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**IN THE HIGH COURT OF SOUTH AFRICA  
KWAZULU-NATAL DIVISION, PIETERMARITZBURG**

**CASE NO: 18018/2023**

In the matter between:

**NEWCASTLE INDUSTRIAL LAUNDERS CC**

**FIRST PLAINTIFF**

(Registration Number: 2008/146892/23)

**FAIZEL CASSIM**

**SECOND PLAINTIFF**

**R.F SCREEN PRINTERS (PTY) LTD**

**THIRD PLAINTIFF**

(Registration Number: 2018/410247/07)

**ROELIEN ANDIE VENTER**

**FOURT PLIANTIFF**

and

**THE NEWCASTLE MUNICIPALITY**

**DEFENDANT**

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**Coram:** Mngadi J

**Heard:** 11 May 2026

**Delivered:**

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## ORDER

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1. The defendant is found liable to compensate the first, second, third and fourth plaintiffs for the loss/harm proved and proved to have been caused by the conduct/act of the defendant.
  
2. The defendant is ordered to pay costs on Scale C including costs of senior counsel where so employed, the costs include qualifying costs and attendance in court on 11 May 2026 of the following experts:
  1. Mr Kevin Mumsamy
  2. Mr Jacobus Johammes du Plessis
  3. Mr Juan Fedder
  4. Mr Cassim Azeez

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## JUDGMENT

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**Mngadi J:**

[1] The plaintiffs sued the defendant for damages totalling R18.6m. The issues in terms of Rule 33 (4) having been separated, this judgment deals with liability.

[2] The plaintiffs for their case did not lead any oral evidence. They relied on the pleadings and the contents of the documents in the bundles. It having been agreed that such documents are what they purport to be and parties could rely on the

contents thereof as evidence without a need for further proof. The defendant did not lead any evidence. Mr Temlett for the defendant placed it on record that on the issue of liability he had no instructions from the defendant. As a result he did not in any way challenge the plaintiffs on their evidence and arguments on the issue of liability.

[3] The first plaintiff is Newcastle Industrial Launderers CC reg no.2008/146892/23, a close corporation incorporated in accordance with the Close Corporations Act 69 of 1984. The second plaintiff is Faizel Cassim a major male businessman. The third plaintiff is R.F Screen Printers (Pty)Ltd, a private company duly registered and incorporated in terms of the Company Laws of the Republic of South Africa. The fourth plaintiff is Roelien Andrie Venter, also known as Razia Cassim, a major female businessperson. The defendant is the Newcastle Municipality, a municipality established in terms of section 12 of the Local Government Municipal Structures Act No: 117 of 1998.

[4] The second plaintiff is the owner of 100% membership interest in the first plaintiff and at all times material to the action the managing director of the first plaintiff and in the permanent employment by the first plaintiff. The fourth plaintiff holds 50% shareholding in the third plaintiff and is its managing director.

[5] At all times material to the action the first plaintiff conducted the business of an industrial screen printer at the premises at 3[...] M[...] drive, Riverside Industrial area in Newcastle within the municipal area controlled and regulated by the defendant. The third plaintiff conducted the business of an industrial screen printer at the same premises as the first plaintiff. The second and fourth plaintiffs were married to each other by the Islamic rights. The second plaintiff in his employment by first plaintiff earned a salary of R40 000 per month. The fourth plaintiff in her employment earned a monthly salary of R15 000.00.

[6] The first and third plaintiffs as operating businesses were consumers of electricity and water and other municipal services in the form of sewage serviced and industrial supplied waste disposal services supplied by the defendant in terms of a

written agreements and as a municipality servicing area wherein their businesses were situated and operating.

[7] At all times material hereto and to the knowledge of the defendant, the first plaintiff conducted business of an industrial laundry generating income. The third plaintiff conducted the business of an industrial screen printer generating an income. The businesses operated by the first and third plaintiffs were operating in the premises within the municipal area of the defendant and were solely reliant for municipal services on the services rendered by the defendant.

[8] The defendant by virtue of being a public authority and its relationship with plaintiffs operating business within its municipal area and the first and fourth plaintiffs being its resident rate payers and registered voters owed a duty of care not to cause harm on them and or their businesses. The second plaintiff in October 2021 was contesting in local government elections was contesting a mayoral position for Newcastle under the auspices of Action SA political party and he was in some circles referred to a mayor elect. In that regard he relied on the support by co-plaintiffs. The second plaintiff in his efforts to be elected mayor was entitled not be unlawfully interfered and to be frustrated in that effort by the defendant. The second and fourth plaintiffs were entitled to earn and to continue to earn salaries from their employment without wrongful interference by the defendant.

[9] The plaintiffs pleaded that the defendant wrongfully and in breach of its duty not to cause harm and loss to the plaintiffs embarked on a cause of action directed at causing loss and harm to the plaintiffs and to their businesses in the form of pure economic loss for which the defendant is liable to compensate them. The cause of action entailed launching and pursuing a court interdict intended to and had the effect of closing down the said businesses of the first and third plaintiffs by cutting off supply of municipal services in the form of water and stopping the plaintiffs from releasing industrial effluent from their businesses.

