

IN THE HIGH COURT OF SOUTH AFRICA  
(CAPE OF GOOD HOPE PROVINCIAL DIVISION)

Case No. 12156/05

In the matter between:

**TREATMENT ACTION CAMPAIGN**

First Applicant

**SOUTH AFRICAN MEDICAL ASSOCIATION**

Second Applicant

and

**MATTHIAS RATH**

First Respondent

**DR RATH HEALTH FOUNDATION AFRICA**

Second Respondent

**SAM MHLONGO**

Third Respondent

**DAVID RASNICK**

Fourth Respondent

**ALEXANDRA NIEDZWIECKI**

Fifth Respondent

**ANTHONY BRINK**

Sixth Respondent

**TREATMENT INFORMATION GROUP**

Seventh Respondent

**GOVERNMENT OF THE RSA**

Eighth Respondent

**DIRECTOR-GENERAL OF HEALTH**

Ninth Respondent

**CHAIRPERSON, MEDICINES CONTROL COUNCIL**

Tenth Respondent

**REGISTRAR OF MEDICINES**

Eleventh Respondent

**MEC FOR HEALTH WESTERN CAPE**

Twelfth Respondent

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## ANSWERING AFFIDAVIT: THIRD RESPONDENT

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I, SAMUEL WYSTAN POSHELA MHLONGO, affirm that to the best of my knowledge and belief the contents of this affidavit are true and correct, and state:

1. I am a Professor, Chief Specialist and Head of Department of Family Medicine and Primary Health Care at Medical University of South Africa (MEDUNSA), Pretoria.
2. I am 64 years of age, and I reside in Johannesburg.
3. My professional qualifications and experience are as follows:
  - I hold a Bachelor of Medicine, Bachelor of Surgery degree (MBBS) awarded by the University of London;
  - I hold a Licence of the Royal College of Physicians, London (LRCP);
  - I am a member of the Royal College of Surgeons, England (MRCS);
  - I hold a Master of Science degree in Internal Medicine, specialising in cardiology (MSc Med) University of London;
  - I am a Member of the Royal College of General Practitioners, United Kingdom (MRCGP), signifying that I am trained to professorial level in advanced primary health care and family medicine;
  - I am licensed to teach and practise medicine in the United States of America, having passed the US Visa Qualifying Examination (VQE).
  - After my medical training at Charing Cross Hospital, London, I practised medicine in London and taught at several hospitals attached to the University of London for 25 years – in addition to a two-year teaching tour between 1974 and 1976, in which I provided instruction to residents in Advanced Internal Medicine at the University of Pennsylvania in the US, and did a refresher course in cardiology.

- I was President of the African-Caribbean Medical Association in London from 1992 until 1998, when I returned to South Africa to take up my current post as Head of Department, Family Medicine and Primary Health Care, MEDUNSA, having been specially recruited by the Gauteng Provincial Department of Health.
- I am chief supervisor all medical doctors training in Primary Health Care and Family Medicine in the public service in Limpopo, Mpumalanga, North West Province and in about a third of Gauteng.
- I have published several articles and letters in peer-reviewed medical and scientific journals, both as a principal author and as a co-author, and these professional scientific contributions to the understanding of AIDS are catalogued by the US National Library of Medicine.
- I was appointed by the National Department of Health as an expert member of the Presidential AIDS Advisory Panel, and participated in both of its international meetings in May and July 2000.
- I have been invited to attend and address numerous other professional meetings concerning AIDS in South Africa, including a meeting of the South African Association of Professionals in Health Care on 7 February 2002, at which I presented a PowerPoint slide show, of which I am co-author, *A Critical Analysis Of The Evidence Considered Proof That Nevirapine Prevents Mother-To-Child Transmission Of HIV*.
- By special invitation I addressed the European Parliament in Brussels on 8 December 2003 on the subject, 'AIDS in Africa'.
- I am co-author of an extensive literature review and analysis, *Mother to Child Transmission of HIV and its prevention with AZT and Nevirapine: A Critical Analysis of the Evidence* by Papadopoulos-Eleopoulos et al. At 137,000 words, the monograph was far too voluminous for publication in any medical journal, and it was consequently published privately as monograph on 1 October 2001, as a contribution to the international scientific debate about AIDS, its aetiology, and its treatment, opened by President Thabo Mbeki in 2000. Lead author of the monograph,

Eleni Papadopulos-Eleopulos, is a senior bio-physicist in the Department of Medical Physics at the Royal Perth Hospital in Perth, Western Australia, and is also a member of the Presidential AIDS Advisory Panel.

4. I confirm the truth of the allegations made by Adv Anthony Brink in his answering affidavit insofar as they relate to my knowledge of the matters to which he deposes.
5. I confirm that there was no dispute of Dr David Rasnick's statement made in my presence at the first meeting of the Presidential AIDS Advisory Panel in Pretoria in May 2000 that AZT had probably killed tens of thousands of people.
6. I confirm the correctness of all of Adv Brink's statements in his answering affidavit on all the medical and scientific matters that he raises.
7. I deny that I have ever been involved in the conduct of any illegal clinical trials as the applicants have falsely alleged in their founding papers. The second respondent's answering affidavit canvasses all the relevant facts and circumstances in this regard.
8. I accordingly ask for an order dismissing this application against me with costs.

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SAMUEL WYSTAN POSHELA MHLONGO

SIGNED AND AFFIRMED BEFORE ME IN THE PRESCRIBED MANNER AT CAPE TOWN ON THIS        DAY OF JULY 2006, THE DEPONENT HAVING STATED THAT HE HAS CONSCIENTIOUS OBJECTIONS TO TAKING THE OATH AND THAT HE REGARDS THE AFFIRMATION AS BINDING ON HIS CONSCIENCE.

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COMMISSIONER OF OATHS