IN THE HIGH COURT OF SOUTH AFRICA

(WESTERN CAPE DIVISION, CAPE TOWN)

JUDGMENT

Case No: 7976/2024

In the matter between:

THE MINISTER OF FORESTRY, FISHERIES	First Applicant
DEPUTY DIRECTOR-GENERAL: FISHERIES MANAGEMENT	Second Applicant
KHUMO SH MORAKE-MAKHELEMELE N.O.	Third Applicant
THOSE 76 CATEGORY A RIGHT HOLDER INDUSTRY RESPONDENTS NAMED IN APPENDIX 1 TO THE NOTICE OF MOTION	Fourth Applicant

and

SIYABONGA FISHING (PTY) LTD	Respondent

Date of hearing:	**19 February 2026**
Further submissions:	**25 and 27 February 2026**
Date of judgment:	**12 March 2026 [Electronically]**

JUDGMENT

HOLDERNESS, J

[1] This court's common law inherent discretion to suspend execution of an order is fettered only by the limitation that such discretion must be exercised judicially, that is not capriciously but based upon a proper consideration of relevant factors and the employment of sound legal principles.[1]

[2] The first and second applicants, organs of state,[2] and the third applicant (collectively 'the applicants') seek an order that, pending the determination of the relief in Part B of the application, the rescission and setting aside of the allocaturs granted on 6 February 2026 in respect of the respondent's attorney's bill of costs,[3] the enforcement of the two allocaturs granted on 6 February 2026 by the Taxing Master (the allocaturs) be stayed.

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[1] *Newnet Properties (Pty) Ltd t/a Sunshine Hospital v The Road Accident Fund* (unreported, SCA case no 1150/2023 dated 14 March 2025) at paragraph [25].
[2] See section 239 of the Constitution, 1996 which reads, '**'organ of state'** means-
(a) any department of state or administration in the national, provincial or local sphere of government; or
(b) any other functionary or institution-
(i) exercising a power or performing a function in terms of the Constitution or a provincial constitution; or
(ii) exercising a public power or performing a public function in terms of any legislation…'
[3] Under the common law principles governing the rescission of default taxations, *alternatively* under the court's inherent jurisdiction in terms of section 173 of the Constitution of the Republic of South Africa, 2006.

Essential facts

[3] On 11 November 2024, this court[4] granted a costs order, on a party and party scale, against the first and second applicants, including counsel's fees at scale C.

[4] On 21 January 2025, the respondent served a notice to tax the bills of costs in respect of its instructing attorney's fees only.

[5] The applicants opposed the taxation of the instructing attorney's bill of costs, filing a list of objections totalling R 1 035 000.

[6] The main objections were as follows:

(a) R323 046 for printing the 53 841-page record. The applicants contended that the record was supplied electronically and there was accordingly no reason to print it.

(b) R207 968 for perusing the 53 841-page record. The respondent contended that it had spent 134 hours perusing the record. The applicants objected as there were no supporting notes to confirm that the respondent had read and understood the record.

(c) R376 887 for printing the 53 841-page record for counsel. The applicants argued that as counsel had confirmed that no supplementary affidavit was needed, there was no need to print the record afresh. Moreover, it contended

[4] Per Mangcu-Lockwood J.

that the contention that 180 lever arch files would have been delivered to counsel was ‘unrealistic and overreaching’.

(d) R26 688 charged for time spent sorting and compiling counsel’s records, for the reasons set out above.

(e) R31 694.50 in relation to various items on the respondent’s bills of costs which were only chargeable if the costs award was on the scale as between attorney and own client, or attorney and client. These included but were not limited to perusal fees, consultations, electronic service of documents, drafting fees and research charges. In some instances, the objection was to remove the charge in its entirety, and in others it was to reduce the amount charged.

[7] The applicants furthermore disputed R17 885 in fees and R750 in disbursements in the correspondent attorney’s bill of costs. The objectionable items included duplicated perusal fees, excessive court attendances for postponements and fees for items which were not allowable as party and party costs.

