

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

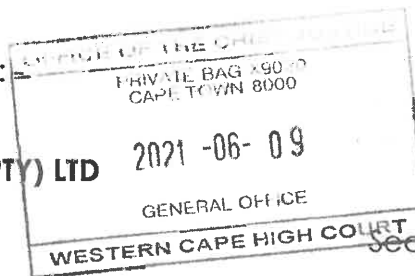
CASE NO.:

9742/21

In the application between:

MRS SA BEAUTY PAGEANT (PTY) LTD

JOANI JOHNSON



First applicant

Second applicant

and

USPIKED (PTY) LTD

(Reg. No. 2014/060284/07)

First respondent

THOMAS, MARK QUASHA

Second respondent

GOOSEN-JOUBERT, CHANDRE

Third respondent

NOTICE OF MOTION

BE PLEASED TO TAKE NOTICE that the above-named applicants will make application to the Honourable Court on a date to be arranged with the Registrar for an order in the following terms:

1. That it be declared that the article, annexure **"FA22"** to the founding affidavit of the second applicant and which was published by the first and respondents on the first respondent's blog on or about **28 April 2021** under the title:-

"MRS SCAM AFRICA

HOW 'MRS SOUTH AFRICA' BECAME AN UGLY PAGEANT"

is defamatory of the applicants and is false.

2. That it be declared that the first and second respondents' publication of the said article was and continues to be unlawful.
3. That the first and second respondents be ordered to remove the said article from the first respondent's blog and from all other platforms under the control of the first respondent within **24** (twenty-four) hours from the date of the court's order.
4. That the first and second respondents be ordered to publish a notice on the first and second respondent's blog and on all other platforms under the control of the first and / or second respondents within **24** (twenty-four) hours of the court's order wherein the first and second respondents unconditionally retract

the article and apologises for the allegations made of and about the applicants in the said article respondents.

5. That the first and second respondents be interdicted from publishing any statement in future that states or alleges or implies that the applicants or any of them are engaged in dishonest, intimidating and/or exploitative conduct.
6. That it be declared that the allegations made by the Third Respondent of and about the applicants on social media, including her Facebook page, her Twitter account and WhatsApp and to the Rapport newspaper are defamatory of the applicant and false.
7. That it be declared that the third respondent's publication of the aforesaid was and continues to be unlawful.
8. That the third respondent be ordered to remove such statements from all social media platforms under her control, including her Facebook page, her Twitter account and her WhatsApp account within **24** (twenty-four) hours from the date of the court's order.

9. That the third respondent be ordered to publish a notice on all the social platforms under her control within **24** (twenty-four) hours of the court's order in which she unconditionally retracts and apologises for the allegations made of and about the applicants.
10. That the third respondent be ordered to transmit the said notice referred to in prayer **9** above to Mr Johan Eybers, a journalist in the employ of the Rapport newspaper and also to the editor of the Rapport newspaper immediately after publishing the said notice referred to in prayer **9** above.
11. That the third respondent be interdicted from publishing any statement that states or alleges or implies that the applicants are engaged in dishonest, intimidating and/or exploitative conduct.
12. Alternatively to prayers **1** to **11** above, that the relief sought in prayers **1** to **11** be granted pending the institution and finalisation of an action for final interdictory relief in accordance with prayers **1** to **11** and other relief.
13. That such action be instituted within **30** days from the date of the

Court granting the interim relief failing which the interim relief granted shall lapse.

14. That the first, second and third respondents be ordered to pay the costs of this application jointly and severally, the one paying the others to be absolved.
15. That such further and/or alternative relief as the Honourable Court deems appropriate be granted to the applicant.

TAKE NOTICE FURTHER that the accompanying founding affidavit deposed to by **JOANI JOHNSON**, together with the annexures thereto, will be used in support hereof.

TAKE NOTICE FURTHER that the applicant has appointed **HONEY INC ATTORNEYS** c/o **JOHAN VICTOR ATTORNEYS**, 3rd Floor, "The Chambers", 50 Keerom Street, CAPE TOWN as the office within **15 (fifteen)** km of the Court where all pleadings which are required to be served personally on the Applicants are to be received in terms of Rule **4A** and **6**.

TAKE FURTHER NOTICE THAT in terms of Rule **6(5)(b)** and Rule **4A** all further pleadings in this matter (which do not have to be served on the

Applicant personally) will be accepted by electronic transmission at the email addresses casper@honevinc.co.za and chelsea@jvaa.co.za subject to the following restrictions, provided that any service that does not comply with these restrictions will not be accepted and will be not be regarded ever having taken place:

1. Service may only take place by the appointed electronic mail address;
2. Documents must be in one of the following adaptable formats: Microsoft, Open Office, Portable document format;
3. No message, attachments included, may be larger than **5MB**; and
4. Service and receipt thereof must be confirmed by the Receiving Party in writing by way of reply email within **24** hours after said service.

The **RESPONDENTS** are requested to give written confirmation that they confirm that all further pleadings and correspondence in this matter are to be exchanged by way of email and to the abovementioned email addresses.

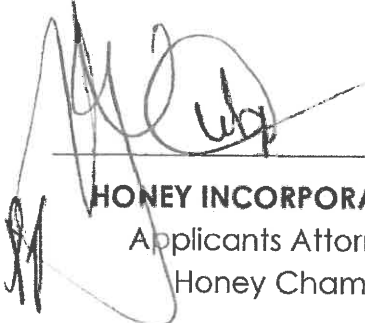
TAKE NOTICE FURTHER that if you intend opposing the application you

are required to: -

- (a) notify the applicant's attorneys in writing within **5** (five) days of this application being served upon you;
- (b) within **15** (fifteen) days after you have given notice of your intention to oppose the application, to file your answering affidavits, if any; and
- (c) to appoint in such notification of intention to oppose an address referred to in rule **6(5)(b)** at which you will accept notice and service of all documents in these proceedings;

IF NO SUCH NOTICE of intention to oppose be given, the application will be made on the 05th day of October **2021** at **10:00** or so soon thereafter as the matter may be heard.

DATED at **CAPE TOWN** on this the **8th** day of **JUNE 2021**.



HONEY INCORPORATED
Applicants Attorneys
Honey Chambers

Northridge Mall
Kenneth Kaunda Road
BLOEMFONTEIN
Tel: (051) 403-6600
Ref: Mr Rossouw /
Mr Du Plessis

c/o JOHAN VICTOR ATTORNEYS
CORRESPONDENT ATTORNEYS FOR THE APPLICANTS
3rd Floor
"The Chambers"
50 Keerom Street
CAPE TOWN
Tel: 021-422-0369
E-mail: chelsea@jvaa.co.za; &
johan@jvaa.co.za
Ref: GJV/cw/BXX

TO: THE REGISTRAR
HIGH COURT OF SOUTH AFRICA
WESTERN CAPE DIVISION
CAPE TOWN

BY HAND

AND TO: USPIKED (PTY LTD

SERVICE BY SHERIFF

First Respondent

[REDACTED]oad

Rondebosch

CAPE TOWN

AND BY EMAIL:@uspiked.com

AND TO: MARK QUASHA THOMAS

SERVICE BY SHERIFF

Second Respondent

[REDACTED]

[REDACTED]

CAPE TOWN

AND BY EMAIL: [REDACTED]@uspiked.com

AND TO: CHANDRE GOOSEN-JOUBERT

SERVICE BY SHERIFF

Third Respondent

[REDACTED]

[REDACTED]

Melkbosstrand

CAPE TOWN

IN THE HIGH COURT OF SOUTH AFRICA

WESTERN CAPE DIVISION, CAPE TOWN

CASE NUMBER:

In the application between: -

MRS SA BEAUTY PAGEANT (PTY) LTD

First applicant

JOANI JOHNSON

Second applicant

and

USPIKED (PTY) LTD

First respondent

(Reg. No. 2014/060284/07)

THOMAS, MARK QUASHA

Second respondent

GOOSEN-JOUBERT, CHANDRE

Third respondent

FOUNDING AFFIDAVIT

I, the undersigned,

JOANI JOHNSON

do hereby make oath and state as follows: -



1. I am a major female businesswoman residing at No. 2, 13th Street, Parkhurst, Johannesburg. I am also the sole director of Mrs SA Beauty Pageant (Pty) Ltd, the first applicant herein. I am the second applicant herein.
2. The contents of this affidavit fall within my personal knowledge, save where otherwise stated or apparent from the context, and are to the best of my knowledge both true and correct.
3. Where I make submissions of a legal nature, I do so on the advice of the first applicant's and my legal representatives which advice I verily believe to be correct.

THE APPLICANTS

4. The first applicant is **MRS SA BEAUTY PAGEANT (PTY) LTD**, a private company, duly registered and incorporated in accordance with the Companies Act, 71 of 2008 (*"the Act"*), with its registered address situated at Peglerae, 81 Odelia Street, Florida Glen, Roodepoort, Gauteng Province.
5. The first applicant has duly resolved to launch this application and for such purpose I am duly authorised to depose to this affidavit.
6. I am, as stated above, the second applicant herein.

THE RESPONDENTS

The first respondent

7. The first respondent is **USPIKED (PTY) LTD** (Registration number 2014/060284/07) (*"Uspiked"*), a company registered and incorporated in accordance with the Companies Act, 71 of 2008 with its registered address at 16A Main Road, Rondebosch, Cape Town, Western Cape Province. Whilst service of this application will take place at such address, a copy of the application papers will also be served on Uspiked by way of email at mark@uspiked.com.

A handwritten signature in black ink, consisting of a large, stylized 'U' followed by a series of loops and a final flourish.

The second respondent

8. The second respondent is **MARK QUASHA THOMAS** ("*Thomas*"), a major male and the sole director of Uspiked residing at 141 Chapel Street, Woodstock, Cape Town, Western Cape Province. Similarly, whilst service of this application will take place at such address, a copy of the application papers will also be served on Thomas by way of email at atmark@uspiked.com.

The third respondent

9. The third respondent is **CHANDRE GOOSEN-JOUBERT** ("*Goosen-Joubert*"), a major female residing at 1 Lighthouse Lane, Atlantic Beach Golf Estate, Melkbos, Cape Town. Service of this application will take place at such address. However, a copy of the application papers will also be served on her by way of email at chandreg@icloud.com.

JURISDICTION

10. I submit that the Honourable Court has jurisdiction in accordance with section 21 of the Superior Courts Act, 10 of 2013 as the first respondent has its registered address within the Honourable Court's area of jurisdiction and as the second and third respondents have their respective residential addresses within the Honourable Court's area of jurisdiction.

