

**COURT RESUMES ON 20 JANUARY 2010 (at 15:05)**

MR KAHANOVITZ: May it please the Court. I still appear for the respondent.

COURT: And I see Mr Lewis is present.

5 MR LEWIS: M'Lord, I represent myself.

MR KAHANOVITZ: Thank you, M'Lord. We are now at the stage where the application for absolution was dismissed, so we intend to open our case and to call our witnesses. M'Lord, just for purposes of the record, I am now officially a senior  
10 counsel, although I do not have the appropriate regalia yet.

COURT: Yes, I have not had the opportunity to congratulate you on that.

MR KAHANOVITZ: Thank you, M'Lord. M'Lord, we call Annelien Dean as our witness. M'Lord, the air-conditioning is  
15 not working, so we have taken the liberty of opening the doors.

COURT: That is fine.

**EVIDENCE FOR THE RESPONDENT**

**ANNELIEN DEAN**: (d.s.s.)

**EXAMINATION BY MR KAHANOVITZ**: Thank you, Ms Dean.  
20 Let us start off with a little bit of background. First, you are the editor of the People's Post? --- I am.

And how long have you occupied that position? --- Since 2004.

And how many years have you been with the respondent,  
25 Media 24? --- For 13, going on 14.

Before working on the People's Post which newspapers did you work for? --- The District Mail in Somerset West and Express Newspaper in Bloemfontein.

Are those also what have been called community  
5 newspapers? --- Both of them are.

Just tell us something about your educational qualifications. --- I studied through Unisa and attained a BA in Communication, sorry, in English and Psychology.

Now just because various allegations have been made  
10 about where you come from and how that would have influenced your conduct we need to deal with some aspects. Where were you born? --- In Edenvale on the East Rand of Johannesburg.

Are you from Afrikaans stock? --- Bilingual. My father  
15 is with Italian and German heritage, my mother French Huguenot. Both are bilingual and were raised as such and so were we, Afrikaans and English.

The suggestion has been made that you are a *meisie van Bloemfontein*. Can we just deal with that issue? At some  
20 stage you did end up in Bloemfontein, correct? --- My father was transferred there in 1989 and I completed my high school education in Bloemfontein.

It has been alleged that you are a member of the *Nederduitse Gereformeerde Kerk*. Is that correct? --- No, I  
25 was raised and confirmed Catholic.

Now let us move onto your first meeting, you were one of the people that interviewed the applicant. Is that correct? --- Yes, that is true.

Who else was present? And just for the record tell us  
5 who those, their names will come up, who those people are and what their positions were at the newspaper. --- Sedrick Taljaard was present, he was publisher of WP Newspapers and Warren Charles, our human resources officer within the newspaper division of Media 24.

10 COURT: Just, Taljaard, you say he was the publisher? --- Publisher of WP Newspapers.

What is WT(sic) Newspapers? --- WP Newspapers is the publishing company of People's Post and three other titles, City Vision, Tygerburger and Blitz(?).

15 MR KAHANOVITZ: M'Lord, as I understand the situation Media 24 is technically the controlling or sole shareholder, so really it is a division. Is that correct, Ms Dean? --- Ja.

It is a division of Media 24. --- It is a business unit within Media 24.

20 A business unit, okay. And what is the purpose of that business unit? --- WP Newspapers has a mandate to publish community newspapers into specifically defined communities on the Cape Peninsula.

Can you please explain to His Lordship the community  
25 newspaper model? What is it about?

COURT: Sorry, before we get there. You mentioned someone else was at the interview. Mr Taljaard and? --- Warren Charles.

Warren Charles? --- Ja, he was the human resources officer within the newspaper division of Media 24.

MR KAHANOVITZ: All right, so we were going to deal with the community newspaper model. Just could you explain to the court what that model is in broad terms and then we will deal with how it applied in the Western Cape. --- The community newspaper model is contrasted against a mainstream model and a mainstream publishing model targets a broad regional audience through daily newspaper and weekend newspapers with provincial and national footprints such as ...(intervention)

Can you just also bear in mind that His Lordship needs to write down ...(intervention) --- Okay.

What you are saying. If you could just slow down a bit. --- All right.

And maybe have a look at His Lordship's pen, if you can see it, and then that will give you some indication just to how fast to go.

COURT: So it is contrasted with the mainstream model? --- Yes, which publishes to a broader audience, a larger geographical footprint. So for instance your daily mainstream newspapers would in the Cape Province include the Cape Argus and the Cape Times. Your weekly mainstream titles with

large footprints would be the Sunday papers of Sunday Times, City Press, Rapport, Sunday Sun and the community newspaper model contrasts with that in that it serves a more segmented landscape, where a broad area is segmented into smaller pockets that are geographically defined and communities are identified around certain shared points of interests and a degree of shared identity.

MR KAHANOVITZ: How does that ...(intervention) --- Within.

Sorry. --- The market primarily is aimed at allowing the market an opportunity to advertise to a smaller audience within an immediate catchment area as opposed to having to advertise their products and services to a broad audience at a higher cost than they can afford as a smaller business owner. And so through a community newspaper model you are able to service a large market area within niche publications at a cost that is affordable to a smaller business owner who cannot afford to advertise in a mainstream newspaper and also does not need to reach an audience that extends as far as the province's boundaries lie.

So in line with that, it has already been said the People's Post has ten separate edition for ten communities in the Cape Peninsula. I just want you to confirm, those communities are editions. There is a Mitchell's Plain edition, correct? --- Yes.

A Retreat edition. --- Yes.

A Grassy Park edition. --- Yes.

A Lansdowne edition. --- Yes.

Athlone division, sorry, edition. --- Ja.

A False Bay edition. --- Yes.

Constantia/Wynberg edition. --- Yes.

5 A Claremont/Rondebosch edition. --- Ja.

A Woodstock/Maitland edition. --- Yes.

And an Atlantic Seaboard/City edition. --- That is correct.

Now because of the – how does the existence of those  
10 editions coincide with racial and culture factors? --- They are  
published into communities geographically defined at their  
boundaries and there is a coincidence of homogeneity within  
certain of the additions due to what can be termed South  
Africa's past and divisions that stem from the past. However  
15 to a large degree the majority of the editions we serve are  
published into communities that have a mixed profile  
demographically and culturally and racially and therefore any  
coincidence between the community geographically defined  
and its profile on a racial and a cultural level would be due to  
20 how communities were shaped in the past.

Now the applicant has put up a version which, as I  
understand it, essentially says that the People's Post has a  
demographic profile of coloured people. Is that correct? In  
other words that is the sole demographic profile and he goes  
25 on to then build an argument which says that the content of the

newspaper, the only content which may be published, is content which fits that racial demographic profile. Is that thesis correct? --- It is incorrect.

Could you just elaborate on that by reference to some of  
5 the geographic communities that you serve in the Western  
Cape? Are all the geographic communities that you serve  
comprised only of so-called coloured people? --- We serve a  
far broader mix of cultures than just one pocket and for  
instance within certain editions, and I can name the False Bay  
10 edition as being representative, it is white and so-called  
coloured residents. Constantiaberg/Wynberg, all races served  
there. The City/Atlantic Seaboard edition, all races are served  
there. Claremont/Rondebosch, the same. The Lansdowne  
edition, so there is no truth to any assertion that we publish  
15 only into a certain group.

I think we have had a picture created in this court room  
of an editorial meeting where a group of editors would sit  
around and look at a proposed article and either accept it or  
reject it because it is or is not of interest to so-called coloured  
20 people. Is that what happens at your editorial meetings? ---  
Our editorial planning is much broader than that narrow  
mandate and that does not apply to all. We look  
...(intervention)

Could you maybe just explain to His Lordship – give us  
25 an example of a story and how you would choose a story and

what kind of story goes into a community newspaper and what does not go into a community newspaper? --- I think the simplest would be to look at the levels of planning as opposed to a single story, where there are three levels of planning that  
5 are operative in how we constitute any edition in any one week. The first level of planning is to use content across two neighbouring editions. So for instance ...(intervention)

COURT: Wait, wait. --- Okay.

First level, yes, to? --- To use content across two  
10 neighbouring editions. For example Retreat is a neighbouring edition to Constantia/Wynberg, is a neighbouring edition to Grassy Park. So the first level of editorial planning would be to cross the content over. It is routine that news generated within the Retreat pocket is therefore used in the  
15 Constantia/Wynberg edition which neighbours Retreat and vice versa and Grassy Park through to Retreat, Constantia/Wynberg through to Grassy Park. So that is the first level aimed at avoiding a pigeonholing situation where your reader within a community receives news only about their specific community.  
20 On a second level of editorial planning there are matters of interest across the entire landscape. Those would be for instance the shark attack in Fish Hoek last week which this week was used as a story not only in the False Bay edition, but across all the editions and that too is a routine in our planning  
25 used every week on a broad level. The third level is one that



is a special attribute of the People's Post model or any similar model and that is using content to a specific aim. So for instance if there has been a fire that has destroyed a house in a poorer community a point is made to use that article then in  
5 a resourced community, so that help can be moved from one part to another and that also is a part of how we plan the editions.

Let me just understand that example again about the fire? --- If for instance a house is burned down in Hanover  
10 Park, as a concrete example, and we place that article only in our Lansdowne edition, there are fewer opportunities and resources that could be moved through, so we broaden the net and we would use that then specifically in a more resourced community too so that help is moved across boundaries.

15 MR KAHANOVITZ: I assume you are referring to an article that it would contain a request for assistance? --- For assistance. Please help the family if you can donate. So that would roughly be the three levels that are all operational every week in our planning. It is the neighbouring crossovers, the  
20 broad use stories, of all interest to all and then specific use articles that are crossed over and the example of a family needing assistance is but one of them. We would for instance run a campaign with a service organisation that in a real example would be the Claremont Rotary Club is assisting Early  
25 Childhood Development Centres in Lavender Hill and we would

then place that article across editions too for a better chance of success.

Do you know when the People's Post first hit the streets in any form or was that before your time? --- It was bought by  
5 Media 24 in 2004 and had before then been run for 10 years by Joe and Simone Frylinck, who sold it to Media 24, the title, and it was only the False Bay edition at that time.

So when Media 24 bought the People's Post we were already well into the new South Africa? --- In 2004.

10 COURT: You say 10 years before that it was run by? --- It had been established in 1994 by a Fish Hoek couple, Joe and Simone Frylinck, private individuals, who published it for 10 years into the False Bay community, the single edition False Bay People's Post.

15 Okay.

MR KAHANOVITZ: Let us then move onto some of the particular facts peculiar to the applicant's case. Just can you confirm this, the applicant has already conceded this, but just to get the sequence right, the applicant says that at his  
20 interview there was no discussion or mention of the fact that he was Jewish. Is that correct? --- There was no discussion or mention of the fact that he was Jewish.

Why did you hire the applicant at that time? What is the link between his employment and the expansion of the  
25 newspaper? --- Primarily his CV spoke of skills in layout and

production. It was a key requirement of rolling out an additional four newspapers and we needed the layout help. His CV also spoke of good experience in journalism in the arts and culture field, which was something we would certainly benefit  
5 from having in the new rolled out version of People's Post.

We have already heard a little bit about him being sent off for training. Won't you just tell the court briefly about that and tie that then into when you started working on the first edition of People's Post? --- All the new recruits were – they  
10 had the same appointment effective date. All were sent off for the same training at the same time at Media 24's head office in Cape Town. The training was on Media 24's editorial layout system. For someone whose CV spoke of experience in layout the training would require a transfer of existing skills into a  
15 new package with new functions, but there were candidates among the group who had not done layout in any form prior to the appointment who would have had more ground to cover in their learning. In production on the first edition I was well aware of who had had prior layout experience and had just  
20 been, had to be trained on the specific Media 24 package and in Mr Lewis' instance I was well aware of what his CV spoke about on his production experience prior to his appointment to People's Post and I had an expectation of conceptual mastery, if not the technical tools of the specific programme. I was  
25 therefore surprised when his first page that he laid out

revealed a lack of the conceptual understanding of layout as it works spatially.

Can you just ...(intervention) --- Which elements go where.

5           Okay, can you just pause there so that we can get the chronology? Just tell the court about your premises in Tokai and when you moved there and why you moved there? --- Briefly, we went in undercover. We were launching into an opposition company's territory and ...(intervention)

10           No, sorry, you maybe misunderstand my question. I am not interested in that. I just want, just give us a date. --- Okay, we moved into our new offices on 9 May.

All right and when was the first edition of People's Post scheduled to come out? --- 23 May.

15   COURT: You moved into the premises. Where were those premises? --- In Tokai.

On 9 May? --- 9 May.

MR KAHANOVITZ: So when would Mr Lewis have started working on the first edition of People's Post around about as  
20   opposed to merely being trained? --- When we moved into the office on 9 May we set out according to our list of what we needed to achieve, so on generating copy he would have been starting that first week from 9 May through the second week of gathering and preparing content for the edition. The actual  
25   production would start the Saturday, 20 May, on the first

edition. So content gathering and preparing articles, gaining photos, doing interviews, writing the content up happened from 9 May and was guided along by various editorial meetings to monitor progress, give assistance, with a deadline of Friday, 5 19 May and our first pages were laid out for the first edition on the Saturday, 20 May.

So let us deal with an example of some of the first work which you received from the applicant. Sorry, my numbering is – if you go to the bundle.

10 COURT: Which bundle?

MR KAHANOVITZ: It would be the applicant's bundle.

COURT: Mr Kahanovitz, there are two bundles of documents.

MR KAHANOVITZ: Yes.

COURT: And I think ...(intervention)

15 MR KAHANOVITZ: It is respondent's bundle.

COURT: Sorry, respondent's bundle.

MR KAHANOVITZ: Page 29. The article with the heading, page with the heading: 'Historical icons fund museum'. Are you with me? --- Yes, I am.

20 Are you with me? --- Ja.

Right.

COURT: Sorry, what page is that?

MR KAHANOVITZ: Page 29.

COURT: Page 29.

25 MR KAHANOVITZ: Of respondent's bundle. Is that work that

was submitted to you by the applicant? --- Yes, it is.

Just give us a comment on the level of skill and ability displayed? --- It is the conceptual side of layout that is evidently lacking here that had me concerned and the little  
5 etchings on the page were where I was explaining to him how I had not understood his setting out of the different elements, because conceptually the page could not have been filled in placing the photo there and the article there, so what it said to me was technically he understood the system of Media 24 in  
10 terms of the tools needed to move elements around a page, which was the level of training that anyone would assimilate, regardless of prior experience or not. You would understand how to move the elements. Prior experience though would give you the advantage on the conceptual side from a starting point  
15 to understand the spatial grid of the page enough that you would not land up with anomalies to this severe a degree of space that would need to be filled if your elements were not positioned correctly from the outset. And that conceptual understanding of the spatial grid of a page is something that  
20 comes from experience and among the cohorts trained on the new system at the same time there would have been a lack of a conceptual understanding to be expected as there were people who had not had prior experience, but somebody who has done production before in a publishing environment should  
25 not exhibit this type of shortfall, but possibly one related

merely to the transfer of skills onto a new package.

And did you raise this with the applicant? --- That is why there are these little markings on the page as I was explaining to him I had not understood why he had set the  
5 photo to that far side, left of the page and I did then ask him, as I was puzzled, what type of column grid he had worked at at Independent, because he had on his CV claimed to have done layout at Independent, to just understand if he understood what I was talking about, that he have the concept. And he  
10 was unsure, which again struck me as odd, of what to say on that point.

All right.

COURT: Just, sorry, won't you, you say there are anomalies on this page. Understand that we do not understand. What  
15 would the anomalies be on this page? --- Well, the advert is a half page size, so the page is effectively split half ways. If you look at the top portion of the page it does not reflect that split and that is where the problem comes in, that you will not be able to fill that space or that space and you also cannot use an  
20 article that small there, so your first entry point in understanding the concept spatially of the grid of the page would be to identify where are the natural divisions on the page according to the adverts and to work with that as opposed to against that. That is something that experience in  
25 layout gives you that you understand then from the outset.

In layman's terms it is to avoid blank. You have got little boxes here. --- Yes.

That would be an anomaly? --- Yes, that would be the anomaly.

5       Where you would just have space that you could not fill with something else? --- Ja and you have reached a point there where you are in a corner through your own layout.

MR KAHANOVITZ: Then let us deal with the Jimmy Dluclu(?) article which he submitted which is at page 23.

10   COURT: Sorry, before that. This then was - what day was this that you had this or roughly when did you have this discussion? --- This was the Monday, the 22<sup>nd</sup>. Our first edition was out or due out the next day, the Tuesday, and we were still finalising the production which is why it is page 3 of  
15 the newspaper. It would be one of the later pages that we would do on the Monday and that is when I had the discussion when I saw this and was puzzled by it.

MR KAHANOVITZ: Right, let us look then at an article which he submitted for the first edition, page 23, and let us just  
20 pause there on the issue of him writing articles. As I understood his evidence – it was not consistent, but there was certainly a suggestion made – that in some or other way he was forced, although he had been hired as a layout person, he was in some or other way forced to also write articles,  
25 compelled in some or other way. Just comment on whether his



writing of articles as opposed to merely subbing occurred under some form of compulsion. --- There were certainly no suggestion of any disagreement from his side to me around writing articles in that I was often disturbed from my own very  
5 crucial work in preparing for a launch of that size, with the many tasks that go with it, by his interrupting me to discuss the exciting ideas he had for our arts offering within People's Post and who he was going to speak to and exactly the direction he would be taking the arts and cultural content into  
10 and I did give him the time to discuss that. It was important, but his excitement would – did not give me an indication that he was not comfortable with writing content. It also would not be possible that he could not contribute to the content of the newspaper in that our production and subbing would only occur  
15 during the latter of a week, from a Friday through to a Monday and then our newspaper would be on street on a Tuesday and there would be no content and no production on a Wednesday and a Thursday to be engaged in, so as part of the working week the content was something that was expected of him and  
20 one that he enthusiastically discussed with me.

I just want to read you my notes from what he said:

"I was not aware that I must submit copy. I was forced to do so under duress."

Is that true or not? --- Again I can only speak of the  
25 excitement with which he discussed the content

...(intervention)

All right, we have heard. So I mean, I infer from what you said it is not true. --- No, it is not true.

He said:

5 "I became aware because of the attractiveness of Annelien Dean and the promises of further contracts that I should write articles. It was not a problem for me."

Just on this attractiveness issue, did you ever lure him into writing through making romantic overtures towards him?

10 --- No.

Did you ever lure him into writing by making a promise to him of a future contract? --- No.

Before we move on from this period in time, did you ever misrepresent to him at the interview that Media 24 had been  
15 cleared by the Truth and Reconciliation Commission? --- No, I did not talk on that topic at all.

He also says that, somewhat disparagingly (indistinct), that you had no experience before being appointed the editor and his words were: She was ostensibly the editor. She had  
20 no experience. Just comment briefly on that. --- I had been editor of the False Bay edition when it had been bought. I had been the acting editor and the news editor of the District Mail prior to People's Post.

COURT: So when you were at the False Bay and for how  
25 long? --- False Bay, I was appointed editor October 2004 and

continued the editorship through the launch in May 2006 of the new editions of People's Post.

MR KAHANOVITZ: And as you have already said prior to that you had worked on other newspapers. --- Ja.

5           Now did you hire him, as he claims, because you wanted – and I am not exactly sure what he means by this, but he says that you wanted him to help him fake it? --- No.

          Right, then let us go back then to the Jimmy Dladlu article at page 23. Those pen markings ...(intervention)

10 COURT: Sorry, the Gugu, which – what is the page number?

MR KAHANOVITZ: Page 23 of the respondent's bundle. This is an article written by Mr Lewis and submitted for inclusion in the first edition of People's Post. You will recall, M'Lord, he said that the reason it was rejected was ...(intervention)

15 COURT: Sorry?

MR KAHANOVITZ: He said, his case is that the reason this was rejected was because it did not fit into the model of racial profiling. Now those pen markings, the lines that are drawn through part of that article, were they made by you? --- Yes.

20           And why did you do that? --- That is when I had discovered that those chunks had been taken from the internet and I was still thinking if I excise those from the article possibly we could still run with it, however in crossing those out it was too great a portion of text for the article to work in  
25 the space that had been set aside for it.

Now how did you find out that those paragraphs had been lifted from the internet? --- There was a change in the style of writing at that point that made me suspicious and I Googled a phrase and it took me to the page from which the content  
5 was drawn.

What would your policy be on cutting and pasting text from other articles that have appeared on the internet? --- It is unacceptable to publish that.

COURT: Sorry, it is unacceptable to publish? --- To publish  
10 cut and paste content in the absence of clear attribution, that leaves no doubt in the reader's mind that it is the work of another.

MR KAHANOVITZ: Now Mr Lewis' version is that the or is the reason, the real, true reason why he did not want to publish  
15 this article was that the article was about a black African man and therefore it did not fit your racial profiling model of publishing articles for the coloured community. Is his thesis correct? --- No, it is incorrect.

When you discussed this article with him at the time and  
20 pointed out your concerns about it, was that an allegation that he made at that time? --- No.

Now ...(intervention)

COURT: Sorry, before we go – just the date? When did the discussion take place roughly again on this? --- This was the  
25 Monday, the 22<sup>nd</sup>, because I had gone through this the Sunday  
20.01.2010/15:05-15:58/LL /...

night before and it was on the morning of the 22<sup>nd</sup>.

And would you be finalising articles the day before the actual - the publication? --- No, on the weekend's side I would be reviewing the layout and the content done that  
5 weekend which is why I picked this up on the Sunday night and I had taken it off the page and put something in its place and informed him the Monday that I was not comfortable with running it.

MR KAHANOVITZ: So when did the first edition then hit the  
10 streets? --- The Tuesday, the 23<sup>rd</sup> of May 2006.

Can you please tell the court about the role that editorial and layout and journalistic staff play in the launch of the People's Post? --- A call was put out for volunteers to hand out the freshly printed editions as part of our splash out into  
15 the community and our publisher at the time, Sedrick Taljaard, sent through the emails calling on volunteers and subsequent emails confirming which volunteers would be at which handout points on the morning of the 23<sup>rd</sup> when our first newspapers would hit the streets and we would wear T-shirts handing them  
20 out at high volume traffic intersections.

Now it is common cause that on 23 May the applicant was involved in handing out editions of the People's Post at approximately six o'clock in the morning in Grassy Park. Just can you explain what was going on there? --- He and myself  
25 were assigned to the same team and we both handed out

newspaper at that intersection.

Did that in any way alter his or your working hours? ---  
It was a once-off and we had volunteered for it and there was  
a good spirit around it and no-one had actually raised  
5 objection in volunteering. That would be contradictory.

The applicant claims that he was forced to work seven  
day weeks. Is that true or false? --- False.

The applicant claims that he was required to distribute  
newspapers every Tuesday morning from 5:00 a.m. to 7:00  
10 a.m. Is that true or false? --- False.

M'Lord, the reference is from the pleadings at page 4 and  
5 from the statement of claim.

COURT: (Indistinct-speaking softly). Ja, but in his evidence  
he said that was in fact 6:00, 6:00 to 7:30 and that he was  
15 required to be at - ja, that is the pleading that I think he did  
suggest at the time ...(intervention)

MR KAHANOVITZ: Well, let me rephrase the question. Was  
the applicant required to distribute newspapers in general at  
any, apart from outside of the launch, as volunteering, was  
20 part of his job function the distribution of newspapers? ---  
No.

Who distributes newspapers for People's Post? --- On  
The Dot Distributors within Media 24 and we pay them to do  
that.

25 Now the applicant has testified that after he came to the

conclusion that you had rejected – sorry, just before we go onto the article could you just identify the document at page 24 of the respondent's bundle and who made those markings and why they were made? --- On the music.org.za printout the exclamation mark was made by myself across the page where it was the same paragraphs he had carried over into the article he submitted for publication.

So that is the article that was used for cutting and pasting? --- Yes.

10 Right, then let us deal with the Robbie Jansen article. You will recall the applicant's evidence was that he decided that this – he would rework the article so that it would fit your racial profiling model and the subject matter of the article would now be a well-known so-called coloured saxophonist. 15 The article that was submitted is at page 37 of respondent's bundle. Is that correct? --- Yes, it is.

And once again can we just get a date there? --- This would be for the second edition on the 30<sup>th</sup> of May that it was submitted.

20 COURT: What day would that be? --- It – well, I reviewed it the Monday, the 29<sup>th</sup> of May and discussed it that same day with David and it was for the Tuesday, the 30<sup>th</sup> of May's edition, the second edition of our new expanded model.

MR KAHANOVITZ: Now what were your concerns about that article? --- After the page layout raised concerns and the first

draft of this article the previous week, both had raised concerns with me about Mr Lewis' work. When I read in the article that Robbie Jansen was commenting negatively on all and sundry within the industry that gives him a living and also  
5 the phrase that after some encouragement and despite warnings by his producer not to talk to the press, Jansen commented and continues then to criticise all and sundry. I was weary of the standard of Mr Lewis' work and I chose to not publish this until I had verified, responsibly verified that such  
10 an interview had indeed taken place with Mr Jansen.

Did some of the ...(intervention)

COURT: Sorry, again, just to – I am just – I did not get everything down. So you said that you were concerned that Robbie Jansen was commenting on an industry in which he  
15 earns his living. And then you said there were two other statements in the article that worried you. --- I was firstly concerned that he was criticising through our newspaper, which was very new, the very industry that has ...(intervention)

Yes, I have got that. --- ... supported him. And the  
20 specific statement that sealed my suspicion and made me very uneasy was on page 39 towards the bottom with the section that starts: It is unfortunate I did not get the award. Mr Lewis had written: After some encouragement and despite warnings by his producer not to talk to the press Jansen commented on  
25 Dlodlu's prize feat. That made me concerned that Jansen's



producer had even encouraged him not to talk to the press, yet after Mr Lewis' encouragement he had thought otherwise and then confided to Mr Lewis all his misgivings about the industry. I felt I needed to be assured that that indeed had happened  
5 before I committed this to print in the name of People's Post.

MR KAHANOVITZ: Let us just briefly quote some of the things that are attributed to Mr Jansen, page 38 in the bottom of the page, 'however', last paragraph.

“Speaking from his Cape home local goema king Robbie  
10 Jansen.”

UNIDENTIFIED SPEAKER: There is an error on the machine.

COURT: There is an error on the machine?

UNIDENTIFIED SPEAKER: Yes, I am going to have to pause.

COURT: Okay.

15 UNIDENTIFIED SPEAKER: (Indistinct-not speaking into microphone).

COURT: Ja, I think so. There is a problem with the machine. I think it might be just opportune then to just take the short adjournment now.

20 MR KAHANOVITZ: Thank you, M'Lord. What time should we reserve? It is five to 10 now.

COURT: I assume as soon as the machine is – at least 15 minutes.

MR KAHANOVITZ: (Indistinct).

25 COURT: At least 15 minutes, but until the machine is fixed.

MR KAHANOVITZ: All right, thanks, M'Lord.

**COURT ADJOURNS** (at 15:58)

**COURT RESUMES** (at 15:04)

MR KAHANOVITZ: Excuse me, M'Lord. It seems the witness is  
5 still in the passage.

**ANNELIEN DEAN**: (s.u.o.)

COURT: Ms Dean, you are still under oath.

**EXAMINATION BY MR KAHANOVITZ (CONTINUED)**: Ms  
Dean, we were at page 38 of the bundle and we were looking  
10 at ...(intervention)

COURT: The respondent's bundle?

MR KAHANOVITZ: The respondent's bundle and we were  
looking at examples, controversial aspect of the article  
submitted by Mr Lewis about Jimmy Dlodlu/Robbie Jansen.  
15 Just let us start with the heading though. The heading is  
'Robbie comment on Dlodlu's SAMA success', correct? ---  
Yes.

Right, then you turn to page 38 down the bottom. I am  
just going to read it into the record and you just confirm that it  
20 is there.

"However, speaking from his Cape home local goema."

Spelt G-O-E-M-A.

"King Robbie Jansen criticised the industry celebration:  
'To me the SAMA awards remind me of the SARIE awards  
25 of the Apartheid era. *Sê maar so* awards. I wish there

was award for nice players, thoughtful and conscientious, people who play with feeling, for people with compassion, another type of award, not a popularity award.”

Was that written in the article? --- Yes, it is.

5 And on the following page it is written that Jansen had travelled to Johannesburg, this is about the eighth or ninth line from the top, for the ceremony and then he is quoted as saying the following:

“I went up there. Everybody is pretending to be  
10 somebody else. I did not see any artists, just a whole lot of pretenders. A different tribe, I guess. It is not who you are, but who are you wearing.”

Is that in the article? --- Yes, it is.

Then down the paragraph. Further open quotes:

15 “It is unfortunate that I did not get the award. If I did I would.”

Does it say have gotten it? --- One can assume that is ... (intervention)

It seems to.

20 “‘Cheap words I guess. The prize money would have been well’. After some encouragement and despite warnings by his producer not to talk to the press Jansen commented on Dlodlu’s prize feat: ‘We have a lot of George Bensons. I am not saying Dlodlu is George Benson, but  
25 you know what I mean’.”

Was that in the article? --- Yes, it is.

So you called the applicant into your office and what did you say to him? --- I said to him I was not willing to run the article without verifying that its contents were not true and that  
5 I would need a number for Robbie Jansen to verify the contents.

What was his response? --- He started shouting and using profanities, was highly agitated and left the office in a storm after shouting profanities declaring that he would not  
10 write another word for the newspaper thereafter.

Well, maybe you should just mention some of the exact profanities that he used. --- He said he would not write another effing word for this effing newspaper again.

Did he give you Jansen's number? --- He then went to  
15 his desk and later in the day the, he said that he could put me in contact with his pastor, but that he could not give me Robbie Jansen's number.

Whose pastor? --- With Robbie Jansen's pastor.

What did you do after this interaction? Did you leave it  
20 matters lying there or did you take it further? --- I phoned our publisher, Sedrick Taljaard, and informed him this had just occurred and that – required his advice and he then said that we would need to meet the next day with our human resources officer and Sedrick himself present to deal with the matter.

25 Right, so let us then move – we know there was a

meeting on the next day, it is 30 May. Tell us what happened at that meeting? --- It was in my office and it started off with us questioning Mr Lewis' background and experience as presented in his CV to us as we had some concerns around  
5 what he claimed he was able to do. Then we move onto the point of what had happened the previous day and the inappropriateness within the workplace. There was a point at the meeting though that ...(intervention)

Sorry, the inappropriateness of what? --- The  
10 inappropriateness of using profanity at your manager in the office and refusing to work from there.

All right, what was his response? --- There was a point in the meeting that it became chaotic and things dissolved. Structure was lost and in general what I recall, if not specific  
15 words, was the emotionally charged atmosphere stemming from Mr Lewis being quite agitated, definitely not handling the meeting appropriately in the professional context.

And he himself has admitted that he used profane language at the meeting. How did it end? --- It ended in  
20 agreement by all parties that a full and final settlement be signed. Mr Lewis would be paid out the balance of his contractual period and that he would not be required to be at the office in the last month of his contractual period.

Was that agreement signed? Well, let us put on the  
25 record, M'Lord, we do not have a – we are not relying on it.

We do not have that agreement, so.

COURT: So let me hear from the witness. Was there an agreement? --- Yes, there was an agreement that was signed.

Was it in writing? --- It was in writing and it was signed  
5 in my office that day before Mr Lewis departed the premises.

MR KAHANOVITZ: Mr Lewis ...(intervention)

COURT: Let me just get this right. But there is no – you no longer have a copy of that agreement? --- It has been mislaid.

10 MR KAHANOVITZ: Did you hear Mr Warren Charles making offensive remarks about David Lewis' religion in that meeting?  
--- I did not hear (indistinct-microphone off). As I said there was a lot of chaos at one point and I saw things, but there was (indistinct-microphone off) and I don't recall in detail in words  
15 that was said by everybody.

Do Mr Charles and Mr Taljaard still work for the respondent? --- No, both are no longer in employment with Media 24.

Now the applicant has testified that – I understand that  
20 he was physically removed from the premises. Just tell us what your version is about what happened? --- He was accompanied by Messrs Taljaard and Charles to his desk and they walked out with him. He was not physically removed.

In the sense – so he was not lifted up and carried out of  
25 the building? --- He was not lifted, no, not at all.

Do you recall anything being mentioned about Qiblah?

--- I don't recall that.

Did he contact you, the applicant contact you later the same day? --- He phoned me that night and said he had some  
5 wine and that he wanted to apologise to me and let me know that it was not because of me, but because of the white *dominee*. And I inferred from that, that he meant Sedrick Taljaard. And that he did not want me to view him poorly.

We know from the applicant's version that he prepared a  
10 document. He seemed to be under the impression that he was coming to present his vision of how the newspaper should be run. Do you know where he got, do you have any idea where he got that idea from that this was the purpose of the meeting?

--- No, I don't know.

15 COURT: Didn't he call it an evaluation meeting?

MR KAHANOVITZ: Yes, he did. Was it an evaluation – or maybe you are not the right person to ask as you did not call him to the meeting? --- I did not. That was handled by my management, Sedrick Taljaard and Warren Charles.

20 Now the applicant had mentioned that his working hours were deliberately set in order to prevent him from being able to observe the Jewish Sabbath. Is that true or false? --- That is false.

The applicant alleges that the – both the Dlodlu and the  
25 Jansen articles is the only real reason why you refused to run

with them was because they did not coincide with the racial profiling model of the People's Post. Is that true or false? --- That is false.

We know also that the – from time to time the applicant  
5 alleges that he is not actually white, but that he is actually a Coloured. Just for purposes of the record, according to the old classifications, what category would applicant fall into? --- White.

Just as a general suggestion, that the People's Post  
10 would never publish a story about an African musician in a publication targeted at non-Africans, is there any basis whatsoever to a suggestion that that would be part of your publishing model? --- No, there is no basis for that.

How many editions in total of the People's Post did the  
15 applicant ever worked on? --- Two.

Did you ever give him the impression after he started working on People's Post that you were intending to renew his contract? --- No, I did not.

If someone is on a fixed term contract at what stage in  
20 the process would you usually start to consider whether or not to offer them a new contract? --- It would most likely be towards the end of the second or the last month, before the commencement of the last month of that contract, just prior to that last (indistinct-microphone off).

25 There has also been some suggestion – I do not think it



is necessary for it to deal with it in any details because it is not actually pleaded by the applicant, but it also was suggested that People's Post discriminates against Islamic culture and the descendants of slaves. Is that true or false?

5 --- It is false.

Then there is some suggestion by the applicant that he should have been paid more because of his struggle credentials. Did he ever raise that with you? --- No, he did not.

10 If I also understand his claim correctly he appears to be suggesting that the real reason why his contract was not renewed had to do with the progressive use which he holds, which were anathema in the context of this reactionary newspaper that serves to perpetuate Apartheid. Is there any  
15 truth to that suggestion? --- No truth.

He also has said that people who were members of the NGK were treated differently at People's Post. Is there any truth to that? --- No truth.

I just have one question, if I might have a minute,  
20 M'Lord, I am just looking for a note.

COURT: Fine.

MR KAHANOVITZ: When I was cross-examining about your reasons for rejecting these articles, he conceded that you said to him that the articles have not met the standard that were  
25 required, but he went on to say the following: The real reason

is a psychological problem Annelien Dean has. And I asked him what was the psychological problem and he said: the psychological problem that she has is she has a problem with Dlodlu's skin colour. We have already been there, but just for  
5 purposes of the record, was it your psychological problem with Dlodlu's skin colour that caused you to reject the Dlodlu article? --- No.

I have no further questions, M'Lord.

COURT: Mr Lewis?

10 **CROSS-EXAMINATION BY MR LEWIS**: Ms Dean, could you tell us what your school motto was? --- I cannot give you my high school motto, I don't recall it and I think my primary school motto was (indistinct-microphone off). I cannot actually recall.

15 Can I perhaps refresh your memory? *Magna est veritas*, great is the truth. It is the motto of Brebner ...(intervention)  
--- For primary or ...(intervention)

Were you at Brebner? --- (No audible answer).

For how long were you at ...(intervention)

20 COURT: Sorry, at? --- Brebner High School.

MR LEWIS: Brebner High School.

COURT: Brenda? --- Brebner.

Brebner. --- Brebner High School.

MR LEWIS: Could you tell us where Brebner High School is?

25 --- It is in the Bloemfontein.

And how many years were you there? --- From 1990 to 1994.

So that would be four years? --- Yes.

5 And you remember a Mr Spears and a Mr Taylor? ---  
Yes.

All right.

COURT: Mr who? --- Mr Spears.

MR LEWIS: Mr Spears. --- Former principal and Mr Taylor  
10 was the (indistinct-microphone off).

Could you perhaps tell us, the court, what was significant about the history of Brebner High School?

MR KAHANOVITZ: M'Lord ...(intervention)

MR LEWIS: It is an interesting ...(intervention)

15 COURT: Ja.

MR KAHANOVITZ: Might I ask what the relevance of this line of cross-examination is?

COURT: I am going to allow him this question and then I am going to – sorry, the question was?

20 MR LEWIS: There is a significant historical point that Brebnerians seem to make and I was just wondering whether you – if Ms Dean could perhaps help us. --- I can't.

