

REPUBLIC OF SOUTH AFRICA



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

Case Number: 6109/21

(1)	REPORTABLE: NO
(2)	OF INTEREST TO OTHER JUDGES: NO
(3)	REVISED: YES/NO
21 OCTOBER 2024	
DATE	SIGNATURE

In the matter between:

GEORGE LAMBRAKIS

Plaintiff

and

MINISTER OF POLICE N.O

First Defendant

**NATIONAL COMMISSIONER OF THE SOUTH AFRICAN
POLICE SERVICES N.O.**

Second Defendant

COMMANDING OFFICER OF THE SOUTH AFRICAN

POLICE STATION SERVICES N.O.

Third Defendant

MEMBERS OF THE SOUTH AFRICAN POLICE SERVICES

UNKNOWN TO THE PLAINTIFF

Fourth Defendant

RULING ON SEPARATION OF ISSUES

- [1] This is a trial action in which the plaintiff sued the defendants jointly and severally, for delictual damages arising from his unlawful arrest and detention by members of the South African Police Services (SAPS). The incident which led to this action took place on the 29th of April 2020 at the plaintiff's employment premises.
- [2] At the pre-trial conference held on 11 October 2024, the parties agreed to narrow down issues to be tried. The relevant agreement is contained in paragraph 4.2 of the pre-trial minute (Case Lines T11-25) and reads as follows:
- “4.2 Does the Plaintiff agree that a separation of quantum and merits, as contemplated in Rule 33(4), is not required?”
- [3] The answer to the above question was: “Merits to be separated.”
- [4] At the hearing counsel for the plaintiff informed the court that the issue referred to in the aforesaid paragraph, was subject to confirmation by his instructing attorney. In response Counsel for the defendant stated that the plaintiff's attorney subsequently signed the pre-trial minutes signifying that she was in agreement with what had been agreed at the pre-trial hearing. Insofar as this issue is concerned, her instructing attorneys gave her firm instructions to proceed in respect of merits with the issue of quantum to be deferred for later hearing.
- [5] Notwithstanding their differences, it appeared to me during the discussion I had with counsels in chambers, that they were in *ad item* to lead evidence in regard to the issue of quantum, provided there is sufficient time left in the trial. I advised the parties that I would defer my decision on the issue until the issue of merits has been finally dealt with. The defendant's counsel also took issue with the status of the plaintiff's medico legal reports after the latter suggested that they will only lead the evidence of an industrial psychologist. To my mind, in order to determine whether the loss was wrongfully caused, it must be established from other evidence adduced by other experts cumulatively, the determination of which will require the exercise of a judicial value judgment embracing all relevant facts.

- [6] In terms of Rule 33(4), the Court may *mero motu* decides to try issues separately in appropriate circumstances if it is convenient and will lead to the expeditious disposal of litigation.
- [7] It was held in *Internatio (Pty) Ltd v Lovemore Brothers Transport CC*¹ that "A Court will not grant a separation where it is apparent the evidence required to prove any issues on the merits will also be required to be led when it comes to quantum. Such situation will result in witnesses having to be recalled to cover issues which they had already testified about when it comes to dealing with the evidence concerning quantum...it could also hinder the opposing party in his cross examination. If one has regard to the fact that the nature of this case has much to do with nice questions of onus, then it is not difficult to imagine the evidential and procedural difficulties which may arise should a separation be ordered."
- [8] From the cursory perusal of the medico-legal reports filed on behalf of the plaintiff, it might be well that the trial court will be called upon to consider the factual foundation of the expert's findings as contained in their respective reports. That, in my opinion, will not be possible without having regard to their oral testimony. It seems to me that much of the expert's opinion properly considered is not inextricably linked to the merits.
- [9] Under the circumstances and given the amount of time left for this trial, I hold that it will not be convenient and, certainly not in the interest of justice to decide both issues at a single hearing. I therefore make the following order.
- [10] ORDER
- a. The trial will only proceed in respect of the issue of merits;
 - b. The issue of quantum is postponed sine die.
 - c. No order as to costs.

¹ 2000 (2) SA 408 at 411-413

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PH MALUNGANA
ACTING JUDGE OF THE HIGH COURT
JOHANNESBURG

For the Applicant: ADV. Van Niekerk

Instructed by: MLSCHOEMAN Attorney

For the Defendant: Adv. Liphoto

Instructed by: The State Attorney