

Mbekezi MAKIKI AK2702 K26

1. Pleadings

2. Uasin forms.

3.

4.

MEMO

PLAINTIFF'S FULL NAMES : Mbekei MAKIKA

CASE NO. :

ADDRESS :

SA CITIZEN OR NOT :

Nature of injuries :

Date and time of incident :

Quantum :

Eye-witnesses :

Other witnesses :

Number of visits to doctor or hospital :

Specify visits to doctor or hospital :
(names and venues)

Employed or not :

Nature of employment :

Income and proof thereof :

Current state of injuries :

If future loss of earnings are claimed, the relevant duration and proof that it was so claimed :

Names of assaulters :

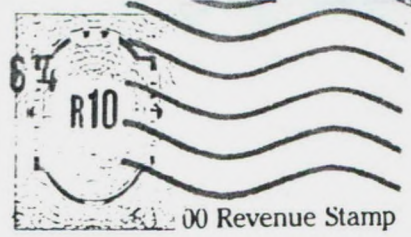
Were criminal charges laid, if so where?

Was an ID parade attended?

Issued by *M. Tallak*

Case No 22

072864



CLERK OF THE COURT
KLERK VAN DIE HOF

Clerk of the Court

Date

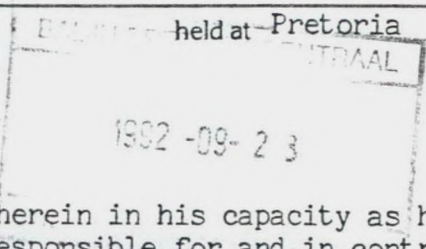
No. RM2 Summons Commencing Action (Ordinary)

Sued out by
Nicholls, Cambanis, Koopasammy & Pillay
c/o Adams & Adams
Shorburg
429 Church Street
PRETORIA
0002
Postal address
P.O. Box 1014 - PRETORIA - 0001

C. Nicholls

Signature of Plaintiff or his Attorney

In the Magistrate's Court for the District of Pretoria



Between MBEKENI MAKIKI

Plaintiff

and MINISTER OF DEFENCE

Defendant

To: THE MINISTER OF DEFENCE, WHO IS CITED herein in his capacity as head of the SOUTH AFRICAN DEFENCE FORCE, and as such responsible for and in control of members of the SOUTH AFRICAN DEFENCE FORCE, c/o The State Attorney, 888 Royal St. Mary's Building, 85 Eloff Street, Johannesburg

You are hereby summoned that you do within 21 (twenty one) days of the service of this summons deliver or cause to be delivered to the CLERK OF THE AFORESAID COURT and also the PLAINTIFF OR HIS ATTORNEY, at the address specified herein, a notice in writing of your intention to defend this action and answer the claim of

MBEKENI MAKIKI an adult male, unemployed of L 86 Phola Park, TOKOZA.

the plaintiff herein, particulars whereof are endorsed hereunder

(1) Particulars

Plaintiff's claim against defendant is for payment of the sum/balance of R for:

SEE ANNEXURE

Wherefore plaintiff prays for judgment against the defendant in the said sum, with costs.

Costs if the action is undefended will be as follows:

	Summons		Judgment	
	R	c	R	c
Attorney's charges	150	00	125	00
Court fees	10	00		
Messenger's fees				
Messenger's fees on re-issue				
Totals	R		R	
Total			R	

(See back)

PARTICULARS OF CLAIM

1. The Plaintiff is MBEKENI MAKIKI an adult male, unemployed of L 86 Phola Park, TOKOZA.
2. The Defendant is the MINISTER OF DEFENCE, cited herein in his capacity as head of the SOUTH AFRICAN DEFENCE FORCE, and as such responsible for and in control of members of the SOUTH AFRICAN DEFENCE FORCE, c/o The State Attorney, 888 Royal St.Mary's Building, 85 Eloff Street, Johannesburg.
3. On or about the 9th April 1992 and at Phola Park, Tokoza, the Plaintiff was unlawfully and without lawful justification assaulted by members of the SOUTH AFRICAN DEFENCE Force, who at material times hereto were acting within the course and scope of their employment as members of the SOUTH AFRICAN DEFENCE FORCE.
4. As a consequence of the aforesaid assault, the Plaintiff suffered bodily injuries.
5. In consequence thereof, the Plaintiff has suffered damages in the amount of TEN THOUSAND RAND (R10 000.00) in respect of contumelia, pain and suffering, loss of amenities of life and disability.

6. The Plaintiff has given notice in terms of Section 113 of the Defence Act.
7. Notwithstanding demand, the Defendant has failed and/or neglected to pay the aforesaid sum as claimed.

