



DECEMBER 2019

# CASELAW QUARTELY REPORT

OCTOBER - DECEMBER 2019

CASELAW CONSULTANT

136 2ND STREET RANDJESPARK, MIDRAND

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## Administrative Law

| LAW REPORT  | SUMMARY  | COURT  |
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| <p>Laser Transport Group (Pty) Ltd and Another v Elliot Mobility (Pty) Ltd and Another (835/2018) [2019] ZASCA 140</p>                      | <p>Administrative law – review of a tender award – four-year contract concluded pursuant to a tender award challenged for non-adherence to provisions of the Preferential Procurement Policy Framework Act 5 of 2000 - Mootness – with about three months before expiry of the contract period a decision on appeal would have no practical effect - no discrete point of public importance that would affect matters in the future – appeal dismissed with costs</p>              | <p>Supreme Court of Appeal, South Africa</p> <p>1 October 2019</p> <p><a href="#">View Full Report</a></p> |
| <p>Liberty Group Limited and Others v Mall Space Management CCt/a Mall Space Management (644/18) [2019] ZASCA 142; 2020 (1) SA 30 (SCA)</p> | <p>Under the common law a mandate is in general terminable at the will of the principal – notice of intention to terminate unnecessary – principles of Ubuntu and fairness not the correct bases to determine propriety of termination of mandate – issues of good faith, fairness and equity not applicable – against public policy to coerce a principal into retaining individual as agent – unlawful competition not established – requirements of final interdict not met</p> | <p>Supreme Court of Appeal, South Africa</p> <p>1 October 2019</p> <p><a href="#">View Full Report</a></p> |
| <p>Notyawa v Makana Municipality and Others (CCT115/18) [2019] ZACC 43</p>  | <p>Delay in launching review application – The court has a discretion to refuse the application or overlook the delay based on the particular facts of the mater</p>   | <p>Constitutional Court, South Africa</p> <p>21 November 2019</p>  |

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| <b>Corporate &amp; Commercial</b>  |  |  |
| <b>LAW REPORT</b>  | <b>SUMMARY</b>   | <b>COURT</b>   |
| Afrisam (South Africa) (Proprietary) Limited v Maleth Investment Fund (Proprietary) Limited (651/2018) [2019] ZASCA 139    | Company Law – principles relating to court applications for winding-up of a company restated – intervening voluntary winding-up does not extinguish a pending application for compulsory winding-up – where compulsory winding-up supersedes the pending voluntary winding-up provisions of s 340(2)(a) of the Companies Act 71 of 1973 apply – compulsory winding-up shall be deemed to have been effective from date of registration of the special resolution for the voluntary winding-up of a company   | Supreme Court of Appeal, South Africa<br><br>1 October 2019<br><br><a href="#">View Full Report</a>  |
| London and Others v Department of Transport, Roads and Public Works, Northern Cape and Others (1035/2018) [2019] ZASCA 144 | Delict – action for damages by shareholders – necessary averments – alleged breach of contractual duty owed to a company resulting in its liquidation – shareholders suing the other contracting party for damages representing loss of dividends – no allegation in particulars of claim that shareholders’ loss separate and distinct from that suffered by the company and caused by breach of a legal duty independently owed to shareholders – exception that particulars of claim not disclosing a cause of action rightly allowed by high court | Supreme Court of Appeal, South Africa<br><br>30 October 2019<br><br><a href="#">View Full Report</a> |

