

LIFE ESIDIMENI ARBITRATION

HELD AT: EMOYENI CONFERENCE CENTER, 15 JUBILEE ROAD,
PARKTOWN, JOHANNESBURG

DATE: 27th OCTOBER 2017 DAY 14

5 DAY 14 SESSION 1 – 3.

BEFORE ARBITRATOR – JUSTICE MOSENEKE

10 WITNESSES:

MS DUMI MASONDO

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SESSION 1

ADV NONTLANTLA YINA: Good morning Justice.

ARBITRATOR, JUSTICE MOSENEKE: Morning.

5 **ADV NONTLANTLA YINA**: The witness is actually available, but she just stepped outside.

ARBITRATOR, JUSTICE MOSENEKE: Okay. Good morning please do take a seat. In which language do you want to testify?

MS DUMI MASONDO: In English.

10 **ARBITRATOR, JUSTICE MOSENEKE**: In English very well. Do you swear that the evidence you are about to give, will be the truth, nothing but the truth and if so, or before I do so, I should ask you to put your full names on record sorry? What are your full names?

MS DUMI MASONDO: Dumizile Agrenath Masondo but I am normally called Dum.

15 **ARBITRATOR, JUSTICE MOSENEKE**: Dum. Mrs Masondo do you swear that the evidence you are about to give, will be the truth and nothing but the truth and if so, please do raise your right hand and say so help me God?

MS DUMI MASONDO: So help me God.

ARBITRATOR, JUSTICE MOSENEKE: Very well, Counsel?

20 **ADV NONTLANTLA YINA**: Thank you Justice, good morning Mrs Masondo.

MS DUMI MASONDO: Good morning.

ADV NONTLANTLA YINA: I am Nontlantla Yina, I will be leading your evidence in chief. Just before we start, if you could please indicate your qualifications?

MS DUMI MASONDO: I've got a Diploma in General Nursing, Diploma in
5 Midwifery, Diploma in Psychiatry, Degree in Nursing, specialised in community work
and administration.

ADV NONTLANTLA YINA: Thank you, what is your work experience?

MS DUMI MASONDO: Work experience, I started working in the community at
district level for plus minus 11 years and then I was promoted to Head Office at
10 Provincial level where I was serving there as a Deputy Director for Health. I worked
there and I was amongst the founders of the Directorate at Provincial level and in
2002, I resigned and went abroad and then I was working there for 3 years in one of
the academic hospitals in North Hampton still pursuing mental health and then I
came back in 2004, I was working at Wits doing a research study in mental health
15 and HIV. Then I was re-appointed again as the Directorate in 2008 as a Deputy
Director for mental health as well and then in 2013, I took my retirement and then
after that, I happened to get another job at Inova Health Institute as a mental health
consultant and then in 2015, there was an advert for appointment of a review board
and then I applied, I was offered a job-

20 **ARBITRATOR, JUSTICE MOSENEKE**: What was the full name of the job you say,
the full name of the institution to which you were appointed?

MS DUMI MASONDO: As a mental health consultant?

ARBITRATOR, JUSTICE MOSENEKE: No you said in 2015, there was advertisement and you applied and you were appointed to which institution, to which body?

MS DUMI MASONDO: Department of Health as a mental health chairperson of the
5 review board.

ADV NONTLANTLA YINA: That would be the Gauteng Mental Review Board?

MS DUMI MASONDO: Gauteng yes.

ADV NONTLANTLA YINA: So when did you resume your duties as the Gauteng mental health review board chairperson?

10 **MS DUMI MASONDO:** That was on the 4th of January 2016.

ADV NONTLANTLA YINA: Was it on a part-time or fulltime basis?

MS DUMI MASONDO: Okay it was a part-time employment and I was contracted to do only 80 hours a month, meaning that out of that 80 hours, if it is divided, we were only doing 70 hours to review the documents, 6 hours to do hospital visits and
15 then under hospitals, that is where we were doing our appeals, investigations and complaints from the hospital and 4 hours was allocated for meetings.

ARBITRATOR, JUSTICE MOSENEKE: So let me get that again, a total of 80 hours every month?

MS DUMI MASONDO: Yes.

20 **ARBITRATOR, JUSTICE MOSENEKE:** And of the 80, you use 60 hours for reviewing documents?

MS DUMI MASONDO: 70 hours.

ARBITRATOR, JUSTICE MOSENEKE: What documents were you reviewing?

MS DUMI MASONDO: We were receiving documents from all the health establishments in the Gauteng Province, that is the admission documents, the
5 transfers, discharges, deaths, [inaudible] ECT's,

ARBITRATOR, JUSTICE MOSENEKE: What are ECT's?

MS DUMI MASONDO: Electro convulsion and then the seclusions, patients are secluded in some institutions.

ARBITRATOR, JUSTICE MOSENEKE: And who would send these reports to you?

10 **MS DUMI MASONDO**: There was a system in the Department of saying all the institutions must have somebody who will be transporting these documents to our offices.

ARBITRATOR, JUSTICE MOSENEKE: And how often would you get the reports?

MS DUMI MASONDO: Normally they were sent out I would say on a weekly basis.

15 **ARBITRATOR, JUSTICE MOSENEKE**: And this is from all mental health care institutions in the Province?

MS DUMI MASONDO: In the Province yes.

ADV NONTLANTLA YINA: When you said that the documents would relate to the admissions of patients, transfers of patients, etcetera, are you referring to mental
20 patients, or all patients?

MS DUMI MASONDO: Mentally ill patients.

ADV NONTLANTLA YINA: Now in respect of the, or rather the Chief Justice asked you who would send these documents and then you said you would receive them on a weekly basis, from which department?

5 **MS DUMI MASONDO**: From all the institutions, I think they appointed somebody who will be responsible for submitting these documents to mental health review board.

ADV NONTLANTLA YINA: Now in respect of the Gauteng Department of Mental Health Marathon Project, what was the responsibility of the board?

10 **MS DUMI MASONDO**: Okay coming to that one, I must say-

ARBITRATOR, JUSTICE MOSENEKE: Counsel can I take the witness a step back? What are the statutory duties of the mental health review board? What does the law require you to do?

MS DUMI MASONDO: Okay according to the law, as a mental health review board,
15 we need to advocate for the mental health care users, maintain and make sure that their dignity is maintained and they are respected as human beings.

ARBITRATOR, JUSTICE MOSENEKE: What do you mean advocate for mental health care users?

MS DUMI MASONDO: Advocate for them, because they are vulnerable, so they
20 need somebody who will come and protect them, especially their rights.

ARBITRATOR, JUSTICE MOSENEKE: Yes what other duties did you carry as a review board?

MS DUMI MASONDO: Okay as a mental health review board, we are responsible, in fact all our functions are stipulated in the Mental Health Care Act Number 17 of 5 202, Chapter 4 and Paragraph 19 of the Act, where it says we need to consider appeals against decisions of the health establishments, we need to make decisions with regard to assisted and involuntary mental health care, treatment, rehabilitation services, we were responsible to consider reviews and the decisions and assisted or involuntary mental health care users, consider 72 hour assessment made by the 10 health establishment and to make decisions to provide further involuntary care and treatment. We consider applications for transfer of mental health care users to maximum security facilities, consider periodical reports on the-

ARBITRATOR, JUSTICE MOSENEKE: You have to consider applications for transfers of mental health care users and this would be transfers from what, from 15 one establishment to another?

MS DUMI MASONDO: Yes transfer from especially from one hospital from Barath to Helen Joseph, from Sterkfontein to Weskoppies, internal transfers and also transfers of mentally ill patients who are prisoners.

ARBITRATOR, JUSTICE MOSENEKE: And what does the law require you to do 20 when you consider these transfers? What does that mean?

MS DUMI MASONDO: The law requires us to receive the documents because we are not allowed to go out. The documents must be submitted to us as members of

the review board. We sit down and we interrogate the file and we consider if all the information inside of the file is in accordance with the Act.

ARBITRATOR, JUSTICE MOSENEKE: And you consider whether or not it is appropriate to transfer any mental health care user from one institution to another?

5 **MS DUMI MASONDO**: Yes with that one Mr Justice, I must say because transfer is done internally, so in each and every mental health care institution, there is a team of multi-disciplinary team who are responsible to assess the users and decide whether the patient is going to be transferred and then when they did those transfers, all were supposed to receive as mental health review board, was to
10 receive the documents stating that we have transferred so and so-

ARBITRATOR, JUSTICE MOSENEKE: I'm just talking about the law I'm not talking about the practice. I just want to know you are the chairperson, what was your understanding of your duties as set out in the law. Counsel will then ask you questions about practice. For now, I want to assess your understanding of your
15 obligations under the Act, under the Statute. So when you consider transfers, what are your powers about those transfers?

MS DUMI MASONDO: My duties regarding the transfers was to receive the documents from the institutions and then I would review the documents and if there were problems regarding the transfers, I will phone the institution to say why did you
20 discharge this patient, why did you transfer this patient.

ARBITRATOR, JUSTICE MOSENEKE: Counsel?

ADV NONTLANTLA YINA: Thank you Justice. Now the documents that you talked about that you review, do you receive them, say for example in a case of a transfer, would you receive them prior to the transfer taking place or after?

MS DUMI MASONDO: We receive them after the transfer.

5 **ADV NONTLANTLA YINA:** Now evidence has been led before this hearing, to the effect that there were patients, which were moved from Life Esidimeni, some of them were discharged to go back to their homes, are you aware of that?

ADV NONTLANTLA YINA: What was the role of the board in respect of the patients that were discharged from Life Esidimeni to their homes?

10 **MS DUMI MASONDO:** When this process was initiated, the board was not fully involved. As I have indicated, we commenced our duties in January 2016 and this process was initiated in 2015 and when we joined the Department as a review board, already this was in progress.

ADV NONTLANTLA YINA: So I suppose you also didn't play a role in respect of
15 the patients that were transferred from Life Esidimeni to various NGO's?

MS DUMI MASONDO: We didn't play any part because we are still waiting for the records to be submitted to our office and start reviewing those records.

ADV NONTLANTLA YINA: When did you become aware as the board of the project?

20 **MS DUMI MASONDO:** On the 14th of January, we were orientated by a mental health team, meaning that Dr Manamela as the Director of mental health and there

was also Mr Mosonoge there in that meeting. On that particular day, Dr Manamela gave us a brief overview of the project and then after that brief overview-

ARBITRATOR, JUSTICE MOSENEKE: Of which project?

MS DUMI MASONDO: Marathon project and then thereafter, we were given a
5 detailed presentation by Mr Mosonoge.

ARBITRATOR, JUSTICE MOSENEKE: A detailed presentation of the Marathon
Project?

MS DUMI MASONDO: Yes and then on that very day if I may be given a chance to
say something, on that very day, we enquired about our role after hearing this
10 presentation that was done by Mr Mosonoge, we then enquired about our role, how
can we assist in this project and then Dr Manamela said it abundantly clear to us
that we shouldn't bother at that stage because the MEC had appointed a team of
experts MDT team who were supposed to oversee the project and then again, we
believed what they were telling us on that particular day. Then from there, we
15 requested a list of-

ARBITRATOR, JUSTICE MOSENEKE: Dr Manamela said you should not bother
about what?

MS DUMI MASONDO: About participation because we were enquiring that as a
board member, what is our expectation now in this project. Then we were told that
20 we will be involved at a later stage, because already the project was up and
running. Then again, we decided because we were concerned seeing that there
were quite a lot of new NGO's that we didn't know about-

ADV NONTLANTLA YINA: But maybe just before you get there MS DUMI MASONDO, can I interrupt you, from the presentation that was made by Mr Mosonoge, did you get the impression that patients would be moved from Life Esidimeni to various NGO's?

5 **MS DUMI MASONDO:** Yes.

ADV NONTLANTLA YINA: And to other facilities like Sterkfontein?

MS DUMI MASONDO: Yes.

ADV NONTLANTLA YINA: And some of them would be discharged?

10 **MS DUMI MASONDO:** Yes there were some breakdown that was in that presentation that some of these patients will be assessed by the team at the hospital and the task team and some of the DD's who were just assisting with this transfers at Life Esidimeni and then some of these patients, with the permission of the families, they will be taken home by their families and some of the patients who would need hospital care, they would be taken to the hospitals.

15 **ADV NONTLANTLA YINA:** Yes isn't it from the responsibilities that you gave earlier on, wasn't it obvious then that the board also had to play a role in respect of the patients, in respect of the patients that would be discharged, that would be transferred to other NGO's and other facilities?

20 **MS DUMI MASONDO:** Definitely so. That is why after that, our concern was to have the list of all NGO list, especially the new NGO's, the hospital list, child services and any other list that would help us, but community services again in the

district, so from those lists, our aim was that after this Marathon Project, because we were told not to participate at that-

ARBITRATOR, JUSTICE MOSENEKE: Let's use direct language Mrs Masondo. So and so told us not to participate. They, them, we were told, we were advised. I
5 would like to know the actors and their names.

MS DUMI MASONDO: Okay I think I have said earlier on Judge that Dr Manamela who was a Director, said to us at that point in time, we mustn't just worry, we need to concentrate on our core function because there was a team appointed by the MEC.

10 **ARBITRATOR, JUSTICE MOSENEKE**: Why would they bother to make a presentation to people who don't have to worry?

MS DUMI MASONDO: I think maybe-

ARBITRATOR, JUSTICE MOSENEKE: A detailed presentation to do what?

MS DUMI MASONDO: I wouldn't know Judge, but if I may just attempt that one,
15 maybe they wanted to make us aware about the move in the Directorate.

ARBITRATOR, JUSTICE MOSENEKE: So that you do what?

MS DUMI MASONDO: So that hence we wanted to participate, but at that point, we were not given any latitude.

ARBITRATOR, JUSTICE MOSENEKE: No but listen to the question. You get
20 given a detailed presentation at a formal meeting about the Marathon Project, but you were told you shouldn't bother it's not your business.

MS DUMI MASONDO: At that point yes.

ARBITRATOR, JUSTICE MOSENEKE: That is why I'm saying for what good reason would they spend the time to make the presentation to you and immediately say to you don't bother?

5 **MS DUMI MASONDO**: I don't know Judge.

ARBITRATOR, JUSTICE MOSENEKE: But you agree that that would be a waste of time isn't it?

MS DUMI MASONDO: Well at a meeting level, I'm not sure whether it was a waste of time, because we were attending our first meeting with them.

10 **ARBITRATOR, JUSTICE MOSENEKE**: What was the effective date of your appointment? When did you assume the power as chairperson, the exact date in January 2016?

MS DUMI MASONDO: We started our duties on the 4th of January.

ARBITRATOR, JUSTICE MOSENEKE: And that was with immediate effect, so you
15 had powers of a chairperson from the 4th of January?

MS DUMI MASONDO: Yes.

ARBITRATOR, JUSTICE MOSENEKE: Counsel?

ADV NONTLANTLA YINA: Thank you Justice, so you indicated earlier on, that you requested the list of the NGO's, hospitals, did you get those lists?

MS M: Clinics and child health services, we received all the other lists, but we didn't receive a list for the NGO's and then when enquiring about that, we were told by somebody who was overseeing NGO's, Ms Hannah Jacobus that they were still editing the list, we will get the list at a later stage. Then second meeting again, but
5 just to summarise the list issue, finally we received the list on the 5th of October 2016.

ADV NONTLANTLA YINA: Of the NGO's?

MS DUMI MASONDO: Yes.

ARBITRATOR, JUSTICE MOSENEKE: How many people had died then?

10 **MS DUMI MASONDO**: I would guess the report that we used to get, was 36.

ARBITRATOR, JUSTICE MOSENEKE: And what were you going to do with the list? People at NGO's were dying in large numbers and why do they give you a list in October 2016 for you to do what?

MS DUMI MASONDO: It was a futile exercise for us.

15 **ARBITRATOR, JUSTICE MOSENEKE**: But I don't understand the rationale and the logic of what happened there, what did they say, why did they give you a list of NGO's in October 2016, when then we were counting bodies, many, many bodies of dead people.

MS DUMI MASONDO: I would say Mr Justice, to us, it was really shocking and we
20 were really not happy about that, because it was too late and there were quite a lot of deaths that were reported.

ARBITRATOR, JUSTICE MOSENEKE: And when did you hear about the first death?

MS DUMI MASONDO: We heard about the first death on the 26th of July, when Dr Manamela came to the office to request members of the review board who are from
5 Tswane district because the first death that was reported, they were from Siyabadinga at Cullinan Care Centre, that was on the 26th of July.

ARBITRATOR, JUSTICE MOSENEKE: Counsel?

ADV NONTLANTLA YINA: How often would you meet with the Directorate?

MS DUMI MASONDO: Our meeting was scheduled to meet on a monthly basis.

10 **ADV NONTLANTLA YINA:** Did you meet on a monthly basis?

MS DUMI MASONDO: Yes we met in January when we were given that detailed report and then on that particular meeting, since we were told not to participate in the project, we then requested to add an item on the progress of Life Esidimeni in all the subsequent meetings, so the second meeting in February, we had a meeting,
15 we got a report that the transfers were going on and there was no cause for alarm. Then in March-

ARBITRATOR, JUSTICE MOSENEKE: Did you get the reports, documents of every patient?

MS DUMI MASONDO: No, the report at the meeting level, that the transfers were
20 conducted fairly well.

ARBITRATOR, JUSTICE MOSENEKE: Did you get the paperwork of every patient who was to be transferred?

MS DUMI MASONDO: No we were not furnished with that, because I doubt if they did have it, because everything was just haphazard Judge at that point in time. So
5 in March on the 14th of March, as I was conducting all the meetings, we started to have our meeting and then I was told I need to speed up this meeting because the Department is going to court and I was shocked because we didn't know anything about the court and Dr Manamela explained to us that the Department will be going to court together with Takalani and SADAC in relation with transfers of the patient,
10 but because we didn't know about it and we didn't keep quiet about it, I decided to allocate our legal people because in our team, we had 2 legal people and a community person who is a bishop to go and attend the court, though we were not invited, but we pushed our weight. So they went to that court case with the report and thereafter the feedback was that the Department won the case, that was in
15 March.

ARBITRATOR, JUSTICE MOSENEKE: It was a case against whom?

MS DUMI MASONDO: Case between Takalani SADAC and the Department.

ARBITRATOR, JUSTICE MOSENEKE: What was the case about?

MS DUMI MASONDO: Apparently SADAC was not happy about the process of
20 transferring patients because on that day, we got a report again-

ARBITRATOR, JUSTICE MOSENEKE: By SADAC you mean what?

MS DUMI MASONDO: South African Depression and Anxiety.

ARBITRATOR, JUSTICE MOSENEKE: And the report that one of your members came back with, was that the Department had won the case?

MS DUMI MASONDO: Yes Mr Justice.

5 **ARBITRATOR, JUSTICE MOSENEKE**: Did they say what order was made?

MS DUMI MASONDO: No.

ADV NONTLANTLA YINA: Did you get the impression that there was a problem with the transfer of patients?

MS DUMI MASONDO: At that point in time, I would say no, after that presentation,
10 we were under the impression that everything was progressing well.

ADV NONTLANTLA YINA: Did you meet again with the Department?

MS DUMI MASONDO: Yes in fact after March, every month we were meeting, April we met again and again we got a report that transfers are progressing well. May the same report, everything was positive until the end of June.

15 **ADV NONTLANTLA YINA**: During those meetings, did you enquire about the documentation that was supposed to be submitted to the board?

MS DUMI MASONDO: Yes we did.

ADV NONTLANTLA YINA: And what was the response?

MS DUMI MASONDO: We were told that all the records were delayed because of
20 the haphazard transferring of those patients.

ARBITRATOR, JUSTICE MOSENEKE: But why would you demand documents if they told you that you have nothing to do with the project?

MS DUMI MASONDO: But it was my duty Mr Justice to have those records in my system.

5 **ARBITRATOR, JUSTICE MOSENEKE**: Who did you ask the records from?

MS DUMI MASONDO: From the team, Dr Manamela's team who was allocated as a task team.

ARBITRATOR, JUSTICE MOSENEKE: Who in team did you ask the records from?

10 **MS DUMI MASONDO**: It was a meeting level, but people who were responsible, it was Dr Sophie Lenkwane, Mashile, Mr Tobone, in fact, most of the DD's were there, it was just an open question that we need those documents.

ARBITRATOR, JUSTICE MOSENEKE: And they will confirm that you were demanding to be given the documents of the transfers?

15 **MS DUMI MASONDO**: Yes we were requesting them.

ARBITRATOR, JUSTICE MOSENEKE: Did you keep minutes of your meetings?

MS DUMI MASONDO: Yes Mr Justice.

ARBITRATOR, JUSTICE MOSENEKE: Where can we find the minutes?

MS DUMI MASONDO: I think the compiled file is with the MEC, the new MEC.

ARBITRATOR, JUSTICE MOSENEKE: So the new MEC has minutes of the review board?

MS DUMI MASONDO: Yes of all, the deliberations yes.

ARBITRATOR, JUSTICE MOSENEKE: Counsel can we make a note of that? I
5 would like some time to see the minutes, if we could just ask the MEC and you were worked for 80 hours a month, were you paid?

MS DUMI MASONDO: Yes Mr Justice.

ARBITRATOR, JUSTICE MOSENEKE: How much were you paid?

MS DUMI MASONDO: As a chairperson, I was getting I can't remember very well
10 R253 per hour.

ARBITRATOR, JUSTICE MOSENEKE: R253 an hour X 80 X 10 is R2500 X 4, you were earning around R12 000.

MS DUMI MASONDO: I was earning plus minus R25 000.

ARBITRATOR, JUSTICE MOSENEKE: R25 000 oh okay I missed out one
15 multiplication, R25 000 per month. 80 hours and you were employed to review an check transfers, review documentation of patients and check transfers according to you to protect the patients and to advocate for their rights isn't it?

MS DUMI MASONDO: Yes Mr Justice.

ARBITRATOR, JUSTICE MOSENEKE: Counsel?

ADV NONTLANTLA YINA: Thank you Justice. You said until June, what was happening in June?

MS DUMI MASONDO: So end of June, because when we started, we got a report that the termination will be end of March and then after March, we were told that
5 there is another extension for an additional 3 months, so this project was supposed to be completely terminated end of June 2016, so end of June 2016, we got a report that all patients have been transferred to various facilities and there were no challenges reported to the board.

ADV NONTLANTLA YINA: And at that point in time, was it not an opportune time
10 to request for the documents?

MS DUMI MASONDO: Each and every meeting Counsellor, we were requesting for all the documents to be submitted to the board, because we were also concerned that we didn't have enough documents to monitor these transfers, discharges, because by then, there were no deaths reported to us.

ADV NONTLANTLA YINA: Did you follow-up on the lists of the NGO's that was not
15 provided?

MS DUMI MASONDO: In each and every meeting, we were requesting that list from Hannah Jacobus who was overseeing the project.

ARBITRATOR, JUSTICE MOSENEKE: And all that was minuted?

MS DUMI MASONDO: All that was minuted.
20

ADV NONTLANTLA YINA: And what would be her response?

MS DUMI MASONDO: Still that we are busy, we are editing them, there are still new NGO's, other NGO's are no more functional, we used to get those stories. I must say we were also frustrated as board members.

ADV NONTLANTLA YINA: Mam I would like to refer you to File Number 1 on Page 5 18, this is the report of the Ombud. I presume you have seen it before?

MS DUMI MASONDO: Yes I have seen it Counsel.

ADV NONTLANTLA YINA: If you could please open Page 18 of the paginated report and go to Paragraph 4.1.15, if I may just confirm, did you speak to the Ombud about the Gauteng Department of Health Marathon Project?

10 **MS DUMI MASONDO**: I was invited to go and be interviewed.

ADV NONTLANTLA YINA: You were interviewed?

MS DUMI MASONDO: Yes I was interviewed.

ADV NONTLANTLA YINA: Yes this is a brief interview that is recorded on the report. If we could go step by step, I will invite you to comment. The first bullet 15 point says that the board is said to be independent, but when the Ombud requested for information, it was copied the Director mental health as per her instructions.

MS DUMI MASONDO: Yes this is true. When I received this, I received a message from the secretariat that the Ombudsman phoned the Department, the unit, I will call it the unit, requesting some documents from the secretariat and as a chairperson, I 20 was supposed to compile the report that he requested and after compiling them, I gave them to the secretariat to forward them to the Ombudsman. But because the

secretariat did not belong to us as board members, they belong to the Directorate, the reporting party was the Directorate, so there was this policy that was arranged between the secretariat and the Directorate that each and every document that leaves that unit, must go via Dr Manamela's office, so what happened at that
5 instance –

ARBITRATOR, JUSTICE MOSENEKE: Did you agree to that arrangement?

MS DUMI MASONDO: Yes we did, because our independence Mr Justice was very much infringed as a board. We didn't have our own human resources we didn't have staff, so we were using Dr Manamela's staff. We didn't have budgets,
10 so everything was supposed to go via her because those secretariats were reporting to her.

ARBITRATOR, JUSTICE MOSENEKE: And did you know that your independence is being infringed?

MS DUMI MASONDO: We were quite aware that we were fighting for it from the
15 first day when we were incepted, we wanted to get clarity on our independence and unfortunately, the person who employed us, the MEC who was supposed to come and give us more guidance, we never met our MEC until the 19th of December 2016.

ARBITRATOR, JUSTICE MOSENEKE: Go ahead Counsel? I have a number of
20 questions to ask you, but I will do that much, much later.

ADV NONTLANTLA YINA: I think the question Mrs Masondo is, were, you part of the instructions to copy the Director of mental health on every correspondence that was going out?

MS DUMI MASONDO: Yes.

5 **ADV NONTLANTLA YINA:** You were aware?

MS DUMI MASONDO: Yes.

ADV NONTLANTLA YINA: And if you go further down, bullet point number 4 from the last one, it says that concerns were raised with the Director mental health care MHC services were not addressed, so what concerns are these that you raised?

10 **MS DUMI MASONDO:** The concerns that we used to raise with the Director mental health, was the issue of independency, the issue of authority, the issue of staff and the issue of budgets.

ADV NONTLANTLA YINA: Mental health review board's involvement was minimal, were you concerned that it was minimal?

15 **MS DUMI MASONDO:** Yes I was very concerned, hence I had to report that to the Ombudsman, because when we wanted to participate fully during our induction, we were told not to participate, we would be involved at a later stage, so our involvement was very minimal because in many instances, we tried to push our noses in the project, but we were always reminded about our core function which is
20 reviewing of documents.

ADV NONTLANTLA YINA: Now in relation to the project, in relation to the Gauteng Marathon Health Project, were you concerned about the minimal involvement of the board?

5 **MS DUMI MASONDO:** You know initially during our induction period, which was also haphazard, we were not concerned that much, because there were no deaths reported and we used to get all the positive reports at meeting level.

ADV NONTLANTLA YINA: When did you become concerned?

MS DUMI MASONDO: My only concern was after getting a report about the first deaths.

10 **ADV NONTLANTLA YINA:** When was that?

MS DUMI MASONDO: That was in July 24th or 26th.

ADV NONTLANTLA YINA: Was that from an NGO or from a government facility?

15 **MS DUMI MASONDO:** I must say that one was Dr Manamela came to the unit to report the deaths at Cullinan Health Care Centre and she requested members of the review board who are from Tswane to go and investigate and indeed, 3 members of the review board went to do those investigations.

ADV NONTLANTLA YINA: Who are those members?

MS DUMI MASONDO: It was Mrs Moloto, Thandi Matubula and Rodiena Matiba.

ADV NONTLANTLA YINA: Were they reporting to you?

20 **MS DUMI MASONDO:** Yes they reported to me.

ADV NONTLANTLA YINA: Yes what was the report that you got from them?

MS DUMI MASONDO: The report was that the number that was given to them they said it was only 5 deaths at Cullinan Centre.

ADV NONTLANTLA YINA: It was given to them by whom? Who gave them the
5 number of 5?

MS DUMI MASONDO: Dr Manamela, she said they must go and investigate about the 5 deaths at Cullinan Health Care Centre and when those members went to go and do a thorough investigation in the centre, they told me and in writing, that there were 11 patients who died at that centre and because those were experienced
10 mental health nurses, they decided to initiate a plan of visiting the nearby NGO's now because they were also concerned. They did the Cullinan centre and they identified some major challenges there and then they said because we are at Tswane, can we do the remaining nearby NGO's. Remember they didn't have the addresses of the NGO's, but they had to get information from the facility manager
15 and they were given 5 nearby new NGO's which they decided to go and inspect now voluntarily to monitor the quality of care.

ADV NONTLANTLA YINA: The report that they gave to you, what were the conditions from those NGO's?

MS DUMI MASONDO: Some of them like I can't remember the name El Shadaih,
20 they were functioning very well and others were poorly functioning, their conditions were really appalling especially at Siyabadinga, the staff was not skilled, hygiene of

the place was not appetising, there was no medication and there was no food in that centre.

ARBITRATOR, JUSTICE MOSENEKE: When did they tell you about all this?

MS DUMI MASONDO: Immediately after the visit Mr Justice.

5 **ARBITRATOR, JUSTICE MOSENEKE**: What month would that have been?

MS DUMI MASONDO: That was July 2016. From there, they further visited-

ARBITRATOR, JUSTICE MOSENEKE: Well let's not move away from that quickly.

They also told you that administration was poor they told you the diet was poor, they told you about winter and the patients not properly clothed, they told you about the poor quality of care and that the managers there were not skilled, is that right?

10 **MS DUMI MASONDO**: Yes.

ARBITRATOR, JUSTICE MOSENEKE: What did you do with that?

MS DUMI MASONDO: We compiled a report and after compiling the report, it was submitted to Dr Manamela and to the MEC and I had a meeting with Dr Manamela to check why, is it like this, because according to my understanding, there was a team who was supposed to edit these NGO's before placement.

ARBITRATOR, JUSTICE MOSENEKE: Where is the report you compiled?

MS DUMI MASONDO: All the reports Justice are with the MEC, even for these visits.

20 **ARBITRATOR, JUSTICE MOSENEKE**: HOD or MEC?

MS DUMI MASONDO: MEC and Dr Manamela.

ARBITRATOR, JUSTICE MOSENEKE: Are you talking about the past MEC?

MS DUMI MASONDO: No the current one, because when this new MEC started, she also requested all the reports and we compiled the reports and we submitted
5 the file to her.

ARBITRATOR, JUSTICE MOSENEKE: You know at the beginning of your evidence, you said you were employed with the Department, was that your view of your role?

MS DUMI MASONDO: Can you please repeat your question?

10 **ARBITRATOR, JUSTICE MOSENEKE**: At the beginning of your evidence, you said you were employed by the Gauteng Department of Health.

MS DUMI MASONDO: As a chairperson of the review board.

ARBITRATOR, JUSTICE MOSENEKE: You saw yourself as employed?

MS DUMI MASONDO: A part-time employee.

15 **ARBITRATOR, JUSTICE MOSENEKE**: Yes by whom?

MS DUMI MASONDO: By the Department of Health.

ARBITRATOR, JUSTICE MOSENEKE: But your job is created by statute isn't it?

MS DUMI MASONDO: I think part of that Mr Justice, was supposed to be explained to us, but because of that poor orientation.

20 **ARBITRATOR, JUSTICE MOSENEKE**: Ja but I saw you read from the statute.

MS DUMI MASONDO: Yes.

ARBITRATOR, JUSTICE MOSENEKE: Which you clearly have in your possession.

MS DUMI MASONDO: Yes.

5 **ARBITRATOR, JUSTICE MOSENEKE**: And your job was to oversee even Dr Manamela, you were to oversee how establishments deal with mental health care users isn't it?

MS DUMI MASONDO: I'm not sure of that because we were told we were working under Dr Manamela, we as board members.

10 **ARBITRATOR, JUSTICE MOSENEKE**: What does the law say, what does it tell you?

MS DUMI MASONDO: I must say Justice I am not sure of that when it comes to overseeing Dr Manamela.

ARBITRATOR, JUSTICE MOSENEKE: But why do you draw a salary of R25 000
15 + over nearly 7 months and you don't do the job that you are paid for?

MS DUMI MASONDO: I think according to my assessment Justice, we did almost everything according to the Act.

ARBITRATOR, JUSTICE MOSENEKE: Not but 60 hours of your employment, you are supposed to review transfers of patients and the conditions at establishments
20 isn't it so?

MS DUMI MASONDO: Yes when they are submitted to us, after they have been transferred.

ARBITRATOR, JUSTICE MOSENEKE: And that did not happen in relation to Esidimeni and you continued to draw your salary and you did nothing about it?

5 **MS DUMI MASONDO**: That one I'm not sure.

ARBITRATOR, JUSTICE MOSENEKE: You're not sure about what?

MS DUMI MASONDO: I am not sure about that.

ARBITRATOR, JUSTICE MOSENEKE: But why didn't you put your foot down? You know you have amazing qualifications, I admire your qualifications. You are a professional nurse who has achieved a lot in mental health care, why didn't you raise your hand and say I am the review board, it's my work to make sure that patients' lives are protected, why didn't you do that?

MS DUMI MASONDO: I think Mr Justice after placement, after hearing about the deaths, I really threw my weight, I was fighting day and night.

15 **ARBITRATOR, JUSTICE MOSENEKE**: Why didn't you do it even before?

MS DUMI MASONDO: Even before Mr Justice because of timeframe, we started in January and the termination was end of March.

ARBITRATOR, JUSTICE MOSENEKE: And when they gave you the detailed presentation, did you say is this going to work, can you move so many human beings to unknown NGO's you were never given a list? Did you say as chairperson of the board, this is unacceptable?

