

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA
Gauteng Division, Pretoria

CASE NO: **2026-192997**

In the matter between:

THE UNIVERSITY OF SOUTH AFRICA

Plaintiff / Applicant / Appellant

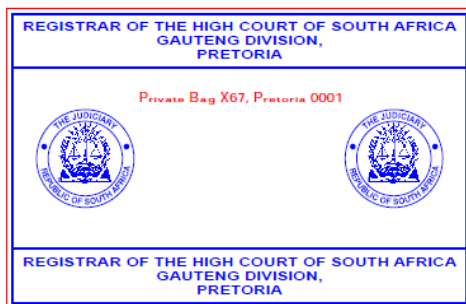
and

**EDNEWS.AFRICA,PREGASEN EDWIN
NAIDU ,INDEPENDENT ONLINE**

Defendant / Respondent

Heads of Argument

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IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)

CASE NO.:2026/192997

In the matter between:

THE UNIVERSITY OF SOUTH AFRICA

Applicant

and

EDNEWS.AFRICA

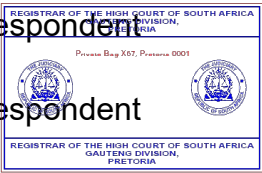
First Respondent

PRAGASEN EDWIN NAIDU

Second Respondent

INDEPENDENT ONLINE

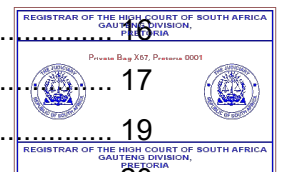
Third Respondent



FIRST AND SECOND RESPONDENTS' HEADS OF ARGUMENT

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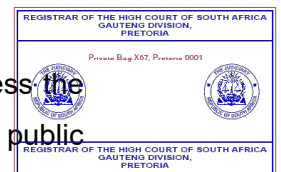
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INTRODUCTION

1. This is an opposed urgent application concerning the constitutionally protected right to press freedom.¹
2. This Court is asked to prohibit journalistic activity that is in the public interest in the midst of an ongoing “governance crisis” at one of South Africa’s most prominent universities.²
3. In a related matter, Sutherland DJP held in **amaBhungane** that:

“A South African court shall not shut the mouth of the media unless the fact-specific circumstances convincingly demonstrate that the public interest is not served by such a publication.”³



4. The Applicant, the University of South Africa (“**UNISA**”), seeks urgent interim orders against the First and Second Respondents (“**EdNews**” and “**Mr Naidu**”):
 - 4.1. Directing them to take down three articles from their website (“**take-down order**”); and⁴
 - 4.2. Interdicting and restraining them from publishing two broadly construed statements, “or any statements to similar effect”, in future (“**restraint order**”).⁵
5. These interim orders seek to shut the mouth of media. UNISA attempts to argue that its relief is narrowly tailored to restrain the publication of only two

¹ Section 16(1)(a) of the Constitution.

² AA, para 8, 011-3.

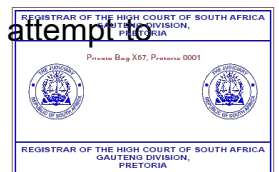
³ *Mazetti Management Services (Pty) Ltd and Another v AmaBhungane Centre for Investigative Journalism NPC and Others* [2023] ZAGPJHC 771; 2023 (6) SA 578 (GJ) (“**amaBhungane**”) at para 34.

⁴ NoM, para 2.2, 006-3.

⁵ NoM, para 2.3, 006-3.

“imputations” against it. However, the take-down order betrays this: UNISA wants all previous reportage against it by EdNews and Mr Naidu on the subject-matter of this application taken down. The intrusion into press freedom that it asks this Court to undertake, on urgency, is severe.

6. In its replying affidavit, the Applicant shifts the goalposts and seeks to abandon some of its relief. It is now seeking only the takedown of two of the articles and the removal of the words “or any statements to similar effect” from the restraint order.⁶
7. It also seeks to expand on its grounds for urgency,⁷ in a desperate attempt to bolster its case, which is trite in our law that it cannot do.⁸
8. The relief is crafted as a *rule nisi* pending a return date, where the Applicant will also seek a declarator, an order directing the Respondents to apologise, and a punitive costs order, while making the take-down and restraint orders final in effect.⁹
9. Again, the Applicant uses its replying affidavit to depart from its initial position on costs.¹⁰
10. And so, the Applicant’s case shifts, and turns, and, ultimately, tumbles.



ISSUES

11. The salient issues before this Court are:

⁶ RA, para 24-25. (At the time of preparing these submissions, the replying affidavit had not yet been uploaded to CaseLines.)

⁷ *Id*, para

⁸ *Fine and Country South Africa (Pty) Ltd v Tradelink Properties (Pty) Ltd* [2024] ZAGPJHC 586 at para 23.

⁹ NoM, 006-2 onwards.

¹⁰ RA, paras 26-27.

- 11.1. Whether this application is urgent;
- 11.2. Whether the Applicant has satisfied the requirements for an interim interdict on urgency, including the balance of convenience;
- 11.3. What meaning a reasonable reader of ordinary intelligence would attribute to the impugned statements and whether EdNews and Mr Naidu have raised sustainable defences to the alleged defamation; and
- 11.4. Whether the relief that the Applicant now seeks is competent, proportionate, just, and equitable; and
- 11.5. Costs.



URGENCY

12. In **AParty**, the Constitutional Court noted that:

“Approaching courts at the eleventh hour puts extreme pressure on all involved, including respondents and the courts, as these cases amply demonstrate. It results in courts having to deal with difficult issues of considerable importance under compressed time limits.”¹¹

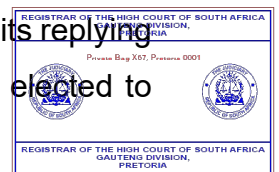
13. By the time of hearing this matter, the impugned articles will have been published online for over three weeks.¹²
14. Following the publication of the first article on 26 July 2026, which is the primary article that the Applicant challenges:¹³

¹¹ *AParty and Another v The Minister for Home Affairs and Others, Moloko and Others v The Minister for Home Affairs and Another* [2009] ZACC 4; 2009 (3) SA 649 (CC); 2009 (6) BCLR 611 (CC) at para 64.

¹² AA, para 15, 011-5.

¹³ NoM, para 2.1, 006-3.

- 14.1. The Applicant issued a letter of demand some eight days later on 3 August 2026, and demanded a response “by end of business day, tomorrow”;¹⁴
- 14.2. Instituted and served this application a further eight days later on Wednesday, 12 August 2026;¹⁵
- 14.3. Afforded the Respondents one and half days to prepare an answering affidavit by Thursday, 13 August 2026;¹⁶ and
- 14.4. Thereafter, afforded itself another three and a half days to file its replying affidavit by Monday, 17 August 2026,¹⁷ although it has now elected to file its replying affidavit sooner.
15. The Applicant makes no genuine attempt to explain the 16-day delay, it did not make provision for the filing of heads of argument, and the time periods that it directed for the filing of pleadings smack of litigation by ambush.
16. Despite the established precedent on urgency and the application of Rule 6(12):¹⁸
- 16.1. The high-water mark of the Applicant’s case on urgency is that the articles continue to “be accessed, disseminated and shared” and each day “compounds and perpetuates the harm”. No evidence is adduced for the above claims or for the actual or real harm that the Applicant is



¹⁴ FA, “TLM1”, 006-49 and 006-53.

