IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE DIVISION, CAPE TOWN)

JUDGMENT

Not Reportable

Case no: 2025-140138

In the matter between:

JOEY VAN DER WALT PLAINTIFF

and

BURGERT WYNAND DU PLESSIS DEFENDANT

Neutral citation:

Coram: Mgengwana; AJ

Heard: 3 March 2026

Delivered: 4 June 2026

Summary: Summary Judgement Application – Rule 32 of the Uniform Rules of Court – Whether the electronic mail sent to Plaintiff by the

Defendant on 23 September 2025 complies with Rule 22 of the Uniform Rules of Court and should therefore be accepted as Defendant's Plea – Whether Rule 18(1) has been complied with.

ORDER

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[1] In the result, I grant the following order:

[1.1] Application for summary judgment is dismissed with costs.

JUDGMENT

MGENGWANA; AJ

Judgement handed down: The judgement is handed down electronically by circulating to the parties or legal representatives by email. The date for the handing down of the judgment is deemed to be 4 June 2026.

Introduction

[1] This is a summary judgment application in which the Plaintiff is seeking an Order against the Defendant on the following terms:

(a) Payment of R70 800.00

(b) Interest on the aforesaid amount a *tempora morae*; and

(c) Costs of suit.

Background

[2] Subsequent to defending Plaintiff's Combined Summons herein the Defendant sent an email setting out his defence to Plaintiff's Particulars of Claim on 23 September 2025. This email was followed by another email sent on 7 November 2025 in which the Defendant indicated that he sent his Plea to Plaintiff's attorneys on 23 September 2025, in the same email, the Defendant asked whether the Plaintiff sought the said email to be sent to her in another format. He also alleged in the same email that he sent a counterclaim by email to Plaintiff's attorneys on 13 October 2025. In this email, the Defendant asked again whether the counterclaim is sought in another format. There is no indication that the email of 7 November 2025 was responded to. What this Court knows is that on 27 November 2025, a Summary Judgment Application was served on the Defendant.

Issues to be determined

[3] This Court is being called upon to determine whether the electronic mail sent to Plaintiff by the Defendant on 23 September 2025 complies with the Uniform Rules of this Court and should therefore be accepted as Defendant's Plea and if yes, whether the Plaintiff is entitled to a Summary Judgment in terms of Rule 32 of the Uniform Rules of this Court.

Applicable Law

[4] Rule 22 of the Uniform Rules of Court, which governs a Plea, states the following:

> (1) Where a defendant has delivered notice of intention to defend, he shall within 20 days after the service upon him of a declaration or within 20 days after delivery of such notice in respect of a combined summons, deliver a plea with or without a claim in reconvention, or an exception with or without application to strike out.
> (2) The defendant shall in his plea either admit or deny or confess and avoid all the material facts alleged in the combined summons or declaration or state which of the said facts are not admitted and to what extent, and shall clearly and concisely state all material facts upon which he relies.
> (3) Every allegation of fact in the combined summons or declaration which is not stated in the plea to be denied or to be admitted, shall be deemed to be admitted. If any explanation or qualification of any denial is necessary, it shall be stated in the plea.
> (4) If by reason of any claim in reconvention, the defendant claims that on the giving of judgment on such claim, the plaintiff's claim will be extinguished either in whole or in part, the defendant may in his plea refer to the fact of such claim in reconvention and request that judgment in respect of the claim or any portion

thereof which would be extinguished by such claim in reconvention, be postponed until judgment on the claim in reconvention. Judgment on the claim shall, either in whole or in part, thereupon be so postponed unless the court, upon the application of any person interested, otherwise orders, but the court, if no other defence has been raised, may give judgment for such part of the claim as would not be extinguished, as if the defendant were in default of filing a plea in respect thereof, or may, on the application of either party, make such order as to it seems meet.

(5) If the defendant fails to comply with any of the provisions of subrules (2) and (3), such plea shall be deemed to be an irregular step and the other party shall be entitled to act in accordance with rule 30.

[5] In *FSP Ltd v Trident Construction (Pty) Ltd* Eksteen JA stated the following:

"One of the prime functions of pleadings is to clarify the issues between the parties. To this end the Rules of Court require the defendant in his plea to:

'Admit or deny, or confess and avoid all the material facts alleged in the combined summons or declaration or state which of the said facts are not admitted and to what extent...'

