

PARTICULARS OF CLAIM

THE PLAINTIFFS:

1. The first plaintiff is **PAUL O’SULLIVAN**,
 - 1.1. a 63 year old adult male forensic consultant, certified fraud examiner and businessman with identity number [REDACTED]
[REDACTED], Johannesburg;
 - 1.2. The first plaintiff is the sole director and shareholder of the second plaintiff.
2. The second plaintiff is **PAUL O’SULLIVAN AND ASSOCIATES (PTY) LTD** a private company with limited liability duly registered in accordance with the Company Laws of the Republic of South Africa and registered under registration number: 2012/077700/07 with principal place of business situated at [REDACTED]
[REDACTED], Johannesburg.
3. The third plaintiff is **MELISSA NAIDU** a 31 year old adult female forensic analyst born on 19 October 1987 currently employed as a Forensic Consultant at [REDACTED] with business address situated at [REDACTED], Johannesburg, Gauteng.

THE DEFENDANTS:

4.

The first defendant is the **NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS** who is cited herein in her official capacity:

- 4.1. The first defendant is the Head of South Africa's National Prosecuting Authority (also referred to as "the NPA") by virtue of Section 179(1) of the Constitution read with section 5 of the National Prosecuting Authority Act, 32 of 1998 (*"the NPA Act"*);
- 4.2. The first defendant's offices are situated at VGM Building (Corner Westlake & Hartley), 123 Westlake Avenue, Weavind Park, Silverton, Pretoria.

5.

The second defendant is the **MINISTER OF JUSTICE AND CORRECTIONAL SERVICES** who is cited herein in his official capacity:

- 5.1. The second defendant is the Cabinet Member responsible for the administration of justice and has final responsibility over the National Prosecuting Authority in accordance with section 179(6) of the Constitution read together with sections 33(1) and (2) of the NPA Act;
- 5.2. The second defendant is cited care of the State Attorney: Pretoria with offices situated at SALU Building 316 Thabo Sehume Street, Pretoria.

6.

The third defendant is the **MINISTER OF POLICE** cited herein in his official capacity:

- 6.1. The third defendant is the Cabinet Member responsible for policing and determining national policing policy after consulting the provincial governments and taking into account the policing needs and priorities of the provinces in accordance with section 206(1) of the Constitution;
- 6.2. The third defendant appoints the National Head of the Directorate for Priority Crime Investigation (*"the Hawks"*) in accordance with Section 17C(2)(a) of the South African Police Service Act, 63 of 1995 (*"the SAPS Act"*) read together with Section 17CA(1) of the same statute;
- 6.3. The third defendant further appoints the Provincial Heads of the Hawks in accordance with section 17CA(6) of the SAPS Act;
- 6.4. The third defendant retains the overall responsibility for the exercising of all powers and for the performance of all duties and functions by the National as well as the Provincial Heads of the Hawks and other police officers employed by the South African Police Services acting in the course and scope of their duty;
- 6.5. The third defendant is cited care of the State Attorney: Pretoria with offices situated at SALU Building 316 Thabo Sehume Street, Pretoria.

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7.

The fourth defendant is **JABULANI JACOB MLOTSHWA** an adult male prosecutor, who was at all relevant times hereto, a prosecutor acting within the course and scope of his employment with the NPA at the Priority Crimes Litigation Unit with current place of employment at VGM Building (Corner Westlake & Hartley), 123 Westlake Avenue, Weavind Park, Silverton, Pretoria and residing at 7 Osborne Road, Oakdene, Johannesburg.

8.

The fifth defendant is **MAJOR - GENERAL PRINCE MOKETEDI** an adult male, who was at all times relevant hereto, the Head of the Gauteng Branch of the Hawks and who held that office by virtue of Section 17C (1A) and (2) of the SAPS Act with current place of employment at Head Quarters, South African Police Service, Wachthuis, 321 Pretorius Street, Pretoria and care of the State Attorney SALU Building 316 Thabo Sehume Street, Pretoria residing at 10 Mongoose Road, Sable Hills, Waterfront Estate, Kameeldrift, Pretoria.

9.

The sixth defendant is **JOSHUA JACOBUS VLOK** an adult male warrant officer, who was at all times relevant hereto, in the employ of the South African Police Service, more particularly the Hawks and acting within the course and scope of his employment of whom further particulars are unknown care of The State Attorney, SALU Building 316 Thabo Sehume Street, Pretoria.

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10.

The seventh defendant is **LIEUTENANT - GENERAL VINESHKUMAR MOONOO** an adult male retired officer formerly employed by the South African Police Service who at all relevant times pertaining to this matter was employed by the South African Police Service c/o The State Attorney, SALU Building 316 Thabo Sehume Street, Pretoria.

11.

The eighth defendant is **COLONEL AMOD HOUSEN** an adult male retired officer formerly employed by the South African Police Service who at all relevant times pertaining to this matter was employed by the South African Police c/o The State Attorney, SALU Building 316 Thabo Sehume Street, Pretoria and residing at 52 Hylo Circle, Parlock, Durban, Kwa – Zulu Natal.

12.

The ninth defendant is **DUDUZILE MYENI** an adult female businesswoman and former chairperson of the board of the South African Airways, whose full and further particulars are unknown to the plaintiffs, currently residing at 102 Kolstert Kring, Meer en See, Richardsbay, Kwa – Zulu Natal.

13.

The tenth defendant is **JOHANNES KHOMOTSO PHAHLANE** a former Acting Commissioner of Police who is employed with the South African Police Service c/o The State Attorney, SALU Building 316 Thabo Sehume Street, Pretoria.

