

WCHC
BOX:
357

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



CASE NO.:
10524/21

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

NOTICE OF MOTION (URGENT RELIEF)

BE PLEASED TO TAKE NOTICE that the above-named applicants will make application to the Honourable Court on **Tuesday, 29 June 2021** at **10:00** or so soon as the matter may be heard for an order in the following terms: -

1. That the forms and service of the Uniform Rules of Court be dispensed with, that the applicants' non-compliance with such forms and service be condoned and that this application be enrolled and heard as an urgent application in accordance with Rule 6(12) of the Uniform Rules of Court.
2. That it be declared that the article, annexure **"FA22"** to the founding affidavit of the second applicant under case number **9742/2021**, deposed to on **7 June 2021** (annexure **"FA1"** to the founding affidavit of Casper Hendrik Du Plessis) and which was published by the first and second 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.
3. That it be declared that the first and second respondents' publication of the said article was and continues to be unlawful.
4. 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.

5. 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 apologise for the allegations made of and about the applicants in the said article respondents.
6. 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.
7. 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.
8. That it be declared that the third respondent's publication of the aforesaid was and continues to be unlawful.

9. 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.
10. 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.
11. That the third respondent be ordered to transmit the said notice referred to in prayer **10** 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 **10** above.
12. 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.

13. Alternatively to prayers **1** to **12** above, that the relief sought in prayers **1** to **12** be granted pending the institution and finalisation of an action for final interdictory relief in accordance with prayers **1** to **12** and other relief.
14. 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.
15. 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.
16. 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 **CASPER HENDRIK DU PLESSIS**, 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@honeyinc.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 by **12h00** on **23 June 2021** of your intention to do so; and
- (b) file your answering affidavits, if any by no later than **16h00** on **24 June 2021**.

DATED at **CAPE TOWN** on this the **22nd** day of **JUNE 2021**.

PP



HONEY INCORPORATED
INSTRUCTED ATTORNEYS FOR THE APPLICANTS

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/B76

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

BY HAND

**AND TO: USPIKED (PTY LTD
First Respondent
16A Main Road
Rondebosch
CAPE TOWN**

BY EMAIL:

**E-MAIL: mark@uspiked.com;
Legal@uspiked.com**

**AND TO: MARK QUASHA THOMAS
Second Respondent
141 Chapel Street
Woodstock
CAPE TOWN**

BY EMAIL:

**E-MAIL: mark@uspiked.com;
Legal@uspiked.com**

**AND TO: E ROWAN INC.
ATTORNEYS FOR THE THIRD RESPONDENT
Unit 47
Roeland Square
Drury Lane
Gardens**

BY E-MAIL

CAPE TOWN

E-MAIL: ella@rowaninc.co.za