

THE CONSTITUTIONAL COURT OF SOUTH AFRICA

CASE NO: CCT 52/21

In the application of:

LIMPOPO LEGAL SOLUTIONS

**Applicant for admission as
*amicus curiae***

In the matter between:

JACOB GEDLEYIHLEKISA ZUMA

Applicant

and

**SECRETARY OF THE JUDICIAL COMMISSION
OF INQUIRY INTO ALLEGATIONS OF STATE
CAPTURE, CORRUPTION AND FRAUD IN THE
PUBLIC SECTOR INCLUDING ORGANS OF STATE**

First Respondent

RAYMOND MNYAMEZELI ZONDO N.O

Second Respondent

MINISTER OF POLICE

Third Respondent

NATIONAL COMMISSIONER OF THE

Fourth Respondent

SOUTH AFRICAN POLICE SERVICE

and

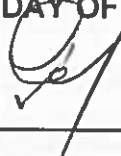
HELEN SUZMAN FOUNDATION

Fifth Respondent

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DATED AT PRETORIA ON THIS 08TH DAY OF JULY 2021.



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IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA

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Fourth Respondent

and

HELEN SUZMAN FOUNDATION

Fifth Respondent

NOTICE OF APPLICATION
APPLICATION TO BE ADMITTED AS *AMICUS CURIAE*

BE PLEASED TO TAKE NOTICE that LIMPOPO LEGAL SOLUTIONS (“LLS”) (hereinafter referred to as the “Applicant for admission as *amicus curiae*) hereby applies to the above Honourable Court for an order in the following terms:

- 1.1. The late filing of this application, should it so happen be and is hereby condoned;
- 1.2. To the extent necessary, dispensing with the relevant rules of form and procedure set out in the Rules of the Constitutional Court and granting leave for this application to be heard as one of urgency under Rule 12 of the Rules of the Constitutional Court;
- 1.3. That the Limpopo Legal Solutions is admitted as an *amicus curiae* in the above matter;
- 1.4. That the Limpopo Legal Solutions is granted leave to lodge written submissions on a date to be determined by the Court and to present oral argument at the hearing of this matter;
- 1.5. That any party opposing this application is ordered to pay Limpopo Legal Solutions’ costs, including the costs of two Counsel;

1.6. That such further and/or alternative relief be granted to the Applicant as the Honourable Acting Chief Justice may deem fit.

2.

FURTHER TAKE NOTICE that the founding affidavit of **TAKALANI MARGARET RAMANYIMI** and annexures will be used in support of this application.

TAKE FURTHER NOTICE that if you intend to oppose this application, you are required to file your notice of intention to oppose and further lodge your answering affidavit in support of your opposition by 16:00 on 10 July 2021, subject to any directions that the Honourable Acting Chief Justice may give in relation to these time periods or any further conduct of this application.

TAKE NOTICE FURTHER THAT the Applicant will accept notice and service of all documents in these proceedings at the address set out below.

DATED AT PRETORIA ON THIS 08TH DAY OF JULY 2021.

NTSAKO PHYLLIS MBHIZA ATTORNEYS
Attorneys for the Applicant for admission as
amicus curiae

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**NATIONAL COMMISSIONER OF THE
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Fourth Respondent

and

HELEN SUZMAN FOUNDATION

Fifth Respondent

FOUNDING AFFIDAVIT

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Net

I,

TAKALANI MARGARET RAMANYIMI

Do hereby make oath and swear:

1. I am an adult female person, with full legal capacity residing at 2832, Muledane, Shayandima, Vhembe District, Limpopo Province.
2. I am the Director of the Limpopo Legal Solutions (hereinafter referred to as the Applicant for admission as *amicus curiae*).
3. I act on representative capacity of **LIMPOPO LEGAL SOLUTIONS, ("LLS")**, whose object is to promote human rights, ensure state entities, institutions and public office bearers are held to account for the use of finances allotted to them in line with the Public Finance Management Act and ensure that state resources and institutions are effectively utilized for the benefit of communities.
4. I am competent to depose to this affidavit and to do all that is necessary in order to prosecute this application.
5. Unless it appears from the context herein, the contents of this affidavit fall within my personal knowledge and are both true and correct.
6. Where I rely on hearsay allegations, I state that I believe such hearsay allegations to be true and correct taking into account the source of such allegations.
7. Submissions of legal nature made herein are so made based on the advice I have received from my legal team, consequently, I accept the said advice.

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INTRODUCTION AND PURPOSE OF THE APPLICATION.

