

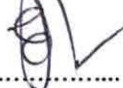
REPUBLIC OF SOUTH AFRICA



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

- (1) REPORTABLE: **NO**
(2) OF INTEREST TO OTHER JUDGES: **NO**
(3) REVISED.

03/02/2023
DATE


SIGNATURE

Case no.: **2020/17363**

In the matter between:

DAMAL TRADING (PTY) LTD
LIFEZONE TRADING (PTY) LTD
LOAN PICKER SA (PTY) LTD
LOAN SCOUT SA (PTY) LTD
LOAN HUB SA (PTY) LTD
LOAN ZONE SA (PTY) LTD
LOAN CHOICE SA (PTY) LTD
LOAN MATCH SA (PTY) LTD
LOAN QUEST SA (PTY) LTD
CAPITAL LIFESTYLE SOLUTIONS (PTY) LTD

1ST APPLICANT
2ND APPLICANT
3RD APPLICANT
4TH APPLICANT
5TH APPLICANT
6TH APPLICANT
7TH APPLICANT
8TH APPLICANT
9TH APPLICANT
10TH APPLICANT

and

Coram: Dlamini J

Date of Request for reasons: 18 October 2022

Date of delivery of reasons: 03 February 2023

These reasons are deemed to have been delivered electronically by circulation to the parties' representatives via email and same shall be uploaded onto the caselines system.

JUDGMENT

DLAMINI J

- [1] On 5 September 2022, I made the draft order marked X an order of the court. The following are my reasons for making that order.
- [2] This is an application for a money judgment wherein the applicants claimed that the respondent is ordered to pay the applicants the total sum of R1 849 104 59.
- [3] The facts leading to the dispute in this matter are largely common cause.
- [4] The applicants had entered into several service agreements with the respondent, in terms of which the respondent provided non-authenticated early debit order collection services to applicants, referred to as NAEDO services.
- [5] The respondent accounted to the applicants through monthly statements, reflecting the sums collected on behalf of each applicant and, based on this collection, the respondent would after settling any dispute between the parties,

pay to the applicants the upfront amount and, after 40 days, the retained amount.

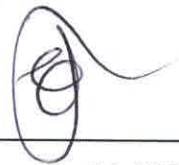
- [6] On 28 June 2019, the respondent wrote to the applicants informing them that it had terminated the agreement between the parties effective 27 July 2019.
- [7] On 7 November 2019, the respondent advised the applicants that the respondent had decided to retain all amounts collected on behalf of the applicants until the conclusion of the anticipated class action.
- [8] On 30 June 2020, the applicant's attorneys wrote to the respondent's attorneys demanding payment of the sums due to the applicants. When no response was forthcoming, the applicants launched this application.
- [9] The high watermark of the respondent's case is found in the respondent supplementary affidavit. The respondent submits that there is a pending court action in the Western Cape High Court, wherein some of the applicants in this present matter, have been cited therein as respondents. The respondent avers that it appears that the applicant's companies are not registered credit providers. Accordingly, the respondents avers that there is a substantial risk that any customer or person in the class action may claim from the respondent the money presently held by the respondent.
- [10] In my view, the respondent's submissions in this regard are baseless and fall to be dismissed. The respondent's submissions are nothing more than a deliberate attempt by the respondent to avoid the payment of the applicant's money.

There is no justification for this assertion, this is so because in the respondent's admission, in terms of the various agreements concluded between the parties, the applicants have indemnified the respondent and held the respondent harmless against all and any claims or action of whatsoever nature which may be instituted against the respondent in respect of loss and or damages which may be incurred by the applicants or the customers of the applicants and or services providers of the applicants arising out of the respondent's service. This in my view, puts an end to the respondent's defense.

[11] In light of all the above circumstances, it is my considered view that the applicants have established their case and are entitled to the amounts owed and due to them by the respondent.

ORDER

1. The order marked "X" that I signed on 5 September 2022 is made an order of this Court.



DLAMINI J

JUDGE OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION, JOHANNESBURG

Date of request for reasons: 18 October 2022

Delivered: 03 February 2023

For the Applicant: Adv PS Bothma
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For the Respondent: Craig Cremen
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