

## The killing of a judicial officer

The General Council of the Bar of South Africa expressed its outrage at the killing of Cape Town Regional Court Magistrate PD Theron in September 2000. In a press release the GCB stated: "It is a matter of concern that on a number of occasions since the intensification of the wave of bombings which has taken place in the Western Cape since last year, and to which Mr Theron's assassination may or may not be linked, it has been stated emphatically at high executive level that progress is being made and that arrests are imminent. It is to be hoped that those repeated statements in fact have content, and that in any event, as

the GCB requested in a public statement earlier this year, particular measures will be taken to secure the safety of judicial officers. We are not aware that this has happened; Mr Theron's death now makes this imperative.

"Mr Theron was respected as a conscientious and fairminded judicial officer. He was one of many magistrates who, in the particularly difficult position which prevails in many courts across the country, made a significant contribution to the administration of justice in one of the most heavily populated magisterial districts in the country. The GCB wishes to express its condolences to his family."

### In hierdie uitgawe

#### Die 55ste Algemene Jaarvergadering

In hierdie uitgawe word daar grootliks verslag gedoen oor die verrigtinge van die 55ste Algemene Jaarvergadering van die Algemene Balieraad van Suid-Afrika. In sy verslag bespreek die voorsitter van die ABR die belangrike stappe wat geneem is om toegang tot en transformasie van die professie te bevorder. Daar word ook melding gemaak van die samesprekings met die

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## Letters to the editor

### Starting at the Bar

Johan Moorcroft  
Johannesburg Bar

I read the article in 2000 (3) *Advocate* 18 by Geina Malindi with interest as we both started at the Bar in the mid-1990s. In general I agree with and support his views but there are two of his comments I wish to take issue with.

The first is that briefing patterns "will always be skewed ... in favour of a white male." In the current political and socio-economic environment many firms will rather be seen briefing a black counsel than a white counsel, all things being equal. The State Attorney prefers to brief "black" juniors. These are facts of life!

The writer also assumes, erroneously, that all whites are rich and have parents who can support them "in the first few years of practice." This is simply not so. Many come to the Bar only at a time when it is financially feasible to do so without any support from parents or anybody else. The possibility of support from parents or from anybody else is not open to everyone!

I support Malindi in his comment that a vibrant legal profession and a legitimate judiciary are essential to democracy.

Perhaps advocates must all realise that they have a lot in common, irrespective of differences in their background.

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### Pleading a denial

WRE Duminy SC  
Cape Bar

In "Pleading a denial: some ideas for junior practitioners" in 2000 (2) *Advocate* 21 Peter van Blerk SC mentions one of the classic ways of pleading a denial, namely:

*"The defendant denies each and every allegation herein contained as if specifically traversed."*

Another "classic" (not mentioned in the article) has the further verbiage "*and individually denied*" at the end.

Van Blerk SC rightly warns against the dangers of unintended admissions and advocates' caution in pleading. Mentioning the "classic" formula, however, again gives occasion to consider how turgid the language of law and lawyers can be.

Are any of these denials more emphatic or comprehensive than a simple:

*"All the allegations in this paragraph are denied",*

*"Every allegation in this paragraph is denied",* or

*"The defendant denies all the allegations (or every allegation) in this paragraph"?*

I doubt it. Bearing in mind that the paragraphs in a plea are directed at specific paragraphs of the declaration or particulars of claim, it is probably enough to say –

*"All these allegations are denied,"* or

*"The defendant denies all these allegations."*

The "classic" "*each and every*" is a pleonasm. "*As if specifically traversed*" adds no meaning. If a pleader must "*traverse*" "*each and every*" allegation, a failure to do so is hardly overcome by pleading a deemed compliance. If a pleader does not need to "*traverse*," why cling to the "classic" formula?

Van Blerk SC later makes the point that the true requirement "is a clear statement of denial". Whilst the "classic" formulations certainly are denials, they are hardly clear. Is it not time for those hackneyed old formulae to be put out to pasture, and to advocate simple, unambiguous language in pleadings? 