

**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

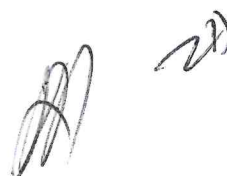
REPLYING AFFIDAVIT

I, the undersigned,

TSHATSHARA LUCAS MABUSELA

do hereby make oath and state that:

1. I am the deponent to the founding affidavit in this application. I depose to this replying affidavit in the same capacity, namely as the Acting Executive Director: Legal Services of the Applicant ("UNISA"), and I remain duly authorised to do so. The facts herein are within my personal knowledge, save where the context indicates otherwise or where I



rely on UNISA's records, and are true and correct. Where I make submissions of law, I do so on the advice of UNISA's legal representatives, which advice I accept.

2. I have read the answering affidavit deposed to by the Second Respondent, Mr Pragasen Edwin Naidu, on behalf of the First and Second Respondents ("the answering affidavit"). I reply to it below. I do not repeat the founding affidavit; save where I expressly concede an allegation, I persist in each of the averments made in the founding affidavit, and the fact that I do not deal individually with every allegation in the answering affidavit must not be construed as an admission of any of them.
3. To the extent that the answering affidavit raises new matter, I deal with it herein. I am advised that a replying affidavit is not the place to make a new case, and I do not seek to do so; I confine myself to answering the matters raised by the Respondents.
4. The Third Respondent has not delivered an answering affidavit. This replying affidavit is directed at the answering affidavit of the First and Second Respondents.

THE RESPONDENTS' CONDONATION

5. The Second Respondent seeks condonation for the late filing of the answering affidavit, which was delivered approximately half a day late. UNISA does not oppose that condonation. UNISA has throughout sought a proper ventilation of this matter, and it is in the interests of justice that the Respondents' answer be received and considered.



THE TRUE, AND NARROW, SCOPE OF THE RELIEF

6. Much of the answering affidavit is devoted to a case that UNISA does not bring. UNISA does not seek to “gag” the press, to prevent reporting or debate about 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.
7. The relief UNISA seeks is confined to two specific and discrete false statements of fact, namely the imputations that:
 - 7.1. UNISA caused, or is responsible for, the deaths and hospitalisation of its staff members; and
 - 7.2. UNISA blocked access to the ednews.africa website in order to suppress reporting of, or to conceal its responsibility for, those deaths that is, that UNISA censored the media to cover up wrongdoing.
8. It is those two false factual imputations, and only those, that UNISA asks this Court to restrain. The characterisation of the application as a “SLAPP suit”, an “abuse of process” or an attempt to “weaponise” the Court is rejected. A public university is entitled to approach a court to vindicate its good name against the grave and specific false imputation that it killed its own employees and then censored the press to hide



it. That is not the suppression of legitimate journalism; it is the protection of a right the Constitution and the common law both recognise.

THE DEFENCE OF TRUTH AND REASONABLE PUBLICATION DOES NOT MEET THE IMPUGNED STING

9. The Second Respondent's central answer is that the impugned statements are true, alternatively substantially true and in the public interest, alternatively that they constitute reasonable publication. I am advised that this defence must be assessed against the specific defamatory sting that UNISA impugns, and not against some broader and more benign meaning that the Second Respondent now attributes to his own reportage.
10. Tellingly, the Second Respondent does not stand behind the imputation that UNISA caused the deaths of its staff. On the contrary, at paragraphs 52 and 53 of the answering affidavit he expressly denies that meaning, and reframes the "sting" of statements 1 and 2 as being merely that there is a governance crisis and that staff, families and unions are "concerned about the impact of stress and burnout ... which, in limited instances, may be leading to hospitalisations and even deaths in the view of those impacted". At paragraph 53 he states, in terms, that "at no point in any of my articles do I state or suggest that UNISA is directly responsible for the deaths and hospitalisations of its staff."



11. This concession is significant. If, as the Second Respondent says, he never suggested that UNISA caused the deaths, then the truth defence cannot be directed at the imputation of causation at all because, on his own version, that is not what his articles mean or were intended to mean. The Second Respondent cannot simultaneously deny the imputation of causation and justify it as true.

12. In any event, none of the evidence annexed to the answering affidavit establishes, as a matter of fact, that UNISA caused the deaths or hospitalisation of its staff. Taken at its highest, that evidence establishes concern and correlation, not causation. Thus:

12.1. the sources speak of deaths that occurred, of stress and heavy workloads, and of a belief or suspicion that the two are connected, “they say”, “in the view of families”, “cannot be ruled out”, “may be leading to”;

12.2. the medical information the Second Respondent himself puts up points to identifiable medical causes, kidney failure, a stroke, stomach complaints, none of which is shown to have been caused by any act or omission of UNISA;

12.3. the NEHAWU memorandum of 13 May 2026 records risks and concerns about workload and occupational health; it does not establish that UNISA caused any death, and indeed pre-dates the deaths relied upon.

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13. Concern that working conditions may be harmful, and correlation between stress and illness, are not the same as proof that UNISA caused the deaths of its employees. The gravamen of the impugned publications read as the ordinary reasonable reader would read them, including the headline "Deaths, Burnout and Academic Collapse" and the statement that staff "succumbed to illness after their heavy workloads increased when the university scrapped the roles of 5000 markers", is that UNISA is responsible for those deaths. That imputation is false, and it is not rendered true by evidence of concern and correlation.

14. The second impugned imputation that UNISA blocked the website in order to conceal its responsibility for the deaths, fares no better. The Second Respondent's evidence, at its highest, is that for a period access to the website was disrupted on UNISA's network, and that "sources allege" this was connected to his reportage. There is no evidence whatsoever that UNISA blocked the site in order to suppress reporting of, or to conceal responsibility for, the deaths of its staff. The imputation of a cover-up is an imputation of improper motive, and it is unsupported by any fact in the answering affidavit. Whether or not access was in fact disrupted, the sting of a deliberate cover-up of responsibility for deaths remains false.

15. As to reasonable publication, I am advised that the reasonableness of a publication is measured against, among other things, the seriousness of the allegation, the reliability of the sources, and the steps taken to verify. An allegation that a public university caused the deaths of its employees is an allegation of the utmost gravity. It called for

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a correspondingly high standard of verification. Anonymous messages, family members' expressions of grief and belief, and a union memorandum recording risks do not, with respect, establish that UNISA caused those deaths, and they do not render reasonable the publication of that specific imputation as fact.

It follows that, even accepting (as this Court must, on the papers) the Second Respondent's factual evidence about deaths, workloads, concerns and disrupted access, that evidence does not justify the two specific false imputations UNISA impugns. UNISA's *prima facie* right in respect of those imputations is not displaced.

URGENCY

16. The application is urgent, and the urgency is not self-created. The harm caused by the continued publication of the two false imputations is ongoing: each day that the imputation that UNISA killed its staff and covered it up remains published, the harm to UNISA's reputation is compounded.

17. The chronology relied upon by the Second Respondent does not establish delay. UNISA was required to satisfy itself of the facts, to obtain and consider legal advice, to address a letter of demand affording the Respondents an opportunity to remedy the position, and, upon their refusal, to prepare and launch this application. That was done with reasonable expedition, over a period of days, not months. A defamation of this gravity does not become non-urgent merely because a responsible litigant took a short period to investigate and to demand a retraction before approaching the Court.

18. The complaint that the Respondents were afforded only a limited time to answer must be seen in its proper light. The Respondents in fact delivered a comprehensive answering affidavit of some 138 paragraphs, together with twenty annexures, traversing every aspect of the application. They were plainly able to place their full case before the Court. The suggestion of prejudice arising from the timeframes is not borne out.

THE ALLEGED “BRUTUM FULMEN” AND OTHER PUBLISHERS

19. The Second Respondent contends that the relief sought will not cure UNISA's harm because other publishers have made similar statements and are not cited. That contention is misconceived.

20. The First and Second Respondents are the authors and publishers of the specific articles that UNISA impugns. Relief restraining them from continuing to publish the two false imputations is effective to stop their continued publication of those imputations. The fact that other persons may have published similar material does not disentitle UNISA to relief against these Respondents, any more than a plaintiff defamed by several publishers is obliged to sue all of them or none. UNISA reserves its rights in respect of any other publisher, and the existence of other publications is not a defence available to these Respondents.

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21. Moreover, the Second Respondent's own case is that he is a leading and experienced journalist and that ednews.africa is a dedicated higher-education news platform. Restraining the continued publication of the false imputations by the very platform that originated much of the reporting is neither futile nor without purpose.

RULE 16A

22. The Second Respondent contends that UNISA was obliged to file a notice in terms of Rule 16A and did not do so. I am advised that Rule 16A is directed at cases in which a party raises a constitutional issue of the kind that interested parties or an *amicus* may wish to address, typically where the development of the common law or the constitutional validity of a law or conduct is in issue. UNISA raises no such issue. UNISA asserts a private-law right to its reputation and good name and seeks to restrain the publication of specific false statements of fact. The invocation of section 10 and section 16 of the Constitution in the founding affidavit was made in answer to the very freedom-of-expression considerations the Respondents now raise, and does not convert this into a matter requiring a Rule 16A notice.

