metres, it has got 3 cabinets inside, there is a table and also 3 doors and also the basins.

ARBITRATOR JUSTICE MOSENEKE: Sorry 3 cabinets, for what use?

MR A.N. RASIDZOGÉ: To store the corpses inside.

10 **ARBITRATOR JUSTICE MOSENEKE**: So the cabinets would be where the corpses are kept?

MR A.N. RASIDZOGÉ: Yes.

ARBITRATOR JUSTICE MOSENEKE: How many corpses was it able to take in full capacity?

15 **MR A.N. RASIDZOGÉ**: 3 cabinets.

ARBITRATOR JUSTICE MOSENEKE: So it's only 3 corpses at a time?

MR A.N. RASIDZOGÉ: Yes.

ARBITRATOR JUSTICE MOSENEKE: And what else is there besides the 3 cabinets?

MR A.N. RASIDZOGÉ: A table that has got the taps and also the basins and also the built-in cabinets for the records.

ARBITRATOR JUSTICE MOSENEKE: Thank you.

ADV TEBOGO HUTAMO: You had just commenced giving an account of the condition during the period 2015 and 2016 can you, proceed, in doing that?

MR A.N. RASIDZOGÉ: Okay according to the plan that the Department of Infrastructure gave us-

ARBITRATOR JUSTICE MOSENEKE: Sir I ask you to throw your voice this side so that the broad community can hear you.

10 **MR A.N. RASIDZOGÉ**: Every year, our mortuary needs to be serviced once and then usually it is in the first quarter, so we will have to put a request to the Department of Infrastructure, so that they can forward the contractor to come and do the service. So every year since 2015/2016, it was going well, like this 2017-

ARBITRATOR JUSTICE MOSENEKE: Where is the Department of Infrastructure located? In which Department in the province, in national government, in local government, where is it located?

MR A.N. RASIDZOGÉ: Okay with the institution, we have got a local office, but sometimes we deal with the district office.

ARBITRATOR JUSTICE MOSENEKE: Is it a national department or a provincial department?

MR A.N. RASIDZOGÉ: It's a provincial department.

ARBITRATOR JUSTICE MOSENEKE: Thank you.

ADV TEBOGO HUTAMO: If you can just put the mic closer to you, so that you can be audible. You can then proceed with that account of the state of the mortuary? You had just finished giving an account of how it is set up. If you can proceed?

5**MR A.N. RASIDZOGÉ**: Okay like I said, every year, we will request that service from the DID, so the DID will then appoint the contractor and they forward the contractor to come and service the mortuary.

ADV TEBOGO HUTAMO: You are aware of the transfers of mental healthcare users from Life Esidimeni to Cullinan not so?

10**MR A.N. RASIDZOGÉ**: Yes.

ADV TEBOGO HUTAMO: Can you just give an account as to what was the condition of the mortuary at that particular period?

MR A.N. RASIDZOGÉ: So the mortuary was working.

ADV TEBOGO HUTAMO: If you can be assisted, there is a file of documents which
15is supposed to be before you. I would want you to turn to a section referred to as ELA53. This Tribunal had requested a written report on the state of the mortuary at Cullinan Rehabilitation Care Centre and I just want you to state if you are familiar with that document?

MR A.N. RASIDZOGÉ: Yes I am familiar with it.

20**ADV TEBOGO HUTAMO**: To what extent have you been involved in its drafting?

MR A.N. RASIDZOG: I asked the manager for the FMU, some of the information has been resourced from my office.

ADV TEBOGO HUTAMO: And can you just read for the record, what is the document, the subject of the document?

5**MR A.N. RASIDZOG**: The status of the Cullinan Care and Rehabilitation Centre mortuary.

ADV TEBOGO HUTAMO: So you say you have been involved in its compilation?

MR A.N. RASIDZOG: Yes.

ADV TEBOGO HUTAMO: I am going to refer you to Page 2 of that document and
10Item Number 1, where it is recorded that late Mr Gumede Joseph died on 24-07-
2016 and was transferred to Mamelodi Hospital on the 16-08-2016 due to the
mortuary not working properly at 11 degrees Celsius. Mr Rasidzoge the Assistant
Director Administration and Logistics handed over the corpse to Grace For You
Funeral Service in a good condition, do you see that?

15**MR A.N. RASIDZOG**: Yes.

ADV TEBOGO HUTAMO: I want you to assist in giving an account of the state of
the mortuary at that specific date referred to in that paragraph.

MR A.N. RASIDZOG: Okay every day, there is a person who is dedicated to
check the mortuary and then the temperature of the mortuary is supposed to be
20between 1 and 10, so on that particular day, it gave us a reading of 11, that is when
we immediately said we need to move the corpse to Mamelodi Hospital.

ADV TEBOGO HUTAMO: Okay still in the same file, if you can turn to ELA52 like before that document, there will be a document ELA52, then can you turn to Page 3 of that document. Do you recognise that document?

MR A.N. RASIDZOGÉ: Yes.

5**ADV TEBOGO HUTAMO**: Can you explain what, is, the nature of the document?

MR A.N. RASIDZOGÉ: This is the document that originated from my office to Mamelodi where we were requesting them to store the corpse for us.

ADV TEBOGO HUTAMO: Who is the author of the document?

MR A.N. RASIDZOGÉ: I am the one who wrote the document.

10**ADV TEBOGO HUTAMO**: Yes and then can you just explain the content of the document?

MR A.N. RASIDZOGÉ: Ja in fact I was requesting Mamelodi to assist us by storing the corpse, because our mortuary then was out of the range, meaning that it was then starting to be above 10.

15**ADV TEBOGO HUTAMO**: And at the time when the reading was at 11, what was the condition of the corpse?

MR A.N. RASIDZOGÉ: The condition was still fine.

ADV TEBOGO HUTAMO: And upon discovering that the temperature was at 11 degrees Celsius, after how long was the corpse transferred to Mamelodi as per your
20request?

MR A.N. RASIDZOG: Immediately writing this letter, we had to all these other logistics of phoning the undertakers, so that they can come and pick the body, but around 6:00 on the same day, the temperature was the back, but we had to continue with the transfer of the corpse to Mamelodi since we now had a situation of 5the temperature getting out of the range.

ADV TEBOGO HUTAMO: And then you say that the corpse was ultimately transferred to Mamelodi Hospital despite the change of the temperature at the mortuary?

MR A.N. RASIDZOG: Yes.

10**ADV TEBOGO HUTAMO**: And can you then proceed to give an account as to what then transpired after the corpse has been transferred to Mamelodi Hospital with regard to the attendance to the mortuary?

MR A.N. RASIDZOG: Okay the report that I got from the person who is attending the reading every morning, they said to me, they suspect that if this mortuary is 15going out of the range, obviously it might be having a problem of which they attended to it.

ADV TEBOGO HUTAMO: Was it attended to?

MR A.N. RASIDZOG: Yes it was attended to.

ADV TEBOGO HUTAMO: And after the conditions having been attended to, can 20you give an account what has been its condition from then to-date?

MR A.N. RASIDZOGÉ: No from I think it was from the same period that you stated, the mortuary is now within the range that is 1 to 10.

ADV TEBOGO HUTAMO: And has there been any corpse that decomposed whilst under your care?

5**MR A.N. RASIDZOGÉ:** No.

ADV TEBOGO HUTAMO: Okay. I just want to take you back to ELA52 at Page 3, so that you can read into the record, exactly what steps were taken upon discovery of the malfunction of the mortuary at the time. Can you just read the content of the document starting from the date on which it was written and the subject in reference
10to the corpse of Mr Joseph Gumede?

MR A.N. RASIDZOGÉ: Okay date 16 August 2016, subject- request to store our corpse in your facility (mortuary) Cullinan Care and Rehab Centre is experiencing a problem with the mortuary facility which is not working. Currently our mortuary space takes only 3 corpses. We would like to have a long term arrangement with
15your hospital in case we are unable to cater for more than 3. Currently we are requesting your assistance to store a corpse in your mortuary. Particulars of the deceased are as follows, Mr Gumede Joseph ID 575035432089, the corpse will be collected as soon as we get our mortuary working, yours in the public service, regards.

20**ADV TEBOGO HUTAMO:** And then the signatory is yourself?

MR A.N. RASIDZOGÉ: Yes I am the one who signed.

ADV TEBOGO HUTAMO: Okay and then if you can go to ELA53, the second page, the paragraph that I have already read, you have stated the corpse of Mr Gumede was handed over in good condition and whilst under your care, there has been no case during which a corpse had to decompose.

5**MR A.N. RASIDZOGÉ**: Yes.

ADV TEBOGO HUTAMO: Okay thank you, there are no further questions Justice.

ARBITRATOR JUSTICE MOSENEKE: Yes thank you, what you have not read into the record is Paragraph 3 of ELA53. Could you read that on Page 1, you can start from the second paragraph?

10**MR A.N. RASIDZOGÉ**: Before 2015/2016 financial year, the mortuary used to stay for more than one or two years without being used. Every time we had a corpse, the mortuary would be used which then we did not have any problem. In the late 2016, our mortuary started to have a challenge because the temperature reading was then 10 degrees Celsius plus, then we requested the agent repair from the
15Department of Infrastructure Development and the service was done (the mortuary had leaking gas then) which was addressed and the service was also done. The request to repair form is attached for ease of reference. The next service was supposed to have taken place already. A follow-up is being done with the DID who are awaiting the service provider to be appointed. We will monitor the situation
20closely. The incident – during the time that the mortuary was under service and repair, the corpses were transferred to other areas. Following is the list of transfer corpses.

ARBITRATOR JUSTICE MOSENEKE: So the essence of this evidence, is nothing went wrong under your command isn't it?

MR A.N. RASIDZOGÉ: Yes Justice.

ARBITRATOR JUSTICE MOSENEKE: And any suggestion that any of the corpses kept at the mortuary in 2016 went bad, would be incorrect?

MR A.N. RASIDZOGÉ: Yes Justice.

ARBITRATOR JUSTICE MOSENEKE: I understand, Counsel?

ADV ADILA HASSIM: Thank you Justice. If we could begin with your statement that no corpse decomposed while under your care and if I could refer you to ELA52, there was one aspect of it which was not put to you on the first page. ELA52 is the state of the mortuary at Mamelodi Hospital and bullet point 2 on the first page, it says according to the mortuary supervisor Mr Boodah, the deceased came already decomposed, because Cullinan indicated the challenge on their side of the mortuary not functioning well. That contradicts your earlier testimony that the body of Mr Joseph Gumede was in good condition. Do you want to respond to that?

MR A.N. RASIDZOGÉ: Yes Counsel. The letter that we wrote to Mamelodi, stated that our mortuary had a challenge and that was on the 16th, so it was also on the 16th that the body was removed from Cullinan to Mamelodi.

ADV ADILA HASSIM: Yes but that doesn't really answer the question. The point is you said that no body decomposed under your care, but in fact there is evidence to

the contrary by the mortuary supervisor on the Mamelodi side who says that Mr Joseph Gumede's body had arrived in a decomposed state.

MR A.N. RASIDZOGI: No maybe to answer that statement, as far as the information that I have, is that I am the one who handed the body over to the undertaker and I had to open the body to examine the body before I handed it over to the guy who was collecting it and the body was fine.

ADV ADILA HASSIM: So this is not correct, this is a lie that is in ELA52, is that what you are saying?

MR A.N. RASIDZOGI: Yes.

10 **ARBITRATOR JUSTICE MOSENEKE**: But you are talking about an undertaker. I don't understand that? You mean the undertaker who took the body from you to Mamelodi Hospital mortuary?

MR A.N. RASIDZOGI: Yes.

ARBITRATOR JUSTICE MOSENEKE: Who was that undertaker?

15 **MR A.N. RASIDZOGI**: Grace for You.

ARBITRATOR JUSTICE MOSENEKE: And in what form was the body given to- covered in what?

MR A.N. RASIDZOGI: It was covered in shroud.

ARBITRATOR JUSTICE MOSENEKE: Who shrouded the body?

20 **MR A.N. RASIDZOGI**: I understand it's the nursing department.

ARBITRATOR JUSTICE MOSENEKE: How long was the body in your mortuary?

MR A.N. RASIDZOGÉ: It was stored there from the 24th of the previous month up until the 16th when it was removed.

ARBITRATOR JUSTICE MOSENEKE: 24th of July to the 16th.

5**MR A.N. RASIDZOGÉ**: Yes.

ARBITRATOR JUSTICE MOSENEKE: Just at the time when your temperature was above 10?

MR A.N. RASIDZOGÉ: Like I said, every day there is a person who is dedicated-

ARBITRATOR JUSTICE MOSENEKE: No just deal with the question. Was it at
10the same time when the mortuary was faulty?

MR A.N. RASIDZOGÉ: Ja the same day then we had to remove it immediately.

ARBITRATOR JUSTICE MOSENEKE: But it was there for 3 weeks. Let's start again. When did Mr Gumede die? In other words, simply how long was Mr Gumede in your mortuary?

15**MR A.N. RASIDZOGÉ**: From the 24th to the 16th.

ARBITRATOR JUSTICE MOSENEKE: That is 3 weeks.

MR A.N. RASIDZOGÉ: 3 weeks yes.

ARBITRATOR JUSTICE MOSENEKE: And the 3 weeks, where the 3 weeks during which your mortuary was faulty, is that correct?

20**MR A.N. RASIDZOGÉ**: No the mortuary was working.

ARBITRATOR JUSTICE MOSENEKE: When was your mortuary not working?
Why did you have to write the letter if the mortuary was working?

MR A.N. RASIDZOGÉ: Okay every day the person who is taking the reading, then they realised that it is out of range, so immediately then we had to remove the body, 5the same day.

ARBITRATOR JUSTICE MOSENEKE: How do you mean immediately? The body was there for 3 weeks.

MR A.N. RASIDZOGÉ: And then the mortuary was working.

ARBITRATOR JUSTICE MOSENEKE: And then your colleague in Mamelodi signs 10a statement telling lies that the body was decomposed. You are under oath Sir, I am going to look for that person, I am going to subpoena them here, so to the undertaker, because this family is deeply hurt and the body was with you for 3 weeks at a time when you tell me your mortuary was not reliable, it was not staying within the range of the coldness. I want to give you an opportunity to think again 15and give us an answer. Counsel you can proceed?

ADV ADILA HASSIM: Thank you Justice. Mr Rasidzoge you say it was working in the time that Mr Joseph Gumede's body was lying in the mortuary, which was from 24 July until 16 August 2016. So you are saying that between 24 July 2016 and 16 August 2016, it was working?

20**MR A.N. RASIDZOGÉ**: Yes it was working.

ADV ADILA HASSIM: And that is 23 days that the body of Joseph Gumede was in the mortuary. Now if you look at ELA53 and specifically Page 3, can you tell us what this document is?

MR A.N. RASIDZOG: This was the report that was forwarded to Doctor Kenoshi.

5**ADV ADILA HASSIM**: Okay let me try again, you are looking at ELA53 Page 3, it says access certificate, do you see that? So can you tell me what this document is please?

MR A.N. RASIDZOG: That will be Page 5, the one that you are referring to?

ADV ADILA HASSIM: Page 3.

10**ARBITRATOR JUSTICE MOSENEKE**: Mine is marked Page 5 access certificate.

ADV ADILA HASSIM: My annexure seems to be in a different order Justice, so let me say the relevant document is access certificate for use with any C3 engineering and construction contract.

ARBITRATOR JUSTICE MOSENEKE: That's the one.

15**ADV ADILA HASSIM**: Okay so can you tell us what that document is?

MR A.N. RASIDZOG: So this is the access certificate for the company that was forwarded to service the mortuary.

ADV ADILA HASSIM: And it's Funzo Air-Conditioning?

MR A.N. RASIDZOG: Yes.

ADV ADILA HASSIM: Is this the document that requests them to come and service the mortuary?

MR A.N. RASIDZOGÉ: Yes.

ADV ADILA HASSIM: And do you see what date it is?

5**MR A.N. RASIDZOGÉ**: The 29th of July.

ADV ADILA HASSIM: It was the same time as Mr Joseph Gumede was lying in your mortuary. It had already been there for 5 days by this point in time.

MR A.N. RASIDZOGÉ: Yes.

ADV ADILA HASSIM: And this access certificate is requesting a service and in the
10middle of that page, it says the access date is and then there is a handwritten note, what does it say?

MR A.N. RASIDZOGÉ: 29th of July.

ADV ADILA HASSIM: Access date is?

MR A.N. RASIDZOGÉ: 29th July.

15**ADV ADILA HASSIM**: There is a word before that.

ARBITRATOR JUSTICE MOSENEKE: Counsel is drawing your attention to the words before the date.

MR A.N. RASIDZOGÉ: Emergency.

ADV ADILA HASSIM: Emergency so in fact the mortuary was not working on the
2029th of July.

MR A.N. RASIDZOGÉ: It was working.

ADV ADILA HASSIM: Why did you need to have an emergency request?

MR A.N. RASIDZOGÉ: Okay let me try to go back a little bit for me to answer this one, like I said every year we request these guys from DID to service our mortuary so on the 25th of June, we requested the service from them and then they forwarded the contractor on the 22nd of July, so on the 23rd, they were on site to do the servicing of the mortuary. So on the 24th that is when after the mortuary was serviced on the 23rd that is when we had the corpse of Mr Gumede. Then all these other logistics like this access certificate, they were all done after the mortuary was serviced on the 23rd of July.

ADV ADILA HASSIM: So why a few days later, are you making an emergency request, I am sorry, I am not following your answer?

