

Dear CSOS,

Please see below Mr Theo Fitchat's response to the allegations made by Mrs Marianne Johnson regarding Mr Fitchat's surveillance cameras as indicated in your email dated 23 March 2022.

Legal action against Mr Johnson

1. On 12 February 2022, Mr Fitchat initiated legal action against Mr Tyrone Johnson, the husband of Mrs Johnson, by having the sheriff deliver a summons to his house.
2. Mr Fitchat is suing Mr Johnson for defamation since Mr Johnson falsely claimed in a message posted by Mr Johnson on the KleinBron Als Whatsapp group that Mr Fitchat recorded Mr Johnson's child in a towel on Mr Johnson's property.
3. Since the summons was delivered to Mr Johnson on 12 February 2022, Mr Johnson had until 25 February 2022 to submit his intention to defend.
4. Mr Johnson failed to respond to Mr Fitchat's allegations within the allocated time, and the matter was submitted for a default judgement on 3 March 2022.
5. On 24 February 2022 Mrs Johnson filed a complaint regarding Mr Fitchat's cameras with CSOS, which is after the summons was delivered to Mr Johnson by the sheriff, and a day before Mr Johnson had to submit his intention to defend.
6. Mrs Johnson's application to CSOS indicates that she is not sure whether legal proceedings have been instituted, which is untrue.
7. Mr Fitchat sent the letter of demand, which was addressed to Mr Johnson, to both Mr and Mrs Johnson's email addresses and via Whatsapp, and the summons was delivered to Mr and Mrs Johnson's house by the sheriff.
8. Mrs Johnson is attempting to initiate a multiplicity of actions by attempting to institute an action against Mr Fitchat through CSOS regarding the exact same issue that Mr Fitchat initiated a lawsuit against her husband, Mr Johnson, for – namely that Mr Johnson claims that Mr Fitchat records the Johnson's children on their property – which is an abuse of process.

8.1. According to Rule 10(3) of the Uniform Rules of Court:

(3) Several defendants may be sued in one action either jointly, jointly and severally, separately or in the alternative, whenever the question arising between them or any of them and the plaintiff or any of the plaintiffs depends

upon the determination of substantially the same question of law or fact which, if such defendants were sued separately, would arise in each separate action.

9. Since Mrs Johnson's allegation to CSOS is that Mr Fitchat is recording parts of her property and her children's bedrooms and bathrooms, and since her allegation depends upon the determination of substantially the same question of law or fact that Mr Fitchat initiated legal action against her husband for, the correct action for Mrs Johnson to have taken was to join Mr Fitchat's lawsuit against Mr Johnson as a Second Defendant, instead of initiating a separate action through CSOS.

10. Furthermore, since the matter between Mr Fitchat and Mr Johnson is already at the judgement stage,

10.1. Closely allied to the 'once and for all' rule is the principle of *res judicata* which establishes that, where a final judgment has been given in a matter by a competent court, then subsequent litigation between the same parties, or their privies, in regard to the same subject-matter and based upon the same cause of action is not permissible and, if attempted by one of them, can be met by the *exceptio rei judicatae vel litis finitae*. The object of this principle is to prevent the repetition of lawsuits, the harassment of a defendant by a multiplicity of actions and the possibility of conflicting decisions.

10.2. The doctrine is based on three maxims, namely: (a) *nemo debet bis vexari pro una et eadem causa* (no man should be punished twice for the same cause); (b) *interest reipublicae ut sit finis litium* (it is in the interest of the State that there should be an end to a litigation); and (c) *res judicata pro veritate occipitur* (a judicial decision must be accepted as correct).

(Corbett JA, *Evins v Shield Insurance Co Ltd*:20

11. Since Mr and Mrs Johnson are married, Mrs Johnson has a direct and substantial interest in Mr Fitchat's current lawsuit against her husband, so her attempt to initiate legal action against Mr Fitchat regarding the same point of law – whether Mr Fitchat is illegally recording the Johnson's property and children and invading their privacy – is not permissible.

12. It appears to Mr Fitchat that Mrs Johnson was attempting to discourage Mr Fitchat from proceeding with legal action against her husband by lodging this unsubstantiated claim with CSOS.

Mr Fitchat's cameras

13. Mr Fitchat denies Mrs Johnson's allegations that his cameras have a full view of their garden, guests and children bedrooms and bathrooms.
14. Mr Fitchat notes that Mrs Johnson has provided no evidence for her claim against him to CSOS, similar to Mr Johnson not providing evidence for his claim against him on the Klein Bron Als Whatsapp group.
15. The only evidence that Mrs Johnson has provided is a letter from the Klein Bron Estate's HOA which indicates that they have investigated the matter and after consulting with various municipal departments, law enforcement, and legal advisers, they have found that Mr Fitchat has not transgressed any estate rules.
16. Some of Mrs Johnson's windows appear to have frosted glass, similar to Mr Fitchat's own bathroom windows, so Mr Fitchat assumes those windows are her bathroom windows as well.
17. It is unclear how it is possible for Mr Fitchat's cameras, even if they had been turned towards Mrs Johnson's bathrooms, which they are not, to have a full view of Mrs Johnson's bathrooms if there are privacy screens installed on them.
18. Mrs Johnson indicated that Mr Fitchat's cameras are 360 degree cameras, but they are not.
19. They have a PTZ (pan tilt zoom) function to adjust them as needed.
20. If Mrs Johnson's argument is that Mr Fitchat's cameras can potentially invade her privacy, she is thereby already admitting that Mr Fitchat's cameras are not invading her privacy, and are merely capable of doing so, instead of factually doing so.
21. An individual cannot be found guilty of something that they can only potentially do, but that they do not, in fact, do.
22. Static cameras can also be moved to invade someone's privacy, so the fact that Mr Fitchat's cameras are able to move does not mean that he will invade Mrs Johnson's privacy.
23. Mrs Johnson's claim that Mr Fitchat's cameras invade her privacy is without merit, and if she is attempting to imply that Mr Fitchat is financially responsible for increasing the height of her walls or to install blackout privacy films on her windows, the correct action for her to have taken would have been to respond to Mr Fitchat's summons with a counterclaim for these amounts.