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| <p>Airports Company SA Ltd v Masiphuze Trading (Pty) Ltd and Others (1120/2018) [2019] ZASCA 150 (22 November 2019)</p>                         | <p>Suretyship – s 6 of General Law Amendment Act 50 of 1956 – compliance therewith – defence of <i>justus error</i> – alleged error induced by co-shareholders not lessor – not a basis for defence</p>  | <p>Supreme Court of Appeal, South Africa<br/><br/>22 November 2019<br/><br/><a href="#">View Full Report</a></p> |
| <p>Murray and Others NNO v African Global Holdings (Pty) Ltd and Others (306/2019) [2019] ZASCA 152; [2020] 1 All SA 64 (SCA)</p>               | <p>Voluntary winding-up of group of companies – s 351 of Companies Act 61 of 1973 – whether solvent companies needing to be wound up in terms of ss 79 and 80 of Companies Act 71 of 2008 – company not solvent if commercially insolvent – on facts companies commercially insolvent.<br/>Liquidators – appointment by Master in Pretoria – companies registered offices within jurisdiction of Master in Johannesburg – Master in Pretoria exercising jurisdiction throughout Gauteng – s 2(1)(a)(ii) of the Administration of Estates Act 66 of 1965 – appointments valid.<br/>Personal costs orders – when granted</p> | <p>Supreme Court of Appeal, South Africa<br/><br/>22 November 2019<br/><br/><a href="#">View Full Report</a></p> |
| <p>Mike Ness Agencies CC t/a Promech Boreholes v Lourensford Fruit Company (Pty) Ltd (922/2018) [2019] ZASCA 159; [2020] 1 All SA 314 (SCA)</p> | <p>Contract – terms agreed in writing – parol evidence rule – appellant having proved the terms of the contract and having satisfied its entitlement to be paid for sinking a borehole</p>   | <p>Supreme Court of Appeal, South Africa<br/><br/>28 November 2019<br/><br/><a href="#">View Full Report</a></p> |
| <p>Van Zyl &amp; Another v Off the Shelf Investments Seventy Eight (Pty) Ltd (1323/2018) [2019] ZASCA 175</p>                                   | <p>Companies – provisional liquidation – creditor relied on a debt owed to it by respondent as reflected in the latter’s financial statements – respondent disputed accuracy of its financial statements – held that financial statements correctly reflected debt owed to creditor – provisional liquidation ordered</p>  | <p>Supreme Court of Appeal, South Africa<br/><br/>2 December 2019<br/><br/><a href="#">View Full Report</a></p>  |

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| Shepherd Real Estate Investments (Pty) Ltd v Roux Le Roux Motors CC (1318/2018) [2019] ZASCA 178   | Contract – validity of – agreement that the rental and costs shall be mutually agreed upon in writing between the landlord and the tenant when the right of renewal in a lease is exercised – void for vagueness   | Supreme Court of Appeal, South Africa<br><br>2 December 2019<br><br><a href="#">View Full Report</a> |
| Zikhulise Cleaning Maintenance & Transport CC v The Chairman of the Investigating Committee of the Construction Industry Development Board and Others (1112/2018) [2019] ZASCA 181 | Construction Industry – Regulations promulgated under s 33 of Construction Development Board Act 38 of 2000 – inquiry under reg 29 – whether conduct complained of constituted breach of Code of Conduct published under s 5(4) of Act – conduct subject of complaint not relating to construction procurement process, therefore not constituting breach of Code of Conduct – Regulation 28 and 29 – Failure to comply with investigatory provisions necessary for valid inquiry under reg 29 | Supreme Court of Appeal, South Africa<br><br>2 December 2019<br><br><a href="#">View Full Report</a> |
| <b>Constitutional Law</b>  |  |  |
| <b>LAW REPORT</b>  | <b>SUMMARY</b>   | <b>COURT</b>   |
| Moodley v Kenmont School and Others (CCT281/18) [2019] ZACC 37; 2020 (1) SA 410 (CC); 2020 (1) BCLR 74 (CC)  | Constitutionality of section 58A of the South African Schools Act 84 of 1996 – <i>assets of a public school may not be attached as a result of any legal action taken against the school</i> – Court declined to confirm declaration of unconstitutionality  | Constitutional Court, South Africa<br><br>9 October 2019<br><br><a href="#">View Full Report</a>     |
| Gelyke Kanse and Others v Chairperson of the Senate of the University of Stellenbosch and Others (CCT 311/17) [2019] ZACC 38; 2019 (12) BCLR 1479 (CC); 2020 (1) SA 368 (CC)       | Constitutionality of the language policy of the University of Stellenbosch — Afrikaans as a medium of instruction – access to higher education - Section 6 of the Constitution — protection and promotion of indigenous minority languages — diminished use and status - Section 29(2) of the Constitution — “reasonably practicable”  | Constitutional Court, South Africa<br><br>10 October 2019<br><br><a href="#">View Full Report</a>    |

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| Moyo and Another v Minister of Police and Others; Sonti and Another v Minister of Police and Others (CCT174/18; CCT178/18) [2019] ZACC 40; 2020 (1) BCLR 91 (CC) | Constitutionality of sections 1(1)(b) and 1(2) of the Intimidation Act 72 of 1982 — provisions are unconstitutional  | Constitutional Court, South Africa<br>22 October 2019<br><a href="#">View Full Report</a>     |
| Jones and Others v Sutherland and Another (478/2018) [2019] ZASCA 146  | Eviction in terms of Extension of Security of Tenure Act 62 of 1997 – is it just and equitable to terminate the right of residence in terms of 8(1) and grant an eviction order – after balancing rights of the parties held that the eviction should be granted | Supreme Court of Appeal, South Africa<br>14 November 2019<br><a href="#">View Full Report</a> |
| Qwelane v South African Human Rights Commission and Another (686/2018) [2019] ZASCA 167; [2020] 1 All SA 325 (SCA)   | Constitutional validity of s 10 of the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 – overbreadth and vagueness – freedom of expression and regulation of hate speech   | Supreme Court of Appeal, South Africa<br>29 November 2019<br><a href="#">View Full Report</a> |
| Independent Institute of Education (Pty) Limited v Kwazulu-Natal Law Society and Others (CCT68/19) [2019] ZACC 47  | Application for confirmation of an order of constitutional invalidity by the High Court — Section 26(1)(a) Legal Practice Act 28 of 2014 — Meaning of the term “university” — Principles of statutory interpretation—Section 39(2) of the Constitution           | Constitutional Court, South Africa<br>11 December 2019<br><a href="#">View Full Report</a>    |

| <b>Children's Rights</b>  |  |  |
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| <b>LAW REPORT</b>   | <b>SUMMARY</b>   | <b>COURT</b>   |
| Centre for Child Law and Others v Media 24 Limited and Others (CCT261/18) [2019] ZACC 46            | Criminal Procedure Act — section 154(3) — identity of child victims — ongoing identity protection — competing constitutional rights — equality — best interests of the child — privacy and dignity — restorative justice — stigmatisation and agency — freedom of expression — open justice<br>Order of declaration of invalidity granted and suspended for 24 months — interim reading-in granted   | Constitutional Court, South Africa<br><br>4 December 2019<br><br><a href="#">View Full Report</a>    |
| <b>Competition Law</b>  |  |  |
| <b>LAW REPORT</b>   | <b>SUMMARY</b>   | <b>COURT</b>   |
| Minister of Trade and Industry v Sundays River Citrus Company (Pty) Ltd (798/2018) [2019] ZASCA 184 | Trade and Industry – grant payable to enterprises to promote their competitiveness as incentive for job creation and retention – grant payable to enterprises undertaking investment in competitiveness enhancing activities of existing operations – calculation of grant based on the manufacturing value added by the enterprise concerned in its manufacturing process – no particular method of grant calculation prescribed – audited financial statements but one of the methods that may be used to determine actual manufacturing value added | Supreme Court of Appeal, South Africa<br><br>3 December 2019<br><br><a href="#">View Full Report</a> |
| <b>Criminal Law</b>   |  |  |



