HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)

(1) REPORTABLE: Yes.
(2) OF INTEREST TO OTHER JUDGES: Yes.
(3) REVISED: Yes

9 April 2021 Judge P.A. Meyer

Case NO: 58145/2020

In the matter between:

ROAD ACCIDENT FUND	Applicant
and	
LEGAL PRACTICE COUNCIL	1st Respondent
BOARD OF SHERIFFS	2nd Respondent
ABSA BANK LIMITED	3rd Respondent
THAKA F SEBOKA N.O. (SHERIFF, PRETORIA CENTRAL)	4th Respondent
LANA NEL N.O. (SHERIFF, PRETORIA EAST)	5th Respondent
SHOKENG E DHLAMINI N.O. (SHERIFF, CENTURION EAST)	6th Respondent
MARKS MANGABA N.O. (SHERIFF, JOHANNESBURG CENTRAL)	7th Respondent
NELSON NTSIBANTSU N.O. (SHERIFF, CAPE TOWN WEST)	8th Respondent
NOMANDLA NDABENI N.O. (SHERIFF, EAST LONDON)	9th Respondent
G S NDLOVU N.O. (SHERIFF, DURBAN CENTRAL)	10th Respondent
AD DANDALA & ASSOCIATES	11th Respondent
GODLA & PARTNERS	12th Respondent
SITHOMBE ATTORNEYS	13th Respondent
K MALAO INCORPORATED	14th Respondent
MDUZULWANA ATTORNEYS	15th Respondent
ROBERT MUVHIMI, MOTLHOLO KOOS TLHAOLE, PHILADIPHIA NOMTHANDAZO MEMELA, SIPHO SKHOSANA, LINDIWE MACAKA, JUSTINE CHEPETE and EVIDENCE SHAVA represented by SPRUYT INCORORATED	16th Respondent
DVDM INCORPORATED	17th Respondent
DE BROGLIO ATTORNEYS INC.	18th Respondent
VDS ATTORNEYS	19th Respondent
ROETS & VAN RENSBURG	20th Respondent
PERSONAL INJURY PLAINTIFFS LAWYERS ASSOCIATION	21st Respondent
ADVOCATE RAF FEE RECOVERY ASSOCIATION	22nd Respondent
KHOROMMBI MABULI INCORPORATED	23rd Respondent
PRETORIA ATTORNEYS ASSOCIATION	1st *Amicus Curiae*
GENERAL COUNCIL OF THE BAR	2nd *Amicus Curiae*

***Case Summary*: Practice – Warrants of Execution – Suspension of warrants of execution and attachments – Whether writs and attachments should be suspended in the particular circumstances of this case, either in terms of r 45A of the Uniform Rules of Court or the common law or s 173 of the Constitution, 1996.**

JUDGMENT

MEYER J (ADAMS and VAN DER WESTHUIZEN JJ concurring)

[1] The applicant, the Road Accident Fund (RAF), according to the evidence presented in this application by its current chief executive officer, is experiencing severe financial difficulties that have been exacerbated by the Covid-19 pandemic. Its implosion is imminent and will have disastrous consequences for this country since s 21(2)*(a)* of the Road Accident Fund Act 56 of 1996 (RAF Act) will then be triggered. Section 21(1) and (2)*(a)* provides that no claim for compensation in respect of loss or damage resulting from bodily injury or the death of any person caused by or arising from the driving of a motor vehicle shall lie against the owner or driver of a motor vehicle or against the employer of the driver, unless the RAF or an agent is unable to pay any compensation. The RAF seeks extraordinary relief in this application as a step to stabilize its precarious financial position to prevent a constitutional crisis, because it is also constitutionally enjoined to pay reasonable compensation in respect of loss or damage resulting from bodily injury or the death of any person caused by or arising from the driving of a motor vehicle (RAF's application).

[2] The lifeline the RAF seeks from this court is an order - either in terms of r 45A of the Uniform Rules of Court or the common law or s 173 of the Constitution of the Republic of South Africa, 1996 - suspending all writs of execution and attachments based on court orders already granted against it or settlements already reached with claimants entitled to the payment of compensation for damages resulting from bodily injury or death caused by road accidents that are regulated by the RAF Act in terms of a court order or settlement reached with the RAF (successful claimants) for a period of 180 days. Such relief will enable the RAF to make payment of the oldest claims first by date of court order or date of settlement agreement *a priore tempore*. It undertook to use its best endeavours to pay all claims based on court orders already

granted or settlements already reached older than 180 days, on or before 30 April 2021. It does not seek an order to temporarily stop making payments to successful claimants.

[3] The first respondent is the Legal Practice Council (LPC). The third respondent is ABSA Bank Ltd (ABSA), which bank acts as banker for the RAF. The second respondent is the Board of Sheriffs, and the fourth to tenth respondents are cited in their official capacities as the sheriffs for Pretoria Central, Pretoria East, Centurion East, Johannesburg Central, Cape Town West, East London and Durban Coastal. The eleventh respondent, AD Dandala & Associates, the twelfth respondent, Godla & Partners, the thirteenth respondent, Sithombe Attorneys, the fourteenth respondent, K Malao Inc., the fifteenth respondent, Mduzulwana Attorneys and Legal Consultants, the seventeenth respondent, DVDM Inc., the eighteenth respondent, De Broglio Attorneys Inc., the nineteenth respondent, VDS Attorneys, the twentieth respondent, Roets & Van Rensburg, and the twenty third respondent, Korommbi Mabuli Inc., are all firms of attorneys *inter alia* representing claimants in claims for compensation against the RAF regulated by the RAF Act. Spruyt Inc., also a firm of attorneys, represent the sixteenth respondents (Robert Muvhimi, Motlholo Koos Tlhaole, Philadiphia Nomthandazo, Sipho Skhosana, Lindiwe Macaka, Justine Chepete and Evidence Shava) herein. The twenty first respondent is the Personal Injury Plaintiffs Lawyers Association, and the twenty second respondent is the Advocate RAF Fee Recovery Association. The Pretoria Attorneys Association (PAA) and the General Council of the Bar (GCB) were respectively admitted as the first and second *amici curiae*.

