COPY

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

Case No: 17518/20

In the matter between:

FOURIEFISMER INCORPORATED	First Applicant
LINDSAYKELLER ATTORNEYS	Second Applicant
PRETORIA ATTORNEYS' ASSOCIATION	Third Applicant

and

ROAD ACCIDENT FUND	First Respondent
CHAIRPERSON OF THE BOARD OF THE ROAD ACCIDENT FUND	Second Respondent
ACTING CHIEF EXECUTIVE OFFICER OF THE ROAD ACCIDENT FUND	Third Respondent
MINISTER OF TRANSPORT	Fourth Respondent

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA GAUTENG DIVISION, PRETORIA
PRIVATE BAG/PRIVAATSAK X67
PRETORIA 0001
2020 -03- 10
L. W. MOTAU
GRIFFIER VAN DIE HOË HOF VAN SUID AFRIKA GAUTENG AFDELING PRETORIA

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GRIFFIER VAN DIE HOË HOF VAN SUID AFRIKA GAUTENG AFDELING, PRETORIA

ROAD ACCIDENT FUND	First Respondent
CHAIRPERSON OF THE BOARD OF THE ROAD ACCIDENT FUND	Second Respondent
ACTING CHIEF EXECUTIVE OFFICER OF THE ROAD ACCIDENT FUND	Third Respondent
MINISTER OF TRANSPORT	Fourth Respondent

NOTICE OF MOTION

KINDLY TAKE NOTICE THAT the applicants intend applying on Tuesday, 21 April 2020 at 10h00 or as soon thereafter as counsel for the applicants may be heard, for an order in the following terms:

1. The forms, service and time periods prescribed by the Uniform Rules of Court be dispensed with and that the application be heard as one of urgency in terms of Rule 6(12) of the Uniform Rules of Court;

2. The decision of the first respondent to dispense with the services of all panel attorneys with effect from 1 June 2020 is reviewed and set aside and is declared to be constitutionally invalid;

3. The decision of the first respondent dated 18 February 2020 and 20 February 2020 to demand from RAF Panel Attorneys to hand over all unfinalised files in their possession to the RAF is reviewed and set aside and is declared to be constitutionally invalid;

4. The purported cancellation of Tender No. RAF/2018/00054 for the appointment of new panel attorneys dated 26 February 2020 and 28 February 2020 is reviewed and set aside and is declared to be constitutionally invalid;

5. It is directed that, in terms of section 8 of the Promotion of Administrative Justice Act, 3 of 2000 and/or section 172(1)(b) of the Constitution:

5.1 The panel attorneys on the first respondent's panel as at the date of the launch of this application shall continue to serve on the first respondent's panel of attorneys;

5.2 The first respondent shall fulfil all of its obligations to such attorneys, including making payments of amounts due to them; and

5.3 This order shall operate until the later of (a) 30 June 2020 or (b) the date upon which the first respondent has appointed panel attorneys in terms of Tender No. RAF/2018/00054 or a fresh tender process and such appointments have taken effect.

6. Costs of the application, including the costs of two counsel;

7. Further and/or alternative relief.

AND KINDLY TAKE NOTICE THAT the applicants intend relying on the affidavit of CAREL PIETER FOURIE and annexures thereto in support thereof.

AND KINDLY TAKE NOTICE THAT the applicants have appointed FourieFismer Inc of Brooks Plaza West, 305 Brooks Street, Menlo Park, Pretoria, Gauteng [Ref: CP Fourie] as their attorneys of record, at which address they will accept service of all notices and process in these proceedings.

AND KINDLY TAKE NOTICE THAT:

(a) The first, the second and the third respondents are called upon to provide the record of all proceedings pertaining to the decisions referred to above to the applicants' attorneys by no later than 16 March 2020;

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(b) Following the provision of the record, the applicants will supplement their founding papers and/or amend their notice of motion by 23 March 2020 in terms of Rule 53(4).

IN the event of opposition to the application, you are required:

i) To serve and file a notice of opposition on or before 16 March 2020;

ii) In the notice of opposition to appoint attorneys with an address with 15 (fifteen) kilometres from the High Court, as envisaged by Rule 6(5)(b) of the Uniform Rules of Court;

iii) To file your answering affidavit, if any, by no later than 30 March 2020.

Provided that there is compliance with the aforesaid timeline, the applicants intend filing their replying affidavit on or before 6 April 2020.

KINDLY ENROL the matter accordingly.

DATED at PRETORIA on this the 9th day of MARCH 2020.

FOURIEFISMER INC
Attorneys for Applicants
305 BROOKS STREET
MENLO PARK
PRETORIA
TEL: (012) 362 1681
REF: CP FOURIE
Email: cpfourie@fsf.co.za

TO: THE REGISTRAR OF THE ABOVE HONOURABLE COURT
PRETORIA

AND TO: ROAD ACCIDENT FUND
First Respondent
2 ECO GLADES OFFICE PARK
420 WITCH-HAZEL AVENUE
CENTURION
GAUTENG

"SERVICE BY SHERIFF"

AND TO: CHAIRPERSON OF THE BOARD OF
THE ROAD ACCIDENT FUND
Second Respondent
2 ECO GLADES OFFICE PARK
420 WITCH-HAZEL AVENUE
CENTURION
GAUTENG

"SERVICE BY SHERIFF"

AND TO: ACTING CHIEF EXECUTIVE OFFICER OF
THE ROAD ACCIDENT FUND
Third Respondent
2 ECO GLADES OFFICE PARK
420 WITCH-HAZEL AVENUE
CENTURION
GAUTENG

"SERVICE BY SHERIFF"

AND TO: MINISTER OF TRANSPORT
Fourth Respondent
C/O THE STATE ATTORNEY
316 THABO SEHUME STREET
PRETORIA CENTRAL
PRETORIA
GAUTENG

"SERVICE BY SHERIFF"

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

Case No:

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MINISTER OF TRANSPORT	Fourth Respondent

FOUNDING AFFIDAVIT

I, the undersigned,

CAREL PIETER FOURIE

hereby declare under oath:

1.

1.1 I am an adult male attorney of the above Honourable Court and a Director of FourieFismer Inc with offices located at Brooks Plaza West, 305 Brooks Street, Menlo Park, Pretoria, Gauteng.

1.2 I am duly authorised to depose to this affidavit on behalf of all the applicants, as will appear from the confirmatory affidavits filed in support hereof.

1.3 The facts contained herein fall within my personal knowledge, unless the context indicates otherwise, and are both true and correct.

1.4 Legal propositions contained herein are based on legal advice received from the applicants' legal advisors, whose advice the applicants accept.

2.

The first applicant is FOURIEFISMER INCORPORATED, a firm of attorneys with offices located at Brooks Plaza West, 305 Brooks Street, Menlo Park, Pretoria, Gauteng.

3.

The second applicant is LINDSAYKELLER ATTORNEYS, a firm of attorneys with offices located at 6th Floor, Mall Offices, 11 Cradock Avenue, Rosebank, Johannesburg, Gauteng.

