



# MOTORSPORT SOUTH AFRICA NPC

Reg. No 1995/005605/08

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## MSA COURT OF ENQUIRY 1116

**ENQUIRY TO INVESTIGATE VARIOUS ASPECTS ARISING FROM COMPLAINTS RECEIVED FROM A NUMBER OF COMPETITORS REGARDING THE RUNNING OF THE MANTSHWABISI MARATHON EVENT IN GABARONE, BOTSWANA 20<sup>TH</sup> AND 21<sup>ST</sup> JUNE 2013 HOSTED BY THE FOUR WHEEL DRIVE CLUB OF SOUTH AFRICA. HEARING HELD IN THE KYALAMI MARSHALLS CLUB HOUSE BOARDROOM AT 15H30 ON 22 JULY 2013.**

### DAY 1 (22 JULY 15H30 -18H25)

<b>Present:</b>	Wayne Riddell	-	Court President
	Jeremy Davies	-	Court Member
	Iain Pepper	-	Court Member
	Grant Bright	-	Court Member
	Brian Bontekoning	-	Court Member
	Geoff Anslow	-	Clerk of the Course
	Gillian Dykes	-	1st Jury Member
	Adolf Botes	-	2nd Jury Member
	Alan Reid	-	Organiser & Route Director
	Maria Prinsloo	-	Race & Jury Secretary
	Dion Wessels	-	DSP Manager
	Franziska Brandl	-	MD – KTM South Africa
	Frank de Greef	-	NR ORMC & QD Regional Rep
	Francois de Greef	-	Competitor
	MD de Greef	-	Parent competitor F de Greef
	Erwest Roberts	-	Competitor Roberts father
	Ruan Roberts	-	Competitor
	Ian Venter	-	Competitor
	Bert Smith	-	Competitor (Senior Class)
	Iain Gilbert	-	Witness
	Nico Pienaar	-	Witness
	Kevin Branch	-	Chairman BMS
	Ross Branch	-	Competitor
	Una Hawley	-	EMC Pty Ltd
	Hadley Shapiro	-	(ALS) for EMC Pty Ltd
	Chris Christodolides	-	(ILS) for EMC Pty Ltd
	Ivor Rimmer	-	Police Liaison
<b>Apology:</b>	Darren Bishop	-	Chief Scorer
	Rolf Schana	-	Chief Medical Officer
<b>Absent without apology:</b>	Lizelle van Alleman	-	Jury President
	Frans Cronje	-	Competitor
	Justin Broughton	-	Competitor (Senior Class)
	Robert Streak	-	Competitor (Senior Class)
	Pierre Karsten	-	Competitor (Senior Class)
	Martin Lourens	-	Competitor (Senior Class)

**MOTORSPORT SOUTH AFRICA IS THE ONLY RECOGNISED MOTORSPORT FEDERATION IN SOUTH AFRICA**

Directors: S. E. Miller (Chairman), A. Scholtz (CEO – Operations), A. Taylor (Financial), K. G. Doig, J. du Toit, M. du Toit, P. du Toit, D. Lobb, N. McC. C. Pienaar, B. Sipuka, D. Somerset, L. Steyn – Hon. Presidents : T. Kilburn, Mrs. B. Schoeman



sport & recreation  
Department:  
Sport and Recreation South Africa  
REPUBLIC OF SOUTH AFRICA



The Court President introduced himself and the other Court members. There were no objections to the composition of the Court. Two competitors had firearms on them and the court asked them to have the weapons removed from the room before commencing.

### **PROCEEDINGS**

1. It became evident very quickly that after perusing the court bundle consisting of almost 100 pages of documents that the proceedings, as well as, the relevant sub-sections related to the allegations could and possibly would, stretch past the allocated two and a half hours set aside for this hearing.
2. The president proposed splitting the proceedings into 3 clear sections, namely:-
  - 2.1 Part 1 – Allegations relating to breach of regulations relating to competitors
  - 2.2 Part 2 – Allegations relating to breach of regulations relating to event organising
  - 2.3 Part 3 – Allegations relating to breach of regulations relating to medical matters
3. All parties present had no objection to the proceedings proposed and this was then adopted by the court.

### **INTRODUCTION**

4. This Court Of Enquiry (COE) originated from a myriad of complaints and allegations leveled at a number of parties associated with the 2013 Mantshwabisi Marathon Motorcycle and Quad event held in Gaborone, Botswana - commonly known as the Toyota Desert Race 1000 (TDR) off road event run in Botswana on June 20 and 21, 2013.
5. The four complaints that formed the foundation for the COE were received from the following:-
 

Franziska Brandl	-	MD – KTM South Africa
Frank de Greef	-	NR Off Road Motorcycle & Quad Regional Rep
Ian Venter	-	Competitor
Frans Cronje	-	Competitor (Absent without apology)
6. The most common allegations that emerged from the original complaints and requests for a COE were as follows:-
  - 6.1 Alleged irregularities surrounding the scoring of the Senior Motorcycle class;
  - 6.2 Allegations that competitor Ruan Roberts' motorcycle was refueled while on the race route;
  - 6.3 Allegations that the race route was unsafe and not adequately marked;
  - 6.4 Alleged unrealistic time bars;
  - 6.5 Allegations regarding the standard of the medical facilities and care provided;
  - 6.6 The appropriateness, or otherwise, of the starting format utilised (4 in a row);
  - 6.7 Allegations that certain of the road crossings were unmanned.

