



**IN THE HIGH COURT OF SOUTH AFRICA
NORTH WEST DIVISION, MAHIKENG**

Not reportable

Case No: 2026-142472

In the matter between:

**MOTSITLE MINING –
VLAKFONTEIN SITE (PTY) LTD**

First Applicant

CHIEF MUSHI EZEKIEL MABE

Second Applicant

and

SWART RISK MANAGEMENT (PTY) LTD

First Respondent

CHARLOTTE KATLEGO SEISE RAMAFOKO

Second Respondent

THE MINISTER OF POLICE

Third Respondent

PHILLIP DIALE LEKGAU

Fourth Respondent

CORAM: PETERSEN J

HEARD: 14 August 2026

Delivered: This judgment was handed down electronically, circulated to the parties' legal representatives by email, uploaded to CaseLines, and released to SAFLII. The date and time for handing down the judgment are deemed to be 15h30 on 19 August 2026.

Summary: Opposed semi-urgent application – Applicant sought a declarator that a mining agreement was concluded without authority and is invalid, unlawful and unenforceable, coupled with a final interdict restraining continued mining operations - Points *in limine* on jurisdiction/arbitration, semi-urgency and non-joinder of the Traditional Council dismissed - Genuine and material disputes of fact on authority, ratification, estoppel and an alleged subsequent oral, alternatively tacit, agreement referred to oral evidence under Rule 6(5)(g) - Costs reserved.

JUDGMENT

PETERSEN J:

Introduction

[1] This is an opposed semi-urgent application in which the first and second applicants seek, in essence, a declarator that a written mining agreement concluded on 11 February 2026 between the first applicant, purportedly represented by its former chief executive officer, the second respondent, and the first respondent, is invalid, unlawful and unenforceable against the first applicant, together with a final interdict restraining the first respondent from continuing to conduct mining operations on Farm Vlakfontein 164 JP and ancillary relief directing its removal from the mining area.

[2] The application is opposed by the first respondent on both preliminary and substantive grounds. During the course of the proceedings a fourth party, Mr Phillip Diale Lekgau, was granted leave to intervene as a respondent. He has filed an answering affidavit which introduces a materially different version of the facts. This includes an allegation that the parties' original written agreements were superseded by a subsequent oral, alternatively tacit, agreement reallocating operational areas of the mine between two contractors, of which the first respondent is one of the contracting parties.

The parties

[3] The first applicant, Motsitle Mining – Vlakfontein Site (Pty) Ltd ('Motsitle Mining', is the holder of a preferential mining right granted on 16 May 2018 in terms of s 104 of the Mineral and Petroleum Resources Development Act 28 of 2002 in respect of Farm Vlakfontein 164 JP, held for the benefit of the Batlhako Ba Matutu Traditional Community. The mining right's original term expired on 15 May 2023. A renewal application was lodged and remains pending with the Department of Mineral Resources and Energy. It is common cause, by operation of s 24(5) of the MPRDA, that the mining right remains in force pending the determination of that renewal application.

[4] The second applicant, Chief Mushi Ezekiel Mabe, is the senior traditional leader of the Batlhako Ba Matutu community. He is not, on the papers, a director of the first applicant.

[5] The first respondent, Swart Risk Management (Pty) Ltd ('SRM'), is a private security and mining services company which, on its version, has conducted mining and security operations at the site since approximately February 2026 pursuant to the impugned agreement.

[6] The second respondent, Ms Charlotte Katlego Seise Ramafoko, was Motsitle Mining's chief executive officer at the time the impugned agreement was concluded.

On Motsitle Mining's version she was removed from that office by board resolution on 23 February 2026. SRM disputes both the finality and the effect of that resolution, contending that it records no more than a motion of no confidence and that Ms Ramafoko remains a director of Motsitle Mining. Ms Ramafoko does not oppose the application and has filed a confirmatory affidavit in which she confirms, materially, that she lacked authority to conclude the agreement on Motsitle Mining's behalf.