4.

The third applicant is the PRETORIA ATTORNEYS' ASSOCIATION, a voluntary association governed by Constitution with offices located at Room 5.15, Fifth Floor, High Court Building, Madiba Street, Pretoria, Gauteng.

5.

The first respondent is the ROAD ACCIDENT FUND (hereinafter referred to as the "RAF"), a juristic person created in terms of Section 3 of the Road Accident Fund Act, 1996 with Head Office located at 2 Eco Glades Office Park, 420 Witch-Hazel Avenue, Centurion, Gauteng.

6.

The second respondent is the CHAIRPERSON OF THE BOARD OF THE ROAD ACCIDENT FUND (hereinafter referred to as the "Board"), with offices located at the address of the RAF *supra*.

10

7.

The third respondent is the ACTING CHIEF EXECUTIVE OFFICER OF THE ROAD ACCIDENT FUND (hereinafter referred to as the "ACEO"), with offices located at the address of the RAF as set out above.

8.

The fourth respondent is the MINISTER OF TRANSPORT, who is cited herein as the Minister responsible for the administration of the Road Accident Fund Act, in terms of the RAF Act, 1996, with address for service at The State Attorney, 316 Thabo Sehume Street, Pretoria Central, Pretoria, Gauteng.

9.

9.1 The first and second applicants are panel attorneys of the RAF who represent the RAF in thousands of files relating to trials in the above division of the High Court.

9.2 The first and second applicants are participants in Tender No. RAF/2018/00054 for the appointment of suitably qualified legal firms. The RAF purported to cancel this tender on or about 26 February 2020 and 28 February 2020 as will be set out in more detail below.

9.3 The third applicant has as its members both plaintiff and defendant attorneys in RAF litigation matters. The interest of the third applicant is to avoid large scale disruption of the trial roll from 1 June 2020. In terms of *inter alia* Clause 5.20 of its constitution, it may act in the general interest of its members to ensure that the interests of its members are served.

9.4 The applicants act herein in their own interests, in the interests of the members of the third applicant and in the interests of the public.

PURPOSE OF THE APPLICATION

10.

The applicants approach the Court for the urgent review and setting aside of decisions of the RAF dispensing with panel attorneys from 1 June 2020 and cancelling a tender for the appointment of further panel attorneys.

10.1 On 18 February 2020 and 20 February 2020 the RAF notified all its panel attorneys, including the first and second applicants to return all files, starting with matters with trial dates from 1 June 2020, to the RAF. Copies of the letters are annexed hereto marked "A" and "B" respectively.

10.2 The aforesaid letters give effect to a decision by the RAF, represented by its ACEO to dispense with panel attorneys representing the RAF in litigation for all matters from 1 June 2020. The ACEO, Mr Collins Letsoalo has mentioned in meetings with panel attorneys, that he intends dispensing with services of RAF panel attorneys. Although the author of the letters notifying panel attorneys are not the ACEO, they are ostensibly giving effect to his instruction to issue the letters.

10.3 On 26 February 2020 and 28 February 2020, the RAF notified participants in Tender No. RAF 2018/00058, for the appointment of new panel attorneys, that the tender had been cancelled. The cancellation letter is annexed hereto marked "C1" and "C2". It was signed by the Acting Chief Financial Officer of the RAF.

10.4 On 28 February 2020 the ACEO of the RAF notified all judges that the RAF has decided not to continue with the services of panel attorneys after expiry of their current contracts with panel attorneys on 31 May 2020. His letter is annexed hereto marked "D". According to the letter the trials affected by this decision affect 178 547 files in Pretoria and 93 274 files in Johannesburg.

10.5 The effect of the aforesaid decisions is bound to cause severe disruption of trials involving the RAF from 1 June 2020 and severe

prejudice to all those involved in and affected by the RAF system, including the victims of road accidents.

11.

There are therefore three main decisions at issue in these proceedings:

11.1 The decision to dispense with the services of all panel attorneys with effect from 1 June 2020;

11.2 The decision dated 18 February 2020 and 20 February 2020 to demand from RAF Panel Attorneys to hand over all unfinalised files in their possession to the RAF; and

11.3 The decision to cancel Tender No. RAF/2018/00054 for the appointment of new panel attorneys dated 26 February 2020 and 28 February 2020.

11.4 I refer to these collectively as "the impugned decisions".

12.

It is unclear what the involvement of the Board was in the first two decisions. It seems that the Board had no involvement in the third decision. I specifically invite the second respondent to clarify what involvement the Board had in these

decisions and to do so mindful of the costs consequences that may flow in this regard.

13.

The applicants contend that a Full Court should be convened to urgently hear a review of the impugned decisions. The applicants seek the setting aside of the decisions on public law grounds. For purposes of facilitating an urgent hearing, the applicants would require the provision of a Rule 53 record within curtailed times and will seek a hearing before the above Honourable Court as soon as practicable. The need for curtailed time periods of the Rule 16A is evident. A copy of such notice is annexed hereto marked "E" and a copy will be publicly displayed on notice boards at the High Court.

URGENCY

14.

The effect of the impugned decisions referred to in the notice of motion is that the RAF will be without legal representation by panel attorneys and counsel instructed by such panel attorneys from 1 June 2020. All trial matters involving the RAF from 1 June 2020 are affected. The disruption of the trial roll will be on a scale never before seen. The RAF is the largest litigating party in the country and the Honourable Court can take judicial notice thereof that there are literally hundreds of RAF matters on the trial rolls daily. In addition, the legal

representation of the RAF is required at pretrial hearings before Judges and also in judicial case management meetings.

15.

According to the letters of the RAF of 18 February 2020 and 20 February 2020 (annexures "A" and "B" hereto) as well as the letter of the CEO to Judges (annexures "D" hereto), the RAF intends dispensing with the services of panel attorneys and wishes to utilise its own staff to settle matters.

16.

What is apparent from the plans of the RAF is that it seeks to limit disbursements on legal fees for its own panel attorneys. However, quite apart from the irrationality and unconstitutionality of the RAF decisions concerned, a major flaw in these plans – which gives rise to the urgency of this matter – is that no provision is made for proper representation of the RAF in trial matters with effect from 1 June 2020. The resulting chaos adversely affects all participants in the litigation process. The Honourable Court is therefore urged to urgently review the decisions to avoid the resulting chaos in the administration of justice and the infringement of constitutional rights of litigants seeking redress from the RAF in trial matters.

17.

A letter of demand was sent to the Board and the ACEO, as well as to the Minister of Transport, the fourth respondent, on 26 February 2020 urging them to withdraw the decision, including the directive to return files. A copy of this letter is annexed hereto marked "F1". The Board acknowledged receipt and undertook to revert by 2 March 2020. A copy of this is annexed as annexure "F2".

18.

