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

CASE NO: 2026-026936

In the matter between:

JACOB GEDLEYIHLEKISA ZUMA	Applicant
and	
THE CHAIRPERSON OF THE COMMISSION: COMMISSIONER SISI KHAMPEPE	First Respondent
SECRETARY OF THE COMMISSION	Second Respondent
ADVOCATE ISHMAEL SEMENYA SC	Third Respondent
COMMISSIONER FRANS KGOMO	Fourth Respondent
ADVOCATE ANDREA GABRIEL SC	Fifth Respondent
CALATA GROUP	Sixth Respondent
THABO MVUYELWA MBEKI	Seventh Respondent
NATIONAL PROSECUTING AUTHORITY	Eighth Respondent
MINISTER OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT	Ninth Respondent
PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA	Tenth Respondent

FILING NOTICE

BE PLEASED TO TAKE NOTICE that the sixth respondent files herewith:

1. Their affidavit in response to President's Ramaphosa's Explanatory Affidavit, dated 9 March 2026.

Dated at CAPE TOWN on 10 March 2026.

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NATIONAL PROSECUTING AUTHORITY	Eighth Respondent
MINISTER OF JUSTICE AND CONSTITUTIONAL AFFAIRS	Ninth Respondent
PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA	Tenth Respondent

SIXTH RESPONDENT'S AFFIDAVIT IN RESPONSE TO PRESIDENT RAMAPHOSA'S EXPLANATORY AFFIDAVIT

I, the undersigned

LUKHANYO BRUCE MATTHEWS CALATA

do hereby make oath and state as follows:

VO
LC

1 I am an adult male journalist, author and filmmaker. I am currently employed as the News Director at eNCA based in Johannesburg. I am authorised by the families comprising the sixth respondent, the Calata Group ("**the families**"), to make this affidavit. I speak on behalf of all the 25 families.

2 The facts deposed to in this affidavit are within my personal knowledge, unless otherwise stated or indicated by the context, and are true and correct to the best of my knowledge. Where I make legal submissions, I do so on the advice of my legal representatives, which advice I believe to be correct.

3 The purpose of this affidavit is two-fold:

3.1 First, it seeks leave from this Honourable Court to permit the families to file an affidavit to respond to the explanatory affidavit that was filed by President Matamela Cyril Ramaphosa ("**the President**" or "**Ramaphosa**") on Friday, 6 March 2026; and

3.2 Second, it responds to specific allegations made by the President to ensure that the families' response is squarely before this Court at the hearing of the review application on 16 and 17 March 2026 in the event that leave is granted.

LEAVE TO FILE THIS AFFIDAVIT

4 As stated above, the President, who is cited as the sixth respondent in the review application, filed an explanatory affidavit on 6 March 2026.

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5 I am advised that in the ordinary course of litigation, the families would not be entitled to respond to the President's explanatory affidavit because the Rules of Court do not make provision for a respondent party to respond to a explanatory affidavit filed by another respondent party. Rule 6(5)(e) however allows the Court to exercise its discretion to permit the filing of further affidavits that are not catered for in the Rules.

6 The President's explanatory affidavit was filed out of time and more than a week after the families filed their answering affidavit in the review application on 27 February 2026. I note that the President did not seek condonation for the late filing of his explanatory affidavit and am advised that the affidavit may not be properly before this Court.

7 This affidavit is filed timeously and addresses the specific allegations in the President's explanatory affidavit that are material to the determination of the review applications launched by former Presidents Zuma and Mbeki ("**the former presidents**").

8 The President has effectively entered into the fray and taken sides with the former presidents. His extraordinary conduct calls for a response by the families.

9 The specific allegations in his affidavit are not fully addressed by the other parties to the review proceedings and as such will not result in a duplication of submissions. Allowing the families to file this affidavit will:

9.1 ensure that the review Court has a complete and properly ventilated record to determine the review applications;

MO
LC

9.2 not cause prejudice to any of the other parties; and

9.3 serve the interests of justice.

THE PRESIDENT'S EXPLANATORY AFFIDAVIT

10 I have read the President's explanatory affidavit in which he states that:

10.1 he does not oppose the review applications;

10.2 he does not oppose the application of the former presidents seeking an order directing him to terminate the appointment of Justice Khampepe ("**the Chairperson**");

10.3 has no objection to the Court ordering the removal of the Chairperson.

11 In reality, the President does not abide by the decision of this Court, he actively encourages it to make the orders sought by the former presidents. Indeed, he goes out of his way to promote the demise of the Commission he created and relies on facts and submissions beyond the scope of the record of decision.

CLAIMED IGNORANCE

12 In paragraphs 7 to 9 of his affidavit President Ramaphosa sets out the various allegations made by the former presidents seeking the recusal of the Chairperson.

13 In relation to the alleged communications between the Chairperson and the chief evidence leader, which President Zuma claimed took place towards the end of

last year, Ramaphosa says he has no knowledge. Indeed, no evidence to support these claims has been put by Zuma's team. I am advised that no court can entertain a claim without evidence.

14 The allegations set out in paragraph 9 and its subparagraphs deal with the Chairperson's career history, most notably that she was:

14.1 a commissioner on the Truth and Reconciliation Commission ("**TRC**") and served on its Amnesty Committee;

14.2 a Deputy National Director of Public Prosecutions between 1998 and 1999.

15 In paragraph 10 of his affidavit the President makes the breathtaking claim that at the time he appointed Justice Khampepe as Chairperson he was "unaware" of the fact that she occupied these positions in the past.

16 This claim is, with respect, unbelievable. The TRC was the most famous commission in South Africa's history and Ramaphosa was deeply involved in this country's transition at the time.

17 In any event Justice Khampepe's biography and curriculum vitae have been available for several years on the websites of the Constitutional Court, the South African Judiciary, Wikipedia, and the University of Pretoria. (Her bio has also been on the Commission's website since July 2025).

18 It would have taken a simple Google search comprising just a few seconds to discover details of her background.

19 Ramaphosa will have us believe that neither he, nor his internal and external advisers, took the time to do the most basic and elementary checks before appointing her.

20 He will have us believe that he made a key appointment to a sensitive commission, dealing with deeply controversial matters that he knew would cost tens of millions of rands, without doing a simple check on her background.

21 The President is not to be believed, unless he is suggesting that he and his advisors are rank amateurs who are staggeringly incompetent and demonstrably incapable of carrying out basic due diligence.

22 It is more likely that the President and his advisers were aware of the Chairperson's background and in fact appointed her because of her familiarity and expertise on the subject matter before the Commission.

23 President Ramaphosa puts up matters that came before Justice Khampepe at the Amnesty Committee, and which also fall into the category of cases which were subsequently not pursued by the authorities. He points out that some family members associated with such cases are also parties before the Commission. He appears to be unaware that:

23.1 mere involvement in overlapping matters (such as the ANC 37 amnesty decision) is not itself a ground for recusal or removal;

23.2 there is no allegation that political interference had commenced when the Chairperson was working at the TRC and NPA.

24 Accordingly, the remarkable claim that Ramaphosa makes in paragraph 14 that had he been aware of her background he would not have appointed her cannot be taken seriously.

25 The assertion in paragraph 12 that "*since her appointment, Justice Khampepe has not informed me of her prior involvement at the TRC or NPA*" is a contention that borders on the absurd.

25.1 The President appears to be suggesting that there was an onus on the Chairperson to disclose her own publicly available background.

25.2 It is a nonsensical claim since the Chairperson was more than entitled to assume that the President and his advisers were aware of her previously held positions, which were prominent in nature, not concealed and had been in the public domain for years.

26 The claim becomes even more absurd in light of the fact that the President says she did not so inform him following her appointment.

26.1 The President appears to be suggesting that he would have done something about it had the Chairperson informed him. On his own version, post appointment, he could not have done anything about it.

26.2 In any event, the President did not so act when the biographies of the commissioners were prominently published on the Commission's website in July 2025, long before hearings were scheduled.

26.3 Nor did he or his legal team act when the families' attorneys wrote to all the parties on 11 November 2025 drawing their attention to Judge Khampepe's background. That letter (Supplementary Rule 53 record, 077-1929) stated:

> "What is set out above is a matter of public record, and to date no party has raised any objections. If any parties have objections, they need to raise them now and pursue any action they wish to take immediately, rather than disrupting proceedings at a later stage."

CLAIM OF POWERLESSNESS

27 The President makes the remarkable claim that once he had appointed the Chairperson in terms of s 84(2)(f) of the Constitution, he was rendered powerless under law and was forevermore prohibited from dealing with the matter.

28 I am advised that this claim is incorrect and was advanced to provide himself with an excuse for his inaction. If it were correct, no presidential power exercised under s 84 could be revisited regardless of the circumstances.

29 I am advised further that the President:

29.1 Retains the authority to amend the proclamation, for example by extending the commission's lifespan, altering its terms of reference and appointing additional commissioners.

29.2 May also remove or replace a commissioner, including the chairperson, where there is credible evidence of misconduct, conflict of interest or incapacity.

30 However, in doing so, I am advised that he may not act arbitrarily and must comply with the principle of legality.

31 In this matter there is no credible evidence of misconduct or incapacity on the part of the Chairperson to warrant the President removing or replacing her.

32 In the circumstances, the President's claim that he was powerless to act under law is without merit. He was not able to act because he had no grounds or basis to do so.

CONDUCT OF THE PRESIDENT

33 Given the extraordinary conduct of the President, it has to be asked why he has intervened in such a manner when he could have simply abided by the outcome of the proceedings.

34 In my view his intervention is transparently aimed at a last minute tipping of the scales in favour of the former presidents.

35 What is truly remarkable is that the President appears to support the collapse of an inquiry that has been running for more than 9 months, held some 4 weeks of hearings and has cost at least R55 million to date; and by the time the litigation is concluded will probably have exceeded the R100 million mark.

36 Why would the President be so willing to go down such a wasteful and reckless path? In my respectful view, the likely explanation is that it was a political decision aimed at damage control.

37 We have seen a dramatic shift in the approach of the President since he withdrew

his notice to oppose the litigation referred to in paragraph 6 of his affidavit in early 2025. At that time, he publicly agreed to set up a commission and sought mediation on the balance of the relief sought by the families:

> "Hence, the Presidency has taken the position not to oppose the matter and to rather refer it to mediation, as well as being in support of instituting a commission that will look into these delays [in the prosecution of these cases] because families deserve closure, and they deserve justice."

38 See annexed hereto marked "**LC1**" a copy of a News24 article dated 26 February 2025, which quotes Presidency spokesperson Vincent Magwenya.

39 Since then, there has been a complete about-turn by the President and a closing of ranks between him and the various government parties.

39.1 The President and the government parties have reinstated their opposition, substantially delayed the proceedings through an ill-fated stay application, and have now launched a technical counter offensive against the families claiming there was no interference in the TRC cases.

39.2 They do so in the face of 3 courts judgments concluding that there was interference; and the sworn evidence of a former NDPP, a former Acting NDPP and 3 former heads or acting heads of the Priority Crimes Litigation Unit, which handled the TRC cases, who all assert that interference stopped the cases.

40 What accounts for this wildly erratic behaviour and the readiness of the President to kill off the commission he established and incur massive waste of time and resources?

41 The Commission currently has to present its report to the President before the end of July this year, which is likely to be only weeks or months away from nationwide local government elections.

42 In my considered opinion:

42.1 the ANC and the government have taken a view that an adverse finding on the question of the suppression of cases, such as that of the Cradock Four and Steve Biko, would be deeply embarrassing and damaging to the ruling party and its prospects in the upcoming elections;

42.2 that a possible adverse finding of this nature being handed down in July has to be avoided at all costs;

42.3 collapsing the Commission at this time would achieve this result.

CONCLUSION

43 Whatever explains the extraordinary conduct of the President, his action aimed at precipitating the collapse of the Commission is deeply prejudicial to me, the families, the wider community of victims and survivors and the country as a whole.

44 Time is not on our side. Our parents and grandparents are in the twilight of their lives and cannot deal with yet another delay engineered by unscrupulous politicians.

LC
WJ

45 We have been waiting for justice and closure for decades. Since that has been denied to us through the suppression of our cases, we have been demanding for years that we be given the truth behind the closing down of justice.

46 We urge this Court to reject the expediency of President Ramaphosa and his transparent attempt at destroying a commission of inquiry for which we have fought for so long.

LUKHANYO BRUCE MATTHEWS CALATA

I hereby certify that the deponent knows and understands the contents of this affidavit and that it is to the best of the deponent's knowledge both true and correct. This affidavit as signed and sworn to me before at Rosebank Saps on this the 09 day of March 2026, and the Regulations contained in the Government Notice R.1258 of 21 July 1972, as amended by R1648 of 19 August 1977, and as further amended by R1428 of 11 July 1989, having complied with.

