IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

Case no: 69983/2018

In the matter between:

MOFOKENG: WILLIAM LEMEME	**APPLICANT**
and	
MINISTER OF TRANSPORT	**FIRST RESPONDENT**
THE HEALTH PROFESSIONS COUNCIL OF SOUTH AFRICA	**SECOND RESPONDENT**
(REF: RAFA/00922/2017/MOH)	
THE ROAD ACCIDENT FUND	**THIRD RESPONDENT**
(REF: 518/1976442/29/6 LINK NO: 3464550)	
CHAIRPERSON OF THE APPEAL BOARD N.O.	**FOURTH RESPONDENT**

NOTICE IN TERMS OF RULE 16A

BE PLEASED TO TAKE NOTICE that the Applicant has raised the following constitutional issues in the application filed under the above case number.

1. Whether the following provisions of Regulation 3 of the Road Accident Fund Regulations made under GN770 of 2008 as amended ("the impugned regulations") are *ultra vires* section 17(1) and 17(1A) of the Road Accident Fund Act 56 of 1996 properly interpreted to promote the spirit, purport and

objects of the Bill of Rights as required by section 39(2) of the Constitution

1.1. The words *"and the Fund or an agent is satisfied that the injury has been correctly assessed as serious in terms of the method provided in these Regulations"* in Regulation 3(3)(c)

1.2. The omission from Regulation 3(3)(e) of the words *"within 90 days from the date on which the further assessment took place"* between the words *"must"* and *"either accept"*

1.3. The words *"in the manner provided in these Regulations"* in Regulation 3(3)(e)

1.4. Subregulations (4) to (14) of Regulation 3

2. Whether the impugned regulations are unconstitutional in that they are inconsistent with section 27(1)(c) and/or 34 of the Constitution;

3. Whether a "reading in" of wording to cure the unconstitutionality of the impugned regulations would be an appropriate constitutional remedy for this unconstitutionality, and if so, what wording should be read into the impugned regulations.

4. Whether section 17(1A)(b) of the RAF Act is inconsistent with section 27(1)(c) and/or 34 of the Constitution and invalid;

TAKE NOTICE FURTHER that any party interested in any of the aforementioned constitutional issues may, with the written consent of all the parties to the

proceedings, given by no later than twenty (20) days after the posting of this notice, be admitted to these proceedings as *amicus curiae*, upon such terms and conditions as may be agreed upon in writing by the parties.

KINDLY place this notice on the notice board designated for this purpose and ensure that the notice remains on that notice board for a period of twenty (20) days, whereafter you shall endorse the notice to state on which day the notice was placed on the notice board and, on the expiry of the twenty (20) day period, place such endorsed notice in the Court file.

DATED AT PRETORIA ON THIS THE 05th DAY OF FEBRUARY 2019.

_____

EDELING VAN NIEKERK INC.
Attorneys for the Applicant
Tel: 011 475 3800; Fax: 011 475 3807
Ref: MS L DE SOUZA/hm/MOF40/0001 (MAT1629)

C/O ARTHUR CHANNON ATTORNEYS
Ref: MR CHANNON/LDX2862
Tel: 012 993-5459
C/O DE JAGER ATTORNEYS
170 Charles Street
Brooklyn
PRETORIA

TO: THE REGISTRAR OF THE
ABOVE HONOURABLE COURT
PRETORIA

AND TO: **STATE ATTORNEY - PRETORIA**
Attorneys for First Respondent
Salu Building
316 Thabo Sehume Street
Private Bag X1
PRETORIA, 0001
REF: 5593/2018/Z56/sr
Tel: (012) 309 1677
Fax: 086 473 2143
Docex 298 PRETORIA
Enq: A R MATHAGA

Received a copy hereof on this
the _____day of **FEBRUARY 2019**

_____
For : 1ST Respondent

AND TO: **MARIVATE ATTORNEYS INC.**
Attorneys for Second & Fourth Respondent
Suite N401, 4th Floor
PROVISUS BUILDING
523 STANZA BOPAPE STREET
ARCADIA,
Tel: (012) 341 1510
Fax: (012) 341 1782
Email: lindi@marivate.co.za
kgwaedi@marivate.co.za
Ref: Ms L Ndlovu/Monare /HPCSA
Ref: Ms L Ndlovu/Kgwaedi/HPCSA004

Received a copy hereof on this
the _____day of **FEBRUARY 2019**

_____
For : 2nd & 4th Respondents

AND TO: **BORMAN DUMA ZITHA ATTORNEYS**
Attorneys for Third Respondent
288 Kent Avenue
RANDBURG
Tel: (011) 886-4628
Fax: (011) 886-4452
Email: pertunia@bdz.co.za
livhuwani@bdz.co.za
Ref: RD0836/AV DUMA/RP Mothiba/Livhu

Received a copy hereof on this
the _____day of **FEBRUARY 2019**

_____
For : 3rd Respondent