RealTime Transcriptions

TRANSCRIPTION OF THE

COMMISSION OF INQUIRY

MARIKANA

BEFORE TRIBUNAL

THE HONOURABLE MR JUSTICE FARLAM (RETIRED) - CHAIRPERSON MR TOKOTA SC MS HEMRAJ SC

HELD ON

DAY 26

4 DECEMBER 2012

PAGES 2676 TO 2789

HELD AT

CIVIC CENTRE, RUSTENBURG, NORTH WEST PROVINCE



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	Page 2676		Page 2678
1	[PROCEEDINGS ON 4 DECEMBER 2012]	1	case, I won't argue further because I was not there, I was
2	[09:33] CHAIRPERSON: The commission resumes, I	2	told.
3	did say it yesterday, but for the benefit of those who	3	MR TIP SC: Yes. And then if you go to
4	weren't here yesterday, we will be taking a short lunch	4	paragraph 38, you deal there with an account of what the
5	hour today and resuming again at half past one, because we	5	general, General Mpembe said at the briefing meeting on 15
6	are going to stop some time after 3, because we are not	6	August 2012 and there is reference to him saying that four
7	sitting from tomorrow onwards for a week. Mr Mathunjwa,	7	leaders had been identified, two of them were NUM, two of
8	you are still under oath.	8	them were AMCU and all that I am putting to you is that Mr
9	MR MATHUNJWA: Thank you.	9	Zokwana will say that he didn't recall the general dealing
10	CHAIRPERSON: Mr Ntsebeza, I think you	10	at all with leadership issues. And that, that is not
11	said you wanted to ask him some questions in cross-	11	reflected in the transcript. Any comment on that?
12	examination.	12	MR MATHUNJWA: My recollection on that is
13	MR TIP SC: Mr Chair, sorry may I	13	that when Mr Zokwana was saying he is not prepared to go to
14	intervene and seek your leave to put just a few formal	14	the mountain it is when then General Mpembe advise him that
15	propositions that I omitted to do yesterday afternoon, it	15	through their intelligence, if I am not mistaken they have
16	will be a few minutes.	16	identified four, those are regarded as the leaders of the
17	CHAIRPERSON: Mr Ntsebeza with his usual	17	strike. Two them is AMCU and two of them is for NUM,
18	charm and affability won't object so I suggest that you, I	18	therefore he has to go to the mountain.
19	am right about your affability and charm, Mr Ntsebeza?	19	MR TIP SC: Then paragraphs 41 and 42 of
20	MR NTSEBEZA SC: Indeed, Mr Chair.	20	your statement.
21	CHAIRPERSON: Mr Tip, carry on.	21	CHAIRPERSON: You put it to him that the
22	MR TIP SC: That's modesty acknowledged.	22	transcript doesn't reflect that the General dealt with
23	Mr Mathunjwa, I have just a few questions for you which I	23	leadership issues. Well, I am not sure that, that
24	should have put before we concluded yesterday, I am sorry	24	statement that you put to him is entirely correct. If you
25	that I am still going to address you but all that I am	25	have regard to page 2 of the transcript which is exhibit
	Page 2677		Page 2679
1	Page 2677 doing is to take half a dozen of the paragraphs in your	1	Page 2679 004, you will see that General Mpembe addressing both the
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	Page 2680		Page 2682
1	then I apologise.	1	we did find them, that was SAPS at the JOC management.
2	MR TIP SC: Mr Chair, I did preface it	2	Then we did find them, that was SAPS at the JOC, management
3	with the observation that the General had said there were	3	and the NUM.
4	two leaders from AMCU, two leaders from NUM. But perhaps I	4	MR TIP SC: Then lastly, paragraph 57,
5	should have made it more clear.	5	you deal there with what Mr Kwadi informed you about
6	CHAIRPERSON: Yes, I think the question	6	concerning the press conference that had been arranged by
7	can just be reformulated. What you are doing is you want	7	SAPS and you indicate in that paragraph that you considered
8	to make it clear what your case is in respect of what this	8	that NUM had been a participant in that press conference.
9	witness says and so obviously I must give you a chance to	9	My –
10	do that. But if you put your case you must put it	10	CHAIRPERSON: Sorry, I don't understand
11	correctly	11	him to say that. He is not saying that NUM was a
12	MR TIP SC: Thank you, Mr Chair.	12	participant, his point was that there was a police press
13	CHAIRPERSON: Can I also refer to page	13	conference to which NUM had been invited but AMCU wasn't
14	11, where the general is speaking after Mr Zokwana has	14	and I understood the substance of the point being that
15	spoken and he says at the foot of the page, line 22, "we	15	there was discrimination as it were between the two trade
16	are having a negotiating team of the police," it says from,	16	unions, the one was invited to the press conference and the
17	but according the actual recording, "and when we are having	17	other was ignored, not. That I understood to be the point
18	a negotiating team we are thinking that part of the	18	he was making, if I misunderstood him he will correct me.
19	strategy people they see you, they will still respect you	19	MR MATHUNJWA: Yes, I did ask that why
20	because you still remain their leader." And that theme was	20	are we not invited and why NUM is there because they were
21	actually taken up later by Mr Mathunjwa who said that we	21	there at the foyer.
22	are leaders we are not just leaders in the boardroom. We	22	MR TIP SC: That is my understanding of
23	have to be leaders in the koppie as well. So questions of	23	what you were saying there and what I want to put to you in
24	leadership were discussed and General Mpembe actually made	24	that regard is simply this, that my instructions are that
25	the point in the passage I read. So just – you know by all	25	NUM was in fact not aware of that press conference and that
	Page 2681		Page 2683
1	means put your case, but put it based on a correct summary.	1	it did not attend it.
2	MR TIP SC: Mr Mathunjwa, let me revisit	2	MR MATHUNJWA: I will say they were
3	that, the proposition that I was putting to you, was	3	present where the conference was held.
4	intended to address only the aspect of whether the general	4	MR TIP SC: Mr Chair, those are the only
5	said that of the four leaders two were AMCU, two were NUM.	5	propositions that I wish to make, I appreciate the
6	That's the only aspect, we don't suggest in any way that	6	indulgence.
7	the leadership question did not arise. Just the 2, 2	7	CHAIRPERSON: Thank you, Mr Tip. Mr
8	feature of it.	8	Ntsebeza.
9	MR MATHUNJWA: According to my	9	MR NTSEBEZA SC: Thank you, Mr Chairman.
10	recollection that is what has been told in that meeting of	10	Mr Mathunjwa, I think it is, before I put any questions to
11	the 15th.	11	you, it is appropriate that I should indicate that I have
12	5	12	come to know you in the course of these proceedings. Is
13		13	that true?
1			
14	that NUM had after the initial discussion and you said	14	MR MATHUNJWA: That is correct, Sir.
15	that NUM had after the initial discussion and you said there that the NUM delegation went out and that the AMCU	15	MR NTSEBEZA SC: Your organisation, AMCU
15 16	that NUM had after the initial discussion and you said there that the NUM delegation went out and that the AMCU delegation waited for 5 minutes and nobody came back. Do	15 16	MR NTSEBEZA SC: Your organisation, AMCU is represented in these proceedings by a colleague who is
15 16 17	that NUM had after the initial discussion and you said there that the NUM delegation went out and that the AMCU delegation waited for 5 minutes and nobody came back. Do you recall that?	15 16 17	MR NTSEBEZA SC: Your organisation, AMCU is represented in these proceedings by a colleague who is instructed by SERI, the Socio-Economics Rights Institute.
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1	Page 2684	1	Page 2686
1	MR NTSEBEZA SC: You are also aware that	1	appreciate, I'm sure, that my duty would be to try and
2	I represent families of those who died, also on	2	assist this Commission without fear, failure or prejudice,
3	instructions from SERI.	3	which is why I said even though I know you, I want you to
4	MR MATHUNJWA: That is correct.	4	understand what my task is today. You appreciate that?
5	MR NTSEBEZA SC: Now, you may or may not	5	MR MATHUNJWA: Yes, I do appreciate that.
6	know, I now represent all 34, I mean families of all the 34	6	MR NTSEBEZA SC: Now over the last few
7	people who died on the 16th of August.	7	days, one of which I was not present but I'm familiar with
8	MR MPOFU: What happened to my police	8	what has been taking place, certain questions have been put
9	members, Chair.	9	to you that at their highest suggested that you instigated
10	CHAIRPERSON: The 16 – he refers to the	10	the deaths of those people at the mine because you made
11	16 miners who were killed on the koppie, scene 1 or scene	11	inflammatory statements at the koppie on the 16th. You are
12	2, he represents their families, all of them. Other	12	aware of that?
13	people, no policemen died on the 16th but other counsel	13	MR MATHUNJWA: Yes, I'm aware of that.
14	represent the families of the policemen who died, and	14	MR NTSEBEZA SC: At their lowest the
15	others represent the families of the security officials of	15	suggestions have been that you and your organisation did
16	Lonmin who died. I don't know if that's – and there was a	16	not help much in trying to quell the trouble, especially on
17	suggestion that AMCU people had died earlier, but that	17	the 16th at the mountain, because you kept on demonising the National Union of Mineworkers as the culprit, and being
18 19	suggestion has been withdrawn. So those people who allegedly died are not represented because they didn't die.	18 19	general about it – you are aware of that?
20	MR MPOFU: My mistake, Chair.	20	MR MATHUNJWA: Yes, I'm aware of that.
20	MR NTSEBEZA SC: Well I don't understand	20	MR NTSEBEZA SC: I'm also aware of the
22	what the dialogue was, Mr Chairman, but I was listening and	22	responses that you have made to both counsel for SAPS,
23	I was putting a question to –	23	counsel for Lonmin, and counsel for NUM, but I think I want
24	CHAIRPERSON: The objection that was	24	to satisfy myself and assist the Commission in getting a
25	impliedly overruled.	25	sense of exactly what your position is, especially because
20			
1	Page 2685	1	Page 2687
1	MR NTSEBEZA SC: I think the point,	1	the families have also heard what was alleged to your role
2	MR NTSEBEZA SC: I think the point, Chair, is that, I don't know if you know that as I sit here	2	the families have also heard what was alleged to your role in not assisting the resolution of the events of the 16th.
2 3	MR NTSEBEZA SC: I think the point, Chair, is that, I don't know if you know that as I sit here today I am told that of the 34 people who died on the 16th	2 3	the families have also heard what was alleged to your role in not assisting the resolution of the events of the 16th. Now at some stage later on in the proceedings in the course
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	Page 2688		Page 2690
1	MR MATHUNJWA: Yes.	1	you're putting to him?
2	MR NTSEBEZA SC: You were also asked	2	MR NTSEBEZA SC: Well, between the
3	about a person called Steve. I didn't get his surname. I	3	leadership.
4	suspected that it was intended to say his surname is	4	CHAIRPERSON: Between the leadership.
5	Khululekile.	5	MR MATHUNJWA: Okay, would you please
6	MR MATHUNJWA: Yes, I think that's the	6	repeat again –
7	one.	7	MR NTSEBEZA SC: Yes, I'm saying between
8	MR NTSEBEZA SC: Khululekile for the	8	the leadership of AMCU and NUM there was no love lost
9	record will be spelt K-H-U-L-U-L-E-K-I-L-E, and you	9	between the two unions. For instance in a debate on the
10	explained that whereas it was put to you that he was an	10	15th of August it is very manifest there that you don't see
11	office bearer for AMCU, he was actually an official and you	11	eye to eye with the leadership of NUM. Would that be
12	tried to make that distinction.	12	correct?
13	MR MATHUNJWA: That's correct.	13	MR MATHUNJWA: Not in person, but on the
14	MR NTSEBEZA SC: Now I was quite curious	14	issue that was, yes we had different –
15	to find out what your position was in NUM, and I'll tell	15	MR NTSEBEZA SC: Yes, perhaps let me
16 17	you why. Maybe let me tell you first why it is so. Yesterday it was indicated to you that your speech,	16 17	clarify this position right from the beginning, because in two encounters I've seen that it has been made an issue and
17 18	particularly at the mountain, was not helpful because you	18	I think it is unfair that it should be. English is not
19	kept on in some wise demonising the NUM. Do you remember	10	your first language. It's not your mother tongue, is it
20	that?	20	not?
21	MR MATHUNJWA: Yes.	20	MR MATHUNJWA: That's correct.
22	MR NTSEBEZA SC: I'm aware of your	22	MR NTSEBEZA SC: Neither is it mine, and
23	responses, but that's not my inquiry now. You tried to	23	as the counsel for Lonmin indicated, it is also not his
24	show that in some instances, and you referred to an	24	mother tongue.
25	incident in Dundee, the Dundee coal mines, that NUM and	25	MR MATHUNJWA: Yes, Sir.
	Page 2689		Page 2691
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	Page 2692		Page 2694
1	doesn't have forever, we have been trying to communicate in	1	MR NTSEBEZA SC: And in paragraph 3, or
2	the language, that we not cause a multiplicity of	2	whatever, the paragraph says, "The dispute was only
3	interpretations or interpreters.	3	terminated once Mathunjwa got reinstated, but he then faced
4	MR MATHUNJWA: That is correct. If I may	4	a second hurdle which a NUM disciplinary hearing for
5	be allowed, I even appreciated to my counsel that even	5	bringing the union into disrepute."
6	though I don't know much about English, but to save time	6	MR MATHUNJWA: That's correct.
7	and I will try my level best to communicate in English.	7	MR NTSEBEZA SC: Now I'll skip the
8	MR NTSEBEZA SC: Do you then accept –	8	commentary in the next paragraph, but the next paragraph
9	don't take this as a criticism, even the best of us, and I	9	says, "Archie Palane," P-A-L-A-N-E, "at the time deputy
10	consider myself as one of those, but I've had to be told	10	secretary, general secretary of the NUM, was sent to
11	that there's a difference between expedience and	11	investigate the charge against Mathunjwa, but found the
12	expedition. Now Mr Mathunjwa, that having been settled, I	12	local chair had done nothing wrong and other officials from
13	say when you were asked as to whether you had been an NUM	13	Johannesburg were sent for the same reason but he also
14	office bearer, and I began to look at your evidence that	14	found no reason to discipline Mathunjwa." Is that correct?
15	you led, I became curious to know a lot about you and your	15	MR MATHUNJWA: Yes, that is correct.
16	involvement in NUM, and I have caused an article to be	16	Maybe from there that it says Johannesburg, it might be
17	printed, which I will ask the Commission to take in as an	17	referring to Rustenburg. I think it was Thato Mboto. I
18 19	exhibit and there are a number of these articles that have	18	think by that time he was around Rustenburg, but I stand to
20	been written about you, but this one is entitled, "The Rise and Rise of AMCU." Ms Pillay, I've arranged for – Mr	19 20	be corrected. Whether he was in head office or what, I'm not quite sure, but that is correct, the sequence of
20	Chairman, I've arranged for those items –	20	events.
22	CHAIRPERSON: - Pillay tells us how we	22	MR NTSEBEZA SC: The next paragraph says
23	can mark them, then you can hand them in.	23	there, "However, the then union's general secretary
24	MS PILLAY: Chair, it will be QQ1.	24	insisted that Mathunjwa should appear before a disciplinary
25	[10:13] CHAIRPERSON: Thank you. It's an article	25	hearing that he, Mr Mantashe, would chair."
	Page 2693		Page 2695
1	that originally appeared in the Mining Yearbook on August	1	MR MATHUNJWA: That is correct.
2	that originally appeared in the Mining Yearbook on August the 2nd, and that was reprinted, it looks like on the 18th	2	MR MATHUNJWA: That is correct. MR NTSEBEZA SC: The next paragraph says,
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1	MR NTSEBEZA SC: No, I meant to submit	1	MR MATHUNJWA: My recollection it says
2	complete copies, whether, whatever they're saying. I will	2	that the members in that meeting, they spoke many things,
3	make sure, I thought that – I'm sorry about this, Mr	3	but at the end of the day they said an injury to one is an
4	Chairman. But are you able to tell us what then happened?	4	injury to all. Then in one voice they're saying they are
5	Actually it appears to be, to have Mr Mantashe as your	5	leaving NUM, resigning from them, which indeed they signed
6	chair in the disciplinary hearing.	6	resignation form. They submitted to the main offices. If
7	MR MATHUNJWA: My recollection, I was	7	I'm not mistaken, some they took it to the regional offices
8	called by management and then they informed me that my	8	of the NUM.
9	membership has been terminated from NUM. Then I asked, but	9	MR NTSEBEZA SC: On the page that follows
10	there was no much explanation, that is the instruction from	10	the first page there is, the first paragraph seems to
11	NUM. Then I never made any appeal and so forth. I took as	11	indicate that from the time that a new union AMCU was
12	it is.	12	formed, it began to grow phenomenally in those areas that
13	CHAIRPERSON: That doesn't mean that what	13	are indicated, where you are according to this article as
14	I guessed was on the missing second page was incorrect.	14	an organisation, currently the representative of workers at
15	There wasn't actually a disciplinary hearing, you were just	15	various mines in Mpumalanga, including coal, chrome and
16	expelled from NUM without having even appeared before the	16	platinum mines, as well as coal mines in KwaZulu Natal. It
17	disciplinary tribunal. Is that what you're telling us?	17	also has members at chrome and platinum mines in Limpopo,
18	MR MATHUNJWA: That is correct. They	18	Two Rivers and Modikwa. Is that correct?
19	called a disciplinary, was to be chaired by Mr Gwede	19	MR MATHUNJWA: Yes, at Modikwa I think
20	Mantashe. Then I disputed that he cannot be chairman	20	we're still having a organisational rights dispute.
21	because I had some engagement with him. Then he refused to	21	MR NTSEBEZA SC: In paragraph 3 on that
22	excuse himself. Then subsequent I don't know what happened	22	page there seems to be a direct quote from you, namely,
23	to their head office, until such time I was called by the	23	"Mpumalanga is our strongest union, but I think North West
24	management of the mine that my membership from NUM has been	24	is going strongly. The numbers there may soon overtake the
25	terminated.	25	membership in Mpumalanga."
-		_	
	Dago 2407		
1	Page 2697 CHAIRPERSON: I understand.	1	Page 2699 MR MATHUNJWA: That's correct.
1 2	CHAIRPERSON: I understand.	1 2	MR MATHUNJWA: That's correct.
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2	CHAIRPERSON: I understand. MR NTSEBEZA SC: Is your evidence that	2	MR MATHUNJWA: That's correct.
2 3	CHAIRPERSON: I understand. MR NTSEBEZA SC: Is your evidence that you were told by management that your membership of a union	2 3	MR MATHUNJWA: That's correct. MR NTSEBEZA SC: Now what obviously is of concern to us as families is the paragraph that begins
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	Page 2700		Page 2702
1	March and the rock drill operators who were unhappy because	1	saying AMCU had nothing to do with that?
2	an 18% bonus increase had been given to workers in higher	2	MR MATHUNJWA: AMCU has nothing to do
3	category jobs, that was with reference to what happened at	3	with that.
4	Impala Platinum earlier this year, the first half of this	4	MR NTSEBEZA SC: Then there is the
5	year. Is that correct?	5	paragraph that I would like to get your comment that
6	MR MATHUNJWA: Yes.	6	follows that, which says, "These events," that is now the
7	MR NTSEBEZA SC: Now this is, as the	7	whole question of the bonus, 18% bonus increase, etcetera,
8	Chairman has been assisting, this would be in reference to	8	"may have ignited the February/March strike, but the
9	what was debated in the last few days, reference being to	9	stoppage was probably the outcome of problems that had been
10	what was called R700 that was paid to rock drill operators	10	simmering for years. One such issue was an agreement
11	outside the structures of – is that the one?	11	signed between the NUM and Implats in 2007, which
12	CHAIRPERSON: Mr Ntsebeza, I'm sorry to	12	stipulated the 50% plus one member threshold for
13	interrupt you. My understanding was that the R700 increase	13	recognition, practically making Implats a closed shop where
14	was an offer made by Lonmin after this trouble arose at	14	minority unions had no rights."
15	Impala Plats and Impala Plats gave an increase to some of	15	MR MATHUNJWA: No, I think here is a
16	their –	16	person who was writing the article, that is his feelings.
17	MR NTSEBEZA SC: Oh, I see.	17	So I don't agree with that. That is his sentiment.
18	CHAIRPERSON: Apparently Amplats did the	18	MR NTSEBEZA SC: Yes, now whilst it may
19	same and then the rock drill operators – we had evidence I	19	well belong to another phase of this Commission's hearings,
20	think in your absence – the rock drill operators at Lonmin	20	and I do not know if we have had any views about it, can I
21	were unhappy because they thought they should get something	21	take advantage of your being on the stand as the leader of
22	similar. The suggestion was, and this is a point made by	22	AMCU and get what your opinions are, if you have any, on
23	the witness, was that the Lonmin people then negotiated	23	what the author here says is practically making the mines a
24	directly with the rock drill operators, which he felt was	24	close shop. In other words the whole 50 plus one
25	wrong and in fact said so very strongly, and offered them	25	principle. Do you have any views about that generally? It
	Page 2701		Page 2703
1	700, which they rejected. So it wasn't actually paid to	1	may not belong to this part of the nearing –
2	700, which they rejected. So it wasn't actually paid to them, as I understand it. There was an offer on the table.	2	may not belong to this part of the nearing – CHAIRPERSON: Mr Ntsebeza, is it helpful
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	Page 2704		Page 2706
1	MR NTSEBEZA SC: I believe that there is	1	agree with this, you know, but the author says, "The NUM
2	an article now that probably gives us the page that we were	2	was originally born out of the lowest job categories of
3	looking for.	3	South African mineworkers, mainly from the gold mines.
4	CHAIRPERSON: It's replaced the original	4	More than 60% of its members are foreigners, mostly
5	copies of exhibit QQ1 with a new one.	5	illiterate migrant labourers who are not interested in a
6	MR NTSEBEZA SC: Indeed, Mr Chairman.	6	career path."
7	MR TIP SC: Mr Chair, it would be very	7	MR MATHUNJWA: I cannot agree with it
8	useful – forgive me, Mr Chair – it would be very useful for	8	entirely, but yes, there were gold mines, yes they are
9	the participants, the parties to get a copy of this as	9	immigrant workers, but not that they were not prepared to
10	well. It makes it easier to follow whatever might be said,	10	be capacitated. I don't agree with that.
11	not –	11	MR NTSEBEZA SC: By the way, you don't
12	CHAIRPERSON: - I don't have to – Mr Tip,	12	have to agree or disagree with it. I just was calling for
13	you're getting another one anyway.	13	your comments insofar as you are involved in that area of
14	MR TIP SC: One has emerged from the back	14	your organisation. Now it says, "Nowadays that number has
15	rows, Mr Chair. Thank you.	15	dropped to below 40%. An increasing portion of NUM's
16	MR NTSEBEZA SC: Mr Chairman, I had asked	16	membership comes from what can be described as white collar
17	that an adequate number of copies, about 20 should be made	17	mining staff. The local NUM structures in Rustenburg, like
18	available to the Commission, but –	18	the branch office bearers and shop stewards, are dominated
19	CHAIRPERSON: Mr Tip's problem has	19	by skilled higher level workers. They are literate, well-
20	disappeared, so you can carry on.	20	spoken and wealthy, compared to the general workers and
21	MR NTSEBEZA SC: Thank you, Mr Chairman.	21	machine operators underground." What's your comment on
22	I now sit without the City Press one. Anyway, now I'm	22	that?
23	going on the original copy, the last page thereof. Mr	23	MR MATHUNJWA: I won't be in the position
24	Mathunjwa –	24	to comment on that.
25	CHAIRPERSON: I don't think you should do	25	MR NTSEBEZA SC: Yes. Now you may or may
1	Page 2705	1	Page 2707
1	that because the original copy presumably is now going to	1	not have been involved as a union or as a structure or as a
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	Page 2708		Page 2710
1	your origins in the NUM and in the central position you now	1	[COMMISSION ADJOURNS COMMISSION RESUMES]
2	play in AMCU because as I've indicated to you, at the end	2	[11:22] CHAIRPERSON: The Commission resumes. Mr
3	of the day for us as families we need to know whether we	3	Mathunjwa, you're still under oath.
4	can submit to the Chair and the Commissioners at the end of	4	MR MATHUNJWA: Yes, Sir.
5	the day that all those families whose members died, who	5	CHAIRPERSON: Mr Ntsebeza, now that
6	belonged to AMCU, to NUM, and some were not even unionised,	6	you've finished your tea, are there anymore questions?
7	can look at the president of AMCU as having been	7	MR NTSEBEZA SC: Thank you, Mr Chairman.
8	responsible for their deaths, or can look, as we said in	8	I just drank the last. Now Mr Mathunjwa, I just want to
9	our opening statements, elsewhere. Do you appreciate that?	9	give you one more opportunity to clarify for me what has
10	[10:53] MR MATHUNJWA: Yes, I'll appreciate – if	10	become I think an embarrassing rumour for all us, and that
11	I may be allowed by the Commissioner just to revert back to	11	is the two miners who until the 16th were believed by many
12	the earlier question of a comment, where it reads, "AMCU is	12	of your comrades to have been killed. Now you were asked
13	here to stay. It has a formidable opponent in the NUM."	13	about that yesterday by my learned friend from NUM. Do you
14	What I wanted, not that, what I was trying to say here is	14	recall that?
15	an opponent not in the sense of rivalry; it's an, it can	15	MR MATHUNJWA: Yes, that's correct.
16	be, my comment will be the opponent in the sense of	16	MR NTSEBEZA SC: And I think you were
17	competition, not in the bad way. That is what I wanted to	17	referred to exhibit OO9 where it was put to you that you
18	clear. I was trying, on your earlier comment of the	18	had said it was confirmed that the two miners had been
19	English.	19	killed by NUM members in the context of them going either
20	MR NTSEBEZA SC: You are trying to	20	to or past the offices of NUM. You remember that?
21	explain English [inaudible].	21	MR MATHUNJWA: Yes, I do remember that.
22	MR MATHUNJWA: Yes.	22	MR TIP SC: Just for the record, that was
23	MR NTSEBEZA SC: Yes, quite seriously, it	23	not OO9. The debate about the confirmation arose out of
24	is very important for us to understand what you see the	24	LL, the SAFM interview.
25	relationship between AMCU and NUM to be. Is it a	25	CHAIRPERSON: They actually concerned
1	Page 2709	1	Page 2711
1	relationship where you compete through ideas for membership	1	what was said in the SAFM interview, but also that
2	relationship where you compete through ideas for membership in the workplace, or is it the kind of competition which	2	what was said in the SAFM interview, but also that statement was made elsewhere in the hearing and the topic
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	relationship where you compete through ideas for membership in the workplace, or is it the kind of competition which has been portrayed here, which sometimes is engaging recklessly, irrespective of what the consequences may be? CHAIRPERSON: Mr Ntsebeza, may I interpose at this stage? I just want to make it clear to the witness, we're going to take the tea adjournment now anyway, but I want to make this clear to you. If at any stage in your evidence you are at loss for the correct English word and there's something you want to say and you're not quite sure how to say it in English, please say it in isiZulu because we have a very competent capable interpreter who understands, I think all the vernacular languages in South Africa, plus English and Afrikaans, and he will be able to interpret it for you into English. So I'm not suggesting that you switch over to the vernacular completely. You're entitled to do that if you wish, but if you carry on in English and there's some point that you feel you're not doing justice to in your English, then say it in isiZulu and the interpreter will express it very accurately in English for you. Okay? But is this a suitable stage to take the adjournment?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	what was said in the SAFM interview, but also that statement was made elsewhere in the hearing and the topic was discussed not only with reference to LL but other exhibits as well. But I don't know that anything turns on the point. We understand what Mr Ntsebeza's saying. MR NTSEBEZA SC: Yes. No, it was actually OO9, but as you say Mr Chairman, I am aware of LL and I will refer to LL first. But the point here, is it correct that both in OO9 in the text that was not read to you as the question was put to you because it ended at confirmed, you did give an explanation which is an explanation that actually is in OO9, namely that you had heard this allegation of two people having been killed from your officials and that it was something that was being said generally that two miners had been killed in your view. MR MATHUNJWA: Yes, that is correct. MR NTSEBEZA SC: Now I know that you were not involved in these events until the 15th, but just to find what your attitude is, there is a transcript of the confrontation at that railway line on the 13th of August 2012, which I would like to draw your attention to. I have

R C H I V E

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	Page 2712 call out the page number in the transcript, which will make it helpful when we read the record later. MR NTSEBEZA SC: Thank you, Mr Chairman. Now on page 9 thereof, do you have a copy? CHAIRPERSON: Mr Ntsebeza, you don't understand me. If it's a transcript of what was said here, it will be helpful if you gave us from that page 9 the transcript page where the passage that you're going to put to the witness appears. MR NTSEBEZA SC: It's a separate transcript, from what I'm told, Mr Chairman. CHAIRPERSON: If it isn't part of the official transcript that we've had so far, then we have to give it an exhibit number. If it is taken from that official transcript then all we need is the page numbers. MR NTSEBEZA SC: I'm made to understand that it is a transcript of the video clip. CHAIRPERSON: But if it isn't in the transcript already then let's give it an exhibit number. If Ms Pillay will be kind enough to tell us what we must call it, we will then do what she tells us to do. MR NTSEBEZA SC: I would prefer it to be so, that we give it an exhibit number.	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	Page 2714 you will disagree with me if you want to - it would appear that as early as the 13th, and you were not involved in any way with this thing at that date – MR MATHUNJWA: That's correct. MR NTSEBEZA SC: If you read there, it says, "On Saturday," this is one of the Lonmin workers talking to General Mpembe and the Police contingent who were there. He says, "On Saturday when we came back the mine security shot at us, together with the people from NUM, and killed two of our people. That is the reason we are carrying these weapons. We are not fighting with anybody. We did not fight with anybody." Now two things, two points are made there. Firstly it speaks to what you were saying about how the story about the death of the two people got disseminated. Do you agree? MR MATHUNJWA: Yes. MR NTSEBEZA SC: And it seems, does it not, that if there were suggestions – and I cannot put it higher than that – but if there were suggestions that you were the author of these rumours, it seems these were rumours that were disseminated by the workers themselves based on what they believed had happened. MR MATHUNJWA: That's correct. MR MATHUNJWA: That's correct. MR MATHUNJWA: That's correct.
25	QQ2.	25	that it seems to say, and I would like you to comment on
1 2 3 4 5 6	Page 2713 CHAIRPERSON: Thank you, Ms Pillay. Perhaps also for the sake of good order, tell us either now or later which video it is, you know, the various reference numbers to it, so that it can be identified. You don't have to tell us now if you haven't got the information available to you, but at some stage perhaps when we resume	1 2 3 4 5 6	Page 2715 that if you are able to, is the fact that – as it was put to you – the workers in that confrontation purported to give reasons why they are carrying what has since been referred to as dangerous weapons. I'm not saying they were right or wrong, I'm simply saying it does appear that they are giving a reason why they are carrying weapons.
7 8 9 10 11 12 13 14 15 16 17 18	next week you can give us that information for the sake of good housekeeping. MR NTSEBEZA SC: Mr Chairman, I usually rely on those who assist me when it comes to these technical things, but I'm sure they will come to my rescue as far as that is concerned. CHAIRPERSON: You've got a week to get the necessary information. MR NTSEBEZA SC: Thank you, Mr Chairman. Now, and I have to apologise for having marked the copy from which all the copies have been made, but page 9, do you see page 9 of exhibit QQ2?	7 8 9 10 11 12 13 14 15 16 17 18	MR MATHUNJWA: Yes. MR NTSEBEZA SC: Now I want to understand you in the light of submissions that I may make on behalf of all the families which I said I represent. You yourself did not seem to be unduly perturbed that the workers were carrying spears and assegais, and you talked about culture. MR MATHUNJWA: Yes. MR NTSEBEZA SC: And you even suggested that we shouldn't read more into what my learned friend for SAPS had referred to as [inaudible], the clashing of the metal by the workers, both at the railway and at the koppie when you went there.
19 20 21 22	CHAIRPERSON: If this is the passage you're going to refer to then we would have marked it anyway, so you've very kindly done it for us in advance. MR NTSEBEZA SC: Yes, it's between lines,	19 20 21 22	MR MATHUNJWA: Yes, that's correct. MR NTSEBEZA SC: Why do you consider that it is not something to be unduly concerned about when people are –