[7] The third respondent, the Minister of Police, is cited only in his official capacity for purposes of enforcement and abides the decision of the court.

[8] The fourth respondent, Mr Phillip Diale Lekgau, describes himself as a co-founder of LKK Investment Holdings (Pty) Ltd ('LKK') and an investor in the broader Vlakfontein mining venture. He was granted leave to intervene as a respondent on 17 July 2026 and has since filed an answering affidavit together with what he describes as a counter-application.

Background

[9] The founding papers establish the following essentially undisputed narrative. During March 2026, following the conclusion of the impugned agreement, Motsitle Mining's board became aware that Ms Ramafoko had, on 11 February 2026, purportedly bound Motsitle Mining to a mining agreement with SRM. The board of Motsitle Mining had, on 23 February 2026, already resolved to remove Ms Ramafoko as chief executive officer and to appoint Mr Ditshego Isaac Mfaladi, the deponent to the founding affidavit, in her stead, citing concerns regarding agreements concluded without board knowledge or approval. The precise legal effect and finality of that resolution is itself disputed by SRM, as appears below.

[10] On 15 March 2026 Motsitle Mining addressed correspondence to SRM disputing Ms Ramafoko's authority to conclude the agreement and repudiating it. SRM's attorneys responded on 7 and 16 March 2026 maintaining the agreement's validity and SRM's entitlement to continue mining. On 11 May 2026 Motsitle Mining issued a further, final demand that SRM cease operations and vacate the mining area. SRM did not comply.

[11] The application was issued on 19 June 2026 and served on or about 22 June 2026. SRM delivered its notice of intention to oppose on 29 June 2026 and its answering affidavit on 4 July 2026. The applicants' delivered a supplementary affidavit on 30 June 2026 (annexing Ms Ramafoko's confirmatory affidavit) and a replying affidavit on 10 July 2026.

[12] Practice notes and heads of argument were filed by the applicants' and SRM on 15 July 2026 in anticipation of a hearing on 17 July 2026. On that date, however, Mr Lekgau's application for leave to intervene, launched on or about 17 July 2026, was dealt with. An order was taken granting him leave to intervene, directing him to file an answering affidavit within five (5) court days, affording the existing parties a further five (5) court days to respond, and reserving the costs of the intervention and of the resultant postponement for determination in the main application.

[13] Mr Lekgau's answering affidavit, together with a substantial body of annexures, was thereafter delivered. The applicants' further replying affidavit,

responding to Mr Lekgau, was delivered on 5 August 2026, and the matter was set down for hearing on the semi-urgent roll on 7 August 2026.

The relief sought

[14] The notice of motion seeks, in summary: (a) dispensation with the forms and service prescribed by the rules and enrolment on a semi-urgent basis; (b) a declarator that the purported mining agreement is invalid, unlawful and unenforceable against Motsitle Mining; (c) a declarator that the Ms Ramafoko lacked authority to bind Motsitle Mining to it; (d) a final interdict restraining SRM and those acting through it from conducting mining activities, extracting or dealing with chrome ore, or representing that they hold authority from Motsitle Mining; (e) an order directing SRM to cease operations and remove its personnel, equipment and property within seven days; (f) an ancillary interdict against the removal or disposal of extracted chrome pending compliance; (g) authorisation for SAPS assistance in enforcement; and (h) costs on the attorney-and-client scale.

The points *in limine*

The arbitration clause and jurisdiction

[15] SRM contends that clause 19 of the impugned agreement obliges the parties to resolve their dispute by negotiation and, failing that, AFSA mediation and arbitration, and that this court accordingly lacks jurisdiction, alternatively should stay the proceedings under s 6 of the Arbitration Act 42 of 1965 pending exhaustion of that process.

