IN THE HIGH COURT OF SOUTH AFRICA
FREE STATE DIVISION, BLOEMFONTEIN

Reportable

Case no: 2616/2025

In the matter between:

D J M obo R J M	**PLAINTIFF**
and	
ROAD ACCIDENT FUND	**DEFENDANT**

Neutral citation: *DJM obo RJM v RAF* (2616/2025) [2026] ZAFSHC 241 (14 April 2026)

Coram: CRONJÉ AJ

Heard: 10 March 2026

Delivered: This judgment was handed down electronically by circulation to the parties' representatives by email and released to SAFLII. The date and time for hand-down is deemed to be 15h00 on 14 April 2026.

Summary: Claim against the Road Accident Fund – claim form not completed in all material respects – substantive compliance – court raising failure to sign the claim form *mero motu* – court proposing index and pagination of claim documents when submitting them to the Road Accident Fund – Road Accident Fund to consider whether rejection letters have merit or whether it is issued by default – each party pays its own costs

ORDER

1 The special pleas are dismissed.

2 Each party pays its own costs.

JUDGMENT

Cronjé AJ

[1] The plaintiff instituted an action against the Road Accident Fund (the Fund) pursuant to a road accident on 26 September 2024, where the minor child, then merely two years old, was a passenger on a bicycle. As a result of the accident, it is alleged that the child suffered a splenic injury, headaches, hearing impairment, and forgetfulness. The amount, comprising of past hospital and medical expenses, future loss of income (the largest component), and general damages are substantial.

[2] The Fund raised four special pleas. The first on *locus standi* was abandoned. The balance of the special pleas essentially relates to the question whether there was compliance in submitting the claim in terms of *inter alia* s 24 of the Act. Section 24(1)*(a)* provides:

'24. Procedure.—(1) A claim for compensation and accompanying medical report under section 17 (1) shall—

(*a*) be set out in the <u>prescribed form, which shall be completed in all its particulars</u>;' (Own emphasis.)

[3] Section 24(4) provides:

'(4) (*a*) <u>Any form referred to in this section which is not completed in all its particulars shall not be acceptable as a claim under this Act</u>.

(*b*) <u>A clear reply shall be given to each question contained in the form</u> referred to in subsection (1), and if a question is not applicable, the words "not applicable" shall be inserted.

(*c*) A form on which ticks, dashes, deletions and alterations have been made that are not confirmed by a signature shall not be regarded as properly completed.
(*d*) Precise details shall be given in respect of each item under the heading "Compensation claimed" and shall, where applicable, be accompanied by supporting vouchers.' (Own emphasis.)

[4] The attorneys for the plaintiff submitted lodgement documents comprising the mother's certified identification document, the minor's birth certificate, a power of attorney, a consent form, the South African Police Service accident report, the s 19 affidavit, the RAF 1 form, medical records and a school report (terms 1-3). The plaintiff's trial bundle consists of 275 pages.

[5] The claim was lodged on 4 December 2024. On 8 February 2025, the Fund dispatched a letter to the attorneys, noting that the submitted documents did not meet the requirements for a substantially compliant and valid claim. It lacked any other documents listed in s 19*(f)*(ii) and 19*(e)*(ii) and (iii), the claim form, hospital and medical records, the completed statutory medical report, and the amount claimed as compensation. It stated that it does not accept the documentation presented and returns the documents with the letter. The claimant was warned that the Fund would raise a special plea should the summons be issued as regards the objection. There is no indication in the papers that the attorneys replied to the Fund's letter. On 16 October 2025, the trial bundle was sent via e-mail from the plaintiff's attorneys to Ms Banda.

[6] The Fund complains that the plaintiff submitted the incorrect RAF 1 form and that the medical report section was not completed. Ms Banda, on behalf of the Fund, submitted that the submitted form lacks substantial compliance. A perusal of the form indicates the names, identity number and address of the mother and minor, particulars of the minor's deceased father and the attorney's details, bank account and e-mail address. There is a description of the accident, and the medical form was completed.

[7] She highlighted several deficiencies. From her submissions and my review of the form, the following points can be noted. In the section pertaining to the injuries, it is only stated that the child suffered a grade 4 splenic injury. The rest of the injuries listed in the particulars of claim are not included. Paragraph 6.1 of the form provides for substantial

compliance in injury claims. The unabridged birth certificate of the minor was not marked as presented. No documentation is indicated as available for past medical expenses. The medical report lists the minor's name and simply refers to a grade 4 splenic injury.

