

RULES OF THE HIGH COURT - (Outule Keatimilwe, Associate)

One cannot litigate in the High Court without knowledge of the Rules of the High Court. These rules, fondly referred to as “The Rules”, serve as a set of guidelines about civil procedure in the High Court.

When engaging in civil litigation, there are key considerations stipulated in The Rules which must be factored in and adhered to. The Rules make provision for various procedures which unfortunately cannot all be addressed in this article. The following must, however, be noted:

- The form of proceedings to be instituted: in terms of the Rules, a party may commence proceedings either by way of action or by application. Proceedings which are commenced by way of action are those in which it is anticipated that there will be disputes of fact and as such, oral evidence in a trial will be led. If a party elects to proceed by way of application, the case will be determined on the affidavits filed in Court and no oral evidence will be led. It is quite important to note that if proceedings are not commenced in the proper form, they could be dismissed and brought to an abrupt end.
- Time frames to be observed: this is one of the most important aspects in litigation. The Rules provide time frames within which Court documents should be filed once litigation has commenced. These are referred to as “Court days”. Court days exclude Saturdays, Sundays and public holidays. Additionally, there are four periods during the year known as the Court vacations. The first vacation shall commence on Monday immediately before Good Friday and terminate on the Monday immediately after Easter Monday; the second vacation shall commence on 1st July and terminate on 31st July; the third vacation shall commence on 15th October and terminate on 31st October, the fourth vacation shall commence on 15th December and terminate on 31st January. The last Court vacation period is also excluded from the computation of Court days. The lack of observance of time frames for the filing of Court documents may lead to judgment being granted or the matter simply being dismissed.
- Chronology of Court documents: depending on whether a litigant is proceeding by way of application or action, there are specific documents which must be filed in the prescribed forms. Every stage of litigation serves a particular purpose and skipping any step constitutes an irregular proceeding or step and could result in the matter being struck off.

It is clear from the foregoing that observance of The Rules is of paramount importance. Non-compliance with the Rules may be detrimental to a party's case. The Court has ruled in several decisions that infractions of rules of Court fall under two broad categories. First, minor or purely cosmetic infringements (not resulting in prejudice to any party) and the second, an infringement brought about by wilful disregard of the relevant rules. It is now an enshrined principle of our adjectival law that Courts will be slow to condone an infringement in the second category but loath to nonsuit a party on account of an infringement in the first category. Therefore, to avoid any technical objections to Court documents, a litigant must comply with the provisions of the Rules of the High Court.