IN THE HIGH COURT OF SOUTH AFRICA

(GAUTENG DIVISION, PRETORIA)

CASE NO: 111881/2025

In the matter between:

SAKELIGA NPC	**1st Applicant**
TRANSVAAL AGRICULTURAL UNION OF SOUTH AFRICA	**2nd Applicant**
CT VAN DER MERWE BOERDER (PTY) LTD	**3rd Applicant**
TWYFEL NIE PLASE (PTY) LTD	**4th Applicant**
BLOUBERG CITRUS (PTY) LTD	**5th Applicant**
PONTDRIF CITRUS (PTY) LTD	**6th Applicant**
CORFUSCORE (PTY) LTD	**7th Applicant**
MOSIMA BELEGGINGS (PTY) LTD	**8th Applicant**

And

MINISTER OF WARTER AND SANITATION	**1st Respondent**
DIRECTOR- GENERAL DEPARTMENT OF WATER AND SANITATIN	**2nd Respondent**
DEPARTMENT OF WATER AND SANITATION	**3rd Respondent**

FILING NOTICE

ON THE ROLL:

DOCUMENT FILED: **1st, 2nd and 3rd RESPONDENT'S ANSWERING AFFIDAVIT**

SIGNED AND DATED at PRETORIA on this the 19th SEPTEMBER 2025.

FILED BY:

ATTORNEY FOR APPLICANT
THE STATE ATTORNEY
GROUND FLOOR, SALU BUILDING
CNR THABO SEHUME & FRANCIS BAARD STREET
PRETORIA,
0001
TEL: (012) 309 1573
FAX: (012) 309 1649/50/ 071 943 4070
REF: 3043/25/Z41
ENQ: N MKHWANAZI

TO:
THE REGISTRAR OF HIGH COURT
PRETORIA

AND TO:

MESSRS: KRIEK WASSERMAN & VENTER INC

APPLICANT'S ATTORNEYS

13th Stamvrug Street, Val De Grace

PRETORIA

TEL: (012) 803 4719

EMAIL: rohann@krieprok.co.za, yandemi@kriekprok.co.za , liam@kriekprok.co.za

REF:

KRIEK WASSENAAR & VENTER INC
Attorneys / Prokureurs
13 Stamvrug Street, Val de Grace, Pretoria
(012) 803 4719
(Ground floor)

23/09/2025
11:45

Copy received by:
Date:
Time:

Applicants Attorneys

IN THE HIGH COURT OF SOUTH AFRICA

(GAUTENG DIVISION, PRETORIA)

CASE NO: 2025-111881

In the matter between:

SAKELIGA NPC	First Applicant
TRANSVAAL AGRICALTURAL UNION OF SOUTH AFRICA	Second Applicant
CT VAN DER MERVE BOERDERY (PTY) LTD	Third Applicant
TWYFEL BIE PLASE (PTY) LTD	Fourth Applicant
BLOUBERG SITRUS (PTY) LTD	Fifth Applicant
PONTDRIF CITRUS (PTY) LTD	Sixth Applicant
CORFUSCORE (PTY) LTD	Seventh Applicant
MOSIMA BELEGGINGS (PTY) LTD	Eighth Applicant

And

MINISTER OF WATER AND SANITATION	First Respondent
DIRECTOR-GENERAL: DEPARTMENT OF WATER AND SANITATION	Second Respondent
DEPARTMENT OF WATER AND SANITATION	Third Respondent

FIRST, SECOND AND THIRD RESPONDENT'S ANSWERING AFFIDAVIT

I the undersigned,

RME

MPHO RATSHISUSU

Do hereby state under oath and declare:

1. I am an adult male Chief Director: Legal Services and I am employed as such by the Department of Water and Sanitation ("the Department/Third Respondent"). The Department of Water and Sanitation carries on its business at No. 185 Francis Baard Street, Sedibeng Building, Pretoria, Gauteng Province.

2. The facts stated in this affidavit are true and correct and fall within my personal knowledge unless the context indicates otherwise. I have been fully briefed in this matter, and I have access to all the relevant information and documents in the possession of the Department that are relevant to the subject matter of the dispute between the parties.

