

"GKM10"

**MVUZO NOTYESI INCORPORATED**

**ATTORNEYS & ADMINISTRATORS**

**(VAT REG: 4870 2622 45)**

SECOND FLOOR  
T.H. MADALA CHAMBERS  
14 DURHAM STREET  
MTHATHA

TEL : 047-531 4714/84  
FAX : 047-531 5276  
e-mail: notyesi@telkomsa.net  
DATE : 09<sup>th</sup> SEPTEMBER 2014

**OUR REF: Mr Luzipho/14**  
**YOUR REF: UNKNOWN**

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**THE VICE CHANCELLOR  
WALTER SISULU UNIVERSITY  
NELSON MANDELA DRIVE CAMPUS  
MTHATHA**

**AND TO: THE HEAD OF THE LEGAL SECTION  
WALTER SISULU UNIVERSITY  
EAST LONDON**

Dear Professor and the legal advisor.

**RE: SUSPENSION OF SRC MEMBERS, NAMELY:- MR KHAYALETHU  
GAMA; MELIKHAYA MATWA; MLUNGISELELI NDZIMANDE; STHEMBISO  
CEKISO; SINELIZWI MGOTSHONGO; AZOLA MZIWENDABA; AYAPHINDA  
MGOQI; APhiWE B. NDIKINDA; AND LULAMELA MHAMBI.**

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We act on behalf of the suspended SRC Members who have handed over your letters of suspension dated 2<sup>nd</sup> September 2014. We are instructed to launch an urgent court application to set aside those suspension for the following reasons:-

1. The suspensions are unlawful and invalid because they violate the rules of fundamental fairness which include hearing before decision is taken;

R.M.G

LS

2. There was no notice of the intended suspension, although the decision to suspend our clients adversely affect their constitutional rights;
3. No reasons for suspension have been advanced in the letter and the decision appears to be unreasonable, irrational and clearly unlawful;
4. The suspension is malicious and made in bad faith to threaten student leadership in its participation on lawful activities of the institution. There is simple no violation of University rules which has been alleged in the letter. The suspension is made as a form of revenge subsequent to the meeting in which our members excised their freedom of expression when disagreeing with some of the decisions of the meeting. No-one can be suspended simple because he misbehave in a meeting as there are rules which governs meetings.

For all the above, we demand the withdrawal of suspensions within 12 hours, failing which, we shall approach the High Court for an appropriate relief and seek costs against the University on an attorney and client scale.

Kindly be advised that we are prepared to settle this matter out of court and avoid court litigation, which is extremely unnecessary. We have telephoned your legal advisor and shared our views on this matter. Our proposal is as follows:-

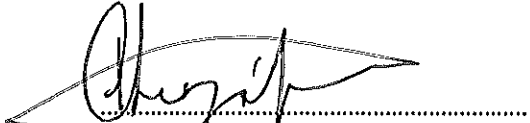
1. That the suspension of all the SRC members be immediately Withdrawn unconditionally;
2. That all students resume their classes immediately and the strike of students cease immediately without further delay;
3. That all the intended disciplinary proceedings against our client be called off.

K.M.G



Unless you heed the above proposals, we will approach the High Court without further reverting to you.

Yours faithfully

  
MVUZO-NOTYESI INC.

K.M.G

LS

"GKM 11"



Legal Division  
Private Bag X 1, Mthatha, 5117  
Tel: 047-502 2911  
Fax: 047-502 2954/ 532 6820  
Email: pmakaula@wsu.ac.za

10 September 2014

Your Ref: Mr Luzipho/14

Messrs Mvuzo Notyesi Incorporated  
Second Floor  
T.H.Madala Chambers  
14 Durham Street  
MTHATHA

Dear Sirs

**RE: SUSPENSION OF SRC MEMBERS**

Your letter dated 9<sup>th</sup> September 2014 addressed to The Vice Chancellor and Head of the Legal Services has been referred to my office for response.

We would like to advise that The University Management has deliberated on the matter and it feels that it has acted reasonably and lawfully by suspending your clients.

