

REPUBLIC OF SOUTH AFRICA

SUPREME COURT OF APPEAL

BULLETIN 1 OF 2025

CASES ENROLLED FOR HEARING: 17 February – 31 March 2025

1. Dominique Camilla Manelis v Constantinos Charles Manelis

(1235/2022)

Appealed from GJ

Date to be heard: 17 February 2025

Zondi AP, Keightly JA, Coppin JA, Phatshoane AJA, Bloem AJA

Family Law – divorce – ante-nuptial – out of community of property with accrual – condonation – whether the court a quo should have found that in light of the evidence tendered by the applicant, there was a clear basis to find that the respondent’s commencement value was prima facie in nature and that the evidence led by the applicant demonstrated that it was inaccurate – whether the applicant had made out a case and whether she was entitled to the accrual as pleaded – whether the witnesses called by the Respondent were independent experts – whether an inference should have been drawn because the Respondent did not testify on issues that were only known to him and done by him.

2. Siphosethu Ntakana obo Olumiyo Ntakana v Member of the Executive Council for Health: Eastern Cape

(277/2023)

Appealed from EMC

Date to be heard: 17 February 2025

Mokgohloa ADP, Weiner JA, Kathree-Setiloane JA, Koen JA, Molitsoane AJA

Delict – medical negligence – whether the rejection of joint minutes by the court a quo without notice to the parties was appropriate – whether the child’s cerebral palsy was due to the negligence of the employees of the respondent – whether the appellant had proved negligence against the respondent – whether the Nuchal Cord (cord around the neck) was foreseeable and preventable – whether an undiscovered guideline which was not in existence at the time of birth could be used during trial – whether the [respondent’s] employees were negligent in the management of the plaintiff’s labour and whether there was any causal relationship between such [negligent] management and minor child’s condition.

3. Tashreeka Oliver N O v The MEC for Health, Western Cape Provincial Department of Health

(886/2023)

Appealed from WCC

Date to be heard: 17 February 2025

Mocumie JA, Unterhalter JA, Kgoele JA, Smith JA, Musi AJA

Constitutional Law – delict – general damages – quantum for special damages – deceased estate – development of the common law in terms of s 39(2) of the Constitution – whether *litis contestatio* in respect of the plaintiff's claim for general damages was terminated by her filing an amendment to the quantum of her claim for special damages (patrimonial loss) – if so, whether the existing common law permitted the transmissibility of a claim for general damages in the circumstances of this case – and if not, whether the existing common-law principles ought to be developed in accordance with s 39(2) of the Constitution to recognise the transmissibility of a claim for general damages in the circumstances of this case – should the court find that the existing common-law principles did not permit the transmissibility of a claim for general damages in the circumstances of this case, the appellant seeks the development of the common law in line with s 39(2) of the Constitution to bring those principles in line with and give effect to the following provisions of the Bill of Rights: the right to equal protection and benefit of the law (s 9(1) of the Constitution); the right to bodily and psychological integrity (s 12(2) of the Constitution); the right of access to quality health care services (s 27 of the Constitution); and the right of access to courts (s 34 of the Constitution) – whether the amendment of the deceased plaintiff's particulars of claim shortly after her death interrupted *litis contestatio*, rendering non-transmissible to her deceased estate her claim against the respondent for general damages for non-patrimonial loss occasioned by bodily injury – if so, whether the common law should be developed to allow the said claim to be transmissible to her estate notwithstanding the interruption of *litis contestatio*.

4. Kristine Kalmer v Gaironisa Davids N O (in her capacity as the executor in the estate: late Yasmin Salie) and Western Province Athletics

(501/2023)

Appealed from WCC

Date to be heard: 18 February 2025

Schippers JA, Meyer JA, Smith JA, Vally AJA, Norman AJA

Law of Delict – apportionment of delictual damages – duty of care – negligence – whether the first respondent could rely on a duty of care on the part of the appellant to keep a proper lookout for the first respondent; the appellant contending that this was not the first respondents pleaded case – whether the duty of care owed by the appellant to the first respondent in the circumstances of the matter and whether the appellant breached that duty – whether the appellant owed a duty of care to the first respondent to keep a proper lookout – whether the appellant was required to conduct herself to the standard of a reasonable competitive runner – whether the appellant could have prevented the collision occurring, and was as contributorily negligent – whether the appellant’s English law defences had any merit – whether and the degree to which the first respondent was negligent (solely or contributorily) in relation to the incident – whether the appellant was negligent and, if she was, whether liability should be attributed to such negligence – whether the first respondent’s negligence was the sole cause of the incident – whether an apportionment for delictual damages should be awarded and if so, in what proportions.

5. Lomastep (Pty) Ltd v Carlos Alberto Pereira Galego, Manuel Antonio Da Fonseca Vasconcelos Da Mota, Nuno Miguel De Sousa Alexandre, Carlos Alberto Grilo Pascoal, Tembalikayise John Lupepe, Mhansi Malaba, Carmen Khethiwe Nondumiso McClain, Noloyiso Lulama Mhlongo and Pedro Miguel Pereira Goncalves (896/2023)

Appealed from GP

Date to be heard: 18 February 2025

Nicholls JA, Matojane JA, Baartman JA, Windell AJA, Modiba AJA

Company Law – statutory interpretation – liability of directors under ss 218(2), read with s 22(1) of the Companies Act 71 of 2008 (the Act) – whether s 218(2), read with s 22(1) of the Act afforded a creditor a right of action against directors of a company who allegedly contravened s 22(1) of the Act, resulting in damages – whether the high court correctly upheld the exception to the appellant’s particulars of claim on the strength of the other grounds of the exception.

6. Dr Waa Gouws (Johannesburg) (Pty) Ltd v HR Computek (Pty) Ltd, Yolandi Ann Mes, Johannes Hendrick Du Plessis N O, Marian Oelofsen N O, Welcome Norman N O and Master of the High Court, Johannesburg

(909/2023)

Appealed from GP

Date to be heard: 18 February 2025

Mbatha JA, Hughes JA, Kgoele JA, Unterhalter JA, Molitsoane AJA

Company Law – locus standi of directors in terms of s 354(1) of the Companies Act 61 of 1973 – residual powers of directors of wound-up company in bringing application to rescind order for winding up – whether a company being finally wound-up possessed necessary *locus standi* to bring an application to rescind or set aside a provisional order for winding-up – whether the directors of a finally wound-up company had residual powers to bring an application for rescission of a winding-up order without co-operation of its liquidators.