MS DUMI MASONDO: I must say Justice even if we are querying that, but we were under the impression and we trusted our colleagues that they did thorough research and survey of the NGO's.

5 **ARBITRATOR, JUSTICE MOSENEKE**: Your job is not to trust. Your job is to review and you are paid for that, so that you can be the eyes and the ears of vulnerable patients.

MS DUMI MASONDO: Yes Mr Justice I agree.

ARBITRATOR, JUSTICE MOSENEKE: Isn't it so? You were paid for that?

MS DUMI MASONDO: Yes.

10 **ARBITRATOR, JUSTICE MOSENEKE**: Counsel?

ADV NONTLANTLA YINA: Thank you Justice, so basically you are saying that in July, the board receives a report that 5 people have died, is that correct?

MS DUMI MASONDO: Yes.

15 **ADV NONTLANTLA YINA**: And then you investigated further and you discovered that that report was incorrect, because 11 people had died?

MS DUMI MASONDO: Yes.

ADV NONTLANTLA YINA: Then you undertook a project of trying to investigate other NGO's to check the conditions?

MS DUMI MASONDO: Yes.

ADV NONTLANTLA YINA: So at this point in time obviously, this is a point where you really needed to be more concerned, especially about the minimum involvement of the board and you had raised the concerns at this point in time with the MEC and Dr Manamela and you did not receive any joy?

5 **MS DUMI MASONDO:** Yes no joy.

ADV NONTLANTLA YINA: Now after this, did you escalate the matter to their superiors?

MS DUMI MASONDO: You know from that meeting after hearing about the deaths, I firstly discussed the issue with the MEC that we are really concerned-

10 **ARBITRATOR, JUSTICE MOSENEKE:** That is MEC Qedani Mahlangu?

MS DUMI MASONDO: Qedani Mahlangu.

ARBITRATOR, JUSTICE MOSENEKE: And you had a one to one meeting with her?

MS DUMI MASONDO: Yes.

15 **ARBITRATOR, JUSTICE MOSENEKE:** When was this meeting and where?

MS DUMI MASONDO: It was a meeting in her office, where I actually advised the team that I feel-

ARBITRATOR, JUSTICE MOSENEKE: Was she alone or were there other people?

MS DUMI MASONDO: She was with other people it was sort of a short meeting.
20 There was a secretary, a PA, where I expressed my concerns that we really worried

about the number of deaths that were reported to us and we as board members, were told not to participate and from now onwards, I even said to Tebogo who was a PA for the MEC, Tebogo these are my contact details, from now onwards when the team from this office is going out to review any of these NGO's, I must be part of
5 it.

ARBITRATOR, JUSTICE MOSENEKE: What did the MEC say, you are talking to a PA now, what did the MEC say?

MS DUMI MASONDO: I said to her that I want to be part of this and she said to me Mama Masondo please give your particulars to my PA, so that Tebogo must always
10 involve you whenever there are any movements regarding these visits to NGO's. So indeed, I left all my particulars-

ARBITRATOR, JUSTICE MOSENEKE: Did you tell her my independence is being eroded and that I am prevented from doing my statutory duties, I have no documents given to me to review, I have been kept out of Life Esidimeni, did you tell
15 her that?

MS DUMI MASONDO: Yes.

ARBITRATOR, JUSTICE MOSENEKE: She is going to come here we are going to ask her that, so you told her that in your meeting?

MS DUMI MASONDO: Yes.

20 **ARBITRATOR, JUSTICE MOSENEKE**: Okay.

ADV NONTLANTLA YINA: This was in July now and did you now become involved as a board? Did you get to take responsibilities in terms of the patients that were transferred from Life Esidimeni?

MS DUMI MASONDO: Yes after July with the board members, we made a meeting
5 and we reached consensus that from now onwards, we must be visible in all these centres, irrespective of the 80 hours, because remember mentally ill patients were our passionate patients, we served these patients for quite a long time and we have never had quite a number of deaths, so we are concerned and we did this voluntarily. Out of 80 hours, we would do 100 and something hours and when we
10 claim, nobody was listening to our claims.

ADV NONTLANTLA YINA: How did you become involved at that stage?

MS DUMI MASONDO: After that death, we had a meeting again with the MEC because I was pushing my availability in all the meetings, that was on the 24th and 26th of August, where we sat down with the MEC and the team trying to strategize
15 the system, to improve the system now. Issues that were discussed at that meeting, was that we need to have more additional skilled staff in all these NGO's, we need to have a dietician who will be overseeing all the NGO's to make sure that the diet is of a high standard. We need to make sure that medication is available and again, what was of importance again, was that we need to make sure that each
20 and every NGO has got a diagnostic set, meaning that they must have a [inaudible] a stethoscope, to check these patients on a daily or weekly basis and we need to have a drug control register. The other systems that we had put up on that particular day, was to say there are quite a lot of teams in the district, skilled teams from our

team, I am talking about trained mental health team now and the system was that let's form an MDT team in each and every district and then out of this MDT team, every week, they need to go to the nearby NGO to inspect these patients.

ARBITRATOR, JUSTICE MOSENEKE: What is an MDT team?

5 **MS DUMI MASONDO**: It's a multidisciplinary team.

ADV NONTLANTLA YINA: Were those resolutions implemented?

MS DUMI MASONDO: Yes they were implemented.

ADV NONTLANTLA YINA: In all the NGO's?

MS DUMI MASONDO: In all the NGO's.

10 **ADV NONTLANTLA YINA**: From when?

MS DUMI MASONDO: From because the meeting was on the 24th and 26th of August and then thereafter, there were teams put in place.

ARBITRATOR, JUSTICE MOSENEKE: How many people had died then in August?

15 **MS DUMI MASONDO**: In August, the report that we used to get Mr Justice, was that it was 37, the report that we get from Dr Manamela.

ARBITRATOR, JUSTICE MOSENEKE: But why didn't you know? Your people you are saying were going to every NGO to go and look? Why didn't you know how many people had died?

20 **MS DUMI MASONDO**: Our staff was not going there Mr Justice on a daily basis.

ARBITRATOR, JUSTICE MOSENEKE: Okay let's test the proposition. The Ombud says you went to Siyabadinga and he records that in the report. Did you go anywhere else?

MS DUMI MASONDO: Yes.

5 **ARBITRATOR, JUSTICE MOSENEKE**: Where else?

MS DUMI MASONDO: We went to Siyabadinga, we went to Shammah.

ARBITRATOR, JUSTICE MOSENEKE: Tell us about Shammah?

MS DUMI MASONDO: Shammah was functioning well with a few challenges.

ARBITRATOR, JUSTICE MOSENEKE: Where was it?

10 **MS DUMI MASONDO**: It was in Pretoria.

ARBITRATOR, JUSTICE MOSENEKE: And how many people were at Shammah?

MS DUMI MASONDO: Shammah, I don't have the exact figure now, but the numbers were manageable and the other one was El Shaddai.

ARBITRATOR, JUSTICE MOSENEKE: How many people died at Shammah?

15 **MS DUMI MASONDO**: None according to my understanding.

ARBITRATOR, JUSTICE MOSENEKE: None died we will come back to that.

MS DUMI MASONDO: Yes and then El Shaddai again-

ARBITRATOR, JUSTICE MOSENEKE: Where was El Shaddai?

MS DUMI MASONDO: Also in Tswane.

ARBITRATOR, JUSTICE MOSENEKE: Where in Tswane?

MS DUMI MASONDO: I'm not sure about that.

ARBITRATOR, JUSTICE MOSENEKE: And Shammah too, where in Tswane?

MS DUMI MASONDO: Also in Pretoria. In fact, all these NGO's Mr Justice, all the
5 new NGO's were in Tswane.

ARBITRATOR, JUSTICE MOSENEKE: But where in Tswane?

MS DUMI MASONDO: I wouldn't know the exact township.

ARBITRATOR, JUSTICE MOSENEKE: You don't know.

MS DUMI MASONDO: The exact township in Tswane.

10 **ARBITRATOR, JUSTICE MOSENEKE**: El Shaddai, in which township was it?

MS DUMI MASONDO: It's also in Tswane.

ARBITRATOR, JUSTICE MOSENEKE: Where?

MS DUMI MASONDO: No I'm sorry Mr Justice I'm not clear about that, but all I
know is that they were around Tswane district.

15 **ARBITRATOR, JUSTICE MOSENEKE**: Did you read the report that your
colleagues compiled about these places?

MS DUMI MASONDO: Yes, can I give you more places? I went to Precious Angels
as well.

ARBITRATOR, JUSTICE MOSENEKE: Yes and what was happening there? Did you go there physically?

MS DUMI MASONDO: Yes I was there physically.

ARBITRATOR, JUSTICE MOSENEKE: Where is it?

5 **MS DUMI MASONDO**: It's in Atteridgeville.

ARBITRATOR, JUSTICE MOSENEKE: Where in Atteridgeville?

MS DUMI MASONDO: Oh gosh, I wouldn't know the exact township, but I know it was a house in Atteridgeville.

10 **ARBITRATOR, JUSTICE MOSENEKE**: Did they have one place or more than one place?

MS DUMI MASONDO: There were two places.

ARBITRATOR, JUSTICE MOSENEKE: Where was the second place?

MS DUMI MASONDO: Not very far from the first one.

15 **ARBITRATOR, JUSTICE MOSENEKE**: How many people died at Precious Angels?

MS DUMI MASONDO: During our visit on the 5th of September, the report that we got, was that 8 people died.

ARBITRATOR, JUSTICE MOSENEKE: Do you know what the total tally is at Precious Angels?

20 **MS DUMI MASONDO**: Total death of patients?

ARBITRATOR, JUSTICE MOSENEKE: Hmm.

MS DUMI MASONDO: I'm told there were 18.

ARBITRATOR, JUSTICE MOSENEKE: We will come back to that. I am sure Counsel will put that to you. It's almost double that number. What did you find at
5 Precious Angels?

MS DUMI MASONDO: Mr Justice, at Precious Angels, it was myself, the MEC and the team.

ARBITRATOR, JUSTICE MOSENEKE: Did the MEC go to Precious Angels?

MS DUMI MASONDO: Yes I was with her on that particular day with Dr Manamela
10 and part of my team. When we arrived there, it was on a Monday in the afternoon around about 2 PM. Patients were in bed covered with heavy blankets. It was during the day and according to our policy, mental health policy, patients are not supposed to sleep during the day, that was number one. There were no stimulation programmes, there were no, activities and then I proceeded on to check on the
15 cupboards, to check if there was food. There was no food in the cupboards.

ARBITRATOR, JUSTICE MOSENEKE: There was no food?

MS DUMI MASONDO: There was no food in the cupboards and then I checked on the stove, there was a small pot with cabbage, a small cabbage and the surrounding environmental factors were really-

20 **ARBITRATOR, JUSTICE MOSENEKE**: And the ablution?

MS DUMI MASONDO: The ablution block was dirty and something that I was interested in as somebody who has been inspecting these centres, the washing rack, the toothbrushes to prevent cross infection, they were not labelled according to the patient's name and patients were just dull and sleeping.

5 **ARBITRATOR, JUSTICE MOSENEKE**: And how many patients were there when you were there?

MS DUMI MASONDO: There were 18 and from that centre, I interviewed one caregiver because she appeared very depressed for me and then I tried to find out what is the problem and she started to be tearful and she said to me, Mrs Masondo,
10 I've got a problem, for 3 months, I have been working here without a salary and I've got a child who is attending crèche and I've got rent to pay at the end of the month and the situation really was not favourable.

ARBITRATOR, JUSTICE MOSENEKE: Did the MEC Qedani Mahlangu hear and see all this?

15 **MS DUMI MASONDO**: Yes I was with her and when I tried to find out from Ellen who was a manager, she confirmed the statement that for 3 months, they didn't receive a salary from the Department.

ARBITRATOR, JUSTICE MOSENEKE: Were there any professional nurses on site?

20 **MS DUMI MASONDO**: There were no professional workers.

ARBITRATOR, JUSTICE MOSENEKE: Any social worker?

MS DUMI MASONDO: No social worker. They said they are having an outsourced social worker and outsourced professional nurse.

ARBITRATOR, JUSTICE MOSENEKE: Any occupational therapist?

MS DUMI MASONDO: No, there was no team.

5 **ARBITRATOR, JUSTICE MOSENEKE**: And many, many people in wheelchairs, isn't it?

MS DUMI MASONDO: Yes not at that home, in that other, because there are two homes there.

ARBITRATOR, JUSTICE MOSENEKE: And you and the MEC see all of this and
10 what do you do when you get back to your offices?

MS DUMI MASONDO: We got back to the offices, we complained about it, especially to Dr Manamela because I was under the impression-

ARBITRATOR, JUSTICE MOSENEKE: The MEC is in charge, to whom was she complaining?

15 **MS DUMI MASONDO**: No the reason I discussed this with Dr Manamela was because I was told there was a team of DD's who were overseeing the NGO's especially the payments, because I was worried about having patients in those centres without food without payment and the MEC addressed the issue and she said that she is going to attend to it that very day, she is going to make sure that
20 that centre is being paid. Then after that, Precious Angels, we went to-

ARBITRATOR, JUSTICE MOSENEKE: Do you know why the centre had not been paid up to that point?

MS DUMI MASONDO: They said they were still working on paperwork when I checked with Dr Manamela. Apparently somehow they were blaming the centre
5 that they did not submit the required-

ARBITRATOR, JUSTICE MOSENEKE: Why didn't you insist that the patients who are there, who were in obvious mortal danger, are moved immediately? There is no food, there is no ablution, there is no cleanliness, there is no professional care, no proper medicine, why didn't you say, take these people away, they are going to die?

10 **MS DUMI MASONDO**: That was the plan Mr Justice because finally we did that, because we couldn't just move them without making proper arrangements. If we moved those patients, we need to arrange with other NGO or the hospital Weskoppies to take over the patients, but finally the patients were removed to Weskoppies Hospital.

15 **ADV NONTLANTLA YINA**: What did you do with the immediate needs that were obvious, like food for example at Precious Angels?

MS DUMI MASONDO: Food?

ADV NONTLANTLA YINA: Yes.

MS DUMI MASONDO: That lady, the CEO said to us that very morning, she had
20 somebody, one of the companies who donated food.

ADV NONTLANTLA YINA: You mean Ethel at Precious Angels?

MS DUMI MASONDO: Yes Ethel.

ADV NONTLANTLA YINA: So she said she was expecting food?

MS DUMI MASONDO: Yes.

ADV NONTLANTLA YINA: Did you follow-up if she received it eventually?

5 **MS DUMI MASONDO**: No I must say I couldn't just follow-up, but I phoned Ethel after 2 days using my own spare time to check how are things, did they finally receive food, what was the situation now and we always got a positive answer to say no, for now, everything was acceptable, was fine.

ADV NONTLANTLA YINA: At that time when you visited Precious Angels, what
10 month was that?

MS DUMI MASONDO: It was on the 5th of September.

ADV NONTLANTLA YINA: And do you know if patients had died by then?

MS DUMI MASONDO: The reason for us to visit there was that there was a report in the media that some patient died at Precious Angels.

15 **ADV NONTLANTLA YINA**: Now did you eventually receive the documents for review and assessment from the Department?

MS DUMI MASONDO: We received all the documents after all patients were transferred. After transferring all the patients to NGO's after July, that is when we started receiving documents, but not all of them. They were always delaying, the
20 system was really not functioning well, because apparently when you find out from

the Directorate, they were saying people from Life Esidimeni did not agree with the records.

ADV NONTLANTLA YINA: How many documents did you receive, in respect of how many patients did you receive the documents?

5 **MS DUMI MASONDO:** I must say we didn't receive all the documents, although I can't remember the exact number now, but we did receive some documents.

ADV NONTLANTLA YINA: Was it half or more than half?

MS DUMI MASONDO: More than half and then we started reviewing those documents.

10 **ADV NONTLANTLA YINA:** And what did you find when you reviewed the documents?

MS DUMI MASONDO: The documents were very scanty, the information was not sufficient and the periodical which was supposed to be submitted to the board on a 6 monthly basis was not available in most of the files. The discharge summaries
15 were not there from 3's, from 11's, they were not in those files.

ADV NONTLANTLA YINA: What did you do in respect of the information that was not provided?

MS DUMI MASONDO: Well because already patients were placed at various NGO's, the information was not really sufficient for us.

ARBITRATOR, JUSTICE MOSENEKE: Now obviously if you had intervened right at the beginning, you would have known that this documentation is so insufficient, isn't it?

MS DUMI MASONDO: Yes.

5 **ARBITRATOR, JUSTICE MOSENEKE**: Or you should have made the visits much earlier? You went there in August? I am sure Counsel will put to you, a schedule-

ADV NONTLANTLA YINA: Yes I was about to refer the witness-

ARBITRATOR, JUSTICE MOSENEKE: I am sure Counsel will deal with that. From January to August, basically your review board did very little to prevent deaths and
10 ultimately you go out there and you find these horrible conditions. Why couldn't you have done that earlier, [inaudible] this devastation, so many deaths.

MS DUMI MASONDO: We really, our intention Mr Justice, was to do that, but the system was continuously blocking us.

ARBITRATOR, JUSTICE MOSENEKE: Just describe the system that blocked
15 you?

MS DUMI MASONDO: As I've said that during our inception, we were told not to bother at that point in time, we will be involved at a later stage and then the second attempt, we tried to, after hearing about the deaths at Tswane district, members of the board from Region A, they were really interested to go and vet all the NGO's in
20 Region A, but again we were told not to bother because the MEC has appointed a team who will overseeing-

ARBITRATOR, JUSTICE MOSENEKE: Who told you that?

MS DUMI MASONDO: Dr Manamela. The reporting party of us, was Dr Manamela, so we were told don't worry and then the other attempt was when Mr Mosonoge came to my office to say can we go and assist just to monitor the
5 transfers at Life Esidimeni, that was in April and then we decided to go-

ARBITRATOR, JUSTICE MOSENEKE: So you were there when the patients from transferred from Life Esidimeni?

MS DUMI MASONDO: On that particular day, because we were requested by Dr Mosonoge, we wouldn't bother to go to Life Esidimeni because at Life Esidimeni,
10 there was [inaudible]

ARBITRATOR, JUSTICE MOSENEKE: But did you go?

MS DUMI MASONDO: Yes we went and we were stopped. We are told we are not being paid of going around. Our core function-

ARBITRATOR, JUSTICE MOSENEKE: You were stopped, who stopped you?

15 **MS DUMI MASONDO**: We were stopped by Dr Manamela and the DD's.

ARBITRATOR, JUSTICE MOSENEKE: So Mr Mosonoge asked you to go and look at the transfers and Dr Manamela stopped you.

MS DUMI MASONDO: Yes and then unfortunately on that particular day, he invited us but he was not there.

20 **ARBITRATOR, JUSTICE MOSENEKE**: But did you reach Life Esidimeni?

MS DUMI MASONDO: Yes we were there.

ARBITRATOR, JUSTICE MOSENEKE: Physically you were there?

MS DUMI MASONDO: Yes on that particular day.

ARBITRATOR, JUSTICE MOSENEKE: I am sure there will be questions to you
5 about that from the advocates. Counsel?

ADV NONTLANTLA YINA: Thank you Justice. Mrs Masondo I would like to refer
you to a document entitled LI4. It's a schedule of the deceased which was prepared
by the Ombud. If you take a look at the first page of the document, the second
column would be the name, the first name of the deceased, the surname, the
10 gender, ID Number and all the way and then you have the date of death, do you see
those details on top?

MS DUMI MASONDO: Yes the first one was on 15-08-2016 date of death.

ADV NONTLANTLA YINA: No the first name there is Ranthodi Hendrick Maboe
who died on the 22nd of July 2016, on the first page.

15 **MS DUMI MASONDO**: Sorry Counsellor on my first page, I've got Terence Tshaba.

ADV NONTLANTLA YINA: Oh I see, someone will assist you to get to the correct
document. What I want to bring to your attention is the column relating to
Shammah, the deaths that occurred at Shammah. You indicated earlier on, that
there were no deaths at Shammah, but you can see on that very first page that
20 when you went there, there were 2 deaths already that had occurred. The first one
occurred on the 1st of July 2016, can you see that and that was Happy Makubela?

MS DUMI MASONDO: Okay I can see that.

ADV NONTLANTLA YINA: And then the next one is Patrick Michael [inaudible], can you see that?

MS DUMI MASONDO: Yes in Shammah.

5 **ADV NONTLANTLA YINA**: The point that I want to make is that it would see that the reports that you were getting from Dr Manamela were not accurate, do you agree?

MS DUMI MASONDO: Yes.

10 **ADV NONTLANTLA YINA**: For instance, you were indicated that you were told that there were 5 deaths and then you discovered that there were deaths. The issue is that obviously this should have been a cause for concern on the side of the board. Did you at this stage, demand a list of all the NGO's?

MS DUMI MASONDO: This was in August, at that point in time, we didn't have the list. We only received the list on the 5th of November.

15 **ARBITRATOR, JUSTICE MOSENEKE**: But how did you manage to visit NGO's if you didn't have the list?

MS DUMI MASONDO: When our team was at Cullinan Care Centre, they asked from the managers, the other nearby NGO's and they were furnished with the list, the names, just the names to say this NGO is-

20 **ARBITRATOR, JUSTICE MOSENEKE**: But why didn't you demand them? You are the chairperson of the review board and patients are strewn all around Tswane, why

didn't you say I want to know where these patients are? The law requires me to transfer their transfers to advocate their case and to protect their lives, why didn't you say that you would like to know where, the patients are?

MS DUMI MASONDO: That was my request Mr Justice in all the meetings.

5 **ARBITRATOR, JUSTICE MOSENEKE**: And when it was refused, what did you do?

MS DUMI MASONDO: They kept on saying they were working on the list, but because we managed to get these addresses with other contacts.

ARBITRATOR, JUSTICE MOSENEKE: And in July, you hear that people are dying you heard that 36 people had died. That should get you on your hind legs. I'm the chairperson of the review board in the province, I am the one who must review the conduct of establishments and state officials in relation to mental health care users and now they are dying, 46 people died, what did you do?

10 **MS DUMI MASONDO**: I must say Mr Justice our powers were somehow infringed as a review board.

15 **ARBITRATOR, JUSTICE MOSENEKE**: I want to know what, did you do?

MS DUMI MASONDO: We were having meetings and we were raising concerns in each and every meeting, that we are really concerned, hence we decided now to be part and visit all the NGO's.

ADV NONTLANTLA YINA: But never mind the list of NGO's, did you have the list of patients that were moved from Life Esidimeni?

20 **MS DUMI MASONDO**: Placed at NGO's?

ADV NONTLANTLA YINA: All of them, whether they were discharged to their homes, or whether they were sent to other facilities, or to NGO's, did you have that list?

MS DUMI MASONDO: We were supplied by that list and which was not updated by
5 the members of the mental health directorate team.

ADV NONTLANTLA YINA: Of the list, evidence is that some of the patients were discharged to go to their homes you indicated that you were aware. Did you follow up on those? Did you get documents in respect of those to review?

MS DUMI MASONDO: No as I've said earlier on, all the records were delayed.

10 **ADV NONTLANTLA YINA**: Did you get those ever?

MS DUMI MASONDO: Yes.

ADV NONTLANTLA YINA: You did.

MS DUMI MASONDO: After June they started to submit but not all the records were submitted to the boards.

15 **ARBITRATOR, JUSTICE MOSENEKE**: Who are they who started to submit?

MS DUMI MASONDO: That is to submit the records Mr Justice after June.

ARBITRATOR, JUSTICE MOSENEKE: But who submits them?

MS DUMI MASONDO: The very same system of saying somebody from the NGO's will bring the documents to the board and somebody from the hospital they will bring
20 the documents to the board.

ARBITRATOR, JUSTICE MOSENEKE: But who brought what to you, to the review committee?

MS DUMI MASONDO: I wouldn't know the names, but there were people employed by the Department to do that, different facilities to do that, to transport the
5 documents to the boards.

ARBITRATOR, JUSTICE MOSENEKE: And where are the reports that were brought to you by NGO's?

MS DUMI MASONDO: They were in our office, the mental health review board office.

10 **ARBITRATOR, JUSTICE MOSENEKE**: And after reviewing what you saw, what did you do on the reports?

MS DUMI MASONDO: If the document is well filled up in accordance with the Act, we file those documents and if there were any challenges we will make a follow-up with that particular hospital or clinic.

15 **ARBITRATOR, JUSTICE MOSENEKE**: And in relation to the NGO's, what follow-ups did you make and which NGO's?

MS DUMI MASONDO: Well with this particular one, we couldn't just make any NGO's because we were now physically visiting all the NGO's and in as much as I have said, the documents were not fully submitted to us.

20 **ADV NONTLANTLA YINA**: In respect of the patients that were transferred to hospitals, did you receive the documents?

MS DUMI MASONDO: Yes, hospitals I must say, hospitals were more compliant than the NGO's.

ADV NONTLANTLA YINA: And what did you find in respect of the patients that were discharged home? The reason I am asking that question, is that there is
5 evidence that some of them died.

MS DUMI MASONDO: I know of one that was reported Sophie I'm not sure of others, but I know of Sophie from Braam Fisher of which I went to see the family just to advocate and ensure support. So the rest I didn't get any report about them.

ADV NONTLANTLA YINA: So earlier on you indicated that the team that visited
10 the NGO's were only in respect of the NGO's in Pretoria. Were those the only NGO's that you visited, or did you visit other NGO's?

MS DUMI MASONDO: We visited other NGO's, we went to Takalani Home, we went to Masego Homes.

ADV NONTLANTLA YINA: What did you find at Takalani?

MS DUMI MASONDO: At Takalani Home at that day of the visit, as usual, the
15 place was clean. What I have observed from Takalani, they had professional staff that was looking after those patients and checking the medication at Takalani, there was medication and there was enough food. There were daily menus on the list and patients had washing rightly labelled together with tooth brushes. I would say
20 Takalani at that day of my visit, the standard was really satisfactory.

ADV NONTLANTLA YINA: When you would do those visits, would you advise or inform them in advance that you are coming, or would you just pitch in the morning?

MS DUMI MASONDO: You know with the NGO's, firstly you need to get permission. We inform that we will be coming on that particular day, but normally if
5 you identify quite a number of challenges, the idea is to do unscheduled visits, meaning that you will pounce in unexpectedly.

ADV NONTLANTLA YINA: And what was the position with those NGO's with Takalani for example?

MS DUMI MASONDO: With Takalani, as I have said, the conditions were
10 satisfactory.

ARBITRATOR, JUSTICE MOSENEKE: You know Mrs Masondo, they have given you ELAH4, you have it in front of you, just page over- I am sure Counsel will take you to what the Ombud says about Takalani. I would like you to get to the second page, it starts at the top with Mr Jaco Stoltz, do you see that at the top, the second
15 page at the top, Jaco Stoltz, can you see that?

MS DUMI MASONDO: On the second page, I've got Terence Tshaba.

ARBITRATOR, JUSTICE MOSENEKE: I want you to get to a page that says Jaco Stoltz right at the top, MAO467 Stoltz Jaco, male, can you see that? Can we make sure that these pages are numbered, so that we don't have to struggle like that?

MS DUMI MASONDO: Okay I've got Jaco.

ARBITRATOR, JUSTICE MOSENEKE: Just roll your finger a little down midway can you see the deaths recorded there at Takalani? Maybe you should read them out? These are human beings, can you see that?

MS DUMI MASONDO: Yes.

5 **ARBITRATOR, JUSTICE MOSENEKE**: Can you see all those ladies who died at Takalani? Just read the names and the dates of their death, the people who died at Takalani, that page?

MS DUMI MASONDO: Okay its John Mahloko date of death was 10-11-2016 and the second one was Rebecca Hlabathi-

10 **ADV NONTLANTLA YINA**: Sorry the ones who died at Takalani, they are further down.

ARBITRATOR, JUSTICE MOSENEKE: The facility at which they died, can you see that? Mid-way in the page, starting from MA635.

MS DUMI MASONDO: No I am not on the right page. Can somebody come and
15 assist?

ARBITRATOR, JUSTICE MOSENEKE: Can you just make sure you get this record correct please and properly numbered? We can't waste time on this.

MS DUMI MASONDO: Takalani is [inaudible] Josephine Masuku, Masweet
Mkoneni-

20 **ARBITRATOR, JUSTICE MOSENEKE**: You can read the date of death, you can also see it there, can you see that? There are 2 columns at the top.

MS DUMI MASONDO: Yes date of death Takalani 08-2016, 10-08-2016, 22-08-2016, 23-08-2016, 06-09-2016, 25-10-2016 and Takalani is 18-07-2016, 17-11-2016, 24-12-2016, 19-01-2017, 27-10-2016, 01-07-2016, 26-10-2016, this is Chis Hani Baragwanath, Takalani is up to 29-01.

5 **ARBITRATOR, JUSTICE MOSENEKE**: Do you see how many females died just in that period on that schedule can you see that?

MS DUMI MASONDO: Yes.

ARBITRATOR, JUSTICE MOSENEKE: At the time when you were visiting there, look how many people died? How do you find it possible to tell us you found
10 Takalani all clean all caring all orderly and look how many people died just on the one schedule?

MS DUMI MASONDO: Yes when I visited the centre on that particular day, my findings of the environment and that is what I am reporting about, because it was just a one day visit, but my concern of going to Takalani as well, is because I heard
15 about the deaths and I was worried. I tried to go there to find out exactly why, did they have so many deaths, because by then it was only 10 deaths.

ARBITRATOR, JUSTICE MOSENEKE: Why do you think they had so many deaths? You went there, you went to inspect? What killed so many people?

MS DUMI MASONDO: I think according to my assessment, the space, the patients
20 were congested number one, they were congested and I would say even if they had professionals because the management they are just professionals, but I would say the caregivers were not well supervised and I would say because there was a

dietician placed on the wall, I would say maybe the diet was fine, because it [inaudible] I even checked the meals on that particular day, so on that particular day, it was-

ARBITRATOR, JUSTICE MOSENEKE: The question is what do you think killed so
5 many patients at Takalani?

MS DUMI MASONDO: [inaudible] that I have observed, I wouldn't just elaborate on that Mr Justice.

ARBITRATOR, JUSTICE MOSENEKE: Your 5 qualifications related to mental health care, why do you think these patients died?

10 **MS DUMI MASONDO**: I was also worried why didn't-

ARBITRATOR, JUSTICE MOSENEKE: You are not a lay person, you are a professional in the field and so many people died, what do you say, what killed them?

MS DUMI MASONDO: I've got no answer and especially Mr Justice, I was dealing
15 with patients psychiatric patients for all these years, we have never had this number of deaths.

ARBITRATOR, JUSTICE MOSENEKE: So what do you say what killed the people in Takalani?

MS DUMI MASONDO: I don't know Mr Justice.

20 **ARBITRATOR, JUSTICE MOSENEKE**: You went to Precious Angels and you visited there. What killed those poor patients in Precious Angels?

MS DUMI MASONDO: I think at Precious Angels, the contributory factors that I have mentioned, those to me, were contributory factors.

ARBITRATOR, JUSTICE MOSENEKE: What are they?

MS DUMI MASONDO: The diet, the medication, the lying of patients not being,
5 motivated and no supervision, there were no professionals.

ADV NONTLANTLA YINA: What do you mean when you say that at Takalani there were professionals? What type of professionals are we talking about?

MS DUMI MASONDO: What I have detected from Takalani, they have employed the retired nurses and the retired administrators who were working at Life Esidimeni
10 for years, so I was under the impression that those people might make a change at Takalani.

ADV NONTLANTLA YINA: You were just under that impression. Maybe just to take a point further on Takalani, if you could go to File Number 10 on Page 3306, this is an affidavit by Selena Klaus who is a cousin of late Benika Mokoneng who
15 was admitted at Takalani. The relevant page that I want you to go to, is 3309, I will read out Paragraph Number 13 which reads

["I went to visit her at Takalani at the end of June.

*I arrived at the hospital and tried to call the social worker, but she did not answer. I eventually found the place. When I went
20 inside Takalani, what I found was not good. Benika had scratches on her legs and face. She had lost a lot of weight she was wearing a long sleeve top with an open neck and short*

5 *skirt. Her arms were folded inside her top for warmth. Her clothes were dirty. It looked like she was wiping her nose on her top. We were in the visitors' room and it was unwelcoming and very cold. I sat with her and gave her some food. She ate hungrily.”]*

So you would agree from this paragraph that I read to you, it does not accord with your evidence that Takalani was good.

MS DUMI MASONDO: As I was saying that on the day of my visit, what I have assessed because I was assessing the environment. I didn't interview the patients.

10 **ADV NONTLANTLA YINA**: Then Paragraph 15 says

["A man walked past us and she started pointing at him to draw my attention to him. She then gestured pulling up her skirt and mimicking being strangled. I understood from her that she had been raped.”]

15 **MS DUMI MASONDO**: That is really pathetic. I am hearing this for the first time.

ARBITRATOR, JUSTICE MOSENEKE: Were there both men and women patients in the same place when you were there?

MS DUMI MASONDO: Yes but in different wards.

ARBITRATOR, JUSTICE MOSENEKE: The answer is yes.

20 **MS DUMI MASONDO**: Yes.

ARBITRATOR, JUSTICE MOSENEKE: In different wards. Are there wards in Takalani or rooms as in a house?

MS DUMI MASONDO: There were female wards and male wards.

ADV NONTLANTLA YINA: And if you go back again to File 1 where we started, if
5 you go to paginated page number 7 of the report, Item 1.1, you would note that Takalani was actually listed among the top 5 NGO's where many deaths occurred.

