

**IN THE HIGH COURT OF SOUTH AFRICA  
(KWAZULU-NATAL DIVISION, PIETERMARITZBURG)**

**Case No:** \_\_\_\_\_

In the matter of:

**EQUAL EDUCATION**

Applicant

and

**MEC FOR EDUCATION: KWAZULU-NATAL**

First Respondent

**POLICE COMMISSIONER OF KWAZULU-NATAL**

Second Respondent

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**APPLICANT'S FOUNDING AFFIDAVIT**

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I, the undersigned,

**NTSHADI MOFOKENG**

do hereby make oath and state:

- 1 I am an adult female, serving as the Chief Operations Officer of Equal Education (“EE”), the applicant in this matter.

- 2 I am duly authorised to depose to this affidavit and to bring this application on EE's behalf. A copy of the resolution is annexed hereto marked "**NM1**".
- 3 The facts contained in this affidavit are both true and correct. Unless the context indicates otherwise, they fall within my personal knowledge.
- 4 The submissions of law I make in this affidavit are made on the advice of EE's legal representatives.

#### **A. THE PARTIES**

- 5 The applicant, EE, is a registered non-profit organisation with registration number 068-288-NPO and a registered public benefit organisation with tax exemption number 930 027 221. EE's principal place of business is situated at 2nd Floor, Isivivana Centre, 8 Mzala Street, Khayelitsha, Western Cape.
- 6 EE is established in terms of a written constitution which authorises it to sue and be sued in its own name. The relevant sections of EE's constitution are attached hereto marked "**NM2**". EE therefore has standing to bring this application in its own name.
- 7 EE has resolved to institute these proceedings in furtherance of the objectives of its constitution, promoting and defending basic democratic

principles and rights, including the right to assemble and the right to freedom of expression.

8 The first respondent, is the **MEMBER OF THE EXECUTIVE COUNCIL FOR EDUCATION IN THE KWAZULU-NATAL PROVINCIAL GOVERNMENT** (hereinafter, “**Education MEC**”) of the Fourth Floor, Anton Lembede House, 247 Burger Street, Pietermaritzburg, 3200. The Education MEC is responsible for facilitating access to basic education in Kwazulu-Natal. He is cited care of the State Attorney, 6th Floor, MetLife Building, 391 Anton Lembede Street, Durban, 4000. The present incumbent is Mr Mthandeni Dlungwane.

9 The second respondent, is the **POLICE COMMISSIONER OF KWAZULU-NATAL** (hereinafter, “**the KZN Police Commissioner**”), at 15 Braam Fisher Avenue, Durban. The present incumbent of the position is MAJ GEN B Langa (Acting). The KZN Police Commissioner is responsible for giving effect to national legislation and policy relating to policing services, reports directly to the National Commissioner and is responsible for the various divisions within KwaZulu-Natal.

## **B. THE PURPOSE OF THIS APPLICATION**

10 This application is about the right of children, and in particular learners, to peacefully picket and protest. South Africa has a rich history of student

protests. Protest action is also one of the few effective political tools that minors can use to articulate their views and wishes and to hold political power to account. This application is therefore about safeguarding this right and placing the interests of children at the centre of any decisions affecting them.

- 11 On 11 July 2017, EE members, who are learners as well as EE staff, began to peacefully gather outside the KwaZulu-Natal Department of Education (hereinafter, "**KZN DOE**") offices in Pietermaritzburg (hereinafter, referred to inter-changeably as "**the protest**" or "**the gathering**").
- 12 The protest took place after EE had given adequate notice in terms of the Regulation of Gatherings Act 205 of 1993 (hereinafter, "**the RGA**") and followed all the requisite procedures prescribed by the RGA.
- 13 Despite this, the protest was unlawfully dispersed, and EE members, many of whom were minors, were threatened with physical harm, including tear gas by the respondents.
- 14 The unlawful dispersion of EE's and its members' protest resulted in the violation of numerous constitutional rights. In addition to the affront to the right to assemble and the best interests of children, the respondents' shutting down of the protest also implicated the right to education, which the Equalisers had gathered to assert. EE's core membership base is high school learners from poor and working class communities,

called “Equalisers”. Equalisers actively advocate for quality education for all. These learners spearhead EE as a movement.

15 The violent and intentional manner of preventing a lawful protest infringed on the dignity of EE’s members, and threatened their right to safety and bodily integrity.

16 Accordingly, in this application, EE approaches the court for relief primarily in the form of an order that:

16.1 Declares unlawful and unconstitutional the dispersal of EE’s lawful protest.

16.2 A public apology from the respondents, to EE, its members and the general public. The nature and form of the public apology sought by EE will be discussed further below.

17 EE brings this application in order to vindicate its own rights, but also to vindicate the individual rights of its members and particularly those who participated in the planned protest. EE also considers it of critical public importance that the respondents, as representatives of the state, understand fully the nature of the rights violations at play, and that an appropriate order, capable of vindicating these rights, be made.

18 The rest of the affidavit proceeds as follows:

- 18.1 In **PART C** I set out EE's work and show that EE has standing to bring this application;
- 18.2 In **PART D** I set out the background that has led to this application. This part contains two sections, section (a) being the factual context and section (b) being the legal context of this application;
- 18.3 In **PART E** I show that the respondents violated the constitutional rights of EE and its members;
- 18.4 In **PART F** I set out the correspondence between EE and the respondents since the protest was unlawfully shut down, showing how EE unsuccessfully attempted to obtain a response from the respondents to EE's and its members' demands; and
- 18.5 Finally, in **PART G** I discuss the relief sought by the applicant.

### **C. EQUAL EDUCATION'S WORK AND STANDING IN THIS APPLICATION**

- 19 EE is a social movement comprised of learners, teachers, parents and community members, with the core objective of achieving quality and equality in South African education.
- 20 To achieve its objectives, EE conducts a broad range of activities set out in its constitution, the relevant parts of which are attached hereto as part of "**NM2**". These activities include, but are not limited to:

- 20.1 developing the capacity of learners, parents, teachers and community members to drive improvement in their schools and educational institutions;
  - 20.2 conducting and applying research on the state of the education system in South Africa;
  - 20.3 engaging constructively with the State on the best practices in the management and governance of the education system including through meetings, letters or briefs and input into legislative and policy development processes;
  - 20.4 campaigning for a curriculum and pedagogy that is academically rigorous and that promotes dignity, creativity and social justice;
  - 20.5 providing information about education, human rights and Constitutional Court jurisprudence to the public; and
  - 20.6 where necessary, using the courts and legal processes to advance the values of, and to contribute to, a strong civil society that holds private interests, government, individuals, and itself accountable.
- 21 Currently, there are approximately 6732 Equalisers who are members of EE, and who are active across areas of KwaZulu-Natal, Eastern Cape, Western Cape, Limpopo and Gauteng. The Equalisers participate on a weekly basis in the work of EE through youth group meetings held in schools and in larger spaces in communities.

