

IN THE LABOUR COURT OF SOUTH AFRICA

HELD AT DURBAN

CASE NO: D338/06

DATE: 19 FEBRUARY 2008

Not reportable

In the matter between

RED CIRCLE SHOE MANUFACTURERS CC

APPLICANT

and

S A C T W U

1ST RESPONDENT

DUDUZILE SIBIYA & 11 OTHERS

2ND TO 13TH RESPONDENTS

BARE TRAPS SHOE MANUFACTURERS CC

14TH RESPONDENT

N B C L I

15TH RESPONDENT

G. ZULU, N.O. (CONCILIATOR)

16TH RESPONDENT

JUDGMENT

19 February 2008

PILLAY D, J This is an application for rescission. The applicant's explanation for, firstly, the delay and the failure to file an opposing affidavit, was that he believed that his former attorney had agreed with the first respondent's attorney to stay the matter pending settlement discussions. The applicant failed to produce an affidavit from the former attorney, or any correspondence to refute the evidence of the applicant's attorney to the effect that there was no agreement

for the stay of pleadings.

As a result of the matter not being properly opposed, it was enrolled on the unopposed roll and judgment was granted by default. The applicant was also remiss in not instructing his former attorney and placing him in funds in good time so that the matter can be properly opposed.

It is, as Mr Moola for the applicant submits, a substantial claim. That being so there was all the more reason for the applicant to be attentive to his responsibilities.

The application for a rescission is dismissed with costs.

Pillay D, J

Date Edited: 23 September

APPEARANCES

ON BEHALF OF APPLICANT :MR A MOOLA – Anwar Moola & Associates

ON BEHALF OF RESPONDENT :MR B PURDON-Brett Purdon Attorneys