

**IN THE HIGH COURT OF SOUTH AFRICA  
WESTERN CAPE DIVISION, CAPE TOWN**

**Case Number: 17503/19**

In the matter between:

**PHILEMON RASEMATE LETWABA**

**Plaintiff/Respondent**

and

**RAYMOND JOSEPH**

**First Defendant/Applicant**

**NATHAN GEFFEN**

**Second Defendant/Applicant**

**COMMUNITY MEDIA TRUST**

**Third Defendant/Applicant**

---

**NOTICE OF APPLICATION TO COMPEL  
DISCOVERY IN TERMS OF RULE 35(7)**

---

**TAKE NOTICE** that application will be made on behalf of the abovenamed Applicants on the **23<sup>rd</sup>** day of **MARCH 2022** at **10:00** or as soon thereafter as the matter may be heard for an order in the following terms:-

1. That the Plaintiff be ordered to comply with the Defendants' Notice to Produce in terms of Rule 35(3) dated 13 December 2021 within 10 days of the date of service of this Order;
2. That the Plaintiff comply with the Defendants' Notice to Produce in terms of Rule 35(3) by stating under oath that the documents in his possession in the manner prescribed in Rule 35(2) and in addition by stating which

documents were in his possession (or in the possession of his agent) and which are no longer in his possession;

3. That the Defendants' attorneys be authorised to serve this order on the Plaintiff's attorneys;
4. That should the Plaintiff fail to comply with the terms of this order the Defendants be granted leave to apply on notice to the Plaintiff on the same papers duly supplemented for an order that the Plaintiff's claim be dismissed;
5. That the costs of this application be paid by the Plaintiff;
6. Further and or alternative relief.

**KINDLY PLACE THE MATTER ON THE ROLL ACCORDINGLY.**

**DATED AT CAPE TOWN THIS 21<sup>st</sup> DAY OF JANUARY 2022.**



---

**LIONEL MURRAY  
SCHWORMSTEDT & LOUW**

**Per:**  
**J.F. LOUW**  
Defendants' Attorneys  
2<sup>nd</sup> Floor  
42 Burg Street  
**CAPE TOWN**  
Ref: JFL/ca/W14673  
E-mail: [jflou@iafrica.com](mailto:jflou@iafrica.com) and  
[russel@lgmurray.co.za](mailto:russel@lgmurray.co.za) and  
[candicea@lgmurray.co.za](mailto:candicea@lgmurray.co.za)

**TO: THE REGISTRAR**  
High Court  
**CAPE TOWN**

**AND**

**TO: NORTON ROSE FULBRIGHT SOUTH AFRICA INC.**  
Plaintiffs' Attorneys  
117 on Strand  
117 Strand Street  
CAPE TOWN  
021 405 1200  
E-mail: [Candice.Grieve@nortonrosefulbright.com](mailto:Candice.Grieve@nortonrosefulbright.com) and  
[Brent.Botha@nortonrosefulbright.com](mailto:Brent.Botha@nortonrosefulbright.com) and  
[Tameez.Casoo@nortonrosefulbright.com](mailto:Tameez.Casoo@nortonrosefulbright.com)  
Ref: B Botha/L Fine/LET95

**SERVICE BY EMAIL AS AGREED**

**IN THE HIGH COURT OF SOUTH AFRICA  
WESTERN CAPE DIVISION, CAPE TOWN**

**Case Number: 17503/19**

In the matter between:

**PHILEMON RASEMATE LETWABA**

**Respondent/Plaintiff**

and

**RAYMOND JOSEPH**

**First Applicant/First Defendant**

**NATHAN GEFFEN**

**Second Applicant/Second Defendant**

**COMMUNITY MEDIA TRUST**

**Third Applicant/Third Defendant**

---

**FOUNDING AFFIDAVIT**

---

I, the undersigned,

**NATHAN GEFFEN**

affirm that:

1. I am an adult male and the Second Defendant. I am duly authorised to make this affidavit on the Defendants' behalf, the facts herein being within my own knowledge and, to the best of my belief, true and correct.
2. I am duly authorised to depose to this affidavit on behalf of the First to Third Applicants.



3. The contents deposed to in this affidavit are true and correct and, unless the context clearly indicated otherwise, within my personal knowledge.
4. Where I make statements or submissions of a legal nature I do so on the advice of my legal representatives who also represent the First and Third Applicants.

## **INTRODUCTION**

5. This is an application that is interlocutory to the main action pending under this case number 17503/2019. In the main action:

5.1 The Respondent is the Plaintiff;

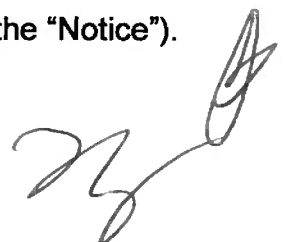
5.2 The First to Third Applicants are the First to Third Defendants respectively.

5.3 The Plaintiff seeks damages in the amount of R600,000.00 from the Defendants arising out of alleged defamatory statements contained news articles that were published in 2018 and 2019 on the internet news publication of GroundUp, a publication formerly owned by the Third Defendant.

6. For the sake of convenience, and to avoid confusion, the parties are referred to in this application as they are referred to in the main action.

## **SUMMARY OF RELIEF**

7. The Defendants have called for discovery of certain documents from the Plaintiff in terms of a Notice in terms of Rule 35(3) on 13 December 2021 (the "Notice").

A handwritten signature in black ink, appearing to be 'M. G.', located in the bottom right corner of the page.

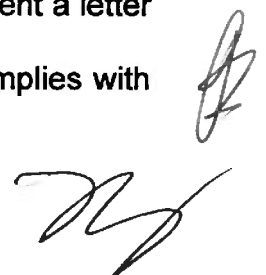
8. The Plaintiff has failed to file an adequate reply to the Notice despite being afforded a reasonable opportunity to do so.
9. In this application the Defendants ask for an order that the Plaintiff be compelled to comply with the provisions of Rule 35(3).

### **HISTORY OF THE LITIGATION IN THIS MATTER**

10. The history of litigation in this matter is the following:
  - 10.1 The articles that gave rise to this litigation were published on 22 November 2018, 19 March 2019, 13 May 2019, 1 August 2019, 5 August 2019, and 7 August 2019, respectively. They are marked "POC 1" to "POC 6" to the Plaintiff's particulars of claim.
  - 10.2 Plaintiff caused summons to be issued against the Defendants on 3 October 2019 and Defendants entered appearance to defend on 14 October 2019.
  - 10.3 The Defendants filed their plea on 14 November 2019.
  - 10.4 Subsequently, the Plaintiff filed a replication on 19 December 2019, and he amended his pleadings in early 2020.
  - 10.5 Pleadings had closed at the latest in January 2020.
  - 10.6 On 5 October 2021 the Defendants served notices in terms of Rule 35(1) on the Plaintiff. On the same date the Defendants also served an extensive discovery affidavit on the Plaintiff.

A handwritten signature in black ink, appearing to be 'JL' followed by a stylized flourish.

- 10.7 On 8 November 2021 the Defendants' attorney wrote to the Plaintiff's attorney calling on the Plaintiff to file his reply to the notice in terms of Rule 35(1). A copy of the letter is attached hereto marked "FA 1".
- 10.8 The Plaintiff's attorney responded to "FA 1" by email on Monday, 23 November 2021. In the response the Plaintiff's attorney stated that he was unexpectedly off work for two weeks and he requested collegial courtesy until Friday, 3 December 2021 to file his client's discovery affidavit. A copy of the email is attached marked "FA 2".
- 10.9 On 24 November 2021 the Defendants' attorneys responded by agreeing to grant an indulgence to the Plaintiff as requested, but also cautioned the Plaintiff that this application would be launched without further notice, should the deadline not be met. A copy of the reply is attached marked "FA 3".
- 10.10 On 3 December 2021 the Plaintiff served his discovery affidavit.
- 10.11 The Defendants served the notice on 13 December 2021, a copy of the email and Notice is attached hereto marked "FA 3A".
- 10.12 On 20 December 2021 the Plaintiff's attorneys, by email, acknowledged receipt of the notice and stated that they would attend to it in 2022. A copy of the email reply is attached marked "FA 4".
- 10.13 On Tuesday 11 January 2022 the Defendants' attorneys sent a letter to the Plaintiff's attorneys demanding that the Plaintiff complies with

A handwritten signature in black ink, appearing to be the initials 'M.J.' or similar, located in the bottom right corner of the page.

the notice by Monday 17 January 2022. A copy of the letter is attached marked "FA 5".

