

IN THE HIGH COURT OF SOUTH AFRICA  
WESTERN CAPE DIVISION, CAPE TOWN

In the matter between:

**BULELANI QOLANI**

and

**CITY OF CAPE TOWN**

Defendant



CASE NUMBER:

13686/22  
Plaintiff

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**COMBINED SUMMONS**

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To the Sheriff or his/her deputy: Cape Town:

**INFORM:**

**THE CITY OF CAPE TOWN**, at 20th Floor, Tower Block, Civic Centre, 12 Hertzog Boulevard, Cape Town, Western Cape (herein referred to as the "Defendant"); and

**THAT**

**BULELANI QOLANI**, adult male, born on 8 September 1992, and currently residing at eThembeni, Khayelitsha, Cape Town (herein referred to as the Plaintiff);

Hereby institutes action against the Defendant in which action the Plaintiff claims the relief on the grounds set out in the Particulars annexed hereto.

**INFORM:** the Defendant that if they dispute the claim and wish to defend the action they shall:

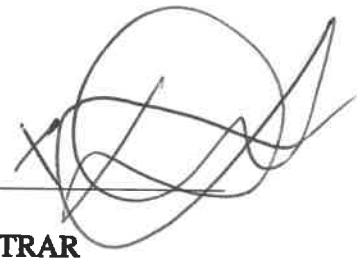
- i. Within 20 (TWENTY) days of service upon him of this summons file with the Registrar of this Court at the High Court, Keerom Street, Cape Town, Notice of his Intention to Defend and serve a copy thereof on the Plaintiff's attorneys which notice shall give an address referred to in Rule 19(3) for the service upon the Defendant of all notices and documents in the action;
- ii. Thereafter and within 20 (TWENTY) days after filing and serving of the Notice of Intention to Defend as aforesaid, file with the Registrar and serve upon the Plaintiffs a Plea, Exception, Notice to Strike Out with or without a Counter-Claim.

**INFORM:** the Defendant further that if they fail to serve a Notice as described, Judgment as claimed may be given against them without further notice, or if, having filed and served such notice, they fail to plea, except, make application to strike out or counter-claim, judgment may be given against them.

**AND IMMEDIATELY** thereafter serve a copy of this summons and return it to the Registrar with whatsoever you have done thereupon.

SIGNED AND DATED AT CAPE TOWN ON THIS      DAY OF      2022.

  
OFFICE OF THE CHIEF JUSTICE  
PRIVATE BAG 19050  
CAPE TOWN  
2022-08-27  
GENERAL OFFICE  
WESTERN CAPE HIGH COURT  
**NDIFUNA UKWAZI LAW CENTRE**  
Plaintiff's Attorneys  
C/O 18 Roeland Street  
Gardens  
CAPE TOWN  
Email: [danielle@nu.org.za](mailto:danielle@nu.org.za), [jonty@nu.org.za](mailto:jonty@nu.org.za)  
Ref: QOL1/0001



**THE REGISTRAR**

**HIGH COURT**

## ANNEXURE A

### PARTICULARS OF CLAIM

1. Plaintiff is **BULELANI QOLANI**, an unemployed adult male residing at erf 18322, Khayelitsha, Cape Town, an informal settlement commonly referred to as eThembeni. Plaintiff voluntarily practises as a Christian pastor for his local community.
2. Plaintiff was born on 8 September 1992.
3. Defendant is the **CITY OF CAPE TOWN** (“the City”). The City is a Category A Municipality established in terms of the Local Government: Municipal Structures Act 117 of 1998, with its head office at the Civic Centre, 12 Hertzog Boulevard, Cape Town.
4. At all relevant and material times, employees of the City referred to herein, including those whose names and ranks are unknown to the plaintiff acted within the course and scope of their employment.
5. The cause of action arose wholly or in part within the jurisdiction of this Honourable Court.

## **BACKGROUND TO THE CAUSE OF ACTION**

6. The cause of action arises from a series of unlawful demolitions in Empolweni, Makhaza, Khayelitsha, Cape Town conducted by the defendant's Anti-Land Invasion Unit (ALIU) during the national state of disaster declared by the President on 15 March 2020 to prevent the spread of Covid-19. The series of unlawful demolitions ran from April to July 2020.
7. At the time that the national state of disaster was announced, the plaintiff and his family were renting as backyard dwellers in Makhaza, Khayelitsha.
8. In and about April 2020, the plaintiff lost his job as a taxi driver. Out of desperation and need, he and his family left their home in Makhaza and occupied vacant land in Empolweni, Makhaza, Khayelitsha owned by the defendant.
9. Before he could construct his home, the defendant's ALIU demolished several established homes at Empolweni. These demolitions gave rise to urgent interdict proceedings whereby 49 occupants sought to declare their demolitions unlawful and sought the return of building materials used to construct their homes.
10. On 17 April 2020, Hack AJ granted the occupants' interim relief.

11. The plaintiff and his family were not on the listed 49 occupants. Still being homeless, they identified alternative public land abutting Empolweni to build their home.
12. He built his home at eThembeni on 28 June 2020 and took immediate occupation. His home was built using corrugated iron and wood. It had a door and a security gate. Inside his home was a bed, a gas cooker, several pots and pans, cutlery, clothes, and a washing basin.
13. Two days later, on 30 June 2020, members of the defendant demolished a few homes built at eThembeni but left his home intact.
14. The next day on 1 July 2020, members of the defendant returned to eThembeni and demolished the plaintiff's home. It was during this demolition that the plaintiff was assaulted.

