

Reportable:	YES / NO
Circulate to Judges:	YES / NO
Circulate to Regional Magistrates:	YES / NO
Circulate to Magistrates:	YES / NO



**IN THE HIGH COURT OF SOUTH AFRICA  
(NORTHERN CAPE DIVISION, KIMBERLEY)**

Case No: **2913/2024**

In the matter between:

<b>MUHAMMAD SEEDAT</b>	First Applicant
<b>ADV MARILIZE ROLLER N.O.</b>	
<b>(obo MODISSAGAANEKWE ADAM MOSEKI)</b>	Second Applicant
<b>ALETTA SIBINA SAUER</b>	Third Applicant
<b>LEBOGANG ONTEHETSE VERONICA GAAREKWE</b>	Fourth Applicant
<b>LEANDI NEETHLING N.O.</b>	
<b>(obo CHRIZELDA MERCIA VAN NIEKERK)</b>	Fifth Applicant
<b>HUGO EUGENE STRUMPHER</b>	Sixth Applicant
<b>SUSANNA CATHARINA NORTJE</b>	Seventh Applicant
<b>ERASMUS ALBERTUS SCHUTTE</b>	Eighth Applicant
<b>MAUD ELLEN PRETORIUS</b>	Ninth Applicant
<b>SYBRANSD ABRAHAM DE BEER</b>	Tenth Applicant
<b>LIOTT MARIS ATTORNEYS</b>	Eleventh Applicant

and

<b>THE ROAD ACCIDENT FUND</b>	First Respondent
<b>VINCENT LEKOLWANA</b>	Second Respondent
<b>THE MINISTER OF TRANSPORT</b>	Third Respondent

---

**Neutral citation:** *M Seedat & 10 Others v The Road Accident Fund & 2 Others*  
(Case No: 2913/2024)

**Coram:** Coetzee AJ

**Date of Judgment:** 19 June 2026

**Summary:** Applicants move for an order for a declaration of unlawfulness of the first and second respondents' "blocking" and/or intentionally delaying payment of capital, costs and/or interest in terms of court orders and/or due court process in respect of costs (namely allocators by taxing masters), to the first to seventh and ninth to tenth applicants as clients of the eleventh applicant ostensibly for payment of an outstanding amount due to the first respondent by another client of the eleventh applicant, or for any other undisclosed reason

---

## JUDGMENT

---

### THE PARTIES

First to tenth applicants are all claimants in third party actions instituted on their behalf by the eleventh applicant, a firm of attorneys, which firm also acted in a similar action on behalf a certain Me A Ford.

The First Respondent is the **Road Accident Fund** established by the Road Accident Fund Act<sup>1</sup>, a statutory body that compensates persons who suffer bodily injury, or the dependants of persons who die, as a result of the negligent driving of motor vehicles in South Africa. The Act replaced earlier compensation schemes and created a single national fund.

---

<sup>1</sup> Act 56 of 1996

**INTRODUCTION:**

- [1] On 3 December 2024 the applicants, brought a semi-urgent application, claiming the relief set out in part A of the notice of motion.
- [2] This semi-urgent application was heard by Stanton J who struck the matter from the roll for lack of urgency and ordered the applicants to pay the respondents' costs jointly and severally.
- [3] The applicants filed an amended notice of motion on the 20<sup>th</sup> of June 2025 supported by s supporting affidavit by Mr. Van Niekerk. This amended notice of motion was heard by Lever J who, by agreement between the parties, postponed the matter to 13 March 2026.
- [4] The relevant relief claimed in the amended Notice of Motion, is the following

**Paragraph A**

- 1 That leave be and is granted to the applicants to file and rely on the supplementary affidavit of Mr Hendrik August van Niekerk;*
- 2 That the first and second respondent's conduct of "blocking" and/or intentionally delaying payment of capital, costs and/or interest in terms of court orders and/or due court process in respect of costs (namely allocators by taxing masters), to the first to seventh and ninth to tenth applicants as clients of the eleventh applicant ostensibly for payment of an outstanding amount due to the first respondent by another client of the*

*eleventh applicant, or for any other undisclosed reason, be declared unlawful (“the unlawful conduct”)*

*3 That the first and second respondents be ordered to forthwith*

*3.1 cease with such unlawful conduct by unblocking or to desist from delaying payments due to the eleventh applicant in respect of the first to seventh and ninth to tenth applicant*

*3.2 implement steps to make payment of any and all amounts due as capital, interest and/or costs to the first to seventh and ninth to tenth applicants, such payment to be affected forthwith but by no later than 14 days from date of this order;*

**Paragraph B**

*1 That the unlawful conduct by the second respondent and any and every other person identified as below, be declared to be mala fide and not to fall within the remit of the protection afforded to employees and officials of the first defendant in terms of section 15(3) of the Road Accident Fund Act, no 56 of 1996;*

2 *That the second respondent and/or any other person or persons (“collectively referred to as “the transgressors”) who may yet be identified and joined in these proceedings, be declared to be guilty of contempt of court by having wilfully engaged in the unlawful conduct;*

4 *Pay the costs of this application (in respect of Part A and Part B) on a scale as between attorney and own client, jointly and severally, the one paying the other to be absolved.*

The applicants however move for an order in terms of prayers 1, 2 and 3 of Part A and payers 1, 2, and 4 of part B of the amended Notice of Motion.

