

Case Number: 889/10/2015

IN THE MATTER BETWEEN

David Robert Lewis

Complainant

and

Annelien Dean

Respondent

SUPPLEMENT AFFIDAVIT

I, the undersigned,

DAVID ROBERT LEWIS

hereby make oath and state as follows:-

1. I am an adult male residing at 3 Regent Square Rd, Woodstock, Cape Town with identity number

6802155194080

2. The facts contained are, save where otherwise indicated, within my personal knowledge and are to the best of my belief true and correct.

3. I make this my third Affidavit to supplement and amend the evidence given in my foundation Affidavit (the "First Affidavit"), sworn in this matter on 12 October 2015, and the supplement affidavit (the "Second Affidavit"), also sworn in this matter, ("Third Affidavit"). The following resulting from my finally gaining access, after some time, effort and expenditure, to the official transcripts in the matter as conveyed by Digital Audio Recording Transcription, and thus attached. Please note, where the words 'page' and 'line' are used, one may infer I am thus referring to the relevant pages and lines of the official transcripts.

4. At point 6 of the first affidavit I discuss some statements made by Dean under oath:-

4.1 At 6.1 of the first affidavit, the sentence reads: "She claimed under oath, that she had never been to Bloemfontein", the sentence should read, She contradicted the submission of the respondent's attorney whilst under oath at page 308, line 21 of the transcripts (DRL8) by stating: "I completed my High School education in Bloemfontein", and by also confirming this fact at page 340 (DRL9) and 341 (DRL10).

4.2 The point 6.1 should also add that respondent's attorneys made a submission on her behalf at page 207, line 1 of the transcripts (DRL11), by claiming that: "And the one thing I need to put to you is that Annelien Dean doesn't come from Bloemfontein."

4.3 The point 6.1 should also add that Dean again contradicted the submission of the respondent's attorney under oath at page 308 line 14 (DRL8), confirming she is "bilingual" and that her parents are also "bilingual". Dean says: "Both are bilingual and were raised as such and so we're we Afrikaans and English."

4.4 The point 6.1 should also add that respondent's attorney made submissions on her behalf at page 146, line 4 (DRL12) by claiming that Dean does not speak Afrikaans: "Well you're wrong, you know, she's not Afrikaans speaking. It's not her home language."

5. At point 6.2 of the first affidavit and 4 of the second affidavit, I discuss some statements made by Dean under oath regarding the alleged charge of plagiarism:-

5.1 The point should add that at page 382 line 9 (DRL13), she confirms the use of quotation marks within the offending item including their true purpose: "It indicates an insertion of some form, usually of someone's words being inserted", but then proceeds to state that "attribution would require a naming of the source, true attribution."

5.2 The point should add that at page 383 (DRL14) in response to my question at line 7: "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. 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?" Dean answers at line 12: "There is no clear, I would say in my judgement, there is no clear link between the statement that ends with a full stop and the succeeding

paragraphs that are placed in quotation marks, but there is no clear link between the quoted material and whichever online biography you were drawing material from. In my judgement it was insufficient. There was no source attribution.”

5.3 The point should add that aside from the fact that the source of the material was named and thus apparent, it is entirely unnecessary for a journalist to engage in academic source attribution even to the point of absurdity, and in any event such submissions of reported speech, whether reported as text taken as verbatim quotes or taken from secondary sources, are protected by journalistic privilege. The spurious claims made by Dean of lack of naming of sources, or lack of clear attribution are highly defamatory and are also demonstrably false.

5.4 The point should add that at 383 line 18 (DRL14) I ask: “Ms Dean, you accused me of plagiarism, is that not correct? And she answers at line 20: “Borderline plagiarism, yes.”

5.5 The point should add that the accusation under oath of “borderline plagiarism” and/or plagiarism, in addition to being highly defamatory, has absolutely no merit and is baseless and untrue considering the evidence. The only borderline we suggest is the correct use of quotation marks as well as the additional journalistic skill required in attributing reported speech and/or reported facts, for which the unsubbed item in question is fully compliant.

