

**REPUBLIC OF SOUTH AFRICA
SUPREME COURT OF APPEAL
BULLETIN 2014**

CASES ENROLLED FOR HEARING

Jacob Gedleyihlekisa Zuma v DA & others (836/2013)

Appealed from GNP

Date to be heard: 15 August 2014

Mpati P, Navsa ADP, Brand, Ponnan , Tshiqi JJA

Execution of order made in application for review based on the rule of law – Appeal against decision of the North Gauteng High Court (Mathopo J) ordering the ANDPP to comply with an order of this court - Interpretation and execution of order of the Supreme Court of Appeal in *Democratic Alliance and Others v Acting NDPP & others* 2012 (3) SA 486 (SCA) – Whether order appealable and proper meaning to be attributed to it.

RAF v Wayne Coughlan N.O. (702/2013)

Appealed from WCC

Date to be heard: 15 August 2014

Lewis, Theron, Pillay, Mbha JJA , Mathopo AJA

Delict – loss of support – whether foster grants awarded to foster parents ought to be deducted from compensation received for loss of support arising from the death of mother of dependants – apparent conflict between judgments of the high court – the decision in this matter decided that foster grants were not to be deducted – based on decision in *Makhavela v Road Accident Fund* 2010 (1) SA 29 (GSJ) – the Eastern Cape High Court, in *RAF v Ntombezanele Florence Timis* Case No. 29/2009 (2010) [ZASCA] decided otherwise.

Sydney Jacob Seymour v Road Accident Fund & another (435/2013)

Appealed from WCC

Date to be heard: 15 August 2014

Maya, Bosielo, Wallis, Willis JJA, Fourie AJA

Practice and Procedure – Constitutionality of a certificate *probabilis causa* in terms of Regulation 2(5) of the Regulations promulgated in terms of the Road Accident Fund Act 56 of 1996 – high court held that certificate warranted despite the regulation in question being ‘constitutionally suspect.’

Joseph Mfula Mulula v The State (074/2014)

Appealed from GNP (Eastern Circuit)

Date to be heard: 18 August 2014

Brand, Bosielo, Zondi JJA, Fourie, Mathopo AJJA

Criminal – appeal against conviction on two counts of rape and related sentence of 15 years’ imprisonment – application to lead evidence on appeal.

Barko Financial Services (Pty) Ltd v National Credit Regulator & another (415/2013)

Appealed from GNP

Date to be heard: 18 August 2014

Ponnan, Shongwe, Wallis, Mbha JJA, Mocumie AJA

National Credit Act 34 of 2005 (the Act) – whether compliance notice valid – appeal to high court against decision of the National Consumer Tribunal setting aside a compliance notice issued. Appeal to high court dismissed.

Mosejie Vennon Motswai v RAF (766/2013)

Appealed from GSJ

Date to be heard: 18 August 2014

Cachalia, Majiedt, Swain JJA, Dambuza, Gorven AJJA

Fees and disbursements – Appeal against a high court order limiting the plaintiff's attorneys in the recovery of fees and disbursements from their client and from the RAF on the basis that they had acted dishonestly and fraudulently – plaintiff's legal representatives asserting that their constitutional rights were impaired in that they were not provided an opportunity in open court to present argument in relation to the criticisms recorded by Satchwell J.

Land Claims Commission & another v Pathmanathan Runganathan Naidoo (377/2013)

Appealed from LCC

Date to be heard: 19 August 2014

Mpati P, Cachalia, Willis, Zondi JJA, Gorven AJA

Land claim – appeal against a judgment of the LCC which set aside a memorandum of agreement entered into between appellant and Minister of Rural Development and Land Reform, the second appellant, on the basis of misrepresentation on the part of the Minister's officials – whether agreement rightly set aside – whether special pleas of prescription and non-disclosure of a course of action are sustainable.

Eye of Africa Developments (Pty) Ltd v Caroline Nicola Shear & others (809/2013)

Appealed from GSJ

Date to be heard: 19 August 2014

Navsa ADP, Tshiqi, Swain, Mbha JJA, Fourie AJA

Review – appeal against a decision reviewing and setting aside a decision of the Regional Head, Gauteng Region, Department of Water and Environmental Affairs to grant a water licence to the appellant and a ruling of the Water Tribunal that the first respondent had no locus standi to appeal the decision – whether the high court was correct in dealing with the merits of the application for the granting of a water licence in the absence of a decision in this regard by the Water Tribunal – whether the granting of the licence was rightly set aside.

The Minister of Defence & others v South African National Defence Union (514/2013)

Appealed from GNP

Date to be heard: 19 August 2014

Brand, Maya, Wallis, Saldulker JJA, Schoeman AJA

Administrative/Labour Law/Principle of legality – in relation to the South African National Defence Force – appeal against declaratory orders by the high court in relation to the procedure adopted by the Chief of the South African National Defence Force in the termination of service of a large number of soldiers – whether the procedure adopted was lawful – whether defence force entitled to rely on provisions of s 59(2)(e) of the Defence Act – impact of absence of regulations referred to in that subsection.

Francois Barnard & others v The Registrar of Medical Schemes (628/2013)

Appealed from GNP

Date to be heard: 20 August 2014

Mpati P, Lewis, Pillay JJA, Dambuza, Schoeman AJJA

Practice and procedure/Ex parte and in camera application/Legislation affecting medical aid schemes - This is an appeal by the North Gauteng high court placing a medical scheme under curatorship – whether the respondent, the Registrar of Medical Schemes was entitled to obtain an ex parte and in camera order – consideration of provisions of the Medical Schemes Act 131 of 1998 and Financial Institutions (Protection of Funds) Act 28 of 2001.

V J Woji v The Minister of Police (92/2012)

Appealed from ECC

Date to be heard: 20 August 2014

Maya, Tshiqi, Saldulker, Swain JJA, Gorven AJA

Delict/unlawful/malicious arrest and detention and malicious prosecution – Appeal against decision of the ECC dismissing claim for damages – common cause that appellant arrested and detained and that he was not guilty of the offences in respect of which he had been arrested – whether conclusion by high court that there was a reasonable suspicion for the arrest was correct – whether the view expressed by the high court that the plaintiff's arrest and detention on the basis of mistaken identity was merely a tragic accident, is justified.

T L Ravele v The State (20079/2014)

Appealed from LT

Date to be heard: 20 August 2014

Cachalia, Bosielo JJA, Mocumie AJA

Sentence – two counts of rape and one of kidnapping – life imprisonment – whether substantial and compelling circumstances justify lesser sentence.

Primilda Jacobs & another v Transnet Ltd t/a Metrorail & another (803/2013)

Appealed from WCC

Date to be heard: 21 August 2014

Navsa ADP, Majiedt, Saldulke, Swain, Zondi JJA

Delict/Negligence – Collision occurred at Croydon Crossing, Stellenbosch between a train and a truck, as a result of which second appellant was injured and nineteen persons were killed – the second appellant pleaded that collision occurred as a result of the specified negligence of the train driver and of the South African Rail Commuter Corporation Ltd – the respondents denied negligence and pleaded that the collision was caused by the sole specified negligence of the truck driver – WCC concluded that appellant had failed to establish negligence on the part of the train driver and on the part of the South African Rail Commuter Corporation Ltd – the appellant's claim for damages as a result of injuries sustained – whether negligence on the part of either of the respondents has been established.

Holm Jordaan & Partners CC v City of Tshwane Metropolitan Municipality (830/2013)

Appealed from GNP

Date to be heard: 21 August 2014

Lewis, Maya, Wallis, Willis JJA, Dambuza AJA

Contract/repudiation/damages – high court concluding that rules of an architectural competition for the design of new municipal headquarters won by the appellant did not oblige City of Tshwane from seeing the project through to conclusion and that it was entitled only to remuneration for work done and not to damages – standard terms of agreement between respondent and architects considered – whether high court correct in its conclusion.

Lepogo Construction (Pty) Ltd v The Govan Mbeki Municipality (A623/2013)

Appealed from GNP

Date to be heard: 21 August 2014

Ponnan, Shongwe, Pillay JJA, Fourie, Mathopo AJJA

Tender/contract – whether contract came into existence by virtue of the award of tender – appellant claiming that the withdrawal of the tender award constituted repudiation which it elected to accept, entitling it to claim damages – Govan Mbeki Municipality contended that the process leading up to the appointment of the plaintiff was irregular and unlawful and that, in the event that it was held that a contract came into being, it was unenforceable – reliance placed on s 217 of the Constitution and the provisions of the Local Government: Municipal Finance Management Act and its regulations – high court dismissed the plaintiff's claim – contended that the municipality is estopped from relying on irregularities in the tender process and that the appellant was, in terms of the *Turquand* Rule, entitled to assume that all internal formalities preceding the award of the tender to it had been duly

complied with - high court, in dismissing plaintiff's claim, held that tender was irregularly awarded – whether high court was correct.

Liesl-Lenore Thomas v The Minister of Defence and Military Veterans (506/2013)

Appealed from WCC

Date to be heard: 22 August 2014

Mpati P, Lewis, Cachalia, Mbha JJA, Gorven AJA

Employment/Labour – Appeal against a decision of the WCC upholding a special plea that the appellant was precluded by s 35(1) of the Compensation For Occupational Injuries and Diseases Act 130 of 1993 from claiming damages sustained by her as a result of slipping and falling on stairs that were dirty, wet or slippery on premises which were owned or under the control of the respondent, the Minister of Defence and Military Veterans – whether high court correct in its conclusion.

Bengwenyama-Ya-Maswazi Community & others v Minister for Mineral Resources & others (783/2013);

Appealed from GNP

Date to be heard: 22 August 2014

Navsa ADP, Brand, Shongwe, Majiedt JJA, Schoeman AJA

Mineral rights – matter relates to the case immediately hereafter – concerns competing applications for prospecting rights – the high court reviewed and set aside a decision not to award the appellants the exclusive prospecting rights in respect of certain land – it also reviewed and set aside a decision to award prospecting rights to the respondents in a joint venture – the high court did not substitute the decision with a decision to grant the appellants' investment arm the sole and exclusive prospective rights – against which the appellants appeal – respondents cross-appeal the decision to review and set aside the prospecting rights awarded to them.

Bengwenyama-Ya-Maswazi Community & others v Genorah Resources (Pty) Ltd & others (784/2013)

Appealed from GNP

Date to be heard: 22 August 2014

Navsa ADP, Brand, Shongwe, Majiedt JJA, Schoeman AJA

Mineral rights- grant of – GNP dismissed an application for an order directing Minister of Mineral Resources to issue a full and exclusive prospecting right in respect of identified land – also dismissed counter application by the fourth respondent to set aside such prospecting rights as were granted to the Bengwenyama-Ya-Maswazi's investment vehicle – both the appellants and respondents appeal the decision of the high court – the appellants appeal the judgment only to the extent of the high court's refusal to grant an order of substitution and direct the Minister to issue a preferent prospecting right of the land to the third appellant - whether conclusions by high court correct – involves a consideration of s 104 of the Mineral and Petroleum Resources Act 28 of 2002 – questions of the authority of the second appellant, the Tribal Council, and just administrative action arise.

Medi-Clinic Limited v G Vermeulen (504/2013)

Appealed from GNP

Date to be heard: 22 August 2014

Ponnan, Wallis, Pillay, Zondi JJA, Dambuza AJA

Medical Negligence – appeal against a decision of the high court which held appellant liable for respondent's proven damages as a result of injuries sustained due to the negligence of the appellant and its medical staff – appellant, upon his return, in May 2007, from Mozambique was diagnosed with Malaria and admitted to the appellant's hospital in Nelspruit – while undergoing treatment he developed sacral and heel pressure sores which

became septic – alleged by the respondent that the pressure sores and the resultant complications were due to the negligence of the appellant’s staff in treating him.

