

**IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA**

**CC CASE NO:** \_\_\_\_\_

**SCA CASE NUMBER:** 605 / 2024

**HIGH COURT CASE NUMBER:** D4472/23

In the matter between:

<b>TONGAAT HULETT LIMITED (IN BUSINESS RESCUE)</b>	First Applicant
<b>TONGAAT HULETT SUGAR SOUTH AFRICA (PROPRIETARY) LIMITED (IN BUSINESS RESCUE)</b>	Second Applicant
<b>TREVOR JOHN MURGATROYD N.O.</b>	Third Applicant
<b>PETRUS FRANCOIS VAN DEN STEEN N.O.</b>	Fourth Applicant
<b>GERHARD CONRAD ALBERTYN N.O.</b>	Fifth Applicant
and	
<b>SOUTH AFRICAN SUGAR ASSOCIATION</b>	First Respondent
<b>S.A. SUGAR EXPORT CORPORATION (PROPRIETARY) LIMITED</b>	Second Respondent
<b>MINISTER OF TRADE, INDUSTRY AND COMPETITION</b>	Third Respondent
<b>SOUTH AFRICAN SUGAR MILLERS' ASSOCIATION NPC</b>	Fourth Respondent
<b>SOUTH AFRICAN CANE GROWERS' ASSOCIATION NPC</b>	Fifth Respondent
<b>SOUTH AFRICAN FARMERS' DEVELOPMENT ASSOCIATION NPC</b>	Sixth Respondent
<b>RCL FOODS SUGAR &amp; MILLING (PROPRIETARY) LIMITED</b>	Seventh Respondent
<b>ILLOVO SUGAR (SOUTH AFRICA) (PROPRIETARY) LIMITED</b>	Eighth Respondent
<b>UMFOLOZI SUGAR MILL (PROPRIETARY) LIMITED</b>	Ninth Respondent

**GLEDHOW SUGAR COMPANY  
(PROPRIETARY) LIMITED**

Tenth Respondent

**HARRY SIDNEY SPAIN N.O**

Eleventh Respondent

**UCL COMPANY (PROPRIETARY) LIMITED  
(PROPRIETARY) LIMITED**

Twelfth Respondent

**ALL REGISTERED GROWERS**

Thirteenth to Twenty-Three  
Thousandth Respondents

**THE AFFECTED PERSONS IN  
THL'S BUSINESS RESCUE**

Twenty-Three Thousand and First  
Respondents and Further Respondents

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**NOTICE OF APPLICATION - CONDONATION**

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**TAKE NOTICE THAT** the First, Second and Third Applicants (collectively, "the Applicants") hereby make application to this Honourable Court for an order in the following terms -

- 1 the Applicants' late filing of their application for leave to appeal in the above matter is condoned;
- 2 to the extent necessary, the Applicants are granted leave to file their application for leave to appeal (dated 5 February 2026 and received by the Registrar's office on 6 February 2026);
- 3 that in the event that any party opposes the relief sought herein, such party bear the Applicants' costs; and
- 4 granting further or alternative relief.

**TAKE NOTICE FURTHER THAT** the affidavit of TREVOR JEFF BOSWELL together with the annexures thereto will be used in support of the application.

**TAKE NOTICE FURTHER** that the Applicants have appointed the address of their attorneys as set out below at which they will accept notice and service of all process in these proceedings.

**TAKE NOTICE FURTHER** that if any party wishes to oppose this application, such party is required to give written notice of its intention to do so within five days from the date upon which this application is lodged with the Registrar (Rule 11(1)(b) of the Rules of this Honourable Court), and to file any answering affidavit(s) within 15 days of the date of such party's notice of intention to oppose (Rule 11(3)(a)(ii) of the Rules of this Honourable Court).

**TAKE NOTICE FURTHER** that if no notice of intention to oppose is received within such period, the Registrar is hereby requested to place the matter before the Chief Justice to be dealt with in terms of Rule 11(4) of the Rules of this Honourable Court.

Dated at Sandton on 9 FEBRUARY 2026




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**WERKSMANS ATTORNEYS INC.**

**Applicants' Attorneys**

11<sup>th</sup> Floor, The Central

96 Rivonia Road

Sandton

Email: [tboswell@werksmans.com](mailto:tboswell@werksmans.com)

[dpisanti@werksmans.com](mailto:dpisanti@werksmans.com)

Tel: +27 11 535 8459 / +27 11 535 8157

Ref: Mr T Boswell / Ms D Pisanti / **TONG7430.11**

TO:  
**THE REGISTRAR OF THE  
 ABOVE HONOURABLE COURT  
 JOHANNESBURG**

**AND TO:**  
**SOUTH AFRICAN SUGAR ASSOCIATION  
 GARLICKE & BOUSFIELD  
 First Respondent's Attorneys**  
 7 Torsvale Crescent  
 La Lucia Ridge Office Estate, La Lucia  
 Email: [howard.stephenson@gb.co.za](mailto:howard.stephenson@gb.co.za)

**SERVICE PER EMAIL**

**AND TO:**  
**S.A. SUGAR EXPORT  
 CORPORATION (PROPRIETARY) LIMITED  
 GARLICKE & BOUSFIELD  
 Second Respondent's Attorneys**  
 7 Torsvale Crescent  
 La Lucia Ridge Office Estate, La Lucia  
 Email: [howard.stephenson@gb.co.za](mailto:howard.stephenson@gb.co.za)

**SERVICE PER EMAIL**

**AND TO:**  
**MINISTER OF TRADE AND INDUSTRY  
 C/O THE STATE ATTORNEY  
 Third Respondent**  
 316 Salu Building  
 Cnr Thabo Sehume and Francis Baard Street, Pretoria  
 Email: [thmaphumulo@justice.gov.za](mailto:thmaphumulo@justice.gov.za)  
[KMalatji@thedtic.gov.za](mailto:KMalatji@thedtic.gov.za)

**SERVICE PER EMAIL**

**AND TO:**  
**SOUTH AFRICAN SUGAR  
 MILLERS' ASSOCIATION NPC  
 GARLICKE & BOUSFIELD INC  
 Fourth Respondent's Attorneys**  
 7 Torsvale Crescent  
 La Lucia Ridge Office Estate, La Lucia  
 Tel: +27 31 570 5483  
 Email: [andre.liebenberg@gb.co.za](mailto:andre.liebenberg@gb.co.za)

**SERVICE PER EMAIL**

**AND TO:  
SOUTH AFRICAN CANE GROWERS' ASSOCIATION NPC  
Fifth Respondent**

170 Flanders Drive, Mount Edgecombe, 4300

Tel: +27 31 508 7200

Email: central@canegrowers.co.za

thomas.funke@sacanegrowers.co.za

**SERVICE PER EMAIL**

**AND TO:  
SOUTH AFRICAN FARMERS'  
DEVELOPMENT ASSOCIATION NPC**

**Sixth Respondent**

170 Flanders Drive

Mount Edgecombe

4300

Tel: +27 31 508 7283

Email: info@sa-fda.org.za

tsibiya@sa-fda.org.za

**SERVICE PER EMAIL**

**AND TO:  
RCL FOODS SUGAR &  
MILLING (PROPRIETARY) LIMITED  
WEBBER WENTZEL ATTORNEYS  
Seventh Respondent's Attorneys**

15th Floor Convention Tower

Heerengracht

Foreshore

Cape Town

Email: prelisha.singh@webberwentzel.com /

lara.kahn@webberwentzel.com

lubumba.kamukwamba@webberwentzel.com

**SERVICE PER EMAIL**

**AND TO:  
ILLOVO SUGAR  
(SOUTH AFRICA) (PROPRIETARY) LIMITED  
COX YEATS ATTORNEYS**

**Eighth Respondent's Attorney's**

45 Vuna Close, Umhlanga Ridge, 4319

Email: TScheepers@coxyeats.co.za

LMapiki@coxyeats.co.za

JRodd@coxyeats.co.za

**SERVICE PER EMAIL**

**AND TO:**  
**UMFOLOZI SUGAR**  
**MILL (PROPRIETARY) LIMITED**  
**COX YEATS ATTORNEYS**  
**Ninth Respondent's Attorneys**  
 45 Vuna Close, Umhlanga Ridge, 4319  
 Email: [mjackson@coxyeats.co.za](mailto:mjackson@coxyeats.co.za)

**SERVICE PER EMAIL**

**AND TO:**  
**GLEDHOW SUGAR COMPANY**  
**SHEPSTONE & WYLIE**  
**Tenth Respondent's Attorneys**  
 24 Richefond Circle  
 Ridgeside Office Park  
 Umhlanga Rocks  
 E-mail: [afd@wylie.co.za](mailto:afd@wylie.co.za)  
 Ref A Donnelly