WHEREFORE the Plaintiff claims : -

- a. Payment of the sum of R10 000.00;
- b. Interest on the aforesaid sum at the rate of 18.5% per annum from date of judgement to date of payment;
- c. Costs of suit;
- d. Further and/or alternative relief.

DATED at JOHANNESBURG on this the 25 day of August 1992.

Nicholls

NICHOLLS, CAMBANIS,
KOOPASAMMY AND PILLAY
PLAINTIFF'S ATTORNEYS
23RD FLOOR, KINE CENTRE
141 COMMISSIONER STREET
JOHANNESBURG
REF : VS/PP/8
c/o Adams & Adams
Shorburg
429 Church Street
P.O. Box 1014
PRETORIA
TEL: 320-8500
REF: M. BEDHESI/mvd P170/92

NOTIFICATION IN ACCORDANCE WITH THE PROVISIONS OF - RULE 8(4) -
of the MAGISTRATE'S COURTS ACT 32 of 1944

DEPUTY : F. A. RUSSOUW
ACC No.: NICHOLL050

RETURN No.: 92/0,044,139.00
CASE No. : 72664/92

IN THE MAGISTRATE'S COURT FOR THE DISTRICT
PRETORIA HELD AT PRETORIA

BETWEEN
MBEKENI MAKIKI

Plaintiff

AND
MINISTER OF DEFENCE
STATE ATTORNEY

Defendant

ADDRESS : 4THF FEDLIFE FORUM BUILDING
VAN DER WALT STREET
PRETORIA 0000

NATURE OF PROCESS:- SUMMONS COMMENCING ACTION (Ordinary)

ON 92/09/28 AT 15h37 THE ABOVEMENTIONED DOCUMENT WAS HANDLED IN THE MANNER
INDICATED BELOW:

RETURN OF SERVICE : STATE ATTORNEY.

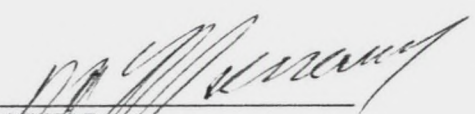
RULE 9(3)(g) : THIS IS TO CERTIFY THE A COPY OF THE ABOVE MENTIONED
PROCESS WAS SERVED ON M BESTER A PERSON APPARENTLY NOT LESS
THAN (16) SIXTEEN YEARS OF AGE AND DESIGNATED IN THE STATE
ATTORNEY'S OFFICE FOR THIS PURPOSE, BY HANDING A COPY
THEREOF TO SAID PERSON.

RECEIVED - 6 OCT 1992

CODE	DESCRIPTION	PRICE	QTY	AMOUNT	VAT	TOTAL
ADB	SERVICE (0-6km)	11.00/SERVICE	001	11.00	1.10	12.10
PST	POSTAGE	2.60/ACTUAL	001	2.60	0.26	2.86
						=====
						14.96

To THE CLERK OF THE COURT PRETORIA
Copy to (Your Ref.)
NICHOLLS, CAMBANIS, KOOPASAMMY & PILLAY
P O BOX 8694
JOHANNESBURG

2000


R. SCHILZ
SHERIFF - PRETORIA CENTRAL
P.O. BOX 478
PRETORIA - 0001
TEL: (012)320-8482/3/4/5

(EMP 1 1 of 3)

You may require this PRO FORMA statement to be taxed and vouched before payment.

IN THE MAGISTRATE'S COURT FOR THE DISTRICT OF PRETORIA
HELD AT PRETORIA

CASE NO : 72664/92

In the matter between : -

MBEKENI MAKIKI

Plaintiff

and

MINISTER OF DEFENCE

Defendant

FILING SHEET

PRESENTED FOR FILING BY : -

Brodano

NICHOLLS, CAMBANIS AND
SUDANO
PLAINTIFF'S ATTORNEYS
c/o ADAMS & ADAMS
SHORBURG
429 CHURCH STREET
PRETORIA
REF :

TO : THE CLERK OF THE COURT
PRETORIA

AND TO : THE STATE ATTORNEY
DEFENDANT'S ATTORNEYS
4TH FLOOR, FEDLIFE FORUM BUILDING
VAN DER WALT STREET
PRETORIA

Received copy hereof on this
the day of APRIL 1993.

