THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG

(1) REPORTABLE: Yes☐/ No ☒
(2) OF INTEREST TO OTHER JUDGES: Yes☐ / No ☒
(3) REVISED: Yes ☒ / No ☐

Date: 29 May 2026 [redacted]

Case 2019/38193

In the matter between:

HR CUMPUTEK (PTY) LTD	First Applicant
and	
DR. WAA GOUWS (JOHANNESBURG (PTY) LTD	First Respondent
YOLANDI ANN MES	Second Respondent
JOHANNES HENDRIK DU PLESSIS; N.O.	Third Respondent
MARIAN OELOFSEN; N.O.	Fourth Respondent
WELCOME NORMAN; N.O.	Fifth Respondent
THE MASTER OF THE HIGH COURT, JOHANNESBURG	Sixth Respondent

JUDGMENT

DU PLESSIS J

Introduction

[1] This matter came before me in the opposed motion court. The matter concerns an application by the applicant, HR Computek (Pty) Ltd, for rescission of the provisional and final winding-up orders granted against it in 2019 and 2020. The opposed motion was enrolled for the week of 13 April 2026. However, it emerged that the applicant had not filed a complaint practice note within the time periods prescribed by the applicable practice directives. The file is voluminous, and, in the meantime, a judgment from the Supreme Court of Appeal affected the initial application, which, when the file was opened for preparation, was not clearly explained either by a practice note or by supplementary heads of argument.

[2] For this reason, on 1 April 2026, I placed a widely shared note on CaseLines, noting that no compliant practice note could be found in the electronic file and reminding the parties of the terms of the consolidated practice directives governing the opposed motion court. In that note, I pointed out that, absent proper filing of the required practice notes within the prescribed time, a matter is liable to be removed or struck from the roll and that punitive costs may be sought against the defaulting party and/or its legal representatives. I afforded the applicant the indulgence of further time, directing that a compliant practice note be uploaded and emailed to the opposed motion registrar by 16:00 on Thursday, 2 April 2026, failing which the matter would be exposed to removal.

[3] The applicant failed to comply with that directive timeously. The practice note was uploaded only some days later, and its content did not meet the requirements of the practice directives. The first respondent, for its part, only appointed its current attorneys of record on 9 April 2026, at which point those attorneys obtained access to a voluminous CaseLines record and, on their version, first appreciated the defective state of the applicant's practice note and the imminence of the hearing on that date.

[4] Faced with the non-compliance, I set the matter down for hearing on 14 April 2026. That allocation already constituted a significant indulgence to the applicant: under the directives, the more usual course where there is no compliant practice note by the deadline is for the matter to be administratively removed from the roll. Having

allocated the matter, I nonetheless made it plain in open court that compliance with the practice directives is not optional and that legal practitioners are obliged to heed and comply with such directives if the opposed roll is to function efficiently, and that I was minded to remove the matter from the roll, absent a proper explanation.

[5] Furthermore, the first respondent delivered written submissions contending that, due to the applicant's late and substantively non-compliant practice note, and a pending challenge to the applicant's attorneys' authority, the matter was not ripe for hearing and should be removed from the roll. The first respondent further brought a formal application for postponement, supported by a founding affidavit, in which it set out further reasons why the matter could not properly proceed: the lateness of its own appointment, the size of the record, new factual developments post-dating the earlier judgments of this Court and the Supreme Court of Appeal, and the need to supplement its answering papers in the rescission application. The applicant opposed both the removal and the postponement and invited the court to refuse any indulgence, to mark its displeasure at the conduct of the first respondent and its principal, and to allow the rescission to proceed.

[6] At that stage, the issues that first had to be addressed were procedural: whether to remove the matter from the roll due to non-compliance with practice directives, or to keep it enrolled so that the pending application for postponement could be considered, and, if so, under what conditions. During the hearing, the applicant's counsel touched on the merits but was advised to focus on the two procedural issues first. Until these hurdles are cleared, I cannot consider the merits of the rescission application. At the end of the hearing, likewise, the applicant requested permission to submit additional heads of argument on these issues, which I granted to both parties. However, the subsequent submissions focused mainly on the merits and broader questions of locus standi and corporate authority, rather than the specific procedural questions at hand.

[7] Two questions therefore emerge: whether the matter should have been or should now be removed from the roll due to non-compliance with the practice directives; and whether the first respondent's postponement ought to be granted.

The removal issue

[8] The practice directives for this Division govern the enrolment and hearing of opposed motion matters. They require, amongst other things, the prompt submission of well-prepared practice notes and heads of argument within specified deadlines before the hearing. The directives explicitly state that failure to comply may result in a case being removed or struck from the roll. These directives are essential for effective justice administration: they help judges prepare for complex cases, prevent the opposed roll from becoming congested with cases not ready for hearing, and promote fairness between the parties.

[9] The court is not a slave to its practice directives. They are not legislation and cannot displace the court's duty to do justice in the particular case. However, they are not merely decorative. They exist for sound reasons and must, as a rule, be obeyed. Where good cause is not shown for non-compliance, removal with an appropriate costs order is often the only principled course, and one to which I was inclined.

[10] In the present matter, I had already forewarned the applicant and afforded a grace period to bring itself into compliance. The applicant failed to do so in time. The first respondent is correct that, judged purely by the directives and the subsequent late and deficient practice note, this matter was a strong candidate for removal.

[11] However, the matter was effectively turned on its head by the formally filed application for postponement, which presented a range of new factual and legal claims regarding locus standi and authority, all of which the court had to decide. Given these developing circumstances, and despite my disapproval of the non-compliance, I believe it is not suitable to remove the case from the docket. Therefore, the request for removal should be denied.

[12] That is not to say the applicant's non-compliance is excusable in this case. It is not.

The postponement

[13] I turn then to the postponement application. The principles governing applications for postponement are well-established.[1] A party seeking a postponement asks the court for an indulgence. In deciding whether to grant such indulgence, the court considers, among other things, whether the application was made timeously; whether the explanation for the need to postpone is full and satisfactory; whether the application is bona fide and not a tactical manoeuvre; the nature and extent of the prejudice to each side; and whether, in all the circumstances, the interests of justice favour granting or refusing the postponement. A court should be slow to refuse a postponement where the matter is genuinely not ripe for hearing, where the defaulting party's state of unreadiness has been fully and candidly explained and is not the result of dilatory tactics, and where any prejudice to the other side can be cured by an appropriate costs order.

[14] In its founding affidavit, the first respondent's attorney explains that her firm was appointed only on 9 April 2026, after which it obtained access to the CaseLines record of some 1 389 pages. She states that there was insufficient time to read and digest the record, to obtain proper instructions, and to prepare a full answer to the rescission application and to certain interlocutory developments that had occurred since the Supreme Court of Appeal's judgment. She further sets out material supervening facts. The first respondent wishes to place this new factual matrix properly before the court by way of a supplementary answering affidavit, but cannot do so without a postponement.

[15] The applicant strongly opposes the postponement. It points out that this matter has already been significantly delayed; that extensive heads of argument have been exchanged over the years; and that the applicant has a vested interest in seeing the rescission case finally resolved. Moreover, the applicant questions the legitimacy of the basis for the first respondent's request for postponement and the recent corporate changes. The applicant submits that the actions taken around 9 and 13 April 2026, such as appointing attorneys, issuing instructions, adopting resolutions, and changing

[1] *Lekolwane v Minister of Justice* [2006] ZACC 19 para 17 onwards.

directorships, were carried out by an insolvent acting without trustee approval, rendering them null and void. On this basis, the applicant claims that the first respondent is not properly before the court, that its attorneys lack authority, and that the request for postponement is an abuse of process. The applicant further submits that any prejudice relied upon by the first respondent is largely self-created.

[16] It may well be that certain of the steps invoked by the first respondent as foundations for its present stance are indeed invalid. However, those very contentions underscore the complexity and sensitivity of the issues now at stake, which need to be properly ventilated. Both parties have introduced significant new arguments that impact the overall structure of the litigation.

[17] These are not peripheral issues that can be brushed aside. They go to the crux of whether the rescission application can lawfully and effectively proceed at all. Critically, they rest on factual matters that post-date the prior judgments and have not yet been fully canvassed on paper. If the court were to refuse the postponement and insist on proceeding immediately on the existing record, it would either have to ignore these new developments or attempt to resolve them on inadequate material.

[18] Assessing the postponement against the recognised criteria, the following issues are weighed up. The application is undeniably late. It was brought on the morning of the hearing, when both parties were already at court. The explanation for this lateness is that the first respondent's current attorneys only came on record days before and were confronted with a large record and complex supervening developments. While one can fairly criticise the timing, the explanation is at least coherent and grounded in objective fact. The attorneys appear to have been confronted with a procedurally and substantively tangled matter at the eleventh hour and to have elected to seek an opportunity to regularise the first respondent's position on paper.

[19] On the prejudice front, the applicant has plainly been prejudiced by further delay in determining its rescission application. That prejudice is not trivial. However, the prejudice to the first respondent if the postponement were refused is of a different character. It would be required to argue a complex rescission on the basis of papers

that do not yet reflect material post-judgment developments that may fundamentally affect locus standi and authority. Moreover, the court itself would be required to adjudicate on incomplete and potentially misleading facts. In my view, that is not in the interests of justice.

[20] Balancing all of these considerations, the postponement should be granted. The application addresses real complications in the litigants' history and constitutional identity that warrant proper ventilation.

Costs

[21] Both parties bear responsibility for the circumstances that prevented the matter from proceeding on 14 April 2026. The applicant failed to comply timeously and fully with this court's practice directives and did not update the file and practice note as directed, despite a specific prior warning that non-compliance could result in removal from the roll. The first respondent, for its part, only came on record shortly before the hearing and then filed a last-minute application for postponement. In these circumstances it would be premature, and potentially unjust, to determine now which party should bear the wasted costs of the day. The question of liability for those costs is therefore best left to the court that finally determines the rescission application, when the broader conduct of the parties and the outcome of the main proceedings can be assessed holistically. Accordingly, the costs of 14 April 2026 and of the postponement application are reserved for later determination.

Order

[22] The following order is made:

1. The first respondent's application for postponement is granted.
2. The application is postponed sine dies.
3. Costs are reserved.

[redacted]

WJ du Plessis
Judge of the High Court, Gauteng Division, Johannesburg

Date of hearing:	14 April 2026
Date of judgment:	29 May 2026
For the applicant:	DZ Kela instructed by John Rammutla attorneys
For the respondent:	N Ishmael instructed by Malan Hitge Nortje Inc.