**SERVICE PER EMAIL**

**AND TO:**  
**HARRY SIDNEY SPAIN N.O.**  
**SHEPSTONE & WYLIE**  
**Eleventh Respondent's Attorneys**  
 24 Richefond Circle  
 Ridgeside Office Park  
 Umhlanga Rocks  
 E-mail: [afd@wylie.co.za](mailto:afd@wylie.co.za)  
[hspain@gledhow.co.za](mailto:hspain@gledhow.co.za)  
 Ref A Donnelly

**SERVICE PER EMAIL**

**AND TO:**  
**UCL COMPANY (PROPRIETARY) LIMITED**  
**(PROPRIETARY) LIMITED**  
**GARLICKE & BOUSFIELD INC**  
**Twelfth Respondent's Attorneys**  
 7 Torsvale Crescent  
 La Lucia Ridge Office Estate. La Lucia  
 Tel: +27 31 570 5483  
 Email: [andre.liebenberg@gb.co.za](mailto:andre.liebenberg@gb.co.za)

**SERVICE PER EMAIL**

**AND TO:**  
**ALL REGISTERED GROWERS**  
**Thirteenth to Twenty-Three**  
**Thousandth Respondents**

**SERVICE PER EMAIL**

**AND TO:  
ALL REGISTERED GROWERS  
Thirteenth to Twenty-Three  
Thousandth Respondents**

**SERVICE BY EMAIL**

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**(IN BUSINESS RESCUE)**

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**SOUTH AFRICA (PROPRIETARY) LIMITED**  
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Second Applicant

**TREVOR JOHN MURGATROYD N.O.**

Third Applicant

**PETRUS FRANCOIS VAN DEN STEEN N.O.**

Fourth Applicant

**GERHARD CONRAD ALBERTYN N.O.**

Fifth Applicant

and

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First Respondent

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Second Respondent

**MINISTER OF TRADE, INDUSTRY**  
**AND COMPETITION**

Third Respondent

**SOUTH AFRICAN SUGAR MILLERS'**  
**ASSOCIATION NPC**

Fourth Respondent

**SOUTH AFRICAN CANE GROWERS'**

Handwritten signatures of the respondents, appearing to be 'M' and 'g'.



<b>ASSOCIATION NPC</b>	<b>Fifth Respondent</b>
<b>SOUTH AFRICAN FARMERS' DEVELOPMENT ASSOCIATION NPC</b>	<b>Sixth Respondent</b>
<b>RCL FOODS SUGAR &amp; MILLING (PROPRIETARY) LIMITED</b>	<b>Seventh Respondent</b>
<b>ILLOVO SUGAR (SOUTH AFRICA) (PROPRIETARY) LIMITED</b>	<b>Eighth Respondent</b>
<b>UMFOLOZI SUGAR MILL (PROPRIETARY) LIMITED</b>	<b>Ninth Respondent</b>
<b>GLEDHOW SUGAR COMPANY (PROPRIETARY) LIMITED</b>	<b>Tenth Respondent</b>
<b>HARRY SIDNEY SPAIN N.O</b>	<b>Eleventh Respondent</b>
<b>UCL COMPANY (PROPRIETARY) LIMITED (PROPRIETARY) LIMITED</b>	<b>Twelfth Respondent</b>
<b>ALL REGISTERED GROWERS</b>	<b>Thirteenth to Twenty-Three Thousandth Respondents</b>
<b>THE AFFECTED PERSONS IN THL'S BUSINESS RESCUE</b>	<b>Twenty-Three Thousand and First Respondents and Further Respondents</b>

---

**APPLICANTS' CONDONATION APPLICATION FOR THE LATE FILING OF THE ITS  
APPLICATION FOR LEAVE TO APPEAL TO THE CONSTITUTIONAL COURT**

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Handwritten signature and initials, with a small '1' written below the signature.

I, the undersigned



**TREVOR JEFF BOSWELL**

state under oath as follows -

- 1 I am a duly admitted legal practitioner conducting the practice of an attorney as envisaged by the Legal Practice Act No. 28 of 2014, and a director of Werksmans Attorneys Incorporated ("**Werksmans**") situate at The Central, 96 Rivonia Road, Dennehof, Sandton. Werksmans is the attorneys of record for the applicants, ("**the applicants**").
- 2 The matters I traverse in this affidavit are, to the best of my knowledge, both true and correct. They are also within my personal knowledge. - except where it is apparent from the context that they are not.

## **PURPOSE**

- 3 On 15 December 2025, the Supreme Court of Appeal delivered its judgment in the above matter, and in respect of which an application for leave to appeal has been delivered to this Honourable Court. Taking into account the *dies non*, the applicant was required to file its application for leave to appeal to this Honourable Court on or before 5 February 2026.
- 4 The purpose of this application is to seek condonation for the late filing of the applicants' Notice of Application for Leave to Appeal to the Constitutional Court



("the Application"). Through a bona fide administrative error, the application was delivered on 6 February 2026, having been first sent to an incorrect email address on 5 February 2026.

