

Short notes on:

AN IRREGULAR STEP IN LITIGATION PROCEEDINGS

Introduction

Litigation can often be bitter, hostile, and a long, drawn-out process. This is why we have established Court Rules to ensure that the proceedings are fair and matters can be resolved expeditiously. However, what happens if a party to a dispute does not follow the court rules? Are there steps that can be taken to rectify the issue? The court rules provide many remedies to ensure strict compliance with the rules, one being the irregular step proceedings.

What Is An Irregular Step?

The court rules set out exactly how a matter should be initiated, each step that follows, and the time frames for each action to take place. An irregular occurs when a disputing party has taken a step inconsistent with the court rules. This step is irregular as it goes against the flow of how litigation proceedings are meant to be run.

What Action Can Be Taken In The Case Of An Irregular Step?

In terms of Rule 60A of the Magistrates' Court Rules and Rule 30 of the Uniform Rules of Court, a party to a cause in which any other party has taken an irregular step may apply for the court to set it aside such a step. The application will be made by giving notice to all the parties, stipulating the particulars of the impropriety or irregularity alleged. This application may only be made if the following requirements are met:

- a) That the applicant has not taken any further steps in the proceedings while having knowledge of the irregularity;

- b) That the applicant has by written notice, within ten days of becoming aware of the irregular step, given the other party/parties, an opportunity to within ten days remove the cause of complaint.
- c) And that the application is within 15 days subsequent to the expiration of the second period delivered.

If the court is satisfied that the step or proceedings are improper or irregular after hearing such an application, it may set it aside wholly or in part. This may be granted against all or some of the parties. Until the party/parties against whom the order in terms of these rules have been granted complies with the order, they may not take any additional steps in the cause. The only thing they will be able to do is to apply for an extension of time to comply with the order.

Conclusion

In conclusion, it is crucial to know how the litigious process works and the rules that govern it. Failure to do so can result in litigation proceedings being drawn out and extremely costly. It is imperative to consult with a legal professional before entering into any legal proceedings to ensure you comply with the court rules and protect yourself and others against avoidable legal steps taken against you.

Contact an attorney at SchoemanLaw for your legal needs!