On the 20<sup>th</sup> of August this year your clients disrupted a statutory meeting held at Ibika. Your clients were given an audience by the Council Committee even though their concerns were not on the agenda. On top of that they went on to disrupt the meeting, articulating very clearly that their intention was to make sure that the meeting does not continue until their issues were resolved i.e the University buys them airtime for the months of April, May June and August 2014. They were advised that the money for airtime would be deposited in their accounts – which was done on the very same day.

Your clients were repeatedly warned to desist from continuing with their disruptive behavior and were informed that such a disruption constituted misconduct and was a sufficient ground for disciplinary action against them. They acknowledged that they were aware of the fact that disruption constituted misconduct and that they would continue with their actions.

A handwritten signature in black ink, appearing to be 'K.M.G.', written in a cursive style.

K.M.G.



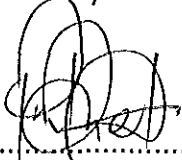
As a result of the unlawful actions of your clients the scheduled meeting of the Student Services Council could not proceed with its intended agenda and had to be postponed for another day. This adversely affected the University operations as there were items in that agenda that needed urgent decision making.

The disruptive behavior of your clients turns out to be costly for the University as calling another urgent meeting to address items that would have been addressed on the 20<sup>th</sup> August is imperative.

In the light of the above the University is not in a position to heed to your demands and it feels that it has taken the appropriate action and acted in accordance to its rules and regulations. Your clients will be called very soon to answer to the allegations of their improper conduct.

We hope you will find the above in order.

Yours faithfully



.....  
PNP MAKAULA



K.M.G.

IN THE HIGH COURT OF SOUTH AFRICA  
EASTERN CAPE LOCAL DIVISION-MTHATHA

Case No:

In the matter between:

<b>GAMA KHAYALETHU MORRISON</b>	1 <sup>st</sup> Applicant
<b>MATWA MELIKHAYA</b>	2 <sup>nd</sup> Applicant
<b>NDZIMANDE MLUNGISELELI</b>	3 <sup>rd</sup> Applicant
<b>SITHEMBISO CEKISO</b>	4 <sup>th</sup> Applicant
<b>SINELIZWI MGOTSHONGO</b>	5 <sup>th</sup> Applicant
<b>AZOLA MZIWENDABA</b>	6 <sup>th</sup> Applicant
<b>AYAPHINDA MGODI</b>	7 <sup>th</sup> Applicant
<b>APHIWE NDIKINDA</b>	8 <sup>th</sup> Applicant
<b>LULAMELA MHAMBI</b>	9 <sup>th</sup> Applicant

And

<b>WALTER SISULU UNIVERSITY</b>	1 <sup>st</sup> Respondent
<b>DEAN OF STUDENTS WALTER SISULU UNIVERSITY</b>	2 <sup>nd</sup> Respondent
<b>VICE CHANCELLOR – WSU</b>	3 <sup>rd</sup> Respondent

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CONFIRMATORY AFFIDAVIT

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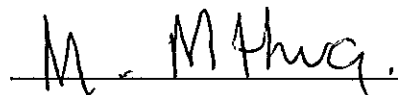


I, the undersigned

**MELIKHAYA MTHWA**

do hereby make oath and state that:

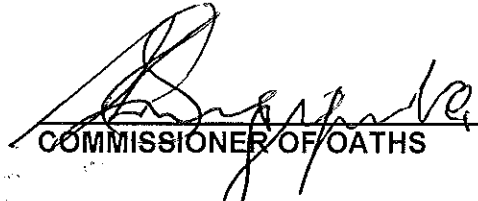
1. Unless the context indicates otherwise, the facts to which I depose fall within my personal knowledge, and are, to the best of my belief, both true and correct. The statements of law that I make in this affidavit are made on the advice of my legal representatives, which I believe to be well founded. Where I rely on information obtained from other persons, I have no reason to believe that the information has been inaccurately reported to me and accordingly, I believe it to be true and correct.
  
2. I am the second applicant in the present proceedings and have read the founding affidavit deposed by **MORRISON KHAYALETHU GAMA** and I confirm the averments made in the founding affidavit pertaining to our suspension. I further confirm the narration in the founding affidavit of the events that unfolded in the meeting held at Ibika Campus on 20<sup>th</sup> August 2014. The founding affidavit was drawn with my consultation and I specifically confirm all the facts contain therein and crave leave of this Honourable Court not to repeat same. The first applicant is deposing on behalf of all of us as the applicants, otherwise all facts therein are confirmed by me.
  
3. Accordingly, it may please this Honourable Court to grant this application with costs.



**MELIKHAYA MTHWA**



I certify that the deponent has acknowledged that he knows and understands the contents of this affidavit, which was sworn to before me at MTHATHA on this 12<sup>th</sup> day of SEPTEMBER 2014, the deponent having further declared that he considers the prescribed oath to be binding on his conscience.

  
\_\_\_\_\_  
COMMISSIONER OF OATHS

VANDILE SINGQUINI  
COMMISSIONER OF OATHS  
PRACTISING ATTORNEY  
EASTERN CAPE

LS



IN THE HIGH COURT OF SOUTH AFRICA  
EASTERN CAPE LOCAL DIVISION-MTHATHA

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And

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<b>DEAN OF STUDENTS WALTER SISULU UNIVERSITY</b>	2 <sup>nd</sup> Respondent
<b>VICE CHANCELLOR – WSU</b>	3 <sup>rd</sup> Respondent

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CONFIRMATORY AFFIDAVIT

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I, the undersigned

**MLUNGISELELI NDZIMANDE**

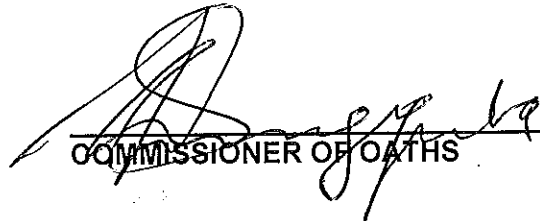
do hereby make oath and state that:

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2. I am the third applicant in the present proceedings and have read the founding affidavit deposed by **MORRISON KHAYALETHU GAMA** and I confirm the averments made in the founding affidavit pertaining to our suspension. I further confirm the narration in the founding affidavit of the events that unfolded in the meeting held at Ibika Campus on 20<sup>th</sup> August 2014. The founding affidavit was drawn with my consultation and I specifically confirm all the facts contain therein and crave leave of this Honourable Court not to repeat same. The first applicant is deposing on behalf of all of us as the applicants, otherwise all facts therein are confirmed by me.
3. Accordingly, it may please this Honourable Court to grant this application with costs.

  
**MLUNGISELELI NDZIMANDE**

LS

I certify that the deponent has acknowledged that he knows and understands the contents of this affidavit, which was sworn to before me at MTHATHA on this 12<sup>th</sup> day of SEPTEMBER 2014, the deponent having further declared that he considers the prescribed oath to be binding on his conscience.

  
COMMISSIONER OF OATHS

EVANDILE SINGQUEMA  
COMMISSIONER OF OATHS  
PRACTISING ATTORNEY  
EASTERN CAPE

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<b>VICE CHANCELLOR – WSU</b>	3 <sup>rd</sup> Respondent

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I, the undersigned

**LULAMELA MHAMBI,**

do hereby make oath and state that:

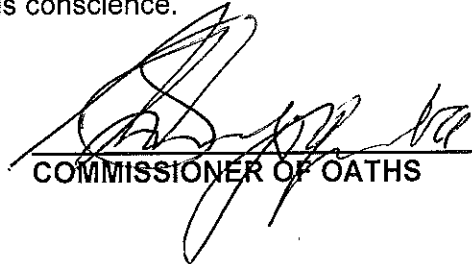
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2. I am the ninth applicant in the present proceedings and have read the founding affidavit deposited by **MORRISON KHAYALETHU GAMA** and I confirm the averments made in the founding affidavit pertaining to our suspension. I further confirm the narration in the founding affidavit of the events that unfolded in the meeting held at Ibika Campus on 20<sup>th</sup> August 2014. The founding affidavit was drawn with my consultation and I specifically confirm all the facts contain therein and crave leave of this Honourable Court not to repeat same. The first applicant is deposing on behalf of all of us as the applicants, otherwise all facts therein are confirmed by me.
  