[4] The RAF's application is opposed by the 11th, 14th to 17th, and 19th to 23rd respondents. The 11th and 23rd respondents brought counter applications in which they seek orders for payment against the RAF in respect of court orders that had already ordered the RAF to pay compensation for damages and costs to various of their clients, which amounts are outstanding for more than 180 days. The 17th respondent brought a counter application in which it seeks an order that certain claims of its clients be registered on the RAF's 'Registered Not Yet Paid' (RNYP) list (it is a list of judgments and settlements that still need to be paid) with a date corresponding with the date upon which the order was made and ancillary relief to give effect to such

order. It further seeks for this court to issue a rule nisi calling on all interested parties why an order in the terms proposed by the 17th respondent to resolve the problem created by the RAF's inability to promptly pay all its judgment creditors due to its present precarious financial position should not be made.

[5] The 19th and 20th respondents brought counter applications in which they sought orders for the RAF 'to make payment, from its very next available funds' of amounts due to successful claimants they represent, whose payments have all been outstanding in excess of 180 days, and to enter upon its RNYP list - in their proper chronological order according to their respective dates of settlement or court order - certain other successful claimants they represent. The 19th respondent further sought an order for the RAF to rectify and remedy short payments made in respect of other of its successful claimants, also 'out of the very next available funds'. The RAF has complied with the relief sought in the counter applications of the 19th and 20th respondents, and they accordingly no longer persist with their counter applications and abide the decision of this court in the RAF's application. They merely seek the costs of their opposition and of their counter applications. Supplementary affidavits have been filed by many of the parties, and the RAF and the 17th respondent wish to amend the relief they seek. We allow all the supplementary affidavits and the proposed amendments.

[6] On 9 December 2020, a full court of this division (Lamont, Ranchod, Kubushi JJ) *inter alia* postponed the RAF's application to a date for hearing before a full court to be arranged with the Judge President. It further ordered this:

'5. The order of His Lordship Mr. Justice Louw stands until the 1st of February 2021 or until a Full Bench hears the matter, whichever is the earliest, namely:

5.1 The Respondents undertake not to execute against the ABSA Bank accounts or any movable assets of the Applicant until the 1st of February 2021;

5.2 The Applicant will register court orders and settlement agreements on its list of payments in order of date that the court order was granted or the written settlement agreement was made;

5.3 The Applicant will take reasonable steps to ensure the court orders or written settlement agreement for payments are registered on the Applicant's payment list within 30 business days of receipt of the court order or written settlement agreement.

5.4 The Applicant will take reasonable steps to ensure that the court orders or written agreements that have not been captured on its payment list will be captured on its payment list in historical chronological order from the date that the court order was granted by the court or the written settlement agreement was made;

5.5 The Applicant will provide all attorneys on its database of email addresses of attorneys involved in third party matters against the Applicant with updated payment lists on a bi-monthly basis from January 2021 onwards;

5.6 The Applicant undertakes to make payment of the oldest claims first by date of court order or date of written settlement agreement.

6. The applicant shall continue to pay claims from oldest to newest in respect of orders older than 180 days.'

[7] The Judge President of this division allocated Friday, 29 January 2021, for the hearing of the RAF's application and the 17th respondent's counter application before this full court. The *communio opinio* of the legal representatives, my colleagues and myself was that one day would be insufficient to hear the matter. We therefore postponed the matter for a two-day hearing on 15-16 March 2021, as then directed by the Judge President, and we extended the order made by the full court on 9 December 2020 to 16 March 2021. When judgment was reserved on 16 March 2021, we made an order that the temporary order granted by the full court on 9 December 2020 is extended until this court has given judgment or made an order in the matter, and that any attorneys who represent successful claimants that have payment claims older than 180 days against the RAF are to notify it, within 14 days of that order, of the existence of such claims.

[8] The non-joinder of other interested parties is in issue. The RAF caused copies of its application and notices in terms of r 16A of the Uniform Rules of Court to be served on the LPC and requested it to disseminate the application and notices amongst all its members who are practising attorneys, which the LPC did. The LPC is the statutory body for thousands of legal practitioners. Its notices in terms of r 16A were also furnished to the GCB, which is constituted by 14 member societies from every province and together they represent 3 000 advocates, a significant number of whom represent plaintiffs as well as the RAF in in third party litigation against the RAF. The RAF has on its database over 3 000 firms of attorneys who are part of its mailing list and who have represented claimants for the payment of compensation for

damages against the RAF, or who have acted for the RAF in the past. It also electronically sent its application to all those attorneys whose details it has on its database. It also notified the PAA, which association represents 1 479 attorneys in private practice, mainly in the Pretoria are, but also further afield. Many of its members practice in the field of personal injury which includes third party matters in terms of the RAF Act. On 29 January 2021, this court granted the RAF leave to publish, advertise, and give notice of any relief sought in the RAF's application, or any other amendment, to all practicing attorneys through the LPC, by email to all attorneys on its database, to the Minister of Transport and the Minister of Finance by service on the State Attorney and by publication in two national newspapers. The RAF duly complied with this court's order permitting such substituted service. It *inter alia* gave notice of the relief sought in this application by publication in two national newspapers. A few of the opposing respondents have intervened as a result of these steps taken by the RAF and were joined to the RAF's application.

[9] The Constitutional Court, in *Matjhabeng Local Municipality v Eskom Holdings Limited and others* [2017] ZACC 35 para 94, has held that-

'[t]here may well be a situation where joinder is unnecessary, for example where a *rule nisi* is issued, calling upon those concerned to appear and defend a charge or indictment against them. Undeniably, in appropriate circumstances, a rule nisi may be adequate even when there is a non-joinder in contempt of court proceedings.'

And in *Road Accident Fund v Lana Nel NO and another* ((43873/2020)) para 4, Van der Schyff J said the following:

'In *Insamcor (Pty) Ltd v Dorbyl Light & General Engineering (Pty) Ltd; Dorbyl Light General Engineering (Pty) Ltd v Insamcor (Pty) Ltd* 2007 (4) SA 467 (SCA) the Supreme Court of Appeal held joinder was necessary, but where the number of affected parties was substantial, the issuing of a rule nisi was sufficient to effect joinder. In those instances, because of the sheer volume of parties that could be affected, the failure to respond could be taken to equate to a waiver of the right to be joined.'

[10] This matter, in my view, is one where the joinder of the many thousands of parties that could be affected by the order of this court, is unnecessary in the light of the steps taken by the RAF to notify as many parties of its application as possible. The steps taken are adequate. The number of affected parties is substantial, and the steps taken by the RAF to notify the sheer volume of parties that could be affected

were sufficient to effect their joinder. Only the seventeenth to twenty third respondents responded and were joined to these proceedings. The failure to respond by those who were notified can be taken to equate to a waiver of the right to be joined.

[11] The jurisdiction of this court is also in issue. It is not the issue of writs of execution against the RAF out of the offices of the registrars in the various divisions across the country that forms the subject of the RAF's application, but whether or not all writs of execution that had been issued on behalf of successful claimants, and attachments, should be suspended for a fixed period. The writs are served at the RAF's branch offices. All writs countrywide are consolidated at ABSA's head office by its legal counsel, which is in Centurion. ABSA then places a hold on the equivalent available funds. The attached funds are paid by ABSA to the relevant sheriffs' offices. The sheriff holds the funds in trust and makes payment thereof to the firm of attorneys representing the successful claimant. The RAF instituted its application in Pretoria since, it is common cause on the papers, most of the warrants of execution are issued out of the offices of the registrars in Gauteng and most of the attachments of the RAF's movable property, including its right, title and interest in and to its bank account held by ABSA in Johannesburg, occur in Gauteng. Furthermore, the LPC (the first respondent) has its national office in Midrand, ABSA (the second respondent) has its head office in Johannesburg, both within this court's jurisdiction. The fourth, fifth, sixth and seventh respondents are sheriffs for districts within this court's jurisdiction. The thirteenth to twentieth and the twenty third respondents are all firms of attorneys practicing within this court's jurisdiction. Both the twenty first and twenty second respondents are associations seated in Pretoria.

[12] De Villiers JP said in *Steytler NO v Fitzgerald* 1911 AD 295 at 346, that the enquiry into jurisdiction is twofold: '[A] court can only be said to have jurisdiction in a matter if it has the power not only of taking cognisance of the suit, but also of giving effect to its judgment.' There cannot be an issue with giving effect to this court's judgment. Only the first of these issues, therefore, arises: is there a recognised ground of jurisdiction. In relation to the second and eighth to twelfth respondents, and all those other persons who could be affected by this court's order who reside within the areas of jurisdiction of other divisions of the high court, the RAF contends that the the *causae continentia* principle (the doctrine of cohesion of a cause of action) and s

21(2) of the Superior Courts Act 10 of 2013 (the Superior Courts Act), find application, which principle extends the jurisdiction of a particular division of the high court.

[13] D Pistorius *Pollak on Jurisdiction* 2 ed (1993) at 26, states:

'. . . where the causae continentia rule is applicable the court may assume jurisdiction in respect of a defendant who is otherwise not amenable to that jurisdiction on any of the recognized grounds of jurisdiction and this may be done to avoid inconvenience'.

The Roman and the Roman-Dutch origin of the rule was discussed at length by Steyn CJ in *Roberts Construction Co Ltd v Willcox Bros (Pty) Ltd* 1062 (4) SA 326 (A). There, it was held, applying the common law *causae continentia* rule, that where one court has jurisdiction over a part of a cause, considerations of convenience, justice and good sense justify its exercising jurisdiction over the whole cause. The partial location of the object of contractual performance (a bridge between two provinces) within the jurisdiction of one court, therefore, gave that court jurisdiction over the whole cause of action. It was held that the rule avoids a multiplicity of proceedings and the possibility of conflicting judgments on the same cause and allows for the more convenient disposition of cases. (Also see *Permanent Secretary Department of Welfare, Eastern Cape Provincial Government and another v Ngxuza and others* (493/2000) [2001] ZASCA 85 (31 August 2001).)

[14] The *causae continentia* rule is now enshrined in s 21(2) of the Superior Courts Act, which provides that '[a] Division also has jurisdiction over any person residing or being outside its area of jurisdiction who is joined as a party to any cause in relation to which such court has jurisdiction or who in terms of a third party notice becomes a party to such a cause, if the person resides or is within the area of jurisdiction of any other Division'. The same provision was originally introduced into s 19(1)*(b)* of the former Supreme Court Act 59 of 1959, by s 2 of the Supreme Court Amendment Act 41 of 1970.

[15] In *Mossgas (Pty) Ltd v Eskom and another* 1995 (3) SA 156 (W) at 157C-G, Fine AJ said this:

'Section 19(1)*(b)* was enacted to extend the territorial jurisdiction of a Local or Provincial Division over parties not ordinarily susceptible to the Court's jurisdiction where it was sought to join such party to a cause over which the Local or Provincial Division had jurisdiction. By 'cause' is meant an action or legal proceeding, not a cause of action. (See *Spier Estate v Die*

Bergkelder Bpk and Another 1988 (1) SA 94 (C) at 100B.) The aim and purpose of s 19(1)*(b)* was to avoid a multiplicity of actions with all the inconvenience and expense that that would involve and to avoid conflicting judgments on the same cause of action. See *Majola v Santam Insurance Co Ltd and Others* 1976 (1) SA 874 (SE) at 876H and 877I.

The difficulty which would arise when defendants who are liable to a plaintiff on the same cause of action and are resident in different jurisdictions is thus averted by the enactment and proper application of this section. There is in my view no basis for limiting its application and the only limitations on its applicability are those to be found in the subsections. See *Majola's* case *supra* at 877C-D.

Once the Local or Provincial Division has jurisdiction in the action or legal proceeding s 19(1)*(b)* can be invoked to join to that cause a defendant not resident within the area of jurisdiction of that Court provided, of course, that the other requirements for joinder and the jurisdictional requisites are present.'

[16] In *PMG Motors Kyalami (Pty) Ltd and another v Firstrand bank Ltd, Wesbank Division* 2015 (2) SA 634 (SCA) para 14, Gorven AJA said the following:

'As regards PMG Westville, the dealerships submitted that if any other court had jurisdiction over all of the dealerships, the doctrine of *causae continentia* could not be invoked. Since the KwaZulu-Natal High Court, Durban, was such a court due to the registered offices of all of the dealerships falling under its jurisdiction, the court below did not have jurisdiction to hear the application. DR Harms in *Civil Procedure in the High Court* points out that the causae continentia 'principle is now enshrined in section [19(1)*(b)*]'. [At A4.19. See also its successor s 21(2) of the Superior Courts Act 10 of 2013.] PMG Westville was a party – 'who is joined ... to any cause to which such provincial or local division has jurisdiction . . . if the said person resides or is within the area of jurisdiction of any other Provincial or Local Division'. [Section 19(1)*(b)* of the Supreme Court Act.]

