

In the matter between:

NOLUTHANDO MADIMABE	Applicant
and	
TRANSDECO GTMH (PTY) LTD (IN LIQUIDATION)	First Respondent
HARRY KAPLAN NO	Second Respondent
LUKE BERNARD SAFFYY NO	Third Respondent
THE MASTER OF THE HIGH COURT	Fourth Respondent

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#### LEGAL SUMMARY

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MBONGWE, AJ:

Application – Companies Act of 1973, Sections 359(2)(a) and 359(2)(b), Submission of notice of intention to continue with claim against company in liquidation shortly after establishing details of appointed liquidators, but after the period prescribed in Section 359(2)(a).

Held that notice was out of time and that liquidators have no authority to waive or condone late notification. Whether applicant's attorney was competent to depose to founding affidavit in such substantive application. Held that attorney was the only person who could swear positively to steps taken. Whether application could be seen as out of time. Held that the Act does not prescribe a time period within which application can be launched, but certain factors may prejudice applicant and therefore result in application being refused.

Held that liquidators are not always obliged to oppose application in terms of Section 359(2)(b) particularly where proceedings between applicant and company in liquidation were suspended in terms of Section 200 and liquidators being aware of that fact.