



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

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

17 March 2026

Date

K. La M Manamela

CASE NO: 2026-012641

In the matter between:

LINBURG ENGINEERING (PTY) LTD

Applicant

and

URSULA MOELA

Respondent

DATE OF JUDGMENT: This judgment is issued by the Judge whose name is reflected herein and is submitted electronically to the parties/their legal representatives by email. The judgment is further uploaded to the electronic file of this matter on CaseLines by the Judge's secretary. The date of the judgment is deemed to be 17 March 2026.

JUDGMENT

Manamela, J

Introduction

[1] The applicant, Linburg Engineering, is a private company operating from Spaarwater, Heidelberg, in the region of Johannesburg. It conducts business as an engineering company specialising, mainly, in the manufacture of white metal bearings and related engineering components. The respondent, Ms Ursula Moela, is a former employee of the applicant. She is now employed by Vallard Bearings ('Vallard'), another private company, operating from Jet Park, Boksburg, also in the Johannesburg environ. Vallard is also an engineering firm. The applicant considers Vallard to be a direct competitor in the niche market of manufacturing white metal bearings. The respondent is said to have left the employ of the applicant in December 2025 under circumstances which the applicant considers an 'abscondment'.

[2] This is a second application the applicant has brought this year. The first application, also an urgent application, was heard on an *ex parte* basis in January 2026 ('the main application'). In the main application, the applicant successfully sought against the respondent interdictory and ancillary relief. Part of the order granted then operates as interim relief until the return date of 30 March 2026. The respondent will on that date have an opportunity to advance reasons why the material part of the order should not be made final. The respondent is opposing the current application and has indicated that she intends to oppose the confirmation of the *rule nisi* upon the return date in the main application.

[3] The current application seeks the enforcement of the order made and was brought on an extremely urgent basis. The applicant now seeks a declaration of the respondent to be in contempt of court regarding the order made in January 2026 and her committal to a prison with or without suspensive conditions. The application came before me on 24 February 2026. Ms M du Plessis appeared for the applicant, whilst Ms Y Omar appeared for the respondent. I reserved this judgment after listening to oral submissions by the legal representatives.

Interdictory relief granted and current relief sought

[4] The order granted by my colleague Bredenkamp AJ when the main application was heard on 27 January 2026 ('the Order') was in the following terms, in the material part:

1. ...
2. Leave is granted to the Applicant to have this matter heard on an *ex parte* basis, since notifying the Respondent would defeat the purpose of the application.
3. That the Respondent be immediately interdicted and restrained, whether directly or indirectly, from:
 - 3.1.1. using, copying, reproducing, disclosing, disseminating or in any manner exploiting the Applicant's confidential information, including but not limited to
 - a) product designs and technical drawings;
 - b) manufacturing processes and technical know-how;
 - c) customer lists, customer data and trade connections;
 - d) pricing structures, costing information and margin data;
 - e) supplier and vendor information;
 - f) any other information not in the public domain and proprietary to the Applicant;
 - 3.1.2. utilising such confidential information or trade secrets for the purpose of competing unlawfully with the Applicant;
 - 3.1.3 soliciting, canvassing, approaching, contracting with, or rendering services to any customer or client of the Applicant with whom the Respondent had dealings, or about whom she obtained knowledge, during the course of her employment with the Applicant;
 - 3.1.4. representing to any third party that she is entitled to use or exploit the Applicant's confidential information, designs, processes or trade connections.
4. Directing the Respondent to immediately cease and desist from any conduct constituting unlawful competition with the Applicant
5. Directing that the Applicant is authorised to appoint an IT specialist to accompany the Sheriff, his deputy or person serving this Order, that upon service, the IT Specialist is to ensure that all documents drawings, record, electronic data, storage devices, copies or reproductions (in whatever form) containing or reflecting the Applicant's confidential information be destroyed or deleted from the Respondent's electronic devices and / or accounts, alternatively, the Respondent is ordered to destroy and / or delete all documents drawings, record, electronic data, storage devices, copies or reproductions (in whatever form) containing or reflecting the Applicant's confidential information.
6. Interdicting the Respondent from retaining any copies, reproductions or derivatives of the Applicant's confidential information;
8. Directing that service of this Court Order be effected personally by hand, by the Sheriff, his deputy or any other person serving this Order.
9. That prayers 3 to 8 operate with immediate effect; pending the return date of 30 March 2026 whereby the Respondent will have to advance reasons why this Order should not be made final.¹

¹ Founding Affidavit, annexure 'CS1', CaseLines ('CL') 045-39 to 045-42.

