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

CASE NO: 18904/13

In the matter between:

EVELYN WILHELMINA PEASE	First Applicant
PROGRESSIVE PRINCIPALS ASSOCIATION	Second Applicant
and	
GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA	First Respondent
MINISTER OF BASIC EDUCATION	Second Respondent
MEC FOR EDUCATION: EASTERN CAPE	Third Respondent
MEC FOR EDUCATION: FREE STATE	Fourth Respondent
MEC FOR EDUCATION: GAUTENG	Fifth Respondent
MEC FOR EDUCATION: KWAZULU-NATAL	Sixth Respondent
MEC FOR EDUCATION: LIMPOPO	Seventh Respondent
MEC FOR EDUCATION: MPUMALANGA	Eighth Respondent
MEC FOR EDUCATION: NORTHERN CAPE	Ninth Respondent
MEC FOR EDUCATION: NORTH WEST	Tenth Respondent
MEC FOR EDUCATION: WESTERN CAPE	Eleventh Respondent
NATIONAL MINISTER OF FINANCE	Twelfth Respondent
NATIONAL MINISTER OF SOCIAL DEVELOPMENT	Thirteenth Respondent
PUBLIC PROTECTOR	Fourteenth Respondent
SOUTH AFRICAN HUMAN RIGHTS COMMISSION	Fifteenth Respondent
AUDITOR-GENERAL	Sixteenth Respondent

APPLICANTS' HEADS OF ARGUMENT IN REPLY

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1. **INTRODUCTION**

A Notice to strike out

1.1. As far as the notice of strike out is concerned, the applicants respectfully draw attention to the fact that all of the material which the respondents seek to strike out can properly be characterised as a permissible response to matters raised in the answering affidavit deposed to by the second respondent. The applicants' founding affidavit was deposed to on 10 November 2013 and could not foresee developments since then such as the publication of the book in which Patricia Martin has contributed a chapter (annexure **"EWP2"**), the publication of Dr Rice's experiment in Barrydale (**"EWP3"**), the institution of proceedings this year in relation to the non-delivery of school books in Limpopo, in Basic Education for All and Others v Minister of Basic Education and Others[1] which led to the handing down of the judgment of Tuchten J, a copy of which has been made available to this Honourable Court by the respondents' counsel, on 6 May 2014.

1.2. The remainder of the material objected to, while not of recent origin, is nevertheless a permissible response to matters raised in the answering affidavit of the second respondent, and ought properly to be received in evidence.

[1] Case no. 23949/14; judgment 5 May 2014

1.3. New matter in reply is the type of material that ought to have been included in the founding affidavit. The applicants are not blessed with prescience. They could not anticipate the relevant developments that have occurred in 2014. They are entitled to respond to the matters raised by the second respondent in her answering affidavit to the extent that it is relevant to do so.

1.4. In paragraph 6.2 of the affidavit in support of the notice of strike out, the bald allegation is made that the material objected to is irrelevant, vexatious and/or scandalous.

1.5. The applicants dispute that this is the case and further dispute that there has and can be any prejudice to the respondents by reason of the inclusion of the material objected to.

(a) Legal principles: Motion Proceedings:

1.6. In motion proceedings the affidavits serve not only to place evidence before the Court but also to define the issues between the parties.[2]

[2] Swissborough Diamond Mines (Pty) Ltd and Others v Government of the Republic of South Africa and Others 1999 (2) SA 279 (T) at 323F – 324C. Cf:Hart v Pinetown Drive-In Cinema (Pty) Ltd 1972 (1) SA 464 (D) at 469C–E cited with approval in Minister of Land Affairs and Agriculture v D&F Wevell Trust 2008 (2) SA 184 (SCA) at 200D; MEC for Health, Gauteng v 3P Consulting (Pty) Ltd 2012 (2) SA 542 (SCA) at 550G–551C; MEC for Education in Gauteng Province and Others v Governing Body Rivonia Primary and Others CCT 135/12 [2013] ZACC 34 at para 93 et seq

1.7. If the Respondent fails to admit or deny, or confess and avoid, allegations in the Applicant's affidavit, the court should, for the purposes of the application, accept that the Applicant's allegations are correct.[3]

(b) Legal principles: Striking out:

1.8. Rule 6(15), in relevant part, provides that:

> 'The court may on application order to be struck out from any affidavit any matter which is scandalous, vexatious or irrelevant, with an appropriate order as to costs, including costs as between attorney and client. The court shall not grant the application unless it is satisfied that the Applicant will be prejudiced in his case if it be not granted.'

1.9. Two requirements must be satisfied before a striking out application can succeed, *viz.*[4]:

1.9.1. the matter sought to be struck out must indeed be scandalous, vexatious or irrelevant; and

1.9.2. The court must be satisfied that if such matter is not struck out the parties seeking such relief would be prejudiced.

1.10. The meaning of the terms used in the rule was stated as follows[5]:

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[3] Moosa v Knox 1949 (3) SA 327 (N) at 331. United Methodist Church of South Africa v Sokufundumala 1989 (4) SA 1055 (O) at 1059A; Plascon-Evans Paints Ltd v Van Riebeeck Paints (Pty) Ltd 1984 (3) SA 623 (A) at 634 et seq Ebrahim v Georgoulas 1992 (2) SA 151 (B) at 153D

[4] Beinash v Wixley 1997 (3) SA 721 (SCA) at 733B; Securefin Ltd v KNA Insurance and Investment Brokers (Pty) Ltd [2001] 3 All SA 15(T); Tshabalala-Msimang v Makhanya [2008] 1 All SA 509 (W) at 516g–h; National Director of Public Prosecutions v Zuma 2009 (2) SA 277 (SCA) at 308B

> ‘Scandalous matter - allegations which may or may not be relevant but which are so worded as to be abusive or defamatory.
>
> Vexatious matter - allegations which may or may not be relevant but are so worded as to convey an intention to harass or annoy.
>
> Irrelevant matter- allegations which do not apply to the matter in hand and do not contribute one way or the other to a decision of such matter.’

1.11. ‘*Irrelevant*', for the purposes of the Rule, means irrelevant to an issue or issues in the action: [6].

> '(T)he correct test to apply is whether the matter objected to is relevant to an issue in the action. And no particular section can be irrelevant within the meaning of the Rule if it is relevant to the issue raised by the plea of which it forms a part. That plea may eventually be held to be bad, but, until it is excepted to and set aside, it embodies an issue by reference to which the relevancy of the matter which it contains must be judged.’[7]

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[5] Vaatz v Law Society of Namibia 1991 (3) SA 563 (Nm) at 566C–E; Cf.: Tshabalala-Msimang v Makhanya [2008] 1 All SA 509 (W) at 516e-f; Breedenkamp v Standard Bank of South Africa Ltd 2009 (5) SA 304 (GSJ) at 321C–E

[6] Stephens v De Wet 1920 AD 279 at 282; Meintjes v Wallachs Ltd 1913 TPD 278 at 285; Rail Commuters' Action Group v Transnet Ltd 2006 (6) SA 68 (C) at 83E.

[7] Stephens v De Wet 1920 AD 279 at 282

1.12. In Golding v Torch Printing and Publishing Co (Pty) Ltd and Others[8] Ogilvie-Thompson AJ, as he then was, said:

> 'A decisive test is whether evidence could at the trial be led on the allegations now challenged in the plea. If evidence on certain facts would be admissible at the trial, those facts cannot be regarded as irrelevant when pleaded.'

1.13. Historical background, even if strictly not relevant, should not be struck out[9]:

> 'For the sake of clarity the history of a case is often permissible as an introduction to allegations founding the cause of action.'

