



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

Case No. **2024-138494**

1. REPORTABLE: NO
2. OF INTEREST TO OTHER JUDGES: NO
3. REVISED: NO



06 February 2025

In the matter between:

**COMPUTAASIST (PTY) LTD  
PHARMADATA (PTY) LTD T/A PROPHARM  
COMPHARM (PTY) LTD  
KEENLAND (PTY) LTD  
EPHARM (PTY) LTD  
WECARE INDEPENDENT PHARMACY NETWORKS (PTY)LTD**

And

**NICOLAAS JONANNES COETZEE  
CHRISTOPHER COETZEE  
LOUIS COETZEE  
IDEALWEB (PTY) LTD  
NEW LIGHT CO (PTY) LTD  
DRUG COMPLIENZE (PTY) LTD  
HESTER COETZEE**

**Summary: Urgent Application -Uniform Rule of Court 6(12) -Applicants should set forth explicitly the reasons why the matter should be treated urgent-self -created / subjective perceived urgency does not entitle the applicants to urgent relief- application struck from the roll for lack of urgency. The Sanctity of the Urgent Court has to be preserved for matters that are deservingly, lest the Urgent Court would the flooded with matters that are undeserving, self-created /subjective orientated urgency.**

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### **JUDGMENT- EX TEMPORE**

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**YENDE AJ**

[1] The Court continues to give its *ex-tempore* judgment in this matter.

[2] Summary. An application is brought in terms of Rule of Court, Rule 6(1), the applicant should set forth explicitly the reasons why the matter is urgent. Self -created urgency does not entitle the applicants to urgent relief. Application struck from the roll for lack of urgency. The Sanctity of the Urgent Court has to be preserved for matters that are deservingly, lest the Urgent Court would the flooded with matters that are undeserving self-created therefore subjectively orientated urgency.

[3] This Court has consistently refused urgent applications in cases where the urgency relied-upon was subjective urgency, clearly self-created. Consistency is important in this context, as it informs the public and legal practitioners that rules of Court and Practice Directives can only be ignored at a litigant's peril. Legal certainty is one of the cornerstones of a legal system based on the Rule of Law.

[4] The test for urgency was eloquently formulated in *East Rock Trading (PTY) Ltd and Another v Eagle Valley Granite and Another's*<sup>1</sup> where Justice Notshe AJ held that "There import thereof is that the procedure set out in Rule 6(12) is not for taking. An applicant has to set forth explicitly the circumstances which he avers render the matter urgent. More importantly, the applicant must state the reasons

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<sup>1</sup> (11/33767) [2011] ZAGPJHC 196 at par 6.

why he claims that he cannot be afforded substantial redress at a hearing in due course”.

[5] In other words, urgency must be considered together with the issue of whether there will be substantial redress at a later hearing if the matter is not heard on an urgent basis.

[6]. In *Vumatel (Pty) Ltd v Majra and others*<sup>2</sup> the Court in the context of restraints of trade said the following about urgency:

*“I accept that restraints of trade have an inherent quality of urgency. The position comes from the following dictum in Mozart Ice Cream Classic Franchise (Pty) Ltd v Davidoff and another where the court held: ‘I accept that breaches of restraint of trade have an inherent quality of urgency.’”*

[7] The Court in *Vumatel* however added the following<sup>3</sup>:

*“... An urgent restraint of trade application is still nothing else but an urgent application, just like any other urgent application where final relief is sought. The ordinary requirements applicable to such urgent applications must still find application. The fact that one is dealing with a restraint of trade is not some kind of license that in itself establishes urgency, to the exclusion of all other considerations.”*

[8]. In summary, the requirements for an urgent application in general are:

- (a) the applicant has to set out explicitly the circumstances which renders the matter urgent with full and proper particularity;

<sup>2</sup> [2018] 39 ILJ 2771 (LC) at para 4.

<sup>3</sup> At para 5; see also *Ecolab (Pty) Ltd v Thoabala and another* [2017] 38 ILJ 2741 (LC) at para 20.



- (b) reasons must be stated why he/she (believes that he/she substantial redress at the hearing in due course;
- (c) where final relief is sought the court must even be more circumspect to determine whether urgency has been established;
- (d) the urgency must not be self-created; [my emphasis is should never be a subjectively perceived urgency].
- (e) respondent's prejudice as a result of abridgement of prescribed time limits and an early hearing is relevant; and
- (f) more immediate reaction by an applicant by instituting litigation points favourably to urgency<sup>4</sup>.

[9] No litigation was pursued by the applicants on discovering that the respondent has been breaching his fiduciary duties while still at the employment of the Applicant. Worst off, this matter was enrolled on the 3<sup>rd</sup> December 2024. Same postponed to the 4<sup>th</sup> February 2025 without the applicants seeking an urgent or interim relief from the court. Clearly, the fact that the applicant failed to apply for the interim relief on the 3<sup>rd</sup> December 2024 having allowed this matter to the postpone to this urgent court, takes away urgency of this matter.

[10] For all of these reasons and submissions advanced by the applicant together with the respondent's counsel, I am not convinced that the applicant has overcome the threshold prescribed in Rule 6(12) and I am of the firm view that the application ought to be struck from the roll for lack of urgency.

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<sup>4</sup> *Association of Mineworkers and Construction Union and others v Northam Platinum and another* [2016] 37 ILJ 2840 (LC) at paras 20-26, and the authorities cited in it; *Select PPE (Pty) Ltd v Ryan Holmes and Universal Safety Products (Pty) Ltd*, unreported judgment, Labour Court, Case No 115703-2024.

[11] The application therefore falls to be struck from the roll and the costs should follow the suit.

### Order

Accordingly, I make the following order: -

- (1) The applicant's urgent application be and is hereby struck from the roll for lack of urgency.
- (2) The applicant shall pay the respondent's costs for the urgent application including the costs of two counsel wherein employed on scale C.



J YENDE

ACTING JUDGE OF THE HIGH COURT

GAUTENG DIVISION, PRETORIA

*This judgment was prepared by **YENDE AJ**. It is handed down electronically by circulation to the parties/their legal representatives by e-mail and uploaded on Caselines electronic platform and by publication of the judgment to the South African Legal Information Institute. The date for hand-down is deemed **6 February 2025**.*

Appearances:

Advocate for Applicant: Frans Rautenbach

Instructed by: VFV Attorneys

Advocate for Respondent(s): Reinard Michau SC

Appearing with: Gideon van der Westhuizen

Instructed by: Annelie Grundlingh Attorneys

Heard: 6 February 2025

Delivered: 6 February 2025