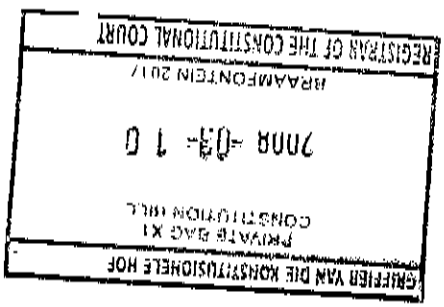
IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA

(HELD AT JOHANNESBURG)

CASE NO. CCT88/07
SCA CASE NO: 405/07
LAC CASE NO: JA18/05

In the matter between:

EQUITY AVIATION SERVICES (PTY) LTD	**Applicant**
and	
COMMISSION FOR CONCILIATION, MEDIATION AND ARBITRATION	**First Respondent**
W FERREIRA N.O.	**Second Respondent**
NELSON MAWELELE	**Third Respondent**



NOTICE OF APPLICATION

BE PLEASED TO TAKE NOTICE that the Applicant will apply at the hearing of the above application, for an order in the following terms –

HOFMEYR HERBSTEIN & GIHWALA INC.

REF: G STANSFIELD

TEL:021 405 20080307a

1 Granting the Applicant condonation for the late filing of the record of the proceedings;

2 Costs as against such Respondent as opposes the Application for Condonation;

3 Further and/or alternative relief.

BE PLEASED TO TAKE NOTICE FURTHER that the affidavits of **Petrus du Preez** and **Adelaide Davids** will be used in support of this application.

TAKE NOTICE FURTHER that the Applicant has appointed the offices of Hofmeyr Herbstein & Gihwala Inc, 6 Sandown Valley Crescent, Sandown (Tel: 011 286 1100) as the addresses where the Applicant will accept notice and service of all process in these proceedings.

BE PLEASED TO TAKE NOTICE FURTHER that should any party intend opposing this application they are required to:

(a) notify the Applicant's attorney in writing on or before **18 March 2008**; and

(b) within 15 days after you have so given notice of your intention to oppose the application, to file your answering affidavit, if any; and further that you are required to appoint in such notification and address within 25 kilometres of the office of the Registrar at which you will accept notice and service of all documents in these proceedings.

(c) If no such notice of intention to oppose is given, the matter may be heard on an unopposed basis.

DATED at **CAPE TOWN** on this 7th day of **MARCH 2008**..

Hofmeyr

HOFMEYR HERBSTEIN & GIHWALA INC.

Attorneys for Applicant

21st Floor

2 Long Street

CAPE TOWN

8001

Ref: GAVIN STANSFIELD

c/o **HOFMEYR HERBSTEIN & GIHWALA INC.**

6 Sandown Valley Crescent

Sandown

(Ref: M Hart)

Tel: (011) 286 1100

Fax: (011) 286 1269

TO: **THE REGISTRAR**
Constitutional Court
1 Hospital Road
Consitutional Hill
Braamfontein
Johannesburg

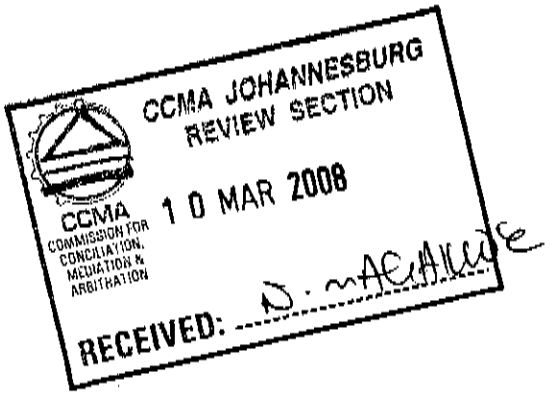
AND TO: **COMMISSION FOR CONCILIATION, MEDIATION & ARBITRATION**

First Respondent

20 Anderson Street

Johannesburg

Fax: (011) 834 7331



AND TO: **W FERREIRA N.O.**

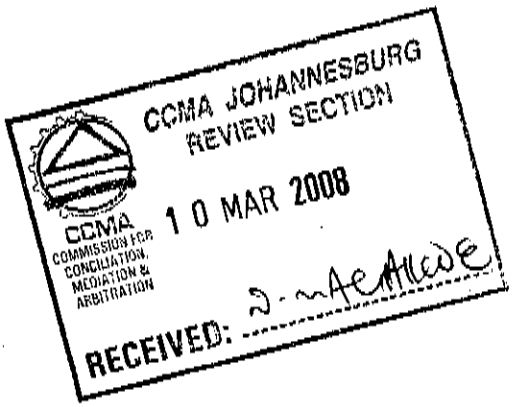
c/o COMMISSION FOR CONCILIATION, MEDIATION & ARBITRATION

Second Respondent

20 Anderson Street

Johannesburg

Fax: (011) 834 7331



AND TO: **CHEADLE THOMPSON HAYSOM INC.**

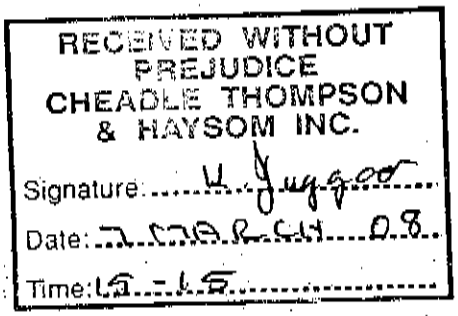
Attorneys for Third Respondent

7th Floor

Braamfontein Centre

23 Jorissen Street

Braamfontein



IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA

(HELD AT JOHANNESBURG)

CCT: 88/07

LAC: JA18/05

SCA CASE NO: 405/07

In the matter between:

EQUITY AVIATION SERVICES (PTY) LTD	Applicant
and	
COMMISSION FOR CONCILIATION,	
MEDIATION AND ARBITRATION	First Respondent
W FERREIRA N.O.	Second Respondent
NELSON MAWELELE	Third Respondent

AFFIDAVIT

I, the undersigned,

PETRUS DU PREEZ

declare under oath:

1 I am an adult male, currently employed by the Applicant as Executive Manager – Organisational Development and Assurance. I am duly authorised to depose to this affidavit.

2 The facts deposed to herein are within my personal knowledge, unless the context indicates to the contrary, and are, to the best of my knowledge and belief, true and correct.

3 This is an application for condonation for the late filing of the record of proceedings. The main application is an application for leave to appeal against a decision of the Labour Appeal Court ("the LAC"). The nature of the application, instituted on 28 November 2007, appears from the founding papers.

4 In terms of directions dated 21 January 2008, the Chief Justice directed the Applicant to file the record of proceedings on or before 21 February 2008. The directions also indicated that the record must consist of the record in the LAC, the application for special leave to appeal to the Supreme Court of Appeal ("the SCA") as well as the application for leave to appeal to the above Honourable Court.

5 For reasons that are set out more fully below, the Applicant was not able to file the record by 21 February 2008. It was on or about 15 February 2008 that it became apparent that the record would probably only be ready by 10 March 2008.

6 In the circumstances, Hofmeyr Herbstein & Gihwala Inc ("Hofmeyrs")., applicant's attorneys of record, sought the consent of the Third Respondent to file the record at that time. I set out these events below but for present purposes point out that Third Respondent was not prepared to consent to an extension of the time period.

7 On 20 February 2008, Adelaide Davids ("Davids") an associate employed by Hofmeyrs sent a fax to the Registrar of the above Honourable Court advising that the record would only be ready by 10 March 2008 and requesting an extension of the time period until that date.

8 After the Third Respondent refused its consent, and on 21 February 2008, Davids sent a further fax to the Registrar of the above Honourable Court dealing with the issues raised by the Third Respondent. I deal with the substance of these faxes below.

9 On or about 29 February 2008, Davids received a facsimile from the Registrar of the above Honourable Court advising that the record must be filed as soon as possible and that a substantive application for condonation for the late filing of the record must be timeously made, which application would be considered on the date on which the application for leave to appeal is to be heard. I annex hereto a copy of the aforesaid facsimile marked "**PP1**".

10 I respectfully submit that Hofmeyrs has diligently sought to obtain the record as soon as possible. I am advised that the record shall be filed by Friday, 7 March 2008 and accordingly the record will be filed 11 (eleven) days late. The

Applicant apologises for the late filing of the record and respectfully requests condonation therefore.