To the best of my knowledge the Board had its envisaged Board meeting on 27 February 2020, at which the issues raised in this application were to be discussed. The applicants were aware of this and were hopeful of a decision to revoke the decisions and for this to be communicated by 2 March 2020. When this did not occur, a follow-up letter was written to the Board, requesting such a response. A copy is annexed hereto marked "G". At the time of the letter of demand (annexure "F1") the tender for the further appointment of panel attorneys, in which the first and second applicants have participated as bidders, was still in existence. By the time of the follow-up letter (annexure "G"), we had been notified of the purported cancellation of the tender (annexures "C1" and "C2").

19.

Thus far, no response has been provided to the follow-up letter (annexure "G").

GROUNDS OF REVIEW

20.

I submit that the three impugned decisions constitute administrative action and are therefore subject to review in terms of the Promotion of Administrative Justice Act, 3 of 2000 ("PAJA"). Even if that is not the case for any reason, the three decisions unquestionably involve the exercise of public power and are therefore subject to the principle of legality, including the need to comply with the Bill of Rights. The applicants rely on PAJA and the principle of legality and the Bill of Rights.

21.

The applicants contend that the decisions to dispense with panel attorneys and to direct the return of files is constitutional invalid and falls to be set aside on three grounds:

21.1 The decision is irrational *per se*. While the stated purpose is to save legal costs, the decision itself will cause a liability for legal costs on the part of the RAF, which runs into billions of Rands;

21.2 The decisions are constitutionally invalid insofar as they breach the State's duties in terms of section 7(2) of the Constitution to respect, protect, promote and fulfil the rights contained in the Bill of Rights, including the rights of victims of motor vehicle accidents to be afforded a remedy for bodily injury (section 12(1)(c) of the Constitution); to social security in the form compensation for personal injuries (section 27(1)(c) of the Constitution); and to access courts, including to have their matters heard before Court (in terms of section 34 of the Constitution). If the RAF were unrepresented at trial, this adversely affects all of these rights of plaintiffs as inevitable postponements and delays will result;

21.3 The applicants further contend that the decision to dispense with panel attorneys and the letters directing the return of files was made at a time when a tender was pending for the appointment of further panel attorneys. The first and second applicants are participants in that tender. This constitutes and infringement of their constitutional right to have their tender submissions adjudicated and a tender awarded during the validity period of the tender. The subsequent purported cancellation of the tender on 26 February 2020 and 28 February 2020, whether valid or not, will not disturb the irrationality of having taken the decisions at a time when there was a tender pending for the appointment of panel attorneys.

22.

The purported cancellation of the tender for the appointment of panel attorneys suffers the first two defects just highlighted and, in addition, is invalid in that it appears that the cancellation was not authorised by the Board, but by the ACEO, while the tender was a Board function. It lacks legality.

IRRATIONALITY

23.

23.1 In the tender cancellation letters of 26 and 28 February 2020 (annexure "C1" and "C2" hereto) the RAF states that it is in dire financial straits and that its position worsens daily. It contends that it does not have funds available to cover the total envisaged expenditure pertaining to the appointment of panel attorneys.

23.2 In the letter of the CEO to Judges dated 28 February 2020 (annexure "D" hereto), the purpose of the decisions is restated. The financial position of the RAF is such that it needs to review its costs structures, 25% of which is made up of legal costs. It bears noting that the stated amount of R10,6 billion as at 31 December 2019 would reflect all costs and not only the costs of RAF panel attorneys. The bulk of it would represent plaintiffs' costs.

23.3 Panel attorneys, if they were to give effect to the handover as directed, have a right to be remunerated for work done on their files. Even if a nominal amount of R10,000.00 per file were to be due, it bears noting that the return of files would saddle the RAF with a huge obligation to compensate panel attorneys. The liability which will follow just in respect of the pending trial matters in Pretoria and Johannesburg will result in a staggering liability on the part of the Fund in the region of R2,7 billion.

23.4 The appointment of panel attorneys does not in itself result in liabilities on the part of the Fund. Liability relates to services rendered in the normal course.

23.5 However, the decisions taken and which are now the subject of the current review, will in themselves create an immediate or very short-term liability of approximately R2,7 billion.

23.6 Thus, while the purpose of the decisions has been to avert further legal costs in light of the RAF's contention that it is in dire financial straits, the decisions can only severely aggravate the RAF's financial difficulties,

23.7 The decision to dispense with panel attorneys on the grounds of lack of funds is therefore *per se* irrational.

INFRINGEMENT OF CONSTITUTIONAL RIGHTS AND OBLIGATIONS

24.

24.1 The return of pending trial matters to the RAF will not cure the lack of representation for trials with effect from 1 June 2020. There has been no contingency plan published in terms of which the RAF can give an assurance of proper representation in trial matters from 1 June 2020. Proper representation in this context does not merely mean having appointed an attorney to represent the RAF, but includes the obligation to appoint an attorney who is steeped in the matter and ready for trial. There is no such plan. Catastrophic consequences for the administration of justice are apparent.

25.

25.1 The applicants contend that the RAF is a special litigant in that the scheme under which the RAF operates constitutes social legislation for the benefit of the public.

25.2 The RAF's existence is based on the State's obligation to respect, protect, promote and fulfil the right to freedom and security of the person in terms of Section 12(1)(c) of the Constitution. Section 12(1)(c) obliges the State to afford an appropriate remedy to victims

of motor vehicle accidents who suffer bodily injuries as a result of someone else's negligence.

25.3 The applicants contend also that the public's right to social security in terms of Section 27(1)(c) of the Constitution in the context of compensation for personal injuries requires the RAF to be properly represented in Court proceedings. The RAF is under an obligation by virtue of section 27(2) of the Constitution to take reasonable steps to ensure that it gives effect to the constitutional rights of the public in terms of Section 27(1)(c). The RAF Scheme arose out of the social responsibility of the State and the RAF is part of the social security net for all road users and their dependants. The dispensing with panel attorneys with effect from 1 June 2020 will render the RAF unrepresented in litigation. This infringes constitutional rights and is invalid.

25.4 The RAF cannot from its own ranks muster the manpower of persons duly qualified to appear in the High Court to represent the RAF in trials and motions from 1 June 2020.

25.5 The right of appearance in terms of the Legal Practice Act, 28 of 2014 vests in practising legal practitioners. The Directive of the RAF not only infringes the right of the RAF to be represented, and the right of the public to insist that the RAF be properly represented at trial, but the lack of representation for trial matters after 1 June 2020 will

infringe the rights of plaintiffs with valid claims. Such a hearing cannot be categorised as fair where the RAF is hamstrung due to a lack of legal representation at trial.

25.6 The Courts have in the past intervened to ameliorate the obviously distasteful consequences of the RAF not being represented in trial matters. Representation remains necessary to avoid the chaos that will result if the RAF is not properly represented. The plaintiffs could take default judgment against the RAF. Matters may be postponed indefinitely due to a lack of representation. This would frustrate the rights of plaintiffs who have legitimate claims and with good prospects of success.

26.

26.1 The aforesaid adverse consequences of the RAF not being properly represented at trial will undermine the public interest and will cause chaos in the Courts, thereby adversely affecting the administration of justice.

