

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA
Gauteng Local Division, Pretoria

CASE NO: 2023-129593

In the matter between:

FREEDOM UNDER LAW (RF) NPC

Plaintiff / Applicant / Appellant

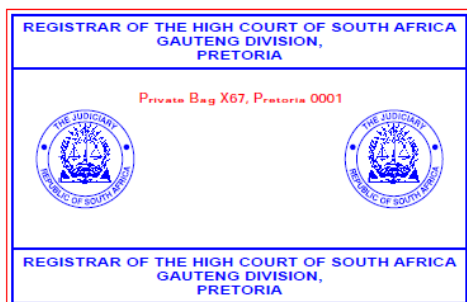
and

**THE JUDICIAL SERVICE
COMMISSION, JOHANNES PETRUS
DAFFUE , MOGERE BUSISWE SHAREEN
MASIPA , GLORIA NOZUKO MJALI
, ZAMANI MSWAZI NGLANGULELA
, MMATHEBE VIOLET PHATSOANE
, NAMHLA THINA YVONNE SIWENDU
, JOHN ELDRID SMITH , DAVID
UNTERHALTER**

Defendant / Respondent

Notice of Motion (Long Form)

NOTE: This document was filed electronically by the Registrar on 6/12/2023 at 2:03:55 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.



ELECTR  SIGNED BY:

**Registrar of High Court of South
Africa , Gauteng Local
Division, Pretoria**

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

CASE NO.: _____

In the matter between:

FREEDOM UNDER LAW (RF) NPC

Applicant



and

THE JUDICIAL SERVICE COMMISSION

First Respondent

JOHANNES PETRUS DAFFUE

Second Respondent

MOKGERE BUSISWE SHAREEN MASIPA

Third Respondent

GLORIA NOZUKO MJALI

Fourth Respondent

ZAMANI MSWAZI NHLANGULELA

Fifth Respondent

MMATHEBE VIOLET PHATSOANE

Sixth Respondent

NAMHLA THINA YVONNE SIWENDU

Seventh Respondent

JOHN ELDRID SMITH

Eighth Respondent

DAVID UNTERHALTER

Ninth Respondent

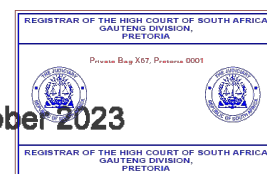
APPLICATION FOR REVIEW

PLEASE TAKE NOTICE

PART A: URGENT REVIEW

TAKE NOTICE THAT the applicant intends to apply to this court on 30 January 2024, at 10h00 or so soon thereafter as the applicant's representative may be heard, for an order in the following terms:

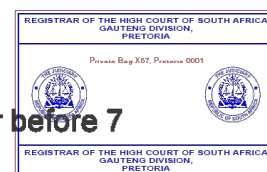
- 1 This part A is urgent. The applicant's failure to comply with the rules of this court is condoned.
- 2 The following decisions taken by the first respondent on 2 and 3 October 2023 (*decisions under review*) are reviewed, declared unlawful and set aside:
 - (a) Its decision to terminate its deliberations, on its recommendation of candidates for appointment to the Supreme Court of Appeal, without considering whether to fill the remaining two vacancies.
 - (b) Its failure to consider whether the remaining candidates should be recommended for appointment to the remaining two vacancies.
 - (c) Its decision not to recommend any of the remaining candidates for appointment to the remaining two vacancies.
- 3 The first respondent is directed, within 20 days of this order, to reconvene its meeting of 2 and 3 October 2023:
 - (a) to consider whether the remaining candidates are fit for appointment to the Supreme Court of Appeal;



- (b) if more than two of them are fit for such appointment, to determine the two most suitable for such appointment; and
- (c) to recommend the candidates so identified for appointment to the Supreme Court of Appeal.

4 The first respondent is ordered to pay the applicant's costs only if it opposes this part A.

5 Further or alternative relief.



TAKE NOTICE FURTHER THAT the first respondent is called upon, on or before 7 December 2023, to despatch the record of its decisions under review and such reasons as it may be required or desires to give to the registrar of this court.

The applicant may, on or before 21 December 2023, amend its notice of motion and supplement its founding affidavit.

If you wish to oppose this part A, you must, on or before 15 January 2024:

- a) notify the applicant's attorneys in writing of your intention to oppose and, in the notice, appoint an address within 25 kilometres of the office of the registrar and an electronic mail address, where available, at either of which you will accept notice and service of all documents in these proceedings; and
- b) deliver your answering affidavit, if any.