3. Where I make submission of a legal nature, I do so in good faith and on the advice of my legal representatives in the belief that their advice is correct. I however pause to mention that the nature of the challenge mounted by the Applicants against the Respondents, as well as the contentions in the founding papers, render it inevitable for me to advance legal propositions in the course of advancing the Respondents case. I will therefore refer to legislative and regulatory provisions that are pertinent to the dispute between the parties in this answering affidavit.

4. I have read the notice of motion dated 04th July 2025 together with the founding affidavit filed in support of the relief sought in the notice of motion. For reasons set

RMR

out more fully in this affidavit, the relief sought by the applicant in the notice of motion is opposed by the First, Second, and Third Respondents ("The Respondents").

5. In what follows, I intend to set out a brief overview of the Respondents' opposition to the relief sought by the Applicants.

6. Firstly, I deal with the legal principles governing the granting of a declaratory relief. I contend in this regard that the current application is ill-conceived because the issues raised therein do not warrant the exercise of the court's authority and/or discretion to grant the declaratory relief.

7. Secondly, I deal with the relief sought and I demonstrate why the judicial intervention is unwarranted and undesirable in the circumstance of this case. I do so in the context of the contention that a declaratory relief is non-suited on the facts presented by the Applicants in the founding affidavit.

8. Thirdly, I set out matters relevant to the general context in which the application must be considered. I also do so while addressing the Honorable Court on why a declaratory relief should not be granted in this case.

9. Finally, traverse the individual allegations set out in the applicant's founding affidavit. In doing so, I confine myself to only those issues that warrant my response. My failure to traverse any other allegations should therefore not be construed as an admission on my part of the correctness or otherwise of the said

RMR

allegation. To the extent that any such allegations are inconsistent with what I have stated elsewhere in this affidavit, such allegations should be regarded as being denied.

LEGAL PRINCIPLES GOVERNING THE GRANTING OF DECLARATORY RELIEF

10. I am advised that the relief sought by the Applicants (i.e. the declaratory relief) is located in section 21(1)(c) of the Superior Court's Act of 2013. The relevant sections provide that:

> *"(1) A Division has jurisdiction over all persons residing or being in, and in relation to all causes arising and all offences triable within, its area of jurisdiction and all other matters of which it may according to law take cognizance, and has the power –*
>
> *(c) in its discretion, and at the instance of any interested person, to enquire into and determine any existing, future or contingent right or obligation, notwithstanding that such person cannot claim any relief consequential upon the determination."*

11. I am further advised that the exercise of the court's discretion in terms of section 21(1)(c) follows a two-legged inquiry: "The court must first be satisfied that the Applicant is a person interested in an existing, future, and/or contingent right and/or obligation and if so, the court must decide whether the case is a proper one for the exercise of its discretion."

RMR

12. Factors that the court considers in order to determine whether judicial discretion should be exercised positively or negatively in application for declaratory relief includes:

12.1 The existence (or absence) of a dispute;

12.2 The utility of the declaratory relief, i.e., whether if granted it will settle the question in issue between the parties;

12.3 Whether a tangible or justifiable advantage in relation to the Applicants' position appears to flow from the grant of the order;

12.4 Consideration of public policy, justice and convenience;

12.5 The practical significance of the order; and

12.6 The availability of other remedies.

13. The Respondents take no issue with the fact that the Applicants falls within the first leg of the inquiry, i.e., that the Applicant is a person interested in an existing, future of contingent right.

14. What is however disputed is the fact that this case is a proper case for the exercise of the court's discretion to grant the declaratory relief. I say so for the following reasons:

fme

14.1 In terms of prayer 1 of the notice of motion, the Applicants seeks an order declaring:

"that water use charges in terms of the National Water Act 36 of 1998 in respect of water utilized for commercial irrigation and/or commercial purposes by private individuals or entities is subject to a three-year prescription period in terms of section 11(d) of the Prescription Act 68 of 1969."