### **BACKGROUND**

[4] It is common cause that, at the institution of the first application, the following capital amounts plus taxed costs were due and payable by the First Respondent to the Plaintiffs as listed hereunder:

<b>CASE NO.</b>		<b>ORDER AMOUNT</b>	<b>DATE OF ORDER</b>
298/2011	<b>SEEDAT, M</b>	<b>R 500 000.00</b>	12 Nov. 2019
1433/2012	<b>MA MOSEKI</b> Taxed Costs	<b>R 594 267.60</b> R 119 020	11 Dec. 2020
02/2018	<b>SAUER, AS</b> Taxed Costs	<b>R 5 411 902.20</b> R1 192 230.84	01 Dec. 2024
1999/2016	<b>ORATILE GAAREKWE</b> Taxed Costs	<b>R4 923 202.00</b> R1 192 230.84	15 Oct. 2021
1359/2018	<b>VAN NIEKERK C M</b>	<b>R523 956.10</b>	23 Feb. 2021

1896/2021	<b>STRUMPHER, HE</b>	<b>R1 722 154.25</b>	10 May 2023
2050/2016	<b>NORTJE, SC</b> Taxed Costs	<b>R2 219 742.00</b> R 624468.38	04 Dec. 2020
378/2009	<b>SCHUTTE, EA</b> Taxed Costs	<b>R 346 804.00</b> R780 060.57	08 Mar. 2019
689/2012	<b>PRETORIUS, ME</b> Taxed Costs	<b>R2 369 422.46</b> R184 478.82	10 Feb. 2021
1016/2017	<b>DE BEER, SA</b> Taxed Costs	<b>R1 607 291.39</b> R1134 727.10	25 Mar. 2019

[5] Certain amounts has been paid to some of the applicants as set out hereunder:

5.1 R 135 564.78 on 5 January 2018;

5.2 R 29 445.91 on 16 March 2018; and

5.3 R 1 407 350.88 on 29 June 2018.

[6] The first and second respondents filed opposing papers to the founding affidavit by Mr. van Niekerk, acting on behalf of the majority of the applicants and he is the managing partner of the eleventh applicant.

[7] In their initial opposing papers to the original application, the first and second respondent summarized the grounds for opposition being three points *in limine*

- 7.1) First point *in limine*: that the present application constitutes an attempt to circumvent the legitimate and well-regulated process of execution as laid down in Rule 45
- 7.2) Second point *in limine* that the application lacked urgency.
- 7.3) Third point *in limine* that the relief claimed is incoherent.

As well as a defence on the merits to which I will refer to *infra*.

[8] **Points In Limine**

8.1 The second point in *limine* became irrelevant as a result of the application in December 2024

8.2 Rule 45(1) provides as follows:

*"A judgment creditor may, at his or her own risk, sue out of the office of the registrar one or more writs for execution thereof corresponding substantially with Form 18 of the First Schedule."*

From the wording of the rule it is clear that the provides the threat to be issued only in claims sounding in money. In this event the relief claimed is of a declaratory nature and thus not sobbing in money and the point in limine is therefore without substance.

8.3 I can find no inchoateness' in a relief and therefore this point is also in my view without substance.

[9] From the undisputed evidence it is clear that the origin of the impasse between the parties stems from, what I will refer to as the "Ford Matter"

[10] Ms Amy Ford (plaintiff in the "Ford Matter") is also a client of Elliott Maris, the eleventh applicant. Her action in her personal and in her representative capacity on behalf of her children (Tegan, William and Gordon Riley Ford) was for damages suffered in which she claimed compensation for personal injuries and in respect of a loss of maintenance by all of them (excluding Tegan Ford).The Ford Matter, was partially finalised on 30 November 2017 (in respect of the personal injuries and finalised in respect of the loss of maintenance component on 17 September 2020.

[11] However, a significant amount in unpaid interest, which accrued on

the capital amounts and on unpaid costs, remains due to her by the first respondent.

[12] In terms of the order dated 30 December 2017 the first respondent was ordered to pay to Ford an amount totalling R 1 542 915.66, and in terms of the order dated 17 September 2020 the first respondent was ordered to pay an amount of R 3 790 000.00 (from which an amount of R 990 000 awarded as an interim payment in terms paragraph 9 of the order had to be deducted). The amount effectively due in terms of the order of 17 September 2020 was therefore R 2 800 000.00 which became payable on 2 October 2020, which was 14 days after the date of that order.