ARBITRATOR, JUSTICE MOSENEKE: Okay let's give the report to the witness.

ADV NONTLANTLA YINA: That will be Page 7 Mrs Masondo, Item 1.1, Bullet
10 Point Number 8. It reads 75 patients which is about 79%, died from 5 NGO complexes, that is Precious Angels 20, CCRC Siyabadinga and Anchor 25, Masego Takalani 15. I just want to highlight to you that that is the reason I asked you if the visit was it scheduled or unscheduled. It might very well be that what you saw, was not the real position of Takalani. Do you agree?

MS DUMI MASONDO: Yes I would agree, but again, I think using my experience,
15 what I have seen, the caregivers were not trained at Takalani, they had quite a lot of professionals, but the caregivers were not trained and I am just wondering in terms of salary because whenever you meet them, they would be complaining about salaries, we are not well paid here, so I think some of them were demotivated with no proper supervision.

ARBITRATOR, JUSTICE MOSENEKE: And were you paid from the very first
20 month that you assumed your role in the Department?

MS DUMI MASONDO: Our payments Mr Justice were not regular. We would work for the whole month and maybe get paid the following month.

ARBITRATOR, JUSTICE MOSENEKE: Yes but you were paid regularly for the work done.

5 **MS DUMI MASONDO**: Yes.

ARBITRATOR, JUSTICE MOSENEKE: And do you know why they waited 3 or 4 months before they gave these NGO's money for subsistence?

MS DUMI MASONDO: I would say there was a problem with people who were managing those NGO's, especially supervising them from the Department.

10 **ARBITRATOR, JUSTICE MOSENEKE**: Didn't that worry you? Good NGO's and you find a little bit of cabbage there and you say there were about 19 or 20 men in the place, didn't it worry you that these people are going to starve?

MS DUMI MASONDO: Exactly.

ARBITRATOR, JUSTICE MOSENEKE: And that their conditions were poor?

15 **MS DUMI MASONDO**: Precisely so Mr Justice.

ARBITRATOR, JUSTICE MOSENEKE: I go back to the same point. What did you do about it? You see why it's important with you Mrs Masondo that was your job. You are not like an innocent bystander standing to watch something terrible. That was your work to prevent it.

20 **MS DUMI MASONDO**: Indeed Mr Justice, it was my concern and it was my responsibility, so I compiled a list. After observing these NGO's and I identified

problems, I would go back to the office and discuss with the management, hence finally centres like Precious Angels, Suurman and whatever, I was part of the team who decided to –

ARBITRATOR, JUSTICE MOSENEKE: When they made the presentation to you
5 the first time around, did you see the tell tales? Did you see the dangers that might come from this?

MS DUMI MASONDO: I must say Mr Justice at that point in time I thought the system would function well.

ARBITRATOR, JUSTICE MOSENEKE: Why? What is your training about
10 transferring patients who are dependent on mental health care? What are the pre-requisites for transfers? Again that was your statutory duty to make sure it happens properly, professionally and according to the law. How do you transfer a mentally ill person from one institution where they are established to another?

MS DUMI MASONDO: When you are transferring patients from one institution to
15 the other, number one, you need to make sure that the families are made aware so that if they want to make follow-up, they would know where their loved ones are. Number two, you need to assess that patient thoroughly, whether the patient is fit to be transferred out. Number three, you used to organise what we call TTO, that is treatment to take home, if the patient is going home, make sure that there is
20 treatment and again, because these patients have got their own rights, you must make sure whether the patient is willing to be transferred because if the patient is

not willing to be transferred, the right says you can't force a human being to do things if she feels I am comfortable here.

ARBITRATOR, JUSTICE MOSENEKE: And what happened here?

MS DUMI MASONDO: In this case, I must say-

5 **ARBITRATOR, JUSTICE MOSENEKE**: Were any of those requirements met in Project Marathon?

MS DUMI MASONDO: According to what I've been listening and observing on paper, they told us that these were followed up, but when-

ARBITRATOR, JUSTICE MOSENEKE: Now you know the facts and the truth-

10 **MS DUMI MASONDO**: They were not followed up. They were totally not followed up.

ADV NONTLANTLA YINA: Mrs Masondo if you could just turn to Page 24 of File 1 please? At 5.2.6 some facilities were found to be operating without a valid licence on investigation, e.g. Mosego, Takalani, Hephzibah and Shapile and obviously if the
15 board was involved from the inception, you would have not allowed the patients to be transferred to NGO's that did not have a licence.

MS DUMI MASONDO: Definitely so yes.

ADV NONTLANTLA YINA: And if you go to Page 26 of the same document, Item
20 5.9, at 5.9.2, the Ombud concluded that no evidence of medical authorisation that transfer or discharge should take place in the form of a discharge in summary of

Mental Health Care Act. Some patients were medically unfit for transfers or discharged to NGO's.

MS DUMI MASONDO: I agree with the statement.

ADV NONTLANTLA YINA: And you also agree that if the board was involved,
5 would this have been avoided?

MS DUMI MASONDO: Yes.

ADV NONTLANTLA YINA: Many deaths would have been avoided.

ARBITRATOR, JUSTICE MOSENEKE: And you were made chairperson Mrs Masondo for all the qualifications that you have and experience isn't it?

10 **MS DUMI MASONDO**: Yes Mr Justice. So we are going to say no. No patient can be sent to that NGO, but we were convinced that the reports that were given to us, as we started with the piles and piles in the office, we were not given a chance to exercise our expertise.

ADV NONTLANTLA YINA: Just to canvas one issue in respect of what you
15 mentioned earlier on that your independence was compromised, you were using the secretariat of the department, where were [inaudible], were they in the same building as the Department?

MS DUMI MASONDO: Yes on the 16th floor.

ARBITRATOR, JUSTICE MOSENEKE: Were you afraid to tell the MEC that all this
20 was wrong and might endanger the life of patients?

MS DUMI MASONDO: Mr Justice, I wouldn't say I was afraid to tell her. The only thing during the process of transferring, there were no challenges or problems reported to us, but afterwards, we were expressing our voices to say this process was haphazardly implemented. As I said before, we were not part of it, we will start
5 in the office with our core functions, not participating in the project.

ARBITRATOR, JUSTICE MOSENEKE: In April and May, that was the high point of the transfers isn't it?

MS DUMI MASONDO: Yes but I think starting from January.

ARBITRATOR, JUSTICE MOSENEKE: Yes many, it was gradual until April and
10 May and then it went to a pitch isn't it?

MS DUMI MASONDO: Yes.

ARBITRATOR, JUSTICE MOSENEKE: It became feverish many people were moved quickly against their will forcibly without the knowledge of their family members, without records that would help them to get medication. You know that
15 now don't you?

MS DUMI MASONDO: Yes. I really sympathise with the-

ARBITRATOR, JUSTICE MOSENEKE: And you never heard of all that, it being your job to monitor this, you never heard a word of this kind of conduct against these poor people?

MS DUMI MASONDO: After placement Mr Justice, that is when I exercised all of my expertise and my responsibilities. As I am saying to you, before that, when they were busy with these transfers, we were not involved.

ARBITRATOR, JUSTICE MOSENEKE: Why didn't you call a press conference
5 and say in the Department where I work where I am supposed to be chairperson of the review committee, there are things which are happening which are likely to kill people, why didn't you do something that would save the lives of these people?

MS DUMI MASONDO: But by then Mr Justice there were no deaths reported and the report was that the transfer was progressing fairly well.

10 **ARBITRATOR, JUSTICE MOSENEKE**: Who told you the transfers were progressing well?

MS DUMI MASONDO: In our monthly meetings.

ARBITRATOR, JUSTICE MOSENEKE: By name, who said that?

MS DUMI MASONDO: It was Dr Manamela and her team in all the meetings,
15 because there was an item on transfer progress of Life Esidimeni, so there was nothing alarming, there was no cause for alarm for us as board members.

ARBITRATOR, JUSTICE MOSENEKE: I'm sorry I am a little impatient, but you see
you and me as public servants, we are paid to protect people who are vulnerable
and to serve citizens. In this case, the abdication led to many deaths. Sometimes
20 you may abdicate and keep somebody waiting at a window somewhere at a public

office, while you're drinking coffee, maybe you get away with it, but here, you had a statutory duty to prevent certain harm and that duty was not exercised.

MS DUMI MASONDO: I think as the review board, we really regret what has happened to the families.

5 **ARBITRATOR, JUSTICE MOSENEKE**: There will still be many other questions, but I am telling you that you really, really could have done so much to save the lives of many vulnerable people and it was your work. It's not like you were employed as a caregiver, you were paid to prevent that.

MS DUMI MASONDO: But if I was involved in the initial phase, remember Mr
10 Justice we started in January, the process was on already and we were told to concentrate on our core function and again, it frustrated us as members of the review board, because maybe if we were involved, we would come up with some plans or may stop the process, but we were not part of the process Mr Justice until after June.

15 **ADV NONTLANTLA YINA**: Just the last point in respect of the Ombud's report, if you could go to Page 58 Mrs Masondo please? At the bottom, Item Number 6, these are the recommendations by the Ombud. Paragraph 6 reads

20 *["Corrective disciplinary action must be taken against members of the Gauteng Department of Mental Health and also your name Mrs D. Masondo is listed there and he says for failing to exercise their fiduciary duties and responsibilities. They allowed fear to cloud and override their fiduciary*

responsibilities and thus failed to report this matter earlier to relevant authorities. Fiduciary responsibilities are essential for good corporate governance.”]

5 So in essence, the Ombud is saying that you should face disciplinary actions because you failed to exercise fiduciary duties and responsibilities. I just want to find out from you, if in light of what has been demonstrated to you today and what you know from the press and from the facts, do you believe that the board or you as the chairperson of the board, failed to exercise your fiduciary duties and responsibilities?

10 **MS DUMI MASONDO**: I don't think I failed my duties because I was under the impression that senior people in the profession was aware of this process.

ADV NONTLANTLA YINA: Who are those senior people?

MS DUMI MASONDO: Somebody like the Premier of us.

ADV NONTLANTLA YINA: Why do you say that the Premier was aware?

15 **MS DUMI MASONDO**: It's because at some stage on the 15th of September, I attended a meeting in the Premier's office and we were discussing about this issue.

ADV NONTLANTLA YINA: Which year was this?

MS DUMI MASONDO: 15th of September 2016 5 PM in the Premier's office.

ADV NONTLANTLA YINA: Was the Premier there?

MS DUMI MASONDO: The Premier was there and the Premier was worried about the number of deaths. He wanted to know why are we having so many deaths in the NGO's and the MEC was explaining the reason for that.

ARBITRATOR, JUSTICE MOSENEKE: Who else was present in this meeting?

5 **MS DUMI MASONDO**: Dr Manamele, the HOD, Dr Selebano, Dr Lebete, Mr Mosonoge and the rest of the high professionals in mental health.

ARBITRATOR, JUSTICE MOSENEKE: And the Premier was concerned about the deaths?

MS DUMI MASONDO: Yes Mr Justice.

10 **ADV NONTLANTLA YINA**: The Ombud said that you failed to report this matter earlier to the relevant authorities, so you are saying that the Premier was aware?

MS DUMI MASONDO: Yes.

ARBITRATOR, JUSTICE MOSENEKE: You have to give your answer on record Mam. A question was put to you can you just repeat it so that it is recorded?

15 **MS DUMI MASONDO**: Sorry yes.

ADV NONTLANTLA YINA: Just the last point Mrs Masondo, I will request you to open File Number 3 please, Page 1356. Now this relates to a funeral parlour called African Queens of Africa.

ARBITRATOR, JUSTICE MOSENEKE: Whilst you are shown that, have you faced
20 any disciplinary charges within the Department up to now?

MS DUMI MASONDO: Up to now Mr Justice, I was suspended.

ARBITRATOR, JUSTICE MOSENEKE: Has there been a formal process disciplinary in nature?

MS DUMI MASONDO: I was suspended by the new MEC from March 2016 up to-
5 date.

ARBITRATOR, JUSTICE MOSENEKE: Were you suspended on full pay?

MS DUMI MASONDO: No, no pay.

ARBITRATOR, JUSTICE MOSENEKE: But have you been charged in any way for failure to exercise your fiduciary duty found by the Ombud?

10 **MS DUMI MASONDO**: No I was not charged.

ARBITRATOR, JUSTICE MOSENEKE: You were not disciplined in any way?

MS DUMI MASONDO: No.

ARBITRATOR, JUSTICE MOSENEKE: Counsel, proceed please?

ADV NONTLANTLA YINA: Did you say March 2016 or did you mean March 2017
15 the suspension?

MS DUMI MASONDO: Oh sorry it was March 2017.

ARBITRATOR, JUSTICE MOSENEKE: But you continued in your role until in March 2017 when you were suspended? You continued as chairperson until March 2017 when you were suspended?

20 **ADV NONTLANTLA YINA**: Yes.

ARBITRATOR, JUSTICE MOSENEKE: By the new MEC?

MS DUMI MASONDO: Yes Mr Justice.

ADV NONTLANTLA YINA: Just a follow-up on that one, were you charged when you were suspended?

5 **MS DUMI MASONDO**: No.

ADV NONTLANTLA YINA: You were just suspended? Why were you suspended?

MS DUMI MASONDO: I wouldn't like to discuss more about that Mr Justice because it makes me to be tearful amongst all these people who are listed here, who were supposed to undergo this disciplinary hearing, I was the only one who
10 was suspended without pay. All these 6 people, were left doing their duties, so it really makes me so traumatised when we discuss about, because out of 6, I was the only one who was suspended without a salary.

ARBITRATOR, JUSTICE MOSENEKE: Just remind us about the other 5 you are referring to?

15 **MS DUMI MASONDO**: On Paragraph 6.

ARBITRATOR, JUSTICE MOSENEKE: Okay that's good enough thank you.

ADV NONTLANTLA YINA: Sorry I didn't get your answer. You said you were not charged?

MS DUMI MASONDO: No.

ADV NONTLANTLA YINA: So what was the reason for the suspension? Were you told?

MS DUMI MASONDO: The accusation was based on Life Esidimeni one, the transfer was disorderly, number two, I can't remember them quite well, it was about
5 the families because I attended the family meeting and the other one was the issue of Siyabadinga, so there were only three.

ADV NONTLANTLA YINA: So these three were the charges or the reasons for the suspension?

MS DUMI MASONDO: From the new MEC.

10 **ADV NONTLANTLA YINA:** Was there a hearing where you were allowed to give evidence in respect of the allegations against you?

MS DUMI MASONDO: From March 2017 to August, I was traumatised attending these hearings almost every month, using my funds to pay legal people and being suspended without a salary.

15 **ADV NONTLANTLA YINA:** What were the outcomes of the hearings?

MS DUMI MASONDO: The outcome of the hearing, I haven't seen it but I was told by my legal person that they were positive, that was in September, I was found not guilty and I was supposed to go back to my duties, but up today, nobody is saying anything to me, so I am still at home without a salary, not even to be called and to
20 be updated.

ADV NONTLANTLA YINA: So if you could then go to File Number 3 Page 1356, Justice I note that it is now 11:30 and I am going to start with this new line of questioning. I am not sure if it's an opportune time to break for tea?

ARBITRATOR, JUSTICE MOSENEKE: That is fine, we will adjourn. We are going
5 to adjourn until 12:00.

27 October 2017

SESSION 2

ARBITRATOR JUSTICE MOSENEKE: You are warned that you are still under your previous oath to tell the truth.

10 **ADV NONTLANTLA YINA:** Thank you Justice. Mrs Masondo, we are now on Volume 3 or File 3, on page 1356. This is an article where one Willeminah Tejane, who is the sister of Daniel Charles Josiah who died during the Gauteng Department of Health marathon, was interviewed. If we could go to paragraph 5, are you on the article?

15 **MRS DUMI MASONDO:** Yes, 135.

ADV NONTLANTLA YINA: It's page 1367.

MRS DUMI MASONDO: Yes.

ADV NONTLANTLA YINA: Yes. If you could go to the fourth paragraph just below the picture, where it reads:

“When the family arrived at the hospital, they were told by a nurse to use African Queens of Africa Co Opt Funeral Solutions, owned by a former Gauteng Health Deputy Director, Mental Health Dumiso Masondo.”

Do you wish to comment on this article, on the paragraph in particular that I just
5 read?

MRS DUMISO MASONDO: Yes council. I know the Co Opt Funeral Solutions, but I don't know the content of this.

ADV NONTLANTLA YINA: Are you the owner of African Queens of Africa Co Opt?

10 **MRS DUMISO MASONDO:** No, the African Queens Co Opt, is cooperative for ten undertakers. They have grouped them together, so my undertaker is Dumiso Funeral Services, which is also part of that Co Opt.

ADV NONTLANTLA YINA: And where is Dumiso Funeral Services based?

MRS DUMISO MASONDO: It's in Soweto.

15 **ADV NONTLANTLA YINA:** Okay. So it continues:

*“I had a problem with that when the nurse said Masondo will transport the body and when I asked why, she kept quiet said Tijane. I said it must, it means you and Masondo are making money with my brother's death. I was angry. I said again this is a tender. How could you arrange with an undertaker for us? We have not met
20 and we don't even know her, she added.”*

MRS DUMI MASONDO: Can I explain council what has happened? I attended the meeting with the MEC.

ADV NONTLANTLA YINA: Sorry Mrs Masondo, if I may. Can you just pull the mike closer?

5 **MRS DUMI MASONDO:** I attended a meeting with the MEC, Dr Manemela and there was a meeting with SADAC earlier on and then later on after the meeting has adjourned, I was asked in fact informed by Dr Manemela and the MEC that they are having a problem. They want to transport a patient, one of the deceased patients to Warrenton and I was requested because they know that there is this family
10 undertaker. I was requested to arrange transportation of the body and I agreed, I said okay I'm going to phone my contact to make sure that the body is transported.

ADV NONTLANTLA YINA: Where was the body transported from?

MRS DUMI MASONDO: I think it was in one of the mortuaries in Pretoria.

ADV NONTLANTLA YINA: To where?

15 **MRS DUMI MASONDO:** To Warrenton, Eastern Cape.

ADV NONTLANTLA YINA: Yes.

MRS DUMI MASONDO: So I after that meeting I phoned the contact person that I know who used to transport all the deceased for the undertakers. It wasn't my undertaker. It wasn't under African Queens. It was just an ordinary person who
20 was transporting the deceased to various places, and what I did, I took all the particulars of the driver after contacting the driver, to say driver, you contact the

department so that they must give you payment and then what my request, what I was requested to do, is to communicate with the family and then I picked up the phone, because I was given the brother of the family to say I have managed to arrange transport for you, so this is the guy who will be transporting.

5 **ADV NONTLANTLA YINA:** What was the name of that person who transported the body?

MRS DUMI MASONDO: It's Vuma. From Themba Transportation.

ADV NONTLANTLA YINA: Yes.

MRS DUMI MASONDO: And then from there I phoned the family to say finally,
10 because the minute, the reason for me to take over was that there were just a misunderstanding between the department and the district RE transportation of the body. So I had to come in as an advocate now, because family was willing to go and transport. The department was fighting. There were no resources. So I had to come in to solve the problem, but at the end of the day I have never received a cent
15 from the department. There was no financial gain on this. Instead I was assisting the deceased. I don't even know that family, because I was just communicating with them over the phone. So this to me, this article is just a malicious defamation of character, and I feel I could get somebody who is legally you know involved to come and assist me on this, because I know at times Jesus Christ was crucified
20 being innocent and here I'm saying I'm crucified being innocent.

ADV NONTLANTLA YINA: I see. So finally, you indicated earlier on that when the deaths occurred, then you became involved in terms of visiting the NGO's and

assessing the situations at the NGO's. Was that part of your responsibility as the Chairperson of the Review Board to visit the NGO's?

MRS DUMI MASONDO: It wasn't my jurisdiction, it wasn't my responsibility, but it was my concern now as somebody senior in the profession. Whenever I get a chance I would sneak out and visit, even going to Takalani. I was not supposed to go there, but because out of my concern and my passion and about the reports that I've got that patients are dying, I had to go and investigate.

ADV NONTLANTLA YINA: Earlier on you indicated that you were concerned about the minimal involvement of the board, and I just want to find out now the final word from you, now that it has been demonstrated to you that as a result of being non active, you as the board and the Chairperson of the board, there were many deaths. In particular 141 people died during the project, and when you think about it now, in retrospect, what do you think? Do you think that if you had been involved as you ought to have been involved this may have been avoided?

MRS DUMI MASONDO: I think I'm deeply hurt and I regret people who stopped me to participate during the first day when I started to be accepted again as a member of the Chairperson of the board, because I feel in me if I had a chance, I would intervene, assess or maybe stop the process. I really regret and apologise at large to say I'm really sorry, because I didn't know that. After hearing that convincing presentation it will return to be so bitter ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: You apologising for what? Let's just record that properly.

MRS DUMI MASONDO: Yes, I'm apologising Mr Justice, for not being fully involved. Not being allowed to participate in the project, because I believed my colleagues and I was under the impression that everything was under control. There will be no ... [interjects]

5 **ARBITRATOR JUSTICE MOSENEKE:** No, but for which wrong do you apologise? You normally apologise for a wrong. You're saying you apologised, you were not involved, you were not allowed. I want to know what are you apologising for?

MRS DUMI MASONDO: I'm apologising to the family and again ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: For not doing what or doing what?

10 **MRS DUMI MASONDO:** For not being, no for not being allowed by the department to be part of this.

ARBITRATOR JUSTICE MOSENEKE: For not being allowed.

MRS DUMI MASONDO: Yes.

ARBITRATOR JUSTICE MOSENEKE: To do what?

15 **MRS DUMI MASONDO:** To be part of this marathon project.

ARBITRATOR JUSTICE MOSENEKE: So if you are not allowed, what wrong is there? Why must you apologise?

MRS DUMI MASONDO: I'm apologising Mr Justice, because I feel maybe if I was part of this, maybe I would do something. I cannot guarantee that there will be no
20 deaths.

ARBITRATOR JUSTICE MOSENEKE: No, but the law required you to be part of it.

MRS DUMI MASONDO: Yes Mr Justice.

ARBITRATOR JUSTICE MOSENEKE: You're appointed to review, to play a
5 fiduciary and supervisory role in the lives of mental health care users. Do you apologise that you did not play that part, that role? I don't hear that.

MRS DUMI MASONDO: Mr Justice, my role was to receive documents according to the act.

ARBITRATOR JUSTICE MOSENEKE: No madam, the act doesn't say so.

10 **MRS DUMI MASONDO:** The act says that ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: Let's go and look at, just read out ...
[interjects]

MRS DUMI MASONDO: Ja. It says review documents that are submitted to us as Review Board. That's what the act says. Review documents.

15 **ARBITRATOR JUSTICE MOSENEKE:** Just read the objects into the record.

MRS DUMI MASONDO: Can I read my core functions here?

ARBITRATOR JUSTICE MOSENEKE: Yes.

MRS DUMI MASONDO: Yes.

ARBITRATOR JUSTICE MOSENEKE: You're reading from the statute, are you?

20 **MRS DUMI MASONDO:** Yes.

ARBITRATOR JUSTICE MOSENEKE: Yes, okay.

MRS DUMI MASONDO: So coming to our role as review board, especially concerning to transfer, we consider views and decisions on assisted or voluntary mental health care users. We consider 72 hour assessment made by the health establishment. We consider applications of, applications for transfers of mental health care users to maximum security facilities. So when it comes to transfers, the way it was, I mean in terms of let me start by reviewing. The documents are submitted to our offices Mr Justice, and when these documents are submitted to us, our core function is to review the documents. It doesn't say that the Review Board must go out and collect the forms. It says they must be submitted to us.

ARBITRATOR JUSTICE MOSENEKE: Where does it say it? Where? Show it to me in the statute which says forms must be submitted to you?

MRS DUMI MASONDO: Can we see the act?

ADV NONTLANTLA YINA: If I may pass the act Justice?

ARBITRATOR JUSTICE MOSENEKE: Yes, please do. Weren't you reading from the act? Just tell me what the law says your duties are.

ADV NONTLANTLA YINA: That will be from Section 18 Justice.

ARBITRATOR JUSTICE MOSENEKE: I beg your pardon?

ADV NONTLANTLA YINA: That will be from Section 18 Justice.

ARBITRATOR JUSTICE MOSENEKE: Yes. But we can start with the, you say Section 18?

ADV NONTLANTLA YINA: Yes.

ARBITRATOR JUSTICE MOSENEKE: Thank you. Let's tell the whole nation what your work was.

MRS DUMI MASONDO: Yes. Section 19.

5 **ARBITRATOR JUSTICE MOSENEKE:** Yes.

MRS DUMI MASONDO: Section 19 ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: Start at 18:

"A member of the Executive Council responsible for health services in a province must after consultation with the head of provincial department, establish a Review Board in respect of every health establishment providing mental health care. Every health establishment treatment, rehabilitation services in their province."

10

19 sets out the powers and functions of the Review Board:

"Consider appeals against decisions of the head of the health establishment."

MRS DUMI MASONDO: Yes.

15 **ARBITRATOR JUSTICE MOSENEKE:** *"Make decisions with regard to assisted or involuntary mental health care treatment and rehabilitation services where people don't give their consent, involuntary health treatment and rehabilitation. Consider reviews and make decisions on assisted or in voluntary mental health care users. Consider 72 hours assessments made by the head of the health establishment, and*

20 *make decisions, make decisions to provide further involuntary care, treatment and rehabilitation. Consider applications for transfer of mental health care users to*

maximum security facilities, and consider periodic reports on mental health status of mentally ill prisoners. Consider reports, status of mentally ill prisoners. The Review Board may when performing its functions, consult or obtain representation from any person, including a person or body with expertise.”

5 24 Section says:

“The Review Board may determine its own procedures for conducting business. The relevant member of the Executive Council must designate one of the members of the Review Board as Chairperson to preside at meetings and review the board. Whenever a reserve bank is considering a matter that involves a health
10 *establishment, at which one of the member of the reserve board is a medical health care practitioner, that practitioner may not be involved in the consideration of the matter.”*

That’s obviously conflict of interest. Now those are the duties. Where does the statute say you must sit in an office and wait for documents to come to you, and get
15 paid for that? You sit 60 hours you sit in your office, documents get brought to you and you get paid for that.

MRS DUMI MASONDO: Mr Justice ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: Where in the act do we find that?

MRS DUMI MASONDO: I think the act, I think here the act does not specify on
20 that, but the systems that are in place, we as board members we were not allowed to go out.

ARBITRATOR JUSTICE MOSENEKE: Did you hear me read out that you have the power to regulate your own procedures when you execute your duties? Did you hear that?

MRS DUMI MASONDO: Yes, I did.

5 **ARBITRATOR JUSTICE MOSENEKE:** And you allowed Dr Manamela to tell you what to do and what not to do? Why did you do that?

MRS DUMI MASONDO: I thought Justice according to the act, I think the interpretation of the act and the internal policies that are being put in place, it's not practical. This is not in practice in the province.

10 **ARBITRATOR JUSTICE MOSENEKE:** Did you know that the body you had to transport was one of the mental health care users who died in the marathon project?

MRS DUMI MASONDO: The one, the body that I was requested to transport?

ARBITRATOR JUSTICE MOSENEKE: Yes.

15 **MRS DUMI MASONDO:** Yes.

ARBITRATOR JUSTICE MOSENEKE: You knew that?

MRS DUMI MASONDO: Yes. The report I got from the team was that ...
[interjects]

20 **ARBITRATOR JUSTICE MOSENEKE:** That the body of somebody regards to whom you had a duty to protect, given your review powers in the statute. Isn't it so? Explain. You had a duty to protect that patient that died.

MRS DUMI MASONDO: It was my duty. I admit.

ARBITRATOR JUSTICE MOSENEKE: Why do you agree to transport that body or to arrange to transfer it within your consortium or cooperative?

MRS DUMI MASONDO: I think in that issue, I thought I was assisting the
5 deceased. The family as well, because they were desperate, they wanted to go and bury their loved ones.

ARBITRATOR JUSTICE MOSENEKE: How many other bodies die you transport?

MRS DUMI MASONDO: That was the only one.

ARBITRATOR JUSTICE MOSENEKE: I'm sure there will be many more
10 questions on that. Are you done council?

ADV NONTLANTLA YINA: Thank you Justice. That will be evidence in chief.

ARBITRATOR JUSTICE MOSENEKE: Yes, thank you. Council, you've got your work cut out. Please go ahead.

ADV ADILA HASSIM: Thank you Justice Mosaneke. My colleague Ms Stein is
15 going to be conducting the cross-examination for this witness.

ARBITRATOR JUSTICE MOSENEKE: Okay, Ms Stein.

ADV NIKKI STEIN: Thank you Justice. Sorry, I'm just organising, okay that's fine.

ARBITRATOR JUSTICE MOSENEKE: You're going to be asked questions by four other advocates, so it's going to be quite a vast deal I think.

20 **ADV NIKKI STEIN:** Okay. Thank you Justice, and good afternoon Mrs Masondo.

MRS DUMI MASONDO: Good afternoon.

ADV NIKKI STEIN: My name is Nikki Stein and I'm part of the team of legal representatives of bereaved families who lost their family members during the marathon or as a consequence of the marathon project. Mrs Masondo, you were
5 previously employed by the Gauteng Department of Health. Is that correct?

MRS DUMI MASONDO: Yes.

ADV NIKKI STEIN: And you were employed in the mental health directorate?

MRS DUMI MASONDO: Yes.

ADV NIKKI STEIN: Were you the Deputy Director of mental health?

10 **MRS DUMI MASONDO:** Yes.

ADV NIKKI STEIN: And you reported to Dr Manamela?

MRS DUMI MASONDO: Yes.

ADV NIKKI STEIN: Dr Manamela was the person who appointed you to the Mental Health Review Board.

15 **MRS DUMI MASONDO:** She was part of the panel.

ADV NIKKI STEIN: She was part of the panel, and how big was the panel?

MRS DUMI MASONDO: If I can remember it was plus minus seven people.

ADV NIKKI STEIN: And Dr Manamela was a member of that?

MRS DUMI MASONDO: Yes.

ADV NIKKI STEIN: Okay. The mental health Review Board is a separate entity from the mental health directorate in theory.

MRS DUMI MASONDO: In theory, thank you. In theory.

ADV NIKKI STEIN: And so in theory you no longer reported to Dr Manamela?

5 **MRS DUMI MASONDO:** In theory I was reporting to her until I was suspended and she was also suspended.

ADV NIKKI STEIN: And so even though you have an entity that is separate from the mental health directorate, your supervisor was still the Director of Mental Health, Dr Manamela?

10 **MRS DUMI MASONDO:** Yes.

ADV NIKKI STEIN: She bettered the correspondence that you sent to the Ombud in the course of his investigation. Is that correct?

MRS DUMI MASONDO: Yes.

ADV NIKKI STEIN: Each document you testified earlier in fact went through Dr
15 Manamela's office.

MRS DUMI MASONDO: Yes.

ADV NIKKI STEIN: Mrs Masondo, I'd like you to refer to file 1 in front of you. I'm not sure if it is still in front of you, and to turn to page 34 of that file. Are you there?

MRS DUMI MASONDO: Yes.

20 **ADV NIKKI STEIN:** Okay.

MRS DUMI MASONDO: Page ... [interjects]

ADV NIKKI STEIN: 34, in the top right hand corner.

MRS DUMI MASONDO: Paragraph 10?

ADV NIKKI STEIN: That's correct.

5 **MRS DUMI MASONDO:** Okay.

ADV NIKKI STEIN: That's a paragraph or a section of the Health Ombud's report, of his investigation into the circumstances surrounding the deaths of these mental health care users. On the right hand side, the second bullet point, I'm going to read to you the control of the free flow of information. For example the Ombud requested
10 information from the GMHRB, The Mental Health Review Board. This request and response had to be vetted by the Director of Mental Health, Dr Manamela. You confirm that?

MRS DUMI MASONDO: Yes.

ADV NIKKI STEIN: The next bullet point, Professor Magoba says:

15 *"The Mental Health Review Board was disempowered and had very minimal involvement in the project."*

Do you confirm that?

MRS DUMI MASONDO: Yes.

ADV NIKKI STEIN: And so in that context Mrs Masondo, you listened to Dr
20 Manamela when she told you not to bother with the marathon project.

MRS DUMI MASONDO: I believed them, I believed her.

ADV NIKKI STEIN: And so when she told you not to bother with the marathon project, you in fact didn't intervene and didn't bother with the marathon project.

MRS DUMI MASONDO: During the initial phase I must say because we had a
5 back log of files, we were concentrating on that and we believe that everybody in the project was playing a role.

ARBITRATOR JUSTICE MOSENEKE: Answer the question please. Just listen to the question and give us an answer to it. Will you repeat that council.

MRS DUMI MASONDO: Can you please repeat it?

10 **ADV NIKKI STEIN:** Thank you Justice. You were told not to bother with the marathon project and you in fact didn't bother with the marathon project.

MRS DUMI MASONDO: Later on I was bothered, but ... [interjects]

ADV NIKKI STEIN: But at that time when Dr Manamela told you.

MRS DUMI MASONDO: At that time, because I thought everything was fine.

15 **ADV NIKKI STEIN:** Thank you. You continued to listen to Dr Manamela and not to bother when you received reports that everything was going well with the project.

MRS DUMI MASONDO: Up until June.

ADV NIKKI STEIN: Dr Manamela told you to stick to your core function.

MRS DUMI MASONDO: Yes.