15. It is notable from the founding affidavit that no specific debt is referred and as a result the declaratory relief sought is sought in an abstract. Put differently, the Applicants have failed to put factual allegations before the Honourable Court that justifies the exercise of the courts discretion in granting the declaratory relief. The Honourable Court in thus requested to declare that prescription Act applies to the water charges, notwithstanding the fact that the Honourable Court is not provided with factual to exercise its judicial discretion in favour of granting the declaratory order sought

16. All the factors set out above, i.e., are factors to be considered in order to determine whether judicial discretion should be exercised positively and are absent in this particular case.

17. The declaratory order sought by the Applicants is sought in an abstract. Put differently, the Applicants seeks an order declaring that water use charges in terms of the National Water Act 36 of 1998 in respect of water utilized for commercial,

fme

irrigation and/or other commercial purposes or entities is subject to a three-year prescription without providing the Honourable court with any factual basis for the contention advised.

18. The Applicants merely contends that:-

"currently, the Third and further Applicants, and many others in a similar position are being harassed by the Departments' appointed debt collectors and/or attorney. This harassment is an attempt to enforce inter alia prescribed debt. In most instances, the debt older than three years would be the biggest component of the arrear claim. Despite harassment, the Department has never issued Summons so that a court can decide the question. This forces the hand of the Applicants into bringing this application."

19. Notwithstanding the fact that references made that the Department's appointed debt collectors are harassing the Applicants and many others, the Applicants failed to provide this Honourable court, for instance, with factual basis supporting the allegations that the debt that is sought to be collected by the Department's appointed collectors has prescribed.

20. In the absence of any factual basis supporting the contention that the debt that is sought to be collected by the Department has prescribed, this Honourable Court cannot exercise its discretion in favour of granting the declaratory relief.

pme

21. There is even more reason why the Honourable Court should not exercise its discretion in favour of granting the declaratory relief and that is that there exists no dispute between the parties. In the Applicants own words, the Department has never issued summons to recover the alleged prescribed debt.

22. In the absence of any summons commencing action, in particular summons in which the Department seeks to recover the alleged prescribed debt, it cannot be said that there exists a dispute in so far as the alleged recovery of prescribed debt is concerned. The dispute pertaining to the recovery of the debt that has allegedly prescribed will only arise upon the issuance of summons by the Department.

23. In the circumstances, I respectfully submit that this Honourable Court cannot exercise its judicial discretion in favour of granting the declaratory relief in the absence of the dispute between the parties.

24. A further consideration is whether a tangible or justifiable advantage in relation to the Applicant's position appears to flow from the grant of the order. On the facts of this case, no tangible or justifiable advantage in relation to the Applicants' position will flow from the grant of the order. whether or not a debt has prescribed depends on the facts of each case. The Honourable Court cannot pronounce in abstract, without any factual basis that a debt has prescribed. The question whether or not the debt has prescribed depends on the facts of each case. Prescription of a debt cannot be pronounced in abstract.

25. In the circumstances, I respectfully submit that no tangible or justifiable advantage will flow from the granting of the declaratory relief sought and on that basis alone the application falls to be dismissed.

26. The order sought, if granted will also not have any practical significance. This in view of the fact that the question whether a debt has prescribed will depend on the facts of each case. Put differently, the order sought, if granted will not apply generally to all the debts that the Department wish to collect. The Department will have to issue summons, and the Applicants will have to plead thereto. The court seized with the matter will then hear evidence and will have to decide whether on the fact presented before it, the debt has prescribed.

27. The further consideration that plays a role in the court's decision on whether or not to exercise its discretion in favour of granting the declaratory order is whether there exists an alternative remedy. If an alternative remedy exists, the Court should not be inclined to grant the declaratory relief. In the instance case, the Applicants have an alternative remedy, and that is that the Applicants will defend the claim on the basis that it has prescribed upon the issuance of summons at the instance of the Respondents.

28. In the circumstances, I respectfully submit that the facts of this case militates against the exercise of the court's discretion in favour of granting the declaratory relief.

RME

29. I am further advised that in certain circumstances, a declaratory order serves to clarify the legal position and/or rights of the parties. However, on the facts of this case, there is no right and/or legal position of any party that requires clarity. If indeed, the Applicants believe that some of the debts that the Department seeks to recover have prescribed, the Applicants will be well within their rights to raise a special plea of prescription, and the court seized with that matter will then have to adjudicate the matter on the facts presented before the court.