(Short pause).

COURT: No, no, you just give it to the registrar please.

25 MR LEWIS: Sorry.

COURT: So you are – you want this admitted to the record?

MR LEWIS: Yes, I think it is quite significant, just in the light of the allegations that have been made. There is a paragraph on the Brebner High School ...(intervention)

5 COURT: Okay, just for the record, this is going to be, it will be – become page 130.

MR LEWIS: All right.

COURT: Of the applicant's bundle of documents, first bundle of documents.

10 **PAGE OF BREBNER HIGH SCHOOL MARKED PAGE 130 OF APPLICANT'S FIRST BUNDLE OF DOCUMENTS**

MR LEWIS: I think the salient point that I am trying to make is it is a line here:

15 "History shows us that this community was also controversial and had to fight for recognition and acceptance in Bloemfontein society."

Is that not correct? --- I am not sure. Could you rephrase the question?

20 It is a significant historical fact of – Brebnerians would know this. There was a controversy that they founded the school and people at that school would not be adverse to controversy. --- Are you asking me ...(intervention)

I am asking you a question, yes. --- That people at the school would not be adverse to controversy?

25 Yes, is that correct or not? --- Only in as much as it

applies to any school setting. Why would it be a particular significance to a Brebnerian?

All right, it is just a question of ...(intervention)

COURT: Mr Lewis, you must ...(intervention)

5 MR LEWIS: No, let us move on.

COURT: Mr Lewis, okay, so you are not proceeding with this line of questioning?

MR LEWIS: No, no, I just wanted to ask her that question.

COURT: Okay.

10 MR LEWIS: I am telling you, you graduated in 1994? --- Yes, I did.

And two years later you joined Naspers as a news sub for the Express without any qualifications whatsoever. --- I joined as a junior reporter.

15 All right, then in ...(intervention)

COURT: Was that in 1990 – what year did you join as a ...(intervention)

MR LEWIS: 1996. As a junior reporter. --- 1996.

COURT: By the way, Mr Lewis, you have just got to allow –  
20 when I ask a question of the witness the witness answers, not you, all right? Please, just slow everything down. Yes, proceed.

MR LEWIS: Sorry, Ms Dean. Is it correct that in 2000 you joined the District Mail? --- I joined in 1999.

25 '99. Can we have a look on page 60 of the pleadings?

There is a paragraph 27. There is a quote ...(intervention)

COURT: Let the witness find – also watch the witness  
...(intervention)

MR LEWIS: All right.

5 COURT: So that the witness is on the same page as you are  
and watch me because I need to also find the relevant bundle.  
Page 60 of the pleadings?

MR LEWIS: 60 of the pleadings.

COURT: For the record this is part of the respondent's notice  
10 of intention to amend.

MR LEWIS: There is a quote there:

“This was the applicant's first exposure to actual  
production of a newspaper.”

COURT: What paragraph number?

15 MR LEWIS: Paragraph 27.

COURT: Okay.

MR LEWIS: Ms Dean, is this an accurate statement? --- The  
reference should be 'the newspaper' as your CV made clear  
that you had had production experience before.

20 Right. --- So the reference (indistinct-microphone off).  
Right.

COURT: So it should be 'the' rather than 'a'. --- The  
reference is inaccurate.

MR LEWIS: So your – sorry, how many years did you work at  
25 the District Mail? --- From 1999 until – from October 1999  
20.01.2010/15:04-16:40/LL /...

until October 2004. It would be five.

Five years? --- Yes.

And you are of the opinion that this qualifies you to be the editor of at least four titles in previously disadvantaged  
5 areas? --- My company was of the opinion.

Right. Does politics play a role at all in the choice that – of editorial, who gets to be editor at a newspaper? --- No.

Yet you chose to conceal the fact that you were a Catholic. --- Are you asking me (indistinct-microphone off)  
10 question?

Sorry, did you conceal the fact that you were a Catholic?  
--- No.

Is it not a fact that the vast majority of employees at Media 24, at least in the managerial capacity, belong to the  
15 *NG Kerk*? --- I cannot comment on that.

Ms Dean, do you accept that Apartheid is a heresy and that there is no basis in religion for such a belief? --- Yes, personally I do.

Personally you do, right. Then do you believe God put  
20 the Afrikaner on the southern tip of Africa or is colonialism to blame?

MR KAHANOVITZ: M'Lord, with respect, this is not relevant.

COURT: Mr Lewis, you are asking her, her personal beliefs.

MR LEWIS: Right.

25 COURT: What is the relevance of that?

MR LEWIS: My personal beliefs have been attacked by the company. I had to prove that I am a Jew and Ms Dean does not have to prove before this court that she is a Catholic.

COURT: No, she does not, but she has already given  
5 evidence that she is a Catholic and she has been required to do that because you said that she was a member of the *NG Kerk*.

MR LEWIS: Right.

COURT: And you were wrong on that matter it appears.

10 MR LEWIS: Right, but this is what she told me, so it is a, it is a, it is all new to me ...(intervention)

COURT: So well then why don't you ask her what she told you rather than use words like: why did she conceal that she is a Catholic. Just, if you want to cross-examine you may do that,  
15 but let us just ...(intervention)

MR LEWIS: Well, then that is a good question. Why did you tell me that you were a member of the *NG Kerk*? --- I did not tell you that at all.

Your company has an aggriegous history. Why didn't the  
20 company make a submission to the TRC? --- I will not comment on that.

What steps have been taken, if any, to accommodate Jews at Media 24? --- I will also not comment on that.

Ms Dean, is it not safe to say Jews may join Media 24 as  
25 long as they behave like Christians? --- I am uncertain of



your question.

Is it not safe to say Jews may join Media 24 as long as they are Christians? --- I cannot comment on that.

Is working on Friday night an inherent requirement of the  
5 job? --- The hours at any newspaper are long and strenuous  
and at times working late on a Monday, Tuesday, Wednesday,  
Thursday, Friday, Saturday, Sunday is a part of the job.

Then why is there no attendance register or record of  
hours worked by employees? --- We submit at a management  
10 level overtime through to payroll for payment purposes.

So that would be management or editorial would be  
submitting the overtime? --- Editorial.

Editorial would submit ...(intervention) --- That is for  
payroll purposes.

15 For payroll purposes. --- For public holiday and Sunday  
work.

So you would be making those determinations as to what  
was overtime or not? --- (Indistinct-microphone off) and send  
it through to payroll.

20 That is what you would be doing, all right. Ms Dean,  
does your company allow employees to wear nose studs for  
religious or cultural purposes? --- No studs are or have never  
been a problem with the company and no-one has ever had to  
justify on what grounds they choose to wear that.

25 Can I ask you a question then – you do not have to

answer me – why does Media 24 presume and even insist it has the right to dictate the religious and cultural affiliations of its employees? --- I choose not to answer.

Let us have a look at the contract. Ms Dean, you have  
5 said in your testimony in the pleadings that the contract does not reflect what was agreed upon, that the hours, there was a difference in the hours of what reflected in the document from Monday to Friday and what was actually agreed upon.

COURT: Mr Lewis, it would be probably easier for the witness  
10 if you just referred to the contract itself.

MR LEWIS: To the contract, right. It would be in the respondent's bundle of documents on page 5.

COURT: Page?

MR LEWIS: Page 5. Actually on page 7 there is a paragraph  
15 'working hours'. Ms Dean, perhaps you can perhaps read that paragraph.

COURT: No, it is not necessary to read the paragraph.

MR LEWIS: Not necessary.

COURT: She can just – you do not have to read it into the  
20 record I mean. Just read it first so that you can answer his question and now understand what he meant.

MR LEWIS: Ms Dean, what was the working hours of the  
...(intervention)

COURT: Let her read it. Okay. --- (Indistinct-microphone  
25 off).

MR LEWIS: What were the working hours of the applicant? ---

From a Monday through Friday parallel to office hours. Tuesdays though would be off days. Saturdays would be production and Mondays would be later hours (indistinct).

5 COURT: So Saturday production, sorry. I did not catch that all? --- Ja, Saturday production (indistinct).

Yes and? --- And Monday would be later than normal office hours.

So it would be longer, longer hours. --- Longer than  
10 what is reflected here.

MR LEWIS: So am I correct in saying that this paragraph here was in effect of no consequence? It did not reflect the Saturday ...(intervention)

COURT: It is different. It does not reflect what – I do not  
15 think you can ask her what the legal effect of the matter is.

MR LEWIS: No, no.

COURT: You can make your submissions, but the point is that what is stated in the contract is different from what – the evidence that Ms Dean has given. That is correct.

20 MR LEWIS: Ms Dean, is it not true that a unilateral change to the working time occurred on 18 May 2006 and not prior to appointment?

COURT: What was the unilateral change?

MR LEWIS: The change from the hours, which would be  
25 Monday to Friday, to include the Saturday. --- Mr Lewis, just

assist me. What day of the week is the 18<sup>th</sup>?

18 May, gosh. I can have a look quickly.

COURT: A Thursday. --- A Thursday.

MR LEWIS: Thursday. --- And the unilateral – sorry, could  
5 you just repeat that please?

MR KAHANOVITZ: M'Lord, maybe if he tells the witness what  
actually happened on that day – because it is a legal concept.

MR LEWIS: Right.

COURT: Yes.

10 MR KAHANOVITZ: So what is he saying caused that  
...(intervention)

MR LEWIS: There was a meeting that we had on Thursday at  
which Warren Charles was not present. Is that correct? ---  
Warren Charles was certainly not present on the Thursday the  
15 18<sup>th</sup>, but I still can't agree to the statement that there had been  
a meeting. (Indistinct) ...(intervention)

Was there no meeting where the ...(intervention)

COURT: Won't you tell the witness ...(intervention)

MR LEWIS: Right.

20 COURT: What meeting and what the meeting was about and  
who was there so that she can answer your question.

MR LEWIS: Was there no meeting where myself, you and  
Sedrick Taljaard were present? --- There was a meeting on  
the 30<sup>th</sup>.

25 COURT: On what? In respect of what?

MR LEWIS: On the 18<sup>th</sup>.

COURT: On the 18<sup>th</sup>. --- The 18<sup>th</sup>?

MR LEWIS: The Thursday. --- Could you just help with the venue of the meeting and the agenda?

5           It would have been at the ...(intervention) ---  
(Indistinct).

          It would have been at *WP Koerante*. You would have told me that I was working on Saturday. --- In Bellville?

          Yes. --- I don't recall such a meeting and I also find it  
10   difficult that with us being stationed in Tokai at that time,  
(indistinct), that the both of us would drive through to Bellville for a meeting.

          Was there no meeting at which you told me what the new parameters of the working time consisted of? --- My memory  
15   does not have a meeting, but we did discuss it in the run-up to production that we would be doing layout on Saturday and continued production on a Monday.

          And what were my words to you? --- Well, I don't recall an objection because that is how it then proceeded.

20           Ms Dean, you knew that changing the deadline on Friday to 4:00 p.m. would affect the working hours, did you not? --- I still don't understand your assertion that there had been a unilateral change to a deadline and whom changed the deadline and from when to when.

25           Well, perhaps I can rephrase this question. Who sets

deadlines at a – for copy editorial at a newspaper? --- The editor.

The editor? --- Uh.

So if anyone had changed the deadline it would have  
5 been you? --- Yes, it would have been me.

Can you remember at all whether you – what the deadline was in the production cycle? You moved the production cycle from a Monday to Friday to a Monday to Saturday and there was a deadline for news copy coming into the newsroom in  
10 order for it to be laid out and processed. --- We were dealing with two separate deadlines there. You say that we moved our Monday to Friday deadline and production was changed to a Monday to a Saturday. It could not have been changed because the Friday would never have been possible as the  
15 (indistinct) would still be compiled on a Friday, so we would never have had a production run from a Monday to a Friday as there would be no pages to work on. They would only ever be available on a Saturday, so there has been no change there (indistinct) ...(intervention)

20 The two weeks that I worked at Media, at the People's Post, what was the deadline for the production? --- The production in terms of layout would always have commenced on a Saturday as there was no template of pages to work on prior to a Saturday.

25 And who would have done the subbing? --- Subbing was

part of your task (indistinct-microphone off). And to get to the second deadline you mentioned on the copy deadline side.

Right. --- That was a Friday, so that we would be able to lay out on a Saturday.

5           And what time exactly was that deadline? --- The first week the system gave horrendous problems and people were falling behind, so it get later than what any of us would have want it to have been.

          And how long were we working on the Friday? --- I can't  
10 recall.

          When did we go home? --- The Friday when everybody went home it did vary. Each journalist and each person who was contributing had a different level of workload. Some left earlier than others. We did not all depart at the same time.

15           What time would you have gone home on a Friday?

COURT: This is a Friday. This is a particular Friday?

MR LEWIS: Well, there are two Fridays in question.

COURT: This is the Friday the 19<sup>th</sup>? Am I correct? --- Yes, it is.

20           Ja, Friday the 19<sup>th</sup>.

MR LEWIS: Right. --- It was definitely after eight o'clock.

          After eight o'clock? --- The exact time I can't recall.

          So you knew that changing the deadline to Friday 4:00 p.m. would affect the working hours? There would be a, a. ---

25           I still have not – I must just correct you there, that I have not

yet said that we have a 4:00 deadline. What I did say was that the system was giving us problems.

Right. --- And we were slower in getting things through and that people left at different times, but ...(intervention)

5 But we worked until 9:30 at least. --- I can't confirm. As I said ...(intervention)

Cannot confirm it. --- People left at different times and I left after eight.

You left after eight. --- And I can't say ...(intervention)

10 So you cannot ...(intervention)

COURT: Let the witness answer the question, Mr Lewis.

MR LEWIS: Sorry. --- I can't say exactly what time I left that – the Friday night.

Do you know when your person doing the pre-subbing  
15 work would have left? --- Well, certainly before me as I would have been the one to lock up the office, but I am not sure what time again as people left at different times.

Ms Dean, did you know or were you aware that I was a Jew and that Friday night observance is one of the  
20 requirements of Judaism? --- I was not aware.

Did it come as a complete surprise? --- It did.

There was nothing in your mind to even suggest that I might be of the Jewish faith? --- No.

Nothing. Do you have any idea whatsoever that I was a  
25 member of any religious group at all? --- We did not talk



about that.

So there was no benchmark for cultural or social religious *mores* at the company? --- I would not comment on benchmarking on religion and cultural front.

5           What would you say the culture at Media 24 – is it a Christian orientated or is it just something else?

MR KAHANOVITZ: With respect, M'Lord, it is a highly abstract. Maybe he wants to put a proposition to the witness on – I do not know where this all fits into the case for a start,  
10 but maybe he could put something more concrete. I do not think she can really answer the question.

COURT: Well, let him ask the question and let us just see where it goes.

MR LEWIS: I am going to pose directly that you assumed that  
15 ...(intervention)

COURT: What is the question you want to ask? You want to ask whether ...(intervention)

MR LEWIS: The, the ...(intervention)

COURT: Am I right in saying that the question you want to ask  
20 is whether the respondent is orientated – is orientated towards the Christian religion.

MR LEWIS: Right.

COURT: Rather than others. Is that your question?

MR LEWIS: Yes, that would be my question.

25 COURT: Are you able to comment on that? --- I can only say

that I in my position need to take cognisance of different religions and different (indistinct-microphone off) and that that is my approach.

MR LEWIS: Ms Dean, if the company was a Jewish company  
5 do you think that the working hours would have been different?

--- My personal opinion on – if you run a company with a certain grouping of people in it would be that it would be your choice to accept the different aspects of the environment including the hours (indistinct).

10 So I was just expected to fall in line with whatever the environment was. --- I could only say that you had not at any point raised any discomfort on the basis of (indistinct).

Ms Dean, did you change the production cycle so that it would conflict with Shabbat because I was giving you uphill?

15 --- No.

There were no conflicts in the newsroom? --- Could you be a little bit more specific in terms of which type of conflicts (indistinct).

There were no conflicts between the cultural background  
20 that I had come out of and your cultural background for instance? --- No conflict had been brought to my attention.

So you assume that your cultural – your culture coming from Bloemfontein for instance was the prevalent discourse, the prevalent manner in which work should be conducted? Is  
25 that correct? --- I did not assume so.

You did not assume so? --- (Indistinct).

Ms Dean, can I refer you to page 36?

COURT: Of what?

MR LEWIS: Your diary.

5 COURT: What bundle? What bundle, Mr Lewis?

MR LEWIS: It would be the bundle.

COURT: Pardon? What bundle?

MR LEWIS: It would be the – all right, that would be the respondent's bundle of documents.

10 COURT: Page 30?

MR LEWIS: Page 36. Do you have it in front of you? --- Yes, it is.

Can you see it? A diary page were made 2006, Tuesday the 30<sup>th</sup>. Do you remember this day? --- Yes, I do.

15 Can you explain the two entries in the diary? There is an entry 9:00 Sedrick and then there is an entry 10:00 Topic: Overtime talk. --- 9:00 was the meeting that Sedrick Taljaard came down for with Warren Charles with yourself and the 10:00 one Sedrick had raised concern over starting layout on  
20 Saturday right after the working week and he and I were going to talk around which would be better: Starting layout on the Saturday or letting people come in on the Sunday as was the practice at Tygerburger and we were going to discuss the two options.

25 Right, Ms Dean, was this not in fact the evaluation

meeting at 10:00 on that day? --- No.

There was no evaluation meeting on that day? --- There was and that is the entry at 9:00.

9:00. --- With Sedrick.

5 Are you sure it is not 10:00? --- Well, I believe it is 9:00. No, it is 9:00.

Would you have spoken to Sedrick before the meeting and then had a meeting where overtime talk was the subject of an evaluation meeting? --- No, Mr Lewis. Sedrick and Warren  
10 Charles and myself met with you at 9:00 ...(intervention)

To discuss Sedrick?

COURT: Let the witness finish.

MR LEWIS: Sorry. --- My diary can't be read literally to represent the entire agenda and attendees of a meeting. It  
15 said 9:00 Sedrick in a way that I would note to myself that I would be meeting with Sedrick on a matter. The meeting was with yourself and Mr Warren Charles and Sedrick and myself. The 10:00 overtime talk, again not literal, but it was to discuss which would be better in terms of the two production options of  
20 continuing the layout on a Saturday versus the Sunday.

Right, Ms Dean, surely if the problem had been the use of profanity in the newsroom that would have been a topic for discussion. --- Are you asking why it is lacking in my diary?

I am just wondering why your diary contradicts the  
25 statement? --- My diary again is a note to myself.

Right. --- And that I would be well aware of what I would need to note down, what I would not need to note down and it is certainly not (indistinct-microphone off).

So you did not have to remind yourself that there was a  
5 problem of the use of profanity because the subject was overtime talk? --- Again, I need to correct you. The meeting with yourself was at 9:00. Sedrick and I were going to talk thereafter about ...(intervention)

So you are saying that the issue of overtime and working  
10 hours has absolutely no bearing on this case? --- No, we are talking about my diary entry (indistinct) ...(intervention)

And the overtime was not an issue, right? --- Within your 9:00 meeting with us?

Ms Dean ...(intervention)

15 COURT: Mr Lewis, the question is: Are you asking her whether overtime was discussed in the 9:00 meeting?

MR LEWIS: I think one would have to ask that ...(intervention)

COURT: Is that the question you were asking her? So that she knows what she has to answer?

20 MR LEWIS: I am just very puzzled that, that ...(intervention)

COURT: No, no, no, I do not want you to be puzzled. You have got plenty of time to reflect and argue the matter.

MR LEWIS: Right.

COURT: Just ask the witness a question so she can answer it.

25 Is the question you are asking that whether overtime was

discussed in the meeting with you at the time she says it took place which was at 9:00? Is that the question you are asking her?

MR LEWIS: I actually had a different question.

5 COURT: Okay.

MR LEWIS: What is the – when does the day start at People's Post? --- The office hours?

Yes. --- Would be 08:30 to 16:30 in terms of our receptionist.

10 So a 9:00 evaluation meeting would not be considered out of the ordinary? --- No.

And it would not be considered out of the ordinary to immediately after a 9:00 evaluation meeting to have an overtime talk at 10:00? --- It makes sense in that Sedrick was  
15 coming through for a meeting with you and he had to come in over the weekend to see how we were faring on production on the Saturday and he felt that coming through that Tuesday would give opportune time for him and myself to discuss the better option between working on a Saturday on production or  
20 having a break on the Saturday (indistinct) ...(intervention)

Miss, miss, miss ...(intervention)

COURT: Let her answer the question, Mr Lewis.

MR LEWIS: Sorry.

COURT: Now I have really, I have asked you to do this now on  
25 several occasions and all I require you to do is wait until the

witness has finished answering and then you ask your question. Now as it happens I now do not really know what the witness answered to the question, so where my note stop is that you said that it made sense because Mr Taljaard was  
5 coming through to meet with you in respect of the applicant.

--- That is true.

And then you were discussing – and then you said to discuss something. --- Then we would – myself and Sedrick – would talk about which would be the better option for  
10 production to take place on a Saturday, as had happened with the first edition, or on the Sunday which was practice at Tygerburger, our sister publication, and (indistinct-microphone off). It made sense because in his role he would not come through to the Tokai office all the time, he was based in  
15 Bellville and we would deal with all necessary matters. If he should come on one matter we would then deal with other matters while he is available in Tokai.

Mr Lewis?

MR LEWIS: So the evaluation meeting, which we have gone  
20 into length in your previous testimony, occurred not at 9:00, but at 10:00? --- I correct you again. It occurred at 9:00.

At 9:00. So the 10:00 meeting would have fallen away, is that correct? --- The 10:00 meeting was to discuss production (indistinct). It was between myself and Sedrick.

25 Oh, so the 10:00 meeting is just a chat that you had with

Sedrick. --- Yes.

All right. Ms Dean, are you aware of the correspondence between myself and Sedrick Taljaard? There is an email on page 16 of my bundle I believe.

5 COURT: Which bundle is that?

MR LEWIS: It would be in my bundle.

COURT: Is that your first bundle? You have got two bundles.

MR LEWIS: Yes, it would be – let us have a look.

COURT: And what page is it? What page?

10 MR LEWIS: Maybe it is the second one. Sorry, it is the respondent's bundle of documents.

COURT: And the page number?

MR LEWIS: Page 16.

COURT: Page 16.

15 MR LEWIS: Respondent's bundle. Sorry, M'Lord, are we there? --- Yes, I am.

Are you – have you seen this – are you aware of this document? --- (Indistinct) I am.

Is it familiar? --- Yes, (indistinct).

20 What is it? --- It is an email from yourself to my publisher at the time.

In the last paragraph – what is your understanding of that? --- You are stating to my publisher that while you are willing to generate arts and culture copy at no extra cost you  
25 are averse to parting with your good name or generating copy



under duress (indistinct).

Right. Perhaps I could just go back to the contract which is on – in the bundle, page 5.

COURT: Respondent's bundle?

5 MR LEWIS: Right. It refers to a job description as – there is an addendum. Why is the addendum – the job description not attached to the contract of employment? --- I cannot answer that question.

You agree that the job description was for a layout sub?  
10 --- The job description would also have included the content generating and pre-subbing tasks.

All right.

COURT: Sorry, it would include pre-subbing and? --- And the content generation.

15 And what is ...(intervention) --- The writing of articles.

Rewriting? --- The writing of articles.

The writing. --- The writing of articles, content generation.

MR LEWIS: Can I draw your attention to paragraph 5.1, page  
20 6 of the bundle, which would be the contract job description. It has got a phrase here:

“Should work not be available in a certain category the employee may not unreasonable refuse to do other work that falls within his or her abilities.”

25 Ms Dean, would you consider sub-editing and news

reporting as being in the same category of work? --- I would.

Would you consider the work of a photographer as being in the same category of work as an editor? --- Yes, I would.

Ms Dean, what is the role of a copy taster?

5 COURT: Sorry, a copy?

MR LEWIS: A copy taster.

COURT: A copy taster?

MR LEWIS: Yes.

COURT: All right, so how do you spell that?

10 MR LEWIS: Copy ...(intervention)

COURT: As in taster?

MR LEWIS: Yes. --- A copy taster would pre-sub material and pick up any problems and deficiencies before it moves on down the varying levels of subbing.

15 Is it not correct to say that as that job, that title, would reflect, a copy taster would have problems writing reports – the taste of copy for instance of the way – the subbing process is very different from a – for instance like a news gathering process? --- I would counter that the two, as I said when you  
20 asked me, are similar in nature.

Right. --- Reporting and subbing and that there are a number of examples to show that the two roles are – that one person can fulfil the two roles with comfort.

Yes. Can one person fit the two roles simultaneously?

25 MR KAHANOVITZ: M'Lord, I think we have been very patient.

I cannot work out what any of these questions have to do with the claim, the discrimination claim.

COURT: My understanding of his – of the matter is that – that in a sense he is being targeted. That is the argument as I understand it, that he is being targeted. And so I do think this falls within, broadly, what he argues to constitute discrimination, that in a sense this is the basis upon which the harassment claims he makes flow. So I am going to allow these questions, but I agree with you they are on the borderline of relevance.

MR KAHANOVITZ: As the Court pleases.

MR LEWIS: Thank you, M'Lord. Sorry, Ms Dean. The question is can a person who is in the role of a sub simultaneously fulfil the role of a reporter? --- Yes.

And simultaneous to those two categories of work also lay out pages? --- Yes.

All right. Can I draw your attention to the article 19 in the contract? There is a category called 'intellectual property rights'.

COURT: That is at page 13 of the respondent's bundle.

MR LEWIS: Right. Ms Dean, what is the position of the company with regard to ownership and control of the byline of a reporter? --- I choose not to comment on that. I don't feel I am in the best position to comment on that.

MR KAHANOVITZ: M'Lord, I am not sure the – maybe Your

Lordship can assist the witness here in the sense – maybe if the question could be clarified.

COURT: Yes.

MR KAHANOVITZ: So it does not create the impression that  
5 we are deliberately not trying to answer a question.

COURT: That she is not refusing. Yes. Are you aware of what the company's policy is on the ownership of intellectual property? --- No and I am not qualified to speak on that.

MR LEWIS: Ms Dean, isn't one's name one's stock in trade?  
10 --- In journalism, yes.

Do you own my byline or not? --- I have admitted that I am not the best qualified person to speak on the company's policy relating to bylines and intellectual property.

But you are aware that there was correspondence with  
15 Taljaard about my byline? --- Only because they were included in your bundle.

Oh, so it was new to you? It was just something that popped up now? --- To see that.

All right. Can I refer you to the KPA?

20 COURT: The what? Sorry?

MR LEWIS: There is a document in the second bundle of my own bundle, page 1 to 3, 17 May 2006.

COURT: Is that the key performance areas?

MR LEWIS: Right.

25 COURT: Okay, it is applicant's bundle.

MR LEWIS: Right.

COURT: Page 1 to 3.

MR LEWIS: Ms Dean, do you recognise your name on that page? --- Yes, I do.

5           And the preceding two pages you have – this is a document that you have – you would have been involved in.

--- Yes, I would have.

          Right. What was your response when I approached you with issues regarding the byline and the KPA? --- Mr Lewis, I  
10   don't recall ...(intervention)

COURT: Please – sorry, I do not want to – just draw my attention to which provision in pages 1 to 3 are you referring to?

MR LEWIS: Item 3, KPA priority way(?) 2.5.

15   COURT: Is that write entertainment article?

MR LEWIS: Write entertainment articles.

COURT: Okay. So won't you ask your question – your question relates to this particular ...(intervention)

MR LEWIS: Yes, yes.

20   COURT: Okay, then in light of paragraph 3 on page 2 won't you ask that question again? I did not get it.

MR LEWIS: Right. Ms Dean, you would have been involved in the drawing up of this document. Is that not correct? --- Yes, I would have been.

25           And me supplying written entertainment articles to the

company was not something that you considered odd? --- Not at all.

So you expected me to submit articles with my byline, even though I was subbing and laying out? --- As I indicated  
5 with your previous line of questioning that it is not uncommon.

It is not uncommon you say? --- No, it is not uncommon.

All right. Ms Dean, can I ask you again then what was your reaction when I approached you with this problem? ---  
Mr Lewis, I can't recall you approaching me with a problem  
10 around this. As I stated earlier, you approached me on the content side for entertainment, arts and culture with enthusiasm to discuss your ideas, to the point where it sometimes did disrupt my work.

Right. Ms Dean, my notebook lists seven distinct  
15 production processes.

COURT: Your notebook?

MR LEWIS: Yes. I realised I have not actually brought my notebook today.

COURT: Yes, but what is the relevance of your notebook, Mr  
20 Lewis?

MR LEWIS: Okay, Ms Dean, could you perhaps list the seven – the stages of the production process at People's Post for the court please? --- Well, once the content has been filed on the system and all the articles are there myself and a sub-editor  
25 on a Saturday go through the content to ensure that it is up to

standard and I list the articles submitted and plan their placement across the various editions that Saturday. On a Sunday I will have planned placement of the articles and a shift of journalists come in and do the layout assigned for that  
5 Sunday's work and on a Monday the balance of the pages, being the sport pages and the front-end news pages are completed by layout and the newspaper then goes to print that Monday night.

Ms Dean, you have told the court how the applicant was  
10 retrained on the Eidos publishing system. --- That is true.

Right. Could you perhaps tell us what the various stages of the – there is a seven stage process. --- Mr Lewis, just, sorry, help me with which part of Eidos – because (indistinct) ... (intervention)

15 There are flags in different colours, from ready, news gathering ... (intervention) --- With specific reference to articles?

With specific reference to the system as opposed to your own system – you have told us about your own system. Can  
20 you please tell us about the system that was in place? --- On the content side Eidos, our content management system ... (intervention)

COURT: Sorry, how do you spell Eidos and what does it stand for? --- It is an Italian generic company name. It is an Italian  
25 software company that designed Eidos. E-I-D-O-S. And it is

the just the product's name.

What does it do? --- It is a content management system that can be applied to our model of publishing, which is multiple edition publishing. It enables that and it also enables  
5 tracking and live management across various functions. So it is quite an integrated system. What Mr Lewis is referring to is to enable the live management where you are able to get a snapshot view of where you are in the production line from any workstation. Eidos has a flagging system which gives you the  
10 option to put the content in certain colour categories and flags to anyone on the system immediately where that article is in the workflow process, from writing through to ready. And in between those two poles you would have the option of flagging for editing, for a legal check, for a rewrite, for selected for  
15 publishing. The number of options Mr Lewis says is seven. I can't confirm, (indistinct), however you are not under any obligation to use the full run of flagging. It depends on the complexity of your news management system and at People's Post we use four colours, because we do not have a complex  
20 hierarchical news content management structure.

MR LEWIS: Thank you, Ms Dean. Ms Dean, was there or was there not a problem with the metadata at People's Post? --- There was not a problem with the metadata. (Indistinct) define problem?

25 Was the data line slowing ...(intervention) --- Oh, the  
20.01.2010/15:04-16:40/LL /...



data line.

... the production process down? --- Yes, the data line did slow down our production (indistinct) and there was a problem.

5 Right. On page 24 of applicant's bundle there is a typical ...(intervention)

COURT: Which bundle? You have got two bundles, so please ...(intervention)

MR LEWIS: My first bundle, sorry. Ms Dean, which level was  
10 this page in? --- Mr Lewis, I can't confirm because the flagging system does not give any indication upon a printout. It is on the screen itself.

Right, right. --- That you would see that.

So am I correct in saying that the data line on the top of  
15 the page does not really have any relevance to the – to what is on the page? --- There is relevance to it. It might not confirm the status of the page, but there is relevance in the other information there that I cannot dismiss.

Right. Could you perhaps tell the court who the author of  
20 this page would have been? --- The author as Eidos terms as the person who printed the page is yourself.

Can you determine who generated, who initiated the page, who created the page? --- No, the printout does not give that indication. The only way you will be able to do that is  
25 to go onto the system itself where the tracking is banked, but

not reproducing in any form on the page. So no deduction can be made other than that you printed the page.

The standard of the layout on this page – are you – would you say this is a ready page? --- It is indeed.

5           Something that you would not have any problems with putting your name on that, on that page and saying this is a page ready for publication? --- Yes.

Yes. Can I ask you again to perhaps read, for sense of the record, the author of this page? --- Mr Lewis, the author I  
10 must point out to the court merely states it was printed the page and not who laid it out or had any other engagement with the page other than to say this is the print.

Right. Can you perhaps turn over the page to 25? Ms Dean, this page, precisely that problem, has three signatures  
15 on that page and your attorney has gracefully conceded that this is a ready page for production that Brian Gaffney for instance would not have to come here to testify that this signature is indeed his own signature and it bears my signature as well and the signature of a colleague. Is that not  
20 correct? --- It is true.

Could you perhaps read the – to the court – the author of the page? --- The author who printed the page is yourself.

Right. --- I would like to just clarify to the court's understanding though that Brian Gaffney would not sign off on  
25 a layout page, but being the author of the (indistinct), which

was also your task and therefore to conclude that between the two possibilities that his signature reflects his happiness with the content or with the page is something that we do not have any supporting evidence for. It is one of the two, unless you  
5 would like to point out something on the page (indistinct)  
...(intervention)

Right, Ms Dean, is your business as a publisher publishing? --- Myself as editor?

Yes, as an editor. --- Yes.

10 You are in the publishing business. --- Yes.

Ms Dean, on 17 April there was a conversation about the demographics of the target market. You have told the court that the demographics are just a coincidence, that some of the titles just happen to coincide with particularly homogenous  
15 communities. Does that not strike you as strange?

COURT: What is the question? The question is that the demographics are coincidental or on 17 April you had a discussion? So this is why I am just unclear ...(intervention)

MR LEWIS: Well, yes.

20 COURT: To what you are asking.

MR LEWIS: Perhaps you could verify whether or not there was such a discussion on 17 April.

COURT: Will you give the witness then the time, the place and any other information so that she can recollect whether this  
25 happened? This took place 17 April in 2006.

MR LEWIS: Yes.

COURT: So please assist the witness so that she can answer the question.

MR LEWIS: Ms Dean, do you recall at all there being any  
5 discussions of such a nature where the demographics of the community would have been a topic? --- Within People's Post editorial team?

Yes. --- No.

So the writers and reporters played no role in the  
10 editorial process whatsoever? --- They were given the areas of distribution per edition. The question was around the demographics.

Right. So the editorial was an exclusive – in your exclusive domain as editor? --- No, you are asking me about  
15 discussion of the demographics.

Yes. --- And I said no, but the journalists were given the areas of distribution, a listing of all the suburbs that formed part of each edition (indistinct).

Would you not, as editor, have entertained any ideas  
20 about the racial composition of the communities? --- Would I have entertained ideas about it?

Would you have been confronted for instance with issues such as racial segregation or the effects thereof? --- Would I have?

25 Yes. --- In terms of discussing demographics with the

journalists?

Surely you are an editor, this is not something that is  
...(intervention) --- Do you mean to say would I take into  
account ...(intervention)

5 Yes. --- The (indistinct) of readers we would be  
targeting (indistinct).

Right. And would it be safe to say that the demographics  
of the False Bay or the Tokai edition of People's Post would  
have been very different to the Lansdowne/Grassy Park  
10 edition? --- Yes, they would.

Was it not your strategy to employ people such as me,  
with my background, in order to pursue your growth in the  
company in those areas? --- No.

So my background at South and Grassroots had  
15 absolutely no relevance to the demographics of the area? ---  
No, your background (indistinct) CV had relevance to the tasks  
we would require you to have done.

Ms Dean, you are an adult. --- Yes.

You must be aware that there was a tremendous amount  
20 of conflict in this country at least a decade ago. --- Yes  
(indistinct).

Yes. --- (Indistinct).

You are aware that there was a system of racial  
segregation? --- Yes.

25 And that the Group Areas Act for instance – you cannot

say that it is coincidental that certain people live in certain areas, can you? --- No, it was planned.

What steps did you take to ameliorate the effects of those racial policies? --- Through our publishing model?

5 Right. --- Through the way we do our work?

COURT: Let me just ask – are you asking what she personally did or are you asking what the respondent did?

MR LEWIS: I am asking what Ms Dean, as the editor of a ... (intervention)

10 COURT: What the editor did?

MR LEWIS: Yes. What did you personally do?

MR KAHANOVITZ: M’Lord, I do not know if you are going to allow this? Again, I cannot see what it has got to do with his claim. Because now we are asking – I mean – is it being  
15 suggested that she was under some obligation arising from the pleadings to do something about this and it bears some relevance to this case?

MR LEWIS: But, Your Honour ... (intervention)

COURT: What is the relevance of the question?

20 MR LEWIS: The relevance is, is that the editorial policies – and I have made allegations of policy – did not occur in a vacuum. There were day to day issues confronted on a daily basis and Ms Dean was confronted with various choices and I am just trying to assist people in finding the truth of what  
25 those decisions and choices were. So I am just asking, Ms

Dean, what were your decisions?

COURT: No, Mr Lewis. I am giving you such extraordinary leeway here because you are unrepresented. That question would not – most of or many of your questions would probably  
5 have been disallowed.

MR LEWIS: Okay.

COURT: And I am just reflecting on a whole range of questions you have asked and you have taken the Court nowhere with.

