

REPUBLIC OF SOUTH AFRICA



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

CASE NO: 061455-2023

1.	REPORTABLE: NO
2.	OF INTEREST TO OTHER JUDGES: NO
3.	REVISED: NO
<u>30 APRIL 2026</u> DATE  SIGNATURE	

In the matter between:

KARIWABO RENOVAT

APPLICANT

And

ROAD ACCIDENT FUND

RESPONDENT

Delivered: this judgment was prepared and authored by the judge whose name is reflected and is handed down electronically and by circulation to the parties/their legal representatives by email and by uploading it to the electronic file of this matter on Caselines. The date for handing down is deemed to be 29 April 2026.

JUDGMENT

- [1] This is an opposed application in terms of Rule 23 of the Uniform Rules of Court in which the Applicant seeks:
- (a) Condonation for non-compliance with the time periods prescribed in Rule 23;
 - (b) An order upholding the Applicant's exception and dismissing the Respondent's Special Pleas and Plea; and
 - (c) Costs on an attorney and client scale.
- [2] The matter was heard on 09 March 2026 on the opposed motion roll. Oral submissions were advanced on behalf of both parties, and judgment was reserved.
- [3] The Applicant is **KARIWABO RENOVAT**, an adult male residing at Cosmo City, Gauteng Province, and the holder of a Temporary Asylum Seeker Permit.
- [4] The Respondent is the **ROAD ACCIDENT FUND**, a statutory body established in terms of the Road Accident Fund Act 56 of 1996 ("the Act").
- [5] The chronology of events is largely common cause:
- 5.1 A summons was issued and served on 28 June 2023. The Respondent failed to enter an appearance to defend within the prescribed period.
 - 5.2 The Applicant filed an application for default judgment for 8 October 2024. On the same day, the Respondent delivered a notice of intention to defend electronically.
 - 5.3 The matter was postponed to 9 October 2024 for argument on whether the Respondent's conduct constituted an abuse of process.
 - 5.4 On 14 October 2024, an order was granted placing the matter under case management and permitting the Applicant to approach the Court in chambers in the event of default.

- 5.5 On 20 October 2024, the Respondent delivered its Plea.
- 5.6 On 30 October 2024, via electronic means, the Applicant delivered a notice in terms of Rule 23(1)(a), contending that the Respondent's Plea and Special Pleas were vague and embarrassing and lacked averments necessary to sustain a defence. Also, the notice in terms of rule 23 states that, in the event the respondent fails to remove the cause of complaint within 15 days of receipt, the Applicant will apply for an order that the exception be upheld with costs and that the respondent's plea be dismissed.
- 5.7 The Respondent failed to remove the cause of complaint within the prescribed period.
- 5.8 The respondent filed its notice of intention to oppose per email on 9 June 2025 and filed its opposing affidavit on 12 September 2025 and its heads of argument dated 24 February 2026. I hasten to mention that the Applicant filed his heads of argument electronically on 15 October 2025.
- [6] Rule 23(1) permits a party to except to a pleading on the basis that it is vague and embarrassing or lacks averments necessary to sustain a cause of action or defence.
- [7] The principles governing exceptions are well established. An exception:
- (a) Tests the legal validity of a pleading;
 - (b) Must be determined on the pleadings as they stand; and
 - (c) Will succeed only if the excipient demonstrates that the pleading is excipiable on every reasonable interpretation.

- [8] In ***Trope and Others v South African Reserve Bank***¹, the Court held that a pleading is vague and embarrassing where it is so unclear that the opposing party is prejudiced in the conduct of its case.
- [9] In ***McKenzie v Farmers' Co-operative Meat Industries Ltd***², It was held that a pleading must contain every fact necessary to sustain a cause of action or defence.
- [10] In matters arising under the Act, compliance with section 24 is a jurisdictional requirement. However, the sufficiency of such compliance is ordinarily a matter for evidence unless the pleading is patently defective.
- [11] The Respondent contends that:
- (a) The Applicant failed to properly lodge a claim in terms of section 24 of the Act;
 - (b) The Respondent did not receive the prescribed lodgement documents necessary to assess the claim;
 - (c) The claim is invalid and unenforceable; and
 - (d) The claim has prescribed.
- [12] The Respondent further relies on written objections raised in terms of section 24(5) of the Act and submits that the Applicant failed to cure the alleged defects timeously.
- [13] The legal principles applicable to condonation are trite. The Court exercises a discretion upon consideration of:
- (a) The degree of lateness;
 - (b) The explanation therefor;
 - (c) Prospects of success; and
 - (d) Prejudice to the parties.

