



Lamb  
CHAMBERS

# Daniel Dippenaar

Called 1996 (SA); 2007 (E&W)

- Personal injury and medical practice
- Employment



## Profile

Daniel is a practising barrister of more than 17 years call dually qualified to practice as a member of the Bar of England & Wales (called 2007) and as an Advocate of the Supreme Court of South Africa (called 1996).

## Personal injury and clinical negligence

Daniel's practice in England and Wales has grown steadily over the years to cover the full spectrum of personal injury matters and a number of clinical negligent cases. His case load is mainly multi-track, but he continues to appear in deserving fast track trials from time to time and plays an active role in ADR proceedings.

## Related cases of interest

*Dr Hennie Nagtegaal v Mr Aziz Hussain* HQ12X01970 — A difficult case on liability and quantum in which the claimant suffered from retrograde and post traumatic amnesia after the onset of injuries sustained when he was knocked over by a motorbike; the only witness evidence available being that of the defendant who made a statement to the police shortly after the accident. The Claimant's household insurers initially decided to discontinue funding the case. Presented with Daniel's written advice on liability they were brought back on board. In spite of a real risk of losing the case altogether and contributory negligence always looming in the background, a settlement of £75,000 was secured.

*Keely Morgan v Marks & Spencer* IUC51166 — Liability eventually being conceded, the claimant's damages resultant from a frozen shoulder and fracture dislocation of the elbow settled for £98,000.

*Ventislav Petrov Bankov v Mr Ian McCowen* — Daniel acted for the claimant-pedestrian who was run over by the defendant's car at a controlled pedestrian crossing. The defendant called an eye-witness, the claimant had no one to support his case. At trial the defendant was held liable; the court determining the eye-witness' evidence to be unreliable.

*Amanuel Mengstab v Joseph Agoncillo* 2YJ64595 — An overeager martial arts instructor severely fractured his student's arm when demonstrating an arm-lock. Daniel cross-examined three martial arts experts who attempted to show that the claimant (student) by resisting the instructor's arm-lock technique was in reality the author of his own misfortune. The court found that instructors such as Agoncillo have a duty of care to prevent injury to a novice taking part in potentially harmful activities.

*June Happe v London Borough of Islington* 1UC60776 — A particularly difficult highway trip and fall case in which the claimant was unable to point out the offending cobble stone. Evidence of general and systemic lack of maintenance swayed the balance of probabilities in her favour.

*Yohnas Mulugetha v Ministry of Defence* — In a case of alleged police brutality a settlement was reached after Daniel advised on the possibility of a claim for exemplary or aggravated damages. A confidential settlement was reached.

*Charles Goult v Andrew Lumb* OLA00753 — When a dog tore and ripped off the bottom lip off a young man soon to be married Daniel's advice was sought. The claimant wanted to know if 'aesthetic prejudice' should be acknowledged as a separate head of general damages. To what extent is case law in South African, Canadian and Australian jurisdictions comparable and are they likely, particularly in Charles' case, to assist England's courts? These questions will remain unanswered (for now) as the case settled for £210,000 (handicap on the open market valued around £87,000 - total claim reduced by 1/3 on account of contributory negligence).

*Veck v MJD Group Limited* HQ12X04238 — Under what circumstances could or should a court permit an actuary's expert report to determine life expectancy of a claimant who smoked and was a long-time diabetic? In this case the impact of the actuary's expert report will remain uncertain; however, the defendant agreed a substantially higher settlement post receipt of actuarial evidence. The claim settled for £160,000 less than 3 weeks before trial.

*Pritiam Singh Patti v East of Anglia Ambulance Service NHS Trust* HQ12X02939 — A potentially far reaching judgment was delivered on 4th April 2014 by Master Cook. In this case Daniel argued for relief from sanctions (which was granted) following the late filing (6 weeks) of one of the claimant's expert reports.

