



# MOTORSPORT SOUTH AFRICA NPC

Reg. No 1995/005605/08

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2nd Floor, Meersig 1, Cnr. Upper Lake Lane & Constantia Boulevard, Constantia Kloof, Roodepoort. P.O. Box 6677, Weltevreden, 1715  
e-mail: [msa@motorsport.co.za](mailto:msa@motorsport.co.za) Telephone (011) 675 2220 Fax: (011) 675 2219, National Number: 0861 MSA MSA (0861 672 672)

## COURT OF APPEAL 421

### HEARING HELD IN THE MSA BOARDROOM AT 17H30 ON THE 12<sup>th</sup> NOVEMBER 2015

<b>Present:</b>	Paddy Venske	-	Court President
	Alan Kernick	-	Court Member
	Iain Pepper	-	Appellant – Entrant for Pepper Racing
	Shaun Van Der Linde	-	Father of Competitor Sheldon van der Linde
	Joy Dolinschek	-	MSA Steward
	Hennie De Beer	-	Alternate Club Steward
	Kosie Swanepoel	-	(via Skype) MSA Appointed TC for the protest hearing
<b>In Attendance:</b>	Wayne Riddell	-	MSA Sporting Services Manager
	Allison Atkinson	-	MSA Sport Coordinator and Scribe
<b>Apologies:</b>	Westley Pappas	-	Court Member

### INTRODUCTION

The court president introduced himself and the members present. He also offered apologies for the 3<sup>rd</sup> court member, Westley Pappas, who would not be able to attend the hearing due to unforeseen circumstances. There were no objections to the remaining two court members hearing the appeal.

### BACKGROUND TO THE HEARING

On Saturday 24<sup>th</sup> October 2015 the CoC of the event issued a notice that there would be a strip of various components in the VW Polo class after the 3<sup>rd</sup> heat on the day. This notice continued to list three pit bays behind the main garages at the Killarney Raceway as the designated *parc ferme*, in which the strip would take place.

During this strip, it was alleged to have been found that competitors van der Linde and Pepper had shock absorbers that did not comply with the regulations for the VW Polo Class. These shock absorbers were then impounded and transported to Johannesburg for a more detailed inspection the following Thursday.

At this stage, at the conclusion of the initial strip, the CoC issued a notice to the competitors that the shock absorbers were out of specification and were being impounded for further inspection. Both competitors signed this notice.

At the follow-up technical inspection on Thursday 29<sup>th</sup> October, the technical infringements initially found were confirmed and competitor Tasmin Pepper was excluded from the race results as a consequence.

Competitor van der Linde's shock absorber was originally found to be missing three shims. The technical personnel present found that one shim had got stuck on the shaft and the other two missing shims had in fact

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Honorary Presidents – Mrs B Schoeman, T Kilburn

been stuck together when the original strip had been conducted on the night of the event. Poor light at the initial strip was claimed to have been a contributing factor for this error.

Competitor van der Linde's alleged non-compliant shock absorber was therefore found to comply at the follow-up inspection and no penalties were applied against him.

It is this decision not to penalise competitor van der Linde that is the subject of the appeal by Pepper Racing, represented by Iain Pepper.

### **SUBMISSIONS & EVIDENCE**

Iain Pepper, representing Pepper Racing, contested that the shock absorber shims had purposefully been altered by competitor van der Linde's team. He went into great detail for the benefit of the court to explain his reasoning for the non-compliance of competitor van der Linde's shock absorber. He also confirmed the process and procedures followed as listed above.

Shaun van der Linde confirmed the items as listed in the background above as well as the order of events that transpired. He however also mentioned that he had not received or signed any document that listed the alleged technical infringement with the measurements documented of what allegedly was to have been out of specification.

The court enquired from the other parties present if they had seen or signed such a document. Iain Pepper tendered the copy of a document that the CoC had issued them about the shock absorbers being out of specification and that they would be impounded.

It was confirmed by the MSA Steward, Joy Dolinschek, that, when arriving at the alternate *parc ferme* area on race day she witnessed a number of people crowded around the cars, both inside the taped off area as well as outside of the area. She further confirmed that the area was not ideal for a *parc ferme* area in her opinion.

Both the MSA and Club Stewards also confirmed the background items listed above.

### **FINDINGS**

- 1) The court finds that, although a circular had been issued by the Clerk of the Course with regard to an alternate *parc ferme* area to be used for the racing category, the area used, and the manner in which it was controlled, was in breach of the provisions of GCR 252 (i), (ii) & (iv). The court is extremely disturbed that seemingly ad hoc arrangements were made for the use of an alternate *parc ferme* area when a perfectly satisfactory scrutineering facility exists at the Killarney circuit, and would have been far more suitable for the intended purpose.
- 2) The court also finds that the category's Technical Consultant failed to follow the requirement of GCR 252 (vi) that all technical measurements must be documented and signed for by both the technical officials and affected competitors. Even though the possibility of the shock absorber assembly sequence being flawed as described by Mr Pepper was troubling to the court.
- 3) In view of the substantial non-compliance with the provisions of GCR 252, the court finds the technical inspection conducted at the circuit to have been significantly flawed. In the circumstances, the court believes it correct to give the competitors the benefit of any doubt that may exist and therefore sets aside all findings and penalties arising from the flawed inspection.
- 4) Pepper Racing's appeal therefore fails.

All parties are reminded of their rights in terms of GCR 212 (B).

These findings were distributed via email at 09:00 on 17<sup>th</sup> November 2015.

**160219/098**