THE PURPOSE OF THIS APPLICATION

11. I depose to this affidavit for the purpose of obtaining interdictory relief aimed at preventing the first, second and third respondents from continuing with their malicious, false and defamatory allegations of and about the first applicant and I, i.e. the relief sought in the notice of motion.
12. Final interdictory relief is sought. However, should the Honourable Court not be inclined to grant final interdictory relief on these papers, the applicants seek interim interdictory relief pending the institution and finalisation of an action to be instituted in accordance with the relevant prayers of the notice of motion.

A handwritten signature in black ink, consisting of a stylized, cursive script that appears to be the name 'M. Quasha Thomas'.

THE STRUCTURE OF THIS AFFIDAVIT

13. I shall deal with the relevant matters as follows in this affidavit: -

13.1. Firstly, I shall provide an overview of the first applicant and its business;

13.2. Secondly, I shall provide the relevant background facts as far as possible in chronological sequence;

13.3. Thirdly, I shall deal with the defamatory allegations made of and about the first applicant and I by the first, second and third respondents; and

13.4. Fourthly, I shall deal with the requirements of the final interdictory relief sought by the first applicant and I and the matters ancillary thereto and also with the requirements of the alternative interim interdictory relief sought by the first applicant and I and the matters ancillary thereto.

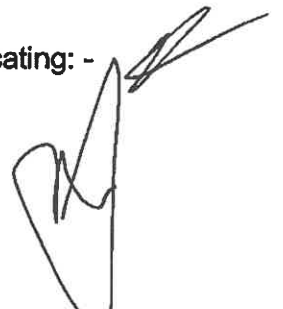
THE FIRST APPLICANT AND ITS BUSINESS

14. The first applicant is a company registered and incorporated in accordance with the provisions of the Companies Act, 71 of 2008 (*"the Act"*) and is a *"profit company"* as contemplated by the Act, meaning it is a company incorporated for the purposes of financial gain for its shareholders.

15. Whilst it makes major donations of funds received from fund raising events after paying the expenses associated therewith to its chosen charity, Women4Women, in accordance with the written agreement between the first applicant and Women4Women the first applicant is not a non-profit company as contemplated by schedule 1 of the Act. It enjoys no special tax benefits. In that regard, the first applicant receives no tax benefits for its charitable donations under section 18A of the Income tax legislation.

16. I attach hereto the following: -

16.1. As annexure "FA1", a form COR39 in respect of the first applicant indicating: -

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- 16.1.1. its registration number as 2012/10612/07, indicating that it was registered on 4 October 2012;
- 16.1.2. that I am the sole director thereof;
- 16.1.3. its registered address as stated above;
- 16.2. As annexure "FA2", a tax compliance status notification issued by SARS indicating that the first applicant has good standing with SARS;
- 16.3. As annexure "FA3", a tax clearance certificate issued by SARS indicating that the first applicant is compliant with the Tax Administration Act;
- 16.4. As annexure "FA4", a value added tax certificate in respect of the first applicant; and
- 16.5. As annexure "FA5", a trademark certificate indicating that the trademark Mrs South Africa is registered in the name of the first applicant.
17. The first applicant does business in the way described below and the income so generated is applied towards paying its expenses and disbursements.
18. None of the foregoing is a secret and never has been.
19. Women4Women has an income tax exemption as appears from annexure "FA6" hereto. The relevance of the aforesaid will become apparent from that which is set out hereinbelow.
20. The competition of Mrs South Africa has existed, as far as I could establish, since the mid-1980's. The applicant purchased the business from its previous owner during or about 2012 and has been operating the business and the Mrs South Africa Pageant since then. The business of the applicant, apart from holding the Mrs South Africa Pageant, consists of concluding partnerships with various sponsors and other business associates, such as Hirsch's, Brentoni Eyewear, Suzuki (a past sponsor), Skin Renewal, Lamelle,

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Collagen Lift, Emperors Palace, etcetera. Participation is voluntary, but subject to the contractual and other rules dealt with below.

21. Publicity appears at: -

21.1. <https://www.instagram.com/p/CNudlepjOY/> for Hirsch's; and

21.2. <https://www.instagram.com/p/CNhkiFDDvh/> for Brentoni Eyewear.

22. The first applicant derives an income from its sponsors in the form of media and publicity events, sponsorships and content sponsorships. In addition, it also derives income from sponsors who at the events held by the applicant displays its trademarks and publicity.

23. The applicant has a considerable media footprint. I mention but a few: -

23.1. As an illustration of the media coverage which the Mrs South Africa competition enjoys, I attach hereto as annexure "FA7" a photocopy on the front page of the Sunday Times in November 2019 with a photograph of the 2019 Mrs South Africa, Jacqueline Ferns;

23.2. The first applicant's website is the following <https://www.mrssouthafrica.co.za/welcome/index.php/home/about> and its terms and conditions are also within the public domain situated at <https://www.mrssouthafrica.co.za/welcome/index.php/home/terms:and:condition>s;

23.3. Content creation takes place on social media such as Instagram. Examples of this appears at: -

23.3.1. https://www.instagram.com/p/CM_wOuSDslv/;

23.3.2. https://www.instagram.com/p/CM_wOuSDslv/

23.3.3. <https://www.facebook.com/media/set/?vanity=MrsSouthAfrica&set=a.2>



657191064299589

23.3.4. <https://www.instagram.com/p/CNudlepjfOY/>;

23.3.5. <https://www.instagram.com/p/CNHhkiFDDVh/>;

