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CASELAW QUARTELY REPORT

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Administrative Law		
LAW REPORT	SUMMARY	COURT
Gauteng Department of Agriculture and Rural Development and Others v Interwaste (Pty) Ltd and Others (458/2018) [2019] ZASCA 68	Waste management licence issued in terms of the National Environmental Management Act 107 of 1998 – whether expired by effluxion of time – relevance in prevailing circumstances of a compliance notice issued in terms of the Act	Supreme Court of Appeal, South Africa 30 May 2019
Minister of Defence and Military Veterans v Maswanganyi (739/18) [2019] ZASCA 86	Interpretation of statute – s 59(1)(d) of Defence Act 42 of 2002 – operates ex lege – no decision required to be made – nothing capable of being reviewed and set aside – no automatic reinstatement in terms of that section	Supreme Court of Appeal, South Africa 31 May 2019
Corporate & Commercial		
LAW REPORT	SUMMARY	COURT
Road Traffic Management Corporation v Waymark (Pty) Limited (CCT73/18) [2019] ZACC 12; 2019 (6) BCLR 749 (CC)	Public Finances Management Act 1 of 1999 — sections 66 and 68 — future financial commitments — procurement contracts	Constitutional Court, South Africa 2 April 2019

<p>Ratlou v Man Financial Services SA (Pty) Ltd (1309/17) [2019] ZASCA 49</p>	<p>Lease agreement – whether a settlement agreement constituted a credit transaction in terms of the National Credit Act 34 of 2005 (the NCA) – underlying rental agreements excluded from provisions of the NCA as they were large transactions concluded with a corporate entity and secured by a suretyship – on a literal interpretation of s 8(4)(f) of the NCA the settlement agreement constituted a credit transaction – results of that so absurd that it could not have been intended by the legislature – inimical to the purposes of the NCA – provisions of the NCA did not apply – cross-appeal succeeded</p>	<p>Supreme Court of Appeal, South Africa 1 April 2019</p>
<p>CDH Invest NV v Petrotank South Africa (Pty) Ltd and Others (483/2018) [2019] ZASCA 53</p>	<p>Validity of directors resolution in terms of s 74 of Companies Act 71 of 2008 – the powers of directors when increasing the authorised shares of a company in terms of s 36(2)(b) and (3) of the Act</p>	<p>Supreme Court of Appeal, South Africa 1 April 2019</p>
<p>Adhu Investments CC and Others v Padayachee (1410/2016) [2019] ZASCA 63</p>	<p>Contract – joint venture – damages based on breach of agreement - joinder on the basis of a <i>stipulatio alteri</i> – tacit term – whether <i>stipulatio alteri</i> established</p>	<p>Supreme Court of Appeal, South Africa 24 May 2019</p>

<p>Singh and Others v Companies and Intellectual Property Commission and Others (822/2018) [2019] ZASCA 69</p>	<p>Powers of the Companies Commission to investigate a complaint – whether complaint time barred – Effect of civil litigation on an investigation by the Companies Commission</p>	<p>Supreme Court of Appeal, South Africa 30 May 2019</p>
<p>Motor Industry Ombudsman of South Africa v Silver Park Motors CC t/a Silverton Motors and Another (479/2018) [2019] ZASCA 71</p>	<p>Registration as retailer under Consumer Protection Act 68 of 2008 – meaning of ‘accessories’ in South African Automotive Industry Code of Conduct (the Code) – seller of fuel and engine oils not a supplier or retailer of accessories under the Code</p>	<p>Supreme Court of Appeal, South Africa 30 May 2019</p>
<p>Intech Instruments v Transnet Limited t/a South African Port Operations (1165/18) [2019] ZASCA 79</p>	<p>Contract – repudiation manifested by conduct – motive irrelevant – status of interim certificates where construction contract lawfully cancelled by employer – cease to be of force and effect – not self-standing claims separate from remainder of contract</p>	<p>Supreme Court of Appeal, South Africa 31 May 2019</p>
<p>De Vasconcelos and Others v Business Partners Ltd (637/2018) [2019] ZASCA 80</p>	<p>Loan and royalty agreements arising from loan; whether interest disguised as royalty; whether royalty agreement <i>contra bonos mores</i>; whether <i>in duplum</i> rule applies</p>	<p>Supreme Court of Appeal, South Africa 31 May 2019</p>
<p>Moss and Another v KMSA Distributors (Pty) Ltd (673/2018) [2019] ZASCA 81</p>	<p>Suretyship – interpretation – principles relating to interpretation of contracts apply – agreement comprising more than one document – all documents must be considered</p>	<p>Supreme Court of Appeal, South Africa 31 May 2019</p>

