

IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE DIVISION, CAPE TOWN)

CASE NO: 10524/2021

MRS SA BEAUTY PAGEANT (PTY) LTD

First Applicant

JOANI JOHNSON

Second Applicant

AND

U-SPIKED (PTY) LTD

First Respondent

MARK QUASHA THOMAS

Second Respondent

CHANDRE GOOSEN-JOBERT

Third Respondent



FILING NOTICE

PLEASE KINDLY TAKE NOTICE THAT in the abovementioned matter, the First and Second Respondents have filed a submission to be struck out of the suit.

uSpiked

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CAPE TOWN 8000, SOUTH AFRICA



To: **The Registrar
High Court of South Africa
Western Cape Division
Cape Town**

To: **The Applicants**
C/O HONEY INC. (via Email)

And To: **The 3rd Respondents**
E Rowan Inc. (via Email)

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CASE NO: 10524/2021

MRS SA BEAUTY PAGEANT (PTY) LTD

First Applicant

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MARK QUASHA THOMAS

CHANDRE GOOSEN-JOBERT



First Respondent

Second Respondent

Third Respondent

WRITTEN SUBMISSION FOR THE 1ST & 2ND RESPONDENT

1. It is my humble submission that the citations of the First and Second Respondents on this matter be struck-out. The catfights between these two businesswomen have nothing to do with both Respondents. Even in the Founding Affidavit on this matter, deposed, by an attorney; an officer of this Honourable Court (who has now made himself a witness) admits in Paragraph number 18 that they have no evidence of any contestable actions by the First and Second Respondents.

2. On the evening of June 9, 2021 after I was served with defamation suit's papers, I called a virtual meeting with my small team and our inhouse-counsel. And we made a decision not to litigate our case, which we believe is well grounded in law and facts, on our platform or any other media. We had to respect the judicial system.
3. The same can however not be said of these two feuding businesswomen. The Applicants and their attorney-turned witness have been trolling us at great cost to myself and company.
4. For instance, when journalist Ina Opperman of Citizen newspaper was undertaking her own investigations, upon contacting the Second Applicant for her right to reply, the same attorney sent his standard *cease and desist* writeup together with the filed Notice of Motion for Case No. 9742/2021 with an unspoken threat 'should you publish anything you will be next in court'.
5. After what I believe was a professional evaluation of the threat, Opperman's article was published on June 12th 2021.
6. The publication of the Citizen's article that was fuelled by the Applicants' decision to use the filed Notice of Motion and the Founding Affidavit, drove more traffic onto our website that forced us to spend unplanned expenses in increasing our bandwidth to avoid a crash of our site.
7. The Applicants having already instituted a defamation suit against us to which we are preparing to vigorously defend, decide to callously drag us to this court in the middle of Third wave of COVID-19. That's the same disregards to others we had reported the Second Applicant for displaying last year when she disregarded various forms of pandemic-related restrictions.
8. Being a small media organisation, It would be financially irresponsible to spend more funds, which we don't have in fighting similar matters that are still pending within the

same Western Cape Division of the High Court. Hence the decision to appear for myself and company.

9. It is my earnest belief that this suit is an abuse of this Honourable Court's process given the existence of the afore-mentioned defamation suit and meant to not see justice being served but to cripple us financially and muzzle the freedom of the press.
10. The reliefs being sought in this suit are mirror-images of those being prayed for in the pending Defamation suit. I am advised by our inhouse counsel that the study of law has given it a *latin phrase lis pendens*. The Applicants' attorney should know that, if he doesn't, then this honourable court should wonder what kind of officers it has in its midst.
11. We both argue that it is merely a play with the judicial system by the Applicants and their attorney that should not be allowed to proceed beyond the filing of this Application.
12. Whatever urgency the Applicants are seeking now hasn't considered the fact that our article has been online for the last sixty-one (61) days and has totally nothing to do with both the First and Second Respondents.
13. That there has been no change in facts and or circumstances between the Applicants and the First and Second Respondents to necessitate this Application and or make a case for an urgency in the matter.
14. We are not party to their ongoing feuds (if any) and we would not like to be drawn into it. And asking for this Honourable Court to order us not to publish anything regarding the Applicants' behaviour is technically asking this Honourable Court for inoculation against examination of their possibly ongoing improprieties. The ripple effects of granting such order would be disastrous to the Constitution of the Republic of South Africa. It would be more like a previously convicted bank robber seeking an

interdict against arrest by detectives from South African Police Services as he or she walks in to rob another bank.

15. The only possibly close case to this matter is Case No. 3946/2012 where Hon. LE Grange J wrote:

"Our Courts have consistently held that, though circumstances may sometimes dictate otherwise, freedom of speech is a right not to be overridden lightly"

16. It becomes even more difficult of an already published work to be ordered down while the Applicants have already taken the other legal avenue for redress; - Defamation Suit. And further did not see any urgency in having orders granted against it when it came to their attention.

17. I therefore pray that this Honourable Court have my citation and that of my company removed from this Application.

18. Should any of the parties in this matter object to this submission, then I humbly request this Honourable Court to compel them to bear our legal cost for this matter and that this matter be stood down for at least a week to enable me to adequately prepare.

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