



**IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE DIVISION, CAPE TOWN)**

Case No: 20495/2015

In the matter between:

**ABSA BANK LTD
(Reg No. 1986/004794/06)**

Plaintiff

and

**EXPECTRA 423 (PTY) LTD
PIETER LOUIS LE ROUX N.O. and
JOLENE LOUCHE LE ROUX N.O.**

1st Defendant

**in their capacity as Trustees as DIE LE ROUX FAMILIETRUST
Reg No. IT938/2003**

2nd Defendant

**PIETER LOUIS LE ROUX
(ID No. 610906 5091 087)**

3rd Defendant

Coram: BOZALEK J

Heard: 18 May 2016

Delivered: 24 June 2016

APPEARANCES

For the Plaintiff:

Mr FSG Sievers

Ms C Brown

Instructed by Marais Muller Yekiso Inc

For the 2nd & 3rd Respondent:

Mr A Newton

Instructed by:

Assheton-Smith Inc

[1] This judgment deals with three questions arising out an application for summary judgment:

[2] Firstly, the question of whether such an application can be deferred pending a response to a notice in terms of Rule of Court 35(12) calling for the production of documents referred to in the affidavit in support of the application.

[3] The judgment in *Business Partners Ltd v Trustees, Riaan Botes Family Trust and Another* (2013 (5) SA 514 (WCC)) is discussed and approved. An apparently contradictory dictum in that judgment is discussed and clarified. This is a novel point.

[4] Secondly, the question of the extent of '*personal knowledge*' required by the deponent to an affidavit in support of an application for summary judgment is discussed and *Rees and Another v Investec Bank* 2014 (4) SA 220 (SCA) is applied.

[5] Thirdly, a defence of prejudice suffered by sureties as a result of delay on the part of a creditor in enforcing its rights against a defaulting principal debtor is discussed and rejected.