

REPUBLIC OF SOUTH AFRICA


 IN THE HIGH COURT OF SOUTH AFRICA
 GAUTENG DIVISION, PRETORIA

Case no: 028726-2022

DELETE WHICHEVER IS NOT APPLICABLE	
(1)	REPORTABLE: YES/ NO
(2)	OF INTEREST TO OTHERS JUDGES: YES/ NO
(3)	REVISED
28/08/23	
DATE	SIGNATURE

In the matter between:

THE ROAD ACCIDENT FUND

Applicant

And

THE SHERIFF OF THE HIGH COURT, PRETORIA EAST

First Respondent

NEWNET PROPERTIES (PTY) LTD

t/a SUNSHINE HOSPITAL

Second Respondent

THE PARTIES CITED IN ANNEXURE "A"

Third Respondent

THE PARTIES CITED IN ANNEXURE "B"

Fourth Respondent

THE PARTIES CITED IN ANNEXURE "C"

Fifth Respondent

THE SHERIFF, CENTURION EAST

Sixth Respondent

Summary: Practice- Warrants of Execution – Suspension of warrants of execution and attachments- whether writs and attachments should be suspended pending the verification process of the identity numbers of the claimants and/or applications for rescission by the applicant, either in terms of Rule 45A of The Uniform Rules of Court or the common law or section 173 of The Constitution, 1996.

JUDGMENT

BAQWA J

Introduction

- [1] This matter was launched as an urgent application which was heard on 18 April 2023. The Respondents opposed the application on the basis of lack of urgency. After considering the matter, the application was struck from the roll for lack of urgency.

The Parties

- [2] The applicant is The Road Accident Fund (RAF), an entity established in terms of Section 2(1) of the Road Accident Fund Act 56 of 1996 (RAF Act).
- [3] The First Respondent is the Sheriff of the High Court, Pretoria East cited in these proceedings in his official capacity as the Sheriff performing the functions assigned in terms of Section 3 of The Sheriff's Act.
- [4] The Second Respondent is Sunshine Hospital and the Third Respondents are the parties listed in Annexure 'A' to the Notice of Motion.
- [5] The Fourth and Fifth Respondents are the parties listed in Annexures 'B' and 'C' respectively to the Notice of Motion.
- [6] The Sixth respondent is the Sheriff of Centurion East cited in these proceedings in his official capacity as the Sheriff performing the functions assigned in terms of section 3 of The Sheriff's Act.

- [7] Service of the application was effected on the Third to Fifth Respondents' Attorneys via email.

The Relief Sought

- [8] The applicant seeks an order as follows:

- 8.1. To suspend the operation and execution of court orders and writs of execution issued pursuant thereto.
- 8.2. To stay the operation of writs of execution referred to above.
- 8.3. To direct all respondents to furnish RAF with identity numbers of all injured persons in support of their claims within 5 days of the date of the order.
- 8.4. To direct all respondents to furnish RAF with accident report forms for those claims where no such forms were submitted within 5 days from the date of order.
- 8.5. Ordering that the interdict and staying of the operation of the writs referred to above shall operate as interim relief pending RAF's institution of a rescission application, if applicable, alternatively for a declaratory order within 30 days from the date on which the respondents have delivered the identity documents.
- 8.6. Costs of the application against any party who opposes the application.

Background

- [9] A third party supplier has a right to claim from RAF where it has incurred costs in respect of accommodation, services rendered goods supplied to him or herself or any other person if such party complies with the provisions of Section 24 of the RAF Act.
- [10] However RAF's liability to pay is limited to loss or damage wrongfully caused by the driving of motor vehicles.