23.4. And still content creation appears at <https://www.facebook.com/media/set/?>.

23.5. National TV coverage, in addition to the Sunday Times, appears on the following: -

23.5.1. <https://www.timeslive.co.za/news/south-africa/2020-08-09-mrs-south-africa-2020-celebrates-top-50-semi-finalists-on-womens-day/>;

23.5.2. <https://briefly.co.za/96987-thenjiwe-mdluli-mzansis-beautiful-mrs-south-africa-has-been-chosen.html>;

23.5.3. <https://www.all4women.co.za/2217277/celebs/sa-celebs/meet-the-new-mrs-sa-whos-passionate-about-health-fitness>;

23.5.4. <http://www.sapositivenews.com/featured/thenjiwe-mdluli-crowned-mrs-south-africa-2021/>;

23.5.5. <https://theinsidersa.co.za/meet-thenjiwe-mduli-our-newly-crowned-mrs-south-africa/>;

23.5.6. <https://www.news24.com/channel/the-juice/news/pageant/mrs-south-africa-2021-crowned-20210319>;

23.5.7. <https://benonicitytimes.co.za/410792/former-benonian-crowned-mrs-south-africa/>;

23.5.8. <https://hotnews.org.za/meet-thenjiwe-mdluli-the-newly-crowned-mrs-sa-2021/>;

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23.5.9. <https://announce.today/home/announce/5m5Bh6cwbTXzUtz8rov>;

23.5.10. <https://theworldnews.net/za-news/meet-thenjiwe-mdluli-the-newly-crowned-mrs-sa-2021>;

23.5.11. <https://headtopics.com/za/meet-thenjiwe-mdluli-the-newly-crowned-mrs-sa-2021-19328510>; and

23.5.12. <https://www.timeslive.co.za/sunday-times/lifestyle/2021-03-19-native-meet-thenjiwe-mdluli-the-newly-crowned-mrs-sa-2021/>

23.6. Mrs South Africa has also made appearances on: -

23.6.1. Top Billing in 2014 and 2018; and

23.6.2. Espresso during 2015, 2018 and 2020.

23.7. The television broadcasts are available on: -

23.7.1. <https://www.youtube.com/watch?v=CWhLD5u1-aU>;

23.7.2. <https://www.youtube.com/watch?v=M-xVAZF9Zz0>; and

23.7.3. <https://www.youtube.com/watch?v=oc4LuLIUZAww>.

24. In addition, newspaper articles have appeared in the following newspaper articles: -

24.1. <https://www.capetownetc.com/cape-town/mrs-sa-contestant-chandre-goosen-joubert-gives-back-to-charity/>;

24.2. <https://www.iol.co.za/capeargus/partnered/women-empowerment-close-to-mrs-south-africa-contestants-heart-fe46aa1e-41a8-4145-b602-0df498a943a1>; and

24.3. <https://getitmagazine.co.za/bloemfontein/blog/2020/12/17/whats-on-your->



christmas-wishlist/.

25. The first applicant and my attorneys will ensure that a memory stick with viewable content of the above is available at the hearing of the matter.
26. The official sponsors supporting the 2020 finalists were those set out in annexure "FA8" hereto.
27. It is accordingly apparent that Mrs South Africa has a well-known footprint in South Africa and enjoys considerable public participation and exposure.

THE FACTS

28. As stated above, the first applicant conducts the business of Mrs SA Beauty Pageant. It markets its business mostly via social media, being Facebook. It attracts entrants into its competition by the entrants entering the competition online, completing the necessary forms which are drawn from the website of the applicant, being <https://mrssouthafrica.co.za>, completing same and paying the entry fee which, in the case of the 2020 competition amounted to of R606.05, inclusive of VAT.
29. The online platforms for entrants to enter are the following; -
 - 29.1. <https://www.instagram.com/p/CLyUU8-iH2x/>;
 - 29.2. <https://www.instagram.com/p/CLoSM20jwVr/>;
 - 29.3. <https://www.instagram.com/p/CLeMCKjDpTI/>; and
 - 29.4. <https://www.youtube.com/watch?v=3wXxGfxVII8>.
30. In order to explain the process which is followed, I refer the Honourable Court to the documentation supplied to the first applicant by Goosen-Joubert. It includes the following: -



- 30.1. The invoice in respect of Goosen-Joubert's entry for the 2020 competition as annexure "FA9";
- 30.2. The semi-finalist contract completed and signed by Goosen-Joubert as annexure "FA10". I refrain from recording the whole of its contents so as to avoid prolixity and beg the Honourable Court to regard the contents thereof as incorporated herein. I simply point out the following salient features thereof: -
- 30.2.1. Clause 4 refers to the semi-finalists' obligations and undertakings. These include clause 4.2.1 wherein the entrants (the second respondent *in casu*) acknowledges that the applicant is a business and is run as such and the other acknowledgements in clause 4.2;
- 30.2.2. It is made clear in clause 4.6 that sponsors would be required and in clause 4.7 that the NPC Women4Women is the chosen charity of the applicant and that the obligations listed in clause 4.7 attach in favour of Women4Women;
- 30.2.3. In clause 4.8 the financial obligations are listed;
- 30.2.4. In clause 4.9 the media obligations are listed.
- I request the Honourable Court to regard the balance of the contract as included herein.
- 30.3. The semi-finalist information form completed and signed by Goosen-Joubert as annexure "FA11" wherein she provides her personal details.
- 30.4. The semi-finalist non-disclosure form form completed and signed by Goosen-Joubert as annexure "FA12".
- 30.5. The top 50 semi-finalists' contracts for 2020 completed and signed by Goosen-Joubert as annexure "FA13". I again do not repeat its contents herein so as to avoid prolixity. I submit that it also stipulates very clearly what the arrangements

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between the applicant and contestants are.

