

P1 MEMORANDUM

Question 1.1

Yes. Section 26(4) of the RAF Act states:

No claim shall be enforceable by legal proceedings commenced by a summons served on the Fund or an agent-

(a) before the expiry of a period of 120 days from the date on which the claim was sent or delivered by hand to the Fund or the agent as contemplated in subsection (1); and

(b) before all requirements contemplated in section 19 (f) have been complied with:

Provided that if the Fund or the agent repudiates in writing liability for the claim before the expiry of the said period, the third party may at any time after such repudiation serve summons on the Fund or the agent, as the case may be.

Therefore, in terms of Section 26(4), a summons can be served on the Road Accident Fund:

After the expiry of 120 days from the date on which the claim was sent or delivered by hand to the Fund or immediately after the Fund repudiates the claim in writing.

Question 1.2

Mrs Sibiya (grandmother) does not have the necessary locus standi to act on Siya's behalf as she is not Siya's guardian. In terms of the Children's Act 38 of 2005 either the mother or the father is the guardian. Mrs Sibiya will therefore have to either apply to the Court for guardianship or appoint a curator ad litem to act on behalf of Siya.

Question 1.3

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