

ORIGINAL

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION, PRETORIA

Case No: 58755/17

In the application for admission as *amicus curiae* by:

NASREEN RAJAB-BUDLENDER

NOZIZWE SILINDILE VUNDLA

MICHELLE ANN CRYSTAL HUBER

CAROL KHOLEKA ZAMA

PENELOPE JOY PARENZEE

TEBOHO BASETSANA MOLEBATSI

NICOLE LOUISE FRITZ

Acting in their capacity as

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

Applicant

In re

DEMOCRATIC ALLIANCE

and

THE MINISTER OF INTERNATIONAL RELATIONS
AND COOPERATION

Applicant

First Respondent

THE PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA
THE NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS
GABRIELLA ENGELS

Second Respondent

Third Respondent

FILING SHEET

KINDLY TAKE NOTICE THAT the Women's Legal Centre (*Amicus Curiae*) herewith files the following documents:

1. Notice of Motion
2. Supporting Affidavit of Seehaam Samaai

DATED AT Johannesburg ON THIS 30th DAY OF OCTOBER 2017.


WOMEN'S LEGAL CENTRE

7th Floor, Constitution House

124 Adderley Street

Cape Town

Ref: Ms Bronwyn Pithey

Email: bronwyn@wlce.co.za

c/o WOMEN'S LEGAL CENTRE

9th Floor, OPH

112 Main Street

Johannesburg

Tel: 011 339 1099

011 424 5660

Ref: Ms Natalie Buthelezi

Natalie@wlce.co.za

TO: THE REGISTRAR OF THE ABOVE
HONOURABLE COURT
PRETORIA

AND

TO: MINDE SCHAPIRO & SMITH INC.

Applicant's Attorneys
Tyger Valley Office Park,
Building Number 2,
Cnr Willie van Schoor & Old Oaks Road,
Belville
elzanne@mindes.co.za (electronic service)

AND

TO: THE OFFICE OF THE STATE ATTORNEY

First, Second and Third Respondents' Attorneys
316 SALU Building
Corner of Francois Baard and Thabo Sehume Streets
Pretoria
RSebelemetsa@justice.gov.za (electronic service)

AND

TO: HURTER AND SPIES INC.

Fourth Respondent's Attorneys
Afriforum Building
Corner Df Malan & Union Avenue
Kloofsig

Centurion

spies@hurterspies.co.za (electronic service)

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION, PRETORIA

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Applicant

In re

- DEMOCRATIC ALLIANCE
 - and
 - THE MINISTER OF INTERNATIONAL RELATIONS
AND COOPERATION
 - THE PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA
 - THE NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS
 - GABRIELLA ENGELS
- Applicant
- First Respondent
- Second Respondent
- Third Respondent

NOTICE OF MOTION

BE PLEASED TO TAKE NOTICE that the WOMEN'S LEGAL CENTRE TRUST hereby makes application to this Honourable Court in terms of Rule 16A of the Uniform Rules of Court for an order in the following terms:

1. That the WOMEN'S LEGAL CENTRE TRUST be admitted as *amicus curiae* to the proceedings;
2. That the WOMEN'S LEGAL CENTRE TRUST be entitled to make written and oral submission in the proceedings;
3. That the WOMEN'S LEGAL CENTRE TRUST be permitted to adduce evidence within three weeks from the date of the order admitting it as *amicus curiae*.

BE PLEASED TO TAKE NOTICE FURTHER that this application is supported by the affidavit of SEEHAAM SAMAAI, attached hereto.

TAKE FURTHER NOTICE THAT if you intend opposing this application, you are required to file an Answering Affidavit, clearly and succinctly setting out the grounds for opposition, within 5 days of receipt hereof.

TAKE NOTICE FURTHER THAT if no such Answering Affidavit is provided, the application will be set down for hearing accordingly.

TAKE NOTICE FURTHER that the Trust has appointed the address below as the address at which it will accept notices and service of all process, documents and notices in these proceedings.

KINDLY ENROL THE MATTER FOR HEARING ACCORDINGLY

DATED AT Johannesburg ON THIS 30 DAY OF OCTOBER 2017.



1
WOMEN'S LEGAL CENTRE

7th Floor, Constitution House

124 Adderley Street

Cape Town

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Email: bronwyn@wlce.co.za

c/o WOMEN'S LEGAL CENTRE

9th Floor, OPH

112 Main Street

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Tel: 011 339 1099

011 424 5660

Ref: Ms Natalie Buthelezi

Natalie@wlce.co.za

TO: THE REGISTRAR OF THE ABOVE
HONOURABLE COURT
PRETORIA

AND

TO: MINDE SCHAPIRO & SMITH INC.

Applicant's Attorneys

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Building Number 2,

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316 SALU Building

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Applicant

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And

**THE MINISTER OF INTERNATIONAL RELATIONS
AND COOPERATION**

First Respondent

THE PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA

Second Respondent

THE NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS

Third Respondent

GABRIELLA ENGELS

Fourth Respondent

AFFIDAVIT

I, the undersigned,

SEEHAAM SAMAAI

make oath and state as follows:

1. I am the Director of the Women's Legal Centre based at 7th Floor, Constitution House, 124 Adderley Street, Cape Town. I am duly authorised to depose to this affidavit on behalf of the Trustees for the time being of the Women's Legal Centre Trust.
2. The facts contained in this affidavit are true and correct and, save where the context indicates to the contrary, are within my personal knowledge.

Introduction

3. The Women's Legal Centre Trust ("the Trust") seeks leave to be admitted as an *amicus curiae* in the Gauteng High Court, Pretoria ("the court") in the above matter in terms of Rule 16A of the Uniform Court Rules.
4. The main application brought by the Applicant has challenged the decision to recognise the immunity to Dr. Grace Mugabe by the First Respondent. It has asked the court for orders declaring the decision of the First Respondent in terms of section 7(2) of the Diplomatic Immunities and Privileges Act 27 of 2001 ("the Act") to recognise the immunities and privileges of Dr Grace Mugabe as being inconsistent with the

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Constitution of South Africa and invalid, and requesting an order to review and set aside the impugned decision as irrational, unreasonable, *ultra vires* the Act and unlawful.

5. The Trust has considered the application brought by the Applicant and is of the opinion that it raises constitutional issues relevant to the mission and objectives of the Trust. The Trust submits that it can provide input and assist the court on important public interest issues arising in the matter, particularly by advancing oral and written submissions on the implications of the recognition of such immunity on violence against women and the State's impunity relating thereto. While the debate between the parties in the main application is foreshadowed by individual rights and obligations arising out of the recognition of immunity enjoyed by Dr. Mugabe, the Trust seeks to introduce the public interest element by analysing the ramifications of such immunity on the broader issue of violence against women. The arguments that the Trust wishes to advance are briefly set out below.
6. The Trust further applies to adduce evidence on the narrow issues of Dr. Mugabe's previous violent conduct, and reports of the widespread and prevalent violence in South Africa, in particular the United Nations Human Rights Council Report of the Special Rapporteur on Violence Against Women, its causes and consequences on her mission to South Africa (June 2016), with an emphasis on the gendered nature of such violence.

The interest of the Trust in the proceedings

7. The Trust is a juristic person created in terms of a trust instrument dated 3 August 1998. The Trust Deed, as amended, is attached as Annexure "SS1". A copy of the

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Master's Certificate authorising the present Trustees to act on behalf of the Trust is annexed as "SS2".

8. The Trustees have duly resolved to institute these proceedings in furtherance of the objectives of the Trust and have authorised me to make this affidavit and to bring this application on their behalf. A copy of the resolution is annexed marked "SS3".
9. The detailed objectives of the Trust are set out in clause 4 of the Trust Deed. A core objective of the Trust, as set out in its Trust Deed, is to advance and protect the human rights of all women and girls in South Africa, with a focus on women who suffer many intersecting forms of disadvantage. In so doing the Trust seeks to contribute to redressing the systemic discrimination and disadvantage that women face. The high levels of violence against women in society render women particularly vulnerable.
10. The Trust fulfils its main object by giving legal assistance to women litigants free of charge, by litigating on behalf of clients and in its own name, and by making *amicus curiae* submissions in order to assist Courts in constitutional and public interest matters that concern women's rights and gender equality. To this end the Trust established the Women's Legal Centre ("WLC") in order to conduct public interest litigation including constitutional litigation to advance the human rights of women. Since its inception, the WLC has participated in numerous cases concerning the rights of women. The WLC's litigation over the years has covered issues such as sexual and domestic violence, child abuse, vicarious liability of police officers in relation to sexual and domestic violence, as well as women's property rights on divorce or death of their partners and the rights of farm women to occupy housing in their own right.
11. The Trust will not repeat the issues raised by the other parties but rather intends to raise new contentions relevant to the issues before the Court. To that end, the

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underlying purpose of the submissions is to assist the Court by making submissions that will not be canvassed by any of the parties to the proceedings.

