

REPUBLIC OF SOUTH AFRICA



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

Case Number: 2025-003936

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

DATE: 3 February 2026

SIGNATURE OF JUDGE:



In the matter between:

STEPHANUS JOHANNES GROBLER

1st Plaintiff

STEPHANUS JOHANNES GROBLER N.O.

2nd Plaintiff

(In his capacity as trustee of the Stephan Grobler Trust

with Trust No: IT 1699/93(T)

and

**THE MINISTER OF FINANCE OF THE REPUBLIC OF
SOUTH AFRICA**

1st Defendant

THE SOUTH AFRICAN RESERVE BANK

2nd Defendant

JUDGMENT

Klopper, AJ

INTRODUCTION:

- [1] This matter becomes before court on exception. Although the background facts are common cause, it is necessary to briefly refer to the chronology of events that led to the current application.
- [2] On 15 January 2025, the Plaintiffs delivered a combined summons, supported by a particulars of claim wherein the Plaintiffs seek an order reviewing and setting aside decisions, which were allegedly taken by the Second Defendant. The Second Defendant (the South African Reserve Bank) delivered an exception to the Plaintiffs' particulars of claim on 13 March 2025. The exception, delivered in terms of Uniform Rule 23(1) of the Uniform Rules of Court (*"the rules"*), was taken on the basis that the particulars of claim lack averments necessary to sustain a cause of action.
- [3] Without specifically conceding that the exception is good, the Plaintiffs responded on 10 July 2025, by filing a notice of intention to amend their particulars of claim in accordance with rule 28(1) of the rules in which they tendered the cost occasioned by the amendment.
- [4] On 24 July 2025, the Plaintiffs objected to the proposed amendment in terms of rule 28(3) of the rules.
- [5] On 7 August 2025, the Plaintiffs filed an application to amend their particulars of claim and to join further parties to the action instituted by the Plaintiffs on 15 January 2025.
- [6] On 14 August 2025, the Second Defendant together with Kuben Naidoo N.O., Andre Malherbe N.O and Nomfundo Tshazabana N.O., filed a notice to oppose the application. Kuben Naidoo N.O., Andre Malherbe N.O and Nomfundo

Tshazabana N.O., are the three parties which the Plaintiffs seek to join as Defendants to the action instituted by the Plaintiffs.

- [7] On 11 September 2025, the Second Defendant together with Kuben Naidoo N.O, Andre Malherbe N.O and Nomfundo Tshazabana N.O. filed their answering affidavit to the Plaintiffs' application.
- [8] On 16 October 2025, the Plaintiffs filed their replying affidavit.
- [9] The Plaintiffs application for leave to amend its particulars of claim and to join further parties to the action, has not as yet been set down for hearing and remains pending.
- [10] However, on 2 October 2025 the Second Defendant filed a notice of set down of the Second Defendant's exception filed on 13 March 2025.

DISCUSSION OF FACTS AND LEGAL POSITION:

- [11] The application for leave to amend the particulars of claim and to join further parties to the action, inevitably raise new issues for the court to decide.
- [12] The mere fact that the Plaintiff deemed it necessary to amend its original particulars of claim, cries out *prima facie* as a concession that the exception has good merit. The existence of an application for leave to amend does not necessarily take away the exception.
- [13] Notably, in response to the excipient's (Second Defendant) submission that the Plaintiff failed to tender the cost of the exception, counsel for the Plaintiffs submitted that the Plaintiff's intention, when it tendered the cost occasioned by the amendment of its particulars of claim, was that same was to also include the cost of the exception. However, the tender failed to specifically include the cost of the exception.
- [14] Accordingly, I make the following order:
 - 1. The exception filed by the Second Defendant is upheld with cost, including the cost occasioned by the employment of two counsel to be taxed on scale C;

2. The Plaintiff is granted leave to proceed with its application to amend its original particulars of claim.



JA KLOPPER
ACTING JUDGE
HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

This Judgment was handed down electronically by circulation to the Plaintiff's legal representatives and the Defendants by email and by being uploaded to CaseLines. The date and time for the hand down is deemed to be on 3 February 2026

Appearances

Counsel for the Excipient: Adv NGD Martiz SC
Adv Majozi

Instructed by: Boman Gilfillin Inc

Appearance for Plaintiff: Adv JD Maritz SC
Adv PL Uys

Plaintiffs' attorneys: Savage Jooste & Adams Inc

Date of Hearing: 7 November 2025

Date of Judgment: 3 February 2026

