

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

Case Number: 10562/22

In the matter between:-

RUBEN THEODOR FITCHAT

Plaintiff

and

MARINE FRANKEN

Defendant

<p>DEFENDANT'S AMENDED COUNTERCLAIM</p>
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1. On 4 November 2022 the Plaintiff slandered and defamed the Defendant with malicious intent in an email which included the following parties (please refer to annexure "**CC1**"):
 - 1.1. Employees of the Community Schemes Ombud Service;
 - 1.2. The South African Police Service;
 - 1.3. SJC Security Services;
 - 1.4. Independent Police Investigative Directorate;
 - 1.5. South African Treasury;
 - 1.6. The Defendant's husband;
 - 1.7. Vuvuzela Fraud and Ethics Hotline;
 - 1.8. The Management of Kleinbron Estate;
 - 1.9. The Public Service Corruption Hotline;
 - 1.10. The Presidency of South Africa;
 - 1.11. The Public Protector of South Africa;

- 1.12. Whistleblowing.co.za;
 - 1.13. The Economic Freedom Fighters Political Party;
 - 1.14. An employee of the Plaintiff's employer;
 - 1.15. The Western Cape Government;
 - 1.16. Other parties unknown to the Defendant.
2. The Plaintiff slandered and defamed the Defendant by calling her the leader of a real estate harassment group and disturbingly also provided her personal address where she, her husband and two minor children resides.
 3. The Plaintiff was clearly upset about a final adjudication order, handed down by a reputable South African Ombud and made outrageous statements, which included the slandering and defamation of the Defendant, in a matter which the Defendant was not even involved or a party.
 4. The Plaintiff's slandering and defamation was clearly made with malicious intent, knowing the email would result in damage to the Defendant's untainted reputation and the security of her and her family.
 5. On 8 November 2022, the Defendant's attorney demanded that the Plaintiff retracts his defamatory remarks, failing which the Defendant shall proceed with the necessary legal recourse (please also refer to annexure "CC1"). To date, the Plaintiff has failed to do so and consequently the Defendant's untainted reputation is irreparably scorched and security for her and her family permanently threatened.
 6. As a result of the published (emphasis added) defamatory remarks made by the Plaintiff, the Defendant has suffered damages for which she is entitled to claim compensation of R200 000-00 (**TWO HUNDRED THOUSAND RAND**).

WHEREFORE Defendant prays for judgment against the Plaintiff on the following terms:

1. Payment in the sum of R200 000-00 (**TWO HUNDRED THOUSAND RAND**);
2. Interest a *temporae morae*;

3. Cost of suit;
4. Appropriate retraction and apologies to all institutions and persons where the Defendant was defamed;
5. That the Plaintiff cease making defamatory statements against the Defendant;
6. Further and / or alternative relief.

SIGNED at BELLVILLE on the 13TH DAY of JULY 2023.



Defendant's Attorneys

VAN ZYL LAW INC.

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4 Bridal Close,

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SERVICE AGREED BY EMAIL

C/O HICKMAN VAN EEDEN PHILLIPS

96 van Riebeeck Road

KUILSRIVIER

Tel: 021 903 3106

TO: THE CLERK OF THE CIVIL COURT KUILS RIVER

AND TO:

RUBEN THEODOR FITCHAT

Plaintiff

91 Frangipani Street

Kleinbron Estate

BRACKENFELL

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SERVICE AGREED BY EMAIL