IN THE MAGISTRATES COURT FOR THE DISTRICT OF ESHOWE

Case No: 1432/15

In the matter between:

ANTHONY ROBIN BRINK Applicant

and

VIDHU VEDALANKAR N.O.
INFORMATION OFFICER,
LEGAL AID SOUTH AFRICA Respondent

REPLYING AFFIDAVIT

I, Anthony Robin Brink, affirm:

1. Ad paragraph 1 of the answering affidavit. On his own showing, the deponent Mtati holds no written delegation by the respondent ('Vedalankar') as a deputy information officer ('DIO') of Legal Aid South Africa ('LASA') and is consequently not a DIO of LASA. I'll explain below.

2. Ad paragraph 5. In Vedalankar's absence on leave from 7 to 15 December 2015, Nair was appointed to act as CEO with 'same powers and authority in every respect as the permanent encumbent [sic] of the said position' (per his acting appointment, annexure 'BDN2' to the answering affidavit), which is to say, with 'the same powers and authority as' information officer too, while acting CEO, having regard to the definition of 'information officer' in section 1 of PAIA, namely: '(c) the chief executive officer … of that public body or the person who

is acting as such'. And in this capacity as acting information officer, Nair 'delegated the authority to depose to the answering affidavit in this application to the Corporate Services Executive Mr Thembile Vuyo Mtati' (per Nair's confirmatory affidavit: annexure 'BDN1' to the answering affidavit, paragraph 4).

3. Had Mtati deposed to his affidavit as a duly designated DIO, he wouldn't have needed to be 'delegated' by Nair to do so; he could have done so under his standing power and authority as a DIO. Nair's delegation of Mtati for this specific purpose further shows that Mtati didn't 'depose to the answering affidavit in this application' as a DIO, but rather as 'the Corporate Services Executive', just as Nair correctly describes him.

4. Again correctly, Nair doesn't describe Mtati as a DIO anywhere in his confirmatory affidavit, notwithstanding that as Corporate Services Executive Mtati 'generally deals with all the requests for information in Legal Aid SA' (per 'BDN1', paragraph 5).

5. Ad 6. It's evident from this that Mtati is directly responsible for the corruption of LASA's original PAIA manual (he calls this 'development') inter alia, by:
   - amending it to include the National Operations Executive (Brian Nair)*, the Chief Operations Officer (Jerry Makokoane), the Chief Legal Executive (Patrick Hundermark) and the Corporate Services Executive (himself, Mtati) as DIOs without any written delegation as such by information officer Vedalankar. (*Nair only received Vedalankar's written delegation as DIO several months after Mtati had made his first amendment of LASA's PAIA manual by declaring Nair and Makokoane to be DIOs in the national office.) And,

- innovating the appeal provisions in it, in conflict with the Act – about which more below.

6. Without written delegations from Vedalankar, Mtati, Makokoane and Hundermark are not DIOs, even if Mtati:
   - wrongly claims they are in LASA's PAIA manual that he decided to amend;
   - got LASA's Board of Directors to approve his amendments to the PAIA manual, trusting that as LASA's most senior attorney he'd read the Act and knew what he was doing; and,
   - wrongly claims on affidavit that they're DIOs.

7. Mtati's abysmal professional incompetence in corrupting LASA's PAIA manual in regard to the matter of DIOs is more fully described in paragraphs 12–14 and 21–5 of my replying affidavit in my first application against Vedalankar (case 258/14). Excerpts from the original manual and his first corruption of it in 2010, in which he dropped the Board Secretary as DIO and declared the NOE and COO as DIOs, are annexed thereto marked 'B' and 'C'. His further corruption of the manual by also declaring the CSE (himself) and the CLE (Hundermark) as DIOs can be seen in the excerpt from the latest version of LASA's PAIA manual, annexure 'A' to my founding affidavit.

8. Ad 7. The high-water mark of Mtati's claim to be a DIO, underlined in this paragraph of his, is his inclusion of himself as 'Corporate Services Executive of Legal Aid SA' in LASA's PAIA manual. This is the best evidence he has to support his claim to be a DIO: that he's declared himself a DIO in the PAIA manual. But that's not a written delegation by Vedalankar in compliance with the requirement of section 17(6)(a) of PAIA.

9. Ad 8. If Mtati were indeed ‘without question a Deputy Information Officer’ as he asserts, he’d hold a written delegation as such, issued by information officer Vedalankar under section 17(6)(a). In paragraph 11 of my founding affidavit in my first case against Vedalankar, 258/14, I stated: ‘Mtati holds no written delegation as a deputy information officer appointed by Vedalankar under section 17.’ In paragraph 176 of his answering affidavit, concerning paragraphs 11–13 of my founding affidavit, he responded: ‘I deny the correctness of the contents of these paragraphs’; but he didn’t put up a written delegation to refute me. Again, in paragraph 7 of my founding affidavit in the instant case, I make the point that he ‘mistakenly call[s] himself “deputy information officer”’; and again, he baldly denies it (his boldface and italics emphasis): ‘[I] ***deny*** that I mistakenly called myself the Deputy Information Officer’ (his paragraph 124); but he doesn’t put up a written delegation to refute me. Repeatedly challenged to produce his written delegation, if it exists, Mtati has failed to do so. It follows that he doesn’t hold one.

10. The sole basis of Mtati’s claim to be ‘without question a Deputy Information Officer’ is that he declared himself as one in the PAIA manual that he revised and got the Board to approve. But since section 17(6)(a) of PAIA requires that Vedalankar designate him as a DIO in writing, Mtati’s ‘development’ of the PAIA manual to appoint himself by including himself as a DIO is insufficient to make him one.

11. Ad paragraph 9. The pity of it is that according to of the attendance register (annexure ‘A’), Mtati didn’t attend the SAHRC’s special PAIA training workshop for LASA on 6 November 2012 held directly on account of its repeated unlawful refusals of my PAIA requests in 2010 and 2011 and its false reporting about this to the SAHRC afterwards under section 32. Item 6 of the attendance register,

where Mtati's name was expectantly typed in, stands blank. Everyone else present signed the register to record their attendance, and entered their departments and email addresses.

12. This is to say, 'a person' with no training, no special competence in PAIA 'has somehow previously dealt with [my] other requests for information.' It's certainly evident from the way he's done so since 2010, and from his deplorable legal ignorance displayed in his answering affidavit, and in his earlier answering affidavit in case 258/14.

13. Ad paragraph 10. I'll disentangle and refute the multiple untruths and legal errors in this paragraph seriatim.

14. In his letter of 28 April 2015 (annexure 'K' to my founding affidavit), extending the prescribed 30 days allowed to Vedalankar to respond to my PAIA request delivered on 19 March, which I'd annexed to my letter to her of the same date (annexure 'J' to my founding affidavit), Mtati told me that my letter and PAIA request:

> was received by the office of the CEO whilst she was on leave. She has, unfortunately not been able to finalise your request and instructed us to notify you in terms of section 26(1)(c) of the Promotion of Access to Information Act 2 of 2000 to an extension of a further 30 days.

