

**IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA  
(HELD AT BRAAMFONTEIN, JOHANNESBURG)**

**CC Case No.: 212/17  
SCA Case No.: 423/17  
WCHC Case No.: 5283/16**

In the application of:

<b>RIAAN MOGAMAT AMARDIEN</b>	First Applicant
<b>TASSANDRA ANNE APRIL</b>	Second Applicant
<b>ASHEEQAH DAMON</b>	Third Applicant
<b>ROEWAYDA JOCHEMS</b>	Fourth Applicant
<b>LOUISE PRIMOE</b>	Fifth Applicant
<b>MARGARETH ROMAN</b>	Sixth Applicant
<b>CASSIEM SAPAT N.O.</b>	Seventh Applicant
<b>CYNTHIA ARENDSE</b>	Eighth Applicant
<b>CRAIG CLOETE</b>	Ninth Applicant
<b>FAIZA GASANT</b>	Tenth Applicant
<b>WARREN KOEN</b>	Eleventh Applicant
<b>KASFICAH SMITH</b>	Twelfth Applicant

and

<b>THE REGISTRAR OF DEEDS</b>	First Respondent
<b>SHAUN WINGERIN N.O.</b>	Second Respondent
<b>GRAEME MICHAEL SCKOLNE N.O.</b>	Third Respondent
<b>NICOLA MARTINE COHEN N.O.</b>	Fourth Respondent
<b>THE CAPE TOWN COMMUNITY HOUSING COMPANY (PTY) LTD</b>	Fifth Respondent

and

<b>WOMEN'S LEGAL CENTRE TRUST</b>	Amicus Curiae
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**APPLICATION FOR CONDONATION IN TERMS OF RULE 32(1) OF THE  
CONSTITUTIONAL COURT RULES**

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**KINDLY TAKE NOTICE THAT** the Applicants hereby apply for an order in the following terms:

1. Condoning the late filing of the *amicus curiae's* written submissions; and
2. Further and/or alternative relief.

**TAKE FURTHER NOTICE** that the affidavits of **DAVEN DASS** and **PINKY JOYCE MABATLOUNG MOKEMANE** will be used in support of this application.

**TAKE FURTHER NOTICE** that the applicant has appointed the address of their attorneys below as the address at which they will accept services of all process in these proceedings.

**SIGNED AND DATED AT JOHANNESBURG ON THIS 01<sup>st</sup> DAY OF AUGUST 2018.**



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**WOMEN'S LEGAL CENTRE**

Amicus Curiae  
7th Floor, Constitution House  
124 Adderley Street  
Cape Town

**REF: MS S SAMAAI**

Tel: (021) 424 5660

[seehaan@wlce.co.za](mailto:seehaan@wlce.co.za)

c/o **WITS LAW CLINIC**

Braamfontein Campus West  
University of The Witwatersrand  
1 Jan Smuts Avenue

Braamfontein  
Johannesburg  
Ref: LAB18/354/W

- TO: THE REGISTRAR**  
Constitutional Court of South Africa  
Braamfontein, Johannesburg
- AND TO: LEGAL RESOURCES CENTRE**  
Attorneys for the First to Twelfth Applicants  
3<sup>rd</sup> Floor Greenmarket Place  
54 Shortmarket Street  
Cape Town  
(Ref: S Kahanovitz/C Mathiso)  
c/o: **LEGAL RESOURCES CENTRE**  
16<sup>th</sup> Floor, Bram Fischer Towers  
20 Albert Street  
Marshalltown  
Johannesburg
- AND TO: REGISTRAR OF DEEDS, CAPE TOWN**  
First Respondent  
New Revenue Building Place  
90 Plein Street  
Cape Town  
Email: [lynette.muller@drdlr.gov.za](mailto:lynette.muller@drdlr.gov.za)
- AND TO: ASHERSONS ATTORNEYS**  
Attorneys for Second, Third, and Fourth Respondents  
Ashersons Chambers  
34 Plein Street  
Cape Town  
(Ref: Andrew Goldschmidt)  
Email: [andrew@ashersons.co.za](mailto:andrew@ashersons.co.za)
- AND TO: A PARKER & ASSOCIATES**  
Attorneys for the Fifth Respondent  
Suite G06, Rostra House  
The Forum  
Century City  
Cape Town  
Ref: AP/AS/C0293  
Email: [ayasha@parkerlaw.co.za](mailto:ayasha@parkerlaw.co.za)

**c/o WRIGHT ROSE-INNES INC**  
96 Jan Smuts Avenue  
Saxonworld  
Johannesburg  
Email: [ravim@wri.co.za](mailto:ravim@wri.co.za)

**IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA  
(HELD AT BRAAMFONTEIN, JOHANNESBURG)**

**CC Case No.: 212/17  
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<b>WARREN KOEN</b>	Eleventh Applicant
<b>KASFICAH SMITH</b>	Twelfth Applicant

and

<b>THE REGISTRAR OF DEEDS</b>	First Respondent
<b>SHAUN WINGERIN N.O.</b>	Second Respondent
<b>GRAEME MICHAEL SCKOLNE N.O.</b>	Third Respondent
<b>NICOLA MARTINE COHEN N.O.</b>	Fourth Respondent
<b>THE CAPE TOWN COMMUNITY HOUSING COMPANY (PTY) LTD</b>	Fifth Respondent

and

<b>WOMEN'S LEGAL CENTRE TRUST</b>	Amicus Curiae
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**FOUNDING AFFIDAVIT**

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I, the undersigned,

**DAVEN DASS**

do hereby take oath and state:-

1. I am an adult male, practising as an attorney at the Wits Law Clinic, situated at Braamfontein Campus West, University of the Witwatersrand, 1 Jan Smuts Avenue, Braamfontein. I am duly authorised to depose to this affidavit.
2. The facts set out herein are true and correct, and unless the context indicates to the contrary, are within my personal knowledge.
3. The Wits Law Clinic (**'the Clinic'**) has been duly instructed to act as the correspondent attorney for the *amicus curiae*, the Women's Legal Centre Trust (**'the Trust'**), in this matter
4. I have been instructed by our instructing attorneys to file a condonation application on their behalf for the late filing of the Trust's written submissions. The submissions were to be filed with the court on or before 31 July 2018, in terms of the Directions of 27 July 2018, attached and marked annexure **DD1**.
5. The Trust served the written submissions to the parties via electronic service, and the Clinic was duly instructed to file 12 copies of the written submissions. The number of copies to be filed with the Court was provided in terms of the Practice Directives of 2010 issued by the Chief Justice in terms of Rule 32(2).
6. The Practice Directives state, at paragraph 2(i), that '*[u]ntil the formal amendment of Rule 1(3), parties lodging documents with the registrar are permitted to lodge only 12 (not 25) copies, plus an electronic version that is compatible with the court's software.*'

DD 1

7. Rule 1(3), which the provisions of the Directive replaces, reads:

*Any reference in these rules to a party having to sign documents shall be construed as including a reference to a legal representative representing such party, and a reference to lodging documents with the Registrar as including prior service of such documents on other parties and the lodging of 25 copies of all relevant documents and an electronic version thereof that is compatible with the software used by the Court, with the Registrar. [own emphasis]*

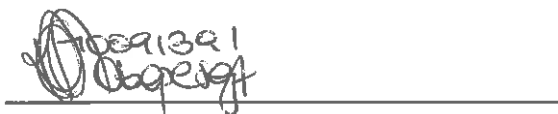
8. In terms of Rule 1(3), the word 'document' was interpreted to include written submissions to be filed with the Court, and in terms of the Directions issued on 27 July 2018. Rule 1(3) was replaced by the provisions of the Practice Directive issued in terms of Rule 32(2). Therefore, the Clinic was instructed to file with the Registrar only 12 copies of the written submissions, as opposed to 25 copies.
9. Pinky Joyce Mabatlounge Mokemane ('**Ms Mokemane**'), a candidate attorney at the Clinic, attempted to file 12 copies of the Trust's written submissions on 31 July 2018.
10. The registrar refused to accept the 12 copies, and informed Ms Mokemane that the Trust was required to file 25 copies in terms of Rule 1(3) of the Constitutional Court Rules. Ms Mokemane informed them of the contents of the Practice Directives of 2010, which state that parties are required to file only 12 copies and not 25, but the registrar maintained that the Directive does not apply to written submissions. A confirmatory affidavit of Ms Mokemane is attached hereto as annexure **DD2**.
11. We therefore attempted to file the incorrect number of documents with the registrar based on a good faith misinterpretation of the Practice Directive of 2010.
12. As a result, the registrar refused to accept the 12 copies of the documents for filing, and the Trust has not met the deadline stipulated in the Directions of 27 July 2018. The registrar further advised that an application for condonation be filed along with the written submissions, which necessitated this application.