¹ 1993(3)SA264(AD)

² 1922 AD 16

- [14] The delay in delivering the exception is substantial.
- [15] The explanation advanced is that the Applicant initially pursued default judgment proceedings and only reverted to the Rule 23 procedure after being directed to follow the ordinary course.
- [16] While the explanation is not entirely satisfactory, it is not without merit.
- [17] The Respondent has been aware of the Applicant's complaints regarding the plea since October 2024.
- [18] There is no demonstrable prejudice to the Respondent that cannot be cured by an appropriate costs order.
- [19] The decisive consideration is the Applicant's prospects of success in the exception.

THE EXCEPTION

- [20] The applicable test for an exception is that it must be upheld where a pleading:
- (a) Fails to disclose a cause of action or defence; or
 - (b) Is vague and embarrassing to the extent that it causes prejudice.
- [21] A plea must set out material facts with sufficient particularity to enable the opposing party to reply.

FIRST SPECIAL PLEA

- [22] The Respondent relies on alleged non-compliance with Board Notice 271 to assert that the claim is invalid under section 24 of the Act.
- [23] This defence is legally unsustainable.

- [24] Board Notice 271 does not form part of the Act and cannot override or supplement the statutory requirements of section 24 so as to render a claim invalid.
- [25] Section 24 requires substantial compliance, not rigid formalism.
- [26] The Applicant has pleaded compliance with section 24, which is met by a bare denial devoid of particularity.
- [27] The Respondent fails to specify:
- (a) Which documents are outstanding;
 - (b) Why such documents are required for validity; and
 - (c) How their absence renders the claim invalid.
- [28] The plea is accordingly vague, embarrassing, and excipiable.

SECOND SPECIAL PLEA

- [29] The Respondent contends that the claim has prescribed due to non-compliance with Board Notice 271.
- [30] This contention is misplaced.
- [31] The claim was lodged on 14 April 2023, within the two years applicable to unidentified drivers.
- [32] The Respondent acknowledged receipt of the claim and assessed it.
- [33] An objection in terms of section 24(5) does not nullify a timeous lodgement; it merely affords an opportunity to remedy defects.

[34] The Respondent's reliance on prescription is therefore legally untenable.

[35] This special plea does not disclose a valid defence in law.

THIRD SPECIAL PLEA

[36] The Respondent pleads that the Court lacks jurisdiction to determine general damages absent a seriousness determination.

[37] This is correct in principle.

[38] However, the defence is partial in nature and does not affect liability or other heads of damages.

[39] The plea, as framed, suggests a complete bar to the claim, which is incorrect.

[40] Furthermore, the Respondent has a statutory obligation to make an election regarding seriousness within the prescribed period and has failed to do so.

[41] The plea is therefore excipiable to the extent that it is overbroad and misleading.

ABUSE OF PROCESS

[42] The Applicant contends that the Respondent's plea constitutes an abuse of process.

[43] While such a finding must be made with caution, the following is significant:

- (a) The absence of particularity in the plea;
- (b) Reliance on legally untenable grounds; and
- (c) The Respondent's failure to meaningfully engage with the claim.

- [44] The cumulative effect is that the plea does not raise a genuine triable issue and serves to delay the finalisation of the matter.

PROSPECTS OF SUCCESS

- [45] The Applicant has strong prospects of success in the exception.
- [46] The Respondent's plea, in its current form, fails to disclose a bona *fide* defence.
- [47] The Rules of Court are designed to facilitate the fair and expeditious resolution of disputes.
- [48] Pleadings that obscure rather than clarify issues undermine this purpose and prejudice the opposing party.
- [49] The Respondent is afforded an opportunity to properly plead its case, failing which the matter must proceed to finality without further delay.

ORDER

- [50] As a result, the following order is made:
1. Condonation for the late filing of the Applicant's exception is granted.
 2. The Applicant's exception is upheld.
 3. The Respondent's Special Pleas and Plea are set aside.
 4. The Respondent is granted leave to file an amended plea within 15 days of this order.
 5. Failing compliance, the Applicant is granted leave to enrol the matter for default judgment.
 6. The Respondent is ordered to pay the costs of this application on an attorney-and-client scale.

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N NDLOKOVANE AJ
ACTING JUDGE OF THE HIGH COURT
GAUTENG DIVISION, PRETORIA

APPEARANCES

FOR THE APPLICANTS/DEFENDANTS:	ADV. A LUBBE INSTRUCTED BY ATTORNEYS
FOR THE RESPONDENT/PLAINTIFF:	MR. L. MAKHURA INSTRUCTED BY THE OFFICE OF THE STATE ATTORNEY PRETORIA
HEARD ON:	10 MARCH 2026
DATE OF JUDGMENT:	30 APRIL 2026