3. Accordingly, it may please this Honourable Court to grant this application with costs.

L. MHAMBI

**LULAMELA MHAMBI**

LS

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\_\_\_\_\_  
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IWANDILE SINGQUMELA  
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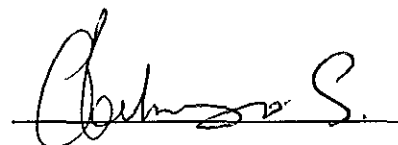
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I, the undersigned

**SITHEMBISO CEKISO**

do hereby make oath and state that:

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2. I am the fourth applicant in the present proceedings and have read the founding affidavit deposed by **MORRISON KHAYALETHU GAMA** and I confirm the averments made in the founding affidavit pertaining to our suspension. I further confirm the narration in the founding affidavit of the events that unfolded in the meeting held at Ibika Campus on 20<sup>th</sup> August 2014. The founding affidavit was drawn with my consultation and I specifically confirm all the facts contain therein and crave leave of this Honourable Court not to repeat same. The first applicant is deposing on behalf of all of us as the applicants, otherwise all facts therein are confirmed by me.
  
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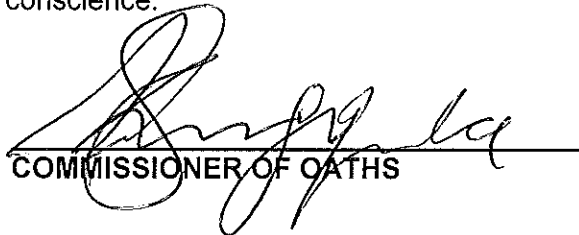


**SITHEMBISO CEKISO**





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COMMISSIONER OF OATHS

WANDILE SINGQUMA  
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**SINELIZWI MGOTSHONGO**

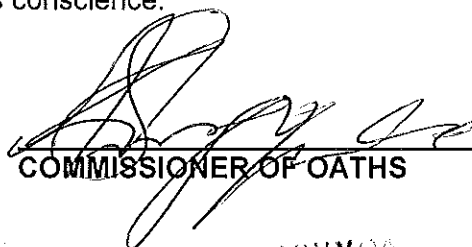
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2. I am the fifth applicant in the present proceedings and have read the founding affidavit deposed by **MORRISON KHAYALETHU GAMA** and I confirm the averments made in the founding affidavit pertaining to our suspension. I further confirm the narration in the founding affidavit of the events that unfolded in the meeting held at Ibika Campus on 20<sup>th</sup> August 2014. The founding affidavit was drawn with my consultation and I specifically confirm all the facts contain therein and crave leave of this Honourable Court not to repeat same. The first applicant is deposing on behalf of all of us as the applicants, otherwise all facts therein are confirmed by me.
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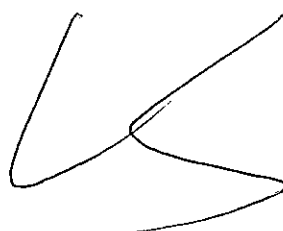
  
SINELIZWI MGOTSHONGO



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\_\_\_\_\_  
COMMISSIONER OF OATHS

EWANDILE SIBQUMBA  
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EASTERN CAPL



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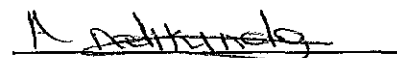
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I, the undersigned