### **PART 1**

7. The president asked the Clerk of the Course to lead the proceedings by supplying the court a summary of events that unfolded at the race meeting in question.
8. At this point the court questioned the Clerk of the Course about the absence of times and dates on every one of his Notices and Bulletins, to which the CoC conceded that he had failed to comply.
9. This was then followed by the allegations that were leveled against competitor Ruan Roberts.
10. The Court heard evidence from a number of competitors claiming that competitor Roberts had refueled his motorcycle on the race route.
11. Competitor Roberts was asked to plead to the allegations, which he denied. He offered an explanation that his initial suspicion when his motorcycle came to a halt on the route was in fact a shortage of fuel. He said that shortly after he stopped a fellow competitor stopped and asked if he needed help. He said he suspected he may be out of fuel.

12. Ruan Roberts further told the court that once he had climbed off the motorcycle and started investigating, he found that he in fact had plenty fuel, but he had sparkplug trouble. Once he replaced the sparkplug, the bike fired up and he continued on with the race. He claims he lost around 10 minutes to this. The time loss can be verified by the sequence and time sheets.
13. The court was offered a number of “eye witness” statements by Iain Gilbert. However none of these were certified documents and in the absence of the witnesses being present to face cross examination, the written statements were rejected by the court.
14. The Clerk of the Course was asked about the Roberts allegation. He informed the court that he had received a complaint by competitors Webb (brothers) about Ruan Roberts but upon investigation he could find no concrete proof or any person who could say they actually saw fuel being put into Ruan Roberts bike.
15. The Clerk of the Course said that he informed the Webb brothers that, in the absence of an eye witness that actually saw fuel going into the bike of Ruan Roberts, he was not prepared to act on hearsay.
16. The court asked the Clerk of the Course if he had received any Protests relating to the Roberts allegation. He replied that he had not received any.
17. The Court asked if any official had received a protest relating to competitor Ruan Roberts. None of the officials present had received any protest.
18. The court president then asked if anyone else had anything more to add relating to the Ruan Roberts allegation. Nothing was forthcoming and he closed the proceedings on Part 1.

## **PART 2**

19. The court then proceeded onto part 2 that revolved around a number of allegations relating to organizational shortcomings.
20. The salient points of allegation were as follows:-
  - 20.1 Alleged irregularities surrounding the scoring of the Senior Motorcycle class;
  - 20.2 Allegations that the race route was unsafe and not adequately marked;
  - 20.3 Alleged unrealistic time bars;
  - 20.4 The appropriateness, or otherwise, of the starting format utilised (4 in a row);
  - 20.5 Allegations that certain of the road crossings were unmanned.
21. On the matter of scoring the court heard of a competitor Kitso Malebo # C377 who had only run a total time of some 00:37:31 minutes and that he had been awarded a win and even given a trophy at prize giving in the SORC B1 class. As surprising as this revelation was to the court, the race secretary confirmed that it was true, as that was the results that the time keepers had submitted to the CoC – Geoff Anslow – who too confirmed this matter to be true. The CoC had also not noted this irregularity produced by the timekeepers and had signed off the results as final at 17H45 on Day 2. Unfortunately there was no timekeeping staff present at the hearing to confirm or refute this allegation to the court. The only evidence to this claim was a copy of the signed time sheet where it was evident that this fact was true.
22. The court enquired if any protests had been received in relation to this matter. It was reported that no protests had been received.
23. The court also heard that some confusion surrounded the first day’s results, where some of the national riders stopped at 75% of the route and did not complete the entire 100%. The Clerk of the Course confirmed this, saying that there was no rule in the SSR’s that gave him an indication of what distance the National riders had to do.
24. The following riders were requested to attend the COE to lead evidence in this regard.

Frans Cronje	-	Competitor & Complainant
Justin Broughton	-	Competitor (Senior Class)
Robert Streak	-	Competitor (Senior Class)
Pierre Karsten	-	Competitor (Senior Class)
Martin Lourens	-	Competitor (Senior Class)

However, none of them arrived for the hearing and have been listed as absent without apology. It is also to be noted at this point that the Jury President Lizelle van Alleman too failed to inform MSA or the court of her non-attendance.

