${court}

CASE NO.: ${casenumber}

In the matter between:

**${onepname}** ${firstplaintiff}Plaintiff

${twop}

**${twopname}** Second Plaintiff

${/twop}

${threep}**${threepname}** Third Plaintiff

${/threep}

${fourp}**${fourpname}** Fourth Plaintiff

${/fourp}

${fivep}**${fivepname}** Fifth Plaintiff

${/fivep}

${sixp}**${sixpname}** Sixth Plaintiff

${/sixp}

${sevenp}**${sevenpname}** Seventh Plaintiff

${/sevenp}

and

**${onedname}** ${firstdefendant}Defendant

${twod}

**${twodname}** Second Defendant

${/twod}

${threed}**${threedname}** Third Defendant

${/threed}

${fourd}**${fourdname}** Fourth Defendant

${/fourd}

${fived}**${fivedname}** Fifth Defendant

${/fived}

${sixd}**${sixdname}** Sixth Defendant

${/sixd}

${sevend}**${sevendname}** Seventh Defendant

${/sevend}

${eightd}**${eightdname}** Eighth Defendant

${/eightd}

**FOUNDING AFFIDAVIT**

I, the undersigned,

**${authorwithcaps}**

do hereby make oath and say that:

1.

I am an adult [male/female] attorney and practice as such as an associate at Mellows & De Swardt Inc; the Applicant’s attorney of record.

2.

The facts herein contained are, unless otherwise stated, within my personal

knowledge and are both true and correct.

3.

I am the attorney of record for the ${represent}/Applicant under Case Number ${casenumber} and I am duly authorised to make this affidavit on behalf of the Applicant.

4.

I am furthermore the attorney of record for the [party] under Case Number [case number].

**BACKGROUND:**

6.

[On or about \_\_\_\_\_\_\_\_\_\_ a collision occurred between a motor vehicle bearing registration numbers and letters \_\_\_\_\_\_\_\_\_\_\_\_ and a motor vehicle bearing registration numbers and letters \_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“the collision”)]**.**

7.

[Summons was issued by the First Respondent against the Applicant under case number \_\_\_\_\_\_\_\_\_\_\_ , in terms of which the First Respondent alleged that he is/was the owner, alternatively the bona fide possessor of the motor vehicle bearing registration numbers and letters \_\_\_\_\_\_\_\_\_\_\_\_\_ involved in the collision.]

8.

[It is the First Respondent’s contention that the collision was caused as a result of the negligent driving of the Applicant as is more fully set out in the First Respondent’s Particulars of Claim under case number \_\_\_\_\_\_\_\_\_\_\_\_\_.]

9.

Following a comprehensive investigation, the identity of the driver of the First Defendant’s motor vehicle, namely the Second Respondent, was only discovered on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ by virtue of the accident report for the collision, which was obtained from the relevant South African Police Services Police Station (“SAPS”). A copy of the email received from the SAPS is attached hereto marked as Annexure “A”.

10.

[Following discovery of the identity of the Second Respondent, the Applicant instituted summons, under Case Number \_\_\_\_\_\_\_\_\_\_\_, against the Second Respondent for damages sustained to the motor vehicle bearing registration numbers and letters \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, owned by the Applicant and/or a motor vehicle in respect of which the Applicant bore the sole risk of loss.]

11.

[It is the Applicant’s contention that the collision was caused solely as result of the negligence of the Second Respondent as is more fully described in the Applicant’s Particulars of Claim under case number \_\_\_\_\_\_\_\_\_.]

**BASES FOR CONSOLIDATION:**

12.

As appears from the aforesaid, the issues for investigation and determination in both matters are substantially similar.

13.

The central issue for determination in both pending actions is to determine whether the Applicant, alternatively the [Respondent], further alternatively both the Applicant and the [Respondent were the cause of the collision and the degree of fault attributable to the Applicant and/or the Respondent].

14.

I humbly submit that there is no merit in having the aforesaid issues determined twice, in separate trials, given this would only lead to an unnecessary duplication of costs and unnecessary waste of this Honourable Court’s resources and time.

15.

Further to this, the witnesses in both pending actions will be the same witnesses.

16.

A consolidation of actions will enable all issues between the relevant parties to be conveniently and fairly determined at a single hearing leading to a substantial saving of costs and time.

17.

Consolidation will furthermore allow witnesses to avoid tailoring their evidence in the different proceedings depending upon the party at risk.

18.

More importantly, it will avoid the risk of different and inconsistent findings.

19.

It is therefore humbly submitted that the consolidation of the pending matters would reduce costs and expedite proceedings, leading to a single judgement concerning the same factual dispute and involving all the parties.

20.

I further submit that the consolidations of these actions shall not result in any prejudice being suffered by any of the parties.

21.

In the circumstances, I humbly submit that it is both convenient and appropriate that the above actions be consolidated.

**CONCLUSION:**

22.

I accordingly submit that the Applicant has made a sufficient case for the remedy sought and I humbly request that the relief be granted in accordance with prayers 1 – 3 of the Notice of Application to which this Affidavit is annexed.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**${authorwithcaps}**

I certify that the deponent acknowledged that he knew and understood the contents of the above declaration, that I duly administered the oath as prescribed by Government Notice No R1258 of 21 July 1972, as amended and that thereafter the deponent in my presence, signed the declaration at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_on the \_\_\_ day of **${month} ${year}**.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**COMMISSIONER OF OATHS**