

48 Review of taxation

RS 24, 2024, D1 Rule 48-1

(1) Any party dissatisfied with the ruling of the taxing master as to any item or part of an item which was objected to or disallowed *mero motu* by the taxing master, may within 15 days after the *allocatur* by notice require the taxing master to state a case for the decision of a judge.

(2) The notice referred to in subrule (1) must —

- (a) identify each item or part of an item in respect of which the decision of the taxing master is sought to be reviewed;
- (b) contain the allegation that each such item or part thereof was objected to at the taxation by the dissatisfied party, or that it was disallowed *mero motu* by the taxing master;
- (c) contain the grounds of objection relied upon by the dissatisfied party at the taxation, but not argument in support thereof; and
- (d) contain any finding of fact which the dissatisfied party contends the taxing master has made and which the dissatisfied party intends to challenge, stating the ground of such challenge, but not argument in support thereof.

(3) The taxing master must —

- (a) supply his or her stated case to each of the parties within 20 days after he or she has received a notice referred to in subrule (1); and
- (b) set out any finding of fact in the stated case.

(4) Save with the consent of the taxing master, no case shall be stated where the amount, or the total of the amounts, which the taxing master has disallowed or allowed, as the case may be, and which the dissatisfied party seeks to have allowed or disallowed respectively, is less than R100.

(5) (a) The parties to whom a copy of the stated case has been supplied, may within 15 days after receipt thereof make submissions in writing thereon, including grounds of objection not raised at the taxation, in respect of any item or part of any item which was objected to before the taxing master or disallowed *mero motu* by the taxing master.

(b) The taxing master must within 20 days after receipt of the submissions referred to in paragraph (a), supply his or her report to each of the parties.

(c) The parties may within 10 days after receipt of the report by the taxing master, make further written submissions thereon to the taxing master, who shall forthwith lay the case together with the submissions before a judge.

(6) (a) The judge may —

- (i) decide the matter upon the merits of the case and submissions so submitted;
- (ii) require any further information from the taxing master;
- (iii) if he or she deems it fit, hear the parties or their advocates or attorneys in his or her chambers; or
- (iv) refer the case for decision to the court.

(b) Any further information to be supplied by the taxing master to the judge must also be supplied to the parties who may within 10 days after receipt thereof, make written submissions thereon to the taxing master, who shall forthwith lay such information together with any submissions of the parties thereon before the judge.

RS 24, 2024, D1 Rule 48-2

(7) The judge or court deciding the matter may make such order as to costs of the case as he or she or it may deem fit, including an order that the unsuccessful party pay to the successful party the costs of review in a sum fixed by the judge or court.

[Rule 48 substituted by GN R849 of 25 August 2000.]

Commentary

General. The taxing master has a discretion to allow, reduce or reject items in a bill of costs. This discretion must be exercised judicially in the sense that the taxing master must act reasonably, justly and on the basis of sound principles with due regard to all the circumstances of the case.¹ The court is reluctant to interfere with the decisions of the taxing master upon matters in respect of which he is required to exercise a discretion entrusted to him.² The general principles governing interference with the exercise of a taxing master's discretion have been stated as follows:³

RS 23, 2024, D1 Rule 48-3

'The court will not interfere with the exercise of such discretion unless it appears that the taxing master has not exercised his discretion judicially and has exercised it improperly, for example, by disregarding factors which he should properly have considered, or considering matters which it was improper for him to have considered; or he has failed to bring his mind to bear on the question in issue; or he has acted on a wrong principle. The court will also interfere where it is of opinion that the taxing master was clearly wrong but will only do so if it is in the same position as, or a better position than, the taxing master to determine the point in issue. . . . The court must be of the view that the taxing master was clearly wrong, i.e its conviction on a review that he was wrong must be considerably more pronounced than would have sufficed had there been an ordinary right of appeal.'