12. I submit that in light of the Trust and WLC's history of assisting, advising and representing women and children in cases concerning discrimination based on their race, sex and gender or the intersection thereof, the Trust is well placed to assist the court in this matter on the implications of the recognition of immunity of Dr. Mugabe on violence against women.

Procedural aspects of admission as *amicus curiae* in compliance with Rule 16A

13. On 19 September 2017 the WLC addressed correspondence to the attorneys for the applicants seeking their consent for the Trust's admission as *amicus curiae* in this matter. A copy of the letter is marked "SS4". Letters with the same content were also sent to all the respondents.
14. On 25 September 2017 the Fourth Respondent's attorneys of record indicated that the Fourth Respondent had consented to the Trust's admission as *amicus curiae*. I attach a copy of the email reflecting this marked "SS5".
15. On 26 September 2017 the Applicant's attorneys of record of indicated that the Applicant had consented to the Trust's admission as *amicus curiae*. I attach a copy the email and the letter reflecting this marked "SS6".
16. On 26 September 2017 the First, Second and Third Respondents consented to the Trust's admission as *amicus curiae*. I attach a copy of the email reflecting this marked "SS7".

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17. It is submitted that on the basis that the applicant and the respondents have consented to the Trust being admitted as *amicus curiae*, thereby agreeing that the Trust will address material issues not canvassed by them, there is no prejudice on the parties for the Trust to be admitted. Nevertheless, the Trust has been advised to apply to the Court for leave to be admitted as *amicus curiae*.
18. Accordingly, WLC seeks leave to be admitted as *amicus curiae*, make oral and written submissions to the court as well as to adduce evidence on the narrow issues referred to above.

Submissions to be advanced by the WLC

19. In terms of Rule 16A, the Trust sets out below the submissions which it will advance. I reiterate, the Trust will not repeat the arguments canvassed by any of the other parties; it will raise contentions that are materially relevant to the present proceedings and will assist the court in determining the issues before it.
20. The Trust approaches this matter on the basis that it presents three core issues, viz: (a) whether Dr. Grace Mugabe had diplomatic immunity at the time that she entered South Africa and when the subject incident occurred; (b) if she did have immunity, the terms of that immunity and in particular whether it provided her with immunity against any unlawful and/or criminal conduct, no matter how unrelated it is to the purpose for which she acquired diplomatic immunity; and (c) if she did have immunity at the time of the subject incident, the consequences thereof and in particular whether the State ought to have imposed conditions in the event that Dr. Mugabe returns to South Africa.

WLC

21. The Trust will make submissions in relation to the last two of the three above-mentioned issues. In particular, it will present argument that in interrogating: (a) the terms of Dr. Mugabe's immunity; and (b) the measures that the State ought to have taken in relation to the consequences of such criminal conduct on Dr. Mugabe's return to South Africa, regard must be had to:
- 21.1. the constitutional obligations on the state in terms of section 12 of the Constitution, specifically section 12(1)(c): Everyone has the right to freedom and security of the person, which includes the right to be free from all forms of violence from either public or private sources and the relevance thereof to the question of diplomatic immunity.
 - 21.2. the failure of the State to act with due diligence in both its positive obligations to prevent violence against women and to respond effectively to acts perpetrated – the ambit of the State's obligations in this regard will be interrogated with specific reference to the terms of diplomatic immunity as well as the consequences of committing unlawful and criminal acts in respect of matters wholly unrelated to the granting of diplomatic immunity.
 - 21.3. The State acting with impunity in relation to violence against women by virtue of its failure to impose any conditions in relation to Dr. Mugabe's return to South Africa notwithstanding her criminal and unlawful actions which were wholly unrelated to her diplomatic immunity.
22. In advancing these submissions, the Trust will make reference to:
- 22.1. the government's and criminal justice system's failures which has led to a distrust of the role of the law to obtain justice and as a tool for social change;

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- 22.2. the high levels of violence against women and (girl) children in South Africa and the constitutional and legislative duties of the state in respect thereof;
- 22.3. the obligations of the State as outlined in the relevant regional and international legal instruments.
23. In addition to the main relief sought by the applicants, the Trust will advance arguments to address the positive obligations on the government to prevent further violence by Dr. Grace Mugabe.
24. As all the parties to the main application have consented to the Trust's admission as *amicus curiae*, they agree that these issues are not covered by the main application. Further, the Trust is seeking to address this issue from the broader public interest perspective of violence, and the gendered nature of such violence, which goes beyond the scope of the dispute between the parties in the main application. The Trust believes that its arguments will assist the court materially in determining the issues before it and protect the public interest involved in this matter.

Leave to adduce evidence

25. In furtherance of the arguments the Trust wishes to advance, it seeks leave of the court to adduce evidence on two narrow issues, viz:
- (a) Dr. Mugabe's prior history of violent conduct; and
 - (b) Widespread and prevalent violence in South Africa, and the gendered nature of such violence.
26. I submit that the evidence sought to be adduced by the Trust is manifestly material to the arguments it intends advancing before the court. I further submit that the interests

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of justice will be served and no prejudice will be caused to the parties by granting leave to the Trust to adduce evidence on these narrow issues.

27. If granted leave to adduce evidence, the Trust undertakes to file its affidavit containing the evidence on these narrow issues within three weeks from the order admitting the Trust as *amicus curiae*.

Conclusion

28. The granting of immunity to Dr. Mugabe in the present factual matrix has material implications on the jurisprudence against violence against women and the State's obligations in respect thereof, with reference to the facts of the subject case.
29. To address these arguments, the Trust seeks leave to be admitted as *amicus curiae* in the present proceedings, make oral and written submissions, and adduce evidence within three weeks from the date of the order admitting the Trust.


SEEHAAM SAMAAI

The Deponent has acknowledged that she knows and understands the contents of this affidavit, which was signed and sworn to or solemnly affirmed before me at Johannesburg on 30/10/2017, the regulations contained in Government Notice No. R1258 of 21 July 1972, as amended, and Government Notice No. R1648 of 19 August 1977, as amended, having been complied with.


COMMISSIONER OF OATHS

Uzair Adams
Practising Attorney
ProBono.org
57 on Strand, Strand Street
Cape Town, 8001
087 806 6070

ssi

AMENDED DEED OF TRUST

in respect of

THE WOMEN'S LEGAL CENTRE TRUST

entered into by

MARY SUSAN CAESAR

YASMIN TAYOB CARRIM

LEBOGANG TEMPERANCE MALEPE

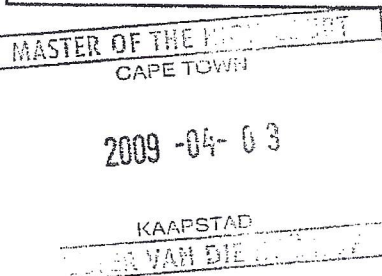
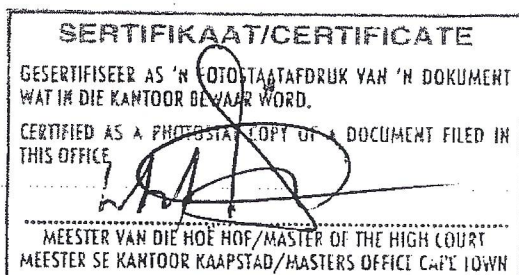
HAPPY MASONDO

ALISON RACHELLE TILLEY

("the Trustees")

I certify this to be a true copy of the original
Commissioner of oaths

Name: Jennifer Williams
Practising Attorney
WOMEN'S LEGAL CENTRE
7th Floor, Constitution House
124 Adderly Street
Cape Town 8001



Telephone +27 21 410 2200
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3rd Floor Granger Bay Court
Beach Road, V&A Waterfront
Cape Town 8001
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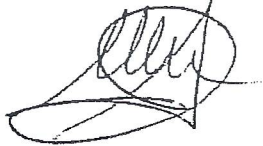


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I certify this to be a true copy of the original
Commissioner of oaths

Name: JENNIFER WILLIAMS
Practising Attorney
WOMEN'S LEGAL CENTRE
7th Floor, Constitution House
124 Adderly Street
Cape Town 8001

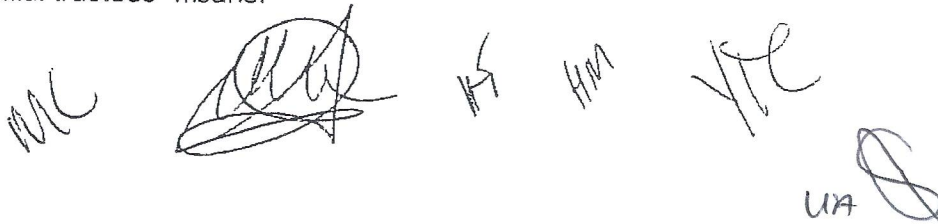
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HM.



