REPUBLIC OF SOUTH AFRICA

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG

(1)	NOT REPORTABLE
(2)	NOT OF INTEREST TO OTHER JUDGES

CASE NO: 2025-041775

DATE: 9 MARCH 2026

In the matter between:

SOUNDOLOGY (PTY) LIMITED t/a ICONS AV and ICONS SHOP Plaintiff

and

THE LOBBY ROOM (PTY) LIMITED t/a ROCKETS MENLYN TIME SQUARE First Defendant

THE UNION RESTAURANT (PTY) LIMITED t/a ROCKETS UMHLANGA DURBAN Second Defendant

ROCKETS BRYANSTON (PTY) LIMITED t/a ROCKETS BRYANSTON Third Defendant

SEAN MATHEW BARBER Fourth Defendant

Neutral Citation: *Soundology v The Lobby Room and 3 Others (2025-041774)* **[2026] ZAGPJHC ---** (9 March 2026)

Coram: Adams J

Heard: 24 February 2026

Delivered: 9 March 2026 – This judgment was handed down electronically by circulation to the parties' representatives by email, by being uploaded to *CaseLines* and by release to SAFLII. The date and time for hand-down is deemed to be 10:30 on 9 March 2026.

Summary: Civil procedure – exceptions to particulars of claim – alleged by defendants that the particulars of plaintiff's claim lack averments necessary to sustain a cause of action – also alleged that the particulars of claim contain averments which are vague and embarrassing – claim based on oral agreement for the supply, delivery and installation of goods – plaintiff alleges in particulars of claim that all of the defendants concluded the agreement 'collectively' with the plaintiff – this, defendants say, makes the particulars excipiable – defendants contend that particulars of claim do not disclose cause of action –
Held by the Court that it must be demonstrated that upon any construction of the particulars, no cause of action is disclosed – in this matter it is pleaded simply that the defendants, including the fourth defendant, have, as a group, concluded the agreement for the supply, delivery and installation of material – therefore pleaded that the defendants collectively accepted liability in terms of the contract for any amounts payable to the plaintiff pursuant to the agreement – this means that the particulars are not excipiable – other grounds on which exceptions raised also rejected –
Defendants' exceptions dismissed with costs.

ORDER

(1) The first, second, third and fourth defendants' exceptions to the plaintiff's particulars of claim fail and are dismissed, with costs.

(2) The first, second, third and fourth defendants, jointly and severally, the one paying the other to be absolved, shall pay the plaintiff's costs of the opposed exception, including Counsel's charges on scale 'C' as contemplated in Uniform Rule of Court 67A(3), read with rule 69.

JUDGMENT

Adams J:

[1]. The parties shall be referred to as referred to in the main action, in which the plaintiff ('Soundology') claims from the first, second, third and fourth defendants ('defendants') an amount of R558 583.60, representing the balance due and payable by the defendants in respect of goods sold, delivered and installed at their special instance and request by the plaintiff during or about November 2023, February, March, May and November 2024. The defendants, as excipients, except to the particulars of plaintiff's claim on the basis that it is vague and embarrassing and do not disclose a cause of action. The plaintiff is the respondent in this interlocutory exception application.

[2]. In its particulars of claim, it is alleged by the plaintiff that during or about the aforementioned periods the plaintiff, represented by one Cliff Janit, and the defendants, represented by fourth defendant, concluded an oral agreement ('the oral agreement'), the material express, alternatively implied, further alternatively tacit terms of which are as follows:

'8.1 Plaintiff would sell to the various defendants and install on their behalf the equipment, which included audio visual equipment at the various trading premises of the first to third defendants and would also instal a TV screen at the premises of the fourth defendant.

8.2 The plaintiff by agreement duly submitted five separate purchase orders to fourth defendant on behalf of the first to third defendants and also one in his personal capacity.

