



IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)

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

DATE: 22 August 2026

SIGNATURE

[Redacted signature]

CASE NO: 130119/2024

In the matter between:

IDEXIS (PTY) LTD T/A SENTRA PHARMACY

First Applicant

RUAAN LOUW

Second Applicant

and

NOVO NORDISK (PTY) LTD

First Respondent

SOUTH AFRICAN HEALTH PRODUCTS
REGULATORY AUTHORITY

Second Respondent

THE SOUTH AFRICAN PHARMACY COUNCIL

Third Respondent

In re:

NOVO NORDISK (PTY) LTD

Applicant

And

IDEXIS (PTY) LTD T/A SENTRA PHARMACY

First Respondent

RUAAN LOUW

Second Respondent

**SOUTH AFRICAN HEALTH PRODUCTS
REGULATORY AUTHORITY**

Third Respondent

SOUTH AFRICAN PHARMACY COUNCIL

Fourth Respondent

JUDGMENT: APPLICATION FOR LEAVE TO APPEAL

The judgment and order are published and distributed electronically.

Summary; Application for leave to appeal. Notice of application for leave to appeal consisting of 87 pages with 341 paragraphs held to be an abuse of process. Further held that impugned order is not final in effect, being a temporary interdict. Further held that it is not in the interest of justice to grant leave to appeal. Application for leave to appeal refused.

PA VAN NIEKERK, J

INTRODUCTION:

- [1] Applicants seek leave to appeal against the order and judgment of this court handed down on 22 June 2026. In terms of that judgment this court granted an order restraining the Applicants (“Idexis”) from manufacturing or supplying, whether by compounding or otherwise, medicine containing semaglutide. That order was granted in the form of an interim interdict, operating pending any decision(s) to be taken by Third Respondent (“SAHPRA”) and/or Fourth Respondent (“SAPC”) in an investigation relating to compounding practises and other related issues of Idexis, and/or any review application against any such decision(s).
- [2] Idexis applies for leave to appeal against that judgment and order and the application is opposed by First Respondent (“Novo Nordisk”).

THE APPLICATION FOR LEAVE TO APPEAL

- [3] Idexis served a notice titled "*Application for leave to appeal*", therein giving notice that Idexis applies in terms of section 17(1)(a) and (b) of the Superior Courts Act 10 of 2013, read with Uniform Rule 49(1)(b), for leave to appeal to the Supreme Court of Appeal *alternatively* the Full Court of the Gauteng Division, Pretoria, against the whole of the judgment and order (including cost order) of this court delivered on 22 June 2026.
- [4] Rule 49(1)(b) requires the Applicant, in an application for leave to appeal, to state the grounds for that application. The reference to "*the grounds for the application for leave to appeal*" has been interpreted to mean that the grounds for the application for leave to appeal must be set out by the applicant, clearly and succinctly, in clear and unambiguous terms so as to enable the court and the respondent to be fully informed of the case the applicant seeks to make out and which the respondent is to meet in opposing the application for leave to appeal. The sub-rule is peremptory in that regard. In *Erasmus, Superior Court Practice*¹ reference is made to various authorities which confirms the aforesaid principles. In that authority, specific reference is made to *Songono*.² a judgment followed in various divisions, where the court referred to an application for leave to appeal which consisted of 17 pages in the following terms:

"In attempted compliance therewith the applicant filed a document headed 'Application for leave to appeal', in which he purported to set out the grounds upon which leave to appeal was to be sought. These so- called 'grounds' constitute a diatribe of some 17

¹ *Erasmus, Superior Court Practice*, 2nd ed, Van Loggerenberg, vol. 2 at D1 49-5.

² *Songono v Minister of Law and Order* 1996 (4) SA 384 (E) at 385I-J.

pages criticising the judgment, analysing (at times incorrectly) certain of the evidence and the findings made, putting forward certain submissions and quoting various authorities. This lengthy, convoluted and at times disjointed criticism of the judgment did not clearly and succinctly spell out the grounds upon which leave to appeal is sought in clear and unambiguous terms - indeed, it served more to deceive, particularly as, during the course of argument, there were several points which the applicant's counsel, Mr Bursey, sought to raise which were not indicated in the document.

...

It seems to me that, by a parity of reasoning, the grounds of appeal required under Rule 49(1)(b) must similarly be clearly and succinctly set out in clear and unambiguous terms so as to enable the Court and the respondent to be fully and properly informed of the case which the applicant seeks to make out and which the respondent is to meet in opposing the application for leave to appeal. Just as Rule 49(3) is peremptory in that regard, Rule 49(1)(b) must also be regarded as being peremptory. In my view the lengthy and rambling notice of appeal filed in casu falls woefully short of what was required. Mr Bursey suggested that grounds of appeal could be gleaned from the notice but that is not the point - the point is that the notice must clearly set out the grounds and it is not for the Court to have to analyse a lengthy document in an attempt to establish what grounds the applicant intended to rely upon but did not clearly set out. On this basis alone the application seems to me to be fatally defective and must be dismissed".

[5] In *Municipality of Thabazimbi v Badenhorst*³ (a judgment of this division) it was expressly held that the failure to comply with the peremptory provisions of rule 49(1)(b) in as much as they do not set out the grounds of appeal in clear, unambiguous and succinct terms, the court hearing the application may, on that basis alone, dismiss the application.

[6] *In casu* the Applicants' notice of application for leave to appeal has *inter alia* the following features:

[6.1] The notice consists of 87 pages, and contains 341 paragraphs, a substantial number of which contain sub-paragraphs;

[6.2] The notice serves to impugn literally every aspect of the judgment, relying mostly on the same arguments which were advanced during the hearing of the application;

[6.3] There numerous references to authorities (as if in heads of argument) and in some instances, containing quotations from those judgments;

[6.4] The notice also contains quotations from supplementary heads of argument previously filed during the hearing on behalf of Idexis, regurgitating the same issues raised there in a similar manner.