ADV NIKKI STEIN: And you have just testified that you saw your core function as a review of documents, including periodic reviews of mental health care users. Is that correct?

MRS DUMI MASONDO: Yes.

5 **ADV NIKKI STEIN:** So you saw your core function you testified as staying office bound and receiving and reviewing documents.

MRS DUMI MASONDO: And do the appeals and investigations to the institutions.

ADV NIKKI STEIN: You accept or you accepted that your core function excluded positive steps to ensure the protection of the rights and interests of mental health
10 care users?

MRS DUMI MASONDO: That was before the placement, but after the placement we were pro-active.

ADV NIKKI STEIN: I'm asking about while you knew about the marathon project and when Dr Manamela was telling you to stick to your core functions.

15 **MRS DUMI MASONDO:** Yes.

ADV NIKKI STEIN: You didn't see as part of your core functions the steps necessary to protect the mental health care users being transferred?

MRS DUMI MASONDO: I think the report that was given to us was impressive, that there is a team already overseeing that.

20 **ARBITRATOR JUSTICE MOSENEKE:** No, the question is when Dr Manamela told you to stick to your core function.

MRS DUMI MASONDO: Yes.

ARBITRATOR JUSTICE MOSENEKE: Did you believe that your core function does not include protecting the rights of patients?

MRS DUMI MASONDO: The rights of patients were supposed to be protected in
5 all angles, but because there was a team, expert of teams, not even a team, who were employed to oversee the project.

ADV NIKKI STEIN: And so you are testifying Mrs Masondo that the responsibility to protect the patients didn't fall on you as the Chair of the Mental Health Review Board as one of your core functions?

10 **MRS DUMI MASONDO:** I would say I was partly part of it, because in fact I was supposed to protect the patients in all spheres.

ADV NIKKI STEIN: Mrs Masondo, I believe you have a copy of the Mental Health Care Act in front of you. Is that correct?

MRS DUMI MASONDO: I don't have it.

15 **ADV NIKKI STEIN:** Okay. Perhaps I can just read to you from it.

MRS DUMI MASONDO: Yes.

ADV NIKKI STEIN: I'd like to read to you from Section 70 (1) C.

ARBITRATOR JUSTICE MOSENEKE: Thank you council.

ADV NIKKI STEIN: Section 70 of the Act lists the offences and penalties for
20 contraventions of the act.

ARBITRATOR JUSTICE MOSENEKE: That's 70 right?

ADV NIKKI STEIN: 70, that's correct Justice.

ARBITRATOR JUSTICE MOSENEKE: You've got that Mrs Masondo?

MRS DUMI MASONDO: I don't have the act Mr Justice.

5 **ARBITRATOR JUSTICE MOSENEKE:** Oh, here you are. That part you want to read.

ADV NIKKI STEIN: Thank you Justice. Okay. So the section I'm referring you to Mrs Masondo, is 70 (1) C, which says:

10 *"Any person who neglects, abuses or treats a mental health care user in any degrading manner or allows that user to be treated in that manner under this act, is guilty of an offence."*

MRS DUMI MASONDO: Can I refer you again, thank you for that. Can I refer you to paragraph 11 of the act, that if anyone witnesses any neglect or exploitation they need to report to the board in a prescribed manner. Meaning that they are
15 supposed to fill in a form too, to the Review Board. I do understand this, but you know according to the act again, it says. Paragraph 11 of the act, somebody who witnesses. Because as we are working under Gauteng region we are catering for five districts.

ARBITRATOR JUSTICE MOSENEKE: Mrs Masondo, let's stick to the question
20 please. We might go to Section 11 one day.

MRS DUMI MASONDO: Yes.

ARBITRATOR JUSTICE MOSENEKE: But for now council is putting a proposition to you about an offence to be found in Section 70 (1) C, an offence on which you're liable to imprisonment or a massive fine. So just listen to the question. It's a very important part of the cross-examination.

5 **MRS DUMI MASONDO:** Okay.

ARBITRATOR JUSTICE MOSENEKE: Would you repeat council?

ADV NIKKI STEIN: Thank you Justice. In repeating I'm actually going to break up Section 70 (1) C.

MRS DUMI MASONDO: Okay.

10 **ADV NIKKI STEIN:** The provision in front of you refers to any person who is guilty of that conduct. Do you see that?

MRS DUMI MASONDO: Yes.

ADV NIKKI STEIN: Mrs Masondo, do you accept that at all relevant times you were the Chairperson of the Mental Health Review Board?

15 **MRS DUMI MASONDO:** Yes,

ADV NIKKI STEIN: And in that capacity you were not just any person.

MRS DUMI MASONDO: No.

ADV NIKKI STEIN: You had special duties in relation to the rights and interests of mental health care users.

20 **MRS DUMI MASONDO:** Yes.

ADV NIKKI STEIN: You accept that?

MRS DUMI MASONDO: Yes.

ADV NIKKI STEIN: And so Mrs Masondo, my proposition is that in allowing the marathon project to proceed without effective intervention from the Mental Health
5 Review Board, your conduct falls within Section 70 (1) C and constitutes a defence.

MRS DUMI MASONDO: I'm not sure of that.

ARBITRATOR JUSTICE MOSENEKE: Your conduct is a failure to protect a person who is mentally, what is the word used in the act?

MRS DUMI MASONDO: Mentally ... [interjects]

10 **ARBITRATOR JUSTICE MOSENEKE:** Failure to protect. I would like to put it in ordinary language, not legal ... [inaudible] council.

ADV NIKKI STEIN: Okay. So the wording of the act Justice is neglects, abuses or treats a mental health care user in a degrading manner or allows the user to be treated in that manner.

15 **ARBITRATOR JUSTICE MOSENEKE:** Allows the user to be treated. In effect the proposition to you is that you allowed a mental health care user to be treated in a degrading manner.

MRS DUMI MASONDO: But this situation was not reported to us in a prescribed manner that there were any exploitation, because as I've said earlier on, when they
20 were transferring these patients, everything was fine. So afterwards, after hearing that there were problems, we jumped in. So I wouldn't say I allowed. I didn't allow.

But the system did not allow me to be part of it, as I was convinced about the reports that were submitted to us.

ADV NIKKI STEIN: Mrs Masondo, I'd like to fast forward in time a little bit and we'll rewind again, but I'd like to take you to your account of the conditions at
5 ShammahHouse. You testified to those conditions earlier.

MRS DUMI MASONDO: Yes.

ADV NIKKI STEIN: You testified that in your opinion the conditions at ShammahHouse were good?

MRS DUMI MASONDO: I think I did mention that I was not part of the team who
10 observed, who assist or inspect the ShammahHouse. ShammahHouse was inspected by the other team. Team that was from Pretoria. That's the report that I got.

ADV NIKKI STEIN: And you accepted that the conditions were satisfactory there.

MRS DUMI MASONDO: The report did not mention any big challenges that were
15 detected from ShammahHouse, even if I cannot remember quite exactly what was in the report.

ADV NIKKI STEIN: And you accepted your team's report?

MRS DUMI MASONDO: Yes.

ADV NIKKI STEIN: And the team visited on your request or instruction.

20 **MRS DUMI MASONDO:** Yes.

ADV NIKKI STEIN: You also testified Mrs Masondo that to your knowledge at that stage there were no deaths at ShammahHouse.

MRS DUMI MASONDO: Ja, I think so but I need to go back to my report and check thoroughly what was happening, because it was a long detailed report. I
5 might be wrong, but the report is there to confirm that.

ADV NIKKI STEIN: I'm just looking at your earlier testimony Mrs Masondo, and you testified that it was functioning well with few challenges and no one did there. That's what you testified when Advocate Yina was examining you.

MRS DUMI MASONDO: Yes, I should think so, but I think I need to be corrected.
10 As I'm saying, it's early in 2016. I might be making a mistake, but if we go to the report, that statement can be confirmed.

ADV NIKKI STEIN: Okay. Perhaps we can go into the family's version as to what was happening at ShammahHouse and in that regard I'm going to ask you to have reference to two files. The first one is file 7 and the second is file 10.

15 **MRS DUMI MASONDO:** 10, neh?

ARBITRATOR JUSTICE MOSENEKE: Okay.

ADV NIKKI STEIN: I'm going to start off with file 10 and I'd like you to, the numbering gets quite confusing, but I'd like you to turn to page 3547, point 16. It's towards the back of the file.

20 **MRS DUMI MASONDO:** 3547?

ADV NIKKI STEIN: Point 16.

ARBITRATOR JUSTICE MOSENEKE: I can't find it either.

ADV NIKKI STEIN: You can't find it Justice?

ARBITRATOR JUSTICE MOSENEKE: 3547 point 16. You mean there would be another volume?

5 **MRS DUMI MASONDO:** It's a burial order here.

ARBITRATOR JUSTICE MOSENEKE: This is a burial order.

ADV NIKKI STEIN: It isn't Justice, it's an affidavit. I do have a copy here.

ARBITRATOR JUSTICE MOSENEKE: Well is it 3547 or is it 324, what is the number? Let's get the number right.

10 **ADV NIKKI STEIN:** 3547 point 16. It's one of the additional documents that was added to the bundle. Sorry about that mix up. Have you got that affidavit in front of you Mrs Masondo?

MRS DUMI MASONDO: Yes, paragraph?

ADV NIKKI STEIN: So let me first describe to you what the document is. It's an affidavit deposed to by one of the bereaved family members, Isaak Motlogloa Thlowe and it's in relation to the death of his brother, Michael. Do you see that?

MRS DUMI MASONDO: Yes.

ADV NIKKI STEIN: Right. Mrs Masondo, I'd like you to turn then to paragraph 11, which is 3547 point 18.

20 **MRS DUMI MASONDO:** Yes, paragraph 11?

ADV NIKKI STEIN: That's correct and the paragraph states, I'm just going to summarise that after not being able to find his brother, they eventually the deponent Isaak eventually discovered that Michael was transferred to ShammahHouse in Cullinan. He then states at paragraph 13:

5 *"I understood that Michael had been there for a few days. He seemed fine but did not have toiletries or enough clothes. I went to town to buy him toiletries, warm clothes and food. I didn't want to make too much of a fuss about the conditions there. I noticed that there was a nurse on the property who had a car. I went to*
10 *she was called. She was based in Pretoria. The rest of the staff were not professional staff. They were referred to as carers."*

Mrs Masondo, at paragraph 20 then we see a statement that on the 12th of February 2017 at about two o'clock, Niel from ShammahHouse called the deponent and said that Michael was unwell. That they thought that he just had constipation. Later on
15 that day, he spoke to the deponent again and said that Michael had passed away before being loaded onto the ambulance and the last paragraph I'm going to read you from this affidavit is paragraph 23:

"I travelled to ShammahHouse that night with an undertaker from near my home. Michael's body was in his bed. His stomach was very swollen. His eyes were
20 *yellow and he looked very thin. I was convinced that this could not have happened as quickly as I had been led to believe. I spoke to Niel who said they had been chatting and he seemed fine right up until he died. I could not believe that, given how he looked."*

Now you were told Mrs Masondo that there were no deaths. You were told by Dr Manamela that there were no deaths at ShammahHouse.

MRS DUMI MASONDO: No, not by Dr Manamela. By the team who visited the Mental Health Review Board, and I think I said it earlier on that I need to be
5 corrected. Maybe I need to check the records. I might be the one who is giving wrong reports about Shammah that there were no deaths.

ADV NIKKI STEIN: Okay.

MRS DUMI MASONDO: But what has happened here is really pathetic and it's a true reflection of what I've said. That in most of these NGO's the caregivers were
10 not trained.

ADV NIKKI STEIN: I want to take you then Mrs Masondo to file 7.

ARBITRATOR JUSTICE MOSENEKE: But what does it mean? Did your team mislead you when they said Shammah House was all fine?

MRS DUMI MASONDO: My apology on that Mr Justice, because it happened long
15 ago. I cannot recall properly what has happened. I think I need to get some records to confirm the Shammah statement, Shammah House statement. I might be wrong, because there were quite a lot of death reported.

ARBITRATOR JUSTICE MOSENEKE: Yes, they showed you earlier. The first council.

20 **MRS DUMI MASONDO:** Yes.

ARBITRATOR JUSTICE MOSENEKE: Advocate Lina showed you that people died there and this council showed you the conditions reported in affidavits.

MRS DUMI MASONDO: Yes.

ARBITRATOR JUSTICE MOSENEKE: So how could your team say
5 ShammahHouse was all fine?

MRS DUMI MASONDO: Hence I'm saying, I'm repeating my statement Mr Justice. That I might be giving a wrong statement, because I don't have the reports with me. Maybe I'm confusing these NGO's because there were quite many. Maybe Shammah was one of them. If I can get the report, the statement can be confirmed
10 properly.

ARBITRATOR JUSTICE MOSENEKE: Council.

ADV NIKKI STEIN: Thank you Justice. Mrs Masondo, so you testified that there was a shortage of trained caregivers at ShammahHouse or at many of the NGO's.

MRS DUMI MASONDO: Yes.

15 **ADV NIKKI STEIN:** And you did nothing about it?

MRS DUMI MASONDO: The plan, hence I said on the 24th of August we had, I had a meeting with the MEC and the team trying to rectify things that were discovered. That from that meeting it was mentioned that Takalani House is going to be accredited and be regarded as the training of all caregivers and the project
20 directors, because we raised it as a concern and we had a plan of action.

ARBITRATOR JUSTICE MOSENEKE: Talking about August, your MEC made a public statement in the provincial legislature. Can you remember when that was?

MRS DUMI MASONDO: No, no.

ARBITRATOR JUSTICE MOSENEKE: It was in July, was it not?

5 **MRS DUMI MASONDO:** I can't remember council. I can't remember Justice whether it was July or August.

ADV NIKKI STEIN: Justice, just to note. That was, is that the statement on the 13th of September regarding the deaths?

ARBITRATOR JUSTICE MOSENEKE: Statement of September?

10 **ADV NIKKI STEIN:** Yes.

ARBITRATOR JUSTICE MOSENEKE: Thank you for the correction. 13 September.

MRS DUMI MASONDO: Thank you.

ARBITRATOR JUSTICE MOSENEKE: But you had not heard of these deaths
15 until then?

MRS DUMI MASONDO: No, first death that was reported to us council, on the 24th of July.

ARBITRATOR JUSTICE MOSENEKE: 24th of July?

MRS DUMI MASONDO: Yes.

20 **ARBITRATOR JUSTICE MOSENEKE:** Ja. How was it reported to you?

MRS DUMI MASONDO: It was reported by Dr Manamela who came to the office, requesting members to go and investigate the deaths.

ARBITRATOR JUSTICE MOSENEKE: And how many people have died then?

MRS DUMI MASONDO: When we got a report it was five people, but after
5 investigation by our team, they gave us a report that there were 11 bodies.

ARBITRATOR JUSTICE MOSENEKE: Council, proceed.

ADV NIKKI STEIN: Thank you Justice. Just to continue on that point. Your report from Dr Manamela said that there were five deaths.

MRS DUMI MASONDO: Sorry. Sorry madam, sorry for that.

10 **ADV NIKKI STEIN:** Your report from Dr Manamela or Dr Manamela's report to you said that there were five deaths.

MRS DUMI MASONDO: Yes.

ADV NIKKI STEIN: And your team found on investigation that there were 11 deaths?

15 **MRS DUMI MASONDO:** Yes.

ADV NIKKI STEIN: So that's more than double the number of deaths reported to you, and yet even after that you still continued to trust the information that was provided to you by the Gauteng Department of Health?

MRS DUMI MASONDO: We're no more trusting it, hence I was part of it thereafter. I used to go with the team to verify all the findings that were reported earlier on.

ARBITRATOR JUSTICE MOSENEKE: And had you received written complaints,
5 required by Section 11 of the Act?

MRS DUMI MASONDO: Come again council, Justice?

ARBITRATOR JUSTICE MOSENEKE: When you went out to the NGO's had you received formal complaints required by Section 11 of the act?

MRS DUMI MASONDO: That time there was no more formal Section 11 Chapter
10 2, because we were now worried after hearing that there were deaths. We were just pushing our weights all over.

ARBITRATOR JUSTICE MOSENEKE: You see, first you said you did nothing because you had not received Section 11 notices.

MRS DUMI MASONDO: Because there were no problems by then Mr Justice.

ARBITRATOR JUSTICE MOSENEKE: But then you went out, even without
15 Section 11 notices later.

MRS DUMI MASONDO: After that there was no Section 11, because we were worried about the number of deaths and the information that was given to us was not accurate.

ARBITRATOR JUSTICE MOSENEKE: Council.
20

ADV NIKKI STEIN: Thank you Justice, and so what you did Mrs Masondo was to either go with your team to investigate what was happening at the NGO's.

MRS DUMI MASONDO: Yes.

ADV NIKKI STEIN: Or to send your team on your instruction to investigate what
5 was happening at the NGO's.

MRS DUMI MASONDO: Yes.

ADV NIKKI STEIN: I'd like to just take us back to the situation at ShammahHouse.
You said that you were not with your team on that date.

MRS DUMI MASONDO: No.

10 **ADV NIKKI STEIN:** But you asked them to go and investigate what was
happening at ShammahHouse.

MRS DUMI MASONDO: Yes.

ADV NIKKI STEIN: And they provided a report to you.

MRS DUMI MASONDO: Yes.

15 **ADV NIKKI STEIN:** And so you would have been the person ultimately
responsible for the content of that report?

MRS DUMI MASONDO: Yes, and that report was submitted to me and I further
submit it to my seniors.

ADV NIKKI STEIN: As your report which you had commissioner.

20 **MRS DUMI MASONDO:** Yes.

ARBITRATOR JUSTICE MOSENEKE: Who were your seniors? You were in charge. You were the Chairperson. If Dr Manamela wanted to transfer any person from one establishment to another, they had to make sure you are happy about that.

5 **MRS DUMI MASONDO:** Counsellor ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: So who are your seniors, who do you think you were working for?

MRS DUMI MASONDO: Can I explain again? That our independency role was infringed. During orientation we were told the directorate is responsible to monitor
10 and supervisors, but though according to the act it differs, but in operation the directorate has been in charge and monitoring the board since the establishment of the board in 2004.

ARBITRATOR JUSTICE MOSENEKE: Your roles were reversed, were they not? You were supposed to monitor them and they monitor you.

15 **MRS DUMI MASONDO:** I wish I could ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: Did you accept that?

MRS DUMI MASONDO: I wish I could know that Counsellor. I'm so sorry that I didn't have that information with me.

ARBITRATOR JUSTICE MOSENEKE: Go on council.

20 **ADV NIKKI STEIN:** Mrs Masondo, you say you didn't know that you were required to be independent from the Department of Health. Is that correct?

MRS DUMI MASONDO: I know that we were, we are supposed to function independently, but on practical practice it wasn't like that.

ADV NIKKI STEIN: It's about the law Mrs Masondo.

MRS DUMI MASONDO: I know.

5 **ADV NIKKI STEIN:** Did you know legally that you should be independent from the department.

MRS DUMI MASONDO: I know.

ADV NIKKI STEIN: And that you should in fact be exercising oversight over the department.

10 **MRS DUMI MASONDO:** I know, but in terms of finance, can I explain the tricky situation here? I know according to the act and according to the law it's supposed to be like that, but in practical you are told you are new in the system, you are told this is your reporting body. If you go out, you must submit claims to this particular person. If you are going to be paid, you need to submit papers to this particular
15 person. If you go out, get permission from these people, it's an internal arrangement which I feel was against the law.

ARBITRATOR JUSTICE MOSENEKE: Were you worried they might not want to pay you?

MRS DUMI MASONDO: Definitely, at the end of the day they were not going to
20 sign our claims, because getting our pays, we need to compile documents indicating all our movements.

ARBITRATOR JUSTICE MOSENEKE: Were you worried that you might not be paid if you are not compliant?

MRS DUMI MASONDO: I wasn't worried that much, but I was, I thought it's the system that was arranged internally and approved by the seniors.

5 **ADV NIKKI STEIN:** Mrs Masondo, I'm sorry Justice. Are you ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: No, I'm done. I'm done.

ADV NIKKI STEIN: Mrs Masondo ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: I'm just amazed council, but you go ahead.

10 **ADV NIKKI STEIN:** What were you worried about if you, I'm sorry. Let's take it a step back. So you've said legally the Mental Health Review Board is separate and independent of the Department of Health. In practice, sorry can I get a verbal response to that?

MRS DUMI MASONDO: Come again?

15 **ADV NIKKI STEIN:** Legally the Mental Health Review Board is separate and independent from the Department of Health.

MRS DUMI MASONDO: Yes.

ADV NIKKI STEIN: Factually there was no separation and independence.

MRS DUMI MASONDO: Yes.

ADV NIKKI STEIN: And so the way that you operated was in fact inconsistent with the law.

MRS DUMI MASONDO: I would say so.

ADV NIKKI STEIN: And yet you never challenged it head on with the Department
5 of Health?

MRS DUMI MASONDO: In fact, to be honest with you, since I was in the department the systems were put and the systems were like that.

ADV NIKKI STEIN: The question is did you challenge those systems?

MRS DUMI MASONDO: No, I didn't challenge them because I am not a legal
10 person.

ADV NIKKI STEIN: But you knew that the Mental Health Review Board is supposed to be independent.

MRS DUMI MASONDO: Ja, according to the act it's supposed to be like that.

ADV NIKKI STEIN: And so you knowingly violated the Mental Health Care Act.

MRS DUMI MASONDO: That's a difficult one. It's a really difficult one.
15

ADV NIKKI STEIN: I don't think it is very difficult.

MRS DUMI MASONDO: I have to say yes. I'll have to say yes it was violated but due to ignorance.

ADV NIKKI STEIN: It was violated by you.

MRS DUMI MASONDO: Not by me, by the system, because as I am saying since they were established in 2004 the systems were put in place and they were in operation. So I joined the team which was operating in that fashion. So I couldn't just query, because even the previous board were operating like that.

5 **ADV NIKKI STEIN:** Mrs Masondo ... [interjects]

MRS DUMI MASONDO: But now after hearing this I feel we need to do something and review the act and the functions of the board.

ADV NIKKI STEIN: Were you scared to challenge that system?

10 **MRS DUMI MASONDO:** No I wasn't aware that I was supposed to challenge the system.

ADV NIKKI STEIN: But you testified that you were acting in violation of the Mental Health Care Act.

MRS DUMI MASONDO: Through questioning I've accepted it, but prior to that I was not aware that I was violating the act.

15 **ADV NIKKI STEIN:** You testified earlier that you knew what the act says about your independence.

MRS DUMI MASONDO: But it was infringed.

ADV NIKKI STEIN: But the system was different.

MRS DUMI MASONDO: Yes.

ADV NIKKI STEIN: Okay, and so you weren't scared to challenge the lack of independence? You just didn't.

MRS DUMI MASONDO: I was not scared, but I think I was ignorant when it comes to that.

5 **ADV NIKKI STEIN:** Okay. Okay. I'm going to just take us back to ShammahHouse so that we can wrap up that point. I'm sorry we are jumping around a bit, but on that issue you said that you had asked your team to prepare a report and that once they prepared the report you accepted it and submitted it to the Department of Health as a report of the conditions there and you said that based on
10 that report you were happy with the conditions at ShammahHouse.

ARBITRATOR JUSTICE MOSENEKE: Yes. The witness has said that already.

ADV NIKKI STEIN: Okay.

ARBITRATOR JUSTICE MOSENEKE: Ja.

ADV NIKKI STEIN: I'd like you to turn in file 7 to page 2475. Are you at page
15 2475?

MRS DUMI MASONDO: Yes. Where it says mental health NPO facility.

ADV NIKKI STEIN: That's correct.

MRS DUMI MASONDO: Audit report.

ADV NIKKI STEIN: Let's just wait for the Justice to get to the right page.

20 **ARBITRATOR JUSTICE MOSENEKE:** Yes, thank you. 2475.

ADV NIKKI STEIN: That's correct Justice.

ARBITRATOR JUSTICE MOSENEKE: I've got it, thanks.

ADV NIKKI STEIN: Okay. This is an audit report of ShammahHouse for traumatised persons. The audit was conducted by the Gauteng Department of
5 Health on the 21st of July 2016. Can you see that?

MRS DUMI MASONDO: Hm.

ADV NIKKI STEIN: Okay. I'd like to take you through this audit report and I'm going to refer you to a few findings of the audit and then I'll ask at the end for your response to those findings. Okay. I'd like you first to turn to page 2479 and there's
10 a handwritten note there that says:

"Not receiving subsidy at this stage."

On page 2480 the first handwritten note says:

"No licence, not receiving subsidies."

Do you understand that to mean that ShammahHouse was not licensed at the time
15 of the audit?

MRS DUMI MASONDO: Yes, yes, yes council.

ADV NIKKI STEIN: In the following, in the handwritten note just below that, it says:

"Need to update documents and environment to apply for subsidy. 60 occupants on form."

20 Do you see that?

MRS DUMI MASONDO: Yes.

ADV NIKKI STEIN: Further down the audit report lists the number of mental health care users there for residential care and in the extreme right column it says 50 plus 60. Now although that isn't, there isn't a total there, would you agree that there
5 were in fact 110 people based on this calculation?

MRS DUMI MASONDO: And the capacity was for 60 people.

ADV NIKKI STEIN: That's correct.

MRS DUMI MASONDO: That's totally bad.

ADV NIKKI STEIN: Page 2481... [interjects]

10 **ARBITRATOR JUSTICE MOSENEKE:** And you know that it was your job to stop this. I keep on going back to the same thing. 110 people in a space originally permitted for 50, for 60 I'm sorry. Why do you think people did this? Why did NGO's do this?

MRS DUMI MASONDO: Mr Justice ... [interjects]

15 **ARBITRATOR JUSTICE MOSENEKE:** You find it all, in many of them they have many, many bodies. Why do you think they do this?

MRS DUMI MASONDO: I would say Mr Justice people were not honest with this project.

ARBITRATOR JUSTICE MOSENEKE: Okay, which people?

MRS DUMI MASONDO: Professionals who were fully involved in this project were not honest and they did not have conscience.

ARBITRATOR JUSTICE MOSENEKE: Which professionals? You mean ...
[interjects]

5 **MRS DUMI MASONDO:** I mean different professionals here, because I think this audit was done not by us, by Mental Health Directorate. By other people. The way I'm seeing it on top here. Even the very same task team and people who were responsible, they were not honest. There is no honesty here.

10 **ARBITRATOR JUSTICE MOSENEKE:** Explain. Who was dishonest? Who was lying?

MRS DUMI MASONDO: Firstly people were allocated to go and view the NGO's before placement and there was a team who was allocated to go and do that, and give feedback back to their seniors, and I think the report that was given back, was not a concrete honest report, and people to me I would say people were greedy for
15 money. How would you take extra patients ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: Which people?

MRS DUMI MASONDO: The NGO's now.

ARBITRATOR JUSTICE MOSENEKE: NGO's.

MRS DUMI MASONDO: Yes, because if you have a capacity of 50 patients, how
20 can you accept 61 patients. Where are you going to put the other 51?

ARBITRATOR JUSTICE MOSENEKE: And you think they were doing this in order to get more and more money?

MRS DUMI MASONDO: Yes. In a wrong way. In a wrong way.

ARBITRATOR JUSTICE MOSENEKE: And people you died you said earlier
5 because of overcrowding.

MRS DUMI MASONDO: Yes, and lack of quality care.

ARBITRATOR JUSTICE MOSENEKE: And who would have agreed to these placements?

MRS DUMI MASONDO: There was a team Mr Justice.

10 **ARBITRATOR JUSTICE MOSENEKE:** In law, Who has to stop this kind of placements ... [interjects]

MRS DUMI MASONDO: I think the placement ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: Where there's greed, where there's overcrowding, where people are likely to die.

15 **MRS DUMI MASONDO:** If I was part of the project ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: No, no in law. I want to know in law.

MRS DUMI MASONDO: In law somebody ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: You have told us you don't think you're guilty.

20 **MRS DUMI MASONDO:** Yes.

ARBITRATOR JUSTICE MOSENEKE: You've told us many times.

MRS DUMI MASONDO: Yes.

ARBITRATOR JUSTICE MOSENEKE: In law, who or how did the law, the act conceive it. Who would stop and monitor placements of mental health care users?

5 **MRS DUMI MASONDO:** I think somebody Justice, who proposed the termination of the project. Somebody who proposed that Life Esidimeni should be closed. That person is held responsible to monitor that all this stages of placement ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: But who in law can stop that person?

10 **MRS DUMI MASONDO:** I think senior people in the profession like the Premier and the Minister of Health.

ARBITRATOR JUSTICE MOSENEKE: Who approves placements in law?

MRS DUMI MASONDO: I wasn't there... [interjects]

ARBITRATOR JUSTICE MOSENEKE: I'm trying to get you to look into the mirror and I'm not succeeding.

15 **MRS DUMI MASONDO:** I'm also not succeeding. I'm also not sure when it comes to that Mr Justice, because somebody who signed the papers to terminate the project, you can't terminate something that was working and then at the end of the day we end up with such problems.

20 **ARBITRATOR JUSTICE MOSENEKE:** I agree with you entirely. You can't terminate such a contract where people are cared for properly. I'm at the second

stage. Council has put to you page 2480. We see here that there's an obvious overcrowding and unlawful placement.

MRS DUMI MASONDO: Yes.

ARBITRATOR JUSTICE MOSENEKE: Which violates the fundamental rights of
5 these patients, and the law sought to avoid this by creating the Review Board. You
follow that?

MRS DUMI MASONDO: Yes.

ARBITRATOR JUSTICE MOSENEKE: And if the Review Board had worked
properly, it's the one that ought to have refused to approve these placements. Is it
10 not so?

MRS DUMI MASONDO: Yes.

ARBITRATOR JUSTICE MOSENEKE: Everything would be normal.

MRS DUMI MASONDO: Yes.

ARBITRATOR JUSTICE MOSENEKE: Okay council.

15 **ADV NIKKI STEIN:** Thank you Justice. Turning then to page 2481. In relation to
personnel, towards the middle of the page we see a handwritten note next to house
hold staff which reads:

"Compliance to all the work programs for kitchen, cleaning, washing"

And so that appears that the mental health care users are the ones doing the
20 cooking, cleaning and washing for the house. Do you agree?

MRS DUMI MASONDO: It's unfair.

ADV NIKKI STEIN: I'm sorry, you said that's unfair?

MRS DUMI MASONDO: It's unfair for the users. They were abused.

ADV NIKKI STEIN: At the bottom of that page we see a note that says:

5 *"No training, no stimulation programs. Ration one to eight"*

And this is following a question are these ratios adequate for safe care and a writer has put a cross over no, selected no. Do you see that?

MRS DUMI MASONDO: Hm. Yes, are these ratios adequately for safe care. It should be yes, not a no.

10 **ADV NIKKI STEIN:** On page 2482 at the bottom of the page, no nursing staff.

MRS DUMI MASONDO: No qualified nursing staff, it's true.

ADV NIKKI STEIN: Page 2483 at the bottom of the page. Need to visit Shammah often to upgrade the whole system.

15 **MRS DUMI MASONDO:** I guess this was a recommendation which was a board recommendation.

ADV NIKKI STEIN: Page 2485, at the bottom of the page.

MRS DUMI MASONDO: 544?

ADV NIKKI STEIN: 2485.

MRS DUMI MASONDO: Oh, thank you. Sorry.

ADV NIKKI STEIN: *“Clients keep medicine with them in labelled packets. It’s not stored in locked cupboards.”*

You see that?

MRS DUMI MASONDO: Gross, gross negligence.

5 **ADV NIKKI STEIN:** On the following page in the middle:

“No emergency oxygen.”

I can’t read the next word unfortunately.

MRS DUMI MASONDO: Suction.

ADV NIKKI STEIN: Suction, thank you Mrs Masondo:

10 *“No emergency oxygen, suction or first aid kit available. Refer to clinic or hospital.”*

MRS DUMI MASONDO: These things were supposed to be available in cases of emergency patients lives were going to be saved.

ARBITRATOR JUSTICE MOSENEKE: And when you check in order to approve a placement or a transfer, do you normally have to be informed of the conditions of
15 the place?

MRS DUMI MASONDO: We are having a tool Mr Justice.

ARBITRATOR JUSTICE MOSENEKE: Ja.

MRS DUMI MASONDO: With all these things that we must check to make sure that emergency equipment, suction equipment, medication ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: So if you were not bullied, you would have looked at all this and made sure ... [interjects]

MRS DUMI MASONDO: Yes.

ARBITRATOR JUSTICE MOSENEKE: That these things are available at the
5 NGO?

MRS DUMI MASONDO: Definitely so, because at Life Esidimeni they were there, because we were ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: Yes.

MRS DUMI MASONDO: We were managing that place.

10 **ARBITRATOR JUSTICE MOSENEKE:** And at Shammah they were not there, because you didn't tick all the boxes. Isn't it?

MRS DUMI MASONDO: Somebody who was editing or vetting that NGO, did not vet the correct information and give correct ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: And did they follow the law and come to
15 you and you evaluated it, would you have approved 110 people being kept at ShammahHouse?

MRS DUMI MASONDO: No. No.

ARBITRATOR JUSTICE MOSENEKE: And you didn't do it because?

MRS DUMI MASONDO: I wouldn't do it.

20 **ARBITRATOR JUSTICE MOSENEKE:** Why?

MRS DUMI MASONDO: Because quality of care was going to be compromised and patients were not going to get quality care.

ARBITRATOR JUSTICE MOSENEKE: Ja. Continue council.

ADV NIKKI STEIN: Thank you Justice. Mrs Masondo, your team visited
5 ShammahHouse.