[16] This objection is, in my view, misconceived and falls to be dismissed. An arbitration clause is itself a term of the very agreement whose existence and binding force is in dispute. Where, as here, Motsitle Mining's case is not that a validly concluded agreement should be avoided on its merits, but that no agreement binding upon Motsitle Mining ever came into being for want of authority, the threshold question of authority is logically and legally anterior to any arbitration clause contained within the disputed instrument. Clause 19.5 of the agreement itself, in any event, expressly preserves a party's right to approach a court of law for interim relief pending resolution of a dispute. The declaratory relief sought here goes to the very existence of the arbitration agreement and is a matter this court is competent, indeed obliged, to determine before any arbitration process could sensibly commence.

[17] SRM's separate, free-standing objection to territorial and subject-matter jurisdiction is without substance. The mining area, the conduct complained of, and the mining right in issue are all situated within, and exercised within, this Division's area of jurisdiction. That objection, too, falls to be dismissed.

Semi-urgency

[18] SRM contends that the application discloses no proper case for semi-urgency, pointing to the interval of approximately three months between Motsitle Mining's letter of 15 March 2026 disputing authority and the institution of proceedings on 19 June 2026, and characterising the urgency as self-created. Reliance is placed on the trite principle, articulated in *Luna Meubel Vervaardigers*

(*Edms*) *Bpk v Makin and Another (t/a Makin's Furniture Manufacturers)*¹, that mere lip service to the requirements of Rule 6(12)(b) will not suffice, and that an applicant must make out, in the founding affidavit itself, a case justifying the particular degree of departure from the norm.

[19] At the hearing, I canvassed with counsel for the applicants that the founding affidavit does not, with the specificity *Luna Meubel* requires, explain what occurred between Motsitle Mining's letter of 15 March 2026 and its final demand of 11 May 2026. Counsel was, in my view, unable to point me to any paragraph of the founding papers addressing that interval with particularity, referring me only to paragraphs speaking to the broader chronology before and after that period. That reservation is real. On the founding affidavit as filed, the explanation for that eight-week gap is thin, and I would have hesitated to find semi-urgency established on that ground alone. That reservation was, however, overtaken by a concession properly made by counsel for SRM when the point was put to him. He accepted, correctly in my view, that whatever the position may have been on 19 June 2026, the question had by the date of the resumed hearing become academic, given that the matter had by then been fully argued on final relief, on a complete set of papers running to several bundles, with heads of argument filed on both sides addressing the merits in full. Counsel for LKK, maintained reliance on the point taken on semi-urgency.

[20] In substance, this court is seized of an Opposed Motion for final relief, argued in full, rather than a live dispute over the propriety of semi-urgent enrolment. In those circumstances I do not consider it necessary, or profitable, to determine finally whether the explanation tendered for the 15 March to 11 May 2026 interval was, on its own, sufficient to justify semi-urgent enrolment in the first instance. I decline to uphold the point *in limine*, not on the footing that semi-urgency has affirmatively been established on the papers, but because the objection has, become moot. Nothing would be served by striking the matter from the roll only for it to return, on identical papers and argument, some two to three months hence, while the mining operations complained of continue unabated in the interim. The ongoing, daily depletion of a finite mineral resource reinforces the proportionality of determining the matter now, on the papers as they stand, rather than at the cost of further delay.

Non-joinder of the Traditional Council

[21] LKK contends that the Batlhako Ba Matutu Traditional Council ought to have been joined, on the footing that the second applicant is a director of the first applicant required to act in conjunction with the Council, and that no Council resolution authorising these proceedings has been produced. This objection proceeds from a factual premise that does not withstand scrutiny on the papers before me.

[22] The second applicant is pleaded, without contradiction, as the traditional leader associated with the community that benefits from the s 104 right, not as a director of the corporate Motsitle Mining's. Motsitle Mining's authority to litigate is founded on a board resolution adopted by its own board of directors, not on any act of the second applicant purporting to act alone. The Traditional Council's beneficial interest in the mining right does not, without more, convert it into a necessary party

¹ *Luna Meubel Vervaardigers (Edms) Bpk v Makin and Another (t/a Makin's Furniture Manufacturers)* 1977 (4) SA 135 (W) at 137E–F.

to litigation between the mining right holder and a party disputing the holder's corporate governance. This objection to the non-joinder of the Traditional Council is accordingly dismissed.

