

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

JUDGMENT

Not Reportable

Case No: 2026-207689

In the matter between:

AUDREY WINIFRED MORAKANE KETLHOILWE MOSUPYOE	First Applicant
BOATAMO YVONNE MOSUPYOE	Second Applicant
and	
MEDIA24 (PTY) LTD	Respondent

Heard: 10 November 2026

Delivered: 24 November 2026

Summary: urgent application; interdict media publication; self-created urgency; substantial redress in due course; witness affidavits

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ORDER

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1. The matter is struck from the roll with attorney and client costs, including the costs reserved from 3 September 2026, with such costs to include the costs of counsel, to be paid jointly and severally by the first and second applicants, the one paying the other to be absolved.

JUDGMENT

Judgment handed down electronically by circulation to the parties' legal representatives on email and released on SAFLII

HOFMEYR AJ:

1 On 9 August 2026, the respondent, Media24 (Pty) Ltd, published an article about the first and second applicants. The first applicant is the Speaker of the Gauteng Provincial Legislature. The second applicant is her sister.[1]

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[1] Although the first applicant litigates in her personal capacity and not as Speaker of the Legislature, the article she seeks to interdict deals with her role as Speaker so I shall refer to her as "the Speaker" in this judgment.

2 The article's headline read: "Gauteng Speaker accused of using R1.7m for a deal with US University where her sister works". The headline was followed by a photograph of the Speaker and a caption that read: "Gauteng Provincial Legislature Speaker Marokane Mosupyoe faces corruption allegations over a partnership with a university where her sister holds a senior position".

3 Before the main text of the article began, there were three bullet points that read as follows:

- The Gauteng Speaker signed a R1.7million memorandum of understanding with Sacramento State University where her sister is dean, sources allege.

- The Gauteng Provincial Legislature had allegedly funded a welcome breakfast, a farewell dinner and police escorts for the delegation, including the speaker's sister.

- Sources claim Mosupyoe failed to disclose familial relationships before entering the partnership, raising corruption concerns.

4 The applicants were aggrieved by the publication. They say that the allegation that the Speaker "committed or signed away R1.7 million of public funds in a transaction with Sacramento State, and that [her sister] stood to benefit from that expenditure" is false.

5 They therefore approached this Court for an interdict to require Media24 to remove that assertion from the article. The applicants say that if it is removed, "the factual foundation upon which the allegation of corruption rests" will be removed and with it, "nothing will be left of the sting of the article".

6 They therefore seek relief that requires this Court to order Media24 to engage in extensive amendments to the article. They do not seek an order that the article, itself, be withdrawn, nor that its continued publication be prohibited. The applicants accept that the media is entitled to report on the Speaker. The Speaker accepts that she is a public figure and that her conduct can be the legitimate subject of investigation, scrutiny, criticism and censure by the media.

7 The applicants are very specific about this. They contend that the media is free to comment on and publish about the relationship between the Gauteng Provincial Legislature and Sacramento State University. They accept that the media may also report on the memorandum of understanding that was signed between the Legislature and the University on 8 August 2024. They say the media may be critical about that memorandum of understanding; that it may report on any and all expenditure by the Legislature; that it may report on the Speaker's conduct, including whether she ought to have made certain disclosures to the Legislature and whether there was a conflict of interest given her sister's involvement in the programme.

8 They do not, as a result, seek any interdictory relief against the remainder of what is contained in the article. But the remainder of the article contains serious allegations against the applicants. They include the following:

- that sources claim that the Speaker failed to disclose a familial relationship before entering into the partnership and that this raised corruption concerns;

- that a senior manager at the Legislature had raised concerns about the conflict of interest in the partnership where public resources were being used to benefit a family member;

- that questions were being asked about:

    - why the Legislature would enter into expensive agreements with overseas universities when local institutions were struggling for funding;

    - why a delegation from the University of Sacramento was hosted in South Africa and where given Gauteng Traffic Police escorts to all the schools that they visited; and

    - why taxpayer money was being used to roll out the red carpet for a delegation that includes the Speaker's sister;

- that the total estimated cost for one cohort of students under the proposed partnership with the University would cost R1.71 million;

- that a senior manager reported that the Legislature had no record of a disclosure by the Speaker of a conflict of interest;

- that if the Speaker entered into the memorandum of understanding, knowing that her sister would benefit from it, that could constitute corruption; and

- that a member of the provincial legislature had said that the Speaker needed to account for this conduct.