[5] The Order' was served by the sheriff of this Court on the respondent personally on 10 February 2026 at her new workplace. The applicant – in terms of the application currently before the Court – seeks that the respondent be declared to have conducted herself in contempt of court in respect of the Order.

[6] The following relief is sought on an extremely urgent basis by the applicant in this application for contempt of court, quoted only in the material respect:

1. ...
2. That the Respondent is declared to be in contempt of court for failing to adhere to the Court Order of the above Honourable Court dated 27 January 2026 granted by the Honourable Justice Bredenkamp AJ;
3. That the Respondent be committed to prison for so being in contempt of the Court Order as referred to in prayer 2, for a period of 30 (thirty) days or for any such period that the Court deems fit;
4. That the committal and incarceration referred to in prayer 3 be suspended on condition that the Respondent comply with the Order referred to in prayer 2 within 7 (seven) days of service of this order;
5. ...
6. That the Respondent is ordered to pay the costs of this application on an attorney and client scale, including cost of Counsel on scale B...²

[7] The current application, as stated above, is opposed by the respondent and an answering affidavit was delivered on her behalf a day before the hearing of the application. The applicant did not deliver a replying affidavit.

Applicant's case (and submissions on its behalf)

[8] The material aspects of the applicant's case and the submissions on its behalf by Ms M du Plessis, who appeared as counsel for the applicant, are only highlighted under this part.

[9] The applicant, as already stated, is a private company operating as an engineering firm specialising in the manufacture of what is described as 'white metal bearings' and related engineering components. The applicant's clientele consists of various sectors.

² Notice of Motion, CL 045-39 to 045-42.

[10] The applicant says that it relies heavily on its proprietary designs, technical know-how, pricing structures and longstanding relationships with customers. It is further stated that the confidential information and trade connections attributable to the applicant were developed over the years through significant amount of skill, labour and expense.

[11] It is also stated that the applicant derives about 90% of its income through Eskom or vendors who are suppliers (or go-between parties) to Eskom. In the industry or market in which the applicant operates having the correct contact of these vendors is of paramount importance. The same goes for maintaining a business relationship with these individuals, for purposes of sustainable sales. For the white metal bearings business, on which the applicant is focussed, is a niche industry and highly specialised. The applicant says it derives almost all of its income from this industry.

[12] The respondent, according to the applicant, was initially employed by the applicant as a secretary or administrator, but with time her responsibilities were expanded to include keeping contact and maintaining relationship with key customers and suppliers for the applicant's benefit. She was the applicant's primary point of contact with these key customers. This, the applicant emphasises, means that the relationship between these individuals and the respondent emanated through the respondent's employment with the applicant. During her employment with the applicant the respondent had access to the former's confidential information. This included customer lists; pricing structure; technical drawings and other strategic business information.

[13] The respondent is considered by the applicant to owe fiduciary duties of good faith and confidentiality to the applicant, despite the cessation of the respondent's employment by the applicant. The respondent, as already indicated, is now employed by Vallard. The respondent, the applicant contends, is inappropriately exploiting the applicant's confidential information or

customer connections for her own benefit or that of her new employer. This constitutes unlawful competition, the applicant concludes its contention.

