

**IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA
(BRAAMFONTEIN)**

Case No: 54/16

In the matter between:-

SOUTH AFRICAN MUNICIPAL WORKERS UNION Applicant
and

**THE MINISTER OF CO-OPERATIVE GOVERNANCE
& TRADITIONAL AFFAIRS** 1st Respondent

THE SPEAKER OF THE NATIONAL ASSEMBLY 2nd Respondent

THE CHAIRPERSON OF THE NCOP 3rd Respondent

THE PREMIER OF THE EASTERN CAPE 4th Respondent

THE PREMIER OF THE FREE STATE 5th Respondent

THE PREMIER OF GAUTENG 6th Respondent

THE PREMIER OF KWA – ZULU –NATAL 7th Respondent

THE PREMIER OF MPUMALANGA 8th Respondent

THE PREMIER OF THE NORTHERN CAPE 9th Respondent

THE PREMIER OF LIMPOPO 10th Respondent

THE PREMIER OF NORTH WEST 11th Respondent

THE PREMIER OF THE WESTERN CAPE 12th Respondent

**THE SOUTH AFRICAN LOCAL GOVERNMENT
ASSOCIATION** 13th Respondent

FOUNDING AFFIDAVIT

I, the undersigned

FRIDAH MOKGALE

do hereby declare under oath as follows:

1. I am an adult female, an Attorney of this Honourable Court practicing as such at the office of the State Attorney Pretoria at 316 Francis Baard, Salu Buiding, Thabo Sehume Street Pretoria.
2. The contents of this affidavit fall within my personal knowledge unless indicated otherwise by the context, and are furthermore, to the best of my belief both true and correct.
3. The purpose of this affidavit is to apply for condonation for the late filing of the First Respondent's Heads of Argument.
4. The First Respondent was supposed to file its Heads of Argument on or before 30 August 2016.

5. The reason that the First Respondent has not been able to meet the deadline is because shortly before the due date for the filing of the affidavit the First Respondent employed the services of a new senior counsel as the senior counsel who has been involved in this matter became unavailable. The senior counsel only received his papers on 24 August 2016 and it was impossible for him to familiarise himself with the matter so as to be able to file the heads on or before the deadline.
6. The First Respondent approached the Applicant and the other parties involved in this matter and sent them a letter on 26 August 2016 informing them that it would not be possible to meet the deadline. I attach a copy of the letter marked "FM1".
7. The Applicant replied indicating that they have no objection to the late filing of the heads argument. I attach a letter from the Applicant marked annexure "FM2".
8. In the premises I humbly submit that the First Respondent was not in wilful default of the directives of the court. In addition the parties in this matter have not suffered any prejudice.
9. I accordingly ask for condonation from the above Honourable Court for the late filing of the Heads of Argument.

DEPONENT

SIGNED and SWORN to before me on this the _____ day of September 2016, the deponent having acknowledge that he/she knows and understand the contents of this declaration and that he/she has no objection to taking the prescribed Oath and that he / she considers it binding on his / her conscience. I certify further that the Provisions of regulation R 1258 July 1972 have been complied with.

COMMISSIONER OF OATHS

Full names:

Capacity:

Address:

Area: