



**IN THE HIGH COURT OF SOUTH AFRICA,
GAUTENG DIVISION, JOHANNESBURG**

CASE NO: 2018/2844

(1) REPORTABLE: YES / NO
(2) OF INTEREST TO OTHER JUDGES: YES/NO
(3) REVISED.
27/03/2023
DATE

Malindi
SIGNATURE

In the matter between:

KHUMBULANI WILSON RADEBE

Plaintiff

And

**PASSENGER RAIL AGENCY OF SOUTH
AFRICA**

Defendant

Delivered: This judgment was prepared and authored by the Judge whose name is reflected and is handed down electronically by circulation to the Parties / their legal representatives by email and by uploading it to the electronic file of this matter on CaseLines. The date of the judgment is deemed to be 27 March 2023.

JUDGMENT

MALINDI J:

Introduction

- [1] This is a claim by the plaintiff for injuries sustained as a result of an incident that occurred at Dube train station ("the Dube station") in Soweto on 16 August 2017.
- [2] The issues of liability and quantum were separated in terms of rule 33(4) and the matter proceeded on liability only.
- [3] After concluding his evidence, the plaintiff amended paragraph 5 of his particulars of claim to read as follows: *"The incorrect, open doors of the train and the movement of the passengers caused the Plaintiff to fall from the coach onto the railway tracks at Dube Station, Soweto."*
- [4] The defendant had pleaded to the initial paragraph 5 in its original plea as follows:
- "5.1 The defendant denies that the incident occurred in the manner as alleged.
- 5.2 The defendant avers that:
- (1) At all material times the doors of the train were closed;
 - (2) When the train stopped at Dube station which was the plaintiff's intended destination, the doors on the platform side of the train did not open;
 - (3) Commuters on the train forced open the doors on the incorrect side of the train, that is on the side of the train where there was no platform;
 - (4) The commuters including the plaintiff disembarked from train on the incorrect side where there was no platform;
 - (5) Whilst doing so, the plaintiff allegedly sustained

an injury.”

- [5] The defendant further pleaded in the alternative, in paragraph 7.4, that in the event that the Court finds that the defendant was negligent, “such negligence was not causally related to the incident and the injuries suffered by the plaintiff.”
- [6] The defendant pleaded, further alternatively in paragraph 7.5, that in the event the Court finds that the defendant was negligent, “the defendant pleads that the plaintiff’s injuries were also caused by the contributory negligence of the plaintiff...”
- [7] The plaintiff pleads that as a result of the incident he sustained bodily injuries and that the defendant should be held liable for its negligence in that it failed to keep the said doors closed.
- [8] The issue for determination is whether the defendant is liable for the injuries he allegedly sustained, in particular whether:
- 8.1. The harm to the plaintiff, in the circumstances of this case, was foreseeable.
 - 8.2. The defendant was negligent in not foreseeing the harm and acting upon it.
 - 8.3. If the defendant was negligent, whether the plaintiff was himself negligent in any way.
- [9] In this regard the narrow aspect of the incident to be determined is whether the plaintiff fell out of, or was ejected from the train as a result of the fellow passengers pushing or jostling him out the train doors that had been open

throughout his journey. It is necessary to set out the evidence fully in order to make this determination.

The plaintiff's evidence

[10] The plaintiff testified on his behalf and called one witness, Mr DL Mbombo ("Linda").

[11] The plaintiff, testified that:

11.1. He arrived at Park Station at 18:00 in order to take a train home. He regularly commuted on a later train but had been relieved from his shift as a security guard earlier than usual that day;

11.2. The platform was full of commuters. The train arrived at platform 4 and its doors were already open, when it arrived;

11.3. Many commuters embarked with him and he boarded the coach immediately in front of the train guard's coach at the rear of the train. His coach was the coach right at the end of the platform at Dube Station. Asked where he fell after being ejected from the coach, he placed himself near to the light pole as indicated in the photograph where he marked his "X". This is some meters away from the platform.

