

Prima Fuels Limited and Another v Total Malawi Limited and Another Commercial Cause Number 259 of 2019

Summary

Court:	High Court of Malawi
Registry:	Commercial Division
Bench:	Honourable Justice Trouble Kalua
Cause Number:	Commercial Cause Number 259 of 2019
Bar:	For the 1st Claimant: Counsel E. Phiri For the 2nd Defendant: Counsel N. Chalamanda

The 1st Claimant applied to the High Court (Commercial Division) to strike out the 1st Defendant's notice of appeal or to vacate the order for stay of proceedings for the alleged failure to file "initial" skeleton arguments. The application was brought under Order 10 rule 1 of the Courts (High Court) (Civil Procedure) Rules, 2017 and supported by a sworn statement from counsel. The 1st Defendant opposed the application, arguing that the obligation to file skeleton arguments only arises after the record of appeal has been filed and lodged in the Supreme Court of Appeal.

The procedural history of the matter included multiple rulings from various judges concerning stays of proceedings and other related issues. The Court considered whether the 1st Defendant had to file skeleton arguments with the notice of appeal. The 1st Claimant relied on a previous ruling by Mwaungulu, SC, JA, interpreting Practice Direction No. 1 of 2010 to require such filing at the notice of appeal stage. However, the Court, guided by a more authoritative interpretation, determined that skeleton arguments are only required after the record of appeal is filed and lodged in the Supreme Court of Appeal.

Accordingly, the Court dismissed the 1st Claimant's application as premature and ill-conceived. The application to vacate the stay of proceedings was also refused on the basis that no new grounds had been advanced. The Court ordered the 1st Claimant to pay the costs of the application.