



THE SUPREME COURT OF APPEAL
REPUBLIC OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal

Date: 31 May 2010

Status: Immediate

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

DELPHISURE GROUP INSURANCE BROKERS CAPE (PTY) LTD

versus

**GYSBERT JOHANNES KOTZÉ DIPPENAAR
GERRIT ANDRIES VISSER
BEXSURE (PTY) LTD**

The first and second respondents, wheat farmers from Piketberg, cancelled applications they had made to Mutual & Federal Insurance Co Ltd for crop insurance for the 2004 growing season upon the appellant having marketed an alternative product known as Farmsure for which they applied instead. When it later became apparent that Farmsure did not exist, it was too late for them to obtain other insurance and, when their crops failed, they suffered financial loss which they were unable to recoup from insurance. They sued the appellant for damages, contending that as a result of the appellant's negligent misrepresentation that the Farmsure product existed they had suffered loss. Their claims succeeded in the Western Cape High Court.

The appellant appealed to the Supreme Court of Appeal, which today upheld the

appeal in part, the court having concluded that the second respondent would probably have withdrawn his crop insurance application to Mutual & Federal and been uninsured even had the appellant's misrepresentation not been made. However the appeal against the claim of the first respondent was dismissed, the court holding that the misrepresentation had been negligently made, that it had been unlawful and that it caused the first respondent to suffer loss in circumstances in which the appellant should be held liable.