



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

CASE NO: 15864/12

30/1/18

In the matter between:

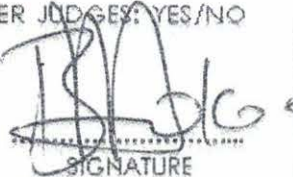
MIVAMI CONSTRUCTION CC

APPLICANT

And

EXTREME LIFESTYLE CENTRE

RESPONDENT

(1)	REPORTABLE: YES / NO
(2)	OF INTEREST TO OTHER JUDGES: YES/NO
(3)	REVISED.
30/1/18	
DATE	SIGNATURE

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JUDGMENT

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MOKOENA A.J

- [1] This is an application in terms of Rule 28(4) of the Uniform Rules (*"the rules"*). The application is brought by the Plaintiff, who is the Applicant in this matter, seeking leave from this Court to amend its Particulars of Claim as set out in its Notice of Amendment dated 17 March 2016, annexed to the founding papers marked as Annexure "AMD2".

- [2] The application is opposed by the Defendant who is the Respondent in this matter. In doing so, it has filed its Notice of Objection to the Plaintiff's Annexure "AMD2" on 05 April 2016 setting out the grounds of its opposition to the proposed amendment. This application is as a results of the Defendant's objection to that proposed amendment.
- [3] I must state from the onset that during the hearing of this matter and both in its Founding Affidavit and heads of argument, the Plaintiff referred me to a Court file under Case number: **20400/2016**. It undertook to hand it up in Court and never did. I was informed that the Pleadings in that matter have a material bearing to this application. That Court file was never brought to my attention until I asked for it. It was only made available to me on 09 October 2017.
- [4] The background to this application is briefly the following: during 2012, the Plaintiff commenced action proceedings against the Defendant for breach of a contract of sale of powerstar 40-35 8 x 4 upper trucks. For convenience sake, I shall refer to them as vehicles. The proceedings followed its normal course with the exchange of pleadings between the Parties. Two Pre-trial Conferences were held. The first one was held on 07 October 2014 and the other one was on 17 February 2016. The minutes of those Pre-trial Conferences were handed up to me, during the hearing of this application, by Mr. Louw on behalf of the Plaintiff. Discovery notices were also exchanged including request for further particulars for purposes of the preparation for the trial of the matter.
- [5] Prior to the issuing of the Summons and during 2009, the Plaintiff returned the vehicles to the Defendant on the allegations that the Defendant was in breach of their contract of sale and or a warranty against latent defect on the vehicles. Based on the allege breach of the said contract, claiming cancellation of the contract and repayment of the purchase price.
- [6] On 7 March 2016, the Plaintiff and the Defendant undertook an *inspection in loco* of the vehicles which were in the premises of the Defendant since the Plaintiff left them there in 2009. During that inspection, the Plaintiff discovered a copy of a warranty document in one of the vehicles. The discovery of the warranty document triggered the Plaintiff's proposed amendment of its Particulars of Claim.

[7] I am now asked to decide whether the Plaintiff's application to amend its Particulars of Claim should be granted or not and whether the Defendant's objection to the proposed amendment has merits or not.

[8] The principles governing the applications for the amendment of Pleadings are well set out in **Commercial Union Assurance CO LTD v Waymark NO<sup>1</sup>** by White J as follows:-

1. *The Court has a discretion whether to grant or refuse an amendment.*
2. *An amendment cannot be granted for the mere asking; some explanation must be offered therefore.*
3. *The applicant must show that prima facie the amendment 'has something deserving of consideration, a triable issue'.*
4. *The modern tendency lies in favour of an amendment if such 'facilitates the proper ventilation of the dispute between the parties'.*
5. *The Party seeking the amendment must not be mala fide.*
6. *It must not 'cause an injustice to the other side which cannot be compensated by costs'.*
7. *The amendment should not be refused simply to punish the applicant for neglect.*
8. *A mere loss of time is no reason, in itself, to refuse the application.*
9. *If the amendment is not sought timeously, some reason must be given for the delay.*

[9] The Plaintiff's proposed amendment reads as follows:-

1. *"By adding the heading **"A. PLAINTIFF'S CLAIM A:"** just after paragraph 3 and before paragraph 4 of the particulars of claim.*

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<sup>1</sup> *Commercial Union Assurance Co Ltd v Waymark NO* 1995(2) SA 73 at 77 F-I



2. By adding the following paragraphs after prayer 5 in the particulars of claim and before the signature of the Plaintiff's attorney of record as attorney duly admitted in terms of Section 4(2) of the Attorneys Act:

**"B PLAINTIFF'S CLAIM B**

11.

