**CONTINGENT LIABILITIES - CIVIL CLAIMS AGAINST AND ON**

**BEHALF OF THE DMV: AS AT 27 FEBRUARY 2019**

**(Annexure B)**

 

**CONTINGENT LIABILITIES - CIVIL CLAIMS AGAINST AND ON BEHALF OF THE DMV: AS AT 27 FEBRUARY 2019**

**CLAIMS AGAINST THE DMV**

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| **SN** | **PLAINTIFF / APPLICANT** | **DETAIL OF CLAIM** | **QUANTUM (potential burden)** | **STATUS** | **LEGAL COSTS PAID** | **PROVISION** **(OUTSTANDING COSTS)** | **AMOUNT PAID TO PLAINTIFF** |

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| **1.** | **Fetolo Mogopolo Construction** **and Interior Designs****DMV/10/5/3/14/10/001** | Breach of contract | R4 005 703,42 | Fetolo Mogopolo Construction and Interior Designs was appointed to supply DMV with furniture. DMV cancelled the service provider’s contract on 27 October 2014. The plaintiff issued summons claiming payment due to breach of contract. DMV took exception to the particulars of claim and filed a Notice to request that they amend their summons/particulars of claim. Time lapsed and the plaintiff failed to file an amended summons/particulars of claim. Plaintiff applied for condonation for late filing of their amended particulars of claim. DMV has opposed this application. We have filed our opposing affidavit. | R185 267,22Adv B. NeukircherAdv R. Mamokete |  |  |
|  |  |  |  | **This matter is dormant and may possible not continue. I have instructed s/att to file an application to dismiss (Rule 11)**  |  |  |  |
| **2.** | **B & M Catering Services****DMV/10/5/3/14/11/001** | Breach of contract | R2 074 500,00 | B & M Catering Services was appointed to provide a catering and canteen service to DMV. DMV cancelled the service provider’s contract on 27 October 2014 and therefore the plaintiff sent a letter of demand dated 14 January 2015 claiming payment due to breach of contract. Summons was served on 14 August 2015. DMV filed a Notice to Defend, Plea and counterclaim on 28 April 2016. The Plaintiff filed an Application for Summary Judgment on 29 September 2015 alleging that DMV had no defence  | R129 300,00Adv P. Nonyane | R58 875,00 |  |
|  |  |  |  | and is merely delaying the process Matter postponed *sine die* as there was no Judge available and our case requires at least two days for trial**.** **We await new date.** |  |  |  |
| **3.** | **Zeal Health Innovations****DMV/10/5/3/15/10/001** | Breach of contract | R198 159 360,00 | Zeal Health Innovations (ZHI) was awarded a contract for health services. However the contract was found to be irregular and invalid and DMV refused to make payments due to these irregularities. ZHI brought an urgent Application to the High Court ordering payment for services rendered. The matter was struck off the role for non-urgency. DMV brought an Application to have the interim and three year contract set aside. The parties considered settlement in this matter however, ZHI did not accept the settlement amount that was offered without prejudice. In the meantime ZHI raised the SCOPA hearing and filed papers to this effect. DMV has requested that the SCOPA recordings be transcribed in order to file our Supplementary Affidavit. We await the transcribed recordings. Applicant cannot claim payment under a valid contract and simultaneously claim damages under a cancelled contract. They have, in the meantime abandoned their claim for payment under a valid contract and therefore we are continuing with the Review Application. Disputes still exist as to whether the contract exists or not. ZHI issued a Notice of Intention to Institute legal proceedings (to issue summons). Interlocutory application was heard on 19 Nov 18**. We await court’s decision. We may procure a new healthcare service.** | R1 018 434,26Adv I. EllisAdv M. Majozi |  |  |

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| **4.** | **R. Tshimomola****DMV/10/5/3/15/08/002** | Unfair dismissal |  | The matter started when a disciplinary hearing was held in March 2014 and charges were levelled against Mr Tshimomola for serious financial misconduct. He was dismissed on 17 April 2015. The Applicant is claiming unfair dismissal, approached the GPSSBC where conciliation failed. Arbitration was awarded in favour of DMV on 8 July 2016. He filed a Notice of Review but failed to file his papers in time. (*Dies* lapsed). We had filed an Application to dismiss his Application for Review.Mr Tshimomola also brought an Application to the Labour Court due to his unfair dismissal where default judgment was granted in his favour on 5 September 2016. We applied for Rescission thereof. Review application was heard on for 21 November 2018 and dismissed by court. **Only Rescission still to be heard** | R165 850,00Adv RaphahleloAdv Mphahlele |  |  |
| **5.** | **M.R. Fikkies****DMV/10/5/3/15/09/002** | Dispute regarding the recognition as a military veteran |  | The Applicant filed an Application in the High Court, Western Cape, for a declaratory order confirming that he is a military veteran. Despite DMV`s assistance the Applicant`s attorneys approached court, without our knowledge and  | R297 905,78Adv V. NotsheAdv M. Kgatla |  |
|  |  |  |  | obtained a Court Order on 30 October 2015 declaring the Applicant to be a SA military veterans. DMV applied for rescission. The matter went to trial for vive voce evidence on 6 December 2016 but was postponed further research. In the meantime a consultation took place on 1 February 2017 to peruse applicable Acts and consult with our witnesses. Further documents were obtained to assist in this matter.The trial commenced on 26 and 27 February 2017 (vive voce evidence given by Mr G Prinsloo) [interlocutory process] Arguments were heard on 10 May 2018 where after matter had to stand down to allow an out of court settlement. The Minister Instructed that the Fikkies matter must not be settled as the Applicant is not a military veteran. Instructions were sent to the State Attorney. **We await court date.** |  |  |  |
| **6.** | **T.E. Tokwana****DMV/10/5/3/16/12/002** | Unfair discrimination (unsuccessful candidate for a post |  | The applicant applied for a senior post in DMV during 2014, however, he was not successful. He commenced with CCMA proceedings and was unsuccessful therein. He applied to Labour Court but failed to comply with the Court Rules even after being guided herein. We filed application to dismiss. **We are filing a rule 11 Application (Application to dismiss)**  | Adv Phaswane |  |  |

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| **7.** | **Z. Matunjwa****DMV/10/5/3/17/2/001** | Dismissal from DMV |  | The Applicant was dismissed from employment on 13 October 2015 for assaulting a colleague. The matter was brought before the GPSSBC where the award was granted in his favour on 30 December 2016. | R269 155,00Adv S. Nhlapo |  R31 172,90  |  |
|  |  |  |  |  DMV instructed the State Attorney to file our Notice of Review herein.Applicant approached court to obtain an order for DMV to pay his salaries pending the outcome of the Review. DMV, in terms of the order, must either pay the salaries or provide security to court for the amount equal to the salaries. We had provided the necessary security but time delays caused a removal of property. We appointed a new Counsel to bring an application to stay the removal process pending the outcome of the hearing. The Court Order was granted to stop the removal but we had to bring a further urgent application in an attempt to have our property returned. The matter was heard on 29 May 2018 and the Judge ordered that all attachment and execution orders are set aside. He further ordered that the furniture must be returned to DMV. We have to pay the applicant’s salaries for the period prior to providing security. The security is sufficient in this matter. The furniture was returned on 6 June 18. We will ensure that the Review is heard as soon as possible. DMV had complied with the Court order. Consultation took place on 17 August 2018 to finalise, serve and file our affidavit in replying to their Application to dismiss our Review Application. We have compelled the GPSSBC to provide the record. A meeting took take place on 10 October 18 to reconstruct the record where after a court date will be obtained. Record was served and filed in court. **We will obtain a court date.** | Adv D. Masoma |  |  |

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| **8.** | **M.G. Bolleurs****DMV/10/5/3/17/05/002** | Motor vehicle accident | R54 712,75 | A letter of demand was received on 26 May 2017 where after summons was served on 12 July 2017. A DMV staff member utilised a government vehicle without the necessary authority and was involved in a MVA. The staff member had forfeited state cover and faced disciplinary steps. **The matter is still being litigated.** |  |  |  |
| **9.** | **PSA obo J Moche****DMV/10/5/3/17/06/002** | Arbitration Award | R612 966,20 | The applicant approached the GPSSBS regarding unfair labour practice. The matter was heard on 14 May 2017 and the award was granted in his favour. DMV applied to the Labour Court for Review thereof. **Should DMV be successful in its Review then the matter will be referred back for Arbitration.**  | R1 223,28 for transcription of the recordings |  |  |