- 13. We therefore bring this application for condonation for the late filing of the written submissions, together with 25 copies of the written submissions.
- 14. We further respectfully submit that there will be no prejudice in condoning the late filing as the parties have already been served a copy of the written submissions; and the documents are being filed a day after the deadline.
- 15. In light of the above, we therefore humbly pray for an order condoning the late filing of the written submissions of the Trust.

  
**DAVEN DASS**

I certify that on this \_\_\_\_\_ day of **August 2018**, in my presence at **Johannesburg** the deponent signed this declaration and declared that she:

- a) knew and understood the contents hereof;
- b) has no objection to taking this oath;
- c) considered this oath to be binding on his/her conscience and uttered the words "I swear that the contents of this declaration are true, so help me God".



**COMMISSIONER OF OATHS**  
Kl Mabepe  
No 1 Clarendon Place  
Hillbrow  
Sfj



Dfj





**CONSTITUTIONAL COURT OF SOUTH AFRICA**

**Case CCT 212/17**

In the matter between:

- |                                    |                           |
|------------------------------------|---------------------------|
| <b>RIAAN MOGAMAT AMARDIEN</b>      | <b>First Applicant</b>    |
| <b>TASSANDRA ANNE APRIL</b>        | <b>Second Applicant</b>   |
| <b>ASHEEQAH DAMON</b>              | <b>Third Applicant</b>    |
| <b>ROEWAYDA JOCHEMS</b>            | <b>Fourth Applicant</b>   |
| <b>LOUISE PRIMOE</b>               | <b>Fifth Applicant</b>    |
| <b>MARGARETH ROMAN</b>             | <b>Sixth Applicant</b>    |
| <b>CASSIEM SAPAT N.O.</b>          | <b>Seventh Applicant</b>  |
| <b>CYNTHIA ARENDSE</b>             | <b>Eighth Applicant</b>   |
| <b>CRAIG CLOETE</b>                | <b>Ninth Applicant</b>    |
| <b>FAIZA GASANT</b>                | <b>Tenth Applicant</b>    |
| <b>WARREN KOEN</b>                 | <b>Eleventh Applicant</b> |
| <b>KASFICAH SMITH</b>              | <b>Twelfth Applicant</b>  |
| <b>and</b>                         |                           |
| <b>REGISTRAR OF DEEDS</b>          | <b>First Respondent</b>   |
| <b>SHAUN WINGERIN N.O.</b>         | <b>Second Respondent</b>  |
| <b>GRAEME MICHAEL SHKOLNE N.O.</b> | <b>Third Respondent</b>   |
| <b>NICOLA MARTINE COHEN N.O.</b>   | <b>Fourth Respondent</b>  |

**CAPE TOWN COMMUNITY  
HOUSING COMPANY (PTY) LIMITED**

**Fifth Respondent**

and

**DEPARTMENT OF HUMAN SETTLEMENTS**

**First Amicus Curiae**

**TRUSTEES FOR THE TIME BEING OF  
THE WOMEN'S LEGAL CENTRE TRUST**

**Second Amicus Curiae**


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**DIRECTIONS DATED 27 JULY 2018**



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The Chief Justice has issued the following directions:

1. The second *amicus curiae* is directed to deliver to the Registrar and serve on all parties written submissions on or before Tuesday, 31 July 2018.
2. Any party wishing to respond to the written submissions of the second *amicus curiae* must do so on or before Friday, 3 August 2018.
3. The Women's Legal Centre Trust is granted leave to make oral submissions at the hearing on Tuesday, 7 August 2018.
4. Further directions may be issued.

