

REPUBLIC OF SOUTH AFRICA



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

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

CASE NUMBER: 2025-081170


.....
SIGNATURE

29 January 2026
DATE

In the matter between:

ADRIAAN JOHANNES ROUX

Applicant

and

JOHAN VAN GREUNEN

First Respondent

WIKUS DE WET

Second Respondent

VUSI SANI N.O.

Third Respondent

Heard: 08 October 2025

Delivered: 29 January 2026

J U D G M E N T

YACOOB, J:

- [1] The applicant, Mr Roux, approaches this court in person for an urgent order for various relief. In the latest version of his notice of motion, he seeks
- (a) to stay all taxation, enforcement and execution under the case number of this application, pending the determination of this application;
 - (b) certain relief regarding what he terms a “papers-only determination”;
 - (c) directions that the respondents urgently provide sworn responses to allegations he makes in one of his replying affidavits and in his various supplementary affidavits;
 - (d) the review and setting aside of taxation in a magistrates’ court matter,¹ in which Mr Roux also represented himself and was the applicant;
 - (e) that the court order an investigation into his allegations of professional misconduct by the three respondents;
 - (f) the restitution of an amount allegedly collected by the sheriff in execution of a warrant under the same taxation order sought to be reviewed, and
 - (g) to consolidate this application with the application for “papers-only determination”, even though substantially similar relief is itemised in the notice of motion in both applications, and the application is under the same case number.
- [2] Mr Roux seeks that all this relief be determined on an urgent basis. The total number of pages in the case file at the time of the hearing was approaching two thousand,² and there is no coherent or comprehensive index.
- [3] Mr Roux has filed five documents purporting to be notices of motion in this matter. Each repeats to an extent the relief sought in the previous one, and adds additional relief sought. Each contains argumentative matter and factual allegations not under oath. Mr Roux does not withdraw any of the so-called

¹ Case number 666/2021 in the Meyerton Magistrates’ Court.

² Approximately 1900, including correspondence, notices and written submissions.

notices of motion, nor does he seek condonation or seek to amend any of them. This is consistent with the manner in which Mr Roux has conducted himself in these proceedings, paying little, if any, attention to the Uniform Rules of Court (“the Rules”) which are applicable in the High Court.

- [4] The first and second respondents, Mr van Greunen and Mr de Wet respectively, are attorneys, who were also two of the respondents in the Magistrates’ Court matter. The third respondent is the taxing master in the Magistrates’ Court taxation sought to be reviewed, and does not participate in these proceedings.

- [5] Mr van Greunen and Mr de Wet, in turn, have brought counter-applications to declare the applicant a vexatious litigant, in accordance with section 2 of the Vexatious Proceedings Act, 3 of 1956 (“the Act”), and to prevent him from litigating unless certain conditions are met. Mr de Wet sought also to declare Mr Roux’s daughter, Ms McGovern, a vexatious litigant, whereupon Ms McGovern brought an application for joinder, which was opposed. On my indicating to him that there was no basis on the papers for an order at this stage against Ms McGovern, and in any event that it is trite that no order can be made against someone who is not a party, that portion of the relief was abandoned and Ms McGovern did not persist with the application for joinder.

- [6] It will be noted that this judgment appears after a far longer time than is usual in an application in the urgent court, or even in the ordinary motion court. The reasons for that are that, although I ultimately find that the application is not urgent, the issues, the manner in which they are raised and the multiple times that the applicant has approached the urgent court this year alone obliged me to deal more comprehensively and carefully than would otherwise be the case. It would not be appropriate for me to simply find that the application is not urgent and burden another court with the same sort of difficulties that have been imposed now on multiple courts. The vagaries of the civil roll in the busiest courts of the country, together with the voluminous and unconventional nature of the court file, meant that this decision was unavoidably delayed.

- [7] I deal with the issues in the following order. First, I set out the procedural history of the matter, together with certain of the facts. Second, I deal with the applicant’s

request for a “papers-only determination”, the reasons for denying the request, measures taken to accommodate the applicant and related issues. Third, I deal with urgency of the relief sought in the context of the procedural history. Fourth, I deal with the relief sought. Finally, I deal with the counter-applications.

- [8] Before I do so, I make one more comment. This application appears to have been dismissed on 1 July 2025. Mr Roux has not appealed or sought to rescind that dismissal. To the extent that the relief in the latest notice of motion was encapsulated in that notice of motion, it is *res judicata* and must be dismissed on that basis. However, it seems to me that simply confirming that those issues are *res judicata* will not suffice in this instance, as it is likely to result in further approaches to the court in an attempt to overturn that order. I therefore consider the issues substantively.

BACKGROUND

- [9] Mr Roux first approached this court at the end of May 2025, setting down an urgent application for 10 June 2025, in order to obtain an urgent order interdicting the finalisation of the taxation which he now seeks to urgently review, and to urgently review the taxation proceedings, which were then incomplete. In that notice of motion Mr Roux did not seek condonation for non-compliance with the Rules, nor did he seek an order that the application was urgent, although he listed his grounds for urgency and for the review in the notice itself. He claimed that the taxation proceedings were beset with a number of procedural irregularities, and that the taxing master had conducted himself in a way that showed that he was biased against Mr Roux and towards Mr van Greunen and Mr de Wet, the first and second respondents respectively.
- [10] Mr van Greunen and Mr de Wet were the second and ninth respondents in the Magistrates’ Court matter that was being taxed, and were both, at the time, employees of a law firm, Van Greunen & Associates Inc (“VGA”), of which Mr van Greunen is the sole director. Mr de Wet was, at the time, an associate at the firm. Appearance to defend was entered on behalf of both Mr van Greunen and Mr de Wet by VGA. At the outset Mr Roux did not choose to take this court into his confidence regarding the relief that was sought in the Magistrates’ Court in

that matter. According to one of Mr van Greunen's answering affidavits, however, it was an application for contempt of court, which was dismissed. The lower court gave an order including a costs order against Mr Roux, on 14 April 2024. The beneficiaries of that costs order include Mr van Greunen and Mr de Wet, in addition to other respondents in that matter.

- [11] During the taxation proceedings, which occurred over a protracted period, Mr Roux made supplementary written submissions to the effect that Mr van Greunen and Mr de Wet had impermissibly claimed costs for representing themselves. The taxing master declined to accept these submissions. The reason is at present unknown. According to Mr Roux, the taxing master, who is the third respondent in this application, indicated that the submissions were "defective".
- [12] Mr Roux then filed a document setting out what he considered to be proof of the taxing master's bias, which the taxing master apparently refused to take into account. From the papers it is unclear whether an actual application for recusal of the taxing master was made and determined. Mr Roux's and Ms McGovern's affidavits attached to the founding affidavits refer in the headings to "Recusal or Replacement of Taxing Master" but it is unclear whether there was a proper notice, and whether an application was made. In any event, the same taxing master continued with the process.
- [13] The given reason for the urgent application set down on 10 June 2025, was that the taxation was to be resumed and finalised on 11 June 2025, and Mr Roux wanted to halt that, in view of his contentions of bias and unfairness. He also wanted to review the conduct of the taxing master of which he complained, although the taxation was incomplete. In his view he could not wait until taxation was complete because that permitted ongoing irregularity. In that first application, as in certain others, he sought an order directing the manner in which the future conduct of the taxation would be carried out. That application was struck for want of urgency, with costs, and the taxation was finalised, apparently without taking Mr Roux's complaints into account.
- [14] Mr Roux had not at that point instituted review proceedings in the Magistrates' Court, in terms of Rule 35 of the Magistrates' Court Rules, read with section 81

of the Magistrates' Court Act, 32 of 1944. The existence of this remedy was brought to Mr Roux's attention by letter from Mr van Greunen's attorney on 09 June 2025, in Mr van Greunen's answering affidavit on 10 June 2025, and in Mr De Wet's notice to raise a point of law, in that first urgent application, so that even if Mr Roux had previously been unaware of it, he was certainly aware of it by 10 June 2025. That review ought to have been brought in the Magistrates' Court, within 15 days of the taxation decision.

