

IN THE HIGH COURT OF THE REPUBLIC OF SOUTH AFRICA  
(GAUTENG PROVINCIAL DIVISION, PRETORIA)

CASE NUMBER: 21542/2020

In the matter between:-

REYNO DAWID DE BEER

1<sup>st</sup> Applicant

LIBERTY FIGHTERS NETWORK

2<sup>nd</sup> Applicant

AND

MINISTER OF COOPERATIVE GOVERNANCE

Respondent

AND TRADITIONAL AFFAIRS

NOTICE OF MOTION

SOUTH AFRICA GAUTENG DIVISION PRETORIA REGISTRAR 2020-05-14 E. TIER REGISTRAR
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BE PLEASED TO TAKE notice that application will be made to the above Honourable Court on the 19<sup>th</sup> day of MAY 2020 at 10h00 or so soon thereafter as the matter may be heard for an Order in the following terms: -

- 1 That the Applicant's non-compliance with the Uniform Court Rules and Practice Directives regarding forms, service and time periods be condoned and that this

application is being heard as urgent in terms of Rule 6(12) of the Uniform Rules of the Court;

- 2 Enrolling this application on the urgent roll.
  
- 3 An order that the national state of disaster proclaimed by the Respondent in GN No. 313 GG No. 43096 dated 15 March 2020 in terms of Section 27(1) of the Disaster Management Act, 2002 (Act No. 57 of 2002) - hereafter referred to as the "*DMA*" - is declared as unconstitutional, unlawful and invalid; and
  
- 4 That all the *DMA* Regulations promulgated by the Respondent in terms of Section 27(2) of the *DMA* since 18 March 2020, be declared as unconstitutional, unlawful and invalid; and
  
- 5 In the alternative to paragraphs 3 and 4 *supra*, ordering that all gatherings as defined in the Regulation of Gatherings Act, 1993 (Act No. 205 of 1993), are lawful and ordering that the processes as set out in that Act , if complied with, would render any gathering lawful.

- 6 In the alternative to paragraphs 3 and 4, and in addition to paragraph 5 *supra*, that all businesses, services and shops be allowed to operate further, having regard to the reasonable precautionary measures of utilising masks, gloves and hand sanitizers, until the Respondent has consulted with the Essential Services Committee (ESC) as intended in Section 70 of the Labour Relations Act, 1995 (Act No. 66 of 1995) and the ESC has legally declared any one or more service as an essential service to be included in any valid *DMA* Regulations further; and/or
- 6 In the alternative to paragraphs 3 and 4 and in addition to paragraphs 4, 5 and 6 *supra*, all other gatherings be allowed, observing the reasonable precautionary measures of utilising masks, gloves and hand sanitisers.
- 7 Costs of suit.
- 8 Further and / or alternative relief

**TAKE NOTICE THAT** the affidavit of REYNO DAWID DE BEER filed herewith will be used in support of this application.

**TAKE NOTICE FURTHER THAT** the Applicants have appointed the address of their attorneys of record, **Zehir Omar Attorneys** c/o Friedland Hart Solomon Nicholson Attorneys, 4-301 Monument Office Park, 79 Steenbok Avenue, Pretoria as the address at which they will accept service of all process and proceedings in this matter.

TAKE NOTICE FURTHER THAT if you intend to oppose this application then you must:-

- a) On or before close of business on the 13<sup>th</sup> day of MAY 2020, serve and file a notice of intention to oppose in which notice you must appoint an address within 15 kilometers of the court house at which address you will accept service of all process and pleadings in this matter; and
- b) On or before close of business on the 15<sup>th</sup> day of MAY 2020, serve and file your answering affidavit if any.

Kindly enroll this matter accordingly.

DATED AT Springs

ON THIS THE 13 DAY OF May 2020.



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ZEHIR OMAR ATTORNEYS  
95 7<sup>TH</sup> STREET  
SPRINGS  
1560  
TEL: 011 815 1720  
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C/O FRIEDLAND HART SOLOMON  
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PRETORIA  
RE : T VAN STRAATEN/  
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[yasmin@zehiromarlaw.co.za](mailto:yasmin@zehiromarlaw.co.za)

TO: REGISTRAR OF THE  
HONOURABLE COURT

AND TO: MINISTER OF COGTA  
C/O THE STATE ATTORNEYS  
PRETORIA  
REF: SUNN4804 ZULU  
CELL: 083 507 4221

STAATSPROKUREUR  
PRIVAATSAK/PRIVATE BAG X91  
PRETORIA 0001  
2020 -05- 14  
STATE ATTORNEY

*[Signature]* 11:00  
S. J. J. J.

## INDEX TO THE APPLICANTS' FOUNDING AFFIDAVIT

FOUNDING AFFIDAVIT .....	6
CITATION OF RESPONDENT.....	8
SUMMARY OF RAISED CONSTITUTIONAL AND OTHER ISSUES .....	9
ESSENTIAL FACTS.....	14
RE PARAGRAPHS 3.1 TO 3.3: LEGALITY.....	19
RE PARAGRAPH 3.4: LOCKDOWN FOR COVID-19.....	21
RE PARAGRAPH 3.5: GATHERINGS .....	27
RE PARAGRAPS 3.6 & 3.7: INTERNATIONAL HEALTH REGULATIONS AND STATE OF EMERGENCY .....	28
RE PARAGRAPH 3.8 TO 3.10: ESSENTIAL SERVICES .....	29
RE PARAGRAPH 3.11: BILL OF RIGHTS.....	31
FURTHER MERITS .....	31
INTERESTS OF JUSTICE .....	32
URGENCY.....	33
COSTS.....	33

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AND

MINISTER OF COOPERATIVE GOVERNANCE

Respondent

AND TRADITIONAL AFFAIRS

FOUNDING AFFIDAVIT

I, the undersigned,

REYNO DAWID DE BEER

Declare under oath as follows:

1.

