

REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG

CASE NO: 2025-129099

- (1) REPORTABLE: NO
(2) OF INTEREST TO OTHER JUDGES: NO
(3) REVISED. Yes

13/9/25

.....

DATE

.....

SIGNATURE

In the matter between:

ASTIN JOY RUTH BLACK

First Applicant

GENERAL, DOMESTIC AND PROFESSIONAL

EMPLOYERS ORGANISATION ("GDPEO")

Second Applicant

INVICTUS OUTSOURCING SOLUTIONS (PTY)LTD

Third Applicant

and

PABALLO MARULE

Respondent

JUDGMENT

INTRODUCTION

[1] This is an opposed application for final interdictory and ancillary relief, brought by way of urgency on 13 August 2025. The applicants sought an order in the following terms:

1. That non-compliance with the ordinary forms and service periods prescribed by the Uniform Rules of Court, as well as the practice directives of this division, be condoned and that this application be heard as a matter urgent in terms of Rule 6(12);
2. That the respondent be finally interdicted from:-
 - 2.1 Making and/ or publishing, or again in future making and/ or publishing, any further defamatory statements in relation to the Applicants, including but not limited to inter alia: accusations of unethical conduct, lying, and/ or obstructing justice based on racial motives;
 - 2.2 Making and/ or publishing, or again in future making and/ or publishing, any further derogatory, abusive, racially charged, defamatory and/ or inflammatory remarks in relation to the Applicants;
 - 2.3 Harassing, defaming, threatening, verbally abusing and/ or coercing the Applicants, as well as inciting and/ or mandating a third party to harass, defame, threaten, verbally abuse and/ or coerce the Applicants;
 - 2.4 Publicising and/ or relaying any further defamatory, racially charged, derogatory and/ or inflammatory statements, in relation to the Applicants, to third parties or the public in general, whether via correspondence, social media platforms, or any other form of dissemination and/ or publication;
 - 2.5 Attacking and/ or diminishing and/ or lowering the estimation of the Applicants and/ or the professional and/ or personal reputation of the Applicants or the dignity of the Applicants through any statements and/ or conduct by the Respondent.
3. The Respondent is ordered to make known to the Applicants any publication and/ or posting and/ or dissemination of: any derogatory, inflammatory, disparaging, racially charged and/ or defamatory statements, inclusive of the racially charged statement made in her email of 25 July 2025 and is to retract and/ or remove such publications and/ or dissemination of such statements, which removal and retraction is to be confirmed in writing, within 24 hours of the granting of this order.

4. That the Respondent be ordered to provide a written apology to the Applicants and is to further provide such apology, to all the original recipients of the statements made in her correspondence of 25 July 2025, along with publication of a written apology on any other platform upon which she published further statements as defined in paragraph 2 & 3 above, within 24 hours of this order.
5. That the Respondent be ordered to pay the costs of this application on an attorney-client scale, inclusive of the costs of Counsel.

[2] Having found on the facts that the matter is urgent, I proceeded to hear the parties and granted the order as prayed for by the applicants. This judgment comprises the reasons for the order granted.

The Parties

[3] The first applicant is a female legal practitioner and representative of the second applicant, in a labour dispute before the Commission for Conciliation, Mediation and Arbitration ("CCMA") and Labour Court. The second applicant is a registered employers' organisation, in terms of the Labour Relations Act 66 of 1995, of which the first and third applicant and the respondent's erstwhile employer, Telesure Investment Holdings (Pty) Ltd ("TIH") are members. The third applicant is a company specialising in human resources and industrial relations, contracted by (TIH) to conduct labour relations and facilitate labour disputes, including a dispute involving the respondent. The respondent is female, formerly employed by (TIH), engaged in a labour dispute with her erstwhile employer, before the CCMA and Labour Court.

[4] The papers are voluminous, however, the issues are limited in the context of the relief claimed by the applicants. I prefer to provide the following salient facts, which are mostly common cause, as background.

BACKGROUND FACTS

[5] The respondent was employed as a sales consultant with TIH. TIH does business in the Insurance industry. The respondent was required to sit for and pass a regulatory examination, to fulfill the competency requirements, provided for in her employment contract and the Financial Advisory and Intermediary Services Act 37 of 2002 (FAIS). FAIS regulates financial advice and intermediary services to consumers. The respondent did not sit for the examination within the prescribed period. Pursuant to an incapacity inquiry, (related to the respondent's competency requirements for her job description) conducted by TIH, the respondent was served with a notice of dismissal on 18 March 2025.

[6] The respondent instituted unfair dismissal proceedings against TIH, in the Johannesburg CCMA. In essence her stance is, that her dismissal was unfair, since the employer did not in her case, explore all other alternatives to a dismissal. At the CCMA, the respondent applied for her husband (Mr Mbali Gift Ndobe) to represent her in the proceedings. On 26 June 2025 the CCMA Commissioner, ruled that the respondent's husband would not be permitted to represent her in the dismissal dispute, however, that she is at liberty to appoint a legal representative.

[7] According to the evidence, the respondent then, on 11 July 2025, launched an urgent stay of the impending arbitration proceedings set-down in the CCMA for 12 August 2025, pending the outcome of a review of the ruling made by the Commissioner on 26 June 2025. It is thus not in issue, that the labour dispute between the parties is *sub judice*.¹

[8] Nonetheless, the parties attended the court on 23 July 2025. Following the mentioned appearance, the respondent on 24 July 2025, dispatched email communication to the first applicant, employees of TIH and the third respondent, in which she gave her spontaneous rendition, of what transpired during the proceedings on 23 July 2025. In the contents of the said email, the respondent expressed her opinion, stating that the first applicant lied and or misrepresented the facts to the Judge, regarding her application for her husband to represent her at the CCMA. She also made the following statement:

“You simply cannot have a situation where on a judge who is clearly au fait with what a Respondent must do to raise dispute of fact in their papers says he hasn't read our papers thoroughly and then soon after a pale skinned blue-eyed representative has made her oral submissions, he dismisses the application, just like that. The fact that I am black and have little or no money doesn't mean I have no rights or that whatever I say in my papers can be disregarded by both the CCMA and the Labour Court. I have rights and I cannot be forced to appear at the CCMA unrepresented or to look for a lawyer when there is absolutely no need.”

¹ Under judicial consideration and therefore prohibited from public discussion elsewhere.

[9] The first applicant responded to the email and asserted that the allegations contained in the contents of the respondent's email, were baseless. Further, that she has shown patience despite the respondent's overtly disturbing and racially charged behaviour towards her and her colleagues. First applicant cautioned the respondent against such unacceptable conduct. She further highlighted in her response, that the labour dispute in question is not rooted in race, still the respondent makes it her focus. She then wrote, requesting the respondent to "cease your racist and defamatory remarks. I find your persistent reference to myself as 'pale skinned' not only offensive but outright racist in a society that condemns such behaviour. Throughout all legal proceedings to date, I have never once referenced your race nor ventured outside the merits of the dispute between the parties".

[10] The first applicant also requested the respondent to not communicate with her again, save for serving papers in relation to the CCMA litigation.

[11] On the same day, 24 July 2025, the respondent transmitted a second email to the first applicant, in which she once more copied various recipients, including members and employees of the second and third applicants, as well as her husband. I deem it necessary to quote the entire contents of this email for context. It reads as follows: -

"Good day

If my accusations were baseless, you would have proved me wrong. You would have pointed out all the parts you disagree with regarding what I allege happened in court yesterday and state your version. But I know you are highly skilled when it comes to evasive responses. So your bare denial will do again for now. But I am sure you know you know even your bare denial cannot disprove an audio recording of what happened. Same here, I myself, have been patient with you so-called lawyers for quite some time, having to watch you have decisions made in your favor even though even you know you guys do not have any defense against any of my allegations I stated in my papers, either at the CCMA or Labour Court.

But I do not make a fuss about it because from the jump I did say, If we must go to the Constitutional Court we will, I know how difficult it is to get justice if you are Black and are litigating against people who have money and liars like you as representatives. It is for this reason, even when you state you "cautioned" me. I do not take you seriously, you are not in a moral position to tell me anything in this life. You just a pale-skinned liar you to me, nothing else. And yes to me this is about race, and I am saying considering that I am black and litigating against pale skinned representatives like yourself, I should not expect fair treatment especially from these lower courts. Hence, I want to go all the way to the top, where there are many judges that will be dealing with the same facts that were placed before these lower courts, I want to see if they will allow my husband to represent me. You are pale-skinned and I am black and proud. If you were to refer to me as black, there is nothing that would make me uncomfortable. I am black, and am aware that black people civilized the world and are the original race. From the books my husband has been telling me about, we invented everything (from medicine, and pretty much everything). For those reasons, there is nothing wrong with being referred to as black. I have no time to hate white people, yes I know of all the atrocities (from rape, murder and robbery) that white people did, especially to black people but that is all in the past. I just read about these things and have never witnessed them personally.

On the issue of the merits, you have no merits. Do not fool yourself one bit. You are just responsible for ensuring that a black person will not get justice even though the 3rd Respondent has no defense against the allegations and so far you have succeeded. No stress, the law allows me to keep escalating the matter as I intend doing if I am unhappy with any decisions/orders/rulings. On your last paragraph, there was no need for me to respond to your misrepresentation of the facts right there and then. I already explained that there was no need for me to submit oral submissions as no dispute of fact arose from the papers, so even if you had spoken for the whole day, nothing would change that. But in my papers that I will be drafting, I will be pointing out again all the instances where you deliberately misrepresented the facts in support of my allegations that you lie deliberately and unprovoked. That will be the perfect opportunity for me to deal with same. Lastly, also note that I am now thinking of consulting with my political party, the EFF through their labour desk, to see if they can assist me and my husband in whatever way possible. It is starting to look like we ourselves need our black brothers and sisters to defend our rights. Also, I am still trying to see if I can tell my story through media platforms (TikTok, Facebook, radio, whatever) only once I am certain the law permits same. You should expect to see me trending, if possible I will be telling it like it is. I am still busy though

trying to understand all that sub judice stuff and all. This is officially my last text to you. Le wena please do not contact me again unless you want to serve me papers Ms Black. Warm regards ”

[12] Aggrieved by the contents of the email quoted, the first applicant on 25 July 2025 instructed her attorneys, to send a letter to the respondent with a demand that she ceases to make statements of the kind set out in her email and to retract the statements in writing to all the recipients of the email communication. Further, it was requested that the respondent provide a formal apology for the harm caused to the first applicant and the lowering of the first applicant’s esteem in a public forum. The respondent was once more requested to restrict communication to the first applicant, strictly relevant to the legal proceedings and to desist from slanderous and attacking statements about the applicants. The letter by the applicants’ attorneys, set a deadline of 31 July 2025, warning the respondent of urgent High Court litigation, in the event of her non-compliance. The undertaking was not made by the respondent.

[13] It is once more necessary to quote the full text of the respondent’s response to the letter dated 25 July 2025, sent by the attorneys. It reads as follows: -

“Good day

I have thoroughly read your letter of demand anent your pale-skinned, blue-eyed client, namely Astin Black. I confirm that I stand by the contents of my email dated the 24th of July 2025 and all my papers, and confirm that my opinion premised solely on her unethical conduct anent the ongoing labour dispute, is that your client is the lowest of the low, a pathetic liar. Whenever she opens her mouth, I honestly feel like I am witnessing a case of feculent vomiting as I find myself utterly disgusted by literally every word that comes out of her mouth because I am fully aware of her determination to ensure that I, as a black litigant with little or no money, should not get justice. I will most definitely tell my story in due course, you can be sure of that.

Also note that I will, most definitely, be writing to my political party, the EFF (Home of the brave), even later today, to tell them (through our labour desk) of what happened in court on the 23rd

of July 2025. Remember, that our Commander in Chief is one of the members of the JSC when judges are being interviewed and through the labour desk, I will share the facts of what happened on the 23rd of July 2025 when we went to the Labour Court and really hope that our story will reach and arouse the interest of our CIC. Outside of that, we are only honoring all the promises that we made to your client and her colleagues, that I will fight, gallantly and all the way, and surely I do not want to disappoint them. I have said that I am not a racist. I don't have any issues with any race, particularly pale- skinned people. So in a nutshell, I certainly do not owe your client an apology, she can go hang for all I care. Yours truly, Paballo”

[14] On 29 July 2025, the applicants’ attorneys sent a second letter to the respondent, echoing the demands, noting the respondent’s non-compliance with the content of the first letter and seeking an undertaking from the respondent, to the effect that she will refrain from further defamatory, racially charged, aggressive, threatening and or inflammatory statements, during the upcoming arbitration proceedings on 12 August 2025, as the first applicant intended to continue representing her clients in the litigation. In the attorneys’ second letter, it was pleaded with the respondent to meet the demand made, so further litigation would not be necessary.

[15] On the same day, the respondent replied to the attorneys’ second letter, confirming that she made the statements in her emails of 24 July 2025, but denying that the statements were defamatory, racially charged or aggressive. Respondent advised that she refuses to retract or apologise for her statements made and that she was willing to proceed to court.

[16] On 31 July 2025, the respondent addressed an email to an employee at the CCMA, in which she also copied the first applicant as well as employees of the second and third applicants, in which she stated- "Now I was told through a letter of demand, that this very same liar, will be attending the proceedings to "do her job and therefore I must behave." So, she can fulfill her primary job, which I know very well is to ensure she obstruction justice. I am not fazed or intimidated by her. I certainly do not fear paper tigers. So for the fact that she will be attending on the 12th, I already know what to expect and to me, it means all I must do is prepare for the long haul".

[17] In addition, it is not in issue that the respondent in her papers before the Labour Court refers to the first applicant, as the "pale skinned representative" and her former employer's legal representatives as "unscrupulous lawyers". In her heads of argument before the Labour Court, the respondent makes the statement that- "So the Review application will help confirm, not decide, because we are dealing with questions that have obvious answers thereto, that the Applicant should be represented by her proposed representative and that the matter (obviously not complex) does not require the appointment of legal representatives. Once that is confirmed, then whoever the 3rd Respondent will dispatch to the Arbitration proceedings will be seen as an easy target and will be dealt with accordingly. It will be a one-sided beat-down and the Applicant will have absolutely nothing to worry about"

[18] The respondent is adamant and stands by the content of her statements. Her defence is that the statements complained of by the applicants, are the truth and she rely on her right to freedom of expression. In her heads of argument for this application, the respondent made amongst other the following submissions.

Truth

[19] The respondent contends that her statements, referring to the first applicant as a liar who deliberately misrepresented the facts, are the truth, as those statements are based on an audio recording related to what the first applicant told the Judge on 23 July 2025. However, the said audio recording, is not part of the record of this matter.

Racially Charged

[20] In this regard the respondent argues that, in her papers at the CCMA, she, when referring to the employer's representative, said that the employer was represented by a Caucasian lady of slim built and that according to the Cambridge Dictionary the word "Caucasian" holds the meaning of - "belonging to the races of people with white or pale skin". Respondent argues the stated dictionary meaning, holding that her reference to the first applicant as the employer's "pale- skinned, blue-eyed representative, was purely made in descriptive terms.

[21] The respondent further vies, that she did not accuse the first applicant of racial bias or attack her in anyway. But what she meant by her statements, was that the first applicant's "primary responsibility is to ensure that she obstructs justice and for the fact that "I am black, she must ensure that I as a black person, do not get justice". This, as submitted by the respondent, means that "the employer flouts labour laws with impunity, because it has people like the applicants as representatives, against vulnerable employees like her".

Threats to publicise on media platforms

[22] The respondent denies that she threatened to publish her allegations on any media platform in the email of 24 July 2025. It is her argument that what she stated is that she was looking into telling her story via social media, if it is found to be legally permitted.

[23] The argument for the applicants is, that they are entitled to the relief prayed for, as they have been subjected to on-going harassment, defamation, insult, coercion and threats by the respondent through her verbal and/or written tirades, as well as the dissemination thereof to third parties and having been threatened that the harmful statements will be further published in the public domain.

[24] The above is a brief account of the evidence and the submissions made. The entire body of evidence was considered to arrive at the final findings.

DISCUSSION

[25] To succeed with final interdictory relief, it is trite law that the applicants must establish a clear right, an injury suffered or reasonably apprehended and that there is no other suitable remedy available to them.² In *Hotz v University of Cape Town*³ the court held that, once the applicant has established the three requisite elements for the grant of an interdict, the scope, if any, for refusing relief is limited and that there is no general discretion to refuse relief."

² *Setlogelo v Setlogelo* 1914 AD 221 at 227.

³ 2017 (2) SA 485 (SCA) para 29

[26] In essence, what is required to be decided by this court, is whether the respondent's statements are defamatory and/or derogatory (including racially charged) in relation to the applicants. Further, whether the respondent's conduct infringed upon the applicants' rights, causing harm or harm reasonably apprehended, for which final interdictory relief is warranted.

[27] In this matter it is not disputed that the respondent intentionally made statements in her email communication about the applicants, with which the applicants take offence. It is further not in issue that the respondent published the contents of her emails in question, to various recipients on more than one occasion.

[28] I now proceed to assess the alleged defamatory/derogatory nature of the respondent's communication regarding the applicants. In *Le Roux and Others v Dey*⁴ the Constitutional Court held at paragraph 91 (c) that:

"Examples of defamatory statements that normally spring to mind are those attributing to the plaintiff that he or she has been guilty of dishonest, immoral or otherwise dishonourable conduct. But defamation is not limited to statements of this kind. It also includes statements which are likely to humiliate or belittle the plaintiff; which tend to make him or her look foolish, ridiculous or absurd; and which expose the plaintiff to contempt or ridicule that renders the plaintiff less worthy of respect by his or her peers". [my emphasis]

[29] It is trite law that the elements of defamation are the wrongful intentional publication of a defamatory statement concerning a plaintiff/applicant.⁵ A plaintiff/applicant does not have to establish every one of the elements stated to succeed.

⁴ *Le Roux and Others v Dey* (CCT 45/10) [2011] ZACC 4; 2011 (3) SA 274 (CC) 2011 (6) BCLR 577 (CC) (8 March 2011) footnotes cited in the decision omitted for brevity sake

⁵ *Khumalo and Others v Holomisa* [2002] ZACC 12; 2002 (5) SA 401 (CC); 2002 (8) BCLR 771 (CC)

[30] All the plaintiff/applicant must prove at the outset is the publication of defamatory matter concerning himself or herself. In this context “Publication” means the communication or making known to at least one person other than the plaintiff.

[31] Once the plaintiff/applicant has proved the publication of defamatory matter, it is presumed that the statement was both wrongful and intentional. Thus, for a defendant/respondent to avoid liability base on defamation, she must raise and prove a defence which excludes either wrongfulness or intent on a preponderance of probabilities.

“pale skinned, blue eyed” representative; “pale skinned liar”; “unscrupulous lawyers”

[32] The respondent seeks to justify her repeated reference to the first applicant as “pale skinned, blue eyed” representative; “pale skinned liar”. She argues, that the words were used in neutral descriptive terms and not ill intended. In this regard, I sought guidance from the decision in *Rustenburg Platinum Mine v SAEWA obo Bester and Others*⁶ in which the Constitutional Court had to determine, whether referring to a fellow employee as a “swart man” (black man), within the context of that case, was racist and derogatory.

⁶ [2018] ZACC 13(2018) 39 ILJ 1503 (CC); 2018 (8) BCLR 951 (CC); [2018] 8 BLLR 735 (CC); 2018 (5) SA 78 (CC) (17 May 2018)

[33] In the unanimous judgment of the Court, Justice Theron wrote the following: -

“[36] The issue of when an apparently neutral race descriptor may be regarded as racially abusive or insulting is an important one that has not yet been considered by this Court. This issue is one which encompasses interests beyond those of the parties involved and the approach of the courts in such matters is of general public importance.

The context in which the words were uttered:

[38 It was accepted by both parties (the applicant and first respondent) that the use of the words “swart man”, per se, is not racist and that the context within which the words were used would dictate whether they were used in a racist or derogatory manner. It was also accepted that the test to determine whether the use of the words is racist is objective – whether a reasonable, objective and informed person, on hearing the words, would perceive them to be racist or derogatory. This is in accordance with the test for whether a statement is defamatory, as enunciated in Sindani:

“The test to be applied is an objective one, namely what meaning the reasonable reader of ordinary intelligence would attribute to the words read in the context of the article as a whole. In applying this test, it must be accepted that the reasonable reader will not take account only of what the words expressly say but also what they imply.”⁷

[48] The Labour Appeal Court’s starting point that phrases are presumptively neutral fails to recognise the impact of the legacy of apartheid and racial segregation that has left us with a racially charged present. This approach holds the danger that the dominant, racist view of the past – of what is neutral, normal and acceptable – might be used as the starting point in the objective enquiry without recognising that the root of this view skews such enquiry. It cannot be correct to ignore the reality of our past of institutionally entrenched racism and begin an enquiry into whether or not a statement is racist and derogatory from a presumption that the context is neutral – our societal and historical context dictates the contrary. In this sense, the Labour Appeal Court’s decision sanitised the context in which the phrase “swart man” was used, assuming that it would be neutral without considering how, as a starting point, one may consider the use of racial descriptors in a post-apartheid South Africa”. [my emphasis]

⁷ *Sindani v Van der Merwe* [2001] ZASCA 130; [2002] 1 All SA 311 (A) at para 11.

[34] In this regard, the term “racially charged” (as used in the applicants’ papers) connote words or statements that are influenced by racial prejudice, hostility or discrimination or that evoke strong emotions related to race. The term implies an underlying racial bias, that fuels the content, manifesting as antagonism, contempt, or unfriendliness based on a person’s perceived or actual racial group or association.⁸

[35] I take regard of the obvious fact that the respondent’s email communication quoted herein, are replete with racialised statements and overtone, that is the case, in addition to the references to the first applicant as “pale skinned blue eyed”. Objectively assessed and from the perspective of a reasonable reader, it cannot be accepted, that these terms with which the first applicant takes umbrage, were merely descriptive and innocuously used by the respondent. In its context, the repetition of the terms, (even after the first applicant requested the respondent not to use same in reference to her) compound the rest of the racial statements in the communication, proves the terms “pale skinned; blue eyed” used by the respondent, in relation to the first applicant, to be intended to be racist and derogatory.

[36] I find the respondent’s argument in this regard a failed attempt to cleanse her overtly derogatory reference to the first applicant. This finding is validated by the respondent’s emphatic statement writing to the applicants that: - “yes, to me this is about race, and I am saying considering that I am black and litigating against pale skinned representatives like yourself, I should not expect fair treatment....”

⁸ <https://dictionary.cambridge.org/dictionary/english/racially>
<https://getidiom.com/dictionary/english/racially-charged>

[37] To ascribe dishonesty (liar; lying; unscrupulousness) and racist conduct to any person are intrinsically defamatory and insulting. Needless to say, to attribute dishonest conduct to a legal practitioner is tantamount to an accusation of unprofessional conduct. The respondent's defence, as to the truth of her averments, that the first applicant was dishonest during the labour court proceeding, appears to be founded on her and her husband's subjective opinion, on the merit of the unfair dismissal dispute.

[38] The respondent also makes mention in her answering affidavit of an audio recording, that seemingly will prove the truth of her statements that the first respondent lied in a court of law. No audio recording in support of the defence "truth" of the statements made, forms part of the record of this matter. It further needs to be stressed, that the pending labour dispute is not before this court. This court is not tasked to decide the issues in that matter.

[39] The respondent conflates the issues in this application and the labour dispute, holding that her stance in the on-going labour dispute is the only truth. With the contents of her email communication, the respondent appears to have an intention to harass the applicants into accepting her stance, which is improper, as a final decision in that regard is yet to be made, by the court before which the labour dispute serves. The defence of the truth of her statements pleaded, remains unsubstantiated and cannot be upheld.