**FIRST CLAIM: ASSAULT**

15. On 1 July 2020 and at about 10h30, members of the defendant wrongfully and unlawfully physically assaulted the plaintiff.
16. The assault took place pursuant to the defendant's ALIU operation to demolish structures established unlawfully on City owned land.

17. The assault occurred at the plaintiff's residence at eThembeni, an informal settlement in Makhaza, Khayelitsha, Cape Town.
18. The members of the defendant wrongfully, unlawfully and intentionally assaulted the plaintiff by:
  - 18.1. Hitting him while inside his home;
  - 18.2. Spraying pepper spray in his eyes;
  - 18.3. Kicking him while inside his home;
  - 18.4. Forcefully pushing him from his home naked;
  - 18.5. Throwing him to the ground and putting a knee on his back to prevent him from standing up; and
  - 18.6. Repeatedly pushing and wrestling him to the ground outside his home.
19. The assault infringed the plaintiff's bodily integrity, human dignity, and security of person.
20. As a result of the foregoing the plaintiff:
  - 20.1. Had to undergo medical treatment for:
    - 20.1.1 itchy eyes;

20.1.2 abrasions and bruises on his neck, upper mid back; and

20.1.3 a 3-4cm abrasion on his upper leg.

20.2. Has and continues to be significantly psychologically and emotionally traumatised.

20.3. Will require ongoing psychological treatment and counselling;

20.4. Has suffered substantial impairment of his enjoyment and quality of life.

21. As a result of the aforementioned the plaintiff has suffered and will suffer damages as follows:

21.1. estimated past and future hospital expenses and physiotherapy

**R150 000**

21.2. estimated future medical expenses for psychotherapy and trauma counselling

**R40 000**

21.3. estimated loss of earning capacity

**R36 000**

21.4. estimated general damages for shock, loss of amenities of life and psychological trauma

**R500 000**



22. Proper notice of the proceedings was given to the defendant in terms of Section 3(1) of the Institution of Legal Proceedings Against Certain Organs of State Act, 40 of 2002.

**SECOND CLAIM: *INIURIA***

23. On 1 July 2020 and at about 10h30, members of the defendant unlawfully evicted the plaintiff from his home while he was bathing naked which resulted in the impairment of his personality.
24. The assault occurred at the plaintiff's residence at eThembeni, an informal settlement in Makhaza, Khayelitsha, Cape Town.
25. Members of the defendant wrongfully and intentionally:
  - 25.1. Entered his home without his consent, permission and without prior warning;
  - 25.2. Disturbed the privacy of his bathing to execute the demolition;
  - 25.3. As mentioned in the first claim, used physical force to expel him naked from his home when he requested to finish his bathing;

- 25.4. In full view of the residents of the community and bystanders, used physical force to resist his persistent attempts while naked to re-enter the privacy of his home;
- 25.5. Repeatedly threw and wrestled him to the ground while he was naked;  
and
- 25.6. Demolished his home while he was sitting on his bed when he eventually returned home and while he was naked.
26. The process of demolishing the plaintiff's home while he was naked infringed sections 10, 12(1)(c)-(d), 12(2)(b), 14(a)-(b), and 26(1) of the Constitution of the Republic of South Africa, 1996, alternatively is against public policy considerations, in that the members of the defendant failed to respect and protect the plaintiff's:
- 26.1. inherent right to human dignity;
- 26.2. freedom of security of a person, and in particular the plaintiff's right to be free from all forms of violence from either public or private sources; right not to be tortured in any way; right not to be treated or punished in a cruel, inhuman or degrading way; and right to bodily and psychological integrity;

- 26.3. right to privacy and not have his person, home and property searched;  
and
- 26.4. right to have access to adequate housing.
27. As a consequence of the foregoing the plaintiff suffered humiliation, ridicule, contempt, the impairment to his dignity, personality and bodily integrity.
28. As a result of the aforementioned the plaintiff has suffered and will suffer damages as follows:
- 28.1. estimated general damages for psychological trauma and harm, *contumelia*, emotional shock, pain and suffering.
- R 700 000**
29. Proper notice of the proceedings was given to the defendant in terms of Section 3(1) of the Institution of Legal Proceedings Against Certain Organs of State Act, 40 of 2002.
30. In the premises, the defendant is liable to pay the sum of R 1 426 000 to the plaintiff.
31. Notwithstanding demand, the defendant has failed to pay the sum claimed.

**WHEREFORE THE PLAINTIFF CLAIMS:**

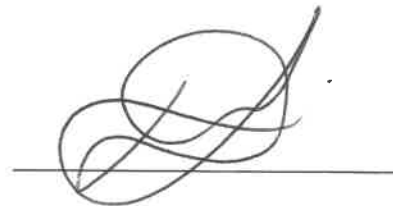
- 31.1. Payment of the sum of R 1 426 000;
- 31.2. Interest on the sum claimed in paragraph 31.1 in terms of section 2 of Act 55 of 1975;
- 31.3. Costs of suit;
- 31.4. Further and/or alternative relief.



**Nazreen Bawa SC**

**Naefa Kahn**

**Plaintiff's counsel**



**NDIFUNA UKWAZI LAW CENTRE**

Plaintiff's Attorneys

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CAPE TOWN

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Ref: QOL1/0001

**AND TO: CITY OF CAPE TOWN**  
Defendant  
20th Floor  
Tower Block  
Civic Centre  
12 Hertzog Boulevard  
Cape Town