[8] Paragraph 15 provides for a declaration and consent. Only the mother's name is completed. It is not stated whether she claims in her personal capacity and/or as a representative, the names of the minor are not inserted, and no signature of the claimant or a witness is affixed to the document to confirm the accuracy of the information.

[9] The Fund has, over time, in various cases consistently raised special pleas on the failure of claimants to use the prescribed form. My appreciation of the claim submitted, whether in the old form or the new disputed form, is that it provides very little information, and it is evident that the Fund would have difficulty considering it. It should be appreciated that the form, at least, in respect of the material provisions, is the guiding document. Even if the documents that were appended to the letter for lodgement of the claim were submitted, which were, at face value, not indexed and paginated, it would make it very difficult for the Fund to populate itself. It is not its job.

[10] She submits that the accident report form, the case docket, and the sketch of the scene of the accident were not included when the claim was lodged. It was only when the trial bundle was submitted that the deficiencies were addressed. The plaintiff should have refiled the claim. She proposes that either the special pleas be upheld and the claim be dismissed, or the plaintiff be granted the opportunity to resubmit the claim.

[11] Mr Mohono, appearing for the plaintiff, submitted that the new form adopted and implemented per Board Notice 271 of 2022, dated 6 May 2022,[1] and Board Notice 302 of 2022[2] was declared unlawful and set aside in the case of *Legal Practitioners Indemnity Insurance Fund NPC and Others v Road Accident Fund and Others*[3] (*LPPF*), the Court ordered:

'(iii) Board Notice 271 of 2022 published in Government Gazette No 46322 of 6 May 2022 ('the Board Notice') is declared unlawful and is reviewed and set aside;

[1] Board Notice 271 of 2022 of 6 May 2022, published in *Government Gazette* No 46322 on 6 May 2022.
[2] Board Notice 302 of 2022. published in *Government Gazette* No 46652 of 4 July 2022.
[3] *Legal Practitioners Indemnity Insurance Fund NPC and Others v Road Accident Fund and Others* [2024] ZAGPPHC 294; 2024 (4) SA 594 (GP).

(iv) Form RAF 1, prescribed by the Minister of Transport ('the Minister') in terms of s 26 of the Road Accident Fund Act 56 of 1996 ('the RAF Act'), and published in Board Notice 302 of 2022 in Government Gazette No 46653 of 4 July 2022 ('the RAF 1 Form') is declared unlawful and is reviewed and set aside;

(v) It is declared that Claimants whose claims were accepted by the Second Respondent ('the RAF') to have been lodged in compliance with the Board Notice and/ or the RAF 1 Form are deemed to have been lodged in terms of the RAF Act, and the RAF will continue to investigate and process these claims as lodged claims;

(vi) From 6 May 2022, the prescribed form contemplated in s24 (1)(a) of the RAF Act shall be deemed to be the RAF 1 third party claim form ('the 2008 RAF 1 Form), forming part of the Regulations published by the Minister on 7 July 2008 in Government Gazette No 31249, until such time as the Minister prescribes an amendment to the 2008 RAF 1 Form in terms of s 26 of the RAF Act;

(vii) Claimants who sought the lodgment of their claims in terms of the Board Notice or the RAF 1 Form, but lodgment was declined by the RAF or was not acknowledged by the RAF , are afforded a period until 30 September 2024 to resubmit their claims to the RAF in terms of the 2008 RAF 1 Form and those claimants who thereby secure lodgment will enjoy the benefits of such lodgment as from the date on which lodgment was originally sought by them;'

[12] Bearing in mind the knowledge of the judgment, it is not apparent why the plaintiff elected to use the new form. My understanding of the judgment is that the court held that nothing it decided dictates what information or documents the Minister might reflect in a revised form, nor the regime that is to be applied to the information and documents so that a claim may be lodged. The court simply indicated the kinds of considerations relevant to the lawful exercise of the Minister's power. The court held that it is manifestly in the public interest that the Minister must engage on this matter with some urgency and undertake what is required to effect procedurally fair administrative action.

[13] Mr Mohono submits that the Fund appealed against the judgment but not the order declaring the amended form unlawful. The Fund's insistence that parties comply with the new form has no legal basis. The special plea should be dismissed with costs, or alternatively, that the court determine the question of compliance with the requirements of s 24 of the Road Accident Fund Act 56 of 1996 (the Act) in line with what was required under the 2008 form, which entailed an element of substantial compliance and had no onerous requirements, as those that the Fund relies on.