9 The application was brought as an urgent interim interdict. It was launched on Thursday, 27 August 2026 – twelve court days *after* the publication, for a hearing a week later, on 3 September 2026. Counsel informed me that when that date

came, the papers exceeded 500 pages and the matter was moved to the semi-urgent roll.

10 So the case came before me just more than two months later on the semi-urgent roll. The urgency with which it was launched and the question whether the applicants had met the requirements of an urgent application remained live issues for determination. Media24 continued to resist the application on the basis that it should be struck from the roll for want of urgency, alternatively dismissed on the merits.

11 When applicants approach the High Courts urgently for relief, they have certain obligations. They must:[2]

11.1 not delay on their own side in bringing the matter before court because the risk is that they will then be guilty of self-created urgency;

11.2 design a timetable that gives the respondent an adequate opportunity to answer given the issues at stake and the time the applicant has taken to prepare the founding papers and they must provide an explanation for the truncation of the ordinary timelines in the founding affidavit; and

11.3 show that they cannot obtain suitable redress in due course.

12 The applicants in this matter failed to discharge every one of those obligations. I have accordingly decided to strike the matter from the roll.

13 My reasons are set out below with reference to each of the three obligations identified above.

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[2] Uniform Rule 6(12)(b) read with *Luna Meubel Vervaardigers (Edms) Bpk v Makin and Another* 1977 (4) SA 135 (W).

Self-created urgency

14 The applicants approached this Court twelve court days after the article was published and they set the matter down for hearing a week later.

15 They justified the urgency with which the application was brought on the basis that with each day that passes, post-publication, they suffer a "continuing wrong" in the form of false defamatory statements remaining in the public domain about them. The urgency was therefore not justified with reference to any future event that the interdictory relief was designed to prevent or interrupt. Rather, the basis for the urgency was the on-going harm that accrues to the applicants each day that the article remains published in unamended form.

16 Having described the harm that their urgent approach to this Court was designed to remedy in these terms, the applicants set a difficult task for themselves in justifying the delay it took for them to approach the Court.

17 On their own version, what justifies them being in urgent court at all is the continuing harm that they suffer each day post-publication. But if that is the harm, then the urgency must fit the harm. That case for harm is a case that would have justified the applicants being in court as soon after the publication on 9 August 2026 as possible.

18 The papers reveal that the applicants' lawyers were aware of this. They issued a letter of demand to Media24 was on Wednesday, 12 August 2026, after publication on Sunday, 9 August 2026. That letter called on Media24, amongst other things, to remove the article and publish a retraction and apology. When no response had been received by the following Monday – 17 August 2026 – the applicants' lawyers wrote again to Media24. This time, they gave a final ultimatum. The letter said that Media24 had 24 hours in which to accede to the

applicants' demands, failing which, they held instructions to approach the urgent court.

19 But the applicants did not approach this Court, as threatened, the following day. Had they done so then, Media24 could have been afforded a proper opportunity to answer the application, rather than being left with only one court day in which to do so, as was the case after the applicants eventually launched the application on 26 August 2026.

20 Instead of approaching this Court on 18 August 2026 as they had said they would, the applicants decided to change course. They approached the Press Ombudsman three days later, on 21 August 2026. The Press Ombudsman may order a correction, retraction, explanation, apology or right of reply.

