REPUBLIC OF SOUTH AFRICA

IN THE HIGH COURT OF SOUTH AFRICA,
GAUTENG DIVISION, JOHANNESBURG

CASE NO: 2025-076955

(1)	REPORTABLE: YES / NO
(2)	OF INTEREST TO OTHER JUDGES: YES NO
(3)	REVIEWED: YES NO

[redacted]

29 July 2025
DATE

SIGNATURE

In the matter between:

MUNICIPAL EMPLOYEES' PENSION FUND	First Applicant
AKANI RETIREMENT FUND ADMINISTRATORS (Pty) Ltd	Second Applicant
ZAMANI ERNEST EPHRAIM LETJANE	Third Applicant
PETER MODIKE	Fourth Applicant
PHILLIP MMAMPOU LEBELLO	Fifth Applicant
MPHO WILMOT KHAUOE	Sixth Applicant
EDGAR MAGEZA	Seventh Applicant
THATO MAZANGWANA	Eighth Applicant

THULI LYDIA HAPPY MLANGENI	Ninth Applicant
LEBOGANG STEPHEN MAREKWA	Tenth Applicant
BOITSHOKO DONALD SMOUS	Eleventh Applicant
SELAELO KGOMOMMU	Twelfth Applicant
MANDLA NTULI	Thirteenth Applicant

And

PHUMUDZO FARANANI NDOU	First Respondent
NDOU ATTORNEYS INC	Second Respondent

JUDGMENT

Raubenheimer AJ:

Order

[1] In this matter I made the following order on 11 June 2025:

1. *The applicants are granted condonation for non-compliance with the Uniform Rules of Court relating to forms, service and time periods, and it is directed that this application be enrolled and heard on an urgent basis under Rule 6(12).*
2. *Pending the final determination of action proceedings to be launched by the applicants against the respondents within 30 days of this Order, the respondents are interdicted:*

2.1 From making, publishing, encouraging, repeating or facilitating the publication or making of, any defamatory and/or injurious statements as made by the respondents in (1) the eNCA interview (as defined and described at paragraphs 11, 56 and 57 of the founding affidavit); (2) the municipal meetings (as described at paragraphs 40 and 60 to 66 of the founding affidavit); and/or the Ndou petition("the petition") described in paragraphs 7 to 11.3.6 of the supplementary founding affidavit), including statements accusing or alleging that any of the applicants:

2.1.1 *are (or have been found to be) criminals, thugs, rogue entities or corrupt;*

2.1.2 *have "captured" the first applicant ("the MEPF"), the Board of the MEPF, or the Financial Sector Conduct Authority; or*

2.1.3 *have misappropriated funds from the MEPF, stripped it of assets or engaged in fraudulent conduct in relation to MEPF properties;*

2.1.4 *any statements about any of the applicants which are substantially similar to those listed 2.1.1 to 2.1.3 above.*

2.2 to desist from canvassing any work from members of the MEPF on the basis of the statements as set out in 2.1 above.

3. The respondents are ordered, within 2 (two) days of this Order, to:

3.1 publish a notice on the respondents' social media accounts that the Order has been granted;

3.2 withdraw the petition; and

3.3 alert and inform the respondents' clients who are members of the MEPF that the Order has been granted.

4. The respondents are ordered to pay the costs of this application, including the costs of two counsel.

2 The applicant requested reasons for the order on 12 June 2025. The reasons for the order follow below.

Introduction

3 The applicants approached the court on an urgent basis for the relief granted in the order. The basis for the application is the making of defamatory statements and unsubstantiated allegations by the respondents to the effect that the applicants are corrupt, has no credibility, is no longer independent, have breached their fiduciary duties and legal obligations and are incompetent in discharging their duties as a fund and a fund manager.

4 The application is for interim relief pending the institution and outcome of an action to be launched by the applicants.

The parties

The Applicants

5 The first applicant is the Municipal Employees Pension Fund (MEPF), a pension fund incorporated in accordance with section 4 of the Pension Funds Act.[1] It has in excess of 26,000 members across South Africa and has over R24 billion worth of assets. Its main objective servicing the retirement needs of its members by managing the contributions of its members to the best interests of its members.

6 The second applicant is Akani Retirement Fund Administrators (Pty) Ltd (Akani), a private company and a registered pension fund administrator. It is a financial services company specialising in retirement fund administration and is one of the largest retirement fund administrators in the country. Akani administers the retirement funds of a large group of retirement funds.

