

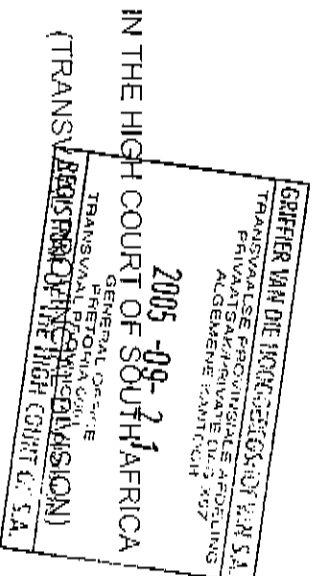
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452-8900

COMBINED SUMMONS

32649105

CASE NO:



In the matter between :

WRAYPEX (PTY) LTD

PLAINTIFF

and

LISE ESSBERGER

DEFENDANT

TO THE SHERIFF OR HIS DEPUTY :

INFORM

LISE ESSBERGER, a major female whose full and further particulars are to the Plaintiff unknown, residing at Ptn 25 of the farm Vlakfontein 494 JQ, Lanseria, and Ptn 22 of the Riverside Estate 497 JQ, Lanseria

(hereinafter called the Defendant) that

Wraypex (Pty) Ltd, a private company, with limited liability, duly incorporated and registered in accordance with the company laws of the Republic of South Africa, under registration number 2001/011622/07, with principal place of business at 55 Kingfisher Drive, Fourways, Sandton

(hereby called the Plaintiff), hereby institutes action against the Defendant in which action the Plaintiff claims the relief and on the grounds set out in the particulars annexed hereto.

INFORM the Defendant further that if she disputes the claim and wishes to defend the action, she shall

(i) Within 10 days of the service upon her of this Summons, file with the Registrar of this Court at the High Court Building, cor Paul Kruger and Vermuelen Streets, Pretoria, notice of her intention to defend and serve a copy thereof on the Plaintiff's attorney, which notice shall give an address (not being a post office or poste restante) as referred to in Rule 19(3) for the service upon the Defendant of all notices and documents in the action.

(ii) Thereafter and within twenty days after filing and serving notice of intention to defend as aforesaid, file with the Registrar and serve upon the Plaintiff a Plea. Notice to strike out, with our without a counterclaim.

() **INFORM** the Defendant further that if she fails to file and serve notice as aforesaid, judgement as claimed may be given against her without further notice to herself, or if having filed and served such notice, fails to plead, except make application to strike out or counterclaim, judgement may be given against her.

And immediately thereafter serve on the Defendant a copy of this Summons and return the same to the Registrar with whatsoever you have done thereupon.

DATED at PRETORIA on this 20th day of September 2005.


 (SGD) M. VAN DEN HEEVER

EDELSTEIN BOSMAN INC
 ATTORNEYS FOR PLAINTIFF
 222 LANGE STREET
 NEW MUCKLENEUK
 MR N VAN DEN HEEVER/LDA/BM001118



 REGISTRAR OF THE HIGH COURT

ANNEXURE

PARTICULARS OF PLAINTIFF'S CLAIM

1. The Plaintiff is WRAYPEX (PTY) LIMITED, a private company, with limited liability, duly incorporated and registered in accordance with the company laws of the Republic of South Africa, under registration number 2001/011622/07, with principal place of business at 55 Kingfisher Drive, Fourways, Sandton.
2. The Defendant is LISE ESSBERGER, a major female whose full and further particulars are to the Plaintiff unknown, residing at Ptn 25 of the farm Vlakfontein 494 JQ, Lanseria, and Ptn 22 of the Riverside Estate 497 JQ, Lanseria.
3. The Defendant, wrongfully and with the intention to injure the Plaintiff, published the following false and malicious statements of and concerning the Plaintiff:
 - 3.1 *"Again jumped the gun in that earthmoving has been done prior to expiry of the period allowed for appeal against the ROD issued"; and*

3.2 "Has destroyed a known nesting site of the African Finfoot, a protected bird species."

("the statements").

4. The Defendant made and published the statements to Khabisi Mosunkutu, the MEC for Agriculture, Conservation and Environment for Gauteng, on or about 13 July 2005.

5. The statements are per se defamatory of the Plaintiff.

6. Alternatively to paragraph 5, the Defendant intended the following defamatory innuendo when she made the statements:

6.1 that the Plaintiff acts or acted illegally; and/or

6.2 that the Plaintiff acts or acted deceitfully and/or fraudulently,

and, in addition, the persons to whom the statements were made and published as aforesaid, understood the statements to bear such innuendo.

7. As a result of the publication of the statements, the Plaintiff has:

7.1 been injured in its fair name, and reputation; and

7.2 suffered damages in the sum of R5 000 000,00.

8. The Defendant when making the statements knew that the Plaintiff:

8.1 was seeking the necessary statutory approvals for a residential property development; and/or

8.2 had expended and would expend money to obtain approval for the proposed development; and/or

8.3 would suffer damages in the event of the necessary statutory approvals not being obtained; and/or

8.4 would suffer damages in the event of the necessary statutory approvals being delayed.

9. Alternatively to paragraphs 8.3 and 8.4, the Defendant should have

foreseen:

9.1 that the Plaintiff would suffer damages in the event of the necessary statutory approvals not being obtained; and

9.2 that the Plaintiff would suffer damages in the event of the necessary statutory approvals being delayed.

10. The Defendant when making the statements intended the delay and/or refusal of the necessary statutory approvals:

11. The necessary statutory approvals were in fact delayed as a result of the Defendant making the statements.

12. The Plaintiff has, as a result of the delays, suffered damages in the amount of R20 000 000,00 being *inter alia* costs of finance and contractual penalties.

13. The Defendant when making the statements and publishing it as aforesaid:

13.1 acted unlawfully and wrongfully;

13.2 violated the Plaintiff's fundamental rights to dignity and fair administrative action;

13.3 intended to violate the Plaintiff's fundamental rights to dignity and fair administrative action.

14. By virtue of the facts herein stated, the Plaintiff:

14.1 has suffered a violation of its fundamental rights to dignity and fair administrative action; and

14.2 has suffered damages in the amount of R10 000 000,00.

15. In the premises the Defendant is liable in damages to the Plaintiff in the sum of R10 000 000,00.

16. Having regard to the egregious nature of the Defendant's violations of the Plaintiff's fundamental rights to dignity and fair administrative action as set out above, appropriate relief in terms of Section 38 of Act 108

of 1996 include, in addition to the compensatory damages contemplated by paragraph 15 above, punitive constitutional damages of R5 000 000,00, alternatively punitive damages of R5 000 000,00 under the common law of delict developed to promote the spirit, purport and objects of the Bill of Rights.

WHEREFORE the Plaintiff prays for judgment against the Defendant for:

1. Payment of the amount of R35 000 000,00;
2. Payment of the amount of R5 000 000,00;
3. Interest on the aforesaid amounts at 15,5% per annum from date of judgment to date of final payment;
4. Costs of suit on the attorney and client scale;
5. Further and/or alternative relief.

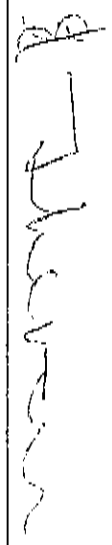
DATED at SANDTON on this the

31st

day of AUGUST 2005

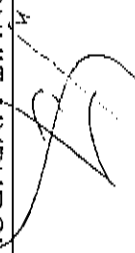


S VAN NIEUWENHUIZEN'S.C.



ELTHERON

Plaintiffs Counsel



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Plaintiffs Attorneys
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Peter Place Park
54 Peter Place
BRYANSTON, 2021
TEL : (011) 463-0055
FAX : (011) 463-0054
REF : C MYBURGH

IN THE HIGH COURT OF SOUTH AFRICA
(TRANSVAAL PROVINCIAL DIVISION)

