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**IN THE HIGH COURT OF SOUTH AFRICA
WESTERN CAPE DIVISION, CAPE TOWN**

7364/23
~~7643~~

Case No: _____

In the matter between:

- | | |
|------------------------------|-------------------|
| Gun Free South Africa | First Applicant |
| Mansoer Eksteen | Second Applicant |
| Andre Levi Cornelius | Third Applicant |
| Dianne Cornelius | Fourth Applicant |
| Denise Mentor | Fifth Applicant |
| Evenlyn Davids | Sixth Applicant |
| Melanie Kiel | Seventh Applicant |
| Natalie Dirks | Eighth Applicant |
| Simone Julies | Ninth Applicant |
| Niezaam Cupido | Tenth Applicant |



and

- | | |
|---|--------------------|
| Minister of Police | First Respondent |
| National Commissioner of Police | Second Respondent |
| Provincial Commissioner of Police: Gauteng | Third Respondent |
| Provincial Commissioner of Police: Western Cape | Fourth Respondent |
| Provincial Commissioner of Police: Northern Cape | Fifth Respondent |
| Provincial Commissioner of Police: Eastern Cape | Sixth Respondent |
| Provincial Commissioner of Police: Free State | Seventh Respondent |
| Provincial Commissioner of Police: Mpumalanga | Eighth Respondent |
| Provincial Commissioner of Police: KwaZulu-Natal | Ninth Respondent |

Provincial Commissioner of Police: Limpopo

Tenth Respondent

Provincial Commissioner of Police: North West

Eleventh Respondent

NOTICE OF MOTION

TAKE NOTICE THAT the Applicants intend to apply to this court for an order in the following terms:

- 1 It is declared that the following persons constitute a class for the purposes of the class action described in paragraph 2 below:
 - 1.1 Persons who have suffered loss on account of being injured by a firearm which was in the SAPS' possession and control prior to it being wrongfully distributed by one or both of SAPS' erstwhile employees, Colonel Christian Lodewyk Prinsloo (**Prinsloo**) and Colonel David Charles Naidoo (**Naidoo**) (a **Prinsloo Firearm(s)**); and
 - 1.2 Dependants, parents, legal guardians, and other persons who have suffered loss arising from the death, and or prior injuries, of victims who have been killed with a Prinsloo Firearm.

(the Class)

2 The Applicants are granted leave to act as representatives of the Class in an action claiming the following relief, through a bifurcated process as detailed below:

2.1 First Stage

2.1.1 Declaratory relief in respect of the Respondents' failure to prevent a violation of the rights of the members of the Class and in respect of the Respondents' liability, jointly and severally, one paying the other to be absolved, to members of the Class in respect of any proven damages incurred, arising out of the death or injury of an individual who was shot with a Prinsloo Firearm (**First Stage**);

2.2 Second Stage

2.2.1 If successful at the First Stage, quantified damages in respect of the declaratory relief referred to in paragraph 2.1.1 above (**Second Stage**).

(the Class Action)

3 It is declared that the Applicants have the requisite legal standing to bring the Class Action on behalf of the Class.

4 The Applicants' legal representatives of record, Norton Rose Fulbright South Africa Inc. are certified as the legal representatives of the members of the Class.

5 It is ordered that the members of the Class will be bound by the judgement or judgments relevant to the First Stage of the Class Action applicable to all members of the Class unless they give written notice to Norton Rose Fulbright South Africa Inc. that they wish to be excluded as members of the Class by a date to be determined by this court.

6 It is ordered that the members of the Class will only be bound by the judgment or judgments relevant to the Second Stage of the Class Action by notifying Norton Rose Fulbright South Africa Inc. in writing by a date to be determined by the court.

7 It is ordered that the members of the Class are to be notified of this Class Action by ways of a notice attached as Annexure A. The notice must be:

7.1 published in one edition per week of the following daily newspapers for four weeks:

7.1.1 Cape Argus;

7.1.2 Die Burger;

7.1.3 Athlone News;

7.1.4 City Vision;

7.1.5 Plainsman;

7.1.6 Constantiaberg Bulletin;

7.1.7 Southern Mail; and

7.1.8 The Sunday Times.

7.2 read out over the following radio stations at least once a week for four weeks following the granting of this order:

7.2.1 Bush Radio 89.5 FM;

7.2.2 Voice of the Cape (95.8 FM, 100.4 FM, 90.7FM, and 90.9 FM);

7.2.3 Good Hope FM;

7.2.4 Cape Talk (567AM);

7.2.5 KFM;

7.2.6 Umhlobo Wenene FM; and

7.2.7 SAFM.

7.3 Published on the First Applicant's Webpage and Facebook pages for a period of eight weeks; and

8 The Respondents are ordered to be liable for the costs associated with the above notifications and are to reimburse the First Applicant or its attorneys for the reasonable costs associated with such notifications.