7 The third applicant is the current chairperson of the second respondent (Letjane).

[1] Act 24 of 1956 as amended

8 The fourth to eleventh applicants are trustees of the MEPF and board members of the MEPF.

The respondents

9 The first respondent is Phumudzo Faranani Ndou, a practising attorney and director of the attorneys firm, Ndou Attorneys (Ndou).

10 The second respondent is Ndou Attorneys a firm of attorneys, duly registered with the Legal Practice Council (Ndou Attorneys).

11 The respondents claim to represent more than 500 members of the MEPF.

The factual background

12 The respondents embarked on a carefully planned strategic campaign against the applicants by initially attempting to get some of their clients joined in legal proceedings between the MEPF and the Financial Sector Conduct Authority (FSCA) in the beginning of 2024. More on this later.

13 The respondents furthermore embarked on a campaign referred to as the "Ndou Road Show with MEPF members" during which between 8 November 2024 and 16 May 2025 meetings were advertised to be held at eight Municipalities.

14 This campaign entailed the respondents attending to municipal offices and municipalities all over the country during which meetings were held with MEPF members employed at the municipalities with the aim of informing these MEPF members of matters involving the applicants.

15 The meetings were however used for a different reason, namely the dissemination of false information and the conveying of defamatory

allegations against the applicants.

16 The respondents at some stage elevated their strategy to include using social media to advertise their meetings and the spreading of misinformation, falsehoods and defamatory allegations about the applicants.

17 The next phase of the strategy was to embark on a media campaign. This campaign entailed advertisements in prominent printed media and interviews on prominent online media outlets.

18 The final phase of the campaign entailed the distribution of an online petition to be presented to the FSCA with the aim of compelling the latter to remove Akani as the MEPF's administrator. The petition was published on Facebook and X by the second respondent.

The litigation chronology

19 In January 2024 the second respondent attempted to intervene in an urgent application between the MEPF and the Financial Services Conduct Authority (FSCA). It also attempted to intervene on behalf of some 122 of its members in two reconsideration applications by the MEFP in the Financial Sector Tribunal (FST)of decisions by the FSCA in respect of the MEFP. The urgent application was settled on the basis that the FSCA agreed to suspend the implementation of its decisions pending the reconsideration applications before the FST.

20 The two reconsideration applications were heard together on 5 September 2024 and the FST delivered its decision on the reconsideration applications on 10 October 2024. The decision granted the relief prayed for by the MEFP referring the matter back to the FSCA for reconsideration.

21 The MEFP used the services of an investment asset manager, Mergence.

The relationship between the MEFP and Mergence was terminated in October 2023 due to the underperformance of the latter and the risks caused to the interests of the MEFP. Mergence launched an urgent application to interdict the implementation of the termination decision which application was abandoned and replaced with a review application which is currently still ongoing.

22 In the joinder application by the second respondent for the joining of the 122 of its clients, members of the MEFP that they were funded by Mergence. The funding by Mergence was also confirmed in an article on 6 August 2024 by Citywire, an online news outlet.

23 The joinder application was a further element of the strategy when it was used to make further false, unsubstantiated and defamatory allegations against the applicants. In its ruling on the reconsideration application the FST stated that the submissions of the applicants in the joinder application were not only irrelevant but even vexatious.

The impugned statements

The joinder application

24 The joinder application contained allegations that the current and former principal officers of the MEPF has a conflict of interest, that there is a lack of governance, accountability and transparency to MEPF members, and that the MEPF is being maladministered causing commercial and economic harm to the MEPF.

The Sowetan advertisement

25 The respondents published an advertisement encouraging MEPF members to join and intervene in the FST proceedings as the FSCA has placed the MEPF under administration due to the board not being properly

constituted; no credible election has been conducted prior to the election by the board. This advertisement has subsequently been corrected

The municipal meetings

26 At the Mopani District Municipality meeting on 10 December 2024 defamatory statements in respect of the applicants were made to the effect that Letjane has been doing corruption since 2004, ever since he got the contract to administer the Municipal Employees' Pension Fund Letjane has been maladministrating [the Fund], he has been doing a lot of corruption. He's been doing a lot of bribery. He's been stealing money. He's been failing to manage the fund; They (Akani) are just an administrator, but they've captured the MEPP'; Akani and Letjane bought a building belonging to the MEPF for "R30 million" when the building was actually valued at "R52 million"; Letjane have captured the MEPF; Letjane and Akani are charging excessive administration fees. Some pension funds like NBC charge R80 per month. Letjane and Akani charge R800 per month; when people claim for a pension payout, they do not receive their pension benefit.