1.14. In Rail Commuters' Action Group v Transnet Ltd[10], this Court held[11]:

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[8] 1948 (3) SA 1067 (C) at 1090. Cf.: Habib v Patel 1917 TPD 230 at 232; Geyser v Geyser 1926 TPD 590 at 594; Weichardt v Argus Printing & Publishing Co Ltd 1941 CPD 133 at 145; Golding v Torch Printing & Publishing Co (Pty) Ltd 1948 (3) SA 1067 (C) at 1090; Rail Commuters' Action Group v Transnet Ltd 2006 (6) SA 68 (C)(supra) at 83H. Stated differently: What concerns the court is whether the passage sought to be struck out is relevant in order to raise an issue on the pleadings: Bosman v Van Vuuren 1911 TPD 825 at 832; Stephens v De Wet 1920 AD 279 at 282; Brown v Bloemfontein Municipality 1924 OPD 226 at 229; Geyser v Geyser 1926 TPD 590 at 593-5; Katz v Saffer and Saffer 1944 WLD 124 at 133; Rail Commuters' Action Group v Transnet Ltd (supra) at 83G-H.

[9] Richter v Town Council of Bloemfontein 1920 OPD 172 at 173/4; Ahlers NO v Snoeck 1946 TPD 590 at 594.

[10] Supra at 83I-84B.

[11] Considering submissions on behalf of an Applicant for the striking out of passages from particulars of claim which contained allegations concerning historical background, extensive references to facts and circumstances which existed in previous decades, the findings of two commissions or committees of enquiry and certain medical research on the basis that they were irrelevant to the relief claimed by the plaintiffs as they added nothing, as a matter of pleading, to the issues between the parties and served only to add 'clutter' to the particulars of claim

'In the first place, much of what is pleaded in the allegedly offending passages …is clearly history. Even if some of this may be regarded, strictly speaking, as irrelevant, the pleading of history for the sake of clarification is permissible ….

In some of the passages under attack, … the plaintiffs have pleaded a long history of the conduct and state of knowledge of the first and second defendants and of their precursors in function at various times in the past. ..(The) plaintiffs seek a mandatory interdict, in final form, directing the first and second defendants to take certain steps relating to the provision of proper and adequate safety and security for rail commuters…. (The) plaintiffs seek a declaratory order that…first and second defendants have breached their obligations to take reasonable steps to provide for and ensure the safety and security of rail commuters in that they have failed to take the allegedly reasonable steps ….It seems to me to be open to the plaintiffs, and to be perfectly legitimate, to plead and attempt to prove at the trial, factual matter from which they will, in due course, invite the trial Court to draw certain relevant inferences from the past conduct of the first and second defendants, and of their precursors in

function. Whether such conduct was lawful or not is not, to my mind, of any great moment: If certain evidence of past conduct goes to show a likelihood of repetition of the same or similar conduct in the future, it will probably be relevant and consequently admissible as showing a course of conduct. And if the evidence is relevant and therefore admissible, such facts 'cannot be regarded as irrelevant when pleaded' (Golding's case (supra) loc cit).

The same applies… to evidence which goes to show a particular state of mind or knowledge on the part of the first and second defendants or of their precursors in function: In my view, it is open to and legitimate for the plaintiffs to plead and attempt to prove at the trial what the state of mind or knowledge of the first and second defendants (or that of their precursors in function) was at the time when they acted or failed to act in particular ways, in particular circumstances in the past; and to invite the trial Court to draw appropriate inferences from such evidence, including an inference that the same or similar conduct will probably be repeated in the future, if an interdict is not granted.

Much of the matter objected to by the first and second defendants… seems to me to be directed at showing that the attention of the first and second defendants, or of their precursors in function, was repeatedly drawn by various more or less official persons and bodies to certain shortcomings, over a long period, and that they were repeatedly warned of the necessity or desirability of taking certain measures, but that, despite such knowledge and warnings, the first and second defendants and their precursors in function persisted in their erstwhile conduct, much as before. I do not say for a moment that the plaintiffs will necessarily, or even probably, establish these things: I have no idea whether or not they will succeed in doing so. But, if that is the case which they wish to put up, I fail to see how what they have pleaded can be said to be irrelevant to that case, or how they can be precluded from advancing their case by making the relevant allegations. Indeed, by making the relevant allegations, they are probably laying the foundation for a full and proper formulation of the precise issues which will arise for determination at the trial, something which ought to be welcomed rather than discouraged.

Similarly., .. it is legitimate and permissible for them to attempt to prove at the trial, and therefore also to plead, that first and second defendants and their precursors in function have, over a long period, acted or failed to act in certain ways, and with a certain state or states of mind or knowledge, and to invite the trial Court to draw appropriate inferences from such conduct relating to the probability or otherwise of it having been persisted in ... Again, I express no view as to the plaintiffs' prospects of success in establishing such a probability: but I am unable to agree … that the allegations concerned are irrelevant to the issues or that the plaintiffs should be precluded, by a striking-out order, from putting forward a case which is based on the above propositions.

As for the attack on section E of the particulars of claim (the first and second defendants' legal obligations and duties): It is true that, in … its order, the Constitutional Court declared that the first and second defendants have an obligation *'to ensure that reasonable measures are taken to provide for the security of rail commuters whilst they are making use of rail transport services provided and ensured by respectively, the first and second Respondents'.* In

… the particulars of claim, the words of this order are pleaded virtually verbatim. There can surely be no valid objection to that. But the order is couched in extremely wide and non-specific terms. Neither from the words of the order itself nor from the content of the judgment of the Constitutional Court is it possible to give precise content to what exactly the obligation resting on the first and second defendants comprises, in concrete, practical terms. In my view, the Constitutional Court did not attempt to codify or to set out in any detail the content of the first and second defendants' obligations. It left that to the trial Court, if the then Applicants wished to pursue the matter, as they now do. This, it seems to me, is what the plaintiffs have now set out to do in …their particulars of claim. …(T)hey plead that the first and second defendants have certain statutory obligations arising from the Legal Succession to the South African Transport Services Act 9 of 1989 and also certain obligations and duties at common law. None of these allegations are in conflict with anything that the Constitutional Court has said either in its order or in its judgment, nor do they pretend to qualify or amend anything which that Court has said; they merely seek to add practical detail and concrete

content to the order. In my view, there is nothing objectionable in that. It is certainly not irrelevant to the question of what the first and second defendants' obligations comprise and entail.

It is correct, … that much of what has been pleaded in the allegedly offending passages is evidence. However, that is insufficient reason, in itself, to justify its being struck out. Nor am I able to apprehend any real prejudice to the defendants if the allegedly objectionable matter is not struck out. Whilst there is perhaps a degree of prolixity in the manner in which it has been formulated and set out in the particulars of claim, it must be borne in mind, … that the matter is a complex one, it is a class action involving a wide range of activities, and the plaintiffs seem to me to wish to plead and prove a course of conduct and a particular state or states of mind and knowledge on the part of the first and second defendants and of their precursors in function at various times. The defendants do not contend that they are unable to plead to or to deal properly or adequately with the relevant allegations. At worst for them, I think, it may possibly be difficult or inconvenient: but that is not a sound basis for a striking-out order.

> I am not persuaded that any of the matter under attack is irrelevant to the issues in this case; and no other proper basis has been advanced for its exclusion from the pleadings.'[12]

B First to thirteenth respondent's heads of argument

1.15. In paragraphs 52 to 58 of the respondents' heads of argument the question of strike out is dealt with in a manner that makes it unclear whether the respondents intend to proceed with an application to strike out only the material included in the replying papers or whether the additional material referred to in footnote 113 on page 30 of the respondents' heads of argument is being persisted in, despite its non-inclusion in the notice to strike out served on 8 May 2014 [record page 3385].

1.16. There is no "formal undertaking" to limit the supplementary affidavit to the ANA results to 2013, only an indication of "possibly supplementing this affidavit" [record page 73, par 98bis].

1.17. The other material of which the respondents complain is the final report of the Office of the Public Protector ("OPP"), called *Learning Without Books*, which was published on 5 December 2013, which date was

[12] At 84D-87A

after service of the founding affidavit. Had the ANA results and the OPP report been in existence at the time that the application was prepared they would have been included. There is no perfect time to launch public interest litigation of this kind in which the best interests of children are directly implicated and it is submitted that the court order of 10 December 2013, permits timeous supplementation, which was done.

1.18. The applicants persist in their contention that the Swissborough[13] dictum is not applicable in the circumstances of this matter. The finding of the full bench of this court referred to in paragraph 55 of the heads of the respondents is on appeal to the Constitutional Court and the facts in that matter are distinguishable from the present case on the basis that in this matter the court is in essence sitting as upper guardian of minor children and in determining the issues in the matter, will pay due consideration to the provisions of C28(2).