9 Each of the parties are granted leave to approach this court, on the same, duly amplified papers, for an order varying or amplifying the provisions of this order pertaining to notice and the costs associated therewith, to the extent considered necessary by any party.

10 It is ordered that the costs of this application are to be paid by any of the Respondents who oppose it, jointly and severally. To the extent that this application is unopposed, such costs shall be costs in the Class Action.

11 Granting such further and/or alternative relief.

TAKE NOTICE FURTHER that the Applicants have appointed the address set out hereunder referred to in rule 6(5)(b) at which they will accept notice and service of all process in these proceedings.

TAKE NOTICE FURTHER that if you intend opposing this application you are required (a) to notify the Applicants' attorneys in writing within fifteen (15) days of the service of the notice of motion of such intention to oppose; (b) and within 30 (thirty) days after you have so given notice of your intention to oppose the application, to file your answering affidavits, if any; and further that you are required to appoint in such notification an address referred to in rule 6(5)(b) at which you will accept notice and service of all documents in these proceedings.

TAKE NOTICE FURTHER that if no such notice of intention to oppose is given, the Applicants will take steps to have the application set down on the unopposed roll on a date to be allocated by the Registrar of this court.

TAKE NOTICE FURTHER that the accompanying affidavit of **Adele Kirsten** and the supporting affidavits of **Mansoer Eksteen, Andre Levi Cornelius, Dianne Cornelius, Denise Mentor, Bradley van Wyk, Evenlyn Davids, Melanie Kiel, Natalie Dirks, Simone Julies and Niezaam Cupido** will be used in support of this application.

Signed at **Cape Town** on the **9th** day of **May 2023**.



Norton Rose Fulbright South Africa Inc

Attorneys for Applicants

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Cape Town, 8005

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Tel: 021 405 1200

Ref PBO2329

To:

The Registrar of the High Court,
Western Cape

And to:

MINISTER OF POLICE

First Respondent

Telkom Towers,

North Wing, 24th Floor, 1

52 Johannes Ramokhoase Street,

Pretoria, 0002

Email: gaehlersmk@saps.gov.za

And to:

**NATIONAL COMMISSIONER OF
POLICE**

Second Respondent

Maupa Naga Building

3rd Floor, 3 Troye Street

Pretoria, 0001

Email: selepemashadi@saps.gov.za

/ depnatcom@saps.gov.za

And to:
**PROVINCIAL COMMISSIONER OF
POLICE: GAUTENG**
Third Respondent
16 Empire Road, Parktown
Johannesburg, 2193
Email: gauteng-provcomm@saps.gov.za

And to:
**PROVINCIAL COMMISSIONER OF
POLICE: WESTERN CAPE**
Fourth Respondent
25 Alfred Street, Green Point
Cape Town, 8001
Email: wc-provcomm@saps.gov.za

And to:
**PROVINCIAL COMMISSIONER OF
POLICE: NORTHERN CAPE**
Fifth Respondent
19 George Street,
Kimberly, 8300
Email: koliswaotola@saps.gov.za

And to:
**PROVINCIAL COMMISSIONER OF
POLICE: EASTERN CAPE**
Sixth Respondent
Griffiths Mxenge Building,
Buffalo Road, Zwelitsha,
Qonce, 5601
Email: ecprovcomm@saps.gov.za

And to:
**PROVINCIAL COMMISSIONER OF
POLICE: FREE STATE**
Seventh Respondent
126 Charlotte Maxeke Street,
Bloemfontein Central,
Bloemfontein, 9301
Email: provcomm.freestate@saps.gov.za

And to:
**PROVINCIAL COMMISSIONER OF
POLICE: MPUMALANGA**

Eighth Respondent
7 Ferreira Street,
Mbombela, 1201
Email: mafolomf@saps.gov.za

And to:

**PROVINCIAL COMMISSIONER OF
POLICE: KWAZULU-NATAL**

Ninth Respondent
15 Bram Fischer Road
Durban Central,
Durban, 4001
Email: khuzwayonf@saps.gov.za

And to:

**PROVINCIAL COMMISSIONER OF
POLICE: LIMPOPO**

Tenth Respondent
44 Schoeman Street,
Polokwane Central,
Polokwane, 0700
Email: limpoposecretary@saps.gov.za

And to:

**PROVINCIAL COMMISSIONER OF
POLICE: NORTH WEST**

Eleventh Respondent
123 Peter Mokaba Street,
Potchefstroom, 2531
Email: nw-pc.personal@saps.gov.za