11 I now proceed to explain the reasons for the delay.

12 An initial delay was experienced after the receipt of the directions from the Chief Justice on 21 January 2008. This was because the Applicant was not able to instruct Hofmeyrs regarding the application for leave to appeal, for the following reasons –

12.1 Applicant has – prior to 1 March 2008 – carried on business at various airports situated within South Africa by providing *inter alia* ground handling services to various airlines both international and domestic. Such ground handling services include *inter alia* baggage handling and general aviation logistics support.

12.2 Applicant's right to operate at airports in South Africa has always been dependent on it holding a valid operating license issued by Airports Company South Africa ("ACSA") entitling Applicant *inter alia* to perform ground handling services at the airports which constitutes ACSA property.

12.3 Applicant has always operated under the assumption that its ACSA issued license was valid until at least 2011 provided the license was renewed by Applicant from time to time in accordance with the provisions thereof. In or during 2006, and subsequent to Applicant having sought to renew its operating license, ACSA advised Applicant that the purported renewal of its

license had been defective and that accordingly Applicant's license had expired.

12.4 A dispute accordingly arose between Applicant and ACSA in or during 2007 regarding the renewal of Applicant's operating license and consequent right to operate at ACSA airports. The dispute was arbitrated during 2007. The outcome of the arbitration proceedings was a finding by the arbitrator that Applicant's license had in fact expired in 2006 and there existed no obligation on ACSA to renew such license.

12.5 The arbitrator's finding was subsequently taken on appeal however the appeal tribunal's finding did not differ with the arbitrator's initial finding.

12.6 In or during December 2007 Applicant elected to bring urgent proceedings against ACSA in the Witwatersrand Local Division ("WLD") wherein it sought *inter alia* a review of the appeal tribunal's finding together with a prayer for interim relief aimed at extending its operating license beyond 29 February 2008 until such time as the tender process for the issuing of a third license by ACSA had been completed. ACSA had previously advised Applicant that it would not be permitted to continue operating post 29 February 2008 due to its license having expired in or during 2006.

12.7 I need not point out that the outcome of Applicant's urgent application to the WLD was of crucial importance in determining Applicant's right to continue conducting business at airports in South Africa. It follows that as at 21 January 2008 – the date upon which Applicant received the Chief Justice's

directions to file the record – Applicant's future and continued viability was uncertain to say the least. It was a very real prospect in the event of Applicant's application to the WLD being unsuccessful, Applicant would ultimately cease to exist as a legal entity by virtue of its inability to conduct business.

12.8 As it transpired, Applicant's urgent application was dismissed by the WLD on 1 February 2008. The effect of this on Applicant's business is that it no longer enjoys the right to operate at any ACSA airport situated within South Africa due to the expiry of its operating license on 29 February 2008. Applicant has for all intents and purposes ceased to trade with effect from 29 February 2008.

12.9 To exacerbate matters, South African Airways, formerly Applicant's largest domestic client, cancelled its operating agreement with Applicant with effect from 31 January 2008 which factor contributed further to the uncertainty of Applicant's continued viability as at 21 January 2008. Prior to the cancellation SAA had constituted approximately half of Applicant's business in South Africa.

12.10 Subsequent to Applicant's application to the WLD having been dismissed on 1 February 2008 urgent board meetings took place within Applicant to determine its future. In short, a decision needed to be taken as to whether Applicant would continue to exist as a legal entity in light of the fact that it was no longer entitled to operate at any ACSA airport.

12.11 Following the various board meetings which took place in or during the first week of February 2007, together with various other meetings between Applicant, ACSA and various domestic airlines, a decision was taken by Applicant's board to continue with Applicant due *inter alia* to the prospect of ongoing business in various forms. It was only subsequent to this decision that Applicant was in a position to finally instruct Hofmeyrs to proceed with the instant application and to incur the costs of preparing the record. Applicant's instruction to Hofmeyrs was confirmed on or about 11 February 2008.

12.12 I am advised that Davids immediately attended to make arrangements for the preparation of the record.

12.13 A key obstacle that was encountered was locating a copy of the LAC record. In the ordinary course, if the company that initially prepared a record in earlier proceedings can be engaged, this substantially reduces the time (and cost) involved in preparing a record as the original record would have been retained. This however proved impossible as set out below, with the result that the record of the LAC had to be prepared again and repaginated and several documents forming part of the record had to be retyped. This meant that any transcription company engaged to prepare the record had a more onerous task to complete and a task that would take longer than otherwise would be the case.

12.14 Moreover, although steps were taken to speed up the preparation of the record, it ultimately proved impossible to engage a transcription service to

prepare the record within the time frames available. The best that those involved were able to achieve was to finalise the record for filing by 7 March 2008.

12.15 I now set out the background relating to the above.

12.16 On 12 February 2008, Davids contacted LOM Business Solutions (Pty) Ltd, previously Snellers (Pty) Ltd ("LOM") in order to make enquiries regarding the LAC record to speed up the preparation of the record. In Hofmeyr's experience LOM provides an efficient and reliable service. After making telephonic enquiries, Davids sent a fax to LOM requesting that they confirm that they prepared the record for the LAC and requesting, in the event that they did, that they prepare the record for the above Honourable Court on an urgent basis. I annex hereto a copy of the aforementioned facsimile marked "**PP2**".

12.17 On 13 February 2008, Davids telephoned LOM and spoke to Mrs Schoeman, who ordinarily prepares appeal records. I point out that in view of the fact that LOM had taken over the business of Snellers (Pty) Ltd they were initially unable to confirm or deny that the record had been compiled by them. Davids at that stage did not have a copy of the transcription certificate but after tracking it down confirmed that indeed Snellers had prepared the LAC record.

12.18 On 14 February 2008, Davids addressed a further fax to LOM requesting that LOM attend to preparing the record and to confirm whether a copy of

the LAC record had been located. Davids enclosed the pleadings filed in the SCA under case number 405/07, as well as the pleadings filed in the above Honourable Court. I annex hereto a copy of the letter addressed to LOM marked "**PP3**" wherein Davids requested a reply as a matter of urgency.

12.19 Shortly after the aforementioned letter was received by LOM, Davids received a call from Mrs Schoeman, an employee of LOM, indicating that they do not have the LAC record because Snellers prepared the record copies were not kept when LOM took over Snellers business. Mrs Schoeman further advised that LOM would not be able to assist on an urgent basis as they were already fully booked with other appeal records.

12.20 Davids proceeded to contact President Transcriptions and Recordings ("President"), who, according to Hofmeyr's Sandton offices, are generally able to assist on an urgent basis. Davids was also advised of a transcription service in Durban but due to logistical difficulties and time pressure, decided not to contact them.

12.21 On 15 February 2008, Davids contacted Sheila Khan ("Khan") of President and discussed the urgency of the preparation of record with her. Khan indicated that they would be able to prepare the record for the Applicant but would only be able to furnish same by 10 March 2008.

12.22 Davids immediately instructed President to prepare the record. I refer to the letter annexed as "**PP4**", which is an unsigned copy.

12.23 Davids contacted Mr R Daniels ("Daniels") of Messrs Cheadle Thompson & Haysom, the Third Respondents attorneys of record telephonically on 18, 19 and 20 February 2008, to enquire whether Third Respondent would have any objection to the late filing of the record, but was unable to speak with Daniels and left messages for him. On 20 February 2008, Daniels indicated that Davids should make the request in writing and that he would take instruction from his client.

12.24 Davids accordingly addressed a facsimile, dated 20 February, to Daniels, a copy of which is annexed hereto and marked "**PP5**". As appears therefrom, Davids explained that the transcription agency who prepared the LAC record had been unable to locate the copy and accordingly that that record had to be prepared *de novo*.

12.25 On 20 February 2008, Davids also addressed a facsimile to the Registrar of the above Honourable Court advising that Applicant would only be able to file the record on 10 March 2008 and requested an extension until that date. I annex hereto a copy of the aforementioned facsimile marked "**PP6**". Similarly, Davids explained the need to prepare the LAC record *de novo*.