8. This is an application brought in terms of Rule 10 of the Rules of the Constitutional Court for the admission of LLS as *amicus curiae* in the rescission application before this Honourable Court under Case number: CCT 52/2021 innovated by the Former President of the Republic of South Africa to wit; Mr Jacob Gedleyihlekisa Zuma (“**the Applicant**”) against the Secretary of the Judicial Commission of Inquiry into allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State (“**the commission**”).
9. The Constitutional Court, under case number: CCT 52/2021, ordered and/or declared that the Former President Jacob Gedleyihlekisa Zuma, is guilty of the crime of contempt of Court for failure to comply with the order made by this Court in Secretary of the Judicial Commission of Inquiry into allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State v Jacob Gedleyihlekisa Zuma (“**Mr Zuma**”).
10. The Constitutional Court sentenced Mr Zuma to undergo 15 months’ imprisonment and effectively ordered to submit himself to the South African Police Service, at Nkandla Police Station or Johannesburg Central Police Station, within five calendar days from the date of the granting of the order, for the Station Commander or other officer in charge of that Police station to ensure that he is immediately delivered to a Correctional Centre to commence serving the sentence imposed as aforesaid.

11. Furthermore, the Constitutional Court ordered that in the event Mr Zuma does not submit himself to the South Africa Police Service as aforesaid, the Minister of Police and the National Commissioner of the South African Police must, within three calendar days of the expiry of the period as aforesaid, take all steps that are necessary and permissible in law to ensure that Mr Zuma is delivered to a Correctional Centre in order to commence serving the sentence imposed as aforesaid.

12. Mr Zuma has refused to comply with this Court's order and to this end, Mr Zuma has brought an urgent application in the Pietermaritzburg High Court, Kwazulu Natal Province and an application for rescission of judgment before this Court in accordance with Rule 42 of the Uniform Rules of Court read with Rule 29 of the Rules of the Constitutional Court.

13. The LLS seeks to be admitted as *amicus curiae* in the present application for rescission as brought by Mr Zuma before this Court under case number: CCT 52/2021 and thus this affidavit is made in support of the application for leave to be admitted as *amicus curiae* and is effectively developed in the following premises;

14. Firstly, the LLS, shall deal with the background to this application, Secondly, the interest of the LLS in the proceedings, Thirdly the submissions which the LLS seeks to make in the Proceedings should this court be inclined to admit the LLS as *amicus curiae*, the relevance of its submissions and how the said submissions will assist the Court in arriving at a just and fair determination of the issues before it and how the said issues are distinct from those of the parties to the proceedings and/or the Applicant.

BACKGROUND TO THIS APPLICATION.

15. On 5 July 2021, the LLS learnt that this Court issued directions dated 3 July 2021 (“the directions”) subsequent to Mr Zuma’s application for rescission to set aside the order of this court under case number: CCT 52/2021.

16. It is submitted that the LLS meticulously read Mr Zuma’s notice of application in terms of Rule 29 of the Rules of the Constitutional Court read with Rule 42 of the Uniform Rules of Court, *pari passu* with the founding affidavit and consequently, it became palpably clear that they raised pertinent legal and constitutional issues and effectively it became manifest that the LLS has a copious amount of interest in the proceedings.

17. Pursuant to the above and after careful consideration of Mr Zuma’s founding papers, the LLS diligently couched a letter on even date and addressed it to all the relevant parties to the proceedings wherein it sought consent for admission as *amicus curiae* in Mr Zuma’s rescission application under case number: CCT 52/2021. I humbly wish to refer the above Honourable Court to a copy of LLS’ request letter for consent to be admitted as *amicus curiae* dated 5 July 2021, marked annexure “LLS1”.

18. It is submitted that all the other parties to the proceedings dignified the LLS’ request for consent with a response to the effect that the Applicant, First, Second and Fifth Respondents in the rescission application under case number: CCT 52/2021, will abide by the decision of this Court in respect of the application for admission as *amicus curiae*, save for the Third and Fourth

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Respondents who could neither grant or refuse consent on the simple basis that they elected not to actively participate in the proceedings but to abide with the decision of this Court.

19. To this end, the LLS commend all the parties to the proceedings for not adopting a cavalier attitude towards its request for consent to be admitted as *amicus curiae*, more particularly given the historical background of this matter which has obviously and to this date, kept those that are involved to work hours on end, yet managed to attend to our request under the prevailing circumstances.

20. Attached hereto, email print out views in respect of the response received from all the parties to the proceedings on their stance adopted to the request for consent to be admitted as *amicus curiae*, marked annexures "LLS2, LLS3, LLS4 and LLS 5" respectively.

21. This Court, *in the Children's Institute v Presiding Officer of the Children's Court, District of Krugersdorp and three (3) others (CCT 69/12) [2012] ZACC 25; 2013 (1) BCLR 1 (CC) ; 2013 (2) SA 620 (CC) (9 October 2012)* at para 26 held that: " In these cases, *amici* play an important role first, by ensuring that courts consider a wide of options and are well informed, and second, by increasing access to the courts by creating space for interested non-parties to provide input on important public interest matters, particularly those relating to constitutional issues".


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22. The LLS is quite alive to the fact that the stance adopted by the parties to the proceedings under case number: CCT 52/2021, to abide by the decision of this Court in respect of its application for admission as *amicus curiae* does not confer any automatic right to be admitted as such by this Honourable Court.

