

# **CHIEF JUSTICE OF THE REPUBLIC OF SOUTH AFRICA**

## **URGENT SUPPORTING ANNEXURE BUNDLE**

### **ATTACHMENTS A - K**

Western Cape Division Case No. 2026-024184

LIBERTY FIGHTERS NETWORK AND ANOTHER

//

PREMIER OF THE WESTERN CAPE AND 10 OTHERS

Supporting the Applicants' Extremely Urgent Request for Intervention by the Head of the  
Judiciary

Prepared for submission - 10 September 2026

# INDEX TO URGENT SUPPORTING ANNEXURE BUNDLE

Case No. 2026-024184 - Attachments A to K

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# **ATTACHMENT A**

**8 September 2026**

Applicants' extremely urgent head-of-court case-management letter to Judge President  
Mabindla-Boqwana.

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# Liberty Fighters Network

Est. 2016 - A voluntary association without gain (*Universitas*)

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Date: 8 September 2026

## **EXTREMELY URGENT**

### **BABOON RELOCATION SCHEDULED FOR 12 SEPTEMBER 2026**

ATTENTION: **JUDGE PRESIDENT N. P. MABINDLA-BOQWANA**

High Court of South Africa: Western Cape Division, Cape Town

c/o Ms Jerelene Naidoo-Chetty and Ms Phumelele Dhlamini

Email(1): JNaidoo-Chetty@judiciary.org.za

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cc. All Interested Parties (As listed at the end)

Dear Madam Judge President,

**RENEWED AND EXTREMELY URGENT REQUEST FOR HEAD-OF-COURT CASE-MANAGEMENT INTERVENTION, CONSTITUTION OF AN APPROPRIATE COURT, IMMEDIATE PRODUCTION OF JUDGMENTS AND ORDERS, DIRECTIONS ON THE RULE 28(4) ENROLMENT, AND PRESERVATION OF EFFECTIVE APPELLATE RELIEF – CASE NO. 2026-024184: LIBERTY FIGHTERS NETWORK AND ANOTHER // PREMIER OF THE WESTERN CAPE AND 10 OTHERS**

1. This correspondence is addressed directly to the Office of the Judge President and copied to all interested parties in the interests of complete procedural transparency. It is not an attempt to obtain an *ex parte* advantage, to invite the Judge President to determine appellate merits by correspondence, or to interfere with the decisional independence of any judicial officer. It is a renewed and now exceptionally urgent request for the lawful exercise of head-of-court case-management powers so that this litigation remains capable of producing an effective constitutional remedy before the factual subject matter is irreversibly altered.
2. The urgency is immediate and objectively measurable. The Applicants are informed that the affected Cape Peninsula baboons are scheduled to be captured, removed and relocated to the proposed sanctuary on or about 12 September 2026. Today is 8 September 2026. The Court and the parties therefore have only days, not weeks, before the very factual position which the Applicants sought to preserve changes materially and potentially permanently.
3. The constitutional trigger for the original urgency must be stated accurately because it has repeatedly been obscured by portraying the litigation as a belated attack upon an historic policy choice. On 9 December 2025 the Applicants lodged a complaint concerning the Final Cape Peninsula Baboon Management Action Plan and related environmental-governance matters with the Office of the Commissioner for the Environment created by sections 71 to 77 of the *Constitution of the Western Cape, 1997*. The office exists in law, but remains vacant and non-operational. The complaint can therefore not be investigated by the very constitutional oversight institution to which it was directed.
4. The Applicants' case is that the continuing failure and/or refusal of the constitutionally responsible provincial institutions to complete the process contemplated by the Western Cape Constitution for the nomination, approval, appointment and operationalisation of the

Commissioner is itself a live constitutional wrong. The proposed amended relief in Part ‘B’ accordingly seeks, *inter alia*, structural orders requiring the Western Cape Provincial Parliament to take the necessary steps contemplated in section 75 and requiring the Premier thereafter to appoint the duly nominated and approved Commissioner. The Rule 28(4) application is the procedural gateway through which those amendments are presently sought.

5. The urgency has therefore never been merely that the Applicants disagree with how baboons should be managed. The central problem is that the impugned Action Plan continues to be implemented while a lawfully lodged environmental complaint cannot be independently investigated because the constitutional office established for that purpose has not been operationalised. The result is a potentially self-fulfilling constitutional failure: the longer the appointment and litigation processes are delayed, the more of the contested programme is implemented before the constitutional oversight mechanism can function at all.
6. The impending sanctuary relocation gives that institutional problem a concrete deadline. The Cape of Good Hope SPCA confirmed in writing on 6 September 2026 that it does not support the permanent confinement of healthy, free-ranging baboons in a sanctuary environment, that this position has been formally communicated to the CPBMJTT, and that its welfare monitoring should not be construed as endorsement or approval of the relocation. The SPCA’s mandate is distinct from the legal merits before this Court, but its position confirms that the intended relocation is neither an insignificant nor an uncontested implementation step.
7. Once free-ranging baboons have been captured, transported and permanently confined, a later appellate victory may be legally important but practically sterile. This is the precise danger against which the Applicants have repeatedly sought protection: judicial delay must

not itself become the mechanism by which a disputed constitutional and environmental programme achieves a *fait accompli*.

8. This is also not the first request for head-of-court intervention. On 17 July 2026 the Applicants addressed a detailed request to Goliath DJP for urgent administrative case management. On 18 July 2026 that request was expressly referred to the Office of the Judge President because Goliath DJP was on leave. On 29 July 2026 the Office of the Judge President prescribed the procedure to be followed and expressly undertook to revert once the court file had been received and the Judge President had had an opportunity to consider the matter. The Applicants complied, including by physically delivering a consolidated indexed and paginated hardcopy bundle on 31 July 2026. No substantive case-management decision was thereafter communicated.
9. The Applicants consequently lodged a complaint against the Judge President with the Judicial Service Commission on 13 August 2026, subsequently acknowledged under JSC reference JSC/95/08/2026. The complaint is not invoked as leverage. Its relevance is factual: the earlier absence of a communicated decision is now part of the procedural history and explains why the Applicants require a definite response to this renewed request before the 12 September 2026 relocation occurs.
10. A separate and earlier head-of-court issue remains unresolved. In or about July 2026 the Applicants approached the Registrar's office for a Judge President enrolment directive in respect of their opposed Rule 28(4) application concerning Part 'B'. The Applicants' Practice Note for Allocation and Enrolment dated 13 July 2026 records that the papers are closed, the bundle comprises approximately 445 pages, the interlocutory application is ripe for hearing, and the Applicants sought the earliest reasonably available opposed motion date for which one full court day could be reserved.

11. Mr Lekalakala of the Registrar's office advised the Second Applicant that an application of this nature could ordinarily be dealt with relatively speedily through the Judge President's allocation process and that a direction could be expected within approximately two weeks. Despite subsequent follow-ups, no enrolment directive or hearing date has been issued. That prior omission has now acquired direct and substantial procedural consequence because the order pronounced by Holderness J on 28 August 2026 purports to prohibit the Applicants from proceeding with Part 'B' until the Part 'A' costs orders have been satisfied. Absent suspension of that order pending appeal, its practical effect would therefore be capable of preventing the already-pending Rule 28(4) application from being enrolled for an indeterminate period, particularly where the taxation of the costs so ordered may itself take several months before the amounts allegedly payable are finally quantified.
12. The Applicants are simultaneously with this letter lodging protective Applications for Leave to Appeal against (a) the recusal judgment of 28 August 2026, and (b) the costs judgment and consequential restraint upon Part 'B' pronounced on 28 August 2026. Those applications are lodged without waiting further for the final typed judgments or sealed orders, so as to avoid any later contention that appellate time commenced with the oral pronouncements and expired while the Applicants waited for the Court's written record.
13. The Applicants expressly contend that the order of 28 August 2026 finally adjudicates the reserved costs of Part 'A', including the scale thereof and the personal *de bonis propriis* liability imposed upon myself in person, and further imposes a coercive prohibition upon the Applicants progressing Part 'B' until those costs have been satisfied. Whatever its procedural origin, that order is final in nature and effect for purposes of section 18 of the *Superior Courts Act, 2013*. It therefore falls squarely within section 18(1), read with section 18(5), and not section 18(2), which is confined to interlocutory orders not having the effect of a final judgment. Upon lodgment of the Application for Leave to Appeal against the costs judgment and order, its operation and execution are accordingly suspended *ex lege*,

subject only to a competent order granted in terms of sections 18(1) and 18(3). No such execution order presently exists.

14. The consequential restraint upon progressing Part 'B' can therefore no longer constitute an administrative impediment to the outstanding Rule 28(4) allocation request. The Applicants do not ask the Judge President to set aside, vary or disregard Holderness J's order administratively. They ask that the ordinary statutory consequence of the presently lodged Application for Leave to Appeal be recognised for case-management purposes and that the Rule 28(4) allocation process resume immediately. Should any Respondent contend that the suspended order nevertheless ought to operate pending appeal, the *onus* rests upon that Respondent to invoke section 18(3) by proper judicial process and obtain the requisite order; that contention cannot operate by default, or through administrative inaction, as a continuing bar to enrolment.
15. The two judgments and formal court orders pronounced on 28 August 2026 have, as at the date of this letter, still not been furnished to the Applicants in final written and sealed form. This is not a minor inconvenience. The Applicants must know the exact operative terms of the orders and the final reasons in order to prosecute the new appellate processes properly. During the *ex tempore* costs ruling Holderness J expressly indicated that the authorities would be recorded more fully in the final judgment. The Applicants are therefore entitled to clarity whether fuller reasons remain under preparation and, if so, when they will be delivered.
16. The official proceedings of 28 August 2026 were audio-recorded. The Applicants obtained the official voice recordings through the Court and have prepared working *verbatim* transcripts which have been checked against those recordings as far as reasonably possible. I am prepared to verify under oath the source, method of preparation and

accuracy of those transcripts, expressly subject to correction against any official transcript or final written judgment.

17. There is persuasive authority against elevating paid professional transcription into a jurisdictional barrier to justice. In *Van Straaten v Wehnke NO and Others (JR 1876/21) [2023] ZALCJHB 269; (2024) 45 ILJ 180 (LC)*, the Labour Court held, in the context of a review record, that a transcription produced from an official electronic record was sufficient irrespective of the manner in which it was converted into usable form, and rejected the proposition that only a paid professional transcription could suffice. The Court expressly approached the issue through constitutional access to justice and the danger that astronomical transcription costs may deny impecunious litigants an effective remedy. Although the procedural context differs from the present High Court appeal process, the constitutional principle is directly relevant by analogy.
18. The point is reinforced by *Solidarity obo Matthews v South African Police Service Commission for Conciliation, Mediation and Others (C500/2024) [2026] ZALCCT 117*, where an incomplete official record was supplemented by a transcription of a recording made by a party's representative. The Applicants do not ask that their working transcript be treated as infallible or immune from challenge. They ask that the official audio and an affidavit-verified transcription be accepted provisionally for purposes of protecting appellate rights until the Court supplies its own final written record or official transcription.
19. The hardcopy issue also requires immediate institutional clarification. During the proceedings of 28 August 2026 Holderness J relied upon the proposition that the Application for Leave to Appeal dated 2 March 2026, and electronically lodged on Court Online on 3 March 2026, was only properly before her after a hardcopy was delivered on 8 May 2026, and referred to '*numerous requests*'. The Applicants record unequivocally that only one request for hardcopy was made and that it was complied with promptly. More

importantly, the application had already been formally lodged through *Court Online* on 3 March 2026.

20. The publicly available replacement to Western Cape Practice Directive 45, effective from 1 June 2022, provides that an unrepresented litigant lodging an application for leave to appeal is simultaneously to deliver to the Registrar an additional copy endorsed for delivery to the judge, and that the unrepresented litigant approaches the Chief Registrar for the arrangement of a hearing date. That formulation does not, on its face, provide that an application duly lodged electronically with the Registrar is legally non-existent, ineffective, or incapable of engaging the Court until the litigant additionally causes a physical copy to be delivered to the judge or chambers. The subsequent implementation of *Court Online* creates an obvious need for an authoritative statement of the presently operative practice applicable to post-December 2024 *Court Online* matters.
21. Moreover, Practice Directives exist to facilitate the proper and efficient administration of justice and are not ordinarily to be elevated, irrespective of context, into inflexible jurisdictional barriers where the interests of justice require otherwise. The apparent treatment of an administrative hard-copy requirement as an indispensable precondition before Holderness J could regard herself as seized with an Application for Leave to Appeal already lodged on *Court Online* — particularly where the underlying proceedings were instituted as urgent under Rule 6(12), and where the Applicants maintain that only one request for a hard copy was ever made and promptly complied with — raises a further question of legality, access to court and proportionality which the Applicants intend to pursue on appeal.
22. That clarification is particularly necessary because the Office of the Chief Justice publicly describes *Court Online* as an end-to-end electronic filing, digital case-management and evidence-management system intended to permit litigants to file documents electronically

from anywhere, minimise paper and physical movement, and enable judges to adjudicate using the electronic system. If a surviving divisional requirement nevertheless makes physical delivery of a leave application a prerequisite before a judge becomes seized with it, self-represented litigants must be able to identify that requirement clearly, prospectively and from an authoritative public source.

23. Practice directives serve an indispensable administrative purpose, but remain subordinate to the *Constitution*, legislation, the Uniform Rules and binding law. They may regulate and supplement the manner in which rights and procedures created by superior law are exercised, but may not lawfully extinguish, materially restrict or transform those rights through administrative practice into something different from that which the governing law provides. The Constitutional Court has likewise emphasised that procedural rules exist to facilitate the inexpensive and expeditious determination of disputes and are not ends in themselves: *Social Justice Coalition and Others v Minister of Police and Others* [2022] ZACC 27.
24. The Applicants accordingly seek neither exemption from lawful court procedure nor preferential treatment. They require authoritative clarification of what exact and presently binding directive governed an unrepresented litigant in a *Court Online* matter in March 2026; whether that directive required an additional physical copy notwithstanding successful electronic lodgment with the Registrar; whether such requirement was communicated as a condition affecting the legal efficacy of the application rather than merely its administrative transmission to the allocated judge; and, most importantly, upon what legal basis an Application for Leave to Appeal already lodged through the Court's designated electronic platform could thereafter be treated as not having placed the matter before the Court until a physical copy, in an application lodged as urgent, reached chambers approximately two months later.

25. The costs narrative similarly requires an accurate record. The judgment of 28 August 2026 proceeded on the premise that the Applicants had said nothing concerning costs for approximately five months. Yet the order of 25 February 2026 prescribed written submissions without prescribing a separate title, form or template, and Part ‘L’ of the Application for Leave to Appeal dated 2 March 2026 and electronically lodged on 3 March 2026 expressly dealt with the punitive and *de bonis propriis* costs consequences identified by Holderness J. That document was lodged before the 6 March 2026 deadline. Whether it amounted to substantial compliance is an appellate question; it cannot fairly be converted, without analysis, into an assertion that the Applicants were silent.
26. The order of 25 February 2026 further contemplated that costs would be determined in chambers unless oral argument was required. On 9 June 2026 Holderness J’s registrar expressly advised, by direction of the Court, that the costs judgment would be delivered by the end of the following week. No such judgment was delivered then. Whatever may ultimately be decided about the Applicants’ stance on costs, the Court itself had by that stage treated the issue as ripe for judgment in chambers. The ensuing delay cannot rationally be attributed “exclusively” to the Applicants.
27. Nor should the expenditure of judicial resources be considered in the abstract while the actual allocation of 19 February 2026 is ignored. The pre-hearing communication recorded that the matter was deliberately placed last on the urgent roll at 14h15 because it was to be video-recorded. The Applicants will address the legal significance of that fact in the appellate process. It is recorded here because allegations of wasted public resources and displacement of other urgent litigants have repeatedly been used as moral and costs-based criticism against the Applicants, while the current delay in finalising the judicial record and appellate process is no longer within their control.

28. The events of 28 August 2026 also explain why the Applicants no longer consider direct, informal chambers communication with Holderness J to be institutionally safe. During the recusal hearing Holderness J introduced, without prior notice, criticism of correspondence addressed to her registrar, describing its tone as '*worthy of censure*', '*paternalistic*' and '*patronising*', for the first time and stating that she '*...would not go so far as to describe it as racist*'. When the Second Applicant immediately sought to know why no complaint had previously been communicated and why the issue was being introduced during the recusal proceedings, he was immediately directed to sit down. Those criticisms were subsequently incorporated, at least in material part, into the recusal reasoning.
29. During the same hearing, after Ms O'Sullivan SC, counsel for the City and CapeNature in their answer and before the Applicants delivered their reply, characterised the recusal application as a '*bullying stratagem*', Holderness J immediately responded, '*Well said. Mr De Beer can rest assured that I will not be bullied.*' Elsewhere, after the Second Applicant used the ordinary Afrikaans response '*Ja*', Holderness J corrected him in an irritated tone that it was not '*ja*' but '*yes, My Lady*' or '*yes, Justice*'. The Applicants do not ask the Judge President to adjudicate those exchanges in this administrative process. They will form part of the supplementary JSC complaint and the appellate record. Their relevance here is that the very manner of communication with chambers and the Court has itself become controversial, making a neutral institutional communication protocol necessary.
30. The Applicants have considered the broader question of institutional contempt raised by the Court's own repeated use of the language of '*contemptuous*' conduct. *S v Mamabolo [2001] ZACC 17* teaches that contempt of court exists to protect the administration of justice and public confidence in the courts, not the personal feelings or reputation of an individual judicial officer. The Constitutional Court emphasised that the most durable source of judicial respect is the fairness, objectivity, restraint, dignity and *decorum* of judicial conduct itself. The Applicants invoke that principle in its institutional sense. They

do not ask the Judge President in this letter to pronounce Holderness J guilty of criminal contempt, and no allegation of high treason is made: the present facts do not establish the stringent elements of that offence. The material question is instead whether conduct from the bench which is itself alleged to diminish the appearance of impartiality, dignity and equal treatment must receive an institutional response rather than being immunised from scrutiny merely because it emanates from a presiding officer.

31. The existing JSC complaint against Holderness J, JSC/62/06/2026, will accordingly be supplemented with the events of 28 August 2026. That earlier complaint was not confined to abstract disagreement with the judgment: it specifically placed on formal record concerns about pejorative judicial language, the descriptions of the Applicants as '*serial litigants*', the '*playground*' characterisation, reliance on unrelated adverse litigation, and the resulting appearance of litigant profiling.
32. By 28 August 2026 Holderness J was plainly aware that her language and post-judgment conduct were already the subject of a JSC process. During the recusal hearing she nevertheless again referred to the Second Applicant as a '*serial litigant*' and introduced the further censure, the reference to racism and the bullying exchange recorded *supra*. The Applicants do not allege retaliatory motive as an established fact; they record the objective escalation after formal notice because it materially strengthens the need for independent institutional safeguards.
33. As a direct consequence of proceedings arising from or materially connected with this very case, a separate complaint has now also been lodged under JSC/108/09/2026 against Le Grange J concerning, *inter alia*, alleged prejudgment, litigant profiling, unequal treatment of a self-represented litigant and punitive personal costs, including the subsequent reliance upon his adverse findings in unrelated litigation involving the Applicants. A further complaint concerning the Judge President's own earlier case-management omission in this

matter remains pending under JSC/95/08/2026. The existence of these JSC complaints does not, individually or collectively, prove judicial misconduct, nor do the Applicants suggest otherwise. Their exceptional concentration around the Applicants and the procedural history of this case nevertheless creates an objectively serious institutional circumstance which can no longer responsibly be treated as ordinary litigation dissatisfaction.

34. Whether ultimately substantiated or not, the developing pattern gives rise to an increasing appearance that adverse judicial characterisation, litigant profiling and procedural disadvantage experienced by these self-represented Applicants are capable of being carried from one proceeding into another. It is precisely because the Applicants seek to prevent that appearance from hardening into a reasonable perception of systemic judicial treatment that the independence, impartiality and manifest fairness of all further proceedings in this matter now require proactive protection by the Head of Court rather than being left to deteriorate further.
35. For that reason, the Applicants request consideration of a lawful multi-judge allocation. Section 14(1)(a) of the *Superior Courts Act* expressly empowers a Judge President, at any time, to direct that a civil matter at first instance be heard by a court consisting of not more than three judges. Section 14(1)(b) further recognises that a civil matter being heard by a single judge may, in consultation with the Judge President, be discontinued before that judge and referred for hearing before a court constituted of more judges. The Applicants accordingly request that the Rule 28(4) application, and such further first-instance proceedings in Part 'B' as may lawfully and appropriately be constituted in that manner, be considered for allocation to a court of three judges. This would not predetermine the merits; it would strengthen institutional confidence that the actual constitutional questions are being determined independently of the escalating personal controversy which has developed around the litigation.

36. The Applicants do not seek an extra-statutory ‘umpire’ or informal observer in the courtroom. If Holderness J remains judicially involved in any future first-instance proceeding which lawfully permits the constitution of a multi-judge court, the Applicants respectfully request the Judge President to consider invoking the mechanism contemplated in section 14 of the *Superior Courts Act*, rather than leaving further adjudication solely before one judicial officer against the exceptional procedural history which has now developed.
37. Should Holderness J, upon reconsideration of the proceedings of 28 August 2026 and the subsequent developments, determine *mero motu* that her continued involvement would no longer best serve the requirements or appearance of judicial impartiality, or should she otherwise become unavailable for any proceeding capable of reallocation, another judge or appropriately constituted court should be allocated without delay. Given that the Judge President’s own earlier case-management omission in this matter presently forms the subject of JSC/95/08/2026, the Applicants do not insist that the Judge President personally constitute part of such a court.
38. On the contrary, an independently constituted three-judge court would, in the Applicants’ respectful submission, provide the cleaner institutional safeguard against any further controversy concerning individual judicial involvement and would materially protect both the actuality and appearance of independence, impartiality and public confidence in the further adjudication of this already exceptional matter.
39. The request for a multi-judge court is not judge-shopping. The Applicants do not seek to nominate any judge or to obtain a bench perceived to be sympathetic to them. They seek the opposite: a structure which reduces the risk that the litigation is personalised around any individual judicial officer and which protects both the judiciary and the parties against

the continuing appearance that adverse litigant profiling has become embedded in the matter.

40. The Applicants are acutely conscious that the principal public respondents include organs of state situated in a province and municipality governed by the Democratic Alliance, and that the separate proceedings before Le Grange J involved a national Minister associated with the same political party. The Applicants are apolitical and make no allegation that political affiliation has in fact determined any judicial outcome. Nor do they ask the Judge President to accept the proposition that judges are 'protecting' any political party. The constitutional concern is one of public appearance: where a sequence of contested judicial and administrative decisions consistently benefits state respondents while the self-represented public-interest litigants' appellate and amendment processes remain stalled, transparent institutional safeguards become more, not less, important.
41. The position of self-represented litigants also requires principled treatment. Sections 9, 10 and 34 of the *Constitution* protect equality, dignity and access to a fair public hearing; section 165(2) requires courts to apply the *Constitution* and law impartially and without fear, favour or prejudice; section 165(4) requires organs of state, through legislative and other measures, to assist and protect the courts to ensure their independence, impartiality, dignity, accessibility and effectiveness; and section 173 permits regulation and development of court process only with the interests of justice in view. Section 7(2) further requires the State to respect, protect, promote and fulfil the rights in the Bill of Rights. Those obligations are not displaced when organs of state brief private attorneys and senior counsel: the forensic conduct remains conduct undertaken on behalf of the State.
42. Section 39(1)(b) of the *Constitution* requires courts, when interpreting the Bill of Rights, to consider international law. Article 14(1) of the *International Covenant on Civil and Political Rights* guarantees equality before courts and a fair hearing before a competent,

independent and impartial tribunal. Articles 3 and 7 of the *African Charter on Human and Peoples' Rights* protect equality before the law, equal protection and the right to have one's cause heard within a reasonable time by an impartial court or tribunal. The African Commission's *Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa* identify equality of arms, respect for inherent dignity, adequate opportunity to present argument and evidence, and the ability to challenge opposing material as essential components of a fair hearing. These are not foreign ornaments. They reinforce the constitutional standard by which the treatment of represented and self-represented litigants alike must be measured.

43. The Applicants anticipate that this letter may be criticised as an attempt to relitigate recusal, bypass the appeals, intimidate the Court through JSC complaints, select judges, manufacture urgency, or procure administrative disregard of an extant order. None of those characterisations is correct. The merits are being taken on appeal through the two Applications for Leave lodged herewith. The conduct issues are being taken to the JSC. **The Judge President is asked only to exercise lawful head-of-court functions: finalisation of judgments and orders, case-flow management, transparent communication, allocation, and constitution of an appropriate court where the statute permits it.**
44. Nor should the factual detail in this letter be treated as an exhaustive pleading, admission, waiver, abandonment, peremption or concession on any issue. It is supplied so that the Judge President can understand why immediate institutional action is required. The Applicants expressly reserve the right to place fuller evidence and legal argument before the competent court in the existing and new appellate proceedings, in the Rule 28(4) application, before the JSC, and in any further constitutional proceedings which become necessary.

45. The *Superior Courts Act* places responsibility for management of the judicial functions of the Division upon the Head of Court. Section 8(4)(b), read with section 8(6), extends that responsibility to case-flow management, assignment of cases and judicial duties, and finalisation of matters, including outstanding judgments, decisions and orders. Section 14(1)(a) separately supplies the mechanism for constitution of a court of up to three judges. The Applicants respectfully invoke those powers because the ordinary sequence has not produced an effective remedy in time.
46. For avoidance of doubt, the Applicants do not request the Judge President to suspend Holderness J from judicial office. Suspension of a judge is governed by section 177(3) of the *Constitution* and lies with the President acting on the advice of the JSC. The immediate issue within the Judge President's competence is different: whether and how this Division will allocate, constitute and manage the proceedings so that the Applicants' appellate and Part 'B' rights are not extinguished in practice while the disciplinary processes take their course.
47. Pending further direction, the Applicants propose that all administrative correspondence in case number 2026-024184 be addressed to the Office of the Judge President and copied simultaneously to Holderness J's registrar and every interested party. The Applicants request that administrative communications emanating from Holderness J's chambers likewise be copied to or channelled through the Office of the Judge President. This is not disrespectful and does not refuse service from chambers. It creates a transparent record and protects all concerned against any further dispute about tone, content, receipt or purpose of communications.
48. The Applicants have now, respectfully, exhausted informal patience. A pending Application for Leave to Appeal dates from early March 2026; the Rule 28(4) allocation request has remained unresolved since July; an earlier head-of-court intervention received no

substantive response; a costs judgment in chambers promised for June was delivered only on 28 August; the two 28 August judgments and formal orders remain unavailable in final written form; and the baboons are now scheduled for removal on 12 September 2026. The institutional response must therefore be measured in hours and days, not another cycle of weeks.

49. In these circumstances, the Applicants respectfully request the following immediate administrative intervention:

49.1. that the Office of the Judge President urgently procure and furnish to the Applicants and all parties the two formal court orders pronounced on 28 August 2026, alternatively written confirmation of their exact operative terms and the date upon which sealed orders will be available;

49.2. that the Office urgently ascertain and communicate whether the *ex tempore* recusal and costs judgments of 28 August 2026 constitute the complete reasons of Holderness J or whether fuller written judgments remain under preparation;

49.3. if fuller written judgments remain under preparation, that a firm and immediate date for delivery be provided, having regard to the 12 September 2026 relocation and the appellate time periods;

49.4. that the official audio recordings of 28 August 2026 be preserved as part of the court record and remain available to the parties and any appellate court;

49.5. that, pending an official transcript or final written judgments, the competent judicial authority confirm that the Applicants may rely provisionally upon their affidavit-verified working transcripts prepared from the official audio, expressly subject to correction against the official record;

- 49.6. that the Judge President identify in writing the exact Practice Directive, *Court Online* directive, rule or other binding source which governed the lodging and delivery of applications for leave to appeal by unrepresented litigants in this Division in March 2026, and clarify whether physical hardcopy delivery to chambers was a prerequisite to a judge becoming seized with an application already lodged electronically on *Court Online* and available to the judge for immediate access;
- 49.7. that the Applicants be informed whether the requirement in the 2022 replacement to Practice Directive 45 for an unrepresented litigant to deliver an additional copy to the Registrar remains operative, has been modified by *Court Online*, or has been superseded, and that any presently applicable hardcopy requirement be stated clearly for the three Applications for Leave now requiring management;
- 49.8. that the Judge President take note that the two protective Applications for Leave to Appeal arising from 28 August 2026 are lodged simultaneously herewith and that, by operation of section 18(1), read with section 18(5), the operation and execution of the final costs judgment and its consequential Part 'B' restraint are suspended *ex lege*, no order under section 18(3) presently having been granted;
- 49.9. that an immediate case-management direction be issued concerning the Application for Leave to Appeal delivered in early March 2026 and the two Applications for Leave lodged herewith, including the earliest dates upon which each can be heard and the manner in which unnecessary duplication may lawfully be avoided without delaying any one of them into practical uselessness;
- 49.10. that the Judge President confirm the present status of the Rule 28(4) allocation request, including whether it was ever placed before her, whether any decision was made, and why no enrolment directive or hearing date has yet been communicated;

- 49.11. that, in light of the suspension operating under section 18(1), the Rule 28(4) application be allocated the earliest reasonably available date and that the suspended Part 'B' restraint not be treated administratively as preventing such allocation, without prejudice to any Respondent's right to seek a competent execution order under section 18(3);
- 49.12. that the Judge President consider exercising section 14(1)(a) of the Superior Courts Act by directing that the Rule 28(4) application, and such further first-instance Part 'B' proceedings as are legally suitable, be heard by a court consisting of three judges;
- 49.13. that, should Holderness J remain involved in any future proceeding which is legally capable of multi-judge constitution, the Judge President consider whether the interests of justice and public confidence warrant constitution of such a court under section 14(1)(a), alternatively, if Holderness J recuses herself or is otherwise unavailable, that another judge or properly constituted court be allocated without delay;
- 49.14. that the neutral communication protocol proposed in paragraph 47 *supra* be confirmed, alternatively that the Judge President prescribe another transparent protocol which avoids further controversy concerning direct chambers correspondence while preserving lawful service and notice;
- 49.15. that an urgent case-management conference, if necessary by MS Teams, be convened no later than 9 September 2026 for the limited purposes of dates, judicial allocation, record availability, implementation of the section 18(1) consequences, Rule 28(4) enrolment, and any other procedural step necessary to preserve effective relief before 12 September 2026;

49.16. that any submissions by the represented organs of state in response to this administrative request be confined to legitimate case-management issues and not be treated as an invitation to litigate the substantive merits by correspondence; and

49.17. that all administrative and judicial directions made pursuant to this request be communicated simultaneously to every party in writing and uploaded to *Court Online* where appropriate, so that no issue of informal or unequal access can arise.