MR A.N. RASIDZOGÉ: Okay we requested this service on the 25th of June as it is supposed to be serviced every year.

15 **ADV ADILA HASSIM**: Okay this document is signed 29 July 2016, do you agree with that?

MR A.N. RASIDZOGÉ: Yes.

ADV ADILA HASSIM: On 29 July, there is an emergency request to service the mortuary correct?

20 **MR A.N. RASIDZOGÉ**: Yes.

ADV ADILA HASSIM: I am saying to you that the mortuary wasn't working and that is why you needed an emergency request to repair it.

MR A.N. RASIDZOGÉ: Ja let me just go back again. The mortuary was serviced on the 23rd of July. These other logistics were done after.

5**ADV ADILA HASSIM**: After the 23rd of July?

MR A.N. RASIDZOGÉ: After the mortuary was serviced on the 23rd.

ADV ADILA HASSIM: Who serviced the mortuary, the same people?

MR A.N. RASIDZOGÉ: Funzo and they were requested by DID.

ADV ADILA HASSIM: So you're saying on the 23rd of July, they serviced the
10mortuary and 6 days later, you had to do an emergency request for a further
service?

MR A.N. RASIDZOGÉ: Okay let me try to put it again.

ADV ADILA HASSIM: No, but it's simple. Was the mortuary working on the 29th of
July?

15**MR A.N. RASIDZOGÉ**: It was working.

ADV ADILA HASSIM: So why did you make an emergency request for another
service?

MR A.N. RASIDZOGÉ: It was for the same service that was done on the 23rd.

ARBITRATOR JUSTICE MOSENEKE: What do you mean? Every time you talk
20about a date, give us the month and the year please. We are recording all this and

it should be readable and understandable to anybody who is not here, let's start again. The question is why did you ask for an emergency service on the 29th of July if the mortuary had been serviced shortly before then?

MR A.N. RASIDZOGÉ: The request was forwarded on the 25th of June 2016 and 5 then because these guys were not coming, we had to make a follow-up with DID to say guys, you need to come and service our mortuary because now we starting to have the corpses that we need to store there.

ARBITRATOR JUSTICE MOSENEKE: Why did you make the follow-up?

MR A.N. RASIDZOGÉ: To request them to come and attend to it.

10 **ARBITRATOR JUSTICE MOSENEKE**: Yes why did you make the follow-up?

MR A.N. RASIDZOGÉ: It is supposed to be serviced every year during the same quarter that is why we had to make a follow-up.

ADV ADILA HASSIM: So they hadn't serviced it by then?

MR A.N. RASIDZOGÉ: By then it was not serviced.

15 **ARBITRATOR JUSTICE MOSENEKE**: This was not the first quarter. You told us in your evidence you service normally in the first quarter.

MR A.N. RASIDZOGÉ: Ja the first quarter.

ARBITRATOR JUSTICE MOSENEKE: This was in July, so I am asking you why did you ask for a service outside the normal cycle?

MR A.N. RASIDZOG: No it was done on the 25th of July that would be the first quarter.

ARBITRATOR JUSTICE MOSENEKE: The first quarter is to the 25th of July, just help me?

5**MR A.N. RASIDZOG**: Okay maybe I am confusing myself, but I am reading the quarter from April to the end of June, so from the second quarter that will be the 25th of July, that is when we made a request to DID.

ARBITRATOR JUSTICE MOSENEKE: You give us evidence about service in the first quarter, what do you mean by that, let's just clear the deck. We are not trying
10to catch you. We have families who are very unhappy, they found decomposed bodies from your mortuary and that is what the enquiry is about. It is not about how clever you are, I just want the facts and that is what Counsel is trying to do. We want to understand what was happening there and why these poor families had to be confronted with corpses, that, were, smelling, that, is, what it is about. Let's go
15and try again please.

ADV ADILA HASSIM: Thank you Justice. What do you understand by the first quarter of the year? What months count as the first quarter for you?

MR A.N. RASIDZOG: That will be April May June and July.

ADV ADILA HASSIM: 4 months, there are 12 months in a year, divided by 4 to
20make a quarter will be 3 months, so it will be April May and June.

MR A.N. RASIDZOG: Ja that will be the second quarter.

ADV ADILA HASSIM: April May June in your understanding, is the first quarter of the financial year?

MR A.N. RASIDZOG: That's what I said, that now I am under correction to say the first request that we made from our section, was on the 25th of June.

5**ADV ADILA HASSIM**: Okay I have no evidence about the 25th of June, but what we can say based on what you are explaining to us as far as the quarters go, is that we are in July and July is the second quarter of the year, is that right?

MR A.N. RASIDZOG: Okay.

ADV ADILA HASSIM: Don't say okay, because if I am wrong, I would prefer it if you
10told me I am wrong. Is it correct that July is now the second quarter?

MR A.N. RASIDZOG: Yes.

ADV ADILA HASSIM: And are you saying that as of July 2016, there had not been a service performed on the mortuary?

MR A.N. RASIDZOG: Yes.

15**ADV ADILA HASSIM**: For the year starting January 2016- when was the last service then that had been provided?

MR A.N. RASIDZOG: Usually it is done during the same period of July.

ADV ADILA HASSIM: So it would have been more than a year now and there had not been a service done on the mortuary is that correct?

20**MR A.N. RASIDZOG**: Yes correct.

ADV ADILA HASSIM: Okay, so now you have made an emergency request and you are saying that you had to put in this emergency request even though the mortuary was working?

MR A.N. RASIDZOGÉ: Yes.

5**ADV ADILA HASSIM**: Okay.

ARBITRATOR JUSTICE MOSENEKE: And the question is why did you need an emergency service?

MR A.N. RASIDZOGÉ: We started storing the corpses in our mortuary and those guys they were not coming, that is why we had to phone them and say guys, you
10need to come and service the mortuary, because now we have started storing the corpses here.

ADV ADILA HASSIM: Because it wasn't working that's why.

MR A.N. RASIDZOGÉ: It needed service, it was working, but it needed a service.

ADV ADILA HASSIM: Okay in ELA53, it's a document on the letterhead of Funzo
15Air-Conditioning and it's a quotation for Cullinan mortuary emergency.

ARBITRATOR JUSTICE MOSENEKE: The order number is Number 8 supplied by Mr John Oliphant.

ADV ADILA HASSIM: That's the one Justice. It's a quotation for parts and for service time and so on and some of the parts include a flushing agent, gas, do you
20see that?

MR A.N. RASIDZOGÉ: Yes.

ADV ADILA HASSIM: 26 July 2016.

MR A.N. RASIDZOG: Yes.

ADV ADILA HASSIM: Would it be necessary to have fixed the gas if there was nothing wrong with it?

5**MR A.N. RASIDZOG**: I understand that that was part of the servicing.

ADV ADILA HASSIM: And on the same quotation, so you're saying it is not because there was anything wrong, it was just-

MR A.N. RASIDZOG: It was due for service Counsel.

ADV ADILA HASSIM: Well I'm putting it to you Mr Rasidzoge that it's not just an
10ordinary service, because it says supplied R22 gas. It's something that was supplied rather than serviced. A flushing agent is a part that is supplied.

MR A.N. RASIDZOG: Ja but I would also like you to understand that when they decided to refill the gas, obviously they would have to check if there is a problem. In this case, I understand that they are supposed to flush it out so that they can refill
15it as part of the servicing.

ARBITRATOR JUSTICE MOSENEKE: We can't be continuing to be so clever should we? Look at that, Cullinan Mortuary emergency for mortuary fridge. You tell us a regular service, no the gas was just flushed in normal service and the top of the quotation says emergency for mortuary fridge. Your service provider charges
20overtime and works overnight on Fridays on Saturdays and Sunday and charges huge rates of 10 hours overtime. Can you see that?

MR A.N. RASIDZOGÉ: Yes.

ARBITRATOR JUSTICE MOSENEKE: And all of that turns out to R20 000 for emergency for Cullinan mortuary and you tell Counsel this was just a regular service. How do you explain that?

5**MR A.N. RASIDZOGÉ**: Maybe when we are referring to services, I have to say Sir it's an emergency of the regular service that will be something that needs someone with expertise, but to me, it was a service that was done because it was due to be done.

ADV ADILA HASSIM: A routine service?

10**MR A.N. RASIDZOGÉ**: A routine service.

ADV ADILA HASSIM: Nothing wrong with the mortuary?

MR A.N. RASIDZOGÉ: No.

ADV ADILA HASSIM: Nothing wrong with the mortuary fridge?

MR A.N. RASIDZOGÉ: Nothing.

15**ADV ADILA HASSIM**: Just a service?

MR A.N. RASIDZOGÉ: Yes.

ADV ADILA HASSIM: Can you turn over the page please and it says that page, if it's the same as mine, it says tax invoice DID513, do you see that? Supplied to Mr Vincent Hlatswayo, do you see that?

20**MR A.N. RASIDZOGÉ**: Which page is that?

ARBITRATOR JUSTICE MOSENEKE: On yours, it is Page 9.

MR A.N. RASIDZOGÉ: Yes I see that.

ADV ADILA HASSIM: What does it say under Mr Vincent Hlatswayo?

MR A.N. RASIDZOGÉ: Emergency Cullinan mortuary.

5**ADV ADILA HASSIM**: Continue?

MR A.N. RASIDZOGÉ: Repair fridge.

ADV ADILA HASSIM: Do you still maintain that it was a routine service?

MR A.N. RASIDZOGÉ: Yes it was a routine service.

ADV ADILA HASSIM: So why does it say emergency repair fridge and overtime
10work?

MR A.N. RASIDZOGÉ: Okay let me just go back a little bit again, every time when-

ARBITRATOR JUSTICE MOSENEKE: 16 hours, 16 hours of overtime at double
the rate, yes answer the question?

MR A.N. RASIDZOGÉ: Okay.

15**ARBITRATOR JUSTICE MOSENEKE**: On routine maintenance.

MR A.N. RASIDZOGÉ: Okay every time when we request the service, these guys
they would take forever to come. Maybe just to give you an example with now, we
have requested the same service for the same mortuary, somewhere around the
second quarter, but we are still waiting for them. With this incident, we had to push

them and they had to come up with this motivation to get approval for the contractors to be appointed.

ADV ADILA HASSIM: Oh, so, the, DID fabricated that it was an emergency in order to get the service provider to come out?

5**MR A.N. RASIDZOGÉ**: To get the contractors appointed to service the mortuary. Hence I am saying if you check the access certificate and all these other documents, they were sourced after the mortuary was fixed on the 23rd, even Page 8 that you are referring to of those dates that were put there, the mortuary was already serviced on the 23rd, where these 10 hours are coming from.

10**ARBITRATOR JUSTICE MOSENEKE**: I don't understand what you're saying. What are you saying? Quotation sourced after the repair, what are you saying? Help me understand?

MR A.N. RASIDZOGÉ: Okay these guys were requested to come and attend this one as emergency.

15**ARBITRATOR JUSTICE MOSENEKE**: Who was requesting who to come where?

MR A.N. RASIDZOGÉ: The DID, they requested the contractor-

ARBITRATOR JUSTICE MOSENEKE: DID is what?

MR A.N. RASIDZOGÉ: Department of Infrastructure and Development, they are the ones who are appointing the contractors for the institution. So after we have made 20a follow-up with them to say guys, you need to come and service the mortuary, they phoned Funzo and then the contractor came to the institution on the 22nd of July

2016 and then on the 23rd, that is when they spent these 10 hours servicing the mortuary.

ADV ADILA HASSIM: But there is nothing before us that says anything about the 22nd of July or 23rd of July. The date is 26 July 2016 on the quotation that we were looking at just a moment ago which I think is your Page 8 and all of the documents that are here, say the same thing, 29 July and it was all completed by the 4th of August. That is what the documents say. I would like to refer you to one more document maybe you will have more insight-

ARBITRATOR JUSTICE MOSENEKE: And the quotation rightly so, was on the 26th of July, isn't it, before the work was done as per completion certificate on the 4th of August. But go ahead Counsel? The quotation of the 8th August is a separate one from the one of the 26th of July. Are they different quotations?

MR A.N. RASIDZOGÉ: Ja maybe just to come in on that one, if you check Page 8, 9 and also –

15 **ARBITRATOR JUSTICE MOSENEKE**: No just answer my question first please. The quotation on 26 July 2016, is it the same as the one on the 8th of August 2016?

MR A.N. RASIDZOGÉ: Ja it's the same thing.

ARBITRATOR JUSTICE MOSENEKE: The numbers are totally different, what do you mean the same thing?

20 **MR A.N. RASIDZOGÉ**: Ja maybe I need to say something on that one, like I said, they prepared these documents after the service was done, because if you check

the one that was done on the- I think it's Page 9 which is dated 8 August and the one that we are referring to, will be Page 8 that we are basing our argument on. Hence, I am saying the actual service of all these logistics that were done, the service was done on the 23rd, so this other one, is just the logistics that were done 5by this Funzo.

ADV ADILA HASSIM: What do you mean the logistics? On Page 8, the quote says overtime Friday 25 July, overtime Saturday 26 July 2016 overtime Sunday 27 July 2016. Are you saying that that's not correct, that that's a lie?

MR A.N. RASIDZOGÉ: The actual service was done on the 23rd.

10**ADV ADILA HASSIM**: So this is a lie?

ARBITRATOR JUSTICE MOSENEKE: Well let him confront that. Could you answer that?

MR A.N. RASIDZOGÉ: Come again Justice?

ARBITRATOR JUSTICE MOSENEKE: Are the dates of the quotation a lie that is 15what Counsel is putting to you?

MR A.N. RASIDZOGÉ: They are not referring to the actual date of the servicing of the mortuary.

ARBITRATOR JUSTICE MOSENEKE: Why would your service provider lie about that?

20**MR A.N. RASIDZOGÉ**: I wouldn't know.

ARBITRATOR JUSTICE MOSENEKE: And why would the rates of charging of the 2 quotations be different?

MR A.N. RASIDZOGÉ: Okay in the process of acquiring these services, the logistics are done by DID where they get the approval and they base their approval on the rates that they have, so from our side, we only received the contractor and as long as the service is going to be done, then we concur, unless otherwise if there is something that is abnormal, that is when we engage ourselves to say then-

ARBITRATOR JUSTICE MOSENEKE: And throughout all this rigmarole and repairs and overtime and double charges, the body, where was the body of Mr 10Gumede?

MR A.N. RASIDZOGÉ: The body was stored there on the 24th of July.

ARBITRATOR JUSTICE MOSENEKE: So when all this and emergency requests for repairs and quotations and the work, his body was in your mortuary?

MR A.N. RASIDZOGÉ: Yes it was in the mortuary.

15**ARBITRATOR JUSTICE MOSENEKE**: And is that why your attitude is that everything was working fine, despite this evidence of emergency request for repairs, which makes the Treasury to face overtime rates and these people are paid for travelling and the bill on its face, appears to be double what it would have been because of emergency and overtime and you say your mortuary was just fine and 20Mr Gumede was lying there in a temperature between 1 and 10 degrees, is that it?

MR A.N. RASIDZOGÉ: Yes Justice.

ADV ADILA HASSIM: If you could have regard to the page before the Funzo quotation on Page 8, is it an e-maintenance work request, do you see that?

MR A.N. RASIDZOGÉ: Ja the one that I was referring to.

ADV ADILA HASSIM: And who would have filled in this request?

5**MR A.N. RASIDZOGÉ**: The FMU Clerk, Facility Management Unit Clerk.

ADV ADILA HASSIM: I see, at Cullinan?

MR A.N. RASIDZOGÉ: Yes.

ADV ADILA HASSIM: And it says defect title mechanical.

MR A.N. RASIDZOGÉ: Yes.

10**ADV ADILA HASSIM**: And it says defect description, please come and service the mortuary.

MR A.N. RASIDZOGÉ: Yes.

ADV ADILA HASSIM: And it says under urgency, very urgent.

MR A.N. RASIDZOGÉ: Yes.

15**ADV ADILA HASSIM**: Why was it so urgent?

MR A.N. RASIDZOGÉ: During the same period every year, the mortuary needs to be serviced and these guys by then, they were not coming up with a contractor to service the mortuary and then that is why we had to state this.

ADV ADILA HASSIM: And the defect mechanical is, what does that mean when it says the defect description is mechanical?

MR A.N. RASIDZOGÉ: Under DID, they classify all these other things that they are doing, so anything that had to do with the machinery, they classify it under 5mechanicals.

ADV ADILA HASSIM: And this was reported by a person named Ms Ella Nkosi?

MR A.N. RASIDZOGÉ: Yes.

ADV ADILA HASSIM: Is she employed by Cullinan?

MR A.N. RASIDZOGÉ: Yes.

10**ADV ADILA HASSIM**: And can you see the report date and time?

MR A.N. RASIDZOGÉ: Yes.

ADV ADILA HASSIM: Can you tell us when this report was made, when this work request was made?

MR A.N. RASIDZOGÉ: It was made on the 25th of June 2016 at 4:24.

15**ADV ADILA HASSIM**: And it was urgent, but you say that the mortuary was working?

MR A.N. RASIDZOGÉ: The mortuary was working yes.

ADV ADILA HASSIM: And Ms Ella Nkosi would have said it's very urgent, simply to- why would she have said that if it was routine?

MR A.N. RASIDZOG: Okay agree they need to service it, let's say on the same quarter, but these guys like I said, they were not giving us exactly when are they going to start servicing the mortuary, so we had to put it-

ADV ADILA HASSIM: Who was not providing you with that information as to when they would service the mortuary?

MR A.N. RASIDZOG: DID.

ADV ADILA HASSIM: And it's been a year and you say there has been no service?