8.3 Copies of such order are annexed as PoC1 to Poc6 and include:

8.3.1 The order dated 15 November 2023 in the sum of R7 259 449.75;

8.3.2 The order dated 27 November 2023 in the sum of R3 467 767,50;

8.3.3 The order dated 29 February 20224 in the sum of R4 999;

8.3.4 The order dated 8 March 2024 in the sum of R20 930;

8.3.5 The order dated 2 May 2024 in the sum of R441 370;

8.3.6 The order dated 4 November 2024 in the sum of R194 580; and

8.3.7 The total of such order/s amounted to the sum of R11 389 096.25.'

[3]. The plaintiff furthermore pleads that, on numerous occasions subsequent to receipt of the aforementioned orders, the fourth defendant orally and by means of *WhatsApp* messages agreed to the purchase, acquisition and installation. Such *WhatsApp* chain of messages is attached to the particulars of plaintiff's claim as 'PoC7' and, according to the plaintiff, evidence agreement that the defendants would effect payment of a deposit of an amount equivalent to 50% of the agreed upon price. On delivery of the goods, so the plaintiff pleaded, the defendants would effect payment of an amount equivalent to 30% of the agreed upon price, with the balance to be paid 'on completion of the store and once it has launched and is epic'.

[4]. Importantly, the plaintiff pleads that the defendants, presumably through the agency of the fourth defendant, initially complied with their obligations and effected payment of the 50% deposit, whereafter the plaintiff, in turn, duly complied with its obligations and delivered and installed the goods as reflected in the orders referred to *supra*. Thereafter, so the particulars of claim read, 'the various stores launched and such launch was epic'.

[5]. In conclusion, the plaintiff pleads as follows:

'Despite complying with their obligations, the defendants have *jointly* failed to effect payment to plaintiff in the combined sum of R558 583,60.'

[6]. On a very superficial reading of the particulars of plaintiff's claim it is abundantly clear to a reasonable reader with a mind willing to understand that the plaintiff's claim is against all four defendants, jointly and severally, for payment of the amount claimed. This is so especially if one has regard to the pleaded case that the first to the third defendants, whilst being separate and distinct legal entities, are closely and inextricably interrelated in that the fourth respondent is a director of these legal entities in addition to being the 'controlling mind' behind all of them. One therefore needs not stretch the pleaded case to understand that the agreement pleaded can and should be interpreted to the effect that the defendants, including the fourth defendant, have, as a group, concluded the agreement for the material to be supplied, delivered and installed and that they collectively accepted liability in terms of the contract for any amounts payable to the plaintiff pursuant to the agreement.

[7]. The aforegoing view is supported by the communications between the parties, which form part of the plaintiff's pleaded case and which confirm that, at no stage, did the defendants, especially the fourth defendant, understand that separate agreements were concluded with each of the defendants in respect of goods supplied to each separate defendant.

[8]. The defendants have raised exceptions to the particulars of plaintiff's claims, alleging firstly that it lacks averments necessary to sustain a cause of action and, secondly, that the plaintiff's particulars of claim contain averments which are vague and embarrassing. There are number of grounds on which the exceptions are based, some of which overlap to a lesser or greater extent. Those grounds I set out in the paragraphs which follow.

[9]. However, before I consider the exceptions raised by the defendants and the grounds on which those exceptions are based, it is necessary to have a brief overview of the applicable general principles relating to exceptions. These

general principles, as gleaned from the case law and conveniently summarised by this Court (per Meyer-Frawley J) in *Merb (Pty) Ltd v Matthews*[1], can be summarised as follows.

[10]. In considering an exception that a pleading does not sustain a cause of action, the court will accept, as true, the allegations pleaded by the plaintiff to assess whether they disclose a cause of action. The object of an exception is not to embarrass one's opponent or to take advantage of a technical flaw, but to dispose of the case or a portion thereof in an expeditious manner, or to protect oneself against an embarrassment which is so serious as to merit the costs even of an exception.

[11]. The purpose of an exception is to raise a substantive question of law which may have the effect of settling the dispute between the parties. If the exception is not taken for that purpose, an excipient should make out a very clear case before it would be allowed to succeed. An excipient who alleges that a pleading does not disclose a cause of action or a defence, must establish that, upon any construction of the pleading, no cause of action or defence is disclosed.

[12]. An over-technical approach should be avoided because it destroys the usefulness of the exception procedure, which is to weed out cases without legal merit. Pleadings must be read as a whole and an exception cannot be taken to a paragraph or a part of a pleading that is not self-contained. Minor blemishes and insignificant embarrassments caused by a pleading can and should be cured by further particulars.

[13]. Having said the aforegoing, however, exceptions are to be dealt with sensibly since they provide a useful mechanism to weed out cases without legal merit. An over-technical approach destroys their utility and insofar as interpretational issues may arise, the mere notional possibility that evidence of

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[1] *Merb (Pty) Ltd v Matthews* 2021 JDR 2889 (GJ).

surrounding circumstances may influence the issue should not necessarily operate to debar the Court from deciding an issue on exception.

[14]. That then brings me back to the grounds on which the defendants base their exceptions.

[15]. Firstly, the defendants contend that, in alleging that *an* oral agreement was concluded between the parties during or about November 2023, February 2024, March 2024, May 2024 and November 2024, the plaintiff fails to the plead, with sufficient particularity, on which date the purported agreement was concluded between the parties.

[16]. There is no merit in this contention. There is nothing vague or ambiguous about an agreement having been concluded over an extended period of time. It often happens that negotiations and discussions in reaching an agreement proceed and continue on different days. Written confirmation of certain terms and conditions governing a contractual relationship may occur on days subsequent to the date on which the negotiations commenced, as was the case *in casu*.

[17]. I am therefore of the view that, contrary to what is contended on behalf of the defendants, the plaintiff has complied with Uniform Rule of Court 18(6) in that it pleaded that the oral agreement was concluded during the period mentioned. There is no need for a party to specifically plead that a contract was concluded on a particular date, especially not in the case of an oral agreement. Moreover, it cannot possibly be suggested, as does the defendants *in casu*, that upon any construction of the particulars of plaintiff's claim, no cause of action is disclosed. The simple point is that the plaintiff pleads that the defendants all agreed that the plaintiff would supply, deliver and install goods to them, as a group, and that they, again as a group, would be liable to the plaintiff for payment of the contract price.

[18]. The first ground on which the exceptions is based therefore falls to be rejected.

[19]. Secondly, the defendants contend that the plaintiff, in pleading that the first, second and third defendants are independent, yet interrelated entities of the Rocket Group, could not and should not have alleged, as it did, that the defendants collectively entered into *one* agreement with the plaintiff. This statement by the defendants needs only to be stated for it to be rejected. It cannot possibly be that a group of persons cannot collectively conclude an agreement with one other person. There is no merit in this ground of exception. The fact that separate orders were issued to the individual defendants does not mean that there was no agreement that they would all be collectively liable for the indebtedness to the plaintiff. And that is especially so in view of the relationship between them and the fourth respondent.

[20]. The same principle applies to the third ground, that being that, according to the defendants, the plaintiff could not and should not have pleaded that the defendants have jointly failed to effect payment to the plaintiff of the amount of R558 583.60, when it failed to plead, with sufficient particularity, the reason as to why the defendants are allegedly jointly liable to the plaintiff for the amount claimed. The simple point is that the defendants, so the particulars of plaintiff's claim can and should be interpreted, collectively agreed to accept liability for the amount due to the plaintiff as a result of the contract which they entered into jointly.

[21]. The aforegoing also address the fourth ground of the exception, that being that the orders were issued to the first, second, third and fourth defendants separately. This contention loses sight of the averment by the plaintiff that, in terms of the oral agreement, irrespective of who the orders were issued to, all of the defendants, as a group, accepted liability for any liability to the plaintiff arising from the supply, delivery and installation of the goods.

[22]. As for the fifth ground on which the exception is based, namely that the fourth respondent as a natural person cannot, without more, be liable for debts of his companies, the defendants miss the point completely. They contend that the plaintiff has failed to state the basis on which the fourth defendant, in his capacity

as a director of the first to third defendants, ought to be held liable jointly for the debts of his companies with their separate legal personalities. The simple answer is that it is pleaded by the plaintiff that the fourth defendant and his companies agreed to such an arrangement. The particulars of claim can certainly be interpreted in that way. And, as stated above, in considering an exception that a pleading does not sustain a cause of action, the court will accept, as true, the allegations pleaded by the plaintiff to assess whether they disclose a cause of action.

[23]. I therefore conclude that the fifth ground of exception is without merit.

[24]. The sixth ground of objection to the particulars of plaintiff's claim is to the effect that the plaintiff first pleads an oral agreement and then later on in the particulars of claim alludes to a chain of *WhatsApp* exchanges between the plaintiff and the fourth defendant. This, so it is contended by the defendants, mean that there is pleaded an oral agreement and a subsequent partly oral / partly written agreement.

