



CONSTITUTIONAL COURT OF SOUTH AFRICA

**Viking Pony Africa Pumps (Pty) Ltd t/a Tricom Africa v Hidro-Tech Systems (Pty) Ltd
and the City of Cape Town**

**Case No: CCT 34/10
[2011] ZACC 5**

Decided on: 10 March 2011

Media Summary

The following explanatory note is provided to assist the media in reporting this case and is not binding on the Constitutional Court or any member of the Court.

On Thursday 10 March 2011 the Constitutional Court delivered a judgment concerning a provisional costs order it had made in a judgment handed down on 23 November 2010. In terms of the provisional order, the City of Cape Town was to pay the costs of both Viking Pony and Hidro-Tech Systems in the Constitutional Court.

The parties were afforded and seized the opportunity to lodge written submissions on whether to confirm or discharge the provisional order.

A unanimous Court, per Mogoeng J, decided that the City's submissions on the matter were sufficient to discharge the provisional order in so far as it relates to Viking Pony's costs. The Court discharged the provisional order and ordered the City of Cape Town to pay only Hidro-Tech Systems' costs in the Constitutional Court.

The reason for doing so was that the City had already caused allegations of fronting to be investigated in line with the decisions of the High Court and Supreme Court of Appeal, which were substantially upheld by the Constitutional Court. However, since Hidro-Tech Systems, would not have had to bring the application in the High Court if the City had complied with its obligation to investigate, the provisional order against the City in favour of Hidro-Tech Systems was confirmed.