MR A.N. RASIDZOG: For example, even this year, we forwarded them the request, but the contractor is not here to do the services for this-

10 **ADV ADILA HASSIM**: And why would you need them to come so urgently if it was working? I need you to answer that question because what it suggests, is that the need for the yearly service, is because a machine like this, that has to be very precisely calibrated, so that it keeps the temperature within a certain range as you have described to us, needs to be maintained in a certain way and if not, it won't
15 work properly, isn't that so?

MR A.N. RASIDZOG: Ja I will say yes, but then I will have to go back and say every year on the same period, if the machine is not serviced, obviously the service needs to be requested and because they were supposed to have done it already by the time that we forwarded them this document, we had to say they need to come
20 as a matter of urgency to come and service the mortuary.

ADV ADILA HASSIM: But you agree with me that the reason for a yearly service is because a machine of this nature, as I said which requires a fine calibration won't work properly if it's not serviced? You agreed with me on that, I am just confirming that?

5**MR A.N. RASIDZOGÉ**: Ja if something is not serviced, obviously it won't work properly.

ARBITRATOR JUSTICE MOSENEKE: But look at Page 3, look at Page 3 of ELA52 on the 16th of August 2016, under your hand, you write Cullinan is experiencing a problem. In fact, you should read that, you wrote that. What is that in
10the first paragraph?

MR A.N. RASIDZOGÉ: Cullinan Care and Rehabilitation Centre is experiencing a problem with the mortuary facility which is not working. Currently our mortuary space only takes 3 corpses and we would like to have a long term arrangement with the hospital.

15**ARBITRATOR JUSTICE MOSENEKE**: Were you truthful when you wrote to Mamelodi about that mortuary then and this is after all this money was spent. Were you truthful when you wrote that?

MR A.N. RASIDZOGÉ: Yes.

ADV ADILA HASSIM: Can you please read the last line of your letter?

20**MR A.N. RASIDZOGÉ**: The corpse will be collected as soon as our mortuary is working.

ADV ADILA HASSIM: Can you read it again please, exactly as it is written?

MR A.N. RASIDZOG: The corpse shall be collected as soon as we get our mortuary working.

ADV ADILA HASSIM: Thanks you may answer the Justice now.

5**MR A.N. RASIDZOG**: Okay from the date that the mortuary was serviced, that will be the 23rd from the 24th like I said the person who is monitoring the mortuary, was doing that every day, so on the date of the 16th of August and then the reading was above 10, that is when we immediately requested Mamelodi to assist us.

ARBITRATOR JUSTICE MOSENEKE: Tell me, had the service been done?

10**MR A.N. RASIDZOG**: Yes.

ARBITRATOR JUSTICE MOSENEKE: With all of those monies?

MR A.N. RASIDZOG: Yes.

ARBITRATOR JUSTICE MOSENEKE: R19 000 and R20 000 and all that time, you had Mr Gumede in your custody is that right?

15**MR A.N. RASIDZOG**: Yes.

ARBITRATOR JUSTICE MOSENEKE: And then you write a letter to Mamelodi and say our facility is not working, is that your evidence?

MR A.N. RASIDZOG: Ja that's what I said because the reading on the particular day, it was then above, out of the range, because it was being monitored every day.

ARBITRATOR JUSTICE MOSENEKE: When you are asking for emergency repairs, paying overtime with a body under your custody, why didn't you do this arrangement, because seemingly if it goes out in one day, you don't like, you don't like, you jump and you send the body off. Why didn't you do it earlier?

5**MR A.N. RASIDZOGÉ:** Okay I agree the mortuary was serviced and we were monitoring it, so we couldn't say we are going to leave the body there and monitor continuously. We said we need to move the body immediately when we realised that it was out of the range. Hence I said at the beginning, they suspected that maybe there might be a problem or a leakage in one of the pipes and the only way
10for them to be able to do that, is when they remove the body so they can have access.

ARBITRATOR JUSTICE MOSENEKE: But why didn't you do it before that? Why do you do it during the service? Why didn't you remove the body when you make a requisition for service? When your secretary or staff filled in the form, say there is a
15mechanical defect in the mortuary, why did you leave that body there? For me, that is what it's about. It's not about you and your protective answers. I want to know why do you leave a body there when you have all these documented problems/

MR A.N. RASIDZOGÉ: The mortuary was serviced on the 23rd and then the body was stored on the 24th of July.

20**ARBITRATOR JUSTICE MOSENEKE:** Not according to all of these invoices, but yes?

MR A.N. RASIDZOGÉ: Then from that date and then the person who was monitoring the temperature, then on the 16th of August 2016, then the temperature was out of the range, it was then 11+ and then we had to remove the body immediately.

5**ARBITRATOR JUSTICE MOSENEKE:** And your counterpart in Mamelodi who you make the request to, tells us the body was decomposed, something consistent with all of the evidence on paper before us, despite your denials. Why would your colleague in Mamelodi hospital go and write something like that?

MR A.N. RASIDZOGÉ: I wouldn't know.

10**ARBITRATOR JUSTICE MOSENEKE:** Isn't it because what you say now, is not to be relied upon?

MR A.N. RASIDZOGÉ: No the information that I am giving, is true.

ARBITRATOR JUSTICE MOSENEKE: But it doesn't tie in with all of this written documentation.

15**MR A.N. RASIDZOGÉ:** Okay maybe let's say for example the logistics that were done by Funzo and the DID-

ARBITRATOR JUSTICE MOSENEKE: Why do you tell us all these things were written afterwards, you tell us the dates by your service provider are untruthful, you are saying that everybody else is lying, isn't it on your version?

20**MR A.N. RASIDZOGÉ:** That is why I am saying the logistics were done after the mortuary was serviced.

ARBITRATOR JUSTICE MOSENEKE: Why would they give you a quotation after servicing the mortuary?

MR A.N. RASIDZOGÉ: That one I wouldn't know.

ARBITRATOR JUSTICE MOSENEKE: You wouldn't know that?

5**MR A.N. RASIDZOGÉ**: Ja.

ARBITRATOR JUSTICE MOSENEKE: But you work there, you're the chief, you're the head.

MR A.N. RASIDZOGÉ: Ja like I said-

ARBITRATOR JUSTICE MOSENEKE: You requisitioned all of these papers. Were
10these people paid? Have they been paid already?

MR A.N. RASIDZOGÉ: Not yet.

ARBITRATOR JUSTICE MOSENEKE: The service providers have not been paid yet?

MR A.N. RASIDZOGÉ: Ja because the last document that we signed, was
15forwarded this year, because they had to correct it, so it was forwarded again by DID to say the first admission then had a challenge, then they had to redo everything, so it was signed again this year. Maybe if you check, let me just try to page, because I saw it somewhere here. If you check under the access certificate, where I have signed, I signed it on the 8th of September 2017, when this document
20was then forwarded back to us for signing, because there were some logistical errors and then they had to redo everything.

ARBITRATOR JUSTICE MOSENEKE: Where is that?

MR A.N. RASIDZOGÉ: It will be Page 5 and Page 6, the second signature.

ARBITRATOR JUSTICE MOSENEKE: But the access certificate was on the 29th of July 2016?

5**MR A.N. RASIDZOGÉ**: Ja if you check the second signature where I signed, I signed it on the 8th of September 2017 and also, if you check the completion certificate, I signed it on the same date.

ARBITRATOR JUSTICE MOSENEKE: I don't see that, where is that?

MR A.N. RASIDZOGÉ: It will be Page 5 and Page 6, the second signature.

10**ARBITRATOR JUSTICE MOSENEKE**: It says the completion date is the 4th of August 2016 and the contractor signed 9th August 2016, is that right?

MR A.N. RASIDZOGÉ: Yes.

ARBITRATOR JUSTICE MOSENEKE: So what are you telling me?

MR A.N. RASIDZOGÉ: The second signature there where I have signed if you
15check the date, it is 2017.

ARBITRATOR JUSTICE MOSENEKE: What is that supposed to tell me?

MR A.N. RASIDZOGÉ: You asked the question as to whether these people were paid or not and then I said they are not yet paid, that, is, why, the, DID had to bring this document so that they can be resubmitted for payment.

ARBITRATOR JUSTICE MOSENEKE: But everybody else paid in August 2016 and you are the only one who didn't sign. Why didn't you sign it you say?

MR A.N. RASIDZOGÉ: They had to redo all these documents, that is why they had to bring them to my office to be signed and then I indicated the exact date that I signed the 2 documents, Page 5 and Page 6.

ARBITRATOR JUSTICE MOSENEKE: And that is supposed to indicate what?

MR A.N. RASIDZOGÉ: In answering your question to say are these people paid or not. That is why I said that this document was brought back to the institution for signing and then I indicated that I have signed them on the 8th of September 2017.

10 **ARBITRATOR JUSTICE MOSENEKE**: So you paid them nearly a year later?

MR A.N. RASIDZOGÉ: And I understand that they are still not paid because it takes time with those people.

ARBITRATOR JUSTICE MOSENEKE: And is the mortuary working?

MR A.N. RASIDZOGÉ: Yes it is working fine.

15 **ARBITRATOR JUSTICE MOSENEKE**: And who serviced it this time around?

MR A.N. RASIDZOGÉ: We have requested the DID to come and service the mortuary and we are still waiting for them to come.

ARBITRATOR JUSTICE MOSENEKE: So the mortuary is working on its own without being serviced?

MR A.N. RASIDZOGÉ: It is working but it has not yet been serviced, service is overdue.

ARBITRATOR JUSTICE MOSENEKE: Anyway the witness is yours.

ADV ADILA HASSIM: Thank you Justice, let's just clear up the issue on these 5 dates. Everybody else signed in 2016 on Page 5 July 2016, Page 6 August 2016, correct?

MR A.N. RASIDZOGÉ: Yes.

ADV ADILA HASSIM: Do you agree they all signed then?

MR A.N. RASIDZOGÉ: Ja.

10 **ADV ADILA HASSIM**: You signed a year later 2017.

MR A.N. RASIDZOGÉ: Yes.

ADV ADILA HASSIM: For a service that was done in July 2016?

MR A.N. RASIDZOGÉ: Yes.

ADV ADILA HASSIM: And what about 2017 service? Are we just going to be a 15 year behind? Has there been a service in 2017?

MR A.N. RASIDZOGÉ: We have requested the Department to come and service the mortuary.

ADV ADILA HASSIM: So we're again not on-

MR A.N. RASIDZOGÉ: Exactly.

ADV ADILA HASSIM: So there is no service that was done a year after July 2016?

MR A.N. RASIDZOG: That is why sometimes we had to put this matter of urgency so that they can come and attend to this.

ADV ADILA HASSIM: And you say that the service that was conducted in July 2016, was routine service?

MR A.N. RASIDZOG: Yes it was a routine service.

ADV ADILA HASSIM: It was purely routine, maintenance, nothing more?

MR A.N. RASIDZOG: Yes Counsel.

ADV ADILA HASSIM: So if you look at the first page of ELA53 and the third paragraph, which begins in late 2016, can you read that paragraph please?

MR A.N. RASIDZOG: Okay, in the late 2016, our mortuary started to have a challenge because the temperature reading was 10 degrees Celsius plus, then we requested the urgent repair from the Department of Infrastructure and Development and the service was done (the mortuary had a leaking gas then which was addressed and the service was also done). The request to repair form is attached for ease of reference.

ADV ADILA HASSIM: So there are a number of things you have already said that in this document. One is that in 2016, late 2016, the mortuary had a problem and the problem was that it was over-heating, correct?

MR A.N. RASIDZOG: Come again on that one?

ADV ADILA HASSIM: I am just summarising the main aspects of that paragraph and it says in late 2016, the mortuary had a challenge because it was over-heating, correct?

MR A.N. RASIDZOGÉ: I would like to elaborate on that one.

5**ADV ADILA HASSIM**: No I would like you to just answer yes or no please.

ARBITRATOR JUSTICE MOSENEKE: But you wrote that report didn't you? You wrote that?

MR A.N. RASIDZOGÉ: Ja I gave that information.

ADV ADILA HASSIM: Yes.

10**ARBITRATOR JUSTICE MOSENEKE**: And you said what Counsel puts to you, so she wants a response from you?

MR A.N. RASIDZOGÉ: No it wasn't having a problem.

ADV ADILA HASSIM: You say the temperature reading was 10 degrees Celsius plus, you have also told us earlier that it is important to be kept within a certain
15range between 1 and 10, you say 10 plus because we don't know whether that means 20 or 15 or whatever. The point was it was over-heating, it was out of range.

MR A.N. RASIDZOGÉ: That is why I said maybe I need to elaborate on that one, on the statement that I wrote there.

ADV ADILA HASSIM: I am going to ask you one more time. In 2016, the mortuary
20was having a problem, correct?

MR A.N. RASIDZOG: Yes.

ADV ADILA HASSIM: And the problem was that it was getting too hot, correct?

MR A.N. RASIDZOG: I will still say I need to elaborate on that one, if you would allow me to elaborate on that one, I think it would shed light.

5**ARBITRATOR JUSTICE MOSENEKE**: Yes shed light?

MR A.N. RASIDZOG: Okay the reading needs to be from zero to 10, so then we have the cut-off range to monitor the temperature and then the mortuary itself was not then picking up from 8 going up to zero, it was then in the range of 8 and 10, of which then had to say it needs to get serviced, so based on that information of the 10standard that we put at the institution, then we said we have a challenge because the mortuary is now not picking up, it is staying in the range of 8 and 10, whereas in the normal setting, it will have to say in the morning, it starts from zero and in the late afternoon, maybe then it will be around 8 and 10, but for the period before the date of the service, then where the challenge- okay usually in the morning then it 15will start by saying between 8 and 10 and we decided to say this one now, it needs attention.

ARBITRATOR JUSTICE MOSENEKE: So your own recordal was incorrect? The mortuary was working fine?

MR A.N. RASIDZOG: Yes.

20**ARBITRATOR JUSTICE MOSENEKE**: It was within range?

MR A.N. RASIDZOG: Yes.

ARBITRATOR JUSTICE MOSENEKE: But you wrote that the mortuary was not working properly.

MR A.N. RASIDZOGI: Alright the normal-

ARBITRATOR JUSTICE MOSENEKE: What are the words that you used?

5**ADV ADILA HASSIM**: Our mortuary started to have challenges because the temperature reading was 10 degrees Celsius plus.

ARBITRATOR JUSTICE MOSENEKE: Are you changing that now?

MR A.N. RASIDZOGI: No, no I'm not changing that. I want to go back to that one.

ARBITRATOR JUSTICE MOSENEKE: This is evidence, you can't go there and go
10back to something and go there and choose what you like. All I want is the truth that is why we swear you in. You write that you have challenges in the second half of July with your mortuary, I am sorry the second half of 2016. Do you want to explain that?

MR A.N. RASIDZOGI: Ja I would like to explain that one. If we are monitoring the
15mortuary, we are saying it is supposed to be from zero to 10, but then we put our standards to say this mortuary-

ARBITRATOR JUSTICE MOSENEKE: No you wrote that it is above 10.

MR A.N. RASIDZOGI: Ja 10 plus.

ARBITRATOR JUSTICE MOSENEKE: Now you are saying in fact it was not 10
20plus, it was between 8 and 10, is that what you are saying?

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MR A.N. RASIDZOGÉ: Ja I am saying it was between 8 and 10.

ARBITRATOR JUSTICE MOSENEKE: Why did you write it was 10 plus?

MR A.N. RASIDZOGÉ: Okay let me go back to that one.

ARBITRATOR JUSTICE MOSENEKE: Do you want to explain that again?

5**MR A.N. RASIDZOGÉ**: No, no I want to make it in such a way that you will be able
to understand/

ARBITRATOR JUSTICE MOSENEKE: You think I don't understand?

MR A.N. RASIDZOGÉ: Sorry Justice for that.

ADV ADILA HASSIM: The remainder of that sentence says we then request an
10urgent repair. My understanding of the word repair, is something is broken and
needs to be fixed, is that your understanding of the word repair?

MR A.N. RASIDZOGÉ: Yes.

ADV ADILA HASSIM: Okay thank you. I also want to point out that your version
that the mortuary was not working, is the same as the letter you wrote on 16 August
152016, in your words, we are experiencing a problem, those were your words, with
the mortuary facility which is not working, that is what you wrote on 16 August 2016
and in this document 25 October 2017, you say the same thing, you say it's not
working, something was broken, it needed to be fixed and you said to me when I
asked you about the gas, you said that is just routine maintenance and that is why I
20was trying to break down this paragraph because the next thing that is in this

paragraph, is the mortuary had a leaking gas, is that correct? Is it okay for the gas to leak?

MR A.N. RASIDZOGÉ: No it's not okay.

ADV ADILA HASSIM: So the only version that doesn't make sense, is the version you are giving us today, that it wasn't broken, but you have now clarified that it was and there had to be a repair.

ARBITRATOR JUSTICE MOSENEKE: We have run 10 minutes past our lunch break. I think it is a good time to take an adjournment. Let me leave you with just one thought. You know why we are here? What is this gathering about? Do you know what it is about?

MR A.N. RASIDZOGÉ: Yes.

ARBITRATOR JUSTICE MOSENEKE: It's about 143 people who died because a variety of state officials did not take care of the work they were paid to do, do you know that?

15 **MR A.N. RASIDZOGÉ**: Yes.

ARBITRATOR JUSTICE MOSENEKE: You must have heard that often by now.

MR A.N. RASIDZOGÉ: Yes I have.

ARBITRATOR JUSTICE MOSENEKE: It includes the pain of finding bodies of their family members decomposed and the natural thing is to ask how did that happen, they want to know that, do you understand that?

MR A.N. RASIDZOGÉ: I understand Justice.

ARBITRATOR JUSTICE MOSENEKE: It's how serious it is. We are not trying to get you fired from your job, we are not trying to show that you are incompetent, but the truth will help and the Gumede people want to know how did, it happen, that will help them heal, so it's not how clever you might answer. It is how caring you
5 continue to be as a public official, so go and think about that during lunch and truth is going to be very helpful.

MR A.N. RASIDZOGÉ: Okay.

ARBITRATOR JUSTICE MOSENEKE: One of your colleagues have told us that, so I really want to plead with you to think carefully about this and all paperwork
10 before us, suggests your evidence is not to be relied upon, but I want you to come back and surprise me and tell us what happened, what were the challenges, so that the family can at least know what happened, do you follow that?

MR A.N. RASIDZOGÉ: Yes Justice.

ARBITRATOR JUSTICE MOSENEKE: Do you want to reply to what I just said?

15 **MR A.N. RASIDZOGÉ**: Ja maybe based on the question that will be forwarded to me, then I will give the information that is correct then.

ARBITRATOR JUSTICE MOSENEKE: You will give the information that is correct. Do that for these families, just tell them what happened. It might be unfortunate, but let's get the truth out of the way and we have a lot of other witnesses to listen to.
20 You are one small part of a bigger problem, but we want to know how that body got decomposed okay, thank you, we are adjourned.

22 November 2017

SESSION 3

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

ADV ADILA HASSIM: Thank you Justice. Mr Rasidzoge, before the adjournment we were talking about the repair to the mortuary fridge and we now know that as of at least 16th August 2016 it still wasn't working properly. Can you tell us when it eventually began – when was it eventually fixed? When was it eventually working again?

MR AN RASIDZOG: Okay – thank you. From the 23rd that it was attended to – momentary from that date to 2016 of August when it packed up again at about 10 and the body was then removed and the mortuary was attended.

ADV ADILA HASSIM: Sorry – let me repeat ... we know that at 16th August 2016 the mortuary was not working properly – we know that from your own letter.

MR AN RASIDZOG: Okay, yes.

ADV ADILA HASSIM: My question is ... if it wasn't working 16th August 2016, when did it then get fixed? When did it eventually begin to function properly?

MR AN RASIDZOG: I think it was immediately.

ADV ADILA HASSIM: Immediately – meaning?

MR AN RASIDZOGÉ: Meaning, the following day.

ADV ADILA HASSIM: The following day – that is the 17th of August?

MR AN RASIDZOGÉ: Yes.

ADV ADILA HASSIM: 2016?

5**MR AN RASIDZOGÉ:** Yes.

ADV ADILA HASSIM: Did it break again after the 17th of August 2016?

MR AN RASIDZOGÉ: No.

ADV ADILA HASSIM: Did it have any problems with the temperature control after the 17th of August 2016?

10**MR AN RASIDZOGÉ:** Yah, like I've said, it have been monitored from – okay, in fact, every day.

ADV ADILA HASSIM: So after 17th – you said 17th August 2016 – the very next day, you say it was repaired – it was working?

MR AN RASIDZOGÉ: Yes

15**ADV ADILA HASSIM:** ...and, my question is – did it break down again?

MR AN RASIDZOGÉ: No

ADV ADILA HASSIM: No? Then – can you explain, with regard to ELAH 53, in the light of what you have just told us that it was working from 17th August 2016 without a problem – again, ELAH 53 – right at the bottom of the first page, under the
20heading: The Incidents – do you see that?

MR AN RASIDZOG: Yes

ADV ADILA HASSIM: Can you read out that sentence that is under that heading:
The Incidents

MR AN RASIDZOG: Okay. *During the time that the mortuary was under service and repair, the corpses were transferred to another area, following is the list of transferred corpses.*

ADV ADILA HASSIM: ...and when we turn over the page, you list eight corpses – is that correct?

MR AN RASIDZOG: Come again.

10 **ADV ADILA HASSIM**: Do you agree that the next page has eight corpses?

MR AN RASIDZOG: Yes

ADV ADILA HASSIM: ...and, those were transferred during the period that the mortuary was under service and repair? Correct?

MR AN RASIDZOG: Not all of them.

15 **ADV ADILA HASSIM**: So, okay – the sentence that you have just read said: *during the time that the mortuary was under service and repair, corpses were transferred to other areas, following is the list of the corpses.*

MR AN RASIDZOG: Yes

ADV ADILA HASSIM: Are you changing that statement now?

MR AN RASIDZOG: Out of these eight corpses that are listed here, some of them were stored before the mortuary was then serviced on the 23rd of July 2016. So, the one that I was referring to given the number that I have indicated here, is the first one on the list.

5**ADV ADILA HASSIM:** Now, I am not following you. Let's just try that again. So during the time the mortuary was under service – I'm just reading that sentence that you already read.

MR AN RASIDZOG: Okay

ADV ADILA HASSIM: So, the mortuary was under service and repair for a
10particular period of time – correct?

MR AN RASIDZOG: That's correct.

ADV ADILA HASSIM: While it was under repair for that period of time, corpses were transferred elsewhere – correct?

MR AN RASIDZOG: Yes

15**ADV ADILA HASSIM:** And those corpses numbered eight – there were eight such corpses – correct?

MR AN RASIDZOG: The list has got 8 corpses, but the one that I was referring to on the statement that are mentioned there, is number 1.

ADV ADILA HASSIM: So, when you say: *following is a list of transferred corpses* –
20you actually only mean one?

MR AN RASIDZOGÉ: Out of this eight – okay, before the servicing of the mortuary, because I've said the mortuary was working and before the servicing, some of these corpses were taken by the relative, some of them were transferred to the undertakers – the one that is transferred to Mamelodi, because of the temperature which was above 10, which was noted on the system of August 2016 is number 1.

ADV ADILA HASSIM: So, out of the list of 8 – although you provide 8 transferred corpses during the time, it was only 1 you say of the 8 ...

MR AN RASIDZOGÉ: Following that statement that I gave on the last page.

ARBITRATOR JUSTICE MOSENEKE: Why do you contradict your own document? It is not allowed here. You can't write things and then deny them – you write them to your HOD and then you just decide to change. Why are you doing this to us? You are contradicting even yourself. How do you explain that?

MR AN RASIDZOGÉ: Okay – the 8 corpses that I listed here – some of them were stored there before the actual date of servicing of the mortuary...

ARBITRATOR JUSTICE MOSENEKE: No, but look at [inaudible 07:42] Counsel is quite spot on – during the time that the mortuary was under service and repair, the corpses were transferred to other areas, and here they are – you listed 8 and now you say this must read 1. This is a report to your HOD, your DDG and presumably to Mr Nxobu and now you just change it mid-air – why is it so?

MR AN RASIDZOGÉ: Yah, I am not changing the statement – I'm just giving clarity on the [inaudible 08:22] that was stated there.

ARBITRATOR JUSTICE MOSENEKE: But you wrote this – am I right?

MR AN RASIDZOGÉ: Yes, you are right.

ARBITRATOR JUSTICE MOSENEKE: Why did you change what you have written? Not once, but a good few times this afternoon. The service providers are lying, [inaudible 08:54] Mamelodi is lying, the documents you write are now not right – can you tell me what is happening? Can you help me?

MR AN RASIDZOGÉ: Okay, going back to the same statement which was right – you must understand, our mortuary we will store the corpse there and then later we would make a follow-up with relatives so that they can come and collect, but the 10 mortuary stuff was due for service.

ARBITRATOR JUSTICE MOSENEKE: I am asking you a different question – I said – why do you write one thing and then you contradicted yourself? Why do you say different things in your evidence from those you have written down?

ADV TEBOGO HUTAMO: Justice, perhaps to assist you Justice – if the witness 15 can be allowed to deal with the question in post in relation to the last paragraph on ELAH 53 with regards to the list of 8 – if the witness could be allowed to go through each and every item, to be able to follow exactly what were the reasons for the transfer of these corpses – perhaps if my learned friend can finish her line of questioning, that might become apparent.

20 **ARBITRATOR JUSTICE MOSENEKE:** I am not sure what you are saying. The witness must be allowed to do what?

ADV TEBOGO HUTAMO: ELAH 53, the last paragraph read to the witness – or the paragraph which the witness was made to read, makes reference to a list of corpses which were transferred and his testimony was that the corpse on item number 1 was transferred to Mamelodi for reason relating to the refrigeration and if Justice go through item number 2 until item number 8, we'll realise that there are different reasons other than the working or otherwise of the refrigeration.

ARBITRATOR JUSTICE MOSENEKE: No. The witness can explain that. I don't think – under cross-examination, let him explain that.

ADV TEBOGO HUTAMO: Thank you Justice.

10**ARBITRATOR JUSTICE MOSENEKE:** Introductory and I am asking questions in any event – if you are objecting to that, then you tell me you are objecting to the question – I hope you understand. There is an introductory paragraph, that tell us something and I want the witness to explain it. Can you look at page 2 – page 2 follow on an introductory paragraph with a semi-colon on page 1 – is that correct?

15**MR AN RASIDZOGÉ:** Come again Justice.

ARBITRATOR JUSTICE MOSENEKE: Page 1 – at the bottom ...

MR AN RASIDZOGÉ: Okay.

ARBITRATOR JUSTICE MOSENEKE: Tell us that: *during the time that the mortuary was under service and repair, the corpses were transferred to other areas,*
20*following is a list of transferred corpses – you wrote that, right?*

MR AN RASIDZOGÉ: Yes

ARBITRATOR JUSTICE MOSENEKE: ...and then the list follows – so, the question we put to you – not even by me, by the advocate, is – you give us a list of corpses that were transferred over a period, but the same time you tell us that the mortuary was working fine. Why do you say that? Page 1 you say this: the mortuary was under service and repair and that you transferred corpses and here is the list – now you say that in fact you transferred only 1 corpse. So, I want you to explain that.

MR AN RASIDZOG: Okay. [inaudible 13:37] referring to corpse number 1, which according to that statement, I said I was referring to it – after the mortuary was serviced and being monitored from that day on until the 16th and then on the 16th then we had a challenge where the temperature reading then was about 10, and the other one – if you read from number 2 – they were transferred, because some of them they were collected by their families.

ARBITRATOR JUSTICE MOSENEKE: No, that is not the point. Why do you list them as bodies that had been transferred when the mortuary was not working? Why do you write and say: these are the bodies that had been transferred when the mortuary was not working and in your evidence you say they are not. Why do we have that contradiction?

MR AN RASIDZOG: Yah, it's – okay – this list then, to me, it was talking to all the corpses that passed through our mortuary, but the statement that he is talking to the corpse number 1, but all the other ones, they passed through our mortuary..

ARBITRATOR JUSTICE MOSENEKE: So why did you list the other corpses there?

MR AN RASIDZOGÉ: They passed through our mortuary.

ARBITRATOR JUSTICE MOSENEKE: Yes – why did you list them as being under 5the period when the mortuary was not working?

MR AN RASIDZOGÉ: No, it was under the period that the mortuary was supposed to be serviced.

ARBITRATOR JUSTICE MOSENEKE: You might find more joy than me Counsel – you go ahead.

10**ADV ADILA HASSIM:** Thanks Justice. Mr Rasidzoge, I think this document is entirely unreliable and I am going to take you through each one of the reasons why and the first and I am not going to repeat is that you contradict yourself again regarding the contents and why you listed 8. I will take you through each one and give you an opportunity to respond to the proposition that I am putting to you. First 15of all, with regard to number 1 – Mr Joseph Gumede, we know that his body was decomposed by the time he arrived in Mamelodi 3 weeks after his death and you say that he was handed over in good condition. We have evidence to the contrary – both from the family and from Mamelodi hospital. The 3 other...

ARBITRATOR JUSTICE MOSENEKE: Well, I will allow him to respond to that.

20**ADV ADILA HASSIM:** Would you want to respond to that?

MR AN RASIDZOGÉ: Yes. Like I've said, I'm the one who issued that corpse to the undertaker and I'm the one who opened it up and allowed the undertaker person to check if the corpse was fine or any sign of damage or decompose and then he said fine himself and then closed it up and then it was taken away.

5**ADV ADILA HASSIM:** And your evidence is that Mr Buddha from Mamelodi hospital is lying?

MR AN RASIDZOGÉ: The information that I have that when I issued the corpse it was fine and then maybe the undertaker that collected it, because I was the one who opened it and he was there with his witness and I asked those guys to check
10and then after they were satisfied, I then closed it up and they take it away.

ADV ADILA HASSIM: Well, we will check with the relevant people whether that is the state of the corpse when it arrived at Mamelodi.

MR AN RASIDZOGÉ: Okay.

ADV ADILA HASSIM: You say that during the time that the mortuary was under
15service and repair there were transfers of bodies – you say that the only one was transferred because of temperature problems and that's Mr Gumede, but the remainder that was transferred, you say for other reasons.

MR AN RASIDZOGÉ: Yes

ADV ADILA HASSIM: ...but, it was still under service and repair the mortuary and
20there are 8 corpses during that period of time – there are 8 deaths there are 8 bodies during the time that the mortuary was under service and repair – which in

itself we will come to later. There are 8 bodies, 8 corpses that are listed here – 3, apart from Joseph Gumede, who is a relative of one of the families that are represented here, there are 3 others who are represented in these proceedings and I like to take you through those. Because those are the corpses in relation to which we have some information. The first is number 4 Miss Busisiwe Shabalala, she died on 25th July 2016 and according to your notes, which are correct, in fact she died of hypothermia and severe dehydration. And then you say she was taken by the funeral home, accompanied by the family, and the body was in a good condition. Mrs Anna Nthembu has testified before these proceedings and she says that the family was required to take the body immediately – what do you say to that?

MR AN RASIDZOGÉ: Maybe to talk to the rest of the people that are listed – like the example that you gave there, is that the actual issuing of the body to the family was co-ordinated by other co-workers. So, I won't have full information on that.

ADV ADILA HASSIM: But you say that the body was in a good condition – did you yourself personally check?

MR AN RASIDZOGÉ: With these other ones – no.

ADV ADILA HASSIM: You checked in relation to Mr Gumede though, isn't that correct?

MR AN RASIDZOGÉ: Exactly.

ADV ADILA HASSIM: ...but, number 2 to number 8, no?

MR AN RASIDZOGÉ: No.

ADV ADILA HASSIM: So, how could you say that the body was in a good condition?

MR AN RASIDZOGÉ: Then, this report was a consolidated report from all the other stakeholders that were dealing with the patients.

5**ADV ADILA HASSIM:** Sorry, can you repeat that? This is not your report?

MR AN RASIDZOGÉ: This is a consolidated report from...

ADV ADILA HASSIM: Consolidated?

MR AN RASIDZOGÉ: Yah, from all the other people that was dealing with all these corpses.

10**ADV ADILA HASSIM:** So, you took the word from somebody else that the body was in a good condition?

MR AN RASIDZOGÉ: Yes

ADV ADILA HASSIM: Okay, so you can't actually say that it was in good condition? You can't actually – as you sit here today – confirm that the body was in
15good condition?

MR AN RASIDZOGÉ: No, that is why I am referring to number 1 only as that is the body that I actually issued, but the rest of the bodies...

ADV ADILA HASSIM: That's really helpful and that is the reason why I am saying that this document is not reliable. Just to finish with Miss Busisiwe Thabalala in her
20testimony and I am just looking at her transcript, Mrs Nthembu also said – around the discussion of mortuaries – the question was put to her by justice about the

description of the mortuary and she said in relation to the temperature the following:

I know mortuaries and how they looked like, but that room – it wasn't a mortuary and it wasn't cold – the room was small and on the floor there she was – her body was there on the floor and it was covered. What do you say about that?

5 **MR AN RASIDZOGÉ:** Yah, just to confirm on the size of the room, yes, the place is very small, but as far as the things that happened on the day that they issued the body – that one I wouldn't know.

ARBITRATOR JUSTICE MOSENEKE: Was some of the bodies put on the floor?

MR AN RASIDZOGÉ: No.

10 **ARBITRATOR JUSTICE MOSENEKE:** The only 3 places and you list 8 bodies.

MR AN RASIDZOGÉ: Yes, but all these corpses they were not there at the same time.

ARBITRATOR JUSTICE MOSENEKE: So, no corpses were put on the floor?

MR AN RASIDZOGÉ: No.

15 **ARBITRATOR JUSTICE MOSENEKE:** So, you always only had 3 corpses at a time?

MR AN RASIDZOGÉ: No, usually we only have 3 cabinets there and usually you will find that we only have 1 corpse at a given time.

ARBITRATOR JUSTICE MOSENEKE: Well, let's look at your list. You say to me
20 that at all times you have less than 3 bodies?

MR AN RASIDZOGÉ: Yes

ARBITRATOR JUSTICE MOSENEKE: Are you certain about that?

MR AN RASIDZOGÉ: With the information that I have, yes.

ARBITRATOR JUSTICE MOSENEKE: What do you mean information that you have – I am asking about the mortuary and the corpses in the mortuary.

MR AN RASIDZOGÉ: Yah, like I'm saying, that information that I have of the mortuary – although we have 3, but we never had a time when the mortuary was full even if we have 3 cabinets.

ARBITRATOR JUSTICE MOSENEKE: You always only have 3 corpses in the mortuary?

MR AN RASIDZOGÉ: No. One – not full capacity.

ARBITRATOR JUSTICE MOSENEKE: I'm talking about actual bodies, not how many cabinets you have. Do you always only have 3 corpses in the mortuary?

MR AN RASIDZOGÉ: Yes

15 **ADV ADILA HASSIM:** Are you sure about that Mr Rasidzoge?

MR AN RASIDZOGÉ: So, as far as the information that I have, yes.

ADV ADILA HASSIM: As far as the information that you have? Can you say - as you sit there under oath - that you know that at no time there were more than 3 corpses in the mortuary?

20 **MR AN RASIDZOGÉ:** I never had that information that the mortuary was full.

ADV ADILA HASSIM: You are evading my question. Can you say - in your own knowledge - that at no time the mortuary had more than 3 bodies? Can you say that?

MR AN RASIDZOG: Yah, like I am saying, I never had that information that the mortuary was full.

ARBITRATOR JUSTICE MOSENEKE: From whom would you have that information? Didn't you tell us that you check every day?

MR AN RASIDZOG: Yah, there are people that check that mortuary every day.

ARBITRATOR JUSTICE MOSENEKE: Do they give you reports every day?

10 **MR AN RASIDZOG:** Yes

ARBITRATOR JUSTICE MOSENEKE: So, tell us how many corpses were there? Were there always only 3?

MR AN RASIDZOG: Yah, as long as I was never given that information – it is very difficult for me for certain to say – if this is evidence to say they had 3, but I am saying – the information that I had – I was never given the information as to whether the mortuary was full at a given time.

ARBITRATOR JUSTICE MOSENEKE: What does that mean? I don't know what he is saying. Do you know or don't you know whether the mortuary had more than 3?

20 **MR AN RASIDZOG:** I never had that information.

ARBITRATOR JUSTICE MOSENEKE: So, what is the answer?

MR AN RASIDZOGÉ: If there were more...

ARBITRATOR JUSTICE MOSENEKE: You don't know whether there were...

MR AN RASIDZOGÉ: Exactly.

ARBITRATOR JUSTICE MOSENEKE: The answer is – you don't know.

5**MR AN RASIDZOGÉ:** Okay.

ADV ADILA HASSIM: Okay.

ARBITRATOR JUSTICE MOSENEKE: Okay.

ADV ADILA HASSIM: Thanks Justice. In fact, if we look at page 1, and paragraph 2, it reads: *before the 2015 / 2016 financial year, the mortuary used to stay for more than one to two years without being used* – do you still stand by that statement?

MR AN RASIDZOGÉ: Yah, that one is correct.

ADV ADILA HASSIM: So, is it correct that there was then an unusual rise in corpses around this time – 2015/2016?

MR AN RASIDZOGÉ: Yes

15**ADV ADILA HASSIM:** Yes. I want to return then to Miss Busisiwe Thabalala – thank you for that answer – apart from what I have read to you from the transcript that Mrs Nthembu said it was small, but she also said that it was hot. What do you say to that?

MR AN RASIDZOGÉ: Yah ...

20**ADV ADILA HASSIM:** ...she said it wasn't cold.

MR AN RASIDZOGI: Yah, the outside – remember it is a small room where there is 3 cabinets – so usually you will find that the inside of the mortuary is hot.

ADV ADILA HASSIM: Inside the mortuary it is hot?

MR AN RASIDZOGI: Inside the building. Not inside the cabinet, but inside the building itself.

ADV ADILA HASSIM: Why was she required to take the body of Busisiwe Thabalala immediately, if the mortuary was not full?

MR AN RASIDZOGI: That one I wouldn't know.

ADV ADILA HASSIM: Is it possible that the mortuary was full?

10**MR AN RASIDZOGI:** I wouldn't know that.

ARBITRATOR JUSTICE MOSENEKE: He has already said that he doesn't know. He first said that he knows that it wasn't full – now he says that he doesn't know.

ADV ADILA HASSIM: That he doesn't know. What I am putting to you is that the mortuary was full and that Miss Busisiwe Thabalala was in the mortuary on the 15floor, because there wasn't space, because the mortuary was full on the 25th of July 2016. The next person that is represented the family that is represented is the family of Miss Emily Nthembu, listed as number 5 on your list, and she died on the 21st of September 2016 and I believe it is of septicaemia, but I'll confirm that if you could please locate file 10?

20**ARBITRATOR JUSTICE MOSENEKE:** Thank you.

ADV ADILA HASSIM: ...and if you could turn in file 10 to page 3382 – did you find it?

MR AN RASIDZOG: Yes

ADV ADILA HASSIM: It is an affidavit of [inaudible 30:30] Phillip Nthembu – do you see it?

MR AN RASIDZOG: Yes

ADV ADILA HASSIM: He is the brother of the late Emily Nthembu – a relevant aspect of this affidavit – the relevant part of the affidavit that you can find at page 3386...

10 **MR AN RASIDZOG:** Okay, I got it.

ADV ADILA HASSIM: ...and at paragraph 20

MR AN RASIDZOG: Okay.

ADV ADILA HASSIM: ...she says, I am sorry – he says: *on 21st September 2016, shortly before we've planned to visit again, I received a call at around 1pm while I was at work and I was told it was someone from CCRC and that Emily had died. I didn't ask many questions. I was shocked and couldn't believe that this happened. I was told to organise a mortuary to remove the body from CCRC and that otherwise it would be taken to Mamelodi hospital for storage. He goes on to say: when I got off the phone, I didn't know what to do. I needed to get Emily's body from Cullinan to Vosloorus where we live. I didn't know any funeral homes in my area. I was given the contact details of a funeral home by a colleague and I contacted them. The*

funeral home advised that they could not go to Cullinan that day, as it was too late and that they would need to be accompanied by a family member. As a result, Thandi and I went to the funeral home the following day to fetch Emily's body and her ID book. Do you have any knowledge as to why they had to make such urgent arrangements to remove the corpse?

MR AN RASIDZOG: No.

ADV ADILA HASSIM: ...but it is clear from the affidavit, however, is that they were not able to make the arrangements on the very same day. The result is that Emily remained at the Cullinan mortuary overnight – would you agree?

10**MR AN RASIDZOG:** I don't have information as far as that is concerned.

ADV ADILA HASSIM: Okay. You see, Mr Rasidzoge, you told us that you were the author of this document and so I am asking you these questions on the assumption, because you wrote it, you have knowledge of this, but you say you have no knowledge of this? You don't know why, you don't know the circumstances – you see, it doesn't help to say the family took the body away as if it was the choice of the family and that is how it seems to come across in the document – it was the choice of the family, the body was in a good condition, the family came and took the body away. No problem with the mortuary – my question to you – you can't confirm that, isn't that so?

20**MR AN RASIDZOG:** Yes Counsel.

ARBITRATOR JUSTICE MOSENEKE: But who in your team said: bodies of the people listed under number 2 to number 8 were in good condition? Who told you that?

MR AN RASIDZOGÉ: The other colleagues.

5**ARBITRATOR JUSTICE MOSENEKE:** Who?

MR AN RASIDZOGÉ: Nurses and the social worker.

ARBITRATOR JUSTICE MOSENEKE: ...and you wrote it down, but had not seen it?

MR AN RASIDZOGÉ: Yah, we prepared the document together.

10**ARBITRATOR JUSTICE MOSENEKE:** ...and why the case of number 1 Mr Gumede – why did you look at that body? You didn't look at the rest of the bodies, but you looked at that body?

MR AN RASIDZOGÉ: Yah – after meeting the information, that now the mortuary the temperature is above range and immediately I had to make arrangements so
15that the body can be removed. So, that is how I got the full information, and I had to wait for the undertaker until past 6 in the evening, to make sure that the body is removed.

ARBITRATOR JUSTICE MOSENEKE: Look at the person who was removed on the 25th of July – Mr Fakude – can you see that?

20**MR AN RASIDZOGÉ:** Yes, number 3.

ARBITRATOR JUSTICE MOSENEKE: That was the very following day...

ADV ADILA HASSIM: ...same day?

ARBITRATOR JUSTICE MOSENEKE: No, it is not – Mr Fakude died on the 21st and was removed on the 25th of July. So, he would have been with Mr Gunebe at the same mortuary.

5**MR AN RASIDZOGÉ:** Yes, for 24 hours.

ADV ADILA HASSIM: No.

ARBITRATOR JUSTICE MOSENEKE: No, he died on the 21st of July and was removed on the 25th of July – that means 4 days. And Mr Gumebe died on the 24th of July, removed on the 16th of August. So, they would have been together in the
10mortuary at least for 4 days.

MR AN RASIDZOGÉ: For 2 days Counsel.

ARBITRATOR JUSTICE MOSENEKE: Help me.

MR AN RASIDZOGÉ: Mr Gumebe passed away on the 24th of July – stored on the 24th and on the 25th the other corpse was then removed.

15**ARBITRATOR JUSTICE MOSENEKE:** Yes, and Busisiwe Thabalala also died on the 25th – so, she would have been in the same mortuary.

MR AN RASIDZOGÉ: Yes Counsel.

ARBITRATOR JUSTICE MOSENEKE: It strikes me that all of them were covered by the period that you call – in paragraph 3 – do you see that? Late 2016 when the
20temperature reading was 10° plus – do we have an answer there?

MR AN RASIDZOGÉ: I'll say the statement that I was referring to here, by saying the mortuary was due for a service and then during that period, it was then ranging between 8 to 10, which was then it was telling us that it needs servicing and then...

ARBITRATOR JUSTICE MOSENEKE: It is normal, isn't it?

5**MR AN RASIDZOGÉ:** Yes

ARBITRATOR JUSTICE MOSENEKE: If it is under 10, it is normal?

MR AN RASIDZOGÉ: Yes

ARBITRATOR JUSTICE MOSENEKE: So, why would you say what you said there? ...because the temperature was 10° plus, when it was 8 to 10°.

10**MR AN RASIDZOGÉ:** Okay, during that period – because that thing it is not fixed – like I said, in the morning it would be zero and in the afternoon it will start to read 8, 10 and then going down...

ARBITRATOR JUSTICE MOSENEKE: ...but then, again, why would you write the mortuary was 10° plus and now you tell us it was only 8, 10°?

15**MR AN RASIDZOGÉ:** But then in fact, I am trying to say that if we say in the morning the mortuary need to be between zero and five ...

ARBITRATOR JUSTICE MOSENEKE: I am talking about what you have written – I am not asking how the mortuary works – why did you write 10 plus and now you tell me in truth and in fact it was normal – it was below 10? That is the narrative that
20I am trying to get at. You see – I am trying to understand what all these denials are

all about. You list 8 bodies and you say the bodies are all fine and two of you signed here – the senior people, they all signed and tell us it was all fine. The mortuary was hot, no it was not hot it is within range. The mortuary had to be serviced under emergency, no it was just routine. We paid double the rate and paid for emergency, 5overtime no it was just routine service. But the evidence tells us that the mortuary was warm not from you form the families, a body was on the floor, one body was decomposed. Do you suggest that all of that is untrue? And that at Cullinan mortuary it was all just fine, and all of these bodies was never exposed to a mortuary that was dysfunctional?

10 **MR AN RASIDZOGÉ:** Can I?

ARBITRATOR JUSTICE MOSENEKE: It is your opportunity yes.

MR AN RASIDZOGÉ: Before the mortuary was serviced then it was, then the it was within range with 1 to 10. Even the day that the contractor was on site, he said ... the fact of saying that the mortuary was working and then he even...

15 **ARBITRATOR JUSTICE MOSENEKE:** With leaking gas containers, with leaking gas containers?

MR AN RASIDZOGÉ: And then that one...

ARBITRATOR JUSTICE MOSENEKE: Is it?

MR AN RASIDZOGÉ: Yes, that one explained why it was not picking up because 20they did the servicing, then it got monitored from that date up until the 16th that is when they [inaudible] because after services it was suppose to pick up but now it is

not picking up, that means that there might be a leak and for them to access that leak in only through the cabinets and they couldn't do that through it because there was a body that we had to remove. Because the temperature then was saying ten plus, so we had to remove it immediately.

5 **ARBITRATOR JUSTICE MOSENEKE:** How much more time do you want to spend on this?

ADV ADILA HASSIM: Justice I am almost done. Mr. Rasidzoge the – if we look at number 1 Mr. Gumede 25 July 2016 he was at the mortuary, if we look at number 2 Mr. Benedict 25 July he was in the mortuary. Can you see that?

10 **MR AN RASIDZOGÉ:** Yes.

ADV ADILA HASSIM: Yes, thank you. Number 3 Mr. Makube 25 July he was in the mortuary still, correct?

MR AN RASIDZOGÉ: Yes.

ADV ADILA HASSIM: Number 4, Miss Busiswe Shabalala 25 July she was in the
15 mortuary, is that correct?

MR AN RASIDZOGÉ: Yes.

ADV ADILA HASSIM: I just named number 4, I just name 4 corpses in a mortuary with a capacity as you've said to hold three. Would you agree then that it was over capacity, it was over full?

20 **MR AN RASIDZOGÉ:** Yes, that information that I said it was never brought to my attention.

ADV ADILA HASSIM: Well, it is in the report that you prepared. Finally number 8, Mrs. Vuya Konja...

ADV TEBOGO HUTAMO: Justice the reading of item number 2 on page 2 of LA 53, the 25th of July is the date of the transfer not the date of the body being kept at 5the mortuary.

ARBITRATOR JUSTICE MOSENEKE: Ok. Council must correct that.

ADV ADILA HASSIM: No, Justice. There is nothing to correct my comment was that 25 July 2016 MR. Benedict was in the mortuary, yes he was transferred on the 25th, it doesn't say what time the point is at some point he was there. I didn't say 10that he died or that he was admitted to the mortuary on that date. He was there until the 25th of July that is the point I'm making and that is what I understand of this paragraph.

ARBITRATOR JUSTICE MOSENEKE: Does that meet your point?

ADV TEBOGO HUTAMO: I can't take it further Justice, thank you.

15**ARBITRATOR JUSTICE MOSENEKE:** Very well, proceed council.

ADV ADILA HASSIM: Thanks, Justice. I was referring to MR. Vuyo Konwana who passed away on 7 February 2017 and his father testified before us. And as you have noted in this report his father raised a concern about the corpse that it was not frozen and that it was not in a good condition. He testified that on the 23rd of 20October before these proceedings and he testified that the mortuary was hot and

small similar to the words that we used by Miss Anna Ntembu and that is in February 2017. Would you like to respond to that?

MR AN RASIDZOGÉ: No.

ADV ADILA HASSIM: He also said in his testimony that there was no soap in the mortuary. Just give me one moment Justice, I just want to find the exact part of the transcript, he said the following; “ *It never had soap to was hands and they complained why this mortuary has no soap to wash hands, we want to wash our hands. There is no soap in this mortuary, there is a container of a liquid soap but there is no soap in the container.*” Would you like to respond to that?

10 **MR AN RASIDZOGÉ:** Yes, the information was brought to my attention and it was addressed immediately.

ADV ADILA HASSIM: So was it true that there was no soap in the mortuary?

MR AN RASIDZOGÉ: Yes, the container that use to have soap in it was almost empty.

15 **ARBITRATOR JUSTICE MOSENEKE:** Empty or almost empty?

MR AN RASIDZOGÉ: Yeah, because I had to go and check I remember that pink liquid, so it was almost empty.

ARBITRATOR JUSTICE MOSENEKE: No, the point is that there was no soap.

MR AN RASIDZOGÉ: Ja, I will put it that way.

20 **ADV ADILA HASSIM:** You put it that way meaning that there was no soap?

MR AN RASIDZOG: Ja, because when I checked...

ADV ADILA HASSIM: It is just yes or no.

MR AN RASIDZOG: I will say yes.

ADV ADILA HASSIM: Yes there was no soap?

5**MR AN RASIDZOG:** Yes.

ADV ADILA HASSIM: My final question is does the mortuary have a certificate or a license from the relevant authority?

MR AN RASIDZOG: Not that I know of.

ADV ADILA HASSIM: You are not aware of a certificate or a license to run the
10mortuary? Do you know that you are required to have a certificate?

MR AN RASIDZOG: Yes, I am.

ADV ADILA HASSIM: Under the regulations of the national health act, yes?

MR AN RASIDZOG: Yes.

ADV ADILA HASSIM: And in order to run a mortuary there are particular
15requirements, are you aware of that?

MR AN RASIDZOG: Yes.

ADV ADILA HASSIM: But you say that you are not aware that there is a certificate?

MR AN RASIDZOG: Yes, so it was brought to my attention and I had to check
the ware about of the one that we - or they used to have before.

ADV ADILA HASSIM: They used to have before?

MR AN RASIDZOG: Yes.

ADV ADILA HASSIM: Did you find it?

MR AN RASIDZOG: Not yet.

5**ADV ADILA HASSIM:** So as we sit here there is no certificate for the mortuary, in your knowledge?

MR AN RASIDZOG: It is a matter of checking it the whereabouts of the certificate.

ADV ADILA HASSIM: But you checked but you couldn't find it you said?

10**MR AN RASIDZOG:** I'm still in the process of checking.

ARBITRATOR JUSTICE MOSENEKE: Where are you checking?

MR AN RASIDZOG: With the same office and also the other people that where there before me and also with the department.

ARBITRATOR JUSTICE MOSENEKE: Did you check before you wrote this report?

15**MR AN RASIDZOG:** No.

ARBITRATOR JUSTICE MOSENEKE: Why not?

MR AN RASIDZOG: I do not have an answer for that one.

ARBITRATOR JUSTICE MOSENEKE: Yes. Whose responsibility is it for the mortuary to work properly and lawfully?

MR AN RASIDZOGÉ: It is my responsibility.

ARBITRATOR JUSTICE MOSENEKE: And did you comply with that responsibility?

