
19 April 2016:
Ma: Re: Magistrate Essel's possible 10 May responses

From: Lara [jmcswan@mweb.co.za]
Sent: 19 April 2016 06:24 PM
To: 'Ann Johnstone' [annscg@telkomsa.net]
Cc: 'Clives Email' [clann@telkomsa.net]
Subject: Ma: Re: Magistrate Essel's possible 10 May responses

Ma:

CC: Pa

Regarding your questions about Magistrate Essel's possible responses:

I have referred to myself as I and Lara; and to Pa, as Pa and Clive where it is easier to read that way.

Re: Magistrate Essel's possible 10 May responses

I don't know what Magistrate Essel's response shall be on 10 May.

It will depend on (a) whether Pa and I are negotiation in good faith; answering each others questions; and sharing information; or (b) if one of us is obstructing the negotiations; and/or (c) Magistrate Essel's own truthseeking interests in any of the issues.

Options include:

Postponement: Clive and Lara agree we are still negotiating:

- Mag Essel could again ask us how our negotiations are proceeding and if so: ask us for an update on how our negotiations are proceeding; and what information we are waiting for; or what issue in dispute we are focused on...
- He could state he has read the documentation and provide us with some feedback and/or suggestions.

For example if during the next few weeks:

Clive says he's 'amended will' solution offer is a good faith final offer.

Lara may ask Clive for a draft paragraph of what he intends to write in his amended will. If Clive provides Lara with a draft paragraph; if the paragraph is clear and simple and leaves no room for misinterpretation; then Lara can agree to the amendment of the will; and the paragraph amendment can be submitted to Magistrate Essel to see if he agrees that it is written in clear unequivocal language that will not be misinterpreted. If so; Clive and Ann can have it added to their will; and the final will can be submitted to the court record.

----- Draft Suggestion -----

As of 19 April 2016; Lara's portion of her inheritance, from Clive and Ann Johnstone; is as follows:

Clive and Ann hereby grant Lara the legal authority to use her inheritance after our death; as she considers fit; including for Dignitas Assisted Suicide; should that be her preference.

----- End Draft Suggestion -----

If so: Lara can ask Clive:

- If invested in stock like investments: Lara requests that any of her inheritance invested in stock like investments be withdrawn; and be invested in gold coins; and if agreed by Clive and Ann; Lara requests to know how long it would take to do so. If the economy crashes before Clive and Ann's death; then those investments go up in smoke; there will be no investments for Clive and Ann's retirement; and nothing for Lara to inherit; to guarantee her preference for nonviolent dignity assisted suicide.
- What Clive's reasons are for allowing Lara to use a portion of her will for Dignitas Assisted Suicide; after their death; but not before their death.

If Lara thinks Clive's reasons are unreasonable; she can explain why; and they can ask Magistrate Essel if he thinks Clive's reasons are reasonable. If Magistrate Essel considers Clive's reasons reasonable; then Lara can agree or Appeal to a higher court.

If however Lara thinks Clive's reasons are reasonable; Clive and Lara can submit the final amended will to the court as proof of the final agreement on the issue of dispute: Assisted Suicide.

That still leaves the other issues in dispute to be resolved; but then one issue is partially or entirely resolved.

If however any of the other issues may affect the decision-making on the assisted suicide agreement; its best to make a tentative agreement on the paragraph that will be submitted into the amended will; until the other related issues are resolved.

For example: Pending resolution of Taaibos Barter Exchange Agreement 'issues in dispute'; Lara and Clive agree to the following amendment [See Draft Suggestion] of Clive and Ann's will; with regard to 'Assisted Suicide' allegations issue in dispute:

Postponement: Clive/Lara is Negotiating; and/or Clive/Lara is obstructing:

- If one of us asks for a postponement; and another objects: If I ask for a postponement; due to waiting for certain information; and Clive doesn't want a postponement; he will ask Clive what his reasons are that he does not want a postponement. Then he will listen to both our reasons for our requests; and make a decision about the postponement based on those reasons. If it's a small issue; he may just ask our verbal statements; if it's a bigger issue; he may ask for written statements from both of us.