PMG Westville was joined in the application. The court below had jurisdiction to entertain the application in respect of PMG Kyalami and PMG Alberton. PMG Westville 'resided' within the area of jurisdiction of another local division. This means that s 19(1)*(b)* of the Supreme Court Act applied in the circumstances. I agree with the author Pistorius in *Pollak on Jurisdiction* [D Pistorius *Pollak on Jurisdiction* 2 ed (1993) at 26] that it is not necessary to consider issues of convenience when the provisions of s 19(1)*(b)* apply. If one had to have regard to such issues, however, the finding of jurisdiction was amply justified in the present matter. It avoided a multiplicity of applications along with the additional costs and the risk of discordant findings in a situation where the issues were essentially the same for each dealership.'

[17] The same holds true in the present matter. It is not necessary for us to consider whether the *causae continentia* rule should or should not be applied in this case since s 21(2) of the Superior Courts Act finds application. This court has jurisdiction to entertain this application in respect of the respondents and thousands of interested parties residing in its area of jurisdiction, which is not in issue, but also in respect of the second, eighth to twelfth respondents and the thousands of other interested parties residing within the areas of jurisdiction of other divisions. Also, regarding the question of convenience, this application avoids a multiplicity of applications along with the additional costs and the risk of discordant findings.

[18] I now turn to the pertinent facts. There can be no doubt that the RAF has been beset with financial problems for several years and is presently in a precarious financial position. Many reported judgments chronical the RAF's tardy and wasteful litigation and poor administration. The Minister of Transport took the drastic step late in 2019 to appoint a new management team for the RAF. Its current CEO was appointed as Acting CEO in September 2019 and appointed permanently in August 2020. His mandate is specifically to turn around the RAF's parlous state. Before his appointment he was in the full-time employment of the Department of Transport as a Director General: Finance and he was the Department of Transport's Chief Financial Officer. He deposed to the RAF's affidavits in this application and has been frank with this court. The RAF accepts that its systems and processes have in the past been antiquated and that its employees are a major part of the problem. Its systems are plagued with corruption and during 2020 (since the appointment of the RAF's new management) it engaged in large investigations and disciplinary hearings. Matters of *inter alia* corruption are now being investigated by the National Prosecuting Authority, the Hawks and the Special Investigation Unit. The CEO specifically states:

'To continue with old structures that were in place before my appointment would increase the Applicant's exposure to claimants on a virtually daily basis whilst at the same time increasing the Applicant's factual insolvency. The urgent relief sought in the Applicant's application is to immediately stabilize the Applicant's operations and financial position. The Applicant respectfully submits that the relief sought is extremely urgent.'

[19] In *Law Society of South Africa and others v Minister for Transport and another* 2011 (1) SA 400 (CC) paras 52 and 55, Moseneke DCJ said that 'urgent steps must be taken to make the Fund sustainable so that it can fulfil its constitutional obligations

to provide social security and access to healthcare services' and that it is a 'legitimate government purpose to make the Fund financially viable and its compensation scheme equitable'. The RAF's new management team has embarked on a five-year turn-around plan from 2020 to 2025. Its plan or strategy has five main priorities which are the reduction in legal costs, the revision of the structure and business process, integrated claims assessment systems, rehabilitation network and the revision of the supply chain management structure. Should the RAF continue with its past model then projections show that its deficit will only increase substantially and ultimately lead to its collapse. The RAF's CEO tells us that the proposals that are currently being considered may lead to the RAF in the immediate future turning to a cash positive position. This, according to him, will require drastic and exceptional measures, and the order it seeks in this application will alleviate the situation in the immediate short term.

[20] If the situation is not so alleviated for the immediate short term, so states the CEO, the RAF's implosion will be imminent due to attachments against its essential assets (including its bank account) to obtain payment on behalf of successful claimants. Its policy and avowed intention is to pay *a priore tempore* claims first as a result of its precarious financial position. There are between 2 500 and 3 000 firms of attorneys who institute claims against the RAF governed by the RAF Act countrywide. Of those firms only approximately 100 cause such execution steps to be taken against the RAF. The execution steps bring the RAF's operations to a standstill, causing it irreparable damage and is debilitating any progress made to bring stability to the RAF's operations and financial position. The vast majority of attorneys appreciate the financial constraints within which the RAF operates and accept the delays that the RAF imposes on the processing of claims. They do not issue writs of attachment and wait until paid. In the present application, according to the RAF, it seeks to prevent a Constitutional crisis where it can no longer fulfil its constitutional obligations to provide social security and access to healthcare services and s 21(2) of the RAF Act will automatically be triggered.

[21] In *Mabunda Incorporated and others v Road Accident Fund; Diale Mogashoa Inc. v Road Accident Fund* (15876/2020) [2020] ZAGPPHC (27 March 2020) paras 3.6 to 3.8 and 3.18-3.19, Davis J noted as follows:

'3.6 . . . As an example, in 2005 there were 185 773 claims lodged which resulted in legal costs of R941 million. In 2018, when there were only 921 010 claims, the legal costs had ballooned to R8,8 [billion]. In 2019 the legal costs have increased to R10,6 [billion].

. . .

3.7 Prof Klopper's conclusion was that, should the RAF change its litigation model and properly deal with and settle all meritorious claims expeditiously, it could save up to R10 billion of public funds.

3.8 The current CEO for the time being of the RAF is also the deponent to its answering affidavits. He is in the full-time employment of the Department of Transport as a Director General: Finance and is the Department's CFO. He was seconded to the RAF as its Acting CEO with a mandate from the Minister to *". . . turn the RAF Financial woes around by inter alia cutting its legal costs incurred by the RAF"*. He commenced acting in his position on 9 September 2019.

. . .

3.18 The Acting CEO reported that the RAF's strategic plan for the five year period 2020-2025, in compliance with the Government's Medium-Term Strategic Framework ("MTSF"), and with due regard to presentations made by the Minister of Transport in a public forum, was presented to the Fund's Board at a Strategic session held on 16 and 17 January 2020. On 31 January 2020 the Board approved the plan. In the meantime, the Chairperson of the Board had signed a revised Board Performance agreement. Therein, five priorities requiring attention were identified. These were (a) a reduction in legal costs, (b) revision of the structure and business process, (c) integrated claims assessment system, (d) rehabilitation network and (e) revision of the supply claim management structure.

3.19 In order to attain the abovementioned objectives, the RAF came to the realization that it must drastically adopt a different model than the previously utilized "counter-productive legal strategy". To continue therewith, was to increase the RAF's exposure to claimants on virtually daily basis whilst at the same time increase its insolvency, all at the expense of the public purse. Should the old litigation model (including the retention of a panel of attorneys) be retained many, including the Board members, had warned that the RAF then risked going down the path envisaged in section 21(2)(a) of the RAF Act, which comes into operation when the RAF becomes unable to pay claims against it. The consequence thereof would be dire for claimants as it would terminate the RAF's position as statutory defendant for claims arising out of driving a motor vehicle and would re-institute the common law position. The "insured driver" as it is now known, would cease to be insured leaving claimants with huge claims against impecunious defendants.'

