

PH 466
IN THE SUPREME COURT OF SOUTH AFRICA
(WITWATERSRAND LOCAL DIVISION)

CASE NO : 92/26571

In the matter between : -

PHANGABANTU, WELILE

Plaintiff

and

MINISTER OF DEFENCE

Defendant

NOTICE IN TERMS OF RULE 35 (1)(6)(8) & (10)

BE PLEASED TO TAKE NOTICE that in terms of Rule 35(1), the Defendant is required to make discovery on oath within 20 (TWENTY) days from the date of service hereof, of all documents and tape recordings relating to any matter in question in this action which are or have at any time been in the possession or the control of the Defendant's, his attorneys or agents.

AND TAKE NOTICE FURTHER that in terms of Rule 35(8), Plaintiffs' require Defendant to furnish written particulars of dates and parties of or to any document or tape recording intended to be used at the trial in the above action. The Defendant is furthermore required within 15 days before the date of trial to furnish a notice : -

- a. Specifying the dates of and parties to the general nature of any document or tape recording which is in his possession;
- b. Specifying such particulars as he may have to identify any document or tape recording not in his possession, at the same time furnishing the name and address of the person in whose possession such document is.



AND TAKE NOTICE FURTHER that in terms of Rule 35(6) the Defendant having made discovery, is required to make available for inspection any documents or tape recordings so discovered.

AND TAKE NOTICE FURTHER that in terms of Rule 35 (10) the Defendant is required to produce at the hearing of this matter such documents or tape recordings as are discovered by them.

DATED at JOHANNESBURG on this the *9th* day of MARCH 1995.

CA Murch
NICHOLLS, CAMBANIS AND ASSOCIATES
PLAINTIFF'S ATTORNEYS
3RD FLOOR, 132 FOX STREET
JOHANNESBURG
REF : V.SITHOLE

TO :
THE REGISTRAR
SUPREME COURT
JOHANNESBURG

AND TO :
THE STATE ATTORNEY
DEFENDANT'S ATTORNEYS
10th Floor- Northstate Building
95 MARKET STREET
JOHANNESBURG
REF : 6670/92/P33/lvr
Mr.J.PRETORIUS



Received copy hereof on this the *10* day of March 1995.

[Signature]
DEFENDANT'S ATTORNEYS

GRIFTER VAN DIE HOOGGEREGSHOF
 (WITWATERSRANDSE PLAASLIKE AFDDELING)
 PRIVAATSAKKEDELEN LAG 27
 1992 -09-30
 JOHANNESBURG 2000
 (WITWATERSRAND LOCAL DIVISION)
 REGISTRAR OF THE SUPREME COURT

COMBINED

SUMMONS



Case No.: 92/26571

In the Supreme Court of South Africa

(WITWATERSRAND LOCAL DIVISION)

In the matter between:

WELILE PHANGABANTU

Plaintiff.

and

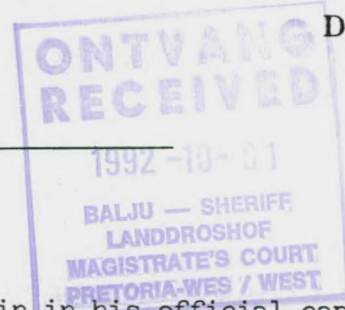
THE MINISTER OF DEFENCE

Defendant.

To the sheriff or his deputy:

INFORM

THE MINISTER OF DEFENCE, cited herein in his official capacity, as being the person legally responsible for the conduct of members of the South African Defence Force c/o the Chief of the South African Defence Force (Finance Division), South African Defence Force Headquarters, Dequar Road, Pretoria.



(hereinafter called the Defendant(s)) that

WELILE PHANGABANTU, an adult unemployed male resident at C99 Phola Park, TOKOZA.

(hereinafter called the Plaintiff(s)), hereby institutes action against HIM in which action the Plaintiff(s) claim the relief and on the grounds set out in the particulars annexed hereto.

INFORM the Defendant(s) further that if Defendant(s) disputes/dispute the claim and wishes/wish to defend the action, the Defendant(s) shall -

(i) Within 1 month ~~days~~ of the service upon the Defendant(s) of this summons, file with the registrar of this Court at Room 007, Supreme Court Building, Pritchard Street, JOHANNESBURG.

