

**ORIGINAL**

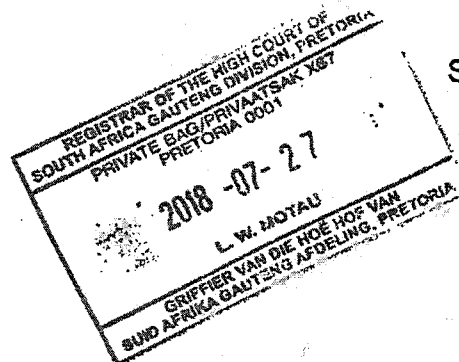
**IN THE HIGH COURT OF SOUTH AFRICA**

**GAUTENG DIVISION, PRETORIA**

Case No: 53020/18.

In the matter between:

<b>SHARON ANN VLOK</b>	First Applicant
<b>DANIEL EARNEST LAMPBRECHT</b>	Second Applicant
<b>CHARLENE ESMAY JORDAAN</b>	Third Applicant
<b>JEAN PAPANDONIS</b>	Fourth Applicant
<b>BRIAN JOHN WAXHAM</b>	Fifth Applicant
<b>CHRIS NEL</b>	Sixth Applicant
<b>HYMIE PINSHAW</b>	Seventh Applicant
<b>FRANCOIS STRAUSS</b>	Eighth Applicant
<b>LEA MAGDALENA MEYER</b>	Ninth Applicant
and	
<b>NICOLAS GEORGIU</b>	First Respondent
<b>ZEPHAN PROPERTIES (PTY) LTD</b>	Second Respondent
<b>NICOLAS GEORGIU N.O.</b>	Third Respondent
<b>MAUREEN LYNETTE GEORGIU N.O.</b>	Fourth Respondent
<b>JOSEPH CHEMALY N.O.</b>	Fifth Respondent
<b>GEORGE NICOLAS GEORGIU</b>	Sixth Respondent
<b>MICHAEL NICOLAS GEORGIU</b>	Seventh Respondent
<b>HENDRIK JACOBUS MYBURGH</b>	Eighth Respondent



<b>BOSMAN &amp; VISSER (PTY) LTD</b>	Ninth Respondent
<b>PICKVEST (PTY) LTD</b>	Tenth Respondent
<b>HEINRICH PIETER MOLLER</b>	Eleventh Respondent
<b>WILLEM MORKEL STEYN</b>	Twelfth Respondent
<b>BAREND STEFANUS VAN DER LINDE</b>	Thirteenth Respondent
<b>FREDERICK JULIUS REICHEL</b>	Fourteenth Respondent
<b>EUGENE KRUGER INC.</b>	Fifteenth Respondent
<b>HANS KLOPPER</b>	Seventeenth Respondent
<b>ORTHOTOUCH LTD</b>	Eighteenth Respondent
<b>HIGHVELD SYNDICATION NO 19 LTD</b>	Nineteenth Respondent
<b>HIGHVELD SYNDICATION NO 20 LTD</b>	Twentieth Respondent
<b>HIGHVELD SYNDICATION NO 21 LTD</b>	Twenty-first Respondent
<b>HIGHVELD SYNDICATION NO 22 LTD</b>	Twenty-second Respondent

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**NOTICE OF MOTION – fast tracking of buyback claims**

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**TAKE NOTICE** that application will be made to the above Honourable Court for the following relief:

**PART A:**

1.

- 1.1 That the interim order granted on 27 May 2015 by the honourable Mr Justice Makhafola (which allows for the non-filing of opposing affidavits

by First to Fifth Respondent) be declared to be only applicable to the relief sought by Applicant *other* than the relief referred in part B below, and that such order does not preclude any Respondent from filing opposing affidavits to the relief sought in part B below.

- 1.2 Alternatively, that the interim order be varied or amended to allow for the necessary filing of opposing papers to the relief sought in part B below, by inserting the following wording at the end of the current paragraph 2 of the order:

"The aforementioned order does not apply in relation to the relief sought by Applicants against First to Fifth Respondents in relation to Highveld Syndication 21 Ltd and Highveld Syndication 22 Ltd on the strength of the buyback agreement forming part of the relevant prospectus issued in relation to such two companies, copies of which agreements are attached as annexure "SV1" and "SV2" respectively to the founding affidavit of First Applicant dated 30 October 2014 filed under the above case number;

2. That costs of the application under part A herein be cost in the cause referred to in part B below, except in the event of the relief sought in this part A being opposed, in which case those Respondents who oppose it be ordered to bear the costs jointly and severally.
3. Alternative relief.

