

"FA8"



TELEPHONE NUMBER : 7593085
FAX NUMBER : 10039150684
COMMONS BATCH NUMBER : 620/302

IN THE MAGISTRATE'S COURT FOR THE DISTRICT OF TSHWANE CENTRAL
HELD AT PRETORIA

CASE NO: 3853/2017

the matter between:

SOUTH AFRICAN NATIONAL ROADS AGENCY LIMITED

Plaintiff

vs



Defendant

SIMPLE SUMMONS

TO: THE SHERIFF OR HIS DEPUTY

FROM: [REDACTED] Identity Number [REDACTED] a major female, who resides within the jurisdiction of the above Honourable Court at [REDACTED] and whose full and further particulars are to the Plaintiff unknown (hereinafter referred to as "the Defendant");

IN FAVOUR OF: **SOUTH AFRICAN NATIONAL ROADS AGENCY LIMITED**, a public company, with a share capital, duly incorporated and registered in accordance with the laws of the Republic of South Africa, having its principal place of business at **48 TAMBOTIE AVENUE, VAL DE GRACE, PRETORIA 0184** (hereinafter referred to as "the Plaintiff")

whereby institutes action against the Defendant for:

payment of the sum of **R39 957.63**, being the amount due, owing and payable by the defendant to the plaintiff pursuant to the defendant's failure, refusal and/or neglect to pay toll lawfully levied by the plaintiff in terms of sections 27(1) and 27(3) the SANRAL Act and published in the applicable Toll Tariff Notice(s) issued by the Minister of Transport and published in the Government Gazette from time to time. In amplification of the foregoing:

- 1.1 the defendant used toll roads (e-roads) in that vehicles registered to the defendant passed through various toll plazas (gantries) as envisaged in Regulation 5 of the e-road Regulations published in terms of sections 58(1)(dA) and (dC) of the SANRAL Act published on 9 October 2013 in Government Gazette 36911 ("the e-road regulations") on a toll road declared in terms of section 27(1)(a) of the SANRAL Act on multiple occasions between **01 July 2014 and 31 August 2015** (both dates inclusive); and
- 1.2 the plaintiff duly issued invoices in terms of regulation 6 of the e-road regulations to the defendant, recording the defendant's indebtedness as a result of her failure, neglect and/or refusal to pay the toll but the defendant has failed, neglected and/or refused to pay the amounts reflected on the invoices which aggregate the claimed sum of **R39 957.63**;

2. interest on the sum of **R39 957.63** at a rate of 10.25% *pa a tempore morae*;
3. costs of suit; and
4. further and/or alternative relief.

INFORM the Defendant further that if **she** disputes the claim and wishes to defend the action, **she** shall:


- (i) Within **ten (10)** days of the service upon her of this summons, file with the Clerk of the Court at **Cnr Francis Bart & Sophie De Bruyn Street Pretoria 0002**, notice of her intention to defend and serve a copy thereof on the Attorneys for the Plaintiff, which notice shall give an address (not being a post office or *poste restante*) referred to in Rule 13 (3) for the service upon the Defendant of all notices and documents in the action.
- (ii) Thereafter and within **twenty (20)** days after filing and serving notice of intention to defend as aforesaid, file with the Clerk of the Court and serve upon Plaintiff's attorney a plea, exception, notice to strike out, with or without a counterclaim.

INFORM the Defendant further that if **she** fails to file and serve notice as aforesaid, judgment as claimed may be given against **her** without further notice to **her**, or if having filed and served such notice, **she** fails to plead, except, make application to strike out or counterclaim, judgment may be given against **her**.

AND IMMEDIATELY THEREAFTER serve on the Defendant a copy of this summons and return the same to the Clerk of the Court with whatsoever you have done thereupon.

DATED at TSHWANE CENTRAL on 13TH DAY OF SEPTEMBER 2017


Clerk of the Court
Cnr Francis Bart & Sophie De Bruyn Street
Pretoria
0002


MORRIS FULLER WILLIAMS INC.
PO Box 571, Westville, 3630
1 Knightsbridge
16 Westville Road
Westville
Durban
3629
Email: [REDACTED]
Tel: 0800 726 725 Fax: 031 266 5990
Ref: C Schutzler/SANRAL01/7593085
c/o Couzyn Hertzog & Horak Attorneys
320 Middel Street, Brooklyn, Pretoria, 0011
Docex 50, Brooklyn

KINDLY TAKE NOTICE FURTHER THAT The Plaintiff is prepared to accept service of all subsequent documents, pleadings and notices in the action at the following email address: [REDACTED]

The Defendant must take notice that:

- (a) In default of the Defendant paying the amount of the claim together with costs within the said period, or of the Defendant delivering notice of intention to defend, he or she will be held to have admitted the said claim and the plaintiff may proceed therein and judgment may be given against the defendant in his or her absence;

- (b) If the Defendant pays the said claim and costs within the said period judgment will not be given against the Defendant herein and he or she will save judgment charges. The Defendant will also save judgment charges if, within the said period, he or she lodges with the Clerk of the aforesaid Court a consent to judgment;
- (c) If the Defendant admits the claim and wishes to consent to judgment or wishes to undertake to pay the claim in instalments or otherwise, the Defendant may approach the Plaintiff or the Plaintiff's attorney.

NOTICE:

- (i) Any person against whom a court has, in a civil case, given any judgment or made any order and who has not, within 10 days satisfied in full such judgment or order may be called upon by notice in terms of section 65A(1), of the Magistrates Court Act, 32 of 1944 (hereinafter referred to as "the Act"), to appear on a specific date before the court in chambers to enable the court to enquire into the financial position of the Judgment Debtor and to make such order as the court may deem just and equitable.
- (ii) If the court is satisfied that:
 - (aa) the Judgment Debtor or, if the judgment debtor is a juristic person, a director or officer of the juristic person who has knowledge of the aforementioned notice and that he or she failed to appear before the court on the date and at the time specified in the notice; or
 - (bb) the Judgment Debtor, Director or Officer, where the proceedings were postponed in his or her presence to a date and time determined by the court, has failed to appear before the court on that date and at that time; or
 - (cc) the Judgment Debtor, Director or Officer has failed to remain in attendance at the proceedings or at the proceedings so postponed, the court may, at the request of the Judgment Creditor or his/her Attorney, authorise the issue of a warrant directing the Sheriff to arrest the said Judgment Debtor, Director or Officer and to bring him or her before a competent court so as to enable that Court to conduct a financial inquiry. [Section 65A(6) of the Act].
- (iii) Any person who:
 - (aa) is called upon to appear before a court under a notice in terms of section 65A(1) or Section 65A(8)(b) of the Act (where the Sheriff, in lieu of arresting a person, hands that person a notice to appear in court) and who willfully fails to appear before the court on the date and at the time specified in the notice; or
 - (bb) where the proceedings were postponed in his or her presence to a date and time determined by the court, willfully fails to appear before the court on that date and at that time; or
 - (cc) willfully fails to remain in attendance at the relevant proceedings or at the proceedings so postponed, shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding three months. [Section 65A(9) of the Act].
- (iv) On appearing before the court on the date determined in the notice in terms of section 65A(1) or Section 65(8)(b) of the Act in pursuance of the arrest of the Judgment Debtor, Director or Officer under a warrant referred to in section 65A(6) of the Act or on any date to which the proceedings have been postponed, such Judgment Debtor, Director or Officer shall be called upon to give evidence on his or her financial position or that of the juristic person and his or her or its ability to pay the judgment debt. [Section 65D of the Act].
- (v) Any person against whom a court has, in a civil case, given any judgment or made any order who has not satisfied in full such judgment or order and paid all costs for which he or she is liable in connection therewith shall, if he or she has changed his or her place of residence, business or employment, within 14 days from the date of every such change notify the Clerk of the court who gave such judgment or made such an order and the Judgment Creditor or his or her attorney fully and correctly in writing of his or her new place of residence, business or employment, and by his or her failure to do so such Judgment Debtor shall be guilty of an offence and liable upon conviction to a fine or imprisonment for a period not exceeding three months. [Section 109 of the Act].

Handwritten signature and initials at the bottom right of the page.

***Consent to judgment:**

I admit that I am liable to the Plaintiff as claimed in this summons (or in the amount of R _____ to date) and I consent to judgment accordingly.

and costs

Dated at _____ this _____ day of _____ 20__

DEFENDANT _____

WITNESSES:

1. Full Names : _____ (signature) _____
Address : _____
2. Full Names : _____ (signature) _____
Address : _____

OR

***Notice of intention to defend:**

To the Clerk of the Court at Cnr Francis Bart & Sophie De Bruyn Street Pretoria 0002
Kindly take notice that the Defendant hereby notifies the Plaintiff of his/her intention to defend this action.

Dated at _____ this _____ day of _____ 20__

Defendant/ Defendant's Attorney _____

Physical Address : _____
Postal Address : _____
Fax Number (where available) : _____
Email Address (where available) : _____

(Give full address for acceptance of service of process or documents within 15 kilometres from the Court-house and also the postal address.)

*Note: The original notice must be filed of record with the Clerk of the Court and a copy thereof served on the Plaintiff or his attorney.

*the Defendant is prepared to accept all subsequent documents and notices at the facsimile address (Fax Number) / electronic mail address (email) / other address stated herein.

(Delete whichever is not applicable).

*The original notice must be filed with the Clerk of court and a copy thereof served on the Plaintiff's Attorney at:
c/o Couzyn Hertzog & Horak Attorneys
320 Middel Street, Brooklyn, Pretoria, 0011
Docex 50, Brooklyn

Costs if the action is undefended will be as follows:

	COST	VAT
Summons.....	R 404.00	R 56.56
Judgment	R 309.00	R 43.26
Attorneys charges (Vat Incl.).....		
Sheriff's Fees		
Sheriff's Fees on re-issue		

Total

