

IN THE NORTH GAUTENG HIGH COURT
OF SOUTH AFRICA
PRETORIA

5/7/13

CASE NO: 56193/12

In the matter between:

FRANCOIS BARNARD
THABO PANDLETON MABETA
BISNATH (JAY) SINGH
GAVIN JOHN GRIFFIN
MICHAEL WRIGHT
MARK DAWSON
AMELIA HOLLAND
EBEN LOFTY VAN WYK
PETRUS JOHANNES KRIEL
FRANCOIS ALBERT PIETERSE

1st Intervening Party
2nd Intervening Party
3rd Intervening Party
4th Intervening Party
5th Intervening Party
6th Intervening Party
7th Intervening Party
8th Intervening Party
9th Intervening Party
10th Intervening Party

In re:

THE REGISTRAR OF MEDICAL SCHEMES

and

MEDSHIELD MEDICAL SCHEME

Applicant

Respondent

DELETE WHICHEVER IS NOT APPLICABLE	
(1) REPORTABLE: YES/NO.	
(2) OF INTEREST TO OTHER JUDGES: YES/NO.	
05/07/2013	<i>[Signature]</i>
DATE	SIGNATURE

JUDGMENT IN THE APPLICATION FOR LEAVE TO APPEAL

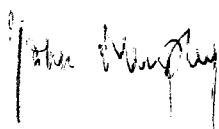
MURPHY J

1. The applicants (the intervening parties in the main application) apply for leave to appeal against my judgment of 25 January 2013 confirming the rule nisi issued

by van der Merwe JP on 2 October 2012 and appointing a curator to manage the affairs of the medical scheme.

2. The application for leave to appeal sets out a plethora of grounds upon which leave is sought, many of which misstate or misrepresent my findings and raise issues not argued before me.
3. I am of the opinion that leave to appeal should be granted for the simple reason that there is a reasonable prospect that another court may come to a different conclusion with regard to my finding that good cause exists for the appointment of a curator. Accordingly, no purpose will be served in analysing and commenting upon the various grounds misstating my findings or raising new issues.
4. The importance of the matter to all parties and the novelty of the issues related to the jurisdictional preconditions justify granting leave to the Supreme Court of Appeal.
5. The effect of granting leave is that my order confirming the rule nisi and appointing the curator will be suspended. The respondent (the applicant in the main application) did not bring a formal application in terms of rule 49(11) for the order to remain effective. However, counsel for the parties indicated from the bar their agreement that in the event of leave to appeal being granted the order granting a provisional curator and the rule nisi issued by van der Merwe DJP should be revived and remain effective until the appeal is finalised.
7. Accordingly, the following orders are issued:
 - i) The applicants are granted leave to appeal to the Supreme Court of Appeal

- ii) The orders of van der Merwe DJP are revived and extended pending the outcome of the appeal in respect of whether a final order of curatorship should be granted.
- iii) The costs of the application for leave to appeal shall be costs in the appeal.



**JR MURPHY
JUDGE OF THE NORTH GAUTENG
HIGH COURT**

Date Heard:	30 May 2013
For the Applicant:	Adv M.C. Maritz SC
Instructed By:	Savage, Jooste & Adams Attorneys
For the Respondent:	Adv J.H. Dreyer SC
Instructed By:	Geyser Van Rooyen Attorneys