	Page 2716		Page 2718
1	ceremony [African language]. I'm referring, Mr Chairman,	1	mineworkers were armed with assegais and pangas.
2	to where I come from. As it is December now, I'll be going	2	MR MATHUNJWA: That's correct.
3	back home where I will take my stick, known in Zulu as	3	MR NTSEBEZA SC: And from the footage
4	"upogo," it's a sharpened stick, and continue and go to	4	that we have seen, and I will not refer to footage which we
5	such cultural ceremonies as – and as we sing there and	5	have not seen, but the footage that we have seen,
6	dance, these happenings you are experiencing every time.	6	particularly the footage at the railway line, we have not
7	As we sing and dance there, he indicates there's clapping	7	seen an engagement between the Police and the workers that
8	of this traditional weapons, is something that you see	8	shows us how the deaths of three miners on that day and two
9	every time, as we sing.	9	policemen occurred, how did it start, how did it go
10	MR NTSEBEZA SC: And I understood you to	10	through, and how do we now end with three miners killed and
11	say if they had nothing in their hands they would be	11	two policemen killed.
12	clapping hands.	12	MR MATHUNJWA: That's correct.
13	MR MATHUNJWA: That is correct.	13	MR NTSEBEZA SC: What we do know from a
14	MR NTSEBEZA SC: And if they had sticks	14	presentation that was given to us by SAPS, was that the
15	they would be clashing sticks, stick upon stick.	15	miners –
16	MR MATHUNJWA: It is correct, and even	16	CHAIRPERSON: Which slide are you
17	though that they have got a shield - those who have got	17	referring to, Mr Ntsebeza?
18	shields would do the same.	18	MR NTSEBEZA SC: I'm trying to get there,
19	MR NTSEBEZA SC: Now you have referred to	19	I think it would be slide 46, is it? 46, Chairman and
20	ceremonies in KwaZulu Natal. Have you had occasion to see	20	Commissioners.
21	the King of the Zulu in ceremonies where starting with	21	CHAIRPERSON: Thank you.
22	himself, the weapons that they had, weapons and goods, are	22	MS PILLAY: Chair, if I may just mention
23	fairly dangerous?	23	for the purposes of the record that the video clip that was
24	MR MATHUNJWA: Yes, I remember when I was	24	referred to in relation to QQ2 is Z1, exhibit Z1. It's Z1.
25	still at school \ensuremath{Mr} Chairman, when we attended a ceremony in	25	CHAIRPERSON: Thank you, Ms Pillay. So
1	Page 2717	1	Page 2719
1	Stanger where I happened to see His Majesty, the King of	1	the video is Z1. Z for Zodwana?
2	Stanger where I happened to see His Majesty, the King of the Zulus, called [African language].	1 2 2	the video is Z1. Z for Zodwana? MS PILLAY: That's correct, yes.
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1	MR MATHUNJWA: It is correct. The only	1	ceremony was being performed at the koppie? I can
2	session that I saw when it was played, it's while they were	2	understand people carry spears at ceremonies. I don't know
3	still next to the railway line, General Mpembe talking to	3	what the position is with the Xhosa speaking people, but in
4	the strikers.	4	Swaziland they have spears at weddings and in fact for the
5	CHAIRPERSON: Mr Ntsebeza, if you don't	5	marriage to be valid I understand the spear has to strike
6	want me to make this point, I won't, but if you look at the	6	the ground, so one can understand there are ceremonial
7	second bullet, there is an explanation given by the Police.	7	reasons for having spears, but what ceremonial reason is
8	It appears that the protesters who were on their way to the	8	suggested was present on the occasion that you're talking
9	koppie, it's put that they changed direction towards the	9	about and putting to the witness?
10	village. I'm not sure if that's right because if you look	10	MR NTSEBEZA SC: That's why, Mr Chair, I
11	at the photograph it looks as, if you draw a straight line	11	withdrew the word "ceremony" or "cultural event." I'm
12	from where they were to the koppie you pass through the	12	asking the witness if the witness knows what the role of
13	informal settlement anyway, but anyway, be that as it may,	13	song is at gatherings. Now my learned friend wants to know
14	"To prevent them from entering the village the Police used	14	whether I'm talking about sports gatherings or a gathering
15	teargas and stun grenades, grenades that produce two large	15	such as we are dealing with here –
16	explosive sounds, to disperse the protesters, discouraging	16	CHAIRPERSON: I don't know that the
17	them from their intended path." So the inference is they	17	question relates to, I mean the objection relates to the
18	thought they were being attacked and they then appeared to,	18	question as you've reformulated it. So you put the
19	they defended themselves or done what they thought was	19	question. I don't see Mr Burger's microphone light turned
20	necessary to defend themselves. So there is an explanation	20	on, so let's hear what the witness has to say in answer to
21	of sorts in slide 47, but you're quite correct in saying we	21	the question you've asked.
22	haven't got a video clip that actually shows us that	22	MR NTSEBEZA SC: Yes.
23	happening, but presumably one or other of the survivors of	23	MR BURGER SC: No, in fact, Chair, I
24	that group on the 13th may be able to give evidence and	24	raised an objection against the gathering. I don't know
25	explain to us what happened.	25	whether it's a gathering at Loftus, or a gathering at the
	Page 2721		Page 2723
1	Page 2721 MR NTSEBEZA SC: No, I'm quite happy with	1	Page 2723 koppie, or a gathering at a political party, and if I don't
1 2	5	1 2	
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	Page 2724		Page 2726
1	the song was not suggesting that NUM members must be killed	1	when a situation is tense, people resort to song. Students
2	physically or literally. Did I get you right?	2	used to do it when they were surrounded by Police at
3	MR MATHUNJWA: That is correct.	3	colleges, with dogs and whatever, they would resort to
4	MR NTSEBEZA SC: In fact you in its words	4	song, "We shall overcome," this, that, and the next thing.
5	it says, "How are we going to kill NUM?" Is that not it?	5	MR MATHUNJWA: Yes, they sign songs.
6	MR MATHUNJWA: That's correct.	6	MR NTSEBEZA SC: I hesitate to introduce
7	MR NTSEBEZA SC: And therefore, please	7	this exhibit, but it is relevant to song that was sung at
8	correct me if I'm wrong, would it be – are you seeking to	8	the railway line, and if we can have those exhibits, Mr
9	convey that the members there were saying how can we	9	Chairman, it's an exhibit that would follow the one that
10	destroy the effectiveness or leadership or leadership role	10	has already been – it is QQ3.
11	of NUM as a union in this mine?	11	CHAIRPERSON: It's a transcript also of
12	MR MATHUNJWA: That is correct. If I	12	one of the video clips we saw?
13	remember, I referred as a competition, to kill a	13	MR NTSEBEZA SC: Yes, yes.
14	competition.	14	CHAIRPERSON: Again for, next to the
15	MR NTSEBEZA SC: And to take a leave out	15	railway line. Is this also, is it still Z1?
16	of my learned friend for Lonmin's book about sport	16	MS PILLAY: Chair, we will confirm once
17	gatherings, this is the kind of language that is used when	17	we see the transcript. We just haven't seen it as yet.
18	rival teams like Orlando Pirates and Kaizer Chiefs play,	18	CHAIRPERSON: We will discover in due
19	[African language]. Isn't it?	19	course what, how the video may be described. Ja, thank
20	[12:02] MR MAHLANGU: "Wafa Wafa" in English	20	you.
20	would be "Die, die, they are dying here."	20	MR NTSEBEZA SC: Now the whole question
22	MR NTSEBEZA SC: No, we are not being	22	of killing the boers has been a subject of debate in the
23	facetious. And there would be songs at sport stadia by	22	country since the trial in the South Gauteng High Court in
24	rival groups, at which we say we are going to kill you	23	the matter which I think is still a subject matter of
25	here, we are going to finish you here.	25	appeal, but – and I believe it's been settled, but it is a
20		25	appeal, but and i believe it's been settied, but it is a
	Page 2725		Page 2727
1	Page 2725 MR MATHUNJWA: Yes, that's correct,	1	Page 2727 song that continues to be sung in those kinds of
1 2		1 2	-
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	Page 2728		Page 2730
1	effectively as an expert on songs, trying to establish, as	1	I do accept this. You did mention it to also having
2	far as I can see, that they aren't as menacing and as	2	something that the media had been talking about, did you
3	terrifying as he conceded yesterday they were. So I'm	3	not? Yesterday when you were asked.
4	inclined to think that the objection is well-founded, but,	4	MR MATHUNJWA: Referring to which one?
5	because the evidence you're now seeking to obtain from him	5	MR NTSEBEZA SC: The fact that there had
6	is, as it were, general expert evidence about the nature of	6	been two people who had been killed as they were going past
7	songs of this kind in general. That's not the evidence he	7	the offices of the NUM.
8	gave yesterday. I've repeated to you what he said	8	MR TIP SC: Mr Chairman, I object to that
9	yesterday.	9	proposition. I don't recall any evidence from the witness
10	MR NTSEBEZA SC: Chairman, I won't push	10	yesterday that he had heard it from the media that two
11	it.	11	people had been killed on the way to the NUM office, or
12	CHAIRPERSON: You've exercised a wise	12	past the NUM office.
13	decision. I suggest you move on to the next point.	13	CHAIRPERSON: Yes, again I'm inclined to
14	MR NTSEBEZA SC: I may just make	14	uphold that objection too. Mr Ntsebeza, I don't quite
15	submissions later on about it. Now we have established	15	understand what you're getting at. I think you've
16	through you that the belief –	16	established that he believed that that was true, but he'd
17	CHAIRPERSON: I'm sorry to interrupt. I	17	been told that by one of his officials. You've also
18	take it that exhibit QQ3 then disappears and we will	18	established – not that it's relevant to his state of mind –
19	reserve that designation for some other exhibit that you	19 20	that the miners already believed that on the 13th. I don't
20	may or may not present later? MR NTSEBEZA SC: It may at some other	20	remember any evidence about it being in the media, but even
21	5	21 22	if it was in the media, how would that take the case any
22 23	time, but my learned friend for Lonmin has effectively expunged it from the – he's killed it. I accept that. He	22	further? It seems to me that you've made the point that I think you're trying to make and I don't know how that point
23 24	just missed the wisdom of some of the words –	23 24	can be taken further. The point is made, and you can, so
24 25	CHAIRPERSON: Everyone will be pleased	24	for what it's worth, and you can move on to something else,
20	everyone will be pleased	20	for which it's worth, and you can move on to something else,
	Page 2729		Page 2731
1	Page 2729 that the third song has been expunged.	1	Page 2731 unless there's some point that I missed that you want, that
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	Page 2732		Page 2734
1	that no-one should using his private vehicle to get to the	1	examiners, hopeful cross-examiners so far. Any others?
2	koppie. Then I had to use the wisdom that prevailed to me	2	Right, so now we know.
3	in that instance, how can I put it?	3	CHAIRPERSON: You want to deal Mr Tip,
4	[12:22] MR NTSEBEZA SC: Would it be fair to say	4	with a matter that's dealt with by Mr Ntsebeza the
5	that you used the best method that you know of, both from	5	immediately preceding cross-examiner. Would you tell me
6	practice in how to negotiate in circumstances as volatile	6	what it is?
7	as we have been led to believe, on the day?	7	MR TIP SC: I would be grateful. Mr
8	MR MATHUNJWA: Just all what I was doing	8	Chair, Commissioners, you will recall that a good deal of
9	as I am saying, was out of my best to win the trust and	9	the evidence took the form of extracting comments from Mr
10	also to bring hope to them, that even this is the situation	10	Mathunjwa in the City Press article called "The Rise and
11	but it can be dealt in the better way in the –within labour	11	Rise of AMCU," and there were two aspects of that that –
12	framework. That's how then it has happened that I	12	CHAIRPERSON: I understand what you want
13	addressed them in that fashion.	13	to deal with, you may do so.
14	MR NTSEBEZA SC: Thank you, Mr Chairman.	14	MR TIP SC: Yes.
15	CHAIRPERSON: Mr Ntsebeza.	15	CHAIRPERSON: Before we have the other
16	MR TIP SC: Mr Chair -	16	four cross-examinations that we are going to hear in due
17 18	CHAIRPERSON: Yes? MR TIP SC: - before the next cross-	17 18	course. MR TIP SC: I am grateful to you, Mr
10	examiner or re-examiner comes into the picture –	10	Chair. The two aspects, the one aspect was the paragraphs
20	CHAIRPERSON: Well, before we go – let's	20	dealing in detail with the situation at Amplats concerning
20	see whether any more cross-examiners, before we get to re-	20	the composition of shop steward councils of NUM, whether or
22	examination.	22	not there were RDOs as members of it, how debate on
23	MR TIP SC: Mr Chair, it's pertinent for	23	increases arose and was or was not processed, those
24	me to raise it because it arises –	24	paragraphs, Mr Mathunjwa fairly said that he could comment,
25	CHAIRPERSON: I am not going to stop you,	25	offer no comment. He was unaware of them, and I really
		1	
	Page 2733		Page 2735
1	I just want to know whether there are going to be any more	1	just seek the guidance of the Commission here, whether we
2	I just want to know whether there are going to be any more cross-examiners before we go onto re-examination, and I	2	just seek the guidance of the Commission here, whether we can –
2 3	I just want to know whether there are going to be any more cross-examiners before we go onto re-examination, and I understand you want to deal with an aspect that arose in Mr	2 3	just seek the guidance of the Commission here, whether we can – CHAIRPERSON: The article isn't before us
2 3 4	I just want to know whether there are going to be any more cross-examiners before we go onto re-examination, and I understand you want to deal with an aspect that arose in Mr Ntsebeza's cross-examination –	2 3 4	just seek the guidance of the Commission here, whether we can – CHAIRPERSON: The article isn't before us as evidence. It performed the basis for questioning the
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	Page 2736		Page 2738
1	opportunity obviously before we get to the second phase to	1	spot for after the other three cross-examiners. They've
2	go into those matters because it may well be contended that	2	indicated that they will be prepared to do so. There's
3	a ball was set rolling by Amplats which should have	3	just one aspect that I need to clarify, because I wasn't
4	perhaps, I am not saying it is so, I am just raising a	4	here yesterday with my learned junior.
5	point we may hear more of, that Lonmin should therefore	5	CHAIRPERSON: Anyway, you don't have to
6	have acted in respect of that, and the NUM should also it	6	do that in the Commission's time as it were. Let's –
7	may well be contended, have taken action as well. But I am	7	MR MPOFU: Yes, we will do it during the
8	not sure that it's an issue at this stage. So I don't	8	break.
9	think you need take the instructions while this witness is	9	CHAIRPERSON: Alright.
10	still at the witness stand.	10	MR MPOFU: Thank you, Chairperson.
11	MR TIP SC: Thank you, that was really	11	CHAIRPERSON: Who is going to cross-
12	the guidance we sought. Mr Chair, you will recall that we	12	examine now?
13	have said that the high headlines, if I can put it that	13	CROSS-EXAMINATION BY MR RAMPHELE: Thank
14	way, of what took place at Amplats, may have played some	14	you, Chair, it will be, Tshepiso Ramphele. Thank you,
15	kind of demonstration role at Lonmin, but those were	15	Chair. Mr Mathunjwa, you understand that I represent
16	headlines, and certainly not to this step, so that we will	16	families of two security officers, Mr Fundi, the late Mr
17	as presently advised, not burden the Commission with	17	Fundi and Mabelane, and Mr Mabebe in this matter. You
18	further investigation and evidence at that level of detail.	18	would also understand that the families, especially the
19	That's the one aspect. The second aspect is that Mr	19	children, in these families would also like to find
20	Mathunjwa has give evidence in response to this article and	20	restoration and justice, as well as the truth in this.
21	competently so, because they affected him, and that deals	21	MR MATHUNJWA: That's correct.
22	with the manner of the termination of his membership of	22	MR RAMPHELE: I do not think that we will
23	NUM, his, the termination of his role as Chairperson, the	23	have a confrontational engagement because I think you will
24	formation of AMCU, that is a matter about which we do need	24	agree with a lot of the propositions that I will put to
25	to take instructions. It may be that the instructions will	25	you.
	Page 2737		Page 2739
1	suggest that we don't agree with everything that he has	1	MR MATHUNJWA: Yes.
2	suggest that we don't agree with everything that he has said. Even then-	2	MR MATHUNJWA: Yes. MR RAMPHELE: I am convinced because from
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	Page 2740		Page 2742
1	involved with my clients on the 12th of August.	1	MR RAMPHELE: I am saying it would be
2	MR MATHUNJWA: - get your question, could	2	reasonable for any person sort of following this to say
3	you please repeat again?	3	yes, of the two unions, AMCU was well received by the
4	COMMISSIONER HEMRAJ: Would he know that?	4	strikers
5	Would the witness know that, the people that were involved	5	MR MATHUNJWA: That is true, but also I
6	on the 12th, would he know that they're the same people?	6	think it is proper to say what was the reason behind,
7	MR RAMPHELE: Well, I assume that the	7	because it was not just being received without amplifying
8	composition of strikers did not change over time,	8	why they are receiving us. I think they mentioned that NUM
9	Chairperson, unless there's information to that effect.	9	has killed two of our colleagues.
10	MR MATHUNJWA: No, I wouldn't know.	10	MR RAMPHELE: Now, the reason why I am
11	MR RAMPHELE: Now, I'll sort of give you	11	asking you this is because I want you as a leader of AMCU,
12	an indication of why I say so, because I think that from	12	who is very principled to at least take some of the
13	answers that were given, like why they were carrying	13	responsibility of what happened on the 12th of August.
14	weapons, for instance. The answer that was given was that,	14	[12:42] MR BRUINDERS SC: I object to that
15	we are carrying weapons in order to defend ourselves	15	question, there is no basis laid for it at all, in fact.
16	because we are being attacked. And that was in relation to	16	CHAIRPERSON: Ask if he is prepared to
17	what happened before.	17	accept responsibility he can say yes or no, I don't
18	MR MATHUNJWA: Yes, that was said.	18	understand the problem. The question can be put whether it
19	MR RAMPHELE: So you agree with me, by	19	will get the answer that the question expects we will see.
20	and large maybe one or two people might have left by and	20	MR MATHUNJWA: AMCU regrets any loss of
21	large it is the same people that started on the 9th because	21	lives, but we cannot say that AMCU must take responsibility
22	it was clear, and it is on record over the media that there	22	of what was happening there because this was a worker's
23	was a grievance by RDO operators in Lonmin.	23	strike, it was not AMCU's strike. And I have said earlier
24	MR MATHUNJWA: I suggest that, though I	24	on that any member who happened to be found that has done
25	was not there.	25	anything wrong lawfully, the law must take its course.
	Page 2741		Page 2743
1	Page 2741 MR RAMPHELE: Will I also be correct if I	1	Page 2743 MR RAMPHELE: This happened on the 12th
1 2		1 2	
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2	MR RAMPHELE: Will I also be correct if I were to say that, and I think I have heard you give that	2	MR RAMPHELE: This happened on the 12th and it was at least known to you that you had members at
2 3	MR RAMPHELE: Will I also be correct if I were to say that, and I think I have heard you give that answer that as AMCU you felt that you had members there,	2	MR RAMPHELE: This happened on the 12th and it was at least known to you that you had members at Lonmin and that some of your members were aggrieved and
2 3 4	MR RAMPHELE: Will I also be correct if I were to say that, and I think I have heard you give that answer that as AMCU you felt that you had members there, and you had to go and address them.	2 3 4	MR RAMPHELE: This happened on the 12th and it was at least known to you that you had members at Lonmin and that some of your members were aggrieved and that their grievance was related to the strike that started
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1	Page 2744 saying you are fully responsible, I am saying you cannot	1	Page 2746 that were lost, I never said any section, I don't recall
2	saying you are fully responsible, I am saying you cannot say the worker's conduct I am completely divorced from it.	2	mentioning names of the individuals, but we condemned, we
3	MR MATHUNJWA: As a trade union that is	3	even further say that there is no means of violence that
		4	can achieve anything. We believe in the proper structures
4	known to the mine if our members are part of any		
5	wrongdoings we cannot say you are divorcing yourself from	5	of dispute and engagement. For that matter for your
6	such. That doesn't mean that you agree with their conduct.	6	information AMCU is in the process with the attorneys to
7	MR RAMPHELE: Yes, that is actually what	7	establish a trust fund that will engage each and every life
8	I am trying to get from you, because you see, I am sure as	8	that was lost at Marikana, irrespective of affiliation.
9	a leader if members of your organisation do wrong you don't	9	That will be open for everyone but it depends of the
10	just want to run away from it, you want to also say I want	10	families whether they want to be part because some they
11	to take part of this responsibility because these are the	11	belong to different association and affiliation, but it
12	members that follow me that are involved in this.	12	will be, they will be canvassed to come in.
13	MR MATHUNJWA: I think for the time where	13	CHAIRPERSON: I understand you to say
14	I was officially called at the mine I have shown that	14	that the beneficiaries of the trust that you are setting up
15	leadership.	15	will be the next of kind of those who died, irrespective of
16	MR RAMPHELE: Which is what I appreciate	16	whether they were members of AMCU, members of NUM or non-
17	otherwise I would not be asking you to say that as AMCU we	17	unionised employees, is that what you are saying?
18	really feel that our members were involved in this and as a	18	MR MATHUNJWA: That is correct.
19	trade union, even though we distance ourselves from what	19	CHAIRPERSON: It will not only be limited
20	they did but we cannot divorce ourselves completely because	20	to the people who died on the 16th but also the people who
21	our members are involved.	21	died in the run up, the 10 people who died before this
22	MR MATHUNJWA: I confirm and I have said	22	incident, including Mr Ramaphele's clients. Is that what
23	it in some of the meetings that I had in some of the	23	you are saying?
24	boardrooms, that we cannot be seen as the leaders when we	24	MR MATHUNJWA: That is what I believe, I
25	are in the boardrooms, so we have to be seen as leaders	25	don't have much details but I believe that the loss of life
	Page 2745		Page 2747
1	when there are challenges. As you have seen that even	1	at Marikana. So that mustn't be suggested that it is an
2	when there are challenges. As you have seen that even though at a later stage of my intervention when I was not	2	at Marikana. So that mustn't be suggested that it is an admission of any wrongdoing at Marikana.
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	Page 2748		Page 2750
1	union, specifically the police officers that were injured	1	of, I think what he calls labour law that goes to the
2	on the 13th of August 2012, that is Warrant Officer Baloyi,	2	liability of trade unions for the conduct of their members,
3	I mean Lieutenant Baloyi and Warrant Officer Lepaaku.	3	and it depends on varied things, such as whether the union
	,	_	
4	, and the second s	4 5	called the strike, whether it supported the strike,
5	MR GUMBI: Mr Mathunjwa, my line of	5	etcetera. So I'm not sure that this is a terrain that Mr
6	cross-examination firstly, I wanted to focus on your role	6	Mathunjwa should be questioned about, particularly since
7	as AMCU in defusing the situation from the 10th of August,	7	our learned friend accepts that he's not a legal expert.
8	leading up to the 14th of August. In doing so, I will also	8	The courts grapple with this issue. Why Mr Mathunjwa
9	canvass your knowledge of labour laws of this country, then	9	should on the – what is it? Seventh day of his evidence?
10	we'll tackle your role as AMCU conductor. Mr Mathunjwa, as	10	 is really not apparent to us.
11	a point of entry, you don't dispute that AMCU members	11	CHAIRPERSON: Mr Gumbi, you've heard what
12	participated in this strike action from the 10th of August,	12	Mr Bruinders said. How do you respond to that?
13	leading to the 14th of August specifically? You don't	13	MR GUMBI: Yes, Chairperson, with this
14	dispute that?	14	issue, I'm not intending to deal with deep understanding of
15	MR MATHUNJWA: That's correct.	15	the principle. You know, I'm just sitting these issues up,
16	MR GUMBI: Around July and August 2012,	16	above. I know that he's not a labour lawyer in this
17	are you in the position to tell us whether AMCU members in	17	proceedings –
18	Lonmin, they were in minority or they were in majority as	18	CHAIRPERSON: Yes, so what's the point of
19	compared to NUM members?	19	asking him about the principles of labour law that apply to
20	MR MATHUNJWA: According to my	20	a situation such as this? If you were in the witness box
21	information AMCU was the minority.	21	and I asked you a [inaudible] and your knowledge of that,
22	MR GUMBI: After the 15th of August,	22	how would that help?
23	maybe up to date, are you majority or are you still in	23	MR GUMBI: But I'm still going to ask
24	minority compared to NUM?	23	other question, Chairperson, that will give –
24	MR MATHUNJWA: I believe there are stop	24 25	CHAIRPERSON: Yes, so do you abort the
23		25	
1			
	Page 2749		Page 2751
1	Page 2749 orders that have been submitted and there is an increase of	1	Page 2751 guestion that's given rise to the objection?
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1	Page 2752 dispute that?	1	Page 2754 MR MATHUNJWA: On that event I was not
2	MR MATHUNJWA: I was not there. If that	2	there.
3	happened, it happened.	3	MR GUMBI: And also can I assume that
4	MR GUMBI: On the 10th of August, Mr	4	AMCU, you didn't convene a meeting of your members wherein
5	Mathunjwa, did you issue any press statement as AMCU,	5	you instructed your members to refrain from violence on the
6	condemning any violence around that particular day?	6	12th of August 2012?
7	MR MATHUNJWA: Maybe I should ask by	7	MR MATHUNJWA: I don't have recollection
8	saying I didn't issue any press statement. However, I	8	of that meeting.
9	wrote a letter to management after I've been notified by	9	MR GUMBI: Let's move on the 13th of
10	management that there will be a march of a memorandum to be	10	August 2012, the day two police officers were killed and
11	hand over, and I think that letter is part of the exhibit	11	one was wounded by armed protesters. Mr Mathunjwa, you saw
12	in the Commission.	12	that video clip that was played by the counsel for SAPS
13	MR GUMBI: As AMCU did you convene a	13	when he was busy cross-examining you? Still remember?
14	meeting of your general membership, wherein you instructed	14	MR MATHUNJWA: Yes.
15	your members to refrain from any violence, specifically on	15	MR GUMBI: And you saw those armed
16	the 10th of August 2012?	16	protesters there, and can I assume also again that it's
17	MR MATHUNJWA: No, there was no meeting.	17	possible that there were AMCU members in that group?
18	MR GUMBI: Let's move on, on the 11th of	18	MR MATHUNJWA: Yes.
19	August 2012, and we have another information from SAPS.	19	MR GUMBI: And the police officers, they
20	They are saying that five people were wounded on that day	20	pleaded with those protesters to hand over their
21	and the other three marchers were also wounded during a	21	traditional weapon. You saw that?
22	march on that day. Are you aware of that?	22	MR MATHUNJWA: That's correct.
23	MR MAHLANGU: The question, Sir, that	23	MR GUMBI: And also again those
24	five people were dead, five people died?	24	protesters, not a single of those protesters handed over
25	MR GUMBI: Five people were wounded and	25	traditional weapon to those police officers. You saw that?
	Page 2753		Page 2755
1	another three people were also wounded during a march.	1	MR MATHUNJWA: Yes. But what I saw,
2	MR MATHUNJWA: Your question?	2	there was negotiations taking place there.
3	MR GUMBI: Are you aware of that	3	MR GUMBI: But you didn't see the
4	information, or as a union leader you ought to have been	4	exchange of traditional weapons between those protesters
5	aware of this information.	5	and the police. You agree with me?
6	MR MATHUNJWA: When was that?	6	MR MATHUNJWA: You are correct, because I
7	MR GUMBI: On the 11th of August 2012. MR MATHUNJWA: No, I was not aware.	7	don't know what the end result of that negotiation, what
8 9	MR MATHUNJWA: No, I was not aware. MR GUMBI: Furthermore, on that	8 9	the outcome of that negotiation were. MR GUMBI: The counsel for SAPS indicated
7 10	particular point, can I assume that AMCU didn't issue any	9 10	to you that after that negotiation you saw on that day two
11	press statement condemning any violence on that specific	11	police officers were killed and the other one was severely
12	day?	12	wounded. Still remember that?
13	MR MATHUNJWA: It is correct, and you	13	MR MATHUNJWA: That's correct.
14	need to be reminded that I'm still waiting for the response	14	MR GUMBI: And he even made reference to
15	from the management of the letter of the 10th.	15	exhibit N, slide number 51, 53 and 54 and 55 of those
16	MR GUMBI: On the 11th of August 2012 you	16	police officers who were killed after that negotiations.
17	as AMCU, did you convene any meeting of your general	17	MR MATHUNJWA: That is correct. Can I
18	members wherein you instructed your members to refrain from	18	check with you, is it, they were killed just after the
19	any violence?	19	negotiations?
20	MR MATHUNJWA: No, I don't have	20	MR GUMBI: Yes, that's the evidence.
21	recollection of that meeting.	21	After that negotiations the police tried to disperse that
22	MR GUMBI: Even on the 12th of August,	22	group and those protesters –
23	the day when the two security officers were killed, can I	23	CHAIRPERSON: That's not correct. What
24	also assume that you didn't issue any press statement	24	happened was after negotiations they walked off in the
25	condemning violence on that day?	25	direction of the koppie, carrying their weapons, not having
	RCHIVE FOR JUSTICE		

	Page 2756		Page 2758
1	handed their weapons over. The Police escorted them. When	1	with all stakeholders, after receiving the memorandum.
2	they changed direction, or some of them changed direction	2	There was no response to that effect, and then we received
3	towards the informal settlement, then the Police tried to	3	a call on Monday, the 13th, from management, asking our
4	prevent them from entering the village – this is according	4	intervention, which indeed we did that.
5	to the Police presentation, slide 47. They used teargas	5	MR GUMBI: There's nothing that would
6	and stun grenades to disperse them and discourage them from	6	have prevented you to issue a press statement, specifically
7	what's described as their intended path. A group of them	7	on the 13th of August 2012.
8	turned around, charged at members of the Police Service	8	MR MATHUNJWA: We are an organisation.
9	behind them and two members of the Police Service died at	9	As we are an organisation, we'd been invited by management.
10	the scene and one was injured. That's what happened	10	We made that intervention. You cannot just go to press
11	according to slide 47. So what you've put isn't quite	11	without having information from where you've been invited.
12	correct.	12	You will appreciate as you are present here, that after we
13	MR GUMBI: Yes, Chairperson. I am	13	received the debriefing in the Monday, on the Monday of the
14	indebted to you, Chairperson, for putting it into details.	14	14th, that very same afternoon we made sure that we called
15	That's where I was going to, Chairperson. Yes, as the	15	a press conference –
16	Chairperson has correctly put it that immediately after	16	CHAIRPERSON: The 14th is the Tuesday.
17	those events two police officers were killed.	17	13th is the Monday. I want to ask you, did you learn on
18	MR MATHUNJWA: Yes, I mean that scene,	18	the 13th, the Monday, about what had happened earlier that
19	I've never seen there but as it was read here, that's what	19	day? When did you first hear about what happened, the
20	happened.	20	killing of the two policemen and the killing of three
21	MR GUMBI: Mr Mathunjwa, as the union	21	civilians?
22	leader I hope you are aware that in this country we have a	22	MR MATHUNJWA: That we heard from the
23	high rate of police killings.	23	debriefing that there was – when the management invited us
24	MR MATHUNJWA: Yes, through the media we	24	they just said there's a violence. They never, they just
25	here.	25	want our intervention. Then I requested the general
	Page 2757		Page 2759
1	Page 2757 MR GUMBI: And you cannot even dispute it	1	Page 2759 secretary and the national organiser to went there. That
1 2	5	1 2	
	MR GUMBI: And you cannot even dispute it		secretary and the national organiser to went there. That
2	MR GUMBI: And you cannot even dispute it if I put it to you that in every 10 days in South Africa	2	secretary and the national organiser to went there. That was all. Then until the following day, Tuesday the 14th
2 3	MR GUMBI: And you cannot even dispute it if I put it to you that in every 10 days in South Africa the police officer is killed in the line of duty.	2 3	secretary and the national organiser to went there. That was all. Then until the following day, Tuesday the 14th when the debriefing was made in our office, and subsequent to that then we called the press conference. MR GUMBI: But Mr Mathunjwa, I don't want
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	5		
1	Page 2760 15:23, and can I assume that it's possible that there were	1	Page 2762 information, these strikers killed a supervisor. There was
2	AMCU members who were there? Also again you cannot deny	2	a body of the supervisor killed there. Can I refer you to
3	that because AMCU members participated in this strike	3	slide number 100? Do you see protesters on Koppie 1 there,
4	action.	4	the red circle?
	MR MATHUNJWA: That has been mentioned	4 5	
5			
6	many times, and I haven't denied that, but AMCU members	6	red mark?
7	they were part of the strike.	7	MR GUMBI: Yes. Do you see the body of a
8	MR GUMBI: On the 14th of August 2012	8	supervisor marked there with yellow lines?
9	were you informed of these rituals performed around	9	MR MATHUNJWA: Yes, I see a body of
10	Marikana?	10	supervisor and the arrow showing down.
11	MR MATHUNJWA: Not that I know of, except	11	MR GUMBI: On the 14th of August 2012,
12	I think there was a general secretary of NUM who was many	12	were you aware that there was a body of a supervisor just
13	times in the media saying he's got information that there's	13	behind those protesters on the koppie?
14	a "inyanga." That's what I –	14	MR MATHUNJWA: I was not aware. I've
15	CHAIRPERSON: According to exhibit L,	15	said earlier that I think there was a number of bodies. I
16	slides 86 and 87, the photographs we see there according to	16	think this body that we are referring to is the one that
17	the corrected time were taken at 16:21.	17	made up to 10, then I said I heard it from the media and I
18	MR MATHUNJWA: Yes.	18	even said I think it was during the interview with Xolani
19	CHAIRPERSON: And according to slide 85,	19	Gwala on the 15th, in the morning of the 15th.
20	it was seen from the police helicopter earlier at 15:23	20	MR GUMBI: Can I also assume, Mr
21	that some of the people on the koppie were undergoing a	21	Mathunjwa, that on the 14th of August 2012 AMCU did not
22	ritual. So if the Police first heard about this, or saw it	22	convene a meeting of general membership wherein you
23	just before half past 3 in the afternoon and photographs	23	instructed your members to refrain from any violence?
24	were taken at 21 minutes past 4, I don't know if there was	24	MR MATHUNJWA: There was no meeting.
25	much time for the witness to hear about it on that day or	25	There was a media briefing on the 15th which denounces any
	Page 2761		Page 2763
1	Page 2761 to issue a statement or do anything else about it. So is	1	Page 2763 form of violence. On the 15th I was with the SAFM. After
1 2	•	1 2	5
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	Page 2764		Page 2766
1	MS MASEVHE: Now Mr Mathunjwa, I believe	1	MS MASEVHE: That is correct,
2	you can see me.	2	Chairperson.
3	MR MATHUNJWA: Not to mention.	3	CHAIRPERSON: It doesn't indicate, the
4	MS MASEVHE: Well Chairperson, for the	4	heading is "Marikana CAS138/08/12," and below that is
5	record, my name is Takalani Masevhe and I represent the	5	00020, so I don't know where that is. I seem to remember
6	Monene family in these proceedings. Mr Mathunjwa, as from	6	that video clip was shown to us, but the transcription in
7	the 15th of August you knew with certainty that two police	7	isiXhosa and in English hasn't been before us yet. So
8	officers were killed on the 13th of August. Is that	8	shall we give that an exhibit number?
9	correct?	9	MS PILLAY: Chair, that is the first page
10	MR MATHUNJWA: That's correct.	10	of the exhibit that Ms Masevhe is referring to. It's 0009,
11	MS MASEVHE: Yes, now those two police	11	sorry, 009.
12	officials who were killed, it was Warrant Officer Monene	12	CHAIRPERSON: 009 hasn't got that on the
13	and Warrant Officer Lepaaku. Now Mr Mathunjwa, you just	13	first page, not on my copy.
14	testified before this Commission that when you went to the	14	MR BURGER SC: I think it depends on the
15	koppie on the 16th of August there was no police escort	15	copy, Chair. We have it as our first page, and I always
16	because the Police had refused to give you police escort to	16	assumed that that speaker is Mr Dumisani, and you can pick
17	the koppie; you went there on your own.	17	that up from the second page.
18	MR MATHUNJWA: Yes, no escort was	18	CHAIRPERSON: I see. So this is really a
19	provided.	19	page previous to the one we have. Look, only to save time,
20	MS MASEVHE: Now at the mountain there	20	let her put the question. You can put the question.
21	was a protester who spoke before you could and the	21	MS MASEVHE: Thank you, Chairperson.
22	translation of what he said is found in exhibit OO9, and	22	CHAIRPERSON: And at some stage when we
23	that protester, if I can read from the translation of what	23	resume next week we will be given the exact –
24	he said, he says towards the end of his speech –	24	MR MMUSI: Mr Chairman, if I can be of
25	MR MATHUNJWA: What page is that?	25	assistance. The same speaker appears on exhibit L at slide
-			
	Page 2765		Page 2767
1	Page 2765 MS MASEVHE: The first page.	1	Page 2767 number 168.
1 2	-	1 2	-
	MS MASEVHE: The first page.		number 168.
2	MS MASEVHE: The first page. MR MATHUNJWA: Can you take us to, where	2	number 168. CHAIRPERSON: So it's Protester 6. It's
2 3	MS MASEVHE: The first page. MR MATHUNJWA: Can you take us to, where do you start?	2 3	number 168. CHAIRPERSON: So it's Protester 6. It's Protester 6, and there was cross-examination about it and
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1	Page 2768 that's not strictly accurate. He doesn't then address the	1	Page 2770 he came out from that boardroom or operational room, the
2	crowd. In fact there are people who speak before Mr	2	first thing he said to me, "Mr Mathunjwa, as I explained to
3	Mathunjwa.	3	you, I'm no longer in charge of this operation. It's
4	MS MASEVHE: Well Chairperson, I would	4	Provincial Commissioner Mbombo, as I explained earlier in
5	say –	5	the morning." Then I requested to see her. Then he told
6	CHAIRPERSON: Possibly you can	6	me that she is not around, she went for ANC torch bearer
7	reformulate your question so that you render the objection	7	
	irrelevant.	8	ceremony. Remember, all those things happened in a short space. You talk, we talk, we talk, we talk, so he
8			-
9		9	showed that he doesn't want to take anything from me, then
10	just that. Mr Mathunjwa, after this has been said, there	10	he said, "Let me phone Commissioner Mbombo." Then we wait
11	were other speakers who addressed the crowd. Before you	11	some few minutes and then I waited, I waited, I waited.
12	could speak after this protester has spoken, then there	12	No-one came back. Then I went to try to get hold of the
13	were other speakers who addressed the crowd. Is that	13	management. So in short maybe my run of patience, there
14	correct?	14	was no, there was a protocol that has to be observed and to
15	MR MATHUNJWA: Yes.	15	be followed, based on that operation. Thank you.
16	MS MASEVHE: Now you then addressed the	16	MS MASEVHE: Mr Mathunjwa, you've just
17	crowd.	17	testified that you were told that the Provincial
18	MR MATHUNJWA: Yes.	18	Commissioner was not there. Whether she had gone to see a
19	MS MASEVHE: Now Mr Mathunjwa, after you	19	police official at the hospital or whether she went to the
20	finished addressing the crowd, you then left for the JOC.	20	torch bearing ceremony is not material at this stage. But
21	MR MATHUNJWA: I didn't only address the	21	then what I want to know from you is that didn't you find
22	crowd. I reprimanded and then yes, the next step, we had	22	it important to tell whoever was second in charge from the
23	to go back to the JOC.	23	Provincial Commissioner, who was not present, that there is
24	MS MASEVHE: Yes.	24	a risk that people, or police might be injured if they go
25	MR MATHUNJWA: But not for this specific	25	to the koppie, after there was such a threat?
	Dogo 2740		Dogo 2771
1	Page 2769 person who was speaking there.	1	Page 2771 MR MATHUNJWA: For the safety you will
1 2	person who was speaking there.	1 2	MR MATHUNJWA: For the safety you will
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1	Page 2772 MS MASEVHE: Now let me inform you, Mr	1	Page 2774 views and rights, where we were told yesterday here members
2	Mathunjwa, that at the end of this Commission we are going	2	of NUM office came out holding guns and shot at you and two
3	to argue that you did not act responsibly by not telling	3	employees were killed. Power," and then the employee says,
4	the senior leadership of the SAPS that there's a threat	4	"It's ours." You continue and you say, "We send our
5	looming at the koppie, after you had heard this protester	5	condolences to those families. As AMCU we will come closer
6	saying that the Police will be finished if they go to the	6	to the families. We'll help where we can so that they
7	koppie.	7	could be laid to rest with dignity, as AMCU will do that.
8	MR MATHUNJWA: I will dispute that, and	8	Power." Mr Mathunjwa, I'm aware that the press statement
9	subsequent to that I think you will realise that there was	9	that was issued on the 9th, you mention that you condemn
10	no Police killed on that 16th after I left the JOC. It's	10	violence. However, my question is this, now you were in
11	only workers that were killed.	11	front, when you mentioned this you were in front of the
12	MS MASEVHE: Well, I'm talking about the	12	protesters. Now why didn't you send condolences to the
13	threat that the protesters had issued to the Police, but	13	family of the Police, to the families of the security
14	then on that note I'd like to move on. Now on the 15th of	14	guards, and to the families of other civilians who had
14	August you had heard that two security officials were	15	died?
16	killed on the 12th and then two police officials were	16	MR MATHUNJWA: I think we have released
17	killed on the 13th, one was seriously injured, and other	17	that press statement on the 14th with regard to the loss of
18	civilians were also killed. Now Mr Mathunjwa, these people	18	life for everyone.
19	who were killed, that is like the 10 people who were killed	19	MS MASEVHE: Now why then don't you
20	prior to the 15th, are all breadwinners and mostly fathers.	20	specifically mention in the rest of your speech that you
20	Now Mr Mathunjwa, what I want to know from you is that	20	condemn Police killing?
22	reading from your address of the 15th of August, you say in	22	MR MATHUNJWA: I've said we condemn any
23	very broad terms that protesters must desist from violence,	23	killing of any citizen, which I believe police form part of
24	but then you don't specifically mention that they should	24	that group.
25	resist the temptation of killing Police and security	25	MS MASEVHE: Well, Chairperson, I don't
20			······································
	Page 2773		Page 2775
1	Page 2773 officials. Why is that?	1	Page 2775 have any further questions for this witness, thank you.
1 2		1 2	
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2	officials. Why is that? MR MATHUNJWA: By denouncing violence I	2	have any further questions for this witness, thank you. CHAIRPERSON: Mr Mpofu?
2 3	officials. Why is that? MR MATHUNJWA: By denouncing violence I said, as I've said earlier on I respect life, whether it's	2 3	have any further questions for this witness, thank you. CHAIRPERSON: Mr Mpofu? MR MPOFU: Thank you, Chairperson. Yes,
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1	MR MATHUNJWA: That's correct.	1	other parties. As I've said all the parties should be part
2	MR MPOFU: Did anyone make any objections	2	of that.
3	when you seemed to be exhibiting your Christianity?	3	MR MPOFU: Have you ever been given a
4	MR MATHUNJWA: No.	4	reason why that meeting was declined?
5	MR MPOFU: And did you ever get any	5	MR MATHUNJWA: No, we never received a
6	impression whatsoever that that large group of 3 000 people	6	response to that effect.
7	had one set of beliefs similar to or rather common to all	7	MR MPOFU: To your knowledge, were some
8	of them?	8	of the workers who were gathered in the mountain from the
9	MR MATHUNJWA: As I was talking about	9	Karee Mine?
10	God, there was no objection.	10	MR MATHUNJWA: Yes.
11	MR MPOFU: Yes, you described yourself as	11	MR MPOFU: And isn't it correct that in
12	a slave of God, you described the crowd as God's children	12	respect of the Karee Mine at least you had full negotiating
13	and the nation of God.	13	rights?
14	MR MATHUNJWA: Yes.	14	MR MATHUNJWA: We'll say we've got
15	MR MPOFU: You also, you've been a	15	limited organisational rights, not for bargaining.
16	mineworker yourself and worked in the mining environment	16	MR MPOFU: Okay, can you for the
17	for how long?	17	uninitiated like me unpack what specifically those limited
18	MR MATHUNJWA: I think I would say over	18	rights entailed, to what extent would you have been able to
19	25 years.	19	represent the workers at Karee Mine at least?
20	MR MPOFU: And in that 25 years have you	20	MR MATHUNJWA: Maybe on top of my head it
21	ever seen or experienced anything that would make you	21	will be issues like working in for holidays, maybe
22	believe that a large group of 3 000 people would believe	22	disciplinary processes, just to mention a few, I cannot
23	that bullets will not kill them or that they would be	23	have them on my mind.
24	invincible or that they would be invisible, whichever one	24	MR MPOFU: Alright, but yes, I am sure
25	will be finally chosen?	25	we'll get, we actually do have copies of all the
	Page 2777		Page 2779
1	MR MATHUNJWA: No, I never had such	1	recognition agreements and all that, but really –
2	MR MATHUNJWA: No, I never had such belief.	2	recognition agreements and all that, but really – MR BRUINDERS SC: If I could be of some
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	Page 2780		Page 2782
1	those RDO delegations and by their permission they made an	1	MR MATHUNJWA: Yes –
2	offer to them outside the structures, I mean of the union.	2	MR MPOFU: Remember, [African language]
3	Ja, you remember that part?	3	we'll finish them here and then said, they must leave here?
4	MR MATHUNJWA: Yes, I do.	4	Chairperson, if I may just offer my interpretational
5	MR MPOFU: Okay, now the question is,	5	services, I think that last sentence, unless it was an
6	would it be correct that from a reading of this passage,	6	objection, should really read, they must leave this place,
7	what you are saying is that had the meeting request been	7	not they must leave here.
8	granted the ten dead might not have happen, is that a good	8	MR MAHLANGU: Where are you reading?
9	reading of the passage?	9	MR MPOFU: In other words they must leave
10	MR MATHUNJWA: That's my belief, yes.	10	this place. I see Commissioner Tokota is nodding.
11	MR MPOFU: Now do you remember that Mr, I	11	CHAIRPERSON: Mr Tokota who is a isiXhosa
12	think Mr Mokoena during that interview also said that the	12	linguist agrees with your interpretation.
13	police had been there and had been called by them, but had	13	MR MPOFU: Okay, now I'll take the new,
14	been present, as he put it from the word go, in other words	14	remember anyway, nothing turns on that now, I just wanted
15	from the Friday events until out, but do you remember that?	15	to assist the commission. I am talking about that
16	MR MATHUNJWA: I think that is correct	16	particular protestor, protestor number 6 is that person who
17	because it was also mentioned during my conversation with	17	said those things.
18	him that the memorandum will be received by the police,	18	MR MATHUNJWA: Ja.
19	that surely means that the police were already there.	19	MR MPOFU: Ja, and the point I really,
20	CHAIRPERSON: I think the passage you're	20	want to make really is that even though you've testified
21	looking for is at page 27.	21	that you were in the middle of this serious situation, when
22	MR MPOFU: 27, yes, I found it, -	22	that protestor made those remarks the employees laughed.
23	CHAIRPERSON: Line 12, I think –	23	Do you remember that?
24	[14:56] MR MPOFU: - thank you, Mr Chairman. It	24	MR MATHUNJWA: Yes.
25	is on page 27, Mr Mathunjwa, sorry for that confusion, and	25	MR MPOFU: And in fact although it is not
	Page 2781		Page 2783
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1 shout the loughton of the monthless	ļ.	Page 2786
1 about the laughter, of the reaction.	1	between your two visits and where I am getting at is, when
2 MR MATHUNJWA: I would say that to my	2	you – after you finished your first visit where did you go?
3 best knowledge will be saying, it is in the interpretation	3	MR MATHUNJWA: We went straight to the
4 of the individual when he is listening to that.	4	JOC.
5 MR MPOFU: Further evidence will be that	5	MR MPOFU: And what was the reaction of
6 at some stage one or two of the workers simply went up an	6 k	Lonmin or the police, whoever you addressed there about the
7 grabbed the loud hailer and spoke. Did you observe that?	7	message that you were bringing?
8 MR MATHUNJWA: Yes, I think it was played	8	MR MATHUNJWA: One, there was no time to
9 here, if I am not mistaken.	9	give them the feedback, the police, because the police that
10 MR MPOFU: And that in particular	10	happened to be available was General Mpembe who reminded me
11 protestor number 6 was one of those people who uninvited	11	that he is not in charge of the operation.
12 had simply gone to grab the mike and speak?	12	MR MPOFU: Yes, okay, sorry, I don't want
13 MR MATHUNJWA: Yes.	13	to read all that, we've heard it many times. Where I am
14 MR MPOFU: There is something that I just	14	getting at is, what prompted your second visit and how was
15 want you to please explain to the commission. Your left	15	it executed?
16 out with your first visit on the 16th, what level of	16	MR MATHUNJWA: Do you mean back to the
17 cooperation did you get from the police, because from the	17	koppie?
18 pictures we can see you with the police, even as you are	18	MR MPOFU: Yes, Sir.
19 addressing the people, did you, was this visit pre-	19	MR MATHUNJWA: To me it was prompted by
20 arranged? Was the visit pre-arranged with the police or	20	trying to go and tell the workers that they should disperse
21 did they just see you arriving there and assisted you	21	and explain what I've seen regarding non cooperation, so
22 spontaneously, if you know what I mean?	22	therefore I fear for the worst but before I proceeded to
23 MR MATHUNJWA: Maybe what I would say,	23	these workers I happened to see two black officers, one in
24 since they were there at the night they heard that I will	24	light complexion and I asked him who was in charge of this
25 be coming back the following day.	25	operation. Then he pointed to me one white male officer
	-	
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Page 278		Page 2787
1 MR MPOFU: Oh, I see, yes, on the 15th	1	and I explained to him that I am from the JOC, there is no
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	Page 2788	
1	MR MATHUNJWA: No, that decision we made	
2	it by ourselves, there was no police involved and then we	
3	had to try and execute that communication to the workers.	
4	CHAIRPERSON: Mr Mpofu, have you got many	
5	more questions, because you're not going anywhere at the	
6	moment, as far as I see. Are you likely to finish by half	
7	past three?	
8	MR MPOFU: No, Chairperson.	
9	CHAIRPERSON: Oh, well, in that event	
10	there is no, it doesn't seem any point in, I was intending	
11	to adjourn at quarter past, but I am prepared to sit until	
12	half past if we're finished but we obviously can't, so we	
13	will adjourn until next Wednesday morning, not tomorrow but	
14	the following Wednesday, the 12th of December at ten	
15	o'clock.	
16	MR MPOFU: Chairperson, I am sorry, just	
	with your permission, one more question just so that I	
17 10		
18	finish this topic, just one question. Mr Mathunjwa, you've	
19 20	now explained how you executed the second visit and where I	
20	was going is, did anybody or any policeman stop, try to	
21	stop you or prevent you from entering the parameter of the	
22	mountain?	
23	MR MATHUNJWA: No, there was no one.	
24	MR MPOFU: Thank you, Chairperson.	
25	CHAIRPERSON: The commission will adjourn	
1	Page 2789	
1	and resume on Wednesday, the 12th of December at ten	
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3	[COMMISSION ADJOURNED]	
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		r	r	Page
A	affiliation 2745:5	ANC 2770:6	arrangement 2785:6	2684:7 2685:4
	2746:8,11	animosity 2689:22	arrive 2769:5	2690:10 2693:1,3
abbreviation 2683:23	afraid 2689:3	Annandale 2771:5,13	arrived 2729:11	2711:21 2729:8
able 2677:21 2689:4	Africa 2709:14 2757:2	answer 2722:20 2723:2	2769:22 2785:25	2739:16,23 2740:1
2696:4 2709:15				
2715:1 2720:24	African 2706:3 2716:1	2723:7,7,24 2740:14	arriving 2784:21	2742:13 2748:2,7,8
2721:2 2729:3 2735:9	2717:2,21 2724:19	2741:3 2742:19	arrow 2762:10	2748:12,13,16,22
2778:18	2782:2	answered 2687:24	article 2692:16,25	2749:5 2751:16,18,24
abort 2750:25	Afrikaans 2709:14	answering 2703:5	2693:14,15 2698:13	2752:4,16,19 2753:7
absence 2700:20	afternoon 2676:15	answers 2731:18	2699:20,25 2701:23	2753:16,22 2754:6,10
acceded 2777:17	2758:14 2759:13	2740:13	2702:16 2704:2	2757:12,20 2758:7
	2760:23	anthropologist 2727:9	2734:10 2735:3	2759:7,20,25 2760:8
accept 2692:8 2728:23	aggrieved 2743:3	anybody 2714:12,12	2736:20	2761:5,9,17,17,25
2730:1 2742:17	ago 2779:20,25	2733:18,21 2788:20	articles 2692:18	2762:11,21 2764:7,8
2783:3	0	-		
accepted 2691:14	agree 2677:4 2689:21	anymore 2710:6	2693:21	2764:15 2772:15,22
accepts 2750:7	2701:13 2702:17	anyway 2703:19	artificial 2689:17	2773:6
accompanied 2701:25	2706:1,7,10,12	2704:13,22 2705:10	asked 2687:20 2688:2	author 2702:23 2706:1
accompanying 2699:5	2714:15 2719:6,7	2709:8 2713:21	2692:13 2696:9	2714:20
account 2678:4	2737:1,15 2738:24	2720:13,13 2738:5	2704:16 2710:12	available 2704:18
	2739:21 2740:19	2782:14 2785:21	2722:21 2727:14	2713:6 2786:10
accurate 2689:12	2744:6 2755:5	apologise 2680:1	2730:3 2750:21	aware 2682:25 2684:1
2768:1	agreement 2702:10	2713:16	2750:3 2750:21	2686:12,13,19,20,21
accurately 2709:21				
accusation 2781:2	agreements 2779:1	apparent 2750:10	2779:19 2786:24	2688:22 2711:7
achieve 2746:4	agrees 2782:12	apparently 2689:18	2787:17	2749:20 2751:3
acknowledged 2676:22	air 2693:5	2700:18	asking 2681:24 2687:4	2752:22 2753:3,5,8
acronym 2683:24	allegation 2711:13	appeal 2696:11	2719:6 2722:12	2756:22 2759:8
act 2772:3	allegations 2781:4	2726:25	2735:5 2742:11	2761:8,10 2762:12,14
acted 2736:6	alleged 2687:1	appear 2689:7 2694:24	2744:17 2750:19	2774:8 2785:5
	allegedly 2684:19	2713:25 2714:1	2758:3 2775:11	
action 2735:18 2736:7	allow 2733:7 2761:3	2715:5	2777:5,16	В
2748:12 2749:21,22			· · · · · · · · · · · · · · · · · · ·	back 2681:16 2703:17
2760:4	allowed 2692:5	appeared 2693:1	aspect 2681:4,6 2733:3	
activities 2701:12	2708:11 2727:15	2696:16 2720:18	2734:19 2736:19,19	2704:14 2705:9
actual 2680:17	Alright 2701:6 2705:8	2727:18	2738:3 2759:6,19	2708:11 2714:8
add 2677:5 2729:21	2733:25 2738:9	appears 2696:5 2712:9	aspects 2734:11,19	2716:3 2731:18
address 2676:25	2778:24 2781:17	2720:8 2731:3	2737:16	2733:10 2741:13
2681:4 2741:4	2785:5	2766:25	assegais 2715:12	2768:23 2770:12
	amazing 2781:3	application 2737:9,10	2717:6 2718:1 2721:5	2771:20 2784:25
2743:17 2765:11	AMCU 2678:8,17	apply 2737:5,6 2750:19	assist 2685:22 2686:2	2785:7,14,14 2786:16
2767:14 2768:1,21	-		2686:24 2703:3	2787:19
2772:22 2773:7,8,9	2680:4 2681:5,15	appreciate 2677:20		
2775:22 2781:23	2682:13 2683:15	2683:5 2685:23,24	2713:10 2769:21	bad 2708:17
addressed 2731:13	2684:17 2685:9	2686:1,4,5 2687:15	2782:15 2785:13	ball 2736:3
2732:13 2741:9	2688:11 2689:1,7,24	2687:17 2708:9,10	assistance 2766:25	Baloyi 2748:2,3
2743:22 2767:23	2690:8 2692:20	2735:16 2744:16	2779:3	bargaining 2743:11,15
2768:11,13,16	2695:21 2698:11	2758:12 2771:2	assisted 2721:17	2743:16 2778:15
	2699:4 2701:12,14,15	appreciated 2692:5	2784:21	based 2677:24 2681:1
2775:14 2786:6	2701:20 2702:1,2,22	approach 2751:14	assisting 2687:2 2700:8	2714:22 2770:15
addressing 2679:1	2707:17,23,24 2708:2	appropriate 2683:11	associated 2701:14	basic 2701:7 2749:22
2768:20 2784:19		2737:5		
adequate 2704:17	2708:6,7,12,25		association 2745:5	basis 2735:4 2742:15
adjourn 2747:12	2734:11 2736:24	approximately 2757:7	2746:11	2749:6
2788:11,13,25	2741:3,22 2742:3,11	Archie 2694:9	assume 2703:8,11	bearer 2687:21
ADJOURNED 2789:3	2742:20,21 2743:14	area 2706:13 2749:25	2740:7 2749:12	2688:11 2692:14
adjourning 2775:5	2743:16,18 2744:17	areas 2698:12	2753:10,24 2754:3,16	2770:6
	2745:15,20,22 2746:6	aren't 2728:2 2747:16	2760:1 2762:20	bearers 2706:18
adjournment 2709:7	2746:16 2748:7,10,11	argue 2678:1 2759:6	assumed 2766:16	2707:20
2709:22,25	2748:17,21 2749:5,7	2772:3	attacked 2720:18	bearing 2770:20
ADJOURNS 2710:1				
2747:14	2751:15 2752:5,13	arises 2732:24	2740:16	beg 2765:18
admission 2747:2	2753:10,17 2754:4,17	armed 2717:6,13	attend 2683:1 2717:13	began 2692:14 2698:12
adopt 2735:9	2757:13,19,22,24	2718:1 2721:5	attended 2677:13	beginning 2690:16
advance 2713:21	2760:2,3,6 2762:21	2754:11,15 2761:6	2716:25 2781:18,19	begins 2695:12 2699:3
advance 2713.21 advancing 2727:6	2763:4 2774:5,7	armoured 2731:25	attending 2715:25	2705:18,22
	AMCU's 2742:23	2785:4	attention 2711:22	behalf 2715:9 2733:23
advantage 2702:21	amounts 2687:14	arose 2700:14 2710:23	attitude 2711:20	belief 2717:10 2728:16
auvice 2097.8	Amplats 2700:18	2733:3 2734:23	2735:15	2775:17 2777:2
advise 2678:14				
advised 2697:11	2734:20 2735:21	arranged 2682:6	attorneys 2746:6	2780:10
	2736:3,14	2692:20,21 2711:23	2747:24	beliefs 2776:7
	The Industry I			
2736:17 2779:24	ample 2699:12	2731:25 2784:20	auditorium 2699:20	believe 2701:4 2704:1
	The Industry I		auditorium 2699:20 August 2677:12 2678:6	believe 2701:4 2704:1 2726:25 2732:7