23. In any event, any non-compliance is not fatal and occasions no prejudice. The Second Respondent states that he has himself filed a Rule 16A notice. Interested parties are therefore on notice of the constitutional dimension of the matter, and it remains open to this Court to give any direction it considers appropriate. UNISA abides any such direction.



THE RELIEF IS CAPABLE OF BEING APPROPRIATELY TAILORED

24. UNISA does not seek to restrain legitimate reporting or comment, and the relief it seeks is intended to be confined to the two false imputations identified above. To the extent that this Court considers any part of the relief to be wider than is necessary to prevent the continuing harm, UNISA tenders the following, so as to ensure that the order is the least restrictive means of achieving its purpose:

25.1. UNISA does not persist in the take-down of the article of 29 July 2026 insofar as that article does not contain any of the impugned statements.

25.2. the interdictory relief may be confined to the two specific imputations set out in paragraph 7 above, without the words “or any statements to similar effect”, alternatively with those words understood as confined to statements bearing the same two imputations; and

25.3. UNISA abides this Court’s view as to the form and prominence of any retraction and does not seek an apology in terms that would compel the Second Respondent to disavow legitimate reporting on staff welfare, workloads or governance.

25. These tenders demonstrate that UNISA’s purpose is not to silence the Second Respondent, but to prevent the continued publication of two specific falsehoods.

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COSTS

26. I deal, finally, with the Respondents' complaint concerning costs. UNISA sought costs on the attorney-and-client scale only in the event of opposition (prayer 2.5 of the Notice of Motion). It did not, and does not, seek to punish the Second Respondent for practising journalism or for reporting on matters of public interest. The basis on which UNISA contended that a punitive costs order might be warranted was the alleged publication of false and defamatory imputations of the gravest kind and the failure to remedy them after demand, not the mere fact that the Second Respondent is a journalist.

27. The scale of costs is, in any event, a matter for the discretion of this Court, and UNISA abides that discretion. UNISA does not seek costs on a punitive scale against the Second Respondent for having exercised, within its proper limits, the freedom of the press.

AD SERIATUM

28. To the extent necessary, and without repeating what is set out above, I respond to the specific paragraphs of the answering affidavit as follows. Save as expressly admitted, the allegations in the answering affidavit are denied, and UNISA persists in its founding affidavit.

29.1. **Ad Paragraphs 6-13, 41-46, 113**

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The contents of these paragraphs are denied. The application seeks narrowly confined relief against two specific false imputations, for the reasons set out above. No ulterior purpose exists or is to be inferred.

29.2. Ad Paragraphs 14 – 27, 130

The contents of these paragraphs are denied, for the reasons in paragraphs 17 to 19 above.

29.3. Ad Paragraphs 28 – 31, 95

The contents of these paragraphs are denied, for the reasons in paragraphs 20 to 22 above.

29.4. Ad Paragraphs 32-40

The contents of these paragraphs are denied, for the reasons in paragraphs 23 to 24 above.

29.5. Ad Paragraphs 47 - 53

the meanings contended for by UNISA are maintained, the Second Respondent's denial of the imputation of causation is noted and is dealt with in paragraphs 10 to 13 above.

29.6. Ad Paragraphs 54 – 88

the factual matters concerning deaths, workloads, concerns and disrupted access are not capable of dispute on the papers and are, to that extent, admitted, it is denied that they justify the two impugned imputations, for the reasons in paragraphs 9 to 16 above.

29.7. Ad Paragraphs 89 – 103

The contents of these paragraphs are denied. UNISA has established a *prima facie* right in respect of the two impugned imputations, a well-grounded apprehension of continuing and irreparable harm, that the balance of convenience favours narrowly confined interim relief, and that it has no satisfactory alternative remedy in respect of the continuing publication of the falsehoods.

29.8. Ad Paragraphs 104 – 112

not opposed, as set out in paragraph 5 above.

29.9. Ad Paragraphs 113 – 114, 137

dealt with in paragraphs 27 to 28 above.

CONCLUSION

29. For the reasons set out in the founding affidavit and in this replying affidavit, UNISA persists in the relief sought, subject to the tenders made in paragraph 25 above, and prays for an order substantially in terms of the Notice of Motion.




DEPONENT

TSHATSHARA LUCAS MABUSELA

I CERTIFY that the deponent has acknowledged that he knows and understands the contents of this affidavit, which was signed and sworn to before me at PTA on this the 15 day of AUGUST 2026, the Regulations contained in Government Notice R1258 of 21 July 1972, as amended, having been complied with.


COMMISSIONER OF OATHS

