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62 Tussen Road

Rylands Estate

CAPE TOWN

Cell no: 0825533530

Email: mushtakp@iafrica.com

Attention: Mr Sello Chiloane

The Secretariat of the Judicial Services Commission

Constitutional Court

188 Fourteenth Road

Noordwyk

MIDRAND

1687

Telephone: (010) 493 2575/2687

Email: chiloane@concourt.org.za or TPhaahlanohlaka@judiciary.org.za

Private Bag X10

Marshalltown

JOHANNESBURG

2107

Dear Mr Chiloane

**RE: APPLICATION FOR APPOINTMENT AS A JUDGE TO THE WESTERN CAPE
HIGH COURT DIVISION**

Attached herewith please find my application for the vacant post at the Western Cape High Court, with the supporting documents specified in the advertisement.

Please note that I have not stapled nor bound the bundle for ease of copying if need be.

Please note that the following documents are attached.

1. Letters of nomination from Yekiso, J and Attorney Nacerodien;
2. Acceptance of nominations;
3. Letters of support for the nomination from Rylands Gatesville Civic Association and the Habibia Soofie Institute Cape Town.
4. Completed and signed questionnaire;
5. Curriculum vitae;
6. The under listed judgments delivered by me in both the Eastern Cape Provincial Division in 2005 and the Western Cape Division during 2016 and 2017; and
7. Cape Law Society Certificate of Good Standing dated 19 June 2017.

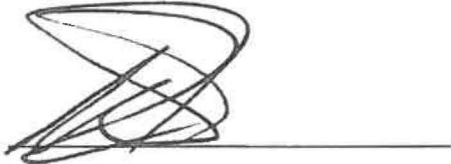
Judgments:

- a) ***Marlene Coetzer v Road Accident Fund Eastern Cape High Court case no: 115/01***
- b) ***The State v Phumulani Nyewe and 3 others Western Cape High Court case no: SS07/16*** – judgment convicting the accused delivered on 5 December 2016 and each upon 13 February 2017 sentenced to life imprisonment (Application for leave to appeal pending)
- c) ***Jacoba Hattingh v The State Western Cape High Court case no: A307/15*** – judgment delivered 28 October 2016
- d) ***Gideon Philip van der Watt v Antonis Hadjiantonis*** – declaratory in terms whereof a contract between the parties was held to be valid and enforceable
- e) ***David Gewelaar v The State*** – judgment delivered 5 May 2017
- f) ***Francisco Andrea Piantelli*** – High Court Ref no: 161304
- g) ***The State v Alfonso Seconds*** – Sentence ***Western Cape High Court Case no: SS32/16*** Sentence imposed on 15 June 2017
- h) ***Simon v Simon Western Cape High Court case no's: 2179/14; 8658/16 and 9086/16***. A very acrimonious dispute between ex-husband and wife re: contact and related matters of and regarding their minor 6 year old twin girls. The court order designed to ensure harmony and protection of the best

interest of the children going forward, given the obsessive and destructive conduct of the parents and particular the father.

Please acknowledge receipt hereof.

Kind regards

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the bottom, positioned above a solid horizontal line.

Mushtak Kassim Parker

JUDICIAL SERVICE COMMISSION

Private Bag X 10
Marshalltown
Johannesburg

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E-mail: chiloane@concourt.org.za/
TPhaahlamohlaka@judiciary.org.za

Physical Address: 188, 14th Road, Noordwyk, Midrand, 1687

QUESTIONNAIRE FOR CANDIDATES FOR JUDICIAL APPOINTMENT

SECTION 1: PERSONAL

1. What are your full names and surname
 - 1.1 Surname **Parker**
 - 1.2 Full names **Mushtak Kassim**
 - 1.3 Maiden name **N/A.....**
2. What is your address?
 - 2.1 Residential

62 Tussen Road
Rylands Estate
Athlone
Cape Town
 - 2.2 Postal

P O Box 130, Athlone
 - 2.3 Telephone Number

Code **(021) 637 8755** Mobile: **0825533530**
Work: **(021) 696 4140**
Email: **mushtakp@iafrica.com**
3. What is your date and place of birth?
 - 3.1 Date of birth : **25 June 1954**
 - 3.2 Place of birth : **Cape Town**

3.3 Citizenship : **South African**

3.4 Identity Number **5406255013082**

4. What is your marital status?

4.1

Married	Single	Divorced	Widower	Widow
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(Indicate with an "X")

4.2 Particulars of children

Number and ages of children

Three

Daughter - Rubeena Age 29

Daughter - Raheena Age 24

Son - Rayhaan Age 22

5. Please furnish particulars of your tertiary education.

5.1 Qualifications

B Proc

.....

