

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

CASE NO: 8258/2017

In the matter between:

JOHANNES KHOMOTSO PHAHLANE Applicant

And

THE EXECUTIVE DIRECTOR, INDEPENDENT

POLICE INVESTIGATION DIRECTORATE N.O First Respondent

PAUL O'SULLIVAN Second Respondent

SARAH-JANE TRENT Third Respondent

MAGISTRATE JR TSATSI N.O Fourth Respondent

**THIRD RESPONDENT'S CONFIRMATORY AND ANSWERING
AFFIDAVIT**

I, the undersigned,

SARAH-JANE TRENT

do hereby make oath and state that:

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1. I am a major female attorney, employed by the Second Respondent at Paul O'Sullivan & Associates, situated at 7 Janine Road, Sandown Estate, Strathavon, Johannesburg, Gauteng.
2. Save as may otherwise be stated herein or as may appear from the context, the facts herein deposed fall within my personal knowledge, and are to the best of my knowledge and belief both true and correct. Where I make averments not falling within my personal knowledge, I place reliance on the documents annexed hereto.
3. I have read the Notice of Motion and the Founding Affidavit of the Applicant in this matter together with the annexes thereto. I depose to this Affidavit in order to oppose the relief sought by the Applicant.
4. I have read and understand the contents of the First Respondent's Answering Affidavit dated 20 April 2017. I confirm the correctness thereof in as far as it relates to me.
5. I have read the second Respondent's answering affidavit and confirm the correctness thereof in as far it relates to me.

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6. I do not propose to deal with each and every one of the allegations as they appear in the Applicant's Founding Affidavit. I deal only with those specific allegations that are relevant to me for the purposes of the relief sought in the Notice of Motion and my failure to so address the said allegations is not to be construed as an admission of those allegations. I, accordingly, to the extent necessary, deny them.

7. **STRUCTURE**

Point's in limine

Applicant's arguments and rebuttal

Ad seriatim response to Applicant's founding affidavit

Prayers

8. **PRELIMINARY LEGAL POINT(S)**

- 8.1 In respect of myself, the Applicant seeks the following relief, *inter alia*, in his Notice of Motion (paragraphs 4 thereof):-

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Interdicting the Second and Third Respondents from acting as or purporting to act as an investigator or investigators or delegated functionary of IPID.

- 8.2 On Friday, 10 February 2017 at approximately 16:20 I was arrested under Kameeldrift CAS 12/01/2017 for allegedly contravening section 22 of the IPID Act and for Fraud.
- 8.3 I was kept in police custody until 21:00 on Sunday 12 February 2017 after an urgent high court application for my release was granted by the above honourable court. The court order releasing me from custody is attached as "ST1". My phone was taken, after I was brought back to my office. I have not seen it since. Whilst I was at the police station in Kameeldrift, on the night of my arrest, Colonel Mike Sales, orally advised me that I would never see my phone again, unless I gave them a password. I asked to see my arrest warrant and a warrant authorising them to take my phone. They refused to show me either. I advised both Colonel Sales and Brigadier Kgorane that they were in unlawful possession of my phone. Colonel Sales again repeated that they would *'get the data, or I would never see it again'*.
- 8.4 On my release I undertook not to interfere with, communicate with, intimidate or contact any witnesses of the State subject to the State

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furnishing a list of the witnesses to my attorneys of record by 12:00 on 13 February 2017. (See paragraphs 4 and 5 of Annexure 'ST1').

8.5 The list of state witnesses is contained in the third Respondent's bail conditions and is annexed to his answering affidavit as a "POS 14". I am therefore for all intents and purposes prohibited from to be involved in the first Respondent's investigation into the Applicant.

8.6 I confirm that I at all times adhered to these bail conditions and will continue to do so.

8.7 On 4 April 2017 the Second Respondent and my attorneys addressed a letter to the Applicant's attorneys with the view to settle this matter, attached as **Annexure "ST2"**. I and the second respondent tendered not to: -

8.7.1 Threaten, harass, intimidate, or abuse, verbally or by email communication or any other form of communication, the applicant;

8.7.2 Incite or encourage any other person or entity to threaten, harass, intimidate or abuse, verbally or by

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email communication or any other form of communication, the applicant

8.7.3 Enter upon the estate in which the applicant's home is situated at Waterfront Estate, Roodeplaat, Kamiedrift, Pretoria; and carry out surveillance of the applicant's home at 53 Sable Hills, Waterfront Estate, Roodeplaat, Kamiedrift, Pretoria;

8.7.4 Publish any information of and concerning the applicant, his professional conduct as a police officer and as the National Commissioner of Police; and/or his private life and circumstance and/or otherwise defaming the applicant, save with the leave of a Court.