30. In the circumstances, I submit that the available alternative remedies militate against the granting of the order sought. The Applicants should not be allowed to circumvent a normal litigation process through declaratory order as is set out in the notice of motion. Whether or not the debt has prescribed, it will depend on the facts of each case and consideration of other relevant factors such as date that the creditor became aware of the existence of the debt. The declaratory order cannot not be granted an abstract.

31. The question raised by the Applicants has been adjudicated upon before and as a result, this Court must decline to entertain the declaratory relief sought. It is trite that debts arising from fundamental rights are *sui generis* to that covered under the Prescription Act.

    31.1 At the heart of the right to access to water in terms of Section 27(1) of the Constitution of the Republic which guarantees this fundamental right.

RMS

31.2 The State has an obligation to perform in realisation of the fundamental rights provided for in Section 27(1) of the Constitution.

31.3 It must be recognized that while water is a natural resource that belongs to all people, the discriminatory laws and practices of the past have prevented equal access to water, and use of water resources. In addition, it must also be emphasized that the ultimate aim of water resource management is to achieve the sustainable use of water for the benefit of all users.

31.4 Water use charges are used to fund the direct and related costs of water resource management, development and use, and may also be used to achieve an equitable and efficient allocation of water.

32. The provisions of Section 27(1) and 27(2) read together makes the provisions of water to *everyone* and that the State must achieve the *progressive realisation* of the rights under Section 27 of the Constitution. In paragraph 59 of the Founding Affidavit, the Applicants contend that water utilized for commercial purposes and related water use charges are unrelated to Section 27 of the Constitution.

33. In support of the Respondents' case that obligations for the provision of water are not debt for the purposes of the Prescription Act and that Prescription Act remains legislation subordinate to the Constitution; I stop here in order to avoid prolix on this point as the Respondents' legal representatives will advance further arguments on this issue during the hearing of the application.

fme

34. In prayer 2 of the Notice of Motion, the Applicants seek an order declaring that a three year period be applicable in respect of the respective accounts for water use provided therein. This is untenable in that even if this was to be achieved which I deny that its competent, these respective accounts cannot be aggregated and treated as on and the same thing. They ought to be treated case by case in terms of Sections 11, 12, 14 and 15 of the Prescription Act. The Respondents' legal representatives will advance further arguments on this issue during the hearing of the application.

35. The granting of the declaratory relief sought by the Applicants in this regard must be dismissed on these points alone:

35.1 Declaring that water use charges prescribe after three years would result in the progressive realisation of rights under Section 27 not being achieved.

35.2 The declaratory relief sought will frustrate the State's obligation as provided for in Section 27(1) of the Constitution.

35.3 It will further hamstring the Minister of Water and Sanitation to achieve what is envisaged in the NWA to achieve the sustainable use of water for the benefit of all users.

36. Considering the above, I submit that the declaratory relief sought by the Applicants be dismissed with punitive costs of two counsel where so employed.

pm E

AD SERITIUM INDIVIDUAL ALLEGATIONS IN THE FOUNDING AFFIDAVIT

37. I turn to deal with the allegations of the supporting Founding Affidavit *seriatim*. Where I do not deal specifically with any allegation, it is either because I have been advised that the allegation is not germane to the Respondents or the reason that it has been dealt with in what I set out above. Accordingly, my failure to deal with any specific allegation of the supporting Founding Affidavit should not be construed as an admission thereof.

AD PARAGRAPHS 1 TO 3 THEREOF

38. Save to note that the deponent is **Tobias Vivian Alberts**, I do not have any knowledge about the deponent of the supporting Founding Affidavit.

39. It is denied that the allegations contained in the supporting Founding Affidavit are all true and correct. I endeavor to demonstrate this denial in the remainder of this affidavit.

AD PARAGRAPHS 4 TO 11 THEREOF

40. Save to note the description of the Applicants as averred by the Deponent, I do not have knowledge about on the further particulars of the Applicants.

AD PARAGRAPHS 12 TO 14 THEREOF

41. The contents of these paragraphs are admitted.

RME

AD PARAGRAPHS 15 TO 17 THEREOF

42. I take note of the alleged purpose of the application. I however, deny that the Applicants has provided the Honourable Court with the necessary factual allegations that justifies the exercise of the Court discretion to grant the declaratory relief.

43. In so far as the relief pertaining to the provision of detailed statements of accounts and/all associated invoices are concerned, the Applicants failed to provide the Honourable Court with factual basis and/or legal basis for the order sought. Put differently the Applicants failed to provide the Honourable Court with the reasons why the court should order the Respondents to provide the Applicants with the statements of accounts as opposed to the Applicants requesting the statements directly from the Respondents.

44. Moreover, and in any event, I submit that it is not the task of this Honourable Court to become engaged in what amounts to departmental administrative functions.

AD PARAGRAPHS 18 TO 32 THEREOF

45. I note the contents of these paragraphs and the *locus standi* of the Applicants are not contended by the Respondents.

AD PARAGRAPHS 33 TO 40 THEREOF

46. I note the contents of these paragraphs.

Pme

47. I deny that the interpretation and comparison of the old, repealed Act and the NWA in these paragraphs will assist the Applicants.

48. The interpretation of the repealed Act must be aligned with that is envisaged in the preamble of the NWA and the provisions of Section 27(1) read with Section 27(2).

49. It is submitted that at the centre of the phrase *"water use charge"* is an important mechanism employed by the State to fund the direct and related costs of water resource management, development and use, and may also be used to achieve an equitable and efficient allocation of water.

50. I submit that constraining the phrase *"water use charge"* and subjecting it to the legal question whether it is susceptible to prescription or may be extinguished by prescription is untenable in that it seeks to do away with ultimate aim of water resource management is to achieve the sustainable use of water for the benefit of all users. I reiterate that water use charge fund the direct and related costs of water resource management.

51. Furthermore, I have demonstrated to the Honourable Court that the Applicants have failed to provide the Honourable Court with factual allegations justifying the exercise of the Courts discretion to grant the declaratory relief sought.

AD PARAGRAPHS 40 THEREOF

52. Save to note that the Deponent reproduces Section 57(7) of the NWA, the remainder of the allegations are noted.

PME

53. I reiterate that the selective reading of a subordinate legislation avoiding the prescripts of the Constitution is fatal to the Applicants' argument. This argument will be expanded at the hearing.

AD PARAGRAPHS 44 TO 46 THEREOF

54. I deny the contentions in the rest of these paragraphs.

55. It is denied that the NWA places *"water use charge"* on the same footing to a *"charge"* under the repealed old Act. In amplifying my denial, I submit that the old repealed Act had no objectives set out in the preamble of the NWA which flows from section 27 of the Constitution. As a result, it was not envisaged that *"water use charge"* under the NWA would be susceptible to prescription as its function is akin to an obligation to address fundamental rights in the Republic.

56. In respect of payments by various Applicants for water use charges, this umbrella approach will not assist the Applicants in that other than that it should be treated case by case, the following must be noted by the Court:

56.1 Portions of various accounts have since been paid by some of the Applicants which served as an acknowledgement of liability. This will be demonstrated below.

56.2 Prescription must be approached in terms of the law and the facts. It is untenable that the facts of all these accounts are mirror image of each account.

PME

57. I deny that many of the Applicants were not furnished with proper invoices and/or statements for many years. This is contrast of what is averred in paragraph 42 of the Founding Affidavit in that if there was inefficiency in furnishing proper invoices and/or statements for many years, how did the Applicants conclude that they are constantly showed debt older that three years claimed. This allegation is not substantiated or supported by any evidence. It stands to be rejected.

58. It is denied that Section 11(d) of the Prescription Act provides guidance in this case. It is trite that water use charges are insulated from the attack of section 11(d) of the Act in that if the drafters of the NWA deemed it fit that water use charges are extinguishable by prescription would have clearly stipulated this. The function of the water use charge goes beyond the scope of the Prescription Act as it feeds into the progressive realisation of access to water as a right.