*In the alternative to Plaintiff's Claim A the Plaintiff claims from the Defendant as set forth hereunder.*

12.

*During February 2009 the Plaintiff, represented by Ruby Mphalele entered into a partly oral agreement and partly written agreement with the Defendant, represented by Mark Beukes, for the purchase of 7 Powerstar 40-35 8x4 tipper trucks with the registration numbers and for the purchase consideration reflected in paragraphs 4.1.1 to 4.1.7 above and hereinafter referred to as "the motor vehicles".*

13.

*It was an express alternatively implied alternatively tacit term of the agreement alternatively contemplated between the parties that the Plaintiff would apply for financial assistance for the purchase of the motor vehicles.*

14.

14.1 *The written part of the agreement is set forth in **Annexure "A"** hereto.*

14.2 *In terms of Annexure "A":*

14.2.1 *The Defendant warrants to the first retail purchaser of the motor vehicles that the motor vehicles supplied by the Defendant and delivered by an authorised dealer of the Defendant will be free from the defects in materials and workmanship under normal use for which the motor vehicles were designed for the periods stipulated from date of delivery.*

14.2.2 *The warranty cover on Powerstar trucks is for mechanical defects 12 months or 60 000 km for construction and shorthaul usage.*

14.2.3 *An additional 12 months or a maximum or a maximum of 2000 000 km total extended driveline warranty is given of main components only, no wearing parts.*

- 14.2.4 The body panel warranty on Powerstar trucks covers corrosion for 12 months.
- 14.2.5 The Defendant warrants that all service replacement parts and accessories supplied by the Defendant and installed on a vehicle by an authorised dealer to be free of defects in material and manufacture under normal use for which it was designed for a period of 12 months from the date of purchase. The warranty applies to the replacement of the part and excludes any labour cost to replace the defective part.
- 14.2.6 In terms of the warranty the Defendant undertakes to provide the free repair and/or replacement of defective material or workmanship where an authorised representative has approved the Defendant's liability. The work done and material supplied for these warranty repairs will be done at the discretion of the Defendant by the Defendant at an authorised repair facility. It will be at the discretion of the Defendant to repair or replace the defective components or material to effect the repair.
- 14.2.7 All repaired or replaced components shall carry the balance of the initial warranty period only.

15.

In the premises the agreement between the parties contained an express warranty against any defects which would render the motor vehicles unfit for the purpose of constructing road surfaces being the normal use for which the motor vehicles were designed.

16.

Since delivery of the motor vehicles in February 2009, the motor vehicles constantly broke down between February 2009 and May 2009 (the date on which the agreements between the parties were cancelled as referred herein further) to such an extent that the motor vehicles were substantially unfit for their intended use, being construction of road surfaces.

17.

The motor vehicles had the following defects in materials and workmanship under normal use for which they were designed, being road construction, within the period of 12 months or 60 000 km from date of delivery:

- 17.1 The Plaintiff repeats the contents of paragraphs 7.2.12 to 7.2.7 as if expressly here.

18.

- 18.1 During the period February to May 2009 the Defendant alternatively the Defendant as represented by its authorised representatives attempted to repair the defects in the motor vehicles.
- 18.2 The attempts at repair by the Defendant alternatively by the Defendant's authorised representatives were unsuccessful to the extent that the Defendant's breach of the written warranty contained in **Annexure "A"** and as pleaded in paragraph 14 above went to the root of the agreement between the Plaintiff and the Defendant alternatively to the root of the warranty in **Annexure "A"**, entitling the Plaintiff to cancel the agreement between the Plaintiff and the Defendant.
- 18.3 On or about 28<sup>th</sup> May 2009 the Plaintiff cancelled the agreement and returned the motor vehicles to the Defendant's premises and the motor vehicles are currently in possession of the Defendant.

19.

- 19.1 By virtue of the defects and the Defendant's breach of warranty relating thereto, the Plaintiff claims the restitution of the amounts paid by the Plaintiff and by the Plaintiff through its financiers, being Wesbank and Capital Alliance Ltd to the Defendant in the total amount of R7 940 100.00.

**IN THE ALTERNATIVE TO PARAGRAPH 19.1 ABOVE:**

- 19.2 As a result of the Defendant's breach of warranty as set forth above the Plaintiff has suffered damages in the amount of R7 940 100.00 being the total purchase price paid by the Plaintiff for the motor vehicles as set forth above.

20.

Notwithstanding demand the Defendant refuses and/or neglects to make payment to the Plaintiff of the said amount or any part thereof.

**WHEREFORE THE PLAINTIFF CLAIMS FROM THE DEFENDANT IN TERMS OF CLAIM B:**

1. Confirmation of the cancellation of the agreement between the Plaintiff and the Defendant;



2. *Payment of the amount of R7 940 100.00;*
3. *Interest a tempore morae at the rate of 15.5% per annum on the amount of R7 940 100.00 to date of payment;*
4. *Costs of suit; and*
5. *Further and/or alternative relief.*

**C. PLAINTIFF'S CLAIM C:**

21.

*In the alternative to the Plaintiff's Claim A and Claim B the Plaintiff claims from the Defendant as set forth hereunder.*

22.

- 22.1. *The motor vehicles were sold to Wesbank and Capital Alliance by the Defendant.*
- 22.2. *The motor vehicles were delivered to Wesbank and Capital Alliance as represented by the Plaintiff who on its behalf was represented by Ruby Mphahlele alternatively the motor vehicles were delivered by the Defendant directly to the Plaintiff as represented by Ruby Mphahlele.*
- 22.3. *The motor vehicles were so delivered with the written warranty, a copy whereof is attached hereto as **Annexure "A"**.*
- 22.4. *The Plaintiff repeats the contents of paragraph 14.2 (with its sub-paragraphs) as if pleaded expressly here.*

23.

**IN THE ALTERNATIVE TO PARAGRAPH 22.3 ABOVE:**

- 23.1. *The written warranty constitutes a binding undertaking alternatively warranty alternatively offer by the Defendant directly to the Plaintiff as the first retail purchaser of the motor vehicle.*

23.2. *Alternatively the written warranty constitutes an agreement for the benefit of a third party, the Defendant being the promisor, Wesbank and Capital Alliance being the promisee and the Plaintiff being the third party for whose benefit the warranty was entered into between the defendant and Wesbank and Capital Alliance.*

24.

*The Plaintiff accepted the benefits of the written warranty in that the Plaintiff as represented by Ruby Mphahlele and the Defendant as represented by its authorised employees agreed that the Defendant alternatively the Defendant's representatives would execute warranty repair work to the motor vehicles during the period February to May 2009.*

25.

*The Plaintiff repeats the contents of paragraphs 18 and 19 (with their sub-paragraphs) and 20 above as if pleaded expressly again.*

**WHEREFORE THE PLAINTIFF CLAIMS IN TERMS OF CLAIMS C FROM THE DEFENDANT:**

1. *Confirmation of the cancellation of the agreement between the Plaintiff and the Defendant;*
2. *Payment of the amount of R7 940 100.00;*
3. *Interest a tempore morae at the rate of 15.5% per annum on the amount of R7 940 100.00 to date of payment;*
4. *Costs of suit; and*
5. *Further and/or alternative relief".*

[10] Mr. Miltz, on behalf of the Defendant, made a submission that the proposed amendment seeks to introduce a new cause of action which will substantially prejudice the Defendant. He contended that such prejudice and injustice cannot be compensated by a costs order.



- [11] In support of this argument, he contended that the Defendant sold its business during 2010 and the only remaining employee of the Defendant who has knowledge, *albeit* limited knowledge, of the Defendant's former business, transactional and operational affairs during the period 2008 to 2010 is Mr. Alan Chambers.
- [12] The Plaintiff dismissed the Defendant's allegations. It contended that there is another witness by the name of Mr. Mountford who was appointed as the Managing Director of the holding company of the Defendant on 29 July 2009. The Plaintiff went further to state that the said Mr. Mountford was also appointed the Director of the Defendant since 30 September 2009. This was not disputed by the Defendant. In fact the Defendant confirmed those allegations in its application under Case number: **20400/16**, by stating that Mr. Mountford was appointed Chief Executive Officer on 01 July 2009.
- [13] It appeared from the pleadings in this application and under Case number: **20400/14** that when Mr. Mountford was appointed a Director of the Defendant in July 2009, a legal dispute between the Plaintiff and the Defendant had already ensued in May 2009 after the Plaintiff had returned the vehicles to the Defendant.
- [14] The Defendant never deny that Mr Mountford has knowledge of the warranty obligations of the Defendant. It was also not denied that Mr. Mountford has knowledge also of the circumstances surrounding the dispute between the Plaintiff and the Defendant pertaining to the vehicles. What was said both in its application under Case number: **20400/16** and its Answering Affidavit to this application was that Mr. Mountford *"never had anything to do with the ordinary business transactions of the Defendant in the relevant period"*.
- [15] In my view it does not follow, because Mr. Mountford never had anything to do with the ordinary business transactions of the Defendant in the relevant period, he has no knowledge of the warranty obligations of the Defendant, in particular the matter relating to the vehicles. He was a most senior employee and Director of the Defendant during the relevant period; and legal disputes are matters often discussed and dealt with in board meetings which I believe Mr. Mountford used to attend in his capacity as a Director and Chief Executive Officer.

