



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

CASE NO: 2020/8519 9518 

JOHANNESBURG, 24 March 2020

BEFORE THE HONOURABLE JUDGE ADAMS

In the matter between :-

THANDI CAROLINE DHLAMINI

Applicant

and

SCHUMANN VAN DEN HEEVER & SLABBERT
JAKKIE SUPRA
IZAK BOSMAN
AZELLE KLEINEN
JACOBUS JOHANNES SLABBERT
THE LEGAL PRACTICE COUNCIL
THE ROAD ACCIDENT FUND
ALL PERSONS WITH CLAIMS AGAINST THE
7TH RESPONDENT PROSECUTED TO FINALITY
BY THE FIRST RESPONDENT WITHIN THE
(5) FIVE YEARS PRECEDING THIS APPLICATION

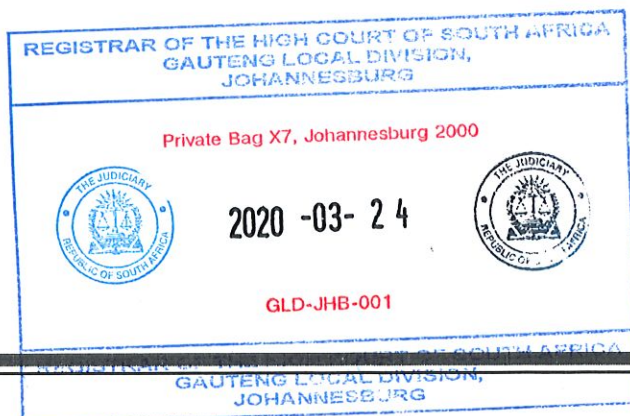
1st Respondent
2nd Respondent
3rd Respondent
4th Respondent
5th Respondent
6th Respondent
7th Respondent

8th Respondent

HAVING read the documents filed of record and having considered that matter:-

IT IS ORDERED THAT:-

1. Draft Order marked "X" signed and dated 24th March 2020, is made an Order of Court



BY THE COURT


REGISTRAR
/bbn

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

CASE NUMBER: 2020/8549-
9518.

"X"
24/3/2020
[Signature]

In the *ex parte* in camera application for an *anton piller* order between: -

THANDI CAROLINE DHLAMINI

APPLICANT

and

SCHUMANN, VAN DEN HEEVER & SLABBERT INCORPORATED

FIRST RESPONDENT

JAKKIE SUPRA

SECOND RESPONDENT

IZAK BOSMAN

THIRD RESPONDENT

AZELLE KLEINEN

FOURTH RESPONDENT

JACOBUS JOHANNES SLABBERT

FIFTH RESPONDENT

THE LEGAL PRACTICE COUNCIL

SIXTH RESPONDENT

THE ROAD ACCIDENT FUND

SEVENTH RESPONDENT

ALL PERSONS WITH CLAIMS AGAINST THE 7TH RESPONDENT
PROSECUTED TO FINALITY BY THE 1ST RESPONDENT
WITHIN THE 5 (FIVE) YEARS PRECEDING THIS APPLICATION

EIGHTH RESPONDENT

DRAFT COURT ORDER

BEFORE THE HONOURABLE ADAMS, J

ON: 24 March 2020

IT IS HEREBY ORDERED THAT:

URGENCY AND SECRECY

- (a) Condoning the applicant's non-compliance and deviation from the Uniform Rules of Court and dispensing with the forms and service provided for in such rules and disposing of this application as one of urgency in terms of rule 6(12) in accordance with the procedures set out hereinbelow.



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- (b) Condoning the applicant not following the above honourable court's practice directives and not enrolling this application on the formal motion roll for hearing in open court in accordance therewith and disposing of this application *ex parte* and in camera.
- (c) Directing the registrar of the above honourable court to retain the court file pertaining to this application in a secure place.
- (d) Prohibiting any person, without leave of the court and pending the execution of this order, from disclosing any facts relating to this application.

UNDERTAKINGS

- (e) It is hereby ordered, on the basis that the applicant undertakes to this court, that:
 - (i) this order will not be executed outside of the hours 08:00 and 18:00 on a weekday;
 - (ii) the applicant will prevent the disclosure of any information gained during the execution of this Order to any party except in the course of obtaining legal advice or pursuing litigation against the first respondent;
 - (iii) the applicant will compensate the first respondent for any damage caused to the first respondent during the execution of the Order, by anyone representing her, exceeding the terms of this Order; and
 - (iv) the applicant will compensate the first respondent for any damage caused to the first respondent by reason of the execution of the Order should the order subsequently be set aside.

IN RESPECT OF THE FIRST, SECOND, THIRD, FOURTH AND FIFTH RESPONDENTS

(f) This order shall, upon proper service thereof on the first to fifth respondents, operate as an interim Order with immediate effect.

(g) The first to fifth respondent and/or any adult person in control of the first respondent's premises

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Private Bag X7, Johannesburg 2000	
	
2020-03-24	
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situated at 32 Kempton Road, Kempton Park, Gauteng ("the premises") shall grant to the following persons (including their motor vehicles) access to the first respondent's premises:

- (i) the Sheriff and/or deputy Sheriff ("the Sheriff") of the above honourable court;
 - (ii) the independent supervising attorneys, Adhir Jugoo and/or Natasha Maharaj of Maharaj Jugoo Attorneys Incorporated;
 - (iii) the forensic personnel, duly appointed by the applicant being Wanda Zurcher with identity no. 711017 0093 08 2;
 - (iv) William Crichton, the whistle blower, who will assist in locating files and information identified in this Order; and
 - (v) the applicant's attorney of record Stephen George May, who shall not take part in the search referred to below, but may be called upon by those referred to in 7.1 to 7.4 above to identify documents falling within the evidence referred to in 8.1 to 8.1.7 and 8.3 below.
- (h) The persons referred to in 7.1 – 7.5 above ("the search persons") are authorised to access the premises for the purpose/s of thoroughly searching the premises including inter alia any buildings, other temporary structures, vehicles or persons on the premises, and examining any item or document for purpose of identifying same and deciding whether it falls within this order, for the sake of pointing out to the Sheriff for removal into the custody of the Sheriff, the following evidence ("the evidence"):
- (i) the entirety of the applicants file' ("the client files"), kept by the first respondent, including:

- i. all file notes relating to court appearances, consultations, telephone conversations, attendances at court including for purposes of inspecting and preparing the court file, and all other memoranda; and
- ii. all correspondence, whether transmitted electronically, by facsimile, by post, or any other manner; and

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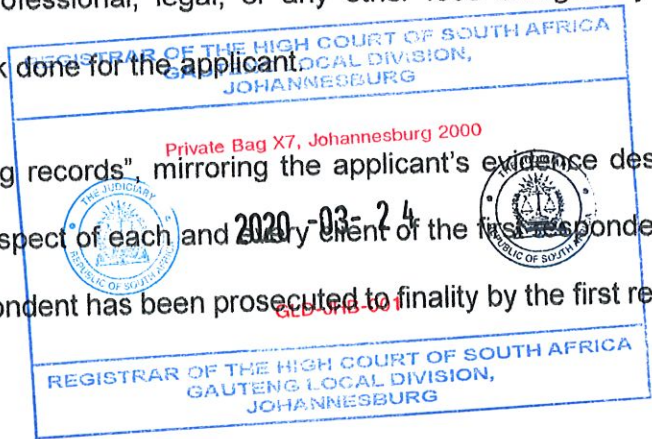


- iii. all briefs to advocates and instructions to medical and actuarial professionals and the respective reports and advice emanating from such instructions; and
- iv. records of all expenses and disbursements including, *inter alia*, travel expenses, sheriff's fees, invoices from advocates, medical professionals, actuaries; and
- v. all pleadings and notices including the proofs of service thereof; and
- vi. all taxed bills of costs including consultant notes thereon and proof of taxation; and
- vii. all court orders including settlement agreement/s made orders of court reflecting the registrar/s, alternatively presiding officers' stamps and signatures.

(ii) all accounting records ("the accounting records"), reflecting all individual itemised transactions, whether debits or credits, whether on the first respondent's LEGALSUITE accounting system, or hard copy, or any other format pertaining to:

- i. the receipt/s of trust monies, whether from the seventh respondent or any other person or entity and whether received in terms of an award, settlement, cost order or any other reason on the applicant's behalf; and
- ii. payments of all disbursements and expenses, whether relating to the fees or costs of advocates, correspondent attorneys, actuaries or medical professionals or any other entity or person on the applicant's behalf; and
- iii. charges in respect of all professional, legal, or any other fees charged by the first respondent in respect of work done for the applicant

(iii) all "client files", and "accounting records", mirroring the applicant's evidence described in prayer 8.1 to 8.2.3 above, in respect of each and every client of the first respondent whose claim against the seventh respondent has been prosecuted to finality by the first respondent



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within the 5 (five) years preceding this application.

With regard to the client files:

(i) Ordering and directing that:

- (i) the first to fifth respondents, or any other person in control of the first respondent's premises, shall forthwith provide access to the search persons to any place, area, structure, room, and/or storage facility and/or device where such client files are kept, whether at the first respondent's premises or any other location; and
- (ii) the first to fifth respondents, or any other person in control of the client files shall point out to the search persons the client files of clients with claims against the seventh respondent which have been prosecuted to finality.

With regard to the accounting records:

(j) Ordering and directing that the first to fifth respondents or any other person in control of any digital devices on the first respondent's premises shall forthwith:

- (i) hand over to the search persons, control of and/or access to any and all networks, desktop or laptop computers, data storage location or network components (including but not limited to cloud hosting, virtual servers, or other data hosted locally or internationally) to which the first to fifth respondents have access or control over, whether directly, indirectly or remotely connecting thereto (collectively described as "digital devices"); and
- (ii) disclose to the search persons any passwords and/or procedures required for effective control and preservation of the electronic portion of the "accounting records" contained within the "LEGALSUITE" software licenced to the first respondent wheresoever it may be held, on any digital devices.

(k) Ordering and directing that the forensic personnel shall make:

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JOHANNESBURG



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- (i) two disc copies and/or compact disc copies and/or to capture forensic images and/or make two complete mirror images and/or digital images (for identification purposes) of the accounting records on any digital device located on the premises, or to download or create a data dump of online or hosted data, once it is determined that such digital devices or media contain the accounting records or part thereof; and
- (ii) print-outs of any of the evidence located on any such digital devices.

With regard to the evidence generally:

(l) Ordering and directing that:

- (i) in the event that the first to fifth respondent and/or any other person in charge or control of the premises refuses to grant access to the premises on the premises, a member of the South African Police Service, assisted, if necessary by a locksmith, may obtain access to the premises; and
- (ii) subject to paragraph 12.8 hereof, that the sheriff be authorised to attach and remove any items pointed out by any of the aforesaid persons and any digital devices, and any forensic copies of hard drives of any digital devices and print-outs of any such items (collectively, "the identified items"); and
- (iii) the sheriff shall keep the identified items in his or her custody until the applicants authorise their release to the respondents or this Court directs otherwise; and
- (iv) in the event that the forensic experts are unable, for any unforeseen reason, to fulfil their functions in terms of this order, they are authorised to conduct such forensic investigations as contemplated in this order, in the presence of the independent supervising attorney/s and the Sheriff, no later than 3 (three) court days after the identified items have been taken into custody by the sheriff; and
- (v) until completion of the search authorised in the preceding paragraphs hereof, the first to fifth



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respondents and their employees or agents may not access any digital devices or any area where evidence described herein may be present, except with the leave of the independent supervising attorney, or to make telephone calls or send any electronic message to obtain the attendance and advice mentioned in the notice which is handed over immediately prior to execution of this order; and

(vi) the first to fifth respondents and/or any other person in charge or control of the premises, must disclose to the sheriff the whereabouts of any of the evidence described herein, whether at the premises or elsewhere, to the extent that such whereabouts are known to the first to fifth respondents or any of them or any such person(s); and

(vii) in the event that any item is disclosed to be situated at any other place than the premises, the applicants may approach this Court *ex parte* on the same papers duly supplemented for leave to permit execution of this order at such other place; and

(viii) the Sheriff shall make a detailed inventory of the identified items immediately upon attaching the identified items and shall provide a clear copy of such inventory containing the Applicant's Name, Court Case Number, and South African Identity/RAF Reference Number to the Registrar of the above honourable court, the applicant's attorney of record, the independent supervising attorney and the first to fifth respondents; and

(ix) in the event of the first to fifth respondents raising any contention in law why any of the identified items should not be inspected and/or copied, the first to fifth respondents shall, within a period of 3 (three) court days after the identified items have been taken into the custody of the sheriff as provided above, identify on oath the item in respect of which objection is taken to such inspection and/or copying and state on oath the reasons for the objection and serve such affidavit on applicant's attorney; and

(x) after the inspection described in the preceding paragraphs hereof, the sheriff shall retain the identified items pending the outcome of the rule nisi to this application; and



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(xi) the sheriff shall inform the first to fifth respondents that the execution of this order does not dispose of all the relief sought by the applicant and shall simultaneously serve the notice of motion and explain the nature and exigency thereof; and

(xii) the independent supervising attorney shall monitor and oversee all aspects of the execution of this order and, together with the sheriff, shall make a list of all items removed by the sheriff in terms of this order, one copy of such list to be handed to the first to fifth respondents, if present, or to the person(s) upon whom service is effected as referred to above, and one copy of such list to be retained by the sheriff; and

(xiii) the independent supervising attorney accompanying the sheriff, within ten (10) days of the execution of this order, shall cause an affidavit(s) to be filed:

i. setting out fully the manner in which the order was executed and stating whether, in the independent supervising attorney's opinion, there occurred any abuse or breach of any provisions of this order; and

ii. attaching the inventory compiled in terms of this order.

(xiv) the applicant's attorneys of record, alternatively the sixth respondent shall contact, or cause to be contacted, all persons falling within the class defined as the eighth respondent whose client files are in the sheriff's custody in order to:

i. inform them of the custody and whereabouts of their respective client files; and

ii. seek instructions relating to the perusal of their client files and prosecution of causes of action which they have.

(xv) this order shall, upon proper service on the first to fifth respondents, operate as an interim order with immediate effect until it is made final on the date referred to in the Rule Nisi herein.



RULE NISI

(m) A Rule Nisi do issue that: -

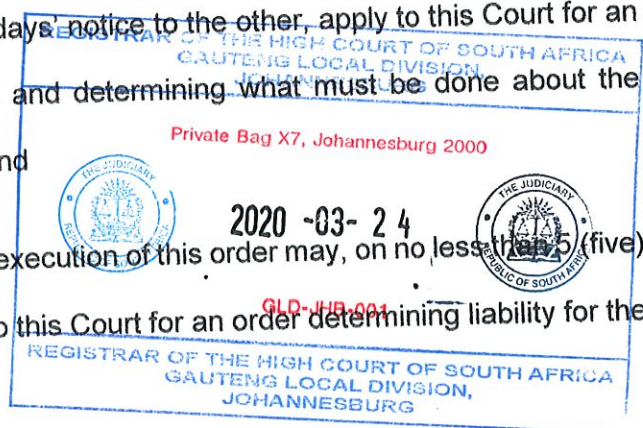
(i) the first respondent is called upon to show cause before this Court, on MONDAY the 6 day of JULY 2020 at 10h00 or so soon thereafter as the matter may be heard, why an order in the following terms shall not be made final:

- i. that the identified items in the custody of the sheriff shall be retained by the sheriff pending the further direction of this Court;
- ii. that the applicant, or any person falling within the class or group as described as the eighth respondent is permitted to:
 - 1. make copies of the identified items in the custody of the sheriff; and
 - 2. take possession of the two forensic copies of hard drives of any digital devices in the custody of the sheriff, for the purposes of instituting the further proceedings against the respondents foreshadowed in this application;

COSTS

(n) The costs of this application are reserved for determination in the further proceedings to be instituted by the applicants, foreshadowed in this application, save in the event of opposition in which a punitive costs order will be sought, and save further that:

- (i) if no such proceedings are instituted within 30 (thirty) days of the execution of this order, either party may, on no less than 5 (five) days' notice to the other, apply to this Court for an order determining liability for such costs and determining what must be done about the identified items and any copies thereof; and
- (ii) any other person affected by the grant or execution of this order may, on no less than 5 (five) days' notice to the parties hereto, apply to this Court for an order determining liability for the



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costs of such person and determining what must be done about any of the identified items pertaining to such person or any copy thereof.

(9) ~~granting the Applicant further and/or alternative relief.~~

(i) _____

DATED AT _____ ON THIS _____ DAY OF _____ 2020



THE REGISTRAR OF THE COURT

TO: STEPHEN G. MAY ATTORNEY
APPLICANT'S ATTORNEY
26 VICTORIA AVENUE, SANDRINGHAM
JOHANNESBURG
CEL: 072 451 6074; TEL: 011 640 3534
EMAIL: stephen@sgmlaw.co.za

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AD

"A"
24/3/2020

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

CASE NUMBER: 2020/8549-
9518



In the *ex parte* in camera application for an *anton piller* order between: -

THANDI CAROLINE DHLAMINI	APPLICANT
and	
SCHUMANN, VAN DEN HEEVER & SLABBERT INCORPORATED	FIRST RESPONDENT
JAKKIE SUPRA	SECOND RESPONDENT
IZAK BOSMAN	THIRD RESPONDENT
AZELLE KLEINEN	FOURTH RESPONDENT
JACOBUS JOHANNES SLABBERT	FIFTH RESPONDENT
THE LEGAL PRACTICE COUNCIL	SIXTH RESPONDENT
THE ROAD ACCIDENT FUND	SEVENTH RESPONDENT
ALL PERSONS WITH CLAIMS AGAINST THE 7TH RESPONDENT PROSECUTED TO FINALITY BY THE 1ST RESPONDENT WITHIN THE 5 (FIVE) YEARS PRECEDING THIS APPLICATION	EIGHTH RESPONDENT

ANNEXURE A

1. The order being served on you requires you to allow the persons named therein to enter the premises described in this order and to search for, examine and remove or copy the articles specified in this order. You are also required to point out and hand over any such item to the sheriff. Particulars are stated in the order.

2. When this notice is handed to you, you are entitled, if you are an employee of the respondent or in charge of the premises, to contact the respondents or a more


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senior officer of the respondents. You are entitled to the attendance and advice of such senior person, the respondents or an attorney provided such person arrives without delay and not later than one hour after the handing over of this notice.

3. Until the attorney, the respondents or such other officer arrives or until the time has passed for him or her to arrive, you need not comply with any part of this order, except that you must allow the independent supervising attorney, the sheriff and the other persons named in the order to enter the premises and to take such steps as, in the opinion of that attorney, are reasonably necessary to prevent prejudice to the further execution of the order.
4. You are further entitled to have the sheriff and the independent supervising attorney explains to you what this notice and the court order mean.
5. You may be punished for contempt of court if you, inter alia,
 - 5.1 obstruct the sheriff unlawfully in the execution of this order; or
 - 5.2 wilfully disobey this order; or
 - 5.3 remove or intentionally cause harm to any item about to be attached or removed in terms of this order, until the attachment is set aside by the Court or is lifted on instruction from the applicants.



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