

**IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA**

Case No: CCT 108/13

In the matter between –

**JABULANI ZULU AND 389 OTHERS**

Appellants

and

**ETHEKWINI MUNICIPALITY**

First Respondent

**MINISTER OF POLICE**

Second Respondent

**MEC FOR HUMAN SETTLEMENTS AND  
PUBLIC WORKS FOR THE PROVINCE OF  
KWAZULU-NATAL**

Third Respondent

and

**AB AHLALI BASEJONDOLO MOVEMENT SA**

*Amicus Curiae*

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**AFFIDAVIT IN SUPPORT OF CONDONATION**

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I, the undersigned –

**TASHWILL ESTERHUIZEN**

do hereby make oath and swear that –

- 1 I am an adult male attorney, practicing as such at the Socio-Economic Rights Institute of South Africa (SERI), 6<sup>th</sup> Floor, Aspern House, 54 De Korte Street, Braamfontein, Johannesburg.

2 The facts and allegations contained herein are all within my personal knowledge. They are, to the best of my knowledge and belief, true and correct in all respects.

3 I depose to this affidavit in support of an application to condone the late filing of the *Amicus Curiae's* ("*Amicus*") written submissions. Those submissions have been filed three days late.

4 On 13 January 2013, the Honourable Chief Justice directed, *inter alia*, that the *Amicus'* written submissions should be filed on or before Monday 20 January 2014.

5 Counsel on brief for the *Amicus*, Adv Wilson, was overseas at the time the directions were issued. He was not due to return to South Africa until 18 January 2014, and would clearly not be in a position to meet the deadline set by the Court.

6 Accordingly, I attempted to seek the assistance of alternative counsel.

7 On 13 and 14 January 2014, I contacted four counsel whom I believe were appropriately qualified and sufficiently experienced to draft the written submissions on behalf of the *Amicus* within the time frames provided.

8           Unfortunately, all four counsel were unable to accept the brief, because they had pre-existing commitments which would prevent them from preparing written submissions by 20 January 2014. One of them only advised me on Wednesday 15 January 2014 that she was unable to accept the brief.

9           Adv Wilson advised that he is able to start drafting written submissions upon his return on 18 January 2014 or soon thereafter. He advised on 20 January 2014 that he would be able complete his submissions on or before 23 January 2014.

10          In light of this, I decided to file the Amicus' written submissions on 23 January 2014 and seek the indulgence of the above Honourable Court for the late filing thereof.

11          Accordingly on 20 January 2013, I wrote to the Registrar of the above Honourable Court as well as the parties, advising them that the Amicus' written submissions could only be served and filed on 23 January 2014. This letter is attached hereto as annexure "A".

12          I respectfully submit that the delay in preparing the Amicus' written submissions has been slight – just three days – and that none of the parties has suffered any prejudice from the delay. I further submit that the Amicus' written submissions will be useful to the Court.

13 For all of these reasons, I respectfully request that the Court condone the late filing of the Amicus' written submissions.

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**TASHWILL ESTERHUIZEN**

The deponent has acknowledged that she knows and understands the contents of this affidavit, which was signed and affirmed to before me at this day of . In administering this oath the requirements of Regulation R2477 dated 16 November 1984, as amended, have been fulfilled.

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**COMMISSIONER OF OATHS**