- 22 EE also has a parent following, with 11 EE parent branches located in the Western Cape. EE has many other active supporters.
- 23 EE has conducted awareness programmes and campaigns for the improvement of education in the provinces in which Equalisers are active, and at a national level.
- 24 In furtherance of EE's campaigns, EE has engaged provincial and national departments through, amongst others, meetings, letters, petitions, pickets and marches. Our marches have taken place in Cape Town, Johannesburg, Tshwane, Polokwane North and Bhisho.
- 25 Where necessary, we have resorted to the courts in furtherance of our objectives and campaigns. Our approach has been to resort to legal action only when other avenues of democratic engagement have been exhausted.
- 26 EE conducts its work in the interest of its members and learners across South Africa, by working towards achieving its core objectives and advancing the right to an equal and quality education system.
- 27 Part of the right to education includes physical access to schools, which is a particular challenge for poor rural learners, such as the members of EE who are based in the district of Nquthu, in KwaZulu-Natal. The KZN DOE reported (in a report pursuant to court order dated 7 November 2017 in the matter between Equal Education and the MEC for Education, KZN and

others, case number 3662/17P, annexed hereto and marked “**NM3**”) that the number of learners in need of scholar transport to access their schools, as at 1 April 2018, is 370 682 learners.

28 Since July 2014, these Equalisers, together with EE staff, have driven a campaign for the provision of safe scholar transport to learners in need, who walk across dangerous terrain and long distances to and from school. Their stories are harrowing; there have been incidents of crime, including rape, and learners arrive at school tired, often late, malnourished and struggling to concentrate. This has been a severe impediment to these learners accessing their right to education.

29 Therefore, EE has standing to bring this application:

- a) in terms of section 38(a) of the Constitution, in its own interest as an organisation that has as one of its objectives, promoting and defending basic democratic principles and rights such as the rights to dignity, to assemble and to freedom of expression;
- b) in terms of section 38(b) of the Constitution, on behalf of the learners who attended the protest on 11 July 2017, who have been, and will continue to be affected by the unlawful actions of the respondents, and who for lack of resources, lack of knowledge of their rights, and lack of access to legal services, cannot individually bring these proceedings;  
and

- c) in terms of section 38(d) of the Constitution, in the public interest.

#### **D. THE BACKGROUND TO THIS APPLICATION**

30 In order to fully articulate the manner in which the unlawful dispersal of the protest constituted a particularly egregious, offensive and unjust harm towards the applicant and its members, it is necessary to briefly set out the context of the protest that was planned and the steps which EE took to ensure that the protest went ahead lawfully and peacefully.

##### **Factual background**

##### **EE's Scholar Transport Campaign**

31 In 2013, the KZN DOE adopted a Scholar Transport Policy, (*Policy on Learner Transport for Public Schools*, 1 March 2013, attached hereto and marked "NM4", which states that learners are eligible for scholar transport if they have to walk for more than 3km between home and their nearest appropriate school.

32 In July 2014, EE initiated the Scholar Transport Campaign for the provisioning of scholar transport in KwaZulu-Natal. This campaign has been led by EE members, and especially learners in KwaZulu-Natal who were faced with challenges getting to and from school, which has limited their access to a basic education.

- 33 The advocacy and research which took place in the years that followed revealed the dire situation of poor rural children, compelled by the absence of state subsidised transport, to walk dangerous terrain and long distances to and from school, compromising their safety, health, equality and access to education.
- 34 In the beginning of 2015, EE met with the Director of the Umzinyathi Education District, the District within which Nquthu falls. The District Director, Mr M. Majola informed EE that only 15 out of the more than 500 schools in this District were provided with scholar transport and that this is due to budgetary constraints.
- 35 Following the trip, EE conducted further research in order to determine the depth of the scholar transport problem in KwaZulu-Natal, and especially in Nquthu.
- 36 EE's research findings revealed that there was indeed a need for a scholar transport campaign, and particularly in Nquthu. It found that KwaZulu-Natal has the highest proportion of learners in the country who walk to school. Despite having the greatest need, KwaZulu-Natal underspent on their 2014/2015 budget by R15 437 000. See Basic Education Rights Handbook (Chapter 16: Scholar Transport) and the KwaZulu-Natal Department of Transport Annual Report 2014/2015 (Part B: Performance Information), attached hereto and marked "**NM5**" and "**NM6**".

- 37 Between 2015 and 2017, EE and its members have taken a variety of actions and put an enormous amount of time and energy into the Scholar Transport Campaign. We have written submissions to parliament, written various letters to the KZN DOE, held marches and written articles on learners' plights. The protest action on 11 July 2017 was part of this peaceful and worthy campaign, which is close to the hearts of EE and its members who had poured much energy, passion and time into it.
- 38 At the protest, EE and its members had intended to screen 'Long Walk to School', a short film which was created to highlight the challenges learners in Nquthu face in accessing a basic education, as well as to provide the public with information on EE's campaign.<sup>1</sup>
- 39 EE had intended to launch this film in KwaZulu-Natal at the protest, as part of a creative and peaceful protest, by projecting the film onto the wall outside the KZN DOE's office building, located at 247 Burger Street, Pietermaritzburg.
- 40 The screening of the film, which demonstrates the lived reality for thousands of poor learners around the Province, and indeed the country, was intended as an instrument to give the learners a voice to share their difficulties and show how this issue has a significant impact on their lives and their futures.

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<sup>1</sup> The 'Long Walk to School', is accessible at: <https://www.youtube.com/watch?v=2CcM5FhG000>

41 The film documents the lives of EE members in Nquthu, their aspirations for a quality and safe education, and the challenges they face because of the lack of scholar transport provisioning.

