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4/11/2024

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

CASE NUMBER: 2023-080761

ON 4 NOVEMBER 2024

BEFORE THE HONOURABLE DIPPENAAR J AND LENYAI J

In the matter between:

MICHELLE VAN DER MERWE

APPLICANT

and

ANTHONY KILROY BEAMISH

1ST INTERESTED PARTY

LEGAL PRACTICE COUNCIL

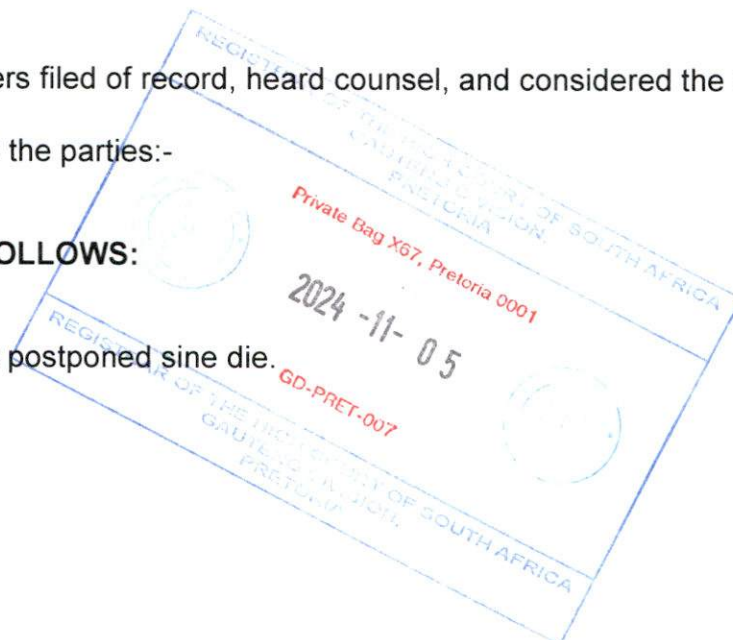
2ND INTERESTED PARTY

ORDER

HAVING read the papers filed of record, heard counsel, and considered the matter, and by agreement between the parties:-

IT IS ORDERED AS FOLLOWS:

1. The application is postponed sine die.



003-1

2. The applicant is granted leave to deliver a further supplementary affidavit, addressing her employment history, her attendance at the School for Legal Practice and any other aspect which may be relevant to assist the Court in deciding the issues, by no later than 13 November 2024.
3. The Legal Practice Council may deliver any affidavit in response to the applicant's supplementary affidavit by 25 November 2024.
4. Mr Beamish's attorney shall deliver to the applicant's attorneys a draft practice note, setting out the issues they intend raising and the pages which must be read by the Court assigned to determine the application, by 8 November 2024.
5. The applicant may supplement the draft practice note by 15 November 2024.
6. The parties or either of them may thereafter approach the Deputy Judge President of this Division for a preferential date for the hearing of the matter, as soon as is reasonably possible, and advise him that the application is for admission as a legal practitioner, and is opposed by a member of the public, and that the parties estimate that the hearing will not require more than half a day.
7. The costs associated with the opposition to date are reserved for determination by the Court hearing the application.

BY ORDER OF THE COURT



REGISTRAR

Moved jointly by:

Adv P Strathern SC, 082 337 0001, pauls@law.co.za

Adv L Oken, 079 529 6919, lisa.oken@rsabar.co.za

For the applicant

And:

Adv B Winks, 083 412 8356, ben@benwinks.com

Adv Nadia Smit, 072 823 2384, nadia.smit1979@gmail.com

For the first interested party

And:

Mr Roy Stocker, 083 241 9768, roys@rwattorneys.co.za

For the second interested party





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

Case No. 2023-080761

I, MICHELLE VAN DER MERWE

Do / do not have any objection to taking the prescribed oath

Swear/affirm that I will truly and honestly demean myself in the practice of a Legal Practitioner according to the best of my knowledge and ability and further that I will be faithful to the Republic of South Africa.

I will uphold and protect the Constitution and the human rights entrenched in it and will administer justice to all persons without fear, favour or prejudice, in accordance with the Constitution and the law.

The deponent acknowledges that he/she knows and understands the contents of the declaration.

DEPONENT: _____

Sworn/Affirmed before me in the High Court, Gauteng Division

Dated at Pretoria on this 04 November 2024.

JUDGE'S SECRETARY: _____

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

CASE NO: 080761/2023

DATE: 2024-11-04

In the matter between

MICHELLE VAN DER MERWE Applicant

and

ANTHONY KILRAY BEAMISH Respondent

**BEFORE THE HONOURABLE MADAM JUSTICES
DIPPENAAR & LENYAI**

ON BEHALF OF THE APPLICANT : ADV P STRATHERN

ON BEHALF OF THE RESPONDENT : ADV B WINKS

INTERPRETER : NOT REQUIRED



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This is to certify that, **insofar as it is audible**, the foregoing is a true and correct transcript of the proceedings recorded by means of a mechanical recorder in the matter of:

MICHELLE VAN DER MERWE // ANTHONY KILRAY BEAMISH

CASE NUMBER : 080761/2023
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REPORT ON RECORDING

1.



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PROCEEDINGS HELD ON 4 NOVEMBER 2024

[10:47]

COURT: Call matter number nine.

CLERK: Matter number nine case number
080761/2024.

MR STRATHERN: Just a correction M'Lord the case
number is case number 2023 case number. I appear for
the applicant together with my learned friend Mr Stocker.

COURT: Thank you.

MR WINKS: As it please the court M'Ladies. So I
10 appear for the intervening party together with my learned
friend Ms Smit.

COURT: Thank you. Thank you Mr Winks.

MR STOCKER: May it please the court M'Lord. It is
R Stocker from RW Attorneys. I appear for the LPC.

COURT: Yes thank you. Sorry could I just
have your name again. I just want to get it correct.

MR STOCKER: Stocker, S-T-O-C-K-E-R.

COURT: Thank you. Thank you I saw some
activity on Caselines in the last few days. There was
20 supplementary, a set of supplementary heads was
delivered for the intervening party. We will deal with the
intervention later and there was also correspondence
that was uploaded that pertains to queries relating to the
applicant's employment with Cox Yates and the
termination of those, of that employment. Are you aware

of that correspondence Mr Strathern?

MR STRATHERN ADDRESS COURT: M'Lord as I had not had an opportunity to consider that I know about the supplementary heads. The supplementary heads deal with two issues which is not dealt with in an affidavit but if necessary there is an explanation. The other aspect is the practical vocational training which as Mr Stocker will tell Your Ladyships he has dealt with in Regulation 6(1)(b) and it is perfectly in order.

10 The position as I understand it regarding the applicant's employment at the moment is that because she is not an attorney at the moment she is not employed by proxy at the moment and that I know that just simply because I am also involved in another matter for them and I do not want to testify from the bar but this matter has obviously [indistinct] [faulty audio].

 If it is something that the court wants to hear about Ms van der Merwe is sitting right behind me. She can tackle that issue but I have prepared our submission
20 from the basis of what we had put out timeously for the heads etcetera so I do not really have an answer for the court relating to the supplementary aspects.

 If there is an issue I would like for obvious reasons, I mean this man has a long and very unhappy history and Mr Stocker's here will tell Your Ladyships what

the LPC's position is.

Your Lordships will know there are two affidavits which were filed in answer to the intervention as it is which remain un-replied to by Mr Beamish so and just as opposed to [indistinct] Your Ladyships will have seen from the LPC's papers that there was an application which Mr Beamish brought to review and set aside the issue of the letter of no objection.

COURT: That is an August review.

10 MR STRATHERN: That is not an administrative act because it is not binding on anybody but just to set the tone while my client was sitting in court this morning waiting for her application to be called the sheriff appeared and served a copy of that application on her formally so the reason I bring this to your attention we kind of being sort of ambushed.

We have been asked to come and make submissions to the court and represent Ms van der Merwe based on when we submitted our heads that was the case
20 we had to make. We do not submit that any of these further aspects are matters in any event that should weigh on the court to determine whether she is a fit and [indistinct] person.

You have a 66 page affidavit dealing with it. The only issues we submit that you have to deal with if at

all it is she a fit and proper person and the LPC seems to think that she is and is there some impediment in the fact that she did a vocational training course in 2018 which is in any event sanctioned by Rule 61(b) and Mr Stocker will talk to that and is the [indistinct] uploaded host of authorities none of us, I think, are in any disagreement that the office of an attorney is an honourable one.

There is an issue with the fact that in her initial affidavit she did not talk about these proceedings. She
10 made allegations that there were no civil judgments against her. Mr Beamish had instituted proceedings against her. The LPC required a supplementary affidavit.

She provided a supplementary affidavit. She went to an enquiry. I accompanied her to that enquiry. She has steadfastly maintained that nothing happened in May/June 2019. That aspect is the subject of three sets of proceedings.

I represent her in all three. One is a vexatious litigation application which is set down for March next
20 year. The other is a defamation action which there has been no movement in. The other is an action where she along with various professionals employed by Ulrich Roux and Associates are accused with a conspiracy to somehow commit a fraud arising out of the settlement of domestic violence or violence proceedings.

Mr Beamish brought similar proceedings to oppose the application for admission of a Mr Temlett. I represented him. Your Ladyships, Madam Justice Fisher found that that is another matter for another day so what we are dealing with today is is she a fit and proper person?

Has she been, is there anything that shows that this court can say that she is dishonest? Mr Beamish uses the phrase she suffers from character fraud. We
10 submit that he does not have locus standi to intervene but we make it very clear that we did not oppose his intervention because that would have been a separate opposed application so he is before the court and we do not have any issue that if he wants to bring things to the court's attention that is his right.

This court is not constrained to only deal with an applicant's say so but what the court does have is a
66 page supporting affidavit by the LPC which is the body which is entrusted with dealing with the rights of and the
20 obligations of legal practitioners and it is refreshing for me because Mr Stocker and I have met in court before.

The LPC is often in court seeking the suspension or striking of legal practitioners. It is here today to support an affidavit and the best place to start is if Your Ladyships go to paragraph 148 of the LPC's

affidavit at Caselines 29-52.

COURT: Just bear with us. You were giving us a Caselines reference. Sorry I missed that.

MR STRATHERN: Yes there is a long affidavit. Can I ask this question of Your Ladyships, have Your Ladyships had an opportunity to read the affidavit of the Legal Practice Council?

COURT: We have both spent extensive time reading the affidavits that have been filed on record.

10 MR STRATHERN: Thank you so I can accept...
[intervenes]

COURT: So you can accept that we have read everything that there is to be read.

MR STRATHERN: But it really starts, you will see at the 29-52 at paragraph 148 this is the LPC's view. It says:

20 "The intended course of action by Mr Beamish is to use the court's machinery for purposes that are not intended, which serves no ostensible purpose in these proceedings and would amount to an abuse of process."

That is obviously their view. You have two affidavits that are unanswered or not replied to. Ms van der Merwe says something happened. I am not going to... [intervenes]

COURT: We all know what you [indistinct].

MR STRATHERN: We do not need to say. She gives an

explanation as to why she did not deal with that aspect in her first affidavit. The LPC took her to task for that because it wanted to hear about it.

She said I looked at the provisions. I do not think I need to go into this kind of detail and one might ask oneself if one does not have to say this is not a nice thing. This is a horrible thing.

What we have is ongoing litigation between two persons, one of whom and my submission, our submission
10 to Your Ladyships is but for Mr Beamish's views is, would be part of the other applicants that appeared before Your Ladyships this morning.