MRS DUMI MASONDO: Yes.

ADV NIKKI STEIN: And they confirmed that there were no major challenges there.

MRS DUMI MASONDO: Can I request again to say I think I've sent quite a
number of profused apologies about that. To say I can't remember exactly what
10 was indicated in the report. I think I've said it many a time. My apology.

ADV NIKKI STEIN: But you don't remember any challenges of this nature being
raised with you?

MRS DUMI MASONDO: I think the major one was Cullinan and Siyabadinga and
Shammah was just listed and most of those NGO's, and the report was saying
15 some of them were functioning well. Maybe I might be wrong if I mentioned
Shammah as one of the best ones. Hence I'm saying let's get the reports and
confirm the statements.

ARBITRATOR JUSTICE MOSENEKE: And your colleagues went to check this
out themselves. Members of the Review Board, are they not?

20 **MRS DUMI MASONDO:** They are members of the Review Board.

ARBITRATOR JUSTICE MOSENEKE: So they have the same statutory duties as you?

MRS DUMI MASONDO: Yes.

ADV NIKKI STEIN: Mrs Masondo, had there been challenges that were raised
5 with you, do you agree that it would have been your responsibility to follow up on those challenges?

MRS DUMI MASONDO: Yes.

ADV NIKKI STEIN: And can you confirm that, I know you want to check the report, but can you confirm that you never in fact followed up on the conditions at
10 ShammahHouse?

MRS DUMI MASONDO: I think what happened with ShammahHouse, I'm not sure whether ShammahHouse was joined with Siyabadinga. I don't know the situation there, but all I know that Siyabadinga House we closed it down because of poor conditions. I'm not sure how, because there was this Anchor House as well. There
15 was Anchor, there was Shammah.

ADV NIKKI STEIN: We are asking about Shame House. I'm asking you about ShammahHouse.

MRS DUMI MASONDO: Ja, if there were challenges definitely we were going to follow them up. Hence we discovered challenges at Precious Angels and we closed
20 down that centre.

ADV NIKKI STEIN: When was Precious Angels closed down?

MRS DUMI MASONDO: We visited Precious Angels on the 5th of September 2016, and we went back to the office with the team. We strategized. I think it was closed somewhere in September. I'm not sure of the date, but it was in September or October. I can't remember.

5 **ADV NIKKI STEIN:** Can you just give me one moment Mrs Masondo?

MRS DUMI MASONDO: Yes.

ADV NIKKI STEIN: Mrs Masondo, we heard earlier in this arbitration from Mrs Ethel Ngube from Precious Angels. She testified that Precious Angels was closed in January 2017.

10 **MRS DUMI MASONDO:** Maybe the other house, but the one I think it was, now I can remember. 17, 18. It was a weekend. We were working with the ministerial committee.

ADV NIKKI STEIN: Sorry, 17 18 of which month?

MRS DUMI MASONDO: Of September. Now I can recall.

15 **ADV NIKKI STEIN:** Of which year?

MRS DUMI MASONDO: 2016.

ADV NIKKI STEIN: Okay.

MRS DUMI MASONDO: There was a team which was visiting all the NGO's that were not performing and Precious Angels was on the list, and on that day the report was that Precious Angels must be closed down. Bokang was closed down. Siyabadinga was closed down and CR Mane was closed down.

20

ADV NIKKI STEIN: And so you dispute Mrs Ngube's testimony that Precious Angels was in fact closed down in January of this year?

ARBITRATOR JUSTICE MOSENEKE: Mrs Ngube is the Chief Executive of ...
[interjects]

5 **MRS DUMI MASONDO:** I know her. I know her.

ARBITRATOR JUSTICE MOSENEKE: Oh, you know her?

MRS DUMI MASONDO: I know her because during the inspection I was there.

ARBITRATOR JUSTICE MOSENEKE: Why was she the one who was chosen to do this work?

10 **MRS DUMI MASONDO:** On that particular day she gave us a report that she was, she had passion because she had a child who had a mentally disorder. So she decided to open that home out of her passion.

ADV NIKKI STEIN: Your testimony Mrs Masondo is that you visited Precious Angels ... [interjects]

15 **MRS DUMI MASONDO:** On the 5th of September.

ADV NIKKI STEIN: On the 5th of September and that it was closed around the 17th, 18th, somewhere around there. Do you know what happened to the patients who were at Precious Angels? Where did they go?

MRS DUMI MASONDO: According to the arrangement on that particular day,
20 because there was an EMS. Patients were supposed to be taken to Weskopies Hospital and others were supposed to be taken to a high functioning NGO. I

wouldn't know exactly where they were placed and others were taken to the hospitals in Pretoria. Like Pretoria West and whatever, but because I was under Region A, I happened to know that at Bokang when we closed down the centre on that particular weekend, patients were taken to Sterkfontein.

5 **ADV NIKKI STEIN:** But with regards to Precious Angels, you weren't involved in the process of taking the patients elsewhere?

MRS DUMI MASONDO: Ja, because we were divided according to our residential places.

ADV NIKKI STEIN: Mrs Masondo, you're the Chair of the Gauteng Mental Health
10 Review Board. Is that correct?

MRS DUMI MASONDO: Yes.

ADV NIKKI STEIN: And you still weren't involved in the transfer of these patients who had already been transferred to a place like Precious Angels?

MRS DUMI MASONDO: Can I say this? Because of the proximity and I was the
15 only Chairperson responsible for five regions ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: No, listen to the question.

MRS DUMI MASONDO: Yes.

ARBITRATOR JUSTICE MOSENEKE: There was a further transfer of patients.

MRS DUMI MASONDO: True.

20 **ARBITRATOR JUSTICE MOSENEKE:** Why is it that you were not involved?

MRS DUMI MASONDO: On that particular day Mr Justice?

ARBITRATOR JUSTICE MOSENEKE: Yes, in your capacity as Chair of the Review Board.

MRS DUMI MASONDO: This process was initiated over the weekend, Saturday
5 and Sunday. There were committees or staff divided into different regions. I was allocated to be part of Region A. Ministerial committees were part of Region C, because they were from Pretoria.

ARBITRATOR JUSTICE MOSENEKE: In what role were you acting then?

MRS DUMI MASONDO: Sorry?

10 **ARBITRATOR JUSTICE MOSENEKE:** In what role were you acting then?

MRS DUMI MASONDO: Mr Justice, I was still a Chairperson, but on that day I had to go to Region A to monitor all the NGO's.

ARBITRATOR JUSTICE MOSENEKE: No, you talk about different Employees being divided up according to regions.

15 **MRS DUMI MASONDO:** The allocation on that particular day. The allocation on that particular day.

ARBITRATOR JUSTICE MOSENEKE: So you acted like a regular Employee of the department?

MRS DUMI MASONDO: On that particular day, yes.

20 **ARBITRATOR JUSTICE MOSENEKE:** Continue council.

ADV NIKKI STEIN: Mrs Masondo, so you weren't there when Precious Angels closed, because you were in a different team?

MRS DUMI MASONDO: Yes.

ADV NIKKI STEIN: In your capacity as Chairperson of the Gauteng Mental Health
5 Review Board, you didn't follow up on who was transported where, transferred
where and how that went?

MRS DUMI MASONDO: There were reports in the office of which I cannot recall
them now.

ADV NIKKI STEIN: There were ... [interjects]

10 **MRS DUMI MASONDO:** After transferring patients, we compile the reports and
then I cannot recall how many patients were referred and how they were referred,
because remember we are talking about five regions here.

ADV NIKKI STEIN: There were reports in the office. Were those reports prepared
for you as the Chairperson of the Mental Health Review Board?

15 **MRS DUMI MASONDO:** Yes.

ADV NIKKI STEIN: Did you submit them elsewhere?

MRS DUMI MASONDO: Normally the process, the procedures that was put in
place, I received a report. I make a copy. I submit it to my so called seniors, Dr
Manamela and the MEC.

20 **ADV NIKKI STEIN:** And so it's rare or it doesn't happen that you have any
substantive input on those reports.

MRS DUMI MASONDO: Pertaining the closing down of the centres?

ADV NIKKI STEIN: And the transfer of patients to other facilities.

MRS DUMI MASONDO: So if the patient is transferred to Weskopies Hospital, Weskopies Hospital will furnish us with the reports on a monthly basis. If it is at
5 Shammah or any other hospital in Pretoria, we are expecting to receive reports about those patients.

ADV NIKKI STEIN: Okay, and just to link back to an earlier question, you see that as your core function to receive those reports?

MRS DUMI MASONDO: Yes.

10 **ADV NIKKI STEIN:** Okay.

MRS DUMI MASONDO: Because at the end of the day I'll be held accountable.

ADV NIKKI STEIN: Mrs Masondo, you made several comments while we were going through the report for ShammahHouse, the audit report, about your views as to the conditions there. Would you agree that there were circumstances of neglect?

15 **MRS DUMI MASONDO:** According to the report, yes.

ADV NIKKI STEIN: Would you agree that there were circumstances of abuse?

MRS DUMI MASONDO: According to the report yes.

ADV NIKKI STEIN: That there were circumstances of degradation?

MRS DUMI MASONDO: Yes.

20 **ADV NIKKI STEIN:** Okay, thank you.

MRS DUMI MASONDO: Thank you.

ARBITRATOR JUSTICE MOSENEKE: And no doubt you agree that the deaths were abnormal, were out of culture with the, what you would expect as a mental health care professional?

5 **MRS DUMI MASONDO:** They were really abnormal Mr Justice.

ARBITRATOR JUSTICE MOSENEKE: They were abnormal.

MRS DUMI MASONDO: I agree.

ARBITRATOR JUSTICE MOSENEKE: And again, what do you think caused them?

10 **MRS DUMI MASONDO:** To me, I wouldn't consent ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: You see, let me tell you why we go back to this. You see these family people who are here.

MRS DUMI MASONDO: Yes.

ARBITRATOR JUSTICE MOSENEKE: They want to know what killed their loved
15 ones.

MRS DUMI MASONDO: Hm.

ARBITRATOR JUSTICE MOSENEKE: You would want to know too, wouldn't you?

MRS DUMI MASONDO: Definitely so.

ARBITRATOR JUSTICE MOSENEKE: You don't get told your consent is not asked for their discharge or transfer or placement, whatever words you people like. They are taken some other place and the concern of the patient is not sought either. They are taken to a place often not properly licensed with all of those conditions, as
5 you heard in ShammahHouse and ultimately these people die in large numbers, and these people are here. You know why they come here every day? In the hope that somebody will tell them what is the likely cause of death, because every certificate says natural causes. You see that? It tells them nothing.

MRS DUMI MASONDO: According to my ... [interjects]

10 **ARBITRATOR JUSTICE MOSENEKE:** So they hope somebody like you who has the professional knowledge of many years, and who is also in authority, might be able to help them and say you know what, I think this is what most likely killed your relatives. Can you help us with that?

MRS DUMI MASONDO: Partially I can try Mr Justice, using my expertise.

15 **ARBITRATOR JUSTICE MOSENEKE:** Yes.

MRS DUMI MASONDO: Number one I would say the contributory factors here, not even a factor ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: Yes.

MRS DUMI MASONDO: Are number one, people the place was not properly
20 assessed to be convenient for these people and resources were insufficient, because some places it was winter time. Some places had no blankets and

medication was not properly supplied to these, you can't manage a psychiatric patient without medication, and then you can't contain a psychiatric patient where they is no stimulation programs and activities, daily activities to keep them occupied, and again what might contribute is the stress. You know, they were used
5 to that environment, they were used to the core patients around, they were used to whatever that side. It was their family. So now separation anxiety, taking these patients from their used environment and dump them in a strange environment, these are vulnerable patients. Anything can happen to these patients.

ARBITRATOR JUSTICE MOSENEKE: If you were the decision maker, if you
10 were the MEC, would you have made this decision to move all of these patients from Esidimeni to these NGO's?

MRS DUMI MASONDO: If I was in her position Mr Judge, I would say, I would come up with a plan. Do it steadily. Not to push the project. Allocate enough time to go and assess and make sure that the systems are put in place.

15 **ARBITRATOR JUSTICE MOSENEKE:** So you wouldn't have done it the way she has done it?

MRS DUMI MASONDO: Yes.

ARBITRATOR JUSTICE MOSENEKE: Why do you think the MEC did it?

MRS DUMI MASONDO: I've got no idea Mr Justice. I've got no idea, because I
20 kept on finding out why are you moving these patients and for us, especially for me it was ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: What did she say? You asked her. What did she say?

MRS DUMI MASONDO: Se was saying that she got orders from above.

ARBITRATOR JUSTICE MOSENEKE: The MEC said she got orders from above.

5 **MRS DUMI MASONDO:** It was something that was discussed, I don't know where, because to me Mr Justice, can you really take such drastic exercises being an MEC of the province?

ARBITRATOR JUSTICE MOSENEKE: What would the MEC say to you?

10 **MRS DUMI MASONDO:** She didn't come up clear to me to say why is this process happening.

ARBITRATOR JUSTICE MOSENEKE: Okay. Why do you think she did it?

MRS DUMI MASONDO: Vividly I told it was based on finance, because tariffs were increased at that Life Esidimeni. So apparently they were fighting, they were trying to minimise the cost. Vividly, but I've got no hundred percent surety on that.

15 **ARBITRATOR JUSTICE MOSENEKE:** What do you mean vividly?

MRS DUMI MASONDO: Partly or partially. That's the report I got.

ARBITRATOR JUSTICE MOSENEKE: From whom?

20 **MRS DUMI MASONDO:** I think from the very same team at a meeting level. Team of officials. More so, remember Mr Justice I joined this, when they planned this thing I was not part of this thing. So I came in the system and I tried to find out

why are you moving these patients, because these the very same Life Esidimeni, we are the people who put up systems. That is why that Life Esidimeni was functioning at that level. So because I was not part of it, that's the report I got.

ARBITRATOR JUSTICE MOSENEKE: Council.

5 **ADV NIKKI STEIN:** Thank you Justice. I'd like to refer you now Mrs Masondo to file 3.

MRS DUMI MASONDO: I don't know the number of files, can somebody come and assist?

ARBITRATOR: Thank you.

10 **ADV NIKKI STEIN:** And in that file to page 1277. Are you there?

MRS DUMI MASONDO: Yes.

ADV NIKKI STEIN: This is a letter from Section 27, dated 22 September 2016. Do you see that?

MRS DUMI MASONDO: Yes, but before you go any further. I did not receive this
15 letter. I'm seeing this letter for the first time.

ADV NIKKI STEIN: Mrs Masondo, the letter was addressed to you.

MRS DUMI MASONDO: But the letter was not delivered to me.

ARBITRATOR: Whose email address is that?

MRS DUMI MASONDO: It's my, Masondo, it's my email address, but I did not
20 receive the letter.

ADV NIKKI STEIN: So the email address is correct?

MRS DUMI MASONDO: Though there's a capital D. It's Masondo and capital D for Dummi, but I don't think it was going to cause a problem.

ARBITRATOR: Emails could be up or lower case, it doesn't make a difference.

5 **MRS DUMI MASONDO:** Okay.

ADV NIKKI STEIN: I'm just taking instructions, bear with me for a minute.

MRS DUMI MASONDO: Okay.

ARBITRATOR: I think you could read the letter in the meantime.

MRS DUMI MASONDO: Okay.

10 **ARBITRATOR:** Hm.

ADV NIKKI STEIN: Mrs Masondo, I've just taken instructions from the attorney who sent the letter to you, Mrs Stevenson. She has instructed me that it was sent to you, it was sent to two email addresses, and that nothing bounced back. So it was delivered to your inbox.

15 **MRS DUMI MASONDO:** I didn't receive it. If you are talking about Sasha, are you talking about Sasha?

ADV NIKKI STEIN: Yes, I am.

MRS DUMI MASONDO: Yes. Are you Sasha?

ARBITRATOR: No.

ADV NIKKI STEIN: No. Sasha is sitting behind me.

MRS DUMI MASONDO: Okay, I'm happy to see Sasha today.

ARBITRATOR: No, Mrs Stevenson, there she is.

MRS DUMI MASONDO: But the correspondence that I received it was not on my
5 email. I received a call. In fact you phoned the secretariat. On that particular day I
was not on duty. I was around, but doing appeals at Tara Hospital and then on that,
on the following day I got a report from the secretariat that somebody called Sasha
phoned, and I responded. I phoned you and I said to you if you are having any
concerns, I gave you my email address. I said can you please write all your
10 concerns on the email address and send it to me. That was my last communiqué
with you.

ADV NIKKI STEIN: And so our instructions Mrs Masondo are that this is the letter
that Mrs Stevenson transmitted to you by email.

MRS DUMI MASONDO: I'm happy to see this letter, but I'm also worried why Mrs
15 Stevenson did not respond to me when I took time to send her my contact details
and request this letter in a written form. I didn't receive it.

ARBITRATOR: It is just being put to you that that is the letter.

MRS DUMI MASONDO: Thank you.

ARBITRATOR: And that is your email.

20 **MRS DUMI MASONDO:** Thank you for that.

ARBITRATOR: That you gave to Mrs Stevenson. What is your response to that?

MRS DUMI MASONDO: Response to this letter?

ARBITRATOR: Yes, council says after you talked to Mrs Stevenson.

MRS DUMI MASONDO: Yes.

ARBITRATOR: Or attorney Stevenson in Section 27, she procured your email
5 address and wrote you that letter.

MRS DUMI MASONDO: But I'm saying Mr Justice, unfortunately I did not receive
this letter.

ARBITRATOR: Did not receive the letter?

MRS DUMI MASONDO: Yes.

10 **ARBITRATOR**: Council.

ADV NIKKI STEIN: Perhaps what we can do Mrs Masondo, is give you a couple
of minutes to read the contents of that letter.

ARBITRATOR: You can start at paragraph 8 if you want to and then go back to
the detail.

15 **MRS DUMI MASONDO**: Yes.

ARBITRATOR: Do you see paragraph 8?

MRS DUMI MASONDO: Yes, Mr Justice.

ARBITRATOR: 1279.

MRS DUMI MASONDO: Yes, paragraph 8 I'm there.

ARBITRATOR: Yes:

“We trust that the Review Board will act with urgency to investigate and take steps to protect the rights and interests of mental health care users.”

MRS DUMI MASONDO: Yes.

5 **ARBITRATOR:** Nine:

“Remain available to provide further information to the Mental Health Review Board should you require us to do so. Kindly contact the writer for clarity or further detail on any issues forming part of your investigation.”

MRS DUMI MASONDO: Thank you for the letter Mrs Sasha and Mr Justice. But
10 unfortunately I’m seeing this letter for the first time.

ADV NIKKI STEIN: So are you saying Mrs Masondo that you weren’t aware of these concerns raised by Section 27?

MRS DUMI MASONDO: To me as a member of the Review Board?

ADV NIKKI STEIN: Yes.

15 **MRS DUMI MASONDO:** No.

ADV NIKKI STEIN: You were not?

MRS DUMI MASONDO: I was not.

ADV NIKKI STEIN: I’ve just been instructed Mrs Masondo, that the letter was not
Section 27’s first contact with you. That your telephonic discussion with Mrs
20 Stevenson, part of the purpose of that discussion, was for her to tell you orally about

Section 27's concerns and that you then requested that she put it in writing, which she did in this letter and emailed to you.

MRS DUMI MASONDO: Yes, in fact I'm the one who proposed that. That I'm not going to take anything over the phone. Whatever she is saying to me, she must put
5 it in writing so that we sit down with my team and analyse the content of her problems.

ADV NIKKI STEIN: But you did as a starting point hear those concerns over the phone?

MRS DUMI MASONDO: No, she said you know, somebody, if somebody is talking
10 on the phone, you cannot follow it up. I was expecting her to put it in writing.

ADV NIKKI STEIN: Mrs Masondo, the title of the letter is deaths and neglect of former residents of Life Esidimeni. You received a phone call from, on your version you received a phone call from Mrs Stevenson telling you in general that she had some of these concerns, and you asked her to address them to you in writing. Is
15 that correct?

MRS DUMI MASONDO: Ja, though it was a short conversation with her, because I stopped her to say please, you are coming up with a very serious issue here.

ADV NIKKI STEIN: Why did you stop her when she was talking about these serious concerns?

MRS DUMI MASONDO: No, in fact I could, because procedurally these issues can't be discussed over the phone. So I said put them down so that we can make an appointment and analyse all your concerns.

ADV NIKKI STEIN: Whose procedure is that Mrs Masondo?

5 **MRS DUMI MASONDO:** Procedure of reporting?

ADV NIKKI STEIN: Where does that procedure come from?

MRS DUMI MASONDO: I mean if you are reporting something serious like this, can you accept it over the phone and take it genuine?

ADV NIKKI STEIN: So what happened Mrs Masondo ... [interjects]

10 **MRS DUMI MASONDO:** Firstly I don't even know who was Sasha. I wasn't aware who was Sasha. So how could I respond to a strange person. To me she was a strange person. I have never met her, she has never met me either.

ADV NIKKI STEIN: Even though she was coming to you with concerns about deaths and neglect of former residents at Life Esidimeni?

15 **MRS DUMI MASONDO:** Thank you. Hence I was so polite to say this is my email address, these are my further contact details. Put it down because really this is a really serious issue. So after receiving your concerns, I will definitely make an appointment to meet with you.

ADV NIKKI STEIN: Mrs Stevenson told you that she was an attorney representing
20 family members.

MRS DUMI MASONDO: Yes.

ADV NIKKI STEIN: Whose loved ones had been transferred.

MRS DUMI MASONDO: So many attorneys have been phoning me if I can be clear today. Everybody will be seeking for information left right and centre.

ADV NIKKI STEIN: And so the volume of attorneys phoning you ... [interjects]

5 **MRS DUMI MASONDO:** Yes.

ADV NIKKI STEIN: Detracts from the seriousness of the complaints?

MRS DUMI MASONDO: So that is why to be polite enough you furnish your contact details. Somebody who is serious must continue putting it in writing.

ADV NIKKI STEIN: And so Mrs Stevenson we have no learnt did put it in writing
10 and sent it to the correct email address.

MRS DUMI MASONDO: But it ... [interjects]

ADV NIKKI STEIN: And you didn't read that email.

MRS DUMI MASONDO: If you are saying read, I don't think it's the right word
madam. I didn't receive the email.

15 **ADV NIKKI STEIN:** You say you didn't receive the email. You previously received
a phone call about concerns regarding deaths and neglect of mental health care
users.

MRS DUMI MASONDO: Yes.

ADV NIKKI STEIN: You didn't see fit to contact Mrs Stevenson and let her know
20 you didn't receive the email?

MRS DUMI MASONDO: Do you know what? I'm the one who phoned Mrs Stevenson. After receiving the report from the secretariat. I even have the dates. I phoned her back to say I'm told you phoned on this particular day. So can you explain to me what is the problem and she said something about Life Esidimeni. I
5 said it's a serious issue attorney, can you please put it in writing.

ADV NIKKI STEIN: And so ... [interjects]

MRS DUMI MASONDO: And of which I did not receive this document.

ADV NIKKI STEIN: And so on your own initiative, because you had concerns.

MRS DUMI MASONDO: Yes.

10 **ADV NIKKI STEIN:** You asked for a more detailed report from Mrs Stevenson.

MRS DUMI MASONDO: Yes.

ADV NIKKI STEIN: You knew that it related to deaths and neglect.

MRS DUMI MASONDO: Yes.

ADV NIKKI STEIN: Of formal excuse me, of mental health care users formally at
15 Life Esidimeni and your evidence is that you didn't receive that written report.

MRS DUMI MASONDO: Yes.

ADV NIKKI STEIN: And you just left it at that.

MRS DUMI MASONDO: And then if you were in my position, what would you do?

ADV NIKKI STEIN: Please answer the question.

MRS DUMI MASONDO: Ja, I've just furnished you with my contact details. I'm a Chairperson. I'm receiving quite a lot of calls from attorneys, from journalists, from the community members. I don't even know who is this Mrs Stevenson.

ADV NIKKI STEIN: Mrs Masondo, my question is you knew that this report was
5 coming to you.

MRS DUMI MASONDO: Yes.

ADV NIKKI STEIN: You knew that there were serious allegations.

MRS DUMI MASONDO: Yes.

ADV NIKKI STEIN: You didn't receive it.

10 **MRS DUMI MASONDO:** Yes.

ADV NIKKI STEIN: And you left it at that.

MRS DUMI MASONDO: But I phoned her back. I'm the one who phoned her
back.

ADV NIKKI STEIN: Please answer yes or no. You left it at that.

15 **MRS DUMI MASONDO:** I'm not sure whether it's yes or no. I'm not sure whether
it's a yes or no, because I was expecting her to furnish me with this report and I
didn't receive this report, but I'm the one who picked up a phone to say I saw your
numbers with the secretariat.

ARBITRATOR: Who operates your inbox?

20 **MRS DUMI MASONDO:** It's me Mr Justice, but ... [interjects]

ARBITRATOR: Is it you?

MRS DUMI MASONDO: But the computer that, the laptop that I'm using it's an old computer which is not reliable, but I'm the one who is controlling it.

ARBITRATOR: Council, it might be an appropriate time to ... [interjects]

5 **ADV NIKKI STEIN:** Thank you Justice.

ARBITRATOR: In my language they say [vernacular 01:33:41]. We are adjourned until half past two.

SESSION 3

ARBITRATOR JUSTICE MOSENEKE JUSTICE MOSENEKE: Thank you, we may
10 be seated. Is this my copy of the Health Care Act? Thank you much appreciated. You are still under your previous oath. Shall we, proceed Counsel?

ADV NIKKI STEIN: Thank you Justice. Mrs Masondo I am now going to move onto a different topic and it's one that you testified about earlier. I would just like to ask you a couple of questions around that topic and that's the issue of African Queens
15 of Africa and in that regard, I would like you to turn in File 3 to Page 1356.

ARBITRATOR JUSTICE MOSENEKE JUSTICE MOSENEKE: African Queens must surely be from Africa?

MS DUMI MASONDO: Yes Justice.

ARBITRATOR JUSTICE MOSENEKE: Why are they African Queens of Africa?

20 **MS DUMI MASONDO:** I don't know.

ARBITRATOR JUSTICE MOSENEKE: Okay very well, please, proceed Counsel?

ADV NIKKI STEIN: Thank you Justice. Mrs Masondo you testified earlier during your examination in chief, that you were asked to assist with the transportation of one of the bodies of one of the deceased to Warrenton correct?

5 **MS DUMI MASONDO**: Yes.

ADV NIKKI STEIN: And you testified that African Queens of Africa is, you don't own it, that you own one of the undertaker services that forms part of this co-op?

MS DUMI MASONDO: Yes.

ADV NIKKI STEIN: Okay I would like to in that regard, refer you to, you have seen
10 the article at 1536, you spoke to it earlier, I would like to refer you to Page 1357
which is just over the page. I am going to read to you an extract of that article. It
says when contacted yesterday, Masondo told Independent Media that she was
asked by Gauteng Health Director Magabo Manamela to help with transportation of
bodies of former Life Esidimeni patients. Manamela called me and told me they
15 were having a crisis regarding many dead bodies of the mentally ill patients which
the Department was unable to transport. I said since you have a crisis, I will assist
you and arrange to transport some of the bodies. This body Josias, was the only
one for the patients I transported and I was paid R14 000. Do you see that in the
article?

20 **MS DUMI MASONDO**: I have seen it on the article and the answer there is no, I
have never received R14 000.

ADV NIKKI STEIN: Perhaps we can just unpack what is in that article. I would like to deal first with your testimony that you were asked to assist with the transport of only one body to the Northern Cape.

MS DUMI MASONDO: Yes.

5 **ADV NIKKI STEIN:** The article says that-

ARBITRATOR JUSTICE MOSENEKE: Were you interviewed by Independent Media?

MS DUMI MASONDO: Yes.

ARBITRATOR JUSTICE MOSENEKE: Did they phone you for comment?

10 **MS DUMI MASONDO:** They phoned me. In fact, I was not even aware that it was the media.

ARBITRATOR JUSTICE MOSENEKE: Ja but they phoned you and they are purporting to report what actually happened, i.e. they talked to you, thank you, proceed Counsel?

15 **ADV NIKKI STEIN:** Thank you Justice, in their report of their interview, they said that you were asked to assist with the transportation not of one body, but of many bodies of former Life Esidimeni patients.

MS DUMI MASONDO: No it is not true.

ADV NIKKI STEIN: It's not true and so they have misquoted you here?

MS DUMI MASONDO: It must be corrected and I think I have said earlier on, I need a lawyer to come and intervene here, because this is defamation of character.

ADV NIKKI STEIN: They then purportedly quoted directly saying that there was a crisis regarding many dead bodies of the mentally ill patients in which the
5 Department was unable to transport. Do you deny saying that there were many bodies?

MS DUMI MASONDO: The answer is no.

ARBITRATOR JUSTICE MOSENEKE: If it was one body and not bodies, that statement would be correct isn't it?

10 **MS DUMI MASONDO**: It's one body.

ARBITRATOR JUSTICE MOSENEKE: Ja one body of a former Life Esidimeni patient, that at least you admit you said is it? You told the journalist that you were asked to convey to transport one body is that correct?

MS DUMI MASONDO: Yes Mr Justice.

15 **ADV NIKKI STEIN**: You told the journalist that there was a crisis?

MS DUMI MASONDO: No.

ADV NIKKI STEIN: You didn't use the word crisis?

MS DUMI MASONDO: No.

ADV NIKKI STEIN: And so again you are saying that the journalist misquoted you?

20 **MS DUMI MASONDO**: Yes.

ADV NIKKI STEIN: Mrs Masondo the article was published on the 5th of February 2017, do you acknowledge that?

MS DUMI MASONDO: I didn't see the article.

ADV NIKKI STEIN: If you turn to Page 1356, the date of the article is just under the
5 headline. Weekend Argus Sunday Edition 5 February 2017 with the authors, do you see that date?

MS DUMI MASONDO: It's not true, because somebody phoned me, the one who phoned me was last year, not this year.

ADV NIKKI STEIN: I'm sorry the journalist who phoned you, called you last year?

10 **MS DUMI MASONDO:** Ja.

ADV NIKKI STEIN: You were not called before this article was published?

MS DUMI MASONDO: No.

ADV NIKKI STEIN: Directly quoting you?

MS DUMI MASONDO: This date, nobody phoned me on this date. I was phoned
15 last year, I can't remember the month, but it wasn't this year.

ADV NIKKI STEIN: Who called you?

MS DUMI MASONDO: I can't remember the name.

ADV NIKKI STEIN: You said also that you didn't know that they were a journalist?

MS DUMI MASONDO: I didn't know, he didn't introduce himself as a journalist.

ADV NIKKI STEIN: And so how do you know the phone call was in relation to this article?

MS DUMI MASONDO: I thought maybe it was a family member because I was assisting the family and then later on, he didn't identify himself as a journalist.

5 **ADV NIKKI STEIN**: What questions did he ask you during that phone call?

MS DUMI MASONDO: He was just asking me about this very patient and I gave you the very same information that I was requested by the Department to assist with transportation of that patient and I don't even know the patient and the funds were not deposited into my account and the transportation was now between the
10 Department people from the district. I don't even know the family.

ADV NIKKI STEIN: And so the allegation in the article that you received R14 000, you are saying is incorrect?

MS DUMI MASONDO: Not incorrect, it's a lie in proper English.

ADV NIKKI STEIN: And do you agree that the inference that could be drawn from
15 that is that you benefited financially from the deaths?

MS DUMI MASONDO: I didn't.

ADV NIKKI STEIN: But do you agree that that inference could be drawn?

MS DUMI MASONDO: Ja it can be, but I am saying I am innocent.

ADV NIKKI STEIN: Mrs Masondo what steps did you take to report the matter to
20 the Press Ombud?

MS DUMI MASONDO: I didn't know that I was supposed to report, because I can't entertain lies.

ADV NIKKI STEIN: Did you approach a lawyer for advice on how to take this incorrect report forward?

5 **MS DUMI MASONDO**: Are we talking about the phone here?

ADV NIKKI STEIN: We are talking about the allegations in this news report.

MS DUMI MASONDO: In February?

ADV NIKKI STEIN: The report as it stands we are talking about the allegations, the content of the report?

10 **MS DUMI MASONDO**: Hence I'm saying after seeing this today, I am going to seek a lawyer to investigate what is actually happening here.

ADV NIKKI STEIN: So today was the first time you ever saw this article?

MS DUMI MASONDO: To see the R14 000 given to Mrs Masondo I am seeing this for the first time.

15 **ADV NIKKI STEIN**: You never knew that there was an allegation around you assisting the Department of Health with a crisis of many bodies?

MS DUMI MASONDO: You know I heard sometimes last week when people were testifying over this arbitration, somebody raised that issue and I was concerned, but today it confirms the statement because I am seeing it written here.

20 **ADV NIKKI STEIN**: You were concerned when you heard about it last week.

MS DUMI MASONDO: Yes.

ADV NIKKI STEIN: What did you do? Did you go and source the article for yourself?

MS DUMI MASONDO: No I didn't.

5 **ADV NIKKI STEIN**: Did you approach someone for legal advice?

MS DUMI MASONDO: I reported the issue to my legal person and she said to me she is going to go there, because we didn't even know which paper that reveals that information. I only overheard it on this very arbitration last week.

ARBITRATOR JUSTICE MOSENEKE: But did the undertaker you recommended,
10 in fact transport the body of Daniel Charles Josiah to the Northern Cape? Did that happen?