[25]. That is not how I interpret the *WhatsApp* exchanges, which, in my view, simply confirms the details and the particulars relating to the agreement between the parties. There are no two agreements. There are a number of occasions on which the parties discuss the terms and conditions of the agreement, and that does not change the fact that, as pleaded by the plaintiff, there is one agreement for the supply and installation of the goods.

[26]. This complaint by the defendants is meritless, as is the seventh ground, which is along similar lines.

[27]. Finally, the defendants contend that a further agreement is introduced by the plaintiff's particulars of claim, which relates to the period following the defendants' failure to effect payment of the balance of the contract price agreed upon. To that end the plaintiff refers to correspondence between it and the fourth defendant in which attempts are made to resolve the dispute relating to the

defendants' failure to pay pursuant to the contract. How, I ask rhetorically, can it be said that such discussions, as pleaded, allege a further agreement?

[28]. As I have indicated above, the particulars of claim can and should be interpreted as setting out a case that an agreement was concluded between the plaintiff and all of the defendants collectively. That, in my view, is a cause of action which is sustainable.

[29]. The plaintiff's particulars of claim are therefore not vague and embarrassing nor do they fail to disclose a cause of action. The main grounds on which the defendants' exceptions are based – that being that the plaintiff cannot plead that the defendants 'collectively' entered into the agreement with plaintiff – fall to be rejected as being without merit.

[30]. There is one other ground on which the defendants except to the particulars of plaintiff's claim and that relates to the allegation that the plaintiff duly complied with its obligations and delivered and installed the goods as reflected in the orders 'and various stores launched, and such launch was epic'. The objection is to the effect that the defendants are unable to ascertain from the particulars of claim the meaning of 'epic'.

[31]. This objection has no merit. It can, in my view, safely be inferred that this is an industry-specific term, which the parties are familiar with. It is a term of the agreement that the launch is required to be 'epic', and, so the plaintiff pleads, that was indeed the case. The plaintiff needs say no more. There is therefore nothing vague or embarrassing about this part of the plaintiff's pleaded case.

[32]. Lastly, the defendants, seemingly as an afterthought, take issue with the manner in which the plaintiff pleads the amount claimed from the defendants. The defendants contend that the plaintiff failed to quantify the said amount. This contention is misdirected. The case on behalf of the plaintiff is simply that the amount claimed is the contract price less the amount paid by the defendants to it pursuant to the agreement – it is a simple case of basic arithmetic. In any event,

if there is a discrepancy between the amount claimed and the sum payable if regard is had to the documentary evidence, then such a discrepancy cannot be anything more than a 'minor blemish' or an 'insignificant embarrassment' which cannot possibly ground an exception.

[33]. In sum, I conclude that the particulars of plaintiff's claim are neither vague nor embarrassing. Read as a whole and properly interpreted, the particulars most certainly contain averments which support a valid cause of action based in contract.

[34]. The defendants' exceptions therefore fall to be dismissed.

Costs

[35]. The general rule in matters of costs is that the successful party should be given his costs, and this rule should not be departed from except where there are good grounds for doing so, such as misconduct on the part of the successful party or other exceptional circumstances. See: *Myers v Abramson*[2].

[36]. I can think of no reason why I should deviate from this general rule in this matter. I therefore intend granting costs in favour of the plaintiff against the defendants.

Order

[37]. In the result, the order which I grant is as follows: -

(1) The first, second, third and fourth defendants' exceptions to the plaintiff's particulars of claim fail and are dismissed, with costs.

(2) The first, second, third and fourth defendants, jointly and severally, the one paying the other to be absolved, shall pay the plaintiff's costs of the opposed

[2] *Myers v Abramson*, 1951(3) SA 438 (C) at 455;

exception, including Counsel's charges on scale 'C' as contemplated in Uniform Rule of Court 67A(3), read with rule 69.

L R ADAMS
Judge of the High Court
Gauteng Division, Johannesburg

HEARD ON:	24 February 2026
JUDGMENT DATE:	9 March 2026
FOR THE PLAINTIFF / RESPONDENT:	C Ascar
INSTRUCTED BY:	Beder-Friedland Incorporated, Illovo, Sandton
FOR THE DEFENDANT / EXCIPIENT:	A Whitaker
INSTRUCTED BY:	HBG Schindlers Attorneys, Melrose Arch, Johannesburg