

“ANNEXURE 11”
Practice Directive 61

IN THE HIGH COURT OF NAMIBIA

Case Title: NAMIB MILLS (PTY) LIMITED // BOKOMO FOODS NAMIBIA (PTY) LTD	Case No: HC-MD-CIV-MOT-GEN-2018/00398
	Division of Court: HIGH COURT (MAIN DIVISION)
Heard before: HONOURABLE MR JUSTICE ANGULA, DEPUTY JUDGE- PRESIDENT	Date of hearing: 13 FEBRUARY 2019
	Delivered on: 20 FEBRUARY 2019
Neutral citation: <i>Namib Mills (Pty) Limited v Bokomo Foods Namibia (Pty) Ltd</i> (HC-MD-CIV-MOT-GEN-2018/00398) [2019] NAHCMD 30 (20 February 2019)	
The order: Having heard Mr Salmon SC (with him Mr Maasdorp), counsel for the applicant, and Mr Heathcote SC (with him Ms van der Westhuizen), counsel for the respondent, and having read the documents filed of record: IT IS ORDERED THAT: <ol style="list-style-type: none">1. The applicant is directed to file its replying affidavit on or before <i>28 February 2019</i>.2. The respondent is to file its heads of argument on or before <i>7 March 2019</i>.3. The matter is postponed to 13 March 2019 at 09h30 for hearing, subject to counsel’s availability, alternatively for case management for the purpose of fixing a date for the hearing of arguments with regard to the interim order sought by the applicant.4. The respondent is ordered to pay the wasted costs of the proceedings of 13 and 14 February 2019.	
Reasons for orders:	
<i>The court is not inclined to consider the issue of the interim interdict sought by the applicant at this stage of the proceedings for the following reasons:</i>	

[1] The applicant has not filed its replying affidavit. Moreover the applicant has indicated to the court that it is not prepared to waive its right to file its replying affidavit.

[2] In the light of the foregoing, the court is of the view that the pleadings have not closed and the parties have not joined issues. Under those circumstances the court is of the considered view that it would be premature to consider exercising its discretion whether or not to grant an interim interdict.

[3] Furthermore, the court is not persuaded that it would be in line with the overriding objectives of the rules of this court to consider the issue of an interim interdict while the pleadings are still open. To the contrary, the court is of the view that to do so, would amount to piecemeal approach to the matter and in conflict with the overriding objectives of the rules of this court.

[4] Given the fact that the issue of urgency has fallen by the wayside, the court is of the further view that it would not be in the interests of justice to consider the issue of an interim interdict without full factual matrix before it and without proper reflection on both legal and factual matters.

[5] During the preliminary hearing on 13 February 2019, counsel for the respondent indicated to the court that the respondent was offering wasted costs for the day. In my view, the offer was well made, taking into consideration the respondent's application for condonation for the late filing of the answering affidavit. Accordingly an order will be made to that effect.

Judge's signature:	Note to the parties:
	Not applicable.
Counsel:	
Applicant	Respondent
O Salmon SC (with him R Maasdorp) <i>Instructed by</i> Theunissen, Louw & Partners, Windhoek	R Heathcote SC (with him C E van der Westhuizen) <i>Instructed by</i> Engling, Stritter & Partners, Windhoek