



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

DELETE WHICHEVER IS NOT APPLICABLE

(1) REPORTABLE: YES/NO

(2) OF INTEREST TO OTHER JUDGES: YES/NO

(3) REVISED

DATE: 14 October 2025

SIGNATURE: [REDACTED]

Case No. 79790/2017

In the matter between:

**THE STANDARD BANK OF SOUTH AFRICA  
LIMITED**

**FIRST APPLICANT**

**DU PLESSIS, CORNELIUS ADOLF**

**SECOND APPLICANT**

And

**ADVERTISING DIGITAL SERVICES (PTY) LTD**

**FIRST RESPONDENT**

**REYNDERS, JOHAN HENDRIK**

**SECOND RESPONDENT**

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**Coram:** Millar J

**Heard on:** 12 September 2025

**Delivered:** 14 October 2025 - This judgment was handed down electronically by circulation to the parties' representatives by email, by being uploaded to the *CaseLines* system of the GD and by release to SAFLII. The date and time for hand-down is deemed to be 09H00 on 14 October 2025.

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## JUDGMENT

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### MILLAR J

- [1] This is an application in which the applicants seek an order declaring the respondents to be vexatious litigants. The parties have a litigation history that spans over 20 years. The litigation initially commenced in the Johannesburg High Court and has been to both the Supreme Court of Appeal and the Constitutional Court. The most recent litigation between the parties, which includes this application, was commenced in this Court.

### FACTUAL BACKGROUND:<sup>1</sup>

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<sup>1</sup> The Parties agreed that the hearing on the 12<sup>th</sup> of September 2025 would proceed without the need for the electronic recording of oral argument. This situation was brought about because shortly after the argument had commenced, the City of Tshwane was affected by a power outage of indeterminant duration. In consequence of this, none of the recording equipment of functional and rather than forego the hearing, and the attendant costs, the parties agreed that the matter should proceed.

- [2] In July 2003, the first applicant, The Standard Bank, developed an electronic pin-pad for internet banking security in 'scrambled form' (that is where the sequence of numbers appeared in a random order to enhance protection against hacking). This technology was initially introduced to customers in an unscrambled format to avoid confusion for first-time users.
- [3] In August of 2003, the first respondent, Advanced Digital Systems (ADS), represented by its sole director Mr. Reynders, the second respondent, approached The Standard Bank with its "@ key-system", a virtual scrambled keypad designed for similar security purposes. The Standard Bank was, at the time, evaluating multiple external proposals but did not disclose its own development. This was said to be for security reasons.
- [4] A meeting occurred on 18 August 2003, during which a non-disclosure agreement (NDA) was signed between The Standard Bank and ADS at ADS's request. Following its presentation, The Standard Bank concluded that ADS's proposal offered no value, as it already possessed more advanced technology. ADS later alleged that this meeting prompted The Standard Bank to implement its scrambled pin-pad, constituting a breach of the NDA and resulting in damages to ADS.
- [5] By October 2003, The Standard Bank had implemented the scrambled version of the pin-pad to customers. This implementation relied on a straightforward 13-line Java algorithm using Servlets 2.2 (released in November 1998), drawn from scrambling techniques documented in 1980's numerical textbooks. Later, and during legal proceedings, it was conceded by ADS that it had published a comparable virtual scrambled keypad on the internet in 1998 or 1999. In other words, the technology was in the public domain for years before ADS approached The Standard Bank.

- [6] In 2004, a certain Mr. Bezuidenhout instituted a separate action against The Standard Bank, claiming copyright infringement over a similar scrambled pin-pad system. This claim was consolidated with that of ADS but subsequently withdrawn by Mr. Bezuidenhout.
- [7] On 28 July 2004, ADS instituted its first action (Case No. 2004/25833 in the Johannesburg High Court) against The Standard Bank, alleging breach of confidential information and misappropriation of the "@ key-system" under the NDA, and seeking damages on a contractual basis.
- [8] Between 2005 and 2007, ADS's initial set of attorneys withdrew, leading to a postponement of the trial originally set down for 14 April 2008. ADS further delayed proceedings by failing to deliver required expert summaries and disclosures, thereby prompting The Standard Bank to apply for case management. In 2008, a case manager was appointed. ADS's second set of attorneys subsequently withdrew.
- [9] In 2009, ADS engaged its third set of attorneys, who later withdrew. ADS attributed this to an alleged warning by the case manager regarding personal costs order against the attorneys. The trial was then set down for hearing on 25 March 2010, and ADS now appointed a fourth set of Attorneys. On 5 March 2010, ADS's application for a postponement of the trial set down for 25 March 2010 was refused.
- [10] On 25 March 2010, a further postponement request by ADS was denied by the trial judge. It was accepted, in the absence of appearance of any attorneys for ADS, that Mr. Reynders, as a non-legal practitioner, could represent ADS to avoid any further delay. The litigation had by this time been underway for some 5 years.

- [11] The trial proceeded. Mr. Du Plessis, the second applicant, who had been an employee of The Standard Bank, testified at this trial. After evidence and arguments, ADS filed a notice of application for leave to appeal the postponement refusal, but this was subsequently withdrawn following a notice by The Standard Bank's in terms of Rule 30(1) challenging its irregularity.
- [12] On 29 April 2010, judgment was delivered dismissing ADS's claim with costs. In the judgment it was ruled that there was no breach of confidentiality, and that the information had been publicly available online since 1998. Furthermore, The Standard Bank already held similar technology prior to the meeting with ADS and that an unprotected "idea" alone did not qualify as confidential.
- [13] On 20 June 2010, ADS (now with its fifth set of attorneys) filed an application for leave to appeal the judgment and delivered an application for condonation for its late filing. The application for condonation was dismissed. This after ADS's fifth set of attorneys withdrew, resulting in Mr. Reynders self-representing ADS again.
- [14] From late 2010 to early 2012, ADS signaled its intention to appeal the condonation dismissal to the Supreme Court of Appeal (SCA) and appointed its sixth set of attorneys. It proceeded to deliver the application.
- [15] On 28 February 2012, ADS then withdrew its SCA application for leave to appeal the condonation dismissal, after The Standard Bank filed its answering affidavit.
- [16] On 15 March 2012, ADS launched a third application in the High Court for condonation and leave to appeal both the condonation dismissal and the full 2010 judgment. On 24 October 2012, this application was dismissed.

- [17] On 13 November 2012, ADS filed a fourth application in the High Court seeking leave to appeal the 24 October 2012 order. The trial judge declined to hear it, having already dismissed a prior similar application.
- [18] In 2016, ADS filed a fifth application, now in the SCA for leave to appeal and condonation, alleging irregularity in the 2010 trial because Mr. Reynders' had self-represented ADS. On 27 January 2017, the SCA granted condonation but refused leave to appeal, finding no reasonable prospects of success (Case Nos. 1171/15 and 147/17).
- [19] On 22 February 2017, ADS filed a sixth application in the SCA under Section 17(2)(f) of the Superior Courts Act 10 of 2013, seeking reconsideration or variation of the fifth application's dismissal on grounds of alleged fraud by The Standard Bank at trial and prejudice from Mr. Reynders' representation. This too was dismissed by the President of the SCA for lack of exceptional circumstances.
- [20] In June 2017, ADS filed a seventh application, now in the Constitutional Court (CCT 162/17) for leave to appeal with condonation, requesting the 2010 trial be set aside for unfairness and remitted to a different Judge for hearing. This application was dismissed.
- [21] Following this June 2017 dismissal, Mr. Reynders instituted a second action (Case No. 71868/17). This action was now instituted in this Court and was against The Standard Bank and Mr. Du Plessis. The claim was reframed as delictual, and allegations of fraud and misrepresentations made during the 2010 trial were relied upon rather than a contractual breach.
- [22] In these proceedings, ADS sought orders which would have the effect of turning back the clock and giving ADS and Mr. Reynders a proverbial "second bite at the cherry". This some 12 years after the first proceedings were instituted by ADS and after every legal avenue had been unsuccessfully pursued.

