

Government Gazette Notice: Constitutional Damages Claim

REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

NOTICE OF CONSTITUTIONAL DAMAGES CLAIM

IN TERMS OF SECTION 33 OF THE PROMOTION OF ADMINISTRATIVE JUSTICE ACT,
2000 (ACT NO. 3 OF 2000)

CASE REFERENCE: Constitutional Violations at Terrace House Rivonia

CLAIMANT: Nicolas Brett (N Brett Investments 1 CC)

RESPONDENTS: South African Police Service, Minister of Police, National Commissioner of Police

AMOUNT CLAIMED: R500,000 (Five Hundred Thousand Rand)

DATE: 14 June 2025

NOTICE TO SHOW CAUSE

TO: The South African Police Service, The Minister of Police, The National Commissioner of Police, and all other interested parties

TAKE NOTICE that the above-named claimant intends to institute proceedings in the High Court of South Africa for constitutional damages in the amount of R500,000 (Five Hundred Thousand Rand) arising from serious constitutional violations committed by members of the South African Police Service.

AND TAKE FURTHER NOTICE that in terms of Section 33 of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), you are hereby called upon to show cause, if any, why the following relief should not be granted:

CONSTITUTIONAL VIOLATIONS ESTABLISHED

1. Violation of Section 25(1) of the Constitution

Members of the South African Police Service attempted to force arbitrary deprivation of property rights in direct violation of Section 25(1) of the Constitution of the Republic of

South Africa, 1996, which provides that "no one may be deprived of property except in terms of law of general application, and no law may permit arbitrary deprivation of property."

The officers threatened the claimant with arrest and handcuffs to force him to surrender property he was lawfully holding as security for unpaid debt of R8,250 owed by ex-guest Mabazole Matiwane. This conduct constituted arbitrary deprivation of property rights without legal justification and in violation of constitutional protections.

2. Violation of Section 14 of the Constitution

Members of the South African Police Service illegally entered private property without a warrant, without consent, and without legal justification, in violation of Section 14 of the Constitution which protects the right to privacy. The officers entered the claimant's private residence and business premises at Terrace House Rivonia, 121 12th Avenue, Sandton, despite repeated demands to leave the property.

This illegal entry violated fundamental privacy rights and represented a return to apartheid-era police state tactics that the Constitution was specifically designed to prevent.

3. Violation of Section 12 of the Constitution

Members of the South African Police Service threatened the claimant with arrest and handcuffs to coerce surrender of constitutional rights, in violation of Section 12 of the Constitution which protects freedom and security of the person. The officers used intimidation and threats to attempt to force compliance with their unlawful demands.

This intimidation constituted a serious violation of personal freedom and security that is prohibited under constitutional law.

4. Violation of Section 205(3) of the Constitution

Members of the South African Police Service violated their constitutional mandate under Section 205(3) which requires police to "protect and secure the inhabitants of the Republic and their property, and to uphold and enforce the law." Instead of protecting property rights, the officers attempted to violate them. Instead of upholding the law, they violated constitutional law.

This mandate violation represents a fundamental breach of the constitutional duty imposed on all police officers.

5. Violation of Section 2 of the Constitution

The entire conduct of the police officers violated Section 2 of the Constitution which establishes constitutional supremacy by providing that "this Constitution is the supreme law of the Republic; law or conduct inconsistent with it is invalid." The officers' conduct was fundamentally inconsistent with constitutional principles and therefore invalid and unlawful.

FACTUAL BASIS FOR CONSTITUTIONAL DAMAGES CLAIM

Background and Context

The claimant operates Terrace House Rivonia as a legitimate guest house business under strict prepaid accommodation terms. Ex-guest Mabazole Matiwane (ID: A1127263) accumulated debt of R8,250 for accommodation provided under a prepaid arrangement. After vacating without payment, Mr. Matiwane illegally retained property keys and security remotes, enabling ongoing trespassing.

Multiple formal demand letters were sent to Mr. Matiwane, including final demands with clear deadlines, all of which were ignored. The claimant was lawfully holding Mr. Matiwane's belongings as security for the unpaid debt, as acknowledged by Mr. Matiwane in written communications.