Even if she had confided in Mr Bobroff in 2019 five years ago at a time when she felt vulnerable, we know that her mother used to work for Mr Bobroff and we know that her mother was involved with Mr Beamish. The precise parameters of that relationship we do not even need to debate but the point is Your Ladyships this morning have to deal with has she satisfied the
20 requirements for admission as a legal practitioner.

She has all the original documents here and is she a fit and proper person and what we would say is that if you read the LPC's affidavit you read her supplementary affidavit and her answering affidavit in the intervention the lack of a reply by Mr Beamish means that they must

carry at least some weight and then one would ask this question, the LPC comes and says that we feel it is important because we have a duty to purport and I will let Mr Stocker obviously is best poised to make these submissions but their duty is to guide the court and that is why there is a requirement normally these matters they go to the LPC if there are any queries that have to be dealt with, if there are any issues that the LPC in this instance must convene the panel to speak to her and
10 ordinarily but for this I would simply be saying to Your Ladyships I have looked at her document.

She meets the requirements for admission as a legal practitioner and unless the court has anything that it wishes to hear me on she should come forward and take the oath but we are not there because we sit with the situation where Mr Winks is going to say you must find that because of this history that she suffers from character flaws that she should not be admitted as an attorney or as a legal practitioner.

20 COURT: I am going to, I see we are entering the tea adjournment. What I want you to consider over the adjournment is I had some concern. My sister and I have discussed it. We both had concern regarding a lack of disclosure in relation to the employment pertaining to Cox Yeats so I want you to take instructions on that and

consider that so that we have a full picture of exactly what Ms van der Merwe's employment history and the like is because I think that is relevant to the issue.

MR STRATHERN: I will take an instruction.

COURT: That is the first issue. The second issue is the issue that gets taken that the certificate from the vocational training [indistinct] is undated but perhaps also discuss that with Mr Stocker. Perhaps he can share some light on that but I want to give you a fair opportunity
10 because it is important what we are dealing with.

MR STRATHERN: That he will address and I have discussed that with him.

COURT: So I am going to ask you to take instruction over tea of how best bearing in mind that we do not have evidence under oath.

MR STRATHERN: Well we do if we need it.

COURT: Well that is what I am asking you to consider is how to place that evidence before us so that we can be satisfied that we know what the allegation is so we need
20 to deal with it so I am going to leave it to you to take an instruction and then address us after tea on how you are going to proceed forward on that issue.

MR STRATHERN: So if I can then just understand from Your Ladyships concerns the one is the 2018 course that is an issue.

COURT: Yes.

MR STRATHERN: And the second is an issue relating to employment [indistinct].

COURT: Employment history.

MR STRATHERN: Employment history.

COURT: Not necessarily just Cox Yeats but what the employment history is after she leaves Tiefenthaler because I think that is all that is on the papers at the moment. I do not think there is anything
10 else on the papers.

MR STRATHERN: We can do that M'Lady.

COURT: Thank you so we will take the tea adjournment. Court adjourns.

CLERK: All rise.

COURT ADJOURNS [11:02]

COURT RESUMES [11:27]

COURT: Okay thank you Mr Strathern.

MR STRATHERN: Thank you M'Ladies. Let me deal with the certificate first. I have got the original in front of me.
20 It is not undated. At the very bottom that it is entirely writing it is dated 2020-01-03 and then in the bottom right hand corner there is a reference to P00000301-2018 and the relevant... [intervenes]

COURT: Where do we find that on Caselines?
I do not think we are following you Mr Strathern.

MR STRATHERN: The, unfortunately... [intervenes]

COURT: They are quite voluminous.

MR STRATHERN: No they are very voluminous.
[Indistinct].

MR STOCKER: If I may it is Caselines 03 page 41.

COURT: 03-41, thank you.

MR STRATHERN: So what I have got there M'Ladies is just I have open another file. I have got it here. I just want to see if I can...

10 COURT: Yes I think we both have it now.
Thank you.

MR STRATHERN: Then the issue of employment.

COURT: No, no, no, no you have got to read, tell us where we find this because we now have the certificate but I still have not, the date is that in the second column right at the bottom.

MR STRATHERN: I am still looking for it. I am at 03-44. This is the affidavit. Sorry I am not standing up. You will see at the bottom of page 03-42...

20 COURT: Yes.

MR STRATHERN: There is something but out. At the bottom of page 03-41 where it says page 32 of 33 you will see a date at the bottom in the middle and then the reference on the right. It is [indistinct].

COURT: The date in the middle is?

MR STRATHERN: 3 January 2020 but the evidence of this course was done in 2018 and the, what I wanted to refer Your Ladyships to is the regulation and Regulation 6(1)(b)... [intervenes]

COURT: So the attendance report, let us just, the attendance report pertains to the same thing and that there is a date of 27 November 2019.

MR STRATHERN: I am not sure where I, if I am reading it... [intervenes]

10 COURT: I am at 03-42. I just want to make sure that I have the dates right.

MR STRATHERN: Yes.

COURT: Because we need to obviously.

MR STRATHERN: That is the 27 November 2019.

COURT: Is that the attendance report for that date or the date on which the document were signed.

20 MR STRATHERN: I think it is the date in which this document was signed as I have her affidavit, she said she completed that course during 2018 but the point I wanted to make is that that contract is one that is allowed before you start with your practical vocation training because in terms of Regulation 6(1)(b) and this is what she says at paragraph 6.2 [indistinct] 03-19 says I confirm... [intervenes]

COURT: What 03-19, sorry you just need to

allow us to keep up Mr Strathern?

MR STRATHERN: Sorry M'Lady I know it is more difficult working on laptops than it is with hard copies. It is 03-19 paragraph 6.2.

COURT: Thank you.

MR STRATHERN: So those documents in our submission confirm that allegation and as Mr Stocker will also tell Your Ladyships that Regulation 6(1)(b) says that you must do this course for a notional, 400 notional hours,
10 before, if you want to do it before you start your practical vocational training you have got to do 400 hours and she says she has done that and she puts up those documents and I have that certificate so I submit that that should address Your Ladyships' concerns about that.

The issue of her employment is a little more tricky and Your Ladyships will understand why. She commenced employment with Cox Yeats on 15 January this year. In July of this year they suspended her. They did so on two basis as I have been told and she will testify
20 to this if Your Ladyships require her to do so.

The one was that she had emailed a document from the office in breach of an email policy and she says she did that because she wanted to work on the document on her iPad and the laptop that she worked on in the office was an HP.

The other issue that they took issue with her about was that she had asked her mother who is also an admitted attorney for some advice on a bill of cost. She was tasked with preparing a bill of cost and I said to her well why would that have been a problem and she said that they thought it was a problem because it might have breached client confidentiality.

In other words the client's confidentiality in respect of the work she had asked her mother for advice
10 on. She also told me during the tea adjournment that during that year that there was some concern and I can confirm this only because the principal phoned me that there was some concern as a general thing because she was not admitted as an attorney.

She was a candidate designate and they had employed her and I do not say anything more than that she said it was pulling her under pressure. What...
[intervenes]

COURT: Mr Strathern are these not facts which
20 we should have before us under oath and I know you said you can simply put Ms van der Merwe in the witness box but then she is open to cross-examination and I do not want to turn this into a fully blown trial.

MR STRATHERN: No. Well the difficulty is, I mean it is actually a very simple explanation and allow me just to

finalise the explanation and then Your Ladyships will tell me if I need to put this under oath on affidavit and I will but what happened was she instituted proceedings in the CCMA, which she is entitled to do.

There was a settlement agreement on 26 August. The parties settled amicably. She signed the settlement agreement. I asked her this now, whether that settlement agreement contains a confidentiality clause and she says it does.

10 We are not at liberty to tell Your Ladyships what they settled but they settled amicably and she is presently employed by a firm in Menlyn known as Roelf Nel Inc as what is known as a candidate designate.

It is a term I have heard before which is in relation to a person who is employed, who is not an attorney but who is awaiting admission. That is what she would put under oath and she would tell Your Ladyship that she had a disagreement with Cox Yeats.

20 She left. She instituted two CCMA proceedings. She withdrew them as part of settlement. The matter was settled amicably and she is employed. It means that she is protecting what she perceived as a breach of rights but it does not matter as she is a fit and proper person.

If Your Ladyships are mindful in light of that explanation that that should go under oath and bearing in

mind that apparently this letter was uploaded on Friday so I kind of have been a little bit blindsided by this so I did not see that letter but if that is and I had not seen Ms van der Merwe since the last time we met and I did not know about that but if Your Ladyships want her to put out an affidavit, the difficulty is then we come back and it is another day and all the time.

It is just, it is taking its toll.

COURT: I appreciate that Mr Strathern. I am
10 going to stand down so that I can discuss it with my sister but these are important matters.

MR STRATHERN: I am prepared to put her in the witness box. I said to her it might be necessary for her to do.

COURT: And then if Mr Winks wants to cross-examine?

MR STRATHERN: Well if he wants to cross I mean she is... [intervenes]

COURT: Then it is going to turn into a fully
20 blown trial because then when do you start and where do you end?

MR STRATHERN: Sure.

COURT: I am not sure procedurally that that would be appropriate or in the interest of justice in these instances but let us stand down where I need to have a

discussion with my learned sister. I appreciate the fact that this information came late but we are both very mindful of our duties... [intervenues]

MR STRATHERN: Indeed.

COURT: To properly protect everybody's rights including Mr van der Merwe's.

MR STRATHERN: Indeed, and as am, I M'Lady and I have conveyed to you as best I can without breaching any confidentiality and I am in an unusual position. I am also,
10 I have been in a, I have been in the other matter so I know a bit.

COURT: I do not want to put you in a difficult position Mr Strathern. I just saw what was on Caselines and perhaps it is convenient to put it on record was an email that was sent to the instructing attorney on the 30th advising or let me just get there properly so for the sake of the record... [intervenues]

MR STRATHERN: I know.

COURT: That Section 35 correspondence a
20 letter was uploaded dated 30 October from attorney Mr Stephen G May to Ms Karin van Eck stating that, "the above matter refers. The aforesaid information before the honourable court concerning what your client has been occupying herself with since she terminated her employment with Cox Yeats Attorneys. Consequent to the

above application she was employed with attorneys Cox Yeats in Durban and at some stage thereafter her employment was terminated such that she approached the CCMA on two separate occasions in regard thereto. There is then two CCMA case numbers that had been referred to and an invitation or it is then stated we know from Caselines your client has not filed a supplementary affidavit as we thought she would have chosen to do explaining what happened with her employment at Cox
10 Yeats and the circumstances surrounding this termination. “Since your client has unilaterally set the matter down on the admissions roll and on short notice we have not been formally admitted to the proceedings, it would be not lost on you that we cannot make use of Rule 35(3). We urgently request that you let us have copies of those CCMA referrals and any other relevant documents and also let us know since we have pointed it out, if your client will be taking the above honourable court into her confidence by filing supplementary affidavit explaining
20 what transpired concerning her employment at Cox Yeats.” Then it is said that the letter will be uploaded. There is then a response by Ms Karin van Eck on 31 October at 15:04 :ATT: “Michelle. I do not know what the situation is re your previous employers. Just give us a summary. I do not think it is relevant but the background

will be good to have on the day.” Further instruction and then the documentation gets uploaded so against that context I appreciate the fact that it is late but it does raise things relating to employment contracts and I am not sure that the present situation pertains to the whole time since Ms van der Merwe’s employment was summarily terminated. I am not sure of a date on that but let me take this and confer with my learned sister and we will take a short adjournment and get back to you.

