

R R ÖNTGEN
& Ing / Inc
R R ÖNTGEN

(Registrasie / Registration No. 2008/015512/21)
BTW / VAT No. 4020230720

In Assosiasie met / In Association with Haasbroek & Boezaart Ing. / Inc.

Prokureurs, Notarisse & Egskeidings-tussengangers / Attorneys, Notaries & Divorce Mediators

Ons verw / Our ref:	U verw / Your ref:	Datum / Date:
KM RÖNTGEN(SNR)/Nela/R9485	RACHELLE STEIN	22 November 2012

RONALD BOBROFF & PARTNERS INC
e-mail: rachelle@bobroff.co.za

Re:

**JENNIFER GRAHAM & MATTHEW GRAHAM / THE LAW SOCIETY OF THE
NORTHERN PROVINCES, RONALD BOBROFF & PARTNERS INC, RONALD
BOBROFF & DARREN BOBROFF – CASE NO: 61790/2012**

xx We enclose herewith, a copy of a Filing Notice with the First Respondent's Answering Affidavit which was served upon us today in the above matter, for your attention.

Yours faithfully
RÖNTGEN & RÖNTGEN INGELYF / INCORPORATED
Per: **KM RÖNTGEN (SNR)**
Tel Skakelbord / Switchboard: (012) 481 3555
Tel Direk / Direct: (012) 481 3638
Tel Sekretaresse / Secretary: (012) 481 3548
Faks / Fax: 086 673 2458
E-pos / E-mail: vRooyenN@hblaw.co.za

*Neem kennis dat hierdie kantoor gesluit sal wees vanaf 18 Desember 2012 en weer sal her-open op 3 Januarie 2013.
Beste Kerswense en 'n voorspoedige Nuwe Jaar.*

*Take note that this office will be closed as from 18 December 2012 and will re-open on 3 January 2013.
Best Christmas wishes and a happy New Year*

*Direkteure / Directors: KONRAD MARTIN RÖNTGEN SENIOR
KONRAD MARTIN RÖNTGEN JUNIOR*

*Assosiate / Associates: LOUIS WILHELM RÖNTGEN
PAMELA GAIL KRUGER
OBAKENG DANIEL KAU*

*Kandidaat Prokureurs / Candidate Attorneys: Janiece Bianca Röntgen
Nadia Venter*

*Kantoor Bestuurder / Office Manager: Louis Wilhelm Röntgen
Administrasie Beampste / Administration Officer: Ulandia Venter*

*HB Forum, 5th Floor
Stamvrugstraat 13 / 13 Stamvrug Street
Val De Grace, Pretoria
Posbus / P O Box 74224
Lynnwoodrif / Lynnwood Ridge
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R9485

IN THE NORTH GAUTENG HIGH COURT – PRETORIA
REPUBLIC OF SOUTH AFRICA

Case Number: 61790/2012

In the matter between

JENNIFER GRAHAM
MATTHEW GRAHAM

First Applicant
Second Applicant

and

THE LAW SOCIETY OF THE NORTHERN PROVINCES
(Incorporated as the Law Society of the Transvaal)

First Respondent

RONALD BOBROFF & PARTNERS

Second Respondent

RONALD BOBROFF

Third Respondent

DARREN BOBROFF

Fourth Respondent

FILING NOTICE

DOCUMENT:

LAW SOCIETY'S ANSWERING AFFIDAVIT

PRESENTED FOR FILING BY:

ROOTH WESSELS INC
Attorneys for the Law Society
Rooth & Wessels Building
Parc Nouveau
225 Veale Street
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PRETORIA
Tel: (012) 452-4066
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Email: annelizav@roothwessels.co.za
Ref: A Bloem/avds/B30479

TO:

THE REGISTRAR OF THE HIGH COURT
PRETORIA

2012-11-22

AND TO: **EDWARD NATHAN SONNENBERGS**
 Attorneys for the Applicants
 1 North Wharf Square
 Loop Street, Foreshore
 CAPE TOWN
 Ref: G van Niekerk/0318115
C/o ELOFF BRINK ATTORNEYS
 Lord Charles Office Park
 Building A, 1st Floor, North Wing
 337 Brooklyn Road
 Brooklyn
 Ref: Anine van der Merwe

Received copy hereof on this
 day of November 2012.

Obo Attorneys for Applicants

AND TO: **RÖNTGEN & RÖNTGEN INC**
 Attorneys for 2nd, 3rd and 4th Respondents
 H B Forum
 13 Stamvrug Street
 Val de Grace
 Pretoria
 PO Box 74224
 Lynnwood Ridge
 0040
 Tel: 012-481 3555
 Fax: 086 673 2454
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 Ref: Mr KM Röntgen Sr/R9485

Received copy hereof on this
 day of November 2012.

Obo Attorneys for Respondents

Röntgen & Röntgen Incorporated/Incorporated	
Without prejudice / Sonder benoediging	
2012 -11- 21	
Sign / Ontvang	<i>JM</i>
Time / Tyd	8:40

IN THE NORTH GAUTENG HIGH COURT - PRETORIA

REPUBLIC OF SOUTH AFRICA

Case No: 61790/12

In the matter between:

JENNIFER GRAHAM

First Applicant

MATTHEW GRAHAM

Second Applicant

and

THE LAW SOCIETY OF THE NORTHERN PROVINCES

First Respondent

RONALD BOBROFF & PARTNERS INC

Second Respondent

RONALD BOBROFF

Third Respondent

DARREN BOBROFF

Fourth Respondent

LAW SOCIETY'S ANSWERING AFFIDAVIT

I, the undersigned,

PRITZMAN BUSANI MABUNDA

do hereby make oath and say:

ROOTH & WESSELS
ATTORNEYS



P.B.M

THE FIRST RESPONDENT

- 1.1 The Law Society of the Transvaal came into existence by Volksraadbesluit 1307 dated 19 October 1892 of the Zuid-Afrikaansche Republiek. The body continued in existence by virtue of the Constitution of the Incorporated Law Society of the Transvaal Ordinance No 1 (Private) of 1905 (since repealed) and continued in existence by virtue of the Attorneys, Notaries and Conveyancers Admissions Act, No 23 of 1934 (since repealed) and continues further in existence by virtue of section 56 of the Attorneys' Act No 53 of 1979 (the Attorneys Act).

Motivated by a desire to recognise the newly named areas of the erstwhile Transvaal Province, namely Gauteng, Mpumalanga, Limpopo and portion of North-West Provinces over which it has jurisdiction, the Council of the Law Society of the Transvaal resolved on 23 February 2001, with effect from 1 March 2001, that the Law Society of the Transvaal henceforth be known as the Law Society of the Northern Provinces incorporated in terms of section 56 of the Attorneys' Act as the Law Society of Transvaal (the Law Society);

- 1.2 I am the President of the Law Society;

ROOTH & WESSELS
ATTORNEYS



P. R. M.

1.3 I am authorised to depose to this affidavit on behalf of the Law Society; and

1.4 the contents of this affidavit, where they are within my personal knowledge, are true and correct. Where the contents are not within my personal knowledge, they have been made known to me and I believe in their veracity. I rely on the evidence of experts and the advice of the Law Society's attorneys.

2. The Law Society, the first respondent in this matter, has its offices at Procforum, 123 Paul Kruger Street, Pretoria.

3. In terms of the Attorneys' Act:

3.1 every attorney, notary and conveyancer duly admitted, enrolled and practising as such in the Gauteng, Mpumalanga, Limpopo Provinces and portions of North West Province is, *ipso facto*, a member of the Law Society; and

3.2 the affairs of the Law Society are managed and controlled by a Council, (the Council), consisting of 24 practising attorneys who hold office in terms of the

provisions of Part IV of the Rules referred to in paragraph 4 *infra*.

4. The legal interest which the Law Society has in filing this affidavit flows from the Attorneys' Act and the Rules made under authority of section 74 of the Attorneys' Act (the Rules) and the common law. In terms thereof the Law Society is required, and is given the power, *inter alia*:
 - 4.1 to maintain and enhance the prestige, status and dignity of the profession;
 - 4.2 to regulate the exercise of the profession;
 - 4.3 to encourage and promote efficiency and responsibility in relation to the profession;
 - 4.4 to deal with all matters relating to the interests of the profession and to protect those interests;
 - 4.5 to uphold the integrity of practitioners;
 - 4.6 to uphold and improve the standards of professional conduct and qualifications

of practitioners;

- 4.7 to provide for the effective control of the professional conduct of practitioners;
- 4.8 to promote uniform practice and discipline among practitioners;
- 4.9 to encourage the study of the law;
- 4.10 to initiate and promote reforms and improvements in any branch of the law, the administration of justice, the practice of the law and in draft legislation;
- 4.11 to represent generally the views of the profession;
- 4.12 in the interest of the profession in the Republic, to co-operate with such other societies or bodies of persons as it may deem fit;
- 4.13 to exercise disciplinary jurisdiction over all practitioners no matter where the conduct which is, or allegedly is, unprofessional or dishonourable or unworthy is perpetrated; and

- 4.14 in appropriate cases and in terms of section 22(1)(d) of the Attorneys' Act, to launch an application for the striking off the roll or suspension from practice of a practitioner if the Honourable Court is satisfied that a practitioner is not a fit and proper person to continue to practise as an attorney.
5. The long established codes of professional conduct were from time to time regulated and confirmed by legislation, initially by legislation which has since been repealed and at the present time by the Attorneys Act and the Rules.

GENERAL PRINCIPLES

6. Before dealing with the merits of this application I submit, with respect, that it is pertinent that I should briefly record certain general principles concerning an attorney, his profession as such and the functions of the Law Society in regard to an attorney and the conduct of his profession, namely:
- 6.1 an attorney is a professional person whose independence and freedom in the conduct of his practice are recognised and preserved. Within the limits of the law and the rules of professional conduct an attorney conducts, and in fact should so conduct, his practice with a high degree of independence;

6.2 the profession itself is not a mere calling or occupation by which a person earns his living. An attorney is a member of a learned, respected and honourable profession and, by entering it, he pledges himself with total and unquestionable integrity to society at large, to the courts and to the profession. It is submitted that only the very highest standard of conduct and repute and good faith are consistent with membership of the profession which can indeed only function effectively if it inspires the unconditional confidence and trust of the public. The image and standing of the profession are judged by the conduct and reputation of all its members and, to maintain this confidence and trust, all members of the profession must exhibit the qualities set out above at all times;

6.3 the attorneys' profession can only fulfil its obligations to the community and comply with its role in the administration of justice in the land if it inspires and maintains the unconditional confidence of the community and if its members devote their absolute integrity to the conduct of their profession and to the fulfilment of all the requirements demanded of the profession and its members;

- 6.4 the integrity of an attorney should, inter alia, manifest itself in a situation where he must prefer the interests of his client above his own;
- 6.5 it is required of any attorney that he observes scrupulously, and complies with, the provisions of the Attorneys' Act and the rules;
- 6.6 it is of particular importance that an attorney complies with the provisions of the Attorneys' Act and the rules in relation to the money of a client which is placed into his custody and control. Such money, generally known as trust money, does not form part of the assets of an attorney. The very essence of a trust fund is the absence of risk and the confidence created thereby. The Law Society has always adopted the view that there can be no excuse for an attorney not to comply with each and every one of the requirements which directly or indirectly relate to trust money. The unjustifiable handling of trust money is totally untenable and not only frustrates the legal requirements relating to trust money but also undermines the principle that a trust account is completely safe in respect of money held therein by an attorney on behalf of another person;
- 6.7 the law exacts from an attorney *uberrima fides* - the highest possible degree

of good faith - in his dealings with his client, which implies that at all times his submissions and representations to his client must be accurate, honest and frank;

6.8 in pecuniary matters the attorney must be most punctual and diligent. He shall not retain money belonging to his client longer than is absolutely necessary and must account to his client for moneys received by him in a proper and diligent manner;

6.9 Rule 89 of the Rules deals with the unprofessional or dishonourable or unworthy conduct on the part of a practitioner. Included therein is any contravention of the provisions of the Attorneys' Act or of the Rules;

6.10 though in the conduct of his professional practice an attorney may delegate certain tasks to his staff, it remains his responsibility to see that the work is completed with proper care and diligence. The attorney is answerable if a member of his staff transgresses the law or the rules of professional conduct in relation to the attorney's practice;

6.11 an attorney must not appropriate for his own use monies received on behalf of

a client for whom he is acting, without the permission or authority of the client to do so; and

6.12 an attorney must never abuse the position of trust and the fiduciary relationship that should exist between an attorney and his client.

INTRODUCTION

7. Before replying to the allegations contained in the first applicant's founding affidavit in more detail I wish to refer the Honourable Court to the following important aspects.

7.1 The Law Society has been joined as the first respondent to the proceedings and the applicants seek relief against the Law Society, including a cost order on the attorney and client scale.

