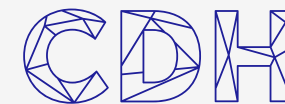


Dispute Resolution

30 June 2026



NAMIBIA

- Re-emphasising the binding nature of pre-trial orders

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Re-emphasising the binding nature of pre-trial orders

Namibia's case management system is designed to prevent trial by ambush, with courts consistently emphasising the importance of pre-trial orders in defining agreed facts and legal issues. Courts rely heavily on pleadings and pre-trial orders to determine the issues for adjudication. This alert considers the High Court's decision in *The Trustees for the time being of the Namibian Procurement Fund II Fund V Flowcentric Mining Technology Namibia (Pty) Ltd* (18 March 2026).

Summary of relevant facts

The matter concerned an application to compel discovery after the trial had commenced, prompted by documents introduced by a subpoenaed witness. The plaintiff sought to introduce further evidence and obtain additional discovery, which the defendant opposed.

Legal issues considered

The key issue was whether the plaintiff established a basis under Rule 28 of the Rules of the High Court of Namibia to compel discovery, specifically whether the documents were relevant to the live issues defined in the pleadings and pre-trial order.

The court's findings

The court reaffirmed that pleadings and pre-trial orders define the scope of the dispute and that discovery must be limited to those issues. Requests relating to matters not in dispute may constitute an abuse of process. The Court found that the plaintiff failed to demonstrate the relevance of the requested documents and should instead have sought to amend the pleadings and pre-trial order.

Key takeaways

- Discovery applications must clearly demonstrate relevance to the defined issues and proportionality.
- Parties are bound by pre-trial orders; deviating from them risks adverse cost consequences.
- New issues arising during trial should be addressed by amending the pre-trial order (and pleadings) before seeking further discovery.

Esther Shigwedha



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Our BBBEE verification is one of several components of our transformation strategy and we continue to seek ways of improving it in a meaningful manner.

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