



**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

CASE NO: 71868/2017

(1) REPORTABLE: NO
(2) OF INTEREST TO OTHER JUDGES: NO
(3) REVISED.

DATE

SIGNATURE

11/06/2025

KHUMALO J

In the matter between:

ADVERTISING DIGITAL SERVICES PTY (LTD)

APPLICANT

and

STANDARD BANK OF SOUTH AFRICA

FIRST RESPONDENT

DU PLESSIS CORNELIS ADOLF

SECOND RESPONDENT

'This judgment was handed down electronically by circulation to the parties' representatives by email. The date and time of hand-down is deemed to be 11 June 2025.

In terms of the common-law it is not permissible for a director or a shareholder to legally represent a juristic person in a court of law when he is not an attorney or advocate, unless in exceptional circumstances with the leave of the court.

JUDGMENT

N V KHUMALO J

Introduction

[1] This is an interlocutory application in terms of Rule 30 (1) of the Uniform Rules of Court. Standard Bank of South Africa Limited (“Standard Bank”), the Defendant in the main action is seeking an order to set aside as an irregular step, the notice of application for leave to appeal the Judgment of Maubane AJ, filed on behalf of Advertising Digital Services, the Respondent/ Plaintiff in the main action, on the ground that the Notice is signed by its sole director and shareholder Mr Johan Reynders, in the absence of Mr Reynders being granted leave to do so, and without him not being a legal practitioner.

[2] Advertising Digital Services is a company duly incorporated in terms of the Companies Act of South Africa (henceforth referred to as “ADS”, for ease of reference). It is the contention of Standard Bank that the signing of the notice for Application for leave to appeal by Mr Reynders is contrary to the provisions of Rule 18 (1), which directs that a plea must be signed by ‘an Officer of the Court” and “Mr Reynders” is not. Reynders has also not sought any leave from the court to do so.

Factual Background

[3] On 28 July 2022 a judgment was delivered by Maubane AJ dismissing an action for damages instituted by ADS against Standard Bank and upholding Standard Bank’s special plea of prescription. Both sides were legally represented, ADS by counsel and its erstwhile attorneys. On 17 August 2022 ADS’ erstwhile attorneys withdrew as attorneys of record. On 18 August 2022 ADS delivered its notice for application for leave to appeal the Maubane judgment signed by Reynders in his capacity as its sole director.

[4] The Applicant argues that Reynders is not a legal practitioner and has signed the notice without applying for leave to represent ADS, therefore the notice for application for leave to appeal is defective. On 31 August 2022 Standard Bank filed a Rule 30 (2) (b) notice bringing the issue of the defective notice to the attention of Reynders, giving ADS an opportunity to cure the irregular step and rectify the defective notice which it failed to do.

[5] As a result Standard Bank argues that absent the cure, the delivery of the notice for application for leave to appeal signed by Reynders without him having applied and granted leave to represent ADS in these proceedings constitutes an irregular step and is to be set aside. Standard Bank will otherwise be prejudiced if the application for leave to appeal is argued and it is refused with costs awarded against ADS, as Reynders may contend that ADS is not bound by that because he was not given leave by the court to represent the company.

[6] Reynders admits that indeed, ADS attorneys withdrew on 17th August 2022 and he as a result, the next day, took it upon himself to file the Notice for application for leave to appeal to be on time. He further points out in his affidavit that the notice had to be filed by 18 August 2022, following the judgment. So, he had to do it to be within the time.

[7] He however, failed to file the notice to oppose the Rule 30 (1) Notice and instead proceeded to file what he titled Plaintiff's Opposition to the Defendant's Notice in terms of Rule 30 (1). Reynders also failed to indicate in his Affidavit that he is authorized to depose to the affidavit on behalf of ADS. He alleges to have received another offer of settlement from Standard Bank which he says he declined and noted to Standard Bank that attorneys will be appointed in due course.

[8] Furthermore Reynders stated that with regard to the relevant issues to be determined, Standard Bank's objection to the notice for application for leave to appeal is premature, being contrary to Rule 37 A 5 (a) as the matter is under case management which relates to a matter under case management not proceeding to trial notwithstanding allocation of a trial date unless it has been certified to be trial ready.

[9] He then in addition, regurgitated the issues and arguments the merits of which were adjudicated and decided upon at a trial in the High Court, Gauteng Division, Johannesburg, then on appeal at the Supreme Court of Appeal and at the Constitutional Court, which have no bearing to the objection raised against the filing of a Notice of an Application for leave to appeal signed before this court which relates to the process Reynders has followed in filing the Notice.

[10] He however in his Affidavit commented¹ that he has been advised that “a juristic person must be represented by legal practitioners and may not be represented by one of its directors or officials unless some exceptional circumstances were present or alleged to be.” Further that the prohibition against audience ensures that the courts will be served by legal practitioners who observe the rules of their profession, who are subject to a disciplinary code and familiar with the methods and scope of advocacy followed in the presentation of argument. He reckons to be well aware of Rule 18 (1) and the *Manoim* Judgment.²

[11] In conclusion he again refers to the legal contestations between the parties that were concluded and resolved previously in the various courts, whilst arguing that what he presents in this application in relation to those proceedings are shortcomings which are an unassailable argument for the matter, meaning the Application, to be placed before the honourable court so that the full horror of the result and the ramifications thereof can be tested against the record and argued in open court. That is so, notwithstanding his concession that he is aware that he could not continue to act on behalf of ADS without the leave of the court, and what are the ramifications if he continues.