A review of taxation is, therefore, not strictly a 'review' in the sense of the court interfering only with the exercise of an improper discretion; the powers of the court are wider than the known and recognized grounds to which a power of review is limited at common law.⁴ The court is entitled to set aside a taxing master's decision even if he had not exercised his discretion improperly.⁵ This rule entitles the judge, who is allocated a review in terms thereof, to hear argument from the parties or their representatives in chambers or the judge may refer the case for decision to the court.⁶ In cases where the review concerns matters of principle it is often advisable for the judge to hear such arguments or refer the matter to court and not to rely solely on the respective written submissions and reports furnished in terms of the rule.⁷

The rule only concerns itself with the limited class of matters expressly dealt with in subrule (1). This class does not, for example, include such questions as whether a person purporting to represent one of the parties is or is not entitled to appear before the taxing master.⁸ A taxing master has no power to condone the late filing of a notice of opposition to the taxation of a bill of costs. If the party opposing the taxation failed to object when before the taxing master, he cannot thereafter invoke the review of taxation procedure provided for in this rule. He should instead institute proceedings for an order setting aside the taxation.⁹

Review of taxation may take place where the costs are taxed by agreement.¹⁰

RS 23, 2024, D1 Rule 48-4

Rule 1 defines 'party' to include the party's attorney with or without an advocate, as the context may require. In this context it is clear that an attorney may launch a review of taxation without the assistance of an advocate.¹¹

Subrule (1): 'Any party.' Parties are those who figure on the record as parties, which includes in terms of rule 1 the attorney with or without the advocate, as the context may require, acting for such a litigant.¹² The taxing master need not take any cognizance of third parties who may have indemnified parties who figure as such on the pleadings.¹³

'Dissatisfied with the ruling of the taxing master.' Demand for and acceptance of payment of the amount at which a bill of costs has been taxed may be a bar to review of the taxation by the party accepting.¹⁴ However, having regard to the fact that execution is not normally stayed by a notice of review, a party who accepts payment of taxed costs where he has filed a notice of review can be debarred from proceeding with the review only if it is completely clear that by accepting the payment he accepts the taxing master's rulings or that his conduct is such as to be tantamount to an acceptance of such rulings and is wholly inconsistent with any idea of bringing the taxation in review.¹⁵ The issue of a writ of execution on a taxed bill of costs

does not preclude a review of the taxation if notice had been given prior to the writ.¹⁶ Payment by the party liable of a taxed bill of costs to avoid judgment being taken on it, is not necessarily acquiescence and does not bar review.¹⁷

'Any item or part of an item which was objected to or disallowed *mero motu*.' A review of taxation under this rule is limited to those cases where there was an objection and those where the taxing master disallows an item *mero motu*.¹⁸ A party who was not present at the taxation is not debarred from taking on review a decision of the taxing master whereby he *mero motu*, i.e. without any objection being raised, disallowed any item.¹⁹

'May within 15 days.' The time limit is imposed for the benefit of the respondent who may accordingly waive it.²⁰ Delay in setting in motion review proceedings may be condoned and the court will more readily grant condonation if the review raises a question of principle than if it depends upon matters of fact raised at the taxation.²¹

'After the allocatur.' No bill of costs, or any item thereof, can be reviewed unless the taxing master has affixed his *allocatur* to the bill.²²

RS 23, 2024, D1 Rule 48-5

'By notice.' The notice must contain the particulars laid down in subrule (2).²³ It is submitted that the notice must be signed by either the party or an attorney.²⁴ Notice of review of taxation, unlike the noting of an appeal, does not stay execution for the taxed costs.²⁵

'State a case for the decision of a judge.' The purpose of this provision is to give the reviewing judge a brief record of the taxation proceedings in which the issues between the parties are clearly defined and the findings of fact by the taxing master are set out.²⁶ The stated case also provides the basis for the contentions of the parties and the report of the taxing master.²⁷ The rule does not require the taxing master to 'write an essay'.²⁸

'A judge' means a judge sitting otherwise than in open court as opposed to 'a court'.²⁹

Subrule (2): General. The particulars laid down in this subrule are necessary to assist the taxing master to state the case.³⁰ If a dissatisfied party has, in terms of subrule (2)(a), identified certain items to be reviewed, but has failed, without good cause, to comply with subrule 2(b), (c) and (d) in respect of those items, the taxing master has no obligation to state a case. If the taxing master has rightly refrained from stating a case, there can be no question of the dissatisfied party having a right to make submissions in terms of subrule 5(a).³¹

Subrule (3): General. See the notes to subrule (1) s v 'State a case for the decision of a judge' above.