- [11] A supplier claim complies with the RAF Act if it is proved that:
- 11.1. The party who received goods or services from the supplier was injured in a motor vehicle accident as contemplated in the RAF Act;
 - 11.2. The supplier fully complied with the relevant provisions of the RAF Act such as Section 24 regarding the completion and lodging of the prescribed claim form (Form 2).
- [12] The Applicant submits that supplier claims have been subject to abuse resulting in financial risks to RAF, and amplifies the submission as follows:
- [13] Firstly, the supplier claims have been fraudulently lodged by suppliers for services provided to people who have not sustained injuries in motor vehicle accidents but by other means such as assault.
- [14] Secondly, in some cases both the suppliers and the injured party have claimed the costs for the goods or services rendered, resulting in a duplication of payments. This could only be detected if a full record of the injured party is recorded by the supplier.
- [15] Section 4 of RAF's supplier claim Form (Form 2) requires the claimant supplier to provide details of the accident, including the date, time, place of the accident, SAPS reference number and the Accident Report number together with a copy of the accident report. This information is utilised to mitigate the risk, for example, where a claim may be for services unrelated to a motor vehicle accident.
- [16] The double payment risk is mitigated through section 5 of RAF's supplier claim form which requires a supplier to provide details of the injured person's or deceased's details together with a copy of the injured/deceased's identity documents, or if applicable, a copy of the deceased's death certificate, inquest record or charge sheet. This is intended to ascertain whether the injured/deceased falls within the ambit of the RAF Act and avoid a duplication of claims.
- [17] RAF argues that it is not obliged to compensate claimants in circumstances where a supplier fails and /or refuses to submit all statements and documents

relating to the motor vehicle accident that gave rise to the claim concerned within a reasonable period after having come in possession thereof.

The Sale in execution

- [18] Approximately 400 writs were issued by the respondents for the attachment of RAF's movable assets in satisfaction of various judgments in respect of supplier claims.
- [19] RAF contends that according to its records the supplier claims did not comply with Section 24 of the Act in that they were not accompanied by identity documents.
- [20] To illustrate the point they refer to claims linked to the writs issued on behalf of Swift EMS Private Ambulance service in respect of goods or services rendered to PP Quomome, B Mass P Choba (under case number 15682/20, 16348/20 and 17174/20 respectively) which were submitted without identity number or documents.
- [21] The claims linked to the writs of Dr Johan Schutte and Associates in respect of goods or services rendered to, inter alia, T Mogakane, S Mafuyeka, J Marais and L Du Preez (under case number 3005/21, 3300/21, 3357/21 and 3296/21) respectively were submitted without identity numbers or documents.
- [22] The respondents have been served with a complete schedule of the judgments and writs issued by Podbielski Attorneys regarding non-compliant supplier claims where identity numbers or identity documents are outstanding.
- [23] Several attempts to engage Podbielski Attorneys to try and resolve the matter have been unsuccessful. The respondents have failed and/or refused to furnish the information requested even when requested by applicants' attorneys of record, Malatji and Co.

Risk Mitigation by RAF

- [24] The RAF has implemented steps to mitigate the risk posed by improper or fraudulent claims in order to ensure the claims are valid prior to processing payments. RAF contends that it is imperative to have the identity documents in order to relate the data back to the accident and confirm that the services were rendered to a person injured in a motor vehicle accident.
- [25] In order to avoid litigation RAF recorded through their letter, their willingness to pay the claimed funds into a trust investment account as guarantee of payment upon submission of an identity document or identity number and proposed the suspension of the sale in execution pending the completion of that process.
- [26] Podbielski Attorneys responded on the same day to the effect that 'RAF's directive did not correlate with legislation and is applied [too] retrospectively'. Whilst the precise meaning of the response was not very clear it was clear that RAF's request was not accepted. The letter went on to record that the respondents had obtained judgments in the matters and intended to proceed with the sale in execution.
- [27] RAF branches continued to engage with the attorneys for various suppliers from 6 March 2023 to 23 March 2023 to try and obtain the outstanding information and documents but the attempts were unsuccessful, hence this application.

Respondent's defences

- [28] The respondents raise the following defences against this application:
- 28.1. The application constitutes an abuse of the process of this court.
 - 28.2. The relief sought is incompetent in that RAF is precluded from requesting the relief on the basis of the principle of pre-emption.
 - 28.3. The amounts claimed are due and payable following judgments granted by competent courts.
 - 28.4. Respondents plead non-joinder alternatively a non-service of the application on a large number of respondents.