50. Given the exceptional urgency, the Applicants respectfully request written acknowledgment that this letter and the two Applications for Leave lodged herewith have been placed before the Judge President, together with any immediately available interim direction, by no later than 09h00 on Wednesday, 9 September 2026.

51. The Applicants further request a substantive case-management response, alternatively a reasoned indication of the steps being taken and the exact time by which they will be completed, by no later than 09h00 on Wednesday, 9 September 2026. If either period is genuinely impossible, the Applicants request immediate written reasons and the earliest alternative time which still preserves a meaningful opportunity for judicial intervention before 12 September 2026.

52. These time periods are not selected to manufacture urgency. The relocation is understood to be scheduled for 12 September 2026. A response after the baboons have been captured and removed would not cure the prejudice. The Applicants must retain a realistic opportunity, if this Division cannot provide an effective administrative response, to escalate the institutional management problem to the Chief Justice and, if necessary, seek urgent constitutional relief from a competent court before the factual position becomes irreversible.

53. If meaningful head-of-court intervention is again unavailable within the period above, the Applicants will, without abandoning any existing or newly lodged appellate process, refer

the institutional administration and finalisation of this matter to the Chief Justice under the constitutional and statutory framework governing the Head of the Judiciary and will consider urgent recourse to the Constitutional Court or another competent court for preservation and constitutional relief. This is not advanced as a threat. It is the foreseeable procedural consequence if repeated internal case-management mechanisms of the Western Cape Division fail to provide an effective remedy within the only time that still matters.

54. The Applicants remain ready to comply immediately with every lawful and clearly communicated direction capable of moving this matter forward. They seek no preferential treatment, no private access to judicial officers, no nominated judge, and no predetermined outcome. They seek equal dignity, transparent procedure, effective appellate access and an impartial court capable of deciding the constitutional issues before events outside Court decide them by default.
55. The rights of the Applicants, LFN's members, the affected communities and the public interests represented in these proceedings, together with all rights of appeal, review, recusal, complaint, constitutional recourse and international human-rights recourse, remain reserved *in toto*.

Yours Faithfully,

A handwritten signature in black ink, appearing to read 'Reyno D. De Beer', with a large, sweeping flourish extending upwards and to the right.

**Reyno D. De Beer**

President: Liberty Fighters Network

On behalf of Applicants and in the interests of the public

## **Attachments for immediate reference**

- A. Email from the Cape of Good Hope SPCA dated 06 September 2026 confirming its continued opposition to the permanent confinement of healthy, free-ranging baboons and clarifying that welfare monitoring does not constitute endorsement of the sanctuary relocation.
- B. Applicants' working *verbatim* transcript of the full proceedings before Holderness J on 28 August 2026, prepared from the official court audio.
- C. Applicants' working *verbatim* transcript of the *ex tempore* recusal judgment delivered on 28 August 2026.
- D. Applicants' working *verbatim* transcript of the *ex tempore* costs determination delivered on 28 August 2026.
- E. Applicants' Practice Note for Allocation and Enrolment in the Rule 28(4) application dated 13 July 2026.
- F. Applicants' protective Application for Leave to Appeal against the recusal judgment and order pronounced on 28 August 2026, lodged simultaneously herewith.
- G. Applicants' protective Application for Leave to Appeal against the costs judgment and consequential Part 'B' restraint pronounced on 28 August 2026, lodged simultaneously herewith.

## **Interested Parties**

AND TO: **PREMIER OF THE WESTERN CAPE, MR. ALAN WINDE N.O., OR HIS SUCCESSOR IN TITLE**

First Respondent

c/o State Attorney

Ref: 354/25/P40 - Hoosain Aayesha

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

AND TO: **SPEAKER OF THE WESTERN CAPE PROVINCIAL PARLIAMENT, MR. DAYLIN MITCHELL N.O., OR HIS SUCCESSOR IN TITLE**

Second Respondent

c/o Mr Andre Le Roux (Senior Legal Adviser)

Email: [aleroux@WCPP.GOV.ZA](mailto:aleroux@WCPP.GOV.ZA)

AND TO: **WESTERN CAPE PROVINCIAL MINISTER FOR LOCAL GOVERNMENT, ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING, MR. ANTON BREDELL N.O., OR HIS SUCCESSOR IN TITLE**

Third Respondent

c/o State Attorney

Ref: 354/25/P40 - Hoosain Aayesha

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

AND TO: **OFFICE OF THE COMMISSIONER OF THE ENVIRONMENT**

Fourth Respondent

c/o First to Third Respondents

Same contacting details as for the First to Third Respondents

AND TO: **SOUTH AFRICAN NATIONAL PARKS**

Fifth Respondent

c/o MKHABELA HUNTLEY ATTORNEYS INC.

Email(1): [mkhabela@mhalaw.co.za](mailto:mkhabela@mhalaw.co.za)

Email(2): [refiloe@mhalaw.co.za](mailto:refiloe@mhalaw.co.za)

Email(3): [mmasetshaba@mhalaw.co.za](mailto:mmasetshaba@mhalaw.co.za)

Email(4): [kamohelo@mhalaw.co.za](mailto:kamohelo@mhalaw.co.za)

Reference: SAN2-0038 /Mr L Mkhabela/

Correspondent: c/o MASERUMULE ATTORNEYS

Email(1): [glen@maserumulecpt.co.za](mailto:glen@maserumulecpt.co.za)

Email(2): [jamie@maserumulecpt.co.za](mailto:jamie@maserumulecpt.co.za)

Email(3): [ophelia@maserumulecpt.co.za](mailto:ophelia@maserumulecpt.co.za)

Reference: Mr Glen Cassells

AND TO: **CAPENATURE**

Sixth Respondent

c/o **FAIRBRIDGES ATTORNEYS**

Per: **DEIRDRE OLIVIER**

Ref: DO/AA/10144964

Email: [deirdre.o@fairbridges.co.za](mailto:deirdre.o@fairbridges.co.za)

AND TO: **CITY OF CAPE TOWN METROPOLITAN MUNICIPALITY**

Seventh Respondent

c/o **FAIRBRIDGES ATTORNEYS**

Per: **DEIRDRE OLIVIER**

Ref: DO/AA/10144964

Email: [deirdre.o@fairbridges.co.za](mailto:deirdre.o@fairbridges.co.za)

AND TO: **CHAIRPERSON OF CAPE PENINSULA BABOON MANAGEMENT JOINT TASK TEAM, MR. ROBERT McGAFFIN N.O., OR HIS SUCCESSOR IN TITLE**

Eighth Respondent

1) c/o Mr Robert McGaffin  
Civic Centre, Podium Block, Fifth Floor

Email(1): [cpbmjtt@capetown.gov.za](mailto:cpbmjtt@capetown.gov.za)

Email(2): [cpbmjtt@sanparks.org](mailto:cpbmjtt@sanparks.org)

Email(3): [cpbmjtt@capenature.co.za](mailto:cpbmjtt@capenature.co.za)

2) Senior Legal Advisor: Ms Emlyn Williams  
Office of the City Manager (Legal Services)

Email: [Emlyn.Williams@capetown.gov.za](mailto:Emlyn.Williams@capetown.gov.za)

AND TO: **JUDITH ANNE SOLE**

Ninth Respondent

Email(1): [judy@monkeyvalleyresort.com](mailto:judy@monkeyvalleyresort.com)

Email(2): [traxdb@gmail.com](mailto:traxdb@gmail.com)

AND TO: **WILDLIFE ANIMAL PROTECTION FORUM OF SOUTH AFRICA**

Tenth Respondent

c/o Administrator and Coordinator: Ms Megan Carr

Email: [administrator@wapfsa.org](mailto:administrator@wapfsa.org)

AND TO: **BABOON ADVISORY GROUP**

Eleventh Respondent

c/o Tom Cohen, Chris Hart, Garth Kew, and

Simon's Town Civic Association

Email(1): [waldohelives@icloud.com](mailto:waldohelives@icloud.com)

Email(2): [chrisjonllo@gmail.com](mailto:chrisjonllo@gmail.com)

Email(3): [krok@mweb.co.za](mailto:krok@mweb.co.za)

Email(4): [stcamail@gmail.com](mailto:stcamail@gmail.com)



# **ATTACHMENT B**

**8 September 2026**

Read receipt confirming that the 8 September 2026 urgent communication was opened within the Office of the Judge President.

Bundle pages 32 - 33

Subject: Read: EXTREMELY URGENT: JP CASE-MANAGEMENT, RULE 28(4) ENROLMENT, JUDGMENTS/ORDERS & APPELLATE RELIEF: CASE #2026-024184: LIBERTY FIGHTERS NETWORK & ANOTHER v PREMIER OF THE WESTERN CAPE & 10 OTHERS  
From: Phumelele Dhlamini <PDhlamini@judiciary.org.za>  
Date: 2026/09/08, 14:48  
To: Reyno De Beer <reyno@libertyfighters.org>

Your message

To: Phumelele Dhlamini  
Subject: EXTREMELY URGENT: JP CASE-MANAGEMENT, RULE 28(4) ENROLMENT, JUDGMENTS/ORDERS & APPELLATE RELIEF: CASE #2026-024184: LIBERTY FIGHTERS NETWORK & ANOTHER v PREMIER OF THE WESTERN CAPE & 10 OTHERS  
Sent: Tuesday, September 8, 2026 1:56:32 PM (UTC+02:00) Harare, Pretoria

was read on Tuesday, September 8, 2026 2:47:46 PM (UTC+02:00) Harare, Pretoria.

Disclaimer:

The information contained in this communication from [pdhlamini@judiciary.org.za](mailto:pdhlamini@judiciary.org.za) sent at 2026-09-08 14:48:26 is confidential and may be legally privileged. It is intended solely for use by reyno@libertyfighters.org and others authorized to receive it. If you are not reyno@libertyfighters.org you are hereby notified that any disclosure, copying, distribution or taking action in reliance of the contents. Powered by [Office Of The Chief Justice](#)

— Attachments: —

ATT00001

208 bytes

# **ATTACHMENT C**

**9 September 2026**

Applicants' follow-up communication to the Judge President after expiry of the requested response period.

Bundle pages 34 - 39

Subject: Re: EXTREMELY URGENT: JP CASE-MANAGEMENT, RULE 28(4) ENROLMENT, JUDGMENTS/ORDERS & APPELLATE RELIEF: CASE #2026-024184: LIBERTY FIGHTERS NETWORK & ANOTHER v PREMIER OF THE WESTERN CAPE & 10 OTHERS

From: Reyno De Beer <reyno@libertyfighters.org>

Date: 2026/09/09, 11:42

To: Jerelene Naidoo-Chetty <JNaidoo-Chetty@judiciary.org.za>, Phumelele Dhlamini <PDhlamini@judiciary.org.za>

CC: Hoosain Aaysha <afoosain@justice.gov.za>, Refiloe Mntambo <refiloe@mhalaw.co.za>, Deirdre Olivier <deirdre.o@fairbridges.co.za>, Cape Peninsula Baboon <cpbmjtt@capetown.gov.za>, "judy@monkeyvalleyresort.com" <judy@monkeyvalleyresort.com>, Tracy De Breuyn <traxdb@gmail.com>, "waldohelives@icloud.com" <waldohelives@icloud.com>, "administrator@wapfsa.org" <administrator@wapfsa.org>, André le Roux <aleroux@WCPP.GOV.ZA>, "mkhabela@mhalaw.co.za" <mkhabela@mhalaw.co.za>, Mmasetshaba Taelle <masetshaba@mhalaw.co.za>, Kamohelo Mapota <kamohelo@mhalaw.co.za>, "glen@maserumulecpt.co.za" <glen@maserumulecpt.co.za>, "jamie@maserumulecpt.co.za" <jamie@maserumulecpt.co.za>, Ophelia-Faith Abrahams <ophelia@maserumulecpt.co.za>, "cpbmjtt@sanparks.org" <cpbmjtt@sanparks.org>, "cpbmjtt@capenature.co.za" <cpbmjtt@capenature.co.za>, Emlyn Williams <Emlyn.Williams@capetown.gov.za>, "krok@mweb.co.za" <krok@mweb.co.za>, "chrisjonllo@gmail.com" <chrisjonllo@gmail.com>, "stcamail@gmail.com" <stcamail@gmail.com>, Elmarie Sievers <ESievers@judiciary.org.za>, CYotho@judiciary.org.za  
BCC: Judy Sole <judysole@gmail.com>

ATTENTION: **JUDGE PRESIDENT N. P. MABINDLA-BOQWANA**

High Court of South Africa: Western Cape Division, Cape Town

c/o Ms Jerelene Naidoo-Chetty and Ms Phumelele Dhlamini

cc. **DEPUTY JUDGE PRESIDENT GOLLIATH**

cc. All Interested Parties (As previously listed)

Dear Madam Judge President,

I refer to my extremely urgent communication and accompanying letter dated 8 September 2026.

Notwithstanding that read receipts emanating from your chambers were received yesterday at approximately 14h48, no acknowledgement or substantive response has been received. The requested time for a response, namely 09h00 this morning, has likewise passed without any communication from your office.

The urgency can no longer reasonably be overstated. The Applicants have been informed that the affected baboons are scheduled to be captured and relocated to the challenged sanctuary on 12 September 2026 — now only three days away. The very purpose of yesterday's request was to secure immediate head-of-court case-management intervention before irreversible factual

developments overtake the pending judicial and appellate processes.

This matter has already endured substantial procedural delay. The Applicants' earlier request for head-of-court case management remained without a substantive determination, notwithstanding the undertaking by the Office of the Judge President to revert after receipt and consideration of the court file. That history ultimately resulted in the complaint against the Judge President presently pending before the Judicial Service Commission under reference JSC/95/08/2026.

Against that background, continued silence in response to yesterday's renewed and exceptionally urgent request places the Applicants in an untenable position. We cannot responsibly permit the remaining three days to expire while awaiting an administrative response which may arrive only after the very *fait accompli* the litigation seeks to prevent has occurred.

Unless an urgent response is now received, the Applicants will have little practical alternative but to escalate the continuing case-management difficulty to the Office of the Chief Justice for such urgent administrative intervention as may lawfully be available. Such escalation would not be undertaken lightly, nor as an attempt to interfere with judicial independence, but because effective access to court and meaningful appellate relief cannot be preserved through continued administrative silence.

The Applicants accordingly respectfully request an **immediate indication today** as to how the requests contained in the letter dated 8 September 2026 will be dealt with.

The rights of the Applicants, their members, and the interests of the public they seek to protect remain reserved *in toto*.

**PS: Kindly note the Important/Disclaimer Notice underneath our signature for your information.**

Kind Regards,

**Reyno De Beer**

President: Liberty Fighters Network

Mobile: +27 (0) 67 735 7288

Telegram News Channel: [@libertyfightersnews](#)

Facebook: [libertyfightersnetwork](#)

Twitter: [@LFN\\_SouthAfrica](#)

YouTube: [Reyno De Beer, Liberty Fighter #1](#)

Website: [www.libertyfighters.org](#)

Email: [reyno@libertyfighters.org](#)

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practitioner may do so. LFN only relies on voluntary donations for funding. However, this restriction to request remuneration does not apply to our legal services in relation to international forums for which we are entitled to enter into a services agreement. **Privileged/Confidential information may be contained in this message.** If you are not the addressee indicated in this message (or responsible for delivery of the message to such person) you may not copy or deliver this message to anyone. In such case, you should destroy this message and kindly notify the sender by reply E-Mail. Please advise immediately if you or your employer do not consent to e-mail messages of this kind. Opinions, conclusions and other information in this message that do not relate to the official business of LFN shall be understood as neither given nor endorsed by it. All views expressed herein are the views of the author and do not reflect the views of LFN unless specifically stated otherwise.

On 2026/09/08 13:56, Reyno De Beer wrote:

**EXTREMELY URGENT**

**BABOON RELOCATION SCHEDULED FOR 12 SEPTEMBER 2026**

ATTENTION: **JUDGE PRESIDENT N. P. MABINDLA-BOQWANA**

High Court of South Africa: Western Cape Division, Cape Town

c/o Ms Jerelene Naidoo-Chetty and Ms Phumelele Dhlamini

cc. All Interested Parties (As listed at the end of the letter)

Dear Madam Judge President,

**KINDLY FIND ATTACHED** an **EXTREMELY URGENT** letter for your attention by no later than **09h00 tomorrow, Wednesday 9 September 2026.**

**FURTHER** attached, you will find the following listed documents referenced in this aforementioned letter:-

- A. Email from the Cape of Good Hope SPCA dated 6 September 2026 confirming its continued opposition to the permanent confinement of healthy, free-ranging baboons and clarifying that welfare monitoring does not constitute endorsement of the sanctuary relocation.

- B. Applicants' working *verbatim* transcript of the full proceedings before Holderness J on 28 August 2026, prepared from the official court audio.
- C. Applicants' working *verbatim* transcript of the *ex tempore* recusal judgment delivered on 28 August 2026.
- D. Applicants' working *verbatim* transcript of the *ex tempore* costs determination delivered on 28 August 2026.
- E. Applicants' Practice Note for Allocation and Enrolment in the Rule 28(4) application dated 13 July 2026.
- F. Applicants' protective Application for Leave to Appeal against the recusal judgment and order pronounced on 28 August 2026, lodged simultaneously herewith.
- G. Applicants' protective Application for Leave to Appeal against the costs judgment and consequential Part 'B' restraint pronounced on 28 August 2026, lodged simultaneously herewith.

**KINDLY** confirm receipt.

--

**PS:** Kindly note the Important/Disclaimer Notice underneath our signature for your information.

Kind Regards,

**Reyno De Beer**

President: Liberty Fighters Network

Mobile: +27 (0) 67 735 7288

Telegram News Channel: [@libertyfightersnews](#)

Facebook: [libertyfightersnetwork](#)

Twitter: [@LFN\\_SouthAfrica](#)

YouTube: [Reyno De Beer, Liberty Fighter #1](#)

Website: [www.libertyfighters.org](#)

Email: [reyno@libertyfighters.org](mailto:reyno@libertyfighters.org)

If you like our work, kindly consider making a voluntary donation [via PayPal](#) or [Mobipaid](#)

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# **ATTACHMENT D**

**9 September 2026**

Read receipts confirming that the follow-up communication was opened by both addressees within the Office of the Judge President.

Bundle pages 40 - 42

Subject: Read: EXTREMELY URGENT: JP CASE-MANAGEMENT, RULE 28(4) ENROLMENT, JUDGMENTS/ORDERS & APPELLATE RELIEF: CASE #2026-024184: LIBERTY FIGHTERS NETWORK & ANOTHER v PREMIER OF THE WESTERN CAPE & 10 OTHERS  
From: Phumelele Dhlamini <PDhlamini@judiciary.org.za>  
Date: 2026/09/09, 12:15  
To: Reyno De Beer <reyno@libertyfighters.org>

Your message

To: Phumelele Dhlamini  
Subject: Re: EXTREMELY URGENT: JP CASE-MANAGEMENT, RULE 28(4) ENROLMENT, JUDGMENTS/ORDERS & APPELLATE RELIEF: CASE #2026-024184: LIBERTY FIGHTERS NETWORK & ANOTHER v PREMIER OF THE WESTERN CAPE & 10 OTHERS  
Sent: Wednesday, September 9, 2026 11:42:10 AM (UTC+02:00) Harare, Pretoria

was read on Wednesday, September 9, 2026 12:15:33 PM (UTC+02:00) Harare, Pretoria.

Disclaimer:

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— Attachments: —

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Subject: Read: EXTREMELY URGENT: JP CASE-MANAGEMENT, RULE 28(4) ENROLMENT, JUDGMENTS/ORDERS & APPELLATE RELIEF: CASE #2026-024184: LIBERTY FIGHTERS NETWORK & ANOTHER v PREMIER OF THE WESTERN CAPE & 10 OTHERS  
From: Jerelene Naidoo-Chetty <JNaidoo-Chetty@judiciary.org.za>  
Date: 2026/09/09, 12:17  
To: Reyno De Beer <reyno@libertyfighters.org>

Your message

To: Jerelene Naidoo-Chetty  
Subject: Re: EXTREMELY URGENT: JP CASE-MANAGEMENT, RULE 28(4) ENROLMENT, JUDGMENTS/ORDERS & APPELLATE RELIEF: CASE #2026-024184: LIBERTY FIGHTERS NETWORK & ANOTHER v PREMIER OF THE WESTERN CAPE & 10 OTHERS  
Sent: Wednesday, September 9, 2026 11:42:10 AM (UTC+02:00) Harare, Pretoria

was read on Wednesday, September 9, 2026 12:16:54 PM (UTC+02:00) Harare, Pretoria.

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— Attachments: —

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# **ATTACHMENT E**

**1 & 3 June 2026**

Commissioned JSC complaint against Holderness J dated 1 June 2026, together with the JSC acknowledgement under reference JSC/62/06/2026 dated 3 June 2026.

Bundle pages 43 - 65

**IN THE MATTER OF A COMPLAINT AGAINST MADAM JUSTICE  
HOLDERNESS TO THE JUDICIAL SERVICE COMMISSION**

**AFFIDAVIT**

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Material Irregularities Relevant to Conduct ..... 9

Reasonable Apprehension of Bias and Discrimination Against Self-Represented Litigants  
..... 11

Post-Judgment Conduct and Delay of the Application for Leave to Appeal ..... 14

Alleged Breach of the Judicial Code of Conduct ..... 17

Relief Sought..... 19

Conclusion ..... 20

I, the undersigned:

**REYNO DAWID DE BEER**

Identity Number: 7606235089080

do hereby make oath and state:

## Introduction

1. I am an adult male and the President of Liberty Fighters Network (“LFN”), a well-known voluntary association without gain of persons dedicated to promoting transparency, accountability, constitutional compliance, administrative justice, and the protection of the public interest, with business address situated at Monkey Valley Resort, 1 Mountain Road, Noordhoek, and with mobile number 067 735 7288 and email address [reyno@libertyfighters.org](mailto:reyno@libertyfighters.org).
2. I am duly authorised to depose to this affidavit on behalf of LFN and in my own capacity as Second Applicant *nomine officio* in proceedings instituted before the High Court of South Africa, Western Cape Division, Cape Town, under case number 2026-024184. Both LFN and myself herewith institute this complaint.
3. The matter concerned, *inter alia*, the alleged unlawful implementation of the Final Cape Peninsula Baboon Management Action Plan, the conduct of the Cape Peninsula Baboon Management Joint Task Team, the failure to operationalise the constitutionally established Office of the Commissioner for the Environment in terms of section 71 of the Constitution of the Western Cape, 1997, and the Applicants’ urgent attempt to preserve the *status quo* pending proper constitutional and administrative oversight.
4. Where I attach any annexure, the content thereof should be incorporated herein as if separately stated under oath.

## The Complaint

5. This complaint is lodged against **Madam Justice Melanie Holderness**, a Judge of the High Court of South Africa, Western Cape Division, Cape Town.
6. This complaint does not seek that the Judicial Service Commission determine the appellate merits of the judgment delivered by Holderness J on 25 February 2026. Those matters are properly the subject of the Applicants' application for leave to appeal, alternatively any appeal process flowing therefrom.
7. This complaint is directed at judicial conduct arising from:
  - 7.1. the language, tone, and treatment of the Applicants in the judgment;
  - 7.2. the reliance upon unrelated prior litigation and adverse remarks in other matters to characterise the Applicants;
  - 7.3. the apparent prejudgment of the Applicants as abusive litigants before determining the legal issues in the matter;
  - 7.4. the making of damaging findings and pejorative remarks capable of undermining the Applicants' dignity, reputation, public-interest work, and access to court;
  - 7.5. the apparent selective acceptance of submissions advanced by the legal practitioner teams of the City of Cape Town, CapeNature, and SANParks;

- 7.6. the apparent disregard of submissions and material placed before Holderness J after the hearing, on her own request, which confirmed that LFN is a serious and legitimate public-interest litigant;
  - 7.7. the disregard of Constitutional Court authority and proceedings before the African Commission on Human and Peoples' Rights, which were placed before Holderness J to demonstrate the seriousness and legitimacy of LFN's public-interest litigation;
  - 7.8. the apparent belittling of LFN and myself as self-represented litigants, notwithstanding material demonstrating sustained *bona fide* public-interest litigation;
  - 7.9. the *post-judgment* decision to delay the urgent application for leave to appeal until after the separate determination of costs; and
  - 7.10. the indication, on or about 1 June 2026, that the application for leave to appeal would only be heard during the first available date in the third term, from the week commencing 27 July 2026, because Holderness J wished to deliver the costs order first.
8. I respectfully submit that the conduct complained of is capable of undermining public confidence in the impartiality, independence, fairness, equality, and proper administration of justice, and warrants investigation under the Judicial Service Commission Act, 1994 and the Judicial Code of Conduct.

## Background Facts

9. The Applicants instituted urgent proceedings in Part A of the notice of motion, seeking interim relief intended to preserve the *status quo* pending the adjudication of Part B.
10. Part B concerned, *inter alia*, constitutional and administrative issues, including the continued vacancy or non-operationalisation of the Office of the Commissioner for the Environment, a constitutional office established in terms of the Western Cape Constitution.
11. The matter was heard on 19 February 2026.
12. Judgment was delivered by Holderness J on 25 February 2026.
13. A copy of the judgment is annexed hereto as Annexure “A”.
14. The Applicants thereafter lodged an application for leave to appeal against the whole of the judgment and order, including any subsequent corrections thereto.
15. A copy of the application for leave to appeal is annexed hereto as Annexure “B”.
16. In the application for leave to appeal, the Applicants expressly recorded that they sought leave to appeal against the whole judgment and court order delivered on 25 February 2026.
17. The application for leave to appeal further recorded that the Applicants contended that the judgment gave rise to a reasonable apprehension of bias, particularly by reason of the pejorative language used, the reliance upon unrelated prior litigation,

and the apparent importation of extraneous considerations into the determination of urgency, standing, authority, and costs.

18. The judgment did not merely dismiss the urgent relief sought. It went substantially further and made findings and remarks which, viewed cumulatively, portrayed the Applicants as abusive, serial, and vexatious litigants.
19. At the commencement of the judgment, Holderness J stated that “*Litigation is not a game*,” and thereafter referred to LFN and myself in a manner which suggested that I was the “*alter ego*” of LFN and that we appeared intent on treating the courts as a “*playground*”.
20. The judgment further referred to the Applicants as “*serial litigants*”, relied upon prior criticism, which are being challenged on their own, in unrelated litigation, and stated that previous admonishments had “*fallen on deaf ears*”.
21. The complaint is not that a judge may never criticise litigants. The complaint is that the nature, degree, and placement of the criticism in this judgment reasonably created the impression that the Applicants had been judged through the lens of prior unrelated matters rather than through the evidence, issues, submissions, and legal questions properly before the court in this matter.
22. The Applicants respectfully submit that the tone and content of the judgment exceeded robust judicial reasoning and entered the territory of personal and institutional denigration.

23. The judgment further directed that the issue of costs stand over for later determination and invited written submissions on whether costs should be awarded on a punitive scale and/or *de bonis propriis*.
24. This direction, viewed against the language already used in the judgment, gave rise to a reasonable concern that the Applicants had already been censured in substance before the separate costs process had even commenced.

#### **Further Submissions Ignored by Holderness J**

25. After the hearing, Holderness J requested further submissions. The Applicants complied and placed further material before the court.
26. Those submissions were not peripheral. They addressed, *inter alia*, the legitimacy, seriousness, and constitutional character of LFN's litigation history and public-interest work.
27. The Applicants specifically referred Holderness J to judgments of the Constitutional Court in which LFN, myself, our members, or persons represented and assisted by LFN had been before the *Apex* Court in matters of public importance.
28. The Applicants further referred Holderness J to matters before the African Commission on Human and Peoples' Rights, including matters arising from constitutional and human rights litigation in which LFN and I had been involved.
29. The purpose of placing those materials before Holderness J was to demonstrate that LFN is not a frivolous association abusing the courts, but a serious and legitimate

public-interest litigant which has, over several years, engaged constitutional, statutory, administrative, and human rights issues before domestic and international fora.

30. Notwithstanding that this material was placed before Holderness J on her own request after the hearing, the judgment does not engage with it at all and was ignored.
31. Instead, Holderness J adopted language which suggested that the Applicants use the courts as a “*playground*”, and relied on selected adverse remarks from unrelated matters to belittle the Applicants and LFN’s work.
32. This omission is highly material to the present complaint. Where a judge is provided with evidence tending to confirm the seriousness and legitimacy of a public-interest litigant, the judge may not fairly ignore such evidence and then portray that litigant as treating the courts as a playground.
33. The Applicants respectfully submit that this creates the reasonable impression that Holderness J intentionally discarded or failed to engage with material favourable to the Applicants, whilst selectively relying on material adverse to them.
34. The Applicants further respectfully submit that such selective treatment of material is not merely an appellate issue. It bears upon judicial conduct because it reflects, at the very least, an appearance of partiality, preconception, and unequal treatment.
35. The Applicants interpreted the judgment as insulting to the good work of LFN in the public interest and as an attempt to belittle and discredit LFN, myself, and self-represented public-interest litigants more broadly.

36. The Applicants further submit that a judge who is made aware of public-interest litigation before the Constitutional Court and the African Commission on Human and Peoples' Rights, but then ignores such material to portray the litigant as abusive or playful, acts in a manner reasonably capable of being viewed as biased and discriminatory against self-represented litigants.
37. The complaint is accordingly not limited to disagreement with findings. It concerns the appearance that the judge chose a narrative adverse to the Applicants notwithstanding material placed before her which contradicted that narrative.

#### **Material Irregularities Relevant to Conduct**

38. Without asking the Judicial Service Commission to sit as a court of appeal, I respectfully draw attention to the following conduct-related features appearing from the judgment, the *post*-hearing submissions, and the subsequent directions:
  - 38.1. Holderness J used language at the outset of the judgment which was pejorative and unnecessary for the adjudication of the issues;
  - 38.2. Holderness J described LFN and myself in terms suggesting that the association and I were not genuinely distinct, by referring to me as the "*alter ego*" of LFN;
  - 38.3. Holderness J relied upon prior litigation criticism in unrelated matters, all being challenged on their own, to characterise the Applicants in the present matter;

- 38.4. Holderness J described the Applicants as “*serial litigants*” and referred to prior “admonishments” by various courts;
- 38.5. the full records of those prior matters were not before the court for purposes of determining the present application;
- 38.6. the Applicants were not afforded a separate opportunity to meet a case that their previous litigation history would be used as a central lens through which their present *bona fides*, urgency, standing, and authority would be assessed;
- 38.7. *post*-hearing submissions placed before Holderness J, on her own request, demonstrated that LFN had been involved in serious constitutional and public-interest litigation, including matters before the Constitutional Court and the African Commission on Human and Peoples’ Rights;
- 38.8. Holderness J failed to meaningfully engage with that material and instead preferred an adverse narrative that the Applicants treated the courts as a playground;
- 38.9. the judgment proceeded to determine substantive merits, standing, authority, and other issues after finding that urgency had not been established;
- 38.10. the judgment then used the alleged abuse of urgency as a factor relevant to punitive costs;

- 38.11. the judgment's adverse findings were capable of prejudicing Part B of the same proceedings, notwithstanding that Part B had not yet been fully ventilated;
- 38.12. the judgment directed a separate costs process, yet the subsequent application for leave to appeal against the whole judgment and order was delayed pending the costs determination; and
- 38.13. on or about 1 June 2026, Holderness J indicated, through her Registrar, that she agreed with the submissions by the City, CapeNature, and SANParks that costs should be determined first and that the application for leave to appeal would only be heard after the week commencing 27 July 2026.
39. I respectfully submit that these features, taken cumulatively, are relevant to whether Holderness J acted in a manner that upheld the appearance of independence, impartiality, dignity, fairness, equality, and procedural even-handedness required of judicial office.

**Reasonable Apprehension of Bias and Discrimination Against Self-Represented Litigants**

40. The test for bias is whether a reasonable, objective, and informed person would, on the correct facts, reasonably apprehend that the judge would not bring an impartial mind to bear on the adjudication of the matter.

41. The Applicants do not allege that every adverse finding made by Holderness J automatically constitutes bias. A judge is entitled to decide against a litigant.
42. However, judicial independence and impartiality require more than the absence of actual bias. They also require that judicial conduct must not reasonably appear to be influenced by extraneous considerations, irritation, personal disapproval, institutional prejudice, or prior views about a litigant.
43. In this matter, the concern arises from the cumulative effect of the language used in the judgment, the reliance on unrelated litigation history, the failure to engage with material confirming LFN's legitimacy as a public-interest litigant, and the later decision to delay the urgent application for leave to appeal pending costs.
44. The Applicants further respectfully submit that the judgment reveals an appearance of discrimination against self-represented litigants. LFN and I litigate *pro se*, without acting as attorneys or advocates, and without charging members of the public for legal services.
45. The Applicants' self-represented status ought not to reduce the dignity, seriousness, or constitutional significance of the litigation. Nor may a court treat a self-represented public-interest litigant as presumptively abusive merely because such litigant has approached the courts in various public-interest matters.
46. LFN's work is directed at assisting members of the public, including persons who may otherwise be unable to obtain access to professional legal representation, to vindicate rights and to approach courts in constitutional and public-interest matters.

47. The judgment, by portraying the Applicants as treating the courts as a playground, is experienced by the Applicants as an insult to the good work performed by LFN in the public interest.
48. It is further experienced as an attempt to belittle, delegitimise, and discourage self-represented public-interest litigation.
49. The Applicants respectfully submit that a reasonable, objective, and informed member of the public, apprised of the fact that Holderness J had before her material showing legitimate litigation before the Constitutional Court and the African Commission on Human and Peoples' Rights, would reasonably question why the judgment ignored that material and instead adopted an adverse and insulting characterisation of the Applicants.
50. The Applicants submit that this conduct creates the reasonable apprehension that Holderness J intentionally discarded material favourable to the Applicants in order to belittle the litigants, undermine their standing in the public eye, and justify punitive treatment.
51. The concern is aggravated by the fact that the matter concerned public interest litigation involving organs of state and constitutionally significant issues.
52. Courts are required to remain particularly vigilant in public interest matters, where adverse costs, personal costs, and pejorative judicial language can chill constitutional litigation and discourage members of the public from approaching the courts for relief.
53. The Applicants respectfully submit that the judgment, when read as a whole, does not merely disagree with the Applicants' case. It appears to chastise the Applicants

as repeat offenders and to treat their litigation history as a basis to doubt the *bona fides* of the present application, while disregarding material demonstrating the seriousness and legitimacy of their work.

54. This is conduct which, in my respectful submission, requires investigation by the Judicial Service Commission.

***Post-Judgment Conduct and Delay of the Application for Leave to Appeal***

55. After the judgment was delivered on 25 February 2026, the Applicants lodged an application for leave to appeal against the whole judgment and order.
56. The urgency of the application for leave to appeal was self-evident from the nature of the underlying proceedings. The Part A proceedings concerned urgent interim relief and the prevention of allegedly irreversible steps pending proper adjudication and oversight.
57. The Applicants specifically recorded that the whole judgment and order were under appeal.
58. Notwithstanding this, the issue of costs was treated as a separate matter to be determined before the application for leave to appeal would be heard.
59. On or about 1 June 2026, the Registrar to Holderness J addressed an email to the parties, recording directives from Holderness J.

60. The email stated, in substance, that the application for leave to appeal would be heard on the first available date in the third term, from the week commencing 27 July 2026, because Holderness J wished to deliver the costs order prior to the hearing of the application for leave to appeal.
61. A copy of the email dated 1 June 2026 is annexed hereto as Annexure “C”.
62. The practical effect of this directive is that an application for leave to appeal in respect of an urgent Part A judgment would be held back until after a separate costs determination.
63. The Applicants respectfully submit that this is irregular and prejudicial.
64. Once the whole judgment and order had been placed under appeal, including the findings and directions relevant to costs, the ordinary and fair course would have been to hear the application for leave to appeal without delay.
65. The costs enquiry is not detached from the merits of the judgment. It flows directly from the findings in the judgment, including the findings of alleged abuse, self-created urgency, lack of standing, lack of authority, and the alleged need for censure.
66. If the Applicants obtain leave to appeal and ultimately succeed, the basis upon which punitive costs or costs *de bonis propriis* may be considered could fall away.
67. It was therefore improper, or at least reasonably perceived to be improper, to insist that costs be determined first before the Applicants’ challenge to the judgment itself is even heard.

68. This sequencing creates a real risk that the Applicants may be subjected to punitive costs consequences based on findings which are themselves under appeal.
69. The directive further has the effect of delaying the Applicants' access to appellate relief in a matter which was urgent in nature.
70. The Applicants respectfully submit that the *post-judgment* handling of the application for leave to appeal strengthens the reasonable apprehension that Holderness J adopted an adverse posture against the Applicants and aligned procedurally with the position advanced by the City, CapeNature, and SANParks.
71. In particular, the Applicants had already placed the whole judgment and order under appeal, yet Holderness J accepted, in substance, the position that costs should be decided first and that the urgent application for leave to appeal should wait.
72. This conduct is not merely an alleged error of law. It concerns case management and judicial conduct in circumstances where the Applicants had already complained of bias in the application for leave to appeal.
73. The Applicants respectfully submit that, once bias had been raised as a ground of appeal, particular care ought to have been taken to ensure that subsequent directions did not deepen the appearance of partiality, unfairness, or procedural prejudice.
74. Instead, the Applicants were informed that the urgent application for leave to appeal would only be heard after the costs determination and only from the first available date in the third term.

75. The cumulative effect is that the Applicants reasonably apprehend that Holderness J is intent on finalising the punitive costs issue before permitting the Applicants to advance their challenge to the judgment itself.
76. I respectfully submit that such conduct is capable of undermining public confidence in the judiciary and warrants investigation.

**Alleged Breach of the Judicial Code of Conduct**

77. I respectfully submit that the above conduct discloses, *prima facie*, a breach of the Judicial Code of Conduct, including but not necessarily limited to the provisions requiring a judge to uphold the integrity and independence of the judiciary, perform judicial duties without bias or prejudice, conduct proceedings in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, ensure fairness to all litigants, and avoid both impropriety and the appearance of impropriety.
78. In particular, the Applicants respectfully submit that the conduct complained of is inconsistent with the duties arising from:
- 78.1. Article 5, in that a judge must uphold the integrity and independence of the judiciary, and must act in a manner consistent with the dignity and impartiality of judicial office;
- 78.2. Article 9, in that a judge must perform judicial duties without bias or prejudice;

- 78.3. Article 10, in that a judge must conduct proceedings in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary;
- 78.4. Article 13, in that a judge must ensure fairness to all litigants and conduct proceedings in a manner that protects the right to a fair hearing; and
- 78.5. Article 14, in that a judge must avoid not only actual impropriety, but also the appearance of impropriety, and must at all times act in a manner that sustains public confidence in the judiciary.
79. The complaint is advanced on the basis that Holderness J's judgment, language, reliance upon unrelated prior criticism, failure to engage with material demonstrating LFN's serious public-interest litigation, apparent prejudgment of the Applicants' *bona fides*, and subsequent delay of the application for leave to appeal created at least an appearance of partiality, discrimination, or impropriety sufficient to justify investigation by the Judicial Service Commission.
80. The Applicants respectfully submit that this matter raises a broader public interest issue. If public interest litigants, voluntary associations, and self-represented parties may be judicially characterised as abusive or as treating courts like a playground merely because they have previously litigated against organs of state, the chilling effect on constitutional litigation will be severe.
81. It is further respectfully submitted that the judiciary's legitimate power to control abuse of process must not be exercised in a manner that appears to punish litigants for

being frequent public interest litigants, particularly where they challenge organs of state and public institutions.

### **Relief Sought**

82. I respectfully request the Judicial Service Commission to:

- 82.1. investigate the conduct of Holderness J in relation to the judgment delivered on 25 February 2026 under case number 2026-024184;
- 82.2. investigate whether the language, tone, and characterisation of the Applicants in the judgment were consistent with the Judicial Code of Conduct;
- 82.3. investigate whether Holderness J improperly relied upon unrelated prior litigation and adverse remarks in other matters when adjudicating urgency, standing, authority, *bona fides*, and costs;
- 82.4. investigate whether Holderness J failed to engage with material placed before her, on her own request, which demonstrated that LFN is a serious and legitimate public-interest litigant;
- 82.5. investigate whether the disregard of Constitutional Court judgments and African Commission on Human and Peoples' Rights proceedings, when coupled with the pejorative language used in the judgment, gave rise to a reasonable apprehension of bias;

- 82.6. investigate whether the cumulative content of the judgment gave rise to a reasonable apprehension of bias and/or discrimination against self-represented public-interest litigants;
- 82.7. investigate the circumstances under which the urgent application for leave to appeal was delayed until after the separate determination of costs;
- 82.8. investigate whether it was proper for Holderness J, after bias had been raised in the application for leave to appeal, to direct that the application for leave to appeal would only be heard during the third term and after the costs order had been delivered;
- 82.9. determine whether Holderness J breached the Judicial Code of Conduct; and
- 82.10. take such disciplinary, corrective, or remedial measures as the Judicial Service Commission deems appropriate in the circumstances.

## **Conclusion**

- 83. This complaint is advanced in good faith, in the public interest, and without any ulterior motive.
- 84. The Applicants recognise that judicial officers must be free to decide matters independently and robustly.

85. However, judicial independence is not a licence to denigrate litigants, import unrelated prior criticism into new proceedings, ignore material demonstrating the legitimacy of public-interest litigation, or manage post-judgment processes in a manner that reasonably appears to prejudice access to appellate relief.
86. The administration of justice depends not only on actual impartiality, but on public confidence that all litigants, including self-represented litigants and public interest associations, will be treated with dignity, equality, and procedural fairness.
87. I respectfully submit that the conduct complained of warrants investigation by the Judicial Service Commission.

---

**REYNO DAWID DE BEER**

DEPONENT

Signed and sworn to me in \_\_\_\_\_ on this \_\_\_\_ day of **JUNE 2026** the deponent having acknowledged that he knows and understands the contents of this affidavit and that he has no objection against taking the prescribed oath, which oath he regards as binding on his conscience and that all other prescribed formalities have been complied with.

---

COMMISSIONER OF OATHS

Full Names and Surname:

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Designation:



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## JUDICIAL CONDUCT COMMITTEE

Enq: Adv. Nelson Phakola  
Email: [NPhakola@judiciary.org.za](mailto:NPhakola@judiciary.org.za)

3 June 2026

**Mr R D De Beer**

Per email: [reyno@libertyfighters.org](mailto:reyno@libertyfighters.org)

**Our Ref: JSC/62/06/2026**

Dear Mr. De Beer

### **RE: COMPLAINT AGAINST JUDGE HOLDERNESS OF THE WESTERN CAPE DIVISION OF THE HIGH COURT**

The Judicial Service Commission (JSC) hereby acknowledges receipt of your complaint. Your complaint will be forwarded to the Judicial Conduct Committee for consideration. The Secretariat will notify you of the outcome of your complaint in due course.

Yours sincerely,

**Ms. Dimakatso Ramaisa**

**Secretariat for the Judicial Service Commission**





**IN THE MATTER OF A SUPPLEMENTARY COMPLAINT AGAINST MADAM JUSTICE  
HOLDERNESS TO THE JUDICIAL SERVICE COMMISSION**

**SUPPLEMENTARY AFFIDAVIT**

**JSC REFERENCE: JSC/62/06/2026**

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I, the undersigned:

**REYNO DAWID DE BEER**

Identity Number: 7606235089080

do hereby make oath and state:

### **Introduction and Incorporation of the Original Complaint**

1. I am an adult male and the President of Liberty Fighters Network ("LFN"), a voluntary association without gain, with business address at Monkey Valley Resort, 1 Mountain Road, Noordhoek, Cape Town. I depose to this supplementary affidavit in my own capacity and on behalf of LFN.
2. This affidavit supplements the complaint lodged against Holderness J on 1 June 2026 and acknowledged by the Judicial Service Commission on 3 June 2026 under reference JSC/62/06/2026. A copy of the acknowledgment is annexed marked "D".



3. The original complaint and its annexures are incorporated herein as if specifically repeated. This supplement is confined primarily to conduct and developments occurring after the original complaint, especially the proceedings of 28 August 2026.
4. The purpose of this supplement is not to invite the Judicial Conduct Committee or Judicial Service Commission to sit as a court of appeal. The Applicants have separately lodged Applications for Leave to Appeal in respect of the recusal judgment and the costs judgment and Part 'B' restraint, as addressed *infra* and annexed marked "V" and "W" respectively. Those appellate processes are the vehicles for correcting errors of fact or law as such.
5. The present complaint concerns something different: whether the conduct of Holderness J, viewed cumulatively and against the fact that a formal misconduct complaint was already pending, remained compatible with the standards of manifest impartiality, courtesy, restraint, equality, fair hearing, diligence and public confidence required by the *Judicial Code of Conduct*.
6. Where any annexure is attached, its content is incorporated herein as if separately stated under oath. The transcripts annexed to this supplement are working transcripts prepared from the available recording of the proceedings and are expressly subject to correction against any official court recording, official transcript or final written judgment.

**The Constitutional Accountability Issue**

7. I respectfully acknowledge an important distinction at the outset. A judge should not "fear" the Judicial Service Commission in the sense of being intimidated into deciding a case in a particular way. Judicial independence requires the opposite: a judge must act without fear, favour or prejudice.
8. Judicial independence, however, is not immunity from constitutional accountability. Note 4(iv) to the *Judicial Code of Conduct* expressly records that judicial independence is not a private right for the benefit of judges as individuals and does not justify judicial misbehaviour or excuse conduct contrary to the Code.
9. My complaint is therefore not that Holderness J failed to display fear of the JSC. It is that, after she was aware that her language, treatment of the Complainants as the Applicants in that matter, alleged litigant profiling, and post-judgment case management had already been placed before the JSC, her conduct on 28 August 2026 appeared not to moderate those concerns but to amplify them.
10. More seriously, the pending JSC complaint itself was repeatedly drawn into the judicial reasoning as part of an adverse chronology against me. In my respectful submission, a constitutional accountability mechanism cannot safely be converted into material from which an adverse inference is drawn against the complainant.
11. The issue is therefore one of institutional respect. A judge is entitled to reject a complaint as unfounded through the prescribed process, but should not treat the Complainants' resort to the JSC as conduct tending to prove tactical abuse, obstruction or an improper motive.

**Developments Between the Original Complaint and 28 August 2026**

12. On 9 June 2026 Holderness J's registrar, Mr Njabulo Mabuya, acting on her directive, informed the parties that little purpose would be served by further correspondence and that the reserved costs judgment would be delivered by the end of the following week. That communication is annexed marked "E".
13. The stated period expired without delivery of the promised costs judgment. The pending Application for Leave to Appeal against the Part 'A' judgment likewise remained unheard. By mid-July 2026 the Applicants were therefore confronted with two unresolved processes before the same judicial officer: the punitive costs determination and an urgent Application for Leave to Appeal lodged in early March 2026, while the underlying environmental programme continued to be implemented outside Court.
14. The significance of that delay was not abstract. Part 'A' had been instituted to prevent measures alleged to be permanent or irreversible, including capture, removal, relocation or confinement of baboon troops and related implementation steps. The Applicants' concern was that the passage of time could alter the factual landscape before any appellate process became capable of providing effective relief.
15. On 17 July 2026 the Applicants accordingly addressed a formal and prominently marked 'VERY URGENT' letter to Goliath DJP requesting administrative case-management intervention. A copy is annexed marked "F". The letter was copied to Holderness J and every interested party. It expressly disavowed any *ex parte* approach or request that the Deputy Judge President determine the merits of the pending appeal.

16. The purpose of the 17 July 2026 request was deliberately narrower and less intrusive than a formal recusal application. The Applicants asked that the matter be placed before Holderness J so that the recusal question could be confronted openly; that, if she recused herself, another judge be allocated urgently; alternatively, if she remained satisfied that she could continue independently and impartially, that the Application for Leave to Appeal be enrolled on the earliest reasonably available date without further delay occasioned by the outstanding costs issue.
17. That approach is important to the chronology now under complaint. The Applicants did not seek to ambush Holderness J with a later recusal application. They first attempted a transparent, administrative and institutionally conservative route designed to obtain case management, preserve the appellate process and avoid additional interlocutory litigation if the matter could be resolved without it.
18. On 18 July 2026 Ms Elmarie Sievers advised that Goliath DJP was on leave until 26 August 2026 and copied the registrars of the Office of the Judge President 'to assist' with the request. That communication is annexed marked "G". From that date the urgent case-management request stood formally referred to the Office of the Judge President.
19. On 21 July 2026 the attorneys for the City of Cape Town and CapeNature addressed a detailed response directly to the Judge President, opposing the Applicants' position and urging, in substance, that Holderness J should determine the Part 'A' costs before the Application for Leave to Appeal was heard. That letter is annexed marked "H".
20. On 22 July 2026 the Applicants responded to the Judge President and all parties. They emphasised that the represented organs of state were seeking to ventilate

matters belonging to the appellate process, whereas the Applicants had requested only administrative case management. They further explained that the continuing implementation of the Baboon Management Action Plan and the undelivered costs judgment had converted delay itself into a threat to effective relief. That response is annexed marked "I".

21. On 28 July 2026 the attorneys for SANParks delivered a further response. SANParks contended, *inter alia*, that the pending JSC complaint did not automatically require Holderness J's removal, that any recusal sought should be pursued by formal application, and that the costs judgment should still precede the Application for Leave to Appeal. That letter is annexed marked "J".
22. The Applicants had never contended that the JSC complaint automatically removed Holderness J. The material significance of SANParks' response is that, by then, all participants and the Head of Court were expressly aware that recusal, costs and the stalled appellate process had become interrelated case-management issues. SANParks' insistence that recusal be sought formally also materially informed the Applicants' later decision to institute the formal application.
23. On 29 July 2026 Ms Jerelene Naidoo-Chetty, Office Manager in the Office of the Judge President, advised all parties that the Judge President could not consider the correspondence without the court file, that the file and letter should be submitted through the Registrar's office in Room 5, and that the Registrars would liaise directly with the Judge President's office. Most importantly, the communication expressly stated that the Office of the Judge President would revert once the file had been

received and the Judge President had had an opportunity to consider the matter and indicate a response. That communication is annexed marked "K".

24. The Applicants were therefore entitled reasonably to understand that the request had not been rejected; that a procedural requirement concerning the court file had been identified; and that a substantive response would follow once that requirement had been met. Although the matter existed on Court Online and the court file was already in the Court's custody, the Applicants elected not to permit an internal file-management issue to become another source of delay.
25. On 31 July 2026 the Applicants accordingly prepared and physically delivered a consolidated, indexed and paginated hardcopy bundle for the Judge President, containing the 17 July request, the existing JSC complaint against Holderness J and acknowledgment thereof, the Part 'A' judgment, the pending Application for Leave to Appeal, the relevant chambers correspondence, and the competing written submissions of the represented organs of state and the Applicants. The covering letter is annexed marked "L".
26. On 3 August 2026 the Office of the Judge President nevertheless stated, '*We await the hardcopies.*' I immediately recorded that the hardcopies had already been left in the Judge President's office pigeonhole at security on the preceding Friday. Later that same day Mr Mabuya, from Holderness J's chambers, acknowledged receipt of the hardcopies. The material exchange is annexed collectively marked "M".
27. That sequence materially deepened the Applicants' concern. The bundle had been delivered for independent consideration by the Head of Court, yet the only positive confirmation of receipt ultimately came from the chambers of the very judge whose

post-judgment management was one of the subjects of the request. I do not allege, without evidence, that the bundle was deliberately diverted. The point is that the situation required clarity from the Judge President's office as to whether the material had reached her, whether it had been considered and what administrative direction, if any, followed.

28. No such substantive response was communicated. Instead, Holderness J's chambers resumed the separate costs process and, during early August 2026, canvassed dates which ultimately resulted in the costs hearing being fixed for 28 August 2026. Thus the very costs-first trajectory which the Applicants had asked the Head of Court to manage continued unchanged while the case-management request remained unanswered.
29. The Judge President's silence was particularly significant because her office had not merely received unsolicited correspondence. It had prescribed a procedure, required the court file and hardcopies, and expressly undertaken to revert after the Judge President had had an opportunity to consider the material. The Applicants had complied with the procedure demanded of them.
30. The absence of any response, coupled with the continuation of the disputed costs-first process, led the Applicants on 13 August 2026 to lodge a separate complaint with the JSC against Judge President Mabindla-Boqwana concerning the unresolved head-of-court case-management request and related institutional circumstances. A copy is annexed marked "N". The JSC acknowledged that complaint on 14 August 2026 under reference JSC/95/08/2026 and confirmed that it would be forwarded to the Judicial Conduct Committee. The acknowledgment is annexed marked "O".

31. The separate complaint against the Judge President is not relied upon as proof of misconduct by either judicial officer. Its relevance here is chronological and objective: it demonstrates the extent to which the Applicants had exhausted transparent internal case-management mechanisms before formalising recusal, and why the Applicants could no longer reasonably expect the unresolved procedural position to be corrected through correspondence alone.
32. On 14 August 2026, against that background, the Applicants instituted the formal urgent recusal application. The commissioned founding affidavit is annexed marked "P". The application did not contend that the mere existence of either JSC complaint automatically disqualified Holderness J. It relied on the cumulative objective circumstances and requested that unresolved judicial functions be reallocated if recusal was granted.
33. On 18 August 2026 Holderness J directed that the recusal application and the outstanding costs issue would be heard on 28 August 2026 and prescribed an expedited timetable. The directives are annexed marked "Q".
34. On 19 August 2026 I wrote to Mr Mabuya, copied to all parties, accepting the timetable but placing on record that recusal was logically anterior to costs and reserving all rights should the recusal application be dismissed. That correspondence is annexed marked "R".
35. The hearing on 28 August 2026 therefore occurred in circumstances where Holderness J knew that the original JSC complaint concerning her conduct was pending; knew that the Applicants had already attempted transparent administrative case management through both the Deputy Judge President and Judge President;

knew that the Judge President's non-response had itself resulted in a further JSC complaint; knew that her own recusal was now formally sought; and knew that the Applicants had expressly reserved their objection to her continued involvement.

36. This fuller chronology is also material to the later characterisation of the recusal application as a sudden '*stratagem*' or attempt to avoid costs. The objective record shows a staged progression in the opposite direction: the Applicants first recorded apprehended bias in the 2 March 2026 Application for Leave to Appeal, then lodged the original JSC complaint, then sought voluntary and administrative case management in July, complied with the Judge President's prescribed procedure, waited for the promised response, and resorted to formal recusal only after those less intrusive mechanisms failed to resolve the impasse.

#### **The Opening Assurance and the Subsequent Course of the Hearing**

37. At the commencement of the recusal hearing Holderness J expressly assured me that she would view the recusal application "*dispassionately*" and that I need not be apologetic for criticism levelled at the Court.
38. I welcomed that assurance. It was precisely the standard the Applicants sought: not agreement with them, but a demonstrably open, even-handed and depersonalised determination of whether the Court should remain seized of the matter.
39. The concern arises because material events later in the hearing were, in my respectful submission, difficult to reconcile with that opening assurance when viewed objectively and cumulatively.

40. A working speaker-attributed transcript of the full proceedings is annexed marked "S". The separate working transcripts of the *ex tempore* recusal and costs judgments are annexed marked "T" and "U" respectively.

#### **The Jacket Issue and Its Subsequent Use as Character Evidence**

41. The first substantive exchange of the hearing concerned my attire. Holderness J stated that court attire '*generally*' required a jacket and questioned why I was not wearing one. I was dressed neatly in a black buttoned shirt, and grey tie.
42. I responded that I was unaware of any rule requiring a self-represented litigant to wear a jacket and that I had appeared before courts without such a requirement being raised.
43. The significance of the exchange is not the jacket itself. A court may plainly maintain *decorum*. The significance is what followed.
44. During the respondents' argument, counsel for the City and CapeNature. Ms O'Sullivan SC of the Cape Bar, relied upon LFN's stated objective of reforming historic British dress codes and practices and used the morning's jacket issue to support a broader narrative that the Applicants disregard rules and ordinary court requirements.
45. That transformed an unidentified professional or customary dress expectation into character evidence about the Applicants' supposed habitual disregard for court rules.

46. Viewed in isolation, the jacket exchange would not found a complaint. Viewed together with the repeated use of unrelated litigation history and the later judicial adoption of adversarial characterisations, it forms part of the broader concern that the Applicants were being adjudicated through a pre-existing litigant profile rather than only through the actual issues before Court.

**New Personal Censure Introduced by Holderness J During Her Own Recusal Hearing**

47. During the respondents' argument Holderness J, on her own initiative, introduced criticism of correspondence previously addressed to her registrar.
48. Holderness J described the tone of that correspondence as *"worthy of censure"*, *"paternalistic"* and *"patronising"*, and added that she *"...would not go so far as to describe it as racist"*.
49. That was not merely a question put to counsel. It was a new adverse characterisation introduced by the judicial officer whose own impartiality was then under adjudication and it concerned communications with her own chambers.
50. I immediately sought to ask why no complaint about the correspondence had been communicated when it allegedly occurred and why the accusation was being raised for the first time during the recusal proceedings.
51. Holderness J immediately directed me to sit down and did not permit the issue to be ventilated at that point.

52. The criticism thereafter entered the *ex tempore* recusal judgment, where the correspondence was described as "*paternalistic, patronising and arrogant*".
53. In my respectful submission, this sequence is important under Article 9 of the Code. The Court introduced adverse material of its own, curtailed the immediate attempt to answer it, and then relied upon substantially the same criticism when deciding whether it was itself manifestly impartial.
54. It is also material under Article 13, read with Note 13(iv), which recognises the importance of timeous disclosure of facts capable of giving rise to a recusal issue and adequate time for parties to consider them.

#### **The 'Bullying Stratagem' Exchange**

55. During argument for the City and CapeNature, O'Sullivan SC characterised the recusal application as a "*bullying stratagem*" and said that it formed part of the Applicants' litigation arsenal.
56. Before I had delivered my reply to that argument, Holderness J immediately responded: "*Well said. Mr De Beer can rest assured that I will not be bullied.*"
57. The concern is not that a judge may never agree with a submission. The concern is that the judicial officer whose impartiality was under consideration expressly adopted a personalised adversarial description of the recusal application before I had replied and before judgment had been delivered.

58. An objectively informed observer could reasonably understand the exchange as the Court identifying itself as the object of bullying by the litigant before it, rather than remaining visibly detached from counsel's pejorative characterisation.
59. The later recusal judgment then described the application as a "*blatant stratagem*", a "*sustained exercise in delay*" and as having the hallmarks of a "*Stalingrad defence*".
60. In my respectful submission, the oral exchange and the later language cannot safely be considered in watertight compartments. They form one continuous sequence.
61. The objective chronology also sits uneasily with the suggestion that the Complainants were attempting to bully either the respondents or the Court. The Complainants were the parties repeatedly pressing for movement: they filed the Application for Leave to Appeal within days of the Part 'A' judgment; objected to a costs-first sequence that delayed that appeal; sought delivery of the promised costs judgment; approached Goliath DJP and thereafter the Judge President for transparent case management; complied with the hardcopy procedure prescribed by the Judge President's office; and brought formal recusal only after those mechanisms failed to resolve the impasse and SANParks itself insisted that recusal, if pursued, be brought by formal application.
62. Nor do I ask the JSC to make a counter-finding that the Court or the organs of state were "bullies". The conduct question is whether it was fair and institutionally appropriate for the Court to adopt that loaded characterisation against the sole self-represented litigant when the record reflects that his submissions were repeatedly curtailed, new personal censure was introduced from the bench, the respondents' counsel were afforded materially more facilitative engagement, and he was later

denied any reply before punitive personal and coercive relief was pronounced. In that setting, the "*bullying*" label is capable of appearing to invert the actual forensic power relationship.

### **The 'Ja' and Honorific Exchange**

63. During my reply I used the ordinary Afrikaans response "*Ja*". Holderness J corrected me in a clear irritated tone that it was not "*ja*" but "*yes, My Lady*" or "*yes, Justice*".
64. I do not elevate that exchange into a standalone allegation of misconduct. I record it because it occurred in a hearing already marked by a dispute about my attire, repeated references to my status as a self-represented litigant, personal criticism of my correspondence and a dispute about whether I was sufficiently respectful of the Court.
65. Article 7 of the Code requires a judge to act courteously and respect the dignity of others, with particular sensitivity to equality and the multicultural nature of South African society.
66. Viewed cumulatively, the intervention contributed to my reasonable perception that procedural conventions and forms of address were being used as a measure of personal respectfulness against a self-represented Afrikaans-speaking litigant rather than merely to maintain necessary courtroom order.

**Continued Litigant Profiling During the Hearing**

67. The original complaint expressly objected to the use of the descriptions "*serial litigants*", "*playground*" and prior judicial admonishments as a lens through which the Applicants were characterised.
68. By 28 August 2026 Holderness J was aware that this very issue formed part of JSC/62/06/2026.
69. During the recusal hearing she nevertheless again referred to me as a "*serial litigant*", including while limiting my attempt to address unrelated judgments relied upon against me.
70. This becomes particularly relevant when regard is had to the fact that the City of Cape Town, CapeNature and SANParks are themselves recurrent institutional litigants regularly appearing before our courts. If, as Holderness J explained, the expression "*serial litigant*" was intended merely as a neutral description of a party who appears frequently in litigation, there is no apparent reason why the same neutral descriptor would not equally apply to those institutional litigants. Yet it was repeatedly reserved for the Complainants and used in conjunction with adverse references to their litigation history, alleged prior admonishments and supposed abuse of court process. In that context, the selective use of the expression is reasonably capable of demonstrating that "*serial litigant*" was not employed neutrally or descriptively, but as a pejorative characterisation of the Complainants and as part of the adverse litigant profile complained of herein.

71. The respondents relied extensively upon earlier adverse judgments and then upon the later Le Grange J judgment as confirmation that other judges had reached similar adverse conclusions concerning LFN and myself.
72. The recusal judgment in turn treated Le Grange J's later judgment as persuasive confirmation that Holderness J's own adverse characterisation was not particular to her.
73. This reasoning is of special concern because the complaint itself alleges a self-reinforcing process of litigant profiling: one adverse judicial characterisation is imported into another unrelated case, which is then cited as confirmation in the next.
74. The Applicants do not allege collusion between judges. The complaint is about the institutional danger of propensity reasoning based on unrelated judicial criticism where the underlying records are not fully before the deciding court.

**Differential Judicial Receptivity, Repeated Interruption and Curtailment of the Self-Represented Litigant**

75. A further material feature of the proceedings of 28 August 2026, which becomes particularly significant when the hearing is assessed as a whole, is the markedly different manner in which my oral submissions were repeatedly interrupted, redirected, curtailed or terminated when compared with the treatment afforded to counsel appearing for the organs of state.
76. I acknowledge fairly that Holderness J initially allocated me 20 minutes for opening argument on the recusal application and permitted that opening to continue for close to 30 minutes. My complaint is therefore not a mechanical complaint about the clock,

nor do I suggest that every judicial interruption is improper. Judges are entitled, and often required, to control oral argument, test propositions and keep submissions relevant.

77. The concern lies instead in the qualitative pattern of the interventions. During my opening submissions Holderness J expressly stated, "*I am going to interrupt you*", corrected what she regarded as my legal position on costs, and later again stated, "*I'm going to interrupt you*", before directing that the subjects I was attempting to address were not matters she was willing to hear further. The practical effect was not merely to test the submissions but repeatedly to stop particular lines of argument before I could complete the point I was attempting to develop.
78. The same pattern became more pronounced during reply. When I attempted to explain the uncertainty surrounding the Court Online and hardcopy practice after Holderness J herself had raised the hardcopy issue, I was told that the matter was "*definitely not before*" her, that the Court had limited time, and that I was to move on. When I attempted to respond to the Court's newly introduced criticism of my correspondence to her registrar, I was told to sit down and was later confined to the pre-existing papers, notwithstanding that the criticism itself had arisen for the first time during the hearing.
79. Later in reply, when I attempted to address the Goliath DJP process and the danger of relying upon unrelated judgments as litigant-profile material, the Court repeatedly stopped the line of submission, declined to permit further evidence from the bar, required me to explain relevance before completing the point, gave me a "*final opportunity*" to address the Court, reduced the remaining time to "*two minutes*", and

ultimately stated, while I was still attempting to respond, "*I'm now cutting...*" before bringing my submissions to an end.

80. Several of those interventions occurred while I was attempting to answer propositions which had themselves been introduced by the respondents or by Holderness J during the hearing: the hardcopy issue; the alleged failure to file costs submissions; the criticism of communications with the registrar; the relevance of unrelated judgments; the timing of the JSC complaint; and the contention that the recusal application was a tactical device. Fairness required a meaningful opportunity to answer those propositions, particularly where they later featured in the *ex tempore* reasoning.
81. The comparative treatment of the represented respondents was materially different. Counsel were also interjected upon from time to time, but the interventions reflected in the transcript were predominantly clarificatory, facilitative or affirming: requests for page or paragraph references, questions assisting chronology, statements of the Court's own thinking, supplementation of counsel's propositions, and expressions of agreement. They were not comparably directed to terminating counsel's substantive lines of argument or preventing counsel from developing the adverse case against the Complainants.
82. Examples include Holderness J supplying or reinforcing propositions during counsel's submissions that there had been no recusal application before 14 August 2026, emphasising the burden upon the taxpayer, articulating her own reasoning concerning when recusal ordinarily ought to be sought, stating that the earlier leave application "*plainly did not*" constitute a recusal application, and ultimately responding "*Well said*" to the characterisation of the recusal application as a bullying *stratagem*.

Those interventions objectively assisted or reinforced the respondents' case rather than curtailing it.

83. I emphasise that the complaint is not that a judge must remain silent or afford identical numbers of questions to each participant. The relevant question is whether, viewed cumulatively, there was materially equal judicial receptivity: whether each side was afforded a genuinely equivalent opportunity to develop its case, answer adverse propositions and complete material submissions without one side being repeatedly stopped while the other side's propositions were clarified, supplemented or endorsed.
84. The contrast is particularly serious because I was the only self-represented participant addressing the Court against professional counsel acting for organs of state. Article 7 of the Judicial Code requires courtesy, dignity, equality before the law and freedom from bias or prejudice. Article 9 requires the letter and spirit of *audi alteram partem*, manifest impartiality, patience and courtesy. Note 10(v) further cautions against a pattern of intemperate or intimidating treatment or conduct evidencing arbitrariness or abusiveness.
85. The Judicial Conduct Committee has already treated a closely analogous complaint as conduct capable of investigation rather than as a disguised appeal. In *Mkhize v Nkosi J (JSC/1028/2022) [2024] ZAJSC 19*, an unrepresented litigant alleged that the judge excessively and continuously interjected while he presented argument, while his opponent experienced only minor interjections. The Committee held that, if established, those allegations were reasonably capable of supporting an apprehension that the judge was not impartial and referred the complaint for an inquiry under section 17 of the *JSC Act*. The relevance here is not that Mkhize

predetermines this complaint, but that comparative judicial interruption and differential receptivity are recognised conduct issues capable of objective investigation from the hearing record.

86. The principle is reinforced by *Dlamini v Nkosi J and Another (JSC/18/02/24) [2025] ZAJSC 18*, where allegations that a judge appeared to take sides or advance the position of one party were treated as allegations concerning the manner of judicial conduct and were not summarily excluded merely because they arose during adjudication. In the present matter, the official audio and transcript permit the JSC to examine the comparative treatment objectively rather than on my subjective impression alone.
87. This feature must also be read with the separate complaint, addressed *infra*, that after the Applicants' opening costs submissions the represented respondents were permitted to answer fully, but I was afforded no reply at all before Holderness J immediately pronounced extraordinary punitive, personal and Part 'B' restraining relief. The two issues are connected: repeated curtailment during recusal was followed by complete absence of reply during the subsequent costs determination.

#### **Use of the Pending JSC Complaint as Adverse Material**

88. The pending JSC complaint was not simply acknowledged as an external accountability process. Its timing was expressly incorporated into the recusal reasoning.

89. Holderness J recorded that the complaint had been lodged shortly after the parties were told that costs would be decided before leave to appeal and stated, in substance, that what was "*curious*" was its timing.
90. The costs judgment similarly relied upon the fact that, during the period in which the Applicants were accused of not dealing with costs, they had managed to bring an Application for Leave to Appeal, a JSC complaint, and approaches to the offices of the Judge President and Deputy Judge President. The fuller chronology set out *supra* demonstrates that those head-of-court approaches were not collateral diversions: they were transparent attempts to obtain neutral case management after the promised costs judgment and urgent appellate process had failed to materialise.
91. The practical message conveyed is troubling: resort by a litigant to the constitutionally prescribed judicial complaints mechanism was treated as one of the circumstances supporting an adverse view of the litigant's conduct.
92. I respectfully submit that this is capable of chilling legitimate complaints. A litigant should not reasonably have to fear that lodging a JSC complaint will later be used by the complained-of judge as circumstantial evidence of obstruction, bad faith, delay or litigation strategy.
93. This is particularly serious where the judge is simultaneously determining punitive costs and personal liability against that complainant.

**Holderness J's Invitation to Supplement the JSC Complaint**

94. When I attempted to rely during reply upon the new criticism of my correspondence, Holderness J stated that if I wished to supplement my complaint to the JSC there was nothing precluding me from doing so and that the JSC would be the forum in which to raise the new complaint.
95. In formal terms, the statement is correct: I am entitled to supplement this complaint.
96. The concern lies in the surrounding circumstances. The statement was made after Holderness J had herself introduced new personal censure, including the reference to racism, during her own recusal hearing; had curtailed my immediate attempt to answer; and thereafter proceeded to incorporate the criticism into the recusal judgment.
97. I experienced that stance as dismissive and institutionally arrogant: in effect, the Court appeared prepared to continue and even intensify the very conduct already complained of while directing me to complain again if dissatisfied.
98. I do not suggest that the JSC process should intimidate a judge. I do submit that a pending judicial-misconduct complaint should be treated with institutional seriousness. Repeating or amplifying the complained-of conduct and then inviting the complainant to add another complaint can reasonably create the appearance of indifference to the accountability mechanism.
99. Article 4's protection of judicial independence cannot be converted into immunity from scrutiny. Note 4(iv) expressly makes that distinction.

**The Recusal Judgment and the Escalation of Pejorative Characterisation**

100. The recusal judgment dismissed the application as being without merit and, in addition to the findings already identified, characterised it as a blatant *stratagem*, a sustained exercise in delay and a '*Stalingrad defence*'.
101. The judgment further relied upon the alleged five- or six-month failure to address costs, the timing of the JSC complaint, the hardcopy issue, prior unrelated judgments and the later Le Grange J judgment.
102. The Applicants dispute several of those factual premises and have challenged them in the protective Application for Leave to Appeal annexed marked "V".
103. The JSC is not asked to decide those appellate grounds. Their conduct relevance is narrower: grave findings of ulterior motive and abuse were used together with highly personal language while the judge was deciding an application alleging that her prior language and litigant profiling already demonstrated a reasonable apprehension of bias.
104. The result, in my respectful submission, was escalation rather than depersonalisation.

**The 'Stalingrad Defence' Characterisation and the Objective Chronology**

105. The "*Stalingrad defence*" characterisation deserves separate treatment because it carries a recognised jurisprudential meaning. In *Moyo v Minister of Justice and Constitutional Development and Others; Sonti v Minister of Justice and Correctional Services and Others* (387/2017; 386/2017) [2018] ZASCA 100; 2018 (2) SACR 313 (SCA) at [169], the Supreme Court of Appeal described the expression as a term of art associated with criminal defence tactics in which preliminary or collateral litigation delays the commencement or continuation of a criminal trial. Later courts have sometimes used the metaphor by analogy outside criminal proceedings to describe deliberate procrastination or procedural obstruction, including *S.L v A.C* (8030/2021) [2025] ZAWCHC 565 at [113]–[115]. I therefore do not advance the semantic contention that the expression is legally confined to criminal accused persons.
106. The material point is functional rather than semantic. Across those contexts, the sting of the expression lies in a demonstrated strategy of obstruction or delay: the use of procedural steps not principally to obtain their lawful determination, but to prevent or postpone the underlying proceedings from reaching adjudication. The mere existence of interlocutory litigation, an appeal, a recusal application or resort to a constitutional accountability mechanism cannot, without more, establish such a strategy.
107. Against that meaning, the objective chronology in the present matter is difficult to reconcile with the label. LFN and I were the Applicants seeking urgent protective relief. We lodged the Application for Leave to Appeal within days of the Part 'A' judgment, repeatedly sought its enrolment, sought delivery of the reserved costs judgment after it had been promised for June to be effected in chambers as per the

original court order, and thereafter approached Goliath DJP and the Judge President precisely because the appeal and costs processes were not moving. We complied with the Judge President's prescribed hardcopy process and brought formal recusal only after the less intrusive administrative route produced no substantive response and SANParks had itself insisted that recusal, if sought, be pursued formally.

108. The recusal judgment specifically described the alleged strategy as being aimed "*not at winning, but at preventing costs being determined*". Yet the costs determination remained throughout within the Court's own control. The order of 25 February 2026 contemplated determination in chambers; on 9 June 2026 Holderness J's registrar stated by her direction that the costs judgment would be delivered by the end of the following week; and no judgment followed until 28 August 2026. The Applicants' consistent position was not that costs should never be determined, but that the costs-first sequencing should not render the urgent appellate challenge ineffective and that recusal had to be resolved before Holderness J exercised further coercive jurisdiction over them.
109. The represented respondents, by contrast, advocated continuation of the costs-first sequence and opposed the Applicants' requested head-of-court case-management course. I do not allege as an established fact that those respondents deliberately stalled the litigation, nor do I contend that every period of institutional delay amounted to misconduct. The narrower and objectively testable point is that the record contains substantial contrary indicators which had to be squarely confronted before assigning to the Complainants a metaphor whose central meaning is intentional procrastination and obstruction.

110. The conduct issue for the JSC is therefore not whether the appellate court will ultimately hold that the "*Stalingrad defence*" description was legally permissible. It is whether, while a formal complaint already alleged pejorative profiling and apprehended bias, the adoption of that vivid and highly adverse motive-characterisation without meaningful engagement with the contrary chronology constituted another evidence-based judicial finding or instead an escalation of the litigant profile already complained of. The metaphor then fed directly into the findings of abuse and the punitive consequences imposed later that day, giving it significance beyond rhetorical flourish.

**The Costs Hearing: Denial of the Applicants' Right of Reply**

111. After delivering the recusal judgment, Holderness J immediately proceeded to hear the reserved Part 'A' costs.
112. I addressed the Court first. I referred the Court to Part 'L' of the Application for Leave to Appeal in respect of the 25 February 2026 judgment and to the Applicants' Heads of Argument on costs. Holderness J confirmed that she had read those submissions.
113. When I said there was nothing further to add, that plainly concluded the Applicants' opening submissions. The represented organs of state had not yet delivered their oral answers.
114. Ms O'Sullivan SC then made substantive oral submissions, handed up further extracts from authorities, and advanced argument concerning the alleged absence of genuine constitutional import, the *Biowatch* exception, vexatiousness and abuse.

115. SANParks' counsel, Mr De Beer, thereafter advanced further submissions concerning personal *de bonis propriis* liability and, importantly, the restraint ultimately granted against continuation of Part 'B'. He expressly acknowledged that his client had not brought a formal application for that restraint and relied instead upon the Court's inherent power.
116. After the respondents' answering submissions concluded, I was not invited or permitted to reply. Holderness J proceeded immediately to deliver the *ex tempore* costs judgment.
117. This is starkly contrasted with the recusal hearing earlier that morning, where the Court expressly recognised that I had a right of reply after the respondents.
118. Article 9(a)(i) of the Code expressly requires a judge to observe the letter and spirit of the *audi alteram partem* rule. Article 9(a)(ii) requires manifest impartiality. The denial of reply before extraordinary punitive and personally prejudicial relief was pronounced is therefore not merely an appellate technicality; it is directly relevant to the Code's fair-hearing standard.
119. Note 9(vi) further recognises that where a provisional view is put, justice may require that a party be afforded an opportunity to deal with it. Here the respondents introduced further authority and an extraordinary restraint, yet no reply was allowed.

**The Costs Judgment and Material Factual Premises Relevant to Conduct**

120. The costs judgment imposed attorney-and-client costs, including two counsel where employed, upon me personally *de bonis propriis*, and prohibited both Applicants from continuing with Part 'B' until the Part 'A' costs had been satisfied.
121. The judgment repeatedly proceeded on the premise that the Applicants had said nothing on costs for approximately five months and had disregarded the Court's direction.
122. That assertion is materially disputed. Part 'L' of the Application for Leave to Appeal dated 2 March 2026 – already before the JSC as Annexure "B" to the original complaint – expressly dealt with punitive costs and *de bonis propriis* liability before the 6 March 2026 deadline.
123. Whether Part 'L' constituted complete or substantial compliance is an appellate question. The conduct concern is that the nuanced question of compliance was converted into the categorical proposition that the Applicants had said nothing at all and that this supposed silence showed contentious disregard and an ulterior effort to avoid costs.
124. The judgment also relied upon the Application for Leave to Appeal, the JSC complaint and approaches to Heads of Court as conduct occurring during the same period and supporting the Court's adverse assessment.
125. The 9 June 2026 email, Annexure "E", meanwhile shows that Holderness J had herself regarded the costs issue as ripe for judgment and promised delivery by the



end of the following week (in chambers). The substantial later delay cannot therefore fairly be portrayed as the product only of the Applicants' conduct.

126. These matters are appealed separately. They are recorded here because the punitive costs reasoning demonstrates how the disputed litigant profile and the Applicants' use of accountability mechanisms translated into direct personal and financial consequences.

**The Part 'B' Restraint and Ongoing Practical Consequences**

127. The order pronounced on 28 August 2026 further provides that neither LFN nor I may continue with litigation relating to Part 'B' until the Part 'A' costs orders have been satisfied.
128. The restraint was imposed before those costs had been taxed, quantified or demanded and after SANParks acknowledged that no formal application had been brought for the relief.
129. The Applicants were afforded no reply after that submission and before the order was made.
130. The Applicants have lodged a separate protective Application for Leave to Appeal against the costs judgment and Part 'B' restraint, annexed marked "W". They contend that the order is final in nature and effect and that its operation is suspended under section 18(1), read with section 18(5), of the *Superior Courts Act* upon lodgment of leave.

131. The restraint is relevant to this complaint because it demonstrates the unusually severe practical consequences of the complained-of conduct. The Court's adverse characterisation of the Applicants did not remain rhetorical; it culminated in personal punitive costs and a barrier against continuation of the remaining constitutional case.
132. The underlying litigation remains urgent in the real world. The affected baboons are understood to be scheduled for relocation to the proposed sanctuary on or about 12 September 2026. The Applicants' final urgent head-of-court letter dated 8 September 2026 is annexed marked "X".

**Clarification of the Judicial Code of Conduct Provisions Relied Upon**

133. For precision, this supplement clarifies the provisions of the *Judicial Code of Conduct* most directly engaged by the complaint. To the extent that paragraph 78 of the original complaint used shorthand references which associated particular duties with Articles 13 or 14, the Applicants rely on the correct provisions set out below. The substance of the original complaint is not withdrawn.
134. Article 4 requires judicial independence and integrity. Its Note 4(iv) makes clear that independence does not justify judicial misbehaviour or provide an excuse for failing to act in accordance with the Code.
135. Article 5 requires a judge to act honourably and in a manner befitting judicial office. Note 5(ii) requires avoidance of impropriety and its appearance; Note 5(iv) requires objective assessment through the eyes of the reasonable person.

136. Article 7(b) requires courtesy and respect for the dignity of others; Article 7(c) requires special attention to equality before the law and equal protection and benefit of the law; and Article 7(d) requires a judge to refrain from bias or prejudice.
137. Article 9(a) requires a fair hearing, observance of *audi alteram partem*, manifest impartiality and adequate reasons. Article 9(b)(iii) requires patience and courtesy to legal practitioners, parties and the public.
138. Note 9(iv) recognises that judges may express critical views but cautions against harsh language and against derogatory statements actuated by personal spite, ill will or improper, unlawful or ulterior motive.
139. Article 10 requires judicial business to be disposed of promptly, efficiently and without undue delay. Note 10(v) specifically cautions against a pattern of intemperate or intimidating treatment or conduct evidencing arbitrariness or abusiveness.
140. Article 11(1)(e) requires a judge to avoid personality issues with colleagues, lawyers and parties.
141. Article 13 governs recusal where there is a real or reasonably perceived conflict or reasonable suspicion of bias based on objective facts. Note 13(ii) expressly recognises that annoyance at the suggestion of recusal is not a ground bearing upon the recusal duty, and Note 13(iv) requires timeous disclosure of potentially disqualifying facts and adequate time for parties to consider them.
142. The comparative-interruption complaint is supported by the approach of the Judicial Conduct Committee in *Mkhize v Nkosi J* (JSC/1028/2022) [2024] ZAJSC 19, particularly paragraphs [2], [19], [20] and [25], where allegations by an unrepresented

litigant of excessive judicial interjection of his argument coupled with materially lesser interjection of his opponent were held, if established, to be reasonably capable of supporting an apprehension of partiality and warranted a section 17 inquiry. *Dlamini v Nkosi J and Another (JSC/18/02/24) [2025] ZAJSC 18* further confirms that allegations concerning a judge appearing to take sides engage judicial conduct and are not necessarily complaints solely about the merits of a judgment.

143. I respectfully submit that the new conduct, considered cumulatively with the original complaint, is capable of falling within section 14(4)(b) and (e) of the *Judicial Service Commission Act* as a wilful or grossly negligent breach of the Code and/or other wilful or grossly negligent conduct incompatible with or unbecoming judicial office and prejudicial to the independence, impartiality, dignity, accessibility, efficiency or effectiveness of the courts.
144. I further submit that, if established in its cumulative form, the conduct is sufficiently serious to warrant the Committee considering whether it may amount to gross misconduct as contemplated by section 14(4)(a) and section 177(1)(a) of the *Constitution*.

#### **Pattern Inquiry and Whether Other Complaints Exist**

145. Holderness J and the respondents repeatedly relied upon what they described as a pattern in the Applicants' prior litigation. I have objected to that methodology where unrelated judgments are used as propensity evidence without the underlying records being fully before Court.

146. I do not seek to reproduce the same error against Holderness J. A mere complaint against a judge is an allegation, not proof of misconduct, just as an adverse judgment in unrelated litigation should not automatically become proof of a litigant's character in a different matter.
147. I am not presently aware of any publicly reported JSC or Judicial Conduct Committee decision concerning prior complaints against Holderness J. A reasonable search of public sources has not disclosed one. I therefore make no allegation that other complaints in fact exist.
148. The Judicial Conduct Committee and JSC, however, are uniquely placed to know whether other complaints have been lodged and how they were disposed of. Because Note 10(v) of the Code itself recognises the significance of a pattern of intemperate or intimidating treatment, I respectfully request the Committee to ascertain whether there are any prior or pending complaints involving materially similar conduct.
149. If such matters exist, I request that they be considered only insofar as lawfully permissible, genuinely relevant and procedurally fair, and preferably only where the allegations have been independently substantiated or have progressed beyond summary dismissal. Holderness J must be afforded a proper opportunity to respond to any such material.
150. That is not judicial 'profiling'. It is a request for an evidence-based institutional pattern inquiry applying the same objective standard to a judicial officer that the Code itself contemplates, without treating untested allegations as established facts.



**Why Precautionary Suspension Is Now Requested**

151. The original complaint did not request suspension. The developments of 28 August 2026 materially change the position.
152. The complaint is no longer confined to the language of the 25 February judgment and later delay. After formal notice of the complaint, Holderness J remained in control of the matter, heard and dismissed her own recusal application, introduced further personal censure, expressly adopted the '*bullying*' characterisation, treated the timing of the JSC complaint as adverse material, imposed punitive costs, imposed personal *de bonis propriis* liability, and granted a restraint against continuation of Part 'B'.
153. The resulting relationship between Holderness J and the Complainants has become intensely personalised. This is precisely the circumstance in which institutional confidence may require a precautionary separation while the complaint is investigated.
154. The concern is strengthened by the comparative conduct of the hearing itself. The repeated curtailment of the self-represented Complainant's attempts to complete responsive submissions, contrasted with the materially more facilitative and at times affirming engagement with counsel for the organs of state, creates an ongoing institutional risk that any further proceeding involving the same parties before Holderness J will itself generate additional allegations of unequal treatment before the present complaint has been independently determined.
155. The concern is further intensified by the combined use of the "*bullying stratagem*" and "*Stalingrad defence*" labels. Continued adjudication by Holderness J would require

the same judicial officer to determine future issues involving litigants whom she has already characterised, in substance, as both attempting to bully her and deliberately obstructing the judicial process. Where those labels are themselves now challenged as unsupported inversions of the documented chronology, continued direct adjudicative interaction risks entrenching the personal contest which precautionary separation is intended to avoid.

156. I respectfully stress that suspension is not punishment and would not constitute a finding of guilt. Its purpose would be protective: to preserve public confidence, protect the integrity of the JSC process, protect Holderness J from further allegations arising from continued interaction with the Complainants, and protect litigants from the appearance that a pending complaint has become part of the forensic contest.
157. Section 177(3) of the *Constitution* does not empower the JSC itself to suspend a judge. It provides that the President, on the advice of the JSC, may suspend a judge who is the subject of a procedure contemplated in section 177(1).
158. The statutory route is therefore important. Under section 16 of the *Judicial Service Commission Act*, where a complaint, if established, is likely to lead to a finding of incapacity, gross incompetence or gross misconduct, the matter may be recommended for investigation by a Judicial Conduct Tribunal. Under section 19(1), where the Commission has reasonable grounds to suspect gross misconduct, it must request the Chief Justice to appoint a Tribunal.
159. I accordingly request that this supplement be considered urgently for classification under section 16 and, if the statutory threshold is met, that the complaint be referred to a Tribunal under section 19(1).

160. At the earliest lawful point at which Holderness J is the subject of the section 177(1) procedure, I request the JSC to consider advising the President under section 177(3) to suspend Holderness J from active judicial duties pending the final determination of the disciplinary process.
161. Any such advice may, if the JSC considers it necessary in the interests of continuity, be subject to appropriate conditions concerning genuinely part-heard matters or reserved judgments. I respectfully submit, however, that case number 2026-024184 and any other matter involving LFN or myself should not be included among matters that Holderness J continues to adjudicate during such a suspension.
162. The request is exceptional, but so is the present factual setting. A judge complained of for alleged bias has continued to exercise coercive judicial power over the Complainants while the complaint remained pending and has used the complaint itself as part of the adverse chronology against them.
163. In my respectful submission, there is a real institutional risk in leaving that position unchanged while the complaint process runs its course.

**Alternative Interim Safeguards if Suspension Is Considered Premature**

164. If the Committee or Commission considers that the constitutional threshold for advice under section 177(3) has not yet been reached, I request that this not result in the matter simply continuing without safeguard.

165. I request, in the alternative, that the complaint be expedited and that the JSC or Judicial Conduct Committee consider communicating, through the constitutionally appropriate channel, the existence and seriousness of the pending complaint to the Chief Justice and Head of the Western Cape Division for case-management purposes.
166. I further request that, pending determination of the complaint, Holderness J not be allocated new matters involving LFN or myself and, insofar as lawfully possible, that unresolved matters involving us be placed before another judicial officer or properly constituted court.
167. I recognise that case allocation is ordinarily an administrative function of the Head of Court and that the JSC should not itself purport to allocate cases. The request is therefore for lawful institutional coordination, not for the JSC to exercise powers it does not possess.