## Employment

Daniel is actively extending the scope of his practice to include advising on a wide range of employment related issues. He is particularly interested in the potential overlap of the respective jurisdictions of the civil courts and employment tribunals and claims resultant from discrimination, harassment and wrongful and unfair dismissals.

## Direct access

Whilst Daniel is qualified to do direct access work, he prefers to maintain the well-established roles of and teamwork dynamics between barrister and solicitor.

## Further information

### Qualifications

Daniel completed the required 6 years of legal studies (1989 – 1994) at the then Rand Afrikaans University (now the Johannesburg University) to obtain two law degrees:

B.Proc. (Baccalaureus Procurationis)

LL.B. (Baccalaureus Legum)

### Background

Before becoming a lawyer Daniel worked as a police detective in various specialist branches. When Daniel was appointed at age 23 as a Lieutenant he became one of the youngest commissioned police detective officers in South Africa.

He continued to head a number of criminal investigation departments; his last position that of a Captain and Branch Commander of the Johannesburg North Vehicle Theft Unit responsible for investigating insurance fraud, hi-jacking of vehicles and organised crime syndicates.

During this 13 year period Daniel also qualified as a fingerprint expert, crime scene photographer and plans draftsman trained in the gathering of evidence for forensic examination. He was a key expert witness in several high profile prosecutions involving fraud and theft charges against government officials and senior police officers.

The importance of forensic evidence gathered at a crime scene has been the subject matter of one such case in which Daniel gave evidence (Judgment, February 20, 1984) reported many years later in **S v Van As 1991 (2) SACR 74 (W)**.

Daniel later served under a two year attorneys' articles-contract in the civil litigation department of Blakes Incorporated, Johannesburg. He was admitted to practice as an attorney on 2nd August 1994.

Daniel's inclination at the Cape Bar was to steer his practice away from criminal to civil law. He focussed his 1st five years at the Bar on insolvency, competition and corporate law.

However, in 2001 a career-changing event took place: On 8th June 2001 a final 3rd year Cape Technikon student,

Juan van Minnen, was murdered on a Western Cape suburban commuter train. It was alleged that Juan's death resulted from the total disregard of Metrorail (a state owned company) for the safety and security of their passengers. The Rail Commuter Action Group ("RCAG") representing more than 600,000 rail commuters was formed by volunteering members of Daniel's local community to take the rail authorities to task. Daniel was asked to provide his legal services for free. What followed was an epic legal group/class action battle that would last more than 5 years through the entire higher courts hierarchy.

## Notable reported South African Cases

### ***Rail Commuter Action Group and Others v Transnet Ltd T/A Metrorail and Others (No 1) 2003 (5) SA 518 (C)***

the applicants sought a declaratory order and a mandamus; i.e. relief to declare the rights of commuters and to compel the government to introduce reasonable measures to prevent violent attacks on train commuters. The Cape High Court found that the railway authorities have a legal duty to protect the lives and property of commuters while they are making use of rail transport services. The complex legal principles decided by the court of first instance would eventually pave the way for future litigation by many injured train commuters falling victim to crime.

### ***Rail Commuter Action Group and Others v Transnet Ltd T/A Metrorail and Others (No 2) 2003 (5) SA 593 (C)***

Joyous moments abruptly came to an end when in the rail authorities were granted leave to appeal.

### ***Transnet Ltd t/a Metrorail and Others v Rail Commuters Action Group and Others 2003 (6) SA 349 (SCA)***

In three separate judgments by five appeal court justices the first instance judgment was overturned leaving Daniel's clients with no relief at all. Essentially the SCA found that the case could not succeed because there were fundamental disputes of fact on the papers which altogether precluded the Cape High Court from granting the relief which it did.

### ***Rail Commuters Action Group and Others v Transnet Ltd t/a Metrorail and Others 2005 (2) SA 359 (CC)***

Devastated by the outcome in *Transnet Ltd t/a Metrorail and Others v Rail Commuters Action Group and Others* (2003), Juan's father and disillusioned victims pressed on to the Constitutional Court. In issues of public interest were advanced afresh before the Constitutional Court. Finally, Daniel's clients' case was vindicated: Organs of state performing public functions and providing certain public services should be held accountable for the manner in which they provide those services and should be provided in such a way that they are consistent with constitutional rights of commuters.