Sgt
7120606

COMMISSIONER OF OATHS
Full names: Matsobane Mohale
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011 778 4700

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LC 1

The Chairperson
Justice Sisi Khampepe
Commission of Inquiry, Stopped TRC Investigations and/or Prosecutions
and
Commissioner Justice Frans Diale Kgomo
and
Commissioner Adv Andrea Gabriel
c/o The Secretary
By email: secretary@trc-inquiry.org.za

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Your reference	Our reference	Date
TRC Cases Inquiry	A Thakor / N Thema / J Venter / LM Doubell / 4017862	11 November 2025

Dear Justice Khampepe and fellow commissioners

POTENTIAL FURTHER CONFLICTS & REQUEST FOR CLARITY ON PROCEDURE GOING FORWARD

1. We refer to the first day's sitting of the Commission into Stopped TRC Investigations and/or Prosecutions on 10 November 2025. The hearing was postponed to 26 November 2025 to permit the National Prosecution Authority (NPA) and Minister of Justice (MOJ) to apply for the removal of Adv Ishmael Semenya SC (Semenya) as Evidence Leader.

2. We write to express our clients' deep frustration with the collapse of the first sitting of the Commission's hearings.

3. Since by 10 November 2025, no party had applied for Semenya's recusal, our clients had not expected an adjournment for this purpose. When a procedure was put in place for the recusal, they assumed that Semenya would stand down, pending the outcome of recusal application, and that:

3.1 arguments would proceed on whether the Calata group witnesses could be led by their own counsel, and

3.2 this would be followed by opening statements and the family witnesses, led either by their counsel or the evidence leaders, depending on the ruling of the Commission.

4. Counsel for the NPA was aware of the Calata group's letter to you on 18 September 2025 in connection with Semenya's position, as well as your decision reflected in your 19 September letter. Both letters were forwarded to Adv Ntloko on those same dates, who acknowledged receipt.

Senior Partner: G Driver **Managing Partner:** S Patel **Partners:** BW Abraham RB Africa C Alexander AK Allie NG Alp TB Ball DC Bayman AP Blair K Blom N Blom AJR Booysen AR Bowley M Bux V Campos RI Carrim T Cassim SJ Chong ME Claassens KL Collier KM Colman KE Coster K Couzyn DB Cron PA Crosland R Cruywagen JH Davies KM Davis PM Daya L de Bruyn PU Dela M Denenga C Dennehy DW de Villiers HM de Villiers ST Dias BEC Dickinson DA Dingley W Drue E Durman GP Duncan CP du Toit TC Dye L Dyer SK Edmundson LF Egypt KH Eiser JC Els S Farren K Fazel G Fitzmaurice JB Forman L França M Garden MM Gibson H Goolam C Gopal CI Gouws PD Grealy L Green O Gusha JM Harvey JS Henning KR Hillis CM Holfeld PM Holloway SJ Hutton KT Inglis ME Jarvis JC Jones CM Jonker S Jooste LA Kahn L Kamukwamba M Kennedy A Keyser GR Kgaile MT Kgoadi A Khumalo KE Kilner MD Kota JC Kraamwinkel AC Kruger S Kruger J Lamb LC Lambrechts LM Lamola B Lötter E Louw CF Mackenzie M Mahlangu V Mannar CCT Marupen-Shkaidy G Masina T Masingi N Mbere MC McIntosh SJ McKenzie CS Meyer A Mhlongo AJ Mills D Milo M Mkhabela DR Mogapi P Mohanlall L Moolman LE Mostert VM Movshovich M Mpungose A Muir C Murphy D Naidoo P Naidoo DC Nchabeleng DP Ndiweni ST Ngcamu LM Nkanza C Nöthling PD Novotny M Nxumalo AN Nyatsumba MB Nzimande A October L Odendaal N Paige AS Parry GR Penfold SE Phajane M Philippides BA Phillips MA Phillips CH Pienaar MP Pool DJ Rafferty D Ramjettan GI Rapson K Rew G Richards-Smith SA Ritchie J Roberts BJ Rule S Rule G Sader H Samsodien DA Serumula KE Shepherd ZK Sibeko N Singh N Singh-Nogueira CF Sieberhagen P Singh S Sithole J Smit C Smith P Soni MP Spalding MW Straeuli LJ Swaine Z Swanepoel WV Tembedza A Thakor T Theessen TK Thekiso C Theodosiou T Theunissen R Tlhavani G Truter PZ Vanda SE van der Meulen JP van der Poel MS van der Walt CS Vanmali N van Vuuren JE Veeran HM Venter B Versfeld MG Versfeld TA Versfeld C Vertue T Viljoen DM Visagie EME Warmington J Watson M Wessels AWR Westwood RH Wilson JS Whitehead KD Wolmarans