[40] The respondent also relies on the right to freedom of expression in justification of her statements made about the applicants⁹. It is noteworthy that section 16(2) of the

⁹ Section 16 of the Constitution provides-

16 (1) Everyone has the right to freedom of expression, which includes—

- (a) freedom of the press and other media;
- (b) freedom to receive or impart information or ideas;

Constitution, clearly provides for exceptions to the right to freedom of expression. The right to freedom of expression, does not extend to sentiments of hatred based on race or ethnicity, akin to the offensive statements made in relation to the applicants.¹⁰ The respondent with the statements published, over stepped the boundaries of what constitutes freedom of expression, I find this defence raised, ill conceived¹¹.

[41] A holistic reading of the statements published by the respondent, will be understood by a reasonable reader that, concerning the labour dispute, the second and third applicants instructed unscrupulous / dishonest / unethical lawyers, amongst whom the first applicant. Further, that the first applicant is guilty of unprofessional conduct, through her deliberate lies in a court of law, with the aim of obstructing justice for racially motivated reasons, to ensure that the respondent “as a black litigant with little or no money, should not get

-
- (c) freedom of artistic creativity; and
 - (d) academic freedom and freedom of scientific research.

- (2) The right in subsection (1) does not extend to—
 - (a) propaganda for war;
 - (b) incitement of imminent violence; or
 - (c) advocacy of hatred that is based on race, ethnicity, gender or religion, and that constitutes incitement to cause harm. [my emphasis]

¹⁰ Compare *Francois Jurie Nicolaas Harman v Pieter Hendrik Strydom* (285/2024) [2025] ZASCA 108 (18 July 2025).

¹¹Also consider The Promotion of Equality and Prevention of Unfair Discrimination Act 4/2000 (“PEPUDA”) providing in s 10(1) the following: **no person may publish, propagate, advocate or communicate words based** on one or more of the prohibited grounds, against any person, that could reasonably be construed to **demonstrate a clear intention to be harmful or to incite harm and to** promote or propagate hatred. Amongst the prohibited grounds listed are -race, ethnic or social origin, colour. "prohibited grounds" are— (a) race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language, birth and HIV/ AIDS status;

justice”¹². This objective contextual construct is significantly in accordance with the argument made by the respondent in her heads of argument.¹³

[42] Reasoned as aforementioned, the respondent failed to proffer any non-defamatory or non-derogatory meaning to the statements made in her communication published. Her statements published are evidently intended to harm the applicants in their reputation also to harm the first applicant in her dignity, by insults and belittlement in a public forum¹⁴.

[43] It cannot be denied that the applicants have a right to vindicate their respective rights to reputation¹⁵ and the first applicant her right to dignity¹⁶. The wrongful statements intentionally published to a range of email recipients, by the respondent, no doubt constitute, what it takes, to harm the first applicant in her dignity also her professional

¹² I quote respondent’s own words; Also see footnote 4 *supra* *Le Roux and Others v Dey* para 89-The meaning of the statement is determined objectively by the legal construct of the reasonable reader and is not a matter on which evidence may be led.

¹³ In heads of argument the respondent states that what she means with her statements made, was that the first applicant’s “primary responsibility is to ensure that she obstructs justice and for the fact that “I am black, she must ensure that I as a black person, do not get justice”. This as submitted by the respondent, means that the employer flout labour laws with impunity, because it has people like the applicants as representatives, against vulnerable employees like her.

¹⁴ See the respondent’s statement made ..”your client is the lowest of the low, a pathetic liar. Whenever she opens her mouth, I honestly feel like I am witnessing a case of feculent vomiting as I find myself utterly disgusted by literally every word that comes out of her mouth...”

¹⁵ The Constitutional Court has made it clear that a trading corporation (my insertion juristic person/Entity) has a right to its good name and reputation. See *Reddell and Others v Mineral Sands Resources (Pty) Ltd and Others* (CCT 67/21) [2022] ZACC 38; 2023 (2) SA 404 (CC); 2023 (7) BCLR 830 (CC) (14 November 2022)

¹⁶ The *actio iniuriarum* is an action available to remedy the intentional infringement of personality rights (*corpus, dignitus and fama*). A single action can be resorted to vindicate *fama* (reputation or public esteem) and *dignitus* or self-esteem -JR Midgley “*Delict*” in *LAWSA* 3rd ed (2016) vol 15, at para 10

reputation as a legal practitioner. Similarly, the harm extends to the second and third applicants in their business reputation in the public eye.

