

IN THE CONSTITUTIONAL COURT

CASE NO: CCT245/2021

In the matter between:

ELECTORAL COMMISSION OF SOUTH AFRICA

Applicant

and

**MINISTER OF COOPERATIVE GOVERNANCE
AND TRADITIONAL AFFAIRS & OTHERS**


Respondents

FILING NOTICE

KINDLY TAKE NOTICE THAT the Applicant hereby files the following:

DOCUMENT: Supplementary Affidavit

DATE ON ROLL: 23 August 2021

THUS DONE AND DATED AT Pretoria on this the 14th day of August 2021.**MOETI KANYANE INCORPORATED****Applicant's Attorneys**

First Floor, Block D

Corporate 66 Office Park

269 Von Willich Street

Die Hoewes, Centurion

Tel: 012 003 6471

Fax: 086 416 2255

Ref: M Kanyane/BC/M00232

Email: moeti@kanyane.co.zamashudu@kanyane.co.zac/o **RAMS INCORPORATED**

9th Floor, Fredman Towers

13 Fredman Drive

Sandton

Tel: 011 883 2234/6

Ref: Mr W Moeketsane

To: **THE REGISTRAR OF THE CONSTITUTIONAL COURT**
1 Hospital Street
Constitution Hill
Braamfontein
Email: GeneralOffice@concourt.org.za

And to: **THE STATE ATTORNEY, PRETORIA**
First respondent's attorneys
SAAU Building
316 Thabo Sehume Street
Pretoria
Ref: 2239/21/Z75
Email: ichowe@justice.gov.za and
StateAttorneyPretoria@justice.gov.za

BY ELECTRONIC MAIL

And to: **THE MEC FOR LOCAL GOVERNMENT FOR THE EASTERN CAPE**
Second respondent
Tyamzashe Building
Phalo Avenue
Civic Square
Bhisho
Email: mzwake.clay@eccogta.gov.za ; nnothoko@gmail.com ;
noncedo.nothoko@eccogta.gov.za and
sivuyisiwe.mayoyo@eccogta.gov.za

BY ELECTRONIC MAIL

And to **MEC FOR LOCAL GOVERNMENT FOR THE FREE STATE**
Third respondent
OR Tambo House, 7th Floor,
Cnr St Andrew's & Markgraaf Streets,
Bloemfontein
Email: hod@fscogta.gov.za; Tembeni.lobe@fscogta.gov.za and
lesleyk@fscogta.gov.za

BY ELECTRONIC MAIL

**And to: THE MEC FOR LOCAL GOVERNMENT FOR GAUTENG
Fourth respondent**
37 Pixley ka Isaka Seme Street
Marshalltown
Johannesburg
Email: quinton.kuhn@gauteng.gov.za;
Fred.Mokoko@gauteng.gov.za;
Zukiswa.Ncunyana@gauteng.gov.za; SIMON.MASISI-LETELE@gauteng.gov.za;
anthony.moonsamy@gauteng.gov.za

BY ELECTRONIC MAIL

**And to: THE MEC FOR LOCAL GOVERNMENT FOR KWAZULU-NATAL
Fifth respondent**
330 Langalibalele Street
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Email: Lelani.Vandenberg@kzncogta.gov.za;
Kerry.Turner@kzncogta.gov.za;
Nokwanda.MCHUNU@kzncogta.gov.za and
Sanele.ZONDI@kzncogta.gov.za

BY ELECTRONIC MAIL

**And to: THE MEC FOR LOCAL GOVERNMENT FOR LIMPOPO
Sixth respondent**
Hensa Tower Building
28 Market Street
Polokwane
Email: NgobeniDD@coghsta.limpopo.gov.za ;
DumalisileN@coghsta.limpopo.gov.za and
Mathyem@coghsta.limpopo.gov.za