MS DUMI MASONDO: It was not an undertaker Mr Justice. It was a guy who was doing transportation of deceased, because the report I got, was that the body must be transported this side and that side, there will be a social worker waiting with all
15 the coffin for the arrangements, so mine was just to arrange transportation and then that side, Warrenton staff will take over.

ARBITRATOR JUSTICE MOSENEKE: And you were asked by Dr Manamela to do that?

MS DUMI MASONDO: It was Dr Manamela and the MEC was around.

20 **ARBITRATOR JUSTICE MOSENEKE**: And the MEC knows about this request?

MS DUMI MASONDO: Yes.

ARBITRATOR JUSTICE MOSENEKE: Did you and Dr Manamela talk about the cost of the transportation?

MS DUMI MASONDO: Yes.

ARBITRATOR JUSTICE MOSENEKE: What amount did you agree on?

5 **MS DUMI MASONDO**: It was 4.5.

ARBITRATOR JUSTICE MOSENEKE: R4 500?

MS DUMI MASONDO: R4 500.

ARBITRATOR JUSTICE MOSENEKE: Who was to receive that money?

MS DUMI MASONDO: It was deposited in the transportation person's account.

10 **ARBITRATOR JUSTICE MOSENEKE**: So it was deposited into the transportation person's account?

MS DUMI MASONDO: Yes.

ARBITRATOR JUSTICE MOSENEKE: The person you appointed was paid by the province R4 500?

15 **MS DUMI MASONDO**: Yes.

ARBITRATOR JUSTICE MOSENEKE: For transporting the body of Mr Josiah to Warrenton?

MS DUMI MASONDO: Yes Mr Justice.

ARBITRATOR JUSTICE MOSENEKE: Why did you do that, why did you agree to provide this transportation? Why didn't you tell them that there are many undertakers, go and talk to them, not me?

5 **MS DUMI MASONDO**: I think Mr Justice I thought I was assisting and trying to save the emotions of the families because they were promised and nobody was willing to assist them.

ARBITRATOR JUSTICE MOSENEKE: It is also true that there were many bodies that required to be transported isn't, it so?

MS DUMI MASONDO: But they were not reported to me.

10 **ARBITRATOR JUSTICE MOSENEKE**: No but you know now that there were many bodies that had to be transported to a variety of places?

MS DUMI MASONDO: Ja I only hear about it now, because I thought some of them were local.

15 **ARBITRATOR JUSTICE MOSENEKE**: And being an undertaker, you were never asked to carry any of the bodies to anywhere?

MS DUMI MASONDO: No Mr Justice.

ARBITRATOR JUSTICE MOSENEKE: And where is the invoice for this transportation do you now? Where can we find the invoice?

20 **MS DUMI MASONDO**: I think we can phone Frans from the Department of Health. He is the Financial Manager who was depositing the money.

ARBITRATOR JUSTICE MOSENEKE: You say there was a time when the Department did not know and you played the advocate, what did you mean by that?

MS DUMI MASONDO: I was advocating for the families and the user itself, because the corpse was lying there, people were fighting over the corpse. Nobody was
5 willing to transport this corpse.

ARBITRATOR JUSTICE MOSENEKE: What people were fighting over the corpse?

MS DUMI MASONDO: The family members, they had a misunderstanding between them, Dr Manamela and staff from the district Sister Ellen, Sister Ellen is the lady
10 who was actually phoning me that this is the body lying here, the family wants to transport the body.

ARBITRATOR JUSTICE MOSENEKE: And whose advocate were you?

MS DUMI MASONDO: Advocate?

ARBITRATOR JUSTICE MOSENEKE: You told us in your evidence you used the
15 word advocate, I had to play the role of an advocate.

MS DUMI MASONDO: I was advocating, maybe in simple language, I was assisting, I was assisting the family to make sure that the body is transported.

ARBITRATOR JUSTICE MOSENEKE: In the article, family complains that they were told that they must use your services, your undertaker services, what do you
20 say to that?

MS DUMI MASONDO: No it's not true Mr Justice. I have never met with the family.

ARBITRATOR JUSTICE MOSENEKE: You told us you were advocating for the family and now you have never met them?

MS DUMI MASONDO: Mr Justice I think by saying I was advocating, I was merely assisting because there was a problem.

5 **ARBITRATOR JUSTICE MOSENEKE**: Assisting people you never met?

MS DUMI MASONDO: Because I got a report from Dr Manamela.

ARBITRATOR JUSTICE MOSENEKE: Why did you assist this particular family? You are the overall head, you are the chairperson of the review committee, why did this family deserve your attention?

10 **MS DUMI MASONDO**: In fact, I thought I was trying to implement my role.

ARBITRATOR JUSTICE MOSENEKE: No but why did they enjoy your attention? Why did you chose to help them? You have never met them and you decide to convey the body of their loved one, why?

MS DUMI MASONDO: I think maybe I was consulted because they knew that I do
15 have contacts, not specifically this patient.

ARBITRATOR JUSTICE MOSENEKE: Because they know that you own a funeral parlour?

MS DUMI MASONDO: Yes.

ARBITRATOR JUSTICE MOSENEKE: You see it comes very close to the bone,
20 it's a big coincidence, you there, you are the chief honcho, you are the person who

must oversee this whole process and you become the one who decides to help to carry this body to Warrenton for a fee.

MS DUMI MASONDO: Not for a fee Mr Justice.

ARBITRATOR JUSTICE MOSENEKE: But the person you appointed was paid
5 was he not?

MS DUMI MASONDO: He was paid to assist the families.

ARBITRATOR JUSTICE MOSENEKE: And why did he want to assist this family?

MS DUMI MASONDO: Apparently this is not the only family that I have assisted.

ARBITRATOR JUSTICE MOSENEKE: That you have assisted?

10 **MS DUMI MASONDO**: Ja.

ARBITRATOR JUSTICE MOSENEKE: Okay which other families?

MS DUMI MASONDO: But not with burial rights, I assisted a family in Soweto Braam Fisher, Bertha's child, because I was told Bertha was really bitter about the loss of her daughter Sophie. I decided to drive and spend an afternoon with Bertha
15 just to reassure Bertha because I know she was really devastated.

ARBITRATOR JUSTICE MOSENEKE: You see Mam we are trying to probe and understand what drove this irrational conduct where so many people died. That matter still worries me.

MS DUMI MASONDO: Ja but I think maybe I was too passionate and concerned
20 about what was happening.

ARBITRATOR JUSTICE MOSENEKE: You told us earlier that NGO's were doing all this to get money right?

MS DUMI MASONDO: Yes.

ARBITRATOR JUSTICE MOSENEKE: And they were filling up their homes to get
5 money.

MS DUMI MASONDO: Yes.

ARBITRATOR JUSTICE MOSENEKE: And you told us that the MEC did this project to save money, is that right?

MS DUMI MASONDO: Yes.

10 **ARBITRATOR JUSTICE MOSENEKE**: And you arranged a body to be transported against payment?

MS DUMI MASONDO: I'm sorry, I didn't arrange I was consulted, I was asked to assist.

15 **ARBITRATOR JUSTICE MOSENEKE**: And I want to understand, what is your understanding, where does money come into all this? Were most of these things done for money?

MS DUMI MASONDO: I am not sure Judge, but I think if there is a corpse in the family, the family needed some help from somebody, so I was passionate about it and I was trying to assist.

20 **ARBITRATOR JUSTICE MOSENEKE**: Ja except for a few scanty denials, the report is quite substantially true, is it not?

MS DUMI MASONDO: Which report?

ARBITRATOR JUSTICE MOSENEKE: You helped to arrange for this particular body to be transported from where it was to Warrenton against payment of the fee. You say it was R4 500, the article says R14 000. So the substance of the story is
5 not entirely untrue even on your version.

MS DUMI MASONDO: But for me, receiving this R14 000 it's not true, even receiving the R4 500 it's not true, because it didn't come to my account, it went to the transport gentleman.

ARBITRATOR JUSTICE MOSENEKE: Counsel?

10 **ADV NIKKI STEIN**: Thank you Justice. You testified earlier Mrs Masondo that you were doing this to assist the family, but it wasn't the family who called you for assistance was it?

MS DUMI MASONDO: No.

ADV NIKKI STEIN: It was Dr Manamela?

15 **MS DUMI MASONDO**: Hmm and Ellen Sister Ellen from Tswane District.

ADV NIKKI STEIN: Mrs Tijane testified earlier in these proceedings, that she was instructed by Sister Ratlogo that she should use African Queens of Africa to transport the body. Do you know Sister Ratlogo?

MS DUMI MASONDO: No.

20 **ADV NIKKI STEIN**: She testified that Sister Ratlogo mentioned your name specifically.

MS DUMI MASONDO: I was dealing with Sister Ellen, but I don't know Sister Ellen's surname.

ADV NIKKI STEIN: Okay and so you responded to Dr Manamela's call and you said that you were implementing your role in assisting the family, is that correct?

5 **MS DUMI MASONDO**: For me, I think that was part of my role to assist the families.

ADV NIKKI STEIN: Are you talking about your role as the chairperson of the mental health review board, or your role as the owner of an undertaking service?

10 **MS DUMI MASONDO**: The role of chairperson and the role of Ubuntu and a role of helping in the community.

ADV NIKKI STEIN: So you responded to a call to transport a body in your capacity as the chairperson of the mental health review board?

MS DUMI MASONDO: I didn't respond to a call. I was requested at meeting level.

ADV NIKKI STEIN: And you met that request?

15 **MS DUMI MASONDO**: Yes I promised to assist.

ADV NIKKI STEIN: Mrs Masondo what made you suddenly assist now and help out the families now that Mrs Tijani had lost her loved one?

MS DUMI MASONDO: Because the issue was reported to me. I had to respond.

20 **ADV NIKKI STEIN**: But the issue of the transfer had been reported to you on numerous occasions before people started to die.

MS DUMI MASONDO: Who reported the issue to me?

ADV NIKKI STEIN: We referred earlier in your evidence Mrs Masondo, to the fact that you knew that the transfer was happening, that you had the obligation to ensure that the best interests of the mental health care users would be protected, that they
5 would be sent to facilities that would be able to meet their needs, that there would be no use, neglect, degrading treatment.

MS DUMI MASONDO: Yes I said after that presentation, I was under the impression that everything will be fine and coming to the transfers, I was going to review the documents of the transfers according to the Act, that you discharge, you
10 transfer and you submit to the Board.

ADV NIKKI STEIN: You started to have concerns in July 2016, so on your testimony, that is the date on which you became aware of the problems.

MS DUMI MASONDO: 26th of July yes.

ADV NIKKI STEIN: 26th of July 2016. Why did you wait so long to come to the
15 assistance of the families?

MS DUMI MASONDO: Because there were no problems or challenges forwarded to the Board and everything was then stable. There was no alarm, there were no deaths reported to the Board.

ADV NIKKI STEIN: Is it not the Board's responsibility to take initiative to find that
20 information?

MS DUMI MASONDO: No.

ARBITRATOR JUSTICE MOSENEKE: You knew at least about 11 people had died didn't you?

MS DUMI MASONDO: That was at Siyabadinga when we got a report from Dr Manamela.

5 **ARBITRATOR JUSTICE MOSENEKE**: On the 26th, about which deaths did you hear?

MS DUMI MASONDO: At Siyabadinga Care Centre under Cullinan.

ARBITRATOR JUSTICE MOSENEKE: And Counsel's question is then, why didn't you put on your septic gloves and get on working, because that is the essence of her question? What is your response to that? You see you have been saying how much you love helping families and an inevitable question is why didn't you do it earlier when you heard that people had died at Siyabadinga?

MS DUMI MASONDO: I heard about Siyabadinga deaths and we jumped and visited the centre and the centre was –

15 **ARBITRATOR JUSTICE MOSENEKE**: Did you ever enquire about the rest of the bodies that came out of this carnage?

MS DUMI MASONDO: At Cullinan?

ARBITRATOR JUSTICE MOSENEKE: Carnage, did you ever ask about how these patients' bodies would be dealt with once they had passed on?

20 **MS DUMI MASONDO**: Normally when somebody passes on Mr Justice, the family and the hospital and the undertakers are responsible for that.

ARBITRATOR JUSTICE MOSENEKE: But wasn't it a matter of concern to you that so many people were dying and that their bodies had to be given some final rights and respect in some way, particularly people who died during placements, transfers which are within your jurisdiction, didn't it worry you about what would happen to
5 their bodies?

MS DUMI MASONDO: It worked me a lot, because I knew those patients were vulnerable and it was a hurt to the family.

ARBITRATOR JUSTICE MOSENEKE: And once there were bodies and many bodies says this article, what did you do?

10 **MS DUMI MASONDO**: With the bodies Mr Justice, as I have said, the families and the undertakers and the hospitals are responsible.

ARBITRATOR JUSTICE MOSENEKE: And by coincidence, you happened to be an undertaker also?

15 **MS DUMI MASONDO**: The undertaker is not mine, it was a family undertaker registered in 2005 under my husband's name and my husband passed on and my kids took over.

ARBITRATOR JUSTICE MOSENEKE: You know Mrs Masondo one of the sad tales of this ADR process, is how the bodies were treated once people had died, the neglect around corpses of mental care health users.

MS DUMI MASONDO: I am sorry Mr Justice I don't think as a member of the review board, I had a right to go and check in the mortuaries, because the procedure even at Life Esidimeni, it was the responsibility of the family and the hospital people.

ARBITRATOR JUSTICE MOSENEKE: You said you were anxious to help the
5 family transport their body and I must inevitably ask what about the rest of the bodies?

MS DUMI MASONDO: Mr Justice they were not reported to me, this one was particularly reported to me, so I had to act on behalf of the families.

ARBITRATOR JUSTICE MOSENEKE: Counsel?

10 **ADV NIKKI STEIN**: Thank you Justice. You testified a moment ago Mrs Masondo that it was not your responsibility to look after the wellbeing of these patients, it was the families and the facilities, is that correct?

MS DUMI MASONDO: Are you talking about corpses?

ADV NIKKI STEIN: Ye and so even if the circumstances of these deaths point very
15 clearly with neon lights to something happening, something sinister in the treatment of mental health care users, this is still not your responsibility.

MS DUMI MASONDO: I don't understand the question?

ADV NIKKI STEIN: Even where the circumstances of these deaths show that
20 mental health care users' rights are being severely violated, is it still not your responsibility to deal with corpses?

MS DUMI MASONDO: Hence I was trying to assist when the report was forwarded to me, because I felt now I need to stand up and assist, because this one in particular was reported to me. Remember I am still repeating myself, I am a chairperson in the province responsible for the entire Gauteng, so some of the
5 duties, there are staff allocated at different institutions where they will manage such problems.

ADV NIKKI STEIN: But the overall responsibility falls on you Mrs Masondo?

MS DUMI MASONDO: Yes if it is reported to me.

ADV NIKKI STEIN: And you were busy with other things and so the violation of
10 rights of over 1300 mental health care users was not your responsibility?

MS DUMI MASONDO: If you say to me, I was busy with other things, like what?

ADV NIKKI STEIN: That's my question to you Mrs Masondo.

MS DUMI MASONDO: I don't know, with that question, I don't know. I've got no
answer.

15 **ARBITRATOR JUSTICE MOSENEKE**: The question in short from Counsel is how did this happen under your watch? How did nearly 1300 people, mental care health users, rights be violated under your watch, that is the cutting end of that question? It's a question about accountability Mam, about your responsibility and if I remember well, at your disciplinary hearing, you were found not guilty.

20 **MS DUMI MASONDO**: Yes.

ARBITRATOR JUSTICE MOSENEKE: Who found you not guilty?

MS DUMI MASONDO: I am not sure, but people who were undergoing, who was responsible for doing that.

ARBITRATOR JUSTICE MOSENEKE: And what were the charges?

MS DUMI MASONDO: There were only 3 charges it was transfer, which was not
5 orderly.

ARBITRATOR JUSTICE MOSENEKE: What does that mean?

MS DUMI MASONDO: Transfer of patients was not orderly number one.

ARBITRATOR JUSTICE MOSENEKE: By patients, you mean patients at
Esidimeni?

10 **MS DUMI MASONDO**: Users from Life Esidimeni to different NGO's and the second
one was based-

ARBITRATOR JUSTICE MOSENEKE: And you were found not guilty on that?

MS DUMI MASONDO: Yes and then number two, it was the-

ARBITRATOR JUSTICE MOSENEKE: Given your statutory duties to look at
15 supervise, approve or disapprove transfers if necessary, you were found not guilty
about the transfers that happened at Esidimeni.

MS DUMI MASONDO: It was those transfers. They started to transfer the patient
when I was not there. When I was there in January already the process was up and
running. I was not part of the transfers, so the transfers were done by different
20 teams, the expert of MDT's.

ARBITRATOR JUSTICE MOSENEKE: And the second charge?

MS DUMI MASONDO: And the second charge was the involvement in the committee meeting that I attended a committee meeting which was a meeting that was arranged previously before I was appointed, so at that meeting, I raised some
5 voices that what I have learnt from that meeting-

ARBITRATOR JUSTICE MOSENEKE: What were the charges?

MS DUMI MASONDO: It was the family involvement, meetings that I was part of and then the third one was the issue of Siyabadinga, the deaths at Siyabadinga.

ARBITRATOR JUSTICE MOSENEKE: What wrong did they say you have done?

10 **MS DUMI MASONDO**: We came with a report to say the conditions were appalling and unskilled staff as I have said earlier on.

ARBITRATOR JUSTICE MOSENEKE: And you were charged for [inaudible] the report?

MS DUMI MASONDO: The reports were there Mr Judge.

15 **ARBITRATOR JUSTICE MOSENEKE**: What was the third charge?

MS DUMI MASONDO: The third charge was that there was an issue at Siyabadinga, I can't just relate it in proper sequence, but it was related to Siyabadinga issue.

ARBITRATOR JUSTICE MOSENEKE: Counsel you remember we had asked Dr
20 Kenoshi to provide us with the charge sheet?

ADV NIKKI STEIN: Justice I am sorry to interrupt, but there is a charge sheet, I can get there now if you would like me to?

ARBITRATOR JUSTICE MOSENEKE: Well I would like to know what how and why and why was Mrs Masondo not found guilty?

5 **ADV NIKKI STEIN**: The documents are at ELAH19, the pages are unfortunately not numbered, but if we can go to the third page of that annexure, sorry that document and in fact, before we get there, Mrs Masondo this is an annexure to the notice to attend your enquiry in terms of Section 21 of the Mental Health Care Act. So this is your notice to attend a disciplinary hearing. Do you agree?

10 **MS DUMI MASONDO**: Yes.

ADV NIKKI STEIN: Okay so if you page over to Annexure A and then after Point 11, you will see a heading that says charges.

MS DUMI MASONDO: I don't have it here. I've got this up to Paragraph 9, on this letter where it says notice to attend your enquiry.

15 **ADV NIKKI STEIN**: If you turn over the page to see Annexure A?

MS DUMI MASONDO: Okay just wait, Annexure A, yes, I've got it.

ADV NIKKI STEIN: And it says preamble and the next page starts at Point 6 and the following page starts at 10.2 and towards the bottom of that page, there is a heading that says charges.

20 **MS DUMI MASONDO**: Yes.

ADV NIKKI STEIN: Okay so I am going to read these out to you Mrs Masondo and them I am going to ask for your comment on these charges. Before I do so, I would just like to point out to you that there are in fact 4 counts and not 3 counts as previously stated by you.

5 **MS DUMI MASONDO**: Can I respond on that?

ADV NIKKI STEIN: Yes.

MS DUMI MASONDO: There were 4 counts when they were deliberating with these counts, they felt one was a repetition, but its fine you can go through the 4 of them.

10 **ADV NIKKI STEIN**: So you agree that there were 4 counts and not actually 3?

MS DUMI MASONDO: Yes.

ADV NIKKI STEIN: Okay Count 1 reads as follows, you failed to perform your duties in terms of the Mental Health Care Act 2002 with respect to all aspects of the transfer of mental health care users in the Life Esidimeni Project in contravention of
15 Section 21 (1) (b) of the Mental Health Care Act, in that you were aware that the Life Esidimeni Project was conducted in a disorderly manner. You received a complaint about the conditions at Bophelong Suurman, discovered the appalling conditions at Siyabadinga during an audit and you were also aware of the complaints of the family members, that you represented in the Life Esidimeni
20 Project, but as the chairperson of the review board, you failed to lead the review board to ensure that steps were taken to intervene and/or make a decision with respect to the mental health care treatment or rehabilitation services provided to the

mental health care users transferred from Life Esidimeni. That was the first charge against you, do you agree?

MS DUMI MASONDO: Yes according to this record, I agree.

ADV NIKKI STEIN: The second, you failed in your responsibility of providing
5 leadership of the review board and you allowed the independence of the review board to be compromised in contravention of Clause 2.5.4 of the guideline and the Mental Health Care Act, in that as chairperson of the review board, you were the spokesperson of the review board and you failed to take action and/or make a decision and/or to speak out when the Gauteng Department of Health mental health
10 directorate failed to address the concerns raised by the review board in respect of the Life Esidimeni Project. Furthermore in cancelling and/or abandoning the planned visit to the non-governmental organisation at the instruction of the Gauteng Department of Health mental health directorate, you compromised the independence and the effectiveness of the review board by allowing it to act under
15 the instruction of the Gauteng Department of Health mental health directorate to the detriment of the review board's responsibilities. In doing so, you failed to execute your fiduciary duties in the public interests and in the interest of the mental health care users whose rights and interests you were entrusted with as well as rendered the review board [inaudible] and ineffective in executing its mandate. Do you
20 confirm that that is the second charge as recorded?

MS DUMI MASONDO: Yes.

ADV NIKKI STEIN: The third charge, you failed to execute your fiduciary duties in the interests of the public and in the interest of mental health care users whose rights and interests you were entrusted with in contravention of Section 21.1 (e) of the Mental Health Care Act, in that you failed and/or omitted to execute your

5 mandate or responsibilities as provided in terms of the Mental Health Care Act and this compromised rights and interests of the mental health care users by failing and/or omitting to take action upon the realisation that the conditions at the non-governmental organisations to which the mental health care users were transferred during the Life Esidimeni Project, did not have skilled staff or caregivers and there

10 was poor medical administration and diet. In doing so, you failed to make a decision with respect to the mental health care treatment or rehabilitation services provided to the mental health care users transferred from Life Esidimeni. The fourth charge, you failed and/or omitted to execute your mandate or responsibilities as provided in terms of Section 19 of the Mental Health Care Act and this compromised rights and

15 interests of the mental health care users. Those were the charges put to you Mrs Masondo. Do you agree?

MS DUMI MASONDO: Yes I agree.

ADV NIKKI STEIN: And you pleaded not guilty to all of those charges?

MS DUMI MASONDO: Yes.

20 **ADV NIKKI STEIN**: You have acknowledged earlier that you acted in breach of your obligations under the Mental Health Care Act.

MS DUMI MASONDO: I had some explanation during this hearing, point by point I was giving evidence.

ADV NIKKI STEIN: But you acknowledge that you acted in breach of your obligations?

5 **MS DUMI MASONDO**: During the hearing?

ADV NIKKI STEIN: During today's hearing.

MS DUMI MASONDO: Well-

ARBITRATOR JUSTICE MOSENEKE: You're looking at me.

MS DUMI MASONDO: I am looking at you Judge.

10 **ARBITRATOR JUSTICE MOSENEKE**: Why?

MS DUMI MASONDO: Because I think you are the only person to assist now as a Judge, because for me, quite a lot of questions have been posed to me, some of them are confusing, some of them are just repetition, I keep on repeating myself, so I need some assistance from the Judge now.

15 **ARBITRATOR JUSTICE MOSENEKE**: What kind of assistance Mrs Masondo?

MS DUMI MASONDO: Ja because I feel really it is too much, I am being cross-questioned. I say yes, somebody will say you said this you said this, so at the end of the day, I am being confused and I am quite aware that is clear, the situation that has happened to the families is quite painful and for me, it is quite paining because I
20 was in charge of some of these patients for 47 years in different facilities, but for me, to be found guilty of neglecting mentally ill patients at my age, is really hurting

me. I have been volunteering, putting in systems for these mental health care people and I have been explaining myself I don't know for how many months. Can you imagine that for the past 8 months, I have been grilled, repeating myself, undergoing these disciplinary measures, I mean I am a person, I am traumatised
5 Judge. I am really traumatised and I am really sorry to the dear family members for what has happened because some of the people, they don't want to own their problems they don't want to say we made a mistake.

ARBITRATOR JUSTICE MOSENEKE: Which some people who?

MS DUMI MASONDO: People that have been interviewed. I was listening Mr
10 Judge, even on the television at home, I used to sit at home and now of late, I feel the way I am traumatised, I don't want to open any television anymore. 8 months being interrogated being asked one and the same thing and even today, questions are being turned around, so that I must appear like stupid and I think at my age with my experience in mental health, I don't deserve this.

15 **ARBITRATOR JUSTICE MOSENEKE**: Well I don't want to ask you how old you are-

MS DUMI MASONDO: 68 years old.

ARBITRATOR JUSTICE MOSENEKE: 68 okay, but let's go to the question that
20 Counsel put to you. Advocate Stein represents many, many, tens of family members who want to know what those who had power under the State and the law, did or failed to do, so she says to you that you were charged for failing to execute or to honour your fiduciary duties under the Statute. The Advocate says to

you, you have already admitted today that you have failed to do so and yet, you have been found not guilty. Do you still stand by your affirmation that yes, you have failed to honour your statutory duties?

MS DUMI MASONDO: Can I explain Mr Judge on that particular one? Firstly I
5 didn't know that MEC was supposed to report to me. I didn't know that Dr
Manamela was supposed to report to Mrs Masondo. I was under the impression
that they are my seniors and in the profession we are told to respect our seniors, so
today, I am learning something new, that Dr Manamela and the MEC were
supposed to report under my management, because nobody has ever, ever, ever
10 said that to me.

ARBITRATOR JUSTICE MOSENEKE: So you misunderstood your powers under
the law that is what you're saying?

MS DUMI MASONDO: Yes.

ARBITRATOR JUSTICE MOSENEKE: And you understand today, we have been
15 there, you know we have been there, had you exercised your powers as the law
requires, it should have been you who told the MEC you can't do this.

MS DUMI MASONDO: Yes even if I wasn't there when I was initiated, but if I knew,
I was going to say MEC, you didn't inform me as your senior.

ARBITRATOR JUSTICE MOSENEKE: And on your current response, you didn't
20 do it because you didn't know what your powers were?

MS DUMI MASONDO: Yes especially in terms of seniors in hierarchy, the MEC and Dr Manamela.

ARBITRATOR JUSTICE MOSENEKE: And despite the fact that you are the chairperson of the review board, you thought they were your bosses?

5 **MS DUMI MASONDO**: Yes because I was a part-time worker and I was told I was supposed to report to them.

ARBITRATOR JUSTICE MOSENEKE: You can go ahead please? I have read and seen the reasons how you were not found guilty, but I won't go to those now. I think we should leave Counsel to get to this cross-examination, would, you, proceed
10 Counsel?

ADV NIKKI STEIN: Thank you Justice, Mrs Masondo we got a little bit side-tracked from Mrs Tijani's case and I would like to take us back to one aspect of that. Mrs Tijani testified earlier this week, or I think it was last week, but she testified that your son went with the driver to transport the body to Warrenton.

15 **MS DUMI MASONDO**: It's not true.

ADV NIKKI STEIN: It's not true?

MS DUMI MASONDO: It's not true.

ADV NIKKI STEIN: There was nobody in your family who was connected to the transport of this body to Warrenton?

20 **MS DUMI MASONDO**: No. If it was a driver, maybe it was a driver and assistant, but not my son.

ADV NIKKI STEIN: It wasn't your son. I would like you to turn Mrs Masondo to
Page-

MS DUMI MASONDO: Before you pass on, can I request out of all this audience, if
Judge can I be allowed just to have a meeting with Mrs Tijani and you lawyers so as
5 to clarify this, because I keep on repeating myself that I was not part of this, I don't
even know Mrs Tijani. Can we, if the Judge allows me to do that, I will sacrifice to
have a meeting with Tijane and myself.

ARBITRATOR JUSTICE MOSENEKE: No, it is an open hearing it is an arbitration.
Even if you talk with the family for long, it won't resolve a dispute, so I understand
10 your desire, but I must respectfully say it won't be permissible within the arbitration
process. Privately after this, you can always speak to the family, but we have to get
to the questions, finish them, so that we can move on. Counsel?

ADV NIKKI STEIN: Thank you Justice, I am on the final part of this set of
questions. I would like you to turn in File 11 to Page 3907, sorry before we get to
15 3907, I would like to turn to 3908. Are you there?

MS DUMI MASONDO: Notice of death?

ADV NIKKI STEIN: It's the notice of death that's correct. Can you see about
halfway down the page, there is a handwritten note that says natural causes?

MS DUMI MASONDO: Yes.

ADV NIKKI STEIN: And do you agree with me that the handwriting that says natural causes differs quite substantially from the handwriting in the first part of that form?

MS DUMI MASONDO: Yes it differs, but again my answer to that, I was not part of
5 this, I have never been to the mortuary, I have never signed any documents.

ADV NIKKI STEIN: Mrs Tijani's testimony which I am required to put to you, is that it was your son who travelled with the driver to Warrenton, who entered in natural causes as the immediate cause of death. What is your response?

MS DUMI MASONDO: The answer is, it wasn't my son. I've got only one son who
10 is doing something else, he is not even interested in this mortuary issue.

ADV NIKKI STEIN: You testified earlier Mrs Masondo that your husband was running the funeral parlour and after he passed away, your children took over and now you are saying you only have one son and he has no interest in this business? And so who is running this funeral business?

MS DUMI MASONDO: He is not part of specifically this one. I've got employees,
15 there are employees who were working with my husband who are continuing to run the business.

ADV NIKKI STEIN: So you've got employees?

MS DUMI MASONDO: Yes.

ADV NIKKI STEIN: And so it's your business?
20

MS DUMI MASONDO: The business was my husband's business, because of the type of marriage, I am partly involved, but under management, it is the employees and the family kids.

ADV NIKKI STEIN: Mrs Masondo I would like you to just keep the place on Page 5 3908 and turn back to 3904, what is that document?

MS DUMI MASONDO: It's a death certificate.

ADV NIKKI STEIN: For the same deceased?

MS DUMI MASONDO: Yes.

ADV NIKKI STEIN: Can you read towards the middle of the page where it says 10 cause of death, what is the cause of death there?

MS DUMI MASONDO: It says under investigation.

ADV NIKKI STEIN: Do you agree with me Mrs Masondo that it doesn't correspond with the cause of death listed at Page 3908?

MS DUMI MASONDO: I agree, but as I have said, I was not part of this.

ADV NIKKI STEIN: I would like you to turn now to Page 3907, on the right hand 15 side of the page, there is a thumbprint and below that thumbprint, it's a bit difficult to read, but there is a stamp there that says African Queens of Africa, do you see it?

MS DUMI MASONDO: Yes.

ADV NIKKI STEIN: Now I am going to read this out to you because I have highlighted it to make it easier for me to read. The contact email address for African Queens of Africa is dumi.masondo12@gmail.com

MS DUMI MASONDO: Yes it's my address.

5 **ADV NIKKI STEIN**: And you are the contact person for African Queens of Africa?

MS DUMI MASONDO: I am part of the co-p have said earlier on, I am part of African Queens co-op.

ADV NIKKI STEIN: But you are the primary contact person listed on the stamp.

10 **MS DUMI MASONDO**: So I wouldn't know why, would they write me as a main contact.

ARBITRATOR JUSTICE MOSENEKE: Why did they use your business stamp?

15 **MS DUMI MASONDO**: My business stamp was used because you know what happened Judge, when this body was transported, as I have said earlier on, there were quite a lot of problems. The body was not going to be delivered as I have said, people were fighting, but at the end of the day, I would suggest the driver, because I am the one who consulted the driver, maybe they arranged with my employees to have a stamp, but under general, no funds were deposited to my account.

20 **ARBITRATOR JUSTICE MOSENEKE**: The advocate wants to know, it is a notice of death, the name of funeral parlour is African Queens of Africa and then there is

the stamp there and there is your email address there and she says why is it so when you are on your version, so removed from the transportation of this body?

MS DUMI MASONDO: Mr Judge, when somebody is transported, on the road, the industry says there must be a stamp and because the hospital and the mortuary did not have a stamp, I suppose my driver-

ARBITRATOR JUSTICE MOSENEKE: Do you know this as a fact?

MS DUMI MASONDO: Yes.

ARBITRATOR JUSTICE MOSENEKE: Or are we speculating or are we thumb sucking what are we doing now?

10 **MS DUMI MASONDO**: Hence I am saying-

ARBITRATOR JUSTICE MOSENEKE: Were you there?

MS DUMI MASONDO: I was not there Judge, I have been repeating myself.

ARBITRATOR JUSTICE MOSENEKE: Do you know what happened?

MS DUMI MASONDO: I am telling you that maybe it was a deal between the driver and my employee and the driver.

ARBITRATOR JUSTICE MOSENEKE: Do you know this, or are you thinking?

MS DUMI MASONDO: I know it because I was part of it I was assisting these people to transport, but not to earn. My point here is that I didn't even earn not even a cent. It was transportation money which is 4.5 which was deposited to the account of the driver, so the issue of the stamp, I think my employee together with

this driver, they make a deal that can we use your stamp so that we can transport the body. Hence I said to you I am willing to sit down Mr Justice and clarify this because it takes quite a lot of time.