15. Mtati naturally intended me to understand from this that Vedalankar was dealing with my PAIA request and busy finalising her response to it, and that her temporary absence on leave was delaying it. That is, Mtati advanced Vedalankar's absence from office as the first reason for her not responding to it within the 30-day time limit prescribed by section 25. In other words, Vedalankar's absence from office rendered her unable to conclude her response to

my PAIA request within the prescribed time. (Being on leave is not a justification for an information officer to extend his or her prescribed 30 days to respond to a PAIA request – this is what DIOs are for.)

16. Consistent with this excuse that Mtati gave me for not responding to my PAIA request within the prescribed 30 days and for not addressing my complaint about Hundermark's and Makokoane's unlawful money demands and other matters raised in my covering letter, Mtati stated in paragraph 5 of his letter of 26 May 2015 (annexure 'M' to my founding affidavit):

> In order to apply her mind on the allegations, I felt it prudent to seek an extension to which you agreed.

17. Again, Mtati claimed Vedalankar was dealing with the matter.

18. Now Mtati reveals on oath that in truth Vedalankar 'has not read' my PAIA request addressed to her and my covering letter pleading for her intervention in Hundermark's and Makokoane's unlawful money demands, because, he says, she 'must deal with appeals relating to my refusal to grant access to information' – which sworn statement gives the lie to Mtati's excuse given me for extending Vedalankar's time limit to respond to my PAIA request addressed to her; and his further lie that she 'instructed us to notify' me of an extension, when in truth she hadn't even read it.

19. It shows that LASA's top attorney Mtati doesn't stint at telling lies. More of his casual lies, told under oath to this court in his answering affidavit, and consistent with the culture of routine casual mendacity prevailing in LASA's head office that I've encountered, will be shown below.

20. Mtati's claim that Vedalankar 'has not read' my PAIA request because she 'must deal with appeals relating to my refusal to grant access to information' is contradicted by the fact that she responded to my first two PAIA requests filed in 2010 (or at least signed off the responses). Vouching this, I annex the first and last pages of her responses, marked 'B' and 'C'.

21. Mtati claims that 'the main Information Officer' Vedalankar (under the definition of 'information officer' in section 1 of PAIA, there's only one, and it's 'the chief executive officer') 'has not made any decision therein'. But in paragraph 1 of his letter of 26 May 2015 (annexure 'M' to my founding affidavit), Mtati told me 'I have been delegated by the CEO to reply to' my letters of 19 March and 4 May (annexures 'J' and 'L' to my founding affidavit) – in which reply, Mtati refused my PAIA requests addressed to Hundermark and Makokoane in toto and most of the documents I'd requested of Vedalankar.

22. Material to this court's assessment of Mtati's bona fides and reliability as a witness, it bears mentioning that section 26(1)(c) of PAIA which Mtati invoked in his letter extending Vedalankar's month to respond, perhaps thinking it sounded smooth and that I wouldn't check, had no bearing in the matter at all. It allows an extension if:

> (c) consultations among divisions of the public body or with another public body is necessary or desirable to decide the request that cannot reasonably be completed within the original period.

There's no evidence or even indication that any such 'consultations' were 'necessary or desirable to decide [my] request', and that they even commenced, let alone were ever 'completed'. That is, this second justification Mtati advanced for Vedalankar's failure to comply with the 30-day time limit prescribed by

section 25 was entirely false, because section 26(1)(c) never had any application to the case. Which is to say, Mtati's second excuse for extending the time limit was yet another lie.

23. As recently as 12 October 2015, the director of the SAHRC's PAIA Unit Kisha Candasamy wrote to Mtati to instruct him:

> As LASA is a type B public body for the purposes of PAIA, no internal appeal process is available to the Complainant should he be dissatisfied with this decision.

24. This most elementary legal advice regarding the operation of PAIA given to LASA's most senior corporate attorney Mtati, which he unfortunately proved incapable of understanding, appears in paragraph 2 of Candasamy's letter to him, annexed hereto marked 'D'. (The SAHRC first advised LASA's head office lawyers about this at its special remedial PAIA training course given them on 6 November 2012; but as said, Mtati didn't think he needed any instruction from the SAHRC on how PAIA works, even though he obviously doesn't know what's going on, as brightly illustrated by his persistent claim, in the teeth of the SAHRC PAIA Unit's repeated advice to the contrary ('no appeal process is available' at a 'B type public body' like 'LASA'), that Vedalankar 'ordinarily would be a person who must deal with appeals relating to my refusal to grant access to information'.)

25. LASA's section 32 report for 2013/14, which I obtained from the SAHRC after launching this application, reveals that in the case of another records requester, one Leston Sampson, whose PAIA request was refused and who was misled by LASA's PAIA manual to appeal the refusal, Chief Legal Executive Hundermark dealt with the appeal, and not Vedalankar, and that he kept the requester waiting a

disgraceful three-and-a-half months before refusing the appeal. Had LASA been a type-(a) public body, and were Hundermark its 'relevant authority' (per the definition in section 1) to decide Sampson's appeal, section 76(3)(a) allowed him a maximum of 30 days to decide the appeal. (Unsurprisingly, in light of his dismal demonstrated ignorance of PAIA, Hundermark – recently an acting judge – didn't attend the SAHRC's PAIA training workshop either, according to the attendance register, annexure 'A'.) LASA's section 32 report is annexed marked 'E'. It doesn't even begin to comply with the detailed reporting requirements of the section; omits to report LASA's reliance on section 45 to refuse my requests as a waste of LASA's time; and falsely claims regarding records totally refused that 'no such records were found'.

26. Besides the fact that no appeal lies against PAIA request refusals at LASA, Hundermark isn't even a DIO. In paragraph 5 of my founding affidavit, I explained why I doubted he holds a written delegation as such, and having read Mtati's answering affidavit, it's now certain, for no written delegation has been put up; just as Mtati fails to put up any written delegation of himself as DIO. I'll address this further below.

27. When it comes to PAIA, this court will appreciate that there's been a complete breakdown of the rule of law in LASA's head office and total anarchy prevails, with record requesters' constitutionally entrenched rights to information and to due process being routinely violated by the dishonest incompetents running this major public body.

28. Ad 13 and 14. Claiming in his May letter (annexure 'M' to my founding affidavit) to have 'been delegated by the CEO to reply to' my PAIA requests, Mtati totally refused all my record requests addressed to Hundermark and

Makokoane and most of the records I'd requested of Vedalankar, on the grounds and for the reasons he stated in paragraphs 10.3, 11 and 12 of his letter.

29. Mtati's answering affidavit (also his answering affidavit in case 258/14) shows that he thinks he's a DIO, and that he decided my requests in the belief that he's a DIO. It's therefore not only fatuous but also transparently dishonest of him to allege, as he does in his paragraph 14, that:

> there is no decision made by the Respondent or any Deputy Information Officer, for that matter, refusing the Applicant with any request for access to information which he made.

