

IN THE HIGH COURT OF SOUTH AFRICA PUMALANGA DIVISION
MBOMBELA (MAIN SEAT)

CASE NR: 3242/2019

LINK NR: 4350094

ON THE 22nd DAY OF MARCH 2022 BEFORE THE HONOURABLE JUDGE PRESIDENT
LEGODI

Order granted electronically via Microsoft Teams in accordance with the directives
regarding special arrangement during the National State of Disaster.

In the matter between:

DUMISANI ELVIS HLATSHWAYO

Plaintiff

and

ROAD ACCIDENT FUND

Defendant

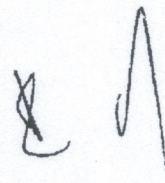
DRAFT ORDER

HAVING HEARD COUNSEL ON BEHALF OF THE PLAINTIFF AND HAVING READ THE
AFFIDAVITS THAT WERE FILED ON THE 15th OF MARCH 2022 BY DEFENDANT'S
OFFICIALS, THE FOLLOWING ORDER IS MADE:

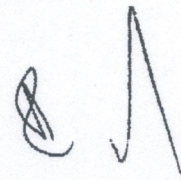
1. The Defendant's officials, Ms. Maite Makola and Mr. Stephen Mashatole, is hereby
ordered to file supplementary affidavits to explain the following issues:
 - 1.1. The vagueness of their affidavits pertaining to the specific departments to which
the matter was previously allocated to.

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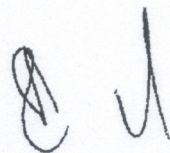
- 1.2. The exact procedure that is followed by the RAF in matters that were previously defended, especially in the event where the previous attorneys of record have withdrawn from the matter.
- 1.3. The procedure that is followed by the RAF in the event where they are called upon to attend meaningful pre-trial conferences as per the applicable practice directives of this division.
- 1.4. The procedure that is followed where the Defendant is called upon to attend or form part of Judicial Case Management Conferences in terms of the directives of this division to determine trial readiness of any matter where the Road Accident Fund is involved.
- 1.5. Why both of them were moved to different sections or departments what happens to the matters allocated to them in these cases and exactly when the matters are handed to different officials.
- 1.6. Who is responsible to re-allocate the matters to the correct officers.
- 1.7. If they are qualified and admitted to legally represent the RAF in matters that comes before court in all proceedings.
- 1.8. Indicate how many matters were allocated to them to deal with on a daily basis from 26 June 2021 to date.
- 1.9. When this matter was allocated to Ms. Dorcas Mashile.
- 1.10. Who is the person that assisted them in drafting the affidavits filed in this matter, and explain what procedures are followed when an officer of the RAF is called upon to give reasons for non-compliance with court orders of directives that are issued.
- 1.11. Fully explain why the affidavits were not filed before or at 10h00 on Monday 14 March 2022 as so directed by the court.
2. The Defendant's officials Dorcas Mashile and Lizette Wannenburg should file supplementary affidavits to explain the following:



- 2.1. The role and duties of a senior claims officers and claims officers.
- 2.2. The amount of claims / trials that the officers needed to attend to on a daily basis as from January 2022 to 7 March 2022.
- 2.3. Indicate if they are authorized, and or admitted to legally represent the RAF in Court Procedures.
- 2.4. The exact procedure that is followed by the RAF in matters that were previously defended, especially in the event where the previous attorneys on record have withdrawn from a matter.
- 2.5. The procedure that is followed by the RAF in the event where they are called upon to attend meaningful pre-trial conferences amongst the parties as the applicable directives of the division.
- 2.6. The procedure that is followed where the Defendant is called upon to attend or form part of Judicial Case Management Conferences.
- 2.7. The procedure that is followed by the RAF from date of allocation of a trial date to date of Trial.
- 2.8. Explain the significance of requesting payments, how long it takes and how many of these requests are done on a daily basis, and why, in addition to the amount of trials they need to attend to, they have to do this.
- 2.9. Who is the person that assisted them in drafting these affidavits, and what procedures are followed when an officer of the RAF is called upon to give reasons for non-compliance with court orders of directives that are issued.
- 2.10. Fully explain why the affidavits were not filed before or at 10h00 on Monday 14 March 2022.
3. The Supplementary affidavits referred to in paragraphs 1 and 2 are to be filed on or before the 14th of April 2022.