1. INTERPRETATION

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In this trust deed:-

- 1.1 clause headings are for convenience only and may not be used in its interpretation;
- 1.2 unless the context clearly indicates a contrary intention:-
 - 1.2.1 words indicating the singular includes the plural and vice versa;
 - 1.2.2 words indicating any one gender includes the other genders;
 - 1.2.3 any reference to a natural person includes a juristic person and vice versa;
 - 1.2.4 the words "capital" and "amount" are given their widest meanings and shall include assets or rights of any kind;
 - 1.2.5 the word "pay" and its derivatives means and includes the words "pay", "deliver", "give possession", "cede" or "transfer" and their respective derivatives.
- 1.3 the following words and expressions shall bear the meanings assigned to them and cognate words and expressions shall bear corresponding meanings, namely:-
 - 1.3.1 "Act" means the Income Tax Act No. 58 of 1962, as amended from time to time, or any statute replacing it;
 - 1.3.2 "auditors" means the auditors of the company for the time being;
 - 1.3.3 "beneficiaries" means those who benefit in terms of the purpose and objects of the trust;
 - 1.3.4 "Commissioner" means the Commissioner for the South African Revenue Services;
 - 1.3.5 "the Founder" means Coriaan De Villiers;
 - 1.3.6 "initial trustees" means:



Handwritten signatures of the initial trustees, including initials 'MC', a large signature, 'HS', 'HM', 'JTC', and 'UA' with a circular stamp.

SSI

- 1.3.6.1 Victoria Jane Mayer;
- 1.3.6.2 Coriaan De Villiers;
- 1.3.6.3 Karrisha Pillay;
- 1.3.6.4 Alison Rachelle Tilley;
- 1.3.6.5 Michelle Anne O'Sullivan;
- 1.3.6.6 Happy Masondo; and
- 1.3.6.7 Sandra Liebenberg;
- 1.3.7 "net income" means the gross income of the trust less the costs of its administration;
- 1.3.8 "Trustees" means the Trustees for the time being of the trust;
- 1.3.9 "trust" means the Women's Legal Centre Trust, constituted in terms of this trust deed;
- 1.3.10 "trust assets" means all income and capital of the trust and shall include:-
- 1.3.10.1 all receipts, accruals, assets and rights of whatsoever nature which the Trustees may acquire in their capacities as such or which may accrue to or in favour of the Trustees in their capacities as such, including without restricting the generality of the foregoing, any right of whatsoever nature in or to immovable property; and
- 1.3.10.2 all additions, accruals, income, profit or interest arising out of the receipts and accruals referred to in 1.3.10.1 and/or the exercise by the Trustees of their powers in terms hereof;
- 1.3.11 "WLC" means the Women's Legal Centre.

Handwritten signatures and initials at the bottom of the page, including 'WLC', a large signature, 'HM', 'JTC', and 'UA.' with a circular stamp.

- 1.4 reference to any statutory provision includes a reference to that provision as modified, amended, extended or re-enacted from time to time and to any statutory replacement thereof from time to time.
- 1.5 when a company is referred to it includes a close corporation or any other type of legal entity whether registered or not and any reference to shares in a company shall include interests in a close corporation or other legal entity.
- 1.6 reference to a month means a calendar month reckoned from the first of the month to the end of that month.
- 1.7 reference to days means calendar days, which shall be counted by excluding the first day and including the last day, unless the latter falls on a Saturday, Sunday or public holiday, in which event the last day shall be the first business day thereafter.
- 1.8 if any provision in the definitions is a substantive provision conferring rights or imposing obligations on either party, then notwithstanding that such provision is contained only in the definitions, effect shall be given thereto as if such provision were a substantive provision in the body of this agreement.

2. RECORDAL

- 2.1 The Founder and the initial trustees established a trust called the WLC Trust for the sole purpose of establishing, managing and controlling a Women's Legal Centre or Centres:
- 2.1.1 where legal assistance will be given free of charge to the public, particularly to women, in cases which involve public interest or constitutional litigation;
- 2.1.2 where legal research, education and training may also be undertaken; and
- 2.1.3 for the purpose and objects as set out in clause 4 below.
- 2.2 The trust was registered by the Master of the Cape High Court on 18 September 1998 under trust registration number IT 3486/98.
- 2.3 Since the establishment of this trust, the Founder has resigned and various of the initial trustees have been substituted. The current trustees have decided

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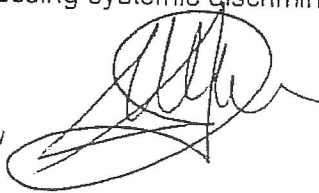

to make various amendments to the WLC Trust and accordingly have executed this amended WLC Trust without altering the philosophy, purpose and objects of the WLC Trust as established by the initial trustees. SS1

3. CREATION OF TRUST



- 3.1 A trust is hereby constituted and shall be known as the "Women's Legal Centre Trust".
- 3.2 The initial capital of the trust consisted of R100.00 (one hundred Rand) which the Founder donated. The Trustees hereby accept such donation, subject to the terms and conditions of this trust deed.
- 3.3 The initial subject matter of the trust shall be capable of being added to and increased from time to time and the trust capital shall consist of all assets, corporeal or incorporeal, which the trust may from time to time acquire pursuant to this trust deed and shall include any part of the net income of the trust which is not distributed.
- 3.4 The payment, delivery, cession or transfer of any asset to the Trustees shall be sufficient to vest the same in trust on the terms and conditions and for the purposes set forth in this trust deed.
- 3.5 The Trustees have agreed to accept office and to administer the trust for the objects set forth in this trust deed, and to enter into this written Deed of Trust to give effect to the said objects, as they hereby do.

4. PURPOSE AND OBJECTS OF THE TRUST

- 4.1 The trustees recognize the systemic discrimination and disadvantage suffered by women in South Africa.
- 4.2 The trustees therefore wish to manage, control and provide legal assistance to the WLC.
- 4.3 The main objects of the Trust and the WLC are to advance and protect the human rights of all women in South Africa, particularly black women, who suffer many different and intersecting forms of disadvantage and in so doing to contribute to redressing systemic discrimination and disadvantage and for that purpose:

[Handwritten signatures and initials]
 WLC  HM YTC WA 

- 4.3.1 the main activity of the WLC is conducting public interest litigation, including constitutional litigation to advance the human rights of women;
- 4.3.2 the WLC Trust may conduct such litigation in its own name, including intervening in court proceedings as *amicus curiae* ("friend of the court");
- 4.3.3 the WLC provides legal services and representation free of charge, particularly to women, who would not otherwise be able to afford such services in conducting such litigation;
- 4.3.4 the WLC may employ and/or instruct counsel, attorneys, and other persons for the purposes of implementing the objects of the WLC;
- 4.3.5 other activities of the WLC, in furtherance of its objectives; may include:
- 4.3.5.1 advocacy, policy and legal interventions, other than litigation;
 - 4.3.5.2 engaging in legal research;
 - 4.3.5.3 conducting training, workshops and seminars;
 - 4.3.5.4 publication of legal research and information dissemination;
 - 4.3.5.5 promotion of the development of women lawyers; including but not limited to establishing a scholarship;
 - 4.3.5.6 developing links and networks with groups who promote the objects of the trust;
 - 4.3.5.7 where possible, assisting groups to formulate their policy and legal interventions;
 - 4.3.5.8 developing a database of national and international organisations committed to human rights;

ML  HM JLE UA 

- 4.3.5.9 referral of cases which can more appropriately be dealt with by persons other than the WLC; and
- 4.3.5.10 providing assistance and training to legal clinics, para-legals and advice offices at which services are rendered to the public free of charge.

5. GUIDING PRINCIPLES AND NATURE OF THE TRUST

- 5.1 The Trustees in making their decisions in terms of this trust deed shall do so in a manner which is non-racial, non-sexist, impartial, democratic, accountable and financially responsible.
- 5.2 The Trust shall be:
- 5.2.1 an independent organisation and shall not engage in any activities of a party-political nature;
 - 5.2.2 a non-governmental organisation; and
 - 5.2.3 a not-for-profit organisation.