<p>NPGS Protection and Security Services CC and Another v FirstRand Bank Ltd (314/2018) [2019] ZASCA 94</p>	<p>Summary judgment – whether bona fide defence established – execution against primary home of debtor – no facts placed before court – whether court entitled to order execution without such facts – loan secured by mortgage over surety’s property – judgment debtor failing to provide court with any information relative to the asserted right to housing save for a statement from the bar which is required to conduct the mandated inquiry</p>	<p>Supreme Court of Appeal, South Africa 6 June 2019</p>
<p>Criminal Law</p>		
<p>LAW REPORT</p>	<p>SUMMARY</p>	<p>COURT</p>
<p>Kruger v National Director of Public Prosecutions (CCT336/17) [2019] ZACC 13; 2019 (6) BCLR 703 (CC)</p>	<p>Jurisdiction — Purely factual issue does not raise jurisdiction — No constitutional or legal issue — Prescription Act 68 of 1969 — Section 12(3) of the Prescription Act — Malicious Prosecution</p>	<p>Constitutional Court, South Africa 9 April 2019</p>

N C v S (285/2018) [2019] ZASCA 50)	Criminal Procedure – appeal against convictions and sentence – leave to appeal refused by magistrate – petition refused by the court a quo – the test is whether the appellant has shown reasonable prospect of success on appeal against the convictions and sentence	Supreme Court of Appeal, South Africa 1 April 2019
Tyhulu v S (1173/2016) [2019] ZASCA 51	Criminal Procedure – Appeal against a refusal to grant leave to appeal on petition – issue to be decided is whether the appellant has a reasonable prospect of success on appeal and not the merits of the appeal	Supreme Court of Appeal, South Africa 1 April 2019
Naidoo v S (333/2018) [2019] ZASCA 52	Evidence – single child witness who was under the influence of alcohol at the time of the alleged sexual assault and attempted murder – corroboration and evidential duties in criminal trials	Supreme Court of Appeal, South Africa 1 April 2019
Maqhula v S (508/18) [2019] ZASCA 54	Criminal Procedure - appeal against conviction - leave to appeal refused by regional magistrate - petition refused by the court a quo - special leave to appeal against conviction granted by the Supreme Court of Appeal - Section 309 of the Criminal Procedure Act - whether leave to appeal ought to have been granted by high court	Supreme Court of Appeal, South Africa 1 April 2019
Mkhize and Others v S (390/18) [2019] ZASCA 56	Criminal law – deceased assaulted whilst being interrogated by policemen – police officers present in the room – not disputed – appellants not testifying – failure to put version to state witnesses – prima facie case of State strengthened – duty of cross examiner – explained – duty in law of police officers present and who witnessed but did not participate in the assault to put a stop to it – common purpose established – Sentence – correctional supervision inappropriate – high court altered the sentence – no misdirection – sentence of 7 years of which 2 years suspended for 5 years – confirmed on appeal	Supreme Court of Appeal, South Africa 1 April 2019

