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**IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE HIGH COURT, CAPE TOWN)**

CASE NO: 2025/221659

In the matter between

M[...] N[...] Applicant

And

J[...] E[...] First Respondent

PEARL WALSH Second Respondent

RAEL KASSEL t/a KASSEL SKLAAR Third Respondent

COHEN AND COMPANY

Coram: Pangarker, J

**Hearing: 19 February 2026, 5 March 2026 and 15 April
2026**

Judgment Delivered: 20 April 2026

EX TEMPORE JUDGMENT

PANGARKER J,:

[1] This judgment must be read with the Court's written reasons in the matter pursuant to an urgent application heard on 8 December 2025. The written reasons for the order granted were delivered on 24 December 2025 and appear on the SAFLLI digital platform as *MN v JE and Others*, 2025 ZAWCHC 604. In the reasons, the court set out in detail the chronology of events, circumstances and the roles played by the respondents.

[2] It bears repeating, for purposes of this judgment, that Acting Judge Greig had granted an order on 21 November 2025, in an urgent application brought by the applicant, the father of a minor child, against the first respondent, the mother of the child, whereby the latter was required to return the child to him with immediate effect and the child was to remain in his primary care.

[3] The Family Advocate or Child Care Expert were required to conduct an assessment, *inter alia*, into the child's best interest. It was common cause that by the time the urgent application came before this court, in the last week of the fourth term of 2025, 17 days had lapsed since Greig AJ's order, and the mother had still not returned the child to the father, as ordered. The mother's whereabouts were unknown, and the police, Department of Social Services and Family

Advocates were alerted. It was reported that the child and mother were living in a caravan park in Bellville, and were assisted by the second respondent, Pearl Walsh, a gender activist and lay assistant, who was apparently authorised, in terms of a power of attorney, to act for the mother. The detail and findings related to this ostensible authority in terms of the power of attorney are addressed in the December reasons.

[4] The third respondent, a practising attorney and registered law firm in the Western Cape, was also involved in the matter, and seemed to have been acting on instructions from the mother, which he received from Ms Walsh by way of her power of attorney.

[5] The matter came before this Court as an urgent application then in December 2025, seeking to hold all three respondents in contempt of the Greig AJ order, and by then the child and the mother's whereabouts were still unknown. The reasons set out in some detail relay the events of 8 December and the extent which the Court, the registrar Ms Schmidt, the Family Advocate and the applicant's legal representatives went to in order to trace the mother and the child.

[6] The child's whereabouts only became known to the applicant's legal representatives and also the registrar, after the 8 December order was served on the respondents, when the mother made contact with Ms Burgess late in the afternoon to inform her where the child may be collected. The information provided at that stage was that the child was no longer in the caravan park.

[7] In the 8 December order, while the mother and Ms Walsh were found to be in contempt of the Greig AJ order, findings and orders against Mr Kassel and his firm stood over on condition that he cooperated with the applicant's legal representative in order to ensure the safe return of the 4-year-old girl.

[8] The matter was postponed to 19 February 2026 to finalise these remaining aspects as referred to in paragraphs 3 and 5 of the order granted on the 8 December. It is necessary to indicate that in terms of this order there was no specification as to how the mother and Ms Walsh were to present reasons why they should not be committed for contempt and this means that the Court was prepared at that stage to hear oral submissions and/or consider an affidavit from both.

[9] A further matter to mention is that Mr Kassel delivered an electronic copy of a notice of withdrawal as attorney of record on 10 December 2025, which the Court indicated he had not complied with in respect of rule 16(4). Given the history of this matter, from the commencement of proceedings before Greig AJ and continuing through the urgent applications before this Court and the outstanding issues, the matter was anything but smooth sailing.

[10] Subsequent to the 8 December order, the registrar was inundated with email communication and demands from Ms Walsh, which seemed to have continued even after last week's hearing on 15 April. Ms Walsh has, despite this Court delivering 20-page written reasons in respect of its 8 December order, requested further reasons and has also addressed correspondence to the Judge President's Office, querying this matter and insisting on further reasons and effectively wishing to revisit the proceedings before Greig AJ and this Court in emails.

