JUDICIAL CONDUCT COMMITTEE

Ref No: JSC/264/11/2025

In the matter between:

MS R MASILO **COMPLAINANT**

and

DEPUTY JUDGE PRESIDENT J T DJAJE **RESPONDENT**

Date: 02 November 2026

Decision: The complaint against Deputy Judge President Djaje is dismissed in terms of section 17(4)(*a*) of the Judicial Service Commission Act 9 of 1994.

RULING

THE JUDICIAL CONDUCT COMMITTEE (MLAMBO DCJ)

Introduction

[1] Ms Masilo lodged a complaint, dated 26 October 2025, against Deputy Judge President Djaje of the North West Division of the High Court. The complaint

concerns the respondent's handling of a chamber-book application in case number M650/2021 and an order dated 24 January 2025.

[2] On 16 July 2026, the respondent was invited to answer the complaint and provided written representations on 31 July 2026. On 13 August 2026, the complainant was invited to comment and delivered her reply on 27 August 2026. I have considered the complaint, the respondent's representations, the complainant's reply and the order of 24 January 2025.

[3] Section 17 of the Judicial Service Commission Act 9 of 1994 (the Act) requires an inquisitorial inquiry into the merits of the complaint. No person bears an onus to prove or disprove a fact,[1] and the determination must be made on the information obtained under section 17(3).[2]

The Complaint

[4] The chamber-book application was brought to correct an order dated 18 November 2022. The complainant had filed a notice of opposition. She alleges

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[1] Sections 17(1) and (2) of the Act provide, "If—

(a) the Chairperson is satisfied that, in the event of a valid complaint being established, the appropriate remedial action will be limited to one or more of the steps envisaged in subsection (8); or

(b) a complaint is referred to the Chairperson in terms of section 15 (1) (b) or section 16 (4) (a), or section 18 (4) (a) (ii), the Chairperson or a member of the Committee designated by the Chairperson must inquire into the complaint in order to determine the merits of the complaint.

(2) Any inquiry contemplated in this section must be conducted in an inquisitorial manner and there is no onus on any person to prove or to disprove any fact during such investigation."

[2] Section 17(3) of the Act provides, "[f]or the purpose of an inquiry referred to in subsection (2), the Chairperson or member concerned—

(a) must invite the respondent to respond in writing or in any other manner specified, and within a specified period, to the allegations;

(b) may obtain, in the manner that he or she deems appropriate, any other information which may be relevant to the complaint; and

(c) must invite the complainant to comment on any information so obtained, and on the response of the respondent, within a specified period."

that the respondent nevertheless dealt with the application on 24 January 2025 without notice to her and that the resulting order falsely recorded that she had appeared in person and had been heard.

[5] The complainant further alleges that the respondent had been informed of irregularities concerning a warrant said to be inconsistent with the earlier order, but failed to address those concerns. She contends that the chamber-book application progressed while related spoliation and rescission proceedings remained unresolved, thereby impairing her access to the Court.

[6] She asks that the inaccurate recital and the respondent's alleged failure to address the wider irregularities be investigated. She also asks that the respondent be directed to recuse herself from the pending proceedings.

The Response and Reply

[7] The respondent confirms that, on 24 January 2025, Nienaber & Wissing Attorneys placed a chamber-book application before her on behalf of the applicants. The application sought the correction of the order dated 18 November 2022.

[8] Upon receiving the file, the respondent noticed that the complainant had filed a notice of opposition. She therefore ordered that the application be set down for oral submissions in open court. At the time of her response, dated 31 July 2026, she stated that the application had not yet been heard in open court and had been set down for 29 October 2026.

[9] The respondent states that no one appeared before her on 24 January 2025. She acknowledges that the order signed by the Registrar incorrectly records an appearance and suggests that the reference may have arisen from previous appearances in the main application.

[10] The introductory recital in the order states that counsel for the applicants and the complainant in person were heard. Its operative provisions record that the chamber-book application is opposed and direct the applicants to set it down for oral submissions on a date to be arranged with the Registrar.

[11] In reply, the complainant relies on the respondent's confirmation that no appearance occurred and that the recital is incorrect. She maintains that the respondent has not explained how the order came to record an appearance or why the record was not corrected after the error was raised.

[12] The complainant also maintains that her complaint was broader than the incorrect recital. She says that the respondent did not address the alleged irregularities concerning the warrant, the unresolved related proceedings, the difficulties she experienced in accessing the Court and obtaining legal representation, or the communications through which she says those matters were brought to the respondent's attention.

Applicable Legal Framework

[13] Section 14(4)(*b*) of the Act permits a complaint based on a wilful or grossly negligent breach of the Code of Judicial Conduct (the Code). Section 14(4)(*e*) concerns any other wilful or grossly negligent conduct incompatible with or

unbecoming the holding of judicial office.[3] Article 2(3) of the Code reflects the same threshold.[4]

[14] Article 4(a) requires a Judge to uphold the independence and integrity of the judiciary and the authority of the courts. Article 5(1) requires a Judge to act honourably and in a manner befitting judicial office. Article 8 concerns the accessibility and transparency of judicial proceedings,[5] while Article 9 requires disputes to be resolved in a fair hearing.[6]

[15] Note 9(v) recognises that Judges may err in fact or law and that such errors are dealt with through the ordinary appeal and review procedures. It also states that complaints relating to the merits of a decision or procedural ruling must be dismissed at the outset.