10.14 The Plaintiff did not comply with the notice at all.

#### **NATURE OF THE PLAINTIFF'S CLAIM AND EVIDENCE REQUIRED**

11. The Plaintiff avers in his particulars of claim that the articles wrongfully alleges that he acted in conflict of interest in respect of various companies in relation to his role as Chief Operating Officer of the National Lotteries Commission (the NLC). The Plaintiff alleges in his particulars of claim that the articles are defamatory because they mean that the Plaintiff is dishonest in the following respects:

- 11.1 the Plaintiff facilitated the improper and/or unlawful funding of recipients with whom he had familial relationships;
- 11.2 the Plaintiff abused his position of authority to advance his own self-interest and/or that of his family;
- 11.3 the Plaintiff abused his position of authority to the detriment of his employer;
- 11.4 the Plaintiff abused his position of authority to the detriment of more worthy recipients;
- 11.5 the Plaintiff manipulated and/or orchestrated grant funding in breach of the National Lotteries Commission, or a similar position of authority

A handwritten signature in black ink, consisting of stylized initials and a surname, located in the bottom right corner of the page.



and responsibility;

11.6 the Plaintiff engaged in morally reprehensible conduct by virtue of the aforesaid;

11.7 the Plaintiff is involved in illegal activities; and/or

11.8 the Plaintiff is generally corrupt.

12. The Plaintiff further claims that the articles contain the additional sting that the Plaintiff, who is in a position of authority:

12.1 engages in unethical conduct;

12.2 is untrustworthy;

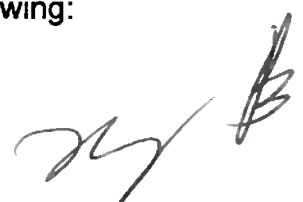
12.3 does not act in the best interests of a public enterprise;

12.4 is not a law-abiding citizen; and

12.5 lacks moral fibre.

13. To the extent that the articles are defamatory, the Defendants have *inter alia* relied on the defence of truth and in the public interest. The defendants have further pleaded in terms of the so-called Bogoshi defence that the publication of the articles was reasonable. The Defendants have also placed the quantum of the claim into dispute.

14. To the extent that the Defendants are required to prove the truth of the article they are required to take into account, amongst other facts, the following:



- 14.1 The Plaintiff's relationship with his brother Johannes Kgomoetso Letwaba ("Joe Letwaba").
  - 14.2 The Plaintiff's commercial dealings with a company Upbrand Properties Proprietary Limited ("Upbrand").
  - 14.3 The Plaintiff's knowledge of commercial relationships between Joe Letwaba and Upbrand on the one hand and other members of the Plaintiff's family.
  - 14.4 The Plaintiff's knowledge of the appointment of Upbrand as a contractor to Denzhe Primary Care, a major NLC grant beneficiary and the subject of the articles which form the basis for the Plaintiff's claim.
  - 14.5 The Plaintiff's knowledge of dealings between members of his family and organisations which have been funded by the NLC.
15. To the extent that the Defendants are required to prove that the publication was reasonable, the facts within the knowledge of the Plaintiff and his responses to questions posed by the Defendants to the Plaintiff and his employer, before publication of the articles are relevant.
  16. Finally, the Plaintiff has to discover documentary evidence to show that his reputation has been damaged in the sum of R600,000.00.
  17. Discovery is particularly important in defamation actions and especially so where the defendant has raised a defence of truth and in the public interest. Unlike

A handwritten signature in black ink, consisting of stylized, cursive letters, located in the bottom right corner of the page.

other matters, defendants in defamation actions are in the position where, once the Plaintiff has proved that there has been publication of a statement which relates to him and has damaged his good name, there is a presumption that it was wrongful. Consequently, the defendant is obliged to rebut this presumption in order to stave off a finding against him.

18. In the case of news media, the defendants often publish articles which are in the public interest based on information that is leaked to them from confidential sources. The disclosure of the information during the process of publication must then take the risk of exposing the source's identity into account and take the necessary step to avoid such exposure. News media uses tried and tested methodologies to achieve this goal, including the understanding that, if the subject of an article would sue for defamation, the documents would be discoverable either in accordance with Rule 35, or by *subpoenae duces tecum*, Section 26 of the Companies Act or in terms of the Promotion of Access to Information Act. It is in the context of this background that the Plaintiff's obligation to discover in the present action must be viewed.

19. Much of the information that the Defendants require to prove the truth of the articles is within the possession of the Plaintiff.

#### **THE EVIDENCE THAT THE DEFENDANTS WILL LEAD AT TRIAL**

20. The Plaintiff has repeatedly denied conflicts of interest. He made the denials publicly (in the media) and before quasi-judicial investigations (*inter alia*, to a forensic investigation into the veracity of the article POC 1, conducted by



Ndobela Lamola Inc, on the instructions of the NLC and the insistence of the Minister of Trade and Industry amongst other). However, the Defendants believe that there are documents in the Plaintiff's possession which refute the denials.

21. Key risk indicators that investigating journalists, and, I believe, forensic investigators, take into account when conducting investigations into dubious commercial transactions and conflict of interest are:

21.1 Transactions which lack commercial logic and/or translate to an undue preference or prejudice.

21.2 Transactions conducted outside of the normal course of business or where the method of payment/receipt is not usual business practice.

21.3 Transactions where there is a lack of information or explanations or where explanations are unsatisfactory.

21.4 Transactions with companies whose identity or beneficial ownership is difficult to establish and/or would represent a related party.

21.5 Unusually complex group structures where complexity does not appear to be warranted.

21.6 Abnormally extensive or unusual related party transactions.

21.7 Payment for unspecified services.

22. During the investigations into the NLC, the Defendants obtained, from confidential informants, information that indicated that Upbrand, Denzhe and

Two handwritten signatures in black ink, one larger and more prominent than the other, located in the bottom right corner of the page.

certain commercial structures and transactions linked to the Plaintiff, his family, and business associates, ticked each of the above boxes referred to in paragraph 21 above. The information included payment transactions of Upbrand, Denzhe and certain other beneficiaries of the NLC. By cross-referencing the transactions, the Defendants could piece together a web of complex transactions which repeatedly linked to the Plaintiff and his family as direct or indirect beneficiaries of NLC payments. Arising from these transactions, and other documents obtained by the Defendants and already discovered by the Defendants, it is apparent that documents, not yet discovered, exist and should be in the possession or knowledge of the Plaintiff which could assist the Defendants in proving their defence.

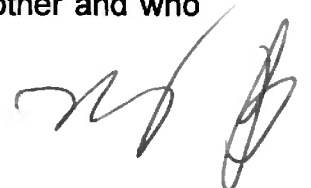
23. The following facts are relevant in assessing whether the documents required by the Defendants are necessary to prove their defence:

23.1 The following members of the Plaintiff's close family are relevant to the evidence the Defendants will lead:

23.1.1 Bontle Daisy Letwaba, who is the Plaintiff's first wife and to whom he remains married. She is also the mother of some of his children.

23.1.2 Rebotile Malomane, who is the Plaintiff's second wife and to whom he remains married. She is also the mother of some of his children.

23.1.3 Joe Letwaba, who is the Plaintiff's older brother and who



was, amongst other, the sole director of Upbrand until March 2017. His business life is also intertwined with the Bontle Letwaba, and Malomane, as well as the Plaintiff.

23.1.4 Karabo Charles Sithole (“KC Sithole”), who is the Plaintiff’s first cousin. Kaone Wethu Proprietary Limited, Ironbridge Traveling Agency and Events Proprietary Limited. Trustee of the Mosokodi Business Trust and the Denzhe Primary Care Trust.

23.1.5 Keneilwe Constance Maboja, who is the wife of KC Sithole. She was appointed as director of Upbrand after Joe Letwaba’s resignation and remained a director until the end of October 2018.

23.1.6 Tomeletso Kenneth Sithole, who is the Plaintiff’s first cousin, who was a director of Upbrand Properties between November 2018 and July 2020.

23.1.7 Thabo Elias Letwaba, who is the Plaintiff’s brother, who was a director of Mosokodi Farming Projects from June 2017 to November 2017 and Ironbridge Travelling Agency and Events from June 2017 to December 2017.

23.2 Over and above family members, a number of business associates of the Plaintiff and his family are relevant to the Defendants’ case. These persons include:

Handwritten signature and initials in black ink, located at the bottom right of the page.

23.2.1 Lesley Nkhumbuleni Ramulifho ("Ramulifho"). Ramulifho is an attorney of the High Court of South Africa who is linked to Denzhe Primary Care and who was the prime subject of the article which is POC 1 to the Plaintiff's particulars of claim.

23.2.2 William Elias Huma, a senior advocate of the High Court of South Africa, who received payments from Upbrand and sold a company, Just Cuban Restaurant to the Plaintiff's wife, Bontle.

23.2.3 John Thabo Lebese, who was appointed as trustee of the Rasemate Family Trust, Upbrand Property Trust, the Mosokodi Business Trust, and the Letwaba Family Trust in early 2019.

23.3 The Defendants intend to lead evidence at the trial that will illustrate that Plaintiff and his family have, while he was the COO of the NLC, gained substantial personal financial benefit of tens of millions of Rands from grants that were made by the NLC. Defendants will lead evidence that these grants were channelled through intricate complex corporate structures of the nature referred to in paragraph 21 above by virtue of transactions that qualify as risk factors. The evidence will illustrate that the Plaintiff had in effect established a syndicate to gain benefit for himself and his family from grants paid by the NLC, thus establishing the truth of the articles.

A handwritten signature in black ink, consisting of stylized, cursive letters, located in the bottom right corner of the page.

23.4 The Defendants intend to lead evidence to tie the Plaintiff and his family and associates to the following corporate structures:

23.4.1 The Rasemate Family Trust: In 2016, the Plaintiff formed the Rasemate Family Trust, for the beneficiaries who are his children of his wife Rebotile Malomane. The trustees of the Rasemate Family Trust are currently Rebotile Malomane and John Thabo Lebese, but the Plaintiff was a trustee and founder in and during 2016. The Plaintiff changed the trust deed in March 2019, when new trustees were appointed and after the allegations of conflict of interest were published. On 5 October 2016, the Rasemate Family Trust purchased Erf 5267 Midstream Estate near Pretoria for R1.25 million and it was transferred to the trust in January 2017. The Defendants will lead evidence that significant payments were made in respect of the property owned by the Rasemate Family Trust from Upbrand during 2017. During this period Upbrand received significant payments amounting to tens of millions of rands from NLC beneficiaries, including Denzhe.

23.4.2 The Letwaba Family Trust: In February 2015, the Plaintiff formed the Letwaba Family Trust. The beneficiaries of the Letwaba Family Trust are the Plaintiff's immediate family, wife Bontle and natural children. The trust was changed in





March 2019 (at the same time as the Rasemate Family Trust) when the Plaintiff and Joe Letwaba resigned as trustees of the trust and John Thabo Lebese and Botshelo Cornelius Moloto were appointed as trustees. The Defendants will lead evidence that will indicate that the Letwaba Family Trust is listed as a beneficiary of the Mosokodi Business Trust, which in turn is a beneficiary of the Denzhe Primary Care Trust. The relevance of these two trusts will become apparent below.

23.4.3 The Mosokodi Business Trust and Mosokodi Farming Projects Proprietary Limited: In March 2015 the Plaintiff established the Mosokodi Business Trust. The Plaintiff and his brother Johannes Letwaba were the first trustees of the trust. The beneficiary of the Mosokodi Business Trust is Mosokodi Farming Projects Proprietary Limited and the Plaintiff's heirs. In March 2019 the Plaintiff and Johannes Letwaba resigned as trustees of the Mosokodi Business Trust and John Thabo Lebese and Botshelo Cornelius Moloto were appointed as trustees. The Plaintiff was a director of Mosokodi Farming Projects Proprietary Limited until March 2017, when he was replaced as director by his wife Bontle. The Defendants will lead evidence that various intercompany transactions flowed between Mosokodi

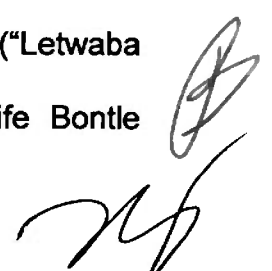
A handwritten signature in black ink, appearing to be 'J. Letwaba', is located in the bottom right corner of the page. The signature is written in a cursive style and is positioned over the end of the text in the 23.4.3 section.

Farming Projects Proprietary Limited and Upbrand during 2016 and 2017, including amounts listed as loans and loan repayments exceeding R1.2 million. Further evidence will be led illustrating that certain of these transactions were during the time when Plaintiff was the director of Mosokodi Farming Projects Proprietary Limited and Johannes Letwaba the director of Upbrand.

23.4.4 The Denzhe Primary Care Trust: The Denzhe Primary Care Trust was formed by Ramulifho in October 2016. The trustees were KC Sithole and Ramulifho. The Denzhe Primary Care Trust has two beneficiaries, Mosokodi Business Trust and the Ramulifho Family Trust.

23.4.5 Ramulifho and KC Sithole were represented in documents submitted to the NLC during November 2016 as the Chairperson and Treasurer respectively of Denzhe Primary Care NPO, the organisation that stands at the centre of the article which is POC1. I attach hereto marked "FA 6" a copy of an interim report submitted to the NLC which reflects their details.

23.4.6 Letwaba Energy and Petroleums Proprietary Limited: The Plaintiff was the sole director of Letwaba Energy and Petroleums Proprietary Limited is a company ("Letwaba Energy") from its formation in 2012. His wife Bontle



became a director with effect from 21 November 2016 and he resigned as director with effect from 1 March 2017. Bontle Letwaba remains the sole director of the company. During 2016/2017, when Joe Letwaba was the sole director of Upbrand and the Plaintiff was a director of Letwaba Energy, the Upbrand paid a total of R1,966,529.97 to or on behalf of Letwaba Energy.

23.4.7 Letwaba Holdings Proprietary Limited: In 2012 the Plaintiff established a company named Letwaba Holdings Proprietary Limited. The company has since changed its name to LRB Holdings and has recently been renamed as Purpleberry Events ("Letwaba Holdings"). Since its inception until at least late 2017, the Plaintiff was a director of Letwaba Holding. At some point he resigned, but he was reappointed as director of the company in July 2020. Between 2016 and 2017, various intercompany loans were made between Letwaba Holdings and Upbrand. As director the Plaintiff must have been aware of these loans.

23.4.8 Just Cuban Restaurant Proprietary Limited: Just Cuban Restaurant Proprietary Limited that was converted from a close corporation to the company in 2017. The equity in the company was sold by Huma to Bontle in 2016/17. Payments in the amount of R2 million were made from



Upbrand to Huma and Upbrand thereafter expended significant sums for maintenance, salaries and other expenses relating to Just Cuban.

23.4.9 Ironbridge Travelling Agency and Events Proprietary Limited. Ironbridge Travelling Agency and Events Proprietary Limited is a company of which Rebotile Malomane is the sole director, with KC Sithole, Keneilwe Constance Maboja and Thabo Elias Letwaba all being former directors of the company. In May 2016, Ironbridge Travelling Agency and Events Proprietary Limited, made payment of R3,000,000.00 as part payment for a property acquired by Upbrand Property.