21 When the applicants first approached the Press Ombudsman on 21 August 2026, they had to deal with the question whether there were court proceedings pending or anticipated that might justify the Public Advocate deciding to defer acceptance of the complainant until after those legal proceedings had been completed. The applicants expressly asked the Press Ombudsman not to defer consideration of the complaint. Their explanation for this was that they said the relief they could seek from a court would be different. In particular, they said that a damages award they would seek from a court would be backwards looking and compensatory, whereas the relief they were seeking from the Press Ombudsman would be forward looking. So they encouraged the Press Ombudsman not to defer deciding the complaint but to deal with it. The very same points that they make in this application about continuing harm were made to the Press Ombudsman.

22 So the applicants' remedy, at that stage, was to come from the Press Ombudsman.

23 But then five days later, they did another about turn, and decided to approach this Court. Their founding affidavit's explanation for this change in tack is unsatisfactory. The applicants endeavour to explain that the Press Ombudsman is not an alternative to these urgent court proceedings, but their own representations to the Press Ombudsman were to the opposite effect.

24 The one difference between the Press Ombudsman's powers and this Court's powers which they did highlight and that does amount to an important distinction is the absence of a power, on the part of the Press Ombudsman, to suspend publication while the complaint is being determined. It seems this consideration lay at the heart of the applicants' change in approach from first seeking relief before the Press Ombudsman, but then later approaching this Court for an urgent interim interdict.

25 But the difficulty for the applicants is that it was *their* election to delay coming to court and first to approach the Press Ombudsman. If they were intent on preventing the harm that, on their version, continues each day, then the Press Ombudsman was not the appropriate forum for addressing *that* type of harm. That type of harm required the applicants to present a case to this Court, at the first reasonable opportunity after publication, and then to afford the respondent a fair amount of time to answer the case.

26 Instead, the applicants took two weeks to approach the Press Ombudsman and then, while that was still pending, they changed course and approached this Court more than a week after they had threatened to do so.

27 That is the essence of self-created urgency because it is the product of the applicants' elections about what fora to approach, when. It is also antithetical to their own case for harm, to have waited for more than two and a half weeks

before approaching this Court. On their own version, each day produces a harm that they say they should not have to suffer.

28 In addition to being the authors of their own urgency, the applicants did not afford Media24 an appropriate amount of time to answer the application and failed entirely to justify the chosen truncation of time periods in their founding affidavit. Their approach to the compilation of their papers and the duties of witnesses who provide evidence on affidavit also showed a disregard for the processes of court.

The timetable

29 The notice of motion gave Media24 one court day to answer the application. It was required to file its answering affidavit by noon on Monday, 31 August 2026, with an intended court hearing date of the Thursday that week – 3 September 2026.

30 *Luna Meubel*[3] requires applicants to justify the truncation of the time periods afforded to the respondent against whom they seek urgent relief.

31 That justification must take into account how long the applicant has taken to prepare its own papers, how long the respondent is being given to provide an answer and how much time will be left to the court considering the urgent application to deal with it meaningfully before the date of chosen hearing.

32 The applicants did not provide that justification in their founding affidavit. They devoted one sentence to the issue. It was conclusory not explanatory. It said the following: “in the premises I respectfully submit that the matter is urgent, that the

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3 *Luna Meubel Vervaardigers (Edms) Bpk v Makin and Another* 1977 (4) SA 135 (W) at 137F.

degree of urgency is commensurate with the abridgement sought and that I cannot be afforded substantial redress at a hearing in due course".

33 Nowhere in the founding affidavit did the applicants explain why it would be fair to Media24 to afford it only one court day to answer the application when they had taken twelve times that to prepare it.

34 The applicants' failure to justify the time they gave to the respondent to answer the application was later exacerbated by their own conduct while they were awaiting the answer from Media24. This is what happened.

The supplementary affidavit

35 The day after the application was served on Media24, it filed a rule 35(12) notice seeking production of nine documents referred to in the applicants' founding affidavit. Given the urgency with which the application had been launched, Media24 sought production of the documents as soon as possible but, in any event, before 31 August 2026, given that that was the deadline for its answering affidavit. The rule 35(12) notice was filed on Friday, 28 August 2026.