6. TRUSTEES

- 6.1 The current Trustees are:
- 6.1.1 ALISON RACHELLE TILLEY;
 - 6.1.2 MARY SUSAN CAESAR;
 - 6.1.3 HAPPY MASONDO;
 - 6.1.4 YASMIN TAYOB CARRIM;
 - 6.1.5 LEBOGANG TEMPERANCE MALEPE;

and such Trustees by their signature hereto accept and confirm their appointment as such.

- 6.2 The Trustees shall at all times have the right to co-opt further Trustees, provided that such co-option is in accordance with the decision making

Handwritten signatures of the trustees: WLC, HM, UA, and others.

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procedures set out herein, and such further Trustees are authorised to act as such by the Master of the High Court, in terms of the relevant statute.

6.3 There shall at all times be not fewer than 3 Trustees in office for the valid exercise of the powers and discharge of the duties of the Trustees in terms of this trust deed. In the event of the above requirement not being fulfilled at any time, then the Trustees remaining in office shall be empowered to act only to appoint such further Trustees as are required to make up the minimum number of Trustees whereafter they shall again be charged with the duty of administering the trust.

6.4 The following persons shall be disqualified from serving or being appointed as Trustees:-

6.4.1 any person who is disqualified in terms of the company laws for the time being of South Africa from occupying office as a director of a company;

6.4.2 a person whose estate has been sequestrated (provisionally or finally) and has not been rehabilitated;

6.4.3 a person who has been found, by a competent authority, to be of unsound mind or a lunatic or declared incapable of managing his own affairs;

6.4.4 an employee of the WLC;

6.4.5 a person, other than an employee of the WLC, who provides (paid) legal services to the WLC.

6.5 A trustee shall cease to hold office if:-

6.5.1 he or she is disqualified from holding office as such in terms of clause 6.4 above;

6.5.2 if he or she dies;

6.5.3 he or she resigns his office as trustee by notice in writing to the Trustees;

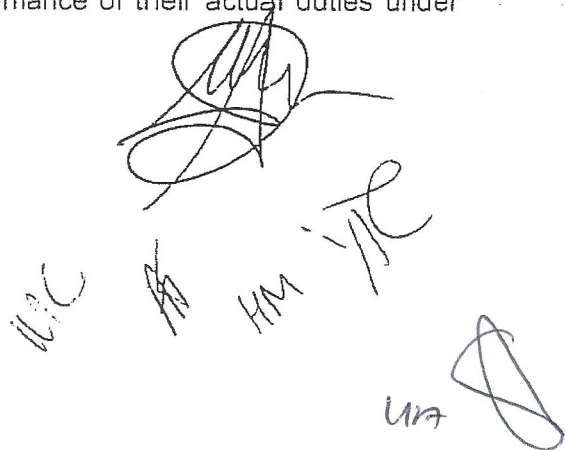
6.5.4 he or she becomes disqualified in law to hold the office of trustee;

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- 6.5.5 he or she is replaced as a trustee in accordance with the provisions of this trust deed
- 6.5.6 he or she is removed as a trustee by a resolution of two-thirds of the Trustees duly passed.
- 6.6 If a trustee wishes to apply for a position of employment at the Centre, she must resign prior to applying for such position.
- 6.7 Notwithstanding 6.4 and 6.6 a trustee may be appointed by a majority of the trustees in an acting capacity in the Centre for a period of 6 months in the event of an emergency.
- 6.8 No portion of the trust assets shall form part of the personal estates of the Trustees nor shall it be paid or transferred directly or indirectly to the Trustees or any member of their families, and all trust assets shall be registered in the name of the trust.
- 6.9 Any of the Trustees may, with the unanimous written consent of all the Trustees, be paid a reasonable remuneration which is not excessive, having regard to what is generally considered reasonable in terms of trustee's remuneration, and is commensurate with and in return for any actual services rendered to the trust.
- 6.10 The Trustees shall be entitled to the reimbursement of actual costs, expenses and commitments reasonably incurred in good faith on behalf of the trust and with its authority.

7. APPLICATION OF TRUST FUNDS

- 7.1 The costs of administration of the trust shall be a first charge on the gross trust income which costs shall include, but not be limited to, all trust expenses, and any levy, duty or tax whatsoever levied on the Trustees in their respective capacities and all costs, charges and disbursements whatsoever incurred by the Trustees in or arising out of the performance of their actual duties under this deed.
- 7.2 The Trustees shall:

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- 7.2.1 apply so much of the available funds of the trust, whether capital or income, as they deem necessary solely for the attainment of the trust's objects as set out above;
- 7.2.2 not distribute any of its net income or gains to any person other than in terms of this trust deed.
- 7.3 Subject to 7.2 above, the Trustees shall have the power, in their sole discretion:-
- 7.3.1 to determine the manner in which the trust capital and the net income shall be applied or dealt with from time to time;
- 7.3.2 to determine the terms and conditions, if any, to be attached to the payment, application or expenditure of the net income or trust capital or any portion thereof;
- 7.3.3 to determine when the trust capital or net income or any portion thereof shall be applied, expended, paid or used in any manner whatsoever towards the furtherance of the purposes and object of the trust;
- 7.3.4 to accumulate, at any time and from time to time, any portion of the trust capital or net income for any capital project or projects or for any other purpose or reason whatsoever which they, in their discretion, deem to be in the interests of the trust and the beneficiaries in the furtherance of the purposes and object of the trust in terms hereof, provided that, in the event that the trust has been tax exempt, the prior consent of the Commissioner is first obtained;
- 7.3.5 to invest responsibly any portion of the trust capital or net income:-
- 7.3.5.1 with a financial institution as defined in Section 1 of the Financial Institutions (Investment of Funds) Act No. 39 of 1984;
- 7.3.5.2 in securities listed on a licensed stock exchange as defined in Section 1 of the Stock Exchanges Control Act No. 1 of 1985;

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7.3.5.3 in such other prudent investments in financial instruments and assets as the Commissioner may determine after consultation with the Executive Officer of the Financial Services Board and the Director of Non-Profit Organisations, provided that the provisions of this sub-clause shall not prohibit the Trust from retaining any investment in the form that it was acquired by way of donation, bequest or inheritance.

7.4 Subject to clause 6.9 and 6.10, the trust is to be administered in such a manner as to preclude any donor, trustee and/or their families from deriving any monetary advantage from moneys paid to, by or for the benefit of the trust.

8. SECURITY DISPENSED WITH

No trustee, whether appointed or co-opted in terms of this trust deed, or appointed as a successor to a trustee, shall be required by the Master of the High Court, or any other competent authority, to furnish any security of any nature, nor shall any security be required for the due performance of any duty under the Trust Property Control Act No. 57 of 1988, as amended, or under any other statutory provision which may now be or may hereafter become of force or effect, the intent and purpose being that no trustee shall be required to give any security in respect of or in connection with or arising out of such appointment.

9. DECISIONS OF THE TRUSTEES AND PERFORMANCE OF THEIR DUTIES

9.1 The business of the trust shall be managed by the Trustees. Subject to the Trustees giving effect to the terms and conditions of this deed, they shall, in administering the trust and its affairs, generally adopt such procedures and take such administrative steps as they may from time to time deem necessary and advisable. They shall meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit, provided that the Trustees shall meet at least once a year, within 90 days of the end of the financial year.

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- 9.2 The director of the WLC shall be entitled to be present at all meetings of the trustees, save where a conflict of interest may arise.
- 9.3 Any trustee shall at any time be entitled to summon a meeting of the Trustees provided that any trustee calling a meeting shall endeavour to give at least 15 (fifteen) days written notice to the Trustees thereof, save in respect of urgent matters requiring a meeting at less than 15 (fifteen) days notice.
- 9.4 The majority of the Trustees in office shall be required to form a quorum of Trustees for the purposes of meetings of the Trustees.
- 9.5 The Trustees shall appoint a chairperson and such other officers of the trust as they may decide.
- 9.6 Decisions and questions arising at any quorate meeting of Trustees shall be decided by a simple majority, save where otherwise provided herein.
- 9.7 A resolution in writing signed in favour thereof by a majority of Trustees shall be as valid and effectual as if it had been passed at a meeting of the Trustees duly called and constituted. Any trustee may indicate his or her agreement, in the context of this clause, by way of a signed letter or facsimile transmission or by electronic mail transmission. A resolution as contemplated in this clause may consist of several documents each signed by one or more of the Trustees (provided that in all, the requisite number of Trustees have signed) and shall be deemed to have been passed on the date on which it was signed by the last trustee who signed it (unless provided to the contrary in such resolution).
- 9.8 Subject to any provision to the contrary contained herein, all contracts, deeds, cheques or documents required to be signed on behalf of the Trust shall be signed in such manner as the Trustees from time to time determine.
- 9.9 All resolutions taken by the Trustees will be recorded and copies thereof kept by the Director.
- 9.10 A trustee may, if unable to attend any meeting of the Trustees, appoint another trustee in writing to act and vote on his behalf at any specified meeting of Trustees.
- 9.11 The Trustees may appoint any committee from among the Trustees, and may grant or delegate any of their powers to such committees. Any such

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delegation or grant of powers shall not preclude the Trustees from themselves exercising such powers. The Trustees may withdraw any such delegation or grant of powers at any time. The Trustees may authorise such committees to seek the advice of further persons, who are not Trustees.

