

Mandatory Mediation in Defamation Suits: A Balancing of the Scales between Freedom of Expression and the Protection of Reputation

Authors : Ronelle Prinsloo

Abstract : Rule 41A was introduced to the Uniform Rules of Court with the intention of promoting alternative dispute resolution (ADR), specifically mediation, as a means of resolving disputes; its voluntary nature allows parties to explore mediation willingly without the imposition of a mandatory requirement. Defamation suits, often notorious for their protracted litigation timelines, could benefit from the streamlined efficiency offered by mandatory rule 41A processes. Mediation, when mandated, could serve as a swift alternative, alleviating the burden on the court system and providing expedited relief to aggrieved parties. By incorporating a mandatory mediation step, parties might be encouraged to engage in a more constructive dialogue at an earlier stage, potentially fostering resolutions that might be elusive within the confines of protracted courtroom battles. This expedited resolution could not only benefit the litigants involved but also contribute to the broader efficiency and efficacy of the legal system. However, the application of rule 41A in defamation cases raises intriguing questions about its effectiveness in balancing the scales between freedom of expression and the protection of reputation. In considering the potential merits of making rule 41A mandatory in defamation cases, a key consideration is the prospect of expeditious and cost-effective resolution.

Keywords : constitution of South Africa, defamation, litigation, mandatory, mediation

Conference Title : ICLPS 2024 : International Conference on Law and Political Science

Conference Location : Paris, France

Conference Dates : November 18-19, 2024