10 MR LEWIS: Sorry?

COURT: All the sub-editing, copy tasting, all of that, have – unless you are going to enlighten me in argument – I do not see where those arguments are going and where your questioning is going.

15 MR LEWIS: Ms Dean, are you familiar with an email sent on Wednesday, May 24<sup>th</sup> 2006 at 2:38 p.m.? It is on page 3 of my bundle.

COURT: Which bundle?

MR LEWIS: It will be the.

20 COURT: So is that the...

MR LEWIS: The first bundle, page 3. --- Yes, sorry, I am aware of this email.

You received it? --- Yes, I did.

And you are familiar with the content? --- Yes.

25 Why on earth would I take the trouble to meet with

Rashid Lombard? --- I can't answer that for you.

Did you not request the heart and soul of the community?

--- In the launch I said many things designed to really get the  
journalists to go out and do their work with passion. And if we  
5 are going to be an effective community newspaper publication  
we need to have people really relating.

And did we not decide that the best method of relating to  
the community was with – through jazz? --- You suggested  
that enthusiastically in those ...(intervention)

10 Right. --- Many times you were (indistinct) talking about  
the content (indistinct).

Right. And you were completely happy with me going off  
on my own steam. --- Yes, yes, Mr Lewis. You were  
passionate about it. Your background spoke of an ability to  
15 produce the goods and I believed there would be value to our  
offering if you were to contribute that and what you  
emphasised was a grassroots jazz approach which I was very  
comfortable with.

So there was some discussion about providing some form  
20 of jazz content, jazz-focused content to the People's Post? ---  
Yes, you were very enthusiastic about doing that.

Right. Can I show you a letter in my second bundle, on  
page 4 of my second bundle, a letter from Rashid Lombard. Is  
this letter familiar? --- No, it is not familiar.

25 Would you not at least be *au fait* with the contents? --- I



just want to read (indistinct). (Short pause). Okay, yes, I have read it.

You do know who Rashid Lombard is? --- Yes.

And you do know that he offered to provide access to his  
5 archive of photography spanning 28 years at a fee? --- I do know that you were going to meet with him. You had communicated that to me.

So you were also aware that there would have been a possibility of advertising for instance? --- No, I was not  
10 aware.

Not? --- No. One would assume that opportunities could flow from (indistinct) ...(intervention)

Right. --- ... discussions, but to presume  
...(intervention)

15 So. --- (Indistinct).

So what was your response when he called you? --- No, you gave me his card and I was to call him.

Oh, you were to call him. Ms Dean, can I point you to the Robbie Jansen article, just the photograph of – sorry, the  
20 photograph of Jimmy Dladlu on page 37 of the respondent's bundle of documents? Have you seen the photograph of Jimmy Dladlu? Who is the author of that photograph? --- (Indistinct).

Right. --- It looks like it could be Steve Gordon.

25 COURT: Sorry, I did not get that? --- Steve Gordon. I am

assuming the O-N followed there because it is cut off at the page.

MR LEWIS: And does Media 24 own this particular photograph? --- I would need to know if Steve Gordon worked  
5 for Media 24 at the time or if he had maybe sold a photo to Media 24 and in the absence of knowing that I can't confirm or deny it.

So as an editor you would not have been involved in that process of copy write ...(intervention) --- Had you submitted a  
10 photo as a journalist that you had used from another source without attribution or exposing it you would be guilty of an offence. So had you used a photo from a source other than Media 24 and there is payment due or you had not got permission for it and you failed to disclose that, there would  
15 have been consequences to that, much as with plagiarism. And you did not at the time of submitting this disclose that this posed a problem in terms of payment due, permissions that needed to be secured ...(intervention)

Ms Dean, was this not goodwill? Was this photograph  
20 not provided as a gesture by Steve Gordon, who does not work for Media 24, he has a business called Making Music? --- Mr Lewis, you are the best person to confirm that since you sourced the photo.

Were you not party to such a discussion? --- No.  
25 Not? --- No.

So this is all just news to you? --- Yes.

Right. Let us have a look ...(intervention)

COURT: Are you moving onto a new topic now?

MR LEWIS: Sorry?

5 COURT: Are you moving onto a new topic?

MR LEWIS: I am moving onto the original Jimmy Dladlu story.  
Sorry.

COURT: I think then it is an appropriate time to adjourn for  
the - and Mr Lewis, I would like you over lunch time to just  
10 reflect on your questioning and just satisfy yourself that it is  
relevant and that – because I have really given you a very  
wide berth and you really ought to focus your questions  
dealing with the principal issues that are in dispute. Many of  
the issues you have raised today are entirely collateral.

15 **COURT ADJOURNS** (at 16:40)

**COURT RESUMES** (at 15:09)

**ANNELIEN DEAN**: (s.u.o.)

COURT: Mr Lewis, it is 2:10.

MR LEWIS: Right.

20 COURT: You were required to be at court at 2:00.

MR LEWIS: My watch is a bit late, sorry. It is a bit slow.

COURT: It does not matter. You have to make the  
appropriate - make sure that you are on time.

MR LEWIS: Right.

25 COURT: Ms Dean, you are still on oath. --- Yes.

Under oath, sorry. --- Yes, Your Honour, M'Lord.

Mr Lewis?

**CROSS-EXAMINATION BY MR LEWIS (CONTINUED):** If I

may, if we could turn to the Jimmy Dlodlu article, the first  
5 story, page 23 of the respondent's bundle of documents. Sorry,  
Ms Dean, the paragraph, I believe it is paragraph 11, begins:

"Dlodlu's online biography illustrates a career rich in  
metaphor".

What is the purpose of quotation marks in a story? --- It  
10 indicates an insertion of some form, usually of someone's  
words being inserted.

So if I quoted somebody or quoted a piece in quotation  
marks how would one go about attributing a piece in quotation  
marks? Is there a formal directive from you? --- I would go  
15 on the convention and say that you would need to acknowledge  
the source and in this instance you would need to have given  
the URL from which you drew the text.

Right, so the issue is the manner in which the piece was  
attributed, not the fact that it was not attributed? ---  
20 Attribution would require a naming of the source, true  
attribution.

So I am just a bit confused because is the issue the  
source or is the issue the correct attribution of the piece? ---  
Both.

25 Both? --- The issue is that the piece did not meet our

standards due to its heavy use of material from an online site. The attribution was merely a part of it not meeting our standards, but my discomfort with the piece, particularly at launch, was that I wanted People's Post to have original, fresh  
5 journalism and not rely to this extent on material from other sources. It was one of standards.

I do not believe you have answered the question, because the question I am asking is not the merits of the piece, whether the piece was good enough or bad enough.  
10 The issue is was the quote in quotation marks from an online biography, was it attributed to an online biography illustrating a career rich in metaphor or not? --- There is no clear, I would say in my judgment, there is no clear link between the statement that ends with a full stop and the succeeding  
15 paragraphs that are placed within quotation marks, but there is no clear link between the quoted material and whichever online biography you were drawing that material from. In my judgment it was insufficient. There was no source attribution.

Ms Dean, you accused me of plagiarism, is that not  
20 correct? --- Borderline plagiarism, yes.

And in order to support a charge of plagiarism there are very clear guidelines laid out by the company, is that not correct? --- That is true.

Could we perhaps have a look at those guidelines? It  
25 would be in the applicant's bundle of documents, the first

bundle, pages 8 to 19: Ethical code for reporters, photographers and graphic artists of Die Burger. Ms Dean, is it not correct that plagiarism is a dismissible offence at Media 24? --- It is since 2006, the precedent was set.

5 M'Lord, I believe there is a – oh, here we go. On page 11, article 1.2, there are one, two, three, four, five points in terms of the guidelines at Media 24. Ms Dean, was there clear credit given for the material that was used? --- No.

Why do you say that? --- Your URL as a source was not  
10 included.

Ms Dean, is it the norm at Media 24 to use URL's as sources? --- Yes. If you use any external material in your work you need to attribute the source or give it attribution and the standard is for online use to give the reader the reference  
15 from where you drew the material, as you would say Peter Smith says, you would say according to this URL, giving the address, and then you have given the clear attribution.

Ms Dean, what is the purpose of a press release? --- There are many purposes of press releases. The purpose  
20 would be to communicate something to a news room that you would like them to include in their media.

Is it considered the norm to – if you use a piece from a press release – to attribute it to a press release? --- There is that suggestion that that be done, but it is not conventional  
25 practice and it is overachievement in the category of  
20.01.2010/15:09-17:08/LL /...

attribution of sources because it is common practice to draw material from press releases, although it is poor journalism.

If there was no other source of information would a journalist be forced to quote a press release? --- Yes.

5           Isn't the fact that the accusation that you have levelled at me has absolutely no basis in fact because the issue is one of general usage? Is it general usage when quoting for instance a biography, whether it is a press release, whether that press release is on a piece of paper or on a fax or whether it is  
10 placed online as a resource, is it not general usage to say the, in broad terms, that this person's biography or that person's story for instance? Is it not a general accepted norm? ---  
Yes, but can I ...(intervention)

Ja? --- May I ask Mr Lewis questions? Do you submit  
15 that the online source was a press release as one would understand it generally?

It was tendered by the press agent of the musician Jimmy Dludlu, by the name of Chris Siren placed it online as a resource to use for journalists.

20 COURT: You know, it is not a matter of, Ms Dean, of you asking questions and now you, Mr Lewis, answering it from the Bench. Why don't you just put the question to her, namely that does she know or does she not know whether or not this particular online reference constitutes a press release or not.  
25 And that is the line of questioning I think you should proceed

with.

MR LEWIS: All right, all right. That is, yes. Ms Dean, were you aware that the information had been tendered by the press agents of the musician concerned? --- No and it is also not a  
5 standard assumption to make because press releases are usually sent directly to a recipient as opposed to being left online.

Right and as the recipient, as the journalist concerned, surely that is something that would have – it would have  
10 crossed my desk, it would have somehow come to me and I would have decided whether or not to use it to substantiate the or to create a new story. Is that not correct? --- I would also have decided whether or not to accept that as worthy of our standards and whether or not to publish it.

15 So isn't what you are saying really that it is not an issue of plagiarism, it is an issue of the manner in which the item was attributed? --- It is not an issue of plagiarism. You were not charged under the disciplinary code with plagiarism. It was a matter of not meeting our standards.

20 Is your job not as an editor to fill in for a sub-editor when there is no other sub-editor available? --- I would have to do that.

Right. And ...(intervention)

MR KAHANOVITZ: M'Lord, sorry, might I just – before he  
25 carries on – there is no evidence that has been placed before



this court which says that what appears at page 24 of the bundle is a press release or anything akin to a press release which would entitle anybody to go and cut and paste from it without in any way impacting on the intellectual property of the author's of that website. In other words ...(intervention)

COURT: When you say page 24, 24 of which bundle?

MR KAHANOVITZ: Of what has been put to the witness of ...(intervention)

COURT: Yes, I know. No, I got that, but ...(intervention)

10 MR KAHANOVITZ: Of the respondent's bundle. In other words what is being put is that the cutting and paste, I am assuming he is saying (indistinct-microphone off) from page 24. But I am not even sure where the paragraphs are, but when he gave his evidence there was no basis laid for the question which is the submission which is now being put, namely that it was permissible for me to cut and paste from that website because that is a website which is there for the public at large to go and cut and paste without obtaining the permission of the original authors of the content.

20 MR LEWIS: Sorry, if I may? Surely the respondent is aware of the notion of fair use. --- Yes.

You are aware of it? Could you perhaps explain to the court what fair use is? --- Fair use is as you referred to using extracts from press releases in articles.

25 Right. So regardless of where the – what the original of

the quotations were, I would be within my rights as a journalist to make fair use of those pieces. Is that not correct? --- It is and I would be within my rights as an editor to reject certain pieces I felt for certain reasons did not meet the standards I  
5 set for the publication.

Ms Dean, isn't what you are referring to the idea of the editorial prerogative that regardless of the merits of the piece you have the right to reject such a piece for whatever reason?

--- I would state the reason as I did to you. I am not  
10 comfortable with whole chunks of text being taken from an online source without clear attribution. You may differ on the point. I made the decision based on my standards. Another editor may have decided differently.

Ms Dean, surely if there was a problem with the story  
15 your diary would have reflected an issue of content or an issue of that there was a problem with the reporting or the way David was behaving in terms of his content, writing content to the company. Surely that would have been ...(intervention) --- It is inappropriate to make assumptions about what my diary  
20 would reflect.

Right. So you rejected the – you rejected the story for your own editorial reasons. Is that not correct? --- Which I shared with you in showing you the paragraphs taken word for word from an online source without clear attribution.

25 And I explained to you that I had interviewed Chris Siren

and I had spoken to him and there was actually a paragraph preceding the, this quotation from an online biography. It says here: Siren explains. There is a quotation. Is that not a quotation?

5 COURT: Sorry, I do not know - where are you referring to? Is this page 24?

MR LEWIS: Just immediately prior to the – on the page 23.

COURT: Of what?

MR LEWIS: Of the ...(intervention)

10 COURT: Respondent's bundle?

MR LEWIS: Respondent's bundle.

COURT: Okay, this is the Jimmy Dluclu article rather than the source of the quote, is that correct?

MR LEWIS: Right.

15 COURT: And just take me to the paragraph?

MR LEWIS: It is immediately preceding this piece. There is actually a line through it. It starts: Siren explains ...(intervention)

COURT: It is right at the top of the fourth column.

20 MR LEWIS: Ms Dean, are these Chris Siren's words? --- Yes, but that too – and I don't have the documentation here – that too was taken from an online source.

Ms Dean, you must be familiar with the arts and entertainment industry? --- I am.

25 You are? --- To a degree.

Who owns the website, www.music.org.za? --- That I can't answer.

Is this not in fact Chris Siren's own website? --- You could answer that.

5 Right, so you are penalising me merely because Chris Siren does not have the time to write flowery press releases about his, one of his artists, and you are penalising me for that fact. --- I am not penalising you at the moment for anything. What we were referring to is a problem I had with the quality  
10 standard of the article that you submitted at the time and you did not offer the information you are offering now, which we may have then discussed. You offered to do a rewrite of the article. No penalisation followed this.

Isn't the problem the failure of editorial Media 24 to keep  
15 up with the technology of the day and age? --- Mr Lewis, in an editorial environment you are free to proffer the information you have on sourcing information and how you obtain that and in discussion you are able to make that contribution and in raising problems around content, as I did with you, you were  
20 free to argue your point and you may have had the opportunity to convince me.

So even though I was able to – I was amenable to giving you the, providing you with the sources of the information and the only problem that you can determine is my failure to  
25 stipulate the exact URL right down to the last digit, you  
20.01.2010/15:09-17:08/LL /...

rejected the story. --- Two points: I would have preferred your own original work as opposed to relying heavily on someone else's work, albeit through the medium of what you term a press release. I feel it is better quality journalism than  
5 having to fall back on someone else's labour. So it is not merely the attribution. Attribution would have been a plaster to a wound. It would have been better had you crafted your own piece using the information.

Ms Dean, how is it possible for a journalist to generate  
10 new stories while being in a newsroom? How does a journalist ...(intervention) --- It is the writing.

How does a journalist generate a new story? ---  
Through sources.

Through sources. --- And staying in contact with  
15 movements on their beat.

And if Media 24 had supplied me with an air ticket to Johannesburg I could have no doubt have attended the SAMA awards and given a firsthand account. Isn't this 'Siren explains' reported speech? I am reporting what someone else  
20 is telling me. I am not ...(intervention) --- You are reporting in the case of 'Siren explains' something that was quoted online without saying 'Siren explained as reported on www' and in the second instance you are taking chunks of text, somebody else's labour, without firstly giving it clear  
25 attribution. You and I differ on the point of whether

music.org.za is a press release or not. You could have illustrated clearly that it is drawn from an online source. The alternative would have been to apply your own labour to your own work.

5 Ms Dean, did you or did you not issue a style guide? ---  
At that point dealing with ...(intervention)

With the stylistic issues that you have raised regarding the Jimmy Dladlu story. --- I can't recall that. Specifically referencing this?

10 What would have been ...(intervention)

MR KAHANOVITZ: M'Lord, might I object at this stage about this line of questioning which I think has been hammered into the nth degree. Might I remind the Court as to what Mr Lewis' actual version in his evidence-in-chief was? It is not a case  
15 about whether or not the editor's reproaches about the nuances about attribution and so on and so forth and journalistic standards. Mr Lewis had a simple version which was and I will read from my note: This rejection is symptomatic of a policy of racial discrimination in the  
20 workplace. In other words, that is why the article was rejected. So we have not been debating nor did I debate with him nor did he say in his evidence-in-chief that this is a case about whether or not Mr Lewis should have been disciplined or should not have been disciplined or should not have been  
25 chastised ...(intervention)

MR LEWIS: Your Honour, sorry, sorry.

COURT: Mr Lewis, let Mr Kahanovitz finish his argument.

MR LEWIS: All right.

COURT: I am going to turn to you and you can reply.

5 MR KAHANOVITZ: So I am submitting he has gone as far as he possibly could on many occasions on this point and it cannot really be taken any further.

COURT: Well, except this Mr Kahanovitz, if what he is attacking under cross-examination or seeking to do is the  
10 reason for the rejection of the article given by the witness and if he is able to do that then one is left with what other reason was there for the rejection and an inference that is drawn around – that is the inference that he wishes to draw.

MR KAHANOVITZ: I understand that, M'Lord, but even if that  
15 was his line he has gone as far as he possibly could have gone on putting to this witness now on countless occasions that she could not have a genuine editorial well-founded reason for rejecting the article therefore there must be some other reason.

20 COURT: Mr Lewis?

MR LEWIS: M'Lord, I am just trying to illustrate the subjective manner in which this story was rejected and that the underlying reasons obviously played a role. If all this was, was a storm in a teacup about a possibility that I might have  
25 infringed Ms Dean's subjective criteria for attribution surely

the rational thing is to issue a style directive. Surely the adult thing to do is to issue some kind of guidelines and say no, at Media 24, at the People's Post, this is what is required, this is how we do things. In fact, we have got a guideline, we got an ethical code, this is what is required of you. Please go and correct your mistake.

COURT: So is that the question you are putting to her?

MR LEWIS: The question is: Why did you not do that? --- I addressed it with you as it arose in that instance. Journalists were given copies of the style guide. We have often presented ethical workshops to journalists and given them training and it is part of a journalist's tool kit to know how to use the tool as an engineer would know how to do his trade and this type of problem is addressed as it arises. That is my role in editing the newspaper ...(intervention)

Ms Dean, right. --- Where there could be – the directive generally would be issued where there could be clear problem areas broadly that people need to be made aware of in general, but on the whole this type of matter of attribution is one that journalists are familiar with in their tool kit as part of their profession and don't really need reminding every so often as it is inherent.

Ms Dean ...(intervention)

COURT: Mr Lewis.

MR LEWIS: Sorry.



COURT: How much further are you going to press this particular issue?

MR LEWIS: Well, I have to ...(intervention)

COURT: I do want to remind you that in your evidence you  
5 said yourself that this piece was from ready.

MR LEWIS: Yes, well this is what I am getting to.

COURT: In fact, if I recollect the language used by you, it was vapid and it made use of promo material.

MR LEWIS: Right, this is what I am getting to.

10 COURT: So is there any ...(intervention)

MR LEWIS: Well, this is what I am trying to get to.

COURT: Is there any dispute as to ...(intervention)

MR LEWIS: What I am trying to get to is: Isn't the real issue one of that there was not enough time given the constraints  
15 that we were working under that the – that ostensibly you would have had to fill in for a sub and there was not another sub available because I had been seconded to the job of acting as a reporter. Is that not the problem? --- Mr Lewis, at any newspaper a deadline is the line that is drawn of the point  
20 of no return. If an article with flaws to this level is submitted at this point in the flow no, the process cannot stop to deal with that level of deficiency.

So isn't the way the deal with this, such a problem, is to send the story back? --- And I discussed it with you  
25 ...(intervention)

Which you did not do. --- I discussed it with you that Monday and you began on a rewrite or if it had not been discussed why had you decided to submit a rewrite in which you brought Robbie Jansen's voice in?

5 COURT: Again, Ms Dean, do not ask him questions. I understand you to say that you did discuss this and in fact he went back to rewrite the article. --- Yes, M'Lord.

And that (indistinct-knock at microphone) because he produces, this is the Robbie Jansen article. --- Yes, M'Lord.

10 It is the second article. --- Yes.

Is that correct? --- Yes, that is what I am saying.

MR LEWIS: All right, so as far as you are concerned you did not want to see that story again? --- Not in this form.

Not in that form. So when it was resubmitted to you as  
15 an interview with Robbie Jansen what was your reaction? ---  
As I said earlier I was at that stage rather critical of your work due to this instance and the layout and I looked at it more thoroughly than a lot of the other work and in going through it with that in mind I had my doubts about the interview that you  
20 quoted in the rewrite with Robbie Jansen and I doubted that it had taken place and I felt it would be more responsible of me to first verify that such an interview had taken place before I print the article.

Ms Dean, why did you not call Pastor Robertson? ---  
25 The events that followed on the Tuesday with the meeting at  
20.01.2010/15:09-17:08/LL /...

which we agreed the contract would or you would be paid out for the remainder of the contract and the fact that we then did not proceed with this article under your byline afterwards made it unnecessary.

5           So I am hearing two different things. I am hearing that on the one hand I did not give you – I did not concede to your request to provide Robbie Jansen's telephone number and now you are telling me that there is a completely different version of events. --- You asked why I did not phone Pastor Glen  
10   Robertson.

          Right, why did you not phone Pastor Glen Robertson? ---  
          Because with Tuesday's meeting and the discontinuation of the relationship I was not going to publish that article with my doubts and I let it go. I did not follow through and I continued  
15   on with the third edition of People's Post.

          Right. --- You were no longer a contributing journalist there.

          I think we may be missing the dates, because I seem to recall there was a meeting in which you requested assistance  
20   in faking the part of a news, as an editor in the know.

COURT: Mr Lewis, you have not put that to her.

MR LEWIS: Well, I am putting it to her now. It is in my ... (intervention)

COURT: Well, then just ask her if that was ever said and if  
25   you are going to refer to a meeting please give us and allow

the witness to know the date, the time, people who were present and the context so that – because we are dealing with events that took place three years ago.

MR LEWIS: I believe it was on the 22<sup>nd</sup>.

5 COURT: All right, so.

MR LEWIS: You requested me – you asked for my assistance in faking, faking your part in being the editor of a magazine, newspaper in Grassy Park. --- Mr Lewis, can I ask you just to clarify, was it on the 22<sup>nd</sup> of May 2006?

10 I believe so. --- There was no such meeting and on the 22<sup>nd</sup> of May I was producing the first edition where we would have five newspapers going out and I did not get up from my desk until 3:00 that morning when I was finished with it. I would certainly not have set aside time to meet with you for a  
15 topic like that and I also state very confidently that no such meeting took place on any other date.

COURT: But did you ever ask the applicant to fake your part of a newspaper in Grassy Park? --- No, M'Lord.

MR LEWIS: So you rejected the Jimmy Dladlu. You rejected  
20 the Robbie Jansen interview and I complained to Sedrick Taljaard. --- Correction. I phoned Sedrick Taljaard as you returned to your desk and I reported that you had just used profane language to management in front of employees. You seemed agitated and asked him for advice on what we should  
25 do next and he then said we would meet the next day. You did

not initiate that call, although I do know he asked to speak to you and you spoke very loudly that I heard down the passage some of the content of what you were saying to him.

Is it not the case that you accused me of plagiarism and  
5 there was a problem with the demographics and the overtime and that you could not be bothered to fill in for a subeditor who is supposed to sub the article which you were now asking me to write as a reporter? --- No.

How is it possible to write and sub one's own work?  
10 Surely you were involved in an editorial process with your team.

COURT: You know, just ask the questions. There are about four, there seem to be three or four issues in that question, so break the questions down into a quite simple question. So the  
15 first one is, the first I understand that you are asking her whether she accused you of plagiarism, demographics and not filling in. All right no, that seems to be one particular question and then the second one is the question as to whether or not it is possible to both write an article and subedit it.

20 MR LEWIS: Yes.

COURT: So let us give the witness each question separately.

MR LEWIS: Right, sorry Ms Dean, did you or did you not accuse me of plagiarism? --- Mr Lewis, if you had been accused of plagiarism there would be a disciplinary process  
25 that would have started.

Right, so ...(intervention) --- What I had a problem with was the quality. It was borderline plagiarism. We did not proceed with any case against you for plagiarism.

Again the question: How is it possible to fill in for the  
5 duties of a reporter at the same time that one is subbing a news story? Surely the two are two contradictory jobs? --- Mr Lewis, you asked me previously if one person can fulfil the same roles and it is common practice that a journalist is able to sub copy and is required to sub their own copy.

10 Surely the process of subbing a story involves having a second pair of eyes? --- Indeed and that is where a team leader/news editor/editor would review the work of a sub or journalist.

And were you not that second pair of eyes? --- That is  
15 why I saw this on the Sunday and questioned it.

So that was your job essentially, was to spot those problems and point them out to whoever it was that it concerned? --- Which I did do.

Which you did, right. I then rewrote the Robbie Jansen  
20 story, the Jimmy Dladlu story with an interview from, a scoop for the community paper, and resubmitted the story in the same manner, in the same, going through the correct channels and your reaction was? --- I could not put my name to that story ...(intervention)

25 Did you write that story? --- Or the People's Post's

name.

Did you write that story? --- No, but as editor in allowing something to be published I am endorsing it. That is my role and I was not comfortable doing that until I had  
5 verified it.

So you did not want to endorse the Robbie Jansen interview because you were – there were issues that you had. You were uncomfortable? --- Yes.

Right. Ms Dean, you are a journalist. --- Yes.  
10 You studied journalism. --- To a point.

To a point? --- Uh, academically to a point.

Academic you got a degree ...(intervention) --- It is English and Psychology.

English and Psychology. Are you aware of the problem of  
15 newsroom censorship? --- Yes.

Would you not think that perhaps your rejection of my story could be, would be seen as an attempt to oppress the journalist concerned? --- If an editor merely had to steer clear of oppression then stories such as the Transnet sale of  
20 land at the Waterfront that was a Sunday Times' front page story and turned out to not be true at all, would be common place in South Africa. Editors are meant to verify facts and if in doubt they need to find out.

But you must admit your paper is not of the same ilk or  
25 calibre as the Sunday Times. --- And never will it be if there

are things that we publish that we ourselves are not comfortable with.

And that you are unlikely to publish a Transnet exposé in the People's Post. --- We could do something on a smaller  
5 level that would be the same and if we internally, particularly at management level, are not convinced about the veracity or the quality of our content we should not publish without verifying that.

Is it not the case that the community press in South  
10 Africa have been dumbed-down? Nobody wants the community press yapping at our feet? --- It is subjective. There has been no study to prove it.

Is it not a case that you are just a small cog in a large organisation that has an objective or an agenda? --- That  
15 would be opinion for a letters page 2(?) and not a factual story as an article. It is subjective.

Is it not the case that the large organisation that you are in essentially has an agenda which is to not rock the boat at community level, as far as it can? --- I have never seen the  
20 agenda in any annual report or on any email or in any form that I can confirm that your assertion has any basis.

Are you familiar with the term expediency? --- Indeed I am.

Was it not an expedient course of action that you took in  
25 not wanting to offend anybody? --- Please clarify with



reference to what action I took.

You were worried that if you published a story that was slightly controversial that you would be dismissed. --- I was worried that if I published a story that had the deficiencies of  
5 what you presented to me, that was my concern. What controversy? I have not mentioned controversy at all.

Is it not safe to say that the only deficiencies in the Robbie Jansen story are in fact the words of Robbie Jansen? The only thing that is of any problem in the article are the  
10 words of the man himself. --- Not the words, but the dynamic of somebody who is in the industry in our newspaper, after his producer says don't talk, being convinced by yourself to lay bare exactly what he feels about the industry. That is the problem, not the words, but the dynamic.

15 Right, surely the dynamics of a community paper are such that someone like Robbie Jansen would consider this a normal discourse, a normal conversation that he would have to anybody living in Grassy Park? --- That would have been the point of my making the phone call to verify that he had said  
20 these things to you.

Ms Dean, are you qualified or not to be the editor of at least four editions in previously disadvantaged areas of Cape Town? --- My company thinks so.

Do you socialise with people of colour? --- I barely  
25 socialise.

Right, because you have made some startling allegations against me. You have said – to add insult to injury you have said essentially that my contribution to the anti-Apartheid struggle in the field of journalism is wholly subjective. Can I  
5 ask you ...(intervention)

COURT: When did the witness say that?

MR LEWIS: This is in the, well, it is in the respondent's documents on item 60.

COURT: Right, ja, it really is quite important. If you want to  
10 make an attribution to the witness ...(intervention)

MR LEWIS: Yes.

COURT: You must say it, what she did, and if it is what the respondent says you should distinguish.

MR LEWIS: It must be in the pleadings. It is on the last page  
15 of the opposition, the latest amendment that the  
...(intervention)

COURT: What page?

MR LEWIS: Hm, if I can find the notice of opposition. Right,  
page 74.

20 COURT: Page 74.

MR LEWIS: Right.

COURT: Of the pleadings.

MR LEWIS: Ms Dean, are these not your words?

25 "In either event applicant's claims about his contribution  
to the anti-Apartheid struggle in the field of journalism

are wholly subjective.”

--- It is our response to what you submit.

Do you endorse this position? --- I believe, yes, your contribution is subjective and the difference between  
5 subjective and objective would be a verification.

Do you believe that you have some kind of divine right to rule as a white person? --- No.

Do you not perhaps believe that you are morally superior to those readers living in Lansdowne, Grassy Park, Retreat  
10 and Athlone? --- No.

Do you not perhaps think that they would perceive the Jansen interview very differently from your views, informed as they are by an education background in Bloemfontein? ---  
They might view it differently as a reader to how I viewed it as  
15 an editor. I could back that up. I would look at an article differently and I look at different things in an article than what a reader would do, but whether or not our cultural framework gives us different interpretations of the same piece is something that I would like you to possibly prove through a  
20 submission of some study.

Right, well, isn't a fact that the cultural framework in which we are having this discussion is a very different one than the cultural framework that we would be having the same discussion in a newsroom – I have worked in many newsrooms.  
25 I have worked in newsrooms where there are no boundaries

separating white from black. Surely those frameworks that have been supplied by your heritage as a white South African and by the company which informed that heritage, surely those are the boundaries and barriers that we need to be breaking  
5 down in this day and age?

COURT: I do not know what the question is.

MR LEWIS: The question that I am asking her with regards to the cultural framework that she is endorsing, she is claiming that she has some kind of unique ...(intervention)

10 COURT: She has not claimed any of that.

MR LEWIS: Is she not?

COURT: Mr Lewis ...(intervention)

MR LEWIS: All right.

COURT: If you are going to say that she has claimed it then  
15 please tell us chapter and verse where she has done so, but her evidence today I have not heard her claim that.

MR LEWIS: I thought I heard, I thought I heard her saying ...(intervention)

COURT: (Indistinct-speaking simultaneously) that she does  
20 not think she has the divine right to rule. I have heard her say that she does not think she is superior to the readership.

MR LEWIS: Okay.

COURT: And so please, you know ...(intervention)

MR LEWIS: Yes.

25 COURT: If you are going to put these claims you must say

where they are made.

MR LEWIS: Ms Dean, the respondent, your benefactor, your principal, seems at pains to deny the existence of the struggle.

Why is that? --- I need you to confirm that they are at pains  
5 to deny the existence of a struggle because I differ in my opinion on that.

I can quote chapter and verse.

COURT: But where does it take you, this question?

MR LEWIS: Where does it take us?

10 COURT: And how does this witness assist the matter?

MR LEWIS: I would believe that given the opportunity to make amends for the terrible and atrocious past that Ms Dean would avail herself of that opportunity, that if she was party to information such that there were aggrieved parties in the  
15 community, aggrieved at her editorial directive, that she would offer some sympathy for instance to the very community that she is claiming some kind of academic knowledge, some kind of professional basis for being in control, being the editor, being the one making the decisions as to what transpires in  
20 that community.

COURT: Why don't you just ask her that question?

MR LEWIS: I believe I have.

COURT: No, you have not.

MR LEWIS: Not?

25 COURT: Let us just say, will you ask her if she was party to

the information about aggrieved parties and maybe you can tell her who the aggrieved parties are and secondly then you can ask her if she offered some sympathy and so if those are the question you want to ask please ask them.

5 MR LEWIS: Ms Dean, am I the only one that has a problem with ...(intervention)

COURT: No, no, ask the question.

MR LEWIS: Sorry, the question.

COURT: Are you dropping those questions? Mr Lewis  
10 ...(intervention)

MR LEWIS: No.

COURT: Look at me. I run this court. You do not ask a question when I am addressing you. Do you understand that? Now are you dropping the two questions that I suggested that  
15 you separate out and put to Ms Dean or are you proceeding on a new line of enquiry?

MR LEWIS: I wish to actually ask Ms Dean whether she has been party to any information at boardroom level that might – I suppose it could be considered privileged information, but  
20 information of an editorial nature in terms of policy in the company. --- No, I am not, not privy to it. I am far from the boardroom.

No-one has told you ...(intervention) --- At my level.

No-one has told you this is what we expect from you? ---

25 I do have a job description that sets out tasks I am expected

to deliver on.

And who do you report to? --- Russel Wolmarans.

So you are saying that you have got absolute editorial freedom to do pretty much what you want? --- I do and then I  
5 would have to face the consequences of those choices too.

Right. And is it not true that you have chosen a policy of expediency as opposed to grappling with the issues that you are confronted on a daily basis? --- No, that is false.

Is that false? --- That is false.

10 So the Robbie Jansen story would not have struck you as an opportunity to confront issues of nation building and healing in the community? It would not have struck you as an opportunity? --- Not directly. It dealt with a music award and his opinions of that music award. It did not directly address  
15 what you suggested could ...(intervention)

When, when ...(intervention)

COURT: Let the witness finish, Mr Lewis.

MR LEWIS: Right. Sorry.

COURT: I mean, you interrupt the witness, you interrupt my  
20 ability to record what she is saying. Now you have got as far as that it dealt with the music awards and then you were making some statement about opinion. --- Mr Lewis asked if it was not an opportunity for nation building.

COURT: Nation building.

25 MR LEWIS: Yes. --- And I said that was not the direct

subject matter of the article. The subject matter was the music awards, so not directly.

So in your career as a journalist this is not a story that you would consider unusual? --- No.

5       No. So the history of these people have no bearing on what transpires at an editorial meeting or ...(intervention) --- But I did clarify the article from my point of view was one of his views on the music industry, not his history or who he is as a member of the group you are referring to.

10       So you were worried that his views would be used against him? --- No, I was worried that the person who had written the story may not have had the interview with him.

Oh, so you dispute whether or not I actually interviewed Robbie Jansen at all? --- That is why I asked you for his  
15   number.

And when I gave you Pastor Robertson's number why on earth would I have given you that number? --- At that stage of me getting the number from you, the next day you were no longer in our employment and I certainly was not going to run  
20   the article, so I moved along with the next edition.

So you had already written me off? --- No, at the time of holding back on the article I needed to do that to verify that the interview had taken place.

Which you did not do. --- Not on Monday on deadline.  
25   We had a newspaper to bring out and I had already made the



decision not to run that article. It was not going to be pending confirmation that Monday afternoon. It was put aside. I had communicated to you I was not running the article. You were clearly unhappy and expressed it with many profanities. I did  
5 not go back to the article that day. The next day we had the meeting. You were no longer in our employment from then on or would not be at the office from then on and so I did not run the article after that and I also did not follow through on the phone call.

10        So ostensibly I had already been fired. --- No, I had decided to not use the article. The next day you signed a full and final settlement.

Which you cannot find. --- No, we are not relying on that.

15        Which is missing, which you are not relying on. --- No.

Because I am interested to see how much you are actually relying on to substantiate your own testimony. You have thrown all sorts of things at me, but today you walked in and your characterisation of the evaluation meeting was that  
20 no, it was just absolute chaos. That was the reason that you could not remember anything. --- It did become chaotic at a point. You became very agitated. It, there was no real narrative to it after a while. You were very agitated, energetic. There was no order. You would not answer questions and you  
25 also said things in response that were not relevant.

Is it not the fact that we were talking at cross purposes?

--- I don't know why the meeting went that way, but I do know from my point of observation there was a lot of aggression and you were very worked up and instead of answering the  
5 questions directly you came with counter accusations.

So the Jimmy Dladlu article, the Robbie Jansen article had nothing to do with the evaluation meeting. Is this what you are trying to tell me? --- It did come in. Your behaviour was the reason the meeting had been called. The article had  
10 sparked that.

So there was an evaluation meeting at which the issue of the overtime arose? --- No.

Was that not the subject of the evaluation meeting? --- No, the evaluation meeting was at 9:00, as you term it, the  
15 evaluation meeting, and the overtime talk in my diary was between myself and Sedrick Taljaard about the Saturday versus the Sunday production.

Was there not a problem with a period in which I had worked 14 hour shift and that there had been a seven day  
20 week, two sequels, two periods in which I was working back to back seven days a week 14 hours a day on three days? Was not a subject of the evaluation meeting? --- You made a lot of claims there, but what I can say is that you had never raised in any formal way a grievance around your working hours or the  
25 number of days you worked.