[14] It is said that the respondent had emailed the drawings, job cards and other confidential information belonging to the applicant to her personal email addresses around the time when she was to leave the employ of the applicant. The applicant labels this an abscondment and said the respondent left the applicant after perpetrating fraud against the applicant. The emailing of confidential information and other material to her private email addresses was reportedly confirmed by a specialist in information technology retained by the applicant. The respondent is said to have informed a key vendor of the applicant of her intention to open her own business in competition with the applicant. This was whilst she was an employee of the applicant or considered to still be an employee as she had not yet resigned or formally terminated her employment at that stage.

[15] The respondent is said to have contacted a key vendor of the applicant during January 2026. This person subsequently informed the applicant of the respondent's overtures, but did not want to be involved further as he fears for his personal safety and wellbeing. The applicant considers this conduct on the part of the respondent to constitute unlawful competition and dishonest appropriation or misuse of applicant's knowhow or confidential business and other information. Ultimately, the applicant approached the Court and obtained the Order.³

[16] The Order was served on the respondent in early February. It is the applicant's case in the application currently before the Court that the respondent despite being made aware of the existence of the Order and the obligations imposed on her thereby, has failed or refused to comply and adhere to the terms of the Order. She ought to be declared to be in contempt of

³ Par [4] above.

court, but her committal to prison ought to be suspended on condition that she complies with the Order.

[17] Other than what is stated above, regarding the respondent's alleged non-compliance with the terms of the Order, the following are other instances of her alleged non-compliance. In the main, it is contended that the respondent's non-compliance is confirmed by her taking up employment with Vallard, a direct competitor of the applicant in the niche market of manufacturing white metal bearings, which constitutes the applicant's main source of income. The respondent's employment by Vallard is in direct contravention of the Order, the applicant contends. The respondent is also said to have explicitly contravened the Order when she approached clients and vendors of the applicant, such as Sibanye Stillwater Gold ('Sibanye'), Harmony Gold ('Harmony') and Delba Electrical ('Delba'). The applicant attached to its papers what is called 'heatmap' compiled by the applicant's investigators, ostensibly of the respondent's movements to these clients or vendors. The applicant says it was also informed by someone from another of its longstanding clients, LH Marthinusen ('Marthinusen'), a division of Actom, of the respondent's unlawful actions. But this individual or his employer refused to do business with the respondent or her new employer.

[18] Overall, it is the applicant's case that this unlawful competition on the part of the respondent is intended to harm the applicant and has brought to reality the applicant's apprehended harm when the Order was sought and, thus, confirmed the need for the Order. There are no grounds to justify the respondent's non-compliance with the Order and, therefore, the applicant is entitled to the relief sought as tabulated in the notice of motion to this application.⁴

⁴ Par [6] above.

Respondent's case (and submissions)

[19] The respondent, as already stated, is opposing this application. During the hearing, Ms Y Omar appearing on behalf of the respondent, also mentioned that the confirmation of the Order will be opposed on the return date. Below, I mention the highlights of the respondent's case and submissions on her behalf under this part of.

[20] The respondent disputes that she violated the terms of the Order. It is contended that the Order does not prevent her from gaining employment by anyone, including by her current employer Vallard. There is no merit in the applicant's contention that she violated the Order by reason of her current employment. Further, the Order does not restrain the respondent from visiting or calling any of the applicant's vendors and clients. Both these grounds are dispositive of the application in favour of the respondent, the contention concludes.

[21] But, the respondent denies that she approached any of the clients of the applicant, including those specifically mentioned above. According to her these particular companies are also registered as vendors of her current employer, Vallard. All she is doing is the work of her employer whenever she contacts the vendors. But, overall, the respondent denies as pure fabrication that she attended at the particular companies during the alleged period in February 2026. She rejects as inadmissible hearsay the so-called 'heatmap' attached to the applicant's papers and, further, criticises the applicant for not taking the Court into its confidence by disclosing the information the heatmap is based on and how such information was secured. Was it her phone or motor vehicle that was tracked, the respondent wonders!

[22] Overall, the applicant denies her alleged visit to the companies on the dates contended for by the applicant. But she also considers such visit, if any, as not contrary to the terms of the Order. For the Order does not interdict her movement, communication or visitation, but restrain her from divulging the applicant's confidential information, it is pointed out.