- [15] Mr Roux then served a notice of intention to file for a stay pending review, in this court, under this case number, in which he noted that he sought to review the taxation, stay execution, and to review the urgency finding of the first urgent court. This document, dated 18 June 2025, is not in proper form, and refers to foreign case law. It is unclear what its status is, or in terms of what Rule it was purportedly filed. It is not a notice of motion, but seems to indicate an intention to file a notice of motion.
- [16] On 23 June 2025, Mr Roux then filed a notice of motion, again, in a form which is his own, in which he seeks urgent relief, to be set down on 1 July 2025. Among other things, he seeks the stay of execution of the taxation order, as well as an "interim" declaration that the taxation order is of no force and effect, pending the review under this case number. Mr Roux requested that the matter be dealt with without oral argument, and also that, if there was an oral hearing, he be permitted to read his argument to the court. It is not clear why he sought to do so, rather than simply submitting the written argument and then responding to any queries from the court. He also sought that what he perceived as irregularities be referred to appropriate authorities for investigation, as well as various other relief. The so-called notice of motion is replete with argumentative matter, and reference to foreign case-law.
- [17] In this application, Mr Roux makes clear that he intends to ignore the remedy available to him in the Magistrates' Court to review the taxation, as it is "inadequate". One of the purported reasons for this inadequacy is that the Magistrates' Court cannot review its own actions. This of course betrays Mr Roux's failure to understand court proceedings, the difference between a taxing

master and a magistrate, and that he must follow remedies available to him before approaching the urgent court.

- [18] In the second iteration of the urgent application, Mr van Greunen filed a more comprehensive answering affidavit to this application, in which the background to the relationship between the parties is set out for the court for the first time. The fundamental gripe between the parties apparently arose when Mr van Greunen, representing a client, caused the liquidation of Deneys Swiss Dairy, the business of Ms McGovern and her two sisters, and thereafter the sequestrations of the three sisters. These events occurred between 2020 and 2022.
- [19] According to Mr van Greunen's affidavit, Ms McGovern and her sisters brought an application to set aside the liquidation of the business, which was set down on the urgent roll and dismissed for lack of urgency. These papers are not before this Court, nor are the merits of the liquidation and sequestrations before me.
- [20] Mr van Greunen makes a number of allegations in his affidavit regarding Mr Roux's conduct, including that he wilfully ignores the Rules of our courts, that he requires to be accommodated and when attempts are made to accommodate, assist and advise him, he persists with what his chosen manner of litigation. Mr van Greunen points out, in particular, that, rather than set the matter down properly on the Opposed Roll for determination in due course, Mr Roux continues to approach the urgent court where there is little or no justification for this.
- [21] It is true that, by 8 October 2025, the main issue which Mr Roux contends is groundbreaking and of fundamental constitutional importance, that is, whether an attorney's firm can claim fees for work done representing their own attorneys who are litigants, had not been set down on the ordinary Opposed Roll. This seems to be because Mr Roux requires it to be dealt with in the urgent court, for reasons which are not cogent. Nor has any Rule 16A notice been filed, despite the lack having been brought to Mr Roux's attention.
- [22] Mr van Greunen also brings to the court's attention a judgment by the Supreme Court of Appeal ("SCA") in which Mr Roux features, and in which Mr Roux stated that lawyers are not to be trusted. According to both Mr van Greunen and Mr de

Wet, this has been Mr Roux's consistent position, that he will not get the assistance of a legal representative for this reason.³

- [23] After the answering affidavit was filed, Mr Roux filed a so-called "Supplementary Notice of Motion for Additional Relief". This document states that it arises from revelations and new matters disclosed in the answering affidavit, and from alleged constitutional violations by the taxing master. Again, it is not a notice of motion in the ordinary sense, provided for in the Rules, and contains argumentative matter and factual allegations, not under oath, which a respondent would not be able to respond to. It also seeks relief based on the liquidation and sequestrations, seeking, for example, that Mr van Greunen file mandates from the Land Bank for the work he "claimed" he did for the Land Bank. In this document, Mr Roux also seeks that he be accommodated by having the matter determined without oral argument. He also repeats the contents of the original notice of motion for the 1 July hearing. There is no application for condonation for this notice of motion.
- [24] At the same time, Mr Roux filed a replying affidavit on 30 June 2025, in which he accused Mr van Greunen and Mr van Wyk of perjury in various proceedings dealing with the liquidation and sequestrations referred to above. It is unclear why, if these were burning issues requiring urgent determination, they were not raised in his very first (or even the second) founding affidavit. Mr Roux also claimed that, because the taxing master had not participated in the current proceedings, this created a "constitutional emergency". According to Mr Roux the conduct of Mr van Greunen and Mr van Wyk of which he complains also creates a "constitutional emergency".
- [25] It is unclear what happened on 1 July 2025, however reference to a document entitled "Notice to oppose ex-parte application" leads one to conclude that the matter was first allocated to Allen AJ and then to Krüger AJ, and that Mr Roux had been unable to find the allocation. An order was made in his absence, determining that the matter was not urgent, dismissing it for non-appearance,

³ *Goedverwachting Farm (Pty) Ltd v Roux* 2024 (5) SA 384 (SCA)

and ordering Mr Roux to pay costs. There is no application to rescind or to appeal that dismissal.

[26] Mr Roux again set the matter down, this time for 8 July 2025, and it was heard on 9 July 2025. Mr Roux does not disclose what happened on that day, but Mr van Greunen enlightens the court in his affidavit of 3 October 2025 (which is placed in context below). After some difficulty, Mr Roux appeared and was heard virtually. It appears that Mr Roux ignored the allocation of the matter and the link that was published, which meant that the matter was stood down from 7 to 8 to 9 July to accommodate him. The matter was struck, and Mr Roux ordered to pay costs.

[27] At that hearing, Mr de Wet asked the court to make an order barring Mr Roux from re-enrolling the matter without leave of the court. This was refused.

[28] This case was then set down for taxation, in response to which Mr Roux filed a long affidavit in opposition, which included papers from the Magistrates' Court matter.⁴ His response was filed late, as he claimed that he had not been served with the taxation notice. However, it is clear that it was served on him, and his claims of a "secret taxation" have no substance. A letter was sent on his behalf to Mr van Greunen's attorney, apparently by Ms McGovern, which is aggressive and abusive, and takes issue with the fact that she was not also notified of the taxation (which there is no obligation on anyone to do). In response, Mr Mayhew, the attorney of record, wrote a letter to both Ms McGovern and Mr Roux, noting that there was no merit to the complaints, and stating that "false accusations and unruly conduct" would not be entertained. Mr Roux (or Ms McGovern) uploaded this letter under the title "Mayhew Intimidation Letter". Although the taxation in this application is not before me, I set this out because it is typical of Mr Roux's conduct throughout, in which he issues demands and makes accusations, and then condemns anyone who attempts to point out the shortcomings of his conduct.⁵ This exchange took place at the beginning of September 2025.

⁴ This voluminous affidavit is part of the many papers uploaded in the main Caselines file, but it is not something which this Court ought to consider, as it is part of the taxation proceedings, not the urgent application.

⁵ I refer to Mr Roux's conduct because he is the litigant. Ms McGovern has no right to represent him,

- [29] Mr Roux then issued his so-called application for papers-only determination on 16 September 2025. The notice of motion for that application, although its name leads one to believe it seeks only procedural relief, seeks the full panoply of relief previously sought by Mr Roux, and more.
- [30] Again, the notice of motion is in Mr Roux's own form, and replete with argumentative matter. It is difficult to distil the essence of what is sought, which is the purpose of a notice of motion. That notice required notices to oppose by 17 September 2025, and answering affidavits by 22 September 2025. The notice stated that the matter would be set down on 23 September 2025. It does not appear that the matter was actually set down on 23 September 2025. Because the papers in this matter have not been uploaded in a logical or clear order, it is impossible to say definitively that there was no set down on 23 September, despite having looked carefully and repeatedly through the record. However, an annexure to Mr de Wet's answering affidavit (referred to below) contains an email from Ms McGovern saying that the matter had not been enrolled on 23 September but on 30 September, and that it was now being moved to 07 October. In my view this is entirely consistent with the laxity with which Mr Roux has approached the Rules of court, the need to litigate in a way that is fair to one's opponents, and the importance of not simply clogging the court roll when there is no intention to have a matter heard.
- [31] The affidavit in support of this application refers to an execution on the Magistrates' Court taxation that occurred on 22 July 2025. It also refers to a "confirmatory affidavit" by Ms McGovern, which makes allegations regarding the conduct of Mr van Greunen and Mr de Wet in the liquidation and sequestrations referred to above. It also alleges that Mr van Greunen did not have a mandate for the sequestrations from his alleged client, the Land Bank. Ms McGovern's affidavit, although filed in response to Mr van Greunen's answering affidavit filed on 27 June 2025, had been filed in its unsigned form on 3 July 2025, and its commissioned form only on 13 September 2025.

nor was there any attempt to request that she litigate on his behalf (assuming for the moment that that was possible), and he has been clear that anything she has done has been done in his name. Whether Ms McGovern drafted or uploaded a document, or whether Mr Roux did, the upshot is that those documents are those of Mr Roux and he has claimed responsibility for them.

- [32] On 23 September, Mr Roux then filed another so-called notice of motion, requesting that the matter be set down for 7 October 2025, seeking the relief I have attempted to summarise in the first paragraph of this judgment. It is uploaded on Caselines as “Notice of Motion for a Urgent Review (*sic*)” and is entitled “Supplementary Application for Review and Stay in terms of Rule 6(6)”. Again, the notice is argumentative, contains factual matter, is not in the prescribed form, and is generally not what is required or expected from a notice of motion. This notice was filed after Mr van Greunen had filed a notice to oppose the so-called application for papers-only determination.
- [33] The email containing the notice of motion for 7 October refers also to an application for postponement for a hearing that was scheduled for 30 September 2025, although it is not clear at this point what hearing was scheduled for that date. According to Mr de Wet’s answering affidavit (more of which below), the papers-only determination application was initially set down on 30 September and then moved to 07 October to suit Ms McGovern. Mr de Wet relies partly on this conduct to submit that the matter is not urgent.
- [34] The affidavit filed with the latest notice of motion styles itself an affidavit in terms of Rule 6(6), Mr Roux alleging that he wished to place new evidence before the court. No condonation is sought for this. It repeats his request for “accommodation”, referring to his hearing impairment and “cognitive difficulties under stressful court conditions.” The alleged new evidence is the so-called secret taxation, and the counter-application that Mr de Wet filed. Mr Roux makes allegations about intimidation and suppression of evidence. He then refers to the execution on the Magistrates’ Court costs order on 22 July, which is not new evidence before the court, it had been included in the previous affidavit too. He then makes submissions about perjury, none of which are new “evidence”. There are then assertions about what the law requires, again this is not evidence and does not belong in an affidavit.
- [35] Mr de Wet then filed a notice to oppose, together with a counter application, which is opposed by Mr Roux. Mr van Greunen also filed a counter application, similarly opposed.

- [36] In Mr de Wet's affidavit, he alleges that he made a submission to the court on 09 July 2025 to the effect that Mr Roux would continue approaching the courts without a proper basis if he is not prevented from doing so, and the court refused to make any order prohibiting Mr Roux from continuing to litigate. He also mentions that Mr Roux filed an application to review and set aside the taxation in the Magistrates' Court on 17 July 2025. He submits that the real issue is the costs order made by that court, not the costs allowed by the taxing master in consequence of that order, and that Mr Roux ought to have appealed the costs order in order to pursue the point on which he basis this litigation. Mr de Wet wrote to Mr Roux suggesting that, Mr Roux having paid the costs, the review had no merit and that a punitive costs order would be sought against Mr Roux should Mr de Wet have to file papers. Mr Roux apparently considers this to be an intimidatory tactic.
- [37] The review in the Magistrates' Court was then withdrawn by notice. The reasons for the withdrawal are stated on its face to be that the Magistrates' Court lacks adequate jurisdiction, and that the withdrawal is in the interest of judicial efficiency and proper case management.
- [38] Mr de Wet submits that, although Mr Roux's application is not urgent, his own counter-application is urgent because of Mr Roux's repeated setting the matter down on the urgent roll. He also submits that none of the relief sought by Mr Roux has any legal basis, and that the only reason the matter is in court at all is to prevent the taxation of costs orders in this court. He alleges that Mr Roux has failed, by the end of September, to file a replying affidavit in his original application, or to set it down on the ordinary roll, and submits that this is an indication that the proceedings do not have any real basis, and submits that the application should be dismissed and not simply struck. Of course, Mr Roux did file a replying affidavit on 30 June, and it depends on whether one considers each iteration of his application as a separate one or as part of the same process whether that affidavit is considered to be a replying affidavit in the "original" application or only in the second one. Nevertheless, Mr Roux did not take steps to set the matter down on the ordinary roll.

- [39] Mr de Wet also refers to Mr Roux's case before the SCA referred to by Mr van Greunen. He submits that Mr Roux is not a vulnerable litigant as he alleges, but that he is undertaking a deliberate and vexatious series of steps to avoid the consequences of his own actions. He alleges that this is expensive for him, Mr de Wet, to defend and it takes him away from his practice and his clients. He also objects to the large number of defamatory allegations made about him, some of which I have alluded to above.
- [40] Mr de Wet points out to the court that the taxed costs sought to be reviewed in this application have already been paid by Mr Roux, albeit under protest.
- [41] Mr Roux filed another replying affidavit, combining it with answering affidavit to Mr de Wet's counter-application, on 3 October, the second court day before the date of set-down. Mr de Wet filed a reply on 6 October.
- [42] On 3 October, Mr van Greunen filed his counter-application, like Mr de Wet, seeking an order in terms of the Act. It was accompanied by an affidavit which served as his third answering affidavit and as founding affidavit for the counter-application. Mr Roux then filed a replying affidavit and answering affidavit to Mr van Greunen, on 07 October. Mr van Greunen did not file a replying affidavit.
- [43] Mr van Greunen's 3 October affidavit makes submissions based on the procedural history set out above. In addition to clarifying the events of 9 July 2025, Mr van Greunen points out that Mr Roux consistently conflates Mr van Greunen with his firm, VGA, but has brought this application not against the firm but against Mr van Gruenen personally. He points out that he is represented by a different firm in these proceedings.
- [44] Mr van Greunen denies that Mr Roux made any protest known to him in making the payment of the taxed costs in the Magistrates' Court on 22 July 2025. His affidavit also confirms a number of factual allegations contained in Mr de Wet's affidavit regarding the various proceedings, although from his own perspective. He submits that no case is made out for urgency, and that a punitive costs order is appropriate. However, he submits that the interests of justice require more, because of the manner in which Mr Roux continues to approach the urgent court with "spurious and unmeritorious applications". He submits that the attempts to

accommodate Mr Roux have in this case had an effect that is opposite to what it is meant to have, causing delays and nothing being finalised, and allowing Mr Roux to act in a manner which amounts to abuse of the courts.

[45] Mr van Greunen then proceeds to make submissions in the affidavit regarding why Mr Roux's relief cannot be granted. The inclusion of legal submissions in the affidavit appears to be intended to put paid to Mr Roux's complaint that there was no answer to his claims in Mr van Greunen's previous affidavits.

[46] Mr van Greunen then sets out a more detailed history of the litigation in which Mr Roux has been involved, beginning with the liquidation of the business of Mr Roux's daughters, in which Mr Roux was not directly involved. He relies on this conduct in support of the application in terms of the Act, submitting that a costs order, which would usually act as a deterrent, is no deterrent to baseless litigation in this case.

[47] Mr Roux opposes the counter-applications on the basis that he has not litigated without reasonable grounds and he has been simply pursuing a single issue which has not been finally dealt with. However he also submits that each of the four applications deal with different issues and all are pending the review of the taxation proceedings. He submits that the applications seek to permanently deprive him of his right to access to court. He does not deal with the question why he persists in approaching the urgent court and does not pursue what he considers to as the main issue in the ordinary course. Some portions of Mr Roux's affidavits are not drafted in complete sentences and lead one to believe that they have simply been copied and pasted from some Artificial Intelligence platform. The bulk of the affidavits are argumentative in nature and do not contain factual responses to either of the respondents' affidavits.

