

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

Case No: B40284 /22

Cross Ref: 38494 /19

In the matter between:
Eckem William Sithole

Applicant

and

Constantia Metering Services [Pty] Ltd.

Respondent

In re:

Constantia Metering Services [Pty] Ltd.

Applicant

and

Eckem William Sithole

Respondent



In re:

ECKEM WILLIAM SITHOLE

Applicant

and

CONSTANTIA METERING SERVICES (PTY) LTD
(Registration number: 2013/039353/07)

1st Respondent

and

Mr. M. Khoele [N. O.]
(Cited in an Official Capacity as a Presiding Magistrate)

2nd Respondent

RULE 16A NOTICE

Take Notice that in this application, in terms of Rule 30 of the Uniform Rules to set aside irregular step, the Applicant has raised the following constitutional issues,

1. Whether a Defendant who has been granted absolution from the instance and/or some Interlocutory order and/ or has had its exception upheld, knows that the absolution from the instance and/ or Interlocutory order and/ or exception can not be supported on appeal or review or at trial and fails/ refuses to abandon such absolution from the instance / exception/ interlocutory order under §86 of the Magistrates Court, breaches a duty to exercise its right to defend its interests in Court in a manner that does not negatively impact Applicant's right to have a dispute that can be resolved by the application of the law resolved without undue delay, under §34 of the Constitution.
2. Whether, when proven that Defendant was granted cost order in a judgement it can not support on appeal or review or at trial and refuses to abandon such cost order under §86 of the Magistrates Court Act, subjects a Plaintiff to cruel psychological punishment, in violation of §12(1) of the Constitution.
3. Whether it is just and equitable for Court to award Plaintiff forced to file an appeal or review application or reverse Interlocutory order at trial by a Defendant not abandoning the judgement and its cost orders, that it knows it can not support on appeal or review or at trial, Constitutional Damages.
4. Where Constitutional Damages are to be awarded to Plaintiff because it was forced to file an appeal, review application or reverse an interlocutory order at trial because Defendant failed/ refused to abandon a judgement and cost orders it knew it could not support either on appeal or review or at trial, and such Plaintiff has managed to reverse the judgement or cost order, the quantum of the said Constitutional Damages.

TAKE NOTICE FURTHER that the applicant will accept service of notices and all process in these proceedings at **27 Mopalami Court, 480 Lilian Ngoyi Street, Pretoria, 0002** and by electronic mail at address eckysithole@gmail.com

TAKE NOTICE FURTHER that any interested party may, with the written consent of all the parties to the proceedings, given not later than **20 days** after this notice has been filed, be admitted therein as *amicus curiae* upon such terms and conditions as may be agreed upon in writing by the parties..

TAKE NOTICE FURTHER that the written consent referred to above shall, **within five days** of its having been obtained, be lodged with the Registrar and the *amicus curiae* shall, in addition to any other provision of the Rules, comply with the times agreed upon for the lodging of the written argument.

TAKE NOTICE FURTHER that, if the interested party is unable to obtain written consent as contemplated herein, he or she may, **within five days** of the expiry of the 20-day period prescribed above, apply to the Court to be admitted as an *amicus curiae* in the proceedings. Such application shall—

- (a) Briefly describe the interest of the prospective *amicus curiae* in the proceedings;
- (b) Clearly and succinctly set out the submissions which will be advanced by the prospective *amicus curiae*, the relevance thereof to the proceedings and his or her reasons for believing that the submissions will assist the court and are different from those of the other parties; and
- (c) Be served upon all parties to the proceedings.

TAKE NOTICE FURTHER that any party to the proceedings who wishes to oppose an application to be admitted as amicus curiae shall file an answering affidavit **within five days** of the service of such application upon such party. The answering affidavit shall clearly and succinctly set out the grounds of such opposition.

DATED at Pretoria this 2nd day of **October 2023**.



Eckem William Sithole
27 Mopalami Court
480 Lilian Ngoyi Street
Pretoria, 0002

0671382067/ 0812104300/ 0717724339

eckysithole@gmail.com

Applicant consents to receive process in this Application at the above e-mail address

To

The Registrar

The High Court of South Africa [Gauteng Division]

PRETORIA, 0002

And To:

Constantia Metering Services (Pty) Ltd

c/o J. W. Wessels Inc | Legal Practitioners

1st Floor, In Shere Lifestyle Centre

No. 4 Graham Road

Silverlakes, 0054