IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

Case No: 2025-125411

In the matter between:

THE MINISTER OF HEALTH	First Applicant
THE DIRECTOR GENERAL, NATIONAL DEPARTMENT OF HEALTH	Second Applicant

and

THE PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA	First Respondent
THE MINISTER OF FINANCE	Second Respondent
NATIONAL TREASURY	Third Respondent
SOLIDARITY TRADE UNION	Fourth Respondent
BOARD OF HEALTHCARE FUNDERS OF SOUTHERN AFRICA NPC	Fifth Respondent
SOUTH AFRICAN PRIVATE PRACTITIONERS FORUM	Sixth Respondent
HOSPITAL ASSOCIATION OF SOUTH AFRICA	Seventh Respondent
THE SOUTH AFRICAN MEDICAL ASSOCIATION NPC	Eighth Respondent
HEALTH FUNDERS ASSOCIATION	Ninth Respondent
SAKELIGA NPC	Tenth Respondent

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And in re:

Case No: 2024-11209

SOUTH AFRICAN PRIVATE PRACTITIONERS FORUM Applicant

and

THE PRESIDENT OF THE REPUBLIC

OF SOUTH AFRICA First Respondent

THE MINISTER OF HEALTH Second Respondent

THE MINISTER OF FINANCE Third Respondent

NATIONAL TREASURY Fourth Respondent

And in re:

Case No: 2025-020969

HOSPITAL ASSOCIATION OF SOUTH AFRICA Applicant

and

THE MINISTER OF HEALTH First Respondent

THE MINISTER OF FINANCE Second Respondent

THE PRESIDENT OF THE REPUBLIC

OF SOUTH AFRICA Third Respondent

And in re:

Case No: 2025-045340

THE SOUTH AFRICAN MEDICAL ASSOCIATION NPC Applicant

and

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THE MINISTER OF HEALTH	First Respondent
THE PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA	Second Respondent
SPEAKER OF THE NATIONAL ASSEMBLY	Third Respondent
CHAIRPERSON OF THE NATIONAL COUNCIL OF PROVINCES	Fourth Respondent

And in re:

Case No: 2025-083348

HEALTH FUNDERS ASSOCIATION	Applicant

and

THE MINISTER OF HEALTH	First Respondent
THE MINISTER OF FINANCE	Second Respondent
NATIONAL TREASURY	Third Respondent
PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA	Fourth Respondent

And in re:

Case No: 2025-134493

SOUTH AFRICAN PRIVATE PRACTITIONERS FORUM	Applicant

and

SUNNYSIDE
PRETORIA
0002
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REF: KGOSANA/DEPT OF HEALTH/10/2025
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TO: THE REGISTRAR OF THE HIGH COURT

AND TO: **THE STATE ATTORNEY, PRETORIA**
ATTORNEY FOR THE FIRST RESPONDENT
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AND TO: **MINISTER OF FINANCE**
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AND TO: **NATIONAL TREASURY**

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AND TO: **SERFONTEIN, VILJOEN & SWART ATTORNEYS**
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AND TO: **WERKSMANS ATTORNEYS**
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AND TO: **WEBBER WENTZEL ATTORNEYS**
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C/O HILLS INCORPORATED
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AND TO: **NORTONS INC. ATTORNEYS**
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AND TO: **ASSENMANCHER BRANDT ATTORNEYS**
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C/O VOSTER BRANT ATTORNEYS
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FAX: 012 460 0600

AND TO: **ENS AFRICA ATTORNEYS**
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REF: C ERUSMUS/J KEUS/ X64/2025

TO **KRIEK WASSENAAR & VENTER INC**

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Ref: P Wassenaar/L Enslin/QB 1179

MINISTER OF HEALTH	First Respondent
PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA	Second Respondent
MINISTER OF FINANCE	Third Respondent
NATIONAL TREASURY	Fourth Respondent

And in re:

Case No: 2025-147065

SAKELIGA NPC	Applicant

and

MINISTER OF HEALTH	First Respondent
MINISTER OF FINANCE	Second Respondent
PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA	Third Respondent
SPEAKER OF THE NATIONAL ASSEMBLY	Fourth Respondent
CHAIRPERSON OF THE NATIONAL COUNCIL OF PROVINCES	Fifth Respondent

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NOTICE OF APPLICATION TO AMEND NOTICE OF MOTION

TAKE NOTICE THAT the applicants will apply at the hearing of this matter on 23 February 2026 –

1 to amend their further amended notice of motion at Caselines 001-539 as follows:

(a) By deleting paragraph 4.