[23] Further, the respondent contends that the information placed before this Court by the applicant is insufficient to merit a finding that she conducted herself in contempt of the Order and, consequentially, her incarceration for this offence. The respondent denies that she possesses any confidential information belonging to the applicant. All of her work whilst employed by the applicant was through a desktop computer, which is still in the applicant's possession. She denies ever disclosing the applicant's confidential information and she doesn't plan to do so.

[24] The respondent also specifically denies that she approached Marthinusen. What actually transpired in this regard, the respondent explains, is that she received a call, a short while ago, from a representative of Marthinusen enquiring about her whereabouts. Marthinusen had returned some products to the applicant, but were not getting the necessary assistance. All she did in this regard was to tell the representative that she no longer worked for the applicant.

[25] The respondent says she has conducted herself in a *bona fide* manner at all material times. Further, she is the sole breadwinner in her house and ought to take care of members of her extended family, including her aged and sickly mother. The applicant harbours an ulterior motive to prevent her from working for Vallard, a bigger and older entity when compared to the applicant, a family run business.

Applicable legal principles (selected and summarised)

[26] The granting of the Order by the Court concerned legal principles to do with interdicts. Although the applicant had approached the Court seeking a final interdict without notice to the respondent (i.e. an *ex parte* basis), the Order or part thereof appears to have been ultimately granted as interim relief, subject to a return date. But at the moment, this Court is not concerned with principles relating to interdictory relief.

[27] In this application the applicant complains that the respondent is guilty of contempt of the terms of the Order and that a finding to that effect is merited. Concomitant to that finding the applicant seeks the imprisonment of the respondent to be suspended on condition that the respondent fully complies with the Order.

[28] The principles relating to contempt of court were authoritatively dealt with by the Constitutional Court as the apex Court in *Secretary of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State v Zuma and Others* (*'Secretary of State Capture Commission v Zuma II'*).⁵ This decision concerned whether Mr JG Zuma, the former president of South Africa, is guilty of contempt of court through his failure to comply with an earlier order of the Constitutional Court granted in *Secretary of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State v Zuma*.⁶ In *Secretary of State Capture Commission v Zuma II*, the apex Court acknowledged the definition set out over a half century before in *Consolidated Fish Distributors (Pty) Ltd v Zive*⁷ that a 'contempt of court' is a 'deliberate, intentional (i.e. wilful), disobedience of an order granted by a court of competent jurisdiction'.⁸

[29] In *Secretary of State Capture Commission v Zuma II* the Constitutional Court, in terms of the majority judgment penned by Khampepe J, under the rubric '[i]s Mr Zuma in contempt of court?' had the following to say:

⁵ *Secretary of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State v Zuma and Others* (CCT 52/21) [2021] ZACC 18; 2021 (9) BCLR 992 (CC); 2021 (5) SA 327 (CC) (29 June 2021).

⁶ *Secretary of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State v Zuma* (Council for the Advancement of the South African Constitution, Ngalwana SC, the Helen Suzman Foundation Amicus Curiae) [2021] ZACC 2; 2021 JDR 0079 (CC); 2021 (5) BCLR 542 (CC) (CCT 295/20).

⁷ *Consolidated Fish Distributors (Pty) Ltd v Zive* 1968 (2) SA 517 (C).

⁸ *Consolidated Fish Distributors (Pty) Ltd v Zive* 1968 (2) SA 517 (C) at 522B.