12.26 Daniels thereafter advised that the Third Respondent is not prepared to consent to the record being filed on 10 March 2008. A copy of the fax is annexed as "**PP7**". As appears therefrom, the reason for refusing consent was that Third Respondent believed that Applicant had had sufficient time to prepare the record. Third Respondent also advised that in view of the loss of its ACSA licence, it feared that Applicant's business is now

precarious and that delays in the filing of the record could lead to unnecessary delays in the finalisation of the matter which Third Respondent wanted to avoid.

12.27 On 21 February 2008, Hofmeyr addressed a fax to both Daniels and the Registrar of the above Honourable Court responding to the issues raised by Third Respondent. A copy of the facsimile is annexed hereto marked "**PP6**". Its contents are self explanatory and are in any event dealt with herein.

13 In the premises, I respectfully submit that the Applicant has an acceptable and reasonable explanation as to why the record has been filed late. Hofmeyr has sought to procure a record as expeditiously as possible upon obtaining an instruction to proceed with the matter. The delays were, to a material extent, a result of Hofmeyr not being able to obtain a copy of the LAC record and the constraints of transcription companies.

14 Insofar as the above Honourable Court considers the prospects of success of an application when considering condonation applications, I respectfully submit that the Applicant enjoys reasonable prospects of success. The nature of the application and the essential submissions have been advanced in the application for leave to appeal and will be dealt with more fully in heads of argument to be filed on 13 March 2008. So as not to burden the papers unduly I do not repeat these contentions here, but Applicant's legal representatives will address the court on these aspects at the hearing of the matter.

15 As to the question of prejudice, it is respectfully submitted that Third Respondent shall in no way be prejudiced by the late filing of the record in that third Respondent will have approximately three weeks from the receipt of the record in order to prepare its heads of argument. Moreover in view of the fact that the Third Respondent has been actively involved in the proceedings to date, the fact that the record is received late is unlikely to prejudice its preparation. In any event, the Third Respondent is in possession of all relevant portions of the record from previous proceedings. In any event, a copy of the indexed and paginated record was served on Third Respondent's attorney of record on 6 March 2008.

16 Applicant intends to file its heads of argument timeously and accordingly the delay in filing the record will not cause any delay in finalising the matter.

17 On the other hand, I respectfully submit that the Applicant shall suffer great prejudice should the late filing of the record not be condoned in that Applicant shall be denied a hearing in respect of its application for leave to appeal and shall have incurred the cost of preparing the record unnecessarily. I point out that the cost of preparing the record is R77 000.00.

18 Insofar as the delay may have caused inconvenience to the members of the above Honourable Court, this is sincerely regretted. It is hoped that in view of the fact that the issues that arise in the proceedings are largely legal rather than factual questions, any inconvenience will be less than would otherwise be the case.

19 Finally I point out that the issues raised in this application concern not only an ongoing dispute between the parties as to the amount of back-pay owed to the Third Respondent but also matters of public importance beyond the interests of the current litigants.

20 For all of these reasons, I submit that it is in the interests of justice that condonation be granted and respectfully ask the Court to grant the relief as set out in the notice of motion to which this affidavit is attached.

PETRUS DU PREEZ

I certify that on the 7th day of **MARCH 2008** in my presence at **JOHANNESBURG** the Deponent signed this Affidavit and acknowledged that he:

(i) knows and understands the contents thereof;

(ii) has no objection to taking this oath;

(iii) considers this oath to be binding on his conscience and uttered the words, "I swear that the contents of this declaration are true, so help me God".

LISA KIM BRUSSOW
COMMISSIONER OF OATHS
KOMMISSARIS VAN EDE EX OFFICIO
ATTORNEY/PROKUREUR R&A
JOWELL GLYN & MARAIS INC/ING
4TH FLOOR/4DE VLOER
JOWELL GLYN & MARAIS HOUSE
72 GRAYSTON DRIVE/GRAYSTON RYLAAN
SANDTON

COMMISSIONER OF OATHS

"PP1"

THE CONSTITUTIONAL COURT OF SOUTH AFRICA

29 February 2008

TO: HOFMEYR HERBSTEIN & GIHWALA INC.
Applicant's Attorney
6 Sandown Valley Crescent
Sandown
Private Bag X40, Benmore, 2010
JOHANNESBURG
Tel: (011) 286 1100
Fax: (011) 286 1269
Ref: G Stansfield/M Hart/50035998

Dear A. Davids

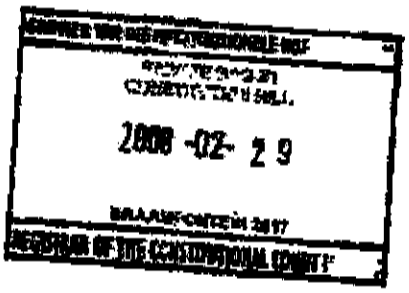
EQUITY AVIATION SERVICES (PTY) LTD VERSUS COMMISSION FOR CONCILIATION, MEDIATION AND ARBITRATION AND OTHERS CCT 88/07

Your letter dated 21 February 2008 was handed to the Chief Justice who has asked me to inform you that:

(a) The record must be filed as soon as possible.
(b) A substantive application for condonation for the late filing of the record must be timeously made.
(c) The application will be considered on the date on which the application for leave to appeal is to be heard.

Yours sincerely

MS STANDER
SNR REGISTRAR
CONSTITUTIONAL COURT



TO: COMMISSION FOR CONCILIATION MEDIATION AND ARBITRATION
First Respondent
20 Anderson Street
JOHANNESBURG
Tel: (011) 377 6600
Fax: (011) 834 7331/51

TO: W. FERREIRA N.O.
Second Respondent
c/o: **COMMISSION FOR CONCILIATION MEDIATION AND ARBITRATION**
20 Anderson Street
JOHANNESBURG
Tel: (011) 377 6600
Fax: (011) 834 7331/51

AND TO CHEADLE THOMPSON & HAYSOM
Third Respondent's Attorneys
7th Floor, Braamfontein Centre
23 Jorissen Street
BRAAMFONTEIN
Tel: (011) 403 2765
Fax: (011) 403 1764
Ref: R Daniels/SAT 40098

"PP2"

Hofmeyr

Hofmeyr Herbstein & Gihwala Inc
(Established in 1926)

21st Floor, 2 Long Street, Cape Town, 8001, South Africa
PO Box 1221, Cape Town, 8000, South Africa
Telephone: (021) 405-6000 International +27 21 405-6000
Docex 39 Cape Town
e-mail: info@hofmeyr.com http://www.hofmeyr.com

Our Reference	A DAVIDS
Account Number	50035998
Direct Line	(021) 405-6106
Direct Telefax	(021) 405-6112
Direct e-mail	ADELAIDED@hofmeyr.com
Your Reference	
Date	12 February 2008

LOM BUSINESS SOLUTIONS (PTY) LTD
BRAAMFONTEIN
ATTN: MARY

PER FACSIMILE: 011 339 4362

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"URGENT"

Dear Mary

EQUITY AVIATION SERVICES (PTY) LTD / N MAWELELE
LABOUR COURT CASE NO: JR 622/02
LABOUR APPEAL COURT CASE NO: JA 018/05
CONSTITUTIONAL COURT CASE NO : CCT88/07

1 We refer to your telephonic conversation with the writer just now.

2 We act for Equity Aviation Services (Pty) Ltd, previously Apron Services (Pty) Ltd, in the current Application for Condonation and Leave to Appeal to the Constitutional Court under case number CCT88/07.

3 We have been advised that LOM Business Solutions (Pty) Ltd may have prepared the Labour Appeal Court ("LAC") Record under case number JA 018/05.