[44] I considered that the respondent spontaneously on 24 July 2025, after the court hearing the previous day, dispatched her first email to the first applicant and others. In this communication she gave her lone rendition of the proceedings and states that the first applicant lied/misrepresented the facts to the Judge.

[45] There was no need for the respondent to correspond with any of the applicants on this occasion in the way she did. Her launching of a personal attack on the first applicant was evidently malicious and uncalled for. It is clear from the evidence that the respondent is acutely aware of the *sub judice* nature of the labour litigation, as well as the remedies to her disposal.

[46] Nevertheless, the respondent preferred to treat the first applicant's response to her upsetting email contents with disdain, that is even though she was reasonably requested to stop her baseless accusations and the offensive reference to the first applicant as 'pale skinned'. If only the respondent heeded the words of warning extended by the first applicant at this initial stage, this matter would have ended there.

[47] Be that as it may, the evidence is that the respondent's wrongful statements continued unabated in subsequent email communication in which she also made it clear, that she refuses to comply with the undertaking sought by the applicants through their attorneys. Unfortunately it is the respondent's recalcitrant attitude that triggered this litigation.

[48] Further to the above, the respondent's untoward conduct escalated to her stating that she is exploring her options to "tell her story" on social/media platforms as well as involve her political party, all measures outside of the known legal remedies related to the pending litigation. Objectively assessed, the applicants cannot be faulted to receive those statements as imminent threats by the respondent, that she will further publish in the public domain, statements of the kind made in her email contents, which are evidently defamatory and derogatory. The publication of the type of offensive statements at hand, on media platforms is known to trigger dire consequences and irreparable reputational harm in the eyes of the public, for any person, business or professional.

[49] It was aptly held by the Supreme Court of Appeal in *Hotz and others v University of Cape Town*¹⁷ that: -

"...all rights are to be exercised in a manner that respects and protects the foundational value of human dignity of other people (s 10) and the rights other people enjoy under the Constitution. In a democracy the recognition of rights vested in one person or group necessitates the recognition of the rights of other people and groups, and people must recognise this when exercising their own constitutional rights. ... 'every right must be exercised with due regard to the rights of others'. Finally, the fact that South Africa is a society founded on the rule of law demands that the right is exercised in a manner that respects the law." [my emphasis]

[50] The respondent's resolve to bolster and continue with her defamatory and derogatory statements, caused harm and further establishes a real apprehension of more harm to the applicants personal and professional reputation and the first applicant's dignity. Respondent was afforded more than one opportunity to make good on her wrongful statements published, to no avail.

¹⁷ 2017 (2) SA 485 (SCA) at para [62]

[51] Further by the general language employed in the email communication by the respondent, her hostility and bitterness, towards the applicants is palpable. On the unique facts of this case, I find that there is no viable alternative remedy available to the applicants, other than final interdictory relief. I find that the facts of the matter substantiate the grant of the relief prayed for on an urgent basis, especially pending the on-going labour litigation in which the parties require to engage each other.

[52] The applicants prayed for costs against the respondent on the attorney and client scale. It is clear that they were obliged to bring this application to protect their respective rights to reputation and dignity. The applicants are substantially successful with the application and the respondent's recalcitrant conduct cried out for a punitive costs order including the costs of counsel. I deem the costs order prayed for a just order as to costs.

[53] It is for these reasons that the order set out in paragraph 1 herein was granted.


Matthys R
Acting Judge
Of the High Court of South Africa
Gauteng Division (Johannesburg)

Appearances:

Counsel for the Applicants: Adv Jonathan Steyn instructed by GGD Attorneys

The Respondent: Ms P Marule in Person

Judgment handed down electronically via email by circulation to the Registrar of the Court, the parties and or their legal representatives for uploading on caselines. The date of the judgment handed down shall be deemed to be 13 September 2025.