

Judge Denise Fisher succeeds in clearing her name

She had been reprimanded for referring attorneys involved in Road Accident Fund claims to the professional bodies.

By Tania Broughton ^{5 Nov 2025}



A Judicial Conduct Committee has cleared Johannesburg High Court Judge Denise Fisher of wrongdoing. Archive photo: Ashraf Hendricks/GroundUp

- Johannesburg High Court Judge Denise Fisher has been cleared of wrongdoing in her handling of two Road Accident Fund matters.
- She had been reprimanded for judicial overreach and misconduct by Judge Jeremiah Shongwe after personal injury lawyers De Broglio Attorneys complained.
- Shongwe said she had been wrong in referring De Broglio Attorneys and their experts, to their respective professional bodies.
- A Judicial Conduct Committee panel has now cleared her name.

A Judicial Conduct Committee (JCC) has cleared Johannesburg High Court Judge Denise Fisher of any wrongdoing in her handling of two Road Accident Fund matters.

She had previously been found guilty of misconduct and reprimanded for judicial overreach.

But Fisher appealed. In a ruling handed down on 5 November, her name has now been cleared by a three judge panel.

Writing the ruling, Judge Steven Majiedt said judges should not be stifled from voicing their concerns about matters before them.

[Read the judgment here](#)

“If a judge believes that something is wrong or amiss in a case, they have a duty to speak up to ensure fairness and justice,” he said.

In 2021, in the two RAF settlements, Fisher referred personal injury lawyers De Broglio Attorneys, and the experts, to their respective professional bodies. Her rulings were later overturned by the Supreme Court of Appeal (SCA).

De Broglio Attorneys laid a complaint against her, claiming that she had made adverse findings against the and their expert witnesses and reported them to professional bodies without giving them an opportunity to be heard. They argued that the matters had been settled and she had overstepped the mark in interrogating the settlement terms.

But Dunstan Mlambo, who was Gauteng Judge President at the time, dismissed the complaint, saying that related to her judgments and that the Judicial Service Commission (JSC) was not the correct forum for complaints by unhappy litigants.

De Broglio appealed against Mlambo’s ruling, and a three-member appeals committee of the JSC ruled that Fisher should face an inquiry into the merits of the complaint.

The inquiry was heard by Judge Jeremiah Shongwe. He upheld the complaint, finding Judge Fisher guilty of misconduct. But, he ruled, she had not been wilful or grossly negligent in breaching the Judicial Code of Conduct and he [issued her with a reprimand](#).

Appeal

In her [appeal](#) against this, Judge Fisher said Shongwe had been wrong in finding that the appeal panel had found that she had “trampled on the parties’ rights”, when it had done no such thing.

She said further that the complaint should have been dismissed, as the Judicial Service Commission Act does not allow for complaints regarding Judicial Code breaches unless a judge’s conduct was wilful or grossly negligent — something Shongwe did not find.

In the latest ruling, Judge Majiedt said the nub of Fisher’s appeal was that Shongwe’s finding, that her conduct was not wilful or grossly negligent, meant the relevant provisions of the Act did not apply.



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In opposing the appeal, De Broglio Attorneys adopted a different interpretation of the law, saying limiting its application only to instances of wilful or gross negligence would lead to “absurd results”.

Majiedt said to succeed under the relevant section of the Act, a complainant must prove that the judge engaged in conduct contrary to the Judicial Code of Conduct, that such conduct was wilful or grossly negligent and that it was incompatible or unbecoming of the holding of judicial office, or was prejudicial to

independence, impartiality, dignity, efficiency or effectiveness of the courts.

He said it was not open to Judge Shongwe, after finding Fisher's conduct was not wilful or grossly negligent to then rule in favour of the complainant.

"It is a contradiction," he said.

"It is trite that a judge may not raise and determine issues not placed before the court by parties, however well-intentioned the judge may be, including out of concern for the public purse. Nonetheless when Fisher questioned the settlement agreements, she did so in the course and scope of her judicial functions and cannot be faulted merely for raising concerns," Majiedt said.

He said the difficulty, as had been highlighted by the SCA, was that Fisher went further to make findings of fraud and corruption without substantiating evidence and had referred the attorneys and experts to their professional bodies without affording them an opportunity to be heard.

In doing so, she had denied them their right to a fair hearing.

While she should have given them an opportunity to be heard "before she took such drastic steps", this had been done in the exercise of her discretion and she held the view that any affected party would have an opportunity to address the professional bodies in the course of subsequent inquiries.

Circumspect

Majiedt said: "To the extent that Fisher went overboard with her remarks about fraudulent and/or corrupt conduct based on collusion between the legal practitioners and the RAF, she should have been more circumspect.

"It must be emphasised that she was not entitled to interrogate the merits of the settlement agreements or the pre-settlement negotiations that led to them. However, in this matter, her conduct cannot equate to wilful or gross negligence - a high threshold which the legislature intentionally crafted to avoid situations where judges are silenced even in the face of unethical conduct in their courts."

Majiedt said at the time, there was also a practice directive that judges in the division must inquire into such agreements before confirming them.

The finding by Shongwe that her conduct was not wilful or grossly negligent "could not be faulted", he said and the attorneys had not cleared the high threshold.

"Finding otherwise, would stifle judges from raising concerns head-on when they are faced with same in the courts.

"While expected to maintain impartiality, they also have a responsibility to uphold the law and express their opinions on issues before them, sometimes during robust engagement with counsel. This goes along with the duty to treat counsel and all who appear before the court with respect and dignity.

"The complaint did not include counsel being treated unfairly, in an undignified or disrespectful manner. Nor does the record reveal any such underlying factors," Majiedt said, saying "at worst" her remarks could be regarded as being *obiter dicta* (said in passing).

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