**APIWE NDIKINDA,**

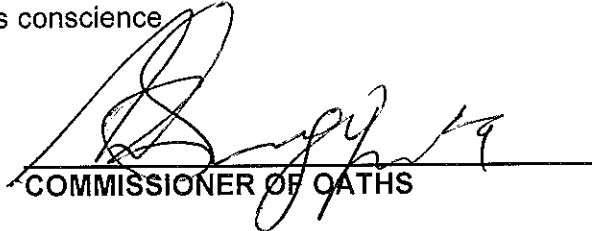
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2. I am the eighth applicant in the present proceedings and have read the founding affidavit deposed by **MORRISON KHAYALETHU GAMA** and I confirm the averments made in the founding affidavit pertaining to our suspension. I further confirm the narration in the founding affidavit of the events that unfolded in the meeting held at Ibika Campus on 20<sup>th</sup> August 2014. The founding affidavit was drawn with my consultation and I specifically confirm all the facts contain therein and crave leave of this Honourable Court not to repeat same. The first applicant is deposing on behalf of all of us as the applicants, otherwise all facts therein are confirmed by me.
3. Accordingly, it may please this Honourable Court to grant this application with costs.



**APIWE NDIKINDA**

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COMMISSIONER OF OATHS

MANDILE SINGQUMA  
COMMISSIONER OF OATHS  
PRACTISING ATTORNEY  
EASTERN CAPE



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CONFIRMATORY AFFIDAVIT

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I, the undersigned

**AZOLA MZIWENDABA,**

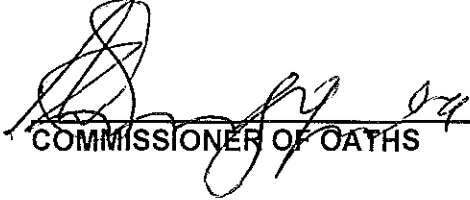
do hereby make oath and state that:

1. Unless the context indicates otherwise, the facts to which I depose fall within my personal knowledge, and are, to the best of my belief, both true and correct. The statements of law that I make in this affidavit are made on the advice of my legal representatives, which I believe to be well founded. Where I rely on information obtained from other persons, I have no reason to believe that the information has been inaccurately reported to me and accordingly, I believe it to be true and correct.
2. I am the sixth applicant in the present proceedings and have read the founding affidavit deposed by **MORRISON KHAYALETHU GAMA** and I confirm the averments made in the founding affidavit pertaining to our suspension. I further confirm the narration in the founding affidavit of the events that unfolded in the meeting held at Ibika Campus on 20<sup>th</sup> August 2014. The founding affidavit was drawn with my consultation and I specifically confirm all the facts contain therein and crave leave of this Honourable Court not to repeat same. The first applicant is deposing on behalf of all of us as the applicants, otherwise all facts therein are confirmed by me.
3. Accordingly, it may please this Honourable Court to grant this application with costs.

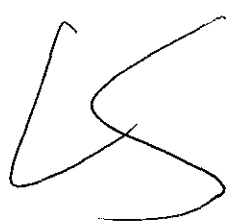
  
\_\_\_\_\_  
**AZOLA MZIWENDABA**

LS

I certify that the deponent has acknowledged that he knows and understands the contents of this affidavit, which was sworn to before me at **MTHATHA** on this 12<sup>th</sup> day of **SEPTEMBER 2014**, the deponent having further declared that he considers the prescribed oath to be binding on his conscience.

  
\_\_\_\_\_  
COMMISSIONER OF OATHS

EMANDILE SINGQUME  
COMMISSIONER OF OATHS  
PRACTISING ATTORNEY  
EASTERN CAPE



IN THE HIGH COURT OF SOUTH AFRICA  
EASTERN CAPE LOCAL DIVISION-MTHATHA

Case No:

In the matter between:

<b>GAMA KHAYALETHU MORRISON</b>	1 <sup>st</sup> Applicant
<b>MATWA MELIKHAYA</b>	2 <sup>nd</sup> Applicant
<b>NDZIMANDE MLUNGISELELI</b>	3 <sup>rd</sup> Applicant
<b>SITHEMBISO CEKISO</b>	4 <sup>th</sup> Applicant
<b>SINELIZWI MGOTSHONGO</b>	5 <sup>th</sup> Applicant
<b>AZOLA MZIWENDABA</b>	6 <sup>th</sup> Applicant
<b>AYAPHINDA MGODI</b>	7 <sup>th</sup> Applicant
<b>APHIWE NDIKINDA</b>	8 <sup>th</sup> Applicant
<b>LULAMELA MHAMBI</b>	9 <sup>th</sup> Applicant

