

REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG

(4) REPORTABLE: ~~YES~~/NO
(2) OF INTEREST TO OTHER JUDGES: ~~YES~~/NO
(3) REVISED: ~~YES~~/NO

CASE NUMBER: 4042/2020

20 January 2026 _____

DATE

SIGNATURE

In the matter between:

INNOCENT GWISAI & 12 OTHERS

1ST to 13TH APPLICANTS

and

NEDBANK LTD

FIRST RESPONDENT

ABSA LTD

SECOND RESPONDENT

FIRST RAND BANK LTD

THIRD RESPONDENT

STANDARD BANK LTD

FOURTH RESPONDENT

CHANGING TIDES 17 LTD

FIFTH RESPONDENT

INVESTEC LTD

SIXTH RESPONDENT

NATIONAL CREDIT REGULATOR

SEVENTH RESPONDENT

SA HUMAN RIGHTS COMMISSION

EIGHTH RESPONDENT

THE RULES BOARD

NINTH RESPONDENT

**MINISTER OF JUSTICE AND CONSTITUTIONAL
DEVELOPMENT**

TENTH RESPONDENT

Heard: 27 November 2025

Delivered: 20 January 2026

JUDGMENT

WINDELL J:

Introduction

[1] This judgment concerns two interlocutory applications arising in an application for the certification of a class action instituted in February 2020 against a number of respondents, including financial institutions and public bodies. Only the first to fourth respondents, being four major banks (“the banks”), oppose the interlocutory applications presently before court.

[2] In the certification application the applicants seek to certify a class action to, inter alia, claim damages against the banks. The essence of the applicants’ case is that the banks sold their properties for amounts substantially less than their market value, or not as a last resort, and that on this basis the banks are liable to the applicants for damages. The applicants seek to include as members of the class those persons who were affected by sales in execution of properties they owned.

[3] The applicants propose four classes. The first, described as the main class, comprises people whose property was sold in execution for less than 90% of its market value. The second, referred to as the “not last resort” class, comprises persons falling

within the main class whose property was sold in circumstances where execution is alleged not to have been a measure of last resort. The third class, described as the “shortfall debt class”, comprises persons who are currently indebted to one of the banks, or who were previously indebted and settled that debt, as a result of a property being sold in execution both for less than its alleged value and for less than what was owing to the bank. The fourth class, referred to as the “overcharged class”, comprises persons who allege that they were overcharged legal or related fees in the course of enforcement proceedings instituted by the banks in respect of their mortgage bonds.

[4] Very broadly, the applicants’ claim for damages against the banks is based on three independent causes of action: in delict, in that it is alleged that the banks’ conduct in the form of the sale of the properties in execution was wrongful and for which the banks are at fault; in contract, in that it is alleged that the banks charged the class members charges and fees that are not authorised under the contracts with their customers; and the Constitution, in that it is alleged that the banks have acted contrary to the Constitution in the sale in execution process.

[5] The applicants are represented by Mr Douglas J Shaw, an attorney, who has acted throughout the proceedings.

[6] The interlocutory relief sought relates to (a) condonation for non-compliance with judicial directives previously issued in the matter (“the condonation application”), and (b) the admission of numerous affidavits filed after the close of the ordinary sequence of affidavits in motion proceedings (“the admission application”).

[7] The applications arise against the backdrop of prolonged delay, repeated non-compliance with the Uniform Rules of Court, and persistent disregard of case-management directions issued by this Court over several years. The issues are narrow, but their proper determination is essential to preserving the integrity of judicial process, particularly in complex litigation such as class actions. That objective cannot be achieved where there is persistent non-compliance with procedural rules or court directives. Procedural fairness applies equally to all litigants, including the banks, who have been required to meet extensive and repeatedly shifting cases over a prolonged period.

[8] The banks contend that both applications are fatally defective and that the manner in which the litigation has been conducted warrants serious consideration of a punitive costs order, including a costs order *de bonis propriis* against Mr Shaw.