25. The court had received an attempt at a written explanation from the timekeepers prior to the start of the court. Unfortunately this did very little to explain the irregularity regarding competitor Malebo, as well as the lack of understanding on how the timing system worked in order for them to have arrived at the time sheets that they had produced. What the email did clear up was the fact that Darren Bishop was in fact the Chief Timekeeper / Scorer for the event in question.
26. With no more items relating to the scoring, the court then moved onto the allegations of route markings.
27. The court first heard from KTM that poor road marking was the cause for competitor Kirsten Landman's accident as she had struck an unmarked tree stump that was on the route. This was followed by Ian Venter who alleged that due to no road markings he struck a fence at a 90' angle to the road course.
28. The court then heard from Kevin Branch who submitted to the court a pre-run report. This report was confirmed by Alan Reid who was the route director. The report indicated that although it was a good and varying route, they had found a few irregularities with the markings. These listed Green "No Go" stickers as being too close to the route. It appeared that more than one team had marked the route as the style of marking was different. It also stated that it found some stickers had been removed but that they were replaced by the pre-run team.
29. Alan Reid informed the court that some 1000 Green and 9000 Orange stickers had been placed on the route. These were supported by road signage for the more than 60 road crossings.
30. The court also heard from a number of competitors that there was route markings that they found served them well, but that time barring was the reason for not finishing and not route markings.
31. No one offered the court any documented or photographic evidence of the allegations of the lack of road markings. What was established however was an explanation of how the route becomes a "Live Moving" route. It was explained to the court that it was fast becoming common practice for a rider who has clear sight of the route ahead that they would cut through "virgin" ground off the route in order to straight line the route.
32. This "straight lining" practice leaves tyre tracks and following riders tend to follow these previous road tracks instead of watching for markings. This action would "Move" the route and thus rocks, stumps and lurkers that were avoided by the route been marked around them, are now found in the route later in the day, causing dangers as they are unmarked.
33. Another interesting comment offered to the court was the danger that over marking has started causing. It is alleged that competitors are no longer exercising caution on narrow or twisty routes. They are merely running flat out from one orange marker to the other. When things go wrong, the immediate assumption is that the organisers failed in their duties when it comes to route marking.
34. The court also received an email dated 22 July authored by Jean-Pierre Schwartz who was one of the designated pre-run riders who conducted the run on the Wednesday prior to the event. Among the list of items that coincide with the report generated by Kevin Branch it was noted that JP Schwartz made an observation that it seemed that the person/people responsible for the route markings may very well have been Off Road Car specialists and not that well versed with Off Road Bikes and Quads.

35. With no more items relating to the route markings, the court then moved on to the allegations regarding time bars.
36. The court heard from the Clerk of the Course that he was forced to extend the time bar for the Quad riders on day 1 by 30 minutes (Bulletin 4) due to the length of the route in relation to the bike route, as well as, to accommodate a later start (Bulletin 2), thus allowing the quad riders 5 hours to complete the first loop. He also had to extend the time bar at the end of the day for the quads (Bulletin 8), thus allowing the quad riders a full 10 hours to complete the day 1 route (The same route the bikes would run on day 2).
37. The court was then informed that for day 2 the Clerk of the Course was forced to issue bulletin 7 informing the Bike riders that he was moving the start forward by 30 minutes as he had to enforce a 12 noon time bar on both classes to make way for the start of the Car Prologue. This effectively reduced the bikes by 30 minutes on the first loop as the previous day the quads enjoyed a full 5 hours on this the longer loop.
38. This resulted in an increased number of complaints from the bike riders as can be seen in the daily incident report forms handed in at the end of day 2. This was also reported in the Clerk of the Course close out report of the event.
39. With no more items relating to the time bar, the court then moved onto the allegations of the appropriateness, or otherwise, of the starting format utilised (4 in a row).
40. This item was very quickly addressed when the court was informed that it was common practice at national events for competitors to start as many as 8 abreast at various events.
41. On investigation the court also noted that 3 abreast was mentioned in the original event SR's and this was later changed to 4 abreast by way of Bulletin 2.
42. This now left the court puzzled as to why this item was listed on the initial list of allegations of irregularities. This they found was a complaint listed by both KTM and Frank de Greef.
43. With no more items relating to the appropriateness, or otherwise, of the starting format utilised (4 in a row), the court then moved onto the last allegation that certain of the road crossings were unmanned.
44. Other than the testimony given by KTM that the road crossing near spectator point 10 had been unmanned when they arrived at it, which by their own testimony was rectified by them organising with the help of a local to solicit the help of the traffic police. There was no other concrete testimony stating any more such allegations of infraction.
45. The court conducted a snap survey among the competitors present at the hearing as to what they each believed to constitute a road crossing. No two riders gave the same answer.
46. The organisers had informed the court that they had gone to great lengths to work with the local police services to ensure the safety at the more than 60 road crossings related to this event. They reported that this crossing was the only one that had been reported to them and felt that a real possibility could exist that the appointed official/officer may very well have been late to report to this point.
47. With no more items relating to road crossings, the court president then closed proceedings related to Part 2 of the COE.

### **PART 3**

48. The court had been informed that the venue had to be vacated at 18h00 to make way for another meeting. The president requested a few more minutes to assess if the court would be able to push through and hear part 3 in full. The court was granted a further 20 minutes.

