IN THE HIGH COURT OF SOUTH AFRICA
(ORANGE FREE STATE PROVINCIAL DIVISION)

Case No.: 1113/2007

In the case between:

J A JANKOWITZ
R W JANKOWITZ Plaintiff

and

ROAD ACCIDENT FUND Defendant

JUDGEMENT: MOLEMELA, J

DELIVERED ON: 27 NOVEMBER 2008

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[1] This is a review of taxation brought under the provisions of rule 48 of the Uniform Rules of Court.

[2] A bill of costs was taxed by a taxing master, viz Mr Thompson on the 12th September 2006. He duly completed the allocator of that bill on the 27th February 2007.

[3] The plaintiffs, being dissatisfied with certain rulings made by the taxing master, delivered a notice of review in terms of rule 48 (1) of the rules, calling upon the taxing master to

state a case for the decision of a judge on the items that were disallowed by the taxing master.

[4] Subsequent to the plaintiffs filing the aforesaid notice of review of taxation and before the filing of the stated case Mr Thompson left the employment of the department of Justice. The registrar of the court then forwarded the file to me for a decision.

[5] Having noted that the file was forwarded to me prematurely as a stated case had not yet been filed in compliance with rule 48 (3), I invited both parties to my chambers with a view to achieving a consensus on how the problem was to be resolved. Both parties were adamant that the matter ought not to be referred for re – taxation and proposed that the taxing master who had replaced Mr Thompson proceed to prepare a stated case.

[6] The two new taxing masters reported that they would not be able to prepare a stated case as they did not have the benefit of the submissions that might have been made to

Mr Thompson during the taxation of the bill and were thus unaware of what informed his decision.

[7] In view of the aforesaid response of the new taxing masters, particularly since the provisions of rule 48 (3) are peremptory, I find that I will not be able to make a decision on this matter without the benefit of a stated case having duly been prepared by the taxing master, as well submissions contemplated in rule 48 (5). As I see it, the only appropriate way to deal with this matter is to make an order for re – taxation of the bill of costs that was taxed on the 27th February 2007

[8] I therefore make the following order.

8.1 The taxation of the bill of costs and the allocator thereof, attended to by the taxing master on the 27th February 2007 is hereby set aside

8.2 The taxing master is ordered to set the matter down for taxation *de novo* within 10 (ten) days from the date of this order and to notify the parties accordingly.

M. B. MOLEMELA, J

On behalf of the Applicants:	Mr J J Maree Schoeman en Maree BLOEMFONTEIN
On behalf of the Defendant :	Mr H L Buchner Honey Attorneys BLOEMFONTEIN

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