

**IN THE MAGISTRATES COURT FOR THE DISTRICT OF KUILSRIVER
HELD AT KUILSRIVER**

CASE NO: 1399/2022

In the matter between:

RUBEN THEODOR FITCHAT

Plaintiff

and

TYRONE JOHNSON

Defendant

REPLY

PLEASE TAKE NOTE THAT the Plaintiff herewith replies as follows to the Defendant's plea:

RE PARAGRAPH 1

1. The contents of this paragraph are noted.

RE PARAGRAPH 2

2. The contents of this paragraph are noted.

RE PARAGRAPH 3

3. The Plaintiff admits that on 19 October 2021 there was an incident between him, Mr Elmo Franken, and two of Mrs Franken's guests, after the Plaintiff told a large group of children who kept making an excessive amount of noise outside his bedroom windows at night, to stop making a noise.
4. The Plaintiff denies ever being aggressive towards children playing in Frangipani Street, and the Defendant is put to the proof thereof.

RE PARAGRAPH 4

5. The admission regarding the date is noted. The rest of the contents of this paragraph is denied, and the Defendant is put to the proof thereof.

RE PARAGRAPH 5

6. The content of this paragraph is denied, and the Defendant is put to the proof thereof.

RE PARAGRAPH 6

7. The content of this paragraph is denied, and the Defendant is put to the proof thereof.

RE PARAGRAPH 7

8. The content of this paragraph is denied, and the Defendant is put to the proof thereof.

RE PARAGRAPH 8

9. The content of this paragraph is denied, and the Defendant is put to the proof thereof.

RE PARAGRAPH 9

10. The content of this paragraph is denied, and the Defendant is put to the proof thereof.

RE PARAGRAPH 10

11. The content of this paragraph is denied, and the Defendant is put to the proof thereof.

RE PARAGRAPH 11

12. The content of this paragraph is noted.

RE PARAGRAPH 12

13. The content of this paragraph is noted.

RE PARAGRAPH 13

14. The content of this paragraph is denied, and the Defendant is put to the proof thereof.

RE PARAGRAPH 14

15. The content of this paragraph is denied, and the Defendant is put to the proof thereof. In paragraph 13 of the Defendant's Plea, the Defendant avers that

neither Plaintiff nor Defendant can state how third parties on the Whatsapp group understood the message without calling them as witnesses.

RE PARAGRAPH 15

16. The Defendant's admission regarding the content of the Plaintiff's claim is noted.

17. The Plaintiff admits that Mr van Tonder was present on the evening of 19 October 2021, but denies that he threatened Mr van Tonder.

18. Neither Plaintiff nor Defendant can state how Mr van Tonder understood the message without calling him as a witness.

RE PARAGRAPH 16

19. The content of this paragraph is denied, and the Defendant is put to the proof thereof.

RE PARAGRAPH 17

20. The content of this paragraph is denied, and the Defendant is put to the proof thereof.

RE PARAGRAPH 18

21. The content of this paragraph is denied, and the Defendant is put to the proof thereof.

RE PARAGRAPH 19

22. The content of this paragraph is denied, and the Defendant is put to the proof thereof.

RE PARAGRAPH 20

23. The content of this paragraph is denied, and the Defendant is put to the proof thereof.

RE PARAGRAPH 21

24. The content of this paragraph is denied, and the Defendant is put to the proof thereof.

RE PARAGRAPH 22

25. The content of this paragraph is denied, and the Defendant is put to the proof thereof.

RE PARAGRAPH 23

26. The content of this paragraph is noted.

RE PARAGRAPH 24

27. The content of this paragraph is denied, and the Defendant is put to the proof thereof. The Plaintiff suffered degradation as a direct result of the Defendant's Whatsapp message.

RE PARAGRAPH 25

28. The content of this paragraph is noted.

RE PARAGRAPH 26

29. The content of this paragraph is denied, and the Defendant is put to the proof thereof.

RE PARAGRAPH 27

30. The content of this paragraph is noted.

RE PARAGRAPH 28

31. The content of this paragraph is denied, and the Defendant is put to the proof thereof.

RE PARAGRAPH 29

32. The Plaintiff admits that his children are very young, and that the Plaintiff and his wife have mostly kept them inside the house after the incident on 19 October 2021.

