THE SUPREME COURT OF APPEAL OF SOUTH AFRICA
MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal

Date: 3 July 2026

Status: Immediate

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The Legal Practitioners' Indemnity Insurance Fund v Johan Venter & Associates and Another (1524/2024) [2026] ZASCA 95 (3 July 2026)

Today, the Supreme Court of Appeal (SCA) struck from the roll, with costs, an application for reconsideration, in terms of s 17(2)*(f)* of the Superior Courts Act 10 of 2013 (Superior Courts Act), of an order issued by two judges of the SCA denying a petition for special leave to appeal. The petition was lodged by the Legal Practitioners' Indemnity Insurance Fund (the Fund) against the judgment and order of the Western Cape Division of the High Court, Cape Town (the full court).

The matter arose from a claim for indemnity against the Fund following a loss suffered by a client, Mr Breckwoldt, after an amount of R862 213.18 was paid into a fraudulent bank account by his attorney, Mr Venter. The Fund had repudiated the claim on the basis of a cybercrime exclusion clause. That dispute was referred to arbitration, where it was determined that the exclusion did not apply. The arbitration award was subsequently made an order of court.

After unsuccessful attempts to challenge that order, the Fund later raised further defences, including that no valid claim had been made against the insured (Mr Venter) by Mr Breckwoldt and that there had been a "secret agreement" between the respondents. These defences were rejected by the high court and the full court on appeal, both of which found that the Fund was liable to indemnify the loss.

The Fund then petitioned the SCA for special leave to appeal, which was refused. It subsequently approached the SCA for reconsideration under s 17(2)*(f)*, contending that exceptional circumstances existed and that failure to grant leave would result in a grave injustice and bring the administration of justice into disrepute.

The SCA held that reconsideration under s 17(2)*(f)* is an exceptional and narrowly circumscribed remedy, intended to prevent grave injustice rather than to afford a litigant a further opportunity to reargue issues already decided. The Court found that the Fund had largely repeated arguments previously advanced and rejected, without demonstrating any grave injustice or that the administration of justice had been brought into disrepute.

The Court emphasised that the issues raised by the Fund were fully ventilated in earlier proceedings and did not establish any principle of general application warranting reconsideration. It further found that the Fund's later reliance on additional contractual defences, raised several years after the claim had been notified and after the arbitration process had concluded, was untenable.

In addition, the Court criticised the Fund's approach to the litigation, noting that as a statutory insurer it bears broader public obligations to act fairly, reasonably, and in a manner that fosters confidence in the legal system. The Court endorsed earlier findings that the Fund's piecemeal and evolving defences undermined the purpose of the indemnity scheme.

The SCA concluded that the Fund had failed to meet the jurisdictional threshold for reconsideration, as it had not demonstrated that a grave injustice would result or that the administration of justice would be brought into disrepute.

Accordingly, the application for reconsideration was struck from the roll with costs, including the costs of two counsel and all applications for leave to appeal.

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