26.2 The RAF is a custodian of public funds. As a responsible constitutional citizen, it is bound to give effect to its mandate by ensuring that it is properly represented to present its defences in trials that proceed from 1 June 2020 and thereafter.

26.3 The applicants therefore contend that the decision dispensing with the services of panel attorneys and directing the handover of files is unconstitutional and invalid.

THE CANCELLATION

27.

The first and second applicants entered into a Service Level Agreement with the RAF, following a tender process, in 2014. This contract has been extended until 31 May 2020. During the currency of the Service Level Agreement, the first and second applicants have further participated in the aforesaid pending tender.

28.

In terms of Section 11 of the RAF Act, the Board has the obligation to accept overall control over the operation and management of the Fund. This would include, as it has in the past, the procurement of the services of panel attorneys representing the RAF.

29.

The pending tender and the applicant's participation in it are relevant to the constitutional right of the applicants to fair administrative justice in terms of

Section 33 of the Constitution. The irrationality of purporting to revoke the mandates of panel attorneys, while there was a tender pending for the appointment of panel attorneys, is evident.

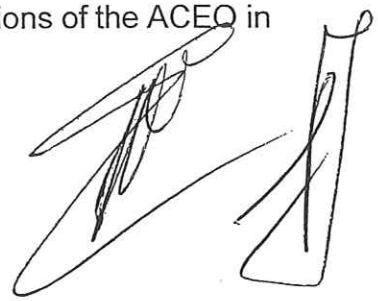
30.

The subsequent cancellation of the tender lacks legality. The ACEO gave the instruction by all accounts and not the Board. The ACEO is ostensibly acting without proper instructions from the Board. The first applicant called on the Board to take charge by revoking the decisions. If the ACEO had the support of the Board, the Board would have responded to the request to revoke the decision on the grounds that the ACEO was acting alone (i.e. without Board approval), that the CEO in fact had Board support. This did not occur.

31.

31.1 The applicants raise therefore a legality challenge as far as the ACEO is concerned, to show that he at all material times was acting with Board approval and directing the return of all unfinished files by panel attorneys.

31.2 The cancellation of the tender was not done by the Board, but by an official. This official was acting under the instructions of the ACEO in writing the letter cancelling the tender.



31.3 If the Board was not involved in cancelling the tender, the cancellation would lack legality.

31.4 However, even if the cancellation was valid, the interests of the public, the interests of justice, the administration of justice and the potential infringement of constitutional rights of the applicants, of plaintiffs and the public in general, would require for just and equitable relief aimed at ensuring that the RAF is represented in litigation from 1 June 2020. The applicants contend that it would be just and equitable to continue with the tender process which the RAF itself had initiated for the appointment of new panel attorneys. It appears that the tender had already been assessed and only the results were required to be announced.

32.

It is submitted that it would be just and equitable to set aside the cancellation and to direct that the aforesaid tender be awarded to ensure proper representation of the RAF from 1 June 2020. It is submitted that it would be just and equitable to grant such relief for the following reasons:

32.1 The RAF is an organ of State which is required to procure goods and services in terms of a system that is fair, equitable, transparent, cost effective and competitive. The procurement of legal representation

by means of public tenders has been the basis of the appointment of panel attorneys for years;

32.2 It would be irregular to use the cancellation of a tender, which it appears has gone through all the stages of assessment, but for announcing the Award, as an excuse to deviate from a public procurement process. The circumstances which may justify a deviation would be self-created and a deviation would in itself be irregular as a consequence;

32.3 Whilst there is a question mark over the validity of the cancellation of the tender, insofar as the Board was not involved or has not been shown to be involved, it would be just and equitable and in the public interest to ensure proper representation of the Fund by directing that the tender be awarded. This would cure the risk of the RAF not being properly represented from 1 June 2020 in trial matters, pre-trials and case management meetings.

CONCLUSION

33.

The relief sought is aimed at balancing the constitutional rights of all affected parties from 1 June 2020, including the rights of the applicants. The object of securing proper representation of the RAF from 1 June 2020 is consistent with

previous statements made under oath by its ACEO, Mr Collins Letsoalo. In case number 89168/18 in the above Division, the RAF brought an application against the Sheriff in Centurion East and Absa Bank pertaining to attachments of RAF property. In the context of representation of the RAF, the following was stated by Mr Letsoalo under oath:

"3.51.5 *As far as the applicant's (RAF – our insertion) operations are concerned, the applicant has normal trade creditors like other business. In the context of the applicant's operations, it requires to be represented by attorneys and advocates in various courts in the whole of the Republic on a daily basis. The applicant cannot attend to its Court matters unless it makes payments to its representatives and experts who play an important role in resolving all claims against it.*

...

3.51.8 *The applicant also has an obligation to pay its operational costs to third parties who provide services to it. The applicant cannot pay for these costs if its bank accounts are attached. A difficulty which the applicant will have if it does not pay its operational costs is that its attorneys and experts who provide an important service in the litigation matters in which the applicant is sued for compensation are going to withhold their services if they are not paid."*

34.1 The aforesaid affidavit was deposed to in November 2019 by the ACEO.

34.2 The aforesaid evidence under oath by Mr Letsoalo is consistent with what the applicants contend, namely that the RAF cannot attend to its court matters on its own. Insofar as the ACEO is involved in the decisions terminating panel attorneys from 1 June 2020, such decision is contrary to the above evidence. It is therefore irrational and in breach of the RAF's constitutional obligations for all the reasons stated above.

WHEREFORE the applicants pray for the relief set out in the notice of motion.

C P FOURIE

Signed and sworn/~~affirmed~~ to before me at PRETORIA on this 9TH day of March 2020, the deponent having acknowledged that he knows and understands the contents of this affidavit; which is deposed to in accordance with the regulations governing the administration of an oath as more fully set out in Government Notice R1258 of 21 July 1972, as amended by Government

Notice 1648 dated 19 August 1977 and Government Notice 903 dated 10 July 1998.

Commissioner of Oaths:

Louw Murray Erasmus
COMMISIONER OF OATHS
EX OFFICIO PRACTISING ATTORNEY
REPUBLIC OF SOUTH AFRICA
BROOKS PLAZA EAST
FIRST FLOOR, 305 BROOKS STREET
BROOKLYN, PRETORIA

Signature

Full names: _____

Status: _____

Street address: _____

"A" 31

Road Accident Fund

The Managing Director / Senior Partner
Road Accident Fund Panel Attorney

18 February 2020

Messrs

NOTICE OF HANDOVER PURSUANT TO CLAUSE 14 OF THE SERVICE LEVEL AGREEMENT WITH RAF PANEL ATTORNEYS

Pursuant to clause 14 of the Service Level Agreement (SLA) entered into between you and the RAF, you are hereby notified of your obligation to prepare all unfinalised files in your possession for handover of all original files to the RAF.