49. The court now moved to the allegations regarding the standard of the medical facilities and care provided at the event.
50. The president gave Franziska Brandl of KTM the floor as the court felt that her letter requesting a COE was the most serious of the complaints leveled at the organisers and the medical service providers.
51. Ms Brandl handed the floor to Kirsten Landman (E117), one of the injured competitors in question.
52. The court heard from competitor Landman that she had hit an unmarked tree stump that had caused her to come off her bike at a high speed. The court further heard that competitor Landman had suffered severe pain in her abdomen area. She informed the court that competitor Ryan Cheney had stopped to render assistance and was the person who made direct telephonic contact with the ALS (Advanced Life Support) medic back at the main DSP.
53. The court further heard that competitor Landman had allegedly waited more than two and a half hours from her 9am accident to receive medical attention.
54. This claim was however refuted by EMC's Una Hawley who claimed that, according to the medical records, the time between when the call was received and the first responder being on the scene administering medication, was just over 1 hour.
55. Competitor Landman then alleged that she was "chucked" onto the back of a bakkie. The court president interjected to receive clarity in respect of this allegation. It was then clarified that the patient was in fact placed on the back seat of the first responder vehicle – a 4x4 used for this purpose.
56. When asking why the patient was not placed on a stretcher, the court heard that the competitor had been diagnosed as a P3 patient as she had "Passed" a number of pre-examination checks.
57. At this point, time was up for the use of the venue to continue with the hearing and the court president adjourned the court informing all present that he would attempt to reconvene the court within the next few days.
58. The court was adjourned at 18h20.

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**MSA BOARDROOM AT 18H30 ON 23rd JULY 2013.**

DAY 2 (23 JULY 18H30 -20H40)

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<b>Present:</b>	Wayne Riddell	-	Court President
	Jeremy Davies	-	Court Member
	Iain Pepper	-	Court Member
	Geoff Anslow	-	Clerk of the Course
	Adolf Botes	-	2nd Jury Member
	Alan Reid	-	Organiser & Route Director
	Maria Prinsloo	-	Race & Jury Secretary
	Franziska Brandl	-	MD – KTM South Africa
	Frank de Greef	-	NR ORMC & QD Regional Rep
	Francois de Greef	-	Competitor
	MD de Greef	-	Parent competitor F de Greef
	Una Hawley	-	EMC Pty Ltd
	Hadley Shapiro	-	(ALS) for EMC Pty Ltd
	Chris Christodolides	-	(ILS) for EMC Pty Ltd
	Ivor Rimmer	-	Police Liaison
Ilze Botes	-	Commission Member	
<b>Apology:</b>	Grant Bright	-	Court Member
	Brian Bontekoning	-	Court Member
	Darren Bishop	-	Chief Scorer
	Rolf Schana	-	Chief Medical Officer
	Erwest Roberts	-	Competitor Roberts father
	Ruan Roberts	-	Competitor

Ian Venter	-	Competitor
Bert Smith	-	Competitor (Senior Class)
Iain Gilbert	-	Witness
Kevin Branch	-	Chairman BMS
Ross Branch	-	Competitor
Gillian Dykes	-	1st Jury Member
Dion Wessels	-	DSP Manager

<b>Absent without apology:</b>	Lizelle van Alleman	-	Jury President
	Frans Cronje	-	Competitor
	Justin Broughton	-	Competitor (Senior Class)
	Robert Streak	-	Competitor (Senior Class)
	Pierre Karsten	-	Competitor (Senior Class)
	Martin Lourens	-	Competitor (Senior Class)

59. The Court president opened the reconvened court with apologies from two of the court members. He asked if the members had any objection to the reduced number of court members. There were no objections and so the court continued.
60. The court president then started proceedings by reading out a written retraction received earlier in the day from competitor Ian Venter. The court president, although accepting the retraction, felt it pertinent to mention that the retraction was received rather late as most of the previous evening's time had been spent on route marking specifically around the allegations leveled by competitor Venter. The court president said that, for the sake of completeness, he would require the medical personal to still answer the listed allegations, despite the retraction lodged.
61. The court president then spent a few minutes recapping the proceedings of part 3 to all the members present before continuing.
62. In the absence of Competitor Landman, the floor was returned to Franziska Brandl of KTM.
63. The matter was continued by questioning the delays in the handling of competitor Landman.
64. Una Hawley of EMC reminded the court that competitor Landman had been listed as P3 and that she had been treated in line with the established protocols for a P3 patient.
65. KTM then continued with an explanation that included further delays at the private hospital, to which Una Hawley of EMC informed those present that the duties and responsibilities of the medics cease once a patient is handed over to another ambulance or medical service or establishment.
66. This point then negated any further discussion relating to competitor Landman's diagnosis and further treatment and handling at the private hospital.
67. Franziska Brandl however also questioned the perceived treatment or more specifically the lack of treatment and assistance from the organisers, the medical personnel and race officials while she was at the hospital with competitor Landman and others.
68. When asked to elaborate, the court heard how the patient had felt deserted at the hospital in a foreign country. They had not seen or heard from anyone from the event. This included the organisers, the medical staff, the chief medical officer or any of the race officials.
69. This prompted a flurry of responses from the various officials present. It turned out that almost all of the said officials had a very clear knowledge of how the competitor had been progressing as they were in direct contact with not just the hospital but with the attending doctor as well. It was however conceded that none of the said officials had at any point made contact with the family or team of the competitor.
70. This then closed the discussions and allegations lodged by KTM. The next items were those submitted by Frank de Greef and not yet addressed.

71. Frank de Greef opened up his questioning of the medical staff by asking whether, when he had caught a lift with them to the accident scene of his son Francois de Greef, he had acted inappropriately or hindered the medical personnel at any point. It was confirmed by the medic Hadley Shapiro that in fact he had not posed any real threat to the situation.
72. A lengthy debate then started regarding the appropriate use and administering of a foot or leg brace or splint. The debate became rather fierce at one point and the court president was forced to remind the de Greef family that neither of them was able to produce credentials that gave them the capacity of certified medical practitioners and encouraged them to desist from the aggressive approach they were currently taking.
73. The net result of the vigorous debate was that EMC stated that the placing of a brace or splint is rated down on the protocols priority list when first assessing a first responder list.
74. The de Greef family also recalled a similar experience once at the hospital with regards to the perception that none of the organisers or officials had shown concern for the competitors' status.
75. The court then moved to the point of allegations that no blood was available in any of the hospitals in Botswana and that the officials and relevant medical personnel were allegedly also aware of this situation.
76. Una Hawley of EMC offered the initial input by stating that she had been made aware of the lack of blood in Botswana by one of the senior hospital personnel at around 11am on Friday 21<sup>st</sup> June. The term that was used was "Botswana was dry". She received this information when enquiring on the condition of a competitor who had undergone surgery when the surgery had been halted due to the lack of additional blood being available.
77. Armed with this information she claimed she had then informed the CMC (Chief Medical Co-Ordinator) Rolf Schana at around 11:30am. This the CMC confirms (in an email).
78. Unfortunately the CMC/CMO was not available to verify this. A call was made to him by Una Hawley who asked him to confirm this via email to the court the next day.
79. The court did in fact receive this email as promised. The contents of which state that the CMC/CMO did not take this threat too seriously and only mentioned it in passing to the Organiser at around 3:30pm that afternoon (some 4 plus hours after first being informed). The email also states that he was too busy to inform the CoC of this situation.
80. This then concluded the investigation into the various allegations that surrounded the event in question.
81. With no more matters to discuss the court president closed the enquiry for the court members to deliberate over the extensive information received from the various parties during the course of the hearing.

## Findings

82. After listening to all the evidence the court has decided to give its response in three sections, namely:-
  - A) The findings related to the allegations which formed the basis for COE 1116
  - B) Additional findings highlighted during the hearing
  - C) Urgent points of concern for consideration by MSA and/or the MSA Non Circuit Motorcycle Commission and/or the MSA Medical Panel.

### A) Allegations made in COE 1116

#### **PART 1 – Allegations relating to breach of regulations relating to competitors**

83. The allegations that competitor Ruan Roberts' motorcycle was refueled while on the race route; the court was faced with a difficult decision to make here. Although there is an old adage that says "Where there is smoke, there is fire", the court was unable to receive any concrete evidence to support this allegation.
84. The court did receive input from a number of eye witnesses who stated both verbally in person to the court, as well as stated under oath in the form of an affidavit supplied to the court that they **Heard** either someone else or competitor Roberts himself **Say** he ran out of petrol. Some even stated under oath that they witnessed competitor Roberts's father head off towards where he believed his son had come to a halt, carrying a Quick-Fill petrol can.
85. However, not a single person testified to the fact that they actually **Saw** petrol been placed in competitor Robert's bike at any point while on the route.
86. Void of this testimony, the court was faced with a lot of "He Said, She said" but not a single piece of evidence of "I saw".
87. To this end, the court although conscious of the old adage, cannot find competitor Ruan Roberts guilty of refueling on the route as alleged.

## **PART 2 – Allegations relating to breach of regulations relating to event organising**

88. With regard to the alleged irregularities surrounding the scoring of the Senior Motorcycle class, the court finds that both the Clerk of the Course and the Time Keepers erred in their duties as the Motorcycle & Quad Off Road Racing Regulations Applicable To All Events - SSR 338 (iv) National Double header event, clearly state that the national riders cover full distance for a double header event, which this event clearly was (reference is also made in SSR 339 c (i)). The 100% result therefore must stand.
89. With regard to the allegations that the race route was unsafe and not adequately marked, the court heard testimony from various competitors relating to the route markings for this event.
90. The court also read various pieces of correspondence from the route director and the clerk of the course, as well as the pre-run report relating to the markings on the route.
91. The court also heard that some 10 000 route marking stickers had been placed along the route.
92. After taking in all this evidence relating to route marking the court noted that there certainly was a route marked out for the event and that evidence from the pre-run report was more about a route that was marked by two or more different teams, which lead to a variation in marking style. It also heard that it was common practice for some of the local population to remove the markings in various places.
93. The court never received any visual or credible evidence that the route was not marked adequately or in a dangerous manner.
94. What was offered to the court for consideration was the fact that routes had become so well marked recently that the possibility of creating a dangerous precedent was starting to raise its head. Competitors had become so spoilt with regional race route markings that they were now used to going "flat out" between two points and depending heavily on markings to warn them as opposed to rather paying attention to their surroundings as was traditional for Off Road events in the past.
95. The court also heard that the possibility existed that some of the people involved in the marking were from the vehicle fraternity as opposed to the bike fraternity.
96. The court however finds the allegations of an unsafe and inadequately marked route to be without foundation.