Subrule (5)(a): 'Make submissions in writing thereon.' The right to make submissions is confined to items on the bill in respect of which the taxing master has duly stated a case in accordance with subrule (3).³² If a party delays unreasonably in making submissions in terms of this subrule, the court may dismiss the application for review.³³

'Grounds of objection not raised at the taxation.' This subrule permits an applicant on review to object to items in the bill on grounds not advanced by him before the taxing master. The applicant is not entitled on review to object to items to which he did not object at the taxation.³⁴

RS 23, 2024, D1 Rule 48-6

Subrule (5)(b): 'The taxing master must . . . supply his or her report.' In the report the taxing master must set out his reasons in full.³⁵

Subrule (6)(a): 'The judge may.' This subrule provides for a hearing of sorts but such hearing relates and is limited to proceedings in terms of rule 48. A judge's competency under this rule does not extend beyond reviewing the taxation and the judge could not entertain an application on motion in terms of rule 27 in the capacity of a judge sitting otherwise than in an open court.³⁶ In terms of the subrule the judge has three options: (i) to decide the matter on the merits of the stated case and submissions submitted by the parties, supplemented by such further information as he may require from the taxing master;³⁷ (ii) to decide the matter after hearing the parties or their advocates or their attorneys in the judge's chambers, or (iii) to refer the case for decision to the court. The decision of a judge on review of taxation given in chambers may form the subject of an appeal.³⁸

Subrule (6)(a)(iv): 'Refer the case for decision to the court.' This subrule seeks, as far as possible, to simplify and reduce the cost of proceedings for review of taxation. A judge has power to hear the parties or their advocates or attorneys in the judge's chambers; or the judge may refer the matter to the court for argument. Normally this would be a court constituted before a single judge, but in appropriate cases the matter may be referred for hearing by a full court.³⁹ If circumstances permit, the court could direct that oral evidence be heard on specific issues with a view to resolving any dispute of fact.⁴⁰

Subrule (7): 'May make such order as to costs of the case as he or she or it may deem fit.' This subrule confers a discretion on a judge or court to make such an order as to costs as he or it may deem fit, including an order that the unsuccessful party pay the costs of review in a sum fixed by the judge or court. The general practice has been to award a nominal amount without reference to the costs actually incurred by the successful party.⁴¹ Litigants and practitioners have, however, been warned that in order to discourage reviews of taxation of costs that clearly have no prospect of success and merely waste the time of taxing masters and judges, the judge or court may award a realistic amount to cover all the costs of opposition of the opposing party.⁴²

¹ *City of Cape Town v Arun Property Development (Pty) Ltd 2009 (5) SA 227 (C)* at 232F-G; *Trollip v Taxing Mistress*, High Court 2018 (6) SA 292 (ECG) at 298D-I; *Van Pletzen v Taxing Master of the High Court* (unreported, FS case no 4992/2014 dated 15 January 2021) at paragraphs [17]-[20]; *Zanella v Harty* (unreported, GJ case no 31131/2020 dated 11 April 2022) at paragraph [27]. See further the notes to rule 70(3) s v 'General' below.

² This reluctance has been expressed in many cases; for example in *Gundelfinger v Norwich Union Fire Insurance Society Ltd* 1916 TPD 341 at 343; *Freitas v Rechtman* 1921 CPD 853; *Bensusan v Sterling and Mockford NO* 1930 WLD 303 at 305; *Paton v Santam Insurance Co Ltd* 1967 (1) SA 98 (E) at 100; *Engel v Engel* 1975 (1) SA 879 (SWA); *Horseshoe Caterers (Green Point) Pty Ltd v Burnkloof Caterers (Pty) Ltd* 1977 (3) SA 383 (C); *Majola v Union and South West Africa Insurance Co Ltd* 1978 (2) SA 154 (SE); *Lander v O'Meara* 2011 (1) SA 204 (KZD) at 209H; *Zanella v Harty* (unreported, GJ case no 31131/2020 dated 11 April 2022) at paragraph [28].

