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IN THE HIGH COURT OF SOUTH AFRICA

LIMPOPO DIVISION, POLOKWANE

CASE NO.: 2026-050537

(1) REPORTABLE: YES/NO
(2) OF INTEREST TO THE JUDGES: YES/NO
(3) REVISED: YES/NO

_____ 03/11/2026
SIGNATURE **DATE**

In the matter between:

THE SOUTH AFRICAN LEGAL PRACTICE COUNCIL APPLICANT

AND

NINETTE GEORGETTE JANSE VAN RENSBURG FIRST RESPONDENT (LANDSBERG)

JANSE VAN RENSBURG-LANDSBERG SECOND RESPONDENT

ATTORNEYS

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JUDGMENT

NGOBENI J

[1] The applicant is The South African Legal Practice Council (LPC), a body corporate, established in terms of the Legal Practice Act 28 of 2014 (LPA), and exercises jurisdiction over all legal practitioners. The objective of the LPC is to regulate professional conduct of legal practitioners to ensure accountable conduct of the legal profession to the public.

[2] The first respondent is Ninette Georgette Janse Van Rensburg (Landsberg), with identity number 7[...], who was admitted on 08 April 2003 by the High Court of South Africa as a legal practitioner, and her name was enrolled and authorised to practice as an attorney, with legal practitioner number 20014. The first respondent is currently practicing as a sole practitioner under the name and style Janse Van Rensburg-Landsberg Attorneys, practicing at 1[...] L[...] Avenue, Musina and/or 2[...] K[...] Street, Ext. 4, Musina, Limpopo Province.

[3] The second respondent is Janse Van Rensburg-Landsberg Attorneys, with its principal place of business at 1[...] L[...] Avenue, Musina and/or 2[...] K[...] Street, Ext. 4, Musina, Limpopo Province. The second respondent

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was established by the first respondent to conduct her legal practice as an attorney, and the second respondent is registered as Firm Number 8947.

[4] This is an application for the removal of the first respondent from the roll of legal practitioners, based on the applicant's contention that the first respondent is guilty of unprofessional or dishonourable or unworthy conduct as a legal practitioner. The applicant further alleges that the first respondent contravened various provisions of the LPA, the Rules and the Code of Conduct of the LPC. The applicant alleges that the first respondent is not a fit and proper person to continue to practice as a legal practitioner. It is at this stage not necessary to go into the merits of the application as the first respondent raised a point *in limine* in reaction to the application and this court must deal with that aspect first.

[5] The first respondent who is the sole proprietor trading as the second respondent also represents the second respondent in this application. I will summarise the point *in limine* that the first respondent raised for easy understanding because it was expounded. The point *in limine* that is raised by the first respondent is that this application to remove her from the roll of legal practitioners is based on the recommendation by the Disciplinary Committee (DC) that held a disciplinary enquiry against her and convicted her. The first respondent discovered that the brief

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summary of the judgment of the DC on merits and conviction as well as the recommended sanction and reasons for such recommendation attached to the founding affidavit of the LPC, which is referred to as LPC6, was incomplete. The said incomplete record is what was served on her in March 2026 pursuant to this application to remove her.

[6] The point *in limine* further raises the fact that the prosecutor who acted on behalf of the applicant during the disciplinary hearing contended that the first respondent did not submit her mitigating factors, and the DC found that she refused to provide her mitigating factors. The DC therefore finalised the disciplinary enquiry without considering her mitigating factors.

[7] The applicant in May 2025 held a disciplinary hearing against the first respondent where she was convicted and a recommendation was made that this application be brought against her. The first respondent alleges that in that disciplinary hearing, the DC failed to consider her mitigating factors and her exculpatory evidence. She was convicted of a transgression that had not formed part of the charges levelled against her. The DC allowed the complainant, one Mr. Grobler, to cross examine the first respondent who appeared in person.

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[8] The first respondent has lodged a complaint with the Legal Services Ombud (Ombud) in terms of section 45 to 48 of the LPA on 30 June 2026. That complaint is pending. The first respondent intends instituting judicial review proceedings under the Promotion of Administrative Justice Act 3 of 2000 (PAJA). In summary the respondents apply for the dismissal of the application on the basis that the disciplinary hearing was flawed, alternatively, the application proceedings must be stayed pending the decision of the Ombud or pending the review application. After the Ombud will have decided, a review will be instituted within 14 days of the adjudication by the Ombud.