11.4. He entered the coach through the left side door at the back of the coach and was seated as the third person from the door which was on his right-hand side. The door was open and his back was facing the platform;

- 11.5. The door directly in front of him was closed and he did not see if the other doors were open. The configuration of the coaches is such that there are two doors opposite each other on each half of the coach.
- 11.6. As the train moved through Braamfontein, Langlaagte and New Canada Stations, the train moved with the door to his right widely open.
- 11.7. At every stop from Johannesburg Park Station to Dube Station, passengers did not disembark the train from his coach and only embarked the coach;
- 11.8. At every stop, the platform was on the side of the train with the open door (i.e. the left side of the train). Passengers were embarking through this door and leaving it open.
- 11.9. When approaching Dube, he stood up and went closer to the opposite door. This was the closed door on the platform side and there were about 10 people between him and the door;
- 11.10. When he stood up and approached the closed door, he had to push to get to that door. He was standing about 1.5m from the door and there were commuters standing behind him and in front of him waiting to exit the coach. People were pushing at his back as they urged towards the closed door in which side the platform now was.

- 11.11. When the train stopped people noticed that the doors were not opening and started panicking and pushing in the direction of the open door. He was caught between the two groups. He was overwhelmed by the commuters pushing towards the open door and he could not hold onto anything and had no balance, mainly because he was carrying a bag and plastic bags in both hands.
- 11.12. His back was towards the open door and he was pushed backwards until he fell out of the train. He landed on the ground, hitting the ground with his right heel.
- 11.13. There were other commuters standing around on the non-platform side after they had jumped off the train. He was the only person who was injured there. He did not see any other person who had fallen from their disembarkation.
- 11.14. After he fell, he was approached by Linda who tried to help him stand. As he tried to stand, he fell to the ground due to having injured his right ankle;
- 11.15. Asked if he and Linda knew each other he testified that he recognised Linda from sight. They used to board at Dube station together. Had Linda not helped move him the train would run him over.

- 11.16. He asked Linda to call the security guards at the station so that they could call an ambulance. Thereafter two (2) guards arrived. He informed the security guards that he was pushed and fell from the train;
- 11.17. A PRASA official arrived after 30 minutes. Linda testified that the PRASA official arrived at the scene at 22:00;
- 11.18. When it was put to him in cross-examination that his pleaded version was that the incorrect doors of the train opened he said that there was a mistake when that was written down because the door was always open. He testified that the averment that the doors "opened" as pleaded is a mistake;
- 11.19. When referred to the Joint Operations Centre ("JOC") OB, he noted errors on his ID number and spelling of Mkhonza Street. He testified that reference to commuters opening the opposite door was a lie as the door was always open.
- 11.20. He said that contrary to the OB entries he reported to the Protection Officer that as the train stopped, the door on the platform could not open and then because of the shoving due to panic he was pushed outside of the train on the side where there was no platform. The doors were opened all along, not at the station;
- 11.21. Linda did not witness how he was ejected from the coach. He only saw him after he fell to the ground. When questioned about his relationship

with Linda, he testified he met Linda at a busy intersection in Dube Village about four years after the incident. He testified that finding Linda was sheer luck. He recalled the incident and he pointed out to Linda that he was still suffering the consequences of the ankle injury.

[12] Mr DL Mbombo, ("Linda") testified that:

- 12.1. He was in the same coach as the Plaintiff and that the doors were widely opened when he boarded;
- 12.2. Contrary to the door configuration as described by the Plaintiff he maintained that there were only 2 doors on this coach, situated in the middle of the coach;
- 12.3. He was standing in the middle of the coach, facing the direction that the train was travelling in. The two doors were in front of him;
- 12.4. He disputed that the coach they were in was the second coach from the back of the train;
- 12.5. He never saw the plaintiff in the coach. People would have obscured his view of the plaintiff in the coach because the plaintiff says that he was seated and with the passage full of standing commuters.
- 12.6. At Dube station, the doors were wide open on the left-hand side. When the train arrived at Dube station people tried to open the doors on the

right-hand-side, but the doors would not open. They were jammed. There was shuffling and people trying to disembark using the doors on the left side. He had to wait for other passengers to jump from the coach before doing the same himself.

12.7. He stated that he did not witness what happened to the plaintiff during the disembarkation but later testified that both of them jumped off the coach;

12.8. He testified that passengers were jumping from that coach only. He noted that time is a factor, that is, that swiftness was necessary when people jump off a train. When he jumped off the train on the left side, he recognised the injured plaintiff because they used the same train for many years. He only really got to know who the plaintiff was on the date that the plaintiff was injured;

12.9. When he jumped onto the ground he landed a meter away from the plaintiff. The plaintiff was further under the train and part of the plaintiff's body was on the tracks. The plaintiff was the only person who was injured and could not stand.