36 The applicants produced the documents on Monday, 31 August about an hour before Media24's answering affidavit was due. But they were not simply provided to Media24 as required under rule 35(12), they were produced together with a further "supplementary affidavit". The supplementary affidavit explained certain features of the documents that had been produced and made a number of corrections to what had been stated in the founding affidavit, in the light of what was clear from the documents now produced. For example, the applicants had claimed in paragraph 88 of the founding affidavit that their relationship had been disclosed "in a report placed before the relevant oversight Committee [of the Provincial Legislature] responsible for scrutinising the matter". When the

respondent called for this “report” in the rule 35(12) notice, the applicants had to concede that no such report existed before the publication of the article and therefore were forced to “withdraw” that claim from the founding affidavit.

37 Beyond those types of corrections, the applicants also used the supplementary affidavit to place another document before the court, not called for in the rule 35(12), but nonetheless a document which the applicants viewed as sufficiently material to bring to the respondent’s attention one hour before it was required to file its answering affidavit. That document included the R1.71 million figure that was referred to in the article. Its relevance for the issues in the matter was therefore material. No explanation was given for why it had not been dealt with in the founding affidavit that had been prepared over twelve court days. Instead, with one hour to go before Media24’s answering affidavit was due, the applicants not only provided the documents that had been sought the previous Friday in the rule 35(12) notice but also provided further documents material to the issues that had not been included in their founding affidavit.

38 In seeking leave to have the supplementary affidavit admitted, the applicants made a staggering claim. They said that there would be no prejudice to Media24 if the affidavit was admitted because it would be:

> “delivered on 30 August 2026, before the answering affidavit falls due at 12h00 on 31 August 2026 in terms of the timetable proposed in the Notice of Motion. The Respondent is accordingly able to deal with every matter herein in its answer, in the ordinary course and without any abridgement of the time already allowed to it”.

39 But that statement in the affidavit was not correct. The supplementary affidavit was deposed to by the Speaker on Monday, 31 August 2026.

40 When the Speaker went before the commissioner of oaths on 31 August 2026, she must have known that the statement was incorrect because it said that the supplementary affidavit had been delivered the day before, when that had clearly not taken place. She was only deposing to it on Monday, 31 August 2026.

41 Despite this, the Speaker made no amendments to the supplementary affidavit. She did not alter the statement about no prejudice to Media24. When witnesses who depose to affidavits leave such obvious errors uncorrected, courts are left with a legitimate concern about the care with which those affidavits have been studied before they are signed.

42 The Speaker's oversight was magnified in this case because part of her rationale for filing the supplementary affidavit was that she needed to correct certain claims that she had made in her founding affidavit, in the light of the documents which Media24 had required be produced under the rule 35(12) notice. So the Speaker was already concerned about correcting inaccuracies in her founding affidavit, when she deposed to the supplementary affidavit. Whatever latitude can be afforded to parties for their affidavits in urgent proceedings,[4] making claims under oath that are obviously wrong, are not included in that latitude.

43 The problems with the applicants' affidavits do not, unfortunately, stop at this statement in the supplementary founding affidavit. There are at least three further aspects of the affidavits that undermine the case that the applicants sought to place before the Court for the indulgence of being afforded precedence ahead of other litigants who dutifully wait their turn on the ordinary roll.

The CIPC records

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[4] For example, it is well established in our law that there is a latitude afforded to the receipt of hearsay evidence in urgent application for interim interdictory relief - *Cerebos Food Corporation Ltd v Diverse Foods SA (Pty) Ltd and Another* 1984 (4) SA 149 (T) at 157E – G.

44 The applicants attached more than 60 pages of CIPC company search records as the second annexure to their urgent application. This, they claimed, was to reflect the registered address of Media24. But there was no respect in which the registered address of Media24 was an issue likely to be in dispute in the application, nor, indeed, a fact requiring proof by way of 60 pages of company search records. Despite this, the applicants saw fit to burden their founding papers with 60 pages of entirely irrelevant and unnecessary CIPC search records.