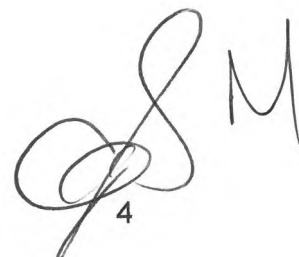
## THE FILING OF THE APPLICATION

- 5 At approximately 15h30 on 5 February 2026, the Application was inadvertently emailed by me to the following address - [generaloffice@concourt.org](mailto:generaloffice@concourt.org). A copy of this email is annexed marked "TJB1".
- 6 Shortly thereafter, I received a delivery receipt from Microsoft Outlook confirming that delivery of my email was "complete". A copy of this email is annexed marked "TJB2".
- 7 I thereafter delivered a further email which contained an updated index and bundle of further service emails. The recipient's email address was auto filled and unfortunately, was similarly transmitted to the email address set out in 5 above in error. A copy of this email is annexed marked "TJB3".
- 8 Having received, the delivery receipt referred to above, I did not follow up to confirm receipt of my emails following their transmission because it is my understanding that it can take up to 48 hours for this Honourable Court to register an application for leave to appeal and issue a case number.



Handwritten signature and initials, with the number 3 written below the signature.

- 9 At approximately, 10h30 on 6 February 2026, I requested my co-director, Ms Daniela Pisanti-Hatiras (nee Pisanti) ("**Ms Pisanti**"), to contact the Registrar of this Honourable Court to ensure that the Application had been received.
- 10 Ms Pisanti contacted the general office number for the above Honourable Court and was advised to contact the Registrar, Ms Mthethwa, on her direct telephone number.
- 11 Ms Pisanti was not able to reach Ms Mthethwa and consequently sent an email to the above Honourable Court using the following email address - generaloffice@concourt.org.za, in which she requested confirmation that the application had been received. A copy of this email is annexed marked "**TJB4**".
- 12 Thereafter, Ms Pisanti again contacted Ms Mthethwa and enquired whether she had received her email ("**TJB4**") and my emails of 5 February 2026 ("**TJB1**" and "**TJB3**").
- 13 Ms Mthethwa indicated that she had not received any email from Werksmans and requested Ms Pisanti to forward her email ("**TJB4**") mthethwa@concourt.org.za, being Ms Mthethwa's own email address. Ms Pisanti did so. A copy of this email is annexed marked "**TJB5**".
- 14 Ms Mthethwa thereafter confirmed receipt of Ms Pisanti's email marked "**TJB5**".



4

15 At 14h08, Ms Pisanti received an email from Ms Mthethwa indicating that -

*"We acknowledge receipt of your email below.*

*Kindly note that your Application was filed out of time and cannot be processed.*

*You are herein required to file a condonation application for the late filing".*

16 A copy of Ms Mthethwa's email is annexed marked "TJB6".

17 Shortly after receipt of Ms Mthethwa's email, Ms Pisanti contacted Ms Mthethwa to enquire why her email recorded that the Application was filed late in circumstances where Mr Boswell transmitted the Application on 5 February 2026.

18 Ms Mthethwa indicated that Mr Boswell's email of 5 February 2026 had been sent to generaloffice@concourt.org and not generaloffice@concourt.org.za and therefore she regarded it as only having been received on 6 February 2026, upon receipt of Ms Pisanti's email. Consequently she required the applicants to apply for condonation.

19 The error above was a genuine administrative error, for which I sincerely apologise. I respectfully submit that there can be no prejudice to any of the parties in the event that condonation for the registration of the Application is granted.

20 Ms Pisanti's confirmatory affidavit is attached marked "TJB7".



5

## THE APPLICATION AND PROSPECTS OF SUCCESS

- 21 This case concerns the proper interpretation of the business rescue provisions in Chapter 6 of the Companies Act, 2008 ("**Companies Act**"). In particular, it raises novel questions regarding the meaning of section 136(2)(a) of the Companies Act, and the extent to which it applies to the written Sugar Industry Agreement, 2000 ("**the SI Agreement**"), which was published under the Sugar Act, 1978 ("**the Sugar Act**").
- 22 The issues arising for determination in the proposed appeal are of particular importance in a number of spheres, are novel and require definitive pronouncement from this Court.
- 23 I respectfully submit that there are reasonable prospects that this Court will reach different conclusions on one, or more, or all of these conclusions – and reverse the SCA's findings and order on appeal. The grounds on which leave to appeal is sought are articulated in the application for leave to appeal.