As set out by the Supreme Court of Appeal in *Fakie*, and approved by this Court in *Pheko II*, it is trite that an applicant who alleges contempt of court must establish that (a) an order was granted against the alleged contemnor; (b) the alleged contemnor was served with the order or had knowledge of it; and (c) the alleged contemnor failed to comply with the order. Once these elements are established, wilfulness and mala fides are presumed and the respondent bears an evidentiary burden to establish a reasonable doubt. Should the respondent fail to discharge this burden, contempt will have been established.⁹

[quoted without accompanying footnotes]

[30] Further on - under the rubric the ‘importance of ensuring that court orders are obeyed’

- the same Court added:

[59] It cannot be gainsaid that orders of court bind all to whom they apply. In fact, all orders of court, whether correctly or incorrectly granted, have to be obeyed unless they are properly set aside. This, in addition to typifying common sense, the Constitution itself enjoins. Section 165(5) of the Constitution itself provides that an order or decision binds all persons to whom it applies. The reason being that ensuring the effectiveness of the Judiciary is an imperative. This has been confirmed in multiple cases, including *Mjeni*, in which the Court stated that “there is no doubt, I venture to say, that [complying with court orders] constitutes the most important and fundamental duty imposed upon the State by the Constitution”. ...

[60] As this Court held in *Tasima I*, “the obligation to obey court orders has at its heart the very effectiveness and legitimacy of the judicial system . . . and is the stanchion around which a State founded on the supremacy of the Constitution and the rule of law is built”. It is perspicuous that the constitutional right of access to courts will be rendered an illusion unless orders made by courts are capable of being enforced by those in whose favour the orders were made... A complete denial of judicial mechanisms “would render meaningless the whole process of taking disputes to courts for adjudication and that is a recipe for chaos and disorder”. Accordingly, it is necessary for this Court to send, by virtue of a punitive sanction, an unequivocal message that its orders must be obeyed.

[61] Finally, I hasten to point out that “contempt of court is not an issue *inter-partes* [(between the parties)]; it is an issue between the court and the party who has not complied with a mandatory order of court” ... Indeed, in *Pheko II*, this Court noted that “[a]t its origin the crime being denounced is the crime of disrespecting the courts, and ultimately the rule of law”. Although the harm caused to successful litigants, like the applicant, through contempt of court is by no means unimportant, the overall damage caused to society by conduct that poses the risk of rendering the Judiciary ineffective and eventually powerless is at the very heart of why our law forbids such conduct. Therefore, as I have already said, the mischief I am called upon to address is not that Mr Zuma failed to comply with the summons, but rather, that he failed to comply with the order of this Court.¹⁰

[quoted without accompanying footnotes]

⁹ *Secretary of State Capture Commission v Zuma II* [37].

¹⁰ *Secretary of State Capture Commission v Zuma II* [59]-[61].

[31] The above-stated principles from *Secretary of State Capture Commission v Zuma II* (and the authorities therein relied on) regarding what is necessary to establish the offence of a contempt of court on the part of an alleged contemnor have been adopted in many subsequent decisions including those of this Court.¹¹ These principles will be of paramount aid in determining the issues dispositive of this matter.

Issues to be determined

[32] As stated in the authorities above, for the applicant in this matter to succeed in establishing that the respondent is guilty of contempt of court in respect of any of the terms of the Order it ought to prove that: (a) the Order was granted against the respondent, as the alleged contemnor; (b) the respondent ought to have been served with the Order or had knowledge of the terms of the Order, and (c) the respondent ought to have failed to comply with the Order.¹²

[33] Proof by the applicant of the above elements for contempt of court would bring about a presumption of ‘wilfulness’ and ‘mala fides’ on the part of the respondent capable of rebuttal through a discharge of an evidentiary burden by establishing a reasonable doubt, lest the respondent will be found to be in contempt of the terms of the Order.¹³

[34] It is common cause that the Order was granted in this Court on 27 January 2026¹⁴ and that it was served on the respondent by the sheriff of this Court on 10 February 2026.¹⁵ I hasten to confirm that I am satisfied that the elements of the offence of contempt of court in (a) and (b) above have been satisfactorily met. Therefore, what remains to be determined is the element in (c): has the respondent failed to comply with the Order. I turn to the determination of this issue or element, after briefly stating why I found this matter to be urgent.

¹¹ *Lombardy Development (Pty) Ltd and Others v City of Tshwane* 2025 (2) SA 516 (GP) [35].

¹² *Secretary of State Capture Commission v Zuma II* [37].

