

1 Boast Street
Eshowe
29 June 2015

CLE Patrick Hundermark
Legal Aid South Africa
29 De Beer Street
Braamfontein
Johannesburg

Dear Mr Hundermark

MY ILLEGALLY REFUSED PAIA REQUESTS

1. According to your profile as Chief Legal Executive at Legal Aid South Africa on the International Legal Aid Group's website, you're 'Responsible for maintaining high quality of legal services'.
2. I presume this includes 'maintaining high quality of legal services' rendered to LASA itself by its own in-house lawyers.
3. You're doubtlessly aware that my two PAIA requests addressed to you in November last year were finally refused last month by LASA's lead in-house attorney, Corporate Services Executive Thembele Mtati, claiming to have been delegated by information officer Vedalankar to deal with them after I'd asked her intervention in:
 - (i) your and Jerry Makokoane's unlawful demands for payment for hundreds of hours allegedly spent on background reading, on being briefed on the background to my requests, and on reading my requests (Mtati has now confirmed that no records whatsoever exist to vouch that such time was spent, as alleged) – charges not permitted by the Act; and,
 - (ii) Brian Nair's unlawful refusal on various spurious grounds of my entire PAIA request addressed to him.
4. Mtati's refusal was almost certainly drawn for him by a junior attorney in his Corporate Services department in your national office. For the purpose of this discussion, however, I'll stay with the fiction that Mtati wrote it.
5. Mtati's first justification for finally refusing my requests was that they 'relate to and are ancillary to' litigation I instituted, some adjudicated, some pending.

6. This isn't a 'ground for refusal contemplated in Chapter 4 of this Part', as section 11(1)(b) in Part 2 of PAIA puts it:

A requester must be given access to a record of a public body if ... access to that record is not refused in terms of any ground for refusal contemplated in Chapter 4 of this Part.

7. Mtati seems to have section 7 of PAIA in mind, because he's specifically raised it against me before in refusing documents 'relating to' litigation.

8. The report of the SAHRC's special PAIA training workshop held for your national office lawyers on 6 November 2012 records that it tried teaching them that Section 7 doesn't afford an information officer a justification for refusing a record request.

9. This is because section 7 isn't among sections 34 to 45 in Chapter 4 in Part 2, enumerating the only 'Grounds for Refusal of Access to Records' permitted by the Act.

10. It follows that Mtati's 'relate to and are ancillary to' litigation justification for refusing my requests is unlawful.

11. Mtati's second justification is that my 'requests are malicious and seek to divert the resources of Legal Aid South Africa' – an allusion to section 45 of the Act barring 'Manifestly frivolous or vexatious requests, or substantial and unreasonable diversion of resources'.

12. On Mtati's own showing, this second ground is transparently false and mala fide.

13. One of the reasons he gave me for seeking more time to respond to my requests addressed to you and to Nair (I'd already volunteered an extension to Makokoane) was that they:

incorporate allegations that have far reaching implications on the officials of Legal Aid South Africa.

14. That is, Mtati well appreciated that provision of the records to me, or sworn certification in some cases that they didn't exist, would expose LASA's officers to the gravest personal and professional consequences.

15. Although my purpose in requesting the records is immaterial under section 11(3) of PAIA, I nonetheless spelt it out in my letter to Vedalankar that Mtati answered, informing her, and him, that I'm:

collecting evidence for a perjury prosecution on a score of different counts, a sacking, a professional strike-off, and an application for leave to appeal with further cold print evidence of perjury on multiple scores.

16. Mtati is thus well aware that my intention is not to 'seek to divert the resources of Legal Aid South Africa' and waste its time. (I'm not asking for a record of how many cups are chipped in the head office canteen.) He knows I'm deadly serious. And you do too.

17. I accordingly call on you both in your capacity as Chief Legal Executive 'Responsible for maintaining high quality of legal services' (per your ILAG billing), and as deputy information officer (per LASA's PAIA manual), to remedy LASA's illegal refusal of my PAIA requests with the criminal intention of obstructing and defeating the ends of justice by suppressing documentary evidence of major, widespread systemic corruption in LASA's top ranks.

