IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

Case No: 58145/2020

In the matter between:

ROAD ACCIDENT FUND	Applicant
and	
THE LEGAL PRACTICE COUNCIL	First Respondent
THE BOARD OF SHERIFFS	Second Respondent
ABSA BANK	Third Respondent
THAKA F SEBOKA N.O. **(SHERIFF, PRETORIA CENTRAL)**	Fourth Respondent
LANA NEL N.O. (SHERIFF, PRETORIA EAST)	Fifth Respondent
SHOKENG E DHLAMINI N.O. **(SHERIFF, CENTURION EAST)**	Sixth Respondent
MARKS THAPELO MANGABA N.O. **(SHERIFF, JOHANNESBURG CENTRAL)**	Seventh Respondent
NELSON NTSIBANTSU N.O. **(SHERIFF, CAPE TOWN WEST)**	Eighth Respondent
NOMANDLA NDABENI N.O. **(SHERIFF, EAST LONDON)**	Ninth Respondent
G S NDLOVU N.O. **(SHERIFF, DURBAN CENTRAL)**	Tenth Respondent
AD DANDALA & ASSOCIATES	Eleventh Respondent
GODLA & PARTNERS	Twelfth Respondent
SITHOMBE ATTORNEYS	Thirteenth Respondent
K MALAO INCORPORATED	Fourteenth Respondent
MDUZULWANA ATTORNEYS	Fifteenth Respondent
ROBERT MUVHIMI	Sixteenth Respondent
MOTLHOLO KOOS TLHAOLE	
PHILADIPHIA NOMTHANDAZO MEMELA	
SIPHO SKHOSANA	
LINDIWE MACAKA	
JUSTINE CHEPETE	

EVIDENCE SHAVA	
DVDM INCORPORATED	Seventeenth Respondent
DE BROGLIO ATTORNEYS INC.	Eighteenth Respondent
VDS ATTORNEYS	Nineteenth Respondent
ROETS & VAN RENSBURG	Twentieth Respondent
PERSONAL INJURY PLAINTIFF'S	
LAWYERS ASSOCIATION	Twenty-First Respondent
ADVOCATE RAF FEE RECOVERY ASSOCIATION	Twenty-Second Respondent
KHOROMMBI MABULI INCORPORATED	Twenty-Third Respondent
WE EMERGENCY RESPOND TEAM (Pty) LTD	Twenty-Fourth Respondent
PRETORIA ATTORNEYS ASSOCIATION	First *amicus curiae*
GENERAL COUNCIL OF THE BAR	Second *amicus curiae*
BRITS & BEUKES INCORPORATED	Third *amicus curiae*
FEARLESS AZANIAN LAWYERS ASSOCIATION	Fourth *amicus curiae*
NOSICELO PRINCESS QIKANI	Intervening party

RULE 16A NOTICE

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TAKE NOTICE THAT the applicant intends to make application to the above Honourable Court on 18 April at 10H00, or as soon thereafter as counsel may be heard, for an order in the following terms:

1. Dispensing with the forms, service and time periods prescribed in terms of the Uniform Rules of Court, directing that the matter be heard as one of urgency in terms of rule 6 (12) of the Uniform Rules of Court and condoning the service of this application by substituted service.

2. Suspending and interdicting warrants of execution for the attachment, removal and sale in execution of the applicant's assets, where such attachment and execution are based upon:

2.1 costs orders / costs settlements where such costs orders/settlements have not aged to 180 days from date of taxation/settlement; and

2.2 claims for interest on the capital amounts already paid to claimants, where such claims for interest have not aged 180 days from date of payment of the capital:-

pending adjudication of the hearing of the main application under the above case number, which is currently awaiting special allocation by the Deputy Judge President.

3. The above order will be published by the applicant:

3.1 to all practicing attorneys through the Legal Practice Council;

3.2 by email to all of the applicant's list of attorneys on its database;

3.3 to the Minister of Transport by service on the State Attorney;

3.4 by publication in 2 newspapers with national circulation.

4. Directing that any party who opposes the relief sought be ordered to pay the applicant's costs, including the costs of two counsel.