¹³ *Secretary of State Capture Commission v Zuma II* [37].

¹⁴ Par [4] above.

¹⁵ Par [5] above.

Urgency

[35] The applicant says the matter is urgent as the respondent despite personal service of the Order had contravened its terms. It is the very service of the Order – as borne out by the sheriff’s return of service - which made the applicant aware of the identity of the new employer. As stated above, the respondent is now employed by Vallard. The applicant considers Vallard a competitor, but the respondent says that the huge size of Vallard in comparison to the applicant suggests no competition. But nothing would turn on the latter issue, including on my extemporaneous enquiry why the sheriff would have been the one to have found the address when the convention is that sheriffs are to be provided with an address where service is to be effected. They do not normally go around tracing addresses for litigants.

[36] The applicant, further says that it approached its attorneys on 17 February 2026. And they hastily proceeded to brief counsel and launch this application, heard a few days later on 24 February 2026. In the applicant’s view, without this application being brought on an urgent basis it could not have obtained substantial redress at a hearing in due course. The respondent’s contempt of court borne by her breach of the terms of the Order would have continued unabated.

[37] The respondent’s case is that the application lacks urgency. The respondent points to the fact that this application was issued on 18 February 2026 and served on her on 19 February 2026. She complains that she was not afforded a reasonable time to deliver her papers in opposition of this application. This is so, despite the alleged transgression of the Order commencing on 11 February 2026. This denotes the first time there was first breach of the Order alleged by the applicant. But, nevertheless, a week expired before this application was launched, which is a clear attestation of the absence of fear of harm befalling the applicant from the alleged violation of the Order. The applicant, yet, afforded to the respondent only a day to

deliver her papers amidst her work commitments. This, in the respondent's view, was not sufficient to hold consultation with her attorneys and finalise the delivery of her answering papers, effectively from late in the evening of 19 February 2026. The respondent says this is prejudicial in that the time afforded to her was not sufficient to allow her to provide in her papers comprehensive material illustrating the nature and extent of her dispute with the applicant. Overall, the respondent contends that the urgency is a creature of the applicant and, thus, the applicant ought to be deprived of access to the desired urgent relief.

[38] I considered the matter to be urgent and continued to hear submissions on behalf of the parties including in this regard. It is common cause that the applicant acted within a week of gaining knowledge of what it considered to be a violation of the terms of the Order by the respondent. It does not alter my view in this regard that the applicant may have become aware earlier of the respondent's alleged conduct. I say this due to the fact that there is really not much of a lapse in time between the date of the Order (i.e. 27 January 2026) and the launch of this application (i.e. 18 February 2026). I agreed that the matter was urgent and that providing no hearing to the applicant would result in the applicant being deprived of substantial redress whenever a hearing is availed in due course.

Has the respondent failed to comply with the Order?

[39] The only element of the offence of contempt of court for determination in this matter is whether the respondent failed to comply with the Order. As stated above, it is common cause that the Order is real and that the respondent was served with the Order and, thus, has knowledge of same.¹⁶ The remaining pivot to the applicant's case for contempt of court by the respondent is a determination of whether she failed to comply with the Order.

¹⁶ Pars [32]-[34] above.

[40] The applicant's case is that the respondent breached her fiduciary duties of good faith and confidentiality owed to the applicant. This is so, due to the respondent being privy – through her prior employment with the applicant and the concomitant access to the applicant's confidential information – to (a) the applicant's proprietary designs; (b) technical know-how; (c) pricing structures; (d) longstanding relationships with customers, and (e) confidential material in the specialist industry or niche market of manufacturing white metal bearings and related engineering components. The respondent, despite the aforesaid, still conducted herself in breach of the terms of the Order in clear manifestation of her contempt of the terms of the Order, the applicant's case concludes.

[41] To establish this element, the respondent contends – among others – that the respondent: (a) contacted the applicant's key vendor during January 2026 and this person subsequently advised the applicant of the impugned conduct of the respondent, although this person did not confirm the allegations under oath due to fear for his personal safety; (b) took up employment with Vallard, a direct competitor of the applicant, and (c) approached the applicant's clients and vendors including Sibanye, Harmony, Delba and Marthinusen. This is denied by the respondent including on the basis that the impugned conduct, even if it was to have indeed occurred, does not breach the Order.