1.19. The applicants have not merely annexed documentation and requested the court to have regard to it. On the contrary, they have identified (wherever possible on oath) the context within which this matter has to be determined.

1.20. The material introduced at p 320 of the record regarding lack of books to the extent of 6,6% on average countrywide, is not a mere annexure

[13] See footnote 2 above

to an affidavit. It is material that is before the court on oath by way of a confirmatory affidavit of its author and the purpose for which it was introduced and the basis upon which it has been introduced is clearly set out in paragraphs 48, 49, 50 and 51 of the founding affidavit [record page 33 to 36]. In argument the respondents referred the Court to paragraph 52 [record page 36] as the sole basis for the introduction of the SA Survey publications. It is respectfully submitted that both the SA Surveys (2011, 2012 and 2013) and the Child Gauges (2010/2011, 2012 and 2013) are properly before the Court and that the basis upon which they have been introduced is unexceptionable.

1.21. This is a matter that concerns the rights and interests of children. The Constitution prescribes that the best interests of children be regarded as paramount in all matters concerning them [C28(2)]. This is a matter that concerns children and this right is also available to children via the application of section 9 of the Children's Act 38 of 2005.

FURTHER POINTS *IN LIMINE*

2. As regards the other *in limine* issues identified in Chapter III of the respondents' heads of arguments, the applicants' reply is set out hereunder.

2.1. JURISDICTION:

2.1.1. It is not the intention of the applicants to request that this court order other divisions of the High court to supervise the structural interdicts sought in the notice of motion. The type of supervision order sought in this matter is wholly different to that referred to in the decision of Tuchten J in the recent Basic Education For All[14] case. *In casu* the applicants seek to deal prospectively with future problems with the delivery of Learner Teacher Support Materials ("LTSM"), rather than retrospectively with short delivery thereof. The nature of the supervision order that the applicants seek is of a systemic kind aimed at addressing the causes of short delivery of textbooks, rather than the results of systems failures. The need for a proper system is manifest and this Court has jurisdiction to award a structural interdict of the type sought in paragraph 5 of the notice of motion. The problems with delivery occur in all jurisdictions, in every province of the country, as appears from the official statistics summarised on p320 of the record.

2.2. RES JUDICATA

[14] See footnote 1 above.

2.2.1. There is no attempt in this application to re-litigate textbook delivery problems in other provinces The purpose of this application is to draw the attention of the Court to the widespread and systemic nature of the problem and the need for the education authorities to reasonably address what has become a perennial problem.

2.3. MOOTNESS AND STALENESS

2.3.1. The respondents contend that the applicants should be relying on accurate contemporary evidence concerning basic education, yet seek to strike out accurate contemporary evidence, that replies to the criticism that the opinion and data on which the application rests, is irrelevant and inaccurate [record page 1197, par 227].

2.3.2. Annexure **"EP3a"** was merely introduced as a means of explaining the quintile system and not for any other purpose. The quintile system is still in place and the way in which a school is allocated to a particular quintile is clearly relevant. Any proper reading of record p18, par 24, demonstrates that the purpose of having introduced **"EP3a"** was simply to set out fully how the allocation of a school to a particular quintile

is determined and not as evidence of the state of basic education.

2.4. LEGAL STANDING

2.4.1. The second applicant has legal standing under C38.

2.5. NON-JOINDER

2.5.1. In a matter of this nature the real respondent is the Government of the Republic of South Africa and it is unnecessary to cite each and every functionary or organisation that may be impacted by the relief claimed when the Government itself is cited and properly before the Court.[15]

2.5.2. In Independent Electoral Commission v Langeberg Municipality[16] it was held that

> *"the national sphere of government comprises at least Parliament, the president and the Cabinet all of which must exercise national legislative and executive authority within the functional areas to which the national sphere of*

[15] Richards and Another v Port Elizabeth Municipality and Others 1990 (4) SA 770 (SE); Independent Electoral Commission v Langeberg Municipality 2001 (3) SA 925 (CC) Mabaso v Law Society, Northern Provinces and Another 2005 (2) SA 117 (CC), at par 13

[16] 2001 (3) SA 925 (CC), at par 25

government is limited. These state organs comprise the national sphere of government and are within it."

2.5.3. The Government includes Parliament, and the involvement of the former thus includes the involvement of the latter.

2.5.4. Rule 10A of the Uniform Rules of Court provides as follows:

"If in any proceedings before the court, the constitutional validity of a law is challenged, the party challenging the validity of the law shall join the provincial or national executive authorities responsible for the administration of the law in the proceedings." (emphasis added)

2.5.5. The omission of the legislative authority from Rule 10A is clear.

2.5.6. SACE is an organ of state and would only be indirectly impacted by the granting of any of the relief claimed. The Pan South African Language Board plays an adjudicative role in the Language in Education Policy and accordingly is not an appropriate candidate as a respondent in this case.

2.6. URGENCY

2.6.1. The applicants have nothing to add to their main heads of argument.

2.7. THELETSANE'S CASE INAPPLICABLE

2.7.1. The rule in Administrator of Transvaal and Others v Theletsane 1991 (2) SA 192 (A) is not applicable in this matter because it is the **conduct** of the respondents which is in issue as can be seen from any fair reading of the notice of motion. The relief claimed centres around the:

2.7.1.1. failure to equip the majority of learners with literacy and numeracy skills;

2.7.1.2. failure to ensure delivery of LTSM;

2.7.1.3. failure to equip teachers in public schools with adequate skills and training;

2.7.1.4. failure to curb *inter alia,* the lack of professionalism of the majority of teachers;

2.7.1.5. failure to take reasonable steps to prevent the marginalisation and neglect of indigenous languages in schools;

2.7.1.6. failure to ensure an adequate grounding in mother tongue; and

2.7.1.7. failure to make available adequate early childhood development services.

2.7.2. These matters all relate to the lack of implementation of reasonable steps, including urgent and interim steps as may be necessary to address reasonably and responsibly each and every failure and/or omission to comply with C29(1)(a) as read with C1(2), 6(2), 7(2), 9, 10, 12(2), 195(1) and 237 of the Constitution, by taking reasonable and accountable steps to remedy the matter of which the applicants complain in paragraphs 2.1 to 2.6 of their notice of motion.

2.7.3. The applicants rely on the foundational values of C1(d) of the Constitution insofar as they entrench the values of accountability and responsiveness as founding precepts. In so claiming, the applicants rely upon the supremacy of the Constitution which is expressed in C2 as *'[t]he Constitution is the supreme law of the Republic; law or conduct inconsistent with it is invalid and the obligation imposed by it must be fulfilled'*.

2.7.4. The main constitutional obligation upon which the applicants rely is that the state must respect, protect, promote and fulfil the right of everyone to a basic education. This right is not limited to schooling and includes ECD.

2.7.5. The complaint of the applicants concerns the failure of the respondents to so conduct themselves as to reasonably implement constitutionally compliant laws, policies, programmes, practices and plans that would reasonably discharge the state's obligation in relation to the delivery of basic education.

2.7.6. Theletsane's case is essentially about applicants changing horses in mid-case. The applicants *in casu* have not done this. In any event, in constitutional litigation, once the court is alerted to the presence of an infringement or threatened infringement of a right in the Bill of Rights, then, and in that event, *"the court may grant appropriate relief including a declaration of rights"* [see C38].

2.7.7. This flexible notion of the rights of those listed in C38(a) to (e) *"to approach a competent court alleging the a right in the Bill of Rights has been infringed or threatened"* is completely consonant with the notion of participatory democracy, access to courts and absence of formalism.