5.6 The point should add that at page 384 line 22 (DRL15)I ask: “Is it considered the norm to if you use a piece from a press release, to attribute it to a press release?” and Ms Dean contradicts herself and answers at line 23: “There is that suggestion

that that be done, but it is not conventional practice and it is over-achievement in the category of attribution of sources because it is common practice to draw material from press releases, although it is poor journalism.”

5.7 The point should add that at page 385 line 10 (DRL16) to the question: “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?” and Ms Dean’s answer: “Yes, but can I”, thus contradicting her initial testimony.

5.8 At page 386 line 17 (DRL17) she further goes on to state: “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.” The contradiction here is extremely apparent and hurtful.

5.9 At page 388 line 9 (DRL18) Ms Dean proceeds to repeat her assertions: “I would state the reason as I did to you. I am not comfortable with whole chunks of text being taken from an online source without clear attribution.” [my underline]
Again at page 388 line 23 (DRL18) Ms Dean repeats the sentence: ‘the paragraphs taken word for word from an online source without clear attribution’ [my underline].
Please refer to my previous remarks in 5.3 and 5.5 in regard to academic source attribution and/or provision of hot-links being wholly unnecessary in the field of journalism, and thus the lack of any merit or truth to the accusation of “borderline plagiarism” and/or plagiarism.

5.10 At page 389 line 21 (DRL19) Ms Dean proceeds to claim that direct comment from record producer Chris Syren in item 23 from Respondent’s evidence bundle,

[item: "Record Producer Chris Syren was enthusiastic: "That Jimmy Dladlu has a staying power and longevity is shown in his albums continued demand in the market. All his previous albums have gone platinum"] has been simply lifted off the Internet. Ms Dean states: "Yes but that too – and I don't have the documentation here – that too was taken from an online source." The words are entirely original and were generated via a telephonic interview with the record producer. Her claim is thus false.

5.11 Then again at page 391 line 20 (DRL20) Ms Dean falsely claims: "You are reporting in the case of Chris Siren (sic) explains something that was quoted online without saying Siren (sic) explained as reported on www and in the second instance you are taking chunks of text, someone else's labour, without firstly giving it clear attribution." The accusation is not only false, but the inference which may be drawn that the complainant has somehow appropriated another person labour, and without any right to do so, is highly defamatory.

5.12 At page 394 line 9 (DRL21), Ms Dean again falsely claims: "Journalists were given copies of the style guide. We often presented ethical workshops to journalists and given them training and it is part of a journalists 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 a newspaper." One has merely to ask the question why on earth would the applicant request an editorial style directive from the editor? The only issue in his mind is whether or not the three paragraphs in question, correctly attributed to an online biography and placed in quotation marks would have been better used in a generic information box on the page under review.

5.13 At page 214 (DRL22) respondent's attorney attempts to attribute an item on Page 32 Respondent's Evidence Bundle, Page Author A Dean, item without any strapline to my own pen. The piece originates from the music.org.sa website and is also listed as item 33 respondent's bundle, Hotep Idris Galeta Biography.

5.14 At page 215 (DRL23) Kahanovitz falsely asserts: "You were the author of this article." My answer: "I'm not the author of the article. It – it clearly states there: "Author: A Dean, Date: 5/27/2006" The data-line of the data file, merely has my initials attached to the data entry." Kahanovitz again falsely asserts: "Oh so you deny that you wrote this article? My answer: "I'm I'm denying. I did no, not in a million years." I include the above because of the reference to Ms Dean's authorship. I wish to amplify my response here into an objection to the manner in which such accusations have been falsely asserted by both the respondent's witness and their attorneys, to tar and feather the complainant, and accepted as such by Ms Dean. The result is defamatory and prejudicial.