[11] To clarify, as has already been indicated previously, no further reasons were provided and this was communicated to the Judge President's secretary. There was also the threat of a review application against this Court as well as Greig AJ, and as already indicated, no such review application has been

brought to this Court's attention.

[12] In addition to all of the above, Ms Walsh has also indicated that this Court, at this stage, is to recuse itself from the proceedings and for purposes of the record in this judgment, the Court indicates that there is no formal application for recusal and to the extent that Ms Walsh is unhappy with the Court's refusal or dismissal of her application for postponement on 15 April a few days ago, it bears repetition that the application for postponement was heard fully on a formal application and reasons were provided *ex tempore*, in court, on the day and in the exercise of the Court's discretion, having regard to all the facts and circumstances, the request for a postponement was refused with costs.

[13] It furthermore bears mentioning, and it is an aspect which is addressed later in this judgment, that Ms Walsh's approach and attitude to the orders of Greig AJ, as well as to the order of Court of 8 December 2025, to the extent that it is relevant, is that she is faultless and blameless in respect of assisting the mother in what was effectively hiding the child from the father and contrary to Greig AJ's order.

[14] Furthermore, Ms Walsh's view throughout the

proceedings in this matter before the Court has been one of wishing to revisit and address the proceedings before Greig AJ and this Court in December 2025. All such attempts, and there have been many, to explain to Ms Walsh that the orders stand until they are set aside by a competent court and that they have to date not been set aside and that this Court cannot review or even appeal its own prior decisions, have unfortunately and remarkably been ignored and fallen on deaf ears.

[15] As indicated, these further proceedings, which should have been concise and dealt with urgently, have unfortunately become protracted and have been anything but smooth sailing. What thus, in fact, should have been a court appearance and finalisation of a matter on one day, then turned into lengthy court days, largely taken up with submissions related to what had already happened in the matter and the issue of legal representation.

[16] On 19 February 2026, after hearing the mother's submissions and at the behest of Ms Walsh, the matter was postponed for the latter to file an affidavit to the affidavit of Ms Burgess and the mother. The matter was then postponed to 5 March 2026. On 5 March 2026, and after again hearing Ms Walsh at length, the matter was postponed finally to 15

April for her legal representation, for finalisation of the contempt proceedings and for costs.

[17] Ms Walsh blamed Ms Burgess for interfering with her *pro bono* legal representation, specifically Ms Hans, who was appointed and provided by the Legal Practise Council or LPC. On 15 April, she formally applied for another postponement for new *pro bono* legal representation.

[18] As already indicated, this application was fully ventilated and an *ex tempore* judgment delivered and eventually an order was granted refusing the application for postponement with costs on Scale C.

[19] In terms of the order of the 5th of March, Ms Walsh's affidavit was to be delivered by 16 March, but this did not occur. In terms of the previous appearance on 19 February, Ms Walsh's affidavit was to be delivered on 25 February, which also did not occur.

[20] Mr Kassel was required to file an affidavit explaining why he should not be held in contempt of the Greig AJ order and why a cost *de bonis propriis* order should not be granted against him and his firm. He duly complied and filed, on my understanding, more than one affidavit. Ms Burgess, on

behalf of the applicant, also delivered a replying affidavit insofar as the contempt and cost issue against Mr Kassel. Mr Kassel also indicated that he would seek a cost *de bonis propriis* order against Ms Burgess' law firm.

[21] I turn then to address the outstanding orders relating to paragraphs 3 and 5 of the 8 December order with reference then to the various respondents in the matter.

[22] Turning to the first respondent: the first respondent acknowledged the seriousness of the Greig AJ order and tendered in an affidavit her unreserved apology for her non-compliance. She unequivocally took responsibility for her actions and accepted that she should have complied with the court order but did not do so. She explained that Ms Walsh, an activist, led her to believe that she could assist her, hence the power of attorney granted in Ms Walsh's favour.

[23] Furthermore, it is evident from her affidavit that she relied solely on Ms Walsh's advice regarding the law, her rights, the rules of court and civil procedure. She was advised that she need not appear in court and that the matter on Greig AJ's roll would be removed from the roll. She was furthermore advised to urgently remove her child from school, to go to a safe place to hide and not to disclose her and the

child's whereabouts.

[24] The first respondent relied on this advice provided by Ms Walsh, believing it to be sound, but nonetheless questioned it on several occasions, as the evidence indicates. It seems clear from her affidavit that the mother then followed Ms Walsh's advice that the child's whereabouts were not to be disclosed as she could lose her daughter. The mother, once served with this Court's order of 8 December, then immediately complied and disclosed the child's whereabouts to Ms Burgess.

[25] In relation to a suitable sanction to impose, which is in fact the only issue other than costs that I am required to still determine, the mother requested the Court to consider the following facts:

[1] The child was handed over to the father and both parents are committed to cooperating and co-parenting.

[2] She, her daughter and the applicant suffered emotional distress as a result of the events and the adults are attempting to address the damage caused to the child.

[3] The first respondent suffered severe financial strain and as she earns R8 000 per month, she is working extended hours to make up for the financial loss.

[4] She removed Ms Walsh's power of attorney and sought legal aid as she wished to follow the correct procedure in respect of ensuring her child's best interests.

[26] The first respondent sets out the detail of voice notes indicating instructions from Ms Walsh on 21 and 22 November 2025, respectively. While these were relevant in the main hearing on 8 December, it bears emphasising that the Court has already found the mother's actions wilful and *mala fide*. It is not something which can be revisited and put in a nutshell, she has already been found to be in contempt of court. The Court cannot now change such finding and with the benefit of hindsight, had the first respondent actually attended court, the Court's finding may perhaps have been slightly different, but she would nonetheless have been found to be in contempt of the Greig AJ order.

[27] The Court furthermore points out that there is no counter version to the mother's voice notes which indicate that it was Ms Walsh who had issued instructions for her not

to contact or respond to communication from anyone, including the police, who had been approached in respect of finding the minor child. These summaries of voice notes support what the Court was advised of in December, that Ms Walsh was effectively and for want of a better term, calling the shots; furthermore, that Ms Walsh had assisted in helping the mother to hide the child from the authorities and in addition thereto, that Ms Walsh knew the mother's whereabouts and that the mother was instructed to ignore communication from the police, from the applicant's attorney, from the registrar of this court and from any social workers involved.

[28] The first respondent, as I have indicated, has shown remorse for her non-compliance with the Greig AJ order and the Court's view is that such remorse is sincere. While it is clear that she relied on Ms Walsh's advices as to what to do with the child, she is, nonetheless, an adult and she failed to attend court. She elected wilfully to follow Ms Walsh's advice and she deliberately failed to return the child to the applicant as ordered by Greig AJ.

[29] To a degree, the Court has some empathy for her but it is clear that she knew and had been involved in previous Court proceedings such as Children's Court and domestic

violence and in the Court's, view cannot escape a finding that she knew that the non-compliance with the Court order is very serious. That said, it was apparent in Court that the first respondent was clearly sorry for her actions. She was emotional and it is apparent that these proceedings and her conduct as well as Ms Walsh's influence have had a severe toll on her.

[30] Having considered the papers and the submissions, the Court holds the view that a fine, wholly suspended, is the most appropriate sanction to impose in the circumstances on the first respondent. It serves as a reminder of her wrongful conduct and would, in the court's view, hopefully spur her on to cooperate with the applicant, with social services and the Family Advocate when it comes to co-parenting.

[31] The Court then turns to the second respondent, Pearl Walsh.

[32] As mentioned earlier, there are no affidavits from Ms Walsh in this enquiry. Her conduct is set out in substantial detail in the 24 December 2025 reasons. Unlike the first respondent, having regard to the surfeit of email communications sent to the registrar and exchanges with Ms Burgess, where the registrar of this Court was included,

read together with the affidavits and supporting annexures filed in the matter, Ms Walsh has shown absolutely no remorse, nor contrition, nor regret for her role and actions in aiding and abetting the mother to avoid the child being traced, and the wilful non-compliance of the Greig AJ order.