7.2 The application for a cost order is without merit, unwarranted and stands to be dismissed. The relief sought against the Law Society in addition to the cost order is, likewise, unwarranted and based on unfounded allegations,

A handwritten signature in black ink, appearing to be 'P.B.n.'.

P.B.n.

inaccurate statements and unmeritorious arguments.

- 7.3 The majority of the relief provided for in the notice of motion however relates to the second, third and fourth respondents. In respect of the relief which the Law Society does not oppose, the Law Society will furnish the Honourable Court with its views, its recommendations, the correct facts and the applicable principles. The Law Society will therefore assist the Court.
- 7.4 The applicants make a variety of scathing remarks concerning the Law Society. Their attorney, Van Niekerk of Edward Nathan Sonnenbergs (Van Niekerk), agrees with their remarks. He has made similar allegations in the correspondence he addressed to the Law Society. The applicants and Van Niekerk have criticized the Law Society from the outset and shortly after having submitted the complaint to the Law Society.
- 7.5 The criticism voiced by the applicants and/or Van Niekerk are without any merit whatsoever. The allegations concerning the Law Society are scandalous to say the least and in many instances reckless. I have no doubt that the application, as far as the Law Society is concerned, is vexatious.

- 7.6 I will refer the Honourable Court to the conduct of the applicants and/or Van Niekerk in more detail below.
- 7.7 I wish to emphasize from the outset that the Law Society has handled the complaint by the applicants properly, correctly and diligently. The Law Society has acted reasonably towards all the parties involved, within the Law Society's powers and in accordance with the provisions of the Attorneys' Act and the Rules. Any suggestion to the contrary is rejected out of hand.
- 7.8 It is evident from the applicants' version that what they are really aggrieved about is the fact that they failed in their vigorous attempts to dictate to the Law Society and to interfere in the Law Society's investigation and disciplinary processes.

THE LAW SOCIETY'S DISCIPLINARY POWERS

- 8.1 Complaints submitted to the Law Society are referred to and dealt with by the Law Society's disciplinary department. The complaints are investigated by legal officials in the employ of the said disciplinary department.

- 8.2 If the legal official is of the view that a *prima facie* case of unprofessional conduct has been made out, the complaint will be referred to the attorney and he will be requested to furnish the Law Society with his comments thereon. The attorney's comments, if any, are then referred to the complainant who is afforded an opportunity to reply thereto.
- 8.3 It is expected of an attorney against whom a complaint had been lodged to reply to the compliant and he should do so properly and comprehensively. If an attorney fails to reply to the complaint or if he fails to address the pertinent aspects of the complaint, he does so at his own peril. An attorney's comments on a complaint need not be under oath and the Law Society cannot compel an attorney to place his version under oath.
- 8.4 The Law Society is not obliged to consider any further documentation or affidavits in addition to those referred to above. The Law Society does however have a discretion to do so. Where additional points are raised or additional facts submitted, the Law Society will normally accept the additional documents or affidavits. In those circumstances it will refer the additional documents or affidavits to the attorney or the complainant for purposes of their comments.

- 8.5 If the attorney or the complainant requires an extension for purposes of submitting their comments to the Law Society, the request must be addressed to the Law Society in writing. Whether such request will be granted or not and the period of an extension fall within the discretion of the legal official dealing with the matter, alternatively the head of the Law Society's disciplinary department. Where an attorney requires an extension permission need not be sought from the complainant and *vice versa*. Neither a complainant nor an attorney will under any circumstances be denied a reasonable opportunity to reply.
- 8.6 The legal official entrusted with the matter will consider the contents of the complaint, the attorney's reply and the complainant's reply thereto. If the legal official is of the view that a *prima facie* case of unprofessional conduct has been made, the matter will be referred to a disciplinary committee. The legal official formulates charges, advises the attorney thereof and notifies him to appear before a disciplinary committee.
- 8.7 A disciplinary committee consists of senior members of the Law Society. Such committee is not a standing committee.



- 8.8 The disciplinary committee makes a finding on the available facts and evidence. In the event of a finding of guilty the committee imposes an appropriate sanction. The committee may also refer the matter to the Council in terms of the provisions of Rule 101 of the Law Society's Rules for purposes of considering an application to have the attorney suspended or to have his name struck from the roll of attorneys.
- 8.9 An attorney may take the findings of a disciplinary committee on appeal to the High Court both in respect of the finding and the sanction.
- 8.10 In circumstances where the papers relating to the complaint are voluminous and/or where the complaint involves numerous and/or complicated issues, the matter will first be referred to an investigating committee. This committee also consists of senior members of the Law Society and is, likewise, not a standing committee. The proceedings of an investigating committee form part of the Law Society's investigation into the complaint.
- 8.11 At the conclusion of an investigation by the investigating committee the committee reports to the disciplinary department and furnish it with its

recommendations.

8.12 The Law Society's disciplinary department receives thousands of complaints annually. All these complaints are properly investigated. During the 2011-2012 period the Law Society received and investigated 8029 complaints.

8.13 The disciplinary department has, in addition, received 1 037 enquiries concerning its members and 751 requests for legal assistance.

8.14 During the abovementioned period the Law Society received the following complaints:

- 1 212 relating to the failure by attorneys to give proper attention to matters;
- 168 relating to attorneys' failure to account;
- 833 relating to third party matters;
- 635 relating to attorneys' failure to comply with Rule 70;
- 461 relating to overcharging;
- 8 relating to attorneys practising without fidelity fund certificates;
- 336 relating to attorneys' failure to pay the accounts of colleagues and



medical experts;

- 314 relating to attorneys' failure to reply to correspondence;
- 267 relating to attorneys' delay in payment of trust funds;
- 213 relating to attorneys' personal conduct;
- 422 relating to attorneys' failure to pay their subscription fees;
- 18 relating to touting;
- 62 from prosecutors, magistrates and judges concerning the conduct of attorneys;
- 11 relating to the sequestration of attorney' estates;
- 252 relating to fines imposes by disciplinary committees and cost orders;
- 21 relating to persons representing themselves as attorneys; and
- 252 relating to attorneys' ethical conduct.

8.15 As at 30 June 2012 the Law Society had 167 pending striking or suspension applications. During the 2011-2012 period the names of 60 members of the Law Society were struck from the roll of attorneys, 45 members were suspended and 2 were interdicted from practising for their own account.

8.16 Each legal official in the employ of the disciplinary department receives approximately 4 complaints per day, 70-80 complaints per month and 900

complaints per year. At any given stage a legal official is handling between 400 and 500 files.

8.17 The disciplinary department of the Law Society normally receives approximately:

- 32 complaints per day
- 670 complaints per month
- 8 000 complaints per year.

8.18 On average 230 disciplinary committee enquiries are held each year. Eight disciplinary committees sit each week and each committee consists of three members who are members of the Law Society. An agenda bundle normally consists of approximately 300 pages. During the 2011-2012 period 203 disciplinary enquiries were held and 605 attorneys and four candidate attorneys appeared before disciplinary committees.

8.19 The Law Society is independent and unbiased and acts objectively and without fear or favour in its investigation of complaints and the conducting of disciplinary enquiries. The identity of a complainant and the attorney

respectively or the attorney's seniority, social status and standing in the profession are irrelevant.

- 8.20 The Law Society has an excellent track record in respect of its investigations and its referral of matters to the High Court and the Supreme Court of Appeal. The Law Society has in the past not hesitated to act against senior members, members of its Council and former members of its Council where necessary.
- 8.21 The Law Society will under no circumstances be dictated to by either a complainant or an attorney. Complaints are dealt with in the normal course and in terms of the Law Society's Rules. The Law Society does not allow any interference with its investigations and disciplinary enquiries.
- 8.22 The Law Society does not give one complaint preference to another and it does not tolerate pressure by a complainant to do so.
- 8.23 The applicants' complaint against the second, third and fourth respondents was handled in accordance with these principles.
- 8.24 The Law Society has afforded both the applicants and the second, third and

fourths respondents a fair, reasonable and adequate opportunity to deal with the complaint and to submit their comments to the Law Society. They have at all times been treated correctly, fairly and reasonably.

8.25 The complaint has previously, on 28 February 2012, been dealt with by an investigating committee of the Council which provided the Law Society with its views and recommendations. A disciplinary enquiry was subsequently scheduled for 25 July 2012 and 26 July 2012, but the enquiry did not proceed in terms of an order of this Honourable Court which suspended the proceedings. The Law Society subsequently rescheduled the disciplinary enquiry for 28 November 2012 and 29 November 2012.

8.26 The Law Society's Rules which are applicable to disciplinary proceedings can be found in Part XIII of the Law Society's Rules (Rules 93 to 103.2). Although all the Rules are relevant and important I only refer the Honourable Court to a few of these Rules:

8.26.1 Rule 94.3: A complaint shall be in writing in the form of an affidavit with sufficient particulars of the conduct complained about and shall be lodged with the Secretary of the Law Society, provided that the head of the Law Society's

disciplinary department may accept a complaint in any other form.

- 8.26.2 Rule 95.2.1: Where the Law Society is of the opinion that a *prima facie* case of unprofessional or dishonourable or unworthy conduct has been made out it may furnish the attorney with the particulars of the complaint and request him to furnish the Law Society with his explanation in answer to the complaint and the Law Society may require such explanation to be verified by affidavit.
- 8.26.3 Rule 96: During the course of the disciplinary enquiry the Law Society shall afford the attorney an opportunity of producing evidence relevant to the matter and of making such other relevant representations as he may wish.
- 8.26.4 Rule 97A.1: The disciplinary committee may at any stage prior to or during the course of the disciplinary enquiry summon any person as a witness and interrogate or reinterrogate him, provided that the witness may be cross-examined by the attorney or his legal representative and that the attorney may only be examined if he has already testified in the enquiry or if a statement deposed to by him has been accepted as evidence.
- 8.26.5 Rule 97A.4: Evidence by way of affidavit or other document is admissible but

the disciplinary committee is entitled to adjudicate the evidential value thereof by taking into consideration the fact that the evidence contained therein has not been tested in cross-examination.

8.26.6 Rule 100: Subject to the provisions of the Rules the person presiding at the disciplinary enquiry shall determine the procedure according to which the enquiry shall be conducted.

8.26.7 Rule 101: Where a disciplinary committee finds an attorney guilty of unprofessional, dishonourable or unworthy conduct the committee may, if it is of the view that the conduct of the attorney is such as to warrant an application by the Law Society for either the attorney's suspension or the striking of his name from the roll of attorneys, submit a written report on its findings to the Council of the Law Society with recommendations regarding the suspension from practice or the striking from the roll of attorneys. A copy of the report containing the committee's findings and recommendations will be furnished to the attorney and he will be requested to furnish the Council with his written representations. On receipt of the report and recommendations of the committee and the written representations of the attorney the Council will decide whether or not to proceed with an application for suspension or

striking. The attorney may also be invited to appear before the Council in order to address the Council and to show cause why an application for his suspension alternatively striking should not be brought.

9. **CHRONOLOGY**

2 June 2011	Ms Graham deposes to her affidavit of complaint.
3 June 2011	Law Society receives letter from Van Niekerk with the complaint by Mr and Ms Graham.
6 June 2011	Law Society receives affidavit by Van Niekerk, the second page to annexure "JG22" to Ms Graham's affidavit and the correct annexure "JG28" to Van Niekerk's/Ms Graham's affidavit.
29 June 2011	Van Niekerk directs enquiry at the Law Society concerning the complaint.
1 July 2011	Law Society advises Van Niekerk that complaint will be referred to Bobroff for comment.
1 July 2011	Law Society refers complaint to Bobroff for comment.
13 July 2011	Bobroff requests copies of covering letters of Van

	Niekerk dated 3 June 2011 and 6 June 2011 respectively.
13 July 2011	Law Society furnishes Bobroff with copies of Van Niekerk's letters dated 3 June 2011 and 6 June 2011 respectively.
15 July 2011	Bobroff acknowledges receipt of complaint and advises that he will reply to complaint within 28 days.
18 July 2011	Law Society acknowledges receipt of Bobroff's email dated 15 July 2011.
10 August 2011	Van Niekerk acknowledges receipt of Law Society's letter dated 10 August 2011 and enquires when Bobroff's comments on complaint can be expected.
16 August 2011	Bobroff advises Law Society that his comments on complaint should reach the Law Society by 19 August 2011.
22 August 2011	Law Society acknowledges receipt of Van Niekerk's letter dated 10 August 2011.
23 August 2011	Law Society receives Bobroff's comments on complaint.
25 August 2011	Van Niekerk enquires as to Bobroff's comments on

	complaint.
30 August 2011	Law Society forwards Bobroff's comments on complaint to Van Niekerk and acknowledges receipt of Bobroff's comments.
6 September 2011	Van Niekerk acknowledges receipt of Bobroff's comments on complaint and requests copy of annexure "REP8" to Bobroff's comments.
12 September 2011	Law Society forwards annexure "RBP8" to Bobroff's comments to Van Niekerk.
26 September 2011	Van Niekerk advises Law Society that senior counsel has been instructed to settle Ms Graham's reply to Bobroff's comments and requests extension for filing of Ms Graham's reply.
3 October 2011	Law Society advises Van Niekerk that extension has been granted until 14 October 2011 for filing of Ms Graham's reply to Bobroff's comments.
14 October 2011	Van Niekerk submits Ms Graham's reply to Bobroff's comments.
18 October 2011	Law Society receives affidavit by Van Niekerk.

