

**IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA**

CC CASE NO.: CCT54/16

HIGH COURT CASE NO.

(GAUTENG DIVISION, PRETORIA) 3558/2013

In the matter between:

**SOUTH AFRICAN MUNICIPAL WORKERS' UNION** Applicant

and

<b>THE MINISTER OF CO-OPERATIVE GOVERNANCE &amp; TRADITIONAL AFFAIRS</b>	First Respondent
<b>THE SPEAKER OF THE NATIONAL ASSEMBLY</b>	Second Respondent
<b>THE CHAIRPERSON OF THE NATIONAL COUNCIL OF PROVINCES</b>	Third Respondent
<b>THE PREMIER OF THE EASTERN CAPE</b>	Fourth Respondent
<b>THE PREMIER OF THE FREE STATE</b>	Fifth Respondent
<b>THE PREMIER OF GAUTENG</b>	Sixth Respondent
<b>THE PREMIER OF KWAZULU-NATAL</b>	Seventh Respondent
<b>THE PREMIER OF MPUMALANGA</b>	Eighth Respondent
<b>THE PREMIER OF THE NORTHERN CAPE</b>	Ninth Respondent
<b>THE PREMIER OF LIMPOPO</b>	Tenth Respondent
<b>THE PREMIER OF NORTH WEST</b>	Eleventh Respondent
<b>THE PREMIER OF THE WESTERN CAPE</b>	Twelfth Respondent
<b>THE SOUTH AFRICAN LOCAL GOVERNMENT ASSOCIATION</b>	Thirteenth Respondent

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**AFFIDAVIT**

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I, the undersigned,

**GLYN ERIC WILLIAMS**

do hereby make oath and say that:

1. I am the applicant's ("SAMWU's") attorney of record in this matter. I am duly authorised to depose to this affidavit on its behalf.
2. The content of this affidavit is within my personal knowledge, except where the contrary is apparent from the context, and it is true and correct.
3. In paragraphs 65 – 73 of the first respondent's written submissions it is contended that the application for leave to appeal should be dismissed with costs as the High Court's failure to determine whether s 56A is unconstitutional is not appealable. The applicant seeks leave to amend its notice of application, in view of the possibility that this Court might uphold the first respondent's argument. In the paragraphs which follow I shall deal briefly with the requirements set out in Rule 18 for direct access applications.
4. The grounds upon which it is contended that it is in the interest of justice that an order for direct access be granted are substantially the same as the grounds upon

which it is contended that it is in the interests of justice for leave to appeal to be granted. These are dealt with in my affidavit of 14 March 2016, particularly at paragraphs 22 – 33,<sup>1</sup> and elaborated upon at paragraphs 8 – 13 of SAMWU's written submissions, in respect of s 56A, of August 2016.

5. The nature of the relief sought is set out in SAMWU's notice of application of 14 March 2016 (as amended). The grounds upon which the relief is based are dealt with extensively in SAMWU's evidence before the High Court, which forms part of the record in this Court. None of the parties have suggested that oral evidence will be required and the existing record provides a sufficient basis for the determination of the issue.
6. Finally, I submit that neither the Court nor any of the parties will be prejudiced by the granting of the amendment sought, particularly in view of the fact that the Chief Justice in his directions has dealt with the application for leave to appeal as an application for direct access.<sup>2</sup>
7. I accordingly contend that a proper case has been made out for the amendment.

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**GLYN ERIC WILLIAMS**

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<sup>1</sup> Vol 7, pp. 530 – 536.

<sup>2</sup> Chief Justice's amended directions, vol. 7, p. 575.

I certify that the Deponent acknowledged to me that:

1. he knows and understands the contents of this Declaration;
2. has no objection to taking the prescribed oath and considers the prescribed oath to be binding on his conscience.

The Deponent thereafter uttered the words: "I swear that the contents of this Declaration are true, so help me God". The Deponent signed this Declaration in my presence at CAPE TOWN on this the        day of **SEPTEMBER 2016**.

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**COMMISSIONER OF OATHS**  
**ex officio**