

REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA
(NORTH GAUTENG, PRETORIA)

CASE NO: 12960/2010

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| (1) | REPORTABLE: YES / NO |
| (2) | OF INTEREST TO OTHER JUDGES: YES/NO |
| (3) | REVISED. |
| | <p><u>2013.04.15</u> DATE</p> <p><u>Tatu</u> SIGNATURE</p> |

15/4/2013

In the matter between:

**JUMP SPORT CC t/a WORLD OF SPORT
AND ENTERTAINMENT**

First Defendant/First Applicant

DANIE HAASBROEK

Second Defendant/Second Applicant

and

BLUE BULLS COMPANY (PTY) LTD

Plaintiff/Respondent

J U D G M E N T

MAKGOKA, J:

[1] This judgment concerns three interlocutory applications. On the one hand, the defendants (as the applicants) seek firstly, leave to amend their plea and counterclaim in terms of rule 28 of the uniform rules of court. Secondly, the defendants seek an order compelling the plaintiff to comply with its notice in terms of

rule 35(3) regarding certain documentation. Both these applications are opposed by the plaintiff. The plaintiff, on the other hand, seeks an order that the defendants furnish security for costs in terms of rule 47(1). The application is opposed by the defendants. As would appear more clearly later, the plaintiff's demand for security for costs is intrinsically linked to the defendants' application to amend. For the sake of convenience, I shall retain the parties' designations as in the main action.

[2] The plaintiff is the proprietor of the well-known Bulls and Blue Bulls rugby teams. The Bulls rugby team plays professionally, and participates in international competitions, where it has achieved notable success. The Blue Bulls team, on the other hand, play amateur rugby, and is arguably, the most successful provincial team in the history of South African rugby. It is common cause that the plaintiff is registered as the proprietor of the Bulls logo trade mark registered in classes 16, 18, 21, 25, 28 and 41 of the Trademarks Act, 194 of 1993 (the Act).

[3] The crux of the dispute between the parties relates to the proprietorship of the trade marks Bulls Babes and Bulls Babes logo (the trade marks). The plaintiff claims that it is the proprietor of the trade marks and that the first defendant was licensed to use the trade marks. The defendants, on the other hand, contend that the first defendant is the proprietor of the trade marks.

[4] The facts are these. During 2003 the plaintiff and the first defendant entered into an arrangement (the nature of which is in dispute) in terms of which the first defendant, for an agreed remuneration, provided professional dancers to perform as cheerleaders at the Bulls' home matches, played at Loftus Versveld stadium. The cheerleaders became popularly known as the 'Bulls Babes', and wore apparel paid

for by the plaintiff, sporting a Bulls Babes logo, which was based on, and deliberately similar to the plaintiff's well-known Bulls logo. The second defendant alleges that it was he who proposed the name 'Bulls Babes' for the cheerleaders and that, during April 2006, he, together with the plaintiff's then chief executive officer, designed the logo. This is denied by the plaintiff.

[5] It appears that the popularity of the Bulls Babes extended beyond rugby, as often Vodacom sought their appearance at social functions, other than rugby. Various attempts to formalise the agreement were unsuccessful. In February 2010, for the first time, the second defendant hinted that the first defendant laid claim to the proprietorship of the Bulls Babes trademark. Prior to that date, both respondents had acknowledged the applicant's proprietorship of the trademark. The applicant viewed the respondents' claim as a repudiation of the agreement and cancelled the agreement on 15 February 2012. The dispute resulted in the Bulls Babes no longer performing at rugby matches, much to the chagrin and dismay of the supporters of the game.

[6] On 1 March 2010 the plaintiff lodged an urgent application against the defendants for interdictory relief based on trade mark infringement and passing off. The defendants opposed the application and lodged a counter-application for an order that the first defendant was the proprietor of the Bulls Babes trade mark, alternatively that the plaintiff and the first defendant were co-proprietors of the trade mark. On 12 March 2010 the application was eventually struck off the roll for lack of urgency.

[7] When the matter was heard as a special motion, the court ordered that because of factual disputes, the application should stand as a summons, and that the plaintiff should file a declaration. The declaration was filed, and later amended, after the defendants had successfully excepted to it on the basis that it was vague and embarrassing. The defendants thereafter filed their plea and counterclaim on 5 September 2012.