MR AN RASIDZOGÉ: Yes.

ARBITRATOR JUSTICE MOSENEKE: Does your mortuary have a license?

5**MR AN RASIDZOGÉ:** That is the information that I don't have.

ARBITRATOR JUSTICE MOSENEKE: No, but it is a straight question, you are in charge you are there and you have to make sure it is lawful. Do you know whether it operates lawfully?

MR AN RASIDZOGÉ: The mortuary is suppose to have a certificate, that is why I
10am saying I am checking the whereabouts of the certificate.

ARBITRATOR JUSTICE MOSENEKE: Does it have a certificate, you don't know?

MR AN RASIDZOGÉ: I'm still checking on that.

ARBITRATOR JUSTICE MOSENEKE: And you think that the mortuary was properly run?

15**MR AN RASIDZOGÉ:** Yes.

ARBITRATOR JUSTICE MOSENEKE: And why did you write in the hide of documents that the mortuary did not work properly?

MR AN RASIDZOGÉ: I think the information is supplied by the reading of the mortuary to say that it is suppose to be within that particular range.

20**ARBITRATOR JUSTICE MOSENEKE:** Was it within the range?

MR AN RASIDZOG: On the 16th the mortuary was not on the range, it was then ten plus.

ARBITRATOR JUSTICE MOSENEKE: And in the second half of 2016?

MR AN RASIDZOG: The mortuary was fine.

5**ARBITRATOR JUSTICE MOSENEKE**: Despite of what you have written?

MR AN RASIDZOG: On that one I was referring on the 16th of August.

ARBITRATOR JUSTICE MOSENEKE: To whom do you report?

MR AN RASIDZOG: To the CEO.

ARBITRATOR JUSTICE MOSENEKE: Did you give him this report, has he seen
10this report of yours?

MR AN RASIDZOG: the whole document?

ARBITRATOR JUSTICE MOSENEKE: Yes.

MR AN RASIDZOG: Yes.

ARBITRATOR JUSTICE MOSENEKE: And does he agree with you?

15**MR AN RASIDZOG**: Yes.

ARBITRATOR JUSTICE MOSENEKE: Do you have any further questions?

ADV ADILA HASSIM: Just one, Justice. Mr. Rasidzoge you were appointed on the first of September 2012, is that correct?

MR AN RASIDZOG: Yes.

ADV ADILA HASSIM: And in all of that time you have never seen a certificate?

MR AN RASIDZOG: No.

ADV ADILA HASSIM: Thank you.

ARBITRATOR JUSTICE MOSENEKE: Thank you, council. Advocate Crouse?

5**ADV LILLA CROUSE:** Thank you, Justice. Sir what qualifications do you have?

MR AN RASIDZOG: One diploma in public management, the other one in business management and then honours in public management.

ADV LILLA CROUSE: So you understand about compliance?

MR AN RASIDZOG: Yes, I understand.

10**ADV LILLA CROUSE:** Then you would understand that legal compliance?

MR AN RASIDZOG: Yes, I understand.

ADV LILLA CROUSE: And you ignored that part? I see your not answering.

MR AN RASIDZOG: It is not to say that I have ignored it.

ADV LILLA CROUSE: What other explanation do you have sir?

15**MR AN RASIDZOG:** Like I said I understand that the mortuary is suppose to have a certificate and then – but then when it was needed I tried to check with the relevant people about the whereabouts of the certificate.

ADV LILLA CROUSE: Sir, do you understand the concept of taking oath?

MR AN RASIDZOG: Yes, I understand.

ADV LILLA CROUSE: What do you understand under that?

MR AN RASIDZOG: That I need to tell the truth.

ADV LILLA CROUSE: And the whole truth?

MR AN RASIDZOG: The whole truth yes.

5**ADV LILLA CROUSE:** And nothing but the truth, have you been doing that today?

MR AN RASIDZOG: Yes.

ADV LILLA CROUSE: So in 5 years time you knew about compliance but you didn't comply and you say there is nothing wrong with that?

MR AN RASIDZOG: To me there is two parts, the other one is for making sure
10the mortuary service is running properly and the other part that I know had to
address the part of the certificate, that I'm saying for that period that you
mentioned...

ADV LILLA CROUSE: Sir, I'm going to leave that there, your not answering my
question. Can I just go to this list that you provided the 8 people. Do you have it in
15front of you, it LA 53?

MR AN RASIDZOG: Yes.

ADV LILLA CROUSE: And Adila already took you through this, I don't want to
repeat it. But you have explained why there are only 8 name son that list, is that so?

MR AN RASIDZOG: Come again?

ADV LILLA CROUSE: Can you explain to us – let me rather ask you this way. Why are there eight names on the list?

MR AN RASIDZOGÉ: This are the corpses that are removed from our mortuary.

ADV LILLA CROUSE: Those are the diseased people that were removed from your mortuary during the time that the mortuary wasn't functioning, is that what you are saying?

MR AN RASIDZOGÉ: Only number 1.

ADV LILLA CROUSE: Ok. Because you see number two on the list dies on the 23rd of June 2016, that is the first death in this list of 8 people. Do you see that?

10 **MR AN RASIDZOGÉ:** Yes number 2 I can see it.

ADV LILLA CROUSE: And the last person that is diseased is number eight, the 7th of February 2017. Do you see that?

MR AN RASIDZOGÉ: Yes.

ADV LILLA CROUSE: And I've calculated in terms of the ombuds report there are 1527 people that had died during that period. So what happened to the rest?

MR AN RASIDZOGÉ: I don't have the full information with that.

ADV LILLA CROUSE: No, sir.

MR AN RASIDZOGÉ: Can I just say something on that?

ADV LILLA CROUSE: Yes.

MR AN RASIDZOGÉ: Remember we had Cullinan and we went to NGO's. So that means that we have this other corpse or this other corpses from the other NGO's, the two NGO's. So obviously because I do not have full information with those ones. I will say that we might be having the number which is saying that there is something, but the NGO's might have removed those bodies not through our mortuary but for example number 1 Mr. Gumede, he was with the NGO but then he was stored in our mortuary.

ADV LILLA CROUSE: Sir what I'm asking you, are you saying that the other 21 patients didn't go through your mortuary?

10**MR AN RASIDZOGÉ:** Yes.

ADV LILLA CROUSE: And you are saying that under oath knowing that you should tell the truth, the whole truth and nothing but the truth?

MR AN RASIDZOGÉ: Yes, like I said this information is the consolidated information.

15**ADV LILLA CROUSE:** No sir, please you are speaking about information the whole time. You are the MR AN RASIDZOGÉ and the MR AN RASIDZOGÉ gives his evidence. I'm asking you as the MR AN RASIDZOGÉ are you saying that the other 21 diseased people did not go through your mortuary?

MR AN RASIDZOGÉ: At this stage I do not have the full information on that one.

20**ARBITRATOR JUSTICE MOSENEKE:** So what is the answer, that you don't know or are you saying that it didn't happen?

MR AN RASIDZOGÉ: I'm saying I don't know.

ADV LILLA CROUSE: So sir what control did you keep over your mortuary?

MR AN RASIDZOGÉ: Control?

ADV LILLA CROUSE: You were in control of the mortuary, what did you do, what policies did you have in place, what did you check?

MR AN RASIDZOGÉ: Maybe to answer on that one. The fact that I am really responsible for is the part of making sure that the mortuary is functioning.

ADV LILLA CROUSE: Yes sir. Part of functioning is meaning if there is bodies that you will know about that, isn't that so?

10 **MR AN RASIDZOGÉ:** No.

ADV LILLA CROUSE: And again that is the truth, the whole truth and nothing but the truth?

MR AN RASIDZOGÉ: Yes, that one is.

ADV LILLA CROUSE: Sir, have you ever heard about the public finance act?

15 **MR AN RASIDZOGÉ:** Come again?

ADV LILLA CROUSE: Have you ever heard about the public finance act?

MR AN RASIDZOGÉ: Yes.

ADV LILLA CROUSE: Now, you've probably studied it in your studies as well?

MR AN RASIDZOGÉ: Yes.

ARBITRATOR JUSTICE MOSENEKE: Yes, public finance management act.

ADV LILLA CROUSE: Yes, that is so thank you, Justice. Now if I understand you correctly you are saying that the documents that are attached to this report of yours was just a normal routine servicing of the mortuary, is that right?

5**MR AN RASIDZOGÉ:** Yes.

ADV LILLA CROUSE: But you also say that on the 16th of August 2016 you realised that there was something wrong and that had to be fixed?

MR AN RASIDZOGÉ: Yes.

ADV LILLA CROUSE: What happened to those invoices?

10**MR AN RASIDZOGÉ:** The invoices for fixing the mortuary?

ADV LILLA CROUSE: Yes.

MR AN RASIDZOGÉ: They are referred to DID because they are the ones that are pointing the contractors on behalf of the department.

ADV LILLA CROUSE: Yes, sir. But you prepared this document, didn't you?

15**MR AN RASIDZOGÉ:** Yes, the evidence that are touched here, yes I am the one who forwarded them.

ADV LILLA CROUSE: Because it says that the documents are attached here to after the leaking gas.

MR AN RASIDZOGÉ: Ja, as the indication....

ARBITRATOR, JUSTICE MOSENEKE: That is Public Finance Management Act (PFMA).

ADV. LILLA CROUSE: Yes that is it. Thank you Justice. Now, if I understand you correctly, you are saying that the documents that are attached to this report of yours was just a normal routine servicing of the mortuary, is that right?

MR. A.N. RASIDZOGÉ: Yes.

ADV. LILLA CROUSE: But you also say on the 16th of August 2016 you realised there was something wrong and that had to be fixed.

MR. A.N. RASIDZOGÉ: Yes.

10 **ADV. LILLA CROUSE:** What happened to those invoices?

MR. A.N. RASIDZOGÉ: The invoices for fixing the mortuary?

ADV. LILLA CROUSE: Yes.

MR. A.N. RASIDZOGÉ: They were all referred to DID because they are the one that are appointing the contractors on behalf of the Department.

15 **ADV. LILLA CROUSE:** Yes sir, but you prepared this document, didn't you?

MR. A.N. RASIDZOGÉ: Ja, the evidence attached here, I am the one who forwarded them.

ADV. LILLA CROUSE: Because it says the documents are attached hereto after the leaking gas.

MR. A.N. RASIDZOGÉ: Ja, as the indication that the problem was attended to or the servicing done in fact.

ADV. LILLA CROUSE: Yes and you say you attached these documents. Now I am asking you where are those documents, you say in your own words you are attaching them.

MR. A.N. RASIDZOGÉ: I think it is page number 5, number 6 and also page number 8, that is the proof that the mortuary was serviced.

ADV. LILLA CROUSE: Yes sir that is the service. I am talking about the fixing of the mortuary in August 2016, where are those invoices and purchase orders that you say you attach hereto.

MR. A.N. RASIDZOGÉ: Ja, I was referring to this one. Okay, let me just go back. After they provided this service, so the mortuary need to be monitored, so then if we experience a problem then we call the service provider to come back and address the problem.

ADV. LILLA CROUSE: And they fix for free?

MR. A.N. RASIDZOGÉ: It was not for free.

ADV. LILLA CROUSE: Where are those invoices, sir?

MR. A.N. RASIDZOGÉ: No, it was still under the same payment.

ADV. LILLA CROUSE: So they know in advance something is going to break and they know in advance that they are coming back.

MR. A.N. RASIDZOGÉ: No, no, they service and they monitor.

ADV. LILLA CROUSE: And they ask in advance for that, is that in accordance with the Public Finance Management Act?

MR. A.N. RASIDZOGÉ: No, if they service the mortuary then they say we need to monitor it for a period of whatever, a month or so. Then if immediately we have a problem then we call those guys back to come and attend to that.

ADV. LILLA CROUSE: Yes sir, we are not getting past this point. My point is, where are those invoices?

MR. A.N. RASIDZOGÉ: No invoices, only these that were done on the original servicing of the mortuary.

10 **ADV. LILLA CROUSE:** So you say for the fixing there are no payments and no invoices, is that what you are saying?

MR. A.N. RASIDZOGÉ: These are the only invoices.

ADV. LILLA CROUSE: No sir that is not my question that I am asking. I am saying, my question to you while you are under oath is, are you saying that in 15 August when your mortuary had a problem and had to be fixed that there were no payments made to the service providers whatsoever?

MR. A.N. RASIDZOGÉ: Yes.

ADV. LILLA CROUSE: So they worked for free.

MR. A.N. RASIDZOGÉ: No it was not for free.

20 **ADV. LILLA CROUSE:** But can you then explain how can it not be or free if you already have an invoice and already have a quote, where do they put that extra on?

MR. A.N. RASIDZOGÉ: No, it was not extra. After servicing they need to monitor to say I serviced this thing, I am giving a guarantee of three months to say anything that is going to happen within this period, then I'll come back and address it.

ADV. LILLA CROUSE: Okay let me then ask you further. You are saying that
5 these invoices are incorrectly dated, is that right?

MR. A.N. RASIDZOGÉ: Ja, what I stated was that the actual service was done on the 23rd.

ADV. LILLA CROUSE: 23rd of?

MR. A.N. RASIDZOGÉ: July 2016.

10 **ADV. LILLA CROUSE:** So therefore the invoices are wrongly dated.

MR. A.N. RASIDZOGÉ: Yes.

ADV. LILLA CROUSE: And as a, just as a normal person not knowing the management functions you have, that would be fraud, won't you agree with me?

MR. A.N. RASIDZOGÉ: No, I am not sure about that one.

15 **ADV. LILLA CROUSE:** Ag please man. Is it fraud to lie? Is it wrong to lie, sir?

MR. A.N. RASIDZOGÉ: Ja, I understand it is wrong to lie, yes.

ADV. LILLA CROUSE: You don't know that?

MR. A.N. RASIDZOGÉ: No, I am answering the question.

ADV. LILLA CROUSE: It is wrong to lie.

MR. A.N. RASIDZOGÉ: Ja it is wrong to lie.

ADV. LILLA CROUSE: So why did you lie here?

MR. A.N. RASIDZOGÉ: You mean on the invoices? No the invoices are then managed by DID.

5**ADV. LILLA CROUSE:** No sir, you signed off on these. I want to know why did you sign off granting access to a period that they weren't there and signing off on documents that are incorrect, you knowing them to be incorrect.

ARBITRATOR, JUSTICE MOSENEKE: Are we having an answer?

MR. A.N. RASIDZOGÉ: I don't have an answer on that one.

10**ADV. LILLA CROUSE:** Have you been charged disciplinary for this?

MR. A.N. RASIDZOGÉ: No.

ADV. LILLA CROUSE: Can I just ask one further question on these invoices? If this is a routine servicing, why is it necessary to do this on a Saturday and a Sunday? Why is it necessary to pay overtime?

15**MR. A.N. RASIDZOGÉ:** Like I said we requested these services to be a routine services and because we are not getting the contract to be forwarded then we had to communicate with DID to say they need to treat this one as a matter of urgency. So that is why they had to phone these people and then on their motivation they also indicated that the mortuary needs to be serviced immediately, so the people
20were then forwarded to us on the 23rd.

ADV. LILLA CROUSE: But that is not effective use of resources. Do you agree with me?

MR. A.N. RASIDZOGI: Ja, I will agree with that one.

ADV. LILLA CROUSE: And it was your task to make sure that resources are adequately used, are effectively used.

MR. A.N. RASIDZOGI: I understand that one.

ADV. LILLA CROUSE: But you didn't do it. You are not answering.

MR. A.N. RASIDZOGI: Okay based on... like I said before, these logistics, most of them were done after the service was rendered. So the documentation of the whole process like the access certificate, the commission certificate was done after and the same goes with the quotation.

ADV. LILLA CROUSE: So you were just flaunting all your policies, you were not acting in the best interest of the Department of Health.

ARBITRATOR, JUSTICE MOSENEKE: Shall we get an answer to that?

15 **MR. A.N. RASIDZOGI:** I don't have an answer for that one.

ADV. LILLA CROUSE: Thank you Justice.

ARBITRATOR, JUSTICE MOSENEKE: Why would all the paperwork, the invoice requisition, the acceptance the work, the double rate charges, all be written up afterwards?

MR. A.N. RASIDZOGÉ: It is one of those things that I will need to take over with the DID in order to address going forward.

ARBITRATOR, JUSTICE MOSENEKE: Didn't you tell them what you needed was a routine maintenance?

5**MR. A.N. RASIDZOGÉ:** Ja, they knew about it.

ARBITRATOR, JUSTICE MOSENEKE: And you don't want to pay double the rate.

MR. A.N. RASIDZOGÉ: They knew the service was due.

ARBITRATOR, JUSTICE MOSENEKE: And have you taken up this with them afterwards to say, look how much money we spent on a routine service?

10**MR. A.N. RASIDZOGÉ:** With that one, they are the ones managing the rates and everything and appointing the contractor and give the recommendation.

ARBITRATOR, JUSTICE MOSENEKE: You are the infrastructure manager of CCRC and they are your service providers.

MR. A.N. RASIDZOGÉ: Yes.

15**ARBITRATOR, JUSTICE MOSENEKE:** The money ultimately comes out of your budget, doesn't it?

MR. A.N. RASIDZOGÉ: Yes.

ARBITRATOR, JUSTICE MOSENEKE: It is actually your money. They are managing it but it is actually from your budget.

20**MR. A.N. RASIDZOGÉ:** Yes.

ARBITRATOR, JUSTICE MOSENEKE: So I am asking, did you actually stand up and say you are bringing me guys on a Saturday and a Sunday?

