

**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 MPUMAL5NGA</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") attorney of record in this matter. I am duly authorized 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 is true and correct.
3. The purpose of this affidavit is to apply for condonation for my failure to serve a copy of SAMWU's Written Argument on the attorney of record for the First Respondent in Pretoria before lodging this with the Registrar of this Honourable Court in accordance with paragraph 3(a) of the Amended Directions dated 2 June 2012, which required SAMWU's written argument to be lodged by 10 August 2016.

4. On 10 August 2016, I served the following on the attorneys of record for the Second, Third, and Twelfth Respondents, namely –

4.1 Applicant’s Practice Note;

4.2 Notice of Intention to Amend;

4.3 Application for Condonation;

4.4 Founding Affidavit by me in respect of the following annexures:

4.4.1 “GW6” being my letter of 7 June 2016 to this Court;

4.4.2 “GW7” being letter by Fairbridges Wertheim Becker to the Registrar of 29 July 2016;

4.4.3 “GW8” being the Heads of Argument in respect of the *Tagging* issue which includes the Table of Contents, the Heads, and Table of Authorities;

- 4.4 “GW9” being the Heads of Argument in respect of the Section 56 issue which includes the Table of Contents, the Heads and Table of Authorities.

Service was acknowledged by the attorneys of record for these Respondents by them attaching their stamps of acknowledgment on the Practice Note.

5. I also transmitted these documents to the attorneys of record for the First, Second, Third and Twelfth Respondents by electronic mail. I attach proof of my covering letter to these attorneys dated 10 August 2016, and confirmation of receipt as “GW10” and “GW11” respectively.
6. On 11 August 2016, my Johannesburg correspondent telephonically informed me that she had transmitted the documents referred to in paragraph 4 above electronically to the Registrar of this Honourable Court the previous day. She also confirmed to me that when she attempted to lodge these documents with the Registrar, the Registrar’s office refused to accept them for the following reasons:
- 6.1 A copy had not been served on the First Respondent’s attorney of record, despite it having been transmitted electronically to her,

before she had lodged these documents, including the Written Argument of the Applicant, with the Registrar of this Honourable Court.

6.2 The Registrar required these documents to be indexed and paginated.

6.3 The Registrar did not accept that the entire pack of documents had been served on the attorneys of record for the Second, Third and Twelfth Respondents and electronically on them, as well as the First Respondent.

7. My Johannesburg correspondent confirmed to me when I spoke telephonically with her on 11 August 2016, that she would have indexed and paginated these documents and lodged them with the Registrar during the course of today, 12 August 2016.

8. I respectfully submit that as the extent of the non-compliance has not been great, there has been little, if any, prejudice to this Court and the Respondents and a full explanation has been provided, a proper case has been made out for condonation to be granted to the Applicant for my failure, on its behalf, to have served a copy of its Written Argument, the

Practice Note, and both Applications on the attorney of record for the First Respondent in Pretoria before lodging these documents with the Registrar of this Honourable Court in accordance with Amended Direction 3(a) dated 2 June 2016.

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**GLYN ERIC WILLIAMS**

I certify that the above signature is the true signature of the deponent who has acknowledged that he knows and understands the contents of this affidavit, which affidavit was signed and sworn to at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 2016 in accordance with the provisions of R128 dated 21 July 1972, as amended by Regulation R1648 dated 19 August 1977, R1428 dated 11 July 1980 and GNR774 of 23 April 1982.

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**COMMISSIONER OF OATHS**