10 MR STRATHERN: As the court pleases.

COURT: [Indistinct].

CLERK: All rise.

COURT ADJOURNS [11:42]

COURT RESUMES [11:46]

COURT: Thank you. We have had a discussion in chambers. We are both of the view that it would not be in the interest of justice to simply effectively convert these proceedings into an oral hearing of evidence where Ms van der Merwe testifies on oath that it has the
20 potential of broadening the issues between the parties considerably and lengthening the proceedings considerably. The information which was put in the correspondence is however in our view relevant to the issues which we must determine in deciding whether Ms van der Merwe is a fit and proper person to be admitted.

It is in the interest of justice to afford her an opportunity to delivery comprehensive affidavit that deals with her entire employment history and provides whatever other information she feels is necessary and relevant for us to hear. What we would also require is some elaboration in relation to paragraph 6.2 of Ms van der Merwe's affidavit. The broad averment is made that she did the relevant course during the course of 2018. This would be an opportune moment for her to be able to expand and
10 provide more details on that so unfortunately in these circumstances we would require such an affidavit and then I suppose the LPC if it wishes to file a further affidavit because information pertaining to the employment of Ms van der Merwe would also be information which would presumably fall within the purview and knowledge of the LPC so that they be afforded an opportunity to respond to that so under those circumstances we are going to postpone the application so that those affidavits can be delivered. If there is one
20 issue that we can perhaps clarify today and that is more a question that I have for, that we have for, Mr Winks and that pertains to the intervention application whether because the intervention application is hanging in the ether. If I understand and we understand the heads of arguments that were delivered in light of the Montshiwa

judgment such intervention is not required but if we can get clarity on that issue for now I think we should, we have at least move forward somewhere in the matter and then the other issue which I want to raise with you and I will give you all an opportunity to deal with it is whether this application should not be enrolled, it needs to be enrolled perhaps individually I am not sure whether it on a busy roll pertaining to admissions whether often coupled with judges having to hear criminal appeals and the like
10 what the expected duration of this application is because it seems to be extensive. The papers are extensive and simply for myself I would want to engage counsel on various issues so we may need some time on that so Mr Strathern if you can perhaps address us on that and then I will give Mr Winks and Stocker an opportunity as well.

MR STRATHERN: Very briefly, on the question of intervention, we do not take issue. We say that he should not be granted leave to intervene. He is not intervening. He said the issue is moot but we accept that he has the
20 right to be here and address the court.

So if there are things that should be brought to the court's attention anybody is allowed to tell this court because this is a person, it is a bit like if somebody were to go to the health services council will remember that that surgeon that practiced in Kempton Park that had

never been to medical school, somebody is entitled to go to the council and say this man has never been to medical school so we do not have issue with that.

That should not detain the court at all. We are quite happy to prepare an affidavit dealing with both of those things. My only thought and I certainly do not want to burden Your Ladyships or any other court with this but it seems to me that this, Your Ladyships have already considered in light of this and Ms van der Merwe there is
10 some prejudice for her because everything, her life is effectively on hold.

I do not know and there are so many directives. In the old days one would simply say to judges where the files remains with Your Ladyships and could we approach Your Ladyship for a day to hear.

When I spoke to Mr Winks before the matter I said to him how long would you like it to be. He said 15 to 20 minutes. I am not holding him to that. I do not have very much to say. I am certainly not going to read case
20 law to Your Ladyships because the cases are the cases.

Your Ladyship [indistinct] but it struck me that it would be in everybody's interest that the matter is postponed but that Your Ladyships should retain control of the files and on a date that is suitable to Your Ladyships that we present and maybe present sort of like

a chest crop type of argument and say these are the issues and then Your Ladyships advise us.

That would be my preference but if the system does not allow for it then I then, because to put it on the opposed role and go through that process I mean this, it was not [indistinct] when looking on the roll that this is the only matter that has a 2023 case number.

Then we enter 2025. Then the same difficulty that she has at present employment as a candidate
10 attorney rears its head because the attorney might say to her look you came to us and we thought you are going to be admitted on 4 November and now there is a problem.

So if the court can accommodate us on that my submission would be there is no need to deal with the intervention because it is moot. We do not object to Mr Winks's entitlement to make submissions on Ms van der Merwe's fit and properness.

We will file a supplementary affidavit dealing comprehensively with her employment and that and that
20 the files remain with Your Ladyships and you give us a date on when it can appear before you. That is what we will say.

COURT: If there had been an affidavit this morning I would have been inclined to take the late affidavit but that is the practical difficulty of it. The other

one is that I am on a temporary deployment. I am permanently based in Johannesburg and my sister and her husband are based in Pretoria so that is, that on itself presents somewhat of a challenge but let us hear everybody else on the issue.

MR WINKS: As it please you M'Ladies. The proposal and request by Mr Strathern that Your Ladyships remain control of the file I think is a very sound one. We certainly have no objection to that subject of course to
10 M'Ladies availability and willingness to take that direction.

On the question of the intervention I think the parties are agreed that on the destination of you know how Mr Beamish comes before Your Ladyships of course these are sui generis proceedings and I could not find any precedents for apart from [indistinct] for this type of intervention or contribution or submission before the court by a third party.

In the circumstances we submit that the
20 intervention application can be disposed of either by being granted on the non-opposed basis as an intervening party or that it simply be removed from the role on the basis that it is moot and that Mr Beamish addressed the court as an interested party rather than an intervening party.

COURT: Yes I was telling Mr Winks our inclination could be considered in the test of a direct and substantial interest and the like that the intervention were probably moot and perhaps the wise thing to do is to withdraw that application at some point if there is going to be a postponement but I will leave that to you.

MR WINKS: Yes M'Lady.

COURT: I do not think we would be inclined to grant it considering the testing of.

10 MR WINKS: Certainly. I will take instructions on a withdrawal obviously. There may be implications under the rules from tendering costs perspective but perhaps the parties can come to an agreement on that and we will not need to trouble the court on it.

So we will address that after the court adjourns. Then as for the remaining matters obviously we will have to wait for the affidavits before we address the court again on those.

COURT: Mr Stocker anything you wish to
20 contribute?

MR STOCKER: None M'Lord.

COURT: Yes. The option which I think could assist the parties time wise was to ask you to go and approach the Deputy Judge President for preferential date. That would be of some assistance considering this

situation is going to, considering both our programmes as they turn out in the foreseeable future it is not feasible looking at what my sister's programme is and knowing what my programme is, I am not sure. You will end up waiting much longer if you have to wait for the two of us to become available to hear the matter. Then perhaps to get a preferential date from the Deputy Judge President for the hearing of the matter. I take your point to say that the opposed roll is going to be too long that the feasibility
10 is probably on the admission roll is a better idea but they will then be able to give you that but then what you would have to do is agree on time periods now for the delivery of supplementary affidavits as we had directed and then you can approach for a date so I think that should not be a difficulty to do and you may even still be able to get, I am not sure what, how the roll looks for admissions this year or how long in advance you must apply.

MR STRATHERN: I think Your Ladyships made a very valid point. This is not a matter that should necessarily
20 be on the ordinary ceremonial admissions roll and far from trying to interfere in Your Ladyship's programs, my only thought was that Your Ladyships have gone to the trouble of reading these papers.

If we were to go to the DJP and there is a lot of this that does not need to be dealt with but if we go to the

DJP just the fact that there are 3 284 folios on the Caselines bundle which is likely to be 2 000/3 000 after the supplementary affidavit it would assist the parties if we, I do not know.

I do not know. I can speak to my learned friend on some sort of agreement to argue this and to be done with it I will take 15 minutes. We will be done with it...
[intervenes]

COURT: Mr Strathern again your duty as
10 counsel, I am not taking you on but your duty as counsel is to assist the court.

MR STRATHERN: [Indistinct].

COURT: It is not that you have read all the papers. Here is my 15 minutes worth of arguments.

MR STRATHERN: No I understand that. I am just trying to... [intervenes]

COURT: And go and make up your mind. I understand but I think you are going to need judges with time available to have positive engagement here.

20 MR STRATHERN: Indeed [indistinct].

COURT: It is not a 15 minute let us just give an argument.

MR STRATHERN: No, no I know. That was not my point. The point is it just means another court is going to, another two bench court is going to be tasked with

working out and [indistinct] what we can do to shortcut that process just put up a practice note and say this is what you have to read, this is what you do not have to read.

It is something that struck me late in the preparation that not enough attention be made to that but if that is the way it must be it I the way it must be. Then we will file an affidavit and we will, can we ask this though because and it is not binding Your Ladyships?

10 Can we at least tell the DJP or the JP here that the suggestion to approach him for a preferential date came from the bench?

COURT: Yes, yes and I think that is the most particle way to have this matter dealt with [indistinct]... [intervenes]

MR STRATHERN: That will obviously assist us.

COURT: Yes no you can certainly, you can certainly do that. If you want to perhaps formulate a draft order with the time periods etcetera and you can
20 incorporate in that that you are to approach the Deputy Judge President for preferential date. Perhaps that will assist you.

MR STRATHERN: Yes M'Lord. Can I... [intervenes]

COURT: Something along those lines and then the practise I think will be very helpful because I think the

two of us spent... [intervenes]

MR STRATHERN: A lot of time.

COURT: Certainly extensive periods of time reading through all the papers because this is important. It is someone's life.

MR STRATHERN: The time of Your Ladyship's note about the parties authorities came on a Saturday afternoon was not lost on me and I imagine Your Ladyships take on this matter on it. Can I make this as a
10 practical suggestion just so we can formulate the terms of the draft order? Can we upload that to Caselines or send it to Your Ladyship's registrar or would, do you want us, what should we try and formulate it now? I am just wondering you know there might be an instruction that needs to be taken and we will... [intervenes]

COURT: If you can do it now I think it is ideal.

MR STRATHERN: Alright.

COURT: Because otherwise it is also, also considering the fact that I am only here on a temporary
20 deployment situation so... [intervenes]

MR STRATHERN: Alright can we... [intervenes]

COURT: So see we will stand it down... [intervenes]

MR STRATHERN: Can we stand down and before lunchtime so the order will provide for the postponement

of the matter sine die. It will provide for a time provision for the applicant to file a supplementary affidavit dealing with those two aspects.

COURT: Because those are the issues that we raised so you can say we raised it and we want affidavits.

MR STRATHERN: And that the parties may approach the Deputy, the Judge President for a preferential allocation. We will make provision in the order that the parties shall now that we, we will put up a joint practise note and we
10 will all the requirements what needs to be read, what will be referred to in argument.

COURT: Put that in as well and then reserve the question of costs. You can deal with those costs in due course because cost in this matter is going to be an issue.

MR STRATHERN: Well they are not seeking cost against us. I mean we have indicated in our heads we act *pro amico*. Whether the court will however grant costs that is another fight for another day. That is not the issue here
20 M'Lord.

COURT: There must also, what we also do is work out a program for how long you are going to need to argue i.e. we are going to need something in hours because in the context of the special allocation that will assist in having a proper determination and this is a day

matter. It is not an half an hour, two hour matter just from our sense and from reading and the sense of engaging so let us try and get all the logistic sorted out as well as we can at this juncture to at least save time on that and then we will reconvene shortly before 13:00 to then deal with the proposed draft order.

MR STRATHERN: Thank you M'Lady.

