

**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

13 April 2026  
DATE

  
SIGNATURE

**Case No: 2024/134807**

In the matter between:

**STEPHAN DWIGHT KLEMENTS**

**Excipient/Defendant**

and

**HEINRICH ADRIAAN DU PREEZ**

**Respondent/Plaintiff**

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**JUDGMENT: EXCEPTION**

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*(The matter was heard in open court on 17 March 2026. Judgment was reserved and a written judgment was uploaded onto the electronic file of the matter on CaseLines. The date of uploading of the judgment onto CaseLines is deemed to be the date of the judgment).*

**BEFORE: HOLLAND-MUTER J:**

[1] The Plaintiff (the Respondent in the exception) issued summons against the Defendant (the Excipient in the application before court) for alleged defamation by the Defendant (Excipient) after they entered into an oral agreement in terms of which the Respondent would have restored and refurbished the Excipient's *Louis Doug Serrurier Ford GT 40* vehicle.

[2] Sometime after the agreement (*supra*) was entered into, the relationship between the parties soured and the Excipient voiced his feelings towards the Respondent regarding what he alleges to be the conduct of the Respondent/Plaintiff. A long Whats-app communication followed in which the Excipient made no attempt to hide his feelings towards the Respondent and that the conduct of the Plaintiff was known to other persons as well.

[3] The Excipient served a notice in terms of Rule 23(1) of the Uniform Rules of Court calling on the Respondent to remove the cause of complaint levelled against the particulars of claim. The Respondent claims damages in the particulars of claim from the excipient regarding what was alleged to be the slanderous statements made by the Excipient towards the Respondent following the disgruntlement of the Excipient regarding the work done on his Ford GT.

[4] The Excipient's exception is based on two grounds namely (i) that the particulars of claim fail to allege any publication by the Excipient to third parties, and (ii) that the particulars of claim fails to allege that the content of any quoted

passages are defamatory, or does so only in vague and embarrassing terms that the Excipient cannot plea to particulars of claim.

[5] The court must rule on the issue of whether the particulars of claim are vague and embarrassing alternatively lacks the necessary averments to constitute a cause of action. In layman's terms is there any merit in the Excipient's exception.

[6] Senyatsi J recently in ***Computer Users Council of South Africa Holdings CC v City of Johannesburg and Others (3603/2013 [2023] ZAPG JHC-20 July 2023)*** summarised the law regarding the vagueness and embarrassing exception as follows:

*\* "[29] An exception to a pleading on the ground that it is vague and embarrassing requires a two-fold consideration: (i) whether the pleading lacks particularity to the extent that it is vague, and (ii) whether the vagueness causes embarrassment of such a nature that the excipient is prejudiced in that he/she cannot plead properly or properly prepare for trial. The excipient must demonstrate that the pleading is ambiguous, meaningless, contradictory or capable of more than one meaning. To such extent causes embarrassment to the excipient".*

*\* "[30] An exception should be dealt with sensibly and not in an over-technical manner. Thus, it is only if the court can conclude that it is impossible to recognize the claim, irrespective of the facts as they might emerge at the trial, that the exception should be upheld".*

[7] To succeed with an exception on the grounds of vagueness and embarrassment. The excipient must demonstrate that it will seriously be prejudiced if the offending allegations are not expunged, the excipient carries the onus to show that the vagueness amounts to an embarrassment failing to do so, the exception must fail.