[33] Ms Walsh, with respect, has consistently complained about and questioned the Court and the applicant in the finding which holds her in contempt of court. Yet, she either blindly ignores the clear explanation and rationale behind the findings from paragraph 63 of the written reasons, setting out why and how she is indeed in contempt of court, or she simply refuses to read those reasons.

[34] She is not, by any stretch of the imagination, an unintelligent person and the written reasons are clear and concise and leave no room for any kind of misunderstanding. This Court does not intend to repeat those findings and emphasise once again that this judgment must be read with those written reasons of 24 December 2025.

[35] Ms Walsh's conduct, as expressed in paragraph 66 of the reasons, is a grave, serious and intentional interference when assisting the mother to wilfully refuse to comply with Greig AJ's order. The seriousness of such conduct cannot be

overemphasised.

[36] Furthermore, Ms Walsh's actions are not only regarded as very serious but, in the Court's view, considered dangerous and obstructive of the rule of law. While she gives out to the mother and everyone involved in this matter, including the Court, that she is a gender activist who acted out of concern for the mother and child in a domestic violence situation, Ms Walsh thought nothing wrong in wilfully instructing the mother to hide the child's location, to not communicate with the police, the applicant's attorney and the Court. It is very clear that Ms Walsh persists throughout the later proceedings, subsequent to the December orders, that her conduct was above reproach, harmless and in the mother and child's favour. It was anything but that.

[37] The concerns which are expressed in paragraph 67 of the written reasons remain. Ms Walsh acted beyond the scope or ambit of the, "one-day" power of attorney which was placed before the Court which the mother had granted her and she was hell-bent on her own fantastical idea of justice for the mother and child, regardless of the Court order and the possible damage her conduct may cause, whether to the mother, the applicant, the child or all three.

[38] One would have thought in the circumstances and with respect to her, that as someone who prides herself on having some legal knowledge and knowing Court processes, and that the police, the Court and social services were all trying to trace the mother and child, that Ms Walsh would have co-operated and rather advised the mother to indicate her whereabouts, or herself disclose their whereabouts, or alternatively, refer the mother to legal aid. She did nothing of the sort.

[39] This would be an unnecessarily lengthy judgment were the Court to set out all its very serious concerns regarding Ms Walsh, her attitude, her conduct and her approach as someone who regards herself as a lay assistant and someone who is a gender activist. She has displayed during the Court proceedings, no respect for the seriousness of the Greig AJ order and has indicated she believes that she did nothing wrong. She has persisted in questioning why this Court has held her in contempt. This despite a clear explanation in the written reasons and the reference to the authority which allows for a person who aids and abets another party who is the subject of a Court order, to be held in contempt of court.

[40] The Court also furthermore points out that the written reasons were provided on the same day that it was delivered,

on 24 December 2025 and it included Ms Walsh. So there can be no mistake that she should be fully aware of the Court's findings. One can therefore only emphasise that Ms Walsh should have read the Court's findings.

[41] The applicant seeks an order that Ms Walsh be committed to prison. In respect thereof, Ms Walsh was requested to make oral submissions and she submitted that she is a single parent, she has one minor child and two adult children, one child being on the autism spectrum, that she is homeless and that she has no income.

[42] Despite being provided with more than one opportunity for legal representation, she accused the Court on the previous occasion of forcing her to represent herself, something which she has repeated this morning prior to the judgment. This, with respect, is a fallacy. Ms Walsh's application for a second postponement and a second *pro bono* legal representative was dismissed for the reasons already set out and delivered *ex tempore*.

[43] To emphasise, the Court exercised a discretion in this regard and rejected her version that Ms Burgess had interfered with her previous legal representative, Ms Hans, by sending certain correspondence enquiring about the matter

and instructions. Ms Walsh submits further that she has no financial support, that she lives from friend to friend, that she has spent R6 000 on assisting the mother and that she is effectively in and out of Court in respect of other litigation.