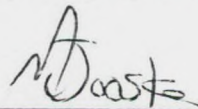
Notice of Defendant(s) intention to defend and serve a copy thereof on the Attorneys of the the Plaintiff(s), which notice shall give an address (not being a post office or poste restante) referred to in rule 19 (3) for the service upon the Defendant(s) of all notices and documents in the action.

(ii) Thereafter and within twenty days after filing and serving notice of intention to defend as aforesaid, file with the registrar and serve upon the Plaintiff(s) a Plea, Exception, Notice to strike out, with or without a Counter-claim.

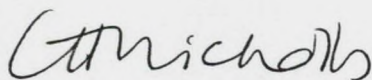
INFORM the Defendant(s) further that if the Defendant(s) fails/fail to file and serve notice as aforesaid, Judgment as claimed may be given against the Defendant(s) without further notice to the Defendant(s), or if having filed and served such notice, the Defendant(s) fails/fail to plead, except, make application to strike out or counter-claim, Judgment may be given against the Defendant(s)

AND immediately thereafter serve on the Defendant(s) a copy of this Summons and return the same to the Registrar with whatsoever you have done thereupon.

DATED at JOHANNESBURG this 30th day of SEPTEMBER 19 92.



Registrar of the Supreme Court



NICHOLLS, CAMBANIS & SUDANO

Attorneys of Plaintiff(s),

23rd Floor, Kine Centre
141 Commissioner Street
JOHANNESBURG
Ref. Ms C H Nicholls

ANNEXURE "A"

PARTICULARS OF CLAIM

1. Plaintiff is WELILE PHANGANBANTU, an adult unemployed male, whose date of birth is 4 June 1953, resident at C99 Phola Park, Tokoza.
2. Defendant is the MINISTER OF DEFENCE, cited herein in his official capacity, as being the person legally responsible for the conduct of members of the South African Defence Force, c/o the Chief of the South African Defence Force, (Finance Division), South African Defence Force Headquarters, Dequar Road, Pretoria.
3. On or about 8 April 1992, and at Phola Park, Tokoza, the Plaintiff was unlawfully assaulted, by a member, or members, of the South African Defence Force, acting within the course and scope of their employment with the Defendant.
4. As a consequence of this assault, Plaintiff sustained injury as follows:-
 - 4.1 bullet entry in right cheek bone, exit left cheek bone;
 - 4.2 four front teeth lost;
5. The disabilities suffered by plaintiff as a result of the injuries are as follows:-
 - 5.1 temporarily hospitalised for a period of one month;
 - 5.2 temporary inability to use the jaws, for a period of six weeks; jaws wired up for this period; reconstructive surgery required

6. As a result of the bodily injuries sustained, Plaintiff has suffered damages in the amount of R110 000,00.
7. Such damages are computed as follows:-

PAIN AND SUFFERING AND LOSS OF AMENITIES OF LIFE
AND CONTUMELIA

- 7.1 For pain and suffering, loss of amenities of life and contumelia, damages in the amount of R80 000,00.

DISFIGUREMENT

- 7.2 For permanent disfigurement of the facial features R30 000,00.

8. In the premises Defendant is liable to Plaintiff in the amount of R110 000,00
9. Despite demand, Defendant fails or refuses to pay the above amount of any portion thereof.

WHEREFORE PLAINTIFF CLAIMS

- i) the amount of R110 000,00.
- ii) interest on the above amount at the rate of 18.5% per annum as from 14 days of date of judgment to date of payment.

iii) costs of suit;

iv) further and/or alternative relief

DATED AT JOHANNESBURG THIS 18th DAY OF AUGUST 1992.