7. Saamwerk Soutwerke (Pty) Ltd and SA Soutwerke (Pty) Ltd

(782/2023)

Appealed from NCK

Date to be heard: 19 February 2025

Mokgohloa ADP, Kgoele JA, Kathree-Setiloane JA, Baartman JA, Musi AJA

Civil procedure – declaratory order – evidence – damages – the proper interpretation of the declaratory order granted by this Court on 19 May 2017 in respect of the merits and causation – the assessment of the evidence of factual causation, particularly, the conclusion that more is required of the appellant to show that it indeed would have mined salt at Vrysoutpan in the relevant period – whether the appellant had been obliged to plead that its capacity and resources to mine salt would have been provided by the group of companies related to it – whether the appellant had failed to prove that it mined salt on another pan, Eenzaamheid at a profit for itself in and before the relevant period – whether the appellant has, in accordance with the relevant legal principles, in terms of its pleadings and in terms of the evidence presented during the trial on quantum, proved that it had suffered damages as well as the quantum of its alleged damages.

8. Endangered Wildlife Trust, Federation for a Sustainable Environment v Director-General (Acting) Department of Water and Sanitation, Atha-Africa Ventures (Pty) Ltd (1165/2023)

Appealed from GP

Date to be heard: 19 February 2025

Schippers JA, Hughes JA, Weiner JA, Smith JA, Vally AJA

Environmental Law – Section 34 of the Constitution of the Republic of South Africa – National Water Act 36 of 1998 (NWA) – National Environmental Management Act 107 of 1998 (NEMA) – whether the high court violated the appellant's right to have their dispute resolved by the application of law decided in a fair public hearing in terms of s 34 of the Constitution – whether the Water Tribunal erred in failing to consider the strategic importance of the mine area for water security and biodiversity – erred in granting the Water Use Licence in the absence of proof of consent of all the landowners – erred in failing to provide the post-closure treatment of the mine in its decision - whether the Water Tribunal erred in its application of the environmental principles under NEMA, by granting the water use license notwithstanding the risks and uncertainties in relation to water impacts and mitigation measures – whether the cost orders granted against the appellants should be overturned.

9. Haralambos Prokas N O, Fotini Prokas NO, Prinia Investment Capital (Pty) Ltd v Zoviflo (Pty) Ltd

(61/2024)

Appealed from GJ

Date to be heard: 19 February 2025

Meyer JA, Matojane JA, Koen JA, Bloem AJA, Modiba AJA

Company Law – Nominee Shareholder Agreement – Joint Venture Agreement - whether the enforceability of a Nominee Shareholders Agreement, concluded between the first and second appellants and the respondent, is dependent upon and inextricably linked with the conclusion of and subsequent implementation of a Joint Venture Agreement – whether the Joint Venture Agreement and the Nominee Shareholder Agreement both formed part and parcel of a single transaction – whether Mr Jabulani Christopher Mepha had the necessary authority to sign the Nominee Shareholder Agreement and the Joint Venture Agreement on behalf of the respondent in circumstances where the agreement were signed during March to May 2020 and Mr Mepha was appointed as the director of the respondent only much later, on 20 January 2022.

10. Pick ‘n Pay Retailers (Pty) Ltd v Ramalho George Da Silva N O and Vilakazi Amanda Lindokuhle N O

(946/2023)

Appealed from GJ

Date to be heard: 20 February 2025

Zondi AP, Unterhalter JA, Coppin JA, Phatshoane AJA, Bloem AJA

Law of Insolvency – Insolvency Act 24 1986 – Companies Act 61 of 1973 - liquidation – payment – whether the liquidators of a company in liquidation are permitted to claim the repayment of monies procured by a creditor of the company in liquidation, post liquidation of the relevant company and in disregard of the *concursum creditorum* – whether the sale of business agreement between Lashka and a third party was an uncompleted executory contract at the time of Lashka’s liquidation and even if it was, whether it permitted the appellant (who was not a party to the agreement) to procure payment of its claim – whether a potential claim against White & Case (who paid the funds to the appellant), precludes a claim against the appellant (who received the funds) and – whether the respondents made any case for the relief sought in the founding papers.

11. Isaac Tebogo Dithakanyane v The State

(775/2023)

Appealed from GJ

Date to be heard: 20 February 2025

Mocumie JA, Nicholls JA, Mbatha JA , Musi AJA, Windell AJA

Criminal law - Law of Criminal Procedure Act 51 of 1977 – Law of Evidence Amendment Act 45 of 1988 –accomplice – splitting of charges – appropriate sentences -whether the evidence of an accomplice and circumstantial evidence was proved beyond a reasonable doubt – whether a conviction in terms of s 2(1)(f) and a conviction in terms of s 2(1)(e) of the Prevention of Organised Crime Act 121 of 1998 based upon the same set of facts amount to a splitting of charges – whether the effective sentence of 40 years imprisonment is appropriate.

12. The National Director of Public Prosecutions v Tariomix (Pty) Ltd, Louis Petrus Liebenberg and Magdalena Petronella Kleynhans

(756/23)

Appealed from GP

Date to be heard: 20 February 2025

Hughes JA, Meyer JA, Matojane JA, Koen JA, Baartman JA

Criminal Law – Prevention of Organised Crime Act 121 of 1998 – preservation of funds order – application for condonation – reinstatement of the lapsed appeal – whether the lapsed appeal should be reinstated and whether condonation for the late filing of the appeal

record should be granted– whether the appeal is moot and whether the court should consider the appeal –whether the granting of the appeal insofar as it relates to the first respondent, would amount to an arbitrary deprivation of property of the first respondent and the individuals that invested into the business scheme of the first respondent – whether the property is an instrumentality of an offence or proceeds of unlawful activities.

13. Dirk Cornelis Uys N O, Carl Alexander Greatorex N O, Hester Sophia Uys N O v National Credit Regulator and National Consumer Tribunal.

(869/2023)

Appealed from GP

Date to be heard: 21 February 2025

Mokgohloa ADP, Weiner JA, Molefe JA, Kathree-Setiloane JA, Musi AJA, Windell AJA

Law of Contract – National Credit Act 34 of 2005 (NCA) – impugned transactions – whether any of the impugned transactions constitute credit agreements as envisioned and defined by s 8(1)(b) read with s 8(4)(f) of the NCA and if so, the appropriate remedy or order that should have been granted with respect to the impugned transactions – whether the impugned credit agreements are intended to avoid and outmanoeuvre the provisions of the NCA.

14. George Local Municipality and Cape Estate Properties (Pty) Ltd (Formerly Magnolia Ridge Properties 77 (Pty) Ltd, The Appeal Authorities, George Local Municipality, Deputy Director Planning and Senior Manager: Land use management

(880/2023)

Appealed from WCC

Date to be heard: 21 February 2025

Mocumie JA, Keightly JA, Smith JA, Vally AJA, Molitsoane AJA

Administrative Law – review – Promotion of Administrative Justice Act 3 of 2000 (PAJA) declaratory relief - whether there has been compliance with condition 2 to the 2001 zoning determination to the satisfaction of the council – whether the municipality failed to take into account that the purpose of the condition was to define the precise extent of the land zoned and had been complied with - whether the application for review and setting aside the decision of the municipality should be granted or whether the municipality’s decision must be substituted or in the alternative referred back to the municipality.