5.15 At page 436 line 19 (DRL24) Ms Dean claims a statement issued by Mr Jimmy Dludlu's record label should have been reported as the direct speech of his record producer. Ms Dean says: "He spoke to the press via his record label" would be a bit of a stretch. It would have been better to say 'But his manager said on his behalf or Chris Siren (sic) , his manager said on his behalf." The assertion is argumentative, inaccurate, and an uneconomical use of words, and does not reflect the manner in which such statements are made in the industry. Furthermore, in terms of journalistic privilege, the complainant was quite entitled to make use of the statement and figure of speech as he saw fit, and/or to do so in conjunction with

editorial, a right denied by Ms Dean, who appears to be of the opinion that journalists do not enjoy any rights in the newsroom, nor even over their own bylines. (see 6.5.1 below)

6. At point 7 of my second Affidavit I discuss the issue to do with race profiling and demographics of the supposed community newspaper model deployed by the respondent. In particular I refer to the false testimony, which is also recorded in the transcripts. The following points under this heading need to be added:-

6.1 At page 311 line 2 (DRL25), Ms Dean says 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 identified around certain shared points of interest and a degree of shared identity.” Then at line 20 respondent’s attorney goes on to state that the People’s Post has ten separate editions for ten communities in the Cape Peninsula. “I just want to confirm, those communities are editions. There is a Mitchell’s Plain edition, correct? Answer: “Yes

A Retreat edition -- Yes

A Grassy Park edition – Yes

A Lansdowne edition – Yes

Athlone division, sorry edition – Yes

A False Bay edition – Yes

Constantia Wynberg edition – Yes

A Claremont/Wynberg edition – Yes

A Woodstock/Maitland edition – Yes

And an Atlantic Seaboard edition – that is correct.”

6.2 On page 312, line 9 (DRL26) respondent's attorney asks: "Now because of the – how does the existence of those editions coincide with racial and culture factors?"

Ms Dean answers at line 10: "They are published into communities geographically defined at their boundaries and there is a coincidence of homogeneity within certain of the editions due to what can be termed South Africa's past and divisions that stem from the past. However 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 cultural level would be due to how communities were shaped in the past."

6.3 At page 313 (DRL27) after explaining away the race profile, content and demographics of the several periodicals under review as a 'mere coincidence', Ms Dean proceeds to claim the False Bay edition serves 'whites and so-called coloured residents' exclusively. Then Ms Dean begins to refer to several editions which did not exist during the period of review under the rubric "all races are served". Please note the change in tone. Thus while the False Bay People's Post and the four problem editions in question, may be said to conform to PW Botha's version of reformed apartheid, the newer editions to the stable are now a miracle of Rainbow Nation "multiracialism" or as some might put it shallow transformation:-

6.3.1 MR KAHANOVITZ: "Are all the geographic communities that you serve comprised only of so-called coloured people?"

MS DEAN: "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 edition as

being representative, it is white and so-called coloured residents.

Constantia/Wynberg, all races served there. The City/Atlantic Seaboard

edition, all races served there. Claremont/Rondebosch, the same. The

Lansdowne edition, so there is no truth to the assertion that we publish only to a certain group." [My underline]

6.4 Please note: A cursory survey of the four editions under review during the relevant time period, namely the Retreat, Grassy Park, Lansdowne and Athlone editions of the People's Post shows a preponderance of content generated by and associated with the demographics of the former 'Coloured Group Areas'. In other words, demographics associated with the separate development policies of the past regime. Despite the denials, a similar situation was revealed at the publisher's principle community news headquarters at WP Koerante in Bellville during the same time period. City Vision catering exclusively to a 'black target market', with 'black content' generated by 'black journalists'. Mitchell's Plain Metroburger catering exclusively to a 'coloured target' market with 'coloured content' generated by 'coloured journalists', and finally Tygerburger targeting a predominately 'white target market', with 'white content' generated by 'white journalists'. The racial compartmentalisation of content was exacerbated by the strange layout of the newsroom, depicted at page 182 line 11 (DRL28) of the transcripts: "White employees sit at their desks, working on titles geared exclusively towards an exclusively White target market. Coloured employees are given a modicum of support or leeway for breaching their status as coloured by working for a White market and vice versa and there may be exceptions. The racial exclusivity may have ended but the segregation remains, since Blacks are prevented from supplying copy for whites and vice versa."