12.10. He remained there the entire time until the plaintiff was taken away by ambulance;

12.11. He contacted a family member of the plaintiff who came there later. He used his own cell phone to do this;

12.12. The plaintiff had a braai pack and sports bag with him when he was injured. He took the plaintiff's items and gave them to the family member who came to the scene;

12.13. He bumped into the plaintiff during 2021 on a date that he could not remember at the intersection of Mncube Drive and the main road with the Shoprite on it. The discussion centred on asking the plaintiff what happened after the incident and the plaintiff showed him his injury. At this meeting they never discussed the case but exchanged phone numbers. He was only told about the case the Thursday or Friday before the hearing;

12.14. Linda was asked to mark the place where he found the plaintiff on a photograph. He marked the photograph "X1". When asked about his placement of the plaintiff on the photograph, he did not accept that the plaintiff would have been found further along the line if there was only one door in the middle of the coach; and

12.15. When asked about the allegation in the particulars of claim that the doors "opened", he testified that the doors were open throughout the journey.

The defendant's evidence

[13] Ms NP Selepe, the Train Guard, testified that:

- 13.1. She was the train guard working on train number 9452 on 16 August 2017. She had checked the doors with the train driver, Ms Malatsi, at Naledi yard and all were in working order. They each walk through the train, each from one end and meeting more or less in the middle and reporting to each other if they came across any malfunctioning doors.
- 13.2. She would have noted a fault if there was one, on her daily journal. There were no faults or delays reported on the date of the incident;
- 13.3. She explained the automatic opening and closing of the doors by her and the driver if her mechanism fails. When she releases the doors (opens them), the passengers manually pull the doors open, after the vacuum seal has been released. When she closes the doors, they are automatically closed because of the vacuum seal. The vacuum seal is when the compressed air is released or applied to open or close the doors.
- 13.4. It is impossible that the doors did not open on the platform side at Dube station. If the doors did not open on the platform side, she would have known from observing the platform and because she would have heard the passengers shouting that the doors are not opening. This is so because she steps out of her cubicle at every stop to observe the disembarkation and embarkation and has to give the safe signal before the train may pull away.

- 13.5. It is possible to block the doors from closing and to cut the pressure on the doors, using a knife or sharp object. To block the doors requires strength and two people for each side of the two section sliding doors on each door.
- 13.6. If there was a problem with the doors, she would have signalled the driver to kill the vacuum on all the doors. This has the effect of all doors being capable of opening manually until the vacuum mechanism is restored; and
- 13.7. She would not mix up the sides or which doors to open because the panels with the door control buttons are in her coach and are duplicated in separate cubicles. The right hand side controls the right hand doors, the left hand side controls the left hand doors. She therefore could not have mistakenly opened the doors on the left where there was no platform.

Mr PG Tshitavhadulu

[14] Mr PG Tshitavhadulu, the PRASA protection official, testified that:

- 14.1. He was called by the control room to attend at the scene;
- 14.2. One of the commuters must have alerted security at the station, who then alerted the control room.
- 14.3. He attended at the scene with his crew member, Mr L Mkhavele. When he arrived at the scene, the plaintiff was the only person there with the

two security guards, Mathenjwa and Kalipa. Mr Mathenjwa has since passed away and Ms Kalipa no longer works at the company.

14.4. The plaintiff was able to communicate with him and they spoke in IsiZulu. He testified to what was recorded in the JOC Occurrence Book and confirmed the accuracy of his entries.

14.5. There were no other commuters at the scene and other people arrived after some time. He had established that none of those people who arrived later were witnesses to the incident;

14.6. He would have noted if someone indicated that they saw what happened and would have taken a statement from the person. There is no benefit to him to not take down information and particulars of any witnesses to an incident; and

14.7. He was the person who contacted the Joint Operations Centre and they then called the ambulance.

Mr L Mkhavele

[15] Mr L Mkhavele, a Vusa Isizwe security guard and the crew member on the scene, testified that:

15.1. He was part of Mr Tshitavhadulu's crew and attended at the scene;

15.2. The plaintiff and the 2 security guards were the only people there at the scene when they arrived;

- 15.3. He recalled the conversation between the plaintiff and Tshitavhadulu and that the plaintiff told Mr Tshitavhadulu that when the train arrived there, the doors on the platform could not open. The other commuters opened the doors on the wrong side of the train and he jumped out and fell and got injured;
- 15.4. Mr. Mbombo ("Linda") was not at the scene. If he was, they would have made a note or recorded it;
- 15.5. He has not been in contact with either of the security guards as Mr Mathenjwa has passed away and Ms Kalipa resigned from the company;
- 15.6. He deferred to the incident report, stating that it helped him to recall what happened. He maintained that the plaintiff told Tshitavhadulu that he jumped from the train and that he heard the plaintiff say that the commuters forced the doors open; and
- 15.7. He would be interested and take a statement from a person who pulled the injured out from under the train. However, Mr Mbombo (Linda) did not approach them at the scene or inform them of this. Otherwise a statement would have been taken from him.

Mr. TL Malatsi

[16] Ms TL Malatsi, the train driver, testified that:

- 16.1. She was the train driver operating the train in question on 16 August 2017;
- 16.2. She took over the train from the previous shift and did a brake test. She found a fault in respect of the exhauster and MG. She reported the fault in the fault report form also known as the T403 form. The exhauster pertained only to the brakes of the train and had nothing to do with the operation of the doors and therefore had no impact on the operating of the doors, which were in good working order;
- 16.3. If any of the doors or door were not working, she would release the valve to open all the doors. She would have been informed by Ms Selepe who would signal her after observing the platform. The signal is given by double pressing a button that sounds in the driver's cubicle.
- 16.4. If there were any other faults on the trip especially relating to malfunctioning doors, she would have recorded it on her daily journal and the train would have been stopped at the next station with a workshop, even if it meant delaying the train,
- 16.5. She was not informed of any faults and no passengers complained to her about any faults as they usually would do by banging on the inter-leading door to her coach or the window by those already on the outside to alert her of a non-opening door in another coach.

Summary of the Defendants evidence

- [17] The train operators testified that had there been any faults with the doors they would have recorded this in their respective Daily Journals. Had any faults occurred after the inspection of the train in the morning it would have been fixed at the Naledi, or Johannesburg, or Braamfontein station where there are workshops even if it meant delaying the train until the fault has been attended to. This would have been the case in both directions of the journey.
- [18] Furthermore, Ms Selepe testified that it was impossible for her to open the wrong side of the train doors because her coach is divided into two cubicles from which she operates the left or the right hand side of the train. It would therefore, not be possible for her to have opened the left hand side. If first, doors in the coach in which the plaintiff was failed to open she would have clearly observed this as it was immediately next to her coach and the relevant doors were immediately next to her coach. Secondly, she would not mistakenly have opened the doors on the left in view of the separate operating cubicles in her coach. In any event the plaintiffs case is that the left side doors were always open. The defendant's liability is based solely on the doors having been always open.
- [19] The defendant further called two PRASA Protection Officers, Messrs Gift Tshitavhadulu and Leonard Mkhavale, their purpose was to confirm the Occurrence Book entries of the Joint Operations Centre that the plaintiff had told Mr Tshitavhadulu that he was injured as a result of jumping out of the train instead of being pushed out or forcibly ejected.

- [20] The two security guards who were with the plaintiff when Tshitavhadulu and Mkhavele arrived, MP Mathenjwa and Ms Kalipa, were not called as witnesses because one has passed away and the other has left the employ of Vusa Isizwe Security and could not be traced. This is an acceptable reason why they were not called and no adverse inference will be drawn for that failure.

Analysis of evidence

- [21] As alluded to above the crux of this case is to answer the question whether the plaintiff was pushed out of the open door of the coach which had always been open throughout the journey or whether he was jumping out of the train like Mr Mbombo.
- [22] The plaintiff says he was pushed out. He is a single witness in this regard. For the court to reject his evidence it must be on the basis of the probabilities of the evidence as a whole pointing otherwise.
- [23] The train driver and guard had no independent recollection of the incident. I accept their contemporaneous records in their Daily Journals that the train doors were functional on the day, permitting control by the guard as to opening and closing them automatically. I accept the evidence of the guard that had any of the doors of the coach not been opening up on command by the guard it would have been noticed by her if it did happen. This was because the plaintiff alleges to have been in a coach closest to her coach and she always stepped out of her coach at each station in order to observe the disembarkation and embarkation so that she can give a signal to the driver when it is safe to pull away.