Tel: 011 021 6457 Fax: 011 440 9119

RealTime Transcriptions

2739/7 27464,24,25 2737:17 265:2 2092:24 charly 2600:16 275:12 276:14 276:19 2774:23 2779:11,177.24 265:2 2092:24 charly 2600:16 276:19 2778:23 276:19 2774:23 2779:4 2779:14 276:19 2778:18,19 276:19 2778:23 2776:19 2774:23 2779:4 2778:12 2776:18,19 charly 2690:16 2778:15 2778:23 2770:10 Burger 772:11,1772 278:12 2778:12 2778:12 2778:12 2778:12 2778:12 2770:10 2779:12 2779:12 2779:12 2779:12 2779:12 2779:12 2779:12 2779:12 2779:12 2778:12 <td< th=""><th></th><th></th><th></th><th></th><th>Page 2</th></td<>					Page 2
2747.4 2748:25 2763:19 2774:23 27763:19 2774:21 27761:19 27762:2 27763:19 27762:23 27761:19 27762:23 27761:19 27762:27 27761:19 27762:27 27761:10 27776:27 27761:10 27776:27 27761:10 27776:27 27761:10 27776:27 27762:27	2739.7 2746.4 24 25	2737.17	2685.2 2692.24	clarify 2690:16	3
2763:19 2764:1 2722:23 2272:5 2695:610 2696:6 2738:3 278:15 278:4 2765:19 2774:23 2295:10 276:64 276:78:1774:82:2 calabel 2695:3 calabel 2695:3 2771:12 271:12:22:112:22:12:22 271:12:22:12:22:22:275:2 2605:13:275:2 commission 2708:11 271:12:12:11 271:12:12:11 271:12:12:11 271:12:12:11 271:12:12:11 271:12:12:11 271:12:12:11 271:12:12:11 271:12:12:11 271:12:12:12:12:12:12:12:12:12:12:12:12:12					
2765:19:2774-23 27974 20974:2704-77.815 cmath 2751:18.19 2788:25:2789:3 believel 2710:11 Burger's 272:19 2716:22:2719 2716:22:2719 2716:15 2716:15 2716:22:271 buinses 270:16:16 2716:15 2716:15 2716:15 270:19:270:11 270:17:275:11 2717:21:2717:272:10:273:15 2773:12 2773:12 270:19:270:11 271:21:21:273:15 2773:12 2773:12 2773:12 2773:12 270:19:270:11 271:21:21:21:21:21:21:21:21:21:21:21:21:21					
1276.22.2 2779.4 2708.4 2709.23 cmmsisoner 2708.11 2714.22 2729.17 business 2701.16.16.17 2712.24 2712.21 2712.25.2 2716.15 2716.15 2716.12 2710.16.10 2707.13 2723.01.6.19 2707.01.2 2712.24 2777.5.2 2609.19 2708.18 2770.23 2771.15.19.21 2700.10 2707.12 272.61.6 2737.6 2609.19 2708.18 2706.15 2706.12 2775.12.2 2700.11 cmmsisoner 2708.11 273.81.2738.17.15 273.13.12 273.13.15 273.13.15 273.15.2 273.15.2 273.15.2 273.15.2 273.15.2 273.15.2 273.15.2 273.15.2 273.15.2 273.15.2 273.15.2 273.15.2 273.12.2 273.15.2 273.15.2 273.15.2 273.15.2 273.15.2 273.15.2 273.15.2 273.15.2 273.15.2 273.15.2 273.15.2 273.15.2 273.12.2 273.12.2 273.12.2 273.12.2 273.12.2 273.12.2 273.12.2 273.12.2 273.12.2 273.12.2 273.12.2 273.12.2 273.12.2 273.12.2 273.12.2					
believel 2710-11 Burger's 272:19 271:22:1272:10.23 chaing 2715:16 common 2708:11 2714:22:272:10 busines 2708:16 272:10:172:22:10.23 272:10:172:22:10.23 272:10:172:22:10.23 272:10:172:22:10.23 272:10:172:22:10.23 272:10:172:22:10.23 272:10:172:27:11.2 273:12:12:12:12 273:12:12:12:12 273:12:12:12:12 273:12:12:12:12 273:12:12:12:12 273:12:12:12:12 273:12:12:12:12 273:12:12:12:12:12 273:12:12:12:12:12:12 273:12:12:12:12:12:12 273:12:12:12:12:12:12 273:12:12:12:12:12:12:12 273:12:12:12:12:12:12:12:12:12:12:12:12:12:					
2714/22 2729/17 business 270116.16.017 2712.11 2722.10.23 2716.15 2740-4770-4.0.018 2730.16.10 2700.31 273.01 6.0752.c celess 2806.55.805.018 2702.23 2771.5.19.21 2702.10 2703.11 C 272.91 6.277.56 2099.19 2708.18 278.12.12 2702.10 2703.11 C 273.16.23 2773.15 272.51.3 270.12 273.16.12 273.15.12 273.15.12 273.15.12 273.15.12 273.15.12 273.15.12 273.15.12 273.15.12 273.15.12 273.15.12 273.15.12 273.15.12 273.15.12 273.15.12 273.15.12 273.15.12 273.15.12 273.15.12 273.12.12 273.12.12 273.15.2 273.12.12 273.12.12 273.15.2 273.12.12					
2723:10 2723:12 2723:12 <t< td=""><td></td><td></td><td></td><td></td><td></td></t<>					
bellicos 2725-4 belong 2679:12 2709:14 basy 2703:17254:13 2726:16 2727:6 2729:14 2718:14 2699:19 2708:18 2778:12 (2787):35,9 2787:12,16 2770:11 cm 2739:16 (23 273):15 2725:13 2740:12 2738:16 2729:12 2731:15 2738:16 2738:16 2738:16 2738:16 2738:16 2738:16 2738:16 2738:16 2738:16 2738:16 2738:17 2739:12 2736:12 2738:14 2736:12 2738:14 2736:12 2738:14 2736:12 2738:14 2767:7 2738:16 2718:12 2738:14 2738:16 2759:12 2738:16 2738:16 2739:12 2738:12 2738:16 2759:12 2738:16 2767:7 2738:16 2767:7 2738:16 2767:7 2738:16 2767:7 2738:16 2769:12 270:12 273:12:23:11 2730:12 273:12:23:11 2730:12 273:12:23:11 2730:12 273:12:23:11 2730:12 273:12:23:12 communicate 269:14; 8:02 12 677:2 679:12 279:12 279:13 270:12 270:13 270:12 270:13 270:12 270:13 270:12 270:					
belong 2769:12 2729:14 2731:4 2709:6.8 2723:5 2778:12.16 2702:19 2708:10 call 2712:12 1279:13 2734:8.19 2738:14,15 2751:12 270:11 2728:13 2734:15 2751:12 270:11 2734:8.19 2738:14,15 2751:12 270:11 2734:8.19 2738:14,15 2751:12 270:11 2734:8.19 2738:14,15 2751:12 270:12 2734:8.19 2738:14 2749:22 273:15 2734:8.29 274:92:24 2734:8.29 274:92:24 2734:8.29 274:92:24 2734:8.29 274:92:24 2734:8.29 276:12 2734:8.29 276:12 2734:8.29 276:12 2734:8.29 276:12 2734:8.29 276:12 2734:8.29 276:12 2734:8.29 276:12 2734:8.275:12 2734:8.275:14 2734:8.275:14 2734:8.275:14 2734:12 276:66 2774:5 2734:12 276:67 2734:8.275:14 2734:12 276:67 2734:12 276:67 2734:12 276:67 2734:12 276:67 2734:12 276:67 2734:12 276:67 2734:12 276:67 2734:12 276:67 2734:12 276:67 2734:12 276:12 2734:12 276:12 2734:12 276:67 2734:12 276:67 2734:12 276:67 2734:12 276:67 2734:12 276:67 2734:12 276:12 2734:12 276:12 2734:12 276:12 2734:12 276:12 2734:12 276:12 2734:12 276:12 2734:12 276:12 2734:12 276:12 <td< td=""><td>2730:16,19</td><td></td><td>2723:10 2725:2</td><td></td><td></td></td<>	2730:16,19		2723:10 2725:2		
2702(1) C 2732:16.3 273:15 2725:12 275:12 2732:16.3 273:15 2725:12 2734:16 2755:12 2751:12 2734:16 2718:10 2718:12 2718:10 2718:12 2718:12 2718:12 2718:12 2718:12 2718:12 2718:12 2718:12 2718:12 2718:12 2718:12 2718:12 2718	bellicose 2725:4	busy 2703:17 2754:13	2726:16 2727:6	2699:19 2708:18	2782:10 2787:3,5,9
2702(1) C 2732:16.3 273:15 2725:12 275:12 2732:16.3 273:15 2725:12 2734:16 2755:12 2751:12 2734:16 2718:10 2718:12 2718:10 2718:12 2718:12 2718:12 2718:12 2718:12 2718:12 2718:12 2718:12 2718:12 2718:12 2718:12 2718:12 2718	belong 2679:12		2729:14 2731:4	2709:6,8 2723:5	2787:12,16
2746:11 call 2712:12 (2739:13 2734:8,19 2738:17 2751:2 2718:20 2731:5 beolonged 2708:6 2758:3 2777:12 2746:22 2734:8 2746:22 2734:8 benefit 2676:3 2771:12 called 258:3 2079:12 2746:22 2734:8 2746:22 2738:14 2738:6 best 268:16 2691:15 2606:8,19.23 2697:19 2779:62 2783:10 chaired 2606:19 272022 22732:13,21 committoee 2707:5.8 2748:3 2779:97:24 278:14 2690:21 2609:12 2734:8: 1776:7 2736:23 committoee 2701:42 476:32 2746:12 276:63 commuticet 2691:43 2775:7 calling 276:12 2706:37:83:10 2006:42,072:38 communicate 2691:43 2776:7 2775:7 calling 276:12 2706:43 2758:1 2006:42,072:38 communicate 2691:43 2009:17 277:65 2775:7 calling 276:12 2706:43 2757:61 2716:12 276:61 2709:27 2774:5 communicate 2691:49 2738:12 276:32 2009:17 277:65 2776:12 2706:12 277:57 communicate 270:16 2779:22 2778:17 270:62 2779:32:3278:10 comes 270:22 278:17:87 codeeg 270:23 co	2702:19 2703:1	C	2732:16,23 2733:15	2725:13 2740:22	Commissioners 2708:4
belonged 2708.6 2758.3 2777.12 2736.12 2738.14.15 elionts 2677.2 2740.1 2734.8 beneficiares 2746.14 2766.92 2766.92 2766.93 elionts 2735.14 Commitsion \$7.02.19 bet 2685.16 2691.15 2766.91.19 2770.67 2737.81 committee 2707.5.8 2738.13 2727.9 2734.10 chaired 2666.19 2766.02 committee 2707.5.8 2733.11 27504.2758.14 2695.20 2696.4.20 clips 2706.12 committee 2707.5.8 2735.11 27504.2758.14 2695.20 2696.4.20 closed 2702.4 2736.13 bit 2677.3 655.2 2798.13 2711.5.15 2700.40.16.0.1 closed 2701.34 company 2697.18 biane 2709.24 canses 274.8.9 2711.9.15 2716.1.25 colses 274.5 company 2697.18 biane 2699.4 canses 274.8.9 2718.19 2729.3.2.23 2708.4 colses 274.5 company 2697.18 biane 2699.4 canses 274.6.1 2738.12 2731.22 colses 274.5 company 2697.18 biane 2699.4 canses 274.6.1 2731.22 2731.2	2746:11	call 2712:1.21 2739:13		2751:2	
beneficiaries 2746:14 2779:24 2787:8 2747:8 2749:24 274:622 Commission's 2702:19 berefic 2676:3221:12 called 2683:2 6296:19 2779:64 278:10 client's 273:514 278:62 2692:79 273:25:59 2700:10 2717:2 chairma 2683:9 2776:42 778:12 commitment 271:21 278:3 2779:42 778:14 2769:42 778:14 2769:42 778:12 commitment 271:11.18.19 278:12 2769:42 778:14 2769:42 778:12 2769:42 778:12 commitment 271:11.18.19 278:12 2769:42 778:14 2769:42 778:12 2769:42 778:12 commitment 271:11.18.19 2779:22 2780:13 278:15,15 2700:8 270:21.20 close 2702:13 commitment 278:16 2779:22 278:12 271:11 273:211.23 close 270:21.12 commitment 278:16 2779:22 278:12 271:11 273:212 colse 270:21.12 commitment 278:16 2779:22 278:12 271:12 271:11 273:212 colse 270:22.12 commitment 278:16 2779:22 278:12 271:12 271:11 273:212 colse 270:12 commitment 278:16 commitment 278:16			-		
benefit 2676:3 2721:12 called 2688:3 2693:6 2766:9.15 2768:9 client's 2735:14 2738:6 2090:19 2732:59 2700:10 2717:2 chaired 2686:19 2770:22 2733:12.3 commitment 2731:23 2781:3 2771:1 2750:42 2763:1 2767:7 committee 2701:5.8 2773:7 2738:10 2759:42 738:10 299:21 2693:4 clips 2726:12 communicate 2691:4.8 Bishop 278:22 2759:42 7381:5,15 2700:8 2705:12.3 close 2702:42 763:22 communicator 2787:5 2775:7 calling 2706:12 2701:15,2716:12.5 comsunicator 2787:5 communicator 2787:5 Biame 279:24 2781:10 canvassed 74:612 2718:19 2726:9 2698:16 comparies 2705:18 Biaming 2699:8 can 2706:52 2778:12 2729:3.25 2730:8 collear 2706:16 2779:22 2779:2 canvassed 74:612 2718:19 2726:9 2698:16 2779:24 compared 2706:20 2779:2 canvassed 74:612 2778:12 2738:12 274:120 2779:8 compared 2706:20 2779:2 canvassed 74:612 2778:11 2716:20:20 2778:14 compar	0				
best 2685:16 2691:15 2696:8,19,232.697:19 2779:6 2783:10 chairma 2683:9 2770:27273:2731:2,13 commitment 2731:23 2784:3 2774:9 2734:10 chairma 2683:9 276:27 2734:12 commitment 2731:23 2784:3 2779:4278:14 276:27 2739:4278:14 276:27 2739:4278:14 common 2741:11.18,19 2780:4278:12 2780:4278:15 2700:25.272:4276:12 communicate 260:14.8 communicate 270:14 269:21.203:44 close 2702:13 communicate 278:16 2775:7 calling 2706:12 2711:12.722.112.31 colses 270:22.4276:32.2 communicate 278:16 communicate 278:16 2779:22 2788:12 2711:12.722.112.271:27 colses 270:22.4276:35.2 compare 2697:18 2779:22 278:12 2718:12.274:12 2718:12.274:12 colses 270:22.4276:35 compare 2697:18 2779:22 2778:12 278:12 276:24.278:02.4 colses 276:22.4774:5 compare 270:18 2779:22 2778:12 2778:12 2778:12 2774:18 compare 270:18 2779:12 cast 276:12 2771:12 274:12					
2692:7.9 2732:5.9 2700:10 chaired 206:19 2720:22 2788:12 2720:22 2788:12 2720:22 2788:12 2720:22 2788:12 2720:22 2788:12 2720:22 2788:12 2770:22 2788:12 2700:22 2770:12 2770:22 2770:12 2770:22 2770:12 2770:12 2770:12 2770:12 2770:12 2770:12 2770:12					
2784:3 27279-2734:10 chairman 2683-9 2754:12 27656 common 2741:11,18,19 Bishop 2785:22 2759:4 2763:16 2695:20 2696:4,20 close 2702:24 2763:22 communicate 2691:4,8 Bishop 2785:22 2759:4 2763:16 2695:20 2696:4,20 close 2702:24 2763:22 communicate 2787:6 2775:7 calling 2706:12 2716:1,23 2712:3,11 close 2702:24 2763:22 communicate 2787:6 2775:7 calling 2706:12 2718:19 27269 2088:12 2774:5 communicate 2787:6 2775:2 2778:12 2718:19 27269 2088:16 2779:22 2778:12 2728:12 2729:33.12 274:33 colleagues 274:29 2748:19,24 2681:21 679:25 capachicat 2706:10 2733:11 273122 colleagues 274:29 2748:19,24 2779:22 2778:12 2729:32 2757:10 crareer 2706:6 2766:24 2700:24 colleagues 274:29 2748:19,24 2698:15 2762:27 carry 267:62 1770:17 chaldreg 2740:18 colleagues 274:29 2748:19,24 2706:27 career 206:66 2766:24 2709:27 compete 2709:17 colleagues 274:16 colleagues 274:16					
better 2691:21.22 2738:11 2743:13 2756:4 2743:14 2759:12 2767:7 2757:7 2743:6 2776:7 2743:6 2776:7 2743:6 2776:7 2743:6 2776:7 2743:6 2776:7 2743:6 2776:7 2743:6 2776:7 2743:6 2776:7 2743:6 2776:7 2743:6 2776:7 2743:6 2776:7 2743:6 2776:7 2743:6 2776:7 2743:6 2776:7 2743:6 2776:7 2743:6 2776:7 2777:7 2778:7 2777:7 2743:6 2776:7 2777:7 6 200:1 2773:7 27777:7 2777:7 27777:7					· · · · · · · · · · · · · · · · · · ·
273:11 2750;4278:14 2692:12 2034 cips 2726:12 communicate 2691:48, 2750;1 Bishop 278:22 2780:13 2781:5,15 2700:8 2703:21,23 close 2702:24 2763:22 communicate 2091:48, 2750;1 2775:7 calling 2706:12 2704:6,16,21 2710;7 close 2702:24 2783;10 communicate 2091:48, 2750;1 Biane 2779:24 2781:10 carvase 2748:9 2713:9,15 2716;1,25 colose 2702:13 communicate 2091:48, 2750;1 Bianed 2699:44 carvase 2746:12 2718:19 2726;9 2686:16 c779:22 2778:12 2728:12 2729:32,25 2730;0 colleagues 274:29 compared 2706:20 2779:22 2788:12 2729:312 2743;31 2274:30 colleagues 274:29 compared 2706:20 2770:1 career 2706:6 2766:24 2780:24 collective 2748:16 competer 2709:17 bardrooms 274:42; carery 207:66; carery 207:66; collective 2748:16 competer 1709:12 276:51 2704:20 2779:1; charge 2740:36 collective 2746;36 competer 1709:12 2704:20 2779:1; carery 2076;6 carery 206;62 12 770:7; charge 2740;85 collective 2748;16 compe					
Bishop 2785:22 27594 2763:16 2695:20 22066:4.20 close 2702:24 2702:32 2702:32 2692:1.7 2777:20 bit 2577:3 2695:22 2780:13 2781:15 2700:8 2703:12 close 2702:13 communication 2785:3 black 2786:23 calls 2750:1 2711:7,23 2712:3,11 close 2774:5 communication 2785:3 blame 2699:4 2701:24 cnavase 24746:12 2718:19 2726:9 2698:16 2731:22 276:25 barning 2699:8 can't 2705:6 2777.8 2773:13 2728:10 colleague 2683:12 companies 2705:13 barning 2699:8 can't 2705:6 2778.8 27731:12 2728:10 colleague 2683:12 compared 2706:10 2770:1 career 2706:6 2733:12 2741:20 2779:8 competent 2709:12 barning 2699:15 caref 2706:61 2709:22 271:31 colleges 2726:3 competent 2709:12 barning 2699:15 caref 2706:61 2709:22 271:31 colleges 2726:32 competent 2709:12 2770:1 caref 2706:61 2709:22 271:31 colleges 2726:32 competent 2709:12 barning 2699:15 careful 2769:17 chalenge 2740:13 colleges 2726:32 competent 2709:12	· · · · · · · · · · · · · · · · · · ·				
bit 2677:3 2095:22 2780:13 2781:5.15 2700:8 2703:21.23 closed 2702:13 communicated 2787:6 black 2786:23 calls 2750:1 2711:7.23 2712:3.11 closed 2702:13 communicated 2787:6 blamed 2799:24 2781:10 canvassed 2748:12 2713:9.15 2716:1.25 colser 2774:5 communicated 2787:6 blamed 2699:4 2701:24 canvassed 2746:12 2718:19 2726:9 colser 2774:5 compared 2706:10 2779:22 2788:12 2729:3.25 2730:8 collar 2706:16 compared 2706:20 2770:21 capaditated 2706:10 2731:12 1732:14 collar gue 2683:16 compared 2706:10 2770:21 careful 2769:17 challenges 2745:1 collective 2743:16 competed 2709:12 2761:21 careful 2769:17 challenges 2745:1 collenge 2745:1 collenge 2745:1 competed 2709:12 2762:2 276:21 2701:7 challenges 2745:1 collenge 274:16 competed 2709:12 276:22 276:24 276:24 collenge 274:16 competed 2709:12 276:24 careful 2769:17 chareg 274:18 collenge 274:18 competed 2709:12 <td< td=""><td></td><td></td><td></td><td></td><td>· · · · · · · · · · · · · · · · · · ·</td></td<>					· · · · · · · · · · · · · · · · · · ·
2775:7 calling 2706:12 2704:6.16,21 2710:7 closely 2723:8 communication 2788:3 black 2786:23 calling 2709:12 canvass 2748:9 2713:9,15 2716:1,25 coal 2688:25 2698:15 Companies 2705:18 blaming 2689:8 can't 2705:6 2778:8 2771:13 2728:10 collar 2706:16 2771:22 2779:22 2779:22 capable 2709:12 2731:11 2732:112 collar 2706:16 2774:5:10 2774:5:10 2774:5:10 company 2697:18 2779:22 company 2697:18 2779:22 company 2697:18 2774:12 2778:12 2778:12 2778:12 collar 2706:16 2774:5:12 company 2697:18 2748:19,24 26081:21 2769:25 careful 2706:10 2733:12 2741:20 2774:12 competint 2709:12 competint 2709:12 2748:19,24 competint 2709:12 2708:17 2708:2773:13 colleng 2693:16 competint 2709:17 2709:2774:13 competint 2709:12 2709:2774:13 competint 2709:12 2709:2774:13 competint 2709:12 2708:17 2709:2774:13 competint 2709:12 2709:2774:13 competint 2709:12 2709:2774:14 2706:27717:17 2725:22 27					
black 2786:23 blamed 2799:24 2781:10 cmvass 2748:9 2719:22 2781:12 cmvass 2748:9 2779:22 2778:12 2779:22 2778:12 2779:22 2778:12 2779:22 2778:12 2779:22 2778:12 2779:22 2778:12 2779:22 2778:12 2779:22 2778:12 2779:22 2778:12 2779:22 2778:12 2779:22 2778:12 2779:22 2778:12 2779:22 2778:12 2779:29 2779:2					
blame 2779:24 2781:10 canvasse 2748:9 2713:9,15 2716:1.25 col 2688:25 2698:15 company 2697:18 blaming 2689:8 canvassed 2746:12 2718:19 2726:9 2698:16 2731:22 2763:25 2779:22 2788:12 2779:32 2773:32 273:11 colleague 2683:16 company 270:20 2770:12 capable 2709:12 2731:11 273:14 colleague 268:16 company 270:11 2780:12 career 270:66 career 270:66 career 270:66 colleague 268:16 competet 2709:12 2744:25 carrey 270:61 career 270:66 colleague 268:16 competet 2709:1 2760:21 270:21 carry 270:17 change 2740:8 colleague 268:16 competet 2709:1 2762:91.21.6 carry ing 2714:11 carry 62714:11 carry 62714:11 colleague 268:16 completed 2709:17 2762:92.12.7 carry ing 2714:11 cares 268:12 608:10 colleague 268:12 completed 279:21 2700:27 case 2678:1 2608:10 colleague 269:16 completed 279:21 completed 279:21 2700:27 case 2678:1 2608:10 colleague 269:16 completed 279:21 compl		calling 2706:12		č	
blame 2779:24 2781:10 canvasse 2748:9 2713:9.15 2716:1.25 col 2688:25 2698:15 company 2697:18 blaming 2689:8 canvassed 2746:12 2718:19 2726:9 2698:16 2731:22 2763:25 2779:22 2788:12 2779:32 27328:10 colleague 2683:16 compared 2706:20 2681:21 2769:25 capable 2709:12 2731:11 2732:14 colleague 2683:16 compared 2706:20 2770:1 career 2706:61 2733:12 2741:20 2779:8 compete 2709:11 2770:1 career 2706:61 2706:24 2780:24 collective 2743:16 competen 2709:12 2744:25 carry 2670:17 chalneg 2740:8 collentive 2743:16 competen 2709:13 2762:91.21.6 carry 267:17:11 change 2720:92 collersy 2693:16 competen 2709:17 bodits 2762:12 2714:11 2755:2 collersy 2693:16 completel 2709:17 2700:27 cae 2678:1 2608:10 2718:10 2736:12 completel 2709:20 2700:21 2730:12 2737:17 charge 2719:17 2746:50 completel 279:20 2700:21 2730:12 2737:17 cae 2678:1 2608:12 2776:15 2	black 2786:23		2711:7,23 2712:3,11	closer 2774:5	Companies 2705:18
blamed 2699:4 2701:24 canvassed 2746:12 2718:19 2726:9 2698:16 2731:22 2763:25 blaming 2689:8 can't 2705:6 2727:8 2727:13 2728:10 collargue 2706:16 2779:22 boardroom 2680:22 capable 2709:12 2731:12 1273:14 collargue 2749:9 2748:19,24 carcer 2706:6 carcer 2706:6 2768:24 2780:24 collective 2743:16 competent 2709:12 boardrooms 2744:24 carcer 2706:62 12 701.7 change 2740:8 colleges 276:3 competent 2709:12 2770:22 2715:32 5762:2,7 change 2740:8 collemus 2765:32 competent 2709:12 bodits 2762:15 2704:20 2709:18 change 2740:8 colleges 276:3 competent 2709:12 bodits 2762:27 2715:36,12 2717:9 change 2740:8 collemus 2765:32 completid 2709:12 bors 2726:22 2715:36,12 2717:9 change 2710:37,7 2725:25 2741:13 completid 2709:17 bors 2706:12 carsing 2711:0 2786:11,2770:3 2713:10 2732:19 completid 2709:20 carsing 2711:0 2786:12 2700:2 2771:37,7 categories 2706:2 completid 2749:25 book 2724:16 CAS138/08	blame 2779:24 2781:10	canvass 2748:9		coal 2688:25 2698:15	
blaming 2689:8 can't 2705:6 2727:8 2779:13 2728:10 collar 2706:16 2779:22 2779:22 2788:12 2739:32,25 2730:8 collargue 2683:16 compared 2706:20 2881:21 2760:22 capable 2709:12 2731:11 2732:14 collergues 274:29 2748:19,24 2861:21 2760:24 career 2706:66 2766:24 2780:24 collective 2743:16 competent 2709:12 2744:25 carer 2706:61 2760:24 collective 2743:16 competent 2709:12 2744:25 carry 2676:21 2701:7 chanee 2680:9 collery 2693:16 competent 2709:17 2762:24 2719:31:2714:11 2756:2 comma 2683:12 2693:9 2696:2 boms 2699:15 270:2 2713:11 2713:71 charge 2694:11 270:5 2713:11 2716:2 complexip 2749:25 2702:7,7 case 2678:1 2680:8,10 2771:10 2786:11,24 2745:69 2746:12 complexip 2789:24 2706:27 categories 2706:2 complexip 278:24 2776:12 complexip 278:24 2706:12 CASI 38008/12 2766:4 2776:12 2766:32 complexip 278:25 boms 2703:16 2750:20 <	blamed 2699:4 2701:24	canvassed 2746:12		2698:16	
2779-22 2788:12 2729:3,25 2730:8 colleague 268:16 compared 2706:20 boardroom 2680:22 capable 2709:12 2731:11 2732:14 colleague 2742:9 2748:19,24 2681:21 2769:25 careful 2706:10 careful 2769:17 challenges 2745:1 collegue 2743:16 competent 2709:12 2744:25 careful 2769:17 challenges 2745:1 collegue 2743:16 competent 2708:17 body 2695:15 2762:2,7 2704:20 2709:18 change 2720:9 2756:2 collums 2765:23 competent 2709:17 boes 2726:22 2715:3,6 12 2717:9 charge 2694:11 2770:3 2713:11 2716:2 complete 2695:24 book 2724:16 careful 2709:17 case 2678:1 2680:8,10 2711:10 2786:11,24 2745:25 2741:13 2744:2,20 book 2724:16 case 2678:1 2680:8,10 2717:10 2786:11,24 2745:50 2746:12 completey 2709:17 book 2729:17 case 2678:1 2680:8,10 2717:10 2786:11,24 2745:50 2746:12 completey 2709:17 book 2724:16 CSM13800K122766:4 CASI3800K122766:4 completey 2709:17 2763:23 2706:16 completey 2709:17 book 2703:10 CASI3800K122766:2					
boardroom 2680:22 2081:21 2760:25 capable 2709:12 capacitated 2706:10 2731:1 2732:14 2733:12 2741:20 collegue 2742:9 2748:19,24 competent 2709:12 boardrooms 2744:24 2744:25 career 2706:6 2760:24 2780:24 competent 2709:12 competent 2709:12 bodies 2762:15 carry 2676:21 2701:7 2704:20 2709:18 chance 2680:9 collesive 2743:16 competent 2709:17 bodies 2762:12 2710:13,15 2755:25 2710:12 2711:79 change 2740:8 collims 2765:23 completing 2709:17 boors 2699:15 2700:2 2714:11 2756:2 completing 2709:17 2745:69 2746:12 completing 2709:17 boors 2699:15 2700:2 2714:13,15 2755:25 2770:10 2771:10,77 case 2678:126080:8,10 2779:10 2745:69 2746:12 completing 2709:17 boors 273:16 2780:21 cAS138/08/12 2766:4 2775:18 2716:12 372:15 complexing 778:24 boors 270:10 2730:12 777:10 categore 2699:16 2733:10 2749:15 complexing 778:24 2706:18 categore 2699:16 categore 2699:16 2733:10 2749:15 complexing 2779:20 2706:18 categore 2699:16 categore 2691:12 7775:0					
2681:21 2769:25 capeci 2706:10 2733:12 2741:20 2776-8 compete 2709:1 2070:1 careful 2769:17 careful 2769:17 collective 2743:16 competent 2709:12 2044:25 careful 2769:17 challenges 2745:1 collective 2743:16 competent 2709:12 body 2695:15 2762:2,7 2702:272:17 change 2740:8 collemiz 2693:16 competent 2709:17 bords 2699:15 2762:2,7 2715:3,6,12 2717:9 change 2740:8 collemiz 2765:23 completel 2709:17 bords 2709:12 2740:13,14 2755:2 collemiz 2765:23 completel 2709:17 274:24 2702:7,7 case 2678:12 2709:9 2771:10:2786:11,24 2745:69 2746:12 completel 2709:17 book 2724:16 case 2678:12 2680:810 2771:10:2786:11,24 2745:69 2746:12 complexity 2709:17 book 2703:16 2750:20 categories 2706:2 crase 2078:12 2740:8 categories 2706:2 complexity 279:25 complexity 279:25 2706:16 categories 2706:2 charging 2719:24 2745:10 complexity 279:25 complexity 279:25 complexity 279:25 complexity 279:25 complexity 279:26 complexity 279:26 </td <td></td> <td></td> <td></td> <td></td> <td></td>					
2770:1 career 2706:6 2766:24 2780:24 collective 2743:16 competent 2709:12 boardrooms 2744:24 carry 2676:21 2701:7 chance 280:9 collective 2763:1 competition 2708:17 body 2695:15 2762:2,7 2722:2751:7 change 2740:8 collective 2683:12 2693:9 2709:2752:3 bornus 2699:15 2700:2,7 2740:13, 12 775:27 2740:13, 12 775:27 2702:77 2740:13, 12 775:27 bornus 2699:15 2700:2,7 2740:13, 12 775:79 2748:11 2770:3 2713:11 2716:2 completed 2709:17 bornus 2695:15 2700:2,7 2740:13, 12 775:79 2740:12, 27771:10 2745:59, 2746:12 completed 2749:25 book 2724:16 2681:1 2729:9 2787:6 2765:13 2774:5 complex 2749:25 book 2724:16 2681:1 320:21 charge 2711:10 2767:15 2774:5 complex 2749:25 book 2703:16 2750:20 categories 2706:2 charging 2719:24 2713:10 273:10 comset 2710:12 book 2703:16 2750:20 categories 2687:14 2692:2 chard 2745:10 commal 273:10 comcende 2773:21 bor 2693:18 categories 2716:5.20 charging 2716:25 contrabe 2731:19 concc					
boardrooms 2744:24 careful 2769:17 challenges 2745:1 colleges 2726:3 competently 2736:21 2744:25 carrying 2716:12 12701:7 chance 2680:9 column 2765:23,24 competition 2708:17 body 2695:15 2762:2,7 2722:2 2751:7 change 2740:8 column 2765:23,24 completely 2709:17 bores 2726:22 2715:36,12 2717:9 charge 2694:11 2770:3 2713:11 2716:2 completely 2709:17 bows 2609:15 2700:2 2740:13,15 2755:5 2770:22 2771:37,7 2725:25 2741:13 2744:2,20 book 2724:16 2681:1 2729:9 2787:6 2763:23 2706:16 complexion 2786:24 bons 2703:16 2750:20 categories 2706:2 charge 2719:17 2765:18 complexion 2786:24 boy 2693:18 category 2699:16 charge 2719:17 2767:18 2734:21 2740:8 boy 2703:16 2700:3 chased 2741:12 comistoin 2689:15 composition 2679:20 boy 2693:18 category 2699:16 charge 2745:10 coming 2689:15 concern 2699:3 break 2738:8 caucus 2681:13,20,21 chased 274:12 conserde 2710:12 conmade 2710:12 brie		-			
274:25 carry 2676:21 2701:7 chance 2680:9 Colliery 2693:16 completion 2708:17 body 2695:15 2762:2, 270:22 2751:7 carrying 2714:11 2756:2 colliery 2693:16 complete 2695:24 bones 2699:15 2700:2 2715:3,6,12 2717:9 charge 2709:17 2725:22 colliery 2693:16 complete 2695:24 bones 2699:15 2700:2 2716:13, 2275:7 crase 2678:1 2680:8,10 2771:10 2786:11,24 2745:6,9 2746:12 complete 2695:24 book 2724:16 2681:1 2729:9 2787:76 2766:23 2765:6 complete 2765:6 born 2705:23 2706:2 2730:21 2737:17 charged 2719:17 2766:15 2774:13 2744:2,20 complete 2749:25 book 2703:16 2750:20 categors 2706:6 2756:8 complex 2749:25					
bodies 2762:15 2704:20 2709:18 change 2740:8 column 2765:23,24 2709:2 2724:13,14 body 2695:15 2762:2,7 2712:2 2751:7 27529 2715:3,6,12 2717:9 change 2720:9 2756:2 comm 2785:12 2693:9 2696:12 2693:9 2696:2 complete 2695:24 2696:2 bones 2699:15 2700:2 2740:13,15 2755:25 2770:22 2771:3,7,7 2725:25 2741:13 2744:2,20 complete 2792:65 bone 2724:16 case 2678:12 2709:17 2776:12 2774:5 complex 2749:25 complexion 2766:24 complexion 2766:26 comfortable 2731:16 comcern 2710:25 comcern 2710:25 comcern 2710:25 comcern 2710:25 comcern 2710:25 comcern					
body 2695:15 2762:2, 2762:9,12,16 2722:2 2751:7 carrying 2714:11 changed 2720:9 2756:2 2756:2 columns 2765:23 com 2683:12 2693:9 2713:11 2716:2 complete 2695:24 2696:11 2770:3 boors 2762:2 2714:13,15 2755:25 2770:22 2771:3,7,7 2725:25 2741:13 2744:2,20 2702:7,7 case 2678:12 2680:8,10 2771:10 2786:11,24 2745:69 2746:12 complete 2694:25 book 2724:16 2681:1 2729:9 2787:6 2763:23 2765:6 complexide 2749:25 book 2703:16 2750:20 categories 2706:2 charging 2719:24 2713:10 2732:19 2733:10 2749:15 complexide 2779:21 box 2703:16 2750:20 category 2699:16 charging 2719:24 2713:10 2732:19 comcarde 2773:21 box 2703:16 2750:20 cateus 2681:13,20,21 chastis 2745:10 coming 2689:15 comcarde 2773:21 branch 2693:18 caucus 2681:13,20,211 chastis 2745:10 coming 2689:15 concerne 2699:3 break 2738:8 cause 2687:10 chiefs 274:18 2715:24 2751:3 2728:3 briefing 2678:5 central 2708:1 2707:10 chiefs 2726:2 2768:11 2701:10 concerne 2699:3 briefing 2678:5 central 2708:					
2762:9,12,16 carrying 2714:11 2756:2 come 2683:12 2693:9 2696:2 boers 2726:22 2715:3,612 2717:9 charge 2694:11 2770:3 2713:11 2716:2 completely 2709:17 2702:7,7 case 2678:1 2680:8,10 2771:10 2786:11,24 2745:6.9 2746:12 completely 2709:17 book 2724:16 2681:1 2729:9 2787:6 2763:23 2766:6 completely 2709:16 boor 2705:23 2706:2 2730:21 2773:17 charge 2719:17 2767:15 2774:5 completely 2709:16 boot 2703:16 2750:20 categories 2706:2 charge 2678:16 2733:21 2740:8 completed 2749:25 box 2703:16 2750:20 category 2699:16 charge 2675:18 2713:10 2749:15 Comrade 2773:21 box 2703:16 2750:20 2700:3 chased 2741:12 comfortable 2731:19 correade 2770:20 2706:18 cause 2687:4 2692:2 chaste 2755:18 2715:24 2751:3 2728:3 breadwinners 2772:20 2741:11,18,19 Chiefs 2724:18 2749:22 2703:12 2715:21 brief 2678:5 certral 2708:1 2777:10 chased 2776:25 2678:11 2701:10 concered 27710:25 2769:12				,	· · · · ·
boers 2726:22 2715:3,6,12 2717:9 charge 2694:11 2770:3 2713:11 2716:2 completely 2709:17 bours 2699:15 270:22 2740:13,15 2755:25 2770:22 2771:3,7,7 2725:25 2741:13 2744:2,20 book 2724:16 case 2678:1 2680:8,10 2771:10 2786:11,24 2745:6,9 2746:12 complex 2749:25 book 2724:16 2681:1 2729:9 2787:6 2763:23 2765:6 complex 2749:25 botom 2705:12 2730:21 2737:17 categories 2706:2 charging 2719:24 2713:10 2732:19 2734:21 2740:8 2705:11 category 2699:16 charging 2719:24 2713:10 2732:19 comrade 2773:21 box 2703:16 2750:20 category 2699:16 charging 2719:24 2713:10 2734:15 comrade 2773:21 break 2738:8 cause 2687:4 2692:2 chastis 2745:10 comfortable 2731:19 concerend 2710:12 briefing 2678:5 central 2708:1 2777:10 cause 2687:10 chiefit 2775:20 2776:12 concerned 2710:25 briefing 2678:5 central 2708:1 2777:10 charging 2775:20 concerned 2710:25 concerned 2710:25 briefing 2678:5 central 2708:12 2777:10 chiefit 2775:20 <td></td> <td></td> <td>changed 2720:9 2756:2</td> <td></td> <td></td>			changed 2720:9 2756:2		
bonus 2699:15 2700:2 2740:13,15 2755:25 2770:22 2771:3,7,7 2725:25 2741:13 2744:2,20 2702:7,7 case 2678:1 2680:8,10 2771:10 2786:11,24 2745:6,9 2746:12 complex 2749:25 book 2724:16 2681:1 2729:9 2787:6 2763:23 2765:6 complex 2749:25 bottom 2685:21 CASU38/08/12 2766:4 2735:16 2776:12 2773:17 charged 2719:17 2763:23 2765:6 complex 2749:25 bottom 2685:21 CASU38/08/12 2766:4 2756:8 comes 2693:9 2706:16 2733:10 2739:15 Commolicated 2749:25 box 2703:16 2750:20 category 2699:16 charged 2719:12 comfortable 2731:19 comcade 2773:21 by 2693:10 2700:3 cause 2687:4 2692:2 check 2755:18 2715:24 2751:3 2728:3 breadwinners 2772:20 2741:11,18,19 Chiefs 2724:18 2784:25 concerne 2699:3 ceremonia 2710:25 ceremonia 2770:20 2776:12 comma 2773:21 comcerne 2710:25 briefly 2759:20 ceremonia 2716:5,20 children 2738:19 concerning 268:6 concerning 268:6 2749:24 2750:12 creatin 2706:12 cr77:13 <td></td> <td>carrying 2714:11</td> <td></td> <td>come 2683:12 2693:9</td> <td>2696:2</td>		carrying 2714:11		come 2683:12 2693:9	2696:2
2702:7,7 case 2678:1 2680:8,10 2771:10 2786:11,24 2745:6,9 2746:12 complex 2749:25 book 2724:16 2681:1 2729:9 2787:6 2763:23 2765:6 complex 0.749:25 comclex 0.731:10 comerade 270:12 comcrade 270:12 comcrade 270:12 comcrade 2710:12 concern 0.731:10 concern 0.732:10 concern 0.732:10 concern 0.732:10 concern 0.732:10 conc	boers 2726:22	2715:3,6,12 2717:9	charge 2694:11 2770:3	2713:11 2716:2	completely 2709:17
2702:7,7 case 2678:1 2680:8,10 2771:10 2786:11,24 2745:6,9 2746:12 complex 2749:25 book 2724:16 2681:1 2729:9 2787:6 2763:23 2765:6 complex 2749:25 bottom 2685:21 CAS138/08/12 2766:4 2756:8 complex 2749:25 complex 2749:25 2705:11 categories 2706:2 charging 2719:24 2713:10 2732:19 2734:21 2740:8 box 2703:16 2750:20 category 2699:16 category 2699:16 comfortable 2731:19 comrades 2710:12 box 2706:18 caucus 2681:13,20,21 chastise 2745:10 comfortable 2731:19 concern 2699:3 break vinners 2772:20 2741:11,18,19 Chiefs 2724:18 2784:25 concern 2699:3 break 2738:8 cause 2687:10 children 2738:19 comern 2677:22 2713:12 2715:21 briefing 2678:5 certanoils 2771:7:10 chosen 2776:25 2678:11 2701:10 concern 2699:3 briefing 2739:20 certanoils 2716:5,20 Christianily 2776:3 2707:11.21 conclude 2737:16 briefing 2694:5 carefore 2716:5,20 Christianily 2776:3 2707:11.10 conclerof6:24 briefing	bonus 2699:15 2700:2	2740:13,15 2755:25	2770:22 2771:3,7,7	2725:25 2741:13	2744:2,20
book 2724:16 2681:1 2729:9 2787:6 2763:23 2765:6 complexion 2786:24 born 2705:23 2706:2 2730:21 2737:17 2767:15 2774:5 complexied 2749:25 bottom 2685:21 CAS138/08/12 2766:4 2756:8 compstion 2693:9 2706:16 2733:10 2732:19 2733:10 2749:15 composition 2679:20 box 2703:16 2750:20 category 2699:16 charm 2676:18,19 2733:10 2749:15 comrade 2773:21 comrade 2773:21 comrade 2773:21 comrade 2773:21 comrade 2773:20 concerde 2687:4 2692:2 check 2755:18 2715:24 2751:3 2728:3 2728:3 bread vinners 2772:20 2741:11,18.19 Chiefs 2776:12 comment 2677:22 2713:10 2773:10 concerde 2779:20,22 2713:12 2715:21 brief 2681:20 2692:16 2776:12 comment 2677:22 2713:12 2715:21 concern 2699:3 2766:25 central 2708:1 2777:10 chosen 2776:25 2678:11 2701:10 concern 2699:3 2762:25 central 2708:1 2777:10 chrome 2698:15,17 2708:16,18 2714:24 2734:20 2762:25 central 2708:1 2777:10 chrome 2698:15,17 2708:16,18 2714:24 2734:20	2702:7,7	case 2678:1 2680:8,10	2771:10 2786:11,24	2745:6,9 2746:12	complex 2749:25
born 2705:23 2706:2 2730:21 2737:17 charged 2719:17 2767:15 2774:5 complicated 2749:25 bottom 2685:21 CAS138/08/12 2766:4 2756:8 comes 2693:9 2706:16 composition 2679:20 2705:11 category 2699:16 charging 2719:24 2713:10 2732:19 2734:21 2740:8 boy 2693:10 2700:3 category 2699:16 charm 2676:18,19 coming 2689:15 comede 2773:21 branch 2693:18 caucus 2681:13,20,21 chastise 2745:10 coming 2689:15 concerde 2772:02 2706:18 cause 2687:4 2692:2 check 2755:18 2715:24 2751:3 2728:3 break vinners 2772:20 2741:11,11,81,9 chiefs 2724:18 2784:25 concern 2699:3 break 2738:8 cause 2687:10 children 2738:19 comment 2677:22 2713:12 2715:21 briefing 2678:5 central 2708:1 2777:10 certernonial 272:67 christian 2775:20 2700:5 2706:21,24 2734:20 briefing 2732:10 2716:12 2717:13 chrome 2698:15,17 2708:16,18 2714:25 conclude 276:24 bring 2732:10 2716:12 2717:13 circulated 2711:23 2734:20 2734:20<	book 2724:16				
bottom 2685:21 CAS138/08/12 2766:4 2756:8 comes 2693:9 2706:16 composition 2679:20 2705:11 categories 2706:2 charging 2719:24 2713:10 2732:19 2734:21 2740:8 box 2703:16 2750:20 categories 2706:2 charging 2719:24 2733:10 2732:19 2734:21 2740:8 box 2703:16 2750:20 categories 2681:13,20,21 chased 2741:12 comfortable 2731:19 comrades 2710:12 branch 2693:18 cause 2687:14 2692:2 cheske 2745:10 coming 2689:15 concerned 270:25 break 2738:8 cause 2687:10 children 2738:19 concerned 2710:25 concerned 2710:25 brief 2681:20 2692:16 2776:12 comment 2677:22 2713:12 2715:21 briefing 2735:20 certanl 2708:1 2777:10 chosen 2775:25 2678:11 2701:10 concerning 2682:6 276:25 certanl 2708:1 2717:13 chrome 2698:15,17 2706:21,24 2734:20 bring 2732:10 2716:12 2717:13 chrome 2698:15,17 2708:16,18 2714:25 conclude 273:36 broad 2772:23 certanl 2706:25 circulate 2711:23 2734:24,25 2735:8 conclude 276:24					
2705:11 box 2703:16 2750:20 category 2699:16charging 2719:24 charm 2676:18,19 chasted 2741:122713:10 2732:19 2733:10 2749:15 comrade 2773:21 comrade 2773:21 comrade 2773:21 comrade 2773:21box 2693:18 2706:18cause 2687:13,20,21 chasted 2745:10chasted 2741:12 comfortable 2731:19 coming 2689:15Comrade 2773:21 comrade 2712:02breadwinners 2772:20 Drief 2681:202741:11,18,19 2692:16Chiefs 2724:18 check 2755:182715:24 2751:3 comead 2773:21 comead 2773:21 comead 2773:21 concerned 2710:25 concerned 2710:25breifing 2678:5 2762:25central 2708:1 2777:10 ceremonia 2722:67 briefly 2759:20chosen 2776:25 ceremonia 2722:67 created 2716:12 2717:13 chrome 2698:15,17 chrome 2698:15,172708:16,18 2714:25 created 2707:1,12 12708:12 conclude 2737:16 conclude 2737:16 conclude 2776:32bread cart 2775:23ceremony 2715:25 created 2716:12 2717:13 chrome 2698:15,17 created 2711:232708:16,18 2714:25 created 2676:24 conclude 2776:32conclude 2737:16 conclude 2737:16 conclude 2737:16 conclude 2766:24 conclude 2776:32broad cart 2759:7,12,14 broad cart 2759:72716:1,2 2721:24,25 creatin 2686:8 2735:6 certain 2686:8 2735:6 certain 2686:8 2735:6 cartain 2676:13,20creating 268:15 creating 268:15 concerning 2763:2concerning 276:2 concerning 276:2broad cart 2749:2 2751:6 2767:25creating 268:6 2735:6 certain 2686:8 2735:6 certain 2686:8 2735:6creating 268:15 creatin 2686:8 2735:6 creatin 2686:8 2735:6creating 268:12 creatin 2686:8 2735:6creating 268:12 creatin 2686:8 2735:6creating 268:12 creatin 2676:12 					
box 2703:16 2750:20 category 2699:16 charm 2676:18,19 2733:10 2749:15 Comrade 2773:21 boy 2693:10 2700:3 chased 2741:12 comfortable 2731:19 conceded 2727:20,22 2706:18 cause 2687:4 2692:2 check 2755:18 2715:24 2751:3 2728:3 bread winners 2772:20 2741:11,18,19 Chiefs 2724:18 2784:25 concerned 2710:25 breif 2681:20 2692:16 2776:12 commat 2677:22 2713:12 2715:21 briefing 2678:5 central 2708:1 2777:10 chosen 2776:25 2678:11 2701:10 concerning 2682:6 2762:25 ceremonia 2710:5,20 Christian 2775:20 2700:5 2706:1,24 2734:20 briefing 2694:5 2786:7 2722:2 circle 2762:4,5 2709:11/21 2708:12 conclude 2676:24 bring 2694:5 2786:7 2722:2 circle 2762:4,5 2734:24/25 2735:8 conclude 2676:24 broad 2772:23 ceremony 2715:25 circluted 2711:23 278:9 condemd 2763:3 broad 2772:24 2736:16 2775:14 2716:12 577:20 2734:20 condemd 2763:3 broad 2772:3 ceremony 2715:25					-
boy 2693:10 2700.3 chased 2741:12 comfortable 2731:19 comrades 2710:12 branch 2693:18 caucus 2681:13,20,21 chastise 2745:10 coming 2689:15 270:24 2715:24 2751:3 278:35 bread winners 2772:20 2741:11,18,19 Chiefs 2724:18 2784:25 concern 2699:3 concern 2699:3 break 2738:8 caused 2687:10 2692:16 2776:12 comment 2677:22 2713:12 2715:21 concerning 2682:6 brief 2681:20 2692:16 2776:12 comment 2677:22 2713:12 2715:21 concerning 2682:6 2762:25 ceremonial 2722:6,7 Christian 2775:0 2702:5 2706:21,24 2734:20 briefg 2759:20 ceremonias 2716:5,20 Christian 2775:20 2707:11,21 2708:12 conclude 2737:16 bring 2732:10 2716:12 2717:13 chrome 2698:15,17 2708:16,18 2714:25 conclude 2676:24 broad 2777:23 ceremony 2715:25 circulated 2711:23 2783:9 conclude 2676:24 broad 2776:25 2749:24 2750:12 2736:16 2775:11 2732:6 circulated 2711:23 2734:9 2735:5 conderned 2746:2					
branch 2693:18 2706:18 caucus 2681:13,20,21 cause 2687:4 2692:2 2741:11,18,19 chastise 2745:10 check 2755:18 coming 2689:15 2715:24 2751:3 conceded 2727:20,22 2728:3 breadwinners 2772:20 2741:11,18,19 check 2755:18 2715:24 2751:3 2728:3 bread vinners 2772:20 2741:11,18,19 children 2738:19 concern 2699:3 concerned 2710:25 briefig 2678:5 central 2708:1 2777:10 chosen 2776:25 2678:11 2701:10 concerning 2682:6 2762:25 ceremonial 2722:6,7 christian 2775:20 2702:5 2706:21,24 2734:20 briefig 2732:10 2716:21 2717:13 chrome 2698:15,17 2708:16,18 2714:25 conclude 2737:16 bring 2694:5 2786:7 2722:2 circle 2762:4,5 2734:24,25 2735:8 conclude 2676:24 broad 2772:23 2716:1,25 2721:24,25 circle 2762:4,5 2738:9 condemm 2763:3 broad 2779:72 2722:1,11 2770:7,20 2732:6 circumstances 2691:19 comments 2706:13 condemm 276:2 2716:2 2767:25 certain 2686:8 2735:6 City 2693:3 2704:22 2734:9 2735:5 condemm 276:2 condemm 2752:6 2775:8 2779:2 2736:					
2706:18 cause 2687:4 2692:2 2741:11,18,19 check 2755:18 2715:24 2751:3 2728:3 breadwinners 2772:20 2741:11,18,19 Chiefs 2724:18 2784:25 concern 2699:3 break 2738:8 2692:16 2776:12 2776:12 comment 2677:22 2713:12 2715:21 briefing 2678:5 ceremonial 2708:1 2777:10 children 2738:19 2706:12 2776:12 comment 2677:22 2713:12 2715:21 briefing 2678:5 ceremonial 2722:6,7 christian 2775:20 Christian 2775:20 2702:5 2706:21,24 2734:20 bring 2732:10 2716:21 2717:13 chrome 2698:15,17 2708:16,18 2714:25 conclude 2676:24 broad 2772:23 2716:1,25 2721:24,25 circle 2762:4,5 2734:20 conclude 2676:24 broad 2772:23 2716:1,25 2721:24,25 circle 2762:4,5 2738:9 conclude 2676:24 broad 2772:23 2716:1,25 2721:24,25 circle 2763:7 2774:23 2734:9 2774:9,21,22 condemned 2746:2 broad 2777:20 2716:1,25 2721:24,25 circle 2763:7 2774:23 2734:9 2735:5 condemned 2746:2 condemned 2746:2 broad 2779:712 2775:2 certain 2686:8 2735:6 City 2693:3 2704:22 27	U U				
breadwinners 2772:20 2741:11,18,19 Chiefs 2724:18 2784:25 concern 2699:3 brief 2681:20 2692:16 2776:12 comment 2677:22 2713:12 2715:21 briefing 2678:5 certanl 2708:1 2777:10 chistan 2775:25 2678:11 2701:10 concerning 2682:6 2762:25 ceremonia 2722:6,7 chistian 2775:20 2702:5 2706:21,24 2734:20 briefing 2694:5 2786:7 2716:12 2717:13 chrome 2698:15,17 2708:16,18 2714:25 conclude 2737:16 bring 2732:10 2716:12 5717:13 chrome 2698:15,17 2708:16,18 2714:25 conclude 276:24 bring 2694:5 2786:7 2722:2 circle 2762:4,5 2734:24,25 2735:8 conclude 276:24 broad 2772:23 ceremony 2715:25 circluted 2711:23 2783:9 condemne 2763:4 brought 2697:5 2722:1,11 2770:7,20 2732:6 citizen 2763:7 2774:23 2734:9 2735:5 condemned 2746:2 2749:24 2750:12 certain 2686:8 2735:6 citizen 2763:7 2774:23 2734:9 2735:5 condemning 2752:6 2751:6 2767:25 certainty 2764:7 civilians 2758:21 2704:18 2709:24 2757:10				0	
break 2738:8 brief 2681:20caused 2687:10 2692:16children 2738:19 2776:12comma 2773:21 comment 2677:22concerned 2710:25 2713:12 2715:21briefing 2678:5 2762:25central 2708:1 2777:10 ceremonia 2722:6,7chosen 2776:25 christian 2775:202678:11 2701:10 2702:5 2706:21,24concerning 2682:6 2702:5 2706:21,24briefly 2759:20 bring 2732:102716:21 2717:13 2716:21 2717:13chrome 2698:15,17 circle 2762:4,52707:11,21 2708:12 2708:16,18 2714:25conclude 2737:16 conclude 2676:24bring 2694:5 2786:7 broad 2772:232722:2 circle 2762:4,5circle 2762:4,5 circle 2762:4,52734:2,25 2735:8 2738:9conclude 2676:24 conclude 2676:24broad 2772:23 broad 2775:52722:1,11 2770:7,20 2722:1,11 2770:7,20circle 2763:7 2774:23 2732:6commentary 2694:8 commentary 2694:8 condemn 2765:13condemn 2763:4 2734:9 2735:5brought 2697:5 2749:24 2750:12 2751:6 2767:25 2775:8 2779:2certain 2686:8 2735:6 circlian 2773:41City 2693:3 2704:22 2734:10condemned 2746:2 2686:2,24 2689:5condemned 2746:2 2753:11,25 2757:14 2757:20bullet 2719:16 2720:7 bullet 2719:16 2720:7cartainty 2764:7 chair 2676:13,20civilian 2773:4 2772:18 2714:142691:25 2692:17 2764:7 2747:12,14,14,15condolences 2745:25 2774:5,12 conduct 2743:25bullet 2719:16 2720:7 bullets 276:23263:4 2684:9,202772:18 2714:14 cartified 2701:72704:18 2709:24 2747:12,14,14,15conduct 2743:25 2744:2,6 2750:2					
brief 2681:202692:162776:12comment 2677:222713:12 2715:21briefing 2678:5central 2708:1 2777:10chosen 2776:252678:11 2701:10concerning 2682:62762:25ceremonial 2722:6,7Christian 2775:202702:5 2706:21,242734:20briefly 2759:20ceremonies 2716:5,202716:21 2717:13chrome 2698:15,172708:16,18 2714:25conclude 2676:24bringing 2694:5 2786:72722:2circle 2762:4,52734:24,25 2735:8conclude 2676:24broad 2772:23ceremony 2715:25circluated 2711:23circluated 2711:23condemn 2763:4broad 2697:52722:1,11 2770:7,202732:6circluated 2717:23condemn 2763:4brought 2697:52722:1,11 2770:7,202732:6circluated 2714:23condemnets 2706:132749:24 2750:12certain 2686:8 2735:6circluated 273:174:232734:9 2735:5condemnet 2766:22751:6 2767:25certain 2686:8 2735:6circluated 2717:242734:9 2735:5condemning 2752:62751:6 2767:25certain 2686:8 2735:6circluated 2773:42691:25 2692:17condemning 2752:62751:6 2767:25certain 2686:8 2735:6circlian 2773:42691:25 2692:17conditions 2779:10Buala 2723:18certain 266:6:13,202772:18 2774:142710:1,1,2 2735:12774:5,12bullets 2776:232679:18 2680:2,122772:18 2774:142710:1,1,2 2735:12774:5,12bullets 276:172683:4 2684:9,20carlified 2701:72747:12,14,14,152744:2,6 2750:2		, ,			
briefing 2678:5 2762:25central 2708:1 2777:10 ceremonial 2722:6,7 ceremonies 2716:5,20chosen 2776:25 Christian 2775:202678:11 2701:10 2702:5 2706:21,24concerning 2682:6 2734:20bring 2732:102716:21 2717:13 2716:21 2717:13Christian 2775:20 chrome 2698:15,17 circle 2762:4,52707:11,21 2708:12 2708:16,18 2714:25conclude 2676:24 conclude 2676:24bring 2694:5 2786:7 broad 2772:232722:2 ceremony 2715:25circulated 2711:23 circulated 2711:232734:24,25 2735:8 2732:6condemn 2763:3 condemn 2763:4brought 2697:5 Bruinders 2742:142716:1,25 2721:24,25 2772:2,1,11 2770:7,20 2775:8 2779:2cretain 2686:8 2735:6 certain 2686:8 2735:6citizen 2763:7 2774:23 2734:10condemned 2746:2 condemned 2746:22749:24 2750:12 2775:8 2779:2certain 2686:8 2735:6 certainty 2764:7 chair 2676:13,20City 2693:3 2704:22 2772:18 2774:142704:18 2709:24 2704:18 2709:24conditions 2779:10 conditions 2779:10Bullet 2719:16 2720:7 bullets 2776:232679:18 2680:2,12 2679:18 2680:2,12 2683:4 2684:9,202771:72 2747:12,14,14,152742:2,6 2750:2					
2762:25 ceremonial 2722:6,7 Christian 2775:20 2702:5 2706:21,24 2734:20 briefly 2759:20 2716:21 2717:13 2716:21 2717:13 2702:5 2706:21,24 2702:5 2706:21,24 bringing 2694:5 2786:7 2722:2 ceremony 2715:25 circle 2762:4,5 2734:24,25 2735:8 conclude 2676:24 broad 2772:23 ceremony 2715:25 circulated 2711:23 2734:24,25 2735:8 conclusion 2763:3 broadcast 2759:7,12,14 2716:1,25 2721:24,25 circulated 2711:23 2734:9 2735:5 condemne 2763:4 brought 2697:5 2722:1,11 2770:7,20 2732:6 citizen 2763:7 2774:23 2734:9 2735:5 condemned 2746:2 2749:24 2750:12 certain 2686:8 2735:6 city 2693:3 2704:22 2734:9 2735:5 condemning 2752:6 2775:8 2779:2 2736:16 2775:11 civilian 2773:4 2691:25 2692:17 conditions 2779:10 Bullat 2723:18 certainty 2764:7 civilians 2758:21 2704:18 2709:24 2774:5,12 bullet 2719:16 2720;7 chair 2676:13,20 2772:18 2774:14 2710:1,1,2 2735:1 2774:5,12 bullet 276:23 2699:18 2680:2,12 2683:4 2684:9,20 clapping 2716:7,12 2736:17 27371:17 conduct 2743:25 <					
briefly 2759:20ceremonies 2716:5,20Christianity 2776:32707:11,21 2708:12conclude 2737:16bring 2732:102716:21 2717:13chrome 2698:15,172708:16,18 2714:25conclude 2676:24bring 2694:5 2786:72722:2circle 2762:4,52734:24,25 2735:8conclude 2737:16broad 2772:23ceremony 2715:25circulated 2711:232783:9condemn 2763:4broadcast 2759:7,12,142716:1,25 2721:24,25circumstances 2691:192732:6condemned 2746:2brough 2697:52722:1,11 2770:7,202732:6comments 2706:13condemned 2746:2Bruinders 2742:142787:3citizen 2763:7 2774:232734:9 2735:5condemning 2752:62749:24 2750:12certain 2686:8 2735:6City 2693:3 2704:222734:102686:2,24 2689:52757:202775:8 2779:22736:16 2775:11civilian 2773:42691:25 2692:17conditions 2779:10Bullet 2719:16 2720:7certainty 2764:7civilians 2758:212704:18 2709:24condolences 2745:25bullet 2719:16 2720:72679:18 2680:2,122772:18 2774:142710:1,1,2 2735:12774:5,12bullet 2776:232679:18 2680:2,12clarified 2701:72747:12,14,14,152744:2,6 2750:2					Ũ
bring 2732:102716:21 2717:13chrome 2698:15,172708:16,18 2714:25concluded 2676:24bringing 2694:5 2786:72722:2circle 2762:4,52734:24,25 2735:8conclusion 2763:3broad 2772:23ceremony 2715:25circulated 2711:232783:9condemn 2763:4brought 2697:52722:1,11 2770:7,202732:6circumstances 2691:19condemntary 2694:8condemntary 2694:8brought 2697:52722:1,11 2770:7,202732:6citizen 2763:7 2774:232734:9 2735:5condemntag 2746:22749:24 2750:12certain 2686:8 2735:6city 2693:3 2704:222734:9 2735:5condemning 2752:62751:6 2767:25certainly 2719:222736:16 2775:11civilian 2773:42686:2,24 2689:52757:202775:8 2779:22736:16 2775:11civilian 2773:42691:25 2692:17conditions 2779:10Bulala 2723:18certainty 2764:7civilians 2758:212704:18 2709:24condolences 2745:25bullet 2719:16 2720:72679:18 2680:2,122772:18 2774:142710:1,1,2 2735:12774:5,12bullets 2776:232679:18 2680:2,12ciarified 2701:72747:12,14,14,152744:2,6 2750:2					
bring 2732:102716:21 2717:13chrome 2698:15,172708:16,18 2714:25concluded 2676:24bringing 2694:5 2786:72722:2circle 2762:4,52734:24,25 2735:8conclusion 2763:3broad 2772:23ceremony 2715:25circulated 2711:232783:9condemn 2763:4brought 2697:52722:1,11 2770:7,202732:6circumstances 2691:19condemnets 2706:132774:9,21,22brought 2697:52749:24 2750:122787:3citizen 2763:7 2774:232734:9 2735:5condemning 2752:62749:24 2750:12certain 2686:8 2735:6citizen 2763:7 2774:232734:9 2735:5condemning 2752:62751:6 2767:25certainly 2719:222736:16 2775:11civilian 2773:42686:2,24 2689:52757:202775:8 2779:22736:16 2775:11civilian 2773:42691:25 2692:17conditions 2779:10Bulala 2723:18certainty 2764:7civilians 2758:212704:18 2709:24condolences 2745:25bullet 2719:16 2720:72679:18 2680:2,122772:18 2774:142710:1,1,2 2735:12774:5,12bullets 2776:232679:18 2680:2,12ciarified 2701:72747:12,14,14,152744:2,6 2750:2		ceremonies 2716:5,20			
bringing 2694:5 2786:7 broad 2772:232722:2 ceremony 2715:25circle 2762:4,5 circulated 2711:232734:24,25 2735:8 2783:9conclusion 2763:3 condemn 2763:4broad cast 2759:7,12,14 brought 2697:52716:1,25 2721:24,25 2722:1,11 2770:7,20circumstances 2691:19 2732:6commentary 2694:8 comments 2706:13condemned 2746:2 condemned 2746:2Bruinders 2742:14 2749:24 2750:12 2751:6 2767:25certain 2686:8 2735:6 certainy 2719:22citizen 2763:7 2774:23 City 2693:3 2704:22comments 2706:13 2734:9 2735:5condemned 2746:2 condemned 2746:22775:8 2779:2 2775:8 2779:2certainy 2719:22 2736:16 2775:11 certainty 2764:7 chair 2676:13,20civilian 2773:4 2772:18 2774:142686:2,24 2689:5 2704:18 2709:242757:20 conditions 2779:10 conditions 2779:10Bullet 2719:16 2720:7 bullets 2776:23caffei 2660:2,12 2679:18 2680:2,12 2683:4 2684:9,202772:18 2774:14 cirilia 2716:7,12 2747:12,14,14,152774:5,12 2744:2,6 2750:2	bring 2732:10	2716:21 2717:13		2708:16,18 2714:25	concluded 2676:24
broad 2772:23 broadcast 2759:7,12,14 brought 2697:5ceremony 2715:25 2716:1,25 2721:24,25 2722:1,11 2770:7,20circulated 2711:23 2732:62783:9 commentary 2694:8 2732:6condemn 2763:4 2774:9,21,22 comments 2706:13Bruinders 2742:14 2749:24 2750:12 2751:6 2767:25 2775:8 2779:22775:8 2773:2 2736:16 2775:11 certainty 2719:22 2736:16 2775:11circulated 2711:23 2732:62783:9 commentary 2694:8 2734:9 2735:5condemn 2763:4 2774:9,21,22 comments 2706:13Bulala 2723:18 bullet 2719:16 2720:7 bullets 2776:23certainty 2764:7 2679:18 2680:2,12 2679:18 2680:2,12civilian 2773:4 2772:18 2774:142691:25 2692:17 2772:18 2774:14condlences 2745:25 2775:17 2736:17 2737:17 2747:12,14,14,15burden 2736:172679:18 2680:2,12 2683:4 2684:9,202772:18 2716:7,12 chair 647:9,202736:17 2737:17 2747:2,14,14,152744:2,6 2750:2					
broadcast 2759:7,12,14 brought 2697:52716:1,25 2721:24,25 2722:1,11 2770:7,20circumstances 2691:19 2732:6commentary 2694:8 comments 2706:132774:9,21,22 condemned 2746:2Bruinders 2742:14 2749:24 2750:12 2751:6 2767:252787:3circumstances 2691:19 2732:6commentary 2694:8 comments 2706:132774:9,21,22 condemned 2746:22749:24 2750:12 2751:6 2767:25 2775:8 2779:2certain 2686:8 2735:6 certainy 2719:22City 2693:3 2704:22 2736:16 2775:112734:9 2735:5condemning 2752:6Bulala 2723:18 bullet 2719:16 2720:7 bullets 2776:23certainy 2764:7 2679:18 2680:2,12 2679:18 2680:2,12civilian 2773:4 2772:18 2774:142691:25 2692:17 2772:18 2774:14condolences 2745:25 2770:17bullet 2719:16 2720:7 bullets 2776:232679:18 2680:2,12 2683:4 2684:9,202772:18 2774:14 2716:7,12 2747:12,14,14,152774:2,2 274:2,6 2750:2					
brought 2697:5 2722:1,11 2770:7,20 2732:6 comments 2706:13 condemned 2746:2 Bruinders 2742:14 2787:3 citizen 2763:7 2774:23 2734:9 2735:5 condemned 2746:2 2749:24 2750:12 certain 2686:8 2735:6 citizen 2763:7 2774:23 2734:9 2735:5 condemning 2752:6 2751:6 2767:25 certainy 2719:22 2736:16 2775:11 civilian 2773:4 2686:2,24 2689:5 2757:20 2775:8 2779:2 2736:16 2775:11 civilian 2773:4 2691:25 2692:17 conditions 2779:10 Bulata 2723:18 certainty 2764:7 civilians 2758:21 2704:18 2709:24 2774:5,12 bullets 2776:23 2679:18 2680:2,12 2679:18 2680:2,12 2736:17 2737:17 2744:2,6 2750:2 burden 2736:17 2683:4 2684:9,20 clarified 2701:7 2747:12,14,14,15 2744:2,6 2750:2					
Bruinders 2742:14 2787:3 citizen 2763:7 2774:23 2734:9 2735:5 condemning 2752:6 2749:24 2750:12 certain 2686:8 2735:6 citizen 2763:7 2774:23 2734:9 2735:5 condemning 2752:6 2751:6 2767:25 certain 2686:8 2735:6 citizen 2763:7 2774:23 2686:2,24 2689:5 2757:20 2775:8 2779:2 2736:16 2775:11 certainty 2764:7 civilian 2773:4 2691:25 2692:17 conditions 2779:10 Bullat 2723:18 certain 2676:13,20 2772:18 2774:14 2710:1,1,2 2735:1 2774:5,12 bullets 2776:23 2679:18 2680:2,12 2679:18 2680:2,12 2736:17 2737:17 2744:2,6 2750:2 burden 2736:17 2683:4 2684:9,20 clarified 2701:7 2747:12,14,14,15 2744:2,6 2750:2					
2749:24 2750:12 2751:6 2767:25 2775:8 2779:2 certain 2686:8 2735:6 certainly 2719:22 2736:16 2775:11 certainty 2764:7 chair 2676:13,20 City 2693:3 2704:22 2734:10 commission 2676:2 2686:2,24 2689:5 2753:11,25 2757:14 Bulata 2723:18 bullet 2719:16 2720:7 bullets 2776:23 burden 2736:17 certain 2686:8 2735:6 certainly 2719:22 City 2693:3 2704:22 2734:10 commission 2676:2 2689:5 2692:17 2757:20 Bulata 2723:18 bullet 2719:16 2720:7 bullets 2776:23 certain 2676:13,20 2772:18 2774:14 2710:1,1,2 2735:1 2774:5,12 bullets 2776:23 2679:18 2680:2,12 2679:18 2680:2,12 2736:17 2737:17 2744:2,6 2750:2					
2751:6 2767:25 2775:8 2779:2certainly 2719:22 2736:16 2775:11 certainty 2764:7 chair 2676:13,202734:10 civilian 2773:4 2772:18 2774:142686:2,24 2689:5 2691:25 2692:17 2704:18 2709:242757:20 conditions 2779:10 condolences 2745:25Bullet 2719:16 2720:7 bullets 2776:23certainty 2764:7 chair 2676:13,20civilian 2773:4 2772:18 2774:142680:2,12 2772:18 2774:142710:1,1,2 2735:1 2736:17 2737:172774:5,12 conduct 2743:25bullet 2719:16 2720:7 bullets 2776:23certainty 2764:7 chair 2676:13,20civilians 2758:21 2772:18 2774:142710:1,1,2 2735:1 2736:17 2737:172774:5,12 conduct 2743:25bullet 2719:16 2720:7 bullets 2776:23certainty 2683:4 2684:9,20civilians 2770:17 chair 2673:172736:17 2737:17 2747:12,14,14,152774:2,6 2750:2					
2775:8 2779:22736:16 2775:11civilian 2773:42691:25 2692:17conditions 2779:10Bulata 2723:18certainty 2764:7civilians 2758:212704:18 2709:24condolences 2745:25bullet 2719:16 2720:7chair 2676:13,202772:18 2774:142710:1,1,2 2735:1condulences 2745:25bullets 2776:232679:18 2680:2,12chair 2676:13,202772:18 2774:142736:17 2737:17conduct 2743:25burden 2736:172683:4 2684:9,20claified 2701:72747:12,14,14,152744:2,6 2750:2	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1		5		-
Bulala 2723:18 bullet 2719:16 2720:7 bullets 2776:23certainty 2764:7 chair 2676:13,20 2679:18 2680:2,12 2683:4 2684:9,20civilians 2758:21 2772:18 2774:14 clapping 2716:7,12 clarified 2701:72704:18 2709:24 2710:1,1,2 2735:1 2736:17 2737:17 2747:12,14,14,15condolences 2745:25 2774:5,12 conduct 2743:25 2744:2,6 2750:2					
bullet 2719:16 2720:7 bullets 2776:23chair 2676:13,20 2679:18 2680:2,12 2683:4 2684:9,202772:18 2774:14 clapping 2716:7,12 clarified 2701:72710:1,1,2 2735:1 2736:17 2737:17 2747:12,14,14,152774:5,12 conduct 2743:25 2744:2,6 2750:2					
bullets 2776:23 2679:18 2680:2,12 clapping 2716:7,12 2736:17 2737:17 conduct 2743:25 burden 2736:17 2683:4 2684:9,20 clarified 2701:7 2747:12,14,14,15 2744:2,6 2750:2					
burden 2736:17 2683:4 2684:9,20 clarified 2701:7 2747:12,14,14,15 2744:2,6 2750:2	A Longerthy Largert, Datas	Per In Ladered			
	2 /1 mm 11 Ld				
ARCHIVE FOR JUSTICE	burden 2736:17	2683:4 2684:9,20	clarified 2701:7	2747:12,14,14,15	2744:2,6 2750:2
	ARCHIVE FO	R JUSTICE			