¹⁵ AA, “PEN1”, 011-37.

¹⁶ NoM, 006-5.

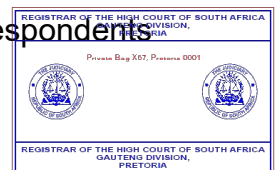
¹⁷ *Id.*

¹⁸ *East Rock Trading 7 (Pty) Ltd and Another v Eagle Valley Granite (Pty) Ltd and Others* [2011] ZAGPJHC 196 (“**East Rock Trading**”) at paras 4-12.

allegedly suffering.¹⁹ If the harm is so acute, nothing prevented the Applicant from seeking interim relief sooner,²⁰ but it has failed to do so.

16.2. In terms of substantial redress, the Applicant argues only that “the harm” “is ongoing, escalating”, again without adducing any evidence, and that damages after the event will be inadequate.²¹ However, nothing further has been published about this matter by EdNews or Mr Naidu since 30 July 2026.²²

16.3. In terms of explaining the delay in bringing the application, the Applicant says little more than it “acted with expedition” and that the Respondents were given a “fair opportunity” to respond.²³



17. UNISA has failed to meet the requirements of Rule 6(12), and the matter falls to be struck from this Court’s roll for the following reasons:

17.1. The delay is self-created and insufficiently explained;

17.2. Substantial redress is available to the Applicant in due course;

17.3. Any harm that may have been done has already occurred;

17.4. Any harm that the Applicant purportedly suffers will not be remedied by the interim order that it seeks due to non-joinder; and

17.5. There are no exceptional circumstances as to why this matter should be heard in urgent court.

¹⁹ FA, para 20, 006-14.

²⁰ AA, para 20, 011-6.

²¹ *Id*, para 21.

²² AA, para 11, 011-4.

²³ *Id*, para 22.

Applicant has manufactured urgency

18. The urgency in this matter is self-created.²⁴
19. There is an insufficient explanation for the 16-day delay in bringing these proceedings,²⁵ and wholly insufficient reasons for the severely truncated time periods for filing pleadings.
20. As a result, this Court is “not obliged to afford the matter priority”²⁶ and, while an applicant is permitted to set abridged timeframes, “urgency must be genuine and not manufactured.”²⁷



21. UNISA fails on this leg of inquiry, and it fails on the next.

Substantial redress is available in due course

22. In terms of substantial redress, UNISA has failed to establish that it is not available to it in due course. It plainly is. UNISA’s “mere desire to have the matter heard quickly does not suffice”.²⁸
23. In ***Mokate v UDM***, Tolmay J, hearing a similar matter, held:

“I am of the view that in the light of the fact that the publication took place on 17 June 2020 [three weeks before the hearing], the statement has been in the public domain for a significant time and the harm that may have been done, has already occurred. The proverbial horse has bolted. Such harm that Dr Mokate may suffer, due to the statements, can be addressed in due course when the matter is heard, and the issues

²⁴ AA, para 23, 011-6.

²⁵ *Id*, para 20.

²⁶ *Lindeque and Others v Hirsch and Others (In Re: Prepaid24 (Pty) Limited)* [2019] ZAGPJHC 122 as cited in *E.E v T.C.E* (113234/23) [2025] ZAGPPHC 492 at para 11.

²⁷ *Id*, para 12.

²⁸ *Id*, para 13.

between the parties are properly ventilated. She will be able to obtain redress at a hearing in due course, as all other litigants in defamation matters do."²⁹ (Own emphasis.)

24. More so, in **Mabote** per Opperman J:

"There seems to be merit in the argument that whether this Court grants the applicant the relief she seeks or not (apart from the one million rand which she does not seek be awarded to her by the urgent Court) her reputation will not undergo any material change for it is already what it is and the publications above listed have seen to that. Courts are not inclined to grant orders that will have only academic effect, and this must weigh in the overall decision."³⁰ (Own emphasis.)



25. In addition, in **Midi Television**, the Supreme Court of Appeal makes it clear that:

"Where it is alleged, for example, that a publication is defamatory, but it has yet to be established that the defamation is unlawful, an award of damages is usually capable of vindicating the right to reputation if it is later found to have been infringed, and an anticipatory ban on publication will seldom be necessary for that purpose. Where there is a risk to rights that are not capable of subsequent vindication, a narrow ban might be all that is required if any ban is called for at all."³¹

26. Most notably, in **Mineral Sands**, Majiedt J addresses similar questions before this Court, including the approach to substantial redress and UNISA's ill-conceived attempt to assert a right to human dignity,³² which it has not abandoned and which, like "a trading corporation", is simply *not* available to it:

²⁹ *Mokate v United Democratic Movement and Another* [2020] ZAGPPHC 377 ("**Mokate v UDM**") at para 7.

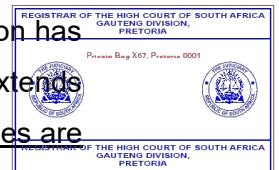
³⁰ *Mabote v Fundudzi Media Proprietary Limited t/a Sunday World* [2020] ZAGPJHC 287 ("**Mabote**") at para 28.

³¹ *Midi Television (Pty) Ltd v Director of Public Prosecutions (Western Cape)* [2007] ZASCA 56; [2007] 3 All SA 318 (SCA); 2007 (9) BCLR 958 (SCA); 2007 (5) SA 540 (SCA) ("**Midi Television**") at para 20.

³² FA, para 24, 006-15.

"I hold that an unqualified award of general damages to a trading corporation in respect of harm to its reputation limits the right to freedom of speech. A trading corporation has no hurt "human" feelings to assuage, to provide solace by way of an amount for general damages. In this regard, it does not have a right to dignity and cannot lay claim to the rights in section 10 of the Constitution. Instead, it has a common law right to its good name and reputation, protected by the Constitution's equality provisions, and can enforce that right by a claim for general damages under the qualification outlined, namely, excluding, in a court's discretion, in cases of public discourse in public interest debates. The underlying rationale for this is that it bears recognition that a trading corporation has a personality right to protect its reputation and good name. This extends beyond mere goodwill. Subject to this qualification, general damages are a competent remedy for the unlawful defamation of a trading corporation.

Absent this qualification, a claim for general damages for defamation poses an unjustifiable limitation on freedom of expression."³³
(Own emphasis.)



Alleged harm has already been suffered and cannot be cured by the interim relief

27. As in the matter of ***Mokate v UDM***, the articles have been in the public domain for a significant time and the harm that may have been done, has already occurred.
28. What is more, the relief that UNISA seeks in this Court will not remedy the "ongoing" harm that it purports to suffer.
29. Multiple publishers have run with this story,³⁴ and at least two other publishers, including Briefly News and SAFM, and one prominent influencer have made similar statements, which carry the same, if not the exact "imputation" that UNISA

³³ *Reddell and Others v Mineral Sands Resources (Pty) Ltd and Others* [2022] ZACC 38; 2023 (2) SA 404 (CC); 2023 (7) BCLR 830 (CC) ("**Mineral Sands**") at para 150.

