



**IN THE HIGH COURT OF SOUTH AFRICA
(EASTERN CAPE DIVISION, BHISHO)**

CASE NO.: 141/2025

In the matter between:

SINAZO SOPAQA obo LUTHO SOPAQA

Plaintiff

and

MEC FOR HEALTH: EASTERN CAPE DEPARTMENT

Defendant

JUDGMENT

ZONO AJ

[1] The record reveals that on 8 October 2025 the defendant served its Notice of intention to amend its Plea, and such notice was in terms of Rule 28(1) of the URC.

[2] No objection was delivered by the plaintiff to the proposed amendment, and the plaintiff was deemed to have consented to the proposed amendment in terms of Rule 28(5) of URC.

[3] It is necessary for the sake of completion, to state that a period of 10 days within which to file objection elapsed on 22 October 2025. Ten days within which to file the amended plea elapsed on 5 November 2025. Amended Plea was served on 18 November 2025, eight days after the expiry of the second set of 10 days prescribed by Rule 28 of URC.

[4] Sequel to the filling of defendant's plea, albeit eight days late, the plaintiff served its notice in terms of Rule 30(2)(b), essentially giving the defendant 10 days within which to remove the cause of complaint. The cause of complaint was that the defendant failed to deliver its amended plea within 10 days prescribed by Rule 28(5) of URC. The notice was served upon the office of the State attorney on 27 November 2025. In response to that notice, the defendant, on 10 December 2025, delivered its application for leave to amend its plea in line with its "already amended plea". No response or reaction was directed to that application.

[5] Sequel to the defendant's application for leave to amend the plea, the plaintiff launched an application in terms of Rule 30 accompanied by an application for condonation. It does not appear on the record when this application was delivered, however, it is dated 5 January 2026. The issue of service is crucial as the

application seemingly is not opposed. On 2 February 2026 and 4 February 2026 respectively, the plaintiff served notices of set-down for 12 March 2026 in the Opposed Motion Court. It is not clear why the matter was set down for the Opposed Motion Court because at that stage there was no opposition of either application, either an application to amend and Rule 30 application. On 9 February 2026 the defendant delivered its answering affidavit. No replying affidavit seemingly had been filed (Rule 30).

[6] Ironically, the plaintiff complains of and seeks to attack the late filing of defendants amended plea. At the same time the plaintiff has launched this application in terms of Rule 30 late and for its lateness the plaintiff asks this court to condone the late filing of Rule 30 application. From the onset, I must state that the plaintiff is purely engaged in technical maneuvers and in so doing abusing scarce judicial resources.

[7] The golden thread that runs through all the cases of this nature is the existence of prejudice that a party making application must demonstrate. The plaintiff's application in terms of Rule 30 is completely silent about the nature of prejudice the plaintiff has suffered as a result of the alleged late filing of defendants amended plea. In fact, no prejudice should have arisen because the plaintiff had not objected to the proposed amendment and "*peri passu*" consenting thereto. No prejudice was envisaged and none was experienced.

[8] In Trans-Africa Insurance Co Ltd v Maluleka 1956(2) SA 273 (A) at 277 A-B it was held that:

“...Technical objection to less than perfect procedural steps should not be permitted, in the absence of prejudice, to interfere with the expeditious and, if possible, inexpensive decision of cases on their real merits.” An otherwise inexpensive matter is unnecessarily rendered highly expensive by taking unnecessary technical points there by stretching beyond limits scarce judicial resources. The court is entitled to overlook in proper cases any irregularity which does not work any substantial prejudice to the other party. (see *Van de Heever N.O v Potgieter N.O 2022 (b) SA 315 (FB)*(para 23.)

[9] Application in term of Rule 30 cannot succeed. I find that application was totally unnecessary.

[10] In terms of the notices of set-down, an application for leave to amend was set-down. The application was a knee jerk reaction to the plaintiffs Rule 30 challenge. It was launched after the defendant's plea had been filed. No leave in those circumstances was required to file the amended plea. The application for leave to amend was also an unnecessary step. However, in my discretion and for the sake of expediency, caution and convenience, I will grant an order condoning the perceived late filing of the amended plea.

[11] The application for leave to amend was delivered without supporting affidavit That is contrary to both Rule 6 (1) and Rule 6 (11) of the URC, which require that an application or Notice of Motion must be supported by an affidavit. Mr Mpakane submitted that the application for leave should serve as an application for

condonation. The basis for that is simple that they serve the same purpose, that is the acceptance of filling of the amended plea out of time.

[12] There is no good course shown for an application for leave to amend to be granted There are no facts placed before me fully explaining why the amendment that was deemed to have been consented to was not effected within the time frames prescribed by Rule 28(4) of URC. I therefore lack basis and information on which to exercise discretion.

[13] In the result I make the following order:

ORDER

13.1 The plaintiff's application in terms of Rule 30 dated 5 January 2026 is hereby dismissed.

13.2 The defendant's application for leave to amend defendant's plea delivered on 10 December 2025 is hereby dismissed.

13.4 There shall be no order as to costs in both applications.

S.A ZONO
ACTING JUDGE OF THE HIGH COURT

APPEARANCES:

For the Plaintiff	:	Mr Tsipa
Instructed by	:	Y. Tsipa Attorneys
For the Defendant	:	Adv Mpakane
Instructed by	:	State Attorney
Heard on	:	12 March 2026
Judgment delivered on	:	12 March 2026