6.5 At page 373 line 10 (DRL29), I state: “On 17 April there was a conversation about the demographics of the target market. You have told the court that some of the titles just happen to coincide with the particularly homogeneous communities. Does that not strike you as odd?” Ms Dean does not answer. Instead, despite Ms Dean enjoying access to the respondent’s attorney, the court appears to favour and defend the witness: “What is the question?” Asks the court. To which I reply: “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).”

6.5.1 Then at line 21 I ask: “Perhaps you could verify whether or not there was such a discussion on 17 April?”

6.5.2 COURT: Will you give the witness then the time, the place and any other information so that she can recollect whether this 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 discussion of such a nature where the demographics of the community would have been a topic? -- Within the People’s Post editorial team?

Yes – No.

MR LEWIS So the writers and reporters played no role in the editorial process whatsoever?

Dean’s evasive answer: “They were given the areas of distribution per edition. The question was around the demographics.”

6.6 Dean avoided answering questions relevant to the proceeding, aided by respondent's attorney whose objections were upheld by the partisan court, which thus defended and favoured her point of view. At page 376 (DRL30) I ask questions, followed by respondent's objections without any merit but upheld by the court. The question is crucial to the proceeding, and the resulting objection and closing down of this line of inquiry seriously compromises my case and ability to lead evidence:-

6.6.1 MR LEWIS: "Ms Dean you are an adult" – Yes

"You must be aware that there was a tremendous amount of conflict in the country at least a decade ago?" -- Yes

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

"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?" --

"Though our publishing model?"

"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)"

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 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?”

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 those decisions and choices were. So I am just asking, Ms Dean, what were your decisions?”

COURT: “No, Mr Lewis. I am giving your extraordinary leeway here because you are unrepresented. That question would not – most or many of your questions would probably have been disallowed.” (Pages 376/377)

6.7 At page 403 line 21 (DRL31) I ask: “Are you qualified or not to be the editor of at least four editions in previously disadvantaged areas of Cape Town?” Ms Dean responds: “My company thinks so.” Then I ask: “Do you socialise with people of colour?” Ms Dean’s answer: “I barely socialise.”

7. The following charge should be added -- Ms Dean made false statements deriding and impugning the complainant’s history in the struggle press and struggle for freedom, by endorsing statements which are demonstrably untrue and whilst under oath. She openly endorsed the various racist statements issued in this regard and also pleaded by her employer and respondent’s attorney.

7.1 At page 404 line 1 (DRL32) I state: “.. .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 press in the field of journalism is wholly subjective...” Then at line 23 “Ms Dean, are these not your words?”

“In either event applicant’s claims about his contribution to the Anti-Apartheid struggle in the field of journalism are wholly subjective?”

She states at 405 line 2 (DRL33): “It is our response to what you submit”

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

7.2 At page 317 line 2 (DRL34) it is clear that Ms Dean interviewed complainant for the job in question, and examined his CV. In particular Ms Dean states: “His CV also spoke of good experience in journalism in the arts and culture field, which was something we would certainly benefit from having in the rolled out version of the People’s Post.” The complainant’s history in the struggle press is not a secret, and this is clear from his CV and the many testimonials and examples of written and published work supplied at the job interview and available on request if needs be. The objective facts of his writing, and thus his contribution to the struggle press, also archived in the South African library and Mayibuye Centre are on record and the statements and endorsements by the respondent’s witness are thus false, and extremely defamatory and hurtful, especially so in the light of the conflict surrounding apartheid in which the respondent played an egregious role. The contradiction and blatant racism in the testimony is all too apparent.