³⁴ AA, para 28, 011-7 onwards.

primarily complains of.³⁵ These statements remain online and are not subject to any order that this Court may grant.

30. This non-joinder issue³⁶ is fatal to UNISA's case as granting the interim relief that UNISA seeks will serve no purpose.
31. In **UDM v Lebashe**, the ineffectual nature of interim relief, which is apposite to this matter, is detailed by Molemela JA (as she was then) in her minority judgment:

"Considering the above, the allegations were already in the public domain in any event. Only the appellants are not permitted to repeat them. An interim order under such circumstances is not only impotent, but artificial."³⁷

(Own emphasis.)



No exceptional circumstances exist for this matter to be heard in urgent court

32. Finally, EdNews and Mr Naidu, on the UNISA's own version, have delivered a "comprehensive answering affidavit of some 138 paragraphs".³⁸ A voluminous file and a complex factual matrix now exist.
33. UNISA do not suggest otherwise or point to any exceptional circumstances or genuine harm warranting the hearing of this matter now.
34. In **Re Capital**, Makume J, when dealing with a similar matter, notes:

"Many years ago in this division Cachalia J in the matter of: *Digital Printers v Riso Africa (Pty) Ltd* (Case number 17318/2002) a decision which was

³⁵ *Id*, paras 28.1, 011-7 and para 28.4, 011-8.

³⁶ *RE Capital Holdings Limited and Another v Mail & Guardian Media Limited and Others* [2024] ZAGPJHC 202 ("**RE Capital**") at paras 15-16.

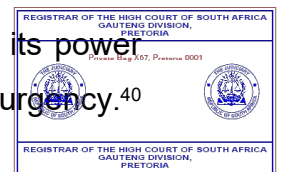
³⁷ *United Democratic Movement and Another v Lebashe Investment Group (Pty) Ltd and Others* [2021] ZASCA 4; [2021] 2 All SA 90 (SCA) ("**UDM v Lebashe**") at para 60.

³⁸ RA, para 18.

quoted and referred to with approval by Wepenaar J in *RE: Several Matters in the Urgent Court* 2013 (1) SA 549 GSJ held as follows: 'If a matter becomes opposed in the urgent court and the papers become voluminous there must be exceptional reasons why the matter is not to be removed to the ordinary motion roll. The urgent court is not geared to dealing with a matter which is not only voluminous but clearly includes some complexity and even some novel points of law.'"³⁹ (Own emphasis.)

35. This Court is not enjoined to depart from this well-established principle. Matters like this have been routinely dismissed.

36. When considered collectively, this Court should decline to exercise its power under Rule 6(12)(a) and strike this application from its roll for a lack of urgency.⁴⁰



THE MERITS OF THIS APPLICATION

37. In the event that this Court proceeds to the merits of this application, the requirements for an interim interdict are well established.⁴¹ However, this Court has the added complexity of this matter concerning media respondents engaged in constitutionally protected journalistic activity that is in the public interest.

Salient principles on press freedom

38. Section 16(1) of the Constitution guarantees the right to freedom of expression, which includes freedom of the press and other media,⁴² and freedom to receive and impart information and ideas.⁴³

39. In *Print Media*, the Constitutional Court, per Skweyiya J, held that:

³⁹ *RE Capital* above note n 36 at para 14.

⁴⁰ *Commissioner for South African Revenue Service v Hawker Air Services (Pty) Ltd; Commissioner for South African Revenue Service v Hawker Aviation Services Partnership and Others* [2006] ZASCA 51; 2006 (4) SA 292 (SCA) at para 11.

⁴¹ *East Rock Trading* above n 18 at para 14.

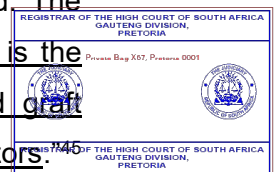
⁴² Section 16(1)(a) of the Constitution.

⁴³ Section 16(1)(b) of the Constitution.

“In considering the comprehensive quality of the right, one also cannot neglect the vital role of a healthy press in the functioning of a democratic society. One might even consider the press to be a public sentinel, and to the extent that laws encroach upon press freedom, so too do they deal a comparable blow to the public’s right to a healthy, unimpeded media.”⁴⁴
(Own emphasis.)

40. Skweyiya J also cited ***Government v Sunday Times***, where Joffe J held:

“The role of the press in a democratic society cannot be understated. The press is in the front line of the battle to maintain democracy. It is the function of the press to ferret out corruption, dishonesty, and graft wherever it may occur and to expose the perpetrators.”⁴⁵
(Own emphasis.)



41. Lastly, in ***Midi Television***, the Supreme Court of Appeal held:

“It is important to bear in mind that the constitutional promise of a free press is not one that is made for the protection of the special interests of the press. . . . The constitutional promise is made rather to serve the interest that all citizens have in the free flow of information, which is possible only if there is a free press. To abridge the freedom of the press is to abridge the rights of all citizens and not merely the rights of the press itself.”⁴⁶ (Own emphasis.)

42. The important role of a free, unencumbered press and its centrality to democracy can, therefore, not be gainsaid. One of the vital safeguards for a free press is the general prohibition on restraint orders.

⁴⁴ *Print Media South Africa and Another v Minister of Home Affairs and Another* [2012] ZACC 22; 2012 (6) SA 443 (CC); 2012 (12) BCLR 1346 (CC) at para 54 (“***Print Media***”).

⁴⁵ *Government of the Republic of South Africa v ‘Sunday Times’ Newspaper and Another* 1995 (2) SA 221 (T) at 227I.

⁴⁶ *Midi Television* above n 31 at para 6.

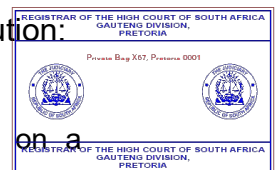
Case law on restraint orders

43. An interdict prohibiting or restraining publication (whether interim or final) is known as judicial “prior restraint”.⁴⁷ They are “invidious”.⁴⁸ Prior restraints impinge on the right to freedom of expression, which includes freedom of the press and other media, as well as the freedom to receive and impart information and ideas.⁴⁹

44. They are colloquially known as “gagging orders” or “banning orders”.⁵⁰

45. In ***Print Media***, Skweyiya J notes they should be considered with caution:

“The case law recognises that an effective ban or restriction on a publication by a court order even before it has ‘seen the light of day’ is something to be approached with circumspection and should be permitted in narrow circumstances only.”⁵¹



46. In ***Heinemann***, the Appellate Division (in a pre-democratic era) held that restraint orders should be rarely granted. Rumpff JA held as follows:

“The freedom of speech – which includes the freedom to print – is a facet of civilisation which always presents two well-known inherent traits. The one consists of the constant desire by some to abuse it. The other is the inclination of those who want to protect it to repress more than is necessary. The latter is also fraught with danger. It is based on intolerance and is a symptom of the primitive urge in mankind to prohibit that with which one does not agree. When a Court of law is called upon to decide whether liberty should be repressed – in this case the freedom to publish a story – it should be anxious to steer a course as close to the

⁴⁷ *Sithole and Another v Media24 (Pty) Ltd and Others* [2023] ZAGPJHC 884 (“***Sithole***”) at para 31.