97. With regard to the alleged unrealistic time bars the court heard primarily from the clerk of the course regarding time bars.
98. The clerk of the course had to extend the route on day 1 for the quad riders to allocate them 5 hours per loop to finish. The bikes on day 2 had to navigate this route but due to part of the route being required by the cars on the Friday afternoon to conduct the 'Prologue', he was forced to start them slightly earlier and therefore reduce the allocated time to run the route by 30 minutes, thus giving the bikes 4 ½ hours to complete the route.
99. After hearing and investigating this evidence the court found that although the time bar was half an hour less on day 2 for the bikes, it would have serious implications in attempting to reduce the day 2 results to only 1 loop.
100. The nature of the 'Desert Race' is one of stamina and endurance and this year was no different as the riders with endurance and stamina won out over the riders who were less fit and well prepared for this marathon event. Thus the court, although finding evidence of a slightly shortened time bar on day 2, makes no ruling on the allegation. Suffice it to say that there is no decision to alter the race results.
101. The court however do note that the reason for the time bar been so vigorously imposed was due to an unrealistic "Common Use" of some sections of the prescribed route for cars. The organisers had created a rod for their own backs by making use of a common route for this event by placing the Clerk of the Course in this predicament. This is an infringement by the organisers of SSR 338 (b)
102. As regards the appropriateness, or otherwise, of the starting format utilised (4 in a row), the court was puzzled at first by this allegation in the original COE document as some of its members were aware that even in the most recent off road motorcycle event, competitors were set off between 8 and 12 abreast.
103. The court had received written complaints from both KTM and Frank de Greef on this matter citing that it was illegal or the re-instating of a decades' old regulation.
104. The court finds that although there is no reference to the number of competitors starting abreast in the SSR's, they do find reference to it on page 8 of the event SRs, where it states 3 abreast for the start for bikes.
105. This was then altered by the Clerk of the Course by way of Bulletin 2, where he changed the order to 4 abreast.
106. There is no record of any protests relating to this and the court is left puzzled as to why KTM and Frank de Greef take umbrage at this form of starting. The court finds there is no transgression relating to starting 4 abreast.
107. With regard to the allegations that certain of the road crossings were unmanned, the court heard of only one such incident relating to the some 60 crossings listed for the event. In this one such event, it was advised that the possibility existed that the officer responsible for this crossing may have been late for his reporting to duty.
108. When the court questioned those competitors in the room what their definition of a road crossing no two riders gave the same answer and the court therefore feels that the possibility may exist that some competitors may have thought they were crossing unmanned crossings when in fact it may not necessarily have been a crossing at all.
109. In the absence of concrete proof, the court cannot support this allegation.

### **PART 3 – Allegations relating to breach of regulations relating to medical matters**

110. In respect of the allegations regarding the standard of the medical facilities and care provided, the court heard from two primary complainants that the standard of care was poor. The first was from KTM

regarding competitor Kirsten Landman and the second was from Frank de Greef regarding competitor Francois de Greef.

111. In the matter relating to Kirsten Landman, the court was agitated by the competitor's use of phrases such as "chucked onto the back of a bakkie", when in fact she was referring to being placed upright on the back seat of the "First Responder" 4 x 4 that was used to get the ALS (Advanced Life Support) paramedic to the scene of the accident. This type of unfounded allegation casts some doubt over competitor Landman's version of events.
112. The court also heard that the "Holding Caravan" or "Medical Room" that was supplied at the main DSP was inadequate as there was no place for competitor Landman to stretch out. The court (although not holding any medical qualifications) felt that when a person is suffering from severe abdominal pain he/she would, in all probability, be doubled over in the fetal position and not want to be stretched out.
113. The court also heard allegations that competitor Landman had been refused helicopter evacuation. It was explained to the court that competitor Landman had 'failed' a checklist to determine the need for a helicopter evacuation.
114. The court also heard from competitor de Greef that no splint was available for his evacuation from the accident scene. On the evening photographic evidence was submitted that competitor de Greef did in fact have a splint / brace on prior to his evacuation and that the focus was then changed to the timing of applying the splint / brace.
115. In light of the testimony heard from the medical staff and the competitors in question, the court is hard pressed to find the medical staff guilty of supplying any form of inferior medical service or care at the event.
116. The court wishes to record that there is a common misconception that the event medical staff are responsible for a competitor's entire medical experience. It became clear to the court that this is in fact not the case and that the medical staff responsibilities terminate once they hand the patient over to the ambulance / hospital service.

## **B) Additional findings highlighted during the hearing**

117. Despite the relevant allegations leveled against a number of officials and organisers, the court also found a number of other transgressions.
118. In line with GCR 211 and GCR 220 the court finds the following transgressions during the event:
119. The Clerk of the Course failed to date and time his entire list of bulletins and notices. This action prejudiced the competitors' rights to protest such notices or bulletins – GCR 17.
120. The time keepers submitted to the Clerk of the Course and race organisers a race result for the FIM Africa portion of the event where competitor Kitso Malebo # C377, who had only run a total time of some 37 minutes, had been awarded a win and even given a trophy at prize giving in the SORC B1 class. It is clear to the court that there was no backup system in place. The court finds this not only irregular and embarrassing but also a clear breach of the roles and duties of the time keeper – GCR 163 and SSR 349.
121. Additional investigations also produced information that the timekeeper does in fact not hold the qualifications for the event as prescribed by the GCR's. The time keeper Darren Bishop in fact holds no time keepers license with MSA at all. This the court finds to be in violation of GCR's 76, 122, 125, 127 & 146.
122. As for the above, the court also finds the Clerk of the Course in clear breach of GCR 156 as he signed the incorrect time sheets off as final.

