

Lewis v Media24 (2009-2010)
Transcripts

C88 07 Vol 1 4 November 2009 FP
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Volume One

DISCUSSION

1-3 Opening, discussion on order of documents,

4 Subpoena, 3-6 issued (all three supposedly “from the Respondent”)

7 Cheadle places on record his firms involvement, fails to disclose his directorship in Resolve labour brokers, fails to place on record, respondent is also client

8 Court gives undertaking to call witnesses if needs be at later stage, this undertaking is broken later.

9-10. Discussion on Pre-trial Minutes, the contract.

11 Respondent denies it objected to certificate of outcome at pretrial.

12 Respondent begins its revision of my case in its opposing case.

13 Respondent places on record intention to ‘amplify its response’.

14-22 filing sheet order, respondent persists in ignoring certificate of outcome.

24 Court asks who my first witness is, then proceeds to deny right to call witnesses and forces me into the box as first witness.

ADDRESS

26 After failing to allow me to make any opening remarks from the bar, and demanding that I give evidence from the box, court proceeds to request a “conspectus” of my case

27 Court then requests thrust of the case, to which I provide the filing sheet

28-30 which is read into evidence.

30 Kahanovitz (hereafter K) addresses unfair dismissal, LRA and EE.

31 Who the respondent is, opening remarks, counter-accusation of a grandiose conspiracy.

32 K cannot argue on the basis of what is contained in “settlement letter” alone, that all or any disputes between the parties have been settled. (see:)

33 Lewis objects to being asked questions by the respondent without the presence of an attorney.

34 Court explains its position on cross-questioning

35-37 Further objections

part of record is missing

DR LEWIS

38 Production process, reasons for calling witnesses Gaffney, Gouws

39 Production process

40 Example of page ready for print

41 Respondent agrees to not contest signature? Taljaards obnoxious remarks

42 Overtime complaint,

43 Jurisdiction

44 Part of my testimony is officially redacted with (intervention) marks

45 Another redaction of my testimony (intervention), K explains apparent confusion, which still remains per philosemitism i.e. Judeophilia, proceeds to provide his own definitions.

46 K contradicting his own amendments, then creates spurious tests relating to Judaism, was there any discussion about overtime?

47 Respondent apparently concedes the issue of whether or not I am Jewish, after attacking me in documents, fails to withdraw these documents as such, issue again resurfaces in the purported amended HOA.

47 even if I had asked to alter my working hours on the ground of my adherence to the Jewish faith that request would have been denied. Did I ever advise respondent accordingly? Shelagh Goodwin called again?

48 Is it acceptable for this to be an issue in modern times human resources, expert testimony

48-49 K persists in his attacks related to my being a Jew or not, Observant or Not, according to whose criteria? Court asks questions related.

50 The respondent was under the advice I was Jewish, the issue of whether or not I am a Jew is not relevant. Court persists in labouring the issue.

50 Issue of my objections.

51 Well known fact I not an orthodox Jew (per se)

52 Attempt to resolve the issue of my Jewishness

53 Court again reiterates the apparent concession

54 Outline of the political discrimination, re: racial categories, racialised editorial etc, demographics, am given less than two minutes, before Court persists in going back to the counter-case made prior to the concession. Issue of my Jewishness, did they know, its no open secret.

55 Surely its a human resources issue, a questionnaire (decision seems to suggest I had duty to inform them I was Jewish in order to change work hours). Issue of my diary, dispatch, work hours

56-57 The 5:30 'appointment', unilateral alteration of time, work conditions etc.

58 Time sheets, Goodwin called again?

59 Production cycle

60 Evaluation report was not submitted, (NOTE: document is not admissible as evidence)

61 The Robbie Jansen, Dlodlu story, also raised during evaluation re: West End

62 Remarks made by Warren Charles, (witness called?)

63-64 TRC, misrepresentation, contract

65-67 the “contract”, failure to renew

68 Demographics, court attempts once again to shut down this discussion on the evidence. Evidence of bias.

69 Sheleigh Goodwin called once again?, and the case post-concession regarding Sabbath observance.

70-71. Promises made by Warren Charles & Dean

72 K cross-examination, Die Burger

73 ILRIG, Labour Law library, my academic record, (editorial redaction mark - Post)

74 Lawyers, Andrew Caiger, Dale Stevens, Insurance Ombud

75 Defamation, The Bertram Konstable Letter from Legalwise

76 K requests if amount of one months salary demanded is correct, I answer in affirmative, response appears to affirm entire statement made by K to which I object, the document is marked ‘without prejudice’

