

Adv. N. C. LAWRENSON
B.Mus M.Mus LL B (UCT) LL M (UCT)
Advocate of the High Court of South Africa
Member of the Cape Bar

Suite 404, Fourth Floor,
42 Keerom Street
Cape Town 8001
Tel: (021) 422-2554
Facsimile: 086 689 1794
Mobile: 082 572 9776
E-mail: natalielawrenson@capebar.co.za

6 June 2014

Dear Judge Erasmus

RE: EW Pease and Another v The Government of RSA and Others

Pursuant to the court's invitation to the parties, issued at the end of argument on 21 May 2014, the Applicants wish to draw the attention of the court to the following developments that have occurred since then:

1. Madzodzo's case (concerning delivery of desks and chairs to schools in the Eastern Cape), which was referred to during argument and in which a supervision order was granted, has been reported in the All South African Law Reports as *Madzodzo and Others v Minister of Basic Education and Others* [2014] 2 All SA 339 (ECM).
2. The judgment of Tuchten J in the recent case of *Basic Education For All and Others v Minister of Basic Education and Others* [Case no. 23949/14; judgment 5 May 2014] has been critically analysed by F Veriava in the *Mail & Guardian* of 23 May 2014. A scanned copy of the article is annexed hereto, marked "NCL1".

3. In the May 2014 edition of *De Rebus*, Clement Marumoagae, an attorney in Itsoseng, has written an article entitled “*Condemning the leaking of Public Protector’s provisional reports*” at pages 32 to 34. Having regard to the fact that a provisional report entitled “*Learning without Books*” is annexed to the Second Respondent’s answering affidavit, as “DBE 9” [pages 1785 to 1837 of the motion record], the court may wish to have regard to the law referred to by Marumoagae and his analysis. A scanned copy is annexed hereto, marked “**NCL2**”.

4. Dr Vincent Maphai, one of the national planning commissioners, delivered a keynote address, on 23 May 2014, at a conference held at the University of the Witwatersrand School of Governance in which the scope of section 7(2) of the Constitution is discussed in the context of an unsuccessful Anglo-American Platinum (“Amplat”) education initiative. A scanned copy of the keynote address is annexed hereto, marked “**NCL3**”.

5. On 29 May 2014, the 15th Respondent, the South African Human Rights Commission, issued a statement regarding its findings following the Commission’s National Investigative Hearing concerning the creation of proper systems, in all provinces, that secure the timely and accurate delivery of Learning and Teaching Support Materials (“LTSM”) in all public schools. The hearing commenced in mid 2013 and was concluded early in 2014. As the findings in this report are clearly relevant to the supervision order requested in relation to LTSM, a copy of the report, together with the

press statement is annexed to this communication, marked “NCL4” and “NCL5” respectively.

6. On 29 May 2014 the Department of Basic Education, with uncharacteristic alacrity, issued a statement concerning the above findings of the 15th Respondent, referred to in annexure “NCL5”. A scanned copy of the statement is annexed hereto, marked “NCL6”.

7. On 28 May 2014 and in Cape Town, Professor Robert Rotberg launched a publication of the *Annals of the American Academy of Political and Social Science*, entitled *Strengthening Governance in South Africa: Building on Mandela’s Legacy*, in which the subject of the failure reasonably to deliver basic education is discussed in various chapters. The chapter contributed by Ann Bernstein, of the Centre for Development and Enterprise, contains some reference to basic education (the title page of this chapter is included for reference purposes, and thereafter only the relevant pages have been copied), as does the chapter contributed by co-authors Professor Saleem Badat and Yusuf Sayed (the full chapter is included). Scanned copies of the relevant sections are annexed hereto, marked “NCL7” and “NCL8” respectively.

8. The material referred to above is respectfully presented in supplementation of and in addition to the written and oral submissions already on record in the Applicants’ Heads of Argument, Applicants’ Heads in reply, ‘Applicants’ case on Respondents’ version’, and oral argument

presented between 19 and 21 May. The applicants stand by all of the submissions made on their behalf.

Yours sincerely

A handwritten signature in cursive script that reads "N.C. Lawrenson".

Adv NC Lawrenson