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| **10** | **P. Govender****DMV/10/5/3/17/06/003** | Plaintiff was bumped by a DMV vehicle whilst it was reversing. The Plaintiff sustained injuries. | R210 000,00 | The Plaintiff was passing the rear end of the government vehicle when the vehicle reversed bumping the pedestrian. He fell and was injured. The matter was sent to the Office of the State Attorney together with the video recording/ camera footage of the accident and further documents. **Summons was served on 31 January 2018.**  |  |  |  |
| **11** | **K. Motsamai****DMV/10/5/3/18/05/001** | Applicant’s parole right was revoked due to breach of his parole conditions.  |  | Instructions were sent to the State Attorney to file a Notice to Oppose and to appoint counsel to assist. The matter was heard on 12 June 2018. **Applicant’s parole is reinstated temporarily until the matter is heard. No cost orders.** | Adv T. Masevhe |  |  |
| **12** | **CA Kloppers** | The Applicant brought an application against GEPF, DOD, NT and DMV requesting pension, medical and other benefits. |  | The Applicant is claiming his benefits but was not assisted.He is requesting that the Court grant him his benefits from GEPF and DMV.It has been determined that he is not registered on the database and is not entitled to any benefits. We will oppose this application, however, a round table was held between the Applicant and DMV to discuss his concerns and determine a way in order to prevent unnecessary litigation. |  |  |  |
| **13** | **Ramatshila-Mugeri Attorneys** | Payment of invoice | R559 170,00 | The TSI appointed a firm of attorneys to assist with certain issues. The firm issued an invoice for services rendered and was never paid.The Minister instructed that we request the state attorney to refer the bill of costs to a taxing master for evaluation where after payment will be effected to prevent unnecessary litigation costs. **DMV will take no responsibility for the Bill of costs** |  |  |  |
| **14** | **Simon Lengwati** | Pension benefit not approved by GPAA |  | This appears to be a matter between the applicant and GPAA, however DMV was cited and will therefore file a notice to oppose and include a misjoinder in this matter. |  |  |  |
| **15** | **EM Molefe** | Denied benefits |  | This applicant brought an Application to the High Court alleging that he had been denied his benefits (pension) and issue with his integration into SANDF.**He is currently being imprisoned for a lengthy period and therefore forfeits his benefits.**He is registered on the database and had applied for health care – approved. We will oppose this matter. Parties were misjoined herein |  |  |  |
| **16** | **PA Mbobo** | Arbitration matter reinstatement |  | DMV is taking the arbitration award on Review. We await feedback from office of the State Attorney  | Adv A de Wet | R23 902,75 |  |

**CLAIMS ON BEHALF OF THE DMV**

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| **Serial no.** | **DEFENDAN/ RESPONDENT** | **DETAIL OF CLAIM** | **QUANTUM (potential burden)** | **STATUS** | **LEGAL COSTS PAID** | **PROVISION (OUTSTANDING COSTS)** |

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| **1** | **African College of Aviation****DMV/10/5/2/17/11/001** | Breach of contract. Recovery of tuition fees | R243 102.01 | After corresponding with the CEO from this institution a letter of demand dated 20 November 2017 was sent to them to recover the tuition fees. The institution failed to provide the proper training as per the agreement. The matter was sent to the State Attorney with instructions to issue summons in this matter. The entity was under business rescue and DMV instituted a claim under the business rescue process to recover our funds. The entity could not be assisted through business rescue and was bought by a new owner. New owner has indicated that he will assist with training alternatively refund, if all fails we shall commence with litigation to recovery our funds. |  |  |
| **2** | **Bakoena Entertainment and Events** | Breach of contract | TBD | The defendant will be sued in order to claim back the funds paid for training military veterans to drive and receive their driver’s licences.  |  |  |