14.

The eleventh defendant is advocate **MOLATLHWA MASHUGA** a prosecutor in the employ of the NPA at 28 Church Square, Pretoria c/o The State Attorney, SALU Building 316 Thabo Sehume Street, Pretoria of whom further particulars are unknown.

15.

BACKGROUND TO THE CAUSES OF ACTION:

15.1 During the period 2006 – 2016 the first plaintiff in his personal capacity was involved in the investigation and the gathering of information towards the laying of criminal charges and exposure of corrupt and criminal activities of the erstwhile Commissioner of Police, Jackie Selebi, as well as the exposure of corruption by the former Acting Commissioner of Police, Johannes Khomotso Phahlane (2016) , the former National Head of the Hawks, General Berning Ntlemeza (2015) and Lieutenant – General Vineshkumar Moonoo (2014) last mentioned at the relevant time the Divisional Commissioner: Detectives, South African Police Service.

15.2 The first plaintiff has also investigated and caused to be opened criminal dockets against the erstwhile Chairperson of the South African Airways Ms Dudu Mnyeni for fraud and corruption in March 2015 and January 2016.

15.3 During October 2012 the first plaintiff also caused a criminal case docket to be opened at the Silverton Police Station against Nomcgobo Jiba (at the time

- employed by the NPA), Lawrence Mrwebi (at the time employed by the NPA), Prince Mokotedi (at the time employed by the NPA), Richard Mdluli (at the time the Provincial Head: Crime Intelligence), Mulangi Mphego (at the time National Head of Crime Intelligence) as a result of complaints of Corruption, Defeating the Ends of Justice and contravening section 32(1)(b) of the NPA Act by virtue of interfering with the prosecution of Jackie Selebi.
- 15.4 The first plaintiff further investigated and gathered information and caused a criminal case docket to be opened in 2015 at the Brooklyn Police Station, Pretoria against Mr Lucky Montana at the time the CEO of PRASA concerning alleged corruption pertaining to a R 4 Billion tender award by PRASA.
- 15.5 During or about February 2016 the first plaintiff investigated and gathered information and caused a criminal case docket to be opened with the Independent Police Investigative Directorate ("IPID") against the then Acting Commissioner of Police, JOHANNES KHOMOTSO PHAHLANE (tenth defendant) for Corruption and Defeating the Ends of Justice.
- 15.6 The said investigations and the actions of the first plaintiff aimed at the exposure of prominent and high ranking state functionaries have resulted in various acts committed by state officials employed by the South African Police Services, the Hawks and the National Prosecuting Authority intended

to harass and to intimidate the first plaintiff which acts ultimately culminated in malicious and unlawful arrest and detention, alternatively wrongful arrest by certain police officials and the malicious instigation of, or causing the institution of criminal proceedings against the first plaintiff on various criminal charges without reasonable and probable cause.

16.

FIRST CLAIM:

- 16.1. On 1 April 2016 and at OR TAMBO AIRPORT, Kempton Park the first plaintiff was arrested through a demonstration of force by a contingent of 15 officers, which included, amongst others, the fifth defendant, sixth defendant, Colonel Hoosen (eighth defendant), one Captain Manqalaza, one Captain Mkupa, the sixth defendant and other police officials employed by the South African Police Services the identities of whom are unknown to the first plaintiff.
- 16.2. Two case dockets one with reference number: Pretoria Central 04/04/ 2016 and one with OR TAMBO CAS 06/04/2016 were opened *post factum*.
- 16.3. The said Hoosen, Manqalaza and Mkupa, were at the time in the employ of the Hawks and South African Police Service and acting within the course and scope of their employment.

16.4. The arrest and subsequent detention was malicious and unlawful alternatively executed without an authorised warrant of arrest and detention, alternatively wrongful and took place in circumstances where:

16.4.1. The alleged offence consisted of a minor passport violation unbeknown to the first plaintiff and was allegedly committed on 15 December 2015 and 13 February 2016;

16.4.2. Notwithstanding the minor nature of the offence the first plaintiff was arrested by a contingent of more than 15 officers, all of whom were employed at the time in the Hawks unit of the South African Police Service, which deal with Priority Crimes;

16.4.3. The first plaintiff was removed from an aeroplane, about to depart for London, and together with his two minor children (ages 8 and 9) forced to disembark the aeroplane in full view of all the passengers in the aeroplane;

16.4.4. The first plaintiff was then handcuffed and arrested in the presence of his two minor children, which incident left the children severely traumatized and the first plaintiff humiliated;

16.4.5. The first plaintiff was transported in a blue light convoy travelling at excessive speeds, ranging from between 200 km/h to 220 km/h and detained at the Pretoria Central Police Station in sub-human and degrading conditions which included:

16.4.5.1. Raw sewerage on the floors;

16.4.5.2. Large rats running around in numbers;

16.4.5.3. Inoperative ablutions;

16.4.5.4. Dried and caked human excrement on the walls near the toilets due to the absence of toilet paper; and

16.4.5.5. Putrid smells emanating from the blocked and overflowed toilets.

16.5. The first plaintiff was detained at the Pretoria Police Station in these conditions for a period of two days and also detained at the Villieria Police Station ultimately released on bail on 4 April 2016 by order of court at the Kempton Park Magistrate's Court.

16.6. The arrest and subsequent detention was unlawful and was not intended to secure the attendance of the first plaintiff at a criminal trial, but was intended to torture, harass, intimidate and harm the first plaintiff, alternatively was wrongful.

