



IN THE HIGH COURT OF SOUTH AFRICA
FREE STATE DIVISION, BLOEMFONTEIN

Reportable:	YES/NO
Of Interest to other Judges:	YES/NO
Circulate to Magistrates:	YES/NO

Case no: **4728/2022**

In the matter between:

WESTRAND CONSULTING (PTY) LTD

Plaintiff

and

MANTSOPA LOCAL MUNICIPALITY

Defendant

CORAM: **P R CRONJé, AJ**

HEARD ON: **28 JULY 2023**

DELIVERED ON: **19 OCTOBER 2023**

JUDGMENT BY: **P R CRONJé, AJ**

- [1] The Excipient excepts against the particulars of claim of the Plaintiff in respect of the averment that it duly completed the tender and procurement process after it was appointed by the Excipient but that no Service Level Agreement (SLA) was appended. The Plaintiff attached a copy of the appointment letter to the particulars of claim but not the SLA.

- [2] The Excipient also complains that the particulars of claim does not contain any allegations regarding what the contract price/value would be for rendering of the professional services or whether the services would be rendered at a base-rate and if so, what the base-rate would be.
- [3] On 5 April 2023, the Plaintiff filed a notice of intention to amend, which was received by the Excipient's attorneys on 5 April 2023. Therein the appointment letter, Plaintiff's acceptance of the appointment and the written and signed SLA was incorporated and, on its version, appended. To address the second complaint, the Plaintiff referred to Clauses 2, 5 and 6 of the SLA and addressed the remaining complaints.
- [4] The Plaintiff gave notice of a second intention to amend.
- [5] In the Excipient's Supplementary Heads of Argument it is stated that the Plaintiff purported to effect the amendment by delivering their amended pages of its particulars of claim on 24 April 2023. The Plaintiff however did not file the first SLA. The complaint was therefore not addressed.
- [6] Mr Roux for the Plaintiff states that the cause of complaint has been removed and the amendments properly effected. According to him, the amended particulars of claim contained the SLA.
- [7] From the submissions made before me by Mr Snellenburg SC and Mr Roux, I gathered that there appears to be an administrative oversight that occurred in respect of the Plaintiff's attachment of the SLA and Mr Roux submitted that the Plaintiff do not wish to impugn any oversight to any of the attorneys.
- [8] From what was submitted by both parties, it appears to me that the grounds for exception was properly addressed, albeit been complicated by the administrative oversight, and that it would be fair to both parties that each pay their own costs.
- [9] I therefore make the following order:

9.1 The Exception is dismissed.

9.2 Each party to pay its own costs.

P R CRONJÉ, AJ

For the Excipient/Defendant: Adv N Snellenburg SC
Mohobo Attorneys Inc.
Bloemfontein

For the Plaintiff: Adv LA Roux
MM Kruger Attorneys
Bloemfontein