5.2 Name of institution(s)

University of Durban Westville (2 years)

University of South Africa

5.3 Dates acquired

1980

6. Please furnish chronological particulars of employment since leaving school or university

<i>Name of employer</i>	<i>Position held</i>	<i>Period</i>
George Werner & Martin Attorneys	Candidate Attorney	1976 - 1980
Isaac Volkwyn, Warley and Associates	Candidate Attorney	1980 - 1981
E Moosa and Associates	Associate, 1981 - 1982; Partner 1983 - 1991	1981 - 1991
Mushtak K Parker	Founder and Sole	1992 - 2005

Attorneys	Practitioner	
Eastern Cape High Court	Acting Judge	October – November 2005
Parker and Khan Inc. Attorneys	Founder and Managing Partner	2005 – present
Western Cape High Court	Acting Judge	10 October – 15 December 2016 30 January 2017 – 30 March 2017 10 April 2017 – 30 June 2017

7. Please furnish chronological particulars of your membership of legal organizations – Past and Present.

<i>Name of organization</i>	<i>Position held</i>	<i>Period</i>
STEERING COMMITTEE leading to formation of National Association of Democratic Lawyers (NADEL)	Member	1985 - 1986
NADEL	Member	1987- 1995
CAPE LAW SOCIETY Member and serving on various sub-committees. - Member of Criminal Law and Procedure Sub-committee of the Cape Law Society	Member	Approximately 20 years
Sub-committee of Law Society of South Africa dealing with matters of RAF/MVA/Personal Injury	National Chairperson	2002 - 2004
Active participant both as an ordinary member and as a member of the Executive of RAVA (Road Accident Victims Association)	Member	Approximately 2 years
Southern Suburbs Attorneys Association	Member	Approximately 10 years

Examiners Committee to Cape Law Society	Examiner - marking scripts, conducting orals for admission of attorneys to the profession	Approximately 20 years
Wynberg Small Claims Court Advisory Committee	Member	Approximately 2 years

8. Please furnish particulars of your membership of any political organization – past and present

<i>Name of organisation</i>	<i>Position held</i>	<i>Period</i>
.....
African National Congress	Member	8 years

9. Please furnish particulars of community and other organizations of which you are or have been a member in the past ten years.

1. **Rylands Gatesville Civic Association**
2. **Habibia Soofie Institute Cape Town**

10. Are you now or have you ever been a member of a secret organization?

YES	<input checked="" type="checkbox"/>
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(Indicate with an "X")

If so, please identify the organization and the dates of membership.

.....

11. Is there anything about the state of your health which should be disclosed to the commission?

<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO
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 (Indicate with an "X")

If so, please state.

I am healthy other than being a Type 2 diabetic. This does not affect my daily life or my work at all. My diabetes has been under control for many years and has never caused me to miss a day of work.

SECTION 2: LEGAL BACKGROUND

1. Please outline your entire career in the law giving an indication of your principle areas of legal interest and involvement.

- Commenced serving 5 year articles in 1977, whilst concurrently completing my law degree (B.Proc) through UNISA. I was fortunate to be exposed to many areas of practice during this time.
- After completing my articles, I commenced practice as an associate (professional assistant) with E Moosa and Associates, where I worked closely with the late Judge Essa Moosa. During my employment at E Moosa and Associates, initially and later as a partner for approximately 8 years, I was responsible for the management of the office, which at some stage comprised a staff compliment of approximately 40. Importantly, I was responsible for the litigation side of the practice, with particular emphasis on criminal trials. I was most fortunate to be involved in many human rights violation-related/unrest-related trials in which some high profile activists were brought before court.
- Since commencing practice for my own account, firstly as Mushtak K Parker Attorneys and thereafter, until now, as a senior director at Parker and Khan Inc. Attorneys I have had a relatively varied practice consisting of:-
 - Criminal litigation;
 - Personal injury matters;
 - Labour Law matters;
 - Liquidation/Sequestrations;
 - Family Law;
 - Corporate and Commercial matters.

2. If you have any publications in the field of law please list them and identify those which you regard as most significant and state shortly why you regard them as significant.

NONE

.....

.....