- 9.12 The Trustees may co-opt people, whether Trustees or not, to attend meetings of the Trustees or their committees and to undertake any of the duties that the Trustees may from time to time delegate to them. Such persons who are not Trustees shall act in an advisory capacity only and shall not have a vote at any meeting of the Trustees.

10. POWERS OF TRUSTEES

- 10.1 Subject to the express limitations on Trustees' powers set out in this trust deed, the Trustees shall have all such powers and capacity in relation to the trust and the trust assets as:-

10.1.1 are legally required and/or permitted;

10.1.2 any natural person with full legal capacity may have in relation to his own affairs,

and the discretionary powers vested in the Trustees in terms of this trust deed shall be complete and absolute, and any decision made by them pursuant to any such discretionary powers shall be unchallengeable by any person affected thereby.

- 10.2 The Trustees shall, subject to the provisions of clause 10.4, deal with the trust assets in order to achieve the objects of the trust and shall, subject to the provisions of this trust deed, possess and enjoy all ancillary and/or incidental rights and powers necessary for and incidental to such objects.

- 10.3 Without limitation of the general powers and discretion conferred on the Trustees, but subject to the limitations contained in clause 7 above they shall have, inter alia, the following rights and powers which they may exercise for the purposes of the trust in their discretion:-

10.3.1 to open and operate any banking account and/or building society account in the name of the trust and to draw and issue cheques

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and to receive cheques, promissory notes and/or bills of exchange, and to endorse any of the same for collection by the bank and/or building society at which the said account was opened. Withdrawals shall be made on the signature of at least two persons, one of whom must be a Trustee. The other signatories may be such persons as the Trustees may determine from time to time by written resolution, provided that withdrawals of a stipulated amount or less shall be made on the signature of such two persons as the Trustees may determine from time to time by written resolution;

- 10.3.2 to enter into any contracts and execute any documents by or on behalf of the trust, for the purpose of giving effect to the objectives of the trust;
- 10.3.3 to buy or sell (by public auction, private treaty or otherwise) movable, immovable or incorporeal property of whatever nature, and to sign and execute any agreement or deed of sale in relation thereto, and to sign and execute all requisite documents and do all such things necessary for the purpose of effecting and registering, if needs be, transfers according to law of any such property, whether movable, immovable or incorporeal, bought or sold by the Trustees, provided the powers in this sub-clause are exercised for the sole benefit of the beneficiaries;
- 10.3.4 to receive, accept or acquire, or donate, cede, assign or otherwise dispose of, any other right to or over immovable property not constituting full ownership, whether registerable or not;
- 10.3.5 to buy, sell and/or exchange shares, interest, debenture, stocks, units, promissory notes, bills of exchange and any other negotiable instruments and documents of any kind, and to do all things requisite and sign all documents requisite to acquire or, as the case may be, to give transfer and title thereto;
- 10.3.6 make loans for the benefit of beneficiaries (but not to a trustee, donor and/or any of their relatives or to any private company) on such terms and conditions and at such interest rate, if any, as the

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Trustees may determine, and to sign and execute all requisite documents and to do all things necessary for the effecting and registration of any such security;

- 10.3.7 to vary any investment made in terms hereof by realising the same and/or by substituting therefor any other investment which the Trustees are empowered in terms hereof to make;
- 10.3.8 to borrow money on such terms and conditions and at such interest and from such persons as the Trustees may determine, and either without security or upon such security over movable or immovable property as the Trustees may determine, and to sign and execute all requisite documents and to do all things necessary for the effecting and registration of any requisite instrument of debt and of any such security;
- 10.3.9 to mortgage, pledge and/or hypothecate any movable, immovable or incorporeal property forming part of the assets of the trust, and enter into suretyships and, for the purpose of any such mortgage, pledge, hypothecation or suretyship, to sign and execute all requisite documents and do all things necessary for effecting and registering the same, provided that such power shall only be exercised for the benefit of the beneficiaries;
- 10.3.10 subject to clauses 6.4.1 and 10.4.5, to let, either by written agreement of lease or otherwise, improve, alter or maintain any immovable property belonging to the trust or any improvements thereon;
- 10.3.11 any asset acquired by way of donation, inheritance or bequest, may be retained or continued, in the form so acquired;
- 10.3.12 to sue for, recover and receive all debts or sums of money, goods, effects and things whatever, which may become due, owing, payable or belonging to the trust, and to take action in a court of law on behalf of the trust and/or defend any proceedings which may be instituted against the trust;

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- 10.3.13 to defend, oppose, adjust, settle, compromise and/or submit to arbitration all accounts, debts, claims, demands, disputes, legal proceedings and matters which may subsist or arise between the trust and any person, company, corporation or body whatever, and for the purposes aforesaid, to do and execute all necessary acts and documents;
- 10.3.14 to attend all meetings of creditors of any person, company, corporation or body whatever indebted to the trust, whether in insolvency, liquidation, judicial management or otherwise, and to vote for the election of a trustee or Trustees and/or liquidator/s and/or judicial manager/s and also to vote on all questions submitted to any such meeting of creditors and generally to exercise all rights accruing to a creditor;
- 10.3.15 subject to clause 10.4.5 to exercise and take up or to sell and realise any rights of conversion or subscription attaching, accruing or appertaining to any share, debentures or units forming part of the assets of the trust;
- 10.3.16 to cause, in the case of any company or unit trust scheme which is precluded by its articles of association or trust deed or which refuses to transfer any shares, debentures or units forming part of the assets of the trust into the name of the Trustees as such, the transfer of the said shares, debentures or units into their own names or into the name of a bank, trust company or other suitable nominee;
- 10.3.17 to give receipts, releases or other effectual discharges for any sum of money or things recovered;
- 10.3.18 to pay out of the funds of the trust all debts incurred on behalf of the trust by the Trustees in the exercise of their powers in terms hereof;
- 10.3.19 subject to clause 10.4.2, to accept on behalf of the trust all or any donations of whatsoever nature, whether in the form of funds or movable or immovable property or any right therein, or otherwise, from the donor or from any other person whatever;

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- 10.3.20 to determine whether any surplus on the sale of any assets of whatever description of the trust, and whether movable or immovable property, and the receipt of any bonus, shares or units by the trust be regarded as income or capital of the trust and to revise any such decision taken by them;
- 10.3.21 to employ professional practitioners, agents and employees, including a Director, to administer the trust assets, to carry out the objectives of the trust and to pay their fees, commissions, remuneration and any other charges out of the funds of the trust, and to confer, if necessary, upon such agents or employees so appointed the right to exercise any discretion which may be vested in the Trustees;
- 10.3.22 to terminate the employment of any such professional practitioners, agents or employees;
- 10.3.23 to improve and develop immovable property acquired by the trust and to expend the capital and/or net income of the trust upon the preservation, maintenance and upkeep of any such property.
- 10.4 Notwithstanding anything to the contrary herein contained:-
- 10.4.1 no benefits may be allocated by the trust during its existence for any purpose other than those envisaged in clause 7 above;
- 10.4.2 all donations made by or to the trust must be irrevocable and unconditional and must be subject to the terms and conditions of the trust deed;
- 10.4.3 no trustee shall have a direct or indirect interest in or benefit from any contract which the Trustees may conclude with any company (unless previously disclosed and agreed to unanimously by all the remaining Trustees);
- 10.4.4 paid officials of the trust, other than Trustees, may only serve on the management committee or board of Trustees in an advisory capacity, and will have no voting rights;