Tel: 011 021 6457 Fax: 011 440 9119

RealTime Transcriptions

				Page 3
conducted 2761:11	2755:9	2752:6,20,22 2753:12	deputy 2694:9	2779:19
conductor 2748:10	counsellor 2783:17	2753:23,25 2754:10	describe 2775:15	discussing 2679:16
conference 2682:6,8,13	counted 2775:22	2755:10 2757:21	described 2679:15	discussion 2681:14
2682:16,25 2683:3	country 2726:23	2758:19 2759:2	2706:16 2726:19	dismissal 2693:17
2758:15 2759:4	2727:10 2745:8	2760:25 2761:15	2756:7 2776:11,12	disperse 2720:16
confirm 2693:13	2748:9 2749:13,16	2784:25 2785:8	designation 2728:19	2755:21 2756:6
2726:16 2735:9	2756:22 2763:5	daylight 2741:14	desist 2772:23	2786:20
2744:22 2775:5	couple 2769:22	days 2686:7 2689:5	destroy 2724:10	disposal 2751:17
confirmation 2710:23	courage 2725:20	2693:24 2700:9	detail 2734:20 2736:18	dispute 2685:17,18
confirmed 2697:8	2745:6	2093.24 2700.9 2757:2	detailed 2735:17	2694:2 2698:20
2710:18 2711:11	course 2677:5 2683:12	dead 2752:24 2779:23	details 2746:25	2746:5 2748:11,14
2785:10	2687:3 2695:22	2780:8	2756:14	2751:24 2752:1
confrontation 2711:21	2726:19 2734:17	deal 2677:11 2678:4	detain 2687:7	2757:1,5,9,11 2772:8
2715:2 2725:21	2742:25 2763:6	2681:13 2682:5	devastating 2699:4	disputed 2696:20
confrontational	Court 2726:23	2733:3 2734:3,8,13	dialogue 2684:22	disrepute 2694:5
2738:23	courts 2750:8	2735:10 2737:5,6,21	didn't 2678:9 2684:19	disseminate 2739:12
confusion 2780:25	creation 2695:5	2750:14 2751:15	2688:3 2727:16	disseminated 2714:15
consequences 2709:4	criticism 2692:9	dealing 2678:9 2679:23	2729:21 2731:20	2714:21
consider 2692:10	cross 2676:11 2732:18	2722:15 2734:20	2735:8 2741:25	distance 2744:19
2715:20 2737:8	2733:17,25 2738:11	deals 2736:21	2752:8 2753:10,24	distinction 2688:12
considered 2682:7	2767:10 2775:7	dealt 2678:22 2732:11	2754:4 2755:3	distributed 2687:5
2737:4	crossed 2771:17	2734:4 2767:7	2768:21 2769:16,18	district 2693:9
constituency 2697:20	crossed 2771:17 cross-examination	death 2685:9 2714:14	2770:21 2771:14	district 2693:9 divorce 2744:20
contended 2736:2,7	2727:14 2733:4	deaths 2685:22	2774:12 2777:13	2745:11
context 2701:11	2727:14 2755:4 2738:13 2748:6	2686:10 2687:10	2779:12	divorced 2744:2
2710:19 2721:21	2767:3 2775:10	2708:8 2718:8 2719:9	die 2684:19 2724:21,21	divorcing 2744:5
2710.19 2721.21 2723:2 2725:3	2787:13	2745:23	died 2684:2,7,13,14,16	doesn't 2678:22
contingent 2714:7	cross-examinations	debate 2690:9 2703:6	2684:17,19 2685:3,4	2679:23 2692:1
continue 2697:21	2734:16	2703:18,24 2710:23	2708:5 2745:18	2695:13 2696:13
2716:4 2774:4	cross-examine 2733:9	2703.18,24 2710.23	2746:15,20,21,21	2719:9 2744:6 2766:3
continues 2727:1	2733:9,14,15,18,19	2726:22 2727:6	2752:24 2756:9	2767:25 2768:1
2765:8	2733:19,20,24	2720.22 2727.0	2752.24 2750.9	2770:9 2788:10
contribution 2745:7	2737:23	debated 2700:9	differ 2681:23 2717:4	dogs 2726:3
convene 2752:13	cross-examined	debriefing 2758:13,23	2723:7	doing 2677:1 2680:7
2753:17 2754:4	2687:19 2783:19	2759:3 2785:10	difference 2692:11	2685:23 2697:21
2762:22	cross-examiner 2734:5	December 2676:1	different 2677:3 2689:4	2709:19 2732:8
convened 2677:19	cross-examiners	2715:24 2716:2	2690:14 2717:4	2745:14 2748:8
conversation 2677:25	2732:21 2733:2	2788:14 2789:1	2729:24 2739:7	dominated 2706:18
2769:3 2780:17	2734:1 2738:1	decide 2737:11	2746:11	Douglas 2693:16
convey 2724:9	cross-examining	decision 2728:13	differs 2681:19	dozen 2677:1
convinced 2739:2	2754:13	2787:18,23,24 2788:1	difficulty 2703:17	drank 2710:8
cooperate 2689:1	crowd 2767:23 2768:2	declined 2778:4	dignity 2774:7	draw 2711:22 2720:11
cooperation 2784:17	2768:11,13,17,20,22	deduction 2697:9	direct 2698:22 2723:10	drill 2699:14 2700:1,10
2786:21 2787:2	2776:12 2783:7	deep 2750:14	direction 2720:9	2700:19,20,24 2707:4
copies 2696:2 2704:5	culprit 2686:18	defend 2720:20	2755:25 2756:2,2	2700:19,20,24 2707.4
2704:17 2711:23	cultural 2715:25	2740:15 2751:9	directly 2700:24	dropped 2706:15
2713:17 2765:18	2716:5 2721:10,13	defended 2720:19	disagree 2677:4	due 2726:18 2734:16
2778:25	2722:11 2727:9	defer 2737:25	2706:12 2714:1	Dumisani 2766:16
copy 2704:9,23 2705:1	2775:16	define 2723:8	2719:6	Dundee 2688:25,25
2705:5,10 2712:4	culture 2715:12	defuse 2777:23	disappeared 2704:20	2689:6
2713:16 2766:13,15	2717:12,13	defusing 2748:7	disappears 2728:18	Dunn 2701:18 2707:14
corrected 2689:15	curious 2688:14	degree 2687:15	disarm 2731:18	dustbin 2705:2
2694:19 2731:5	2692:15	delegation 2681:15,16	disciplinary 2694:4,24	duties 2697:21
2760:17	currently 2698:14	delegations 2780:1	2695:15 2696:6,15,17	duty 2686:1 2757:3,8
correction 2741:10	2070.17	demanded 2707:6	2696:19 2697:6	dying 2724:21
correctly 2680:11	D	demonising 2686:17	2090.19 2097.0	~J mB 2727.21
2683:20 2691:13	daily 2749:6	2688:19 2727:18	discipline 2694:14	E
2756:16	dance 2716:6,7	demonstration 2736:15	disciplined 2695:9	earlier 2684:17
corresponds 2737:13	dangerous 2715:4	denied 2760:6	discontent 2699:12	2699:21 2700:4
couldn't 2697:21	2716:23 2719:17	denounces 2762:25	discourage 2756:6	2707:13 2708:12,18
councils 2734:21	date 2714:3 2748:23	denouncing 2773:2	discouraging 2720:16	2707:13 2708:12,18
counsel 2684:13	2757:7 2761:20,21	deny 2760:2	discover 2726:18	2758:18 2760:20
2686:22,23,23	day 2677:18,19 2685:5	depending 2733:6	discrimination 2682:15	2761:12 2762:15
2687:20 2689:20	2698:3 2701:17	depends 2746:9 2750:3	discuss 2743:10,13	2770:4 2773:3 2787:4
2690:23 2692:5	2707:13 2708:3,5	2766:14	discussed 2679:19	early 2714:2 2729:7
2705:19 2754:12	2718:8 2732:7 2750:9	depicted 2759:24	2680:24 2711:3	2781:7
	2110.0 2152.1 2150.7			