You are required to provide the Fund a list of all open matters by close of business on Thursday, 20 February 2020, which list shall be in Excel format as per the template attached hereto. The completed Excel lists must be delivered by e-mail to the following e-mail address: FHP@raf.co.za.

The handover will be done in four stages as follows:

DELIVERY PERIOD	FILES TO BE RETURNED
21/02/2020 – 28/02/2020	Files with trial dates between 01/06/2020 and 31/12/2020
01/03/2020 – 31/03/2020	Files with trial dates between 01/01/2021 and 31/12/2021
01/04/2020 – 15/04/2020	Files with trial dates between 01/01/2022 and 31/12/2022
16/04/2020 – 31/05/2020	All open files not already returned

All original files must be returned to the office closest to you. The regional handover teams will communicate specific handover schedules for each firm.

You are required to proceed with the all trials and pre-trials in respect of files not yet returned to the RAF, with specific reference to matters with trials dates from the issuance of this letter to 31 May 2020.

Withdrawal as attorney of record on any matter should be undertaken within 5 (five) days of handing over the file pertaining to said matter, but not before handover.

If you have any queries, kindly submit them on the following email address: FHP@raf.co.za

Yours sincerely,

Sidelwa Xingwana-Jabavu
Chief Operations Officer
Road Accident Fund

"B" 33

Road Accident Fund

20 February 2020

The Managing Director / Senior Partner
Road Accident Fund Panel Attorney

Messrs

NOTICE OF HANDOVER PURSUANT TO CLAUSE 14 OF THE SERVICE LEVEL AGREEMENT

We refer to the letter that was communicated to you dated 18 February 2020.

We have been inundated with requests from a number of firms requesting us to reconsider the time lines for the delivery of the files. In light of the requests received, the RAF has taken into consideration all the concerns raised and hereby amend the handover schedule as follows:

DELIVERY PERIOD	FILES TO BE RETURNED
21/02/2020 – 13/03/2020	Files with trial dates between 01/06/2020 and 31/12/2020
16/03/2020 – 10/04/2020	Files with trial dates between 01/01/2021 and 31/12/2021
13/04/2020 – 30/04/2020	All outstanding files

Kindly be advised that you are required to submit a list of the files you are delivering for handover in the excel spreadsheet that was provided to you together with the Notice of Handover.

Further be advised that you are expected to fully comply with the provisions of clause 14.4.7 of the SLA by ensuring that the following is contained in the file:

- Opinion on merits
- Opinion on quantum
- Areas of dispute
- Stage of pleadings
- Current status
- Recommendations

... Pasetheba (Chairperson), Ms Thembelihle Msibi (Vice-Chairperson), Mr Hilmi Daniels, Dr Prieur du Plessis ... Mr Moses Nyama, Dr Maria Peenze, Mr Thulan

We reiterate, as per our letter dated 18 February 2020, that you please complete the excel spreadsheet with details of all trial matters and unfinalised matters.

If you have any queries, kindly submit them on the following email address: FHP@raf.co.za

Yours sincerely,

Lindelwa Xingwana-Jabavu
Chief Operations Officer
Road Accident Fund

C1 35

Road Accident Fund

TENDER CANCELLATION LETTER

26 February 2020

Dear Bidder (s)

RE: NOTIFICATION OF THE CANCELLATION OF TENDER NUMBER RAF/2018/00054

REQUEST FOR BIDS: RAF/2018/00054: THE APPOINTMENT OF A SUITABLY QUALIFIED LEGAL IRM(S) FROM ALL PROVINCES TO BE LISTED ON THE PANEL OF ATTORNEYS TO PROVIDE SPECIALIZED LITIGATION SERVICES TO THE RAF IN RESPECT OF MAGISTRATE COURT, REGIONAL COURT AND HIGH COURT LITIGATION FOR A PERIOD OF FIVE (5) YEARS.

This serves as a formal notification that the invitation to tender number: RAF/2018/00054 has been officially cancelled.

As prescribed, the cancellation publication will appear in the Government Tender Bulletin of 6 March 2020 as well as on the RAF website.

The Road Accident Fund appreciates all the time and effort that has been dedicated to this invitation.

We sincerely apologise for any inconvenience that may have been caused by this cancellation.

Kind Regards,

Victor Songelwa
Acting Chief Financial Officer

"C2" 36

Road Accident Fund

TENDER CANCELLATION LETTER

28 February 2020

Dear Bidder

RE: NOTIFICATION OF THE CANCELLATION OF TENDER NUMBER RAF/2018/00054

REQUEST FOR BIDS: RAF/2018/00054: THE APPOINTMENT OF A SUITABLY QUALIFIED LEGAL FIRM(S) FROM ALL PROVINCES TO BE LISTED ON THE PANEL OF ATTORNEYS TO PROVIDE SPECIALIZED LITIGATION SERVICES TO THE RAF IN RESPECT OF MAGISTRATE COURT, REGIONAL COURT AND HIGH COURT LITIGATION FOR A PERIOD OF FIVE (5) YEARS

his serves as a formal notification that the invitation to tender number RAF/2018/00054 has been cancelled in line with the provisions of Regulation 13(1)(a) and (b) of the Preferential Procurement Regulations, 2017 issued by the Minister of Finance in terms of section 5 of the Preferential Procurement Policy Framework Act, 2000, in that:

(a) The RAF's dire financial situation has necessitated a review of its operating model, which resulted in a conclusion that there is no need to have the panel of attorneys. Consequently, the RAF no longer require the services, which were specified in the invitation.

(b) In addition to (a) above, the RAF's financial situation which continues to worsen on a daily basis has rendered the funds no longer available to cover the total envisaged expenditure.

Kindly be advised that our notification of cancellation dated 26 February 2020 is hereby withdrawn, and is substituted by this notification of cancellation.

As required by Regulation 13(2), the cancellation publication will appear in the Government Tender bulletin of 6 March 2020 as well as on the RAF website.

The RAF appreciates all the time and effort that has been dedicated to this invitation.

We sincerely apologise for the inconvenience that may have been caused by this cancellation.

Yours sincerely

Victor Songelwa
Chief Financial Officer (Acting)

D37

Road Accident Fund

Email Address:CollinsI@raf.co.za

Contact Number:012 621 1621

28 February 2020

Dear Honorable Judges

NEW RAF MODEL, LITIGATION MATTERS AND EXPIRY OF PANEL OF ATTORNEYS CONTRACT

The Road Accident Fund (RAF), as part of its efforts to bring efficiencies and embark on turnaround will be bringing various changes in its business model. We intend for reduce the claims average age to 180 days from the current 1350 days. This will be done mainly by avoiding litigation and only litigating where bona fide settlement has failed, where there is a litigious dispute and mediation has also been unsuccessful.

We have considered various research conducted into RAF's litigation strategy, various judgements and the comments made by the judicial officers, various Practice Directives issued by different Judge Presidents as well as personal costs orders against RAF employees and consider this situation seriously and not sustainable.