- 16.7. The said police officials who included the fifth, sixth and eighth defendants, were acting within the course and scope of their employment of the South African Police Service.
- 16.8. As a result of the foregoing the first plaintiff was unlawfully deprived of his liberty, suffered impairment to his dignity, suffered psychological trauma and harm.
- 16.9. The said officials also confiscated the passport of the first plaintiff in order to prevent him from travelling overseas thereby depriving him of his freedom of movement, disrupted his business activities and prevented him from seeing and visiting family members abroad.
- 16.10. The said passport was retained for a year and only returned to the first plaintiff by order of the magistrate at Kempton Park in March 2017.
- 16.11. As a result of the foregoing, the first plaintiff has suffered damages in the amount of R 4 000 000.00, which is calculated as follows:
- 16.11.1. **General damages:** For unlawful arrest impairment of dignity, loss of freedom, deprivation of his freedom of movement, pain, suffering and psychological trauma: - R 4 000 000.00.
- 16.12. Proper notice of the proceedings was given to the Third, Fifth, Sixth, and Eight Defendants in terms of Section 3(1) of the Institution of legal proceedings against certain Organs of State Act, 40 of 2002 on 4 December 2017.

16.13. Notwithstanding lawful demand the said defendants have failed, refused and/or neglected to make payment to the first plaintiff.

16.14. **WHEREFORE** the first plaintiff claims from the third defendant, fifth defendant, sixth defendant and eighth defendant jointly and severally, the one paying the other to absolved:

16.14.1. Payment in the amount of R 4 000 000.00;

16.14.2. Mora interest from date of demand being 4 December 2017 to date of payment, alternatively from date of service of summons to date of payment;

16.14.3. Costs of suit;

16.14.4. Further or alternative relief.

17.

SECOND CLAIM:

17.1. The said police officials referred to above in paragraph 16 who included the fifth and sixth defendants in collaboration with the senior members of the NPA and/or fourth defendant instigated or caused to be instituted malicious criminal proceedings against the first plaintiff without reasonable and probable cause during the period 4 July 2016 and 2 June 2017 in the Kempton Park Magistrates Court.

- 17.2. The first plaintiff was charged with contravening Section 26B of the South African Citizenship Act, 88 of 1955, which charge was brought with an ulterior motive to stop the first plaintiff from attending a media conference in London, and to arrest the first plaintiff for purposes of interrogation on matters extraneous to the alleged offence for which the first plaintiff was arrested and with the intention to harass, humiliate and intimidate the first plaintiff.
- 17.3. When proceeding with the prosecution of the charge against the first plaintiff, the fourth defendant had no reasonable or probable cause for so doing.
- 17.4. As a result of the said defendants' including the fourth defendant's conduct, the first plaintiff was prosecuted under case number D803/2016 in the Kempton Park Magistrate Court, which trial continued for a period of 12 court days over a period of 15 months.
- 17.5. On 2 June 2017 the first plaintiff was acquitted of the charges in terms of Section 174 of the Criminal Procedure Act following his unlawful arrest and prosecution and the prosecution failed.
- 17.6. The fourth defendant immediately stated his intention to the court to apply for leave to appeal but failed to give effect to his stated intention.

- 17.7. The said defendants including the fourth defendant was acting within the course and scope of their employment with the NPA and first defendant and/or the second defendant and the said policemen, which included the fifth and sixth defendants, were acting within the course and scope of their employment as officers in the employ of the South African Police Service and the third defendant.
- 17.8. As a result of the foregoing, the first plaintiff suffered damages in the total amount of R 5 600 000.00, comprising of:
- 17.8.1 costs reasonably expended to defend the prosecution, make application for bail and various applications for the relaxation of bail conditions in the amount of R 1 600 000.00 (apportioned estimate);
- 17.8.2 damages for contumelia, deprivation of freedom, trauma, impairment of dignity in the amount of R 4 000 000.00.
- 17.9. Proper notice of the proceedings was given to all of the first to the sixth defendants and the eight defendant in terms of Section 3(1) of the Institution of Legal Proceedings against certain Organs of State Act, 40 of 2002 on 4 December 2017.

17.10. Notwithstanding lawful demand the first to the sixth defendants and the eight defendant have failed, refused and/or neglected to make payment to the first plaintiff.

17.11. **WHEREFORE** the first plaintiff claims from the first to the sixth defendants and the eight defendant, jointly and severally, the one paying the other to absolved:

17.11.1. Payment in the amount of R 5 600 000.00;

17.11.2. Mora interest from date of demand being 4 December 2017 to date of payment, alternatively from date of service of summons to date of payment;

17.11.3. Costs of suit;

17.11.4. Further or alternative relief.

18.

THIRD CLAIM:

18.1. On 13 February 2017 at DF Malan Avenue, Kloofsig, Centurion the first plaintiff was maliciously and unlawfully arrested, alternatively wrongfully arrested with an unlawfully and fraudulently obtained warrant of arrest and in contravention of an order of the High Court by members of the Hawks.