(Rule 22(2)) A defendant must therefore give a fair and clear answer to every point of substance raised by a plaintiff in his declaration or particulars of claim, by frankly admitting or explicitly denying every material matter alleged against him."[1]

[6] In *Neugebauer & Co Ltd v Bodiker & Co (SA)* Solomon JA stated the following:

"(t)he duty of the defendant then is to set forth his defence with sufficient precision to enable the plaintiff to ascertain what the defence is"[2]

[7] The following is also stated in the Second Edition of *Erasmus Superior Court Practice*:

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[1] 1989 (3) SA 537 (AD) at para 541 J -542 B

[2] 1925 AD 316 at 321

"A plea must end with a prayer, either for judgment against the plaintiff or for the dismissal of plaintiff's claim, presumably with costs."[3]

[8] Rule 18(1) of the Uniform Rules of Court also states that all pleadings shall be signed by the party himself if the party defends personally.

[9] Rule 32 of the Uniform Rules of Court, which governs Summary Judgment Applications, states the following:

> "(1) The plaintiff may, after the defendant has delivered a plea, apply to court for summary judgment on each of such claims in the summons as is only—
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> (a) on a liquid document;
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> (b) for a liquidated amount in money;
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> (c) for delivery of specified movable property;
>
> (d) or for ejectment,
>
> together with any claim for interest and costs.
>
> (2)
>
> (a) Within 15 days after the date of delivery of the plea, the plaintiff shall deliver a notice of application for summary judgment, together with an affidavit made by the plaintiff or by any other person who can swear positively to the facts.
>
> (b) The plaintiff shall, in the affidavit referred to in sub-rule (2)(a) verify the cause of action and the amount, if any, claimed, and identify any point of law relied upon and the facts upon which the plaintiff's claim is based, and explain briefly why the defence as pleaded does not raise any issue for trial.

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[3] Erasmus Superior Court Practice, Volume 2, Second Edition by D.E. Van Loggerenburg at D1-270

> (c) If the claim is founded on a liquid document a copy of the document shall be annexed to such affidavit and the notice of application for summary judgment shall state that the application will be set down for hearing on a stated day not being less than 15 days from the date of the delivery thereof.

Application of the Law to the facts

[10] In terms of Rule 32(1), the plaintiff can only apply for Summary Judgment within a period of fifteen days after the delivery of a plea upon him or her. So, what needs to be determined herein is whether a plea was delivered by the Defendant herein and when.

[11] To assist the Court in coming to a determination in this respect, let us look at the affidavit deposed to by the Plaintiff in support of the Summary Judgment Application. From paragraph 23 of the said affidavit the Plaintiff states the following:

> "On 23 September 2025, the Defendant filed a document in response to my particulars of claim. I annex a copy of the document, which was in the form of an e-mail, as annexure "JVDW1". As the aforesaid document is not in the form of a plea, upon my attorney of record's enquiry, the defendant confirmed on 7 November 2025 that annexure "JVDW1" hereto should be accepted as his plea (it is accordingly hereinbelow referred to as "the Defendant's plea"). In substantiation of the aforesaid, I include the self-explanatory e-mail from the Defendant in this regard as annexure "JVDW2".

[12] The aforementioned email was written in Afrikaans and its rough

translation is as follows:

"Your plea" I already emailed this to you on 23 September. Do you want it in another format?"

[13] This email from the Defendant, which was formulated as a question, was never responded to by the Plaintiff's attorneys. Therefore based on the contents thereof, this Court finds that the email of 7 November 2025 was not a confirmation that the email of 23 September 2025 should be accepted as Defendant's plea, but it was rather a question whether the email itself is acceptable as a plea in its current format or is it required in another format but unfortunately the Defendant never received a response to his question.

[14] Besides the aforegoing, the email of 23 September 2025 cannot be accepted as a plea as it does not comply with Rule 22(2) & (3) in that it does not deal with all the material facts alleged in the combined summons. The email neither contains a prayer at the end nor does it comply with Rule 18(1) as it is not signed by the Defendant.

[15] This Court is also fortified by a paragraph stating the following in its finding that the email is not a plea:

"Laat weet my of u nog wil voortgaan om my te vervolg sodat ek my teeneis teen haar kan voorberei" which roughly translates to "Let me know if you still want to continue to pursue me so that I can prepare my counterclaim against her."

The email then goes further to give an explanation why the Defendant believes

that he has a counterclaim against the Plaintiff.

[16] Therefore, based on all of the above, this Court's finding that the email of 23 September 2025 is not a plea is not based on the form of the email only but it is also based on the fact that even the substance of the email itself does not have the salient features of a plea which are to deny, admit or confess and avoid.

[17] Having found that the email of 23 September 2025 is not a plea, this Court also finds that Plaintiff's Summary Judgment Application was instituted prematurely.

In the result, I grant the following order:

[18] Application for summary judgment is dismissed with costs.

TJ MGENGWANA
Acting Judge of the High Court

APPEARANCES:

For the plaintiff:	Mr. R.J. Steyn
Instructed by:	Faure & Faure Inc.
	Ms. M. Meinjties
For the Defendant:	In person