[44] She also advised the Court that her bank accounts are frozen and that her adult children do not work. The Court points out that nothing precluded Ms Walsh from deposing to affidavits in this respect but she failed to do so and there is no evidence to support these submissions. She has requested that neither a fine nor suspended sanction nor period of imprisonment be imposed as she only assisted the mother out of the goodness of her heart.

[45] It was held by the Supreme Court of Appeal in *Farkey NO v CCII Systems (Pty) Limited*, 2006 ZASCA 52, at paragraph 6, that:

“Contempt of a court order violates the dignity, authority and reputation of the court.”

The Court fully agrees with this. Ms Walsh has displayed a concerning unlawful disrespect for judicial authority. (see the judgment of *S v Beyer*, 1968(3) SA 70A.)

[46] I emphasise that it is the Court's duty to ensure that the rule of law, which enjoys supremacy in terms of section 1(c) of the Constitution of South Africa 1996, is protected at all times, even with respect, from a gender activist like Ms Walsh who seemed to have been on a crusade of her own, regardless of any actual or potential harm and any non-compliance with Court orders which ensued. At the same time, the Court has to be fair and the Court has to be mindful that the point of contempt and its sanction is not to punish the contemnor but to bring her to her senses

[47] . The Court, despite the request by the applicant, will not impose direct imprisonment as a sanction on Ms Walsh. However, it will impose a suspended period of imprisonment with conditions and with respect, hope that Ms Walsh realises the gravity of her non-compliance the Court order and her misconduct.

[48] The Court then turns to the third respondent, Rael Kassel trading as Kassel Sklaar, Cohen and Company.

[49] The third respondent's role in the matter is clearly demonstrated in the reasons and yet again this Court does not repeat that in this judgment. This Court has read and

considered Mr Kassel's affidavits which Ms Burgess received on the 18th of March 2026 and has considered it alongside Ms Burgess' affidavit and the parties' respective submissions. In respect of a finding of contempt of Court, the evidence supports a finding in respect of the third respondent that the first two requirements for contempt are indeed present, and that is the existence of the Greig AJ order and notice or knowledge of the order.

[50] The problem for the applicant, however, in the Court's view, is in respect of the remaining two requirements, that is, that there was non-compliance with the order by the third respondent and that the conduct was wilful and *mala fide*.

[51] In this respect of the remaining two requirements on the papers, there is a dispute. The applicant bore the onus to show that the third respondent failed to comply with the Greig AJ order, that is the third respondent. Mr Kassel's contention in the affidavit is that he used his best efforts to encourage and persuade Ms Walsh to request of the mother to provide her details and whereabouts and comply with the order.

[52] In annexures A and B which are emails to Ms Walsh on the 5th and 6th of December 2025 respectively, it is clear that

Mr Kassel implored Ms Walsh to provide the mother's details so that he may, *inter alia*, inform her of the order and the requirement for compliance and advise her of the very serious consequences which would flow in the case of contempt.

[53] At that stage, the Greig AJ order was already granted (21 November 2025) and the child, according to that order, had to be returned "with immediate effect", meaning as soon as possible. In other words, by 22 November 2025 at least, a day after the order, the child should have been returned but as we know, the child was not returned. On 22 November Mr Kasselo then informed Ms Burgess that he was instructed to act for the mother.

[54] Having regard to Ms Burgess' affidavit read with Mr Kassel's, it is this Court's view that Mr Kassel attempted to obtain the mother and Ms Walsh's compliance with the order at least by 5 December 2025. Ms Burgess seeks an order holding Mr Kassel and his firm in contempt of the order in the sense that they wilfully defied the order. However, as alluded to earlier on the Court's understanding and the reading of the affidavits in respect of the third respondent, there is a clear dispute of fact.

[55] In the Court's view the evidence ultimately does not

support a finding that the third respondent disobeyed the Court order and wilfully and *mala fide* defied it. Accordingly in that case and in the instance of a dispute of fact, the version favours that of the third respondent. In any event the Court is not satisfied that the applicant has established that the third respondent failed to comply with the Greig AJ order and thus the third and fourth requirements for contempt are not fulfilled. Accordingly, the application in respect of the third respondent fails.