45 That unnecessary surplusage was one of the reasons that the matter was moved to the semi-urgent roll.

The date of publication

46 In addition to attaching entirely irrelevant and unnecessary documents to their founding papers, the applicants also made a material error in their founding affidavit about when the impugned article was published. A substantial part of the applicants' case for interdicting the publication related to the inadequacy of the right of reply that they had been afforded.

47 The article was published on Sunday, 9 August 2026. For some period after it was published, it seems the applicants made an error and thought that it had been published on Saturday, 8 August 2026. This is evident from the first letter of demand that they wrote to Media24 on 12 August 2026. The error is material because it was common cause between the parties that the journalist who had written the article had made attempts to contact both the Speaker and her sister on the afternoon of Friday, 7 August 2026. The applicants' case was that those efforts had not come to their attention before publication and that, as a result, they had not been afforded an adequate opportunity to respond.

48 They framed their case, in their founding affidavit, for the unreasonableness with which the publication went ahead, on the basis that the publication had followed shortly after contact with them was attempted on Friday, 7 August. Their founding affidavit said, incorrectly, that the publication had occurred the very next day – on Saturday, 8 August 2026. The result of this error is that the most critical day for the assessment of the reasonableness of the parties' conduct – namely, Saturday, 8 August 2026, was left wholly unaccounted for in the founding affidavit.

49 That is another error that ought to have been corrected by the Speaker before she deposed to the founding affidavit. She made no such correction, however. And she persisted with the error in the supplementary affidavit that was filed on Monday, 31 August 2026. It was only when the Speaker deposed to the replying affidavit that she corrected the error. She explained it on the basis that the reference to "8 August" had been a "typographical" error. But that is not what it was. When a person makes a typographical error, she intends to type "9" but ends up typing "8". In other words, if it were only a typographical error, then the applicants would have been aware that publication only took place on a Sunday, after contact with them was attempted on a Friday. And if that had been their understanding, then they would have dealt with what they had done on Saturday, 8 August 2026. But nowhere in the founding affidavit is that day dealt with by the Speaker. The Speaker explains her movements on the Friday, 7 August 2026 in an effort to indicate to the Court why the journalist's WhatsApp message to her on that day did not reach her but then the papers are entirely silent about what happened on the Saturday because the premise underpinning the founding papers was that Saturday did not need to be accounted for, as it was the day of publication.

50 So the explanation, proffered in reply, of a "typographical" error with the dates does not square with the applicants' failure to deal at all with their movements on Saturday, 8 August 2026, anywhere in their papers.

The calls between the applicants

51 The final material error in the applicants' affidavits appeared in the replying affidavit. To explain its significance, some background to the content of the answering affidavit is required.

52 In the answering affidavit, Media24 raised concerns about a series of calls that had taken place between the second applicant and a person they assumed was the Speaker because her name was recorded as "Morakane Winnie" in the second applicant's phone records. There were four calls in total after the journalist, Mr Masungwini, had sent messages both to the Speaker, and her spokesperson, as well as the second applicant's University on Friday afternoon, 7 August 2026. Media24 stated clearly that it could not establish the duration of the calls from the call records, nor what was discussed during the calls, but given that the calls occurred after attempts had been made to contact the applicants, they required explanation.

53 The Speaker's response in her replying affidavit is important so I quote it in full below:

> "I do not dispute that those calls occurred. I confirm, further, that the contact recorded on the second applicant's telephone as "Morakane Winnie" is me. I make that admission openly rather than requiring the Respondent to prove an inference which is obviously correct.
>
> What is disputed is the inference the respondent seeks to draw. The respondent expressly acknowledges … that the records do not disclose the duration or content of the calls and that it does not contend that they establish what was discussed.

> The records therefore establish no more than that communication occurred, and the time at which it occurred. They do not establish the subject matter of the communication.
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> The applicants are sisters. We communicate with one another as family members, and we communicate in addition when circumstances require it professionally and administratively. The mere existence of calls between them cannot establish that the respondent's questions were communicated during those calls."