5. Further and/or alternative or just and equitable relief.

In April 2021 the Full Court, Pretoria, granted the applicant extraordinary relief which was thereafter extended by the High Court in August 2022. The relief the applicant will seek in this second extension application is concomitant therewith. The application raises the following constitutional issues:

6.1 The RAF was established in terms of section 2 of the Road Accident Fund Act, 56 of 1996 ("the Act").

6.2 The object of the RAF, as set out in section 3 of the Act is the payment of compensation in accordance with the Act for loss or damage wrongfully caused by the driving of a motor vehicle.

6.3 The powers of the RAF are set out in section 4 of the Act and *inter alia* include the stipulation of the terms and conditions upon which claims for the compensation contemplated in section 3 of the Act, shall be administered and the management and utilization of the money of the RAF for purposes connected with or resulting from the exercise of its powers or the performance of its duties.

6.4 In terms of section 21 (1) of the Act, no claim for compensation in respect of loss or damage resulting from bodily injury to 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. In terms of section 21 (2) of the Act, subsection 21 (1) does not apply if *inter alia* the RAF or an agent is unable to pay any compensation.

6.5 The RAF is not in a financial position to make payment of all claims as they fall due, by lump sum. The RAF can only make payment of claims on a structured and equitable basis from oldest to newest, *a priore tempore*, as and when funds become available.

6.6 The RAF is able to make payment of capital claims within 180 days from the date of the Court order, or the settlement.

6.7 The RAF is able to make payment of legal costs within 180 days from the date that the bills of costs are taxed and an allocatur is issued or the bills of costs are settled between the parties.

6.8 The RAF is able to make payment of interest on the capital within 180 days from the date that the capital has been paid.

6.9 The relief the applicant will seek will have an impact on the person's rights in terms of the Bill of Rights of the Constitution of South Africa, 1996, and more specifically on the following rights:

- the right to equality in terms of section 9;
- the right to dignity in terms of section 10;
- the right to life in terms of section 11;
- the right to freedom and security of persons in terms of section 12;
- the right to healthcare, food, water and social security in terms of section 27; and
- the right to access to Courts in terms of section 34.

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The relief sought will have an impact on these fundamental rights, but the relief will however also protect these rights by ensuring that all persons are treated equally, with dignity and that their rights are secured.

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The RAF accepts that persons have a right to execute a judgment order against the RAF. The RAF submits that the limitation of those rights is reasonable and justifiable in the circumstances to continue to protect the stability of the RAF, its operations and its functioning for the future and to ensure the protection of all claimants' rights equally and with dignity.

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The RAF does not seek a moratorium on the payment of claims; it only seeks a moratorium on execution steps.

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TAKE NOTICE THAT:

10.1 The RAF submits that this is an urgent matter that requires immediate intervention;

10.2 The application is to be heard on or during the week of **18 April 2023**.

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Should any further party wish to participate in the RAF's application, then such party should acknowledge the below truncated time periods.

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Any interested party in the aforesaid constitutional issues may, with the written consent of all the parties to the proceedings, **given not later than 3 days after the filing of this notice** or may be admitted as *amicus curiae* upon such terms and conditions as may be agreed upon in writing by the parties. The written consent contemplated in

Rule 16 A (2) shall, **within 1 day of it having been obtained,** be lodged with the Registrar and the *amicus curiae* shall, in addition to any other provision, comply with the times agreed upon for the lodging of written argument. If the interested party contemplated in sub-rule (2) of Rule 16A is unable to obtain the written consent as contemplated therein, **that party may, within 1 day of the expiry of the period above**, apply to the Court to be admitted as an *amicus curiae* in the proceedings.

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Due to the urgent nature of the relief sought, the RAF will ask that the Court dispense with the specific time frames set out in rule 16A and to direct that the above time frames are reasonable in the circumstances and in the interest of justice.

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An application to be admitted as an *amicus curiae* must briefly describe the interests of the *amicus curiae* in the proceedings, clearly and succinctly set out the submissions which will be advanced, the relevance thereof to the proceedings and the party's reasons for believing that the submissions will assist the Court and are different from those of the parties. The submissions must furthermore be served upon all parties to the proceedings considering the truncated periods.

PUBLISHING OF NOTICE:

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The Registrar is requested to immediately display this notice on a public notice board at the High Court at a prominent position.

DATED AT JOHANNESBURG ON THIS 27th DAY OF MARCH 2023.



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TO: **THE REGISTRAR OF THE HIGH COURT**