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We welcome our new interns

In January we signed one-year contracts with our latest group of interns, four in Joburg and one in Cape Town.



Born and raised in Johannesburg, **Nolia Langa** is an LLB student at the University of South Africa (UNISA). She has always shown

an interest in the legal field, particularly in environmental, commercial and family law. She was a volunteer at our ProBono.Org help desk in the Master's office in August 2016, where she gained exposure to deceased estates. She aims to use what she has learnt to bring the law to those that would otherwise not have the means to do so. Having now been appointed as a legal intern she is excited to gain experience and exposure to different spheres of our law.

Koketso Molotsi is

completing her LLB with the University of South Africa (UNISA). Her relationship with Probono.Org began when she was



a volunteer for five months assisting with the legal clinics. Her interests in law are labour law, deceased estates and conveyancing. She is looking forward to growing in the profession through the work she will be doing for the organisation.

Lesego Vakalisa is currently a fourth year UNISA LLB student.



She joined Probono.Org as a volunteer in February 2016 prior to becoming an intern. The areas of work that interest her are medical negligence, police brutality, family and public law, as well as working with children, mental health care users and helping marginalised individuals to realise social justice.

Masechaba Modise is an LLB graduate from the University of South Africa. Before joining ProBono.Org, she was a legal



adviser at the Legal Exchange Corporation. In the future she would like to open her own conveyancing and notary firm in Soweto.

Ellen Boriwondo holds a Bachelor of Social Science (2013) and an LLB Degree (2015) from the University of Cape Town. She is



currently studying towards an LLM in Human Rights Law at UCT, with future plans to do a PhD. She has a background in refugee matters and has volunteered at the UCT Refugee Rights Unit. Ellen comes from Zimbabwe and would like to use the law to assist under-privileged locals and foreign nationals in need of legal assistance. ProBono.Org provides her with a platform to assist communities in accessing justice, which remains a challenge across South Africa. ●

What to look forward to in 2017

by Tshenolo Masha

The focus for ProBono.Org this year will be strengthening relations with attorneys and other legal professionals. We hope to hold pro bono briefing sessions in the Limpopo, North West and Mpumalanga provinces. As our Cape Town office in Khayelitsha is now up and running, we are also looking forward to interacting with attorneys practising in the Western Cape.

We are officially launching the pro bono Refugee Guide on 24 February. This is made possible by contributors from Norton Rose Fulbright SA, Cliffe Dekker Hofmeyr and Fasken Martineau who have dedicated their time in drafting practical and concise guides to assist other legal professionals who have not been

exposed to this aspect of the law.

Our office is also partnering with the Deeds Office in Johannesburg to host a recruitment session for pro bono conveyancers to assist with the ever-increasing need for assistance with transfers from deceased estates.

We hope to have face-to-face meetings with attorneys and advocates, but we are also developing an online registration system that will see the use of technology in reaching out to the private legal profession in a way that will be efficient and ground-breaking.

Our events such as Women's Day in August, Housing Day in October and the prestigious ProBono Awards are our annual

highlights. These will also be held in conjunction with community events focused on the legal empowerment of vulnerable groups and service providers that offer social assistance to the most needy in communities.

Please let us know if you are not receiving invitations and notices from our emailing system or if you would like to host or speak at one of our events and workshops. We would love to hear from you. Also, if you are an attorney or advocate and want to sign up to do pro bono work, please send us an email to Phumi@probono.org.za.

Ready...set...
go! •

Partnering for a good cause - upcoming Durban Event

by Shamika Dwarika

*"There is one universal truth, applicable to all countries, cultures and communities: violence against women is never acceptable, never excusable, never tolerable."
Ban Ki-moon*

Violence against women takes various forms and ProBono.Org sees the impact of violence and abuse of women at our numerous help desks at all our offices. That is why ProBono.Org Durban has partnered with the 1000Women Initiative to be the local host and beneficiary of the 1000 Women event in 2017. The 1000 Women Initiative aims to mobilise "1000 Women to Unite

against Domestic Violence". This event was launched in 2004 in Cape Town and today hosts three events nationally, in Cape Town, Johannesburg and Durban. The objective is to raise awareness about gender-based violence and to assemble resources so that women have access to skills and training. The profits from these events go to women-led organisations that facilitate change in their communities. On 3 November 2016, ProBono.Org Durban attended the 1000 Women Initiative event for the first time where we were able to witness the relevance and impact of this event. Having seen the potential of this organisation, we are delighted to partner with them.

The Durban event will be an enjoyable brunch on 18 August 2017. Tickets will be sold at R350.00 per person, or R3 000.00 per table of ten. All proceeds from the event will go to ProBono.Org to support workshops we hold on domestic violence, our domestic violence help desks, and women clients who are experiencing domestic violence. There will be guest speakers and a variety of entertainment, and attendees will have an opportunity to network. We encourage you to support this campaign and take a stand against domestic violence and abuse. Watch this space for developments such as an announcement of the venue and where tickets will be available. ●

1000
women
VOICE

Litigating for Social Change Conference: 19 - 21 October 2016

by Erica Emdon

A conference was held in Belfast during October bringing together NGOs, community activists, litigators, academics and funders to reflect on the extent to which strategic litigation can transform lives and enable people and communities to realise their rights. With speakers from different geographic and legal settings, the conference explored:

- Lessons learnt from the use of test case litigation to date
- Strategic litigation as a tool for promoting social justice
- Models and approaches to supporting strategic litigation

A session was held that dealt with a range of different models by which strategic litigation can be supported as a tool for realising social justice. I was asked to consider the role of pro bono attorneys and advocates in supporting strategic litigation and the relative advantages and disadvantages of the pro bono model.

There was great interest in the pro bono model, particularly in the context of the diminishing funding available from the state in the UK and other countries to fund civil legal services for the poor.

I gave a brief history of ProBono.Org and how it was set up originally with Atlantic Philanthropies funding. I looked at how ProBono.Org is part of a wider spectrum of organisations providing access to justice, stating that we are demand driven and not in a position to select matters. However we are in a position to use the high numbers of cases opened to lead us towards impact litigation. I covered a range of issues in my talk including the following –

- The fact that in South Africa we have been helped by the pro bono rule and the situation

that some firms have pro bono departments, some with great litigation capacity;

- That the size of a law firm determines to some extent the type of pro bono work they do, with small firms undertaking individual matters and the larger more well resourced to take on impact cases;
- The individual work done by lawyers in both the big and small firms often has a high impact on one person's life in, for example, domestic violence, refugee, undocumented minors, labour and housing matters, to name but a few;
- Because the bulk of our matters are individual matters, we see it as our job to identify patterns and trends and to try to intervene. Our intervention could be by lobbying for improvements in legislation, policy and the administration of the law, and includes making submissions on these. In some cases the high volume of cases enables us to identify matters for litigation. The individual matters can end up generating a strategic litigation case;
- Pro bono work carried out by small practitioners can have a wide reach geographically, moving out of the cities. We have been able to recruit pro bono lawyers in small towns to assist rurally based community paralegals.

Limits of pro bono involvement in strategic litigation:

- For small firms it is a capacity issue. Strategic litigation can take years to finalise and involves a major commitment by the firm to channel significant resources to support the case. There are exceptions. For instance Egon Oswald, a single practitioner of

Egon Oswald Attorneys, acted for a torture victim McCallum and 230 others from the St Albans Prison when serious allegations of torture were made against about 50 warders at the prison. Oswald has devoted years to this matter since it started in 2005, funded the litigation himself at the cost of his own practice and reaped no financial reward. In 2015 he spent 55 days in the Port Elizabeth High Court representing the first two of 231 potential plaintiffs.

- Bigger firms are more likely to take on the impact cases, but there are challenges, particularly if a conflict of interest arises. This happens particularly when the firm has banks, mining companies and municipalities as clients. The Chinese wall is not used in South Africa.
- For all firms, big and small, there is frequently an unspoken ideological identification by the firms with the powers that be, whether they are the state, big corporates, banks or companies in the lending market. There might be a reluctance to challenge the status quo. An example is the discomfort private firms have in doing bail applications for students and other protestors, because they are viewed as violent and unruly.
- Another reason that firms do not undertake strategic litigation is that they are frequently not knowledgeable about the strategic litigation process and the steps to take.

Having said that, there are a number of very interesting examples of impact litigation matters that have been undertaken by private sector legal professionals from big firms on a pro bono basis.

(continued overleaf)

Cases

The Omar Al-Bashir case.



Webber Wentzel represented the Southern Africa Litigation Centre (SALC) and the Helen Suzman Foundation in their challenge regarding the South African government's failure to arrest and detain the president of the Republic of the Sudan, Mr Omar Al-Bashir in June 2015. Al-Bashir is wanted by the International Criminal Court for crimes against humanity and genocide. The South African government was obliged to arrest President Al-Bashir when he came onto South African territory in terms of the Rome Statute, which it failed to do. The case was heard in the high court, then the Supreme Court of Appeal. The judgment held that the failure of the government to arrest Al-Bashir was unlawful. The state appealed to the Constitutional Court, then withdrew.

National Key Points matter.

Cliffe Dekker Hofmeyr acted in the Right2Know Campaign/ SAHA in the National Key Points case. Right2Know and SAHA had requested information on National Key Points from the state, which was not forthcoming. The court ordered the minister to release the list of National Key Points. This case

was a great victory for access to information and accountability to the public.

University of Stellenbosch Legal Aid Clinic and others - Emolument Attachment Orders case.

Webber Wentzel acted in this matter that ended up in the Constitutional Court. The judgment in this case will have a significant impact on the lives of hundreds of thousands of people who have amounts deducted from their salaries every month to pay for debts incurred. As a result of this case, the manner in which Emolument Attachment Orders are administered through our courts will be overhauled to protect debtors.

Arthurstone Village Community case.

Norton Rose Fulbright SA successfully acted on behalf of the 150 indigent and vulnerable residents of Arthurstone, in Mpumalanga, who were unlawfully evicted from their homes on a communal farm by the tribal authority. The court found that the

eviction and demolition order was unlawful and set it aside, ordering the tribal authority to construct temporary habitable dwellings and thereafter permanent housing equivalent to the housing they had occupied previously.

The Mgungundlovu Land Claims case.

This case proceeded for 19 years and Norton Rose Fulbright SA worked on it for the last 5, resulting in a remarkable victory for the 100 odd families whose land, which their community had lived on since time immemorial, was taken away. The land, situated along a beach with exceptionally fertile land, was made available to the Transkei Sun, whose lease required it to pay the community R30 000 per annum. The award that Norton Rose managed to secure for the community last year was an annual rental of R4m, escalating at 6% per annum, and a R50m settlement amount from the Department of Rural Development and Land Reform. This was an overwhelming victory for the community. ●