27 At the Sedibeng Municipality meeting on 8 May 2025, the following false and defamatory statements were made about the applicants namely that Letjane as the Chairman of Akani, treat the Fund as if he owns it. That the MEPF was a self-administered fund and there were no service providers; that Letjane left his role as the principal officer of the MEPF after Akani took over the administration of the Fund, and Letjane left the erstwhile principal officer appointed after him, Ms Le Grange, at the helm of the MEPF as Principal Officer, and used that relationship to control the Fund as a result, every decision of the Board was in fact a decision by Letjane. The MEPF had its own building valued at "R15 million" but the building was sold to Akani for R "9 million" and that Akani and Letjane have been maladministering the Fund.

28 At a meeting on 13 May 2025 at the Emalahleni Local Municipality, false and defamatory allegations and statements were made about the applicants to the effect that Letjane forged attendance registers of the Fund's annual general meeting to conduct election of trustees; that the Board approved R550 million in favour of Letjane to build a hotel and the Letjane lied to employees by informing them that the hotel was theirs; that the Board accounts to Letjane and not the members of the Fund; that Letjane have misappropriated funds of the MEPF, and have acted with" impunity in relation to monies of the MEPF that the appointment of Mr Motsepe as the principal officer of the Fund was improper.

The eNCA interview

29 Ndou as a representative of Ndou Attorneys made defamatory and injurious statements about the first three applicants namely that Letjane is a "well-known criminal" and "thug"; that Akani is a "rogue service provider"; that Letjane "captured the Fund" for the past 20 years through a "conflict of interest" with the erstwhile principal officer of the MEPF (Ms Le Grange), which allowed me to "capture the Board"; that the Board of the MEPF is "corrupt"; that Letjane is in "collusion" with the Board and used his "influence" to unfairly strip the MEPF of its own assets.

The petition campaign

30 The petition states that the signatories of the petition "are outraged by the ongoing mismanagement, corruption, and maladministration of our pension fund by Akani". The petition then states that there is "overwhelming evidence of Akani's misconduct" and that "for over 20 years Akani has mismanaged the MEPF, corroding the financial security of its members through corrupt practices, excessive fees and poor governance". The petition refers to the following in support of the evidence mentioned namely Akani has been found guilty of corruption by a Full Court; Akani has charged excessive and unjustifiable fees; Akani facilitated and/or drove

fraudulent property transactions to the significant financial prejudice of the MEPF; benefit statements of the MEPF are inconsistent and misleading; there was a conflict of interest between Letjane and the MEPF's late principal officer, the new principal officer is conflicted, there is poor governance of the fund; and Akani has been the subject of adverse rulings issued by the Pensions Fund Adjudicator ("PFA").

The submissions by the respondents

31 Apart from challenging urgency the respondents raised four preliminary points. Two of which were not persisted with namely lack of authority to depose to the affidavit and no confirmatory affidavits.

32 The non-joinder of Mergence was the third preliminary point raised on the basis that the respondents are the alter egos of Mergence and that the defamation has as its purpose the restoration of Mergence as a service provider.

33 In respect of the failure to meet the requirements for an interdict the respondents contend that the application is in fact for the granting of a final interdict veiled as an interim interdict as the respondents will effectively be precluded from defending themselves in the action proceedings to be instituted because the court will have made a final determination that the statements are defamatory. The respondents argue that the action proceedings will consequently be rendered moot.

34 The lack of urgency is based on the chronology of events that commenced more than a year ago in March 2024 with the filing of the joinder application wherein the allegations conflict of interest, lack of governance, accountability and transparency and maladministration resulting in losses being incurred. This was followed by the Sowetan advertisement in April 2024 alleging that the first respondent had been placed under administration by the FSCA because the board not being properly

constituted as no credible election has been conducted before the election.

35 The municipal meetings during which the further impugned statements were made occurred in November and December 2024, eight months before the application was launched.

36 The eNCA interview occurred on 4 May 2025 and thereafter further municipal meetings occurred.

37 The main contention raised by the respondents is that the statements are true and it is in the public interest that the statements be published. The application consequently amounts to an unjustifiable limitation of their right to free speech, inhibits fair comment that is in the public interest and prevents the public from obtaining critical information about the first and second applicants.