3. In regard to major publications indicate by whom they have been reviewed.

NONE

4. If any of your writings have been cited in judicial decisions please identify those decisions and indicate whether the citing was with approval.

NONE

.....

.....

5. If you have any publications outside the field of law please list them.

N/A

.....
.....
5.1 In regard to these publications please indicate by whom they have been reviewed.

N/A
.....

6. **Court experience**

6.1 Do you appear in court

Frequently	Occasionally	Not at all
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(Indicate with an "X")

Please give details.

In the early part of my practice, I appeared mainly in the Regional Courts in the entire Western Cape. I was in court almost every day of the week for approximately 20 years. During this period, I often instructed counsel and attended on trials in the High Court, mainly criminal matters, but also some civil matters.

In recent years (approximately 20 years) I have practiced in the High Court in the Western Cape, appearing personally, and representing clients in a range of matters. I have often argued appeals personally both before an appeal bench comprising of 2 judges as well as the Full Bench.

I have also on numerous occasions attended on matters in the Supreme Court of Appeal as the instructing attorney.

6.2 What proportion of your litigation work has been in the field of :

6.2.1 Criminal law

55%

6.2.2 Administrative law

5%

6.2.3 Constitutional law

5%

6.2.4 Labour law

10%

6.2.5 Other areas of civil law (specifically the general areas involved e.g personal injury, tax, shipping, intellectual property, divorce, etc.)

25% (Medical injury claim, personal injury matters, liquidations and sequestrations, commercial matters; family law; labour law; company law).

6.3 Which cases in which you have appeared (not more than ten) would you regard as being the most significant and why?

a. *GALLIE N.O. V NATIONAL EMPLOYERS GENERAL INSURANCE COMPANY LTD 1992 (2) 731 (CPD)*

This case concerned a claim for damages arising from a motor vehicle accident where the injured was a young child of 6 years old. The challenge during the trial on the merits before King, J, concerned the challenge of presenting the evidence of such a young child 4 years after the accident (when the child was still only 10/11 years old). It also centered on the highly technical expert evidence of an accident reconstruction scientist from the University of Cape Town. The later hearing on *quantum* before Tebbut, J concerned the rate of interest at which future loss of earnings was to be capitalized and allowing discount for contingencies. It was at a time when the future economic scenario in South Africa was very uncertain and the tension was between whether to adopt a conservative or a robust approach in determining the rate to be applied. After much expert evidence in this regard, the court adopted a conservative approach and applied a rate of 1.5% as a nett capitalization rate. This case was particularly important at a time when South Africa's political environment was extremely volatile and its impact on the future economy uncertain.

b. *STATE V MCKENNA 1998 (1) SACR 106 (C)*

Contempt of court – contraventions of section 108 (1) of the Magistrate's Court Act 32 of 1944/ an application of the *audi alteram partem* principle.

In this case, an on-duty prosecutor was ordered to be arrested and was in fact arrested by the court orderly for contempt of court. Just prior to this incident, many prosecutors had held a meeting and resolved to embark upon a certain course of conduct, the effect of which was that court sittings would thenceforth begin at 11h00 instead of 09h00, as was officially prescribed. The Magistrates were informed accordingly. On this particular day, the court to which the prosecutor had been assigned convened at 11h00. When the Magistrate enquired about the reason for the delay, the prosecutor explained the resolution that had been taken. The Magistrate found this explanation to be unacceptable and warned her that if on the following day the court did not start at 09h00, that she would be held in contempt of court, and that in such event, she was warned to have her legal representative present. When the court commenced at 10h15 the following day, the Magistrate immediately initiated contempt proceedings against the prosecutor. The prosecutor was duly held to be in contempt of court in *facie curiae*. The Magistrate acquired information without the knowledge of the accused, which information he used to reject the prosecutor's

explanation for the delay. The information had never been disclosed to the prosecutor. Ngcobo, J revisited the notion of contempt *in facie curiae* and found that the Magistrate had committed a gross irregularity by disregarding the *audi alterum partem* rule. The conviction was set aside both on this ground as well as the fact that the appeal court had found that the conduct of the prosecutor was not covered by section 108 of the Magistrates Court Act.

c. *MATHEYSE V ACTING PROVINCIAL COMMISSIONER CORRECTIONAL SERVICES AND OTHERS* (2001) 22 ILJ 1653 (LC)

In this case, the Labour Court interpreted the concept of ‘demotion’ in the labour relations context. Mr. Matheyse had been demoted without his salary being reduced and the court found that a wider definition of the concept of ‘demotion’ in the labour relations context is applicable, holding that it applies even where employees retain their salaries, attendant benefits and rank, but have suffered a reduction or diminution on their “*dignity, importance or responsibilities*” or in their “*power or status*”.

d. *NXELE V CHIEF DEPUTY COMMISSIONER CORPORATE SERVICES* (2006) 27 ILJ 2127 (LC) [2006] BLLR 960 (LC); and

***NXELE V CHIEF DEPUTY COMMISSIONER CORPORATE SERVICES* (2008) 29 ILJ 2127 (LAC)**

In this matter which commenced in the Labour Court and ended up in the Labour Appeal Court, Mr. Nxele sought to have the decision transferring him from his post, and the decision of transferring someone else to his post, reviewed and set aside. In addition, he sought an order interdicting the respondents from taking any disciplinary action against him for his failure to report for duty at the post to which an attempt was being made to transfer him. The transfer policy of the Department of Correctional Services also came under close scrutiny in the various stages of the trial as did the *audi alteram partem* rule. The decision to transfer Mr. Nxele was reviewed and set aside by the Appeal Court.

e. *JACOBS V CHAIRMAN, GOVERNING BODY RHODES HIGH SCHOOL AND OTHERS* 2011 (1) SA 160 (WCC); and

***LONG AND ANOTHER V JACOBS* (145/11) [2012] SCA 58 (2 APRIL 2012)**

In this matter, the plaintiff Ms. Jacobs had been assaulted by a learner under circumstances where the school principal had been aware of the risk of the assault, but failed to take any measures to prevent this. In the Western Cape Court, Moosa, J found in favour of Ms. Jacobs, the plaintiff, and awarded her damages. The principal, Keith Long and the Western Cape Education Department took the decision of Moosa, J on appeal to the Supreme Court of Appeal, where the latter court looked at what constituted negligence under these circumstances and whether or not the conduct of the principal in failing to

prevent the assault on becoming aware of the death threats made by the learner against the educator constituted negligence. The court also looked at the apportionment of damages and when an appeal court may interfere with a narrow exercise of judicial discretion by the trial court in assessing apportionment. The SCA dismissed the appeal and confirmed the substantial compensation awarded by the *court a quo*.

- f. *THE DEPARTMENT OF CORRECTIONAL SERVICES AND ANOTHER V POPCRU (2011) 32 ILJ 2629 (LAC) and*

THE DEPARTMENT OF CORRECTIONAL SERVICES AND ANOTHER V POPCRU 2013 (4) SA 176 (SCA); (2013) 34 ILJ 1375 (SCA)

This matter commenced in the Labour Court, Cape Town, proceeded to the Labour Appeal Court, and was ultimately argued in the Supreme Court of Appeal. At the heart of the matter was the issue of the dismissal of a number of correctional officers mainly because they refused to cut their dreadlocks which had been grown for religious reasons. The SCA eventually established that the dismissal was automatically unfair as it was based on unfair discrimination on the basis of culture, gender and religion. These correctional officers had been unemployed since dismissal for a period of 6 years until reinstated by the SCA in 2013. Despite the SCA's ruling they are still battling today to get full compensation for the unlawful dismissal, though they were reinstated after some time. There are still proceedings pending in this matter in the Western Cape High Court.

- g. *THE STATE V THEMBANI BAMBA UNREPORTED JUDGMENT IN THE SCA CASE NO: 20089/14*

A case particularly close to my heart involves a policeman convicted of murder, based on misleading evidence presented by the accused's attorney, doing the accused a huge disservice/injustice, primarily because of not consulting properly with the accused, nor taking proper and sufficient instructions and simply not applying his mind to the issues. I was instructed to take over the appeal. Fortunately, after a very long battle and many hurdles, the conviction was set aside. Despite the many obstacles faced, I refused to give up until the client was vindicated and acquitted.

- h. *THE STATE V GABRIEL TREVOR LOUW UNREPORTED JUDGMENT IN THE WESTERN CAPE HIGH COURT CASE NO: A334/14*

In this matter, I represented the appellant during the trial in the *court a quo* in the Regional Court, as well as through two different phases of appeal before the Western Cape High Court. First, before a split bench consisting of two judges, and then later before a full bench of 3 judges. This matter is of particular significance because I believed that the appellant had been incorrectly convicted in the *court a quo*. The accused had come to terms with his conviction and sentence of life imprisonment and was unable to proceed with the appeal due to lack of funds. Nevertheless, I undertook the appeal without any security for payment, purely because I believed, having applied my mind to the law and facts, that he was incorrectly convicted. Ultimately, the appeal was upheld and his conviction was set aside, thus securing his freedom.