COURT: And then again I think Mr Strathern our sense is just perhaps sit with your clients and see if
10 there is anything else that is possibly relevant to the issue of her admission and whether that should be included in the affidavit because one does not want a situation where new issues get raised as time passes and that potentially is to the detriment of your client so I think just take a broad holistic approach on what everything should be that should be contained in this [indistinct]. Thank you and we will then adjourn and reconvene maybe just 12:55.

MR STRATHERN: If we are ready... [intervenes]

COURT: If you are ready before just let us
20 know.

MR STRATHERN: Can we approach Your Ladyships... [intervenes]

COURT: Certainly.

MR STRATHERN: In chambers [indistinct].

COURT: We are both on this floor so you may

approach us then.

MR STRATHERN: Thank you M'Lady.

CLERK: All rise.

COURT ADJOURNS [12:04]

COURT RESUMES [13:06]

COURT: Thank you Mr Strathern.

MR STRATHERN: As Your Ladyships please.

Appearances are the same. As indicated to Your Ladyships in chambers we have prepared a draft order.

10 In fact counsel for Mr Beamish kindly prepared the draft order. We have discussed it. We are in agreement that it adequately protects everybody's position. If Your Ladyships are satisfied we ask that the draft be made an order of court and that the parties be allowed to approach the Deputy Judge President as provided for in the order.

COURT: Thank you.

MR WINKS: Yes. Your Ladyships I confirm the agreement.

COURT: Thank you. Mr Stocker?

20 MR STOCKER: Thank you Your Ladyships I confirm.

COURT: Yes. Thank you. Thank you we are so satisfied. In this matter we grant an order in terms of the draft marked X and we shall [indistinct] and that order is by agreement between the parties.

MR STRATHERN: Indeed M'Ladies.

MR WINKS: As the court pleases.

MS SMIT: As the court pleases.

COURT: Thank you. Court adjourns.

CLERK: All rise.

COURT ADJOURNS

[13:09]

"C"

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG LOCAL DIVISION, PRETORIA

CASE NO: LP080761-2023

DATE: 8 FEBRUARY 2024

In the matter between

MICHELLE VAN DER MERWE

Applicant

**BEFORE THE HONOURABLE MR JUSTICE VALLY AND
MR JUSTICE MKHABELA**

ON BEHALF OF THE APPLICANT : ADV DU PLESSIS



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MICHELLE VAN DER MERWE

CASE NUMBER : LP080761-2023

RECORDED AT : PRETORIA

DATE HELD : 8 FEBRUARY 2024

PAGES : 9 + 1 (ORDER)

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1. This transcript has been typed verbatim and is a true reflection of the record.
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3. The word 'indistinct' has been used where a word or phrase is unclear to us on the audio, as a result of the quality of the audio recording under circumstances as mentioned below.
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 - 5.1 The dialect of the witness; and/or
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A Johnston
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PROCEEDINGS HELD ON 8 FEBRUARY 2024

REGISTRAR: Admissions and criminal appeals before Justice Vally and Acting Justice Mkhabela, today being 8th February 2024. The admission role will proceed in order of seniority. If there is any removals, counsel may proceed. Thank you.

ADV DU PLESSIS: As the Court pleases M'Lord and M'Lady.

COURT: Oops.

10 ADV DU PLESSIS: Ag, apologies.

COURT: Oops.

ADV DU PLESSIS: M'Lords.

COURT: There are those people which will want to be admitted.

ADV DU PLESSIS: Apologies.

COURT: We started with the first lesson. Okay.

20 ADV DU PLESSIS: I am Du Plessis, Mariska from the Pretoria Society of Advocates. I wish to refer M'Lords to matter number 11, Michelle Van Der Merwe. The matter needs to be removed from the roll.

COURT: Yes?

ADV DU PLESSIS: I was given very late instructions on this, and it is because of the LPC not giving a letter of consent as yet. That is what I was informed. So ...[intervenes]

COURT: That is not true; that is not the only reason. But yes ...[intervenes]

ADV DU PLESSIS: Well ...[intervenes]

COURT: You have been misinformed. You were probably given the brief ten minutes ago.

ADV DU PLESSIS: I was literally given the instructions via WhatsApp M'Lord.

COURT: Literally given. That is another lesson I am going to be talking to people about ... what attorneys
10 ... If you are an Advocate, for those who will be admitted as an Advocate, of how they try and abuse you ...

How attorneys try and abuse you, thinking they give you other work, so they can just call upon you last minute to say:

'Please help us out, and just go and solve this problem.'

Who briefed you?

ADV DU PLESSIS: Izak du Pisanie.

COURT: But he is not on record.

20 ADV DU PLESSIS: Well, I am ...[intervenes]

COURT: The attorney on record has withdrawn; no other attorneys have come on record.

ADV DU PLESSIS: Indeed.

COURT: And they have not given us ... In their notes of withdrawal, they have not said where the Applicant

can be contacted. So, the Notice of Withdrawal itself is irregular. And then another attorney briefs someone; forces them to be embarrassed in court, knowing that they do not have the powers to brief someone, because they are not on record themselves.

ADV DU PLESSIS: M'Lord, I do not have access ...[intervenes]

COURT: And this is now ... I am going to be talking to all the people being admitted, as to how not to do
10 things, and what happens in the profession. And what we will be saying is we do have a profession that has got a terrible reputation; a reputation that all of us that wear grounds ... particularly on the other side ... are a bunch of scoundrels.

That lawyers are not to be trusted. And this is the reasons why. Do we just not do our work properly? We do not comply with our ethical duties. We just think we are going to be able to get past the system, because this is what the system requires.

20 The process is (a) I must serve a Summons; (b) I must file a Notice of Intention to Oppose; (c) I file my Reply. Oops, I can get a condonation if I do not comply with any of that; out play that system. (d) At the end of it I will apply for an appeal; (e) I will petition if I fail to get an appeal.

And the process continues, on what some people call it Stalingrad tactics, and we continue for fifteen years in the same case. And it just goes on and on. And the world out there sees it, and they say:

‘But what are these lawyers up to?

When are we going to get finality?

I have been raped; I have been coming to court every day. I want to be ... I want my day in court.

10

I want justice.

Oops there is a postponement.

I have been robbed.

Oops there is a postponement and another postponement.

Oops, and I have only been briefed to apply for a postponement.

Now that the postponement has not been given, M'Lord can I withdraw from the matter?

20

Okay, you withdraw.’

Then the other person stands up and

says:

‘I need to get permission; I need to get another lawyer.

I apply for a postponement on a

/...

different ground now.'

And it goes on and on, and this is what we get here. Why is that the case?

ADV DU PLESSIS: M'Lord, is that question for me specifically?

COURT: No. No, it is going to be a question for everybody. Why is it like that? It is a question that is not going to be answered today.

ADV DU PLESSIS: As the Court pleases, M'Lord.

10 COURT: But it is a very serious question.

ADV DU PLESSIS: M'Lord, ...[intervenes]

COURT: Where have we gone? How have we got to such a state?

ADV DU PLESSIS: M'Lord, I am in the court's hands.

COURT: There is a number of problems with this application; a number of problems. Firstly, we should never have been asked to read it; it took me one hour to study because she is in very ... Her application has got serious problems.

20 There was no ways she was going to be admitted by this court; absolutely no ways. She did not put up an affidavit, which makes serious allegations against her; but she puts up her answer to the affidavit. Now how am I supposed to make sense of her answer, without actually having the affidavit itself to compare with?

So that was ... She has got herself into some serious problems; allegations of getting involved with someone who this court has already ... And the Gauteng Court has already found to be a scoundrel with RAF monies taken; RAF monies ... run away to Australia.

There is allegations of her getting involved in all of those things. Why? Long before you even been admitted, why are you getting into all of these things? That is another thing I will be talking to everyone about;
10 ethical duties before you get admitted.

‘Oh, it is noble profession ...’

We will be telling them. That is what we will be telling everybody who wants to be admitted. People who come as young kids wanting to become Advocates, and attorneys thinking they will do good. And then this is what happens.

Why are we in such a state of affairs again? She will need to look at herself carefully and ask how did she get into such a situation. Who has been
20 advising her?

ADV DU PLESSIS: M'Lord, I cannot make any submissions in that regard.

COURT: Yes. She has got some genuine, genuine concerns, and some problems of some genuine kind. But this is not the way ... Is this the way to deal with

it? Who has been advising her? What is going on?

ADV DU PLESSIS: I cannot answer to that, M'Lord.

COURT: I would have loved to see her here and
say:
'But what is going on in your case?
Look at your situation.'

ADV DU PLESSIS: As the Court pleases M'Lord.

COURT: Matter 11.

10 ADV MAKHUBELA: I agree.

COURT ADJOURNS

"D" "AAZ"

JUSTICE FRITZ BRAND

PERSONAL DETAILS

Fritz Brand and his wife Elanie, currently lives in Bloemfontein. He has two sons and a daughter.

EDUCATION

Brand grew up in the Western and Northern Cape where he received his primary and secondary education. Over the period 1968-1974 he studied at the University of Stellenbosch and the University of Leyden in the Netherlands. He holds the qualifications BA LL B and LLM (cum laude).

PROFESSIONAL HISTORY

Immediately after receiving his LL.B degree at the end of 1975, he was appointed as senior lecturer at the law faculty of the University of Stellenbosch where he taught until the end of 1978. In 1977 he joined the Cape Bar where he practised as an advocate until September 1992. During that period he served on the Cape Bar Council for about ten years. In November 1983 he received his letters patent as a senior counsel (SC). In September 1992 he was appointed as a judge of the High Court in Cape Town. After serving as an acting judge of appeal at the Supreme Court of Appeal in Bloemfontein.

https://www.nobocw.org.za/index.php/12-a-100-judges/111-fritz-brand

11:02 ✓

Ons soek nie sulke goed nie

11:02

Ok - ek moet nou werk

11:03 ✓

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Ons soek iets soos aantuigings van seksuele aanranding, belastingontduiking ens

11:03

Handwritten signature and scribble

"E" ¹

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

CASE NUMBER: 2023/080761

**BEFORE THE HONOURABLE JUSTICES KUMALO J AND LEDWABA AJ ON 20
JANUARY 2025 FOURTH ON THE ROLL IN COURT 4D**

In the ex parte application of:

MICHELLE VAN DER MERWE

Applicant

[IDENTITY NUMBER: 921211 009 0083]

For her admission in terms of section 24 read with section 30 of the Legal Practice Act 28 of 2014, as amended ("the Act") to practice as a Legal Practitioner of the High Court of South Africa and the authorisation to be enrolled as a practicing Legal Practitioner in terms of the Act.

and

ANTHONY KILROY BEAMISH

Intervening Party

LEGAL PRACTICE COUNCIL

Interested Party

DRAFT ORDER

HAVING read the papers filed of record and heard counsel for the applicant, the intervening party and the interested party, the following order is made:

1. The intervention application and opposition of the intervening party, Anthony Kilroy Beamish, is dismissed with costs, on an attorney client scale, including the cost occasioned by the employment of two Counsel where so employed on scale C.

2. That the applicant **MICHELLE VAN DER MERWE** be admitted as a Legal Practitioner and be authorised to be enrolled as an attorney of the High Court by the South African Legal Practice Council on the roll that it keeps in accordance with the provisions of section 24 read with section 30 of the Legal Practice Act, 28 of 2014, as amended.

Disclaimer: This order is made an Order of court by the Judge whose name is reflected herein, duly stamped by the Registrar of the Court and is submitted electronically to the parties/their legal representatives by email. This order is further uploaded to the electronic file of this matter on Caselines by the Judge or his/her secretary. The date of this order is deemed to be 20 January 2025.