15. The South African Legal Practice Council v Johann Oosthuizen**(1258/2023)**

Appealed from FB

Date to be heard: 21 February 2025

Schippers JA, Nicholls JA, Mbatha JA, Unterhalter JA, Coppin JA

Civil procedure – sanction – Legal Practice Act 28 of 2014 – what is the legal status and effect of the sanction imposed by the Legal Practice Council’s disciplinary committee in as far as the respondent’s suspension from practice is concerned – whether the sanction was meant to be final and if so, is the sanction binding and does it have any legal consequences – whether the sanction created any legal rights and obligations – whether it vested any rights in the respondent with the effect that it could not be revoked or varied by the LPC under the Legal Practice Act 28 of 2014 – taking into account the Court’s inherent disciplinary powers over legal practitioners as well as the provisions of s 44 of the LPA - whether the court a quo was precluded from deciding on the conduct of the respondent until the sanction was taken on review and set aside.

16. Newnet (Pty) Ltd t/a Sunshine Hospital, The parties cited in Annexure ‘A’ to the Notice of Motion in the Main application and The Road Accident Fund**(1150/2023)**

Appealed from GP

Date to be heard: 24 February 2025

Mocumie JA, Nicholls JA, Smith JA, Musi AJA, Modiba AJA

Law of Delict – claim for damages – order to suspend the operation of the writs of execution - Road Accident Fund Act 56 of 1996 (RAF Act) – whether the Court of quo misdirected itself by not applying the principle provided in s 165 of the Constitution 108 of 1996 - whether the Court of quo erred by failing to apply the deeming provision provided for in s 24(5) of the RAF Act – whether the court a quo suspended the operation of the writs without any factual or legal basis that there was any misdirection or flaw in any of the order initially granted - whether the court a quo misdirected itself by interdicting the execution of the order in circumstances where the RAF had not met the requirements for an interim interdict.

17. Resilent Rock (Pty) Ltd v Voltex (Pty) Ltd t/a Atlas Group**(1132/2023)**

Appealed from GJ

Date to be heard: 24 February 2025

Mbatha JA, Kathree-Setiloane JA, Baartman JA, Vally AJA, Molitswane AJA

Law of Insolvency – final liquidation order – Companies Act 61 of 1973 – whether the full court had the jurisdiction to make a final liquidation order in the view of the fact that a provisional winding up order had already been granted by the Gauteng Local Division of the High Court of South Africa by another creditor against the appellant – whether the first respondent established the appellant's commercial insolvency on a balance of probabilities.

18. Yossi Barel v Popular Trading CC, The Minister of Police, Shaun Hutcheon Carslow N O, Captain L W Tancrel, N O

(1102/2023)

Appealed from KZD

Date to be heard: 24 February 2025

Hughes JA, Kgoele JA, Unterhalter JA, Coppin JA, Bloem AJA

Trademark – Counterfeiting – Counterfeit Goods Act 37 of 1997 (CGA)– warrant - whether the warrant issued on 15 December 2021 should be set aside – whether the first respondent had discharged the onus upon it to prove that the seized goods are not counterfeit goods – whether counterfeiting may be established by proof only that a party has applied a registered trade mark to its goods with knowledge that another party holds registration of that mark; or whether in addition it is necessary to establish that the first party applied the mark with a fraudulent intention to imitate and deceive – whether goods to which party has applied a mark lawfully become counterfeit goods upon subsequent registration of that mark in favour of another party; or whether goods' status as counterfeit or non-counterfeit is determined at the moment of manufacture or of application thereto of a mark – whether the appellant should have disclosed the existence and history of the Enrico Coveri trade mark in Italy and elsewhere, including in South Africa, to the third respondent in its complaint affidavit - whether the appellant should have disclosed to the third respondent that the seized goods were genuine products of Enrico Coveri – whether the warrant ought to be set aside on the basis that the appellant did not establish prima facie that the seized goods were the result of counterfeiting.

19. Sumeil (Pty) Ltd v Coogal Finance(Pty) Ltd (In Liquidation), Karen Fortein N O and The Master of the Free State High Court, Bloemfontein

(1140/2023)

Appealed from FB

Date to be heard: 25 February 2025

Zondi AP, Koen JA, Coppin JA, Phatshoane AJA, Bloem AJA

Law of Insolvency –payment made by a third party – Companies Act 61 of 1973 – this appeal turns on the Plascon Evans test – whether the full court erred in finding that the payment made by a third party (the Trust) to the respondent’s creditor to settle the respondent’s indebtedness is a disposition of the respondent’s property in terms of s 341(2) of the Companies Act - whether a debt owed to the first respondent by the appellant on the deemed date be set off when a third party pays the money owed by the first respondent – whether the Court a *quo* erred in accepting the appellant's version – whether the acts by the appellant were designed to commit fraud or were for a dishonest or improper purpose.

20. Lebashe Investment Group (Pty) Ltd, Harth General Parties (Pty) Ltd, Harth Fund Managers (Pty) Ltd, Warren Gregory Wheatley, Tshepo Duan Mahloele, Philip Jabulatin Moleketi v United Democratic Movement, Bantubonke Harrington Holomisa (1308/2023)

Appealed from GJ

Date to be heard: 25 February 2025

Schippers AJ, Hughes JA, Baartman JA, Windell AJA, Norman AJA

Civil procedure – exception – whether the dismissal of the exception is appealable to this Court and if so, whether paragraphs 6A and 15A of the amended plea rendered the plea excipiable for failing to disclose a defence to the appellants’ claim that the published material is per se defamatory of them – whether the exception should be upheld and paragraphs 6A and 15A of the amended plea should be struck out.

21. Aventino Ecotroopers Joint Venture, All Afrika Group (Pty) Ltd Ecotroopers Construction (Pty) Ltd v The MEC for the Department of Roads and Transport, Gauteng Province, Vea Road Maintenance and Civils (Pty) Ltd and Lubocon Civils CC (1233/2023)

Appealed from GP

Date to be heard: 25 February 2025

Nicholls JA, Mbatha JA, Unterhalter JA, Musi AJA, Molitsoane AJA

Administrative Law – review – tender - whether the appellants had locus standi to institute review proceedings - a disqualification decision was made after the appellants had agreed to the setting aside of a state contract by virtue of certain misrepresentations made – whether the

disqualification of the appellants rendered the review application superfluous and the outcome inevitable - whether the appellants have established that the tender validity period has lapsed and whether there is a just and equitable remedy in terms of s 172(1)(b) of the Constitution if found that the appellants had the necessary locus standi to institute the review proceedings.