[8] The respondent replied to the applicants list of objections on 6 March 2025.

[9] On 21 October 2025, the taxation was set down for hearing and proceeded before the Taxing Master on such date (“the first taxation proceedings”). Mr. Yusuf Davidson (“Mr. Davidson”) attended the taxation on behalf of the applicants, in his capacity as an admitted attorney practising at Paulse Davidson & Associates. Mr. Bernard Kramer (“Mr. Kramer") attended the hearing on behalf of the respondent.

[10] Two procedural issues were raised at the first taxation proceedings, by Mr. Kramer and Mr. Davidson respectively:

(a) Mr. Kramer disputed Davidson's authority to represent the applicants, but the taxation proceeded nonetheless in accordance with the provisions of Rule 70(4).

(b) Mr. Davidson disputed that the correspondent attorneys bill of costs had been properly set down. The Taxing Master upheld Davidson's objection and ruled that correspondent attorneys bill of costs was not ripe for hearing on that day.

[11] By the end of the first taxation proceedings, neither party had fully ventilated their submissions in respect of the instructing attorneys bill of costs. The instructing attorney's bill of costs was only taxed up until item 123 of item 263. Notably, the 'big ticket' items referred to above had not been argued yet, and the parties were yet to make submissions in relation to the correspondent attorney's bill of costs.

[12] So much for the common cause facts. The central disputed allegations are whether the part heard during taxation was postponed by agreement to 6 February 2026, and no notice of set down was accordingly required, or whether the further date for the part heard during taxation was to be confirmed thereafter.

[13] According to Mr. Davidson, who deposed to the founding affidavit on behalf of the applicants, the parties in conjunction with the Taxing Master

deliberated about alternative dates for the further hearing of the taxation. On Mr. Davidson's version, the proceedings were adjourned provisionally to 6 February 2026, subject to his confirmation of his availability.

[14] On the respondent's version, the first taxation proceedings were adjourned to 10h00 on 6 February 2026 regardless of Mr. Davidson's availability, as this was the Taxing Master's first available date.

[15] No correspondence followed between the parties thereafter. A notice of set down was not served in respect of either bill of costs, in particular, in respect of the taxation of the correspondent attorney's bill of costs, as it had not yet been properly enrolled.

[16] The taxation proceeded on 6 February 2026 (the second taxation proceedings). Mr. Kramer appeared before the Taxing Master. Twenty minutes into the proceedings, Mr. Kramer called Mr. Davidson. According to the evidence of Mr. Davidson, this was the first time he became aware of the taxation.

[17] Mr. Kyle Vermooten of Kaplan Blumberg Inc, the attorneys of record for the respondent, who deposed to the answering affidavit, stated that *'Mr. Davidson seemingly had no idea about this adjournment date and took great issue with the fact that no notice of set down was served on him, the Applicants or the State Attorney.'* This was confirmed in an affidavit by Mr. Kramer.

[18] The Taxing Master overheard the telephonic conversation between them and heard Mr. Davidson asked why no notice of set down had been served on him. Mr. Kramer denied that one was needed because of the adjournment.

[19] At this juncture, Mr Davidson asked to speak to the Taxing Master. Mr. Kramer refused. After the call with Mr. Kramer, Mr. Davidson attempted to call the Taxing Master, but there was no answer. The taxation continued in the absence of the applicants, and the Taxing Master proceeded to hear oral submissions from Mr. Kramer.

[20] Mr. Davidson arranged for a member of his office, Ms Shanya Hemraj (Ms. Hemraj) to attend the taxation in his stead. It is not disputed that Ms. Hemraj is an admitted legal practitioner and would have been able to make submissions to the Taxing Master.

[21] On 6 February 2026 at 10h34 Mr. Davidson's office emailed both taxing masters of this division, Mr. Anathi Malindi ("Mr. Malindi"), who was presiding over the taxation in question, and Ms. Franschesca Cilliers, advising that Ms. Hemraj was en route to attend the taxation, and was stuck in traffic.

[22] Ms. Hemraj arrived at court at approximately 10h55.[5] Upon her arrival the Taxing Master informed her that the taxation was finalised. He had granted the allocaturs, which were being completed by Mr. Kramer at the time. The Taxing Master refused to allow Mr. Hemraj to make submissions or to have the matter re-enrolled.

[23] According to Mr. Kramer, the taxation, continued for more than an hour after he called Mr. Davidson, which would have been at approximately 10h20. As pointed out by the applicants, this cannot be as Ms. Hemraj arrived at Court

[5] This is confirmed by a parking ticket with this time stamp.

35 minutes later and the taxation had already been concluded by the time she arrived.

[24] Ms. Hemraj states that she called Mr. Jared Poole ("Mr. Poole"), another member of Mr. Davidson's office, after her discussion with the Taxing Master to convey the outcome of her discussions. Their call log is time stamped 10:59.

[25] The correspondent attorney's and the instructing attorney's allocaturs were endorsed by the Taxing Master on 6 and 8 February 2026 respectively.

[26] On 9 February 2026, the respondent's attorney, Mr. Vermooten, sent the applicant's attorney of record, Ms Aayesha Hoosain ("Ms. Hoosain") of the Office of the State Attorney a letter demanding that the applicants pay the amounts of R1 257 825.86; and R48 657.02, in a total amount of R1 306 482.88 within seven calendar days, i.e. on or before 16 February 2026. They advised that their instructions are to proceed immediately with recovery steps if payment was not received by the above deadline.

[27] Ms. Aspeling, who appeared on behalf of the applicants, submitted that this import of this letter was clear - if the applicants did not pay the amount claimed by 16 February 2026, the allocaturs, under cover of the order granted by Mangcu-Lockwood J in November 2024, would *immediately* be presented to the registrar for a writ to be issued.

[28] Ms. Hoosain replied on 11 February 2026, advising that her office had been instructed to launch a rescission application. She requested the respondent to provide a written undertaking, that it would not issue a writ of execution or take any steps to enforce the allocaturs, and that no recovery steps would be

instituted pending the final determination of the rescission application, to *avoid unnecessary urgency and further costs.*

[29] On 12 February 2026, Mr. Vermooten replied advising *inter alia* that as the applicants have *'no reasonable prospect of success and given the extreme prejudice our client has already suffered in this matter, we decline to provide you with the requested undertakings'.*

[30] The applicants launched these urgent proceedings on 16 February 2026, the day when the respondent's demand expired.

Locus standi

[31] The respondent contended that notwithstanding the fact that the application was brought by the State Attorney (Ms. Hoosain signed the notice of motion and it was brought by the State Attorney on behalf of the applicants), the party which in fact brought the application was BriefCo (Pty) Ltd ("*BriefCo*"). In this regard the applicants place reliance on an email from BriefCo attaching the application, in which Mr. Davidson state that BriefCo has been assisting the State Attorney in the taxation of the matter.

[32] Ms. Aspeling, submitted that this point in *limine* is without merit. The SCA have endorsed the long-standing authority that he simply needs to have first-hand knowledge of the facts deposed to in the affidavit and be able to swear to the truthfulness thereof.[6]

[6] See *Masako v Masako and Another* 2022 (3) SA 403 (SCA) at paragraphs 10 and 11; applied in this division in *Sabi River Share Block (Pty) Ltd t/a Sabi River Sun Resort v Gold Data Holdings (Pty) Ltd* (22755/23) [2025] ZAWCHC 298 (21 July 2025) at paragraphs 92-96.

[33] In *casu* Mr. Davidson deposed to the founding affidavit as a witness to the facts arising from his personal attendance at the taxation on 21 October 2025 and his direct involvement in the events of 6 February 2026.

[34] Ms. Hossain of the State Attorney's offices have been actively involved in these proceedings. She deposed to a confirmatory affidavit on 16 February 2026, the date on which the application was launched, in which she confirmed that she was duly authorised to institute and conduct these proceedings on behalf of the first to third applicants in her capacity as Assistant State Attorney. She further confirmed the contents of the founding affidavit insofar as they related to matters within her personal knowledge and to matters derived from the official records of the State Attorney's Office.

[35] Ms. Hoosain also deposed to the affidavit filed in opposition to the application for leave to admit the affidavit of the Taxing Master, Mr. Malindi and confirmed in an email dated 18 February 2026 that *'BriefCo and its law firm, Paulse Davidson and Associates, have the instructions and mandate of the OSA Cape Town, to continue with the urgent application being brought tomorrow.'*

[36] It cannot be disputed that Mr. Davidson, who the respondent conceded is a practising attorney and a legal practitioner, duly registered with the Legal Practice Council, was instructed to oppose the taxation of the bills of costs of the respondent. The respondent does not appear to challenge his authority to act as the first to third applicants' cost consultant or attorney in respect of attending and opposing the taxations.

[37] Nevertheless, Mr. Davidson is not the attorney who has instituted or prosecuted these proceedings. It follows that he requires no authority on this score either.

[38] It is clear that it was the State Attorney, and not BriefCo, who instituted these proceedings. If the respondent wished to challenge the authority of the attorney instituting the proceedings, it ought to in any event have availed itself of Rule 7, which it did not do.[7]

[39] In the circumstances in my view there is no merit to the legal standing or authority points raised *in limine*.

Urgency

[40] Uniform Rule 6(12)(b) enjoins an applicant who seeks relief on an urgent basis to set forth '*explicitly the circumstances which is averred render the matter urgent and the reasons why the applicant claims that applicant could not be afforded substantial redress at a hearing in due course.*'[8]

[41] These circumstances must also justify the extent of the deviation from the forms, manners of service and timelines as provided for in the Uniform Rules of Court.

[42] The Urgent Application was served on Monday, 16 February 2026 at 16h24 via email only, with a deadline for the filing of an answering affidavit by

[7] *PM v MM and Another* 2022 (3) SA 403 at paras 10 to 13 and the authorities there cited.
[8] *Luna Meubel Vervaardigers (Edms) Bpk v Makin and Another (t/a Makin's Furniture Manufacturers)* 1977 (4) SA 135 (W) at 137E – G.

18 February 2026 and a hearing date of 19 February 2026 – approximately 48 hours later.

[43] In support of the respondent’s case for urgency, Mr Davidson states that ‘*in law, an endorsed allocatur is immediately executable without further judicial intervention.*’

[44] Ms. Van Wyk, who appeared on behalf of the respondent, argued that; this is patently misleading and unsubstantiated in fact and law, as section 3 of the State Liability Act, 20 of 1957 (“the SLA”), prohibits the issuing of a writ of execution in respect of a final order for monetary relief against the State before the expiry of at least 30 days of the date of the order becoming final and executable.

[45] It is so that an *allocatur* is proof of the amount of a party’s liability for costs (as opposed to proof of liability), and that it fixes the costs so that execution can be levied on the court order in terms of which the costs were granted.[9] As such, along with the underlying Court Order granted in the Review Application, the *allocaturs* became equivalent to a final court order sounding in money, as contemplated by section 3 of the SLA.

[46] The respondents had not taken any steps to execute on the *allocaturs* at the time the application was brought. The earliest the writ could be issued is mid-March 2026.

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[9] See the recent judgment of Miller AJ in this division in *Shawzin v Tollman NO and* Another 2026 JDR 0177 (WCC) at par 63 (*Shawzin)*.

[47] To the best of my recollection, this was not raised at the hearing and was raise for the first time in the respondent's post-hearing written submissions.

[48] It appeared from the correspondence addressed by the respondent's attorney the day after the taxation that it intended to 'immediately' execute the costs order per the allocatur, notwithstanding the provisions on the SLA and the fact that as at the date proceedings were instituted it had not (nor could have) proceeded with a writ.

[49] Moreover, neither the applicants' nor the respondent's attorneys raised the provisions of the SLA in correspondence before the proceedings were launched. They both appear to have been acting under the misapprehension that execution could proceed without further ado.

[50] I accept that during the period from 6 to 12 February 2026, in seeking to obtain an undertaking that the respondent would not execute pending the applicants bringing an application for rescission, the applicants acted reasonably and took steps to avoid this application having to be brought, with the attendant costs and further delays.

[51] The applicants however have failed to explain why, when the respondent refused to provide such undertaking, they did not launch this application but waited four days, and then only afforded the respondent forty-eight hours to reply.

[52] The matter has been dealt with on the merits as the urgency was not opposed on this basis at the hearing and both parties have subsequently incurred significant costs in filing detailed (and most helpful) written submissions. It is

accordingly in the interests of justice that the matter is not struck from the roll for want of urgency. The issues regarding urgency will however be factor which I consider in determining an appropriate costs order.

Test for stay of execution

[53] In terms of Rule 45A a court, 'may', on application, suspend the operation and execution of any order for such period as it may deem fit. The Rule affords a

court a wide discretion, to be exercised judicially.[10]

[54] The Court is called to consider what real and substantial justice requires in the circumstances, and in appropriate circumstances may be guided by factors usually applicable to interim interdicts.[11]

[55] As elucidated by Lekhuleni J in *R.A v F.A*[12], in considering an application for a stay, the guiding principle is the interest of justice. The court will generally grant a stay of execution where real and substantial justice requires such a stay or where real injustice would otherwise be done or caused.[13] An applicant must establish that he has a *prima facie* right that he wants to protect in the main action.

[10] *R.A v F.A* [2024] ZAWCHC 35 para 19; and authorities discussed there.
[11] *Van Rensburg and Another NNO v Naidoo and Others NNO; Naidoo and Others NNO v Van Rensburg NO and Others* 2011 (4) SA 149 (SCA); *Stoffberg N.O and Another v Capital Harvest (Pty) Ltd* (2130/2021) [2021] ZAWCHC 37 para 26
[12] *R.A v F.A* supra at para 20.
[13] See also *Strime v Strime* 1983 (4) SA 850 (C) at 852A.

[56] The court in *Gois t/a Shakespeare's Pub v Van Zyl*[14] summarised the general principles for the granting of a stay in execution as follows:

> '(a) A court will grant a stay of execution where real and substantial justice requires it or where injustice would otherwise result.
>
> (b) The court will be guided by considering the factors usually applicable to interim interdicts, except where the applicant is not asserting a right, but attempting to avert injustice.
>
> (c) The court must be satisfied that:
>
> (i) the applicant has a well-grounded apprehension that the execution is taking place at the instance of the respondent(s); and
>
> (ii) irreparable harm will result if execution is not stayed and the applicant ultimately succeeds in establishing a clear right.
>
> (d) Irreparable harm will invariably result if there is a possibility that the underlying causa may ultimately be removed, i.e. where the underlying causa is the subject matter of an ongoing dispute between the parties.
>
> (e) The court is not concerned with the merits of the underlying dispute — the sole enquiry is simply whether the causa is in dispute.'

[57] The mere fact that the taxation is under review (or that an order will be sought for the recission thereof) does not suffice.[15]

***Bona fides* and explanation of default**

[14] 2011 (1) SA 148 (LC) at 155H – 156B.
[15] *Shawzin* at para 76.

[58] Mr. Davidson has given a detailed explanation for his failure to appear at the second taxation proceedings.

