

**In the Supreme Court of Appeal of South Africa
MEDIA SUMMARY –**

In the matter between

1) ROAD ACCIDENT FUND and ISHWARDUTT RAMPUKAR	Case No: 543/06 APPELLANT RESPONDENT
2) ROAD ACCIDENT FUND and JENNIFER BUSIE GUMEDE	Case No: 314/07 APPELLANT RESPONDENT

From: The Registrar, Supreme Court of Appeal
Date: 2007-11-28
Status: Immediate

1. On 28 November 2007 the SCA dismissed the appeals of the Road Accident Fund (RAF) in these two matters. The appeals turned on the interpretation of s 3(1)(a) of the Interim Rationalisation of Jurisdiction of High Courts Act 41 of 2001. Broadly stated, the section affords the High Court the authority to order the removal of civil proceedings instituted in that court to another High Court if it appears to the former that such proceedings should have been instituted in the latter.

2. The two respondents both instituted their actions – arising from motor vehicle accidents – against the RAF in what turned out to be the wrong High Court. They then successfully applied for the transfer of their cases to the right courts under the provisions of s 3(1)(a) of the Act. The RAF's contention was, however, that in the context of the Act as a whole, the relief afforded by the section is available only to litigants whose mistake arose from a change in the jurisdiction of the High Court in which the action was wrongly instituted, pursuant to the other provisions of the Act. Since the reasons why the respondents in the two appeals instituted their actions in the wrong High Courts had nothing to do with any change in the jurisdiction of those courts, so the RAF argued, these actions should not have been transferred to the right courts. This would effectively mean that the claims of both the respondents against the RAF would have been extinguished by prescription.

3. The SCA did not agree with the RAF's interpretation of s 3(1)(a), essentially for two reasons. Firstly, because the plain language of the section does not allow for the limitation relating to the reason for the litigant's mistake contended for by the RAF. Secondly, because any restriction in the operation of the section which depended on the reason why the litigant mistakenly instituted action in the wrong court, would lead to an irrational and unfair discrimination between litigants whose mistakes, though originating from different reasons, are equally excusable. An intention to cause such irrational discrimination, so the SCA held, cannot be attributed to the legislature.

4. In consequence the transfers of the actions ordered by the High Court in both matters were upheld.