Case No. 30730/05

32649/05

In the matter between -

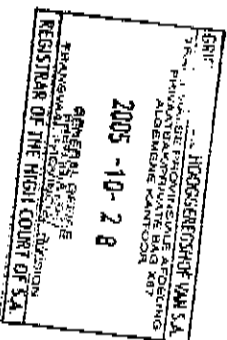
WRAYPEX (PTY) LTD

Plaintiff

and

LISE ESSBERGER

Defendant



DEFENDANT'S PLEA

The defendant pleads to the plaintiff's particulars of claim as follows -

AD PARAGRAPH 1

1. The defendant has no knowledge of these allegations and denies them.

AD PARAGRAPH 2

2. These allegations are admitted.

AD PARAGRAPHS 3 TO 6

3. These allegations are denied.

Alternatively

4. If it was held that the statements complained of were made by the defendant to Khabisi Mosunokutu, and are defamatory of the plaintiff in the senses alleged, then the defendant denies, on the following grounds, that publication was wrongful and/or made with the intention to injure the plaintiff's reputation –

Truth and Public Interest

4.1. The statements of fact were true, or substantially true, and their publication was in the public interest.

Fair Comment

4.2. The comments made in the statements complained of:

- Were comments made in good faith;
- Were comments on matters of public interest or concern;

- Were based on facts that were generally known or disclosed, alternatively true or substantially true, and

- Were, in circumstances, fair.

Alternatively

Privilege

4.3. The statements complained of were published on a privileged occasion in that:

- (a) The statements complained of were published in the discharge of a duty or exercise of a right;
- (b) The statements complained of were published to the Member of the Executive Council for Agriculture, Conservation and Environment (the MEC) and the MEC had a duty or right to receive the statements.

()

Further alternatively:

Reasonable Publication

4.4. It was reasonable to publish the statements complained of in that:

- (a) The statements complained of were published in the *bona fide* and reasonable belief that they were true;
- (b) They were not published recklessly;
- (c) Reasonable steps had been taken to ensure that the factual allegations therein were true;
- (d) In the circumstances, the defendant was not negligent;
- (e) The information contained therein was such that it was in the public interest that it be published to the publistree.

Further alternatively

Statutory Protection

4.5. The defendant is excused liability in terms of section 31(4) of the National Environmental Management Act 107 of 1998 in that:

(a) The defendant, in good faith, reasonably believed, at the time of disclosure, that she was disclosing evidence of an environmental risk;

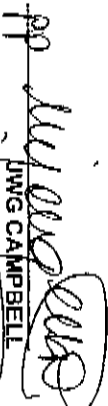
(b) The disclosure alleged by the plaintiff is disclosure to an organ of state in that the MEC is administration in the provincial sphere of government, alternatively is a functionary exercising public power or performing a public function in terms section 22 of the Environment Conservation Act, 73 of 1989.

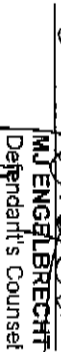
AD PARAGRAPHS 7 TO 16

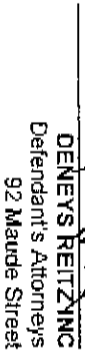
5. These allegations are all denied.

WHEREFORE the defendant prays that the plaintiff's claims be dismissed with costs, including costs of two counsel.

DATED and SIGNED at JOHANNESBURG on this 24th day of
OCTOBER 2005.


JWG CAMPBELL


MJ ENGELBRECHT
Defendant's Counsel


OENEYS REITZINC
Defendant's Attorneys
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DX 215 JHB

Ref: Mr RA Scott/cw
c/o CELLERS ATTORNEYS
c/o Venn & Muller Inc
114 Bronkhorst Street
New Muckleneuk
PRETORIA
0001

Ref: Mr M Cellers/DR0001C
Tel: 082 578 4901

TO:
The Registrar of the above
Honourable Court
PRETORIA

AND TO:
CONNIE MYBURGH & PARTNERS INC
Plaintiff's Attorneys
1st Floor, Building B
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Fax: (011) 463-0054
Ref: C Myburgh
c/o **EDELSTEYN-BOSMAN INC**
220/2 Lange Street
New Muckleneuk
Pretoria
Tel: (012) 452-8900
Fax: (012) 452-8901/2
Ref: Nvd Heever/RF/BM001117

EDELSTEYN - BOSMAN INC
RECEIVED WITHOUT PREJUDICE
OMIVANA SONDOR BUNWDELUNG
DATE: 28/10/05
TIME: 11:05

Received a copy hereof on this the

28 day of **OCTOBER 2005**.

2/05
for: Plaintiff's Attorneys