FOR : DEFENDANT'S ATTORNEY

IN THE MAGISTRATE'S COURT FOR THE DISTRICT OF PRETORIA
HELD AT PRETORIA CASE NO : 72664/92

In the matter between : -

MBEKENI MAKIKI

Plaintiff

and

THE MINISTER OF DEFENCE

Defendant

AFFIDAVIT IN TERMS OF RULE 10

I, the undersigned,

BARBARA SUSAN SUDANO

do hereby make oath and say that : -

1. I am an attorney of the Supreme Court of South Africa (Transvaal Provincial Division), duly admitted and practising as such in partnership under the name and style of NICHOLLS, CAMBANIS AND SUDANO, at 23rd Floor, Kine Centre, 141 Commissioner Street, Johannesburg.
2. The facts herein contained are within my personal knowledge and belief and are both true and correct.
3. I am acting for the Plaintiff in this matter. Summons herein were issued at the Above Honourable Court on the 22nd September 1992. At the request of the Defendant, Plaintiff granted an extension for the entering of an Appearance to Defend by Defendant.


AD

4. On the 15th December 1992 Defendant's attorneys requested that the further exchange of pleadings in the above matter be held in abeyance pending the outcome of Supreme Court actions relating to the same facts as this matter. Attached hereto is a copy of a letter from the Defendant's attorneys marked "A" containing such request.
5. On the 15th December 1992 the Plaintiff agreed to such extensions as requested by the Defendant.
6. I therefore pray that the Summons shall not lapse until 12 months after the expiration of conclusion of the Supreme Court actions.

Boudene

DEPONENT

THUS DONE, SIGNED AND SWORN TO BEFORE ME AT JOHANNESBURG on this the 27 day of APRIL 1993. Deponent having affirmed that she knows and understands the contents of this affidavit, she has no objections to taking this oath and considers this oath binding on her conscience.

Disse

COMMISSIONER OF OATHS

AMANDA JOY DISSEL
COMMISSIONER OF OATHS
PRACTISING ATTORNEY
709 MEDICAL ARTS BUILDING
220 JEPPE STREET, JOHANNESBURG
REPUBLIC OF SOUTH AFRICA
23rd Floor (2nd Court)

322-0900/1/2
322-8522

X235

"GOVAT"

FAX 322 0177

FEDLIFE FORUM
SUIDTORING • SOUTH TOWER
Van der Waltstraat
Van der Walt Street
PRETORIA

Navrae:
Enquiries:

T W G BESTER



REPUBLIEK VAN SUID-AFRIKA • REPUBLIC OF SOUTH AFRICA

TWGB/MS

My Verw. 9875/92/C13
My Ref.
U Verw. Mr Sithole
Your Ref.

J417

DIE STAATSPROKUREUR
THE STATE ATTORNEY
Privaatsak X91
Private Bag
PRETORIA
0001

15 December 1992

Messrs Nicholls, Cambanis and Sudano
P O Box 8694
JOHANNESBURG
2000

Sirs

JACKIE HERBST AND THIRTY-THREE OTHERS / MINISTER OF DEFENCE

The telephonic discussion between writer and your Mr Sithole on 15 December 1992 refers.

I confirm that the further exchange of pleadings in the above matters will be held in abeyance pending the outcome of the various Supreme Court actions instituted in respect of the alleged assaults by members of the South African Defence Force at Phola Park, Tokoza on/or about 9 April 1992. Defendant does not, accordingly, require Plaintiff to take further steps in the prosecution of the above actions within twelve months of the date of service of the summonses commencing such actions. The details of the actions governed by this agreement appear in the annexure hereto marked "A".

Yours faithfully

T W G BESTER
FOR : STATE ATTORNEY (PRETORIA)

RS
AD

ANNEXURE "A"

<u>Case No:</u>	<u>Plaintiff</u>
1. 72637/92	Jackie Herbst
2. 72634/92	Joseph Keni
3. 72654/92	Lennox Bhedi
4. 72661/92	Steven Zali
5. 72652/92	Richard Roger
6. 72653/92	Malibongwe Mkhathana
7. 72643/92	Koekie Mofokeng
8. 72651/92	Colledge Nkwenkwezi
9. 72650/92	Nceba Somakile
10. 72663/92	Nelson Tsotetsi
11. 72659/92	Zwelinlangene George
12. 72658/92	Sizwe Arosi
13. 72646/92	Portia Rawu
14. 72649/92	Fumanekile Zweli
15. 72655/92	Ben Khesa
16. 72660/92	Ndudumo Mayekiso
17. 72662/92	Larrington Nogamia
18. 72638/92	Mxoleli Bambata
19. 72639/92	Lungile Gabhayi
20. 72640/92	Zolani Dina
21. 72665/92	Matthews Mahloma
22. 72666/92	Sampson Ngumla
23. 72667/92	Lennox Sinoko
24. 72645/92	Noweight Monco


BS
AD

Case No:

- 25. 72644/92
- 26. 72664/92
- 27. 72656/92
- 28. 72657/92
- 29. 72636/92
- 30. 72635/92
- 31. 72642/92
- 32. 72641/92
- 33. 72648/92
- 34. 72647/92

Plaintiff

- Nophumzile Bokoda
- Mbekeni Makiki
- Jojo Kuzani
- Amos Fumbatha
- Albert Goutyana
- Boy Tshetsha
- Peterson Sweli
- Walter Mnisi
- Priscilla Qaqane
- Nophakamile Khala



AD

CIVIL CLAIMS

1. Claimant: WIBEKEMI MAKIKI

(i) Full Name and Address of Claimant:

WIBEKEMI MAKIKI

L86 PHOLA PARK, TOKOZA, 1421

(ii) Occupation:

UNEMPLOYED

(iii) Date of Birth:

1971

(iv) Identity No:

T2618728

(v) Telephone Nos:

2. Particulars of Circumstances in which bodily injuries were sustained.

2 DATE & TIME OF INJURIES : 9/4/92 at ± 9am

2.1. Cause of injuries:

ASSAULTED WITH RIFLE BUTT, BOOTED FEET AND
STAMBOK

2.2. State injuries sustained: & how & where sustained

6 (6) SOLDIERS ASSAULTED CLAIMANT AS FOLLOWS: -

① Kicked on (R) cheek - Sustained swollen (closed) Right eye and swollen (R) cheek - sustained

(II) Assaulted with rifle butt on (R) hand - wound on (R) hand.

and severely swollen (R) Hand
(II) Assaulted once with a sjambok on
(L) arm - sustained 1 cut.

3. Medical Treatment.

3.1. Provincial / Private Hospital where claimant was treated:

MATA SPRUIT HOSPITAL

3.2. Was claimant treated by a private doctor? If so, names and telephone numbers are required.

3.3 Hospital No: _____ (LOST CARD).

3.4 Date of Admission and Date of Discharge:

9/4/92 - TREATED AND DISCHARGED.

5. Employment

5.1. Occupation:

UNEMPLOYED

5.2. Name and Address of Employer at date of Accident:

M/A

5.3. Period of his employment, from _____
to _____

M/A

5.4. Date of Resumption of Work:

M/A

5.5. Claimant's Income for the 12 months immediately preceding the incident:

M/A

6. Dependant's Claim (Where the deceased was the breadwinner and is survived by dependants). The following personal particulars of the deceased's surviving spouse and children are required:

DECEASED

6.1. Full Names and Addresses: of Dependants.
How much support receiving if parents (eg. RUCOPM)

M/A .

6.2. Relationship to deceased:

6.3. Date of Birth:

M/A .

6.4. Occupation: Income at Date of Death

M/A .

6.5. Name and Address of Employer at date of Death:

M/A .

6.6. His or her income for the 12 months immediately preceding the accident:

M/A

7. Injuries:

7.1. Brief discription of injuries: Does it effect their jobs or loss of amenties (eg. can't play football etc)

See para 2.2 above.

(R) HAND CAN'T HOLD HEAVY OBJECTS ANYMORE.

7.2 Pain - Is there still pain For how long was there severe pain & then mild pain.

SEVERE PAINS ! 2 WEEKS .
MILD MILD : 10 DAYS .

8. IDENTITY PARADE

8.1 Did you attend I.D. parade: NO.

8.2 Did you point someone out N/A.

8.3 Positive or Negative I.D. N/A.

8.4 If could not point someone out, why not
N/A.

9 Point out shack on map

10 miscellaneous

Collection Number: AK2702

Goldstone Commission of Enquiry into PHOLA PARK Records 1992-1993

PUBLISHER:

Publisher: Historical Papers, University of the Witwatersrand

Location: Johannesburg

©2012

LEGAL NOTICES:

Copyright Notice: All materials on the Historical Papers website are protected by South African copyright law and may not be reproduced, distributed, transmitted, displayed, or otherwise published in any format, without the prior written permission of the copyright owner.

Disclaimer and Terms of Use: Provided that you maintain all copyright and other notices contained therein, you may download material (one machine readable copy and one print copy per page) for your personal and/or educational non-commercial use only.

People using these records relating to the archives of Historical Papers, The Library, University of the Witwatersrand, Johannesburg, are reminded that such records sometimes contain material which is uncorroborated, inaccurate, distorted or untrue. While these digital records are true facsimiles of the collection records and the information contained herein is obtained from sources believed to be accurate and reliable, Historical Papers, University of the Witwatersrand has not independently verified their content. Consequently, the University is not responsible for any errors or omissions and excludes any and all liability for any errors in or omissions from the information on the website or any related information on third party websites accessible from this website.

This document is part of a private collection deposited with Historical Papers at The University of the Witwatersrand by the Church of the Province of South Africa.