The Constitutional Crisis

On the date in question, South African Police Service officers arrived at the property acting as enforcers for Mr. Matiwane rather than protectors of constitutional rights. The officers committed multiple constitutional violations that were captured on video evidence, including:

- Illegal entry into private property without warrant or consent
- Threats of arrest and handcuffs to force constitutional rights surrender
- Complete failure to establish facts or investigate legal relationships
- Acting as enforcers for a trespassing individual
- Demonstrating apparent racial bias in their conduct
- Violating their constitutional mandate to protect property rights

Video Evidence and Documentation

The constitutional violations were captured on video evidence that provides clear and undeniable proof of the misconduct. The footage shows officers illegally entering private property, ignoring repeated demands to leave, threatening arrest, and demonstrating complete ignorance of constitutional requirements.

Additional documentation includes WhatsApp communications showing debt acknowledgment, formal demand letters, constitutional notices, and photographic evidence supporting the claimant's case.

LEGAL BASIS FOR CONSTITUTIONAL DAMAGES

Constitutional Court Precedents

The Constitutional Court has established clear precedents regarding constitutional damages for rights violations. In *Fose v Minister of Safety and Security* 1997 (3) SA 786 (CC), the Court recognized that "appropriate relief" under Section 38 of the Constitution can include damages where necessary to protect and vindicate constitutional rights.

The Court held that constitutional damages serve multiple purposes: - Compensation for victims of constitutional violations - Vindication of constitutional rights and principles - Deterrence of future constitutional violations - Affirmation of constitutional supremacy

Quantum of Damages

The amount of R500,000 claimed reflects: - The severity of the constitutional violations - The need for meaningful deterrence - The vindication of constitutional principles - The precedential value for constitutional protection - The systemic nature of the violations - The threat to constitutional democracy

This quantum is appropriate and necessary to achieve the purposes of constitutional damages as established by the Constitutional Court.

Section 38 Appropriate Relief

Section 38 of the Constitution provides that courts "may grant appropriate relief, including a declaration of rights" where constitutional rights have been violated. Constitutional damages constitute appropriate relief in circumstances where: - Constitutional rights have been clearly violated - Other remedies are inadequate - Vindication of constitutional principles is required - Deterrence of future violations is necessary

All these circumstances are present in this case.

ADMINISTRATIVE JUSTICE CONSIDERATIONS

Section 33 Requirements

In terms of Section 33 of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), administrative action must be lawful, reasonable, and procedurally fair. The conduct of the police officers violated all these requirements:

Unlawful: The officers' conduct violated multiple constitutional provisions and exceeded their lawful authority.

Unreasonable: The officers failed to establish facts, investigate legal relationships, or consider constitutional requirements before acting.

Procedurally Unfair: The officers provided no opportunity for the claimant to be heard, made no attempt to understand the legal situation, and acted solely on unverified claims.

Administrative Action Definition

The police officers' conduct constituted administrative action as defined in the Promotion of Administrative Justice Act, being action taken by an organ of state in the exercise of public power that adversely affected the claimant's rights.

Exhaustion of Internal Remedies

The claimant has exhausted or attempted to exhaust internal remedies by: - Serving constitutional notices on all parties - Demanding compliance with constitutional requirements - Providing clear documentation of legal relationships - Attempting to resolve the matter through proper legal channels

SYSTEMIC IMPLICATIONS AND PUBLIC INTEREST

Police Education Crisis

The constitutional violations expose catastrophic failures in police education and training regarding constitutional rights. The officers demonstrated complete ignorance of: - Constitutional property rights protection - Warrant requirements for property entry - Their constitutional mandate to protect rights - Constitutional supremacy and the rule of law - Basic procedures for civil versus criminal matters

These failures represent systemic problems requiring institutional reform.

Threat to Constitutional Democracy

When police officers violate constitutional rights with apparent impunity, the entire constitutional order is threatened. Citizens lose confidence in state institutions, and democracy itself becomes vulnerable to erosion.

The constitutional violations at Terrace House Rivonia represent a broader pattern of constitutional decay that must be addressed through meaningful accountability and systemic reform.

