

KNOW_{the} LAW

The superior newsletter from Clientèle Legal

TRUE STORY



Lindelani Muthela – Actual client

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CAR ACCIDENT? YOU NEED A GOOD LAWYER!

When Lindelani Muthela received a call to say that his wife had been in a car accident he was very worried. Their VW Golf had been rear-ended by a Mercedes Benz at a traffic light. Both cars had sustained serious damage. Lindelani got his wife to hospital and was relieved to find out that her injuries were minor. Little did he know that his legal problems had just started. He was not insured at the time of the accident. Even though the driver of the Mercedes Benz was at fault for the accident (the law presumes that the person hitting another car from behind is liable), the other driver's insurance company refused to pay out.

"I was distraught and depressed. Not only did I have a damaged car, I did not have the money to pay for it. I felt harmed and helpless." His help came in the form of Clientèle Legal. His wife was also covered under his legal policy. Legal Advisors Godfrey Maluleke and Corney Coetzer came to Lindelani's rescue.

Mr. Muthela had a clear claim for damages under delictual law. "The other party's insurance company initially gave him the runaround and simply refused to negotiate a fair settlement," explains Coetzer. "They however quickly changed their minds when they realised that we were prepared to go to court to

fight the matter. The law as well as the facts of the matter were clearly on our side." Instead of undergoing hefty legal costs and hours of time spent in court, the insurance company realised that settlement of the claim was the best option. All they needed was a push from our side to remind them of this.

Legal issues can often be settled out of court. While people often want their day in court and to fight "for the principle" of a matter, it is important to remember that the legal process is a timeous one. Civil proceedings can sometimes take up to a few years before it reaches trial stage and can be very costly for both parties. It is important that the parties remain reasonable and consider the benefits of an out of court settlement.

Lindelani received an out of court settlement of R156,700 a month later. Lindelani's legal troubles were over. "I am delighted by the superior service offered to me. I felt so wronged, but the support and words of encouragement I got from Clientèle Legal helped me through it every time." Lindelani adds: "Clientèle fights for the rights of the people. If I had tried to go through this by myself, I would never have made it."

Maluleke confirms that part of what makes his job worthwhile is knowing that they are making a difference in people's lives. "It's about being there for you, every step of the way."



Lawyer's Tip

'Your legal policy is not a substitute for motor vehicle insurance. Ensure that you are sufficiently covered.'

Godfrey Maluleke – Legal Advisor



Clientèle
LEGAL

Corney Coetzer – Legal Advisor

Your Questions Answered

Email your questions to:
knowthelaw@clientelelegal.co.za

Q

WHEN SHOULD I REGISTER MY DOMESTIC WORKER FOR UNEMPLOYMENT?



A

If your domestic worker works for you for more than 24 hours a month, they should be registered for Unemployment Insurance Fund (UIF). This applies to full time or part time domestic workers. Failure to do so is punishable by the Department of Labour. Should a domestic worker work for more than one employer, they have to be registered with each employer.

The fund has a variety of benefits, including:

Unemployment benefit

If a domestic worker has been dismissed they can claim from the fund. (They cannot claim if they have resigned.)

Illness benefits

If a worker is unable to work because of ill health, they can claim for ill health.

Death benefits

If the worker dies, their dependents can claim from the UIF. The amount that an employee can claim depends on how long they have been contributing to the UIF. The worker will be paid up to 58% of a day's salary for every six days that they worked while contributing to the fund.

Q

DO I HAVE THE RIGHT TO JOIN A TRADE UNION OR GO ON STRIKE?



A

Yes. According to our Constitution every worker has the right to strike or join a trade union. Approximately 3.1 million workers belong to trade unions in South Africa. That's about 25% of our work force. Some well known unions in South Africa include The Congress of South African Trade Unions (COSATU) and the Federations of Unions of South Africa (FEDUSA).

Trade Unions are independent organisations that represent workers to their employers and can negotiate issues such as salary, hours of work and other conditions on their behalf.

The benefits of joining a union include being part of an organized group who pull together around workplace issues, so the employee does not have to tackle it by themselves. Unions can also help employees by accompanying them to disciplinary hearings or representing an employee in a dispute.

Employers also have the right to form and join an employer's organization and enlist trained labour specialists who will try to get the best possible outcome in labour disputes.

If you want to join a union, make sure you are well informed before joining and find out what the union has achieved in the past few years before signing up and paying subscription fees.

THE LIGHTER SIDE

WEIRD LAWS

In Alabama, it is against the law to cut your arm off in an attempt to make people feel sorry for you.



Heard in Court

"All your responses must be oral, OK? What school did you go to?"

'Oral.'

KNOW YOUR RIGHTS



DOMESTIC VIOLENCE: WHAT ARE YOUR RIGHTS?

South Africa has amongst the highest rates of domestic violence and abuse in the world. According to a study published by the South African Medical Research Council, a woman is killed by an intimate partner every eight hours in South Africa.* This number could be an underestimate, because in 20 percent of cases, the perpetrator is not identified. This is double the rate of such murders in the United States, according to the report. Half the women were killed by partners they were living with, 30 percent by men they were dating and 18 percent by their husbands.