22. The Loan Company (Pty) Ltd v The National Credit Regulator and The National Consumer Tribunal

(1104/23)

Appealed from GP

Date to be heard: 26 February 2025

Mokgohloa ADP, Keightly JA, Coppin JA, Phatshoane AJA, Vally AJA

Civil procedure – National Credit Act 34 of 2005 (NCA) - contravention of sections of NCA - whether on a proper interpretation of s 42(3)(a) and 76(3) of the NCA, the appellant could provide credit to consumers and advertise the availability of credit from the date of its application to be registered as a credit provider until the determination of the application by the National Credit Regulator – whether the appellant overcharged interest in terms of s 100(1)(c) and 101(1)(d)(ii) of the NCA- whether a Tribunal may declare a credit agreement unlawful and void in terms of the NCA or only a court of law - proper interpretation of the powers and functions of the Tribunal - whether the order of the court a quo should be set aside.

23. Johannes Frederick Gouws N O, Lynette Gouws N O, Willem Jacques Gouws N O, George Raymond Sloane N O v Johannes Petrus Erasmus Swarts N O, Johannes Petrus Erasmus Swarts N O, Anette Van Zyl N O, JDJ Holdings (Pty) Ltd, Evening Shade Properties 46 (Pty) Ltd

(1250/2023)

Appealed from GP

Date to be heard: 26 February 2025

Nicholls JA, Mbatha JA, Hughes JA, Kathree-Setiloane JA, Modiba AJA

Law of Contract – verbal agreement – trust - transfer of shares – whether the sale agreement concerned exists – whether the person that acted for the appellants in entering into the sale agreement was authorised to do so – whether the respondents repudiated the sale agreement that resulted in cancellation.

24. Lebogang Medupe, Sello Molefe, Itumeleng Moswane v African National Congress, Nono Maloyi, Luzzy Mokgosi, Louis Diremelo, Viola Motsumi, Sello Lehari, Suzan Dant Jie, Motlalepula Rosho, Wendy Nelson, Kenetswe Mosenogi, Betty Kegakilwe, Tebogo Modise, Saliva Molapisi, Stella Mondlana, Sipho Dial, Mpho Khunou, Grace Moipolai, Hendrick Botha, Jostina Mkhize, Elizabeth Mokuia, Tebogo Motase, Nkotsoe Nketu, Victoria Makhaula, Nomvul Yiselo Sompá, Desso Mohono, Perlitia Chwene, Maria Monnana, Nthabiseng Shuping, Lenah Miga, Morutse Molefe, Tumelo Marupong, George Manyike Boipelo Mareko, Grace Masilo, Ceaser Mogatusi and Priscilla Williams (003/2024)

Appealed from NW

Date to be heard: 26 February 2025

Meyer JA, Matojane JA, Kgoele JA, Smith JA, Bloem AJA

Constitutional Law – right to and obligation to conduct free, fair and regular elections by a political party – Section 19 of the Constitution – election - whether the term of the office of the interim provincial committee for the North West Province of the African National Congress (ANC) appointed in July 2019 had terminated at the time of the convening of the provincial conference and the election of conference committees – whether there was a hostile takeover of the conference by the ANC permitting of relief in favour of the appellants – whether the court a quo erred in fact and misdirected itself in finding that the Interim Provincial Congress lawfully issued a notice for the 9th Provincial Conference – whether the National Executive Congress had the authority to conduct or hold that election.

25. Aveng Mining Shafts & Underground v The Commissioner for The South African Revenue Service

(1192/2023)

Appealed from LP

Date to be heard: 27 February 2025

Zondi AP, Keightly JA, Koen JA, Coppin JA, Bloem AJA

Law of Tax – Value Added Tax Act 89 of 1991 (VAT Act) - permissible deductions – whether the appellant was entitled to claim input tax in respect of the provision of accommodation and meals to its project-specific employees in terms of s 17(2)(a)(i)(bb) of the VAT Act.

26. Doorware CC v Mercury Fittings CC**(836/2023)**

Appealed from GJ

Date to be heard: 27 February 2025

Mokgohloa JA, Schippers JA, Weiner JA, Modiba AJA, Norman AJA

Law of Civil Procedure - Competition Act 89 of 1998 – whether the court a quo had jurisdiction to enforce the oral agreement – whether the oral agreement is enforceable under the Competition Act – whether the interim relief granted by the court a quo was appropriate or contrary to the Competition Act.

27. Set Square Developments (Pty) Ltd v Power Guarantees (Pry) Ltd and Vahva Construction (Pty) Ltd**(099/2023 &150/2024)**

Appealed from GP

Date to be heard: 27 February 2025

Meyer JA, Matojane JA, Unterhalter JA, Phatshoane AJA, Molitsoane AJA

Contract Law - Performance guarantee – whether the first respondent is entitled to payment, against the three performance guarantees issued in its favour where the terms of the guarantees secured obligations in respect of contracts, which did not come into existence in the manner prescribed – whether the high court order should be set aside – whether the guarantees are rendered void or unenforceable as a result of the appellants contention relating to the underlying contracts – whether the demands were fraudulently made on the contention that the underlying contracts either did not exist or different contracts than those to which the guarantees relates – whether public policy considerations require a novel exception to be recognised in the enforcement of performance guarantees.

28. Selective Empowerment Investments 1 Ltd v Companies and Intellectual Property Commission**(1325/2023)**

Appealed from GP

Date to be heard: 28 February 2025

Mokgohloa ADP, Mocumie JA, Unterhalter JA, Koen JA, Norman AJA

Law of Insolvency – Companies Act 71 of 2008 – liquidation – whether the court *a quo* was correct in issuing a liquidation order on the grounds that it is just and equitable– whether the court *a quo* was correct in determining that the appellant may be insolvent – whether the appellant may be wound up on the grounds that it is just and equitable in terms of the provisions of s 79 or 81 of the Companies Act.

29. Phillip Thsepiso Motsima and Thandiwe Patience Motsima v Liphapang Albert Kopa, Nthabiseng Mosoeu-Kopa, The Trustees of The Time Being For C&D Investments, The Registrar of Deeds, Free State Province and The Trustees of The Van Der Merwe Family Trust

(1316/2023)

Appealed from FB

Date to be heard: 29 February 2025

Schippers JA, Matojane JA, Weiner JA, Kathree-Setilosane JA, Modiba AJA

Law of Civil Procedure – application for condonation dismissed – reinstatement of appeal – whether the full court failed to exercise its discretion judicially by erring in respect of its interpretation of the facts and legal principles of this matter – whether it was in the interest of justice that condonation be granted and the appeal reinstated.

30. The Commissioner for the South African Revenue Service v Virgin Mobile South Africa (Pty) Ltd

(1303/2023)

Appealed from GP

Date to be heard: 29 February 2025

Nicholls JA, Keightly JA, Musi AJA, Windell AJA, Molitsoane AJA

Law of Tax – Tax Administration Act 28 of 2011– default judgment – condonation – whether a party is exempted from applying for condonation for the late filing of a Rule 31 statement when that party files their statement after receiving a default judgment notice in terms of Rule 56(1) – whether the court *a quo* correctly interpreted the provisions of Rule 56(1) of the Tax Court Rules.