### **Relief Sought**

168. I respectfully request the Judicial Conduct Committee and Judicial Service Commission to:
- 168.1. accept this supplementary affidavit and annexures as part of JSC/62/06/2026;



- 168.2. investigate the conduct of Holderness J during the proceedings and *ex tempore* judgments of 28 August 2026, including the matters identified herein;
- 168.3. investigate, in particular, by reference to the complete official audio and transcript of 28 August 2026, the comparative frequency, nature, purpose and effect of Holderness J's interventions during the Complainants' oral submissions and those of counsel for the organs of state; determine whether the Complainants' material lines of argument were repeatedly curtailed or terminated while respondents' counsel were afforded materially greater judicial receptivity; and determine whether that comparative treatment was consistent with Articles 7 and 9 of the *Judicial Code of Conduct* and the standard recognised in *Mkhize v Nkosi J*;
- 168.4. obtain and preserve the official audio recording of the entire proceedings of 28 August 2026 and compare the working transcripts annexed hereto against that official record;
- 168.5. invite Holderness J to respond specifically to the new allegations, including the registrar-correspondence censure, the '*bullying stratagem*' exchange, the use of the pending JSC complaint as adverse material, the denial of reply in the costs hearing, and the factual premise that the Applicants said nothing on costs;
- 168.6. investigate the factual and objective basis for the "*bullying stratagem*", "*blatant stratagem*", "*sustained exercise in delay*" and "*Stalingrad defence*" characterisations; compare those labels with the documented chronology of



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the Complainants' repeated attempts to secure delivery of the costs judgment, enrolment of the Application for Leave to Appeal and transparent head-of-court case management; and determine whether the adoption and use of those characterisations were consistent with Articles 5, 7, 9 and 10 of the *Judicial Code of Conduct*;

- 168.7. investigate the documented chronology of the Applicants' attempts between 17 July and 13 August 2026 to obtain transparent administrative case-management intervention through Goliath DJP and thereafter the Judge President, including the reasons for those approaches, the express undertaking by the Judge President's office to revert, the Applicants' compliance with the prescribed hardcopy procedure, the absence of a substantive response and the eventual JSC complaint under JSC/95/08/2026; and consider that chronology when assessing the later characterisation of the recusal application and related accountability steps as tactical delay or abuse;
- 168.8. determine whether the cumulative complaint falls within section 14(4)(b) and/or section 14(4)(e) of the *JSC Act*;
- 168.9. consider whether, if the complaint is established, it is likely to lead to a finding of gross misconduct under section 14(4)(a) and section 177(1)(a) of the *Constitution*, and accordingly whether the procedure in section 16 should be invoked;



- 168.10. if reasonable grounds exist as contemplated in section 19(1), recommend and/or resolve that the complaint be investigated by a Judicial Conduct Tribunal and request the Chief Justice to appoint such Tribunal;
- 168.11. once the constitutional and statutory threshold is lawfully engaged, consider advising the President in terms of section 177(3) of the *Constitution* to suspend Holderness J pending finalisation of the disciplinary process, subject to such lawful conditions as may be appropriate;
- 168.12. alternatively, if suspension is considered premature, expedite the complaint and consider appropriate institutional communication aimed at preventing further allocation to Holderness J of matters involving LFN or myself while the complaint remains unresolved;
- 168.13. ascertain from the JSC's own records whether there are any other prior or pending complaints involving materially similar allegations against Holderness J, and, if so, consider them only to the extent lawfully relevant, procedurally fair and supported by independently substantiated facts;
- 168.14. clarify whether the Applicants may submit the available audio recording electronically as part of the complaint record and, if required, provide a secure method for doing so;
- 168.15. notify the complainants in writing of the procedural classification of the complaint, whether it is being dealt with under section 15, 16 or 17, and of any decision to refer or not refer the complaint for Tribunal investigation; and

- 168.16. take such further disciplinary, corrective, protective or remedial measures as the JSC considers lawful and appropriate.

**Annexures to this Supplement**

169. The annexures filed with this supplement continue alphabetically from Annexures "A" to "C" filed with the original complaint and are as follows:

- 169.1. Annexure "D": JSC acknowledgment dated 3 June 2026, reference JSC/62/06/2026.
- 169.2. Annexure "E": Email from Holderness J's registrar dated 9 June 2026 recording that the reserved costs judgment would be delivered by the end of the following week.
- 169.3. Annexure "F": Applicants' urgent administrative case-management letter to Goliath DJP dated 17 July 2026.
- 169.4. Annexure "G": Email from Ms Elmarie Sievers dated 18 July 2026 recording that Goliath DJP was on leave and referring the request to the registrars of the Office of the Judge President to assist.
- 169.5. Annexure "H": Letter from the attorneys for the City of Cape Town and CapeNature dated 21 July 2026 opposing the Applicants' case-management position and supporting determination of Part 'A' costs before the Application for Leave to Appeal.

- 169.6. Annexure "I": Applicants' response dated 22 July 2026 to the Judge President and parties clarifying the administrative nature of the request and the continuing urgency created by delay and implementation.
- 169.7. Annexure "J": Letter from the attorneys for SANParks dated 28 July 2026 contending, *inter alia*, that recusal should be pursued formally and that costs should precede the Application for Leave to Appeal.
- 169.8. Annexure "K": Email from the Office of the Judge President dated 29 July 2026 prescribing the court-file procedure and expressly undertaking to revert once the file had been received and the Judge President had considered the matter.
- 169.9. Annexure "L": Applicants' covering letter dated 31 July 2026 accompanying the consolidated indexed and paginated hardcopy case-management bundle delivered for the Judge President.
- 169.10. Annexure "M": Email exchange dated 3 August 2026 concerning the hardcopies, including the Judge President's office stating that it awaited them, the Applicants recording their prior physical delivery, and Mr Mabuya from Holderness J's chambers acknowledging receipt.
- 169.11. Annexure "N": Complaint against Judge President Mabindla-Boqwana dated 13 August 2026 concerning, *inter alia*, the unresolved case-management request and absence of a substantive head-of-court response.

- 169.12. Annexure "O": JSC acknowledgment dated 14 August 2026 of the complaint against Judge President Mabindla-Boqwana under reference JSC/95/08/2026.
- 169.13. Annexure "P": Commissioned Applicants' Urgent Recusal Founding Affidavit dated 14 August 2026.
- 169.14. Annexure "Q": Directives of Holderness J dated 18 August 2026 enrolling the recusal application and outstanding costs issue for 28 August 2026.
- 169.15. Annexure "R": Applicants' email dated 19 August 2026 concerning the 28 August directives, the anterior nature of recusal and reservation of the recusal objection.
- 169.16. Annexure "S": Working speaker-attributed transcript of the full proceedings before Holderness J on 28 August 2026.
- 169.17. Annexure "T": Working transcript of the *ex tempore* recusal judgment delivered on 28 August 2026.
- 169.18. Annexure "U": Working transcript of the *ex tempore* costs judgment delivered on 28 August 2026.
- 169.19. Annexure "V": Applicants' protective Application for Leave to Appeal against the recusal judgment and order, dated 8 September 2026.
- 169.20. Annexure "W": Applicants' updated protective Application for Leave to Appeal against the costs judgment and Part 'B' restraint, dated 8 September 2026.

169.21. Annexure "X": Applicants' final extremely urgent head-of-court case-management letter to the Judge President dated 8 September 2026.

### Conclusion

170. This supplement is advanced in good faith and in the public interest. It is not intended to punish Holderness J for deciding against the Applicants or to convert appealable error into judicial misconduct.
171. The Applicants accept that judges must be robust, must control proceedings and must sometimes criticise litigants. The Code itself recognises that reality.
172. The constitutional line is crossed, however, when the cumulative conduct is reasonably capable of creating an appearance that the adjudicative process has become personalised; that the Court has aligned itself with adversarial characterisations; that a litigant's resort to the JSC is itself used adversely against the litigant; or that elementary *audi* rights are denied before severe personal and coercive relief is imposed.
173. The cumulative picture now also includes materially differential judicial receptivity: repeated interruption, redirection and curtailment of the self-represented Complainant's material submissions, contrasted with predominantly clarificatory, facilitative or affirming engagement with the professional counsel advancing the opposing case.
174. The cumulative picture further includes the attribution of a "*Stalingrad defence*" and "*bullying stratagem*" to the Complainants notwithstanding a documentary chronology showing repeated efforts by them to accelerate adjudication and preserve effective

appellate relief. Whether those labels can ultimately be objectively justified is a matter for investigation; their apparent inversion of the chronology materially intensifies the concern that adverse motive was being inferred through a pre-existing litigant profile.

175. The events of 28 August 2026 have materially intensified the concerns recorded on 1 June 2026. They warrant urgent investigation, and in my respectful submission they warrant the Committee considering the potentially impeachable procedure and the JSC considering precautionary suspension at the earliest lawful stage.
176. The integrity of the judiciary is protected not by insulating judges from accountability but by demonstrating that the same *Constitution* which gives judges independence also subjects the exercise of judicial office to objective standards of fairness, restraint, dignity and accountability.
177. I accordingly request the relief set out *supra*.



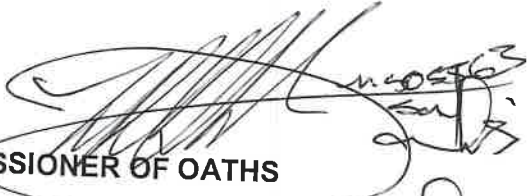
REYNO DAWID DE BEER

DEPONENT

Signed and sworn to me at Fish Hoek on this 09 day of **SEPTEMBER 2026**, the deponent having acknowledged that he knows and understands the contents of this affidavit; that he has no objection to taking the prescribed oath; that he



regards the oath as binding on his conscience; and that all prescribed formalities have been complied with.

  
COMMISSIONER OF OATHS

Full Names and Surname:

Address:

Designation:

*Z. Fisher*  
*SAPS Fish Hoek*  
*Sgt.*



# **ATTACHMENT G**

**13 & 14 August 2026**

Commissioned JSC complaint against Judge President Mabindla-Boqwana dated 13 August 2026, together with the JSC acknowledgement under reference JSC/95/08/2026 dated 14 August 2026.

Bundle pages 115 - 149

**IN THE MATTER OF A COMPLAINT AGAINST  
JUDGE PRESIDENT N. P. MABINDLA-BOQWANA  
OF THE WESTERN CAPE DIVISION OF THE HIGH COURT  
TO THE JUDICIAL SERVICE COMMISSION  
AFFIDAVIT**

Complaint contemplated in sections 14(3) and 14(4) of the Judicial Service Commission  
Act, 1994 (Act No. 9 of 1994)

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I, the undersigned:

**REYNO DAWID DE BEER**

**Identity Number: 7606235089080**

do hereby make oath and state:

### **Introduction**

1. I am an adult male and the President of Liberty Fighters Network (“LFN”), a voluntary association without gain (*universitas*) which engages in public-interest and constitutional litigation and assists persons who are not professionally represented. My business address is situated at Monkey Valley Resort, 1 Mountain Road, Noordhoek, Western Cape. My mobile number is 067 735 7288 and my electronic mail address is [reyno@libertyfighters.org](mailto:reyno@libertyfighters.org).
2. I am duly authorised to depose to this affidavit on behalf of LFN and in my own capacity as Second Applicant *nomine officio* in proceedings instituted in the High Court of South Africa, Western Cape Division, Cape Town, under case number 2026-024184 (“the High Court proceedings”). LFN and I institute this complaint jointly.
3. The judicial officer against whom this complaint is directed is Madam Judge President N. P. Mabindla-Boqwana (“Mabindla-Boqwana JP” or “the Judge President”), the Head of Court of the Western Cape Division.
4. The complaint arises from the Judge President’s handling, alternatively failure to handle, a formally referred and expressly urgent request for administrative case-

management intervention concerning a pending application for leave to appeal in the High Court proceedings. The request was made after the application for leave to appeal had remained unheard for months while the environmental measures challenged in the proceedings continued to be implemented.

5. Where I refer to an annexure, the contents thereof are incorporated herein as if specifically traversed under oath. I further request that the record of my existing complaint against Holderness J, acknowledged under JSC reference JSC/62/06/2026, be read with this complaint to the extent that the two complaints concern the same High Court proceedings and overlapping post-judgment events.

### **Nature and Jurisdictional Basis of the Complaint**

6. This complaint is deliberately confined to judicial conduct and head-of-court administration. It does not ask the Judicial Service Commission (“JSC”) to sit as an appellate court, to determine whether Holderness J was legally correct on the merits of Part A, to determine the legal correctness of the outstanding costs process, or to decide the pending application for leave to appeal.
7. I am conscious that section 15(2)(c) of the Judicial Service Commission Act, 1994 (Act No. 9 of 1994) (“JSC Act”) excludes a complaint based solely on the merits of a judgment or order. This complaint is not of that kind. The gravamen is the Judge President’s own conduct, omission, responsiveness and discharge of her statutory responsibilities as Head of Court after an urgent administrative request was referred

to her office and her office expressly undertook to revert once the court file had been received and considered.

8. The complaint is lodged in terms of section 14(3) of the JSC Act and relies principally upon the grounds contemplated in section 14(4)(b) and section 14(4)(e), namely an alleged wilful or grossly negligent breach of the Judicial Code of Conduct and/or other wilful or grossly negligent conduct incompatible with, or unbecoming, the holding of judicial office, including conduct prejudicial to the independence, impartiality, dignity, accessibility, efficiency or effectiveness of the courts.
9. To the extent that investigation may establish a level of failure in the discharge of head-of-court responsibilities amounting to gross incompetence or gross misconduct, section 14(4)(a) may also become relevant. I do not ask the JSC to presume that conclusion. I ask that it investigate the objective facts and the Judge President's explanation before determining the appropriate characterisation.
10. The distinction between adjudicative independence and judicial management is central. The Applicants never requested the Judge President to dictate the outcome of the leave-to-appeal application or the costs issue. They requested the Head of Court to exercise lawful administrative case-management oversight so that an urgent appellate process was not rendered practically ineffective through continued delay.
11. That request fell, at least *prima facie*, within section 8(4)(b) and section 8(6) of the Superior Courts Act, 2013 (Act No. 10 of 2013), which place responsibility for the management of the judicial functions of a court upon the head of that court and expressly include the determination of sittings, the assignment of judicial officers and

cases, case-flow management procedures and the finalisation of matters, including outstanding judgments, decisions and orders.

12. The issue is therefore not whether the Judge President was required to decide in favour of the Applicants. The issue is whether a Head of Court, having been placed on notice of a concrete and escalating case-management problem, could simply remain silent after her office had expressly undertaken to revert, while the very procedural course complained of continued and the risk of irreversible external consequences increased.

### **The Complaint**

13. The complaint is directed at the cumulative effect of the following conduct, omissions and appearances:
  - 13.1. the failure to provide any substantive response, direction or reasoned administrative decision to the Applicants' urgent request after it had expressly been referred to the Judge President;
  - 13.2. the failure to fulfil the express undertaking conveyed by the Office Manager on 29 July 2026 that the Office of the Judge President would revert once the file had been received and the Judge President had had an opportunity to consider it;
  - 13.3. the failure to take visible case-management steps in relation to an application for leave to appeal lodged on 2 March 2026 and an outstanding

costs decision which Holderness J had indicated would be delivered by the latter half of June 2026, but which remained outstanding well thereafter;

- 13.4. the apparent acceptance that the Applicants should carry the burden of moving an electronic court file and reproducing hardcopy correspondence already within the Court's possession, notwithstanding that the impediment was an internal judicial-administration issue;
- 13.5. the failure to communicate whether the Judge President accepted or rejected the Applicants' administrative case-management request after detailed written submissions had been received from the legal representatives of the City of Cape Town, CapeNature and SANParks opposing the Applicants' proposed course;
- 13.6. the fact that, after the Judge President's silence, the matter reverted in practice to the very "costs-first" course advocated by Holderness J and the opposing organs of state, without any communicated independent case-management determination by the Head of Court;
- 13.7. the resulting appearance of administrative alignment or acquiescence with the position of Holderness J and the opposing organs of state, even if no actual collusion is alleged or can presently be proved;
- 13.8. the failure to address, by any communicated direction, the Applicants' repeatedly stated risk that implementation of sanctuary, confinement, relocation or related baboon-management measures could create an

irreversible *fait accompli* before the appellate process could operate effectively;

- 13.9. the adverse effect of the above on accessibility and equality for self-represented litigants who do not have attorneys, counsel or correspondent firms to navigate informal internal channels between chambers and court offices; and
  - 13.10. conduct and omissions which, viewed cumulatively and objectively, are capable of diminishing public confidence in the responsiveness, impartiality, efficiency and accessibility of the Western Cape Division.
14. I emphasise that “alignment” is used in this complaint in the objective and institutional sense. The Applicants do not allege a secret agreement between the Judge President, Holderness J and the organs of state. The complaint is that the only course which was ultimately allowed to continue, without any reasoned response from the Judge President, was the same course urged by Holderness J, the City, CapeNature and SANParks, while the Applicants’ urgent case-management request remained unanswered.

## **Background Facts**

15. The High Court proceedings concern, *inter alia*, the implementation of the Final Cape Peninsula Baboon Management Action Plan, the legal status and conduct of the Cape Peninsula Baboon Management Joint Task Team, the continued non-operationalisation of the Office of the Commissioner for the Environment established

by the Constitution of the Western Cape, 1997, and the Applicants' attempt to preserve effective constitutional and administrative oversight before irreversible measures are implemented.

16. Part A of the proceedings was heard by Holderness J on 19 February 2026 and judgment was delivered on 25 February 2026. The judgment dismissed Part A but reserved the question of costs for later determination. The judgment is already before the JSC as Annexure "A" to the prior complaint.
17. On 2 March 2026, the Applicants delivered an application for leave to appeal against the **whole of the judgment and order**. That application includes challenges to findings concerning urgency, standing, authority, procedural fairness, characterisation of the Applicants and the consequences of the costs process. It is already before the JSC as Annexure "B" to the prior complaint.
18. On 1 June 2026, Mr Njabulo Mabuya, acting from the chambers of Holderness J, informed the parties that the application for leave to appeal would be heard on the first available date in the third term, from the week commencing 27 July 2026, because Holderness J wished to deliver the costs order before the leave-to-appeal hearing. That email is already before the JSC as Annexure "C" to the prior complaint.
19. The Applicants' objection was not that costs could never be determined. It was that the continuing separation and prioritisation of a punitive and/or *de bonis propriis* costs process, while leave to appeal against the whole judgment remained unheard, was capable of prejudicing the appellate process and creating piecemeal adjudication of issues intrinsically linked to the judgment under challenge.

20. On 1 June 2026, the Applicants lodged the existing complaint against Holderness J, which includes the post-judgment decision to delay the application for leave to appeal pending costs. A copy of that complaint, with its annexures, is attached hereto marked **“JPMB-1”**.
21. On 3 June 2026, the JSC acknowledged the complaint under reference JSC/62/06/2026 and confirmed that it would be forwarded to the Judicial Conduct Committee. The acknowledgment is attached marked **“JPMB-2”**.
22. On 9 June 2026, Mr Mabuya, again by directive of Holderness J, advised that “little purpose” would be served by further correspondence and that the costs judgment would be delivered by the end of the following week. A copy is attached marked **“JPMB-3”**.
23. The stated period passed without delivery of the costs decision. By mid-July 2026, neither the promised costs judgment nor a hearing of the application for leave to appeal had materialised, while the subject matter of the urgent application continued to develop outside court.
24. The significance of the delay cannot be separated from the nature of the original Part A relief. The Applicants had expressly sought to prevent steps which could be permanent or irreversible, including capture, removal, relocation or confinement of troops, reproductive interventions, euthanasia, agreements concerning sanctuaries or enclosures, and infrastructure for sanctuary confinement. Delay therefore had the potential to alter the factual landscape before any appellate court could intervene.

25. The week commencing 27 July 2026, identified by Holderness J's chambers on 1 June 2026 as the period from which the leave-to-appeal application would be heard, has now passed without that application being heard.
26. As at 13 August 2026, more than five months have elapsed since the application for leave to appeal was delivered on 2 March 2026. In a matter originally instituted as urgent to prevent allegedly irreversible action, that passage of time is itself materially relevant to effective access to justice.

### **The Urgent Administrative Case-Management Request**

27. On 17 July 2026, the Applicants addressed a formal and prominently marked "VERY URGENT" letter to Goliath DJP requesting administrative case-management intervention. A copy is attached marked "**JPMB-4**".
28. The letter was deliberately framed to avoid any improper approach to the merits. It was copied to Holderness J and all interested parties and expressly stated that it did not seek an *ex parte* advantage and was not intended to address the merits of the pending application for leave to appeal.
29. The stated purpose was to preserve the effectiveness of the appellate process. The Applicants explained that the application for leave to appeal remained delayed while underlying environmental measures continued to be implemented and that delay might permit irreversible steps to occur before the appellate process could fulfil any practical purpose.

30. The Applicants did not ask Goliath DJP, and later did not ask the Judge President, to decide whether Holderness J was legally correct or incorrect. They requested administrative directions directed at the future management of the matter.
31. The concrete relief requested in the letter was that the matter be placed before Holderness J; that Holderness J indicate, through an appropriate process, whether she intended to recuse herself; that, if she recused herself, another judge be allocated urgently; alternatively, if she did not recuse herself, that the leave-to-appeal application be enrolled on the earliest reasonably available date without further delay occasioned by the outstanding costs issue; and that the parties be informed of the directions issued.
32. The letter expressly acknowledged that the mere existence of a JSC complaint did not automatically require recusal. The request therefore respected the principle that recusal is ordinarily determined by the judge concerned. The requested role of the Head of Court was administrative: management, allocation and expedition.
33. On 18 July 2026, Ms Elmarie Sievers advised that Goliath DJP was on leave until 26 August 2026 and copied the registrars of the Office of the Judge President “to assist” with the request. The relevant email is attached marked “**JPMB-5**”.
34. From that point, the Judge President’s office became the office to which the urgent administrative request had formally been referred. The issue could no longer be treated as informal correspondence directed at a judicial officer who happened to be unavailable.

## Referral to the Judge President and the Respondents' Positions

35. On 21 July 2026, Fairbridges, acting for the City of Cape Town and CapeNature, addressed a five-page letter directly to the Judge President. It opposed the Applicants' position and urged, in substance, that Holderness J should determine the costs issue before the application for leave to appeal. A copy is attached marked "**JPMB-6**".
36. The City and CapeNature also contended that urgency had not been established, including because implementation of the Baboon Action Plan had commenced in November 2025. Those submissions traversed disputed matters which were themselves connected with the judgment under appeal.
37. On 22 July 2026, the Applicants responded to the Judge President and all parties. They emphasised that the Fairbridges letter did not answer the administrative case-management request, that the Judge President had not been asked to determine the appellate merits, and that the present urgency arose from subsequent delay and continuing implementation. A copy is attached marked "**JPMB-7**".
38. The Applicants specifically identified the continuing implementation of the Action Plan, the failure to hear the application for leave to appeal, the decision to postpone it pending the costs determination, the failure to deliver the costs decision within the period previously stated, and the risk that sanctuary, confinement, relocation and related measures would create a permanent *fait accompli*.
39. That response further recorded reported concerns of the Cape of Good Hope SPCA regarding intended relocation of baboons to a sanctuary which, according to the

information then available to the Applicants, had not yet been properly approved. The purpose of raising that information was not to ask the Judge President to decide environmental merits, but to demonstrate that the passage of time had real-world consequences.

40. On 28 July 2026, Mkhabela Huntley Attorneys, acting for SANParks, delivered a further three-page letter. SANParks contended that recusal should be pursued formally, that the JSC complaint did not itself justify removal of Holderness J, and that the costs judgment should first be delivered before the application for leave to appeal was heard. A copy is attached marked “JPMB-8”.
41. The Applicants had never contended that the JSC complaint automatically removed Holderness J. The substantive issue presented to the Head of Court was whether the case should continue to drift while recusal, costs and leave to appeal remained unresolved and external implementation continued.
42. By 28 July 2026, the Judge President therefore had before her competing written positions. The organs of state urged continuation of the costs-first course. The Applicants urged case-management intervention to prevent the leave-to-appeal process from being defeated by delay. There was no factual uncertainty as to what decision or direction was being sought administratively.

### **The Express Undertaking to Revert and the Applicants’ Compliance**

43. On 29 July 2026, Ms Jerelene Naidoo-Chetty, Office Manager in the Office of the Judge President, informed all parties that the Judge President could not consider the

correspondence without the court file. She stated that the file and letter should be submitted through the Registrar's office in Room 5 and that the Registrars would liaise directly with the Judge President's office.

44. Most importantly, the communication expressly stated: "The Office of the Judge President will revert once the file has been received and the Judge President has had an opportunity to consider same and indicate a response." A copy of the email is attached marked "**JPMB-9**".
45. The Applicants were therefore entitled reasonably to understand that the request had not been rejected, that the Judge President intended to consider it once the internal file requirement had been met, and that a response would follow.
46. On the same day, I responded that the case had been instituted through Court Online and that the court file was already in the custody and control of the Court, then understood to be under the administration of Holderness J's chambers through Mr Mabuya. I requested Mr Mabuya to liaise with the Registrar so that the court file could be made available to the Judge President's office. A copy is attached marked "**JPMB-10**".
47. The Applicants respectfully pointed out that they should not be prejudiced by internal arrangements concerning movement of a court file between Holderness J's chambers, the Registrar's office and the Judge President's office. That proposition remains fundamental. A litigant cannot reasonably be made responsible for the Court's internal custody and circulation of its own file.

48. The Applicants nevertheless chose not to allow a procedural formality to become a further excuse for delay. On 31 July 2026, they prepared and physically delivered a consolidated, indexed and paginated hardcopy bundle to the Office of the Judge President, notwithstanding that the relevant material had already been transmitted electronically.
49. The formal covering letter dated 31 July 2026 listed the principal materials placed before the Judge President, including the 17 July request, the prior JSC complaint and acknowledgment, the judgment, the application for leave to appeal, Mr Mabuya's 1 June email, the City/CapeNature submissions, the Applicants' response, the SANParks submissions and the Applicants' further response. The covering letter and transmission are attached marked "**JPMB-11**".
50. On 3 August 2026, the Office Manager nevertheless sent the brief message, "We await the hardcopies." I immediately recorded that the hardcopies had already been left in the Judge President's office pigeonhole at security on the preceding Friday. The exchange is attached marked "**JPMB-12**".
51. Later on 3 August 2026, Mr Mabuya - from the chambers of Holderness J, not from the Office of the Judge President - acknowledged receipt of the hardcopies. That email is attached marked "**JPMB-13**".
52. This sequence materially deepened the Applicants' concern. The bundle had been delivered for independent consideration by the Head of Court, yet the only substantive acknowledgment of receipt after the delivery came from the chambers of the very judge whose post-judgment management was the subject of the request.

53. I do not allege, without evidence, that the bundle was deliberately diverted. I do submit that this circumstance demanded clarity from the Judge President's office: whether the file and bundle had reached the Judge President, whether she had considered them, and what administrative direction, if any, she had made. No such clarity was provided.

### **The Judge President's Silence and the Reversion to the Costs-First Process**

54. As at the date of this affidavit, 13 August 2026, the Applicants have received no substantive response from the Judge President to the urgent request referred to her office in July 2026, no reason for declining intervention, no indication that she considered the request to fall outside her powers, and no case-management direction addressing the leave-to-appeal delay.
55. The absence of a response is particularly striking because the Judge President's office did not merely acknowledge receipt. It prescribed a procedure, required the file and hardcopies, and expressly undertook to revert after the Judge President had had an opportunity to consider the material.
56. The Applicants complied with those procedural demands. The matter therefore cannot fairly be explained, on the face of the available record, by non-compliance on the Applicants' part.
57. Meanwhile, subsequent correspondence from Holderness J's chambers has continued to press forward with the separate costs adjudication and the fixing of dates

for that issue, while the application for leave to appeal remains unheard. That subsequent correspondence will be attached marked “**JPMB-14**”.

58. The significance is not that Holderness J is forbidden from dealing with costs. The significance is that the precise administrative complaint placed before the Judge President was that the costs-first sequencing had become the mechanism by which an urgent application for leave to appeal was being delayed. Silence by the Head of Court allowed the disputed sequencing to continue unchanged.
59. The City, CapeNature and SANParks had all expressly urged the Judge President to permit or accept that sequencing. The Applicants had expressly urged the opposite case-management course. After the Judge President’s silence, the course advocated by the opposing organs of state continued. In practical effect, their position prevailed without a communicated decision or reason from the Judge President.
60. That is the basis upon which the Applicants allege an appearance of administrative alignment or acquiescence. It is an inference from the objective sequence, not an accusation of undisclosed personal collusion.
61. If the Judge President considered that she had no lawful power to intervene, a brief response saying so and explaining the boundary between adjudicative independence and her head-of-court responsibilities would at least have made the position transparent. If she considered that intervention was unnecessary, a communicated decision to that effect would likewise have enabled the Applicants to consider their remedies.

62. If, on the other hand, the Judge President simply did not decide the request despite the express undertaking and the continuing urgency, the issue becomes one of diligence, responsiveness and the effective management of judicial functions within her Division.
63. In either scenario, unexplained silence is not neutral. It leaves a self-represented litigant without any means of knowing whether the Head of Court has exercised her function, declined to exercise it, or simply failed to attend to it. It also allows the passage of time to determine practical outcomes which the pending litigation was instituted to prevent.
64. The Applicants' concern is aggravated by the fact that this was not a request for a favour or informal indulgence. It was a formally motivated request, transparently copied to all parties, directed at case management in ongoing proceedings and founded upon a pending appellate step, an outstanding reserved decision and an asserted risk of irreversible consequences.

### **The Escalating *Fait Accompli* and Practical Prejudice**

65. The practical prejudice identified in July 2026 has not diminished. I have now been informed that the City of Cape Town, CapeNature and SANParks are continuing to advance arrangements for a sanctuary and related implementation notwithstanding the pending court proceedings. The material presently available to substantiate those developments will be annexed marked "**JPMB-15**".

66. The proposed sanctuary is not collateral to the litigation. The Part A relief specifically sought to restrain steps including agreements concerning sanctuaries or enclosures and the construction or installation of infrastructure for sanctuary confinement until proper adjudication and oversight could occur.
67. I have further confirmed, and previously recorded in correspondence to the Judge President, that the Cape of Good Hope SPCA has concerns regarding aspects of the proposed sanctuary and relocation process. Corroborating material available for attachment will be marked “**JPMB-16**”.
68. The Applicants do not ask the JSC to determine whether the sanctuary is environmentally desirable or legally authorised. Those merits remain for the proper court. The relevance to this complaint is narrower: every irreversible implementation step increases the prejudice caused by an appellate process which remains stalled.
69. The danger is that judicial delay may itself supply the passage of time through which the opposing parties accomplish the very *fait accompli* that the urgent application sought to prevent. If that occurs, a later appellate victory may be legally meaningful but practically sterile.
70. Effective access to court is not exhausted by permission to file papers. A legal remedy which is rendered nugatory by avoidable procedural delay can cease to be effective in substance. That concern is especially acute where the underlying subject matter is alleged to involve permanent relocation, confinement, infrastructure and disruption of established animal populations.

71. The Judge President was expressly placed on notice of this practical risk. The complaint is therefore not hypothetical and is not based upon a mere fear that some future case-management problem might arise. The delay, the outstanding application for leave to appeal, the outstanding costs determination and the continuing implementation are all existing facts.

### **Head-of-Court Duties and the Applicable Judicial Standards**

72. The Constitution establishes the normative setting. Section 165(2) requires courts to apply the Constitution and the law impartially and without fear, favour or prejudice. Section 165(4) requires protection of the independence, impartiality, dignity, accessibility and effectiveness of the courts. Section 34 guarantees the right to have disputes resolved by the application of law in a fair public hearing, and section 9(1) guarantees equality before the law and equal protection and benefit of the law.
73. Section 8(4)(b) of the Superior Courts Act makes the management of the judicial functions of each court the responsibility of the head of that court. For the Western Cape Division, that head is the Judge President.
74. Section 8(6) is particularly material. It identifies judicial functions for management purposes as including the determination of sittings, assignment of judicial officers to sittings, assignment of cases and other judicial duties, case-flow management procedures, and the finalisation of any matter before a judicial officer, including outstanding judgments, decisions or orders.