42 At the beginning of the film, the viewer is introduced to then 16 year old Equaliser Siphilele Thusini, from Nquthu, who leaves home at approximately 05h00 and walks approximately 12km to school. He arrives approximately two hours later, having crossed through a grove and a river. Despite these difficulties, Siphilele matriculated in 2016. Siphilele explains what this long walk to school means:

*“If it rains and the river is full, we would not go to school because we were scared we would drown. We would get to class tired and sometimes miss the first periods”.*

### **EE’s compliance with the law regulating protests**

43 In addition to EE’s internal preparations for the protest, the organisation took all the necessary steps prescribed by the RGA to ensure that the planned protest was lawful and in compliance with the relevant sections of the RGA. In the paragraphs that follow I set out the steps taken by EE, as prescribed by the RGA.

44 I was the convenor of the protest. On 30 June 2017, I submitted a completed notice in terms of section 3 of the RGA (hereinafter, “the notice”) at the Msunduzi Municipality located at 21 Washington Road,

Pietermaritzburg. The notice indicated that an anticipated number of 30 people intended to gather for the film screening at 247 Burger Street, Pietermaritzburg on 11 July 2017 at 16:00. The notice is annexed hereto marked "**NM7**".

45 On or about 30 June 2017, I was contacted by Ms Nobuhle Mpanza, an official from the Msunduzi Municipality's Traffic Department, who informed me about the meeting constituted in terms of section 4 of the RGA (hereinafter, "the section 4 meeting") that was scheduled for 4 July 2017.

46 On 4 July 2017, I attended the aforesaid meeting held at the Msunduzi Municipality. Attendees at this meeting included an officer from KZN SAPS and members from the SAPS Crime Intelligence unit and Msunduzi Municipality Security. The attendance register of the section 4 meeting is annexed hereto marked "**NM8**".

47 At the section 4 meeting:

47.1 the protest was acknowledged by the relevant authorities who confirmed it would include a screening of EE's 'Long Walk to School'.

47.2 I was informed of guidelines and conditions that EE and its members would be expected to adhere to during the protest. I was not informed of any objections to the film screening.

48 During the week before the protest, Ms Nobuhle Mpanza again contacted me telephonically on 10 July 2017 and requested that I sign an "approval

document” issued by the City Manager on the same day. I was informed that this document would record the approval of the protest contemplated in the notice, and would note relevant conditions.

49 I proceed to sign this approval document on 10 July 2017 at 12h34. A copy of the signed approval document is annexed hereto marked “**NM9**”.

50 Although a duly completed notice is the document under which a protest is acknowledged, and the RGA makes no provision for any additional “approval document”, I note that the approval document evidences an acknowledgement and acceptance on the part of the relevant authorities of the intended protest, and that it makes no objection to the screening of EE’s film at the protest.

51 However, despite having taken all the steps required in law for the peaceful assembly to take place, the protest was unlawfully disrupted by certain officials from the KZN DOE and the KZN SAPS.

### **The respondent’s unlawful dispersal of the protest**

52 On the morning of 11 July 2017, I received a call from a warrant officer asking whether the protest action was still scheduled to proceed and whether any changes to the initial protest plans had been made. He also confirmed the times that EE would be holding the protest action.

53 On the same day, and in accordance with the notice, approximately 30 people gathered outside the office building of the KZN DOE and began preparations for the film screening. Many of those gathered were under the age of 18.

54 During preparation, two warrant officers, one being a Mr Khumalo, approached EE, requested to see the convener, and was shown the approval document. Mr Khumalo asked a few questions about the protest action and indicated that EE could proceed to set up.

55 A short while after, Mr Ngubane, an official who claimed he was Head of Security at the KZN DOE, together with Mr Khumalo, informed me that we were not permitted to continue with the protest. The officials' stated reasons for this were that:

(a) the approval document did not indicate at which address the protest was going to be held and the timeframes within which the protest was meant to take place.

(b) learners were attending the protest without their school's permission and that this was problematic.

(c) EE was not permitted to gather at the location because the approval document was fraudulent.

(d) the KZN DOE's permission is required when learners in school uniform are protesting.

- 56 Mr Ngubane and Mr Khumalo were later joined by another KZN DOE official, Mr Shangase, who raised the same concerns as those set out in paragraph 55 above, pertaining to the approval document.
- 57 Under threat of halting the protest action, one of the KZN DOE officials then asked me to go inside the KZN DOE building to discuss the matter further. I was joined in this meeting by EE Leadership Committee members (EE Leadership Committee members are elected Equaliser leaders from each school in which EE is organised) from the KwaZulu-Natal branches.
- 58 During the discussion that followed inside the KZN DOE's office building, one of the KZN DOE officials restated that EE needed the KZN DOE's permission to protest when learners are involved in such protests, especially when learners are protesting in school uniform. He added that forms requesting such permission are available from school principals and School Governing Bodies. The KZN DOE officials then repeated that EE was not permitted to continue with the film screening and the protest. I deal further with this assertion below.
- 59 As EE had complied with the provisions of the RGA and had provided the required notice required in law, we refused to cancel the film screening and the protest.
- 60 Before the meeting concluded, I requested that a KZN DOE official engage telephonically with an attorney from our legal representatives at the Equal Education Law Centre (hereinafter, "EELC"), to which the official refused.

When I placed my phone, with our attorney Daniel Linde on the other end of the call, on the speaker to participate in the meeting, the official stated that the meeting would not continue with Mr Linde participating. Mr Linde's confirmatory affidavit is attached marked "**NM10**". EE and the learners were therefore denied legal representation in the meeting.

61 A KZN DOE official then ordered the warrant officer, Mr Khumalo, to proceed to disperse EE members.

62 I repeatedly informed the officials that the organisation's and the learners' constitutional rights, including the right to freedom of assembly, were being violated. When I stated this at the conclusion of the meeting in the KZN DOE office building, Mr Shangase, a KZN DOE official, responded by saying, in a sarcastic and patronising tone, that EE would be free to challenge the KZN DOE's actions in court.

63 I then left the meeting in order to join the protest outside.

64 Once outside, KZN DOE officials and police officers made aggressive threats to act violently. Ignoring our objections, the KZN DOE officials ordered officials from KZN SAPS to disperse EE members present at the protest. Mr Ngubane instructed officials from KZN SAPS to ready themselves and make use of tear gas to disperse the EE members, with no regard to the protesters' peaceful conduct and the fact that there were numerous children present.