[48] Regarding the withdrawal of the review in the Magistrates' Court, Mr Roux submits that he is entitled to approach the High Court in terms of section 81 of the Magistrates' Court Act, and that he is required to come to the High Court because of the alleged constitutional violation.

[49] Mr Roux contends that the stay of the existing costs orders in this Court is necessary because they deal with the same issue which he sought to raise in all

his urgent applications, whether an attorney is allowed to claim costs he incurs on his own behalf. He states that the application is not intended to do anything other than answer an invitation to raise a constitutional question asked by a High Court judge. I deal with this contention later.

[50] Mr Roux then makes allegations regarding Mr van Greunen's conduct in the litigation related to the Land Bank and Deneys Swiss Dairy, referred to above. He accuses Mr van Greunen of acting unlawfully, without a mandate, and of perjury. He requests the Court to investigate Mr van Greunen and certain other events including the liquidations.

[51] Mr Roux's replying affidavits are argumentative, repetitive and circular and nothing is to be gained by summarising them any further. It suffices at this point to note that, at best, they demonstrate Mr Roux's fundamental lack of understanding of the applicable legal principles and processes.

[52] Mr de Wet, in his replying affidavit, points out that there is one main issue before the Court, on Mr Roux's own version, so the idea that each time the matter was set down was for something different is a "ruse". He makes submissions regarding the legal validity of the application, in the context of the procedural history of the case. The bulk of the short affidavit contains legal submissions and there is no need to set them out here.

[53] Save for certain developments in the weeks before the judgment was handed down, and while it was being prepared, this is the procedural and factual background against which the matter is determined.

MR ROUX'S REQUEST FOR A DETERMINATION WITHOUT A HEARING, AND THE RESULT

[54] A litigant who appears in person is naturally at a disadvantage. A court would ordinarily take special care to ensure that the person is treated fairly and has a fair opportunity to access justice. However, this does not release the litigant from properly setting out their issues in their pleadings, and at least attempting to comply with the Rules of Court, nor does it entitle the court to act in a manner that would be unfair to the other party, even though they may be represented.

- [55] Similarly, a court will do whatever is in its power to accommodate a litigant with a disability. This is, or ought to be, obvious. Again, this does not obviate the need for the litigant to do whatever is in their power to comply with the requirements regarding pleadings, service, and so on, which exist for the sake of ensuring fair and proper determination of court proceedings. It also does not allow the litigant to sit back and place all the responsibility for accommodation on the court. The litigant must also do their part. For example, a visually impaired litigant must take steps to ensure that they can access documents made available to them in accessible format.
- [56] I do not use Mr Roux's terminology to refer to determining a matter without an oral hearing. This is because "papers-only" may be confused with motion proceedings, which are decided on the papers filed with the court, rather than on oral evidence. Although these proceedings are decided "on the papers", they are still, usually, decided with appearance of either a legal representative or the litigant, if the litigant is representing themselves. It is necessary for me to specify this because I suspect that both Mr Roux's request and the manner it would be received by a court may be obfuscated by the terms of art used in the context of court proceedings in this country.
- [57] Mr Roux's request would more properly be characterised by a request that the application be determined without an oral hearing. This is not a unique situation. Especially since the adjustments required by the restrictions put in place during the Covid-19 pandemic, this court has had the discretion to direct that certain kinds of matters be determined in the absence of a hearing. However, that discretion has to be exercised carefully, and to ensure that there is no prejudice to any party.
- [58] In particular, where there are weaknesses in a case that are not easily dealt with by reference to the papers, a court may direct that an oral hearing be held, so that the party concerned can respond to the court's concerns, and perhaps point out things that the court has not discerned in the papers. Where a litigant is in person, this opportunity might also serve to allow the litigant to show the court how, despite the unconventional manner in which the papers are drawn, the issues are properly articulated and the case made out.

- [59] In addition, if an opponent objects to the request, there must be an extraordinarily cogent reason to nevertheless determine the matter without a hearing.
- [60] There are a number of unconventional terms and requests contained in Mr Roux's papers, such as the use of the term "pro se",⁶ which the court was unfamiliar with,⁷ and the request for the court to institute investigations, which is improper and beyond the court's purview. The hope was both that the procedure would become clear to Mr Roux and that he would be able to explain some things in plain language, so that the court could properly assist him.
- [61] Mr Roux's request that the matter be determined without an oral hearing was opposed by both the first and second respondents. Neither respondent responded to the formal application to be heard without an oral hearing, but recorded their position in a practice note, as is the convention in this court. Both requested that the matter be heard in open court. I did not consider that the difference between the parties in dealing with the requested method of determination was problematic, as I was still able to consider what was before me and make a decision as to the most practical way forward.
- [62] In support of his request, Mr Roux submitted an audiologist's report, which I took into account even though it was not under oath. According to the report, Mr Roux has moderate to severe hearing loss in both ears, and would "struggle immensely to hear in all settings especially acoustically challenging environments, large chambers/rooms as well as in background noise without amplification." It also recommended that he be fitted with hearing aids. It is not clear to me that Mr Roux has taken steps to be fitted with hearing aids.
- [63] In view of the fact that open court is clearly an "acoustically challenging environment", and that Mr Roux needed to be accommodated, I determined that the matter should be heard using a virtual platform. This would deal with the

⁶ This apparently applies to people representing themselves in litigation.

⁷ When asked at the hearing what the term meant, Mr Roux declined to answer, and later sent a letter in which he interpreted the court's question as meaning his papers had not been read. Later, it became evident that the term was explained in the founding affidavit in the second urgent application. Of course there is no merit in the contention that the court did not read, but to expect a busy urgent court to closely read almost two thousand pages, presented in a muddled order and in a format that, to be understated, is unconventional, and to remember every word and contention, is unreasonable.

challenges of open court, and would allow Mr Roux to use technology to enhance his access. In particular, he would be able to use earphones to cut out background noise, he would be able to use the “captions” function on the virtual platform which would provide a kind of instantaneous subtitle, and there would not be the acoustic problems of a large room.

[64] It must be noted that the affidavit in support of the notice of motion which was nominally the application for determination without a hearing made no mention of Mr Roux’s alleged cognitive difficulties in court. At the time of the hearing, in the middle of a busy urgent court, there had not been time to read the voluminous record and multitude of affidavits that Mr Roux had uploaded, from which it became clear that Mr Roux had this other problem.

[65] The second respondent objected to a virtual hearing, on the grounds that there has been litigation between the parties in the past, that virtual hearings have “proven more problematic than efficient”, and that in the past Mr Roux has been receiving guidance from third parties during virtual hearings, making them hard to follow. Mr Roux, on the other hand, indicated through Ms McGovern that he gratefully accepted the accommodation, and that the virtual hearing would make proceedings more accessible. There was no objection on the basis that Mr Roux would become “cognitively challenged” or that he would not be able to hear even on a virtual platform. I pause to note that, in my view, there is no difficulty with a litigant receiving guidance when submissions (as opposed to testifying) during a hearing, as long as it is not disruptive to the process and the presence of the other person is disclosed.

[66] Unfortunately, at the hearing it became clear that Mr Roux was not willing to do his part to ensure that the hearing was effective. He was clearly sitting in a large room, and had not taken steps to ensure that he amplified the sound of the hearing appropriately so that he could hear. The court assisted him to turn on the captioning function, but he appeared to pay no heed to it during the hearing. He was not co-operative, and did not respond to queries, claiming that he did not hear or understand. He was clearly paying attention more to Ms McGovern who appeared to be in the room with him, and to what he wanted to say, than to what the court asked.