D J M Pitman

D J M PITMAN

COUNSEL FOR PLAINTIFF

C Nicholls

NICHOLLS AND CAMBANIS
PLAINTIFF'S ATTORNEYS
23RD FLOOR, KINE CENTRE
COMMISSIONER STREET
JOHANNESBURG
REF: VS/PP/50

IN THE SUPREME COURT OF SOUTH AFRICA

(WITWATERSRAND LOCAL DIVISION)

CASE NO: 92/26571
P/H 308

In the matter between:-

PHANGABANTU WELILE

Plaintiff

and

THE MINISTER OF DEFENCE

Defendant

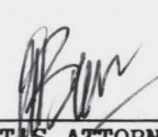
NOTICE OF INTENTION TO DEFEND

BE PLEASED TO TAKE NOTICE THAT the abovenamed Defendant intends to defend this action and has appointed the following address as the address for the service upon him of all notices and documents in the action:-

STATE ATTORNEY
888 ROYAL ST. MARY'S BUILDING
85 ELOFF STREET
PRIVATE BAG X9
J O H A N N E S B U R G

BUSINESS ADDRESS: S.A. DEFENCE FORCE HEADQUARTERS, DEQUAR ROAD,
P R E T O R I A.

DATED at JOHANNESBURG on this the 30 day of OCTOBER 1992.


DEFENDANT'S ATTORNEY
STATE ATTORNEY
888 ROYAL ST. MARY'S BUILDING
85 ELOFF STREET
PRIVATE BAG X9
J O H A N N E S B U R G

.... /2


REFER TO: G. BOWEN
REFER NO: 6670/92/P5/JC
TEL NO: 29 2961

TO:
The Registrar of the
above Honourable Court
J O H A N N E S B U R G

AND TO:
PLAINTIFF'S ATTORNEY
NICHOLLS, CAMBANIS, & SUDANO
23rd FLOOR, KINE CENTRE
141 COMMISSIONER STREET
J O H A N N E S B U R G

REF: Ms C.H. NICHOLLS

COPY HEREOF RECEIVED ON THIS
THE *3rd* DAY OF ^{*November*} ~~OCTOBER~~ 1992



For/PLAINTIFF'S ATTORNEY

WITHOUT PREJUDICE
TO RIGHTS

IN THE SUPREME COURT OF SOUTH AFRICA

(WITWATERSRAND LOCAL DIVISION)

Case Number : 92/26571

In the matter between:

PHANGABANTU, Welile

Plaintiff

and

MINISTER OF LAW AND ORDER

Defendant

DEFENDANT'S PLEA TO PLAINTIFF'S PARTICULARS OF CLAIM

1. AD PARAGRAPH 1:

Save to admit that Plaintiff is Welile Phangabantu, Defendant has no knowledge of the remaining allegations contained in this paragraph, accordingly denies same and puts Plaintiff to the proof thereof.

2. AD PARAGRAPH 2:

Defendant admits the contents of this paragraph.

3. AD PARAGRAPH 3:

3.1 Defendant denies the contents of this paragraph and puts Plaintiff to the proof thereof.

3.2 Alternatively and in the event of the Honourable Court finding that Defendant assaulted Plaintiff by shooting Plaintiff (which is denied) and thereby causing Plaintiff to sustain the injury as set out in paragraph 4.1 of Plaintiff's Particulars of Claim, Defendant pleads that:

3.2.1 the shooting was in self-defence; alternatively

3.2.2 the Plaintiff was shot and injured in cross-fire under circumstances where shots were being fired at members of the Defence Force, who returned fire in self-defence. Defendant furthermore pleads that the shooting by members of the Defence Force was necessary, reasonable and justifiable in order to avoid the

threat of imminent peril, as stated above.

4. AD PARAGRAPH 4:

Defendant denies the contents of this paragraph and puts Plaintiff to the proof thereof.

5. AD PARAGRAPHS 5, 6, 7 and 8:


Defendant denies the contents of these paragraphs and puts Plaintiff to the proof thereof.

6. AD PARAGRAPH 9:

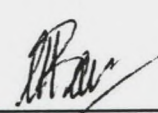
Defendant admits a demand and a failure or refusal to pay, but pleads that Defendant is not legally liable to pay the amount claimed or any portion thereof.

WHEREFORE Defendant prays that Plaintiff's claim be dismissed with costs.

DATED AT JOHANNESBURG ON THIS 2nd DAY OF DECEMBER 1992.