Murder is an extreme outcome of domestic violence, but there are many other subtler forms of abuse that can have devastating consequences for men, women and children. The definition of domestic violence includes any behaviour that humiliates, abuses or degrades – not just sexually, but also physically, mentally or financially. For instance, if you are constantly subjected to name calling, threats or obsessive jealousy – that can be considered domestic abuse. Similarly, if someone unreasonably refuses to share money or sells household property without permission, it might be abusive behaviour.

The implications of domestic abuse are vast and encompasses emotional, psychological and legal aspects. The emotional scars and healing processes are complicated for the victims of the abuse. Many are too afraid to report the incidents, fearing more vicious abuse as a backlash. To offer some protection to victims legally, the Domestic Violence Act 116 of 1998 was introduced.

The Act recognizes that domestic violence and abuse is a serious crime against society and places a legal duty on the South African Police Service to help victims of violence. The Act makes provision for a Peace Officer to arrest any person who may have committed an act of domestic violence (without warrant of arrest) and to seize any weapons from the premises. The police are also expected to be kind to victims, to not question them in front of the perpetrator, communicate clearly and to explain to them how to get a protection order. They can also give guidance on what shelters might be available in the area, as well as other free services.

PROTECTION ORDER

Your legal recourse in the case of domestic abuse is to apply for a Protection Order against the perpetrator. You can apply for the order by going to a local magistrates office where the clerk of the court will help you fill out an affidavit. A magistrate or judge will then consider the matter and might ask for more evidence, after which an initial temporary Protection Order may be granted. This will instruct the perpetrator to stop with the listed abusive behaviours and to reply to the allegations in the affidavit.

Together with the temporary protection order, the court also issues a warrant of arrest, which is suspended. This means they will not be arrested if they comply with the conditions on the protection order.

RIGHTS OF CHILDREN

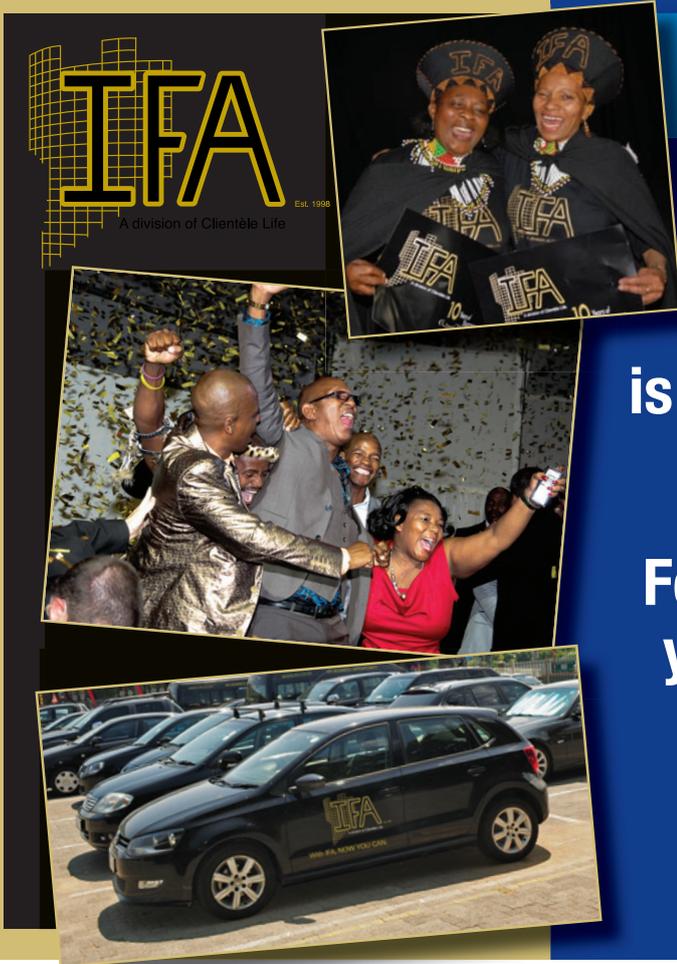
Children are afforded the same rights as adults in these matters. In the event that the child is abused, the child, the guardian or any person who has an interest in the matter, may apply for a Protection Order. The court may decide to instruct the Department of Social Development to take care of the child.

*Source: SAMRC. Research Brief, 2012

TIPS IF YOU ARE THE VICTIM OF DOMESTIC ABUSE

- Have a crisis plan ready. Think ahead of when and where you will be able to make a phone call, if needed.
- Always carry copies of the protection order and the warrant with you.
- Always have essential documents with you, such as ID, passport etc. If you have to leave, do it when your partner is not around.
- Contact your lawyer at Clientèle Legal for guidance.

SUPERIOR LEGAL SERVICES IN ACTION



DID YOU KNOW?

Our Legal Plan

is also available through our
IFA network!
For more information, go to
your nearest presentation
venue or speak to your
presenter or introducer.

For more information or to find a list
of our venues, visit www.ifa.co.za

Dear Know the Law

'Clientèle Legal helped me with a difficult and complicated case. Your enthusiasm and commitment is greatly appreciated. If I had not joined Clientèle Legal, I would not have been able to afford the legal fees.'

Masiza Mazizi

'Thank you Clientèle Legal. You deserve a round of applause. I had a contractual dispute that you solved with speed, numerous follow ups and updates. Your service is of the highest standard. Keep up the good work.'

Mmeli Shelembe

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