19 October 2011	Law Society receives affidavit by H van Dyk from Van Niekerk.
20 October 2011	Law Society forwards Ms Graham's reply and affidavits to Bobroff for comment and acknowledges receipt of Van Niekerk's letters dated 14 October 2011 and 19 October 2011 respectively.
10 November 2011	Law Society receives letter dated 11 November 2011 from Van Niekerk with supplementary affidavit from Ms Graham with annexures and confirmatory affidavit by Van Niekerk.
16 November 2011	Law Society receives letter from Bobroff requesting time until February 2012 to reply to Ms Graham's supplementary affidavit with annexures as he is out of the office from 28 November 2011 until late January 2012.
23 November 2011	Law Society advises Van Niekerk of Bobroff's request for extension and that the matter will serve before an investigating committee of the Council, the proceedings of which will be scheduled from February 2012

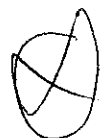
	onwards.
23 November 2011	Law Society receives telephone call from Van Niekerk, Van Niekerk indicates his displeasure with Bobroff's request for an extension.
25 November 2011	Law Society advises Van Niekerk that Bobroff has been granted an extension until 1 February 2012.
25 November 2011	Law Society advises Bobroff that extension has been granted until 1 February 2012.
2 December 2011	Van Niekerk addresses letter to Law Society and criticizes Law Society for its handling of complaint.
7 December 2011	Law Society acknowledges receipt of Van Niekerk's letter dated 2 December 2011 and advises that it has been referred to the Director and President of the Law Society respectively.
9 December 2011	Law Society advises Bobroff that matter will serve before an investigating committee of the Council during February 2012.
13 December 2011	Bobroff's attorneys advise Law Society that 28 February 2012 will be suitable for purposes of the

	proceedings of the investigating committee.
14 December 2011	Law Society advises Bobroff's attorneys that the proceedings of the investigating committee have been scheduled for 28 February 2012.
14 December 2011	Law Society advises members of investigating committee of their appointment and the date of the proceedings.
14 December 2011	Law Society advises Van Niekerk that the proceedings of the investigating committee have been scheduled for 28 February 2012.
15 December 2011	Law Society replies to Van Niekerk's letter dated 2 December 2011.
16 January 2012	Van Niekerk addresses letter to the Law Society and criticizes it for its handling of the matter.
24 January 2012	Law Society replies to Van Niekerk's letter dated 16 January 2012.
31 January 2012	Van Niekerk addresses another letter to Law Society.
31 January 2012	Law Society formally notifies Bobroff and Van Niekerk of the proceedings of the investigating committee to be

	held on 28 February 2012 and 29 February 2012.
3 February 2012	Van Niekerk acknowledges receipt of Law Society's letter dated 31 January 2012.
3 February 2012	Law Society receives letter from Bobroff's attorneys.
8 February 2012	Law Society replies in detail to Van Niekerk's letter dated 31 January 2012.
9 February 2012	Law Society receives letter from Bobroff's attorneys advising that Bobroff's counsel is available on 28 February 2012 but not 29 February 2012.
10 February 2012	Law Society advises Bobroff's attorneys that proceedings of investigating committee will proceed on 28 February 2012 and 29 February 2012.
15 February 2012	Law Society receives letter from Bobroff's attorneys.
16 February 2012	Law Society addresses letter to Van Niekerk and Bobroff's attorneys advising them of the time of commencement of the proceedings of the investigating committee.
22 February 2012	Law Society receives letter from Bobroff's attorneys advising that Bobroff will not participate in the

	proceedings of the investigating committee on 28 February 2012.
23 February 2012	Law Society receives letter from Van Niekerk confirming attendance on 28 February 2012 and acknowledge receipt of evidence bundle.
24 February 2012	Van Niekerk enquires as to the parties subpoenaed to appear before the investigating committee.
27 February 2012	Law Society addresses letter to Van Niekerk.
28 February 2012	Counsel for Mr and Ms Graham submits document referred to as complainants' <i>request for outstanding information</i> to the investigating committee.
28 February 2012	Enquiry of investigating committee takes place. Bobroff excuses himself from the enquiry.
2 March 2012	Law Society addresses letter to Van Niekerk and Bobroff's attorneys advising them of the recommendations of the investigating committee.
9 March 2012	Van Niekerk addresses email to Law Society.
12 March 2012	Law Society confirms that it is in the process of finalizing the charge sheet.

13 March 2012	Law Society acknowledges receipt of Van Niekerk's email.
22 March 2012	Van Niekerk enquires when the disciplinary enquiry will take place.
29 March 2012	Law Society advises Van Niekerk that recommendations by investigating committee are being considered by the Law Society's disciplinary department.
30 March 2012	Van Niekerk acknowledges receipt of the record of proceedings of 28 February 2012.
5 April 2012	Van Niekerk enquires what charges will be put to Bobroff and who the members of the disciplinary committee will be and confirms that he/the applicants are no longer of the view that an inspection is required.
17 April 2012	Van Niekerk enquires as to disciplinary proceedings and charges.
19 April 2012	Law Society addresses letter to Van Niekerk with draft charge sheet.
24 April 2012	Law Society advises Van Niekerk as well as Bobroff's



	attorneys that disciplinary enquiry will take place on 25 June 2012 and 26 June 2012 and that the committee members have confirmed their availability.
4 May 2012	Van Niekerk addresses letter to Law Society.
15 May 2012	Bobroff's attorneys request copy of charge sheet and copies of other relevant documentation for purposes of the disciplinary enquiry and advise that counsel will not be available.
22 May 2012	Law Society advises Van Niekerk that the dates 25 June 2012 and 26 June 2012 are not suitable to Bobroff's counsel and that disciplinary inquiry will most probably take place on 25 July 2012 and 26 July 2012 respectively.
22 May 2012	Law Society advises Bobroff's attorneys that disciplinary enquiry has been rescheduled for 25 July 2012 and 26 July 2012.
24 May 2012	Van Niekerk enquires who the committee members will be and what the names of the committee members' firms are and states that he is satisfied with the draft

	charge sheet.
7 June 2012	Bobroff's attorneys request copy of charge sheet.
8 June 2012	Law Society furnishes Bobroff's attorneys with charge sheet and notifies Van Niekerk of appearance before the disciplinary committee on 25 July 2012 and 26 July 2012.
29 June 2012	Law Society receives letter from Bobroff's attorneys objecting to the fact that the bundle which served before the investigating committee has been made available to the disciplinary committee.
2 July 2012	Van Niekerk requests confirmation that Mr Ronald Bobroff, Mr Darren Bobroff, attorney Clelia Caruso, attorney Gina Tognocchi and cost consultant Jerry Joubert have been subpoenaed to appear before the disciplinary committee.
3 July 2012	Law Society advises the Bobroffs of the amended charges which will serve before the disciplinary committee.
3 July 2012	Law Society advises Van Niekerk that the Law Society

	cannot compel Bobroff to reply to request for further information and that Caruso, Tognocchi and Joubert have not been subpoenaed to appear before the disciplinary committee.
3 July 2012	Law Society advises Bobroff's attorneys that the bundle which served before the investigating committee is the same bundle which will serve before the disciplinary committee and that typed record of proceedings before investigating committee will not be furnished to disciplinary committee and furnishes them with copy of amended charge sheet.
5 July 2012	Bobroff's attorneys again object to the documents which served before the investigating committee being placed before the disciplinary committee and request recusal of committee members.
6 July 2012	Law Society acknowledges receipt of letter from Bobroff's attorneys.
25 July 2012	Proceedings of disciplinary committee are commenced with but suspended by order of the High Court pending

	application for review by Bobroff.
2 August 2012	Bobroff's attorneys advise Law Society that Bobroff's review application will not be proceeded with if new disciplinary committee will be appointed.
21 August 2012	Van Niekerk enquires as to further conduct in matter and request that a panel of retired judges be convened in order to deal with charges against Bobroff.
27 August 2012	Van Niekerk addresses letter to Law Society and attaches report by Mr Vincent Faris.
10 September 2012	Bobroff's attorneys request from the Law Society further particulars regarding Faris' report and advise that it requires an opportunity to consider the report and to comment thereon.
11 September 2012	Van Niekerk enquires from Law Society as to how the complaint by Mr and Ms Graham will be dealt with further.
13 September 2012	Law Society advises Van Niekerk that matter will be dealt with in the normal course of the disciplinary process of the Law Society and that matter will again

	<p>be considered by the Council on 26 September 2012.</p> <p>Law Society advises Van Niekerk that proceedings of the disciplinary committee will probably be scheduled on date during November 2012.</p>
14 September 2012	<p>Law Society advises Bobroff's attorneys that the disciplinary enquiry will be scheduled for 28 November 2012 and 29 November 2012 respectively.</p>
17 September 2012	<p>Law Society advises Van Niekerk that the disciplinary proceedings will proceed on 28 November 2012 and 29 November 2012 and that committee will consist of members of the Law Society in accordance with the provisions of section 67(1)(b) of the Attorneys' Act and Rule 95A.1 of the Law Society's Rules.</p>
12 October 2012	<p>Van Niekerk enquires as to inspection of Bobroff's accounting records.</p>
16 October 2012	<p>Law Society advises Van Niekerk that the Council on 26 September 2012 resolved that the report by Faris dated 27 August 2012 be referred to Bobroff for comment whereafter the Council will consider the</p>

	matter further on 26 October 2012.
19 October 2012	Bobroff's attorneys request copy of Faris' preliminary report dated 22 August 2012.
26 October 2012	Council resolves to furnish Bobroff with both Faris' preliminary and final reports and to request him to furnish the Council with his comments thereon on or before 19 November 2012 and that matter will be considered during the Council's next meeting to be held in November 2012.
29 October 2012	Law Society furnishes Bobroff's attorneys with copy of report dated 22 August 2012 and requests Bobroff's comments on or before 19 November 2012.
29 October 2012	Van Niekerk enquires as to Council's decision.
30 October 2012	Law Society formally notifies Bobroff to appear before disciplinary committee on 28 November 2012 and 29 November 2012.
30 October 2012	Law Society advises Van Niekerk that Bobroff is required to reply to Faris' report by 19 November 2012 and that Faris' report and Bobroff's comments thereon

	will be considered by the Council on 30 November 2012.
30 October 2012	Law Society furnishes Bobroff's attorneys with notices to appear before a disciplinary committee of the Council on 28 November 2012 and 29 November 2012 respectively.
19 November 2012	Van Niekerk requests that disciplinary enquiry scheduled for 28 November 2012 and 29 November 2012 be postponed.

The list of letters and communications referred to above is not necessarily exhaustive.