4 The Chief Justice of the Constitutional Court ("CCT") has now issued directions that we are to prepare and file a record by no later than **Thursday, 21 February 2008**. The record **must** include the following -

4.1 the Record in the LAC;

Attorneys Notaries Conveyancers & Trade Mark Practitioners
Reg No 1998/021321/21

DIRECTORS DCM Gihwala[TC] B Proc (Chairperson) HS Cowtoo[T] BA LLB LLM (Vice Chairperson) A Ahmed-Kapdia[#] Pg(DCL) C Beasley BA LLB LLM RD Harvey[#] B Proc CLM CJ Bolus LLB MA Boundy BA LLB DB Carmichael[#] BA LLM J Cowtoo[T] BLC LLB LLM PJ Conradie BA LLB A de Lange BA LLB LLM ML du Preez BA LLB WJM GT Ford BA LLB DF Eyler LLB J Greenhalgh BLC B Proc LLB AJ Hamlin BA LLB J Henning BLC LLB A J Hofmeyr BA LLB LLM JCA Jones BA LLB LLM T Kanniah BA LLB A Kotjaas BA LLB LLM Y Kuyasa LLB LJ Kruger B Iur LLB J Lalloby BA LLB AM le Grange[3] B Com LLB LLM E Lombard BA LLB S Maasdorp BA LLB Z Mahlangu[#] B Proc FJ McKenzie[T] B Com LLB R Mohlajoa B Soc Sc LLB MBA S Mayet B Com LLB R Moodley BA LLB GJA Moore BA LLB LLM J Mphahlele B Juris LLB[#] SP O'Connor BA LLB G Orrin BA LLB L Purlington BLC LLB AM Potgieter B Iur LLB LLM AW Pretorius B Com LLB S Rajie BA LLB L Rhoodie B Com LLB RF Scott B Proc M Shilal B Proc LLB GF Stewardson BA LLB LLM S Strauss[T] BA LLB LLM PG T Tshivhase[3#] B Proc LLM AMP M van der Walt BLC LLB W van Rensburg BA LLB WPS van Wyk B Iur LLB ED van der Vyver BA LLB PA le R van Zyl[T] B Com LLB JC Velzmann B Com LLB JG Webber B Com LLB JC Whittle B Com LLB ED Wilke BA LLB CW Williamson BA LLB LLM

SENIOR ASSOCIATES R Ahmed-Kapdia LLB LLM C Assyer BA LLB S de Beer B COM LLB S Gie B Acc Bel LLB MBP M Hart C Hindley B Proc S Immelman B Com LLB H Kellerman B Proc LLM YJ Odubanjo LLB M Sandile B Juris LLB M Sedumedia BLC LLB J Simpson B Com LLB LLM L Visser B Com LLB

CONSULTANTS CB Pelemoon BA LLB SH Twinomuhi BA LLB SH van der Merwe BA LLB

[#]Dip Co Law [T]Dip Tax [3]Dip Corporate Law [TC]Dip Tax [1]Dip Labour Law Also admitted in *Lesotho [1]Namibia

CHIEF OPERATING OFFICER ES Berger B Com Acc Hons. AGA(SA)
IN ASSOCIATION WITH Vorster Pereira Inc BRANCH Cape Town

284967

4.2 the Application for Leave to Appeal to the Supreme Court of Appeal ("SCA"); and

4.3 the Application of Leave to Appeal to the CCT.

5 Kindly confirm that your offices prepared the LAC Record. In the event that your offices prepared the LAC Record, we kindly request that you-

5.1 Prepare the record for the CCT on an urgent basis and provide us with your quote in respect thereof.

6 As soon as we have your confirmation that you prepared the LAC Record we shall forward you the additional documents in respect of the Application for Leave to Appeal to the SCA and the CCT.

7 **We are awaiting your reply as a matter of urgency.**

Yours faithfully

ADELAIDE DAVIDS
HOFMEYR HERBSTEIN & GIHWALA INC

"URGENT"

Dear Mary

EQUITY AVIATION SERVICES (PTY) LTD / N MAWELELE
LABOUR COURT CASE NO: JR 622/02
LABOUR APPEAL COURT CASE NO: JA 018/06
CONSTITUTIONAL COURT CASE NO : CCT88/07

1 We refer to your telephonic conversation with the writer just now.

2 We act for Equity Aviation Services (Pty) Ltd, previously Apron Services (Pty) Ltd, in the current Application for Condonation and Leave to Appeal to the Constitutional Court under case number CCT88/07.

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4 The Chief Justice of the Constitutional Court ("CCT") has now issued directions that we are to prepare and file a record by no later than Thursday, 21 February 2008. The record must include the following -

4.1 the Record in the LAC;

Attorneys Notaries Conveyancers & Trade Mark Practitioners

DIRECTORS ... CHIEF OPERATING OFFICER ... ASSOCIATION WITH ... BRANCH Cape Town

TRANSMISSION REPORT

(TUE) FEB 12 2008 16:37
HOFMEYR H & G 0214068112

User Account	:	DOCUMENTS	: 7612871-671
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DEST. NUMBER	: 1578P0011338436 2	TX START	: FEB 12 16:36
F-CODE	:	DURATION	: 1min. 23sec
		COM. MODE	: G3
PAGES	: 2page		
RESULT	: OK		

P. 1

"PP3"

Hofmeyr

Hofmeyr Herbstein & Gihwala Inc
(Established in 1926)

21st Floor, 2 Long Street, Cape Town, 8001, South Africa
PO Box 1221, Cape Town, 8000, South Africa
Telephone: (021) 405-6000 International +27 21 405-6000
Docex 26 Cape Town
e-mail: info@hofmeyr.com http://www.hofmeyr.com

SNELLERS (PTY) LTD/ LOM Business Solutions (Pty) Ltd
Olivetti House
Corner Schubart & Pretorius Streets
Pretoria
ATTN: MRS SCHOEMAN

BY HAND

Our Reference	A DAVIDS
Account Number	50035996
Direct Line	(021) 405-6106
Direct Telefax	(021) 405-6112
Direct e-mail	adelaided@hofmeyr.com
Your Reference	MRS SCHOEMAN
Date	14 February 2008

"URGENT"

Dear Mrs Schoeman

EQUITY AVIATION SERVICES (PTY) LTD / CCMA & OTHERS CONSTITUTIONAL COURT CASE NO: CCT 88/07

1 We refer to your telephone conversation with the writer on 13 February 2008 and confirm that we Act for Equity Aviation Services (Pty) Ltd.

2 We kindly request that you attend to preparing the Record for the Constitutional Court ("CCT") in our client's Application for Special Leave to Appeal filed under case number CCT88/07.

3 Kindly confirm whether you were able to locate a copy of the Labour Appeal Court Record which you prepared under case number JA18/05 on your database, as it needs to be included in the Record to the Constitutional Court ("CCT")

4 Enclosed undercover hereof please find a copy of the following documents for your attention, namely-

Application for Leave to Appeal to the Supreme Court of Appeal ("SCA")

4.1 Notice of Application for Special Leave to Appeal dated 12 July 2007;

Attorneys Notaries Conveyancers & Trade Mark Practitioners

DIRECTORS ... CHIEF OPERATING OFFICER ... IN ASSOCIATION WITH ... BRANCH Cape Town

4.2 Filing Sheet enclosing Supplementary Affidavit of J Botes and Confirmatory Affidavit of P Qqoba dated 31 July 2007;

4.3 Third Respondent's Answering Affidavit dated 1 August 2007;

4.4 SCA court order dated 11 September 2007.

Application for Special Leave to Appeal to the CCT

4.5 Application for Special Leave to Appeal to the Constitutional Court dated 27 November 2007;

4.6 Filing Sheet enclosing Third Respondent's Answering Affidavit dated 21 January 2008; and

4.7 Directions dated 21 January 2008.

5 In terms of the Directions you shall note that our CCT record must be filed by **21 February 2008**.

6 Kindly provide us with your quote in respect of the preparation of the CCT record and give us an indication by when you shall be able to deliver the CCT record.

7 We await your reply as a matter of urgency.

Yours faithfully

ADELAIDE DAVIDS
HOFMEYR HERBSTEIN & GIHWALA INC

15 PP4 "

Hofmeyr

Hofmeyr Herbstein & Gihwala Inc
(Established in 1926)

21st Floor, 2 Long Street, Cape Town, 8001, South Africa
PO Box 1221, Cape Town, 8000, South Africa
Telephone: (021) 405-6000 International +27 21 405-6000
Docex 39 Cape Town
e-mail: info@hofmeyr.com http://www.hofmeyr.com

Our Reference A DAVIDS
Account Number 50035998
Direct Line (021) 405-6106
Direct Telefax (021) 405-6112
Direct e-mail adelaided@hofmeyr.com
Your Reference SHIELA
Date 15 February 2008

PRESIDENT TRANSCRIPTIONS
ATTN: SHIELA

BY HAND

"URGENT"

Dear Shiela

EQUITY AVIATION SERVICES (PTY) LTD / CCMA & OTHERS CONSTITUTIONAL COURT CASE NO: CCT 88/07

1 We refer to your telephone conversation with the writer on earlier today.

2 We act for Equity Aviation Services (Pty) Ltd.

3 We kindly request that you attend to preparing the Record for the Constitutional Court ("CCT") in our client's Application for Special Leave to Appeal filed under case number CCT88/07.

4 Enclosed undercover hereof please find a copy of the following documents for your attention, namely-

Application for Leave to Appeal to the Supreme Court of Appeal ("SCA")

4.1 Notice of Application for Special Leave to Appeal dated 12 July 2007;

4.2 Filing Sheet enclosing Supplementary Affidavit of J Botes and Confirmatory Affidavit of P Qqoba dated 31 July 2007;

Attorneys Notaries Conveyancers & Trade Mark Practitioners
Regno 1920/004152/21

DIRECTORS: DCM Gihwala[BP] B Proc (Chairperson) NS Cembi[1] BA LLB LLM (Vice Chairperson) A Abramowitz[4] PgDCL C Bentley BA LLB LLM RO Brownlee[4] B.Proc CLM CJ Botes LLB MA Brantley BA LLB DB Cammack[4] BA, LLM J Constant[1] BLC LLB LLM PJ Cornelius BA LLB A de Lange BA LLB LLM ML du Preez BA LLB LLM GT Ford BA LLB CF Fryer LLB J Gauntlett BLC B Proc LLB AJ Hassim BA LLB J Henning BLC LLB A J Hofmeyr BA LLB LLM JCA Jones BA LLB LLM T Kemedi BA LLB A Kerrien BA LLB LLM Y Kleynhans LLB LJ Kruger B.Iur LLB J Lutsky BA LLB AM le Grange[1] B Com LLB LLM E Lombard BA LLB B Mamabolo BA LLB Z Malinga[1] B Proc FJ McKenzie[1] B Com LLB R Middleton B Soc Sci LLB MBA B Meyer B Com LLB R Moodley BA LLB GJM Moore BA LLB LLM J Nghatsheli B.Juris LLB[4] BP O'Connor BA LLB G Orrie BA LLB L Pydigadoo BLC LLB AM Potgieter B.Iur LLB LLM AW Pretorius B Com LLB S Raja BA LLB L Rossouw B Com LLB RF Smit B Proc M Sibeko B Proc LLB GJ Stansfield BA LLB LLM B Strauss[1] BA LLB LLM PG T Tobiansen[1] B Proc LLM AMP M van der Walt BLC LLB W van Rensburg BA LLB WPS van Wyk B.Iur LLB ED van der Vyver BA LLB PA le R van Zyl[1] B Com LLB JC Velthuizen B Com LLB JG Webber B Com LLB JG Wilkie B Com LLB ED Wille BA LLB CW Williams BA LLB LLM

SENIOR ASSOCIATES: R Ahmed-Kayrie LLB LLM C Assor BA LLB S de Beer B COM LLB S Gie B Soc Sci LLB MBP M Hart C Hendley B Proc S Immelman B.Com LLB N Kallideen B Proc LLM YJ Kleinhans LLB M Samodien B.Iuris LLB M Swanepoel BLC LLB J Simpson B Com LLB LLM L Visser B.Com LLB

CONSULTANTS: CB Primmer BA LLB BH Treurnicht BA LLB BW van der Merwe BA LLB

[1]Dip Co Law [2]Dip Tax [3]Dip Corporate Law [4]Dip Tax [5]Dip Labour Law Also qualified in: *Lesotho *Namibia

CHIEF OPERATING OFFICER: ES Burger B Com Acc Hons AGA(SA)
IN ASSOCIATION WITH Verpler Pereira Inc BRANCH: Cape Town

4.3 Third Respondent's Answering Affidavit dated 1 August 2007;

4.4 SCA court order dated 11 September 2007.

Application for Special Leave to Appeal to the CCT

4.5 Application for Special Leave to Appeal to the Constitutional Court dated 27 November 2007;

4.6 Filing Sheet enclosing Third Respondent's Answering Affidavit dated 21 January 2008; and

4.7 Directions dated 21 January 2008.

Labour Appeal Court Record

4.8 Labour Appeal Court Record as prepared by Snellers Transcription.

5 In terms of the Directions you shall note that our CCT record must be filed by **21 February 2008.**

6 We confirm that you have undertaking to deliver a complete record by no later than **10 March 2008.**

7 We shall provide you with specific instructions in respect of the preparation of the record on Monday, 18 February 2008.

8 We await your quotation and thank you in anticipation.

Yours faithfully

ADELAIDE DAVIDS
HOFMEYR HERBSTEIN & GIHWALA INC

"PP5"

Hofmeyr

Hofmeyr Herbstein & Gihwala Inc
(Established in 1926)

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e-mail: info@hofmeyr.com http://www.hofmeyr.com

Our Reference	A DAVIDS
Account Number	50035998
Direct Line	(021) 405-6106
Direct Telefax	(021) 405 6112
Direct e-mail	adelaided@hofmeyr.com
Your Reference	
Date	20 February 2008

CHEADLE THOMPSON & HAYSOM
ATT: R DANIELS

PER TELEFAX: 011 403 1764

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Dear Sir

EQUITY AVIATION SERVICES (PTY) LTD/ N MAWELELE
CASE NO: CCT88/07

1 We refer to the directions of the Honourable Mr Chief Justice P Langa Dated 21 January 2008.

2 We have noted the requirement that our client must file the Record by 21 February 2008.

3 We have been advised by President Transcriptions & Recordings that the Record shall only be available by 10 March 2008. Unfortunately the transcription agency who prepared the Labour Appeal Court record, which consists of 4 (four) volumes, has been unable to locate the digital copy thereof and accordingly such Record has to be prepared *de novo*.

4 Kindly advise whether your client shall have any objection to the Record being filed on 10 March 2008.

5 We await your reply.

Attorneys Notaries Conveyancers & Trade Mark Practitioners
Reg no 1967/009523/21

DIRECTORS DCM Gihwala[BP] B Proc (Chairperson) HS Cowtzee[1] BA LLB LLM (Vice Chairperson) A Abrahamowitz[2] PgDCL C Barclay BA LLB LLM RD Barrowclough[2] B Proc CLM CJ Bristo LLB MA Brumley BA LLB DB Cravenmoore[2] BA LLM J Coetzee[1] BLC LLB LLM PJ Coetzee BA LLB A de Lange BA LLB LLM BL de Proos BA LLB LLM GT Ford BA LLB DF Fyfer LLB J Gauntlett BLC B Proc LLB AJ Hesse BA LLB J Hoexing BLC LLB A J Hofmeyr BA LLB LLM JCA Jones BA LLB LLM T Xaxeka BA LLB A Karlsen BA LLB LLM Y Klopotenko LLB LJ Kruger B Iur LLB J Latsky BA LLB AM le Grange[1] B Com LLB LLM E Lombard BA LLB B Mandipira BA LLB Z Mofenga[2] B Proc FJ McKenzie[1] B Com LLB R Meintjes B Soc Sci LLB MBA B Meyer B Com LLB R Moodley BA LLB GJA Moore BA LLB LLM J Mphahlele B Juris LLB[2] BP O'Connor BA LLB G Orrie BA LLB[1] L Partington BLC LLB AM Potgieter B Iur LLB LLM AW Pretorius B Com LLB S Raja BA LLB L Rhoodie B Com LLB RF Scott B Proc M Sibisi B Proc LLB GJ Stansfield BA LLB LLM B Strauss[1] BA LLB LLM PG T Tshishonga[BP] B Proc LLM AMP M van der Walt BLC LLB W van Rensburg BA LLB WPS van Wyk B Iur LLB ED van der Vyver BA LLB PA le R van Zyl[1] B Com LLB JG Veldsman B Com LLB JG Webber B Com LLB JC Wilkie B Com LLB ED Wills BA LLB CW Wilmans BA LLB ELM
SENIOR ASSOCIATES R Ahmed-Nagvie LLB LLM C Anson BA LLB S de Beer B COM LLB S Gie B Soc Sci LLB MDP M Hlati C Hockley B Proc S Isaacowitz B Com LLB H Kahlyama B Proc LLM YJ Kleinhans LLB M Sandilla B Juris LLB M Serfontein BLC LLB J Stopforth B Com LLB LLM L Visser B Com LLB
CONSULTANTS CR Paterson BA LLB SH Troskie BA LLB AW van der Merwe BA LLB
[2]HDip Co Law [1]HDip Tax [BP]HDip Corporate Law [T]HDip Tax [CR]HDip Labour Law Also admitted in [*]Lesotho [◊]Namibia
CHIEF OPERATING OFFICER ES Burger B Com Acc Hons AGA(SA)
IN ASSOCIATION WITH Vossler Pyrmire Inc BRANCH Cape Town

Yours faithfully

ADELAIDE DAVIDS
HOFMEYR HERBSTEIN & GIHWALA INC

Dear Sir

EQUITY AVIATION SERVICES (PTY) LTD/ N MAWELELE
CASE NO: CCT88/07

1 We refer to the directions of the Honourable Mr Chief Justice P Langa Dated 21 January 2008.

2 We have noted the requirement that our client must file the Record by 21 February 2008.

3 We have been advised by President Transcriptions & Recordings that the Record shall only be available by 10 March 2008. Unfortunately the transcription agency who prepared the Labour Appeal Court record, which consists of 4 (four) volumes, has been unable to locate the digital copy thereof and accordingly such Record has to be prepared *de novo*.

4 Kindly advise whether your client shall have any objection to the Record being filed on 10 March 2008.

5 We await your reply.

Attorneys Notaries Conveyancers & Trade Mark Practitioners

DIRECTORS DCN Cilliers[BP] B Proc (Chairperson) HS Coetzee[T] BA LLB LLM (Vice Chairperson) A Abrahamsohn[BP] BJuris LLB CB Bentley BA LLB LLM WD Bernardo[T] B Proc CLM CJ Beyers LLB MN Bentley BA LLB GB Cavanagh[T] BA LLM J Coetzee[T] BProc LLB LLM PJ Conradie BA LLB A de Lange BA LLB LLM ML du Preez BA LLB LLM GT Ford BA LLB CF Fyfer LLB J Greenhalgh BLC B Proc LLB AJ Hamelin BA LLB J Hemsley BLC LLB A J Hennessy BA LLB LLM JCH Jonas BA LLB LLM T Kemsley BA LLB A Kotzen BA LLB LLM Y Stephanou LLB LJ Kruger B Iur LLB J Lindley BA LLB AH le Grange[T] B Com LLB LLM E Lombaard BA LLB B Maxenbergs BA LLB Z Nkabinde[T] B Proc FJ McKenzie[T] B Com LLB R Nolan[T] B Soc Sci LLB MBA B Kruger B Com LLB R Moodley BA LLB GJA Moses BA LLB LLM J Mphahlele B Iuris LLB[T] BP O'Connor BA LLB G Oelofse BA LLB L Pyrkosch BLC LLB AM Pretorius B Iur LLB LLM AW Pretorius B Com LLB S Raja BA LLB L Rhoode B Com LLB RF Scott B Proc M Sing B Proc LLB CJ Slomowitz BA LLB LLM B Sewnarain[T] BA LLB LLM PG T Tshivhase[BP] B Proc LLM AMP M van der Walt BLC LLB W van Rensburg BA LLB MPS van Wyk B Iur LLB ED van der Vyver BA LLB PA de Roos Zyl[T] B Com LLB JG Veldsman B Com LLB JG Webber B Com LLB JG Wilson B Com LLB ED Wilke BA LLB CW Williams BA LLB LLR

SENIOR ASSOCIATES: R Ahmed-Hoosain LLB LLM C Ancer BA LLB S de Beer B COM LLB S Glo B Soc Sci LLB MDP BI Hart C Hinchey B Proc S Immelman B.Com LLB N Kallideen B Proc LLM YJ Khoikhoi LLB M Sewnarain B.Com LLB J Simpson B Com LLB LLM L Visser B.Com LLB

CONSULTANTS CM Paterson BA LLB SH Tuckerman BA LLB JSM van der Merwe BA LLB

[T]Bdp Cvs Law [N]Bdp Tax [B]Bdp Corporate Law [I]Bdp Tax [*]Bdp Labour Law Also admitted in [^]Lesotho [#]Namibia

CHIEF OPERATING OFFICER ES Bowyer B Com Acc Hons AGA(SA)
IN ASSOCIATION WITH Kerridge Pretorius Inc BRANCH Cape Town

TRANSMISSION REPORT

(WED) FEB 20 2008 13:01
HOFMEYR H & G 0214056112

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RESULT	: OK		
PAGES	: 2page		

P.1

"PP6"

Hofmeyr

Hofmeyr Herbstein & Gihwala Inc
(Established as 1926)

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Our Reference A DAVIDS
Account Number 50035998
Direct Line (021) 405-6106
Direct Telefax (021) 405 6112
Direct e-mail adelaided@hofmeyr.com
Your Reference
Date 20 February 2008

THE REGISTRAR
THE CONSTITUTIONAL COURT

PER TELEFAX:(011) 403 6524

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Dear Madam

EQUITY AVIATION SERVICES (PTY) LTD/ N MAWELELE
CASE NO: CCT88/07

1 We refer to the directions of the Honourable Mr Chief Justice P Langa Dated 21 January 2008.

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4 We are in the process of enquiring from the Third Respondent's attorneys, Messrs Cheadle, Thompson and Haysom, whether they have any objections to the Record being filed on 10 March 2008 and shall revert to you shortly in this regard.

5 In the premises, we kindly request that the date for the filing of the record be extended until 10 March 2008.

Attorneys Notaries Conveyancers & Trade Mark Practitioners
Reg No 1997/021532/21

DIRECTORS DCM Gihwala[10] B Proc (Chairperson) HS Coetzee[1] BA LLB LLM (Vice Chairperson) A Abercrombie[6] PgDCL C Beesley BA LLB LLM RD Beswetha[6] B Proc CLM CJ Botes LLB MK Brassley BA LLB DB Carnovalis[6] BA LLM J Coetzee[1] BLC LLB LLM PJ Cotsilidis BA LLB A de Lange BA LLB HLM ML der Preez BA LLB LLM GT Ford BA LLB DF Fijlar LLB J Gounden BLC B Proc LLB AJ Hamnie BA LLB J Hamnie BLC LLB A J Hofmeyr BA LLB LLM JCA Jones BA LLB LLM T Kamolar BA LLB A Karjiker BA LLB LLM Y Kleynhans LLB LJ Kruger B Iur LLB J Lobsky BA LLB AM le Grange[3] B Com LLB LLM E Lombard BA LLB B Maasdorp BA LLB Z Mafingo[4] B Proc EJ McKeod[1] B Com LLB R Mokajane B Soc Sci LLB MBA B Meyer B Com LLB R Moodley BA LLB GJA Moore BA LLB LLM J Mphahlele Blaw LLB[5] SP O'Connor BA LLB G Orrie BA LLB L Pardagison BLC LLB AM Potgieter B Iur LLB LLM AW Pretorius B Com LLB S Rajie BA LLB L Rissville B Com LLB RF Scott B Proc M Sithole B Proc LLB GJ Stamfield BA LLB LLM S Stevens[1] BA LLB LLM PG T Tshivhase[1][4] B Proc LLM AMP M van der Walt BLC LLB W van Rensburg BA LLB WPS van Wyk B Iur LLB ED van der Vyver BA LLB PA le R van Zyl[2] B Com LLB JC Velthuysen B Com LLB JG Webber B Com LLB JG Wehlte B Com LLB ED Wille BA LLB CW Williams BA LLB LLM

SENIOR ASSOCIATES R Ahmed-Kapdie LLB LLM C Annett BA LLB S de Beer B COM LLB B Gie B Soc Sci LLB MDP M Hunt C Hindley B Proc S Imamjhsaw B.Com LLB M Kalichuran B Proc LLM Y Kleinhans LLB M Ramaditle B.Iuris LLB M Serfontein BLC LLB J Simpson B Com LLB HDM L Visser B.Com LLB

CONSULTANTS CB Prinsloo BA LLB SH Tautzmann BA LLB AW van der Merwe BA LLB

[1]HDip Co Law [2]HDip Tax [3]HDip Corporate Law [4]HDip Tax [5]HDip Labour Law Also admitted in [6]Lesotho [7]Namibia

CHIEF OPERATING OFFICER ES Burger B Com Acc Hons ACA(SA)
IN ASSOCIATION WITH Vreeker Perrins Inc BRANCH Cape Town

29/1107

6 We thank you in anticipation for your favourable consideration of our request.

7 We await your reply.

Yours faithfully

ADELAIDE DAVIDS
HOFMEYR HERBSTEIN & GIHWALA INC

Dear Madam

EQUITY AVIATION SERVICES (PTY) LTD/ N MAWELELE
CASE NO: CCT88/07

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4 We are in the process of enquiring from the Third Respondent's attorneys, Messrs Cheadle, Thompson and Haysom, whether they have any objections to the Record being filed on 10 March 2008 and shall revert to you shortly in this regard.

5 In the premises, we kindly request that the date for the filing of the record be extended until 10 March 2008.

Attorneys Notaries Conveyancers & Trade Mark Practitioners

DIRECTORS DCH Gheeta[TP] B Proc (Chairperson) HS Cassim[T] BA LLB LLM (Vice Chairperson) A Abrahamse[NP] PgDCL C Barclay BA LLB LLM RD Bernadus[NP] B Proc CLM CJ Bekker LLB MA Bromley BA LLB DB Cavendish[NP] BA LLM J Cassim[T] BLC LLB LLM PJ Cassimatis BA LLB A de Lange BA LLB LLM MIL du Preez BA LLB LLM GT Ford BA LLB DF Fyfer LLB J Grandmaison BLC B Proc LLB AJ Hennie BA LLB J Hosenang BLC LLB A J Hoskenyn BA LLB LLM JCA Jones BA LLB LLM T Kgomare BA LLB A Kirsten BA LLB LLM Y Klopotowa LLB LJ Kruger B Iur LLB J Lilley BA LLB AM le Grange[T] B Com LLB LLM E Loubser BA LLB B Mansingh BA LLB Z Mollagee[TP] B Proc FJ McKenzie[T] B Com LLB K Mohidjee B Soc Sci LLB HDA S Mayet B Com LLB R Moodley BA LLB CJM Nieuwenhuizen BA LLB LLM J Nightingale B Juris LLB[NP] BP O'Connor BA LLB G Orde BA LLB L Pardesi BLC LLB AM Patel Inter B Iur LLB LLM AW Pretorius B Com LLB S Rajie BA LLB L Rhoodie B Com LLB JF Scott B Proc M Sibidi B Proc LLB GJ Stanefield BA LLB LLM B Strauss[T] BA LLB LLM PG T Thobakgale[TP] B Proc LLM ANP M van der Walt BLC LLB W van Rensburg BA LLB WPS van Wyk B Iur LLB SD van der Vyver BA LLB PA le R van Zyl[NP] B Com LLB JG Veldsman B Com LLB JG Webber B Com LLB JCD Williams B Com LLB ED Wilke BA LLB CW Williams BA LLB LLM

SENIOR ASSOCIATES R Ahmed-Kajee LLB LLM C Ancer BA LLB S de Beer B.COM LLB B Dix B Soc Sci LLB MDP N Hart C Hindley B Proc S Nemalapani B.Com LLB H Kallenberg B Proc LLM Y Kalmbanna LLB N Qwesiba LLB M Sadasivan BLC LLB J Shippman B Com LLB LLM E Visser B.Com LLB

CONSULTANTS CB Pilkington BA LLB SMM Tschopnan BA LLB SW van der Merwe BA LLB

[NDip Co Law [TDip Tax [PNDip Corporate Law [TNDip Tax [PNDip Labour Law Also admitted in [Lesotho [Namibia

CHIEF OPERATING OFFICER ES Bergner B Com Acc Hons ACA(SA)
IN ASSOCIATION WITH Vorster Pereira Inc BRANCH Cape Town

User Account : 7658RP0011403852
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RESULT : NO ANS

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TX START : FEB 20 12:53
DURATION :
COM. MODE :

(MED) FEB 20 2008 12:54
HOFMEYR H & G 0214058112

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Try to retransmit the rest of pages.

Dear Madam

EQUITY AVIATION SERVICES (PTY) LTD/ N MAWELELE
CASE NO: CCT88/07

1 We refer to the directions of the Honourable Mr Chief Justice P Lange Dated 21 January 2008.

2 We have noted the requirement that our client must file the Record by 21 February 2008.

3 We have been advised by President Transcriptions & Recordings that the Record shall only be available by 10 March 2008. Unfortunately the transcription agency who prepared the Labour Appeal Court record, which consists of 4 (four) volumes, has been unable to locate the digital copy thereof and accordingly such Record has to be prepared *de novo*.

4 We are in the process of enquiring from the Third Respondent's attorneys, Messrs Cheadle, Thompson and Haysom, whether they have any objections to the Record being filed on 10 March 2008 and shall revert to you shortly in this regard.

5 In the premises, we kindly request that the date for the filing of the record be extended until 10 March 2008.

Attorneys Notaries Conveyancers & Trade Mark Practitioners

DIRECTORS

SENIOR ASSOCIATES

CHIEF OPERATIONS OFFICER

ASSOCIATION WITH

BRANCH Cape Town

TRANSMISSION REPORT

(MED) FEB 20 2008 13:02
HOFMEYR H & Q 0214058112

User/Account	:	DOCUMENTS	: 7512971-074
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RESULT	: OK		

P.1

"PP7"

Your ref: A. Davids
Our ref: SAT40098/ R Daniels/ R Kalua

CHEADLE THOMPSON & HAYSOM INC. ATTORNEYS

20 February 2008

Ms Adelaide Davids
Hofmeyr Herbstein Gihwala Attorneys
By fax: (021) 405-6112
Pages: 1

Dear Madam,

Equity Aviation v Mawelele
(Constitutional Court Case no. 68/07)

We refer to your letter dated 20 February 2008.

We regret to advise that our client is not prepared to consent to an extension of the time period for the filing of the record. Among other things, our client believes that you have had sufficient time to prepare the record. Furthermore, given that your client recently lost its licence to operate at ACSA regulated airports, our client fears that your client's business is now precarious. Delays in the filing of the record could lead to unnecessary delays in the finalisation of this matter, which our client hopes to avoid.

In the circumstances, we trust that you will file the record without delay.

Yours faithfully,

Riona Kalua
Cheadle Thompson & Haysom Inc

"PP8"

Hofmeyr

Hofmeyr Herbstein & Gihwala Inc
(Established in 1926)

21st Floor, 2 Long Street, Cape Town, 8001, South Africa
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Docex 39 Cape Town
e-mail: info@hofmeyr.com http://www.hofmeyr.com

THE REGISTRAR
CONSTITUTIONAL COURT
VIA FACSIMILE: 011 403 6524

CC: CHEADLE THOMPSOM & HAYSOM
VIA FACSIMILE: 011 403 1764

Our Reference A DAVIDS
Account Number 50035998/m
Direct Line (021) 405-6106
Direct Telefax (021) 405-6112
Direct e-mail AdelaideD@hofmeyr.com
Your Reference
Date 21 February 2008

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Dear Madam

EQUITY AVIATION SERVICES (PTY) LTD / N MAWELELE
CASE NO. CCT88/07

1 We refer to the directions of the Honourable Mr Chief Justice P Langa dated 21 January 2008 as well as our letter dated 20 February 2008 requesting an extension in respect of the filing of our client's record.

2 We have been advised by Third Respondent's attorneys that they do not consent to the filing of our client's record on 10 March 2008. Their reasons for refusing to consent relates to our client having lost its licence to operate at the Airports Company South Africa ("ACSA"). They have also referred to our client's business as being "precarious". They moreover contend that our client had sufficient time to prepare the record. We annex hereto the facsimile from Third Respondent's attorneys dated 20 February 2008, for your attention and records.

3 We wish to respond to the allegations made by the Third Respondent's attorneys as follows –

3.1 South African Airways ("SAA") terminated its service contract with our client Equity Aviation Services (Pty) Ltd ("Equity") on 31 January 2008. In addition, ACSA has refused to renew Equity's operating licence effectively bringing to an end a further 35% of its business. On 1 February 2008, Equity brought an

Reg No 1998/021522/21

DIRECTORS DCM Gihwala[TC] B Proc (Chairperson) HB Cochrane[1] BA LLB LLM (Vice Chairperson) A Abrahamsohn[4] PgDCL C Beesley BA LLB LLM RD Bamsteiner[4] B Proc CLM CJ Botes LLB MA Bramley BA LLB DB Cassimatis[4] BA LLM J Coetzee[1] BLC LLB LLM PJ Conradie BA LLB A de Lange BA LLB LLM ML du Preez BA LLB JLN GE Ford BA LLB DF Fyfer LLB J Gauntlett BLC B Proc LLB AJ Hamilton BA LLB J Henning BLC LLB A J Holmeyr BA LLB LLM JCA Jones BA LLB LLM T Kamdar BA LLB A Kuljian BA LLB LLM Y Kleynhans LLB LJ Kruger B Jur LLB J Lalloty BA LLB AM le Grange[1] B Com LLB LLM E Lombard BA LLB G Mazwidenga BA LLB Z Nolingo[1] B Proc FJ McKenzie[1] B Com LLB R Meintjes B Soc Sc LLB MBA G Mayer B Com LLB R Moodley BA LLB GMA Moore BA LLB LLM J Mphahlele[1] Matric LLB[CI] BP O'Connor BA LLB G Orrin BA LLB L Partington BLC LLB AM Potgieter B Jur LLB LLM AW Pretorius B Com LLB S Rajie BA LLB L Rhoodie B Com LLB RF Rudd B Proc M Sibisi B Proc LLB CJ Stanfield BA LLB LLM B Stewart[1] BA LLB LLM PG TTshishonga[TP] B Proc LLM AMP M van der Walt BLC LLB W van Rensburg BA LLB WPS van Wyk B Jur LLB ED van der Vyver BA LLB PA le R van Zyl[1] B Com LLB JC Volkmann B Com LLB JG Webber B Com LLB JG Whittle B Com LLB ED Wills BA LLB CW Williams BA LLB LLM
SENIOR ASSOCIATES R Ahmed-Kajee LLB LLM C Anton BA LLB S de Beer B COM LLB S Gie B Soc Sci LLB MDP M Hart C Hindley B Proc S Immelman B.Com LLB K Kalideen B Proc LLM YJ Kalideen LLB M Sauerlie B Juris LLB RF Sedlmeier BLC LLB J Simpson B Com LLB LLM L Vosser B.Com LLB
CONSULTANTS CS Pilkington BA LLB BH Trotzenberg BA LLB SW van der Merwe BA LLB
[1]HDip Co Law [2]HDip Tax [3]HDip Corporate Law [4]HDip Tax [5]HDip Labour Law Also admitted in *Lesotho *Namibia
CHIEF OPERATING OFFICER ES Burger B Com Acc Hons ACA(SA)
IN ASSOCIATION WITH Yorston Parsons Inc BRANCH: Cape Town

Application to Review the decision taken by ACSA in respect of the non-renewal of its operating licence. This application was however dismissed.

3.2 This has resulted in a substantial reduction in its business and Equity has been forced to stop most of its operations and deal with the consequences in respect of the termination of its service agreement and the non-renewal of its operating licence.

3.3 Equity is currently involved in intensive and time consuming negotiations with employee representatives on retrenchments and have had to deal with employees resigning without notice as they have been employed by the companies who were appointed by SAA to deal with Apron Services as from 1 February 2008. As a result of the intense pressure it is currently experiencing, Equity was unable to immediately attend to instructing our firm regarding the Application for Leave to Appeal. We were only able to obtain instructions from Equity during the course of last week at which time we immediately contacted various transcription agencies to determine which agency shall be able to accommodate us by 21 February 2008. We were able to arrange with President Transcriptions and Recordings for the earliest date at which time the record can be available, i.e. 10 March 2008.

3.4 Equity has also had to raise the funds to proceed with the Application for Leave to Appeal. In addition, the transcription agency, President Transcriptions and Recordings advised that the whole of the LAC record has to be repaginated and several documents forming part of the record has to be retyped.

4 We have earnestly requested the transcription agency to complete the record as speedily as possible, but they have advised that it can only be done by 10 March 2008. Even if instructions had been furnished to them earlier, it would not have been possible for them to complete the record by the deadline stipulated in the directions referred to in paragraph 1 above.

5 The Third Respondent's attorneys are fully aware of the predicament that Equity finds itself in and we are somewhat taken aback by their letter referred to earlier. We point out that the late filing of the record will occasion no prejudice to Third Respondent and we shall ensure that our client's Heads of Argument are timeously filed. Third Respondent is moreover in possession of all the documents forming part of the record, although not in repaginated form. In so far as Third Respondent's attorneys of record alluded to the precarious state of our client's business, we point out that this aspect, to the extent that it exists, will not be worsened if leave is given for the late filing of the record.

6 We apologise for any delay that shall be caused by the late filing of the record and shall endeavour to file our client's Heads of Argument timeously on 13 March 2008. In terms of the directions the Third Respondent shall only be required to file its Heads of Argument on Thursday 3 April 2008 and we submit that the late filing of the record shall not prejudice the preparation and filing of the Heads of Argument of the Third Respondent.

7 We kindly request the above Honourable Court's indulgence in this regard.

8 We await your reply.

Yours faithfully

ADELAIDE DAVIDS
HOFMEYR HERBSTEIN & GIHWALA INC

Dear Madam

EQUITY AVIATION SERVICES (PTY) LTD / N MAWELELE
CASE NO. CCT88/07

1 We refer to the directions of the Honourable Mr Chief Justice P Langa dated 21 January 2008 as well as our letter dated 20 February 2008 requesting an extension in respect of the filing of our client's record.

2 We have been advised by Third Respondent's attorneys that they do not consent to the filing of our client's record on 10 March 2008. Their reasons for refusing to consent relates to our client having lost its licence to operate at the Airports Company South Africa ("ACSA"). They have also referred to our client's business as being "precarious". They moreover contend that our client had sufficient time to prepare the record. We annex hereto the facsimile from Third Respondent's attorneys dated 20 February 2008, for your attention and records.

3 We wish to respond to the allegations made by the Third Respondent's attorneys as follows –

3.1 South African Airways ("SAA") terminated its service contract with our client Equity Aviation Services (Pty) Ltd ("Equity") on 31 January 2008. In addition, ACSA has refused to renew Equity's operating licence effectively bringing to an end a further 35% of its business. On 1 February 2008, Equity brought an

DIRECTORS ... SENIOR ASSOCIATES ... CONSULTANTS ... CHIEF OPERATING OFFICER ... IN ASSOCIATION WITH ... BRANCH Cape Town

TRANSMISSION REPORT

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User Account	:	DOCUMENT#	: 7612971-100
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DEST. NUMBER	: 7273BP001140385824	TX START	: FEB 21 8:25
F-CODE	:	DURAT1ON	: 25sec
		COM. MODE	: ECM
PAGES	: 4pages		
RESULT	: OK		

P.1

IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA

(HELD AT JOHANNESBURG)

CASE NO: CCT88/07
SCA CASE NO: 405/07
LAC CASE NO: JA18/05

In the matter between:

EQUITY AVIATION SERVICES (PTY) LTD	Applicant
and	
COMMISSIONER FOR CONCILIATION MEDIATION & ARBITRATION	First Respondent
W FERREIRA N.O.	Second Respondent
NELSON MAWELELE	Third Respondent

CONFIMATORY AFFIDAVIT

I, the undersigned,

ADELAIDE DAVIDS

do hereby make oath and state as follows:

AD

1 I am adult female attorney, currently in the employ of Hofmeyr Herbstein & Gihwala Inc., Applicant's Attorneys of record herein. I am duly authorised to depose to this affidavit.

2 The facts and allegations contained herein are true and correct and fall within my personal knowledge and belief unless the context indicates otherwise, in which case I verily believe same to be true and correct.

3 I confirm that I have read the affidavit of **PETRUS DU PREEZ** and confirm the contents thereof, insofar as the allegations contained therein relate to me. I confirm the contents of his affidavit as true and correct.

ADELAIDE DAVIDS

I certify that on the 7th day of **MARCH 2008** in my presence at **CAPE TOWN** the Deponent signed this Affidavit and acknowledged that she:

(i) knows and understand the contents thereof;
(ii) has no objection to taking this oath;
(iii) considers this oath to be binding on her conscience and uttered the words, "I swear that the contents of this declaration are true, so help me God".

STEVEN MYHILL GOOD
2 LONG STREET, CAPE TOWN
COMMISSIONER OF OATHS
PRACTISING ATTORNEY, R.S.A.

COMMISSIONER OF OATHS