IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

CASE NO.: 89196/16

In the matter between

ECONOMIC FREEDOM FIGHTERS — **FIRST APPLICANT**

JULIUS SELLO MALEMA — **SECOND APPLICANT**

and

AFRIFORUM NPC — **FIRST RESPONDENT**

AFRISAKE NPC — **SECOND RESPONDENT**

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA GAUTENG DIVISION, PRETORIA
PRIVATE BAG/PRIVAATSAK X67
PRETORIA 0001
2017 -06- 20
L. P. M. BATISTA
REGISTRAR'S CLERK
GRIFFIER VAN DIE HO- HOF VAN
SUID-AFRIKA, GAUTENG AFDELING, PRETORIA

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DATED at PRETORIA on this the 15th day of JUNE 2017

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Attorneys for the Respondents
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Kloofsig, Centurion
Tel: (012) 664 0708
Fax: (012) 644 1997
Ref: Tertius Kruger/AF0028

TO: **THE REGISTRAR OF THE HIGH COURT**
Pretoria

AND TO: **KWINANA & PARTNERS INCORPORATED**
Applicants' Attorneys
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Johannesburg
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Ref: **Mr. Kwinana/Ms Mrerwa**

C/O MASEKELA MASENYA ATTORNEYS
Suite N503 – N504
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Received Copy Hereof:
Date: _____
Name: _____
Signature: _____

Cornel Pienaar

From: Tendai Mrerwa <tendai@kp.co.za>
Sent: 19 June 2017 11:44 AM
To: cornel@hurterspies.co.za
Cc: Thabo Kwinana; Tertius; celeste@hurterspies.co.za
Subject: Re: AfriForum // EFF & JULIUS MALEMA

Dear Cornel,

The above matter and your email under reply refer.

We acknowledge receipt of the indices herein.

Regards,

Ms Tendai Mrerwa
Kwinana & Partners Inc
p: 011 678 1816 & 011 057 1016/7
f: 086 561 7741
a: 119 First Avenue
Fairland, 2195
e: tendai@kp.co.za

On Mon, Jun 19, 2017 at 10:45 AM, Cornel Pienaar <cornel@hurterspies.co.za> wrote:

Dear Tendai,

I refer to our telephonic conversation and my unsuccessful attendance (I confirm that nobody was at the office) at your correspondent's offices.

As discussed we shall serve the indices electronically. Therefore kindly find enclosed herewith the indices.

Kindly acknowledge receipt hereof in good order.

We then await your heads of argument herein within 10 days as per the practice manual.

I trust you shall find the above to be in order.

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

Case No:89196/16

In the matter between:

ECONOMIC FREEDOM FIGHTERS First Applicant

JULIUS SELLO MALEMA Second Applicant

and

AFRIFORUM NPC First Respondent

AFRISAKE NPC Second Respondent

SUPPLEMENTARY INDEX – RESCISSION APPLICATION

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SIGNED AND DATED at JOHANNESBURG on this 10th day of April 2017

Sgd. T.S. KWINANA

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Ref: Mr Kwinana/Ms Mrerwa
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PRETORIA
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Email: alphy@maslaw.co.za
Ref: Mr ALPHY MASENYA

TO: THE REGISTRAR OF THE ABOVE HONOURABLE COURT
PRETORIA

AND TO: HURTER SPIES INCORPORATED
Respondents' Attorneys
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Received copy hereof on 10
day of April 2017 11:59

For: Respondents' Attorneys

Ontvang Sonder Benadeling
Received Without Prejudice

Hurter Spies Ing / Inc

'1(a)'

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

Case No:89196/16

In the matter between:

ECONOMIC FREEDOM FIGHTERS

First Applicant

JULIUS SELLO MALEMA

Second Applicant

and

AFRIFORUM NPC

First Respondent

AFRISAKE NPC

Second Respondent

SUPPLEMENTARY NOTICE OF MOTION – RESCISSION OF DEFAULT ORDER

TAKE NOTICE that the applicants will make application to the above Honourable Court for the following Order:

(a) condoning the late filing of the Applicants' rescission application.

(b) rescinding the Order of Mabuse J dated 7 March 2017.

(c) costs to be costs in the main application, save in the event of opposition, the party so opposing this rescission application be ordered to pay costs.

(d) further and/or alternative relief.

TAKE NOTICE FURTHER that the attached supplementary affidavit of **THABO SINDISA KWINANA** will be used in support of this application.

TAKE NOTICE FURTHER that the Applicants have appointed the offices of **MESSRS KWINANA & PARTNERS INC** of 119 First Avenue, Fairland, Randburg, c/o **MASEKELA MASENYA ATTORNEYS**, Suite N503 – N504, JSL Towers, 259 Pretorius Street, Pretoria Central as the address at which it will accept notice and service of all process in these proceedings.

TAKE NOTICE FURTHER that if the respondents intend opposing this application, they must:

1. Notify the Applicants' attorneys thereof in writing within 5 days of receipt hereof;

2. File their answering affidavit (if any) within 15 days after having given notice to oppose the Application.

TAKE NOTICE FURTHER that if no Notice to Oppose is received, or if the Answering Affidavit is not received in time, the Application will be heard on 08 JUNE 2017 at 10:00 or so soon thereafter as counsel may be heard.

TAKE NOTICE FURTHER that the attached supplementary affidavit of **THABO SINDISA KWINANA** will be used in support of this application.

SIGNED AND DATED at JOHANNESBURG on this 10th day of April 2017

1(c)

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Ref: Mr ALPHY MASENYA

TO: **THE REGISTRAR OF THE ABOVE HONOURABLE COURT**
PRETORIA

AND TO: **HURTER SPIES INCORPORATED**
Respondents' Attorneys
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For: Respondents' Attorneys

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

Case No:89196/16

In the matter between:

ECONOMIC FREEDOM FIGHTERS	First Applicant
JULIUS SELLO MALEMA	Second Applicant
and	
AFRIFORUM NPC	First Respondent
AFRISAKE NPC	Second Respondent

2017 04 05

NOTICE OF APPLICATION – RESCISSION OF DEFAULT ORDER

TAKE NOTICE that the applicants will make application to the above Honourable Court for the following Order:

(a) rescinding the Order of Mabuse J dated 7 March 2017.

(b) costs to be costs in the main application, save in the event of opposition, the party so opposing this rescission application be ordered to pay costs.

(c) further and/or alternative relief.

TAKE NOTICE FURTHER that the attached affidavit of **JULIUS SELLO MALEMA** will be used in support of this application.

TAKE NOTICE FURTHER that the Applicants have appointed the offices of **MESSRS KWINANA & PARTNERS INC** of 119 First Avenue, Fairland,

Randburg, c/o **MASEKELA MASENYA ATTORNEYS**, Suite N503 – N504, JSL Towers, 259 Pretorius Street, Pretoria Central as the address at which it will accept notice and service of all process in these proceedings.

TAKE NOTICE FURTHER that if the respondents intend opposing this application, they must:

1. Notify the Applicants' attorneys thereof in writing within 5 days of receipt hereof;

2. File their answering affidavit (if any) within 15 days after having given notice to oppose the Application.

TAKE NOTICE FURTHER that if no Notice to Oppose is received, or if the Answering Affidavit is not received in time, the Application will be heard on 08 June 2017 at 10:00 or so soon thereafter as counsel may be heard.

SIGNED AND DATED at JOHANNESBURG on this 6th day of April 2017.

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Ref: Mr ALPHY MASENYA

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AND TO: **HURTER SPIES INCORPORATED**
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Ontvang Sonder Benadeling
Received Without Prejudice

Hurter Spies Ing / Inc

Received copy hereof on 7
day of April 2017 9:56

For: Respondents' Attorneys

4

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

Case No:89196/16

In the matter between:

ECONOMIC FREEDOM FIGHTERS	First Applicant
JULIUS SELLO MALEMA	Second Applicant

and

AFROFORUM NPC	First Respondent
AFRISAKE NPC	Second Respondent

APPLICANTS' AFFIDAVIT IN SUPPORT OF RESCISSION OF DEFAULT ORDER

I, the undersigned

JULIUS SELLO MALEMA

state under oath that

1. I am the President of the first applicant (the "**EFF**"). I am duly authorized to bring this application and to depose to this affidavit on behalf of the first applicant. I also bring this application on my own behalf.

2. The facts contained herein are within my personal knowledge, unless it appears otherwise from the context, and are to the best of my belief true and correct.

AMJS

3. I depose to this affidavit in support of the applicants' application for the rescission of the order of the above Honourable Court dated 7 March 2017 granted in the absence of the applicants, and without the knowledge of the applicants of the matter. Mabuse J ordered that the applicants are "*interdicted from inciting and/or instigating and/or commanding and/or procuring any individuals to commit the crime of trespassing as described in the Trespass Act, 6 of 1959 and/or to enter any land belonging to or in control of any individual/s or entity/entities, without the required permission of the landowner/s or lawful occupant/s of land, or a lawful entitlement to do so*". The Court also ordered that the applicants pay costs of the application on the punitive scale of attorney and client. A copy of the Order is attached as annexure "**JSM1**".

4. I am advised that to succeed in this application, the applicants are required to show good cause for the Court to exercise its discretion to rescind the order of Mabuse J.

Reason for Default of Appearance

5. The EFF and I only became aware of the respondents application for the first time on 8 March 2017 from various media reporting the granting of the Order against us.

6. As is apparent from the Sheriff's Return of Service, attached hereto as annexure "**JSM2**", the application for an interdict was delivered to an employee of the EFF, Ms Promise Mtembu on 16 November 2016 at

JSM TS

the address of the EFF. Mtembu was then Manager to the Secretary-General of the EFF. Mr Godrich Gardee who is the Secretary-General and Ms Hlengiwe Hlophe-Maxon the Deputy Secretary-General are the only officials responsible for the administration of the day-to-day activities of the EFF. They are the persons responsible for receiving and ensuring that, *inter alia*, any legal process involving the EFF and its officials are brought to the attention of the EFF's Central Command Team, the highest decision making body between the EFF's National People's Assembly which is convened every five years.

7. Mtembu did not bring the application and papers to the attention of these two officials who are responsible for the day-to-day administration of the eff. Neither did she bring the application and papers to the attention of the EFF's Head of Legal Services, Mr Linda Mabengwane. Attached herewith respectively marked annexures **"JSM3"**, **"JSM4"** and **"JSM5"** are the confirmatory affidavits of Mr Gardee (EFF's Secretary General), Ms Hlengiwe Hlophe-Maxon (EFF's Deputy Secretary General) and Mr Linda Mabengwane (EFF's Head of Legal Services) in respect herein.

8. The application against me personally was also delivered to Mtembu notwithstanding that the address of the EFF is not my *domicilium executandi*. Mtembu was not my secretary or assistant or otherwise authorized to receive legal documents on my behalf. Mtembu did not bring the application and the papers to my attention.

1171 JS

9. At the time that the application was delivered to Mtembu, she was undergoing disciplinary action which resulted in the termination of employment with effect from 31 December 2016. I attach a copy of an extract from the settlement agreement between the EFF and Mtembu relating to the termination of her employment as annexure **"JSM6"**

10. Due to the circumstances of Mtembu's termination from the employ of the EFF, it has not been possible to obtain from her an explanation for the failure to bring the application to the attention of the EFF and myself. Due to the coincidence of events and time, in particular, that she was undergoing disciplinary action at the time that the application was delivered, the only possible explanation for Mtembu's failure to bring the application to the attention of officials of the EFF is that she did so out of spite and ill-will towards the applicants in the circumstances.

11. In the light of the seriousness and far-reaching nature of the relief sought by and granted to the respondents, the applicants would not have elected not to oppose the relief that was claimed and would have entered appearance to oppose and filed opposing papers and be present at court when the matter would have been heard.

12. The applicants' failure to enter appearance is not the result of willful default, or indeed disregard of the rules of court and the consequence of the Order. It is the result of an employee who either did not appreciate the importance of the matter or was downright spiteful in her conduct.

JS

13. I respectfully submit that it is apparent from the above that the applicants did not elect not to participate in the proceedings that resulted in the Order of Court. Their default is the result of an employee who was not authorized to make such an election on behalf of the applicants, which she did by not bringing the application to the attention of the applicants.

14. Further, and as is widely known, I am a member of Parliament and very often I am not at the office of the EFF. I am often in Cape Town attending to my parliamentary duties. I also travel extensively across the country on the business of the EFF. The respondents are or should be aware of this and by a simple search could have ascertained my home or parliamentary address for service of the papers against me, which would have ensured that I received the application timeously which would have obviated this application. In November 2016, including the date of service of the application, I was in Cape Town on parliamentary duties.

Bona Fide Defence and Prospects of Success

15. The EFF is a registered political party. Its objects include transformation of the economy and land restoration. These objects are not unlawful or illegal, as evidenced by the registration of the EFF as a lawful political party.