## CONCLUSION

- 24 Having regard to the importance of the issues to be ventilated in the appeal, the absence of any prejudice to any of the parties arising from the delay and my explanation given for the late filing of the application, it is my respectful

A handwritten signature in black ink, followed by the number 6, located at the bottom right of the page.

submission and request that the applicants should be granted the relief sought in the notice of motion to which this affidavit is attached.



TREVOR JEFF BOSWELL

I certify that this affidavit was signed and sworn to before me at Johannesburg on 9 February 2026 by the deponent who acknowledged that he knows and understands the contents of this affidavit, has no objection to taking this oath, considers this oath to be binding on his conscience and uttered the following words: 'I swear that the contents of this affidavit are both true and correct, so help me God.'



COMMISSIONER OF OATHS

Name:

Address:

Capacity:

MAGDALENA FRANCINA MARGARETHA VAN DER WALT

Commissioner of Oaths by Appointment

Reference Number: 1/9/4 10.06.2010

The Central, 96 Rivonia Road  
Sandton, Johannesburg 2196

**Daniela Pisanti**

---

**From:** Trevor Boswell  
**Sent:** 05 February 2026 15:32  
**To:** generaloffice@concourt.org  
**Cc:** Daniela Pisanti; David Hertz; Daniela Pisanti  
**Subject:** TONGAAT HULETT LIMITED (IN BUSINESS RESCUE) & OTHERS | SOUTH AFRICAN SUGAR ASSOCIATION [IMAN-LITIGATION.FID633068]  
**Attachments:** Index(11447694.1).pdf; Notice of Application for Leave to the Constitutional Court - 5 February 2026(11446077.1)(11447097.1).pdf; Founding Affidavit - Part 1(11447095.1).pdf; Founding Affidavit - Part 2(11447096.1).pdf; Email Bundle(11447798.1).pdf

Dear Sirs

We attach our clients'

1. Index
2. Application for Leave to Appeal
3. Bundle of Service Documents.

Please acknowledge receipt.

Yours faithfully  
Werksmans  
Trevor Boswell  
Director  
T: +27 11 535 8459 | [tboswell@werksmans.com](mailto:tboswell@werksmans.com)

Werksmans Attorneys  
The Central, 96 Rivonia Road, Sandton, Johannesburg, 2196 Private Bag 10015, Sandton, 2146, South Africa  
T: +27 11 535 8000 | [www.werksmans.com](http://www.werksmans.com)



**Daniela Pisanti**

---

**Subject:** FW: RE: TONGAAT HULETT LIMITED (IN BUSINESS RESCUE) & OTHERS | SOUTH AFRICAN SUGAR ASSOCIATION [IMAN-LITIGATION.FID633068]

**From:** Microsoft Outlook <[MicrosoftExchange329e71ec88ae4615bbc36ab6ce41109e@werksmans.co.za](mailto:MicrosoftExchange329e71ec88ae4615bbc36ab6ce41109e@werksmans.co.za)>

**Sent:** Thursday, 5 February 2026 3:34 pm

**To:** Trevor Boswell

**Subject:** Relayed: RE: TONGAAT HULETT LIMITED (IN BUSINESS RESCUE) & OTHERS | SOUTH AFRICAN SUGAR ASSOCIATION [IMAN-LITIGATION.FID633068]

**Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:**

[generaloffice@concourt.org](mailto:generaloffice@concourt.org) ([generaloffice@concourt.org](mailto:generaloffice@concourt.org))

Subject: RE: TONGAAT HULETT LIMITED (IN BUSINESS RESCUE) & OTHERS | SOUTH AFRICAN SUGAR ASSOCIATION [IMAN-LITIGATION.FID633068]

A handwritten signature in black ink, consisting of a stylized 'M' followed by a large, looped flourish.

"TJB3"

**Daniela Pisanti**

---

**From:** Trevor Boswell  
**Sent:** 05 February 2026 17:47  
**To:** generaloffice@concourt.org  
**Cc:** David Hertz; Daniela Pisanti; Danny Andropoulos  
**Subject:** URGENT: TONGAAT HULETT LIMITED AND 5 OTHERS | SOUTH AFRICAN SUGAR ASSOCIATION [IMAN-LITIGATION.FID763534]  
**Attachments:** Further bundle of service documents(11448216.1).pdf; Index - Con Crt Leave to Appeal 5 Feb 2026(11447694.2).docx

Dear Sirs

We attach -

1. the updated index; and
2. further services emails.