**TAKE FURTHER NOTICE THAT** if you intend opposing the relief sought in Part A above, you are required:

- a) to file notice of opposition within 5 (five) days of receiving notice of this application;
- b) and to file your answering affidavits, if any, within 15 (fifteen) days of filing the aforementioned notice of opposition.

If you do not oppose this above relief, application therefor same will be brought on a date to be arranged with the registrar without any further notice to any party.

**PART B:**

4.

4.1 That, subject to prayer 4.2 below, leave be granted to the Fifth to Ninth Applicants to institute a class application (alternatively, a class action) under section 38(c) of the Constitution of the Republic of South Africa, or alternatively under the common law, as representatives of the investors (i.e. the holders of shares and/or units in Highveld Syndication 21 Ltd (Twenty-first Respondent)) against First to Fifth Respondents on the strength of the buyback agreement forming part of the relevant prospectus issued in relation to Highveld Syndication 21 Ltd, a copy of which agreement is attached as annexure "SV1" to the founding affidavit of First Applicant dated 30 October 2014 filed under the above case number (80811/14);

4.2 That, save for those investors in Highveld Syndication 21 Ltd who elect to *opt out*, and save for those investors who have already obtained judgment in respect of the above claim, the Fifth to Ninth Applicant are hereby permitted to act as representatives of all investors in such company and to institute the class action certified in prayer 4.1.

5.

5.1 That, subject to prayer 5.2 below, leave be granted to the Fifth to Ninth Applicants to institute a class application (alternatively a class action) under section 38(c) of the Constitution of the Republic of South Africa, or alternatively under the common law, as representatives of the investors (i.e. the holders of shares and/or units in Highveld Syndication 22 Ltd (Twenty-second Respondent)) against First to Fifth Respondents on the strength of the buyback agreement forming part of the relevant prospectus issued in relation to Highveld Syndication 22 Ltd and a copy of which agreement is attached as annexure "SV2" to the founding

affidavit of First Applicant dated 30 October 2014 filed under the above case number;

- 5.2 That, save for those investors in Highveld Syndication 22 Ltd who elect to *opt out*, and save for those investors who have already obtained judgment in respect of such claim, the Fifth to Ninth Applicant are hereby permitted to act as representatives of all such investors in such company and to institute the class action certified in prayer 4.1.
6. That paragraphs 3 and 4 of the Notice of Motion dated 31 October 2014 under the above case number (80811/14) be regarded as amended, to allow for the aforesaid class application based only on the buyback agreements, reserving the rights of the Applicants to in due course proceed with seeking leave to institute a class action based on the grounds *other* than the buyback agreements as set out in the founding affidavit in relation to the aforementioned two Highveld Syndication companies.
7. That the related relief sought under paragraphs 5 to 12 in the existing Notice of Motion under the above case number (80811/14) (dated 31 October 2014) (also) be granted in relation to the above two class applications.
8. Costs of this application under Part B be awarded against all those Respondents who oppose the application, jointly and severally, including the cost of two counsel.
9. Alternative relief.

The accompanying affidavit of Fifth Applicant and others will be used in support of this application.

**TAKE FURTHER NOTICE THAT** if you intend opposing the application under Part B above, you are required:

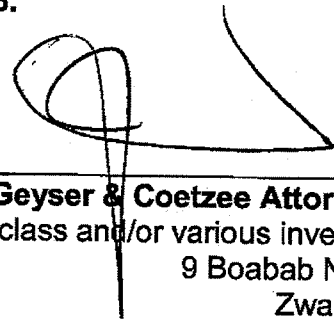
- c) to file notice of opposition within 5 (five) days of date of the granting of the relief

sought in prayer 2 under Part A above (or any related relief granted which results in confirmation that opposing affidavits are to be filed in relation to Part B);

d) to file any answering affidavits within 15 (fifteen) days of filing the aforementioned notice of opposition.

If you do not oppose the application under Part B, same will be brought on a date to be arranged with the registrar without any further notice to any party.

**DATED at PRETORIA** on this 26<sup>th</sup> day of July 2018.



**Geyser & Coetzee Attorneys**  
Attorneys for the class and/or various investors  
9 Boabab Nook,  
Zwartkop  
CENTURION  
For Theron & Partners  
Stellenbosch  
PRETORIA  
TEL: (012) 663 5247  
FAX: (012) 663 5719  
REF: WWCoeztee/dg/wt3057

**TO: THE REGISTRAR OF THE NORTH GAUTENG HIGH COURT  
PRETORIA**

**AND TO: KYRIACOU INC**  
First to Fifth Respondents' Attorneys  
Tel 011 444 2665  
Fax 086 653 5677  
Email legal@kincorporated.co.za