Discussion

38 Urgency is assessed objectively within the totality of the circumstances[2] as set out by the applicant[3]. The applicant is furthermore required to state the reasons why substantial redress will not be afforded at a hearing in due course.[4] The court considers not only the conduct of the applicant but also the nature of the relief sought i.e. the right it seeks to protect[5] and the potential harm if the relief is not granted urgently.[6]

39 The right to approach the Court for urgent relief is inextricably linked to the right of a litigant in terms of section 34 of the Constitution.[7]

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[2] Republikeinse Publikasies (Edms) Bpk v Afrikaanse Pers Publikasies (Edms) Bpk 1972 (1) SA 773 (AD) 782 A-G

[3] East Rock Trading 7 (Pty) Ltd and Another v Eagle Valley Granite (Pty) ltd and Others (11\33767) ZAGPJHC 196 (23 September 2011)

[4] East Rock Trading (n 2 above). Caledon Street Restaurants CC v Monica D'Alviera 1998 (4) SA 10 (C) Dynamic Sisters Trading (Pty) Ltd and Another v Nedbank Limited (081473/2023) [2023] ZAGPPHC 709 (21 August 2023

[5] Volvo financial Services South Africa (Pty) Ltd v Adamas Tkolose Trading CC [2023] ZAGPJHC 846 (1 August 2023)

[6] New Nation Movement NPC and Others v President of the Republic of South Africa and Others (CCT110/19) [2019] ZACC 27; 2019 (9) BCLR 1104 (CC) (3 July 2019)

40 Courts should consequently be slow to entertain a matter where a litigant runs the risk of being deprived of substantial redress in due course. In this regard the delay between the hearing before the urgent court and a hearing in the ordinary course is a critical consideration.[8]

41 It has been definitively decided that corporate entities such as the first and second applicants has a right to protection of their reputation.[9]

42 The strategy employed by the respondents in their campaign is of particular importance in this matter. After the initial municipal meetings, which were limited to members of the fund, and the receipt of a letter to cease and desist in December 2024 they fell silent for a period of approximately three months. They then published an article in a newspaper in April 2025, which they later corrected after a further cease and desist letter was sent on 2 May 2025. Shortly after this letter the respondents on 10 May 2025 restarted the municipality meetings during which they continued with the defamatory statements. It was during this phase of the strategy was substantially intensified specifically on social media, which was only detected by the applicants on 20 May 2025, the eNCA interview broadcast on 4 May 2025 and which was still available on the website and the petition of which the applicants became aware on 3 June 2025 after the issuing of the application on 27 May 2025.

43 I am satisfied that the applicants have made out a proper case for the hearing of the application on an urgency basis and on short notice.

44 The elements of defamation is the wrongful and intentional publication of a defamatory statement in respect of the applicants. [10]

[7] Chief Lesapo v North West Agricultural Bank and another [1999] ZACC 16; 2000 (1) SA 409 (CC) at [13]

[8] Chung-Fung (Pty) Ltd and Another v Mayfair Residents Association and Others (2023/080436) [2023] ZAGPJHC 1162 (13 October 2023) para 24.

[9] Media 24 Ltd v SA Taxi Securitisation (Pty) Ltd [2011] (5) SA 329 (SCA). Reddell and Others v Mineral Sands Resources (Pty) Ltd and Others [2022] ZACC 38. Caxton Ltd and Others v Reeva Forman (Pty) Ltd and Another [1990] ZASCA 47; 1990 (3) SA 547 (A).

[10] Khumalo v Holomisa 2002 (5) SA 401 (CC)

45 A defamatory statement is one that is likely to undermine, subvert or impair the good name, reputation or esteem in which a person is held by the reasonable or average person to whom the statement has been published.[11] Such statement is *prima facie* defamatory[12] and activates the presumption of unlawfulness and wilfulness.

46 The meaning of a defamatory statement is determined not only with reference to what it expressly conveys. What the statement implies is also part of the exercise to determine the meaning of the statement by asking what the reasonable person may infer from the statement. [13]

47 Defamation is not generally interdicted in broad terms and general terms from defaming in the future.[14] A court can however interdict specific acts of defamation.[15]

48 The granting of the relief against specific and identified statements does not amount to final relief.[16]

49 The applicants placed the defamatory statements before the court and satisfied the court of the probable harm caused by the publication of the impugned statements and publications. [17]

50 An interim interdict is the only remedy for the protection of the applicants' rights pending the final determination during action proceedings.[18] The institution of a subsequent action for damages does not preclude the applicant from obtaining an interim interdict.[19]

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[11] Le Roux and others v Dey 2011 (3) SA 274 (CC) South. African Associated Newspapers Ltd and Another v Yutar 1996 2 SA 442 A

[12] Itumele Bus Lines (Pty) Ltd t/a Interstate Bus Lines v Msabe (6450/2022) [2023] ZAFSHC 392 (12 October 2023)

[13] Le Roux and others v Dey (n 11 above)

[14] Halewood International South Africa (Pty) Ltd v Van Zyl and Another (2023/019330) [2023] ZAGPJHC 292 (31 March 2023)

[15] Buthelezi v Poorter and Others 1974 (4) SA 831 (W). Cleghorn and Harris Ltd v National Union of Distributive Workers 1940 CPD 409.