77 Example of editorial redaction YOU (transcriber assuming I am the one reading)

78 My rights were reserved, without prejudice, document is not admissible as evidence in a court of law. Court obliged to protect victims, problem of ongoing discrimination

79 Settlement of issue of overtime, ‘show me the contract’

80-81 ‘invalid termination of invalid contract’

82-83 hypothetical, If I had been given the right to amend my contract

84-85 The other document, if it were shown in court, accusations of forgery

86 What advantage to be gained by the forgery? Taljaard, Charles and HR called?

87 I was only present when the parties signed the last page

88 ‘Your defence up until today, well, till yesterday morning, was based upon the fact that I am not a Jew, you were contesting that if I had signed a contract where I worked on Friday night for instance, that I wouldn’t be able to claim discrimination based upon my Jewish identity.’

89 Timeline

90 Objections in reference to traditional objections which may be made in terms of Judaism (versus the sui generis case)

91-93 deadlines

94 loyalty, workers rights, publishing not a key industry

95-99 INM contract

VOLUME TWO

Following day one in which it was impossible to lead evidence from the box, where I was merely giving answers to questions posed by the acting judge and then being cross-examined by the respondent, mostly on issues not directly related to the case, the hearing continued.

RESUMPTION

DR LEWIS

- 100 K on sufficiency of the testimony and my requests, letter from Rashid Lombard, ESP Afrika
- 101-102 Attachment of 'Human Resources Gets Religion' and a Letter from Beth Din
- 102-105 Lombard letter, demographics
- 106 Issue of NGK, Dean had "indicated" she was or had been a member of the NGK, abnormal experience of apartheid.
- 107 Shelagh Goodwin called once again? 'indicated' becomes 'she told me'.
- 108 World Alliance of Reformed Churches, apartheid theology, if Dean had persisted in her views, demographics
- 109 No basis in theology for apartheid, no apology to date from Naspers
- 110, inherent requirement of job, the claim I am contradicting myself as a Jew
- 111 cross-examination on contract, missing document, an offending clause
- 112 'work of a similar nature' clause, interpretation
- 113 'You weren't hired to decide how the People's Post is run', editorial prerogative, obligation to disobey an unjust law or directive
- 114 No requirement to abide by unethical practice, nature of the business, editorial
- 115 What is journalism? I didn't apply for a job at an advertising agency, TRC report, cram collages, standard of journalism at Media24
- 116 Press Code, K attempts to paint picture of Deans attractiveness, I question relevance, this crops up later
- 117 political climate at Media24, K makes error about titles
- 118 City Vision, Metro Burger, Induction
- 119 I call Hanlie Gouws? Racism, "Must we find whole of Media24 Group, or must he make finding about People's Post ..." the Divisions
- 120 TRC, K asserts 'no legal process at the TRC', gathering of apartheid evidence,
- 121 Negation of Transformation, K imputes status of TRC, the 'bill of health'
- 122 TRC report public record, Antjie Krog, history of Naspers
- 123 Prospectus, TRC report a concoction, Half Holiday Act
- 124-125 Context of Half Holiday Act viz. vi the specifics of the case
- 126 Saturday Mornings
- 127 Well known fact I am Jewish
- 128 Basis of appointment
- 129 Taljaard
- 130 experience of discrimination document written for Dale Stevens
- 131 BCOE
- 132 appointment (sans contract) NB to note the filing sheet should have been amended to note the missing document

133 Media24 Rugby Team

134-135 how do you define 'invitation, bully, volunteer'

136-139 harassment, modus

140 K proceeds to argue that distribution of newspapers is not an editorial or journalistic function, I remind him that he has already argued it is an inherent requirement of the job.

141 K argues exceptional circumstances, exigency of situation, no objections

142 K questions 14 hour shifts, my report, speed of the data line

143 Submission of stories under duress of contract, the email to Taljaard

144-5 terms of contract, Taljaard's parameters, his offensive statements, Dean's religion.

146 Further on Dean's religion, background, K claims Dean does not speak Afrikaans.

147 The quotation could have been removed instead of spiking the story. Boervolk, I proceed to assert my Coloured ID.ⁱ

148 Why would Media24 appoint a white woman to newspaper targeted at coloured people? ⁱⁱ

149 issue of racial superiority

150-151 The so-called evaluation report made in terms of media24 policy, and not submitted to the evaluation meeting. More accurately, it was a simple production report, and had nothing on policy as such.ⁱⁱⁱ

152-3 My experience of discrimination ref to Dean meeting is read

154-158 The Robbie and Jimmy story, quality of article, quotation marks, fair use,

159 'I'm prepared to accept that the piece wasn't ready for publication, I am prepared to retract the piece, I rewrote the piece and resubmitted it. It was in the context of a [racist] discussion about the demographics of the target market (in racist terms).

160 Kahanovitz proceeds to accuse me of stereotyping Dean^{iv}

163-4 K proceeds to accuse me of being a white person, of hypocritically fighting for my rights as a white person.

165 K various racist statements in the form of questions elaborating his pet theory on race.

166 K proceeds to impute whether or not I interviewed Robbie at West End, at no stage have I made any statement to the effect that I did.

167 K proceeds to claim I was challenged about where the West End was and that it is somehow all in my report.

168-171 Chris Syren, Dlodlu article, K examines the piece

172 The colourful but false depiction of events following Deans supposed calm and logical request, despite warnings from Robbie's doctor and medical advice.

173 Fabrication of events, I was the one who complained to Taljaard, he in turn requested an evaluation meeting per line production, and contract, not an editorial meeting, at no stage were any editorial issues raised at the meeting by the other party, my 'production report' was never tendered and this despite the arguments.

174 K proceeds to accuse me of warning management that they should be careful who they messing with, Qibla.

175 MK

176 Whether or not I am a Muslim

177 K asks whether or not I am an underground operative, accuses me of being 'off my head.'

178 K goes into the wine issue, apparently to make me not credible in the eyes of persons who may be Muslim.

179 'Jou Ma se Poes', Racial profiling claim, my submission on the 'common pool'

180 taboos resulting from apartheid (intervention) mark

181 K attempts to explain why I would come up with a race profiling thesis in order to work for a Coloured newspaper, attacks my presumed race identity, using the term Coloured to describe the enterprise. (see his use of term "Coloured People", "Them")

182 my report on conditions at WP Koerante from pleadings file 23 is read into evidence.

183 Other Coloured, the racist parable

184 K claims I am obsessed by race, cultural and religious stereotypes.

185 K claims I am the creator of the race problems

186 all attempts to indicate means forward from a racial view met with resistance

187 K proceeds to outline his version of Judaism

188 I do not maintain I am an observant Orthodox Jew.

191 K claims there was no discussion involving Jewish identity at the evaluation meeting

198 Letter to Gwen Robbins, SAJBD in response to her letter (K later claims there was no first letter)

199 It's not a religious structure, was response to letter from Robbins

201 K accuses me of perjury, of lying about the letter

202 my problematic Jewish ID.

204 Gwen Robbins letter read into evidence, which K later proceeds to claim never existed, proceeds to chastise me for not wearing kippit

205 K attacks my visage, my hairstyle, the way I look, according to him I do not look Jewish. (highly offensive racist examination)

206 Islam art exhibition, the call to Dean, Dean's call to Taljaard

207 K claims Dean does not come from Bloemfonten

208-209 Why no disciplinary process if in fact there was an issue of discipline?

210 Rashid Lombard, TRC, no rectification of racialisation problems

214-215 K attempts to attribute an article on a page, whose author is A Dean to me.

216 K imputes my role at South Press and the struggle for freedom

217 I explain I would never have been employed at Media24 during the struggle

217-218 ECC, K claims nobody knows me, the Hartley incident

219 Andrew Caiger, Nelson Mandela views

220 Long Walk to Freedom may as well be a history of the NNP.

221 My assertion regarding Mass Democratic Movement, history not sole mandate of big people.

VOLUME THREE

RESUMPTION

DISCUSSION

224 Evidence, Zoopy, my objections to similar problems with respondent 'evidence',

225-227 Express Newspaper in Bloemfontein, A Dean former news editor, according to Helderberg News 8 October 1999

APPLICATION

228-229 K requesting 'Absolution from the Instance', no prima facie case

230-231 K quoting various opinions on religious tolerance in workplace, positing various proofs which I would need to adhere to, including a Canadian decision.

232 K the problems which the applicant experiences are largely figments of his own imagination... he identifies with persecuted people, has become one of them ...

233-234 insignificant cog in a very large machine, case law of defence

235 K no prima facie case to meet,

235 'those were not the ordinary working hours' (as if this is an acceptable defence)

236 we don't need to change your working hours ... proposes a solution

237 EE v LRA

238 Court disagrees with K

240 K proposes tests, discussion on dismissal

241 Legalwise letter

242 Chain of Shame

243 Jew-testing, problem of Jewishness

244 swearing after being escorted off premises, turns into swearing during meeting

245 K on the white editor, and Lewis presumed race identity, which is dismissed as fiction.

246 K refers to subjective assessment of article 1, (objectively half of it is an original interview).

247 'Racists do not avoid writing about black people'

248-249 K on order sought

ADDRESS

250-253 Lewis Address to Court, Canadian judgement not relevant

254 climate and context, apartheid history

255 non-racial paradigm of applicant v multi-racial paradigm of respondent

257 direct discrimination definitions, bigotry

258 stereotyping, Lewis association with customs/traditions

259 Judaism not monolithic

260 Torah written by human hands, product of human interpretation

261 tradition, recommended course of action

262 respondent's exception to my life, the "contract"

263 'amounts to unfair discrimination'

264 apparently neutral policy merely reinforcing stereotypes

265 demons of apartheid euphemism

266 company's egregious past, TRC

267 allegation of persecution complex, was there reasonable accommodation

268-270 case law

273 paternalism, racial superiority, time issues

275 my version stands on onus

276 differentiation, disparate treatment, the respondent's allegations of difference

278 the agreed fact of lack of any policy of reasonable accommodation

279 Broederbond, Afrikanervolk, failure to accommodate, negotiation of contract

282 stories rejected, context of Rashid Lombard meeting

283 code of ethics, false plagiarism charge

285 respondent's objections on basis of Robbie's 'politics'

286-87 Robbie Jansen and Music Politics, if the opinions of Mr Jansen are political, then I am of the same opinion.

288 I was prepared to leave my politics out of the newsroom, did not submit a piece of polemic

289 previous role as environmental journalist during apartheid

290 Respondent hasn't argued editorial prerogative (has instead argued something to do with general idea of right-wing v left-wing, i.e. right to suppress, not right to disagree)

291 Dean was required to assist journalist, editorial prerogative not absolute. Lombard, an old enemy

292 Court, why do I have to hear about Lombard and Jansen again?

293 Court, I see all the stuff as utterly extraneous (second indication of real bias)

294 K on target markets, demographics, comparator

REPLY

295 did the rule trench on the applicants religion? Court's rejection of need for comparator viz. vi. political rejection of stories,

296 K defence of right-wing publication, supposed inherent rights? (gone so far as to assume I am discriminating against their beliefs)

297 Court accept this. (Bias) retreats on issue of comparator.

298 If you're a right-wing publication, why must it be discrimination? And issue: Everyone knows he is a Jew.

299 K on Jew-testing

300 Is a prima facie case of discrimination triggered every time employer didn't realise its Diwali or Ramadan? (is such an assertion reasonable?)

301 K employee has to come forward with the information.

302 Central tenets of faith, category of more deserving members of a religion.

303 Accommodation ordinary hours, K on needing a rabbi to confirm status of employee.

304 Need to engage employer in a discussion (onus)

305 problem of neutral policy viz vi the demographics.

306 K attempt to gain condonation for manner in which he approaches my faith or not.

VOLUME FOUR

RESUMPTION

307 Application for Absolution dismissed, Dean called by Respondent (the skewed procedure which favours the respondent)

KAHANOVITZ -- A DEAN

308 Examination by K, witness Dean, contradicting earlier submissions, Dean bilingual, from Bloem, but presumably, a Catholic.

309 WP Koerante a business unit of Media24

310-11 The community newspaper model

312 Outline of current editions, including several not relevant to period of review, all 'a coincidence of homogeneity based on SA past'

313-15 False claim that several non-existent papers served a broader community during period of review, the fallacious overlap argument

316 No discussion or mention of applicant's Jewishness at job interview

317 Applicants' experience, and Deans absurd claims in this regard.

318 'We went undercover', a shocking claim regarding use of subterfuge and clandestine activity by the company

319-21 Discussion about the gutters of a page-layout, attributed to Lewis, supposedly checked in/out on 5/22/2006, one day after she already made up her mind, and by which she infers applicant's shortcomings in ability, constituting perjury

322-23 K questions and D answers on issue of the duress regarding writing under byline.

