

IN THE HIGH COURT OF SOUTH AFRICA  
(CAPE OF GOOD HOPE PROVINCIAL DIVISION)

In the matter between:

<b>TREATMENT ACTION CAMPAIGN</b>	First Applicant
<b>SOUTH AFRICAN MEDICAL ASSOCIATION</b>	Second Applicant
and	
<b>MATTHIAS RATH</b>	First Respondent
<b>DR RATH HEALTH FOUNDATION AFRICA</b>	Second Respondent
<b>SAM MHLONGO</b>	Third Respondent
<b>DAVID RASNICK</b>	Fourth Respondent
<b>ALEXANDRA NIEDWIECKI</b>	Fifth Respondent
<b>ANTHONY BRINK</b>	Sixth Respondent
<b>TREATMENT INFORMATION GROUP</b>	Seventh Respondent
<b>GOVERNMENT OF THE RSA</b>	Eighth Respondent
<b>DIRECTOR-GENERAL OF HEALTH</b>	Ninth Respondent
<b>CHAIRPERSON, MEDICINES CONTROL COUNCIL</b>	Tenth Respondent
<b>REGISTRAR OF MEDICINES</b>	Eleventh Respondent
<b>MEC FOR HEALTH WESTERN CAPE</b>	Twelfth Respondent

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**AFFIDAVIT: SIPHOKAZI MTHATHI**

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I, the undersigned

**SIPHOKAZI MTHATHI**

hereby affirm and state as follows:

1. The contents of this affidavit are true and correct and, save where the context indicates otherwise, are within my personal knowledge. To the extent that I rely on information received from others, I believe that such information is true and correct.
2. I am the General Secretary of the TAC. In that capacity, I have the responsibility for leading and managing the day-to-day activities of the organisation. I was elected to this position by the TAC's National Congress, which is the highest decision making body of the organization. Zackie Achmat is the chairperson of the TAC. Strategic decisions are taken, after various consultative processes, by the National Executive Committee, to which Mr Achmat, 13 other members and I have been democratically elected.
3. I wish to respond to paragraph 79 of Anthony Brink's affidavit. It is racist towards black and white people, but especially black people, including Africans such as myself, and mixed-race people such as Achmat. Mr Brink has not, to the best of my knowledge, met or engaged me or any other black TAC leaders. It therefore angers me that he makes statements about the intellectual and other capacities of the TAC's black leaders, and concludes that they are inadequate. The only possible explanation for this is racism.
4. The TAC is an organisation of about sixteen thousand members, the vast majority of whom are African. Most of its leadership is African. I attach (SM1) a

list of the names of the TAC National Executive Committee, which is mostly African.

5. A major thrust of Mr Brink's affidavit is the assertion (which is both irrelevant and unsupported by any evidence) that the TAC purports to speak on behalf of Africans. This is somewhat ironic, as it is he who in his affidavit purports to speak on behalf of Africans.
  
6. Mr. Brink has not, to the best of my knowledge, been to a TAC meeting where decisions are taken. It therefore also angers me that he presumes to make pronouncements, under oath, about the make-up and internal dynamics of our organization. He does not explain how he acquired this knowledge.
  
7. I reject the accusation by Brink that TAC is undemocratic. TAC is a democratic organisation with a democratically elected leadership. Two reviews of TAC have been conducted by external people. These are available electronically at:  
<http://www.tac.org.za/Documents/FinalTACEvaluation-AfaviaAndBoulle-20050701.pdf>  
and  
<http://www.ukzn.ac.za/ccs/files/FRIEDMAN%20MOTTIER%20A%20MORAL%20TO%20THE%20TALE%20LONG%20VERSION.PDF>
  
8. These evaluations paint a very different picture of TAC from the one described by Mr Brink. They were conducted by researchers who actually know what they are talking about, and who spent substantial time investigating the matter before producing their evaluations.

9. Mr Brink is not a TAC member. I have been a TAC member and leader since 1999. To the best of my knowledge he has never attended any of our meetings. He provides no evidence to support his assertions about the TAC.
  
10. I reject Mr Brink's racist statement that "The Africans hired by the TAC to give colour to its administration are conspicuously mere ciphers echoing their master's voice ...". Mr Brink attached to his affidavit as AB10AA, an article from City Press, which he claims describes how the TAC "witlessly stepped into and were caught in a trap set to expose them for" racial tokenism. Mr Brink does not produce any facts to support his conclusion. The facts are as follows:
  - 10.1. I was invited by the government to participate in the meeting of UNGASS (United National General Assembly Special Session on AIDS) as a member of the country delegation. This invitation was made after the TAC had challenged a decision by the Department of Health to deny the TAC accreditation to participate at the UNGASS.
  
  - 10.2. I declined this invitation for the reasons which are set out in a letter which I wrote, and which is attached to this affidavit (SM2). I sent the letter and it was then made public by our organisation.
  
  - 10.3. I wrote a letter to City Press (SM3), pointing out the false and racist assertions in the article to which Mr Brink refers. City Press published an edited version of that letter.
  
  - 10.4. I have the following educational qualifications and experience. I hold a Bachelor of Social Science degree from the University of the Western Cape (1996), and an honours degree in English from the University of the

Western Cape (1997). I hold a Higher Diploma in Education from Rhodes University (1998). Contrary to Mr Brink's racist assumptions, I can write a letter. I do not need to have letters or articles ghost-written for me. I wrote the letters to which I have referred.

11. The falseness of the City Press report, which implies that the TAC did not want to send an African person to UNGASS unless she was accompanied by non-Africans, is demonstrated by the fact that the TAC members who went to the UNGASS meeting were Nkhensani Mavasa (TAC National Deputy Chairperson) and Vuyiseka Dubula (TAC Western Cape Treatment Literacy Co-ordinator), and me. All three of us are Africans and leaders of TAC.
  
12. I was the senior TAC member at UNGASS and led the delegation. I am not a person living with HIV, whereas Ms Mavasa is. The TAC therefore nominated Ms Mavasa to address UNGASS. In fact, it was I who made the proposal to the TAC that we nominate Ms Mavasa to address the General Assembly.

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**SIPHOKAZI MTHATHI**

**I CERTIFY THAT THE DEPONENT ACKNOWLEDGED TO ME THAT HE KNOWS AND UNDERSTANDS  
THE CONTENT OF THIS DECLARATION, THAT HE HAS CONSCIENTIOUS OBJECTIONS TO TAKING  
THE PRESCRIBED OATH AND CONSIDERS THIS AFFIRMATION BINDING ON HIS CONSCIENCE.  
SIGNED AND AFFIRMED TO BEFORE ME AT CAPE TOWN ON THIS \_\_\_ DAY OF \_\_\_\_\_ 2006.**

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**COMMISSIONER OF OATHS**