23.5 The Defendants will lead evidence about various properties acquired and developed by the Plaintiff, or structures under his control, since 2015. Three of these properties are relevant from the perspective that:

23.5.1 They show a lifestyle on the part of the Plaintiff that does not accord with his well published income;

23.5.2 All three properties have had links with Upbrand. In this regard, Upbrand either paid money to the trusts that owned or acquired the properties, or Upbrand did work at the properties or paid for luxury items and furniture installed at

A handwritten signature in black ink, consisting of a stylized 'M' followed by a flourish and a vertical line.

the properties.

23.5.3 The three properties are:

23.5.3.1 The Plaintiff's luxury house at Marapyane, which is built on tribal land;

23.5.3.2 Rasemate Family Trust's property at Erf 5267 Midstream Estate Extension 67; and

23.5.3.3 Letwaba Family Trust's property at Portion 918 of farm 375, JR, Pretoria.

23.6 The Defendants will lead evidence about the Plaintiff's role in the awards of and management of lottery awards to the following entities:

23.6.1 Dinosys NPC;

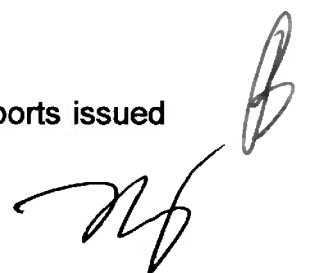
23.6.2 Zibsifusion NPC;

23.6.3 I am made 4 God's Glory NPC; and

23.6.4 Denzhe Primary Care NPO.

23.7 The Defendants have indeed discovered documents that contain letters written by Plaintiff to these organisations on the awards of their grants. These entities are all under the control of Ramulifho, who is, as shown above, an associate of the Plaintiff.

23.8 The Defendants intend to lead evidence on the three reports issued

A handwritten signature in black ink, appearing to be 'M. B.', is located in the bottom right corner of the page.

by Ndobela Lamola Inc in respect of the investigation conducted by them relating to the article which is POC 1 to the Plaintiff's particulars of claim ("the Ndobela Lamola Report"). It is apparent from the Ndobela Lamola Report that the Plaintiff provided documents to the investigation, gave a statement, and provided other information used by the report. The Plaintiff's communication with Ndobela Lamola Inc is relevant to the matter and not privileged.

23.9 The Defendants intend to lead evidence that, in February 2018, Anton Van Zyl ("Van Zyl"), a journalist, editor and newspaper publisher, and also co-author of POC 1, communicated with the NLC in respect of Denzhe. In this communication, Van Zyl received an email from the Plaintiff in response to questions posed to other members of the NLC. Based on the Plaintiff's correspondence with Van Zyl, the Defendants believe that the Plaintiff communicated with Ramulifho about the matters referred to in the Notice. The Plaintiff has not discovered any of the correspondence with Van Zyl or Ramulifho, or any of the correspondence with other members of the NLC, who must have alerted him to Van Zyl's request.

24. The Defendants' knowledge of the facts mentioned in the previous paragraphs is derived from painstaking analysis of information that was leaked to them from various sources. Some of these sources are confidential sources and the Defendants are, by the law and internationally accepted journalistic ethics practices, required to protect their confidentiality. The proof of these facts is in

A handwritten signature in black ink, appearing to be the initials 'M' followed by a stylized flourish.

the documents the Defendants believe are held by the Plaintiff.

25. The relevance of the balance of the documents asked for in the notice will be evident from the notice.
26. In defamation actions, the facts, and documents, which could prove the truth of the defamatory statements are often exclusively within the possession of the Plaintiff (as is the case in this matter). As stated before, the Defendants may have copies of documents, but will find it difficult to produce the documents into evidence. Invariably discovery is the only means available to the defendant to prove that the publication was not wrongful.
27. It is submitted that many facts pertaining to this matter are contained in the documents requested in the Rule 35 Notices which will assist the Defendants in their defence and are therefore relevant to the case. The Plaintiff is therefore obliged to discover them.
28. The Plaintiff has not discovered any of these documents.

## **CONCLUSION**

29. By not abiding by the rules and therefore failing to make discovery, the Plaintiff is effectively prejudicing the defendants as they will be forced to go into Court blindsided and unaware of the evidence that is going to be placed before this court during trial.
30. It is clear that the documents sought are relevant to the issues in the action and should be discovered by the Plaintiff. The Plaintiff's failure to discover those

A handwritten signature in black ink, consisting of stylized initials and a surname, located in the bottom right corner of the page.

documents initially and his failure to comply with the notice justifies an order that the Plaintiff pay the costs of this application.

31. I therefore respectfully submit that the Defendants are entitled to compel the Plaintiff to discovery and accordingly the Honourable Court is humbly requested to make an order as prayed for in the notice of motion to which this affidavit is attached.




**NATHAN GEFFEN**

Thus deposed to and signed at **CAPE TOWN** on this <sup>21<sup>st</sup></sup> day of *January* 2021, the Deponent having acknowledged:

- a. that he knows and understands the contents hereof;
- b. that he has no objection to taking the prescribed affirmation;
- c. that he considers the affirmation binding on his conscience.

Having uttered the following words, "I truly affirm that the contents hereof be true."



**OLIVER ROBINSON BRUCE**  
COMMISSIONER OF OATHS  
PRACTISING ATTORNEY, R.S.A.  
DE ABREU & COHEN CT  
GENERAL BUILDING 8TH FLOOR  
42 BURG STREET, CAPE TOWN  
TEL: (021) 422 2334



LIONEL MURRAY  
SCHWORMSTEDT  
& LOUW

**LMSL**

Second Floor  
General Building  
42 Burg Street  
Cape Town, 8001  
P O Box 4612  
Cape Town, 8000

Docex No. 97

Tel: 021 - 424 8960  
Fax: 021 - 424 3592  
Email: [russel@lgmurray.co.za](mailto:russel@lgmurray.co.za)  
Web: [www.lgmurray.co.za](http://www.lgmurray.co.za)

"FA 1"

Our reference: W14673

Your reference: 108/LET95/MR BE BOTHA

08 November 2021

**NORTON ROSE FULBRIGHT SA INC.**

9<sup>th</sup> Floor

117 Strand Street

Cape

BY EMAIL: [Peter.Rogers@nortonrosefulbright.com](mailto:Peter.Rogers@nortonrosefulbright.com)  
[Brent.Botha@nortonrosefulbright.com](mailto:Brent.Botha@nortonrosefulbright.com)

Dear Sirs

**RE: OUR CLIENT: RAYMOND JOSEPH AND TWO OTHERS / PHILEMON LETWABA  
CASE NO.: 17503/2019**

We note that we have not received a response to our clients' Discovery Notices which were duly served on 5 October 2021.

According to our calculations, your client's discovery affidavit was due on Wednesday, 3 November 2021.

Please let us have your client's discovery on affidavit at your earliest convenience, but in any event by no later than 20 November 2021, failing which our instructions are to bring an application to compel discovery.

We await your reply.

Yours faithfully,

**Lionel Murray Schwormstedt  
& Louw**

Per:

**R MANUEL**

*electronically sent therefore not signed.*



**Russel Manuel**

---

**From:** Botha, Brent <Brent.Botha@nortonrosefulbright.com>  
**Sent:** 23 November 2021 13:29  
**To:** Russel Manuel  
**Cc:** Klara Cronje  
**Subject:** RE: LETWABA / JOSEPH AND OTHERS [17503/19] [NRFSA-JHB.FID4506504]  
**Importance:** High

Dear Russel

With apologies for my delayed response, but I trust that you received my out-of-office automated response? I was unexpectedly off work, for two weeks, until yesterday. You will appreciate that, having been without email connectivity, there is much to catch up. This litigation is run out of our Johannesburg office, with Mr Rogers in Cape Town; and my local team out of loop until recently. I do, of course, acknowledge receipt of the discovery notices, and we were working towards finalisation, before my unexpected leave. I ask for a collegial courtesy, and an indulgence until the end of next week, which will permit sufficient time to finalise and serve the discovery affidavits. Of course, we will do so sooner, if possible.