³ *In Visser v Gubb* 1981 (3) SA 753 (C) at 754H-755C. These principles have been stated and restated in, for example, *Nourse Mines Ltd v Clarke* 1910 TPD 660; *Bensusan v Sterling and Mockford NO* 1930 WLD 303; *Cash Wholesalers Ltd v Natal Pharmaceutical Society and the Taxing Master* 1937 NPD 418; *Wellworths Bazaars Ltd v Chandlers Ltd* 1947 (4) SA 453 (T); *Bertish v Standard Bank of SA Ltd* 1956 (4) SA 9 (C); *Century Trading Co (Pty) Ltd v The Taxing Master* 1958 (1) SA 78 (W); *Kock v SKF Laboratories (Pty) Ltd* 1962 (3) SA 764 (E); *Adamant Laboratories (Pty) Ltd v General Electric Co* 1964 (3) SA 363 (T); *Duvos (Pty) Ltd v Newcastle Town Council* 1965 (4) SA 553 (N); *Minister of Water Affairs v Meyburg* 1966 (4) SA 51 (E); *Legal and General Assurance Society Ltd v Lieberum NO* 1968 (1) SA 473 (A); *Cordingley NO v BP Southern Africa (Pty) Ltd* 1971 (3) SA 118 (O); *Groenewald v Salford Motors (Edms) Bpk* 1971 (3) SA 677 (C); *Kruger v Secretary for Inland Revenue* 1972 (1) SA 749 (C); *Miller v Hosiosky* 1973 (1) SA 113 (W); *City Deep Ltd v Johannesburg City Council* 1973 (2) SA 109.

(W); General Leasing Corporation Ltd v Louw [1974 \(4\) SA 455 \(C\)](#); Noel Lancaster Sands (Pty) Ltd v Theron [1975 \(2\) SA 280 \(T\)](#); Chemical Formulators and Consultants (Pty) Ltd v Detsave Chemicals (Pty) Ltd [1976 \(1\) SA 638 \(W\)](#); Mcunu v Southern Insurance Association Ltd [1977 \(2\) SA 18 \(SE\)](#); Le Chasseur Boere (Edms) Bpk v Maine Chance Farms (Pty) Ltd [1978 \(3\) SA 358 \(C\)](#); Koekemoer v Du Toit [1979 \(1\) SA 771 \(T\)](#); Ocean Commodities Inc v Standard Bank of SA Ltd [1984 \(3\) SA 15 \(A\)](#); Cambridge Plan AG v Cambridge Diet (Pty) Ltd [1990 \(2\) SA 574 \(T\)](#) at 577H–579B; Baars v Near East Rand Darts Association [1993 \(3\) SA 171 \(W\)](#) at 172I–173B; Kloot v Interplan Inc [1994 \(3\) SA 236 \(SE\)](#) at 238H; Henpet Shades CC v Garzouzie [1998 \(3\) SA 929 \(O\)](#) at 935B–C; Payen Components South Africa Ltd v Bovic Gaskets CC [1999 \(2\) SA 409 \(W\)](#); Protea Life Co Ltd v Mich Quenet Financial Brokers [2001 \(2\) SA 636 \(O\)](#) at 642C; President of the Republic of South Africa v Gauteng Lions Rugby Union [2002 \(2\) SA 64 \(CC\)](#) at 73C–D; City of Cape Town v Arun Property Development (Pty) Ltd [2009 \(5\) SA 227 \(C\)](#); Lander v O'Meara [2011 \(1\) SA 204 \(KZP\)](#) at 209H–210C; Society of Advocates of KwaZulu-Natal v Levin [2015 \(6\) SA 50 \(KZP\)](#) at 57E–I; Trollip v Taxing Mistress, High Court [2018 \(6\) SA 292 \(ECG\)](#) at 297G–298C; Savanha Construction and Maintenance CC v Phillips (unreported, LP case no 3803/2019 dated 13 May 2020) at paragraph [15]; Van Pletzen v Taxing Master of the High Court (unreported, FS case no 4992/2014 dated 15 January 2021) at paragraphs [17]–[20]; Strauss Daly v Member of the Executive Council, Health KwaZulu-Natal (unreported, KZP case no 2899/2021P dated 20 September 2021) at paragraphs [7]–[10]; Zanella v Harty (unreported, GJ case no 3113/2020 dated 11 April 2022) at paragraph [28]; Osho Agri Investments (Pty) Ltd v Honey Attorneys (unreported, FB case no 3088/2021 dated 6 June 2022) at paragraphs [13]–[15]; Milnerton Riding Club N.O. v Milnerton Riding School (Pty) Ltd (unreported, WCC case nos 12847/2020 and 11484/2022 dated 23 November 2022) at paragraph [8]; Life Rosepark Hospital v Taxing Master of The High Court (unreported, FB case no 3088/2021 dated 28 November 2022) at paragraph [16]; Findlater t/a Findlater Attorneys v M B Morton Estates (Pty) Ltd (unreported, KZP case no 6994/2022P dated 29 November 2022) at paragraphs [11]–[13]; Soma v Yusuf (unreported, GP case no 75876/13 dated 9 December 2022) at paragraph [31] and the cases there referred to; Aeterno Investments 192 CC t/a Ramlin Square v Polokwane Local Municipality (unreported, LP case no 6302/2018 dated 16 February 2023) at paragraph [7]; JB Scott Attorneys v Tetani (unreported, GP case no 36381/2019 dated 26 May 2023) at paragraph [6]; Pillay v Body Corporate of Dumbarton Oaks (unreported, GJ case no 2021/11082 dated 6 June 2023) at paragraph [2]; JJVR v Taxing Master High Court of South Africa (Western Cape Division) [2024 \(2\) SA 457 \(WCC\)](#) at paragraph [88].