INTRODUCTION

1.1 I am a major male, South African citizen and registered to vote during any election, the 1<sup>st</sup> Applicant and also member and the President of LIBERTY FIGHTERS NETWORK (LFN)



the 2<sup>nd</sup> Applicant, both of business address Plot 473 Dewar Street, Derdepoort, Pretoria which is also the *domicilium citandi et executandi* for both Applicants.

1.1.1 Where I attach any annexure, I humbly request that the Court reads its content in with this Affidavit as if done so under oath.

1.1.2 The Constitution of *LFN* makes provision in Article 38(1)(e) thereof that I as its President may institute or defend any legal process reasonably necessary and I attach as Annexure "A1" hereto the required extracts thereof as well as the required resolution in that respect as Annexure "A2". The complete *LFN* Constitution will also be forwarded to the Respondent for information purposes, but due to brevity not attached and can be produced to the Court later on if such need arises.

1.1.3 Additional argument will be presented to the Court relating to each point raised herein which have not been fully described for brevity purposes, as far as it is necessary, at the hearing.

1.2 The facts contained in this affidavit are, to the best of my knowledge and belief, both true and correct.

1.3 *LFN* is a well-known voluntary association referred to as a common law *Universitas* operating as a non-governmental organisation with perpetual succession and without an eye on gain, existence separate from its members and ability to own property in its own name with several hundred active members all over the country who have come together for a common cause clearly identified in our Constitution and both *LFN* and I have been credited in local, national and even international media via newspapers, radio and television.

A handwritten signature in dark ink, followed by the initials 'm2' written in a smaller, cursive hand.



- 1.4 *LFN* acts primarily as a tenants association for purposes as intended in the *Rental Housing Act, 1999 (Act No. 50 of 1999)* – hereafter referred to as the “*RHA*” – with specific reference to the *Gauteng Unfair Practices Regulations, 2001*, for our members.
- 1.5 This application is not only on behalf of myself and our members, but also in the interest of the public for which we respectfully request this Court to allow for the reasons stated herein and I humbly submit that this application is founded on good merits and clearly not frivolous or vexatious where the *Blowatch*<sup>1</sup> principle established by the Constitutional Court should apply.
- 1.6 Where words are indicated in ***bold italics***, such words are abbreviations of other phrases as previously defined.

## 2.

CITATION OF RESPONDENT

- 2.1 The Respondent is the **MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS, DR. NKOSAZANA CLARICE DLAMINI-ZUMA** – hereafter referred to as the “*CoGTA Minister*” – an adult female cited *nomine officii* as the member of the cabinet of the Parliament of South Africa as envisaged in Chapter 5 of the *Constitution* responsible for the implementation and administration of the legislation mentioned herein and to oversee the work and functions of the cooperative governance and traditional affairs of our country with business address situated at 87 Hamilton Street, Arcadia, PRETORIA C/O the Office of the State Attorney with contacting details provided

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<sup>1</sup>*Blowatch Trust v Registrar Genetic Resources and Others (CCT 80/08) [2009] ZACC 14; 2009 (6) SA 232 (CC) ; 2009 (10) BCLR 1014 (CC) (3 June 2009)*



in the Notice of Motion, and her further particulars unknown to the Applicant and cited for purposes of Rule 10A of the Uniform Rules of this Court.

3.

**SUMMARY OF RAISED CONSTITUTIONAL AND OTHER ISSUES**

The following constitutional and other questions of law are raised in this application:-

- 3.1 The Applicants contend that the Regulations issued in terms of Section 27(2) of the Disaster Management Act, 2002 (Act No. 57 of 2002)<sup>2</sup> – hereafter referred to as the “*DMA*” – by the *CoGTA Minister* as published in the Government Gazette since 18 March 2020, including the various amendments and further regulations promulgated thereafter, are unconstitutional and/or invalid or otherwise illegal. The Applicants say so for the reason that these delegated legislation are not only unreasonably violating almost every single Section contained in the Bill of Rights, but specifically regulating matters which are within the exclusive legislative competence of the National or Provincial Legislatures as intended in Schedule 5 of the *Constitution*. In this regard, and by way of reference, I refer this Court to *inter alia* regulations of the control of businesses / persons / establishments that sell liquor to the public; cemeteries; funeral parlours and crematoria; cleansing; beaches and amusement facilities; licensing and control of undertakings that sell food to the public et cetera. See paragraph 5 *infra* for further details.
- 3.2 We further humbly submit that the *CoGTA Minister* used her delegated powers to make regulations in terms of Section 27(2) of the *DMA* which regulations by far exceed the purpose and objective of Section 27(2). See paragraph 5 *infra* for further details.

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<sup>2</sup>Section 27(2) of the *DMA*: If a national state of disaster has been declared in terms of subsection (1) the Minister may, subject to subsection (3), and after consulting the responsible Cabinet member, make regulations or issue directions or authorise the issue of directions concerning- ...

m.v.  
[Signature]