

Judgment No. HB 14/12

Case No. HC 4/11

X REF HC 598/11

**TRADEPASS MARKETING (PVT) LTD**

**Versus**

**M. FILANINO MARKOU M**

**And**

**JOHN POCOCK & COMPANY (PVT) LTD**

**And**

**ADVOCATE HILDA MAKUSHA MOYO N.O.**

**And**

**MR G. NYATHI, OF SANSOLE & SENDA N.O.**

**And**

**PINEUS MADZIVIRE Jeol Konson & Wolhuter N.O.**

**And**

**CLERK OF CIVIL COURT MRS J. MAPFUMO N.O.**

**And**

**ACTING PROVINCIAL MAGISTRATE P. MSIPA N.O.**

**And**

**MESSENGER OF COURT N.O.**

**And**

**MAGISTRATE S. JELE N.O.**

**And**

**DEPUTY SHERIFF, BULAWAYO N.O.**

IN THE HIGH COURT OF ZIMBABWE  
NDOU J  
BULAWAYO 28 OCTOBER 2011 & 26 JANUARY 2012

Ms Muriel De Souza director of applicant  
Ms H. M. Moyo for 1<sup>st</sup>, 3<sup>rd</sup>, 5<sup>th</sup>, 6<sup>th</sup> & 8<sup>th</sup> defendant  
N. Mazibuko for 2<sup>nd</sup> defendant  
N. Siphuma for 4<sup>th</sup> defendant

Judgment

**NDOU J:** This matter was set down on the opposed roll for 28 October 2011. On that date the applicant's representative indicated that she applied "for the set down to be set aside". I understand her to seek a postponement or for the matter to be struck off the roll. She indicated that the applicant was not served with the notice of set down as required by the rules. She stated that the applicant was not given sufficient time to prepare for the case. She went on to say a lot of other things which made her application difficult to follow. She said she became aware of the set down by chance when she came to this court to follow up a letter. The bottom line is that all she required is time to adequately prepare for the hearing. It seems to me that the respondents are opposed to the application. This matter has been characterized by cross-reference matters, unnecessary arguments and unending issues. There is need to bring finality in this matter.

I understand why the respondents are objecting to the postponement. The parties should not dwell too much on the technical issues. They should move towards dealing with the real dispute between the parties. Petty technical disputes are being argued and re-argued in a very costly and time consuming exercise. This does not benefit either party. As the applicant is represented by self-actor, so to speak, I will allow that the matter be struck off the roll. A new date will be set giving all the parties sufficient time to prepare.

Accordingly, the matter be and is hereby struck off the roll, with costs being costs in the cause.

*Joel Pincus, Konson & Wolhuter, 1<sup>st</sup>, 3<sup>rd</sup>, 5<sup>th</sup>, 6<sup>th</sup> and 8<sup>th</sup> defendants' legal practitioners*  
*Calderwood, Bryce Hendrie & Partners, 2<sup>nd</sup> defendant's legal practitioners*  
*Sansole & Senda, 4<sup>th</sup> defendant's legal practitioners*