⁴⁸ *Id.*

⁴⁹ *Id.*

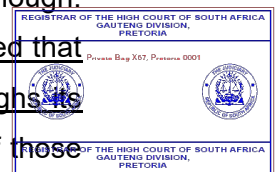
⁵⁰ *Id.*, para 31.

⁵¹ *Print Media* above n 44 at para 44.

preservation of liberty as possible. It should do so because freedom of speech is a hard-won and precious asset, yet easily lost.”⁵² (Own emphasis.)

47. Notably, in ***Midi Television***, the Supreme Court of Appeal held:

“[19] In summary, a publication will be unlawful, and thus susceptible to being prohibited, only if the prejudice that the publication might cause to the administration of justice is demonstrable and substantial and there is a real risk that the prejudice will occur if publication takes place. Mere conjecture or speculation that prejudice might occur will not be enough. Even then publication will not be unlawful unless a court is satisfied that the disadvantage of curtailing the free flow of information outweighs its advantage. In making that evaluation it is not only the interests of those who are associated with the publication that need to be brought to account but, more important, the interests of every person in having access to information. Applying the ordinary principles that come into play when a final interdict is sought, if a risk of that kind is clearly established, and it cannot be prevented from occurring by other means, a ban on publication that is confined in scope and in content and in duration to what is necessary to avoid the risk might be considered.”



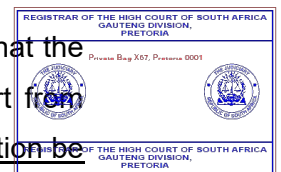
[20] Those principles would seem to me to be applicable whenever a court is asked to restrict the exercise of press freedom for the protection of the administration of justice, whether by a ban on publication or otherwise. They would also seem to me to apply, with appropriate adaptation, whenever the exercise of press freedom is sought to be restricted in protection of another right. And where a temporary interdict is sought, as pointed out by this Court in *Hix Networking Technologies*, the ordinary rules, applied with those principles in mind, are also capable of ensuring that the freedom of the press is not unduly abridged. Where it is alleged, for example, that a publication is defamatory, but it has yet to be established that the defamation is unlawful, an award of damages is

⁵² *Publications Control Board v William Heinemann Ltd and Others* 1965 (4) SA 137 (A) at 160E-F (“**Heinemann**”).

usually capable of vindicating the right to reputation if it is later found to have been infringed, and an anticipatory ban on publication will seldom be necessary for that purpose. Where there is a risk to rights that are not capable of subsequent vindication a narrow ban might be all that is required if any ban is called for at all. It should not be assumed, in other words, that once an infringement of rights is threatened, a ban should immediately ensue, least of all a ban that goes beyond the minimum that is required to protect the threatened right."⁵³ (Own emphasis.)

48. Finally, in ***Herbal Zone***, the Supreme Court of Appeal, per Wallis JA, held:

"The clarification was to point out that Greenberg J did not hold that the mere ipse dixit of a respondent would suffice to prevent a court from granting an interdict. What is required is that a sustainable foundation be laid by way of evidence that a defence such as truth and public interest or fair comment is available to be pursued by the respondent. It is not sufficient simply to state that at a trial the respondent will prove that the statements were true and made in the public interest, or some other defence to a claim for defamation, without providing a factual basis therefor."⁵⁴



49. UNISA's counsel accepts that this matter concerns restraint orders and that courts must approach restraints on publication with "caution".⁵⁵

Requirements for an interim interdict have not been met

50. UNISA's primary case stands and falls on the existence of an alleged *prima facie* right.⁵⁶

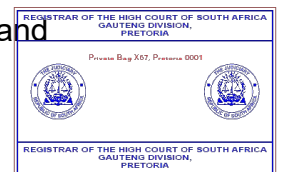
⁵³ *Midi Television* above n 31 at paras 19-20.

⁵⁴ *Herbal Zone (Pty) Ltd v Infitech Technologies (Pty) Ltd and Others* [2017] ZASCA 8; [2017] 2 All SA 347 (SCA) at para 38.

⁵⁵ Applicant's HoA, para 9.

⁵⁶ *Id*, paras 7-11.

51. This inquiry is ill-suited for an urgent court and requires a complex and technical analysis of the various impugned articles and statements, the context within which they should be read, and how the “reasonable reader” would interpret their sting or so-called “imputations”, which is provided in the next section.
52. For present purposes, UNISA, in focusing its energies on its alleged right, fails to establish that:
 - 52.1. The balance of convenience favours granting the interim relief;
 - 52.2. There is a well-grounded apprehension of irreparable injury; and
 - 52.3. That no other satisfactory remedies are available to it.



The balance of convenience does not favour the interim relief

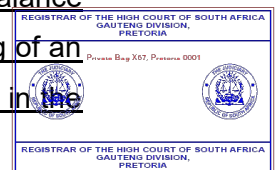
53. In *Hix*, and in relation to the manner in which UNISA has approached this matter, the Supreme Court of Appeal held:

“To sum up, cases involving an attempt to restrain publication must be approached with caution. ... freedom of speech is a right not to be overridden lightly. The appropriate stage for this consideration would in most cases be the point at which the balance of convenience is determined. It is at that stage that consideration should be given to the fact that the person allegedly defamed (if this be the case) will, if the interdict is refused, nonetheless have a cause of action which will result in an award of damages. This should be weighed against the possibility, on the other hand, that a denial of a right to publish is likely to be the end of the matter as far as the press is concerned. And in the exercise of its discretion in granting or refusing an interim interdict regard should be had inter alia to the strength of the applicant's case; the seriousness of the defamation; the difficulty a respondent has in proving, in the limited time afforded to it in cases of urgency, the defence which it wishes to raise and

the fact that the order may, in substance though not in form, amount to a permanent interdict.⁵⁷ (Own emphasis.)

54. Equally, in **UDM v Lebashe**, Molemela JA, after noting that matters like this are “impotent” and “artificial”, states:

“Considering the above, the allegations were already in the public domain in any event. Only the appellants are not permitted to repeat them. An interim order under such circumstances is not only impotent, but artificial. It amounts to no more than what the law calls a *brutum fulmen*. This relates to one of the requisites for an interim interdict, namely the balance of convenience. On this score, it clearly did not favour the granting of an interim order, and the interim order should not have been granted in the first place.”⁵⁸ (Own emphasis.)



55. In this matter, the balance of convenience does not favour the granting of the interim relief for the following reasons:

55.1. As held in **Mokate v UDM, Mabote, Midi Television, and Mineral Sands**, among others, UNISA can vindicate its rights in due course. EdNews and Mr Naidu cannot.⁵⁹ Within the context of this matter, EdNews and Mr Naidu are constitutionally protected. UNISA is not.

