REPUBLIC OF SOUTH AFRICA

IN THE HIGH COURT OF SOUTH AFRICA

(WESTERN CAPE DIVISION, CAPE TOWN)

CASE NO: 2026-035055

In the matter between:

HENDRIK LOUW PRIMARY SCHOOL ("the School")	First Applicant
JACQUES HORNE	Second Applicant
HENDRIK LOUW PRIMARY SCHOOL AFTERCARE	Third Applicant
THE SCHOOL GOVERNING BODY OF THE HENDRIK LOUW PRIMARY SCHOOL	Fourth Applicant
ESTELLE VAN JAARSVELD	Fifth Applicant

and

H[...] G[...]	Respondent

Summary: Final Interdict – No other Remedy – Intimidation

Coram: Wille, J

Heard: 30 April 2026

Delivered: 11 June 2026

JUDGMENT

WILLE, J:

INTRODUCTION

[1] These proceedings concern the return day of an interim order, granted in terms of which certain alleged unacceptable and threatening conduct by the respondent towards the applicants was interdicted on an urgent basis.[1]

[2] I heard the application for the interim order, and in summary, I ordered the following relief.

'…The respondent was interdicted and prohibited from entering or coming closer than 100 metres from the Hendrik Louw Primary School ("the School"), the Hendrik Louw Primary School Aftercare ("the Aftercare"), or the Hendrik Louw Primary School premises ("the premises")…'

'…The respondent interdicted from threatening, harassing or communicating in any manner, format or platform, the first to fifth applicants, their employees, teaching staff, personnel or any of their officials…'

'…The respondent was interdicted from transmitting correspondence, or any other communication, in whatsoever form, or on whichever platform, either directly or indirectly, to the first to fifth applicants, their employees, teaching staff, personnel or any of their

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[1] On 19 February 2026.

officials…'[2]

[3] After the interim order, the parties agreed on a timetable for filing further affidavits, and a date was set for further argument regarding the granting of a final order.[3]

[4] Now the applicants seek a final interdict against the respondent and confirmation of a *rule nisi*, finally interdicting and prohibiting the respondent from acting unlawfully and continuing to do so.[4]

[5] The applicants say that the thumb of evidence against the respondent is overwhelming and that, on the facts alone, a final interdict should be granted. The respondent adopts a highly technical approach in opposition to the final relief and attempts to create an *ex post facto* factual dispute.[5]

[6] The respondent sets out in his answering affidavit a series of complaints, but no real defences or legal defences to the applicants' allegations. It is not a commendable approach to be adopted in motion proceedings for the respondent to base his arguments on passages in documents which have been annexed to the papers when the conclusions to be drawn from such documents have not been canvassed in the affidavits. This is what the respondent seeks to do, which is legally impermissible.[6]

RELEVANT BACKGROUND AND OVERVIEW

[7] The second applicant is the headmaster of the first applicant's government-controlled school. The third applicant is the school's aftercare facility, which is managed and controlled by the fourth applicant.[7]

[8] The fifth applicant is an adult female teacher who has suffered and suffers from

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2 The initial hearing was opposed by the respondent.
3 Further affidavits were filed opposing the final order.
4 The applicants say they have no other remedy.
5 There is no real factual dispute regarding the unacceptable conduct by the respondent.
6 Minister of Land Affairs and Agriculture and Others v D & F Wevell Trust and Others 2008 (2) SA 184 at 200 C.
7 The Schools Governing Body (the "SGB").

severe anxiety as a result of the alleged behaviour by the respondent.[8]

[9] The respondent is an adult male businessman. He says he weighs 140kg and that he is an overbearing person. The respondent's 5-year-old minor son attends the school. The dispute relates to the conduct of the respondent and not his minor son.[9]

[10] The respondent's son suffers from type 1 diabetes. The respondent's son requires constant care and oversight and, at times, remedial care from the school, which seems to be the genesis of the current dispute between the parties.[10]

[11] The respondent adopted a regrettable stance in his interactions with the applicants regarding what he considered and considers sufficient and proper care for his son. I say this because he advised that he had consulted no fewer than five advocates who had provided him with opinions regarding his rights with respect to the care of his minor son. Further, he stated that a 'Judge' is his business partner and is assisting him with his litigation.[11]

CONSIDERATION

[12] The applicants contend that the respondent (on his own version) is unable to explain his unacceptable and threatening conduct. The applicants say this because:

(a) The respondent concedes that he is an overbearing person.

(b) The respondent concedes that he made serious threats of intimidation.

(c) The respondent concedes that he has harassed the applicants.

(d) The respondent concedes that he is guilty of severe grandstanding.

(e) The respondent concedes that he desired to pressurise the applicants.[12]

[13] The respondent concedes that he made unnecessary and unwarranted comments but provides no acceptable reasons for his conduct. What is of grave concern to me is that

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[8] The fifth respondent was on the verge of a nervous breakdown.
[9] The respondent's son started his schooling at the school on 14 January 2026 and is in Grade R (5 years old).
[10] The respondent says the applicants are not alive to his son's condition.
[11] This was a serious allegation which has now seemingly been withdrawn,
[12] This conduct is all common cause between the parties.

the respondent stated that he would exert pressure on the applicants because his 'business partner' is a 'Judge' of the High Court. When pressed on this issue, he changed his version and stated his remark was a misunderstanding, and what he meant to convey was that his business partner was not a Judge but a Magistrate.[13]

[14] In summary, the alleged conduct by the respondent towards the applicants consisted of the following:

(a) Since the end of January 2026, the respondent has embarked on a campaign of belittling and intimidating the second applicant, threatening the second applicant with violence, threatening and intimidating the second applicant with the closure of the first applicant and threatening and intimidating the staff of the first applicant and the third applicant

(b) The respondent refused to engage meaningfully (or at all) with the applicants' attorneys despite numerous requests to do so and instead embarked on a planned campaign of threatening correspondence aimed at intimidating and belittling the applicants, which hampered the proper functioning of the first applicant and the third applicant.

(c) The respondent interfered with the proper and effective functioning of the first applicant and, by his threatening and bullying conduct, caused severe stress and disturbance to the wellbeing of the second and fifth applicants.

(d) The respondent, despite repeated requests in writing to address all and any concerns that he may have to the applicants' attorneys in writing, refused to do so and embarked on an orchestrated and unhinged campaign and crusade to defame, denigrate and monger fear among the applicants.

(e) The respondent falsely, by way of misrepresentation, arrived uninvited at the premises of the first applicant and suggested that he was there to serve a valid court order

[13] I fail to see how this belated "substitution" is of assistance to the respondent.

on the first applicant, which court order was not yet in existence. A copy of this alleged court order, despite numerous requests, has still not been made available to the court.

(f) The respondent filed (by way of email) numerous spurious and unfounded complaints against the applicants with the various regulatory bodies dealing with education, designed to belittle and intimidate the applicants.[14]

[15] The applicants contend that they are entitled to final relief based on overwhelming evidence and undisputed facts demonstrating that the respondent's conduct will once again manifest and that the respondent's behaviour is extremely unpredictable. Thus, the applicants need protection, and the only remedy open to them is to obtain final interdictory relief.[15]

[16] The respondent avers that a subjective interpretation weighs heavily on his largely undisputed conduct and that he will be severely prejudiced by the distance barrier imposed on him by the interim interdict. This may be so, but the respondent has failed to provide any objective evidence to demonstrate any factual basis for the refusal of the final relief sought by the applicants. Most importantly, the respondent does not set out any facts, nor does the respondent attempt to make out any paring down or dilution of the orders set out in the interim interdict order.[16]

[17] It is trite that in motion proceedings, if material facts are in dispute, a final order will only be granted if the facts stated by the respondent, together with the facts alleged by the applicant that are admitted by the respondent, justify such an order.[17]

[18] Further, where the allegations or denials by the respondent are so far-fetched or clearly untenable, the court is justified in rejecting such facts merely on the papers. A real dispute of fact can only exist where the court is satisfied that the party who purports to raise

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[14] "Complaints" were filed with the Premier, the Minister of Education and Western Cape Education Department.
[15] The respondent says he is an "atomic bomb" that will explode.
[16] Stauffer Chemicals Chemical Products Division of Chesebrough-Ponds (Pty) Ltd v Monsanto Company 1988 (1) SA 805 (T).
[17] Plascon Evans v Van Riebeeck Paints (Pty) Ltd 1984(3) SA 623 (A) at 634.