- 6.4. List all the reported cases in which you appeared as instructing attorney.

All reported cases listed in 6.3 above.

- 6.5. In regard to any of the said reported cases, which do you regard as having the most significance and why? (Deal with not more than ten cases)

a. *JACOBS V CHAIRMAN, GOVERNING BODY RHODES HIGH SCHOOL AND OTHERS 2011 (1) SA 160 (WCC)*

In this case, the plaintiff Ms. Tanya Jacobs, had been so severely assaulted by the learner that she was rendered unable to teach for the rest of her life. Her career as a young teacher was destroyed for good. She was not only assaulted by the pupil, but was treated badly by the school principal as well as the local department of education. She was not only psychologically broken, but financially unable to take on the mighty Western Cape Education Department. The Education Department's attitude was of out litigating her and not at all sensitive to her plight. The litigation in this matter lasted, on a contingency basis, roughly for ten years before being finalised and the decision of Moosa, J being upheld on appeal to the SCA.

b. *MATHEYSE V ACTING PROVINCIAL COMMISSIONER CORRECTIONAL SERVICES AND OTHERS (2001) 22 ILJ 1653 (LC)*

This case focused on the demotion of an employee who was subjected to the abuse of power by an employer. The judgment re-interpreted the meaning of demotion and highlighted that employment is also linked to one's dignity, importance, responsibilities, power or status, not simply the monetary benefits of a salary or wages.

c. *THE DEPARTMENT OF CORRECTIONAL SERVICES AND ANOTHER V POPCRU (2011) 32 ILJ 2629 (LAC) and*

THE DEPARTMENT OF CORRECTIONAL SERVICES AND ANOTHER V POPCRU 2013 (4) SA 176 (SCA); (2013) 34 ILJ 1375 (SCA)

This matter went to the heart of the Constitution and dealt with discrimination. It was a case of victimization of the correctional services officers purely on the grounds of religion and culture. Each of the correctional officers was hard-working, honest and had immense integrity with no prior blemishes on their working records. For me, this treatment was reminiscent of the previously marginalised and discriminated against victims of Apartheid. This served as extra motivation for me to pursue justice for these men relentlessly. This also represented an opportunity for to see and facilitate that the Constitution being upheld.

7. Apart from your practice as an advocate or attorney or your employment in the academic world, have you been involved in any activities having a bearing on your legal experience e.g. as an

adviser to a community law centre or advice office, sitting as a commissioner in the small claims court, organising, or addressing legal conferences, etc.?

(Indicate with an "X")

If so, give full details including dates and the nature and extent of your involvement.

- a. **Providing pro bono advice to the Local Civic as well as the neighbourhood organization in the area where I live.**
- b. **Annually addressing the Criminal Law and Procedure seminar on various topics such as plea bargaining; preparation of trial and sentencing, and general trial advocacy. These trial advocacy seminars are targeted at candidate attorneys or young practitioners.**
- c. **Attended Commonwealth Conference of Judges and Magistrates – Edinburgh and participated in the project entitled ‘Developing Justice in the 21st Century’, September 2000.**
- d. **Attended six week course in Human Rights – conference commenced in Eastern Cape for 2 weeks and was then completed in Stockholm Sweden during 1998.**
- e. **Serving as a Small Claims Commissioner at Wynberg Magistrate’s Court since September 1999.**
- f. **Have attended various short seminars on Labour Law related issues, personal injury and medical negligence matters.**

8. Have you any relevant judicial or quasi-judicial experience e.g. as chairman or a member of a commission of enquiry, or any type of disciplinary board?

YES	NO
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(Indicate with an "X")

If so, please give full details of such experience including dates.