Yours faithfully  
Werksmans Attorneys



**Trevor Boswell**

**Director**

T +27 11 535 8459 E [tboswell@werksmans.com](mailto:tboswell@werksmans.com)

The Central, 96 Rivonia Road, Sandton, Johannesburg, 2196

Private Bag 10015, Sandton, 2146, South Africa

T +27 11 535 8000 W [www.werksmans.com](http://www.werksmans.com)

**Daniela Pisanti**

---

**From:** Daniela Pisanti  
**Sent:** 06 February 2026 11:51  
**To:** 'generaloffice@concourt.org.za'  
**Cc:** David Hertz; Trevor Boswell  
**Subject:** RE: TONGAAT HULETT LIMITED (IN BUSINESS RESCUE) & OTHERS | SOUTH AFRICAN SUGAR ASSOCIATION [IMAN-LITIGATION.FID633068]  
**Attachments:** Notice of Application for Leave to the Constitutional Court - 5 February 2026(11446077.1)(11447097.1).pdf; Founding Affidavit - Part 1(11447095.1).pdf; Founding Affidavit - Part 2(11447096.1).pdf; Email Bundle(11447798.1).pdf; Further bundle of service documents(11448216.1).pdf; Index - Con Crt Leave to Appeal 5 Feb 2026(11447694.2).docx

Dear Sirs

We refer to our email below.

We have not yet received an acknowledgment of receipt. We would be grateful if you can let us know that you have received our client's application.

Yours faithfully

Daniela Pisanti  
Director  
T +27 11 535 8157 E [dpisanti@werksmans.com](mailto:dpisanti@werksmans.com)

The Central, 96 Rivonia Road, Sandton, Johannesburg, 2196 Private Bag 10015, Sandton, 2146, South Africa T +27 11 535 8000 W [www.werksmans.com](http://www.werksmans.com)

-----Original Message-----

From: Trevor Boswell <[TBoswell@werksmans.com](mailto:TBoswell@werksmans.com)>  
Sent: 05 February 2026 15:33 PM  
To: [generaloffice@concourt.org](mailto:generaloffice@concourt.org)  
Cc: Daniela Pisanti <[DPisanti@werksmans.com](mailto:DPisanti@werksmans.com)>; David Hertz <[DHertz@werksmans.com](mailto:DHertz@werksmans.com)>; Daniela Pisanti <[DPisanti@werksmans.com](mailto:DPisanti@werksmans.com)>  
Subject: RE: TONGAAT HULETT LIMITED (IN BUSINESS RESCUE) & OTHERS | SOUTH AFRICAN SUGAR ASSOCIATION [IMAN-LITIGATION.FID633068]

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2. Application for Leave to Appeal
3. Bundle of Service Documents.

Please acknowledge receipt.

Yours faithfully  
Werksmans  
Trevor Boswell  
Director  
T: +27 11 535 8459 | [tboswell@werksmans.com](mailto:tboswell@werksmans.com)



Werksmans Attorneys

The Central, 96 Rivonia Road, Sandton, Johannesburg, 2196 Private Bag 10015, Sandton, 2146, South Africa

T: +27 11 535 8000 | [www.werksmans.com](http://www.werksmans.com)

A handwritten signature in black ink, consisting of a large, stylized 'S' followed by a smaller, more complex mark that resembles a stylized 'W' or a series of connected loops.

**Daniela Pisanti**

---

**From:** Daniela Pisanti  
**Sent:** 06 February 2026 11:55  
**To:** 'mthethwa@concourt.org.za'  
**Cc:** Trevor Boswell; David Hertz  
**Subject:** FW: TONGAAT HULETT LIMITED (IN BUSINESS RESCUE) & OTHERS | SOUTH AFRICAN SUGAR ASSOCIATION [IMAN-LITIGATION.FID633068]  
**Attachments:** Notice of Application for Leave to the Constitutional Court - 5 February 2026(11446077.1)(11447097.1).pdf; Founding Affidavit - Part 1(11447095.1).pdf; Founding Affidavit - Part 2(11447096.1).pdf; Email Bundle(11447798.1).pdf; Further bundle of service documents(11448216.1).pdf; Index - Con Crt Leave to Appeal 5 Feb 2026(11447694.2).docx

Dear Ms Mthethwa

I refer to our telephone discussion a short while ago.

Please see the email exchange below.

