REPUBLIC OF SOUTH AFRICA

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, JOHANNESBURG

(1) REPORTABLE: ~~YES /~~ NO
(2) OF INTEREST TO OTHER JUDGES: ~~YES /~~ NO
(3) REVISED: ~~YES /~~ NO

24 November 2025 ____ [redacted]

DATE SIGNATURE

CASE NUMBER:2024-048389

In the matter between:

PREMIER CONSULTING SERVICES (PTY) LTD **APPLICANT**

and

MARYNA ESTELLE SYMES N.O. **FIRST RESPONDENT**

GONASAGREE GOVENDER N.O. **SECOND RESPONDENT**

TARSUS SHARED SERVICES (PTY) LTD **THIRD RESPONDENT**

In re the matter between:

MARYNA ESTELLE SYMES N.O. **FIRST PLAINTIFF**

GONASAGREE GOVENDER N.O. **SECOND PLAINTIFF**

TARSUS SHARED SERVICES (PTY) LTD **THIRD PLAINTIFF**

and

PREMIER CONSULTING SERVICES (PTY) LTD **DEFENDANT**

Heard: 28 October 2025

Order: 28 October 2025

Written reasons: 24 November 2025

WRITTEN REASONS

WINDELL J:

***Explanatory note**:* On 28 October 2025 this court removed three interrelated and materially identical Rule 7 interlocutory applications from the roll with costs. These are the reasons. For ease of reference, the parties are referred to as they appear in the actions, namely as plaintiffs and defendants.

Introduction

[1] The Rule 7 applications were launched by the defendants in three actions instituted by the same plaintiffs, Symes N.O. and Govender N.O., in their representative capacities as the joint liquidators of Kings Vision Holdings (Pty) Ltd (in liquidation), together with Tarsus Shared Services (Pty) Ltd ("Tarsus"). Although the Rule 7(1) notices were delivered as far back as November 2023, the interlocutory applications were only issued

on 27 February 2024, shortly before the defendants' exceptions to the particulars of claim were due to be argued on 18 March 2024.

[2] The present action forms part of a broader set of proceedings in which the liquidators seek to recover approximately R39 million from various entities alleged to have received impeachable dispositions or benefits from Kings Vision Holdings (Pty) Ltd prior to liquidation. The defendants are, respectively: The Palace Boutique Hotel (Pty) Ltd (case number 2023-048465), Kelvinview Estate (Pty) Ltd (case number 2023-033529), and Premier Consulting Services (Pty) Ltd (the defendant in the present matter). The same legal representatives appear throughout.

[3] In each action, the first three claims are pursued by the joint liquidators, while the fourth claim (*actio pauliana*) is advanced by Tarsus. The defendants responded by challenging the authority of Tarsus, the liquidators, and AB Scarrott Attorneys to act. In doing so, they raised issues concerning the validity of the indemnity issued by Tarsus, the liquidators' appointment and powers, alleged conflicts of interest in the attorneys' mandates, and the relationship between these proceedings and a pending review and reconsideration application.

[4] As appears from the defendant's heads of argument, the Rule 7 challenges in these matters were prompted by developments in the Garvelli action, a similar matter involving the same plaintiffs and the same legal representatives.[1] In that matter, the defendant, Garvelli (Pty) Ltd ("Garvelli"), raised virtually identical objections to the authority of the liquidators, the authority of AB Scarrott Attorneys, and the validity of the

[1] *Symes N.O and Others v Garvelli (Proprietary) Ltd* Case no: 037126/2023, Gauteng Local Division.

documents on which they relied. The application came before Dlamini J, who, after considering the same liquidators, the same attorneys and the same authority documentation, held that AB Scarrott Attorneys was properly authorised and ordered Garvelli to pay the costs.

[5] Against that backdrop, the chronology in the present matter becomes important. The pleadings in the Rule 7 application closed in April 2024. The plaintiffs filed their heads of argument in December 2024, but the defendants failed to do so. As a result, the plaintiffs set the application down for hearing in the ordinary opposed motion court, where it was removed, and thereafter enrolled in the Insolvency Court. When the defendants still did not file their heads of argument, the plaintiffs brought an application to compel, which was granted in September 2025.