Phaahla v Minister of Justice and Correctional Services and Another (Tlhakanye Intervening) (CCT44/18) [2019] ZACC 18	Section 136(1) of the Correctional Services Act 111 of 1998 declared invalid — parole eligibility is part of punishment — section 35(3)(n) of the Constitution — right to least severe punishment Section 9(1) of the Constitution — equality before the law — legitimate government purpose — purpose at odds with rule of law never legitimate	Constitutional Court, South Africa 3 May 2019
Makhokha v S (CCT170/18) [2019] ZACC 19	Leave to appeal against purely the magnitude of a 15-year old sentence - Refused	Constitutional Court, South Africa 3 May 2019
Shipalana v S (CCT 215/17) [2019] ZACC 20	Application for leave to appeal — sentence and conviction — common purpose — interests of justice	Constitutional Court, South Africa 17 May 2019
Ledwaba v S [2019] ZASCA 64	Criminal appeal against sentence – appellant convicted of culpable homicide and sentenced to five years’ imprisonment - whether such sentence appropriate in the circumstances Criminal Procedure – declaration of unfitness to possess firearm in terms of s 103(2) of the Firearms Control Act 60 of 2000 – duty on the court to hold an enquiry and make determination whether accused is unfit to possess firearm – court failed to hold enquiry	Supreme Court of Appeal, South Africa 27 May 2019
Nare v S (380/2018) [2019] ZASCA 72	Application for leave to appeal against the refusal by the High Court to grant leave to appeal against conviction -- Interpretation of the order of this court granting leave to appeal – Whether reasonable prospects of success established	Supreme Court of Appeal, South Africa 30 May 2019

Mokoena v S (200/2018) [2019] ZASCA 74	Criminal Procedure – regional court magistrate <i>mero motu</i> closing defence case in terms of s 342A(3)(d) of the Criminal Procedure Act 51 of 1977 (the Act) - notice in terms of s 342A(4)(a) not given by the State – evidence irregularly excluded - appeal court incorrectly remitting matter back to same magistrate to continue hearing – conviction and sentence set aside – s 324(c) applied	Supreme Court of Appeal, South Africa 30 May 2019
Chonco v S (1247/2018) [2019] ZASCA 75	Criminal Law – appeal against sentence above prescribed minimum sentence – whether justified – failure to provide reasons – sentence considered afresh	Supreme Court of Appeal, South Africa 30 May 2019
Mochebelele v Director of Public Prosecutions, Gauteng and Others (377/2018) [2019] ZASCA 82	Enquiry in terms of s 10 of the Extradition Act 67 of 1962 – powers of magistrate – whether magistrate entitled to consider extraneous factors – Minister’s powers in terms of s 11 of the Extradition Act	Supreme Court of Appeal, South Africa 31 May 2019
Director of Public Prosecutions v Moloto (1007/18) [2019] ZASCA 83	Criminal Procedure – sentence for murder, read with s 51(1) of the Criminal Law Amendment Act 105 of 1997 – unclear from judgment whether the trial court found substantial and compelling circumstances justifying deviation from prescribed minimum sentence – sentence in terms of s 276(1)(i) of Act 51 of 1977 set aside and substituted with a sentence of 10 years’ imprisonment	Supreme Court of Appeal, South Africa 31 May 2019
De Almeida v S (728/2018) [2019] ZASCA 84	Criminal Procedure – appeal against sentence of 8 years’ imprisonment – leave to appeal refused by regional court – petition refused by the high court – special leave granted by this court – the test is whether the appellant has shown reasonable prospect of success on appeal against the sentence	Supreme Court of Appeal, South Africa 31 May 2019

Ndou v S (247/18) [2019] ZASCA 85	Criminal Procedure – the Appeal Court lacks jurisdiction, in the absence of a cross-appeal by the State, to reverse the acquittal of the accused – evidence in relation to common purpose to commit robbery not sufficient to make perpetrators joint possessors of a firearm under the Firearms Control Act 60 of 2000 – sentence in respect of offences related in terms of time and place ordered to run concurrently	Supreme Court of Appeal, South Africa 31 May 2019
Director of Public Prosecutions Gauteng Local Division, Johannesburg v Ramolefi (705/2018) [2019] ZASCA 90	Criminal Procedure – Sentence – appeal by State against a sentence imposed on appeal to the high court – lack of jurisdiction to determine such an appeal – appeal struck from the roll	Supreme Court of Appeal, South Africa 3 June 2019
Constitutional Law		
LAW REPORT	SUMMARY	COURT
Ngomane and Others v City of Johannesburg Metropolitan Municipality and Another (734/2017) [2019] ZASCA 57; [2019] 3 All SA 69 (SCA)	Constitutional law – ss 38 and 172 (1)(a) and (b) of the Constitution – municipality removing and destroying property comprising personal effects and materials used to erect overnight shelter belonging to the homeless applicants in a public health law clean-up exercise – not an eviction – applicants not entitled to <i>mandament van spolie</i> or mandatory substitution of the property – destruction of property unlawful and a breach of applicants’ rights to dignity, privacy and not to be deprived of their property – declaration of the unlawfulness of the destruction of the applicants’ property and compensation therefor appropriate relief	Supreme Court of Appeal, South Africa 3 April 2019