324 K suborning of perjury, serious misquoting of applicant's testimony (misquotes 1 & 2)

325 Misquote 3. Deans claims on Article 1.

326 Deans claims that there was a 'change in style which made her suspicious', the false claims of lack of attribution.

327 Dean claiming she was working Sunday night on the Dlodlu article

328 Deans false claim splash-out was a "once off", (once off which happens twice?)

329 D refers to three paragraphs from an online biography quoted in the unsubbed article and in quotation marks, and attributed to an online biography.

330 When I read Jansen was commenting negatively ...

331 error on machine

332-333 controversial aspects of the article

334 “He said he would not write another effing word for this effing newspaper again. (The much reduced observation of applicant using profanity viz vi inflated and amplified, screaming, shouting, raving submissions)

335 Testimony regarding the “evaluation meeting”, profane language.

336 **High Pejury** regarding document purportedly signed in Dean’s office, which does not exist.

337 False statement regarding a telephone conversation, my production report was not submitted

338 Allegations regarding my supposed race identity

339 Real reason stories rejected

340 Dladlu’s skin colour, Cross-examination by Lewis, Brebner school motto

MR LEWIS – A DEAN

341 Brebner, Bloemfontein, Dean’s alma mater

342 The Brebner Controversy

343 Deans’ career as a journalist

344 Inaccurate reference to applicant’s experience

345-46 Are you qualified to be editor of four titles in previously disadvantaged areas? Problematic questions regarding Deans’ concealing of her affiliations and intentions.

347 The hours at any newspaper are long and strenuous, and at times working late on a Monday, Tuesday, Wednesday, Thursday, Friday, Saturday and Sunday is a part of the job, no attendance register, overtime determinations, nose studs

348-49 Media24 supposed right to dictate affiliation, working hours

350 Dean denies the “one-on-ones” occurred, which in any event were two-on-ones.

351 Merely a ‘discussion’, changes in deadlines

352 Admits she changed deadlines outside of the contract hours (see court’s later claim that employee may be requested to work three-hours overtime, is this compulsory?)

353 Admits people worked late on Friday.

354 My Jewishness came as a complete surprise to the respondent.

355 Is company orientated towards the Christian religion?

356 The work environment, No conflicts in the newsroom.

357 The diary entry, Sunday work.

358 The conflict in her version of events

359 Overtime discussion at meeting.

360-1 Production report at a production meeting

362 Correspondence with Taljaard

363 Missing addendum, description of layout-sub duties

364 Different categories of work

365 K objects, court upholds my questioning

366 Byline is ones stock in trade, KPA, Dean claims ignorance

367 Questions on KPA, Deans involvement in drafting same.

368 Dean's comments on KPA and byline, the seven stage production process

369 The EIDOS system

370 Flagging for legal check, denies problem with metadata, correct course of action.

371 Data line slowing down the production process, initiation of pages etc

371 Brian Gaffney's signature

372 Dean contests submission, implications of Gaffney's signature, witness not called by the court, demographics.

374 Dean denies any discussion about demographics or LSM for that matter, claims journalists 'merely given areas of distribution'

375 demographics, race segregation, group areas etc

376 The controversial question: What steps did you take to ameliorate the effects of those racial policies? K objects, court rules in favour, **shows demonstrable and manifest bias**.

377 court rules against my objections, claims my questions on production & editorial not relevant.

378 The Rashid Lombard email

379 The Steve Gordon photo

380 Dean threatens disciplinary offence re Steve Gordon photo

381 Court maintains my questions entirely collateral

382 what are purpose of quotation marks? Dean's higher academic standards.

383 Dean's false accusations of 'borderline plagiarism', demands source attribution

384-5 Norms at Media24, purpose of press release, 'over-achievement in attribution'

386 It is not an issue of plagiarism, you were not charged ... witness contradicts herself.

387 K objections, following her remark, now claims I merely a member of the public, subject to terms of the public-at-large.

388 Restates her claim

389 **Perjury**, claims that the original interview with Chris Syren is taken from an online source, but without any documentation or evidence.

390 Discussion on the website music.org.za

391 **Perjury** under oath, claiming entire Chris Syren interview taken off a website.