Aggression claims

24. In Mrs Johnson's claim, she intentionally and deceptively construed Mr Fitchat as being aggressive, to hide the fact that she has made no attempt to resolve the matter with Mr Fitchat, and to paint herself and Mr Johnson as victims, when in reality they are the aggressors.
25. Mr Fitchat contends that Mrs Johnson has no desire to resolve the situation, or to listen to reason, but that this is merely another attempt to antagonise him.
26. Mr Fitchat acts in a defensive manner to being provoked, as any reasonable person would do.
27. To the contrary of Mrs Johnson's statement that Mr Fitchat is aggressive, Mr Fitchat has video and audio footage of both Mr and Mrs Johnson acting aggressively towards him on and near his property.
28. Mr and Mrs Johnson are so aggressive in their manipulation of the truth that they are sacrificing their children's dignity and using them as pawns for their own unknown agenda. Please see the summons for more details.
29. According to No. 38 of 2005: Children's Act, 2005, 9. In all matters concerning the care, protection and well-being of a child the standard that the child's best interest is of paramount importance, must be applied.
30. Using their children as scapegoats and pretending that their children's privacy is being invaded in order to pressure Mr Fitchat to remove his security measures can surely not be in the Johnsons' children's best interests.
31. Mrs Johnson is supposed to be a professional anaesthetist who acts in an ethical manner, but her conduct is appalling.

Reasons for Mr Fitchat installing cameras

32. Mr Fitchat installed the cameras only for surveillance to protect himself and his family, and not to spy, harass or record anyone illegally.
33. Mr and Mrs Johnson are good friends with Mr Fitchat's other neighbours, Mr and Mrs Franken.
34. In October 2021, Mr Franken and two male guests attempted to assault Mr Fitchat at his house. Mr Fitchat called SJC Security and they wrote a report of the incident.
35. In December 2021, Mr Fitchat's house was vandalised one night when he and his family were asleep, he believes by Mr and Mrs Franken. Mr Fitchat called SJC

Security and they also wrote a report of the incident and took photos of the vandalism.

36. Mr Fitchat believes that the Johnsons were either aware of the vandalism, or were involved in the vandalism.

37. Mr Fitchat got a Rottweiler as soon as he was able to after discovering the vandalism in order to protect his property.

38. In January 2022, the defamation incident occurred about which Mr Fitchat is taking legal action against Mr Johnson for. Mr Fitchat's wife called SJC Security and the owner of SJC Security attended to the matter.

39. Also in January 2022, Mr Fitchat installed cameras for his family's safety and security.

40. In February 2022, Mr Fitchat got a second Rottweiler.

41. Mr Fitchat believes that the Frankens and the Johnsons want him to remove his cameras and Rottweilers in order to enter his property illegally again, and that they are falsely accusing him of recording children in order to pressure him to remove the cameras.

42. Mr Fitchat refuses to remove his cameras.

Complaints about Mr Fitchat's dogs

43. Right after Mr Fitchat instituted legal action against Mr Johnson, the older male Rottweiler suddenly started barking in the evenings and in the early mornings, often while looking towards the Johnsons' house.

44. The dog never barked like that before.

45. Mr Fitchat contends that Mr Johnson is provoking the dog to bark, and Mr Fitchat is expecting Mr Johnson to attempt to complain about the dog's barking in a following application to CSOS, in order to have the dog removed and have Mr Fitchat's family's safety be compromised.

46. Mr Fitchat takes his two Rottweilers for separate walks between 18:00 and 19:00 daily, when most people are inside their homes, to minimize contact with other people and dogs.

47. From the day right after Mr Fitchat instituted legal action against Mr Johnson, nearly every day, when Mr Fitchat takes the older male Rottweiler for a walk, Mr Fitchat is stalked and harassed by an unknown man with an aggressive pit bull terrier.

48. The man stands and waits on the two exact same spots every time and waits for Mr Fitchat to pass by.
49. When Mr Fitchat walks by, the man provokes Mr Fitchat's dog and Mr Fitchat has to struggle to keep the dogs from attacking each other.
50. The man simply stands by and smirks while watching Mr Fitchat struggle to keep the dogs away from each other.
51. The man always comments afterwards, "Do you have control of that dog?"
52. Since Mr Fitchat's Rottweiler suddenly started barking and the unknown man appeared the very next day after Mr Fitchat instituted legal action against Mr Johnson, Mr Fitchat believes that the man with the pit bull terrier is sent by Mr and Mrs Johnson in order to intimidate Mr Fitchat to decrease his security and to abandon the lawsuit against Mr Johnson.
53. A detective has also indicated to Mr Fitchat that in these kinds of circumstances dogs often get poisoned, so Mr Fitchat is also concerned about the safety of his dogs.

You are welcome to contact me for any further information.

Kind regards,

Theo Fitchat

[sent electronically and thus unsigned]