MR. A.N. RASIDZOGÉ: No, I never did that one, Justice.

ARBITRATOR, JUSTICE MOSENEKE: Why not?

5**MR. A.N. RASIDZOGÉ:** That is why I am saying going forward it is something that we need to manage better.

ARBITRATOR, JUSTICE MOSENEKE: We are going to drown in the detail, this is not about that. It is about whether you took proper care of the bodies that were left in your custody – that is what this is about.

10**MR. A.N. RASIDZOGÉ:** Okay.

ARBITRATOR, JUSTICE MOSENEKE: What is your answer? Let's take the one body for the moment.

MR. A.N. RASIDZOGÉ: Ja that is why, I'll say yes we try, the information that we have was saying the mortuary was working.

15**ARBITRATOR, JUSTICE MOSENEKE:** No, you tried is not good enough. I am saying to you in your honest conscience, you sit there, are you telling me that you ensured that the increasing number of people who were dying at your facility, after you told us that it was all quiet, nobody was dying, but they were dying in many numbers, did you take steps to honour their remains?

20**MR. A.N. RASIDZOGÉ:** In terms of making sure that the mortuary service is rendering perfectly.

ARBITRATOR, JUSTICE MOSENEKE: Yes.

MR. A.N. RASIDZOG: That is what we did when we requested those guys to come and service the mortuary, because it was due.

ARBITRATOR, JUSTICE MOSENEKE: Counsel.

5**ADV. DIRK GROENEWALD:** Thank you Justice.

ARBITRATOR, JUSTICE MOSENEKE: I assume that you are done, Adv. Crouse, were you?

ADV. LILLA CROUSE: Thank you, Justice, I was.

ADV. DIRK GROENEWALD: Thank you. Sir, can I please take you to ELAH53
10pages 2, 3, 4, 5? My colleague took you also there, it is the E-maintenance work request. Are you there?

MR. A.N. RASIDZOG: That will be page 7.

ADV. DIRK GROENEWALD: Is it page 7 for you? Tell me sir, this, I see there is a stamp there at the bottom, I can't really make out the date, but it is just a stamp to
15say what is on this document on this date is correct.

MR. A.N. RASIDZOG: It is really after they've done the services, the DID bring these documents to us to sign the defects, so we put a stamp and sign.

ADV. DIRK GROENEWALD: Sorry, just come again.

MR. A.N. RASIDZOG: We will report the defects, they will do the service before
20the completion of everything in terms of payment and other logistics. The defects

need to be signed by our office, the FMU. So that is why they put the stamp and that is the date it was brought to us by the DID.

ADV. DIRK GROENEWALD: So somewhere now in 2017 they brought you the document to sign.

5**MR. A.N. RASIDZOGÉ:** Yes.

ADV. DIRK GROENEWALD: Okay. Can you read there just at the top: view defect reference, can you read that to us?

MR. A.N. RASIDZOGÉ: I can't see that one.

ADV. DIRK GROENEWALD: I'll read it to you.

10**MR. A.N. RASIDZOGÉ:** Okay.

ADV. DIRK GROENEWALD: You'll see there is Maintenance Gauteng Provincial Government search defect wara-wara.

MR. A.N. RASIDZOGÉ: Okay.

ADV. DIRK GROENEWALD: It says there view defect reference number, 15ID1031573, status fault not fixed. So this document confirms that the fault has not been fixed.

MR. A.N. RASIDZOGÉ: No, the fault was addressed.

ADV. DIRK GROENEWALD: Is this document then incorrect, sir? Because you must agree with me that the status, fault not fixed, that is the status, the official

status in terms of this document, you must agree with me, that is the status of this document, in terms of this document.

MR. A.N. RASIDZOGÉ: Can I take you through the process, what is supposed to happen with this one? When we log the defects, somebody need to confirm that the defect was addressed.

ADV. DIRK GROENEWALD: Okay.

MR. A.N. RASIDZOGÉ: So by the time this paper was printed, so somebody was supposed to log in and give the record that the defects were then addressed, that means that is the backlog of the system itself where they are supposed to clean it, in terms of going to all the work orders and all the defects and give the status. So meaning we still have the backlog of some of these things that are not cleared on the system. Because then it need to be our office, it needs to be the supervisor, the chief artisan, all these people need to give this report until to the last person when this information will be taken back to FMU. So the document then was printed before somebody could clear it on the system.

ARBITRATOR, JUSTICE MOSENEKE: But you agree that the paperwork says the defect not fixed. Do you agree that that is what your own paperwork tells us?

MR. A.N. RASIDZOGÉ: No, the defect was addressed on the 23rd of July 2016.

ARBITRATOR, JUSTICE MOSENEKE: So the recordal is wrong.

MR. A.N. RASIDZOGÉ: By the time this paper was printed, because this system it works in sequence. So if the next person hasn't removed it from the system, it will

still be giving you these readings. So it was printed with these readings, but then the mortuary was already serviced.

ARBITRATOR, JUSTICE MOSENEKE: But when was the defect not fixed?

MR. A.N. RASIDZOGÉ: Come again, Justice.

5**ARBITRATOR, JUSTICE MOSENEKE:** The recordal says the defect was not fixed.

MR. A.N. RASIDZOGÉ: Yes.

ARBITRATOR, JUSTICE MOSENEKE: Is it true that the defect was not fixed?

MR. A.N. RASIDZOGÉ: That is what I am trying to say that we log, somebody
10needs to remove it from the system to give the status at a given time. So that means, can I just give example to say the chief artisan then was supposed to clear this to say it was then addressed. So meaning in terms of the backlog that they have, I am just assuming, to say we still find that there are some of the things that are not yet cleared, but not to say that they were not done.

15**ADV. DIRK GROENEWALD:** So your administration is not up to date, is that what you are telling us?

MR. A.N. RASIDZOGÉ: No, the DID administration.

ADV. DIRK GROENEWALD: But there at the stamp, at the bottom, who signed there?

20**MR. A.N. RASIDZOGÉ:** The same person who logged the defects.

ADV. DIRK GROENEWALD: Same person. So this same person in 2017, this same person that logged the defect, signs and confirms status fault not fixed. You are not taking us into your confidence, sir.

MR. A.N. RASIDZOGI: Ja, maybe I just need to go back to that one to say, if you go and print this document now, still you might find that it is still having the same message, but because the office is the one that is dealing with the servicing of the mortuary, she knew for sure that the mortuary was serviced on the 23rd, given the information that is indicated on the paperwork.

ADV. DIRK GROENEWALD: Well the documentation differs from your testimony, sir. And your evidence up to now has been quite contradictory. But let's leave it at that. I want you to go to ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: Just before you walk away, Counsel.

ADV. DIRK GROENEWALD: Yes.

ARBITRATOR, JUSTICE MOSENEKE: Look at page 6. The completion certificate tells us that the completion date is the 4th of August 2016. Is that one too also faulty?

ADV. DIRK GROENEWALD: Ja, like I said the service was done on the 23rd.

ARBITRATOR, JUSTICE MOSENEKE: But why would people record untruths like that on a completion certificate and three other people besides yourself sign up and tell us that the work was only completed on the 4th of August 2016? Are they the ones that are telling the truth?

MR. A.N. RASIDZOGÉ: Ja maybe these logistics, we need them to come and explain.

ARBITRATOR, JUSTICE MOSENEKE: I beg your pardon.

MR. A.N. RASIDZOGÉ: Maybe all these other logistics that are put on these 5papers then they need the DID to explain.

ARBITRATOR, JUSTICE MOSENEKE: But you co-signed the document.

MR. A.N. RASIDZOGÉ: Yes on the day it was brought to me.

ARBITRATOR, JUSTICE MOSENEKE: You haven't changed or altered any of those dates. I mean how can formal documents tell a story totally at variance with 10what you, the big chief, knows? What kind of management is that? You see, again I take you... the question is, you are paid to look after the public, have we forgotten? You are paid every month so that you render a service to the members of the public, do we agree at least about that?

MR. A.N. RASIDZOGÉ: Yes, I agree.

15**ARBITRATOR, JUSTICE MOSENEKE:** You are like me, when I was a judge I get paid to do my work as a judge, I am a public servant like you. And your job, when somebody passes on, is to ensure that they are kept in a mortuary that is below 10 degrees – that is what you are paid for, do you agree with that?

MR. A.N. RASIDZOGÉ: I agree.

20**ARBITRATOR, JUSTICE MOSENEKE:** And we have complaints that come before me in this hearing that some bodies were decomposed or the mortuary was warm.

Do you think you have done your work for what you are paid for, for what you are in charge for?

MR. A.N. RASIDZOGÉ: Yes.

ARBITRATOR, JUSTICE MOSENEKE: Why do you say that?

5**MR. A.N. RASIDZOGÉ:** I am supposed to make sure that the mortuary is serviced and running and the information that I gave here was that, when those guys arrived in the mortuary, the mortuary was within range and then it was serviced. And then from that day ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: But you write on paper that the mortuary
10was not within range. How do you expect me to believe that, if not commit you for perjury?

MR. A.N. RASIDZOGÉ: On the 16th, the information that we got was that the mortuary now is out of the range and that is why we had to remove the corps immediately.

15**ARBITRATOR, JUSTICE MOSENEKE:** On your evidence the mortuary was out of the range for one day.

MR. A.N. RASIDZOGÉ: Yes.

ARBITRATOR, JUSTICE MOSENEKE: Incredible. We'll continue.

ADV. DIRK GROENEWALD: Thank you, Justice, I think I am almost done. Sir,
20just to confirm, your evidence is that on the 23rd of July they came to service the mortuary.

MR. A.N. RASIDZOGÉ: Yes.

ADV. DIRK GROENEWALD: The fridge. And on the 17th they came again just simply to fix the problem.

MR. A.N. RASIDZOGÉ: Yes.

5**ADV. DIRK GROENEWALD:** The leaking pipe.

MR. A.N. RASIDZOGÉ: Yes.

ADV. DIRK GROENEWALD: Two days' work? Is it so long? How long did it take to repair or to service the fridge?

MR. A.N. RASIDZOGÉ: On the 23rd I think they took something like 10 hours.

10**ADV. DIRK GROENEWALD:** 10 hours?

MR. A.N. RASIDZOGÉ: Yes.

ADV. DIRK GROENEWALD: And on the 17th?

MR. A.N. RASIDZOGÉ: I don't have the information with me for that particular day in terms of hours.

15**ADV. DIRK GROENEWALD:** But you only paid for the 23rd, because you said they said if there is anything wrong within three months' time, they will come back and fix it.

MR. A.N. RASIDZOGÉ: Yes.

ADV. DIRK GROENEWALD: That is not part of, you don't pay for the fixing.

MR. A.N. RASIDZOGÉ: No.

ADV. DIRK GROENEWALD: Now sir, you sign off on a document that says they started to work on the 29th of July up until the 9th of August. You submit then two invoices to which you then agree that they worked on the 26th of July they worked 6 5hours... on the 25th of July they worked 6 hours, on the 26th of July they worked 10 hours, on the 27th of July they worked 4 hours – that is 20 hours of work. Now once again for the 8th of August they are 16 hours, 4 hours, another 20 hours. And you condone that, sir. You know that it is incorrect and you accept it and you sign it and you send it off for payment.

10**MR. A.N. RASIDZOGÉ:** Maybe just to put an understanding on the hours that you are referring to. Some of this information is referring to the number of people that were there on the particular day to do the service. Like we have the assistance, we have the technician and then ...intervened.

ADV. DIRK GROENEWALD: Yes, it is taken into account, sir. We can go there. It 15says overtime Friday the 25th for the technician 6 hours and assistant 6 hours – so we have 6 hours. Overtime for the Saturday 10 hours for the technician and for the assistant also 10 hours. Overtime on Sunday 4 hours for the technician and for the assistant. So 6 plus 10 plus 4 gives you 20.

MR. A.N. RASIDZOGÉ: Mm.

20**ADV. DIRK GROENEWALD:** And on your own evidence you said no they worked on the 23rd for 10 hours, so this is a lie, this is fraud and you sign off on it and you accept it. Now how are we supposed to believe ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: Can the witness answer that?

ADV. DIRK GROENEWALD: My apologies, Justice.

ARBITRATOR, JUSTICE MOSENEKE: Can the witness answer that?

ADV. DIRK GROENEWALD: Yes.

5**ARBITRATOR, JUSTICE MOSENEKE:** You've put a proposition.

MR. A.N. RASIDZOGÉ: Okay. I gave the exact example of the 23rd. But on the 22nd they were there, then on the 23rd that is where they put this 10 hours and then from there they were monitoring the mortuary.

ADV. DIRK GROENEWALD: Sir, I asked you, my questions were quite clear, did they work on the 23rd only? Yes. For how long did they work? 10 hours. And now suddenly it is the 22nd, the 23rd and thereafter and they monitored it.

ARBITRATOR, JUSTICE MOSENEKE: This is a 4 x 5 mortuary with three little drawers.

MR. A.N. RASIDZOGÉ: I don't understand that one.

15**ARBITRATOR, JUSTICE MOSENEKE:** Anyway. Counsel, you may proceed.

ADV. DIRK GROENEWALD: Sir, I put it to you that we cannot believe what you have just testified here today. That you were not truthful. As you... if you are capable of signing off on a document, which is quite clearly fraudulent, how should we accept your testimony here today? You may respond if you wish to.

20**MR. A.N. RASIDZOGÉ:** I don't have the answer for that one.

ADV. DIRK GROENEWALD: Thank you very much, Justice. No further questions.

ARBITRATOR, JUSTICE MOSENEKE: Yes. Adv. Ngutshana.

ADV. PATRICK NGUTSHANA: Thank you Justice Moseneke, no questions for this witness.

5**ARBITRATOR, JUSTICE MOSENEKE:** Re-examination Adv. Hutamo.

ADV. TEBOGO HUTAMO: Thank you Justice. Mr. Rasidzoge, can you just indicate to us whose responsibility it is to attend to the payment in respect of services rendered for the mortuary at Cullinan Care Centre?

MR. A.N. RASIDZOGHE: It is DID.

10**ADV. TEBOGO HUTAMO:** You have testified about the request that was made for the service of the mortuary, do you recall that?

MR. A.N. RASIDZOGHE: Yes, I think that is page, if I can remember, page 7, yes.

ADV. TEBOGO HUTAMO: Yes. If you go to ELAH53.

MR. A.N. RASIDZOGHE: Yes Counsel.

15**ADV. TEBOGO HUTAMO:** You made reference to the temperature of the mortuary having been 10 degrees plus. I just want you to clarify what was the need for the body of Khumede (?) to be removed from the mortuary when you had reported the rising of the temperature?

MR. A.N. RASIDZOGHE: Okay, number 1 it was out of range. Number 2, they
20suspected that because it was not picking up after servicing, then they suspected

that there might be a leak in some of the pipes inside the mortuary, of which the only way to address that, it was for them to go through the cabinets so that they can be able to access there.

ADV. TEBOGO HUTAMO: With regard to the servicing of this mortuary, whose responsibility was it to ensure that it is attended to?

MR. A.N. RASIDZOGÉ: It is DID.

ADV. TEBOGO HUTAMO: And in this instance, who made the request that the mortuary had to be attended?

MR. A.N. RASIDZOGÉ: We had to log the defects with them, because they were not coming to service the mortuary, because it was due.

ADV. TEBOGO HUTAMO: And can you then just indicate like how often was the mortuary supposed to be serviced?

MR. A.N. RASIDZOGÉ: Once a year.

ADV. TEBOGO HUTAMO: And then what did you do when DID did not attend to the service of the mortuary?

MR. A.N. RASIDZOGÉ: Okay maybe I'll give an example, because it is due for service. What we will do is, we will start to communicate with the people that are relevant. From there if we are not getting any feedback, then we take the matter to the CEO and the CEO take it with other managers to make sure that they push for the mortuary to be serviced. And then with the case of this year, I think we might be

having something like four or five communication that were already forwarded to them.

ADV. TEBOGO HUTAMO: Will that be the reason why you had drawn to the attention that they had to attend to it as a matter of urgency?

5**MR. A.N. RASIDZOGÉ:** Ja, like what happened in 2016.

ADV. TEBOGO HUTAMO: So during that period the service was due, although they did not attend to the servicing on time.

MR. A.N. RASIDZOGÉ: Ja, it was still working, but it was due for service. And then it is one of those things that when you want to get something done, you have
10to find a way to push it.

ADV. TEBOGO HUTAMO: So like from your reports, you have said that like they had to attend to that.

MR. A.N. RASIDZOGÉ: As a matter of urgency, yes.

ADV. TEBOGO HUTAMO: As a matter of urgency.

15**MR. A.N. RASIDZOGÉ:** Yes.

ADV. TEBOGO HUTAMO: So at that stage when you made the request, the mortuary was functioning.

MR. A.N. RASIDZOGÉ: Yes, it was functioning.

ADV. TEBOGO HUTAMO: You testified about the temperature of the mortuary and
20the temperature of the room. Can you just try and clarify the distinction between the

temperature in respect of the mortuary and the temperature in respect of the building?

MR. A.N. RASIDZOGÉ: Okay with the mortuary it has got the temperature reading that is plugged on the mortuary itself, on the three cabinets, that will give us the 5 readings every day. And that is why we have got somebody who is dedicated to make sure that that thing is monitored. And then the building itself, depending on the... like today it is very hot, usually when you get to the mortuary on that particular day or particular time, you will note that the place is very small and very hot. But that will not be talking to the temperature on the fridge, on the mortuary itself.

10 **ADV. TEBOGO HUTAMO:** So basically there is a distinction between the temperature of the refrigeration inside the building and the temperature inside the building.

MR. A.N. RASIDZOGÉ: On the mortuary, yes, but on the building itself, when you get in, depending on how do you perceive the heat. I might get inside that building 15 and say okay to me it is normal, but this other person from somewhere, depending on the area where the person is coming from, get to that small area and start to suffocate.

ADV. TEBOGO HUTAMO: So in effect like you say you might have two different temperatures. I mean you have two different temperatures, one for the fridge and 20 one for the building.

MR. A.N. RASIDZOGÉ: Yes, although the one for the building, there is nothing to be able to give out a reading for that, but only for the mortuary.

ARBITRATOR, JUSTICE MOSENEKE: So if you have more than three, where would they be kept?

MR. A.N. RASIDZOGÉ: Ja with that one that is why sometimes we request the assistance of the nearest hospital to store the bodies for us.

5**ARBITRATOR, JUSTICE MOSENEKE:** Was this dedicated team that we heard about, did they keep a logbook?

MR. A.N. RASIDZOGÉ: Ja, we have the DHA1663 that they are recording the deceased.

ARBITRATOR, JUSTICE MOSENEKE: No the temperature, where are they
10recording that?

MR. A.N. RASIDZOGÉ: Oh you are referring to the temperature.

ARBITRATOR, JUSTICE MOSENEKE: Let's talk about the first one, you said you have register DH what?

MR. A.N. RASIDZOGÉ: No, I was trying to answer the question where you said, do
15we have the records where we are keeping the information for the deceased.

ARBITRATOR, JUSTICE MOSENEKE: That might be relevant too, but for now, I am just asking whether your dedicated team that took temperatures every morning.

MR. A.N. RASIDZOGÉ: Yes.

ARBITRATOR, JUSTICE MOSENEKE: Did they record the date?

20**MR. A.N. RASIDZOGÉ:** Ja, we started recording this year.

ARBITRATOR, JUSTICE MOSENEKE: No, we are talking about last year, 2015/2016. Did you keep a register with the date and the time and the temperature?

MR. A.N. RASIDZOGÉ: Ja, for that period we didn't have a register.

5**ARBITRATOR, JUSTICE MOSENEKE:** Why not?

MR. A.N. RASIDZOGÉ: Like I am saying, they were monitoring the mortuary and during those two years/three years, the mortuary was not working because we didn't have... then we had to say come 2017 we say we need to start to record, so hence we have the registers.

10**ARBITRATOR, JUSTICE MOSENEKE:** So we can't verify this daily dedicated team evidence, can we?

MR. A.N. RASIDZOGÉ: For 2016, no.

ARBITRATOR, JUSTICE MOSENEKE: So nobody else can tell us what the readings were at the relevant times? No book, no register, no person can tell us
15that.

MR. A.N. RASIDZOGÉ: There is the one that was taken by the service provider, the one who confirmed that the mortuary was working. And the person who was checking the mortuary every day, she was given the information that the mortuary was working.

20**ARBITRATOR, JUSTICE MOSENEKE:** What would she do? Would she walk up to you every morning and say the mortuary is below 10?

MR. A.N. RASIDZOGÉ: No. She will go to the mortuary and from there she will give me the report.

ARBITRATOR, JUSTICE MOSENEKE: So every morning she will go to the mortuary, come back to you and say the mortuary is ...intervened.

5**MR. A.N. RASIDZOGÉ:** Ja, before the end of the business she will give me the report on the status of the mortuary.

ARBITRATOR, JUSTICE MOSENEKE: Why did you follow that procedure?

MR. A.N. RASIDZOGÉ: Come again, Justice.

ARBITRATOR, JUSTICE MOSENEKE: Why did you follow that procedure of your
10 lady colleague coming to you every morning and saying it was all fine?

MR. A.N. RASIDZOGÉ: Ja that is how we were doing it until we said that we need to have the records for that, so meaning that now and then I will have to go and check the record myself and sometimes she would give me the report if we happen to see each other.

15**ARBITRATOR, JUSTICE MOSENEKE:** But my question is, why didn't you do it before 2016? The numbers were going up, more bodies were piling, people were obviously, there was going to be a comeback. Why didn't you start from May, for instance, to record? Because people, the record shows us that something like six people died there, maybe more.

20**MR. A.N. RASIDZOGÉ:** Ja, maybe on the issue of the recording, but on the issue of the checking and giving information that one was happening.

ARBITRATOR, JUSTICE MOSENEKE: Now why didn't you record when bodies started increasing?

MR. A.N. RASIDZOGÉ: It is just that we started to do it late.

ARBITRATOR, JUSTICE MOSENEKE: Why didn't you do it then, because you had actual corpses there? It was now important for you to know the actual temperature.

MR. A.N. RASIDZOGÉ: Ja, although we were not recording, that is why on the 16th then the information was given and then we acted on that one immediately, although we didn't have somewhere where we were recording.

10 **ARBITRATOR, JUSTICE MOSENEKE:** And I gather that you didn't go every morning to go and look, you left it to your assistant.

MR. A.N. RASIDZOGÉ: I wouldn't say I was doing it every morning, but in a week I would do it maybe three times.

ARBITRATOR, JUSTICE MOSENEKE: Where is the temperature reflected for the
15 cabinet?

MR. A.N. RASIDZOGÉ: In the panel in front of the cabinets.

ARBITRATOR, JUSTICE MOSENEKE: On a screen or a thermometer or how is it reflected?

MR. A.N. RASIDZOGÉ: Ja it is just one that has got a screen and that will indicate
20 the temperature.

ARBITRATOR, JUSTICE MOSENEKE: Counsel, let's proceed.

ADV. TEBOGO HUTAMO: Thank you Justice. Mr. Rasidzoge, can you just indicate to this tribunal if there had been any stage during which the mortuary kept more than three corpses.

MR. A.N. RASIDZOGHE: I don't understand the question, may you repeat it?

5**ADV. TEBOGO HUTAMO:** Has it ever happened that the mortuary kept more than three corpses at a time, to your knowledge?

MR. A.N. RASIDZOGHE: Ja that is what I tried to say that if it happened, it was never brought to my attention.

ADV. TEBOGO HUTAMO: No, I am asking to your knowledge, do you know if
10there has ever been such a time.

MR. A.N. RASIDZOGHE: No.

ADV. TEBOGO HUTAMO: You referred to other facilities where corpses were being sent to. Can you just mention which are those facilities that you sought assistance when you had corpses?

15**MR. A.N. RASIDZOGHE:** That would be Mamelodi Hospital.

ADV. TEBOGO HUTAMO: So in the event of death occurring and you not having capacity, I am referring to the centre, not having capacity, such will be transferred to Mamelodi.

MR. A.N. RASIDZOGHE: Yes.

20**ADV. TEBOGO HUTAMO:** If I can take you back to ELAH53, the second page where you have itemised the names of the people who were once at the centre.

You testified that they were kept at different times and they were removed or transferred for different reasons, is that so?

MR. A.N. RASIDZOGÉ: Yes.

ADV. TEBOGO HUTAMO: Thank you. There are no further questions.

5**ARBITRATOR, JUSTICE MOSENEKE:** Yes, thank you. Well we have come to the end of your testimony and we have a tradition here to allow a witness to say their peace before they go. It is your opportunity to do so. Maybe let's start by asking you, were you concerned with this pile up of bodies at the mortuary which was quiet, according to your report?

10**MR. A.N. RASIDZOGÉ:** On that one I will say this issue was managed correctly by making sure that, maybe referring to number 1, if you've got an issue or maybe the mortuary is full, then the communication is done with the relevant mortuary or family to come and remove the corpses.

ARBITRATOR, JUSTICE MOSENEKE: Is there anything that you want to say
15about this tragedy and about what happened where you were working and about the many corpses that came there and about your responsibility in relation to the corpses?

MR. A.N. RASIDZOGÉ: Ja, I would like to say something.

ARBITRATOR, JUSTICE MOSENEKE: Please feel free to do so and say, you can
20do so.

MR. A.N. RASIDZOGI: Let me start with the logistics, as it was put to me that most of the information that was used as evidence here was not consistent. I really agree and hence I am saying that some of this information will need to be taken with DID to say going forward, we need to make sure that whatever we do, we align it. 5Because then at the end of the day if we are saying the issue of the PFMA we'll not be complying and then it will be the evidence of fraud, like it was indicated to me. With that one I do agree and going forward on that one, I will say it is something that I really apologise and say going forward I will make sure that going forward those kinds of things they don't happen again. but as far as the issue of the mortuary 10itself and the monitoring part, I regret not having the records, but the information that I supplied to say that the mortuary was working, is 100% true, but I understand that I was supposed to prove it otherwise, of which like I am saying the information that I provided here for 2016 doesn't have the tangible evidence, although I might refer to the contractor who was on site, who took the photos and all that information 15that was supplied to me by the person who was doing the monitoring every day. And then going forward I will say I will make sure that even if, like now, we don't have the cases where we have two or three corpses that are stowed there, but we will have to continue making sure that we keep the records, although there is nobody in the mortuary. The issue of this other information that was put forward, 20especially on page number 2 to say when we are preparing or consolidating the document, I have just realised that it is very important to question each and every item, so that when you happen to be a person who needs to answer, you need to have full information. But the information itself was then consolidated and we just

concur with whatever is there, hence in my case I couldn't answer to this other corps but only to number one. Maybe it was a wakeup call to me today.

ARBITRATOR, JUSTICE MOSENEKE: You are saying you could only answer to number one, what are you saying

5**MR. A.N. RASIDZOGÉ:** Like I am saying, if maybe somebody was seated here and that person being asked about number one, obviously the person will find it difficult to give the whole information, but hence I am saying ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: You mean the body listed as one on the list of eight.

10**MR. A.N. RASIDZOGÉ:** Yes.

ARBITRATOR, JUSTICE MOSENEKE: Number one has a specific meaning in this country. Referring to number one might cause confusion.

MR. A.N. RASIDZOGÉ: Sorry for that. Ja, then I have learned a lot through all this questioning, so going forward I will try to be a good manager. And ja, thank you
15very much.

ARBITRATOR, JUSTICE MOSENEKE: And above all that, to respect the bodies of people.

MR. A.N. RASIDZOGÉ: Yes.

ARBITRATOR, JUSTICE MOSENEKE: That is what this is about.

20**MR. A.N. RASIDZOGÉ:** I agree.

ARBITRATOR, JUSTICE MOSENEKE: It is less about your managerial style or quality. It is more about whether these vulnerable people were given proper last offices. You worked in a hospital, you have heard that word right.

MR. A.N. RASIDZOGÉ: Yes, I have heard it before.

5**ARBITRATOR, JUSTICE MOSENEKE:** Of last offices.

MR. A.N. RASIDZOGÉ: Yes.

ARBITRATOR, JUSTICE MOSENEKE: It is respect we give to people who had once lived like us and who have now passed on, with due regard.

MR. A.N. RASIDZOGÉ: Yes.

10**ARBITRATOR, JUSTICE MOSENEKE:** And we don't allow them to decompose like an animal in the veld. We give them respect and regard. That is what this whole day was about.

MR. A.N. RASIDZOGÉ: Okay.

ARBITRATOR, JUSTICE MOSENEKE: You understand that.

15**MR. A.N. RASIDZOGÉ:** I understand, Justice.

ARBITRATOR, JUSTICE MOSENEKE: You agree with me.

MR. A.N. RASIDZOGÉ: I agree with you.

ARBITRATOR, JUSTICE MOSENEKE: Your job is an important one to preserve bodies, so that their loved ones can bury them in dignity. You agree with that.

20**MR. A.N. RASIDZOGÉ:** I agree.

ARBITRATOR, JUSTICE MOSENEKE: I don't know if you have anything else to say before we release you?

MR. A.N. RASIDZOGÉ: No, I think I will stop there.

ARBITRATOR, JUSTICE MOSENEKE: Thank you. (Vernac). Thank you so much.

MR. A.N. RASIDZOGÉ: (Vernac).

ARBITRATOR, JUSTICE MOSENEKE: (Vernac). Well where do I look to? Counsel, do I look to your direction or do I look to Adv. Crouse's direction?

ADV. TEBOGO HUTAMO: Justice, that was the only witness arranged by the State for today and we don't intend calling any further witness for this day.

ARBITRATOR, JUSTICE MOSENEKE: Yes. You don't have anyone one here from Mamelodi, do you? No.

ADV. TEBOGO HUTAMO: We have made arrangements.

ARBITRATOR, JUSTICE MOSENEKE: The gentleman who received the body and says it was decomposed, you are not calling him. I don't say you must, I am just asking whether you will.

ADV. TEBOGO HUTAMO: We have made arrangements for the 29th of November 2017 for that witness to come through and assist us in this process.

ARBITRATOR, JUSTICE MOSENEKE: Very well. Thank you for having the current witness here, it is much appreciated, thank you. Adv. Crouse.

ADV. LILLA CROUSE: Justice.

ARBITRATOR, JUSTICE MOSENEKE: Yes, I am listening.

ADV. LILLA CROUSE: I was wondering if we can call it a day now.

ARBITRATOR, JUSTICE MOSENEKE: Yes, nothing wrong with wondering that way. It is... any housekeeping for tomorrow? When I was young, I was a Boy Scout and the motto of the Boy Scout was be prepared, full stop.

ADV. LILLA CROUSE: Justice, we are prepared.

ARBITRATOR, JUSTICE MOSENEKE: Two words but they can form a whole pattern of life, so I am a victim to that. I just want to know if tomorrow is set and ready and we are going to be prepared.

ADV. LILLA CROUSE: We will be prepared with a witness if there is a problem, Justice.

ARBITRATOR, JUSTICE MOSENEKE: Okay. Anything from any of our Counsel before I adjourn?

15**ADV. TEBOGO HUTAMO:** Nothing Justice.

ARBITRATOR, JUSTICE MOSENEKE: At some point, not here, perhaps in chambers, I would like to hear something about the litigation on the 24th and 25th, before then, I think, in relation to Dr Selebano. And I want to hear about the issue of quantum. We don't have to raise those now, but sometime tomorrow or even Friday, if we could reach with one of the rates or recesses (?).

ADV. TEBOGO HUTAMO: Well as I understand, Justice, with regards to the litigation as previously reported, the application of Dr Selebano is set down for hearing on the 28th of November 2017 and it will be proceeding and it will be opposed. Papers have been filed in that regard.

5**ARBITRATOR, JUSTICE MOSENEKE:** I have noticed that, thank you. They were served on me.

ADV. TEBOGO HUTAMO: Yes.

ARBITRATOR, JUSTICE MOSENEKE: And I have seen the papers.

ADV. TEBOGO HUTAMO: The second aspect relating to quantum, we have made
10arrangements ...intervened.

ARBITRATOR, JUSTICE MOSENEKE: Shall we deal with that in chamber some time?

ADV. TEBOGO HUTAMO: Thank you Justice.

ARBITRATOR, JUSTICE MOSENEKE: I don't want to raise expectations and
15have reportage on the issue. I think we should manage it carefully and in chambers until we are at stage where we can deal with it here.

ADV. TEBOGO HUTAMO: We do take note of that.

ARBITRATOR, JUSTICE MOSENEKE: Okay, sure. Anything else, Counsel, any of you?

20**ADV. LILLA CROUSE:** Nothing from our side, thank you, Justice Moseneke.

ARBITRATOR, JUSTICE MOSENEKE: Thank you.

ADV. ADILA HASSIM: Justice, we had undertaken to provide a claim, a short statement of claim setting out the heads.

ARBITRATOR, JUSTICE MOSENEKE: Shall we again talk about that in 5chambers?

ADV. ADILA HASSIM: All I wanted to say is that it has been provided.

ARBITRATOR, JUSTICE MOSENEKE: Oh, it has been provided.

ADV. ADILA HASSIM: It has been provided this afternoon. We had undertaken to provide it today.

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

ADV. PATRICK NGUTSHANA: Nothing Justice Moseneke, except that we are resuming with Dr Manamela tomorrow morning at 9:30. That is the only thing that we have.

ARBITRATOR, JUSTICE MOSENEKE: Okay.

15**ADV. TEBOGO HUTAMO:** Justice, sorry.

ARBITRATOR, JUSTICE MOSENEKE: Yes.

ADV. TEBOGO HUTAMO: May we take this opportunity to hand up the reports by Mr. Mosenogi which are ELAH74 to 78?

ARBITRATOR, JUSTICE MOSENEKE: Yes.

ADV. TEBOGO HUTAMO: These are the documents which were promised to be provided.

ARBITRATOR, JUSTICE MOSENEKE: Which were asked for and promised.

ADV. TEBOGO HUTAMO: Indeed so.

5**ARBITRATOR, JUSTICE MOSENEKE:** So it will be available for tomorrow's cross-examination, indeed. Yes, certainly they should be handed up and your colleagues will get copies, isn't it?

ADV. TEBOGO HUTAMO: I understand that they have been provided with copies.

ARBITRATOR, JUSTICE MOSENEKE: They have been provided?

10**ADV. TEBOGO HUTAMO:** Yes.

ARBITRATOR, JUSTICE MOSENEKE: Very well, please do. If my support staff has it that will be good enough. It is duly handed in.

ADV. TEBOGO HUTAMO: Okay.

15**ADV. PATRICK NGUTSHANA:** Justice Moseneke, I think everyone has such copies, they have been furnished already. I think it is more than a day now that we are in possession of them.

ARBITRATOR, JUSTICE MOSENEKE: Yes, no, very well. Thank you. We adjourn until tomorrow 9:30.

END OF SESSION 3

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