- 65 Due to these threats and the aggressive manner in which KZN DOE and KZN SAPS officials spoke to EE members, we were compelled for the safety of ourselves and our members, to end the film screening prematurely, and, by extension, the protest. EE members continued to sing songs for a short period thereafter before dispersing.
- 66 The manner and timing in which EE members were ordered to disperse did not allow us sufficient time to obtain any legal remedy, such as applying for an urgent interdict, in order to uphold our and our members' rights.
- 67 The shutting down of the protest was a breach of the RGA, which is meant to enable and protect the right to assemble, and a violation of numerous rights of EE and its members, which include children. As we illustrate below and in the supporting affidavit of Demichelle Petherbridge, the conduct also left our members insulted, offended and scared, and created an impression that efforts to lawfully and peacefully gather will be met by the State with disdain, disregard, aggression and cynical unlawfulness.
- 68 Our legal representatives at the EELC wrote to the respondents on 6 October 2017, setting out the relevant facts relating to the unlawful shutting down of the protest and the relevant law that the respondents had acted in breach of. In the letter they demanded, amongst other things, that EE's members receive a public acknowledgment of the respondents' wrongdoing and a public apology, as there would be little else available to vindicate the rights of our members after the fact. A copy of that letter is annexed marked "**NM11**".

69 Later on in this affidavit, I set out the ensuing correspondence between ourselves and the respondents on this matter. For now, I point out that, despite numerous requests, we have received no substantive response to our letter of 6 October 2017.

70 In the next section of this part of the affidavit, I set out the relevant Constitutional and statutory framework that should have guided the respondents and which they acted in breach of when they dispersed the protest.

### **The Constitutional and Statutory Framework**

71 The Constitution guarantees and protects peaceful and unarmed assembly. Section 17 of the Constitution states:

*“Everyone has the right, peacefully and unarmed, to assemble, to demonstrate, to picket and to present petitions.”*

72 The RGA was enacted to “*regulate the holding of public gatherings and demonstrations*”. In its preamble, it recognises the right of every person “*to assemble with other persons and to express his views on any matter freely in public and to enjoy the protection of the State while doing so*”. The preamble of the RGA – like section 17 of the Constitution – also recognises that the exercise of the right to assemble should be exercised peacefully.

73 In this section, I set out the scheme of the RGA in some detail. This is necessary to later illustrate the unlawfulness of the actions of the KZN DOE

and KZN SAPS officials. It should also be noted that the only thing that the Constitution requires of a gathering or assembly is that it should be peaceful and unarmed.

74 This discussion is divided as follows:

- a) The definition of gathering in terms of the RGA;
- b) The notice requirement;
- c) The consultation and negotiation process (“the section 4 meeting”); and
- d) The conduct of gatherings.

a) **A gathering in terms of the RGA**

75 Section 1(vi) of the RGA defines a gathering as:

*“any assembly, concourse or procession of more than 15 persons in or on any public road as defined in the Road Traffic Act, 1989 (Act 29 of 1989), or any other public place or premises wholly or partly open to the air-*

- (a) at which the principles, policy, actions or failure to act of any government, political party or political organization, whether or not that party or organization is registered in terms of any applicable law, are discussed, attacked, criticized, promoted or propagated; or*

(b) *held to form pressure groups, to hand over petitions to any person, or to mobilize or demonstrate support for or opposition to the views, principles, policy, actions or omissions of any person or body of persons or institution, including any government, administration or governmental institution”*

b) **The Notice Requirement**

76 The key mechanism of the RGA revolves around the notice requirement, as the convener of a gathering should give notice in terms of Section 3(1) to “*give notice in writing signed by him of the intended gathering in accordance with the provisions of this section*”.

77 Section 1(iv) of the RGA defines a convener to mean:

“(a) any person who, of his own accord, convenes a gathering; and

(b) in relation to any organization or branch of any organization, any person appointed by such organization or branch in terms of section 2(1)”.

78 Section 3(2) of the RGA requires that the notice is given to the responsible officer. Section 1(xiv) read with Section 2(4) of the RGA states that a responsible officer is an official of the relevant municipality.

79 Section 3(2) of the RGA also requires that the notice must be given at least seven days prior to the planned gathering, although it may be given up to 48 hours before the gathering.

80 Section 3(3) of the RGA states that the notice must include relevant details of the gathering including the time, place, expected attendance, the route to be followed and the purpose of the gathering.

81 The RGA, therefore, contemplates a notice procedure rather than an application procedure.

c) **The consultation and negotiation process “the section 4 meeting”**

82 Once notice has been given, Section 4 of the RGA allows for the responsible officer to decide, in consultation with the authorised member (who is a member of the SAPS authorized/appointed in terms of Section 2 of the RGA), whether it is necessary to hold negotiations with the convener on the conduct and conditions of the gathering.

83 Section 4(1) of the RGA states:

“If a responsible officer receives notice in terms of section 3(2), or other information regarding a proposed gathering comes to his attention, he shall forthwith consult with the authorized member regarding the necessity for negotiations on any aspect of the conduct of, or any condition with regard to, the proposed gathering.”

84 Section 4(2) of the RGA states:

“(a) If, after such consultation, the responsible officer is of the opinion that negotiations are not necessary and that the gathering may take place as specified in the notice or with such amendment of the contents of the notice as may have been agreed upon by him and the convener, he shall notify the convener accordingly.

(b) If, after such consultation, the responsible officer is of the opinion that negotiations are necessary, he shall forthwith call a meeting between himself and-

(i) the convener;

(ii) the authorized member;

(iii) any other responsible officers concerned, if any; and

(iv) representatives of such other public bodies, including local authorities, police community consultative forums and peace committees, as in the opinion of such responsible officer or officers ought to be present at such meeting, in order to discuss any amendment of the contents of the notice and such conditions regarding the conduct of the gathering as he may deem necessary.

(c) At the meeting contemplated in paragraph (b) discussions shall be held on the contents of the notice, amendments thereof or additions

thereto and the conditions, if any, to be imposed in respect of the holding of the gathering so as to meet the objects of this Act.

(d) The responsible officer shall endeavour to ensure that such discussions take place in good faith.” (“the section 4 meeting”)

85 The purpose of the Section 4 meeting is thus to discuss, in good faith, and seek to reach agreement on “*the conditions, if any, to be imposed in respect of the holding of the gathering so as to meet the objects of this Act.*” This Section 4(3) furthermore demonstrates how seriously the law takes the freedom to assemble as it states that if the meeting is not called within 24 hours from the date of the notice that no further acknowledgement or consultation is required and you can proceed in accordance with the notice.

86 Section 4(2) does not ordinarily entitle the responsible officer to prohibit a gathering. This is because a broad power to do so would unconstitutionally infringe on the section 17 rights which the RGA is supposed to facilitate and not unduly limit.