- [67] Further, Mr Roux demonstrated that he did not appreciate the purpose of an oral hearing, by insisting on reading out his submissions which he had written down, and which were different from his written submissions already filed. It is unclear how this would have worked had the court determined the matter without an oral hearing.
- [68] It is necessary also for me to mention that, after the hearing, Mr Roux sent a letter to the court, again through Ms McGovern, complaining that he had not been accommodated (belying his earlier communication). Mr Roux disclosed that he had, without permission from the court and without informing anyone, recorded the proceedings.
- [69] The letter showed further his lack of understanding of court proceedings, by using the court's queries to complain that the court had not read his papers, and complaining that the court had allowed the respondents to make further submissions after the hearing which he was not allowed to make. The last is untrue, counsel for the first respondent referred to some case law and a rule of court and was asked to send it through, to avoid the court having to find it. This is a common practice. No additional evidence was admitted, and, as shown by Mr Roux's letter, he could also have sought to make further submissions to the court if he considered it necessary.
- [70] Mr Roux's letter underscores that he does not distinguish between legal submissions and evidence, and does not understand the purpose of a hearing in motion proceedings. This is a pity as, had Mr Roux made the effort to do so, I have no doubt he would have been able to. Similarly, had Mr Roux been willing to take legal advice, it is my view that he could only have benefited from the extensive legal education, training and experience that the majority of competent legal practitioners provide to their clients.
- [71] Despite Mr Roux's allegations made after the fact, this court has made every attempt to ensure that he received a fair hearing and that his issues were given proper attention. However, he did not make use of the opportunities given to him and the court's best efforts were in vain.

- [72] The fact that Mr Roux welcomed the virtual hearing before it took place, and complained about it afterwards, gives credence to the allegations made by Mr van Greunen and Mr van Wyk that Mr Roux displays a pattern of being abusive when things do not go the way he wants.
- [73] An additional reason cited by Mr Roux for the matter being dealt with without a hearing is a contention that all the evidence is in the papers and the matter requires careful analysis by the judge who then will make a decision. That is not how the adversarial South African court system works. Nor do judges have the resources to do independent research and analysis of raw data. The system as it currently exists requires each party to do their analysis and present their case appropriately.⁸
- [74] The kind of analysis Mr Roux seems to want the court to do is that which would, ordinarily, be done by his legal representative. That is the function of a legal representative, to analyse data, research the law and present the case to a court, together with proper submissions regarding development of the law.⁹ A litigant in person who chooses not to be represented has the same obligation, although the court does what it can to accommodate them.
- [75] The complexity of the matter and the need for care is not a reason to forego an oral hearing.
- [76] The request was, therefore, refused. Nevertheless, in view of Mr Roux's repeated approaches to the court, and the futility of the oral hearing, I determined that it would be appropriate to examine the papers and give the matter more time than ordinarily would be given to it, to ensure that there was not something important that had been missed. Although this course of action is consistent with the need to accommodate lay litigants and treat their pleadings generously and without undue technicality,¹⁰ it should not be construed as an invitation for lay litigants to

⁸ See for example the sentiments expressed in *Venmop 275 (Pty) Ltd and Another c Cleverlad Projects (Pty) Ltd and Another* 2016 (2) SA 78 (GJ) at paras [8]-[16], and the authorities there cited.

⁹ *Venmop* (above) at para [7];

¹⁰ As expressed in, for example, *Xinwa and Others v Volkswagen South Africa (Pty) Ltd* 20023 (4) SA 390 (CC).

conduct litigation in a manner that is arbitrary, pays no heed to the Rules, and results in unfairness to their opponents and, indeed, to the courts.

URGENCY: THE MAIN APPLICATION

- [77] The urgency of Mr Roux's application is not immediately obvious on the papers. This is one of the reasons the request for determination without a hearing was denied. It was necessary to give Mr Roux the opportunity to demonstrate the urgency. On being requested to do so, the only thing he insisted on referring to was "the mandates". This was a reference to Mr Roux's allegation, made for the first time in his first replying affidavit, that Mr van Greunen's firm had not had mandates from the Land Bank for the work it did between 2020 and 2022. Mr Roux refused to make submissions regarding any other factors.
- [78] It is my view that, because the existence or not of the mandates were a late addition to Mr Roux's snowballing application, the question is not properly before me. The mandate issue did not found the relief Mr Roux sought. He had knowledge of his dissatisfaction, and of what he alleges to be the facts, long before he instituted this application and did not articulate it in the founding papers. Even if I consider that the issue of the mandates is properly before me, those events took place years between three and five years before this application was instituted. They do not support any finding of urgency.
- [79] None of the issues relied upon by Mr Roux supports his approach to the urgent court. The fact that he still seeks the determination of some issues first raised five months before the hearing before me demonstrates the lack of urgency. In any event, the voluminous nature of the papers would ordinarily require a request for a special allocation. It is entirely unreasonable, in circumstances where events have played out over not just months but years, to expect a judge in the urgent court to give the matter the kind of attention that Mr Roux requires.
- [80] Secondly, there is ample authority that it is seldom, if ever, in the interests of justice for a review, or for a question of constitutional validity, to be determined on an urgent basis. The reasons for this ought to be obvious.

[81] Mr Roux relies on the fact that the Magistrates' Court costs order has been executed on to found urgency. This is not a ground for urgency. He has paid the costs, and there is no prejudice to him, assuming he was able to get them back, if this happened later rather than sooner. He does not demonstrate that his financial position is so dire that the payment has put him into any danger. In fact, that he was able to make the payment to avoid any other kind of execution demonstrates that his failure to pay was because he did not want to rather than that he could not. Again, this does not make it urgent.

[82] Mr Roux also raises as urgent the fact that the previous costs orders made by this court are being taxed. That too does not make this application urgent. Court orders have been made, which are valid and enforceable, and the respondents are entitled to proceed to recover their costs. Those orders have not been challenged through the procedures available for that, and therefore the orders stand. They do not make this application urgent.

[83] Nevertheless, despite my finding that Mr Roux's application is not urgent, I consider it in the interests of justice for me to deal with it substantively. This is because he has persistently re-enrolled it in the urgent court despite it having been found to be not urgent, and it would not be fair to burden yet another court with this matter. In my view the relief sought in the counter-applications would not be sufficient to deal with this conduct even if I considered it appropriate, because the likelihood is that Mr Roux will continue to bombard the courts regardless.

[84] I deal next with the relief sought by Mr Roux in broad categories, in an effort to minimise the repetition evident in the papers.

RELIEF SOUGHT BY MR ROUX

[85] I consider the relief sought by Mr Roux as encapsulated in his latest notice of motion. I can only imagine that the reason for repeating relief in each notice is that each is intended to replace the former.

Rule 6(6) and the Rules generally

[86] Mr Roux does not seek an order in terms of Rule 6(6), but mentions it in a “Preliminary Note” to his notice of motion. Rule 6 applies to applications. While Mr Roux has not complied with Rule 6 with regard to his notices of motion, the contents of his affidavits, or the number of affidavits permissible in applications, he seeks now to rely on Rule 6(6) to support his further approach to court.

[87] Rule 6(6) provides:

“The court, after hearing an application whether brought *ex parte* or otherwise, may make no order thereon (save as to costs if any) but grant leave to the applicant to renew the application on the same papers supplemented by such further affidavits as the case may require.”

[88] It is evident from the plain meaning of this sub-rule that it does not seek to empower a person to extend proceedings on their whim, and to continue filing further affidavits and notices after pleadings have closed. The sub-rule empowers the court hearing the matter, at the time of hearing, to make no substantive order, and to allow the applicant to supplement the papers to remedy an identified defect. This permission is granted in the order made by the court at or after the hearing, for future conduct of the matter by the applicant. It is not there to be invoked by an applicant who seeks to renew and supplement their application. A court will usually only make such an order when it is clearly in the interests of justice. I am not asked to make an order like this, and if I were, there is nothing in support of a conclusion that it would be in the interests of justice.

[89] There is no merit in the invocation of Rule 6(6), and to the extent that the entire application depends on that, it must fail.

[90] At this point it is necessary to comment that motion proceedings are specifically provided for in Rule 6. The Rule provides for the form of the notice of motion, which has to be brief, cogent, and only include the relief sought, with no explanation or narrative. The obvious reasons for this are to enable a respondent to know what case to meet and a court to know what relief is sought and what it must consider. The manner in which Mr Roux’s various notices of motion are crafted does not fulfil these criteria even in substance, leaving aside the non-compliant form.

[91] Secondly, the Rule provides that the ordinary number of sets of affidavits is three - the founding, answering and replying affidavits. Any additional affidavits are only permitted in the court's discretion, in terms of Rule 6(5)(e). This discretion has to be exercised carefully, and usually requires that there are cogent reasons for the request to file an additional affidavit. The reason for this is that motion proceedings are designed to provide an expedient method of determining matters in which there is no dispute of fact that cannot be determined on the papers, and the applicant must make out its case in a founding affidavit. The replying affidavit is ordinarily permitted only to respond to the contents of the answering affidavit.¹¹

[92] The reason the Rules exist, and motion proceedings are determined in a specific manner, is so that proceedings are fair, parties know what case they need to meet, and there is finality in proceedings. An applicant is *dominus litis* and determines the issues in the founding affidavit.¹² It is not open to the applicant to decide to extend the issues in later affidavits and notices, as Mr Roux has done, as this is unfair to a respondent who cannot then know what case to meet.

Urgency and Stay of Proceedings

[93] The so-called Part A of the notice of motion seeks, firstly, that the matter be heard as an urgent one. I have already determined that the matter is not urgent.

[94] Mr Roux then seeks that all taxation, enforcement and execution under this case number be stayed, pending the determination of the remainder of this application. Oddly, the remainder of the application is also to be heard urgently, and heard and determined at the same time. Nevertheless, there is no basis for staying the taxation and enforcement of previous orders made by this court. Mr Roux has not sought to appeal any of them, nor to rescind the one that appears to have

¹¹ In this regard see for example *Hano Trading CC v JR 209 Investments (Pty) Ltd and Another* (2013 (1) SA 161 (SCA); [2013] 1 All SA 142 at paras [10]-[14]; also *Swissborough Diamond Mines (Pty) Ltd and Others v Government of the Republic of South Africa and Others* 1999 (2) SA 279 (T) at 323F-325B.

¹² *Titty's Bar and Bottle Store (Pty) Ltd v Abc Garage (Pty) Ltd and Others* 1974 (4) SA 362 (T) at 368G – 369.

been made in his absence. This court does not have the power to interfere with those orders.

- [95] Mr Roux also seeks that the respondents be interdicted from proceeding with taxation and enforcement until the “constitutional and procedural challenges herein are resolved”. There is no basis for such an interdict. Even if the constitutional challenges are resolved in Mr Roux’s favour, there is no basis to interfere with the enforcement of a valid court order.

Papers-only determination/ determination without a hearing

- [96] I have already dealt with the request for determination without a hearing above. However, this so-called Part B of the notice of motion does not only seek the relief suggested in its title. In this Part, Mr Roux also seeks a direction that the respondents file comprehensive responses to allegations Mr Roux makes, including his allegations about perjury and misconduct in the Deneys Swiss Dairy liquidation, and the contents of his affidavit to oppose taxation.

- [97] Nobody can be ordered to respond to allegations, save for example when an organ of state is a litigant and is obliged to assist the court. Where there is no response, a court must evaluate what is before it. However, where the allegations are contained in a replying affidavit, and are new matter, as in this case, there is no right or obligation to respond. A court is entitled to ignore new matter in a replying affidavit where it ought to have been in the founding affidavit.

- [98] A decision maker in a review is obliged to provide certain information to a court, but that is provided for in the applicable Rule and must be sought in a proper notice of motion calling for that information at the outset. Where Mr Roux has deliberately elected not to follow procedure specifically available to him for a review, it is not open to him to complain that the decision-maker has not complied with his demands.

- [99] Mr Roux further seeks a declaration that failure to specifically deny allegations constitutes deemed admissions. There is no need to make such a declaration. That is the law, regarding allegations in a founding affidavit not denied in an answering affidavit, and allegations in an answering affidavit not denied or

refuted in a replying affidavit. An applicant cannot then file further affidavits and seek to compel responses, particularly when there is no good reason why those allegations are not contained in the founding affidavit.

[100] Mr Roux suggested, as set out above, that his reference to the Deneys Swiss Dairy issues is new evidence raised by Mr van Greunen's answering affidavit in the second iteration of this application. That is not the case. There is nothing in Mr van Greunen's affidavit that Mr Roux was not aware of before he instituted his first application. Those issues are not relevant to the main application, were not pleaded in the first founding affidavit, and there is no basis on which the late raising of them can be condoned.

[101] The relief sought in this section has no merit.

Constitutional Review and Setting Aside

[102] Mr Roux seeks here, in his "Part C", that the court review and set aside the taxation order in Magistrates' Court case number 666/2021, order restitution of his payment of R36 590,73, and declare it constitutionally invalid.

[103] The Magistrates' Court has jurisdiction to review a taxation order made in that court. Mr Roux contends that a court cannot review itself. That is true, but the Magistrates' Court would not be reviewing itself. There is a difference between a magistrate who would sit in and determine a review, and is a judicial officer, and a taxing master, who is an administrative functionary. In any event, without challenging the validity of the provisions which provide for review, Mr Roux must follow them.

[104] Mr Roux contends that the taxation must be set aside because it permits fees for perjurious affidavits. There is no evidence of perjury in the founding affidavit, or in fact in any of the papers before me. There are simply assertions on Mr Roux's part.

[105] Mr Roux contends that the taxation impermissibly permits professional fees for self-representation. There is no evidence that there was self-representation. He did not sue the firm VGA which wrote the fees, but the individuals who were

represented by the firm. There is no evidence of unauthorised representation, which is another of Mr Roux's grounds. The fact that he objected to VGA sending a candidate attorney to the taxation does not mean that those proceedings were vitiated. To the extent that he wished to submit that Mr van Greunen and Mr de Wet ought not to get a costs order in their favour because the firm representing them was one in which they both worked, that submission ought to have been made to the court making the costs order. There is nothing to indicate that the work for which fees were sought were not done by the firm VGA. VGA entered a notice to defend and put itself on record. It is a basic tenet of South African law that separate legal personality is respected save in very specific circumstances.

[106] Mr Roux also suggests that a Magistrates' Court would not be able to make a constitutional ruling on the review. This does not give him the right to evade the review process. If the taxing master acted in a manner inconsistent with the Constitution, then it would mean that he acted improperly. The Magistrates' Court would then be able to set aside the taxation. It is trite that, if a question can be determined without making a determination of constitutional invalidity, it should be. The ordinary procedures must be followed so that the courts can properly do their jobs, including regulating their own process and exercising their powers to ensure taxation occurs correctly.

[107] In addition, it is necessary that Mr Roux pursue his relief in the appropriate forum. It is not appropriate for this court to review the actions of the taxing master in the Magistrate's Court when that court's rules provide specifically for review. Mr Roux then contends that, in any event, section 81 of the Magistrates' Court Act gives him a right to approach this court. It does not. It provides for review by a District Magistrate ("Judicial officer of the district") followed by appeal to a High Court. In the absence of a decision of the Magistrates' Court, this court's jurisdiction in terms of section 81 does not arise.

[108] Further, Mr Roux has not complied with Rule 16A regarding the bringing of a constitutional challenge in this court, despite being made aware of the lapse. The court cannot adjudicate a challenge that is not properly articulated, is not supported by the facts placed before the court, and of which no public notice has been given.

[109] It therefore becomes unnecessary for me to even consider the foreign case law on which Mr Roux relies, in the erroneous belief that the court is required to consider it. Foreign case law has no more than persuasive weight. The court is not obliged to consider it. It is not International Law, which, as Mr Roux rightly contends, the court must take into account.

[110] I deal with the “invitation” Mr Roux alleges this application is responding to later in this judgment. For now it suffices to say that, even where a court comments that a legal principle is in need of development, that development must still happen in an appropriate case, on appropriate facts, properly pleaded and in the proper forum. Those conditions are not present here.

Investigative Jurisdiction

[111] In this “Part D” of the notice of motion, Mr Roux seeks that the court order an investigation into Mr van Greunen’s and Mr de Wet’s alleged professional misconduct.