So there was no problem with the working time? --- I can say we all worked long and hard hours those days. What you are stating very fast, I can't keep up with how many hours on how many days. Tuesdays you will recall we were off. There was no work to be done on a Tuesday. We certainly did not work 14 hour days on a Wednesday or a Thursday. In the beginning we had system problems, but you never raised in any formal way a grievance about the working hours and with it being a roll-out of four new titles and us having system problems we all put long hours in to get the job done and I think by and large with everyone on board it was done in a good spirit.

Ms Dean, how many people were at the evaluation meeting? --- It was you, myself, Sedrick Taljaard and Warren Charles. It was four.

Right. What did Warren Charles have to say? --- In the beginning we asked you about your CV and your background because we had had doubts based on the experience we had had with your layout and the quality of your writing. We then moved onto the point of what had happened the day before around the inappropriateness the behaviour at the workplace and with management and as I say at a point the – you were quite worked up and you would not answer the questions and what Warren Charles said and what you said I cannot repeat verbatim, it having happened three years ago ...(intervention)

Could you perhaps assist the court? What was the content of the discussion between Warren Charles and myself?

--- Between Warren Charles and yourself?

Yes. --- I know West End came up and ...(intervention)

5 COURT: West End? --- Ja, West End is a club in Rylands.

MR LEWIS: Right.

COURT: Sorry, just say that again to me? --- West End.

Yes. --- It is a night club in Rylands. And I think if you are asking me to give some sense of the meeting I can  
10 comment thematically along the theme, but not with each word  
...(intervention)

MR LEWIS: Was the theme, all right, was the theme not the manner in which I observed the Friday night, my Jewish, me being a Jew? Was that not the theme? --- I cannot confirm  
15 that. I do recall you mentioning West End in Rylands and you mentioned a lot to prove you had street cred and we were taken aback at how that had come into the conversation. That was one point that stood out for me, is why do you bring that into the conversation.

20 Did Warren Charles not question me on what I was happened to be doing on a Friday night? Did he not question me? --- I cannot recall that.

Did he not interrogate me as to – and this is the question that verbatim was: What am I doing at the West End on a  
25 Friday night? Am I not contradicting myself as a Jew? Did he

not say those words? --- No, I cannot confirm that.

You do not have any memory or recollection? --- No, I cannot confirm that West End was used in that context by Warren Charles. I know you were saying that you had street  
5 cred and you know where West End is. That, it struck me as being inappropriate to what was actually a professional conversation about your conduct ...(intervention)

Right, did – do you not think that it was inappropriate to ask me for directions to Manenberg in an evaluation meeting?

10 COURT: Was the question asked? I mean, just please ...(intervention)

MR LEWIS: Yes, he wants to know ...(intervention)

COURT: No, no, no, you ask the witness please.

MR LEWIS: I am asking the witness. --- Whether the  
15 question was asked?

Was it not inappropriate to ask that question?

COURT: No, no, no, before you ask the appropriateness, ask whether that question was put to you at that meeting.

MR LEWIS: Sorry, Ms Dean, was the question not put to me  
20 by Warren Charles? Did he not want to know where Manenberg is? --- I cannot recall that. In saying that I am not saying that it might not have been asked or that it was indeed asked, I am saying that I do not have information in my memory bank at all on that.

25 Did you not want to – did you not question me as to my

participation in an exhibition of art? --- Yes, we did.

You did. --- Yes.

Ms Dean, I am just wondering whether you can perhaps remember the sequence of events that led to me being  
5 removed from the newsroom. I seem to recall being interrogated as to whether or not I was a Jew or a member of the Jewish faith or what, what would a Jew be doing at the West End on a Friday night. That was the question that they wanted ...(intervention)

10 COURT: Okay, Mr Lewis, you are not giving evidence here.

MR LEWIS: Right.

COURT: So the question is just – phrase your statement in a form of a question.

MR LEWIS: Right. Ms Dean, did Warren Charles not want to  
15 know what I was doing at the West End on a Friday night being a Jew?

MR KAHANOVITZ: M'Lord ...(intervention)

COURT: She has answered that ...(intervention)

MR KAHANOVITZ: As they say in ...(intervention)

20 COURT: Thank you, thank you, Mr Kahanovitz. She has answered that question now three times ...(intervention)

MR LEWIS: Was the, right.

COURT: Mr Lewis.

MR LEWIS: Right.

25 COURT: Please do not interrupt me when I am talking to you.

MR LEWIS: Yes.

COURT: You have asked her that question now I think at least  
...(intervention)

MR LEWIS: Okay, all right.

5 COURT: Three or four times.

MR LEWIS: I have asked that question.

COURT: She has answered the question and there is no  
reason for continuing to get the same answer each time. She  
has explained that she does not recall that being said, but  
10 concedes it might have been, as I understand her to say, but  
she does not recall.

MR LEWIS: Right, is it possible that there was some kind of  
conversation involving Judaism at the evaluation?

MR KAHANOVITZ: M'Lord, might I object? What the witness  
15 has said on countless occasions, things may have been said at  
that meeting that she did not hear.

COURT: Yes, I know.

MR KAHANOVITZ: And therefore she cannot unequivocally  
say that something was not said, so he can put however many  
20 variations on that theme that he likes.

COURT: Yes, but now there is a question of Judaism. Let the  
witness answer. Do you recall an issue of Judaism being  
raised at that meeting? --- No. I can – if I am allowed to?

Yes, of course. --- Explain on the West End reference in  
25 the meeting. What I do recall is that Mr Lewis in explaining

that he had indeed interviewed Robbie Jansen saying that he had done that in West End at the club and that is how it is possible that West End came into the conversation in that meeting.

- 5 MR LEWIS: Right. --- Because we were also asking about that article and: Had you interviewed Robbie Jansen? And you claimed to have done that in West End.

And you wanted to know whether or not I had done it on the Friday night or had I done it on the Thursday prior the  
10 week before. Is that not correct? --- Because there was a matter of the pool car that you had used that Friday night.

Right. --- But it was not around the matter of Judaism. It was around my doubts still that you had actually had the interview and when – I was trying to also understand when  
15 would you have written it, when could the interview have taken place and I was aware you had used the pool car on a certain night, so I was trying to understand then did that coincide with where you claimed or when you claimed you had been at West End to do the interview.

20 Right. --- But it was most certainly around the interview of Robbie Jansen.

Right. --- Whether or not it had taken place.

So was the question not where was I at such and such a time on Friday night? Was that not the question? --- To  
25 understand had you actually interviewed Robbie Jansen at



West End as you had claimed.

Well, you were, right.

COURT: She has answered to say that the issue is that she was concerned about whether or not you had interviewed  
5 Robbie Jansen.

MR LEWIS: Right.

COURT: All right.

MR LEWIS: And what were your conclusions? --- I made no conclusion. I would have had to speak to Pastor Glen  
10 Robertson, but the full and final settlement was signed. I did not choose to run the article and therefore I never pursued that.

So as far as you ...(intervention) --- It would not be wise after someone is no longer there.

15 So as far as you were concerned you had washed your hands of it. I had committed some dismissible offence. --- No, the meeting at which that settlement was signed was one of mutual agreement ...(intervention)

Was it. --- And the fact that I had withheld the article  
20 the day before related to the meeting only in that your profanity and your conduct were cause for concern by management.

Is it not the truth that if there was an issue of the conduct that there should have been a disciplinary hearing?

25 --- I cannot comment on the choices that human resources

and upper management departments take.

Is there no oversight, is there no legal framework in which hiring and firing occurs? --- There is indeed and it is within the ambit of human resources.

5           Could you perhaps tell the court why Warren Charles no longer works for Media 24?

COURT: What is the relevance of that?

MR LEWIS: The relevance is I do not believe Warren Charles did his job. I do not think he was *au fait* with the rules and  
10 regulations governing the termination of – a unilateral termination of the contract.

COURT: Mr Lewis, that is just irrelevant.

MR LEWIS: Is it irrelevant?

COURT: Yes.

15 MR LEWIS: Ms Dean, do you think that a question such as what is your religious affiliation, you think such a question is appropriate in a newsroom? --- It depends on how the answer is put to use. I don't think the question itself would be inappropriate. We ask each other many things as we go  
20 through differing levels of getting to know one another. The appropriateness or otherwise would be related to the use of the answer.

Would you not consider that if the very next thing occurred after such a question was a dismissal or termination  
25 of a contract that there would be a basis for discrimination?

COURT: When was the question? Are you asking hypothetical  
...(intervention)

MR LEWIS: It is a hypothetical ...(intervention)

COURT: Question here or is it ...(intervention)

5 MR LEWIS: It is a hypothetic.

COURT: Hypothetically ...(intervention)

MR LEWIS: Yes.

COURT: Are you saying to the witness hypothetically  
...(intervention)

10 MR LEWIS: Hypothetically.

COURT: If such a question was asked and was answered  
...(intervention)

MR LEWIS: Right.

COURT: Would it be discriminatory then to dismiss somebody  
15 after that?

MR LEWIS: Yes.

COURT: Is that your hypothetical question?

MR LEWIS: That is the hypothetical ...(intervention)

COURT: Now what is the relevance of that and how can this  
20 witness in any way assist you? I am going to ask the witness  
to answer, but ...(intervention)

MR LEWIS: I am trying to understand ...(intervention)

COURT: I am really trying to say to you that you are going to  
– this – anyway, do you wish to answer it? --- Yes, it would  
25 be discriminatory.

MR LEWIS: Right. So you would do everything you can to avoid such an act of discrimination? --- Yes.

Right and you would have policies in place and check and balances to avoid such eventualities? --- Yes.

5 And even if there was a dispute of whatever nature, even if it was over the use of profanity or the wearing of an ear piercing or a head dress, your company would have some kind of a plan in place so that discrimination could not happen? ---  
I would take profanity out of the category of an item that you  
10 can discriminate for or against. It is a matter of conduct ... (intervention)

Right, in what. --- But in terms of other matters of discrimination there would be checks and balances and policies and the like.

15 Now, Ms Dean, what is your policy on the use of blasphemy?

MR KAHANOVITZ: M'Lord, I object. It is not a (indistinct-not speaking in microphone) case.

COURT: Mr Lewis, what do you have to say?

20 MR LEWIS: M'Lord, the witness has accused me of using profanity.

COURT: Well, the profanity she has used, that she has indicated so far, is ... (intervention)

MR LEWIS: No, I am just trying to determine ... (intervention)

25 COURT: Is terminology that is quite far away from blasphemy.

MR LEWIS: Right, I am just trying to determine whether she understands the difference between obscenity for instance and profanity, the use of foul language. They are different ... (intervention)

5 COURT: Well, then just ask her. --- Have I used the wrong term to describe what you said to me? Should I have said you had used an obscenity as opposed to profaning the name of a deity possibly? Is that the point?

Whoo. --- I am trying to understand your question.

10 I am trying to understand your response. You said that you used the word flip, was it, effing? If a person use the word effing this or effing that, would that be in your book profane? --- Mr Lewis, I chose not to say the word in full.

Right. --- But I need to clarify to the court, I was not  
15 then verbatim repeating what he had said. I had chosen to leave out a part of the words.

COURT: Yes, it is fine. I think we all understand what you intended and the question simply is this: You used the word profanity and the question is, as I understand it, am I, is that  
20 the proper term should have been obscenity?

MR LEWIS: Oh no, I am, I am.

COURT: Is really your argument that she had used the wrong term profanity rather than obscenity.

MR LEWIS: I think she has used the wrong profanity. I am just  
25 trying to ... (intervention)

COURT: All right, well fine.

MR LEWIS: Figure out what was said.

COURT: We do not have to have the description. The question simply is we know what words she says were used.

5 MR LEWIS: Because in my version of events any profanity that might have occurred happened after the termination of the contract. I might have uttered the word flip, right, or eff you, after I had already been physically removed from the premises. Is that what you are doing is creating a sequence of events  
10 that does not actually add up. You have a diary entry that is completely different to what you ...(intervention)

COURT: Mr Lewis, please do not argue with the witness. Just put questions to her. You have put to her that your use of the word eff off or whatever the case may be took place after you  
15 were removed from the premises. Just put it to her.

MR LEWIS: I am putting it to you that this might have been the version of events that you have a habit of lying, that you lied about numerous occasions various incidents where there is evidence to support and substantiate my version of events.

20 MR KAHANOVITZ: M'Lord, there is well established case law that before you put to a witness that they are lying you must establish a basis for it.

COURT: Basis for doing that, ja.

MR KAHANOVITZ: And that has not happened here.

25 MR LEWIS: Your Honour, I have no further questions.

**RE-EXAMINATION BY MR KAHANOVITZ:** Thank you. Ms

Dean, just a handful of things. On this question about what in the contract and the annexure and so on and so forth were you part of a conspiracy to put a fraudulent copy of a contract, an  
5 employment contract, before this court? --- No, I was not.

Now you had a lengthy debate about what seems to me the question of plagiarism on the one hand and poor quality journalism on the other. I just want to ask you about the question of what would fall into the category of poor quality  
10 journalism that an editor might reject so that we can understand the difference and what we are trying to understand is when is it permissible if ever to go and lift large chunks from somebody else's information on the internet. If, and again, sorry, I am going to have also just do with a  
15 hypothetical hear, if you were to ask someone to write an obituary of a deceased person for the People's Post and they cut and paste an obituary from the Daily Telegraph, but they attributed it to the Daily Telegraph at the beginning of the article, but the rest of the article is just copied off another site,  
20 is that acceptable? --- No, that is not acceptable because the attribution needs to flow through so that the information that you are drawing from the other source is linked to that other source continuously and not just by way of introduction. There needs to be no doubt in the reader's mind that the information  
25 that they are dealing with stems from another source and that

is where the attribution needs to be clear.

No, but where I got a bit confused with the questioning, there seems to be a difference between on the one hand you testified that you must attribute, but there is another issue, is  
5 if that is so, if that is good enough why don't all journalists just go and copy articles of other newspapers off the internet and as long as it is attributed is that in of itself sufficient or are journalists expected to do something more than merely go and copy other people's articles off the internet? --- The reason  
10 there is not more of that and journalists are not just taking things through and doing the right thing in terms of attribution, but just reproducing each other's work, is because of internal standards maintained by management who need to safeguard the quality of the product and therefore ...(intervention)

15 So how do you, excuse, sorry. You have not finished.  
--- And therefore editorial management would have a tolerance level for an aspect such as drawing other work that has already been created into their product ...(intervention)

What would make ...(intervention) --- And tolerance  
20 levels would vary.

What would make something a People's Post story written by a People's Post journalist and acceptable to the People's Post as opposed to something merely copied from somewhere else and presented as a People's Post story? --- I  
25 am sorry, I don't understand clearly.



What made something a People's Post story as opposed to something copied off from somebody else's website? What do you have to do to give it that quality? --- Where a journalist would generate their own article?

5 Yes. --- It means that there has been firsthand verification of the information and you are not taking it on the trust of another source. You have got someone in your employment with a contract whose job entails verifying and who you have a relationship with and if you have any doubt  
10 about any of the information before or after publication you are able to say to this person: Did you verify this? If you have any doubt you are able to ask for a number to verify it yourself. Whereas when you draw something you rely and you are totally dependent on the checks and balances of an  
15 external party.

When you had this debate with Mr Lewis as to what was or was not acceptable did he say to you that: these problems you are raising with me, this is not your real reason for having a problem with this story? Your real reason is because you are  
20 a racist? --- No, he did not.

If you could look at page 52 of which bundle? This is applicant's bundle of documents, part 1. This is a note ... (intervention)

COURT: What page, sorry?

25 MR KAHANOVITZ: Page 52, applicant's bundle, part 1. It is a  
20.01.2010/15:09-17:08/LL /...

note prepared by Mr Lewis setting out one of his versions of the events.

COURT: Where is this version? What ...(intervention)

MR KAHANOVITZ: Page.

5 COURT: I have got page 52.

MR KAHANOVITZ: Bundle, it is the document starts at page 50: My experience of discrimination at Media 24.

COURT: And what was this prepared for? I do not know – what is this document? It is prepared by the applicant?

10 MR KAHANOVITZ: Yes, I cross-examined him on some of it. I am not sure why he has prepared it, M'Lord. There are various internet postings and stories that he has written as part of his campaign to publicise his experiences. In this particular note prepared by him you will see page 52, the fourth paragraph  
15 from the top, he takes up the story of what happened after you had rejected the Jimmy Dladlu story. I am just going to read into the record.

“So I rewrote the story and interviewed Robbie Jansen.

There was no denying the link or the community angle.

20 Robbie had a special relationship to those living in the Cape Flats and his comment helped to solidify an otherwise vapid piece hastily put together from music industry bumph.”

B-U-M-P-H:

25 “And promo material that had began to flow into the

newsroom at an incredible rate as a result of my own request for news worthy stories.”

Is that what the document says? --- Yes, it is.

Then if you could – I am just going to read you something  
5 on this question of the telephone number and your request, the questions that were put to you in relation to the request that you made for Robbie Jansen’s telephone number. In the pleadings file at page 89 – M’Lord, this is the applicant’s response to the respondent’s amendment. Page 89, paragraph  
10 26, the fourth line from the top:

“As far as the issue.”

Is Your Lordship with me?

COURT: Yes, I am.

MR KAHANOVITZ:

15 “As far as the issue of Robbie Jansen’s telephone number is concerned applicant simply refused to give out Mr Jansen’s telephone number for the exact same reason his agent refused to give the number. Mr Jansen has a heart condition. He is only contactable viable Pastor Glen  
20 Robertson. Applicant instead gave Dean the pastor’s telephone number. Dean was unhappy with this and refused to publish.”

Might I ask you, at the time that you asked him for Mr Jansen’s number did he say to you: I refuse to give you Robbie  
25 Jansen’s telephone number because he has a heart condition?

--- No, he did not.

Just on this question of how the issue of West End came up, you will recall that when I cross-examined the applicant I asked him where he interviewed Mr Robbie Jansen because  
5 the article says that he interviewed him at West End. I am just trying to - speaking from his Cape Town home via telephone. There was some debate between you and Mr Lewis now about whether he had or had not interviewed him at West End. In what context did that arise? --- That was in the context of me  
10 explaining how West End had come into the Tuesday, 30 May meeting as a topic of conversation, where Mr Lewis was asserting it was because of a question as to what he does on his Friday nights and I was saying that it was because we were still trying to get to the bottom of whether or not he had  
15 interviewed Robbie Jansen and he had claimed to have done it at West End. There is though a document in which Mr Lewis makes reference to the interview at West End too.

Sorry, there is or is not a document? --- There is. In my one file I noted the contradiction between that and the article.

