

IN THE HIGH COURT OF SWAZILAND

**SWAZILAND BREWERS LTD
T/A SWAZILAND BEVERAGES
Plaintiff**

And

**MOTORWORLD (PTY) Ltd T/A
SIR MOTORS FILLING
STATION**

Defendant

Civil Case No. 4032/2006

Coram: S.B. MAPHALALA - J

For the Plaintiff: MR. Z. SHABANGU

For the Defendant: MR. NKOMONDE

JUDGMENT 7th June 2007

[1] This matter appeared before me on contested monoo where Counsel for the Plaintiff applied that the matter be postponed to die 8 June 2007 and that Plaintiff be awarded wasted costs for the day being the I^s June

2007. *Mr. Shabangu* relied on the provisions of Rule 32 (3) (c) of the High Court Rules.

[2] The said Rule cited by the Plaintiff provides that in the notice of application, a copy of the affidavit in support of any annexures thereto shall be delivered not less than ten (10) court days before the date of the hearing. *Mr. Shabangu* contended that in *casu* the Defendants are clearly out of time and they are not applying for an indulgence.

[3] On the other hand it was contended for the Defendant that Rule 32 (5) (a) of the Rules of court does not set time limits on the Defendants. The Defendants would hand over an affidavit resisting summary judgment. The time frames imposed by Rule 32 (3) (c) are only on the Plaintiff and not the Defendant.

[4] In my assessment of the above-cited arguments by the parties it appears to me that the submission on behalf of the Plaintiff is correct. Rule 32 (3) (c) applies in this case where a copy of the affidavit in support and any annexures thereto shall be delivered to the Defendant not less than ten (10) court days before the date of hearing that has taken place. In the present case Defendant has been given 13 days to file its opposition. In the result, for these reasons I agree with the Plaintiff that the matter be postponed to the 8th June 2007 and Defendant to pay wasted costs for the 1st June 2007.

S.B. MAPHALALA

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