2.7.8. In this regard we refer to the remarks of Khampepe J in the case of Mankayi v Anglogold Ashanti Ltd 2011 (5) BCLR 453 (CC):[17]

[17] At paras 15 - 17

"The protection of the right to the security of the person may be claimed by any person and must be respected by public and private entities alike. Neither counsel addressed specific argument on whether the alleged extinction of a common law right infringed upon ***section 12(1)(c).*** *Despite the absence of pointed argument on this issue, in my view the question whether this Court entertains jurisdiction to decide a case does not depend on counsels' approach. What is evident is that the right to security of the person is engaged whenever a person is subjected to some form of injury deriving from either a public or a private source. This is because the common law right to claim damages for the negligent infliction of bodily harm constitutes an effective remedy required by section 38 of the Constitution in order to protect and give effect to the section 12(1)(c) right, as in Law Society.*

In Fose v Minister of Safety and Security, this Court recognised that "appropriate relief" may entail any relief that is required to protect and enforce the Constitution, and that an order for payment of damages qualifies as appropriate relief for purposes of section 38.

Delictual remedies protecting constitutional rights may thus constitute appropriate relief for purposes of section 38 of the Constitution."

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Adv. R.P. HOFFMAN (SC)

Adv. N.C. LAWRENSON

Chambers

20 May 2014

LIST OF AUTHORITIES

1. *Administrator of Transvaal and Others v Theletsane* 1991 (2) SA 192 (A)
2. *Ahlers NO v Snoeck* 1946 TPD 590
3. *Bosman v Van Vuuren* 1911 TPD 825
4. *Basic Education for All and Others v Minister of Basic Education and Others*, Case no. 23949/14; judgment 5 May 2014
5. *Beinash v Wixley* 1997 (3) SA 721 (SCA)
6. *Breedenkamp v Standard Bank of South Africa Ltd* 2009 (5) SA 304 (GSJ)
7. *Brown v Bloemfontein Municipality* 1924 OPD 226
8. *Ebrahim v Georgoulas* 1992 (2) SA 151 (B)
9. *Geyser v Geyser* 1926 TPD 590
10. *Golding v Torch Printing and Publishing Co (Pty) Ltd and Others* 1948 (3) SA 1067 (C)
11. *Habib v Patel* 1917 TPD 230
12. *Hart v Pinetown Drive-In Cinema (Pty) Ltd* 1972 (1) SA 464 (D)
13. *Independent Electoral Commission v Langeberg Municipality* 2001 (3) SA 925 (CC)
14. *Katz v Saffer and Saffer* 1944 WLD 124
15. *Mabaso v Law Society, Northern Provinces and Another* 2005 (2) SA 117 (CC)
16. *Mankayi v Anglogold Ashanti Ltd* 2011 (5) BCLR 453 (CC)
17. *MEC for Education in Gauteng Province and Others v Governing Body Rivonia Primary and Others* CCT 135/12 [2013] ZACC 34

18. *MEC for Health, Gauteng v 3P Consulting (Pty) Ltd* 2012 (2) SA 542 (SCA)
19. *Meintjes v Wallachs Ltd* 1913 TPD 278
20. *Minister of Land Affairs and Agriculture v D&F Wevell Trust* 2008 (2) SA 184 (SCA)
21. *Moosa v Knox* 1949 (3) SA 327 (N)
22. *National Director of Public Prosecutions v Zuma* 2009 (2) SA 277 (SCA)
23. *Plascon-Evans Paints Ltd v Van Riebeeck Paints (Pty) Ltd* 1984 (3) SA 623 (A)
24. *Rail Commuters' Action Group v Transnet Ltd* 2006 (6) SA 68 (C)
25. *Richards and Another v Port Elizabeth Municipality and Others* 1990 (4) SA 770 (SE)
26. *Richter v Town Council of Bloemfontein* 1920 OPD 172
27. *Securefin Ltd v KNA Insurance and Investment Brokers (Pty) Ltd* [2001] 3 All SA 15(T)
28. *Stephens v De Wet* 1920 AD 279
29. *Swissborough Diamond Mines (Pty) Ltd and Others v Government of the Republic of South Africa and Others* 1999 (2) SA 279 (T)
30. *Tshabalala-Msimang v Makhanya* [2008] 1 All SA 509 (W)
31. *United Methodist Church of South Africa v Sokufundumala* 1989 (4) SA 1055 (O)
32. *Vaatz v Law Society of Namibia* 1991 (3) SA 563 (Nm)
33. *Weichardt v Argus Printing & Publishing Co Ltd* 1941 CPD 133