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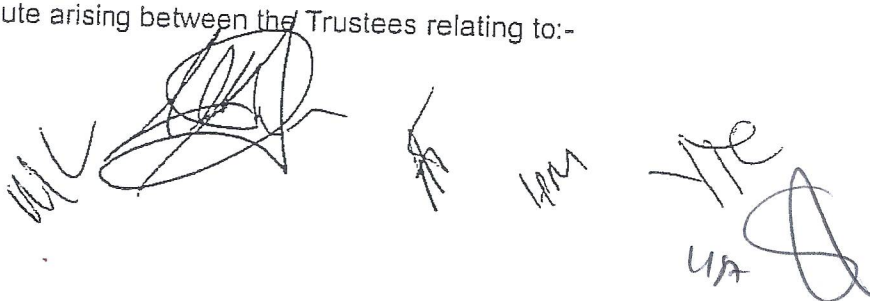
- 10.4.5 the Trustees may not cause the trust to acquire immovable property solely for letting purposes nor may the Trustees engage in any trading operations or speculative transactions, including inter alia, ordinary trading operations in the commercial sense, speculative transactions, dividend stripping activities as well as letting property on a systematic or regular basis. Notwithstanding the foregoing it is expressly provided that if immovable property is donated or bequeathed to the trust and such property is rent producing then the Trustees shall be permitted to continue letting the property without jeopardising the tax status of the trust, in the event that the trust has obtained a tax exemption;
- 10.4.6 the Trustees may not allow immovable property owned by the trust to be occupied free of charge by any person except beneficiaries, or officers or employees of the trust.
- 10.4.7 no competition, contest, game, scheme, arrangement or system in connection with which any prize may be won shall be conducted or caused to be conducted by the trust unless an authority in terms of the relevant Act has been obtained beforehand;
- 10.4.8 should the services of a fund raiser be made use of for collection contributions, the expenses (remuneration and/or commission included) may not exceed 40% (forty percent) of the total turnover of such collection.

11. PATRONS

The trustees shall be further empowered to institute and award an honorific title of "Patrons", which may be accorded at their discretion from time to time to such one or more persons as they may deem appropriate, with a view to giving recognition to special relationships of value and significance to the Trust. Patrons shall have neither legal rights nor responsibilities, but may be consulted by the trustees and shall be entitled to give advice as they may consider relevant and appropriate.

12. DISPUTE RESOLUTION

- 12.1 In the event of a dispute arising between the Trustees relating to:-

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- 12.1.1 the interpretation or application of this agreement;
- 12.1.2 the proper attainment of the purpose and objects of the trust;
- 12.1.3 any other matter whatsoever pertaining to the carrying out of their duties as Trustees,

and the Trustees being unable to reach resolution of the dispute amongst themselves, the Trustees commit themselves to mediation, or, failing that, arbitration on the terms set out more fully below.

- 12.2 Within 15 (fifteen) days of the dispute arising, the dispute shall be referred to a mediator agreed upon between the Trustees.
- 12.3 In the event that the Trustees are unable to agree on a mediator within the said 15-day period, the mediator will be appointed by the Alternative Dispute Resolution Association of South Africa, or in the event that they are no longer in existence at the time, by the Arbitration Foundation of South Africa, which shall nominate a person or persons with expertise appropriate to the nature of the matter in dispute.
- 12.4 In the event of the mediator failing to resolve the dispute within a further period of 15 (fifteen) days from his or her appointment, the dispute shall be referred to an arbitrator agreed upon between the Trustees whose decision in regard to the dispute shall be final and binding. In the event that the Trustees are unable to agree upon an arbitrator, he or she or they shall be appointed by the Arbitration Foundation of South Africa, and either party may approach the said Foundation for such appointment.
- 12.5 The procedure for such arbitration shall be governed by the rules of the Arbitration Foundation of South Africa, provided that the arbitrator shall have due regard to the need for the dispute to be resolved expeditiously and shall endeavour to ensure that his or her decision thereon is made available to the Trustees within 21 (twenty-one) days of his or her appointment as arbitrator.
- 12.6 The mediator and the arbitrator in making their decisions shall have due regard to and shall be guided by the principles set out in clause 5 above.

13. BOOKS OF ACCOUNT

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- 13.1 The Trustees shall keep true and correct records and books of account of their administration of the trust, in such manner and form as is necessary to reflect fairly the position of the trust at all times. There shall be recorded in such books and records, *inter alia*, any change of the trust assets from time to time, the income and all outgoings applicable to the administration of the trust.
- 13.2 The Trustees shall cause the trust's books of account to be audited by the auditors and an annual income statement and balance sheet drawn within 6 (six) months after the year end reflecting the affairs of the trust for the year end and its assets and liabilities at the last day of the month of December of each year. The income statements and balance sheets shall be certified by the Trustees and the auditors and a copy thereof sent to the official designated for this purpose in terms of the Non-Profit Organisations Act, No 71 of 1997 in the event of the trust being a registered non-profit-organisation in terms of the said Act, and to the Commissioner, in the event that the trust has been granted tax exempt status.
- 13.3 The audit of the trust's books of account shall be carried out by auditors to be appointed from time to time by the Trustees, who shall have the right to terminate any such appointment and to appoint any other auditors. The Trustees shall take all necessary steps to procure the appointment of auditors of the trust as soon as is reasonably possible after the date of execution hereof and there shall at all times thereafter be auditors of the trust.
- 13.4 The Trustees shall not be bound to file any liquidation, distribution or administration accounts with any officer, official or person except insofar as they may be obliged to do so in terms hereof or under the provisions of any law.

14. LOSSES

None of the Trustees shall be answerable for or liable to make good any loss occasioned to or sustained by the trust from any cause whatever, save for any loss as shall arise from a wilful act of dishonesty of the trustee involved. No trustee shall be liable for any act of dishonesty committed by any trustee unless he or she was a party thereto. The Trustees shall at all times be deemed to have been indemnified out of the assets of the trust against all claims and demands of whatever nature arising out of the exercise or purported exercise by them of any powers conferred under this trust deed.

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15. LEGAL PROCEEDINGS

All legal proceedings by or against the trust, including proceedings in the interest of the public, shall be instituted in the name of the trust. However, when the trust acts on behalf of a client, it shall institute legal proceedings in the name of such client.

16. TERMINATION OF TRUST

16.1 The trust may be terminated by a resolution passed by at least a 75% (seventy five percent) majority of all Trustees in office at a special meeting convened for a purpose of considering such matter. Not less than 21 (twenty one) days notice shall be given of such meeting and the notice convening the meeting shall clearly state that the dissolution of the trust and disposal of its assets will be considered.

16.2 Any resolution to terminate the trust shall provide for the payment of all costs involved in the dissolution of the trust and the application of the trust assets.

16.3 On dissolution of the trust, the remaining trust assets, if any, will be transferred to a similar public benefit organisation which has been approved in terms of section 30 of the Act.

17. NOTICES AND GENERAL

17.1 Any notice required to be given in terms of this trust shall be given in writing and may be given by telex, cablegram, telegraph, email or facsimile, provided that, in the case of a telex, facsimile or email it is acknowledged as having been received.

17.2 Each trustee for the time being shall, upon assuming office, nominate in writing a street address and a facsimile number, if any, at which any notice required to be given in terms hereof may be given to him or her and may, from time to time by notice in writing, vary the address to another such address.

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- 17.3 Any notice to a trustee at the address for the time being nominated by him or her in terms of 17.2 or at any other address at which the trustee shall have acknowledged receipt shall be regarded as sufficient notice to that trustee.

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18. AMENDMENT OF TRUST DEED

The provisions of this trust deed may from time to time be amended, altered, varied, added to and/or deleted at a meeting of the Trustees, by resolution signed in favour thereof by 75% (seventy five percent) of the Trustees then in office, and provided that 21 (twenty one) days notice of such meeting is given in writing to the Trustees, which notice contains substantially the terms of the amendments so contemplated. In the event of such an amendment, variation, alteration, addition and/or deletion being effected, a copy of all such amendments, alterations, variations, additions and/or deletions shall be submitted to the Commissioner if the trust has been approved by the Commissioner as tax exempt before the date of such resolution, and to the official designated for this purpose in terms of the Non-Profit Organisation Act in the event the trust is registered as a Nonprofit Organisation in terms of the Non-Profit Organisation Act 71 of 1997. The provisions of this trust deed have been formulated on the basis that the commissioner will grant the trust tax exempt status, and the Trustees' powers have accordingly been limited. The Trustees may amend the trust at any time to comply with any requirements of the commissioner or other relevant authority.



19. ACCEPTANCE

The first Trustees, by their signature hereto, undertake to discharge their duties in terms of this trust deed and to carry out the terms and conditions herein contained.


SIGNED BY THE PARTIES ON THE DATE AND AT THE PLACE AS INDICATED ALONGSIDE THEIR RESPECTIVE SIGNATURES, THE SIGNATORY WARRANTING HIS/HER AUTHORITY TO DO SO.

Date 1 MARCH 2003 Place CAPE TOWN

Signature


 MARY SUSAN CAESAR

 YASMIN TAYOB CARRIM




LM -

 UA.