I look forward to your favourable response.

Best regards

**Brent Botha** | Director  
Norton Rose Fulbright South Africa Inc  
15 Alice Lane, Sandton 2196, South Africa  
Tel +27 11 685 8568 | Mob +27 84 603 2591 | Fax +27 11 301 3212  
[brent.botha@nortonrosefulbright.com](mailto:brent.botha@nortonrosefulbright.com)

<b>ADVISORY:</b>	We will never change, or notify our banking details via email. Please always verify any change in our banking details by oral communication. Be suspicious of emails from unknown or external senders and be aware of impersonations - do not click links or open attachments. Always check the sender's email address.
------------------	--

## NORTON ROSE FULBRIGHT

*Law around the world*  
[nortonrosefulbright.com](http://nortonrosefulbright.com)

Voted African Alliance / Network of the Year - African Legal Awards 2021

---

**From:** Russel Manuel <russel@lgmurray.co.za>  
**Sent:** 8 November 2021 16:37  
**To:** Botha, Brent <Brent.Botha@nortonrosefulbright.com>  
**Cc:** Rogers, Peter <Peter.Rogers@nortonrosefulbright.com>; Klara Cronje <KlaraC@lgmurray.co.za>  
**Subject:** LETWABA / JOSEPH AND OTHERS [17503/19]

**[External Email – Use Caution]**

Good day,

Please find attached correspondence for your attention.

Regards

---

**Russel Manuel**



**Cell:** +27 79 626 8615  
**Office:** +27 21 424 8960  
**Fax:** +27 21 424 3592

2nd Floor, 42 Burg Street, Cape Town 8001  
P.O Box 4612, Cape Town, 8000

[www.lgmurray.co.za](http://www.lgmurray.co.za)

---

*Due to the ongoing global pandemic, we have implemented appropriate risk management protocols. We will avoid asking our clients and other visitors to come to our offices. We will also not be hosting any events in our building in the immediate future. We are, however, continuing to produce client training and seminars successfully online. Our lawyers and staff are fully geared up for e-meetings, but should you need a face-to-face meeting we can do so subject to the current regulations. Our priority is the health and welfare of ourselves, our clients and our community. To find out more, please [click here](#).*

**CONFIDENTIALITY NOTICE:** This communication is intended for the addressee only, is privileged and confidential and unauthorised dissemination or copying is prohibited. If you have received this communication in error please notify us immediately and please destroy the original message. Norton Rose Fulbright South Africa Inc and its affiliates reserve the right to monitor all email communications through their networks.

Norton Rose Fulbright South Africa Inc (Reg No 1984/003385/21).

Norton Rose Fulbright South Africa Inc, Norton Rose Fulbright LLP, Norton Rose Fulbright Australia, Norton Rose Fulbright Canada LLP and Norton Rose Fulbright US LLP are separate legal entities and all of them are members of Norton Rose Fulbright Verein, a Swiss verein. Norton Rose Fulbright Verein helps coordinate the activities of the members but does not itself provide legal services to clients. Details of each entity, with certain regulatory information, are available at [nortonrosefulbright.com](http://nortonrosefulbright.com).

A handwritten signature in black ink, appearing to be "R. Manuel", located in the bottom right corner of the page.

## Russel Manuel

---

**To:** Botha, Brent  
**Cc:** Klara Cronje; Jacques IAfrica  
**Subject:** RE: LETWABA / JOSEPH AND OTHERS [17503/19] [NRFSA-JHB.FID4506504]

---

**From:** Russel Manuel  
**Sent:** 24 November 2021 11:15  
**To:** Botha, Brent <Brent.Botha@nortonrosefulbright.com>  
**Cc:** Klara Cronje <KlaraC@lgmurray.co.za>; Jacques IAfrica <jflou@iafrica.com>  
**Subject:** RE: LETWABA / JOSEPH AND OTHERS [17503/19] [NRFSA-JHB.FID4506504]

Dear Mr Botha

We had already commenced drafting an application to compel when we received your email below. Nevertheless, in light of your request, our clients have reluctantly agreed to extend to you the indulgence requested. However, if your client does not meet the new deadline of 3 December 2021, we are to proceed without further notice.

Regards

---

## Russel Manuel



**Cell:** +27 79 626 8615  
**Office:** +27 21 424 8960  
**Fax:** +27 21 424 3592

2nd Floor, 42 Burg Street, Cape Town 8001  
P.O Box 4612, Cape Town, 8000

[www.lgmurray.co.za](http://www.lgmurray.co.za)

---

**From:** Botha, Brent <Brent.Botha@nortonrosefulbright.com>  
**Sent:** 23 November 2021 13:29  
**To:** Russel Manuel <russel@lgmurray.co.za>  
**Cc:** Klara Cronje <KlaraC@lgmurray.co.za>  
**Subject:** RE: LETWABA / JOSEPH AND OTHERS [17503/19] [NRFSA-JHB.FID4506504]  
**Importance:** High

Dear Russel

With apologies for my delayed response, but I trust that you received my out-of-office automated response? I was unexpectedly off work, for two weeks, until yesterday. You will appreciate that, having been without email connectivity, there is much to catch up. This litigation is run out of our Johannesburg office, with Mr Rogers in Cape Town; and my local team out of loop until recently. I do, of course, acknowledge receipt of the discovery notices, and

A handwritten signature in black ink, appearing to be "M", is located in the bottom right corner of the page.

we were working towards finalisation, before my unexpected leave. I ask for a collegial courtesy, and an indulgence until the end of next week, which will permit sufficient time to finalise and serve the discovery affidavits. Of course, we will do so sooner, if possible.

I look forward to your favourable response.

Best regards

**Brent Botha** | Director  
Norton Rose Fulbright South Africa Inc  
15 Alice Lane, Sandton 2196, South Africa  
Tel +27 11 685 8568 | Mob +27 84 603 2591 | Fax +27 11 301 3212  
[brent.botha@nortonrosefulbright.com](mailto:brent.botha@nortonrosefulbright.com)

**ADVISORY:**

We will never change, or notify our banking details via email. Please always verify any change in our banking details by oral communication.

Be suspicious of emails from unknown or external senders and be aware of impersonations - do not click links or open attachments. Always check the sender's email address.

**NORTON ROSE FULBRIGHT**

*Law around the world*  
[nortonrosefulbright.com](http://nortonrosefulbright.com)

Voted African Alliance / Network of the Year - African Legal Awards 2021



**Russel Manuel**

---

**From:** Russel Manuel  
**Sent:** 13 December 2021 15:56  
**To:** Botha, Brent  
**Cc:** Klara Cronje; Jacques IAfrica; Grieve, Candice; Casoo, Tameez  
**Subject:** LETWABA / JOSEPH AND OTHERS [17503/19]  
**Attachments:** GroundUp v Letwaba Rule 35.3 notice signed.pdf

<b>Tracking:</b>	<b>Recipient</b>	<b>Delivery</b>
	Botha, Brent	
	Klara Cronje	Delivered: 13/12/2021 15:56
	Jacques IAfrica	
	Grieve, Candice	
	Casoo, Tameez	

Dear Sir,

Please find attached the Defendants' notice in terms of Rule 35(3).

Kindly acknowledge receipt.

Regards

---

**Russel Manuel**



**Cell:** +27 79 626 8615  
**Office:** +27 21 424 8960  
**Fax:** +27 21 424 3592

2nd Floor, 42 Burg Street, Cape Town 8001  
P.O Box 4612, Cape Town, 8000

[www.lgmurray.co.za](http://www.lgmurray.co.za)

---

A handwritten signature in black ink, appearing to be "B. Botha", located in the bottom right corner of the page.

**IN THE HIGH COURT OF SOUTH AFRICA  
WESTERN CAPE DIVISION, CAPE TOWN**

Case Number: **17503/19**

In the matter between:

**PHILEMON RASEMATE LETWABA**

Plaintiff

and

**RAYMOND JOSEPH**

First Defendant

**NATHAN GEFFEN**

Second Defendant

**COMMUNITY MEDIA TRUST**

Third Defendant

---

**DEFENDANTS' NOTICE FOR FURTHER AND BETTER DISCOVERY BY THE  
PLAINTIFF AND NOTICE IN TERMS OF RULE 35(3)**

---

**PLEASE TO TAKE NOTICE** that the Defendants believe that there are, in addition to the documents disclosed in the Plaintiff's Discovery Affidavit, certain documents which are in the possession of the Plaintiff, and which are relevant to the matter in question in this action.

The Plaintiff is requested to make the documents listed below available for inspection in accordance with Rule 35(6) or to state an oath or affirm within 10 days that such documents are not in the plaintiff's possession; in which event



the Plaintiff shall state their whereabouts if known:

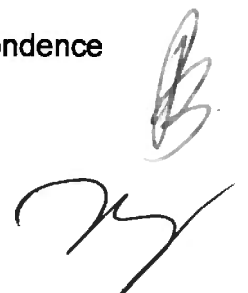
1. Documents relating to the Plaintiff and Johannes Kgomotso Letwaba's (JK Letwaba) roles as founding trustees of the Mosokodi Business Trust IT826/2015 (T), including, but not limited to:
  - 1.1 All correspondence relating to the formation of the Mosokodi Business Trust;
  - 1.2 Letters of authority issued by the Master of the High Court to the Plaintiff in respect of the Mosokodi Business Trust;
  - 1.3 The original deed of trust of the Mosokodi Business Trust;
  - 1.4 All documents relating to the resignation of Plaintiff as trustee of the Mosokodi Business Trust;
  - 1.5 Financial statements of the Mosokodi Business Trust for the period from its formation to the 2018/2019 financial year;
  - 1.6 All documents relating to the amendment of the trust deed of the Mosokodi Business Trust.
  
2. Documents relating to the Plaintiff and Johannes Kgomotso Letwaba's (JK Letwaba) roles as founding trustees of the Letwaba Family Trust IT 506/2015(T), including, but not limited to:
  - 2.1 All correspondence relating to the formation of the Letwaba Family

A handwritten signature in black ink, consisting of a stylized 'B' above a larger, more complex signature.



Trust;

- 2.2 Letters of authority issued by the Master of the High Court to the Plaintiff in respect of the Letwaba Family Trust;
  - 2.3 The original deed of trust of the Letwaba Family Trust;
  - 2.4 All documents relating to the resignation of Plaintiff as trustee of the Letwaba Family Trust;
  - 2.5 Financial statements of the Letwaba Family Trust for the period from its formation to the 2018/2019 financial year;
3. All correspondence between the Plaintiff in his role as trustee of the Mosokodi Business Trust, or in his personal capacity, and the Denzhe Primary Care Trust IT3122/2016(T).
  4. All correspondence between the Letwaba Family Trust and the Upbrand Property Trust IT2418/2016(T) for the period 2016 to 2019, relating to the Letwaba Family Trust role as beneficiary of the Upbrand Property Trust.
  5. Documents relating to the Plaintiff's role in a company Letwaba Energy and Petroleums, registration number 2012/044479/07, ("Letwaba Energy") in relation to its transactions with Upbrand Properties Proprietary Limited, Registration Number 2016/020592/07 (Upbrand) during November 2016, including, but not limited to:
    - 5.1 Documents and emails or any other electronic correspondence



- relating to the payment of R200,000.00 made by Upbrand on behalf of or to Letwaba Energy on 2 November 2016;
- 5.2 Documents and emails or any other electronic correspondence relating to the payment of R1,350,000.00 made by Upbrand on behalf of or to Letwaba Energy on 7 November 2016;
- 5.3 Documents and emails or any other electronic correspondence relating to the payment of R416,529.97 made by Upbrand on behalf of or to Letwaba Energy on 23 November 2016.
6. All documents and emails or any other electronic correspondence relating to the loans and payments between the Mosokodi Business Trust and Upbrand during the period when Plaintiff was a trustee of the Mosokodi Business Trust, including, but not limited to, the loan of R250,000.00 from the Mosokodi Business Trust to Upbrand on 7 September 2017.
7. All documents, affidavits or title documents and emails or any other electronic correspondence relating to the acquisition by the Plaintiff, or by any entity under the control of the Plaintiff, of the property which is located Marapyane in the Dr JS Moroka Municipality ("the Marapyane property").
8. All documents and emails or any other electronic correspondence relating to the loans and payments between the Plaintiff, in his personal capacity or in his representative capacity and Upbrand in respect of building operations or

A handwritten signature in black ink, consisting of stylized, overlapping loops and lines, located in the bottom right corner of the page.

maintenance work at the Marapyane property.

9. All documents and emails or any other electronic correspondence relating to the loans and payments between the Letwaba Holdings Proprietary Limited (formerly LRB Holdings Proprietary Limited) renamed to Purpleberry Events Proprietary Limited, registration number 2012/108652/07 and Upbrand during the period when Plaintiff was a director of the company, more particularly during 2017.
10. All correspondence, including, but not limited to email and other electronic communication, between the Plaintiff and Lesley Nkhumbuleni Ramulifho ("Ramulifho") relating to:
  - 10.1 Denzhe Primary Care NPO 089-122;
  - 10.2 Correspondence between Anton van Zyl and the Plaintiff during February 2018;
  - 10.3 Denzhe Primary Care Trust IT3122/2016(T);
  - 10.4 Any of the articles listed in the Plaintiff's particulars of claim;
  - 10.5 The application instituted by Ramulifho under case number 23291/19 in the High Court of South Africa, Gauteng Division, Pretoria;
11. All correspondence, including, but not limited to email and other electronic communication, between the Plaintiff and Tsietsi Maselwa, and Tshepo Chuene, and Kefilwe Makhanya during February 2018 relating to the email sent by the Plaintiff to Anton van Zyl on 12 February 2018 and subsequently responded to

A handwritten signature in black ink, appearing to be the initials 'M' and 'B' written in a stylized, cursive manner.

by the Plaintiff.

12. All correspondence, including, but not limited to email and other electronic communication, between the Plaintiff and Karabo Charles Sithole ("KC Sithole") relating to:

- 12.1 Denzhe Primary Care NPO 089-122;

- 12.2 Denzhe Primary Care Trust IT3122/2016(T).

13. All correspondence, including, but not limited to email and other electronic communication, between the Plaintiff and Zibsifusion NPC in respect of NLC project number 1103081.

14. All correspondence, including, but not limited to email and other electronic communication, between the Plaintiff and Dinosys NPC in respect of NLC project number 103080.

15. All correspondence, including, but not limited to email and other electronic communication, between the Plaintiff and I am made 4 God's Glory NPC with Registration number 102-498-NPO in respect of NLC project number [108033].

16. All documents, including correspondence between trustees amongst themselves, trustees and attorneys, agreements and resolutions relating to the acquisition of the property, which is Portion 918 of farm 375, JR, Pretoria by the

A handwritten signature in black ink, consisting of a stylized 'S' followed by a large, sweeping flourish that extends downwards and to the left.

**Letwaba Family Trust.**

17. The following documents relating to the Rasemate Family Trust:
  - 17.1 The original 2016 trust deed;
  - 17.2 The 2016 letters of executorship issued by the Master of the High Court.
18. All documents, including correspondence between trustees amongst themselves, trustees and attorneys, agreements and resolutions relating to the acquisition of the property, which is Erf 5267 Midstream Estate Extension 67 by the Rasemate Family Trust in 2016.
19. All documents, including correspondence between trustees amongst themselves, trustees and contractors and specifically, but without limitation, the trustees and Upbrand relating to payments made by or on behalf of the Rasemate Family Trust and payments made by or on behalf of the Rasemate Family Trust to Upbrand relating to building(s) erected on Erf 5267 Midstream Estate Extension 67 during 2017 and 2018.
20. The Plaintiff's letter of 9 December 2016 to Mrs TCC Mampane in which he declared Johannes Letwaba's interest in the Denzhe contract.
21. All correspondence, including, but not limited to email and other electronic communication, between the Plaintiff and Johannes Letwaba which gave rise to the Plaintiff's letter of 9 December 2016 to Mrs TCC Mampane in which he

A handwritten signature in black ink, appearing to be 'JL' or similar, located in the bottom right corner of the page.

declared Johannes Letwaba's interest in the Denzhe contract.

