

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

CASE NO:

In the matter between:

SOUTHERN AFRICA LITIGATION CENTRE

Applicant

and

THE MINISTER OF HOME AFFAIRS

First Respondent

**THE DIRECTOR-GENERAL OF THE
DEPARTMENT OF HOME AFFAIRS**

Second Respondent

AUGUSTINUS PETRUS MARIA KOUWENHOVEN

Third Respondent

NOTICE OF MOTION

BE PLEASED TO TAKE NOTICE that, on a date to be arranged with the Registrar of this Honourable Court, the Applicant intends to make application to this Court for an order in the following terms:

1. Reviewing and setting aside the decision of the Second Respondent taken on or about 30 August 2017 to issue to the Third Respondent a visa in terms of section 11(6) of the Immigration Act, No. 13 of 2002 (*“the Immigration Act”*).

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(021) 424-8561

2. Declaring the impugned decision to be unlawful, inconsistent with the Constitution of the Republic of South Africa, 1996 (*“the Constitution”*), and invalid.
3. Reviewing and setting aside the failure of the Second Respondent to declare the Third Respondent undesirable in terms of section 30(1)(f) and section 30(1)(g) of the Immigration Act.
4. Substituting the failure of the Second Respondent to declare the Third Respondent undesirable in terms of section 30(1)(f) and section 30(1)(g) of the Immigration Act with the following decisions:
 - 4.1 the Third Respondent is declared to be an undesirable person; and
 - 4.2 the Third Respondent does not qualify for a port of entry visa, visa, admission into the Republic or a permanent residence permit.
5. Directing the Second Respondent to take such steps as are necessary to deport the Third Respondent to the Kingdom of the Netherlands without delay.
6. Condoning the late filing of this application in terms of section 9(2) of the Promotion of Administrative Justice Act No. 3 of 2000.

7. Ordering those Respondents that oppose the relief sought by the Applicant, to pay the costs of this application jointly and severally, the one paying the others to be absolved.

8. Granting the Applicant further and/or alternative relief.

TAKE NOTICE FURTHER that the accompanying affidavit of **Kaajal Ramjathan-Keogh** (together with the annexures thereto) will be used in support of the application, and will be supplemented in terms of Uniform Rule of Court 53(4).

TAKE NOTICE FURTHER that the Second Respondent is called upon, in terms of Uniform Rule of Court 53, to show cause why the decision referred to in paragraph 1 above should not be reviewed and corrected or set aside.

TAKE NOTICE FURTHER that in terms of rule 53(1)(b) of the Uniform Rules of Court, the First and Second Respondents are required within fifteen (15) days after receipt hereof to despatch to the Registrar to this Honourable Court the record of the decision referred to in paragraph 1 sought to be reviewed and set aside (including all correspondence, reports, memoranda, documents, evidence, transcripts of recorded proceedings and other information serving before the Respondents when the decision(s) was/were made) together with such reasons as by law they are required to give or desire to make, and to notify the Applicant that they have done so.

TAKE NOTICE FURTHER that within ten (10) days of receipt of the record from the Registrar, the Applicant may, by delivery of a notice and affidavit, amend, add to or

vary the terms of its notice of motion and supplement its founding affidavit in terms of Rule 53(4) of the Rules of this Honourable Court.

TAKE NOTICE FURTHER that the Applicant has appointed the offices of Lawyers for Human Rights at 4th Floor, Vunani Chambers, 33 Church Street, Cape Town, as the address at which it will accept notice and service of all persons in these proceedings.

TAKE NOTICE FURTHER that if any of the Respondents intend opposing this application for the relief set out in this notice of motion, they are required -

(a) within fifteen (15) days after receipt by them of the notice of motion or any amendment thereof, to deliver notice to the Applicant that they intend to oppose and in such notice to appoint an address within eight kilometres of the office of the Registrar at which they will accept notice and service of all process in such proceedings; and

(b) within thirty (30) days after the expiry of the time referred to in rule 53(4), to deliver any affidavits they may desire in answer to the allegations made by the Applicant.

TAKE NOTICE FURTHER that, if no such notice of intention to oppose be given, the application for the relief envisaged in this notice of motion will be made on _____ 2019, or so soon thereafter as the matter may be heard.

KINDLY place the matter on the roll for hearing accordingly.

Dated at JOHANNESBURG on this the _____ day of SEPTEMBER 2019.

LAWYERS FOR HUMAN RIGHTS

Attorneys for the Applicant
4th Floor, Vunani Chambers
33 Church Street
CAPE TOWN

TO: The Registrar of the High Court
Cape Town

AND TO: **MINISTER OF HOME AFFAIRS**
First Respondent
c/o **STATE ATTORNEY**
22 Long Street
CAPE TOWN

AND TO: **DIRECTOR-GENERAL OF THE DEPARTMENT OF HOME AFFAIRS**
Second Respondent
Hallmark Building
230 Johannes Ramokhoase Street
PRETORIA
(thulani.mavuso@dha.gov.za and deon.erasmus@dha.gov.za)

AND TO: **GARY EISENBERG & ASSOCIATES**
Third Respondent's attorneys
Suite 904
Touchstone House
7 Bree Street
CAPE TOWN
Tel: (021) 421-7003
(gary@eisenberg.co.za)