By order of Court

Registrar

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LPC's Counsel:

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IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

CASE NO 2023-080761

In the *ex parte* application of:

MICHELLE VAN DER MERWE

for her admission as a legal practitioner and enrolment as an attorney **APPLICANT**

ANTHONY KILROY BEAMISH

INTERVENING PARTY

THE SOUTH AFRICAN LEGAL PRACTICE COUNCIL

INTERESTED PARTY

APPLICATION FOR LEAVE TO APPEAL

TAKE NOTICE that the Intervening Party, Anthony Kilroy Beamish, intends to apply to this Court in terms of Section 17 of the Superior Courts Act 10 of 2013, on a date to be arranged with the Registrar, for leave to appeal to the Supreme Court of Appeal, alternatively a Full Court, against the order delivered by the Honourable Justice Kumalo and the Honourable Acting Justice Ledwaba on 20 January 2025.

TAKE NOTICE FURTHER that the Intervening Party contends there are reasonable prospects that an appeal court would come to a different conclusion. This application is based on the following grounds:

1. The Honourable Judges materially misdirected themselves by concluding that the applicant was a fit and proper person to be admitted as a legal practitioner, despite her failure to make a full and frank disclosure.

1.1 This conclusion disregards a fundamental requirement for admission as a legal practitioner, as established by a long line of legal precedent,

including the principles articulated in *Law Society of the Northern Provinces v Bobroff and Others* and *Kekana v Society of Advocates of SA*.

1.2 The applicant's founding affidavit was materially dishonest and misleading for the following reasons:

1.2.1 **Failure to disclose legal proceedings and disciplinary complaints:** The applicant alleged that no disciplinary proceedings or civil/administrative judgments had been instituted or were pending against her. This was patently false, as disciplinary complaints and three civil lawsuits brought by the Intervening Party were pending against her.

1.2.2 **Deliberate concealment of pertinent information:** The applicant's carefully worded affidavit concealed information about the pending complaints and lawsuits, which she had a duty to disclose upfront in a "full and frank disclosure". She only addressed these issues after they were brought to the court's attention by the Intervening Party. An appeal court will find that this deliberate and deceptive non-disclosure does not meet the "fit and proper" test for admission as a legal practitioner.

1.2.3 **Failure to disclose the "Justice Brand" issue:** The applicant failed to disclose her admitted attempt to "dig up dirt" on a retired Supreme Court of Appeal Justice, Fritz Brand. This act, which undermines the very judiciary she seeks to join, is a material fact that should have been disclosed in her founding affidavit, as it unfavourably influences her application. Her failure to do so was dishonest and constitutes a lack of integrity.

2. The Honourable Judges materially misdirected themselves by admitting the applicant despite her failure to comply with the statutory requirements for practical vocational training.

2.1 The court failed to consider that the applicant did not meet the requirements of Regulation 6(1)(b) of the Regulations under the Legal

Practice Act, which governs the reduction of the Practical Vocational Training Contract (PVTC) period from 24 to 12 months for those who attend a structured course.

2.1.1 The applicant completed her Law School course between January and June 2018. She was conferred with her LLB degree in June 2021 and only entered into her PVTC on 8 August 2022.

2.1.2 The Legal Practice Act (LPA) requires a person to complete all LLB degree requirements *before* serving under a PVTC. While Regulation 6(1)(b) allows for the completion of the Law School course prior to the PVTC, it does not prescribe that the course can be completed *before* obtaining an LLB degree.

2.1.3 The applicant's purported compliance with Regulation 6(2) of the LPA is misplaced, as that regulation applies to individuals who complete their course *after* entering into their PVTC. The applicant attended Law School prior to her PVTC.

2.1.4 This material non-compliance with the regulations should have precluded her admission, regardless of the court's view on her character.

3. The Honourable Judges materially misdirected themselves by disregarding the comments made by the Honourable Mr. Justice Vally.

3.1 The court failed to take into account the serious comments made by Mr Justice Vally during the proceedings on 8 February 2024, when he and Mr Acting Justice Mkhabela (as he then was) removed the applicant's matter from the roll.

3.1.1 Justice Vally noted serious problems with the application, stating there was "no ways she was going to be admitted by this court; absolutely no ways".

3.1.2 The comments were made in relation to the applicant's involvement with individuals who had been found to be "scoundrel[s]" by the Gauteng Court, and who had

misappropriated RAF monies. Justice Vally also questioned the applicant's ethical duties before her admission.

3.1.3 These judicial comments, based on the court's assessment of the papers, were a material factor that should have been considered in determining the applicant's fitness and propriety.

4. The Honourable Judges materially misdirected themselves by issuing a "sanitised" court order that failed to reflect the true nature of the proceedings.

4.1 The court acquiesced to a request to issue an order that omitted the names of the Intervening Party and the Interested Party. This was a material misdirection because court orders are public documents that inform and bind third parties, who are entitled to know the true nature of the proceedings. This resulted in an "inchoate and impermissibly vague" order that violates the rule of law.

4.2 On these bases, an appeal court will find that the applicant failed to meet the requirements for admission as a legal practitioner.

TAKE FURTHER NOTICE that the Intervening Party reserves the right to withdraw, amend or supplement the above grounds of appeal once the Honourable Judges' reasons for their decision are made available.

SIGNED AND DATED AT CENTURION ON THIS THE 5TH DAY OF SEPTEMBER 2025



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REF: NL COMBRINCK // NC

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

**AND TO: CLARK & VAN ECK ATTORNEYS
ATTORNEYS FOR THE APPLICANT
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CNR SOLOMON MAHLANGU & HAYMEADOW STREETS
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"G"

Date: 16 September 2025

Our Ref: NL COMBRINCK //

E-mail/Fax:

Your Ref:

ATT: MR STOCKER

RE EX PARTE MICHELLE VAN DER MERWE: CASE No.2023/080761

INTERVENING PARTY: ANTHONY KILROY BEAMISH

**INTERESTED PARTY: THE SOUTH AFRICAN LEGAL PRACTICE
COUNCIL**

Dear Mr. Stocker

1. As you are aware, we act for Mr. Anthony Beamish.
2. On 5 September 2025 our offices served via email the Application for Leave to Appeal on the secretary to the honourable judges, your offices and on the offices of the attorneys acting for Ms. van der Merwe. It has also been uploaded to Caselines. We have not received acknowledgment of receipt of this application from your offices or from Ms. van der Merwe's attorneys.
3. Your attention is drawn to the provisions of section 18(1) of the Superior Courts Act, Act 10 of 2013:

Suspension of decision pending appeal

Yolandie Radley Director LLB (UP) Advanced Course in Labour Law (UP)

Tel: 012 880 2738 / 087 147 0209

Email: yolandie@radleyinc.co.za / elzaan@radleyinc.co.za



Subject to subsections (2) and (3), and unless the court under exceptional circumstances orders otherwise, the operation and execution of a decision which is the subject of an application for leave to appeal or of an appeal, is suspended pending the decision of the application or appeal.

4. It follows that continued practice by Ms. van der Merwe is unlawful pending the appeal having been determined by the court of final instance. In the circumstances, kindly confirm that your client and the Legal Practice Council, will call upon Ms. van der Merwe to surrender her Certificate of Enrolment to it before the end of this week.

5. We trust you find the above in order and await to hear from you.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Nacinda Combrinck', written in a cursive style.

NACINDA LOUISE COMBRINCK
ATTORNEY, NOTARY AND COST CONSULTANT
RADLEY ATTORNEYS INCORPORATED

"H"

From: Roy Stocker roys@rwattorneys.co.za 
Subject: FW: EX PARTE MICHELLE VAN DER MERWE (AK BEAMISH INTERVENING)
Date: 17 September 2025 at 11:09

To: Karin van Eck vaneckatt@gmail.com, mvandermerwe77@gmail.com
Cc: Nacinda Louise Combrinck nacinda@radleyinc.co.za, Tony Beamish tony@tonybeamish.com, RWA Litigation RVALitigation@rwafrika.com



Dear Ms. van Eck,

I have been instructed by my client to forward this correspondence from Mr Beamish's attorneys to you, in order to obtain your client's comments on / response thereto.

You will note that Mr Beamish is demanding that my client take certain steps by the end of this week. Accordingly, I would appreciate receiving your client's response as a matter of urgency.

Kind Regards

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RW Attorneys is 100% Black Female Owned, a Level 1 B-BBEE Contributor

Roy Stocker : Senior Associate
Dispute Resolution and Litigation

Walker Creek Office Park, 2nd Floor, Walker Creek 2,
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PO Box 36603, Menlo Park, 0102 - Docex 36, Brooklyn

Cell:
Tel: +27 12 452 4000
E-mail: roys@rwattorneys.co.za

From: Roy Stocker roys@rwattorneys.co.za 
Subject: FW: EX PARTE MICHELLE VAN DER MERWE (AK BEAMISH INTERVENING)
Date: 17 September 2025 at 11:09

Web: www.rwattorneys.co.za

Recognized by LEAD for 25 years of significant contribution towards the School for Legal Practice.

From: Karin van Eck vaneckatt@gmail.com 
Subject: Re: EX PARTE MICHELLE VAN DER MERWE (AK BEAMISH INTERVENING)
Date: 19 September 2025 at 17:39
To: Roy Stocker roys@rwattorneys.co.za

”””

Dear Sir,

We acknowledge receipt of your correspondence, as well as that of Mr Beamish's legal representatives.

It is common cause that Mr Beamish formally withdrew his application for leave to intervene in Miss van der Merwe's admission proceedings. As a result, he was never accorded the status of an interested party. Notably, during the hearing on 20 January 2025, his own counsel conceded that intervention was unwarranted, citing the *sui generis* nature of admission applications.

Mr Beamish, therefore, lacked the requisite legal standing in relation to the admission process. Accordingly, the purported application for leave to appeal does not constitute a valid appeal in law.

Miss van der Merwe remains duly admitted and will neither relinquish her certificate of enrolment nor cease practising as a legal practitioner.

Regards,

Karin van Eck
Clarke & van Eck Attorneys
Cell: 0823370001

Block B
Boardwalk Waterfront Office Park
Fearie Glen
Pretoria

From: Roy Stocker <roys@rwattorneys.co.za>
Date: Wednesday, 17 September 2025 at 09:09
To: Karin van Eck <vaneckatt@gmail.com>, mvandermerwe77@gmail.com <mvandermerwe77@gmail.com>
Cc: Nacinda Louise Combrinck <nacinda@radleyinc.co.za>, Tony Beamish <tony@tonybeamish.com>, RWA Litigation <RWALitigation@rwafrica.com>
Subject: FW: EX PARTE MICHELLE VAN DER MERWE (AK BEAMISH INTERVENING)



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"J"

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG LOCAL DIVISION, PRETORIA

CASE NO: 080761/2023

DATE: 20-01-2025

In the matter

EX PARTE MICHELLE VAN DER MERWE

BEFORE HONOURABLE MR JUSTICE KUMALO

ON BEHALF OF THE APPLICANT : ADV STRATEN

ON BEHALF OF THE LPC : ADV STOGHER

INTERPRETER : NOT ON RECORD



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I, the undersigned, hereby certify that, *in as far as it is audible*, the foregoing is a **VERBATIM** transcription of the proceedings as was ordered to be transcribed by Gauteng Transcribers by means of a digital recorder in the matter of:

EX PARTE MICHELLE VAN DER MERWE

CASE NO: 080761/2023
RECORDED AT: PRETORIA
DATE HELD: 20-01-2025
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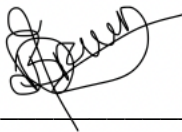
Date: 22.01.2025

The Clerk of the Court: Registrar of the High Court.
Pretoria

PROBLEMS WITH THE TRANSCRIPTION: [080761/2023]

With reference to the record of proceedings, the following problems were experienced on the audio on [20-01-2025].