22. All correspondence including, but not limited to email and other electronic communication, between the Plaintiff and Ndobela Lamola Inc in respect of the investigation conducted by them relating to the article which is POC 1 to the Plaintiff's particulars of claim and reported by them on 3 March 2019, 3 May 2019, and 30 September 2019 ("the Ndobela Lamola Report").
23. The Plaintiff's letter of appointment as Chief Financial Officer of the NLC.
24. The Plaintiff's letter of appointment as Chief Operating Officer of the NLC.
25. All employment policies of the NLC applicable to the Plaintiff and handed to him during his employment at the NLC.
26. All correspondence, including, but not limited to, email and other electronic communication, and memoranda between the Plaintiff and members of the Board of the NLC relating to:
  - 26.1 The articles which are the subject matter of the Plaintiff's claim;
  - 26.2 The investigations leading to the Ndobela Lamola Report.
27. All correspondence, including, but not limited to, email and other electronic communication, and memoranda between the Plaintiff and members of the


A handwritten signature in black ink, consisting of stylized, cursive letters, located in the bottom right corner of the page.

members of the management and staff of the NLC relating to:

27.1 The articles which are the subject matter of the Plaintiff's claim;

27.2 The investigations leading to the Ndobela Lamola Report.

DATED AT CAPE TOWN THIS 13<sup>th</sup> DAY OF DECEMBER 2021.



**LIONEL MURRAY**  
**SCHWORMSTEDT & LOUW**

**Per:**

**J.F. LOUW**

Defendants' Attorneys

2<sup>nd</sup> Floor

42 Burg Street

**CAPE TOWN**

Ref: JFL/ca/W14673

E-mail: [jflou@iafrica.com](mailto:jflou@iafrica.com) and

[klarac@lqmurray.co.za](mailto:klarac@lqmurray.co.za) and



candicea@lgmurray.co.za

**TO: THE REGISTRAR**  
High Court  
**CAPE TOWN**

**AND**

**TO: NORTON ROSE FULBRIGHT SOUTH AFRICA INC.**  
Plaintiffs' Attorneys  
10<sup>th</sup> Floor, Norton Rose House  
8 Riebeek Street  
CAPE TOWN  
021 405 1200  
E-mail: [Candice.Grieve@nortonrosefulbright.com](mailto:Candice.Grieve@nortonrosefulbright.com) and  
[Brent.Botha@nortonrosefulbright.com](mailto:Brent.Botha@nortonrosefulbright.com) and  
[Tameez.Casoo@nortonrosefulbright.com](mailto:Tameez.Casoo@nortonrosefulbright.com)  
Ref: B Botha/L Fine/LET95

**SERVICE BY EMAIL AS AGREED**

Handwritten signature and initials in the bottom right corner of the page.



## Russel Manuel

---

**From:** Casoo, Tameez <Tameez.Casoo@nortonrosefulbright.com>  
**Sent:** 20 December 2021 15:01  
**To:** Russel Manuel; Botha, Brent  
**Cc:** Klara Cronje; Jacques IAfrica; Grieve, Candice  
**Subject:** RE: LETWABA / JOSEPH AND OTHERS [17503/19] [NRFSA-JHB.FID4506504]

Dear Sir

Thank you for your email.

We are currently considering the request, however, given the timing of your request we will only be in a position to respond in the following year.

We trust the above is in order.

Kind regards

**Tameez Casoo** | Candidate Attorney  
Norton Rose Fulbright South Africa Inc  
15 Alice Lane, Sandton 2196, South Africa  
Tel +27 11 685 8663 | Mob +27 66 306 3853 | Fax 27 11 301 3200  
[tameez.casoo@nortonrosefulbright.com](mailto:tameez.casoo@nortonrosefulbright.com)

<p><b>ADVISORY:</b> We will never change, or notify our banking details via email. Please always verify any change in our banking details by oral communication. Be suspicious of emails from unknown or external senders and be aware of impersonations - do not click links or open attachments. Always check the sender's email address.</p>
---

## NORTON ROSE FULBRIGHT

*Law around the world*  
[nortonrosefulbright.com](http://nortonrosefulbright.com)

Voted African Alliance / Network of the Year - African Legal Awards 2021  
2022 "Law Firm of the Year": Insurance Law - Best Lawyers

---

**From:** Russel Manuel <russel@lgmurray.co.za>  
**Sent:** 13 December 2021 15:56  
**To:** Botha, Brent <Brent.Botha@nortonrosefulbright.com>  
**Cc:** Klara Cronje <KlaraC@lgmurray.co.za>; Jacques IAfrica <jflou@iafrica.com>; Grieve, Candice <Candice.Grieve@nortonrosefulbright.com>; Casoo, Tameez <Tameez.Casoo@nortonrosefulbright.com>  
**Subject:** LETWABA / JOSEPH AND OTHERS [17503/19]

### [External Email – Use Caution]

Dear Sir,

Please find attached the Defendants' notice in terms of Rule 35(3).

Kindly acknowledge receipt.

Regards



---

**Russel Manuel**



**Cell:** +27 79 626 8615  
**Office:** +27 21 424 8960  
**Fax:** +27 21 424 3592

2nd Floor, 42 Burg Street, Cape Town 8001  
P.O Box 4612, Cape Town, 8000

[www.lgmurray.co.za](http://www.lgmurray.co.za)

---

A handwritten signature in black ink, appearing to be "R Manuel", located in the bottom right corner of the page.

"FA 5"



Second Floor  
General Building  
42 Burg Street  
Cape Town, 8001  
P O Box 4612  
Cape Town, 8000

Tel: 021 - 424 8960  
Fax: 021 - 424 3592  
Email: [russel@lgmurray.co.za](mailto:russel@lgmurray.co.za)  
Web: [www.lgmurray.co.za](http://www.lgmurray.co.za)

Docex No. 97

Our reference: W14673  
Your reference: 108/LET95/MR BE BOTHA

11 January 2022

**NORTON ROSE FULBRIGHT SA INC.**

9<sup>th</sup> Floor  
117 Strand Street  
Cape Town

ATTENTION: **Tameez Casoo**

BY EMAIL: [Peter.Rogers@nortonrosefulbright.com](mailto:Peter.Rogers@nortonrosefulbright.com)  
[Brent.Botha@nortonrosefulbright.com](mailto:Brent.Botha@nortonrosefulbright.com)  
[Candice.Grieve@nortonrosefulbright.com](mailto:Candice.Grieve@nortonrosefulbright.com)  
[Tameez.Casoo@nortonrosefulbright.com](mailto:Tameez.Casoo@nortonrosefulbright.com)

Dear Sirs

RE: **OUR CLIENT: RAYMOND JOSEPH AND TWO OTHERS / PHILEMON LETWABA  
CASE NO.: 17503/2019**

We refer to your email of 20 December 2021.

Our clients' notice in terms of Rule 35(3) was served on your offices on 13 December 2021. As you are no doubt aware, the *dies-non* does not apply to matters other than those specifically covered in the Rules, and accordingly not to discovery. Nevertheless, our clients have granted an indulgence in the spirit of the festive season and your request, as contained in your abovementioned email.

Your client's reply is now overdue. We are instructed to request that your client complies with his obligations under Rule 35(3) by no later than Monday, 17 January 2022, failing which our instructions are to bring an application to compel him to do so.

We await your response.

Yours faithfully,

**Lionel Murray Schwormstedt  
& Louw**

Per:

**R MANUEL**



*electronically sent therefore not signed.*

A handwritten signature in black ink, located in the bottom right corner of the page. The signature is stylized and appears to be a cursive or semi-cursive script.