THE CONDUCT OF THE APPLICANTS AND/OR VAN NIEKERK

10. The applicants' unmeritorious allegations which are made repeatedly throughout the voluminous founding affidavit are for the sake of convenience and in order for the Court to appreciate the extent of the attack on the Law Society summarized as follows:

- 10.1 the Law Society has failed to take the requisite action in expeditious an proper fulfillment of its obligations (see par 15 of the founding affidavit);
- 10.2 the Law Society, the very body that is statutorily entrusted with protecting the public from errant attorneys, failed to take appropriate action (see par 19 of the founding affidavit);
- 10.3 the Law Society has failed to timeously and seriously perform its duty to investigate (see par 21 of the founding affidavit);
- 10.4 the Law Society has failed to respond to the applicants' requests that the second, third and fourth respondents be required to produce material documents and to place their defense under oath (see par 21 of the founding affidavit);
- 10.5 the Law Society is unwilling and unable to do its duty (see par 22 of the founding affidavit);
- 10.6 Van Niekerk has struggled to ensure that the Law Society expeditiously and properly deal with the allegations directed at the second, third and fourth

- respondents and the Law Society refused to perform an urgent inspection (see par 27 of the founding affidavit);
- 10.7 the Law Society has not acted on the request of the applicants to require that an investigation be conducted (see par 51.7 of the founding affidavit);
- 10.8 the Law Society is unwilling to expeditiously and diligently comply with its duty to investigate (see par 70 of the founding affidavit);
- 10.9 the Law Society has failed to independently and vigorously pursue the case against the second, third and fourth respondents (see par 72 of the founding affidavit);
- 10.10 the Law Society's failure is a culmination of other abdications and evasions (see par 73 of the founding affidavit);
- 10.11 the Law Society has been unmoved by the second, third and fourth respondents' failures (see par 75 of the founding affidavit);
- 10.12 the Law Society has failed to demand from the second, third and fourth

respondents to act transparently (see par 75.1 of the founding affidavit);

10.13 the Law Society has taken no steps of its own to procure originals of documents and to separately investigate the issue (see par 75.2 of the founding affidavit);

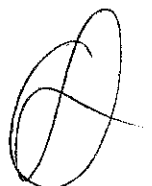
10.14 the Law Society's failure is inexplicable (see par 76 of the founding affidavit);

10.15 the Law Society had acquiesced in the second, third and fourth respondents' failure to properly respond to the complaint (see par 78.14 of the founding affidavit);

10.16 the Law Society is unwilling to do its duty (see par 79 of the founding affidavit);

10.17 the Law Society refuses to take immediate action in response to the Faris report (see par 80 of the founding affidavit);

10.18 the Law Society has a supine approach in the matter (see par 80 of the founding affidavit);



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- 10.19 the Law Society's conduct is manifestly in violation of its duties under the Rule of Law as the statutory custodian of the attorneys' profession and in violation of the second, third and fourth respondents' duty as attorneys (see par 89 of the founding affidavit);
- 10.20 the Law Society has declined to utilize the powers at its disposal to initiate an inspection or an investigation in response to the Faris report (see par 89.8 of the founding affidavit);
- 10.21 the Law Society is guilty of recalcitrant conduct (see par 95 of the founding affidavit);
- 10.22 the third respondent enjoys inexplicable latitude at the hands of the Council of the Law Society (see par 96.3 of the founding affidavit); and
- 10.23 the Law Society has abdicated its responsibility (see par 96.6 of the founding affidavit).
11. It is clear that the applicants have gone to great lengths to attack and criticize

the Law Society. All the abovementioned allegations are, without exception, unfounded and most probably vexatious. Most disturbing is that the applicants were prepared to be selective when referring facts to the Court. Many important facts and correspondence that demonstrate the fallaciousness of their allegations have not been disclosed. Their conduct in this regard was most probably intentional and constitutes an attempt to mislead the Honourable Court.

12. The allegation that the Law Society refuses to conduct an inspection of the second, third and fourth respondents' accounting records is factually incorrect. No such decision has been taken by the Council and the report by Faris is currently under consideration by the Council.
13. The accusation that the Law Society has failed to comply with certain requests of the respondents and/or Van Niekerk to take certain steps reflects a significant lack of insight as to the Law Society's disciplinary procedures, the steps which the Law Society is empowered to take and those steps which were appropriate in the circumstances.
14. As far as the Law Society is concerned the applicants' allegations and the relief

sought are clearly vexatious. The applicants are biased in their dealings with the Law Society and they are most probably not acting in good faith.

15. The applicants and/or Van Niekerk interfered in the Law Society's investigation from the outset. The correspondence received from Van Niekerk reflects this unequivocally.
16. The applicants and/or Van Niekerk were not prepared to let the matter take its normal course. They expected the matter to receive preferential treatment and to be handled on an urgent basis and in accordance with their demands.
17. The applicants and/or Van Niekerk attempted to dictate to the Law Society regarding the proceedings of the investigating committee and/or disciplinary committee. I will refer to specific examples of their conduct in this regard below.
18. The applicants' and/or Van Niekerk's attitude in dealing with the Law Society was, to put it bluntly, arrogant.
19. The applicants and/or Van Niekerk accused the Law Society of delaying the

matter in circumstances where it did not delay the matter and acted reasonably towards all the parties and, further, in circumstances where the applicants themselves were responsible for delays.

20. The applicants and/or Van Niekerk complained about the fact that the second, third and fourth respondents were granted an extension to file an answer to the complaint without first seeking the applicants' approval. The position is that a complainant has no involvement when the Law Society exercises its discretion in considering a request for such extension. A complainant is furthermore not in a position to complain about an extension afforded to an attorney where the complainant himself has sought and has been granted such indulgence.
21. The applicants and/or Van Niekerk insisted on dictating who the members of the Law Society's investigating committee and/or disciplinary committee should be. They, for example, insisted that the committee be comprised of retired judges which request was unsustainable in view of the provision of the Attorneys' Act and the Law Society's Rules.
22. The applicants and/or Van Niekerk insisted that an advocate be appointed as

the *pro forma* prosecutor during the proceedings of the investigating committee which insistence was, likewise, ill advised.

23. The applicants and/or Van Niekerk insisted that the Law Society compels the second, third and fourth respondents to answer to the complaint under oath in circumstances where the second, third and fourth respondents are under no obligation to do so and where the Law Society has no statutory power to compel them.
24. The applicants insisted that the Law Society compels the second, third and fourth respondents to file confirmatory affidavits in circumstances where they are not obliged to do so and where the Law Society has not statutory power to compel them to file such affidavits.
25. The nature of the proceedings of a disciplinary committee has apparently escaped the applicants and/or Van Niekerk. The proceedings constitute neither criminal nor ordinary civil proceedings. Further, once the disciplinary enquiry has commenced, the complainants, attorneys and the witnesses will testify under oath. They will be subjected to cross-examination and the evidence will be tested. I refer to the Law Society's Rules in this regard.

26. I consider it prudent to refer the Honourable Court to further specific examples of the respondents' and Van Niekerk's appalling conduct in this matter:

26.1 The Law Society addressed a letter to Van Niekerk on 1 July 2011, but he only replied thereto five weeks later, on 10 August 2011. Yet he accuses the Law Society of delaying the matter.

26.2 As early as 10 August 2011 the applicants and/or Van Niekerk suggested, without having any reasons for doing so, that the Law Society:

26.2.1 may not be serious about the complaint; and

26.2.2 may be reluctant to apply its Rules strictly.

26.3 The Law Society forwarded the second, third and fourth respondents' answer to the complaint to Van Niekerk on 30 August 2011. He only advised the Law Society one month later, on 26 September 2012, that the applicants required an extension for purposes of filing the applicants' reply. He did so after previously having objected to an extension being granted to the second, third

and fourth respondents.

26.4 Van Niekerk submitted the complainants' reply to the second, third and fourth respondents' answer (without supplementary affidavits) on 14 October 2011, after having had received the second, third and fourth respondents' comments six weeks earlier, on 30 August 2011. Yet he accuses the Law Society of delaying the matter.

26.5 Van Niekerk only forwarded Faris' report to the Law Society on 27 August 2012. Shortly thereafter, on 11 September 2012, he again addressed a letter to the Law Society complaining that he has not received an indication as to the steps which the Law Society proposed to take pursuant to the report. Van Niekerk and/or the applicants did not appear to be interested in affording the Law Society a reasonable and sufficient opportunity to consider the report and to deal therewith at Council level. The applicants and/or Van Niekerk furthermore did not appear to consider it either reasonable or proper or prudent for the Law Society to obtain the second, third and fourth respondents' comments on the report before taking a decision. The applicants and/or Van Niekerk's conduct was highly unreasonable.

- 26.6 On, *inter alia*, 2 December 2011 and 31 January 2012 Van Niekerk addressed scathing letters to the Law Society, presumably on the instructions of the applicants. The letters contained highly contemptuous, scandalous and vexatious allegations concerning the Law Society.
- 26.7 It was apparent from these letters as well as other letters by Van Niekerk that the applicants and/or van Niekerk were prejudiced in their dealings with the Law Society. They, *inter alia*, accused the Law Society of having prejudged the matter. At that time the matter had not yet served before the investigating committee. It appeared that it was in fact the applicants and/or Van Niekerk who had prejudged the matter and that they were not prepared to allow the Law Society a proper opportunity to deal with the complaint.
- 26.8 The Law Society was also accused of partaking in *behind the scene scheming* which allegation was entirely unfounded and purely vexatious.
- 26.9 The Law Society strongly objected to Van Niekerk's and/or the applicants' allegations by way of a letter dated 8 February 2012 (page 725 of the record). The Law Society explained the disciplinary procedures and provided the applicants and Van Niekerk with the correct facts.

- 26.10 Neither the applicants nor Van Niekerk at any stage disputed the correctness of the contents of the Law Society's said letter.
- 26.11 The applicants and/or van Niekerk were on 17 September 2012 advised that the disciplinary enquiry would take place on 28 November 2012 and 29 November 2012. Despite their unfounded allegations concerning delays caused by the Law Society and despite having been aware of the date of the disciplinary enquiry since 17 September 2012, Van Niekerk waited until one week before the enquiry to address a letter to the Law Society and to request that the disciplinary enquiry be postponed. Van Niekerk alleged, *inter alia*, that he was committed to be in the United States on the dates of the enquiry. A copy of Van Niekerk's letter is attached hereto as **annexure 1**.
- 26.12 In his letter dated 19 November 2012 Van Niekerk acknowledged receipt of the Law Society's letter dated 30 October 2012 requesting him (and the applicants) to appear before the disciplinary committee on 28 November 2012 and 29 November 2012. I deduce that Van Niekerk by referring to the Law Society's letter dated 30 October 2012 attempted to create the impression that he was only on 30 October 2012 notified of the date of the enquiry. Van

Niekerk was in fact advised of the date of the enquiry on 17 September 2012. I refer to the Law Society's chronology in this regard as well as the Law Society's letter to Van Niekerk dated 17 September 2012 (page 691 of the paginated application).

- 26.13 A significant allegation which can be found in Van Niekerk's letter (annexure 1) is the following:

We submit that there can be no prejudice to Ronald Bobroff & Partners considering that the matter has been delayed for some eighteen months now, largely as a result of their dilatory conduct.

- 26.14 First there has been no unreasonable delay in the matter. Second Van Niekerk now alleges that delays occurred mainly as a result of the second, third and fourth respondents conduct and not due to the conduct of the Law Society. Van Niekerk makes this allegation in circumstances where it is the applicants' case that it is the Law Society that is responsible for delays (which is denied).

- 26.15 The Law Society has been advised that Van Niekerk on 29 October 2012 issued a media release concerning the matter. The Law Society obtained a

copy thereof and I attach it as **annexure 2**.

26.16 In the first paragraph Van Niekerk refers to the involvement of Discovery Holdings and confirms that he has been instructed by Discovery. I will again refer to this aspect.

26.17 In the tenth paragraph Van Niekerk states that the third and fourth respondents *have strenuously avoided answering the complaint*. This statement is factually incorrect. The second, third and fourth respondents submitted comprehensive comments on the complaint. Van Niekerk is in possession of the second, third and fourth respondents' comments and the first applicant has attached a copy thereof to her founding affidavit.

THE APPLICATION FOR SUSPENSION/STRIKING

27. Section 22 of the Attorneys' Act empowers and authorizes the Law Society to bring an application for the suspension of an attorney or the striking of an attorney's name from the roll of attorneys.

28. I submit that it is highly inappropriate for a complainant to bring an application

to the Court to have the name of an attorney struck from the roll or to have him suspended. A complaint is first lodged with the Law Society. The Law Society investigates the complaint and refers the facts to the Court if necessary and appropriate and after having finalised its own investigation and disciplinary enquiry.

29. The Law Society is the competent and responsible authority to investigate complaints against attorneys and to bring an application to have the name of an attorney struck from the roll, alternatively to have an attorney suspended.
30. This Honourable Court does however have the inherent jurisdiction to regulate the conduct of its officers. The Court has wide powers and may *mero motu* call upon an attorney to show cause why his name should not be struck from the roll of attorneys. The correct procedures should however be followed in the process of referring facts to the Court.
31. It is highly undesirable for a complainant, who accuses an attorney of unprofessional conduct, to merely refer the facts to the Court and to apply for the attorney's striking or suspension. Such application cannot be open to anyone who complains about the conduct of his or her attorney. It will cause

havoc and it will be to the detriment of all concerned, including the complainant, the attorney, the Court and the Law Society.

32. The principle that it is desirable to have a professional body to regulate the affairs of the attorneys' profession has long been recognized. The Law Society is a statutory body and acts as the *custos morum* of the attorneys' profession. In terms of the provisions of Section 22 of the Attorneys' Act it is incumbent upon the President of the Law Society to bring facts to the attention of the Court. The Law Society carries out its objects as provided for in the Attorneys' Act and the Law Society's Rules. The Law Society is the guardian of the prestige, status and dignity of the attorneys' profession and therefore the appropriate body to bring facts to the attention of the Court.
33. The Legislature considered the Law Society to be the appropriate body to launch an application for the striking of the name of an attorney from the roll or to have the attorney suspended.
34. Section 22 of the Attorneys' Act provides:

Any person who has been admitted an enrolled as an attorney may on

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application by the society concerned be struck off the roll or suspended from practice by the court within the jurisdiction of which he practices-
(my underlining)

35. Section 72(6) of the Attorneys' Act provides:

a competent court, at the instance of the society concerned, to suspend any practitioner from practice or to strike him from the roll.
(my underlining)

36. The abovementioned provisions are clear and unambiguous.

37. The proceedings in a striking and suspension application are disciplinary and *sui generis* in nature. They do not constitute either criminal or ordinary civil proceedings. An application by the Law Society is a request to the Court by the professional body to consider facts and to utilize its disciplinary powers in respect of an attorney who has allegedly made himself guilty of unprofessional conduct.

38. This Honourable Court is entitled to regulate the procedure to be followed

when facts are referred to the Court and how and by whom they should be brought before the Court.

39. It is in the interest of the public, the attorneys' profession, the Court and the practitioner concerned that the facts be referred to the Court by the Law Society. Disciplinary steps against an attorney is a serious matter and an application for suspension or striking should not be embarked upon lightly.
40. Before facts are referred to the Court a complaint must be investigated and dealt with by the Law Society. The proceedings of an investigating committee where appropriate and a disciplinary committee must first be concluded.
41. The Law Society should at all times deal reasonably with an attorney as any allegations of unprofessional conduct may adversely affect him in his practice, condemn him in the eyes of the public and destroy his reputation. This is especially so in circumstances where the complaint may very well prove to be without merit.
42. In circumstances where an attorney has other partners, it will also be in the other partners' interest that the matter be dealt with as aforesaid. Where an

application for suspension or striking is brought by a complainant, a partner or co-director of the accused attorney stands unprotected.

43. An attorney will always be exposed to clients who are dissatisfied with the service they had received. A situation where any disgruntled client can merely approach the Court will cause chaos, especially in circumstances where an investigation and a disciplinary enquiry have not yet been concluded.
44. Attorneys should furthermore be protected from unfounded or ill-conceived applications by disgruntled clients.
45. The Law Society's main function in disciplinary matters is therefore to refer the relevant facts to the Court and to assist the Court. The Law Society is an impartial body and it will refer facts to the Court after having conducted its own investigation, after having finalized a disciplinary enquiry and after having considered the facts at Council level. The Law Society should therefore be involved in the disciplinary proceedings from the outset and until the conclusion thereof. This Honourable Court has in the past accorded great weight to the views of the Law Society. The Law Society should be allowed to perform the abovementioned functions independently, unhindered and without

the interference of complainants.

46. The Law Society is fully aware of its position as the guardian of the prestige, status and dignity of the attorneys' profession and it has an excellent track record in taking steps against attorneys and bringing application in both the High Court and the Supreme Court of Appeal.
47. In view of the abovementioned facts and the aforesaid principles the application for the suspension of the third and fourth respondents should, with respect, not be entertained by the Honourable Court. The application is premature and the application for this relief should be dismissed. A decision to bring a striking alternatively a suspension application can only be properly considered and a decision taken once the Law Society's investigation and the disciplinary enquiry have been concluded.
48. I have already referred the Honourable Court to the fact that the disciplinary enquiry has been rescheduled to take place during late November 2012.

**NOTICE OF MOTION AND FIRST APPLICANT'S FOUNDING
AFFIDAVIT**

49. I will now refer the Honourable Court to the Law Society's comments on the notice of motion and founding affidavit.

NOTICE OF MOTION

50. **The first paragraph**

- 50.1 The relief sought in the first paragraph relates to the second, third and fourth respondents.

- 50.2 The second, third and fourth respondents indeed have a duty to cooperate with the Law Society in its investigation. The Law Society has received comprehensive comments from them regarding the complaint.

- 50.3 Although it is expected of an attorney to furnish the Law Society with his/her comments on the complaint, he/she is not duty bound to do so under oath. An attorney is an officer of the Court. Replying to a complaint and making

allegations which later appear to be incorrect places the attorney at risk.

- 50.4 Due to the role and status of an attorney as a member of the Law Society and an officer of the Court the Law Society does not require an attorney to comment on a complaint under oath. I cannot recall one instance where an attorney was requested by the Law Society to comment on a complaint by way of affidavit.
- 50.5 Should an attorney fail to reply to a complaint under oath and where the complaint subsequently serves before a disciplinary committee, the attorney's allegations and explanations will carry less weight than allegations and explanations which were given under oath. The decision whether to reply to a complaint by way of a statement alternatively by way of affidavit rests with the attorney.
- 50.6 Although the Law Society may request an attorney to reply to a complaint under oath, the Law Society is not empowered to compel an attorney to submit his comments under oath.
- 50.7 The document referred to as a *request for outstanding information dated 28*

February is not a document provided for by either the provisions of the Attorneys' Act or the Law Society's Rules. The second, third and fourth respondents are not obliged to reply to the said request and the Law Society is not empowered to compel them to do so.

50.8 The *request for outstanding information dated 28 February 2012* was handed to the investigating committee by the applicants' counsel on 28 February 2012. The investigating committee did not consider it necessary to deal with the said document further and subsequently made recommendations to the Law Society as to how the matter was to be proceeded with, without referring to the said request.

51. **The second paragraph**

51.1 With reference to paragraph 2 of the notice of motion the third and fourth respondents do not have a duty to confirm their comments on the complaint under oath or to file confirmatory affidavits. The onus to comment on a complaint properly rests with the attorney and he will furnish the Law Society with the strongest possible evidence he deems fit and appropriate.

51.2 The Law Society is not empowered to compel an attorney to furnish his answer to a complaint under oath or to file confirmatory affidavits.

52. **The third paragraph**

52.1 The relief requested in the third paragraph of the notice of motion concerns the Law Society. The Law Society is fully aware of its duties in terms of the Attorneys' Act and the Law Society's Rules. The Law Society has at all times complied with its duties and it has done so properly and diligently. The Law Society also intends doing so in future. The Law Society has also fully complied with its duties relating to the applicants' complaint and the Law Society has handled it properly, diligently and responsibly.

52.2 I have already referred the Honourable Court to the applicants' unmeritorious insistence that the comments of the second, third and fourth respondents be placed under oath and that they file confirmatory affidavits. I do not repeat my comments in this regard.

52.3 The Law Society is, likewise, fully aware of its powers of inspection. It will exercise those powers properly and diligently but it will simultaneously do so in

a responsible manner. The report by Faris is under consideration by the Council. The second, third and fourth respondents had an opportunity until 19 November 2012 to reply to Faris' report and the Council will consider the matter further during its monthly meeting to be held on 30 November 2012. The Law Society has received the second, third and fourth respondents' comments on Faris' report.

52.4 The Law Society acted correctly and reasonably by affording the second, third and fourth respondents an opportunity to comment on Faris' report before taking its decision.

53. **The fourth paragraph**

Paragraph 4 of the notice of motion concerns the second, third and fourth respondents. I have already dealt with the document referred to as a *request for outstanding information dated 28 February 2012*.

54. **The fifth paragraph**

54.1 The relief requested in paragraph 5 of the notice of motion again concerns the

Law Society. The relief requested is without merit and stands to be dismissed. The Council has not finally considered the report by Faris. It will do so on 30 November 2012 and it will also consider the second, third and fourth respondents' comments on the report.

54.2 The relief requested in paragraph 5 of the notice of motion is therefore premature.

54.3 The evidence will show that the applicants expected the Council to resolve on an urgent basis to conduct an inspection of the second, third and fourth respondents' bookkeeping without applying its mind, without properly considering Faris' report and without the availability of the second, third and fourth respondents' comments on Faris' report.

54.4 Should the Council resolve that an inspection should be conducted by an auditor or forensic investigator, the report on the inspection will be considered to be privileged. The auditor or forensic investigator who will conduct such inspection will act as the Law Society's expert and he will testify during the disciplinary proceedings.

55. **The sixth and seventh paragraphs**

The relief sought in paragraphs 6 and 7 of the notice of motion deals with the striking of the names of the third and fourth respondents from the roll of attorneys and/or their suspension pending a return date. Such relief is unsustainable in view of the facts already provided.

56. **The eight paragraph**

With reference to paragraph 8 of the notice of motion I reiterate that the Law Society has properly and effectively carried out its duties with reference to the applicants' complaint. I have already dealt with Faris' report and the consideration thereof by the Council.

57. **The ninth and tenth paragraphs**

The relief requested in paragraphs 9 and 10 of the notice of motion is unsustainable for the reasons already advanced.

58. The eleventh paragraph

The relief requested in paragraph 11 of the notice of motion concerns all the respondents. As far as the Law Society is concerned the request is ill advised and not practically enforceable. The Law Society acts as the statutory *custos morum* of the profession and it is therefore the proverbial watchdog of the profession. The applicants appear to request an order that the Honourable Court acts as the watchdog of the Law Society. Such relief is entirely unfounded, unsustainable and inconsistent with the provisions of the Attorneys' Act and the role and functions of the High Court.

59. The cost order

The applicants' request for a cost order against the Law Society is entirely unwarranted in the circumstances. The Law Society requests the Honourable Court to dismiss the application as far as the relief sought against the Law Society is concerned. I submit that in view of the applicants' and/or Van Niekerk's unacceptable conduct a cost order in favour of the Law Society on the attorney and own client scale will be appropriate.

FIRST APPLICANT'S FOUNDING AFFIDAVIT60. **AD PARAGRAPH 2 THEREOF**

I deny that the allegations contained in the founding affidavit are true and correct in all respects.

61. **AD PARAGRAPH 3 THEREOF**

61.1 The first applicant is Jennifer Graham and she also deposed to the founding affidavit.

61.2 The first applicant's *locus standi* is with respect questionable. She does not appear to have been a client of the second respondent.

61.3 It is common cause that the applicants' legal costs in both the complaint against the second, third and fourth respondents and in this application are funded by the Discovery Medical Scheme and that Van Niekerk has been instructed by Discovery and not by the applicants. The exact involvement of Discovery and the reasons for its involvement have however not been properly

disclosed and/or explained.

62. **AD PARAGRAPH 8 TO 14 THEREOF**

The third and fourth respondents are not the only directors of the second respondent. The applicants' failure to join the second respondent's other director/directors to the application constitutes a material non joinder.

63. **AD PARAGRAPH 6 THEREOF**

The correct citation of the Law Society can be found in paragraph 1.1 of this affidavit.

64. **AD PARAGRAPH 8 THEREOF**

I deny the allegations contained in this paragraph. The first applicant probably meant to refer to the Law Society's investigation and disciplinary enquiry. The disciplinary enquiry is pending.

65. **AD PARAGRAPH 15 THEREOF**

65.1 I deny that the Law Society has failed to take the requisite action in expeditious and proper fulfillment of its obligations. I respectfully refer the Honourable Court to the chronology.

65.2 I reiterate that the Law Society has properly and diligently fulfilled all its duties and obligations, that it has dealt with the complaint correctly and that it has acted reasonably towards all the parties involved.

65.3 The second, third and fourth respondents have indeed furnished the Law Society with comprehensive comments on the complaint. The said comments form part of the applicants' papers. I therefore deny the first applicant's allegation regarding the second, third and fourth respondents failure in this regard.

65.4 A more accurate statement would have been that the applicants are not satisfied with the response received from the second, third and fourth respondents and that they do not agree with the said comments and explanations.

66. **AD PARAGRAPH 16 THEREOF**

66.1 I deny the allegations contained in this paragraph.

66.2 The applicants' allegation that the Honourable Court's intervention is required, is without merit and the request for such intervention is unwarranted.

66.3 The Law Society is in the process of conducting a disciplinary enquiry and it has taken the necessary steps expeditiously and with the seriousness that the matter deserves. The disciplinary enquiry would in all probability have been finalized was it not for the applicants' and/or Van Niekerk's interference in the fulfillment of the Law Society's duties. To make matters worse Van Niekerk on 19 November 2012 requested the Law Society to postpone the disciplinary enquiry in circumstances where he has been aware of the date of the disciplinary enquiry since 17 September 2012.

67. **AD PARAGRAPH 19 THEREOF**

67.1 I deny that the Law Society has failed to take appropriate action in order to

investigate the allegations of misconduct.

67.2 The Law Society is fully aware of what the appropriate action in the circumstances entails. I submit that the applicants are not.

67.3 The applicants and/or Van Niekerk have been kept apprised of developments in the matter and they are in fact fully aware of the fact that the Law Society has acted correctly and appropriately at all times. The applicants have been kept advised of the steps the Law Society took and intended to take and the reasons for those steps.

67.4 The second, third and fourth respondents have replied to the complaint comprehensively. Their version will be dealt with, tested and considered during the Law Society's enquiry.

68. **AD PARAGRAPH 21 THEREOF**

68.1 I deny that that the Law Society has failed to perform its duties either timeously or seriously. I refer the Honourable Court to the abovementioned chronology.

68.2 The Law Society is not empowered to compel the second, third and fourth respondent to reply to the complaint under oath and to submit any further documentation or affidavits to the Law Society. The Law Society did not agree to the applicants' request in this regard and the Law Society's decision was correct and fully justified.