28.5. The respondents dispute that the applicant has satisfied the requirements for an interdict, namely *prima facie* right or that a reasonable apprehension of harm exist. They also deny that the balance of convenience favours RAF and that RAF has no alternative remedy.

The Law

[29] Rule 45A of the Uniform Rules of Court provides that:

“The Court may suspend the execution of any order for such period as it may deem fit.”

[30] In *Van Rensburg NO and Another v Naidoo NO, Naidoo NO v Van Rensburg NO*¹ the court held as follows:

“Apart from the provisions of Uniform Rule 45A a court has inherent jurisdiction, in appropriate circumstances, to order a stay of execution or to suspend an order. It might, not for example, stay a sale in execution or suspend an ejectment order. Such discretion must be exercised judicially. As a general rule, a court will only do so where injustice will otherwise ensue.”

“A court will grant a stay of execution in terms of Uniform Rule 45A where the underlying causa of a judgment debt is being disputed, or no longer exists, or when an attempt is made to use the levying of execution for ulterior purposes. As a general rule, courts acting in terms of this rule will suspend the execution of an order where real and substantial justice compels such action.”²

[31] In *Road Accident Fund v Legal Practice Council*,³ the issue was whether writs and attachments could be suspended. After considering all the evidence the court found that the requirements for an interdict had been satisfied and it ordered the stay of the writ of attachment.⁴

¹ [2010] ZASCA 68, [2010] 4 ALL SA 398 (SCA), 2011 (4) SA 149 (SCA).

² Id at para 52.

³ 2021 ZAGPPHC 173, [2021] 2 ALL SA 886 (GP); 2021 (6) SA 230 (GP).

⁴ Id at para 2.

Sections 3, 17 and 24 of the RAF Act

- [32] RAF's liability to make payment of compensation is limited under the Act to loss or damage wrongfully caused by the driving of motor vehicles.
- [33] Section 17(5) of the Act entitles third party suppliers to claim from RAF in circumstances where such supplier has incurred costs in respect of accommodation, services rendered or goods supplied him or herself or to any other person, provided that such party complies with the provisions of section 24 of the Act.
- [34] Section 24(5) of the Act provides that "if the Fund or the agent does not, within 60 days from the date on which a claim was sent by registered post or delivered by hand to the fund or such agent as contemplated in subsection (1) object to the validity thereof, the claim shall be deemed to valid in law in all respects."
- [35] In the matter of *Road Accident Fund v Busuku*⁵ Eksteen AJA held at paragraph 6 that:

"The provisions of the Act must be interpreted as extensively as possible in favour of third party in order to afford then the widest possible protection. On the other hand, courts should be alive to the fact that the fund relies entirely on the fiscus for its funding and they should be astute to protect it against illegitimate or fraudulent claims."

- [36] In the *Pretorius v Road Accident Fund*⁶ at paragraph 8 the RAF 1 Form omitted the name of the person who the doctor examined. Sutherland J (as he then was) stated in this regard that:

"8. What is required is not formal mechanical compliance but substantial compliance."

- [37] Sutherland J elaborated further as follows:

"Thus, a court of first instance is required to enquire into whether, as a fact, the RAF has been prejudiced by the omission of information in the RAF 1 Form, in the sense of being denied information it properly requires

⁵ 2000 ZASCA 158 (1 December 2020).

⁶ (35303/2028) [2018] ZAGPJHC 293 (26 August 2019).

to assess whether or not it is at risk of liability. Where the hospital records are provided with the RAF 1 Form, it is incumbent on the RAF to read such documentation together with the RAF 1 Form. A reading of those documents would have revealed that the examination results recorded in the RAF 1 Form correlate with the medical records.”

Non-joinder objection

[38] The respondents have raised a non-joinder objection, alternatively, a non-service of the application on all interested parties. Notably, however, the second and third respondent fail to identify the party or parties who have a direct interest and who have not been joined to the proceedings.