| LAW REPORT  | SUMMARY  | COURT   |
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| Mncwengi and Others v S (395/2018) [2019] ZASCA 135; 2019 (2) SACR 583 (SCA) (1 October 2019) | Criminal law and procedure - assessor sitting in prolonged trial - assessor not unable to continue to act as such - trial court ruled in terms of s147 of the Criminal Procedure Act 51 of 1977 that trial continue before remaining members – ruling constituting procedural irregularity vitiating the proceedings – convictions and sentences set aside.  | Supreme Court of Appeal, South Africa<br><br>1 October 2019<br><br><a href="#">View Full Report</a>   |
| Salzmann v S (755/18) [2019] ZASCA 145; [2020] 1 All SA 361 (SCA)                             | Criminal procedure – trial of accused commencing in lower court before Superior Courts Act 10 of 2013 came into effect on 23 August 2013 – conviction, sentence and unsuccessful appeal to the high court taking place thereafter – high court not competent to subsequently grant special leave to appeal to Supreme Court of Appeal – such leave to be granted by latter court – special leave to appeal applied for but refused – matter struck from roll | Supreme Court of Appeal, South Africa<br><br>13 November 2019<br><br><a href="#">View Full Report</a> |
| Mbulelo v S (148/2019) [2019] ZASCA 154   | Criminal law – sentence - application for leave to appeal refused by regional court – petition subsequently refused by the high court – whether petition correctly refused   | Supreme Court of Appeal, South Africa<br><br>26 November 2019<br><br><a href="#">View Full Report</a> |
| Gwiba v S (117/2019) [2019] ZASCA 155   | Criminal Procedure – appeal – special leave granted against refusal of high court to grant leave to appeal from the regional court – appeal relates to whether the high court should have granted leave to appeal – not the merits of the appeal – reasonable prospects of success exist – leave to appeal granted to the high court   | Supreme Court of Appeal, South Africa<br><br>27 November 2019<br><br><a href="#">View Full Report</a> |

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| <p>Director of Public Prosecutions, Western Cape v Schoeman and Another (904/2017) [2019] ZASCA 158</p> | <p>Application for leave to appeal against refusal by trial court to reserve questions of law in terms of s 319 of the Criminal Procedure Act 51 of 1977 – factual bases for the reservations not set out, did not appear fully from the judgment and no request was made to trial court for special finding on the facts upon which points of law hinged – questions of fact and not law sought to be reserved – application for leave to appeal dismissed</p> | <p>Supreme Court of Appeal, South Africa<br/><br/>28 November 2019<br/><br/><a href="#">View Full Report</a></p> |
| <p>Mthembu v S (525/2019) [2019] ZASCA 160</p>  | <p>Attempted murder and unlawful possession of – firearm and ammunition – appeal against conviction and sentence – appellant found in possession of firearm and ammunition – sufficiency of evidence – ballistic testing linked firearm to offence of attempted murder – conviction and related sentences justified – appeal dismissed</p>  | <p>Supreme Court of Appeal, South Africa<br/><br/>28 November 2019<br/><br/><a href="#">View Full Report</a></p> |
| <p>The Minister of Police &amp; another v Muller (1037/18) [2019] ZASCA 165</p>                         | <p>Arrest for inability to account for possession of goods suspected of being stolen – arrest wrongful and unlawful – remand in custody by Magistrate at first appearance in court – whether police liable for further detention after remand</p>   | <p>Supreme Court of Appeal, South Africa<br/><br/>29 November 2019<br/><br/><a href="#">View Full Report</a></p> |
| <p>Zulu v The State (529/19) [2019] ZASCA 166</p>   | <p>Appeal from decision of the high court dismissing a petition in terms of s 309C of the Criminal Procedure Act 51 of 1977 – appeal against the refusal of leave to appeal by the high court is appealable with special leave of this Court – the order appealed against is the refusal of leave – accordingly this Court cannot decide the merits of the appeal. Matter was considered in chambers</p>  | <p>Supreme Court of Appeal, South Africa<br/><br/>29 November 2019<br/><br/><a href="#">View Full Report</a></p> |