LC

5. Despite being aware of the possible conflict of Semenya for close to 7 weeks, not only did the NPA not bring an application for his removal or recusal, but they did not even register the slightest concern or dissatisfaction with his position or the Chairperson's letter of 19 September 2025.

6. Only in their objection and arguments filed on 5 and 7 November 2025, addressing the question of the Calata group leading their witnesses, did the NPA and MOJ raise a general objection to his participation. Even by the start of the first hearing on Monday, 10 November 2025, neither party had prepared an application for his removal.

7. It is apparent that neither the NPA nor the MOJ had any intention of bringing a recusal application until the Commission put the question to their counsel on Monday morning. Counsel for the MOJ advised that her client abides by the Chairperson's ruling of 19 September 2025. Counsel for the NPA simply asserted that he would comply with any directions issued by the Commission.

8. In the circumstances we are of the respectful view that the NPA's apparent pursuit of a recusal application on the very day the hearings started, forcing a collapse of the long-scheduled hearings, while knowing about Semenya's position for some 7 weeks, amounts to an abuse of the commission process.

9. As a result of the NPA's conduct, the first hearing of the Commission, set down for 3 weeks, at which 15 witnesses were meant to testify, has collapsed. This has incurred a significant waste of taxpayer money, given the costs of the five government legal teams, the Commission itself, and those who are in attendance on their own steam.

10. We respectfully submit that the Commission can ill-afford to lose 3 weeks of hearings in light of how long the proceedings have already been delayed. More than 5 months have elapsed since the establishment of the Commission on 29 May 2025, and the Commission's operational mandate is nearly up.[1] The current sitting was set down between 10 and 28 November 2025, meaning it will have only 2 days remaining after the recusal arguments on 26 November 2025.

Possible further claims of conflict

11. We are concerned that down the road some parties may be preparing further applications that may also disrupt proceedings. In order to avoid more time being wasted, we wish to bring to the notice of the Commission and the parties the earlier roles played by members or staff of the Commission in TRC related work or matters that might be connected to the mandate.

12. From the outset we wish to state clearly that we do not regard the earlier posts held by these persons as disqualifying in any way, nor do we believe that they provide a basis for recusal.

12.1 We first refer to the fact that on 6 October 2008, Adv Ishmael Semenya SC was appointed as one of the legal advisors to the Enquiry into the Fitness of Adv V Pikoli to hold office as NDPP (the Ginwala Commission). One of the complaints made by former President Mbeki related to Pikoli's handling of the TRC cases, although this complaint was later withdrawn. It nonetheless featured in the Ginwala Commission Report.

MP
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[1] In terms of Proclamation (No. 264 of 2025) the Commission was meant to conclude its work at the end of November and submit its report by the end of January 2026.

12.2 In 1995, Chairperson Khampepe was appointed by former President Mandela as a TRC Commissioner and in the following year she was appointed a member of the TRC's Amnesty Committee.

12.3 Between September 1998 and December 1999, Chairperson Khampepe was a Deputy National Director of Public Prosecutions. During this period, she apparently played a role on the Human Rights Investigation Unit (HRIU), established by then NDPP Bulelani Ngcuka to advise him on how to handle the cases referred by the NPA to the TRC.

13. What is set out above is a matter of public record, and to date no party has raised any objections. If any parties have objections, they need to raise them now and pursue any action they wish to take immediately, rather than disrupting proceedings at a later stage.

14. We wish to echo the point made by Bruinders SC (for the President) at the meeting in chambers on Monday that a commission is not a court of law and should not be following strict court like procedure on every technical or procedural objection raised.

15. We respectfully state that a Commission is entitled to take robust steps to expedite its proceedings. If every technical point or objection becomes a mini court case requiring the exchange of papers with written and oral arguments, we fear that the Commission proceedings will be never-ending.

16. Yours faithfully

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Copied to the Parties