20 COURT: My recollection is that under cross-examination he said that he had interviewed Mr Robbie Jansen over the telephone and that he subsequently met with Robbie Jansen later.

MR KAHANOVITZ: Yes, he said at West End to pay his  
25 respects.

COURT: To pay his respects, that is correct.

MR KAHANOVITZ: But there was a document in which, where the issue had arisen that – which he claimed that he had interviewed at West End which is where this whole issue of whether he was at West End on Friday night had arisen in the first place.

MR LEWIS: Fishing for stuff that does not exist. --- There is on page 27 of the applicant's bundle of documents on the bottom – and I will leave it to my advocate to read that if he feels it appropriate.

MR KAHANOVITZ: Page where? --- Page 27.

COURT: Page 27 of the applicant's first bundle of documents. You do not have to read it to the counsel. Counsel will be able to read it himself.

MR KAHANOVITZ: Yes, this is his note about the problems encounter with the second production (indistinct-not speaking into microphone). In the bottom paragraph ...(intervention)

MR LEWIS: Right.

COURT: Please, mister.

MR KAHANOVITZ:

“This week I got an exclusive interview with Robbie Jansen on amongst other things Jimmy Dlodlu's SAMA award, in itself no mean feat. After going through a variety of channels His People's Church Pastor Glen I eventually met with the old saxophonist at the West End

in Rylands, one of our target areas in Athlone. Despite considerable effort and my time being spent on the story late Friday night this story was rejected out of hand."

COURT: Let us just situate this. This is the ...(intervention)

5 MR KAHANOVITZ: This is the note ...(intervention)

COURT: This is the note that he prepared for his evaluation.

MR KAHANOVITZ: That is so, M'Lord. And it is in that context I cross-examined him and I said where, which version is it and he said: I spoke, actually I spoke to him on the telephone.

10 COURT: Yes.

MR KAHANOVITZ: 'And then I went to pay my respects subsequently at West ...(intervention)

MR LEWIS: Sorry, M'Lord, I have got to object, because there is no contradiction. This is a note for evaluation in which I highlighted in order to assist me that I was now, there was a Friday night issue. There is no contradiction. I have never claimed that I interviewed him on the Friday. I have always claimed that the interview was conducted over telephone and the substance of the ...(intervention)

20 COURT: I do not think that is the problem.

MR LEWIS: What is the problem?

COURT: No, well then sit down and let Mr Kahanovitz ask his questions.

MR KAHANOVITZ: Ms Dean, can you recall – and if you cannot recall just say so – what was the version that was

actually put up at the meeting when the applicant was challenged about whether he had in fact conducted the interview? How did the concept, how did the issue of whether he knew where West End, how did it arise? --- It was because  
5 he had mentioned that he had met with Robbie Jansen at West End and that is when I thought back mentally when had I signed out a pool car for his use after hours to just, within my own mind, see if I could reconcile that to understand if such an interview had taken place and I had signed out a car on a  
10 Friday night. So the night on which the interview would have taken place was relevant to whether or not the interview did indeed take place, which was the point of the discussion, the concern ...(intervention)

What does, yes, excuse me. I interrupted you. --- The  
15 concern around whether or not an interview had been held was the point of the discussion.

Yes. --- And I knew that I had signed out a pool car for him for after hours use for a Friday night and in trying to understand when had this interview apparently taken place, the  
20 matter of when had that pool car been used on what night was relevant.

What do you have to do to get a pool car? --- You need to explain why you need the pool car and I need to then approve it on the basis that it is necessary for work for the  
25 newspaper. You need that permission.

So was it your understanding that the pool car had been signed out to conduct an interview with Mr Jansen at? --- The pool car had been signed out for work on a Friday night. As to whether it was going to be Mr Jansen I cannot confirm without  
5 that slip on which he had written what the purpose of it would have been for, particularly with it being that long ago.

All right. Mr Lewis is (indistinct).

MR LEWIS: Right.

COURT: Are you objecting, Mr Lewis?

10 MR LEWIS: I believe I have to. It is, it is ...(intervention)

COURT: Well, just state your objection.

MR LEWIS: My objection is I was given use of the pool car as one of the junkets with fringe benefits.

COURT: Mr Lewis ...(intervention)

15 MR LEWIS: And now they are trying to ...(intervention)

COURT: Mr Lewis, you cannot give evidence from the bar. Do you understand that?

MR LEWIS: Right.

COURT: All right, so the ...(intervention)

20 MR LEWIS: So I can ask Annelien a question then.

COURT: No, no, it is not about asking questions. You have stopped cross-examining her and it is now Mr Kahanovitz' opportunity to put questions to her. Are you objecting to the line of questioning that Mr Kahanovitz is following?

25 MR LEWIS: Yes, I am.



COURT: What is the objection?

MR LEWIS: The objection is that you are trying to cast aspersions and create some kind of issue about the car, the vehicle, that does not exist. Now it is something that escaped  
5 my mind in the chaos and the turmoil and perhaps I should have been asking Annelien to explain to us. I would like an opportunity to ask that question. In fact, it completely escaped my mind, so I would love to ...(intervention)

COURT: So what you are really wanting to do is not object,  
10 but an opportunity to ask further questions.

MR LEWIS: Precisely.

COURT: That you failed to ask when you were cross-examining.

MR LEWIS: Right.

15 COURT: I will allow you to do that once Mr Kahanovitz has finished his questioning.

MR KAHANOVITZ: Thank you, M'Lord.

COURT: Provided of course you are able to demonstrate to me that you are entitled to do so. Mr Kahanovitz?

20 MR KAHANOVITZ: Ms Dean, yes, on the Dlodlu story, what has come out in the cross-examination that does not appear to have been apparent at the time that you read – sorry, not the Dlodlu story, the Jansen/Dlodlu story – that was not apparent at the time is if you go to page 37 and 38 of respondent's  
25 bundle of documents, at page 38, second paragraph from the

top where you will see it says: Dlodlu was however in Mozambique and unavailable for comment, but he spoke to the press via his record label. And then there is quotes:

5       “To me winning the SA Music Award means a lot. It means that my peers, the music industry and people in general are acknowledging that I am making a contribution to South African music and culture.”

      You will recall that I asked the applicant whether he in fact had interviewed Mr Dlodlu before he had put that into the  
10   article and he said no, he had not, but that the author of the statement was a Mr Chris Siren who was his manager and he said that doing that, putting those words into Mr Dlodlu’s mouth, was an acceptable journalistic practice. He called it a journalistic conceit. I just want to find out from you, is that an  
15   acceptable journalistic practice? --- It would be to quote someone on behalf of another, but rather to give that person’s name and again we are looking at the tolerance levels of accuracy that different people within the industry would have in terms of the detail given. ‘He spoke to the press via his  
20   record label’, would be a stretch. It would have been better to say: But his manager said on his behalf or Chris Siren, his manager, said on his behalf.

      Were you told at the time that this article was presented to you that what appears to me, at least as a lay person, as  
25   being the words of Mr Dlodlu, were in fact not his words? ---

No, that was not pointed out to me.

Is 'via his record label' some sort of code for, journalist code for telling an editor that that is not the words of the person? --- No, it is not.

5 I have no further questions, M'Lord.

COURT: Mr Lewis, you said that you indicated you want to ask further questions.

MR LEWIS: Right.

COURT: The issue of the pool car, I am going to permit you to  
10 ask questions in relation to her evidence on the pool car because it was not raised under your cross-examination and it was not raised in chief either, so – her evidence-in-chief – so you may question in respect of the pool car ...(intervention)

MR LEWIS: And is it possible to just continue this line of  
15 discussion about the Chris Siren via his record label?

COURT: No, I do not think so.

MR LEWIS: Not.

COURT: You really have exhausted that and in any event you yourself say – you have already stated that the article is filled  
20 with promo bumph, so ...(intervention)

MR LEWIS: No, this is the second ...(intervention)

COURT: So the question of Chris Siren and the rest  
...(intervention)

MR LEWIS: Sorry, M'Lord. The second ...(intervention)

25 COURT: I want to hear you – if you want to ask any questions

you may ask questions in relation to the pool car. If you want to ask any other questions you will have to motivate for doing so and I am not permitting you to do cross-examination in respect of Mr Siren.

5 **FURTHER CROSS-EXAMINATION BY MR LEWIS:** All right.

Ms Dean, is it not common practice at Media 24 to make cars available to employees? --- Yes, it is.

Right. And would not such a service be considered some kind of fringe benefit for instance? --- It would be considered  
10 a tool of the trade.

A tool of the trade. But there would be some kind of leeway? --- No.

Is it not the case that the reason that the car was in my possession was because I had signed it out with your  
15 permission? --- Indeed.

Right and that the rules of the company would seem to suggest that I would be using the car for the express purposes of conducting business for the corporation? --- Yes.

Surely you agree that there is a problem, a grey area  
20 where if I make the use of a company vehicle on a Friday night that there might be a clash between the strict reading of the contract in terms of the work week and the cultural traditions of an employee? --- Hypothetically indeed, however I need to reiterate that you had not made your objections known at all.  
25 You had approached me for a car on a Friday night to do work.

You had requested my permission and I had to grant that permission in response to your request to take a car to work for People's Post on a Friday night.

But for instance there might be a problem with insurance  
5 for instance if I had to have an accident on a Friday night. ---  
Or a Monday night.

An insurance assessor might for instance decide that if I was using the car after hours that the car was not insured. ---  
I don't work within the industry. I don't know where  
10 ...(intervention)

But surely you agree that there is a sort of a  
...(intervention)

COURT: Where does this take us, Mr Lewis?

MR LEWIS: I feel that it sort of proves my case, Your Honour.

15 COURT: What does it prove?

MR LEWIS: It proves that there was a discussion about Friday evening. It proves that my version of events are true, that there was a problem with the impingement and encroachment of company policy and a clash of cultures at Media 24, where  
20 merely ...(intervention)

COURT: Right, the question of insurance. I understand the inference you are trying to draw.

MR LEWIS: Right.

COURT: But on insurance?

25 MR LEWIS: Well, was I insured or not?

COURT: Well, is that relevant ...(intervention)

MR LEWIS: The relevance is that I could conceive of we would be in a similar conflict and having noted my objections to the insistence on the company on determining and dictating  
5 what I do on a Friday night. This is essentially the basis of my discrimination case, that I am objecting to your seizure of my byline and your determining my time after hours. Now even if I might be using a company vehicle, surely there is a line which even the corporation should not cross. Even if I am using – if I  
10 ...(intervention)

COURT: What is the question?

MR LEWIS: The question is: Annelien, when you go home at night is it to your private life or is it to a Media 24 sponsored world, a world that is endorsed by Media 24, controlled by  
15 Media 24?

COURT: I must – really, I have asked you, I have told you that you can discuss the issue of the pool cars.

MR LEWIS: Right.

COURT: I think you have exhausted the issue of insurance.  
20 Are there any other questions in relation to the pool car and its relationship to your case?

MR LEWIS: Ms Dean, did you or did you not question me about my whereabouts on Friday night, on that Friday night in question? --- In the Tuesday meeting it came up.

25 COURT: Which Tuesday meeting? Are we talking about the

Tuesday after the event? --- It was the Tuesday, 30 May, after the event. In signing the car Mr Lewis said that he was going to do work. It would not have been unusual for him to say he was going to West End and Rylands because he had  
5 been for some time enthusiastically talking about the entertainment and culture content that he would bring to People's Post and in approaching me with a permission slip for a car on Friday night to work at West End in Rylands it was a deduction to make that it would be for work. Robbie Jansen  
10 would not have been written on that slip necessarily. It did form a part of the meeting on the Tuesday, 30 May, in trying to determine if indeed Robbie Jansen had been interviewed by Mr Lewis as he claimed he had in presenting the article and that is why the West End in Rylands was brought into the  
15 conversation and talked about, because I had recalled giving Mr Lewis a pool car for that Friday night.

MR LEWIS: So you had no objection to me using the vehicle?

--- No, I signed the use of the vehicle ...(intervention)

COURT: Well, quite obviously she did not if she gave you  
20 permission, Mr Lewis.

MR LEWIS: Right. So questioning me about my whereabouts on a Friday night might be construed as discrimination. --- On the questioning you about did the interview with Robbie Jansen takes place at West End in Rylands was important to  
25 us verifying that you had indeed interviewed him. There was

not another basis for the questioning.

Even though I had already given you a fair sort of – a chance of substantiating the veracity of the claim and I had given you Pastor Glen Robertson's number, you did not check,  
5 you went and terminated my employment while questioning my cultural identity. Why did you do that? --- Which question, sorry ...(intervention)

Why did you raise ...(intervention)

COURT: Mister, I have said to you, you are allowed to pursue  
10 questions in relation to the pool car.

MR LEWIS: Right.

COURT: Now are there any other questions on the pool car?

MR LEWIS: Hm. (Long pause).

COURT: It is clear to me that there are no other questions on  
15 the pool car. Now are there any other questions that you feel that have been raised anew in her, in her ...(intervention)

MR LEWIS: Yes.

COURT: And what are they?

MR LEWIS: And it is – unfortunately it is this issue of the, the  
20 so-called words of Chris Siren or so-called words of Jimmy Dluclu.

COURT: Right, the reason why I am not going to allow you to raise those questions, because it appears to me common cause that you yourself have said that piece is vapid and that  
25 it is ...(intervention)



MR LEWIS: Excuse me, with all due respect, I hold that opinion of the first ...(intervention)

COURT: Yes, okay.

MR LEWIS: Piece. The second piece in which the words of  
5 Chris Siren appear I stand wholeheartedly and one hundred percent behind the story.

COURT: Okay, all right, okay. So what you are saying is that the second piece refers to Chris Siren.

MR LEWIS: Yes and it is not uncommon for record producers  
10 to produce press releases in which they quote he said, she said.

COURT: Okay, I am going to permit you to – I realise now I was thinking of the first article, so on the second article, ask questions in relation to Chris Siren.

15 MR LEWIS: Right. Ms Dean, is it not true that it is just a figure of speech to say speaking through one's record producer? That is just a figurative term that would be used in a newsroom. --- Yes.

Right, thank you. Because you have ...(intervention)

20 COURT: Yes, she has answered yes.

MR LEWIS: Right, well thank you very much, Ms Dean.

COURT: Are there any other questions you want to put to her?

MR LEWIS: I do not need to ask anymore questions because you have just answered the question that I seriously needed.

25 Thank you very much.

MR KAHANOVITZ: M'Lord, that is our case, unless Your Lordship has any questions?

COURT: Ms Dean, I wonder if you could just assist me? You said at one stage that there were four editions that you were  
5 producing of the People's Post. So are you the editor of four separate editions of the ...(intervention) --- If you will allow, M'Lord, I will explain it?

Please, ja. --- In 2004 Media 24 bought the False Bay edition which had been established in 1994 by ...(intervention)

10 Yes, I know, I have got that, I understand that. --- All right and then in 2006 Media 24 added four new editions to the brand.

So now an edition here means a newspaper? --- Yes, a separate stand alone ...(intervention)

15 Or a community – so under People's Post you would have four different newspapers for four different areas? --- Yes, in May 2006.

Added four new editions i.e. ...(intervention) --- For the specific communities.

20 For – and so it is not the same paper? --- No, it is not the same.

Called the same, but it ...(intervention) --- Yes, it would be ...(intervention)

But it is targeting each of the areas? --- Yes, that is  
25 correct, M'Lord.

And would they have different publication dates and would they all come out on Tuesday or would they be separate? --- They all came out on Tuesday and were called People's Post in large type and subscript Grassy Park, False Bay. At the end of 2006 and a subsequent launch there were  
5 nine in total and ...(intervention)

So when you say there was – so there was nine in total in 2009? Hm, 2000 and? --- 2006, at the end and at present there are ten.

10 And earlier you said that False Bay, in answer to a question from Mr Lewis you said False Bay, the demographics of False Bay are different from the demographics of Retreat?

--- Ja, I made that point in illustrating that it is, you don't publish to racially and culturally homogenic communities.

15 There is a heterogeneous mix in False Bay for instance, black, white, coloured and that is similar to other editions of People's Post.

And you are responsible for all of those? --- Yes, I am, M'Lord.

20 And then which was the edition that was produced for the first time on 23 May? --- The four editions that were launched simultaneously were for the communities of Retreat.

Retreat. --- Grassy Park, Lansdowne and Athlone.

And these were all separate? --- All separate and they  
25 were launched because collectively they form one part of the

peninsula geographically and the subsequent launch in the latter part of 2006 was for another region of the peninsula.

Now before the launch on 23 May what editions of the People's Post were there? --- There was only the False Bay  
5 edition.

And throughout the time of these events, the three months that the applicant was, Mr Lewis, was working, you were producing a False Bay edition each week, is that right?

--- That is correct, M'Lord.

10 You said that he went for training, the applicant went for training. He states that he went for training. I am not interested in the content of that, I just want to know the timing of it. How long was the training for? --- It would have been from the date of his appointment at the beginning of April to –  
15 it was over a two week cycle, so ja, two weeks.

So effectively in the middle of April he would have then joined People's Post and ...(intervention) --- No, M'Lord, I will correct you on that. After training we still needed to get our offices ready. We only moved into our offices on 9 May. In the  
20 period between the new recruits were posted to Bellville, the Bellville office of WP Newspapers and were there assisting with content and other tasks with WP Newspapers' existing titles, prior to the rollout of People's Post.

You said WP? --- WP Newspapers.

25 What is WP Newspapers? What does WP stand for? ---

Probably Western Province, although our former publisher did not ever really want it to become the de facto name for that.

All right. And then it is from 9 May that the applicant, Mr Lewis, starts working at the People's Post? --- At People's  
5 Post's office in Tokai.

In Tokai. --- That is when we all set off on the work on the People's Post, the rollout.

Mr Lewis, any questions arising from my questioning?

MR LEWIS: I believe you are one hundred percent on the  
10 mark. I have no objections to any of the.

**FURTHER CROSS-EXAMINATION BY MR LEWIS:**

COURT: Mr Kahanovitz?

**FURTHER RE-EXAMINATION BY MR KAHANOVITZ:** No  
questions.

15 COURT: Ms Dean, you are released. --- Thank you, M'Lord.

**NO FURTHER QUESTIONS**

**CASE FOR RESPONDENT**

COURT: We sit tomorrow for argument?

MR KAHANOVITZ: Yes, M'Lord.

20 COURT: Mr Lewis, the respondent has closed its case and that means that 10:00 tomorrow sharp you will begin argument as to – on the evidence that you led and the evidence that Ms Dean led and the law. And then what happens is that Mr Kahanovitz replies and then you have an opportunity to  
25 respond to anything new that he raises that you yourself have

not raised and you do that by way of argument and I suggest that you take the opportunity now to prepare for tomorrow.

**COURT ADJOURNS AT 17:08 UNTIL 21 JANUARY 2010**