

IN THE HIGH COURT OF SOUTH AFRICA  
(WESTERN CAPE DIVISION, CAPE TOWN)

Case No: 19814/2015

CAPE TOWN: 28 August 2017

Before the Honourable Mr Justice P. Gamble

In the matter between:

CAROLINE ROSA LAURA DANNEELS First Plaintiff

HENDRIK MARIA VICTOR PAULUS VERHEYDEN Second Plaintiff

BART GODELIEVE JAAK MARIA VERHEYDEN Third Plaintiff

CECILIA KRISTIAAN VERONIQUE VERHEYDEN Fourth Plaintiff

ERIK ANNA ADOLF MARIA VERHEYDEN Fifth Plaintiff

and

KHULULEKA RETREAT CC Defendant



**DRAFT ORDER**

By agreement between the parties,

**IT IS HEREBY ORDERED:**

1. That the settlement agreement, a copy of which is annexed hereto marked "A", is made an order of this Court.



BY ORDER OF THE COURT

COURT REGISTRAR



IN THE HIGH COURT OF SOUTH AFRICA  
(WESTERN CAPE DIVISION, CAPE TOWN)

*A*  
*[Handwritten signature]*  
28/9/19

Case No. 19814/2015

In the matter between:

CAROLINE DANNEELS

First Plaintiff

HENDRIK VERHEYDEN

Second Plaintiff

BART VERHEYDEN

Third Plaintiff

CECILIA VERHEYDEN

Fourth Plaintiff

ERIK VERHEYDEN

Fifth Plaintiff

and

KHULULEKA RETREAT CC

Defendant

SETTLEMENT AGREEMENT

2019 -09- 02

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA  
WESTERN CAPE DIVISION,  
CAPE TOWN

Private Bag X9020, Cape Town 8000

WCD-028

GRIFFIER VAN DIE HOOGGEREGSHOF SUID-AFRIKA,  
WES-KAAP AFDELING

WHEREAS the plaintiffs instituted action against the defendant arising out of the death

by drowning of Bavo Verheyden, a foreign tourist, on 18 April 2011 at Ntafufu beach,

Wild Coast, Eastern Cape;

AND WHEREAS the owners of the lodge business previously conducted by the defendant have (a) consented to publishing a warning (in terms of internationally acceptable standards) against the dangers of swimming in the oceans around South Africa without proper precautions and the presence of lifeguards and (b) offered to erect a sign on Ntafufu beach (in so far as may be permissible in terms of legislation) and the

*[Handwritten initials]*



lodge's property warning of the possible presence of rip tides and the danger of swimming in the ocean in the absence of a lifeguard;

**AND WHEREAS** the defendant acknowledges that it had a legal duty to take all reasonable steps to warn the deceased and the third plaintiff of the potential hazards of swimming at Ntafufu beach, where local knowledge is required to identify the risks of, for example, the presence of rip currents, and that it failed to comply with the aforesaid legal duty;

**IN FULL AND FINAL SETTLEMENT OF THE PLAINTIFFS' CLAIM AGAINST THE DEFENDANT, THE PARTIES AGREE AS FOLLOWS:**

1. The plaintiffs' claims against the defendant are hereby settled on the basis that the defendant will pay the plaintiffs the sum of R500,000 (five hundred thousand Rand), in full and final settlement of the plaintiffs' claims for capital, interest and costs, by depositing same into the account of the plaintiffs' attorneys within 10 (ten) days of this agreement being made an order of court. The plaintiffs' attorneys trust account details are as follows:

**LOWE & PETERSEN**  
**ABSA BANK**  
**ACC NO: 405-045-5762**  
**BRAND CODE: 312-109**  
**REF: L/3428/DAN7/0001**

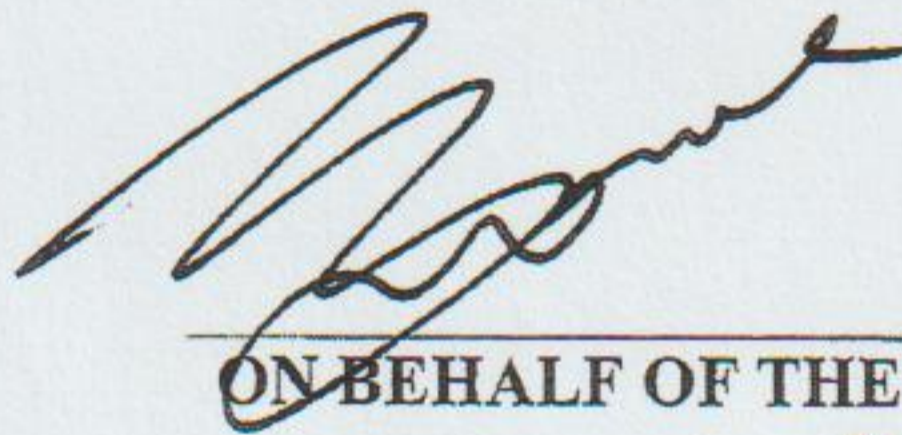


*P B*



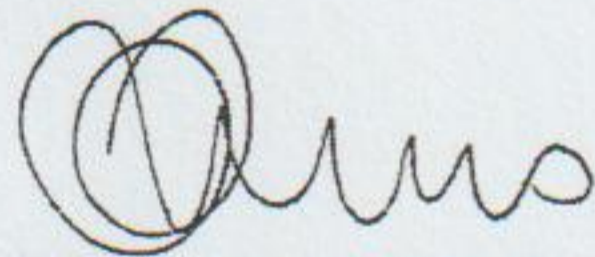
2. The parties agree that this agreement be made an order of court.

DATED AT CAPE TOWN ON THIS **23<sup>rd</sup>** DAY OF AUGUST 2019.



ON BEHALF OF THE PLAINTIFFS  
Per: B.A. LOWE

DATED AT PRETORIA ON THIS **23<sup>rd</sup>** DAY OF AUGUST 2019.



ON BEHALF OF THE DEFENDANT  
Per: P.F. VILJOEN

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA WESTERN CAPE DIVISION, CAPE TOWN		
Private Bag X9020, Cape Town 8000		
	2019 -09- 0 2	
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GRIFFIER VAN DIE HOOGGEREGSHOF SUID-AFRIKA, WES-KAAP AFDELING, KAAPSTAD		