392 Should I have been chastised or not?

393 Court appears to uphold my questions vs K objections

394 Dean falsely claims journalists given style guides and 'ethical workshops'.

395 Dean would have had to fill in for a sub, why did she not simply send the story back?

396 I had my doubts about the interview that you quoted .. Jansen....

397 Did not proceed with the article under a byline, Glen Robertson

398 Dean did not get up from her desk until 3 am in the morning.

399 Plagiarism accusation, no disciplinary

400 ‘borderline plagiarism’, watered down claim, claims common practice for reporters to sub own copy, duty of sub to spot the problems

401 Newsroom censorship, attempt to oppress, defends using example of the transnet story

402 Not convinced of veracity of story, are you familiar with term expediency?

403 Dean denies any controversy, only deficiencies, the words of Jansen, is she qualified to be editor of four titles in previously disadvantaged group areas, does she socialise with persons of colour?

404 Dean is questioned on statements made by Media24 in regard to my career in the struggle press.

405 Does she endorse these statements, yes, claims my participation would need to be verified. (All perjury, since company already interviewed me on my CV)

406 Cultural framework, court’s intervention, demonstrating open bias, speaking simultaneous, hostility, interpolation of questioning.

407 Company at pains to deny struggle history, why Dean not avail herself of opportunity to make amends for apartheid? No answers.

408 Deans’ sympathies, hostility from court, boardroom information.

409 Russel Wolmarans, editorial policy, nation-building

410 Dispute on interview did, it take place?

411 **Perjury** on full and final settlement claim signed in her office at the time.

412 counter-accusations, claims no formal grievance raised at company

413 Dean can only confirm we didn’t work 14 hour days on a Wed and Thursday, her version of what occurred at the evaluation meeting ...

414 **West End Club Version One**, claims I brought up the subject ‘to prove street cred’.

415 Manenberg

416 Art exhibition, now claims this was the topic of discussion at the evaluation meeting

417 **West End Club Version Two**, it was all about the interview with Jansen.

418 Witness suddenly remembers incident involving the car-pool, **perjury**

419 **Perjury** witness claims settlement ‘was signed’ at a meeting (in her office)

420 Legal framework in which hiring and firing at Media24 occurs.

421 Questioning regarding hypothetical religious affiliation issue

422 Policy on blasphemy

423 Profaning the name of a deity.

424 Witness is accused of lying.

KAHANOVITZ – A DEAN

RE-EXAMINATION BY KAHANOVITZ

425 Fraudulent contract conspiracy, an obituary used as an example of attribution.

426 Internal standards, tolerance levels

427 First-hand verification, no trusted sources allowed.

428 K again raises the note to Dale Stevens, and a subjective assessment of material.

429 At the time that you asked him for Mr Jansen's number did he say to you: I refuse to give you Robbie Jansen's number because he has a heart condition?

430 **Subornation of Perjury, Exceptional Perjury** by Dean

431 **Subornation of Perjury**, outright lies by Kahanovitz, inadmissible production report prepared for evaluation, merely states I met Robbie, and that I had also worked late on Friday night on the story, i.e. **was on the beat after hours versus subbing in the newsroom.**

432 Production Report, not submitted, "an evaluation note"

433 West End meeting, pool car

434 Pool car, objections

435 Pool car objections, Dlundu story

436 Dlundu quote gained via Syren.

437 Court allows me to question about car pool, denies me right to ask questions about the Chris Syren issue

MR LEWIS – A DEAN

438 Car pool

439 Insurance, company policy

440 Objection to seizure of byline and compulsory after hours work

441 Perjury items

442 Further questions car pool, Syren

443 Second article, court relents, Dean confirms the 'figure of speech'

COURT

444 Court questions on the four editions

445-6 The demographic profile, culturally homogenic communities v a heterogeneous mix

447 Respondent closes case

VOLUME FIVE

I was given less than 12 hours to present closing arguments in my case and to argue evidence arising from the above.

RESUMPTION

LEWIS ADDRESS

449 Address, contract, car pool, historical legacy

550 DF Malan, PW Botha, HF Verwoerd, no settlement document can be relied upon

551 Law favours negotiation of contract etc, no controversy in workplace allowed by respondents

452 Court not a media tribunal, issues not about whether my writing is good or bad, the diary, political intrigues

453 In what way has the respondent provided reasonable accommodation? We live in a heterogeneous society, Dean's strange claim she doesn't socialise (with persons of colour) (see 403)

454 Not the LRA I carried around in my pocket but my Secular ID.

455 How long to rectify situation? Did company have to sacrifice human rights?

KAHANOVITZ

456 Court, I want the applicant to hear the argument against him.

457 K, a conspiracy involving systemic abuse

458 discriminatory acts v dismissal, issues of contract

459 Court, yes, no, no I agree with your entirely, more bias.

460 Court, And his evidence was that this was because of his struggle record.

461 Because he is Jewish, K outlines applicant's pleadings.

462 Nothing to do with a claim under Employment Equity Act, Court: It might be a breach of contract & BCOE

463 Is not a claim for discrimination, but rather about unhappiness.

464 You say there is no evidence, he led no evidence of that? It has to be discrimination against the applicant.

465 Dealing with an unrepresented person, duty to assist in amending documents, 'but we don't need to go there.'

466 Court "we do not", no evidentiary statements, K on historical evidence, contemporaneous discrimination, but it not THE (the instance?)