[16] United Democratic Movement and Another v Lebashe Investment Group (Pty) Ltd 2023 (1) SA 353 (CC)

[17] Tsichlas and Another v Touch Line Media (Pty) Ltd 2004 (2) SA 112 (W) 130J-131A.

[18] Botha v Smuts and Another 2005 (1) SA 581 (CC). Economic Freedom Fighters and others v Manuel 2021 (3) SA 425 (SCA)

51 The applicants has succeeded in complying with the requirements for an interim interdict. The applicants have established a right to a reputation and they have presented evidence of false and defamatory statements. The presumption of unlawfulness and intention thus comes into operation. The respondents did not produce evidence to disturb the presumption. Their conduct and the strategy that they followed indicates the contrary.

52 The probability of irreparable harm is unequivocal. The first and second applicants have presented evidence in respect of their status, reputation and market involvement. They have also presented evidence about the importance of trust, credibility, good standing and track record. As a fund manager the first respondent interacts with the market and regulators on various levels. A loss of trust entails loss of market share not to be easily recovered in a niche market such as the pension fund administration market. The statements made by the respondents is directly aimed at dismantling the mentioned elements.

53 As far as the harm to the third to thirteenth applicants are concerned, they have presented evidence in respect of the position of trust that they hold as board members of the first applicant. Loss of trust in them has the real possibility of prejudice in respect of their re-election at the upcoming annual general meeting. They will also be tainted due to their membership of the board when the defamatory statements were made.

54 The balance of convenience clearly favours the applicants. In the balancing of the rights of the parties the respondents does not stand to suffer no harm or prejudice by being interdicted of defaming the applicants. The applicants on the other hand stands to suffer substantial losses potentially amounting large sums of money.

55 The institution of an action for damages offers no safeguard against

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[19] Buthelezi v Poorter (n 11 above)

continued publishing of false and defamatory statements by the respondents. The granting of an interim interdict is consequently the only effective remedy.[20] Likewise does a damages action in favour of the first and second applicants do not provide effective redress as vindication after a protracted litigation process will not restore market share and membership figures.[21]

56 The applicants have no other remedy at their disposal to prevent the respondents from continuing with the publication of defamatory statements.

57 To rebut unlawfulness and intention the respondents rely on the defence of truth and public interest. This defence lacks credibility. The respondents have failed to cast reasonable doubt in respect of their mala fides and wilfulness in making the statements mentioned above.

58 The respondents relies on unsubstantiated and patently false statements and have not provided any substantiation for their statements.

59 Publishing patently false statements is not in the interest of the public.[22]

Conclusion

60 For the reasons alluded to above I conclude that the applicant has complied with the requirements for an interim interdict and the respondent has not succeeded in disturbing the presumption of unlawfulness and wilfulness.

61 I consequently granted the order in par 1

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[20] Wynberg Municipality v Dreyer 1920 AD 439. Tullen Industries Ltd v A de Sousa Costa (Pty) Ltd 1976 (4) SA 218 (T).
[21] Halewood International South Africa (Pty) Ltd (n 12 above)
[22] Khumalo and Others v Holomisa (n 10 above)

[redacted]

E Raubenheimer

ACTING JUDGE OF THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION

JOHANNESBURG

Electronically submitted

Delivered: This judgement was prepared and authored by the Acting Judge whose name is reflected and is handed down electronically by circulation to the Parties / their legal representatives by email and by uploading it to the electronic file of this matter on CaseLines. The date of the judgment is deemed to be **29 July 2025**

COUNSEL FOR THE PLAINTIFFS:	Adv JVP Mc Nally SC
INSTRUCTED BY:	Webber Wentzel Attorneys
COUNSEL FOR THE RESPONDENT:	Adv B Mazibuko
INSTRUCTED BY:	Ndou Attorneys Inc
DATE OF ARGUMENT:	10 June 2025
DATE OF REQUEST FOR REASONS/JUDGMENT:	11 June 2025
DATE OF REASONS/JUDGMENT:	29 July 2025