[39] The test for joinder of parties is set out in *ABSA Bank Ltd v Naude NO*⁷ is as follows:

“The test whether there has been non-joinder is whether a party has a direct and substantial interest in the subject matter of the litigation which may prejudice the party that has not been joined.”

[40] In the present application it would appear as if all the parties with supplier claims which RAF wishes to interdict have been cited as it has confined itself to the parties listed in the Sheriff’s auction list.

[41] More specifically, the first and sixth respondent have been cited in their capacities as the Sheriffs who hold RAF’s movable assets under attachment.

[42] The second respondent has been cited as a party which is listed in the Sheriff’s auction list as having instructed the Sheriff to attach RAF’s movable assets.

[43] The third respondents are listed in Annexure “A” which was compiled with reference to the Sheriff’s auction list which lists the entities represented by Podbelski Attorneys who have been corresponded with RAF on behalf of the respondents regarding the writs.

⁷ [2015] ZASCA 97 at 12.

[44] It does not seem therefore, that there is any merit in the non-joinder objection by the respondents. Equally, the application was served and received by Podbelski who are on record as the second and the third respondent's attorneys of record who have fully participated in these proceedings. The non-service objection is therefore also not sustainable due to the service of the application on the respondents in accordance with the provisions of Rule 4(aA) of the Uniform Rules of Court which states:

“(aA) where the person to be served with any document initiating application proceeding is already represented by an attorney of record, such document may be served upon such attorney by the party initiating such proceedings.”

[45] The second and third respondents also contend that the relief sought is not competent and that it constitutes an abuse of process due to the fact that the writs were issued pursuant to orders granted by consent or by default. They also contend that RAF is precluded from obtaining relief by the principle of peremption.

Analysis

[46] It is common cause that some of the orders which resulted in the issuing of the writs in question were granted by default or by consent.

[47] It is also not in dispute that RAF is an organ of state, established in terms of section 2 of the Act and that it has to adhere to the principles governing public administration under the Constitution which requires in section 195(1) that “[e]fficient, economic and effective use of resources must be promoted.”

Orders granted by consent are not impervious to judicial scrutiny and this court has an inherent power to regulate its own process by staying or interdicting execution of writs pending the delivery of documents and information sought in terms of section 173 of the Constitution in line with the values enunciated in

section 195 of the Constitution. See *Maswangayi obo Machimane v Road Accident Fund*.⁸

Default judgments erroneously granted

- [48] RAF's explanation regarding its non-participation in proceedings prior to the judgments by default was due to a legal dispute between itself and erstwhile members of its panel of attorneys who refused to hand over the relevant files until the outstanding accounts were settled. As a result, RAF had been unable to establish the status of a number of its ongoing matters, hence its belated discovery that there were non-compliance issues in those matters.

Peremption

- [49] The second and third respondents rely on the doctrine of peremption regarding matters in which there was partial or full compliance with the orders in favour of the second to the fifth respondents.
- [50] RAF contends that the partial compliance was due to poor internal controls within its administration which had since been strengthened through, inter alia, auditing all supplier claims. That process had revealed that the respondents had potentially failed to comply with the RAF Act in material respects.
- [51] The approach to peremption is to consider whether there are overriding policy considerations which militate against the enforcement of the doctrine. The enforcement of the doctrine is not absolute, and this view was endorsed by the court in *Oppressed ACSA Minority 1 (Pty) Ltd and Another v Government of the Republic of South Africa and Other*.⁹
- [52] In this application, such overriding policy considerations (so RAF argues) are that public funds ought not to be disbursed where there is a potential that the recipient of such funds may have obtained the court orders by consent or

⁸ (1175/2017) [2019] ZASCA 97 (18 June 2019 at [33]).

⁹ (Case no.898/2020) [2022] ZASCA 50 (11 April 2022) at para. 22.

default (both on account of governance failures and lapses) and without having established RAF's statutory liability for same.

- [53] Were this court to find that the claims on which the writs are based are non-compliant with sections 17 and 24 of the Act that would constitute a material non-compliance with the Act.
- [54] The respondents contend that RAF is prohibited from pursuing this application given that it failed to object to the claims within the 60 days prescribed in section 24(5) of the RAF Act.
- [55] Whist on the face of it, the respondents' contention might appear to be a valid one, it overlooks RAF's reliance on the fiscus for its funding and the obligation to protect against the disbursement of public funds where the claims are unverified or unverifiable. In such cases, a claimant would be unable to rely on section 24(5) for non-compliance with the RAF Act. From the records RAF presently holds, it contends that the respondents have failed to substantially comply with the substantive requirements upon lodging their claims.

Is RAF refusing to pay the supplier claims

- [56] One of the issues to be decided by this court is whether RAF is refusing to pay the supplier claims or whether it merely seeks to verify that the correct claimants are paid.
- [57] RAF has requested the second, third and fifth respondents to provide it with the identifying numbers of the road accident victims to enable it to reconcile a supplier claim to a claimant's case in order to discharge its obligations in terms of the legal prescripts such as Constitution (Section 195), PFMA (Section 50 and 51) and the Public Audit Act.
- [58] This application does not seek the setting aside of the various orders and writs but merely seeks a temporary halt to the sale in execution of RAF's movable assets (in circumstances where security has been provided) pending the completion of the verification exercise.

Interim interdict requirements

[59] In order to succeed, RAF ought to satisfy this court that the requirements to obtain an interdict have been met, namely:

59.1. prima facie right to the relief sought;

59.2. a well-grounded apprehension of irreparable harm if the interim relief is not granted;

59.3. the balance of convenience favours the granting of the interim relief; and

59.4. the applicant has no alternative remedy.

[60] RAF has a prima facie right as custodian of public funds to protect those funds which it obtains through a Road Accident Fund levy as provided for in the Customs and Excise Act 91 of 1964 and through raising loans. RAF is also enjoined to protect and manage the fruitless, irregular and wasteful expenditure as provided for in the Public Finance Management Act (PFMA) which requires that funds ought not to be disbursed where a supplier has not met the section 24 requirements of the RAF Act including exercising caution where this may be the case.

[61] In terms of sections 50 and 51 of the PFMA RAF's accounting authority must inter alia:

61.1. exercise the duty of utmost care to ensure reasonable protection of its assets and to act in the best interests of RAF in the management of its affairs.

61.2. take effective and appropriate steps to prevent irregular expenditure, fruitless and wasteful expenditure, losses resulting from criminal conduct and expenditure not complying with the operational policies of RAF; and manage available working capital efficiently and economically;

61.3. safeguard the assets and ensure proper management of RAF's revenue, expenditure and liabilities.

Irreparable harm

[62] RAF contends that the potential irreparable harm is likely to be suffered not only by it but by also by the public and fiscus and that the harm would manifest as follows:

62.1. The Sheriff's inventory for the scheduled sale in execution lists assets which RAF relies upon to execute its day -to-day duties. In the event of the assets being sold in execution, RAF would be disabled from performing its duties to those members of the community who are involved in road accidents throughout South Africa.

62.2. The assets are likely to be sold at a loss for an insignificant value and RAF would be expected to pay the shortfall. Additionally, it would still have to incur further expenses to replace the assets sold in execution.

62.3. If RAF were to pay the funds to the respondent's attorneys of record and it later emerges that some of the supplier's claims did not comply with section 24 and RAF was thereafter able to successfully rescind the underlying orders or judgments, RAF would be put through the time and expense of recovering the disbursed funds with no guarantee of recoverability.

Balance of convenience

[63] The effect of interdicting the sale in execution can only be that of a temporary delay which is unlikely to cause the respondents irreparable harm or any harm at all. On the other hand, a sale in execution would potentially have devastating consequences not only for RAF but also for millions of people who are totally reliant on it when they get involved in accidents.

Alternative remedy

[64] As alluded to above RAF made several attempts to engage the respondents and their legal representatives to no avail. It has also undertaken to hold the funds in trust and make payments as soon as the claim is verified.

[65] Given the numerous attempts to try and resolve the matter without litigation it would seem that RAF was left with no alternative but to seek an interdict to

enable it to complete the verification process in order to settle the claims or determine whether or not to rescind the various judgments.

Stay Application

[66] Uniform Rule 45A provides:

“The court may, on application, suspend the operation and execution of any order for such period as it may deem fit: provided that in the case of appeal, such suspension is in compliance with section 18 of the Act.”

[67] Concurrent with the provisions of Rule 45A this court has an inherent discretion to order a stay of execution in terms of the common law. See *Road Accident Funds v Legal Practice Council*.¹⁰

[68] In *Gois t/a Shakespeare’s Pub v Van Zyl*¹¹ the court summarised the general principles for the granting of a stay in execution as follows:

- “(a) A court will grant a stay of execution where real and substantial justice requires it or where injustice requires it or where injustice would otherwise result.
- (b) The court will be guided by considering the factors usually applicable to interim interdicts, except where the applicant is not asserting a right, but attempting to avert injustice.
- (c) The court must be satisfied that:
 - (i) The applicant has a well-grounded apprehension that the execution is taking place at the instance of the respondent(s); and
 - (ii) irreparable harm will result if execution is not stayed and the applicant succeeds in establishing a clear right.
- (d) irreparable harm will invariably result if there is a possibility that the underlying causa may ultimately be removed, i.e. where the underlying causa is the subject matter of an ongoing dispute between the parties.

¹⁰ 2021 (6) SA 230 (GP) para [31] to [32], *Brothers Property holdings (Pty) Ltd v Dansalot Trading (Pty) Ltd t/a Chinese fair* (unreported wcc case no 6149/2021) (1 September 2021) [40].

¹¹ 2011 (1) SA 148 (LC) at 155H-156B.

(e) The court is not concerned with the merits of the underlying dispute- the sole enquiry is simply whether the causa is in dispute.”

- [69] It cannot be disputed that the respondents are entitled to enforce the judgments obtained against RAF but in my view the applicant is entitled to verify the claims by ensuring that the identity of the persons to whom services were rendered are the correct ones and that their injuries arose out of motor vehicle accidents.
- [70] This court is empowered in terms of section 173 of the Constitution to stay execution of it is in the interest of justice to do so. In *Road Accident Fund v Legal Practice Council*¹² section 173 was invoked to stay execution where the full court held as a general rule that the court will grant a stay of execution where real and substantial justice requires real and substantial justice requires such a stay or, put differently where injustice would otherwise be done.
- [71] It has also been held that a court will grant a stay of execution where the underlying causa of the judgment debt is being disputed or no longer exists, or when an attempt is made to use the machinery relating to the levying of execution for ulterior purposes. See *Bestbier v Jackson*.¹³
- [72] The respondents have to put up a strenuous opposition to this application despite the attempts by the applicant to persuade them that they merely desire to verify the claims and that upon failure to do so it would apply for rescission of the judgments.
- [73] The requirements for an enforceable claim are that it must be proven that the claim results from a motor vehicle accident and the supplier has fully complied with the provisions of the RAF Act. The fact that an order was granted by consent or default does not exclude RAF's validation process at payment stage which is what this application is all about and it is concerning that the respondents are not willing to participate or co-operate in that validation process.

¹² Id at para 33.

¹³ 1986 (3) SA 482 (W) at 484G-485C; *Brummer v Gorfil Brothers Investments (Pty) Ltd* 1999 (3) SA 389 (SCA) at 418 E -G; *Road Accident Fund v Strydom* 2001 (1) SA 292 (C) at 300B.

[74] In the letter of Malatji & Co (RAF's Attorneys) addressed to Podbielski Mahlambi on 27 February 2023 (paragraph 5 & 6). The following was stated:

"5. There are currently a number of supplier claims being executed by you where there is no ID document to enable our client to positively identify the persons who received the treatment as a person in fact injured in a motor vehicle accident. Our client is willing to pay the funds into a trust investment as a guarantee of payment on submission of an ID document and/or ID number to positively link the services to a claimant.

6. We kindly enquire whether the above will satisfy your requirements to halt execution pending the matters being processed as ID documents/number are submitted to our client."