And

<b>WALTER SISULU UNIVERSITY</b>	1 <sup>st</sup> Respondent
<b>DEAN OF STUDENTS WALTER SISULU UNIVERSITY</b>	2 <sup>nd</sup> Respondent
<b>VICE CHANCELLOR – WSU</b>	3 <sup>rd</sup> Respondent

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CONFIRMATORY AFFIDAVIT

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I, the undersigned

**AYAPHINDA MGODI,**

do hereby make oath and state that:

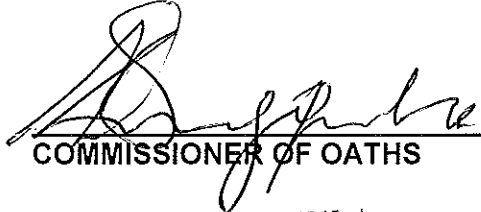
1. Unless the context indicates otherwise, the facts to which I depose fall within my personal knowledge, and are, to the best of my belief, both true and correct. The statements of law that I make in this affidavit are made on the advice of my legal representatives, which I believe to be well founded. Where I rely on information obtained from other persons, I have no reason to believe that the information has been inaccurately reported to me and accordingly, I believe it to be true and correct.
  
2. I am the seventh applicant in the present proceedings and have read the founding affidavit deposed by **MORRISON KHAYALETHU GAMA** and I confirm the averments made in the founding affidavit pertaining to our suspension. I further confirm the narration in the founding affidavit of the events that unfolded in the meeting held at Ibika Campus on 20<sup>th</sup> August 2014. The founding affidavit was drawn with my consultation and I specifically confirm all the facts contain therein and crave leave of this Honourable Court not to repeat same. The first applicant is deposing on behalf of all of us as the applicants, otherwise all facts therein are confirmed by me.
  
3. Accordingly, it may please this Honourable Court to grant this application with costs.

  
\_\_\_\_\_

**AYAPHINDA MGODI**



I certify that the deponent has acknowledged that he knows and understands the contents of this affidavit, which was sworn to before me at MTHATHA on this 12<sup>th</sup> day of **SEPTEMBER 2014**, the deponent having further declared that he considers the prescribed oath to be binding on his conscience.

  
COMMISSIONER OF OATHS

MANDILE SIBONGWE  
COMMISSIONER OF OATHS  
PRACTISING ATTORNEY  
EASTERN CAPE

LS

**IN THE HIGH COURT OF SOUTH AFRICA  
[EASTERN CAPE LOCAL DIVISION, MTHATHA]**

**CASE NO. 2639/2014**

In the matter between:

<b>AZOLA MZWENDABA</b>	<b>1<sup>ST</sup> APPLICANT</b>
<b>AYAPHINDA MGOQI</b>	<b>2<sup>ND</sup> APPLICANT</b>
<b>KHAYAKETHU GAMA</b>	<b>3<sup>RD</sup> APPLICANT</b>
<b>SINELIZWI MGONTSHONGO</b>	<b>4<sup>TH</sup> APPLICANT</b>
<b>MLUNGISELELI NDZIMELA</b>	<b>5<sup>TH</sup> APPLICANT</b>
<b>LULAMELA MHAMBI</b>	<b>6<sup>TH</sup> APPLICANT</b>
<b>MELIKHAYA MCITWA</b>	<b>7<sup>TH</sup> APPLICANT</b>
<b>SITEMBISO CEKISO</b>	<b>8<sup>TH</sup> APPLICANT</b>
<b>MLUNGISELELI NDZIMELA</b>	<b>9<sup>TH</sup> APPLICANT</b>
<b>BANDISE NDIKINDA</b>	<b>10<sup>TH</sup> APPLICANT</b>

**And**

<b>WALTER SISULU UNIVERSITY</b>	<b>1<sup>ST</sup> RESPONDENT</b>
<b>DEAN OF STUDENTS: WALTER SISULU UNIVERSITY</b>	<b>2<sup>ND</sup> RESPONDENT</b>

**MTHATHA 12 SEPTEMBER 2014**

Before the **Honourable Madam Justice DAWOOD J**

Mr Luzipho, for the Applicants

Mr Bodlani, for the Respondents

**HAVING** read documents filed of record and hearing legal representatives for the parties:

**IT IS ORDERED THAT:**

1. The Applicants are hereby granted leave to bring this application as one of urgency in terms of *rule 6(12)* of the rules of this Court and all formalities regarding notice, service and time frames applicable thereto be and are hereby dispensed with.
2. **THAT** a *rule nisi* do hereby issue calling upon the:
  - 2.1 Respondents to show cause, if any, before this Court on **Thursday the 18<sup>th</sup> day of September 2014** at *10h00* in the forenoon or so soon thereafter as Counsel may be heard why the following orders should not be made final:
    - 2.1.1 **That** the suspension is uplifted provided that the Applicants will comply with the provisions of *paragraphs 2.2.1, 2.2.2 and 2.2.3*;
    - 2.1.2 **That** the Applicants are allowed to attend to their academic activities provided that the Applicants will comply with the provisions of *paragraphs 2.2.1, 2.2.2 and 2.2.3*;
  - 2.2 Applicants to show cause, if any, before this Court on **Thursday the 18<sup>th</sup> day of September 2014** at *10h00* in the forenoon or so soon thereafter as Counsel may be heard why the following orders should not be made final:
    - 2.2.1 **That** the Applicants be and are hereby forthwith interdicted and restrained from unlawfully interfering with the proper and daily running, management, functioning and operations of the First Respondent;
    - 2.2.2 **That** the Applicants be and are hereby forthwith interdicted and restrained from intimidating, threatening, assaulting, and/or interfering with other **Students, Workers, Security, Lecturers, Management** and/or Employees of the First Respondent;

3.

2.2.3 **That** the Applicants be and are hereby forthwith interdicted and restrained from blocking access to and/or interfering with access of other **Students, Workers, Security, Lecturers, Management** and/or **Employees** of the First Respondent to the First Respondent and its Libraries, Residences and **Lecture Halls**.

3. **THAT** *paragraphs 2.1.1.1, 2.1.2* shall operate as an *interim relief* in the Applicant's favour and *paragraphs 2.2.1, 2.2.2 and 2.2.3* shall operate as an *interim relief* in the Respondents' favour pending the adjudication of the following issues:

3.1 The lawfulness or otherwise of the First Respondent's suspension of the applicants;

3.2 The lawfulness or otherwise of the Applicant's refusal and/or failure to heed the terms of their suspension per letters of suspension issued and delivered to them by the First Respondent's Interim Vice Chancellor;

3.3 The lawfulness or otherwise of Applicants' conduct and the conduct of any other student, student body and/or structure(s) that is acting in *cohoorts* and/or concert with the Applicants in intimidating, threatening, assaulting, and/or interfering with other **Students, Workers, Security Personnel, Lecturers, Management** and/or **Employees** of the Applicant, **Walter Sisulu University**, blocking access to and/or interfering with access of other **Students, Workers, Security Personnel, Lecturers, Management** and/or **Employees** of the Applicant, **Walter Sisulu University** to **WalterSisulu University**, its **Libraries, Residences** and **Lecture Halls**, unlawfully interfering with the proper and daily running, management, functioning and operations of the First Respondent;

4. **THAT** in the execution of this order, if need be, the Sheriff or this Court be assisted by members of the **South African Police Services**.



4.

5. The Applicants are ordered and directed to serve papers upon the Respondents' Attorneys together with this order on or before *16h00* on **Friday the 12 September 2014.**
6. The Respondents are ordered and directed to serve and file their notice to oppose together with their *answering papers* and/or notice in terms of *rule 6(5)(d)(iii)*, if any, on or before *16h00* on **Monday the 15 September 2014.**
7. **THAT** the Applicants re ordered and directed to file their *replying papers*, if any, on or before *16h00* of **Tuesday the 16 September 2014.**
8. **THAT** costs of the application for *interim relief* be reserved for determination in the main application.

**BY THE COURT**

  
REGISTRAR