- a. **Acting Judge Eastern Cape High Court, October–November 2005.**
- b. **Acting Judge Western Cape High Court October, 2016–present.**
- c. **Chairman of the National Sub-Committee of the Law Society of South Africa dealing with personal injury matters.**
- d. **Chairing disciplinary committees primarily on behalf of employers.**
- e. **Presided in numerous disciplinary hearings particularly at the University of Western Cape.**

- f. I have been serving as an active member of the Small Claims Court Advisory Committee at Wynberg Magistrates Court.
- g. Have been an examiner at the Cape Law Society marking scripts and conducting orals for the candidate attorneys' admission exam.
- h. Have been a member of the Cape Law Society Criminal Law and Procedure Sub-committee as well as the MVA and Personal Injury Sub-Committee, for approximately 20 years.
- i. Made submissions to the Sathchwell Commission of Inquiry into the road accident fund and the restructuring of MVA compensation.
- j. Founder and active member of the management committee at the Wynberg Magistrates Court which was an association of magistrates, prosecutors and attorneys attending to the day to day affairs of the court to ensure smooth functioning and also to monitor professional conduct of the attorneys' profession. This committee functioned for approximately 2 years. This was done during the unsure political turmoil and hostile period of Apartheid with the sole purpose was to ensure collegiality).

8.1.1 Have you acted as a magistrate? (indicate

YES	NO
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 with an "X")

The Regional Court Western Cape, Wynberg for the period January to March 2000, and intermittently thereafter for approximately 2 – 3 years.

8.1.2 When were you appointed as such?

January 2000

8.1.3 In which district or regional division have you so acted?

Regional Division of the Western Cape

8.1.4 Please give details of your main functions and duties.

Presided over various trials and opposed bail applications. I heard approximately 40 bail applications and presided over 28 trials. In most of these bail application and trials I was able to hand down *ex tempore* judgments without having to reserve a decision in any matter.

8.1.5 If not already furnished above, please give full details of your experience as a magistrate including dates of postings.

N/A

9. If you have sat as an acting judge:

9.1 In which division were you appointed?

Eastern Cape Provincial and Local Divisions

Western Cape High Court

9.2 Please give the dates of your appointment.

Eastern Cape Division: October-November 2005

WESTERN CAPE HIGH COURT:

- **10 October 2016 - 15 December 2016**
- **30 January 2017 - 30 March 2017**
- **18 April 2017 - 30 June 2017**

9.3 Did you sit in both civil and criminal courts?

YES	NO
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(Indicate with an "X") Please give details.

I presided over both civil and criminal trials

I presided in Third Division/Motion Court during January 2017 and March 2017

Heard various opposed motions as well as criminal and civil appeals

9.4 Have any of your judgments been taken on appeal?

YES	NO
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(Indicate with an "X") What was the result of the appeal?

Two matters – one Criminal and one civil application for leave to appeal pending

9.5 Please list any reserved judgments still outstanding and the date(s) on which judgment was reserved.

Paarl Pty Ltd (formerly Paarl Printing Print (Pty) Ltd) v Saint Gobain Siover South Africa (Pty) Ltd and others Western Cape High Court case no: 2686/12 – judgment reserved 11 May 2017

9.6 Are there any partly-heard matters which you should bring to the attention of the Commission?

If so, please furnish particulars.

At the time of completion of this application I have one partly heard criminal matter of *M Arendse & 3 Others* case no: SS43/16, commenced on 22 May 2016 and remanded

to 7 August 2017 for further evidence. I also have a partly heard civil trial of *EQM Hunter v Herbal Zone and 3 Others* Case no: 1163/16 commenced on 7 June 2017 and postponed to 14 August 2017 for further evidence.

9. What would you regard as your most significant contribution to the law and the pursuit of justice in South Africa?
- a. Helped launch and was involved in the project which saw attorneys and advocates appointed as acting Regional Court Magistrates on a no-remuneration basis in order to reduce the work load for Magistrates at the Regional Courts. This project was subsequently adopted in other provinces such as Kwa-Zulu Natal.
 - b. Participated researching the White Papers and drafting submissions on the White Papers on motor vehicle accident/RAF legislation.
 - c. Representing numerous victims of oppressive Apartheid laws. Whenever the opportunity presented itself, attending to the legal and other needs of human rights activists. During the height of the unrest, representing accused persons, initially without being paid, and later being compensated marginally by the South African Counsel of Churches.
 - d. Attending and making contributions to various Law Society sub-committee activities, without compensation.
 - e. Throughout my career, I have gone out of my way to mentor young and inexperienced practitioners. I have had the privilege of being a principal to many candidate attorneys, some of whom have reached important positions in the profession and even in the judiciary. I was fortunate to offer guidance and training to:
 - The Honourable Goliath DJP, Western Cape High Court.
 - The Honourable Waglay JP, Labour Court.

SECTION 3: FINANCIAL AND PROPRIETARY

1. Please list all directorships you hold and other interests in businesses which you have held in the past ten years.

A director of the law firm Parker and Khan Incorporated

2. What steps do you propose to take in regard to your directorships and private business interests if you are appointed to the bench?