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| <p>Malherbe v S (1182/2018) [2019] ZASCA 169</p>   | <p>Search warrant in terms of s21(1)(a) of the Criminal Procedure Act 51 of 1977 – must be issued on the basis of information on oath – statement on basis of which warrant issued not sworn – warrant invalid – items seized under warrant inadmissible – admissions made after warrant ruled to be valid – such compelled by the decision that the warrant was valid – breach of fair trial rights in terms of s 35 of the Constitution</p> | <p>Supreme Court of Appeal, South Africa</p> <p>29 November 2019</p> <p><a href="#">View Full Report</a></p> |
| <p>Director of Public Prosecutions: Gauteng Division, Pretoria v Buthelezi (142/18) [2019] ZASCA 170</p> | <p>Appeal in terms of s 311(1) of the Criminal Procedure Act 51 of 1977 – s 311(1) provides for an appeal as of right, without leave – the high court’s findings that s 51(1) of the Criminal Law Amendment Act 105 of 1997 is not applicable, that the regional court did not have jurisdiction to impose a sentence of life imprisonment, are questions of law – appeal upheld – sentence imposed by the regional court reinstated</p>      | <p>Supreme Court of Appeal, South Africa</p> <p>29 November 2019</p> <p><a href="#">View Full Report</a></p> |
| <p>Tshabalala v S; Ntuli v S (CCT323/18;CCT69/19) [2019] ZACC 48</p>                                     | <p>Common law rape — Doctrine of common purpose — instrumentality</p>   | <p>Constitutional Court South Africa</p> <p>11 December 2019</p> <p><a href="#">View Full Report</a></p>     |
| <p>Madlala v S (338/2018) [2019] ZASCA 176</p>   | <p>Criminal law – sentence – 15 years’ imprisonment and life imprisonment imposed for robbery committed with aggravating circumstances and murder respectively – no grounds to interfere with the sentences imposed – appeal dismissed</p>  | <p>Supreme Court of Appeal, South Africa</p> <p>2 December 2019</p> <p><a href="#">View Full Report</a></p>  |

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| Francis and Others v S (866/2018) [2019] ZASCA 177   | Criminal law – murder committed with intent in the form of <i>dolus eventualis</i> – having regard to the nature, extent and circumstances of assault on deceased – the only reasonable inference to be drawn is that appellants subjectively foresaw that their conduct could result in the deceased’s death but were reckless as to such consequence – appeal dismissed | Supreme Court of Appeal, South Africa<br><br>2 December 2019<br><br><a href="#">View Full Report</a> |
| Khobane v S (1255/2017) [2019] ZASCA 179   | Whether failure to refer to the minimum sentence legislation in the charge sheet prejudiced the appellant – whether such failure infringed on the appellant’s right to a fair trial – special leave in terms of s 17(1)(b) of the Superior Courts Act 10 of 2013 having been granted – special circumstances not established – appeal struck off the roll                 | Supreme Court of Appeal, South Africa<br><br>2 December 2019<br><br><a href="#">View Full Report</a> |
| Jangia v S (274/19) [2019] ZASCA 180   | Criminal Procedure – Appeal against a refusal to grant leave to appeal on petition – appeal successful – leave to appeal against sentence to the high court granted   | Supreme Court of Appeal, South Africa<br><br>2 December 2019<br><br><a href="#">View Full Report</a> |
| Oosthuizen and Another v S (180/2018) [2019] ZASCA 182   | Criminal Procedure – whether State proved beyond reasonable doubt offences committed – on the version of the appellants guilt was established – assault with intent to do grievous bodily harm may be committed by threat. Sentence – sentences reconsidered – conviction and sentence accordingly amended  | Supreme Court of Appeal, South Africa<br><br>2 December 2019<br><br><a href="#">View Full Report</a> |
| Minister of Police and Another v Stanfield and Others (1328/2018) [2019] ZASCA 183 (2 December 2019) | Criminal procedure – Search and seizure of firearms in terms of s 23 of the Criminal Procedure Act 51 of 1977 (CPA) – Firearms Control Act 60 of 2000 – return of firearms in terms of s 31(1)(a) of the CPA - whether criminal proceedings pending – whether the firearms were correctly retained by the appellants  | Supreme Court of Appeal, South Africa<br><br>2 December 2019<br><br><a href="#">View Full Report</a> |