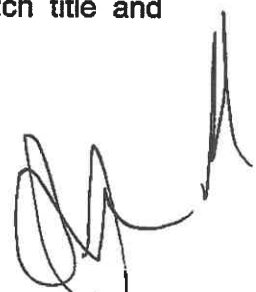
- 30.6. The non-disclosure agreement completed and signed by Goosen-Joubert as annexure "FA14", wherein she *inter alia* agrees to the protection of the confidential information and documentation as stipulated in clause 1.3 and in clause 1.11 it is recorded that the other contestants involved in the Mrs SA Pageant shall be considered as outside third parties for purposes of divulging confidential information and any information disseminated to them must be dealt with accordingly.
- 30.7. The indemnity form completed and signed by Goosen-Joubert as annexure "FA15" wherein she *inter alia* indemnifies the first applicant *"against all forms of loss or damage arising and from whatever cause connected with inter alia, but not limited to, travelling to and from events, competitions, lodgings or any other associated risk which may attach or form part of any activities of Mrs SA Beauty Pageant (Pty) Ltd"*.
- 30.8. The finalist contract completed and signed by Goosen-Joubert when she qualified for the final of the Mrs SA Pageant as annexure "FA16". I request the Honourable Court to consider the contents thereof as incorporated herein. I humbly refer the Honourable Court specifically to clauses 4.2, 4.5, 4.6, 4.7 and 4.8 thereof.
- 30.9. The finalist information form completed and signed by Goosen-Joubert as annexure "FA17", wherein she once again provided her personal details.
- 30.10. The contestants' indemnify form completed and signed by Goosen-Joubert as annexure "FA18", wherein she gave the indemnities contained therein.
31. In addition to the foregoing, I attach hereto the original calendar of events of 2020 as annexure "FA19". Such calendar of events was supplied to the participants of the 2020 competition on or about right at the outset of the competition. It sets out with precision the dates and events forming part of the 2020 competition. However, it was amended as a result of the Covid-19 pandemic, and I attach in that regard hereto as annexure "FA20"



the amended calendar for 2020 which also sets out in detail the dates and events taking place during the 2020 season. As far as I recall it was provided to contestants during November 2020 with a final date change that took place during February 2021 as a result of Covid implications.

32. I further attach hereto the operations manual for 2020 as annexure "FA21". I again do not repeat its contents herein so as to avoid prolixity, but I do attach same since same is referred to in the defamatory article posted on its / his blog by the first and second respondents. An operations manual for 2020 for all contestants was provided to all contestants. I attach same hereto as annexure "FA22". I submit that a perusal thereof indicates with great detail exactly how the competition is run, how judging takes place and what the rules of the competition are. I do. Not repeat same so as to avoid prolixity.
33. I attach hereto as annexure "FA23" the draft ball budget expenses and income, which indicates the expected expenses at R488,131.00 and a profit of R46,869.00. It is apparent that running the business of the first respondent is an expensive affair.
34. I submit that it is patently clear that the first applicant is an established business with a large knowledgeable brand in South Africa. I add that at present it has 7 909 followers on its Twitter account, 33 600 on Instagram and 189 505 on Facebook.

**THE DEFAMATORY ALLEGATIONS MADE OF AND ABOUT THE FIRST APPLICANT AND I
BY USPIKED AND GOOSEN-JOUBERT**

35. It appears that Goosen-Joubert is a disgruntled loser. Whilst she made it through the semi-finals to the top 50 and into the final of the Mrs South Africa Beauty Pageant, she did not win the event. Instead, she was crowned Mrs Charity. Whether it is because she did not win the competition I cannot say for certain, but what she has done has indeed been malicious, false and defamatory of the first applicant and me. I submit that the correspondence attached hereto will indicate same to be so.
36. Mrs Charity's duties are primarily to work with the first applicant and Women4Women for charitable and fundraising initiatives. It is an honour to be awarded such title and
- 

contestants also contest in the hope of being awarded such title as same offers a platform to the winner thereof to promote her charity work.

37. Initially all seemed in order and cordial correspondences (emails) were exchanged between Goosen-Joubert and Mrs Marlene Reddy ("*Reddy*"), the Chief Operating Officer of the first applicant. In this regard, I attach hereto as range of emails illustrating the friendly nature of the correspondences from 3 December 2020 to 16 February 2021 as annexure "FA24".

38. In fact, on 17 February 2021 Goosen-Joubert advised Reddy that it was not necessary for Reddy to book her flight tickets. She stated: -

"My husband is a gold member so I don't pay for my flight. Would it be okay to proceed with my flight it would be unnecessary for Mrs SA to have to pay for something I don't need to."

I attach same hereto as annexure "FA25".

39. In fact, the cordial nature of the emails did not change between 24 February 2021 and 5 March 2021 as appears from annexures "FA26".

40. On 23 March 2021 Goosen-Joubert requested her Mrs Charity contract as she had won the Mrs Charity prize at the final event of the Mrs SA Pageant so that she could sign and return same. I attach e-mail in that regard hereto as annexure "FA27" which was provided to her as appers from annexure "FA28". The Mrs Charity contract , which was to a large extent similar to a "*dummy contract*" which had been provided to all contestants.