31. Tarentaal Centre Investment (Pty) Ltd and The Village Mall Investment (Pty) Ltd v Beneficio Developments (Pty) Ltd (Registration Number:2009/007912/07) (015/24)

Appealed from GP

Date to be heard: 03 March 2025

Mokgohloa JA, Hughes JA, Smith JA, Koen JA, Musi AJA

Contract Law– Credit agreement – Loan agreements – National Credit Act 34 of 2005 –

whether the interest rate as provided in terms of the loan agreement is usurious – whether the test for determining whether an interest rate is usurious as per *African Dawn Property Finance 2 (Pty) Ltd v Dreams Travel & Tours CC* 2011 (3) SA 511 (SCA) and *Structured Mezzanine Inv (Pty) Ltd v Davids and Other* 2010 (6) SA 622 (WCC) is too high – If the interest rate in terms of the loan agreements is usurious, whether the various clause of the loan agreements providing for interests are void and unenforceable, alternatively the various clause of the loan agreements providing for interest are void and unenforceable such that such clause cannot be severed from the loan agreements and the loan agreements are void – whether the respondent had been unjustly enriched at the expense of the first appellant and the first appellant was entitled to recover payment from the respondent.

32. Gianmarco Lorenzi v The State

(1171/23)

Appealed from WCC

Date to be heard: 03 March 2025

Mocumie JA, Kgoele JA, Coppin JA

Criminal law and procedure – sentence – reconsideration of the order dismissing application for special leave to appeal – whether the trial court failed to exercise its discretion judicially when it imposed the sentence and relied on the incorrect facts and circumstances – whether another court may come to different conclusion and impose a different sentence.

33. Industrial Development Corporation of South Africa Limited and African Development Bank v Kalagadi Manganese (Pty) Ltd, Kalahari Resources (Pty) Ltd and Kgalagadi Alloys (Pty) Ltd

(661/2024)

Appealed from GP

Date to be heard: 03 March 2025

Meyer JA, Matojane JA, Kathree-Setiloane JA, Unterhalter JA, Vally AJA

Law of Contract – arbitration – dispute resolution – lack of jurisdiction - the primary issue for determination is whether the court a quo erred in dismissing the preliminary objections raised by the applicants– whether the court a quo erred in finding that the dispute resolution mechanisms under the common terms agreement (being arbitration and expert determination) are inapplicable – whether the court a quo erred in failing to recognise and give effect to the AFDB’s immunity from suit.

34. Patricia Bridget Mason N O v Graham Andrew Mason and L Mason Electrical CC (1286/23)

Appealed from GP

Date to be heard: 04 March 2025

Zondi AP, Weiner JA, Keightley JA, Koen JA, Bloem AJA

Contract Law – Prescription Act 69 of 1968 – deceased member’s interest in a close corporation – two members of a corporation took out life policies on each other’s lives in order to secure the purchase price of the other’s members interest on their death – upon the death of the deceased, the surviving member uncovered large scale misappropriation and refused to pay over the proceeds of the policy - whether the claim has become prescribed in terms of the Prescription Act – whether the knowledge of the member can be attributed to the corporation by virtue of the principle of corporate attribution – whether the costs of the action should have been ordered against the *executrix de bonis propriis*.

35. Van Schalkwyk Water CC t/a Oasis Water Kimberly and Albertus Barend Van Schalkwyk v Oasis Water (Pty) Ltd

(988/2023)

Appealed from NCK and from GP and from NWM

Date to be heard: 04 March 2025

Schippers JA, Nicholls JA, Meyer JA, Kgoele JA, Phatshoane AJA

Constitutional Law – restraint of trade - whether the relief granted to allow the respondent to take control of the appellant’s business is an infringement of s 25 of the Constitution – whether the enforcement of the restraint of trade would infringe s 22 of the Constitution

Law of Contract – franchise agreements – Consumer Protection Act 68 of 2008 (CPA)

whether the franchisor repudiated the franchise agreements and failed to comply with its obligations to account to franchisees for the marketing fund in terms of Regulation 2(m) and (2) does the CPA – whether the post-termination provision (including the restraint of trade) are unenforceable, having regard to section 22 and 25 of the Constitution, sections 40(1)(c) and/or 51 (1)(i)(i) of the CPA and public policy – whether the post-termination provision are enforceable, properly interpreted, these post-termination provisions entitle the Oasis franchisor to the contractual relief sought in its notice of motion for purposes of prayers 2.3 and 2.7 – whether the appellants competition with the respondent is lawful having regard to the respondents do not have any trade secrets, confidential information or other intellectual property (excluding its trademarks which is of commercial value – whether the appellants did not engage in “passing off” its water shop or its “change your Manzi” business as being associated with the first respondent – whether the first appellant was entitled to enforce the agreed post-termination rights of the notice of motion – whether the presence of a protectable interest is a valid consideration in adjudicating the first appellant’s claim to enforce the contractually agreed post-termination rights – whether the court acted within the ambit of judicial power to *mero motu* consider the question – whether the restraint of trade provisions to be offending public policy, thereby rendering it unenforceable – whether the court exercised its true discretion on costs judicially, including whether it would be permissible to interfere on appeal.

AND

Van Der Berg Water (Pty) Ltd t/a Oasis Water Lynwood, Chairmain Van Den Berg, Adriaan van den Berg; Deon Braam Van den Berg; Dewald Johannes Van Den Berg v Oasis Water (Pty) Ltd and Oasis Water Asset Company (Pty) Ltd

989/2023

Constitutional Law – restraint of trade - whether the relief granted to allow the respondent to take control of the appellant’s business is an infringement of s 25 of the Constitution – whether the enforcement of the restraint of trade would infringe s 22 of the Constitution

Law of Contract – franchise agreements – Consumer Protection Act 68 of 2008 (CPA)

whether the franchisor repudiated the franchise agreements and failed to comply with its obligations to account to franchisees for the marketing fund in terms of Regulation 2(m) and (2) does the CPA – whether the post-termination provision (including the restraint of trade) are unenforceable, having regard to section 22 and 25 of the Constitution, sections 40(1)(c) and/or

51 (1)(i)(i) of the CPA and public policy – whether the post-termination provision are enforceable, properly interpreted, these post-termination provisions entitle the Oasis franchisor to the contractual relief sought in its notice of motion for purposes of prayers 2.3 and 2.7 – whether the appellants competition with the respondent is lawful having regard to the respondents do not have any trade secrets, confidential information or other intellectual property (excluding its trademarks which is of commercial value – whether the appellants did not engage in “passing off” its water shop or its “change your Manzi” business as being associated with the first respondent – whether the first appellant was entitled to enforce the agreed post-termination rights of the notice of motion – whether the presence of a protectable interest is a valid consideration in adjudicating the first appellant’s claim to enforce the contractually agreed post-termination rights – whether the court acted within the ambit of judicial power to *mero motu* consider the question – whether the restraint of trade provisions to be offending public policy, thereby rendering it unenforceable – whether the court exercised its true discretion on costs judicially, including whether it would be permissible to interfere on appeal.

