



## **NUMSA WINS LANDMARK CONSTITUTIONAL COURT DECISION ON LABOUR BROKERS!**

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**FOR IMMEDIATE RELEASE**

The National Union of Metalworkers of South Africa (NUMSA) welcomes the decision of the Constitutional Court on a judgement which strengthens the rights of temporary workers.

### **BACKGROUND**

The case concerned the interpretation of the amendment to section 198A(3)(b) of the Labour Relations Act 66 of 1995 (LRA) and whether this deeming provision resulted in a “sole employment” relationship between a placed worker and a client or a “dual employment” relationship between a Temporary Employment Service (TES), a placed worker and a client. The Labour Appeals Court set aside the order of the Labour Court and held that a placed worker who has worked for a period in excess of three months is no longer performing a temporary service and the client, as opposed to the TES, becomes the sole employer of the worker by virtue of section 198A(3)(b) of the LRA.

In the Labour Court it was held that a proper reading of the section could not support the sole employer interpretation. It instead held that section 198A(3)(b) created a dual employment relationship, in which both the TES and the client have rights and obligations in respect of the workers. In an appeal, by NUMSA, to the Labour Appeals Court it was found that the sole employer interpretation best protected the rights of placed workers and promoted the purpose of the LRA.

**The Constitutional court upheld the decision of the Labour Court and this and dismissed the application made by Assign Services with costs.**

## **WHAT DOES THIS MEAN FOR ORDINARY WORKERS?**

This means that casual workers who earn R205 000 per annum and less, who are employed by labour brokers, are eligible to become permanent employees of the main employer after 3 months. Labour brokers can no longer abuse these contracts and extend them beyond the 3-month stipulation given in the Labour Relations Act.

This is a major victory for casual and temporary workers who are abused by Labour brokers. We view this as the first step in ending the Labour brokering system in South Africa. Our experience with labour brokers is that they are extremely abusive and expose workers to low wages and terrible working conditions. We hope this decision will be the death knell of the entire industry and, as NUMSA, we will continue to fight for a total ban on Labour brokers. We call on all casual workers to unite behind NUMSA so we can ensure their rights in the workplace.

Aluta continua!

The struggle continues!

Issued by Irvin Jim

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