[10] The plaintiffs pleaded that on 6 October 2021 the defendant issued an urgent court application in this court under case no: 8610/2021P against the first and third plaintiffs interdicting the first and third plaintiffs from disposing of or leaking

effluent and/or contaminants into the storm water drainage and sewer system of the defendant and sought and obtained an order to terminate the supply of water to the first and third plaintiffs businesses. The defendant stated that the interdict was intended to and would have the effect of closing down the businesses of the first and third plaintiffs. The interdict despite the plaintiffs' efforts to have it not granted, varied or rescinded which efforts were resisted by the defendant remained in place until 7 March 2023 when at the instance of the defendant it was withdrawn.

[11] The interdict was obtained on a claim that effluent from the first and third plaintiffs' premises into the defendant's sewage system and or stormwater drainage system contained harmful contaminants and or pollutants which claims was and remained false and it was not based on any evidence.

[12] The defendant initially raised exceptions to the particulars of claim. The exceptions were abandoned. The defendant in the plea over pleaded a bare denial. It admitted that it obtained a court interdict in question but denied the effect thereof although in the founding affidavit to the interdict application it stated what the effect of the interdict would be to the businesses of the first and third plaintiffs. It admitted that it discharged the interdict on 7 March 2023. The defendant in the plea over never tried to justify the obtaining of an interdict against the plaintiffs. The reason furnished was that the effluent from the businesses contained harmful contaminants or pollutants. It was an allegation by the defendant. The defendant then and up to this state has not been able to produce any evidence in support of the allegation it made. The defendant at the hearing its counsel placed on record that he had no instructions to dispute the plaintiffs' claim on the issue of liability. No effort was made during the hearing to challenge the plaintiffs on the issue of liability.

[13] The first and third plaintiffs as measures to have the interdict varied or removed sourced and obtained experts' reports furnished to the defendant demonstrating that the waste from their premises did not contain harmful contaminants or pollutants, namely, a report of Mr Jaco Du Plessis of the River Guy (Pty) Ltd a professional expert dated 12 October 2021, a report by Mr Kevin Mumsamy an environmental scientist dated 20 October 2021 and a second report dated 30 November 2021. The defendant ignored the experts' reports. The court

(Olsen J) on 3 November 2021 ordered a mechanism to satisfy the defendant that waste from the plaintiffs' business contained no harmful contaminants but the defendant refused to comply with the court created mechanism. As a result, the plaintiffs' businesses continued to remain closed. The first and third plaintiffs filed their answering affidavit with experts reports in October 2021, but the defendant failed to consider them and failed to file any replying affidavit.

[14] The defendant in the founding affidavit to the interdict application stated that the relief it sought was directed at closing down the business of the first and third applicants and that shall cause loss to them, inviting the plaintiff that once they have suffered the loss they can quantify it and lodge a claim with defendant.

[15] The defendant and an entity Uthukela Water (Pty) Ltd Limited as applicants obtained an interdict which had the effect to close down the businesses of first and third plaintiffs. There was no expert report or evidence that established that the effluent from the businesses of the first and third plaintiffs was contaminated. The defendant although continuing not to have any evidence that supported its claim kept the interdict extant until 7 March 2023. The interdict was granted based on claims made by the defendant. The defendant a municipality and an organ of state had a legal duty not to harm the businesses of the first and third plaintiffs by claims not based on any evidence. It breached that duty thus acting wrongfully and it acted in a reckless and negligent manner. It is at fault. The requirements for delictual liability are: 1.A conduct in the form of an act or omission. 2.Wrongfulness in that the conduct must breach a legally recognised legal duty or infringe on someone legally recognised rights. 3.Fault in that the wrongdoer must be culpable acting either with intent or negligence which may include failure to exercise reasonable care. A delict refers to a wrongful and culpable conduct/act that causes harm to a person and obliges the wrongdoer to compensate the aggrieved/injured party for the harm/loss suffered. See J Neethling and J M Potgieter *Law of Delict 8ed* Lexis Nexis para 4.2; *Tematrix (Pty) Ltd t/a Matrix Vehicle Tracking v Advertising Standards Authority of SA* 2006 1 SA 461 (SCA) 468A-E; *MTO Forestry (Pty) v Swart* NO 2017 5 SA 76 (SCA); *Van Eeden v Minister of Safety and Security ( Women's Legal Centre Trust, as amicus curiae)* 2003 1 SA 389 (SCA) 395H-I; *Truter and Another v Deysel* 2006 4 SA 168 (SCA) 174E-F.

[16] It is ordered as follows:

1. The defendant is found liable to compensate the first, second, third and fourth plaintiffs for the loss/harm proved and proved to have been caused by the conduct/act of the defendant.
2. The defendant is ordered to pay costs on Scale C including costs of senior counsel where so employed, the costs include qualifying costs and attendance in court on 11 May 2026 of the following experts:
  1. Mr Kevin Mumsamy
  2. Mr Jacobus Johannes du Plessis
  3. Mr Juan Fedder
  4. Mr Cassim Azeez

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**Mngadi J**

## APPEARANCES

Counsel for the plaintiffs: R Padayachee SC

Instructed by: Narainsamy Naidoo & Associates  
PIETERMARITZBURG

Counsel for the defendant: J W Temlett

Instructed by: T.J Mphela Attorneys  
c/o Yashica Chetty Attorneys  
PIETERMARITZBURG

Date reserved: 11 May 2026

Delivered on: