

Case No. 7595/2017

In the Application for Admission as Amicus Curiae of:

**UNIVERSITY OF CAPE TOWN**

Amicus Curiae Applicant

In the matter between:-

**MINERAL SANDS RESOURCES  
PROPRIETARY LTD**

First Plaintiff

**ZAMILE QUNYA**

Second Plaintiff

and

**CHRISTINE REDELL**

First Defendant

**TRACEY DAVIES**

Second Defendant

**DAVINE CLOETE**

Third Defendant

---

**FILING SHEET**

---

**FILED HEREWITH:**

**1. AMICUS CURIAE'S AFFIDAVIT OF ROYSTON NATHAN PILLAY**

**DATED AT CAPE TOWN ON 14<sup>TH</sup> DAY OF FEBRUARY 2018.**



---

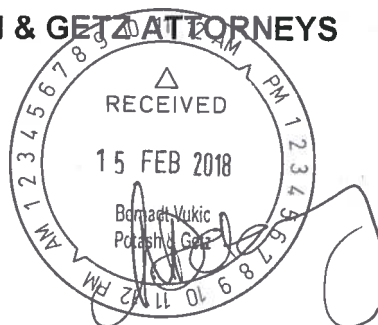
Per: Ms Adela Petersen  
**Fairbridges Wertheim Becker**  
16<sup>th</sup> Floor, South Tower  
The Towers, Heerengracht  
**Cape Town**

Attorneys for the University of Cape Town  
Tel: 021 405 7337  
Email: [apetersen@fairbridges.co.za](mailto:apetersen@fairbridges.co.za)  
Ref: AP/aa/UNI29/0040

**TO: THE REGISTRAR**  
High Court  
**CAPE TOWN**

**AND TO: BERNADT VUKIC POTASH & GETZ ATTORNEYS**

Plaintiff's Attorneys  
11<sup>th</sup> Floor,  
1 Thibault Square  
**CAPE TOWN**  
Tel: 021 405 3800  
Ref: Mr Kudo/mk/150772



**AND TO: WEBBER WENTZEL**

Attorneys for First to Third Defendants  
15<sup>th</sup> Floor Convention Tower  
Heerengracht  
**CAPE TOWN**  
Tel: 021 431 7290  
Ref: O Geldenhuys/3018599

**WEBBER WENTZEL  
RECEIVED**

15 FEB 2018

llh14

**AND TO: CENTRE FOR APPLIED LEGAL STUDIES**

Attorneys for the Centre for Applied Legal Studies  
Tel: 011 717 8606 / 8614  
Fax: 011 717 1702  
Email: [Lubabalo.Mabhenxa@wits.az.za](mailto:Lubabalo.Mabhenxa@wits.az.za) / [Palesa.Madi@wits.ac.za](mailto:Palesa.Madi@wits.ac.za)  
Ref: L Mabhenxa/ P Madi/ ROL/ 0071/PM  
**C/O NDIFUNA UKWAZI LAW CENTRE**  
18 Roeland Street  
**CAPE TOWN**  
Tel: 021 012 5094  
Ref: Ms Blouws

**IN THE HIGH COURT OF SOUTH AFRICA**

**WESTERN CAPE DIVISION, CAPE TOWN**

Case No. 7595/2017

In the matter between:-

**MINERAL SANDS RESOURCES  
PROPRIETARY LTD**

First Plaintiff

**ZAMILE QUNYA**

Second Plaintiff

and

**CHRISTINE REDELL**

First Defendant

**TRACEY DAVIES**

Second Defendant

**DAVINE CLOETE**

Third Defendant

---

**AMICUS CURIAE'S AFFIDAVIT**

---

pp  
T.C.

I, the undersigned,

**ROYSTON NATHAN PILLAY**

Do hereby state under oath:

**I INTRODUCTION**

1. I am an adult male employed by the University of Cape Town (also referred to as 'UCT' and 'the University') as its Registrar with my offices situated at Bremner Building, Rondebosch, Cape Town.
2. I am duly authorised to represent the University in these proceedings and to depose hereto as is apparent from annexure '**RP1**' hereto.
3. The facts deposed to herein are within my personal knowledge unless stated to the contrary or otherwise appears from the context, and are to the best of my belief true and correct. Where I rely on information conveyed to me by others, I verily believe same to be true. Legal submissions made are based on the advice provided by the applicant's legal representatives.

RP  
T. W. ...

4. The University of Cape Town is a higher education institution established in terms of the Higher Education Act, No. 101 of 1997 ('The Higher Education Act') with its principal place of administration at Bremner Building, Lower Campus, Rondebosch.
5. I have read the particulars of claim as well as the plea filed on behalf of the Plaintiffs and Defendants in this matter.
6. This is an application to admit UCT as an *amicus curiae* in this matter. UCT seeks to make submissions based on the importance of academic freedom in defence against defamation claims regarding speech that occurs in an academic context. Academic freedom – which is expressly protected by s 16(1)(d) of the Constitution – is primarily an institutional right. It is the right of universities to determine who teaches what and to whom. The right is vital for the production of knowledge, which is foundational to the success of any constitutional democracy, and necessary to realise the other rights in the Bill of Rights.
7. In order to recognise and protect academic freedom, UCT will argue that freedom of expression and contestation within the learning environment attract a qualified privilege that renders defamatory academic speech lawful as long as it is relevant to the issue discussed, and not made maliciously.
8. In the alternative, UCT will argue that academic speech is entitled to a defence of reasonable publication similar to that granted to media organisations. In the further alternative, UCT will argue that freedom of

RP  
T. —

speech in pursuit of knowledge within the academic environment must be considered when assessing the defences of truth and the public interest, and fair comment.

9. This affidavit is structured as follows:

- 9.1. **Part II** describes UCT's interest in these proceedings;
- 9.2. **Part III** summarises the legal submissions that UCT intends to advance;
- 9.3. **Part IV** addresses the evidence UCT seeks to introduce; and
- 9.4. **Part V** deals with the procedure concerning UCT's admission as an *amicus curiae*.

## II UCT'S INTEREST

10. There are two reasons that UCT has an interest in this matter.
11. First, it concerns statements made at a lecture that occurred at UCT as part of UCT's Summer School. The Summer School is a public education programme that offers a range of short courses, open to all regardless of educational qualifications. These courses are for non-degree purposes and do not involve examinations or certification, though written or practical projects and reading may be required. Summer School seeks to make the academic resources of the University accessible to a wide range of students.
12. While not the core of UCT's academic programme, the Summer School is an important part of UCT's academic activity. Approximately 2278 students

RP  
T. v. ...

attend the Summer School each year. It allows UCT to share academic knowledge, and promote the academic project with a wider array of people who do not seek to obtain formal certification.