55.2. The interim order fails to recognise the “time-sensitive” and “fluid” nature of reporting, which is especially necessary in the midst of a crisis such as the one that UNISA faces.⁶⁰ EdNews and Mr Naidu expressly state that “the time-sensitive nature of [their] reportage will be lost, and the families of the deceased and the public at large will be poorer for it.” As a result,

⁵⁷ *Hix Networking Technologies CC v System Publishers (Pty) Ltd and Another* [1996] ZASCA 107; 1997 (1) SA 391 (SCA); [1996] 4 All SA 675 (A) (“**Hix**”).

⁵⁸ *UDM v Lebashe* above n 37 at para 60.

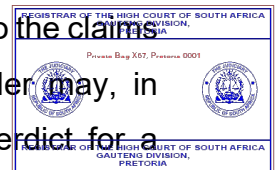
⁵⁹ AA, para 98, 011-28.

⁶⁰ AA, para 96, 011-27.

the interim relief, if granted, will be final in its effect. This disadvantage of curtailing the free flow of information outweighs its advantage.⁶¹

55.3. The interim relief is ineffective, impotent, and academic due to the alleged harm having already been suffered and UNISA's failure to join "journalists, publishers, and influencers" who have published substantially similar statements that remain publicly accessible.⁶²

55.4. In terms of the test laid out in *Hix*,⁶³ UNISA has not made out a strong case (for all elements of an interim interdict), EdNews and Mr Naidu were only given one and a half days to raise sustainable defences to the claims of defamation, which they have done, and the interim order may, in substance though not in form, amount to a permanent interdict for a media respondent.



There is no well-grounded apprehension of irreparable injury

56. The Applicants' case, particularly in relation to harm, is speculative,⁶⁴ vague, and non-specific,⁶⁵ and any alleged harm has already occurred and will continue to occur through other publications over which EdNews and Mr Naidu have no control, and which are not cited in this matter.

57. At no point does UNISA adequately take this Court into its confidence to explain the perceived or actual harm that it is suffering.

⁶¹ See *Midi Television* above n 31 at para 32.

⁶² AA, para 29, 011-9.

⁶³ See above para 53.

⁶⁴ *Midi Television* above n 31 at para 19.

⁶⁵ AA, para 93, 011-26.

Alternative relief is available

58. As detailed above and as held by multiple authorities, including the Constitutional Court in ***Mineral Sands***, a claim for damages is plainly available to UNISA in due course.⁶⁶
59. As a result, UNISA does not satisfy three of the four legs of the interim interdict test. As detailed below, it also does not satisfy the fourth. This matter should be dismissed accordingly.

THE IMPUGNED STATEMENTS ARE NOT WRONGFULLY DEFAMATORY



60. UNISA asserts a *prima facie* right and submits that the impugned statements are defamatory for the following reasons:
- 60.1. They “contain two specific false imputations of fact: that UNISA caused, or is responsible for, the deaths and hospitalisation of its staff; and that it blocked the ednews.africa website in order to conceal its responsibility for those deaths.”⁶⁷
- 60.2. There is a “grave and specific false imputation that it killed its own employees and then censored the press to hide it”.⁶⁸
- 60.3. There is an “imputation that UNISA killed its staff and covered it up.”⁶⁹
61. It appears that UNISA has abandoned, with no explanation, the imputation that it “acted with reckless disregard for the wellbeing and lives of its employees”.⁷⁰

⁶⁶ See above para 26.

⁶⁷ Applicant’s HoA, para 2, 052-2; Applicant’s RA, para 7, 012-3.

⁶⁸ RA, para 8, 012-3.

⁶⁹ RA, para 9, 012-4.

⁷⁰ FA, para 14.2, 006-12.

62. UNISA's construction is not a reasonable interpretation of the statements.

The reasonable reader

63. A reasonable reader, having read the impugned statements and the articles in full, would not think that UNISA killed its staff and is trying to cover it up, as the Applicant suggests.

64. **Le Roux v Dey** confirms that when establishing the ordinary meaning of a publication, the test is objective, namely what meaning the reasonable reader of ordinary intelligence would attribute to the statement.⁷¹



65. As confirmed in **McBride**,⁷² **Times Media**,⁷³ and **Adam**,⁷⁴ in applying this test, it is accepted that the reasonable reader understands the statement in its context and gives a reasonable meaning to the words used within the context of the article as a whole.

66. The assumptions that our courts have held about the reasonable reader are summarised in the English case of **Mark v Associated Newspapers Ltd**, which is frequently cited by our Courts:⁷⁵

“Hypothetical reasonable readers should not be treated as either naïve or unduly suspicious. They should be treated as capable of reading between the lines and engaging in some loose thinking, but not as being avid for scandal. The court should avoid an over-elaborate analysis of the article, because an ordinary reader would not analyse the article as a lawyer or

⁷¹ *Le Roux and Others v Dey* [2011] ZACC 4; 2011 (3) SA 274 (CC); 2011 (6) BCLR 577 (CC) (**Le Roux v Dey**) at para 89.

⁷² *The Citizen 1978 (Pty) Ltd and Others v McBride* [2011] ZACC 11; 2011 (4) SA 191 (CC); 2011 (8) BCLR 816 (CC) (**McBride**) at paras 94-95.

⁷³ *Times Media Ltd. and Others v Niselow and Another* [2004] ZASCA 134; [2005] 1 All SA 567 (SCA) (**Times Media**) at para 9.

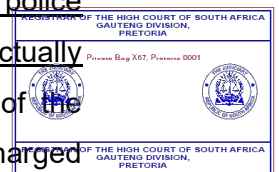
⁷⁴ *Adams v Makhoye* [2023] ZANWHC 142 at para 8.

⁷⁵ See, for example, *Tsedu and Others v Lekota and Another* [2009] ZASCA 11; 2009 (4) SA 372 (SCA) at para 13; *Singh v Caxton CTP Publishers and Printers and Another* [2024] ZAKZDHC 63; 2025 (2) SA 225 (KZD) at para 30; and *Chetty v Perumaul* [2021] ZAKZPHC 66 at para 12.

accountant would analyse documents or accounts. Judges should have regard to the impression the article has made upon them themselves in considering what impact it would have made upon the hypothetical reasonable reader. The court should certainly not take a too literal approach to its task.”⁷⁶

67. Our courts have also respected that the reasonable is capable of discernment.⁷⁷
The Supreme Court of Appeal in **Modiri** confirmed that—

“this court declined to accept the proposition that the reasonable reader is bound to equate a statement that a person is suspected by the police of committing a crime with a statement that the person has actually committed that crime. This is so because the legal construct of the reasonable reader knows that, while many persons arrested and charged with criminal offences are eventually convicted, guilt or innocence is determined by a court on the basis of admissible evidence and that, not infrequently, the person charged is acquitted in the end.”⁷⁸



68. A similar discernment was evident in **McBride**, where Cameron J, writing for the majority, found that:

“Dubious flirtation” with “alleged” gun dealers can not mean making common cause with dealers. Nor can it mean involvement in illegal activities with criminals. And stating that Mr McBride was a “suspect” in gun dealing does not mean that he was actually involved in gun dealing.”⁷⁹

69. In the same way here, the impugned statements would not mean that UNISA has killed its staff members and tried to conceal it.