The applicable law

Final interdict

[23] The requirements for a final interdict are trite. These include: (a) a clear right; (b) an injury actually committed or reasonably apprehended; and (c) the absence of any other satisfactory remedy.² Unlike interim relief, the balance of convenience plays no independent role. Each requirement must be established on a balance of probabilities.

Declaratory relief

[24] A court's jurisdiction to grant declaratory relief under s 21(1)(c) of the Superior Courts Act 10 of 2013 is engaged where an interested party seeks the determination of an existing, future or contingent right or obligation. The exercise of that jurisdiction is discretionary but is ordinarily and readily exercised where, as here, a real and continuing dispute as to the existence of contractual rights and obligations lies at the heart of the parties' relationship.

Authority to bind a company - The *Turquand* rule, section 20(7) of the Companies Act 71 of 2008, apparent authority and estoppel

[25] SRM's substantive defence rests on four related but analytically distinct doctrines. These may be succinctly set out as follows: (a) the common-law rule in *Royal British Bank v Turquand*, now codified in s 20(7) of the Companies Act 71 of 2008, which entitles a person dealing with a company in good faith to presume compliance with internal formalities unless it knew, or reasonably ought to have known, of non-compliance; (b) apparent or ostensible authority, which requires a representation attributable to the principal, not merely to the purported agent, upon which a third party reasonably relies;³ (c) estoppel, which requires a representation by the principal, reasonable reliance, and resultant prejudice; and (d) ratification, which requires a clear and unequivocal election by the principal, with full knowledge of the material facts, to adopt an unauthorised act.⁴

[26] It bears emphasis that the *Turquand* rule and s 20(7) answer a different question from apparent authority and estoppel. The former protects a bona fide third party against undisclosed failures of internal corporate process where the natural person who dealt with it did in fact hold an office ordinarily carrying the relevant authority. The latter requires a representation, express or implied, made by the company itself (as opposed to by the individual asserting authority) as to the extent of that individual's authority. An office-holder cannot generally clothe himself or

² *Setlogelo v Setlogelo* 1914 AD 221 at 227; *Commercial Stevedoring Agricultural and Allied Workers' Union and Others v Oak Valley Estates (Pty) Ltd and Another* 2022 (5) SA 18 (CC) para 18.

³ *Makate v Vodacom (Pty) Ltd* 2016 (4) SA 121 (CC) paras 45 and 47.

⁴ Cf *Capitec Bank Holdings Ltd v Coral Lagoon Investments 194 (Pty) Ltd and Others* 2022 (1) SA 100 (SCA) para 25.

herself with authority merely by asserting its existence. The representation must be traceable to conduct of the principal.

Motion proceedings and disputes of fact - *Plascon-Evans*

[27] Where final relief is sought on motion and a genuine, bona fide dispute of fact arises on the papers, the application must ordinarily be decided on the respondent's version together with such of the applicant's averments as the respondent admits, unless the respondent's version consists of bald or uncreditworthy denials, raises fictitious disputes, is palpably implausible, far-fetched or so clearly untenable that it can be rejected merely on the papers.⁵

[28] Where a genuine dispute cannot fairly be resolved on the papers, the court retains a discretion under Uniform Rule 6(5)(g) to refer the matter, or specific and identified issues, to oral evidence, rather than dismissing the application outright, particularly where the underlying dispute concerns matters, such as the existence and terms of an alleged oral or tacit agreement, that are inherently unsuited to resolution on affidavit.

Discussion

Is there a genuine dispute of fact on authority, ratification and estoppel?

[29] Motsitle Mining's case, on the founding and replying papers, is that Ms Ramafoko was removed as chief executive officer for concluding agreements, including the SRM agreement, without board knowledge or approval; that no board resolution, shareholders' resolution or other corporate instrument authorising the agreement has ever been produced. In elaborating on this Motsitle Mining adduces Ms Ramafoko's own confirmatory affidavit, being the very person from whom the alleged authority is said to derive, in which she disavows that she possessed it.

[30] SRM's answer is not confined to bare assertion. It points to the second applicant's own WhatsApp engagement with SRM prior to conclusion of the agreement. SRM further relies on a draft having sent to the second applicant for his consideration on 11 February 2026 and having met SRM representatives on 7 February 2026. It points to a written request by the second applicant on behalf of the community for sponsorship, addressed to SRM after conclusion of the agreement and expressly describing SRM as a service provider. It asserts approximately six months of open, continuous mining operations, expenditure said to exceed R32 million, and the employment of 46 community members, without objection until March 2026. It further points to continuing meetings and correspondence between the parties consistent, on SRM's version, with an accepted commercial relationship. SRM further disputes the applicants' characterisation of Ms Ramafoko's departure. It contends that the record discloses no more than a resolution expressing no confidence in her as chief executive officer, that no act of dismissal from Motsitle Mining's employ or directorship is evidenced on the papers, and that she remains, on SRM's version, a director of the First

⁵ *Plascon-Evans Paints Ltd v Van Riebeeck Paints (Pty) Ltd* 1984 (3) SA 623 (A) at 634I–635C; *Wightman t/a JW Construction v Headfour (Pty) Ltd and Another* 2008 (3) SA 371 (SCA) para 12.

Applicant. This is a matter said to bear on whether her later disavowal of authority can be treated as the company's own unequivocal position.

[31] This is not, in my assessment, a case of bald, uncreditworthy or fictitious denial of the kind *Plascon-Evans* and *Wightman* contemplate as liable to rejection on the papers. Whether the second applicant's pre-conclusion engagement and the community's acceptance of sponsorship, viewed together with six months of unopposed performance, are capable in law of constituting a representation by Motsitle Mining founding apparent authority or estoppel, as opposed to conduct of individuals lacking corporate authority of their own, is a real and substantial question that turns on an assessment of credibility and the proper characterisation of a course of dealing, not merely on the application of settled law to undisputed fact. Ms Ramafoko's confirmatory affidavit is important evidence, but it is not, without more, dispositive. A director's *ex post facto* disavowal of her own authority does not, as a matter of law, automatically extinguish a defence founded on the company's own conduct through other office-bearers, including the second applicant himself. That question requires findings on what was said and done, by whom, and in what capacity, findings this court is not well placed to make on paper alone where SRM's version is neither inherently improbable nor self-contradictory.

The Fourth Respondent's intervention and the alleged oral or tacit agreement

[32] Mr Lekgau's answering affidavit introduces a further and materially different factual matrix. LKK asserts that following disputes over the original written agreements concluded in February 2026 with both Bayeni Mining Group (Pty) Ltd and, separately, LKK and SRM, the relevant participants concluded a collective oral, alternatively tacit, agreement during or about April 2026. In terms of this agreement, LKK and SRM were each permitted to operate on allocated portions of the mining area, and that the original written agreements were cancelled or superseded. LKK relies on an extensive body of internal and third-party documentation, minutes, correspondence and operational records, said to evidence that arrangement.

[33] The applicants' response, filed on 5 August 2026, disputes the existence of any such agreement and, in particular, disputes that any person with authority to bind Motsitle Mining concluded it or that Motsitle Mining's board approved or ratified it. The applicants further observe, correctly in my view, that it is not clear on Mr Lekgau's papers whether the alleged oral or tacit agreement is advanced merely as a further answer to the main application or as the foundation of a properly constituted counter-application, and, if the latter, whether it has in fact been properly pleaded as such.