13. Summer School lectures are ordinarily presented by UCT faculty, but often include guest lectures by experts in the field, including practitioners in the particular area. This type of input from those in practice adds significant academic value to the Summer School.
14. Second, the action raises fundamental issues concerning protection of academic freedom in South Africa. It is a claim for defamation for statements made performing a core, academic activity – teaching students. As a university, UCT has an intense interest in promoting and protecting academic freedom, and ensuring that the law appropriately recognises the value of academic freedom in our constitutional democracy.
15. UCT has a particular commitment to academic freedom. It has established an Academic Freedom Committee (**AFC**) as a joint committee of Council and Senate. The AFC has, as its terms of reference, the responsibility to ensure that the institution upholds, protects and promotes academic freedom and university autonomy in particular. The AFC's mandate and work are of vital importance, particularly in the current era where the promotion of these rights is critical and protected by the South African Constitution.

pp  
T. W. S.

16. The AFC organises the annual TB Davie lecture to promote academic freedom and freedom of speech. TB Davie led the university during the crucial development years post World War II, from 1948 until his death in 1955. He is remembered as a fearless defender of the principles of academic freedom. He courageously championed the cause of academic freedom and university autonomy.
17. I submit that UCT has a sufficient interest in this matter to be admitted as an *amicus curiae*.

### III UCT'S SUBMISSIONS

18. As an *amicus curiae*, UCT intends to advance legal submissions under two headings:
- 18.1. The importance of academic freedom; and
- 18.2. The proper development of the law of defamation to recognise academic freedom.
19. When it makes written representations, UCT will draw from comparative and international law to support these submissions. I have been advised that it is neither necessary, nor appropriate to identify the relevant comparative and international law at this stage.

MP  
T. J.



### The Importance of Academic Freedom

20. Unlike many other constitutions, s 16(1)(d) of the Constitution expressly recognises "*academic freedom and freedom of scientific research*" as an element of the right to freedom of expression. This explicit recognition not only confirms that academic and scientific speech is protected expression, but identifies the heightened importance of academic speech as a form of speech, and the role of the academy in a constitutional democracy.
  
21. Academic freedom is, primarily, an institutional right – it is a right that attaches to universities like UCT to regulate their own affairs. In the words of TB Davie, the former Principal and Vice-Chancellor of UCT, academic freedom is the right of a university "*to determine for itself on academic grounds who may teach, what may be taught, how it shall be taught, and who may be admitted to study*". Its original and principal purpose is to prevent government interference in the work of academic institutions.
  
22. But it also seeks to limit private influence on academic work, whether through the grant or withholding of funding, or – as in this case – the threat of adverse consequences for engaging in academic speech that negatively impacts on an individual. Our constitution operates horizontally and is equally concerned with the impact of powerful private influence on constitutional rights, as with the exercise of state power. While governments can chill academic speech by law and regulation, corporations can do so by threatening academics who produce academic speech they dislike, or by rewarding academics who produce speech they do like.

RP  
T...

23. This protection of the autonomy of academic institutions is vital in a democratic state. Academic freedom, as an element of the right to freedom of speech, protects the process by which expert knowledge is developed and disseminated. The academic project rests on certain standards by which knowledge is tested to determine whether it is valid or not. While those standards vary across different disciplines, they rest on the ability to hear and express different ideas and then subject those ideas to peer review. In order for the process to be credible and effective, its form and boundaries must be set, primarily, by academics engaged in the search for knowledge, not by external actors with different goals and priorities.
24. That can only be achieved by respecting the autonomy of academic institutions to regulate the production and dissemination of academic knowledge. As Byrne explains: "*Academic freedom protects this process from assault by money and power.*" Or, as Robert Post puts it: "*The basic idea of academic freedom is simple and unanswerable: knowledge cannot be advanced unless existing claims to knowledge can with freedom be criticized and analysed.*"
25. The academic process – and the expert knowledge it produces – is constitutionally valuable. Academic scholarship produces the most reliable knowledge available to us, because the facts, methods, and reasoning are transparent, the scholars are selected and trained, and all results and approaches remain subject to criticism.

pp  
T.W.

26. For these reasons, academics are uniquely able to produce new knowledge about many of the things we need most to understand, such as the drivers of poverty and inequality, the causes of climate change, the cures for disease, the seeds for new technology, and – as in this case – the best way to regulate the environment to preserve it for future generations. Forming opinions about policies on the basis of reliable knowledge is necessary for the survival of a technologically advanced society.
27. Beyond that central instrumental good, academic freedom permits and promotes inquiry into the basic questions of what it means to be human, the nature of reality, and the essence and value of art, music and literature. It encourages inquiry into subjects that may not appear immediately relevant, but are the building blocks for future innovation and human development.
28. Academic freedom is vital to realising the other rights in the Bill of Rights. It allows for innovations to ensure clean water, cure diseases, protect the environment, promote access to food, and alleviate poverty. Most obviously though, it is necessary to achieve the right to education in s 29 of the Constitution, and the right to receive ideas in s 16(1).
29. In order to achieve its purpose, academic freedom must include the freedom to regulate what is taught in academic lectures. Just as an institution must be free to determine who is hired, and lecturers must be free to publish subject to

RP  
T. u. —

the controls of their academic discipline, institutions must be free to determine what is taught.

30. Teaching is also a central element of the process of developing academic knowledge. As any lecturer will attest, knowledge is not only transmitted in lectures, it is also created. The interaction between student and lecturer is often the spark that develops further research and inquiry. Academic freedom is meaningless without the freedom to teach. Teaching is vital to ensure that academic knowledge is not stuck in the proverbial ivory tower, but is distributed so that it can influence the world and be acted on.
31. In sum: Universities are the entities that create and distribute knowledge. Our society relies on that knowledge to make decisions about how to act in the world, and to advance our understanding of what it is to be human. Universities cannot properly perform that role unless they are given the institutional right to determine who will teach, what they will teach, and how it will be taught.

### **The Doctrinal Arguments**

32. UCT supports the Defendants' right to make the statements that are the subject of this litigation. It however, advances different reasons why the claim should be dismissed. Those arguments all focus on the common cause fact that the speech occurred during a lecture on UCT's premises. That is, it occurred in an academic context and therefore attracts the protection afforded to academic speech.

RP  
T. —

33. UCT intends to advance three legal arguments:
- 33.1. Academic speech is protected by a qualified privilege;
  - 33.2. In the alternative, academic speech is lawful if it was reasonable;
  - 33.3. In the further alternative, an assessment of whether the speech was either *fair comment* or *true and in the public interest*, must be assessed within the academic context.
34. These arguments all rest on this Court's obligation in terms of s 39(2) of the Constitution "*to develop the common law to promote the spirit, purport and objects of the Bill of Rights*". That duty includes the obligation to alter existing common-law rules, as well as to apply them in constitutionally to new sets of facts.

#### Qualified Privilege

35. Our law recognises that, on certain occasions, a person is entitled to speak in a way that would be unlawful if the same speech was uttered on a different occasion. The classic example is court proceedings, but there is no closed list of such occasions. A defendant who utters defamatory speech at this type of occasion can rely on the defence of qualified privilege. The defence exists because it is in the public interest that the communication of certain defamatory statements, uttered on specific occasions, should not be prevented or inhibited by the threat of defamation proceedings.
36. There are three requirements to successfully raise qualified privilege as a defence: (a) the occasion was privileged; (b) the communication was relevant

RP  
T w - .

to the purposes of the occasion; and (c) that the speaker was not motivated by malice. If the speech meets these requirements, it is lawful.