[56] However, Mr Kassel and his firm's conduct in this matter is concerning. These sentiments were expressed in the written reasons and are seen from the chronology of events. They failed to consult with the mother yet went on record for her. Furthermore, the third respondent took instructions from Ms Walsh yet allowed her to upload and draft documents of her own motion. In addition, the third respondent allowed its firm's name to be used for purposes of the matter and by Ms Walsh in what ultimately was highly questionable circumstances.

[57] The further conduct as described in the papers by also allowing improper and incompetent applications by Ms Walsh is also a serious concern. In this regard questions therefore arise as to whether Mr Kassel and his firm, as the third

respondent, acted as required of the standard of an attorney of the High Court and as an officer of the Court. Given the disputes in this matter and while I have raised these concerns, the Court's view is that it is best that this judgment be brought to the attention of the Legal Practise Council Western Cape for its attention.

[58] Lastly then the Court turns to the issue of costs.

[59] There has been requests for cost *de bonis propriis*, both from the applicant's legal representative in respect of Mr Kassel and Mr Kassel in respect of Ms Burgess' law firm. In light of the fact that this Court has found that the applicant has not succeeded in proving the remaining requirements insofar as a finding of contempt of Court against the third respondent, it is not inclined to consider granting an order of cost *de bonis propriis* against the third respondent.

[60] Insofar as Mr Kassel's request for cost *de bonis propriis* against Ms Burgess' firm is concerned, the Court's view is that it is without merit. There are very concerning and disparaging comments made by Mr Kassel in the emails of 5 and 6 December, which the Court has referred to and allegations made that Ms Burgess or her firm had lied to the Office of the Family Advocate.

[61] From the evidence before this Court no finding is made that Ms Burgess or her firm or in fact counsel for that matter, lied to the Office of the Family Advocate. It is not uncommon for the Office of the Family Advocate to provide a Memorandum as a matter of urgency in matters involving minor children and, in this regard, certainly on the Court's understanding of the record, there is nothing untoward or improper from the applicant's legal representatives' side on this aspect.

[62] This is a matter which should have been finalised as soon as possible, but in light of the developments and the protraction of the matter, the Court's view is that certainly the parents of the minor child have attempted to cooperate and hopefully act in the child's best interest. Taking that into account the Court's view is that ultimately the fairest order aside from what the Court will read out in a second, is that each party pays their own costs.

[63] In light of the above the Court grants the order (order read out):

[1] The first respondent is fined R2 000, wholly suspended for three years on condition that she

cooperates with the Family Advocate and/or social workers in respect of care and contact of the minor child as it relates to case 2025-221659.

[2] The second respondent is sentenced to 30 days' direct imprisonment, wholly suspended for 12 months on the following conditions:

[2.1] That she complies with paragraph 6 of the order granted on 8 December 2025.

[2.2] That she reimburses the first respondent all the funds received from the first respondent in respect of this matter within a period of one year from date of this order.

[3] The application in respect of the third respondent is dismissed.

[4] The second respondent is ordered to pay the applicant's costs of the postponements on 19 February 2026 and 15 April 2026 respectively, including costs of counsel on Scale C.

[5] Except for the above costs order in paragraph 4, each

party shall pay their own costs.

[6] A copy of this judgment and order as well as the order of 8 December 2025, the written reasons of 24 December 2025 and the Greig AJ order shall be forwarded by the Registrar to the Legal Practise Council, Western Cape for its attention and information in respect of the conduct of the third respondent.

[7] In respect of any non-compliance by the first and second respondents with paragraphs [1] and [2] of this order, the applicant would be entitled to approach the Court on the same papers as duly supplemented and with notice to the respondents, for the payment of the

fine (first respondent) and committal to prison (second respondent).

M PANGARKER

JUDGE OF THE HIGH COURT**Appearances:**

For Applicant: Adv J T Benadé

Instructed by: Burgess Attorneys Inc

For First Respondent: In person

For Second Respondent: In person

For Third Respondent: In person