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11 July 2025

## **SUBMISSIONS FOR THE PURPOSES OF THE OVERSIGHT ENQUIRY**

### **1. Non-Compliance with Court Orders**

- 1.1. Numerous matters handled by our firm involve the Road Accident Fund (“RAF”) failing to comply with High Court orders, specifically in relation to the timeous payment of amounts due.
- 1.2. In several instances where court orders expressly directed the RAF to pay past medical expenses, the Fund has instead unilaterally deducted those amounts from the overall judgment debt, thereby disregarding the terms of the court orders.

### **2. Failure to Satisfy Judgment Debt**

- 2.1. In one matter involving a minor child born in South Africa to legally residing foreign parents (a detail that, while immaterial, is noted for completeness), judgment was granted and payment became due in March 2024. Despite this, the RAF has failed to make payment. Attempts to execute the judgment via a writ of execution have proven futile, as the costs of the process exceeded the recoverable amount.
- 2.2. Another matter involves a payment due since May 2024. The RAF initially claimed the existence of a duplicate file as the cause of delay. After repeated visits to their offices, we were informed that the issue had been resolved. However, payment is now being withheld due to the file being “red-flagged.” No further information is being disclosed to our offices under the purported pretext of compliance with the Protection of Personal Information Act (“POPIA”), despite the fact that only official work-related information is sought. The outstanding amount pertains solely to loss of earnings, as general damages have already been paid.

### **3. Breach of Statutory Duties**

- 3.1. In terms of section 17(1)(b) of the Road Accident Fund Act, the RAF is obliged to compensate third parties for loss or damage resulting from bodily injury. By failing to pay past medical expenses as ordered by the courts, the RAF is in breach of its statutory duties.
- 3.2. Court orders, unless set aside or appealed, are binding. A failure to comply constitutes contempt of court. The RAF appears to be deliberately evading its legal obligations by avoiding attachment of assets, thereby rendering execution proceedings ineffectual.

### **4. Improper Implementation of Invalid Directives**

- 4.1. Despite judicial findings declaring the CEO's internal directives invalid, the RAF continues to reject lodgement documents and returns them to legal practitioners. In many instances, covering letters indicate that documents are missing when in fact they were included.
- 4.2. The RAF's continued insistence that medico-legal reports, including the RAF 4 Serious Injury Assessment Form, must accompany the initial lodgement bundle has no statutory basis. Hospital records, which are routinely included in our lodgements, provide sufficient information to enable an initial merits assessment.

### **5. Failure to Issue and Honour Undertakings**

- 5.1. Our offices have not received any unconditional undertakings under section 17(4)(a) as stipulated in several court orders.
- 5.2. Clients who have received undertakings under section 17(4)(a) report that the RAF frequently fails to honour them, refusing or neglecting to reimburse expenses for treatment, assistive devices, and related costs—even where proper invoices have been submitted.

### **6. Procedural Non-Compliance and Lack of Communication**

- 6.1. The RAF's failure to make determinations on the validity of RAF 4 Serious Injury Assessment Forms, by either accepting or rejecting them, leads to unnecessary litigation and referrals to the overburdened Health Professions Council of South Africa (HPCSA), primarily due to a lack of communication.
- 6.2. A critical issue is the complete lack of access to RAF claims handlers. The call centre blocks contact with these individuals under the guise of POPIA. This is a misapplication of the law, as work-related contact information is not private and is essential for the administration of legal matters. This communication breakdown forces avoidable litigation.

## **7. Lack of Transparency and Undermining of Attorney-Client Relationship**

- 7.1. There is a general lack of transparency in the RAF's operations. The Fund continues to make direct contact with represented clients, in disregard of legal mandates, and refuses to communicate or provide information to attorneys of record. This conduct severely undermines the attorney-client relationship.

## **RECOMMENDATIONS FOR REMEDIAL ACTION**

1. The RAF must cease its practice of refusing to accept lodgement documents on the basis of perceived non-compliance. It is within the RAF's prerogative to raise objections post-lodgement, but not to reject filings outright.
2. Accurate and accessible contact information for responsible claims handlers must be made available to attorneys to facilitate direct communication and the timely resolution of disputes.
3. The RAF must properly evaluate submitted RAF 4 Serious Injury Assessment Forms and make prompt, reasoned decisions to accept or reject them. This will prevent unnecessary referrals to the HPCSA in matters where merit is clear.
4. Outstanding payments, particularly in respect of past medical expenses, must be settled in accordance with binding court orders. This position has been affirmed through multiple judgments.
5. The RAF must honour judgments involving foreign claimants, as its liability in such matters has been consistently confirmed by the courts.
6. Where investigations are initiated, the RAF must promptly notify the attorney of record, providing the rationale for the investigation and proposed steps to resolve the matter amicably.

## **CLOSING REMARKS**

The above submissions highlight a systemic pattern of non-compliance, procedural irregularity, and administrative inefficiency on the part of the Road Accident Fund, all of which significantly undermine the administration of justice and prejudice both legal practitioners and claimants.

It is submitted that urgent intervention is required to ensure that the RAF fulfils its statutory obligations, adheres to binding court orders, and restores the integrity and functionality of its processes. The continued disregard for legal and procedural norms not only erodes

Director:

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public trust in the RAF but also places an unnecessary burden on the judiciary, legal practitioners, and, most importantly, the victims the Fund was created to serve.

We respectfully request that these matters be taken into serious consideration during the oversight process and that appropriate corrective measures as recommended above be used to ensure accountability, transparency, and lawful conduct by the RAF moving forward.

We remain available to provide any further information or clarification that the Honourable Enquiry may require.

Yours faithfully

**A RAUTENBACH ATTORNEYS**

**MRS A RAUTENBACH**