37. UCT will argue that an academic lecture is a privileged occasion. The test for whether or not an occasion is privileged is an objective one. The question is whether, by the standard of the ordinary reasonable man, having regard to the relationship of the parties and the surrounding circumstances, the speaker had a duty or interest which entitled her to speak in the way in which she did. That is a general test that must be applied to promote constitutional values.
38. In light of the constitutional protection of academic freedom, an academic clearly has a duty or interest to communicate freely and honestly about the subject matter of a lecture. In order to be effective, that speech must include real world examples. That must include the duty to both state what has occurred in the real world, and to express an opinion about what occurred – what its likely causes and effects are, whether it was good or bad, and (in this context) whether it was lawful or unlawful.
39. Importantly, qualified privilege attaches to the occasion and not to the speaker. In the academic realm, that means it is shared by teachers and students who speak in a lecture. It also means that it is not only full-time lecturers employed by a university who can claim the privilege, but also guest lecturers like the Defendants who are participating in the academic project.

PP

5. 1. 1.

40. UCT's primary interest is in the principle that academic speech attracts a qualified privilege. It is common cause that the speech occurred in an academic lecture. Whether the speech also satisfied the remaining two requirements – relevance and absence of malice – is an issue to be determined on the evidence, and which UCT may make submissions on once evidence has been led.
41. At this stage, it is important to stress that both relevance and malice must be determined with the purpose of the occasion in mind. The question is whether the speech was relevant for the task of knowledge transmission and development. Put differently, did knowledge about the conduct of the Plaintiffs assist students to understand the questions being asked in the lecture series, and did it have the potential to advance knowledge of how to better regulate conduct that could be harmful to the environment?

Reasonableness

42. UCT submits that a defence of qualified privilege is the best way to deal with speech that occurs in an academic context. In the alternative, UCT submits that the defence of reasonableness that has been developed for the media should be applied in a modified form to academic speech.
43. Our law recognises that the publication in the press of false defamatory allegations of fact will not be regarded as unlawful if, upon a consideration of all the circumstances of the case, it is found to have been reasonable to publish the particular facts in the particular way and at the particular time.

RR

T. J. J.

The particular standards and factors that have been developed to assess reasonableness are peculiar to the profession of journalism – the reliability of sources, the opportunity of the subject to respond and so on.

44. UCT submits that academic speech should be afforded similar protection. If, in all the circumstances, the publication of the speech was reasonable in light of academic standards, practices and conventions, then that speech is lawful. The particular standards and conventions will vary between academic disciplines. Generally, speech that is evidence based, and is aimed at advancing knowledge within a discipline will qualify for protection.
45. Again, whether the speech at issue here qualifies for protection is a matter of evidence. But there are several matters to stress:
- 45.1. It is not only true or correct speech that is reasonable. Much academic speech may prove to be false. But it is only by the process of considering a wide range of opinions and facts that truth can emerge.
- 45.2. Case studies, and knowledge-sharing by practitioners and activists are vital in many fields of academic study, including law and environmental justice. Statements about the conduct of real world participants are therefore an important tool to advance academic knowledge.
- 45.3. In certain disciplines, controversial speech is encouraged – particularly in lectures – in order to promote critical thinking and engagement. That does not mean that untested or clearly false statements are permitted. But that it is sometimes academically reasonable to share facts or ideas before they have been fully tested in order to gain the assistance

RP  
T. a. -



of students and colleagues to determine whether the speech is true or not.

- 45.4. While the process of academic inquiry is a search for truth, that truth will often remain permanently disputed. Most disciplines have different schools of thought that disagree on fundamental issues. Some ideas will only ever gain partial acceptance. Again, the test for reasonableness is not absolute truth or complete acceptance, but whether the speech was reasonable in the process of academic endeavour.

In the Academic Context

46. The Defendants have already raised the defences of *truth and the public interest*, and *fair comment*. UCT submits that, given the academic nature of the speech, either qualified privilege or reasonableness is a more appropriate defence. However, the academic context remains vital for assessing whether either of the traditional defences applies.
47. First, in determining truth and the public interest, UCT submits that the academic nature of the speech has two consequences:
- 47.1. In determining whether a statement is "true", the court should bear in mind the nature of academic knowledge and the iterative process by which it is produced.
- 47.2. If the speech is relevant to the advancement of academic knowledge, then it will invariably be in the public interest.

RP

T.A.

48. Second, whether a statement in an academic context amounts to “fair comment” must be assessed against the background of existing academic norms about acceptable modes of speech. A statement that falls within those norms will ordinarily constitute fair comment. Again, the type of comment that is acceptable may vary between disciplines.

### Conclusion

49. While it is not possible – at this early stage of the action – to determine precisely what the legal submissions of the parties will be, the above arguments are different from those currently advanced by the parties.
50. I have been advised that, after UCT obtained the parties consent for it to be admitted in this matter, the Centre for Applied Legal Studies (**CALS**) has also sought leave to intervene. CALS also seeks to make submissions about the relevance of academic freedom. UCT undertakes to ensure that there is no significant overlap between its legal submissions and CALS’ submissions.

### **IV THE COURSE**

51. In order to understand why the Defendants’ speech qualified as academic speech, it is necessary to understand the nature of the Course, and the academic motivation for inviting practitioners and activists to present at the Course.
52. The evidence in this section (paragraphs 55-68) is confirmed by Michelle Pressend who convened the Course together with Prof Lesley Green. Ms Pressend is a senior PhD student in the Environmental Humanities South

RP  
T.C.

programme (EHS) and has recently been appointed a Lecturer in Environmental Sociology at the Sociology Department at UCT.

53. Prof Lesley Green is the founding director of EHS and she served as Director at the time. Prof Green is currently out of the country on sabbatical and will only return in July 2018. UCT has not, therefore, obtained a confirmatory affidavit from Prof Green, but will file one when she returns to South Africa.
54. The Course was titled "Mining the Wild and the West coast: 'Development' at what costs?". It was offered by EHS, a transdisciplinary research team based in the Faculty of Humanities at UCT. EHS is a postgraduate and research programme that explores how we understand the relations between humans and the environment in all areas of cultural production, ranging from scientific decision-making to government policy, from social justice movements to the creative arts. It examines questions of sustainability, human wellbeing and the environment in their broadest sense.
55. The Course took place in one lecture slot per day from 23 to 27 January 2017. It stemmed from an initiative by EHS in 2016 to convene a public dialogue on the question of development versus environment at UCT. Ms Pressend was invited to develop the course because of her several years' experience in government and civil society work in the field of environmental justice. Ms Pressend worked with the supervision and support of Prof Green.
56. The Course laid the basis within which environmental activists and academics began to work together to create a new model of adult education, building on links with civic organisations' struggles, and seeking to ground research in strong academic-civil society networks.

PP  
T. C. S.