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| Rohde v S (1007/2019) [2019] ZASCA 193  | Bail – pending appeal – factors to be considered – whether there is a real prospect in relation to success on convictions – whether appellant a flight risk   | Supreme Court of Appeal, South Africa<br><br>18 December 2019<br><br><a href="#">View Full Report</a> |
| <b>Employment Law</b>   |   |   |
| <b>LAW REPORT</b>   | <b>SUMMARY</b>  | <b>COURT</b>  |
| Amalungelo Workers' Union and Others v Philip Morris South Africa (Pty) Limited and Another (CCT20/18) [2019] ZACC 45; 2020 (2) BCLR 125 (CC) | Jurisdiction – Labour Court – Basic Conditions of Employment Act 75 of 1997 - the Labour Court's jurisdiction under the Act is not deferred until a matter has been resolved by a labour inspector appointed in terms of section 63 of the Act  | Constitutional Court, South Africa<br><br>26 November 2019<br><br><a href="#">View Full Report</a>    |
| Tertiary Education National Union and Another v Durban University of Technology (796/2018) [2019] ZASCA 151                                   | Merger of technikons in terms of Higher Education Act 101 of 1997 – council of merged institution to determine conditions of service – post retirement medical aid subsidy – harmonisation – whether Council of merged institution approved the payment of subsidy to employees of one former technikon who had not previously enjoyed such a subsidy | Supreme Court of Appeal, South Africa<br><br>22 November 2019<br><br><a href="#">View Full Report</a> |
| <b>Family Law</b>   |   |   |
| <b>LAW REPORT</b>   | <b>SUMMARY</b>  | <b>COURT</b>  |
| Mzalisi NO and Others v E O and Another (630/2018) [2019] ZASCA 138   | Civil and customary marriages – eligibility of asylum seekers whose status has not been determined to marry whilst lawfully residing in South Africa – validity of departmental circular imposing absolute ban on asylum seekers seeking to marry – circular  | Supreme Court of Appeal, South Africa<br><br>1 October 2019   |

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|  | inconsistent with the law and invalid   | <a href="#">View Full Report</a>  |
| Kgopana v Matlala (1081/2018) [2019] ZASCA 174   | Contract – when concluded – whether WhatsApp message contained an offer <i>animo contrahendi</i> – in both context and content the message did not convey an offer to contract – doctrine of quasi-mutual assent not applicable   | Supreme Court of Appeal, South Africa<br>2 December 2019<br><a href="#">View Full Report</a>  |
| M N v F N (714/2018) [2019] ZASCA 185  | Divorce Act 70 of 1979 – ss 7(7) and (8)(a) – Pension Funds Act 24 of 1956 (PFA) – reference to ‘pension fund’ in Divorce Act – means ‘pension fund organisation’ in PFA – object of providing annuities in a pension fund or lump sum payments in a provident fund – reference in court order to right and interest in named pension fund – includes right and interest in pension and provident fund sections of Fund | Supreme Court of Appeal, South Africa<br>3 December 2019<br><a href="#">View Full Report</a>  |
| <b>Financial Services</b>  |   |   |
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| FirstRand Bank Limited t/a Wesbank v Davel (1229/2018) [2019] ZASCA 168; [2020] 1 All SA 303 (SCA) | National Credit Act 34 of 2005 – s131 – repossession of goods – attachment of motor vehicle – estimated value – sale as soon as practicable for best price reasonably obtainable – credit provider required to give notice to debtor of gross amount realised on sale – right of debtor to dispute amount of proceeds of sale – debtors extensive rights  | Supreme Court of Appeal, South Africa<br>29 November 2019<br><a href="#">View Full Report</a> |
| National Credit Regulator v Lewis Stores (Pty) Ltd and Another (937/18) [2019] ZASCA 190           | National Credit Act, 34 of 2005 (NCA) – interpretation – sections 100, 101(1)(a) and 102(1) – cost of credit – extended warranties in respect of goods sold not void by virtue of incomplete or inaccurate testimonial of agreement – charging subscriptions to Lewis Family Club not   | Supreme Court of Appeal, South Africa<br>13 December 2019<br><a href="#">View Full Report</a> |