87 A responsible officer may only prohibit a gathering in terms of Section 5 of the RGA if the responsible officer is, based on reasonable grounds, convinced that no amendment contemplated in Section 4(2) and no condition contemplated in section 4(4)(b) would prevent the occurrence of harm to the participants or public.

88 Section 4(4)(a) of the RGA states:

“If agreement is reached at the meeting contemplated in subsection (2)(b) the gathering may take place in accordance with the contents of the notice, including amendments, if any, to such contents, on which agreement was reached at the meeting, but subject to the provisions of sections 5 and 6.”

89 Section 4(5)(a) then places the duty on the authorised member to ensure that every member of the police at the gathering is aware of the contents of the notice.

d) **Conduct of gatherings**

90 Section 8 of the RGA deals in detail with the conduct of gatherings. The conditions imposed in section 8(1) to 8(10) include:

- a) A responsibility on the convener to appoint marshals to “*control the participants in the gathering, and to take the necessary steps to ensure that the gathering at all times proceeds peacefully*”;
- b) No participant may have a firearm or a dangerous weapon;
- c) No person may demonstrate in a manner that incites hatred, or may cause or encourage violence;
- d) No person may wear a disguise or mask, or a uniform that resembles a uniform of the security services;
- e) The marshals must take reasonable steps to ensure that “*no entrance to any building or premises is so barred by participants that*

*reasonable access to the said building or premises is denied to any person*"; and

- f) No person may compel anybody else to join the gathering or demonstration.

91 In addition, Section 9 affords the police wide powers to manage any gathering or demonstration "*whether or not [it is] in compliance with the provisions of*" the RGA.

92 Section 9(1) of the RGA states:

"If a gathering or demonstration is to take place, whether or not in compliance with the provisions of this Act, a member of the Police-

(a) may, if he has reasonable grounds to believe that the Police will not be, able to provide adequate protection for the people participating in such a gathering or demonstration, notify the convener and such people accordingly;

(b) may prevent people participating in a gathering from proceeding to a different place or deviating from the route specified in the relevant notice or any amendment thereof or from disobeying any condition to which the holding of the gathering is subject in terms of this Act;

(c)...

(e) may, when an incident, whether or not it results from the gathering or demonstration, causes or may cause persons to gather at any public place by notice in a manner contemplated in section 4(5)(a) specify an area considered by him to be necessary for-

- (i) the movement and operation of emergency personnel and vehicles; or
  - (ii) the passage of a gathering or demonstration; or
  - (iii) the movement of traffic; or
  - (iv) the exclusion of the public from the vicinity; or
  - (v) the protection of property;
- (f) shall take such steps, including negotiations with the relevant persons, as are in the circumstances reasonable and appropriate to protect persons and property, whether or not they are participating in the gathering or demonstration.”

93 Section 9(2) of the RGA states:

“In the circumstances contemplated in section 6(6) or if a member of the Police of or above the rank of warrant officer has reasonable grounds to believe that danger to persons and property, as a result of the gathering or demonstration, cannot be averted by the steps referred to in subsection (1) if the gathering or demonstration proceeds, the Police or such member, as the case may be, may and only then, take the following steps:

- (i) Call upon the persons participating in the gathering or demonstration to disperse, and for that purpose, he shall endeavour to obtain the attention of those persons by such lawful means as he deems most suitable, and then,
- (ii) in a loud voice order them in at least two of the official languages and, if possible, in a language understood by the majority of the

persons present, to disperse and to depart from the place of the gathering or demonstration within a time specified by him, which shall be reasonable.

(b) If within the time so specified the persons gathered have not so dispersed or have made no preparations to disperse, such a member of the Police may order the members of the Police under his command to disperse the persons concerned and may for that purpose order the use of force, excluding the use of weapons likely to cause serious bodily injury or death.

(c) The degree of force which may be so used shall not be greater than is necessary for dispersing the persons gathered and shall be proportionate to the circumstances of the case and the object to be attained.”

94 What is plain from Section 9 is that the RGA empowers and requires the SAPS to manage the gathering reasonably, in order to avoid harm to persons or property or unjustifiable disruption to traffic or access to buildings, and the Act sets out clearly the circumstances under which SAPS may disperse a gathering. None of these were present when the gathering was unlawfully dispersed.

## **E. THE RESPONDENTS’ VIOLATIONS OF EE’S AND ITS MEMBERS’ CONSTITUTIONAL RIGHTS**

### ***The right to protest***

- 95 As I have illustrated, and as is most clearly shown by a viewing of the 'Long Walk to School' film itself, the protest was focused on highlighting the plight of learners suffering at the hands of the KZN DOE's lack of action in providing scholar transport. The protest fell squarely under the definition of "gathering" in section 1(vi) of the RGA.
- 96 The protest was lawful and peaceful. EE followed all the steps laid out in section 3 and 4 of the RGA. There was no basis on which the first and second respondents were entitled to force, under threat of violence, the dispersion of the protest.
- 97 In terms of the section 3 notice requirements, on 30 June 2017, more than seven days before the protest was to take place, as the convener, I submitted a completed notice at Msunduzi Municipality. The notice indicated, *inter alia*, the date and time of the protest, the anticipated number of people attending (which was 30), that the purpose of the protest was to screen 'Long Walk to School', that the protest was to take place at 247 Burger Street, Pietermaritzburg, KwaZulu-Natal. The notice is annexed hereto marked "**NM7**".
- 98 In terms of the section 4 consultation process, a meeting was convened by the responsible officer on 4 July 2017. As the convener of the protest, I attended the meeting together with members from Crime Intelligence, Msunduzi Municipality Security, and an officer from KZN SAPS, to discuss the planned protest. It should be noted that according to section 4(2)(b)(iv), it is the responsibility of the responsible officer to invite all relevant

stakeholders to the section 4 meeting. It would be absurd to place this burden upon the citizens seeking to realise their right to assemble.

99 At the section 4 meeting, no objection to the screening of 'Long Walk to School' was raised.

100 EE even went beyond following the necessary steps under sections 3 and 4 of the RGA, when I agreed to sign the so called "approval document" drawn up by the Msunduzi Municipality, which expressly provided for the approval of the 11 July 2017 protest. In this approval document, there was only one additional condition specified that was different from those contemplated in the notice. This was that the protest should not "encroach on Church Street and no gathering must be done on Church Street".