68.3 I therefore deny that the Law Society has failed to respond to the applicants' and/or Van Niekerk's request. I refer the Honourable Court to the chronology and the correspondence exchanged between the Law Society and Van Niekerk.

68.4 The Law Society advised Van Niekerk in writing on 3 July 2012 that it does not have the power to compel the second, third and fourth respondents to comply with the applicants' and/or Van Niekerk's request.

69. **AD PARAGRAPH 22 THEREOF**

69.1 I deny that the Law Society is either unwilling or unable to fulfill its duties. I respectfully refer the Honourable Court to the steps which have been taken by

the Law Society since having received the complaint.

69.2 The allegation that the Law Society's Council is refusing to conduct an inspection is factually incorrect and therefore denied. The applicants are aware of the fact that no such decision has been taken and that the report together with the second, third and fourth respondent's comments will serve before the Council on 30 November 2012. The applicants owe the Court why an explanation as to untruths have been submitted to the Court under oath. The applicants and/or Van Niekerk should in my view be called upon to show cause why their conduct in this regard should not be considered to be perjury and an attempt to mislead the Court.

70. **AD PARAGRAPH 23 THEREOF**

70.1 The allegation that the situation has become intolerable is unsubstantiated and therefore rejected.

70.2 I deny that *urgent action* is required. Although the applicants allege that urgent action is required they do not substantiate the allegation or explain why the matter should be dealt with on an urgent basis.

70.3 It is however clear from the correspondence addressed to the Law Society by the applicants and/or Van Niekerk that they expected the Law Society to handle the matter on an urgent basis from the outset. The Law Society will not afford the applicants special treatment and it will handle the complaint in the normal course, as it does in respect of all other complaints.

70.4 The complaint is in fact not urgent and the expectation by the applicants and/or Van Niekerk that the matter be handled on an urgent basis was unjustified.

71. **AD PARAGRAPH 24 THEREOF**

71.1 I deny that the situation is urgent. The complaint is dealt with in the normal course and in a similar manner as the other thousands of complaints that are received and investigated by the Law Society.

71.2 I accordingly deny that urgent action is required.

71.3 The complaint has been properly investigated to date and the disciplinary

enquiry is scheduled to take place during late November 2012. In view of this application the continuance of the disciplinary enquiry scheduled for 28 November 2012 hangs in the balance. This state of affairs is unfortunate, but a direct result of the applicants' conduct. The applicants on 19 November 2012 requested a postponement of the disciplinary enquiry. Their said request should be referred to and dealt with by the disciplinary committee.

71.4 I deny that *responsive action* is urgently required from the Law Society.

71.5 The proceedings of the investigating committee took place on 28 February 2012. The disciplinary enquiry was initially scheduled for 25 July 2012. The disciplinary enquiry has now been rescheduled for 28 November 2012 and 29 November 2012.

72. **AD PARAGRAPH 27 THEREOF**

72.1 I deny that the applicants and/or Van Niekerk have struggled to ensure that the Law Society expeditiously and properly deal with the allegations against the second, third and fourth respondents. The Law Society has indeed dealt with the matter expeditiously and properly. The applicants and/or Van Niekerk

simply attempted to interfere and to dictate to the Law Society. In his letter dated 19 November 2012 (annexure 1 hereto) Van Niekerk in effect admitted that the Law Society was not responsible for delays.

72.2 The applicants expected their complaint to be given preference to the other complaints which are received and investigated by the Law Society, which complaints are equally important. They insisted on dictating to the Law Society which steps to take, when to take those steps and how to conduct its investigation and disciplinary enquiry. Simply put, the applicants and/or Van Niekerk continuously interfered in the fulfillment of the Law Society's duties.

72.3 I again deny the allegation that the Law Society refused to perform an inspection.

73. **AD PARAGRAPH 52 THEREOF**

The request directed by the applicants and/or Van Niekerk to the Law Society referred to in this paragraph was without merit. The Law Society is not empowered to make such a finding. The validity of so-called contingency fee agreements will be decided upon by this Honourable Court in the De la Guerre

matter which has been set down for hearing before a full bench of this Honourable Court on 29 November 2012.

74. **AD PARAGRAPH 51.4 THEREOF**

I refer to my comments in paragraph 73 above.

75. **AD PARAGRAPH 51.7 THEREOF**

I deny the allegations contained in this paragraph. The complaint served before an investigating committee which provided the Law Society with its recommendations. The Law Society considered the recommendations and then scheduled the disciplinary enquiry.

76. **AD PARAGRAPH 54.2.1 THEREOF**

The Law Society did not request the second, third and fourth respondents for access to their internal note taking and fee billing records as it was not necessary to do so. The complaint, including the first applicant's supplementary affidavit (the supplementary complaint) dealing with the

matter was referred to the investigating committee for consideration and for purposes of the committee's recommendations to the Law Society's disciplinary department. These matters will now be dealt with by the disciplinary committee.

77. **AD PARAGRAPH 54.2.2 THEREOF**

In the Law Society's notice to the second, third and fourth respondents to appear before the investigating committee of the Council the Law Society notified them to bring to the committee all relevant documents, office files and accounting records relating to the matter. The Law Society's notice to the second, third and fourth respondents to appear before the disciplinary committee also contained this request.

78. **AD PARAGRAPH 54.2.3 THEREOF**

The second, third and fourth respondents were not obliged to either reply to the complaint under oath or to file confirmatory affidavits. I have already dealt with this aspect.

79. **AD PARAGRAPH 54.2.4 THEREOF**

The allegations of questionable signatures on documentation in the possession of the second, third and fourth respondents were also referred to and dealt with by the investigating committee. The matter will now be dealt with by the disciplinary committee

80. **AD PARAGRAPH 56 THEREOF**

The second, third and fourth respondents refused to participate in the proceedings of the investigating committee and indicated that they would deal with the charges formulated against them during the proceedings of the disciplinary committee. The investigating committee recommended that a disciplinary enquiry should be conducted and charges were therefore formulated.

81. **AD PARAGRAPH 56.1.4 THEREOF**

81.1 The investigating committee indeed recommended that charges be preferred against the second, third and fourth respondents, although it is not correct



that twenty charges were recommended.

81.2 The recommendation by the investigating committee that an inspection of the second, third and fourth respondents practice be conducted was referred to the Law Society's Monitoring Unit in order for this department to deal with the matter in the normal course. Van Niekerk was advised accordingly. The matter was subsequently again referred to the Council to deal with the matter further.

82. **AD PARAGRAPH 57 THEREOF**

82.1 I deny that the Law Society declined to order an inspection of the practice of the second, third and fourth respondents. The Law Society referred the investigating committee's recommendations to the Law Society's Monitoring Unit for consideration. The correct position is that the Council did not take a decision to conduct an inspection at that time. An inspection of the accounting records and practice affairs of the second, third and fourth respondents are currently under consideration, as explained above.

82.2 The Law Society does not report to either the applicants or Van Niekerk. It acts independently and in an unbiased manner.

83. **AD PARAGRAPH 60 THEREOF**

83.1 The allegations contained in this paragraph are, likewise, inaccurate. The second, third and fourth respondents agreed not to proceed with the review application if a new disciplinary committee would be appointed. The Law Society considered its position and due to the fact that the review application would have delayed the disciplinary enquiry substantially, the Law Society agreed and resolved to convene a new disciplinary committee. It was not necessary for the Law Society to refer the matter to the applicants and/or Van Niekerk. The Law Society acts independently and do not allow interference by complainants or their attorneys.

83.2 The Law Society advised Van Niekerk that a new disciplinary committee would be appointed.

83.3 Objections by the applicants, if any, will be dealt with by the disciplinary committee.

83.4 The applicants' allegation that they have little faith in the Law Society's

disciplinary proceedings is unfounded and, significantly, not substantiated in the founding affidavit.

- 83.5 The applicants' *fear* referred to in this paragraph is, likewise, without merit. The said allegation in fact reflects *bias* on the part of the respondents and/or Van Niekerk in their dealings with the Law Society which bias has been demonstrated from the outset.

84. **AD PARAGRAPH 62 THEREOF**

I deny that an immediate inspection is required. The Law Society will consider the report by Faris and it will do so properly and diligently. It will also consider the second, third and fourth respondents' comments on Faris' report. The Council will consider an investigation during its monthly meeting to be held on 30 November 2012. It is important for the Law Society to act reasonably at all times. The reasonable and responsible approach was to grant the second, third and fourth respondents an opportunity to reply to Faris' report before taking a final decision.

85. **AD PARAGRAPH 63 THEREOF**

The Law Society received Van Niekerk's letter to which was attached Faris' report on 30 August 2012. On this date the monthly meeting of the Council for August 2012 had already taken place. The matter was therefore referred for consideration by the Council during its meeting to be held at the end of September 2012. At the last mentioned meeting the Council resolved to refer Faris' report to the second, third and fourth respondents for comment. The second third and fourth respondents there after requested a copy of Faris' preliminary report dated 22 August 2012. The Council considered this request at its meeting held on 26 October 2012. The Council resolved to furnish the second, third and fourth respondents with a copy of Faris' preliminary report and to afford them until 19 November 2012 to furnish the Law Society with their comments. The matter will again be considered at the first possible meeting of the Council, namely on 30 November 2012.

86. **AD PARAGRAPH 64 THEREOF**

I deny the allegations contained in this paragraph. The Law Society replied to the said letter on 13 September 2012.

87. **AD PARAGRAPH 65 THEREOF**

87.1 Van Niekerk addressed letters to the Law Society on 27 August 2012 and 11 September 2012 after not having received an immediate reply. The situation was not at all intolerable. The applicants' and/or Van Niekerk's expectation to receive an immediate reply was unreasonable.

87.2 The unsubstantial delay in replying to the letter dated 27 August 2012 was caused at least in part by the conduct of the applicants and/or Van Niekerk. The letter dated 27 August 2012 was addressed to the Director of the Law Society. The applicant's complaint is however dealt with by Mr Fourie, a senior legal official in the employ of the Law Society's disciplinary department. The correspondence should have been addressed to Fourie.

88. **AD PARAGRAPH 66 THEREOF**

The reference to an *apology of sorts* is dismissive and contemptuous. The said apology constituted a sincere apology.

89. **AD PARAGRAPH 68 THEREOF**

I deny that the Council of the Law Society on 26 September 2012 rejected the request that an investigation be conducted. No such decision was taken. I have already referred the Honourable Court to the correct facts concerning the Council's decisions.

90. **AD PARAGRAPH 69 THEREOF**

I already dealt with Faris' report and the consideration thereof by the Council.

91. **AD PARAGRAPH 70 THEREOF**

91.1 I deny that the Law Society is unwilling to expeditiously and diligently comply with its duties or that it had demonstrated on alleged unwillingness to expeditiously and diligently comply with its duties.

91.2 The Law Society dealt with the matter correctly, properly, diligently and in accordance with its duties and powers set out in the Attorneys' Act.

91.3 The fact that the Law Society was not unwilling to expeditiously and diligently fulfill its duties is in fact apparent from both the chronology and the first applicant's founding affidavit.

92. **AD PARAGRAPH 72 THEREOF**

92.1 I deny that the Law Society failed to independently and vigorously pursue the complaint. The Law Society fulfilled its duties and acted in accordance with the provisions of the Attorneys' Act and Law Society's Rules.

92.2 The Law Society has acted independently, despite the fact that the applicants and/or Van Niekerk did not wish the Law Society to do so. They in fact attempted to dictate to the Law Society and to do *as they said*. They furthermore expected the Law Society to comply with their demands immediately. They were clearly not interested in allowing the Law Society an opportunity to apply its mind.

92.3 The further allegations contained in this paragraph are without merit. The applicants' version on the alleged decision of the Council on 26 September 2012 is factually incorrect.

93. **AD PARAGRAPH 73 THEREOF**

93.1 I deny any failure on the part of the Law Society.

93.2 I similarly deny the alleged *other abdications and evasions* referred to in this paragraph. The allegations in this regards are not only vague and unsubstantiated, but evidence a biased and contemptuous attitude on the part of the applicants. The relevant allegations were most probably made with the sole purpose of creating atmosphere. The applicants are invited to explain the said allegations to the Honourable Court.

94. **AD PARAGRAPH 75 THEREOF**

I deny that the Law Society has been *unmoved* by the conduct of the second, third and fourth respondents. The allegations in this regards are, likewise, unfounded.

95. **AD PARAGRAPH 75.1 THEREOF**

The Law Society referred the complaint to the second, third and fourth respondents and requested a reply. The decision whether or not to produce certain documents was that of the second, third and fourth respondents. If they fail to produce material documents, they do so at their own peril. The Law Society is not empowered to force and compel the second, third and fourth respondents to submit certain documents and/or affidavits against their will.

96. **AD PARAGRAPH 75.2 THEREOF**

It is correct that the Law Society did not take steps to procure originals of certain documents. It was neither necessary nor appropriate for the Law Society to do so. The Law Society will not be dictated to in this regard by the applicants or Van Niekerk. The matter will serve before the disciplinary committee and the second, third and fourth respondents will be required to deal with the relevant charges.