B ROUX
Defendant's Counsel




STATE ATTORNEY
Defendant's Attorneys
888 Royal St. Mary's Bldg
85 Eloff Street
JOHANNESBURG
Ref: Mr Bowen/6670/92/P5
Tel: 29-2961

TO: **THE REGISTRAR OF THE ABOVE
HONOURABLE COURT
JOHANNESBURG**

AND TO: **NICHOLLS & CAMBANIS
Plaintiff's Attorneys
23rd Floor
Kine Centre
Commissioner Street
JOHANNESBURG
Ref: VS/PP/50**

Received copy hereof on the
4th day of December 1992.



for: **Plaintiff's Attorneys**

WITHOUT PREJUDICE
TO RIGHTS

IN THE SUPREME COURT OF SOUTH AFRICA

(WITWATERSRAND LOCAL DIVISION)

CASE NO: 92/26571

In the matter between:-

PHANGABANTU WELILE

Plaintiff

and

THE MINISTER OF DEFENCE


Defendant

DEFENDANT'S NOTICE IN TERMS OF RULE 36 (4)

BE PLEASED TO TAKE NOTICE that the Defendant requires the Plaintiff in so far as he is able to do so to make available within 10 (ten) days after service hereof to the former any medical reports, hospital records, X-ray photographs or other documentary information of a like nature relevant to the assessment of the damages of compensation in respect of bodily injury alleged to have been suffered by the Plaintiff.

TAKE NOTICE FURTHER that the Defendant requires from the Plaintiff a consent to inspect all hospital records relating to the latter and that such consent should mention the hospitals' reference numbers as well as the dates on which the Plaintiff was treated.

DATED at JOHANNESBURG on this the 16 day of NOVEMBER 1992.


DEFENDANT'S ATTORNEY
STATE ATTORNEY
888 ROYAL ST. MARY'S BUILDING
85 ELOFF STREET
PRIVATE BAG X9
JOHANNESBURG

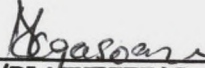
TO: THE REGISTRAR OF THE
ABOVE HONOURABLE COURT
JOHANNESBURG

REFER TO: G. BOWEN
REFER NO: 6670/92/P5/JC
TEL NO: 29 2961

AND TO:
PLAINTIFF'S ATTORNEYS
NICHOLLS AND CAMBANIS
23rd FLOOR, KINE CENTRE
COMMISSIONER STREET
JOHANNESBURG

REF: Ms C H NOCHOLLS

COPY HEREOF RECEIVED THIS THE
16 DAY OF NOVEMBER 1992


For/PLAINTIFF'S ATTORNEY

WITHOUT PREJUDICE
TO RIGHTS

PH 466
IN THE SUPREME COURT OF SOUTH AFRICA
(WITWATERSRAND LOCAL DIVISION)

CASE NO : 92/26571

In the matter between : -

PHANGABANTU, Welile

Plaintiff

and

THE MINISTER OF LAW AND ORDER

Defendant

NOTICE IN TERMS OF RULE 37

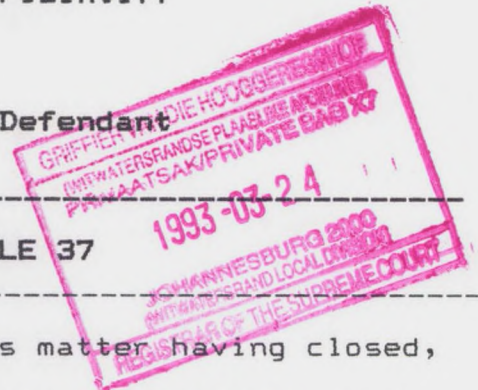
KINDLY TAKE NOTICE that Pleadings in this matter having closed, the Defendant is hereby requested to attend a conference at a mutually convenient time and place with the object of reaching a agreement of possible ways of curtailing the duration of the Trial in this action and in particular as to all or any of the matters mentioned in Rule 37(1)(a) of the rules of the Above Honourable Court.

DATED at JOHANNESBURG on this the 5 day of JANUARY 1993.