33. The rest of the content of this paragraph is denied, and the Defendant is put to the proof thereof.

34. Only a small number of people were aware of the incident on 19 October 2021.

35. The Plaintiff and his wife would have started taking their children outside again after enough time had passed and they were sure that the people who had threatened the Plaintiff at his house would not cause another confrontation.

36. After the Defendant's Whatsapp message, a large number of residents in the estate has come under the impression that the Plaintiff is a dangerous and deviant individual, which he is not.

37. Therefore, the Plaintiff's children will not be able to play normally outside with the other neighbourhood children again.

RE PARAGRAPH 30

38. The content of this paragraph is denied, and the Defendant is put to the proof thereof.

39. The Defendant's Whatsapp post has directly and severely impacted the Plaintiff and his family's safety and quality of life while they live in Kleinbron Estate.

40. Safety and quality of life is why the Plaintiff moved there in the first place, and the Defendant's defamation has taken that away from the Plaintiff and his family.

41. The amount of R200,000.00 is based on a portion of the conveyancer fees that the Plaintiff incurred to move to Kleinbron Estate.

RE PARAGRAPH 31

42. The content of this paragraph is denied, and the Defendant is put to the proof thereof.

RE PARAGRAPH 32

43. The Defendant's admission is noted, but the Plaintiff denies that there was a child on the balcony, and the Defendant is put to the proof thereof.

RE PARAGRAPH 33

44. The content of this paragraph is noted.

RE PARAGRAPH 34

45. The Defendant's admission that he is able to clearly see the Plaintiff from his balcony is noted. The rest of the content of this paragraph is denied, and the Defendant is put to the proof thereof.

RE PARAGRAPH 35

46. The content of this paragraph is denied, and the Defendant is put to the proof thereof.

RE PARAGRAPH 36

47. The content of this paragraph is denied, and the Defendant is put to the proof thereof.

RE PARAGRAPH 37

48. The content of this paragraph is denied, and the Defendant is put to the proof thereof.

49. The Plaintiff's recording clearly shows there is no child on the balcony.

RE PARAGRAPH 38

50. The content of this paragraph is denied, and the Defendant is put to the proof thereof.

51. The Plaintiff denies admitting in his letter of demand that he filmed the Defendant's minor child on the balcony, and the Defendant is put to the proof thereof.

52. The Defendant threatening the Plaintiff with criminal prosecution immediately after receiving the Plaintiff's letter of demand, by saying "we can take this further" indicates that the Defendant attempted to intimidate the Plaintiff not to sue him.

53. It is illegal to threaten someone with criminal prosecution in order to get out of a civil lawsuit.

54. The Plaintiff further submits that the Defendant's child be evaluated by a child forensic psychologist regarding the alleged event on 10 January 2022, and the results examined in court.

RE PARAGRAPH 39

55. The content of this paragraph is denied, and the Defendant is put to the proof thereof.

56. The Plaintiff has indeed shown how the Defendant's Whatsapp message led to damages in the amount of R200,000.00.

RE PARAGRAPH 40

57. The content of this paragraph is noted, but not admitted.

RE PARAGRAPH 41

58. The content of this paragraph is denied, and the Defendant is put to the proof thereof.

59. The Defendant has to post appropriate apologies and retractions.

WHEREFORE the Plaintiff stands by his claim.

DATED AT BRACKENFELL ON THIS 9th DAY OF MAY 2022



RUBEN THEODOR FITCHAT

91 FRANGIPANI STREET

KLEINBRON ESTATE

BRACKENFELL

7560

Cell: 083 925 1545

Email: theo@cluedapp.co.za

TO: CLERK OF THE COURT

MAGISTRATES COURT

KUILSRIVER

AND TO: RIANNA WILLEMSE SOLMS INC

Defendant's Attorneys

79 TAFELBERG ROAD

KENRIDGE, DURBANVILLE

CAPE TOWN

REF: F Erasmus

Email: francis@rwslaw.co.za

rianna@rwslaw.co.za

admin1@rwslaw.co.za