REPUBLIC OF SOUTH AFRICA

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION, JOHANNESBURG

CASE NO: 15/13402

(1) REPORTABLE: No
(2) OF INTEREST TO OTHER JUDGES: No

5/2/16
DATE

SIGNATURE

In the matter between:

Wong, Adrian Gavin	**Applicant**
and	
Ronald Bobroff and Partners Inc	**First Respondent**
Bobroff Ronald	**Second Respondent**
Bezuidenhout Stephen Derek	**Third Respondent**
The Road Accident Fund	**Fourth Respondent**
The Law Society of Northern Provinces	**Fifth Respondent**

JUDGMENT

VALLY J:

Introduction

1. On 24 April 2004 the applicant was injured in a motor vehicle accident. The first respondent is a firm of attorneys, which specialises in delictual

claims involving personal injuries. While still recovering from his injuries in hospital the applicant concluded a Contingency Fee Agreement (Contingency Fee Agreement) with the first respondent.

2. The first respondent has always described itself as:

> "A serious and substantial law firm
> This premier medico-legal Practice was established in 1974 and has grown to become the oldest and largest specialist Plaintiff Personal Injury and Medical Negligence Practice in South Africa. Its founder, Ronald Bobroff, is/was President of the Law Society and chairman of numerous local and provincial law councils. The Practice incorporates a significant number of the most innovative, creative and productive lawyers currently to be found in South Africa."

3. There is some dispute in the papers as to how he, the applicant, came to conclude this Agreement, but nothing turns on that dispute. Of importance is that both he and the first respondent conducted their relationship on the basis of the terms and conditions set out in the Contingency Fee Agreement. A key term of this Agreement was that the first respondent would not charge the applicant any fee for its services in pursuing his claim with the fourth respondent. But should he be successful, the first respondent would take thirty per cent (30%) of the capital sum awarded to him. The Contingency Fee Agreement was not placed before this court. The applicant claims that he was not furnished with a copy. The first respondent who, together with the second and third respondents (all three respondents are collectively referred to as the respondents in this judgment) does not deny this, failed to present it, or even a template of it, to this court. The Contingency Fee Agreement was supposedly amended two days

before the applicant's claim against the fourth respondent was finalised. This is dealt with in greater detail below.

4. The applicant is aggrieved at what the first respondent had charged him for its services, and approaches this court for the Contingency Fee Agreement to be declared invalid and of no force and effect, as well as ancillary relief, including costs on a punitive scale.

The facts that gave rise to the present dispute

5. On 21 August 2006 the fourth respondent and the applicant concluded a settlement agreement. The settlement agreement was made an order of this court. In terms of the settlement agreement he was awarded R984 056.50 as compensation for the damages he sustained as a result of the motor vehicle accident, plus R171 000.00 as a contribution towards his costs. The amount awarded, as well as the contribution towards costs, was paid to the first respondent and not to him directly. On 31 October 2006 the first respondent gave him the sum of R100 000.00 as interim payment. A few months later the first respondent furnished him with a document titled, "*Attorney and Client Account*" (First Account). The First Account listed all the disbursements it had paid out on his behalf and reflected that he was charged a thirty per cent fee, plus VAT, for the services it provided to him. These amounts were deducted from the monies received from the fourth respondent and he was paid the difference. The relevant portion of the First Account reads:

Medical Aid	172 515.12
Dr Shevel (psychiatrist)	9 690-00
Drs Matisonn Scott (radiologists)	2 774.40
Dr Read (orthopaedic surgeon)	7 410.00
Dr Ford (plastic and reconstructive surgeon)	3 500.00
Dr Lewer-Allen (neuro surgeon)	12 483.00
Margie Gibson (neuro psychologist)	11 000.00
Elna May (Industrial psychologist)	15 116.40
Ivan Kramer (actuary)	8 300.00
Anneke Greef	6 942.00
Advocate Zidel (counsel)	55 974.00
Cost consultant – (Legal Billing Systems)	4 176.46
To our fees in terms of the Contingency Fee Agreement as discussed and signed)	295 216.95
VAT @ 14%	41 330.37

6. Thereafter, the First Account reflects the following payments to the applicant:

Amount due to client –	R612 386.24
Less payment (18/10/06)	R100 000.00
Cheque herewith	R260 623.18
Held back for Medical Aid	R132 004.62

7. It appears that this list of disbursements, excluding the amount paid to Medical Aid, was presented as an indication of what the first respondent would pay for the services provided to the applicant. The total of these disbursements is R137 366.26. In other words, these amounts are covered in the fees of the first respondent and are not in addition to the fees of the first respondent.

8. The applicant did not receive any vouchers from the first respondent to support its claim that it paid the above disbursements on his behalf. He queried the First Account with the fourth respondent. His query placed a great deal of emphasis on the retention of R132 004.62 for Medical

Aid. The query was raised specifically with a Mr Darren Bobroff, who is a practising attorney as well as a Director of the first respondent. He was informed by Mr.Darren Bobroff that the issue of the retention of monies due to him is being dealt with, and that he will receive information, as well as an explanation regarding it, in the near future.

9. In his founding affidavit the applicant claims that he received only R360 623.18 of the total R1 155 056.50 that was awarded to him by the fourth respondent. In the answering affidavit filed on behalf of the respondents and deposed to by Mr Darren Bobroff, it is pointed out that on or about 25 January 2007 the applicant received a Final Account together with a cheque carrying a value of R78 487.08. In his replying affidavit, the applicant admits to receiving this cheque, but says nothing of receiving the Final Account. However, Mr. Darren Bobroff placed only a portion of the Final Account before this court. That which has been placed before this court reads as follows:

"To our fees in terms of the Contingency Fee Agreement as discussed and agreed 295 216.95
VAT @ 14% 41 330.37
Amount due to client – 660 416.88
Paid as follows:

18/10/06	100 000.00
27/10/06	260 623.18
Paid to Medical Aid	221 306.62
Final cheque 18/01/07	78 487.08

"I acknowledge receipt of this account and confirm my satisfaction with the result obtained and all fees and disbursements reflected herein.

Received this 25 day of January 2007

_____

Adrian Wong"

10. The applicant signed the page provided to him. Consistent with what is reflected in this Final Account, Mr Darren Bobroff stated that an amount of R221 306.62 was paid to the Medical Aid on 29 November 2006. However, the First Account presented to the applicant prior to the Final Account indicated that the payment to the Medical Aid amounted to R172 515.12. The First Account was also provided to the applicant in January 2007. There is no explanation in the papers as to why an amount was retained when, according to the affidavit of Mr Bobroff, the money due to the Medical Aid was already paid on 29 November 2007, and why it was reflected only as R172 515.12 in the First Account, and not as R221 306.62 as presented to the applicant in January 2007. On the other hand, if there was an error in the affidavit and the amount paid as at the date of the First Account is correctly reflected as R172 515.12 and the amount of R132 046.62 was retained for a further anticipated Medical Aid payment, and if the final amount paid was R221 306.62 then the amount that should be deducted from the R132 046.62 is R48 791.50. This would have left R83 255.12 for reimbursement to the applicant. But the amount he received in January 2007 was R78 487.08. There is no explanation in the answering affidavit for this discrepancy.

11. In essence, the applicant was awarded R1 155 056.50 by the fourth respondent but only received R439 110.26 in cash. The rest of the money received on his behalf was utilised for disbursements to the

Medical Aid and fees for the first respondent plus VAT on the fees. The applicant, nevertheless, was aggrieved at only receiving what appears to be about thirty-eight per cent (38%) of the total amount (i.e. capital sum plus contribution towards costs) awarded to him. In his founding affidavit the applicant claims that the focus of his complaint was not the validity of the Contingency Fee Agreement, but instead was on some of the items reflected as disbursements, and whether these amounts claimed as disbursements were true and correct. Put differently, he believed that some disbursements were not incurred and some of the amounts reflected for disbursements were inflated. He claimed that he had continued to raise his concerns with the first respondent, who reminded him that on 18 August 2006, i.e. two days prior accepting the offer of full and final settlement made by the fourth respondent, he had concluded a separate agreement (new agreement) with the first respondent.[1] He was not furnished with a full copy of the agreement, only with the last page. The respondents do not deny that he was only furnished with the last page of the agreement. The applicant placed a copy of this last page before this court. Mr Darren Bobroff does not deny that the applicant was only furnished with the

[1] One of the disbursements he believed was not incurred concerns a charge by Adv Zidel SC, the advocate that was appointed by the first respondent to represent him. The First Account reflects that Adv Zidel SC charged him R55 974.00 for his services. Adv Zidel SC's invoice is annexed to the answering affidavit. According to this invoice Adv Zidel SC charged R54 264.00 and not the R55 974.00 that is reflected in the First Account. More importantly the applicant claims that Adv Zidel SC had only once consulted him, per telephone, for a period of fifteen minutes, He claims that he was never furnished with a copy of Adv Zidel SC's invoice until he received the answering affidavit. The invoice of Adv Zidel SC reflects that there was a consultation with the applicant on 28 June 2006, which lasted for one and a half (1½) hours. It is also stated in the answering affidavit by Mr Darren Bobroff that the consultation took place and that he (Mr Darren Bobroff) attended the consultation. This issue is not taken further in the replying affidavit. Should the applicant insist that the alleged consultation did not take place, which is really an allegation of unlawful as well as unethical conduct on the part of Adv Zidel SC, his attorney and counsel should bring this matter to the attention of the Johannesburg Bar Counsel.

last page of the new agreement and that the first respondent has failed to furnish the rest of the document to this court. Nevertheless, during the course of the applicant's complaint with the first respondent he was informed that the first respondent intended to hold him to the terms of this agreement, and on that basis considered his matter to be closed. The last page of the new agreement reads as follows:

> "5. I abandon any right to request of (sic) a bill of costs in terms of the Rules of Court. A bill of costs is a detailed list of all attendances carried out on my behalf and the fees in respect thereof. Once the list is prepared it is assessed by an official called the taxing master. You have advised me that if I request such a bill and the amount allowed is more than your proposed fees, I will be liable for such amount which will result in my receiving a lesser amount than would be the case in terms of the Contingency Percentage Agreement entered into with me. I have been further advised that such a bill of costs might also result in a lower fee. I choose not to request a bill of costs and agree to such fees and disbursements being charged to me as stipulated in terms of the Contingency fee agreement (the previous sentence refers to this as the Contingency Percentage Agreement) entered into with yourselves and a copy of which is attached hereto.
>
> 6. I specifically again agree to contract out of the Court tariff the details of which have been explained to me.
>
> 7. I irrevocably authorise and instruct you to receive all monies in the matter in my name including capital and costs and to deduct therefrom all disbursements and fees before payment of any amount to me.
>
> 8. I understand and agree that the payments referred to in paragraph 7 above will be utilized by yourselves (note in the previous paragraph the word "*you*" rather than "*yourselves*" was used) to settle all fees and disbursements due to yourselves and in particular the amount referred to in paragraph 3 (paragraph 3 has not been placed before this court) above shall be recovered by yourselves as a first charge from the payments received from the Defendant (this is clearly a reference to the fourth respondent).
>
> 9. I understand and agree that I will therefore not necessarily receive any payment whatsoever for some months after settlement." (underlying added)

12. It is recorded in clause 5 of the new agreement that the Contingency Fee Agreement was attached to it, but the applicant denies ever receiving a copy of the Contingency Fee Agreement. More importantly, it is manifest from the aforequoted clauses of this agreement that it aimed to achieve two objectives. These are:

12.1. to amend a provision of the Contingency Fee Agreement. The Contingency Fee Agreement provided for a fee of the first respondent to be either one calculated at thirty per cent (30%) of the capital sum received on behalf of the applicant, or one calculated in terms of an assessment "*by an official called the taxing master*".[2] This provision is now amended by this new agreement. The new agreement provides for a single method of calculating the fee, which is that it will be thirty per cent (30%) of the capital sum received; and,

12.2. to remove altogether the applicant's right in terms of the Contingency Fee Agreement to request that the fees and disbursements be taxed.

13. Having concluded the new agreement, the first respondent insisted on taking every advantage of the bargain it had secured as a result thereof. Hence, when the applicant complained that the fee charged to

[2] It is not stated which one of the two would apply one can only surmise that it would be the lesser of the two.

him was excessive, it responded by reminding him of this agreement, and told him that on the basis of its terms it was entitled to consider the matter closed. He alleges that Mr Darren Bobroff:

> "... told me that the senior partner of his firm, his father Ronald Bobroff (the second respondent) was the President of the Law Society and that I could do as I pleased (sic) – the account would stand as it was based on the agreement between us."

14. This allegation was not addressed at all in the answering affidavit of Mr Darren Bobroff. The second respondent, Mr Ronald Bobroff, did not file an affidavit in the matter, nor did he indicate whether he opposed the application or not, although it can safely be assumed that he does. All that is said in the answering affidavit of Mr Darren Bobroff is that he (Mr Darren Bobroff) is a director of the first respondent and is authorised to oppose the application.

15. The response did not meet with the approval of the applicant. Instead, he remained aggrieved, but did nothing until 1 August 2011 when he decided to raise his grievance with the Law Society of the Northern Provinces (Law Society). This was more than four years after he received a final payment of R78 487.08 in January 2007. In his complaint he raised the following:

> "I have found out the Contingency Fee was charged at 30% plus VAT when in fact the fee should be 25% plus VAT.
> And I abandon any rights the (sic) request of bill. And I am also entiteled (sic) to the money for the tax bill costs from the Road Accident (sic).
> - Unhappy with the disbursements of funds with regards to paying all the Medico-Legals."

16. Five days later the Law Society responded to his complaint in, *inter alia*, the following terms:

> "We note that your complaint relates to dissatisfaction about the fees charged by the attorney for the services rendered by him/her in a litigious matter.
> Kindly take note that the powers of the Council of the Law Society of the Northern Provinces are of a disciplinary nature only and we only investigate complaints concerning ethical behaviour of attorneys.
> Kindly take note that if you are not satisfied with the fees charged with (sic) the Attorney that we will not be able to assist you with your complaint, and suggest that you proceed to request the attorney to present his bill of costs (account) to the Taxing Master of the appropriate Court for taxation thereof.
> In such an instance, you will be notified of the date and time of the taxation, and will be afforded an opportunity to object to any items charged by the attorney.
> The attorney will be entitled to a Drawing Fee and (sic) Attendance fee.
> ...
> Please take note that you will be liable to pay such drawing and attendance fees. (This is a repeat of the previous paragraph quoted here)
> In the event that the attorney should fail or refuse to present his bill of costs for taxation purposes, kindly refer such for our attention, so as to enable us to investigate the ethical conduct of the attorney."

17. The response seems to be a standard one sent to all complainants whose complaints relate to the fees charged by their attorneys. It is far from satisfactory. It failed to address his concerns. He had, albeit in oblique terms, informed the Law Society that he had abandoned his right to have the first respondent draw a bill of costs and have it taxed. Yet it told him that he must request for it to be drawn up and taxed. Hence, the response essentially left him with no remedy. He had already conveyed to the first respondent that he wanted a bill of costs drawn-up and taxed, but had been told that he had concluded an agreement two days before his claim was settled, wherein he had

waived his right to have a bill of costs drawn and taxed by the first respondent. He accepted defeat and let the matter be.

18. Sometime in 2013 the issue of the illegality of the Contingency Fee Agreements concluded between attorneys, and especially the first respondent, and their clients received prominent coverage in the media. This arose from a litigation the first respondent was engaged in with an erstwhile client. That litigation was finalised in the Constitutional Court (CC).[3] In that litigation, on 20 February 2014 the CC ruled that the Contingency Fee Agreement relied upon by the first respondent was unlawful and of no force and effect. As a result of learning through the media of the outcome of this case, the applicant sought advice about his own grievance with the first respondent. He claims that until the judgment of the CC was handed down he believed that he was bound by the Contingency Fee Agreement, as well as the subsequent agreement he signed wherein he waived his right to query or question the fee charged by the first respondent. He says that until early in March 2015 he had no knowledge that he had a case against the first respondent. After seeking advice from his present attorneys he decided to bring this application. The application was brought on 13 April 2015.

19. The first respondent disputes this claim. It contends that on the applicant's own version, at the very least, he knew on I August 2007 when he complained to the Law Society about being charged a thirty

[3] It is the matter of *Ronald Bobroff & Partners Inc v De la Guerre and Another* 2014 (3) SA 134 (CC)

per cent (30%) success fee, instead of a twenty-five per cent (25%) fee. Accordingly, their debt to him became due on 1 August 2007 and from that date prescription began to run. Hence, according to the respondents his claim prescribed on 31 July 2010. This contention is based on the provisions of section 12 of the Prescription Act 68 of 1969 (Prescription Act)

20. At the hearing the first respondent indicated that it only wished to challenge his application on the basis that his claim had been extinguished by prescription. They do not oppose it on any other ground.

Has the claim of the applicant prescribed?

21. It is trite that the party who relies on prescription as a defence to the claim bears the onus of showing on a balance of probabilities that, as at the date upon which summons or notice of motion was served, the debt had prescribed.[4] The respondents have no qualms about this and claim that they have discharged the onus borne by them.

22. The respondents say that they do not dispute that the Contingency Fee Agreement is unlawful, as the CC refused the applicants leave to appeal in the *De la Guerre* case, one of which was the first respondent in the present case. Accordingly, the respondents accept that the Contingency Fee Agreement concluded in this case was unlawful *ab*

[4] *Gericke v Sack* 1978 (1) SA 821 (A) at 827*in fin*

initio. They claim that this has no bearing on the issue as to whether the claim of the applicant had prescribed on 31 July 2010. Given the approach adopted by the respondents the only issue before this court then is one that concerns the application of sub-section 12(3) of the Prescription Act. It provides:

> "12 (3) A debt shall not be deemed to be due until the creditor has knowledge of the identity of the debtor and of the facts from which the debt arises: Provided that a creditor shall be deemed to have such knowledge if he could have acquired it by exercising reasonable care."

23. The respondents claim that until the CC refused the first respondent's application for leave to appeal in *De la Guerre* they adopted the view that the Contingency Fee Agreement was lawful and valid. This, it must be remembered, was the view held by "the premier medico-legal Practice" which was "*the largest specialist Plaintiff Personal Injury and Medical Negligence Practice in South Africa*, and which employed "*the most innovative, creative and productive lawyers currently to be found in South Africa.*" Not only did they hold this view with conviction, they made sure that the applicant was made aware of it. The first respondent informed him in no uncertain terms that he had concluded a lawful and valid agreement with it and that it was determined to ensure that he abides it. Moreover, in his answering affidavit Mr Darren Bobroff avers that until the outcome of the case in the CC was received, "*in excess of **74%** of LSNP (Law Society Northern Province) members reported using such agreements*" (bold in original). The applicant's counsel relied on this averment to dispel the respondents' contention that the applicant was aware as long ago as 1 August 2007

that the Contingency Fee Agreement was unlawful. It is pointed out, correctly in my view, that if "*in excess of 74%*" of the attorneys falling under the jurisdiction of the Law Society were of view that an agreement such as the Contingency Fee Agreement was lawful then the applicant, a simple lay person, must be correct when he says that at that time he was not aware that the Contingency Fee Agreement was unlawful and of no force and effect. Put differently, if "*in excess of 74% of the attorneys*" falling under the jurisdiction of the Law Society held the view that agreements such as the Contingency Fee Agreement in this case were lawful and valid, then the applicant cannot be faulted for not establishing in 2007 that the Contingency Fee Agreement was unlawful and invalid *ab initio*.

24. It is true that the applicant raised his complaint with the Law Society on 1 August 2007. But it failed to inform him that the Contingency Fee Agreement was unlawful. In fact, it informed him that all he could do was ask that a bill of costs be drawn up and taxed. It ignored his concern about the legality of the Contingency Fee Agreement and shifted the focus to the issue of unethical conduct. It did not take any note of his concern that the first respondent's charges were not related to the work that was done on his behalf. It told him that it could do nothing about his complaint concerning the fees charged to him. He cannot be accused of lacking diligence in the manner in which he went about acquiring the knowledge of the true facts and position concerning the debt owed to him by the first respondent. A significant fact in this

regard is that the Contingency Fee Agreement was not provided to him, nor has he been furnished with a complete copy of the new agreement he is said to have concluded two days before his matter was settled. He asked the first respondent, his attorney at the time, to clarify the position and was told that he had signed the new agreement and it was valid. In these circumstances, clearly the first respondent led him (incorrectly) to believe that he was bound by the Contingency Fee Agreement, read with the new agreement. When he went to the Law Society it failed him by not addressing his concerns. It told him that it would be closing its file. Any reasonable person in his position would certainly have felt defeated at this stage and let the matter rest. This is what the applicant did. In my judgment he cannot be criticised for it. On these facts, he did not know of his claim against the first respondent on 1 August 2007, nor can it be said that he was "*deemed to*" have had such knowledge had he "*exercise*(ed) *reasonable care*". He had exercised reasonable care, and failed. His failure cannot be attributed to any action or omission on his part. At best for the respondents the applicant was suspicious about the validity of the Contingency Fee Agreement. This is all that can be inferred from his complaint to the Law Society, but then the response of the Law Society disabused him of that suspicion. In any event, our law is clear on this point:

> "Mere opinion or supposition is not enough: there must be justified, true belief. Belief, on its own, is insufficient. Belief that happens to be true ... is also insufficient. For there to be knowledge, the belief must be justified.
>
> It is well established in our law that:

(a) Knowledge is not confined to the mental state of awareness of facts that is produced by personally witnessing or participating in events, or by being the direct recipient of first-hand evidence about them.

(b) It extends to a conviction or belief that is engendered by or inferred from attendant circumstances.

(c) On the other hand, mere suspicion not amounting to conviction or belief justifiably inferred from attendant circumstances does not amount to knowledge.

It follows that belief that is without apparent warrant is not knowledge; nor is assertion and unjustified suspicion, however passionately harboured; still less, is vehemently controverted allegation or subjective conviction."[5]

Conclusion

25. In my judgment the applicant did not know on 1 August 2007 that he had a lawful claim against the respondents because they had charged him fees on the basis of an unlawful agreement. I hold further that he cannot be deemed to have known of this fact. In the result, I find that his claim against the respondents had not prescribed.

Costs

26. The applicant asks for a punitive costs order against the respondents. His request is based on the following facts and contentions, which are not mutually exclusive:

26.1. The first respondent is the sole cause of him bringing his claim only in 2015 when it should have been finalised a long while ago;

[5] *Minister of Finance and Others v Gore NO* 2007 (1) SA 111 at [18] – [19]

26.2. the respondents had no basis to oppose his application once they came to accept that the Contingency Fee Agreement was invalid and of no force and effect. Their opposition was largely technical in nature and was designed to frustrate him;

26.3. Mr Darren Bobroff made serious unproven allegations in the answering affidavit against him and his present attorney regarding how he came to bring this application, but which were of no value to the determination of this matter. Most significant of these allegations is that Mr Darren Bobroff accused him and his attorney of bringing this application with ulterior purpose. Given that he is successful in the application the accusation cannot stand.

26.4. the respondents did not place crucial material, such as the Contingency Fee Agreement and the new agreement, before this court and had, therefore, failed to take this court into their confidence;

26.5. there is no reason why he, a layperson, should be forced to bear the substantial costs that would be left over after the party and party costs are calculated, when in 2007 he had done all that was reasonably possible for him to do. He was forced into litigating against the respondents because of their intransigent and overpowering attitude.

27. There is some force in these contentions. I have little doubt that the conduct of the first respondent in 2006 and 2007 was not consistent with its duties towards the applicant as a client. The way it dealt with him, which is captured in paragraphs 3, 4-11 and 13 above demonstrates that it did not take full account of its duties towards him. I also find that it would be unfair for the applicant to bear the carry-over costs of a party and party allowance.

Order

28. The following order is made:

1. The Common Law Contingency Fee Agreement entered into between Adrian Gavin Wong and the first respondent on or about April 2004 is declared to be invalid, void and of no force or effect.

2. The first respondent is to deliver to the applicant, within fifteen (15) days of this order, a fully itemized and detailed accounting in the form of a "Bill of Costs" with the applicable tariffs for 2004, 2005 and 2006 inserted thereon, reflecting the reasonable fees and disbursements incurred by the first respondent in the High Court action instituted by the applicant in the South Gauteng High Court between himself and the fourth respondent, and that the applicant is entitled to demand taxation thereof.

3. The first respondent is ordered to pay into the applicant's attorney's trust account the sum of R336 547.32 (being the attorney and own client monies retained by the first respondent over and above the party and party costs recovered).

4. The respondents are ordered to pay interest at the rate of 15.5% p.a from 1 January 2007 to date of payment, both days inclusive, on the difference between the amount reflected in paragraph 3 above and the fair and reasonable fees due to the first respondent as agreed or determined on taxation.

5. The first respondent is to deliver within fifteen (15) days of this order an itemised accounting reflecting the amount recovered from the fourth respondent in respect of past medical and hospital expenses, the amount actually paid over and the date of such payment, in respect of such recovered expenses to Fedhealth or its duly authorised representative.

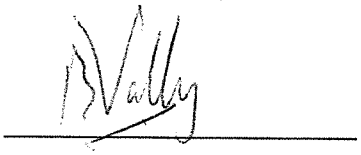
6. The first respondent is ordered to pay to the applicant the difference, if any, between the total amount retained by the first respondent as a provision for the payment of what was lawfully due to Fedhealth, and the amount actually paid as reflected in the accounting referred to in paragraph 5 above.

7. The respondents are ordered to pay interest at the rate of 15.5% p.a from 1 January 2007 to 31 July 2014 and 9% p.a. from 1 August

2014 to date of payment, both days inclusive on any amount found to be due to the applicant in paragraphs 5 and 6 above.

8. The first respondent is ordered to pay the costs of this application on a scale as between attorney and client.

9. The second and third respondents are declared to be jointly and severally liable together with the first respondent for all amounts to the applicant in terms of paragraphs 3 - 4 and 6 - 8 above, the one paying the other to be absolved.



VALLY J

COUNSEL FOR APPLICANT INSTRUCTED BY	B Ancer SC Norman Berger & Partners Inc
REPRESENTATIVE FOR FIRST AND SECOND RESPONDENTS	: R Zimerman (Attorney)
Date of hearing	: 28 January 2016
Date of judgment	: 5 February 2016