- 18.2. The members of the unit were Brigadier Ncube (the investigating officer and at the time the Provincial Head: Commercial Crime Investigation) Brigadier Kgorane, Colonel Dawood and several other police officials, the identities of which are unknown to the first plaintiff.
- 18.3. The first plaintiff was then taken to and detained at the Kameeldrift Police Station in degrading conditions from 19h00 until midnight (five hours) when he was released following a court order directing his release.
- 18.4. The arrest was not intended to secure the attendance of the first plaintiff at a criminal trial, but was intended to harass and intimidate the first plaintiff.
- 18.5. The said policemen were acting within the course and scope of their employment as policemen of the South African Police Service.
- 18.6. As a result of the foregoing, the first plaintiff was deprived of his liberty, suffered humiliation and trauma an impairment of his dignity.
- 18.7. As a result the first plaintiff suffered damages in the amount of R 700 000.00 , which is calculated as follows:
- 18.7.1 Legal Costs incurred in respect of urgent bail application R 200 000.00

18.7.2 General damages: impairment of dignity, loss of freedom, pain and suffering	R 500 000.00
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R 700 000.00

18.8 Proper notice of the proceedings was given to the third defendant in terms of Section 3(1) of the Institution of Legal Proceedings against certain Organs of State Act, 40 of 2002 on 7 May 2018.

18.9 Notwithstanding lawful demand the third defendant has failed, refused and/or neglected to make payment to the plaintiff.

18.10 **WHEREFORE** the first plaintiff claims from the third defendant:

18.10.1 Payment in the amount of R 700 000.00;

18.10.2 Mora interest from date of demand being 7 May 2018 to date of payment, alternatively from date of service of summons to date of payment;

18.10.3 Costs of suit;

18.10.4 Further or alternative relief.

FOURTH CLAIM:

- 19.1 Following the arrest referred to in paragraph 18 above, one or more of the said police officers referred to above in paragraph 18 and/or the tenth defendant, in collaboration with senior members of the NPA unknown to the first plaintiff and/or Adv M Mashuga (eleventh defendant) instigated or caused to be instituted malicious criminal proceedings on or about 16 February 2017 against the first plaintiff without reasonable and probable cause in the Pretoria Magistrates Court under case number A 16/94/2017 and case docket with reference number Kameeldrift CAS 12/01/2017.
- 17.2 The prosecutor who was assigned to the case was Adv M Mashuga (eleventh defendant).
- 17.3 The prosecution was instituted without reasonable and probable cause.
- 17.4 The said police officials acted within the course and scope of their employment with the third defendant and the said members of the NPA and the eleventh acted within the scope of their employment of the NPA and/o with the second defendant who carries ultimate legal responsibility.
- 17.5 The prosecution has failed in that after several postponements of the case, and on 8 November 2017 the matter was struck from the roll by the Magistrate after an application by the first plaintiff's legal representative.

17.6 As a result of the foregoing, the first plaintiff suffered damages in the total amount of **R 900 000.00**, comprising of:

17.6.1 costs reasonably expended to defend the prosecution, **R 400 000.00** (apportioned estimate) and;

17.6.2 damages for contumelia, deprivation of freedom, trauma, impairment of dignity in the amount of **R 500 000.00**

17.7 Proper notice of the proceedings was given to the first, second and third defendants in terms of Section 3(1) of the Institution of Legal Proceedings against certain Organs of State Act, 40 of 2002 on 7 May 2018.

17.8 Notwithstanding lawful demand the first, second and third defendants have failed, refused and/or neglected to make payment to the first plaintiff.

17.9 **WHEREFORE** the first plaintiff claims from the first defendant, second defendant and third defendant jointly and severally, the one paying the other to absolved:

17.9.1 Payment in the amount of **R 900 000.00**;

17.9.2 Mora interest from date of demand being 7 May 2018 to date of payment, alternatively from date of service of summons to date of payment;

17.9.3 Costs of suit;

17.9.4 Further or alternative relief.

20.

FIFTH CLAIM:

21. Between March 2015 to 7 April 2016 the ninth defendant (Myeni) wrongfully and maliciously and in reaction to an investigation conducted by the first plaintiff, set the law in motion in collaboration the sixth defendant (Vlok) by laying a false charge of extortion, intimidation, fraud, forgery and uttering against the first plaintiff with the police at the Kempton Park Police Station, by giving them the following false information namely that:

21.1. On or about 7 November 2014 and 25 February 2015 and at or near OR Tambo International Airport the first plaintiff:

21.1.1. acting in concert with two other accused in pursuance of a common purpose subjected the ninth defendant to unlawful pressure to perform or omit to perform her duties, thereby making himself guilty of extortion;

21.1.2. unlawfully and intentionally threatened to injure or cause damage to the ninth defendant's good name and/or publish false information about her reputation and finances;

- 21.1.3. unlawfully, falsely and with the intent to defraud pretended to the seventh defendant that he had obtained bank records from the Bank of Austria and BNP Parabis and that by means of the said false pretence induced Ms. Myeni to her potential prejudice to act to her possible disadvantage to wit to resign from her employment as Chairperson of the South African Airways Board;
- 21.1.4. intentionally and unlawfully uttered to various individuals, some of whom are occupying public office, that the eleventh defendant had foreign bank accounts and then by means of the false pretences induce or attempt to induce the seventh defendant to act to her potential prejudice to resign from her employment as a Chairperson of the board of South African Airways Board.
22. When laying this charge the ninth defendant had no reasonable or probable cause for so doing, nor did she have any reasonable belief in the truth of the information given and thereby instigated in collaboration with the sixth defendant and the fourth defendant the institution of criminal prosecution, or caused criminal prosecution to be instituted in collaboration with the sixth defendant and the fourth defendant on or about 7 April 2016.
23. As a result of the sixth, fourth and ninth defendant's conduct, the first plaintiff was maliciously and unlawfully charged and prosecuted with the offence of extortion, intimidation, fraud, forgery and uttering in the Kempton Park Regional Court under case reference number IRC 75/2016 (Kempton Park CAS 697/03/2015),

by the fourth defendant which charges were ultimately withdrawn on 12 January 2018 after eight (8) court appearances.

