

## INTRODUCTION

ProBono.Org celebrates a number of milestones this year. The first is that on 1 October we will be marking our 10th anniversary, having opened our doors exactly ten years ago, on this day. We are proud to be undertaking a further expansion, with the opening of a fourth office on 1 September in Khayelitsha, Cape Town. Our reach now stretches to almost all provinces and covers both metropolitan and rural areas. From a small staff of five based in the Johannesburg CBD we now employ 25 people, and are moving towards 28 with the opening of the new office. On 6 September we will hold our third pro bono awards ceremony giving recognition once again to the legal profession for its commitment to pro bono work. These few months are a significant time for us, and a period for us to reflect on our expansion. We need to constantly remember the people we aim to reach and assist and the importance of providing a service of quality that will empower the most vulnerable and marginalised members of our community to realise their right to legal representation. ●

# ProBono.Org teams up with Clyde & Co on behalf of a student

## Richard Chemaly

ProBono.Org was informed of the difficulties being faced by a University of Cape Town (UCT) student, Rethabile Makoanyana, who was unable to graduate due to outstanding fees. The primary issue was that a Free State municipality had contractually agreed to pay his fees but failed to do so. His follow-up calls to the municipal manager were met with either silence or hostility. The result of his failure to graduate included stress on his mother leading to her high blood pressure, him experiencing depression and his being unable to register for an honours degree.

Because his appeals to the municipality to honour its agreement fell on deaf ears, he was compelled to find another conduit to assist him to settle his fees. Makoanyana complained to the Public Protector, the Deputy Minister of Higher Education and Training and the Registrar of the Constitutional

Court. These approaches seemed to incense the municipality and caused it to respond by incorrectly claiming that the matter was sub judice, which simply was not true.

It was then that ProBono.Org enlisted the assistance of Christopher MacRoberts, senior associate at Clyde & Co.

The legal battle began with a letter of demand. This was not only necessary to demand payment of the outstanding fees but it was also apparent that the municipality refused to provide UCT with Makoanyana's student number so the fees already paid could be properly allocated. Throughout this time and despite his depression, Makoanyana continued negotiating with the university and trying to make contact with the executive mayor's office.

In an attempt to mitigate the prejudice to Makoanyana, his mother attempted to take out a loan to pay

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the outstanding amount but her application was declined.

MacRoberts continued to put pressure on the municipality together with Makoanyana and eventually their collective efforts were rewarded without the need to litigate. The municipality paid all but some R5 000 of the total of R140 000 that was owing to UCT. Makoanyana's mother made this final payment and is seeking reimbursement from the municipality.

In July, Makoanyana sent us his graduation photographs and expressed his thanks for our intervention.

Through this process, MacRoberts has discovered that this is an issue faced by many students who do not have the resources to take up a legal battle with their contractual funders. Fortunately in this instance, the funders were legally obligated and the documents were clear and unambiguous. Students who

receive bursaries and funding for higher education should ensure that they receive proper documentation indicating the full undertaking of their funders. Students are further encouraged to reach out to ProBono.Org should they experience any such issues.

ProBono.Org is indebted to the excellent service offered by Christopher MacRoberts of Clyde & Co and thanks him for his successful efforts. We also thank the student, Makoanyana for having the courage to take on the municipality and demand what he was entitled to legally and contractually. ●

# Domestic violence, with a focus on economic abuse and the suspended warrant

Swazi Malinga

When one mentions the word domestic violence, the immediate picture that comes to mind is that of a battered woman covered in bruises with a swollen face. However the truth of the matter is that domestic violence does not end there. Perhaps she was threatened, intimidated and harassed before the abuse became physical. There is another form of abuse that often goes unnoticed and has the effect of trapping its victims and leaving them feeling they have nowhere to run. This is called economic abuse. In one of our client's cases, A (wife) was married to B (husband) for about four years. A few months into the marriage A was asked to leave her job with the promise that B would take care of her and her two children from a previous marriage. However as the marriage progressed, B started having endless affairs and whenever A confronted him about it, he would get very defensive and abusive, he would threaten her with divorce proceedings coupled with endless insults, threaten to kick her out of their matrimonial home and then

he would confiscate her car keys, cut off all money and freeze all the credit cards that she used. With the fear of being homeless and going hungry with two children to feed, she was forced to succumb to the abusive marriage. Economic abuse in short includes the unreasonable deprivation of economic or financial resources to which the victim is entitled or requires out of necessity, including mortgage bond repayments or rent. It essentially traps a person into living in a marriage or relationship from which escape becomes impossible.

Anyone who is a victim of domestic violence can approach the nearest Magistrate's Court to apply for a protection order that includes a monetary award. This can be applied for during ordinary court hours, or on weekends and public holidays if the case is urgent. The applicant does not have to wait for the court to allocate a date for the hearing but can get an interim protection order, requiring the abuser to pay the rent or the bond, to pay to the applicant emergency maintenance or pay for the expenses that the applicant

incurred as a result of the abuse, such as medical expenses. The protection order is valid throughout South Africa regardless of where it was issued and remains valid until such time that it is withdrawn, cancelled and/or set aside by the person who initially applied for it. The order may be varied by changing some of the terms. For example it may change the address of the premises at which the abuser is not allowed to enter. A protection order may appear to be useless since some abusers view it as a piece of paper, but its power and effectiveness lies in the suspended warrant that the court issues with every protection order.