41. On 24 March 2021 Goosen-Joubert all of a sudden indicated that: -

"After giving it a lot of thought, I am unable to accept the Mrs Charity award."

In the contract provided there are some clauses I am afraid I cannot align myself with. Having said that, my focus going forward, has to be on being a mother and growing my business.

A handwritten signature in black ink, consisting of a stylized 'G' followed by a vertical line and a small flourish.

I'm sure you will understand.

Thank you for the People's Choice Award as well as the Businesswoman Award 2021."

I attach a copy of the e-mail hereto as annexure "FA29".

42. To date, Goosen-Joubert has not advised the first applicant or me what clauses she could not align herself with.

43. Reddy responded as per annexure "FA30": -

"Thank you for your e-mail received.

We respect your decision and wish you well in your future endeavours."

44. Goosen-Joubert appears to have become vengeful around this time as will appear from that which follows.

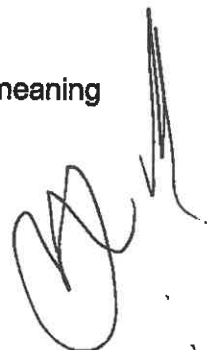
45. Unbeknown to the first applicant and I, Goosen-Joubert posted an Instagram post which I personally saw on her Instagram account on 15 April 2021 wherein she stated the following: -

"As you might be aware, the Mrs SA 2021 Pageant was held on 18 March 2021. In order to clarify some confusion, I need to highlight the following:

I was awarded with a Mrs SA Charity title on the night. However, I decided not to accept the title and repudiated the appointment on 24 March 2021. I have distanced myself from Mrs SA, all of its affiliations as well as their charity, for reasons which will be revealed soon."

I attach a copy of the said post hereto as annexure "FA31".

46. At the time when she posted the above, Goosen-Joubert had received 303 likes (meaning

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that other Instagram users liked her posts). At the time she had in excess of 45 000 followers on Instagram. At present the same post has received likes 3 398 and has 82 800 followers. The post is still displayed on Goosen-Joubert's Instagram account.

47. On 21 April 2021 Goosen-Joubert addressed annexure "FA32" hereto to Reddy. In same she requested copies of: -

47.1. the signed contract of 2020 between Mrs SA and herself;

47.2. the signed contract of Top 25 between Mrs SA and herself, as well as any modifications made for example on 25 December 2020;

47.3. electronic copies of all webinars that were held during Top 50 and 25 as she saw that some have been deleted by the applicant and she therefore cannot access it. In regard thereto she tendered to make payment towards the applicant's expenses, e.g. USB drive, etc.;

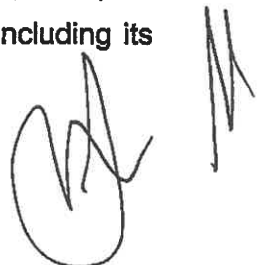
47.4. full details of the SMS voting system that Mrs SA utilised during the competition, including the beneficiary's names as well as banking details;

47.5. the official scoring sheets of the Top 50. If not in the applicant's possession, the second respondent requested the applicant to indicate where she can request this;

47.6. grand finale as well as preliminary judging score sheets. If not in the applicant's possession, the second respondent requested the applicant to indicate where she can request same.

48. On 22 April 2021 Manda sent an e-mail, annexure "FA33" hereto, to Goosen-Joubert wherein he attached a communication, annexure "FA34" as well as the contract signed by Goosen-Joubert which she had requested by means of annexure "FA32".

49. I refrain from repeating the contents of annexure "FA34" so as to prevent prolixity. I specifically request the Honourable Court to have regard to paragraph 5 (including its

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sub-paragraphs) as well as paragraphs 6 to 11 thereof. Same forms the basis of this application.

50. On 22 April 2021 Goosen-Joubert addressed a further e-mail to myself and to Reddy which I attach hereto as annexure "FA35". In same she made accusations that a video that was intended to be shot was *"an attempt to publically discredit me before I speak up"*. And stated the 'innuendos' as your Mr Rossouw referred to in his letter of today seems to be an initiative from yourselves." She also stated in the next paragraph: -

"I place on record that this is not about hard feelings and 'sour grapes' but about moral principles."

51. What exactly she meant by that I was not clear to me at the time. I, in any event, deny that there was any intention to discredit Goosen-Joubert. Neither the first applicant, nor Reddy, nor I had any dispute with Goosen-Joubert at that stage. The link to the video is available on the first applicant's website.

52. Goosen-Joubert responded to the annexure "FA34" by means of annexure "FA36". In same she stated *inter alia* the following: -

"I feel almost victimized having received such an explosive, personal and over-reactive reply towards my mere six questions posed to Mrs Johnson as well as Mrs Reddy in an e-mail on 20 April 2021."

The threat and ultimatum of either a High Court interdict or me having to sign an undertaking is noted.

The grounds are baseless, but if Mrs SA wishes to persist, I shall also be forced to appoint an attorney to oppose such application.

I deny any wrongdoing and dispute all allegations levelled against me."