- [16] As regard a complaint by the Defendant that should the proposed amendment be allowed it will be substantially prejudiced in that it sold its business in 2010, I find no reason why the Plaintiff must be blamed for that. The Defendant knew already in May 2009 that there is a legal dispute between itself and the Plaintiff regarding the vehicles. Its failure to secure relevant documentary evidence cannot be, in my view, the problem of the Plaintiff.
- [17] In addition, the Pre-trial minutes of 07 October 2012 revealed that the Plaintiff invoked the rules to solicit a response from the Defendant with regard to the issue of the warranties without success. A Pre-trial question that was posed was for the Defendant to state "*whether the warranties to the vehicles were written or oral or implied*". The Defendant was dismissive to that question. It effectively refused to answer it. Most probably to avoid disclosing the warranty documents as it was required to do in terms of Rule 35(1) of the rules.
- [18] Furthermore, the Defendant never shed any light as to what are the other documentary evidence required in addition to the sale agreement; the lease agreement and the warranty document to assist it with its defence. In fact it made a submission in its heads of argument that it does not dispute the documents relied upon by the Plaintiff which are part of their pleadings.
- [19] During argument, Mr Miltz conceded that the Defendant knew that there would have been a warranty because vehicles comes with warranties, but the Defendant did not have these warranties and it could not find them. However, the Defendant never said so in its Discovery Affidavit or in its response to the question asked by the Plaintiff to state whether those warranties were written or oral or implied.
- [20] From the foregoing, the reasons provided by the Plaintiff for the delay in filing its proposed amendment are acceptable. As a results, the first ground of objection by the Defendant cannot stand.



[21] The Defendant's second ground of objection to the proposed amendment was that, the introduction of Claim B will not contribute to the separated issue as to whether a sale agreement was entered into between the Plaintiff and the Defendant. This ground finds its root from a Court Order of 15 May 2015 which reads as follows:-

1. **THAT** the question:-

1.1 *"whether an agreement as set forth in paragraphs 4,5 and 6 of the Plaintiff's particulars, was entered into between the Plaintiff and Defendant;*

1.2 *be separated in terms of the Rule 33(4) of the Uniform Rules of Court from the remaining issues of dispute, being latent defect and the quantum between the Parties".*

[22] It is instructive to consider what was pleaded in paragraphs 4, 5 and 6 of the Plaintiff's unamended particulars of claim to determine what were the real issues that were to be adjudicated upon by the trial Court, separated from the issues of latent defect and *quantum*.

[23] Paragraphs 4,5 and 6 of the unamended particulars of claim reads as follows:-

4.1 *"During February 2009 the Plaintiff, represented by Ruby Mphalele entered into an oral agreement with the Defendant, represented by Mark Beukes, for the purchase of seven (7) power star 40-35 8x4 upper trucks with the following registration numbers and for the purchase consideration reflected hereunder:*

4.1.1	YCZ499GP	:	R1, 134, 300.00
4.1.2	YCZ457GP	:	R1, 134, 300.00
4.1.3	YCZ547GP	:	R1, 134, 300.00
4.1.4	YCZ492GP	:	R1, 134, 300.00
4.1.5	YCZ472GP	:	R1, 134, 300.00
4.1.6	YCZ450GP	:	R1, 134, 300.00



4.1.7 YCZ485GP : R1, 134, 300.00

**TOTAL AMOUNT** : **R7, 940,100.00**

(hereinafter referred to as "the motor vehicles").