4. This was put beyond doubt by the Appellate Division in *Legal and General Assurance Society Ltd v Lieberum NO* [1968 \(1\) SA 473 \(A\)](#) at 478G. See also *Century Trading Co (Pty) Ltd v The Taxing Master* [1958 \(1\) SA 78 \(W\)](#) at 84; *Koekemoer v Parity Insurance Co Ltd* [1964 \(4\) SA 138 \(T\)](#) at 144; *Minister of Water Affairs v Meyburg* [1966 \(4\) SA 51 \(E\)](#); *Groenewald v Salford Motors (Edms) Bpk* [1971 \(3\) SA 677 \(C\)](#) at 679; *Warmbad Makelaars v Marais* [1983 \(2\) SA 417 \(T\)](#); *Fedmech EFS (Edms) Bpk v Saaiman* [1990 \(4\) SA 637 \(O\)](#) at 6411–642B; *Protea Life Co Ltd v Mich Quenet Financial Brokers* [2001 \(2\) SA 636 \(O\)](#) at 642C–D; *JJVR v Taxing Master High Court of South Africa (Western Cape Division)* [2024 \(2\) SA 457 \(WCC\)](#) at paragraph [89].

5. *Benson v Union National South British Insurance Co Ltd* [1979 \(3\) SA 710 \(T\)](#) at 712E; *Warmbad Makelaars v Marais* [1983 \(2\) SA 417 \(T\)](#) at 420H; *City of Cape Town v Arun Property Development (Pty) Ltd* [2009 \(5\) SA 227 \(C\)](#) at 232G–H.

6. *Road Accident Fund v Le Roux* [2002 \(1\) SA 751 \(W\)](#) at 756C.

7. *Road Accident Fund v Le Roux* [2002 \(1\) SA 751 \(W\)](#) at 756D.

8. *Brener NO Sonnenberg, Murphy, Leo Burnett (Pty) Ltd (formerly D'Arcy Masins Benton & Bowless SA (Pty) Ltd)* [1999 \(4\) SA 503 \(W\)](#) at 519A–D. In *JJVR v Taxing Master High Court of South Africa (Western Cape Division)* [2024 \(2\) SA 457 \(WCC\)](#), the full court, in an *obiter dictum*, however stated:

'[90] . . . But if, for example, a party wanted to object to a Taxing Master's decision on the basis of, say, bias or interest in the cause, I would think that the wide interpretation which has been placed on the powers of the court of review under rule 48 would be sufficient to enable a party to take the point. It seems to me, therefore, that there is little necessity, if any, for a review under PAJA.'

9. *Olgar v Minister of Safety and Security* [2012 \(4\) SA 127 \(ECG\)](#) at 132H–I, 133A–C and 133H.

10. *Thorne v Retail Trades Inquiry Bureau Ltd* 1936 TPD 310.