[6.5] The issue whether the semaglutide found as an API in Ozempic and Wegovy are the "same" or "similar" to the semaglutide used in the Idexis product is again laboured extensively with references to reports annexed to the

³ *Municipality of Thabazimbi v Badenhorst* 2024 JDR 0991 (GP) at para [17].

Applicant's papers in the application, while this court clearly illustrated in the judgment that the expert witness relied on by Idexis in the application confirmed the difference between a product of a biological origin compared to a chemically synthesised product.

[6.6] When the issue of the voluminous notice of application for leave to appeal was raised with counsel acting for Idexis, specifically in regard to the fact that the notice consists of 87 pages and 341 paragraphs, the glib response was to say that the first 30 pages of the notice contains the required reasons and the remainder of the notice can be ignored. Implicit in this statement is a concession that the notice of application for leave to appeal is not succinct and that this court was required to labour through a voluminous document for no real purpose. It is indicative of a lack of respect and appreciation for the ethical duty of practitioners to utilise judicial resources effectively. That statement also carries the implicit concession that the notice of application for leave to appeal constitutes an abuse of the process.

[7] The notice of application for leave to appeal filed by Idexis fits squarely into the description of the application for leave to appeal referred to in the *Songono* judgment as quoted *supra*. Instead of identifying a ground for appeal, succinctly stated, with rational reasons to convince this court that another court will arrive at a different conclusion, the notice of appeal is nothing more than a diatribe of some 87 pages (approximately 57 of which are not required) criticising the judgment, analysing the evidence, putting forward elaborate arguments in a similar manner as were presented during the hearing, and quoting various authorities.

- [8] On behalf of Idexis, heads of argument were filed to support the application for leave to appeal. The heads of argument consist of 72 pages. In my view any experienced practitioner will grasp the significance of the fact that the heads of argument in an application for leave to appeal, consisting of 72 pages, disposed of the grounds relied on with more brevity than the notice of application for leave to appeal itself.
- [9] Significantly, counsels acting for Novo Nordisk were able to efficiently dispose of the plethora of issues raised in the notice of application for leave to appeal in heads of argument which consisted of 20 pages, succinctly illustrating the lack of merit in the application for leave to appeal. On behalf of Novo Nordisk it was submitted that the application constitutes an abuse of the process and I agree. On that ground alone, the application stands to be dismissed.

IS THE ORDER APPEALABLE?

- [10] Notwithstanding the finding above, I am of the view that it is necessary to deal with an issue which is dispositive of the application for leave to appeal and was raised by both parties. That issue relates to the appealability of the order in the sense that Idexis argued that the order is final in effect and thus appealable, while Novo Nordisk contends that it is an interim order of limited operation. In the alternative, it was argued by Idexis that it is in the interest of justice that leave to appeal be granted, even if it is found to be an interim order. In that regard, the following considerations are relevant:
- [10.1] This court was required by Novo Nordisk to find that a temporary interdict should be granted against Idexis in terms whereof the compounding of medicines, which *prima facie* appears to be illegal and unlawful, are

prevented pending an investigation which was initiated by SAHPRA and SAPC into the activities of Idexis. It was common cause that the investigation was launched by SAHPRA and SAPC who issued compliance directives to Idexis shortly before the application was heard. That investigation relates to the very issues raised by Novo Nordisk in support of the relief claimed in the application and the investigation revealed, at least prima facie, unlawful compounding practises by Idexis. There is no doubt that whatever the outcomes of that investigation by the relevant regulatory bodies will be, and whatever decisions they may make and/or whatever directives they may issue pursuant to that investigation, either Idexis or Novo Nordisk will institute review proceedings against those findings and/or directives and/or decisions;

[10.2] The order made by this court is clearly a temporary order pending finalisation of those proceedings, which are ultimately heading for a determination by a court of law. This issue was dealt with fully in the judgment and the order is clearly subject to the finalisation of that investigation and any review resulting from it. The attempt of Idexis to argue that the order is final in effect is based on the same convoluted argument advanced during the hearing of the application, was dealt with in the judgment, and there is no reasonable prospect that another court will find differently.

[10.3] Insofar as Idexis relied on the interests of justice as a ground compelling this court to grant leave to appeal, I am of the view that it is not in the interest of justice to grant leave to appeal. In my view it is in the interests of justice that the investigation by the regulatory bodies being the SAHPRA and SAPC be finalised, that the parties thereafter ventilate whatever issues they intend to

do by way of review proceedings, and that the totality of any outstanding disputes as it may materialise at that time be dealt with once and for all on appeal, should leave be granted to any of the parties at that time. It is further not in the interest of justice that conduct, which appears at least *prima facie* to be unlawful and not in the public interest, be allowed to continue until all the issues are finally and fully ventilated in a court of law.

COSTS

- [11] In heads of argument filed on behalf of Novo Nordisk a punitive order for costs was sought against Idexis, based on the submission that the notice of application for leave to appeal constitutes an abuse of the process. However, during the hearing of the application for leave to appeal counsel acting on behalf of Novo Nordisk sought an order for costs, not on a punitive scale, including costs of all counsel involved, taxed on Scale C.

I make the following order:

1. The application for leave to appeal is refused.
2. Applicants are ordered to pay the costs, including costs of three counsel, taxed on Scale C.




P A VAN NIEKERK
JUDGE OF THE GAUTENG DIVISION,
PRETORIA

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