– unless, and this seems unlikely, Mtati means to:

- concede at last that he's not in fact a DIO;
- imply that his refusals of my PAIA requests addressed to Hundermark, Makokoane and Vedalankar were incompetent for this reason, that he acted ultra vires, and that his refusals are pro non scripto; and,
- admit that my said requests were not expressly refused by 'any Deputy Information Officer', because he's not one, so there's no express 'decision' by 'any Deputy Information Officer' to this effect.

30. Certainly Vedalankar didn't herself expressly refuse my PAIA requests addressed to her, Hundermark, Makokoane. In which case, following the logic of Mtati's paragraph 14, since 'there is no decision made by the Respondent … refusing' my PAIA requests, and her extended 60 days passed without a response from her (or from Brian Nair, her only DIO in LASA's national office duly delegated by her in writing as such), section 27 of the Act deems her failure to respond to my requests within the extended time allowed as a mute refusal. So,

besides the few records Mtati released to me, my record requests were refused any which way.

31. Ad 15. Since, as I've just shown, Mtati's premise is bad, his contention here based on it is equally bad.

32. Ad 14–21 (Mtati's paragraph numbering should continue at 17, but restarts at 14). All this is irrelevant. The Guide doesn't bind the judiciary; it binds LASA's employees in the conduct of LASA's business.

33. Ad 22–23. The sheriff's return, annexure 'F', reflects that Vedalankar was indeed served at LASA's head office where she works, so all this foolish fluff is irrelevant: e.g. that LASA's 'regional offices [have] no separate legal personality to sue or be sued' – when I never sued any regional office. As I've pointed out before, Vedalankar could just as well have been served anywhere in the country: this court's rules allow service on a natural person wherever the sheriff finds him. LASA's top corporate attorney Mtati and his very junior counsel are evidently unaware of this.

34. Ad 24. Building on his mistake about where Vedalankar must have been served (in fact, where she was served), Mtati develops it by further mistakenly claiming, in a non-sequitous tangential lurch, that I ought to have sued Vedalankar out the court where she has her 'principal or employment address'. (Under this court's rules of service, natural persons don't have a 'principal' address.)

35. Ad 25. Since Mtati's founding 'conclusion' is wrong, 'the submission I intend to make herein below regarding the jurisdiction of the above honourable Court', based on it, is set up to fall down.

36. The definition of ‘court’ in section 1 of PAIA, and more particularly subsection (b)(ii)(cc), vests ‘a Magistrate’s Court … within whose area of jurisdiction … the requester … ordinarily resides’ with jurisdiction to try my application to compel compliance with my unlawfully refused PAIA requests. As I stated in paragraph 1 of my founding affidavit, I’m ordinarily resident in Eshowe so the Eshowe Magistrate’s Court indeed has jurisdiction over my claim. And any ‘submission’ by Mtati to the contrary is wrong.

37. Ad paragraph 29. My PAIA request addressed to Makokoane is annexed to my founding affidavit marked ‘D’, and its amendment ‘E’. It is not known why Mtati and his junior counsel thought it necessary to put up superfluous second copies of these documents by annexing them to the former’s answering affidavit, thereby multiplying and needlessly swelling the papers in the case.

38. Ad 30. Since my purpose in providing my contextual notes to my document requests is obvious, Mtati’s professed opinion that they are ‘strange’ is not only false, it’s also irrelevant; and neither my notes nor Mtati’s dissembled opinion of them detracts from my constitutional right to access the public documentary information that I’ve specified.

39. Ad 31–2. After my financial investigation revealed as an flagrant lie the budgetary insufficiency explanation that Vedalankar had eventually concocted and fed me (Nair almost certainly ghost-writing in his distinctive idiosyncratic style) for the silent abortion of my appointment, eleven months after my successful interview, and under increasing pressure to account (I’d called in the SAHRC), unfair discrimination looked to me to be the most likely true reason for it. My letter covering my first PAIA request addressed to Hundermark canvasses

the indications of another possibility: corrupt job-fixing. (Recruitment corruption, I've discovered, is rife at LASA, and I've many documented examples.)

40. When in my original finely detailed statement of claim I exploded the budgetary excuse for not proceeding with my appointment, and showed it was false in light of LASA's business and financial records, Nair replaced it with two entirely different explanations that he gave the Board a few months later, also false. In court he reverted to the budgetary story but radically contradicted a basic aspect of it. None of this featured in the judgment, given more than a year after the trial; and it contained no evaluation and assessment of Nair's evidence, which the judge simply recited like a court stenographer reading from the record (he actually went beyond Nair's evidence) and accepted on its face. Precisely identified and referenced in my heads of argument, none of the basic, critical contradictions in Nair's evidence, internal and objective, were addressed by the judge.

41. Ad 33. The judge's cursory dismissal of my extensive application for leave to appeal didn't touch sides with his many basic legal and factual errors identified in the application. As basic as getting the final onus of proof wrong – as the judge elliptically admitted, and LASA explicitly conceded on affidavit in the Labour Appeal Court.

42. Nor did the judge address the implications for the reliability of Nair's central evidence (obviously perjured, being contradicted by LASA's business records and even by its pleadings and interlocutory affidavits) of email records surfaced after trial, to which I referred him, proving that Nair had repeatedly perjured himself in his evidence on two collateral issues. Which is to say, Nair looked the judge straight in the eye and lied to him. The judge was unperturbed by the

further new categorical evidence I raised with him that Nair had repeatedly lied to him under oath.

43. Ad 34. The reason my petition 'failed' is that it was perverted by an anonymously drawn 'Memorandum', denigrating me and packed with lies about my case, given directly to the Judge President (it doesn't have the registrar's date stamp on it, so didn't come in through the front door in the ordinary course) to prejudice him against me and mislead and induce him to summarily reject my petition – right in the middle of LASA's still undetermined condonation application for opposing my petition out of time, before I could complete and file my answering affidavit in which I was showing in light of email correspondence that Mtati's excuse for coming late to oppose me (he pretended to have been unaware that I'd petitioned) advanced to the Judge President was a barefaced lie. All this is going to the Judicial Service Commission this year, to the Law Society, to the Director of Public Prosecutions (for perjury; for defeating the ends of justice), and, after LASA finally disgorges the documents I've requested, to the Constitutional Court.

44. Ad 35. Mtati's contention that I've placed this court in difficulty because I haven't put up the thousands of pages of trial documents in my labour claim is obviously vacant. He doesn't allege that any of the documents listed in my PAIA requests are inadequately described, because contrariwise they're all precisely described.