11. *Nedperm Bank Ltd v Desbie (Pty) Ltd* [1995 \(2\) SA 711 \(W\)](#) 712H.

12. See *M J Silver, Rothbart & Cohen: In re Lowveld Macadamia Industries Bpk (in likwidiasie)* [1996 \(4\) SA 633 \(T\)](#) at 636B.

13. *Skosana v DACM Carriers (Pty) Ltd* [1975 \(1\) SA 944 \(T\)](#); and see *Roux v Kennedy* 1912 CPD 80.

14. *Michaelis v Weston & Co* (1884) 4 EDC 306; *Gordon v The Master* 1924 CPD 443; *John Meinert (Pty) Ltd v Reprich* [1981 \(4\) SA 643 \(SWA\)](#).

15. *Bayview (Pty) Ltd v Director of Valuations* [1989 \(1\) SA 999 \(C\)](#) at 1003D.

16. *Rademeyer v Krook* 1920 OPD 13.

17. *Niehaus v Elöff* 1913 TPD 183, where the court applied the principles laid down in *Hlatshwayo v Mare and Deas* [1912 AD 242](#) at 255.

18. *Mcunu v Southern Insurance Association Ltd* [1977 \(2\) SA 18 \(SE\)](#) at 19A. See also *Oil & Feed Mills v Coleske* [1966 \(4\) SA 459 \(E\)](#); *Gran-or (Edms) Bpk v Bevan* [1969 \(2\) SA 87 \(T\)](#) at 89H; *Rogoff v Law Society, Cape* [1982 \(1\) SA 563 \(C\)](#) at 569; *Daywine Properties (Pty) Ltd v Murphy* [1991 \(3\) SA 216 \(D\)](#).

19. See *Oil & Feed Mills v Coleske* [1966 \(4\) SA 459 \(E\)](#) at 460E–461A; *Gran-or (Edms) Bpk v Bevan* [1969 \(2\) SA 87 \(T\)](#) at 89H; *Rogoff v Law Society, Cape* [1982 \(1\) SA 563 \(C\)](#) at 569C–D.

20. *Preller v Jordaan* [1957 \(3\) SA 201 \(O\)](#) at 202F, following *Maseto v Pleskus* 1917 TPD 366 at 368.

21. *Maseto v Pleskus* 1917 TPD 366 at 368; *Steel NO v Davis* [1950 \(3\) SA 432 \(W\)](#) at 437. Condonation can only be granted by the reviewing judge (*Brivik Bros (Pty) Ltd v Balmoral Sales Corporation (Pty) Ltd* [1978 \(4\) SA 716 \(W\)](#); *Vaatz v Law Society of Namibia* [1994 \(3\) SA 536 \(NmHC\)](#)) at 538E.

22. *Pretorius v Cohen* [1953 \(3\) SA 639 \(O\)](#); *SA Fine Worsteds (Pty) Ltd v Niemeyer* [1956 \(2\) SA 49 \(C\)](#); *Van Reenen v Ocean Accident and Guarantee Corporation Ltd* [1962 \(4\) SA 232 \(C\)](#); *Georgian House Antiques (Pty) Ltd v Henri Lidchi & Co Ltd* [1970 \(2\) SA 488 \(D\)](#) at 491.

23. See also *Brener NO v Sonnenberg, Murphy, Leo Burnett (Pty) Ltd (formerly D'Arcy Masins Benton & Bowless SA (Pty) Ltd)* [1999 \(4\) SA 503 \(W\)](#) at 512D–G.

24. Cf *Nedperm Bank Ltd v Desbie (Pty) Ltd* [1995 \(2\) SA 711 \(W\)](#) at 712B–I.

25. *Stent and Pretoria Printing Works Ltd v Roos* 1909 TS 1054 at 1055; *Bayview (Pty) Ltd v Director of Valuations* [1989 \(1\) SA 999 \(C\)](#) at 1002H–1003B.

26. For a case where the stated case by the taxing master was of no assistance to the reviewing judge, see *Savanha Construction and Maintenance CC v Phillips* (unreported, LP case no 3803/2019 dated 13 May 2020) at paragraphs [15] and [32].