[9] A hearing date for the certification application has been allocated. The matter is set down for hearing during the week of 23 to 27 February 2026, with five court days having been reserved for that purpose. The interlocutory applications addressed in this judgment arise in the context of the matter being prepared for that scheduled hearing on a settled and procedurally compliant record. No views are expressed on the merits of the certification application itself.

Factual And Procedural Background

[10] The certification application was launched in February 2020. The respondent banks delivered their answering affidavits between October 2020 and March 2021. The applicants delivered their replying affidavits in mid-2021. On any ordinary application of the Rules, pleadings would have closed at that point.

[11] Prior to the delivery of the replying affidavits, the applicants had already filed a number of affidavits described as “confirming” or “supplementary”. However, what followed thereafter was a prolonged period during which the applicants, without leave of the Court, continued to upload further affidavits to CaseLines, ultimately numbering some 44 affidavits. The banks repeatedly objected to this practice. Case-management meetings were convened before different judges in an effort to impose procedural discipline and to prepare the matter for a hearing on certification.

[12] Of particular importance are two judicial directives. First, following a case-management meeting held in August 2024, Vally J directed the applicants, by no later than 25 February 2025, to file all affidavits they intended to rely upon in support of certification and to bring a formal application for the admission of those affidavits, together with any necessary application for condonation. The directive was expressly aimed at bringing finality to the evidentiary record and ensuring that the matter could proceed on a settled set of papers.

[13] That directive was not complied with. No application was brought within the stipulated period. As a result, a further case-management meeting was convened on 30 May 2025, before this Court. At that meeting, this Court directed the applicants to bring two distinct applications: (a) an application for condonation explaining the failure to comply with the directive of Vally J; and (b) an application for the admission of the further affidavits sought to be relied upon. The two applications had to be filed by no later than 27 June 2025.

[14] The applicants thereafter filed two notices of motion supported by affidavits deposed to by Mr Shaw. The first is dated 27 June 2025 and purports to deal with condonation for the late filing of the "confirming" and "supplementary" affidavits, which include "but are not limited to" those affidavits in sections 2 and 7 of Caselines. Certain paragraphs of this affidavit also deal with the admission of the "confirming and supplementary affidavits".

[15] The second affidavit (delivered on the same date) purports to deal with the admission of the affidavits contained in sections 2 and 7 of Caselines. Once more, certain submissions in this affidavit pertain to the request for condonation for the late filing of the "confirming and supplementary affidavits".

[16] A third notice of motion was filed by the applicants on 29 August 2025, after the answering affidavits to the interlocutory applications had already been delivered and after the banks had expressly raised the applicants' non-compliance with the directives of Vally J and of this Court. It is titled "*Notice of Motion (condonation for late filing of application of inter alia for admission of affidavits)*". This application sought condonation for the applicants' failure to comply with the directives of Vally J and of this Court, but was itself delivered well outside the deadlines imposed, without any accompanying application to amend the earlier notices of motion and without providing a full explanation accounting for the entire period of non-compliance.

[17] In the applications the applicants further seek condonation for the late filing and admission of any additional affidavits in similar form to those already filed, up to 15 court days before the date of the certification hearing. In substance, the applicants seek not

only the admission of affidavits already placed on record, but also prospective authorisation to file further affidavits shortly before the hearing. At the outset, this aspect of the relief sought must be dismissed. A court cannot grant advance permission to depart from the Rules or to condone future non-compliance in anticipation.

[18] A fourth application, dated 25 November 2025 and titled “*Notice of Motion: Second Application: Supplementary Affidavits and Sundry Matters*”, was delivered only two days before the hearing of the interlocutory applications, which was set down for 27 November 2025. The relief sought in that application was wide-ranging and extended beyond what is competent in interlocutory motion proceedings of this nature. To place the application in proper context, the relief sought is quoted verbatim:

“1. That those affidavits filed by the applicants subsequent to the time period of the first application for admission, that are supplementary (however labelled) are admitted if not already admitted.