- [23] It was at this stage that The Standard Bank and Mr. Du Plessis instituted the present proceedings to declare ADS and Mr. Reynders as vexatious litigants.
- [24] The new proceedings instituted by ADS and Mr. Reynders, were purportedly brought in consequence of new facts alleged to have been discovered. These new facts purportedly demonstrated that there had been wrongdoing on the part of The Standard Bank. This emerged in response to a plea of prescription that had been raised by The Standard Bank to the action instituted in this Court.
- [25] On 8 October 2018, the matter came before the Court, which postponed the present vexatious litigant application *sine die* by agreement. The order also gave directions as to the further conduct of ADS's action with the judge who had made the order case managing both matters. This judge subsequently retired. ADS's action was then set down for hearing of the special pleas that had been filed by The Standard Bank.
- [26] On 28 July 2022, the special pleas were upheld and the action dismissed with a punitive order for costs. In its judgment, the Court criticized ADS's conduct as an abuse of process that wasted judicial resources.
- [27] In the period immediately following 28 July 2022, ADS sought to appeal the judgment. The Standard Bank filed a Rule 30(1) application to set aside the notice of application for leave to appeal as an irregular step, citing Mr. Reynders' signature of documents despite prior warnings as a non-legal practitioner. This occurred in circumstances where the most recent set of attorneys that had represented ADS, withdrew.
- [28] The present application was referred to me for case management. A decision was taken that the present application only be heard once the Rule 30(1)

application in respect of the leave to appeal the dismissal of the action was decided. Judgment in that application was delivered by the Court that heard it on 11 June 2025. On 28 August 2025, an application for leave to appeal against that judgment was lodged. This notice of application was subsequently withdrawn on 15 September 2025.

[29] After the judgment was handed down and by agreement between the parties, the present application was set down for hearing on 12 September 2025. Directions were given for the filing of further papers as well as heads of argument as well as a consolidated practice note. It suffices to state that both parties were ready and represented at the hearing, attorneys and counsel for ADS and Mr. Reynders having come on record on 10 September 2025.

[30] From approximately 2023 to 2025, Mr. Reynders filed complaints alleging misconduct against various judicial officers. The Standard Bank pursued taxation of costs from the 2010 to 2022 judgments, which ADS opposed, seeking a stay pending a rescission application on grounds of procedural irregularities in all the legal proceedings. It is the stance of ADS and Mr. Reynders that the way he has conducted himself in the legal proceedings is neither abusive nor vexatious but rather an entitlement to vindicate the rights of ADS.

## THE CONSTITUTION

[31] Section 34 of the Constitution of the Republic of South Africa asserts that “[e]veryone has the right to have any dispute that can be resolved by the application of the law decided in a fair public hearing before a Court or, where appropriate, another independent and impartial tribunal or forum”. Without it, the other guarantees contained in the Bill of Rights would have no real force.<sup>2</sup> Section 34 is a

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<sup>2</sup> Brickhill & Friedman “Access to Courts” in Woolman *et al* (ed) *Constitutional Law of South Africa* 2<sup>nd</sup> (Juta & Co Ltd, Cape Town 2014), vol 4 at 1.

Constitutional tool which allows a person to vindicate the substantive right in issue.<sup>3</sup>

- [32] In *Barkhuizen v Napier*,<sup>4</sup> the Constitutional Court expressed the purpose of section 34 as follows:

*"Our democratic order requires an orderly and fair resolution of disputes by courts or other independent and impartial tribunals. This is fundamental to the stability of an orderly society. It is indeed vital to a society that, like ours, is founded on the rule of law. Section 34 gives expression to this foundational value by guaranteeing to everyone the right to seek the assistance of a court." (Footnotes omitted.)*

- [33] In *Chief Lesapo v North West Agricultural Bank and Another*,<sup>5</sup> the court remarked that:

*"The right of access to court is indeed foundational to the stability of an orderly society. It ensures the peaceful, regulated, and institutionalized mechanisms to resolve disputes, without resorting to self-help. The right of access to court is a bulwark against vigilantism, and the chaos and anarchy which it causes. Construed in this context of the rule of law and the principle against self-help in particular, access to court is indeed of cardinal importance. As a result, very powerful considerations would be required for its limitation to be reasonable and justifiable."*

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<sup>3</sup> Brickhill & Friedman (above n 9) at 3

<sup>4</sup> 2007 (5) SA 323 (CC) at para 31.

<sup>5</sup> 2000 (1) SA 409 at para 22.

- [34] In *Social Justice Coalition and Others v Minister of Police and Others*,<sup>6</sup> the court held that:

*"The right to access to court is more than simply the right to approach a court and initiate a case in support of a justiciable dispute. The object of going to court is to secure a decision on a dispute and the language of section 34 expressly extends to the right to have a dispute decided. Similarly, the process by which a decision is reached is also covered by the right in its reference to a "fair hearing". Put differently, section 34 is a right that guarantees access to court to have a dispute decided in a fair public hearing."*

- [35] The existence of a right, such as the right of access to court, does not mean that it is unlimited. The right of access to court can be limited by qualifications stated in the Constitution, by laws of general application which meet the requirements of section 36 and by balancing it with other rights which are in tension with the right in question. Thus, the right of access to court can be limited, particularly when a litigant's conduct abuses the judicial process.

