



**IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE DIVISION, CAPE TOWN)**

JUDGMENT

Reportable/Not Reportable

Case no: 2025-118740

In the matter between:

**UNITING REFORMED CHURCH IN SOUTHERN
AFRICA: CLAN WILLIAM CONGREGATION**

1st APPLICANT

WILDEN HECTOR

2nd APPLICANT

and

**UNITING REFORMED CHURCH IN SOUTHERN
AFRICA: CLAN WILLIAM PRESBYTERY**

1st RESPONDENT

PEDRO ADEN OKTOBER

2nd RESPONDENT

KLAAS KEFFERS

3rd RESPONDENT

KYLE MENDOOR

4th RESPONDENT

NADINE HECTOR

5th RESPONDENT

UBENICIA SIEBRITZ

6th RESPONDENT

JACOB KLAASE

7th RESPONDENT

BILLY CLAASEN

8th RESPONDENT

Coram: Jonker AJ

Heard: 24 July 2025

Delivered: 28 July 2025

JUDGMENT

JONKER AJ:

INTRODUCTION

1. This is an urgent application for interdictory relief to restrain the first to fourth respondents from discussing or dealing with certain items on an agenda of a meeting scheduled to take place on 29 July 2025 and to restrain the sixth seventh and eighth respondent from disseminating and sharing any information concerning the litigation currently pending between second and fifth applicant, and, in particular, seek to compel the eighth respondent to remove all social media posts relating thereto and refrain from further public commentary on the litigation.
2. The application was issued on 21 July 2025 and set down in the urgent court for 24 July 2025. The notice of motion made provision for service electronically on the respondents. The applicants sought condonation of this method of service. In any event the Sheriff effected service on the fifth, sixth and seventh respondent, late on the evening prior to the hearing. The eighth respondent is the only respondent that opposed the application and appeared in person.

3. Due to the repetitive and overly broad nature of certain relief initially sought by the applicants, they abandoned the relief directed at the fifth respondent. A draft order was handed up to the Court for the sole purpose of refining and clearly listing the relief the applicants persisted with, as set out above, so that the Court can consider the relief ultimately sought by the applicants.

THE PARTIES

4. The first applicant is the Clanwilliam Congregation of the United Reformed Church in Southern Africa ("URCSA"), a constituent congregation within the denomination operating under a Church Order. The second applicant, Reverend Wilden Hector, is a reverend within the first applicant's congregation. The first to fourth respondents are members and office bearers within the URCSA Presbytery structure, also subject to the same Church Order. The fifth respondent, Ms Nadine Hector, is the estranged spouse of the second applicant. The sixth to eighth respondents are community members, with the eighth respondent, Mr Billy Claasen, identifying himself as a local activist.

URGENCY AND CONDONATION

5. Rule 6(12) confers courts with a wide discretion to decide whether or not an application justifies enrolment on the urgent court roll based on the facts and circumstances of each case. Our courts have explained that the degree of departure from the modes of service and timeframes in the Uniform Rules must be commensurate with the particular urgency in each case.
6. An application is urgent when an applicant cannot obtain substantial redress in due course. Without the urgent intervention of this Court, the applicants will be unable to obtain substantial redress in respect of the further damage and harm that will inevitably result from the anticipated conduct by the respondents.

In *Republikeinse Publikasies*¹ it was stated:

“In my view, in order to persuade the Court that the matter is urgent the Applicant must in the founding affidavit set out sufficient facts to enable the Court to decide whether urgent relief should be granted, in addition to making averments on the urgency the Applicant must set out facts that would support those averments. In dealing with this issue, the Court will, of course, consider the substance of the affidavit and not the technical requirements. In other words the Court will look at the totality of the evidence set out in the founding affidavit and then from then deduct from a reasonable inference that those facts support the case for urgency”.