123. The court also noticed that the timekeepers failed to sign on for duty as did the race secretary fail to ensure all officials were in fact on duty with the required licenses.
124. The court also noted that there was a change of official for the event, for which no notice was issued by the Clerk of the Course.
125. The court, post the hearing going through the inordinate amount of documentation, found an anomaly in so far as the Clerk of the Course (after changing the start times for the bikes on day 2) would have tasked himself with having to perform two very important roles simultaneously, namely dispatching the Quad competitors as well as conducting the Bike riders briefing at the same time at 07H00 on Friday 21 June 2013. The court wonders which one of the two duties the Clerk of the Course actually performed and which he appointed someone else to conduct.
126. The court notes that one of the most serious concerns that raised its head in the COE was the fact that the Chief Medical Officer/Chief Medical Co-Ordinator (CMO/CMC), as well as the Organiser, became aware on the Friday that there was no availability of blood supplies in Botswana in case of a medical emergency requiring a blood transfusion.
127. Neither the Clerk of the Course nor the Jury members were aware of this until they read about it in the original court documents prior to attending the COE.
128. The court feels that, in the absence of this knowledge, no blame can be apportioned. However, the moment that the CMO and the Organiser became aware of the situation they became culpable.
129. The court also feels that, based on the email received by the CMC it was clear he felt he had no responsibility to any other person/body on the event, notably the Clerk of the Course. The court feels this is in clear breach of GCR Appendix L 17 (Duties of the CMO/CMC).
130. The lack of Jury records and Jury meetings conducted during the event, which is in clear breach of SSR 327.
131. The court was also agitated by the lack of attendance or apology for non-participation by a number of key role players and competitors after being summoned to attend as per GCR 220.

**In view of the above the court rules as follows:-**

132. The Clerk of the Course, Geoff Anslow's, officials license is withdrawn for a period of 6 months. This withdrawal of licence is however suspended for a period of 12 months from the date of publication of these findings. (This effectively means that should the Clerk of the Course be found guilty of the same or similar dereliction in duties over the next 12 months, this 6 month withdrawal of his license will come into effect.)
133. The timekeeper, Mr Darren Bishop, for his part in the poor race results produced is fined an amount of R1000-00, for supplying the name of a 'Winner' to the race officials, when the competitor only completed some 37 minutes of competition in a 2 day event. The court had intended to place a suspended sentence on Mr Bishop for a set period but investigation showed he holds no MSA license. The court views this in a serious light and therefore issues Mr Darren Bishop a R2500-00 fine for this infringement. He is further instructed to rectify the results and time sheets to reflect the true and correct result for the event in question.
134. Mr Bishop may not officiate at any further MSA sanctioned events until such a stage he is licensed in accordance with GCR 164.
135. The Race Secretary, Maria Prinsloo, is reprimanded for failing to ensure that all officials were present and accounted for by getting them to sign on.

136. The Jury Members – Lizelle van Alleman (Jury President), Gillian Dykes (1<sup>st</sup> Jury Member) and Adolf Botes (2<sup>nd</sup> Jury Member) - are severely reprimanded for the lack of documented meetings and conducting the prescribed number of jury meetings for the event.
137. The Organiser, Alan Reid, is fined an amount of R2500-00 for his complacent approach to receiving the news of no blood supplies being available in Botswana. As Race Organiser, he was expected to ensure the Clerk of the Course and/or Jury was made aware of this situation.
138. The CMO/CMC, Rolf Schana, is fined an amount of R5000-00 for his lack of appropriate action when he became aware of the serious issue of no blood supplies being available in the country during the event. He too was expected to ensure the Clerk of the Course and/or Jury was made aware of this situation.
139. Medical staff members Hadley Shapiro and Chris Christodolides are cautioned in future not to allow family members to accompany them in the medical vehicle to an accident scene. Should something untoward happen en route it could have complicated legal ramifications.
140. For failing to attend or offer an apology for not being able to attend the COE the following persons are issued with the following fines:

Lizelle van Alleman	-	Jury President	R1000-00
Frans Cronje	-	Competitor (Complainant)	R1000-00
Justin Broughton	-	Competitor (Senior Class)	R500-00
Robert Streak	-	Competitor (Senior Class)	R500-00
Pierre Karsten	-	Competitor (Senior Class)	R500-00
Martin Lourens	-	Competitor (Senior Class)	R500-00

These fines are however suspended for a period of 24 months, and will only come into effect should they be guilty of a similar offence during the 24 month period from the date of publication of these findings. The court points out to those mentioned that it is important to realise that a court requires accurate inputs from invitees in order to reach a correct and fair finding. In the absence of these key inputs, there is a risk of coming to wrong conclusions or findings.