101 Although the approval document is not required in terms of the RGA, the condition set out therein was complied with on the day of the protest. Again, there was no objection to the screening of 'Long Walk to School' in the approval document, for which the expressly stated purpose on the approval document was "to screen a film for the public".

102 On the morning of 11 July 2017, I received a call from the warrant officer Khumalo who confirmed various details relating to the protest, such as the times. This telephone call again confirms that there was agreement that the protest was to go ahead. Additional confirmation was given by two warrant officers on the same day when they approached me as the

convener, and upon being shown the approval document, indicated that EE could proceed to set up for the protest.

103 On the date and time specified in the notice and in the approval document, being 11 July 2017 at 16h00, the protest commenced and complied with sections 8(1) to (10):

103.1 Marshals were appointed by the conveners;

103.2 The protest proceeded according to the notice and the approval document;

103.3 None of the participants bore firearms or dangerous weapons;

103.4 None of the participants demonstrated in a manner that incited hatred or that could have caused or encouraged violence;

103.5 None of the participants were masked or wore security services uniforms;

103.6 No entrances to buildings or premises were blocked, nor was any person denied access to any buildings or premises; and

103.7 No one was compelled to join the protest.

104 On the day of the protest, approximately 30 people gathered peacefully and in accordance with the notice outside the office building of the KZN DOE at 247 Burger Street, Pietermaritzburg, KwaZulu-Natal and began preparing for the film screening.

105 However, as detailed in the preceding paragraphs, our peaceful protest was halted and unlawfully dispersed, violating EE's and its members' right to protest. I have noted the reasons provided for this unlawful dispersal and now, in order to demonstrate that the infringement cannot be justified, I turn to the reasons for which we submit that each of those reasons is without merit.

### **The Stated Reasons for Dispersing the Protest**

#### **The Approval Document was Missing Information (and was Fraudulent)**

106 We were told that information relating to the time and place of the protest was missing from the approval document and that the approval document was fraudulent. Since an approval document is not a requirement in law for a protest to take place, this reason is baseless.

107 I have pointed out that the RGA makes the authorised member responsible for ensuring that police at the protest are aware of the contents of the notice. This makes sense, as the convenor of protest, often disenfranchised or marginalised people, cannot be expected to ensure that the contents of the notice are fully distributed to authorities within the state.

108 That I was asked to sign an unnecessary approval document and then told that this document was absent certain information, when the relevant representatives of the respondents should have been aware of the contents of the notice, is absurd.

109 I have also noted above that there was a claim that the approval document was fraudulent. Once again, the critical document is the notice, not the approval document. The second respondent should have had knowledge of the notice's contents. There was, in any event, no basis for the claim that the approval document was fraudulent.

**Mr Ngubane had not been invited to the section 4 meeting or informed of the protest**

110 The purported objection to Mr Ngubane having not been informed of the protest or invited to the section 4 meeting is also without substance. Nothing in the RGA suggests that it is the responsibility of the convener to inform all relevant stakeholders or interested parties of their intended protest. On the contrary, the RGA places the duty on a responsible officer to call the section 4 meeting and decide on any other relevant persons or parties that should be invited to attend.

111 The burden cannot be placed on citizens, seeking to assert their fundamental rights, to have an ability to assess and then access all necessary functionaries. The onus is not on the convener of the protest.

112 In any event, according to the Section 4 attendance register, an N.E. Dlamini from Msunduzi Municipality Security attended the meeting, as well as a D. Anderson from Crime Intelligence. While there is no basis on which Mr Ngubane can claim that his omission provides a basis for him to prohibit the protest after the fact, these officials would have been well placed to

assess who was required to be informed of the protest and invited to the section 4 meeting. The attendance register is annexed hereto marked “NM8”.

**That the permission of the KZN DOE was required**

113 We were informed that EE needed the KZN DOE's permission to gather when learners are involved and that if the learners were protesting in school uniform, they needed to also get permission from the relevant schools. Nothing in law supports this claim. It also does not make sense for those exercising their right to protest needing permission to do so from those that they are protesting against.

114 In fact, requiring this would allow an absurdity – it would mean that any organ of state, perhaps recalcitrant in its duties, would be able to avoid having citizens gather to assert their rights by simply ignoring RGA notices or refusing to allow protests to proceed.

115 In addition, this was not a condition in the approval document or the section 4 meeting.

116 Finally, the RGA processes speak to giving notice and “consultations, negotiations, amendment of notices, and conditions”. These processes are not about applying for "permission" to gather. The Bill of Rights is the source of everyone's guaranteed right to gather, and the purpose of the RGA is to facilitate that in a safe and efficient manner. To consider the

notice process under the RGA as the process of requesting permission is to misunderstand the critical role of political freedoms under the Bill of Rights.

117 I have noted the circumstances under which a protest may be prohibited, and those under which a protest may be dispersed. None of those were met in the case of our protest. Despite this, and after being warned of the unconstitutionality of their conduct, the respondents proceeded to threaten EE's members and shut down our protest.

118 The protest on 11 July 2017 was not likely to cause a danger to persons or property. Learners were unarmed and peacefully protesting outside the KZN DOE's offices to watch a film about their struggles to get to school. There were no averments that there was a danger to persons or property by any of the warrant officers present, or by any SAPS members.

119 This unlawful dispersion of EE's protest violated the learners' right to protest under Section 17 of the Constitution and their right to express themselves politically under Section 16 of the Constitution.

***Infringement of the right to dignity and the best interests of the children***

120 Freedom of assembly and freedom to protest create the space for people to speak and be heard. The Constitutional Court has stated that freedom of assembly is one of a web of mutually supporting rights in the Constitution which include, *inter alia*, the right to dignity (s 10), as well as the right to

freedom of association (s 18), the right to vote and to stand for public office (s 19), and the right to assembly (s 17). These rights implicitly recognise the importance, both for a democratic society and for individuals personally, of the ability to form and express opinions, whether individually or collectively, even where those views are controversial.

121 Freedom of assembly (as a subset of freedom of expression) is therefore inextricably linked to the right to dignity and helps to realise several other rights in the Constitution. Where this involves children, who have limited scope to assert their political rights in other ways, the connection is even deeper.

122 A violation of the right to assemble then, especially where it is part of a sustained campaign by young people for equality and justice, in turn, is a violation of the right to dignity and the various rights and freedoms that enable people to be heard.