[6] The defendants became aware of the judgment and reasons in the Garvelli matter on 20 June 2025. In the correspondence that followed, the defendants stated that, although they did not agree with the correctness of the judgment of Dlamini J, they would nevertheless proceed on the basis of that judgment. They accepted that, on the approach in Garvelli, the authority dispute was in substance a locus standi issue to be addressed by way of special pleas rather than through Rule 7 and proposed that the interlocutory applications be removed from the roll, with the authority issues to be determined at trial and the costs of the interlocutories to stand over. While several aspects of the correspondence conveyed this position, the most telling passage reads as follows:

"Accordingly, for reasons of practicality, our clients are accepting the approach of the court in the Garvelli judgment that the issues raised by way of the Rule 7 notices should be dealt with by way of special pleas in the action. In other words, the applications in terms of Rule 7 are moot. The issues can be addressed by way of special plea and our clients which have filed pleas in the actions have already raised such issues anyway, ex abundanti cautela".

[7] The plaintiffs did not agree to the defendants' proposal, pointing out that the Rule 7 applications had not been withdrawn and accordingly remained pending and required adjudication. Despite this, the defendants did not withdraw the applications; instead, they persisted with the Rule 7 relief, as is evident from the supplementary affidavit delivered shortly before the hearing on 28 October 2025 and from their own heads of argument. But their continued pendency on CaseLines prevented the matters from being certified trial-ready and delayed the allocation of trial dates. Indeed, the defendants themselves recorded in their heads that the unresolved Rule 7 proceedings were holding up the progression of the actions. The plaintiffs were therefore compelled to enrol the interlocutories in order to remove the procedural impediment created by the defendants' refusal to withdraw applications that no longer served any purpose.

[8] The defendants' supplementary affidavit did not advance any new factual or legal basis for maintaining the interlocutories. It confirmed that, although they continued to dispute the correctness of the judgment of Dlamini J, they would proceed on the basis of that judgment and accepted that the Rule 7 complaints were now raised as special pleas to be determined at trial. Their stance, however, was that if this Court agreed with that approach, the interlocutory applications should simply be removed from the roll. But if the Court declined to remove them, the defendants nevertheless intended to argue the Rule 7 applications and sought to persist in the relief originally prayed for. At the hearing on 28 October 2025, counsel for the defendants accepted that Rule 7 was not the correct

mechanism—as held in Garvelli—but stated that he had no instructions to withdraw the applications. This left the defendants acknowledging that the issues were properly for the trial court, yet insisting that, failing their removal, the interlocutories should still be ventilated in this Court. No substantive justification was offered for persisting with that position in the face of the pleaded special pleas, the Garvelli judgment, the existence of related proceedings, and the defendants' own concessions in their correspondence and papers.

[9] In these circumstances, the Rule 7 applications had become redundant. The defendants had accepted that the authority disputes were to be determined at trial and had already pleaded them as special pleas in the actions. Yet, despite that acceptance, they declined to withdraw the interlocutories, leaving them on CaseLines as unresolved applications that served no purpose and impeded the certification of the matters as trial-ready. The plaintiffs were therefore required to prepare for and attend a hearing brought about solely by the defendants' refusal to withdraw interlocutory applications that were no longer capable of yielding practical relief, thereby incurring wasted costs.

[10] Fairness required that the defendants bear the wasted costs associated with persisting in interlocutory proceedings incapable of providing any practical relief and which, by their continued pendency, obstructed the advancement of the litigation.

[11] For these reasons, the court ordered that the Rule 7 applications be removed from the roll with costs on the party-and-party scale, Scale C.

[redacted]

L WINDELL

JUDGE OF THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, JOHANNESBURG

Delivered: This judgement was prepared and authored by the Judge whose name is reflected and is handed down electronically by circulation to the Parties/their legal representatives by email and by uploading it to the electronic file of this matter on CaseLines.

Appearances

For the applicant:	AC Botha SC
	MH Nieuwoudt
Instructed by:	SIM Attorneys INC.
For the respondents:	G. Amm SC
Instructed by:	A.B. Scarrott Attorneys
Date of Hearing:	28 October 2025
Date of Judgment:	28 October 2025
Written reasons:	24 November 2025