[14] The test for substantial compliance is objective. The remarks of the court in *Multilateral Motor Vehicle Accidents Fund v Radebe*[4] (*Radebe*) is apposite:

'It is true that the object of the Act is to give the widest possible protection to third parties. On the other hand, the benefit which the claim form is designed to give the fund must be borne in mind and given effect to. The information contained in the claim form allows for an assessment of its liability including the possible early investigation of the case. In addition, it also promotes the saving of the costs of litigation. In particular, the purpose of reg 9(l)(b)(ii) is to facilitate a decision whether, in the case of a dependent's claim, it was the fatal accident which caused the deceased's death and whether the driver of the vehicle in question was negligent. Sec 16(2) of the Inquests Act 58 of 1959 enjoins the judicial officer holding the inquest to record a finding inter alia as to the cause or likely cause of death and whether it was brought about by any culpable conduct on the part of any person. The fund would be able to obtain similar though less cogent information from the charge sheet. These various advantages are important and should not be whittled away. The resources, both in respect of money and manpower, of agents and particularly of the fund are obviously not unlimited. They are not to be expected to investigate claims which are inadequately advanced. There is no warrant for casting on them the additional burden of doing what the regulations require should be done by the claimant. There can be no (substantial) compliance where the claimant has merely indicated to the fund how it, through its own efforts, can obtain the necessary information or documents. To sum up so far, I am of the opinion that the fact that the information supplied by the respondent in her MV3 form would have enabled the appellant to obtain a copy of the inquest report does not avail the respondent. There was no duty on the appellant to do this. Reg 9(l)(b)(ii) imposed the obligation on the respondent. She failed to comply with it. This was therefore not a case of substantial compliance but one of non-compliance . . .'

[15] In *Pithey v Road Accident Fund*[5] (*Pithey*), the court recognised that the Act and its predecessors constitute social legislation aimed at providing the widest possible protection and compensation for loss and damage arising from the negligent driving of a motor vehicle.[6] Accordingly, in interpreting the provisions of the Act, courts are enjoined to bear this factor uppermost in their minds and to give effect to the laudable objectives of the Act. The Fund relies entirely on the fiscus for its funding and should be protected against illegitimate and fraudulent claims. It is important to note that the court in *Pithey* recognised the judgment in *Radebe*, stating that although these remarks were made in a

[4] *Multilateral Motor Vehicle Accidents Fund v Radebe* [1995] ZASCA 80; 1996 (2) SA 145 (SCA).
[5] *Pithey v Road Accident* [2014] ZASCA 55; 2014 (4) SA 112 (SCA); [2014] 3 All SA 324 (SCA).
[6] *Road Accident Fund v M obo M* [2005] 3 All SA 340 (SCA) para 12.

different context, they articulate the purpose that the claim form is intended to serve.

[16] Mr Mohono submits that *Pithey* and *Allpay Consolidated Investment Holdings (Pty) Ltd and Others v Chief Executive Officer of the South African Social Security Agency and Others*[7] (*Allpay*) provide that the method of measuring compliance with statutory provisions is merely by investigating whether the language used is peremptory or directory at the expense of a permissive substantive investigation, it is not an end in itself. I could not find support for this contention in *Allpay*. *Allpay* recognised that accountability is ensured by financial compliance with operative legislation.[8]

[17] One must be careful not to elevate the findings in another court to a blanket protection against non-compliance in a different case. In *Pithey*, the plaintiff submitted a factually self-contradictory claim. The court held that when the Fund is in possession of information which a claimant is statutorily obliged to supply and which reveals that the claim really relates to an unidentified vehicle, the Fund is not entitled to repudiate the claim on the basis that no valid claim had been made. Nor ought the Fund to benefit from its own failure to clarify with minimal time, effort and expense, whatever confusion the claim form and attached documentation revealed.

[18] Ms Banda stated that the Fund only received all the documents when the trial bundle was served on the Fund. Although the Fund bears the onus on a special plea, I have nothing to show regarding her submission that the Fund indicated in February 2025 that it had not received all the documents, and that a substantive set of documents was only recently received, is incorrect. As noted, the plaintiff's attorneys did not reply to that letter.

[19] The main argument in Mr Mohono's favour was the judgment in *Road Accident Fund v Busuku*[9] (*Busuku*). The court held that the form does not require detailed information. It is not meant, on its own, to allow the Fund to assess the quantum of the plaintiff's claim. Instead, it aims to enable the Fund to examine the impact of the injuries

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[7] *Allpay Consolidated Investment Holdings (Pty) Ltd and Others v Chief Executive Officer of the South African Social Security Agency and Others (No 2)* [2014] ZACC 12; 2014 (6) BCLR 641 (CC); 2014 (4) SA 179 (CC).
[8] Ibid para 58.
[9] *Road Accident Fund v Busuku* [2020] ZASCA 158; 2023 (4) SA 507 (SCA).

sustained. To do this, the RAF 1 form requires the disclosure of information to guide and support the investigation. In the present matter, the medical report has been completed, and I accept that the 230 pages of medical records, if supplied, would have enabled the Fund to investigate the claim.

[20] If Mr. Mohono's submissions are correct and, based on his instructions, all the medical records were provided when the claim was lodged, and if the Fund's letter of rejection is a standard letter generated automatically, then the integrity of the Fund's system would be in question. I do not need to decide on this, but the Fund should consider this comment. If it is true regarding its system, many special pleas could be avoided, court time saved, and wasting of taxpayers' money in litigation could be prevented.

[21] As often happens, a judgment may also be a double-edged sword. *Busuku* also held:

'[17] It concluded with the declaration signed by Mr Busuku that, to the best of his knowledge, the information provided in the claim form was true and correct. The blank medical report followed thereafter.'

[22] This is where the facts differ from the immediate matter. In the matter before me, there does not appear to be a signature of any person, notably the plaintiff or the attorney, declaring that to the best of that person's knowledge, the information provided in the form is true and correct in every respect.

[23] *Pretorius v Road Accident Fund*[10] follows the same facts as many other cases where the claimants did not either complete the medical section in the claim form or did not provide all the medical records. A number of decisions in this Division are distinguishable from the facts of the case before me.

[24] One can only hope that the practice of submitting claims to the Fund, where it is well-known that it struggles with capacity, will evolve to a point where claims handlers do not have to wade through hundreds and thousands of pages to determine the exact claim, the entitlement to claim, and whether the claim is supported by the documents

[10] *Pretorius v Road Accident Fund* [2019] ZAGPJHC 293.

received. It will not place an onerous duty on claimants and will obviate the onerous duty of courts to wade through the same pages and entertain arguments that probably would not have arisen when this is effectively addressed.

[25] Submitting a claim that is properly indexed and paginated will help. The claimants will, in any case, prepare such a bundle for trial. If the documents were not available at the date of submission, the index can state this.

[26] What may be accepted, for this case only, is that the special power of attorney that the mother granted to the attorneys on record states that they may, inter alia, sign on her behalf and determine the amount of compensation claimable for damages (at the attorney's discretion). Apart from the special power of attorney, the consent to obtain medical records, copies of relevant documentation, authorising RAF to inspect medical records and relevant documents, as well as the s19(f) affidavit signed by the mother, the claim form was neither signed by her nor the attorneys.

[27] The Fund requested a postponement of the proceedings pending the finalisation of the *LPPF* appeal. However, regarding this postponement, I have my own views. I can only note that I separated the adjudication of the claim for past loss covered by the medical aid from the rest of the claims under rule 33(4) in another case, as it seemed appropriate because the claims were not paid from the medical aid member's savings account. The plaintiff would therefore not suffer direct loss until the final adjudication of the appeal.

[28] I raised the issue of the failure to sign the claim form during the argument. Neither party referred to it, and I did not have the benefit of an argument on this point. I could not find any case law on the matter. However, it appears to me to be an important issue. If it eventually comes to challenging the veracity of the claim, no person will willingly stand behind any incorrect facts. This should not happen. I cannot simply dismiss or grant an order in favour of the Fund on this basis. Nonetheless, it may ultimately become a relevant consideration.

[29] I dismiss the special pleas. I deem it unfair that the Fund should pay for the dismissal when the form is not duly completed, and especially not signed. Ordering the

Fund to pay the costs of the dismissal will, to some extent, sanction the obvious deficiencies and fail to send the message that claimants should be more meticulous in preparing and submitting claims. They should also at least reply to the Fund when it raises non-compliance and not wait until final preparations for trial when a bundle is indexed and paginated. They should also not wait for interlocutory proceedings. The Fund should also consider each case on its facts and bear in mind the long line of decisions addressing compliance.

Order

[30] In line with practise, the following order is made:

1 The special pleas are dismissed.

2 Each party pays its own costs.

[redacted]

P R CRONJÉ

ACTING JUDGE OF THE HIGH COURT

Appearances

For the plaintiff:	K P Mohono
Instructed by:	Mavuya Attorneys Bloemfontein
For the defendant:	P Banda Office of the State Attorney Bloemfontein