123 It is evident from the attached supporting affidavit that those who attended the protest and witnessed the unlawful dispersion felt silenced and that their struggles were not heard:

*...“When other police officials arrived in a [Q]uantum I got scared and felt threatened. When there’s angry police in a protest, protestors get shot or beaten up and I was worried that could happen.*

*Once the film was stopped, we kept on singing struggle songs. They stopped the film that shows our struggles, so we thought we sing struggle songs to show them how we feel about our situations at school.”*

*“I wanted to protest that day to show people that here in KZN, people are suffering and that they should unite with us. When I saw Police, I felt as if we had no right to say something, because they didn’t hear us out, they just chased us away and didn’t want to listen to our problems. I felt bad that they stopped the film. But I will not give up, I will take part in another protest because what’s happening to us will continue with other generations of learners.”*

*“The protest meant something to me. If the police didn’t come, I could express my feelings about the scholar transport problem and the pain I felt about it.*

*I feel frustrated that police were called, we all needed to be treated equally. There was no need to call the Police. I was angry because I wanted to express my feelings about the transport problem.”*

124 It is evident from the statements taken from some of the Equalizers that the unlawful dispersion of the protest violated their right to be heard and that the substance of the protest was deeply important to them. We submit then that the respondents’ aggressive disregard for EE’s and its members’ rights, constituted an infringement of the organisation’s and the members’ dignity.

125 In addition, the respondents were at all times obliged, in terms of section 28 of the Constitution, to take into account the best interests of the children involved and to place those interests at the forefront of all their considerations. The callous and aggressive disregard for the rights of the learners, and the threats to act violently against them, despite none of those gathered presenting a threat to any person or property, constituted an intentional infringement of section 28, and must be vindicated.

***Threats to learners' safety and bodily integrity***

126 In addition to the above, when EE said that they would not disperse the lawful protest, the KZN DOE officials and KZN SAPS officials present made threats to act violently against EE members, including the use of teargas. As I have shown, the circumstances of the protest involved learners, many of whom were under the age of 18, and it was a peaceful protest. There were no circumstances that warranted the use of force, especially not teargas, which would likely cause serious bodily injury, and could cause death.

127 The use of force would have been unjustified and disproportionate, and a clear violation of the learners' right to safety and bodily integrity under Section 12 of the Constitution. .

**F. EE'S SUBSEQUENT ENGAGEMENTS WITH KZN DOE AND KZN SAPS**

128 I have noted earlier that our attorneys addressed a letter to the respondents on 6 October 2017, which I attached as “**NM11**”.

129 In the letter, we demanded the following:

129.1 That the KZN DOE, through its MEC, as well as the KZN SAPS, through its Commissioner, provide a public apology to EE, EE’s members and the general public for the rights violations that took place on 11 July 2017. The letter demanded this public apology affirm the importance of the right to protest and acknowledge that the shutting down and dispersal of EE’s protest on 11 July 2017 was an unjustified infringement on the organisation’s and its members’ constitutional rights; and

129.2 An acknowledgement that EE’s planned protest should proceed at the member’s earliest convenience, including the screening of the ‘Long Walk to School’ film outside the KZN DOE.

130 The deadline for a written response from the KZN DOE and KZN SAPS was 20 October 2017. Since first making our demands on 6 October 2017, EE has unsuccessfully attempted to obtain the requested written response:

130.1 The event in question took place on 11 July 2017.

130.2 On 6 October 2017, the EELC sent the letter of demand to the respondents.

130.3 On 17 October 2017, the first respondent acknowledged receipt of the letter, but no written response was provided.

130.4 On 19 October 2017, the second respondent responded to the letter, stating that they are still conducting an investigation and therefore would not be able to furnish EE with a response. A copy of the email is annexed hereto marked "**NM12**".

130.5 On 30 October 2017, the EELC wrote to the second respondent, agreeing to allow it an additional 20 days to complete its investigation and provide EE with the outcome of its investigation. A copy of the correspondence is annexed hereto marked "**NM13**".

130.6 The deadline for a response from the first respondent was extended to 10 November 2017. However, this date has passed, and no response has been received. A copy of the correspondence is annexed hereto marked "**NM14**".

130.7 In the meantime, on 1 November 2017, the second respondent wrote to EE saying that their investigation is on-going and will only be finalised by the end of November 2017. A copy of the email is annexed hereto marked "**NM15**". In a letter of response from the EELC, dated 13 November 2017 annexed hereto and marked "**NM16**", EE agreed to an extension, until 17 November 2017, for a written response. In the EELC's letter agreeing to the extension, it noted:

- (a) Since the matter arose on 11 July 2017, and since the KZN SAPS' email on 1 November 2017, the KZN SAPS had five months to complete its investigation; and
- (b) From the date of the EELC's 6 October 2017 letter to the KZN SAPS and KZN DOE, until the KZN SAPS' email on 1 November 2017, the KZN SAPS had more than an additional month to finalise its investigation.

131 By 27 November 2017, neither the KZN DOE nor the KZN SAPS had provided a substantive response to the EELC's 6 October 2017 letter.

132 On 27 November 2017, the KZN SAPS requested that EE meet with the KZN DOE and the KZN SAPS in Pietermaritzburg. EE agreed to meet, while again requesting that the KZN DOE and the KZN SAPS provide it with a written response to the 6 October 2017 letter, before the meeting. EE also made it clear that the meeting with the KZN SAPS and KZN DOE was not a replacement for a written response to the demands set out in that letter. A copy of the email is annexed hereto marked "**NM17**".

133 A meeting was set for 12 December 2017, but no written response to the 6 October 2017 letter was forthcoming.

134 Unfortunately, due to travel delays, EE's representatives arrived at the 12 December 2017 meeting late and the meeting, therefore, did not take place. Another meeting was then scheduled for 1 February 2018 at the

KZN SAPS offices in Pietermaritzburg. EE reiterated that the meeting was not a replacement for EE's request for a written response to the demands set out in the 6 October 2017 letter, and again requested that the KZN DOE and the KZN SAPS provide EE with such.

135 The KZN DOE failed to arrive for the meeting scheduled for 1 February 2018, and the meeting, therefore, did not take place.

136 EE again wrote to KZN SAPS and KZN DOE on 16 February and 1 March 2018, respectively, requesting a written response to its letter of 6 October 2017. Copies of the letters are annexed hereto "**NM18**" and "**NM19**", respectively.

