



JD VAN DER MERWE ATTORNEYS

To: The Honourable Judge President
And to: The Honourable Acting Judge Martin
Western Cape Division of the High Court
Per email:
EPotgieter@judiciary.org.za; RDavid@judiciary.org.za; DHealley@judiciary.org.za

22 March 2022
Your ref: 8681/2017
Our ref: 8036 JM

Dear Honourable Mr Justice Hlophe JP and Acting Judge Martin

**RE: LOLO AND ANOTHER / DRAKENSTEIN MUNICIPALITY AND OTHERS;
CASE NO 8681/2017**

1. We refer to our letter dated 14 March 2022.
2. Ms Cooper responded per the attached email dated 18 March 2022, which provides: "*Martin AJ apologises for not providing a target date for the judgment. He is not in a position to do so as there are other judgments due before this one. He will advise as soon as possible.*"
3. The failure by Martin AJ to provide any indication as to when judgment can be expected in this matter is of grave concern to my clients and ourselves, particularly for the reasons referred to in our letter of 14 March 2022. Further, the delay is becoming excessive.
4. We refer to the following provisions of Article 10 of the Judicial Code of Conduct which apply to Martin AJ as an Acting Judge in terms of Article 2(1)(a):

Article 10: Diligence

(1) A judge must—

(a) perform all assigned judicial duties diligently;

...

(c) dispose of the business of the court promptly and in an efficient and business-like manner;

(d) give judgment or any ruling in a case promptly and without undue delay;

(e) not engage in conduct that is prejudicial to the effective and expeditious administration of justice or the business of the court;

...

(g) perform all official duties properly, timeously, and in an orderly manner;

...

(j) upon resignation, discharge from active service, or the expiry of an acting appointment, complete all part-heard cases and deliver all reserved judgments as soon as possible.

JD van der Merwe B.Comm., B.A. (Hons.) LL.B. LL.M

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- (2) A judge must deliver all reserved judgments before the end of the term in which the hearing of a matter was completed, but may—
(a) in respect of a matter that was heard within two weeks of the end of that term; or
(b) where a reserved judgment is of a complex nature or for any other cogent and sound reason and with the consent of the head of the court, deliver that reserved judgment during the course of the next term."
5. Nearly four terms have passed since the last hearing of the matter (in February 2021) and nearly five since the first hearing (in August 2020).
6. We are instructed to request clarity on the following issues:
- 6.1 When did Martin AJ's term of appointment as an Acting Judge expire?
- 6.2 How many judgements does Martin AJ still have reserved and outstanding from his period of been an Acting Judge in the Western Cape High Court?
- 6.3 When was the first date of hearing for each of those matters?
- 6.4 How far down the list of reserved judgments is our clients' matter?
- 6.5 Has Martin AJ informed the Registrar of the Western Cape High Court and Judge President Hlophe of how many matters remaining outstanding?
7. My clients reserve their right to bring this delay – which continues to undermine the administration of justice and disregard my clients' rights – to the attention of an appropriate authority, including the Judicial Service Commission.

Yours faithfully
JD VAN DER MERWE ATTORNEYS

per: JD van der Merwe

