

REPUBLIC OF SOUTH AFRICA**IN THE HIGH COURT OF SOUTH AFRICA****(GAUTENG DIVISION, PRETORIA)**

- (1) REPORTABLE: NO
(2) OF INTEREST TO OTHER JUDGES: NO
(3) REVISED:

30 September 2024
DATE


SIGNATURE

CASE NO: 2022/55136

In the matter between:

ROAD ACCIDENT FUND

APPELLANT

and

DESMOND VINCENT HUGO

RESPONDENT

JUDGMENT: APPLICATION FOR LEAVE TO APPEAL

(The matter was heard in open court but judgment is handed down by uploading the judgment onto the electronic file of the matter on CaseLines. The date of uploading the judgment onto CaseLines is deemed to be the date of the judgment)

BEFORE: HOLLAND-MUTER J:

[1] The matter was set down for hearing as an application for default judgement on 18 April 2024. At the hearing the plaintiff (now respondent) informed the court of a notice of intention to defend was emailed to the plaintiff's attorneys' office by the State Attorney's Office after office hours on 17 April 2024. The matter was postponed to 16 May 2024 to afford the now appellant the opportunity to explain why the belated notice of intention to defend was out of time, whether it not amount to an abuse of process and why the belated notice of intention to defend should not be struck.

[2] The matter was argued on 16 May 2024 but the appellant failed/neglected to file or present any evidence by affidavit or orally to explain its belated conduct. Judgement was delivered on 12 August 2024 and the application for leave to appeal is aimed against this judgment. Counsel on behalf of the appellant argued that the appellant is not compelled to explain the belatedness or to move for any condonation for non-compliance with the Rules of Court in general.

[3] Having read the application for leave to appeal, the written heads of arguments, hearing counsel for the parties and taking into account the provisions of section 17(1)(a)(i) and (ii) of the Superior Court Act, 10 of 2013, the court deems it in the interest of justice that the Supreme Court of Appeal (SCA) consider the issue and interpretation of Rule 19(5) of the Uniform Rules of Court.

[4] I am satisfied that my interpretation is judicially sound but the SCA may differ in view of the conflicting interpretation thereof by the parties. I am of the view that the appellant's continued belated filing of notices of intention to defend is nothing more than an attempt to buy time to the detriment of the victims of motor vehicle collisions.

[5] Experience has shown that the present conduct of the appellant results in matters being postponed far in the future, in the Pretoria High Court as far as four years in the future. This seriously impact on the individual victims to have their matters postponed far into the future, in some instances to 2029.

[6] Considering the endless delays caused by the conduct of the Appellant in finalising matters of kind, a uniform interpretation of Rule 19(5) will result in judicial certainty in this regard.

[7] I am therefore of the view that there is compelling reason why the appeal should be heard by the SCA. Leave to appeal to the SCA is granted, costs reserved.

Signed at Pretoria on 30 September 2024.



HOLLAND-MUTER J

Judge of the Pretoria High Court

Date heard: 27 September 2024

Judgment delivered on 30 September 2024

APPEARANCES:

On behalf of the Appellant: Adv J Magodi

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On behalf of the Respondent: Adv P J Vermeulen SC

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