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Our Ref: JB THERON/jmt/H080327

Your Ref: Case Number 42334/2014

24 April 2017

**MESSRS ZWIEGERS ATTORNEYS
JOHANNESBURG**

(Attorneys for Second Respondent – i.e. DP Cohen N.O.)

VIA E-MAIL: corrie@zwiegers.co.za

Dear Sirs

**RE: LIST OF NAMES - ORDER OF SPILG J
CASE NUMBER 42334/2014 – JOHANNESBURG
SUBSTITUTED SERVICE**

1. Although you already know, we again wish to record the following:
 - a. In terms of Ismail J's recent order, the main application in the above matter has been reinstated.
 - b. Orthotouch Ltd's application for leave to appeal to the SCA (petition) against the order of Spilg J has been dismissed.
 - c. Hans Klopper has withdrawn his petition to the SCA against Spilg J's orders.

2. With reference to the recent applications filed for leave to appeal against Ismail J's said order, we add in passing that such order, as well as the said order of Spilg J for that matter, are clearly interlocutory by nature which are not suspended pending any appeal (section 18(2) of the Supreme Courts Act 10 of 2013). This interlocutory nature is in fact reflected in the judgments and orders themselves.
3. In view of what is stated in paragraph 1 above, we look forward to the urgent receipt from your client of the list referred to in paragraph 48d of the order of Spilg J dated 25 May 2016.
4. Kindly note that – given the deliberate delaying tactics employed by various Respondents thus far and abuses of process (as held by more than one judge) – we will henceforth request a *de bonis propriis* costs order, on a punitive scale, against your client Mr Cohen, should he attempt to cause any further delays herein by either not complying with an order or oppose any reasonable application brought on behalf of the disgruntled investors. We are of the view that Mr Cohen's application in terms of rule 30, and his opposition to our clients' counter application – which were heard simultaneously by Spilg J – were very ill considered and we suspect an attempt by him to delay the main application. Indeed, such litigation by him further impoverishes the investors given that such litigation costs are clearly paid from the funds of Orthotouch (whose expenses reduce the proceeds which the investors will ultimately receive). This letter will be put before court for purposes of such request for a costs order.
5. For reference purposes and your convenience we attach hereto a copy of the Order of the Supreme Court of Appeal, dated 30 November 2016.
6. We look forward to hearing from you urgently.

Yours faithfully

THERON & PARTNERS

PER:

JB THERON