DM JS

16. In furtherance of its objects, the EFF has the constitutional right to propagate and to pronounce on its political positions, objectives and positions on various matters, in furtherance of its objects. This includes pronouncements on issues of land, including the history of land dispossession and its views on solutions to the yet unresolved issue of land restoration and redistribution.

17. An interdict that has the effect of preventing the EFF from pronouncing on its objects, including comment on the history of, and proposed solutions to correct the historical fact of land dispossession, unjustifiably infringes the constitutional right of the EFF, a registered and legal political party. The interdict has this effect.

18. The Order in its breadth and wide reach has a chilling effect on the EFF's right to pronounce its position on land issues, including land under the control of persons who are not members of the respondents, including the State. The respondents have no right in respect of such land which does not belong to their members. They accordingly cannot have any reasonable apprehension of harm in respect of such land. The Court should not have granted the Order on its terms.

19. The Order on its terms is vague. This is so because the terms "*instigation*", "*incitement*", "*commanding*" and "*procuring*" are not defined in the Order and do not carry a singular or universal definition. As a result, the Order has the potential to prevent the EFF making any pronouncements at all on issues of land, for fear of falling foul of the Order. To that end, the Order is unduly and unreasonably oppressive

JPM JS

and should not have been granted on its terms. The respondents have no right to such a wide and far-reaching Order.

20. The respondents rely on a list of incidents in support of the application:-

20.1. That I presently face 2 criminal charges for speeches I made in 2014 and 2015 relating to land issues. The criminal prosecution in both instances is pending and arrangements for the criminal trials have not commenced. Both matters are the subject of a constitutional challenge, and therefore irrelevant, and should not have been taken into account by the Court in granting the Order.

20.2. The television interview of Ntobong Ntobong in 2015 in which he expressed support for occupation of specific land. This incident has passed and the occupiers were removed from the land by law enforcement officers. The respondents do not allege facts from which it reasonably appears that the affected land will again become the subject of occupation by members or supporters of the EFF. Accordingly, any apprehension of harm in respect of that land or property is unreasonable. In any event, there is no evidence that the EFF or Ntobong was the cause of the occupation of the affected land. In any event, the respondents do not allege that the land in respect of which Ntobong commented belongs to their members. Accordingly, there is no evidence that the respondents have a right to the interdict in respect of such land. It follows that the interdict should not have been granted in respect of such land.

JS

11

20.3. The alleged incidents of land occupation listed by the respondents all occurred in 2015 and 2016. There is no evidence that the EFF or any of its officials intend to incite, instigate, command or procure any persons to occupy the affected land. In any event, there is no evidence that the alleged occupation of the land in question was the result of incitement, instigation, commanding or procurement by the applicants. More specifically, the applicants deny that they are the cause of the alleged occupation of land. I am advised that this issue cannot be determined on the papers and must be resolved through oral evidence. It is important that I point out that in none of the incidents alleged by the respondents was any relief sought or granted against the applicants.

21. Whilst the respondents make reference to statements that I made about occupation of vacant or unused land, there is no evidence that the incidents of land occupation that they allege were the result of the statements they rely on. More particularly, there is no evidence that any of my speeches referred to have been acted upon by the persons involved with the incidents alleged by the applicants. From the evidence before the Court, there is simply no causal link between any of my pronouncements and the alleged incidents listed by the respondents. I am advised that this is not an issue that can be determined without oral evidence.

MT JS

22. The respondents assert that the EFF's position to assist persons arrested and charged for unlawfully occupying land is incitement or instigation is without basis in law, fact or logic. It is not unlawful for the EFF to provide legal assistance to arrested and/or prosecuted land occupiers, and yet this is the effect of the Order. If the interdict is allowed to stand, it will result in the EFF being unable to render this assistance to any person, including persons who would have acted without any reference to the positions of the EFF, and whatever the circumstances of occupation. This effect of the Order is unduly oppressive and not reasonably related to the objects that the respondents allegedly seek to achieve with the interdict, namely, to prevent unlawful occupation of land. In any event, there is no evidence that the legal assistance offered by the EFF is the cause of unauthorized occupation of land by landless people.

23. By the respondents' own account, the EFF's programme is targeted at unoccupied land. Much of such land belongs to the State. The respondents have no authority to act in respect of such land, and yet the consequence of the Order is that State land is included in the Order. The State has not sought such an Order and I make bold to say that the State has never sought such a far-reaching Order as it subscribes to the restoration of disposed land and is also awake to the desperation for land and housing for desperate people who cannot afford to purchase land. In appropriate cases, the State has sought removal orders and yet in others, it has developed land that was initially occupied without its permission to enable proper and orderly settlement. The far-reaching effect of the Order is that it includes such

JS

land in its ambit at the instance of a party that has no right over such land. This arrogates to the respondents a right they simply do not have in law and an interdict in respect of such land should not have been granted.

24. I respectfully submit that the applicants have established a *bona fide* defence to the relief claimed by the respondents and it is in the interest of justice that they should be afforded the opportunity to defend the claim.

25. The EFF has hundreds of thousands of members and even more supporters across the breadth of the country. At any one time and quite often, it has no practical control over their conduct, including their utterances. Many don its regalia for various reasons and at various times. Yet, the relief claimed by the respondents potentially exposes the EFF to sanction for the acts of its members and supporters, over which it does not always have control. This renders the relief claimed far-reaching and incapable of practical compliance with. Further, the relief claimed is vague for failure to specify the persons against whom it applies.

26. Whilst the relief claimed is an order issued by the Gauteng High Court, on its terms it potentially applies in respect of all land in South Africa, when the respondents have no standing to act on behalf of all landowners. The order sought includes geographical areas over which the above Honourable Court has no jurisdiction. The effect of such an order is to impose the jurisdiction of the above Honourable Court on

AMJ JS

the jurisdiction of other courts of equal standing. This is an improper encroachment upon the jurisdictions of other courts of equal standing and the relief claimed should not be granted on its terms.

27 The relief claimed also arrogates to the respondents policing powers of alleged criminal conduct by way of contempt proceedings. The harm that the respondents seek to prevent is regulated by the appropriate criminal law statutes which also prescribe the appropriate sanction. There is no reasonable basis that the respondents have arrogated to themselves this power. Further, affected landowners have the remedy of an interdict and criminal prosecution in the event of disputed land occupation.

28. An order in the broad terms sought will potentially silence the respondents from mobilizing, advocating and agitating for land restitution and reform. This far-reaching consequence makes unreasonable inroads into the right of the EFF, through its members and officials, to propagate for their mission and objects. The order as sought by the respondents is inappropriate in the circumstances where it's only purpose is to harass and terrorise the applicants, and to prevent it from pronouncing on its objects and programmes. It cannot be countenanced that an order of court should be used for this purpose.

JS

The punitive order of costs

29. The Court granted a punitive costs order on the attorney and client scale when there are no special circumstances that justify or warrant a punitive cost order. The applicants did not allege any special facts that warrant the order. In particular, the applicants do not allege that the respondents have offended against previous orders that interdicted them from the conduct complained of. Neither have they alleged any conduct of the respondents in the present application that warrants a punitive cost order. The only consideration that was before the Court was that the applicants refused to give an undertaking on the terms demanded by the respondents.

30. It is so that the applicants refused to agree to the demand of the respondents that they give an undertaking as demanded by the respondents. However, the applicants were well within their rights to refuse to give such an undertaking and to persist, in good faith, in their adopted position, even if they were to later be found to have been wrong with their adopted position. The applicants have a right to insist that their conduct is not unlawful and that any dispute about this must be determined by the Court. The applicants did exactly that. A penalty for asserting this right of the applicants unfairly infringes on their constitutional right to have the dispute between them and the respondents determined by a Court.

31. The refusal to accede to the demand of the respondents does not in itself warrant or justify a punitive cost order. I am advised that this

JS

position is not supported by any principle of law and that such a position would be oppressive to litigants and should not be countenanced. Accordingly, the respondents are not entitled to a punitive cost order.

32. I respectfully submit that the applicants have not shown that they are entitled to the relief claimed. Further, I submit that there are prospects of the applicants' succeeding in their defence of the relief claimed by the respondents. This appears from the allegations set out above.

WHEREFORE I pray that the Court grants an order rescinding the order of Mabuse J dated 7 March 2017.

DEPONENT

THUS SIGNED and SWORN to at JOHANNESBURG on this 06 day of April 2017 the deponent having acknowledged that he knows and understands the contents of this affidavit, that the deponent has no objection to taking the prescribed oath, that the oath which the deponent has taken in respect thereof is binding on the deponent's conscience, and that the contents of this affidavit are both true and correct.

ANDILE ANTHONY JONGUHLANGA SETH
COMMISSIONER OF OATH
PRACTISING ATTORNEYS
CENTRAL TOWERS BUILDING
4th FLOOR , OFFICE 416A
PRETORIUS STREET
PRETORIA, 0001

COMMISSIONER OF OATHS

FULL NAME:

ADDRESS:

DESIGNATION:

'JSM1'

17

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

2017-03-07

Before the Honourable Judge Mabuse
On 07 March 2017

Case No: 89196 / 16

In the matter between:

AFRIFORUM NPC	First Applicant
AFRISAKE NPC	Second Applicant
and	
ECONOMIC FREEDOM FIGHTERS	First Respondent
JULIUS SELLO MALEMA	Second Respondent

DRAFT ORDER

After having read the documents filed and considering the matter and hearing argument on behalf of the Applicants

IT IS ORDERED

1) The First and Second Respondents are interdicted from inciting and/or instigating and/or commanding and/or procuring any individual/s to commit the crime of trespassing as described in the *Trespass Act*, 6 of 1959 and/or to enter any land belonging to or in control of any individual/s or entity/entities,

JS

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without the required permission of the land owner/s or lawful occupant/s of land, or a lawful entitlement to do so

3) The First and Second Respondents are ordered to pay the cost of the Application on an Attorney and Client scale, jointly and severally, the one paying the other to be absolved, which cost shall include the cost of two Counsel where so employed.

BY ORDER
THE REGISTRAR

JS

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JSM 2

VIL-044-1111

19

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION PRETORIA

POST

IN THE MATTER BETWEEN :

CASE NO :89196/16

AFRIFORUM NPC — 1ST APPLICANT
AFRISAKE NPC — 2ND APPLICANT

and

ECONOMIC FREEDOM FIGHTERS — 1ST RESPONDENT

ORIGINAL

(REG.NO. 4250141902)

RETURN OF SERVICE

On the 16TH DAY of NOVEMBER 2016 at 15H25 and at
78 DE KORTE STREET, BRAAMFONTEIN, JHB
the annexed
NOTICE OF MOTION, FOUNDING AFFIDAVIT & ANNEXURES
was served on 1ST RESPONDENT by delivering a copy thereof to
MS PROMISE MTEMBU MANAGER TO S G
who is apparently over the age of 16 years and being a responsible
employee of 1ST RESPONDENT at 1ST RESPONDENT's principal
place of business upon exhibiting the original and
explaining the nature and contents thereof, in terms of RULE 4(1)(a)(v))

Dated at Johannesburg this 17th November 2016

E61

Fees set out as follows:

Service	55.00
Travelling	20.00
Registration	8.00
Return	28.50
Urgent Fee	350.00
	.00
	.00

Attorneys : HURTER SPIES ATTORNEYS
P O BOX 14505
LYTTELTON 0140
0000

Your ref.: AF0028/TERTIUS KRUGER

Our ref.: 005/839085/H44

Fees :R 461.50 R 64.61 Vat = R 526.11

INVOICE NO : 561278
SHERIFF JHB.NORTH - UNIT B1
51/61 ROSETTENVILLE ROAD
VILLAGE MAIN OFFICE PARK
P.O.BOX 9025 JHB 2000

Tel (011) 334-4397/98

Fax (011) 334-4320

JS

JSM 2

012- 644-

20

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION PRETORIA

POST

IN THE MATTER BETWEEN :

AFRIFORUM NPC
AFRISAKE NPC

CASE NO :89196/16

APPLICANT

and
JULIUS SELLO MALEMA

2ND RESPONDENT

O R I G I N A L

(REG.NO. 4250141902)

RETURN OF SERVICE

On the 16TH DAY of NOVEMBER 2016 at 15H25 and at THE ECONOMIC FREEDOM FIGHTERS,78 DE KORTE STREET,JHB the annexed NOTICE OF MOTION,FOUNDING AFFIDAVIT& ANNEXURES was served on 2ND RESPONDENT,by delivering a copy thereof to MS PROMISE MTEMBU MANAGER TO SECRETARY GENERAL who is apparently over the age of 16 years and in a position of authority at the above address, being 2ND RESPONDENT'S place of employment, upon exhibiting the original and explaining the nature and contents thereof, in terms of RULE 4(1)(a)(iii).

Dated at Johannesburg this 17th November 2016

E22

Fees set out as follows:

Service	55.00
Travelling	.00
Registration	.00
Return	28.50
	.00
	.00

Attorneys : HURTER SPIES ATTORNEYS
P O BOX 14505
LYTTELTON 0140
0000
Your ref.: AF0028/TERTIUS KRUGER

Our ref.: 005/839005/M44

INVOICE NO : 561282
SHERIFF JHB.NORTH - UNIT B1
51/61 ROSETTENVILLE ROAD
VILLAGE MAIN OFFICE PARK
P.O.BOX 9025 JHB 2000

Tel (011) 334-4397/98

Fees :R 83.50 R 11.69 Vat = R 95.19 Fax (011) 334-4320

JS

'JSM3'

21

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

Case No:89196/16

In the matter between:

ECONOMIC FREEDOM FIGHTERS	First Applicant
JULIUS SELLO MALEMA	Second Applicant

and

AFROFORUM NPC	First Respondent
AFRISAKE NPC	Second Respondent

CONFIRMATORY AFFIDAVIT

I, the undersigned

LINDA MABENGWANE

state under oath that:

1 I am the Head of Legal Services of the first applicant (the "**EFF**"). I am duly authorized to depose to this affidavit.

2. The facts contained herein are within my personal knowledge, unless it appears otherwise from the context, and are to the best of my belief true and correct.

3. I have read the affidavit of the applicants deposed to by Julius Sello Malema and confirm the contents thereof in so far as they relate to me.

DEPONENT

THUS SIGNED AND SWORN to before me at JOHANNESBURG on this 06 day of April 2017 the deponent having acknowledged that he knows and understands the contents of this affidavit, that the deponent has no objection to taking the prescribed oath, that the oath which the deponent has taken in respect thereof is binding on the deponent's conscience, and that the contents of this affidavit are both true and correct.

ANDILE ANTHONY JONGUHLANGA SETH
COMMISSIONER OF OATH
PRACTISING ATTORNEYS
CENTRAL TOWERS BUILDING
4th FLOOR , OFFICE 416A
PRETORIUS STREET
PRETORIA, 0001

COMMISSIONER OF OATHS

FULL NAME:

ADDRESS:

DESIGNATION:

'JSM 4'
23

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

Case No:89196/16

In the matter between:

ECONOMIC FREEDOM FIGHTERS First Applicant

JULIUS SELLO MALEMA Second Applicant

and

AFRIFORUM NPC First Respondent

AFRISAKE NPC Second Respondent

CONFIRMATORY AFFIDAVIT

I, the undersigned

GODRICH GARDEE

state under oath that

1. I am the Secretary-General of the first applicant (the "**EFF**"). I am duly authorized to depose to this affidavit.

AAJ

24

2. The facts contained herein are within my personal knowledge, unless it appears otherwise from the context, and are to the best of my belief true and correct.

3. I have read the affidavit of the applicants deposed to by Julius Sello Malema and confirm the contents thereof in so far as they relate to me.

DEPONENT

THUS SIGNED AND SWORN TO BEFORE ME at JOHANNESBURG on this 06 day of April 2017 the deponent having acknowledged that he knows and understands the contents of this affidavit, that the deponent has no objection to taking the prescribed oath, that the oath which the deponent has taken in respect thereof is binding on the deponent's conscience, and that the contents of this affidavit are both true and correct.

ANDILE ANTHONY JONGUHLANGA SETH
COMMISSIONER OF OATH
PRACTISING ATTORNEYS
CENTRAL TOWERS BUILDING
4th FLOOR , OFFICE 416A
PRETORIUS STREET
PRETORIA, 0001

COMMISSIONER OF OATHS

FULL NAME:

ADDRESS:

DESIGNATION:

'JSM5
25

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

Case No:89196/16

In the matter between:

ECONOMIC FREEDOM FIGHTERS	First Applicant
JULIUS SELLO MALEMA	Second Applicant

and

AFROFORUM NPC	First Respondent
AFRISAKE NPC	Second Respondent

CONFIRMATORY AFFIDAVIT

I, the undersigned

HLENGIWE HLOPHE-MKHALIPHI

state under oath that:

1. I am the Deputy Secretary-General of the first applicant (the "**EFF**"). I am duly authorized to depose to this affidavit.

HHM

MM

2. The facts contained herein are within my personal knowledge, unless it appears otherwise from the context, and are to the best of my belief true and correct.

3. I have read the affidavit of the applicants deposed to by Julius Sello Malema and confirm the contents thereof in so far as they relate to me.

DEPONENT

THUS SIGNED AND SWORN TO BEFORE ME at JOHANNESBURG on this 06 day of April 2017 the deponent having acknowledged that he knows and understands the contents of this affidavit, that the deponent has no objection to taking the prescribed oath, that the oath which the deponent has taken in respect thereof is binding on the deponent's conscience, and that the contents of this affidavit are both true and correct.

ANDILE ANTHONY JONGUHLANGA SETH
COMMISSIONER OF OATH
PRACTISING ATTORNEYS
CENTRAL TOWERS BUILDING
4th FLOOR , OFFICE 416A
PRETORIUS STREET
PRETORIA, 0001

COMMISSIONER OF OATHS

FULL NAME:

ADDRESS:

DESIGNATION:

'JSM6'

27

SETTLEMENT AGREEMENT

BETWEEN

THE ECONOMIC FREEDOM FIGHTERS (the "EFF")

"EMPLOYER"

and

SETHEMBISO PROMISE MTHEMBU ("Sethembiso")

"EMPLOYEE"

The parties to this agreement are the EFF and Sethembiso.

1. **WHEREAS**, the parties agree that the employment relationship between the EFF and Sethembiso, an employee with a continuous four months' service, has broken down after allegations brought about against her by the EFF. Such allegations are disputed *in toto* by Sethembiso and only a fully-fledged adversarial inquiry process may determine the guilt or otherwise of the employee, Sethembiso;
2. **WHEREAS** the parties agree to resolve their differences outside of a formal disciplinary process;
3. **WHEREAS**, the parties opt for an alternative amicable process of a mutually agreed separation (an "MAS") wherein the EFF shall withdraw, unconditionally, all allegations against Sethembiso in favour of a full and final out of court settlement of the matter;
4. **WHEREAS**, Sethembiso voluntarily agrees to accept the EFF's offer of a full and final settlement of a month's notice and statutory leave payout (5 days), as full and final settlement of the matter.

It is further agreed as follows:

5. The EFF has not placed Sethembiso in any duress when making this offer and this offer is accepted **in good faith** and **without prejudice** on either party.
6. Both parties to this agreement, nor their representatives, undertake NOT to refer the matter for adjudication to any forum, including the CCMA and/or the

SM JS

High Court, after the attachment of signatures to this document as indication of ultimate consent to settlement. **This will be regarded as a waiver**, in terms.

7. As a result of the afore-going, the working relationship between the parties is terminated by **mutual agreement** with effect from **31 December 2017**. It is agreed that Sethembiso will be paid in lieu of notice as stated in point 4 of this agreement and will not be reporting for duty henceforth. In effect, Sethembiso shall tender a resignation and the employer shall accept the resignation likewise.
8. In accordance with point 7 above, Sethembiso agrees to deposit, with the HR Manager, the following tools of trade and employer property in her possession:
    a. Cell phone Samsung and Accessories (brought back)
    b. Internet Gadget, (brought back)
    c. Laptop (None)
    d. All e-mails and correspondence documents of the employer will be deposited into a folder for the IT to collect. Subsequent to that all IT accesses shall be disabled permanently.
9. The total cash component constituting the settlement amount is **R35 896.81** This amount will be subject to employee tax at the rate to be determined by SARS in a form of a **directive**.

SIGNED at Hillcrest, Durban on this 26Th day of January 2017 SM

Mthembu (Sethembiso Mthembu)

(For the EFF)	(DATE)	(WITNESS)
Durban	26/1/2017.	

JS

29

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

Case No:89196/16

In the matter between:

ECONOMIC FREEDOM FIGHTERS	First Applicant
JULIUS SELLO MALEMA	Second Applicant

and

AFROFORUM NPC	First Respondent
AFRISAKE NPC	Second Respondent

SUPPLEMENTARY AFFIDAVIT IN SUPPORT OF PRAYER FOR CONDONAION OF THE LATE FILING OF THE APPLICANTS' RESCISSION APPLICATION

I, the undersigned

THABO SINDISA KWINANA

state under oath that

1. I am an adult male and a practising attorney under the name and style of Kwinana & Partners Inc ("**KP**"), the current Applicants' attorneys of record.

2. KP's registered address and principal place of business is at No.119 First Avenue, Fairland, Johannesburg which address is by extension my very own principal place of business and/or employment.

WP

3. My firm is representing the Applicants herein in respect of the rescission application herein, I have personally been responsible for the conduct of these proceedings.

4. I have at times been assisted by Ms Tendai Josephine Mrerwa and annex hereto a confirmatory affidavit deposed to by her, marked annexure "**A**".

5. In light of the aforementioned and given the fact that the condonation prayer herein is based on events and developments that occurred on and/or under the management of my firm and myself.

6. Consequently, I am best positioned to depose to this supplementary affidavit. I am duly authorised to depose to this affidavit on behalf of the Applicants.

7. The facts deposed to in this affidavit fall within my personal knowledge and are both true and correct.

8. The purpose of this supplementary affidavit is to support prayer 1 in the Applicants' Supplementary Notice of Motion which is an order requesting this Honourable Court to condone the late filing of the Applicants' rescission application.

Reasons for the delay

9. The Applicants became aware of the existence of a default judgment interdict against them infavour of the Respondents herein on 08 March 2017 when it was widely reported in the media.

10. On the very same day, on 08 March 2017 KP, represented by me, addressed an email correspondence to the Respondents' current attorneys of record, requesting copies of the pleadings on an urgent basis. A copy of the said email is attached herewith marked annexure "**B**".

11. On the very same day, on 08 March 2017 in the afternoon, the Respondents' current attorneys of record furnished the copies of the pleadings in respect herein. We attach herewith a copy of such responding email, without annexures so as to avoid prolixity, marked annexure "**C**".

12. The significance of annexures "**B**" and "**C**" is that they evince to the fact that the Applicants became aware of the default order on 08 March 2017 after it had been granted on 07 March 2017[1].

13. According to this Honourable Court's uniform rules, an application for the rescission of the default judgment must be brought within 20 (twenty) days the defendant becomes aware of its existence.

14. The 20th (twentieth) day from 08 March 2017 is on or no later than 06 April 2017.

15. On 06 April 2017, the settling of the Applicants' rescission application was completed by Counsel and the Applicants' attorneys arranged for the founding affidavit and confirmatory affidavits to be deposed before the commissioner of oaths.

[1] A copy of the court order by Mabuse J is annexure "JSM1" to the Applicants' Founding Affidavit to Notice of Motion, pages 17-18 of the record

16. The entire rescission application, duly indexed and paginated was handed over to KP's driver and delivery officer, Mr Abram Ramaboya ("**Ramaboya**") for filing.

17 According to this Honourable Court's practice directives, when an applicant files a Notice of Motion it must first obtain a date of hearing which must be stated in the said Notice of Motion.

18. On 06 April 2017, Ramaboya proceeded to this Honourable Court and was allocated a date of hearing of the Notice of Motion being 08 June 2017, if the rescission application is not defended. This Honourable Court's Registrar even stamped the face of the Index and Notice of Motion on the said date of 06 April 2017.

19. After leaving this Honourable Court, Ramaboya's vehicle encountered a breakdown. He managed to find assistance at 16:00 in the afternoon.

20. When his vehicle was fixed, Ramaboya drove to the Respondents' current attorney's offices and arrived there approximately 17:15.

21. On arrival, there was no one at the said Respondents' attorney's offices and accordingly he could not serve the documents on 06 April 2017.

22. Ramaboya managed to serve the Applicants' rescission application papers on 07 April 2017 at approximately 09:56AM as evinced by the acknowledgement of delivery stamp by the Respondents' attorneys on the attached copy of the Index and Notice of Motion respectively marked annexures "**D**" and "**E**".

23. During the afternoon of Friday 07 April 2017, KP addressed a letter to the Respondents' attorneys explaining the circumstances that resulted in the Applicants' rescission application not served on the Respondents' attorneys on 06 April 2017. For completeness, I attach herewith marked annexure "**F**", a copy of the said letter.

24. At the time of filing of the Supplementary Affidavit, which is an annexure to the Supplementary Notice of Motion, the Respondents had not responded to such letter (annexure "**F**").

25. The strict interpretation of filing in the context of pleadings, is the serving of pleading and/or process to the other party and filing it in court.

26. Although the Applicants rescission application was timeously filed with this Honourable Court's Registrar, as it was not served on the Respondents by 06 April 2017, proper filing had not been effected.

27. The Applicants submit that their failure to serve the rescission application by or on 06 April 2017 was due to circumstances beyond its control in the form of Ramaboya's car breakdown. Once his car was fixed he did attempt to effect service but found the Respondents' attorney's office closed.