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|  | cost of credit – nature of proceedings before National Consumer Tribunal – appeal to high court in terms of s 148(2)(b) of NCA – high court sitting as court of first instance – leave to appeal to SCA in terms of s 16(1)(a) of Superior Courts Act 10 of 2013 |  |
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### Intellectual Property

| LAW REPORT  | SUMMARY  | COURT   |
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| Ascendis Animal Health (Pty) Limited v Merck Sharpe Dohme Corporation and Others (CCT 212/18) [2019] ZACC 41; 2020 (1) SA 327 (CC) ; 2020 (1) BCLR 1 (CC) | Patents Act 57 of 1978 — section 61 — causes of action — <i>res judicata</i> — issue estoppel — bifurcated proceedings — amendment of pleas  | Constitutional Law, South Africa<br><br>24 October 2019<br><br><a href="#">View Full Report</a>       |
| Tellytrack v Marshalls World of Sport (Pty) Ltd and Others (971/2018) [2019] ZASCA 153  | Copyright – whether enabling the public to view horse racing events at bookmakers’ business locations constituted an infringement of the appellant’s rights in cinematograph film as provided for in s 8 of the Copyright Act 98 of 1978 – discussion of definition of cinematograph films and eligibility for copyright | Supreme Court of Appeal, South Africa<br><br>25 November 2019<br><br><a href="#">View Full Report</a> |

### Insurance Law

| LAW REPORT   | SUMMARY  | COURT   |
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| Magic Eye Trading 77 CC v Santam Limited (775/2018) [2019] ZASCA 188 | Whether a contingent right to claim an indemnity had prescribed – when prescription in respect of such claim starts to run – indemnity can only be against actual loss – a claim to be indemnified becomes due only when the | Supreme Court of Appeal, South Africa<br><br>10 December 2019 |