[9] In response to the point *in limine* raised by the respondents, the applicant contends that although the recommendation of the DC culminated in the institution of this application, that recommendation is not an indispensable document for purposes of this application. It was therefore not peremptory for the applicant to have pursued a disciplinary action against the respondents before it could institute these proceedings. In other words, the applicant could still pursue this application without or even though there was no recommendation from the DC. The further submission is that the High Court (Court) is empowered in terms of section 44 of the LPA to exercise its disciplinary powers over legal practitioners.

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[10] On the missing parts of the record or LPC6, the applicant admits that indeed three pages were missing on the founding affidavit of this application, but those pages were provided to the respondents on the same day after being alerted about the missing pages and the omission was explained. On the mitigating factors of the first respondent which were not submitted to the DC, the response by the applicant is that indeed the mitigating submissions of the first respondent were not placed before the members of the DC because of an administrative oversight, but the DC was aware of the circumstances of the first respondent because of the evidence that was presented in the enquiry.

[11] The only information that was not presented to the DC regarding her mitigating circumstances was her family responsibilities as a breadwinner. The applicant denies that the recommendation of the DC without the mitigating circumstances of the first respondent constitutes a gross irregularity and that does not render the process fatally flawed as claimed by the first respondent.

[12] In issue between the parties at this stage is as to whether the court must uphold the point *in limine* and dismiss the application or not. In applications of this nature, it is trite that the court must follow a three stage enquiry which the Supreme Court of Appeal confirmed in several cases, which are, first, whether the alleged offending conduct has been

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established on a preponderance of probabilities, which is a factual enquiry, secondly, whether the person concerned in the discretion of the court is not a fit and proper person to continue to practice. This involves a weighing up of the conduct complained of against the conduct expected of an attorney and, to this extent, is a value judgment. Thirdly, the court must enquire whether in all the circumstances the attorney is to be removed from the roll of attorneys or whether an order of suspension from practice would suffice[1].

[13] The point *in limine* that was raised by the respondents have segments which must be dealt with individually. The issues raised were unnecessarily compounded. The first issue that in my view must be dealt with is as to whether this application is fully dependant on the recommendations that arise from the DC. In other words, can this application still be sustained even if there is no recommendation from the DC.

[14] Section 30 of the LPA empowers the South African Legal Practice Council (Council) to enrol the name of a practitioner to practice as a legal practitioner upon application after the High Court would have admitted such a person. It is again the High Court that can strike or suspend the

[1] Jasat v Natal Law Society 2000 (3) SA 44 (SCA) para 10, Botha v Law Society of the Northern Provinces 2009 (1) SA 227 (SCA) (23 September 2008), The Law Society of the Northern Provinces v Morabadi (1151/2017) [2018] ZASCA 185 (11 December 2018), Summerley v Law Society of the Northern Provinces 2006 (5) SA 613 (SCA).

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legal practitioner from practicing after an application would have been made before the High Court.

[15] The High Court is empowered in terms of section 44 of the LPA to adjudicate upon a matter that involves a legal practitioner, candidate legal practitioner or a juristic entity. The provisions of section 44 of the LPA read as follows:

Powers of the High Court

"44. (1) The provisions of this Act do not derogate in any way from the power of the High Court to adjudicate upon and make orders in respect of matters concerning the conduct of a legal practitioner, candidate legal practitioner or a juristic entity.

(2) Nothing contained in this Act precludes a complainant or a legal practitioner, candidate legal practitioner or juristic entity from applying to the High Court for appropriate relief in connection with any complaint or charge of misconduct against a legal practitioner, candidate legal practitioner or juristic entity or in connection with any decision of a disciplinary body, the Ombud or the Council in connection with such complaint or charge".