C. Nicholls

NICHOLLS, CAMBANIS,
AND SUDANO
ATTORNEYS FOR PLAINTIFF
23RD FLOOR, KINE CENTRE
141 COMMISSIONER STREET
JOHANNESBURG
REF : VS/PP/50

TO : THE REGISTRAR OF THE ABOVE
HONOURABLE COURT



AND TO : THE STATE ATTORNEY
DEFENDANTS ATTORNEYS
888 ROYAL ST.MARY'S BUILDING
85 ELOFF STREET
JOHANNESBURG
REF : Mr.Bowen/6670/92/P5

Received copy hereof on this
the 23 day of ~~JANUARY~~ 1993.
March

Mg

FOR : DEFENDANT'S ATTORNEYS

STAATSPROKUREUR
PRIVAATSAKPROKUREUR JOHANNESBURG 2000 ONTVANG SONDER BENADELING VAN RECHT
1993 -03- 23
RECEIVED WITHOUT PREJUDICE OF RIGHT
TYD/TIME 4:05
STATE ATTORNEY

IN THE SUPREME COURT OF SOUTH AFRICA

(WITWATERSRAND LOCAL DIVISION)

Case Number : 92/26571

In the matter between:

PHANGABANTU, Welile

Plaintiff

and

MINISTER OF DEFENCE

Defendant

NOTICE OF INTENTION TO AMEND DEFENDANT'S PLEA

BE PLEASED TO TAKE NOTICE that Defendant intends to amend his Plea as follows:

1. By deleting the citation of the Defendant as "*Minister of Law and Order*" and by substituting it with "*Minister of Defence*".
2. By the addition of paragraph 3.3 to paragraph 3 of Defendant's Plea (ad paragraph 3 of Plaintiff's Particulars of Claim):

"3.3 Alternatively and in the event of it being found that the Plaintiff was

shot by a member or members of the South African Defence Force, then the Defendant pleads as follows:

3.3.1 *In terms of Government Notice No. 13519, Proclamation No. R2242 of 9 September 1991, the Minister of Law and Order in terms of Section 5A(1) of the Public Safety Act, No. 3 of 1953, declared that public disturbance, disorder, riot and public violence were occurring or threatening in *inter alia* the Tokoza area, as demarcated and described in Government Notice No. 511 of 10 April 1959, as amended, as from 9 September 1991. In terms of Proclamation No. R2243, 1991, of 9 September 1991, the Minister of Law and Order in terms of Section 5A of the Public Safety Act proclaimed certain regulations ("the Regulations"). Proclamations R2242 and R2243 were valid and in force on 8 April 1992.*

3.3.2 *Regulation 12(1) of the Regulations provides that no civil proceeding shall be instituted against any member of the Cabinet of the Republic of South Africa or any member of a Security Force by reason of any act in good faith advised, commanded, ordered, directed or performed by any person in the carrying out of his duties or the exercise of his powers or the performance of his functions in terms of the Regulations as therein more fully provided, with the intent to combat or to prevent public disturbance, disorder, riot or public violence or to maintain or to restore public order or for dealing with any circumstances which in his opinion have arisen or are likely to arise as a result of such public disturbance, disorder, riot or public violence or the combating or prevention thereof.*

3.3.3 *The Defendant is a member of the Cabinet of the Republic of South Africa.*

3.3.4 *The member or members of the South African Defence Force, as alleged by the Plaintiff to have shot the Plaintiff, was a member/were members of a Security Force, as provided for in the Regulations.*

3.3.5 *The place at Phola Park, Tokoza, where the shooting allegedly took place, is a place where the said Proclamations were valid and binding as at 8 April 1992.*

3.3.6 *The shooting of Plaintiff was an act in good faith advised, commanded, ordered, directed or performed by a person or persons in the carrying out of his/their duties or the exercise of his/their powers or the performance of his/their functions in terms of the Regulations, as more fully provided in Regulation 12(1).*

3.3.7 *In the premises the Plaintiff has no cause of action as alleged and is not entitled to institute the said action."*

The Defendant tenders the wasted costs (if any) occasioned by the proposed amendment and subsequent amendment, save for the costs of opposition thereof.