28. I pause to mention that Ramaboya was effecting the service and filing from KP's offices in Johannesburg as sending the docuemnts to the Applicant's Pretoria correspondents would have frustrated the timeous service and filing thereof.

29. The Applicants' are only 1 (one) date in filing the rescission application.



30. Such failure to serve the rescission application on the Respondents' attorneys was not due to the fault or negligence of the Applicants but due to an intervening act, in the form of breakdown in Ramaboya's vehicle, which made it impossible for the Applicants to timeously file their rescission application.

31. I attach herewith marked annexure "**G**", a confirmatory affidavit by Ramaboya confirming all what I have said herein in so far as it relate to him.

32. It is my respectful submission that the Applicants have made out a case justifying this Honourable Court to condone the late service and/or filing of their rescission application.

33. On the issues of costs, I respectfully request this Honourable Court to extend prayer (c) herein to the condonation order as well which is the Applicants' that costs be costs in the main application, save in the event of opposition, the party so opposing should be ordered to pay costs in respect herein.

WHEREFORE I pray that this Honourable Court grants an order condoning the late filing of the Applicants' rescission application.

DEPONENT

THUS SIGNED and SWORN to at JOHANNESBURG on this 10 day of April 2017 the deponent having acknowledged that he knows and understands the contents of this affidavit, that the deponent has no objection

to taking the prescribed oath, that the oath which the deponent has taken in respect thereof is binding on the deponent's conscience, and that the contents of this affidavit are both true and correct.

P. M [illegible] Cst

COMMISSIONER OF OATHS

FULL NAME: Cst Winny M[illegible]

ADDRESS: Cnr Sophia and 11th Avenue. Fairland

DESIGNATION: Constable

SOUTH AFRICAN POLICE SERVICE
STATION COMMANDER
10 APR 2017
CLIENT SERVICE CENTRE
FAIRLANDS
SOUTH AFRICAN POLICE SERVICE

'A'
36

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

Case No:89196/16

In the matter between:

ECONOMIC FREEDOM FIGHTERS	First Applicant
JULIUS SELLO MALEMA	Second Applicant
and	
AFRIFORUM NPC	First Respondent
AFRISAKE NPC	Second Respondent

CONFIRMATORY AFFIDAVIT

I, the undersigned,

TENDAI JOSEPHINE MRERWA

do hereby make oath and state that:

1. I am an adult female Legal Secretary for Kwinana and Partners Inc situated at 119 First Avenue, Fairland, Johannesburg.

2. The facts herein stated are, save where otherwise stated or indicated, within my own knowledge and are true and correct.

3. I have read the Founding Affidavit deposed to by **THABO SINDISA KWINANA** and I confirm the contents thereof insofar as they relate to me.

R.
(initial)

DEPONENT

SIGNED and sworn to before me at **FAIRLAND** on the 10 day of ~~MARCH~~ APRIL **2017**, the deponent having acknowledged that he knows and understands the contents of this Affidavit and all the provisions of Act 16 of 1963 and the Regulations promulgated in terms thereof concerning the taking of the oath having been complied with in my presence and within the area for which I have been appointed as Commissioner of Oaths.

P. Mkaizi 2153673-2 CST

COMMISSIONER OF OATHS

10 APR
CLIENT SERVICE CENTRE
FAIRLANDS
SOUTH AFRICAN POLICE SERVICE

'B'
38

Gmail

Tendai Mrerwa <tendai@kp.co.za>

RE: EFF // AFRIFORUM NPC & AFRISAKE NPC: HCGDP CASE NO:89196/16

Thabo Kwinana <thabo@kp.co.za> Wed, Mar 8, 2017 at 10:50 AM
To: celeste@hurterspies.co.za
Cc: Tendai Mrerwa <tendai@kp.co.za>

Dear Celeste

We refer to the above matter and particularly the telephonic discussion of this morning between yourself and our Mr Kwinana.

We have recently been instructed to act on behalf of our client herein, the Economic Freedom Fighters (**"EFF"**).

As per the attached order, we understand that yesterday on 7 March 2017, your clients have obtained an order against our client in respect of this matter which proceeded unopposed and we attach herewith a copy of the court order in respect therein.

We request that you urgently avail to us copies of all pleadings herein for purposes of assessing the matter and advising our client.

Your urgent attention in respect herein will be fully appreciated.

Regards,

kwinana & partners inc
Attorneys

Thabo Kwinana
Kwinana & Partners Inc
t: 011 057 1016/7 m: 073 967 5238
f: 086 561 7741
a: 119 First Avenue
Fairland, 2195
e: thabo@kp.co.za

Court Order 07.03.2017.pdf
365K

'C'
39

Gmail

Tendai Mrerwa <tendai@kp.co.za>

RE: EFF // AFRIFORUM NPC & AFRISAKE NPC: HCGDP CASE NO:89196/16

Celeste Van Vuuren <celeste@hurterspies.co.za> Wed, Mar 8, 2017 at 12:30 PM
Reply-To: celeste@hurterspies.co.za
To: Thabo Kwinana <thabo@kp.co.za>
Cc: Tendai Mrerwa <tendai@kp.co.za>, Tertius <tertius@hurterspies.co.za>, marjorie@hurterspies.co.za

Dear Mr Kwinana

Please find attached hereto a complete copy of the court bundle, as requested.

We trust you find the above in order and await your response.

Vriendelike groete / Kind regards

Celeste van Vuuren

Regssekretaresse/Legal Secretary

Tel: 012 941 9239 / 012 664 0708

Faks/Fax: 012 644 1997 • **E-pos/E-mail:** celeste@hurterspies.co.za

Posadres/Postal Address: Posbus/PO Box 14505, Lyttelton, 0140

Adres/Address: Eerste Vloer / First Floor, AfriForum Gebou / Building,

Hoek van / corner of DF Malan- and Unionlaan / Avenue, Kloofsig, Centurion

Hurter Spies Ing.
prokureurs • attorneys



From: Thabo Kwinana [mailto:thabo@kp.co.za]
Sent: 08 March 2017 10:51 AM
To: celeste@hurterspies.co.za
Cc: Tendai Mrerwa <tendai@kp.co.za>
Subject: RE: EFF // AFRIFORUM NPC & AFRISAKE NPC: HCGDP CASE NO:89196/16

[Quoted text hidden]

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3708K

'D'
40

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

Case No:89196/16

In the matter between:

ECONOMIC FREEDOM FIGHTERS First Applicant

JULIUS SELLO MALEMA Second Applicant

and

AFRIFORUM NPC First Respondent

AFRISAKE NPC Second Respondent

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SIGNED AND DATED at JOHANNESBURG on this 6th day of April 2017

41

KWINANA & PARTNERS INC
Applicants' Attorneys
119 First Avenue
Fairland
Johannesburg
PO Box 781276, Sandton, 2146
Tel: 011 057-1016/ 011 678 1816
Fax: 086 561 7741
E-mails: thabo@kp.co.za &
tendai@kp.co.za
Docex 48, Rosebank
Ref: Mr Kwinana/Ms Mrerwa
c/o MASEKELA MASENYA ATTORNEYS
Suite N503 – N504
JSL Towers
259 Pretorius Street
PRETORIA
Tel: 012 771 5832/ 012 772 3392
Fax: 086 516 7552
Email: alphy@maslaw.co.za
Ref: Mr ALPHY MASENYA

TO: **THE REGISTRAR OF THE ABOVE HONOURABLE COURT**
PRETORIA

AND TO: **HURTER SPIES INCORPORATED**
Respondents' Attorneys
1st Floor, Afriforum Buiding
Cnr of DR Malan and Union Avenue
Kloofsig
Centurion
Tel: 012 941 9239
Fax: 012 644 1997
Email: tertius@hurterspies.co.za
Ref: AF0028

Ontvang / Received
Sonder Prejudice / Without Prejudice

Hurter Spies Ing / Inc

Received copy hereof on 7
day of April 2017

For: Respondents' Attorneys

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IN THE HIGH COURT OF SOUTH AFRICA

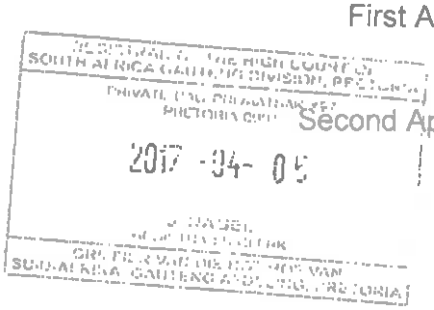
GAUTENG DIVISION, PRETORIA

Case No:89196/16

In the matter between:

ECONOMIC FREEDOM FIGHTERS First Applicant

JULIUS SELLO MALEMA Second Applicant



and

AFRIFORUM NPC First Respondent

AFRISAKE NPC Second Respondent

NOTICE OF APPLICATION – RESCISSION OF DEFAULT ORDER

TAKE NOTICE that the applicants will make application to the above Honourable Court for the following Order:

(a) rescinding the Order of Mabuse J dated 7 March 2017.

(b) costs to be costs in the main application, save in the event of opposition, the party so opposing this rescission application be ordered to pay costs.

(c) further and/or alternative relief.

TAKE NOTICE FURTHER that the attached affidavit of **JULIUS SELLO MALEMA** will be used in support of this application.

TAKE NOTICE FURTHER that the Applicants have appointed the offices of **MESSRS KWINANA & PARTNERS INC** of 119 First Avenue, Fairland,

Randburg, c/o **MASEKELA MASENYA ATTORNEYS**, Suite N503 – N504, JSL Towers, 259 Pretorius Street, Pretoria Central as the address at which it will accept notice and service of all process in these proceedings.

TAKE NOTICE FURTHER that if the respondents intend opposing this application, they must:

1. Notify the Applicants' attorneys thereof in writing within 5 days of receipt hereof;

2. File their answering affidavit (if any) within 15 days after having given notice to oppose the Application.

TAKE NOTICE FURTHER that if no Notice to Oppose is received, or if the Answering Affidavit is not received in time, the Application will be heard on 08 June 2017 at 10:00 or so soon thereafter as counsel may be heard.

SIGNED AND DATED at JOHANNESBURG on this 6th day of April 2017.

KWINANA & PARTNERS INC
Applicants' Attorneys
119 First Avenue
Fairland
Johannesburg
PO Box 781276, Sandton, 2146
Tel: 011 057-1016/ 011 678 1816
Fax: 086 561 7741

3

44

E-mails: thabo@kp.co.za &
tendai@kp.co.za
Docex 48, Rosebank
Ref: Mr Kwinana/Ms Mrerwa
c/o MASEKELA MASENYA ATTORNEYS
Suite N503 – N504
JSL Towers
259 Pretorius Street
PRETORIA
Tel: 012 771 5832/ 012 772 3392
Fax: 086 516 7552
Email: alphy@maslaw.co.za
Ref: Mr ALPHY MASENYA

TO: **THE REGISTRAR OF THE ABOVE HONOURABLE COURT**
PRETORIA

AND TO: **HURTER SPIES INCORPORATED**
Respondents' Attorneys
1st Floor, Afriforum Buiding
Cnr of DR Malan and Union Avenue
Kloofsig
Centurion
Tel: 012 941 9239
Fax: 012 644 1997
Email: tertius@hurterspies.co.za
Ref: AF0028

Received copy hereof on 7
day of April 2017 at 9:56

For: Respondents' Attorneys

Ontvang Sonder Benadeling
Received Without Prejudice

Hurter Spies Ing / Inc

'F'
45

kwinana & partners inc

119 First Avenue, Fairland, 2195
P.O. Box 781276, Sandton 2146, t: +27 11 057-1016/7, f: +27 86 561 7741, Docex 48 Rosebank, **www.kp.co.za**

MESSRS HURTER SPIES INC
1st FLOOR, AFRIFORUM BUILDING
CNR DF MALAN & UNION AVENUE
KLOOFSIG
CENTURION

EMAIL:tertius@hurterspies.co.za/ celeste@hurterspies.co.za/ marjorie@hurterspies.co.za

ATTENTION: MR TERTIUS KRUGER

Your reference	**Our reference**	**Date**
	Mr Kwinana/ Ms Mlotywa	07 April 2017

Dear Sirs/Madam

OUR CLIENT: ECONOMIC FREEDOM FIGHTERS & ANOTHER
YOUR CLIENTS: AFRIFORUM NPC & ANOTHER
RE: HIGH COURT GAUTENG DIVISION, PRETORIA, CASE NO.: 89196/2016

1. The above matter refers.

2. It is common cause that we act on behalf of our abovementioned clients.

3. Yesterday on 6 April 2017 was the 20th (twentieth) day from the date our client had knowledge of the default judgment and therefore their Rescission Application should have been filed then.

4. On 6 April 2017 our firm's messenger, Mr Abram Ramaboya, attended to serve and file the rescission application by first having it issued in court which must allocate a date of hearing, in the Notice of Motion, should the matter not be opposed. The allocated date of hearing if the matter is not defended is on 8 June 2017

5. Indeed our messenger secured the issuing of same by the Register, on 6 April 2017 as evidenced by the court stamp on the face of the Index and Notice of Motion.