INTERIM PROGRESS REPORT: GENERAL INFORMATION

PROJECT NUMBER: 103614      SECTOR: CHARITIES    
SPORTS    
ARTS    
MISCELLANEOUS

NAME OF ORGANISATION: DENZHE PRIMARY CARE NPO

POSTAL ADDRESS 645 JACQUELINE DRIVE, GARSFONTEIN OFFICE PARK, PRETORIA

NAME OF MAIN CONTACT PERSON: MR Lesley Ramulifho

CONTACT PERSONS DETAILS: (Tel) 012 993 5340 (Fax) 012 993 5324

REPORTING PERIOD: 20 November 2016 to 16 November 2016

THIS REPORT IS FOR TRANCHE NO: 1

TRANCHE AMOUNT: R 7,5 MILLION

BALANCE FROM THE PREVIOUS TRANCHE OF THIS GRANT (IF ANY): R N/A

IF YOUR ORGANISATION WAS ALLOCATED FUNDING TOWARDS INFRASTRUCTURE DEVELOPMENT (I.E. BUILDINGS, SPORTS FACILITIES, ANY OTHER FORM OF INFRASTRUCTURE), PLEASE COMPLETE SECTION B OF THIS PROGRESS REPORT.

DATE OF SUBMISSION OF THIS REPORT: 16 NOVEMBER 2016

GRANT FUNDING APPLICATIONS  
NATIONAL LOTTERIES COMMISSION  
21 NOV 2016  
GAUTENG  
STAMP No. 6



2633048AF1  
103614  
PROGRESS

\* 1 9 9 3 1 2 2 \*

2

1. Please provide a description of the project/s or activities carried out during this reporting period as per Annexure A to the Grant Agreement.

- Preparation of site
- Demolition of old structures and levelling of ground
- Building of the security walls
- Completion of Dormitories foundations
- Building of first phase of Dormitories

2. What progress has been made to date on the project/s or activities listed above.

- Completion of construction of the front entrance wall
- Site clearance complete
- Dormitories structure up to window level
- Increase of Electricity capacity on site and site establishment of new borehole

3. Please describe any shortcomings, problems or challenges encountered relating to implementation of the above-mentioned project/s or activities and how these have been dealt with.

- Shortage of water however, we increase the borehole capacity to meet new water demands
- Electricity capacity was also increase to meet the new demand

4. How have the beneficiaries and the community in which the project took place benefited from this grant?

- The contractor has employed 45 local unemployed youth full time for the duration of constructions

5. Have you achieved the objectives you intended to with this grant as set out in your Business and Implementation Plan? Please explain.

- This is still work in progress

6. ACKNOWLEDGEMENT OF NLC AS FUNDER OF YOUR PROJECT

Wherever it is indicated as a condition in Annexure A to the Grant Agreement or in the Allocation Letter that you should acknowledge NLC as a funder e.g by way of a plaque with

Grant Agreement

the NLC logo at your premises or by erecting a notice Commission on the construction site, that requirement becomes binding on you and you are required to report on the steps taken to do so. The NLC Publicity Policy will outline other methods for publicity of the grant which shall also be binding upon you. Please complete the required information below and attach photographs and a copy of the vehicle registration papers as proof thereof.

**6.1 Explain the actions you have taken to acknowledge and publicise the grant?**

- We have built a new front wall specifically with lights which will be fitted which will display NLC logo. This will create awareness of the assistance received from NLC

**7. WAY FORWARD**

Provide a plan for implementation of the project for the forthcoming period. Indicate if project will be completed within the original time frame or if an extension (subject to the approval of the NLC) of time is required. Indicate the anticipated completion date for the project.

- We are ahead of time in terms of construction completion, however, urgent second tranche payment will be paramount to us meeting a dead line completion of March 2017

**8. ANNEXURES**

For every expenditure and every activity undertaken in line with the grant, you are required to attach supporting evidence to this report. Such supporting evidence include among others, the Bank Statement for the separate bank account (for the relevant period), invoices, proof of payments, purchase slips, photographs of equipment, facilities and events, attendance registers for workshops, proof relating to exhibitions, festivals, concerts and operas, camps, copies of materials produced, publications.

For achievements please submit photographs, media articles, approved press releases, testimonials, user satisfaction surveys, research reports and any other means of objectively verifying the outcomes. For sports events you are required to submit photographs as well as a list of athletes or participants in both local and international competitions.

**A note about publicity:** Please provide evidence of the NLC logo being used on buildings, vehicles etc. Attach copies of any media reports, website links regarding any positive publicity associated with your NLC-supported project. (PLEASE REFER TO THE NLC PUBLICITY REQUIREMENT POLICY).

Please **do not send originals** of your Annexures. Only photographs must be originals.

**SECTION B: INFRASTRUCTURE DEVELOPMENT**

The NLC supports development projects that provide community infrastructure and create the platform for infrastructure development and that improve the quality of life of the beneficiaries and communities in the Charities, Sports, Arts and Miscellaneous sectors.

The NLC contributes to among other things, development of sports facilities such as soccer fields, courts, club houses and refurbishment of the facilities, arts museums, cultural villages and heritage sites, ECD centres, old age homes, training centres, refurbishment of the buildings and irrigation systems.

Please complete the required information below. All sections must be completed in full and must provide an accurate reflection of the progress with implementation of the infrastructure projects.

**B1. Please outline the key activities that have taken place to date relating to infrastructure and explain the progress in terms of such activities.**

- Preparation of site
- Demolition of old structures and levelling of ground
- Building of the security walls
- Completion of Dormitories foundations
- Building of first phase of Dormitories
- Completion of construction of the front entrance wall
- Site clearance complete
- Dormitories structure up to window level
- Increase of Electricity capacity on site and site establishment of new borehole





**B3. Have there been any delays to the proposed implementation plan and what are the causes?**

- No

**B4. Explain if there are any constraints, problems or issues affecting implementation of the project and how you intend to address those constraints, problems or issues.**

- None at this stage

**B5. Explain if there are any risks to the success of any of your infrastructure projects and how you will manage such risks. e.g. poor workmanship, non-delivery by contractor e.t.c**

- None at this stage

**NB:** Please send photographs of any work being currently carried out. See photos of various stages of constructions attached hereto

### **SECTION C: FINANCIAL PROGRESS REPORT**

#### **1. SUMMARY**

- 1.1 Total value of grant (as per grant agreement)
- 1.2 Total amount received during period of report (Incl. a balance from the previous tranche of this grant (if any )
- 1.3 Total amount spent during period
- 1.4 Balance from amount received (1.2 – 1.3)

<b>R 17 million</b>
<b>R 7,5 ,million</b>
<b>R 7,165 000.00</b>
<b>R 335 000.00</b>



## 2. EXPENDITURE REPORT

This section should provide details of expenditure against the approved budget. You are required to duplicate the line items of Annexure A into the table below as well as an amount approved per item. We will request additional information from you if we need to.

**NB:** Please make a copy of this page if there are additional Budget Line Items you need to report on.

**REPORTING PERIOD:** 20 October 2016 to 16 November 2016


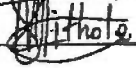
**DATE OF REPORT:** 16 November 2016

**NB:** *By signing this report you are confirming that the information contained in the Narrative and financial report is accurate and true and can be independently verified. The NLC may request*


<b>BUDGET LINE ITEM (In line with Annexure A)</b>	<b>Amount approved</b>	<b>Amount spent on this item</b>	<b>Amount remaining</b>
1. Preparation & Building of Rehabilitation centre (payment made to contractor) see attached.	R17 million	R7 165 000.00	R335 000.00
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			
12.			
13.			
14.			
15.			
<b>TOTAL</b>	<b>R17 000 000</b>	<b>R7 165 000.00</b>	<b>R335 000.00</b>

supporting evidence with regards to this report, or it may request or conduct an independent inspection of the information contained in the report.

FINANCIAL REPORT COMPILED BY:

Name K Sithole Designation  Sithole (Treasurer)  
Date 16 November 2016 Signature 

APPROVED BY:

Name of Chairperson N L Ramulhlo Signature   
Date 16 November 2016