4.2 It was an explicit alternatively implied term of the agreement alternatively contemplated between the parties that the Plaintiff would apply for financial assistance for the purchase of the motor vehicles but that the financial agreements would not affect the warranties mentioned in paragraph 5 and 6 herein further;

5.

*At all material times:*

- 5.1 The Defendant publically held himself out to be an expert seller of the abovementioned motor vehicle;
- 5.2 The Defendant knew that the Plaintiff required the motor vehicles in construction of road surfaces;
- 5.3 The Defendant knew that the Plaintiff would suffer damages if the motor vehicles had latent defects.

6.

*In the premises, the agreement between the parties contained and implied alternatively express warranty against any latent defects which would render the abovementioned motor vehicles unfit for the purposes of constructing road surfaces".*

[24] From the reading of these paragraphs together with the Court Order of 15 January 2015, the trial Court was to decide whether there was a valid agreement of sale between the Plaintiff and the Defendant and what were the terms of that agreement in particular, whether a warranty against latent defect was one of the terms of that agreement.

- [25] In comparing what was pleaded in paragraphs 4, 5 and 6 of the unamended particulars of claim and what the Plaintiff is pleading in Claim B, Claim B repeats almost everything that was already pleaded in paragraph 4 with the omission of the words: "*but that the financial agreements would not affect the warrantees mentioned in paragraphs 5 and 6 herein further*".
- [26] The Plaintiff went further to introduce the express terms of the warranties, which were not mentioned in paragraph 6 of the unamended particulars of claim, and the nature of the defects which were allegedly discovered in the vehicles.
- [27] Of critical importance to the question whether an agreement existed between the Plaintiff and the Defendant, are the new allegations in the proposed amendment that the Defendant attempted to repair the defects without success. These allegations emanate from Annexure "**REP1**" to the Plaintiff's Replying Affidavit. In that Annexure, the Defendant stated that "*the vehicles have been repaired in accordance with the warranty conditions*".
- [28] Accordingly, If the Plaintiff is allowed to amend its particulars of claim by the introduction of Claim B that, in my view, will place an obligation on the Defendant to state in its Plea whether the warranty conditions it referred to in Annexure "**REP1**", are part of the alleged agreement the Plaintiff is pleading or whether those warranty conditions are a stand-alone undertakings in favour of any third party or the owners of the vehicles.
- [29] For these reasons, I am of the view that to allow the proposed amendment will assist the trial Court in deciding the real issues between the Parties. As a results, this objection to the proposed amendment has no basis.
- [30] The third ground the Defendant advanced in opposing the proposed amendment is that, the Plaintiff seeks to introduce an additional cause of action under Claim C which will render the particulars of claim *excipiable*.



- [31] In so far as the argument that the proposed Claim C will render the particulars of claim vague and embarrassing is concern, it was submitted that the assertion by the Plaintiff that warranties constitutes a binding undertakings or, a *stipulatio alteri* in favour of the Plaintiff are without basis. Mr. Miltz argued that such assertions contradicted the express terms of the written warranties (Annexure "A" to the notice of amendment)
- [32] His further submissions are that the written warranties excluded any benefit of such, by not providing for the cession of a claim and by a fact that the vehicles were sold *voetstoot*. His argument was that the sale and lease agreement pertaining to the vehicles were concluded between the Plaintiff and Wesbank, in relation to the sale agreement, and between the Plaintiff and Capital Acceptance, in relation to the lease agreement. As a results, any claim arising from these agreements must be against Wesbank and or Capital Acceptance and not the Defendant.
- [33] In reply, Mr Louw accepted the existence of the sale and lease agreements between the Plaintiff and Wesbank and between Plaintiff and Capital Acceptance. His argument was that prior to the conclusion of those agreements, the Defendant negotiated and agreed with the Plaintiff about the vehicles and their qualities thereof. Emanating from that agreement, the Plaintiff obtained finance from Wesbank to purchase the vehicles and lease others from Capital Acceptance. The Defendant therefore based its claim on what was conveyed to it as regard the qualities of the vehicles.
- [34] Taking into account the statement by the Defendant in Annexure "REP1" to the effect that the vehicles have been repaired in accordance with the warranty conditions, it seems to me *prima facie* that they may be some warranty conditions which the Parties have agreed to relating to the quality of the vehicles, otherwise there was no obligation on the part of the Defendant to repair the vehicles. The exact terms of those warranty conditions and the appropriate remedies thereof, can be properly dealt with at the trial of the matter. For these reasons, the third ground of objection cannot stand.