7.3 At page 497 line 4 (DRL35), respondent's attorney claims: "He made grandiose claims about his role in the liberation struggle. He name-dropped, he alleged links to heroes of the struggle." The statement as endorsed by Ms Dean, effectively means I forged a CV containing my history of involvement with several banned publications, including Grassroots, South Press and New Nation. My reputation is also impugned on the basis that, according to the company I never worked for the late Zwelakhe Sisulu, Gaba Tugwana, Rafiq Rohan, Rehana Rossouw, Moegsien Williams, Heather Robertson, Noel Bruyns, Ciara Carter, Gael Reagon, Mansoor Jaffer, Ben Cashdon. Was never a member of COSAW, ECC, SWAPO Solidarity Committee, SAUJS, NUSAS, UDF and so on.

8. At 6.5 of my first Affidavit I discuss false testimony under oath by the witness Ms A Dean regarding my work performance. The following points need to be added:-

8.1 At page 372 line 23 (DRL36) despite an undertaking by respondent's attorney to accept the evidence, Ms Dean contests the signature of Mr Gaffney, by stating: "I would like to just clarify to the court's understanding though that Brian Gaffney would not sign off on 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 we do not have any supporting evidence for."

8.2 There is a discrepancy in the testimony regarding the outline of the purported facts. After referring to a piece dated 5/22/2006 on page 29 of respondent's

evidence bundle, [319-320] alleged to be evidence of poor work performance by the respondent, and in which the main concern is with the gutters of a page as a result of insufficient copy being available to the page. She maintains that she had a discussion about the Dlodlu article on the very same day.

8.2 On page 326 (DRL37) Mr Kahanovitz asks: "Now how did you find out that those paragraphs had been lifted from the Internet?" Ms Dean answers: "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 was drawn."

8.3 At line 6 Mr Kahanovitz asks: "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."

8.3.1 COURT: "Sorry it is unacceptable to publish?" -- "to publish cut and paste content in the absence of clear attribution that leaves no doubt in the readers mind that it is the work of another."

8.4 At line 23 the Court asks: "When did the discussion take place roughly again on this? Ms Dean answers: "This was Monday 22, because I had gone through this the Sunday night before and it was on the morning of the 22nd."

8.5 "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 weekend which is why I picked this up on 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.”

8.6 The allegation above (in particular see 8.2) is an invention. There is no possibility that any ‘suspicions’ could have been raised by the purported discovery of three paragraphs near the end of an article, correctly attributed to an online source. To put this bluntly, their origin was already attributed in writing within the article in question, and correctly to an online biography on the Internet. The only issue at that stage would have been the inclusion of a URL or hotlink. Furthermore the complainant rejects the witness version of events, since he was already seconded to the company on the Sunday in question and the discussion thus occurred in Ms Dean’s office when it arose on the Sunday.

9. The following point needs to be added. At page 328 line three (DRL38), Ms Dean claims a splash-out in which employees were volunteered to deliver newspapers in the early hours of the morning, was a “once off”. Her version contradicts the accepted evidence that the splash-out event occurred at least twice, if not on other occasions.

10. At 6.6 of the first Affidavit I discuss allegations made by the respondent. There are a number of discrepancies in the testimony and pleadings. The following points need to be added:-

10.1 At page 334 line 11 (DRL39) the suggestion is put: “Well, maybe you should just mention some of the exact profanities he used.” Ms Dean answers: “He said he would not write another effing word for this effing newspaper again.” The version placed on record by Ms Dean contradicts her own testimony, and the pleadings. At page 334 line 7 (DRL39) Ms Dean had stated: “He started shouting and using

profanities, was highly agitated and left the office in a storm after shouting profanities declaring he would not write another word for the newspaper thereafter.” She then claims at page 335 line 9 (DRL40) that a meeting was held the very next day to discuss: “The inappropriateness of using profanity at your manager in the office and refusing to work from there.”

10.2 At page 398 line 21 (DRL41): “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.” [my underline]

10.3 At page 7 of the respondent’s Notice of Intention to Amend, a slightly different version is presented, ending with the phrase: “He was distraught and held his head in his hands.”