ARBITRATOR JUSTICE MOSENEKE: No what I'm willing to do is, is just to
5 remind you that you are testifying under oath and every single thing you say, has been recorded, just go carefully please, I urge you to.

MS DUMI MASONDO: Okay.

ARBITRATOR JUSTICE MOSENEKE: And let's go respectfully, we can't be overly
clever here. I would really invite you, you are a senior person, you are a State
10 functionary and you have duties under our law to do certain things and that is what we are pursuing and I invite you to take this quite seriously.

MS DUMI MASONDO: Yes.

ARBITRATOR JUSTICE MOSENEKE: [inaudible] all this to be typed up and you
might find yourself liable to perjury, so I really invite you to be serious about this.
15 Counsel please proceed?

ADV NIKKI STEIN: Thank you Justice. Just to highlight Mrs Masondo that or just to confirm that your testimony is, that you had nothing to do with the transport of the body and you don't know why your name and contact details are on this stamp, is that correct?

20 **MS DUMI MASONDO**: I think this one because I was requested, I know there was this transfer happening, that one I know and at the end of the day, I didn't make any

gain. I knew about the transfer, the 4.5 was deposited to the driver's account, nothing was given to Mrs Masondo or to African Queens.

ADV NIKKI STEIN: So you were doing it out of a willingness to assist or an intention to assist the families?

5 **MS DUMI MASONDO**: Definitely so and I spent my airtime, I spent my time, I was phoning them even after hours to make sure that they succeed with this transfer. You know at times, you do good things, but at the end of the day, you are being labelled or judged as a wrong person, but there is only Judge who knows that I am
10 telling the truth that I was not part of this, I have never gained, not even a cent out of this deal. I was assisting using my phone, overtime, arranging with the family, consoling the family in all angles to make sure that this is a success that the body must go and rest in peace.

ADV NIKKI STEIN: Mrs Masondo my proposition to you is that the work that you were doing in assisting for transfer of the body was not primarily for the benefit of
15 the family and to help the family. My proposition is that it was for your own personal business interests, what is your response to that?

MS DUMI MASONDO: Well I don't know.

ARBITRATOR JUSTICE MOSENEKE: Your answer is you don't know?

MS DUMI MASONDO: Yes.

20 **ADV NIKKI STEIN**: Mrs Masondo you testified much earlier today, that you were paid to be on the mental health review board, is that correct?

MS DUMI MASONDO: Yes.

ADV NIKKI STEIN: Were the other members of the mental health review board paid?

MS DUMI MASONDO: All of us were paid, although it wasn't regularly, but we were
5 paid.

ADV NIKKI STEIN: And you were paid from taxpayers' money, from public funds?

MS DUMI MASONDO: I am not sure where did, the money come from.

ADV NIKKI STEIN: Who paid your salaries or your stipends?

MS DUMI MASONDO: The Department of Health.

10 **ADV NIKKI STEIN**: And so it must be that it was coming from public funds.

MS DUMI MASONDO: I should think so.

ADV NIKKI STEIN: You were paid to prioritise the protection of a particularly vulnerable group of people, do you agree?

MS DUMI MASONDO: No.

15 **ADV NIKKI STEIN**: What were you paid to do?

MS DUMI MASONDO: To do my core functions in Chapter 19 of the Act.

ADV NIKKI STEIN: To receive reports?

MS DUMI MASONDO: Chapter 19 of the Act that is where the core functions of the Board are stipulated.

ADV NIKKI STEIN: To conclude Mrs Masondo, you earlier in your testimony gave an apology, is that correct?

MS DUMI MASONDO: Yes.

ADV NIKKI STEIN: You apologised for not being allowed by the Department to be
5 involved in the process.

MS DUMI MASONDO: Yes, can I elaborate on my apology? Number one, I apologise to the families for what has happened, I apologised as a senior person in the profession, I apologise and secondly, to take things light when I was told by my seniors to say be on hold, you will be involved at a later stage. Had I known, I was
10 not going to listen to them, I was going to jump, but because there were no issues of alarm by then, I believed them, so I had to say I am sorry for what has happened especially to the families, because their loss is really our loss and especially to me, I have nursed these people, I know them, they are such a passion for me, so my apology was on 2 phases and I am still repeating myself. I am so sorry families for
15 your loss.

ARBITRATOR JUSTICE MOSENEKE: And it's a loss I think you should add that you could have prevented.

MS DUMI MASONDO: Yes thank you Mr Justice. If I had a chance, if I was in system 2014/2015, I was going to sit down with the management and discuss the
20 issue because I think I had the knowledge of how to deal with this.

ARBITRATOR JUSTICE MOSENEKE: No even from January 2016, from the 4th, you were the effective chairperson and if you had done your work properly, you would have prevented these deaths, is it not so?

MS DUMI MASONDO: Mr Justice, from January to June, the first 3 months it was
5 our orientation. We didn't know what we were doing. The first 3 months, we were told that everything was in order, so the following sessions, we fully engaged in the problem to-

ARBITRATOR JUSTICE MOSENEKE: No Mam it's hardly an apology is it? Mrs Masondo I appealed to you earlier your seniority and the position you occupied and
10 your duty to uphold the law which you admit you failed to do and the reason you say is because you didn't understand what the law required of you. I am saying to you, you started in January 2016. If you had put your mind to what you were, chairperson of the review board, by April/May when large numbers of people were being moved, you could have put your foot down and said the law allows me to deal
15 with this and to interfere and not to permit placements and transfers that would undermine the rights of mental health care users, isn't it so?

MS DUMI MASONDO: I agree Mr Judge.

ARBITRATOR JUSTICE MOSENEKE: Aren't you sorry for that? And you were paid every single month from January, being inducted or not, you were paid every
20 single month and you simply did not prevent what was preventable.

MS DUMI MASONDO: Mr Judge, during my first few months, I was not part of this project and there were no problem
MS DUMI MASONDO Or Judge reported to us.

ARBITRATOR JUSTICE MOSENEKE: You were given a presentation, a detailed one on your evidence and you were given a shorter one by Dr Manamela.

MS DUMI MASONDO: Yes and every month I was updated about the transfers.

ARBITRATOR JUSTICE MOSENEKE: And you merrily went on and received the
5 money and you had an obligation like I had as a Judge which is [inaudible] the law
and I have certain things to do which you have to do if this country is to go
anywhere. We have duties and we get paid and get appointed and people trust us
to do our work so that they are protected. You seem to miss the point that is the
point.

10 **MS DUMI MASONDO**: Yes Mr Judge I admit that.

ARBITRATOR JUSTICE MOSENEKE: But public money you were paid to protect
health care users and you didn't do that?

MS DUMI MASONDO: But I am saying Mr Judge-

ARBITRATOR JUSTICE MOSENEKE: And for that bit, you should say you
15 apologise, that bit.

MS DUMI MASONDO: I apologise, though it was late, I really apologise. I want to
say to the families, kindly accept our humble apology and I want to say to the
departed souls, may their souls rest in peace and I want to say to the entire public,
it's a shame and it's a disgrace to have quite a number of deaths in our profession
20 as mental practitioner. My profuse apology once more.

ARBITRATOR JUSTICE MOSENEKE: Thank you.

ADV NIKKI STEIN: Mrs Masondo you said that you became aware that there were problems in June/July 2016.

MS DUMI MASONDO: Yes.

ADV NIKKI STEIN: How is it possible that families most of whom or all of whom,
5 are not professional trained as mental health care practitioners, started to raise alarm bells in 2015 on the same information that you as a practitioner did not identify, so you as a practitioner, had the same information and only identified the problems in 2016?

MS DUMI MASONDO: 2015 I was not in the system, I only commenced on the 4th
10 of January 2016.

ADV NIKKI STEIN: And upon your immediate entry into the system and immediately finding out about the Project?

MS DUMI MASONDO: We were halted not to participate because we were told about the team and the report we used to receive was always positive.

15 **ADV NIKKI STEIN**: Is it your evidence Mrs Masondo that you are bound to follow the instructions of your seniors?

MS DUMI MASONDO: If they are right, I will follow them, but if they are wrong, I will just jump them, because I know one skill of being assertive. I can't just accept something that is wrong and say its right. As a mental health care nurse, I know the
20 assertiveness. As I have said earlier on, if I was part of this, I was going to sit down with the managers to say please guy re-visit the idea.

ADV NIKKI STEIN: But you accepted that you should follow the instructions in this case?

MS DUMI MASONDO: Because I was new in the system, still inducted, still busy with whatever files that we were busy with, but afterwards, I explained that I was
5 more visible to all the corners where there were deaths and even where there were no deaths, we visited them to do some precautionary measures.

ADV NIKKI STEIN: And so until you gained the confidence and the assertiveness, you followed those instructions?

MS DUMI MASONDO: Assertiveness and?

10 **ADV NIKKI STEIN**: Confidence?

MS DUMI MASONDO: Confidence yes, that is my skill, assertiveness and confidence is in me and later on, even if I was not invited, if I hear that the team is going elsewhere, I will follow them using my assertiveness skill and my confidence.

ADV NIKKI STEIN: Which only came in after a few months in your position?

15 **MS DUMI MASONDO**: After placement of the users at different facilities.

ADV NIKKI STEIN: And so until that time, you were following the instructions of your seniors whether or not you considered them to be unlawful.

MS DUMI MASONDO: Because to me, they were not unlawful, because there were no deaths reported by then and I was getting the reports that the transfers are faring
20 very well and I said earlier on about the court case, which was in March which

favoured the Department and I was under the impression that after that court case, it means everything is fine.

ADV NIKKI STEIN: Mrs Masondo, in your experience as a mental health care practitioner, have you ever encountered a mass transfer of this size?

5 **MS DUMI MASONDO**: No.

ADV NIKKI STEIN: And yet you still treated it as business as usual?

MS DUMI MASONDO: No can you please repeat that one?

ADV NIKKI STEIN: It is not normal, you have never encountered a transfer of mental care users of this magnitude and you still treated it as an ordinary situation.

10 **MS DUMI MASONDO**: Because people did a lot of work to assess the NGO to put the systems in place, so I was under the impression that everything was in order, even if it was alarming and I was told patients were not going to be transferred in bulk, they were going to transfer-

ARBITRATOR JUSTICE MOSENEKE: Who told you that?

15 **MS DUMI MASONDO**: During that presentation, we wanted to know, we asked the question how are you going to transfer-

ARBITRATOR JUSTICE MOSENEKE: But who by name told you that?

MS DUMI MASONDO: Dr Manamela and the team, so there was no report of saying the whole bus will be transferred same date to those institutions, so some of
20 the information was distorted to us.

ADV NIKKI STEIN: Justice those are my questions, thank you Mrs Masondo.

MS DUMI MASONDO: Thank you.

ARBITRATOR JUSTICE MOSENEKE: Advocate Groenewald? Oh sorry, Legal Aid South Africa sorry?

5 **ADV NZAME SKIBI**: Thank you Justice, good afternoon Mam Masondo, I am from Legal Aid South Africa, we are representing the survivors and their families. I am just going to ask you some few questions. When you took up this position at the Gauteng mental health review board, were you certain about your responsibilities?

MS DUMI MASONDO: Yes I think somewhere in the Act, there are duties in a
10 guideline there is a guideline where all these duties and functions of a chairperson are tabulated.

ADV NZAME SKIBI: Were you certain also about your powers?

MS DUMI MASONDO: I was certain because of my experience in mental health and the power and confidence that I had.

15 **ADV NZAME SKIBI**: And from the impressive CV and experience expertise that you-

MS DUMI MASONDO: I don't understand the impressive CV, can you repeat that one?

ADV NZAME SKIBI: The expertise and the CV and your experience that you gave
20 in your introductory part of your evidence, do you agree with me that you persuaded the panel that you are a suitable candidate to be in that board?

MS DUMI MASONDO: I didn't persuade anybody, I was asking the questions posed to me during the interview.

ADV NZAME SKIBI: Okay fair enough. So the members of that board, you said you were 6?

5 **MS DUMI MASONDO**: No we are 13.

ADV NZAME SKIBI: You are 13 thank you for that. So in that health review board, there are professionals from different sectors am I correct?

MS DUMI MASONDO: Yes.

ADV NZAME SKIBI: There are also legal professionals who are in that board?

10 **MS DUMI MASONDO**: Yes.

ADV NZAME SKIBI: So are you saying you never received any advice legally as to how to operate in terms of the law with regards to your powers?

MS DUMI MASONDO: Advice on what?

ADV NZAME SKIBI: Within the scope of your duties Mam, as set out in Section 19
15 of the Act?

MS DUMI MASONDO: To me they were clear a mental health care nurse, I could follow them and I understood all my duties there. The only thing that I didn't consult is the issue that Judge has raised, the statutory issues, that one I didn't consult about that one, but according to the Act, the stipulation of my core functions, the
20 duties of a chairperson, to me they were all clear.

ADV NZAME SKIBI: Okay apart from being a chairperson of that board, you testified that it was a part-time job, am I correct?

MS DUMI MASONDO: Yes.

ADV NZAME SKIBI: Were you doing another part-time job where you were
5 generating income?

MS DUMI MASONDO: No at my age, I couldn't afford to do extra jobs.

ADV NZAME SKIBI: But you had other businesses that you were running?

MS DUMI MASONDO: Hence I am saying it was a family business.

ADV NZAME SKIBI: But you were generating some income, I accept that it was
10 your family business, so if things would go wrong or your powers were undermined, you were free to just leave, to resign from the mental health review board, do you agree with me?

MS DUMI MASONDO: No there were things that went wrong during my era of my
15 chairperson, because I said the first part, 6 months, it was induction and we were busy with a backlog of files and then-

ARBITRATOR JUSTICE MOSENEKE: No listen to the question Mam, let's make
progress, it has been a long day, if something went wrong and you had to leave
your position as chairperson, you would not have been financially [inaudible]
because you had a family business, that's the question.

MS DUMI MASONDO: Thank you Mr Justice, I think I am responding to that
20 question, you cannot rely on this business, because it's not a stable business. You

get business today and maybe after 2 or 3 weeks, you will get another business, so I was happy to have this as a standardized income.

ADV NZAME SKIBI: To supplement your income from the family business?

MS DUMI MASONDO: Yes I would say yes.

5 **ADV NZAME SKIBI**: Alright thank you, but you allowed yourself even if you raised some objections or during the operation of this, so you succumbed to that pressure, you just said okay fine.

MS DUMI MASONDO: I don't understand the pressures Sir, can you please elaborate or explain further on that?

10 **ADV NZAME SKIBI**: Okay let me take it into pieces. You resumed your duties on the 4th of January 2016 am I correct?

MS DUMI MASONDO: Yes Sir.

ADV NZAME SKIBI: And you were clear your powers were very clear in your mind when you resumed duties in that board?

15 **MS DUMI MASONDO**: Yes.

ADV NZAME SKIBI: So you were briefed a little bit by Dr Manamela about this project of Marathon Project?

MS DUMI MASONDO: Yes.

ADV NZAME SKIBI: And you were also briefed in detail by Mr Mosonoge.

20 **MS DUMI MASONDO**: Yes Sir.

ADV NZAME SKIBI: You raised some concerns about it from your evidence, am I correct?

MS DUMI MASONDO: We raised some queries, because we wanted to know our role as members of the review board.

5 **ADV NZAME SKIBI**: But you are not aware of your role despite this detailed briefing by Mr Mosonoge.

MS DUMI MASONDO: No the role of us in the Project Sir.

ADV NZAME SKIBI: Alright so subsequent to that, also there was a case in March 2016, where SADAG raised some concerns or unhappiness regarding the transfer
10 of these mental health care users from Life Esidimeni.

MS DUMI MASONDO: Yes.

ADV NZAME SKIBI: So but from your evidence, the feedback that you received from Bishop who attended the case, said everything was in order.

MS DUMI MASONDO: And the lawyers, there were 2 lawyers there and the
15 community member Bishop.

ARBITRATOR JUSTICE MOSENEKE: Why didn't you interest yourself in the facts of that case?

MS DUMI MASONDO: In which way Mr Justice?

ARBITRATOR JUSTICE MOSENEKE: You are chairperson of the review board.
20 SADAG instructs lawyers to go to court with a view to stopping the transfers.

Weren't you curious to know why would they want to do it? Was it your legitimate concern as chairperson of the review board?

MS DUMI MASONDO: I think what made me to be an idiot in that sphere Mr Justice-

5 **ARBITRATOR JUSTICE MOSENEKE**: What made you to be a what?

MS DUMI MASONDO: To be an idiot, was that the Department won a case, so I thought seeing that I was new and they won a case, so everything was fine. So I couldn't just pursue.

10 **ARBITRATOR JUSTICE MOSENEKE**: Did they tell you it was an attempt to stop the Marathon Project?

MS DUMI MASONDO: The report I got was that it was an attempt to stop transferring to Takalani. I don't know whether it was due to the large numbers in Takalani.

15 **ARBITRATOR JUSTICE MOSENEKE**: Didn't that make you want to know more, given your role as chairperson?

MS DUMI MASONDO: I think that is where Mr Justice whilst I am saying that on that point, I think I was an idiot, because I thought seeing the court is above me, so if the court says proceed, I thought everything was in order.

20 **ARBITRATOR JUSTICE MOSENEKE**: Did they tell how did the province win the case? What was the order that was made?

MS DUMI MASONDO: Not in detail, but the report I got from my legal, was that the Department was given the go ahead to continue with these transfers.

ARBITRATOR JUSTICE MOSENEKE: Do you know that the matter was settled?

MS DUMI MASONDO: At court?

5 **ARBITRATOR JUSTICE MOSENEKE**: Yes.

MS DUMI MASONDO: On that day yes.

ARBITRATOR JUSTICE MOSENEKE: The order that was made was by agreement of the parties, do you know that?

MS DUMI MASONDO: No they didn't give me that report.

10 **ARBITRATOR JUSTICE MOSENEKE**: So why didn't you know this? This was your slam bang in the middle of your obligations, were you not interested? Or your superiors told you don't worry?

MS DUMI MASONDO: No, they didn't say that, I thought because the report was positive and they were excited to say we are going to progress with our transfers, so
15 that is why-

ARBITRATOR JUSTICE MOSENEKE: Do you know that they were required in terms of the settlement agreement, to consult with SADAG and the families before they moved people, do you know that?

MS DUMI MASONDO: No that information was not related to me.

ARBITRATOR JUSTICE MOSENEKE: And do you know that they did not do so when they actually started with the Marathon Project?

MS DUMI MASONDO: No I didn't know.

ARBITRATOR JUSTICE MOSENEKE: And why don't you know all this? That is
5 the point that is what we are talking about fiduciary duty.

MS DUMI MASONDO: Ja but I think being new in the system Mr Justice, I was trying to find my feet, so many thing were cropping up, I am so sorry that I really didn't know that I was supposed to make some follow-ups after the court case.

ARBITRATOR JUSTICE MOSENEKE: Counsel?

10 **ADV NZAME SKIBI**: Thank you Justice, this project was supposed to be completed at the end of March 2016?

MS DUMI MASONDO: Yes.

ADV NZAME SKIBI: But it was extended only for 3 months until the end of June.

MS DUMI MASONDO: Yes.

15 **ADV NZAME SKIBI**: So in your own view, were you despite this alarm or objections which were raised by SADAG up until the matter went to Court, were you satisfied that within 3 months, extension of this project was going to be a success?

MS DUMI MASONDO: Yes the report I tried to find out from the team, the responsible team, Dr Manamela and the team, why was it extended now to 3
20 months and the report I got was that it was through logistical issues, they were still

sorting something with the NGO's. So hopefully by end of June, things will be sorted out.

ADV NZAME SKIBI: So in the meetings, April May you were informed that everything was going well?

5 **MS DUMI MASONDO:** Yes in our agenda, every month, we would request to get the progress on Life Esidimeni project and everything was reported to be positive with no challenges.

ADV NZAME SKIBI: So all that is minuted?

10 **MS DUMI MASONDO:** Everything is minuted an item on Life Esidimeni every month.

ADV NZAME SKIBI: From January up until December?

MS DUMI MASONDO: Until I was suspended all along, there was an item on Life Esidimeni.

15 **ADV NZAME SKIBI:** Alright it's fine, April May June everything is reported that everything is fine, but 26th of July, now the alarm was also something was wrong which was reported to you in particular the deaths of about 5 patients?

MS DUMI MASONDO: Yes Sir.

20 **ADV NZAME SKIBI:** So at that stage, it never rang a bell, now even this thing it was initially highlighted somewhere in March when there were complaints when there was some unhappiness about the transfers?

MS DUMI MASONDO: I think after July, after those deaths were reported, our first movement was to visit the other regions where there were no deaths, just to make sure that we put up systems that was in July. August, we had a strong meeting to say we need to come up with a strategy to improve all the systems now in all
5 NGO's, hence I was reporting about additional staff, testing equipment, dietician, medication, linked with the clinics, those are the issues that we were advising the MEC to make sure that if these things are in place, we will be minimising the number of deaths. The whole of August we were doing that and then September, we were out, as we mentioned that we went to Precious Angels, we visited all the
10 NGO's and we closed down some of the NGO's.

ADV NZAME SKIBI: Alright let's stick with July, your team investigated and found that no, Dr Manamela gave you inaccurate information. In actual fact, there were 11 deaths, not 5 as it was reported to you. Still in July, you never developed any strategy to roll up your sleeves and go to these NGO's and report this thing, the dire
15 situation that was happening.

MS DUMI MASONDO: It was the end of July Sir. I said 26-27 and there is a weekend in between, but in August, we were fully involved trying to improve the systems, trying to come up with strategies of which some of the deaths were still reported though I wouldn't remember from which NGO's, but in September/October,
20 we were vigorously planning to close down all the NGO's that were not functioning.

ARBITRATOR JUSTICE MOSENEKE: By what power by the way did you close down NGO's?

MS DUMI MASONDO: Because we had these auditing tools, we had the findings-

ARBITRATOR JUSTICE MOSENEKE: No where did you get the authority to decide to shut down any of the NGO's?

MS DUMI MASONDO: It was a decision from the MEC from the Ministerial
5 Committee on that day, because we had Ministerial members and the decision was that if this particular NGO is not functioning, we close it down.

ARBITRATOR JUSTICE MOSENEKE: Whose decision was it to close down the NGO's?

MS DUMI MASONDO: It was part of the team, the team that visited the NGO and
10 the MEC authorised that if the NGO is not functioning well, after doing all these visits, after feeding them with this good information to improve-

ARBITRATOR JUSTICE MOSENEKE: Who made the decision for the NGO to be shut down?

MS DUMI MASONDO: It was the committee on that particular weekend.

15 **ARBITRATOR JUSTICE MOSENEKE**: Which committee?

MS DUMI MASONDO: The Ministerial Committee, I was part of that committee.

ARBITRATOR JUSTICE MOSENEKE: Who was on the committee?

MS DUMI MASONDO: It was Professor Freeman, Siphiso from National, there is another Professor from Garankuwa, I have forgotten his name, I was there, the
20 MEC was there, Dr Manamela was there all the senior officials were there on that particular day. The aim was to close down all the NGO's that were not functioning

ADV NZAME SKIBI: Thank you Justice, so when was that, was it in August?

MS DUMI MASONDO: That was in September, I think 17th or 18th, it was a weekend. We worked on Saturday and Sunday.

ADV NZAME SKIBI: After the announcement at the provincial parliament that there
5 was this tragedy where many people lost their lives?

MS DUMI MASONDO: Yes.

ADV NZAME SKIBI: Alright now your visit at Precious Angels, you indicated the
appalling conditions that you found the patients were in, state of hunger, no
blankets-

10 **MS DUMI MASONDO**: There were a lot of blankets which was not needed
because it was summer, it was in the afternoon, patients did not need all that pile of
blankets.

ADV NZAME SKIBI: So it was only then that you decided that Precious Angels
would be closed, was it in September?

15 **MS DUMI MASONDO**: It was in September, because of the deaths that were
reported and the quality of care that we identified on that particular day and the
shortage of staff and the medication and the stimulation programmes and there
were no programmes set for the users, so that centre was on our high priority that
the minute we come to a conclusion to close down, these are the centres that must
20 be closed down.

ADV NZAME SKIBI: So with whom were you with at Precious Angels when you found that institution in that state or condition?

MS DUMI MASONDO: On the day of the visit on the 5th of September, it was myself, Dr Manamela, the MEC, the HOD and the other senior officials from the
5 Department. I think we travelled with 2 or 3 cars plus the members of the review board, I think we were 3 from the review board.

ADV NZAME SKIBI: So you decided to close it there and then, or maybe you just after interviewing the caregiver, you left?

MS DUMI MASONDO: According to us Sir, we went to close that NGO that
10 particular day, but we thought we need to make go back and make arrangements where are we going to place the users, because closing the NGO without having an alternative, is another crisis, so we had to go back, plan, check beds in different hospitals and then the day we decided to close, we know where to take these users to.

ADV NZAME SKIBI: Even checking the fridge that there is no food, no medication,
15 you didn't organise and phone the doctors to come and check the patients?

MS DUMI MASONDO: On that particular day, about the food, the CEO promised that she is having somebody who is going to provide food. With the medication, I
20 phoned Mohau who is a coordinator for the district mental health district to make sure that medication is provided to that home. Medication was supposed to be provided the very same day, because we left that centre at around 6 PM.

ADV NZAME SKIBI: Had they arrived when you left?

MS DUMI MASONDO: Yes when I checked the following day, medication was supplied at the centre.

ADV NZAME SKIBI: But you left them before they arrived?

MS DUMI MASONDO: Yes because we left at about 6PM and then from 6 PM, we
5 were still going to Pretoria West to have a meeting with the rest of the NGO's in the district.

ARBITRATOR JUSTICE MOSENEKE: Wasn't that all part of the Ministerial task team?

MS DUMI MASONDO: No that day the Ministerial task team was not there.

10 **ARBITRATOR JUSTICE MOSENEKE**: You remember when I asked you earlier under what auspices was all this happening, didn't this happen when the National Minister set up a task team to clean up all these NGO's and get people to safety?

MS DUMI MASONDO: I think it was before that. The team was formed early in
15 January this year 2017. Last year, it was just the team that was working under the Minister.

ARBITRATOR JUSTICE MOSENEKE: Which Minister?

MS DUMI MASONDO: Minister of Health.

ARBITRATOR JUSTICE MOSENEKE: National Minister?

MS DUMI MASONDO: National Minister.

ARBITRATOR JUSTICE MOSENEKE: And he required that all NGO's be visited and that immediate steps be taken to place patients in an appropriate environment isn't it?

MS DUMI MASONDO: Yes it was early this year.

5 **ARBITRATOR JUSTICE MOSENEKE**: So you were really implementing a project by the National Minister?

MS DUMI MASONDO: Not last year, in 2016, the Minister had not appointed any team. The team was appointed early this year and of which I was supposed to be part of that team.

10 **ARBITRATOR JUSTICE MOSENEKE**: So when the NGO's were shut down, it was whose initiative?

MS DUMI MASONDO: Initiative of the MEC Dr Manamela and the Ministerial Committee, the members of the committee.

ARBITRATOR JUSTICE MOSENEKE: What is Ministerial Committee? Is it a
15 provincial committee or the one put up by the National Minister?

MS DUMI MASONDO: Yes because there was a National Director Professor Freeman, there was Siphiso, there were-

ARBITRATOR JUSTICE MOSENEKE: Professor Freeman is of the national office is he not?

20 **MS DUMI MASONDO**: Yes.

ARBITRATOR JUSTICE MOSENEKE: So you suggest this was your initiative to close down NGO's or was it at the behest of the National Minister who was concerned about the deaths?

MS DUMI MASONDO: Last year?

5 **ARBITRATOR JUSTICE MOSENEKE**: Yes last year.

MS DUMI MASONDO: Well I wouldn't know then, because I was told we must come and attend the meeting.

ARBITRATOR JUSTICE MOSENEKE: At whose command were you doing all these things? That is why I asked you, I wanted to understand in what role were
10 you acting?

MS DUMI MASONDO: I was acting as a chairperson of the board and being part of that committee, but I was under the impression that that committee was formed by the MEC or was invited by the MEC.

ARBITRATOR JUSTICE MOSENEKE: You see the one moment you don't know
15 what your powers are and the other moment you understand what your powers are, the one moment you intervene as chairperson and the next moment you are a lapdog you are just being instructed by the HOD and the MEC, can you see what I mean? The one time you are this, the one time you are that. Now you are giving us the impression you are the one going around closing down NGO's.

20 **MS DUMI MASONDO**: I was part of the team Mr Justice.

ARBITRATOR JUSTICE MOSENEKE: Anyway go ahead?

ADV NZAME SKIBI: Thank you Justice. So you said you left Precious Angels before the doctors arrived and checked the patients?

MS DUMI MASONDO: Yes because we left at 6 PM for another meeting at another hospital.

5 **ADV NZAME SKIBI**: Now you are quite apologetic of what happened during this Marathon Project and the Health Ombud made a recommendation, in fact a finding that the Gauteng mental health care review board was ineffective. What is your comment to that? Are you saying that that statement is correct if you do some introspection now?

10 **MS DUMI MASONDO**: That statement to me, it was really a very painful one. It was a painful statement, especially when I was termed being [inaudible] you know it was so painful to me, I had to take it with a bit of salt. I have never been [inaudible] in my life. So that was a statement that was said to me, I had to take it, but up to now, I am still having a gaping wound that I was once termed [inaudible]

15 **ADV NZAME SKIBI**: But now if you look as to what happened, looking at the powers that you had, can the Professor be faulted making that statement of ineffectiveness of that board that you were chairing?

MS DUMI MASONDO: I think ineffectiveness I have explained Sir that during the first 6 months, I must say we were not fully involved, but after hearing that there
20 were problems, we were all over the world trying to assist, trying to prevent, trying to put up systems again and for me to be [inaudible] I didn't sit in my office and relax, I used to go out and come home at about 9 PM without being paid. I was working

Saturdays and Sundays to revive the structures and if somebody can say the board was [inaudible] to me, it pains me a lot.

ARBITRATOR JUSTICE MOSENEKE: Well when the transfers were made, what did the board do? The question that has been put to you, is that the board was
5 lifeless at the time when the big transfers happened.

MS DUMI MASONDO: Yes it was like that Mr Justice, but there were teams, experts, who were monitoring the project and we believed in them and we thought they were going to do a good job because those were professors, senior people in the profession.

10 **ARBITRATOR JUSTICE MOSENEKE**: Yes we have heard that response in all fairness, shall we proceed?

ADV NZAME SKIBI: Thank you Justice. You mentioned about the hours in executing your duties about 80 hours per month and you made a split of those hours. Amongst other things, you were visiting hospitals. So in your visitation from
15 January throughout May, June, July up to February, or perhaps let me put until August, because in September we know what happened, there were no issues raised.

MS DUMI MASONDO: When I'm talking about 6 hours for visiting the facilities, in our practice, my first core function is to do appeals, so in most cases, when we go
20 out, we go to do appeals, investigations to attend to the complaints and also to visit the hospitals only where there are problems, where they are not in compliance with the Act, so that is what we as board members were focusing on.

ADV NZAME SKIBI: I take it that the institutions that you visited were mental health establishments?

MS DUMI MASONDO: Yes especially where the appeals have been forwarded to us.

5 **ADV NZAME SKIBI**: Cullinan is it one of the institutions that you visited amongst that you were making visitation?

MS DUMI MASONDO: I don't understand the question.

ADV NZAME SKIBI: Cullinan Care and Rehabilitation Centre.

10 **ARBITRATOR JUSTICE MOSENEKE**: In your visitations, do you also go to Cullinan?

MS DUMI MASONDO: No.

ARBITRATOR JUSTICE MOSENEKE: The answer is no.

15 **ADV NZAME SKIBI**: Thank you Justice. So you are doing the appeals and you are also making decisions with regards to assisted or involuntary mental health care treatment?

MS DUMI MASONDO: Yes.

ADV NZAME SKIBI: So you were on your way out of the office, you are not just in a comfort zone waiting for problems to come, is that what you are saying?

MS DUMI MASONDO: Sorry Sir I don't understand the question.

ADV NZAME SKIBI: Mam the point that I am trying to find or to make, it is very strange that in your visitation throughout last year to the hospitals and you only became aware that there were deaths only in July as a result of these transfers or movement of patients from Life Esidimeni. What would be your explanation on that?
5

MS DUMI MASONDO: I would say before July, there were no deaths reported to our offices, or even over the media.

ADV NZAME SKIBI: But now I can accept that. What I also find very strange, in your reaction, Section 27 is [inaudible] you, reporting deaths, but you still, you ask something in writing, you don't just leave your office and arrange a meeting with them to get more information, why was that?
10

MS DUMI MASONDO: I wanted to follow the procedure that somebody can't just phone me and then tomorrow I have a meeting with that person, I wanted to have clear records so that if I go out, I know exactly what am going to investigate. The policy says it must be a written statement so that there is evidence that I am going to [Tarrath] to do investigations, I am going to Weskoppies, I am going to meet with the Section 27.
15

ADV NZAME SKIBI: And further your request has been complied with, a written report is sent to your email, an email that you gave. Still you didn't read the email.

MS DUMI MASONDO: I think that one was not my fault Sir. At times, people are complaining that Mrs Masondo I sent you an email and I said I am sorry I didn't receive it, it wasn't happening to me for the first time. It does happen that
20

somebody sends you an email and you don't receive that email, so that one is not my fault.

ADV NZAME SKIBI: Mam I am putting it to you that and we will argue at the end of this Tribunal, that you failed to exercise your duties as the Health Ombud has found.