141. Franziska Brandl of KTM is requested to ensure that the team she represents properly acquaint themselves with the rules and regulations of the sport they clearly have a passion for. A protest lodged at the event may well have achieved the desired outcome. Ms Brandl is also requested to ensure in future that statements made in formal complaints lodged are factually correct.
142. It was also further noted by the court that competitor Landman had in fact hit an 'unmarked' tree stump off the route due to her making contact with another competitor while racing on the route, causing her to leave the route and have the accident. Franziska Brandl, when questioned by the court president, admitted to having knowledge of this but seemingly chose not to inform the court of this important fact. The court reprimands her for this non-disclosure.
143. Mr Frank de Greef is cautioned that, in view of the various roles he plays in motorsport, he needs to clearly understand which role he is performing when penning a document of complaint. It became very clear to the court that his letter of complaint was mixed with both rules-related issues as the NR ORMC & QD Regional Representative, an event promoter and that of an emotional father of a competitor. It could and would be seen by an outsider that he has and does use and abuse his various positions in motorsport. Frank de Greef clearly has used his influence in motorsport to garner the support of MSA to call for a COE. These actions border on an infringement of GCR 206.
144. The court (although not medical practitioners) also notes that Frank de Greef's interference with his son's accident scene could very well have hampered the medics when he removed his son's boot (that would have acted as a brace/splint). For this, Frank de Greef is banned from attending any race meetings for a period of 6 months. This ban is however suspended for a period of 24 months, subject to him not interfering with officials and support services during this period.

145. Ian Venter is hereby reprimanded for making damning complaints about organisers and then choosing to retract them after proceedings had started. This is a waste of the court's time.
146. The FWDCSA is hereby instructed to ensure that the trophy erroneously given to competitor Kitso Malebo # C377 is returned to the rightful winner of the category in question.
147. The FWDCSA is reminded that the use of 'Common Route' route sections is forbidden in the SSR's and failure to adhere to this in future could have dire consequences for both competitors and the club alike.
148. The FWDCSA is ordered to pay costs in the amount of R2500-00 in terms of GCR 196.
149. All parties are cautioned of the provisions of GCR 222 in this regard.
150. All competitors and teams are further cautioned about the rules of the sport they participate in. Those who felt so aggrieved by the events that transpired at the TDR could and should have lodged the relevant protests as prescribed by the rule book (rules of the game) to voice their dissatisfaction. Making use of letters of dissatisfaction post an event in order to get a COE instituted is tantamount to a free backdoor protest. The court frowns on this type of action by competitors and teams.

**Urgent points of concern for consideration by MSA, the Non Circuit Motorcycle Commission and the MSA Medical Panel.**

151. The court hereby voices its concern with regard to the following:-
152. First and foremost, the commission is recommended to re-visit its relationship with its current appointed timekeepers.
153. Consideration should be given to appointing a single team to conduct ALL National Route Marking and Pre-runs and Pre-run reports. This is suggested in order to ensure a single gold standard is established with respect to marking. This team must be well acquainted with the relevant SSR's.
154. The commission should consider that the top 40 seeded competitors are set off in single file with equal dust gaps for all national events without exception. This should ensure less risk of problems and complaints from events.
155. The MSA Medical panel should consider instituting (specifically for events that are conducted more than 130 km from the nearest appointed medical hospital and cross border (neighbouring country) events a "Medical Liaison Officer" (MLO) whose primary function is to be the face of the organisers in matters of medical admissions. The MLO will be the person who keeps Organisers, Officials and Parents (loved ones) informed of progress on situations unfolding (said 'go between' to assist with some 'hand holding' during this process).
156. The position of MLO would also assist to ensure the speedy and smooth admission of patients to the appointed medical facilities.
157. MSA are requested to issue a communication that no family member may accompany the medical staff en route to an accident scene.
158. MSA and the Commission are requested to consider entering into some kind of negotiations with the television crew when flying around conducting aerial recordings of an event, to allow an ALS on-board as a first responder to an incident.
159. In future, for events that have an appointed hospital/trauma centre situated more than 130 km from the main event, it is recommended that the MSA Medical Panel requires that a trauma doctor forms part of the Medical Team. Added to this, the appointed hospital should be required to supply MSA a letter to the effect that blood will be available to cover Polytrauma situations over the dates in question. (This should be an automatic requirement for events conducted in neighbouring countries).

160. MSA Medical Panel and the Commission are requested to institute some sort of 'Leatt Brace' training to first responders and other medical personnel.
161. It is recommended to the FWDCSA, if and when they choose to run a similar event in future, that they may be better served making use of a 'Wagon Wheel' (Hub & Spoke) configuration when designing the route. Placing the Main/Central DSP in the hub would then place all officials and medical support at the core of the event, with the obvious advantages this would entail.
162. In closing, the court wishes to thank those who attended the court and offered their frank and honest opinions, even at times when their responses could possibly be prejudicial to themselves.
163. All parties are reminded of their rights to appeal to the MSA National Court of Appeal.
164. These findings issued by email.

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