

Sharemax Investments (Pty) Ltd vs Deon Basson – summary of events

1. **30 January 2006** – Sharemax Investments (Pty) Ltd issued summons against Basson personally for damages of R20,9m and a final interdict in the Transvaal Provincial Division of the High Court under case number 2492/06 (**“the action”**). The articles and columns cited in the summons were all written for Media24 publications Finweek and Beeld.
2. **1 February 2006** – Sharemax Investments (Pty) Ltd submitted an application for an interdict against Basson under case number 3208/2006 in the same court (**“the motion”**).
3. Basson filed an answering affidavit on **7 April 2006**.
4. The motion was enrolled for **24-25 May 2006** and again for **14-15 September 2006** by Sharemax but was in both cases unilaterally removed by Sharemax.
5. Various notices in terms of Court Rule 35 (12) were filed by the Basson camp at various dates. Sharemax did not in all respects comply with such notices.
6. Basson filed a supplementary affidavit including a forensic report by Mr AE Prakke on **5 October 2006**.
7. Sharemax didn't file a replying affidavit.
8. Basson enrolled the motion for **16 February 2007**.
9. **7 December 2006:** The action was set down for hearing from **15 April 2008 to 7 May 2008**.
10. **On 14 February 2007** Sharemax filed a new founding affidavit asking for its own earlier application for an interdict to be struck from the roll. It also asked that Basson should pay the costs. Sharemax enrolled the matter to determine costs for **28 November 2008**.
11. On **the same day** Adv. Chris van Coller, on behalf of Basson filed his Heads of Argument.
12. **Also on that day** the clerk of Deputy Judge President Jerry Shongwe phoned Adv. Van Coller and informed him that the

matter will be struck from the roll because the “papers were too thick.” Earlier, Sharemax’s counsel, Adv. Don Williamson visited Judge Shongwe without Adv. Van Coller being present. The Deputy Judge President informed Van Coller later that the matter “will not be allocated to a judge” because the papers were “too thick”. On perusal of the court file earlier in the day the Basson camp discovered that most of its contents had disappeared.

13. Two Sharemax syndication companies, Magalieskruin Holdings and Waterglen Shopping Centre Holdings had issued separate summonses under case numbers 8314/07 and 18534/07 on respectively **16 February 2007** and **3 May 2007**.
14. **9 October 2007** – Basson’s attorneys served a notice for discovery in terms of court rule 35 (1) on Sharemax.
15. **17 November 2007** - Basson filed his discovery affidavit including schedule 1.
16. **3 Desember 2007** - Basson’s attorney Geoff Ferreira filed an application to compel Sharemax to file its discovery affidavit.
17. **19 December 2007** - Judge Chris Botha ordered Sharemax to deliver its discovery affidavit by not later than 16 January 2008. Sharemax was ordered to pay Basson's costs related to the application.
18. **16 January 2008** – Sharemax filed its discovery affidavit.
19. **18 February 2008** – Basson requested further discovery of information in terms of court rule 35 (3).
20. **20 March 2008 (the day before Easter weekend)** – Sharemax requested further discovery in terms of court rule 35 (3).
21. **27 March 2008:** Sharemax amended its particulars of claim. Among others, damages claimed were reduced from R20,9m to R2m.
22. **27 March 2008** – Sharemax filed its reply under rule 35 (3) and denied access to the financial statements of various public companies under its auspices. It stated: “The directors of the companies...have not consented to the Plaintiff making such documents available. It will have to be obtained from the investor companies themselves by way of subpoena.” (The directors of

Sharemax and the directors of the various public companies are the same).

23. **7 April 2008:** Basson filed his reply under rule 35 (3).
24. **15 April 2008:** The trial didn't proceed. Sharemax indicated that it would launch an application related to further discovery. Basson's attorneys served a subpoena in relation to financial statements of public companies.
25. **16 April 2008:** Sharemax launched two applications – one to set Basson's subpoena aside and a second to compel further discovery.
26. **17 April 2008:** Basson filed an answering affidavit. Judge Aubrey Ledwaba postponed proceedings until 21 April.
27. **21 April 2008:** Sharemax filed a replying affidavit. Judge Ledwaba stated that the trial would not be finished in the allocated time and the application of Sharemax should be heard in the motion court. Counsel for both parties addressed him on the allocation of costs. Judgment on the cost issue reserved until the following day.
28. **22 April 2008:** Judge Ledwaba reserved costs until completion of the trial. No new court date has been determined yet and Sharemax has taken no steps to take its discovery application forward.
29. **18 August 2008:** Sharemax launches a fresh application to gag the publication of *Public Interest Warriors*.