53. Goosen-Joubert must have spoken to Thomas around this time, as on 27 April 2021 Thomas addressed annexure "FA37" from the e-mail address mark@uspiked.com to me. In same he stated as follows: -

"Good day, our interest in your event was triggered by some issues we would like you to address. Firstly, could you explain how you on your application for section 18A tax exemption state a circumvented the requirement that the directors of the NPC should not be related? We would also like you to explain how do you not seem to regard your contraventions of section 36 of the CPA as an important issue. Of coz you are familiar with the CPA as we have see (sic) the law mentioned prominently on literatures of your other company Ace Models South Africa? But most disturbingly, we would like to know whether you obtained permission from SARS to be allowed to direct funds raised in the name of your NPC to be deposited in a personal bank account of one of your directors? Would it be correct to assume that this was deliberately plotted to isolate you from any impropriety while leaving you fellow director holding the can? While we know the causes your NPC advertises to be keen on, could you provide us with a breakdown of how the NPC performed towards these goals in the previous 12 months including the total amounts raised by the 2020/2021 contestants of your pageantry. Of minor interest is the breakdown of the contestants' positions, the public knows of top 3 as mentioned on your website, where does that place the rest of top 10? Like if we would like to reach #9 to be our brand ambassador, how do we find out who that could have been."

54. Disturbingly, on the same day Uspiked posted on its blog an article titled: -

"MRS SCAM AFRICA

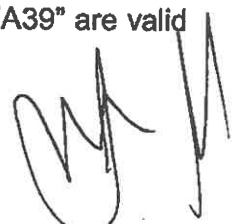
HOW 'MRS SOUTH AFRICA' BECAME AN UGLY PAGEANT."

55. I request the Court to consider the contents of the said article as incorporated herein. the article is not only full of falsities given that which is stated above, it states and/or or alleges and/or implies that the first applicant and I are engaged in dishonest, intimidating and/or



exploitative conduct.

56. I point out the following in connection with the said article: -
- 56.1. It is, from a perusal of the article, axiomatic that the information obtained by and contained within the said article was supplied by Goosen-Joubert;
- 56.2. I am unaware by how many readers the said article has been read. Such is information within the exclusive knowledge of Uspiked and / or Thomas.
- 56.3. It remains on the Blog. Accordingly, the falsities publicised in the said article have been shared within the public domain and remains there.
57. I submit that the meaning of the article is in the objective understanding of the reasonable reader defamatory.
58. The same applies to the Instagram post in annexure "FA31".
59. They both denigrate the good name and reputation of the first applicant and also my good name and reputation.
60. However, the defamation goes further. The annexures which follow also constitute defamation in the objective understanding of the reasonable reader.
61. Goosen-Joubert has on a number of occasions forwarded the link to the said article to other users of social media on Instagram, Facebook and WhatsApp. I refrain from referring to the many WhatsApp messages which she transmitted since a shortage of time prevents the obtaining of confirmatory affidavits from all of the addressees to which she sent messages. Should it become necessary, however, I will take the necessary steps to provide copies of such messages and confirmatory affidavits from all of the addressees to which she sent messages to the Court.
62. I attach hereto as annexure "FA39", a compilation of defamatory Instagram Posts on the Instagram account of Goosen-Joubert. The posts making up annexure "FA39" are valid



for 24 hours after which they are automatically removed from the Instagram account, but the post in annexure "FA31" is a permanent post which remains on the Instagram account of Goosen-Joubert until such time as she removes it.

63. I attach hereto as annexure "FA40" is a defamatory post on Goosen-Joubert's Facebook page. She posted same on her Facebook page on 28 April 2021. It remains on her Facebook page. Goosen-Joubert has 10 000 followers on Facebook.
64. In addition, Goosen-Joubert addressed annexure [REDACTED]
[REDACTED]
[REDACTED] "FA42", also an Instagram Direct Message, to one of the first applicant's main sponsors, Skin Renewal. I refer the Court to the confirmatory affidavit of Mr Victor Snyders, the Chief Executive Officer of Skin Renewal.
65. Goosen-Joubert posted annexure "FA43" on her Instagram Account on or about 15 May 2021 wherein she wrongly contended that the Arthur Johnson who is *ex facie* the article posted part of alleged share manipulation is my ex-husband whilst he is not. The innuendo is clearly that I was married to someone who is implicated share manipulation.
66. On 29 April 2021 the first applicant's and my attorneys addressed annexure "FA44" to Uspiked. I refrain from repeating its content so as to avoid prolixity. I respectfully direct the Honourable Court's attention to the request contained in paragraph 13 and the statement in paragraph 14 thereof.
67. Thomas responded to the aforesaid letter by means of annexure "FA45". In same he states that Uspiked stands by the published article and would be ready to vigorously defend it. It is accordingly apparent that Uspiked and Thomas have no intention of withdrawing the defamatory article.
68. Thomas also addressed annexure "FA46" to the first applicant's and my attorneys later on the 30th of April 2021, wherein he states that: -



"Uspiked denies all allegations levelled against us by your protest letter and that failure to deal with each and every allegation may not be construed as an admission thereof. And that Uspiked will deal with each allegation in the right forum if and when so required."