THE LLS' INTEREST IN THE AND SUBMISSIONS IN THE PROCEEDINGS.

23. The LLS is a voluntary association or is a public non-profit organization, established in terms of the South African Laws, for the sole object of promoting human rights, ensuring that state entities, institutions and public office bearers are held accountable for the use of finances allotted to them in line with Public Finance Management Act 1 of 1999, as amended, and to ensure that state resources and institutions are being utilized efficiently and effectively for the benefit of the communities.

24. The LLS has over the number of years of its existence distinguished itself by contributing immensely to the rule of law, upholding of our Constitution, advancement of human rights, more particularly, in holding state entities, institutions and public office bearers to account, despite its very limited resources, amongst others, in the matter between **Limpopo Legal Solutions v Vhembe District Municipality and Others (CCT119/16) [2017] ZACC 30; 2018 (4) BLCR 430 (CC) (17 August 2017) and Limpopo Legal Solutions and Others v Vhembe District Municipality and Others (CCT159/16) [2017] ZACC14; 2017 (9) BCLR 1216 (CC), (18 May 2017).**

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25. It is submitted that in all these instances the LLS has been vocal about the need to account, the importance of promoting human rights, encouraging members of the public to respect the law, to always have confidence in our judicial system, in particular, by reaching out to the marginalized mostly in the deep rural areas of the Limpopo Province due to its limited resources, in order to maintain the rule of law in society, upholding and protecting the Constitution of the Republic of South Africa.

FIRSTLY, THE LLS' INTEREST AND SUBMISSIONS IN THE PROCEEDINGS IS THE PROPER ADMINISTRATION OF JUSTICE, SOCIETY'S EXPECTATIONS ON THE RULE OF LAW AND THE PRINCIPLE OF "JUS COGENS".

26. The LLS' interest in the proceedings is the proper administration of justice which its main function, is the protection of individuals' rights, enforcement of laws and punishment of wrongdoers and/or law offenders.

27. The LLS submit that the survival of our judicial system and Constitution is embedded in the proper administration of justice by our courts, in principle, the effectiveness of the enforcement of our laws and punishment of those who dare to place the administration of justice under siege by deliberately violating the law, repute, authority and dignity of our Courts.

28. The LLS further submit that its interest in the proceedings under consideration dilate to the principle and the truth that the ruler and the ruled are both

accountable to the rule of law which is an unquestionable value of the proper administration of justice in society.

29. The LLS also submit that the quality of justice services will likely lead to greater satisfaction and trust in the institutions that deliver these services in particular our judicial system. The reliability of the justice system will always be seen as a potential vehicle of trust, by eliminating uncertainty in terms of length of the proceedings, fostering consistency in court decisions, stability of legislation and efficiency of the judicial system.

30. The LLS is also fortified in its submissions that a reliable judicial system is a chief cornerstone in causing members of the public and/or citizens to have the feeling that they can depend on the judicial system to provide them with a service. Citizens will always feel affirmed if the procedures that are adopted treat them with respect and dignity and thus making it easier to accept outcomes.

31. The LLS submit that the ruler and the ruled must be equal beneficiaries of the judicial system in that both are held to account, the procedures laid down in terms of enforcement of the law and the resultant punishment must be seen to be done and applicable to both and so doing, without a doubt, members of the public and/or citizens will have trust and/or confidence in the judicial system and/or administration of justice.

32. Under the prevailing circumstances, this Court is called upon to restate its position that Mr Zuma is liable to undergo 15 months imprisonment for violating the repute, authority and dignity of the Constitutional Court which

conduct has a potential of eroding public confidence in the judicial system and/or administration of justice.

33. The LLS reiterates that this Court should maintain its position in so far as its order made on 29 June 2021 is concerned thereby avoiding the risk of members of the public rejecting its outcomes in the future conduct of its proceedings as the apex Court, more particularly, in issues and/or matters of this nature.

34. The restatement of this Court's position and/or order, will further ensure that the First and Second Respondents summons Mr Zuma whilst in prison and subject him to the processes of the Commission since the prison term of 15 months meted out to Mr Zuma does not whatsoever absolve him from being subjected to the Commission's processes and account to members of the public.

35. In fact, Mr Zuma cannot resist appearing before the Commission while in the custody of the Correctional Services Centre should the Commission still deems it necessary to have him subjected to its processes in order to account on issues that are solely of national interest and public importance.

36. It is submitted that officials within the Correctional Services Centre would be duty bound to submit Mr Zuma to the Commission's processes in order to account to the nation, obviously on the strength of the summons that would have been issued to them by the Commission for enforcement and/or compliance by Mr Zuma since to do otherwise (failure to comply), the relevant

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officials' conduct at the Correctional Service Centre would be tantamount to violation of the Commission's Act and/or its processes.

