

**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

PRETRIAL MINUTE

For Plaintiff: RUBEN THEODOR FITCHAT

For Defendant: RIANNA WILLEMSE SOLMS ATTORNEYS

Represented by Francis Erasmus

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1. The Defendant avers the pretrial set down is premature, as the Defendant still has a lot of trial preparation to do, including:
 - 1.1 Consultation with witnesses
 - 1.2 Evaluation of evidence and witness statements
 - 1.3 Defendant's discovery.
2. It is therefore not yet feasible to hold a proper pretrial meeting to simplify the issues.
3. The Defendant undertakes to file a preliminary discovery affidavit on or before **31 August 2022**, but reserves the right to supplement his discovery once all witnesses have been consulted with and all evidence has been reviewed and evaluated.

4. Simplification of the issues

4.1. Issues which have been admitted and are now common cause between the parties?

- Citation and identity of the parties
- Jurisdiction of the above court.

4.2. Issues which are still in dispute?

- Whether the Plaintiff recorded the Defendant's child in a towel on the Defendant's property;
- Whether the Defendant committed defamation by posting a message on a public whatsapp group indicating the Plaintiff allegedly recorded the Plaintiff's child;
- Whether the Plaintiff suffered damages due to the Plaintiff's post on whatsapp;
- The quantum of the Plaintiff's damages.

4.3 What is the prospect of settlement and what attempts have been made by the parties to resolve outstanding issues?

No prospect of settlement at this stage.

4.4 Are there any issues which may conveniently be decided separately and prior to hearing the other issues?

Yes – the merits can be decided separately and prior to the quantum.

4.5 Who has the duty to begin?

The Plaintiff

4.6 Do any of the parties foresee any prejudice resulting from non-compliance with the Rules?

Not at this stage.

- 4.7. Is there any agreement regarding the production of evidence by way of affidavit?

This has not yet been discussed or considered.

- 4.8. Has discovery taken place, and has such discovery been adequate and in accordance with the Rules?

Defendant has yet to discover

- 4.9. Are there any other documents that will be used at the trial?

The Defendant is still considering the evidence.

- 4.10. Who is responsible for preparation of the bundles?

The Defendant elects to prepare his own document bundle as Plaintiff is representing himself and not assisted by an attorney.

- 4.11 Is there any agreement regarding authenticity of any of the documents, and whether any document may be used without need of proving same?

This has not yet been considered and discussed.

- 4.12. Will any photograph or plan or drawing be used, and have the Rules been complied with?

Plaintiff – yes

Defendant – Defendant is still considering the evidence and is yet to file a discovery affidavit.

4.13. Is an inspection in loco necessary?

No

4.14. Expected duration of the trial?

It is too early to determine

5. The necessity or desirability of amendments to the pleadings

5.1 Plaintiff:

None is foreseen at this stage

5.2 Defendant:

None is foreseen at this stage

6. The possibility of obtaining admissions of fact and of documents with a view to avoiding unnecessary proof

6.1 Facts admitted by the plaintiff

Not yet considered and discussed

6.2 Facts admitted by the defendant

Not yet considered and discussed

6.3 Whether it is necessary that either or all the parties request for / supply further particulars strictly necessary to prepare for trial:

Plaintiff: No

Defendant: Not yet considered

7. The limitation of the number of witnesses

7.1 How many witnesses does the Plaintiff intend to call :

Two but reserved the right to call more

Names of witnesses:

.....
.....

7.2 How many witnesses does the Defendant intend to call:

At this point Defendant is expected to call 5 witnesses, but consultations must first be held.

Names of witnesses:

.....
.....

7.3 Are the witnesses available?

Plaintiff - yes

Defendant – unknown at this point

7.4 Are the parties willing to exchange witness statements?

Plaintiff - yes

Defendant – unknown at this point

7.5 Do either of the parties intend to call expert witness/es?

No

7.6 Has Rule 24 been complied with?

N/A

7.7 Will the respective experts be meeting before the trial date in an attempt to limit the issues for determination by the court?

N/A

7.8 The feasibility and reasonableness that a joint expert be appointed by the parties in respect of any issue.

N/A

7.9 Briefly, what is the nature of the evidence to be given by the expert/s?

N/A

8. Will any interpreters be required? If so, what language?

No

9. Such other matters as may aid in the disposal of the action in the most expeditious and least costly manner?

None

DATED AT **BRACKENFELL** ON THIS ____ DAY OF **JULY 2022**.

PLAINTIFF

DATED AT **CAPE TOWN** ON THIS 14th DAY OF **JULY 2022**

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

DEFENDANT'S ATTORNEY

After having considered these minutes, it is made an order of this court.

Matter declared trial ready.

Trial Date Allocated: _____

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Magistrate, Kuils River