[13] After the order of 30 November 2017 was issued the following payments were made by the first respondent:

[14] In the Ford matter, a costs order was made against the plaintiff, Ford, for the wasted costs of a postponement on 24 April 2018. The wasted costs in terms of that order was taxed and allocated in the amount of R 88 063.69 on 27 November 2018. The amount owing by Ford to the first respondent in respect of those taxed costs was therefore due on 27 November 2018.

[15] It is this amount of R 88 063.69 which is the root cause of the

withholding of payment to the first to tenth applicants through their attorneys, Elliott Maris.

[16] The nett effect is that the first respondent owes Ford substantially more than the amount of R 88 063.69 she owed the first respondent. That debt ceased to exist on 2 October 2020 g When the amount payable in terms of the order of 27 September 2020 became due on 2 October 2020, the relatively small amount due by Ford to the first respondent in law ceased to be owing because of set off against a much larger amount.

[17] After the order of 17 September 2020 was issued, the following payments in regard to the Ford matter were made by the first respondent:

17.1 R 1 850 000.00 on 8 March 2021; and

17.2 R 950 000.00 on 10 May 2023.

[18] The taxed and allocated costs for which the first respondent became liable in the Ford matter amounted to R 1 403 333. 06.. Interest began to accrue on that amount from 18 February 2022. Payment of the taxed costs only (excluding accrued interest thereon) in the amount of R 1 403 333.06 was made on 29 June 2022.

- [19] On 8 March 2023 Mr, van Niekerk caused an email to be sent to the first respondent enclosing all the relevant documents required to make payment (which the first respondent already had in any event) to Ford in respect of the outstanding capital amount of R 950 000.00. There was no response thereto. On 17 March 2023 the process followed on 8 March was repeated Payment of the alleged amount due in respect of the wasted costs was demanded by Mr Ramjan, a financial assistant in the “debtors” department of the first respondent’s head office in Pretoria.
- [20] This was followed by a telephonic discussion which Mr van Niekerk had with Mr Ramjan on 5 May 2023. During this telephonic discussion Mr Ramain said that no payment whatsoever will be made because Elliott Maris owes the wasted costs order in the Ford Mattrer to the first respondent. Mr van Niekerk pointed out to him that he is wrong based on the clear terms of the court order of 24 April 2018 in terms of which Ford was liable for those costs. It also pointed out to him that the accrued interest payable by the first respondent far exceeds any amount previously due by Ford in respect of the wasted costs. This attitude of Mr the Main can only be interpreted as to be mala fide and a wilful and in my view a direct defeat of the and purpose of a Road Accident Fund Act.
- [21] On 10 May 2023 the first respondent made payment in respect of the

full outstanding capital of R 950 000,00 in the Ford matter without any deduction for the alleged amount due in respect of wasted costs order.

[22] The amount still owing by the first respondent's cost order against Ford and calculated at 31 October 2024 is the amount of R 371 067.60 and as a result of interest is mounting daily.

[23] It is clear from the papers that none of the applicants are in any way indebted to the first respondent.

[24] From the facts set out above it is clear that the First Respondent holds the applicant's at ransom for the cost order against Ford.

[25] I therefore make the following order:

1 *That leave be and is granted to the applicants to file and rely on the supplementary affidavit of Mr Hendrik August van Niekerk;*

2 *That the first and second respondent's conduct of "blocking" and/or intentionally delaying payment of capital, costs and/or interest in terms of court orders and/or due court process in respect of costs (namely allocators by taxing masters), to the first to seventh and ninth to tenth applicants as clients of the*

*eleventh applicant ostensibly for payment of an outstanding amount due to the first respondent by another client of the eleventh applicant, or for any other undisclosed reason, be declared unlawful (“the unlawful conduct”)*

**3** *That the first and second respondents be ordered to forthwith*


*3.1 cease with such unlawful conduct by unblocking or to desist from delaying payments due to the eleventh applicant in respect of the first to seventh and ninth to tenth applicant*

*3.2 implement steps to make payment of any and all amounts due as capital, interest and/or costs to the first to seventh and ninth to tenth applicants, such payment to be affected forthwith but by no later than 14 days from date of this order;*

**4** *That the unlawful conduct by the second respondent and any and every other person identified as below, be declared to be mala fide and not to fall within the remit of the protection afforded to employees and officials of the first defendant in terms of section 15(3) of the Road Accident Fund Act, no 56 of 1996;*

5 *That the second respondent and/or any other person or persons (“collectively referred to as “the transgressors”) who may yet be identified and joined in these proceedings, be declared to be guilty of contempt of court by having wilfully engaged in the unlawful conduct;*

6 *Pay the costs of this application (in respect of Part A and Part B) on a scale as between attorney and own client, jointly and severally, the one paying the other to be absolved*

  
COETZEE, AJ  
ACTING JUDGE  
NORTHERN CAPE DIVISION  
KIMBERLEY

For the Applicants: Adv. WP de Waal SC instructed by Elliot Maris

For the 1<sup>st</sup> & 2<sup>nd</sup> Respondents: Adv. DT Skosana SC instructed by Roux Welgemoed Du Plooy