[42] The respondent denies that the Order prevents her from gaining employment with Vallard or anyone. I agree. Ms Omar submitted on behalf of the applicant that to protect itself from the respondent being employed by rival or competitor employers, the applicant ought to have secured the conclusion of restraint of trade with the respondent. There is merit in this. The current Order does not prevent the respondent's employment with Vallard.

[43] The respondent, also, denies that she visited or contacted the places alleged by the applicant. For good measure I suppose, the respondent says that even if she did this would not

have been in violation of the Order. I agree that the Order proscribes, among others, the respondent's (a) use, copying, reproducing, disclosing, disseminating or exploitation - in any manner – by the respondent of the applicant's confidential information; (b) utilising such confidential information or trade secrets to unlawfully compete with the applicant, and (c) representing to third parties that she is entitled to use or exploit the confidential information, designs, processes or trade connections of the applicant. There is no proof that the respondent is guilty of any of these activities or conduct. All that is alleged is that the respondent had contact or paid a visit to some entities or persons considered by the applicant to have been in breach of the terms of the Order. All these are denied by the respondent. But even if the applicant's assertions were correct, the conduct would not – without more - amount to failure to comply with the Order. I say this whilst steering away from pronouncing on the legality or appropriateness of the applicant's employment of tactics including those that produced the so-called 'heat map' of the respondent's alleged movements.

[44] Regarding the alleged respondent's soliciting, canvassing, approaching, contracting with, or rendering services to any customer or client of the applicant with whom the respondent had dealings, or about whom she obtained knowledge, during the course of her employment with the applicant, I have the following to say. The respondent denies that she acted in any way than carrying out duties she is contractually bound to render in terms of her contract with her new employer, Vallard. This, I agree with the respondent, is insufficient to merit a finding that the respondent conducted herself in contempt of the Order. It is vital that the respondent denies that she is in possession of any of the applicant's confidential information. This is the point of departure, without proof of which, any of the alleged contact or visit by the respondent of the applicant's customers or vendors will be not contrary to the terms of the Order. The mischief the Order sought to guard against was the peddling of the applicant's confidential information. For the applicant – by obtaining the Order - had sought to

shield the unlawful employment or dissemination of its confidential information or trade secrets by the respondent or at her instance. The Order is not a travel or communication embargo against the respondent.

[45] Without proof of ALL the elements for contempt of court by the applicant there is no presumption of ‘wilfulness’ and ‘mala fides’ on the part of the respondent requiring the applicant to venture into a rebuttal of same. This application, clearly, has no merit and will be dismissed.

Conclusion

[46] With the outcome of the application being made clear above, what remains is the issue of costs. There is nothing warranting deviation from the convention that costs ought to follow the result.

[47] The respondent has urged this Court – in the event of dismissal of the application – that costs awarded in her favour be on a punitive scale of attorney and client, as the application was designed for the oppression of the respondent and out of the applicant’s annoyance with the respondent’s employment by Vallard, an entity considered a rival or competitor by the applicant. I agree. The applicant’s conduct in this regard ought not leave the respondent out of pocket as far as costs are concerned. Therefore, the application will be dismissed with costs on attorney and client scale to mark the disapproval of the Court against the improper use of its processes.

Order

[48] In the premises, I make the order, that:

- a) the application is dismissed, and

- b) the applicant is liable to pay the respondent's costs of the application at the scale of attorney and client.



Khashane La M. Manamela
Judge of the High Court

Date of Hearing : **24 February 2026**

Date of Judgment : **17 March 2026**

Appearances:

For the applicant : Ms M du Plessis
Instructed by : Tuckers Attorneys
Ravenshood, Johannesburg

For the respondent : Ms Y Omar
: Omar Attorneys
Boksburg, Johannesburg