45. Ad 36. Again, Mtati's charge that I've 'deliberately' placed this court 'in the dark' is self-evidently false. I'd hardly want to 'deliberately' leave this court unclear about anything and thereby imperil my case. I've put up all essential documents necessary to sustain my application, and not one less. This court isn't

‘working in the dark’, because it doesn’t need the trial documents and transcription of the trial record to determine my PAIA applications.

46. Ad 37. LASA’s records are electronically archived, so are readily accessible. Mtati’s plaint about the time it will take to gather and deliver them is of no interest, especially considering that, as the SAHRC reported after its PAIA training workshop held for LASA on 6 November 2012, ‘LASA has identified the need to have a clear budget dedicated to PAIA compliance and implementation’. So it’s useless to now come crying that responding to my PAIA requests, made in the exercise of my fundamental right to information, ‘diverts the resources of Legal Aid South Africa away from our mandate’, when by now LASA should have a ‘clear budget dedicated to PAIA compliance and implementation’ – but doesn’t because it dishonoured its implicit undertaking to the SAHRC to see to this.

47. My ‘case’ will ‘end’ when I’m appointed to LASA’s most senior legal professional post in KwaZulu-Natal, its Senior Litigator post at Pietermaritzburg, for which I was unanimously recommended in glowing terms by a panel of LASA’s top lawyers in the region. Until then, Mtati and his corrupt national office colleagues need to understand that it will never ‘end’.

48. Ad 38. This is irrelevant to the merits of my claim to access the records I’ve specified. In truth and in fact, and contrary to this lie, the documents I requested from the Free State and Eastern Cape DIOs weren’t searched for; they were refused. Likewise the records requested from Hundermark and Makokoane.

49. Ad 39–41. Only in regard to requests that have been allowed, per section 22(6).

50. Ad 42 and 43. The money Hundermark and Makokoane demanded from me wasn't for searching for records; it was for reading and being briefed about the background to my requests, which the Act doesn't permit charging for.

51. Ad 44. Indeed I complained about the incompetent and unlawful money charges raised against me.

52. Ad 45. After telephoning me to discuss the matter the day after I launched this application, the SAHRC's PAIA Unit director Kisha Candasamy reversed her decision not to determine my complaint and not to assist me exercise my right to information violated by LASA. Her re-engagement with LASA after her call to me is recorded in paragraph 2.1 of her letter to me of 25 November 2015, annexed marked 'G'. My follow-up letters to her the following day and on 12 January 2016 are annexed marked 'H' and 'J'. (A letter I sent between them, on 29 November, principally concerned LASA's false reporting under section 32 for the fourth time, so I've not annexed it.)

53. Candasamy's final report of her engagement with LASA under section 83 of PAIA and her decision of my fundamental right violation complaint will be filed under cover of a supplementary affidavit.

54. Ad 46. In paragraph 10 of his letter of 26 May 2015 (annexure 'M' to my founding affidavit), Mtati described my PAIA requests addressed to Hundermark and Makokoane as 'malicious and seek to divert the resources of Legal Aid South Africa' – an unambiguous allusion to section 45 of PAIA, which justifies the refusal of 'Manifestly frivolous or vexatious requests, or [where searching for, copying and furnishing the requested documents would involve a] substantial and unreasonable diversion of resources'. So it's really very disingenuous for Mtati to dissemble under oath that he didn't reject my PAIA requests addressed to

Hundermark and Makokoane – more especially since he'd also implicitly invoked section 7 of PAIA against me in his preceding paragraphs 10.3.1 and 2: 'The records you are requiring relates to and are ancillary to' my dismissed labour claim and to my pending first three applications to compel LASA's compliance with PAIA under case numbers 257–9/14.

55. As appears from the papers in my first three PAIA applications against Bambiso, Vedalankar and Msweli, these two objections raised in tandem echo Mtati's earlier explicit invocations of sections 7 and 45 to block my access to duly requested records. (According to paragraph 9 of his answering affidavit, he handled all my PAIA requests, so the decision to invoke these sections against me was Mtati's in all cases.)

56. Here was Mtati recycling yet again his routine section 7 and section 45 justifications for refusing my requests. If I'd proceeded 'to pay the required amounts as requested' (final phrase in paragraph 10.3.3) for time allegedly spent reading and being briefed (not for searching and copying), I could hardly have expected a change of tune from him and the delivery of the documents I'd requested – right after he'd put down my requests for access as:

- 'malicious and seek to divert the resources of Legal Aid South Africa', which is to say are hit by section 45 and therefore need not be responded to under PAIA;

and also, contradictorily and legally irrelevantly,

- the 'records you are requiring relates to and are ancillary to' my several past and pending litigations, which is to say are hit by section 7 and therefore need not be responded to under PAIA for this further reason.

57. There was accordingly no other reasonable reading of Mtati's paragraph 10.3 other than that, 'delegated' by Vedalankar to do so, he was refusing my PAIA requests addressed to Hundermark and Makokoane on the grounds stated.

58. The SAHRC's PAIA Unit director read it the same way, as is apparent from paragraph 2 of her October letter to Mtati (annexure 'D').

59. Ad 47. As said, the fees demanded weren't for searching or accessing the records I'd requested. Hundermark and Makokoane demanded fees for background reading and being briefed about my requests.

60. Ad 48. Hundermark and Makokoane aren't 'entitled' under PAIA to the reading and briefing fees they demanded. Even had they been DIOs, the Act didn't allow them to withhold their decisions of my requests until I'd paid them. Anyway, 'delegated' by Vedalankar, Mtati has since rejected my PAIA requests addressed to Hundermark and Makokoane as (i) improperly related to my past and pending litigations and (ii) a maliciously motivated waste of LASA's time – persisting with Hundermark's and Makokoane's money demands all the same.

61. Ad 49–50. Testifying under oath, Mtati calls me a liar for complaining in my founding affidavit that LASA has been illegally refusing my PAIA requests since 2010. That is, he accuses me, an officer of court, of perjury. This extraordinarily serious criminal charge can't stand unanswered.

62. Annexed marked 'K' and 'L' are my two memoranda to the SAHRC in March and April 2011, in which I detail LASA's illegal refusals to comply with my PAIA requests in 2010 and 2011. Although for various reasons* the SAHRC's Gauteng office (not the national PAIA Unit) declined to determine my fundamental right violation complaint about this, it did acknowledge: 'A cogent opinion demonstrating the unlawfulness of the action of the deputy information

officer of LASA is made in your memorandum.' (*When I appealed the Gauteng office's refusal to determine my complaint, and showed its reasons were insupportable, they were all abandoned and substituted with a new irrelevant one, namely that my labour claim – not my claim to records – was headed for court.) To avoid unnecessary amplification of the papers, I've not annexed my complaint, the refusal to decide it, my appeal, and its dismissal, because they're insufficiently relevant to this court's decision of whether I lied in complaining that LASA has been illegally refusing my PAIA requests since 2010, to the extent that this court might wish to decide it, in a matter going to my personal and professional integrity as applicant.