1. Incorrect grammar typed verbatim.
2. Unknown names typed phonetically.
3. Microphones unclear / soft / air conditioner on. Refer to [indistinct] throughout record of transcription.
4. **Court speaks very unclear and it is hard to understand some words.**



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PROCEEDINGS HELD ON 20 JANUARY 2025

[09:31]

REGISTRAR: Then for the last applicant, Michelle Van Der Merwe, case number 080761/2023.

MR STRATHAN: M'Lords my name is Paul Stratham, I am here for the applicant, together with my learned friend miss Oukin, who is behind me. Mr Winks appears for the first interested party, and Mr Stogher on my immediate left appears for the legal practices council.

M'Lord, we will ask this court to admit the applicant
10 as a legal practitioner, and to be enrolled as an attorney. I
have prepared ...[intervenes]

COURT: Okay, before you start, Mr Stratham, I just want to hear from Mr Winks. Why must we hear you? What is he *locus standi* in this matter?

MR STRATHAN: As Your Lordship pleases. I will,

COURT: Yes, Mr Winks?

MR WINKS: Thank you, M'Lord. Yes, I confirm I am acting
for Mr Beamish. The position, certainly at the last hearing,
had become somewhat moot in the sense, obviously I must
20 still satisfy M'Lords of the position, but the applicant relied
on a judgment of this court in *Mushwana*, I will get the
citation for M'Lord's, because it is quite critical.

In that matter, *Motiwa*, I apologize for this, *ex parte Motiwa, Imray John versus Motiwa*, the ...[indistinct] citation is 2020 ZAN and in fact it is in Cape Town, WHC 54. I

apologize for the ...[intervenes]

COURT: 2020?

MR WINKS: 2020 ZANWHC 54, it was delivered on the 3rd of September 2020. Now in her heads of argument, relying on this judgment, the applicant conceded that Mr Beamish did not need to apply formally for intervention. This court, the court in that matter held that the parties who had sought to intervene in that case, need not have done so.

It held that the attorneys, and I quote,

10 “Did not need to apply for leave to
 intervene in order to bring relevant
 information to the attention of the
 court.”

That is from paragraph 30, it is repeated essentially in paragraph 33, and then the court held that the information provided by those interested parties was, I quote,

“Highly relevant,”

And that it reflected, I quote again,

20 “Negatively on whether the applicant is
 a fit and proper person to be admitted.”

Now because applications for admission as a legal practitioner, as an officer of this court, and an instrument of the justice system, it is a suey generous application. An application that demands, because it is typically brought ex

parte, demands full and frank disclosure on the part of the applicant.

Now if any party has information that casts doubt on or tends to show that there has not been full and frank disclosure, or that there are facts that may adversely affect the application, which have not, which have not been disclosed, then we submit that any party has *locus standi* to bring that information to the attention of the court.

Given that it is in order, it is an order that is suey
10 generous in the sense that it is an order in REM, rather than an order in *personam* against a particular respondent. It is an order that will be enforceable against everyone in the country, that the person is a legal practitioner, is an officer of the court, may appear subsequent to the amendments in any court in the country.

And for that reason, there is a particularly stringent standard of scrutiny for whether the person has met the tests of fitness and propriety, as well as the formal requirements for admission.

20 And for that reason, it serves the court well, we submit, to be, have its ears open and its eyes open to any material that may adversely affect the adjudication of the application. So M' Lords, we do submit that the material brought to the attention of the court by Mr Beamish is not only relevant, but is quite decisive in respect of critical

issues concerning the requirements for admission as an advocate, and that ...[intervenes]

COURT: But is it really decisive? The information that has been brought by Mr Beamish? My view ...[indistinct] and my brothers, there seems to be more of like a personal issue between the two parties?

MR WINKS: I am prepared to explain why that is not the case. I do not know if you wanted to hear from Mr Stratham first on the merits, or if you want to hear from me now on
10 the merits?

COURT: Let me hear from you now.

MR WINKS: Thank you, M'Lords. So the objective points raised by Mr Beamish, there is of course a personal dispute. There is a very ugly background to why the parties are at this point, and there is pending litigation. The objective and common cause facts are that in the applicant's original application for admission as a legal practitioner, the applicant employed somewhat an interesting language.

20 To say that the standard formulation, when a person is making an application for admission, under the section fitness and propriety, is that I have not had any civil judgment against me and no civil proceedings are pending against me.

COURT: Is it not that it says no judgment as you say that

section as you read, is it not correct that basically the applicant, where she is right now, or at that time there was no judgment against her?

MR WINKS: That is correct, but the usual formulation, which usually the Legal Practice Council writes to the applicant to say is that you must also confirm that there are no civil proceedings pending against you, or if there are such proceedings, to explain them.

So we have in this case, the language employed
10 was that only that no civil judgments were against her. Which is a somewhat careful and curious choice of words given the standard formulation.

COURT: Is it not that your client's interpretation thereof?

MR WINKS: Well, it is the Legal Practice Council's ...[intervenes]

COURT: Well even the legal practice, ...[indistinct][09:37] had the papers at the legal council, Legal Practice Council, with basically and to add on that, they also indicated that they had no objection to the applicant being admitted.

20 MR WINKS: Yes.

COURT: Then they explained themselves because your client seemed to take the LPC to task.

MR WINKS: Indeed, M'Lord.

COURT: And they explained themselves what they did, and I do not find anything in line to what ...[indistinct][09:37] to

whatever they have done.

MR WINKS: Well, what they did first, certainly was not, was what they should have done, which is they said exactly what I am saying now, which is that you cannot simply say there are no civil judgments against you.

You must disclose and explain the civil proceedings against you. So that is what they say to Ms Van Der Merwe. They say you must disclose those things. So firstly, the Legal Practice Council has identified that there
10 was a non-disclosure, there were disciplinary complaints against her and there were civil cases against her.

The fact that they take no issue with it, does not mean that this court is bound by their ...[intervenes]

COURT: Yes, I know that.

MR WINKS: Yes.

COURT: That it is not bound by that, but it also does go a long way to influence this court.

MR WINKS: Certainly that ...[intervenes]

COURT: [Indistinct]... [09:40] body.

20 MR WINKS: Indeed, M'Lord.

COURT: Of the profession.

MR WINKS: This court has of course disagreed many times with the position of the Legal Practice Council.

COURT: No, that is true.

MR WINKS: Yes.

COURT: I accept that.

MR WINKS: Yes, thank you M'Lord. Now the submission made is that there have been three phases of untoward conduct in relation to the aspiration to become a legal practitioner in this case.

The first phase is the non-disclosure of the proceedings, which the Legal Practice Council said yes, you have not disclosed, you must disclose. Then the applicant makes a partial disclosure, uploads some of the papers but
10 not the papers of, she uploads her defence against Mr Beamish's cases, but not his version, which would have enabled the court to have a proper conspectus of the papers in those matters.

But already, at that stage, phase 1, there has been a non-disclosure. Then at phase 2 is the partial disclosure. Again, we say that is a material non-disclosure. Then the third, which is the most damning phase of non-disclosure, is that on the very eve of the last application for admission hearing, it emerges that the applicant had had disciplinary
20 proceedings against her by a former employer, Cox Yates, which will never disclose to the court.

And the court would never have been any the wiser. The two honourable sisters of M'Lord's would have been none the wiser if they admitted, they had admitted the applicant in October. That in fact these disciplinary

complaints, or proceedings resulting in a termination or a separation of employment, had happened.

They had happened months before the hearing, they should have been disclosed as soon as they happened. It should not have been up to Mr Beamish to bring that to the court's attention. The explanation given by Mr Stratham at the last hearing, and I understand that the transcript of that is on CaseLines, was that, you know, this should be, these non-disclosures should be excused because, and I
10 used the exact words, these are not nice things to disclose.

That is precisely the point, M'Lords. In an application for admission as a legal practitioner, as an officer of the court, as an indispensable instrument of justice administration in the country, what is required, according to the authorities, is full and frank disclosure.

I may refer the court to the judgment, it is in our heads of argument of *Kekana*, the Supreme Court of appeal judgment. *Kekana versus Society of Advocates of SA*, 1998 ZASA54, and then the SA law reports citation is 1998(4) SA
20 649, SCA.

What the court held in that case was that legal practitioners occupy a unique position. Firstly, it stands to reason, the court said I am quoting,

“Firstly that absolute personal integrity
and scrupulous honesty are demanded

of each of them, and secondly that a practitioner who lacks these qualities cannot be expected to play his part.”

Of course, these days we would say his or her part. Now in *Milan*, justice Harems, then the acting deputy president, the citation is *Milan and another versus Law Society of the Northern Provinces* 2009(1) SA216 SCA paragraph 10, the court held that,

10 “If a court finds dishonesty, the circumstances must be exceptional before a court will order a suspension instead of a removal.”

Of course, that is looking at when someone has been admitted, but the test is whether they are fit and proper, as it is in an admission. It has been held that full and frank disclosure, that is the term used in the judgments, for example the judgment I referred to at the beginning *Motsewa*,

20 “Is a critical dimension of an ethical lawyer’s character, and that a lack of full and frank disclosure does not meet the test of being fit and proper to don the mantle of the legal practitioner.”

There I am quoting from *Vatsha [spelt] versus Johannesburg Society Advocates* 2003 ZAGPJHC453

paragraphs 20 and 29, and then in *Mziako*, it is *Northern Cape Society Of Advocates Versus Misako* 2018 ZANCHC28, at paragraph 38.

This is a critical holding by the by judge president,
“There is an onus,”

I am quoting,

10 “On the applicant for admission as an
advocate or attorney to make a full
disclosure of both positive and
negative information about him or her
that is necessary for a court to make
an objective finding whether he or she
is a fit and proper person to be
admitted as an advocate or an
attorney.

The duty to disclose fully is more
obligatory where previous criminal
convictions and pending cases are
involved.”

20 Now we have here, as I say, three phases, three
opportunities to be upfront with the court. There is first the
application, then prompted by the Legal Practice Council
there is an opportunity to make full and frank disclosure
again, given a second opportunity, a second somewhat
lenient opportunity to say, actually there are these cases

against me.

This is my explanation, again this is partial disclosure, and thirdly when the disciplinary proceedings take place at Cox Yates, is a third opportunity to take the courts into her confidence, and she declines to do so. She decides to withhold that information from the court, and only because it is disclosed on the eve, then it is incumbent on her counsel from the bar to say, yes, we confirm that these disciplinary proceedings took place.

10 At the hearing the applicant was prepared to dupe two justices of this court into admitting her in circumstances where she knew, months before, that material information contradicted her founding affidavit.

I do not plan to detain the court on the technical requirements for admission. The court has seen the disagreement on whether one has to have an LLB before one does not PLT, and whether you have to do the PLT course when you are conducting your articles, or not.

20 We submit that the court is obviously in a position to examine the regulations as they look, which hold that a person contemplated in paragraph 1A of The Regulation, must be a person who has completed an LLB and then can do a PVT, PLC, sorry a School For Legal Practice, and then do articles.

So we take no quibble with the fact that you can do

your articles after you have done the School For Legal Practice, but you must first have an LLB, that is what paragraph A says.