[112] There is no basis for this relief. A court will refer the conduct of legal professionals to the relevant bodies when that conduct occurs before the court. A person who wishes a professional body to investigate conduct of legal professionals is entitled to, and must, refer the complaint to the professional body directly. Approaching court to seek an order that there must be an investigation does nothing other than glut the court rolls unnecessarily.

[113] Similarly, if there is a criminal complaint, it must be made directly to the police. A court does not need to make an order unless there are other circumstances which show that an order is required. There is no evidence of such circumstances here.

[114] The court also has no jurisdiction to investigate the conduct of the third respondent (or order that investigation).

Restitution and Costs

[115] Mr Roux asks, in his “Part E”, that the amount that he has paid under the taxation order on 22 July be repaid to him. This cannot be done where the taxation has

not been reviewed and set aside, and since I have declined to do that, this relief too must fail.

[116] Mr Roux then asks that each party should pay its own costs, on the basis that he represents himself and seeks to vindicate a constitutional right. It is well established that a litigant who seeks to vindicate a constitutional right may escape a costs order even if they are unsuccessful. However, it is not blanket indemnity. In my view the manner in which Mr Roux has litigated justifies a costs order against him.

[117] Mr Roux also asks in the alternative that Mr van Greunen and Mr de Wet pay costs on a punitive scale for procedural manipulation and perjury. However I cannot see that any such behaviour has occurred in this matter and no such order is justified.

[118] The notice of motion goes on to include “grounds for relief”. This is inappropriate in a notice of motion. In any event I have encapsulated Mr Roux’s various grounds already and give them no more attention.

THE USE OF ARTIFICIAL INTELLIGENCE

[119] Mr Roux has been candid about his use of artificial intelligence, stating, for example, that he makes legal submissions “with the benefit of research support of a few artificial intelligence systems to ensure comprehensive understanding and legal analysis”. Unfortunately, my view is that Mr Roux’s use of artificial intelligence has benefitted neither him nor the court. It has led to his papers containing irrelevant matter, ineffective legal analysis, and contentions based on unclear principles not established in South African law.

[120] While artificial intelligence is a useful tool when used properly, it is particularly dangerous in the hands of someone who has little knowledge and understanding of the law and its processes. Lay litigants and legal practitioners alike would be well advised to exercise caution and double check what artificial intelligence platforms provide as advice and information, before acting on it.

[121] While the propositions relied on by Mr Roux can be dealt with, it is not ideal that a court would have to waste time and resources explaining that something has no basis in South African law, just because a litigant has relied on something that is not reliable.

[122] One specific issue must be dealt with. This is Mr Roux's reliance on an alleged judgment of this court, which he identifies as *Matshoba and Another v Acting Master of the High Court, Johannesburg and Others*. This is the judgment in which, Mr Roux alleges, the invitation is made for someone to bring an application such as this one. According to Mr Roux, this judgment is published in the law reports at 2020 (1) SA 87 (GJ). It is not. Page 87 of volume one of 2020 in the South African Law Reports, to which the citation refers, is a page in the middle of another judgment. Mr Roux also contends that the judgment has the neutral citation [2019] ZAGPJHC 186. It does not. This citation belongs to a different case.

[123] On being asked to provide a copy of the judgment, which, despite searches of the relevant databases and judgment repositories, could not be found, Mr Roux insisted that it appears at the citation set out above, and contended that "[t]he confusion appears to arise from stems from a possible confirmed clerical error in the court's electronic registry, where the neutral citation – which has often been associated with this case – is incorrectly assigned to a different matter". I pause to note that there is no confirmed clerical error and that there is no association at all anywhere discernible of the neutral citation being associated with the case identified by Mr Roux, either often or at all.

[124] Mr Roux doubles down and says that it is "verifiably authentic" and that it is reported in the South African Law Reports. It is not. Mr Roux was in fact unable to produce a copy for the court. What he did provide was a word document in which he "compiled" the judgment. Of course if the judgment actually existed, and if it was actually published as alleged, there would be no need for him to "compile" it. Reference to the case number provided by Mr Roux also does not disclose any known judgment.

[125] Further, Mr Roux at first refers to the judgment as written by my sister Fisher J, and then, in the “compiled” version, to a non-existent “Matshoba J”.

[126] The two participating respondents confirm that they too are unable to locate such a judgment and submit that it does not exist. It is my view that Mr Roux has relied on what is popularly referred to as an “AI hallucination”. I must conclude that Mr Roux has been taken in by the artificial intelligence on which he relies and refuses to admit that this is the case.

[127] Mr Roux relies on this so-called judgment to support his contention that his application is an answer to a call by a judge of this court. The document does not support his contention. Nor does it support his arguments regarding the award of costs to an attorneys’ firm where individual attorneys from that firm are represented by it.

[128] Mr Roux also refers to this judgment in support of the proposition that it precludes the award of costs where they are claimed for allegedly perjurious affidavits. The document provided by Mr Roux does not support this contention.

[129] To the extent that there is such a judgment, whatever Mr Roux understood of what it means seems to have been fatally misinformed by his use of artificial intelligence.

LATER DEVELOPMENTS

[130] On the eve of my handing down the judgment (which of course Mr Roux could not have known) he uploaded a notice of motion with affidavits, seeking leave to file a supplementary affidavit. For the reasons already set out above, it is not appropriate to admit further affidavits in this matter, and shift again the already frequently shifted goalposts.

[131] However, to be fair to Mr Roux, I read the application. The reason for the application is to demonstrate that there are investigations by the South African Police Services and by the Legal Practice Council that are taking place. The affidavits are not relevant to this application because, as I have set out above,

the proper fora for these investigations are those bodies. There was no need to ask the court to call for investigation.

[132] If there are outcomes from those investigations that favour Mr Roux, it is only then that he may be entitled to seek consequential relief. The existence of those investigations does not entitle him to the relief sought in this (main) application.

[133] The application to submit a supplementary affidavit is dismissed, and there is no need for a response.

THE COUNTER-APPLICATIONS

[134] Both counter-applications seek relief in accordance with Section 2 of the Act on an urgent basis.

[135] Mr de Wet seeks an order that no proceedings shall be instituted by Mr Roux against him in any High Court or lower court in the Republic, without leave of a High Court, sought in the ordinary course and on notice. He seeks that the order remain in force in perpetuity, alternatively for a reduced period determined by the Court. He also seeks punitive costs.

[136] Mr van Greunen seeks that Mr Roux be declared a vexatious litigant, and that no proceedings be instituted or further application brought under this case number by Mr Roux against Mr van Greunen on the same terms as sought by Mr de Wet. He also asks that the order be published in the Government Gazette in accordance with section 2(3) of the Act, and that Mr Roux be asked to provide security for costs if permission is granted to him to litigate against the specified respondents.

[137] When I enquired of the counter-applicants whether, if I found the main application not to be urgent, they persisted with the urgency of their counter-applications, Ms Granova, who appeared for Mr van Greunen, conceded that the urgency would not remain. Mr de Wet, who represented himself, submitted that the counter-application would still be urgent, in view of the pattern of groundless litigation displayed by Mr Roux, and the persistent, unabated approaches to the urgent court.

[138] Taking into account the manner in which I have dealt with the main application, it seems to me in the interests of justice that I deal substantively with the counter-applications too.

[139] The Act provides in s 2(1)(b):

If, on an application made by any person against whom legal proceedings have been instituted by any other person or who has reason to believe that the institution of legal proceedings against him is contemplated by any other person, the court is satisfied that the said person has persistently and without any reasonable ground instituted legal proceedings in any court or in any inferior court, whether against the same person or against different persons, the court may, after hearing that other person or giving him an opportunity of being heard, order that no legal proceedings shall be instituted by him against any person in any court or any inferior court without the leave of that court, or any judge thereof, or that inferior court, as the case may be, and such leave shall not be granted unless the court or judge or the inferior court, as the case may be, is satisfied that the proceedings are not an abuse of the process of the court and that there is *prima facie* ground for the proceedings.

[140] Section 2(1)(c) provides for the duration of the order, which may be indefinite or for a period determined by the court, and may be rescinded or varied on good cause shown. Section 2(3) provides for publication in the Government Gazette by the Registrar, and s 2(4) provides that a person who institutes legal proceedings without leave when an order has been made against them “shall be guilty of contempt”.

[141] Mr Roux contends that an order against him would be an unjustifiable breach of his constitutional right to access to court, and that, in any event, the requirements for an order against him are not fulfilled.

[142] The Constitutional Court has considered the constitutionality of the Act, considering that it obviously limits the access of a person to court, which is guaranteed by s 34 of the Constitution.¹³ In *Beinash and Another v Ernst & Young and Others*¹⁴ (“*Beinash*”), the Court found that although there was a limitation of

¹³ Constitution of the Republic of South Africa, 1996.

¹⁴ 1999 (2) SA 116 (CC)

the right, it was a reasonable and justifiable limitation in accordance with s 36 of the Constitution, and there was, accordingly, no violation of the right.

[143] As the Court observed (per Mokgoro J):

[The purpose of the Act] is 'to put a stop to persistent and ungrounded institution of legal proceedings'. The Act does so by allowing a court to screen (as opposed to absolutely bar) a 'person (who) has persistently and without any reasonable ground instituted legal proceedings in any Court or inferior court'. This screening mechanism is necessary to protect at least two important interests. These are the interests of the victims of the vexatious litigant who have repeatedly been subjected to the costs, harassment and embarrassment of unmeritorious litigation; and the public interest that the functioning of the courts and the administration of justice proceed unimpeded by the clog of groundless proceedings.¹⁵ (*footnotes omitted*)

[144] An order in terms of the Act then is to protect respondents from having to continuously oppose groundless and repeated litigation. It does not prejudice the litigant, because if the litigation is groundless, it would ultimately be unsuccessful, but allows a preliminary evaluation to be made without taking up court time and resources in opposed proceedings. A court granting leave to such a litigant would not be examining the papers with the same scrutiny as a court making a decision on the proceedings ultimately. The bar is much lower. The court must only be satisfied that there is a bona fide claim that is prima facie meritorious.¹⁶ The court granting leave is not an indication that the application or action would eventually be successful.

[145] This is particularly valuable where a litigant appears in person and litigates persistently, and is unwilling to accept legal advice. Often, the independent advice of counsel acts as a safeguard against vexatious proceedings, but even that is missing in this case. It must be noted that there is no indication that Mr Roux cannot afford competent representation. The unavoidable inference is that he simply does not wish for representation.

[146] The Constitutional Court commented further that

¹⁵ At para [15].

¹⁶ *Beinash* at para [13]

Having demonstrated a propensity to abuse the process of the Courts, it hardly lies in the mouth of a vexatious litigant to complain that he or she is required first to demonstrate his or her bona fides.¹⁷

[147] The question then is whether Mr Roux has demonstrated a propensity to abuse the process of the Courts, or, to use the terminology of the Act, whether he has “has persistently and without any reasonable ground instituted legal proceedings”. It is true that Mr Roux has only instituted one application in this court. He has been persistent in pursuing it in the urgent court despite consistent findings that it is not urgent. The manner in which Mr Roux has prosecuted his application has been unreasonable, and his repeated approaches to the urgent court have been unreasonable. The question is whether the persistent prosecution of a single application (albeit with constantly evolving relief sought) fulfils the requirement.

[148] In *MEC, Department of Co-operative Governance and Traditional Affairs v Maphanga*¹⁸ (“*Maphanga*”), the SCA found that where a person had not instituted multiple proceedings in the High Court, the requirement of someone persistently instituting legal proceedings had not been fulfilled. The SCA considered the meaning of s 2(1)(b) to be that there was a multiplicity of groundless proceedings instituted. It confirmed that this was also a requirement for similar restrictions to be imposed in terms of the common law, read with s173 of the Constitution. It also confirmed, as did the Constitutional Court, that the test must be stringently applied, particularly because of the extreme effect of an order declaring someone a vexatious litigant.

[149] There is really only one set of proceedings instituted by Mr Roux, under this case number. His numerous approaches to the urgent court, and continuous expansion of the relief sought, do not change that. At this point, I consider that the requirements for relief under the Act are not fulfilled. While his conduct may be considered vexatious, it is not the sort of vexatiousness contemplated by the Act.

¹⁷ At para [20]

¹⁸ 2021 (4) SA 131 (SCA)

[150] While interrogating the form and harshness of the relief sought against Mr Roux, and the appropriateness and efficacy of a less all-encompassing order than that contemplated by the Act, it was suggested by Ms Granova that it may be appropriate to make an order staying Mr Roux's proceedings, or in fact restricting him from litigating against Mr van Greunen and Mr Roux, until he has satisfied the costs orders already made against him.

[151] I requested that the relevant references to the principle and the relevant authorities be uploaded, to save me having to retrieve them myself. It is this request which Mr Roux objects to in the letter he sent after the hearing. That objection clearly has no merit. A court is not bound by submissions made, and will still exercise its decision making power with care while considering those submissions. The mere fact of making submissions, whether in writing or orally, has no evidential value, does not affect what is pleaded, and does not determine the matter. It also does not absolve the court from considering whether the submissions are correct. Mr Roux's objection simply shows that he does not appreciate the purpose of the request, or the status of authority to which a court refers or is referred.

[152] I do believe that it is correct, as submitted for the counter-applicants, that the Court, in exercising the inherent power to regulate its own process, can restrict the conduct of a litigant in a manner less invasive and more specific than that provided for by the Act, where a proper case is made out and the litigant has had the opportunity to properly respond. Examples of this kind of restriction would be the order that proceedings be stayed until previous costs orders are paid, or an order that the litigant may not approach the urgent court unless certain conditions are met.

[153] In this case, however, these options were not pleaded, and were discussed at the hearing. Despite my lack of sympathy for Mr Roux due to his failure to take proper steps to ensure that he would be able to follow the hearing, I must accept that he was quite at sea during the hearing. He did not, therefore, have a proper opportunity to respond to the propriety of lesser restrictions. The question was also not pleaded.

[154] Taking into account that I have now determined the substance of this case, and that it ought not to be open to Mr Roux to continue his practice of repeatedly setting it down, it is perhaps more appropriate for me not to make an order restricting his access to court at this time.

[155] I consider that this is an appropriate situation in which to exercise my powers in terms of Rule 6(6), that no order be made regarding the application to declare Mr Roux a vexatious litigant and that the counter-applicants are given leave to renew the application, supplemented if necessary, should Mr Roux's future conduct begin to cross the lines of reasonableness in the manner that it has in the history of this application, which I have set out above in detail.

[156] Naturally, Mr Roux will have the right to respond to any new affidavit. It is my view that, unless a case is made out for urgency, the Rules should apply to any renewed case, treating the supplementary affidavit as a founding affidavit.

COSTS

[157] In my view Mr Roux has not demonstrated any basis on which I should not make a costs order against him, in particular, there is nothing to show that he is not well able to defray any such order. In view of his conduct in the matter and his refusal to properly engage on the issues, I agree that costs on a punitive scale is justified.

[158] I am entitled to make a costs order also in the counter-application, despite my making no substantive order. It was not ill-founded and was unsuccessful partly because of the approach the court took, and because fairness to a litigant in person meant that I could not properly give lesser relief in the circumstances. However, I do not consider that the punitive scale should apply here.

CONCLUSION

[159] In these circumstances, I make the following order:

- (a) The main application is dismissed with costs, on the attorney and client scale.

- (b) The application made on 27 January 2026 to submit further affidavits is dismissed.
- (c) The counter-applicants are given leave to renew their counter applications, and to file supplementary affidavits, should the need arise. In this eventuality, answering and replying affidavits may be filed in terms of the Rules, as if the supplementary affidavits are founding affidavits.
- (d) The applicant shall pay the costs of the counter-applications on the ordinary scale.



S. YACOOB

JUDGE OF THE HIGH COURT

GAUTENG DIVISION, JOHANNESBURG

Delivered: This judgment 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 29 January 2026.

APPEARANCES

Applicant in person.

For the first respondent: A Granova

Instructed by: WJ Mayhew Attorneys

Second respondent in person.