[22] The RAF's primary available resources are the revenue generated through the allocation of the fuel levy. It may well be, as some of the opposing respondents contend, that the RAF is under-funded. The RAF Act provides for the funding of the RAF out of the Road Accident Fuel Levy and by means of raising loans. Despite the protestations by some of the opposing respondents, I accept that the RAF cannot apply for a loan at the present time given the country's notorious financial plight and the RAF's precarious financial position. A loan will obviously lead to greater future liability.

[23] The RAF's draft annual financial statement ending 31 March 2020 shows that it had an accumulated deficit of R322 billion. Its total liabilities exceeded its assets by over R300 billion. The fuel levy received from April to September 2020 was R7.9 billion less than expected. The expectations are that over the next 12 months the claims settlements will average R4,3 billion per month. The RAF's fuel levy income is expected to average R3 billion per month and its operational costs will average R178 million per month. The expected deficit is expected to average at about R1,25 billion per month. This will result in the list of unpaid successful claimants to increase from R17,6 billion to R33 billion by September 2021. Payment delays will increase from an average of 187 days to 331 days, possibly averaging 261 days to date of payment.

[24] Litigation costs have increased almost tenfold from 2005 although the total amount of claims has decreased. The projection for 1 October 2020 to 30 September 2021 is even worse should there not be a dramatic change in the system employed by the RAF. During 2020 its position was significantly exacerbated by the Covid-19 pandemic and national lockdown. Its income from the fuel levy declined by 50%. The RAF's new management is implementing far-reaching plans to restructure its payment system, prevent internal corruption and corruption that in some instances involved members of the legal profession, and its historic briefing patterns. Its immediate actions seek to achieve the following aims: to pay claims on a *priore tempore* basis from date of judgment or order or settlement reached and to pay all claims currently in excess of 180 calendar days old by 30 April 2021. It is stated in the RAF's founding affidavit that-

'[t]he RAF has implemented an equitable system of paying claims on the basis that the RNYP (requested, not yet paid) claims will be paid from the oldest to the newest. Based on the RAF's

available monthly fuel levy, the RAF is able to pay on average claims which are 180 days and older.'

[25] Since the appointment of the RAF's new management in 2019, it has recovered approximately R600 million in duplicate payments. The total of such duplicate payments is about R1,2 billion. Duplicate payments, according to the RAF, occur as a result of the attachments of its right, title and interest in and to its bank account held at ABSA. When there is an execution against the RAF's bank account, the warrant is sent to the RAF's central treasury. However, most of the claims in respect of which the writs were issued have already received attention in the RAF's regional office, which then makes payment to the attorneys in ignorance of the attachment and payment to the relevant sheriff. Payments on the same claim are thus made by the sheriff's office, and by the RAF regional office unbeknown that the claim has already been paid. Since the RAF's new management was appointed, it has implemented a short-term solution to manage potential duplicate payments from occurring. Once a duplicate payment has been discovered and verified, the RAF attempts to recover the duplicate payment from the attorneys' firm involved and suspends all payments of claims of other successful claimants to that firm until the money is repaid. Once repayment is received and the RAF's internal administrative processes completed, its treasury department is informed that that firm of attorneys can be cleared for payments of other claims of successful claimants to that firm of attorneys. The recoveries process often takes long and, according to the RAF, is a reason why amounts owing to other successful claimant clients of such firms of attorneys are only paid after the lapse of periods long exceeding 180 days after the court order or date of settlement.

[26] A large number of attorneys are willing to work with the RAF to solve the current crisis and potential constitutional crisis. This includes, for instance, De Broglio Attorneys (the 18th respondent), which filed an affidavit in these proceedings supporting the RAF's relief for a suspension of attachments. Also, the PAA (the 1st *amicus curiae*) representing 1 479 attorneys, which agrees that urgent relief should be granted whilst making submissions on a refined order. DVDM Attorneys (the 17th respondent) furthermore imply in their answering affidavit that the 180-day period is already an 'unofficial agreement' between the RAF and firms of attorneys across the country. Counsel for the seven 16th respondents, who are represented by Spruit Inc., made the submission to us that the constitutional crisis can spiral out of control (that

is if the RAF implodes) and that the larger public interest must trump any possible infringement caused by delayed payments.

[27] Most of the opposing respondents argue that the relief which the RAF seeks in this application is unconstitutional, essentially since it will infringe the successful claimants' constitutional rights to equal protection and benefit of the law and access to courts. The RAF, on the other hand, argues that the relief it seeks - either in terms of r 45A of the Uniform Rules of Court or the common law or s 173 of the Constitution of the Republic of South Africa, 1996 - is to prevent a constitutional crisis from occurring if it can no longer fulfil its constitutional obligations to provide social security and access to healthcare services.

[28] Section 9(1) of the Constitution provides that '[e]veryone is equal before the law and has the right to equal protection and benefit of the law'. Section 34 affords everyone 'the right to have any dispute that can be resolved by the application of law decided in a fair public hearing before a court'. The right to execute an order is incidental to the rights afforded by s 34. As was said by Mokgoro J in *Chief Lesapo v North West Agricultural Bank and another* 2000 (1) SA 409 (CC) para 13:

'An important purpose of s 34 is to guarantee the protection of the judicial process to persons who have disputes that can be resolved by law. Execution is a means of enforcing a judgment or order of court and is incidental to the judicial process. It is regulated by statute and the Rules of Court and is subject to the supervision of the court which has an inherent jurisdiction to stay the execution if the interests of justice so require.'

(Footnotes omitted.)

And Jafta J put it as follows in *Mieni v Minister of Health and Welfare, Eastern Cape* 2000 (4) SA 446 (Tk) at 452G-H and 453C-D:

'The constitutional right of access to courts would remain an illusion unless orders made by courts are capable of being enforced by those in whose favour such orders were made. The process of adjudication and the resolution of disputes in courts of law is not an end in itself but only a means thereto; the end being the enforcement of rights or obligations defined in the court order.'

[29] Payment of compensation by the RAF under the RAF Act is not only a statutory duty, but a mechanism whereby the state must comply with its constitutional duty in terms of s 12(1)*(c)* read with s 7(2) of the Constitution, to protect road users against the risk of infringement of the right to freedom and security of their persons. In *Law*

Society of South Africa and others v Minister for Transport and another 2011 (1) SA 400 (CC), Moseneke DCJ said the following:

[17] The statutory road accident scheme was introduced only in 1942, well after the advent of motor vehicles on public roads. And even so, it came into effect only on 1 May 1946. As elsewhere in the world, statutory intervention to regulate compensation for loss spawned by road accidents became necessary because of an increasing number of motor vehicles and the resultant deaths and bodily injuries on public roads. The right of recourse under the common law proved to be of limited avail. The system of recovery was individualistic, slow, expensive and often led to uncertain outcomes. In many instances, successful claimants were unable to receive compensation from wrongdoers who had no means to make good their debts. On the other hand, it exposed drivers of motor vehicles to grave financial risk. It seems plain that that the scheme arose out of the social responsibility of the State. In effect, it was, and indeed still remains, part of the social security net for all road users and their dependents.

. . .

[63] The concession that the Minister has made is the correct one. A plain reading of the relevant constitutional provision has a wide reach. Section 12(1) confers the right to the security of the person and freedom from violence on "everyone". There is no cogent reason in logic or in law to limit the remit of this provision by withholding the protection from victims of motor vehicle accidents. When a person is injured or killed as a result of negligent driving of a motor vehicle, the victim's right to security of the person is severely compromised. The State, properly so, recognises that it bears the obligation to respect, protect and promote the freedom from violence from any source.

. . .

[67] For all these reasons, I conclude that the State incurs s 12 obligations in relations to victims of road accidents.'

[30] It is unnecessary for us to decide whether r 45A of the Uniform Rules of Court, which provides that '[t]he court may suspend the execution of any order for such period as it may deem fit', finds application in the present case, because a stay of execution falls within the purviews of a court's common law inherent power to regulate its procedures and also s 173 of the Constitution. Superior courts have an 'inherent reservoir of power to regulate its procedures in the interests of the proper administration of justice': *Universal City Studios Incorporated and others v Network Video (Pty) Ltd* [1986] 2 All SA 192 (A). There, Corbett JA drew a distinction between a court creating substantive law as opposed to procedural law: 'Substantive law is concerned with the ends which the administration of justice seeks; procedural law

deals with the means and instruments by which those ends are to be attained'. The present case clearly concerns procedural law, not substantive law.

[31] In *Moulded Components and Rotomoulding South Africa (Pty) Ltd v Coucourakis and another* 1979 (2) SA 457 (W) at 462H-463B, Botha J said the following:

'I would sound a word of caution generally in regard to the exercise of the Court's inherent power to regulate procedure. Obviously, I think, such inherent power will not be exercised as a matter of course. The Rules are there to regulate the practice and procedure of the Court in general terms and strong grounds would have to be advanced, in my view, to persuade the Court to act outside the powers provided for specifically in the Rules. Its inherent power, in other words, is something that will be exercised sparingly. As has been said in the cases quoted earlier, I think that the court will exercise an inherent jurisdiction whenever justice requires that it should do so. I shall not attempt a definition of the concept of justice in this context. I shall simply say that, as I see the position, the Court will come to the assistance of an applicant outside the provisions of the Rules when the Court can be satisfied that justice cannot be properly done unless relief is granted to the applicant.'

[32] In *Whitfield v Van Aarde* 1993 (1) SA 332 (E) at 337E-G, Nepgen J said this:

'In my judgment a Court does have an inherent discretion to order a stay of execution. Execution is the process which enables a judgment creditor to obtain satisfaction of a judgment granted in his favour. The effect of holding that a Court is unable to control its own process would be to deprive a Court of what has always been considered to be an inherent power of such Court. Of course, the discretion which a Court has must be exercised judicially, but cannot be otherwise limited, for example by stating that such discretion can only be exercised in favour of a judgment debtor in certain circumscribed circumstances.'

[33] The common law on a superior court's inherent jurisdiction to regulate its own processes has now been subsumed by s 173 of the Constitution (*Oosthuizen v Road Accident Fund* 2011 (6) SA 31 (SCA) para 15), which provides that 'the Constitutional Court, the Supreme Court of Appeal and the High Court of South Africa, has the inherent power to protect and regulate their own process, and to develop the common law, taking into account the interest of justice'. The court's inherent jurisdiction to regulate its own process is not unlimited but must be used sparingly and only in exceptional circumstances taking into account the interests of justice. (See *Oosthuizen* para 17; *South African Broadcasting Corp Ltd v Director of Public*

Prosecutions and others 2007 (1) SA 523 (CC) para 36; *S v Molaudzi* 2015 (2) SACR 341 (CC) para 34.) In Systems Applications Consultants (Pty) Ltd t/a *Securinfo v Systems Applications Products AG and others* (1371/2018) [2020] ZASCA 81 (2 July 2020) para 25, said the following:

'What must be borne in mind is that the invocation of s 173 must be determined on the peculiar facts of each case, mindful of the fact that the power granted by that provision should be exercised only in exceptional circumstances to avoid legal uncertainty and potential chaos. A fact-specific casuistic approach must therefore be adopted.'

[34] I found that the joinder of the many thousands of parties that could be affected by the order of this court, is unnecessary in the light of the steps taken by the RAF to notify the sheer volume of parties that could be affected was sufficient to effect their joinder and that the failure to respond by those who were notified can be taken to equate to a waiver of the right to be joined. The opposing respondents who were originally cited and those who were joined as a result of the steps taken by the RAF all put forward their defences, essentially of non-joinder, the lack of this court's jurisdiction to entertain the RAF's application, and that the relief sought by the RAF is unconstitutional. Other objections raised by attorneys acting on behalf of successful claimants are a lack of transparency on the part of the RAF, its failure to pay the amounts owing to such clients and costs awards in many instances after the lapse of periods long exceeding 180 days after the date of court order or settlement, and its administration of payments made to such successful claimants via their attorneys. Court orders and such settlement agreements are not always registered within a reasonable period on the RAF's list of payments in order of date that the court order was granted, or the written settlement agreement concluded, or they are not always captured on its payment list in historical chronological order from the date that the court order was granted, or the written settlement agreement reached. The result is that the RAF does not always make payment of the oldest claims first by date of court order or date of the written settlement agreement. Furthermore, the RAF fails to provide all attorneys on its database of email addresses of attorneys involved in claims for compensation against the RAF regularly with updated payment lists.

