



that applications to strike out are taken by way of motion (see Cyril Smiedt (Pty) Ltd vs Lourens 1966 (1) S.A. 150 (o)). Upon proper notice to the other party, indicating the passages objected to, together with a short statement of the grounds of the objection (see Abromowitz vs J acquest & another 1950 (2) S.A. 247 (w)). In the case in casu in appeals ex facie from defendant's notice to strike out that the former requirement has been met but the latter has not been complied with. The notice reads as follows:

"Be pleased to take notice (sic) will be made to the above honourable court on Friday the 11th September 1998 for the application to be made on behalf of the defendant for an order in the following proceedings:

- a) Striking out paragraph 4 of the plaintiff's replying affidavit in the summary judgement proceedings.
- b) Costs of suit.
- c) Further and/or alternative relief.

The paragraph which is sought to be strike out reads as follows:

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I annex to a copy of my personal cheque that I advanced to the defendant marked E. M. L."

It has not been shown by the defendant what are the grounds on which the said paragraph is objectionable (as per Ether (Pty) Ltd (supra)). It has not been shown why the defendant is of the view that the said passage is vexations and scandalous and that it introduces new matter (see Vatz vs Law Society of Namibia 1991 (3) S.A. 371). For this reason it is my considered conclusion that the notice falls short in satisfying the requirement of Rule 23 (2) of the High Court Rules.

I thus rule that the application to strike out fails and is therefore dismissed with costs.

S.B. MAPHALALA

JUDGE