63. On reading my two memoranda to the SAHRC detailing LASA's illegal failures to comply with my PAIA requests in 2010 and 2011, and perhaps also the excerpt of my petition to LASA's Board about LASA's illegal refusal of my first PAIA request (it's annexed to my March 2015 letter to Vedalankar, annexure 'J' to my founding affidavit), this court will readily be placed to determine who the liar on oath is.

64. Ad 54–61. To the contrary, this court has jurisdiction to try my claim by virtue of definition of 'court' in section 1 of PAIA, and particularly subsection (b)(ii)(cc).

65. Paragraph 1 of my founding affidavit truthfully alleges that I'm ordinarily resident in Eshowe, and that's the fact on which I rely to claim this court's jurisdiction.

66. No bona fide dispute arises from Mtati's bare denial that I live here, as if I'd be lying about this. He doesn't adduce any evidence that I usually live in some other place and commute daily or weekly to court, like some of my office colleagues

have done. He can't because I don't. Subsequent to the launch of this application, my contract as a magistrate expired, and I'm currently mopping up part-heard trials, after which I intend practising independently here in the country, rather than moving back to the city, until I'm appointed to the Senior Litigator post I was duly selected and recommended for. I live in Eshowe. Fact.

67. The contents of these paragraphs on jurisdiction in PAIA cases, drawn by Mtati's very junior counsel, are legal nonsense. He obviously hasn't read section 1 of PAIA.

68. Ad 61. Mtati makes his evidence up as he goes along. His numbers are casual inventions, dishonestly exaggerated for their negative effect. It's nine years as a magistrate and eight years at the bar, plus abundant other legal experience, including three years of corporate advising and four years of independent practice as an advocate while pursuing my labour case almost full-time.

69. Ad 62–3. As I said in paragraph 79 of my replying affidavit in my case against Nair (1005/15), I hadn't yet given any thought to jurisdiction when I drew that early working draft. The law of forum jurisdiction in PAIA cases is circumscribed by section 1 of the statute; and this law obviously can't be and isn't changed by someone's rough papers.

70. Ad 64. As said, this court has jurisdiction over my claim by virtue of the definition of 'court' in section 1 of PAIA. I sued out of this court for the reason stated in the penultimate paragraph of my founding affidavit. My further criterion was my convenience, and not any wish to disadvantage Vedalankar as Mtati falsely alleges. Since he makes her case for her on affidavit, and she's not required to testify orally in application proceedings, no conceivable disadvantage or prejudice to her can arise anyway. So the false charge collapses.

71. Ad 65–72. All this further empty legal huffing and puffing is answered by the legislature's definition of 'court' in section 1 of PAIA, and warrants no response from me.

72. Ad 73. As I suspected from Mtati's refusal to furnish me with their written delegations, of which I'd requested copies in my PAIA requests addressed to Hundermark and Makokoane, it's now clear that the latter two executives are not duly delegated DIOs, because Mtati has not addressed and settled the dispute I raised about this in paragraph 5 of my founding affidavit by putting up copies of their written delegations. It follows that they don't hold any.

73. Ad 74–7. The reason I didn't sue Hundermark and Makokoane is because they didn't refuse my PAIA requests addressed to them – Mtati refused them, claiming to have 'been delegated' by Vedalankar to deal with my March complaint about their money demands. And when in May Mtati refused me copies of Hundermark's and Makokoane's written DIO delegations that I'd requested, my doubt rose to certainty that they weren't duly designated DIOs (confirmed by Mtati's failure to put up Hundermark's and Makokoane's written delegations with his answering affidavit).

74. So not being DIOs, Hundermark and Makokoane had acted beyond their powers in dealing with my PAIA requests; and not being DIOs, there was no need to join them in my PAIA application against LASA's information officer Vedalankar.

75. Concerning their demand for so-called 'search fees', which, not being DIOs, Hundermark and Makokoane weren't empowered to make in the first place, the final demand for payment was Mtati's, 'delegated', he said, by information officer Vedalankar to deal with my complaint about this – but as attorney, not as

DIO since he doesn't hold a written delegation – so my claim was and remains against Vedalankar alone, and Mtati's 'misjoinder' argument is bad.

76. Ad 78. 'Delegated' by Vedalankar to do so, Mtati decided to allow me access to some of the records I sought from Vedalankar but refused others. This refutes Mtati's very silly lie that 'decisions … have not been taken by either of us'.

77. But by pretending that he didn't reject my PAIA requests addressed to Hundermark and Makokoane, which refusals he justified by his unambiguous allusions to sections 7 and 45, the two sections he'd previously expressly relied upon to reject my earlier PAIA requests (cases 257–9/14), it appears that Mtati now apprehends that his decisions to reject my PAIA requests were made on legally and factually insupportable grounds.

78. Indeed, on 26 November 2015, I lodged a PAIA request with the Department of Justice and Correctional Services for LASA's budget applications for Senior Litigator salaries over the past five years – a request obviously directly relevant to my claim to my appointment to LASA's still vacant Pietermaritzburg Senior Litigator post. Under section 20, the Department referred my PAIA request to LASA to respond to.

79. Knowing the Department was monitoring its compliance with my request, LASA did not raise its usual section 7 and 45 justifications and refuse them. It did not object that they were related to my claim in the Labour Court to my appointment as Senior Litigator at Pietermaritzburg, and that they were manifestly frivolous or vexatious and that complying with them would substantially and unreasonably divert its resources. Instead it promptly furnished me with all the Senior Litigator budget records I'd requested, in perfect compliance with PAIA. (The records supplied me show that year after year LASA

has been applying to the Department for funding for Senior Litigator salaries while keeping three post unfilled, without any recorded decision in this regard and without Board approval for deviating from the Strategic Plan 2009–12 to employ Senior Litigators, as the Approval Plan requires; and the records thus disclose multiple repeated contraventions of the Public Finance Management Act 1 of 1999 ('PFMA') involving many millions of rands.)

80. LASA's prompt provision of these records to me, in perfect compliance with PAIA, further exposes the mala fides of its blanket justification for refusing other records I've requested concerning the Pietermaritzburg Senior Litigator post and related matters, namely that they're a frivolous or vexatious waste of LASA's time, which pointless record requests are barred by section 45 of PAIA. (Of course, LASA's other standard justification, based on section 7, either expressly cited or unambiguously alluded to, namely that the records I've requested are related to my past and pending litigations, is a legal non-starter in that section 7 is not included in Chapter 4 of Section 2, 'GROUNDS FOR REFUSAL OF ACCESS TO RECORDS'.)

81. As said, the Senior Litigator budget records I requested from the Department are directly material to my claim to my appointment to the Pietermaritzburg post, the subject of my labour case. This time, however, with the department watching it, LASA complied perfectly with my request: no delaying tactics with demands/requests for extensions, no demands for 'access fees' of any kind; no rejection of my request on the basis that was related to and ancillary to my labour claim and an ill-motivated waste of LASA's time. As PAIA required of it, LASA simply gave me the documents I asked for, without any fuss.