[35] The invocation of this court's common law inherent power to regulate procedure and of its inherent power in terms of s 173 regulate its process, therefore, must be determined on the peculiar facts of this case. I am of the view that exceptional

circumstances exist, taking into account the interests of justice, for the exercise of this court's inherent common law and constitutional power to order a temporary suspension for a limited period of 180 days as from the day when argument before this court was concluded on 16 March 2021, of all writs of execution and attachments against the RAF based on court orders already granted or settlements already reached in terms of the RAF Act, which are not older than 180 days as from the date of the court order or date of the settlement reached.

[36] I do not agree with the contention of most of the respondents that such relief will be unconstitutional. In the words of Mokgoro J in *Chief Lesapo* para 13, an important purpose of s 34 of the Constitution (access to courts) is to guarantee the protection of the judicial process to persons who have disputes that can be resolved by law and execution is incidental to the judicial process. 'It is regulated by statute and the Rules of Court and is subject to the supervision of the court which has an inherent jurisdiction to stay the execution if the interests of justice so require.'

[37] The granting of such a temporary stay is necessary to prevent the RAF's implosion and resultant constitutional crisis when the RAF will no longer be able to fulfil its constitutional obligation to provide social security and access to healthcare services for road victims and s 21(2)*(a)* of the RAF Act is triggered. No imagination is required to fathom the likely dire situation of thousands of injured uncompensated road accident victims. The social security net for all road users and their dependents will then fall away. There is a significant number of motor vehicle accidents on our public roads countrywide with resultant deaths and bodily injuries. As was said by Moseneke DCJ in *Law Society of South Africa and others v Minister for Transport and another* (supra), the right of recourse under the common law proved to be of limited avail. In many instances, successful claimants will be unable to receive compensation from wrongdoers who have no means to make good their debts and drivers of motor vehicles will be exposed to grave financial risk.

[38] Section 17(3)(a) of the RAF Act provides that no interest calculated on the amount of any compensation which a court awards to any third party by virtue of the provisions of subsection (1) shall be payable unless 14 days have elapsed from the date of the court's relevant order. The 14th respondent argues that the *morae* interest to be paid by the RAF will result in wasteful expenditure should this court grant the

relief which the RAF seeks. However, the reality is that that is the *status quo* because of the RAF's present dire financial situation. Judgment creditors (successful claimants) must wait to be paid *priore tempore*. Furthermore, the RAF does not move for an order for a stay of payments or the payment of interest. It seeks an order for a stay of attachments to enable it to make payment within its available resources.

[39] I have referred to the objections raised by attorneys acting on behalf clients who are successful claimants against the RAF. I do not believe that payments should be withheld from successful claimants because of a dispute between the RAF and the attorneys acting for them, or pending the repayment of double payments by attorneys. Such exceptions may cause undue hardship on and be unfair to successful claimants. In such instances, the RAF should approach the court, on a case-by-case basis, if it believes or is advised that it has valid grounds to obtain an order suspending writs of execution and warrants of attachment against it. The order which we propose to make, therefore, does not provide for any exceptions. The RAF, as it undertook to do, must pay all claims based on court orders already granted or settlements already reached in terms of the RAF Act, which are older than 180 days as from the date of the court order or date of the settlement, on or before 30 April 2021, provided it has been notified by any attorneys who represent claimants that have such claims that are older than 180 days of the existence of such claims in accordance with paragraph 3 of this court's order made on 16 March 2021.

[40] The GCB and some of the opposing respondents propose that this court issue a rule nisi or a structural interdict; one that demands that the RAF provide proper information, a comprehensive detailed rescue plan, and for the relevant ministers and institutions to explain what they have done to resolve the funding crisis. The board of the RAF exercises overall authority and control over the financial position, operation and management of the RAF (s 11(1) of the RAF Act). The Financial Services Board (now the Financial Conduct Sector Authority) exercises financial supervision over the RAF. The RAF submits copies of reports on the business of the RAF to Parliament in terms of s 4 of the Financial Supervision of the Road Accident Fund Act, 8 of 1993 (the FSRAF Act), and s 14(3) of the RAF Act. The RAF Board is subject to the supervision of the Minister of Transport. In terms of the FSRAF Act, the Minister of Finance is required to submit reports to Parliament within 6 months of the end of a

financial year. The reports by the Minister of Finance and by the CEO of the Financial Sector Conduct Authority are based on returns of assets and liabilities of the RAF in respect of its business in the past and in the future audit years. These returns are to be submitted to an actuary who is required to express an opinion for the benefit of the funding decisions by those who have oversight, including parliament. I have mentioned that the RAF Act provides for the funding of the RAF out of the Road Accident Fuel Levy and by means of raising loans. The fuel levy is administered by the South African Revenue Service. The RAF is funded through a parliamentary process. The Schedules to the Customs and Excise Act 91 of 1964, which provide for the fuel levy, are expressly stated to form part of that Act. Hence, the allocation of those funds to the RAF is a parliamentary prerogative. Ultimately, the fuel levy is paid by the National Treasury to the RAF. Any substantial increase in the fuel levy will obviously have massive inflationary repercussions for the country as a whole.

[41] I am of the view that the circumstances of this case do not warrant the issuing of a rule nisi or the granting of a structural interdict as proposed by some of the opposing respondents. It is possible to craft an order that unambiguously defines the exact period in which the relevant writs of execution and attachments against the RAF are stayed, by when the claims of successful claimants that are older than 180 days must be paid, and the ancillary relief to alleviate many of the problems experienced by attorneys who represent claimants in matters governed by the RAF Act with the RAF. (See *Agri Eastern Cape and others v MEC for the Department of Roads and Public Works and others* [2017] 2 All SA 406 (ECG) paras 39-40.) Such order is along the lines of the draft order which the RAF handed up to us once the matter was fully debated in court, but with amendments in accordance with my findings.

[42] This court must also be cautious not to usurp the functions of the board of the RAF or to interfere in the functions of other branches of government and in the parliamentary prerogative regarding the allocation of funds. In *Doctors for Life International v Speaker of the National Assembly and others* 2006 (6) SA 416 para 37, Ngcobo J said this:

'The constitutional principle of separation of powers requires that other branches of government refrain from interfering in parliamentary proceedings. This principle is not simply an abstract notion; it is reflected in the very structure of our government. The structure of the provisions entrusting and separating powers between the legislative, executive and judicial

branches reflects the concept of separation of powers. The principle has important consequences for the way in which and the institutions by which power can be exercised. Courts must be conscious of the vital limits on judicial authority and the Constitution's design to leave certain matters to other branches of government. They too must observe the constitutional limits of their authority. This means that the Judiciary should not interfere in the processes of other branches of government unless to do so is mandated by the Constitution.' (Footnote omitted.)