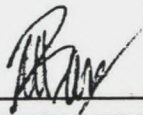
BE PLEASED TO TAKE FURTHER NOTICE that unless objection in writing is made

to the proposed amendment within ten (10) days, the Defendant will amend the pleading in question accordingly.

TAKE NOTICE FURTHER that if no objection in writing be so made, the Plaintiff shall be deemed to have agreed to the amendment.

If objection be made within the said period in terms of Rule 28(4) of the Rules of Court, the Defendant shall within ten (10) days of the receipt of such objection, apply to Court on notice for leave to amend and shall set the matter down for hearing.

DATED AT JOHANNESBURG ON THIS 5th DAY OF MARCH 1993.




STATE ATTORNEY
Defendant's Attorneys
888 Royal St. Mary's Bldg
85 Eloff Street
JOHANNESBURG
Ref: Mr Bowen/
6670/92/P5
Tel: 29-2961

TO: **THE REGISTRAR OF THE ABOVE
HONOURABLE COURT
JOHANNESBURG**

AND TO: **NICHOLLS & CAMBANIS**
Plaintiff's Attorneys
23rd Floor
Kine Centre
Commissioner Street
JOHANNESBURG
Ref: VS/PP/50

Received copy hereof on this the
...¹⁵... day of March 1993.



for: **Plaintiff's Attorneys**

WITHOUT PREJUDICE
TO RIGHTS

IN THE SUPREME COURT OF SOUTH AFRICA

(WITWATERSRAND LOCAL DIVISION)

Case Number : 92/26571

In the matter between:

PHANGABANTU, Welile

Plaintiff

and

MINISTER OF DEFENCE

Defendant

NOTICE IN TERMS OF RULE 28(5)

TAKE NOTICE THAT:

- (a) as the Defendant filed a Notice of Intention to Amend its Plea on 9 March 1993; and
- (b) as no objection was made in writing to this said notice of amendment;

the Defendant hereby files the amended pages to its Particulars of Claim.

DATED AT JOHANNESBURG ON THIS 1st DAY OF APRIL 1993.

Bow

STATE ATTORNEY
Defendant's Attorneys
888 Royal St. Mary's Bldg
85 Eloff Street
JOHANNESBURG
Ref: Mr Bowen/
6670/92/P5
Tel: 29-2961

TO: **THE REGISTRAR OF THE ABOVE
HONOURABLE COURT
JOHANNESBURG**

AND TO: **NICHOLLS & CAMBANIS**
Plaintiff's Attorneys
23rd Floor
Kine Centre
Commissioner Street
JOHANNESBURG
Ref: VS/PP/50

Received copy hereof on this the
.....² day of April 1993.

BC

for: **Plaintiff's Attorneys**

WITHOUT PREJUDICE
TO RIGHTS

IN THE SUPREME COURT OF SOUTH AFRICA

(WITWATERSRAND LOCAL DIVISION)

Case Number : 92/26571

In the matter between:

PHANGABANTU, Welile

Plaintiff

and

MINISTER OF DEFENCE

Defendant

**DEFENDANT'S AMENDED PLEA TO PLAINTIFF'S
PARTICULARS OF CLAIM**

1. **AD PARAGRAPH 1:**

Save to admit that Plaintiff is **Welile Phangabantu**, Defendant has no knowledge of the remaining allegations contained in this paragraph, accordingly denies same and puts Plaintiff to the proof thereof.

2. **AD PARAGRAPH 2:**

Defendant admits the contents of this paragraph.

3. AD PARAGRAPH 3:

3.1 Defendant denies the contents of this paragraph and puts Plaintiff to the proof thereof.

3.2 Alternatively and in the event of the Honourable Court finding that Defendant assaulted Plaintiff by shooting Plaintiff (which is denied) and thereby causing Plaintiff to sustain the injury as set out in paragraph 4.1 of Plaintiff's Particulars of Claim, Defendant pleads that:

3.2.1 the shooting was in self-defence; alternatively

3.2.2 the Plaintiff was shot and injured in cross-fire under circumstances where shots were being fired at members of the Defence Force, who returned fire in self-defence. Defendant furthermore pleads that the shooting by members of the Defence Force was necessary, reasonable and justifiable in order to avoid the threat of imminent peril, as stated above.