[8] In their counterclaim, the defendants plead that the plaintiff's trade marks are invalid and fall to be expunged (on grounds other than non-use), on the basis that the first defendant had adopted and made use of those trade marks prior to the plaintiff registering them in its name. In this regard, the defendants allege that the parties' agreement entailed a joint-venture agreement – the plaintiff being the repository of all the trade marks and the defendants retaining their statutory and common law rights to utilise the trade marks *ad infinitum*, in terms of section 36 of the Act,¹ and the common law.

[9] The defendants contend that it was a condition of the plaintiff's registration of the trade marks in its name that the defendants would be entitled to continue using the trade marks. The defendants further contend that their, and Vodacom's, use of the trade marks was unfettered, and wholly within their discretion, save for pre-booked appearances at rugby stadiums. Vodacom, for example, used the Bulls Babes for

¹ Section 36 protects the right of any person against the proprietor of a registered trademark, to use such trademark if that person had made continuous and *bona fide* use of that trademark on certain conditions.

appearances at other social functions totally unrelated to the plaintiff and rugby. With this factual background, I consider the interlocutory applications.

Application to 'compel compliance with the defendants' notice in terms of s 35(3)'.

[10] The plaintiff first filed its discovery affidavit on 27 March 2012. On 20 August 2012 the defendants delivered a notice in terms of rule 35(3) of the Uniform Rules of Court, in which the defendants called for production of further documents which, in their opinion, the plaintiffs had in its possession, but not discovered. On 5 September 2012, the plaintiffs served a response to the defendants' rule 35(3) notice, in the form of an affidavit by Mr. Noeth. On 18 September 2012, the defendants lodged the present application, seeking to 'compel' the plaintiff to comply with their rule 35(3) notice.

[11] The application is opposed by the plaintiff on three bases. First, that it has, in its discovery affidavit, already made discovery of various documents falling within the description of the documents set out in the defendants' rule 35(3) notice, and has in fact, responded that notice. Second, that in some instances, the defendants do not identify 'specific documents' that the plaintiff allegedly omitted to discover, but that their request relate to 'a vague and general description of documents'. Third, that in any event, the documents and correspondence to which Vodacom is a party, are irrelevant to any matter in dispute, and need not be discovered. Before I consider these contentions, it is helpful to set out the relevant sub-rules, 35(3) and 35(7).

[12] Rule 35(3) provides:

'If any party believes that there are, in addition to documents or tape recordings disclosed as aforesaid, other documents (including copies thereof) or tape recordings which may be relevant to any matter in question in the possession of any party thereto, the former may give notice to the latter requiring him to make the same available for inspection in accordance with subrule (6), or to state on oath within ten days that such documents are not in his possession, in which event he shall state their whereabouts, if known to him'.

[13] Rule 35(7) on the other hand, provides:

'If any party fails to give discovery as *aforesaid* ... the party desiring discovery ... may apply to court, which may order compliance with this rule and, failing such compliance, may dismiss the claim or strike out the defence'.

(my emphasis)

[14] I now consider the plaintiff's contentions, in turn.

The rule 35(3) notice has been complied with.

[15] I have mentioned in para 10 that the plaintiff served a response to the defendants' rule 35(3) on 5 September 2012. After the delivery of the plaintiff's response, there was communication between the parties. On 5 September 2012 the plaintiff's attorneys addressed a letter to the defendants' attorneys, in which, among others, the Vodacom agreement² was referred to in relation to the defendants' request for a copy of the agreement.

² Vodacom became a sponsor of the plaintiff in 2005.

[16] On 21 September 2012 the plaintiff's attorneys wrote to the defendants' attorneys, and joined issue with the defendants' statement that none of the documents listed in their rule 35(3) notice had been disclosed, and asserting that the only outstanding issue was their request for a copy of the Vodacom agreement. In that letter, it was further conveyed to the defendants' attorneys that Vodacom had agreed that a copy of the agreement could be made available on a proposed strict confidentially basis. On an occasion thereafter, the defendants' legal representatives inspected the redacted copy of the agreement at the offices of the plaintiff's attorneys, but were not allowed to make copies of the agreement.

[17] The information referred to above, was not disclosed by the defendant in its present application to 'compel'. In fact, in their replying affidavit, it is stated that the omission to deal with Noeth's affidavit was 'intentional'. The plaintiff sought the dismissal of the application on the grounds that it had complied with the defendants' request; and that the defendants had failed to disclose this fact, and other facts discussed above.

[18] The plaintiff is correct in its assertion that it has responded to the defendants' rule 35(3). Rule 35(3) provides for procedure for a party dissatisfied with the discovery of another party. It provides for a procedure to supplement discovery which has already taken place but which is alleged to be inadequate. Technically, therefore, the defendants cannot seek to 'compel' what has already been done. They may not like the plaintiff's response. I have had careful regard to the plaintiff's discovery affidavit, as well as its response to the defendants' rule 35(3). I agree with the plaintiff it has made discovery of various documents falling within the description of the documents set out in the defendants' rule 35(3) notice. The remaining issue

appears to be the defendants' request for a copy of the sponsorship agreement between the plaintiff and Vodacom.

[19] Should I dismiss the application on the technical basis that the defendants have used a wrong procedure in seeking that agreement, the defendants are most likely to bring an application, on the same facts, for them to be furnished with a copy of the Vodacom agreement. That application would certainly be opposed on the same basis as now (that it is irrelevant). That would be a piece-meal adjudication of the matter, which is not in the interests of the parties or the administration of justice, and would be a waste of resources. I propose then to deal with the defendants' application as one for 'further and better particulars'. I have all the pertinent facts before me to determine whether the Vodacom agreement could bear any relevance to the issues in dispute between the parties in the main trial.

Relevance of the Vodacom agreement

[20] The plaintiff contends that the Vodacom agreement is of no relevance to any matter in dispute in these proceedings. In any event, argues the plaintiff, the contents of the agreement are privileged and confidential and that the defendants are not entitled to inspect a copy of the agreement. Although the plaintiff would have been inclined to produce a redacted version of the agreement for inspection by the defendants, Vodacom was not prepared to agree to the production of the agreement. The plaintiff is contractually bound to Vodacom not to disclose the contents of the agreement without Vodacom's consent.

[21] On the other hand, the defendants contend that the agreement is relevant, given that Vodacom was allegedly entrusted with full control over the use made of

the Bulls Babes trade mark, which control it alleges, was left completely in the defendants' hands. The defendants further contend that the Vodacom agreement deals with the very terms regulating the use of the plaintiff's trade marks and most importantly, allow Vodacom a very wide discretion as to how to use them.

[22] The courts are reluctant to go behind a discovery affidavit which is regarded as conclusive, save where it can be shown either (i) from the discovery affidavit itself, (ii) from the documents referred to in the discovery affidavit, (iii) from the pleadings in the action, or (iv) from any admission made by the party making the discovery affidavit, or (v) the nature of the case or the documents in issue, that there are reasonable grounds for supposing that the party has or has had other relevant documents in their possession, or has misconceived the principles upon which the affidavit should be made.

[23] In *Swissborough Diamond Mines v Government of the RSA* 1999 (2) SA 279 (T) this court reviewed the authorities relating to relevance in the context of rule 35(1), (2), and (3), and cited with approval the principle laid down in *Compagnie Financiere et Commerciale du Pacifique v Peruvian Guano Co* (1982) 11 QBD 55:

'It seems to me that every document relates to the matter in question in the action which, it is reasonable to suppose, contains information which *may* – not which *must* – either directly or indirectly enable the party requiring the affidavit either to advance his own case or to damage the case of his adversary. I have put in the words 'either directly or indirectly' because, it seems to me, a document can properly be said to contain information which may enable the party requiring the affidavit either to advance his own case or to damage the case of his adversary, if it is a document which may fairly lead him to a train of enquiry which may have either of these two consequences'

[24] The court (in *Swissborough Diamond Mines*) also pointed confirmed that the onus of establishing that there are other documents relevant 'to any matter in question' which have not been discovered by the other party is on the party making that assertion. Furthermore, that the broad meaning ascribed to relevance is determined from the pleadings, and a party may only obtain inspection of documents relevant to the issues on the pleadings. See also *Continental Ore Construction v Highveld Steel & Vanadian Corporation Ltd* 1971 (4) SA 589 (W) at 596H and *Carpede v Choene* 1986 (3) SA 445 (O) at 452C-J.

