

REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA,
GAUTENG LOCAL DIVISION,
JOHANNESBURG

CASE NO: 2014/5670

(1)	REPORTABLE: YES / <u>NO</u>
(2)	OF INTEREST TO OTHER JUDGES: YES / <u>NO</u>
(3)	REVISED. <u>✓</u>
	<u>28-5-14</u>
DATE	SIGNATURE <u>[Signature]</u>

In the matter between:

**THE INDUSTRIAL DEVELOPMENT CORPORATION
OF SOUTH AFRICA LIMITED**

PLAINTIFF

and

**CHARLES ARENDSE
RONEL ARENDSE
AUDREY BENITA VAN DER WESTHUIZEN
NATHAN VAN DER WESTHUIZEN**

**1ST DEFENDANT
2ND DEFENDANT
3RD DEFENDANT
4TH DEFENDANT**

J U D G M E N T

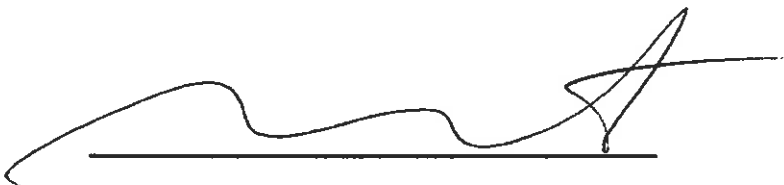
WRIGHT J

1. The applicant seeks summary judgment against the four defendants.

2. On 30 April 2014 the application was postponed to 28 May 2014, today's date, at the request of the defendants. The first and fourth defendants were in court on 30 April 2014.
3. Last night, that is 27 May 2014, at about 9pm, a resisting affidavit was served. It is well out of time. Also, an affidavit was served in which condonation was sought for the late filing of the affidavit resisting summary judgment. It does not begin to explain what the defendants did for fifteen days after the last postponement. It contains only the vaguest reference to an excuse for the next eight days. On 23 May 2014, the defendants' attorney, Mr Dawood was retained. He clearly seems to have done what he could in the time available to him. However, the defendants' case in explaining their delay is extremely weak. Having had sight of the resisting affidavit with a view to considering the defendants' prospects of resisting summary judgment even if their resisting affidavit was properly before me, I am of the view that the defendants' prospects of success on the merits of the summary judgment application are weak. This, coupled with the defendants' failure to explain their delay in filing their resisting affidavit inclines me to refuse condonation.

Order

1. The defendants' application for the condonation of the late filing of their affidavit resisting summary judgment is dismissed with costs on the attorney client scale.
2. Summary judgment is granted in terms of the draft marked X.

A handwritten signature in black ink, consisting of a series of loops and a final sharp upward stroke, positioned above a horizontal line.

JUDGE OF THE HIGH COURT

On behalf of the Plaintiff:

Instructed by:

Dawood Attorneys

011 942 4350

On behalf of the Defendants:

Instructed by:

Mothle Jooma Sabdia

012 362 3137

Dates of Hearing:

28 May 2014

Date of Judgment: