

MEDIA STATEMENT – CASE HEARING IN SUPREME COURT OF APPEAL

Leo Manufacturing cc v Robor Industrial (Pty) Ltd t/a Robor Stewarts & Lloyds

Supreme Court of Appeal -608/2004

Hearing date:28 February 2006

Judgment date: 20 March 2006

Rule 49(3) of the Magistrates' Court Act, 32 of 1944 precludes a Magistrates' Court from rescinding a default judgment in the absence of the applicant for rescission setting out the grounds of the defendant's defence to the claim. This is so even if the proceedings in which the judgment was obtained are a nullity.

Media Summary of Judgment

The Supreme Court of Appeal (the SCA) (Judges Zulman, Van Heerden and Acting Judge Cachalia) today dismissed an appeal against a judgment given in the High Court, Pietermaritzburg.

The High Court in dismissing an appeal from the Magistrate's Court, Durban, held that the magistrate was correct in requiring the appellant (Leo Manufacturing CC) to set out its defence fully when applying to rescind a default judgment granted in favour of Robor Industrial (Pty) Ltd t/a Robor Stewart & Lloyds. This requirement is clearly set out in the relevant rules of the Magistrate's Court.