[12] Standard Bank in its reply, denied that the application launched for him to be declared a vexatious litigant was to avoid a claim of aiding and abetting each other to mislead the court and defraud ADS. In relation to Rule 37 it pointed out that the retired

¹ in paragraph 96

² *Manong and Associates (Pty) Ltd v Minister of Public Works and Another* 2010 (2) SA 167 SCA

Fabricius J had conditionally ordered that the Defendants, that is Standard Bank and Du Plessis, the 2nd Defendant could raise the Special Plea in the action provided the matter be subject to judicial case management. The order was granted by agreement between the parties following extensive engagement between the Plaintiff's erstwhile attorneys and Counsel and the Defendant's attorneys and Counsel and Fabricius J. Millar J was appointed as a case manager following the clandestine approach by ADS after judgment upholding Standard Bank's Special Plea was delivered. Correspondence was directed to the Judge President and the Deputy Judge President by the Plaintiff without copying the Defendant's attorneys. The Defendants deny that there is any merit to Reynders suggestion that "the disregard of the order will come into focus."

[13] Standard Bank further denies that the concern raised in their Rule 30 (2) application is of academic interest only. As in previous proceedings between them after the trial at which Reynders represented ADS with the leave of the court and after judgment was delivered against the Plaintiff, Mr Reynders suggested that the trial proceedings were irregular because he was not authorized to represent the Plaintiff. This was despite him being the sole shareholder and director of the Plaintiff. In my view this is a genuine concern by Standard bank. Reynders has acquiesced to the fact of what the position is in law and the ramifications of not following the law. He has nevertheless, with total disregard continued further, to file additional documents including the heads of argument and the practice note without seeking leave of the court.

[14] The present interlocutory application follows the relic of litigation that spans a period of more than 20 years. The subject matter of which stems from an action that ADS instituted against Standard Bank in 2003 contingent nearly on the same set of facts claiming compensation for the alleged unauthorized use by Standard Bank of its intellectual property in contravention of an agreement concluded between the two, restraining such use. The dispute whether or not Rynders was granted leave to represent ADS in that trial persisted till to the Constitutional Court.

[15] It is therefore understandable that Standard Bank would be weary of Rynders again taking any actions on behalf of ADS without the leave of the court whereby he

would simply challenge the outcome on the basis of lack of locus standi and the expertise to legally represent ADS.

[16] In this instance he had indeed made an undertaking to appoint attorneys to represent ADS but failed to do so. Even when he was given a further opportunity to do so by Notice in terms of Rule 30 (2) with a warning that on such failure an application to set aside his notice application will be sought, he persisted to default. He instead continued to file further documents on behalf of ADS insensible to court processes and protocol.

The legal framework

[17] The right to act in person does not in general extend to a juristic person. In terms of the common-law it is not permissible for a director or a shareholder to legally represent a juristic person in a court of law when he is not an attorney or advocate. Any pleading filed on its behalf must ordinarily be signed by an attorney and an advocate or an attorney who has been granted a right of appearance in the High Court in terms of s 4 of the Right of Appearance in Courts Act 62 of 1995.³

[18] In rare and exceptional or at least unusual circumstances the general rule can be relaxed not *ex mero motu* but when such leave is properly sought from the court by a formerly lodged Application with proper motivation submitted to court, as highlighted in *Manong* by Ponnann JA holding that⁴:

'I have expressly refrained from formulating a test for the exercise of the court's inherent power as I believe that such cases can confidently be left to the good sense of the Judges concerned lest this be misconstrued as a tacit or general licence to unqualified agents, it needs to be emphasised that in each such instance leave must be by way of a properly motivated, timeously lodged formal application showing good cause why, in that particular case, the rule prohibiting non -professional representation should be relaxed. Individual cases can thus be met by the exercise of the discretion in the circumstances of

³ Rule 18 (1) *supra*

⁴ At 174C-E

that case. It would thus be impermissible for a non-professional representative to take any step in the proceedings, including the signing of pleadings, notices or heads of argument (as occurred here), without the requisite leave of the court concerned first having been sought and obtained.”


[19] ADS or Rynders is required on Application to the court, to demonstrate a sufficient degree of exceptional facts for a deviation order by the court. The court hearing the Application for leave will therefore be in a position to decide with all the facts before it, the questions of exceptional circumstances whether or not exceptional circumstances exists and or that no envisaged inconvenience or harm will be suffered by the other party. The court has therefore to determine if the Applicant has made a proper case for non-conformity with the general rule, there being good cause shown. Only if such a decision has been arrived at can a question whether or not the non-professional person be permitted to act as a representative in the legal proceedings.

[20] The purpose mainly is to prevent the abuse of judicial process and protect the integrity of the legal system. The court's responsibility in that vein is to uphold procedural fairness and deter behavior that undermines the judicial process. This proactive or hands on approach ensures efficient and equitable legal processes, reinforcing the court's authority. Indeed, in casu to prevent the Tsoga J saga outlined by Standard Bank..

[21] Rynders' situation is untenable, he did not even bother to appoint an attorney notwithstanding an undertaking to do so. He instead after that continued undeterred, presuming to act on behalf of ADS, to file even the Heads of Argument. He was also acting in total disregard of the knowledge he has that he requires the leave of the court to do so. Rynders persistent irregular conduct and future attempts to do so should be put to an end. Indeed, there is no reason why in addition Reynders and ADS should not be mulcted with costs on an attorney and client scale.

[22] In the circumstances I make the following order:

1. The Notice of Application for leave to Appeal dated 17 August 2222 signed by Mr Rynders on behalf of Advertising Digital Services is set aside as an irregular step,
2. The costs of this Application to be paid by Advertising Digital Services.



N.V. Khumalo
Judge of the High Court
Gauteng Division, Pretoria

Plaintiff:	Advertising Digital Services (Pty) Ltd D H REYNDERS johan@ADSproducts.com
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