## THE UNIFORM RULES OF COURT

- [36] The objective of securing a decision on a dispute is facilitated by the Rules of the Court and directives given by judicial officers. In the administration of justice, certain cases must be case-managed (as in this case). During case management, the judicial officer takes control over the matter and *inter alia* controls the pace of the litigation, makes appropriate orders, and imposes sanctions such as costs orders or a refusal of an amendment.

[37] The powers of the court to manage cases are articulated in rule 37A of the Uniform Rules of Court. Apart from the specific powers, the court is empowered to regulate its own process in terms of section 173 of the Constitution. When the Court finds an attempt made to use for ulterior purposes machinery devised for the better administration of justice, it is the duty of the Court to prevent such abuse, this power should however, be exercised with great caution and only in a clear case.

[38] The parties have an obligation to co-operate with the court and with each other in the conduct of the proceedings.<sup>6</sup> The Judge plays a key role in managing the case and consequently takes on an obligation which requires greater power which remains subject to the constitutional imperative of a fair trial which requires justice to all the parties.<sup>7</sup>

[39] In *Giddey NO v JC Barnard and Partners*,<sup>8</sup> the Constitutional Court stated that:

*"[F]or courts to function fairly, they must have rules that regulate their proceedings. Those rules will often require parties to take certain steps on pain of being prevented from proceeding with a claim or defence. A common example is the rule regulating the notice of bar in terms of which defendants may be called upon to lodge their plea within a certain time failing which they will lose the right to raise their defence. Many of the rules of court require compliance with fixed time limits, and a failure to observe those time limits may result, in the absence of good cause shown, in a plaintiff or defendant being prevented from pursuing their claim or defence. Of course, all these rules must be compliant with the Constitution. To the extent that they do constitute a limitation on a right of access to court, that limitation must be justifiable in terms of section 36 of the Constitution. If the limitation caused*

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<sup>6</sup> Erasmus "Judicial case management and the adversarial mindset – the new Namibian rules of court" (2015) 2 TSAR 259.

<sup>7</sup> *Id* 263.

<sup>8</sup> 2007 (5) SA 525 (CC) at para 16.

*by the rule is justifiable, then as long as the rules are properly applied, there can be no cause for constitutional complaint. The rules may well contemplate that at times the right of access to court will be limited. A challenge to the legitimacy of that effect, however, would require a challenge to the rule itself. In the absence of such a challenge, a litigant's only complaint can be that the rule was not properly applied by the court. Very often the interpretation and application of the rule will require consideration of the provisions of the Constitution, as section 39(2) of the Constitution instructs. A court that fails to adequately consider the relevant constitutional provisions will not have properly applied the rules at all."* (Footnotes omitted.)

[40] The Constitutional Court made it clear that procedural rules are aimed at enhancing the fairness of proceedings and that the rules of court should not be construed to abuse court processes.

[41] It was argued by ADS and Mr. Reynders that the proceedings before other Judges in respect of the most recent action instituted in this Court, should be declared invalid as the matter was under case management and no certification was provided for the case to proceed to the hearing stage. The retired case manager's order is clear that the special pleas would be dealt with separately and that the parties, with his support, would be entitled to request the Deputy Judge President to allocate an expedited date for hearing of the separated issues. Such preferential date was indeed obtained and there is thus no question that the matter was ripe for hearing when the special pleas were heard.

## **ABUSE OF COURT PROCESSES**

[42] In the case of *Beinash v Wixley*,<sup>9</sup> the Court held that:

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<sup>9</sup> 1997 (3) SA 721 (SCA) at 734F-G.