7. The applicants submit that the circumstances set out by the applicants in their founding affidavit justified this application being launched on an urgent timeframe, and justified the degree of abridgement of prescribed time periods. The applicants contend that the matter is urgent for the following reasons: (1) An extraordinary meeting of the first respondent - at which certain matters concerning the applicants are to be addressed - has been scheduled for 29 July 2025. Although the applicants sought clarification and undertakings from the first respondent and its members, no response was forthcoming. This lack of engagement prompted the launching of the urgent application. (2) The eighth respondent is currently daily infringing the second applicant's right to privacy which harms his reputation and also contravenes Section 12 of the Divorce Act 70 of 1979 (the Act). The eighth respondent disputes the urgency, alleging that the applicants have created their own urgency; However, he does not clearly articulate the basis for this contention.
8. The matter is found to be urgent due to the imminency of the scheduled meeting of the first respondent and the ongoing postings on social media by the eighth respondent. Accordingly, condonation for non-compliance with the Uniform Rules of Court is granted. Service by electronic means, together with the sheriff's return of service, is accepted as sufficient in the circumstances.

¹ *Republikeinse Publikasies (Edms) Bpk v Afrikaanse Pers Publikasies (Edms) Bpk* 1972 (1) SA 773 (AD) at 782 A-G.

THE FACTS

9. The material facts are as follows: The second applicant and the fifth respondent are married but are currently estranged and engaged in divorce litigation characterised by allegations of domestic abuse. Criminal proceedings and applications for protection orders have ensued. The legal issues between the parties have prompted certain conduct by the respondents, which is the subject matter that informs these proceedings.
10. A voice recording allegedly depicting a domestic dispute between the second and fifth respondents in December 2024, forming the basis of allegations of gender based violence by Reverend Hector against his wife, has found its way into the public domain. The incident recorded led to various court proceedings initiated and currently pending, namely divorce-, criminal-, and protection order proceedings. The voice recording was distributed via Whatsapp groups involving some of the respondents. A media publication, Rapport, reported on the matter digitally on 13 July 2025. The story, as it appeared in the online publication, was shared on social media and prompted many commenters to voice their views.
11. The eighth respondent, a known community activist in the Clanwilliam area, where the parties know each other, within the applicants congregation, published a statement on 26 June 2025 on Facebook, relating to the allegations against the second applicant. The statement included reference to the voice recording and a strong condemnation of the actions of the second applicant. Mr Claasen denies that any confidential or privileged information was disclosed, maintaining instead that the material was already publicly available and that his conduct was protected under section 16 of the Constitution.
12. In the first applicant's founding affidavit, it is stated that the Presbytery had prior to 12 May 2025, suspended the applicants, but after receiving a memorandum from counsel representing the applicants indicating the

unlawfulness of the suspension, withdrew the suspensions. The first respondent, it is contended, accepted the advice so given on 13 May 2025, and the applicants were notified as such by the third respondent. That was the end of this suspension.

13. On 25 June 2025 a letter was sent to the second aby the URSA (legal matters) suspending the second applicant due to misconduct as at 25 June 2025 and requesting the second applicant to plead to the allegations within 3 weeks thereof. The applicants responded by way of their attorneys dismissing the suspension based on various grounds of non-compliance of the Church Order. A demand of withdrawal of the letter and its contents were then made.
14. On 8 July 2025 a notice of an extraordinary meeting was issued for 29 July 2025, listing an agenda with five items: 1. Vakature op die bediening vir regsake: aanvulling van vakatures (Vacancies) ; 2. Vakature van Ringsquaestor (Vacancies); 3. Pos: Ringskriba (Post: Presbetry scribe); 4. Konsulentskappe (Consulentships); 5. Sake rakende VGK Clanwilliam (Matters concerning the first applicant). These items prompted the applicants to address another letter of demand to the first respondents' on 11 and 15 July 2025 respectively, requiring information regarding the items and undertakings that the matters will be removed from the agenda insofar as it relates to second applicant or matters concerning URCSA Clanwilliam. No response was received by the applicants.
15. The applicants now approach this Court to interdict the first respondent and its members to deal with these items and to stop sixth, seventh and eight respondents to cease disseminating and sharing of information at all until such time as the litigation (the divorce, protection and criminal proceedings) between the second and fifth applicant are finalised and to order eight respondent to remove all postings in social media platforms regarding the litigation between the second applicant and fifth respondent.

LEGAL FRAMEWORK AND ANALYSIS

16. The requirements for an interim interdict are well-established. A party seeking such relief must satisfy the following requirements (i) a prima facie right; (ii) a reasonable apprehension of irreparable harm; (iii) the balance of convenience favours the granting of the interdict (iv) no other adequate remedy available. If all these requirements are met, the Court shall grant the interim relief. These principles have been consistently applied.
17. The applicant is required to establish a prima facie right.² This does not entail proving the right conclusively; rather, it is sufficient to demonstrate its existence with enough evidence to justify interim protection, even if some doubt remains. In *National Treasury*³, the court highlighted that the constitutional context introduces an added dimension to this inquiry. Where the asserted right is derived from the Constitution, it may be unnecessary to question whether such a right exists at all.
18. The next requirement is that the applicant must establish a well-grounded apprehension of irreparable harm.⁴ The harm feared must be of a nature that cannot be adequately redressed by alternative remedies, such as monetary compensation, and must be probable if the interdict is not granted. The test is objective: it considers whether a reasonable person in the applicant's position, faced with the same circumstances, would reasonably apprehend the likelihood of such harm. Furthermore, the harm must be sufficiently serious that awaiting final relief would render the applicant's position untenable.
19. The next consideration is the balance of convenience.⁵ This entails weighing the prejudice the applicant is likely to suffer if the interdict is refused against the prejudice the respondent may incur if it is granted. The court must assess which party stands to suffer greater harm from the granting or refusal of interim relief.

² *Eskom Holdings SOC Ltd v Vaal River Development Association (Pty) Ltd* 2023 (4) SA 325 (CC) ("***Vaal River Development Association***") at para 253.

³ *National Treasury and Others v Opposition to Urban Tolling Alliance and Others* **2012 (6) SA 223** (CC) ("*National Treasury*") para 50.

⁴ *Vaal River Development Association supra* para 291.

⁵ *Economic Freedom Fighters v Gordhan* 2020 (6) SA 325 (CC) para 48.

20. The final requirement is whether the applicant has an adequate alternative remedy. As an interdict is an exceptional remedy, it should only be granted where no other effective means of relief is available.⁶ If an alternative remedy exists that would sufficiently safeguard the applicant's rights or interests, the court ought to decline the interdict. Even where all the requirements for an interim interdict are met, the court retains a discretion to grant or refuse the relief. This discretion must be exercised judicially, with due regard to all relevant considerations, including the relative strength of the parties' cases, any undue delay in bringing the application, and the public interest. Crucially, however, if any one of the four requirements is not satisfied, the court lacks the discretion to grant the interdict.
21. The conduct which the applicants seek to interdict is framed differently in relation to the various respondents. Accordingly, the court will consider the requirements for interim relief separately in respect of the two distinct categories of respondents.

PRIMA FACIE RIGHT:

22. In relation to the first to fourth respondents, the applicants contend that they have a prima facie right to lawful treatment in accordance with the provisions of the Church Order. This right, they argue, encompasses the Church Council's entitlement to be consulted on matters that affect the first applicant.
23. Every person has the right to be treated lawfully and in accordance with the terms of any contract concluded between the parties. The court is satisfied that the applicants meet this requirement.
24. In relation to the sixth, seventh, and eighth respondents, the second applicant asserts a constitutionally protected right to privacy, which includes the right not to have his personal affairs disseminated on social media. He further submits that he is entitled to the privacy protections afforded by section 12 of

⁶ *Vaal River Development Association supra* para 218.

the Act, which imposes a statutory restriction on the disclosure of information pertaining to divorce proceedings. The second applicant also emphasises that he has minor children whose rights to privacy likewise warrant protection. Section 12 states as follows:

“12. Limitation of publication of particulars of divorce action

1. (1) Except for making known or publishing the names of the parties to a divorce action, or that a divorce action between the parties is pending in a court of law, or the judgment or order of the court, no person shall make known in public or publish for the information of the public or any section of the public any particulars of a divorce action or any information which comes to light in the course of such an action.
(2)...
(3)...
(4) Any person who in contravention of this section publishes any particulars or information shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand rand or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.”

