

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

CASE NO: 2016/41493

In the matter between:

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| THE PREMIER OF GAUTENG PROVINCE | First Applicant |
| THE MEMBER OF THE EXECUTIVE COUNCIL SOCIAL DEVELOPMENT (GAUTENG PROVINCE) | Second Applicant |
| LIFE RECOVERY CENTRE (RANDFONTEIN) WITPOORT TREATMENT CENTRE (NGO) | Third Applicant |
| LIFE ESIDIMENI (PTY) LTD | Fourth Applicant |

and

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| A RE AGENG SOCIAL SERVICES (NGO) | First Respondent |
| ABSA BANK LTD (Registration No: 1986/004794/069) | Second Respondent |
| AND OTHERS | |

SUMMARY- MAIN APPLICATION

SPILG, J

EX PARTE APPLICATIONS:

- *Failure to disclose relevant correspondence preceding ex parte application. Correspondence had set out history of matter in detail and requesting MEC's urgent intervention inter alia because of concerns of irregular payments into respondent's account and of intimidation by officials who at that stage insisted on payment over to Life Recovery through payment into Life Esidimeni account*

- *Not only special order for costs but also refusal to refer matter to oral evidence or trial. Application dismissed. Applicant to proceed de novo with action proceedings if so advised*

APPROPRIATION OF MONIES:

- *Failure to make out a case on paper for theft of monies out of an account, or under contract or under the *condictio indebiti*, or for vicarious liability*

EVIDENCE:

- *Bank claiming impossible to hack account via internet banking without involvement of account holder. Respondent alleging R5 million hacked out of account. Bank records of ultimate recipient showing that within 24 hours of receipt the amount was dissipated among 29 recipients. The account holder's explanation for the causa of receipt unconvincing and no link demonstrated between it and respondent.*
- *Respondent setting up enough to raise issues of irregular payment from Department into its account and of it being used as an unwitting conduit.*