- [24] If this were the case, meaning that the driver and guard experienced a normal embarkation and disembarkation at Dube Station why did Mr Mbombo and the other passengers, according to him and the plaintiff, disembark on the left and on the side where there is no platform? This question makes it improbable that they would have chosen this dangerous route instead of the safer route. There is an equal balance of probabilities on this aspect. The plaintiff was found injured on the wrong side of the tracks at Dube station.
- [25] The consideration of this aspect of the evidence does not accord with the defendant's plea which admits that the doors on the platform side did not open and as a result the passengers forced open the doors on the incorrect side of the train where there was no platform. Why would the Passengers do that instead of forcing open the doors that lead onto the platform? This does not, or would not make sense. Remaining with the analysis that the train doors were functioning well and that things proceeded normally at Dube Station, why did the plaintiff end up injured on the incorrect side of the station?
- [26] The incident is recorded in the Railway Occurrence Reporting (Liability Report) as having taken place between mast poles CC31/222 and CC31/282 by Mr Tshitavhadulu, a PRASA Protection Officer who arrived at the scene at 19h45 after the incident was reported by Mr Mathenjwa (a station security guard) at 18h55. This is quite a distance from the platform. The plaintiff should have been injured with the platform length if the train had come to a stop before passengers advanced to the door. He ticked the relevant box at Item 10 of the Report as plaintiff's negligence and recorded that the plaintiff told him that

"They jump out of the train using opposite door facing station fence." Mr Tshitavhadulu confirmed in oral evidence that the plaintiff told him that he jumped out as described above.

[27] Mr Makhuvele sought to corroborate Mr Tshitavhadulu's evidence of what the plaintiff told Mr Tshitavhadulu upon being question by him. His evidence is not reliable as he was busy taking technical information at the scene such as where the incident happened in relation to proximity to mast poles and other information. He had no independent recollection but had to refresh his memory by reading the Occurrence Book and the Liability Report. I shall therefore decide what weight to attach to Mr Tshitavhadulu's Liability Report.

[28] There are contradictions and discrepancies in the plaintiff's evidence and that of Mr Mbombo's regarding where they were positioned in the coach and where exactly the Plaintiff fell in relation to the length of the platform. They also did not do well under cross-examination regarding how they met on the eve of the hearing of this matter. Regardless of the circumstances under which they met the undisputed fact is that the plaintiff was injured as a result of an incident that took place at Dube Station.

[29] Mr Opperman, for the defendant, suggested to the plaintiff that if he had no control over his exiting off the train he would have sustained injuries to his hands, elbows, back and/or head. The implication being that landing on his feet was far more consistent with a jump than being forcibly ejected. It may be so. However, in the absence of evidence to the contrary plaintiff's evidence must

be favoured. Question is whether the defendant created a situation that enticed the defendant to jump out or be pushed out.

[30] Mr Opperman also pointed out various discrepancies in the plaintiff's evidence and his answers to the request for particulars. Major among of these was that he had said that he was standing in the middle of the coach throughout the journey whereas in his evidence he said that he was sitting 3 people away from the door. I shall not be pedantic about these details as I have found that the incident took place at Dube Station and his pleaded case, as amended, is that the incident took place at Dube Station as he was ejected on the wrong side of the train station platform.

[31] Another factor that is really fascinating is that the platform had been on the left-hand side of the train until Dube Station. What factor could this have had? Nothing that was canvassed with the witnesses and nothing that could have led to confusion on the part of the train guard and the passengers.

The law

[32] In *South African Rail Commuter Corporation Ltd v Thwala*¹ the supreme court of Appeal set a test by which to determine delictual liability and the plaintiff's onus as following:

"The test by which to determine delictual liability is trite. It involves, depending upon particular circumstances of each case, the questions whether:

¹ (9661/2010) [2011] ZASCA 170 (29 September 2011) at [11].

- (a) a reasonable person in the Respondent's position would foresee the reasonable possibility of his or her conduct causing harm resulting in patrimonial loss to another;
- (b) would take reasonable steps to avert the risk of such harm: and
- (c) the Respondent failed to take such steps.

But not every omission which causes harm is actionable. For liability for patrimonial loss to arise, the negligent act or omission must have been wrongful. And it is the reasonableness or otherwise of imposing liability for such a negligent act or omission that determines whether it is to be regarded as wrongful.