25. This Court finds that the second applicant has established a prima facie right worthy of protection, which is further reinforced by the provisions of section 12 of the Act.

APPREHENSION OF HARM

26. In relation to the items the applicants seek to interdict from being tabled at the meeting, they assert a real apprehension that their rights will again be infringed, resulting in irreparable harm. Specifically, they point to the inclusion of items 3, 4, and 5 on the agenda of the Presbytery meeting, which directly concern the applicants and, in particular, the potential suspension and removal of the second applicant as scribe of the Presbytery. The second applicant contends that he stands to suffer irreparable harm should the first respondent and its members be permitted to determine his fate. It is further

submitted that the balance of convenience favours the applicants and that they will have no adequate remedy in due course should the meeting proceed to deal with these matters adversely.

27. While it is accepted that the applicants have a right to be treated in accordance with the Church Order, it remains unclear how, and on what basis, the items listed on the agenda would infringe those rights. This is particularly so given the uncertainty as to what will actually be discussed or resolved at the meeting. On the information currently before the court, the nature of the alleged irreparable harm has not been adequately demonstrated. There is no reasonable apprehension that the second applicant's rights in respect of pending criminal or civil proceedings, or the confidentiality associated with matrimonial matters, will be compromised. It has not been shown, on the papers, what will specifically be addressed at the meeting scheduled for 29 July 2025. While there may be a risk that the Presbytery could act in a manner inconsistent with the Church Order, any such conclusion at this stage would be purely speculative.
28. Furthermore, should any decisions be taken by the Presbytery, the applicants will have recourse to approach a court to review and set aside any resolutions that are found to have been unlawfully adopted. If such conduct is declared unlawful or contrary to the Church Order, the applicants will be entitled to appropriate relief in due course. On the current state of the papers, there is insufficient information to justify an interdict against the general items listed on the agenda. Granting such relief would effectively render the second applicant immune from any form of scrutiny or accountability within the congregations of the first and second respondents. The applicants have not demonstrated a reasonable apprehension of harm to support the relief sought.
29. The eighth respondent's commentary on the divorce proceedings—particularly relating to the alleged domestic incident and associated ongoing criminal matters—exceeds the limitations imposed by section 12 of the Act, insofar as it involves the disclosure of information pertaining to the divorce proceedings. This conduct is unlawful. However, the statutory restriction

applies only to divorce proceedings and does not extend to pending criminal matters. Although the criminal and protection order proceedings arise from the marital relationship, section 12 does not prohibit commentary on those matters.

30. Nonetheless, the eighth respondent's social media posts infringe upon the second applicant's constitutional rights to privacy and dignity. These posts imply that the second applicant is guilty of assault against the fifth respondent and of gender-based violence, despite the fact that all related legal proceedings are ongoing and no finding of guilt has been made. Such commentary is likely to cause significant and irreversible harm to the second applicant's reputation, particularly in his capacity as a minister. The infringement is not only immediate but also far-reaching: his reputation within the congregation, his employment, personal relationships, and standing in the broader community are all at risk.
31. The nature of social media further exacerbates this harm, as the amplification of content ensures widespread and often permanent dissemination. Each additional post, share, or interaction compounds the reputational damage and, in effect, extends the violation of the second applicant's rights—even beyond the scope of section 12

BALANCE OF CONVENIENCE:

32. The eighth respondent, in turn, asserts his right to freedom of expression. He maintains that he is an advocate against gender-based violence, a grave and pervasive issue in South African society, and asserts that he stands in solidarity with its victims. He contends that he should not be silenced in expressing these views. However, while both the applicants and the eighth respondent rely on constitutionally protected rights, none of these rights are absolute. Where such rights come into conflict, they must be carefully balanced.