### ***Santam Bpk v Van Niekerk 1998 (2) SA 342 (C)***

### ***Ex Parte Pieterse 2001 (1) SA 1247 (C)***

### ***S v Manuel and Others 1997 (2) SACR 505 (C)***

## Comment

At the end of the hearing of in ***Rail Commuter Action Group and Others v Transnet Ltd T/A Metrorail and Others (No 1)***, Advocate Henri Viljoen SC, by then the lead silk in the case, took the unusual step to thank Daniel, his junior, in open court.

*"It is extremely important for South African courts to translate the words of the constitution into a better life for all. Before I sit down, I want to thank all my colleagues at the Cape Bar who helped us. They will remain unnamed except for one, Danie Dippenaar. Dippenaar ran this case from the beginning. He is the driving force behind us all."*

(‘Danie’ is Afrikaans for ‘Danny’) The media got hold of this and a High Court reporter wrote about the extraordinary court event:

**Did you hear the one about the lawyers who worked for free? Estelle Ellis, Cape Argus, Tuesday 3 September 2002.**

Others followed suit:

*"Your selfless persistence and driving spirit is an inspiration to all of us, particularly those in politics where self-interest and financial gain is, sad to say, increasingly prevalent"*

**Felicity Purchase – Chairperson, Democratic Alliance, Wards 69 and 70 Branch.**

**Thank you Danie!, People’s Post, 25 September 2002.**

Daniel was particularly touched by the comments of **Leslie van Minnen**, Juan’s father:

*"How then do I begin to thank those who stood by us through all these years? Our legal team, which came together by the efforts of Danie Dippenaar, stuck to the goal of seeking justice, knowing that at the end of the day they may not have received a cent for three years of work".*

**Victory against Metrorail: the victors comment, Leslie van Minnen, People’s Post, 30 November 2004.**

**Men of Integrity, Viv von der Heydon, People’s Post, 11 September 2002.**

The work of Daniel and fellow colleagues at the Cape Bar did not go unnoticed. An article written by the then Chairman of the General Bar of South Africa gives a glimpse of the daunting task Daniel had to face:

*"By the time the matter reached the Constitutional Court the formal court record ran to well over 7,000 pages. The preparation of the affidavits required perusal by the RCAG’s legal representatives of more than 56,000 pages of documents which had been the subject of informal discovery by the respondents. (This would*

*equate to about 186 lever arch files.) The indefatigable Danie Dippenaar – in a real sense the engine room of the RCAG’s legal team, from beginning to end – was personally involved in this process, which consumed hundreds of hours”.*

**Advocate Norman Arendse SC, Tribute to lawyers involved in the Metrorail case, The Advocate (The South African Bar Journal), April 2005.**

Three South African silks need to be acknowledged; without their respective contributions the eventual outcome before the Constitutional Court would not have been successful:

Adv Henri Viljoen SC

Adv Paul Hoffman SC

Adv Milton Seligson SC

Commending Daniel to the English Bar, **Advocate Henri Viljoen SC**, an acting judge on many occasions in various High Court divisions, wrote a reference in which he said:

*“In my dealings with him he demonstrated to me his tenacity, capacity for extraordinarily hard work and professional commitment. I got to know him personally as a person with great strength of character, high principles and, as I have said, a prodigious capacity for hard work. ”*

**Huguenot Chambers, Cape Town, 17th March 2006.**

## Memberships

Association of Personal Injury Lawyers

Personal Injury Bar Association

Employment Lawyers Association

Professional Negligence Bar Association

## Languages

Fluent Afrikaans

## Interests

Fly fishing (beginner); exploring the English countryside.

Watching rugby; general fitness training.

## Email address

danieldippenaar@lambchambers.co.uk

## Contact clerk

Adrian Hawes

## VAT reg no

905630540