82. Vouching all this, my request is annexed marked ‘M’; the Department’s transfer of it, ‘N’; and LASA’s compliance with it,‘O’.

83. Ad 79–80. What makes this application ‘different’ from my first ‘four (4) others’ is this: When suing regional DIOs Bambiso and Msweli, I’d no reason to doubt they’d been duly designated as DIOs. And I’d no reason to doubt that Nair was a DIO, because in April 2011 he’d given me his written delegation issued the month before. But for the reasons stated in my founding affidavit, I was sure that Mtati held no written DIO delegation, and I doubted that Hundermark and Makokoane did – my doubt deepened when in his May letter Mtati refused to furnish me with copies of their written delegations, which I’d requested from them under PAIA. Now it’s certain they don’t, or Mtati would have put them up with his answering affidavit to settle the issue I’ve raised.

84. Mtati’s and his junior counsel’s unpleasant aspersion of me in these paragraphs, especially their ignorant mud-slinging reference to my judicial office, is wholly unfounded.

85. Ad 82. This is quite correct. Though not obliged to by PAIA, I first tried exhausting other possible remedies available to me before resorting to litigation. This was no frolic: section 6 of the Public Protector Act 23 of 1994 specifically empowers the Public Protector:

> on receipt of a complaint or on request relating to operation or administration of the Promotion of Access to Infortmation Act 2 of 2000, endeavour, in his or her sole discretion, to resolve any dispute by:
> (i) mediation, conciliation or negotiation […].

And section 83(3)(c) of PAIA similarly empowers the SAHRC to ‘assist any person wishing to exercise a right contemplated by this Act’.

86. Ad 83. For the reason stated in paragraph 9 of my founding affidavit, Hundermark's and Makokoane's money demands in February were ambiguous as to whether my PAIA requests addressed to them were to be allowed or refused. Consequently I didn't 'know of the Legal Aid SA's position' in this regard for sure until Mtati's letter in May, in which he told me my requests were related to my past and pending litigations and a maliciously motivated waste of LASA's time – the same justifications he'd advanced in November 2013 for refusing my three PAIA requests the month before (besides a trickle of records released, only because I said I was also seeking them from the SAHRC).

87. Ad 84–6. When on 26 May 2015, 'delegated' by Vedalankar to do so, Mtati now refused all my PAIA requests addressed to Hundermark and Makokoane, by putting them down as improperly related to my litigations and maliciously motivated, and refused most of the documents sought from Vedalankar for various reasons, I tried enlisting the Public Protector's and then the SAHRC's assistance to exercise my fundamental right to information, but without joy. I then sued for relief within 180 days of Mtati's refusal, as allowed me by section 78(2)(c)(i). So no question of delay or condonation arises.

88. Ad 87. The 'information' I 'sought' was not 'answered in February 2015', if by this allegation Mtati means to suggest my PAIA requests addressed to Hundermark and Makokoane were duly responded to that month. As I explained in my founding affidavit, their money demands obliquely implied that they'd be completing their responses and would deliver the documents I'd requested once I'd paid. But this was not clear, more especially because they didn't send me notices contemplated by section 25(2)(a) (my italics added for emphasis):

If the request for access is granted, the notice in terms of subsection 1(b) must state:

(a) The access fee (if any) to be paid upon access; [etc].

89. My PAIA requests addressed to Hundermark and Makokoane certainly weren't refused in February, they were refused in May.

90. Mtati neglects to mention here my PAIA request addressed to Vedalankar in March, which he partially granted and partially refused.

91. Ad 88. As section 78 of PAIA allows, my application was brought within 180 days of the final explicit decision of my requests, so there's no 'undue delay' for me to 'explain'.

92. Ad 89. For as long as information officer Vedalankar and her DIOs continue illegally obstructing my duly made requests for access to LASA's public records under their control, in contravention of PAIA and in violation of my most basic right to information in the democratic era, as they've been doing since 2010, there'll be no 'finality' to 'these applications'. And they can count on it.

93. Ad 90. Had Vedalankar and her DIOs complied with my PAIA requests, I wouldn't have needed to bring my five applications to court to compel them to do so. And LASA wouldn't be running up enormous legal costs as its junior counsel very lucratively milks it for all he can by running with the most patently idle defences to my claims to access to the documents I've duly requested. The more pathetically ignorant his legal mistakes and more obviously foolish his contentions, and the longer he persists with them quite shamelessly even after I've repeatedly corrected them, the more money he makes from them; it's a fine get-rich scheme. Judge Satchwell had hard words for inept, novice lawyers like these ('young incompetent black attorneys') employed by corrupt officials in

‘covering up fraud and corruption’ by persisting with useless, empty defences raised by these ‘idiots’, ‘who don’t know how to do their job’ as information officers, to applications to compel their compliance with duly made PAIA requests for access to documentary evidence of fraud and corruption, manifestly illegally refused: ‘She said that City Power’s refusal to disclose information was made without reading the relevant provisions of the Promotion of Access to Information Act’ – as in this and my other four PAIA cases – and accordingly ‘ordered that legal costs be paid by the utility’s officials responsible for the litigation out of their own pockets, and not the ratepayers’. The judge’s very apposite remarks are in the news report annexed to annexure ‘R’.

94. Ad 91. This is sheer nonsense.

95. Ad 92. I’m unable to make any sense of this hopeless gibberish, so I can’t reply to it.

96. Ad 93. Ditto.

97. Ad 94. I’m in time, so I have no ‘delay’ to explain.

98. Ad 95–8. This is more thoughtless nonsense. Indeed I’ve sued Vedalankar twice in this court, but in respect of different PAIA requests, lodged and refused at different times. I haven’t sued for ‘the same thing’, but for different things, for access to different documents.

99. Ad 99. A glance at the definition of ‘court’ in section 1 of PAIA will help Mtati and his very junior counsel overcome their lamentable difficulty ‘to understand why the Applicant chose to bring this application out of the above Court.’

100. Ad 100. As I've repeatedly stated in my preceding applications, I've never worked a day at 'this Court', the Eshowe Magistrate's Court; I was appointed at the Inkanyezi Magistrate's Court at the other end of town.

101. Ad 101. Based on his factual mistake, Mtati's 'surmise' is groundless.

102. Ad 102. After LASA rejected the first set of dates proposed by the PAIA-specialist magistrate specifically appointed to try my applications, which dates were conveyed by the Chief Magistrate to LASA's local attorney, and not to me, and I raised this minor irregularity with him (annexure 'P'), he telephoned me a week later to convey a new set of dates which the PAIA-specialist magistrate had given him, for which I thanked him (annexure 'Q').

103. Indeed I drew the notice of set-down as I was entitled and in fact required to do under the rules of this court (I quote them in my first-mentioned letter, annexure 'P'). It's hardly unethical to observe and comply with the rules of court when setting matters down for hearing.

