

REPUBLIC OF NAMIBIA



HIGH COURT OF NAMIBIA MAIN DIVISION, WINDHOEK

REASONS

Case no: I 177/2010

In the matter between:

DEIDRE DAWN FAITH SCHROEDER

APPLICANT

and

REPUBLIKEIN NEWSPAPER

FIRST RESPONDENT

CHRIS JACOBIA

SECOND RESPONDENT

RONELLE RADEMEYER

THIRD RESPONDENT

NAMIBIA HEALTH PLAN

FOURTH RESPONDENT

TIAAN SERFONTEIN

FIFTH RESPONDENT

Neutral citation: *Schroeder v Republikein Newspaper* (I 177/2010) [2012] NAHCMD 25
(12 October 2012)

Coram: VAN NIEKERK J

Heard: 17 August 2012

Judgment: 17 August 2012

Reasons: 12 October 2012

Flynote **Practice** – Applications and motions – Notice of opposition filed – respondents still had time to file answering papers - Application removed from first motion court roll for parties to exchange papers

Summary The applicant filed an application which gave the respondents time to file a notice of opposition and answering papers. Fourth and fifth respondents opposed, but made a mistake in the notice of opposition regarding the date of the application. When the matter was called in the first motion court, the applicant wanted to move the application as it was unopposed, relying on the typing error. The court allowed the respondents to amend the notice of opposition as the error was *bona fide* and applicant was unable to show prejudice. As the respondents still had time to file answering papers the application was removed from the roll for the parties to exchange papers, whereafter the matter could be re-enrolled for hearing.

REASONS

VAN NIEKERK J

[1] The applicant brought an application dated 4 August 2012 to have an interlocutory order I made in the first motion court on 2 March 2012 declared void. She also claimed costs. In her notice of motion she stated that she intends making the application on 17 August 2012, unless a notice of opposition is filed.

[2] On 10 August 2012 the fourth and fifth respondents filed a notice of intention to oppose this application. In terms of the applicant's notice of motion they still had 14 days thereafter to file answering papers.

[3] In the notice of intention to oppose the fourth and fifth respondents mistakenly referred to applicant's application 'dated 17 August 2012', instead of 'dated 4 August 2012'. On 17 August 2012 the applicant moved her application on the basis that it was unopposed. Ms ! Nowases for the 4th and 5th respondents objected as her clients have opposed. After the Court pointed out that there is no application by the applicant dated 17 August 2012, counsel realized that a typing error was made and moved for an amendment to the notice of intention to oppose to reflect the correct date. As this clearly was a *bona fide* error and the applicant was not able to show prejudice of such kind as to found a refusal of the relief claimed, the amendment was granted.

[4] The effect of the amendment was that the 4th and 5th respondents still had time to file answering papers to which the applicant might have wanted to reply. I therefore removed the matter from the roll in order for the exchange of papers to be finalized, whereafter the application could be re-enrolled on a date that would have suited the Court and the parties.

[5] The applicant requested on 11 September 2012 that reasons for my decision be furnished, as now I have.

K van Niekerk
Judge

APPEARANCE

APPLICANT : In Person

FOURTH and FIFTH
RESPONDENTS: Ms S !Nowases
Instructed by LorentzAngula Inc
Windhoek