97. **AD PARAGRAPH 76 THEREOF**

97.1 I deny any failure on the part of the Law Society.

97.2 The reference to an *inexplicable failure* on the part of the Law Society is, likewise, rejected.

97.3 The Law Society has indeed fulfilled all its duties. The Law Society referred the matter to an investigating committee and there after proceeded with a disciplinary enquiry.

98. **AD PARAGRAPH 78 THEREOF**

98.1 The Law Society received several letters from Van Niekerk. The allegations which Van Niekerk made in those letters were without merit, contemptuous and in most cases scandalous and/or reckless.

98.2 The letters addressed by Van Niekerk to the Law Society did not contain mere requests. The letters evidenced vigorous attempts to dictate to the Law Society and they constitute harassment.

98.3 The Law Society referred the complaint to the second, third and fourth respondents and the Law Society received their reply.

99. **AD PARAGRAPH 75.2 THEREOF**

The Director of the Law Society replied to the said email from Van Niekerk dated 22 November 2011. He did so on 23 November 2011. The Law Society, *inter alia*, explained to Van Niekerk that no disciplinary enquiries are scheduled for the month of December of every year due to the unavailability of committee members.

100. **AD PARAGRAPH 78.12 THEREOF**

100.1 By 16 January 2012, when Van Niekerk addressed the said letter to the Law Society, the proceedings of the investigating committee had already been scheduled to take place in February 2012.

100.2 The applicants and/or Van Niekerk are not in a position to demand explanations from the Law Society. The Law Society acts independently and it does not report to either the applicants or Van Niekerk. Furthermore, if the second, third and fourth respondents avoided dealing with certain aspects or furnishing certain documents, they did so at their own peril.

101. **AD PARAGRAPH 78.13 THEREOF**

101.1 The Law Society did not *finally* reply to the letter dated 16 January 2012 on 8 February 2012. The Law Society in fact acknowledged receipt of the letter dated 16 January 2012 on 24 January 2012. The fact that the applicants have not disclosed the Law Society's letter dated 24 January 2012 to the Honourable Court requires an explanation. The decision not to disclose the said letter was most probably intentional. It in my view constitutes misrepresentation.

101.2 Van Niekerk insisted on discussing the matter with the disciplinary committee before their enquiry. His request in this regard was highly improper.

101.3 It appeared that the applicants and/or Van Niekerk did not properly distinguish, alternatively were unable to properly distinguish between the proceedings of the investigating committee and the disciplinary committee respectively.

102. **AD PARAGRAPH 78.14 THEREOF**

I deny that the Law Society has *acquiesced* in the second, third and fourth respondents' so-called failure to reply to the complaint transparently and properly. The second, third and fourth respondents indeed replied to the complaint and they did so by way of a substantial response.

103. **AD PARAGRAPH 78.15 THEREOF**

The Law Society advised Van Niekerk on the recommendations of the investigating committee on 2 March 2012.

104. **AD PARAGRAPH 78.16 THEREOF**

Van Niekerk acted unreasonably by enquiring on 12 March 2012 concerning the decisions of the Law Society in connection with the recommendations by the investigating committee. He was simply impatient. The letter dated 12 March 2012 was addressed to the Law Society 10 days after the letter dated 2 March 2012. Van Niekerk is aware or should be aware of the fact that the Council of the Law Society meets once a month.



105. **AD PARAGRAPH 78.17 THEREOF**

105.1 The applicants' and/or Van Niekerk's impatience is also evidenced by a further letter which was addressed to the Law Society on 22 March 2012. Van Niekerk enquired whether charges had been put to the second, third and fourth respondents. Again they did not allow the Law Society a proper opportunity to deal with the matter. Their impatience and unacceptable attitude is also evidenced by another letter which was addressed to the Law Society a day later, on 23 March 2012.

105.2 The reference to a lack of information from the Law Society is in any event without merit. First the Law Society does not report to the applicants or Van Niekerk. Second the Director of the Law Society addressed a letter to Van Niekerk on 29 March 2012 and furnished him with the required facts and information.

106. **AD PARAGRAPH 78.18 THEREOF**

106.1 I deny that the Law Society addressed a letter to Van Niekerk a month later.

The Law Society addressed a letter to him on 29 March 2012. It appears that the applicants wish to create an impression that the Law Society did nothing in order to reply to Van Niekerk's correspondence. It is simply incorrect.

106.2 The Law Society also addressed a letter to Van Niekerk on 19 April 2012 which letter dealt with the formulation of the charges to be considered by the disciplinary committee..

106.3 The fact that the applicants have failed to disclose to the Honourable Court several letters which were addressed to them by the Law Society requires an explanation.

107. **AD PARAGRAPH 78.21 THEREOF**

I deny that the Law Society's letter dated 3 July 2012 constituted a *response of sorts*. The applicants do not explain why they refer to the Law Society's reply as a *response of sorts*. Again the applicants' allegations are not only unfounded but contemptuous of the Law Society.

108. It is correct that the Law Society advised Van Niekerk that it was not

empowered to compel the second, third and fourth respondents to provide certain information. The Law Society advised him on the factual position.

109. **AD PARAGRAPH 78.22 THEREOF**

The allegations contained in this paragraph appear to be nonsensical and I am unable to reply thereto.

110. **AD PARAGRAPH 78.23 THEREOF**

110.1 The Law Society acts independently when taking steps of an investigatory or disciplinary nature. The Law Society does not owe the applicants an explanation.

110.2 I deny that the Law Society acted dismissively.

110.3 I deny that the Law Society communicated with Van Niekerk on the *eve* of the disciplinary hearing. The Law Society addressed a letter to Van Niekerk on 3 July 2012. The disciplinary proceedings were scheduled for 25 July 2012 and 26 July 2012 respectively.

110.4 The applicants, or at least Van Niekerk, should have been aware of the fact that the Law Society is not empowered to compel the second, third and fourth respondents to submit affidavits.

110.5 As far as the outstanding documentation is concerned the Law Society notified the second, third and fourth respondents to bring to the disciplinary enquiry all the relevant documents, files and accounting records.

110.6 It appears that Van Niekerk has probably failed to advise the applicants correctly on the role, duties and powers of the Law Society.

111. **AD PARAGRAPH 78.24 THEREOF**

111.1 The applicants' reference to the Law Society's *pro forma* counsel should have been to the Law Society's *pro forma* prosecutor.

111.2 It is correct that the Law Society was seized with the enquiry. It is furthermore correct that the first applicant was not allowed to play any part in the proceedings.

111.3 The allegations contained in this paragraph, more specifically the complaint that the applicants and their legal representatives could not play a part in the manner in which the Law Society prosecuted the complaint, is highly significant. It accords with the applicants' conduct throughout in attempting to dictate to the Law Society and to exercise control of the proceedings.

111.4 It is correct that the Law Society declined to appoint an advocate to act as the *pro forma* prosecutor. Fourie of the Law Society who acted as *pro forma* prosecutor is a senior legal official and acts as a *pro forma* prosecutor on a daily basis. Fourie has approximately 17 years experience in prosecuting disciplinary matters and he has acted as *pro forma* prosecutor in more than two thousand (2 000) disciplinary enquiries.

111.5 The reference to *equality of arms* is therefore unfounded and rejected.

111.6 I have previously referred to the fact that the applicants wish to dictate to the Law Society. Their insistence on the appointment of an advocate to act as *pro forma* prosecutor is but one example of their inappropriate conduct in this regard.

111.7 It does not appear that the applicants properly comprehend the distinction between a disciplinary enquiry on the one hand and ordinary civil proceedings on the other, despite the Law Society's efforts to explain the appropriate disciplinary procedures to Van Niekerk.

112. **AD PARAGRAPH 78.25 THEREOF**

112.1 The allegation that the Law Society did not deal with repeated requests by the applicants to compel the second, third and fourth respondents to place their version under oath is factually incorrect and therefore rejected.

112.2 The applicants refer to the provisions of Rule 95.2.1 of the Law Society's Rules and they are therefore fully aware thereof. The contents of Rule 95.2.1 are unequivocal and do not empower the Law Society to compel an attorney to place his version under oath.

113. **AD PARAGRAPH 79 THEREOF**

I deny that the Law Society is unwilling to execute its duties for the reasons

ROOTH & WESSELS
ATTORNEYS



P.B.M

already advanced.

114. **AD PARAGRAPH 80 THEREOF**

114.1 I deny that the Law Society refused to take immediate action in response to the report by Faris. I have already dealt with this aspect.

114.2 The applicants' allegations concerning the De la Guerre matter are, likewise, inaccurate. The Law Society does not oppose the application by De la Guerre. The Law Society participates in the proceedings and assists the Court.

114.3 The allegation that the applicants cannot rely on the Law Society is unfounded and rejected out of hand. This allegation, likewise, evidences the applicants' biased disposition as far as the Law Society is concerned.

114.4 I deny the allegation that the Law Society has a *supine* approach. I also deny that there is reason for any *fear* on the part of the applicants.

114.5 What is required from the applicants is to cease meddling and interfering in the Law Society's activities.

115. **AD PARAGRAPHS 81 TO 86 THEREOF**

The allegations contained in this paragraph constitute legal argument and will be dealt with by the Law Society in argument during the hearing of the application.

116. **AD PARAGRAPH 87 THEREOF**

116.1 The refusal by an attorney to comply with a request of the Law Society constitutes a contravention of the provisions of Rule 89.25 of the Law Society's Rules. The Law Society has never before brought an application for the striking of a practitioner from the roll of attorneys on the strength of the contravention of Rule 89.25 and such contravention will normally not justify the attention of the Court.

116.2 It is not correct that the third, second and third respondents failed to give an explanation for their conduct. They did. This is evident from the applicants' own version. The applicants simply did not receive the reply that they had wished for.

117. **AD PARAGRAPH 88 THEREOF**

Rule 95.2.1 of the Law Society's Rules involve a discretion on the part of the Law Society. It is improper for a complainant to attempt to interfere in the exercise of the Law Society's discretion.

118. **AD PARAGRAPH 89 THEREOF**

I deny that the Law Society acted in violation of its duties under the Rule of Law and as the statutory custodian of the attorneys' profession. These allegations are unfounded.

119. **AD PARAGRAPH 89.5 THEREOF**

I deny the alleged inability of the Law Society to properly scrutinize the affairs of the second, third and fourth respondents.

120. **AD PARAGRAPH 89.7 THEREOF**

120.1 I deny the allegations contained in this paragraph. The Law Society indeed took the appropriate action in investigating the matter and referring the matter to a disciplinary committee.

120.2 The Law Society is not dictated to by the applicants and it was not obliged to comply with their requests.

120.3 The Law Society exercises a discretion which should not be interfered with. The Law Society furthermore acts in accordance with the provisions of the Attorneys' Act and the Law Society's Rules.

121. **AD PARAGRAPH 89.8 THEREOF**

I deny that the Law Society has declined to utilize the powers at its disposal. I have already referred to the report by Faris and the fact that it is under consideration by the Council.

122. **AD PARAGRAPH 89.9 THEREOF**

I deny the allegation that the Law Society has the power under either section 69(p) of the Attorneys' Act or Rule 95.2.1 of the Law Society's Rules to compel the second, third and fourth respondents to place their version under oath.

123. **AD PARAGRAPH 93 THEREOF**

I deny the allegation that the Law Society's conduct creates dangers for unsuspecting members of the public. This allegation is unfounded and not appreciated.

124. **AD PARAGRAPH 94 THEREOF**

124.1 The applicants' request that this Honourable Court initiates an enquiry is ill advised. The Law Society has already referred the matter to an investigating committee and a disciplinary enquiry is currently pending.

124.2 The Law Society is fully aware of what its powers and duties are. The Law Society is exercising those powers and fulfilling those duties properly and

diligently.

125. **AD PARAGRAPH 95 THEREOF**

125.1 I deny any so-called *recalcitrant* conduct on the part of the Law Society.

125.2 The remaining allegations contained in this paragraph are, likewise, unfounded and simply contemptuous.

126. **AD PARAGRAPH 96.2 THEREOF**

The Law Society is properly and effectively carrying out its duties, performing its functions and exercising its powers. The Law Society is fully aware of what its powers, duties and functions are. The same cannot be said for the applicants.

127. **AD PARAGRAPH 96.3 THEREOF**

127.1 I deny any failure on the part of the Law Society.

127.2 I again deny that the Law Society has the power to compel the second, third and fourth respondents to place their versions under oath and to submit confirmatory affidavits.

127.3 I also deny that the second, third and fourth respondents enjoy inexplicable latitude at the hands of the Law Society. This allegation is without merit and purely vexatious.

128. **AD PARAGRAPH 96.5 THEREOF**

The Law Society is aware of how it ought to perform its duties. The applicants do not appear to be aware thereof.