Tel: 011 021 6457 Fax: 011 440 9119

FOR

RCHIVE

RealTime Transcriptions

				Page
easier 2704:10	2692:14 2697:2,10	explanation 2696:10	2741:3 2743:18	formidable 2707:18
easy 2731:21	2699:12 2700:19	2711:11,12 2720:7,20	fetched 2765:5 2767:15	2708:13
effect 2740:9 2758:2	2703:4,4 2709:9	2787:4	fight 2714:12	forth 2679:14 2696:11
2778:6 2787:24	2717:5,24 2720:24	explicit 2777:11	fighting 2714:11	forum 2743:10,23
effectively 2728:1,22	2727:7,25 2728:5,6,7	explosive 2720:16	2717:21	forward 2737:12
effectiveness 2724:10	2729:10 2730:9,20	express 2691:19,20	fights 2717:18,19	2763:24 2777:25
either 2710:19 2713:2	2734:9 2735:4,10,20	2709:20	figures 2757:6	found 2694:11,14
eleventh 2775:24	2736:18,20 2750:9	expressed 2691:13	finally 2776:25	2695:16 2742:24
elicit 2735:5	2751:23 2755:20	2723:14	find 2682:1,2 2688:15	2764:22 2773:21
embarrassing 2710:10	2759:13 2767:4	expunged 2728:23	2705:2 2711:20	2780:22
emerged 2704:14	2783:21 2784:5	2729:1	2719:7,13 2733:8	founded 2701:20
employee 2697:18	2785:12,24 2787:10	extend 2745:25	2737:15 2738:19	four 2678:6,16 2681:5
2774:3	exact 2766:23	extensive 2785:12	2769:18 2770:21	2733:25 2734:16
employees 2685:8	exactly 2686:25	extent 2701:23 2719:20	fingers 2725:6	foyer 2682:21
				•
2746:17 2765:7	examination 2676:12	2731:7 2778:18	finish 2724:25 2765:8	framework 2732:12
2767:17 2773:25	2732:22 2767:11	extracting 2734:9	2767:18 2775:7,12	Friday 2773:24
2774:3 2782:22	2775:8	eye 2690:11,11	2782:3 2783:2 2788:6	2780:15 2781:4,7
2783:23	examine 2733:18		2788:18	friend 2710:13 2715:15
employers 2695:4	2738:12	F	finished 2710:6	2721:12,21 2722:13
enable 2775:7	examiner 2732:19	face 2725:21 2741:14	2768:20 2769:15,20	2724:16 2727:7
encounters 2690:17	examiners 2734:1	2741:14	2772:6 2786:2	2728:22 2749:25
		faced 2694:3	2788:12	2750:7 2779:3,5
ended 2711:10 2787:17	exchange 2755:4		_/ * * * * * *	· · · · · · · · · · · · · · · · · · ·
engage 2743:17 2746:7	2771:13	facetious 2724:23	first 2677:10 2688:16	front 2677:8 2733:10
engaged 2779:25	exclusive 2703:10	2725:24	2690:19 2695:14	2774:11,11 2781:24
engagement 2696:21	excuse 2696:22	fact 2681:20 2682:25	2698:10,10 2700:4	full 2778:12
2718:7 2738:23	execute 2788:3	2689:20 2700:25	2711:8 2758:19	fullness 2737:21
2746:5	executed 2786:15	2715:1 2717:8 2721:4	2760:22 2765:1,15	fully 2737:14 2744:1
engaging 2709:3	2788:19	2722:4,23 2724:4	2766:9,13,15 2770:2	fund 2746:7
English 2690:18	exercise 2717:22	2730:5 2742:15	2784:16 2785:13,19	Fundi 2738:16,17
2691:15,23 2692:6,7	exercised 2728:12	2757:6 2768:2	2786:2 2787:7	2741:22 2745:21
2708:19,21 2709:10	exhibit 2677:9 2678:25	2782:25	firstly 2714:13 2747:23	further 2678:1 2730:22
2709:11,14,15,18,19	2687:5,6 2692:18	facts 2677:3 2701:7	2748:6 2777:20	2730:24 2736:18
2709:21 2724:20	2704:5 2705:11,16	failure 2686:2	2785:14,16	2746:3 2763:10
2765:25 2766:7	2710:17 2711:25	fair 2689:9,25 2732:4	five 2752:20,24,24,25	2767:18 2775:1
2767:6	2712:14,19,23,24	2759:17 2781:10,17	focus 2748:6	2784:5 2785:9
ensure 2747:7	2713:18 2717:24	2783:11	follow 2685:10,11,13	Furthermore 2753:9
entailed 2778:18	2718:24 2719:4	fairly 2679:15 2716:23	2685:14 2687:12	
enter 2765:6 2767:16	2726:7,9 2728:18,19	2734:24 2749:17	2695:13 2704:10	G
entering 2720:14	2752:11 2755:15	familiar 2686:7	2721:18,22 2723:2	games 2725:11
2749:25 2756:4	2759:20 2760:15	2749:12,16	2726:9 2741:25	gap 2763:22
2788:21	2764:22 2765:10	families 2684:2,6,12,14	2744:12	gates 2699:10
entirely 2678:24	2766:8,10,25 2773:13	2684:15 2685:4,19	followed 2770:15	gather 2777:24
2679:17 2706:8	2773:14 2779:3,11,15	2687:1,9,10 2699:3	followers 2739:12,16	gathered 2721:16
2741:17	exhibiting 2776:3	2708:3,5 2715:10	2745:9,10	2778:8
entitled 2692:19	exhibits 2711:4 2726:8	2738:16,18,19	following 2679:2,7,10	gathering 2721:19
2709:17	expect 2705:6 2749:19		2721:23 2742:2	0
		2746:10 2747:7		2722:14,24,25,25
entry 2748:11	expected 2781:12	2774:5,6,13,14	2759:2 2773:9	2723:1,5,8,22
environment 2776:16	expects 2742:19	family 2733:24 2763:15	2784:25 2785:8	2775:14
escort 2764:15,16,18	expedience 2692:11	2764:6 2774:13	2788:14	gatherings 2722:13,14
escorted 2756:1 2785:3	expedition 2692:12	far 2697:13 2712:13	follows 2698:9 2699:9	2723:6 2724:17
especially 2686:16,25	expelled 2695:17	2713:12 2728:2	2702:6 2707:2	Gauteng 2726:23
2738:18	2696:16	2731:7 2734:1 2788:6	2757:18	general 2678:5,5,9,14
essential 2677:5	experienced 2749:11	farfetched 2725:12	foot 2680:15	2678:22 2679:1,23
essentially 2677:3	2776:21	fashion 2732:13	footage 2718:3,4,5,6	2680:3,14,24 2681:4
			0	
establish 2728:1 2746:7	experiencing 2716:6	fathers 2772:20	2719:22,23	2686:19 2694:10,23
2759:14	expert 2727:9 2728:1,6	fear 2686:2 2786:22	footages 2725:4	2706:20 2714:7
established 2728:15	2749:14,15 2750:7	feature 2681:8	football 2725:24	2719:5,6 2720:3
2729:16 2730:16,18	explain 2708:21	February 2699:5,25	foreigners 2706:4	2721:8 2723:6 2728:0
etcetera 2702:7 2750:5	2720:25 2721:12	2701:25	forever 2692:1	2728:7 2745:17,18,19
	2784:15 2786:21	February/March	forgive 2704:8 2763:17	2752:14 2753:17
event 2721:13 2722.11	2787:22	2702:8	form 2698:6 2734:9	2758:25 2760:12
1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	2101.22		2763:1 2774:23	
2754:1 2788:9	evolgined 2699.10		2103.12114.23	2761:13,22 2762:22
2754:1 2788:9 events 2687:2 2694:21	explained 2688:10	feedback 2786:9	formal 0676.14	07(0.2 (1(0771 4 4
events 2687:2 2694:21 2702:6 2711:19	2770:2,4 2779:5	feel 2709:19 2725:20	formal 2676:14	2769:3,6,16 2771:4,4
2754:1 2788:9 events 2687:2 2694:21 2702:6 2711:19 2721:10 2735:23	2770:2,4 2779:5 2781:16 2787:1,19	feel 2709:19 2725:20 2744:18	formally 2697:11	2771:5,13,14,20
2754:1 2788:9 events 2687:2 2694:21 2702:6 2711:19 2721:10 2735:23 2756:17 2780:15	2770:2,4 2779:5 2781:16 2787:1,19 2788:19	feel 2709:19 2725:20 2744:18 feelings 2702:16	formally 2697:11 formation 2736:24	2771:5,13,14,20 2786:10 2787:8
2754:1 2788:9 events 2687:2 2694:21 2702:6 2711:19 2721:10 2735:23	2770:2,4 2779:5 2781:16 2787:1,19	feel 2709:19 2725:20 2744:18	formally 2697:11	2771:5,13,14,20

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RealTime Transcriptions

5th December 2012

Sandton Cavern Dispute - AFSA Ref G34

gentleman 2693:6	2780:8 goods 2716:22 grab 2784:12	2732:12 2740:17 2742:13,24 2743:1	holding 2774:2 holidays 2778:21	indebted 2756:14 2779:7
genie 2703:16 gentleman 2693:6	goods 2716:22			
gentleman 2693:6	0			
	9ran 2784:12	2745:12 2752:3,3	home 2693:10 2715:25	independent 2695:5
Sebeare 2/ 1/11	grabbed 2784:7	2755:24 2756:10,20	2716:3	indicate 2677:2,4
gestures 2725:15	grammarian 2691:7	2758:18,19 2770:7	homelands 2765:5	2682:7 2683:11
	granted 2780:8	2779:25 2785:12	2767:15	2687:8 2698:11
	grapple 2750:8	2786:10,23	hope 2679:8 2732:10	2766:3 2783:7
	grateful 2734:7,18	happening 2705:9	2751:23 2756:22	indicated 2688:17
	great 2787:10	2719:22 2720:23	hopeful 2734:1	2690:23 2698:13
	grenades 2720:15,15	2742:22 2743:16	hospital 2770:19	2708:2 2738:2 2755:9
2711:11 2712:14,19	2756:6	happenings 2716:6	hour 2676:5	indicates 2716:7
	grievance 2740:23	happens 2717:14	housekeeping 2713:8	2751:17
2715:3 2720:24	2743:4,20	happy 2721:1	2767:11	indicating 2725:6
	grievances 2743:17,22	hasn't 2766:7,12	humane 2747:6	indication 2719:10
	ground 2722:6	haven't 2699:20 2713:5	humble 2679:8	2721:2,6 2740:12
	group 2719:16 2720:24	2720:22 2726:17	hurdle 2694:4	2747:5 2751:3
2764:16 2766:8	2754:17 2755:22	2735:19 2760:6		2783:23
2771:8 2786:9	2756:7 2761:6	2765:22	I	indications 2725:14
given 2677:7 2693:13	2774:24 2776:6,22	head 2694:19 2696:23	idea 2719:5 2729:19	individual 2784:4
	groups 2724:24	2697:11 2778:20	ideas 2709:1	individuals 2746:2
	grow 2698:12	heading 2766:4	identified 2678:7,16	indulgence 2683:6
	guards 2774:14	headlines 2736:13,16	2713:4	2737:25
	guess 2777:16	heads 2777:25	ignited 2702:8	industry 2707:23
	guessed 2696:14	hear 2707:17 2722:20	ignored 2682:17	inference 2720:17
	guidance 2735:1	2734:16 2736:5	illegally 2781:6	inflammatory 2686:11
2787:10	2736:12	2758:19 2760:25	illiterate 2706:5	inform 2772:1
	guilty 2695:17	2773:18 2783:21,22	immediately 2695:13	informal 2720:13
	Gumbi 2733:19,20	heard 2687:1 2689:15	2734:5 2756:16	2756:3
giving 2715:6 2727:7	2747:9,11,16,17,22	2703:23 2711:13	immigrant 2706:9	information 2677:24
go 2677:10 2678:3,13	2747:24 2748:5,16,22	2703.23 2711.13	imminent 2727:3	2679:11 2685:16
2678:18 2679:5	2749:4,10,18 2750:11	2739:3 2741:2	Impala 2699:21 2700:4	2713:5,7,14 2719:13
2681:13 2695:22	2750:13,23 2751:2,8	2750:11 2758:22	2700:15,15 2701:15	2740:9 2746:6
2703:12 2705:2	2751:14,22 2752:4,13	2759:15 2760:22	2700.13,13 2701.13	2748:21 2751:17
2716:4 2718:9	2752:18,25 2753:3,7	2761:17,22 2762:17	2707:15 2735:18	2752:19 2753:4,5
2719:12 2731:7,18	2753:9,16,22 2754:3	2769:14 2772:5,15	Implats 2699:10	2757:4,10 2758:11
2732:20 2733:2	2754:9,15,19,23	2784:24 2786:13	2702:11,13 2707:3	2760:13 2762:1
2736:2 2741:4	2755:3,9,14,20	hearing 2694:4,25	implement 2787:24	2700.15 2702.1
2758:10 2767:24	2756:13,21 2757:1,6	2695:6 2696:6,15	impliedly 2684:25	informed 2682:5
2768:23 2769:18	2757:12,16,19,24	2697:6 2711:2	importance 2701:16	2696:8 2697:19
2770:24 2772:6	2758:5 2759:5,11,18	2761:12	important 2708:24	2090.8 2097.19 2760:9
2773:7,23 2775:6,9	2759:23 2760:8	hearings 2702:19	2731:2 2743:8	initial 2681:14
2780:14 2781:7	2761:3,16,24 2762:7	heaven 2775:25	2769:18 2770:22	initiated 2699:14
2786:2,20 2787:19	2762:11,20 2763:3,9	held 2683:3 2749:21	impression 2719:8	initiation 2717:13
God 2775:23 2776:10	2763:24	2777:19	2776:6 2783:24	injured 2717:19 2748:1
	guns 2774:2	helicopter 2760:20	impressions 2693:13	2756:10 2769:10,11
· · · · · · · · · · · · · · · · · · ·	Gwala 2762:19	help 2686:16 2750:22	inaudible 2708:21	2770:24 2772:17
	Gwede 2693:6 2696:19	2761:2 2774:6 2779:4	2715:16 2750:21	injury 2698:3,4
2750:1 2767:18	Gweue 2095.0 2090:19	helpful 2688:18	2715:16 2750:21 2751:7	inquiry 2698:23 2703:3
going 2676:6,25	H	2695:24 2703:2	incident 2688:25	insisted 2694:24 2695:5
	hailer 2784:7	2712:2,7 2723:17	2739:22 2746:22	insofar 2706:13
	half 2676:5 2677:1	HEMRAJ 2740:4	2759:12	instance 2690:9 2732:3
2709:7 2710:19	2700:4 2747:10,13	2787:9,12	inclined 2728:4	2740:14
2712:8 2713:20	2760:23 2775:9	hesitate 2726:6	2730:13	instances 2688:24
2712:8 2715:20 2715:24 2716:2	2788:6,12	he'd 2695:16 2730:16	include 2771:14	2691:12,14
	hand 2692:23 2752:11	he's 2703:8 2727:7	including 2698:15	instigated 2686:9
2723.19 2724.3,24,23	2754:20 2765:18	2728:23 2750:7,16	2746:22	Institute 2683:17,22
	handed 2754:24 2756:1	2760:13 2761:22	inconsequential 2717:9	instructed 2683:17,22
		high 2726:23 2736:13	inconsequential 2717:9	2747:24 2752:14
	handling 2695:4 hands 2716:11,12	2756:23	incorrectly 2679:25	2753:18 2754:5
	happen 2780:8	higher 2699:16 2700:2	incorrectly 2679:25 increase 2699:15	2762:23
		0		
	happened 2684:8	2706:19 2707:4	2700:2,13,15 2702:7	instruction 2696:10
2772:2 2775:11	2693:15 2695:8	2714:19 bigbost 2686:0	2707:4 2749:1	instructions 2677:16
7702.11 7700.5 70	2696:4,22 2697:16	highest 2686:9	increased 2749:5,6	2682:24 2684:3
2783:11 2788:5,20	2600.21 2700.2	hinno 2765.7 2767.16	inonoococ 0724.02	7725,10 7726.0 75 75
gold 2706:3,8	2699:21 2700:3	hippo 2765:7 2767:16	increases 2734:23	2735:18 2736:9,25,25
	2699:21 2700:3 2714:22 2717:1 2719:5,21 27 20:25	hippo 2765:7 2767:16 hold 2687:9 2739:7 2769:23 2770:12	increases 2734:23 increasing 2706:15 2749:9	2735:18 2736:9,25,25 intelligence 2678:15 intended 2681:4 2688:4

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RealTime Transcriptions

r				Page 6
2720:17 2725:20	2757:19 2758:6	ja 2726:19 2747:3	2685:2,2,5 2686:3	laughing 2765:7
2756:7	2759:16 2761:1	2780:3 2782:18,19	2689:17 2691:8,15	laughter 2783:3,21
intending 2750:14	2779:13	2783:20	2692:6,15 2693:6,6,7	2784:1
2788:10	issued 2759:9 2772:13	job 2695:5 2706:2	2693:10 2696:22	law 2742:25 2749:15,21
intention 2725:15	2774:9	2781:6	2702:20 2706:1	2750:1,19
2727:3	issues 2678:10,23	jobs 2699:16 2700:3	2707:12 2708:3	lawfully 2742:25
interested 2706:5 2707:25	2679:19,24 2749:15 2750:15 2777:20	2781:15 JOC 2681:25 2682:1,2	2711:4,18 2713:3 2717:11,12,25	laws 2748:9 2749:13,16 lawyer 2749:14,14
interpose 2709:6	2778:21	2767:24 2768:20,23	2717:11,12,25 2718:13 2722:2,13,16	2750:16 2751:4
interpret 2709:15	items 2692:21	2769:3,5,22 2772:10	2718.13 2722.2,13,10	leader 2680:20 2702:21
interpretation 2689:12	it's 2689:15 2690:19	2785:18,18 2786:4	2731:18 2732:5	2727:15,16 2739:3,10
2782:12 2784:3	2692:25 2695:15,24	2787:1	2733:1 2734:2 2740:4	2742:11 2744:9
interpretational 2782:4	2701:17,18 2704:4	Joe 2681:24	2740:5,6,10 2741:8	2747:6 2749:11,12
interpretations 2692:3	2705:9,9 2708:15	Johannesburg 2694:13	2749:2,23 2750:15,16	2753:4 2756:22
interpreted 2767:8	2712:6,10 2713:22	2694:16	2755:7 2757:13	leaders 2677:24 2678:7
interpreter 2709:13,20	2715:23,24 2716:4	join 2681:25	2760:11,24 2765:13	2678:16 2679:2,13
2767:8 2783:17	2718:24 2720:2,9	Joseph 2693:17 2781:3	2766:5 2770:21	2680:4,4,22,22,23
interpreters 2692:3	2722:25 2725:7,17	July 2748:16	2772:21 2777:14,15	2681:5 2744:24,25
interrupt 2700:13	2726:9,11,25 2729:19	jumping 2781:19	2784:22 2787:17	leadership 2677:13
2728:17	2730:18,25 2731:6	junior 2738:4	knowledge 2748:9	2678:10,23 2679:16
intervene 2676:14	2732:23 2735:22	justice 2709:19	2750:21 2778:7	2679:19,23 2680:24
intervention 2679:3,14	2736:8 2737:16,22	2738:20 2747:8	2784:3 known 2716:2 2742:2	2681:7 2690:3,4,8,11
2745:2 2758:4,10,25 interview 2710:24	2741:19 2749:6,22 2751:21 2754:16	K	known 2716:3 2743:2 2744:4 2781:23	2724:10,10 2744:15
2711:1 2762:18	2760:1 2765:10,21,23	Kaizer 2724:18	knows 2722:12	2745:8,16 2747:5 2772:4
2763:2 2779:11	2766:10 2767:2,2	kanyani 2723:18	kilows 2722.12 koppie 2679:12	leading 2689:5 2748:8
2780:12	2770:3 2772:10	Karee 2778:9,12,19	2680:23 2684:11	2748:13
introduce 2726:6	2773:3,4 2774:4	keen 2685:20,21	2686:11 2715:17	learn 2758:17
2747:23	I'd 2707:17 2772:14	keeps 2749:7	2720:9,12 2721:20	learned 2699:15
introduced 2771:3,6	I'll 2688:15 2691:12	kept 2686:17 2688:19	2722:1 2723:1,22	2710:13 2715:15
iNUM 2723:18	2694:7 2708:10	2761:12	2732:2 2741:13	2721:11,21 2722:13
investigate 2694:11	2715:25 2716:2	Khululekile 2688:5,8	2755:25 2760:21	2724:16 2727:7
investigation 2736:18	2740:11 2782:13	kill 2723:19 2724:5,13	2762:3,13 2764:15,17	2728:22 2738:4
investigations 2737:4	2783:3	2724:24 2725:16	2765:11 2767:23	2749:24 2750:7
invincible 2776:24	I'm 2686:1,7,13,20,21	2776:23	2769:16,18,20	2779:3,4
invisible 2776:24	2688:22 2689:3,8,8	killed 2684:11 2710:12	2770:25 2772:5,7	leave 2676:14 2724:15
invitation 2741:6	2690:7 2694:19	2710:19 2711:13,15	2786:17	2765:9,18 2767:19,23
invited 2682:13,16,20	2695:14 2696:3	2714:10 2718:10,11	Kwadi 2677:11,25	2782:3,6,7,9 2783:2
2758:9,11,23 involved 2691:3	2697:20 2698:7 2699:18,19 2700:12	2724:1 2728:23 2729:7 2730:6,11	2681:24 2682:5 KwaZulu 2698:16	leaving 2698:5 led 2692:15 2701:19
2703:20 2706:13	2703:21 2704:22	2742:9 2753:23	2716:20	2707:14 2732:7
2703:20 2700:13	2709:16 2712:11,16	2754:10 2755:11,16	K-H-U-L-U-L-E-K-I	2783:21 2785:25
2714:2 2739:24	2713:11 2715:4,5,24	2755:18 2756:17	2688:9	left 2740:20 2765:6,23
2740:1,5 2744:12,18	2716:1 2718:18	2757:3,8 2762:1,2		2767:16 2768:20
2744:21 2788:2	2719:5,7 2720:10	2764:8,12 2769:9	L	2772:10 2784:15
involvement 2692:16	2721:1,18 2722:11,14	2772:10,11,16,17,18	L 2719:4 2759:20	2785:21,21
inyanga 2760:14	2723:11,25 2724:8	2772:19,19 2773:5	2760:15 2766:25	legal 2749:18 2750:7
2761:14,14,18,23	2728:3,17 2730:13	2774:3	labour 2732:11 2748:9	length 2787:10
irrelevant 2768:8	2731:24 2750:5,14,15	killing 2726:22 2727:3	2749:12,14,14,15,16	Lepaaku 2748:3
irrespective 2709:4	2750:23 2751:3,3,22	2757:21 2758:20,20	2750:1,16,19 2751:4	2764:13
2745:4 2746:8,15	2753:14 2757:11	2759:6 2763:4	labourers 2706:5	letter 2743:9 2752:9,11
isiXhosa 2691:20	2759:7 2761:20,21	2772:25 2773:18,24	lady 2769:23	2753:15 2757:22
2717:12 2765:23,24 2766:7 2767:5	2763:19 2767:9 2770:3 2771:10	2774:21,23 killings 2756:23	laid 2742:15 2774:7	2777:4,7,10 2779:18 let's 2699:8 2703:20
2782:11	2770:3 2771:10	2757:14	language 2690:19 2691:1,3 2692:2	2712:19 2722:20
isiZulu 2691:20	I've 2690:17 2692:10	kind 2709:2 2712:20	2716:1 2717:2,21	2732:20 2733:8
2709:12,20	2692:20,21 2697:20	2723:5 2724:17	2724:17,19 2782:2	2738:6 2751:15
isn't 2712:12,18	2708:2 2725:9 2728:8	2728:7 2736:15	languages 2709:14	2752:18 2754:9
2724:19 2733:11	2739:3 2752:9	2746:15	large 2720:15 2731:15	2767:10
2735:3 2756:11	2756:19 2761:12	kindly 2713:21	2740:20,21 2776:6,22	level 2692:7 2706:19
2778:11	2762:14 2771:10	kinds 2727:1	lasted 2693:22	2735:18 2736:18
issue 2690:14,17	2773:3 2774:22	King 2716:21 2717:1	lastly 2682:4	2784:16
2691:12 2702:10	2775:22 2778:1	knew 2743:14 2764:7	late 2707:10 2738:16	liability 2750:2
2736:8 2743:9 2750:8	2786:21 2787:3,17	2769:8	latest 2757:6	liable 2687:10,15
2750:14 2752:5,8	Clar M	know 2680:25 2683:12	laugh 2767:17	2749:21
2753:10,24 2757:14	The second second	2683:19 2684:6,16	laughed 2782:22	Lieutenant 2748:3
ARCHIVE FO	R JUSTICE			

RealTime Transcriptions

				Page 7
life 2691:2 2717:7	love 2689:7,14,20	matter 2703:6 2726:24	2758:1 2780:18	Modikwa 2698:18,19
2746:7,25 2763:6	2690:8	2726:24 2734:4	men 2741:12	Mofomme 2747:24
2773:3,17 2774:18	lowest 2686:14 2706:2	2736:24 2737:6,21	menacing 2727:20	Mokoena 2780:12
light 2687:13 2715:9	LPD 2763:2	2738:17 2746:5	2728:2	2781:1
2722:19 2786:24	lunch 2676:4	2763:8 2771:20	mention 2718:22	moment 2689:8
limited 2746:19		matters 2679:16	2730:1 2764:3	2703:16 2735:20
2778:15,17	M	2736:2	2772:24 2774:9,20	2783:15 2788:6
Limpopo 2698:17	Mabebe 2738:17	Ma'am 2773:22	2778:22	Monday 2758:3,13,13
line 2679:2 2680:15	2745:18,22	Mbombo 2770:4,10	mentioned 2731:2	2758:17,18 2769:9
2703:22 2711:21	Mabelane 2738:17	Mboto 2694:17	2742:8 2760:5	Monene 2733:23
2718:6 2720:3,11	2745:22	mean 2684:6 2689:17	2771:10 2774:11	2763:14 2764:6,12
2721:25 2725:19,25	Mabele 2741:22	2696:13 2715:23	2775:23 2779:12	money 2695:4 2707:6
2726:8,15 2748:5	machine 2706:21	2717:3 2722:17	2780:17 2787:2,4	morning 2762:19
2757:3,8 2761:2	magazine 2701:17	2729:16 2744:6	mentioning 2746:2	2770:5 2771:4 2775:4
2773:19 2779:18	2707:13	2745:12 2748:3	2761:21	2781:4,4,7 2785:12
2780:23	MAHLANGU 2724:20	2749:14 2756:18	mere 2721:4	2785:17 2788:13
lines 2713:22 2729:14	2752:23 2773:11,13	2757:11 2779:23,23	message 2786:7	mother 2690:19,24
2762:8	2773:15,22 2782:8	2780:2 2784:22	met 2685:22 2731:15	mountain 2678:14,18
lingual 2775:16	main 2698:6	2786:16	2731:16 2769:6	2686:17 2688:18
linguist 2782:12	Majesty 2717:1	means 2681:1 2689:16	metal 2715:17	2729:6,6,22 2731:13
listen 2731:17	majority 2748:18,23	2746:3 2780:19	metaphor 2731:9	2731:16 2745:4
listening 2684:22	making 2682:18	meant 2696:1 2725:14	method 2732:5	2761:15,23 2764:20
2784:4	2702:13,23 2725:24	mechanics 2787:20	microphone 2722:19	2771:2,9 2773:7
literally 2724:2	male 2786:25	media 2730:2,10,20,21	middle 2782:21	2778:8 2785:18
literate 2706:19	management 2677:18	2731:2 2740:22	migrant 2706:5	2788:22
lives 2679:5 2742:21	2682:1,2 2696:8,24	2745:24 2756:24	mike 2784:12	move 2728:13 2729:23
2769:13	2697:3 2752:9,10	2759:7,14,15 2760:13	mind 2705:19 2730:18	2730:25 2751:13,14
lobby 2739:11	2753:15 2758:3,9,23	2761:13,23 2762:17	2733:16 2771:17	2752:18 2754:9
local 2693:18 2694:12	2770:13 2777:5	2762:25	2778:23	2759:18,19 2772:14
2706:17	2781:15	meeting 2677:11,12,17	mine 2686:10 2690:22	2777:3
Loftus 2722:25	manifest 2690:10	2677:19,20,24 2678:5	2696:24 2697:4	moved 2707:9
long 2703:6 2763:21	manner 2736:22	2681:10 2697:18,19	2705:7 2714:9	Mpembe 2678:5,14
2776:17	Mantashe 2693:6	2698:2 2721:19,20	2724:11 2744:4,14	2679:1 2680:24
longer 2697:9,12	2694:25 2695:4,9,16	2743:13 2752:14,17	2778:9,12,19	2714:7 2719:5,6
2723:15 2770:3	2696:5,20	2753:17,21 2754:4,8	miners 2684:11	2720:3 2769:4,6,16
2775:7	march 2699:5 2700:1	2757:25 2762:22,24	2710:11,18 2711:15	2769:23,24 2771:5,7
Lonmin 2677:18	2701:25 2752:10,22	2777:6,12,12,15,15	2718:8,10,15 2729:8	2771:14 2786:10
2684:16 2686:23	2753:1	2777:17,19,23 2778:4	2729:16 2730:19	Mpofu 2684:8,20
2687:9,20 2690:23	marchers 2752:21	2779:13,20,25 2780:7	mines 2688:25 2698:15	2705:9 2733:12,13,14
2700:14,20,23 2703:9	marching 2773:25	meetings 2744:23	2698:16,16,17	2733:15 2737:22,24
2714:6 2728:22	2781:6	member 2697:12,20	2702:23 2706:3,8	2738:7,10 2775:2,3
2736:5,15 2739:17	Marikana 2746:8	2702:12 2742:24	mineworker 2776:16	2775:10,19,22 2776:2
2740:23 2743:3	2747:1,2 2751:25	members 2684:9	mineworkers 2686:18	2776:5,11,15,20
2748:18 2777:5	2760:10 2761:7,11	2685:9,13 2689:17,18	2693:19 2706:3	2777:3,9,13,22
2781:10 2785:14,17	2763:2 2766:4	2689:23,24,25	2718:1 2719:23	2778:3,7,11,16,24
2786:6	mark 2692:23 2762:6	2697:25 2698:2,17	mine's 2693:23	2779:7,17 2780:5,11
Lonmin's 2724:16	marked 2713:16,20	2699:9 2706:4 2708:5	mining 2693:1 2706:17	2780:22,24 2781:17
look 2692:14 2699:8	2762:8	2710:19 2719:17	2776:16	2781:22 2782:2,9,13
2705:21 2708:7,8	marriage 2722:5	2724:1,9 2729:7	minority 2702:14	2782:19,25 2783:6,11
2720:6,10 2741:22	MASEBE 2733:23	2731:14 2734:22	2748:18,21,24	2783:11,16,20 2784:5
2766:19	Masevhe 2763:12,13	2739:17 2741:3	minutes 2676:16	2784:10,14 2785:1,5
looking 2704:3 2719:14	2763:14,17,18 2764:1	2743:2,3,7,18 2744:4	2681:16 2760:24	2785:11,20,24 2786:5
2771:2 2780:21	2764:4,5,11,20	2744:9,12,18,21	2769:22 2770:11	2786:12,18 2787:9,11
looks 2693:2 2695:11	2765:1,4,15 2766:1	2746:16,16 2748:11	2775:12 2787:8	2787:15 2788:4,8,16
2695:18 2720:11	2766:10,21 2767:12	2748:17,19 2749:22	misapprehension	2788:24
looming 2772:5	2767:22 2768:4,9,16	2750:2 2752:15	2729:12 missod 2728:24 2731:1	Mpumalanga 2698:15
lose 2679:5 2729:20	2768:19,24 2769:2,7	2753:18,18 2754:4,5	missed 2728:24 2731:1	2698:23,25 multi 2775:16,16,16
loss 2709:9 2717:7 2742:20 2746:25	2769:14 2770:16 2771:12 2772:1,12	2754:17 2756:8,9 2760:2,3,6 2762:23	missing 2695:12,18,25 2696:14	multiplicity 2692:2
2774:17	2773:6,12,14,16,23	2760:2,3,6 2762:23 2774:1	2696:14 mistake 2684:20	multiplicity 2692:2 mustn't 2747:1
1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1				musin t 2/4/.1
lost 2689:7,20 2690:8 2746:1,8 2769:13	2774:19,25 mass 2697:19	membership 2696:9,24 2697:3,22 2698:25	mistaken 2678:15 2698:7 2784:9	N
lot 2692:15 2738:24	mass 2097:19 material 2770:20	2706:16 2709:1	misunderstood	N 2755:15
2781:22	materialised 2779:14	2736:22 2749:2,5	2682:18 2723:16	N 2755:15 Naidoo 2771:4 2787:8
loud 2784:7	2779:21	2752:14 2762:22	MMUSI 2766:24	name 2747:23 2763:14
Louis 2747:24	Mathunjwa's 2765:11	memorandum 2752:10	modesty 2676:22	2764:5
	, and the second s		mouchty 2010.22	2701.5
ARCHIVE FO	R JUSTICE	1	I	1