LEBOGANG TEMPERANCE
MALEPE


HAPPY MASONDO


ALISON RACHELLE TILLEY

MC

HE





REPUBLIC OF SOUTH AFRICA

MAGTIGINGSBRIEF**LETTERS OF AUTHORITY**

Ingevolge Artikel 6(1) van die Wet op Beheer oor Trustgoed, 1988 (Wet 57 van 1988)
In terms of Section 6(1) of the Trust Property Control Act, 1988 (Act 57 of 1988)

No: IT 3486/98

Hiermee word gesertifiseer dat /

This is to certify that

NOZIZWE SILINDILE VUNDLA

(Identiteitsnommer / Identity Number: 760314 0300 08 2),

NASREEN RAJAB-BUDLENDER

(Identiteitsnommer / Identity Number: 761209 0199 08 9),

MICHELLE ANN CRYSTAL

(Identiteitsnommer / Identity Number: 661211 0214 08 3),

CAROL KHOLEKA ZAMA

(Identiteitsnommer / Identity Number: 771217 0284 08 0),

PENELOPE JOY PARENZEE

(Identiteitsnommer / Identity Number: 711221 0345 08 4),

NICOLE LOUISE FRITZ

(Identiteitsnommer / Identity Number: 750111 0036 08 4) en / and

TEBOHO BASETSANA MOLEBATS

(Identiteitsnommer / Identity Number: 760111 0404 08 2)

gemagtig word om op te tree as trustee(s) van /
is/are hereby authorized to act as trustee(s) of

WOMEN'S LEGAL CENTRE TRUST

GEGEE onder my hand te KAAPSTAD op hede die
GIVEN under my hand at CAPE TOWN this

4 dag van Mei 2017

4 day of May 2017

Signature

ASSISTENT MEESTER
ASSISTANT MASTER

T/E




LIA.

RESOLUTION OF THE WOMEN'S LEGAL CENTRE TRUST

The Trustees of the Women's Legal Centre ("Trust") resolve that:

1. The Trustees on behalf of the Trust will seek to intervene as *amicus curiae* in the Constitutional Court in the matter of the **Democratic Alliance / The Minister of International Relations & others**; in the High Court (Gauteng Division, Pretoria) in the matter of **Democratic Alliance / The Minister of International Relations & others, Case number 58755/17**; and in the High (Gauteng Division, Pretoria) in the matter of **Gabriella Engels & another / The Minister of International Relations and another, Case number 58792/17**. The Trust will seek to make submissions in relation to the constitutional obligations on the state in terms of section 12 of the Constitution, specifically section 12(1)(c): Everyone has the right to freedom and security of the person, which includes the right to be free from all forms of violence from either public or private sources; the failure of the state to act with due diligence in both its positive obligations to prevent violence against women respond effectively to acts perpetrated; the state acting with impunity in relation to violence against women; the government's and criminal justice system's failures which has led to a distrust of the role of the law to obtain justice and as a tool for social change; the high levels of violence against women and (girl) children in South Africa and the constitutional and legislative duties of the state in respect thereof; the obligations of the state as outlined in the relevant regional and international legal

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instruments. In addition to the main relief sought by the applicants, the Trust will advance arguments to address the positive obligations on the government to prevent further violence of the kind at issue in this application.

2. The Trustees hereby delegate authority to Seehaam Samaai, Director and admitted attorney employed as such at the Women's Legal Centre, Cape Town:

- a. To take all necessary steps to sign all papers in order to bring the application on behalf of the Trust;
- b. Brief counsel to argue the matter; and
- c. To take all necessary steps on behalf of the Trust to advance arguments in the application.

Dated at **JOHANNESBURG** this 24th day of **OCTOBER 2017**.



Nasreen Rajab-Budlender

(Chairperson of the Women's Legal Centre Trust)

U7A 4

MINDE, SCHAPIRO-& SMITH ATTORNEYS

ATTORNEYS FOR APPLICANT

Building number 2

Tyger Valley Office Park Cnr Willie van Schoor & Old Oak Roads

BELLVILLE

Tel: 021 918 9000

E-mail: elzanne@mindes.co.za

REF: DEM16/0473

19 September 2017

**DEMOCRATIC ALLIANCE / MINISTER OF INTERNATIONAL RELATIONS &
COOPERATION & OTHERS, CASE NUMBER 58755/17 (NORTH GAUTENG HIGH
COURT)**

1. The above matter refers
2. We address you on behalf of our client, the Women's Legal Centre Trust ("the Trust")
3. The Trust is a juristic person created in terms of Trust Deed dated 3 August 1998. A core objective of the Trust, as set out in its Trust Deed, is to advance and protect the human rights of all women and girls in South Africa, with a focus on women who suffer many intersecting forms of discrimination

4. In so doing, the Trust seeks to contribute to redressing the systematic discrimination and disadvantage that women face. The high levels of violence against women in society render women particularly vulnerable
5. To this end the Trust established the Women's Legal Centre ("WLC") in order to conduct public interest litigation including constitutional litigation to advance the human rights of women. The Women's Legal Centre (WLC) is a non-profit law centre that seeks to achieve equality for women, particularly black women, through impact based litigation, the provision of free legal advice, legal support to advocacy campaigns run by other organisations
6. The Trust has considered the application brought by Ms Engels in the Gauteng High Court (Pretoria) and is of the opinion that it raises constitutional issues relevant to the mission and objectives of the Trust.
7. In terms of Rule 16(A)(2) of the Uniform Rules of Court *"any person interested in any matter before the Court may, with the written consent of all the parties in the matter before the Court, be admitted therein as an amicus curiae upon such terms and conditions and with such rights and privileges as may be agreed upon in writing with all the parties before the Court or as may be directed by the Chief Justice in terms of sub rule 3"*.
8. To this end, the Trust seeks the consent of the parties to be admitted as *amicus curiae* in the above application. The Trust seeks to submit evidence, and make oral and written submissions.

9. As *amicus curiae* the Trust will not repeat any matter set forth in the arguments of the other parties. Rather it will raise new contentions which may be useful to the Court in the determination of the issues before it. The Trust approaches this matter on the basis that it presents three core issues, viz: (a) whether Dr Grace Mugabe had diplomatic immunity at the time that she entered South Africa and when the subject incident occurred; (b) if she did have immunity, the terms of that immunity and in particular whether it provided her with immunity against any unlawful and/or criminal conduct, no matter how unrelated it is to the purpose for which she acquired diplomatic immunity; and (c) if she did have immunity at the time of the subject incident, the consequences thereof and in particular whether the State ought to have imposed conditions in the event that Dr Mugabe returns to South Africa.

10. The Trust will make submissions in relation to the last two of the three above-mentioned issues. In particular, it will present argument that in interrogating: (a) the terms of Dr Mugabe's immunity; and (b) the measures that the State ought to have taken in relation to the consequences of such criminal conduct on Dr Mugabe's return to South Africa, regard must be had to:

10.1 the constitutional obligations on the state in terms of section 12 of the Constitution, specifically section 12(1)(c): Everyone has the right to freedom and security of the person, which includes the right to be free from all forms of violence from either public or private sources and the relevance thereof to the question of diplomatic immunity.

10.2 the failure of the State to act with due diligence in both its positive obligations to prevent violence against women and to respond effectively to acts perpetrated – the ambit of the State's obligations in

this regard will be interrogated with specific reference to the terms of diplomatic immunity as well as the consequences of committing unlawful and criminal acts in respect of matters wholly unrelated to the granting of diplomatic immunity.

- 10.3 The State acting with impunity in relation to violence against women by virtue of its failure to impose any conditions in relation to Dr Mugabe's return to South Africa notwithstanding her criminal and unlawful actions which were wholly unrelated to her diplomatic immunity.

11. In advancing these submissions, the Trust will make reference to:

- 11.1 the government's and criminal justice system's failures which has led to a distrust of the role of the law to obtain justice and as a tool for social change;
- 11.2 the high levels of violence against women and (girl) children in South Africa and the constitutional and legislative duties of the state in respect thereof;
- 11.3 the obligations of the State as outlined in the relevant regional and international legal instruments.

12. In addition to the main relief sought by the applicants, the Trust will advance arguments to address the positive obligations on the government to prevent further violence by Dr Grace Mugabe.



CAPE TOWN: 7th Floor, Constitution House, 124 Adderley Street, Cape Town, 8001

JOHANNESBURG: 9th Floor, OPH, 112 Main Street, Johannesburg, 2000

WWW.WLCE.CO.ZA

13. We request your consent by no later than 27 September 2017 to the Trust intervening as *amicus curiae* to adduce evidence, and make written submissions and oral submissions, should the Court so direct.