2. That the applicants are free to submit further supplementary affidavits subject to an admission application up to 30 court days before the date of the certification hearing, the respondents then having 5 court days to respond and the applicants a further 5 court days, subject to an application such as this one being submitted to be heard at the hearing of the certification matter.

3. That the contents of this affidavit that is supplementary is admitted.

4. In particular, that the recent supplementary affidavit of Nick Hornby {sic} is admitted.

5. *Costs if this matter is opposed.*

6. *Further and/or alternative relief.”*

[19] The banks had no opportunity to file answering affidavits or to prepare to meet the relief sought in this latest application.

[20] At the commencement of the hearing, the Court addressed the procedural position of all four interlocutory applications. It recorded that the applicants had been advised during case management in May 2025 that the filing of further affidavits had to cease and that pleadings were required to close. Mr Shaw was reminded that litigation cannot progress if the record continues to shift. The continued filing of affidavits, many of them long after prescribed deadlines and without leave of the Court, creates uncertainty and prejudice and undermines the Court’s ability to manage the matter efficiently.

[21] Following these remarks, Mr Shaw withdrew the application dated 25 November 2025. That application accordingly does not form part of the relief to be determined in this judgment.

The Application for Condonation

[22] It is convenient to deal first with the application for condonation. The applicants’ non-compliance is twofold. First, they failed to comply with the directive issued by Vally J following case management in November 2024, in terms of which they were required to bring, by no later than 25 February 2025, any application for the admission of further affidavits, together with any necessary application for condonation. Secondly, they failed properly to comply with the directive issued by this Court on 30 May 2025, which expressly

required the applicants to file both a condonation application for the failure to comply with the Vally J directive and an application for the admission of affidavits in accordance with a timetable fixed by the Court, including a deadline of 27 June 2025. The applicants delivered only the admission application by that date, coupled with an application to condone the late filing of the so-called “confirming” affidavits, but without the required condonation for their prior non-compliance.

[23] Both directives were clear and unambiguous. They were issued to impose procedural discipline and to bring finality to a matter already marked by repeated irregular filings and prolonged delay. Notwithstanding that purpose, the condonation application that ultimately came before Court was delivered only on 29 August 2025 — more than six months after the deadline imposed by Vally J and approximately two months after the deadline imposed by this Court.

[24] Notwithstanding these directives, Mr Shaw continued to file further affidavits without awaiting the determination of the admission application. Additional affidavits were uploaded to the record after the deadlines imposed by the Court, the last of which appears to have been filed on 23 July 2025. It was pointed out on behalf of the second respondent, Absa, that certain of these affidavits were uploaded to CaseLines without being formally served, with the result that the respondent was required to monitor the electronic record to identify new material and was deprived of the procedural certainty that proper service is intended to secure.

[25] The principles governing condonation are trite. An applicant seeking condonation must provide a full, detailed and accurate explanation for the entire period of default. The

explanation must be reasonable, bona fide, and demonstrate that the non-compliance was neither wilful nor due to gross negligence.¹

[26] In the present matter, the application for condonation does not engage meaningfully with either of the directives with which the applicants failed to comply. Although the founding affidavit states that the application is brought to explain non-compliance with the directive of Vally J, the notice of motion seeks only condonation for the late filing of the condonation application itself. It does not expressly seek condonation for non-compliance with the directive of Vally J, nor for non-compliance with the directive of this Court. The relief sought is therefore misdirected and does not address the true defaults requiring explanation.

[27] Even if that difficulty were to be overlooked, the explanations advanced for the non-compliance are wholly inadequate. Mr Shaw attributes the failure to comply, variously, to oversight, the absence of reminders during the early part of 2025 (no indication is given as to from whom such reminders were expected, nor why compliance with express court directives would depend on them), pressure of other work, efforts to secure a hearing date, disparities in resources between himself and the banks' legal teams, and the effect of anxiety medication on his memory. He further suggests that the importance of the class action and the scale of the alleged wrongdoing justify a more indulgent approach to procedural compliance.

¹ *Uitenhage Transitional Local Council v South African Revenue Service* 2004 (1) SA 292 (SCA); [2003] 4 All SA 37 (SCA) para 6. *Dengetenge Holdings (Pty) Ltd v Southern Sphere Mining and Development Company Ltd and Others* [2013] 2 All SA 251 (SCA) para 11. *Buffalo City Metropolitan Municipality v Asla Construction (Pty) Limited* 2019 (4) SA 331 (CC) para 47.

[28] These explanations do not constitute a full or satisfactory account of the periods of non-compliance. Oversight, pressure of work, and the absence of reminders do not explain why two express court directives, issued months apart, were not complied with. Disparity in legal resources is not a justification for disregarding court orders, nor does it excuse a failure to comply with timelines imposed precisely to ensure procedural discipline and finality. In the present matter, the applicants have failed to provide a satisfactory explanation for their non-compliance with the directives of Vally J and of this Court. Compounding this difficulty, the condonation application seeks the wrong relief and does not address the true defaults requiring explanation. That failure constitutes a substantial obstacle to the granting of condonation.

[29] An application for condonation, however, requires the Court to consider not only the explanation for the non-compliance, but also whether the granting of indulgence would be in the interests of justice.² As the Constitutional Court observed in *Grootboom*,³ the concept of the “interests of justice” is inherently flexible and not capable of precise definition. It encompasses, inter alia, the nature of the relief sought; the extent and cause of the delay; the effect of the delay on the administration of justice and on other litigants; the reasonableness of the explanation advanced; the importance of the issues raised; and the prospects of success. Which of these considerations will be decisive depends on the particular circumstances of each case.

² *Brummer v Gorfil Brothers Investments (Pty) Ltd and Others* [2000] ZACC 3; 2000(2) SA 837 (CC) para 3. *Van Wyk v Unitas Hospital and Another (Open Democratic Advice Centre as Amicus Curiae)* [2007] ZACC 24; 2008 (2) SA 472 (CC) para 20.

³ *Grootboom v National Prosecuting Authority and Another* (CCT 08/13) [2013] ZACC 37; 2014 (2) SA 68 (CC); 2014 (1) BCLR 65 (CC); [2014] 1 BLLR 1 (CC); (2014) 35 ILJ 121 (CC) (21 October 2013) para 22.

[30] It follows that, where a litigant seeks condonation for non-compliance with court-imposed time limits and directives, the Court is required, among other considerations, to assess the prospects of success in the application for which the indulgence is sought. In the present matter, that is the application for the admission of further affidavits. Where the underlying application enjoys no prospects of success, condonation will ordinarily not be granted, regardless of the explanation advanced for the default.

The prospects of success of the admission application

[31] The affidavits sought to be admitted fall into two broad categories. The first consists of numerous affidavits by individual property owners, variously described as “confirmatory” or “supplementary”. The second consists of expert or quasi-expert affidavits, most notably that of Mr Garth Zietsman, relied upon to establish alleged systemic under-valuation and class-wide harm.

[32] It is trite that motion proceedings are ordinarily confined to three sets of affidavits: founding, answering and replying. Further affidavits are admitted only with the leave of the Court, upon good cause shown. A party tendering further affidavits seeks not a right, but an indulgence from the Court.⁴ The discretion to admit such affidavits is exercised sparingly and only in exceptional circumstances.⁵

[33] In *Milne NO v Fabric House Pty Ltd*⁶, Holmes J held that the enquiry is essentially one of fairness to both sides. There must be a proper and satisfactory explanation,

⁴ *James Brown & Hamer (Pty) Ltd (Previously Named Gilbert Hamer & Co Ltd) v Simmons*, NO 1963 (4) SA 656 (A).

⁵ *Supra* at 660 E-G.

⁶ 1957 (3) SA 63 (N) at 65A.

negating mala fides or culpable remissness, as to why the facts or information were not placed before the Court at an earlier stage. The Court must further be satisfied that the admission of the additional affidavits will not cause prejudice that cannot be remedied by an appropriate costs order.⁷

[34] In the present matter a critical distinction must be drawn between affidavits that are genuinely confirmatory and those that are supplementary in nature. Confirmatory affidavits merely verify evidence already placed before court. In the context of a class action, such affidavits are generally unnecessary. Certification is a representative procedure. It does not require affidavits from every individual who may ultimately fall within the class. To the extent that affidavits are truly confirmatory, their admission adds nothing of probative value and does not advance the certification enquiry.⁸

[35] The applicants' own characterisation of the affidavits highlights the difficulty with the relief sought. They refer to the affidavits interchangeably as "confirmatory" and "supplementary". That inconsistency is not semantic. If the affidavits are confirmatory, their admission is unnecessary. If they are supplementary, the applicants were required to demonstrate exceptional circumstances, provide a full and satisfactory explanation for why the material was not included in the founding papers, and show that its admission would not occasion prejudice that cannot be cured by an appropriate costs order.

⁷ *Transvaal Racing Club v Jockey Club of South Africa* 1958 (3) SA 599 (W) AT 604 A-E.

⁸ *Children Resource Centre Trust and Others v Pioneer Food (Pty) Ltd and Others* 2013 (2) SA 213 (SCA) para 16 -18; 46. See also Professor Rachael Mulheron, *The Class Action in Common Law Legal Systems: A Comparative Perspective* 3.

[36] In substance, the affidavits sought to be admitted are not confirmatory in any meaningful sense. They introduce new factual material, additional allegations, expert opinion and individualised narratives relating to valuations, execution processes, alleged procedural irregularities and alleged loss, and in some instances seek directly to answer points raised in the banks' answering affidavits. Much of this material was available to the applicants long before the certification application was launched, or at least before the replying affidavits were delivered. No coherent explanation is provided for its late introduction. The explanation advanced — that affected persons came forward over time — reflects a misunderstanding of the nature of certification proceedings and cannot justify the incremental supplementation of the evidentiary record years after pleadings should have closed.

[37] A further difficulty lies in the quality and form of many of the affidavits sought to be admitted. A review of the record reveals affidavits that appear to have been generated from standardised templates, contain unsubstantiated or conclusory allegations, and are accompanied by annexures that are either incomplete or of no discernible relevance to the issues arising at the certification stage. In several instances, affidavits include additional substantive material inserted after the deponent's signature and the commissioner of oaths' certification, a defect that is plainly irregular. These features confirm that the affidavits constitute an attempt to supplement and bolster the applicants' case in an impermissible manner.

[38] The prejudice arising from the admission of these affidavits is substantial and cumulative. The litigation concerns historic transactions, some dating back more than a decade. Each affidavit would require the respondent banks to investigate specific loan

accounts, execution processes, valuations and court files, often necessitating the retrieval of archival material. That exercise would have to be repeated across numerous affidavits, with the real prospect of further affidavits being added. This is not a theoretical concern. It is borne out by the procedural history of the matter, which has already been characterised by delay and a shifting evidentiary record. If such a process were permitted, pleadings would never close, the evidentiary record would remain in constant flux, and the certification application would be indefinitely delayed. Such prejudice is not curable by a costs order and is precisely the mischief the Rules and the case-management directives were intended to prevent.

[39] Whether characterised as confirmatory or supplementary, the affidavits therefore fail on either footing. If confirmatory, they add nothing of probative value at the certification stage. If supplementary, the stringent requirements for admission have not been met. In neither event is their admission justified.

The Zietsman and Hornby affidavits

[40] Two affidavits were relied upon heavily by the applicants in support of their application, namely those of Mr Garth Zietsman and Mr Norman Hornby. Although different in content, both fall to be assessed against the same principles governing the admission of further affidavits.