5 What is your comment on that?

MS DUMI MASONDO: I don't think I am going to accept that. I have explained how the system works and I am still repeating myself. Had I known that this will turn out to be like this, I didn't know that at the end of the day, there would be so many deaths, nobody anticipated this, but had I known –

10 **ARBITRATOR JUSTICE MOSENEKE**: Have you seen the submissions from SADAG?

MS DUMI MASONDO: No.

ARBITRATOR JUSTICE MOSENEKE: Warning the MEC about the likely consequences of these mass transfers.

15 **MS DUMI MASONDO**: I haven't seen those documents Mr Justice.

ARBITRATOR JUSTICE MOSENEKE: But why didn't you see them? Didn't you hear that there was in fact a case they were suing the Department?

MS DUMI MASONDO: If they were directed to the MEC and the MEC didn't think of forwarding them to me-

20 **ARBITRATOR JUSTICE MOSENEKE**: You know why you didn't? You thought you were a subservient worker and you had found a piece work where you worked

part-time and earned R25 000 a month isn't it so? And you thought yours was to take orders from Dr Manamela and the MEC and who else, is it not the truth?

MS DUMI MASONDO: It is the truth, because I thought they were my seniors.

ARBITRATOR JUSTICE MOSENEKE: Yes and you did say you thought this was
5 your main source of income and your family business was unstable.

MS DUMI MASONDO: Because I was employed Mr Judge.

ARBITRATOR JUSTICE MOSENEKE: Yes and you didn't want to rock the boat, you didn't want to anger your employers, whatever letter you wrote, you gave to the HOD or to Dr Manamela to look at isn't it, you told us so?

10 **MS DUMI MASONDO**: As my seniors.

ARBITRATOR JUSTICE MOSENEKE: Yes and if enquiries come from anywhere else, you turn to your seniors and that is in total, total violation of the fiduciary duty that the Statute gives you. You do this and we pay you for doing it, but this is what you do. Keep them, establishments and decision makers about mental health care
15 users accountable, that was your primary duty and you thought you had found a nice piece job, part-time earning R25 000 a month.

MS DUMI MASONDO: And it wasn't a nice job.

ARBITRATOR JUSTICE MOSENEKE: No it wasn't, look at the consequences? That is why you see me so impatient. I mean look at the consequences, it's a
20 lesson to all of us. If we did our work properly, we might prevent a lot of terrible things in this country.

MS DUMI MASONDO: Definitely so, I agree.

ARBITRATOR JUSTICE MOSENEKE: You agree with that?

MS DUMI MASONDO: I agree with that Mr Justice.

ARBITRATOR JUSTICE MOSENEKE: Any more questions Counsel?

5 **ADV NZAME SKIBI**: Thank you Justice, I am just about to wrap it up. Mam I am putting it to you that you did not only contravene or you didn't only not execute your fiduciary duties as set out in the Act, these poor mental ill patients they met their ultimate demise because of your gross negligence of not looking after their interest. What is your comment on that?

10 **MS DUMI MASONDO**: I wouldn't accept that Sir. I have explained my situation I don't think gross negligence is related to me as I am sitting here.

ADV NZAME SKIBI: Right.

MS DUMI MASONDO: My only plea I am accepting some shortcomings of my being ignorant and respect people that I was not supposed to respect, but for
15 having gross negligence, I don't think I will accept that.

ADV NZAME SKIBI: But you are afraid to walk away. Expose this, call the media, report to the Premier. If the Premier is not responding, the National Department of Health, but you allowed yourself just to remain in this, why?

MS DUMI MASONDO: But I attended a meeting with the Premier, so the Premier
20 was aware of this movement and I am not sure about the Minister, but the Premier was aware. So the media, I never thought of taking this to the media, because I am

not sure whether our profession allows us to go to the media. I have never taken anybody to the media since I have been in the profession.

ADV NZAME SKIBI: You had the powers in terms of the Act and your suggestions were not listened to, but still you allowed yourself to stay in that situation when the
5 lives of mentally ill patients were at stake.

MS DUMI MASONDO: I didn't allow it to happen, because I have said that, after hearing about the deaths, I had to jump, I sacrificed, I tried to put systems in place, so I was not sitting. After hearing about the deaths, I was so worried and I was sacrificing my hours, I have said it, so I didn't sit still and watch because I was hurt.
10 These are our fellow members that are dying and these are our patients, they belong to their loved ones, so I wouldn't just sit back and say its fine, patients are dying. That would be a very cruel statement of me, so I was really, really trying very hard to minimise the death and to improve the systems. I have said that I tried to have quite a lot of meetings, trying to set standards of improving situations.

15 **ADV NZAME SKIBI**: Did you follow up on those patients who were discharged during this project?

MS DUMI MASONDO: Patients who were discharged, I have said the records were delayed, but the information that I was sending to the district people, because there are district MDT teams as well, that they must visit whenever they receive a
20 discharge summary or they know that somebody has been discharged under their care, they must make a home visit and make sure that that patient is receiving

medication. That was the message that I was sending whenever we were having meetings, that people in the districts must take ownership of this.

ARBITRATOR JUSTICE MOSENEKE: The question is did you follow-up specific individual patients who were discharged?

5 **MS DUMI MASONDO**: I didn't have their records.

ARBITRATOR JUSTICE MOSENEKE: The answer is no.

MS DUMI MASONDO: The answer is no.

ADV NZAME SKIBI: So are you saying you didn't have the records for all those who were discharged and sent home during this project?

10 **MS DUMI MASONDO**: After placement?

ADV NZAME SKIBI: Yes.

MS DUMI MASONDO: Discharged has been construed in different ways, meaning discharge moving from one-

ARBITRATOR JUSTICE MOSENEKE: Make it clear to the witness. Do you mean
15 patients who were sent home?

ADV NZAME SKIBI: Yes Justice.

ARBITRATOR JUSTICE MOSENEKE: Did you follow-up on any of the patients who were sent home?

MS DUMI MASONDO: No there were teams in the districts.

ADV NZAME SKIBI: So you agree with me that if you look at it objectively, someone who was in your position, things should have been done differently to avoid this tragedy.

MS DUMI MASONDO: Before placement, I don't think anyone would anticipate that
5 after 6 months, there would be deaths in the NGO's.

ADV NZAME SKIBI: But everything was just done hurriedly, time was very short for the project of this magnitude.

MS DUMI MASONDO: I agree with you, you are right.

ADV NZAME SKIBI: You agree that patients starved and as a result, now today,
10 we are in this situation, we are talking about many patients who lost their lives. Can you accept that you failed those patients?

MS DUMI MASONDO: No.

ADV NZAME SKIBI: Because you were entrusted to look into their interests, to intervene to avoid their transfer from Life Esidimeni.

MS DUMI MASONDO: I am sorry Sir seemingly to me you are repeating the same
15 questions. I have been explaining to you and you are repeating the same questions.

ARBITRATOR JUSTICE MOSENEKE: These may be matters for argument
Counsel isn't it? Just put the question to the witness once and she says yes or no,
then you are bound by the question, but ultimately I think it is going to be a matter or
20 argument on a rather long piece of evidence for today. I don't want to curtail your

cross-examination unduly, but there are matters for argument and matters for factual clarification.

ADV NZAME SKIBI: That was my last position Justice.

ARBITRATOR JUSTICE MOSENEKE: Thank you. Advocate Groenewald?

5 **ADV DIRK GROENEWALD**: Thank you Justice. Mrs Masondo I only have a few questions to ask. I just want you to clarify the issue in respect of your visit at Siyabadinga. If I understood you correctly, that was on instruction from Dr Manamela on the 26th of July?

MS DUMI MASONDO: Yes Sir.

10 **ADV DIRK GROENEWALD**: So when did you go and visit Siyabadinga?

MS DUMI MASONDO: I didn't go. The other team from Tswane visited Siyabadinga, but according to my records if I can recall well, it was 26 or 27 after the 29th of July.

ADV DIRK GROENEWALD: It was my understanding Mam that you personally
15 visited Siyabadinga, is that not correct?

MS DUMI MASONDO: No I was not there, it was the other team from the district.

ADV DIRK GROENEWALD: But they were also from the review board, members
of the review board?

MS DUMI MASONDO: Yes Sir.

20 **ADV DIRK GROENEWALD**: They reported to you?

MS DUMI MASONDO: Yes.

ADV DIRK GROENEWALD: What did they inform you about the situation at Siyabadinga?

MS DUMI MASONDO: After visiting the centre, they compiled a detailed report and
5 they decided to initiate another process of visiting the nearby NGO's just to monitor quality of care.

ADV DIRK GROENEWALD: I want just short and sweet Mam, what did they tell you? There wasn't water, there wasn't beds, there wasn't food, there wasn't medicine what did they tell you?

10 **MS DUMI MASONDO**: Number one, the report was that the staff was unskilled, there were no records, there was no medication, hygiene conditions were not good.

ADV DIRK GROENEWALD: And you confirm that that report was also sent to the MEC?

MS DUMI MASONDO: Yes Sir.

15 **ADV DIRK GROENEWALD**: When was that?

MS DUMI MASONDO: Shortly after their visit, maybe after a week after visiting the centre because our routine process was that you visit and after 7 days, you compile a report.

ADV DIRK GROENEWALD: You have indicated to the Justice that that report is in
20 the possession of the current MEC am I correct?

MS DUMI MASONDO: Yes.

ADV DIRK GROENEWALD: Do you have a copy of that report?

MS DUMI MASONDO: I don't have copies with me, because as I was suspended, I left everything in the office.

ADV DIRK GROENEWALD: But if we request it from the Department, they will
5 provide us, there must be a document like that?

MS DUMI MASONDO: There must be a document about the visit, it is there, because after receiving the report, I compiled a big file for the new MEC for all the visits, the minutes all the deliberations that I was doing.

ADV DIRK GROENEWALD: You see Mam the reason why I want to see that
10 report, is because we have heard evidence from the CEO of Siyabadinga that they were closed down on the 12th of July, so there is a factual inconsistency in what we are hearing here, because if your team visited Siyabadina 26th and 27th of July, they weren't there, they were at CCRC.

MS DUMI MASONDO: I think we need to verify, because Cullinan Care Centre and
15 Siyabadinga, is it not the one centre?

ADV DIRK GROENEWALD: Yes well it's in one facility if I can put it like that, one building.

MS DUMI MASONDO: Yes hence I'm saying we need to verify that, because the report was that the deaths were at Siyabadinga, so it might be they visited
20 Siyabadinga and Cullinan Care Centre on the same day I am not sure.

ADV DIRK GROENEWALD: Did you receive any reaction from the MEC in respect of your report?

MS DUMI MASONDO: The MEC said we need to conduct a second visit to go and monitor the situation.

5 **ADV DIRK GROENEWALD**: Did you do that?

MS DUMI MASONDO: The MEC had another team who visited. When we were planning to go, we were told there is another team who visited the Cullinan in the umbrella of Siyabadinga, there was a team who visited after the deaths.

10 **ADV DIRK GROENEWALD**: Do you know who was in the team, who was part of that team?

MS DUMI MASONDO: I guess MEC herself was there.

ADV DIRK GROENEWALD: Can you confirm that?

15 **MS DUMI MASONDO**: Because I don't have records, but I guess the report was that she was there together with other team members, not the team from the review board no, because apparently there are quite a number of teams that were formed to go and-

ARBITRATOR JUSTICE MOSENEKE: But the question is very specific, let's use fewer words, it is late in the day, do you know as a fact that the MEC went to Siyabadinga?

MS DUMI MASONDO: I need to verify Mr Justice, but to me, it seems as if she was there, because we are talking about things for 2016 and some of them, I cannot recall them properly.

ADV DIRK GROENEWALD: You see that is why we would like to get that report, because we heard from the social worker at CCRC, that according to her, there was food at CCRC and there was linen and there was everything, but then we have also minutes of meetings that show that in fact the nursing staff, they wanted to be indemnified of any wrongdoing because they said there was no linen and there was no medication and so on, so there are quite conflicting statements as to exactly what happened there Mam and we need to clarify that, but the long and the short is Mam, since the visit from the review board or after the visit of the review board on 26 July, thereafter, the biggest and largest number of patients died at CCRC and if you do not understand the frustration of the families, it is simply that you had the power to prevent that and you did not do that.

MS DUMI MASONDO: I think after the death of the first 8 patients, nothing was reported to me.

ARBITRATOR JUSTICE MOSENEKE: 8? 5 or 11?

MS DUMI MASONDO: The 11, because I must say there were quite a lot of deaths happening in that district, so specifically for Siyabadinga, I wouldn't have-

ARBITRATOR JUSTICE MOSENEKE: But deal with Counsel's proposition. After your team on your version, if the version is true, after your team had been there,

then the largest number of people, of all the people who died at Siyabidinga, died then.

MS DUMI MASONDO: I am not sure of that.

ADV DIRK GROENEWALD: Well the document shows and Mam I can take you
5 through that.

MS DUMI MASONDO: I am not sure of that.

ARBITRATOR JUSTICE MOSENEKE: The answer is you do not know?

MS DUMI MASONDO: I don't know.

ARBITRATOR JUSTICE MOSENEKE: Yes.

10 **ADV DIRK GROENEWALD**: Mam have you been cooperating with the South African Police Force Service?

MS DUMI MASONDO: No.

ADV DIRK GROENEWALD: You as the previous chairperson of the review board, who knew of all this evidence, you have intricate knowledge of the workings of the
15 MEC, the head of the department, Dr Manamela, you haven't considered that it's your obligation to go to the SAPS and tell them listen here, this is what I know and this is what I can give you?

MS DUMI MASONDO: To open a statement?

ADV DIRK GROENEWALD: Yes to go and assist them. We all know that the
20 SAPS is currently investigating the deaths of these patients.

MS DUMI MASONDO: No I don't know of that information.

ADV DIRK GROENEWALD: Well I put it to you Mam that the SAPS is currently busy with an investigation and as the previous chairperson of the board, I find it kind of shocking that you don't know the fact that the SAPS is busy with an investigation.

5 **MS DUMI MASONDO**: And then when did that start the investigation?

ADV DIRK GROENEWALD: Mam that team has formally been formed in May 2017, but charges-

MS DUMI MASONDO: I was suspended.

ADV DIRK GROENEWALD: The fact that you were suspended, do you think that
10 you don't need to cooperate in any way now?

MS DUMI MASONDO: No information was given to me Sir.

ADV DIRK GROENEWALD: Mam I put it to you and I would invite you to respond to the following, are you willing and will you assist the SAPS in their investigation?

MS DUMI MASONDO: I think I will, because I don't think I need to hide anything at
15 this present time.

ADV DIRK GROENEWALD: Just a last question, the enquiry into your fitness to hold office or your position, when was that, the disciplinary enquiry?

MS DUMI MASONDO: It started in March 2017.

ADV DIRK GROENEWALD: Did you attend it? Did you testify there?

20 **MS DUMI MASONDO**: I had an attorney and I testified.

ADV DIRK GROENEWALD: You personally testified?

MS DUMI MASONDO: Yes in some instances, but in most cases, it was my attorney.

ADV DIRK GROENEWALD: Sorry just explain that to me, do you want to tell me
5 that the matter was set down for a number of days and you just went one day and
not all of the days, or just clarify that?

MS DUMI MASONDO: Okay it started in March, I think we met in April, where the
attorneys were exchanging their bundles and then the following month, I think it was
postponed because somebody was not there and then the following month, it was
10 attended, they had their own discussions as lawyers and I was part of that, meaning
that it was my attorney and the attorney for the Department.

ADV DIRK GROENEWALD: But were you required to present your case Mam, did
you testify there?

MS DUMI MASONDO: I presented my case.

15 **ADV DIRK GROENEWALD**: Through your attorney, or through yourself?

MS DUMI MASONDO: Through my attorney.

ADV DIRK GROENEWALD: Through your attorney, so you didn't testify yourself.

MS DUMI MASONDO: I don't understand that term.

ADV DIRK GROENEWALD: There was an enquiry and what I want to know is, did
20 you testify as you are doing here today? Did you provide your version? Did you
state your case as to why these charges- that you weren't guilty of these charges?

MS DUMI MASONDO: No, the only thing that I was told as much as I am ignorant as far as legal is concerned I was told it's a disciplinary hearing.

ADV DIRK GROENEWALD: So you did not testify Mam?

MS DUMI MASONDO: Yes I don't understand that terminology Sir I am sorry.

5 **ARBITRATOR JUSTICE MOSENEKE**: Did you get into a seat or a box or like this and speak yourself, not through your lawyer about what happened like today?

MS DUMI MASONDO: No the only thing that was there Mr Justice, were the people who were sort of testifying, the witnesses, there were 3 witnesses.

ARBITRATOR JUSTICE MOSENEKE: Yes, but you were never called to testify?

10 **MS DUMI MASONDO**: No.

ARBITRATOR JUSTICE MOSENEKE: Yes I saw the judgement that acquitted you, you didn't testify.

ADV DIRK GROENEWALD: Thank you very much Justice, thank you Mam, no further questions.

15 **ARBITRATOR JUSTICE MOSENEKE**: Well while we are at that point, you know I saw that in your evidence, you say that you think you are entitled to go back as chairperson of this review board and you said you are being discriminated against you are the only one who has not been reinstated. In all honesty, do you think you should be reappointed as chairperson of this board?

20 **MS DUMI MASONDO**: Well I don't know Mr Justice because earlier on, I raised the statement of saying I was the only one who was suspended.

ARBITRATOR JUSTICE MOSENEKE: No do you want to resume your position?

MS DUMI MASONDO: I am not sure, because I am still traumatized.

ARBITRATOR JUSTICE MOSENEKE: I thought I understood you to say that you want to go back and become the chairperson of this review board and that your
5 exclusion is unfair?

MS DUMI MASONDO: The suspension.

ARBITRATOR JUSTICE MOSENEKE: The suspension, yes, thank you, for the correction. Do you want to go back? Do you want to become chairperson again?

MS DUMI MASONDO: You know at this point in time Mr Justice, I am still
10 traumatized, I don't know what to do. There was a lot of interrogation on me. I can't sleep at night, I need to get my mind sorted out again, but for now, I need a lot of counselling I must say. It is almost a year undergoing the very same process. Last year October I was in the Ombud's offices more than once, so this year again it's this hearing, so I am really not sure. I am also vulnerable I need some help more
15 than anything.

ARBITRATOR JUSTICE MOSENEKE: Fair enough. Counsel?

ADV TEBOGO HUTAMO: Good afternoon Mrs Masondo, you testified that on the 26th of July 2016, you learnt of the death of mental health care users, do you recall that?

20 **MS DUMI MASONDO**: Yes.

ADV TEBOGO HUTAMO: You testified that after learning of these deaths, you were contacted by Dr Manamela who requested some of the review board members from Pretoria region to attend to Siyabadinga.

MS DUMI MASONDO: Yes Sir.

5 **ADV TEBOGO HUTAMO:** And they indeed responded to the request, went to Siyabadinga and also visited other non-governmental organisations in the surrounding of Siyabadinga.

MS DUMI MASONDO: Yes Sir.

10 **ADV TEBOGO HUTAMO:** Consequent to such visits, there was a report which was prepared by the members of the board.

MS DUMI MASONDO: Yes Sir.

ADV TEBOGO HUTAMO: And you testified that the report was submitted to Dr Manamela and the former MEC?

MS DUMI MASONDO: Yes Sir.

15 **ADV TEBOGO HUTAMO:** Do you recall when was this report provided to the former MEC as well as Dr Manamela?

MS DUMI MASONDO: I wouldn't know the exact date, but I think it was a week after their visit.

20 **ADV TEBOGO HUTAMO:** And do you remember when, was, their visit to this institution?

MS DUMI MASONDO: They spent 2 to 3 days, 26th 27th and 28th or 29th because to me, it seems as if there was a weekend in between, but they spent 3 days in that area because they visited other NGO's.

ADV TEBOGO HUTAMO: But what you can confirm is that such a report was
5 indeed provided to the former MEC?

MS DUMI MASONDO: Yes Sir.

ADV TEBOGO HUTAMO: Your testimony was that soon after the report having been provided to the two officials, there was a meeting which was held between the board members and the former MEC in her office, do you recall that evidence?

10 **MS DUMI MASONDO**: Yes.

ADV TEBOGO HUTAMO: Were the contents of the report discussed at that meeting?

MS DUMI MASONDO: Yes Sir they were discussed because we came up with a new strategy of improving conditions at the NGO's.

15 **ADV TEBOGO HUTAMO**: Then if I can just take you a step back, I just want us to clarify this aspect. You have said that the report was provided to the former MEC. Can you just clarify, when and who has provided the report to the current MEC for Health?

MS DUMI MASONDO: That report was compiled by the three members of the
20 mental health review board who undertook that investigation and the report was

given to me as a chairperson to oversee it, to edit it and it was then submitted, but the only thing that I can't just recall now, is the dates.

ADV TEBOGO HUTAMO: Well I am asking you a different question. Your testimony was that after you have gone through the report and edited the report, it was submitted to Dr Manamela and the former MEC, correct?

MS DUMI MASONDO: Yes Sir.

ADV TEBOGO HUTAMO: So the question which I wanted an answer from you, is when was that report given to the current MEC?

MS DUMI MASONDO: To the current one?

ADV TEBOGO HUTAMO: Yes.

MS DUMI MASONDO: Okay it was during her inception which was in February 2017 to the new MEC.

ADV TEBOGO HUTAMO: Do you remember the date?

MS DUMI MASONDO: No it is when we compiled the whole document of all our activities that we conducted the previous year just to update the new MEC.

ADV TEBOGO HUTAMO: Do you recall which date in February was the report provided?

MS DUMI MASONDO: No Sir.

ADV TEBOGO HUTAMO: And who provided that report to the MEC?

MS DUMI MASONDO: You know we decided as board members, that was the only method to update the new MEC to compile all the minutes of the meetings that we held, all the reports quarterly reports, reports for the visits-

ADV TEBOGO HUTAMO: MS DUMI MASONDOasondo the question is who
5 provided the report to the current MEC?

MS DUMI MASONDO: It's Mrs Masondo.

ADV TEBOGO HUTAMO: Thank you. Earlier on, you were questioned about the public statement that the former MEC has made with regards to the deaths of the mental health care users, do you recall that questioning?

10 **MS DUMI MASONDO**: I cannot remember the statement that was said.

ADV TEBOGO HUTAMO: Okay, if you can be assisted to get File Number 3, Page 1078, Mrs Masondo, that is a transcript of the proceedings in the Gauteng Provincial Legislature, which took place on Tuesday the 13th of September 2016, do you see that?

15 **MS DUMI MASONDO**: Yes.

ADV TEBOGO HUTAMO: I will just take you through that document. The long and short of it, is that this is a transcript which records questions which were posed to the former MEC relating to the deaths of the mental health care users and there is a response in this transcript. Do you recall the former MEC having made a statement
20 before the legislature?

MS DUMI MASONDO: No.

ADV TEBOGO HUTAMO: You are not aware of the statement that the former MEC made pertaining to the deaths of the mental health care users?

MS DUMI MASONDO: No.

ADV TEBOGO HUTAMO: I am going to take you through if you look at the
5 document, there is a portion which starts with Speaker do you see that on the same page?

MS DUMI MASONDO: Yes.

ADV TEBOGO HUTAMO: If I can just read it for you, like as I've said to you, these are proceedings which have been recorded when the former MEC was addressing
10 the members of the Provincial Legislature in response to the questions which were posed to her and this transcript records those questions and the answers. Then from where it starts with the Speaker, it records that the next question will be, Honourable Bloom to Honourable MEC for Health, your question to MEC for Health, let me remind members if the MEC has responded, it means the debate is closed
15 and then below that, Mr Bloom was given an opportunity to present his question, do you see that?

MS DUMI MASONDO: Yes.

ADV TEBOGO HUTAMO: Then Mr Bloom's question was as follows, or questions were as follows, with regard to psychiatric patients who were discharged from Life
20 Health Care Esidimeni and placed in various NGO's, will the MEC please indicate:
(1) what are the names of the NGO's where there have been complaints about

shortage of food and poor living conditions and what action has been taken to rectify this, do you see that?

MS DUMI MASONDO: Yes.

ADV TEBOGO HUTAMO: Number (2) what are the names of the NGO's where
5 there have been complaints about poor medical care and what has been done to rectify this. Number (3), how many patients have been transferred elsewhere from the first NGO they were placed with after discharge from Life Esidimeni, then Number (4) how many patients have died since being placed with the NGO's and the last question appears at the next page, 1079, will the MEC apologise for the
10 poor manner in which the transfers to NGO's were done. Do you still state that you have never become aware of the former MEC appearing before the legislature in relation to these matters?

MS DUMI MASONDO: No.

ADV TEBOGO HUTAMO: Okay, let's turn to Page 1080, well if we can just look at
15 1079, the former MEC was given an opportunity to respond to those questions, but I want to take you particularly to Page 1080, the second paragraph thereof, in response to the questions posed. The former MEC stated yes, indeed 36 patients have died in the period and the families have been engaged. Mrs Masondo are you coming across that statement for the first time?

20 **MS DUMI MASONDO**: Yes the total number of patients it is something that we have been told about, but for appearing in the legislature, I am hearing it for the first time.

ADV TEBOGO HUTAMO: Mrs Masondo I put it to you that the first time the former MEC publically made the statement about the deaths of the mental health care users, was on the 13th of September 2016, will you dispute that?

MS DUMI MASONDO: No I won't, but I was not informed about the decision.

5 **ADV TEBOGO HUTAMO**: My question is, can you dispute that the first time a statement was made, on the 13th of September 2016?

ARBITRATOR JUSTICE MOSENEKE: i.e. a public statement.

ADV TEBOGO HUTAMO: Yes.

10 **MS DUMI MASONDO**: I cannot dispute that, but I was not informed that the MEC presented that. The only thing that I was told about, is the number of deaths that they keep on saying there were 36 deaths, but for her to do this-

ADV TEBOGO HUTAMO: If you can try to speak closer to the mic, it would help.

15 **ARBITRATOR JUSTICE MOSENEKE**: But why didn't you know this? 80 hours in a month, it is a lot of time, why didn't you know this? Just divide it by 20 working days, it is a lot of time, why didn't you know, it's almost like 8 hours every 10 days.

MS DUMI MASONDO: Mr Justice my apology.

ARBITRATOR JUSTICE MOSENEKE: 4 hours a day every 20 days, it is a lot of time.

20 **MS DUMI MASONDO**: The MEC was attending to her diary and in most instances we were not getting any feedback about her.

ARBITRATOR JUSTICE MOSENEKE: From the media from the department where you worked, why didn't you know this?

MS DUMI MASONDO: I am sorry, I missed it.

ARBITRATOR JUSTICE MOSENEKE: But it is about your core work, or do you
5 choose just not to remember it? By the way Counsel proceed?

ADV TEBOGO HUTAMO: Thank you Justice, Mrs Masondo, when was the first time you had heard of the number 36 patients having passed away under the unfortunate circumstances?

MS DUMI MASONDO: If I can remember very well, when we had a meeting with
10 the Premier, on the 15th of September, that is when the figures were related to us.

ADV TEBOGO HUTAMO: So you had the meeting with the Premier on the 15th of September 2016 and that would have been almost 2 days after the public statement by the former MEC.

MS DUMI MASONDO: I understand what you are saying Sir, but I didn't get that
15 report.

ADV TEBOGO HUTAMO: No what I am putting to you is that your meeting with the Premier when you were informed of the number, it was after the former MEC has made the public statement, not so?

MS DUMI MASONDO: I think I have said-

20 **ARBITRATOR JUSTICE MOSENEKE**: This is common sense.

MS DUMI MASONDO: The answer is no.

ARBITRATOR JUSTICE MOSENEKE: Okay explain?

MS DUMI MASONDO: The answer is no.

ARBITRATOR JUSTICE MOSENEKE: Okay.

MS DUMI MASONDO: Can I come in here? Can I really come in here, because
5 seemingly I am now being interrogated about the activities of the MEC, I must
answer what the MEC was doing. Is it really fair to me? I am being asked about
her movements and she had her own diary and I was working as a board and doing
flexi hours, now I must answer about what the MEC was saying.

ARBITRATOR JUSTICE MOSENEKE: No but listen to the question, I am sorry it
10 has been a long day for you too, for me too, for all of us, but listen to the question,
did you meet, were you present at a meeting where the Premier was also present
some 2 days after the MEC had made a public statement?

MS DUMI MASONDO: The answer is no Mr Justice.

ARBITRATOR JUSTICE MOSENEKE: You were not there?

15 **MS DUMI MASONDO**: I was not there I only attended the Premier's meeting on the
15th of September.

ARBITRATOR JUSTICE MOSENEKE: Yes but the question is that do you dispute
that the MEC made her statement on the 13th of September?

MS DUMI MASONDO: I didn't dispute that.

ARBITRATOR JUSTICE MOSENEKE: Okay so they are putting it to you that 2 days thereafter, there was a meeting with the Premier, you are not able to dispute that, can you?

5 **MS DUMI MASONDO**: No I was there in the meeting I am the one who said about the meeting with the Premier.

ARBITRATOR JUSTICE MOSENEKE: Yes Counsel let's go ahead. It is a matter of simple calculations, we can see that.

10 **ADV TEBOGO HUTAMO**: Thank you Justice. Mrs Masondo the Premier became aware of the unfortunate deaths after the former MEC has made the public statement on the 13th of September 2016, will you dispute that?

MS DUMI MASONDO: I don't know.

ADV TEBOGO HUTAMO: Thank you, no further questions.

ARBITRATOR JUSTICE MOSENEKE: Very well, re-examination?

15 **ADV NONTLANTLA YINA**: Thank you Justice, just two aspects that were not canvassed clearly, it seems to me Mrs Masondo that you are only learning today that Dr Manamela and former MEC Qedani Mahlangu were not your seniors?

MS DUMI MASONDO: Yes Mam.

ADV NONTLANTLA YINA: So all along, you thought that they were your superiors?

20 **MS DUMI MASONDO**: I was regarding them as my seniors yes.

ADV NONTLANTLA YINA: In respect of the independency, when did you become aware that your independency of the board was compromised?

MS DUMI MASONDO: From day one when we were appointed when we had a meeting, we wanted some explanation, because we were independent and we were
5 told this is the directorate that is going to monitor and supervise us. So to me, our independency roles were compromised. But again, just to add, as I have said, even with the previous boards, the situation was the same the mental health directorate was always overseeing the board.

ADV NONTLANTLA YINA: Thank you Justice that will be all.

10 **ARBITRATOR JUSTICE MOSENEKE:** Very well, we almost have a convention here that after a long day, sharing the time with the witness as we did today-

MS DUMI MASONDO: At my age Mr Justice.

ARBITRATOR JUSTICE MOSENEKE: Yes Mam.

MS DUMI MASONDO: Interrogated the whole day.

15 **ARBITRATOR JUSTICE MOSENEKE:** We have a tradition here that at the end of a day like this, we allow the witness to say her or his peace whatever may move you and you want to say it, you may say it?

MS DUMI MASONDO: Thank you Mr Justice, firstly I would like to say thank you for this opportunity because I was hearing about this arbitration, I must say I am
20 coming here for the first time, I didn't even know what is happening in the arbitration. Thank you for being exposed and then number two, I want to repeat

myself, my sincere apology, we are so regretting so regretful as members of this profession. I know the pain, the trauma and the anger that you are experiencing through our own fault, our wrong doings, our ignorance, kindly accept our apology. As I have said earlier on, may the departed souls rest in peace, but I want to say to

5 the members of this profession, people must learn to practice with conscious honesty and be assertive and take this profession as a call, because at the end of the day, if you take this profession as something to earn money, it ends up having this situation where people's hearts are gaping and to my colleagues, I must say to them when we entered into the profession, we made a pledge to say patient is our

10 priority, so what has happened here, especially the nurses because I am a nurse by profession, I think the pledge was really compromised. If people were honest and people did their work and people were not hiding and giving wrong information, this hurt you are experiencing dear families, you wouldn't be having it now, so please, accept our apology, thank you so much.

15 **ARBITRATOR JUSTICE MOSENEKE**: Thank you and you are released from where you are seated. We will have one or two administrative matters to talk about. Thank you for coming out and thank you for giving evidence. Counsel Monday?

ADV PATRICK NGUTSHANA: Justice we have lined up a representative from Anchor House today but noting that we were not going to get to her today, we

20 released her earlier on, so she will be available on Monday morning. We have invited her to be here at 9:30, so that is the next witness we will proceed with on Monday.

ARBITRATOR JUSTICE MOSENEKE: Anchor House on Monday morning. Is that all that you have?

ADV PATRICK NGUTSHANA: For now, the other representatives who undertook to come here today, they have since decided upon legal advice, to withdraw their
5 undertakings, that is representatives from Takalani and Masego Homes, so we have decided to take other measures to ensure their attendance here, so for now, we have Anchor House who have confirmed their attendance.

ARBITRATOR JUSTICE MOSENEKE: And other Counsel would have other witnesses that would fill up the day would they?

10 **ADV ADILA HASSIM**: Justice the subpoena that we issued to secure the attendance of Dr Manamela, stipulated Monday for her appearance, so we have not heard anything further from Dr Manamela, but we expect her to appear on the date that is stipulated in the subpoena and that is Monday. In addition to that, we would be in a position to lead further family witnesses if necessary.

15 **ARBITRATOR JUSTICE MOSENEKE**: Very well, I think we are doing well and we can talk about the rest. I think we have got some business in chambers tomorrow in the afternoon. The day is done I think we have earned our keep. We are going to adjourn and do have a good weekend and then we are going to see each on Monday morning at 9:30 and so we adjourn.

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