*"What does constitute an abuse of the process of the Court is a matter which needs to be determined by the circumstances of each case. There can be no all-encompassing definition of the concept of 'abuse of process'. It can be said in general terms, however, that an abuse of process takes place where the procedures permitted by the Rules of the Court to facilitate the pursuit of the truth are used for a purpose extraneous to that objective".*

- [43] Courts are entitled to protect themselves and others against the abuse of its process.<sup>10</sup> What 'abuse of process' entails has not been formulated, however frivolous or vexatious litigation has been held to be an abuse of process.<sup>11</sup>
- [44] In general, legal process is used properly when it is invoked for the vindication of rights or the enforcement of just claims and it is abused when it is diverted from its true course so as to serve extortion or oppression; or to exert pressure so as to achieve an improper end.<sup>12</sup> Further, a party who has no *bona fide* claim but intends to use litigation to cause the other party, financial or other prejudice will be abusing the process.<sup>13</sup>

## VEXATIOUS LITIGATION

- [45] In *ABSA Bank Ltd v Dlamini*<sup>14</sup>, the Court comprehensively analyzed the application of Section 2(1)(b) of the Vexatious Proceedings Act<sup>15</sup> 3 (the Act),

<sup>10</sup> *Brummer v Gorfi Brothers Investments (Pty) Ltd en andere* 1999 (3) SA 389 (SCA) at 412C-D.

<sup>11</sup> *Price Waterhouse Coopers Inc and Others v National Potato Co-operative Ltd* 2004 (6) SA 66 (SCA) at para 50 and *Western Assurance Co v Caldwell's Trustee* 1918 (AD) 262 at 271.

<sup>12</sup> *Price Waterhouse Coopers Inc* at para 50.

<sup>13</sup> *Price Waterhouse Coopers Inc* at para 50; Beinash at para 13.

<sup>14</sup> 2008 (2) SA 262 (T).

<sup>15</sup> 3 of 1956 which provides: "If, on an application made by any person against whom legal proceedings have been instituted by any other person or has reason to believe that the institution of legal proceedings against him is contemplated by any other person, the court is satisfied that the said person has persistently and without any reasonable ground instituted legal proceedings in any court or in any inferior court, whether against the same person or against different persons, the court may, after hearing that person or giving him an opportunity to be heard, order that no legal proceedings shall be instituted by him against any person in any court or any inferior court without the leave of the court, or any judge

which empowers a Court to restrict a litigant's ability to institute proceedings if they have persistently and without reasonable grounds pursued unmeritorious litigation.

- [46] The Court emphasised that the Act serves as a statutory mechanism to address the limitations of the common law, which historically could only regulate abuse of process in existing proceedings within the same Court, without extending to a general prohibition on future vexatious actions across other Courts.
- [47] The Court held that the Act serves a twofold purpose. Firstly, to protect victims from the "*costs, harassment and embarrassment of unmeritorious litigation*" and secondly, to safeguard the public interest in unimpeded Court functioning.
- [48] To obtain an order in terms of Section 2(1)(b), an applicant must first meet a threshold of demonstrating that the respondent has "*persistently and without any reasonable ground instituted legal proceedings in any Court or in any inferior court, whether against the same person or against different persons*". This requires evidence of a pattern of habitual, groundless litigation – proceedings which are frivolous, improper, or instituted solely to annoy the other part and which lack sufficient legal or factual foundation. The Court must afford the respondent the opportunity to be heard before granting an order prohibiting further proceedings without prior leave of the Court, where such leave is only granted if the proposed action is not an abuse of process and has *prima facie* merit.
- [49] For interim relief pending a final application or action under the Act (as sought in *Dlamini*) the Applicant must establish a *prima facie* right under Section 2(1)(b) for future proceedings, alongside common law grounds for staying or interdicting existing proceedings or further related processes. The common law test for abuse

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*thereof, or that inferior court, as the case may be, and such leave shall not be granted unless the court or judge or the inferior court, as the case may be, is satisfied that the proceedings are not an abuse of the process of the court and that there is prima facie ground for the proceedings."*

in existing matters mirrors the Act's threshold: proceedings must be "*obviously unsustainable as a certainty and not merely on a preponderance of probability*", as exercised cautiously to avoid closing the Court's doors prematurely.

- [50] In *Dlamini*, the Court applied these to grant an interim interdict staying all existing proceedings by the Respondent (an unrehabilitated insolvent acting without *locus standi*) and restraining future ones, based on a decade-long history of 40 unmeritorious actions in 2007 alone, repeated disregard for Court order, and clear intent to harass via a "vendetta". The Respondent's claims recycled settled disputes from the 1990's, ignored novation via a 1999 settlement order, and caused prejudice through non-enforceable costs and Court roll clogging. The Court stressed that the Act complements the common law: it screens further abuse, while inherent jurisdiction handles ongoing or ancillary abuse.
- [51] The framework set out in *Dlamini* aligns seamlessly with the principles set out in *MEC, Department of Co-Operative Governance and Traditional Affairs v Maphanga*<sup>16</sup>, reinforcing the Act's role as a targeted response to common law limitations on curbing vexatious litigation. *Maphanga* echoes *Dlamini*'s threshold under Section 2(1)(b): an Applicant must prove (1) past persistent, groundless proceedings (habitual and without reasonable cause) and (2) actual or threatened further litigation against the Applicant or others. This dual requirement ensures the Act's protective purpose – "*to put a stop to persistent and ungrounded institution of legal proceedings*" – is not invoked lightly, mirroring *Dlamini*'s emphasis on a "*plethora of unmeritorious proceedings*" exhibiting "contemptuous disregard for judicial process".
- [52] *Maphanga* builds directly on *Dlamini*'s common law analysis, affirming pre-Act inherent powers to halt "*frivolous and vexatious proceedings*" in the High Court, limited to the immediate case, parties and Court – incapable of broader

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<sup>16</sup> 2021 (4) SA 131 (SCA).

prohibitions. *Dlamini* operationalizes this by distinguishing the Act-based interdicts for future claims from Common law stays for existing ones.

- [53] This nexus between *Dlamini* and *Maphanga* culminates in *Christensen NO v Richter*<sup>17</sup>, where the Court declared the Respondent vexatious and granted a final interdict, applying the *Dlamini* and *Maphanga* criteria: relentless, unsubstantiated litigation disregarding orders constituted clear abuse, with no alternative remedy (balance of convenience favouring the Applicant).
- [54] Like *Dlamini's* Respondent, *Christensen's* litigant lacked merit, justifying a prohibition to prevent ongoing harm – emphasising that “this has to stop” when proceedings are “vague and not substantiated”, clog rolls and evade costs.
- [55] Collectively, these authorities have formed a cohesive doctrine, in terms of which persistent groundlessness of proceedings, triggers screening in terms of the Act. This is bolstered by the common law to ensure access to justice while barring harassment.

## THE RESPONDENTS' CASE AND HEADS OF ARGUMENT

- [56] Before the appointment of the attorneys of record, who appeared at the hearing, Mr. Reynders filed heads of argument. These were comprehensive and dealt with:
  - [56.1] The alleged breach of a court order and case management in 2018 and Rule 37A.
  - [56.2] Consequences of the alleged breach.

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<sup>17</sup> 2017 JDR 1637 (GP).

- [56.3] New matter in reply and alleged defective papers filed by The Standard Bank.
- [56.4] Vexatious relief not being competent at the case management stage.
- [56.5] Why the taxation of costs regarding all the prior litigation and in respect of which final orders had been issued were to be stayed.
- [56.6] The sequencing of an alleged Recession application.
- [56.7] The role of Mr. Reynders himself.
- [57] However, at the hearing, counsel for the respondents did not deal with any of these issues. This was correct in my view. None of the matters raised in those heads are relevant or helpful in any way to the determination of the issues before the Court and for this reason, I do not intend to deal with them. These were raised for no reason other than to regurgitate the same position that ADS and Mr. Reynders have taken since 2003 and to try and obfuscate the real issues in the present application.
- [58] Counsel for the respondents argued two points-
- [58.1] The first was that neither the institution of the subsequent action or the way Mr. Reynders conducted litigation on behalf of ADS or himself is vexatious because the proceedings were case managed initially before a judge who has since retired and then before me. Everything that was done, no matter the view of The Standard Bank and Mr. Du Plessis of it, was done as part of the case management process which is a legitimate part of the legal process.

[58.2] The second was that neither The Standard Bank nor Mr. Du Plessis are entitled to the order sought, in consequence of either the content or volume of correspondence emanating from ADS and Mr. Reynders because this too, was part and parcel of the ordinary litigation process. Effectively, the argument was that even if the content of the correspondence strayed over the line of propriety (which it was alleged it had), this was nevertheless part and parcel of the ordinary "cut-and-thrust" of litigation.

[59] Neither of these arguments assist ADS or Mr. Reynders. It is not the conduct during the current proceedings that grounds the argument for the orders sought. The conduct during the current proceedings is a factor to be considered regarding the costs order that has been sought and I will deal with that later in this judgment.

[60] ADS and Mr. Reynders persistently seek to undermine court orders, rules of court and directives issued by it. Litigating the self-same issue over a period of 22 years in circumstances where both the High Court, the Supreme Court of Appeal and the Constitutional Court have already considered and dismissed the matter. This is not the conduct of reasonable litigants seeking to assert rights.

[61] It is improper, abusive and vexatious to refuse to accept the decisions of the Court. Taking every point that can be taken in litigation and exhausting every appeal and when that has yielded no fruit, instituting the same proceedings against the same litigants, although clothed differently with a purported new cause of action, is by all accounts improper and abusive. The inability and failure on the part of ADS and Mr. Reynders to accept the finality of adverse findings against them by Courts is the direct cause of the course of conduct that they have embarked upon against The Standard Bank and Mr. Du Plessis.

[62] Litigants are required to accept that having exercised their rights through every level of the Court system unsuccessfully, that it is no longer available to them for

the purpose of “tilting at windmills.” Neither The Standard Bank, Mr. Du Plessis nor the Court system ought to be subjected to the further recycling of this matter. For this reason, I intend to grant the orders sought.

- [63] Besides the orders sought in terms of section 2(1)(b) of the Act, I intend also in terms of section 2(1)(c)<sup>18</sup> to order this to be for an indefinite period and additionally, directing the Registrar in terms of section 2(3)<sup>19</sup> of the Act, to cause a copy of the order I intend to make to be published in the Government Gazette.
- [64] The costs of the application will follow the result. The Standard Bank and Mr. Du Plessis sought a punitive order for costs on the scale as between attorney and own client. It should have been readily apparent to ADS and Mr. Reynders that their course of conduct was an improper abuse of the process of the Court and that had they refrained from this, the present proceedings could have been entirely avoided. It can hardly be said that what has occurred between the parties occurred in the proverbial “heat of battle”.
- [65] Twenty years duration and decisions from the highest Courts in the country making it clear that The Standard Bank and Mr. Du Plessis have no case to answer from ADS and Mr. Reynders make plain the unmeritorious, abusive and vexatious nature of the 2017 proceedings instituted in this Court. For this reason, I intend to make the punitive order for costs sought.
- [66] There is one last aspect which bears mention and which I am of the view ought pertinently to be brought to the attention of ADS and Mr. Reynders and which I intend to incorporate into the order that I make. Section 2(4) of the Act provides that:

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<sup>18</sup> “An order under paragraph (a) or (b) may be issued for an indefinite period or for such period as the court may determine, and the court may at any time, on good cause shown, rescind or vary any order so issued.”

<sup>19</sup> “The Registrar of the court in which an order under subsection (1) is made, shall cause a copy thereof to be published as soon as possible in the Gazette.”

*"Any person against whom an order has been under subsection (1) who institutes any legal proceedings against any person in any court or in any inferior court without the leave of that court or a judge thereof or that inferior court shall be guilty of contempt of court and be liable upon conviction to a fine not exceeding one hundred pounds or to imprisonment for a period not exceeding six months."*

[67] Accordingly, it is ordered:

- [67.1] The First and Second Respondents are prohibited from instituting legal proceedings in this Court or any other Court (including an inferior Court) against the Applicants, or any current or former employees or other representatives of the First Applicant, without the leave of such Court or Judge thereof, such leave may only be granted where the Court concerned is satisfied that the proceedings are not an abuse of the process of the Court and that there are *prima facie* grounds for the proceedings.
- [67.2] The order set out in paragraph [66.1] above is to operate indefinitely.
- [67.3] The Respondents are ordered, jointly and severally, to pay the costs of this application on the Attorney and Own client Scale, including the costs of Counsel to be taxed on Scale C.
- [67.4] The Registrar is directed to forthwith cause a copy of this order to be published in the Government Gazette as provided for in section 2(3) of the Act.

  
A MILLAR

JUDGE OF THE HIGH COURT  
GAUTENG DIVISION, PRETORIA

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|------------------------------|----------------------------------------|
| HEARD ON:                    | 12 SEPTEMBER 2025                      |
| JUDGMENT DELIVERED ON:       | 14 OCTOBER 2025                        |
| COUNSEL FOR THE APPLICANTS:  | ADV. M SIBANDA<br>MR. NKABINDE (PUPIL) |
| INSTRUCTED BY:               | ENS ATTORNEYS                          |
| REFERENCE:                   | MR. A MOOSAJEE/MS. S MUNGA             |
| COUNSEL FOR THE RESPONDENTS: | ADV. D POOL                            |
| INSTRUCTED BY:               | LERENA ATTORNEYS                       |
| REFERENCE:                   | MS. R LERENA                           |