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Fienie Grobler  
Times Live News Desk

By email: [tellus@thetimes.co.za](mailto:tellus@thetimes.co.za)

Dear Ms. Grobler

## **RESPONSE TO: "IT'S A CAR CRASH! JUDGE SLAMS ROAD ACCIDENT FUND AS COURTS IN CHAOS"**

With reference to your article on 14 July, the Road Accident Fund is of the view:

### **The battle for the Soul of the Road Accident Fund – It is never about the claimant, it's about an attempt to maintain a Lawyers' Enrichment Scheme!**

Whilst we are in the middle of the world's worst pandemic, Covid-19, you may have missed a titanic battle between the Road Accident Fund and its erstwhile panel of attorneys. At the centre of this battle is the Road Accident Victim and the 'lucrative practices' of the RAF's erstwhile legal panel. Simply put, it is the battle for the soul of the RAF and what or whom it is meant for.

RAF in its current form, which these lawyers are hell-bent on maintaining, pays 25% of its revenue, a whopping R10.6 billion per year in legal fees to lawyers and in case you think there is any monies included in this amount meant for the claimant, then you are blatantly wrong. This is only for the lawyers, This is not an infrastructure project, it is for "time" purportedly spent on exchanging pleadings and preparation to go to court to 'seek compensation and justice' for the claimant. At least 95% of these matters never make it to court but are settled after 5 years in what we at the RAF term "pseudo litigation".

Faced with this reality the RAF then decided, after being given a mandate by its shareholder, to change the status quo and focus on the claimant. Yes, the little girl whose father has been killed in a motor vehicle accident, and has to wait for a loss of support claim for 5 years, instead of the intended 4 months (120 days), because uncle lawyer wants to bill his R3.8 billion a year. In the 5 years of waiting uncle lawyer would have racked up close to R20 billion in legal fees only to settle the litigated case. How fair will it be for RAF to continue to favour uncle lawyer with his legal fees to the detriment of the little girl who remains vulnerable whilst she has lost support from a father. At the least this system is cruel and heartless and cannot be allowed to continue.

Let's make it simple - RAF spends R17 billion in administrative costs to disperse R26 billion to claimants and R10, 6 billion of the R17 billion is spent on legal fees, whereas at least 95% of these matters never make it to court; they are simply settled at the doorstep of the court 5 years after lodging of a claim. One would ask as uncle lawyer usually does, "whose problem is it"? RAF is just inefficient! Yes, we concede that the current model is unjust, unsustainable and wholly inefficient. It fails the poor victims and benefit the intermediaries, mostly the lawyers, hence it must change and that is what uncle lawyer is again peeved about.

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Section 4 (2) of the RAF Act expect RAF to investigate and settle claims, not litigate and settle. It was never the intention of the lawmakers to subject the claimant to this cruelty of having to wait whilst the system benefits all of us except the poor little girl. What happens in the 5 years? Provided she gets a fair compensation, she may be a victim of loan sharks who also happen to be uncle lawyer or his friends. Yes, behind this system there are industries that have mushroomed to take advantage of the poor girl.

We were therefore astounded to read a clearly biased and misinformed article titled: "IT'S A CAR CRASH! JUDGE SLAMS ROAD ACCIDENT FUND AS COURTS IN CHAOS". This article deliberately mischaracterizes RAF's case in front of the court, but then why are we surprised? It is the power of uncle lawyer and his friends, they seek to muzzle all of us but fail in the face of the superior logic, facts and the truth we have already painted above. They seek to drown the cries of the little girl and her siblings. They hope to confuse the South Africans about what is at issue in the case before the court. Simply put, RAF is exercising its contractual and legal rights to instruct its erstwhile legal representatives to return the files so that RAF can directly settle these matters with the claimant or her legal representatives. The article further distorts the fact that uncle lawyer refuses to hand over files that by law belong to RAF and fails to tell the little girl that she can suffer; after all the uncle lawyer could care, uncle lawyer wants the money. As an officer of the court uncle lawyer should know that trust is sacrosanct to the relationship between an attorney and his or her client. That is part of the reason why personally people would leave a Will with their lawyers whereas they have families, therefore trust remains a cornerstone which characterizes the relationship between the attorney and the client.

In the views of Mr. Dave Chambers, RAF has no right to appeal, nor be given a fair right of response and all now it has to do must be to "honour the court order". This is what gives journalism a bad name, when journalists fail to perform just a desktop analysis or confirm the facts about the subject matter.

It is curious why Mr. Chambers did not care to read the judgment of 27 March 2020 by Honourable Judge Davis when he said: "The real chaos is the result which would occur should the panel attorneys not hand over the files to the RAF. By refusing or failing to do so, it would be the panel attorneys, who by clinging to the files despite their agree waiver to retention, would disable RAF from attempting to finalize matters outside court more cheaply and expeditiously."

Mr. Chambers, the files are not back and the so-called chaos was foretold by Honourable Judge Davis. It was calculated and brought by the erstwhile panel attorneys not RAF. All RAF is doing is to exercise its constitutional and contractual rights.

Let's enlighten you a bit more! RAF like any entity has rights, which includes amongst others:

- The right to be represented by a legal representative of its choice in court;
- The right to settle matters notwithstanding having hired a legal representative;
- The right to contract and enforce those contractual rights in court or any other forum;
- The right to terminate contracts and mandates, in its best interest of course;
- The right to serve South Africans, especially the claimants in line with the RAF Act,
- The right to change its business model to a sustainable, affordable and efficient model; and
- The right to explore all legal remedies available to it, including the right to appeal or report matters to the JSC.

The original intention of the legislators in establishing this Fund was always the provision of redress to an innocent motor accident victim. They could never have foreseen that, 78 years later the Fund would have evolved into a scheme which benefits ancillary facilitators and support professions. Moreover, in the context of an economy expected to contract 7% at year-end, it has become morally unjustifiable to persist with an operating model which has

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proven to be unreasonable, inequitable, unaffordable and unsustainable in all respects and dismally fails to achieve the purpose for which it was created.

We solemnly commit to serve the claimant and put her first in all we do at the RAF. We commit to our ICARE values as adopted in our new strategic plan. We will do that without fear, favour or prejudice! Posterity will vindicate us! We do stand by the little Girl and have heard her cries.

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