467 Working hours highly unusual because it was the launch of the publication.

468 Line of questioning on defects due to lack of resources, weird & incorrect summation of my pleadings

469 Pleadings on law, issues to do with LRA and EE, different tests.

470 K reverts to claim of no prima facie case made.

471 Court entertains a crazy week outline of a WED/THURS/FRI/SAT MON/SUN/MON x2 exception.

472 Issues of fairness

473 Criticism of Harkson, duty of respondent to prove fairness once discrimination shown

“But don’t you discharge that burden if you – you do not have to discharge the burden if you do not prove discrimination”

474 K reverting to absolution from the instance pleadings, (which in any event was not granted). Court asks K effect of shifting onus on PEPUDA

475 “And I point out there is some debate as to whether a single event can ever constitute an employment policy or practice”, claims of grandstanding

476 Perpetuation of policies of apartheid, the chain of shame, ritual purging of the corporation vis. vi. TRC, editor’s denial not challenged, applicant ‘a person who is persistent and stubborn in his denial of reality’.

477 the spurious left-wing v right-wing argument, rehashed as an arms dealer v pacifist, how would this actually affect a worker (who has no inherent moral rights or right to dissent?)

478 Conduct prohibited under EEA, other false analogous examples.

479 The factual averments are not true in respect of structured work hours (in breach of contract).

480 Obligation to reasonable accommodation cannot arise out of thin air, claims I have not made this case.

481 Respondent ‘was not aware applicant was Jewish’, and no evidence exists that company altered work hours into Friday night, while aware of this fact, nor whilst engaged in a crusade to verify whether or not applicant was supposedly in breach of his religion or contract, by allegedly interviewing Jansen at a mixed race night club on a Friday night. “Applicant’s case a construction, invented to push certain emotive buttons.”

482 If applicant had approached the company it would have relented, pleading contradicting earlier submissions that applicant was not Jewish, and in any event, such a request would have been denied. “Applicant a hypocrite who when it suited him was content to use staff transport to visit a Jazz club ...”

483 No obligation to lead facts on why newspaper may need to require staff to work longer hours impacting on their ability to access their culture or religion.

484 Not required to present case involving a comparator, since no policy results from single act of forcing applicant out of the company.

485. Court – ‘his allegation is that there is a racial profiling policy, and application of that policy had affect they would remove applicant for his political beliefs.’

486 ‘He was forced out of the organisation, but factually unlikely he was discriminated against.’

487 Court – the problem is what happens if this is the first time, does it mean you allow a discriminatory policy to exist and then say only the sixth applicant.... can one infer a policy from a single incident?

488 Applicant behaved badly, performed poorly (there was no racism nor controversy)

489 Court, he relied on the contract in his cross-examination.

490 How has someone continuously in trouble have an expectation of renewal?

491 Material breach of contract, termination, supposedly due to my conduct, without any charges put.

492 Conduct extinguishes expectation, court concurs, open bias shown.

493 Pleading on false testimony that geographic footprint at the time was not homogenous. The use of various misquotes as evidence, stories only of interest to advertisers.

494 Editor had raised valid objections, legitimate editorial concerns, ‘sins of the fathers’, apartheid slur, a mere conspiracy.

495 Pleading that applicant hired as layout sub not as journalist, contradicts earlier statements on ‘work of a similar nature’ and byline, racist use of the term “The Coloured People”

496 Alleged different versions, 'I was forced', and idiotic misquote on Dean's attractiveness, court appears to relate the original testimony on improving chances of renewal.

497 "He made grandiose claims about his role in the liberation struggle" The Wikipedia claim.

498 Lewis objects to the charade.

499 "Wild and unfounded claims made by him in the media against not only the respondent but the 'lying Irishman O'Reilly & Associates', Mandela a sell-out, claims without foundation copy of contract a fraudulent document."