BY ELECTRONIC MAIL

**And to: THE MEC FOR LOCAL GOVERNMENT FOR MPUMALANGA
Seventh respondent**

Samora Machel Building
 Ext 2, 7 Government Boulevard
 Riverside Park
 Mbombela
 Email: LVDWalt@mpg.gov.za; MvdMerwe@mpg.gov.za;
sam@mpg.gov.za; Skunene@mpg.gov.za and
MkhwanaziZF@mpg.gov.za

BY ELECTRONIC MAIL

And to: MEC FOR LOCAL GOVERNMENT FOR THE NORTHERN CAPE
Eighth respondent
 JS du Plooy Building
 9 Cecil Sussman Street
 Kimberley
 Email: bvass@ncpg.gov.za; bslenkoe@ncpg.gov.za;
mmadyo@ncpg.gov.za; gbotha@ncpg.gov.za;
mmanyeneng@ncpg.gov.za; pseane@ncpg.gov.za

BY ELECTRONIC MAIL

And to: THE MEC FOR LOCAL GOVERNMENT FOR NORTH WEST
Ninth respondent
 Telkom Building
 3366 Bessemmer Street
 Industrial Site
 Mafikeng
 Email: MMotlogelwa@nwpg.gov.za and tlerefolo@nwpg.gov.za

BY ELECTRONIC MAIL

And to: THE STATE ATTORNEY, CAPE TOWN
Tenth respondent's attorneys
 22 Long Street, Cape Town
 Cape Town
 Tel: 021 441 9221
 Ref: 1942/21/10
 Email: lgolding@justice.gov.za;

BY ELECTRONIC MAIL

And to: THE SOUTH AFRICAN LOCAL GOVERNMENT ASSOCIATION
Eleventh respondent
Block B, Corporate Park
175 Corobray Avenue
Waterkloof Glen
Pretoria
Email: ugopichund@salga.org.za

BY ELECTRONIC MAIL

And to: GWALA DLAMINI MSANE INC
Attorneys for the First Applicant for Leave to Intervene
c/o **DENTONS SA**
5th Floor, Kathrine & West Building
114 West Street
Sandton
Johannesburg
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Email: mvgwala@mvgwalainc.co.za

BY ELECTRONIC MAIL

And to: LOURENS DE KLERK ATTORNEYS
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2A Durban Club Place
(off Anton Lembebe Street)
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lourensdeklerk@telkom.net

BY ELECTRONIC MAIL

And to: MINDES SCHAPIRO & SMITH INC
Attorneys for the Third Applicant for Leave to Intervene
c/o **CHRISTODOULOU & MAVRIKIS**
Suite 3A, Fricker Road
Illovo Boulevard
Johannesburg
Email: elzanne@mindes.co.za

BY ELECTRONIC MAIL

And to: PHILIP MACHANICK
Representative of the Fourth Applicant for Leave to Intervene
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 Makhanda
 6139
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BY ELECTRONIC MAIL

And to: M MAGIGABA INC.
Attorneys for the Fifth Applicant for Leave to Intervene
 144 Clarence Road
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 Durban
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 c/o **MALOKA MAKOLA ATTORNEYS**
 509 Royal Place Building
 85 Eloff Street
 Johannesburg
 Email: moshibudiwendy@gmail.com

BY ELECTRONIC MAIL

And to: RANTHO & ASSOCIATES INC
Attorneys for the Sixth Applicant for Leave to Intervene
 133 Valley Street
 Sunnyside
 Ref: RA/FORUM4SERVICEDELIVERY/CIV
 c/o **MA MPHOLANE ATTORNEYS**
 13th Floor Marble Towers
 208 Jeppe Street
 Johannesburg
 Email: gideon@rantho.co.za / Thabang@rantho.co.za /
chiefstaff@forum4sd.org

BY ELECTRONIC MAIL

And to: LEGAL RESOURCES CENTRE
Attorneys for the First Applicant as Amicus Curiae
 c/o **LEGAL RESOURCES CENTRE**
 2nd Floor West Wing Woman's Jail
 Constitutional Court
 1 Kotze Street