75. The Applicants' request engaged exactly those managerial subjects: the finalisation of an outstanding costs decision; the scheduling and expedition of an application for leave to appeal; and, contingently, the allocation of another judge if Holderness J were to recuse herself. None of those requests required the Judge President to dictate the substantive outcome of any adjudication.
76. The Norms and Standards for the Performance of Judicial Functions, issued under section 8 of the Superior Courts Act, reinforce that responsibility. Their objectives include enhancing access to quality justice, affirming the dignity of all court users and ensuring efficient and expeditious adjudication. Their core values include equality, fairness, accessibility, transparency, responsiveness and diligence.
77. The Norms and Standards require heads of courts to manage judicial functions, take initiatives which create a leadership culture, foster efficient performance, and engender open and transparent communication. They further require courts and judicial officers to be accessible, courteous and responsive to the public and to dispose of matters efficiently, effectively and expeditiously.
78. Article 4 of the Judicial Code of Conduct requires judges to uphold the independence and integrity of the judiciary and to take reasonable steps to ensure that no person or organ interferes with the functioning of the courts. Importantly, the Code itself records that judicial independence is not an excuse for failing to perform judicial functions with due diligence or contrary to the Code.
79. Article 5 requires a judge always to act honourably and in a manner befitting judicial office. The accompanying notes recognise that judicial conduct should enhance public trust and that judges should avoid conduct prejudicial to the effective and

expeditious business of the court. The applicable perspective is objective: how the conduct would reasonably be perceived.

80. Article 7 requires courtesy, respect for dignity, equality before the law and freedom from bias or prejudice. Although much of Article 7 addresses conduct in court and chambers, the underlying obligations of equal treatment and judicial dignity cannot be irrelevant when the Head of Court communicates with litigants through her office and manages access to judicial processes.
81. Article 8 requires reasonable steps to enhance the accessibility of the courts and public understanding of the judicial process. The notes to the Article recognise that the legitimacy of the judiciary depends upon public understanding and confidence.
82. Article 10 requires judges to perform judicial duties diligently, dispose of the business of the court promptly and efficiently, avoid conduct prejudicial to the effective and expeditious administration of justice, and perform official duties properly, timeously and in an orderly manner. The notes caution against unnecessary postponements and undue formality and recognise the entitlement of litigants to the prompt finalisation of judicial business.
83. The office of a Judge President necessarily attracts an enhanced institutional responsibility. A Judge President is not merely another judicial officer on the roll. The Superior Courts Act places management of the judicial functions of the Division upon that office. The public must therefore be able to expect a meaningful response where a credible complaint about the finalisation and management of a pending matter is formally escalated to the Head of Court.

84. Judicial independence protects decisional freedom from improper interference. It cannot mean that the Head of Court is powerless to manage case flow, allocation and finalisation when the statute expressly makes those functions her responsibility. Nor can it mean that a litigant who asks the Head of Court to exercise those functions is entitled to no answer at all.
85. I respectfully submit that the unexplained failure to respond, after an express undertaking to do so and after compliance with the stated procedural requirements, is *prima facie* difficult to reconcile with the standards of diligence, transparency, responsiveness and accessibility described above. Whether that failure was wilful, grossly negligent or otherwise excusable is precisely what the JSC is asked to investigate.

### **Self-Represented Litigants, Accessibility and Equal Treatment**

86. The Applicants litigate *pro se*. LFN and I do not appear through a commercial firm of attorneys or a team of counsel. That status does not entitle us to preferential treatment, but it equally does not diminish our entitlement to procedural dignity, equal access, responsiveness and the ordinary protection of the Court's case-management structures.
87. I do not ask the JSC to infer, merely from the fact that we are self-represented, that the Judge President or any other judicial officer acted out of personal hostility towards us. The complaint is based on objective conduct and institutional effect.

88. The institutional effect in this matter is troubling. The legal teams of the City, CapeNature and SANParks were able to place lengthy formal submissions before the Judge President opposing the Applicants' requested course. The Applicants responded in detail. Yet, after the Head of Court's office demanded additional procedural compliance and expressly promised a response, the self-represented Applicants received no substantive outcome at all.
89. The requirement that the Applicants physically reproduce and deliver material already before the Court electronically is also relevant as context. The matter was conducted through Court Online. The court file was in the custody of the Court. The Judge President's own office confirmed that Registrars liaise directly with that office. Requiring the litigant to overcome the Court's internal file-movement problem placed an avoidable burden on the party least equipped with professional administrative infrastructure.
90. The Applicants nevertheless complied. The complaint therefore does not depend on whether the hardcopy requirement was itself lawful or reasonable. The more serious point is that even after compliance, the promised response did not follow.
91. A court system becomes practically inaccessible when a self-represented litigant can file a formal request, answer the represented parties' submissions, comply with additional administrative demands, hand-deliver a paginated bundle, and still receive no decision or reason while the represented parties' preferred procedural course proceeds by default.
92. This has a chilling effect beyond the Applicants. It risks conveying that self-represented litigants may be heard only to the extent that institutional convenience

permits, whereas parties represented by established legal teams can expect their procedural positions to be absorbed into the Court's ordinary machinery. That perception is inimical to equality before the law and the constitutional value of accessibility.

93. The independence of the judiciary is strengthened, not weakened, when self-represented members of the public can see that their formal requests are addressed on their merits, even where refused. A reasoned refusal commands greater institutional respect than silence.

#### **Material Irregularities Relevant to Judicial Conduct**

94. Without asking the JSC to determine any appellate issue, I respectfully identify the following conduct-related features for investigation:
  - 94.1. the Judge President became the responsible Head of Court for the referred administrative request when Goliath DJP was unavailable until 26 August 2026;
  - 94.2. the request was expressly urgent, transparent and limited to case management;
  - 94.3. the request identified a pending application for leave to appeal, an undelivered costs judgment, a prior stated hearing window which was approaching, and ongoing allegedly irreversible environmental implementation;

- 94.4. the legal representatives of the City, CapeNature and SANParks addressed substantive written opposition to the Judge President, all materially favouring the continuation of the costs-first sequence;
- 94.5. the Applicants answered those submissions and made clear that they sought no administrative decision on the appellate merits;
- 94.6. the Judge President's office prescribed an internal-file and hardcopy procedure and expressly promised that it would revert after the Judge President had considered the material;
- 94.7. the Applicants complied by causing a consolidated hardcopy bundle to be delivered;
- 94.8. the next acknowledgment of those hardcopies came from Holderness J's chambers, which was itself the subject of the case-management request;
- 94.9. no substantive response, reason or direction from the Judge President followed;
- 94.10. the week commencing 27 July 2026 passed without the application for leave to appeal being heard;
- 94.11. the separate costs process thereafter continued to be advanced from Holderness J's chambers, reflecting the same sequence advocated by the opposing organs of state;
- 94.12. the Applicants' asserted risk of sanctuary and related irreversible implementation has meanwhile become more immediate; and

- 94.13. the cumulative sequence objectively creates a perception that the Applicants' administrative request was allowed to disappear without decision while the represented organs of state obtained the practical course they requested.
95. I respectfully submit that these facts warrant an explanation directly from the Judge President. In particular, the public interest requires clarity as to whether she personally considered the request, when she did so, what material was before her, whether she made any decision, why no response was communicated, and what steps she considered appropriate under section 8 of the Superior Courts Act.
96. The complaint is strengthened, rather than weakened, by the possibility that there may be an innocent administrative explanation. If such an explanation exists, the JSC process provides the proper means for it to be placed on record and tested. What is not acceptable from the perspective of public confidence is that the litigant is left permanently to speculate.

### **Grounds under the Judicial Service Commission Act**

97. On the facts set out *supra*, the Applicants respectfully contend that the conduct is capable of engaging section 14(4)(b) of the JSC Act because the unexplained omission may constitute a wilful or grossly negligent breach of the Judicial Code, particularly Articles 4, 5, 8 and 10, read with the equality and dignity requirements reflected in Article 7.

98. The conduct is further capable of engaging section 14(4)(e) because unexplained head-of-court inaction in an urgent case-management matter may, if wilful or grossly negligent, be conduct incompatible with or unbecoming judicial office and prejudicial to the accessibility, efficiency or effectiveness of the courts, as those concepts are expressly identified by the statute.
99. The Applicants do not contend that every delayed response by a Judge President is misconduct. The context and degree matter. Here there was an express urgent referral, an express undertaking to revert, full compliance, a pending appellate step, an outstanding reserved decision, a missed stated hearing window, and a repeatedly identified risk that external events would render the litigation ineffective.
100. Nor do the Applicants contend that the Judge President was required to prefer their legal contentions to those of the respondents. The alleged wrong is the absence of any communicated independent administrative decision at all, coupled with the practical continuation of precisely the course advocated by Holderness J and the organs of state.
101. The Applicants further submit that, if investigation establishes that the Judge President consciously declined to respond because she simply deferred to Holderness J despite the distinct statutory management responsibility of the Head of Court, that may evidence an abdication of responsibility inconsistent with section 8 of the Superior Courts Act and the diligence obligations of the Code.
102. If investigation instead establishes that the request was not brought to the Judge President's attention after her office represented that it would be, the JSC should consider whether the Judge President exercised adequate supervision over an office

through which litigants must access her head-of-court functions and whether the resulting failure was compatible with the Norms and Standards.

103. If the Judge President personally decided that no intervention was warranted but elected not to communicate that decision, the JSC should consider the implications for transparency, responsiveness, accessibility and public confidence, particularly in light of the express undertaking that the office would revert.
104. The JSC is therefore not asked to infer actual bias without evidence. It is asked to determine whether the objective appearance created by the sequence of events, and the conduct or omission which caused it, falls below the prevailing standard of judicial conduct.
105. The Applicants further request that the JSC assess this complaint together with, but distinctly from, the existing Holderness J complaint under JSC/62/06/2026. The factual overlap is material because the request to the Judge President was triggered by the very post-judgment management complained of in that matter. Each judicial officer's conduct must, however, be evaluated on its own facts and merits.

## **Relief Sought**

106. The Applicants accordingly request that the JSC and/or Judicial Conduct Committee:
  - 106.1. accept and investigate this complaint under section 14 of the JSC Act;

- 106.2. obtain a substantive response from Mabindla-Boqwana JP explaining whether and when she became aware of the request for urgent case-management intervention;
- 106.3. establish whether the court file and hardcopy bundle were placed before her, and if not, why not;
- 106.4. establish whether she made any decision concerning the request and, if so, what that decision was and why it was not communicated to the Applicants despite the express undertaking of her office;
- 106.5. establish what, if any, case-management steps she considered or took under section 8 of the Superior Courts Act in relation to the outstanding costs decision and pending application for leave to appeal;
- 106.6. establish why the Applicants' hardcopy bundle, delivered for the Judge President's consideration, was acknowledged from Holderness J's chambers and whether the Judge President independently received and considered it;
- 106.7. investigate whether the Judge President's failure to respond or intervene was influenced, directly or indirectly, by the submissions of the City, CapeNature, SANParks or Holderness J, and whether the resulting appearance of partiality was reasonably avoidable;
- 106.8. determine whether the conduct or omission breached Articles 4, 5, 7, 8 and/or 10 of the Judicial Code of Conduct or the Norms and Standards for the Performance of Judicial Functions;

- 106.9. determine whether the facts establish any ground contemplated in section 14(4)(a), (b) and/or (e) of the JSC Act;
  - 106.10. consider whether remedial directions, counselling, reprimand or any other measure available in law is appropriate to ensure that head-of-court case-management requests, particularly from self-represented litigants, receive transparent and timeous responses;
  - 106.11. consider whether the Western Cape Division should be encouraged to adopt or enforce a clear, accessible and documented procedure by which self-represented litigants can obtain case-management assistance from the Office of the Judge President without being made responsible for internal file movements; and
  - 106.12. grant or recommend such further lawful relief or corrective measures as may be necessary to restore and protect public confidence in the impartial, accessible, efficient and responsive administration of justice.
107. For avoidance of doubt, the Applicants do not request that the JSC itself enrol the application for leave to appeal, dictate the order in which Holderness J must determine judicial issues, or adjudicate the lawfulness of the Baboon Action Plan. Those are matters for the competent court. This complaint seeks accountability for judicial management conduct, not substitution of the JSC for the court.

## Conclusion

108. I institute this complaint in good faith and because the chronology has reached a point where silence itself has become consequential. The Applicants invoked the Head of Court precisely because ordinary communication with Holderness J's chambers had not resolved the delay. The Head of Court's office then required further compliance, promised a response, and thereafter provided none.
109. The constitutional promise of access to courts is hollow if a self-represented litigant can lodge a competent appellate step and yet remain unable to obtain a hearing while time permits the disputed factual position to become irreversible. The same principle applies whether the litigant is represented by senior counsel or appears *pro se*.
110. The Judge President occupies the office entrusted by statute with the management of judicial functions in the Division. That office is most important when an administrative impasse arises concerning a matter before another judge. A Head of Court cannot protect public confidence by appearing absent from the very circumstances in which institutional leadership is required.
111. The Applicants do not demand that judicial officers agree with them. We demand, as the Constitution permits every litigant to demand, that the judicial system deal with them impartially, respectfully, transparently and without avoidable delay. A reasoned decision against us can be challenged through lawful processes. Silence cannot.
112. The cumulative sequence - referral, opposition by represented organs of state, a hardcopy requirement, full compliance, acknowledgment from Holderness J's chambers, no response from the Judge President, continuation of the costs-first

process, and escalating risk of irreversible sanctuary implementation - is sufficiently serious to warrant independent scrutiny by the JSC.

113. I therefore respectfully request that the Judicial Conduct Committee investigate the complaint fully and determine whether the conduct or omission of Mabindla-Boqwana JP constitutes a breach of the Judicial Code of Conduct and/or conduct contemplated in section 14(4) of the JSC Act.

114. The rights of LFN, the Applicants, their members and the public interests they seek to protect remain reserved *in toto*.

**REYNO DAWID DE BEER**

**DEPONENT**

I certify that the Deponent has acknowledged that he knows and understands the contents of this affidavit, that he has no objection to taking the prescribed oath, and that he considers the oath binding on his conscience. The Deponent signed and swore to this affidavit before me at \_\_\_\_\_ on this \_\_\_\_\_ day of **AUGUST 2026**, the Regulations Governing the Administration of an Oath or Affirmation having been complied with.

**COMMISSIONER OF OATHS**

Full names: \_\_\_\_\_

Designation/Capacity: \_\_\_\_\_

Address: \_\_\_\_\_



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## JUDICIAL CONDUCT COMMITTEE

Enq: Ms. Mbali Songca  
Email: [MSongca@judiciary.org.za](mailto:MSongca@judiciary.org.za)

14 August 2026

**Mr R D De Beer**

Per email: [reyno@libertyfighters.org](mailto:reyno@libertyfighters.org)

**Our Ref: JSC/95/08/2026**

Dear Mr De Beer

**RE: COMPLAINT AGAINST JUDGE PRESIDENT MABINDLA-BOQWANA OF THE  
WESTERN CAPE DIVISION OF THE HIGH COURT**

The Judicial Service Commission (JSC) hereby acknowledges receipt of your complaint. Your complaint will be forwarded to the Judicial Conduct Committee for consideration. The Secretariat will notify you of the outcome of your complaint in due course.

Yours sincerely,

**Ms. Dimakatso Ramaisa**

**Secretariat for the Judicial Service Commission**





**IN THE MATTER OF A SUPPLEMENTARY COMPLAINT AGAINST MADAM JUSTICE  
HOLDERNESS TO THE JUDICIAL SERVICE COMMISSION**

**SUPPLEMENTARY AFFIDAVIT**

**JSC REFERENCE: JSC/62/06/2026**

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I, the undersigned:

**REYNO DAWID DE BEER**

Identity Number: 7606235089080

do hereby make oath and state:

### **Introduction and Incorporation of the Original Complaint**

- 1 I am an adult male and the President of Liberty Fighters Network ("LFN"), a voluntary association without gain, with business address at Monkey Valley Resort, 1 Mountain Road, Noordhoek, Cape Town. I depose to this supplementary affidavit in my own capacity and on behalf of LFN.
- 2 This affidavit supplements the complaint lodged against Holderness J on 1 June 2026 and acknowledged by the Judicial Service Commission on 3 June 2026 under reference JSC/62/06/2026. A copy of the acknowledgment is annexed marked "D".

3. The original complaint and its annexures are incorporated herein as if specifically repeated. This supplement is confined primarily to conduct and developments occurring after the original complaint, especially the proceedings of 28 August 2026.
4. The purpose of this supplement is not to invite the Judicial Conduct Committee or Judicial Service Commission to sit as a court of appeal. The Applicants have separately lodged Applications for Leave to Appeal in respect of the recusal judgment and the costs judgment and Part 'B' restraint, as addressed *infra* and annexed marked "V" and "W" respectively. Those appellate processes are the vehicles for correcting errors of fact or law as such.
5. The present complaint concerns something different: whether the conduct of Holderness J, viewed cumulatively and against the fact that a formal misconduct complaint was already pending, remained compatible with the standards of manifest impartiality, courtesy, restraint, equality, fair hearing, diligence and public confidence required by the *Judicial Code of Conduct*.
6. Where any annexure is attached, its content is incorporated herein as if separately stated under oath. The transcripts annexed to this supplement are working transcripts prepared from the available recording of the proceedings and are expressly subject to correction against any official court recording, official transcript or final written judgment.

**The Constitutional Accountability Issue**

- 7 I respectfully acknowledge an important distinction at the outset. A judge should not "fear" the Judicial Service Commission in the sense of being intimidated into deciding a case in a particular way. Judicial independence requires the opposite: a judge must act without fear, favour or prejudice.
8. Judicial independence, however, is not immunity from constitutional accountability. Note 4(iv) to the *Judicial Code of Conduct* expressly records that judicial independence is not a private right for the benefit of judges as individuals and does not justify judicial misbehaviour or excuse conduct contrary to the Code.
- 9 My complaint is therefore not that Holderness J failed to display fear of the JSC. It is that, after she was aware that her language, treatment of the Complainants as the Applicants in that matter, alleged litigant profiling, and post-judgment case management had already been placed before the JSC, her conduct on 28 August 2026 appeared not to moderate those concerns but to amplify them.
10. More seriously, the pending JSC complaint itself was repeatedly drawn into the judicial reasoning as part of an adverse chronology against me. In my respectful submission, a constitutional accountability mechanism cannot safely be converted into material from which an adverse inference is drawn against the complainant.
- 11 The issue is therefore one of institutional respect. A judge is entitled to reject a complaint as unfounded through the prescribed process, but should not treat the Complainants' resort to the JSC as conduct tending to prove tactical abuse, obstruction or an improper motive.

**Developments Between the Original Complaint and 28 August 2026**

12. On 9 June 2026 Holderness J's registrar, Mr Njabulo Mabuya, acting on her directive, informed the parties that little purpose would be served by further correspondence and that the reserved costs judgment would be delivered by the end of the following week. That communication is annexed marked "E".
13. The stated period expired without delivery of the promised costs judgment. The pending Application for Leave to Appeal against the Part 'A' judgment likewise remained unheard. By mid-July 2026 the Applicants were therefore confronted with two unresolved processes before the same judicial officer: the punitive costs determination and an urgent Application for Leave to Appeal lodged in early March 2026, while the underlying environmental programme continued to be implemented outside Court.
14. The significance of that delay was not abstract. Part 'A' had been instituted to prevent measures alleged to be permanent or irreversible, including capture, removal, relocation or confinement of baboon troops and related implementation steps. The Applicants' concern was that the passage of time could alter the factual landscape before any appellate process became capable of providing effective relief.
15. On 17 July 2026 the Applicants accordingly addressed a formal and prominently marked 'VERY URGENT' letter to Goliath DJP requesting administrative case-management intervention. A copy is annexed marked "F". The letter was copied to Holderness J and every interested party. It expressly disavowed any *ex parte* approach or request that the Deputy Judge President determine the merits of the pending appeal.

16. The purpose of the 17 July 2026 request was deliberately narrower and less intrusive than a formal recusal application. The Applicants asked that the matter be placed before Holderness J so that the recusal question could be confronted openly; that, if she recused herself, another judge be allocated urgently; alternatively, if she remained satisfied that she could continue independently and impartially, that the Application for Leave to Appeal be enrolled on the earliest reasonably available date without further delay occasioned by the outstanding costs issue.
17. That approach is important to the chronology now under complaint. The Applicants did not seek to ambush Holderness J with a later recusal application. They first attempted a transparent, administrative and institutionally conservative route designed to obtain case management, preserve the appellate process and avoid additional interlocutory litigation if the matter could be resolved without it.
18. On 18 July 2026 Ms Elmarie Sievers advised that Goliath DJP was on leave until 26 August 2026 and copied the registrars of the Office of the Judge President 'to assist' with the request. That communication is annexed marked "G". From that date the urgent case-management request stood formally referred to the Office of the Judge President.
19. On 21 July 2026 the attorneys for the City of Cape Town and CapeNature addressed a detailed response directly to the Judge President, opposing the Applicants' position and urging, in substance, that Holderness J should determine the Part 'A' costs before the Application for Leave to Appeal was heard. That letter is annexed marked "H".
20. On 22 July 2026 the Applicants responded to the Judge President and all parties. They emphasised that the represented organs of state were seeking to ventilate

matters belonging to the appellate process, whereas the Applicants had requested only administrative case management. They further explained that the continuing implementation of the Baboon Management Action Plan and the undelivered costs judgment had converted delay itself into a threat to effective relief. That response is annexed marked "I"

- 21 On 28 July 2026 the attorneys for SANParks delivered a further response. SANParks contended, *inter alia*, that the pending JSC complaint did not automatically require Holderness J's removal, that any recusal sought should be pursued by formal application, and that the costs judgment should still precede the Application for Leave to Appeal. That letter is annexed marked "J".
- 22 The Applicants had never contended that the JSC complaint automatically removed Holderness J. The material significance of SANParks' response is that, by then, all participants and the Head of Court were expressly aware that recusal, costs and the stalled appellate process had become interrelated case-management issues. SANParks' insistence that recusal be sought formally also materially informed the Applicants' later decision to institute the formal application.
- 23 On 29 July 2026 Ms Jerelene Naidoo-Chetty, Office Manager in the Office of the Judge President, advised all parties that the Judge President could not consider the correspondence without the court file, that the file and letter should be submitted through the Registrar's office in Room 5, and that the Registrars would liaise directly with the Judge President's office. Most importantly, the communication expressly stated that the Office of the Judge President would revert once the file had been

received and the Judge President had had an opportunity to consider the matter and indicate a response. That communication is annexed marked "K".

- 24 The Applicants were therefore entitled reasonably to understand that the request had not been rejected; that a procedural requirement concerning the court file had been identified; and that a substantive response would follow once that requirement had been met. Although the matter existed on Court Online and the court file was already in the Court's custody, the Applicants elected not to permit an internal file-management issue to become another source of delay.
- 25 On 31 July 2026 the Applicants accordingly prepared and physically delivered a consolidated, indexed and paginated hardcopy bundle for the Judge President, containing the 17 July request, the existing JSC complaint against Holderness J and acknowledgment thereof, the Part 'A' judgment, the pending Application for Leave to Appeal, the relevant chambers correspondence, and the competing written submissions of the represented organs of state and the Applicants. The covering letter is annexed marked "L".
26. On 3 August 2026 the Office of the Judge President nevertheless stated, '*We await the hardcopies.*' I immediately recorded that the hardcopies had already been left in the Judge President's office pigeonhole at security on the preceding Friday. Later that same day Mr Mabuya, from Holderness J's chambers, acknowledged receipt of the hardcopies. The material exchange is annexed collectively marked "M".
- 27 That sequence materially deepened the Applicants' concern. The bundle had been delivered for independent consideration by the Head of Court, yet the only positive confirmation of receipt ultimately came from the chambers of the very judge whose

post-judgment management was one of the subjects of the request. I do not allege, without evidence, that the bundle was deliberately diverted. The point is that the situation required clarity from the Judge President's office as to whether the material had reached her, whether it had been considered and what administrative direction, if any, followed.

- 28 No such substantive response was communicated. Instead, Holderness J's chambers resumed the separate costs process and, during early August 2026, canvassed dates which ultimately resulted in the costs hearing being fixed for 28 August 2026. Thus the very costs-first trajectory which the Applicants had asked the Head of Court to manage continued unchanged while the case-management request remained unanswered.
- 29 The Judge President's silence was particularly significant because her office had not merely received unsolicited correspondence. It had prescribed a procedure, required the court file and hardcopies, and expressly undertaken to revert after the Judge President had had an opportunity to consider the material. The Applicants had complied with the procedure demanded of them.
- 30 The absence of any response, coupled with the continuation of the disputed costs-first process, led the Applicants on 13 August 2026 to lodge a separate complaint with the JSC against Judge President Mabindla-Boqwana concerning the unresolved head-of-court case-management request and related institutional circumstances. A copy is annexed marked "N". The JSC acknowledged that complaint on 14 August 2026 under reference JSC/95/08/2026 and confirmed that it would be forwarded to the Judicial Conduct Committee. The acknowledgment is annexed marked "O".

31. The separate complaint against the Judge President is not relied upon as proof of misconduct by either judicial officer. Its relevance here is chronological and objective: it demonstrates the extent to which the Applicants had exhausted transparent internal case-management mechanisms before formalising recusal, and why the Applicants could no longer reasonably expect the unresolved procedural position to be corrected through correspondence alone.
32. On 14 August 2026, against that background, the Applicants instituted the formal urgent recusal application. The commissioned founding affidavit is annexed marked "P". The application did not contend that the mere existence of either JSC complaint automatically disqualified Holderness J. It relied on the cumulative objective circumstances and requested that unresolved judicial functions be reallocated if recusal was granted.
33. On 18 August 2026 Holderness J directed that the recusal application and the outstanding costs issue would be heard on 28 August 2026 and prescribed an expedited timetable. The directives are annexed marked "Q".
34. On 19 August 2026 I wrote to Mr Mabuya, copied to all parties, accepting the timetable but placing on record that recusal was logically anterior to costs and reserving all rights should the recusal application be dismissed. That correspondence is annexed marked "R".
35. The hearing on 28 August 2026 therefore occurred in circumstances where Holderness J knew that the original JSC complaint concerning her conduct was pending; knew that the Applicants had already attempted transparent administrative case management through both the Deputy Judge President and Judge President;

knew that the Judge President's non-response had itself resulted in a further JSC complaint; knew that her own recusal was now formally sought; and knew that the Applicants had expressly reserved their objection to her continued involvement.

- 36 This fuller chronology is also material to the later characterisation of the recusal application as a sudden '*stratagem*' or attempt to avoid costs. The objective record shows a staged progression in the opposite direction: the Applicants first recorded apprehended bias in the 2 March 2026 Application for Leave to Appeal, then lodged the original JSC complaint, then sought voluntary and administrative case management in July, complied with the Judge President's prescribed procedure, waited for the promised response, and resorted to formal recusal only after those less intrusive mechanisms failed to resolve the impasse.

### **The Opening Assurance and the Subsequent Course of the Hearing**

37. At the commencement of the recusal hearing Holderness J expressly assured me that she would view the recusal application "*dispassionately*" and that I need not be apologetic for criticism levelled at the Court.
38. I welcomed that assurance. It was precisely the standard the Applicants sought: not agreement with them, but a demonstrably open, even-handed and depersonalised determination of whether the Court should remain seized of the matter.
- 39 The concern arises because material events later in the hearing were, in my respectful submission, difficult to reconcile with that opening assurance when viewed objectively and cumulatively.



- 40 A working speaker-attributed transcript of the full proceedings is annexed marked "S".
- The separate working transcripts of the *ex tempore* recusal and costs judgments are annexed marked "T" and "U" respectively.

### **The Jacket Issue and Its Subsequent Use as Character Evidence**

- 41 The first substantive exchange of the hearing concerned my attire. Holderness J stated that court attire '*generally*' required a jacket and questioned why I was not wearing one. I was dressed neatly in a black buttoned shirt, and grey tie.
- 42 I responded that I was unaware of any rule requiring a self-represented litigant to wear a jacket and that I had appeared before courts without such a requirement being raised.
- 43 The significance of the exchange is not the jacket itself. A court may plainly maintain *decorum*. The significance is what followed.
- 44 During the respondents' argument, counsel for the City and CapeNature. Ms O'Sullivan SC of the Cape Bar, relied upon LFN's stated objective of reforming historic British dress codes and practices and used the morning's jacket issue to support a broader narrative that the Applicants disregard rules and ordinary court requirements.
45. That transformed an unidentified professional or customary dress expectation into character evidence about the Applicants' supposed habitual disregard for court rules.

46. Viewed in isolation, the jacket exchange would not found a complaint. Viewed together with the repeated use of unrelated litigation history and the later judicial adoption of adversarial characterisations, it forms part of the broader concern that the Applicants were being adjudicated through a pre-existing litigant profile rather than only through the actual issues before Court.

**New Personal Censure Introduced by Holderness J During Her Own Recusal Hearing**

47. During the respondents' argument Holderness J, on her own initiative, introduced criticism of correspondence previously addressed to her registrar.
48. Holderness J described the tone of that correspondence as "*worthy of censure*", "*paternalistic*" and "*patronising*", and added that she "*...would not go so far as to describe it as racist*".
49. That was not merely a question put to counsel. It was a new adverse characterisation introduced by the judicial officer whose own impartiality was then under adjudication and it concerned communications with her own chambers.
50. I immediately sought to ask why no complaint about the correspondence had been communicated when it allegedly occurred and why the accusation was being raised for the first time during the recusal proceedings.
51. Holderness J immediately directed me to sit down and did not permit the issue to be ventilated at that point.

52. The criticism thereafter entered the *ex tempore* recusal judgment, where the correspondence was described as "*paternalistic, patronising and arrogant*".
53. In my respectful submission, this sequence is important under Article 9 of the Code. The Court introduced adverse material of its own, curtailed the immediate attempt to answer it, and then relied upon substantially the same criticism when deciding whether it was itself manifestly impartial.
54. It is also material under Article 13, read with Note 13(iv), which recognises the importance of timeous disclosure of facts capable of giving rise to a recusal issue and adequate time for parties to consider them.

#### The 'Bullying Stratagem' Exchange

55. During argument for the City and CapeNature, O'Sullivan SC characterised the recusal application as a "*bullying stratagem*" and said that it formed part of the Applicants' litigation arsenal.
56. Before I had delivered my reply to that argument, Holderness J immediately responded: "*Well said. Mr De Beer can rest assured that I will not be bullied.*"
57. The concern is not that a judge may never agree with a submission. The concern is that the judicial officer whose impartiality was under consideration expressly adopted a personalised adversarial description of the recusal application before I had replied and before judgment had been delivered.

- 58 An objectively informed observer could reasonably understand the exchange as the Court identifying itself as the object of bullying by the litigant before it, rather than remaining visibly detached from counsel's pejorative characterisation.
- 59 The later recusal judgment then described the application as a "*blatant stratagem*", a "*sustained exercise in delay*" and as having the hallmarks of a "*Stalingrad defence*".
60. In my respectful submission, the oral exchange and the later language cannot safely be considered in watertight compartments. They form one continuous sequence.
- 61 The objective chronology also sits uneasily with the suggestion that the Complainants were attempting to bully either the respondents or the Court. The Complainants were the parties repeatedly pressing for movement: they filed the Application for Leave to Appeal within days of the Part 'A' judgment; objected to a costs-first sequence that delayed that appeal; sought delivery of the promised costs judgment; approached Goliath DJP and thereafter the Judge President for transparent case management; complied with the hardcopy procedure prescribed by the Judge President's office; and brought formal recusal only after those mechanisms failed to resolve the impasse and SANParks itself insisted that recusal, if pursued, be brought by formal application.
- 62 Nor do I ask the JSC to make a counter-finding that the Court or the organs of state were "bullies". The conduct question is whether it was fair and institutionally appropriate for the Court to adopt that loaded characterisation against the sole self-represented litigant when the record reflects that his submissions were repeatedly curtailed, new personal censure was introduced from the bench, the respondents' counsel were afforded materially more facilitative engagement, and he was later



denied any reply before punitive personal and coercive relief was pronounced. In that setting, the "*bullying*" label is capable of appearing to invert the actual forensic power relationship.

### The 'Ja' and Honorific Exchange

- 63 . During my reply I used the ordinary Afrikaans response "*Ja*". Holderness J corrected me in a clear irritated tone that it was not "*ja*" but "*yes, My Lady*" or "*yes, Justice*".
64. I do not elevate that exchange into a standalone allegation of misconduct. I record it because it occurred in a hearing already marked by a dispute about my attire, repeated references to my status as a self-represented litigant, personal criticism of my correspondence and a dispute about whether I was sufficiently respectful of the Court.
65. Article 7 of the Code requires a judge to act courteously and respect the dignity of others, with particular sensitivity to equality and the multicultural nature of South African society.
- 66 Viewed cumulatively, the intervention contributed to my reasonable perception that procedural conventions and forms of address were being used as a measure of personal respectfulness against a self-represented Afrikaans-speaking litigant rather than merely to maintain necessary courtroom order.

**Continued Litigant Profiling During the Hearing**

67. The original complaint expressly objected to the use of the descriptions "*serial litigants*", "*playground*" and prior judicial admonishments as a lens through which the Applicants were characterised .
- 68 . By 28 August 2026 Holderness J was aware that this very issue formed part of JSC/62/06/2026 .
- 69 . During the recusal hearing she nevertheless again referred to me as a "*serial litigant*", including while limiting my attempt to address unrelated judgments relied upon against me .
70. This becomes particularly relevant when regard is had to the fact that the City of Cape Town, CapeNature and SANParks are themselves recurrent institutional litigants regularly appearing before our courts. If, as Holderness J explained, the expression "*serial litigant*" was intended merely as a neutral description of a party who appears frequently in litigation, there is no apparent reason why the same neutral descriptor would not equally apply to those institutional litigants. Yet it was repeatedly reserved for the Complainants and used in conjunction with adverse references to their litigation history, alleged prior admonishments and supposed abuse of court process. In that context, the selective use of the expression is reasonably capable of demonstrating that "*serial litigant*" was not employed neutrally or descriptively, but as a pejorative characterisation of the Complainants and as part of the adverse litigant profile complained of herein

71. The respondents relied extensively upon earlier adverse judgments and then upon the later Le Grange J judgment as confirmation that other judges had reached similar adverse conclusions concerning LFN and myself.
72. The recusal judgment in turn treated Le Grange J's later judgment as persuasive confirmation that Holderness J's own adverse characterisation was not particular to her.
73. This reasoning is of special concern because the complaint itself alleges a self-reinforcing process of litigant profiling: one adverse judicial characterisation is imported into another unrelated case, which is then cited as confirmation in the next.
74. The Applicants do not allege collusion between judges. The complaint is about the institutional danger of propensity reasoning based on unrelated judicial criticism where the underlying records are not fully before the deciding court.

**Differential Judicial Receptivity, Repeated Interruption and Curtailment of the Self-Represented Litigant**

75. A further material feature of the proceedings of 28 August 2026, which becomes particularly significant when the hearing is assessed as a whole, is the markedly different manner in which my oral submissions were repeatedly interrupted, redirected, curtailed or terminated when compared with the treatment afforded to counsel appearing for the organs of state.
76. I acknowledge fairly that Holderness J initially allocated me 20 minutes for opening argument on the recusal application and permitted that opening to continue for close to 30 minutes. My complaint is therefore not a mechanical complaint about the clock,

nor do I suggest that every judicial interruption is improper. Judges are entitled, and often required, to control oral argument, test propositions and keep submissions relevant.

- 77 The concern lies instead in the qualitative pattern of the interventions. During my opening submissions Holderness J expressly stated, "*I am going to interrupt you*", corrected what she regarded as my legal position on costs, and later again stated, "*I'm going to interrupt you*", before directing that the subjects I was attempting to address were not matters she was willing to hear further. The practical effect was not merely to test the submissions but repeatedly to stop particular lines of argument before I could complete the point I was attempting to develop.
- 78 The same pattern became more pronounced during reply. When I attempted to explain the uncertainty surrounding the Court Online and hardcopy practice after Holderness J herself had raised the hardcopy issue, I was told that the matter was "*definitely not before*" her, that the Court had limited time, and that I was to move on. When I attempted to respond to the Court's newly introduced criticism of my correspondence to her registrar, I was told to sit down and was later confined to the pre-existing papers, notwithstanding that the criticism itself had arisen for the first time during the hearing
- 79 Later in reply, when I attempted to address the Goliath DJP process and the danger of relying upon unrelated judgments as litigant-profile material, the Court repeatedly stopped the line of submission, declined to permit further evidence from the bar, required me to explain relevance before completing the point, gave me a "*final opportunity*" to address the Court, reduced the remaining time to "*two minutes*", and

ultimately stated, while I was still attempting to respond, "*I'm now cutting...*" before bringing my submissions to an end.

- 80 Several of those interventions occurred while I was attempting to answer propositions which had themselves been introduced by the respondents or by Holderness J during the hearing: the hardcopy issue; the alleged failure to file costs submissions; the criticism of communications with the registrar; the relevance of unrelated judgments; the timing of the JSC complaint; and the contention that the recusal application was a tactical device. Fairness required a meaningful opportunity to answer those propositions, particularly where they later featured in the *ex tempore* reasoning.
- 81 The comparative treatment of the represented respondents was materially different. Counsel were also interjected upon from time to time, but the interventions reflected in the transcript were predominantly clarificatory, facilitative or affirming: requests for page or paragraph references, questions assisting chronology, statements of the Court's own thinking, supplementation of counsel's propositions, and expressions of agreement. They were not comparably directed to terminating counsel's substantive lines of argument or preventing counsel from developing the adverse case against the Complainants.
82. Examples include Holderness J supplying or reinforcing propositions during counsel's submissions that there had been no recusal application before 14 August 2026, emphasising the burden upon the taxpayer, articulating her own reasoning concerning when recusal ordinarily ought to be sought, stating that the earlier leave application "*plainly did not*" constitute a recusal application, and ultimately responding "*Well said*" to the characterisation of the recusal application as a bullying *stratagem*.

Those interventions objectively assisted or reinforced the respondents' case rather than curtailing it.

83. I emphasise that the complaint is not that a judge must remain silent or afford identical numbers of questions to each participant. The relevant question is whether, viewed cumulatively, there was materially equal judicial receptivity: whether each side was afforded a genuinely equivalent opportunity to develop its case, answer adverse propositions and complete material submissions without one side being repeatedly stopped while the other side's propositions were clarified, supplemented or endorsed.
84. The contrast is particularly serious because I was the only self-represented participant addressing the Court against professional counsel acting for organs of state. Article 7 of the Judicial Code requires courtesy, dignity, equality before the law and freedom from bias or prejudice. Article 9 requires the letter and spirit of *audi alteram partem*, manifest impartiality, patience and courtesy. Note 10(v) further cautions against a pattern of intemperate or intimidating treatment or conduct evidencing arbitrariness or abusiveness.
85. The Judicial Conduct Committee has already treated a closely analogous complaint as conduct capable of investigation rather than as a disguised appeal. In *Mkhize v Nkosi J (JSC/1028/2022) [2024] ZAJSC 19*, an unrepresented litigant alleged that the judge excessively and continuously interjected while he presented argument, while his opponent experienced only minor interjections. The Committee held that, if established, those allegations were reasonably capable of supporting an apprehension that the judge was not impartial and referred the complaint for an inquiry under section 17 of the *JSC Act*. The relevance here is not that Mkhize

predetermines this complaint, but that comparative judicial interruption and differential receptivity are recognised conduct issues capable of objective investigation from the hearing record.

86. The principle is reinforced by *Dlamini v Nkosi J and Another (JSC/18/02/24) [2025] ZAJSC 18*, where allegations that a judge appeared to take sides or advance the position of one party were treated as allegations concerning the manner of judicial conduct and were not summarily excluded merely because they arose during adjudication. In the present matter, the official audio and transcript permit the JSC to examine the comparative treatment objectively rather than on my subjective impression alone.

87 This feature must also be read with the separate complaint, addressed *infra*, that after the Applicants' opening costs submissions the represented respondents were permitted to answer fully, but I was afforded no reply at all before Holderness J immediately pronounced extraordinary punitive, personal and Part 'B' restraining relief. The two issues are connected: repeated curtailment during recusal was followed by complete absence of reply during the subsequent costs determination.

#### **Use of the Pending JSC Complaint as Adverse Material**

88 The pending JSC complaint was not simply acknowledged as an external accountability process. Its timing was expressly incorporated into the recusal reasoning.

89. Holderness J recorded that the complaint had been lodged shortly after the parties were told that costs would be decided before leave to appeal and stated, in substance, that what was "*curious*" was its timing.
90. The costs judgment similarly relied upon the fact that, during the period in which the Applicants were accused of not dealing with costs, they had managed to bring an Application for Leave to Appeal, a JSC complaint, and approaches to the offices of the Judge President and Deputy Judge President. The fuller chronology set out *supra* demonstrates that those head-of-court approaches were not collateral diversions: they were transparent attempts to obtain neutral case management after the promised costs judgment and urgent appellate process had failed to materialise.
91. The practical message conveyed is troubling: resort by a litigant to the constitutionally prescribed judicial complaints mechanism was treated as one of the circumstances supporting an adverse view of the litigant's conduct.
92. I respectfully submit that this is capable of chilling legitimate complaints. A litigant should not reasonably have to fear that lodging a JSC complaint will later be used by the complained-of judge as circumstantial evidence of obstruction, bad faith, delay or litigation strategy.
93. This is particularly serious where the judge is simultaneously determining punitive costs and personal liability against that complainant.



**Holderness J's Invitation to Supplement the JSC Complaint**

- 94 When I attempted to rely during reply upon the new criticism of my correspondence, Holderness J stated that if I wished to supplement my complaint to the JSC there was nothing precluding me from doing so and that the JSC would be the forum in which to raise the new complaint.
- 95 In formal terms, the statement is correct: I am entitled to supplement this complaint.
- 96 The concern lies in the surrounding circumstances. The statement was made after Holderness J had herself introduced new personal censure, including the reference to racism, during her own recusal hearing; had curtailed my immediate attempt to answer; and thereafter proceeded to incorporate the criticism into the recusal judgment.
- 97 I experienced that stance as dismissive and institutionally arrogant: in effect, the Court appeared prepared to continue and even intensify the very conduct already complained of while directing me to complain again if dissatisfied.
98. I do not suggest that the JSC process should intimidate a judge. I do submit that a pending judicial-misconduct complaint should be treated with institutional seriousness. Repeating or amplifying the complained-of conduct and then inviting the complainant to add another complaint can reasonably create the appearance of indifference to the accountability mechanism.
99. Article 4's protection of judicial independence cannot be converted into immunity from scrutiny. Note 4(iv) expressly makes that distinction.

**The Recusal Judgment and the Escalation of Pejorative Characterisation**

100. The recusal judgment dismissed the application as being without merit and, in addition to the findings already identified, characterised it as a blatant *stratagem*, a sustained exercise in delay and a '*Stalingrad defence*'.
101. The judgment further relied upon the alleged five- or six-month failure to address costs, the timing of the JSC complaint, the hardcopy issue, prior unrelated judgments and the later Le Grange J judgment.
102. The Applicants dispute several of those factual premises and have challenged them in the protective Application for Leave to Appeal annexed marked "V".
103. The JSC is not asked to decide those appellate grounds. Their conduct relevance is narrower: grave findings of ulterior motive and abuse were used together with highly personal language while the judge was deciding an application alleging that her prior language and litigant profiling already demonstrated a reasonable apprehension of bias.
104. The result, in my respectful submission, was escalation rather than depersonalisation.

**The 'Stalingrad Defence' Characterisation and the Objective Chronology**

105. The "*Stalingrad defence*" characterisation deserves separate treatment because it carries a recognised jurisprudential meaning. In *Moyo v Minister of Justice and Constitutional Development and Others; Sonti v Minister of Justice and Correctional Services and Others* (387/2017; 386/2017) [2018] ZASCA 100; 2018 (2) SACR 313 (SCA) at [169], the Supreme Court of Appeal described the expression as a term of art associated with criminal defence tactics in which preliminary or collateral litigation delays the commencement or continuation of a criminal trial. Later courts have sometimes used the metaphor by analogy outside criminal proceedings to describe deliberate procrastination or procedural obstruction, including *S.L v A.C* (8030/2021) [2025] ZAWCHC 565 at [113]–[115]. I therefore do not advance the semantic contention that the expression is legally confined to criminal accused persons.
106. The material point is functional rather than semantic. Across those contexts, the sting of the expression lies in a demonstrated strategy of obstruction or delay: the use of procedural steps not principally to obtain their lawful determination, but to prevent or postpone the underlying proceedings from reaching adjudication. The mere existence of interlocutory litigation, an appeal, a recusal application or resort to a constitutional accountability mechanism cannot, without more, establish such a strategy.
107. Against that meaning, the objective chronology in the present matter is difficult to reconcile with the label. LFN and I were the Applicants seeking urgent protective relief. We lodged the Application for Leave to Appeal within days of the Part 'A' judgment, repeatedly sought its enrolment, sought delivery of the reserved costs judgment after it had been promised for June to be effected in chambers as per the

original court order, and thereafter approached Goliath DJP and the Judge President precisely because the appeal and costs processes were not moving. We complied with the Judge President's prescribed hardcopy process and brought formal recusal only after the less intrusive administrative route produced no substantive response and SANParks had itself insisted that recusal, if sought, be pursued formally.

108. The recusal judgment specifically described the alleged strategy as being aimed "*not at winning, but at preventing costs being determined*". Yet the costs determination remained throughout within the Court's own control. The order of 25 February 2026 contemplated determination in chambers; on 9 June 2026 Holderness J's registrar stated by her direction that the costs judgment would be delivered by the end of the following week; and no judgment followed until 28 August 2026. The Applicants' consistent position was not that costs should never be determined, but that the costs-first sequencing should not render the urgent appellate challenge ineffective and that recusal had to be resolved before Holderness J exercised further coercive jurisdiction over them.
109. The represented respondents, by contrast, advocated continuation of the costs-first sequence and opposed the Applicants' requested head-of-court case-management course. I do not allege as an established fact that those respondents deliberately stalled the litigation, nor do I contend that every period of institutional delay amounted to misconduct. The narrower and objectively testable point is that the record contains substantial contrary indicators which had to be squarely confronted before assigning to the Complainants a metaphor whose central meaning is intentional procrastination and obstruction.



110. The conduct issue for the JSC is therefore not whether the appellate court will ultimately hold that the "*Stalingrad defence*" description was legally permissible. It is whether, while a formal complaint already alleged pejorative profiling and apprehended bias, the adoption of that vivid and highly adverse motive-characterisation without meaningful engagement with the contrary chronology constituted another evidence-based judicial finding or instead an escalation of the litigant profile already complained of. The metaphor then fed directly into the findings of abuse and the punitive consequences imposed later that day, giving it significance beyond rhetorical flourish.

**The Costs Hearing: Denial of the Applicants' Right of Reply**

111. After delivering the recusal judgment, Holderness J immediately proceeded to hear the reserved Part 'A' costs.
112. I addressed the Court first. I referred the Court to Part 'L' of the Application for Leave to Appeal in respect of the 25 February 2026 judgment and to the Applicants' Heads of Argument on costs. Holderness J confirmed that she had read those submissions.
113. When I said there was nothing further to add, that plainly concluded the Applicants' opening submissions. The represented organs of state had not yet delivered their oral answers.
114. Ms O'Sullivan SC then made substantive oral submissions, handed up further extracts from authorities, and advanced argument concerning the alleged absence of genuine constitutional import, the *Biowatch* exception, vexatiousness and abuse.

115. SANParks' counsel, Mr De Beer, thereafter advanced further submissions concerning personal *de bonis propriis* liability and, importantly, the restraint ultimately granted against continuation of Part 'B'. He expressly acknowledged that his client had not brought a formal application for that restraint and relied instead upon the Court's inherent power.
116. After the respondents' answering submissions concluded, I was not invited or permitted to reply. Holderness J proceeded immediately to deliver the *ex tempore* costs judgment.
117. This is starkly contrasted with the recusal hearing earlier that morning, where the Court expressly recognised that I had a right of reply after the respondents.
118. Article 9(a)(i) of the Code expressly requires a judge to observe the letter and spirit of the *audi alteram partem* rule. Article 9(a)(ii) requires manifest impartiality. The denial of reply before extraordinary punitive and personally prejudicial relief was pronounced is therefore not merely an appellate technicality; it is directly relevant to the Code's fair-hearing standard.
119. Note 9(vi) further recognises that where a provisional view is put, justice may require that a party be afforded an opportunity to deal with it. Here the respondents introduced further authority and an extraordinary restraint, yet no reply was allowed.

**The Costs Judgment and Material Factual Premises Relevant to Conduct**

120. The costs judgment imposed attorney-and-client costs, including two counsel where employed, upon me personally *de bonis propriis*, and prohibited both Applicants from continuing with Part 'B' until the Part 'A' costs had been satisfied.
121. The judgment repeatedly proceeded on the premise that the Applicants had said nothing on costs for approximately five months and had disregarded the Court's direction
122. That assertion is materially disputed. Part 'L' of the Application for Leave to Appeal dated 2 March 2026 – already before the JSC as Annexure "B" to the original complaint – expressly dealt with punitive costs and *de bonis propriis* liability before the 6 March 2026 deadline
123. Whether Part 'L' constituted complete or substantial compliance is an appellate question. The conduct concern is that the nuanced question of compliance was converted into the categorical proposition that the Applicants had said nothing at all and that this supposed silence showed contentious disregard and an ulterior effort to avoid costs
124. The judgment also relied upon the Application for Leave to Appeal, the JSC complaint and approaches to Heads of Court as conduct occurring during the same period and supporting the Court's adverse assessment.
125. The 9 June 2026 email, Annexure "E", meanwhile shows that Holderness J had herself regarded the costs issue as ripe for judgment and promised delivery by the

end of the following week (in chambers). The substantial later delay cannot therefore fairly be portrayed as the product only of the Applicants' conduct.

126. These matters are appealed separately. They are recorded here because the punitive costs reasoning demonstrates how the disputed litigant profile and the Applicants' use of accountability mechanisms translated into direct personal and financial consequences

### **The Part 'B' Restraint and Ongoing Practical Consequences**

127. The order pronounced on 28 August 2026 further provides that neither LFN nor I may continue with litigation relating to Part 'B' until the Part 'A' costs orders have been satisfied.
128. The restraint was imposed before those costs had been taxed, quantified or demanded and after SANParks acknowledged that no formal application had been brought for the relief.
129. The Applicants were afforded no reply after that submission and before the order was made
130. The Applicants have lodged a separate protective Application for Leave to Appeal against the costs judgment and Part 'B' restraint, annexed marked "W". They contend that the order is final in nature and effect and that its operation is suspended under section 18(1), read with section 18(5), of the *Superior Courts Act* upon lodgment of leave

131. The restraint is relevant to this complaint because it demonstrates the unusually severe practical consequences of the complained-of conduct. The Court's adverse characterisation of the Applicants did not remain rhetorical; it culminated in personal punitive costs and a barrier against continuation of the remaining constitutional case.
132. The underlying litigation remains urgent in the real world. The affected baboons are understood to be scheduled for relocation to the proposed sanctuary on or about 12 September 2026. The Applicants' final urgent head-of-court letter dated 8 September 2026 is annexed marked "X".

**Clarification of the Judicial Code of Conduct Provisions Relied Upon**

133. For precision, this supplement clarifies the provisions of the *Judicial Code of Conduct* most directly engaged by the complaint. To the extent that paragraph 78 of the original complaint used shorthand references which associated particular duties with Articles 13 or 14, the Applicants rely on the correct provisions set out below. The substance of the original complaint is not withdrawn.
134. Article 4 requires judicial independence and integrity. Its Note 4(iv) makes clear that independence does not justify judicial misbehaviour or provide an excuse for failing to act in accordance with the Code.
135. Article 5 requires a judge to act honourably and in a manner befitting judicial office. Note 5(ii) requires avoidance of impropriety and its appearance; Note 5(iv) requires objective assessment through the eyes of the reasonable person.

✓



136. Article 7(b) requires courtesy and respect for the dignity of others; Article 7(c) requires special attention to equality before the law and equal protection and benefit of the law; and Article 7(d) requires a judge to refrain from bias or prejudice.
137. Article 9(a) requires a fair hearing, observance of *audi alteram partem*, manifest impartiality and adequate reasons. Article 9(b)(iii) requires patience and courtesy to legal practitioners, parties and the public.
138. Note 9(iv) recognises that judges may express critical views but cautions against harsh language and against derogatory statements actuated by personal spite, ill will or improper, unlawful or ulterior motive.
139. Article 10 requires judicial business to be disposed of promptly, efficiently and without undue delay. Note 10(v) specifically cautions against a pattern of intemperate or intimidating treatment or conduct evidencing arbitrariness or abusiveness.
140. Article 11(1)(e) requires a judge to avoid personality issues with colleagues, lawyers and parties.
141. Article 13 governs recusal where there is a real or reasonably perceived conflict or reasonable suspicion of bias based on objective facts. Note 13(ii) expressly recognises that annoyance at the suggestion of recusal is not a ground bearing upon the recusal duty, and Note 13(iv) requires timeous disclosure of potentially disqualifying facts and adequate time for parties to consider them.
142. The comparative-interruption complaint is supported by the approach of the Judicial Conduct Committee in *Mkhize v Nkosi J (JSC/1028/2022) [2024] ZAJSC 19*, particularly paragraphs [2], [19], [20] and [25], where allegations by an unrepresented



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## JUDICIAL CONDUCT COMMITTEE

Enq: Ms. Mbali Songca  
Email: [MSongca@judiciary.org.za](mailto:MSongca@judiciary.org.za)

3 September 2026

**Mr R D De Beer**

Per email: [reyno@libertyfighters.org](mailto:reyno@libertyfighters.org)

**Our Ref: JSC/108/09/2026**

Dear Mr De Beer

### **RE: COMPLAINT AGAINST JUDGE LE GRANGE OF THE WESTERN CAPE DIVISION OF THE HIGH COURT**

The Judicial Service Commission (JSC) hereby acknowledges receipt of your complaint. Your complaint will be forwarded to the Judicial Conduct Committee for consideration. The Secretariat will notify you of the outcome of your complaint in due course.

Yours sincerely,

**Ms. Dimakatso Ramaisa**

**Secretariat for the Judicial Service Commission**



# **ATTACHMENT I**

**21 July 2026**

Fairbridges Attorneys' letter to the Judge President on behalf of the City of Cape Town and CapeNature opposing the Applicants' urgent case-management position and supporting determination of Part 'A' costs before the Application for Leave to Appeal.

Bundle pages 185 - 190

"SAN23"

Our ref: DO/AA/  
Your ref:  
Date: 21 July 2026

Email: deirdre.o@fairbridges.co.za  
Direct Line: 021 405 7397  
Mobile: 082 320 2259

Attention: Judge President  
**WESTERN CAPE HIGH COURT**  
Email: JNaidoo-Chetty@judiciary.org.za; PDhlamini@judiciary.org.za

Attention: Reyno Dawid De Beer (Nomine Officio )  
**LIBERTY FIGHTERS NETWORK**  
**REYNO DAWID DE BEER (N.O.)**  
Email: reyno@libertyfighters.org; debeerreyno@gmail.com

Attention: Hoosain Aayesha  
**STATE ATTORNEY**  
Ref: 354/25/P40  
Email: AHoosain@justice.gov.za

**WESTERN CAPE PROVINCIAL MINISTER FOR LOCAL GOVERNMENT, ENVIRONMENTAL  
AFFAIRS AND DEVELOPMENT PLANNING, MR. ANTON BREDELL N.O., OR HIS  
SUCCESSOR IN TITLE**  
Email: anton.bredell@westerncape.gov.za; graham.paulse@westerncape.gov.za

Attention: Mr L Mkhabela  
**MKHABELA HUNTLEY ATTORNEYS INC.**  
Email: mkhabela@mhalaw.co.za; refiloe@mhalaw.co.za; mmasetshaba@mhalaw.co.za;  
[kamohelo@mhalw.co.za](mailto:kamohelo@mhalw.co.za); leslie@mhalaw.co.za

**CHAIRPERSON OF CAPE PENINSULA BABOON MANAGEMENT JOINT TASK TEAM, MR.  
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krok@mweb.co.za; stcamail@gmail.com

**VIA EMAIL**

Dear Judge President

**RE: LIBERTY FIGHTERS NETWORK AND ANOTHER / PREMIER OF THE WESTERN CAPE AND OTHERS (CASE NUMBER 2026-024184) / APPLICANTS' REQUEST FOR URGENT ADMINISTRATIVE CASE MANAGEMENT INTERVENTION**

1. We act for the City of Cape Town and CapeNature.
2. We refer to the letter dated 17 July 2026 addressed to Madam Deputy Judge President Goliath (the DJP) by the applicants, Liberty Fighters Network (LFN) and Reyno de Beer N.O, and the subsequent emails of Ms Sievers of 18 July 2026 and Mr de Beer of 19 July 2026.
3. We write this letter in order to place in context the letter, within the full history of this matter.
4. The application under the above case number was brought in two parts. On 25 February 2026 Holderness J delivered a judgment in respect of Part A (**the judgment**). The application in terms of Part A was dismissed.
5. Holderness J found that the applicant had failed to establish grounds for urgency, and that any urgency which may have existed was of its own making. The matter was however also adjudicated on the merits, in the interests of justice. All issues of costs stood over for later determination.

6. In its judgment, the Court directed the parties to file written submissions by stipulated dates (6 March 2026 and 13 March 2026) addressing whether costs should be awarded on a punitive scale as between attorney and client; and/or whether such costs should be paid by the applicants *de bonis propriis*. The respondents delivered submissions on costs by the dates stipulated.
7. The applicants delivered an application for leave to appeal and declined to file submissions on costs, purportedly on the basis that the leave to appeal suspends the judgment and order granted.
8. The stance taken by our clients (and by SANParks) is that the costs issues should be determined before the application for leave to appeal is determined, inter-alia so that the leave to appeal is determined holistically and to avoid piecemeal litigation and that the application for leave to appeal has not suspended the orders pertaining to costs. A copy of our letter dated 5 March 2026 to the applicants in this regard is annexed marked “A”.
9. Between 13 March 2026 and 1 June 2026, various correspondence was directed to the Judge by the LFN and Mr de Beer. On 21 April 2026, an email was sent indicating their stance that:

“The issue relating to costs — which the Court expressly reserved for later determination — remains intrinsically linked to the merits of the judgment, which are now the subject of a pending application for leave to appeal. In the circumstances, the determination of costs as a discrete issue, by way of written submissions outside the context of a formal hearing, raises concerns of piecemeal adjudication and ought properly to be addressed within the leave to appeal proceedings.”
10. At that stage a hard copy of the leave to appeal application had not yet been delivered to the Judge’s chambers.
11. On 1 June 2026 Mr Mabuya advised the parties that Judge Holderness had directed that the application for leave to appeal would be heard on the first available date in the third term, from the week commencing on 27 July 2026, as Her Ladyship wished to deliver the costs order prior to the hearing of the application for leave to appeal. The respondents furnished the Registrar with their availability for argument of the leave to appeal during that week. Mr De Beer and the LFN did not confirm dates for the Application for Leave to Appeal.
12. The following day, on 2 June 2026, the applicants advised Mr Mabuya that the applicants had that morning lodged a complaint with the Judicial Services Commission (‘JSC’). The complaint to the JSC primarily relates to certain findings in the judgment, which are also the subject of the

leave to appeal application. However, the decision to delay the hearing of the leave to appeal until after the determination of costs is also criticized, including on the basis that the “continued separation and prioritisation of the issue of costs” further reinforces a reasonable apprehension of bias and procedural unfairness against the applicants.