[25] The courts are reluctant to go behind a discovery affidavit which is regarded as conclusive, save where it can be shown that there are reasonable grounds for supposing that the party has or has had other relevant documents in their possession, or has misconceived the principles upon which the affidavit should be made. This deduction can be made either (i) from the discovery affidavit itself, (ii) from the documents referred to in the discovery affidavit, (iii) from the pleadings in the action, or (iv) from any admission made by the party making the discovery affidavit, or (v) the nature of the case or the documents in issue (*Richardson's Wool Washeries Ltd v Minister of Agriculture* 1971(4) SA 62 (E) AT 67C-F; *Continental Ore Construction v Highveld Steel & Venadium Corporation Ltd* 1971 SA 589 (W) at 597E-H; *Swissborough Diamond Mines* (supra) at 317E-I).

[26] In determining whether to go behind the discovery affidavit (save where *mala fides* is alleged) the court will only have regard to the following: the discovery affidavit itself; or the documents referred to in the discovery affidavit; or the pleadings in the action; or any admissions made by the party making the discovery

affidavit the nature of the case or the documents in issue (*Swissborough Diamond Mines* (supra) at 320F-H; and *Federal Wine & Brandy Co Ltd v Cantor* 1958 (4) SA 735 (E) at 749G-H and 753D-G.

[27] In the present case, it is clear from the pleadings that the issue of the use of the plaintiff's trade marks - by whom and on what conditions - would feature prominently during the trial. It is also not without significance that the Vodacom agreement was introduced into the fray by the plaintiff, who made extensive reference to it with relation to the use of its trade marks. It is therefore difficult to see how the plaintiff can aver that the agreement is not relevant. It is clear that the use of the plaintiff's trade marks is dispositive of both the main action and the counterclaim. To that extent I conclude that the Vodacom agreement is relevant and should be discovered. Having had sight of the agreement, I agree that some of its provisions are of a confidential nature. Only a redacted copy of the agreement should be made available to the defendants.

The defendants' application to amend and the plaintiff's demand for security.

[28] On 20 September 2012 the defendants gave notice of their intention to amend their counterclaim, wherein they seek to expunge the plaintiff's registered Bulls logo trade mark in certain classes, which registrations cover a wide variety of goods and services. On 5 October 2012, the plaintiff delivered a 'conditional' objection to the intended amendment. The condition is that the plaintiff requires of the defendants to furnish security for the plaintiff's costs in respect of the counterclaim, in which event the plaintiff would withdraw its opposition to the proposed amendment.

[29] On 19 October 2012 the defendants lodged an application for leave to amend their counterclaim in accordance with their notice dated 5 September 2012, and for the setting aside of the plaintiff's 'conditional' notice of opposition. In response, the plaintiff filed an affidavit in support of its conditional opposition to the defendants' intended amendment, as well as its counter-application for security for costs in terms of rule 47(3), in the amount of R500 000, alternatively as determined by the taxing master. The plaintiff seek that the defendants' intended amendment only be effected once the defendants have put up appropriate security, failing which their intended amendment be refused.

[30] Amendments are governed by rule 28. In terms of rule 28(4) an objection to a proposed amendment shall clearly and concisely state the grounds upon which the objection is founded. The court exercises a discretion in granting in considering an application for amendment (*Krische v Road Accident Fund 2004 (4) SA 358 (W)* at 363). From an overview of the authorities, two distinct considerations can be distilled for the exercise of that discretion. First, that the party seeking an amendment bears the onus of showing that it is made *bona fide*. Second, that there is no prejudice to the other party. See generally, *Trans-Drakensberg Bank Ltd v Combined Engineering (Pty) Ltd 1967 (3) SA 632 (D)*, where the court made a useful overview of cases on the subject, and concluded that the primary object of allowing an amendment was to obtain a proper ventilation of the dispute between the parties.

[31] In the present matter, the plaintiff's only basis for opposing the proposed amendment is the defendants' refusal to provide security for the plaintiff's costs to be incurred in defending the proposed counterclaim. The plaintiff relies on s 8 of the

Close Corporation Act 69 of 1984 to demand security from the first defendant, which provides:

'When a corporation in any legal proceedings is a plaintiff or applicant or brings a counterclaim or counter-application, the court concerned may at any time during the proceedings if it appears that there is reason to believe that the corporation or, if is being wound up, the liquidator thereof, will be unable to pay the costs of the defendant or respondent, or the defendant or respondent in reconvention, if he successful in his defence, require security to be given for those costs, and may stay all proceedings till the security is given'.