37. In principle, there is nothing in law that precludes the Commission from issuing and/or re-issuing the summons to have Mr Zuma subjected before it by the relevant officials at the Correctional Services Centre immediately after commencing his term of imprisonment for 15 months in accordance with the order of this Court thereby causing him to account to members of the public and accordingly the administration of justice, would have been seen to be done and/or at least best served.

38. It submitted that the Republic of South Africa is amongst the 160 member states which signed and ratified the International Covenant on Civil and Political Rights and thus article 14 (1) of the said covenant and/or treaty stipulates that: "all persons shall be equal before the Courts and tribunals".

39. The above position was affirmed by the International Commission of Jurists that parties to a treaty are obligated under international law to fulfill and implement the provisions of the treaty in good faith and a State cannot invoke the provisions of its internal laws as justification for its failure to perform a treaty.

40. It must be naturally accepted that other members' state that are signatories of the International Covenant on Civil and Political Rights may be twiddling their thumbs to witness whether one of its members' state is fulfilling its obligations under international law and giving assurance to the international community that indeed all persons are equal before the Courts and tribunals.

41. It also goes without saying that the aforesaid could only bear testimony on the condition that this Court does not renege from its position by ensuring that the administration of justice becomes the champion of the century thereby vindicating the Constitutional Court's honor of our courts and the image of the Republic of South Africa on the international stage.

42. The treaty quoted above, is in accordance with the principle of *jus cogens* which is a latin phrase that literally means compelling law from which no derogation is permitted by way of a particular agreement. In her article of *jus cogens* Anne Lagerwall states that: "*jus cogens* stems from the idea already known in Roman law that certain legal rules cannot be contracted out, given the fundamental values they hold".

43. In principle *jus cogens* exist in international law and it is defined as the principles which form the norms of international law that cannot be set aside since it has become accepted and recognized by the international community of States and accordingly our courts are under legal obligation to observe this standard principle in line with article **14 (1) of the International Covenant of Civil and Political Rights** which stipulates that : "*all persons are equal before the Courts and tribunals*", including Mr Zuma.

SECONDLY, THE LLS' INTEREST AND SUBMISSIONS IN THE PROCEEDINGS IS THE EXPRESSED AND IMPLIED NATURE AND/OR CONDUCT OF A CONTEMNOR WITHIN THE PURVIEW OF A CIVIL CONTEMPT OF COURT.

44. The LLS hanker to submit before this Court that Civil Contempt of Court proceedings are indeed *sui generis* in nature and thus making its features difficult to reconcile with the community's expectations about how a law which provides for the imposition of punitive sanctions should operate.
45. The LLS will make submissions to the effect that there is a significant amount of uncertainty which tend to commingle the perception of an ordinary person on the street about the scope of the law of contempt of court and the procedures to be applied in civil contempt proceedings.
46. The LLS submit that questions need to be asked about the scope and elements of the offence of civil contempt of court and whether as things presently stand, it sufficiently caters for an ordinary member of the community to comprehend as to how Mr Zuma for example could be sentenced to 15 months imprisonment without a normal trial procedure traditionally observed in the lower courts, more particularly in criminal matters.
47. It is imperative to ask whether the procedural safeguards exist which are applicable to civil contempt of court proceedings that are sufficiently clear and adequate given the punitive nature of those proceedings.
48. It is submitted that a distinction should be made between the express and implied nature and/or conduct of a contemnor within the purview of civil contempt of court proceedings, simply put, how does one make a distinction on the one hand, between a litigant who utters words and/or statements and/or remarks that are clearly calculated at violating the repute, authority and

dignity of the Court and on the other hand, a litigant who silently or through his or her actions and/or without uttering a single word and/or making a statement and/or a remark and fully aware of an order of court, which was properly served, nonetheless disobey the said order of Court thereby equally undermining and violating the repute, authority and dignity of the court.

49. It must be borne in mind that both litigants would ordinarily been aware that there is an order, service, non-compliance and presumably so, acted in deliberate disregard of the order, who then deserves punishment for want of compliance between the two litigants, for the flagrant disregard of a court order thereby bringing the administration of justice into disrepute.

50. In principle how does one make a distinction in civil contempt of court proceedings that the one litigant deserves a coercive sanction and the other, a punitive sanction in circumstances wherein both litigants' conduct meets the standard within the dictates of *Fakie case* for committal to civil contempt of court, with the only distinguishing feature that the litigant on the one hand expressly showed non-compliance and the other impliedly exhibited silent traits of non-compliance of the order of the court.

51. The LLS will submit that Mr Zuma has no justifiable grounds and/or basis in law for rescission of the court order under case number: *CCT 52/2021* in circumstances wherein his expressed conduct was palpably clear that he had no intention whatsoever to comply with the court order and such conduct would ordinarily differ from a litigant who impliedly fails to comply with a court

order nonetheless, had no intention whatsoever of violating the repute, authority and dignity of the court thereby threatening the administration of justice.