  
**MR KGWADI MAKGAKGA  
REGISTRAR  
CONSTITUTIONAL COURT**

**TO: LEGAL RESOURCES CENTRE**  
Attorneys for the Applicants  
Third Floor, Greenmarket Place  
54 Shortmarket Street  
**CAPE TOWN**  
Tel: 021 481 3000  
Fax: 021 423 0935

<b>REGISTRAR OF THE CONSTITUTIONAL COURT OF SOUTH AFRICA</b>		
Private Bag X1, Constitution Hill, Braamfontein 201.		
	<b>2018 -07- 27</b>	
CC-003		
<b>GRIFFIER VAN DIE GRONDWETLIKE HOF SUID-AFRIKA</b>		

DD

Email: [steve@lrc.org.za](mailto:steve@lrc.org.za)  
Ref: S Kahanovitz  
c/o **LEGAL RESOURCES CENTRE**  
16th Floor, Bram Fischer Towers  
20 Albert Street  
**JOHANNESBURG**  
Tel: 011 836 9831  
Fax: 011 838 4876  
Email: [sithuthukile@lrc.org.za](mailto:sithuthukile@lrc.org.za)  
Ref: Sithuthukile Mkhize

**AND TO: REGISTRAR OF DEEDS, CAPE TOWN**  
First Respondent  
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**CAPE TOWN**  
Tel: 021 464 7600  
Fax: 021 464 7727  
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**AND TO: ASHERSONS ATTORNEYS**  
Attorneys for Second, Third and Fourth Respondents  
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Fax: 021 462 2536  
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Ref: Andrew Goldschmidt

**AND TO: A PARKER & ASSOCIATES**  
Attorneys for Fifth Respondent  
Suite G06, Rostra House  
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**CAPE TOWN**  
Tel: 021 552 9010  
Email: [ayesha@parkerlaw.co.za](mailto:ayesha@parkerlaw.co.za)  
Ref: AP/AS/C0293  
c/o **WRIGHT ROSE-INNES INC**  
96 Jan Smuts Avenue  
Saxonwold  
**JOHANNESBURG**  
Tel: 011 646 9991  
Fax: 011 646 3310  
Email: [ravim@wri.co.za](mailto:ravim@wri.co.za)

DD  
AQ

**AND TO: STATE ATTORNEY, JOHANNESBURG**

Attorneys for the First Amicus Curiae

Tenth Floor, North State Building

95 Albertina Sisulu Street

**JOHANNESBURG**

Tel: 011 330 7600

Email: [amilford@justice.gov.za](mailto:amilford@justice.gov.za)

Ref: 7037/17/P28

**AND TO: WOMEN'S LEGAL CENTRE**

Attorneys for the Second Amicus Curiae

Seventh floor, Constitution House

124 Adderley Street

**CAPE TOWN**

Tel: 021 424 5660

Email: [seehaam@wlce.co.za](mailto:seehaam@wlce.co.za)

Ref: Ms S Samaai

**c/o WITS LAW CLINIC**

Braamfontein Campus West

University of the Witwatersrand

1 Jan Smuts Avenue

Braamfontein

**JOHANNESBURG**

Ref: LAB18/354/W

DD

DD2

**IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA  
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and

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<b>THE CAPE TOWN COMMUNITY HOUSING COMPANY (PTY) LTD</b>	Fifth Respondent

and

<b>WOMEN'S LEGAL CENTRE TRUST</b>	Amicus Curiae
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DD

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**CONFIRMATORY AFFIDAVIT**

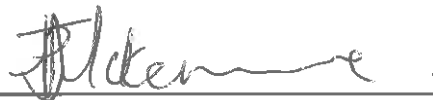
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I, the undersigned,

**PINKY JOYCE MABATLOUNG MOKEMANE**

do hereby take oath and state:-

1. I am an adult female employed as a candidate attorney at the Wits Law Clinic, which is situated at Braamfontein Campus West, University of the Witwatersrand, 1 Jan Smuts Avenue, Braamfontein.
2. The facts set out herein are true and correct, and unless the context indicates to the contrary, are within my personal knowledge.
3. I have read the affidavit of **Daven Dass** and confirm the contents thereof insofar as it relates to me.



---

**PINKY JOYCE MABATLOUNG MOKEMANE**

I certify that on this        day of **August 2018**, in my presence at **Johannesburg** the deponent signed this declaration and declared that she:

- a) knew and understood the contents hereof;
- b) has no objection to taking this oath;
- c) considered this oath to be binding on his/her conscience and uttered the words "I swear that the contents of this declaration are true, so help me God".



0991391  
Kuperger

SUID AFRIKAANSE POLISIEDIEN  
STATION COMMANDER  
2018 -08- 01  
CLIENT SERVICE CENTRE  
HILLBROW  
SOUTH AFRICAN POLICE SERVICE

**COMMISSIONER OF OATHS**

Kl Motipe  
1701 Clarendon Place  
Hillbrow  
Jg

~~Jg~~ DD R