[34] What is clear is that Mr Lekgau's version, even taken at its highest for present purposes, does not resolve but rather compounds the factual difficulty already identified above. It introduces a second, distinct and disputed narrative as to how, when and by whom SRM's asserted entitlement to operate on the mining area came into being. This is a narrative inherently unsuited to determination on affidavit given its dependence on oral exchanges, the interpretation of internal minutes, and inferences to be drawn from a substantial body of conduct evidence.

Application of the *Plascon-Evans* principle

[35] In considering the papers as a whole, I am satisfied that this application, framed for final declaratory and interdictory relief, cannot presently be determined on the papers. Two overlapping, genuine and material disputes of fact arise. First, whether the Ms Ramafoko's pre- and post-conclusion conduct, together with that of the second applicant and Motsitle Mining's subsequent course of dealing with SRM, is capable of founding apparent authority, estoppel or ratification notwithstanding the absence of a board resolution. Second, whether a subsequent oral or tacit agreement was concluded during or about April 2026 reallocating operational rights over the mining area, and if so, on what terms, by whom, and with what corporate sanction, if any.

[36] Neither dispute is, on the papers before me, so far-fetched, palpably implausible or clearly untenable that it can be rejected out of hand. Both are, however, capable of relatively focused and expeditious resolution by oral evidence, given that the universe of relevant witnesses, Ms Ramafoko, Mr Mfaladi, the second applicant, the deponent for SRM, and Mr Lekgau, together with such further witnesses as the parties may identify, is finite and largely already identified on the papers.

[37] I am mindful that a court should be slow to dismiss motion proceedings, or to require parties to recommence by way of action, where the real dispute can more proportionately be resolved by referring discrete, identified issues to oral evidence under Rule 6(5)(g).⁶ Given the ongoing, allegedly irreversible depletion of a finite mineral resource, dismissing the application outright and leaving the applicants to pursue action proceedings afresh would occasion real prejudice and delay disproportionate to what a properly confined referral to oral evidence would achieve. For the avoidance of doubt, no party at the hearing, including SRM and Mr Lekgau, disputed that Motsitle Mining is and remains the holder of the mining right over Farm Vlakfontein 164 JP. What is in dispute is not the right itself, but who, if anyone, was authorised to permit its exploitation by SRM and, on Mr Lekgau's version, by LKK, during its currency. That common ground reinforces the proportionality of a referral confined to the authority and subsequent-agreement questions, rather than a wholesale dismissal or a fresh action.

[38] For these reasons, I am satisfied that the interests of justice favour a referral of the following issues to oral evidence: (a) whether the Ms Ramafoko possessed actual, implied or ostensible authority to conclude the 11 February 2026 agreement on behalf of Motsitle Mining, alternatively whether that agreement was subsequently ratified; (b) whether a valid and binding oral or tacit agreement was concluded during or about April 2026 reallocating rights to occupy and mine portions of Farm Vlakfontein 164 JP as between LKK and SRM, and if so, its terms and the authority under which it was concluded on behalf of Motsitle Mining, if any; and (c) whether, and to what extent, Motsitle Mining's conduct after February 2026 is capable of estopping it from denying the validity of either agreement.

⁶ Cf *One Stop Financial Services (Pty) Ltd v Neffensaan Ontwikkelings and Another (Pty) Ltd* 2015 (4) SA 623 (WCC) paras 26–28 and 54.

Status of the Fourth Respondent's counter-application

[39] I have not lost sight of Mositle Mining's contention that Mr Lekgau's counter-application, insofar as one is intended, has not been properly constituted or pleaded. That question bears directly on the ambit of what falls to be determined once the referred issues have been ventilated, and on the proper costs order. Rather than decide it in isolation on the papers as they presently stand, I consider it appropriate that it stand over, together with the issues referred to oral evidence, for determination once that evidence has been led, without prejudice to any party's right to raise the point, including by way of an interlocutory application, before then.