The warrant is used if the abuser contravenes the protection order. The holder of the protection order must inform the police of any such contravention. The police are compelled to effect an arrest and the abuser can be charged with contempt of court. This carries a sentence of five years with an option of a fine, or both. It is important to note that such a warrant may only be used once. Thereafter the applicant needs to go back to the court to request another warrant to be issued by way of affidavit indicating when the previous one was used and outlining the need for a new warrant to be issued by the court. This process needs to be repeated each time a warrant is used up and a new one is required.

What is critically important is that the applicant depends on the police to cooperate and take action. If this does not take place it is necessary to report such non-cooperativeness to the most senior police official in the station to ensure enforcement. ●



## New interns

July was a month of change in the Durban office as we said goodbye to two of our interns, Buhle Sibiyi and Lungisa Sithole. Buhle was with us for two years and was our most senior intern. Lungisa volunteered

with us while she was a student and then came back as a volunteer upon completion of her degree. We wish them the best of luck in the future. While they will be missed, we are excited to welcome to our team three new interns, Haseenah Myeza, Sinegugu Mkize and Thabile Memela. All three interns

are graduates of the University of KwaZulu-Natal and plan on pursuing their LLM degrees in the near future. They are young, dynamic and dedicated to furthering the aims of ProBono.Org. We look forward to the months ahead with them on board ●



DURBAN NEWS

## Women's Day Breakfast

ProBono.Org Durban currently has 218 firms on our panel of attorneys and is signing up new firms all the time. We deal with so many attorneys, but very rarely do we have an opportunity to socialise with them. Recently, however, attorneys Garlicke & Bousfield invited us to their Women's Day breakfast to thank their partners for their support throughout the year. The event was an opportunity to meet some of the women attorneys at the firm and learn about them in a personal capacity. For example, Yvonne Boden, who staffs our Master's Office help desk quite regularly, was honoured for having reached 25 years as a director in the firm. Sanelisiwe Nyasulu, another of their directors, who has taken on a huge amount of pro bono work for us, was also in attendance. ●



*Durban director Shamika Dwarika with Evita Bezuidenhout*

## Pro Bono Attorneys needed for Master of the High Court Help Desk

Neo Chokoe

The Pretoria office of ProBono.Org holds a weekly legal clinic at the office of the Master of the High Court, Pretoria. The aim of this project is to give pro bono attorneys a platform to assist poor clients with issues pertaining to the administration of deceased estates.

The help desk is staffed by volunteer attorneys on a weekly basis every Friday. They consult with clients and refer to our office any matters that need further legal intervention. The number of clients has increased greatly from the inception of the project and we need more attorneys to staff the desk and render free assistance to the clients who desperately need help.

We would like to make an appeal to attorneys who specialise in this area of law to sign up and fill the slots so the desk can continue to operate efficiently. ●

## ProBono.Org welcomes and supports shortlisting of Kaajal Ramjathan-Keogh for Public Protector

### Richard Chemaly

Following the Students for Law and Social Justice's nomination of the executive director of the Southern Africa Litigation Centre (SALC) for the position of public protector, Kaajal Ramjathan-Keogh is on the parliamentary shortlist for the job.

ProBono.Org has worked with Ramjathan-Keogh from her days at Lawyers for Human Rights up to and including her time at SALC. Ramjathan-Keogh also sits with members from ProBono.Org on the steering committee for the annual Public Interest Law Gathering.

We heartily support Kaajal's nomination, she being a nominee who is characterised by independence and integrity, both qualities required for the position of the public protector. ●



## Ombuds for consumers and taxpayers Tshenolo Masha

ProBono.Org Johannesburg hosted an attorney seminar on the services offered by the Ombud for Consumer Goods and Services and the office of the Tax Ombud on 26 July 2016 at Hogan Lovells attorneys in Sandton.

Advocate Neville Melville, the Ombudsman for Consumer Goods and Services explained that the office was established in terms of provisions contained in section 82(2) of the Consumer Protection Act which allows for people conducting business within a particular industry to approach the National Consumer Commission to appoint an office to investigate or informally address complaints and, where appropriate, make findings and recommendations. The office receives complaints in terms of all suppliers in the consumer goods and services industry supply chain. For example, these could include furniture hire purchase agreements, cellular

phone purchases or the provision of personal services such as hairdressing.

To date the office has received a total of 3 495 cases and has a success rate of 69% percent. The office receives telephonic and electronic complaints.

Advocate Eric Mkhawane, CEO at the office of the Tax Ombud, explained that the office was established in terms of section 16 of the Tax Administration Act (Act 28 of 2011) and its mandate is to review and address any complaint by a taxpayer regarding a service matter or a procedural or administrative matter arising from the application of the provisions of a tax Act by SARS (this includes Customs & Excise since 2012). He gave an overview of the procedures that should be followed to make a complaint and the various options that should be pursued prior to approaching the ombud.

To date the office has received a total of 5 012 complaints relating to income tax assessments, refunds, dispute resolution and general service complaints against SARS officials.

### Contact details:

- **Consumer Goods and Services Ombud:**

Email: [info@cgso.org.za](mailto:info@cgso.org.za)

Tel: 0860 000 272

Association House, Bond Street Business Park, Cnr Bond & Kent Streets, Randburg, Johannesburg

- **Office of the Tax Ombud:**

Email: [complaints@taxombud.gov.za](mailto:complaints@taxombud.gov.za)

[www.taxombud.gov.za](http://www.taxombud.gov.za),

or request a manual form.

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**telephone:** 031 301 6178 **fax:** 031 301 6941

**PRETORIA:** Kutlwanong Democracy Centre, 357 Visagie Street, Pretoria  
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