129. **AD PARAGRAPH 96.6 THEREOF**

129.1 There exists no reason for disappointment on the part of the applicants. The reason for disappointment is in all probability their failed attempts to dictate to the Law Society and to interfere in the Law Society's processes.

129.2 I deny that the Law Society has abdicated its responsibility.

130. **AD PARAGRAPH 99 TO 101 THEREOF**


130.1 The relief requested by the applicants are with respect ill advised.

130.2 I again deny any *recalcitrant* conduct on the part of the Law Society.

130.3 I deny any untoward conduct on the part of the Law Society. I have already dealt with the remaining allegations contained in these paragraphs.

130.4 All the aspects referred to in these paragraphs will be further dealt with in legal argument during the hearing of the application.

I respectfully request the Honourable Court to dismiss the application with costs on the attorney and own client scale.

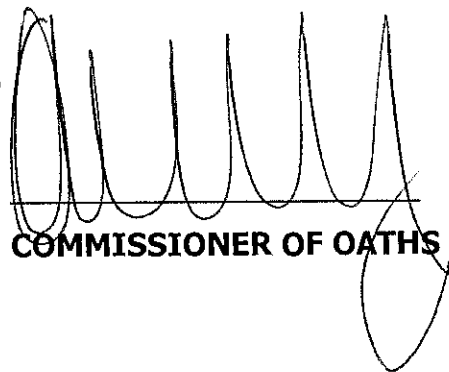


PRITZMAN BUSANI MABUNDA

I certify that this affidavit was signed and sworn to before me in my capacity as commissioner of oaths at Pretoria on this the 21 day of November 2012 by the deponent who:

- (a) confirmed that he:
 - (i) knows and understands the contents of this affidavit;
 - (ii) has no reservations about making the oath;
 - (iii) considers the oath as binding on his conscience;

(b) uttered the words "So help me God".


COMMISSIONER OF OATHS

Full names :

Full address :

Area :

Capacity :

CHRISTEL LIEBENBERG
 Kommissaris van Ede / Commissioner of Oaths
 Praktiserende Prokureur / Practising Attorney R.S.A.
 Woltemade Gebou / Building
 Paul Krugerstraat 118 Paul Kruger Street
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P-B.M

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The Law Society of the Northern Provinces
DX 50
PRETORIA

G van Niekerk/0318115 our ref
Mr J Fourie/4036/2011/AM your ref
19 November 2012

Telefax: 012 338 5826
fourie@lsnp.org.za

cc: Mr David Scholtz – Webber Wentzel:
david.scholtz@webberwentzel.com

Dear Sirs

COMPLAINT AGAINST RONALD BOBROFF & PARTNERS

We acknowledge receipt of your letter of 30 October 2012 requesting our Mr George van Niekerk and our clients Mr and Mrs Graham to attend a disciplinary committee meeting of the Council of the LNSP at your offices in Pretoria on Wednesday 28 and Thursday 29 of November 2012 in order to give evidence in regard to the complaint against Messrs Ronald and Darren Bobroff.

The writer was already committed to be in Washington DC, USA, on those dates and regrettably cannot make himself available to attend, or to accompany our clients to the hearing. At all material times, as you know, our Mr George van Niekerk has conducted the matter, and he cannot responsibly allocate it (the request to give evidence aside) to any other legal representative.

More importantly, you are aware of our clients' application to the North Gauteng High Court, for that court to take over the conduct of this complaint from the LSNP.

We have received notices of intention to oppose this application from both the LSNP and Ronald Bobroff & Partners. The answers by the respondents are due on Thursday 22 November 2012.

There is no realistic prospect that the application will be heard prior to 28 November 2012.

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edward nathan sonnenbergs incorporated registration number 2006/018200/21

directors
executives
and
consultants

M.M. Katz (chairman) P.C. Faber (chief executive) M. Mgudiwa (deputy chief executive) K. Abarder A. Aguiar R.J. Alcock A.C. Alexander D.B. Allaway† S. Anthony G.C. Badenhorst* W.J.J. Badenhorst J. Balkin D. Band F.M. Bassa* C. Becker* A.F. Bembridge A. Bennett L.J. Bilchitz Z.D. Blieden L. Bignaut* A. Boshoff J. Brodbeck* T. Buchler C.M. Buil A. Carnay* D.H. Carmichael V.O. Chaplin D. Chetty L. Christie B.J. Croome* P.H. Cronin† P.J. Dachs C. Daniels M.S. Darsot T.M. Desmond R. de la Harpe G.E. de Smit P. Descroizilles M.D.F.D.S. Domingos B. du Plessis* I. du Plessis J.C. du Preez F. Ebrahim Z. Ebrahim E. Ellis A. Erasmus* H. Farrand A.C. Feinstein† M.J. Feinstein† G.S. Felthun J.B. Ferraz J.S. Ferraz-Cardoso A.F.M. Ferreira J.R. Flax† R.I. Forster M.R. Friedman R.M. Gad K.E. Gagné* M.J. Garden C. Gelbart P.F.L. Geromont M.W. Gradidge C.L. Green† I.D. Gwaunza S.E.M. Hanif S.W. Hamison S. Hartley J.T.P. Haydock I.K. Hayes S.B. Hayes L. Helman J.D. Herbert G.R. Herholdt H.M. Herholdt E. Heystek A.C. Hoeben Prof D.B. Hutchison* A.V. Ismail Prof A.J. Itzikowitz† D. Joffe C.V. Johnson J.C. Jones D. Kamanzi* S. Kassen J. Katz L.C. Katz G.P.J. Kellerman* L. Kruger† E.J.P. Lal King* N. Lalla D.M. Lambert J.M. Langford I.B.W. Lawrence E.S. Le Grange S.C. Lederman A. Lee S.B. Levettan S.A. Lewis N. Lopes J.D. Loubser L. Louw S.A. Mackay-Davidson D. MacRobert† V. Magubane K.W. Makhubele G.F. Malan K. Markman D.H. Masher W. Mattou S.L. Mbatsha Y.A. Mendelsohn A.T. Meyerov D.B. Messerschmidt M.D. Molepo C. Morgan J.C. Morrissey M.G. Morrison M.A.C. Murphy H. Murray Chinelli N.A. Napier J.S. Naude* J.S. Nelson* N.H. Nclan A.J.L. Norton C.M. Ntuta G. Nyatanyi* G.J. Oertel J.T. Oosthuizen S.P. Osborne T. Papanikolaou T.D. Papler M. Parker† B.G. Patterson N. Pillay C.V. Pitman J.A. Pousson† J.P. Pretorius G.W. Reid P. Reyburn A.D. Richards* A. Roher A.G. Rubin R.B. Rudolph J. Rusch M.L. Sarembok† G.C. Scott R.A. Scott H.B. Senekal B.J. Serebro L. Shadrach S. Singh N. Smit H.M. Snyckers S.J. Spamer R.T. Stein M.T. Steyn V. Stilwell A.W. Symington S.P.M. Thouvenot† L. Tibshraeny M.S. Tucker J.M. Valkin V.L. van Coppenhagen I.M. van der Merwe* C. van Loggerenberg A. van Niekerk G.M. van Niekerk L.W. Viljoen J. Viviers G. Vogelmann* L.P. Voischenk* S.R. von Schimming L. Vorster D.A. Wanblad S. Weldeman H. Wessels P.A. Winer C.L. Wulfsohn J.M. Zieff

* not attorney/not director, † executive consultant, ‡ consultant, § special IP counsel

level 3 BBBEE rating

[Handwritten signature]
P.B.m

If the North Gauteng High Court finds in favour of our client, then the hearing will not proceed before the disciplinary committee of the LNSP.

In the circumstances it is appropriate that the hearing of the disciplinary committee should be postponed in order for the High Court to rule on our clients' application.

Secondly, we understand that a full bench of the North Gauteng High Court will hear the matter of *De La Guerre v Ronald Bobroff & Partners* on 28 November 2012 as also the application by SAAPIL for a declaratory order regarding the lawfulness of "common law" contingency fee agreements.

The outcome of that hearing is relevant to the determination of our clients' complaint, inasmuch as Ronald Bobroff & Partners entered into a contingency fee agreement with our clients, and if it is found to have been null and void, then in line with the judgment of Boruchowitz J in the matter of *Tjatji v Road Accident Fund*, the complaint of our clients will be largely determined.

The disciplinary committee will certainly be greatly assisted in determining our clients' complaint if the High Court has ruled by then on this aspect.

You will also be aware, thirdly, that our clients have asked the High Court to order Ronald Bobroff & Partners to supply the outstanding information and confirmatory affidavits which our clients had requested, and which the LNSP had declined to compel Ronald Bobroff & Partners to supply. That information is crucial to the determination of the complaint, as also the inspection of the trust account of Ronald Bobroff & Partners, which the LNSP had likewise declined to authorise.

For the sake of good order we enclose herewith a copy of our clients' request for outstanding information.

In the circumstances we propose that the hearing be postponed.

We submit that there can be no prejudice to Ronald Bobroff & Partners, considering that the matter has been delayed for some eighteen months now, largely as a result of their dilatory conduct. This is the more so given the public statement by Mr Bobroff Snr that in the event of the Full Bench supporting the *Tjatji* judgment, he intends (presumably if permitted to do so) to take the matter, as he put it, 'all the way to the Constitutional Court'. Whether further delay at his hands is intended or consequential, it is inevitable.

We await to hear from you urgently.

We would hope that a deferment of the Law Society hearing can be achieved without recourse to court.

Yours faithfully

EDWARD NATHAN SONNENBERGS

Per:



J.B.M

Statement by George van Niekerk, Director ENS

ENS (Edward Nathan Sonnenbergs) was instructed by Discovery Holdings to assist a number of the members of the Discovery Health Medical Scheme, who were former clients of Ronald and Darren Bobroff of Ronald Bobroff & Partners Inc attorneys ("RBP"). Discovery was concerned about the professional fees charged by RBP, and the impact of these fees on the compensation received by its clients.

We engaged with Ronald Bobroff and he assured us that a perusal of the relevant files would confirm that nothing untoward had happened whatsoever.

After some considerable difficulty, we were eventually granted access to the files, and we discovered that RBP had in fact entered into various fee arrangements with these clients which are highly unusual, and which have now been definitively described as illegal, in a judgment delivered on 19 October 2012 by Judge Boruchowitz in the matter of *Tjatji v Road Accident Fund* in the South Gauteng High Court.

In all of these matters for Discovery members which we looked at, claims were instituted against the Road Accident Fund ("RAF") for damages arising from injuries sustained in motor vehicle accidents.

We ascertained that RBP took a fee of 40% of the damages paid by the RAF to the client, and in addition RBP appropriated the legal costs which the RAF paid.

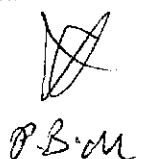
This is illegal, as it contravenes the Contingency Fees Act, No 66 of 1997, which limits the success fee which an attorney may charge to double the attorney's normal fee, or 25% of the damages, whichever is the lower amount.

We lodged a complaint on behalf of former clients, Mr & Mrs Graham, with the Law Society of the Northern Provinces ("LSNP"), that Ronald Bobroff and his son Darren of RBP had overreached their clients by charging fees substantially in excess of what is permissible or even legal.

Eighteen months later that complaint has still not been determined.

The complaint by our clients against Ronald and Darren Bobroff was considered by an investigating committee of the LSNP on 28 February 2012, and it recommended a host of charges (22 in total) against Ronald and Darren Bobroff of, *inter alia*, over-reaching, falsifying file notes, and claiming for attendances which had not taken place.

Both Ronald Bobroff and his son Darren have strenuously avoided answering the complaint, and they have failed to allow a proper inspection of the firm's trust account or to provide access to material documents sought by our client. It is a time-honoured principle that an attorney is bound to assist his or her law society by cooperating fully in response to a complaint. Despite the fact that Ronald Bobroff, a councillor and former president of the LSNP, had never raised any objection to these procedures whilst they were applied to errant attorneys during his ten year tenure as councillor and president of the LSNP, unfortunately he and his son are now content to play possum in the face of the disciplinary process.



Furthermore, the LSNP has, at the behest of Ronald Bobroff, maintained for a number of years now that attorneys may charge fees in excess, and in violation, of the provisions of the Contingency Fees Act. This is a view which is not shared by the other provincial Law Societies.

In the circumstances our clients have a reasonable apprehension that their complaint may not be dealt with fairly by the LSNP or its council.

Accordingly Mr & Mrs Graham applied in the North Gauteng High Court in Pretoria on Thursday for an order to inspect the practice of RBP, and for the High Court to determine our clients' complaint against Ronald and Darren Bobroff.

For further information, please contact:

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Annemarie Joubert, Senior Associate, ENS: +27 82 787 9503

Rachelle Bricout: +27 82 339 4565 (media liaison)

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

R.B.M