52. Accordingly, the issue of Mr Zuma' right to fair trial and/or any other right as enshrined in the Constitution which may have been allegedly infringed does not whatsoever arise under the prevailing circumstances, more particularly having regard to the fact that this court did not act arbitrary prior to the order sentencing Mr Zuma to undergo and/or serve an unsuspended term of 15 months imprisonment.

53. It is submitted that there may be a need in the near future to develop a piece of legislation and/or statutory regulations with clear and/or sufficient procedural safeguards that must be complied with in civil contempt of court proceedings prior to an order and/or sentence that is coercive or punitive in nature for violating the repute, authority and dignity of the court in order for the courts to assert its authority in the manner and/or language that an ordinary person on the street would comprehend.

54. Regardless of the fact that the violation of the repute, authority and dignity arises as a consequence of expressed or implied nature and/or conduct of a contemnor, ordinary members of the public in remote rural areas and/or urban areas should be in a position to comprehend and relate with the language of our courts as to the circumstances that could lead to a litigant being sentenced to direct imprisonment for 15 months without a customary trial either in the Magistrates Court or High Court to ensure that there is no erosion of the rule of law in society.

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55. The LLS will submit that Mr Zuma's followers for example, who are mostly ordinary members of the community, are likely to reject the outcomes of judicial decisions if our judicial system does not speak and/or communicate its decisions and/or outcomes in the language which they understand and thus the matter under consideration should give our courts an opportune moment to address the need for reforms in terms of how members of the public comprehend civil contempt of court proceedings which has an effect of causing a litigant to be committed to an unsuspended form of imprisonment for posing serious interference and/or grave threat to the proper administration of justice

THIRDLY, THE LLS' INTEREST AND SUBMISSIONS IN THE PROCEEDINGS ARE THE INTERESTS OF JUSTICE THAT THIS MATTER BE FINALISED WITHOUT FURTHER DELAY.

56. It is respectfully submitted that prior to the lodging of the rescission application under case number: *CCT 52/2021*, Mr Zuma had already made up his mind that he will not comply with the order made by this court in the *Secretary of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector Including Organs of State v Jacob Gedleyihlekisa Zuma*.

57. The LLS further submit that Mr Zuma knew very well that within five (5) calendar days from the date of the granting of the order made by this Court dated 29 June 2021, he had to submit himself to the South African Police Service, at Nkandla Police Station or Johannesburg Central Police Station, in

order to commence his 15 months term of imprisonment, nonetheless, Mr Zuma deliberately violated the aforesaid order of this Court and thus did not submit himself to the South Africa Police Service at either of the Centres as aforesaid.

58. This court took all necessary steps by law to ensure that Mr Zuma was not denied his constitutional entrenched right to be heard and the suggestion, amongst others, that this Court decided to send him to prison without a trial has no merit whatsoever.

59. Mr Zuma missed an opportunity to lay proper basis through affidavits at the appropriate forum for all his misgivings in so far as the works of the Commission and the subsequent bringing of the court application to comply with the order made by this Court and thus elected not to do so and cannot now complain.

60. In Nkabinde and Another v Judicial Service Commission and Others (CCT122/16) [2016] ZACC 25; 2016 (11) BCLR 1429 (CC); 2017 (3) SA 119 (CC), (4 August 2016) at paragraph 29 the Constitutional Court unanimously held that : *" In conclusion, we would be failing in our duty if we did not take this opportunity to emphasise that it is in the interest of justice that the matter of the complaint against Judge President Hlophe should be dealt with and concluded without any further delay. The events that gave rise to the complaint occurred in 2008. Eight years later, the matter has not been finalised. It is in the interests of justice that this matter be brought to finality."*

CONCLUSION.

61. In Conclusion, this Court would be failing in its duty if it does not emphasize and restate its position that it is in the interests of justice that Mr Zuma' s conduct of always playing victim and undermining the works of the State Capture Commission and the resultant violation of its repute, authority and dignity, should be dealt with and concluded without any further delay.
62. The exodus of Mr Zuma 's disdain, and misgivings about subjecting himself before the processes of the Commission unless the Second Respondent recuses himself has been on going for quite sometime and it is in the interests of justice that this matter be brought to finality.
63. Any attempts by this Court to renege from its position and/or rescind and/or vary its order and/or judgment under the circumstances will open flood gates for litigants to treat this Court and approach it as court of first and last instance in matters of this genre.
64. Mr Zuma has other remedies in law, amongst others, he would after serving the prescribed minimum detention of his sentence in a Correctional Centre, be conditionally released to serve the remaining sentence in the community on account of good behavior.
65. It is therefore submitted that the LLS 'submissions that it hankers to advance are pertinent and will surely be of assistance to the Court and have not been raised by the other parties and the LLS approaches the above Honourable Court in the public interest given the importance of this matter and impartially so, with the primary objective of assisting this Court to arrive at a just and fair determination.

