



EMPLOYMENT

Defamation in Labour Law – Manqele V Baloyi Masango Inc Attorneys and Others (896/2023) [2025] Zampmbhc 75 (12 August 2025)

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- It is not unusual for employers to appoint a law firm to conduct investigations into allegations of misconduct which culminate in reports, the findings of which may form the basis of misconduct proceedings.
- We have observed a growing trend of employees referring defamation claims premised on the findings of a report produced following an investigation. We have also recently assisted a client in a matter where the employee referred a defamation claim premised on the charge sheet, contending that the allegations of misconduct in the charge sheet were defamatory. The Court found in our client's favour and held that the allegations of misconduct were not defamatory.
- The latest instalment of the interesting intersection between labour law and defamation is the case of *Manqele v Baloyi Masango Inc Attorneys and Others* (896/2023) [2025] ZAMPMBHC 75 (12 August 2025). In this matter, Mr Manqele was employed by the Thaba Chweu Local Municipality (the "**Municipality**") as a Technical Director. Following a sewer spillage incident, the Municipality appointed a law firm and an attorney (cited as the First and Second Defendants (herein the "**Defendants**") to conduct an investigation into the incident and provide the Municipality's Council with a report. Baloyi Masango Inc Attorneys conducted the investigation and interviewed the necessary employees of the Municipality. However, Mr Manqele refused to participate in the investigation.
- Subsequently, the appointed law firm produced a report and tabled it at the Municipality's Council comprised of 28 Councillors. The report made adverse findings against Manqele and other employees of the Municipality. Disgruntled by the findings, Manqele instituted a delictual claim premised on the allegations contained in the Report. Manqele claimed that members of the Council and readers of the Report understood its contents to mean that he is incompetent, unethical, unprofessional, unqualified, corrupt and insolent. According to Manqele, the contents of the Report were false, wrongful, defamatory and intended to tarnish his reputation.
- The Mbombela High Court dismissed Manqele's claims. The Court's reasoning was premised on two basis, first the intention to defame (i.e. *animus iniuriandi*) and secondly publication. The Court held that Manqele had failed to prove that the Defendants had the intention to defame him or that they had any malice to publish a defamatory report. Moreover, the Court held that the Report was made on a qualified privilege occasion when it was provided to the Council members. Furthermore, the Defendants were doing their job in compiling the report, which contained their opinion on the findings.

- This case is therefore authority for the proposition that there can be no defamation claim when a law firm is instructed to conduct an investigation, conducts an investigation and, pursuant thereto, produces a report that is adverse to an employee. In other words, the mere fact that a report contains adverse findings against an employee does not mean that it is defamatory. Furthermore, the *Manqele* judgment illustrates just how difficult it will be for employees to prove malice and *animus iniuriandi* required to succeed in a defamation claim. Thus, an investigator must ensure that the Report is given to the authorised person(s) to avoid being accused of publishing the report in a clandestine nature and possibly attracting liability for defamation.



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