Please place the matter on the urgent roll accordingly.

PART B: SELECTION CRITERIA

TAKE NOTICE THAT the applicant intends to apply to this court for an order in the following terms:

- 1 The first respondent's failure to develop, publish and apply assessment criteria for the selection of candidates for appointment as judges, is declared to be unlawful.
- 2 The first respondent is directed, within three months, to develop and publish assessment criteria for the selection of candidates for the appointment as judges.
- 3 The first respondent is directed, when it selects candidates for appointment as judges, to require each of its members to assess each candidate, in writing, for compliance with its published assessment criteria.



TAKE NOTICE THAT the applicant will use the accompanying affidavit of Judith February in support of its application.

TAKE NOTICE FURTHER THAT the applicant will accept notice and service of all documents in these proceedings at the physical and email address of its attorneys of record below.

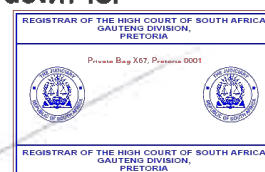
The applicant may, within 10 days after receipt of the record from the registrar, in terms of part A, amend its notice of motion or supplement its founding affidavit in relation to part B.

If you wish to oppose this part B, you must, after receipt of the applicant's supplementary affidavit or the expiry of the time period for the filing of such affidavit:

- a) within 15 days, give written notice to the applicant's attorneys of your intention to oppose and give an address, within 25 kilometres of the office of the registrar and an electronic mail address, where available, at either of which you will accept notice and service of all documents in these proceedings; and
- b) within 30 days, deliver your answering affidavit, if any.

If no notice is given of your intention to oppose this part B, it will be set down for hearing on a date to be arranged with the registrar of this court.

SIGNED at Johannesburg on this 6th day of December 2023.



NORTONS INCORPORATED
Applicant's Attorneys
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54 Melville Road, Illovo
Johannesburg
Tel: 011 666 7568

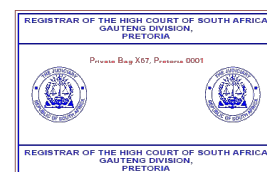
Email: anthony@nortonsinc.com / anton@nortonsinc.com
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Liesl Kriel Attorneys
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Pretoria 181
Tel: 012 433 6368
C/o Jan Schutte

TO: THE REGISTRAR

AND TO: THE FIRST RESPONDENT
The Office of the Chief Justice,
188-14th Road,
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Midrand
Gauteng
diramaisa@judiciary.org.za
MMondlane@judiciary.org.za;
Ntshubwana@judiciary.org.za;
Tphaahlamohlaka@judiciary.org.za;
Tramonyai@judiciary.org.za

AND TO: JUDGE DAFFUE
Free State Division of the High Court
Corner Fountain & President Brand Street
Bloemfontein
Free State
Service per email as agreed: Rmatthysen@judiciary.org.za



AND TO: JUDGE MASIPA
Acting Judge of the Supreme Court of Appeal
Cnr Mirriam Makeba & President Brand Streets
Bloemfontein
Free State
Service per email as agreed: NeNgcobo@judiciary.org.za

And:

C/o Nadia Moola Attorneys
93 -123 Cowey Road
Suite 401 Cowey Centre
Essenwood
Durban

AND TO: JUDGE MJALI
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Nr 74 Cnr Victoria & Frere Road
Mthatha
Service per email as agreed: Tntloko@judiciary.org.za /
mialinozuko@gmail.com

AND TO: DEPUTY JUDGE PRESIDENT NHLANGULELA
Eastern Cape Local Division of the High Court, Mthatha
Nr 74 Cnr Victoria & Frere Road
Mthatha
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AND TO: DEPUTY JUDGE PRESIDENT PHATSHOANE
Northern Cape Division of the High Court
Sol Plaatjie Drive
Civic Centre
Kimberley
Northern Cape
Service per email as agreed: Mngema@judiciary.org.za

AND TO: JUDGE SIWENDU
Gauteng Local Division of the High Court, Johannesburg
Cnr Von Brandis and Pritchard Street
Johannesburg
Service per email as agreed: KwRamoroka@judiciary.org.za

AND TO: JUDGE SMITH
Eastern Cape Local Division of the High Court, Makhanda
104 - 106 High Street
Makhanda
Service per email as agreed: koesnel@judiciary.org.za



AND TO: JUDGE UNTERHALTER
Acting Judge of the Supreme Court of Appeal
Cnr Mirriam Makeba & President Brand Streets
Bloemfontein
Free State
Service per email as agreed: david@unterhalter.law