18. My three preceding PAIA requests in 2013 were refused on the same idle grounds, namely 'section 7 read with section 45'. LASA has employed a useless very junior advocate Thabiso Machaba to oppose my applications to compel on these plainly spurious grounds. I enclose a report in the *Saturday Star* of Johannesburg High Court Judge Cathy Satchwell's recent very apt remarks about the corrupt purpose for which clueless young and inexperienced lawyers like these are used.

19. Will you assist me access those records too, to put an end to the fruitless and wasteful opposition to my pending litigation about it? If you see to it that my 2013 PAIA requests are complied with (the decision to refuse them was taken in national office), I'll withdraw my applications.

20. Arising from the obstruction and refusal of my 2014 PAIA requests, I've filed a formal complaint with the SAHRC over LASA's violation of my fundamental right to information in illegally refusing my PAIA requests, and I've requested the mediation of the Public Protector. I enclose copies; these deal also with Nair's unlawful refusal in February to comply with my PAIA request addressed to him, and to Mtati's almost entirely unlawful handling of my PAIA request addressed to Vedalankar: one record supplied, non-existent records not certified on oath, others illegally refused.

21. (In fact, being ultra vires, Mtati's refusal was completely unlawful, because Vedalankar hasn't delegated him in writing as a deputy information officer under section 17, as is evident from his answering affidavit in my pending PAIA application against her in the Eshowe Magistrate's Court. He's therefore incompetent to respond to PAIA requests on her behalf, irrespective of your current PAIA manual's claim that he's a deputy information officer, revised

and rewritten by him, he says, thereby purporting to appoint himself a DIO, unlawfully and irrelevantly – even if the Board unlawfully and irrelevantly resolved to approve the incompetent revision.)

22. If I can't achieve LASA's belated compliance with my PAIA requests through these non-litigious routes, and if you fail to remedy your ignorant, corruptly-motivated young attorneys' violation of my constitutional right of information, I'll be suing in the Pietermaritzburg High Court to compel. In which event, this letter will be included in the papers for the judge's information as to your deliberate complicity in the illegal suppression of documentary evidence of massive, pervasive corruption in LASA's top ranks.

23. I conclude with the following.

24. The Sicilian *omertà* loyalty code in crime families requires silence about their criminal activities and refusal to give evidence about it. Your CV at LinkedIn boasts the 'Rusty Wilmot Award for Loyalty and Dependability' (1982). Unlike a crime family, LASA is a public law firm (albeit extraordinarily corrupt). Since you owe your outstanding Loyalty and Dependability to the public body that employs you, and not to your corrupt colleagues, and you are not bound to a code of silence and refusal to give evidence of their criminal activities and other corruption, as in a crime family, I'm calling on you to see to it that I'm handed the documentary evidence I've duly asked for, so I can give it to the police, to the courts, and to other interested authorities.

25. It's documents doggedly pursued, and eventually obtained, by journalist and 'document hound' Andrew Jennings – some fortuitously obtained from honest insiders, as in my case – which, handed over to the US FBI, led to the indictment and arrest of the 'criminal scum' at the top of FIFA. I enclose the first two printed pages of a recent article in the *Washington Post* about this. I have similar intentions for similar persons at the top of LASA.

26. The ball's back in your court. If I have to sue to compel compliance with my PAIA requests, you can be sure your conduct in this matter will feature in the judgment, almost certainly destined for the law reports.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Anthony Brink', with a stylized, somewhat abstract shape.

ANTHONY BRINK

PS: According to your ILAG profile, another of your responsibilities is to 'Manage and direct the senior litigator service of Legal Aid SA in order to ensure the delivery of senior litigation services across the national footprint'.

You haven't done so: eight years after the specialised posts were created, KwaZulu-Natal is still without a Senior Litigator – it's supposed to have two; and despite the burning need for a second Senior Litigator in the Eastern Cape with its four High Courts and the vast distances between them, which you agreed and voted for as a member of the Legal Services Technical Committee on 24 March 2010, it still has only one.

As you know, the story told me on 18 October 2010 that 'Due to the recession' Vedalankar and Nair decided to freeze all Senior Litigator posts at Pietermaritzburg, Durban and Mthatha is a lie, unsupported by any record, contradicted by the extant records, contradicted by Nair in court (contradicting an earlier affidavit of his), and incompetent on their own version, having regard to the Approval Framework requiring Board approval for any such decision to deviate from national executive management's Performance/Business Plan, based on the Board's Strategic Plan.

The extent of your involvement in LASA's unlawful failure, concealed in its annual reports from the Minister and from the National Assembly, to fill a third of its still vacant budgeted and funded Senior Litigator posts, for which LASA applies, the Department allocates, and the National Assembly votes a dedicated salary budget year after year, in contravention of the Public Finance Management Act and in unlawful disregard of the Strategic Plan 2009–12, prescribed by the Treasury Regulations, and presented to the Minister and to the National Assembly, will be examined another day.

Cc: Chief Operations Officer Jerry Makokoane

Audit and Risk Executive Avie Naidoo

Board Secretary Langa Lethiba



Judge tells City Power: You f****d up!

May 23 2015 at 09:15am
By Thabiso Thakali

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Johannesburg - A Joburg High Court judge has launched a scathing attack on the City of Joburg and its power utility City Power, calling them "idiots" and accusing them of "f****ing up" over their reluctance to reveal information about a R800-million solar geyser deal.

In a Promotion of Access to Information case brought by Numsa, the metal workers union, against City Power, Judge Kathy Satchwell accused the utility's officials of "covering up fraud and corruption" over its refusal to hand over documents relating to the contract on solar geyser heaters.

Judge Satchwell was unimpressed with City Power's failure to respond to Numsa's requests for information since 2013. She said that City Power had replaced the Road Accident Fund "in so far as incompetence and fraud is concerned".

Lawyers representing City Power argued that the judge was "biased" after she had 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 lawyers argued that Satchwell had used "profanities" in her chambers against the utility's attorneys by calling them "idiots" and remarking that someone had "f****ed up".

"Some person" within City Power, she remarked, was "lazy, covering up, hiding things, and idiots and the like" and the "knowledge of such things comes to one like a dagger in the night".

"The learned judge stated that the City... only uses young incompetent black attorneys or little grey old white men sucking up to the black people in the city," read the application by City Power's lawyers.

City Power said that the judge had suggested that these attorneys were used in order to cover up fraud and corruption. "The learned judge stated that the city believes that it is a tail wagging the dog and that 'I should decide whether or not I am going to allow this'."

The utility's lawyers said this was an indication of bias because the judge had not heard the merits of the case.

The utterances were apparently made in April in Judge Satchwell's chambers when she granted an order of costs to Numsa.

At the heart of the matter is Numsa's request for information on an R800-million contract for the supply and installation of solar geysers in 2012.

Numsa had sought the court's intervention after its requests for information in August 2014 had been ignored.

The union previously alleged that the contract was awarded to companies that imported the geysers from



Joburg High Court Judge Kathy Satchwell. Photo: Sharon Seretto

China while the same were made in the East Rand. According to the recusal application by City Power, Judge Satchwell also stated that, by not disclosing the documents sought by Numsa, "You are being tarred by the tar of President (Jacob) Zuma. Go think about this".

But on Friday Satchwell was unapologetic as she refused the application to recuse herself. She told the defence lawyers she was only prepared to amend patent errors in her judgement. The City Power attorney, she remarked, had tried to set her up but "I don't care".

City Power has people "who don't know how to do their job. That sounds like incompetence – so my 'bias' remains".

Satchwell added that profanities she was accused of using "would worry my mother but not my father".

She said that her order for costs to be paid by officials of City Power was meant to "look to see if anybody has placed City Power in the dwang".

"City Power might have been badly done by its staff," she said. "Look to see if there should be any employees held responsible." She dismissed the application for her recusal but the order for City Power to pay the legal costs remained.

Judge Satchwell instructed the attorneys to write to Sicelo Xulu, City Power's managing director, to put his house in order. 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.

Judge Satchwell said City Power's information officer had refused Numsa's request in 2013 and 2014 unprocedurally and without full information before him. The utility had been "contemptuous" to the court, she said. Judge Satchwell said Numsa may appeal the refusal through internal processes before turning to the court for assistance.

In 2001, Satchwell, a lesbian, won the right for her partner to enjoy the same benefits as those previously reserved for spouses of married heterosexual judges, a right confirmed by the Constitutional Court the following year.

Saturday Star

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Morning Mix

How a curmudgeonly old reporter exposed the FIFA scandal that toppled Sepp Blatter

By **Michael E. Miller** June 3 at 5:03 AM

The biggest news story of the year was breaking, but the journalist responsible was fast asleep.

It was just after dawn on May 27 when Andrew Jennings's phone began ringing. Swiss police had just launched a startling raid on a luxury hotel in Zurich, arresting seven top FIFA officials and charging them and others with running a \$150 million racket. The world was stunned.

The waking world, that is. If Jennings had bothered to climb out of bed, he wouldn't have been surprised at the news. After all, he was the man who set the investigation in motion, with a book in 2006, [“FOUL! The Secret World of FIFA: Bribes, Vote Rigging and Ticket Scandals,”](#) followed by an exposé aired on the BBC's “Panorama” program that same year, and then another book in 2014, called [“Omerta: Sepp Blatter's FIFA Organised Crime Family.”](#)

“My phone started ringing at six in the morning,” Jennings said Tuesday from his farm in the hilly north of England. “I turned it off actually to get some more sleep, because whatever is happening at six in the morning is still going to be there at lunch time, isn't it?”

If you can't tell already, Jennings is an advocate of slow, methodical journalism. For half a century, the 71-year-old investigative reporter has been digging into complex, time-consuming stories about organized crime. In the 1980s, it was bad cops, the Thai heroin trade and the Italian mob. In the '90s, he turned to sports, exposing corruption with the International Olympic Committee.

For the past 15 years, Jennings has focused on the Federation Internationale de Football Association (FIFA), international soccer's governing body. As other journalists were ball watching — reporting scorelines or writing player profiles — Jennings was digging into the dirty deals underpinning the world's most popular game.

“Credit in this saga should go to the dogged obsession of a single reporter, Andrew Jennings,” the Guardian's [Simon Jenkins wrote last week](#), citing in particular Jennings's BBC “Panorama” film called [“The Beautiful Bung: Corruption and the World Cup.”](#)

Now, after decades of threats, suspicions about tapped phones and intermittent paychecks, Jennings is being vindicated with every twist and turn in the FIFA scandal.

[[Interpol issues 'red notices' for 6 people tied to the scandal: Who they are and what that means](#)]

During a phone interview Tuesday morning with The Washington Post, he called FIFA President Sepp Blatter “a dead man walking.” Two hours later, Blatter announced he was stepping down, just days after being reelected.

“I know that they are criminal scum, and I’ve known it for years,” he said. “And that is a thoughtful summation. That is not an insult. That is not throwing about wild words.”

“These scum have stolen the people’s sport. They’ve stolen it, the cynical thieving bastards,” he said. “So, yes, it’s nice to see the fear on their faces.”

A ‘document hound’

The best way for Americans to imagine Andrew Jennings is to roll Bob Woodward and Carl Bernstein together, then add a touch of a Scottish burr and plenty of flannel. Jennings was born in Scotland but moved to London as a child. His grandfather played for a prominent London soccer team, Clapton Orient (now called Leyton Orient), but Jennings had little interest in the sport. He did, however, have a nose for journalism.

After finishing school, Jennings joined the Sunday Times in London, where he got a taste of investigative journalism. He went to work for the BBC, but when the network wouldn’t air his documentary on corruption within Scotland Yard, he quit and joined a rival program called “World in Action.” He turned his police investigation into his first book, “[Scotland Yard’s Cocaine Connection](#),” and a documentary.

“I’m a document hound. If I’ve got your documents, I know all about you,” he said. “This journalism business is easy, you know. You just find some disgraceful, disgustingly corrupt people and you work on it! You have to. That’s what we do. The rest of the media gets far too cozy with them. It’s wrong. Your mother told you what was wrong. You know what’s wrong. Our job is to investigate, acquire evidence.”

That is, essentially, Jennings’s mantra: Take time, dig up dirt and don’t trust those in power. He applied the same logic to international drug smuggling rings and Italian mafiosi.

Then sports. After the Scotland Yard exposé, a colleague at “World In Action” named Paul Greengrass — who later became a Hollywood filmmaker, directing several Jason Bourne films as well as the recent blockbuster “[Captain Phillips](#)” — suggested investigating the IOC.