3.3 Alternatively and in the event of it being found that the Plaintiff

was shot by a member or members of the South African Defence Force, then the Defendant pleads as follows:

3.3.1 In terms of Government Notice No. 13519, Proclamation No. R2242 of 9 September 1991, the Minister of Law and Order in terms of Section 5A(1) of the Public Safety Act, No. 3 of 1953, declared that public disturbance, disorder, riot and public violence were occurring or threatening in **inter alia** the Tokoza area, as demarcated and described in Government Notice No. 511 of 10 April 1959, as amended, as from 9 September 1991. In terms of Proclamation No. R2243, 1991, of 9 September 1991, the Minister of Law and Order in terms of Section 5A of the Public Safety Act proclaimed certain regulations ("*the Regulations*"). Proclamations R2242 and R2243 were valid and in force on 8 April 1992.

3.3.2 Regulation 12(1) of the Regulations provides that no civil proceeding shall be instituted against any member of the Cabinet of the Republic of South Africa or any member of a Security Force by reason of any act in good faith advised, commanded, ordered, directed or performed by any person in the carrying out of his duties or the exercise of his powers or the performance of his

functions in terms of the Regulations as therein more fully provided, with the intent to combat or to prevent public disturbance, disorder, riot or public violence or to maintain or to restore public order or for dealing with any circumstances which in his opinion have arisen or are likely to arise as a result of such public disturbance, disorder, riot or public violence or the combating or prevention thereof.

3.3.3 The Defendant is a member of the Cabinet of the Republic of South Africa.

3.3.4 The member or members of the South African Defence Force, as alleged by the Plaintiff to have shot the Plaintiff, was a member/were members of a Security Force, as provided for in the Regulations.

3.3.5 The place at Phola Park, Tokoza, where the shooting allegedly took place, is a place where the said Proclamations were valid and binding as at 8 April 1992.

3.3.6 The shooting of Plaintiff was an act in good faith advised, commanded, ordered, directed or performed

by a person or persons in the carrying out of his/their duties or the exercise of his/their powers or the performance of his/their functions in terms of the Regulations, as more fully provided in Regulation 12(1).

3.3.7 In the premises the Plaintiff has no cause of action as alleged and is not entitled to institute the said action.

4. **AD PARAGRAPH 4:**

Defendant denies the contents of this paragraph and puts Plaintiff to the proof thereof.

5. **AD PARAGRAPHS 5, 6, 7 and 8:**

Defendant denies the contents of these paragraphs and puts Plaintiff to the proof thereof.

6. **AD PARAGRAPH 9:**

Defendant admits a demand and a failure or refusal to pay, but pleads that

Defendant is not legally liable to pay the amount claimed or any portion thereof.

WHEREFORE Defendant prays that Plaintiff's claim be dismissed with costs.

IN THE SUPREME COURT OF SOUTH AFRICA
(WITWATERSRAND LOCAL DIVISION)

CASE NO 92/26571

In the matter between:

PHANGABANTU, WELILE

Plaintiff

and

THE MINISTER OF DEFENCE

Defendant

DEFENDANT'S REQUEST FOR FURTHER PARTICULARS

The Defendant requests the following further particulars to the Plaintiff's particulars of claim:

1. AD PARAGRAPH 1

1.1 The Plaintiff is requested to furnish the Defendant with:

1.1.1 copies of his identity document and birth certificate;

1.1.2 his address at the time of the incident;

1.2 Is the Plaintiff a South African citizen?

1.3 If not, does the Plaintiff have permanent residence in South Africa or a work permit to work in South Africa and if so, documentary proof of same is required, alternatively full details thereof.

2. AD PARAGRAPH 3

2.1 The Plaintiff is requested to state precisely where in Phola Park he was assaulted by a member or members of the South African Defence Force.

2.2 The exact time of the alleged incident is required.

2.3 Was the Plaintiff assaulted inside or outside a building or structure? If inside any structures, then the full address thereof is requested.

