



THE LABOUR COURT OF SOUTH AFRICA, CAPE TOWN

Case No: 2025-107838
2025-123726

In the matter between:

QAQAMBA NDIBI

Plaintiff

and

NETCARE BLAAUWBERG HOSPITAL

Defendant

Heard: 3 March 2026

This judgment was handed down electronically by circulation to the parties' legal representatives by email, publication on the Labour Court website and release to SAFLII. The date and time for handing down judgment is deemed to be 10h00 on 4 March 2026.

JUDGMENT

DE KOCK, AJ

Introduction

- [1] The Plaintiff filed a statement of claim in case number 2025-107838 (a dispute regarding unfair discrimination – victimization) and another statement of claim in case number 2025-123726 (a dispute about an alleged automatic unfair dismissal). The Defendant filed various applications in both matters in respect of exceptions and notices to remove causes of complaint. The Plaintiff, in reaction to the applications, filed an amended, combined statement of claim without complying with Rule 20 of the 2024 Labour Court Rules. This led to yet further applications filed by the Defendant regarding an irregular step and applications to set aside the amended, combined statement of claim. The Defendant requested that the applications be set down and both parties presented their respective submissions to the Court on 3 March 2026.
- [2] The Court must express its dissatisfaction with the manner in which the said two disputes have been prosecuted to date. The Plaintiff, as an unrepresented litigant, filed two statements of claim which fell short of the requirements of Rule 11. In response, the Defendant literally opened the floodgates with various notices of exceptions, notices to remove causes of complaint, notices of irregular steps, and other similar applications.
- [3] The Plaintiff, in an attempt to resolve the various applications and in response thereto, filed an amended, combined statement of claim and later an updated amended, combined statement of claim. Once again, this resulted in the Defendant filing various further notices in an attempt to have the amended, combined statement of claim set aside due to non-compliance with Rule 20. The Defendant thereafter filed a notice of enrolment, which led to the applications being set down for 3 March 2026. The pleadings filed in both referrals are numerous and most unfortunate. It is therefore necessary for this Court to give effect to the interests of justice of both parties and the objective of speedy and effective resolution of labour disputes in determining the various applications.

Notices of Exception, Notices to Remove Cause of Complaint and Applications to Set Aside

- [4] This Court accepts, based on the Plaintiff's reaction to the various notices in filing an amended, combined statement of claim, that the Defendant was justified in filing the initial notices. The issue to be determined therefore is whether there are merits to the subsequent notices of an irregular step and the application to set aside the amended, combined statement of claim, which was filed without complying with Rule 20.
- [5] The Court takes note that the Plaintiff is representing herself. The Plaintiff was of the view, since the Defendant had not filed their statements of response and based on the applications filed that she was entitled to file the amended, combined statement of claim without complying with Rule 20.
- [6] Had the amended, combined statement of claim, and later an updated amended statement of claim been properly drafted in terms of Rule 11, this Court would have been inclined to condone the Plaintiff's failure to comply with Rule 20 and would have directed the Defendant to file their statement of response.
- [7] The amended, and later updated combined statement of claim, however, are still not sufficiently drafted in compliance with Rule 11 and even if this Court was to condone the non-compliance with Rule 20, this will probably result in yet further applications. It is not in the interest of justice, or in the interests of the parties and this Court to allow these two matters to continue in a similar manner as was the case to date.
- [8] This Court is of the view that the application for the amended, combined statement of claim to be set aside must be granted. The Court is of the further view that the Plaintiff must be afforded a further opportunity, after having sought advice and taking into consideration the various concerns raised by the Defendant to date, to file a further consolidated statement of claim in respect of both referrals. Once the statement of claim is filed, the Defendant will be required to comply with the Rules by filing a statement of response within the time frames as prescribed by the Rules. Although the Defendant still has the right to file further applications for *inter alia* exception after having been served with the statement of claim, the Defendant

should carefully consider whether such further applications will be in the interest of justice given the fact that the Plaintiff is not a legal representative and appearing in person.

Conclusion

[9] For the reasons set out above, this Court grants the Defendant's application for the amended, updated statement of claim to be set aside subject to the orders made below. The Court has considered the Defendant's application for the Plaintiff to be ordered to pay the costs of the numerous applications described above. This Court is not of the view that the Plaintiff's actions were frivolous and vexatious and finds that it is not in the interest of law and fairness to make any order as to costs.

[10] In the premises, the following order is made:

Order

1. The application for the setting aside of the amended, updated statement of claim is granted.
2. The two disputes referred to the Labour Court under case numbers 2025-107838 and 2025-123726 are herewith consolidated.
3. The Plaintiff must file a consolidated statement of claim within 15 days of the date of this order. The Plaintiff must upload the statement of claim afresh and allow the Court Online Portal to create a new case number. The new case number will be used for the further exchange of pleadings in respect of both disputes referred under case numbers 2025-107838 and 2025-123726.
4. The Plaintiff is directed to comply with Rule 11 of the 2024 Labour Court Rules in filing the statement of claim. More specifically, the Plaintiff must provide a clear and concise statement of the material facts, in chronological order, on which she relies, in sufficiently particular terms to enable the Defendant to plead to the statement of claim; as well as a clear and concise statement of the legal issues that arise from the material facts, in sufficiently

particular terms to enable the Defendant to plead to the statement of claim. The Plaintiff is also directed to ensure that the statement of claim is accompanied by a schedule listing the documents that are material and relevant to her claim.

5. The Defendant is directed to comply with Rule 12 and 13 of the 2024 Labour Court Rules, within the time frames stated therein, as from the date on which the statement of claim was filed.
6. No order is made as to costs in respect of the Defendant's various applications and notices.



C. de Kock

Acting Judge of the Labour Court of South Africa

Appearances:

For the Plaintiff:

In Person

For the Defendant:

H Nieuwoudt

Instructed by:

V Reddy

From:

Norton Rose Fulbright South Africa Inc.