

**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG**

CASE NO: 2024-133963

In the matter between:

AFRIMARKETS CAPITAL (PTY) LTD

Plaintiff

and

MONEYWEB (PTY) LTD

First Defendant

RYK VAN NIEKERK

Second Defendant

GROUNDUP NEWS NPC

Third Defendant

TORI NEWBY

Fourth Defendant

THIRD AND FOURTH DEFENDANTS' PLEA

The third and fourth defendants plead to the plaintiff's particulars of claim as follows:

Ad paragraphs 1 to 6:

1. The contents of these paragraphs are admitted.

Ad paragraph 7:

2. The fourth defendant is Victoria (Tori) Leigh Newby, of 18141 Darnell Drive, Olney, Maryland, United States of America.
3. The Court does not have jurisdiction over the fourth defendant as she is—
 - 3.1 domiciled in the United State of America; and
 - 3.2 a foreign *peregrinus*.
4. The fourth defendant pleads to the particulars of claim conditionally on a finding that the Court has jurisdiction over her, and does not by pleading consent to such jurisdiction.
5. At the time of publication of the article and until 12 November 2024, the fourth defendant was employed as an intern by Third Defendant.
6. Save for any admission in paragraphs 2 to 4, the contents of this paragraph are denied.

Ad paragraph 8:

7. The contents of this paragraph are admitted.
8. The third and fourth defendants deny any liability towards the plaintiff.

Ad paragraphs 9 to 11:

9. The third and fourth defendants admit that the publication of the First Article and the Second Article took place *inter alia* in Johannesburg.
10. Save for the admission in above, the contents of these paragraphs are denied.
11. In amplification of the denial, and without derogating from the generality thereof, the fourth defendant reiterates what is pleaded in paragraphs 2 and 3 above.

Ad paragraphs 12 to 20:

12. The third and fourth defendants have no knowledge of the allegations contained in these paragraphs, make no admissions and put the plaintiff to the proof thereof, insofar as it may be relevant to them.
13. The third and fourth defendants nevertheless plead that the allegations in these paragraphs do not pertain to the third and fourth defendants.

Ad paragraphs 21 and 22:

14. The third and fourth defendants admit that:

14.1 The fourth defendant authored an article substantially in accordance with
“**TN1**” annexed hereto;

14.2 “**TN1**” contains certain edits, which neither the third or fourth defendant can determine the exact words or phrases, performed by the editors of the third defendant. Nevertheless, both the third and fourth defendants align themselves as co-authors of those edits.

14.3 The third defendant authored “**TN1**” knowing that an edited version would be published.

14.4 The article in the form of “**POC2.2**” was published by the third defendant on 7 November 2024 on the Unique Resource Locator (URL) <https://groundup.org.za/>, an online news portal owned and operated by the third defendant.

15. The third and fourth defendants specifically deny:

15.1 that the fourth defendant authored any other portion of Second Article other than “**TN1**” and

15.2 that the fourth defendant published any portion of the Second Article other than what is contained in “**POC2.2**”.

16. The remaining of the allegations in this paragraph are denied.

Ad paragraph 22:

17. The contents of this paragraph are denied.

Ad paragraph 23:

18. The third and fourth defendants admit that “**POC2.2**” was widely read by members of the public.

19. Save for the admission in above, the contents of this paragraph are denied.

Ad paragraph 24:

20. Insofar as the allegations in this paragraph accord with annexure “**POC2.2**” (i.e. the Second Article), they are admitted. Insofar as the allegations do not, they are denied.

Ad paragraph 25:

21. The third and fourth defendants deny that the quotes referred to in paragraphs 25.1 to 25.5 appear in “**POC2.2**” and the contents of this paragraph are accordingly denied.

Ad paragraphs 26 and 27:

22. The allegations in these paragraphs are denied.

23. In amplification of the foregoing denial, but without derogating from the generality thereof, the third and fourth defendants deny that:

23.1 the reasonable reader of the Second Article would have understood it to have the meanings, innuendo, or sting contended for by the plaintiff in paragraphs 26.1 and 26.2 or paragraphs 27.1 to 27.4 of the particulars of claim;

23.2 the reputation of the plaintiff would have been lowered – in the eyes of the reasonable reader – by the content of the Second Article;

23.3 the Second Article carried an attack on the *dignitas* of the plaintiff.

24. In the alternative to paragraph 23 above, and to the extent that the Second Article may be found to be defamatory or to constitute an attack on the *dignitas* of the plaintiff, the third defendant alleges that the Second Article was not wrongfully published, more particularly in that—

24.1 To the extent that it published facts, these facts were true and published in the public interest in relation to matters which affect potential investors in financial instruments.

24.2 To the extent that it published opinions, it constituted fair comment on matters of public interest which affect potential investors in financial instruments.

24.3 In the alternative to paragraphs 24.1 above, the publication of the Second Article was reasonable journalism, in that:

24.3.1 the statements were in essence true;

24.3.2 the third defendant and fourth defendants were unaware of the falsity of any averments made in the Second Article;

24.3.3 the third defendant did not act negligently or recklessly in authoring of the Second Article;

24.3.4 the information contained in the Second Article was verified by, amongst other things, witnesses and public documents;

24.3.5 publication of the Second Article was objectively reasonable; and

24.3.6 the Second Article concerned matters of public interest.

Ad paragraph 28:

25. The third and fourth defendants admit that the first defendant published “**POC2.1**”.

26. Save to the extent admitted in 14 and above, the third and fourth defendants deny that the fourth defendant wrote the Second Article.

27. The remainder of the allegations in this paragraph are denied.

Ad paragraph 29 thereof:

28. The contents of this paragraph are denied.

WHEREFORE the Third Fourth Defendants pray that the Plaintiff's claim against her be dismissed with costs, including costs of counsel on scale C.

DATED AT CAPE TOWN THIS DAY OF DECEMBER 2024.

MITCHELL DE BEER

Third and fourth defendants' counsel

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Per:

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