(b) By inserting after paragraph 6 the following:

"ALTERNATIVELY TO PARAGRAPHS 2 TO 6 –

6A The orders in paragraph 1 above are effective pending a final decision by the Constitutional Court in –

6A.1 the application by BHF in the Constitutional Court in the *Board of Healthcare Funders NPC v Speaker of the National Assembly and 23 Others* ("**the second BHF CC application**"); and

6A.2 the application by the Premier of the Western Cape in the Constitutional Court in *Premier of the Western Cape v the Chairperson of the National Council of Provinces and 11 Others* **("the public participation challenges")**.

6B Upon the Constitutional Court handing down any final judgment upholding one or both of the public participation challenges, the stay shall be discharged and the presiding judge case-managing the applications referred to in paragraph 1 will, upon request from any party or *mero motu*, issue

directions requiring the parties to make submissions on mootness and on the further conduct of those cases.

6C Upon the Constitutional Court handing down any final judgment dismissing both of the public participation challenges, the stay shall be discharged and the presiding judge case-managing the applications referred to in paragraph 1 will, upon request from any party or *mero motu*, issue directions requiring the parties to make submissions on the further conduct of those applications.

2 for leave to file the attached affidavit of Makule Kgosana, together with the correspondence and table attached to it.

KINDLY ENROL THE MATTER FOR HEARING ACCORDINGLY.

DATED AT PRETORIA ON THIS THE 16 DAY OF FEBRUARY 2026.



KGOSANA ATTORNEYS
ATTORNEYS FOR THE APPLIACANT
CHAMBERS @ VALLEY ROAD
133 VALLEY ROAD

MINISTER'S FURTHER SUPPLEMENTARY AFFIDAVIT IN THE STAY APPLICATION

I, the undersigned

MAKULE ASNATH KGOSANA

state under oath as follows:

1 I am a director at Kgosana Attorneys, the applicants' attorneys.

2 The facts in this affidavit are true and correct and fall within my personal knowledge.

3 I ask that the annexures to this affidavit be read as if specifically incorporated.

FURTHER CORRESPONDENCE

4 In my previous affidavit I referred to the latest correspondence received from the South African Private Practitioners Forum (SAPPF), the Health Funders Association (HFA) and the Hospital Association of South Africa (HASA) on 12 February 2026. I noted that the Minister had not yet responded to these letters and indicated the intention to file a further affidavit including the response.

5 On 16 February 2026, the Minister delivered his response to the correspondence, which I attach as **MK13**. In this letter:

5.1 The Minister informed the parties of his intention to amend the notice of motion in the stay application to include relief in the alternative to paragraphs 1 to 6.2 of the notice of motion, staying the applications pending the determination of the Constitutional Court public participation challenges. A copy of that notice is attached to the letter as Annexure 1.

5.2 The Minister attached a further table, reflecting the Constitutional Court's record of deciding public participation challenges. This reflects that the time-to-judgment averages between 3 and 4 months for these challenges. A copy of that table is attached to the letter as Annexure 2.

5.3 The Minister declined the latest demands for an undertaking of a total halt to any implementation of the NHI Act.

LEAVE

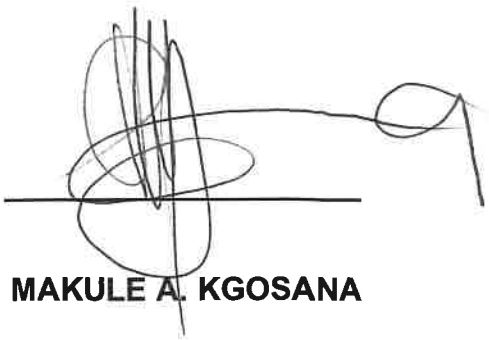
6 The applicants ask for the Court's leave for this further affidavit and its annexures to be admitted into the record.

7 This information in this affidavit and the annexures is relevant to the determination of the application pending before this Court and is necessary for the Court to consider.

8 Its contents ought not to be contentious and its admission poses no prejudice to any party.

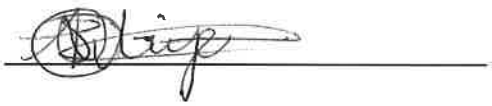
9 These developments occurred after all of the affidavits and heads of argument were filed in the application and therefore could not have been brought to the Court's attention any earlier. This affidavit was prepared urgently on receipt of

the Constitutional Court's directives and after all correspondence was exchanged between the parties.



MAKULE A. KGOSANA

I hereby certify 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 _____ on this the 16th day of FEBRUARY **2026**, and that the Regulations contained in Government Notice R.1258 of 21 July 1972, as amended, have been complied with.



COMMISSIONER OF OATHS

ANDILE SIBIYA
Commissioner of Oaths
Practicing Attorney
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