Johannesburg
Ref: E Deochand
Email: saadiyah@lrc.org.za / sharita@lrc.org.za /

BY ELECTRONIC MAIL

And to: NORTONS INC
Attorneys for the Second Applicant as Amicus Curiae
Second Floor, Parkhurst Square
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Parkhurst
Johannesburg
Ref Mr Anton Roets / Ms M Rawlinson
Email: anton@nortonsinc.com / michelle@nortonsinc.com

BY ELECTRONIC MAIL

And to: CILLIERS & GILDENHUYS INC
Attorneys for the Third Applicant as Amicus Curiae
Ref: Gildenhuis/GGI506
c/o **PETERS ATTORNEYS**
PER TIM DU TOIT & CO ATTORNEYS
31 The Valley Road
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Ref: HV Wyk/Cilliers & Gildenhuis
Email: gerbrand@c-law.co.za / pta@c-law.co.za

BY ELECTRONIC MAIL

And to: HURTER SPIES INC
Attorneys for the Fourth Applicant as Amicus Curiae
Second Floor, Block A
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Arcadia
Pretoria
Ref: M van Schalkwyk/MAT4034
Email: marjorie@hurterspies.co.za / ck@hurterspies.co.za
c/o **NELSON BORMAN & PARTNERS INC**
3rd Floor, 288 On Kent
Cnr Kent Avenue & Harley Street

Ferndale
Randburg
Ref Muller/lk/HH7354
Email: johann@nelsonborman.co.za

BY ELECTRONIC MAIL

IN THE CONSTITUTIONAL COURT

CASE NO: CCT245/21

In the matter between:

ELECTORAL COMMISSION OF SOUTH AFRICA

Applicant

and

MINISTER OF COOPERATIVE GOVERNANCE
AND TRADITIONAL AFFAIRS & OTHERS

Respondents

SUPPLEMENTARY AFFIDAVIT

I, the undersigned,

VUMA GLENTON MASHININI

do hereby make oath and state that:

- 1 I am the Chairperson of the Electoral Commission of South Africa (“the Commission”), duly appointed as such as contemplated in section 8(1) of the Electoral Commission Act 51 of 1996 (“the Commission Act”). I depose to this replying affidavit on the Commission’s behalf.

- 2 I deposed to the replying affidavit, on behalf of the Commission, dated 13 August 2021 (“**the replying affidavit**”). I depose to this affidavit to correct a typographical error in that affidavit.

3 In paragraph 74.5 of that affidavit, I stated:

“The Minister of Health also dealt with the current positivity rate (the proportion of Covid-19 tests returning positive) which is regarded as a critical indication of the state of the pandemic. He explained that while it had decreased from 35% in mid-July to between 19% and 20%, this is still high and the rate was not yet stable. For example, yesterday the positivity rate was 35%.”

4 The figure of “35%” in the last sentence is not correct and was an inadvertent typographical error. It should have read “23%”. This is confirmed by the statistics released by the National Institute for Communicable Diseases.¹

5 I point out for the sake of completeness that yesterday, 13 August 2021, the positivity rate was again 23%.²

6 I apologise for the error in the replying affidavit and, insofar as is necessary, seek leave to file this affidavit.


VUMA GLENTON MASHININI

I hereby certify that the deponent knows and understands the contents of this affidavit and that it is to the best of the deponent's both true and correct. This affidavit was signed and sworn to before me at DAINFERN on this the 14th day of **August 2021**, and that the Regulations contained in Government Notice R.1258 of 21 July 1972, as amended, and Government Notice No R1648 of 19 August 1977, as amended, having been complied with.

¹ <https://www.nicd.ac.za/latest-confirmed-cases-of-covid-19-in-south-africa-12-august-2021/>

² <https://www.nicd.ac.za/latest-confirmed-cases-of-covid-19-in-south-africa-13-august-2021/>





COMMISSIONER OF OATHS

LEFANYANA WILLIAM MASWENENG
PRACTISING ATTORNEY OF
THE HIGH COURT OF RSA
COMMISSIONER OF OATHS, EX OFFICIO
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