Public Interest in Constitutional Protection

The public has a fundamental interest in ensuring that constitutional rights are protected and that state officials who violate those rights are held accountable. Constitutional damages serve the public interest by: - Deterring future constitutional violations - Vindicating constitutional principles - Maintaining public confidence in constitutional protection - Ensuring accountability for state misconduct

RELIEF SOUGHT

Primary Relief

1. **Constitutional Damages:** Payment of R500,000 as constitutional damages for the violation of the claimant's constitutional rights under Sections 25(1), 14, 12, 205(3), and 2 of the Constitution.
2. **Declaratory Relief:** Declaration that the conduct of the police officers violated the claimant's constitutional rights and was unlawful, invalid, and unconstitutional.
3. **Interdictory Relief:** Interdict restraining the respondents from further violating the claimant's constitutional rights or interfering with his lawful exercise of property rights.

Alternative Relief

1. **Delictual Damages:** In the alternative to constitutional damages, payment of delictual damages for wrongful conduct, intimidation, and violation of privacy rights.
2. **Mandamus:** Order directing the respondents to implement comprehensive constitutional training for all police officers and to establish effective accountability mechanisms for constitutional violations.

Ancillary Relief

1. **Costs:** Payment of all legal costs on an attorney-and-client scale.
2. **Interest:** Payment of interest on all monetary awards from the date of violation to the date of payment.
3. **Further Relief:** Such further and alternative relief as the court may deem just and equitable.

CONSTITUTIONAL IMPERATIVE FOR ACCOUNTABILITY

Constitutional Supremacy

Section 2 of the Constitution establishes that the Constitution is the supreme law of the Republic and that any law or conduct inconsistent with it is invalid. The police officers' conduct was fundamentally inconsistent with constitutional principles and must be declared invalid.

State Accountability

The Constitution requires that all organs of state, including the police service, operate within constitutional bounds and respect constitutional rights. When state officials violate constitutional rights, the state must be held accountable through appropriate remedies including constitutional damages.

Rule of Law

The rule of law requires that all persons, including state officials, are subject to the law and accountable for violations of legal requirements. Constitutional violations by police officers undermine the rule of law and must be addressed through meaningful accountability measures.

Democratic Governance

Constitutional democracy depends on state officials respecting and protecting constitutional rights. When police officers violate constitutional rights, democratic governance is threatened and must be restored through accountability and reform.

URGENCY AND PUBLIC IMPORTANCE

Immediate Threat to Constitutional Rights

The constitutional violations at Terrace House Rivonia represent an immediate and ongoing threat to constitutional rights that requires urgent judicial intervention. If such

violations are tolerated, they will proliferate and undermine the entire constitutional order.

Precedential Value

This case has significant precedential value for the protection of constitutional rights and the accountability of state officials. The court's response will send a message to all state officials about whether constitutional violations will be tolerated or punished.

Public Confidence

Public confidence in constitutional protection and state accountability depends on meaningful responses to constitutional violations. A strong judicial response will enhance public confidence; a weak response will undermine it.

International Implications

South Africa's international reputation as a constitutional democracy depends on its response to constitutional violations. The international community watches how South Africa addresses constitutional crises and holds state officials accountable.

CONCLUSION AND FINAL DEMAND

The constitutional violations at Terrace House Rivonia represent a fundamental assault on the constitutional order that demands immediate and comprehensive judicial response. The video evidence provides clear and undeniable proof of serious constitutional violations that cannot be ignored or minimized.

The claimant has suffered serious harm to his constitutional rights and is entitled to constitutional damages to vindicate those rights and deter future violations. The public interest requires that constitutional violations by state officials have meaningful consequences and that the rule of law is upheld.

WHEREFORE the claimant demands:

1. That the respondents show cause why constitutional damages of R500,000 should not be paid for the violation of constitutional rights;
2. That the court declare the police officers' conduct unlawful, invalid, and unconstitutional;
3. That the court grant such further relief as may be just and equitable;
4. That the respondents pay the costs of these proceedings.

AND TAKE NOTICE that if you fail to show cause within thirty (30) days of publication of this notice, the claimant will proceed to institute proceedings for the relief claimed without further notice to you.

DATED at Sandton this 14th day of June 2025.

NICOLAS BRETT

CLAIMANT

SOLE ADMINISTRATOR for N BRETT INVESTMENTS 1 CC

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CLASSIFICATION: Legal Notice - Constitutional Damages Claim

URGENCY: High Priority - Constitutional Matter

This notice is published in terms of the constitutional right of access to courts under Section 34 of the Constitution and the requirements of the Promotion of Administrative Justice Act, 2000. All interested parties are entitled to respond and participate in the proceedings.