RealTime Transcriptions

nume 27462 0 2729-13 2770-13 overcome 272.64	Pa					
Natal 2098:16 2716:20 orthology 276:12 orthology 27)6:6 2720:17	path 2706:6 2	overcome 2726:4	2729:13 2730:17	0	names 2746:2
nation 2776:13 ary 47:20 2772:15:16:2773:1 overrule 2684:25 potence 270:18:27 2693:18:2707:19 2727:10:2783:7 2705:9:2719:17:288:5 object 266:18 2775:9:2788:5 2765:12:2788:5 o'clock 2785:7:2788:15 poetlace 266:270:7 poetlace 266:270:7 2765:12:2778:12 2778:16:2785:12 2766:12:22:2719:2719				2764:12 2771:16		Natal 2698:16 2716:20
national 2686:18 2693:18 2701:9 2759:1 object 276:18 2727:5 2779:10 2730:8 2779:10 2730:10 2730:10 2770:14 2771:15 2766:10 2694:14 2779:10 2730:17 2766:10 2694:14 2779:10 2730:17 2779:12 2771:12 2779:12 2771:12 2765:10 2771:12 2779:12 2771:12 2765:10 2770:14 2779:10 2700:14 2779:10 2779:	2770:13	patience 2770	overruled 2684:25	2772:15,16 2773:1		nation 2776:13
2699:18 2707:19 2777:10 2780:3 2759:1				oh 2700:17 2703:7		national 2686:18
2759:1 2773:1 2773:1 2773:1 2773:1 2783:1 2766:1 2773:2 2783:1 2773:2 2783:1 2773:2 2773:1 2773:2 2773:1 2773:2 2773:1<						
nature 2728:6 offictu 269:16 okay 269:5 270:21 2260:19 268:42 necessary 267:6 2721:7,32 277:12 2778:16 2780:5 278:12 277:32 278:16 2780:5 286:10 269:32 268:112 2023:270:32 268:112 2023:270:32 278:52 277:7:2 278:112 277:12 278:12 277:52 278:61 269:51:2.14.18,33:24 271:51:22 271:7:2 278:52 277:7:0 278:62 778:60 278:52 277:7:0 278:52 277:7:0 278:52 277:7:2 269:51:2.52 56:72 270:51:11:3:271:42 273:55:72 77:62: 270:51:11:22 270:7:4 275:55:57:76:2 270:51:11:3:271:42 277:72:2 271:17:21:29 271:12:27:38 272:22:27:29 271:17:21:29 271:17:21:29 271:17:21:29 271:17:21:29 271:17:21:29 271:11:21:27:21:29 271:11:21:27:21:29 271:11:21:27:21:29 271:11:21:27:21:29						
nearing 27031 objection 5644/24 27331/1 2777.13 P 268418 2685: necessarity 2677.6 2722:17,24 272:15 2782:13 278511.20 2782:13 278511.20 269512.14.18 23.22 2700:23 2703:2 2713:14 272:00 2738:17 2777:10 mittel 2676.15 269512.14.18 23.22 2715:13 2716:10 2700:23 2703:2 2715:14 2725:5 2768:12 776:10 2700:23 2703:2 2715:17, 1272:55 572.6 2715:11.12 2767:25 omittel 2676:15 2698:12.14.18 23.22 2711:15 2725:55 272.6 2712:15 2737:14 2715:57.16 27 2712:15 2737:14 2715:57.16 27 2712:15 2737:14 2715:57.16 27 2712:15 2766:12 2713:14 2715:57.16 27 2712:15 2766:12 2713:17 275:25 2716:10 2773:14 2715:17 275:22 2717:17 2765:13 2766:12 2714:17 272:64 2716:12 276:12 2715:17 272:20:20.24 A14 2715:12 766:12 2713:12 276:12 776:12 2735:12 766:12 2713:12 776:12 2735:12 766:12 2713:12 776:12 2735:12 766:12 2713:12 776:12 2735:12 766:12 2711:12 276:12 776:12 2745:12 766:12 2711:12 276:12 776:12 2766:12 2770:14 2766:12 2770:14 2766:12 2770:14 2766:12 2770:14 2766:12 2770:14						nature 2728:6
necessary 2077:6 2722: 17,24 277:12 2778:16 2780.5 page 2678:25 2679:7 2686:10 2699:12 2775:9 2728:17,24 2729:15 2736:13 2786:11,20 2680:13,15 2695:12 2700:23 2703: 2775:9 275:11,11,2 2767:25 2766:12 2695:12,14,18,32,24 2711:57,16 27 neck 2725:6 2766:12 2706:77.6 2788:6 2786:10 2706:71,152,22 2712: 2771:17 2729 2712:15 2735:17 2788:6 2786:10 000000000000000000000000000000000000			Р		0	
necessary 2677:6 2778:4 (272):15 278:11:20 2680:13.15 2695:12 2700:23 2703:2 2775:9 2730:14 275:15.10 2786:12 2695:25 2666:1.14 2715:32 271:32 neck 2725:6 275:11:12 276:25 0di 2741:22 2695:25 2666:1.14 2715:5:277:5:2 2687:16 2708:3 0bjectives 2776:2 0mards 2676:7 2715:4:7,81.5 2729:7:17.22 2700:17.822 271:12 2729:7:17.22 2700:17.822 271:2 2700:17.18,22 271:2 2700:17.18,22 271:2 2700:17.18,22 271:2 2700:17.18,22 271:2 2700:17.18,22 271:2 2700:17.18,22 271:2 2700:17.18,22 271:2 2700:10,2773:14 2765:10,171.9,12 2764:22 2710:10,2773:14 2765:10,2773:14 2765:10,2773:14 2765:10,2773:14 2766:12,071:10 2774:22 276:12 2771:12.275:12 2770:24 2772:12 2771:17.9:12 776:42 2711:13 271:44:22 2716:12 2700:12,077:44:22 2716:12,072:14 2766:12,077:14 2766:12,077:14 2766:12,077:14 2766:12,077:14 2766:12,077:14 2766:12,077:14 2766:12,077:14 2776:12,277:16 2770:12,127:162,277:16 2770:12,127:162,277:16 2770:12,127:162,277:16 2770:12,127:162,277:16 2770:12,127:162,277:16 2770:12,127:162,277			page 2678:25 2679:7			
2713:4 2720:20 273:5:1:5:10 278:6:12 2695:12,14,18,23:24 271:1:3 271:45 2775:6 2775:6:12 2695:12,14,18,23:24 271:1:3 271:45 need 2679:3,7.7 2766:7 277:6:10 once 2694:3 272:6:16 270:1:2,271:32 270:1:2,271:32 270:1:2,271:12 2725:5:5 2726: 271:1:2,12,275:12 2725:5:5 2726: 271:1:2,273:12 2725:5:5 2726: 271:1:2,273:12 2725:5:5 2726: 271:1:2,273:12 2725:1:7:16 2720:1:12,2271:12 2725:1:7:16 271:1:2,273:12 2725:1:7:16 271:1:2,273:12 2725:1:7:12 2725:1:7:17 2725:1:7:12 2725:1:7:12 2725:1:7:12 2725:1:7:12 2725:1:7:12 2725:1:7:12 273:1:12 273:1:12:1:1:4:15:17:12 274:5:2:2:17:6:2 274:0:6:2:2:17:16 274:1:2:2:2:17:1:2 274:1:2:2:2:17:1:2 274:1:2:2:2:17:1:2 274:1:2:2:2:17:1:2 274:1:2:2:2:17:1:2 274:1:2:2:2:17:1:2 274:1:2:2:2:17:1:2 274:1:2:2:2:17:1:2 274:1:2:2:2:17:1:2 274:1:2:2:2:17:1:2 274:1:2:2:2:17:1:2 274:1:2:2:2:17:1:2 274:1:2:2:2:17:1:2 274:1:2:2:2:17:1:2 274:1:2:2:2:17:1:2 274:1:2:2:2:17:1:2 274:1:2:2:2:2:2:2:2:2:2:2:2:2:2:2:2:2:2:2:					,	
2775:9 2751:11,12 2767:25 odd 2741:22 2695:25 2666:1.4 2715:222717:2 medz 2679:3,7,7 2782:6 2788:10 once 2694:3 2726:16 2708:17,18,22 2712:1 27215:7,16 2708:12 2687:16 2708:37 objectives 2776:20 objective 2717:23 onwards 2676:7 2710:17,18,22 2712:1 2725:7,17,117,912 2764:22 2710:17,18,22 2712:1 2727:17,210 2735:14 2778:12 27370:17,18,22 2710:17,18,22 2716:1 2727:17,210 2736:12 773:14 2736:12 773:14 2736:12 773:14 2737:17,210 2745:52 5746:5 2746:12 75:10 2745:52 5746:5 2746:12 75:10 2745:52 5746:6 2746:12 75:10 2745:52 5746:6 2746:12 75:10 2745:52 5746:6 2766:15 17,19 2778:8 2755:10 2777:81 2755:22 2766:15 17,19 2778:8 2755:12 0710:11/12 2766:15 17,19 2778:8 2755:12 0710:11/12 2776:22 2776:2 2771:11.19 2786:11 2766:55 2700:10 2778:12 2776:2 2776:12 2770:2 2776:22 277:2 2770:12 2770:34 2766:15 17,19 2778:8 2776:22 2772:2 2770:2 2776:22 2776:2 2776:12 2770:2 2776:22 2772:2 2776:22 2772:2 2776:22 2772:2 2776:22 2772:2 2777:2 2776:22 2772:2 2776:22 2772:2<						
neck 2725:6 278:12 078:112 271:112 271:112 271:112 271:112 271:112 271:12	, ,					
need 2679:3.7.7 2782:6 2783:10 once 2694:3 2726:16 2704:32 2706:14,15 2725:5 2726.2 2687:16 2708:3 opjectives 2776:2 onwards 2676:7 2712:4,7,8,15 2730:14,15 2730:14,278,22 2712:15 2735:17 opjectives 2739:14 009 2710:17,23 2716:12,2764:22 2719:13 2764:25 2740:6,20,21 2 Negotiatel 2700:23 objectives 2739:14 2765:17,822 2746:9 2755:1,41,51,7,20 2746:12,752,22 regotiati 2732:6 objectives 2739:14 2765:10,41,723 2746:12,752,22,224,24 2771:19,12,7264:22 2771:10,11,12 2746:12,752,22,024,24 2773:10,11,12 2765:20,21,2766:9,12 2765:20,21,2766:9,2752,20,24,24 2773:10,11,12 2765:20,21,2766:9,2752,20,24,24 2779:10,11,14 2768:24,2761:0 2778:12 2768:24,2761:0 2779:10,11,14 2768:24,2761:0 2773:10,11,12 2779:10,11,14 2768:24,2761:0 2771:15,2771:10,171,2 2773:10,11,12 2779:10,11,12 2779:10,11,12 2770:1 2778:12,6771:10 2776:12,02770:10 2776:13,02722 2770:11 2776:14,03,02721:10 2771:15,02771:10 2771:15,02771:10 2771:15,02771:10 2771:15,02771:10 2771:12,0771:10 2771:12						
2687:16 2708:3 2781:9 2761:17,222 271:21 2771:21 2772:17 2711:21 273:17 objective 2717:22 009 2710:17,23 2713:17,18,24 2739:7,24,25 2 2753:14 2775:24 objective 2717:20 2711:17,91,2 2764:22 2713:17,18,24 2739:7,24,25 2 regotiati 2732:6 objective 2717:23 open 2699:12 274:69 2765:10,2773:14 2765:10,2773:14 2765:10,2773:14 2765:20,21266:9,13 2746:22 276:17 regotiati 270:23 observation 2680:3 278:12 opening 2687:4 2708:9 2778:10,11,12 2768:22,276:17 regotiations 2707:3 2761:5 operation 2770:3,15 2780:21,25 2770:12 2778:12 2755:2,16,19,21,24 observed 2789:24 2777:11 2778:12 2778:12 2778:12 2778:12 2755:2,16,19,21,24 observed 2789:24 2770:1 2778:12						
2712:15 2736:17 objective 217:23 onwards 2676:7 2712:4,78,15 2730:611 2731 2736:92.4 2738:3 2777:122 OO9 2710:17,23 2713:17,18,24 2739:7,24,25 Needless 2707:7 objectives 2739:14 objectives 2739:14 2765:10 2776:10 2746:12 2764:22 2719:13 2764:25 2746:02.02.12 negotiate 2700:23 objectives 2739:14 opening 2687:42708:9 2775:10,11,12 2746:12 776:12 2745:12,1576:02 2765:10,41,1276 2755:22,02,24,24 27711:11,19 2778:8 27579:10,11,12 2755:22,02,24,24 27711:11,19 278:8 2779:10,11,14 2768:22 2769:17 2755:21,61,09,21,24 observed 2759:24 27711:11,19 278:8 2770:1 2776:10 2776:12 2776:12 2776:12 2776:12 2776:12 2776:12 2770:12 2776:12 2771:13 2771:12 2770:12	·	,				
22736:9.24 2778:24 0009 2710:17.23 2713:17,18.24 2739:724.25 2 Needless 2707:7 objectives 2739:14 0009 2710:17.23 2719:13 2764:25 2740:62.02.12 negotiate 2732:6 objectives 2739:14 open 2699:12 2746:9 2755:17.14 2765:11,14,15,17,20 2745:25 2746:3 negotiate 2700:23 negotiate 278:17 open 2699:12 2746:9 2775:10 2773:10,11,12 2765:20,21 2766:9,13 2746:21 2751: 2775:7 negotiation 2717:8 2761:6 2770:14 operation 2770:3,15 2761:6 2770:14 2766:22 2779 2775:12,78.10 2776:16 2770:14 2766:22 2779 2776:16 2770:14 2766:22 2779 2776:16 2770:14 2766:22 2779 2776:16 2770:14 2766:22 2779 2776:16 2770:14 2766:22 2779 2776:16 2770:16 2778:16 2784:11 2716:6 22779 2776:16 2770:14 2766:22 2779 2776:16 2770:10 2778:18:42 2716:6 22779 2776:16 2770:14 2766:22 2779 2778:16 2784:17:85 2700:12 277:19 2771:12 278:57 2766:12 670:12 2700:11 2778:16 2784:11 276:16 2770:10 2778:16 2784:12 276:16 2770:12 276:16 2770:12 276:16 2777:19 2778:12				onwards 2676:7		
2753:14 2773:12 2711:17.9.12.2764:22 2719:13.2764:25 2740:6.20.212 2740:6.20.212 2745:25.2746:5 2745:25.2746:5 2745:25.2746:5 2745:25.2746:5 2745:25.2746:5 2745:25.2746:5 2745:25.2746:5 2745:25.2746:5 2745:25.2746:5 2745:25.2746:5 2745:25.2746:5 2745:25.2746:5 2745:25.2746:5 2745:25.2746:5 2745:25.2746:5 2745:25.2746:5 2775:20.2,42,42 2775:20.2,42,42 2775:20.2,42,42 2775:20.2,42,42 2775:20.2,42,42 2775:20.2,42,42 2775:20.2,42,42 2775:20.2,22,42 2775:20.2,22,42 2775:20.2,22,42 2775:20.2,22,42 2775:20.2,22 2775:20.2,22 2775:20.2,22 2775:20.2,22 2775:20.2,22 2775:20.2,22 2775:20.2,22 2775:20.2,22 2775:20.2,22 2775:20.2,22 2770:21.25 2776:22.2777:10 2773:8,18,24.2 2770:1,3 2772:15 2778:10,2771:12 2775:20.2,22,24 2770:1 2772:15 2778:10,2771:12 2775:20.2,22,24.24 2770:1,2 2770:12,12 2770:12,12 2770:12,12 2770:12 2771:12 2771:12 2771:12 2771:12 2771:12 2771:12 2771:12 2771:12 2771:12 2771:12 2771:12 2771:12 2771:12 2771:12					0	
Needless 2707.7 Joinettry 273:14 2765:10 2773:14 2765:11,415,17,20 2745:25 2746:2 negotiate 273:26 popcitore 2739:14 open 2699:12 2746:9 2765:10,2173:14 2765:12,11,11,12 275:20,24,24, 2778:12 opening 2680:16,18 276:12 779:10,11,11,2 275:73,810 2778:12 276:15 opening 729:8 2779:10,11,11,2 276:16,2770:14 276:62,2779:10,11,12 2776:12 2776:12 2776:12 2770:10,11,12 2776:12 2776:12 2776:12 2770:10,12 2776:12 2776:12 2776:12 2776:12 2770:10,12 2776:12 2770:12 2776:12 2770:12 2776:12 2776:12 2770:12 2776:12 2770:12 2776:12 2770:12 2776:12 2770:12 2776:12 2776:12 2776:12 2776:12 2776:12 2770:12 2776:12				-		
negotiate 2732:6 megotiate 2732:6 propertions 270:23 argotiate 2700:23 argotiate 2700:23 argotiate 2700:23 argotiate 2700:23 argotiate 2700:23 argotiate 2700:23 argotiating 2680:16,18 2778:12 megotiations 2707:3 2755:7,8,10 megotiations 2707:3 2755:7,8,10 argotiations 2707:3 2755:7,8,10 argotiations 2707:3 2755:7,8,10 argotiations 2707:3 2755:2,16,19,21,24 Neither 2690:22 2771:6 biserved 2759:24 2761:16 2770:14 2768:25 2787:6 bistroved 2759:24 2776:11,19 2778:12 2766:25 2787:6 2701:1 2768:24 2701:1 2776:24 2776:12 2776:12 2776:4 2776:12 2777:6 2770:11,19 2773:8,18,242 2770:11,2777:6 2770:17.6 2771:12 2778:5 2770:12 2778:4 2776:12 2776:4 2770:17.6 2772:12 2778:4 2776:12 2776:4 2770:17.6 2772:12 2778:4 2770:17.6 2771:12 2778:5 2770:11,019,20,24 2770:17.8 2770:17.9 2778:4,20 2770:17.9 2778:4,20 2770:17.9 2778:4,20 2770:17.9 2778:4,20 2770:17.9 2778:4,20 2770:17.9 2778:4,20 2770:17.9 2778:4,20 2770:17.9 2778:4,20 2770:17.9 2778:4,20 2770:17.9 2778:4,20 2770:17.9 2778:4,20 2770:17.9 2770:17.9 2778:4,20 2770:17.9						
negotiated 2700:23 observation 2680:3 observation 2680:3 2761:5 opening 2687:4 2708:9 opening 2687:4 2708:9 2778:17,17 2766:15,17,19 2773:8 2773:12,760:21 2752:20,42,42, 2773:12,760:21 regotiation 2717:8 276:5:0,7810 observation 2680:3 0bservat 2759:24 2770:14 2768:22,709:10 2770:24,2770:24 2770:24,2770:24 2770:24,2770:24 2770:24,2770:24 2770:24,2770:24 2770:21 2778:22 2770:24 2770:10 276:27 27						
negotiating 2680:16.18 Obstration 2003.3 opening 2687:4 2708:9 2773:10.11.12 2753:12760:21 2778:12 observe 2784:7 opening 2687:4 2708:9 2779:10.11.12 2758:22769:17 2755:57.8.10 observe 2784:7 opening 2687:4 2708:11 278:52 2770:24 2772:1 2755:2,16.19,21,24 obtain 2728:5 operation 2707:3 2761:6 2770:14 278:62 2787:6 2701:1 2776:622 2771 Neither 2690:22 2771:6 obtain 278:5 operations 2679:3 operations 2679:3 2721:5 2721:2 273:14 2746:1 2756:19 2775:19 2788:12 operations 2679:3 operations 2679:3 2761:8 2761:8 27771:12 778:5 occasion 2716:20 2700:11,01.9,20,24 2688:420:13 2761:7.10 2779:14,20 2722:8 2785:22 2700:21 2707:4 2699:14, 2698:10.21 perfixions 2780 2705:3,16 2782:13 corcupied 2693:23 opinions 2707:22 2699:3,9,24 2702:5 perrision 2780 2708:13,15.16 2773:19,20 persision 2780:17 2788:17 2788:17 2709:12 2727:22 nine 2785:7 offer 2700:14 2701:2				-		
2778:12 openty 2729:8 2779:10,11,14 2768:2759:11,2776:12 negotiation 2717:8 2785:7,8,10 operation 2770:3,15 2780:12,25 2780:12,25 2770:24 2772:1 Neither 2690:22 2771:6 observe 2759:24 2771:11,19 2786:11 2786:25 2787:6 2701:1 2776:62 22 777 Neither 2690:22 2771:6 obtain 2728:5 operational 2769:25 Palane 2694:9 2781:6 2784:11 2746:1 2756:19 2771:11,9 2786:11 operations 2679:3 92721:15 2721:12,735:4 27771:1 2778:5 coccasion 2716:20 2700:11,01,02,02,4 2688:4,72,693:15 2761:7,18 27777:1 2778:5 occasion 2716:20 2700:10,10,10,20,24 2695:2,14 2698:10,21 performing 2759 2705:3,16 2782:13 occurred 2718:9 2706:18 2705:11,22 2707:2,17 prished 2745:17 newspaper 2701:17 2718:9 2718:9 2706:18,2707:12 persisting 2751:1 newspaper 2701:17 2718:9 2718:9 2706:13,15,16 2770:22 2705:2,16,298:10,221 persisting 271:12 persisting 273:19,20 persisting 273:19,20 persisting 273:19,270:12 persisting 270:12						0
negotiation 2717:8 2755:7,8,10 observed 2759:24 2768:12 2776:12 operation 2770:3,15 2785:22 2776:1 2780:22 2776:12 2776:12 2776:12 2770:12 2776:12 2776:12 2771:12 2776:12 2776:12 2771:12 2776:12 2776:12 2771:12 2776:12 2776:12 2771:12 2776:12 2776:12 2771:12 2776:12 2771:12 2776:12 2771:12 2776:12 2771:12 2771:12 2771:12 2771:12 2771:12 2771:12 2771:12 2771:12 2771:12 2771:12 2771:12 2771:12 2771:12						
27555.7,8,10 bserve 2759:24 2771:11,19,2786:11 paid 2695:4 2700:10 2773:8,18,242 negotiations 2707:3 775:12,216,19,21,24 276:16,2770:14 2786:25 2787:6 270:11 9raid 2695:4 2700:10 2773:8,18,242 Nether 2690:22 2771:6 2770:1 2776:16,22770:1 2776:16,22770:1 2776:16,22770:1 2770:1 2770:1 2770:1 2770:1 2770:1 2772:1273:4 2770:1 2772:1273:4 2770:1 2772:1273:4 2770:1 2772:1273:4 2770:1 2772:1273:4 2770:1 2772:1273:4 2770:1 2772:1273:4 2770:1 2772:1273:4 2770:1 2772:1273:4 2770:1 2772:1273:4 2772:1273:4 2770:1 2772:1273:4 2761:7,18 2776:10 2776:10 2776:10 2776:10 2776:10 2776:10 2776:10 2770:11 2761:7,18 2761:7,18 2761:7,18 2761:7,18 2761:7,18 2761:7,18 2761:7,18 2761:1,22707:2,17 2788:17 2788:17 2768:15 2776:12 2768:15 2761:1,22707:2,17 2788:17 2788:17 2776:12 2776:11,22707:2,17				1 0		negotiation 2717:8
negotiations 2707:3 2755:2,16,19,21,24 Nither 2690:22 2771:6 2761:6 2770:14 2786:25 2787:6 0perational 2769:2 2770:1 2701:1 Pangas 2717:6,9 2718:1 2761:8 2776:1 2771:2 2776:6,22 2775 Pangae 269:9 2770:1 2776:1,622 2775 Pangas 2717:6,9 2718:1 2776:1,622 2775 Pangas 2717:6,9 2718:1 2761:6 2697:21 2761:7,18 2776:1,622 2775 0perations 2699:2 2779:1,22 operations 2679:3 0perations 2699:14 2776:1,22 276:1,622 2775:0 2784:2 681:13 276:1,622 2775:0 276:1,22 276:1,622 2775:0 276:1,22 276:1,622 2775:0 276:1,22 2770:1,019,20,24 2685:2,12 4688:10,20 276:1,22 276:1,22 276:1,22 276:1,22 276:1,22 276:1,22 276:1,22 276:1,22 276:1,22 276:1,22 276:1,22 276:1,22 276:1,22 276:1,22 276:1,22 276:1,22 276:1,22 276:1,22 276:1,22 2773:1,92,0 peristeid 2745:17 peristeid 2745:17 276:1,22 2773:1,92,0 peristeid 2745:17 peristeid 2745						
2755:2,16,19,21,24 obtain 2728:5 operational 2769:25 Palane 2694:9 2781:6 2784:11 Neither 2690:22 2771:6 2761:5 2707:6 27761:1 2697:11 2781:6 2784:12 2781:6 2784:12 2746:1 2756:19 2717:1 2775:19 2788:12 operations 2679:3 operations 2679:3 operations 2699:14 2761:3 <t< td=""><td></td><td></td><td></td><td></td><td></td><td></td></t<>						
Neither 2690:22 2771:6 obviously 2680:9 2770:1 pangas 2717:6,9 2718:1 performed 2721: 2721:5 2746:1 2756:19 2711:25 2736:1 2710:1 poprations 2679:3 operators 2699:14 2678:4 2681:13 2761:7.18 2777:1 2778:5 coccupations 2671:0 2700:1,10,19,20,24 2682:4,7 2693:15 2761:7,18 2777:1 2778:5 coccupations 2691:2 cocupations 2702:22 copositions 2702:21 copositions 2702:21 copositions 2702:21 copositions 2702:21 copositions 2702:22 copositions 2702:22 copositions 2702:22 copositions 2702:21 copositions						
never 2696:11 2697:11 Constant 200:00 operations 2679:3 operators 2679:3 constant 200:00 c						
2746:12756:19 2711:25 2736:1 operator 2707:8 paragraph 2677:10 2761:8 2775:12776:5 27775:19 2788:12 operators 2699:14 2678:4 2681:13 performing 2759 2777:1278:5 27775:19 2788:12 2706:21 2707:4 2695:2,14 2698:10,21 period 2689:19 new 2698:11 2704:5 occupations 2691:2 2740:23 2695:2,14 2698:10,21 perission 2780 2705:3,16 2782:13 occupations 2691:2 opponent 2707:18,24 2705:11,22 2707:2,17 2788:17 Nguin 2711:2 offer 2700:14 2701:2 2736:1 peragraph 2677:10 perission 2780 2784:24 2718:5 opponents 2707:18,24 2705:11,22 2707:2,17 2788:17 night 2731:23 offer 2700:14 2700:2 2736:1 peragraph 2677:10 person 2683:3 20 2784:24 2782:4 0portunity 2710:9 paraghes 2777:9 2701:19 2702:12 night 2781:12 offer 2700:25 offer 2700:25 perins 2683:12 2696:32 2697:11 2706:12 2742:2 2745:12 No 2677:9 0ffee 2783:2 2786:1 order 2713:2 2740:15 2703:12 2742:2 2745:2				operations 2679:3	·	
2758:24 2771:9,17 2775:19 2788:12 operators 2699:14 2678:4 2681:13 performing 2759 2777:12 2778:5 occasion 2716:20 2700:1,10,19,20,24 2682:4,7 2693:15 2761:7,18 prevertheless 2737:16 occupied 2693:23 operiod 2689:19 2695:2,14 2698:10,21 2699:3,9,24 2702:5 2768:4 2681:13 period 2689:19 prevertheless 2737:16 occupied 2693:23 operiod 2689:19 2761:7,18 period 2689:19 period 2689:19 2705:1,16 cr 2773:19,20 period 2689:19 period 2689:19 period 2689:19 period 2689:19 2719:21 2719:21 cocupied 2693:23 opponents 2707:22 2703:1,112,2 2707:2,117 2788:17 persons 2688:3 26 2784:24 2784:24 2782:4 opportnity 2710:9 paragraphs 2677:1 persons 277:22 2706:13 2695:1 2701:19 2702:1 2749:22 2745:6 2701:19 2702:12 2701:19 2702:12 2701:19 2702:12 2701:19 2702:12 2701:19 2702:12 2701:12 2701:12 2701:12 271:12 2701:12 271:12 2769:12 271:12 2769:12 271:12 2769:12 271:12 2769:12 271:12 2769:12 271:12 2769:12 271:12 2769:12 271:12 2769:12 271:12 2769:12 271:12 2769:12 271:12						
2777:1 2778:5 2779:14,20 2700:1,10,19,20,24 2682:4,7 2693:15 2761:7,18 2779:14,20 occusion 2716:20 2700:1,10,19,20,24 2695:2,14 2698:10,21 period 2689:19 new 2698:11 2704:5 occupied 2693:23 opinions 2702:22 2699:3,9,24 2702:5 perished 2745:17 new soppare 2701:17 ysui 2717:12 offer 2700:14 2701:2 2708:13,15,16 2773:1,9,20 persion 288:32 2784:24 2782:4 2782:4 2785:7 offere 2700:25 offere 2700:25 offere 2707:22 paragraphs 2677:1 persion 2680:13 2695:0 nodding 2782:10 offere 2700:25 office 2687:21 2688:11 opposed 2737:9,10 order 2713:2 2740:15 2703:1 2712:12 2709:1 2707:22 NN 2677:9 2706:12 12655:1 2766:23 2697:11 2743:17 2721:19 2723:24 2783:25 2783:25 nooding 2782:10 ordiner 2748:2,3 2757:3 officer 2748:2,3 2757:3 2686:15 2693:14 2774:23 2778:1 2735:12 2771:3 2738:22 periomet 2732:2 2738:25 0733:12 270:2 2737:20.20 2737:12 275:2:0 2737:12 275:2:1 2760:3 2778:2 2737:12 275:2:0 2737:12 275:2:1 2760:3 2778:2:0 27373:20.20 2737:12 279:2:1						
2779:14,20 27722:8 2785:22 2706:21 2707:4 2694:1,2,8,8,22 period 2689:19 newertheless 2737:16 occupations 2691:2 opinions 2702:22 2699:3,9,24 2702:5 perished 2745:17 newspaper 2701:17 2719:9 opponent 2707:18,24 2705:11,22 2707:21 persisting 275:11 newspaper 2701:17 2719:9 opponent 2707:18,24 27678:19 2734:19,24 2698:17 persisting 275:11 newspaper 2701:17 2719:9 opponents 2707:22 2736:12 paragraphs 2677:1 persisting 275:11 night 731:25 2771:8 2782:4 opportunity 2710:9 paragraphs 2677:1 persisting 275:11 nine 2785:7 office 2687:21 2688:11 opposed 2737:9,10 paraphrase 2777:9 2702:2 2727:22 non 2746:16 2786:21 2706:18 2707:19 2706:18 2707:19 2703:1 2712:12 2769:1 2771:3; non 2746:16 2786:21 2774:2 ordinary 2691:19 2744:11 2746:10 2783:24 2783:23 2782:1 notified 2752:9 2766:14 2765:5 2698:15 2693:14 2774:21 2762:24 2781:23 2778:1 notified 2752:9 2766:12 4766:12 2765:13 2758:8,9 2774:12 2762:14 2766:12 4270:19 2733:14 2706:14						
nevertheless 2737:16 Descriptions 2691:2 2740:23 2695:2,14 2698:10,21 persised 2745:17 new sopser 2701:17 occupred 2693:23 opponent 2707:18,24 2699:3,9,24 2702:5 persised 2745:17 new sopser 2701:17 2719:9 0708:13,15,16 2775:11,22 2707:2,17 persised 2745:17 new sopser 2701:17 2734:25 2780:2 07090nents 2707:22 paragraphs 2677:1 person 2688:3 26 2784:24 2782:4 0790runity 2710:9 paragraphs 2677:1 person 2688:3 26 office 2700:25 office 2687:21 2688:11 09portunity 2710:9 paratemet 2788:21 2701:19 2702:1 non 2746:16 2786:21 2769:13 2767:19 2743:17 2743:17 2743:17 2743:17 2744:11 2746:10 noth 2698:23 0761:14 2769:12 2769:13 2757:3 2696:13 2695:14 2774:23 2778:1 2751:18 noth 2698:23 0761:14 2769:24 2761:12 2769:3 2769:13 2774:3 2769:13 2774:2 2781:23 2774:4 2783:25 noth 2698:12 2777:12 2764:12,13 2765:5 2731:14 2706:14 2769:13 2758:8,9 pertinent 2732:20,0 norea 732:12 770:12 <td>,</td> <td>,</td> <td></td> <td></td> <td></td> <td></td>	,	,				
new 2698:11 2704:5 2705:3,16 2782:13 newspaper 2701:17 Nguni 2717:12 night 2731:25 2771:8 2784:24 occupied 2693:23 occurred 2718:9 2719:9 opinions 2702:22 0pponent 2707:18,24 2708:13,15,16 2699:3,9,24 2702:5 2705:11,22 2707:2,17 permission 2780 2788:17 ngint 2731:25 2771:8 2784:24 offer 2700:14 2701:2 2734:25 2780:2 2782:4 offer 2700:25 0ffer 2700:25 opponent 2707:91 0pponent 2707:91 paragraphs 2677:1 2678:19 2734:19,24 2690:13 2695:6 2708:13,15,16 Nkosi-Thomas 2763:25 offer 2700:25 0ffice 2687:21 2688:11 opposed 2737:9,10 0rder 2713:2 2740:15 paragraphs 2677:1 2736:1 2771:2 2742:2 2745:6 Nokoi-Thomas 2763:25 2766:18 2707:19 2696:23 2697:11 order 2713:2 2740:15 2735:1 2712:12 2769:1 2771:2 2769:1 2771:2 2742:2 2745:6 North 2698:23 2774:2 officer 2748:2,3 2757:3 2764:12,13 2765:5 order 371:14 2769:14 2774:2:3 2778:1 2774:2:3 2778:1 27751:18 notified 2752:9 2764:12,13 2765:5 2766:18 2707:19 2754:12 2745:11 2757:13 2758:8,9 2759:11 2760:7 persone 2702:19 27 notified 2779:21 2756:17 2775:78 ordinary 2691:19 2774:23 2778:12 2751:12 2760:3 2737:20,20 Nisserbarea officers 2738:16 2748:1 2757:13 2758:8,9 2703:13,18,						
2705:3,16 2782:13 newspaper 2701:17 Nguni 2717:12 occupred 2718:9 2719:9 opponent 2707:18,24 2708:13,15,16 2705:11,22 2707:2,17 2788:17 persisting 2751:1 nght 2731:25 2771:8 2784:24 2734:25 2780:2 2784:24 2782:16 poponents 2707:22 paragraphs 2677:1 2678:19,24 night 2731:25 2771:8 2782:14 offered 2700:25 office 2687:21 2688:11 opportunity 2710:9 paragraphs 2677:1 2706:13 2697:14 Nkosi-Thomas 2763:25 office 2687:21 2688:11 opposed 2737:9,10 paraphrase 2777:9 2702:12 2740:12 2706:12 276:12 nodding 2782:10 2706:18 2707:19 2743:17 2711:12 2736:12 2766:12 2697:11 2736:12 2749:1.8 2735:9 2743:7 2744:4 2783:25 not 2746:16 2786:21 2766:18 2707:19 2764:12,13 2765:5 2764:12,13 2765:5 2764:12,13 2765:5 2764:12,13 2765:5 2764:12,13 2757:3 2764:12,23 2778:15 2751:13 2758:89 notified 2752:9 0761:es 2738:16 2748:1 2754:52 5755:11,16 2754:52 5755:11,16 2754:52 5755:11,16 2754:52 5755:11,16 2754:12 776:14 2769:24 2777:12 2752:6 participated 2748:12 2703:13,18,19 2702:12 Nowadays 2706:14 2764:8 2769:8,9 0riginal 2704:4,23 2778:15 0733:10 2775:16 <td< td=""><td></td><td></td><td></td><td>opinions 2702:22</td><td></td><td></td></td<>				opinions 2702:22		
newspaper 2701:17 Order 2719:9 Persisting 2751:1 Nguni 2717:12 offer 2700:14 2701:2 2708:13,15,16 2773:19,20 persisting 2751:1 night 2731:25 2771:8 2734:25 2780:2 2725:16 2678:19 2734:19,24 2690:13 2695:6 2784:24 2782:4 opponents 2707:29 paragraphs 2677:1 persisting 2751:1 night's 2731:25 offered 2700:25 offered 2700:25 opportunity 2710:9 parameter 2788:21 2701:19 2702:1 nodding 2782:10 offered 2700:11 2696:23 2697:11 0rder 2713:2 2740:15 2703:1 2712:12 2769:1 2771:3, 2783:25 not 2746:16 2786:21 2730:11,12 2759:3 order 2713:2 2740:15 2735:9 2743:7 2744:4 2783:23 2757:3 not 2772:14 officer 2748:2,3 2757:3 2686:15 2693:14 2774:23 2778:1 2781:23 2782:1 not 2772:14 officer 2738:16 2748:1 2776:12 2774:23 2778:1 2780:3 2783:2 perturbed 2715:1 not 272:1 2770:12 2786:25 2738:14 2706:14 2777:15 2758:10 2760:3 2783:2 perturbed 2715: not 272:1 2770:12 2764:12,13 2765:5 2698:14 2706:14 27778:15 27						
Nguni 2717:12 night 2731:25 2771:8 278:24Offer 2700:14 2701:2 2734:25 2780:2 278:24opponents 2707:22 2725:16paragraphs 2677:1 2678:19 2734:19,24 parameter 2788:21 parameter 2788:21 parameter 2788:21 parameter 2788:21 parameter 2788:21 2703:1 2712:12person 2688:3 26 2690:13 2695:5 2706:12 2706:12 2722:2745:6Nkosi-Thomas 2763:25 noding 2782:10 non 2746:16 2786:21 North 2698:23 anot 2777:24offer 2700:25 officer 2748:2,3 2697:11 2696:23 2697:11 2696:23 2697:11 2706:18 2707:19order 2713:2 2740:15 2743:17paragraphs 2677:1 parameter 2788:21 parameter 2788:21 2703:1 2712:12 2703:1 2712:12 2703:1 2712:12 2703:1 2712:12 2763:1 2774:23 2764:12,13 2765:5 2764:12,13 2755:13 2764:12,13 2757:13 2754:15 2764:12,13 2757:38 2764:12,13 2757:38 2764:12,13 2757:38 2764:12,13 2757:38 2764:12,13 2757:38 2764:12,13 2757:38 2764:8 2769:14 2704:17 2706:14 2733:4ordinary 2691:19 2734:4 2764:12,13 2755:5 2764:8 2769:10 2778:15 organisational 2698:20 2778:15 2764:8 2767:10parameter 2788:10 2778:15 2766:14 2788:10 2764:8 2769:19 2778:17 2765:17 2757:8 2705:12,23 2706:21 2705:12,23 2706:2parameter 2788:10 2705:12,23 2706:21 2755:10 2782:16 2705:12,23 2706:21 2705:12,23 2706:23 2705:12,	ng 2751:12	persisting 275				
night 2731:25 2771:8 2784:24 2734:25 2780:2 2784:24 2725:16 2678:19 2734:19,24 2690:13 2695:6 night's 2731:23 offered 2700:25 opportunity 2710:9 parameter 2788:21 2707:19 2772:22 nine 2785:7 office 2687:21 2688:11 opposed 2737:9,10 order 2713:2 2740:15 2736:1 2703:1 2712:12 2742:2 2745:6 NN 2677:9 2696:23 2697:11 2706:18 2707:19 2743:17 2735:9 2743:7 2744:4 2783:25 nod 2746:16 2786:21 2774:2 ordinary 2691:19 2744:11 2746:10 personal 2689:13 not 2762:14 officer 2748:2,3 2757:3 2686:15 2693:14 2774:23 2778:1 2751:18 notified 2752:9 officers 2738:16 2748:1 2767:14 2769:24 2774:12 2774:23 2778:1 2774:23 2778:1 no-one 2732:1 2770:12 2786:25 officers 2738:16 2748:1 2778:15 2774:12 2762:3 2760:3 2737:20,20 Ntsebeza's 2711:5 2764:12 7257:8 organisational 2698:20 2753:10 2782:16 2731:16 2703:16 2737:20,20 Newadays 2706:14 2766:3 2787:7 officers 2698:6.7 2705:1 2778:15 2735:10 2782:16 2731:10 2782:16 27060:3 2737:20,20 Na	0	. 0	-			
2784:24 2782:4 opportunity 2710:9 parameter 2788:21 2701:19 2702:1 night's 2731:23 offered 2700:25 opportunity 2710:9 paraphrase 2777:9 2707:2 2727:22 nine 2785:7 office 2687:21 2688:11 opposed 2737:9,10 paraphrase 2777:9 2742:2 2745:6 NN 2677:9 2696:23 2697:11 2696:23 2697:11 2743:17 2735:9 2743:7 774:2 2769:1 2771:3, 2759:2 nodding 2782:10 2706:18 2707:19 2743:17 2735:9 2743:7 724:4 2783:25 not 2746:16 2786:21 2773:0:11,12 2759:3 ordinary 2691:19 2744:11 2746:10 personel 2699:1 North 2698:23 2774:2 officer 2748:2,3 2757:3 2686:15 2693:14 2774:23 2778:1 2751:18 notified 2752:9 2764:12,13 2765:5 2698:14 2706:14 2780:3 2783:2 pertinent 2732:2 noone 2732:1 2770:12 2786:25 2773:13 2758:8,9 participant 2682:8,12 participants 2704:9 phase 2702:19 27 Ngakula 2779:21 2756:17 2757:8 organisational 2698:20 2760:3 2737:20.20 Ntsebeza's 2711:5 2764:8 2769:8,9 2705:11 2760:3 2735:10 2782:16 phoned 2681:24 2704:17 2706:1		•				
night's 2731:23 nine 2785:7 offered 2700:25 office 2687:21 2688:11 2692:14 2694:19 2696:23 2697:11 2736:1 opposed 2737:9,10 order 2713:2 2740:15 paraphrase 2777:9 part 2680:18 2701:21 2707:2 2727:22 2742:2 2745:6 NN z677:9 nodding 2782:10 non 2746:16 2786:21 2706:18 2707:19 2730:11,12 2759:3 2773:11,12 2759:3 order 2713:2 2740:15 2703:1 2712:12 2769:1 2771:3, 2733:2 2743:17 2713:2 2740:15 2707:2 2727:22 part 2680:18 2701:21 2742:2 2745:6 North 2698:23 not 2772:14 2706:18 2707:19 2774:2 orders 2749:1,8 2745:11 2746:10 personnel 2699:1 notified 2752:9 2764:12,13 2765:5 2764:12,13 2765:5 2698:14 2706:14 2774:23 2778:1 2751:18 notified 2752:9 0fficer 2738:16 2748:1 2767:14 2769:24 2731:14 2739:11 2744:19 2748:12 2751:18 notified 2752:9 0fficer 2738:16 2748:1 2751:13 2758:8,9 2760:3 2737:20,20 Nwadays 2706:14 2753:23 2754:10,19 2778:15 0rganisational 2698:20 2760:3 2737:20,20 Nisebeza's 2711:5 2764:8 2769:8,9 2764:8 2769:8,9 2705:1 2775:10 2737:20,20 number 2692:18 2764:8 2769:8,9 27105:1 2705:1 2735:10 2782:16 phone 2770:10 2731:15 2755:15 2764:8 2769:						8
nine 2785:7 office 2687:21 2688:11 opposed 2737:9,10 part 2680:18 2701:21 2742:2 2745:6 Nkosi-Thomas 2763:25 office 2687:21 2688:11 2692:14 2694:19 2743:17 2703:1 2712:12 2769:1 2771:3, NN 2677:9 2696:23 2697:11 2743:17 2711:9 2723:24 2781:23 2782:1 nodding 2782:10 2706:18 2707:19 order 2713:2 2749:1,8 2735:9 2743:7 2744:4 2783:25 not 2746:16 2786:21 2730:11,12 2759:3 ordinary 2691:19 2744:11 2746:10 persons 2727:21 not 2772:14 officer 2748:2,3 2757:3 2686:15 2693:14 2774:23 2778:1 2751:18 notified 2752:9 2764:12,13 2765:5 2731:14 2739:11 2786:25 2731:14 2739:11 2780:3 2783:2 pertiment 2732:2 Nowadays 2706:14 2765:12 2755:11,16 2757:13 2758:8,9 2760:3 2737:20,20 notifice 2692:18 2764:8 2769:8,9 2705:11 2760:3 2731:10 2782:16 phenomenally 26 2704:17 2706:14 2766:8 2767:1 0fficers 2698:6,7 2705:1 2753:10 2782:16 photograph 2720 2710:20 2730:7 2746:23 2787:7			_			
Nkosi-Thomas 2763:25 Onder 2007/21 2080.11 order 2713:2 2740:15 2703:1 2712:12 2769:1 2771:3, NN 2677:9 2696:23 2697:11 2743:17 2711:2 2723:24 2781:23 2782:1 nodding 2782:10 2706:18 2707:19 orders 2749:1,8 2735:9 2743:7 2744:4 2783:25 non 2746:16 2786:21 2730:11,12 2759:3 orders 2749:1,8 2735:9 2743:7 2744:4 2783:25 not 2772:14 officer 2748:2,3 2757:3 2686:15 2693:14 2774:23 2778:1 2751:18 notified 2752:9 2764:12,13 2765:5 2698:14 2706:14 2780:3 2783:2 pertinent 2732:2 Nowadays 2706:14 2767:14 2769:24 2744:9 2745:11 participant 2682:8,12 pertinent 2732:2 Ngkula 2779:21 2753:23 2754:10,19 2757:13 2758:8,9 participants 2704:9 phase 2702:19 27 Ngakula 2779:21 2754:25 2755:11,16 2756:17 2757:8 2764:8 2769:8,9 2760:3 2731:14 2732:16 2760:3 2731:0 2782:16 phone 2681:24 2704:17 2706:14 2764:8 2769:8,9 2705:11 2763:10 2782:16 photograph 2700:10 photograph 2700:10 photograph 2700:10 2712:1,14,19,23 offices 2698:6,7 2710:20 2730:7 2705:	2 2745:6 2763	2742:2 2745		opposed 2737:9,10		
NN 2677:9 2692.14 2094.19 2743:17 2721:19 2723:24 2781:23 2782:1 nodding 2782:10 2706:18 2707:19 orders 2749:1,8 2735:9 2743:7 2744:4 2783:25 non 2746:16 2786:21 270:11,12 2759:3 orders 2749:1,8 2744:11 2746:10 personnel 2699:1 note 2772:14 officer 2748:2,3 2757:3 2686:15 2693:14 2774:23 2778:1 2751:18 notified 2752:9 2764:12,13 2765:5 2764:12,13 2765:5 2698:14 2706:14 2780:3 2783:2 pertinent 2732:2 no-one 2732:1 2770:12 2786:25 0fficers 2738:16 2748:1 2757:13 2758:8,9 participants 2704:9 phase 2702:19 27 Ngakula 2779:21 2754:25 2755:11,16 2756:17 2757:8 0rganisational 2698:20 2760:3 2737:20,20 Number 2692:18 2764:8 2769:8,9 0rganiser 2759:1 073:16 phenomenally 26 2712:1,14,19,23 0ffices 2698:6,7 0riginal 2704:4,23 2753:10 2782:16 phone 2770:10 2712:1,14,19,23 0ffices 2698:6,7 0riginal 2704:4,23 2753:10 2782:16 phone 270:10 2759:21 2762:3,15 2710:20 2730:7 2705:1 2718:6 2750:6 2760:23 2759:21 2762:3,15 2710:			-			
nodding 2782:10 2706:12 207.111 orders 2749:1,8 2735:9 2743:7 2744:4 2783:25 non 2746:16 2786:21 2730:11,12 2759:3 orders 2749:1,8 2735:9 2743:7 2744:4 2783:25 North 2698:23 2774:2 organisation 2683:15 2752:11 2760:7 persons 2727:21 note 2772:14 officer 2748:2,3 2757:3 2686:15 2693:14 2774:23 2778:1 2751:18 notified 2752:9 2764:12,13 2765:5 2767:14 2769:24 2731:14 2739:11 participant 2682:8,12 perturbed 2715: no-one 2732:1 2770:12 2786:25 2738:16 2748:1 2757:13 2758:8,9 participants 2704:9 phase 2702:19 27 Nqakua 2779:21 2754:25 2755:11,16 2756:17 2757:8 organisational 2698:20 2760:3 2737:20,20 Number 2692:18 2764:8 2769:8,9 2778:15 particular 2703:16 phone 270:10 2704:17 2706:14 2756:17 2757:8 organiser 2759:1 2753:10 2782:16 phone 2761:0 2704:17 2706:14 2766:3 2787:7 0ffices 2698:6,7 2705:12,23 2706:2 2718:6 2750:6 photograph 2720 2712:1,14,19,23 2766:8 2767:1 0ffices 268:6,7 2705:12,23 2706:2 2718:6 2750:6 2760:23						
non 2746:16 2786:21 2700:11,12 2759:3 2730:11,12 2759:3 2774:2 ordinary 2691:19 organisation 2683:15 2744:11 2746:10 2752:11 2760:7 personnel 2699:1 persons 2727:21 notified 2752:9 officer 2748:2,3 2757:3 2764:12,13 2765:5 2686:15 2693:14 2698:14 2706:14 2774:23 2778:1 2751:18 no-one 2732:1 2770:12 2771:23,25 2773:5 2764:12,13 2765:5 2766:25 2731:14 2739:11 participant 2682:8,12 perturbed 2715: Nqakula 2779:21 2758:23 2754:10,19 2778:15 2778:15 participant 2703:16 phenomenally 26 Ntsebeza's 2711:5 2756:17 2757:8 2764:8 2769:8,9 2778:15 particular 2703:16 phenomenally 26 2704:17 2706:14 2764:8 2769:8,9 2705:11 2753:10 2782:16 phoned 2681:24 2704:17 2706:14 2764:8 2769:8,9 2705:11 2753:10 2782:16 phoned 2681:24 2704:17 2706:14 2764:8 2769:8,9 2705:11 2753:10 2782:16 phoned 2681:24 2704:17 2706:14 2764:8 2769:8,9 2705:12,23 2706:2 2718:6 2750:6 2760:23 2731:15 2755:15 2710:20 2730:7 2705:12,23 2706:2 2718:6 2750:6 2760:23 2759:21 2762:3,15 2765:17 0rigins 2708:1 particularly 2688:18						
North 2698:23 note 2772:14 notified 2752:9 2173:112 2705:15 2774:2 organisation 2683:15 2764:12,13 2765:5 2752:11 2760:7 2686:15 2693:14 persons 2727:21 2774:23 2778:1 Nowadays 2706:14 no-one 2732:1 2770:12 2771:23,25 2773:5 officer 2748:2,3 2757:3 2766:12 2767:14 2769:24 2731:14 2739:11 2786:25 2744:9 2745:11 participant 2682:8,12 perturbed 2715: Nqakula 2779:21 officers 2738:16 2748:1 2757:13 2758:8,9 organisational 2698:20 2760:3 2731:14,18,19,23 Ntsebeza's 2711:5 2754:25 2755:11,16 2756:17 2757:8 organiser 2759:1 2729:21 2762:3,16 2703:13,18,19 2704:17 2706:14 2764:8 2769:8,9 2764:23 2787:7 2705:1 2755:10 2753:10 2782:16 phoned 2681:24 2704:17 2706:14 2786:23 2787:7 2705:1 2705:1 2753:10 2782:16 phoned 2681:24 2704:17 2706:14 2766:23 2787:7 2705:1 2705:1 2718:6 2750:6 2760:23 2711:15 2755:15 2710:20 2730:7 2705:12,23 2706:2 0riginal 2704:4,23 2718:6 2750:6 2760:23 2759:21 2762:3,15 2710:20 2730:7 2705:12,23 2706:2 0riginal 2704:1 2718:6 2750:6 2760:23 2759:21 2762:3,15 2710:20 2730:7 </td <td>-</td> <td></td> <td></td> <td>,</td> <td></td> <td>8</td>	-			,		8
note 2772:14 officer 2748:2,3 2757:3 2686:15 2693:14 2774:23 2778:1 2751:18 notified 2752:9 officer 2748:2,3 2757:3 2686:15 2693:14 2780:3 2783:2 pertinent 2732:2 Nowadays 2706:14 2764:12,13 2765:5 2767:14 2769:24 2731:14 2739:11 participant 2682:8,12 perturbed 2715: 2771:23,25 2773:5 officer 2738:16 2748:1 2757:13 2758:8,9 2760:3 2733:4 2753:23 2754:10,19 2778:15 2760:3 2737:20,20 Ntsebeza's 2711:5 2756:17 2757:8 2764:8 2769:8,9 2778:15 0riginal 2704:4,23 2753:10 2782:16 phone 2770:10 number 2692:18 2764:8 2769:8,9 2705:1 2705:1 2755:10 2753:10 2782:16 phone 2681:24 2712:1,14,19,23 2756:23 2787:7 original 2704:4,23 2718:6 2750:6 phoned 2681:24 2759:21 2762:3,15 2785:17 2705:12,23 2706:2 particularly 2688:18 2760:23 2759:21 2762:3,15 2785:17 0rigins 2708:1 parties 2704:9 2778:1,1 physically 2724:27 2766:8 2767:1 0fficer 2698:6,7 2705:12,23 2706:2 parties 2704:9 2778:1,1 physically 2724:27 2766:8 2767:1 0fficer 2					· · · · · · · · · · · · · · · · · · ·	
notified 2752:9onter 2748:2,3 2757:32698:14 2706:142780:3 2783:2pertinent 2732:2Nowadays 2706:142764:12,13 2765:52767:14 2769:242731:14 2739:11participant 2682:8,12perturbed 2715:2771:23,25 2773:5officers 2738:16 2748:12757:13 2758:8,9participants 2704:9phase 2702:19 27Nqakula 2779:212753:23 2754:10,192753:23 2754:10,192778:152766:32733:4Ntsebeza's 2711:52756:17 2757:8organisational 2698:202760:32737:20,202704:17 2706:142766:8 2769:8,9original 2704:4,232753:10 2782:16phenomenally 262712:1,14,19,23offices 2698:6,72705:12705:12784:10phoned 2681:242713:15 2755:152710:20 2730:72705:12,23 2706:22718:6 2750:62760:232759:21 2762:3,152785:17origins 2708:1particularly 2688:182760:232759:21 2762:3,152785:17origins 2708:1physically 2724:22766:8 2767:10fficial 2688:11Orlando 2724:18party 2707:12 2723:1physically 2724:2		•				
Nowadays 2706:14 no-one 2732:1 2770:12 2771:23,25 2773:5 2767:14 2769:24 2786:25 2731:14 2739:11 2744:9 2745:11 participant 2682:8,12 participants 2704:9 perturbed 2715: phase 2702:19 27 Nqakula 2779:21 2753:23 2754:10,19 2753:23 2754:10,19 2778:15 2760:3 2737:20,20 Ntsebeza's 2711:5 2756:17 2757:8 organisational 2698:20 2760:3 2737:20,20 number 2692:18 2764:8 2769:8,9 organiser 2759:1 2753:10 2782:16 phone 2770:10 2712:1,14,19,23 2766:23 2787:7 2705:1 2705:1 2784:10 phoned 2681:24 2712:1,14,19,23 offices 2698:6,7 2705:1 2705:12,23 2706:2 2718:6 2750:6 2760:23 2759:21 2762:3,15 2710:20 2730:7 2705:12,23 2706:2 particularly 2688:18 photograph 2720 2759:21 2762:3,15 2785:17 origins 2708:1 partics 2704:9 2778:1,1 physically 2724:2 2766:8 2767:1 0fficial 2688:11 Orlando 2724:18 party 2707:12 2723:1 pick 2766:16						
no-one 2732:1 2770:12 2771:23,25 2773:5 2760:14 2700:14 2700:14 2700:14 2700:14 2700:14 2700:14 2700:14 2786:25 2744:9 2745:11 2786:25 participants 2704:9 phase 2702:19 27 Nqakula 2779:21 2753:23 2754:10,19 2753:23 2754:10,19 2753:23 2754:10,19 2754:25 2755:11,16 2778:15 participants 2703:16 phenomenally 26 Ntsebeza's 2711:5 2756:17 2757:8 0rganisational 2698:20 2760:3 2737:20,20 number 2692:18 2764:8 2769:8,9 0riginal 2704:4,23 2753:10 2782:16 phone 2770:10 2712:1,14,19,23 0ffices 2698:6,7 2705:1 2705:12,23 2706:2 2784:10 photograph 2720 2759:21 2762:3,15 2710:20 2730:7 2705:12,23 2706:2 0riginal 2704:4:8 2718:6 2750:6 2760:23 2759:21 2762:3,15 2760:3 0riginal 2708:1 0riginal 2704:9 photograph 2720 2759:21 2762:3,15 2760:23,15 2760:23 2708:1 photograph 2724:12 2756:17 0rigins 2708:1 0rigins 2708:1 partice 2704:9 2778:1,1 physically 2724:2 2766:8 2767:1 0fficeal 2688:11 0rigins 2708:1 party 2707:12 2723:1 pick 2766:16		•	-		· · · · · · · · · · · · · · · · · · ·	
2771:23,25 2773:5 officers 2738:16 2748:1 2757:13 2758:8,9 participated 2748:12 2703:13,18,19 Nqakula 2779:21 2753:23 2754:10,19 2757:13 2758:8,9 organisational 2698:20 2760:3 2737:20,20 Ntsebeza's 2711:5 2756:17 2757:8 2778:15 2779:21 participated 2748:12 2703:13,18,19 number 2692:18 2756:17 2757:8 organiser 2759:1 2729:21 2752:6 phone 2770:10 2712:1,14,19,23 2766:23 2787:7 2705:1 2705:1 2784:10 phoned 2681:24 2712:1,14,19,23 officers 2698:6,7 2705:1 2705:12,23 2706:2 2718:6 2750:6 2760:23 2759:21 2762:3,15 2710:20 2730:7 2705:12,23 2706:2 particularly 2688:18 photograph 2720 2759:21 2762:3,15 2760:3,15 2760:23,15 2760:23 2760:23 2760:23 2759:21 2762:3,15 2765:17 Origins 2708:1 particularly 2688:18 2760:23 2759:21 2762:3,15 2765:17 Origins 2708:1 parties 2704:9 2778:1,1 physically 2724:2 2766:8 2767:1 official 2688:11 Orlando 2724:18 party 2707:12 2723:1 pick 2766:16						-
Nqakula 2779:21 Officers 2730:10/2740:11 organisational 2698:20 2760:3 2737:20,20 Ntsebeza's 2711:5 2753:23 2754:10,19 2778:15 2778:15 phenomenally 26 2733:4 2756:17 2757:8 organiser 2759:1 2729:21 2752:6 phone 2770:10 number 2692:18 2764:8 2769:8,9 original 2704:4,23 2753:10 2782:16 phone 2681:24 2704:17 2706:14 2786:23 2787:7 2705:1 2705:1 2784:10 phoned 2681:24 2712:1,14,19,23 offices 2698:6,7 2705:12,23 2706:2 2718:6 2750:6 2760:23 2759:21 2762:3,15 2710:20 2730:7 2705:12,23 2706:2 particularly 2688:18 2760:23 2759:21 2762:3,15 2760:3 2760:23 2760:23 2760:23 2759:21 2762:3,15 2765:17 Origins 2708:1 particularly 2693:1 2718:6 2750:6 2760:23 2759:21 2762:3,15 2785:17 Origins 2708:1 parties 2704:9 2778:1,11 physically 2724:2 2766:8 2767:1 Official 2688:11 Orlando 2724:18 party 2707:12 2723:1 pick 2766:16		•				
Ntsebeza's 2711:5 2173:25 2755:11,16 2778:15 particular 2703:16 phenomenally 26 2733:4 2754:25 2755:11,16 2756:17 2757:8 organiser 2759:1 original 2704:4,23 2798:15 phone 2770:10 number 2692:18 2764:8 2769:8,9 2705:1 original 2704:4,23 2753:10 2782:16 phoned 2681:24 2704:17 2706:14 2786:23 2787:7 2705:1 originally 2693:1 2784:10 photograph 2720 2712:1,14,19,23 offices 2698:6,7 2705:12,23 2706:2 origins 2708:1 photograph 2720 2759:21 2762:3,15 2710:20 2730:7 2705:12,23 2706:2 origins 2708:1 photograph 2724:2 2766:8 2767:1 official 2688:11 Orlando 2724:18 particy 2707:12 2723:1 physically 2724:2						-
2733:4 2754:25 2733:11,10 organiser 2759:1 2729:21 2752:6 phone 2770:10 number 2692:18 2764:8 2769:8,9 2764:8 2769:8,9 2705:1 2705:1 2753:10 2782:16 phone 2681:24 2704:17 2706:14 2786:23 2787:7 original 2704:4,23 2705:1 2784:10 phone 2681:24 2712:1,14,19,23 offices 2698:6,7 2705:12,23 2706:2 photograph 2720 2759:21 2762:3,15 2710:20 2730:7 2705:12,23 2706:2 photograph 276:2 2760:23 2766:8 2767:1 official 2688:11 Orlando 2724:18 parties 2704:9 2778:1,1 physically 2724:2 2766:16 2765:12 pick 2766:16 2760:23 2760:23			particular 2703:16			
number 2692:18 2750:17 2706:14 2764:8 2769:8,9 original 2704:4,23 2753:10 2782:16 phoned 2681:24 2704:17 2706:14 2766:23 2787:7 offices 2698:6,7 2705:1 photograph 2720 2712:1,14,19,23 offices 2698:6,7 2710:20 2730:7 2705:12,23 2706:2 photograph 2720 2759:21 2762:3,15 2760:23,15 2785:17 original 2688:11 Orlando 2724:18 photograph 2720 0fficial 2688:11 0rlindo 2724:18 particularly 2688:18 2760:23 photograph 2720 photograph 2720 photograph 2720 photograph 2720 photograph 2720 0riginal 2704:14,19,23 0riginal 2706:2 2718:6 2750:6 2760:23 2759:21 2762:3,15 2765:17 0riginal 2708:1 physically 2724:2 0fficial 2688:11 0rlando 2724:18 party 2707:12 2723:1 pick 2766:16				organiser 2759:1		
2704:17 2706:14 2705:10 2705:1 2786:23 2787:7 photograph 2720 2712:1,14,19,23 2786:23 2787:7 originally 2693:1 2705:12,23 2706:2 particularly 2688:18 photograph 2720 2731:15 2755:15 2710:20 2730:7 2705:12,23 2706:2 origins 2708:1 photograph 2720 2759:21 2762:3,15 2710:20 2730:7 2785:17 origins 2708:1 photograph 2720 0flices 2698:6,7 2710:20 2730:7 0rigins 2708:1 particularly 2688:18 2760:23 2766:8 2767:1 0flicial 2688:11 Orlando 2724:18 party 2707:12 2723:1 pick 2766:16						number 2692:18
2712:1,14,19,23 offices 2698:6,7 originally 2693:1 particularly 2688:18 photographs 276 2731:15 2755:15 2710:20 2730:7 2705:12,23 2706:2 origins 2708:1 particularly 2688:18 photographs 276 2759:21 2762:3,15 2766:8 2767:1 0fficial 2688:11 Orlando 2724:18 particularly 2707:12 2723:1 physically 2724:2						2704:17 2706:14
2731:15 2755:15 2710:20 2730:7 2705:12,23 2706:2 2718:6 2750:6 2760:23 2759:21 2762:3,15 2785:17 origins 2708:1 parties 2704:9 2778:1,1 physically 2724:2 2766:8 2767:1 official 2688:11 Orlando 2724:18 party 2707:12 2723:1 pick 2766:16				originally 2693:1		
2759:21 2762:3,15 2785:17 origins 2708:1 parties 2704:9 2778:1,1 physically 2724:2 2766:8 2767:1 official 2688:11 Orlando 2724:18 party 2707:12 2723:1 pick 2766:16						
2766:8 2767:1 Orlando 2724:18 party 2707:12 2723:1 pick 2766:16	ly 2724:2	physically 272		origins 2708:1		2759:21 2762:3,15
2773:11,12 2781:24 2712:13,15 2770:19 ostensibly 2695:23 pass 2720:12 picture 2732:19						
2782:16 2784:11 2787:6 ought 2749:15,23 passage 2680:25 pictures 2784:18		•				
numbers 2698:24 officially 2744:14 2753:4 2759:8,9 2701:11 2705:2 piece 2771:15						
2712:15 2713:4 officials 2684:15 outcome 2702:9 2755:8 2712:8 2713:19 Pillay 2692:20,22						
NUM's 2706:15 2694:12 2711:14 outside 2700:11 2780:2 2780:6,9,20 2781:11 2712:20,24 271				outside 2700:11 2780:2		
ARCHIVE FOR LUSTICE		-				ARCHIVE EO