4. In order to assist the courts in understanding the challenges or difficulties that the Road Accident Fund might be faced with, The Chief Executive Officer of the Road Accident Fund, is hereby ordered:
- 4.1. To attend court either in person or virtually at 10h00 on the 9th of May 2022 and for this purpose an affidavit should be filed by the CEO of RAF by not later than 14 April 2022 explaining:
- 4.1.1. Why many matters are settled on the dates of trial and what are the legal costs implications caused to RAF by such late settlements and what steps are intended to be taken to avoid late settlements and unnecessary legal costs caused late settlements.
- 4.1.2. Why the RAF often does not participate in the meaningful pre-trial conferences as per the directive of this division where parties are expected to discuss matters as per rule 37A(10) of the Uniform Rules of Court and why matters are enrolled on the judicial case management conferences without the Road Accident Fund participating and thus causing the judicial case management judge proceeding on the basis that the RAF has been an uncooperative party as per the applicable directive of this division.
- 4.1.3. The procedures that are followed by the RAF to ensure compliance with court rules, practice directives relating to pre-trial proceedings, judicial management conferences and cost enquiries when matters are settled late or on the dates of trials or postponed or removed from trial rolls late or on the dates of trials contrary to the applicable directives of this division, something which is being experienced by the division as a trend.
- 4.1.4. Who; and how many officers are authorized to represent the RAF in judicial case management conferences, signing pre-trial minutes, and to appear on behalf of the RAF on the dates of trials.
- 4.1.5. Why officials involved in this matter should not pay the costs of these proceedings *de bonis propriis* or jointly and severally with RAF on punitive scale including such costs as may have been occasioned by the late settlement.



4.3. Provide the court on or before the 14th of April 2022 with the Road Accident Fund's policy document/s which regulates the following:

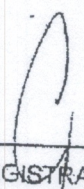
- 4.3.1 Allocation or Transfer of claims between claims-handlers.
- 4.3.2 Attendance at Pre-Trials.
- 4.3.3 Attendance of Judicial Case Management Conferences.
- 4.3.4 Appearance in court on the day of the trial.
- 4.3.5 The amount of claims that may be allocated to each claims handler to work on.
- 4.3.6 The amount of court cases each claims handler should deal with on any given trial date.
- 4.3.7 Settlement of claims in defended and undefended matters.
- 4.3.8 Procedure to be followed on matters that was previously handled by attorneys.

- 5. A copy of this order will be emailed to all relevant officers, the CEO of the Road Accident Fund and served on the Road Accident Fund's Head Office for attention of all concerned.
- 6. A copy of this order will be sent to the LPC and to the General Bar Council of South Africa who are hereby invited as friends of the court in the enquiry herein regard being had to their interests as professional bodies and the plaintiff's attorneys are directed to bring a copy of this order to the attention of the LPC national and The General Bar Council of South Africa and confirm with the registrar of this court that same has been done.
- 7. The plaintiff, LPC and GBC are at liberty to collate information from other divisions regarding the issues raised with the Road Accident Fund herein and file affidavits in relation thereto by not later than 21 April 2022 and also dealing with the issues that might be raised by the RAF in their affidavits that are supposed to be filed by not later than 14 April 2022.
- 8. Should RAF find the need to respond to affidavits as contemplated in paragraph 7 above, it shall do by not later than 26 April 2022.
- 9. The parties, including the friends of the court shall file written heads of argument by not later than 29 April 2022 and on the same date the plaintiff shall ensure that

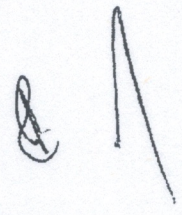
the court file is properly paginated and indexed and preferably arch-lever files should be used.

10. It is hereby recorded that depending on the issues that might be raised, a full court might be instituted to deal with this matter.
11. This matter is consolidated with the matter of **Masilela v Road Accident Fund** case number 1741/2019 and a court order in relation thereto is hereby attached and is marked A.
12. The parties are hereby directed to indicate by not later than **29 April 2022** whether they prefer in person hearing or virtual. In the event of in person hearing, the proceedings will be conducted in Middelburg as indicated in the **Masilela** order.

BY ORDER



THE REGISTRAR

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