8.8 I also respectfully refer the court to paragraphs 9 – 20 of the first respondent's answering affidavit under the heading "Preliminary Legal Points". I concur with the first respondent's arguments in this regard.

8.9 I also respectfully refer the court to the second respondent's arguments under the heading "Preliminary Legal Points". I concur with the second respondent's arguments in this regard.

8.10 The application should on this score alone be dismissed with punitive costs.

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8.11 The Applicant thus suffers no prejudice and his application should on this score alone be dismissed with punitive costs.

9. **APPLICANT'S ARGUMENTS AND REBUTAL**

9.1 Under the heading "Unlawful involvement of Paul O'Sullivan and the third respondent in the affairs of the first respondent" the Applicant alleges that:-

9.1.1 I was appointed as an investigator in terms of section 22 of Act 1 of 2011;

9.1.2 I have a direct or indirect interest in the outcome of the investigation. Therefore the alleged appointment as an investigator is in contravention of section 25(1) of the Act; or

9.1.3 I masqueraded as a dually appointed IPID investigator and therefore I allegedly acted in contravention of section 33(5) of the Act.

9.2 I confirm:-

9.2.1 that I am in the employ of the complainant (second Respondent) in the corruption charge against the Applicant. I assisted the first and second respondents to the best of my ability as expected of me;

9.2.2 that I was never appointed as an investigator of the first respondent;

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9.2.3 that I did not masquerade as an investigator of the first respondent.

10. AD SERIATIM RESPONSE

AD PARAGRAPH 103

10.1 I deny that I was ever appointed or acted as an investigator of the first Respondent and put the Applicant to the proof thereof.

AD PARAGRAPH 108

10.2 I am not a complainant in any matter against the Applicant.

AD PARAGRAPH 109

10.3 I deny that I ever masqueraded as an investigator of the third respondent and put the Applicant to the proof thereof.

AD PARAGRAPH 118

10.4 I was assisting the second respondent and the investigators of the first respondent where possible as expected of me. We stopped at Terblanche's residence to ascertain if he could attend the meeting with the first respondent on 17 November 2016 at 11h00 and bring his bank statements with him. Terblanche's wife started shouting, so

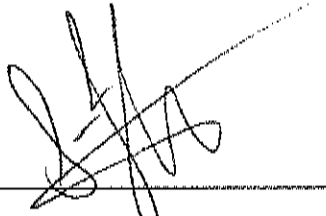
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we left. Terblanche asked for a case number and I sent it to him on instruction.

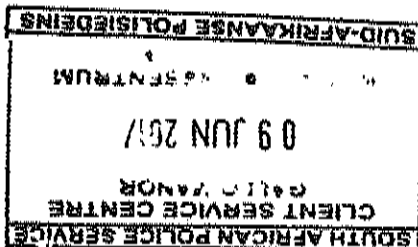
6. Prayers

6.1 I request that this application is dismissed with costs.

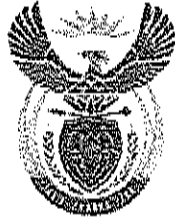


SARAH-JANE TRENT

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 knowledge both true and correct. This affidavit was signed and sworn to before me at **GALLO MANOR** on this the **NINTH** day of **June 2017**, and that the Regulations contained in Government Notice R.1258 of 21 July 1972, as amended by R1648 of 19 August 1977, and as further amended by R1428 of 11 July 1989, having been complied with.