V.M

KP

6. After leaving court and whilst doing his rounds, our Mr Ramaboya's car broke down and he could not serve same on you on 6 April 2017 and you were subsequently served the rescission application only during the morning of 7 April 2017.

7 We have been instructed, as we hereby do, to request that your client condone the service of the rescission application a day late, although it was filed in court timeously, or whether do your clients insist that our client submit a condonation application.

8. We await to hear from you at your earliest convenience.

Yours faithfully,

KWINANA & PARTNERS INC
per: THABO KWINANA

'G' 47

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

Case No:89196/16

In the matter between:

ECONOMIC FREEDOM FIGHTERS	First Applicant
JULIUS SELLO MALEMA	Second Applicant
and	
AFRIFORUM NPC	First Respondent
AFRISAKE NPC	Second Respondent

CONFIRMATORY AFFIDAVIT

I, the undersigned,

ABRAM RAMABOYA

do hereby make oath and say that:-

1. I am an adult male in the employ of Kwinana and Partners Inc, as a driver and/or delivery officer situated at 119 First Avenue, Fairland, RANDBURG.

2. The facts herein stated are, save where otherwise stated or indicated, within my own knowledge and are true and correct.

3. I have read the Founding Affidavit deposed to by **THABO SINDISA KWINANA** and I confirm the contents thereof insofar as they relate to me.

DEPONENT

SIGNED and sworn to before me at **FAIRLAND** on the ..10.. day of **APRIL 2017**, the deponent having acknowledged that he knows and understands the contents of this Affidavit and all the provisions of Act 16 of 1963 and the Regulations promulgated in terms thereof concerning the taking of the oath having been complied with in my presence and within the area for which I have been appointed as Commissioner of Oaths.

P. Mbassa CST

COMMISSIONER OF OATHS

STATION

10 APR 2017

CLIENT SERVICE CENTRE
FAIRLANDS

SOUTH AFRICAN POLICE SERVICE

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

CASE NO.: 89196/16

In the matter between

ECONOMIC FREEDOM FIGHTERS	**FIRST APPLICANT**
JULIUS SELLO MALEMA	**SECOND APPLICANT**

and

AFRIFORUM NPC	**FIRST RESPONDENT**
AFRISAKE NPC	**SECOND RESPONDENT**

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA GAUTENG DIVISION, PRETORIA
PRIVATE BAG/PRIVAATSAK X67
PRETORIA 0001
2017 -04- 13
REGISTRAR'S CLERK
GRIFFIER VAN DIE HOË HOF VAN
SUID-AFRIKA, GAUTENG AFDELING, PRETORIA

NOTICE OF INTENTION TO OPPOSE

BE PLEASED TO TAKE NOTICE that the abovementioned Respondents hereby gives notice of their intention to oppose this application.

BE PLEASED TO TAKE NOTICE FURTHER that the Respondents appoints the address of their attorneys as mentioned below, at which address it will accept notice and service of all documents in these proceedings.

DATED at PRETORIA on this the 13th day of APRIL 2017.

2

HURTER SPIES INC
Attorneys for the Applicant
First Floor, AfriForum Building
Cnr Union and DF Malan Drive
Kloofsig, Centurion
Tel: (012) 664 0708
Fax: (012) 644 1997
Ref: Tertius Kruger/AF0028

TO: **THE REGISTRAR OF THE HIGH COURT**
Pretoria

AND TO: **KWINANA & PARTNERS INCORPORATED**
Applicants' Attorneys
119 First Avenue, Fairland
Johannesburg
Tel: (011) 057 1016/(011) 678 1816
Fax: (086) 561 7741
E-mails: thabo@kp.co.za & tendai@kp.co.za
Ref: **Mr. Kwinana/Ms Mrerwa**

C/O MASEKELA MASENYA ATTORNEYS
Suite N503 – N504
JSL Towers
259 Pretorius Street
Pretoria
Tel: (012) 771 5832 / (012) 772 3392
Fax: (086) 516 7552
E-mail: alphy@maslaw.co.za
Ref: Mr. Alphy Masenya

MASEKELA MASENYA ATTORNEYS
SUITE 506 BANK TOWERS
CNR CHURCH & ANDRIES STREET
PRETORIA, 0002
TELEFAX: (012) 323 6672

NM Molokoe
13/04/2017

Received a copy hereof on ____
day of APRIL 2017 at _____

_____

_____

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

CASE NO.: 89196/16

In the matter between

ECONOMIC FREEDOM FIGHTERS	**FIRST APPLICANT**
JULIUS SELLO MALEMA	**SECOND APPLICANT**

and

AFRIFORUM NPC	**FIRST RESPONDENT**
AFRISAKE NPC	**SECOND RESPONDENT**

FILING NOTICE

DOCUMENT: **ANSWERING AFFIDAVIT**

DATE ON ROLL: **NOT ALLOCATED YET**

FILED BY: **HURTER SPIES INC**
Attorneys for the Respondent
First Floor, AfriForum Building
Cnr Union and DF Malan Drive
Kloofsig, Centurion
Tel: (012) 664 0708
Fax: (012) 644 1997
Ref: Tertius Kruger/AF0028

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA, GAUTENG DIVISION, PRETORIA
PRIVATE BAG/PRIVAATSAK
2017 -05- 03
REGISTRAR'S CLERK
GRIFFIER VAN DIE HOË HOF VAN SUID-AFRIKA, GAUTENG AFDELING, PRETORIA

TO: **THE REGISTRAR OF THE HIGH COURT**
Pretoria

AND TO: **KWINANA & PARTNERS INCORPORATED**
Applicants' Attorneys
119 First Avenue, Fairland
Johannesburg
Tel: (011) 057 1016/(011) 678 1816
Fax: (086) 561 7741
E-mails: thabo@kp.co.za & tendai@kp.co.za
Ref: **Mr. Kwinana/Ms Mrerwa**

C/O MASEKELA MASENYA ATTORNEYS
Suite N503 – N504
JSL Towers
259 Pretorius Street
Pretoria
Tel: (012) 771 5832 / (012) 772 3392
Fax: (086) 516 7552
E-mail: alphy@maslaw.co.za
Ref: Mr. Alphy Masenya

Received Copy Hereof:
Date: 05/05/2017
Name: Petunia
Signature: M Molokoane

MASEKELA MASENYA ATTORNEYS
SUITE 506 BANK TOWERS
CNR CHURCH & ANDRIES STREET
PRETORIA, 0002
TELEFAX: (012) 323 6672

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

Case No: 89196 / 2016

In the matter between:

ECONOMIC FREEDOM FIGHTERS	First Applicant
JULIUS SELLO MALEMA	Second Applicant

and

AFRIFORUM NPC	First Respondent
AFRISAKE NPC	Second Respondent

ANSWERING AFFIDAVIT

I, the undersigned,

CATHARINA CORNELIA COOKS

declare under oath as follows:

1.

I am an adult female employed by the First Respondent as safety coordinator and previously as provincial coordinator and community safety coordinator, with work address at AfriForum Building, cnr. of D.F. Malan and Union Avenue, Kloofsig, Centurion.

2.

The content of this affidavit falls within my personal knowledge unless the context indicates otherwise. To the best of my knowledge the content is both true and correct.

3.

I am duly authorised to depose to this affidavit on behalf of both Respondents. I annex two Resolutions in this regard hereto and mark same as **Annexures "A"** and **"B"** respectively.

4.

Before answering to the Founding Affidavit in this rescission application I firstly briefly wish to record that the Respondents are of the view that no good cause is shown for the order to be rescinded. In fact, it appears that the

Applicants have an improper motive of wanting to continue with the very same illegal and/or unlawful conduct that the order prohibits.

5.

The Applicants do not seem to comprehend and appreciate that the unlawful land invasions that they are propagating are matters of public interest and that the rule of law and constitutional democracy is under attack. I respectfully contend that this Honourable Court, as a Court of law, per the order of the Honourable Mr. Justice Mabuse, sought to put an end to this vexatious and criminal conduct.

6.

It also appears that the Applicants are under an incorrect impression that the Respondents had to show that each of the various utterances complained of directly led to an unlawful land invasion. This is not the case at all as the Respondents had to show nothing more than a reasonable apprehension of harm. In various instances, in any event, it appears that the utterances did lead to land invasions.

7.

The initial application will also be in the Court file when this matter is heard. For the sake of brevity I do not intend to repeat the content thereof. The tender by the Respondents that the video material will be made available to the Honourable Court at the hearing if anyone wishes to see it as set out in the initial application, still stands. It, however, appears that the current Applicants do not dispute the content of the video material. I will, where necessary refer to the Founding Affidavit in the initial application as "the initial affidavit".

8.

I now turn to deal with the Founding Affidavit of JULIUS SELLO MALEMA. If I do not specifically address an aspect in his affidavit, the intention is to deny that aspect. I have read his affidavit and respond thereto as follows:

9.

AD PARAGRAPH 1:

I note the identity of the deponent and his authority to bring the application.

10.

AD PARAGRAPH 2:

I deny that the facts contained in the affidavit fall within the deponent's personal knowledge or that the facts are true and correct.

11.

AD PARAGRAPH 3 AND 4:

I note the purpose of the affidavit. The deponent is correct that good cause must be shown in order to rescind the order. The Respondents deny that any good cause is shown. I am advised that the granting of rescission order is a discretionary order, but that this Honourable Court as a Court of law does not have a discretion to permit illegal conduct.

12.

AD PARAGRAPH 5 AND 6:

It is denied that the Applicants only became aware of the order on 8 March 2017. The application was already served on both Applicants on 16

November 2016. It is, in any event, not the Respondents' fault if the Applicants' house is not in order and the personnel do not communicate properly with their superiors. It is evident from paragraph 6 of the founding affidavit that the application ought to have proceeded to the First Applicant's central command team after being served on Ms Mtembu. The central command team of the first Respondent consists of:

12.1 The Second Applicant;

12.2 Mr. Floyd Shivambu;

12.3 Mr. Godrick Gardee;

12.4 Ms. Hlengiwe Maxon; and

12.5 Adv. Dali Mopfu.

It is thus clear that the application would have come to the attention of both Applicants if the channel had been properly functioning.

13.

AD PARAGRAPH 7 TO 10:

I find it highly unlikely that Ms. Mtembu did not bring the application to the attention of her superiors. As already mentioned in paragraph 6 of the Founding Affidavit, the application would have made its way to both Respondents if Ms. Mtembu had done her work properly. I note that there was not even an attempt to contact Ms. Mtembu by any Applicant and that the deponent merely conveniently assumed that she would not cooperate. The explanation tendered thus consists of inadmissible hearsay evidence and speculation and should be struck out.

14.

AD PARAGRAPH 11 TO 14:

It is respectfully submitted that the Applicants are in wilful default. There is also no *bona fide* defence to the order that was granted. The Second Applicant is the President of the First Applicant and therefore the application was served at his workplace. On his own version and specifically in paragraph 6 of the Founding Affidavit in the rescission application, it is also evident that the application would have come to his attention if the First Applicant's house was in order. It is also worth adding that when the letter of

demand was transmitted to both Applicants to the very same address, a response was forthcoming. This is dealt with in the initial affidavit.

15.

AD PARAGRAPH 15:

I admit that the First Applicant is a registered political party. Although the objects of the First Applicant are not illegal *per se*, the manner in which it is advocating lawlessness cannot be tolerated. The mere fact that a political party is officially registered does not give that party free reigns to then advance criminal conduct in the furtherance of his objects.

16.

AD PARAGRAPH 16:

The Applicants are not entitled to advocate criminal conduct. One can only imagine the state of chaos that would prevail if each and every political party could incite their members or supporters to commit crimes. The deponent is also conveniently silent on the constitutional rights of others such as landowners that are being infringed upon. The First and Second Applicants are not above the law and none of them may advocate unlawful conduct.

17.

AD PARAGRAPH 17:

The content of this paragraph is denied. The First Applicant can still pronounce on its objects, including the history of land dispossession but must do so within the confines of the law. It may not advocate unlawful and arbitrary actions such as invading land without any valid entitlement to do so. The deponent is bald, vague and sketchy as to which constitutional right is allegedly infringed. I am advised that the Court Order prohibiting criminal action will almost always be a justifiable measure, even if it limits any constitutional right (which is denied).

18.

AD PARAGRAPH 18 AND 19:

18.1 The First Applicant can still pronounce on land related issues, but may not advocate the crime of trespassing and unlawful land invasions. The conduct complained of in the initial affidavit is a matter of public interest. The Respondents cannot only claim relief in respect of land belonging to their members. The majority of both Respondents' members are taxpaying citizens and are concerned with State expenditure and also the administration of State assets

such as land owned by the State. The rule of law is of universal importance to the Respondents, their members and the general South African society.