⁷⁶ *Mark v Associated Newspapers Ltd* [2002] EWCA Civ 772 para 11.

⁷⁷ *Smalle and Another v Southern Palace Investments 440 (Pty) Limited and Another* [2016] ZASCA 189 at para 28.

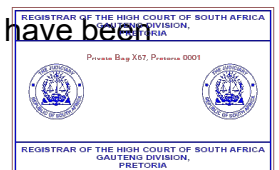
⁷⁸ *Modiri v Minister of Safety and Security and Others* [2011] ZASCA 153; 2011 (6) SA 370 (SCA); [2012] 1 All SA 154 (SCA) (“**Modiri**”) at para 15.

⁷⁹ *McBride* above note n 72 at paras 125-126.

70. A cursory reading of the impugned statements and the articles will immediately alert a reasonable reader to the fact that the statements are allegations based on concerns raised by staff members, trade unions, and family members.

Statements 1 & 2

71. The opening paragraphs of the first article state that there was an “investigation” that “reveals allegations” of “burnout, fear, declining academic standards and growing unrest”.⁸⁰ A reasonable reader would understand that the article contains allegations and would infer that there are genuine concerns, fears, and questions about the impact of the working conditions at UNISA, which have been raised by those directly affected by the ongoing crisis.⁸¹



72. Statement 1, which is contained in the first article, and which is selectively quoted,⁸² clearly states three people died. The omitted portion states that several people have been admitted to hospital according to staff at UNISA who wish to remain anonymous. The remainder of the statement records that “they say many of the cases are linked to stress and exhaustion following the university’s decision last year not to renew contracts for markers and e-tutors.”

73. A reasonable reader, reading the full statement, would interpret this to mean:

- 73.1. That three people have died, and that staff at UNISA have reported that several people have been hospitalised;

⁸⁰ FA, “TLM1”, 006-49 and 006-53.

⁸¹ AA para 52.1 & 70-71, 011-15 & 21-22.

⁸² AA para 48, 011-14. The full statement reads: “Three staff members, including two academics, died during June. At least nine employees have been hospitalised over the past two months, with three still receiving treatment, according to multiple university sources who spoke on condition of anonymity. They say many of the cases are linked to stress and exhaustion following the university’s decision last year not to renew contracts for markers and e-tutors.”

- 73.2. Multiple sources suggest that structural changes at the University have caused stress and exhaustion, which in some cases, has led to hospitalisation and death.⁸³
74. Statement 2, which is also selectively quoted,⁸⁴ speaks about the passing of Ms Unathi Poyo. The omitted portion records that Ms Poyo worked on contract for 10 years. It goes on to note that her passing has raised specific concerns relating to UNISA's use of long-term fixed contracts. A further omission attributes these concerns to labour representatives.
75. A reasonable reader, having read the full statement, would interpret it to mean that the death of a staff member, who had a specific contractual history, has raised questions about UNISA's contracting practices, not that the University killed her.
76. Objectively, a reasonable reader would not interpret this to mean that that UNISA killed its staff.



Statements 3 & 4

77. The second article speaks about reports that staff were unable to access the site and believed it may be linked to allegations raised in the articles.⁸⁵ The article details the unsuccessful efforts to get comment on the blocking in order to provide balanced reporting.⁸⁶ A reasonable reader would infer that the site has been blocked in the wave of critical reportage, and that a journalist and publication took steps to get both sides of the story, albeit unsuccessfully.

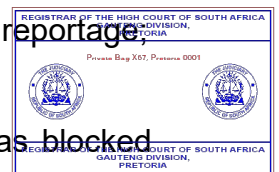
⁸³ AA at para 52.1, 011-15.

⁸⁴ AA at para 48, 011-14. The full statement reads: "The death of Unathi Poyo, a lecturer in the Department of Criminal and Procedural Law, has raised separate concerns after she had reportedly been working on contract since 2016. Her passing has prompted questions from labour representatives about the university's use of long-term fixed-term contracts."

⁸⁵ FA "TLM3", 006-37.

⁸⁶ AA at paras 79-86, 011-24-25.

78. Statement 3 simply states that the website has been blocked. A reasonable reader would interpret that to mean that the website cannot be accessed.
79. Statement 4 records that academics and staff have reported not being able to access the website www.ednews.africa, allegedly due to reports of the deaths of three staff members, who family members have said succumbed to illness after their heavy workloads following the removal of 5000 markers.
80. A reasonable reader would interpret this to mean:
- 80.1. That UNISA may have blocked the site in the wake of critical reportage;
- 80.2. The “allegations” mean that staff have assumed the site was blocked because of the critical reporting; and
- 80.3. The critical reportage pertains to reports that raise concerns of the family members of the deceased that their loved ones had fallen ill due to harsh working conditions.⁸⁷
81. A reasonable reader would not conclude that this statement means that UNISA blocked the site to conceal its responsibility for the three deaths. That is a stretch too far.
82. The context of the articles would not have led the reasonable reader to conclude that it was dealing with an assertion of fact that UNISA has “killed” its employees and was “concealing” this.
83. The Applicant’s imputations are embellished, strained and untenable.



⁸⁷ AA at para 52.2, 011-15.

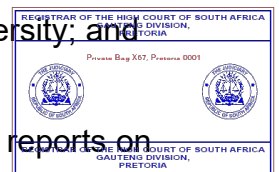
The correct attribution of the sting

84. The gist, or the “sting”, that a reasonable reader of ordinary intelligence would attribute to the impugned statements, is that:⁸⁸

84.1. Staff members, trade union representatives, and family members of the deceased are gravely concerned by the recent deaths and significant challenges facing the UNISA community following structural changes;

84.2. As a result, they are asking questions about the impact of these changes on staff welfare, contracting, and the governance of the University; and

84.3. UNISA may be limiting access to a website that is publishing reports on this.



85. This interpretation is not broad or benign,⁸⁹ but rather an objective interpretation of what a reasonable reader would understand the statements to mean in their context.⁹⁰

86. Notably, it aligns with a similar reasonable interpretation, as captured by SAFM, who explain that—

“Disturbing reports have emerged from Unisa, with claims that overwhelming workloads are taking a devastating toll on staff. Following three staff deaths in June and several stress-related hospitalisations, serious questions are being asked about the working conditions at the institution. One family believes the pressure came at the ultimate cost”.⁹¹

⁸⁸ AA at para 52, 011-15.

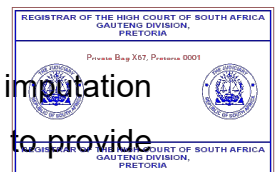
⁸⁹ Applicant’s HoA at para 10, 52-5); RA at para 9, 012-4.

⁹⁰ *Le Roux v Dey* above n 71 at para 89.

⁹¹ AA at para 28.4, 011-9.

