

REPUBLIC OF SOUTH AFRICA



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

(1) REPORTABLE: NO
(2) OF INTEREST TO OTHER JUDGES: NO
(3) REVISED: YES.

12 FEBRUARY 2026

CASE NO: 63291

In the matter between:

ROBERT WILLIAMS THOMPSON

Plaintiff

and

JOHAN VAN NIEKERK

Defendant

JUDGMENT

SK HASSIM J

[1] This is an application for default judgment. The plaintiff instituted an action for defamation and claims damages in an amount of R2 000 000.00 for reputational damage. The defendant did not defend the action. The plaintiff applies for default judgment in an amount of R600 000.00.

[2] The plaintiff did not testify *viva voce* in support of his claim for damages. In *lieu* thereof his counsel tendered an affidavit to prove his damages.

[3] While there are instances where a court may permit proof of damages by affidavit, this is not immutable. To the contrary, Rule 31(2)(a) caters for applications for default judgments in claims for unliquidated damages. It provides:

“Whenever in an action the claim or, ...is not for a debt or liquidated demand and a defendant is in default of delivery of notice of intention to defend or of a plea, the plaintiff may set the action down as provided in subrule (4) for default judgment and the court may, after hearing evidence, grant judgment against the defendant or make such order as it deems fit.”

[4] An award of damages for defamation is compensation for an injury to dignity and reputation claimed under the *actio injuriarum*. It is to compensate a person defamed for wounded feelings and loss of reputation.¹ In assessing an appropriate award for compensation various factors should be considered such as the character and status of the plaintiff, the extent of the defamatory publication, its envisaged and actual impact, the subsequent conduct of the person who made the defamatory statement, whether there has been an adverse effect on the plaintiff’s business or practice due to the loss of reputation. Evidence about the hurt experienced by the plaintiff, the impact on the person’s professional and social activities all feature in determining an appropriate award.² The assessment is best made after hearing the plaintiff *viva voce*. Though the enquiry will not be as detailed or controversial as it would be if the action were defended.³

[5] A proper assessment of the appropriate compensation cannot be assessed at this stage. The plaintiff must follow the procedure set out in rule 31(2)(a). I therefore intend postponing the application for default judgment to afford the plaintiff the opportunity to follow the procedure in rule 31(2)(a).

¹ *Economic Freedom Fighter and Others v Manuel (Media Monitoring Africa Trust as amicus curiae)*[2021] 1 All SA 623 (SCA) para 91.

² *Economic Freedom Fighter and Others v Manuel* para 96 - 98.

³ *Economic Freedom Fighter and Others v Manuel* para 100.

[6] In the result I make the following order:

(a) The application for default judgment is postponed sine die.



S K HASSIM

Judge of the High Court of South Africa

Gauteng Division, Pretoria

This judgment was prepared and authored by the Judge whose name is reflected and is handed down electronically by circulation to the parties' legal representatives by e-mail and by uploading it to the electronic file on CaseLines. 13 February 2026 is deemed to be date on which the judgment is handed down.

Counsel for Plaintiff: Adv Jako Vorser

Attorney for Plaintiff: Finck Attorneys