For example:

- If Lara says; Lara is still waiting for answers to ‘such and such question’ about this or that ‘issue in dispute’:
 - If Magistrate Essel agrees that Lara’s questions are reasonable and relevant to resolving the issue in dispute; he will ask Clive whether Clive is refusing to answer the question; and if so: what Clive’s reasons are for refusing to answer the question;
 - If so: I imagine Mag Essel would probably tell Clive that he is giving pa two or more weeks to explain to Lara and the court in a written affidavit with evidence for his statements; why Clive is refusing to answer the particular questions.
 - Once Clive has provided his affidavit with written reasons for refusing to answer the question; Lara can submit a reply affidavit; with reasons why Lara thinks Clive should be ordered to answer the question.
- Then at the next hearing:
 - Magistrate Essel can consider both Clive and Lara’s affidavits and evidence;
 - Mag Essel could ask either or both of us testify under oath; to clarify anything Clive or Lara said in their affidavits; where we will be able to cross examine each other under oath.
 - If Mag Essel considers Clive’s reasons reasonable and/or legal: he will inform Lara that ‘Clive doesn’t have to answer this or that question’. If you, Lara really think that Clive has to answer that question; you will have to file an appeal with the High court to see if they agree with you and overturn my reasons for agreeing with Clive that he doesn’t have to answer that question.
 - If Mag Essel considers Clive’s refusal to answer questions unreasonable; he could inform Clive that he considers Clive’s refusal to answer the questions to be in contempt of court; and punish him with a fine or prison; until Clive answers the question; depending on how important he considers the answers to the particular question to be. He will inform Clive; if you, Clive really think I should not be holding you responsible for answering this question; then you can file an Appeal with the high court to see if they agree with you and overturn my reasons for demanding that you answer this question or be held in contempt of court.

Postponement: Magistrate Essel is Truthseeking:

- Mag Essel could have questions regarding anything we said in our affidavits; or in supporting evidence; that he wants clarified, so he can be clear and make a fully informed decision on that issue.
- I have asked him to provide juridical oversight of our negotiations in an inquisitorial capacity; rather than adversarial capacity; which if you read the documents; means that if he agrees to provide inquisitorial juridical oversight; he may also make suggestions for further enquiry; before he makes a final ruling.

Here is an excerpt from the documents filed; where I ask the Magistrate to provide Inquisitorial Oversight of Negotiations:

Judicial Oversight:

Confirming the Magistrate's agreement to allow the respondents to notify the court of their respective individual and/or cultural preference for the resolution of these proceedings via (a) inquisitorial truthseeking win-win proceedings; or (b) adversarial zero sum win-lose proceedings.

- Inquisitorial juridical proceedings: An inquisitorial system is a legal system where the court is actively involved; with both parties; in investigating the facts of the case, while simultaneously representing the interests of the state; as is used in countries with civil legal systems; deriving from Roman law or the Napoleonic Code; such as Europe, Russia, China and South America. The presiding judge is not a passive recipient of information. Rather, the presiding judge is primarily or partially responsible for supervising the gathering of the evidence necessary to resolve the case. He or she actively involved in steering the search for evidence and questions the witnesses, including the applicant and respondents. Attorneys suggest routes of inquiry for the presiding judge and follow the judge's questioning with questioning of their own.
- Adversarial judicial proceedings: An Adversarial juridical system is a legal system used in the common law countries; such as America, Canada, Britain and Australia. Advocates represent their parties' positions before an impartial person or group of people, usually a jury or judge, who attempt to determine the truth of the case; but whose final decisions are limited to the court record information provided to them by what the attorneys consider 'relevant'. The judge or jury knows nothing of the litigation until the parties present their cases to the decision maker, and cannot take an active truthseeking role in the proceedings. The defendant in a criminal trial is not required to testify.

Those are just some of the 'normal' options; but there may be other 'God/ET coincidence' options.

Postponement: God/ET Coincidence Option:

For example:

Magistrate Essel's car won't start cause his car's battery was hacked until its kaput; or he's got a sudden totally flat tyre; so he spends the whole morning at the mechanic to get a new battery / find out there is nothing wrong with his tyre; it just went totally flat on its own; or he's got a strange form of diarrhea; and a substitute magistrate postpones all the cases to a new date.

One or more of the above options:

As I said; I don't know what Magistrate Essel's response shall be on 10 May.

It depends on any or more of the above negotiation factors.

Lara