Gold Circle (Pty) Ltd v Maharaj (1313/17) [2019] ZASCA 93	Complaint of unfair discrimination in terms of the Promotion of Equality and Prevention of Unfair Discrimination Act, 4 of 2000 – earlier application dismissed by Equality Court – whether second referral precluded by the operation of doctrine of <i>res judicata</i> or issue estoppel – remittal to Equality Court for <i>de novo</i> hearing	Supreme Court of Appeal, South Africa 3 June 2019
Customary Law		
LAW REPORT	SUMMARY	COURT
Mphephu v Mphephu-Ramabulana and Others (948/17) [2019] ZASCA 58; [2019] 3 All SA 51 (SCA); 2019 (7) BCLR 862 (SCA)	Customary law – traditional leadership – points <i>in limine</i> – whether first respondent was lawfully identified by Royal Family Council and lawfully recognised by the President as the King of Vhavenda community in terms of the provisions of s 9 of Traditional Leadership and Governance Framework Act 41 of 2003 – the President’s decision reviewed and set aside and proceedings referred back to the high court for further hearing on the merits	Supreme Court of Appeal, South Africa 12 April 2019
Employment Law		
LAW REPORT	SUMMARY	COURT
Steenkamp and Others v Edcon Limited (CCT29/18) [2019] ZACC 17	Labour Relations Act 66 of 1995 — dismissal for operational requirements — application in terms of section 189A(13) brought outside of time limits — condonation refused — failed legal strategy alone not sufficient to show good cause — labour matters are	Constitutional Court, South Africa 30 April 2019

	expeditious in nature — section 189A(13)(d) compensation remedy not a stand-alone remedy and dependent on the inappropriateness of remedies (a)-(c)	
National Union of Metalworkers of South Africa obo Nganezi and Others v Dunlop Mixing and Technical Services (Pty) Limited and Others (CCT202/18) [2019] ZACC 25	Labour Relations Act 66 of 1996 — unfair dismissal — derivative misconduct — violent strike	Constitutional Court, South Africa 28 June 2019
Family Law		
LAW REPORT	SUMMARY	COURT
P V v E V (843/2018) [2019] ZASCA 76	Rectification of an ante-nuptial contract – no common mistake or misunderstanding between the parties – rectification not competent – the clear unambiguous terms of the ante-nuptial contract cannot be ignored	Supreme Court of Appeal, South Africa 30 May 2019
S v S and Another (CCT147/18) [2019] ZACC 22	Superior Courts Act 10 of 2013 — constitutionality of section 16(3) Uniform Rules of Court — rule 43 Best interests of the child — equality before the law — access to court — section is constitutional	Constitutional Court, South Africa 27 June 2019
Financial Services		
LAW REPORT	SUMMARY	COURT
National Credit Regulator v Southern African Fraud Prevention Services NPC (560/2018) [2019] ZASCA 92	Credit bureau – collection of information pertaining to fraud – whether consumer credit information in terms of s 70(1) of National Credit Act 34 of 2005 (NCA) – whether information constituting an adverse classification of consumer behaviour in terms of Regulation 17 of Regulations under NCA in GN R489 of 31 May 2006 – whether credit bureau required to expunge information within one year	Supreme Court of Appeal, South Africa 3 June 2019