66. The LLS submit that it has satisfied the requirements for admission as an *amicus curiae* which is to set out the submissions to be advanced, their relevance to the proceedings and the reasons for believing that the submissions would be useful to the Court and are quite distinct from those of other parties to the proceedings.

WHEREFORE, the LLS seeks the relief in the Notice of Application to which this affidavit is attached.



DEPONENT

I certify that, before administering an oath, I asked the deponent the following questions and wrote down her answers in her presence as follows:

1. Do you know and understand the contents of this declaration?

Answer: yes

2. Do you have any objection in taking the prescribed oath?

Answer: No

3. Do you consider the prescribed oath binding on your conscience?

Answer: yes

I certify that the deponent has acknowledged that she knows and understands the contents of this declaration, which was signed and sworn to/affirmed before me at **POLOKWANE** on this the **08th** day of **JULY 2021** and the Deponent's signature/thumb print/mark was placed thereon in my presence, the deponent having uttered the following words before signing, I swear that the contents of the above declaration are both true and correct, "so help me God".




COMMISSIONER OF OATHS


FULL NAMES: KEIASALO M S

DESIGNATION: CAPTAIN

BUSINESS ADDRESS: 38 Schoeman Street Polokwane

AREA: Capricorn

SOUTH AFRICAN POLICE SERVICE
CERTIFYING OFFICE
2021-07-08
POLOKWANE
SOUTH AFRICAN POLICE SERVICE

T.M. 



LLS'10 26

Address: Loftus Park, Building B, 2nd Floor
Suite 6, Arcadia, Pretoria, 0017
Telephone: 012 547 1002
Cell: 072 615 6009
Gauteng Office: Arcadia
Enquiries: Ntsako Mhiza
Email: npmbhizainc@gmail.com

OUR REF: NP01/07/LLS/10

YOUR REF:

Date: 05 July 2021

TO: NTANGA NKUHLU INCORPORATED
Attorneys for the Applicant
By email: mongezi@ntanga.co.za

URGENT!!!!!!!!!!!!

AND TO: OFFICE OF THE STATE ATTORNEY: JOHANNESBURG
Attorneys for the First and Second Respondents
By email: johvanschalkwyk@justice.gov.za


AND TO: OFFICE OF THE STATE ATTORNEY: PRETORIA
Attorneys for the Third and Fourth Respondents
By email: ichowe@justice.gov.za

AND TO: WEBBER WENTZEL INCORPORATED
Attorneys for the Fifth Respondent
By email: vlad.movshovich@webberwentzel.com
Pooja.dela@webberwentzel.com
Dylan.cron@webberwentzel.com

Dear Sirs/Madame

RE: REQUEST FOR CONSENT TO BE ADMITTED AS AMICI CURIAE IN RE: JACOB GEDLEYIHLEKISA ZUMA AND SECRETARY OF THE JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE AND FOUR (4) OTHERS (CCT CASE NO. 52/21).

OUR CLIENT: LIMPOPO LEGAL SOLUTIONS ("LLS").

T.M. 

We act on the instructions of our client to wit; Limpopo Legal Solutions ("LLS") in respect of the above impending application before the Constitutional Court, scheduled for hearing on 12 July 2021 and thus hanker to write to you as follows:

1. That our client seeks your client's consent to be admitted as amici curiae in the above-mentioned matter in accordance with Rule 10 (1) of the Rules of the Constitutional Court in order to advance written and oral legal submissions that are pertinent to the proper ventilation of the application under consideration, on amongst others, the interest of justice and constitutional related submissions.


2. The LLS is a voluntary association whose object is to promote human rights, ensure that state entities and institutions are held accountable for the use of finances allocated to them in line with the Public Finance Management Act and ensure that state resources and institutions are effectively utilized for the benefit of communities.

3. Since its inception, in 2016, the Limpopo Legal Solutions has been involved in litigation in the Constitutional Court, amongst others, in the matter between *Limpopo Legal Solutions v Vhembe District Municipality and others (CCT 119/16) [2017] ZACC 30; 2018(4) BCLR 430 (CC) (17 AUGUST 2017)* in pursuance of its objectives for a better society.

4. The LLS seeks to intervene in this matter to assist the Court with written an oral submission in the following respect:

4.1. The legal inputs, interpretation and principle of implied and expressed nature and/or conduct of a contemnor within the purview of civil contempt of court proceedings will add value to the Court's determination of this matter.

4.2. The relevant international law and/or treaties which clearly inform South Africa's legal obligation/s and/or duty of the Constitutional Court to emphasize that it is in the interest of justice that the matter under consideration be dealt with and/or concluded without any further delay.

T.127 

4.3. The application of *jus cogens* nature and/or its supremacy in regard to the matter under consideration and/or civil contempt of court proceedings over other norms of international law and the implications of the rule of law and/or conduct that may be categorized as preemptive in nature thereby justifying deviation from the traditional approach of granting coercive orders in circumstances wherein there is perceived and/or clear flagrant disregard and/or breach of the law by litigants.