RealTime Transcriptions

	Ŭ			Page
2718:22,25 2719:2	2743:17 2788:11	proposed 2757:25	QQ3 2726:10 2728:18	2764:23 2767:13,13
2726:16 2766:9	present 2683:3 2685:17	2779:13	quarter 2788:11	2782:6 2786:13
Pirates 2724:18	2686:7 2722:8	proposing 2775:6	quell 2686:16	reading 2772:22
place 2677:12 2681:22	2728:20 2758:12	proposition 2681:3	quelling 2723:17	2780:6,9 2781:11
2686:8 2701:24	2767:19 2770:23	2729:4 2730:9	question 2680:6 2681:7	2780:0,9 2781:11
2736:14 2755:2	2780:14	propositions 2676:15	2684:23 2687:22	reads 2708:12 2781:1
2759:12 2771:24	presentation 2718:14	2683:5 2738:24	2689:13,18 2702:7	realise 2772:9
2777:16 2782:6,10	2719:8 2756:5	protest 2693:17	2708:12 2711:10	really 2677:5 2679:20
platinum 2698:16,17	presenting 2743:20	protester 2764:21,23	2708.12 2711.10 2722:17,18,19,21	2727:6 2734:25
2699:21 2700:4	presently 2736:17	2765:4 2767:2,3,7,8	2723:10,19 2726:21	2735:17,20 2736:11
Plats 2700:15,15	presided 2695:15	2768:12 2769:15	2727:5,10 2740:2	2737:16 2744:18
play 2708:2 2724:18	president 2708:7	2708.12 2709.13	2741:24 2742:15,18	2750:10 2766:18
played 2720:2 2736:14	2741:12 2773:20	protesters 2719:16	2742:19 2750:24	2779:1,8 2782:6,19
2754:12 2784:8	press 2682:6,8,12,16,25	2720:8,16 2754:11,16	2751:1,6,10 2752:23	2782:20 2787:13
pleaded 2754:20	2693:3 2704:22	2754:20,24,24 2755:4	2753:2 2759:17	realm 2743:16
please 2690:5 2709:11	2734:10 2752:5,8	2755:22 2761:6	2761:4 2763:10	reason 2681:24 2689:4
2721:21 2724:7	2753:11,24 2757:14	2762:3,13 2769:9,10	2766:20,20 2768:7	2694:13,14 2714:10
2740:3 2763:17	2757:17,20 2758:6,10	2769:19 2772:13,23	2774:10 2777:14	2715:6 2722:7
2784:15	2758:15 2759:4,9,16	2709.19 2772.13,23 2774:12	2780:5 2787:17,18	2731:22 2742:6,10
pleased 2728:25	2774:8,17	protestor 2781:23	2788:17,18	2777:10 2778:4
plus 2702:12,24 2703:9	presumably 2705:1	2782:16,16,22	questioned 2750:6	reasonable 2742:2
2703:10 2709:14	2720:23	2782.10,10,22	questioning 2735:4	reasons 2715:3 2722:7
point 2679:20 2680:25	prevailed 2732:2	protocol 2770:14	2761:2	recall 2678:9 2679:23
2682:12,14,17 2685:1	prevent 2720:14	proven 2707:19	questions 2676:11,23	2681:17,18 2687:21
2700:22 2709:18	2756:4 2788:21	provided 2745:3	2680:23 2683:10	2697:14 2710:14
2711:5,8 2719:23	prevented 2757:19	2764:19	2685:20 2686:8	2730:9 2734:8
2720:6 2728:13	2758:6 2781:12	Provincial 2770:4,17	2687:4,16 2699:17	2736:12 2746:1
2729:13,16,17,19,20	previous 2731:23,25	2770:23 2771:5,18,21	2701:8 2710:6	recalled 2737:5,18
2730:22,23,24 2731:1	2766:19 2771:8	provisional 2787:2,5	2723:11 2727:8,25	received 2741:8,23
2736:5 2748:11	previously 2695:3	provoked 2703:5	2725:11 2727.8,25	2742:3,7 2749:8
2750:18 2753:10	pre-arranged 2784:20	purported 2715:2	quickly 2707:9	2758:2,13 2778:5
2782:19 2788:10	principle 2702:25	purposes 2691:25	quite 2688:14 2694:20	2780:18
pointed 2786:25	2703:10 2749:18,23	2717:4 2718:23	2703:21 2708:23	receiving 2697:14
points 2714:13 2735:6	2750:15	pursue 2703:22	2709:11 2720:21	2742:8 2758:1
2735:15	principled 2742:12	pursue 2703.22 push 2728:10	2721:1 2729:13	recklessly 2709:4
policeman 2788:20	2745:7	put 2676:14,24 2677:21	2730:14 2751:3	recognised 2707:23
policemen 2684:13,14	principles 2739:4	2678:21,24 2679:22	2756:11 2781:20	recognition 2702:13
2718:9,11 2758:20	2750:19	2679:25 2680:10,10	quote 2698:22	2779:1
political 2721:20	printed 2692:17	2681:1,1 2682:23	<i>quote</i> 2020.22	recollection 2678:12
2723:1	prior 2699:10 2772:20	2683:10 2685:20	R	2681:10 2696:7
POPCRU 2747:25	private 2732:1	2686:8 2687:14,16	railway 2711:21	2698:1 2731:6
portion 2706:15	probably 2677:7	2688:10 2689:19	2715:17 2718:6	2745:24 2753:21
portrayed 2709:3	2689:21 2702:9	2699:24 2710:17	2720:3 2721:25	2754:7 2767:6
position 2686:25	2704:2 2705:9 2745:7	2711:10 2712:8	2725:19,25 2726:8,15	record 2688:9 2710:22
2688:15 2689:6	problem 2704:19	2714:18 2715:1	2729:14	2712:2 2718:23
2690:16 2706:23	2735:19 2742:18	2720:9 2721:21	raise 2732:24	2729:18,21 2740:22
2708:1 2722:3	2747:11	2722:18 2723:11,16	raised 2722:24 2751:6	2764:5
2731:20 2748:17	problems 2702:9	2729:4 2731:12	raising 2736:4	recorded 2679:25
2757:11 2779:9	proceed 2763:17	2732:3 2736:13	Ramaphele's 2746:22	recording 2680:17
possible 2717:5,16	2767:10	2738:24 2742:18	Ramphele 2738:13,14	recruiting 2699:9
2721:3 2754:17	proceeded 2786:22	2749:19 2756:11,16	2738:22 2739:2,6,10	red 2762:4,6
2759:16 2760:1	proceedings 2676:1	2757:2 2766:20,20	2739:15,19,21 2740:7	refer 2680:13 2691:12
Possibly 2768:6	2683:12,16 2687:3	2777:17 2780:14	2740:11,19 2741:1,7	2711:8 2713:20
Power 2774:3,8	2747:25 2750:17	2787:18	2741:15,18,21 2742:1	2717:21 2718:4
practicality 2691:25	2764:6	putting 2678:8 2679:18	2742:10 2743:1,8,14	2719:3 2759:20
practically 2702:13,23	process 2746:6	2681:3 2684:23	2743:24 2744:7,16	2762:2 2773:9
practice 2732:6	processed 2734:23	2690:1 2703:17	2747:3	reference 2678:6
2759:25 2761:7	processes 2778:22	2722:9 2756:14	rate 2756:23	2699:21 2700:3,8,9
pre 2784:19	produce 2720:15	2759:8	RDO 2740:23 2780:1	2711:3 2713:3
preceding 2734:5	profess 2691:6	P-A-L-A-N-E 2694:9	RDOs 2734:22	2723:12 2755:14
preface 2680:2			reached 2679:4	2767:9 2779:5
prefer 2712:22	proper 2717:8 2742:6	Q	reaction 2697:25	referred 2688:24
prejudice 2686:2	2746:4	QQ1 2692:24 2704:5	2783:7 2784:1 2786:5	2707:13 2710:17
prepared 2678:13	properly 2777:14	2705:11,16	read 2680:25 2711:9	2715:4,16 2716:19
2703:22 2706:9	proposal 2743:24	QQ2 2712:25 2713:18	2712:2 2714:5	2718:24 2724:13
2738:2 2742:16	propose 2733:6	2717:24 2718:24	2715:15 2756:19	2767:4
10000000000000		1	1	1

LUSTICE

ARCHIVE FOR

RealTime Transcriptions

				Page 1
referring 2677:23	report 2771:18	right 2676:19 2690:16	2721:4 2723:18	2777:25 2779:17
2694:17 2716:1	represent 2684:2,6,14	2691:9 2701:3 2715:5	2724:9 2727:4 2729:8	2782:10 2783:22
2718:17 2730:4	2684:15 2685:4	2720:10 2724:2	2729:22 2732:9	2784:18,21 2785:1,22
2762:16 2766:10	2715:10 2738:15	2734:2 2739:7	2736:4 2741:16	2786:23 2788:6
refers 2684:10 2721:12	2747:7,25 2763:14	2765:24 2783:20	2742:1 2744:1,1	seek 2676:14 2735:1
reflect 2678:22	2764:5 2778:19	rights 2683:17,22	2745:21 2746:17,23	seeking 2719:7 2724:8
reflected 2678:11	2779:9	2698:20 2702:14	2751:22,23,24 2752:8	2727:25 2728:5
2679:24 2783:1	representative 2698:14	2703:10 2743:11,15	2752:20 2760:13	2735:5
reformulate 2768:7	representatives	2774:1 2778:13,15,18	2761:20,22 2767:9,9	seeks 2719:21
reformulated 2680:7	2677:17	rise 2692:19,20	2769:15,19 2771:20	seen 2690:17 2718:4,5
2722:18	represented 2683:16	2734:10,11 2751:1	2771:22,24 2772:6	2718:5,7 2719:22
refrain 2752:15	2684:19	risk 2770:24	2773:21 2780:7	2725:7,9 2726:17
2753:18 2754:5	represents 2684:12	ritual 2759:25 2760:22	2784:3	2744:24,25 2745:1
2762:23	reprimanded 2745:12	2761:7,8,11	says 2680:9,15,16	2756:19 2760:20
refused 2695:3,9	2768:22	rituals 2760:9 2761:18	2681:20 2693:15,21	2765:22 2776:21
2696:21 2764:16	reprinted 2693:2	rival 2724:18,24 2725:6	2694:2,9,16,22	2786:21
	-	-		
regard 2678:25	request 2677:19 2679:3	2751:19,19	2695:2,18 2698:1	Semenya 2763:25
2682:24 2774:17	2679:8,10,13 2745:15	rivalry 2708:15	2701:11,23 2702:6,23	2783:10,20
regarded 2678:16	2777:10,16 2780:7	Rivers 2698:18	2703:12 2706:1,14	send 2774:4,12
regarding 2786:21	requested 2758:25	rock 2699:13 2700:1,10	2707:2 2714:6,8	senior 2701:18 2771:15
regional 2698:7	2769:23 2770:5	2700:19,20,24 2707:4	2721:24 2724:5	2772:4
regrets 2742:20	rescue 2713:11	2707:7	2764:24 2765:4,8,16	sense 2686:25 2708:15
reinstated 2694:3	reserve 2728:19	role 2687:1,14 2721:9	2767:14,17 2773:20	2708:16
rejected 2701:1	resignation 2698:6	2721:15 2722:12	2774:3 2779:17,21	sensitive 2679:4
related 2743:4	resigning 2698:5	2724:10 2736:15,23	2781:1,3	sent 2694:10,13
	resist 2772:25			
relates 2722:17,17		2748:6,10 2751:15	scene 2684:11,11	sentence 2735:14
relation 2718:24	resisting 2751:12	rolling 2736:3	2729:11 2756:10,18	2782:5
2735:15,22 2740:16	resolution 2687:2	room 2769:25 2770:1	scenes 2725:11	sentiment 2702:17
2745:21,21,22 2779:9	resolved 2717:7	row 2733:10	school 2716:25	Seoka 2785:22
relationship 2708:25	resort 2726:1,3	rows 2704:15	script 2745:13	separate 2712:10
2709:1	respect 2680:8,19	rumour 2710:10	second 2694:4 2695:23	September 2693:15
relatives 2685:22	2736:6 2737:14	rumours 2714:20,21	2696:14 2703:12	2707:3
released 2774:16	2773:3,17 2778:12	run 2725:5 2744:10	2714:24 2720:7	sequence 2694:20
relevant 2695:15	respected 2765:17	2746:21 2770:13	2735:21 2736:1,19	SERI 2683:17,24
2701:11 2726:7	respond 2749:20	running 2689:19	2766:17 2770:22	2684:3
2730:18 2735:21,22	2750:12	Rustenburg 2694:17	2773:19 2775:12	serious 2781:20
· · · · · · · · · · · · · · · · · · ·		-		
2737:17,19,20	response 2736:20	2694:18 2706:17	2783:1 2785:13	2782:21
religious 2775:17	2745:19 2753:14	R700 2700:10,13	2786:14 2787:19,25	seriously 2708:23
rely 2713:10	2758:2 2771:9 2778:6		2788:19	2769:10 2772:17
remain 2680:20	responses 2686:22	S	secondly 2781:8	2783:8,24
remained 2697:17	2688:23	safety 2771:1	second-in 2771:6	served 2783:17
remake 2729:19	responsibility 2742:13	SAFM 2710:24 2711:1	secretary 2694:10,10	
remarks 2782:22			Secretary 2094.10.10	Service 2756:8.9
	2742:17.21 2743.19	2763:1 2779:11		Service 2756:8,9 services 2782:5
remember 2688.10	2742:17,21 2743:19 2743:19 2744:11	2763:1 2779:11 sake 2713:2 7	2694:23 2759:1	services 2782:5
remember 2688:19 2697:13 23 2710:20	2743:19 2744:11	sake 2713:2,7	2694:23 2759:1 2760:12 2761:13,22	services 2782:5 session 2720:2
2697:13,23 2710:20	2743:19 2744:11 responsible 2687:9	sake 2713:2,7 salary 2697:8	2694:23 2759:1 2760:12 2761:13,22 section 2693:23 2746:1	services 2782:5 session 2720:2 set 2736:3 2776:7
2697:13,23 2710:20 2710:21 2716:24	2743:19 2744:11 responsible 2687:9 2708:8 2727:16	sake 2713:2,7 salary 2697:8 SAPS 2682:1,2,7	2694:23 2759:1 2760:12 2761:13,22 section 2693:23 2746:1 security 2684:15	services 2782:5 session 2720:2 set 2736:3 2776:7 setting 2746:14
2697:13,23 2710:20 2710:21 2716:24 2723:19 2724:13	2743:19 2744:11 responsible 2687:9 2708:8 2727:16 2744:1	sake 2713:2,7 salary 2697:8 SAPS 2682:1,2,7 2686:22 2687:9	2694:23 2759:1 2760:12 2761:13,22 section 2693:23 2746:1 security 2684:15 2699:11 2714:9	services 2782:5 session 2720:2 set 2736:3 2776:7 setting 2746:14 settled 2692:12
2697:13,23 2710:20 2710:21 2716:24 2723:19 2724:13 2730:20 2754:13	2743:19 2744:11 responsible 2687:9 2708:8 2727:16 2744:1 responsibly 2772:3	sake 2713:2,7 salary 2697:8 SAPS 2682:1,2,7 2686:22 2687:9 2715:16 2718:14	2694:23 2759:1 2760:12 2761:13,22 section 2693:23 2746:1 security 2684:15 2699:11 2714:9 2731:24 2738:16	services 2782:5 session 2720:2 set 2736:3 2776:7 setting 2746:14 settled 2692:12 2726:25
2697:13,23 2710:20 2710:21 2716:24 2723:19 2724:13 2730:20 2754:13 2755:12 2761:20	2743:19 2744:11 responsible 2687:9 2708:8 2727:16 2744:1 responsibly 2772:3 rest 2707:5 2774:7,20	sake 2713:2,7 salary 2697:8 SAPS 2682:1,2,7 2686:22 2687:9 2715:16 2718:14 2751:16,17,22	2694:23 2759:1 2760:12 2761:13,22 section 2693:23 2746:1 security 2684:15 2699:11 2714:9 2731:24 2738:16 2745:3,18 2753:23	services 2782:5 session 2720:2 set 2736:3 2776:7 setting 2746:14 settled 2692:12 2726:25 settlement 2720:13
2697:13,23 2710:20 2710:21 2716:24 2723:19 2724:13 2730:20 2754:13	2743:19 2744:11 responsible 2687:9 2708:8 2727:16 2744:1 responsibly 2772:3	sake 2713:2,7 salary 2697:8 SAPS 2682:1,2,7 2686:22 2687:9 2715:16 2718:14	2694:23 2759:1 2760:12 2761:13,22 section 2693:23 2746:1 security 2684:15 2699:11 2714:9 2731:24 2738:16	services 2782:5 session 2720:2 set 2736:3 2776:7 setting 2746:14 settled 2692:12 2726:25
2697:13,23 2710:20 2710:21 2716:24 2723:19 2724:13 2730:20 2754:13 2755:12 2761:20	2743:19 2744:11 responsible 2687:9 2708:8 2727:16 2744:1 responsibly 2772:3 rest 2707:5 2774:7,20	sake 2713:2,7 salary 2697:8 SAPS 2682:1,2,7 2686:22 2687:9 2715:16 2718:14 2751:16,17,22	2694:23 2759:1 2760:12 2761:13,22 section 2693:23 2746:1 security 2684:15 2699:11 2714:9 2731:24 2738:16 2745:3,18 2753:23	services 2782:5 session 2720:2 set 2736:3 2776:7 setting 2746:14 settled 2692:12 2726:25 settlement 2720:13
2697:13,23 2710:20 2710:21 2716:24 2723:19 2724:13 2730:20 2754:13 2755:12 2761:20 2766:5 2767:4,5 2770:7 2780:3,11,15	2743:19 2744:11 responsible 2687:9 2708:8 2727:16 2744:1 responsibly 2772:3 rest 2707:5 2774:7,20 restoration 2738:20 2747:8	sake 2713:2,7 salary 2697:8 SAPS 2682:1,2,7 2686:22 2687:9 2715:16 2718:14 2751:16,17,22 2752:19 2754:12 2755:9 2759:23	2694:23 2759:1 2760:12 2761:13,22 section 2693:23 2746:1 security 2684:15 2699:11 2714:9 2731:24 2738:16 2745:3,18 2753:23 2772:15,25 2773:4 2774:13	services 2782:5 session 2720:2 set 2736:3 2776:7 setting 2746:14 settled 2692:12 2726:25 settlement 2720:13 2756:3 seven 2685:15
2697:13,23 2710:20 2710:21 2716:24 2723:19 2724:13 2730:20 2754:13 2755:12 2761:20 2766:5 2767:4,5 2770:7 2780:3,11,15 2781:24,25 2782:2,14	2743:19 2744:11 responsible 2687:9 2708:8 2727:16 2744:1 responsibly 2772:3 rest 2707:5 2774:7,20 restoration 2738:20 2747:8 restricting 2703:19	sake 2713:2,7 salary 2697:8 SAPS 2682:1,2,7 2686:22 2687:9 2715:16 2718:14 2751:16,17,22 2752:19 2754:12 2755:9 2759:23 2761:5,25 2769:19	2694:23 2759:1 2760:12 2761:13,22 section 2693:23 2746:1 security 2684:15 2699:11 2714:9 2731:24 2738:16 2745:3,18 2753:23 2772:15,25 2773:4 2774:13 see 2677:14 2679:1	services 2782:5 session 2720:2 set 2736:3 2776:7 setting 2746:14 settled 2692:12 2726:25 settlement 2720:13 2756:3 seven 2685:15 Seventh 2750:9
2697:13,23 2710:20 2710:21 2716:24 2723:19 2724:13 2730:20 2754:13 2755:12 2761:20 2766:5 2767:4,5 2770:7 2780:3,11,15 2781:24,25 2782:2,14 2782:23	2743:19 2744:11 responsible 2687:9 2708:8 2727:16 2744:1 responsibly 2772:3 rest 2707:5 2774:7,20 restoration 2738:20 2747:8 restricting 2703:19 result 2755:7	sake 2713:2,7 salary 2697:8 SAPS 2682:1,2,7 2686:22 2687:9 2715:16 2718:14 2751:16,17,22 2752:19 2754:12 2755:9 2759:23 2761:5,25 2769:19 2772:4	2694:23 2759:1 2760:12 2761:13,22 section 2693:23 2746:1 security 2684:15 2699:11 2714:9 2731:24 2738:16 2745:3,18 2753:23 2772:15,25 2773:4 2774:13 see 2677:14 2679:1 2680:19 2690:10	services 2782:5 session 2720:2 set 2736:3 2776:7 setting 2746:14 settled 2692:12 2726:25 settlement 2720:13 2756:3 seven 2685:15 Seventh 2750:9 severely 2755:11
2697:13,23 2710:20 2710:21 2716:24 2723:19 2724:13 2730:20 2754:13 2755:12 2761:20 2766:5 2767:4,5 2770:7 2780:3,11,15 2781:24,25 2782:2,14 2782:23 reminded 2753:14	2743:19 2744:11 responsible 2687:9 2708:8 2727:16 2744:1 responsibly 2772:3 rest 2707:5 2774:7,20 restoration 2738:20 2747:8 restricting 2703:19 result 2755:7 resume 2713:6 2766:23	sake 2713:2,7 salary 2697:8 SAPS 2682:1,2,7 2686:22 2687:9 2715:16 2718:14 2751:16,17,22 2752:19 2754:12 2755:9 2759:23 2761:5,25 2769:19 2772:4 satisfy 2686:24	2694:23 2759:1 2760:12 2761:13,22 section 2693:23 2746:1 security 2684:15 2699:11 2714:9 2731:24 2738:16 2745:3,18 2753:23 2772:15,25 2773:4 2774:13 see 2677:14 2679:1 2680:19 2690:10 2699:6,7,16 2700:17	services 2782:5 session 2720:2 set 2736:3 2776:7 setting 2746:14 settled 2692:12 2726:25 settlement 2720:13 2756:3 seven 2685:15 Seventh 2750:9 severely 2755:11 sharpened 2716:4
2697:13,23 2710:20 2710:21 2716:24 2723:19 2724:13 2730:20 2754:13 2755:12 2761:20 2766:5 2767:4,5 2770:7 2780:3,11,15 2781:24,25 2782:2,14 2782:23 reminded 2753:14 2786:10	2743:19 2744:11 responsible 2687:9 2708:8 2727:16 2744:1 responsibly 2772:3 rest 2707:5 2774:7,20 restoration 2738:20 2747:8 restricting 2703:19 result 2755:7 resume 2713:6 2766:23 2767:10 2785:20	sake 2713:2,7 salary 2697:8 SAPS 2682:1,2,7 2686:22 2687:9 2715:16 2718:14 2751:16,17,22 2752:19 2754:12 2755:9 2759:23 2761:5,25 2769:19 2772:4 satisfy 2686:24 Saturday 2714:6,8	2694:23 2759:1 2760:12 2761:13,22 section 2693:23 2746:1 security 2684:15 2699:11 2714:9 2731:24 2738:16 2745:3,18 2753:23 2772:15,25 2773:4 2774:13 see 2677:14 2679:1 2680:19 2690:10 2699:6,7,16 2700:17 2705:12,17 2708:24	services 2782:5 session 2720:2 set 2736:3 2776:7 setting 2746:14 settled 2692:12 2726:25 settlement 2720:13 2756:3 seven 2685:15 Seventh 2750:9 severely 2755:11 sharpened 2716:4 shield 2716:17
2697:13,23 2710:20 2710:21 2716:24 2723:19 2724:13 2730:20 2754:13 2755:12 2761:20 2766:5 2767:4,5 2770:7 2780:3,11,15 2781:24,25 2782:2,14 2782:23 reminded 2753:14 2786:10 removed 2699:11	2743:19 2744:11 responsible 2687:9 2708:8 2727:16 2744:1 responsibly 2772:3 rest 2707:5 2774:7,20 restoration 2738:20 2747:8 restricting 2703:19 result 2755:7 resume 2713:6 2766:23 2767:10 2785:20 2789:1	sake 2713:2,7 salary 2697:8 SAPS 2682:1,2,7 2686:22 2687:9 2715:16 2718:14 2751:16,17,22 2752:19 2754:12 2755:9 2759:23 2761:5,25 2769:19 2772:4 satisfy 2686:24 Saturday 2714:6,8 save 2692:6 2766:19	2694:23 2759:1 2760:12 2761:13,22 section 2693:23 2746:1 security 2684:15 2699:11 2714:9 2731:24 2738:16 2745:3,18 2753:23 2772:15,25 2773:4 2774:13 see 2677:14 2679:1 2680:19 2690:10 2699:6,7,16 2700:17 2705:12,17 2708:24 2713:18,24 2716:8,20	services 2782:5 session 2720:2 set 2736:3 2776:7 setting 2746:14 settled 2692:12 2726:25 settlement 2720:13 2756:3 seven 2685:15 Seventh 2750:9 severely 2755:11 sharpened 2716:4 shield 2716:17 shields 2716:18
2697:13,23 2710:20 2710:21 2716:24 2723:19 2724:13 2730:20 2754:13 2755:12 2761:20 2766:5 2767:4,5 2770:7 2780:3,11,15 2781:24,25 2782:2,14 2782:23 reminded 2753:14 2786:10 removed 2699:11 render 2768:7	2743:19 2744:11 responsible 2687:9 2708:8 2727:16 2744:1 responsibly 2772:3 rest 2707:5 2774:7,20 restoration 2738:20 2747:8 restricting 2703:19 result 2755:7 resume 2713:6 2766:23 2767:10 2785:20 2789:1 resumes 2676:2 2710:1	sake 2713:2,7 salary 2697:8 SAPS 2682:1,2,7 2686:22 2687:9 2715:16 2718:14 2751:16,17,22 2752:19 2754:12 2755:9 2759:23 2761:5,25 2769:19 2772:4 satisfy 2686:24 Saturday 2714:6,8 save 2692:6 2766:19 saw 2720:2 2726:12	2694:23 2759:1 2760:12 2761:13,22 section 2693:23 2746:1 security 2684:15 2699:11 2714:9 2731:24 2738:16 2745:3,18 2753:23 2772:15,25 2773:4 2774:13 see 2677:14 2679:1 2680:19 2690:10 2699:6,7,16 2700:17 2705:12,17 2708:24 2713:18,24 2716:8,20 2717:1 2719:18	services 2782:5 session 2720:2 set 2736:3 2776:7 setting 2746:14 settled 2692:12 2726:25 settlement 2720:13 2756:3 seven 2685:15 Seventh 2750:9 severely 2755:11 sharpened 2716:4 shield 2716:17 shields 2716:18 shop 2702:13,24
2697:13,23 2710:20 2710:21 2716:24 2723:19 2724:13 2730:20 2754:13 2755:12 2761:20 2766:5 2767:4,5 2770:7 2780:3,11,15 2781:24,25 2782:2,14 2782:23 reminded 2753:14 2786:10 removed 2699:11 render 2768:7 reneged 2731:22	2743:19 2744:11 responsible 2687:9 2708:8 2727:16 2744:1 responsibly 2772:3 rest 2707:5 2774:7,20 restoration 2738:20 2747:8 restricting 2703:19 result 2755:7 resume 2713:6 2766:23 2767:10 2785:20 2789:1 resumes 2676:2 2710:1 2710:2 2747:14,15	sake 2713:2,7 salary 2697:8 SAPS 2682:1,2,7 2686:22 2687:9 2715:16 2718:14 2751:16,17,22 2752:19 2754:12 2755:9 2759:23 2761:5,25 2769:19 2772:4 satisfy 2686:24 Saturday 2714:6,8 save 2692:6 2766:19 saw 2720:2 2726:12 2754:11,15,21,25	2694:23 2759:1 2760:12 2761:13,22 section 2693:23 2746:1 security 2684:15 2699:11 2714:9 2731:24 2738:16 2745:3,18 2753:23 2772:15,25 2773:4 2774:13 see 2677:14 2679:1 2680:19 2690:10 2699:6,7,16 2700:17 2705:12,17 2708:24 2713:18,24 2716:8,20 2717:1 2719:18 2722:19 2726:17	services 2782:5 session 2720:2 set 2736:3 2776:7 setting 2746:14 settled 2692:12 2726:25 settlement 2720:13 2756:3 seven 2685:15 Seventh 2750:9 severely 2755:11 sharpened 2716:4 shield 2716:17 shields 2716:18 shop 2702:13,24 2706:18 2707:5,8
2697:13,23 2710:20 2710:21 2716:24 2723:19 2724:13 2730:20 2754:13 2755:12 2761:20 2766:5 2767:4,5 2770:7 2780:3,11,15 2781:24,25 2782:2,14 2782:23 reminded 2753:14 2786:10 removed 2699:11 render 2768:7 reneged 2731:22 repeat 2677:6 2690:6	2743:19 2744:11 responsible 2687:9 2708:8 2727:16 2744:1 responsibly 2772:3 rest 2707:5 2774:7,20 restoration 2738:20 2747:8 restricting 2703:19 result 2755:7 resume 2713:6 2766:23 2767:10 2785:20 2789:1 resumes 2676:2 2710:1 2710:2 2747:14,15 resuming 2676:5	sake 2713:2,7 salary 2697:8 SAPS 2682:1,2,7 2686:22 2687:9 2715:16 2718:14 2751:16,17,22 2752:19 2754:12 2755:9 2759:23 2761:5,25 2769:19 2772:4 satisfy 2686:24 Saturday 2714:6,8 save 2692:6 2766:19 saw 2720:2 2726:12 2754:11,15,21,25 2755:1,10 2760:22	2694:23 2759:1 2760:12 2761:13,22 section 2693:23 2746:1 security 2684:15 2699:11 2714:9 2731:24 2738:16 2745:3,18 2753:23 2772:15,25 2773:4 2774:13 see 2677:14 2679:1 2680:19 2690:10 2699:6,7,16 2700:17 2705:12,17 2708:24 2713:18,24 2716:8,20 2717:1 2719:18 2722:19 2726:17 2728:2 2732:21	services 2782:5 session 2720:2 set 2736:3 2776:7 setting 2746:14 settled 2692:12 2726:25 settlement 2720:13 2756:3 seven 2685:15 Seventh 2750:9 severely 2755:11 sharpened 2716:4 shield 2716:17 shields 2716:18 shop 2702:13,24 2706:18 2707:5,8 2734:21
2697:13,23 2710:20 2710:21 2716:24 2723:19 2724:13 2730:20 2754:13 2755:12 2761:20 2766:5 2767:4,5 2770:7 2780:3,11,15 2781:24,25 2782:2,14 2782:23 reminded 2753:14 2786:10 removed 2699:11 render 2768:7 reneged 2731:22	2743:19 2744:11 responsible 2687:9 2708:8 2727:16 2744:1 responsibly 2772:3 rest 2707:5 2774:7,20 restoration 2738:20 2747:8 restricting 2703:19 result 2755:7 resume 2713:6 2766:23 2767:10 2785:20 2789:1 resumes 2676:2 2710:1 2710:2 2747:14,15	sake 2713:2,7 salary 2697:8 SAPS 2682:1,2,7 2686:22 2687:9 2715:16 2718:14 2751:16,17,22 2752:19 2754:12 2755:9 2759:23 2761:5,25 2769:19 2772:4 satisfy 2686:24 Saturday 2714:6,8 save 2692:6 2766:19 saw 2720:2 2726:12 2754:11,15,21,25	2694:23 2759:1 2760:12 2761:13,22 section 2693:23 2746:1 security 2684:15 2699:11 2714:9 2731:24 2738:16 2745:3,18 2753:23 2772:15,25 2773:4 2774:13 see 2677:14 2679:1 2680:19 2690:10 2699:6,7,16 2700:17 2705:12,17 2708:24 2713:18,24 2716:8,20 2717:1 2719:18 2722:19 2726:17	services 2782:5 session 2720:2 set 2736:3 2776:7 setting 2746:14 settled 2692:12 2726:25 settlement 2720:13 2756:3 seven 2685:15 Seventh 2750:9 severely 2755:11 sharpened 2716:4 shield 2716:17 shields 2716:18 shop 2702:13,24 2706:18 2707:5,8
2697:13,23 2710:20 2710:21 2716:24 2723:19 2724:13 2730:20 2754:13 2755:12 2761:20 2766:5 2767:4,5 2770:7 2780:3,11,15 2781:24,25 2782:2,14 2782:23 reminded 2753:14 2786:10 removed 2699:11 render 2768:7 reneged 2731:22 repeat 2677:6 2690:6	2743:19 2744:11 responsible 2687:9 2708:8 2727:16 2744:1 responsibly 2772:3 rest 2707:5 2774:7,20 restoration 2738:20 2747:8 restricting 2703:19 result 2755:7 resume 2713:6 2766:23 2767:10 2785:20 2789:1 resumes 2676:2 2710:1 2710:2 2747:14,15 resuming 2676:5	sake 2713:2,7 salary 2697:8 SAPS 2682:1,2,7 2686:22 2687:9 2715:16 2718:14 2751:16,17,22 2752:19 2754:12 2755:9 2759:23 2761:5,25 2769:19 2772:4 satisfy 2686:24 Saturday 2714:6,8 save 2692:6 2766:19 saw 2720:2 2726:12 2754:11,15,21,25 2755:1,10 2760:22 saying 2678:6,13	2694:23 2759:1 2760:12 2761:13,22 section 2693:23 2746:1 security 2684:15 2699:11 2714:9 2731:24 2738:16 2745:3,18 2753:23 2772:15,25 2773:4 2774:13 see 2677:14 2679:1 2680:19 2690:10 2699:6,7,16 2700:17 2705:12,17 2708:24 2713:18,24 2716:8,20 2717:1 2719:18 2722:19 2726:17 2728:2 2732:21	services 2782:5 session 2720:2 set 2736:3 2776:7 setting 2746:14 settled 2692:12 2726:25 settlement 2720:13 2756:3 seven 2685:15 Seventh 2750:9 severely 2755:11 sharpened 2716:4 shield 2716:17 shields 2716:18 shop 2702:13,24 2706:18 2707:5,8 2734:21
2697:13,23 2710:20 2710:21 2716:24 2723:19 2724:13 2730:20 2754:13 2755:12 2761:20 2766:5 2767:4,5 2770:7 2780:3,11,15 2781:24,25 2782:2,14 2782:23 reminded 2753:14 2786:10 removed 2699:11 render 2768:7 reneged 2731:22 repeat 2677:6 2690:6 2699:23 2740:3 2787:13	2743:19 2744:11 responsible 2687:9 2708:8 2727:16 2744:1 responsibly 2772:3 rest 2707:5 2774:7,20 restoration 2738:20 2747:8 restricting 2703:19 result 2755:7 resume 2713:6 2766:23 2767:10 2785:20 2789:1 resumes 2676:2 2710:1 2710:2 2747:14,15 resuming 2676:5 returned 2681:21 revert 2708:11	sake 2713:2,7 salary 2697:8 SAPS 2682:1,2,7 2686:22 2687:9 2715:16 2718:14 2751:16,17,22 2752:19 2754:12 2755:9 2759:23 2761:5,25 2769:19 2772:4 satisfy 2686:24 Saturday 2714:6,8 save 2692:6 2766:19 saw 2720:2 2726:12 2754:11,15,21,25 2755:1,10 2760:22 saying 2678:6,13 2682:11,23 2689:8,21	2694:23 2759:1 2760:12 2761:13,22 section 2693:23 2746:1 security 2684:15 2699:11 2714:9 2731:24 2738:16 2745:3,18 2753:23 2772:15,25 2773:4 2774:13 see 2677:14 2679:1 2680:19 2690:10 2699:6,7,16 2700:17 2705:12,17 2708:24 2713:18,24 2716:8,20 2717:1 2719:18 2722:19 2726:17 2728:2 2732:21 2733:10 2741:14 2742:19 2744:8	services 2782:5 session 2720:2 set 2736:3 2776:7 setting 2746:14 settled 2692:12 2726:25 settlement 2720:13 2756:3 seven 2685:15 Seventh 2750:9 severely 2755:11 sharpened 2716:4 shield 2716:17 shields 2716:18 shop 2702:13,24 2706:18 2707:5,8 2734:21 short 2676:4 2709:25 2770:7,13
2697:13,23 2710:20 2710:21 2716:24 2723:19 2724:13 2730:20 2754:13 2755:12 2761:20 2766:5 2767:4,5 2770:7 2780:3,11,15 2781:24,25 2782:2,14 2782:23 reminded 2753:14 2786:10 removed 2699:11 render 2768:7 reneged 2731:22 repeat 2677:6 2690:6 2699:23 2740:3 2787:13 repeated 2728:8	2743:19 2744:11 responsible 2687:9 2708:8 2727:16 2744:1 responsibly 2772:3 rest 2707:5 2774:7,20 restoration 2738:20 2747:8 restricting 2703:19 result 2755:7 resume 2713:6 2766:23 2767:10 2785:20 2789:1 resumes 2676:2 2710:1 2710:2 2747:14,15 resuming 2676:5 returned 2681:21 revert 2708:11 revisit 2681:2	sake 2713:2,7 salary 2697:8 SAPS 2682:1,2,7 2686:22 2687:9 2715:16 2718:14 2751:16,17,22 2752:19 2754:12 2755:9 2759:23 2761:5,25 2769:19 2772:4 satisfy 2686:24 Saturday 2714:6,8 save 2692:6 2766:19 saw 2720:2 2726:12 2754:11,15,21,25 2755:1,10 2760:22 saying 2678:6,13 2682:11,23 2689:8,21 2690:7 2696:2 2698:4	2694:23 2759:1 2760:12 2761:13,22 section 2693:23 2746:1 security 2684:15 2699:11 2714:9 2731:24 2738:16 2745:3,18 2753:23 2772:15,25 2773:4 2774:13 see 2677:14 2679:1 2680:19 2690:10 2699:6,7,16 2700:17 2705:12,17 2708:24 2713:18,24 2716:8,20 2717:1 2719:18 2722:19 2726:17 2728:2 2732:21 2733:10 2741:14 2742:19 2744:8 2745:13 2755:3	services 2782:5 session 2720:2 set 2736:3 2776:7 setting 2746:14 settled 2692:12 2726:25 settlement 2720:13 2756:3 seven 2685:15 Seventh 2750:9 severely 2755:11 sharpened 2716:4 shield 2716:17 shields 2716:18 shop 2702:13,24 2706:18 2707:5,8 2734:21 short 2676:4 2709:25 2770:7,13 shortly 2735:14
2697:13,23 2710:20 2710:21 2716:24 2723:19 2724:13 2730:20 2754:13 2755:12 2761:20 2766:5 2767:4,5 2770:7 2780:3,11,15 2781:24,25 2782:2,14 2782:23 reminded 2753:14 2786:10 removed 2699:11 render 2768:7 reneged 2731:22 repeat 2677:6 2690:6 2699:23 2740:3 2787:13 repeated 2728:8 rephrase 2721:14	2743:19 2744:11 responsible 2687:9 2708:8 2727:16 2744:1 responsibly 2772:3 rest 2707:5 2774:7,20 restoration 2738:20 2747:8 restricting 2703:19 result 2755:7 resume 2713:6 2766:23 2767:10 2785:20 2789:1 resumes 2676:2 2710:1 2710:2 2747:14,15 resuming 2676:5 returned 2681:21 revert 2708:11 revisit 2681:2 revolt 2699:12	sake 2713:2,7 salary 2697:8 SAPS 2682:1,2,7 2686:22 2687:9 2715:16 2718:14 2751:16,17,22 2752:19 2754:12 2755:9 2759:23 2761:5,25 2769:19 2772:4 satisfy 2686:24 Saturday 2714:6,8 save 2692:6 2766:19 saw 2720:2 2726:12 2754:11,15,21,25 2755:1,10 2760:22 saying 2678:6,13 2682:11,23 2689:8,21 2690:7 2696:2 2698:4 2701:23 2702:1	2694:23 2759:1 2760:12 2761:13,22 section 2693:23 2746:1 security 2684:15 2699:11 2714:9 2731:24 2738:16 2745:3,18 2753:23 2772:15,25 2773:4 2774:13 see 2677:14 2679:1 2680:19 2690:10 2699:6,7,16 2700:17 2705:12,17 2708:24 2713:18,24 2716:8,20 2717:1 2719:18 2722:19 2726:17 2728:2 2732:21 2733:10 2741:14 2742:19 2744:8 2745:13 2755:3 2759:21,22 2760:16	services 2782:5 session 2720:2 set 2736:3 2776:7 setting 2746:14 settled 2692:12 2726:25 settlement 2720:13 2756:3 seven 2685:15 Seventh 2750:9 severely 2755:11 sharpened 2716:4 shield 2716:17 shields 2716:18 shop 2702:13,24 2706:18 2707:5,8 2734:21 short 2676:4 2709:25 2770:7,13 shortly 2735:14 shot 2714:9 2774:2
2697:13,23 2710:20 2710:21 2716:24 2723:19 2724:13 2730:20 2754:13 2755:12 2761:20 2766:5 2767:4,5 2770:7 2780:3,11,15 2781:24,25 2782:2,14 2782:23 reminded 2753:14 2786:10 removed 2699:11 render 2768:7 reneged 2731:22 repeat 2677:6 2690:6 2699:23 2740:3 2787:13 repeated 2728:8 rephrase 2721:14 2761:4	2743:19 2744:11 responsible 2687:9 2708:8 2727:16 2744:1 responsibly 2772:3 rest 2707:5 2774:7,20 restoration 2738:20 2747:8 restricting 2703:19 result 2755:7 resume 2713:6 2766:23 2767:10 2785:20 2789:1 resumes 2676:2 2710:1 2710:2 2747:14,15 resuming 2676:5 returned 2681:21 revert 2708:11 revisit 2681:2 revolt 2699:12 re-examination 2733:2	sake 2713:2,7 salary 2697:8 SAPS 2682:1,2,7 2686:22 2687:9 2715:16 2718:14 2751:16,17,22 2752:19 2754:12 2755:9 2759:23 2761:5,25 2769:19 2772:4 satisfy 2686:24 Saturday 2714:6,8 save 2692:6 2766:19 saw 2720:2 2726:12 2754:11,15,21,25 2755:1,10 2760:22 saying 2678:6,13 2682:11,23 2689:8,21 2690:7 2696:2 2698:4 2701:23 2702:1 2703:11 2707:14	2694:23 2759:1 2760:12 2761:13,22 section 2693:23 2746:1 security 2684:15 2699:11 2714:9 2731:24 2738:16 2745:3,18 2753:23 2772:15,25 2773:4 2774:13 see 2677:14 2679:1 2680:19 2690:10 2699:6,7,16 2700:17 2705:12,17 2708:24 2713:18,24 2716:8,20 2717:1 2719:18 2722:19 2726:17 2728:2 2732:21 2733:10 2741:14 2742:19 2744:8 2745:13 2755:3 2759:21,22 2760:16 2762:3,7,9 2763:19	services 2782:5 session 2720:2 set 2736:3 2776:7 setting 2746:14 settled 2692:12 2726:25 settlement 2720:13 2756:3 seven 2685:15 Seventh 2750:9 severely 2755:11 sharpened 2716:4 shield 2716:17 shields 2716:18 shop 2702:13,24 2706:18 2707:5,8 2734:21 short 2676:4 2709:25 2770:7,13 shortly 2735:14 shot 2714:9 2774:2 shouldn't 2705:2
2697:13,23 2710:20 2710:21 2716:24 2723:19 2724:13 2730:20 2754:13 2755:12 2761:20 2766:5 2767:4,5 2770:7 2780:3,11,15 2781:24,25 2782:2,14 2782:23 reminded 2753:14 2786:10 removed 2699:11 render 2768:7 reneged 2731:22 repeat 2677:6 2690:6 2699:23 2740:3 2787:13 repeated 2728:8 rephrase 2721:14 2761:4 replaced 2704:4	2743:19 2744:11 responsible 2687:9 2708:8 2727:16 2744:1 responsibly 2772:3 rest 2707:5 2774:7,20 restoration 2738:20 2747:8 restricting 2703:19 result 2755:7 resume 2713:6 2766:23 2767:10 2785:20 2789:1 resumes 2676:2 2710:1 2710:2 2747:14,15 resuming 2676:5 returned 2681:21 revert 2708:11 revisit 2681:2 revolt 2699:12 re-examination 2733:2 2775:8	sake 2713:2,7 salary 2697:8 SAPS 2682:1,2,7 2686:22 2687:9 2715:16 2718:14 2751:16,17,22 2752:19 2754:12 2755:9 2759:23 2761:5,25 2769:19 2772:4 satisfy 2686:24 Saturday 2714:6,8 save 2692:6 2766:19 saw 2720:2 2726:12 2754:11,15,21,25 2755:1,10 2760:22 saying 2678:6,13 2682:11,23 2689:8,21 2690:7 2696:2 2698:4 2701:23 2702:1 2703:11 2707:14 2711:5 2714:14	2694:23 2759:1 2760:12 2761:13,22 section 2693:23 2746:1 security 2684:15 2699:11 2714:9 2731:24 2738:16 2745:3,18 2753:23 2772:15,25 2773:4 2774:13 see 2677:14 2679:1 2680:19 2690:10 2699:6,7,16 2700:17 2705:12,17 2708:24 2713:18,24 2716:8,20 2717:1 2719:18 2722:19 2726:17 2728:2 2732:21 2733:10 2741:14 2742:19 2744:8 2745:13 2755:3 2759:21,22 2760:16 2762:3,7,9 2763:19 2764:2 2765:7	services 2782:5 session 2720:2 set 2736:3 2776:7 setting 2746:14 settled 2692:12 2726:25 settlement 2720:13 2756:3 seven 2685:15 Seventh 2750:9 severely 2755:11 sharpened 2716:4 shield 2716:17 shields 2716:18 shop 2702:13,24 2706:18 2707:5,8 2734:21 short 2676:4 2709:25 2770:7,13 shortly 2735:14 shot 2714:9 2774:2 shouldn't 2705:2 2715:15 2727:24
2697:13,23 2710:20 2710:21 2716:24 2723:19 2724:13 2730:20 2754:13 2755:12 2761:20 2766:5 2767:4,5 2770:7 2780:3,11,15 2781:24,25 2782:2,14 2782:23 reminded 2753:14 2786:10 removed 2699:11 render 2768:7 reneged 2731:22 repeat 2677:6 2690:6 2699:23 2740:3 2787:13 repeated 2728:8 rephrase 2721:14 2761:4	2743:19 2744:11 responsible 2687:9 2708:8 2727:16 2744:1 responsibly 2772:3 rest 2707:5 2774:7,20 restoration 2738:20 2747:8 restricting 2703:19 result 2755:7 resume 2713:6 2766:23 2767:10 2785:20 2789:1 resumes 2676:2 2710:1 2710:2 2747:14,15 resuming 2676:5 returned 2681:21 revert 2708:11 revisit 2681:2 revolt 2699:12 re-examination 2733:2	sake 2713:2,7 salary 2697:8 SAPS 2682:1,2,7 2686:22 2687:9 2715:16 2718:14 2751:16,17,22 2752:19 2754:12 2755:9 2759:23 2761:5,25 2769:19 2772:4 satisfy 2686:24 Saturday 2714:6,8 save 2692:6 2766:19 saw 2720:2 2726:12 2754:11,15,21,25 2755:1,10 2760:22 saying 2678:6,13 2682:11,23 2689:8,21 2690:7 2696:2 2698:4 2701:23 2702:1 2703:11 2707:14	2694:23 2759:1 2760:12 2761:13,22 section 2693:23 2746:1 security 2684:15 2699:11 2714:9 2731:24 2738:16 2745:3,18 2753:23 2772:15,25 2773:4 2774:13 see 2677:14 2679:1 2680:19 2690:10 2699:6,7,16 2700:17 2705:12,17 2708:24 2713:18,24 2716:8,20 2717:1 2719:18 2722:19 2726:17 2728:2 2732:21 2733:10 2741:14 2742:19 2744:8 2745:13 2755:3 2759:21,22 2760:16 2762:3,7,9 2763:19	services 2782:5 session 2720:2 set 2736:3 2776:7 setting 2746:14 settled 2692:12 2726:25 settlement 2720:13 2756:3 seven 2685:15 Seventh 2750:9 severely 2755:11 sharpened 2716:4 shield 2716:17 shields 2716:18 shop 2702:13,24 2706:18 2707:5,8 2734:21 short 2676:4 2709:25 2770:7,13 shortly 2735:14 shot 2714:9 2774:2 shouldn't 2705:2