Immigration Law		
LAW REPORT	SUMMARY	COURT
Nandutu and Others v Minister of Home Affairs and Others (CCT114/18) [2019] ZACC 24	Immigration Regulations — validity of regulation 9(9)(a) — foreign spouses or children of citizens or permanent residents must leave the country to apply for a change of visa status — inconsistent with Constitution — unjustifiably limits right to dignity and rights of children — constitutionally invalid Interim relief — order of declaration of invalidity granted and suspended for 24 months — interim reading-in order granted	Constitutional Court, South Africa 28 June 2019
Legal Practitioners' Ethics		
LAW REPORT	SUMMARY	COURT
General Council of the Bar of South Africa v Jiba and Others (CCT192/18) [2019] ZACC 23	Admission of Advocates Act 74 of 1964 — unethical conduct — fit and proper person test — dismissed for lack of jurisdiction. Costs — litigation pursued in the interests of justice — general rule is that bodies like the GCB are not liable for costs — adverse costs order only permissible where body has acted recklessly or irresponsibly	Constitutional Court, South Africa 27 June 2019

Insurance Law		
LAW REPORT	SUMMARY	COURT
Schoeman and Others v Lombard Insurance Company Limited (1299/2017) [2019] ZASCA 66	Demand guarantee – demand guarantee stipulating that demand to be made at address of beneficiary – demand hand-delivered to address of guarantor – place at which demand to be made directory, not mandatory – demand effective	Supreme Court of Appeal, South Africa 29 May 2019
Insolvency Law		
LAW REPORT	SUMMARY	COURT
Motala v Master of the North Gauteng High Court, Pretoria (92/2018) [2019] ZASCA 60; [2019] 3 All SA 17 (SCA)	Administration of insolvent estates – Master’s panel of persons suitable for appointment as liquidator or trustee – compilation of panel constitutes administrative action as envisaged by the Promotion of Administrative Justice Act 3 of 2000 (PAJA) – appellant removed from the panel – factors relevant to such removal including appellant’s dishonesty and his disqualification as a liquidator or trustee – appellant’s challenge to his removal from the panel dismissed. Appellant also having applied to the Master to be reinstated to the panel – Master refusing to do so – this decision not challenged by the appellant under PAJA – Master’s decision not to reinstate renders nugatory the appellant’s claim based on earlier removal. Costs – appellant contending he ought not to pay costs if unsuccessful as he sought to enforce a constitutional right – factors relevant to discretion in such cases –	Supreme Court of Appeal, South Africa 17 May 2019

	appellant ordered to pay the costs	
Liquidations		
LAW REPORT	SUMMARY	COURT
Moto Health Care Medical Scheme v HMI Healthcare Corporation (Pty) Ltd and Others (341/18) [2019] ZASCA 87	Declaratory relief – whether condonation by liquidators of company of non-compliance with written notice of civil action under s 359(2)(a) of the Companies Act 61 of 1973 and prescription properly the subject of a declaratory order – party not entitled to claim declaration of rights merely because rights disputed – case not a proper one for the exercise of discretion to grant declaratory relief – delivery of heads of argument after hearing of appeal – abuse of court process	Supreme Court of Appeal, South Africa 31 May 2019
Medical Law		
LAW REPORT	SUMMARY	COURT
R B v Smith (211/2018) [2019] ZASCA 48 (1 April 2019)	Delict – claim for damages based on failure to obtain informed consent to medical procedure for hernia repair – factual finding of trial court on whether the patient was informed, confirmed – no dispute on material risks inherent in competing surgical procedures – information given to patient met the required standard – common cause that there was no negligence in the performance of elected surgery – appeal dismissed	Supreme Court of Appeal, South Africa 1 April 2019
Minerals & Energy		