Sustainable defences have been raised

87. In the event that the statements are considered defamatory, they are in any event true and in the public interest, or alternatively constitute reasonable publication.
88. The Applicant avers that the EdNews and Mr Naidu “cannot deny the imputation of causation and, in the same breath, justify it as true”.⁹²
89. This is a confusing assertion and an incorrect application of the legal standard of causation.
90. The First and Second Respondents simply argue that the Applicant’s imputation of UNISA killing its staff is an unreasonable interpretation and seeks to provide the Court with a reasonable one.
91. In the event that the statements, on their reasonable interpretation, are found to be defamatory, then the First and Second Respondents submit that the statements, are true and in the public interest. Further, and in any event, the First and Second Respondents submit that the publication was reasonable



The statements are substantially true

92. A complete defence to a defamation claim is that the statement is true and in the public interest. The meaning of the words must be substantially true in order for the defence to succeed.⁹³
93. The Supreme Court of Appeal in ***Mordi*** confirmed—

⁹² Applicant’s HoA at para 10, 52-5); RA para 11, 012-3.

⁹³ *Manuel v Economic Freedom Fighters and Others* [2019] ZAGPJHC 157; [2019] 3 All SA 584 (GJ); 2019 (5) SA 210 (GJ) at para 54.

“it is a matter of settled law that the defendant is not required to prove that the defamatory statement was true in every detail. What the defence requires is proof that the gravamen or the sting of the statement was true.”⁹⁴

94. The sting that there are grave concerns and questions being asked following the death and hospitalisation of staff members and that UNISA may have blocked a website that reports on this, must be proved by the respondents.⁹⁵

95. The facts on which this is based must be analysed to determine its weight and whether or not it is established that the statements are true.⁹⁶

96. EdNews and Mr Naidu have placed sufficient evidence before this Court in their answering affidavit clearly detailing that family members, staff members, and trade union representatives are genuinely concerned by what has happened and are asking vital questions about structural changes and governance and the impact of this on staff wellbeing.



97. Equally, evidence has been placed before the Court that the staff are concerned the blocking of the website is linked to the critical reportage.⁹⁷

97.1. The NEHAWU memorandum formally notifies the Applicant of the “occupational health and safety risks, including fatigue, stress, burnout and work-life imbalance” and that “failure to intervene may create governance risk for Council and expose the University to foreseeable academic, labour, reputational and stakeholder harm.”⁹⁸

⁹⁴ *Modiri* at above n 78 at para 13.

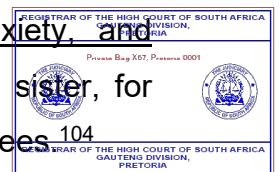
⁹⁵ *Ramos v Independent Media (Pty) Ltd and Others* [2021] ZAGPJHC 60 at paras 74-75.

⁹⁶ *Hartland Lifestyle Estate (Pty) Ltd and Another v APC Marketing (Pty)Ltd and Another* [2023] ZAWCHC 150 at para 55.

⁹⁷ AA at paras 47-88, 011-13 – 011-25.

⁹⁸ AA, “PEN7”, 011-67.

- 97.2. One source affirmed that the first article “truly reflects the state of our work conditions”, and that they have “constant medical costs related to stress”.⁹⁹
- 97.3. Sources shared their views that their colleagues who passed away were “stressed”,¹⁰⁰ “suffering”¹⁰¹, and that “stress and workload cannot be ruled out”.¹⁰²
- 97.4. Ms Poyo-Hadebe, the late Ms Unathi Poyo’s sister, believes that her sister was “deprived a good quality of life by UNISA”, and that she wouldn’t be sick as a result of stress, depression, anxiety, and burnout.¹⁰³ Ms Poyo-Hadebe called for justice for her late sister, for UNISA to “vindicate”, and for UNISA to do right by its employees.¹⁰⁴
- 97.5. Of concern, several sources disclosed to the Second Respondent that they were “afraid of getting in trouble”,¹⁰⁵ that they were “afraid of victimisation”¹⁰⁶, and they were “very scared”.¹⁰⁷
- 97.6. On source notes that “they blocked access to your website when on UNISA wifi”, “shows you are desperate they are”.¹⁰⁸
98. This evidence paints a clear picture: trade unions, staff, and family members alike are concerned by the recent tragic passing of three staff members and are raising questions of UNISA as to the impact of its decisions on staff wellbeing,



⁹⁹ AA, “PEN12”, 011-113.

¹⁰⁰ AA, “PEN11”, 011-111.

¹⁰¹ AA, “PEN10” 011-109.

¹⁰² AA, “PEN16”, 011-123.

¹⁰³ AA, “PEN16”, 011-125; AA, “PEN13”, 011-115.

¹⁰⁴ AA, “PEN14”, 011-117.

¹⁰⁵ AA, “PEN12”, 011-113.

¹⁰⁶ AA, “PEN15” 011-119.

¹⁰⁷ *Id.*

¹⁰⁸ AA, “PEN18” 011-127.

workload, and stress, with some staff taking the view that the website has been blocked following the publication of the articles about these challenges.

99. The sting is based on sound evidence that has been corroborated. Notably, EdNews and Mr Naidu offered the Applicants multiple rights of reply, which they did not accept.¹⁰⁹

100. It is clear that the statements are true (or substantially true).

The publication of the statements is in the public interest

101. In addition to the truth of the statements, this Court must consider whether there was an overall public benefit to the publication of the statements in the way it was published, when it was published.¹¹⁰



102. Notably, the Applicant concedes, more than once, that much of the reporting is in the public interest, and agrees that—

“staff welfare, workloads, burnout, the non-renewal of the contracts of markers and e-tutors, or the governance of the University. UNISA accepts that these are matters of legitimate public interest on which the Second Respondent and others are entitled to report and comment.”¹¹¹

103. The Applicant's contention appears to lie with any reference to death or hospitalisation. However, it is the deaths and hospitalisation that have prompted the reports on these “matters of legitimate public interest”.¹¹²

¹⁰⁹ AA, “PEN19”, 011-129.

¹¹⁰ *Ndlozi v Media 24 t/a Daily Sun and Others* [2023] ZAGPJHC 1040; 2024 (1) SA 215 (GJ); [2024] 1 All SA 392 (GJ) at para 53.

¹¹¹ Applicant's HoA at para 2, 052-2, RA at para 6, 012-3.

¹¹² *Id.*

104. It cannot be said that it is in the public interest to report on staff welfare, but not on the concerns relating to the about the deaths and hospitalisations and deaths of staff members.
105. Only telling portions of the story about the governance of public bodies is not in the public interest.
106. Lewis JA in ***Mthembi-Mahanyele v Mail & Guardian Ltd*** (citing with approval the English Court of Appeal decision of *Reynolds v Times Newspapers Ltd*) stated:

"I can do no better than to quote a passage from the as yet unreported judgment of the English Court of Appeal in *Reynolds v Times Newspapers Ltd* and Others delivered on 8 July 1998. It reads as follows:



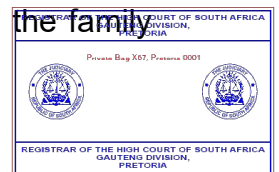
'We do not for an instant doubt that the common convenience and welfare of a modern plural democracy such as ours are best served by an ample flow of information to the public concerning, and by vigorous public discussion of matters of public interest to the community. By that we mean matters relating to the public life of the community and those who take part in it, including within the expression 'public life' activities such as the conduct of government and political life, elections . . . and public administration, but we use the expression more widely than that, to embrace matters such as (for instance) the governance of public bodies, institutions and companies which give rise to a public interest in disclosure, but excluding matters which are personal and private, such that there is no public interest in their disclosure. Recognition that the common convenience and welfare of society are best served in this way is a modern democratic imperative which the law must accept. In differing ways and to somewhat differing extents the law has recognised this imperative, in the United States, Australia, New Zealand and elsewhere, as also in the jurisprudence of the European Court of Human Rights. . . . As it is the task of the news media to inform the public and engage in public discussion of matters of public interest, so is that to be recognised as its duty. The cases cited show acceptance of such a duty, even where publication is by a newspaper to the public at large. . . . We have no doubt

that the public also have an interest to receive information on matters of public interest to the community."¹¹³ (emphasis added)

107. On the facts and circumstances of this case, the public interest is engaged because:

107.1. The governance of public institutions rises to a public interest in disclosure.¹¹⁴

107.2. UNISA's activities have a direct bearing on the thousands of students who attend it, the thousands of people employed there, and the family members of staff who passed away while working there.



107.3. The public and, more importantly, members of the UNISA community and their family members, have the right to share their story.

107.4. Disclosure of the *full* story serves the public interest as it allows the free flow of information to the public and enables vigorous public discussion.

107.5. Publication would enable scrutiny of the key issues affecting the UNISA community – scrutiny that the Applicant accepts is a matter of legitimate public interest.¹¹⁵

107.6. The public have a right to know if there is a governance crisis at UNISA, and its perceived impact.

¹¹³ *Mthembi-Mahanyele v Mail & Guardian Ltd and Another* 2004 (6) SA 329 (SCA) at para 51.

¹¹⁴ *Id.*

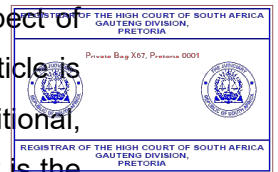
¹¹⁵ Applicant's HoA at para 2, 052-2, RA at para 6, 012-3.

Reasonable publication

108. In the alternative, the EdNews and Mr Naidu submit that the statements constitute reasonable publication.¹¹⁶

109. The defence of reasonable publication has been available to the media since the decision of the Supreme Court of Appeal in ***Bogoshi***, which held that:

In considering the reasonableness of the publication account must obviously be taken of the nature, extent and tone of the allegations. We know, for instance, that greater latitude is usually allowed in respect of political discussion ... and that the tone in which a newspaper article is written, or the way in which it is presented, sometimes provides additional, and perhaps unnecessary, sting. What will also figure prominently is the nature of the information on which the allegations were based and the reliability of their source, as well as the steps taken to verify the information.”¹¹⁷ (emphasis added).



110. And further:

“... the opportunity given to the person concerned to respond, and the need to publish before establishing the truth in a positive manner also come to mind. The list is not intended to be exhaustive or definitive.”¹¹⁸

111. The nature, extent, and tone of the allegations in the statements suggest that questions and concerns have arisen following the death of three staff members at UNISA and the hospitalisation of several others.¹¹⁹ This sparked questions about staff wellbeing, and the broader governance crisis at the university, with

¹¹⁶ AA, at para 54, 011-16.

¹¹⁷ *National Media Ltd and Others v Bogoshi* [1998] ZASCA 94; 1998 (4) SA 1196 (SCA); [1998] 4 All SA 347 (A) at para 31.

¹¹⁸ *Id.*

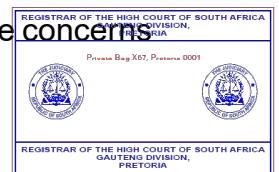
¹¹⁹ AA, at para 70, 011-21.

family members, in particular, sounding the alarm that their loved ones, were under immense pressure, overwhelmed, and burnt out.¹²⁰

112. The defence of reasonable publication looks at the circumstances existing at the time the article was published:¹²¹

112.1. The nature of the information gathered was an array of confidential sources, direct engagement with family members of the deceased, trade union representatives, and a trade union memorandum to UNISA.¹²²

112.2. Before and around the time of the publication of the articles, the concerns have been shared by the family in other fora.¹²³



112.3. The Applicant was given opportunities to respond, and did so on one occasion, which is detailed in the first article,¹²⁴ but declined to engage further as the reporting continued to unfold.¹²⁵

113. EdNews and Mr Naidu took reasonable steps, verified information, provided a right of reply, and ultimately, reasonably believe the statements to be true, and that they ought to be published to serve the public interest.¹²⁶

114. The defence of reasonable publication has been established. EdNews and Mr Naidu have raised a sustainable defence on the papers, under extreme urgency. As with all other elements of an interim interdict, a *prima facie* right cannot be established as the impugned statements are not *wrongfully* defamatory.

¹²⁰ Id; AA, at para 69, 011-20.

¹²¹ Ramos above n 95 at paras 95-98.

¹²² AA, para 57, 011-17; PEN17, 011-67.

¹²³ AA, para 69, 011-20.

¹²⁴ FA, "TLM1" 006-19; AA, "PEN19", 011-128.

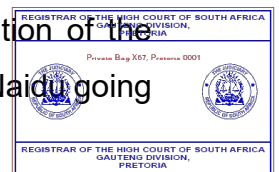
¹²⁵ AA, para 81, 011-24.

¹²⁶ AA, paras 57, 011-17, para 71, 011-22; para 81, 011-24, para 86-88, 011-25.

RELIEF AND COSTS

115. This matter should be struck from the roll due to a lack of urgency. Alternatively, it should be dismissed. Despite failing to prove urgency or any of the elements of an interim interdict, the relief that UNISA seeks, especially in the take-down order, is wholly disproportionate. UNISA challenges four brief statements but suggests that three entire articles should be removed.

116. Equally, if it seeks to use its “imputations” to justify the take-down order, which is unclear, it will be able to use its strained and untenable interpretation of the impugned statements to attack further reportage by EdNews and Mr Naidu going forward.



117. The relief that UNISA seeks is far from narrow.

118. In relation to costs, and within the discretion of this Court, a punitive costs order against UNISA may be warranted due to the manner in which it has approached this litigation, the ambush tactics that it has employed, and the potentially abusive nature of the application itself.¹²⁷

CONCLUSION

119. A South African court shall not shut the mouth of the media unless the fact-specific circumstances convincingly demonstrate that the public interest is not served by such a publication.¹²⁸

120. No convincing circumstances exist in this matter warranting a departure from this established precedent.

¹²⁷ AA, para 41 onwards, 011-11.

¹²⁸ See above para 3.

121. EdNews and Mr Naidu's reporting is in the public interest. The public and, more importantly, members of the UNISA community and their family members, have the right for their voices to be heard.
122. In the result, this matter should be dismissed, with costs on the attorney and client scale, including the cost of two counsel.

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Attorneys with right of appearance

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Rosebank, Johannesburg

16 August 2026



LIST OF AUTHORITIES

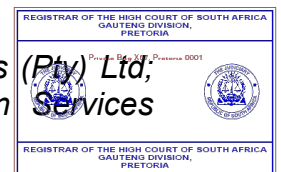
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