



SUPREME COURT OF APPEAL OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

FROM The Registrar, Supreme Court of Appeal
DATE 19 March 2020
STATUS Immediate

Nativa (Pty) Limited v Austell Laboratories (Pty) Limited (1298/2018)
[2020] ZASCA 11 (19 March 2020)

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.

The Supreme Court of Appeal (the SCA) today upheld an appeal against the refusal by the Gauteng Division, Pretoria, to grant an interim interdict to restrain the respondent from competing unlawfully with the appellant.

The appellant and the respondent are competitors in the joint care supplement market. In 2018 the respondent broadcast an advertisement of its product, used to relieve symptoms of arthritis, and warned consumers that the appellant's product, which contained glucosamine and chondroitin, was a health risk to those suffering from high blood pressure, diabetes and asthma (the initial advertisement). Subsequently, the respondent altered the initial advertisement in minor respects but the altered advertisement contained the same false claim concerning the appellant's product.

The high court, in refusing the application for the interdict, held that there was no reference to the appellant's product in the altered advertisement and that the appellant did not make out a case for unlawful competition. The SCA set aside that order and granted the appellant an interdict to restrain the respondent from broadcasting the altered advertisement, pending the institution of a claim for damages by the appellant against the respondent for product disparagement.