13. On 5 June 2026 Mr Mabuya advised the parties by directive of Holderness J that the parties were requested to indicate their availability for a brief virtual meeting during the week commencing 8 June 2026 to discuss the further conduct of the matter.
14. On 8 June 2026 Mr de Beer addressed a letter to Mr Mabuya in which they, inter alia, indicated that they avail themselves for an in-person meeting on either Monday, 8 June 2026, or Tuesday, 9 June 2026, at 09h00, alternatively at such other time on either of those dates as may be suitable to Holderness J and the parties.
15. On the same day, we sent an email to Mr De Beer indicating that both the legal teams for the City and CapeNature, and SANParks, had indicated their availability for a virtual meeting on 10 June 2026 at 9h00. Mr de Beer’s response to us and to My Mabuya was that he was not available for a virtual meeting due to his Wifi-connection being too unstable and that he was only available to attend an in-person meeting,
16. Significantly, he indicated that that the applicants were not in a position to attend any meeting until the purpose thereof has been properly disclosed, particularly in light of the fact that the applicants have a pending complaint against Holderness J before the Judicial Service Commission.
17. On 9 June 2026 Mr Mabuya sent an email to the parties that by the directive of Holderness J, parties are advised that little purpose would be served in further correspondence upon consideration of the emails or responses received and that the judgment in respect of the issue of costs, which stood over, would be delivered by the end of the following week.
18. Our clients remain of the view that the costs for Part A should be determined by Holderness J before the application for leave to appeal is heard. The application for leave to appeal has not suspended the orders pertaining to costs, namely the direction that the parties file submissions on costs. There is no final order in relation to costs that is susceptible to an appeal. Were the leave to appeal application to be adjudicated in the absence of a final order concerning costs being granted, that would relate in piecemeal litigation.

19. Finally, we mention that the applicants have not established any basis for urgency, including because implementation of the Baboon Action Plan commenced in November 2025 already.
20. In our client's view, Judge Holderness ought to proceed to determine the costs order, and thereafter, to determine the leave to appeal.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Deirdre' followed by a flourish.

**DEIRDRE OLIVIER**  
Director

# **ATTACHMENT J**

**22 July 2026**

Applicants' response to the Judge President and parties clarifying the administrative nature of the request and the continuing urgency created by delay and implementation.

Bundle pages 191 - 196

**Refiloe Mntambo**

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**From:** Reyno De Beer <reyno@libertyfighters.org>  
**Sent:** Wednesday, 22 July 2026 12:35  
**To:** Aurelia Arendse; Jerelene Naidoo-Chetty; Phumelele Dhlamini  
**Cc:** Njabulo Mabuya; Aayesha Hoosain; André le Roux; Refiloe Mntambo; Leslie Mkhabela; Kamohelo Mapota; glen@maserumulecpt.co.za; jamie@maserumulecpt.co.za; Ophelia-Faith Abrahams; Deirdre Olivier; Peninsula Baboon Cape; cpbmjtt@sanparks.org; cpbmjtt@capenature.co.za; Emlyn Williams; judy@monkeyvalleyresort.com; Tracy De Breuyn; administrator@wapfsa.org; waldohelives@icloud.com; chrisjonllo@gmail.com; krok@mweb.co.za; stcamail@gmail.com  
**Subject:** Re: LIBERTY FIGHTERS NETWORK AND ANOTHER / PREMIER OF THE WESTERN CAPE AND OTHERS (CASE NUMBER 2026-024184) / APPLICANTS' REQUEST FOR URGENT ADMINISTRATIVE CASE MANAGEMENT INTERVENTION

Good day Judge President, Ms Naidoo-Chetty, Ms Dhlamini, Ms Olivier, and all parties,

1. I refer to Mrs Sievers's email dated 18 July 2026, by which the Applicants' request for urgent administrative case-management intervention was referred to the Office of the Judge President, and to the letter subsequently circulated by Ms Olivier on 21 July 2026.
2. With respect, Ms Olivier's letter does not meaningfully answer the administrative case-management request placed before the Judge President. Instead, it seeks to ventilate arguments properly belonging to the pending application for leave to appeal, including the disputed findings on urgency, the merits of Part "A", and the sequence in which the costs issue and application for leave to appeal should be determined.
3. The Applicants have not requested the Judge President to decide the merits of the application for leave to appeal administratively. They have requested urgent intervention to ensure that the appellate process is not defeated by continued delay while the very environmental measures which the urgent proceedings sought to preserve are being implemented.
4. It is circular for the attorneys representing the City of Cape Town and CapeNature to rely upon findings contained in the disputed judgment as grounds upon which the Judge President should decline to treat the application for leave to appeal urgently. Those findings are themselves the subject of the application

for leave to appeal and cannot be treated as conclusively determining whether the appellate process now requires expedition.

5. The urgency presently requiring intervention is, moreover, not confined to the urgency considered by Holderness J during February 2026. It arises from subsequent events, including:
  - 5.1. the continued implementation of the disputed Final Cape Peninsula Baboon Management Action Plan;
  - 5.2. the failure to hear the application for leave to appeal after it was lodged promptly;
  - 5.3. the decision to postpone that hearing pending a separate costs determination;
  - 5.4. the failure to deliver the costs decision within the period expressly undertaken by Holderness J;  
and
  - 5.5. the imminent risk that sanctuary, confinement, relocation, and related measures will create a permanent *fait accompli* before the appellate process can be considered.
6. The underlying proceedings concern far more than a disagreement over baboon-management policy. They concern the continued failure, since 1998, to appoint and operationalise the constitutionally established Commissioner for the Environment, and the Applicants' referral of the Baboon Action Plan and its implementation to that vacant office for investigation.
7. The Applicants approached the Court because the office constitutionally established to receive and investigate environmental complaints remains vacant, while a joint task team whose lawful authority to approve and implement the Action Plan is directly disputed has continued to implement measures of a permanent and potentially irreversible nature.
8. The Action Plan was disputed before the present implementation phase on substantial constitutional, administrative-law, and environmental grounds. The Applicants' case is that the Cape Peninsula Baboon Management Joint Task Team is not itself a statutory decision-maker clothed with independent authority to approve and implement the measures in question, and that the constituent organs of state

have failed to identify the lawful decisions, decision-makers, records, permits, and authorisations upon which implementation depends.

9. As already recorded in my email dated 18 July 2026, the Cape of Good Hope SPCA has reportedly also raised serious concerns regarding the intended relocation of baboons to a sanctuary which has not yet been properly approved. Such confinement may permanently disrupt established troop structures and natural behaviour and may place the long-term survival of the Cape Peninsula baboons at risk.
10. This is not frivolous or vexatious litigation. It concerns section 24 of the Constitution, the principle of legality, accountable environmental governance, the performance of constitutional obligations without delay, and the preservation of effective remedies before irreversible environmental action renders judicial oversight nugatory.
11. The Applicants' JSC complaint records that they were treated disrespectfully and subjected to humiliating and pejorative characterisations by Holderness J. It further records that unrelated litigation history was used to portray the Applicants as abusive litigants, while the substance of their environmental and constitutional case was diminished.
12. Those matters are difficult to separate entirely from the further management of the proceedings. The complaint expressly concerns, *inter alia*, the reasonable apprehension of bias and the *post-judgment* decision to postpone the application for leave to appeal until after the costs determination.
13. The Applicants do not contend that the mere lodging of a JSC complaint automatically compels recusal. They do contend that the circumstances require the question to be confronted openly and promptly. Either Holderness J should recuse herself, in which event another judge should urgently be allocated, or she should indicate that she considers herself able to continue independently and impartially and should then proceed to hear the application for leave to appeal without further delay.
14. Ms Olivier's letter materially confirms the Applicants' complaint concerning delay. At paragraph 17 thereof, she records that Holderness J expressly undertook that the costs judgment would be delivered by the end of the week following 9 June 2026. It remains undelivered.

15. The Applicants have consistently disputed the propriety of determining costs separately before the application for leave to appeal. Their position has been that the contemplated punitive and/or *de bonis propriis* costs determination is intrinsically connected to findings and characterisations challenged in the application for leave to appeal.
16. The Respondents' preferred sequencing cannot become an indefinite procedural barrier to the application for leave to appeal. Even on their own version, the purpose of first determining costs was supposedly to allow the application for leave to appeal to be considered holistically. That explanation no longer justifies the delay where the promised costs decision has not been delivered.
17. Ms Olivier further suggests that the Applicants did not confirm their availability for the application for leave to appeal. That suggestion is misleading. No specific hearing date was offered. The parties were merely advised that the matter would be heard on the first available date from the week commencing 27 July 2026.
18. When a separate meeting was subsequently proposed, the Applicants made themselves available for an in-person meeting on 8 or 9 June 2026, alternatively on another suitable date. The Applicants' inability to attend a virtual meeting because of an unstable internet connection did not amount to a refusal to engage. They reasonably requested disclosure of the purpose of the meeting, particularly because the JSC complaint had already been lodged and could materially affect their position.
19. Regrettably, the legal teams representing the organs of state continue to rely heavily upon the rhetoric and characterisations adopted in the disputed judgment, rather than confronting the underlying environmental and constitutional issues, namely:
  - 19.1. the failure of the Premier and Provincial Parliament to ensure the appointment and operationalisation of the Commissioner for the Environment;
  - 19.2. the absence of an operational constitutional mechanism to investigate the Applicants' environmental complaint;
  - 19.3. the disputed lawful authority for the approval and implementation of the Action Plan; and

- 19.4. the danger that permanent measures will be implemented before the appellate process is heard.
20. Arguments concerning whether the Applicants established urgency, whether the task team possessed lawful authority, whether the costs issue should have been determined separately, and whether another Court would reach a different conclusion belong before a court hearing the application for leave to appeal. They should not be ventilated through correspondence in an attempt to persuade the Judge President that no urgent case-management intervention is warranted.
21. The present request remains limited and procedurally proper. The Applicants respectfully request that the Judge President urgently issue appropriate administrative directions so that:
- 21.1. Holderness J indicates whether she intends to recuse herself from the further conduct of the matter;
- 21.2. should she recuse herself, another judge is allocated urgently to determine the application for leave to appeal and any consequential costs issue;
- 21.3. alternatively, should she not recuse herself, the application for leave to appeal is enrolled before her at the earliest available opportunity, without the outstanding costs determination causing any further delay; and
- 21.4. the application for leave to appeal is determined before implementation of the Action Plan creates an irreversible *fait accompli*.
22. In the circumstances, the Applicants respectfully request that Ms Olivier's letter not be treated as a proper basis to refuse or postpone the administrative intervention sought. To the extent that her clients wish to oppose the application for leave to appeal or dispute its urgency, they will have a full opportunity to advance those submissions before the judge lawfully allocated to determine it.
23. The Applicants' rights remain reserved *in toto*.

# **ATTACHMENT K**

**10 September 2027 (sic)**

Fairbridges Attorneys' letter received on 10 September 2026 on behalf of the City of Cape Town and CapeNature, bearing the date 10 September 2027 (sic), responding to the Applicants' renewed urgent case-management request of 8 September 2026.

Bundle pages 197 - 210

Our ref: DO/AA/  
Your ref:  
Date: 10 September 2027

Email: deirdre.o@fairbridges.co.za  
Direct Line: 021 405 7397  
Mobile: 082 320 2259

Attention: Judge President  
**WESTERN CAPE HIGH COURT**  
Email: JNaidoo-Chetty@judiciary.org.za; PDhlamini@judiciary.org.za

Attention: Reyno Dawid De Beer (Nomine Officio )  
**LIBERTY FIGHTERS NETWORK**  
**REYNO DAWID DE BEER (N.O.)**  
Email: reyno@libertyfighters.org; debeerreyno@gmail.com

Attention: Hoosain Ayesha  
**STATE ATTORNEY**  
Ref: 354/25/P40  
Email: AHoosain@justice.gov.za

**WESTERN CAPE PROVINCIAL MINISTER FOR LOCAL GOVERNMENT, ENVIRONMENTAL  
AFFAIRS AND DEVELOPMENT PLANNING, MR. ANTON BREDELL N.O., OR HIS  
SUCCESSOR IN TITLE**  
Email: anton.bredell@westerncape.gov.za; graham.paulse@westerncape.gov.za

Attention: Mr L Mkhabela  
**MKHABELA HUNTLEY ATTORNEYS INC.**  
Email: mkhabela@mhalaw.co.za; refiloe@mhalaw.co.za; mmasetshaba@mhalaw.co.za;  
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**CHAIRPERSON OF CAPE PENINSULA BABOON MANAGEMENT JOINT TASK TEAM, MR.  
ROBERT McGAFFIN N.O, OR HIS SUCCESSOR IN TITLE**  
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**WILDLIFE ANIMAL PROTECTION FORUM OF SOUTH AFRICA**

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**BABOON ADVISORY GROUP**

C/O Tom Cohen, Chris Hart

Email: waldohelives@icloud.com; chrisjonllo@gmail.com;

krok@mweb.co.za; stcamail@gmail.com

**VIA EMAIL**

Dear Judge President

**RE: LIBERTY FIGHTERS NETWORK AND ANOTHER / PREMIER OF THE WESTERN CAPE AND OTHERS (CASE NUMBER 2026-024184) / APPLICANTS' FURTHER REQUEST FOR URGENT ADMINISTRATIVE CASE MANAGEMENT INTERVENTION BY JUDGE PRESIDENT**

1. We refer to the correspondence that was addressed to your office by Mr Reyno de Beer of the Liberty Fighters Network yesterday, dated 8 September 2026. The letter does not provide the Judge President with the correct facts. Accordingly, to the extent that the Judge President is considering that correspondence, we respectfully request that it is considered in light of the relevant facts which are set out in the Chronology below.
2. The application under the above case number was brought in two parts, filed electronically on 5 February 2026. The Respondents were afforded 2 (at best 3) court days to prepare answering papers. The hearing of Part A was set down for 17 February 2026, and argument proceeded on that date.
3. On 25 February 2026 Holderness J delivered a judgment in respect of Part A (**the judgment**). A copy of the judgment is attached.

4. At that stage an interim interdict was sought restraining the respondents from taking any steps to implement the final Cape Peninsula Baboon Management Action Plan dated 31 October 2025 (*'the action plan'*) including, the capture removal, the relocation or confinement of baboon troops and the conclusion of agreements concerning baboon sanctuaries or enclosures and *'construction or installation of infrastructure of the sanctuary confinement'*. The applicants sought to unsuccessfully contest the action plan on the basis of the three primary legal arguments as set out in paragraph 21 of the judgment:

'[21] The applicants are seeking to stop what they describe as a 'permanent and irreversible shift in how baboons are managed on the Cape Peninsula. [22] The applicants raise the following three primary legal arguments to contest the plan:

- (a) The JTT lacks the legal standing and statutory authority to make these decisions.
- (b) No 'identifiable, lawful administrative decisions' have been taken by the proper authorities to authorise such 'extreme measures.'
- (c) The executive's failure to 'operationalise' the office of the Environmental Commissioner, a position mandated by the provincial constitution but currently vacant or non-functional, is a breach of its constitutional mandate '

5. The Court found that the applicants had failed to establish grounds for urgency, and any urgency which existed was of their own making.<sup>1</sup> Instead of striking the matter from the roll for want of urgency, the Court decided that it was in the interests of justice for the matter to be fully adjudicated on the merits.<sup>2</sup> However, the Court further indicated that the abuse of process in bringing the application in the urgent court in the manner in which the applicants did, and on unfairly oppressive timelines, is an issue that would weigh heavily against the applicants when the issue of costs is determined.<sup>3</sup>
6. Instead, the application was determined on its merits and because the applicants had not proved the requirements for an interim interdict nor set out the rights that they sought to protect with an interdict, the application ought to have failed on that ground alone.

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<sup>1</sup> Urgency is dealt with in paragraphs 23 to 51 of the judgment. The related finding is at paragraph 51.

<sup>2</sup> At paragraph 51.

<sup>3</sup> At paragraphs 50 – 51 and 143.

7. However, the court went further and adjudicated the further issues raised on Part A (at para 65 to 66). The court determined that the relief sought was in fact of a final nature, correctly so, and concluded as follows in paragraphs 80 and 81:

[80] A primary concern is that the interdict suspending the implementation of the Action Plan (for a protracted and indefinite period) would prevent the authorities from fulfilling their respective constitutional and statutory duties and would intrude into their budgetary and policy functions.

[81] The stark reality is that without the BSMP and the Action Plan, baboon management by the authorities would be reduced to "limited, ineffectual and unaffordable means". The interdict, if granted, will lock baboons and people into ongoing conflict, with poor outcomes for the human and baboon populations in affected communities.'

8. On the merits, one of the aspects the Court dealt with was the relief sought by the applicants under Part A that it is confirmed that Liberty Fighters Network (**LFN**), as a voluntary association not for gain (universitas) be represented by the second applicant, its nominated official, Mr De Beer.<sup>4</sup>
9. The Court considered the pleadings, the Rule 7(1) notice delivered by the City and CapeNature, the applicants' response to the Rule 7(1) notice, and judgments in other matters, including the "LFN Registrar case"<sup>5</sup> and the "LFN Core Computer case",<sup>6</sup> which had been raised by the respondents.
10. The Court concluded that the applicants in this matter had failed to establish that De Beer was authorised by LFN to institute the application on behalf of LFN.<sup>7</sup>
11. The Court also found that the applicants lacked standing in terms of section 38 of the Constitution,<sup>8</sup> and had not made out a case for interdictory relief in their founding papers.<sup>9</sup>

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<sup>4</sup> At paragraphs 110 – 121.

<sup>5</sup> At paragraph 117 and footnote 21.

<sup>6</sup> At paragraph 118 and footnote 23.

<sup>7</sup> At paragraph 139.

<sup>8</sup> At paragraphs 85 to 109, and 139.

<sup>9</sup> At paragraphs 52 to 84, and 141.

12. Turning to costs, the judgment refers to the City and CapeNature, in the event of the Court concluding that De Beer lacked the necessary authority, seeking costs against De Beer *de bonis propriis*, i.e. against Mr De Beer personally.<sup>10</sup> A similar order was sought on behalf of SANParks.<sup>11</sup>

13. Importantly, with reference to judicial authorities, the Court expressly stated the following: <sup>12</sup>

**“Before deciding whether to order punitive costs or costs *de bonis propriis*, the court will need to conduct an independent enquiry into each form of costs order sought, as our highest courts have repeatedly warned that, because personal (*de bonis propriis*) and attorney-client cost orders are both punitive and extraordinary in nature, they should not be granted lightly, but only in exceptional circumstances.”**

14. Thereafter, the Court explained that, in view of the serious implications for the applicants where punitive costs or costs *de bonis propriis* are sought, the Court directed the parties, upon delivery of the judgment, to file brief written submissions dealing only with this aspect.<sup>13</sup>

15. The application in terms of Part A was dismissed.<sup>14</sup> All issues of costs stood over for later determination.<sup>15</sup> The Court directed the parties to file written submissions addressing whether costs should be awarded on a punitive scale as between attorney and client; and/or whether such costs should be paid by the applicants *de bonis propriis* (**costs submissions and costs directions**).<sup>16</sup>

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<sup>10</sup> At paragraph 145.

<sup>11</sup> As above.

<sup>12</sup> At paragraph 146.

<sup>13</sup> At paragraph 147.

<sup>14</sup> At paragraph 148,1.

<sup>15</sup> At paragraph 148,2.

<sup>16</sup> At paragraph 148,3.

16. The applicants were directed to file their costs submissions by 6 March 2026, and the City, CapeNature and SANParks by 13 March 2026.<sup>17</sup> Thereafter, the Court would determine the issue of costs in chambers, unless the parties are notified that oral argument is required.<sup>18</sup>

## RELEVANT DEVELOPMENTS AFTER THE JUDGMENT

17. The applicants failed to file costs submissions by 6 March 2026, as ordered by the Court in the judgment. (Ultimately, the applicants only delivered submissions on punitive costs in Part A as part of the recusal application submissions in August 2026).
18. Instead, the applicants effectively sought to circumvent the costs directions by, on 2 March 2026, delivering an application for leave to appeal, which was lodged on case lines only (RDBB 2 to the founding affidavit in the recusal application).
19. The stance taken by the City and CapeNature (and by SANParks) was that:-
- 19.1 The costs issues should be determined before the application for leave to appeal is determined, *inter-alia*, so that the leave to appeal is determined holistically and to avoid piecemeal litigation.
- 19.2 The application for leave to appeal does not suspend the orders in Part A pertaining to costs.
- 19.3 Those respondents would deliver their costs submissions by 13 March 2026 in accordance with the court order (which they duly did).
20. On 9 March 2026 the applicants proceeded with steps under Part B by delivering a notice of intention to amend in terms of Rule 28(1). On 6 April 2026, the applicants delivered the

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<sup>17</sup> At paragraph 148,4 and 5.

<sup>18</sup> At paragraph 148,6.

interlocutory application seeking leave to amend. Numerous amendments were sought, including an amendment to have issues determined in Part B which had already been determined in Part A. The first order sought is confirmation that LFN, as a voluntary association not for gain (universitas) be represented by de Beer, its nominated official, for purposes of the interlocutory application (paragraph 1). This relief forms part of the findings in the Judgment and the application for leave to appeal, and those findings would also apply to the interlocutory application, unless set aside on appeal.

21. On 21 April 2026 SANParks' attorneys addressed a letter to Judge Holderness' Registrar, Mr Mabuya (**Registrar**). The letter recorded that the applicants had elected not to file written submissions on costs as directed by the Court (i.e. in the Judgment) and drew to the Judge's attention that the applicants had instituted an application for leave to amend Part B of the application. SANParks respectfully enquired when the parties could expect to receive the Court's determination in relation to the outstanding issues of costs.
22. On the same day, Mr De Beer sent an email to the Registrar (annexed marked "**AA 2**") indicating the applicants' stance that:

"The issue relating to costs — which the Court expressly reserved for later determination — remains intrinsically linked to the merits of the judgment, which are now the subject of a pending application for leave to appeal. In the circumstances, the determination of costs as a discrete issue, by way of written submissions outside the context of a formal hearing, raises concerns of piecemeal adjudication and ought properly to be addressed within the leave to appeal proceedings."
23. Following further correspondence between the Registrar and Mr De Beer, on 19 May 2026 the Registrar acknowledged receipt of the hard copy of the application for leave to appeal.
24. It subsequently transpired during the recusal hearing, that the Presiding Judge had not received a hard copy of the leave to appeal, as required by this Court's practice directives, until May 2026, after repeated requests to the applicants.

25. On 25 May 2026 the Registrar sent an email to all the parties' legal representatives requesting confirmation of availability for the hearing of the leave to appeal application on any dates in the week of 8 to 12 June 2026.
26. On 26 May 2026 the City and CapeNature's attorneys sent an e-mail to the Registrar requesting confirmation whether the Judge would hand down judgment on the aspects of costs, which remained outstanding, before the leave to appeal is heard, and confirming that their legal team was available on 10 June 2026.
27. Mr De Beer responded to the Registrar on the same day, indicating that there is a dispute as to whether the cost adjudication is separate from the pending leave to appeal application, and should be addressed at the hearing of the application for leave to appeal. Mr De Beer did not confirm any dates for the hearing of the application for leave to appeal.
28. On 29 May 2026 SANParks' attorneys sent an email to the Registrar confirming SANParks' availability for the hearing of the application for leave to appeal on any day between 9 to 12 June 2026.
29. On 1 June 2026 the Registrar sent an email to the parties' legal representatives advising the parties that Judge Holderness had directed that the application for leave to appeal would be heard on the first available date in the third term, from the week commencing on 27 July 2026, as Her Ladyship wished to deliver the costs order prior to the hearing of the application for leave to appeal.
30. The following day, on 2 June 2026, the applicants advised the Registrar that the applicants had that morning lodged a complaint with the Judicial Services Commission ('the JSC'). The applicants, *inter-alia*, stated that the applicants remained of the view that the "continued separation and prioritisation of the issue of costs" further reinforces a reasonable apprehension of bias and procedural unfairness against the applicants. The applicants indicated that should

Holderness J not consider recusing herself *mero motu* upon becoming aware of the complaint and the applicants' position regarding the reasonable apprehension of bias, the applicants reserve their rights to institute a formal application for recusal.

31. On 5 June 2026 the Registrar advised the parties by directive of Holderness J that the parties were requested to indicate their availability for a brief virtual meeting during the week commencing 8 June 2026 to discuss the further conduct of the matter.
32. Later that afternoon Mr De Beer addressed an email to the Registrar, *inter-alia*, indicating that the applicants avail themselves for an in-person meeting on either Monday, 8 June 2026, or Tuesday, 9 June 2026, at 09h00, alternatively at such other time on either of those dates as may be suitable to Holderness J and the parties.
33. On 8 June 2026, the City and CapeNature's attorneys sent an email to Mr De Beer, indicating that both the legal teams for the City and CapeNature, and SANParks, had indicated their availability for a virtual meeting on 10 June 2026 at 9h00.
34. Mr De Beer's response to the attorneys and the Registrar, was that he was not available for a virtual meeting due to his Wifi-connection being too unstable and that he was only available to attend an in-person meeting. Significantly, he indicated that that the applicants were not in a position to attend any meeting until the purpose thereof has been properly disclosed, particularly in light of the fact that the applicants have a pending complaint against Holderness J before the Judicial Service Commission.
35. On 9 June 2026 the Registrar sent an email to the parties that by the directive of Holderness J, the parties were advised that little purpose would be served in further correspondence upon consideration of the emails or responses received and that the judgment in respect of the issue of costs, which stood over, would be delivered by the end of the following week.

36. Thereafter, on 17 July 2026, the applicants approached the Deputy Judge President (**DJP**) for “administrative directions”, requesting that (i) Judge Holderness indicate whether she intends to recuse herself from the further conduct of the leave to appeal, (ii) that if she recuses herself, another judge be allocated urgently to hear the application for leave to appeal, and if she does not recuse herself, the application for leave to appeal be enrolled on the earliest reasonably available date without awaiting any further delay relating the costs judgment.
37. On 18 July 2026 Ms Sievers (Registrar for the DJP) sent an email to Mr De Beer, informing him that the DJP was on leave and that the Registrars of the Office of the Judge President were included in the email to assist.
38. The City and CapeNature’s attorneys addressed a letter dated 21 July 2026 to the Judge President (copied to the applicants) to place in context Mr De Beer’s letter of 17 July 2026, within the full history of the matter. The letter concluded by indicating that the City and CapeNature remain of the view that the costs for Part A should be determined by Holderness J before the application for leave to appeal is heard.
39. On 22 July 2026 the applicants sent an email to the Judge President in response, concluding that the letter of 21 July 2026 should not be treated as a basis to refuse or postpone the administrative intervention sought.
40. On 28 July 2026 SANParks addressed a comprehensive letter to the Registrar of the DJP, copied to the Registrar (Mr Mabuya). SANParks submitted that, to the extent that the applicants seek the recusal of Holderness J, such relief ought properly to be sought by way of a recusal application. It also set out why the course proposed by the applicants is improper, and why the

judgment relating to the costs in Part A should first be handed down before the application for leave to appeal is heard.

41. On 3 August 2026 the Registrar sent an email to the parties advising that the parties are directed to indicate their availability for hearing arguments regarding costs in the matter, with the proposed hearing dates being 12, 19 or 20 August 2026. Following various emails dealing with availability of the parties' legal representatives, on 6 August 2026 the Registrar advised that the matter relating to costs would be heard on 28 August 2026.
42. On Friday 14 August 2026 the applicants launched an urgent application for the recusal of Holderness J.
43. Ultimately the recusal application and the costs application were enrolled for hearing on 28 August 2026. After hearing full argument, the recusal application was dismissed with costs on an attorney and client scale, and a costs order in relation to Part A was granted against Mr de Beer personally, *de boniis propriis*.
44. These two orders are the subject of the leave to appeal applications lodged yesterday, which are the subject of the correspondence addressed to the Judge President on the same date.
45. Cape Nature has instructed us to oppose the leave to appeal applications, and the City of Cape Town is in the process of obtaining the necessary authority to do so.
46. The applicants seek a directive from the Judge President for the urgent hearing of the amendment application. However, as has been repeatedly pointed out by the respondents, until such time as the applicants are (a) granted leave to appeal in relation to the issues concerning standing and authority; and (b) succeed in such an appeal, it is not permissible to introduce and rely on such new evidence in this interlocutory application. This is particularly so as (a) authority in relation to the interlocutory application is determined at the stage when the main application is launched and (b) this issue has already been determined by the Court in Part A and forms

part of the application for leave to appeal, and those findings would also apply to the interlocutory application, unless set aside on appeal.

47. We respectfully submit that the logical sequence of further hearings in the matter (and subject to Judge Holderness' directions in respect of the leave to appeal) is for the leave to appeal to be determined first, and only thereafter, the amendment application.
48. This is particularly so as the costs order granted in relation to SANPARKS, directed that Mr de Beer pay such costs de boniis propriis, prior to proceeding with Part B. Although strictly speaking Mr de Beer is correct that the leave to appeal suspends the execution of the order, it is plain that the leave to appeal has to be determined prior to the amendment application.
49. Furthermore, our clients dispute the accuracy of certain portions of the transcript, which Mr de Beer has produced in respect of the recusal application.
50. We understand from Mr de Beer's correspondence that a further complaint has been laid in relation to these proceedings against the Judge President at the JSC, and more recently a complaint laid against Judge Le Grange in another matter. We note from the reported judgments concerning LFN represented by Mr de Beer, that in many instances JSC complaints and recusal applications are part of the tactics employed by LFN. In our view, there is no evidence of systemic judicial bias, as claimed by Mr de Beer.
51. We respectfully submit that there is also no reasonable basis to suggest that the opposed amendment application ought to be allocated to a panel of judges (at paragraphs 30 to 45 of the letter). That would be a waste of judicial resources and in our view that request ought to be refused. In any event, the leave to appeal applications (including in relation to costs) have first to be determined, prior to the amendment application being considered.
52. In conclusion, we reiterate that the issues raised by Mr de Beer concerning the sanctuary and relocation of the Simonstown troops is not one that is capable of

resolution within the context of the existing legal proceedings, whether by way of leave to appeal or through the amendment application. The suggestion to the contrary that this can be dealt with by the Judge President is without merit.

53. The legal representatives of the City and Cape Nature will make themselves available for purposes of any case management process, should the Judge President so require.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Deirdre', with a stylized flourish extending to the right.

**DEIRDRE OLIVIER**  
Director