500 'His claims that he would have (sic) applied for a job with the TRC had he known ...', no journalist would need to read TRC report to know something about Naspers, (he knew who he was getting involved with..), claims about the exceptional 14-day work period, all untrue, as is claim that "I am a Coloured", ridiculous.

501 Evaluation report, a mere "aide de memoir" but then "a speech he was going to deliver at the meeting", also an alleged 'vision for changing the company',

502 Court: Isn't it consistent that he is of the view the meeting is to deal with problems encountered in the second production cycle?" We do not have Taljaard's evidence.

503 Case a vendetta against his former employer, not the result of whistleblowing.

504 'Everyone who is an editor at Media24 on his version a practising racist.' Placing on record of an answer to an assertion from the bar, from the bar, that my answer is yes, despite my not being under oath.

505 K "Troubled people who imagine that they are constantly the victim of persecution should not treat courts of law as a port of call to seek solace."

506 Court adjourns

507 Lateness

508 K claims I threatened him during recess, record reflects I was out, my response to this.

REPLY

509 I am not an attorney, am at mercy of court

510 Can race profiling against a group be considered discrimination against an individual?

511 Evaluation report, Dean's diary, Car Pool

512 Right to defend my byline, People's Post discriminates, a right-wing company, censorship

513 Policy of expedience, right to dissent, the attack against me, the "contract"

514 Cast as a social inferior, racial categories of the past, scientific racism, gross defects in the "contract".

515 Evenly applied discrimination supposedly validating discrimination of the past, the strange standards of Dean

516 Sunset of white power at an end, intolerance shown to my cultural expression

517 Conforming to an NGK-inspired environment, antithesis of my belief system.

518 Termination should have happened in an orderly fashion, no written warning, explanations are inconsistent

519 Supposed homogeneity, homogeneity of class caused by apartheid, different community perspectives.

520 Race a social construct, I stand 100% behind the Robbie article

521 Perpetuation of oppression, court asks for direct attention to respondent's arguments

522 Time pressures

523 The post child for Media24 surely under duty to correct imbalances of apartheid?

524 Confirming my CV and testimonials, Sisulu, Dikeni. The evisceration of Dennis Brutus

525 “I do not have to apologise for being a Jew self-defined by my Jewishness as as a result of my Jewish background”

526 SAJBD letter, Kasrils etc, Harksen

527 Court appears to be under impression that I have to prove unfairness.

528 Fact of respondent’s wanting to interrogate my Jewishness in writing, offensive

529 Issues of differentiation,

530 Historical inferior role, disparate treatment

531 termination of employment as a result of inquiry into religion

532 Harassment issues

533 Breaking dissenting voices via hard labouring

534 K disposal of Harksen

535 Long standing cultural traditions, Pillay judgement.

536 The abundant variations of the other parties issues and versions.

537 K withdraws claims made in respect of Wikipedia, but not the central claim regarding the struggle, claims further there is no letter from the SAJDB, despite its being in the bundle.

END

- i I was disenrolled from the 'white race' during the 80s and worked for a coloured title where everyone was considered black.
- ii I do not believe the appointment of a white woman to several titles targeting former "coloured" group areas in any way conforms to definition of employment equity
- iii The document is not admissible as evidence, was never submitted to the meeting, it would have been submitted, had the other issues been dealt with, I gave Media24 opportunity to deal with them off the record, I am on record in this transcript as to what those problems are, but they were given short thrift, most of the time is spent with me being cross-questioned on time. Expecting me to adequately tackle the sole witness for the respondent on sensitive subjects such as race and religion without an attorney is so beyond the pall that it beggars the imagination.
- iv Kahanovitz SC proceeds to accuse me of stereotyping Annelien Dean from Bloemfontein. Most of his ensuing subordination of perjury was directed at proving that she wasn't from Bloemfontein, was in fact a Cape Lady, with a Catholic background, not even Afrikaans speaking, no relation to even the "Boerevolk". I called the Catholic Church to check. Race segregation is not a teaching of the Church. I started my career in a struggle environment, working for several titles funded by the Catholic Bishops Conference. I have never in my entire life, encountered a Catholic resorting to apartheid theology or race pseudoscience in order to explain away apartheid demographics or to avoid accusations of race profiling. Whether or not she is a racist stereotype is of little consequence, more important is that we deal with the stereotyping of persons labelled Black and Coloured. Racists do not deserve protection under the law.
- v Demanding a pound of flesh on a Friday night, in the absence of any contract, and outside of official work hours is certainly trenching on religion.