Resign as Director of the company

SECTION 4: GENERAL

1. Are there any circumstances, financial or otherwise, known to you which may cause you embarrassment in undertaking the office of a judge?

YES	<input checked="" type="checkbox"/>
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 (Indicate with an "X")

If so, please furnish particulars.

.....

.....

.....

2. Have you ever been convicted of any offence involving dishonesty, violence, or any other disreputable, dishonourable conduct?

YES	<input checked="" type="checkbox"/>
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 (Indicate with an "X")

If so, please furnish full particulars and dates.

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.....

.....

3. Has any legal professional body ever found you guilty of any unprofessional or disgraceful conduct?

YES	<input checked="" type="checkbox"/>
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 (Indicate with an "X")

If so, please furnish particulars.

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4. Is there any other relevant matter which you should bring to the attention of the commission?

YES	<input checked="" type="checkbox"/>
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 (Indicate with an "X")

If so, please furnish particulars.

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.....
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.....



A stylized, handwritten signature in black ink, consisting of several overlapping loops and curves, positioned above a solid horizontal line.

SIGNATURE



A handwritten date in black ink, written as '28/06/17', positioned above a solid horizontal line.

DATE

MUSHTAK PARKER

62 Tussen Road | Rylands Estate | Athlone | Cape Town

021 637 8755

0825533530

mushtakp@iafrica.com

PROFESSIONAL PROFILE

I am an admitted attorney, practising for over three decades. During this time, I have developed considerable expertise in various areas of law. My particular interests are in litigation, and more specifically, conducting trials in court. In fact, most of my time as an attorney has been spent in court rooms rather than in an office. In my formative years as a practising attorney, I was involved in many political or unrest-related cases, which taught me to work under pressure, where the stakes were high, representing the vulnerable and marginalised. Later, running my own practice successfully for 25 years taught me to be decisive and receptive to the ideas and work of others. My experience and my love and commitment to the law has equipped me to critically reason and apply my mind to complex matters in applying the law to a given set of facts. I am currently an acting judge of the Western Cape High Court, completing a fourth term.

PROFESSIONAL HISTORY

Acting Judge Western Cape High Court	October 2016–present
Founder and Managing Partner: Parker & Khan Inc.	2005–present
Acting Judge Eastern Cape High Court	October–November 2005
Founder and sole practitioner Mushtak K Parker Attorneys	1992–2005
Associate then Partner: E Moosa & Associates	1981–1991 (Partner 83–91)
Candidate Attorney: Isaac Volkwyn Warley & Associates	1980–1981
Candidate Attorney: George Werner & Martin Attorneys	1976–1980

PROFESSIONAL EXPERTISE

Legal Expertise

- Specialised in litigation since being admitted to the profession in 1981. My experience in my earlier years of practice was primarily gained in Regional Court litigation.
- In the Regional Court, conducted various trials relating to cases of unrest prevalent in Apartheid South Africa in the 1980s.
- Since attorneys were afforded rights to appear in the High Court, I have appeared

frequently in the High Court.

- Spent about 65% of my career litigating, initially in criminal matters, and later, in labour, commercial and civil litigation.
- Acted as instructing attorney in numerous matters argued successfully in the Supreme Court of Appeals.
- Acted as instructing attorney in the matter of *Jacobs v Chairman of the Governing Body Rhodes High School, MEC for Education Western Cape Education Department & Others* 2011 (1) SA 160 (WCC), which judgment is reported.
- Acted as instructing attorney in the matter of *Lebatlang v Department of Correctional Services*, finalised in the Supreme Court of Appeal.
- Acted as instructing attorney in the matter of *Nxele v Department of Correctional Services*, finalised in the Labour Appeal Court.
- Personally argued many successful appeals in the Western Cape High Court.
- Experience in the drafting of court papers, including particulars of claim and applications.
- Drafting opinions in various areas of law.
- Drafting sale of shares agreements, commercial leases, deeds of sale, suretyships and other commercial agreements.
- Experience in personal injury matters, medical negligence, property, family law, estates, company liquidations and sequestrations.

