



KERN ATTORNEYS
INCORPORATED
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Our ref: G.Armstrong/M.Sebola/M038
Your ref:

03 Oct. 18

Attention: Mr Salatiso Lonwabo Mdeni

Per Email: salatiso@salatiso.com

Dear Sir,

RE: LUKHANYO SAZI MKOSANA (“THE MINOR CHILD”)

1. We refer to the above matter and more specifically your request to the family advocate to conduct a mediation in terms of section 21 (3)(a) of the Children’s Act, [Act 38 of 2005], that was sent to our office on 19 September 2018.
2. As you are aware, we confirm that we act for and on behalf of Mpho Mkosana (“our client”).
3. Any reference to the “Act” shall mean the Children’s Act, Act 38 of 2005 (“the Act”).
4. Our client instructs that she has never disputed the fact that you are a co-holder of parental rights and responsibilities in respect of the minor child.
5. From your reference to Section 21 (3)(a) of the Act, in your aforesaid request, we confirm that, despite what is stated in the document under reply, it is your request that a mediation take place in order to confirm that you are a co-holder of parental rights and responsibilities. We advise that this request is nonsensical and a waste of both our client and your time in that you already

are a co-holder of parental rights and responsibilities for the following reasons:

- 5.1. *In terms of Section 21 of the Act, an unmarried father automatically acquires full parental responsibilities and rights in respect of his child:*
 - 5.1.1. *if he lived with the child's mother in a permanent life partnership at the time of the child's birth;*
 - 5.1.2. *Regardless of whether or not he lived with the child's mother in a permanent life partnership, he nonetheless still acquires full parental responsibilities and rights if he complies with the requirements set out in Section 21(1)(b) which provides that he must:*
 - 5.1.2.1. *be identified or consent to being identified as the child's father;*
 - 5.1.2.2. *contributed or have attempted in good faith to contribute towards the child's upbringing;*
 - 5.1.2.3. *he must have contributed or attempted to contribute in good faith towards the child's maintenance for a reasonable period of time.*
 - 5.1.3. *It is important to bear in mind that a father who meets all these requirements, qualifies for automatic parental responsibilities and rights without the necessity of having to approach the High Court for an Order.*
 - 5.1.4. *In the event of there being a dispute between the child's mother and father as to whether the father has met the requirements of Section 21(1)(b) the dispute must be referred to mediation (Section 21 (3)(a)) and in the event of the mediation being unsuccessful, either party can thereafter approach the High Court for adjudication of their matter.*
6. Accordingly, we advise that you automatically qualified to be a co-holder of parental rights and responsibilities in respect of the minor child and the relief you seek (i.e. contact), in your request under reply, should be dealt with by application to the family court, High Court or through the appointment of a mediator who will draft a parenting plan which in turn would need to be made an order of court.

7. Our client is still amenable to convening a round-table meeting at our office in order to finalise a parenting plan, however if you are still against this approach, we then suggest that you approach the family court for the relief you seek (i.e. contact) and that you withdraw the request in terms of section 21 (3)(a).
8. Our client is also intending to apply for a passport for the minor child and therefore we are instructed to humbly request that you furnish us with the necessary consent to that effect, in order for our client to apply for the passport.
9. All our client's rights remain strictly reserved.

Yours Faithfully

M Sebola

(electronically transmitted unsigned)