[32] On behalf of the plaintiff, it is stated that the first defendant (a close corporation) is not in a financial position to pay the plaintiff's costs likely to arise in defending the proposed counterclaim on the ground that the first defendant has no assets and does not own any immovable property in South Africa. Against the second defendant, the contention is that he only owns a single property which is bonded in the amount of R1 million. Furthermore, it is argued that the second defendant's sole source of income is the first defendant, which is said to be an empty shell.

[33] In the main action, the trial court will have to answer the crisp question as to where, between the plaintiff and the first defendant, does the goodwill of the trade marks reside. When one has regard to the defendants' counterclaim, it relates largely to the same issue raised by the plaintiff in the main claim. In the circumstances, I take a view that it would be inappropriate, in principle, to order the defendants to furnish security for the plaintiff's defence of the counterclaim. I did not understand the plaintiff's counsel to join issue with this principle. What the plaintiff is concerned about is the potential of an escalation of costs as a result of the counterclaim.

[34] In the main action, the plaintiff relies on the use of the Bulls trade marks for purposes of trade mark infringement. (The Bulls Babes logo trade mark is said to have been used by the plaintiff mainly through its relationship with the defendants). Accordingly, it has to prove such use by it or its licensees in order to successfully stave off an application for expungement of its trade marks. Put differently, the plaintiff will need to produce evidence that (whether by itself or through another party using the plaintiff's trade mark with its permission), it has made of use of the Bulls logo trade mark in relation to each and every good and services covered by the trade mark registrations in question, that such use had occurred during the 5 year period as contemplated by 27(1)(b) of the Trade Marks Act, 194 of 1993.

[35] In this, lies the *gravamen* of the plaintiff's contention for the defendants to furnish security. The plaintiff alleges that for it to achieve the above, it would have to consult with approximately 30 licensees authorised to use the plaintiff's Bulls logo trade mark in relation to different goods and services, in order to obtain the documentary evidence and for their oral evidence at the trial. These licensees, the plaintiff states, use the trade marks in relation to gear and memorabilia, including jerseys, shirts, caps, flags etc. This, the plaintiff says, will require 'several weeks' of consultation, preparation and additional discovery. The duration of the trial will also be lengthened, with the concomitant increase in legal costs, so it is argued.

[36] In this regard, Ms *Jansen*, counsel for the defendants, contended that the use of the trade mark by the plaintiff's licensees in relation to gear, memorabilia, clothing, would merely be 'promotional' use of the trade mark, which does not constitute use

of the mark for the purposes of trade mark infringement, as that use would not be in the course of trade as a trademark. Counsel, by analogy, referred to *Verimark (Pty) Ltd v BMW AG; BMW AG v Verimark (Pty) Ltd 2007 (6) SA 263 (SCA)* para 7; and *Salt of the Earth Creations (Pty) Ltd & Others v The Gap, Inc, and Another 2012 (5) SA 259 (SCA)*, where it was remarked that the use of a trade mark for purely descriptive purposes would not, generally, constitute an infringement of the mark, as it does not necessarily create an impression of a material link between the infringer's product and the owner of the mark. I accept the analogy as apposite.

[37] On its own version, it seems that (a) the plaintiff's use of the trade marks is limited to the Bulls rugby teams, matches, players clothing and memorabilia and (b) that the first defendant's business includes sports and entertainment management and agency services. The plaintiff will therefore have to consult regarding the use that has been made of its trade marks in relation to rugby matches, rugby players and their clothing, and nothing beyond that. Consultation with the other licensees outside the scope of the three classes might prove unnecessary, unless the plaintiff would seek to prove use of the trade marks by the licensees which enhanced its reputation and goodwill. Such case is not made out in the plaintiff's papers.

[38] In short, for the plaintiff to succeed in its action against the defendants, it has to prove that all its alleged registered trade marks are valid and in force. It has to do the same in defending the defendants' expungement counterclaim. Hence the very issue which arises in the counterclaim is already the issue in the plaintiff's cause of action against the defendants.

[39] I have to make the observation that the plaintiff's opposition to the intended amendment is peculiar in that it is raised in the form of demand for security for costs. This is quite novel, and despite diligent search, I have not come across any authority for such an objection. The proper approach seems to be that an objection to an amendment must relate, and be intrinsically linked, to the merits of the proposed amendment, and not to anything extraneous.