104. As for 'cordial relations between legal representatives', I represent myself, and having had to dig myself out from the piles of foul, defamatory muck very uncordially flung at me by LASA and its low-kicking, utterly unscrupulous junior counsel in all his legal writing since he came into the matter in December 2010 (I quote page after page of it in my heads of argument in my labour case), there are scant 'cordial relations' between us.

105. Nonetheless, since it suited me, I cordially accepted LASA's rejection of the first set of dates for the argument of my cases provided by the PAIA-specialist magistrate, notwithstanding that LASA had no right under the rules to do so, and didn't insist on my cases proceeding on those dates; and one chance I gave LASA to delay the hearing of my cases is enough.

106. As I point out in my first-mentioned letter (annexure ‘P’), there was no obligation on me under the rules to ‘discuss these dates with [LASA’s] offices’ and to ask them whether they liked the dates or not.

107. Ad 103. Mtati’s and his junior counsel’s poisonous charge that I ‘may trespass on ethics’ is false. Concerning the pre-trial conference, they’ve got their facts wrong and have jumped to a mistaken conclusion. The pre-trial conference was ordered by the PAIA-specialist magistrate mero motu, and not at my instance. In fact, for the reasons set out in my letter to the Chief Magistrate on 2 July 2015 (annexure ‘R’; date error corrected), I’d actually abandoned my original request for a pre-trial conference made on 29 December 2014 (annexure ‘S’). It wasn’t me who drew the notice for the February 2016 conference; it appears to have been the Chief Magistrate at the instance of the PAIA-specialist magistrate appointed to hear the applications. And perfectly properly.

108. Ad 104. This insulting, empty froth warrants no reply.

109. Ad 105. Mtati and his junior counsel writing for him would be well advised to get his law and facts straight before falsely insinuating that the Chief Magistrate has been conniving with me against LASA in regard to the set-down of my applications and the pre-trial conference ordered by the PAIA-specialist magistrate – that is, before falsely insinuating that the Chief Magistrate has conducted himself in a professionally unethical manner.

110. Ad 106. Mtati very obviously hasn’t got ‘all the facts with him’ hence his ill-founded and outrageous charges of ‘bias’ against this court, as if it has corruptly rigged my cases in my favour, akin to the manner in which LASA corruptly perverted my petition to the Judge President of the Labour Appeal Court with its secret ‘Memorandum’ (unfortunately for LASA, but very

fortunately for me, inadvertently left in the court file for my accountant to find and photocopy more than a year later, when I sent him over to court to make an inventory of the contents of the petition file).

111. Ad 107. I've already dealt with all this mistaken and unfounded nonsense.

112. Ad 108. Mtati has no correct, true facts to support his charge that the court is or will be biased against LASA, more especially because the PAIA-specialist magistrate specially appointed to try my cases is from another court out of town. Like the Chief Magistrate is, he's as much a stranger to me as he is to LASA, and is therefore quite neutral. (Perhaps this is LASA's real problem.)

113. Ad 109. Mtati and his very junior counsel writing for him don't know what they're talking about. They've evidently never got as far as reading the definition of 'court' in section 1 of PAIA, let alone the rest of it.

114. Ad 110. Mtati's falsely alleged 'apprehension' of an 'unfair hearing' has no objectively supportable basis. And the rider to his objection to this court is a perfectly irrelevant non-sequitur.

115. Ad 111–12. If he just got his facts straight, Mtati would stop fretting about justice being done in the case, by a really independent court, free of undue influence. Unlike in my labour case.

116. Ad 115.2. Quite the contrary, I certainly do 'state what [my] complaint about section 22 is', or, more accurately, what my complaint is about Hundermark's and Makokoane's unlawful money demands purportedly made under this section; and I do so repeatedly. As mentioned in paragraphs 10 and 14 of my founding affidavit, my complaint is detailed in my March 2015 letter to Vedalankar (annexure 'J' to my founding affidavit, paragraphs 59–65) and it's reiterated in

my fundamental rights violation complaint to the SAHRC (annexure 'N' to my founding affidavit, paragraph 20).

117. I do indeed show why the charges are incompetent and unlawful.

118. I don't 'challenge the unconstitutionality of the very same section', because I don't consider 'the very same section' to be 'unconstitutional'. Money charges have been raised against me that the section doesn't permit. Simple.

119. Ad 115.3. I haven't 'challenge[d] the contents of the statute'; I've shown that fees have been raised that 'the statute' doesn't allow. The rest of this paragraph is meaningless nonsense.

120. Ad 115.4. In both my letter to Vedalankar and in my complaint to the SAHRC I show that Hundermark's and Makokoane's money demands are not contemplated by section 22, and are therefore unlawful.

121. Ad 115.5. Since this case doesn't involve the limits of my fundamental right to information, section 36 of the Constitution hasn't any application and doesn't come into it.

122. Ad 116. Sections 82(b) and (c) vest this court with powers broad enough to name and shame Vedalankar and her similarly PAIA-delinquent DIOs in this manner for violating my fundamental right to information. (By analogy, such naming and shaming by 'publication of the Court's order' is specifically contemplated by section 50(2)(f) of the Employment Equity Act 55 of 1998 as an 'appropriate order' to publicize employers' violations of job applicants' fundamental right to equal employment opportunity.) This is an extraordinarily aggravated case warranting the public exposure of Vedalankar and her similarly PAIA-delinquent DIOs.

123. Ad 117.2. My prayer 5 is perfectly clear to anyone who understands English.

124. Ad 117.3–8. Information officer Vedalankar is in ultimate control of all LASA's business information stored on LASA's office computers and servers. Since I'm not seeking to search any employees' privately owned computers, no one else needs to be joined in the application.

125. Ad 118. I'll dispose of this arrant nonsense in argument.

126. Ad 119. I've dealt with this already. It's untrue that I live in Pietermaritzburg. I packed up and moved from there to Eshowe in 2013 to work as a magistrate on contract; and with the expiry of my contract I'm staying on because I like it here. Besides the fact that there's a budgeted, funded, vacant Senior Litigator post waiting for me in Pietermaritzburg, I've no current ties to the place at all. It's true I don't own fixed property in Eshowe, but so what? Section 1 of PAIA permits me to sue out of the magistrate's court 'within whose area of jurisdiction' I'm 'ordinarily resident', so I did.

127. Ad 122.1. The only way Hundermark, Makokoane and Mtati can be 'duly appointed, alternatively duly designated by law' as DIOs is by way of a written delegation from Vedalankar under section 17(6)(a).

128. As in case 258/14, Mtati has yet again failed to put up any written delegation of himself as a DIO. He just asserts in his paragraph 8 that he's 'without question' a DIO. That won't do, especially since, as I've shown above – and there's more below – attorney Mtati is a habitually untruthful and therefore unreliable witness.

129. Besides not putting up any written delegation of himself by Vedalankar, Mtati doesn't even allege that he holds such a written delegation as the basis of his claim to be 'without question' a DIO.

