

**REPUBLIC OF SOUTH AFRICA  
SUPREME COURT OF APPEAL  
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**CASES ENROLLED FOR HEARING**

**Eskom Holdings SOC Ltd v Hitachi Power Africa (Pty) Ltd & another (139/13)**

Appealed from GSJ

Date to be heard: 15 August 2013

Mthiyane AP, Brand, Shongwe, Majiedt, Petse JJA

Contract – whether the Appellant was contractually entitled to call upon demand guarantees under the terms of a construction contract concluded between it and the Respondents – whether the Appellant entered into a separate collateral agreement or undertaking that it would call upon the demand guarantees in the manner provided for in the contract – whether the Appellant is obliged, notwithstanding the absence of any term to that effect, to give the Respondents notice of its intention to call upon the demand guarantees – whether the failure on the part of the Appellant to give notice to the Respondents that it intended calling upon the demand guarantees entitle the Respondents to interdict the Appellant from making demand and/or to an order directing the Appellant to revoke the demand already made – whether the requirements for the grant of an interim or a final interdict were satisfied.

**Association of Meat Importers and Exporters & 20 others v International Trade Administration Commission & 57 others (769, 770 & 771/12)**

Appealed from GNP

Date to be heard: 15 August 2013

Nugent, Lewis, Theron, Wallis, Saldulker JJA

Constitutional Law – whether Schedule 2 to the Customs and Excise Act 91 of 1984 is inconsistent with the Constitution and invalid to the extent that it includes products affected by this court's judgment in *Progress Office Machines CC v South African Revenue Service & others* 2008 (2) SA 13 (SCA) – whether the high court's order of constitutional invalidity in relation to Schedule 2 should be confirmed, together with the orders of retrospective and prospective suspension – whether the Shoprite Appellants should be refunded the amount of duties paid on garlic imported from China since this court's decision in *Progress Office Machines*.

**Jeffery Israel Levenstein v The State (890/12)**

Appealed from GSJ

Dates to be heard: 15 & 16 August 2013

Cachalia, Bosielo, Leach, Willis JJA, Meyer AJA

Criminal Law – whether the State proved the guilt of the Appellant beyond reasonable doubt – Sentence – whether the sentences imposed in respect of counts 1 to 6 and 8 induce a sense of shock and contain serious misdirections.

**Shawn Mark Fegen & others v Douglas Mphakathi (348/12)**

Appealed from ECG

Date to be heard: 16 August 2013

Navsa ADP, Tshiqi, Pillay JJA, Van der Merwe, Swain AJJA

Property Law – whether a party who is alleged to have taken transfer of immovable property with knowledge of a third party's prior right can successfully plead that the third party's right to claim transfer has prescribed.

**Nedbank Ltd v Ronald Mendelow & another NNO (686/12)**

Appealed from GNP

Date to be heard: 16 August 2013

Lewis, Maya, Malan, Shongwe JJA, Zondi AJA

Administrative Law – whether the Respondents are entitled, in terms of the provisions of the Promotion of Administrative Justice Act 3 of 2000 or s 341(2) of the Companies Act 61 of 1973, to set aside a mortgage bond over immovable property – whether the Respondents have locus standi to apply for relief under s 341(2) of the Companies Act – whether the court should validate a void disposition.

**Jacobus Petrus Fourie & another NNO v Edkins Graham Vernon (740/12)**

Appealed from GSJ

Date to be heard: 19 August 2013

Mthiyane AP, Maya, Shongwe, Tshiqi JJA, Zondi AJA

Insolvency – whether section 5(1) of the Insolvency Act 24 of 1936 finds application in the matter – if so, whether the section prohibited the sale of the disputed immovable property – the reliance placed on the bona fides of the insolvent at the time when he applied for the sequestration of his estate.

**The Competition Commission v Yara (South Africa) (Pty) Ltd and others (784/12)**

Appealed from CAC

Date to be heard: 19 August 2013

Brand, Nugent, Malan, Petse, Saldulker JJA

Competition Law – the purpose of an initiating complaint – whether the Appellant is confined to referring only that conduct identified in an initiating complaint or can add particulars to that complaint – the proper approach to interpreting an initiating complaint submitted by a third party complainant.

**The State v Phakamani A Nkunkuma (101/13)**

Appealed from ECP

Date to be heard: 19 August 2013

Ponnan, Bosielo, Theron, Wallis, Pillay JJA

Criminal Procedure – sentence – rape of complainant by more than one person – whether the court a quo erred in not imposing the minimum sentence prescribed by the Criminal Law Amendment Act 105 of 1997.

**Johannes Tlhoalela Mafokate v The Law Society of the Northern Provinces (786/12)**

Appealed from GNP

Date to be heard: 20 August 2013

Mthiyane AP, Lewis, Shongwe, Wallis JJA, Zondi AJA

Attorneys Act 53 of 1979 – whether the Appellant is guilty of unprofessional, dishonourable and unworthy conduct – whether the Appellant is no longer a fit and proper person to practise as an attorney.

**PriceWaterhouseCoopers Inc & others v National Potato Co-operative Ltd (451 & 468/12)**

Appealed from GNP

Date to be heard: 20 August 2013

Navsa ADP, Brand, Tshiqi, Majiedt JJA, Swain AJA

Civil Procedure – application for leave to appeal – the court a quo’s setting aside of the applicants’ initial application for leave to appeal against the declaratory order that the court gave declaring Second to Fifth Applicants liable for certain debts of the First Respondent’s debtors – the appealability in terms of s 21A of the Supreme Court Act 59 of 1959 of the concomitant costs order granted against the Applicants – the court’s omission to grant the First Applicant leave to appeal against the costs orders in respect of which the Second to Fifth Applicants were granted leave to appeal – the limitation that the court a quo applied to a costs order in favour of the First Applicant – the court’s failure to grant the Second to Fifth Applicants leave to appeal against the overall costs orders granted against them.

**Quartermark Investments (Pty) Ltd v Pinky Mkhwanazi (768/12)**

Appealed from GSJ

Date to be heard: 20 August 2013

Maya, Bosielo, Theron, Pillay, Petse JJA

Contract – whether the First Respondent had made out a proper case in her founding affidavit to establish a right to resile from the agreements that she entered into – whether the founding affidavit establishes a misrepresentation – whether the court a quo was correct in excusing the First Respondent from tendering the return of the benefit that she received under the agreements – whether it is possible, on the papers, to find that the true agreement between the parties is one of loan.

**Camworth Technologies Ltd v Videx Wire Products (Pty) Ltd t/a Videx Mining Products (702/12)**

Appealed from GNP

Date to be heard: 21 August 2013

Nugent, Ponnar, Bosielo, Wallis JJA, Swain AJA

Patent Law – whether the Videx pot, if manufactured and sold by the Respondent, will infringe the claims of the Appellant’s patent.

**Business Partners Ltd v Yellow Star Properties (Pty) Ltd (815/12)**

Appealed from KZD

Date to be heard: 22 August 2013

Mthiyane AP, Maya, Malan, Theron, Pillay JJA

Insolvency – whether the Respondent is a ‘solvent company’ within the meaning of item 9(2) of Schedule 5 to the Companies Act 71 of 2008 – whether chapter 14 of the Companies Act 61 of 1973 does not apply to the winding-up of the Respondent.

**Gerhardus Francois Rossouw NO v Land en Landbou Ontwikkelingsbank van Suid Afrika (794/12)**

Appealed from GNP

Date to be heard: 22 August 2013

Brand, Leach, Majiedt JJA, Van der Merwe, Meyer AJJA

Contract – whether six or ten pivots were delivered to a family trust under an instalment sale agreement – whether the trust is estopped from denying that ten pivots were delivered to it – whether the Respondent is entitled to payment of the full purchase price where it is not certain as to the number of pivots delivered.

**Absa Bank Ltd v Bhekani Ernest Mkhize & another; Absa Bank Ltd v Sean Chetty; Absa Bank Ltd v Dalubuhle Xolanie Mliphha (716/12)**

Appealed from KZD

Date to be heard: 22 August 2013

Lewis, Ponnan, Shongwe, Saldulker JJA, Zondi AJA

Contract – whether, on a proper interpretation, the Constitutional Court judgment in *Sebola v Standard Bank of SA Ltd* 2012 (5) SA 142 (CC) has the effect of denying default judgment to a credit provider under circumstances where a credit provider despatches a notice under s 129 of the National Credit Act 34 of 2005 to a consumer by registered mail and the track and trace report reveals that: the letter was sent to the correct post office; the consumer received notification that the letter was available for collection; and the consumer elected not to collect the letter, which was then returned to the sender.

**Solenta Aviation (Pty) Ltd v Aviation@Work (Pty) Ltd (754/12)**

Appealed from GNP

Date to be heard: 23 August 2013

Mthiyane AP, Ponnan, Tshiqi, Willis JJA, Meyer AJA

Prescription – whether the summons served on the Respondent interrupted prescription – whether the parties were at all times ad idem about the identity of the parties – whether the Respondent was issue estopped from raising the special plea.

**Andre Herholdt v Nedbank Ltd (701/12)**

Appealed from Labour Appeal Court

Date to be heard: 23 August 2013

Nugent, Cachalia, Shongwe, Wallis JJA, Swain AJA

Labour Law – whether the appellant was reasonably found by the commissioner to have been unfairly dismissed on a charge of dishonesty – whether the commissioner's award was correctly found to be reviewable in terms of section 145 of the Labour Relations Act 66 of 1995, read together with section 33(1) of the Constitution.

**Sandile Bokolo v The State (483/12)**

Appealed from WCC

Date to be heard: 23 August 2013

Malan, Theron, Majiedt JJA, Van der Merwe, Zondi AJA

Criminal law – rape – whether the circumstantial evidence presented by the State (including DNA evidence) allows for only one reasonable inference, namely that the Appellant is guilty of rape – whether the court a quo erred in preferring the evidence of the State witnesses to that of the Appellant's expert witness.

**T H Restaurants (Pty) Ltd v Rana Pazza (Pty) Ltd (859/12)**

Appealed from WCC

Date to be heard: 26 August 2013

Navsa ADP, Lewis, Pillay, Saldulker JJA, Van der Merwe AJA

Contract – whether the First Respondent is entitled to raise the *exceptio non adimpleti contractus* as a defence in circumstances where the parties have concluded a franchise agreement – whether the franchise agreement has been validly cancelled by the Appellant – whether the Appellant is entitled to an order evicting the First Respondent from the leased premises – whether the Appellant is entitled to be substituted as tenant of the leased premises in place of the First Respondent.

**Bayerische Motoren Werke Aktiengesellschaft v Grandmark International (Pty) Ltd (722/2012)**

Appealed from GNP

Date to be heard: 26 August 2013

Brand, Nugent, Tshiqi, Wallis JJA, Swain AJA

Intellectual Property – whether the spare body parts sold and distributed by the First Respondent infringed the Appellant’s registered designs – whether the manner in which such parts were sold in South Africa infringed the Appellant’s registered trademarks – whether spare body parts can in principle be registered as aesthetic designs – whether the Appellant’s designs were registrable as aesthetic designs – whether the relevant designs were new and original – whether the SCA should engage with the competition issues in the event that it upholds the appeal, in view of the fact that the design relief was refused and the registered designs revoked.

**Kevin Ndivhuwo Managa v The State (118/13)**

Appealed from LP

Date to be heard: 26 August 2013

Ponnan, Malan, Tshiqi, Petse JJA, Zondi AJA

Criminal Law – whether the warning statements and pointing out were procedurally and fairly proved without the court conducting a trial within a trial – whether the warning statements were admissible against the Second Appellant – whether the perpetrators were positively identified – whether the trial court was justified in applying the provisions of the Criminal Law Amendment Act 105 of 1997 – whether substantial and compelling circumstances exist.

**Isabel Joyce Florence v The Government of the Republic of South Africa (550/2012)**

Appealed from LCC

Date to be heard: 27 August 2013

Navsa ADP, Nugent, Malan, Tshiqi, Saldulker JJA

Restitution of Land Rights Act 22 of 1994 – interpretation – whether the Consumer Price Index is the appropriate method for converting the loss suffered by the appellant in 1970 into the present day monetary terms for purposes of determining financial compensation in a claim under the Act – whether the Land Claims Court (LCC) has the remedial power in terms of s 35 of the Act to order the State to pay the costs of erecting a memorial plaque on the dispossessed land that is now privately owned – whether it is appropriate to interfere with the LCC’s decision not to make a costs order.

**MEDX (Randburg) (Pty) Limited v Andrew Shaun Branfield (676/2012)**

Appealed from GSJ

Date to be heard: 27 August 2013

Brand, Maya, Wallis, Petse JJA, Zondi AJA

Contract – whether the oral agreement contended for by the Respondent was proven on a balance of probabilities – whether the Respondent has proved the oral agreement on the application of the doctrine of quasi-mutual assent – whether the representative of the Appellant, by his words and conduct led the Respondent, as a reasonable person, to believe that by agreeing to conduct a multi-disciplinary practice on his premises, he would not hold the Respondent personally liable for the debts and liabilities of Dr AS Branfield Incorporated, and that the Respondent was entitled to rely on such representation.

**George Talbot Spencer v Xolisa Kennedy Memani (675/12)**

Appealed from KZD

Date to be heard: 27 August 2013

Lewis, Ponnan, Pillay, Willis JJA, Meyer AJA

Company Law – whether the Respondents have made out a case for declaratory relief that the First Respondent is a director of the Eight Appellant – whether it is open to the appellants to argue that if the Respondents have satisfied the requirements for declaratory relief, the court a quo ought to have exercised its discretion against granting such relief as no case in regard to the court’s discretion was foreshadowed in the answering affidavit – whether it was necessary for the Respondents to join

a shareholder in the Eighth Respondent to the proceedings – whether the application should have been stayed.

**Axal Properties 2 CC v Hendrik Nicolaas Kotzé (712/12)**

Appealed from GSJ

Date to be heard: 29 August 2013

Mthiyane AP, Brand, Tshiqi, Majiedt, Willis JJA

Insolvency Law – the proper meaning to be attributed to the term ‘trader’ and the phrase ‘in connection with the business’ as they appear in s 34(3) of the Insolvency Act 24 of 1936.

**Stewart Graham Hewitt v The Director of Public Prosecutions, KwaZulu-Natal (975/12)**

Appealed from KZD

Date to be heard: 29 August 2013

Ponnan, Malan, Shongwe, Pillay JJA, Swain AJA

Criminal Procedure – whether s 170A(1) of the Criminal Procedure Act 51 of 1977 is applicable to witnesses over the age of 18 years – whether undue mental stress or suffering is a prerequisite for the application of s 170A(1) – whether non-compliance with s 170A(1) can per se vitiate the proceedings – whether the court a quo was correct in certifying the proceedings in accordance with justice in terms of s 304(1) of the Act, where an intermediary was appointed for a complainant who was 18 years old at the time she testified.

**Nothozamile Pumla Mbaba v Nobelusi Mbaba (474/12)**

Appealed from ECM

Date to be heard: 29 August 2013

Maya, Leach, Theron, Petse, Saldulker JJA

Customary Law – marriage – whether the Appellant’s marriage to the deceased was valid.

**Minister of Agriculture and Land Affairs v Carola Maria de Klerk (747/2012)**

Appealed from GNP

Date to be heard: 30 August 2013

Navsa ADP, Cachalia, Majiedt JJA, Van der Merwe, Meyer AJJA

Contract – whether payment of the full purchase price by a purchaser into the trust account of a conveyancer discharges the purchaser’s payment obligation specifically agreed upon in the deed of sale in circumstances where the conveyancer misappropriates a portion of the purchase price after transfer.

**South African National Roads Agency Limited v The Toll Collect Consortium (796/2012)**

Appealed from KZD

Date to be heard: 30 August 2013

Nugent, Bosielo, Wallis, Petse JJA, Swain AJA

Review – tender – whether the tender process met the requirements of s 217 of the Constitution – whether ‘objective criteria’ such as those envisaged in s 2(1)(f) of the Preferential Policy Framework Act 5 of 2000 justified the award of the tender to someone other than the First Respondent – whether the First Respondent had the requisite locus standi to apply for review – whether the court a quo had the requisite jurisdiction to hear the review application.

**Jeffrey Khathutshelo Matshivha v The State (656/12)**

Appealed from LT

Date to be heard: 30 August 2013

Ponnan, Maya, Shongwe, Tshiqi JJA, Zondi AJA

Criminal Law – whether the State proved its case against the Appellant beyond a reasonable doubt – whether the Appellant’s version was reasonably possibly true – whether the complainant on the charge of rape positively identified the perpetrator – Sentence – whether the provisions of the Criminal Law Amendment Act 105 of 1997 are applicable – whether substantial and compelling circumstances exist to justify deviation from those provisions – whether the sentences imposed on the Appellant are so severe as to induce a sense of shock.

**Capricorn Beach Home Owners Association v H E S Potgieter t/a Nilands (752/2012)**

Appealed from WCC

Date to be heard: 2 September 2013

Mthiyane AP, Maya, Wallis JJA, Van der Merwe, Swain AJJA

Property Law – whether an agreement was concluded between the Appellant and the First Respondent for the refund of moneys erroneously received by the Appellant – whether the Appellant is entitled to a defence of set-off and has established such defence on the papers - whether an agreement was concluded between the parties to the effect that the balance of the funds be held in trust by the Second Respondent pending determination of a dispute between the Appellant and Capricorn Beach Joint Venture, regarding levies and municipal charges allegedly payable to the former by the latter.

**National Health Laboratory Service v Mariana Magdalena Lloyd-Jansen van Vuuren (667/2012)**

Appealed from GSJ

Date to be heard: 2 September 2013

Navsa ADP, Shongwe, Theron, Petse, Saldulker JJA

Civil Procedure – whether the Appellant’s application for leave to appeal has any prospect of success – Contract – interpretation and application of two contracts of employment.

**Humbulani Makatu v The State (612/12)**

Appealed from LT

Date to be heard: 3 September 2013

Navsa ADP, Maya, Bosielo, Pillay JJA, Meyer AJA

Criminal Law – whether the State led sufficient evidence to prove the requisite intention on the part of the Appellant on the count of murder – whether the Appellant’s plea of guilty on the count of rape was adequate, absent the requisite material averments – whether the Appellant’s plea of guilty to the competent charge of theft contained the requisite elements of that offence – Sentence – whether the court’s reliance on the provisions of the Criminal Law Amendment Act 105 of 1997 was appropriate given that the Appellant was not properly informed thereof – whether substantial and compelling circumstances exist to justify deviation from those provisions.

**The Minister of Home Affairs v Scalabrini Centre, Cape Town (735/12)**

Appealed from WCC

Date to be heard: 3 September 2013

Nugent, Lewis, Theron, Wallis, Willis JJA

Civil Procedure – whether the interim relief granted by the court a quo is appealable – the test to be applied in the granting of an interim interdict where such interdict violates the principle of separation of powers.

**Azwifaneli Rasirubu v The State (651/2012)**

Appealed from LT

Date to be heard: 3 September 2013

Ponnan, Leach, Tshiqi JJA, Van der Merwe, Zondi AJJA

Criminal Procedure – sentence – whether the court a quo erred in sentencing the Appellant to life imprisonment – whether the sentence imposed is proportionate to the offence of rape – whether the sentence is so severe as to induce a sense of shock – whether substantial and compelling circumstances exist to justify deviation from the provisions of the Criminal Law Amendment Act 105 of 1997.

**Pieter Paul le Roux v Paul Steenkamp Nel (246/13)**

Appealed from NCK

Date to be heard: 5 September 2013

Brand, Nugent, Malan, Majiedt JJA, Van der Merwe AJA

Contract – whether the doctrine of notice applies to entitle the Appellants to an order directing the First Respondent to transfer an immovable property to the Appellants in circumstances where the First Respondent was at all material times aware of the prior existence of an option in favour of the Appellants and First Respondent took transfer of the property notwithstanding this knowledge – whether the option was validly exercised – whether the doctrine of fictional fulfilment applies to excuse alleged non-compliance with the formalities prescribed by s 2(1) of the Alienation of Land Act 68 of 1981.

**The Member of the Executive Council for Finance and Economic Development, KwaZulu-Natal v Masifundisane Training and Development College CC (606/12)**

Appealed from KZP

Date to be heard: 5 September 2013

Lewis, Ponnar, Tshiqi, Wallis JJA, Swain AJA

Contract – whether the agreement between the parties constitutes a Public Private Partnership as defined in regulation 16 of the Treasury regulations promulgated in terms of s 76 of the Public Finance Management Act 1 of 1999 – whether the Appellant has raised real, genuine or material disputes of fact warranting a reference of the matter to trial or, alternatively, to oral evidence.

**Vamile Michael Mchunu & another v The State (825/12)**

Appealed from KZP

Date to be heard: 5 September 2013

Maya, Bosielo, Shongwe, Pillay JJA, Zondi AJA

Criminal Procedure – sentence – whether the court a quo was correct in sentencing both Appellants to a fixed non-parole period of 20 years, without giving reasons – whether the court applied s 276B of the Criminal Procedure Act 51 of 1977 retrospectively – whether the court should have afforded the defence an opportunity to address the court on whether the non-parole period was appropriate.

**Mahadulula Thinashaka v The State (065/13)**

Appealed from LP

Date to be heard: 5 September 2013

Maya, Bosielo, Shongwe, Pillay JJA, Zondi AJA

Criminal Procedure – sentence – one count of rape – whether the court a quo erred in sentencing the Appellant to 30 years' imprisonment – whether the sentence is proportionate to the offence of rape.

**Minister of Police v Ashwell du Plessis (666/12)**

Appealed from GSJ

Date to be heard: 6 September 2013

Navsa ADP, Ponnar, Bosielo, Pillay JJA, Meyer AJA

Delict – unlawful arrest and unlawful detention – whether there was a duty on the arresting officer and/or investigating officer to make a value judgment that the Respondent was innocent and that

there was no need for his further detention – whether there was a duty of care on the investigating officer to appreciate that the Respondent was an innocent by-stander – whether the prosecutor acted mala fide in charging the Respondent and in requesting a postponement of the bail application.

**The Commission for Conciliation, Mediation and Arbitration v The Law Society of the Northern Provinces (005/13)**

Appealed from GNP

Date to be heard: 6 September 2013

Nugent, Malan, Wallis JJA, Van der Merwe, Swain AJJA

Constitutional Law – whether rule 25(1)(c) of the CCMA rules is constitutionally invalid on the basis that it is irrational – whether rule 25(1)(c) infringes the right to just administrative action.

**Tshepo Bosielo & another v The State (071/13)**

Appealed from NWM

Date to be heard: 6 September 2013

Lewis, Maya, Majiedt, Petse, Saldulker JJA

Criminal Law – whether the trial court erred in finding that the State had proved its case beyond reasonable doubt that the Appellants raped the complainant – whether the trial court erred in rejecting the Appellants' versions.

**Summit Warehousing (Pty) Ltd v Thuthabantu Properties CC (648/12)**

Appealed from KZP

Date to be heard: 9 September 2013

Mthiyane AP, Brand, Shongwe, Petse JJA, Zondi AJA

Civil Procedure – the refusal of an application to stay proceedings pending a reference to arbitration.

**The Minister of Safety and Security v Bonisile John Katise (328/12)**

Appealed from ECG

Date to be heard: 9 September 2013

Nugent, Lewis, Maya, Tshiqi, Pillay JJA

Delict – whether the Appellant's employee lawfully arrested and detained the Respondent without a warrant for 'domestic violence' – whether the fact that there was no protection order at the time against the Respondent affects the lawfulness or otherwise of the arrest and the detention – if the arrest and the detention are found to have been unlawful, whether the Appellant is liable for the entire period of detention – whether the Appellant could justifiably refer to and rely on the provisions of the Domestic Violence Act 116 of 1998 which had not been relied upon in the pleadings.

**Bongani Gama v The State (127/13)**

Appealed from GNP

Date to be heard: 9 September 2013

Malan, Theron, Majiedt, Saldulker JJA, Van der Merwe AJA

Criminal Law – whether a confession made by the Appellant to a police captain is admissible as evidence against the Appellant – whether the Appellant was in possession of the cheques that were stolen during a robbery – whether the court a quo could rely on the doctrine of recent possession of the cheques to convict the Appellant of robbery with aggravating circumstances – Sentence – whether the effective sentence is shockingly inappropriate – whether the sentences should be ordered to run concurrently.

**Sandra Lee de Haas v Garry John Fromentin & others (499/12)**

Appealed from GNP

Date to be heard: 10 September 2013

Mthiyane AP, Theron, Petse, JJA, Van der Merwe, Zondi AJJA

Family Law – whether the maintenance order was orally varied – whether the order could be informally varied notwithstanding a non-variation clause – whether the suspended sentence imposed by the court a quo constituted an appropriate punishment for the First Respondent's wilful and mala fide refusal to pay maintenance.

**Matsheng Jacob Chake v The State (205/13)**

Appealed from NWHC

Date to be heard: 10 September 2013

Navsa ADP, Leach, Tshiqi, Petse JJA, Swain AJA

Criminal Procedure – sentence – whether the trial court erred in ordering that life imprisonment was an appropriate sentence for the offences committed by Appellant – whether the court erred in concluding that there were no substantial and compelling circumstances which warranted deviation from the prescribed minimum sentence of life imprisonment – whether the right of an adult offender sentenced to life imprisonment by a regional court to an automatic appeal has survived the coming into operation of the Child Justice Act 75 of 2008.

**Dexgroup (Pty) Ltd v Trustco Group International (Pty) Ltd (687/12)**

Appealed from GSJ

Date to be heard: 10 September 2013

Ponnan, Malan, Majiedt, Wallis, Pillay JJA

Arbitration – whether the arbitrator exceeded the bounds of his power – whether the arbitrator made an error of law – whether the arbitrator permitted the admission of inadmissible evidence, constituting a gross irregularity – whether the arbitral award was so tainted by defects that it falls to be reviewed and set aside under s 33(1)(b) of the Arbitration Act 42 of 1965.

**Karl Meinert Pfister v Road Accident Fund (711/2012)**

Appealed from FB

Date to be heard: 11 September 2013

Brand, Leach, Majiedt, Pillay JJA, Meyer AJA

Damages – what will constitute a reasonable award for general damages – the calculation of the appellant's loss of earnings and more particularly the contingencies to be applied in the post-accident scenario with regard to the injuries sustained.

**Paul Casey v Firstrand Bank Ltd (608/12)**

Appealed from GSJ

Date to be heard: 12 September 2013

Navsa ADP, Tshiqi, Petse, Willis JJA, Swain AJA

Prescription – whether Respondent was entitled to claim payment from the Appellants under a documentary credit in circumstances in which the claim against Second Appellant had allegedly become prescribed – whether Appellants are entitled to mandatory relief – whether interest in the total sum of approximately R5.5 million levied on the capital sum of approximately R1 million is in contravention of the *in duplum* rule and unlawful.

**Stabilpave (Pty) Ltd v The South African Revenue Services (615/12)**

Appealed from GNP

Date to be heard: 12 September 2013

Brand, Lewis, Bosielo, Saldulker JJA, Meyer AJA

Contract – whether the majority of the full court was correct in finding that the only plausible inference which can be drawn from the proven facts and circumstances is that there was a tacit agreement that payment should be effected by post – if so, whether the Appellant assumed the risk of loss of the relevant cheque in the post.

**National Union of Metalworkers of South Africa v Abancedisi Labour Services (857/12)**

Appealed from LAC

Date to be heard: 12 September 2013

Maya, Malan, Shongwe, Pillay, Saldulker JJA

Labour Law – whether the Second and further Appellants were dismissed by the Respondent, a labour broker, who had assigned them to a particular employer.

**Caesarstone Sdot-Yam Ltd v The World of Marble and Granite & others (741/12)**

Appealed from WCC

Date to be heard: 16 September 2013

Mthiyane AP, Maya, Theron, Wallis JJA, Van der Merwe AJA

Civil Procedure – requirements for a defence of *lis alibi pendens* – the exercise of the court's discretion should the requirements be found to have been established.

**Christoph Bornman v National Credit Regulator (798/12)**

Appealed from GNP

Date to be heard: 16 September 2013

Lewis, Ponnann, Malan, Shongwe, Saldulker JJA

National Credit Act 34 of 2005 – whether the Appellant was in repeated contravention of his conditions of registration and the provisions of the Act – whether the Appellant's resultant deregistration as a debt counsellor was appropriate – whether it was appropriate to order the Appellant to refund his consumer clients all amounts received as collection commission, retainer, legal fees and other charges.

**CA Focus CC v Village Freezer t/a Ashmel Spar (731/2012)**

Appealed from ECG

Date to be heard: 16 September 2013

Cahcalia, Leach, Majiedt, Petse, Willis JJA

Close Corporation – whether the restoration order in terms of s 26(7) of the Close Corporations Act 69 of 1984 validated the summons issued while the close corporation was deregistered – whether the validation of the summons interrupted prescription in respect of a debt which would otherwise have prescribed.

**Road Accident Fund v Maryna Magdalena van Zyl (635/12)**

Appealed from GSJ

Date to be heard: 17 September 2013

Navsa ADP, Malan, Tshiqi, Saldulker JJA, Van der Merwe AJA

Delict – whether the RAF is obliged to compensate a plaintiff for non-pecuniary loss where the required RAF 4 Form has been lodged outside the period referred to in regulation 3(3)(b)(i), but before the expiry of the period for the issuing of a summons, as stipulated by the Road Accident Fund Act 56 of 1996.

**Smith Mining Equipment (Pty) Ltd v The Commissioner: South African Revenue Service (728/12)**

Appealed from GNP

Date to be heard: 17 September 2013

Nugent, Lewis, Bosielo, Wallis JJA, Swain AJA

Customs and Excise Act 91 of 1964 – whether tariff heading 8704.21.80 or tariff heading 8709.19 is the most appropriate for classification, for customs duty purposes, of the vehicles imported by the Appellant.

**Ethekwini Municipality v The South African Municipal Workers Union (442/11)**

Appealed from LAC

Date to be heard: 17 September 2013

Ponnan, Cachalia, Leach, Majiedt, Willis JJA

Labour law – whether the Labour Court had jurisdiction to hear an application to interdict the implementation of an allegedly invalid collective agreement and to declare the agreement invalid – whether the defence of *lis alibi pendens* should be upheld – whether the agreement is invalid – if so, whether valid portions can be saved by being severed.

**Opposition to Urban Tolling Alliance v The South African Roads Agency Ltd**

Appealed from GNP

Dates to be heard: 25 and 26 September 2013

Brand, Nugent, Petse JJA, Van der Merwe, Swain AJJA

