



THE SUPREME COURT OF APPEAL
REPUBLIC OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

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Please note that the media summary is intended for the benefit of the media and does not form part of the judgment of the Supreme Court of Appeal.

SPRING FOREST TRADING 599 CC

v

WILBERRY (PTY) LTD t/a ECOWASH & ANOTHER

The Supreme Court of Appeal (the SCA) today upheld an appeal against a decision of the High Court KwaZulu-Natal holding that it was not permissible for a written agreement, which required cancellation to be in writing and signed by the parties, to be cancelled by email.

The parties to the dispute were Wilberry (Pty) Ltd (Wilberry) and Spring Forest Trading (Spring Forest). They entered into several agreements in terms of which Spring Forest leased from Wilberry its Mobile Dispensing Units for use in its car wash business. The agreements contained clauses providing that the agreements may only be cancelled in writing and signed by the parties.

Spring Forest was no able to meet its rental commitments and the parties met in Durban of 25 February 2013 and agreed to cancel their agreements. The terms of the cancellation were recorded in an email exchange. The names of the parties appeared at the foot of each email.

Spring Forest then entered into an agreement with another entity to conduct the same business. In response Wilberry instituted proceedings in the Durban High Court to interdict Spring Forest from continuing its business on the grounds that this was in breach of their agreements. The interdict was sought pending an application for breach of contract that Wilberry was to institute against Spring Forest within 30 days of the interdict. The high court grant the interdict and Spring Forest appealed to the SCA.

On appeal the SCA held that the email exchange between the parties met the requirements for the cancellation agreement to be in writing. It also held that the typewritten names of the parties at the foot of the emails constituted electronic signatures as envisaged in s 13(3) of the Electronic Communications and Transactions Act 25 of 2002. The signatures therefore complied with the requirements of the parties for the cancellation agreement to be signed by them. The SCA therefore upheld the appeal by Spring Forest and ordered Wilberry to pay the costs of the appeal.