24. The prosecution has failed.
25. At all relevant times the sixth defendant acted within the scope and course of his employment with the third defendant and the fourth defendant acted within the scope and course of his employment of the first defendant and/or the second defendant.
26. As a result of the foregoing, the first plaintiff suffered damages in the amount of **R 1 200 000.00** which is calculated as follows:

- | | | |
|-------|---|---------------------|
| 26.1. | Legal Costs for defending the charges
(apportioned estimate) | R 700 000.00 |
| 26.2. | General damages: Contumelia impairment of
dignity, deprivation of freedom, discomfort suffered | R 500 000.00 |

Total:	R 1 200 000.00
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27. Proper notice of the proceedings was given to the first, second, third and sixth defendants in terms of Section 3(1) of the Institution of Legal Proceedings against certain Organs of State Act, 40 of 2002 on 7 May 2018.

28. Notwithstanding lawful demand the seventh defendant has failed, refused and/or neglected to make payment to the first and third plaintiffs.

29. **WHEREFORE** the first plaintiff claims from the defendant, second defendant and third defendant jointly and severally, the one paying the other to absolved:

29.1 Payment in the amount of **R 1 200 000.00**;

29.2 Mora interest from date of demand being 7 May 2018 to date of payment, alternatively from date of service of summons to date of payment;

29.3 Costs of suit;

29.4 Further or alternative relief.

30.

SIXTH CLAIM:

30.1 During or about May 2016 the sixth defendant (Vlok) wrongfully and maliciously set the law in motion by procuring from a Ms Cora van der Merwe the laying of a false charge of extortion, intimidation and kidnapping, against the first and third plaintiffs with the South African Police Service at the Rosebank Police Station (CAS 47/05/2016), by giving them the following false information namely:

30.1.1 That on 13 October 2014 and at Rosebank, the first and third plaintiffs:

30.1.1.1 unlawfully and intentionally induced or subjected to pressure or inspired fear in the mind of the said Ms Cora Van Der Merwe and unlawfully and intentionally obtained

or attempted to obtain an advantage not due to the first and third plaintiffs thereby making them guilty of extortion;

30.1.1.2 unlawfully and with the intent to compel or induce the said Ms Cora van Der Merwe to confess to having committed theft, by threatening to have her criminally charged and convicted for theft;

30.1.1.3 unlawfully and intentionally deprived the said Ms Cora van Der Merwe of her freedom of movement by forcing her to accompany them to their office and keeping her there against her will.

30.2 When procuring the laying of this charge the sixth defendant had no reasonable or probable cause for so doing, nor did he have any reasonable belief in the truth of the information given.

30.3 As a result of the sixth defendant's conduct, the first and third plaintiffs were unlawfully charged and prosecuted in collaboration with the fourth defendant with the offence of extortion, intimidation and kidnapping in the Magistrate Court of Randburg by the fourth defendant and were both acquitted on 19 January 2018 after approximately 33 appearances in court over a period of eighteen months.

30.4 The prosecution against the first plaintiff and the third plaintiff failed.

30.5 At all relevant times the sixth defendant acted within the scope and course of his employment with the third defendant and the fourth defendant acted within the scope and course of his employment of the first defendant and/or the second defendant.

30.6 As a result of the foregoing, the **first plaintiff** suffered damages in the amount of **R 4 900 000.00** made up as follows:

30.6.1	Legal Costs (apportioned estimate)	R 2 900 000.00
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30.6.2	General damages: Contumelia, impairment of dignity for pain, suffering, discomfort, loss of amenities of life and psychological trauma	R 2 000 000.00
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TOTAL:	R 4 900 000.00
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30.7 As a result of the foregoing, the **third plaintiff**:

- 30.7.1 Was required to take unpaid leave from work in order to attend court, postponements and consultations with legal counsel for trial preparations;
- 30.7.2 Suffered harm to her good name and reputation and impairment of her dignity;
- 30.7.3 Suffered from stress as a result of the criminal trial and developed anxiety and depression with consequent detrimental effects on her physical health and general well-being;
- 30.7.4 Was unable to function or perform at work due to suffering from anxiety and depression and therefore unable to meet the targets set by her employer;
- 30.7.5 Not having met her targets, she was not promoted to Senior Manager and which has effectively delayed her career with two years with consequential financial loss;
- 30.7.6 Will be required to disclose in any future medical aid applications that she suffers from anxiety and depression and which will result in increased charges or refusal by the insurance to cover the third defendant for this illness;
- 30.7.7 Has suffered reputational damage since she is a forensic consultant who has been subject to criminal charges. This will impact on her ability to apply for employment opportunities locally and abroad;

- 30.7.8 Had a pending criminal matter against her and could not emigrate with her partner to Canada, where they intended to get married and have children;
- 30.7.9 Could also not obtain a Visa to Canada in order to visit her partner, who had immigrated without her and was therefore forced to incur costs of travelling to the United States in order to be able to see her partner.
- 30.8 As a result of the foregoing, the **third plaintiff** suffered loss and damages in the amount of **R4 445 000.00** made up as follows:
- | | | |
|--------|--|----------------|
| 30.8.1 | General damages: Contumelia, impairment of dignity, for pain, suffering, discomfort, loss of amenities of life, psychological trauma and adverse effects on her health | R 3 000 000.00 |
| 30.8.2 | Medical costs (Doctors visits and medication) | R 40 000.00 |
| 30.8.3 | Future medical costs (estimate) | R 100 000.00 |
| 30.8.4 | Loss of Income – unpaid leave (3 xR35 000.00) | R 105 000.00 |
| 30.8.5 | Travel costs to the United States (flights, accommodation and living expenses) | R 120 000.00 |
| 30.8.6 | Forced sabbatical (R20 000.00 x 4) | R 80 000.00 |