Leadership and Management Expertise

- During my time at E Moosa & Associates, my senior colleagues, including the late Judge Moosa, spent most of their time outside of the office, running matters. I was therefore tasked, at a very early stage of my career, with the management of the business and a growing practice. Soon, I was managing between 35 – 40 employees and professional staff.
- I was privileged to have mentored many candidate attorneys, or article clerks, as they were previously called, some of whom have reached important positions. I was fortunate to offer guidance and training to:
 - The Honourable Goliath DJP, Western Cape High Court.
 - The Honourable Waglay JP, Labour Court.
- Due to the nature and circumstances of the human rights and unrest-related work, as well as the volume of work at E Moosa & Associates, I was required to work with and render services to people from all walks of life. I engaged activists and also regularly had to interact with luminaries like the late Cabinet Minister Dullah Omar, The Honourable Desai J, the retired Cabinet Minister Trevor Manuel and many more.
- Starting and running my own practice required strong leadership and management skills. It required an understanding of more than the law.
- Over the years, and at every stage of my career, I have prioritised the training and mentoring of candidate attorneys. Training of new legal minds is particularly important to me.

JUDICIAL AND OTHER INITIATIVES

- Acting Judge Eastern Cape High Court, October–November 2005.
- Acting Judge Western Cape High Court October, 2016–present.
- Helped launch and was involved in the project which saw attorneys and advocates appointed as acting Regional Court Magistrates on a no-remuneration basis in order to reduce the work load for Magistrates at the Regional Courts. This project was subsequently adopted in other provinces such as Kwa-Zulu Natal.
- I was the first attorney to preside as an acting Regional Court Magistrate on contract for a period of approximately 3 months from January 2000 to March 2000. During this time, I presided at Wynberg Magistrates' Court dealing with all the matters on the roll in both Regional Court "B" as well as in Sexual Offences Courts.
- I continued to act regularly in the Regional Court, until approximately 2002.
- During my time as Acting Regional Court Magistrate, I managed to complete approximately 40 opposed bail applications and 28 trials. In most of these bail application and trials I was able to hand down *ex tempore* judgments without having to reserve a decision in any matter.
- Member of the Management Committee at Wynberg Magistrates' Court, an association of Magistrates, prosecutors and attorneys attending to the day to day affairs of the Court to ensure its smooth functioning and also to maintain professional conduct of members of the profession.
- Attended Commonwealth Conference of Judges and Magistrates – Edinburgh and participated in the project entitled '*Developing Justice in the 21st Century*', September 2000.
- I have been serving as Commissioner for Small Claims Court in Wynberg from September 1999.
- Served as an Assessor in the High Court.
- Presided in numerous disciplinary hearings particularly at the University of Western Cape.
- Represented many employees at the CCMA.

PROFESSIONAL AFFILIATIONS

- Participated in the activities of a Steering Committee of the organisation which is now known as NADEL (National Association of Democratic Lawyers).
- Served on the Legal Aid Committee and MVA Committee at the Cape Law Society.
- Still currently serve on the Criminal Law and Procedure Committee and Personal Injury/ MVA Committee
- National Chairperson of the Law Society of South Africa's Standing Committee on MVA matters, June 2002 until 2004.
- Active participant both as an ordinary member and as a member of the Executive of RAVA (Road Accident Victims Association).
- Member of the committee of both RAVA and the Cape Law Society involved in the ongoing debate and negotiation of the Department of Transport regarding the restructuring of MVA compensation. I presented on this issue before the Satchwell Commission of Enquiry.

INTERESTS AND ACTIVITIES

- Involved with various NGO structures rendering legal advice or assistance and support during Apartheid, and which later continued to deal with the lingering effects of Apartheid after its abolishment.
- Member of the Executive Committee of the Southern Suburbs Attorneys Association for about 10 years.
- Examiner for the Cape Law Society, marking scripts and conducting orals of candidate attorneys seeking admission to the profession.
- Member of the Parent Teach Association (PTA) and later Vice Chairman of the PTA of my community primary school which my children attended, namely Habibia Primary School.
- Member of the first Governing Body of Habibia Primary School in 1997 and Chairman of same from August 1998 until 2007.
- Joint Chairperson of the Fundraising Committee at Habibia Primary School until 2007.
- Played social cricket in the 1980s and early 1990s and was on the Executive of various Cricket Clubs.

EDUCATION AND QUALIFICATIONS

Admission to the Profession:

- Admitted as an attorney of the High Court of South Africa, 1981

Tertiary Qualification:

- B Proc, University of Durban Westville and graduated from the University of South Africa, 1980

Secondary Qualification:

- Oaklands High School, 1972

REFEREES

Reverend Matthew Esau

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