18.2 The conduct complained of is a threat to the rule of law and constitutional democracy. It also depletes State resources and makes service delivery such as the provision of houses difficult and nearly impossible if State owned land is invaded as this makes it very difficult or impossible to do proper town planning. In any event, the land invasions incited by them are not limited to State land. The wording of the order granted by the Honourable Mr. Justice Mabuse is not vague in any terms. To a large extent the wording is borrowed from the legislation concerned. The First Applicant is not currently prevented from making any pronouncement on the issue of land at all.

18.3 The order is clear. As long as the Applicants do not advocate the unlawful and/or illegal invasion of land without a lawful entitlement to do so, they will be in the clear. I am advised that the fact that an order is prejudicial to the party against whom it was granted, is no reason to have it set aside.

18.4 I can indicate that the Applicants have in fact pronounced on land issues again after the order was granted. I annex a copy of an

electronic article on the cite Newspage.co.za dated 22 April 2017 hereto and mark same as **Annexure "C"**. The article indicates that the Second Respondent made utterances such as "*...[Whites] are the ones who stole our land*" and "*..Justice is the return of the land. We must fight for our land*". Although the Respondents are concerned about the utterances and investigating further action in this regard, the utterances do not contravene the order that the Applicants seek to set aside.

19.

AD PARAGRAPH 20 TO 20.1:

The full lists of incidents complained of are comprehensively dealt with in the initial affidavit. I do not know why the deponent avers that the facts leading to two criminal charges against him could not be considered by the Honourable Court. I am advised that it often happens that criminal action also amounts to a cause of action in a civil Court. To the best of my knowledge the two speeches made were made in the year 2014 and 2016 and not in 2015, as averred by the deponent. I deny that both matters are the subject of a constitutional challenge. There is, in any event, no adherence to the best evidence rule. At the very least the deponent ought to have annexed his Court papers or a portion thereof in his alleged constitutional challenge to the

founding affidavit. The deponent is, in any event, bald, vague and sketchy on this aspect. I am advised that, in any event, this does not provide the Applicants with a *bona fide* defence, as a defence already has to be in existence at the time when the order was granted. I respectfully contend that, in any event, there will be no prospects of success in any Constitutional challenge. The case of the Respondents made out in the initial affidavit is in any event wider than the ambit of any act that might or might not be declared unconstitutional.

20.

AD PARAGRAPH 20.2 AND 20.3:

It appears from this paragraph that the deponent admits that the televised interview of Mr. Ntobong Ntobong (identified in the initial affidavit as Mr.Ntobeng Ntobeng) led to an unlawful land invasion where the individuals committing the wrong had to be removed by law enforcement officers. The Respondents have a reasonable apprehension of harm that the utterances or similar utterances will be made again and that land in various portions of the Republic of South Africa will also be invaded in future. This might be land that has been previously invaded or land that has never been invaded before. The result is, however, the same and it is respectfully submitted that the current order is justified. I have already indicated that the Respondents do not have to show that any of the utterances directly led to a land invasion or that the

land belongs any of its members. The order is directed at the uncontrolled and repetitive unlawful conduct of both Applicants who seem to think that they are above the law. No oral evidence is required in this regard. It is clear that the Respondents have a well grounded apprehension of irreparable harm.

21.

AD PARAGRAPH 21:

It is clear from this paragraph that the deponent does not deny the various utterances attributed to him. Once again, I reiterate that the Respondents do not have to show that any specific utterance directly led to a land invasion. The utterance propagating unlawful conduct in itself is sufficient to sustain a cause of action. In any event, various land invasions have in fact occurred because of the various utterances. The Respondents have in the initial affidavit explained various land invasions were instigated and/or commanded by specifically the First Applicant. There is no need for oral evidence on this issue.

22.

AD PARAGRAPH 22:

It is clear that the Applicants do not deny advocating the unlawful occupation of land. By providing legal assistance and making it known in public that legal assistance will be provided to unlawful land occupiers in conflict with the police, courts and landowners, it further incites these individuals to commit the crime of trespassing as they know that someone will foot their legal bills. The conduct is thus unlawful. The question should also be asked why any political party in a constitutional democracy would want to spend its funds on criminals. The provision of financial assistance to criminals incites them to continue with the unlawful conduct as they know that someone will foot the Bill for their bail hearing and/or criminal trials.

23.

AD PARAGRAPH 23:

It is irrelevant whether the land unlawful invaded is occupied or not, as it is still impermissible to enter land without the consent of the landowner of legal occupants for a lawful entitlement to do so. In any event, it appears that the land invasions are not limited to unoccupied land. Various pieces of occupied land have also been invaded. This includes State land and private land.

State land is included in the order. It is in the public interest that the unlawful conduct of the Applicant should be eradicated in totality. The argument by the deponent that it would be a lesser crime or a lesser evil if only State land was occupied, is absurd. The wrong committed stays exactly the same. I cannot comment on the attitude of the State, although the Respondents have had various queries from various municipalities in relation to land invasions. It appears that these invasions also hamper the ability of these municipalities to provide proper housing and do proper town planning. The Applicants or their supporters are not entitled to rough shot over the law, even if the need is great. I have already alluded to *supra* that the land invasions are a matter of public interest and therefore land owned by the State should also be protected.

24.

AD PARAGRAPH 24:

It is denied that the Applicants have a *bona fide* defence or that it is in the interest of justice that they should be afforded the opportunity to defend the main application. In fact, to the contrary it appears that this application is merely brought so that the Applicants can continue with their unlawful conduct.

25.

AD PARAGRAPH 25:

I have already indicated that the fact that an order is prejudicial to the party against whom it was granted, is no grounds for the rescission thereof. The Applicants should stop their unlawful conduct and only practice their political activities within the confines of the law and the Constitution as all other political parties are also bound to do. The Applicants can and should develop new customs and rejoice in a developing society by giving up all practices which are hurtful to the members of society who live with them. The First Applicant should distance itself from all similar utterances. The order clearly specifies the Respondents against whom it applies.

26.

AD PARAGRAPH 26:

The argument in this paragraph that the order of this Honourable Court infringes upon the jurisdiction of other divisions of the High Court is absurd. The order of each and every division of the High Court in South Africa is enforceable throughout the Republic of South Africa. The Honourable Court is referred to Section 42(2) of the *Superior Court's Act*, 10 of 2013 in this

regard. There is thus nothing sinister about this. This order, like any other High Court order, applies throughout the Republic of South Africa.

27.

AD PARAGRAPH 27:

It is clear from the response to the letter of demand as dealt with in the initial affidavit that the Applicants had no intention of desisting from their unlawful conduct. It is clear from the initial affidavit that the Second Applicant even continued his unlawful conduct at his Court appearances for the very same criminal offence that the Respondents complained of. The Respondents thus had to request the order and will not hesitate to enforce contempt of Court proceedings whenever appropriate circumstances to do so arise. It is in the interest of the Respondents' members and the public interests and the rule of law that the conduct complained of should be eradicated *in toto*.

28.

AD PARAGRAPH 28:

Nothing prohibits the Applicants from advocating lawful land reform and restitution through processes such as the ones created in the *Restitution of Land Rights Act*, 22 of 1994, and other valid mechanisms. It is, however, prohibited to arbitrarily commit the crime of trespassing or to incite others to

do so or to invade land without an entitlement to do so. It is expressly denied that the order sought had the purposes of harassing or terrorising the Applicants. The purpose of the order is to protect the constitutional right to property, law and order, the rule of law and constitutional democracy. The conduct of the Applicants is a threat to all of the above.

29.

AD PARAGRAPH 92:

29.1 The deponent is blatantly committing perjury in this paragraph. The initial affidavit very clearly set out the grounds on which a punitive cost order was sought in paragraphs 64 to 68 thereof. It is blatantly false to state that the only consideration before the Honourable Court in this regard was that the Applicants refused to give an undertaking.

29.2 The facts that led to the punitive cost order being granted appear clearly from the initial affidavit. In summary, these grounds are as follows:

29.2.1 The Applicants (Respondent at the time) were warned that a punitive cost order would be sought;

29.2.2 The conduct is apprehensible, unconscionable and unlawful;

29.2.3 The conduct constitutes a crime;

29.2.4 The Honourable Court should show its displeasure at the conduct;

29.2.5 The Applicants are disturbing economic stability and law and order;

29.2.6 There is no reason why the Respondents (Applicants at the time) should be out of pocket when having to litigate to curtail criminal conduct of others;

29.2.7 It is in the interest of the Respondents and their members and the South African society in general that criminal conduct should not be allowed by anyone.

29.3 I am advised that the awarding of a cost order is, in any event, a matter of judicial discretion which the Respondents respectfully contend was properly exercised by the Honourable Mr. Justice Mabuse.

30.

AD PARAGRAPH 30 TO 33:

30.1 The Applicants did not merely refuse to agree to the demand made to them, but in fact to the contrary in clear terms indicated that they would continue the unlawful conduct. It is expressly denied that the Applicants did anything in good faith. The Applicants have been aware throughout that their conduct is unlawful as they had always foreseen conflict with the Police, the Courts and landowners and in fact set up a solidarity fund for this very purpose. The Applicants themselves are aware and in fact always have been aware that their conduct is unlawful and they are merely opportunistic in now averring that a Court has to decide on the unlawfulness thereof or not. It is respectfully submitted that the order was correctly granted according to the law. It is respectfully contended that the Applicants have no prospects of success and have not displayed any good cause or a *bona fide* defence.

30.2 There is also no reason why costs of this application should not be awarded against the Applicants on a similar scale than the main proceedings. I am advised that an Applicant in a rescission application as the party seeking an indulgence, is normally saddled with the cost order, even if successful.

30.3 The Respondents therefore respectfully request this Honourable Court to dismiss the application with costs on an attorney and client scale, which shall include the cost of two counsel where so employed.

31.

I now turn to deal with the affidavit of the attorney for the Applicants, Mr. Thabo Sindisa Kwinana. His affidavit only relates to the condonation for the late filing of the rescission application. If I do not specifically address an aspect in his affidavit, my intention is to deny that aspect. I have read his affidavit and respond thereto as follows:

32.

AD PARAGRAPH 1 TO 8:

The content hereof is noted. I am advised that the explanation in the condonation application has to be seen in conjunction with the weak merits in the main rescission application.

33.

AD PARAGRAPH 9 TO 14:

I have already indicated that the Applicants became aware or ought to have become aware of the application much earlier and in fact in November 2016. It is correct that the rescission application must be brought within twenty days of the Respondent's becoming aware thereof.

34.

AD PARAGRAPH 15 TO 18:

I find it strange that the affidavits in the main rescission application were allegedly commissioned in Johannesburg by an attorney that appears to have offices in Pretoria in the same street as the correspondent attorneys utilised by the Applicants. It also appears that the deponent is deliberately vague as to when exactly the driver, Mr. Abram Ramaboya, left the office. No indication of the time is provided.

35.

AD PARAGRAPH 19 to 33:

35.1 The Respondent reject this part of the explanation tendered as being blatantly false and misleading. First of all there no details or documentary evidence of the alleged breakdown or repairs done to the vehicle.

35.2 Furthermore it has been confirmed from security cameras and security login details from the premises where the Respondent's Attorneys are situated (same building as my workplace and the address of both Respondents as well) that the driver, Mr Ramaboya never even attempted to gain access to the premises on the afternoon of 6 April 2017 as averred by him and the deponent.

35.3 There is only one access gate to the premises. All licence disks of vehicles entering the premises are scanned and captured on the so-called click-on system. Individuals entering on foot are also captured in the system. I annex a printout from said system as retrieved by Mr Rudolph Greyson, the head of Security and Occupational Safety at the relevant building from the system. It indicates that no vehicle entered the premises on 6 April 2017 at about 17h15 (the time averred)

and thus it is clear that Mr Ramaboya did not attempt to enter the premises by vehicle.

35.4 Mr Rudolph Greyson furthermore confirms from security footage of the gate that nobody entered the premises on foot after 17h00 on 6 April 2017. The Respondents once again tender this video material to anyone who disputes the allegation and to the Honourable Court.

35.5 If the driver did not enter the premises on 6 April 2017, there is no way that he could have attempted service at Hurter Spies Incorporated that is situated on the first floor of the building behind tinted doors.

35.6 The version of the deponent and confirmatory affidavit is not the truth and it is therefore respectfully submitted that condonation should not be granted.

36.

The Respondents therefore respectfully pray that condonation should not be granted and that the Application should be dismissed with cost, which is to include the cost of two counsel where so employed.

C.C. COOKS
DEPONENT

THUS SWORN AND SIGNED AT Centurion ON THIS 4th DAY OF MAY 2017, BEFORE ME, Hendrik van der Hoven, COMMISSIONER OF OATHS, THE DEPONENT HAVING ACKNOWLEDGED THAT SHE UNDERSTANDS THE CONTENTS OF THIS AFFIDAVIT, HAS NO OBJECTION IN TAKING THE OATH AND REGARDS THE OATH AS BINDING ON HER CONSCIENCE AFTER COMPLYING WITH THE REQUIREMENTS OF GOVERNMENT NOTICE R1258, DATED 21 JULY 1972, AS AMENDED.

BEFORE ME:

COMMISSIONER OF OATHS

NAME: Hendrik George van der Hoven

CAPACITY: Kommissaris van Ede / Commissioner of Oaths
Ex Officio: Admitted Attorney RSA

ADDRESS: Northstraat 94
Rietondale
Pretoria
0084
(012) 644 4393

AfriForum

"A"

RESOLUTION PASSED BY THE BOARD OF AFRIFORUM (A NON-PROFIT COMPANY) ON 7 APRIL 2017

It is hereby resolved that-

a) AfriForum is the First Respondent in the matter under case number 89196/2016 in the High Court of South Africa, Pretoria wherein the the Applicants brought an application for the rescinding of the Order of Mabuse J dated 7 March 2017, which application is being opposed by AfriForum;

b) That AfriForum make written submission to the Honourable Court by way of an Answering Affidavit in order to deal with the Founding Affidavit of Julius Sello Malema.

c) **CATHARINA CORNELIA COOKS** in her capacity as a Safety Coordinator and previously as a Provincial Coordinator and Community Safety Coordinator of AfriForum, is hereby authorised to depose any affidavit and to sign any documents that may be necessary to give force and effect to the resolution passed herewith.

Certified tob e a true extract from the minutes of the meeting.

Carl Martin Kriel

CHIEF EXECUTIVE OFFICER

"B" 80.

AfriSake
Belê in die toekoms

RESOLUTION PASSED BY THE BOARD OF AFRISAKE (A NON-PROFIT COMPANY) ON 7 APRIL 2017

It is hereby resolved that-

a) AfriSake is the Second Respondent in the matter under case number 89196/2016 in the High Court of South Africa, Pretoria wherein the the Applicants brought an application for the rescinding of the Order of Mabuse J dated 7 March 2017, which application is being opposed by AfriSake;

b) That AfriSake make written submission to the Honourable Court by way of an Answering Affidavit in order to deal with the Founding Affidavit of Julius Sello Malema.

c) **CATHARINA CORNELIA COOKS** in her capacity as a Safety Coordinator and previously as a Provincial Coordinator and Community Safety Coordinator employed by the First Respondent, is hereby authorised to depose any affidavit and to sign any documents on behalf of AfriSake that may be necessary to give force and effect to the resolution passed herewith.

Certified tob e a true extract from the minutes of the meeting.

Arina Stoker Esterhuizen
ACTING CEO

Tel: 012 644 4397 • Faks: 086 509 5144 • E-pos: diens@afrisake.co.za • Posadres: Posbus 11760, Centurion, 0046
Direkteure: S.F. Booysen, B. du Plessis, D.J. de Villiers, M.B. Pretorius, A. Brink, N. Pretorius
AfriSake is 'n maatskappy sonder winsoogmerk, registrasienommer: 2012/043725/08

www.afrisake.co.za

81. "C"

Eff Malema send stern warning to white South-Africans

By **Steven Lock** - April 22, 2017 16942 0



Pretoria – President Jacob Zuma is not an enemy of the EFF, but he just happens to be standing in the way of the party and the nation achieving its goals, EFF leader Julius Malema said on Saturday.

"Don't think that Zuma is our enemy. Zuma is not our enemy, it's just that he is standing in the way, and we must remove him to get our land back," said Malema.

"Zuma is standing between us and our enemy. Move out of the way. Zuma must pave the way because they [whites] are the one who stole our land."

Malema was addressing a large gathering at the University of Pretoria's Mamelodi Campus, where the Economic Freedom Fighters had a memorial lecture on the life of Solomon Mahlangu. He reminded those in attendance that white people had killed blacks during apartheid.

"White people are going to return our land the same way Zuma will return our money. White people must never think we have abandoned the land question. We will never abandon it. We are the land, our identity is our land. We are nothing without our land."

"We are coming for you. Zuma must pay back the money, the Guptas have left South Africa, and our land must come back. ABSA bank must never think that by closing the Gupta bank account, you are our friend. You are our enemy in SA," he added.

Malema said the bank represented white monopoly capital, which was an enemy of the EFF

"White monopoly capital is the primary enemy of the EFF. Who is white monopoly capital? It is the Rupert, the Oppenheimer, and all those who benefited illegally from our land. This land is going to be returned, whether you like or not. There is no white man who came with a piece of land," Malema said.

'Reconciliation must never replace justice'

He added that people should not ask what blacks would do with the land once it was in their possession.

"What we do with it is none of your business. Solomon Mahlangu died for this land."

Malema also took issue with those who said the land did not belong to Africans, but to the Khoisan. He said the land belonged to all Africans, including blacks.

Malema called on black people to stop being apologetic for the injustices

He added that people should not ask what blacks would do with the land once it was in their possession.

"What we do with it is none of your business. Solomon Mahlangu died for this land."

Malema also took issue with those who said the land did not belong to Africans, but to the Khoisan. He said the land belonged to all Africans, including blacks.

Malema called on black people to stop being apologetic for the injustices suffered under apartheid. He urged members to continue fighting for what belonged to them.

He questioned how reconciliation could take place in the country while those who carried out the crimes of apartheid were not known.

"Why must we apologise for being slaves? They say we must reconcile with them. We want to see those who were working at the Gallows hanging people. We want to see their faces. We can't reconcile with people we don't know.

"Where are the prosecutors who were recommending death sentences? Where are the judges who sentenced our brothers to death? They must come here, we want to see them.

"Reconciliation must never replace justice. Justice is the return of the land. We must fight for our land," he said.

CLICKON
SECURITY ACCESS SPECIALISTS

03 All IDVS Logs
Afriforum

Start Date 06 Apr 2017 16:00
End Date 06 Apr 2017 18:00

Filters

- Panels: Afriforum

Panel / Date	Time	Unit No	Event Type	Serial	Other
Afriforum					
06 Apr 2017	16:12:47	0	IDVS Scan	40001	T ID [00008241] SN [16004521404399] SEQ [17040602608]
		T ID [00008241] SN [16004521404399] SEQ [17040602608] Code [40001] Scanned Date [2017-04-06 16:12:47]			
					SAVL Registration No: HNJ026MP
					DATSUN GO - eNaTIS [4086A06D]
					Description: Hatch back / Luikrug - White / Wit
06 Apr 2017	16:16:36	0	IDVS Scan	40002	T ID [00008241] SN [16004521404399] SEQ [17040602609]
		T ID [00008241] SN [16004521404399] SEQ [17040602609] Code [40002] Scanned Date [2017-04-06 16:16:36]			
					SAVL Registration No: FS34BPGP
					GREAT WALL MOTORS K2D - eNaTIS [4046E076]
					Description: Pick-up / Bakkie - White / Wit
06 Apr 2017	16:22:18	0	IDVS Scan	40002	T ID [00008241] SN [16004521404399] SEQ [17040602610]
		T ID [00008241] SN [16004521404399] SEQ [17040602610] Code [40002] Scanned Date [2017-04-06 16:22:18]			
					SAVL Registration No: BK21XPGP
					OPEL CORSA PICK-UP - eNaTIS [4046T0GZ]
					Description: Pick-up / Bakkie - Silver / Silwer
06 Apr 2017	17:58:55	0	IDVS Scan	40001	T ID [00008241] SN [16004521404399] SEQ [17040602611]
		T ID [00008241] SN [16004521404399] SEQ [17040602611] Code [40001] Scanned Date [2017-04-06 17:58:55]			
					SAVL Registration No: BL92LBGP
					KIA PICANTO - eNaTIS [4025T0CT]
					Description: Hatch back / Luikrug - White / Wit

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IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

Case No: 89196 / 2016

In the matter between:

ECONOMIC FREEDOM FIGHTERS	First Applicant
JULIUS SELLO MALEMA	Second Applicant

and

AFRIFORUM NPC	First Respondent
AFRISAKE NPC	Second Respondent

CONFIRMATORY AFFIDAVIT

I, the undersigned,

RUDOLPH GREYSON

declare under oath as follows:

1.

I am an adult male employed as Head of Security and Occupational Safety for Solidarity Properties, cnr. of D.F. Malan and Eendracht Street, Kloofsig, Centurion. Hurter Spies Incorporated is also situated in said building and can only be accessed through a single gate to the premises that is constantly monitored with access control and video footage.

2.

The content of this affidavit falls within my personal knowledge unless the context indicates otherwise. To the best of my knowledge the content is both true and correct.

3.

I have read the answering affidavit of CATHARINA CORNELIA COOKS in this Application and I confirm the content thereof in as far as same relates to me and the relevant premises and security systems.

R. GREYSON
DEPONENT

N.N

THUS SWORN AND SIGNED AT Wierdabrug ON THIS 05 DAY OF May 2017, BEFORE ME, Nakedi Abraham Tlhako, COMMISSIONER OF OATHS, THE DEPONENT HAVING ACKNOWLEDGED THAT HE UNDERSTANDS THE CONTENTS OF THIS AFFIDAVIT, HAS NO OBJECTION IN TAKING THE OATH AND REGARDS THE OATH AS BINDING ON HIS CONSCIENCE AFTER COMPLYING WITH THE REQUIREMENTS OF GOVERNMENT NOTICE R1258, DATED 21 JULY 1972, AS AMENDED.

BEFORE ME:

N.A. 7174867-9 Tlhako CST
Nakedi

COMMISSIONER OF OATHS

NAME: Nakedi Abraham Tlhako

CAPACITY: Constable

ADDRESS: 75 Vindhella Road
Valhalla
Pretoria

SOUTH AFRICAN POLICE SERVICE
COMMUNITY SERVICE CENTRE
2017 -05- 05
WIERDABRUG SAPS
SUID-AFRIKAANSE POLISIEDIENS

N.A.

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

CASE NO.: 89196/16

In the matter between

ECONOMIC FREEDOM FIGHTERS	**FIRST APPLICANT**
JULIUS SELLO MALEMA	**SECOND APPLICANT**

and

AFRIFORUM NPC	**FIRST RESPONDENT**
AFRISAKE NPC	**SECOND RESPONDENT**

FILING NOTICE

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA GAUTENG DIVISION, PRETORIA
PRIVATE BAG/PRIVAATSAK X67
PRETORIA 0001
2017 -05- 09
B. B. MAKHUBELA
REGISTRAR'S CLERK
GRIFFIER VAN DIE HOË HOF VAN SUID-AFRIKA, GAUTENG AFDELING, PRETORIA

DOCUMENT: **ADDITIONAL ANSWERING AFFIDAVIT**

DATE ON ROLL: **NOT ALLOCATED YET**

FILED BY: **HURTER SPIES INC**
Attorneys for the Respondent
First Floor, AfriForum Building
Cnr Union and DF Malan Drive
Kloofsig, Centurion
Tel: (012) 664 0708
Fax: (012) 644 1997
Ref: Tertius Kruger/AF0028

TO: **THE REGISTRAR OF THE HIGH COURT**
Pretoria

AND TO: **KWINANA & PARTNERS INCORPORATED**
Applicants' Attorneys
119 First Avenue, Fairland
Johannesburg
Tel: (011) 057 1016/(011) 678 1816
Fax: (086) 561 7741
E-mails: thabo@kp.co.za & tendai@kp.co.za
Ref: **Mr. Kwinana/Ms Mrerwa**

C/O MASEKELA MASENYA ATTORNEYS
Suite N503 – N504
JSL Towers
259 Pretorius Street
Pretoria
Tel: (012) 771 5832 / (012) 772 3392
Fax: (086) 516 7552
E-mail: alphy@maslaw.co.za
Ref: Mr. Alphy Masenya

MASEKELA MASENYA ATTORNEYS
SUITE 506 BANK TOWERS
CNR CHURCH & ANDRIES STREET
PRETORIA, 0002
TELEFAX: (012) 323 6672

Received Copy Hereof:
Date: 09/05/2017
Name: Perlunia
Signature: M. Molokwe

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

Case No: 89196 / 2016

In the matter between:

ECONOMIC FREEDOM FIGHTERS	First Applicant
JULIUS SELLO MALEMA	Second Applicant

and

AFRIFORUM NPC	First Respondent
AFRISAKE NPC	Second Respondent

ADDITIONAL ANSWERING AFFIDAVIT

I, the undersigned,

CATHARINA CORNELIA COOKS

declare under oath as follows:

1.

I am an adult female employed by the First Respondent as safety coordinator and previously as provincial coordinator and community safety coordinator, with work

address at AfriForum Building, cnr. of D.F. Malan and Union Avenue, Kloofsig, Centurion.

2.

The content of this affidavit falls within my personal knowledge unless the context indicates otherwise. To the best of my knowledge the content is both true and correct.

3.

I am still duly authorised to depose to this affidavit on behalf of both Respondents.

4.