[43] Finally, the matter of costs. The RAF and the opposing respondents are *ad idem* that '. . . the general approach of not awarding costs against an unsuccessful litigant in proceedings against the State, where matters of genuine constitutional import arise', should be applied in this case: *Biowatch Trust v Registrar, Genetic Resources* 2009 (6) SA 232 (CC) paras 23-24. The opposing respondents, however, urge me to order the RAF to pay their costs of opposition, and also the costs of their counter applications where counter applications were instituted. They argue that the relief sought by the RAF is in the nature of an indulgence and their opposition was not unreasonable. As far as the counter applications are concerned, they argue that the institution thereof was necessary since the counter applications concern claims of successful claimants against the RAF which have been unpaid for periods in excess of 180 days and in some instances proposals were made on a proper refined order in respect of the RAF's application. An indulgence granted to the RAF in the main application will result in the counter applications not succeeding at this stage. I agree.

[44] The ordinary principle as far as costs are concerned where an indulgence is sought is that unless the opposition was unreasonable the party seeking the indulgence ought to pay the costs of opposition. In fact, the opposition of the opposing respondents was not only not unreasonable, but helpful - some more than others – and it was only after the matter had been fully debated in this court that the RAF came forward with a considered and substantially acceptable draft order. I agree with the 15th respondent's contention that the RAF's case has undergone a metamorphosis since it was first launched as a matter of urgency on 4 November 2020. The fact that we propose to make no order in respect of each counter application does not mean that they were unsuccessful, since the order we propose to make includes a mandamus for the RAF to pay all claims based on court orders already granted or settlements already reached in terms of the RAF Act, which are older than 180 days

as from the date of the court order or date of the settlement reached, on or before 30 April 2021. The issues raised by the 19th and 20th respondents in their counter applications have been resolved by the RAF since they were instituted, and I consider it fair and just that the RAF should also bear the costs of those two counter applications. Finally, there seems to me to be no reason, and none was advanced, to deviate from the rule that an *amicus curiae* is generally not entitled to be awarded costs: *Hoffmann v South African Airways* 2001 (1) SA 1 (CC) para 63.

[45] In the result the following order is made:

(a) The temporary order made by the full court of this division on 9 December 2020, and extended by this court on 16 March 2021, is discharged.

(b) All writs of execution and attachments against the applicant based on court orders already granted or settlements already reached in terms of the Road Accident Fund Act, 56 of 1996 (the RAF Act) are suspended until 30 April 2021.

(c) The applicant is to pay all claims based on court orders already granted or settlements already reached in terms of the RAF Act, which are older than 180 days as from the date of the court order or date of the settlement reached, on or before 30 April 2021, provided that the applicant has been notified by any attorneys who represent claimants that have such claims that are older than 180 days of the existence of such claims in accordance with paragraph 3 of this court's order made on 16 March 2021.

(d) All writs of execution and warrants of attachment against the applicant based on court orders already granted or settlements already reached in terms of the RAF Act, which are not older than 180 days as from the date of the court order or date of the settlement reached, are suspended from 1 May 2021 until 12 September 2021.

(e) The applicant is to take all reasonable steps to:

  (i) register court orders or written settlement agreements for claims instituted in terms of the RAF Act against the applicant, on its list of payments in order of date that the court order was granted or the date of the settlement agreement;

  (ii) ensure that court orders or written settlement agreements for claims in terms of the RAF Act for payment are registered on the applicant's

payment list within 30 business days of receipt of the court order or settlement agreement;

(iii) ensure that court orders or settlement agreements for claims as set out above that have not been captured on its payment list will be captured in historical chronological order from the date that the court order was granted by the court or the written settlement agreement was entered into;

(iv) provide all attorneys on its database of email addresses of attorneys involved in third-party matters against the Road Accident Fund with updated payment lists on a bi-monthly basis from April 2021 onwards.

(f) The applicant is to continue with its process of making payment of the oldest claims first by date of court order or date of written settlement agreement *a priore tempore.*

(g) Any party may approach the court during September 2021 to vary, extend or amend this order.

(h) This order and the order made by this court on 16 March 2021 shall forthwith be published by the applicant:

(i) to all practicing attorneys through the Legal Practice Council;

(ii) by email to all of the applicant's list of attorneys on its database;

(iii) to the Minister of Transport and the Minister of Finance by service on the State Attorney;

(iv) by publication in two national newspapers.

(i) No order is made in respect of each counter application, except that the applicant is to pay the costs of each counter application.

(j) The applicant is to pay the costs of each opposing respondent's opposition of the application, including all reserved costs and the costs of two counsel, one of whom a senior counsel, whenever so employed.

P.A. MEYER
JUDGE OF THE HIGH COURT
GAUTENG DIVISION

Judgment:	09 April 2021
Hearing:	15 – 16 March 2021
Applicant's Counsel:	Adv C Puckrin SC (assisted by Adv R Schoeman and Adv P Motsie)
Instructed by:	Malatji & Co Attorneys, Sandton
3rd Respondent's Counsel:	Adv H Cowley
Instructed by:	Tim du Toit Inc. Attorneys, Pretoria
11th Respondent's Counsel:	Adv K Korf
Instructed by:	AD Dandala & Associates, Durban
14th Respondent's Counsel:	Adv EC Labuschagne SC (assisted by Adv V Mabuza)
Instructed by:	K Malao Inc., Pretoria
15th Respondent's Counsel:	Adv BP Geach SC (assisted by Adv F Kehrhahn)
Instructed by:	Mduzulwana Attorneys, Pretoria
16th Respondent's Counsel:	Adv PG Cilliers SC (assisted by Adv C Spangenberg)
Instructed by:	Spruyt Inc., Pretoria
17th Respondent's Counsel:	Adv AA Lubbe
Instructed by:	DVDM Inc., Pretoria
19th Respondent's Counsel:	Adv BP Geach SC (assisted by Adv F DeW Keet)
Instructed by:	VDS Attorneys, Pretoria
20th Respondent's Counsel:	Adv BP Geach SC (assisted by Adv F DeW Keet)
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21st Respondent's Counsel:	Adv N Motala
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22nd Respondent's Counsel:	Adv D van den Bogert (assisted by Adv R Kayingo)
Instructed by:	De Bruyn Morkel Attorneys, Pretoria
23rd Respondent's Counsel:	Mr K Mabuli
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