30.8.7 Effect on employment and career and promotion. R 1 000 000.00

TOTAL:

R4 445 000.00

30.9 Proper notice of the proceedings was given to the first, second, third, fourth and sixth defendants on behalf of the first plaintiff in terms of Section 3(1) of the Institution of Legal Proceedings against certain Organs of State Act, 40 of 2002 on 7 May 2018.

30.10 Proper notice of the proceedings was given to the first, second, third, fourth and sixth defendants on behalf of the third plaintiff in terms of Section 3(1) of the Institution of Legal Proceedings against certain Organs of State Act, 40 of 2002 on 18 July 2018.

30.11 Notwithstanding lawful demand the eighth defendant has failed, refused and/or neglected to make payment to the first and third plaintiffs.

30.12 **WHEREFORE** the **first plaintiff** claims from the first defendant, second defendant, third defendant and sixth defendant jointly and severally, the one paying the other to absolved:

- 30.12.1 Payment in the amount of **R 4 900 000.00**;
- 30.12.2 Mora interest from date of demand being 7 May 2018 to date of payment, alternatively from date of service of summons to date of payment;
- 30.12.3 Costs of suit;
- 30.12.4 Further or alternative relief.

30.13 **WHEREFORE** the **third plaintiff** claims from the first defendant, second defendant, third defendant and sixth defendant jointly and severally, the one paying the other to absolved:

- 30.13.1 Payment in the amount of **R4 445 000.00**;
- 30.13.2 Mora interest from date of demand being 18 July 2018 to date of payment, alternatively from date of service of summons to date of payment;
- 30.13.3 Costs of suit;
- 30.13.4 Further or alternative relief.

31.

SEVENTH CLAIM:

31.1 During or about August / September 2017 the sixth defendant (Vlok) in collaboration with the fourth defendant wrongfully and maliciously set the law in motion by causing a criminal prosecution to be instituted in on charges of

extortion and against the first and third plaintiffs under a case docket: Alberton CAS 799 /11/2012 in Palm Ridge Magistrates Court.

- 31.2 When setting the law in motion and causing the prosecution on the said charges the sixth defendant had no reasonable or probable cause for so doing and that the prosecution was justified.
- 31.3 As a result of the sixth defendant's and fourth defendant's conduct, the first and third plaintiffs were maliciously and unlawfully charged and prosecuted by the fourth defendant with the offence of extortion and intimidation in the Palm Ridge Magistrate Court until the charges were withdrawn on 1 August 2018 against first plaintiff after approximately 6 court appearances over a period of eleven months and against the third plaintiff after approximately 5 court appearances.
- 31.4 The prosecution against the first plaintiff and the third plaintiff was unsuccessful.
- 31.5 At all relevant times the sixth defendant acted within the scope and course of his employment with the third defendant and the fourth defendant acted with the scope and course of his employment of the first defendant and/or the second defendant.
- 31.6 As a result of the foregoing, the **first plaintiff** suffered damages in the amount of **R 935 000.00** made up as follows:

31.6.1	Legal Costs (apportioned estimate)	R 435 000.00
31.6.2	General damages: Contumelia, impairment of dignity for pain, suffering, discomfort, loss of amenities of life and psychological trauma	R 500 000.00

TOTAL:	R 935 000.00
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31.7 As a result of the foregoing, the **third plaintiff**:

- 31.7.1 Was required to take unpaid leave from work in order to attend court, postponements and consultations with legal counsel for trial preparations;
- 31.7.2 Suffered harm to her good name and reputation and impairment of her dignity;
- 31.7.3 Suffered from stress as a result of the criminal trial and developed anxiety and depression with consequent detrimental effects on her physical health and general well-being;
- 31.7.4 Was unable to function or perform at work due to suffering from anxiety and depression and therefore unable to meet the targets set by her employer;

- 31.7.5 Not having met her targets, she was not promoted to Senior Manager and which has effectively delayed her career with two years with consequential financial loss.
- 31.7.6 Will be required to disclose in any future medical aid applications that she suffers from anxiety and depression and which will result in increased charges or refusal by the insurance to cover the third defendant for this illness;
- 31.7.7 Has suffered reputational damage since she is a forensic consultant who has been subject to criminal charges. This will impact on her ability to apply for employment opportunities locally and abroad;
- 31.7.8 Had a pending criminal matter against her and could not emigrate with her partner to Canada, where they intended to get married and have children;
- 31.7.9 Could also not obtain a Visa to Canada in order to visit her partner, who had immigrated without her and was therefore forced to incur costs of travelling to the United States in order to be able to see her partner.