33. In this instance, the second applicant faces potentially irreversible personal and professional harm, whereas the eighth respondent's right to freedom of expression may still be meaningfully exercised by engaging in general discourse on gender-based violence—without specifically identifying or referencing the second applicant. The legitimate public interest in confronting gender-based violence does not extend to violating the statutory prohibition contained in section 12 of the Act. That public interest is more appropriately advanced through broader societal discussion, rather than through commentary that targets individuals involved in pending legal proceedings.
34. Eighth respondent argues that the information was already in the public domain, having been reported in the media. However, the statement he published on social media predates the Rapport article concerning the litigation. The fact that a voice recording may have been informally shared or leaked does not justify its continued dissemination, nor does it entitle eighth respondent to comment publicly on what he perceives to be the facts. Moreover, such dissemination does not shield those responsible from legal consequences. Section 12 of the Act imposes an immediate legal obligation to cease publication of information relating to divorce proceedings. A statutory violation of this nature cannot be retrospectively cured by any alternative remedy.
35. The second applicant's claim to privacy meets all four requirements for the granting of interim interdict relief against the eighth respondent. Section 12 of the Divorce Act provides additional statutory support, reinforcing the existence of a *prima facie* right and underscoring the irreparable nature of the harm suffered.

NO ALTERNATIVE REMEDY:

36. Adequate alternative remedies are available to the applicants in respect of the relief sought against the first to fourth respondents. Any decision taken at the Presbytery meeting may be challenged if it is found to be inconsistent with the Church Order and the rights afforded to Reverend Hector. Accordingly, an

alternative remedy exists, and the applicants have not satisfied this requirement. As a result, the relief sought against the first to fourth respondents cannot succeed.

37. The second applicant contends that no alternative remedy exists that could adequately neutralise the harm currently being caused by the eighth respondent, nor can any remedy retrospectively cure a statutory violation. A claim for damages would not constitute an effective response to the ongoing harm. This court agrees. Interim relief is the only means by which to prevent the continuation of unlawful conduct and the ongoing infringement of the second applicant's rights.

CONCLUSION

38. The applicants have failed to satisfy the requirements for interim interdictory relief in respect of the first, second, third, and fourth respondents.
39. The second applicant has satisfied the requirements for an interim interdict in respect of the dissemination and sharing of information concerning the litigation between himself and the fifth respondent by the eighth respondent.
40. Accordingly, the eighth respondent is directed to remove all social media posts, on all platforms, that relate to the litigation between the second applicant and the fifth respondent.

COSTS

41. The applicants were successful only in obtaining relief against the eighth respondent. In accordance with the general rule that costs follow the event, and in the absence of any special circumstances justifying a departure from this principle, the applicants are entitled to costs. Although they sought a punitive costs order on an attorney-and-own-client basis in terms of scale C of the High Court tariff, no sufficient case was made out for such an order. The court therefore awards costs on the ordinary scale C.

ORDER

42. Accordingly, the following order is granted:

- (a) The applicants' non-compliance with the Uniform Rules of Court is condoned and the matter is heard as one of urgency;
- (b) Service of the application via WhatsApp and email is condoned;
- (c) The relief sought against the first, second, third and fourth Respondents are dismissed;
- (d) The relief sought against the sixth and seventh respondent is dismissed;
- (e) The eighth respondent is interdicted from disseminating, or commenting on the litigation pending between the second applicant and fifth respondent, including criminal, protection order, and divorce proceedings, whether online, on social media, or through any other medium;
- (f) The eighth respondent is ordered to immediately remove all social media posts and public commentary made by him relating to litigation between second applicant and the fifth respondent, including Facebook and other platforms;
- (g) The eighth respondent is ordered to pay the costs of the application on the ordinary scale C.

E JONKER
ACTING JUDGE OF THE HIGH COURT

APPEARANCES:

Counsel for the Applicants:

Adv. Kilowan

Instructed by:

P Mbabane attorneys

Eighth respondent:

In person