[8] Maier-Frawley J in ***Merb (Pty) Ltd and Others v Matthews and Others*** (2020/15069) [2021] ZAGP JHC 693 (16 November 2021) summarised the applicable general principles that:

(i) *the court will accept the allegations pleaded by the plaintiff when assessing whether the allegations are true;*

(ii) *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;*

(iii) *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. Any exception taken for another reason saddles the excipient with the obligation to make out a very clear case before it would succeed,*

(iv) *An excipient who alleges that the summons does not disclose a cause of action must establish that upon any construction of the particulars of claim, no cause of action is disclosed;*

(v) *An over-technical approach should be avoided because it destroys the usefulness of exception procedure, which is to weed-out cases without legal merit;*

(vi) *Pleadings must be read as a whole and an exception cannot be taken to a paragraph alone that is not self-contained; and*

(vii) *Minor blemishes and unradical embarrassments caused by a pleading can and should be cured by further particulars”.*

[9] The Excipient's exception is based on two grounds:

(i) First Ground: The particulars of claim fail to allege any publication by the Defendant (Excipient) to a third party, and

(ii) Second Ground: The particulars of claim fail to allege the content of any quoted passages is defamatory or does so only in vague and embarrassing terms.

[10] The first ground relating to the alleged non-publication has no merit. There is at least one person to whom the excipient voiced his opinion regarding the Plaintiff. One Hennie van der Merwe, Vice-President of the Cobra Club, contacted the Plaintiff on 3 September 2024 informing the plaintiff that the excipient informed van der Merwe that he was aware of at least one incident where the Plaintiff stole imported parts and that the excipient was aware of several other disgruntled customers regarding the Plaintiff's workmanship. This amounts to publication to a third party by the excipient.

[11] The second ground is almost hand in hand with the first ground. Van der Merwe informed the Plaintiff that the excipient informed van der Merwe that the Plaintiff stole imported parts at the business. To allege someone stole is not vague but a rather straightforward accusation, and if untrue, will amount to defamatory conduct by the person who uttered the words to an outsider. On face value this amounts calling the Plaintiff a thief and if proven, will be defamatory towards the Plaintiff. The excipient's publication and the contents thereof to Van der Merwe renders his exception nugatory and he can plea to the particulars of claim. There can be no prejudice to the excipient as the particulars of claim stands and he can plea thereto.

[12] The balance of the averments in the particulars of claim are background information which may become relevant during a trial to either parties. The particulars of claim by the Plaintiff sets out and deals with the relevant

background facts to demonstrate the Plaintiff's justification with the claim. The excipient is bound to the exception and reading the particulars of claim as a whole, the background facts are not the subject of the exception. These background facts may be relevant to the issue between the parties on trial.

[13] Amler's Pleadings provide for a claim of defamation the following: *"Elements of the cause of action: The elements of the cause are (a) a statement concerning the Plaintiff and (b) which is wrongful (defamatory), (c) published and (d) animus iniuriandi. Amler's Pleadings 10<sup>th</sup> Ed p 149.*

[14] There is a clear statement made by the excipient towards Van der Merwe. The contents of the statement is prima facie defamatory depending on the evidence at trial and the *animus iniuriandi* is the inference drawn from the statement. The trial court will decide whether the statement was made with the intention to defame the Plaintiff.

[15] The argument regarding vagueness by the Plaintiff at this stage regarding the quantum of his claim may be addressed during trial and nothing prevents the Plaintiff to amend the quantum of his claim during the trial. Amendments may be made until before judgment and does not amount to a new cause of action being introduced. See **Pinkey v Northier and Another (2023/088082) [2025] ZAGP JHC 18 March 2025**. This complaint by the excipient is also without merit. It was held in Pinky that *"It is not incumbent on a plaintiff to furnish particulars of general damages. All that a plaintiff was required to do was to furnish the defendant with the 'ground upon which the claim is based'.* See **Simmonds v Whyte 1980 (1) SA 755 ( C ) at p 758.**

[16] The court is satisfied that the grounds raised in the exception has no merit and the following order is made:

**ORDER:**

The exception is dismissed with costs, the costs to be on a party and party scale, Counsel's fees on scale B.



HOLLAND-MUTER J

Judge of the Pretoria High Court

13 April 2026

Matter was heard on 17 March 2026

Judgment delivered and uploaded onto CaseLines on 13 April 2026.

REPRESENTATIVES:

Obo Excipient/ Defendant: Adv H Scholtz

Obo Respondent/Plaintiff: Adv BC Bester