Having considered all the above as as the financial position of the RAF, we are embarking on a new strategic direction, which includes amongst others, the review of the RAF's cost structure, which at this stage reflects 25% legal costs incurred, i.e. R10.6 billion as at 31 December 2019. It should be noted that RAF had already spent R9.6 billion in the financial year 2018/19.

The RAF further owes the South African public at least R17 billion, which it struggles to pay resulting from various court orders against the RAF, consequently we also get our bank account attached from time to time as various debtors exercise their rights to get monies owed by the RAF.

We further considered the requirements of the PFMA, specifically section 50 and 51, which creates obligations on the Accounting Authority and other RAF functionaries. We also draw specific attention to the RAF Act, specifically, Section 4(1)(b) and Section 7 thereof.

We have on the basis of the extensive reviews above decided not to continue with the services of Panel of attorneys, at least in its current form. We have sought to capacitate our internal team to be able to investigate and settle claims within the 120 days as set out in the RAF Act.

In this regard we will also be procuring an integrated claims management system that will facilitate the digitization of claims and improve efficiencies in the claims process. We will employ the services of suitably qualified personnel with medical and legal background to be able to expedite the execution of this mandate.

Our contract with the current panel attorneys expires on 31 May 2020 and we have requested in line with our SLA handover of all outstanding matters in three phases:

Phase 1	Trial dates 01/08/ 2020	6 653
Phase 2	Trial dates 01/01/2021	61
Phase 3	All outstanding files	384 026

Other outstanding files will be tranched by age and region. We note the biggest file count is in Pretoria and Johannesburg with 178 547 and 93 274 files, respectively. We are putting together a team of experts, including trained mediators, to work through this file load starting around June 2020 when we expect that phase 1 and phase 2 would have been completed.

From our data analysis, we have also noted that some of these files are partially settled, with most having past medical expenses postponed *sine dies* without any sound rationale. We have assembled a team of medical experts to work through these files to ensure finalization of these matters.

We intend to brief the NEEC and various PEEC's on these developments as we progress.

Your understanding and co-operation in this transitional period will be highly appreciated. In the event where you notice any glitches within the administration of justice relating to the RAF, we request that you engage us for the resolution thereof.

Should you have any queries in this regard, kindly contact the RAF Lindelwa Xingwana Jabavu (COO) Lindelwa@raf.co.za 012 621 1626 or Collins Letsoalo - CollinsL@raf.co.za 012 621 1621.

Yours Sincerely

Collins Letsoalo

Chief Executive Officer (Acting)

"E" 39

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

Case No:

In the matter between:

FOURIEFISMER INCORPORATED	First Applicant
LINDSAYKELLER ATTORNEYS	Second Applicant
PRETORIA ATTORNEYS' ASSOCIATION	Third Applicant

and

ROAD ACCIDENT FUND	First Respondent
CHAIRPERSON OF THE BOARD OF THE ROAD ACCIDENT FUND	Second Respondent
ACTING CHIEF EXECUTIVE OFFICER OF THE ROAD ACCIDENT FUND	Third Respondent
MINISTER OF TRANSPORT	Fourth Respondent

RULE 16A NOTICE

KINDLY TAKE NOTICE THAT the applicants in the above matter raise the following constitutional issues:

1.

1.1 That the decisions of the first respondent to dispense with panel attorneys with effect from 1 June 2020 and a Directive to return all unfinished files are unconstitutional on the grounds of irrationality;

1.2 The applicants contend that the decisions:

1.2.1 infringe the rights of plaintiffs to have a fair hearing before the High Court in terms of Section 34;

1.2.2 infringe the constitutional rights of the public to social security in terms of Section 27(1)(c), of which the first respondent and the Road Accident Fund, 1996 forms part;

1.2.3 infringe the constitutional rights of litigants in terms of Section 12(1)(c) of the Constitution to the right to freedom and security of the person.

1.3 That the decision of the first respondent to cancel Tender No. RAF/2018/00054 for the appointment of new panel attorneys dated 26 February 2020 and 28 February 2020 is invalid and unconstitutional on the grounds of legality.

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KINDLY TAKE NOTICE THAT this is an urgent matter which has been set down for hearing on Tuesday, 21 April 2020, using shortened timeframes and accordingly:

(a) any interested party in the aforesaid constitutional issue may, with the written consent of all the parties to the proceedings, given not later than **10 (ten)** days after the filing of the founding affidavit or may be admitted therein as *amicus curiae* upon such terms and conditions as may be agreed upon in writing by the parties;

(b) The written consent contemplated in Rule 16A(2) shall, within **5 (five)** days of it having been obtained, be lodged with the Registrar and the amicus curiae shall, in addition to any other provision, comply with the times agreed upon for the lodging of written argument;

(c) If the interested party contemplated in sub-rule (2) of Rule 16A is unable to obtain the written consent as contemplated therein, he/she may, **within 5 (five) days of the expiry of the 10 (ten) day period above**, apply to the Court to be admitted as an amicus curiae in the proceedings.

An application to be admitted as an *amicus curiae* shall:

(a) Briefly describe the interests of the *amicus curiae* in the proceedings;

(b) Clearly and succinctly set out the submissions which will be advanced by the *amicus curiae*, the relevance thereof to the proceedings and his/her reasons for believing that the submissions will assist the Court and are different from those of the parties; and

(c) Be served upon all parties to the proceedings.

KINDLY display this notice on a public notice board at the High Court, Pretoria.

DATED at PRETORIA on this the 9th day of MARCH 2020.

FOURIEFISMER INC
Attorneys for Applicants
305 BROOKS STREET
MENLO PARK
PRETORIA
TEL: (012) 362 1681
REF: CP FOURIE
Email: cpfourie@fsf.co.za

TO: THE REGISTRAR OF THE ABOVE HONOURABLE COURT
PRETORIA

AND TO: ROAD ACCIDENT FUND
First Respondent
2 ECO GLADES OFFICE PARK
420 WITCH-HAZEL AVENUE
CENTURION
GAUTENG

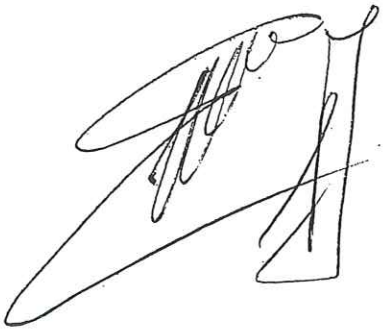
"SERVICE BY SHERIFF"

AND TO: CHAIRPERSON OF THE BOARD OF
THE ROAD ACCIDENT FUND
Second Respondent
2 ECO GLADES OFFICE PARK
420 WITCH-HAZEL AVENUE
CENTURION
GAUTENG

"SERVICE BY SHERIFF"

AND TO: ACTING CHIEF EXECUTIVE OFFICER OF
THE ROAD ACCIDENT FUND
Third Respondent
2 ECO GLADES OFFICE PARK
420 WITCH-HAZEL AVENUE
CENTURION
GAUTENG

"SERVICE BY SHERIFF"