69. Goosen-Joubert also sought information of a confidential nature from the first applicant. Initially she completed the form as if she was an attorney. When it was brought to Goosen-Joubert's attention by means of annexure "FA47" that she had completed the PAIA form as if she was an attorney, she retorted by means of annexure "FA48", but she indeed attached the correctly completed form as per annexure "FA49".
70. Goosen-Joubert's continuation of spreading malicious, false and defamatory allegations of and about the first applicant and I have continued. On 4 June 2021, a Mr Eybers of the rapport newspaper sent an email, annexure "FA50" to me in which he posed the questions contained therein. As the Court will note, Eybers unilaterally imposed a deadline for a response of 18h00 on 4 June 2021. It is also apparent therefrom that the questions posed in Eybers' email emanate from Goosen-Joubert.
71. The first applicant and my attorneys responded to annexure "FA50" by means of annexure "FA51". It appears as if annexure "FA51" persuaded Rapport not to publish the article.
72. I submit that it is clear from the foregoing that Goosen-Joubert has an axe to grind with the first applicant and I. Apart therefrom that we have given her no cause to feel hard done by, I submit that there is no justification for her defamation of the first applicant and I. If she indeed feels hard done by, Goosen-Joubert should take such disputes as she considers exist to the Courts. She cannot use public platforms to advance her malicious, false and defamatory onslaughts on the first applicant and I.
73. Similarly, Uspiked and Thomas cannot use public platforms to publish Goosen-Joubert's malicious, false and defamatory onslaughts on the first applicant and I.

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THE REQUIREMENTS OF THE FINAL INTERDICTIONARY RELIEF SOUGHT

74. In the circumstances, I humbly submit that it is abundantly clear from the foregoing that Goosen-Joubert has resolved to tarnish the good name and reputation of the first applicant and I.
75. Had the first applicants and my attorneys not acted swiftly and decisively, a further defamatory article would in all likelihood have appeared in the Rapport newspaper of the past Sunday.
76. It is also clear that despite the requests of the first applicant and I for Goosen-Joubert to desist, she has no intention of doing so and neither has Uspiked. It is also abundantly clear that Goosen-Joubert, Uspiked and Thomas have decided to defame the first applicant and me by means of the article and her report to Eybers and have no intention of ceasing therewith.
77. Whilst the article remains on the Uspiked's blog, it is open to viewing and reading by the public and it is open to continuous on-sending thereof. The same is true for the publication as per annexures "FA31" and "FA40"

Clear Right

78. I submit and it will be so argued at the hearing of the matter, that the first applicant and I have a clear right to protect our good names and reputations.

Injury committed or apprehended

79. I further submit that it is clear from the aforesaid that an injury has been committed in that the mischief of Uspiked, Thomas and Goosen-Joubert have injured the good names of the first applicant and I and will continue to do so until such time as the Honourable Court grants the relief prayed for in the notice of motion.

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No other remedy

80. In addition, I submit that the first applicant and I have made a reasonable demand upon the Uspiked, Thomas and Goosen-Joubert to stop the defamation of the first applicant and I, which reasonable demand has been ignored and refused by both Uspiked, Thomas and Goosen-Joubert.
81. Accordingly, the first applicant and I have no other remedy at our disposal apart from a possible damages claim. However, and whilst a damages claim is being considered, at the moment, it is cold comfort measured against the continuous defamation of the first applicant and I and the tarnishing of our good names and reputations.

THE REQUIREMENTS OF THE INTERIM INTERDICTIONARY RELIEF SOUGHT

82. In the alternative and in the event of the Court not being inclined to final relief, the first applicant and I seek interim interdictory relief pending the institution of an action as foreshadowed in the notice of motion.

Prima facie right

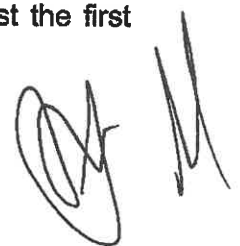
83. I repeat that which I stated under the rubric "*final relief*" above. At the very least, the first applicant and I are possessed of a *prima-facie* right to protect our good names and reputation.

Injury committed or apprehended

84. I also repeat that which I stated under the rubric "*injury committed or apprehended*". I submit that the first applicant and I are rightfully concerned about the ongoing defamation of the respondents.

Balance of convenience

85. I submit that the balance of convenience favours the granting of interim relief. The respondents stand to suffer no prejudice if the interim relief is granted whilst the first

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applicant and I will continue to suffer defamation to our good names and reputation if the interim relief is not granted, but the final relief is ultimately granted in the envisaged action.

No other remedy


86. I repeat that which I stated under the rubric "*no other remedy*" above. A damages claim is being considered, but at the moment, it is cold comfort measured against the continuous defamation of the first applicant and I and the tarnishing of our good names and reputations.

CONCLUSION

87. In the circumstances I humbly submit that a case has been made out for the relief which the first applicant and I seek herein and I accordingly pray for the Honourable Court to grant such an order.
88. I humbly refer the Honourable Court to the confirmatory affidavit of Mr Patson Manda, attached hereto as annexure "FA52" and [REDACTED] Mr. Victor Snyders as annexures [REDACTED] and "FA54" respectively


DEPONENT

THUS SIGNED AND SWORN TO AT SANDTON ON THIS 1th DAY OF JUNE 2021, THE DEPONENT HAVING ACKNOWLEDGED THAT SHE KNOWS AND UNDERSTANDS THE CONTENTS OF THIS AFFIDAVIT, THAT IT IS BOTH TRUE AND CORRECT TO THE BEST OF HER KNOWLEDGE AND BELIEF, THAT SHE HAS NO OBJECTION TO TAKING THE PRESCRIBED OATH AND THAT THE PRESCRIBED OATH WILL BE BINDING ON HER CONSCIENCE.





COMMISSIONER OF OATHS

FULL NAMES:

DESIGNATION:

ADDRESS:

CHIRESE BOTHA
COMMISSIONER OF OATHS
ADVOCATE OF THE HIGH COURT
OF SOUTH AFRICA
3 PROTEA PLACE
SANDOWN
2196