LAW REPORT	SUMMARY	COURT
Rhino Oil and Gas Exploration SA (Pty) Limited v Normandien Farms (Pty) Limited and Another (100/2018) [2019] ZASCA 88	Mineral and Petroleum Resources Development Act 28 of 2002 – application for petroleum exploration right – process challenged on review prior to decision being taken – at that stage, no prejudice to party challenging the process – matter not ripe for adjudication	Supreme Court of Appeal, South Africa 31 May 2019
Personal Injury		
LAW REPORT	SUMMARY	COURT
Mngomezulu v Ethekewini Metropolitan Municipality (079/2018) [2019] ZASCA 91	Delict – claim for damages for unlawful destruction of property and unlawful assault – plea of self-defence raised – no proof that claimant acted lawfully in defence of property – defensive action must be reasonable and taken against imminent act of aggression	Supreme Court of Appeal, South Africa 3 June 2019
P M obo T M v Road Accident Fund (1175/2017) [2019] ZASCA 97	Delict – Settlement of damages claim against the Road Accident Fund – judge declining to make settlement agreement an order of court and requiring the trial to continue on the merits – application to declare trial a nullity – irregular procedure – Court’s duty when asked to make settlement agreement an order of court	Supreme Court of Appeal, South Africa 18 June 2019

Pensions Law		
LAW REPORT	SUMMARY	COURT
Fundsatwork Umbrella Pension Fund v Guarnieri and Others (830/2018) [2019] ZASCA 78	Distribution of pension benefit on death of member of fund – s 37C(1)(a) of the Pension Funds Act 24 of 1956 (PFA) – meaning of dependant in terms of definition in s 1 of the PFA – when such dependants are to be identified for the purpose of making a distribution under that section – such to be at the date of distribution not the date of death of the member – accordingly dependants do not include a person who died before the distribution was made – distribution to such person contrary to statutory scheme and not a distribution of member’s pension benefit – fund obliged to distribute the outstanding balance to the member’s dependants	Supreme Court of Appeal, South Africa 31 May 2019
Procedural Law		
LAW REPORT	SUMMARY	COURT
De Lange NO v Minister of Water and Environmental Affairs (81/2018) [2019] ZASCA 59	Prescription – water use rights in terms of the National Water Act 96 of 1998 – appellant’s water use not an unrestricted real right – appellant’s delictual cause of action arising when canals the respondent failed to maintain became inoperable – no on-going breach of appellant’s right to water – claim prescribed	Supreme Court of Appeal, South Africa 17 April 2019
Crockery Gladstone Farm v Rainbow Farms (Pty) Ltd (592/18) [2019] ZASCA 61	Civil procedure – the grant of an application for rescission of judgment is not appealable – order of the Full court granting rescission order upheld	Supreme Court of Appeal, South Africa 20 May 2019

Department: Transport, Province of KwaZulu-Natal v Ramsaran and Others (1274/2017) [2019] ZASCA 62	Abandonment of judgment by respondents in terms of Uniform rule 41(2) – no tender of costs – appellant can recover costs by notice in terms of rule 41(1)(c) – costs of appeal – appellant only entitled to costs of appeal up to and including date of abandonment	Supreme Court of Appeal, South Africa 23 May 2019
Eskom Holdings Soc Ltd v Sidoyi and Others (1207/2018) [2019] ZASCA 65	Electricity – disconnection of allegedly unlawful connections and apparatus – challenge by affected property owners to disconnection – order sought for restoration of electricity supply – such could only be determined after determining whether the disconnected supply was lawful – dispute of fact on the papers – application referred for the hearing of oral evidence on the issue of the lawfulness of the disconnected supply	Supreme Court of Appeal, South Africa 28 May 2019
Bayport Securitisation RF Ltd v Sakata (1320/17) [2019] ZASCA 73	Magistrates' Court Act 32 of 1944 – s 58 – default judgment – Magistrates' Court Rules – Rules 49(1), (3) and (8) – rescission of judgment – failure to set out bona fide defence – liability acknowledged – procedural error in proceedings – rescission refused	Supreme Court of Appeal, South Africa 30 May 2019
Property & Conveyancing		
LAW REPORT	SUMMARY	COURT
Tiekiedraai Eiendom (Pty) Limited v Shell South Africa Marketing (Pty) Limited and Others (CCT96/18) [2019] ZACC 14	Dispute over right of pre-emption to buy — Jurisdiction — leave to appeal — arguable points of law raised on appeal	Constitutional Court, South Africa 9 April 2019
Spilhaus Property Holdings (Pty) Limited and Others v MTN and Another (CCT82/18) [2019] ZACC 16; 2019 (6) BCLR 772 (CC)	Sectional Titles Act 95 of 1986 — locus standi — body corporate — Individual owners — section 41 — common law right — enforcement of compliance with zoning scheme regulation	Constitutional Court, South Africa 24 April 2019

JJPC Brand Administrators and Another v Lombard and Others (1223/2017) [2019] ZASCA 55	Road – portion of public road closed – whether remaining portion a public road depends on circumstances. Servitude – relocation of defined servitude of right of way at instance of servient owner – not permissible if proposed new route would be less convenient, less practical or more expensive to dominant owner	Supreme Court of Appeal, South Africa 1 April 2019
Muhanelwa v Gcingca (CCT 117/18) [2019] ZACC 21	Jurisdiction — no constitutional issue or arguable point of law of general public importance — not in interests of justice to grant leave to appeal — Spoliation order — legal requirements for owner to regain possession — impact of spoliation order on owner’s right of access to housing	Constitutional Court, South Africa 17 May 2019
Stoffberg NO and Others v City of Cape Town (1325/2017) [2019] ZASCA 70	Prescription – acquisitive prescription of public outspan – requirements under s 2 of the Prescription Act 18 of 1943 – continuous possession for 30 years not shown – acts of possession not reasonably indicating possession as if owner	Supreme Court of Appeal, South Africa 30 May 2019
Beijers v Harlequin Duck Properties 231 (Pty) Ltd t/a Office Space Online (1216/2017) [2019] ZASCA 89	Contract – interpretation of non-variation clause – alleged oral agreement – estate agent’s entitlement to commission – evidence to contradict express terms of a contract inadmissible	Supreme Court of Appeal, South Africa 31 May 2019
Eskom Holdings SOC Limited v Masinda (1225/2018) [2019] ZASCA 98	Spoliation – rights protectable by mandament van spolie – whether an electricity supply in itself an incident of possession of the property to which it is delivered or a mere personal right – whether such supply protectable by the mandament	Supreme Court of Appeal, South Africa 18 June 2019
National Home Builders' Registration Council & Another v Xantha Properties 18 (Pty) Ltd (780/2018, 784/2018) [2019] ZASCA 96	Housing – Housing Consumers Protection Measures Act 95 of 1998 – whether s 14(1) of that Act applies to homes being built with the intention that they be let and not sold	Supreme Court of Appeal, South Africa 21 June 2019

Shipping & Customs

LAW REPORT	SUMMARY	COURT
Afgri Grain Marketing (Pty) Ltd v Trustees for the time being of Copenship Bulkers A/S (in liquidation) and Others (797/2018) [2019] ZASCA 67	Security arrest in terms of s 5(3)(a) of the Admiralty Jurisdiction Regulation Act 105 of 1983 – such restricted to property existing at the time the arrest order was made – reconsideration of arrest order granted <i>ex parte</i> in terms of Uniform Rule 6(12)(c) – procedure – where party seeking reconsideration delivers an affidavit dealing with the merits and the applicant replies reconsideration takes place on basis of all material then before the court – onus remains on applicant to establish a genuine and reasonable need for security on a balance of probabilities – whether onus discharged	Supreme Court of Appeal, South Africa 29 May 2019
Atakas Ticaret VE Nakliyat AS v Glencore International AG (768/2018) [2019] ZASCA 77	Discretion of court to permit or refuse joinder in terms of s 5(1) of the Admiralty Jurisdiction Regulation Act 105 of 1983 left untouched by the International Arbitration Act 15 of 2017	Supreme Court of Appeal, South Africa 30 May 2019

Trusts		
LAW REPORT	SUMMARY	COURT
Griessel NO and Others v De Kock and Another (334/18) [2019] ZASCA 95	Discretionary trust – trustees having power to select beneficiaries from listed potential beneficiaries – whether potential beneficiary acquired rights capable of protection	Supreme Court of Appeal, South Africa 6 June 2019



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