So we leave that of course in the hands of the court, but where there is a lot of material to wade through, is where my role becomes, hopefully, of some assistance to the court, is on the question of honesty, and non-disclosure.

So we have the critical allegations made in the founding affidavit at paragraph 13.1, which is at 03-25 of
10 CaseLines, it says first,

“No civil and or administrative judgment has ever been given against me.”

The LPC said that formulation is not right.

“No disciplinary proceedings have been instituted against me, by any council, any Law Society, university or previous or current employer, nor are any such disciplinary proceedings pending.”

20 That became untrue months before the hearing and was not corrected under oath. And it cannot, the horse has bolted in that respect, we cannot put the genie back in the bottle, you cannot undo that dishonesty with the subsequent affidavit.

The fact is that 2 judges were presented with an

application that was false in material respects. 13.1.7 was,

“I am not aware of any facts that may unfavourably influence this application, and to the best of my knowledge know of no reason why this application should not be granted.”

That is the catch all, which obviously should have prompted the applicant to disclose all of the not nice things, because those are the things that the court needs to know.

10 So in *Hewitson*, which is *Hewitson versus Law Society of the Free State*, it is the Supreme Court of Appeal judgment 2020(5) SA86 SCA, paragraph 49.

It says very clearly, and I quote,

“There is no room for an attorney who wishes to remain on the role to be coy about material facts in an application, in a matter of this nature. As officers of the court, attorneys are at all times expected to be scrupulously honest and observe the utmost good faith in their dealings with the court, even if it means disclosing information which may be adverse to their own interests.”

20

What is required is a disclosure and an explanation, that is what happens with everyone who has

had criminal convictions and may still get admitted. Who has an outstanding debt to their university, can still get admitted, because there are not nice things, does not mean you will not be admitted, but lying about the not nice things, that means you cannot be admitted.

M'Lords, I do not want to detain the court unnecessarily, there has been a volume of paper for the court to get through, and I am, I think at this stage it is appropriate for me to open myself to any questions and not
10 to engage in any further monologue.

COURT: Thank you.

MR WINKS: Thank you M'Lords.

COURT: Let me hear counsel for the Legal Practice Council, ...[indistinct] [09:52]

MR STOGHER: May it please the court.

COURT: Your views and comments, and now I am putting you in an invidious position.

MR STOGHER: M'Lord, it is Stogner from RW attorneys. M'Lord, as you correctly pointed out, the LPC has not
20 opposed to application. They found that she was fit and proper.

The considerations of non-disclosure, that was not something that was considered by the council at time but just speaking from having dealt with a few of these matters, it is correct that there should be full and frank disclosure,

but that often does not happen, and then the candidates is required to make disclosure.

And a candidate then who makes a disclosure and gives a proper explanation, is often found then to be fit and proper, that is the only submission I can really make, but I think the ultimate test is whether they do, is whether they ultimately make a full and frank disclosure of the relevant information.

COURT: Thank you.

10 MR STOGHER: As the court pleases.

COURT: Yes, counsel?

MR STRATHAN: M'Lord, let me just take a step back and Your Lordships will see that throughout these proceedings, this applicant has been trying to get admitted since 2023, and at every turn of the way Mr Beamish has been waiting for her, and Your Lordship made a very pertinent observation that there is something personal here.

There is a vindictiveness that is at play here. There is an application for leave to intervene brought. It
20 has now been, quite fairly I think, conceded that an application for leave to intervene is not only not necessary, but it is inappropriate, and we have a separate draft order in that respect, and we ask Your Lordship to refuse that with costs.

But if we get to the time when Ms Van Der Merwe

first applied to this court, there were no disciplinary proceedings pending against her. When she appeared before justices Dippenaar and Lenya, there were no disciplinary proceedings pending against her either.

Your Lordship will see from, Your Lordship will see from her supplementary affidavit, there is a theme that runs through this. She gets employment, but that employment is dependent on her becoming admitted as an attorney, in fact she advised me this morning that she has a job offer from
10 Bowmans, which is dependent on her being admitted as an attorney, otherwise it will be withdrawn.

Now the circumstances are not put in inverted commas, the disciplinary hearing during 2024 is, she is given notice to attend the disciplinary inquiry, but that is negotiated and settled before there are any disciplinary proceedings.

So it is not the same as a criminal who comes and says I was convicted of a crime, but I am rehabilitated, or it is not a serious crime. That matter was settled in terms of
20 a confidential settlement agreement, which I cannot tell Your Lordships about any more than what the applicant has said.

So she is not being dishonest when she says to, if she wants to stand by that allegation and submission, there are no disciplinary proceedings against her, and why would

it be any different if charges were laid against somebody and then withdrawn.

What is the extent of the disclosure, and in fact judges Dippenaar and Lenya postponed the matter on the basis of a draft order, in fact it was a consent order, and the only things they wanted to know about were her employment history, the so-called aspects relating to law school, etcetera, and various discrepancies.

And she has dealt with all of those in a
10 supplementary affidavit, and Mr Stogner is absolutely correct. Now if there are no disciplinary proceedings pending against her, because her previous employer has settled with her before they commenced, yes, with the benefit of hindsight maybe she should have put it in, but all she would be doing is opening a can of worms.

When I said these things are not nice, I was really talking about the fact that since the outset she has maintained, and for fear of being sued along with her and her previous attorneys, I am not going to put it on record,
20 but she has maintained that something untoward happened between her and Mr Beamish, and that has prompted this entire vendetta on his part against her.

But for that, she would have probably got a job. She is 32 years old, M'Lords. She has had to endure postponement after postponement after postponement in

this matter. At the last minute, in fact at the last hearing a summons was served on her for allegedly photographing Mr Beamish in the dock some four years earlier, which she has denied in the affidavit.

Really M'Lord, it is time to put this behind her and give her the chance that so many people, with lesser qualifications and experience. Her fortitude, and her endeavours, and forbearance and perseverance, have demonstrated that she can take the heat, and there is
10 nothing, there is nothing in her conduct which suggests that she is not a fit and proper person.

If anything, she has probably risen to the challenge better than the most people would. So M'Lords our submission to Your Lordship is that she is a fit and proper person to be admitted as a legal practitioner, and she is entitled to an order that the Legal Practice Council enrolls her name as an attorney.

I have all of her original documents in front of me, M'Lord, I have seen these so many times I could probably
20 memorize them. I do not believe I need to detain Your Lordship with that aspect.

M'Lord, she has gone on oath supplementarily a number of times, and Your Lordship will know, there are three aspects I wanted to say, when Mr Beamish applied for leave to intervene, which Mr Winks has now conceded is

inappropriate, and not indicated, she put up an affidavit unanswerd.

The Law Society put up a 60, sorry the Legal Practice Council put up an affidavit, 66 pages ...[intervenes]

COURT: [Indistinct]... [09:58].

MR STRATHAN: No, I apologize, M'Lord.

COURT: The law Society.

MR STRATHAN: The LPC put up a 66 page affidavit, and if I can say this, it is a credit that, that the LPC has shown
10 that it really does its work, because it appears in this court regularly to oppose admissions to apply for striking off, but by the same token Mr Stogner is here to tell Your Lordships that they offer no opposition to her application, and that subject of course to this latest little aspect, they regarded her as the fit and proper person.

She was in then, she was in fact called to a sort of private investigative meeting where she was asked about this skirmish between her and Mr Beamish, and Your Lordships will see it is not only her that is been sued, it is
20 her attorney, the candidate attorney, the private prosecutor, everybody.

And he has decided to serf through whatever he can and make her life impossible, and he should be sanctioned for that. So M'Lord, we submit that having regard to what happened most recently, and that is the

order of justices Dippenaar and Lenya.

She was asked to address certain issues, Your Lordship finds that at CaseLines 38-22. Employment history, her attendance at the School For Legal Practice and any other aspect which may be relevant. She has dealt with all of those. The legal and practice council has delivered an affidavit.

Mr Beamish has not dealt any further affidavit. There are practice notes, but what is important at the
10 bottom, paragraph 7, is it says,

“That the costs associated with the opposition to date are reserved for determination by the court hearing the application.”

Now if Your Lordships find that Mr Beamish’s opposition has been unreasonable, and we do not quarrel with the notion that a member of the public can approach the court and say, ‘I know something about this person that the court should take into account, and then not admit her’,
20 that does not give him a right to intervene, but he has persisted.

It has endured into the new year, there is his secretary and his employer, who we suspect may have been previously an attorney, phoning the LPC to say is there any, is there anything wrong with the LPC training not, the LPC,

the legal, the law school.

It is enough now, with respect, M' Lords. She has made out a proper case. She is a fit and proper person. My submission, our submission is that she satisfies all the requirements for the admission as a legal practitioner. She is entitled to have her name enrolled as such, and we have prepared two draft orders in duplicate, which I beg leave to hand up.

The first draft order only contains her name, and
10 that is that she is admitted as a legal practitioner and authorized to be enrolled as an attorney. The second draft order is that the intervention application is dismissed with costs on an attorney-client scale, into including the cost of two council, where same employed on scale C.

That bears the names of both the parties, the reason for that M' Lord, is a, an order admitting a party is a legal practitioner has something of a ceremonial characteristic about it, and it would not be nice if one day on her wall, if Your Lordships are with me, and she is
20 admitted as a legal practitioner, that the names of her persecutor appear on that order.

So unless there is anything else that Your Lordships specifically want to hear from us on, we believe a proper case has been made out, and that she should be allowed to come forward, take the oath. As the court

pleases.

MR WINKS: M'Lords, may I beg leave to respond on
...[intervenes]

COURT: Yes.

MR WINKS: Two aspects.

COURT: Yes.

MR WINKS: The first is on the, what Mr Stratham described
as this little issue that came up, which is the Cox Yates
proceedings. Now with utmost respect to Mr Stratham, I do
10 not believe he has correctly characterized what happened at
Cox Yates.

If we turn to Ms Van Der Merwe's affidavit, which
appears at 38 pocket 2 of CaseLines, and turn in particular
to paragraph 33, which is page 38-9 of CaseLines. This is
what Ms Van Der Merwe says.

"During or about July 2024,"

So this is 4 months or so before the hearing of the
application,

20 "I was suspended from Cox Yates
pending investigation of my electronic
devices."

Suspension is a disciplinary sanction. Yes, it is a
precautionary one, but that is something that has to be
disclosed, that I was suspended. Then, the allegations
against her should have been disclosed and explained.

Only afterwards they are now explained, and they are serious.

It was alleged that she had violated the company's e-mail policy, and that she had potentially jeopardised attorney-client privilege. So my employer was concerned about a breach in confidentiality. [Indistinct]... [10:04] then in 39,

10 "14th of July 2024, I decided to approach the CCMA to mediate the situation."

Paragraph 40,

"On or about 14 July 2024, most of my files were removed from my office and I was excluded from group communication and left with no work."

41,

20 "I lodged a second matter with the CCMA on the basis I was not treated fairly or equally. Once again, I believed that approaching the CCMA would provide me with a non-confrontational means to mediate the situation."

Now importantly, paragraph 43.

"On 22 July 2024 I received a notice to

attend a disciplinary hearing on 26 July
2024.”

So they say in 4 days you are summoned to the disciplinary hearing. You have been suspended, we have taken away your files, your computer, and then it was postponed to a month later. It is true that it was settled, as one would hope many labor disputes are, but that does not mean that it was not a disciplinary in nature, and that does not mean that it was not serious in nature.