AND

Oasis Water (Pty) Ltd, Oasis Watrer Asset Company (Pty) Ltd v Wynand Albertus Bester and Janet Bester

1120/2023

Constitutional Law – restraint of trade - whether the relief granted to allow the respondent to take control of the appellant’s business is an infringement of s 25 of the Constitution – whether the enforcement of the restraint of trade would infringe s 22 of the Constitution

Law of Contract – franchise agreements – Consumer Protection Act 68 of 2008 (CPA)

whether the franchisor repudiated the franchise agreements and failed to comply with its obligations to account to franchisees for the marketing fund in terms of Regulation 2(m) and (2) does the CPA – whether the post-termination provision (including the restraint of trade) are unenforceable, having regard to section 22 and 25 of the Constitution, sections 40(1)(c) and/or 51 (1)(i)(i) of the CPA and public policy – whether the post-termination provision are enforceable, properly interpreted, these post-termination provisions entitle the Oasis franchisor to the contractual relief sought in its notice of motion for purposes of prayers 2.3 and 2.7 – whether the appellants competition with the respondent is lawful having regard to the respondents do not have any trade secrets, confidential information or other intellectual property (excluding its trademarks which is of commercial value – whether the appellants did

not engage in “passing off” its water shop or its “change your Manzi” business as being associated with the first respondent – whether the first appellant was entitled to enforce the agreed post-termination rights of the notice of motion – whether the presence of a protectable interest is a valid consideration in adjudicating the first appellant’s claim to enforce the contractually agreed post-termination rights – whether the court acted within the ambit of judicial power to *mero motu* consider the question – whether the restraint of trade provisions to be offending public policy, thereby rendering it unenforceable – whether the court exercised its true discretion on costs judicially, including whether it would be permissible to interfere on appeal.

36. Western Cape Provincial Government, Acting Director: Supply Chain Management, Accounting Officer of The Department of Finance, Western Cape Provincial Government Head of Department of Community, Western Cape Provincial Government v D C Security (Pty) Ltd t/a D C Security and Eighteen Others (Second to Nineteenth Respondents)

(971/2023)

Appealed from WCC

Date to be heard: 04 March 2025

Mbatha JA, Baartman JA, Windell JA, Modiba AJA, Norman AJA

Administrative Law – review and setting aside – tender – Promotion of Administrative Justice Act 3 of 2000 – whether the appeal has been rendered moot in circumstances where the contracts concluded at the heart of the review applications have come to an end – whether the respondents’ respective reviews were launched within the 180 day time period prescribed in s 7(1)(b) of the Promotion of Administrative Act 3 of 2000 – whether the appellants provided reasons as required in terms of s 5(2) of the PJA, – whether three successful bidders should be disqualified for not submitting certain mandatory documents as part of their respective bids – whether it was unlawful to exclude the first respondent from Cape Winelands region, due to it not having an office in the area – whether the methodology of awarding contracts pursuant to the transversal tender (referred to as “call-offs”) was arbitrary and/or irrational.

37. Marc Van Veen v Director of Public Prosecutions, Western Cape Minister of Justice and Correctional Services, The Financial Sector Conduct Authority

(960/2023 & 104/204)

Appealed from WCC

Date to be heard: 05 March 2025

Mokgohloa ADP, Weiner JA, Smith JA, Molitsoane AJA, Norman AJA

Constitutional Law – Criminal law – permanent stay of prosecution – Criminal Procedure Act 71 of 1977 – whether the appellant is entitled to a permanent stay of his prosecution before the Specialised Commercial Crime Court, Bellville due to the unreasonably delay of 11 years by the state – whether the appellant’s right to a fair trial in terms of s 35 of the Constitution was infringed.

38. Lend Mogapi v The Minister of Police

(154/24)

Appealed from NWM

Date to be heard: 05 March 2025

Mocumie JA, Schippers JA, Coppin JA, Musi AJA, Valley AJA

Law of Delict – claim for damages – unlawful arrest and detention – Special leave to appeal – whether the court sitting as a court of appeal, had any constitutional obligation relating to a fair trial towards the litigant where the court subsequent to the hearing of the appeal, raised an issue pertaining to a perceived irregularity during the trial, which was not an issue in the appeal, and if so, what those obligations were – whether the court on appeal was correct to find that the oath was not properly administered in terms of s 39(2) of the Civil Proceedings Evidence Act 25 of 1965 - whether there was sufficient evidence before the court on appeal, to hear the appeal on the quantum and to grant an order.

39. Jonathan Reagan Schoeman v Director of Public Prosecutions Gauteng

(972/2023)

Appealed from GJ

Date to be heard: 05 March 2025

Meyer JA, Matojane JA, Kathree-Setiloane JA, Unterhalter JA, Windell AJA

Criminal Law and procedure – leave to appeal –whether there is a reasonable prospect or realistic chance of success on appeal and whether the applicant should be granted leave to appeal – whether the court a quo erred in convicting the appellant.

40. Thabo Joseph Sekabate v The State

(1223/23)

Appealed from MP

Date to be heard: 06 March 2025

Zondi AP, Hughes JA, Keightly JA, Koen JA, Bloem AJA

Criminal Law and procedure – whether the state proved that the appellant intentionally killed the deceased – whether the court a quo erred in convicting the appellant of murder without a factual basis for an inference that the appellant foresaw the death of the deceased.

41. Quentin Arlow v The State.

(1124/23)

Appealed from RC-MP

Date to be heard: 06 March 2025

Nicholls JA, Smith JA, Baartman JA, Modiba AJA, Molitsoane AJA

Criminal Law and procedure – whether special leave to appeal in terms of s 17(2)(d) of the Superior Courts Act 10 of 2013 should be allowed – whether further evidence in terms of s 19(1)(b) of the Superior Courts Act should be granted – whether there is a prima facie likelihood of the truth of the evidence – whether the evidence is materially relevant to the outcome of the trial.

42. Papiki Sam Khumalo v The Minister of Police, Warrant Officer Motaung

(1163/2023)

Appealed from FB

Date to be heard: 06 March 2025

Mbatha JA, Matojane JA, Kgoele JA, Coppin JA, Vally AJA

Civil Procedure – Trial de novo– whether the full court erred in ordering that the trial must be referred back in the Court a quo to start *de novo* before another judge – whether the full court erred in not quantifying the heads of damages against which the appeal lies.

43. Manyaba Rubben Mohlaloga v The State

(1028/2023 and 1112/2023)

Appealed from GP

Date to be heard: 07 March 2025

Mokgohloa ADP, Weiner JA, Kathree-Setiloane JA, Phatshoane AJA, Molitsoane AJA

Criminal Law and procedure – convictions – whether special leave should be granted to the appellant to appeal against convictions as the appeal turns on the application of the evaluation of evidence in a criminal trial – whether the court a quo erred in applying the cautionary rules of practice in respect of a co-perpetrator and single witness.

44. The State v Mbana Peter Thabethe, Limakatso Moorosi, Seipati Silvia Dhlamini, Iqbal Meer Sharma, Nulane Investments 2024 (Pty) Ltd, Dinesh Patel, Island Site Investment One Hundred and Eighty (Pty) Ltd, Ronica Ragavan

(839/2023)

Appealed from FB

Date to be heard: 07 March 2025

Schippers JA, Meyer JA, Matojane JA, Musi AJA, Norman AJA

Criminal Law and procedure – common purpose – fraud – appeal against refusal of the court a quo to reserve questions of law for consideration by this Court – whether leave to appeal should be granted against the order of the court a quo refusing to reserve questions of law – whether the court a quo misdirected itself in regard to certain questions of law - whether the questions of law to be reserved and referred to this Court for determination.

45. Director of Public Prosecutions: Gauteng Division v Thato Molefe, Zenzile Ndaba

(417/24)

Appealed from GP

Date to be heard: 07 March 2025

Nicholls JA, Hughes JA, Baartman JA, Keightly JA, Windell AJA

Constitutional Law - Criminal Law and procedure – Law of Evidence – whether the admission of the evidence obtained pursuant to a search warrant that is declared invalid would render the trial unfair – whether the judgment *S v Malherbe* was correctly interpreted to mean that in any case where a search warrant is declared inadmissible, the material seized under the warrant is also inadmissible – whether the Constitutional rights of the respondents were deliberately ignored when they were informed of the existence of the search warrant and their

rights – whether the state’s remedy to a ruling as admissible of the only evidence against the respondents which led to a discharge in terms of s 174 of the Criminal Procedure Act 51 of 1977, is only a review and not an appeal.

46. Maropene Frans Nakana v Johannes Claassens, Minister of Police, W/O Williams Stationed at Westernburg Polokwane, Limpopo

(137/24)

Appealed from LP

Date to be heard: 10 March 2025

Mocumie JA, Kgoele JA, Kathree-Setiloane JA, Phatshoane AJA, Windell AJA

Criminal Law - Property Law– Protection Order – Fencing Act 31 of 1963 – whether the appellant falsely and maliciously set the law in motion with the animus injuriandi - whether the appellant had a valid protection order against the first respondent and if so, whether the first respondent, by removing the boundary fence between their farms, either directly or indirectly through his employee Mr John Kubai, contravened the protection order – whether the first respondent, prior to removing the boundary fence had complied with the Fencing Act 31 of 1983, to remove with the intention to upgrade it to a security fence - whether the first respondent by removing the boundary fence and taking it, contravened s 24 of the Fencing Act.

47. Selona Ethypersadh v The Minister of Police N O, Sergeant Sydney Phahlane N O and The Acting Senior Magistrate Pretoria North T.V Thelede N O

(1318/2023)

Appealed from GP

Date to be heard: 10 March 2025

Mokgohloa ADP, Smith JA, Koen JA, Vally AJA, Norman AJA

Criminal law and procedure – Criminal Procedure Act 51 of 1977 – validity of the warrant – Cybercrimes Act 19 of 2020 – whether it is competent for a single warrant to be issued by a magistrate in terms of both sections 21(1)(a) of the Criminal Procedure Act, Act 51 of 1977 (the CPA) and section 29 of the Cybercrimes Act, Act 19 of 2020 (the CCA) – whether it should have been two separate and distinct warrants being issued – whether the application meets the threshold for the existence of exceptional circumstances to justify a reconsideration in terms of section 17(2)(f) of the Superior Courts Act 10 of 2013.

48. Godfrey Alfred Ntuli v The State**(20730/14)**

Appealed from GP

Date to be heard: 10 March 2025

Hughes JA, Baartman JA, Coppin JA, Musi AJA, Bloem AJA

Criminal Law and Procedure – Criminal Law Amendment Act 105 of 1997 – conviction and sentence – whether the trial court correctly convicted the appellant on a charge of rape of a minor – whether the state proved beyond a reasonable doubt that the complainant was under the age of 16 years on the date of the incident - whether the trial court correctly sentenced the appellant to imprisonment for life in terms of s 51(1) of the Criminal Law Amendment Act 105 of 1997 – whether the sentence of life imprisonment is shockingly harsh and inappropriate.

49. Brenden Stephen Gilchrist v The State**(643/23)**

Appealed from GP

Date to be heard: 11 March 2025

Zondi AP, Schippers JA, Hughes JA, Phatshoane AJA, Modiba AJA

Criminal Law and Procedure – Criminal Law Amendment Act 105 of 1997 – conviction and sentence – whether the state proved the identity of the perpetrator beyond a reasonable doubt – whether the appellant’s alibi was rightfully rejected by the court *a quo* – whether the conviction and sentences should be set aside if this Court finds that s 93 *ter* (1) of the Magistrate’s Court Act, 32 of 1944, has not been complied with – whether the appellant’s application to lead new evidence should be granted – whether there substantial and compelling circumstances exist to impose a lesser sentence than the prescribed sentence.

50. HOD: Western Cape Education Department, Director of the Metro East Education District and MEC for Education, Western Cape v Equal Education Law Centre, Neliswa Menizwa, Nwabisa Mpageva, Promise Mhluluwa, Somika Thengwa, Yolanda Toli and Mandisa Melani

(1003/2023)

Appealed from WCC

Date to be heard: 11 March 2025

Nicholls JA, Mbatha JA, Windell JA, Bloem AJA, Molitsoane AJA

Civil Procedure – Uniform Rules – review – whether the documents and information referred to in paragraphs (i) to (iv) of the court a quo’s order constituted a substantial departure from what the respondents are entitled to in terms of a record contemplated by Rule 53 – whether the appellants are required to file a record in terms of Rule 53 in circumstances where the review relief has been rendered moot – whether the appellants are required to provide reasons for the impugned decisions in circumstances where they deny having taken the impugned decisions.

51. The Lion Match Company (PTY) Limited v The Commissioner for the South African Revenue Service

(1047/2023 and 1067/2023)

Appealed from GP

Date to be heard: 11 March 2025

Meyer JA, Matojane JA, Weiner JA, Keightly JA, Norman AJA

Tax Law – Tax Administration Act 28 of 2011 (the Act) – Tax Court Rule 37 – whether it is in the interests of justice to grant condonation – whether the evidence lead by the respondent was admissible and sufficient to justify the court a quo’s order in terms of s 129(2)(b) of the Act – whether the respondent had a right to cross-appeal from the Tax Court to the court a quo.