31.8 As a result of the foregoing, the third plaintiff suffered loss and damages in the amount of **R2 445 000.00** made up as follows:

31.8.1	General damages: Contumelia, impairment of dignity, for pain, suffering, discomfort, loss of amenities of life, psychological trauma and adverse effects on her health		R 1 000 000.00
31.8.2	Medical costs (Doctors visits and medication) reckoned together with claim 6	R	40 000.00
31.8.3	Future medical costs (estimate) (reckoned together with claim 6)	R	100 000.00
31.8.4	Loss of Income – unpaid leave (3 xR35 000.00) (reckoned together with claim 6)	R	105 000.00
31.8.5	Travel costs to the United States (flights, accommodation and living expenses) (reckoned together with claim 6 reckoned together with claim 6)	R	120 000.00
31.8.6	Forced sabbatical (R20 000.00 x 4) (reckoned together with claim 6 reckoned together with claim 6)	R	80 000.00
31.8.7	Effect on employment and career and promotion (reckoned together with claim 6 reckoned together with claim 6)	R	1 000 000.00

TOTAL:

R2 445 000.00

31.9 Proper notice of the proceedings was given to the first, second, third, fourth and sixth defendants on behalf of the first plaintiff in terms of Section 3(1) of

the Institution of Legal Proceedings against certain Organs of State Act, 40 of 2002 on 7 May 2018 and 14 September 2018.

31.10 Proper notice of the proceedings was given to the first, second , third, fourth and sixth defendants on behalf of the third plaintiff in terms of Section 3(1) of the Institution of Legal Proceedings against certain Organs of State Act, 40 of 2002 on 18 July 2018.

31.11 Notwithstanding lawful demand the eighth defendant has failed, refused and/or neglected to make payment to the first and third plaintiffs.

31.12 **WHEREFORE** the **first plaintiff** claims from the first defendant, second defendant, third defendant, fourth defendant and sixth defendant jointly and severally, the one paying the other to absolved:

31.12.1 Payment in the amount of **R 935 000.00**;

31.12.2 Mora interest from date of demand being 14 September 2018 to date of payment, alternatively from date of service of summons to date of payment;

31.12.3 Costs of suit;

31.12.4 Further or alternative relief.

31.13 **WHEREFORE** the **third plaintiff** claims from the first defendant, second defendant, third defendant, fourth and sixth defendant jointly and severally, the one paying the other to absolved:

31.13.1 Payment in the amount of **R2 445 000.00**;

31.13.2 Mora interest from date of demand being 18 July 2018 to date of payment, alternatively from date of service of summons to date of payment;

31.13.3 Costs of suit;

31.13.4 Further or alternative relief.

32.

EIGHTH CLAIM:

32.1 During or about April 2016 the sixth defendant (Vlok) in collaboration with the fourth defendant wrongfully and maliciously set the law in motion by procuring a complaint of fraud through a certain Alice Johnston causing criminal prosecution to be instituted against the first plaintiff on or about 27 June 2016 under a case docket opened: Bramley CAS 414/04/2016 in the Randburg Regional Court with case number 326/2016.

32.2 When setting the law in motion and causing the prosecution on charges of fraud, intimidation and extortion the sixth defendant and the fourth defendant had no reasonable or probable cause for so doing.

32.3 As a result of the sixth defendant's and fourth defendant's conduct, the first plaintiff maliciously and unlawfully charged and/or wrongfully prosecuted by the fourth defendant in the Randburg Regional Court until the first plaintiff was acquitted on 29 June 2018 after the prosecution was stopped after approximately 20 court appearances over a period of two years.

32.4 The prosecution against the first plaintiff was unsuccessful.

32.5 At all relevant times the sixth defendant acted within the scope and course of his employment with the third defendant and the fourth defendant acted within the scope and course of his employment of the first defendant and/or the second defendant.

32.6 As a result of the foregoing, the first plaintiff suffered damages in the amount of **R 3 741 000.00** made up as follows:

32.6.1	Legal Costs (apportioned estimate)	R 1 741 000.00
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32.6.2	General damages: Contumelia, impairment of dignity for pain, suffering, discomfort, loss of amenities of life and psychological trauma	R 2 000 000.00
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TOTAL:

R 3 741 000.00

- 32.7 Proper notice of the proceedings was given to the first, second, third, fourth and sixth defendants on behalf of the first plaintiff in terms of Section 3(1) of the Institution of Legal Proceedings against certain Organs of State Act, 40 of 2002.
- 32.8 Notwithstanding lawful demand the eighth defendant has failed, refused and/or neglected to make payment to the first and third plaintiffs.
- 32.9 **WHEREFORE** the first plaintiff claims from the first defendant, second defendant, third defendant, fourth defendant and sixth defendant jointly and severally, the one paying the other to absolved:
- 32.9.1 Payment in the amount of **R 3 741 000.00**;
- 32.9.2 Mora interest from date of demand to date of payment, alternatively from date of service of summons to date of payment;
- 32.9.3 Costs of suit;
- 32.9.4 Further or alternative relief.

SECOND PLAINTIFF'S CLAIM :

33.1 At all times relevant hereto:

33.1.1 the first plaintiff was the sole director and shareholder and main source of income of the second plaintiff to the knowledge of the employees of the first, second and third defendants and/or defendants mentioned above in paragraph 2 up to and including paragraph 32 hereinafter collectively referred to as "the defendants";

33.1.2 when the defendants committed the said acts of unlawful arrests and multiple wrongful prosecutions as pleaded in paragraphs 15 to 32 above against the first plaintiff and unlawfully and intentionally embarked upon an orchestrated stratagem to threaten and intimidate the first plaintiff the defendants or one or more of them knew or foresaw that their actions will deprive the second plaintiff from the beneficial use of the first plaintiff's services and generation of income through the employment of the first plaintiff's skill, time and work with consequential loss of income in the second plaintiff;