COMMISSIONER OF OATHS

Full names: *Andriani Phaniel Ndlovu*
Address: *SAPS Gallo Manor*
Capacity: *Warrant*



'ST-1'

CASE NO: 75838/2016

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

PRETORIA 12 FEBRUARY 2017

BEFORE THE HONOURABLE MADAM JUSTICE KHUMALO

In the matter between:

SARAH JANE TRENT

APPLICANT

AND

THE MINISTER OF POLICE

1ST RESPONDENT

THE STATION COMMANDER OF THE KAMEELDRIFT

2ND RESPONDENT

STATION OF THE SOUTH AFRICAN POLICE SERVICE

3RD RESPONDENT

ADV. MM MASHUGA

MANDLA MAHLANGU, THE INVESTIGATING OFFICE OF THE

4TH RESPONDENT

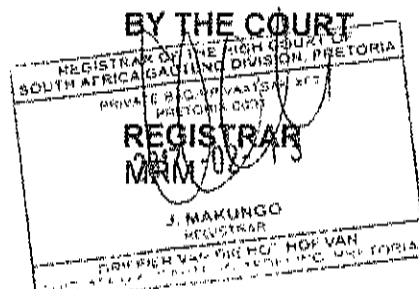
INDEPENDENT POLICE INVESTIGATIONS DIRECTORATE

HAVING read the documents filed of record, heard counsel and considered the matter:

IT IS ORDERED THAT:

1. by consent between the parties be and is hereby postponed sine die, costs are reserved;
2. the applicant shall be released on bail by no later than 21:00 hours on 12 February 2017;
3. in order to comply with 2 above, the first and second respondents will process the bail of the applicant timeously;
4. the applicant undertakes not to interfere with, communicate with, intimidate or contact any witnesses of the State;
5. paragraph 4 is subject to the first, second and third respondents furnishing a list of the witnesses to the attorneys of record of the applicant by 12:00 on 13 February 2017.

Attorney:



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 **Hurter Spies** INC.
prokureurs • attorneys

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Hurter Spies Incorporated
Reg. no. 2008/009761/21
Attorneys/Notaries/Conveyancers

First Floor
AfriForum Building
C/o DF Malan - and Union Avenue
Kloofsig
Centurion

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0140 Lyttelton
Tel : 012 644 0708
012 941 9239
Fax : 012 644 1997
e-mail : admin@hurterspies.co.za
Internet : www.hurterspies.co.za

Our ref. Louis Taljard/AF0108

Your ref: Ian Small-Smith/PJ du
Plessis/ag

04 April 2017

Bdk Attorneys
Fax: (011) 836 870
C/O Jacobson & Levy Inc
Fax: (012) 342 3313
E-mail: litigation@illaw.co.za

Dear Sir/s,

**RE: PAUL O'SULLIVAN & 3 OTHERS / JOHANNES KHOMOTSO
PHAHLANE
CASE NUMBER: 8258/2017**

1. We act on behalf of the second and third respondents.
2. We acknowledge your willingness to meet (without prejudice meeting) to discuss a possible settlement of the matter.
3. We have no desire to delay the proceedings but have received instructions to settle the matter. This should however not be perceived as an admission of wrongfulness by our clients and the order should expressly state so.
4. We propose (without prejudice to our clients) the following order in full and final settlement of the dispute between the applicant and our clients in Case no.8258/17:
 - 4.1 Without admitting wrongfulness or agreeing with the allegations as set out in the applicant's papers and as far as the identified investigations against the Applicant in this matter are concerned the

Directors: WD Spies B Com LLB MBA (UP); TP Kruger LLB (NWU); WG Human LLB (A Phil (NWU))
Associate: LF Taljard LLB (UP)
Consultant: JJ Hurter Dip Proc (UP)

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second and third respondents will refrain from acting as, or purporting to act as an investigator or investigators or delegated functionary of IPID.

AND

- 4.2 Will not threaten, harass, intimidate or abuse the applicant either verbally or by e-mail communication or any other form of communication.

AND

- 4.3 Will not enter upon the Estate in which the applicant's home is situated at Waterfront Estate, Roodeplaat, Kameeldrift, Pretoria and will not carry out surveillance of the applicant's home at 53 Sable Hills Waterfront Estate.

AND

- 4.3 Will not publish any information of and concerning the applicant, his professional conduct as a police officer and as the (Acting) National Commissioner of Police and/or his private life and circumstances and/or otherwise defaming the applicant save with the leave of a court or on the written request of an investigator of IPID. This however shall not prevent the second respondent from replying to any direct or indirect defamatory comment by the applicant of the second respondent.
- 4.4 This could be made an order of court and each party will bear its own cost.

6. We hope you find it in order

Kind regards,



HURTER SPIES INC
Per. L F Taljard

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