[59] Annexed to his founding affidavit is a note which he took at the first taxation proceedings[16]. In this note he records, *inter alia,* that: '*Bernard was to argue about Rule 53 record today. Not enough time. Matter part heard. I'm not here in December. They want to hear it in Feb 2026, but I may not be here because of training. We will all confirm date next year.'*

[60] Mr. Davidson emphasised that at no stage after 21 October 2025 did the respondent seek to challenge, vary or revisit this 'ruling'.

[61] There is clear factual dispute in this regard. Mr. Vermooten's response is that the date of 6 February 2026 was 'expressly agreed to between Mr. Kramer and Mr. Davidson in the presence of the Taxing Master.'

[62] The respondent sought to leave to deliver a further affidavit by Mr. Malindi in this regard, which confirms the respondent's version. The application was opposed by the applicants.

[63] I have considered the application and in my view the affidavit is germane to the issues to be decided by this court and ought to be admitted. [17]

[64] I am mindful of the fact that the Taxing Master's evidence confirms that led on behalf of the respondent regarding the agreement to postpone the

[16] There is no written transcript of the proceedings.
[17] *De Kock v Du Plessis* (284/2-23) [2024] ZASCA 117 (27 July 2024) at para 24.

taxation to 6 February 2026, however this alone is not decisive of whether good cause has been shown.

[65] I cannot simply ignore the contents of Mr. Davidson's note, nor the fact that he was not available on 6 February 2026 and is accordingly unlikely to have agreed to a postponement to that date (he sent Mr. Hemraj in his stead).

[66] What the parties do agree on is that Mr. Davidson was by all accounts unaware that the taxation was to proceed on such date.

[67] Mr Davidson's conduct when he was contacted by Mr. Kramer and asked where he was supports his version in this regard. He tried to speak to the Taxing Master and sent a colleague to attend on his behalf. Mr. Kramer and Mr. Malindi were both aware that he intended to oppose the taxation and he had already filed detailed objections thereto.

[68] I accept that it was not the responsibility of Mr. Kramer nor Mr. Malindi to remined Mr. Davidson of the remanded date, although as a matter of collegiality it perhaps was preferable for them to do so. However, by proceeding in his absence they deprived him of his right to be heard, to the significant prejudice of the applicants, who are state functionaries and who rely solely on public funds.

[69] The taxation could have been postponed and the applicants held liable for the wasted costs occasioned thereby, if it was not possible for the taxation to stand down until Ms Hemraj arrived at court.

[70] Notably, neither Mr. Kramer nor Mr. Malindi provided an adequate explanation as to why the matter could not stand down further, particularly in circumstances where, according to Mr. Malindi's evidence, two hours were reserved for the taxation, i.e. from 10h00 until 12h00.

[71] It is clear from all the facts before me that at all times Mr. Davidson held instructions to oppose the taxation in respect of the remaining items on both bills. The amounts claimed are not insignificant and the grounds for opposition have been set out and *prima facie* appear to have some prospect of success. The applicants have a right to have their objections heard.

[72] Even if Mr. Davidson was mistaken and was not entitled to be further notified of the postponed date, his mistake should not, in the circumstances of this case, deprive the applicants of such right to their prejudice. To my mind this would be manifestly unjust.

[73] In all the circumstances I am satisfied that the applicants have shown good cause, provided a reasonable explanation for the default and shown that the application is brought on *bona fide* grounds and that they have a *bona fide* defence which *prima facie* holds prospects of success.

[74] I am further satisfied that applicants have met the further requirements for an interim interdict. If the stay is not granted, the applicants face the risk of having their assets attached or having to disburse R1 306 482.88 in public funds.

[75] If the allocatur is enforced and the rescission application is successful, the respondent would have received approximately R1 million more than it was entitled to, and the applicants would have to then recover these funds from a private litigant – the prospects of recovery being uncertain, time consuming and costly.[18]

[76] The only alternative remedy available to the applicants, an undertaking was refused.

[77] Lastly, I am satisfied that the temporary delay in the payment of the respondent's costs in terms of the bills of costs is outweighed by the potential prejudice to the applicants if their public funds are paid out prematurely and subsequently found not to be due and cannot be recovered.

[78] Having said all of that, Mr. Davidson's failure to, at the very least, make the necessary enquiries regarding the new date if indeed he was mistaken regarding the fact that no agreement had been reached is one of the central factors in the unfortunate series of events which ultimately culminated in this application.

[79] In my view it was not acceptable for him to merely rest on his laurels for four months in the hope that Mr. Kramer or the Taxing Master would propose or arrange a new date and correspond with him in this regard.

[80] On a conspectus of the evidence, it appears that he was not sufficiently diligent in establishing whether the matter was to proceed on 6 February 2026

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[18] See also *Independent Development Trust v Bakone Pride (Pty) Ltd and Another* (6740/2024) [2024] ZALMPPHC 140 at paragraph 9.

or, if not, on which date the taxation would resume. This in turn appears to have fortified the respondent in their decision not to provide the requested undertaking.

Costs

[81] This leads me to the issue of costs. The ordinary rule is that costs should follow the result. In my view there is a basis for a departure from the ordinary rule in this case.

[82] The supine stance adopted by Mr. Davidson has been a significant contributing factor resulting in the incurrence of significant costs in respect of this application but will also result in a delay of possibly months for the rescission application to be heard. The respondent's opposition was not, in the peculiar circumstances of this case, unreasonable or unjustified.

[83] The respondent sought costs *de bonis propriis* against BriefCo, Mr. Davidson, Paulse, Davidson & Associates and / or the State Attorney '*to ensure that public funds are not indirectly burdened through unauthorised actions, and to signal the Court's intolerance for practitioners who flout statutory requirements and ethical standards.'*

[84] I am not persuaded that the conduct of the applicants' legal practitioners is so egregious that a personal costs order is warranted, or indeed that on a conspectus of the evidence, the applicants should be liable for the respondent's costs.

[85] In the circumstances of this matter, where it was apparent to the respondent's attorney that Mr. Davidson was not aware of the taxation date

and at all times held instructions to object to the disputed items and to persist in its opposition to the taxation, it was unreasonable for the respondent to refuse to provide the necessary undertaking pending the application for rescission, however frustrated it may have been by any delays this may cause. It proceeded by default and the risk of an application for rescission would have been apparent as soon as it elected to proceed on this basis.

[86] I do however agree with the respondent that the matter should not have been brought as a matter of utmost urgency, on such severely truncated timelines, in circumstances where the respondent could not have proceeded to issue a writ until a month later as stipulated the section 3 of the SLA.

[87] As both parties have had a part to play in this application being brought in the manner it which it was, and the incurrence of the costs in relation thereto, in my view a just order is for each party to pay their own costs in respect of Part A.

Order

[88] In the circumstances, I make the following order:

(a) The applicants' non-compliance with the forms and service prescribed in the Uniform Rules of Court is condoned and this application is heard as an urgent application in terms of Rule 6(12).

(b) Part B of this application is postponed to the semi-urgent roll on a date to be determined by the Registrar.

(c) The parties shall file heads of argument for Part B in terms of the relevant practice directions.

(d) Pending the final determination of Part B:

i. The enforcement of the allocatur granted on 6 February 2026 in respect of the respondent's instructing attorney's bill of costs (the first allocatur) is stayed.

ii. The enforcement of the allocatur granted on 8 February 2026 in respect of the respondent's correspondent attorneys bill of costs (the second allocatur) is stayed.

iii. The respondent is interdicted and restrained from issuing any writ of execution pursuant to the first and second allocaturs.

(e) The first, second and third applicants and the respondent are to bear their own costs in relation to Part A of this application.

M HOLDERNESS

Judge of the High Court

APPEARANCES

Counsel for the first, second and third applicants:	J Aspeling
Instructed by:	State Attorney
Counsel for the respondent:	R van Wyk
Instructed by:	Kaplan Blumberg Attorneys