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Information Alert

HIGH COURT JUDGE SUES BENNETT FOR DEFAMATION

Lawyers representing High Court Judge Justice **Chinembiri Bhunu** have issued summons against Movement for Democratic Change (MDC) Treasurer and Deputy Agriculture Minister-Designate Senator **Roy Bennett** claiming US\$1 million in damages for defamation.

The lawyers from **Chikumbirike and Associates** Legal Practitioners filed the summons at the High Court on Friday 24 September, 2010.

The lawyers allege that the damages resulted from wrongful and defamatory words which were uttered by Senator Bennett during an interview with a reporter from *The Guardian* newspaper of the United Kingdom, which he granted on or around 9 May 2010, before Justice Bhunu delivered his judgment acquitting the former Chimanimani legislator.

Justice Bhunu's lawyers say the remarks were published on 24 May 2010 by an internet-based publication, the Zimbabwe Guardian Newspaper, which they claim enjoys wide distribution on account of being available on the internet free of charge.

Senator Bennett is alleged to have stated that: *"To know that the people that are doing it will stop at absolutely nothing to achieve their ends and that there is a selective application of the rule of law, that the judiciary is totally compromised, that the very judge that's trying me is the owner of a farm that he's been given through political patronage, that all the appointments have been done through the Ministry of Justice on a political basis...basically I should expect no mercy and fear for the worst".*

The High Court judge's lawyers, in the Plaintiff's Declaration, argue that Senator Bennett's remarks or statements were *"wrongful and defamatory of the plaintiff [Justice Bhunu] in that they were intended to convey and were understood by the readers of the Guardian Newspaper to mean that the plaintiff was not a fit and proper person to be a judge of this honourable court [High Court] and to preside over the trial of the defendant [Bennett]."*

The lawyers claim that Senator Bennett's statements imputed that Justice Bhunu was "a conscious and willing tool" who was "deliberately selected to preside over the defendant's [Bennett's] trial by persons that will stop at absolutely nothing to achieve their ends by a selective application of the rule of law".

The defamation is further alleged to have occurred in that Senator Bennett's remarks intended to convey and were understood by the readers of the Guardian Newspaper to mean that "the plaintiff's integrity as a judge and to preside over the defendant's trial [was] totally compromised by virtue of the fact that his appointment was not based on merit but political patronage and connections. This lack of judicial integrity having been achieved by the allocation of a farm through the Land Reform Programme"

Background

High Court Judge Justice Bhunu acquitted Senator Roy Bennett on Monday 10 May 2010 after ruling that the State's prosecution team, led by Attorney General (AG) **Johannes Tomana**, had failed to establish a *prima facie* case against the former Chimanimani Member of Parliament.

Tomana later appealed against Justice Bhunu's decision to acquit Bennett. Chief Justice **Godfrey Chidyausiku** recently reserved judgment after hearing submissions from both the State and Bennett's lawyers in relation to the appeal.

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