137 On 12 April 2018, the EELC sent yet a further letter to the respondents, noting that no substantive written response had been received to the letter of demand and asking again that such a response be provided. The letter noted that EE's instruction was to institute legal proceedings in the absence of a substantive response, in order to vindicate EE's rights and the rights of its members. A copy of the letter is annexed hereto marked "**NM20**".

138 To date, since EE first made its demands on 6 October 2017, we have yet to receive a substantive response to our letter of 6 October 2017 and the demands set out therein.

## **G. THE APPROPRIATE REMEDY**

139 I have set out the relevant facts as they relate to EE and its members, and the unlawful manner in which our gathering on 11 July 2017 was shut down by the respondents. I have also explained in some depth, on the advice of my legal representatives, the numerous statutory and Constitutional duties which the respondents have acted in breach of.

140 I turn now to examine what relief there may be to vindicate the rights of EE and its members in this case, and to restore the public's faith in a government committed to respecting, protecting, promoting and fulfilling their Constitutional rights.

141 From the outset of our correspondence with the respondents in this matter, EE has demanded that a public apology is tendered by them, acknowledging their wrongdoing. Instinctively, we felt and still feel that this would be appropriate.

142 The moment for the protest has passed, and the efforts of the members to be there have already been made.

143 The conduct of the respondents and their representatives on the day created a public impression that peaceful protests, even when in compliance with the RGA, can be shut down and not be respected.

144 I have shown how EE has attempted to engage both the respondents in order to resolve the matter without resorting to litigation, and as such, has repeatedly pleaded for a substantive response to our demands. EE has

unsuccessfully tried to engage with the respondents since 6 October 2017. All these efforts have proved fruitless. Therefore, EE has now approached the courts for appropriate relief, both for its members as well as in the public interest.

145 Faced with a breach of Constitutional rights, the court is tasked with crafting relief which is just and equitable.

146 EE submits that, in the circumstances, the remedies required to adequately do justice to those whose rights were violated are:-

146.1 to declare those rights violated;

146.2 to compel the respondents to face EE, and the children and other learners who organised or were present at the protest, to acknowledge to them, in a public forum, that the respondents acted unlawfully and unconstitutionally and that the right to protest peacefully, must be protected, promoted and fulfilled, and to unconditionally and unequivocally apologise in the same forum;

146.3 to ensure that the respondents coordinate the venue and timing for the apology with the leadership of EE and reach out to them for that purpose within 30 days of this judgment. The time and place must be agreed to by EE and must be a venue at which EE had previously convened meetings of its Nquthu-based members or at which EE is satisfied with;

146.4 to ensure that the apology, given by the respondents to EE members in person, is made within 60 days of the date of the Honourable Court's order, and is given by the MEC for Education in KZN and the Commissioner of the SAPS in KZN in person, in order to ensure that the members of EE and the public feel properly vindicated and feel that the apology is given the level of seriousness and sincerity that it merits;

146.5 to ensure that the apology is sincere and unequivocal, this Honourable Court should require that the respondents provide EE with a written copy of the full text of the apology, including any assertions of wrongdoing and of rights, within 30 days of the Honourable Court's judgment. This will guard against any ostensible compliance with the court order in circumstances where the actual wording of the apology might include excuses or counterclaims which could further frustrate efforts to finally vindicate the rights of EE, the members of EE and the public. In order to guard against this, I submit that EE should have an opportunity to view the text of the apology, and to have further recourse to this Honourable Court, under the same case number, if the apology fails to comply with the requirements the Court has determined; and

146.6 to compel the respondents to issue the same apology, in at least English and isiZulu, and in at least three newspapers, including a newspaper which is circulated regularly in Nquthu, KwaZulu-Natal.

**The need for an unconditional public apology reaffirming the right to protest**

147 I have highlighted the lack of accountable governance by officials of both the KZN DOE and the KZN SAPS. The officials displayed a lack of due diligence, the undertaking of unilateral, uninformed decision-making, an unwillingness to engage legal representation, and the use of coercive means to implement incorrect and ill-informed decisions that violated the learners' constitutionally protected rights.

148 The respondents' conduct on the day of the protest creates the public impression that a Constitutional right to protest may be overpowered, quietened, and stifled by the SAPS officers at the whim of the very authority whose action is being protested against. It sends a message to the public, and to poor and marginalised young people, that their efforts at peaceful organising and compliance with the sometimes onerous laws for protests will be returned by a threatening and unlawful shutting down of their efforts, at the last hour.

149 The failure by the respondents to account to EE and its members, even in the form of a response to the issues raised and demands set out in our letter of 6 October 2017, only adds to the impression that the state has little regard for the impact of its conduct on the children and learners who were let down on 11 July 2017.

150 The events of 11 July 2017 are, in EE's view, both unlawful and unconstitutional. EE believes that in the spirit of *Ubuntu* and to resolve the matter through restorative justice, as discussed by the Constitutional Court,

it is appropriate that a public apology is given for the events of 11 July 2017.

151 In a matter of this sort, where learners and children worked towards asserting their right to education through an exercise of their right to demonstrate, and were deeply disappointed and hurt by the State's violation of those rights and of their dignity, a declaration by a court which says that their rights have been violated, cannot, with respect, be enough.

152 EE submits that an unconditional public apology is the most appropriate, just and equitable remedy and that, in this situation, no other adequate remedy can effectively vindicate the infringement of rights experienced by our movement and our members. The moment has passed, and the rights have been violated. EE therefore submits that it is only through restorative justice that the learners' dignity can be restored, and that an active attempt to repair the public perception of and faith in the State is needed. We submit that an unconditional public apology will do this.

153 The expansion of the use of public apologies as a just and equitable remedy is in line with Constitutional principles, including *Ubuntu* and restorative justice and is in accordance with recent jurisprudential developments by our highest courts.

154 EE therefore prays for the order set out in the Notice of Motion to which this affidavit is attached, requiring the respondents to provide an unconditional and unequivocal public apology to EE, its members and the

general public, for the violations that have taken place. This unconditional public apology must affirm the importance of the right to protest and unconditionally acknowledge the violation of EE's and EE's members' rights.

**WHEREFORE** EE prays for the relief in terms of the notice of motion to which this affidavit is attached.

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I hereby certify that the deponent has acknowledged that she knows and understands the contents of this affidavit, which was signed and sworn to before me, Commissioner of Oaths, at ..... on this the ..... day of ..... **2018** the regulations contained in Government Notice No R1258 of 21 July 1972, as amended, and Government Notice No R1648 of 19 August 1977, as amended, having been complied with.

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**COMMISSIONER OF OATHS**