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[16] In *Legal Practice Council v Motlhabani*[2], on paragraph 25 of the judgment the court said the following:

"The suspension and removal/striking off application constituted sui generis disciplinary proceedings which becomes the Court's proceedings. These proceedings are merely referred by the applicant to the court. When the applicant exercises its discretion to refer the alleged offending conduct to the Court for the court to make a decision on whether the practitioner should be suspended and or removed/strike off as not being a fit and proper person to continue to practice as an attorney…"

[17] This Division in the case of *The South African Legal Practice Council and Eric Matobola Mampana*[3], in interpreting the provisions of section 44(1) of the LPA on paragraphs 15 and 16 of the judgment succinctly said the following:

"[15] It follows that the mere fact that there were rulings or findings made at a prior disciplinary meeting, does not presuppose that the Court should blindly follow those rulings and simply determine the appropriate remedy. The Court must still analyse the actual conduct of the legal practitioner

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[2] (UM 148/2018) [2020] ZANWHC 76 (7 May 2020).
[3] (3638/2023) [2025] ZALMPPHC 61 (26 March 2025).

[16] At this juncture, it is apposite to note that the applications for the striking of an attorney's name from the roll of legal practitioners are not ordinary civil proceedings. They are proceedings of a disciplinary nature and are sui generis" (the court quoted that extract from the case of Law Society, Transvaal v Matthews 1989 (4) SA 389 (T) at 393 D-E).

[18] The fact that the suspension or striking off application is *sui generis* in nature as the applicant is not an ordinary litigant but performs a public duty was also recently confirmed by the Supreme Court of Appeal on 16 October 2026 in *Bouwer v The South African Legal Practice Council*[4]. The same Court had already earlier remarked on the public function that the applicant performs in these kinds of applications in *Botha v Law Society, Northern Provinces*[5]. It follows that even if the institution of this application was because of the recommendation that flowed from the disciplinary hearing that was flawed, the powers that are vested in the High Court to hear this application are not diminished or derogated by that.

[19] The other issue that the respondents raised relating to the point *in limine* is that in the disciplinary hearing Mr. Grobler who was the witness of the applicant was allowed to cross examine the first respondent, and that is according to the respondents a shortcoming in that disciplinary process.

[4] (1050/2024) [2026] ZASCA 141 (16 October 2026).
[5] (446/2007) [2008] ZASCA 106 (23 September 2008).

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In *Botha v Law Society of the Northern Provinces*, *supra*, on paragraph 14 of the judgment, the court said the following:

". . . an applicant law society is entitled to apply for a respondent attorney to be called for cross-examination under Unform Rule 6(5)(g). That right may usefully be invoked where the facts alleged in the attorneys answering affidavit fall peculiarly within such attorney's knowledge and suspicion attaches to their veracity"

[20] The process of how the disciplinary hearing is conducted is governed by LPR 41.8 as rightly submitted by the applicant. The further submission by the applicant is that the first respondent agreed to being cross-examined by Mr. Grobler. If the principle that was to be applied in that disciplinary hearing, on the fact that one has to be cross examined on aspects that he/she has knowledge of, I believe that it was an established fact that was not in dispute that Mr. Grobler as the complainant in the estate that the respondents are handling, what he cross examined the first respondent on, should have been the aspects falling within her personal knowledge, because she is handling the estate in question. Even if this court must accept that, that process in the disciplinary hearing was flawed for whatever reasons mentioned by the respondents, the proceedings in this court are not sacrosanct or dependant on the disciplinary process that was held.

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[21] The institution of the proceedings in the High Court are not dependant on the recommendation of the DC. The application is brought before the High Court on the basis that the applicant believes that the first respondent is guilty of misconduct, whereby the High Court will be called upon to enquire into the fitness to continue to hold office or practice as a legal practitioner. The ultimate decision to evaluate the conduct of the respondent and to determine whether she is a fit and proper person to continue to practice as an attorney lies with the court[6]. The statement fits appropriately to the case at hand, because the court will decide if the first respondent is fit and proper to continue practicing or not.

[22] In *Malan v The Law Society of the Northern Provinces*[7], the court said that that even in cases not involving dishonesty, a conservative approach should be followed to stem an erosion of professional ethical values. In my view the *Malan* decision fortifies the trite notion that these cases are brought before the Courts to protect members of the public. The respondents in the case at hand admit that the time period to note an internal appeal to the LPC has lapsed, hence the respondents allege that they electronically lodged a complaint with the office of the Ombud. The

[6] The Legal Practice Council v Motlhabani, see fn. 2 *supra*.
[7] [2008] ZASCA 90 para. 4.