the dispute has, in his or her affidavit, seriously and unambiguously addressed the fact said to be disputed. This has not been done by the respondent in this case.[18]

[19] Self-evidently, the applicants in this matter have established a clear right. I say this because the word 'clear' relates to the degree of proof required to establish the right and should strictly not be used to qualify the 'right' at all. The right held by the applicants is not the subject of any dispute in this case.[19]

[20] The existence of a right is a matter of substantive law. Whether that right is clearly established is a matter of evidence.[20]

[21] To establish a clear right, the applicant must prove, on the balance of probabilities, the right he or she seeks to protect.[21]

[22] Turning now to the act of interference, which is the second requirement for obtaining a final interdict. The injury must be a continuing one, which is undoubtedly the case here, as the entire object of the interdict is the protection of an existing right.[22]

[23] It is also so that the past infringement of rights may, however, constitute evidence upon which the court implies an intention to continue on the same course. This is manifestly so, as what must also be borne in mind is that the applicants are acting in *loco parentis*.[23]

[24] Self-evidently, the applicants are suffering or will suffer a continuing injury, prejudice, or damage, or an invasion of their rights due to the conduct and behaviour of the respondent. A reasonable apprehension of injury is one that a reasonable man might entertain on being faced with certain facts. The applicants have demonstrated that it is reasonable to apprehend that an injury will result. The test for apprehension is objective.[24]

[25] The third and final requisite for the grant of a final interdict is proof that there is no

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[18] Wightman v Headfour (Pty) Ltd & another 2008 (3) 371 (SCA).
[19] Nienaber v Stucky 1946 AD 1049 at 1053 - 4.
[20] De Villiers v Soetsane 1975 (1) SA 360 E at 362,
[21] Beukes v Crous 1975 (4) SA 215 (NC) at 219.
[22] Philip Morris Inc & another v Malboro Shirt Co SA Ltd & another 1991 (2) SA 720 (A) at 735 B.
[23] Stauffer Chemicals Chemical Products Division of Chesebrough-Ponds (Pty) Ltd v Monsanto Company 1988 (1) SA 805 (T).
[24] Pickles v Pickles 1947 (3) SA 175 (W).

other satisfactory remedy available to the applicants. Put another way, a court will not, in general, grant an interdict when the applicant will be able to obtain adequate redress in some other form of ordinary relief. The discretion of this court, apart from the position relating to the grant of interim interdicts, where considerations of prejudice and convenience are of importance, is informed by the question of whether the rights of the party can be protected by any other remedy.[25]

[26] The applicants' legal representatives repeatedly asked the respondent to provide an undertaking to cease his unlawful conduct. He refused outright. There is no evidence to suggest he will change his behaviour, especially given that the respondent says he is an atomic bomb that will explode.[26]

[27] This brings me to the issue of costs. The applicants seek costs on a punitive scale. An award relating to costs, as a general rule, is within the court's discretion. I am persuaded that a cost on an attorney-client scale is warranted in this case because of the respondent's conduct. In addition, the applicants have a limited budget and are struggling financially. The respondent could have avoided all this litigation by providing the applicants with an undertaking to cease his behaviour upon request.[27]

ORDER

[28] The following order is granted:

1. The respondent is finally interdicted and prohibited from entering or coming closer than 100 metres from the Hendrik Louw Primary School ("the School"), the Hendrik Louw Primary School Aftercare (''the Aftercare"), or the Hendrik Louw Primary School premises ("the premises").

2. The respondent is finally interdicted from threatening, harassing or communicating in

[25] Francis v Roberts 1973 (1) SA 307 (RA) at 512.
[26] It is not known when this threatened "atomic explosion" will take place and it must thus be prevented.
[27] No undertaking has to date been received

any manner, format or platform, the first to fifth applicants, their employees, teaching staff, personnel or any of their officials.

3. The respondent is finally interdicted from transmitting correspondence, or any other communication, in whatsoever form, or on whichever platform, either directly or indirectly, to the first to fifth applicants, their employees, teaching staff, personnel or any of their officials.

4. The respondent is liable for the costs of and incidental to the application on the scale as between attorney and client (as taxed or agreed) together with costs of counsel on scale C.

E D WILLE
Cape Town