



**SUPREME COURT OF APPEAL OF SOUTH AFRICA
MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF
APPEAL**

FROM The Registrar, Supreme Court of Appeal
DATE 26 March 2020
STATUS Immediate

Tau v Mashaba and Others (335/2019) [2020] ZASCA 26 (26 March 2020)

Please note that the media summary is intended for the benefit of the media and does not form part of the judgment of the Supreme Court of Appeal.

The Supreme Court of Appeal (the SCA) today upheld an appeal against an order by Gauteng Division, Johannesburg, which granted a declaratory order that certain statements made by the appellant, Mr Parks Tau, the former Mayor of the City of Johannesburg, were defamatory of his successor, Mr Herman Mashaba.

Mr Mashaba's application in the high court was for an interdict to compel Mr Tau, the Congress of the South African trade Unions (COSATU), and the African National Congress Women's League (ANCWL) to retract the offending statements, issue an apology, and publish the retraction and apology. Mr Mashaba did not proceed with his claim against COSATU and the ANCWL. The high court held that the offending statements were defamatory of Mr Mashaba and issued a final interdict restraining Mr Parks from repeating those statements. It referred the retraction and the apology, and the publication thereof to the court hearing the action for damages for defamation, instituted by Mr Mashaba against Mr Tau.

The SCA held that the high court erred in granting the declaratory order and a final interdict restraining Mr Tau from uttering the offending statements. It found that the defences of fair comment and truth and public benefit raised by Mr Tau could not be rejected out of hand, and had to be decided by the court which will hear the defamation action.