10.4 Both the testimony and pleadings are incorrect. Ms Dean’s version is clearly an exaggeration and there is no evidence corroborating her versions. Considering the racist nature of the suppression of the words of Mr Jansen, the rejection of the interview without reasons given, and the strange demands made of complaint’s sources and private life (protected by journalistic privilege), he was in any event, quite entitled to make use of strong language at the time. Complainant denies the versions presented. He initiated the telephone call to Taljaard. Complainant denies using any direct profanity during the meeting in question nor before other staff members, and likewise, until after the so-called evaluation meeting at which he was frogmarched off the premises and physically removed, he reserves his rights to enter further evidence in this regard and to use whatever direct means of communication is available given the circumstances.

11. At page 429 line 23 (DRL42) the question is put: “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 Jansen’s

number because he has a heart condition?" I wish to reiterate that Ms Dean cannot claim ignorance of the fact of Mr Jansen's health problems, since the exact same information was related in the very article tendered by the complainant and purportedly examined by Dean. I wish to also reiterate that the respondent's pleadings were then subsequently amended to include information about Mr Glen Robertson neglected in their earlier submission that no such contact number was given. Further Ms Dean had absolutely no right to demand access to Mr Jansen, nor to make such offensive inquiries of a racist nature, and the resulting crusade purporting to be a simple verification by the company of whether or not the interview with Mr Jansen had indeed taken place is extremely offensive, not to mention, bizarre.

12. The following charge needs to be added: Aided by respondent's attorney Mr Kahanovitz, who suborned the perjury, Ms Dean repeatedly made false statements under oath regarding an interview conducted with the late Robbie Jansen, a music legend. Far from being a Friday night affair, the interview was conducted over the telephone by the complainant on a Thursday. At no stage has the complainant ever maintained that he interviewed Mr Jansen at the West End on a Friday night. Nowhere in the article in question do any words appear attributing the interview to the West End. There is no evidence in support of any of the claims to the contrary under oath, made by Ms Dean and suborned by respondent's attorney and thus submitted by the company. At no point does Ms Dean correct the factual errors introduced by respondent's attorney. She not only proceeds to dispute complainant's version of events -- going so far as contesting both the provenance and existence of the interview -- and thus impugning the words of Mr Jansen, but also proceeds to make various statements and averments which are contradicted by the evidence, and then by also cynically claiming further that she had not reached any conclusions on the matter. She further takes issue with the content of Mr Jansen's input

and statements without bothering to find out the truth as she claims, in the process denying the late jazz legend, freedom of speech and access to his own community.

12.1 Page 430 line two (DRL43): “Just on this question of how the issue of the West End came up, you will recall that when I cross-examined the applicant I asked him where he interviewed Mr Robbie Jansen because the article (sic) says 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 the West End. In what context did that arise?”

12.2 Page 430 line 7 (DRL43) Ms Dean states: “that was in the context of me explaining how the 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 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 interviewed Robbie Jansen and he had (sic) claimed to have done it at the West End. There is though a document (sic) in which Mr Lewis makes reference to the interview at the West End too.”

12.2.1 “Sorry there is or there is not a document? --- There is. In my one file (sic) I noted the contradiction between that and the article.”

12.2.2 COURT “My recollection is that under cross-examination he said he had interviewed Mr Robbie Jansen over the telephone and that he subsequently met with Robbie Jansen later. “

12.2.3 MR KAHANOVITZ “Yes, he said at the West End to pay his respects.”

12.2.4 COURT: “To pay his respects, that is correct.”

12.3 Mr Kahanovitz then proceeds to claim there is a document which exists in which I somehow claim to have interviewed Mr Jansen at the West End. The

document referred to only came to be in the respondent's possession because it was included in my bundle, page 27 of my bundle not their bundle. It is a report written for an evaluation meeting on problems encountered in the production cycle in terms of a contract position for a layout sub. It was never submitted as a report as such. It would have been submitted to the respondent at the time, had they dealt with the editorial issues to do with the rejection of the several pieces, and other related issues to do with racism. It is inadmissible as evidence and is nothing more than an "aide memoir" as the respondent variously puts it. The document merely corroborates that I met with Mr Jansen. It is certainly not a personal 'vision for change' in the company as maintained by Mr Kahanovitz.

12.4 At no point was any editorial issue raised by the respondent during the meeting, which focused for the most part on the complainant's attendance at a mixed race nightclub, supposedly in contravention of religious laws and the company's own internal policies. At no point was any issue raised at the meeting in respect of the alleged use of profanity. The only other topic under discussion was my supposed poor work performance in terms of the layout sub contract. Several versions of this same incident thus emanate from the respondent's sole Witness.

12.5 At page 433 (DRL44) Mr Kahanovitz asks: "How did the concept, how did the issue of whether he knew where West End, how did it arise?" and Ms Dean's answer: "It was because he had mentioned that he had met with Robbie Jansen at West End (sic) 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 Friday night. So the night on which the interview would have taken place (sic) was relevant to whether or not the interview did indeed taken place, which was the point of the discussion, the concern ... (intervention)."

12.6 At page 433 line 14 (DRL44) Mr Kahanovitz says: "What does, yes, excuse me, I interrupted you" and Dean continues: "The concern around whether or not an interview had been held was the point of the discussion." Then Mr Kahanovitz says: "Yes – and Ms Dean says: "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 matter of when had that pool car been used on what night was relevant"

12.7 At page 434 line one (DRL45): "So was it your understanding that the pool car has been signed out to conduct an interview with Mr Jansen at?" Ms Dean answers: "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 that slip on which he had written what the purpose of it would have been for, particularly with it being a long time ago."

12.8. At page 418 line 16 (DRL46): "I was trying to also understand when 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 (sic) or when you claimed you had been at West End (sic) to do the interview."

12.9 At page 418 line 24 (DRL46): "To understand had you actually interviewed Robbie Jansen at West End (sic) as you had claimed. Well, you were right."

12.10 At page 419 line 8 (DRL47) I ask: "And what were your conclusions?" And Ms Dean answers: "I made no conclusion. I would have had to speak to Pastor Glen Robertson, but the full and final settlement was signed. I did not choose to run the article and therefore I never pursued that."

12.11 At page 441 line 10 (DRL48) Ms Dean confirms: “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 (sic) he had in presenting the article and that is why the West End in Rylands was brought into the conversation and talked about because I had recalled giving Mr Lewis a pool car for that Friday night.”

12.12 At page 441 line 22 (DRL48): “On the questioning you about did the interview with Robbie Jansen takes place at West End in Rylands was important to us verifying that you had indeed (sic) interviewed him.”

13. The following charge needs to be added: Dean made false statements under oath regarding the signing of a purported settlement document, which she claimed was signed by mutual agreement in her office the very day that complainant was frogmarched off the premises:-

13.1 At page 335 line 19 (DRL40) the Court asks: “How did it end”. Dean states: “It ended in 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.”

13.2 Then at page 335 line 19 (DRL40) the Court asks: “Was that agreement signed?” Kahanovitz responds: “Well, let us put on the record, M’Lord, we do not have a – we are not relying on it, we do not have that agreement so

13.3 At page 336 line 2 (DRL49) COURT: “So let me hear from the witness. Was there an agreement?” Dean responds at line 3: “Yes, there was an agreement that was signed.”

“Was it in writing?

“It was in writing and it was signed (sic) in my office that day before Mr Lewis departed the premises” says Ms Dean.

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

DEAN: It has been mislaid (sic).

13.4 Then at page 419 line 16 (DRL47) Ms Dean states: “No the meeting at which the settlement was signed was one of mutual agreement.”

13.5 Ms Dean’s testimony is contradicted by the evidence. The document referred to as item 48 in respondent’s bundle, a ‘full and final settlement without prejudice’ and related to the problem of overtime in violation of the Sabbath, in respect of one month’s salary, not the sui generis case involving unfair discrimination, appears on a Legalwise letter-head. It is dated 5 July 2006 and was signed at the offices of Legalwise, and not the offices of People’s Post on the day in question.

14. The following statements, they both cannot be true at the same time: -

14.1 At page 415 line 25 (DRL50) in respect of the purported Tuesday evaluation meeting, I ask: “Did you not want to – did you not question me as to my participation in an exhibition of art?” Ms Dean answers on page 416 line 1 “Yes we did.” I ask: “You did?” she responds once again: “Yes.”

14.2 At page 337 line 4 (DRL51) Ms Dean claims of a mobile call made from an art exhibition: “He phoned me that night and said he had some wine and that he wanted to apologise to me (sic) 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 to view me poorly.”

15. At 6.8 of the first Affidavit, I discuss the issue of Ms Dean’s “surprise upon finding out I was Jewish”. The correct quote and citation is the following:-

15.1 At page 354 line 1 (DRL52) I question Ms Dean: "Did you know, or were you aware that I was a Jew ...? She responds "I was not aware". Then I ask, "did it come as a complete surprise?" She responds in the affirmative: "It did".

15.2 Then at page 414 line 12 (DRL53) a completely different version of events and modus to that offered up regarding the West End interview under point 12 (and thus already illustrated above), is presented by the witness. To my question: "Was the theme not the manner in which I observed the Friday night, my Jewish, me being a Jew? Was that not the theme? Ms Dean answers: "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 to me, is why do you bring that into the conversation."

16. In regard to various strange statements made by Ms Dean affecting the profession of journalism and the media industry in general, the following serves to remind us that the past regime had absolutely no compunction when it came to exploiting workers:-

16.1 At page 347 line 3 (DRL54) I ask: "Is working on Friday night an inherent requirement of the job? Ms Dean responds at line 5: "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."

16.2 At page 400 line 8 (DRL55) Ms Dean claims: "It is common practice that a journalist is able to sub copy and is required to sub their own copy."

16.3 At page 367 (DRL56) Ms Dean claims to not recall any issues or problems to do with the drafting of a document in respect of the applicant's own byline, nor to have sight of any correspondence in the matter, yet at the same time confirms that she would have been involved in the drafting of the Key Performance Areas (KPA) document in which this self-same issue would have undoubtedly have been dealt

with. I ask on page 367 line 22 (DRL56): “Ms Dean, you would have been involved in the drawing up of this document. Is that not correct?” Ms Dean answers: “Yes, I would have been.” I then ask: “And me supplying written entertainment articles to the company was that not something that you considered odd?” Ms Dean responds: “Not at all.”

16.4 Page 367 line 3 (DRL56): “So you expected me to submit articles with my byline, even though I was subbing and laying out?” Dean’s answer: “As I indicated with the previous line of questioning that is not uncommon.”

16.5 Yet at page 366 line 9 (DRL57) an earlier response to the question: “Ms Dean, isn’t ones name ones stock in trade?” Her answer: “In journalism yes.”

Conclusion

17. Ms Dean must be charged with an offence in terms of the Criminal Procedures Act, as amended. I pray that the bearers of false testimony are brought to book and that truth, justice and the rule of law prevails.

DAVID ROBERT LEWIS

I CERTIFY THAT THE DEPONENT ACKNOWLEDGED TO ME THAT HE KNOWS AND UNDERSTANDS THE CONTENT OF THIS DECLARATION, THAT HE HAS NO OBJECTION TO TAKING THIS PRESCRIBED OATH AND CONSIDERS IT TO BE BINDING ON HIS CONSCIENCE.

THUS SIGNED AND SWORN TO BEFORE ME AT CAPE TOWN ON THIS DAY OF

COMMISSIONER OF OATHS

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