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[3] Section 14(4) of the Act provides, "[t]he grounds upon which any complaint against a judge may be lodged, are any one or more of the following:

(a) Incapacity giving rise to a judge's inability to perform the functions of judicial office in accordance with prevailing standards, or gross incompetence, or gross misconduct, as envisaged in section 177 (1) (a) of the Constitution;

(b) Any wilful or grossly negligent breach of the Code of Judicial Conduct referred to in section 12, including any failure to comply with any regulation referred to in section 13 (5);

(c) Accepting, holding or performing any office of profit or receiving any fees, emoluments or remuneration or allowances in contravention of section 11;

(d) Any wilful or grossly negligent failure to comply with any remedial step, contemplated in section 17 (8), imposed in terms of this Act; and

(e) Any other wilful or grossly negligent conduct, other than conduct contemplated in paragraph (a) to (d), that is incompatible with or unbecoming the holding of judicial office, including any conduct that is prejudicial to the independence, impartiality, dignity, accessibility, efficiency or effectiveness of the courts."

[4] Article 2(3) of the Code provides, "Any wilful or grossly negligent breach of this Code is a ground upon which a complaint against a judge may be lodged in terms of section 14 (4) (b) of the Act."

[5] Article 8 of the Code provides, "[a] judge must—

(a) take reasonable steps to enhance the accessibility of the courts and to improve public understanding of judicial proceedings …".

[6] Article 9(a) of the Code provides, "[a] judge must—

(a) resolve disputes by making findings of fact and applying the appropriate law in a fair hearing …".

[16] The statutory threshold is high. In *Fischer v De Broglio Attorneys Incorporated*,[7] the Judicial Conduct Committee described wilful conduct as intentional or deliberate conduct, including conduct undertaken with knowledge that harm is likely, and gross negligence as a severe degree of negligence involving reckless disregard or blatant indifference to legal duty or the rights of others.

Evaluation

[17] It is common cause that the recital recording the complainant's appearance is incorrect. That should be stated plainly. A court order must accurately record what occurred. The disciplinary question, however, is whether the information establishes that the respondent was responsible for a wilful or grossly negligent breach of the Code.

[18] There is no inconsistency between the respondent considering the file and issuing a procedural direction, on the one hand, and her confirmation that no oral appearance occurred, on the other. The chamber-book application was placed before her on the papers. She noticed that it was opposed and directed that it be set down for oral submissions in open court.

[19] The operative provisions of the order accord with that account. The application was not determined in the applicants' favour and no substantive relief was granted against the complainant. The order recognised her opposition and preserved her opportunity to be heard before the application was decided.

[7] [2025] ZAJSC 22 at paragraphs 22-24.

[20] The incorrect recital is a separate matter. The information does not establish who inserted it into the order. There is no information that the respondent drafted the recital, directed that it be included, knew that it was inaccurate when the order was issued, or intended to create a false record of an appearance.

[21] The respondent's suggestion that the recital may have been carried over from previous appearances is not disproved by the material before me. Even if the error ought to have been detected earlier, the information does not establish fabrication, dishonesty, reckless indifference or a total failure to take care by the respondent.

[22] The complainant says that the error was raised but remained uncorrected. The record contains no copies of the communications said to have been sent to the respondent, no dates on which she personally received them and no response showing that she deliberately refused to address the error. The absence of that information does not permit a finding that the respondent acted wilfully or with gross negligence.

[23] The broader allegations present the same difficulty. The record does not contain the warrant, the communications said to have been directed to the respondent, or material establishing that she personally obstructed the related proceedings or the complainant's access to the Court. The fact that the respondent holds a judicial leadership office does not make her disciplinarily responsible for every alleged irregularity in the administration of the Court.

[24] The complainant also objects to the sequence in which the chamber-book application and the related proceedings were dealt with. On the information before me, that concerns case management and procedural decisions. There is no evidence

of an improper motive, favouritism or a deliberate attempt by the respondent to prevent the complainant's matters from being heard.

[25] The JCC does not sit as a court of appeal or review. It is not the function of this disciplinary inquiry to invalidate or amend a court order, direct the re-enrolment of proceedings or determine whether the respondent should recuse herself from a pending matter. Those questions must be pursued through the appropriate judicial processes.

[26] The facts material to the complaint are contained in the written record. There is no reasonable likelihood that a formal hearing will contribute to determining its merits.

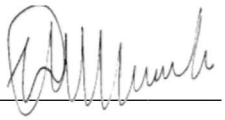
Conclusion

[27] The inaccurate recital should not have appeared in the order. The information does not, however, establish that the respondent caused or knowingly adopted it, or that her conduct was wilful or grossly negligent. The operative order recognised the complainant's opposition and directed that she be afforded an opportunity to be heard in open court.

[28] The remaining allegations are not supported by information connecting the respondent personally to the alleged obstruction or other irregularities. The threshold required by sections 14(4)(*b*) and 14(4)(*e*) of the Act has therefore not been met, and the complaint must be dismissed under section 17(4)(*a*).

Ruling

[29] The complaint against Deputy Judge President Djaje is dismissed in terms of section 17(4)(*a*) of the Judicial Service Commission Act 9 of 1994.



THE JUDICIAL CONDUCT COMMITTEE