[75] Podbelski responded as follows:

"...

3. The RAF's directive does not correlate with legislation and is applied retrospectively. We wish to confirm that we have obtained judgment on the abovementioned matters..."

[76] It cannot be disputed that the request for an identify number or document is consistent with what is required under legislation and for substantial compliance with the RAF Form. The fact that there is a judgment or settlement does not imply that RAF must effect payments without verifying the amounts and allocating them to the relevant claims.

[77] RAF has a statutory obligation to protect public funds from being spent fruitlessly, irregularly or wastefully in terms of the PFMA which would include payments of claims which RAF is not statutorily obliged to pay. For this court to compel RAF to do so would be tantamount to enforcing an illegality.

Conclusion

[78] Having considered all of the above, I am satisfied that the applicant has proved that it has prima facie right to protect the funds that it administers in terms of

the relevant legislation and that the sale in execution of RAF's movable assets in the current circumstances would cause severe irreparable harm on RAF's operations, the public and the fiscus. I find the respondents' response regarding their failure to co-operate in the validation process to be unsatisfactory and unconvincing.

I also find that the balance of convenience favours the granting of an interdict pending an interrogation of the respondents' claim after which the claims will be processed for payment or rescinded by RAF. In the result, I make the following order:

ORDER

1. The second and third respondents' legal representatives are directed to provide the first respondent (i.e. the Sheriff) and the applicant (i.e. the RAF) with all the identity numbers of the injured persons (i.e. the claimants) in the matters listed in annexure "FA8" of the applicant's founding affidavit (attached as annexure "A" hereto), annexure "WN2" of the second and third respondents' answering affidavit (attached as annexure "B" hereto) and annexures "RA1" to "RA2" of the applicant's replying affidavit (attached as annexures "C1" and "C2" hereto).
2. The fifth respondent's legal representative is directed to provide the applicant with the identity number of the claimant identified in annexure "C" to the applicant's notice of motion (i.e. ZE Nomanyana).
3. The second, third and fifth respondent's legal representatives are directed to furnish the first respondent and the applicant with such identity numbers within 10 days of this court's order.
4. On receipt of the claimant's identity numbers as set out in paragraph 3 above, the applicant is hereby directed to reconcile the respective supplier claims against the identity numbers provided. Upon the applicant's completion of the audit and reconciliation process, which must be finalised within 5 days of receipt of the information in paragraph 3 above, the applicant's legal representatives are directed to send the reconciled report to the Sheriff, who is hereby authorised and directed to remit the outstanding amounts in

respect of the supplier claims (against the respective claimants files) into the respective trust accounts of the second, third and fifth respondent's legal representatives, within 5 days of receipt of the reconciliation report.

5. Until the process in paragraph 1 to 4 above is finalised, the operation of the writs issued by the second, third and fifth respondents is stayed and Sheriff is hereby interdicted and restrained from proceeding with the sale in execution of the applicant's movable property or disposing of such movable property which is under the attachment in terms of the writs listed in annexure "RA1".
6. It is ordered that prayer 5 above shall operate as interim relief, pending the finalisation of the processes listed 1 to 4 (where applicable), or the RAF's institution of a rescission application, alternatively, an application for appropriate declaratory relief within 20 days from the date on which the respondents have delivered the identity documents.
7. The order in paragraph 5 shall remain in enforce for all such matters where a rescission application or declaratory application has been issued within the time period stipulated in paragraph 6 above.
8. The second and third respondents are directed to pay the costs of the application including the costs of two Counsel, one of whom is Senior Counsel.



SELBY BAQWA

**JUDGE OF THE HIGH
COURT, PRETORIA**

Date of hearing: 5 June 2023

Date of Judgment: 28 August 2023

APPEARANCES:

Counsel for the Applicant:

Advocate M Rip SC

Advocate R Tshetlo

Advocate Z Ngakane

Instructing Attorneys:

Malatji & Co

Counsel for the Second and Third Respondents:

Advocate J.G Cilliers SC

Advocate M van Rooyen

Instructing Attorneys:

Podbielski Mahlambi