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|  | insured is under a legal liability to pay a fixed, determinate amount  | <a href="#">View Full Report</a>  |
| <b>Land Reform</b>   |  |   |
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| Shabangu v Land and Agricultural Development Bank of South Africa and Others (CCT215/18) [2019] ZACC 42; 2020 (1) SA 305 (CC) ; 2020 (1) BCLR 110 (CC) | Invalid loan agreement with organ of state — acknowledgment of debt — compromise or novation — compromise invalid if it perpetuates invalidity of loan agreement - Land and Agricultural Development Bank Act 15 of 2002   | Constitutional Court, South Africa<br><br>29 October 2019<br><br><a href="#">View Full Report</a>     |
| Makhuva-Mathebula Community v Regional Land Claims Commissioner, Limpopo and Another (1106/2018) [2019] ZASCA 157                                      | Claim for restitution of land rights – review of Regional Land Claims Commissioner’s decision to publish claim as described in claim form – applicant alleging claim depicted in map attached to claim form – no reviewable irregularity established - Restitution of Land Rights Act 22 of 1994 | Supreme Court of Appeal, South Africa<br><br>28 November 2019<br><br><a href="#">View Full Report</a> |
| <b>Minerals &amp; Energy</b>   |  |   |
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| Magnificent Mile Trading 30 (Pty) Limited v Charmaine Celliers NO and Others (CCT157/18) [2019] ZACC 36; 2020 (1) BCLR 41 (CC)                         | Mineral and Petroleum Resources Development Act 28 of 2002 (the “MPRDA”) – Transferability of right after death of holder – transferrable to the executor of the estate – heirs acquire a vested right to take over the right after the estate becomes distributable                             | Constitutional Court, South Africa<br><br>9 October 2019<br><br><a href="#">View Full Report</a>      |
| <b>Pension Funds</b>   |  |   |
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| <p>Masemola v Special Pensions Appeal Board and Another (CCT260/18) [2019] ZACC 39; 2019 (12) BCLR 1520 (CC)</p> | <p>Disqualification from receiving special pension — effect of presidential pardon — special pension restored - Special Pensions Act 69 of 1996</p>  | <p>Constitutional Court, South Africa<br/><br/>15 October 2019<br/><br/><a href="#">View Full Report</a></p>     |
| <p><b>Personal Injury</b></p>  |  |  |
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| <p>Jones v Road Accident Fund (1286/18) [2019] ZASCA 173</p>   | <p>Motor vehicle accident – claim for compensation against Road Accident Fund in terms of s 17(1)(a) of the Road Accident Fund Act 56 of 1996 – identification must establish the identity of the owner or driver of offending motor vehicle. Identification of a series of vehicles and their owners – requirements of s 17(1)(a) not met – claim falls under s 17(1)(b) of the Act read with regulation 2</p>  | <p>Supreme Court of Appeal, South Africa<br/><br/>2 December 2019<br/><br/><a href="#">View Full Report</a></p>  |
| <p>R K and Others v Minister of Basic Education and Others (754/2018; 1051/2018) [2019] ZASCA 192</p>            | <p>Constitutional damages – when to be awarded – where claimants fully compensated for loss sustained and public funds better served elsewhere – constitutional damages not awarded<br/>Practice – <i>amicus curiae</i> – test as to who should be admitted – application to be admitted as <i>amicus</i> dismissed<br/>Emotional shock – principles relevant to such a claim – grief associated with psychiatric lesion caused by emotional shock recoverable without necessity to develop the common law in line with the spirit of the Constitution</p> | <p>Supreme Court of Appeal, South Africa<br/><br/>18 December 2018<br/><br/><a href="#">View Full Report</a></p> |
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| Scholtz v NDPP (69/2018) [2019] ZASCA 136 (1 October 2019)   | Application for leave to appeal - application for condonation of the late filing of the application for leave to appeal – envisaged appeal has no reasonable prospects of success – condonation therefore not granted   | Supreme Court of Appeal, South Africa<br><br>1 October 2019<br><a href="#">View Full Report</a>   |
| Top Trailers (Pty) and Another v Kotze (1006/2018) [2019] ZASCA 141 (1 October 2019)   | Civil Procedure – default judgment obtained without prior notice to opposite party after the matter became opposed, may be rescinded in terms of rule 42(1)(a) of the Uniform Rules of Court as a judgment that was erroneously granted – applicant need not show bona fide defence | Supreme Court of Appeal, South Africa<br><br>1 October 2019<br><a href="#">View Full Report</a>   |
| NW Civil Contractors CC v Anton Ramaano Inc & Another (1024/2018, 1076/2018) [2019] ZASCA 143 (14 October 2019)  | Section 41(1) of the Attorneys Act 53 of 1979 – attorney not in possession of a valid fidelity fund certificate – whether proceedings are void ab initio  | Supreme Court of Appeal, South Africa<br><br>14 October 2019<br><a href="#">View Full Report</a>  |
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| Member of the Executive Council for the Department of Co-operative Governance and Traditional Affairs v Maphanga (652/2018) [2019] ZASCA 147; [2020] 1 All SA 52 (SCA) | Procedure – vexatious proceedings – requirements for an order prohibiting the institution of legal proceedings under s 2(1)(b) of the Vexatious Proceedings Act 3 of 1956 and s 173 of the Constitution – requirements for the grant of a final interdict restated                  | Supreme Court of Appeal, South Africa<br><br>18 November 2019<br><a href="#">View Full Report</a> |

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| <p>Witzenberg Municipality v Bridgman NO and Others<br/>(685/2018) [2019] ZASCA 186 (3 December 2019)</p> | <p>Application for reconsideration in terms of s 17(2)(f) of the Superior Courts Act 10 of 2013 of a refusal of petition decided in terms of s 17(2)(d) of that Act – whether petition correctly refused – whether reasonable prospects that another court could come to a different conclusion concerning the negligence of Municipality that operated a resort at which a resident was raped – whether Municipality ought to have guarded against the harm that eventuated – whether foreseeable. Appeal against quantum of award of damages – amount awarded greater than amount sought – whether amount awarded excessive</p> | <p>Supreme Court of Appeal,<br/>South Africa</p> <p>3 December 2019</p> <p><a href="#">View Full Report</a></p>  |
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