54 There are a number of problems with these paragraphs from the replying affidavit. The first is that the replying affidavit is the Speaker's evidence before this Court. She is responding, in reply, to the allegation that she and her sister discussed the journalist's questions before publication of the article. All that the Speaker needed to do, if she and her sister had not discussed the journalist's questions was to say that, in order to put the matter to bed. But that is the one thing that the Speaker never says in her response. She deals with what they customarily discuss between them. But even her description of what they customarily discuss between them could cover a discussion about the journalist's questions because those questions arguably related to "professional" matters between them.

55 In addition to this, the replying affidavit moves between the first and the third person. Because this is the Speaker's affidavit and no one else's, it would be expected for her to use the first person when dealing with issues within her personal knowledge. That is why it makes sense for her to have stated, for example, that "we communicate with one another as family members" (emphasis added). But then, the very next sentence was framed in the third person: "The mere existence of calls between them cannot establish that the respondent's questions were communicated during those calls" (emphasis added).

56 The reason why this is important is because by moving to the third person, it is not clear what the Speaker's own evidence is on this critical aspect of the case. Did she or did she not discuss the journalist's questions with her sister? When the replying affidavit shifts from the first person to the third person, in quick succession, the court is left with the impression that the affidavit is conveying the version not only of the Speaker but someone else, who is not the Speaker.

57 It is no doubt so that lawyers draft affidavits for their clients. That is not the issue that is a cause of concern. While lawyers may draft affidavits, it is only witnesses who depose to them under oath. They must be scrupulous in their attention to their content, and hence, their accuracy.

58 This duty is acute in urgent applications where courts are being called upon to make quick decisions that determine the rights of parties. More, rather than less, care to be accurate should be taken by witnesses who seek preference on the court's roll. My point here should not be misunderstood. Anyone can make an error, including judges.[5] A witness who frankly explains an error equips the court to move past it. But that is not what has happened in this case. In this case, the Speaker's lose treatment of the facts has left serious unanswered concerns about how closely she was considering the contents of the affidavits to which she deposed. To summarise, the main features of this concern relate to the following.

58.1 The Speaker's failure to correct an affidavit that stated that it had been served on the respondent a full day before it was.

58.2 The Speaker's false claim that there could be no prejudice to a respondent who receives a further substantive affidavit one hour before the answer is due.

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5 *Department of Transport and Others v Tasima (Pty) Ltd* 2017 (2) SA 622 (CC) para 182.

58.3 The Speaker's explanation that the error in the date of the article's publication was merely a "typographical" error when, substantively, it was not that.

58.4 The Speaker's failure to state clearly and unequivocally what was discussed on the phone calls between her and her sister.

58.5 The Speaker's failure to remove or correct the observations from the draftsperson of her affidavit about those conversations when the Speaker would know first-hand what was and what was not discussed.

59 Thus, not only did the applicants fail to justify the truncation of the time periods that they required Media24 to meet in this urgent, but they exacerbated the already limited time afforded to Media24 by filing a supplementary affidavit to correct their own errors and then falsely claimed that there could be no prejudice to the respondent as a result of this further evidence needing to be answered.

60 The number of errors in the Speaker's affidavits also call into question the care with which their contents were being considered. Although the replying affidavit was filed with an annexure that was an unsigned document from the second applicant dealing with some of these facts, there was no evidence supporting the application from the second applicant that accompanied the founding papers. There was a letter that accompanied the replying affidavit that said that an affidavit would be provided by the second applicant in due course. That was only produced just short of two months later.

61 When litigants seek to move courts urgently, they should be scrupulous to ensure that the version they place before the court is accurate and timeously commissioned. The stakes are particularly high in urgent applications because courts are being asked to determine rights without the latitude of time for

reflection and respondents are being called on to defend their rights with less time than they would usually have to do so.

Redress in due course

62 Uniform rule 6(12)(b) provides as follows:

> "In every affidavit filed in support of any application under paragraph (a) of this subrule, the applicant shall set forth explicitly the circumstances which it is averred render the matter urgent and the reasons why the applicant claims that the applicant could not be afforded substantial redress at a hearing in due course."

63 In so far as this third consideration is concerned, the applicants framed their urgent relief in a curious way. They came to court for an interim interdict in part A, pending the determination of the Press Ombudsman complaint that they lodged before approaching this Court, together with part B of this application. But part B is not a damages action, which is usually the relief sought by defamation plaintiffs after they have secured interim interdictory relief. Part B, as framed by the applicants, will be another hearing to determine whether a final interdict should be granted.

64 So they approached the urgent court pending relief that they accept they anticipated being able to obtain from the Press Ombudsman or this Court if they are permitted to return to it to argue for a final interdict.

65 Having structured their notice of motion in this manner, they then did not place themselves under any timeline to bring the part B proceedings for their final interdict. So they, in effect, were seeking an urgent interim interdict that would

have operated for as long as they wanted it to, as they placed themselves under no time constraints to progress Part B.

66 By the time of the hearing of the matter, the applicants appreciated that these features of their original framing of the case were against them. So they amended their notice of motion to seek relief only pending a part B final interdict which they stipulated had to be launched within 20 days of the part A order.

67 But these are all features of their case that should have been ironed out in the two and a half weeks they took before coming to court. A litigant who has to make multiple amendments to urgent relief, that should have been properly and carefully considered before the matter was launched, does not equip a court to make a clear determination that there will not be substantial redress in due course.

68 Although a court applying rule 6(12)(b) is usually weighing up the preference that an urgent applicant seeks on the urgent roll as against the impact on the applicant's rights if she were to come in the ordinary course before the court, it seems to me relevant to the discretion that a court exercises when weighing whether to entertain a matter on the urgent roll to consider what other remedies were available to the applicant to achieve substantial redress.

69 In this case, the Press Ombudsman route presented an alternative avenue for redress for the applicants. On their own version, they thought it could provide them with redress because they approached it first and motivated for the Public Advocate not to delay dealing with the complaint.

70 The applicants in this case were not trying to engage an urgent court to stop publication *before* it occurred – something that it is accepted the Press Ombudsman could never give them. They were choosing between remedies, that

would have required Media24 to cure the very harm of which the applicants complain, coming either from the Press Ombudsman in the form of retractions or published rights of reply, on the one hand, or the urgent court, on the other.

71 There was, as a result, another avenue available to the applicants for redress. They chose initially to invoke it and then decided to discard it. That was their election – an election which means that they have failed to satisfy the requirements for their case to be given the precedence over all the other cases that must wait their turn on the ordinary roll.

Conclusion

72 For the reasons set out above, any one of the three failings of this case would have justified it being struck from the roll.

73 The urgency with which it was brought was entirely the product of the applicants' own elections along the way. The prejudicial timetable set for the respondent was never adequately explained and was then only exacerbated by the applicants' own late filing of a supplementary affidavit. The Speaker's many errors in her affidavits showed a disregard for the seriousness of deposing to facts under oath. Finally, the applicants' own framing of the relief they sought from this court showed an appreciation that the Press Ombudsman provides another avenue for redress but the applicants elected to put that remedy on ice when it presented a potential obstacle to relief from this Court.

74 Against all those considerations, I am not satisfied that the matter was appropriately enrolled for urgent adjudication. It should, therefore, be struck from the roll with costs.

75 In so far as the measure of costs is concerned, Media24 sought attorney and client costs. In my view, they are warranted. The reason for this lies in the wholly unreasonable, and never justified, one court day that Media24 was given to answer the application. That unjustified truncation was then exacerbated by the filing of a further substantive affidavit one hour before the answer was due. A respondent, who is placed under such punishing timelines by applicants who have had the luxury of two and a half weeks to prepare their founding papers, is entitled to costs that mark the inappropriateness of the applicants' conduct.

76 I therefore grant the following order:

a) The matter is struck from the roll with attorney and client costs, including the costs reserved from 3 September 2026, with such costs to include the costs of counsel, to be paid jointly and severally by the first and second applicants, the one paying the other to be absolved.



K HOFMEYR

ACTING JUDGE OF THE HIGH COURT

APPEARANCES

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