Regards

Seehaam Samaai

Director

Women's Legal Centre

'SS5'

Bronwyn Pithey

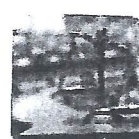
From: Willie Spies [spies@hurterspies.co.za]
Sent: Monday, 25 September 2017 8:26 PM
To: Bronwyn Pithey; Sakeena Corner; Seehaam Samaai
Cc: 'Cornel Pienaar'
Subject: RE: DEMOCRATIC ALLIANCE / MINISTER OF INTERNATIONAL RELATIONS & COOPERATION & OTHERS, CASE NUMBER 58755/17 (NORTH GAUTENG HIGH COURT)

We refer to your letter and confirm that our client consents to your organisation's proposed intervention as an *amicus curiae*.

Willie Spies

Tel: 012 941 9239 / 012 664 0708
Faks/Fax: 012 644 1997 • E-pos/E-mail: spies@hurterspies.co.za
Posadres/Postal Address: Posbus/PO Box 14505, Lyttelton, 0140
Adres/Address: Eerste Vloer / First Floor, AfriForum Gebou / Building,
Hoek van / corner of DF Malan- and Unionlaan / Avenue, Kloofsig, Centurion

 **Hurter Spies** Inc.
prokureurs • attorneys



From: Ronell van Niekerk [<mailto:admin@hurterspies.co.za>]
Sent: 19 September 2017 05:02 PM
To: spies@hurterspies.co.za
Cc: 'Cornel Pienaar' <cornel@hurterspies.co.za>
Subject: FW: DEMOCRATIC ALLIANCE / MINISTER OF INTERNATIONAL RELATIONS & COOPERATION & OTHERS, CASE NUMBER 58755/17 (NORTH GAUTENG HIGH COURT)

From: Bronwyn Pithey [<mailto:Bronwyn@wlce.co.za>]
Sent: 19 September 2017 04:30 PM
To: admin@hurterspies.co.za
Cc: Sakeena Corner <Sakeena@wlce.co.za>; Seehaam Samaai <Seehaam@wlce.co.za>
Subject: DEMOCRATIC ALLIANCE / MINISTER OF INTERNATIONAL RELATIONS & COOPERATION & OTHERS, CASE NUMBER 58755/17 (NORTH GAUTENG HIGH COURT)

Dear colleagues

With reference to the above matter, please find attached the Women's Legal Centre request in terms of Rule 16(A) of the Uniform Rules of Court to be admitted as *amicus curiae*.

We look forward to your response.

Regards

Adv. Bronwyn Pithey
Legal practitioner

WLP



'SS6'

Bronwyn Pithey

From: Elzanne Jonker [elzanne@mindes.co.za]
Sent: Tuesday, 26 September 2017 5:02 PM
To: Bronwyn Pithey
Cc: Sakeena Corner; Seehaam Samaai
Subject: RE: DEMOCRATIC ALLIANCE / MINISTER OF INTERNATIONAL RELATIONS & COOPERATION & OTHERS, CASE NUMBER 58755/17 (NORTH GAUTENG HIGH COURT)
Attachments: 20170926170613803.pdf

Dear Madam

We attach our letter for your attention.

Kindly acknowledge receipt.

Regards

ELZANNE JONKER

DIRECTOR | Litigation Department
MINDE SCHAPIRO & SMITH INC.



MINDE SCHAPIRO & SMITH

T: +27 21 918 9000 | E: elzanne@mindes.co.za | www.mindes.co.za
Tyger Valley Office Park, Building Number 2, Cnr Willie van Schoor & Old Oak Roads, Bellville
Docex 1, Tygerberg | PO Box 4040, Tyger Valley, 7536

From: Bronwyn Pithey [mailto:Bronwyn@wlce.co.za]
Sent: Tuesday, 19 September 2017 4:24 PM
To: Elzanne Jonker <elzanne@mindes.co.za>
Cc: Sakeena Corner <Sakeena@wlce.co.za>; Seehaam Samaai <Seehaam@wlce.co.za>
Subject: DEMOCRATIC ALLIANCE / MINISTER OF INTERNATIONAL RELATIONS & COOPERATION & OTHERS, CASE NUMBER 58755/17 (NORTH GAUTENG HIGH COURT)

Dear colleagues

With reference to the above matter, please find attached the Women's Legal Centre request in terms of Rule 16(A) of the Uniform Rules of Court to be admitted as *amicus curiae*.

We look forward to your response.

Regards

Adv. Bronwyn Pithey
Legal practitioner



VIA

SS6

Mindes

MINDE SCHAPIRO & SMITH

Docex 1 | Tygerberg
PO Box 4040 | Tyger Valley | 7536 | South Africa
Tyger Valley Office Park | Building Number 2 | Cnr Willie van Schoor & Old Oak Roads | Bellville
T: 021 918 9000 | 021 918 9020 (Direct Line) | F: 021 918 9070 (General) | 0866131061 (Direct Fax)
E: elzanne@mindes.co.za | www.mindes.co.za

Our Ref: DEM16/0473/ELZANNE JONKER | Your Ref: | Date: 26 September 2017

WOMAN'S LEGAL CENTRE

PER EMAIL: Bronwyn@wlce.co.za

Dear Madam

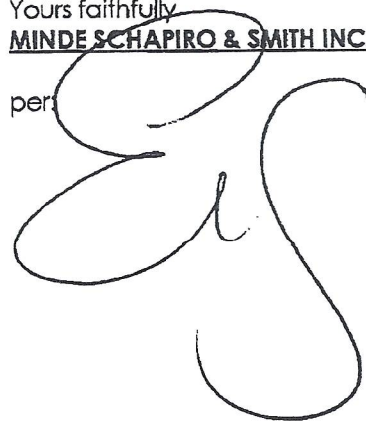
THE MINISTER OF INTERNATIONAL RELATIONS & COOPERATION & 3 OTHERS: CASE NO 58755/17

1. We refer to your letter dated 19 September 2017.
2. Our instructions are to consent to the admission of your client as amicus curiae, as requested.

Yours faithfully

MINDE SCHAPIRO & SMITH INC.

per:



Minde Schapiro & Smith Incorporated | Attorneys Notaries & Conveyancers since 1926 | Registration number 2010/025162/21

Directors: Louis Meyer B Juris LLB | Heinrich Crous BA LLB | Rosalie Smill B Comm LLB |
Elzanne Jonker BA LLB | Jonathan Rubin B Comm LLB LLM | Venesen Reddy LLB
Senior Associate: Gerhard Lourens FPSCA®
BA LLB

Consultants: Gerhard van Reenen | Marianne Olivier B Comm LLB LLM | Marais Hoon BA LLB | Rolé Beeby BA LLB

Vat registration number: 4580257428 | Also at Greenacres, Port Elizabeth

UNA



'SS7'

Bronwyn Pithey

From: Sebelemetsa Ramathiti [RSebelemetsa@justice.gov.za]
Sent: Wednesday, 27 September 2017 12:55 PM
To: Bronwyn Pithey
Cc: Sakeena Corner
Subject: DEMOCRATIC ALLIANCE / MINISTER OF INTERNATIONAL RELATIONS & COOPERATION & 3 OTHERS, CASE NUMBER 58755/17 (NORTH GAUTENG HIGH COURT)

Good day.

The subject matter and your letter dated the 19th September 2017 refers.

Be informed that the 1st – 3rd **Respondents** doesn't object to your client been admitted as *amicus* in the DA Application.

Trusting you find the above in order.

Regards,

Ramathiti Joseph Sebelemetsa
Senior Assistant State Attorney
Office of the State Attorney – Pretoria
Tel: 012 309 1623
Direct Fax: 086 507 1910
Cell: 071 870 2442
Email: rsebelemetsa@justice.gov.za
Alternative Email: ramatics@gmail.com
Website: www.justice.gov.za

"Vanhu I Swivumbiwa Swo Hlamarisa."

From: Bronwyn Pithey [<mailto:Bronwyn@wlce.co.za>]
Sent: Wednesday, September 20, 2017 2:34 PM
To: Nhlayisi Zanele
Cc: Sakeena Corner; Seehaam Samaai
Subject: DEMOCRATIC ALLIANCE / MINISTER OF INTERNATIONAL RELATIONS & COOPERATION & OTHERS, CASE NUMBER 58755/17 (NORTH GAUTENG HIGH COURT)

Dear colleagues

With reference to the above matter, please find attached the Women's Legal Centre request in terms of Rule 16(A) of the Uniform Rules of Court to be admitted as *amicus curiae*.

We look forward to your response.

Regards

UA