130. Likewise, besides not putting up any written delegation of Hundermark and Makokoane, Mtati doesn't even allege that they hold such delegations.

131. Since he knows they don't hold written delegations, Mtati doesn't make these essential allegations; he just evades my point. There's consequently only one proper and ineluctable inference to be drawn from this: Mtati, Hundermark and Hundermark don't hold written DIO delegations from Vedalankar.

132. Evidently when including them all in his botched revisions of LASA's PAIA manual, Mtati overlooked the requirement of section 17(6)(a), and I've caught him in his mistake. (As in his other mistake – because he doesn't know the Act, and likewise didn't look at the definition of 'public body' in section 1 – in writing appeal provisions into LASA's PAIA manual.)

133. Ad 123. Section 22(6) provides (my italics added for emphasis):

> A requester *whose request for access to a record of a public body has been granted* must pay an access fee for reproduction and for search and preparation contemplated in subsection 7(a) and (b) respectively, for any time reasonably required in excess of the prescribed hours to search for and prepare (including making any arrangements contemplated in section 29(2)(a) and (b)(i) and (ii)(aa)) the record for disclosure.

134. Since my requests hadn't been granted when Hundermark and Makokoane demanded my money, and they wanted it for time spent on background reading and being briefed, section 22(6) has no application.

135. So it's Mtati who's been 'misguided' in his 'interpretation of the section 22' by his very junior counsel and the wrong 'legal advice' he gave him, which he

nonetheless ‘accept[ed] as correct’ (answering affidavit, paragraph 3), when it clearly isn’t.

136. Ad 124. If Mtati were indeed a duly designated DIO, he’d have a written delegation from Vedalankar to vouch it. He’s had two opportunities in two successive applications to produce his written delegation, having been pertinently challenged to do so, but hasn’t. He doesn’t even allege he holds one. It follows that he doesn’t have one, and that he’s indeed mistaken in thinking he’s a DIO – just because he calls himself one in the PAIA manual that he thoroughly messed up.

137. Ad 125. As said, it wasn’t ‘access fees’ they demanded, as contemplated by section 22(6), but reading and briefing fees before deciding my requests, which are not contemplated and are not allowed by the section.

138. Ad 126. This contention is wrong, being irreconcilable with the clear language of section 22(5) (my italics added for emphasis):

> The information officer of a public body must *withhold a record* until the requester concerned has paid the applicable fees (if any)

– which provision requires the withholding of a *record*, to which access has been granted, until ‘the applicable fees (if any)’ have been paid, and not the withholding of a *decision* to allow access or not, which under section 25 must be made and notified within 30 days of a request for it, or a maximum of 60 days if this period has been extended under section 26.

139. My PAIA requests addressed to Hundermark and Makokoane hadn’t been granted when they demanded my money, and anyway they weren’t asking for fees for searching and copying but for background reading and briefing.

140. Ad paragraphs 127–8. They weren't 'access fees' that Mtati 'insisted' on.

141. I've dealt above with Mtati's decision to refuse my PAIA requests addressed to Hundermark and Makokoane by raising sections 7 and 45 against me, by way of unambiguous allusion to these two sections, just as he'd explicitly invoked them against me in refusing my PAIA requests which are the subject of my first three cases 257–9/14.

142. The reality is that the records I've requested will not be released without judicial compulsion; and LASA's corrupt national officers can be expected to continue playing any trick to avoid surrendering them in order to suppress further documentary evidence of their crimes and other capital professional misconduct: inter alia, perjury, lying to the Minister and to the Justice Portfolio Committee of the National Assembly, contraventions of the PFMA, contraventions of LASA's internal regulatory instruments, persistent illegal refusal of PAIA requests to suppress evidence of these offences and false reporting to conceal this illegal suppression of evidence, and at the root of it all, recruitment corruption.

143. Ad 128.4. Point is, it wasn't 'access fees' that were demanded of me, and there's been no dispute about 'access fees' to date, because when the charges for reading and briefing were demanded from me my requests hadn't yet been decided. Only after access to a record has been granted can 'access fees' be charged. I deal with this in paragraphs 59–65 of my March letter to Vedalankar (annexure 'J' to my founding affidavit).

144. My application was brought in time, so there's no 'waste of time' or 'delay' to 'address'.

145. Ad 129.4. Msweli's successor Makamedi will not have access to Msweli's email records stored and preserved among others on LASA's servers with other business records. Makamedi has his own separate email account.

146. Ad 130.3. As mentioned in the opening sentence of paragraph 20 of my founding affidavit, the facts stated in my four bullet points are all vouched by the records annexed to my replying affidavit in my case against Nair, 1005/15; and this court has only to read them to see this. So for Mtati to claim on oath 'There is no truth in all these paragraphs' is a signal illustration of his reckless disregard for the truth, and it epitomizes his penchant, as LASA's top attorney, for lying freely on affidavit. With his junior advocate writing for him, originating the lie, and suborning Mtati's perjury.

147. Mtati's false description of the SAHRC's extensive training workshop for LASA's head office lawyers on how to apply PAIA as no more than a 'cordial meeting' to discuss how to report correctly under section 32 is refuted by the SAHRC's comprehensive report of the workshop (annexure 'D' to my replying affidavit in my case against Nair, case 1005/14), recording the many topics and the wide range of issues it covered. Contrary to Mtati's lie that 'no lesson was given to Legal Aid SA's officers', in truth and in fact, as the record unambiguously and incontestably shows, the SAHRC indeed tutored a class of fifteen of LASA's head office staff to instruct them in how to comply with requests for information under PAIA properly in future. The attendance register (annexure 'A') shows that three of the pupils present to learn about PAIA from the SAHRC were from Mtati's Corporate Services department.

148. Contrary to his claim, 'I attended the meeting and there was no lesson given to Legal Aid SA's officers', the attendance register reveals that Mtati wasn't present

at the SAHRC's PAIA training workshop for LASA; so unless he's lying outright, as elsewhere in his affidavit, he must be talking about some other 'cordial meeting' with the SAHRC and not the said special remedial lesson that the SAHRC gave his and other head office staff – including seven of Nair's National Operations 'officers'; so much for Nair's lying denial under oath at the trial of my labour claim that he had any knowledge of this PAIA training workshop, which email records later surrendered show he'd been centrally involved in arranging. (LASA's national executives evidently have no compunction about lying under oath.)

149. Ad 132. I've dealt with this court's jurisdiction above. I sued here because I was entitled to, and that's all.

150. Wherefore I persist with my application.

Signed at Eshowe on 20 January 2016.

ANTHONY ROBIN BRINK

Signed before me at Eshowe on 20 January 2016 by the deponent who has acknowledged that he knows and understands the contents of this affidavit and that he solemnly affirms its contents to be true to the best of his knowledge and belief.

COMMISSIONER OF OATHS

Name:

Address:

Capacity: