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Your Reference:

Our Reference: L DE SOUZA-SPAGNOLETTI/hm/

31 May 2019

Dear Sir/Madam

ADDRESS TO HONORABLE PRESIDENT CYRIL RAMAPHOSA

Herewith find presentation summaries of our Mrs L de Souza-Spagnoletti & Mr T Van Niekerk.

We are pleased to have been involved in this important initiative and look forward to being of assistance going forward.

We are most certainly eager to remain involved and have a particular interest in rehabilitation and centres to be established.

Yours faithfully

Sgd : L De Souza-Spagnoletti

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S U M M A R Y

CONSTITUTIONAL PRINCIPLES :

Sections 33, 34 and 165

RAF IN CRISIS :

REGULATION 3 - SERIOUS INJURY ASSESSMENT :-

Process fraught with delays and inconsistencies including :-

- Delay by RAF to make Regulation 3 election;
- Reg 3(3)(dA) enacted but it is now rendered superfluous by Mpahla decision leaving accident victim to chase the RAF and HPCSA every step of the way;
- In contrast, Reg 3(5) states that if the victim's dispute is not submitted timeously, RAF rejection is binding;
- Delay by HPCSA to convene;
- Inappropriate constitution of tribunals with objections being ignored;
- Disregard for published guidelines for assessment under the narrative test;
- Acute phase v outcome based diagnosis;
- Objectivity of the HPCSA;
- Delay in notification of findings;
- Inconsistencies in declarations of seriousness;
- Review of incorrect findings;
- Denial of access to our Courts - Reg 3(13);
- Parallel between HPCSA process and Administrator under RABS.

DENIAL OF ACCESS TO COURT :

- Repeated request for postponements;

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- Norms and Standards issued by Chief Justice in 2014 and problematic case management protocols;
- Lack of sufficient expertise - RAF attorneys, RAF and HPCSA with no sanction for poor performance;
- Non-availability of judges.

SOLUTIONS :

- Compulsory and ongoing training;
- Sanction for non-performance;
- Record taking of matters postponed v finalized of each panel attorney;
- Special courts to assist with backlog;
- Urgent address of case management protocols in our courts.

Leigh De Souza-Spagnoletti (DIRECTOR)

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