10 It does not mean that it was not imminently disclosable to this court. Highly relevant to this court’s determination, that someone was suspended by a firm of attorneys for potential misconduct, and then Ms Van Der Merwe is extraordinarily coy with the court again, which the authorities say one must not be.

 She says it is a confidential settlement, I cannot tell you what the settlement was. With respect, if anybody deserves to know about the contents of the settlement, it is M’Lords. M’Lords are making a momentous decision for the
20 public at large.

 And Ms Van Der Merwe could have applied to have the, an affidavit sealed from the public, a confidential affidavit that would not breach confidentiality with Cox Yates, she could have sought their consent to make a disclosure to the court, she has done neither.

Instead, she hides the terms of the settlement from this court, from M'Lords and yet asks for M'Lords to find on incomplete information that she is fit and proper. There is, before I address the question of costs, there is one aspect which I was intended to address first and obviously I will not, Mr Stratham has to have an opportunity to address it as well, is the police clearance certificate, which appears at item 45 of CaseLines.

M'Lords will have seen it, M'Lords will have noted
10 that it is not a police clearance certificate, it is a criminal record check from a private record research. A police clearance, which the LPC in previous clients of mine, *ex parte Makathe* for example, one of those search engine checks, or search checks, was found to be inadequate and the LPC said we want a security, a police clearance on a SAPS letterhead.

And this was uploaded a matter of days ago, I think Friday. It is not a SAPS police clearance certificate. Now, and as I understand that has become a mandatory
20 requirement, is to have a police clearance certificate of not older than three months.

M'Lords on the question of costs, one would have to find in order to award attorney-client costs, that a party has acted not only unreasonably, but vexatiously or frivolously without it would have to be some form of abuse

of this court's time.

Now if the allegations by Mr Beamish of non-disclosure and of either misconduct, or failure to meet requirements has any merit whatsoever, that the court has to apply its mind and not dismiss it out of hand, then it cannot be abusive.

To be abusive, the authorities tell us it has to be unsustainable as a certainty, and not even on a preponderance of probability. So his submissions, and the
10 material he has placed before the court, that bear on fitness and propriety, as well as the formal requirements, are not frivolous, they are not vexatious.

These are serious things and that is why the previous court, your sisters, honourable sisters Dippenaar and Lenya, ordered that full disclosure be made. They were not satisfied that full disclosure had been made. They were not prepared to admit the applicant on that day.

So that tells us already that the material placed before the court by Mr Beamish is not only of assistance,
20 but was highly material, and for that reason resulted in the applicant having to make further disclosures.

The LPC itself had found that Mr Beamish's matters had not been fully disclosed at the outset. So these are not frivolous matters, and it does not, if one looks even at the *Monchiwa* case, someone who comes to court to say this

applicant is not fit and proper, in most cases is going to have some kind of disputed history with that person.

I am not going to be disingenuous and say that Mr Beamish has no dispute against the applicant, of course he does, that does not disqualify him, that means that that is precisely the category of person who is likely to come before the court.

Now submissions have been made from the bar about him being a persecutor, there has been evidence from
10 the bar about summonses have been served and phone calls being made. I do not have instructions on any of that. I certainly do not have evidence to give from the bar about any of that, but the characterization of Mr Beamish's involvement, as an interested party, as a persecution, we submit is inappropriate and unsubstantiated.

This court, and I have an agreement with Mr Stratham, that this court does not have to decide who is telling the truth about the original dispute, the underlying dispute. Was Mr Beamish falsely accused or not. So the
20 court has to assume for the sake of argument that he is bringing the material to the court, not because he is in the wrong, but precisely because he believes himself to be in the right.

This court does not have to decide who is in the right about the underlying dispute. So it cannot be said, as

a submission in this application, that there has been a persecution of any kind. There is nothing to suggest, unless the court wants to decide the underlying dispute of fact with oral evidence.

COURT: Why would I want to do that? Why would I be interested in that dispute between the two parties, I am more interest in whether or not Ms Van Der Merwe is a fit and proper ...[intervenes]

MR WINKS: Indeed M'Lords.

10 COURT: That is all I want to ...[intervenes]

MR WINKS: And that is precisely the point, is that for the determination of costs, if Mr Stratham wants this court to find that Mr Beamish is a persecutor and is not acting with *bona fides* to vindicate his reputation and having been wrongfully and maliciously prosecuted, then this court has to determine whether he is lying or she is lying, and that would require oral evidence.

20 So for that reason, my only submission is that for the question of costs, this court cannot accept that one party or the other is lying. One has to accept that Mr Beamish has intervened with *bona fides*, and there is no evidence, at least settled the evidence, that has been tested by cross examination, to the contrary.

M'Lords those are our submissions.

COURT: Thank you. I want to ...[indistinct] [10:13] let me

hear you say first, yes?

MR STOGHER: M'Lord, it is just, I thought this might be of assistance to the court relating to the police clearance certificate.

COURT: Yes.

MR STOGHER: Now the LPC rules deal with it in paragraph 17.2.14.1 of the LPC Rules, and what it says there is,

10 “The applicant is required to provide the council with proof by attaching a certificate from an accredited verification service provider and or the South African police clearance certificate.”

So it is either or, you can provide the police clearance certificate or a certificate from a verification service provider.

COURT: Thank you very much.

MR STRATHAN: M'Lord ...[intervenes]

COURT: I would give you just one minute.

20 MR STRATHAN: Only on the question of confidentiality, I know what the terms of the settlement were. I can assure you there is nothing coy about providing that it was a confidential settlement. What the affidavit says is that Cox Yates required it to be confidential, not my client. And if they, she would be breaching their confidence, a

confidentiality restraint that she gave in favour of them, not the other way around.

COURT: Thank you. This court is satisfied that Ms Van Der Merwe is a fit and proper person to be admitted, so if you can call her in front. The draft order that we are going to sign ...[indistinct] [10:16], at the end of that, is a draft order that does not make mention of anybody else but herself.

MR STRATHAN: That is ...[intervenes]

COURT: It was ...[intervenes]

10 MR STRATHAN: That is in order, M'Lord.

COURT: On the fact that if we were to enter into the realm of the cost, we will be, we have to say somebody is telling the truth or not the truth, that is not our job at this point in time, our work is to determine whether she is a fit and proper person.

MR STRATHAN: Indeed, M'Lords. It was *ex abundanti cautela*, they were used to say in the classics, that because it had been dealt with, but ideally it is draft order one that we are here for.

20 COURT: Indeed, draft order ...[indistinct] [10:16] is made an order of the court.

REGISTRAR: Do you have any objections to taking the prescribed oath, do you swear that you will truly and honestly ...[indistinct] [10:16] legal practitioner according to the best of your knowledge and ability and further that you

will ...[indistinct] [10:16] Republic of South Africa.

You will uphold and protect the constitution, and the human rights infringed in it, and that ...[indistinct] [10:16] or persons, without fear ...[indistinct] [10:16] and adhere to the constitution ...[indistinct] [10:16]. If yes, please raise your right hand and 'so help me God'.

COURT: Please, thank you, and ...[indistinct] [10:16] good morning, ladies and gentlemen. On behalf of the judge president of this division, the deputy judge president of this
10 division, my brothers and sisters of this division, and brother here sitting next to me, I congratulate you for the milestone that you have achieved.

It was ...[indistinct] [10:19] on my part not to do the congratulatory message delivery commitment before we have done with all the matter, so that you newcomers must understand and learn the ways of this court. When I say this court, I mean the courts of this country.

Patience, you heard we had a long debate about Ms Van Der Merwe, which was unfortunate. More often than
20 not these things go smoothly. But be that as it may, as I say I congratulate you on your achievement.

Now here is the thing that I normally would want ...[indistinct] [10:19] in this presentation. This profession, you might be thinking from wherever you come from, this is a get rich quick scheme. It is not. If that is what you are

thinking, or that is what you were made to believe, my advice to you is, leave it right now.

Do not even bother to come forward again, because it is not. It is a lot of hard word, it is an honourable profession, or we would like to believe it is an honourable profession, it is why we have such a long debate about you, Ms Van Der Merwe. Sorry, that I will use your name in this regard.

It is an honourable profession, you need to uphold
10 its standard. That is what is required of you. If you think it is a get rich quick scheme, you will soon, very soon, you will be appearing before us again, and the gentleman sitting behind you will be here, moving for you to be struck off the roll.

It is not ...[indistinct] [10:19] your time, and do not compete with your peers. Yes, I have seen that in my time, people tend to look at their peers, the youngsters, they have these cars that they call ...[indistinct] [10:19], you see your colleagues driving ...[indistinct][10:19] then you also
20 want to go and do that.

You do not know what they do at night when you are sleeping. Who knows what they do, you go and compete with them and then you find yourself having lots and lots of financial problems, and then you end up tapping into trust money.

Particularly you, being admitted as attorneys. The other thing that I would request of you, you know our society, we have got a lot of indigent people. Please do help whenever you can, and act, you know, ...[indistinct] [10:19] for those people.

We expect you to assist in that regard. We are sitting here not because we know everything, we rely on you lawyers, we rely on you attorneys and advocates to assist and assist us to deliver justice.

10 Now one more thing that is the custom of this division, you will be getting your first pay check as attorneys and advocates, truly attorneys and advocates, our rule of having this custom in this division is that the first check, it belongs to, you see those people sitting behind, who are supporting you, who came to support you, your parents.

They are the people who helped you here, to be here. So the first check belongs to them. Thereafter, you can do whatever you want with your money that you make.

20 Another thing that you must remember, if you mess up now, you have not messed up, because other people tend to think it is the four year that you did at varsity and the two years of articles or whatever.

Actually you would have messed up your entire life from grade one, I did not go to R, ...[indistinct] [10:22] now

you know right up to becoming what you are today, that was all the time you would have wasted, if you are getting called on here to appear here because you committed a misconduct.

So I hope you will enjoy this profession, if you do it properly, you will enjoy it, and you will ...[indistinct] [10:22]. Now, please turn around and look at the gallery. This is an opportunity for those who want to take pictures, to take pictures.

10 You are now excused. The court will adjourn.

COURT ADJOURNS

[10:22]

"K"

From: Roy Stocker roys@rwattorneys.co.za 
Subject: RE: EX PARTE MICHELLE VAN DER MERWE (AK BEAMISH INTERVENING)
Date: 22 September 2025 at 10:34

To: Nacinda Louise Combrinck nacinda@radleyinc.co.za, Chantelle van der Merwe lit.secretary@rwattorneys.co.za, Litigation Candidate Attorney lit.ca@rwattorneys.co.za, directorgp@ipc.org.za, vaneckatt@gmail.com, Tony Beamish tony@tonybeamish.com
Cc: Karin van Eck vaneckatt@gmail.com, RWA Litigation RWALitigation@rwafrica.com



Dear Ms Combrinck

Find attached an email received from Ms van der Merwe's attorneys, in response to your email of 16 September 2025.

There is plainly a dispute between your client and Ms van der Merwe which needs to be resolved *inter partes*.

Kind Regards

PLEASE NOTE: We will NEVER change our banking details via email or any other means.
PLEASE CONTACT OUR OFFICE TO CONFIRM OUR TRUST BANK ACCOUNT DETAILS BEFORE MAKING ANY PAYMENTS.
No payments will be made to any client without proof of client's bank account details.
We will not be held liable for any losses suffered as a result of payments made on fraudulent instructions to amend banking details.



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Recognized by LEAD for 25 years of significant contribution towards the School for Legal Practice.

From: Nacinda Louise Combrinck <nacinda@radleyinc.co.za>