Costs

[40] The points *in limine* raised by the SRM and LKK have failed and costs in respect of them should ordinarily follow that result. However, because the substantive relief cannot presently be finally determined and a referral to oral evidence is contemplated, it is, in my view, appropriate that the costs of the application as a whole, including the costs of the points *in limine* and the costs of and occasioned by the intervention application reserved by the order of 17 July 2026, stand over for determination together with the outcome on the referred issues. This avoids piecemeal costs orders in a matter where the ultimate outcome on the central factual disputes remains to be determined.

Order

[41] I accordingly make the following order:

1. The points *in limine* raised by the First Respondent (lack of jurisdiction/arbitration clause; lack of semi-urgency) and by the Fourth Respondent (non-joinder of the Batlhako Ba Matutu Traditional Council) are dismissed.
2. The following issues are referred to oral evidence:
 - 2.1 whether the Second Respondent possessed actual, implied or ostensible authority to conclude the agreement dated 11 February 2026 between the First Applicant and the First Respondent, alternatively whether that agreement was subsequently ratified by the First Applicant;
 - 2.2 whether a valid and binding oral, alternatively tacit, agreement was concluded during or about April 2026 reallocating rights to occupy and conduct mining operations on portions of Farm Vlakfontein 164 JP as between LKK Investment Holdings (Pty) Ltd and the First Respondent, and, if so, its terms and the authority, if any, under which it was concluded on behalf of the First Applicant; and
 - 2.3 whether, and to what extent, the First Applicant is estopped from denying the validity of either agreement referred to above.
3. The status of the Fourth Respondent's purported counter-application, including whether it has been properly constituted and pleaded and, if so, what relief is competent thereon, stands over for determination together with the issues referred to in paragraph 2, without prejudice to the right

of any party to raise the point by way of interlocutory application before then.

4. The affidavits filed of record shall stand as the evidence-in-chief of the deponents thereto on the issues referred to in paragraph 2, subject to such further examination-in-chief, cross-examination and re-examination as the court hearing that evidence may permit.
5. The First Respondent and the Fourth Respondent shall bear the duty to begin.
6. Any party who intends to call, on the issues referred to in paragraph 2, a witness who has not deposed to an affidavit filed of record shall, at least 10 (ten) court days before the date allocated for the hearing of that evidence, deliver to the other parties a statement summarising the evidence to be given by that witness.
7. Leave is granted to the parties to subpoena, or cause to be subpoenaed, any person, including a deponent to an affidavit filed of record, to attend and give oral evidence, and to be cross-examined, at the hearing of the issues referred to in paragraph 2.
8. Within 15 (fifteen) court days of this order, the parties shall make discovery, on oath and in accordance with Uniform Rule 35(1), of all documents relevant to the issues referred to in paragraph 2 which are, or have been, in their possession or under their control.
9. The parties shall, within 20 (twenty) court days of this order, hold a pre-trial conference in respect of the issues referred to in paragraph 2, in accordance with Uniform Rule 37, and shall thereafter file a joint minute recording the outcome of that conference.
10. Any party may thereafter apply to the Registrar for the allocation of a date for the hearing of the oral evidence referred to in paragraph 2.
11. The costs of the application, including the costs of the points *in limine* dismissed in paragraph 1, the costs reserved by the orders of 17 July 2026 and 7 August 2026, and the costs of the intervention application, are reserved for determination together with the outcome of the referral in paragraph 2.



AH PETERSEN
JUDGE OF THE HIGH COURT OF SOUTH AFRICA
NORTH WEST DIVISION, MAHIKENG

Appearances

For the Applicants:

Instructed by:

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Tokyo Ndlela Attorneys Inc

c/o Ntsamai Attorneys Inc, Mahikeng

For the First Respondent:

Instructed by:

Adv KG Mapotse

Moumakwe M Attorneys

c/o Nienaber & Wissing, Mahikeng

For the Fourth Respondent:

Instructed by:

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