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

CASE NO: 2025-084028

(1)	REPORTABLE: YES
(2)	OF INTEREST TO OTHER JUDGES: YES
(3)	REVISED: NO
_____	_____
DATE	SIGNATURE

In the matter between:

ALENA ANNA PLICHTA

Applicant

Identity number: 4[...]

and

BAWN HOLDINGS (PTY) LTD

First Respondent

Registration Number: 2014/240668/07

VICTORIA BAWN STEPHEN

Second Respondent

Identity Number: 8[...]

REASONS FOR JUDGMENT

NKOENYANE AJ:

[1]. This is an opposed application for summary judgment. The Applicant, Ms Alena Anna Plichta, seeks payment from the First Respondent, Bawn

Holdings (Pty) Ltd (“the company”), and, in the alternative, from the Second Respondent, Ms Victoria Bawn Stephen, a director of the company. The claim arises from a written loan agreement dated the 22nd of October 2022.

- [2]. During the proceedings, a fundamental procedural issue arose that dictates the outcome of the application against the First Respondent. Ms Stephen purported to represent the First Respondent in these proceedings. She is not a legal practitioner admitted to practice in this Court. The question for determination is whether a director of a company who is not a qualified legal practitioner may represent that company in court proceedings.

THE APPLICABLE LEGAL PRINCIPLES

- [3]. The legal framework governing representation of parties in litigation is established by the Uniform Rules of Court and the common law, as developed by the Supreme Court of Appeal and the Constitutional Court.

- [4]. Uniform Rule 7(1) provides:

"Any person may conduct his own litigation in person, or may, subject to the provisions of these rules, appear in person or be represented by a legal practitioner at any proceedings in terms of these rules."

- [5]. The right to conduct one's own litigation "in person" is a personal right afforded to a natural person. The position of a juristic person, such as a company, is fundamentally different. A company is an abstract legal entity with no physical existence. It cannot, by its very nature, appear "in person". This distinction is foundational to our procedural law.

- [6]. The Supreme Court of Appeal addressed this issue definitively in **Ganes and Another v Telecom Namibia Ltd** ¹ In that matter, the Court held:

"A company, as a legal entity, cannot appear in person. It can only be represented by a person who is duly authorised to act on its behalf, and that

¹ Ganes and Another v Telecom Namibia Ltd 2004 (3) SA 615 (SCA), at paragraph 18 to 21:

person, unless he or she is a legal practitioner, does not have a right of audience in court."

- [7]. This principle was affirmed by the Constitutional Court in **South African Football Association v Stanton Woodrush (Pty) Ltd t/a Stan Smuts & Associates and Another**², where the Court emphasised that the right of audience is not an automatic incident of directorship but is reserved for legal practitioners who are officers of the Court and subject to its disciplinary control.
- [8]. The Appellate Division (as it then was) in **Erasmus v Grunow en 'n Ander**³ at paragraph 18 clarified that while a director may be authorised to take certain procedural steps on behalf of a company such as signing affidavits or notices this does not confer the right to "appear" in the sense of conducting litigation. The Court drew a clear distinction between internal authorisation to represent a company for business purposes and the right of audience before a court, which is a matter of law regulated by the Rules of Court.
- [9]. In **Universal City Studios Inc v Movie Time (Pty) Ltd**⁴, In paragraph 8, the Appellate Division (as the Supreme Court of Appeal was then known) set out the principle that a company, as a juristic person, cannot appear *pro se*; it must be represented by a legal practitioner when conducting proceedings, and proceedings purportedly conducted by a director without such representation are a nullity.
The rationale is that a company, being a creature of statute, must act through a duly authorised legal representative when it seeks to invoke or defend proceedings before a court.
- [10]. These authorities establish a clear and consistent principle: a company must be represented by a legal practitioner in court proceedings. A director, however well-intentioned or knowledgeable about the company's affairs, does

² South African Football Association v Stanton Woodrush (Pty) Ltd t/a Stan Smuts & Associates and Another 2003 (3) SA 313 (CC).

³ Erasmus v Grunow en 'n Ander 1997 (4) SA 899 (O)

⁴ 1983 ZASCA 75; 1983 (4) SA 736 (A)

not possess the right of audience by virtue of their office. This rule serves the important purpose of ensuring that parties are represented by persons who are officers of the Court, subject to its disciplinary powers, and accountable for the conduct of litigation.

APPLICATION TO THE FACTS

[11]. In the present matter, the First Respondent did not instruct a legal practitioner. Ms Stephen, acting in her capacity as a director, prepared and filed the Plea, the Special Plea, and the Affidavit Resisting Summary Judgment on behalf of the First Respondent. She also sought to represent the First Respondent in argument before this Court.

[12]. It is common cause that Ms Stephen is not a legal practitioner admitted to practice in South Africa. She therefore does not have a right of audience to represent the First Respondent. Her actions in conducting the litigation on behalf of the company constitute an irregular step that renders the First Respondent's opposition a nullity.

[13]. The position of the Second Respondent, Ms Stephen, in her personal capacity is distinct. As a natural person, she has the right under Rule 7(1) to represent herself personally. Her personal defence that she contracted with Martin Plichta and not with the Applicant remains properly before the Court. This right, however, extends only to her own defence and cannot be conflated with the representation of the company.

THE CONSEQUENCES FOR THE SUMMARY JUDGMENT APPLICATION

[14]. Because the First Respondent's opposition is a nullity, there is no valid defence placed before the Court on its behalf. The Applicant's application for summary judgment against the First Respondent is therefore unopposed in

law. The Applicant has established a valid cause of action based on the written loan agreement, and the First Respondent has no defence before the Court. Summary judgment must accordingly be granted against the First Respondent.

- [15]. The Applicant's case against the Second Respondent in her personal capacity is different. She has raised a defence that she entered into the loan agreement with Martin Plichta. The loan agreement attached as "**PLI1**" states the parties to the contract are Alena Plichta (the Lender) and Bawn Holdings (Pty) Ltd (the Borrower). The last page of the loan agreement stipulates "For and on behalf of Alena Anna Plichta" and was signed by Martin Plichta.
- [16]. The Second Respondent argued that she has never dealt with the Applicant at all and, as a result, her defence is that she entered into a loan agreement with Martin Plichta. However, a simple reading of the written agreement reveals the falsity of this defence. The contract is unambiguous; it identifies the lender as the Applicant. The fact that the Applicant's son signed on her behalf does not change the identity of the contracting party. Ms Stephen, as the director of the First Respondent who signed on its behalf, is imputed with knowledge of the terms of the written agreement she signed.
- [17]. A party who signs a written agreement is bound by its terms, regardless of whether they have read it or not. This is the well-established principle of **caveat subscriptor** as articulated in **Brisley v Drotsky**⁵ that "The general principle, often repeated, is that a party who signs a document is bound by its terms irrespective of whether he or she has read it or not, or is ignorant of its contents, unless the signature was induced by fraud or misrepresentation, or the document was not intended to be a binding contract, or the party signing was not acting voluntarily or lacked contractual capacity."
- [18]. In **Sonap Petroleum (SA) (Pty) Ltd v Pappadogianis**⁶ Paragraph: 239G–H (per Nicholas AJA, as he then was;)

⁵ Brisley v Drotsky 2002 (4) SA 1 (SCA) at paragraph 22

⁶ 1992 (3) SA 234 (A) this is in the reported judgment page reference, often cited as paragraph 7 or 8 in electronic versions

"The law is clear: a party who signs a written agreement is bound by its terms, whether he has read it or not, or whether he knows its contents or not, unless he was induced to sign it by fraud or misrepresentation, or the document was not intended to be a binding contract, or he signed it under a mistake as to its character or contents which was induced by the other party. This is the well-known principle of ***caveat subscriptor.***"

The Second Respondent cannot now be heard to argue that she was mistaken about the identity of the lender when the agreement she signed clearly states it.

- [19]. The defence raised by the Second Respondent does not constitute a bona fide defence, but is instead unsustainable on the pleaded facts and the express terms of the agreement. The Special Plea relating to locus standi is founded upon an incorrect factual premise and cannot be upheld, particularly where the loan agreement unambiguously identifies the contracting parties and clearly records the rights and obligations arising therefrom.
- [20]. The Second Respondent has failed to disclose a defence which is good in law or one that raises a triable issue warranting the matter proceeding to trial. In the circumstances, the Special Plea falls to be dismissed.
- [21]. Accordingly, the Applicant has satisfied the requirements for summary judgment, and summary judgment ought properly to be granted against the Second Respondent in her personal capacity.

THE RATIONALE FOR THE ORDER

- [22]. The Order of 5 February 2026 reflects these findings:

[22.1] Paragraph 1 declares, in terms of section 20(9)(a) of the Companies Act 71 of 2008, that the First Respondent is to be deemed not to be a juristic person in relation to its obligations arising from the agreement. This gives effect to the well-established principle of "piercing" or "lifting" the corporate veil.

[22.2.] The evidence before the Court demonstrates that the corporate form of the First Respondent was abused for improper purposes. This includes, inter alia, Ms Stephen's correspondence acknowledging the company's inability to satisfy its obligations, the transfer of assets to a related entity without value or commercial justification, and the unconscionable manner in which the transaction was structured and conducted. Collectively, these facts establish that the company was utilised as a façade or shield to evade legal obligations and prejudice creditors.

[22.3] In such circumstances, the law permits the Court to disregard the separate legal personality of the company where adherence to the corporate form would result in injustice or facilitate improper conduct. As was recognised in **Cape Pacific Ltd v Lubner Controlling Investments (Pty) Ltd**⁷, the Court will pierce the corporate veil where there has been misuse or abuse of the company's separate legal identity in a manner that would otherwise produce an unconscionable result.

[23.] **Paragraph 2** orders the First Respondent, alternatively the Second Respondent, to pay the amount of Nine Hundred and Twenty-Seven Thousand Seven Hundred and Fifteen Rand and Eighty-One Cents (R927,715.81). This order gives effect to the Court's finding in terms of section 20(9)(a) of the Companies Act 71 of 2008 that the corporate veil ought to be pierced in the circumstances of this matter. The imposition of alternative liability ensures that the Applicant is not prejudiced in the event that the First Respondent lacks sufficient assets to satisfy the judgment debt, particularly in light of the evidence demonstrating the misuse of the corporate form and the transfer of assets in a manner designed to frustrate the Applicant's claim.

[24] **Paragraph 3** orders payment of interest as agreed in the loan agreement from 26 December 2024 until final payment.

⁷ Cape Pacific Ltd v Lubner Controlling Investments (Pty) Ltd and Others 1995 (4) SA 790 (A)

[25] **Paragraph 4** orders the First Respondent, alternatively the Second Respondent, to pay the costs of suit on Scale “B”. Such a costs order is justified in the circumstances of this matter for at least two reasons. First, the First Respondent opposed the proceedings without proper legal representation, thereby occasioning unnecessary delays, wasting judicial resources, and causing the Applicant to incur avoidable costs. Secondly, the conduct of Ms Stephen, including the transfer of assets in circumstances suggestive of an attempt to frustrate the Applicant’s claim, together with the advancement of a procedurally defective and factually unsustainable defence, warrants an adverse costs order reflecting the Court’s disapproval of such conduct. In **Nel v Waterberg Landbowers Ko-operatiewe Vereniging**⁸, the Appellate Division held that a court may award punitive costs where a party’s conduct is vexatious or amounts to an abuse of the court’s processes.

CONCLUSION

[26]. The fundamental procedural defect arising from a director purporting to represent the First Respondent without being a duly qualified legal practitioner rendered the First Respondent’s opposition irregular and incapable of sustaining a valid defence before Court. This procedural irregularity, when considered together with the merits of the Applicant’s claim and the evidence demonstrating an unconscionable abuse of the First Respondent’s separate juristic personality, fully justified the Order granted on 5 February 2026. Furthermore, the defence advanced by the Second Respondent in her personal capacity, namely that she allegedly contracted with Martin Plichta rather than the Applicant, is not borne out by the written agreement which she herself signed and which clearly identifies the contracting parties. The defence accordingly lacks bona fides and fails to disclose a valid legal defence to the Applicant’s claim.

⁸ Nel v Waterberg Landbowers Ko-operatiewe Vereniging 1946 AD 597

[21]. The application for summary judgment is therefore granted against both the First and Second Respondents as per the order dated the 5th of February 2026.

NKOENYANE AJ
JUDGE OF THE HIGH COURT

Delivered: This judgment was prepared and authored by the Judge whose name is reflected and is handed down electronically by circulation to the Parties/their legal representatives by email and by uploading it to the electronic file of this matter on CaseLines/ Courtonline. The date for hand-down is deemed to be 21 May 2026.

APPEARANCES:

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