AD PARAGRAPHS 47 TO 48 THEREOF

59. I take note the allegations contained in this paragraph.

60. However, though it is accepted that the Minister is clothed with regulatory power, it is submitted that the Applicants do not even take the Court into their confidence and explain that they also had an obligation to pay for water use on continues basis as they billed bi-annually. I submit that the Applicants fail to raise this in their papers as this is destructive to their case.

RMS

61. I implore the Honourable Court to note the concession by the Applicants in paragraph 48 of the Founding Affidavit that the Department has procured the services of debt collectors and attorneys to collect.

62. What is compounding the Applicants' problems is that even before *"water use charges"* are declared to be extinguished by prescription, they already turned into recalcitrant customers bluntly refusing to settle their bills without a just cause.

AD PARAGRAPHS 49 THEREOF

63. I note the content of this paragraph.

AD PARAGRAPHS 50 TO 51 THEREOF

64. What is alleged in these paragraphs is denied in whole.

65. I deny that clarity is needed on the legal position raised by the Applicants. This legal question has long been disposed or decided that those obligation of the State in terms of fulfilling its fundamental rights are not prone to attack by the provisions of the Prescription Act.

66. It is submitted that there should not be legal uncertainty on the side of the Respondents. A correspondence annexed as **"FA12"** addressed to SAKALEGA NPC and TLU was explicit that:

RMS

"The water use charges imposed to your client does not constitute a debt as contemplated by the Prescription Act, but an obligation arising out of the Constitution of the Republic of South Africa and the National Water Act 98 of 1998 (NWA)."

67. To say that there appears to also be legal uncertainty on the side of the Minister is not going to assist the Applicants. The position of the Minster remains the same. What is raised by the Applicants is an artificial claim which will not assists its declaratory relief.

68. The Applicants concede that they left the debts without paying for it to prescribe. In fact, they concede in many ways that they continued to work against the funding of the water resource management for more than three years to take a meritless point of law.

69. For few years, the Applicants concede that they neglected to pay for the usage of water which this Court must see as unjustified enrichment.

70. The desperation from the Applicants that they will be severely impacted must be rejected in that they neglected and/or refused to pay their water usage for few years whilst they are not exempted. In fact, the Applicants are before this Court with 'unclean hands.'

AD PARAGRAPHS 52 TO 69 THEREOF

71. I deny the allegations raised in these paragraphs.

RMS

72. It is denied that it is the position of the Department that water use charges are subjected to prescription after three years. In fact, there is no confirmatory affidavit by Mr Peter Senwamadi Matomi confirming same. Even if this was confirmed, the Department's position was communicated to the Applicants in **"FA12"** as demonstrated above.

73. Save to state that that a response to **"FA09"** was not going to change the position of the Department in what is contended herein, I submit that the Department's position is explicitly set out in **"FA12"**.

74. I submit that the debt collection by the agents of the Respondents is not harassment as averred by the Deponent. The Regulations allows the Minister to appoint any appropriate body as a billing agent where the Applicants neglect to service their bills. This is part of the enforcement and not intimidation or harassment. I quote the extract of the Regulation 1.11 as follows:

"The Minister may appoint any appropriate body as a billing agent, such as a water board, CMA, WUA, irrigation board or other external body. Unless other arrangements are approved by the Department or CMA, all water use categories, with the exception of the agriculture and stream flow reduction sectors, will be invoiced on a monthly basis. The agriculture and stream flow reduction sectors will be invoiced on a six-monthly basis. Minimum cut-off values for annual payment can be laid down by CMAs where the cost of collection would exceed income. Reimbursements of inter-WMA transfer payments will be done on a monthly basis in equal instalments."

75. Regarding the interpretation of **"FA13"** in most of these paragraphs as the Applicants decided to carry this exercise in the pleadings, I do not repeat what I have already stated above, only in the interest of avoiding prolixity. This argument will be advanced at the hearing of the application by the Respondents' legal representatives.

