IN THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL LOCAL DIVISION, DURBAN

CASE NO: **2025-112735**

In the matter between:

S & N LOGISTICS CC	**Applicant**

and

SHOLAN PATRICK RAMKISEN	**First Respondent**
SPICY TRANSPORT CC	**Second Respondent**

ORDER

The following order shall issue:
The applicant is given leave to withdraw the application and directed to pay the costs of the application.

JUDGMENT

OLIFF AJ

[1] On 11 July 2025, the applicant instituted an urgent application seeking to interdict the first and second respondents pursuant to a restraint pursuant to a non-disclosure agreement concluded with the second respondent on 21 May 2024.

[2] In terms of the agreement, the first respondent was precluded from directly or indirectly making an offer of employment to, or request an interview from an employee or agent for at least one year of signing the agreement and for at least one year after its termination.

[3] It is common cause that the first respondent's employment was terminated on 28 January 2025.

[4] On 16 July 2025 the application was struck from the roll with costs.

[5] The filing of papers was thereafter completed, and the matter was set down for hearing on 19 January 2026. Even if judgment was granted in favour of the applicant, the relief would last a mere 9 additional days.

[6] Mr *Moosa*, who was not the draftsman of the papers or the heads of argument, adopted a sensible and rational approach in advising that the applicant wished to withdraw the application. The only issue that remained was that of costs.

[7] In order to exercise my discretion in relation to costs, it is necessary to consider the parties actions, as well as consider the merits of the matter.

[8] The applicant had not asked for the matter to be referred for oral evidence, to resolve any disputes of fact. The time factor obviously played a factor in this decision but results in any factual dispute must be accepted on the respondent's version.

[9] The logistics business is described as a competitive industry with small margins of profitability.

[10] In the founding papers, the following is stated:

'38.1 '…acquired, came into possession of, and had access to, proprietary and confidential information of the applicant, including but not limited to business strategies, client information, pricing/rates structures, banking information and other sensitive data and information specific to the applicant's business operations ("*the confidential information*");

38.2 became familiar with and had access to the applicant's current and prospective clients and the individual needs;

38.3 acquired considerable benefit and industry knowledge;

38.4 acquired considerable knowledge over the operations of the applicant's business and its clientele; and

38.5 became privy to confidential matters relating to the applicant's operations.'

[11] Applicants in such matters are required to navigate a route whereby sufficient information is disclosed to enable the Court to consider whether there is a protectable interest in the form of confidential information.

[12] The court in *Experian South Africa (Pty) Ltd v Haynes and Another* (2013) 34 ILJ 529 (GSJ) explained what is required for information to be categorised as such:

> "It is trite that the law enjoins confidential information with protection. Whether information constitutes a trade secret is a factual question. For information to confidential it must be capable of application in the trade or industry, that is, it must be useful and not be public knowledge and property; known only to a restricted number of people or a close circle and be of economic value to the person seeking to protect it."

[13] I am in agreement with Ms *Moodley's* submission that the bald allegation of alleged existence of "business strategies" and the applicant's function, do not assist in the factual enquiry.

[14] The applicant has, in my view, failed to adequately navigate the passage of explanation of the information to enable any proper consideration of the factual position.

[15] Once I accept the respondent's explanation of prior dealing with various customers and the explanation of prior business done in respect of Militrans, it is difficult to find that there was unlawful competition. Certainly, there is no evidence

sustained that the allegation that the respondent sought not only to benefit but to cripple or eliminate the applicant, a business competitor.

[16] Mr *Moosa* correctly conceded that the applicants had alternate remedies, such as a damages claim. Unfortunately, Mr *Moosa*'s arrival as a representative was too late in the hour to remedy the application.

[17] Ms *Moodley*, when questioned as why the respondents had not sought to initiate settlement proceedings as it would clear the proverbial clock was about to run out, correctly responded that the applicant is the *dominus litis*. The respondents are brought to Court for an opposed motion whereby relief, if granted on the same day, would remain effective for less than 10 days.

[18] The applicant's actions in pursuing the relief, despite the factual disputes, for a short period of relief does not enable it to escape the general principle that the costs should follow the result.

[19] I accordingly make the following order:

19.1 The applicant is given leave to withdraw the application.
19.2 The applicant is directed to pay the costs of the application.

[redacted]

ACTING JUDGE OLIFF

Case Information

Date of Hearing	:	19 January 2026
Date of Judgment	:	23 January 2026

Appearances

Counsel for the Plaintiff / Applicant / Appellant	:	Ms S Moodley
Instructed by	:	Suveshin & Co. Inc. Suite 5, Braehead Office Park 1 Old Main Road, Kloof Ref: S Moodley/S056 Tel: 031-8323348 Email: suveshinm@outlook.com
Counsel for the Defendant / Respondent	:	Mr N *Moosa*
Instructed by	:	Sholan Patrick Ramkisen The First Respondent 36 Alexander Road, Pinetown Spicy Transport CC The Second Respondent 36 Alexander Road, Pinetown Ref: 104 Email: Admin@arifmahomed.co.za