4.4. The expectations of society and/or members of the public on the Rule of law and the availability of any other legal remedy to vindicate the repute, authority and dignity of our Court/s.

5. Our client is of the firm view that these submissions will be of assistance to the Court in determining the outcome of this matter and to our client's knowledge, the submissions that they seek to advance are not presently before the Court and differ from the submissions that will be advanced by the parties to the proceedings under consideration and will further ensure upon perusal of the other parties written submissions that there is no repetition in this regard.

6. It is our client's contention that our courts value and recognizes the important role that *amici curiae* play in legal proceedings and the role that they have in assisting courts to arrive at a just and fair decision. Taking into consideration the national interest and public importance of the matter under consideration, we would urge you to consent to our client's intervention as *amici curiae*.

7. In order for our client to prepare thoroughly and timeously and due to the extreme urgency of this matter, we therefore, request that you advise by **12:00 pm tomorrow afternoon, on Tuesday the 06th day of July 2021**, whether your client consent to our client's intervention as *amici curiae*.

Thanking you in anticipation.

T.M. 

Yours Faithfully

~~_____~~

NPM Attorneys Inc.

Per: Ntsako Phyllis Mbhiza

T.M. 

1452 30

Ntsako Phyllis Mbhiza <npmbhizainc@gmail.com>



**RE: REQUEST FOR CONSENT TO BE ADMITTED AS AMICI CURIAE IN RE:
JACOB GEDLEYIHLEKISA ZUMA //SECRETARY OF THE JUDICIAL COMMISSION
OF INQUIRY INTO ALLEGATION OF STATE CAPTURE, CORRUPTION AND FRAUD
IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE & FOUR (4) OTHE**

3 messages

Mongezi Ntanga <mongezi@ntanga.co.za>

Wed, Jul 7, 2021 at 10:44 AM

Reply-To: mongezi@ntanga.co.za

To: Ntsako Phyllis Mbhiza <npmbhizainc@gmail.com>, johvanschalkwyk@justice.gov.za, ichowe@justice.gov.za, vlad.movshovich@webberwentzel.com, pooja.dela@webberwentzel.com, NPM Attorneys <admin@nppmnc.co.za>

Dear Messrs

We are instructed to advise that our Client will Abide by the Court's decision on the proposed application.



Mongezi Ntanga

Ntanga Nkuhlu Inc. Attorneys

Unit 24 Wild Fig Business Park

1492 Cranberry Street

Honeydew

Tel: 010 595 1055

Mobile: 072 137 7104

Fax: 086 538 8718

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From: Ntsako Phyllis Mbhiza [mailto:npmbhizainc@gmail.com]

Sent: 05 July 2021 03:32 PM

To: mongezi@ntanga.co.za; johvanschalkwyk@justice.gov.za; ichowe@justice.gov.za;
vlad.movshovich@webberwentzel.com; pooja.dela@webberwentzel.com; NPM Attorneys
<admin@npminc.co.za>

Subject: RE: REQUEST FOR CONSENT TO BE ADMITTED AS AMICI CURIAE IN RE: JACOB GEDLEYIHLEKISA ZUMA
//SECRETARY OF THE JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATION OF STATE CAPTURE, CORRUPTION
AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE & FOUR (4) OTHE

LLS'3" 31

Good day

The above subject refers.

Kindly find attached hereto, our request for consent to be admitted as amici curiae in respect of the above -mentioned subject for your urgent consideration.

Regards

NPM Inc.

Van Schalkwyk Johannes <JohVanSchalkwyk@justice.gov.za>

Wed, Jul 7, 2021 at 10:47 AM

To: "mongezi@ntanga.co.za" <mongezi@ntanga.co.za>, Ntsako Phyllis Mbhiza <npmbhizainc@gmail.com>, Chowe Isaac <IChowe@justice.gov.za>, "vlad.movshovich@webberwentzel.com" <vlad.movshovich@webberwentzel.com>, "pooja.dela@webberwentzel.com" <pooja.dela@webberwentzel.com>, NPM Attorneys <admin@npminc.co.za>
Cc: Zwonaka Netshifulani <netshifulani@concourt.org.za>

Dear Sir / Madam

Our client (first and second respondents) also abides in relation to your proposed application to court.

Regards .



the doj & cd

Department:
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA

Johan van Schalkwyk

T.M.

LLS4 32



Ntsako Phyllis Mbhiza <nprmbhizainc@gmail.com>

RE: REQUEST FOR CONSENT TO BE ADMITTED AS AMICI CURIAE IN RE: JACOB GEDLEYIHLEKISA ZUMA //SECRETARY OF THE JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATION OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE & FOUR (4) ...

Chowe Isaac <IChowe@justice.gov.za>
To: Ntsako Phyllis Mbhiza <nprmbhizainc@gmail.com>

Wed, Jul 7, 2021 at 9:13 AM

Dear Madam,

I refer to the above matter and confirm that our client, the Minister of Police, will not be taking any active role in the matter and we regrettably will not be able to give any consent on his behalf for your client to be admitted as an amicus.

[Quoted text hidden]

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Dylan Cron <dylan.cron@webberwentzel.com>

To: Ntsako Phyllis Mbhiza <npmbhizainc@gmail.com>

Cc: Daniel Rafferty <Daniel.Rafferty@webberwentzel.com>, Vlad Movshovich <vlad.movshovich@webberwentzel.com>, Pooja Dela <pooja.dela@webberwentzel.com>, Dee-dee Qolohle <Dee-dee.Qolohle@webberwentzel.com>

Wed, Jul 7, 2021 at 12:14 PM

Dear Sirs

Our client, the seventh respondent, will abide the Court's decision regarding your client's application to be admitted as *amicus*.

Best regards

Dylan Cron | Partner | Webber Wentzel

T: +27115305128 | M: +27723731265 | dylan.cron@webberwentzel.com | www.webberwentzel.com

[Quoted text hidden]

Ntsako Phyllis Mbhiza <npmbhizainc@gmail.com>

To: Dylan Cron <dylan.cron@webberwentzel.com>

Cc: Daniel Rafferty <Daniel.Rafferty@webberwentzel.com>, Vlad Movshovich <vlad.movshovich@webberwentzel.com>, Pooja Dela <pooja.dela@webberwentzel.com>, Dee-dee Qolohle <Dee-dee.Qolohle@webberwentzel.com>

Wed, Jul 7, 2021 at 12:25 PM

Noted with thanks.

[Quoted text hidden]

<https://mail.google.com/mail/u/3?ik=fde8533884&view=pt&search=all&permthid=thread-f%3A1704520633141057053&simpl=msg-f%3A1704520...> 4/5



T. 07

Ntsako Phyllis Mhiza <npmhizainc@gmail.com> Wed, Jul 7, 2021 at 12:30 PM
To: Dylan Cron <dylan.cron@webberwentzel.com>
Cc: Daniel Rafferty <Daniel.Rafferty@webberwentzel.com>, Vlad Movshovich <vlad.movshovich@webberwentzel.com>, Pooja Dela <pooja.dela@webberwentzel.com>, Dee-dee Qolohle <Dee-dee.Qolohle@webberwentzel.com>

34

Hi Dylan

Kindly clarify, is your client the Seventh Respondent as I note from the Directions of the Concourt that Helen Suzman Foundation is cited as the Fifth Respondent?
[Quoted text hidden]

Dylan Cron <dylan.cron@webberwentzel.com> Wed, Jul 7, 2021 at 12:31 PM
To: Ntsako Phyllis Mhiza <npmhizainc@gmail.com>
Cc: Daniel Rafferty <Daniel.Rafferty@webberwentzel.com>, Vlad Movshovich <vlad.movshovich@webberwentzel.com>, Pooja Dela <pooja.dela@webberwentzel.com>, Dee-dee Qolohle <Dee-dee.Qolohle@webberwentzel.com>

Apologies - 5th respondent in these proceedings.
[Quoted text hidden]

Dylan Cron <dylan.cron@webberwentzel.com> Wed, Jul 7, 2021 at 12:31 PM
To: Ntsako Phyllis Mhiza <npmhizainc@gmail.com>
Cc: Daniel Rafferty <Daniel.Rafferty@webberwentzel.com>, Vlad Movshovich <vlad.movshovich@webberwentzel.com>, Pooja Dela <pooja.dela@webberwentzel.com>, Dee-dee Qolohle <Dee-dee.Qolohle@webberwentzel.com>

Apologies – our client is the 5th, not 7th, respondent in this matter.

Dylan Cron | Partner | Webber Wentzel
T: +27115305128 | M: +27723731265 | dylan.cron@webberwentzel.com | www.webberwentzel.com

From: Ntsako Phyllis Mhiza <npmhizainc@gmail.com>
Sent: 07 July 2021 12:26
To: Dylan Cron <dylan.cron@webberwentzel.com>

[Quoted text hidden]
[Quoted text hidden]

Ntsako Phyllis Mhiza <npmhizainc@gmail.com> Wed, Jul 7, 2021 at 12:39 PM
To: Dylan Cron <dylan.cron@webberwentzel.com>
Cc: Daniel Rafferty <Daniel.Rafferty@webberwentzel.com>, Vlad Movshovich <vlad.movshovich@webberwentzel.com>, Pooja Dela <pooja.dela@webberwentzel.com>, Dee-dee Qolohle <Dee-dee.Qolohle@webberwentzel.com>

Will our client be asking too much, should we request that you kindly indicate in a letter, the stance adopted by your client to enable us to attach the same to our proposed application?

With Thanks.

Regards
[Quoted text hidden]