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5th December 2012

Sandton Cavern Dispute - AFSA Ref G34

Page 11

				Page 1
2757:7 2783:3	2727:1,24 2729:1	2745:2 2766:22	strongest 2698:23	surname 2688:3,4
showed 2770:9	songs 2724:23 2726:5	2769:8 2770:20	strongly 2698:24	surprises 2693:9
showing 2762:10	2727:9,15,17,20	2784:6 2785:21	2700:25	surrounded 2726:2
shown 2719:24 2744:14	2728:1,7	stakeholders 2707:22	structure 2707:1	survivors 2720:23
2766:6 2767:8	soon 2698:24	2758:1	structures 2700:11	suspect 2695:19
shows 2718:8 2720:22		stand 2689:14 2694:18	2706:17 2746:4	
	sorry 2676:13,24			suspected 2688:4
sign 2726:5	2682:10 2696:3	2702:21 2731:5	2780:2	Swaziland 2722:4
signed 2698:5 2702:11	2699:18,23 2700:12	2736:10	Students 2726:1	switch 2709:16
significant 2745:7	2728:17 2763:16	Stanger 2717:1	stun 2720:15 2756:6	sworn 2727:8 2783:13
significantly 2749:5	2766:11 2775:4	start 2718:9 2739:11	subject 2726:22,24	system 2775:17
similar 2700:22 2776:7	2777:3,13 2780:25	2765:3,16 2773:20	2741:10	S-E-R-I 2683:24
similarly 2743:25	2781:18 2786:12	started 2695:21	submission 2689:9,9	T
simmering 2702:10	2787:16 2788:16	2719:10 2740:21	2721:3	
simply 2677:17	sort 2739:12 2740:11	2743:4 2771:2	submissions 2715:9	table 2701:2 2777:18
2682:24 2689:8	2742:2 2783:6	2773:24	2728:15	tackle 2748:10
2715:5 2761:21	sorts 2720:21	starting 2716:21	submit 2689:4 2696:1	Takalani 2763:14
2784:6,12	sought 2736:12	2717:24	2708:4	2764:5
sing 2716:5,7,9	sounds 2693:20	starts 2705:12 2765:12	submitted 2698:6	take 2677:1 2692:9,17
single 2707:7 2754:24	2720:16	state 2730:18 2735:14	2749:1	2695:15,17,22
2765:21	South 2706:3 2709:14	statement 2677:2,8	submitting 2749:7	2702:21 2709:7,22,24
Sir 2677:15 2683:14	2726:23 2757:2	2678:20,24 2679:11	subs 2699:10	2716:3 2724:15
2690:25 2691:10	space 2770:8	2679:17 2687:5,8	subsequent 2696:22	2728:18 2730:21
2693:11,25 2699:23	speak 2691:7 2768:2,12	2711:2 2745:25	2759:3 2772:9	2735:17 2736:9,25
2710:4 2752:23	2784:12	2752:5,8 2753:11,24	2785:17	2742:12,21,25
2786:18	speaker 2765:12,16	2757:14,17,20 2758:6	substance 2682:14	2743:19 2744:11
sit 2685:2 2704:22	2766:16,25	2759:9,16 2761:1	suggest 2676:18 2681:6	2747:10 2765:2,24
2763:24 2788:11	speakers 2768:11,13	2767:20 2774:8,17	2689:13 2725:15	2770:9 2777:15
sitting 2676:7 2705:10	speaking 2680:14	statements 2686:11	2728:13 2729:23	2782:13 2783:8,23
2750:15 2763:19,24	2722:3 2769:1	2708:9 2783:8,24	2733:10 2737:1,12,14	taken 2677:12 2680:21
situation 2707:9 2717:6	speaks 2714:13	stationed 2771:19	2740:24 2763:23	2681:22 2712:14
2723:17 2725:19,21	spear 2722:5	stations 2761:13	suggested 2686:9	2730:24 2736:7
2725:25 2726:1	spears 2715:12 2717:9	status 2749:3	2715:14 2722:8	2760:17,24
2732:10 2734:20	2721:5 2722:2,4,7	stay 2707:18 2708:13	2727:15 2743:12,22	talk 2770:8,8,8,8,8
2735:21 2748:7	specific 2679:20	step 2736:16 2745:9	2747:1	2773:25 2779:18
2750:20 2777:23	2745:16 2753:11	2768:22	suggesting 2709:16	talked 2715:12 2721:24
2781:18 2782:21	2761:11,15,19,21	Steve 2688:3	2723:25 2724:1	2745:4
situations 2717:4,17	2765:19 2768:25	steward 2734:21	2727:2	talking 2714:7 2720:3
2721:15 2725:19	2773:17	stewards 2706:18	suggestion 2684:17,18	2722:8,14 2723:5,6
2727:2	specifically 2748:1,13	2707:5,8	2700:22 2725:12	2730:2 2739:22
sizankwedala 2725:14	2752:15 2758:6	stick 2716:3,4,15,15	2737:3	2761:13,23 2772:12
skilled 2706:19	2772:24 2774:20	2717:18,21	suggestions 2686:15	2776:9 2782:15
skip 2694:7	2778:17 2783:25	sticks 2716:14,15	2714:18,19	2783:25
slave 2776:12	speech 2688:17	2717:18	suitable 2709:22	talks 2679:14 2781:9
slide 2718:16,19 2719:4	2764:24 2774:20	stipulated 2702:12	summarise 2689:21	tapering 2731:12
2719:13,15 2720:21	spelt 2688:9	stop 2676:6 2732:25	2769:6	task 2686:4 2707:20
2755:15 2756:5,11	split 2707:6	2735:15 2748:25	summary 2681:1	tea 2709:7 2710:6
2759:21 2760:19	spoke 2698:2 2727:23	2749:8 2788:20,21	sung 2723:15 2726:7	team 2680:16,18
2762:3 2766:25	2739:25 2745:16	stoppage 2702:9	2727:1,16,23	2725:6
2762:5 2766:25	2764:21 2784:7	story 2714:14 2719:21	supervisor 2762:1,2,8	teams 2724:18
slides 2759:21,24	spoken 2680:15	straight 2720:11	2762:10,12	teargas 2720:15 2756:5
2760:16	2706:20 2768:12	2786:3	support 2739:11	technical 2713:11
slightly 2729:24	spontaneously 2784:22	strategy 2680:19	2745:20	teeth 2717:14
SMS 2771:13,22,24	sport 2724:16,23	2775:25		tell 2688:15,16 2696:4
SMS 2771:15,22,24 SMSs 2771:15	sports 2721:19 2722:14	strictly 2768:1	supported 2750:4	-
SMS'd 2771:20	-		supposed 2771:11,18	2712:20 2713:2,5
	spot 2738:1	strike 2678:17 2693:22	sure 2678:23 2679:16	2719:9,21 2734:5
Socio-Economic	spotted 2785:17	2699:4,11,14,25	2686:1 2694:20	2748:17 2751:11
2683:21	squarely 2779:23	2701:19,21,25 2702:8	2695:14 2696:3	2769:16 2770:22
Socio-Economics	2781:10	2707:9,15 2722:5	2699:19 2709:11	2786:20
2683:17	stadia 2724:23	2731:16 2742:23,23	2713:11 2720:10	telling 2685:7 2696:17
Solidarity 2677:14	stadium 2773:25	2743:4,7 2748:12	2725:10 2735:22	2772:3
somebody 2733:9	_/01.0	2749:22 2750:4,4	2736:8 2739:19	tells 2692:22 2712:21
2787:22	staff 2706:17	2760:3,7	2744:8 2750:5	temptation 2772:25
song 2721:10,15	stage 2679:4 2687:3,6	strikers 2720:4 2740:8	2758:14 2778:24	ten 2775:24 2779:22
2722:13 2723:13,17	2691:15 2703:19	2741:9,23 2742:4	2787:17	2780:8 2788:14
2723:18 2724:1	2709:6,9,22 2713:6	2759:24 2762:1	surely 2749:8 2780:19	2789:1
2725:18 2726:1,4,7	2735:21 2736:8	strong 2739:4	2781:15	tense 2725:19 2726:1
ARCHIVE EO	R LUSTICE			

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RealTime Transcriptions

				Page 1
2781:20	thereabout 2785:7	till 2747:13	2755:21 2756:3	2734:12 2738:15,18
terminated 2694:3	thereof 2704:23 2712:4	time 2676:6 2685:9	trouble 2686:16	2741:25 2742:18
2696:9,25 2697:4,20	thereon 2707:17	2692:6 2694:9,18	2700:14	2746:13 2749:11,13
termination 2736:22	there's 2689:18	2696:23 2698:11	true 2683:13 2730:16	understanding 2682:22
2736:23	2692:11 2695:12,18	2716:6,9 2728:22	2742:5	2700:13 2731:19
terms 2745:16,17,19,19	2709:10,18 2716:7	2729:14,22 2737:21	trust 2695:5 2732:9	2750:14
2749:21 2772:23	2731:1 2733:8 2738:2	2738:6 2740:8	2746:7,14	understands 2709:13
terrain 2750:5	2740:9 2758:5,24	2744:13 2749:8	truth 2717:18 2738:20	understood 2679:9
terrifying 2727:21	2759:13 2760:13	2759:12,15 2760:17	try 2686:1 2692:7	2682:14,17 2716:10
2728:3	2761:14 2765:17,22	2760:25 2766:19	2695:20 2721:21	unduly 2715:11,21
testified 2723:13,14	2771:22 2772:4	2769:13 2775:24	2729:19 2739:11	unfair 2690:18
2764:14 2770:17	they're 2685:21 2696:2	2786:8 2787:19	2770:12 2788:3,20	Unfortunately 2765:20
2777:4 2782:20	2698:4 2740:6 2749:8	times 2760:6,13	trying 2686:16 2692:1	unhappy 2700:1,21
testify 2779:12 2783:11	2771:21	2775:24 2786:13	2708:14,18,20	uninitiated 2778:17
2783:14	They've 2738:1	Tip 2676:13,21,22	2718:18 2721:18	uninvited 2784:11
testifying 2783:14	thing 2707:12 2714:3	2677:16 2678:3,19	2728:1 2730:23	union 2686:18 2689:17
testimony 2687:19	2714:24 2726:4	2679:18 2680:2,12	2744:8 2786:20	2693:18 2694:5
text 2711:9	2770:2	2681:2,12,19 2682:4	2787:16	2695:17 2697:3,11
thank 2676:9 2680:12	things 2698:2 2713:11	2682:22 2683:4,7	Tshepiso 2738:14	2698:11,23 2707:1,23
2681:12 2683:7,9	2714:12 2750:3	2704:7,12,14 2705:6	Tuesday 2758:16	2724:11 2744:3,19
2692:25 2701:9,9	2770:7 2782:17	2710:22 2730:8	2759:2	2748:1 2749:10,11,20
2703:25 2704:15,21	think 2676:10 2677:8	2732:16,18,23 2733:5	turn 2737:22	2749:21 2750:3
2705:24 2710:7	2680:6 2683:10	2734:3,7,14,18	turned 2719:17	2753:4 2756:21
2711:24 2712:3	2685:1 2686:23	2735:7,12,16,24	2722:19 2756:8	2780:2
2713:1,15 2718:21,25	2687:6 2688:6	2736:11 2737:7,13	turning 2719:24	unionised 2708:6
2726:19 2727:13	2689:11,12,15,16,20	Tip's 2704:19	turns 2711:4 2782:14	2746:17
2729:25 2732:14	2690:18 2694:17,18	today 2676:5 2685:3	two 2678:7,7,17,17	unionless 2697:15
2736:11 2738:10,13	2698:19,23 2700:20	2686:4 2749:2	2679:2,13 2680:4,4	unions 2679:2,12,13
2738:14 2747:8,17,21	2701:3,18 2702:15	Tokota 2782:10,11	2681:5,5 2682:15	2682:16 2689:14
2748:4 2763:11,18	2703:11 2704:25	told 2677:11 2678:2	2689:14 2690:9,17	2690:9 2702:14
2766:21 2767:12	2709:13 2710:10,16	2679:8 2681:10	2691:11 2693:22	2742:3 2750:2
2768:9 2770:15	2718:19 2719:13	2685:3,8 2692:10	2698:18 2710:11,18	2751:19,19
2775:1,3,13 2779:7	2726:24 2728:4	2697:3 2712:11	2711:13,15 2713:23	union's 2694:23
2780:24 2787:16	2729:3 2730:15,23	2717:18 2719:16	2714:10,12,13,14	unpack 2778:17
2788:24	2731:3 2733:7	2730:17 2770:5,17	2718:8,11 2720:15	unprotected 2693:22
Thanks 2747:22 2763:9	2735:10 2736:9	2774:1	2730:6,10 2734:11,19	2731:16
Thato 2694:17	2737:22 2738:22,23	tomorrow 2676:7	2735:14 2738:16	ununionised 2685:16
that's 2676:22 2677:9	2740:12 2741:2,8	2741:13 2788:13	2740:20 2742:3,9	uphold 2729:15
2679:20,24 2681:6	2742:6,8 2743:9	tongue 2690:19,24	2751:18,25 2753:23	2730:14
2684:16 2685:16	2744:13 2747:9,10	tool 2691:8	2754:10 2755:10	upogo 2716:4
2688:6,13,23 2689:2	2750:1 2751:5	top 2778:20	2756:9,17 2758:20	urgent 2777:12
2690:21 2694:6	2752:11 2760:12	topic 2711:2 2788:18	2759:21 2764:7,11	2779:13,20
2695:17 2699:1	2762:15,16,18	torch 2770:6,20	2765:23 2769:8	use 2691:2,8 2731:9
2701:3,4 2703:12	2763:12 2765:22	touched 2739:23	2771:15 2772:15,16	2732:2
2705:18 2710:15	2766:14 2769:25	tournament 2725:7	2774:2 2779:20,25	useful 2677:7 2704:8,8
2714:4,23 2715:19	2771:22 2772:9	trade 2682:15 2707:23	2784:6 2786:1,23	usual 2676:17
2717:20 2718:2,12	2774:16 2776:18	2744:3,19 2750:2	2787:7	usually 2713:9 2717:18
2719:2 2720:10	2777:13 2779:10	traditional 2716:8	type 2747:5	
2722:10 2723:20,23	2780:12,16,20,23	2754:21,25 2755:4	• •	V
2724:6 2725:1,22	2782:5 2784:8	tragedy 2745:17	U	valid 2722:5
2728:7 2729:2,19	thinking 2680:18	transcript 2678:11,22	UASA 2677:14	varied 2750:3
2731:5 2732:12	third 2705:11,15	2678:25 2679:24	unaware 2729:13	various 2698:15 2713:3
2733:25 2734:4	2729:1	2711:20 2712:1,6,8	2734:25	vehicle 2731:25 2732:1
2736:19 2737:11,20	third-last 2705:22	2712:11,13,15,17,19	uncomfortable 2727:22	2785:4
2738:21 2741:11	thought 2679:10,15	2723:12 2726:11,17	undergoing 2760:21	vernacular 2709:13,16
2743:22 2748:15	2696:3 2700:21	2767:5 2773:8 2783:1	underground 2693:23	version 2677:21
2751:1 2754:22	2720:18,19 2747:5	transcription 2765:11	2706:21	2729:12
2755:13,20,23	thousand 2739:16	2766:6 2767:17	understand 2682:10	video 2712:17 2713:3
2756:10,15,19	threat 2769:17 2770:25	translation 2764:22,23	2684:21 2686:4	2718:23 2719:1,3,22
2760:14 2761:20	2772:4,13	2765:12,24 2767:6	2687:11 2691:21	2719:23 2720:22
2763:13 2764:10	three 2718:8,10 2738:1	transpired 2701:14	2697:1 2701:2,22	2726:12,19 2754:12
2768:1 2775:11,18,21	2752:21 2753:1	2707:14	2708:24 2711:5	2766:6
2776:1 2779:11	2758:20 2769:8,12	traversed 2787:12	2712:6,16 2715:8	videos 2783:22
2780:10 2781:8	2771:6 2775:5,7,9	trial 2726:23	2721:4,15 2722:2,5,6	view 2711:16 2723:14
2787:15	2788:7	tribunal 2696:17	2723:2 2729:5	2739:8
theme 2680:20	threshold 2702:12	tried 2688:12,23	2730:15 2733:3	viewed 2727:20
			l de la constante de	
ARCHIVE EO	R LUSTICE			

RealTime Transcriptions

				Page 13
views 2702:20,25	2696:15 2701:1	2727:14,19 2729:11	2776:20	2777:5
2707:17 2739:12	2707:7 2735:9 2738:3	2729:11,22 2730:9	yellow 2762:8	10:13 2692:25
2774:1	2775:4	2735:5 2736:9,10	yesterday 2676:3,4,15	10:33 2699:18
village 2720:10,14	way 2681:6 2706:11	2740:5 2750:20	2676:24 2688:17	10:53 2708:10
2756:4	2708:17 2714:3	2760:25 2775:1	2710:13 2723:11	100 2762:3
violence 2699:5	2720:8 2730:11	2779:5 2783:18	2727:14 2728:3,8,9	11 2680:14
2701:24 2725:11,13	2732:11 2736:14	2787:13	2730:3,10 2731:3	11th 2752:18 2753:7,16
2745:20 2746:3	2737:11 2777:25	won't 2676:18 2677:6	2738:4 2774:1	11:22 2710:2
2752:6,15 2753:11,19	2787:18	2678:1 2706:23	You'll 2763:25 2779:17	11:42 2717:10
2753:25 2754:5	wealthy 2706:20	2720:6 2723:2	2783:19	12 2780:23
2758:24 2762:23	weapon 2754:21,25	2728:10 2735:15	you're 2690:1 2696:17	12th 2677:12 2739:23
2763:1 2772:23	weapons 2714:11	2737:18 2757:5	2704:13 2709:11,17	2740:1,6 2742:13
2773:2 2774:10	2715:4,6 2716:8,22	word 2705:18 2709:10	2709:19 2710:3	2743:1 2745:18
2781:13	2716:22 2719:17	2722:11 2775:23	2712:8 2713:20	2753:22 2754:6
violent 2701:21 2721:6	2740:14,15 2755:4,25	2780:14 2781:7	2719:14 2720:21	2772:16 2788:14
visit 2784:16,19,20	2756:1	words 2702:24 2724:4	2722:8 2723:5,6	2789:1
2785:14,19 2786:2,14	weddings 2722:4	2728:24 2749:4	2727:25 2728:5	12:02 2724:20
2787:20,25 2788:19	Wednesday 2788:13,14	2779:21 2780:14	2730:15,23 2747:16	12:22 2732:4
visits 2786:1	2789:1	2782:9	2747:19 2751:23	12:42 2742:14
vital 2771:14	week 2676:7 2713:7,13	work 2689:1 2731:18	2780:20 2788:5	13th 2711:21 2714:2
voice 2698:4	2766:23 2767:10	2777:25	you've 2703:22 2710:6	2717:25 2720:24
			•	
volatile 2732:6	weeks 2693:22 2779:20	worked 2776:16	2713:13,21 2722:18	2729:7,17 2730:19
vouch 2739:20	2779:25	workers 2698:14	2722:21 2728:12	2748:2 2754:9
	well-founded 2728:4	2699:13,16 2700:2	2729:16,17,20	2757:12,15,20 2758:3
W	went 2681:15 2715:18	2706:9,19,20 2714:6	2730:15,17,22 2737:4	2758:7,17,18 2759:7
wafa 2724:20,20	2745:3 2759:1 2763:2	2714:21 2715:2,11,17	2750:11 2756:11	2759:9,16 2764:8
2725:14	2764:14,17 2770:6,12	2718:7 2743:20	2758:11 2770:16	2772:17
wage 2707:3	2770:19 2784:6	2745:4 2772:11	2776:15 2782:20	13:36 2747:15
wait 2770:10 2787:7	2785:14,14 2786:3	2777:21 2778:8,19	2785:11 2788:18	13:56 2757:4
waited 2681:16	weren't 2676:4	2779:9 2783:23		14 2761:25
2769:22 2770:11,11	2677:20	2784:6 2785:6	Z	14th 2748:8,13 2757:18
2770:11	West 2698:23	2786:20,23 2788:3	Z 2719:1	2758:14,16 2759:2,20
waiting 2753:14	we'd 2691:20 2758:9	worker's 2742:22	Zodwana 2719:1	2759:25 2760:8
walked 2755:24	we'll 2703:6 2748:10	2743:21,25 2744:2	Zokwana 2677:20	2761:5,9,17,25
wankeu 2755.24 want 2680:7 2682:23	2767:18 2774:6	workforce 2693:17		
			2678:9,13 2679:23	2762:11,21 2774:17
2685:20 2686:3,23	2778:14,25 2782:3	2707:5,7	2680:14 2681:19	14:16 2765:10
2687:7,7 2689:4	2783:2	working 2778:21	Zulu 2716:3,21	14:36 2773:22
2691:14 2693:12	we're 2698:20 2703:17	2779:10	2717:11	14:56 2780:24
2703:15,23 2709:6,8	2709:7 2775:6	workplace 2709:2	Zulus 2717:2	15 2678:5 2679:2
2709:10 2710:8	2788:12	worst 2786:22	Z1 2718:24,24,24	15th 2681:11 2690:10
2714:1 2715:8 2720:6	we've 2701:6 2712:13	worth 2730:25	2719:1 2726:15	2711:19 2729:12,23
2721:2 2725:24	2733:21 2778:14	wouldn't 2703:9		2745:13 2748:22
2731:1,19 2733:1,3	2779:19 2786:13	2740:10 2773:17	0	2761:17 2762:19,19
2733:14,17,18,19,20	whatsoever 2776:6	wounded 2751:18,25	000 2731:13,14 2776:6	2762:25 2763:1
2734:3,12 2735:13	what's 2689:19	2752:20,21,25 2753:1	2776:22	2764:7 2772:14,20,22
2737:22 2741:24	2695:23 2701:10	2754:11 2755:12	00020 2766:5	2785:1
2742:11 2744:10,10	2706:21 2750:18	writing 2702:16	0009 2766:10	15:23 2760:1,20 2761:6
2744:10 2746:10	2756:7	written 2692:19	0012 2779:3,6	16 2684:10,11 2713:23
2751:9 2758:17,25	whereabouts 2787:5	wrong 2694:12 2700:25	0012 2779.3,0 004 2679:1	2761:25
2759:5 2770:9,21	whichever 2776:24	2715:5 2723:25	004 2079:1 009 2766:11,12 2775:23	16th 2684:7,13 2685:3
				· · · · · · · · · · · · · · · · · · ·
2772:21 2775:5	whilst 2687:19 2702:18	2724:8 2742:25	2781:24	2686:11,17 2687:2
2779:8 2782:20	white 2706:16 2786:25	2744:9 2745:23	09:33 2676:2	2689:5,20 2710:11
2784:15 2786:12	who's 2705:10	wrongdoing 2747:2	09:53 2685:11	2717:25 2735:23
2787:13,20	widely 2699:4	wrongdoings 2744:5		2739:24 2745:13
wanted 2676:11 2707:3	widows 2763:12	wrote 2679:25 2752:9	1	2746:20 2764:15
2708:14,17 2729:3	win 2732:9	2757:22 2777:5	1 2679:3 2684:11	2772:10 2773:6
2748:6 2749:19	wisdom 2728:24		2703:18,19 2731:22	2775:15 2781:19
2757:13 2771:9	2732:2	X	2737:20 2747:10,13	2784:16
2781:5 2782:14	wise 2688:19 2728:12	Xhosa 2722:3	2762:3	16:21 2760:17
wants 2705:21 2722:13	wish 2683:5 2709:17	Xolani 2762:18	10 2685:12,13 2693:23	168 2767:1,7
2733:8,9,18 2783:13	withdraw 2751:6		2746:21 2757:2	17 2685:9 2713:23
		Y	2762:17 2769:12	18 2713:23 2741:21
war 2731.7	withdrawn 7684 18	_	2102.11 2107.12	
warn 2731:7	withdrawn 2684:18 withdrew 2722:11	vear 2600.22 2700.4 5	2772.10	18th 2693.2
warn 2769:18	withdrew 2722:11	year 2699:22 2700:4,5	2772:19 10th 2748:7 12 2751:16	18th 2693:2
warn 2769:18 Warrant 2748:2,3	withdrew 2722:11 witness 2680:9 2700:23	2741:21	10th 2748:7,12 2751:16	18% 2699:15 2700:2
warn 2769:18 Warrant 2748:2,3 2764:12,13	withdrew 2722:11 witness 2680:9 2700:23 2709:7 2712:9 2722:9	2741:21 Yearbook 2693:1	10th 2748:7,12 2751:16 2751:18,24 2752:4,16	18% 2699:15 2700:2 2702:7
warn 2769:18 Warrant 2748:2,3	withdrew 2722:11 witness 2680:9 2700:23	2741:21	10th 2748:7,12 2751:16	18% 2699:15 2700:2

RealTime Transcriptions

Page 14

			 Page 14
1999 2693:16	700 2701:1		
2	8		
2 2678:25 2681:7,7	85 2760:19		
2684:12 2731:23	86 2759:21 2760:16		
2737:20	87 2759:21 2760:16		
2nd 2693:2			
20 2704:17 2713:23	9		
2775:12	9 2712:4,7 2713:17,18		
2005 2757:7 2007 2702:11	2713:24 2773:8,10,11		
2007 2702:11 2011 2707:3 2739:16	2773:12 9th 2735:23 2740:21		
2012 2676:1 2678:6	2743:5 2774:9		
2711:22 2729:8			
2748:2,16 2749:5			
2751:16,25 2752:16			
2752:19 2753:7,16 2754:6,10 2757:12,20			
2758:7 2759:7,20			
2760:8 2761:9			
2762:11,21			
21 2713:23 2760:24			
22 2680:15 2713:23 24 2677:10			
25 2776:19,20			
27 2780:21,22,25			
28 2779:10,11,14			
3			
3 2676:6 2693:15			
3 2676:6 2693:15 2694:1 2698:21			
2719:16 2731:13			
2760:23 2776:6,22			
300 2699:14			
3000-strong 2693:16			
34 2684:6,6 2685:3,4 38 2678:4			
4			
4 2676:1 2699:14			
2731:13 2760:24 2779:18			
40% 2706:15			
41 2678:19 2681:13			
42 2678:19 2681:13			
46 2718:19,19 2719:4			
47 2719:13,15 2720:21 2756:5,11			
2750.5,11			
5			
5 2681:16 2773:19			
50 2702:24 2703:10			
50% 2702:12 2703:9 51 2755:15			
51 2755:15 53 2755:15			
54 2755:15			
55 2755:15			
57 2682:4			
61 PA			
6 2767:2,3,7,8 2781:24	20.12		
2782:16 2784:11	a frank (frank		
60% 2706:4	stis little		
690 275 7 :7	o m lo have		
a of 7 party	Cl you othe		
ARCHIVE EO	R LUSTLCE		
		•	