27. *Fourie v The Taxing Master* [1983 \(4\) SA 210 \(O\)](#) at 211H; see also *Kruger v Sekretaris van Binnelandse Inkomste* [1973 \(3\) SA 231 \(A\)](#) at 232F–H and *Nedperm Bank Ltd v Desbie (Pty) Ltd* [1995 \(2\) SA 711 \(W\)](#) at 712I–713C.

28. *Nedperm Bank Ltd v Desbie (Pty) Ltd* [1995 \(2\) SA 711 \(W\)](#) at 713A–G; *Brener NO v Sonnenberg, Murphy, Leo Burnett (Pty) Ltd (formerly D'Arcy Masins Benton & Bowless SA (Pty) Ltd)* [1999 \(4\) SA 503 \(W\)](#) at 508B–C; *Findlater t/a Findlater Attorneys v M B Morton Estates (Pty) Ltd* (unreported, KZP case no 6994/2022P dated 29 November 2022) at paragraph [24]. See further the notes to subrule (2) below.

29. *Mahomed v Mahomed* [1999 \(1\) SA 1150 \(E\)](#) at 1152A–C. See also the notes to rule 1 s v 'Court' and 'Judge' above.

30. See *Brener NO v Sonnenberg, Murphy, Leo Burnett (Pty) Ltd (formerly D'Arcy Masins Benton & Bowless SA (Pty) Ltd)* [1999 \(4\) SA 503 \(W\)](#) at 512D–G.

31. *Aircraft Completions Centre (Pty) Ltd v Rossouw* [2004 \(1\) SA 123 \(W\)](#) at 140E–F.

32. *Aircraft Completions Centre (Pty) Ltd v Rossouw* [2004 \(1\) SA 123 \(W\)](#) at 140F.

33. Cf *Berndt v Berndt* [1963 \(3\) SA 838 \(E\)](#).

34. *Daywine Properties (Pty) Ltd v Murphy* [1991 \(3\) SA 216 \(D\)](#). See also *Oil & Feed Mills v Coleske* [1966 \(4\) SA 459 \(E\)](#); *Gran-or (Edms) Bpk v Bevan* [1969 \(2\) SA 87 \(T\)](#) at 89H; *Mcunu v Southern Insurance Association Ltd* [1977 \(2\) SA 18 \(SE\)](#) at 19A; *Rogoff v Law Society, Cape* [1982 \(1\) SA 563 \(C\)](#) at 569.

35. *Nedperm Bank Ltd v Desbie (Pty) Ltd* [1995 \(2\) SA 711 \(W\)](#) at 713A–C; *Brener NO v Sonnenberg, Murphy, Leo Burnett (Pty) Ltd (formerly D'Arcy Masins Benton & Bowless SA (Pty) Ltd)* [1999 \(4\) SA 503 \(W\)](#) at 508C–D.

36. *Mahomed v Mahomed* [1999 \(1\) SA 1150 \(E\)](#) at 1152C–F.

37. The question whether it is permissible for the reviewing judge to hear new evidence on a disputed item was left open in *Van der Westhuizen v Gibon* [1983 \(1\) SA 95 \(O\)](#).

38. *Vaaltyn v Goss* [1992 \(3\) SA 549 \(E\)](#) at 561; and see *Bergh v Khanderia & Sons* 1924 TPD 560.

39. See, for example, *Bertish v Standard Bank of SA Ltd* [1956 \(4\) SA 9 \(C\)](#); *The Master v Gerber; Thomas v Minister of Law and Order* [1989 \(2\) SA 659 \(E\)](#).

40. *Phillips v Bradbury* (unreported, WCC case no 15570/13 dated 7 February 2024).

41. *Madlala v Southern Insurance Association Ltd* [1982 \(4\) SA 280 \(D\)](#); *Society of Advocates of KwaZulu-Natal v Levin* [2015 \(6\) SA 50 \(KZP\)](#) at 73D.

42. *Madlala v Southern Insurance Association Ltd* [1982 \(4\) SA 280 \(D\)](#). With this object in view, the judge in this matter heard the parties' attorneys in chambers to ascertain precisely what costs the respondent had incurred in opposing the review, and ordered the applicant to

pay to the respondent an amount of R320 as and for costs.