AD PARAGRAPHS 70 TO 73 THEREOF

76. It is denied that legal certainty on the issues raised is required. Our case law is replete with judgement on when does a debt prescribe.

77. It is further denied that the various Applicants do not have the invoices for the debts sought to be collected by the Department. In addition, it is denied that the debt that is sought to be recovered has prescribed.

AD PARAGRAPHS 74 TO 79 THEREOF

78. The allegation set out in these paragraphs are denied. There is no basis for the Applicants to allege that the letter of demand seeks to recover the debt that is older than three years. Annexure **FA14** merely stipulates the amount owing without stating the date from which the debt became due. It is thus speculative to state that the letter of demand appears to seek to recover the amount that has prescribed.

AD PARAGRAPHS 80-85 THERE OF

79. It is denied that the letters of demands are not a model of clarity. In any event, in the instance where the Applicants were not sure of the contends of the letter of demands, it was incumbent upon the Applicants to seek clarity from the Department as opposed to abusing the court process. The current application constitutes an abuse of the court process, and the Applicants ought to be mulcted with punitive cost order.

AD PARAGRAPHS 86-87 THEREOF

80. I take note of the allegations set out in these paragraphs. The allegations set out in these paragraphs bears no relevance to the declaratory order sought.

AD PARAGRAPHS 88-91 THEREOF

81. I take note of the allegations set out in these paragraphs. The allegations set out in these paragraphs bears no relevance to the declaratory order sought.

AD PARAGRAPHS 92-95 THEREOF

82. I take note of the allegations set out in these paragraphs. The allegations set out in these paragraphs bears no relevance to the declaratory order sought.

AD PARAGRAPHS 96 THEREOF

83. The allegations set out in this paragraph is denied. The Department has handed the account to debt collectors for collection. The delay in issuing the summons has

fmr

nothing to do with prescription issue. Debt collectors follow their own process for the purpose of collections. Summonses are only issued after all other process have failed.

AD PARAGRAPHS 97 THEREOF

84. I admit that the Department has to provide accurate invoices. The Department has issued invoices in respect of the amounts owed.

AD PARAGRAPHS 98-101 THEREOF

85. The allegations set out in these paragraphs makes no sense. There is an obligation on the consumer of water to pay for water usage. The consumer cannot escape liability to pay merely because it is alleged that it will be impossible for the water user to pay the entire amounts. If indeed the consumer is unable to pay the entire amount, then that consumer should make the necessary arrangements to pay the amount in instalments.

86. In any event the issues raised herein bears no relevance to the declaratory relief sought.

CONCLUSION.

87. The facts of this case do warrant the exercise of the Court's discretion to issue the declaratory order. I say for the following reasons

87.1 Currently there exist no dispute between the parties. The dispute will come into existence only upon service of summons for the recovery of the debt owe

87.2 The declaratory relief, if granted it will settle the question in issue between the parties because there exists no dispute between the parties.

87.3 No tangible or justifiable advantage in relation to the applicant's position appears to flow from the grant of the order; This is so because the question whether a debt sought to be recovered has prescribed depends on the facts of each case.

87.4 Consideration of public policy, justice and convenience militates against the grating of the declaratory order. The Applicants ought to await the service of summons and only that stage the applicant will be entitled to raise a plea of prescription.

87.5 The declaratory order, if granted will have no practical significance because the question whether or not the debt has prescribed depends on the fact of each case.

87.6 There are other remedies available to the Applicants. Upon receipt of summons commencing an action, the Applicants will be entitled to raise a special plea of prescription.

RMS

WHEREFORE I pray that the application be dismissed with costs, including the costs of two Counsel.

DEPONENT

I hereby certify that the deponent declares that the deponent knows and understands the contents of this affidavit and that it is to the best of the deponent's knowledge both true and correct. This affidavit was signed and sworn to before me at Pretoria on this 18 day of September 2025 and the Regulations contained in Government Notice R1258 of 21 July 1972, as amended, have been complied with.

COMMISSIONER OF OATHS

SOUTH AFRICAN POLICE SERVICE
FINANCE
2025 -09- 18
PRETORIA CENTRAL
SOUTH AFRICAN POLICE SERVICE

B