57. The costs of running the course were covered by a National Catalytic Grant from the National Institute for Humanities and Social Sciences. The project was also closely associated with ongoing research funded by a grant from the National Research Foundation, titled 'Race and the Making of an Environmental Public'. Prof Green serves as the Principle Investigator of both projects.
58. The Course was presented as part of the field of Environmental Humanities. Globally, Environmental Humanities is a fast-growing, transdisciplinary field that aims to facilitate scholarship on human impact on the planet, with the goal of supporting the emergence of ecological approaches in collective life, law, and policy. The Course introduced Environmental Humanities in South Africa as a tool to construct conversations of how to think about environmentalism in terms other than the conventional opposition to 'development', with its implied separation of white and black public concerns.
59. Working with activists, lawyers and civil society in a classroom, the convenors sought to trouble the simplistic binary that governs the assumption that development necessarily has to trade-off environmental concerns. The goal was to explore, in a classroom situation and with a range of actors, the emergence of Black-led environmental movements.
60. With this goal in mind, the course engaged with three cases and community struggles, seeking to understand the complexity of struggles and situations on the ground. These were:
- 60.1. The Amadiba community's struggle in opposition to titanium mining in Xolobeni on the Pondoland Wild Coast and the extension of the N2 toll highway.

AP  
T. — .

- 60.2. The mining operations of Tormin Mineral Sands Mine, located approximately 400km north of Cape Town and 40 km west of the town of Lutzville as well as concerns of mining along the West Coast which potentially threatens the coastline environment and traditional fishing livelihoods.
- 60.3. The City of Cape Town's housing development initiative in the Philippi Horticultural Area, which threatens livelihoods of small-scale farmers, food production and the recharge of the Cape Flats aquifer.
61. These three case studies engaged the need to be able to work towards economic development that is not at the cost of planetary ecology and local systems.
62. The content of the course relates to critical questions that Environmental Humanities is engaging with: What do we mean when we speak of 'the environment'? Whose environment, and who gets to speak? What propositions about 'the natural' and 'the human' undergird scientific advice on governance and management of the commons? How do specific forms of evidence become hidden – and therefore invisible – in situations where corporates and government officials try to push development projects through despite opposition? What strategies are available to researchers to deal with the occlusion of evidence?
63. How to build an environmental public on new terms is a vitally important question at a time when South African communities and the environment is faced with an onslaught of extractive and predatory developments. That goal lies at the core of Environmental Humanities. A critical part of the convenors' approach to teaching and learning is to build knowledge by developing new

RP  
T. van

forms of teaching and research partnerships with civil society and across academic disciplines.

64. An imperative in the EHS' and the convenors' approach is curriculum innovation. They seek to engage with the public, and not only students and academics. Activists and social movements involved in struggle are important sites of learning. There is always a challenge to democratic processes where there is a struggle for social change. So, engaging with those directly involved in different situations and struggles brings a richness and texture to learning that goes beyond what a formal lecture can offer. It provides participants with an opportunity to learn skills required for producing and assessing evidence and argument.
65. Communities that are faced with development projects and decisions that change and or damage ecologies and displace people from their livelihoods, are increasingly ostracised for being "unpatriotic" or "against economic development". In order to strengthen debate and democratic processes, it is necessary for researchers to build partnerships and form mutual relationships with those engaged in these struggles.
66. A range of activists, legal professionals and supporting NGOs were therefore invited to present their perspectives on a range of different situations, in order to explore ways of exiting the unhelpful polemic between development and environment. The activists and lawyers were from the Amadiba Crisis Committee, PHA Campaign, the Legal Resources Centre, and the Centre for Environmental Rights. The West Coast Food Sovereignty and Solidarity Forum, a recently formed community forum concerned the impact of mining along the West, was also invited. Their inputs brought different and dynamic

pp  
T u ~

evidence, and provided textured experiences of these struggles, as opposed to merely theoretical inputs.

67. The course was specifically interested in the question of producing evidence in a situation where evidence is being hidden, and a strong polemic of “environmentalism or development” made dialogue difficult. By working and collaborating with the lawyers, civil society actors and graduate students to evaluate forms of evidence that are not readily visible – either because they are hidden by secrecy, or because the debate has become so polemical that actors find it difficult to make their different arguments heard – the Course strengthened the emergence of a connection between academia and the public.
68. The Course affirmed the value of different approaches to pedagogy, enabling audiences to engage with different experiences, perceptions and evidence, and having done so, to better understand emerging alternative approaches to environmentalism in the public sphere.
69. While it did not have the form of a traditional lecture, the Course was a core exercise of the right to academic freedom, and a central part of advancing the academic project. Both in its content and its form, the Course sought to interrogate and advance our knowledge about the world. It sought to both transmit and to build existing knowledge in an important and relatively new area of academic inquiry.

## **V COMPLIANCE WITH RULE 16A**

70. The Defendants issued a notice in terms of rule 16A on 4 July 2017.

AP  
T. u. -

71. On 12 July 2017, UCT wrote a letter to the parties seeking their consent for it to intervene in the matter as an *amicus curiae*. I attach a copy of that letter marked **RP 2**.
72. Both the Plaintiffs and the Defendants consented. I attach their letters marked **RP3** and **RP4** respectively.
73. In accordance with rule 16A(3), UCT filed those letters with the Registrar together with a notice indicating that it had been admitted as an *amicus curiae* by consent of the parties. I attach a copy of that notice marked **RP5**.
74. However, UCT was subsequently advised that there is some uncertainty about whether the consent of the parties alone is sufficient to gain admission as an *amicus curiae*, or whether an order of court is always required. It was therefore advised that it would be prudent to bring this application for admission and to more fully set out the argument it intends to advance. This application therefore seeks an order admitting UCT as an *amicus curiae*, only to the extent that such an order is required.



---

**ROYSTON NATHAN PILLAY**

I certify that-

- (a) the deponent—
  - (i) acknowledged that he knows and understands the contents of this declaration;

RS  
T. S. S.



- (ii) informed me that he does not have any objection to taking the prescribed oath;
- (iii) informed me that he considers the prescribed oath to be binding on his conscience;
- (b) the deponent then uttered the words, 'I swear that the contents of this declaration are true, so help me God'; and
- (c) the deponent signed this declaration in my presence at

*Rondebosch*  
.....

on the *13* day of *February* 2018.

*J. W. Mokoabe*  
.....

COMMISSIONER OF OATHS

*STARS Rondebosch*



*RPD*

University of Cape Town

AUTHORITIES IN REGARD TO LEGAL PROCEEDINGS

A: General

The Council resolves

1. Unless the Schedule specifically authorises this, an authority may not further delegate his/her authority.
2. An authority must ensure that :
  - a) the power is exercised within the scope of the delegated authority;
  - b) the power is exercised in accordance with University policies and statutory requirements, and that due process has been followed;
  - c) the direct and indirect financial consequences of his or her decision are covered by an approved budget (authority to act does not confer authority to make a new budgetary appropriation, or create an entitlement to space); and
  - d) there is no conflict of interest (if the authority is conflicted he/she must decline to exercise the authority delegated to him/her).
3. Monetary/time limits refer to the total amount/duration of the contract/lease/salary and, save where otherwise indicated, include VAT. A single contract may not be split into separate contracts to avoid the limitation imposed by any limit.
4. The signing authority may consult, where appropriate, relevant personnel within the University before exercising the authority delegated to him/her.
5. Where an authority is away from office:
  - a. and a person has been appointed, in writing, to act in that position for the period of absence, the person appointed to act may exercise the delegated authority vested in that position (e.g., an acting VC may exercise the authority given to the VC, or an acting ED Finance may exercise the authority given to the ED Finance) ; or
  - b. if a person has not been appointed to act, the authority's line manager is deemed to have the authority (e.g. in the absence of the Registrar the VC may exercise authority delegated to either).

The Council may confirm, ratify, vary or revoke any decision taken by an employee, subject to any rights that may have become vested as a consequence of the decision.

*Delegated authority schedule D.*

Approved by Council on 5 December 2015..... (Chair)

Handwritten initials and signature in the bottom right corner.

Delegated Authority Schedule D

**B. Authorities delegated to the Registrar**

The Council resolves:

That Royston Pillay, in his capacity as the Registrar of the University of Cape Town, acting independently, be and is hereby authorised -

1. to institute legal proceedings in any court of competent jurisdiction for:
  - a) the payment of any monies owing by any person, persons, close corporation or company to the University of Cape Town and/or
  - b) the delivery of any goods or assets belonging to or claimable by the University of Cape Town and/or
  - c) the sequestration of the estate of any person or persons and the liquidation or judicial management of any close corporation or company and/or
  - d) any other relief or remedy of whatsoever nature on the University of Cape Town's behalf, and whether by way of action, petition, motion, application or otherwise howsoever.
2. to enter appearance to defend and to defend any legal proceedings instituted against the University of Cape Town in any court of law;
3. to represent the University of Cape Town in any such legal proceedings and to employ attorneys and agents, and to sign and execute any power of attorney and/or affidavit and/or other document in connection therewith and to proceed to the final end and determination of any such legal proceedings no matter what cause arising ;
4. to nominate, in writing, and for a specified period, one or more officers of the administration to represent the University in signing any affidavit in relation to legal actions, including but not limited to actions in regard to the student fee debtors collection process, and to do all necessary to institute the legal proceedings pursuant to this.
5. to execute powers of attorney where required which without limiting the generality of this shall include powers of attorney in respect of intellectual property protection, in respect of the execution of Council decisions, and in respect of property acquisition and disposal, and to delegate authority to execute powers of attorney to the Director of Research Contracts and Intellectual Property Services in respect of intellectual property protection.

Delegated authority schedule D.

Approved by Council on 5 December 2015..... (C)

RP  
T  
20

## Delegated Authority Schedule D

6. to represent the University as shareholder in companies in which the University has a shareholding, other than an investment holding through the Joint Investment Committee, other than in situations where the Vice-Chancellor does so, and to vote the University's shareholding, or to nominate a member of the University to do so, or to grant a proxy to a University-nominated director to do so.
7. to enter agreements and sign documents on behalf of the University of Cape Town in connection with:
  - a) purchasing or otherwise acquiring, holding, selling, exchanging or otherwise alienating, hypothecating, burdening with a servitude or otherwise dealing with immovable or movable property of any kind, provided that no action in respect of immovable property may be taken unless previously authorized by a resolution of the Council;
  - b) contracts expressly approved by or authorized by resolution of the Council;
  - c) contracts provided for in the financial authority schedules;
  - d) leases, as provided for in the financial authority schedules;
  - e) contracts for conferences held on the university campus;
  - f) contracts provided for in the research delegated authority schedule;
  - g) contracts for implementing decisions of the I.P. Advisory Committee; and
  - h) contracts not expressly provided for, subject to the limits in the financial authority schedules.
8. Unless the Schedules specifically authorise this, an authority may not further delegate his/her authority.
9. An authority must ensure that :
  - a. the power is exercised within the scope of the delegated authority;
  - b. the power is exercised in accordance with University policies and statutory requirements, and that due process has been followed;
  - c. the direct and indirect financial consequences of his or her decision are covered by an approved budget (authority to act does not confer authority to make a new budgetary appropriation, or create an entitlement to space); and
  - d. there is no conflict of interest (if the authority is conflicted he/she must decline to exercise the authority delegated to him/her).

RP  
1-5

"RP2"



Our ref: AP/aa/UNI29/0040

Your ref:

Date: 12 July 2017

**BERNADT VUKIC POTASH & GETZ ATTORNEYS**

Ref: Mr R Kudo/mk/150772

Email: Rkudo@bvpj.co.za

BY EMAIL

**WEBBER WENTZEL**

Ref: O Geldenhuys/3018599

Email: odette.geldenhuys@webberwentzel.com

BY EMAIL

Dear Sirs

**RE: MINERAL SANDS RESOURCES (PROPRIETARY) LIMITED / CHRISTINE REDDELL,  
TRACEY DAVIES & DAVINE CLOETE – CASE NO 7595/17**

1. We refer to the above matter.
2. We confirm that we act for the University of Cape Town ("UCT").
3. UCT commits itself to academic values including the promotion of academic freedom, which includes the creation of spaces for the contestation of ideas.
4. UCT has an Interest in academic freedom as protected in Section 16(1)(d) of the Constitution.
5. The action as well as the exception raised in this matter impacts on the issues relating to academic freedom.
6. While the exception in general deals with the development of the common law of defamation concerning corporations, UCT wishes to advance argument as to the role the right of academic freedom plays in the development of the common law in defamation.

Tel: +27 21 4057300 • Fax: +27 21 4195135 • Email: attorneys@fairbridges.co.za • Website: www.fairbridges.co.za  
16th Floor, South Tower, The Towers, Heerengracht, Cape Town 8001 • P.O. Box 536, Cape Town 8000, South Africa • Docex 2, Cape Town

**Directors:** Deirdré Olivier (Chairperson), John Bromiey, Richard Cheeseman, Evelyn Chimombe-Munyoro, Herman Conradie, Caroline Dichmont, Bob Groeneveld, Kevin Hacker, Jean Herbert, Bernard Joffe, Amish Kika, Melanie Kilian, Louis Le Roux, Sinen Mnguni, Zunaid Mohamed, Julia Penn, Greer Penzhorn, Adela Petersen, Diane-Maree Rauch, Darryl Reece, David Short, Waheeda Shreef, Wickaam Smith, Jaco van der Westhuizen, Johann van Eeden, André van Rensburg. **Senior Associates:** Sheri Breslaw, Gaby Meintjes, Karol Michalowski, Jodi Poswellecki. **Associates:** Daniel Hart, Graham Houston, Nosiphiwo Qwabi, Julia Rushton, Inge Surtie, Daniel Treves. **Consultants:** Anne Boag, Hymie Chait, Solomon Gordon, Monty Hacker, Andrew Hewitt, Pieter Pretorius, Louis Rood, Peter Watts. **Practice Manager:** Robin Kirkby.

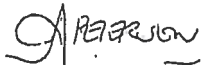
FAIRBRIDGE ARDERNE & LAWTON INC. - Reg. No. 1985/000003/21.

Also in Johannesburg.

RP  
T...

7. In the circumstances, UCT wishes to participate in both the exception process and the trial as amicus curiae.
8. Were UCT to be admitted as amicus curiae, the submissions it would advance concern the role academic freedom should play in defamation proceedings in this context.
9. In particular, UCT would advance legal argument based on international law and foreign jurisprudence.
10. UCT hereby requests consent to be admitted as amicus curiae for purposes of advancing written and oral argument in relation to both the exception and trial stage of proceedings.
11. Please revert to us by 21 July 2017 with your clients instructions in this regard.

Yours faithfully  
**FAIRBRIDGES WERTHEIM BECKER**



**ADELA PETERSEN**

E-mail address: [apetersen@fairbridges.co.za](mailto:apetersen@fairbridges.co.za)

Direct line: 021 405-7337

Direct fax: 0866394266



*AP*  
*TW*



## Aurelia Arendse

---

**From:** Adela Petersen  
**Sent:** 12 July 2017 04:36 PM  
**To:** odette.geldenhuis@webberwentzel.com; rkudo@bvpg.co.za  
**Subject:** MINERAL SANDS RESOURCES (PROPRIETARY) LIMITED / CHRISTINE REDDELL & OTHERS  
**Attachments:** Scan.pdf

Dear all

Please find letter attached for your consideration.


Kind Regards

**ADELA PETERSEN**  
**DIRECTOR: LITIGATION**  
T +27 (0)21 405 7337  
F +27 (0)21 419 5135  
Direct Fax 086 639 4266  
[apetersen@fairbridges.co.za](mailto:apetersen@fairbridges.co.za)  
[www.fwbattorneys.co.za](http://www.fwbattorneys.co.za)



Fairbridge Arderne & Lawton Inc is an incorporated company practising as Attorneys, Notaries, Conveyancers and Trade Mark Practitioners with registration number 1985/000003/21. Directors and Associates are listed at [www.fwbattorneys.co.za](http://www.fwbattorneys.co.za)

Confidentiality: This email is intended for the addressee only, and contains confidential information which may be legally privileged. If you are not the intended recipient kindly notify the sender immediately by return e-mail and delete the original message. You may not copy it or disclose its contents to any person.

 Please don't print this e-mail unless you really need to.

**From:** Admin [<mailto:printer@fairbridges.co.za>]  
**Sent:** 12 July 2017 04:25 PM  
**To:** Adela Petersen  
**Subject:**

**FAIRBRIDGES WERTHEUM BECKER ATTORNEYS**

PER EMAIL: [apetersen@fairbridges.co.za](mailto:apetersen@fairbridges.co.za)

ATTENTION: ADELA PETERSEN

Cc.: [oddette.geldenhuys@webberwentzel.com](mailto:oddette.geldenhuys@webberwentzel.com)

Dear Madam

**MINERAL SANDS RESOURCES (PROPRIETARY) LIMITED // REDDELL & OTHERS**

1. We refer to your letter of 12 July 2017.
2. We are instructed as follows:
  - 2.1. Our client does not object to your client's participation in the above matter as an *amicus curiae* for purposes of advancing written and oral argument in relation to both the exception and trial stages of the proceedings; and
  - 2.2. With reference to the exception proceedings, our client proposes that your client deliver its written argument together with the defendants, on a date not less than 10 days prior to the hearing of the exception.
3. Kindly revert with your client's instructions regarding paragraph 2.2 above.

Yours faithfully

**BERNADT VUKIC POTASH & GETZ**

per  
R KUDO



PARTNERS: IGOR VUKIC KEITH GETZ WAYNE FIELD CHRISTOPHER HESSIAN ROSS KUDO LEAH DARLEY DANIEL BRAUER  
ADAM SNITCHER MICHELE STEINDL

SENIOR ASSOCIATES: JUSTIN ELSTOB

ASSOCIATES: ZOGHERIAH RONDGANGER KELLY MARTIN ZELEK SING

CONSULTANTS: ELIZABETH HACKING NICCI MATISONN PETER SLACK UNATHI MALUNGA SADULLA KARJIKER DAVID JANKS

OFFICE MANAGERESS: NADJA LUBBE

FINANCIAL MANAGER: PHILIP OROLOWITZ

RP  
T



## Aurelia Arendse

---

**From:** Ross Kudo <Rkudo@bvpg.co.za>  
**Sent:** 20 July 2017 02:54 PM  
**To:** Adela Petersen  
**Cc:** odette.geldenhuis@webberwentzel.com  
**Subject:** RE: MINERAL SANDS RESOURCES (PROPRIETARY) LIMITED / CHRISTINE REDDELL & OTHERS  
**Attachments:** 4327\_001.pdf

Dear Madam

Kindly see the attached letter.

Regards

### Ross Kudo

#### **Bernadt Vukic Potash & Getz**

11th Floor, 1 Thibault Square, Cape Town, 8001

T: +27 21 405 3800 | F: +27 21 418 2317

[www.bvpg.co.za](http://www.bvpg.co.za)

**From:** Adela Petersen [<mailto:apetersen@fairbridges.co.za>]

**Sent:** 12 July 2017 04:36 PM

**To:** [odette.geldenhuis@webberwentzel.com](mailto:odette.geldenhuis@webberwentzel.com); Ross Kudo <[Rkudo@bvpg.co.za](mailto:Rkudo@bvpg.co.za)>

**Subject:** MINERAL SANDS RESOURCES (PROPRIETARY) LIMITED / CHRISTINE REDDELL & OTHERS

Dear all

Please find letter attached for your consideration.

Kind Regards

**ADELA PETERSEN**  
**DIRECTOR: LITIGATION**  
T +27 (0)21 405 7337  
F +27 (0)21 419 5135  
Direct Fax 086 639 4266  
[apetersen@fairbridges.co.za](mailto:apetersen@fairbridges.co.za)  
[www.fwbattorneys.co.za](http://www.fwbattorneys.co.za)

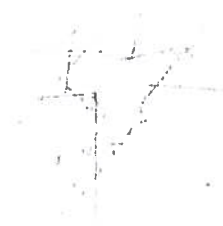


*RP*  
*T. -*

"RPL"

# WEBBER WENTZEL

in alliance with > Linklaters



Adela Petersen  
Fairbridges Wertheim Becker  
16th Floor South Tower  
The Towers  
Heerengracht  
Cape Town 8001

15th Floor, Convention Tower  
Heerengracht, Foreshore  
Cape Town, 8001

PO Box 3667, Cape Town  
8000, South Africa

Docex 34 Cape Town

T +27 21 431 7000

F +27 21 431 8000

[www.webberwentzel.com](http://www.webberwentzel.com)

Via email: [apetersen@fairbridges.co.za](mailto:apetersen@fairbridges.co.za)

Your reference  
AP/aa/UNI29/0040

Our reference  
OGeldenhuys  
3018599

Date  
17 July 2017

Dear Madam

**Mineral Sands Resources (Pty) Ltd & another / Christine Reddell, Tracey Davies & Davine Cloete (WCHC 7595/17)**

We refer to the above matter and your letter of 12 July 2017.

Our clients consent to UCT being admitted as *amicus curiae* for purposes of advancing written and oral argument in relation to both the exception and trial stages of proceedings.

Yours faithfully

**WEBBER WENTZEL**

Odette Geldenhuys

Partner

Direct tel: +27 21 431 7290

Direct fax: +27 21 431 8290

Email: [odette.geldenhuys@webberwentzel.com](mailto:odette.geldenhuys@webberwentzel.com)

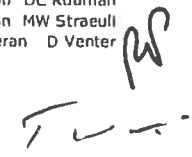
2852496 1

Partners in office at Cape Town: Office Managing Partner: G Fitzmaurice Partners: RB Africa AE Bennett AR Bowley SJ Chong A Christie KM Colman JJ Daniels MA Diemont HJ du Preez AE Esterhuizen MJR Evans C Gabriel OH Geldenhuys S Hockey PM Holloway SJ Hutton AV Ismail S Jooste LA Kahn A Keyser CS Meyer LE Mostert RA Nelson Z Rawoot K Rew H Samsodlen J Smit A Toefy PZ Vanda DM Visagie

Senior Partner: JC Els Managing Partner: SJ Hutton Partners: BW Abraham RB Africa NG Alp OA Ampofo-Anti RL Appelbaum DC Bayman AE Bennett AP Blair DHL Booysen AR Bowley JL Brink S Browne MS Burger RI Carrim T Cassim SJ Chong A Christie KL Collier KM Colman KE Coster K Couzyn JJ Daniels CR Davidow JH Davies PM Daya L de Bruyn PU Dela JHB de Lange DW de Villiers BEC Dickinson MA Diemont DA Dingley G Driver HJ du Preez CP du Toit SK Edmundson AE Esterhuizen MJR Evans AA Felekis GA Fichardt G Fitzmaurice JB Forman C Gabriel CP Gaul KL Gawith OH Geldenhuys MM Gibson SJ Gilmour H Goolam CI Gouws PD Greal A Harley JM Harvey MH Hathorn JS Henning KR Hillis XNC Hlatshwayo S Hockey CM Holfeld PM Holloway HF Human AV Ismail ME Jarvis CM Jonker S Jooste LA Kahn M Kennedy A Keyser M Kyle J Lamb I Marais S McCafferty MC McIntosh SJ McKenzie H McLaren SJ Meltzer CS Meyer AJ Mills JA Milner D Milo NP Mngomezulu S Mogale M Moloi LE Mostert VM Movshovich RA Nelson BP Ngoepe A Ngubo ZN Ntshona MB Nzimande L Odendaal GJP Olivier N Paige AMT Pardini AS Parry S Patel GR Penfold SE Phajane TC Phala MA Phillips D Ramjettan GI Rapson Z Rawoot K Rew G Richards-Smith NJA Robb DC Rudman S Rugan M Sader H Samsodlen JW Scholtz KE Shepherd AJ Simpson N Singh N Singh-Nogueira P Singh J Smit MP Spalding PS Steyn MW Straeuli LJ Swaine JM Swanepoel Z Swanepoel A Thakor A Toefy PZ Vanda PP van der Merwe SE van der Meulen CS Vanmali JE Veeran D Venter B Versfeld MG Versfeld TA Versfeld DM Visagie J Watson DP Wild KL Williams K Wilson RII Wilson M Yudaken

Chief Operating Officer: SA Boyd

Webber Wentzel is associated with ALN



## Aurelia Arendse

---

**From:** Odette Geldenhuys <Odette.Geldenhuys@webberwentzel.com>  
**Sent:** 17 July 2017 02:28 PM  
**To:** Adela Petersen; rkudo@bvpg.co.za  
**Subject:** RE: MINERAL SANDS RESOURCES (PROPRIETARY) LIMITED & ZAMILE QUNYA / CHRISTINE REDDELL & OTHERS [WWA-ws\_cpt.FID599347]  
**Attachments:** Let to Fairbridges 170717.PDF

Dear Madam,

Please find attached our letter of 17 July 2017.

Best

**Odette Geldenhuys**  
Partner

**WEBBER WENTZEL**

in alliance with > Linklaters

**T:** +27214317290 **F:** +27 21 431 8290 **M:** +27 83 776 6611  
**E:** [odette.geldenhuys@webberwentzel.com](mailto:odette.geldenhuys@webberwentzel.com)  
[www.webberwentzel.com](http://www.webberwentzel.com)

This email is confidential and may also be legally privileged. If you are not the intended recipient, please notify the sender immediately and then delete it. Please do not copy, disclose its contents or use it for any purpose. Webber Wentzel will not be liable for any unauthorised use of, or reliance on, this email or any attachment. This email is subject to and incorporates our standard terms of engagement. Please contact the sender if you have not already received a copy thereof.

**From:** Adela Petersen [<mailto:apetersen@fairbridges.co.za>]  
**Sent:** 12 July 2017 16:36  
**To:** Odette Geldenhuys; [rkudo@bvpg.co.za](mailto:rkudo@bvpg.co.za)  
**Subject:** MINERAL SANDS RESOURCES (PROPRIETARY) LIMITED / CHRISTINE REDDELL & OTHERS

Dear all

Please find letter attached for your consideration.

Kind Regards

**ADELA PETERSEN**  
**DIRECTOR: LITIGATION**  
T +27 (0)21 405 7337  
F +27 (0)21 419 5135  
Direct Fax 086 639 4266  
[apetersen@fairbridges.co.za](mailto:apetersen@fairbridges.co.za)  
[www.fwbattorneys.co.za](http://www.fwbattorneys.co.za)



AP  
FW

"RPS"

IN THE HIGH COURT OF SOUTH AFRICA

WESTERN CAPE DIVISION, CAPE TOWN

Case No 7595/17

In the matter between:

MINERAL SANDS RESOURCES

First Plaintiff

PROPRIETARY LIMITED

ZAMILE QUNYA

Second Plaintiff

and

CHRISTINE REDDELL

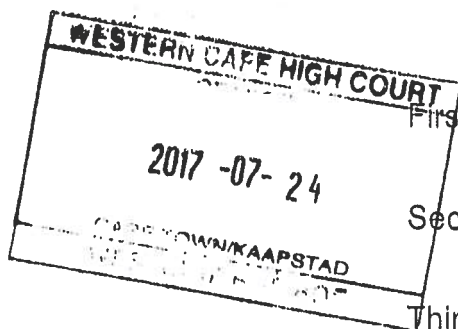
First Defendant

TRACEY DAVIES

Second Defendant

DAVINE CLOETE

Third Defendant




---

NOTICE IN TERMS OF RULE 16A(3)

---

BE PLEASED TO TAKE NOTICE that the parties have consented to the University of Cape Town to be admitted as amicus curiae to these proceedings.

BE PLEASED TO TAKE NOTICE further that the consent of the parties are attached to this notice.

Handwritten initials: "RP" above "T.W."

DATED AT CAPE TOWN ON THIS THE 24<sup>th</sup> DAY OF JULY 2017.