- [35] The last ground of objection by the Defendant was that the Plaintiff is trying to resuscitate the prescribed claim and that the proposed amendment involves the introduction of new causes of action that have prescribed. The submissions by Mr. Miltz were that the claim which was based on a breach or based on a warranty term or condition contained in the written warranties aroused in May 2009.
- [36] The Plaintiff contended that this ground of objection was not well taken. Mr. Louw argued that the proposed amendment does not change its initial claim against the Defendant.
- [37] It is trite law that a Court will not allow an amendment that seeks to introduce a new cause of action which has prescribed [**"See Evans v Shield Insurance Co Ltd<sup>2</sup>**]. What constitutes a "cause of action" was dealt with extensively in **Mazibuko v Singer 1979 (3) SA 258(w)<sup>3</sup>** by Coleman J. stating the following:-

*"It is true that Trollip J (as he then was) used the term "cause of action" when dealing with a question of prescription and its interruption in [Schnellen v Rondalia Assurance Corporation of SA Ltd 1969(1) SA 517(w)] But, he was not, I think, using the expression in its narrow technical sense; what he meant by it was, I think, something of a broader nature which is sometimes referred to as a plaintiff's "right of action" or as "the basis of his claim,*

*The question to be asked, therefore is this one: Did the Plaintiff, in the earlier process, claim payment of the same debt as now forms the subject-matter of the claim which is said to be prescribed? If the answer is in the affirmative, prescription has been interrupted, even if one of the grounds upon which the claim is now based differs from the ground or grounds ruled on at the earlier stage"*

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<sup>2</sup> *Evans v Shield Insurance Co Ltd 1980(2) SA 814 A*

<sup>3</sup> *Mazibuko v Singer 1979(3) SA 258(W)*

- [38] Returning to the facts of this case and as pleaded by the Plaintiff in paragraphs 4, 5 and 6 of the unamended particulars of claim. The Plaintiff's cause of action is based on a breach of an oral agreement of sale incorporating the implied alternatively express warranty against any latent defects. The relief it sought was the cancellation of that agreement and repayment of the purchase price by the Defendant.
- [39] In its proposed amendment, the Plaintiff still relies on the same cause of action. It went further to augment its claim for the relief sought by stating the terms of the warranties and the nature of the latent defect. The relief sought has not changed.
- [40] In applying the law set forth in the **Mazibuko case**, the Plaintiff's proposed amendment does not introduce a new cause of action. What the Plaintiff seeks to do with its proposed amendment, is to introduce additional facts to support the relief sought. I therefore agree with Mr. Louw that prescription does not arise and that the ground of objection is not well taken.
- [41] The Plaintiff is seeking a Costs Order against the Defendant in the event its application for an amendment is granted. For the reasons set forth hereinabove, I will grant the application but I am not inclined to grant a Costs Order against the Defendant and the reasons thereof are set out below.
- [42] When the Court file was handed to me, the Pre-trial minutes which I have referred to in my Judgment were only handed up to me during the hearing of the application. I accepted them because the Defendant did not object to its submission so late. This means, when the file was handed to me by the Registrar it was not in order and that was never brought to my attention. I heard the Parties on the assumption that all relevant documents were in the file whereas not.

[43] Secondly, the Plaintiff referred me to pleadings filed in an application under Case number: **20400/16**. It was indicated to me that the Court file will handed up to me during the hearing of the application, and to the taken through the relevant part of the pleadings. That was never done. The file was made available to me on 09 October 2017, after I requested it and having heard the Parties. I had to read through the whole pleadings in trying to spot the relevant part that has a bearing to this application.

[44] As a results, the conduct of the Plaintiff as aforesaid contributed to the delay in finalising this Judgment.

For these reasons I make the following Order

1. The objection to the proposed amendment is dismissed.
2. The amendment to the particulars of claim as applied for in terms of the notice of amendment dated 17 March 2016 is granted.
3. The Plaintiff is ordered to file the amended pages of the particulars of claim within 10 days from date of this Order.
4. Each Party to pay its own Costs.

A handwritten signature in black ink, appearing to read 'M.B. Mokoena', written over a horizontal line.

**M.B. MOKOENA**

**ACTING JUDGE OF THE HIGH COURT**

Date of Hearing : 19/06/17

Judgment Delivered : 30/01/18



## APPEARANCES

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