2.4 How many members of the South African Defence Force assaulted the Plaintiff?

2.5 Was Plaintiff employed at the time of the alleged assault and, if so, full details of Plaintiff's employer are required.

2.6 Plaintiff is requested to give a description of each of the members responsible for Plaintiff's assault in order to enable Defendant to identify the said member(s).

2.7 Were the members clothed in uniform? If in the affirmative, were they clothed in:

2.7.1 neutria ("browns"); or

2.7.2 camouflage uniforms?

2.8 From which general direction was the Plaintiff shot?

3. AD PARAGRAPH 4

3.1 Plaintiff is requested to state the nature and extent of the injuries to the right cheek bone as well as the left cheek bone.

3.2 What was the cause of the loss of the four front teeth?

3.3 What was the nature, extent and duration of the treatment to:

3.3.1 the bullet entry wound in the right cheek bone as well as the exit on the left cheek bone;

3.3.2 the four front teeth that were lost?

3.4 Is it alleged that the Plaintiff sustained any neurological injuries? If in the affirmative, full particulars are requested.

3.5 A copy of the medico-legal report is requested.

3.6 Copies of all hospital records are requested.

4. AD PARAGRAPH 5

4.1 Plaintiff is requested to state separately the exact nature, duration and extent of the following disabilities:

4.1.1 the disability to use his jaw.

4.2 What caused the disability of the use of his jaw?

5. AD PARAGRAPHS 6 AND 7

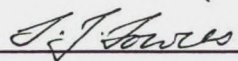
5.1 What is the nature, extent and duration of the pain and suffering and loss of amenities of life?

5.2 What is the nature, extent and duration of the disfigurement of Plaintiff's face?


DATED at JOHANNESBURG on this 22 day of JULY 1993.



BROUX



L J LOWIES
Defendant's Counsels



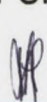
THE STATE ATTORNEY
Defendant's Attorney
888 Royal St Mary's Building
85 Eloff Street
JOHANNESBURG
TEL: 29-2961
REF: 6670/92/P5

TO:
THE REGISTRAR
OF THE ABOVE HONOURABLE COURT
JOHANNESBURG

AND TO:
NICHOLLS CAMBANIS & SUDANO
Plaintiff's Attorneys
23rd Floor, Kine Centre
Commissioner Street
JOHANNESBURG
REF: MRS C H NICHOLLS

RECEIVED COPY HEREOF ON THE

.....⁴ DAY OF JULY 1993.

 Aug

_____ for: PLAINTIFF'S ATTORNEYS

WITHOUT PREJUDICE

IN DIE HOOGGEREGSHOF VAN SUID-AFRIKA

(WITWATERSRAND SE PLAASLIKE AFDELING)

SAAK NR:- 92 / 26571

In die saak tussen:-

PHANGABANTU, WELILE

Eiser

en

MINISTER VAN VERDEDIGING

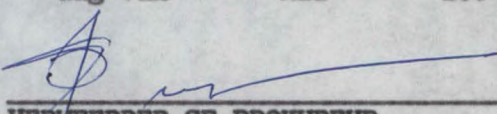
Verweerder

KENNISGEWING VAN ADRESVERANDERING

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DIE STAATSPROKUREUR
10de Vloer
North Stategebou
Marketstraat 95
H/v Kruisstraat
JOHANNESBURG
2001

GEDATEER te JOHANNESBURG op hierdie 18^e dag van MEI 1994.


VERWEERDER SE PROKUREUR
DIE STAATSPROKUREUR
Royal St. Mary'sgebou 888
Eloffstraat 85
Privaatsak X9
JOHANNESBURG
2001

Verwys na:- J. PRETORIUS / lvr
Verwys no:- 6670/92/P33
Tel No:- (011) 29 - 2961

...../2

AAN:-

Die Griffier van die
bogemelde Agbare Hof
JOHANNESBURG


EN AAN:-

EISER SE PROKUREUR
NICHOLLS & CAMBANIS
23ste Vloer
Kine Centre
Commissionerstraat
JOHANNESBURG
2001

Verw:- VS/PP/50

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Goldstone Commission of Enquiry into PHOLA PARK Records 1992-1993

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