**FAIRBRIDGES WERTHEIM  
BECKER**

Per: *A Petersen*

**ADELA PETERSEN**

Attorneys for the University of Cape  
Town

16<sup>th</sup> Floor, South Tower

The Towers, Heerengracht

**CAPE TOWN**

Ref: AP/aaUNI29/0040

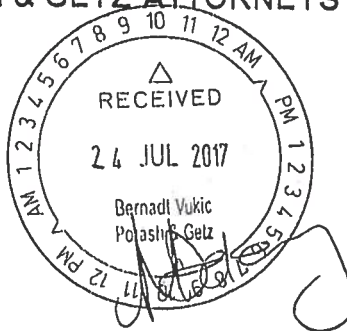
Tel: 021 4057337

Fax: 086 639 42 11

Email: apetersen@fairbridges.co.za

**TO: THE REGISTRAR**  
High Court  
**CAPE TOWN**

**AND TO: BERNADT VUKIC POTASH & GETZ ATTORNEYS**  
Plaintiff's Attorneys  
11<sup>th</sup> Floor,  
1 Thibault Square  
**CAPE TOWN**  
Tel: 021 405 3800  
Ref: Mr Kudo/mk/150772



**AND TO: WEBBER WENTZEL**  
Attorneys for First to Third Defendants  
15<sup>th</sup> Floor Convention Tower  
Heerengracht  
**CAPE TOWN**  
Tel: 021 431 7290  
Ref: O Geldenhuys/3018599

**WEBBER WENTZEL**  
**RECEIVED**  
24 JUL 2017  
10h32  
*RP*

*7/2/17*

**FAIRBRIDGES WERTHEUM BECKER ATTORNEYS**

PER EMAIL: [apetersen@fairbridges.co.za](mailto:apetersen@fairbridges.co.za)

ATTENTION: ADELA PETERSEN

Cc.: [oddette.geldenhuis@wehberwentzel.com](mailto:oddette.geldenhuis@wehberwentzel.com)

Dear Madam

**MINERAL SANDS RESOURCES (PROPRIETARY) LIMITED // REDDELL & OTHERS**

1. We refer to your letter of 12 July 2017.
2. We are instructed as follows:
  - 2.1. Our client does not object to your client's participation in the above matter as an *amicus curiae* for purposes of advancing written and oral argument in relation to both the exception and trial stages of the proceedings; and
  - 2.2. With reference to the exception proceedings, our client proposes that your client deliver its written argument together with the defendants, on a date not less than 10 days prior to the hearing of the exception.
3. Kindly revert with your client's instructions regarding paragraph 2.2 above.

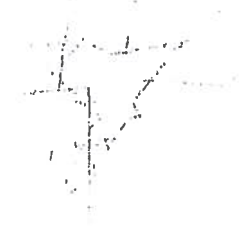
Yours faithfully  
**BERNADT VUKIC POTASH & GETZ**

per  
R KUDO



# WEBBER WENTZEL

In alliance with > Linklaters



Adela Petersen  
Fairbridges Wertheim Becker  
16th Floor South Tower  
The Towers  
Heerengracht  
Cape Town 8001

15th Floor, Convention Tower  
Heerengracht, Foreshore  
Cape Town, 8001

PO Box 3667, Cape Town  
8000, South Africa

Docex 34 Cape Town

T +27 21 431 7000  
F +27 21 431 8000

[www.webberwentzel.com](http://www.webberwentzel.com)

Via email: [apetersen@fairbridges.co.za](mailto:apetersen@fairbridges.co.za)

Your reference  
AP/aa/UNI29/0040

Our reference  
OGeldenhuys  
3018599

Date  
17 July 2017

Dear Madam

Mineral Sands Resources (Pty) Ltd & another / Christine Reddell, Tracey Davies & Davine Cloete (WCHC 7595/17)

We refer to the above matter and your letter of 12 July 2017.

Our clients consent to UCT being admitted as *amicus curiae* for purposes of advancing written and oral argument in relation to both the exception and trial stages of proceedings.

Yours faithfully

WEBBER WENTZEL

Odette Geldenhuys

Partner

Direct tel: +27 21 431 7290

Direct fax: +27 21 431 8290

Email: [odette.geldenhuys@webberwentzel.com](mailto:odette.geldenhuys@webberwentzel.com)

2852406\_1

Partners in office at Cape Town: Office Managing Partner: G Fitzmaurice Partners: RB Africa AE Bennett AR Bowley SJ Chong A Christie KM Colman JJ Daniels MA Diemont HJ du Preez AE Esterhuizen MJR Evans C Gabriel OH Geldenhuys S Hockey PM Holloway SJ Hutton AV Ismail S Jooste LA Kahn A Keyser CS Meyer LE Mostert RA Nelson Z Rawoot K Rew H Samsodien J Smit A Toefy PZ Vanda DM Visagie

Senior Partner: JC Els Managing Partner: SJ Hutton Partners: BW Abraham RB Africa NG Alp OA Ampofo-Anli RL Appelbaum DC Bayman AE Bennett AP Blair DHL Booysen AR Bowley JL Brink S Brown MS Burger RI Carrim T Cassim SJ Chong A Christie KL Collier KM Colman KE Coster K Couzyn JJ Daniels CR Davidow JH Davies PM Dayn L de Bruyn PU Dela JHB de Lange DW de Villiers BEC Dickinson MA Diemont DA Dingley G Driver HJ du Preez CP du Toit SK Edmundson AE Esterhuizen MJR Evans AA Folekis GA Fichardt G Fitzmaurice JB Forman C Gabriel CP Gaul KL Gawith OH Geldenhuys MIM Gibson SJ Gilmour H Gouham CI Gouws PD Groaly A Harley JM Harvey MH Hathorn JS Henning KR Hillis XNC Hietshwayo S Hockey CM Hoffeld PM Holloway HF Human AV Ismail ME Jarvis CM Jonker S Jooste LA Kahn M Kennedy A Keyser M Kyle J Lamb I Marais S McCafferty MC McIntosh SJ McKenzie N McLaren SJ Maltzer CS Meyer AJ Mills JA Milner D Milo NP Mngomezulu S Mogale M Moloi LE Mostert VM Movshovich RA Nelson BP Ngepe A Ngubo ZN Ntshona MB Nzimande L Odendaal GJP Olivier N Paige AMT Pardini AS Parry S Patel GR Penfold SE Phajane TC Phala MA Phillips D Ramjetton GI Rapson Z Rawoot K Rew G Richards-Smith NJA Robb DC Roodman S Ruge M Sader H Samsodien JW Scholtz KE Shepherd AJ Simpson N Singh N Singh-Nogueira P Singh J Smit MP Spalding PS Stein MW Strauß LJ Swaine JM Swanepoel Z Swaneys A Thakor A Toefy PZ Vanda PP van der Merwe SE van der Meulen CS Vanmali JE Veeran D Venter B Versfeld MG Versfeld TA Versfeld DM Visagie J Watson DP Wild KL Williams K Wilson RH Wilson M Yudaken

Chief Operating Officer: SA Bayd

Webber Wentzel is associated with ALN

Handwritten initials 'ap' and a signature.