**C/O: ROSS & JACOBZ INC**  
457 Roderick Road  
Lynnwood  
PRETORIA

**AND TO: EG COOPER MAJIEDT**  
Sixth and Seventh Respondents' Attorney  
Tel 051 447 3374

Beteken/Service Sonder benadelling van regte Without Prejudice Vir/For - Ross & Jacobsz

Handtekening / Signature
Datum / Date : <u>27/07/2018</u>
Tyd / Time : <u>12:36</u>

Email [st@egc.co.za](mailto:st@egc.co.za)

**MacRobert**  
Attorneys

C/O: **MACROBERT INC**  
1062 Jan Shoba Street  
Brooklyn  
PRETORIA

2018 -07- 27

Without prejudice of client rights  
Sonder benadeling van klient se regte

12:10

AND TO: **ROOTH & WESSELS ATTORNEYS**  
Eighth to Tenth Respondents' Attorneys  
Walker Creek Office Park  
90 Florence Ribeiro Avenue  
Walker Creek 2, 2<sup>nd</sup> Floor  
Muckleneuk  
PRETORIA  
Email: [graemep@roothwessels.co.za](mailto:graemep@roothwessels.co.za)

AND TO: **GILDENHUYS MALATJI INC**  
Eleventh Respondent's Attorneys  
GMI House  
164 Totius Street  
Groenkloof  
PRETORIA  
E-mail: [wcalliers@gminc.co.za](mailto:wcalliers@gminc.co.za)

Gildenhuis Malatji Inc  
WITHOUT PREJUDICE OF RIGHTS  
2018 -07- 27  
Time: ..... 12:00  
Received By: *Letlan*

AND TO: **ANDRE VLOK ATTORNEYS**  
Twelfth Respondent's Attorneys  
Tel: 012 661 2065  
Email: [andre@vlokattorneys.co.za](mailto:andre@vlokattorneys.co.za)/[andre@conflictresolution.co.za](mailto:andre@conflictresolution.co.za)

AND TO: **KYRIACOU INC**  
Thirteenth Respondent's Attorneys  
Tel 011 444 2665  
Fax 086 653 5677  
Email [legal@kincorporated.co.za](mailto:legal@kincorporated.co.za)

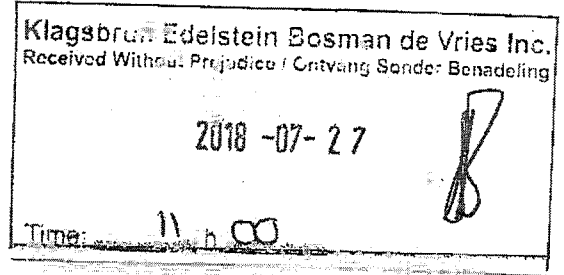
Beteken/Service  
Sonder benadeling van regte  
Without Prejudice  
Vir/For - Ross & Jacobsz  
*[Signature]*  
Handtekening / Signature  
Datum / Date: *27/07/2018*  
Tyd / Time: *13:36*

C/O **ROSS & JACOBZ INC**  
Rodericks Avenue 457  
Lynwood  
PRETORIA

AND TO: **ROOTH & WESSELS ATTORNEYS**  
Fourteenth and Fifteenth Respondents' Attorneys  
Walker Creek Office Park  
90 Florence Ribeiro Avenue  
Walker Creek 2, 2<sup>nd</sup> Floor  
Muckleneuk  
PRETORIA  
Email: [graemep@roothwessels.co.za](mailto:graemep@roothwessels.co.za)

AND TO: **NATALIE LUBBE & ASSOCIATES**  
Eighteenth Respondent's Attorneys  
Tel: 011 704 1563  
Fax 086 688 9555  
Email: [natalie@natalielubbe.co.za](mailto:natalie@natalielubbe.co.za)

Seventeenth  
and



C/O **KLAGSBRUN EDELSTEIN BOSMAN DE VRIES PROKUREURS**  
Lange Street 220  
New Muckleneuk  
PRETORIA

AND TO: **HIGHVELD SYNDICATION NO 19 LTD**  
Nineteenth Respondent  
875 Schoeman Street  
Arcadia  
PRETORIA

AND TO: **HIGHVELD SYNDICATION NO 20 LTD**  
Twentieth Respondent  
875 Schoeman Street  
Arcadia  
PRETORIA

AND TO: **HIGHVELD SYNDICATION NO 21 LTD**  
Twenty First Respondent  
875 Schoeman Street  
Arcadia  
PRETORIA

AND TO: **HIGHVELD SYNDICATION NO 22 LTD**  
Twenty Second Respondent  
875 Schoeman Street  
Arcadia  
PRETORIA