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objects of the Ombud are outlined in section 46 of the LPA, whereas section 48 of the LPA deals with powers and functions of the Ombud.

[23] Section 46(a) of the LPA states that:

Objects of Ombud

"46. The objects of the Ombud are to-

(a) protect and promote the public interest in relation to the rendering of legal services as contemplated in this Act;

(b) ensure the fair, efficient and effective investigation of complaints of alleged misconduct against legal practitioners;

(c) promote high standards of integrity in the legal profession; and

(d) promote the independence of the legal profession".

[24] The objects of the Ombud from the reading of the above provisions are very clear that the Ombud must act in the interest of the public in relation to the rendering of professional legal services. However, that must be done in a fair manner when addressing complaints against legal practitioners. A fair manner in my view means that all sides must be considered in addressing the complaint. In my view that will still not subrogate the Court proceedings, because the Courts are mandated to determine the suitability of a legal practitioner to hold the office of a legal practitioner or not.

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[25] I therefore find that, the fact that the respondents referred the matter to the Ombud does not bar the Court to proceed with the application lodged against the respondents, because the decision of the Ombud cannot override the court proceedings or the decision of the Court. I therefore find that the referral to the Ombud cannot stop the proceedings that have already been brought before the Court.

[26] The last segment of the point *in limine* that I want to deal with is as to whether the disciplinary proceedings that was conducted by the applicant constitutes an administrative action as contemplated in section 6 of the Promotion of Administrative Justice Act[8] (PAJA). The court in the *Motlhabani* case, *supra*, said that when the applicant exercises its discretion to refer the alleged offending conduct to the Court for the Court to make a decision on whether the practitioner should be suspended and or removed/struck off as not being a fit and proper person to continue to practice as an attorney, the exercising of such discretion does not constitute a decision within the ambit of administrative action as defined in section 1 of PAJA. In the case at hand, the submission by the respondents that the disciplinary proceedings together with its recommendation constitute an administrative action cannot be sustained.

[8] 3 of 2000.

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[27] In paragraph 31 of the Motlhabani case, *supra*, the court went on to say that:

"The Courts, including the Supreme Court of Appeal (SCA), have repeatedly pronounced that sui generis disciplinary proceedings are not normal civil proceedings. The LPC (applicant) merely brings the attorney before Court by virtue of a statutory right and informs the Court as to what the attorney has allegedly done and asks the Court to exercise its disciplinary power. It does not institute any action or civil suit against the attorney. It merely submits to the Court facts which it contends constitute unprofessional, dishonourable and unworthy conduct"

[28] For the reasons that I have outlined above, the point *in limine* that was raised by the respondents together with its segments, is bound to fail. On the issue of costs, it is trite that the LPC do not approach the Court as ordinary litigant but *sui generis*, to protect the public[9]. The point *in limine* raised is not a *novel* issue which past case law did not deal with. In the light of the fact that the issues raised in the point *in limine* are not *novel* issues that have not been dealt with before, the respondents should have

[9] Bouwer v The South African Legal Practice Council, see fn. 4, *supra.*

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upon reflection foreseen that the point *in limine* will not pass the muster. The point *in limine* was raised in my view to delay these proceedings. The applicant has requested that the respondents pay the costs jointly and severally, one paying for the other to be absolved, on an attorney and client scale. I could not find any reason to deviate from the norm.

[29] In the result, the following order is made:

(i) The point *in limine* raised by the respondents is dismissed with costs on attorney and client scale.

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J.T. NGOBENI

JUDGE OF THE HIGH COURT

LIMPOPO DIVISION

I agree

_____

T.C. MAPHELELA

ACTING JUDGE OF THE HIGH COURT

LIMPOPO DIVISION

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APPEARANCES

For the applicant:	**Mr. Jan Stemmet**
Instructed by:	**Stemmet & Osman Inc Attorneys**
For the 1st & 2nd respondents:	**Mr. A.F. Rheeder**
Instructed by:	**Rheeder Attorneys**
Date heard:	**21 August 2026**
Date delivered:	**03 November 2026**

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