AND TO: MINISTER OF TRANSPORT
Fourth Respondent
C/O THE STATE ATTORNEY
316 THABO SEHUME STREET
PRETORIA CENTRAL
PRETORIA
GAUTENG

"SERVICE BY SHERIFF"

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F1

FOURIESMER INC, Brooks Plaza West, 305 Brooks Street, Menlo Park, Pretoria, South Africa
PO Box 11822, Hatfield, 0028 | Tel +2712 362 1681 | Fax +2712 362 1691
Email.attorneys@fsf.co.za | Docex 283, Pretoria | www.fsf.co.za

FOURIESMER INCORPORATED
www.fsf.co.za

ATTORNEYS · PROKUREURS · BORAMELAO · AMAGQWETHA · BAEMELEDI · ABAMELI

EMAIL TRANSMISSION

To	THE CHAIRPERSON OF THE BOARD OF THE ROAD ACCIDENT FUND;	Our Ref	CP FOURIE/VM
And To	THE MINISTER OF TRANSPORT;	Your Ref	
And To	THE CEO OF THE ROAD ACCIDENT FUND		
Email Address	Ouma.rasethaba@icloud.com; TransportMinistry@dot.gov.za; Eblllinsl@raf.co.za	Date	25 FEBRUARY 2020
Pages (incl. this page)	3		

Dear Madam and Sirs

IN RE: ROAD ACCIDENT FUND – PANEL OF ATTORNEYS

1. The directive of the COO of 18 February 2020 abolishing RAF panel attorneys with effect from 1 June 2020 has reference.

2. We have read the objections to the directive by numerous firms of attorneys and particularly by Mabunda Inc. We make common cause with those objections and raise herein further considerations why the directive is irrational, invalid and should be immediately revoked.

3. We are on the panel of the RAF due to a Service Level Agreement concluded in 2014. Such Agreement was entered into by the Board of the Road Accident Fund in 2014 and the Board has been in control of the appointment of panel attorneys in terms thereof.

4.

4.1 The Board of the RAF has the statutory obligation to exercise overall authority and control over the operation and management of the Fund. The appointment of panel attorneys is the subject of a pending tender, the validity period of which has been extended to June 2020. We are a participant in that tender process.

4.2 The Board's obligations in terms of Sec 11 of the RAF Act require that it accepts overall control over the operation and management of the Fund. The pending tender for the appointment of new panel attorneys gives effect to this Board function.

5.

5.1 However, the directive of the COO flies in the face of all the above considerations and fails the rationality test at every level.

This communication is intended for the addressee, is privileged and confidential and unauthorised dissemination or copying is prohibited.
If you received this communication in error please notify us immediately and please destroy original message.

Directors: CP Fourie (Managing) BA LLB (UP), DB Bekker BCOMM LLB (UP), AP Nimbana LLB (UNIL), LJ Fourie BCOMM LLB (UP), BW Bahlmann BCOMM LLB (UP)
Practising Consultant: CL Fisher BCOMM BLC LLB (UP) Senior Associates: M Beatson BLC LLB (UP), L Woest BCOMM LLB LLM (NWU), A du Plessis LLB LLM (NWU)

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5.2 We, being a participant in the pending tender process, has a constitutional right to fair administrative action in the tender process (Sec 33 of the Constitution). It has a right as against the RAF to have its tender submission assessed and adjudicated within the tender validity period. The directive however runs contrary to the purpose of the pending tender. It seeks to achieve the abolition of panel attorneys.

5.3 While the Board is in control of the tender process, it cannot permit the COO to undermine the Board's pending tender process. It is submitted that the conduct of the COO is inconsistent with the Board's tender process and the Constitution in that it lacks legality and rationality. The COO has overstepped his/ her powers by interfering in a matter over which the Board has been exercising control and retains control by virtue of the pending tender process.

6.

6.1 Litigants in the High Court have a constitutional right to have their disputes determined before Court in a fair hearing. The effect of the directive will be to disarm the RAF in Court proceedings by removing its legal representation. The RAF cannot from its own ranks muster the manpower of persons duly qualified to appear in the High Court to represent it in trials and motions from 1 June 2020.

6.2 The right of appearance in terms of the LPA vests in practising legal practitioners. The directive of the COO not only infringes the right of the RAF to be represented, but the lack of representation of the RAF in trial matters after 1 June 2020 will infringe the rights of plaintiffs with valid claims. They have a right to have those claims heard and decided in a fair hearing. Such a hearing cannot be categorised as fair where the RAF is hamstrung due to the lack of legal representation at trial.

6.3 The spectre of the RAF being without panel attorneys has served before the Court in Joubert Galpin Searle v RAF 2014(4) SA 148 EGP. The Court intervened to ameliorate the obviously distasteful consequences of an unrepresented RAF in trial matters. The Court (at par 104) tried to avoid the chaos that would inevitably result in Court. If the RAF did not have panel attorneys, it would be unrepresented in Court, while it is the largest single litigant in the Courts of South Africa. Plaintiffs would further take default judgment against the Fund if it was not represented. Matters may postpone indefinitely due to the lack of representation of the RAF, thus frustrating the rights of those plaintiffs who have legitimate claims under the RAF Act with good prospects of success.

6.4 All these scenarios undermine the public interest and will represent a catastrophe beyond compare in the administration of justice.

6.5 The RAF as a responsible constitutional citizen is duty bound to give effect to its mandate by ensuring the proper presentation of its defences in trials that proceed. As a custodian of public funds, it is obliged to be ready to present its case in Court through duly qualified legal representatives.

6.6 It suffices to say that the Road Accident Fund does not have the manpower or the internal skills necessary to avoid this undesirable scenario.

6.7 The Board of the RAF is consequently called upon to revoke, or to cause the COO to revoke the directive forthwith.

7. We client reserve all of our rights and in particular the right to approach the High Court for urgent interim relief aimed at suspending the directive should it not be revoked.

8. With the above in mind, kindly provide this firm with your written undertaking to revoke or, at a minimum, suspend the directive by close of business on Monday, 2 March 2020, failing which we will have no alternative but to approach the Court for appropriate urgent interim relief.

Yours faithfully,

FOURIEFISMER INC.
Direct fax: 012 362 0402 / 086 545 8737
Email: cpfourie@fsf.co.za
Telephone: (012) 362 1681 dial 104 after the prompt

"F2" 48

Road Accident Fund

Email Address: junec@raf.co.za
Contact Number: +27 012 621 1696

26 February 2020

FourieFismer Incorporated

By E-mail: venica@fsf.co.za

Attention: Ms Mienie

Dear Madam

ROAD ACCIDENT FUND - PANEL OF ATTORNEYS

I hereby acknowledge receipt of your letter dated 25 February 2020.

The Board will be meeting on Thursday, 27 February 2020 and will consider the concerns you raised regarding the issuing of the notice of handover pursuant to clause 14 of the service level agreement entered into with RAF panel attorneys.

In the interim, the Board will be consulting with Counsel.

I undertake to revert to you on Monday, 2 March 2020.