The Respondents became aware of alarming facts after the answering affidavits on its behalf were already commissioned and filed. The time for the Respondents to file answering affidavits has however not yet lapsed and this affidavit is thus filed. It is respectfully contended by the Respondents that it is in the interest of justice to do so now to ensure that the whole dispute is ventilated before this Honourable Court. I am advised by the Respondent's legal representatives that is also convenient not to approach the matter in a fragmented and protracted manner, but to rather place this material before the Honourable Court now, before the Applicants have filed their replying affidavits (if any). The Applicants should also not suffer any prejudice as they will be able to have regard to this affidavit before filing their possible reply.

Since the new issues that the Respondents wish to raise consists of contempt of court, I am advised that the Honourable Court could even raise these aspects *mero motu* in the light of recent judgments from the Constitutional Court.

5.

After the order that the Applicants seek to rescind was granted by the Honourable Mr Justice Mabuse it was served on both Applicants. I annex the two relevant returns of service hereto and mark same as **Annexures "V"** and **"W"** respectively.

6.

It is of specific importance that the returns indicate that the order was served on the 2nd Respondent **personally** on 30 March 2017. The order was served on the 2nd Respondent at the Constitutional Court by the Sheriff after the Respondent's Attorneys received information that he would be at there to issue unrelated Court documents.

7.

Shortly after the Respondent's answering affidavits had been commissioned and/or filed I learned from the media that the 2nd Respondent appeared in the Magistrates Court in Newcastle again on 5 May 2017. He appeared for the same criminal matter in that Court already dealt with in the initial application that formed part of the Respondent's case. I annex a copy of the relevant article in News 24 hereto and

mark same as **Annexure "X"**. To the best of my knowledge neither of the Applicants have denied the content or correctness of said article.

8.

The article indicates that the 2nd Respondent wilfully and in a *mala fide* fashion defied the court order granted by the Honourable Mr Justice Mabuse. Relevant extracts from the article read that:

> *"After court adjourned Malema again called for his supporters to occupy land, as a white magistrate 'could never understand' the pain of the land issue"*

9.

The article furthermore indicates that Mr Malema said:

> *"Please go on a occupy the land (sic). This land struggle has led to many blacks having a place they call a home"*

10.

The Second Applicant made these statements on his own behalf and I would submit also on behalf of the First Applicant in its capacity as its political leader.

11.

After becoming aware of the Applicants' blatant contempt of court I also studied the First Applicant's official account (@EFFsouthafrica) on the Twitter social media platform. A holder of a Twitter account can place various postings or "tweets" on the account, which can then be seen by all the other individuals or institutions with Twitter accounts that follow the First Applicant's Twitter account. I annex a screenshot from said account in relation to two postings by the 1st Respondents hereto and mark same as **Annexure "Y"**. The two relevant postings read as follows:

> "*Malema: occupy land whilst you are alive because if you don't, you will only have one pice of land in death, called the grave*" (sic)

> "*Malema: please go on a occupy the land. The land struggle has led to many blacks having a place to call a home*" (sic)

12.

In my investigations into the incident on 5 May 2017 after becoming aware thereof even more evidence surfaced. The Respondents (and myself) are in possession of a video of a portion of the speech that the 2nd Applicant made at the Magistrates Court in Newcastle on 5 May 2017. Should the content thereof be disputed, same

will be made available to anyone who wishes to see it, including the Honourable Court.

13.

In the video the 2nd Applicant addresses a group of supporters from a stage with the name/emblem of the 1st Applicant behind him. The video shows the 2nd Applicant:-

13.1) Says that "they" (under which I assume the Applicants are included) will continue to encourage "their people" to occupy the land;

13.2) He indicates to the crowd that the land occupation must be done without fear or favour;

13.3) He tells the crowd that the land in effect belongs to them and that white persons did not bring land with them when coming to South Africa.

14.

All of the conduct complained above constitutes contempt of court. It is also evident from the referral to white persons that the Applicants do not only propagate the unlawful invasion of state owned land.

LJR.

15.

It will be argued by the Respondents when this matter is heard by this Honourable Court that the fact that the Applicants are before the Court with dirty hands, rescission of the judgement should also not be granted on that basis.

16.

The conduct complained of further indicates the *mala fide* and criminal intention of the Applicants and confirms that the unlawful conduct will continue. The order granted by the Honourable Mr Justice Mabuse thus has to remain in place to safeguard law and order and the rule of law.

17.

The Applicants furthermore respectfully suggest that this is an appropriate case for the Honourable Court to commence contempt proceedings *mero motu* against both Applicants in the light of a recent judgment of the Constitutional Court in this regard. These proceedings can possibly be set in motion in the style of a *rule nisi*. I content that an appropriate sanction under the circumstances would be for the 1st Applicant to be fined in the amount of R 200 000-00 and that the 2nd Respondent should be incarcerated for a period of 90 days.

The Respondents therefore persist in requesting that the Application be dismissed with an appropriate cost order.

C.C. COOKS
DEPONENT

THUS SWORN AND SIGNED AT Lyttelton SAPS ON THIS 07 DAY OF May 2017, BEFORE ME, Lyttelton Beradami, COMMISSIONER OF OATHS, THE DEPONENT HAVING ACKNOWLEDGED THAT SHE UNDERSTANDS THE CONTENTS OF THIS AFFIDAVIT, HAS NO OBJECTION IN TAKING THE OATH AND REGARDS THE OATH AS BINDING ON HER CONSCIENCE AFTER COMPLYING WITH THE REQUIREMENTS OF GOVERNMENT NOTICE R1258, DATED 21 JULY 1972, AS AMENDED.

BEFORE ME:

COMMISSIONER OF OATHS

NAME: Beradami Luhuwen.

CAPACITY: Constable.

ADDRESS: C/o Basden & Gerhard

SAPS LYTTELTON
2017 -05- 07
CLIENT SERVICE CENTRE
SOUTH AFRICAN POLICE SERVICE

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION PRETORIA

POST

IN THE MATTER BETWEEN :

CASE NO :89196/16

AFRIFORUM NPC — 1ST APPLICANT
AFRISAKE NPC — 2ND APPLICANT

and
ECONOMIC FREEDOM FIGHTERS — 1ST RESPONDENT

O R I G I N A L

(REG.NO. 4250141902)

RETURN OF SERVICE

On the 23RD DAY of MARCH 2017 at 11H48 and at
EVEL 3 MINERALIA BUILDING,78 DE KORTE STR,BRAAMFONTEIN,JHB
the annexed
COURT ORDER DATED 07/03/17
was served on 1ST RESPONDENT by delivering a copy thereof to
MR LINDE XAVIER MABENGWANE HEAD OF LEGAL
who is apparently over the age of 16 years and being a responsible
employee of 1ST RESPONDENT at 1ST RESPONDENT's
place of business upon exhibiting the original and
explaining the nature and contents thereof, in terms of RULE 4(1)(a)(v))

Dated at Johannesburg this 24th March 2017

E61

ees set out as follows:

Service	55.00
Travelling	20.00
Registration	8.00
Return	28.50
Urgent Fee	350.00
DX/POST/PETTIES	21.93
FAX & PHONE	34,50

Attorneys : HURTER SPIES ATTORNEYS
P O BOX 14505
LYTTELTON 0140
0000
Your ref.: AF0028/TERTIUS KRUGER

Our ref.: 005/844565/H44

INVOICE NO : 571761
SHERIFF JHB.NORTH - UNIT B1
51/61 ROSETTENVILLE ROAD
VILLAGE MAIN OFFICE PARK
P.O.BOX 9025 JHB 2000

Tel (011) 334-4397/98

Fees :R 517.93 R 72.51 Vat = R 590.44 Fax (011) 334-4320

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION -PRETORIA

Case No – Saak No 89196/16

In the matter between:
AFRIFORUM NCP — 1ST APPICANT
and:
MR JULIUS SELLO MALEMA — 2ND RESPONDENT

Return in accordance with the provisions of the Supreme Court Act 59 of 1959, as amended

RETURN OF SERVICE: PERSONAL SERVICE (Rule 4(1)(a)(i)).
ORDER

On this 30th day of MARCH 2017 at 15:05 I served this ORDER upon MR JULIUS SELLO MALEMA, 2ND RESPONDENT personally at CONSTITUTIONAL COURT 1 HOSPITAL STREET BRAAMFONTEIN JOHANNESBURG by handing to the abovementioned a copy thereof after explaining the nature and exigency of the said process. (Rule 4(1)(a)(i)).
Note:
The original return together with the original abovementioned process is despatched to the mandator.

Note: Refused to accept service, document handed by means of touching it to his hand and it dropped on his feet.

Sheriff Fees Heffingsgelde | Date Datum 31.03.2017 | Tax Invoice Number Belastingfaktuur Nr. I 175300

Description	Qty	Vat	Amount
Service	1	7.70	55.00
Return	1	3.99	28.50
Registration	1	1.12	8.00
Copies	1	0.49	3.50
Travelling	1	4.90	35.00
Urgency fee	1	49.00	350.00
Telephone Call	1	12.04	85.97
Post/Docex (V)	1	2.74	19.60
VAT / BTW			81.98

M MANGABA
Deputy-Sheriff
Sheriff – Balju
Johannesburg Central
Tel 011 492 2660
011 492 2655
011 492 2860
Fax 011 492 0059
P O Box 22
Westhoven
2142
MT Mangaba
sheriffjohncentral@gmail.com
Bank: FNB Centurion
BrCode: 281550
Name: Sheriff Johannesburg Central Business
AccNo 624 198 108 42

VAT Reg No, BTW Reg Nr. 4020158368

You may require the account to be taxed and vouched before payment. U kan vereis dat hierdie rekening getakseer en gestaaf word voor betaling

Total Totaal 667.55

HURTER SPIES ATT
PO BOX 14505
LYTTELTON
0140

Account No. ♦ Rekening Nr. 20075 VatReg
Your Reference ♦ U Verwysing TERTIUS KRUGER/AF002
My Reference ♦ My Verwysing
Ref: 579143/Leone/I

Registrar: GAUTENG DIVISION -PRETOR

New Tab | Mbeki, Motlanthe should ...
www.news24.com/SouthAfrica/News/mbeki-motlanthe-should-not-recognise-criminal-de-klerk-malema-20170505
News24 | OLX | PROPERTY24 | CAREER24 | SPREE |
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Weather Update: Cool week kicks off across most of SA

The coastal rain is brought on by a cold front which approaches the western side of SA on Saturday.

Mbeki, Motlanthe should not recognise 'criminal' De Klerk - Malema

2017-05-05 12:57

Paul Herman, News24

Cape Town - Economic Freedom Fighters leader Julius Malema says former African National Congress presidents Kgalema Motlanthe and Thabo Mbeki should not share a stage with "apartheid criminal" FW de Klerk.

Malema was speaking on Friday after the Newcastle Magistrate's Court postponed his "land grabs" case to October 13.

"I saw today that Mbeki and Motlanthe are meeting with De Klerk saying they are finding solutions to SA," the party quoted Malema on Twitter during his speech outside the court.

"That's a problem because... by recognising De Klerk, Mbeki and Motlanthe make a mistake that will lead to white racists thinking they still have a place in SA.



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"The inability of ANC to punish apartheid criminals like De Klerk is why white racists are still proud amongst us."

He said De Klerk can never find solutions to democratic SA because he presided over the mass murder of black people during apartheid.

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The three former presidents along with seven national foundations shared a stage on Friday to kick off a national dialogues initiative on the multiple crises currently facing the country.

Former deputy president Phumzile Mlambo-Ngcuka was also participating.

'Plan to avoid jail'

Malema also used the platform once again to tear into President Jacob Zuma and white monopoly capital.

"Zuma is not a problem. He is just an irritation. The real problem is white monopoly capital which we will confront on removing Zuma," he continued, referencing the motion of no confidence and a possible secret ballot.

"ANC is in the business of pleasing white people. They do everything to please whites."

He said Zuma had a 20-year plan to avoid the 783 charges of corruption still outstanding against him.



EFF leader Julius Malema (File, Cornel van Heerden, News24)

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"Let me tell you, Zuma planned 10 years ago that Nkosazana [Dlamini-Zuma] will be president of the ANC. Then, it will be Edward Zuma [his son] 10 years after."

"We must fight this, to avoid South Africa from being a monarchy."

He told his supporters and voters that if they "don't want a junk country, stop voting for a junk ANC".

'Go occupy land'

Malema's appearance in court was brief on Friday.

Prosecutors asked that his case be heard on October 13, pending Malema's legal challenge over the constitutionality of the 1956 Riotous Assemblies Act.

After court adjourned, Malema again called for his supporters to occupy land, as a white magistrate "could never understand" the pain of the land issue.

"Please go on a occupy the land [sic]. This land struggle has led to many blacks having a place they call a home."

In 2016, Malema was charged twice for contravening the Riotous Assemblies Act over comments he made to supporters in Newcastle and Bloemfontein.

The EFF has always maintained that the charges against Malema were a waste of time, and an attempt to keep the party distracted from honouring its political programme.





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1

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