

THE REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION, JOHANNESBURG

CASE NO: 2024-029552

DELETE WHICHEVER IS NOT APPLICABLE

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

.....14/11/2025.....

DATE

SIGNATURE

In the matter between:

**GWM HAVAL FINANCE, A PRODUCT OF WESBANK,
A DIVISION OF FIRSTRAND BANK LIMITED**

Applicant

and

CHRISTINE HLATSHWAYO

Respondent

JUDGMENT

[7] The Respondent argues that the Notice of Exception constitutes a valid response to the Notice of Bar. She relies on pre-2019 authority, notably **Barnes and Another v Kushite Investment Holdings (Pty) Ltd**¹ and **Tuffs Investments 1088 (Pty) Ltd v Sethole and Another**², which supported this practice.

The Legal Framework and Analysis

[8] The resolution of this application turns on the proper interpretation of Uniform Rule 23(1), as amended by GN R1343 on 18 October 2019. The rule provides:

(1) Where any pleading is vague and embarrassing... the opposing party may, within the period allowed for filing any subsequent pleading, deliver an exception thereto... Provided that—

(a) where a party intends to take an exception... such party shall, by notice, within 10 days of receipt of the pleading, afford the party delivering the pleading an opportunity to remove the cause of complaint within 15 days of such notice; and

(b) the party excepting shall, within 10 days from the date on which a reply to the notice referred to in paragraph (a) is received, or within 15 days from which such reply is due, deliver the exception."

[9] The amended rule establishes a strict, two-stage process for exceptions on the ground of vagueness and embarrassment. First, a notice must be given within 10 days of the pleading. Second, the exception itself must be delivered within a further 10 or 15 days. This structure is peremptory. The general window for delivering an exception "within the period allowed for filing any subsequent pleading" is now explicitly conditioned upon compliance with these specific, shorter timeframes.

[10] The Respondent received the combined summons on 7 May 2024. To comply with Rule 23(1)(a), she was obliged to deliver her notice alleging vagueness and embarrassment by 17 May 2024. She did deliver a notice on that date. However, the

¹ [2022] ZAGPPHC 491 (12 July 2022) at paragraphs [16]–[18]

² [2016] ZAGPPHC 653 (4 August 2016) at paragraphs [25]–[26]

cause of complaint was not removed, and the dies for delivering the actual Exception expired on or about 1 June 2024 (15 days from 17 May).

[11] The Respondent's Notice of Exception on 18 July 2024 was therefore delivered more than a month after the Rule 23(1)(b) deadline had expired, and well outside the "period allowed for filing any subsequent pleading," which was the 20-day period from the Notice of Intention to Defend.

[12] I now turn to the Respondent's primary defence: that the Exception is a valid response to the Notice of Bar. The authorities cited by the Respondent are, with respect, no longer applicable. The judgments in *Barnes* and *Tuffsan* were decided under the pre-amendment Rule 23, which lacked the specific and peremptory timeframes now in force.

[13] The post-amendment jurisprudence is clear and contrary to the Respondent's position. In *Hill NO and Another v Brown*³, Rogers J held unequivocally that a Notice of Exception is not a pleading and that the amended rule requires a defendant to take a prompt view. The court set aside a late-filed exception, stating that the defendant's remedy was to apply to uplift the bar. This reasoning was emphatically endorsed in **Floorworx Africa (Pty) Ltd v Mazars (Gauteng) Inc and Others**⁴, where the court stressed that strict compliance with the amended rule is required and that a late exception is an irregular step.

[14] I am in full agreement with this line of authority. The 2019 amendment was a deliberate legislative intervention to curb the very practice the Respondent seeks to employ: using an exception as a tactical measure after failing to adhere to the timelines for pleading. To permit this would be to read the peremptory language of Rule 23(1) out of the Rulebook.

[15] The Respondent's failure to seek condonation for this late filing compounds the irregularity. Her contention that the exception is meritorious is, as held in *Floorworx*,

³ [2020] ZAWCHC 61 (3 July 2020) at paragraphs [10]–[12]

⁴ [2023] JDR 2458 (GP) at paragraphs [54]–[63]

irrelevant to the Rule 30(1) enquiry. The merits of the exception are a separate question to be ventilated in a proper application for condonation and upliftment of the bar, should the Respondent choose to bring one.

Prejudice

[16] The Applicant is entitled to have its case adjudicated without undue delay. The Respondent's delivery of a late Exception, after having already failed to plead, has stalled these proceedings for months. This constitutes clear prejudice.

Conclusion

[17] For these reasons, the Respondent's Notice of Exception dated 18 July 2024 was delivered in breach of the peremptory provisions of Uniform Rule 23(1) and constitutes an irregular step.

Order

[18] I accordingly make the following order:

1. The Respondent's Notice of Exception dated 18 July 2024 is set aside as an irregular step.
2. The Respondent is to pay the costs of this application on a party and party scale B.



NKOENYANE AJ
ACTING JUDGE OF THE HIGH COURT
GAUTENG LOCAL DIVISION,
JOHANNESBURG

Date of Hearing: 08 September 2025

Date of Judgment: 14 November 2025

Appearances:

For the Applicant: KM Boshomane

Instructed by: Rossouws, Leslie Inc.

For the Respondent: Samuel M. Ndobe

Instructed by: Ndobe Inc. Attorneys