Yours sincerely

ADV. GJ RASETHABA
CHAIRPERSON
ROAD ACCIDENT FUND BOARD

G 49

FOURIEFISMER INC. Brooks Plaza West, 305 Brooks Street, Menlo Park, Pretoria, South Africa
PO Box 11822, Hatfield, 0028 | Tel +2712 362 1681 | Fax +2712 362 1691
Email attorneys@fsf.co.za | Docex 283, Pretoria | www.fsf.co.za

FOURIEFISMER INCORPORATED
www.fsf.co.za

ATTORNEYS · PROKUREURS · BORAMELAO · AMAGQWETHA · BAEMELELI · ABAMELI

EMAIL TRANSMISSION

Email Address:	Ouma.rasethaba@icloud.com, junec@raf.co.za	Our Ref.	CP FOURIE/MM
		Your Ref.	
Pages (incl. this page)	2	Date	4 MARCH 2020

THE CHAIRPERSON OF THE BOARD OF THE ROAD ACCIDENT FUND

Dear Madam Chair

ROAD ACCIDENT FUND – PANEL OF ATTORNEYS

1.

We refer to our letter of 25 February 2020, wherein we requested your response by Monday, 2 March 2020.

2.

We have however as yet not had any response from you, despite your undertaking to revert to us by Monday, 2 March 2020.

3.

In the interim the Acting Chief Executive Officer, through the Acting Chief Financial Officer, has purported to cancel the pending tender for the appointment of panel attorneys. This purported cancellation we note, is one of the subjects of a court challenge in the urgent application of Mabunda Inc. and Others.

4.

Since we are affected by this purported cancellation we assume, unless you advise us to the contrary, that the Acting Chief Executive Officer was acting without the authority of the Board.

We await your responses and we continue to reserve all of our rights.

Yours faithfully,

This communication is intended for the addressee, is privileged and confidential and unauthorised dissemination or copying is prohibited.
If you received this communication in error please notify us immediately and please destroy original message.

Directors: CP Fourie (Managing) BA LLB (UP), DB Bekker BCOMM LLB (UP), AP Nimbana LLB (UNIZ), L Fourie BCOMM LLB (UP), BW Bahlmann BCOMM LLB (UP)
Practising Consultant: G. Fismer BCOMM BLC LLB (UP) Senior Associates: M Beatson BLC LLB (UP), E Woest BCOMM LLB LLM (NWU), A du Plessis LLB LLM (NWU).

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FOURIEFISMER INC.
Direct fax: 012 362 0402 / 086 545 8737
Email: cpfourie@fsf.co.za
Telephone: (012) 362 1681 dial 104 after the prompt

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

Case No:

In the matter between:

FOURIEFISMER INCORPORATED	First Applicant
LINDSAYKELLER ATTORNEYS	Second Applicant
PRETORIA ATTORNEYS' ASSOCIATION	Third Applicant

and

ROAD ACCIDENT FUND	First Respondent
CHAIRPERSON OF THE BOARD OF THE ROAD ACCIDENT FUND	Second Respondent
ACTING CHIEF EXECUTIVE OFFICER OF THE ROAD ACCIDENT FUND	Third Respondent
MINISTER OF TRANSPORT	Fourth Respondent

CONFIRMATORY AFFIDAVIT

I, the undersigned

SANNIE NCUBE

do hereby declare under oath:

1. I am the senior partner of the Second Applicant and I am duly authorised to depose to this affidavit.

2. I have read the Founding Affidavit and the annexures thereto, deposed to by Carel Pieter Fourie and confirm each and every allegation contained therein in so far as it relates to the Second Applicant.

SANNIE NCUBE

Signed and sworn/~~affirmed~~ to before me at PRETORIA on this 09th day of March 2020, the deponent having acknowledged that he knows and understands the contents of this affidavit; which is deposed to in accordance with the regulations governing the administration of an oath as more fully set out in Government Notice R1258 of 21 July 1972, as amended by Government Notice 1648 dated 19 August 1977 and Government Notice 903 dated 10 July 1998.

Commissioner of Oaths:

Bianknight

BIANCA Z KNIGHT
COMMISSIONER OF OATHS
BROOKS PLAZA EAST, 305 BROOKS ST
MENLO PARK, PRETORIA
PRACTISING ATTORNEY. R.S.A.

Signature

Full names: _____

Status: _____

Street address: _____

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

Case No:

In the matter between:

FOURIEFISMER INCORPORATED	First Applicant
LINDSAYKELLER ATTORNEYS	Second Applicant
PRETORIA ATTORNEYS' ASSOCIATION	Third Applicant

and

ROAD ACCIDENT FUND	First Respondent
CHAIRPERSON OF THE BOARD OF THE ROAD ACCIDENT FUND	Second Respondent
ACTING CHIEF EXECUTIVE OFFICER OF THE ROAD ACCIDENT FUND	Third Respondent
MINISTER OF TRANSPORT	Fourth Respondent

CONFIRMATORY AFFIDAVIT

I, the undersigned

CHRISTIAAN GERHARDUS JOUBERT

do hereby declare under oath:

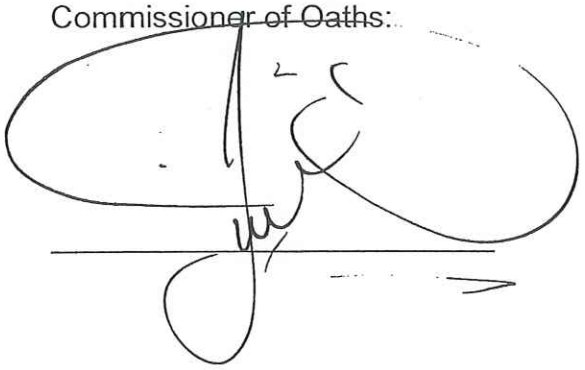
1. I am the chairperson of the Third Applicant and I am duly authorised by the Executive of the Third Applicant to depose to this Confirmatory Affidavit.

2. I have read the Founding Affidavit and annexures thereto, deposed to by Carel Pieter Fourie and confirm each and every allegation contained therein in so far as it relates to the Third Applicant.

CHRISTIAAN GERHARDUS JOUBERT

Signed and sworn/affirmed to before me at Pretoria on this 9th day of March 2020, the deponent having acknowledged that he knows and understands the contents of this affidavit; which is deposed to in accordance with the regulations governing the administration of an oath as more fully set out in Government Notice R1258 of 21 July 1972, as amended by Government Notice 1648 dated 19 August 1977 and Government Notice 903 dated 10 July 1998.

Commissioner of Oaths:



Signature

Full names: _____

Status: _____

Street address: _____

JOHAN CHRISTOFFEL VAN ZYL
Commissioner of Oaths / Kommissaris van Ede
Ex Officio
Practising Attorney / Praktiserende Prokureur
Weavind & Weavind Inc.
Block E, Glenfield Office Park, Oberon Avenue,
Faerie Glen, Pretoria, 0081
Republic of South Africa / Republiek Van Suid-Afrika

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