[40] I therefore agree with the defendants' contention, and conclude, that there is no real opposition to the defendants' application to amend its counterclaim in the respect it intends to. The defendants should accordingly be granted leave to amend. It follows that the plaintiff's counter-application (its objection to the amendment) should be dismissed. I am fortified in this conclusion by the absence of any demonstrable prejudice attendant to the plaintiff as a result of the defendants' proposed amendment.

[41] If this conclusion is wrong, there is still a potentially constitutional dimension to the matter. In every application for a litigant to set up security for costs, s 34 of the Constitution³ has to be considered. It guarantees everyone the right to access to courts. The court should therefore be alert and sensitive to the risk that by making such order it may be infringing this right. Thus, I must bear in mind, and weigh the application in the light of this and other facts, by conducting a 'balancing exercise' in the quest to achieve equity and fairness. In *Giddey NO v JC Barnard and Partners* 2007 (5) SA 525 (CC) para 8, the position was neatly summarized as follows:

³ Republic of South Africa Constitution Act, 108 of 1996.

'The courts have ... recognised that in applying section 13, they need to balance the potential injustice to the plaintiff if it is prevented from pursuing a legitimate claim as a result of an order requiring it to pay security for costs, on the one hand, against the potential injustice to the defendant who successfully defends the claim, and yet may well have to pay all its own costs of the litigation. To do this balancing exercise correctly, a court needs to be apprised of all the relevant information. An applicant for security for costs will therefore need to show that there is a probability that the ... company will be unable to pay costs. The respondent company, on the other hand, must establish that the order for costs might well result in its being unable to pursue litigation and should indicate the nature and importance of the litigation to rebut a suggestion that it may be vexatious or without prospects of success...'

(footnotes omitted)

See also *Kini Bay Village Association v Nelson Mandela Municipality* 2009 (2) SA 166 (SCA) and *Zietsman v Electronic Media Network Ltd and Others* 2008 (4) SA 1 (SCA).

[42] In the present application, there are no facts placed before the court, save for a bald assertion that the first defendant is a close corporation without any assets, and that the second defendant's immovable property is bonded to the tune of over R1m. Furthermore, there is no suggestion by the plaintiff that the defendants' counterclaim may be vexatious or without any prospects of success.

[43] To sum up. The defendants' application to amend its plea should be granted, and the plaintiff's application for the defendants to furnish security for costs should fail. The plaintiff should furnish a redacted copy of the Vodacom agreement to the defendants. In this regard I need to make it clear that the defendants *and* their legal representatives, are entitled to a copy of the agreement.

[44] There remains the issue of costs. In respect of their application to amend, and the plaintiff's demand for security, the defendants have been successful. Costs should follow the cause. With regard to the costs of the defendants' application to compel compliance with their rule 35(5) notice, I am of the view that it is fair that no order be made, on account of what is discussed in paragraphs 18 and 19 above. Although the issues *per se* are not complicated to warrant the employment of senior counsel (being interlocutory applications) the parties all employed senior counsel, understandably so, as it is almost certain that the same senior counsel would handle the trial. It is fair in the circumstances that costs of senior counsel should be allowed.

[45] In the result the following order is made:

1. The defendants are granted leave to amend their plea dated 5 September 2012 in accordance with their notice of intention to amend dated 19 September 2012;
2. The plaintiff's application in terms of rule 47(1) for the defendants to furnish security for costs is dismissed;
3. The plaintiff is ordered, within 10 days of this order, to furnish the defendants with a redacted copy of the sponsorship agreement between it and Vodacom;
4. The plaintiff is ordered to pay the defendants' costs in respect of their application to amend, and in respect of its application for the defendants to furnish security for costs;
5. There is no costs order with regard to the defendants' application to compel compliance with its rule 35(3).



TM MAKGOKA
JUDGE OF THE HIGH COURT

DATE OF HEARING : 12 NOVEMBER 2012

JUDGMENT DELIVERED : 15 APRIL 2013

**FOR THE APPLICANTS
(THE DEFENDANTS)** : ADV MM JANSEN SC

INSTRUCTED BY : SAVAGE, JOOSTE & ADAMS INC.,
PRETORIA

**FOR THE RESPONDENT
(THE PLAINTIFF)** : ADV C E PUCKRIN SC (with
ADV L G KILMARTIN)

INSTRUCTED BY : ADAMS AND ADAMS ATTORNEYS,
PRETORIA