The onus to prove negligence rests on the Appellant and it requires more than merely proving that harm to others was reasonably foreseeable and that a reasonable person would probably have taken measures to avert the risk of such harm. The Appellant must adduce evidence as to the reasonable measures which could have been taken to prevent or minimize the risk of harm."

[33] In this case the question is whether PRASA would have reasonably foreseen harm to the plaintiff as a result of the correct side of the train doors, or of a particular coach not opening and the passengers disembarking on the incorrect side with no platform. If so, would PRASA have taken reasonable steps to prevent harm to the plaintiff? If it would, did PRASA take reasonable steps? Lastly, what is the foreseeable harm that ultimately occurred.

[34] The plaintiff has given evidence to the effect that the defendant's negligence arises out of the defendant's failure to open the correct doors of the train, and thereby inducing passengers to disembark from the door that had been left

open throughout the journey. Whether the plaintiff has discharged the onus that rests on him is a matter for inquiring into whether a reasonably foreseeable harm could be averted by taking particular reasonable measures to prevent the harm.

- [35] The evidence demonstrates that the defendant had taken all reasonable measures to prevent the harm that could possibly happen to its commuters. Mr Fisher, for the plaintiff, submitted that the defendants failed to detect a malfunctioning door on the left which became attractive to the passengers to exit through even though there was no platform on that side. Both the train driver and guard conceded that there are often incidents of the train doors being kept open by obstruction by passengers. It is not the case herein otherwise the plaintiff would have testified to either of these occurrences since he was sitting very close to the door through which he fell. He testified to the door having been opened without obstruction all the way. In the circumstances would the defendant have foreseen the doors opening to the platform failing to open? This was not foreseen as the train doors had been checked and observed to be opening and closing properly during the trips it had undertaken on the day. As I have accepted the evidence of the driver and the guard that the doors of the train opened and closed properly, and that the events at Dube Station proceeded normally, the plaintiff's version to the contrary is to be rejected on the probabilities. The train guards evidence is unimpeachable. She observed the opening and closing of the doors as working properly on the left hand side throughout the journey.

- [36] The train driver was adamant that it is not true that the doors on the left hand side of the train will open from Johannesburg to Dube. She'd base on the basis that the guard would have alerted her to this if she was unable to control the doors and that the passengers would have complained at the next station that they missed their station disembarkation at Dube because of the doors that did not open.
- [37] How then did the plaintiff end up on the wrong side of the tracks injured? Save for the evidence that Mr Mbombo assisted the plaintiff, and that the two security guards who were called and the two protection officials confirm where he says he fell, there is no further evidence of this seemingly chaotic event. The probabilities are that he would not have been the only one being ejected involuntarily from his description of being carried by the momentum of the pushing crowd. He was squeezed between the people pushing from the side of the opposite door and the people behind him. More people would have been pushed out and suffered injuries too. It is an implausible story that all other people had safe landings and walked away from an injured and screaming man until Mr Mbombo landed one meter from him.
- [38] The improbabilities of the plaintiff's version lead to no other conclusion than that he has failed to discharge the onus that rests upon him to prove that the defendant was negligent, that is, that the injuries he suffered were as a result of a foreseeable event that the defendant could have taken reasonable steps to prevent. On the other hand, the defendant's witnesses gave an impeachable account of the safety measures taken on the day and that such measures did not fail throughout the journey.

Costs

[39] There is no reason why costs should not follow the results.

Conclusion

[40] For the reasons stated above, the plaintiff's claim falls to be dismissed. I find that the doors of the train coach in which the plaintiff was to disembark from were fully functional and closed and opened as directed by the train guard. That was the situation at Dube Station, as it was throughout its journey from Johannesburg Park Station on its trip on 16 August 2017. The plaintiff's version that he was pushed out of the malfunctioning train coach onto the side of the train where there was no platform is rejected.

[41] I therefore make the following order:

1. The plaintiff's claim is dismissed.
2. The plaintiff is to pay the costs.



G MALINDI
JUDGE OF THE HIGH COURT
GAUTENG DIVISION, JOHANNESBURG

Appearances

For the plaintiff:

Adv. M. Fisher

Instructed by:

M.E.D Attorneys

For the defendant:

Adv. FF. Opperman

Instructed by:	Norton Rose Fulbright
Date of hearing:	18 February 2022
Date of order:	8 March 2023
Date of reasons for the judgment:	27 March 2023