Yours sincerely  
Daniela Pisanti  
Director  
T +27 11 535 8157 E [dpisanti@werksmans.com](mailto:dpisanti@werksmans.com)

The Central, 96 Rivonia Road, Sandton, Johannesburg, 2196 Private Bag 10015, Sandton, 2146, South Africa T +27 11 535 8000 W [www.werksmans.com](http://www.werksmans.com)

-----Original Message-----

From: Daniela Pisanti  
Sent: 06 February 2026 11:51 AM  
To: 'generaloffice@concourt.org.za' <[generaloffice@concourt.org.za](mailto:generaloffice@concourt.org.za)>  
Cc: David Hertz <[DHertz@werksmans.com](mailto:DHertz@werksmans.com)>; Trevor Boswell <[TBoswell@werksmans.com](mailto:TBoswell@werksmans.com)>  
Subject: RE: TONGAAT HULETT LIMITED (IN BUSINESS RESCUE) & OTHERS | SOUTH AFRICAN SUGAR ASSOCIATION [IMAN-LITIGATION.FID633068]

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We refer to our email below.

We have not yet received an acknowledgment of receipt. We would be grateful if you can let us know that you have received our client's application.

Yours faithfully

Daniela Pisanti  
Director  
T +27 11 535 8157 E [dpisanti@werksmans.com](mailto:dpisanti@werksmans.com)

The Central, 96 Rivonia Road, Sandton, Johannesburg, 2196 Private Bag 10015, Sandton, 2146, South Africa T +27 11 535 8000 W [www.werksmans.com](http://www.werksmans.com)

-----Original Message-----

From: Trevor Boswell <[TBoswell@werksmans.com](mailto:TBoswell@werksmans.com)>



Sent: 05 February 2026 15:33 PM

To: generaloffice@concourt.org

Cc: Daniela Pisanti <DPisanti@werksmans.com>; David Hertz <DHertz@werksmans.com>; Daniela Pisanti <DPisanti@werksmans.com>

Subject: RE: TONGAAT HULETT LIMITED (IN BUSINESS RESCUE) & OTHERS | SOUTH AFRICAN SUGAR ASSOCIATION [IMAN-LITIGATION.FID633068]

Dear Sirs

We attach our clients'

1. Index
2. Application for Leave to Appeal
3. Bundle of Service Documents.

Please acknowledge receipt.

Yours faithfully

Werksmans

Trevor Boswell


Director

T: +27 11 535 8459 | [tboswell@werksmans.com](mailto:tboswell@werksmans.com)

Werksmans Attorneys

The Central, 96 Rivonia Road, Sandton, Johannesburg, 2196 Private Bag 10015, Sandton, 2146, South Africa

T: +27 11 535 8000 | [www.werksmans.com](http://www.werksmans.com)



**Daniela Pisanti**

**From:** Nokubonga Mthethwa <Mthethwa@concourt.org.za> on behalf of Generaloffice <generaloffice@concourt.org.za>  
**Sent:** 06 February 2026 14:08  
**To:** Daniela Pisanti  
**Cc:** Generaloffice; Dunisani Mathiba  
**Subject:** RE: TONGAAT HULETT LIMITED (IN BUSINESS RESCUE) & OTHERS | SOUTH AFRICAN SUGAR ASSOCIATION [IMAN-LITIGATION.FID633068]

Good Day,

We acknowledge receipt of your email below.

Kindly note that your Application was filed out of time and cannot be processed.

You are herein required to file a condonation application for the late filing.

Kind Regards,



Ms Nokubonga Mthethwa  
 Registrar  
**OFFICE OF THE CHIEF JUSTICE**  
 Constitutional Court  
 1 Hospital Street  
 Braamfontein  
 2017  
 Office : 011 359 7400  
 Email: [Mthethwa@concourt.org.za](mailto:Mthethwa@concourt.org.za)  
 Website:  
[www.constitutionalcourt.org.za](http://www.constitutionalcourt.org.za)

**From:** Daniela Pisanti <DPisanti@werksmans.com>  
**Sent:** Friday, 06 February 2026 11:51  
**To:** Generaloffice <generaloffice@concourt.org.za>  
**Cc:** David Hertz <DHertz@werksmans.com>; Trevor Boswell <TBoswell@werksmans.com>  
**Subject:** RE: TONGAAT HULETT LIMITED (IN BUSINESS RESCUE) & OTHERS | SOUTH AFRICAN SUGAR ASSOCIATION [IMAN-LITIGATION.FID633068]

**What makes us different,  
 makes all the difference.**

Keep us close

THE CORPORATE &  
 COMMERCIAL LAW FIRM  
 A member of the LEX Africa Alliance  
[www.werksmans.com](http://www.werksmans.com)

**WERKSMANS**  
 ATTORNEYS

This email and its attachments are private, confidential, may be subject to legal professional privilege and are only for the use of the intended recipient.

Dear Sirs

We refer to our email below.

We have not yet received an acknowledgment of receipt. We would be grateful if you can let us know that you have received our client's application.

IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA

CC CASE NO: \_\_\_\_\_

SCA CASE NUMBER: 605 / 2024

HIGH COURT CASE NUMBER: D4472/23

In the matter between:

**TONGAAT HULETT LIMITED  
(IN BUSINESS RESCUE)**

First Applicant

**TONGAAT HULETT SUGAR  
SOUTH AFRICA (PROPRIETARY) LIMITED  
(IN BUSINESS RESCUE)**

Second Applicant

**TREVOR JOHN MURGATROYD N.O.**

Third Applicant

**PETRUS FRANCOIS VAN DEN STEEN N.O.**

Fourth Applicant

**GERHARD CONRAD ALBERTYN N.O.**

Fifth Applicant

and

**SOUTH AFRICAN SUGAR ASSOCIATION**

First Respondent

**S.A. SUGAR EXPORT CORPORATION  
(PROPRIETARY) LIMITED**

Second Respondent

**MINISTER OF TRADE, INDUSTRY  
AND COMPETITION**

Third Respondent

**SOUTH AFRICAN SUGAR MILLERS'  
ASSOCIATION NPC**

Fourth Respondent

**SOUTH AFRICAN CANE GROWERS'  
ASSOCIATION NPC**

Fifth Respondent

**SOUTH AFRICAN FARMERS'  
DEVELOPMENT ASSOCIATION NPC**

Sixth Respondent

**RCL FOODS SUGAR & MILLING  
(PROPRIETARY) LIMITED**


Seventh Respondent

**ILLOVO SUGAR (SOUTH AFRICA)  
(PROPRIETARY) LIMITED**

Eighth Respondent

**UMFOLOZI SUGAR MILL (PROPRIETARY) LIMITED**

Ninth Respondent

  
DPH



**GLEDHOW SUGAR COMPANY  
(PROPRIETARY) LIMITED**

Tenth Respondent

**HARRY SIDNEY SPAIN N.O**

Eleventh Respondent

**UCL COMPANY (PROPRIETARY) LIMITED  
(PROPRIETARY) LIMITED**

Twelfth Respondent

**ALL REGISTERED GROWERS**

Thirteenth to Twenty-Three  
Thousandth Respondents

**THE AFFECTED PERSONS IN  
THL'S BUSINESS RESCUE**

Twenty-Three Thousand and First  
Respondents and Further Respondents

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**CONFIRMATORY AFFIDAVIT: MS PISANTI-HATIRAS (NEE PISANTI)**


---

I, the undersigned

**DANIELA PISANTI-HATIRAS (NEE PISANTI)**

state under oath as follows -

- 1 I am a duly admitted legal practitioner conducting the practice of an attorney as envisaged by the Legal Practice Act No. 28 of 2014, and a director of Werksmans Attorneys Incorporated ("**Werksmans**") situate at The Central, 96 Rivonia Road, Dennehof, Sandton. Werksmans is the attorneys of record for the applicants.
- 2 The matters I traverse in this affidavit are, to the best of my knowledge, both true and correct. They are also within my personal knowledge.

 2 DPH

3 I have read the affidavit deposed to by **TREVOR JEFF BOSWELL** ("Mr Boswell") and confirm as true and correct the allegations contained therein insofar as they relate to me.

4 I furthermore confirm that the emails annexed to the affidavit deposed to by Mr Boswell that are stated to have been written or received by me were so written and received by me.



**DANIELA PISANTI-HATIRAS**

I certify that this affidavit was signed and sworn to before me at Sandton on this the 9<sup>th</sup> day of February 2026 by the deponent who acknowledged that she knows and understands the contents of this affidavit, has no objection to taking this oath, considers this oath to be binding on her conscience and uttered the following words: 'I swear that the contents of this affidavit are both true and correct, so help me God.'



**COMMISSIONER OF OATHS**

Name:

Address:

Capacity:

**MAGDALENA FRANCINA MARGARETHA VAN DER WALT**  
 Commissioner of Oaths by Appointment  
 Reference Number: 1/9/4 10.06.2010  
 The Central, 96 Rivonia Road  
 Sandton, Johannesburg, 2199