[41] The affidavit of Mr Zietsman, an expert in the field of statistics, purports to introduce expert statistical opinion directed at matters central to the certification enquiry, including alleged systemic under-valuation across thousands of sales in execution. It was first filed in March 2021 in anonymised form and later supplemented with identifying information in

August 2021, after the answering affidavits had been delivered and without leave of the Court. No explanation is provided for why this evidence could not have been obtained and placed before court at the outset.

[42] More fundamentally, the affidavit supporting the application for admission does not explain the role the Zietsman affidavit is intended to play in the certification enquiry. Its contents are not summarised, nor is it explained how the opinion bears on the issues the Court is required to determine at this stage. In the absence of such allegations, there is nothing of substance to which the banks can respond.

[43] Even when the affidavit is considered on its own terms, it is cast at a high level of generality. It advances aggregated statistical conclusions without identifying individual properties, loan accounts, reserve prices, execution processes, or the factual circumstances of particular transactions, and without engaging with variables such as property condition, location, urgency of sale, or changes in the legal framework governing execution over time. In that form, it does not permit meaningful engagement with the alleged conduct of any particular bank and would require the banks to answer broad and vague allegations untethered from identifiable transactions. That degree of generality aggravates, rather than mitigates, the resulting prejudice, which is substantial and not curable by a costs order.

[44] The affidavit of Mr Hornby, although different in scope, was likewise introduced without a satisfactory explanation for its lateness or relevance. Mr Hornby states that he is the chief executive officer of a company specialising in the administration of claims, including class action claims, but the name of the company is not disclosed. His affidavit

addresses issues of class administration and management that ought to have been dealt with in the founding papers if they were to be relied upon. It was filed in response to concerns raised in the banks' answering affidavits regarding the applicants' and Mr Shaw's capacity to manage a class action and is plainly directed at remedying perceived shortcomings in the applicants' case. It is therefore not confirmatory in nature. The founding affidavit in support of its admission lacks the necessary detail and provides no satisfactory explanation for its late introduction. On the papers, its admission is not justified.

[45] In both instances, the affidavits are relied upon in support of key aspects of the proposed class action. Their inadmissibility therefore bears directly on the prospects of success of the admission application. Neither affidavit meets the requirements for admission as a further affidavit, and both would occasion material prejudice to the banks if admitted.

Conclusion on prospects and condonation

[46] In determining whether condonation should be granted, the Court is required to consider whether doing so would be in the interests of justice, having regard to the factors identified in *Grootboom*. Those factors are not exhaustive, nor are they to be applied mechanically. Their relative weight depends on the particular circumstances of each case.

[47] In the present matter, the nature of the relief sought weighs against the applicants. What is sought is not a minor procedural indulgence, but condonation for repeated and prolonged non-compliance with express court directives, coupled with the admission of a

large body of affidavits that would materially alter and expand the evidentiary record years after pleadings should have closed.

[48] The extent and cause of the delay likewise weigh heavily against the granting of condonation. The answering affidavits were delivered by 2021. The affidavits sought to be admitted were introduced incrementally over several years thereafter. The delay is substantial, measured in years, and no satisfactory explanation has been provided accounting for the entire period of delay, either for why the evidence was not placed before Court timeously or for why binding judicial directives were not complied with.

[49] The certification application has now been pending for more than five years. The effect of the delay on the administration of justice and on other litigants is significant. The continued filing of affidavits without leave has contributed materially to the protracted nature of the proceedings, undermined procedural finality, and imposed an ongoing burden on the respondent banks to respond to a shifting and expanding case. This has required repeated case-management interventions and delayed the determination of the certification application.

[50] The explanation advanced for the non-compliance is not reasonable. Oversight, pressure of work, and the absence of reminders do not account for the failure to comply with two express court directives issued months apart. Nor does an asserted disparity in resources justify non-compliance with court-imposed timelines designed to ensure procedural discipline in complex litigation.

[51] The importance of the issues raised by the certification application is acknowledged. Class actions may raise matters of constitutional and public significance.

However, the importance of the issues cannot, on its own, override persistent non-compliance with procedural rules and court orders. Procedural fairness and the orderly administration of justice apply equally in matters of public importance.

[52] Finally, and decisively, the application to admit further affidavits enjoys no prospects of success. It is doomed to failure. The affidavits are either unnecessary in the context of certification proceedings or impermissibly supplementary, were introduced at an exceptionally late stage without a satisfactory explanation and would occasion material prejudice to the banks.

[53] When these considerations are weighed cumulatively, the interests of justice do not favour the granting of condonation.

[54] The banks requested that the Court clarify the procedural position going forward and confirm that pleadings are now closed. In the circumstances of this matter, that request is justified. The refusal of condonation and the dismissal of the application to admit further affidavits bring to an end any basis upon which the applicants could seek to supplement the evidentiary record. The founding, answering and replying affidavits have long since been delivered, and no further affidavits may be filed without leave of the Court. In the absence of such finality, the certification application would remain susceptible to ongoing supplementation and delay, with the real risk that the proceedings could continue indefinitely. Procedural finality is therefore required to ensure that the certification application proceeds on a settled and properly constituted record.

Costs and the question of *de bonis propriis*

[55] The banks seek costs on a punitive scale and further seek an order that Mr Douglas J Shaw be held personally liable for such costs *de bonis propriis*. Serious allegations are made concerning his conduct of the litigation.

[56] An order of costs *de bonis propriis* is an extraordinary remedy. It carries a serious censure and should not be made without affording the affected legal practitioner a proper opportunity to be heard.

[57] In the present matter, the record raises substantial concerns regarding non-compliance with the Rules, disregard of judicial directives, and conduct that has materially delayed the proceedings. Whether this conduct justifies a personal costs order is a matter that requires careful consideration.

[58] During the hearing, and in the interests of fairness, the issue of costs *de bonis propriis* was stood down. Mr Shaw was directed to deliver written submissions, supported, if so advised, by affidavit, on or before 26 January 2026, explaining why such an order should not be made against him. The banks are thereafter afforded an opportunity to respond.

[59] The question of costs, including the appropriate scale and whether any costs order should be made *de bonis propriis*, is reserved for determination after receipt of those submissions.

[60] In the result the following order is made:

1. The application for condonation for non-compliance with the directives issued by Vally J and by this Court is dismissed.
2. The application for the admission of further affidavits is dismissed.
3. The pleadings in the certification application are closed. No further affidavits may be filed without the leave of this Court.
4. The question of costs, including the appropriate scale and whether any costs order should be made *de bonis propriis* against Mr Douglas J Shaw, is reserved.
5. Mr Douglas J Shaw is directed to deliver written submissions, supported, if so advised, by affidavit, on or before 26 January 2026, explaining why a costs order *de bonis propriis* should not be made against him.
6. The respondents are granted leave to deliver written submissions in response within ten days after service of Mr Shaw's submissions.

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L. WINDELL
JUDGE OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION, JOHANNESBURG

Delivered: This judgement was prepared and authored by the 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 for hand-down is deemed to be 20 January 2026.

APPEARANCES

Counsel for the Applicants:	Mr D. Shaw
Instructed by:	Mr Douglas J. Shaw
Counsel for the First Respondent:	Mr T. Motau SC
	Mr Ndumiso Luthuli
Counsel for the Second Respondent:	Mr M. Salukazana
Instructed by:	Webber Wentzel
Counsel for the Third Respondent:	Mr A. Bham SC
	Ms C. Kruyer
Instructed by:	Glover Kannieappen Inc.
Counsel for the Fourth Respondent:	Ms A. Hassim SC
	Mr M. Mbikiwa
Instructed by:	Edward Nathan Sonnenbergs Inc.
Date of hearing:	27 November 2025
Date of judgment:	20 January 2026