- 33.1.3 the defendants had a legal duty to perform their functions and duties without fear, favour or prejudice as they must exercise every public power vested in them in a manner that is consistent with the Constitution generally, but which specifically meets the requirements of impartiality, fairness and rationality;
- 33.1.4 the defendants had a legal duty to respect, protect and uphold justice, human dignity and fundamental rights of the first plaintiff and the second plaintiff as entrenched in the Constitution and to refrain from causing financial harm and prejudice to the second plaintiff.
- 33.2 The defendants have breached their legal duty towards the first plaintiff by engaging in the conduct referred to as pleaded in paragraphs 15 to 32 above read with paragraph 33.1 2 above.
- 33.3 As a result of the said breach of legal duty and wrongful conduct of the defendants, resulting in wrongful arrests and multiple criminal prosecutions against first plaintiff the defendants knew that their actions would likely cause harm and financial loss and prejudice to the second plaintiff and notwithstanding continued with their actions.

- 33.4 In so doing the defendants acted with intent and caused as a result of the arrests, and the multiple prosecutions, the first plaintiff to devote significant time, resources and energy to defend himself against the charges over extended periods of time with the resultant loss suffered by the second plaintiff of the first plaintiff's skill, time and work with consequential loss of income in the second plaintiff.
- 33.5 As a result of the conduct of the defendants described above, the second plaintiff suffered financial loss as a result in a decline of its income since the 2015/2016 financial years to date and will continue to suffer further financial loss in the foreseeable future.
- 33.6 The calculation of the financial loss referred to in paragraph 33.5 above is set out in the schedule attached hereto as **annexure "A"** and amounts in total to R 134 827 053.00
- 33.7 As a result the second plaintiff has suffered damages in the amount of R 134 827 053.00.
- 33.8 Proper notice of the proceedings was given also on behalf of the second plaintiff to the first, second, and third defendants on behalf in terms of Section 3(1) of the Institution of Legal Proceedings Against Certain Organs of State Act, 40 of 2002.

33.9 Notwithstanding lawful demand the eighth defendant has failed, refused and/or neglected to make payment to the first and third plaintiffs.

33.10 **WHEREFORE** the second plaintiff claims from the first, second and third defendants, jointly and severally the one paying the other to be absolved as follows:

33.10.1 Payment in the amount of **R 134 827 053.00**;

33.10.2 Mora interest from date of service of summons to date of payment;

33.10.3 Costs of suit;

33.10.4 Further or alternative relief.

34.

All the causes of action arose within the jurisdictional area of the Honourable Court described in the heading of the Combined Summons to which these particulars of claim are attached.

35.

IN THE PREMISES THE PLAINTIFFS PRAY FOR JUDGEMENT AGAINST THOSE DEFENDANTS AS SET OUT IN THE PRAYERS UNDER EACH CLAIM SEPARATELY PLEADED ABOVE.

SIGNED at PRETORIA on the 14th day of December 2018

AT LAMEY

Counsel for the Plaintiffs
Chambers, Pretoria

Hurter Spies Inc

Attorneys for Plaintiffs

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

ANNEXURE "A"

1	2	3	4	5
Financial Year End	Actual	Projected	Impaired Projected	Loss
2012/13	R 6 478 349.38			
2013/14	R 7 939 283.88			
2014/15	R 9 912 645.84			
2015/16	R 7 472 104.81	R 10 809 225.17		-R 3 337 120.36
2016/17	R 4 097 491.41	R 11 890 147.69		-R 7 792 656.28
2017/18	R 3 709 495.98	R 13 079 162.46		-R 9 369 666.48
2018/19	R 5 967 931.85	R 14 387 078.71	-R 8 419 146.86	-R 8 419 146.86
2019/20	R 6 564 725.04	R 15 825 786.58	-R 9 261 061.54	-R 9 261 061.54
2020/21	R 7 221 197.54	R 17 408 365.24	-R 10 187 167.70	-R 10 187 167.70
2021/22	R 7 943 317.29	R 19 149 201.76	-R 11 205 884.47	-R 11 205 884.47
2022/23	R 8 737 649.02	R 21 064 121.94	-R 12 326 472.91	-R 12 326 472.91
2023/24	R 9 611 413.92	R 23 170 534.13	-R 13 559 120.21	-R 13 559 120.21
2024/25	R 10 572 555.32	R 25 487 587.54	-R 14 915 032.23	-R 14 915 032.23
2025/26	R 11 629 810.85	R 28 036 346.30	-R 16 406 535.45	-R 16 406 535.45
2026/27	R 12 792 791.93	R 30 839 980.93	-R 18 047 188.99	-R 18 047 188.99
Totals:	R 120 650 764.06	R 231 147 538.44	-R 114 327 610.35	-R 134 827 053.48

Above figures are Inclusive of VAT

2 = Actual Sales from March 2012 estimate from 2018/19

3 = Projected Sales if no cause of action based on 10% growth

4 = Projected Sales from now until 2027 based on a 10% growth

5 = Loss and Projected Loss

Summary of claims

Claim No.	Paul O'Sullivan /POAA	Melissa Naidu	
1	R 4 000 000,00		
2	R 5 600 000,00		
3	R 700 000,00		
4	R 900 000,00		
5	R 1 200 000,00		
6	R 4 900 000,00	R 4 445 000,00	
7	R 935 000,00	R 2 445 000,00	
8	R 3 741 000,00		
POAA	R 134 827 053,00		
Sub tot	R 156 803 053,00	R 6 890 000,00	
		Grand Total	R 163 693 053,00