52. JT International Manufacturing South Africa (Pty) Ltd v The Commissioner for the South African Revenue Service

(1330/2023)

Appealed from GP

Date to be heard: 12 March 2025

Zondi JA, Smith JA, Koen JA, Musi AJA, Phatshoane AJA

Tax Law – Customs and Excise Act 91 of 1964 – interpretation – whether the proviso of s 75(10)(a) of the Customs and Excise Act or common law authorised the respondent to exempt non-compliance with the conditions prescribed by Rule 19A.09(c).

53. Auckland Park Theological Seminary v Wamjay Holding Investments (Pty) Ltd

(041/2024)

Appealed from GJ

Date to be heard: 12 March 2025

Mocumie JA, Kgoele JA, Baartman JA, Bloem AJA, Molitsoane AJA

Law of Contract – Prescription – enrichment – whether the respondent’s claim against the appellant, based on unjustified enrichment, had become prescribed – whether the common law warranty against eviction applied and, if so, what the effect thereof (if any) was on the appellant’s defence of prescription – whether, on the merits, the appellant’s defence of loss of enrichment ought to have been upheld.

54. Bidvest Protea Coin Security (Pty) Ltd v Mandla Wellem Mabena (986/2023)

Appealed from MP

Date to be heard: 12 March 2025

Mokgohloa ADP, Mbatha JA, Weiner JA, Unterhalter JA, Modiba AJA

Civil Procedure – section 16(1)(b) of the Superior Courts Act 10 of 2013 – Special Leave to Appeal – whether the applicant has any reasonable prospect of success on appeal – whether the applicant is entitled to rely on the defence of necessity and satisfied the requirements for such a defence – whether the court *a quo* was correct in applying the requirement of sudden emergency to the facts and whether the court *a quo* was entitled to negative inferences from the pleadings of the applicant when considering the most probable version of two mutually destructive versions – whether a self-created necessity excludes the defence to the wrongdoer.

55. The Executive Council of the Province of KwaZulu Natal, The Premier of the Province of KwaZulu Natal and The Member of Executive Council for the Province of KwaZulu Natal Department of Cooperative Governance and Traditional Affairs v Inkosi Bhekizizwenivard Luthuli, The Thulini Traditional Council, The Umndeni Wenkosi of Inkosi Luthuli, The Minister of Cooperative Governance and Traditional Affairs, The National Department for Cooperative Governance and Traditional Affairs, National House of Traditional Leaders, KwaZulu Natal Department of Cooperative Governance and Traditional Affairs and The Section 23(4) Inquiry Presiding Officer: Mr Dube (1214/2023)

Appealed from KZP

Date to be heard: 13 March 2025

Schippers JA, Kgoele JA, Vally AJA, Modiba AJA, Norman AJA

Customary Law – KwaZulu Natal Traditional Leadership and Government Act 5 of 2005 – whether the decision of the ninth respondent, finding the first respondent guilty of misconduct

falls to be reviewed and set aside – whether the decision of the first appellant, withdrawing the recognition of the first respondent as a traditional leader falls to be reviewed and set aside – whether the provisions of sections 21(4), 22, 23 and 24(1) of the KwaZulu Natal Traditional Leadership and Government Act 5 of 2005 are constitutionality valid – whether the decision to withdraw the first respondent’s recognition as Inkosi falls to be reviewed and set aside with an order that the process commence de novo, rather be remitted for sentencing.

56. Kwadukuza Municipality v Consolidated Aone Trade and Invest 6 (Pty) Ltd [In Liquidation], Van Den Heever, Theodor Wilhelm N O, Nel, Eugene N O and Nkomo, Mduduzi Christopher N O

(1273/2023)

Appealed from KZD

Date to be heard: 13 March 2025

Mbatha JA, Hughes JA, Baartman JA, Vally AJA, Molitsoane AJA

Municipal Law– Local Government: Municipal Systems Act 32 of 2000 – whether the first respondent was entitled to recover payments made to the appellant, under protest, for amounts claimed by the appellant as owed for historical rates and services charges, beyond the two-year period in s 118(1) of the Local Government: Municipal Systems Act 32 of 2000.

57. Jacob Pieters and Catharina Pieters v Stephan Corné Stemmett and Pieter Gabriël Stemmett

(079/2024)

Appealed from LCC

Date to be heard: 13 March 2025

Meyer JA, Matojane JA, Keightley JA, Smith JA, Windell AJA

Property Law - eviction – Prevention of Illegal Eviction from and Unlawful Occupation of Land Act 19 of 1998 (PIE) – Extension of Security of Tenure Act 62 of 1997 (ESTA) – whether the property which the appellants occupy fall within the ambit of ESTA, particularly, whether the property falls within an “established township” and thus subject to the provisions of the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act 19 of 1998 – whether the respondents had rebutted the presumption contained in s 2(2) of ESTA – whether the appellants are ESTA occupiers and thus could not be evicted in terms of PIE.

**58. Twenty Third Century Systems (Pty) Ltd v SAP Africa Region (Pty) Ltd
(172/2023)**

Appealed from GJ

Date to be heard: 14 March 2025

Mocumie JA, Kgoele JA, Kathree-Setiloane JA, Windell AJA, Bloem AJA

Law of Contract – repudiation – limitation of liability - whether a party who repudiates a contract is entitled to rely on limitation of liability and time bar clauses in the agreement so repudiated, to defeat the innocent party’s claim for loss of profits flowing from the repudiation.

**59. Ekurhuleni Metropolitan Municipality v Business Connexion (Pty) Ltd
1186/23**

Appealed from GJ

Date to be heard: 17 March 2025

Nicholls JA, Keightley JA, Unterhalter JA, Baartman JA, Modiba AJA

Contract Law – Section 12(1) of the Municipal Structures Act 117 of 1998 – whether the respondent had acquired the additional software licences on behalf of the applicant in terms of the instruction to perform work (IPW) – whether the applicant validly cancelled the IPW thereby precluding the respondent from acquiring the additional software licences – whether having acquired the additional software licences in terms of the IPW, the licences were delivered to the applicant for its sole use and benefit.

**60. Ocket Jacobus Steyn and Lize Van Der Merwe v Wernich Venter, Hatzer & Steyn
Beleggings CC and The Minister of Mineral and Energy Resources**

096/2024

Appealed from NWM

Date to be heard: 18 March 2025

Zondi AP, Weiner JA, Kathree-Setiloane JA, Keightley JA, Coppin JA

Civil Law – Business Law – Prescription Act 68 of 1969 – Close Corporations Act 69 of 1984 – whether three claims instituted by the first and second respondents against the appellants have prescribed virtue of the provisions of section 10(1), read with section 11(d), of the Prescription Act 68 of 1969 – whether a close corporation has a governing body as contemplated by section 3(1)(b) and/or 13(1)(e) of the Prescription Act 68 of 1969, and, if so, whether any of these sections delayed the completion of the running of prescription – whether the appellants proved the date upon which the debt commenced to run.