The Minister of Police v Vongani Sharon Mboweni & another (657/2013)

Appealed from GNP

Date to be heard: 25 August 2014

Mpati P, Bosielo, Wallis, Mbha JJA, Schoeman AJA

Constitutional Damages – high court held that respondents acting in representative capacities as mothers and guardians of two minor children were respectively entitled to claim constitutional damages for the minor children represented by them as a result of their father being unlawfully killed by employees of the appellant acting in the course and scope of their employment – constitutional damages claimed over and above claim for loss of support which was conceded and paid in full – whether high court correct in holding that respondents entitled to constitutional damages.

Minister of Safety and Security v Vuyolwethu Tyokwana (827/2013)

Appealed from ECC

Date to be heard: 25 August 2014

Brand, Tshiqi, Saldulker JJA, Fourie, Mathopo AJJA

Delict – Claim for damages for unlawful assault, arrest, detention and malicious prosecution – high court held the appellant, the Minister of Safety and Security, liable to pay respondent’s damages in relation to all the acts referred to above – whether high court on the conspectus of all the evidence correct in its conclusions – whether the Minister liable for the entire period of respondent’s detention having regard to judicial intervention.

Grant Logan Wishart & others v Justice P Blieden N.O. (659/2013)

Appealed from KZN

Date to be heard: 25 August 2014

Lewis, Maya, Willis, Swain JJA, Mocumie AJA

Companies Act enquiry/alleged conflict of interest on the part of legal practitioners/scheduled to examine appellants at an enquiry under s 417 of the Companies Act 61 of 1973 – application in high court seeking to review and set aside a decision for legal representatives in respect of whom a conflict of interest was claimed to represent BHP Billiton Coal South Africa Limited in the enquiry – contended that this court should develop the common law in terms of s 173 of the Constitution to extend protection to former clients of legal practitioners, without proof that such legal practitioners are in possession of a client’s confidential information, for interdictory relief, where such legal practitioners choose to act against their former client, the court having inherent jurisdiction to supervise and control the conduct of legal practitioners.

Robert Bhelukwenza Hlela & others v SA Taxi Securitisation (Pty) Ltd (515/2013)

Appealed from KZD

Date to be heard: 26 August 2014

Navsa ADP, Shongwe, Majiedt, Swain JJA, Dambuza AJA

Contract – freedom to select insurance broker of one’s choice – first, second and third appellants applied for a declaratory order that they were entitled to waive or cancel any ‘insurance brokerage mandate’ held by any of the first, second or fourth respondents – first to third appellants concluded lease agreements with the first respondent – a credit grantor – in terms whereof they were obliged to insure the vehicles with a registered insurer acceptable to the first respondent – the appellants required to sign an insurance proposal from the third respondent which reflected the second respondent as the insurance broker – appellants each required to sign a document headed ‘Acknowledgement of Freedom of Choice and Cession of Rights’- appellants applied to high court seeking a declaratory order designed to give effect to their right to select an insurance broker of their choice – court issued such an order – the respondents appealed to the full court which overturned the

decision – whether appellants were entitled to the declaratory review sought in the high court.

Ecclesia de Lange v The Presiding Bishop of the Methodist Church of Southern Africa for the Time Being (726/2013)

Appealed from WCC

Date to be heard: 26 August 2014

Ponnan, Wallis, Pillay JJA, Fourie, Mathopo AJJA

Arbitration/Constitution – the appellant applied to the high court to have an arbitration agreement between her and the Methodist Church, represented by the two respondents, set aside as well as a decision to discontinue her as a Minister – appellant had been charged by the church for proceeding with a same-sex civil union against the laws and policies of the church – the finding by the disciplinary committee was that she was guilty of failing to observe the rules and policies of the church and it was recommended that she be suspended – an internal appeal was unsuccessful and it was decided that she be discontinued from the Methodist Ministry – the appellant then put an arbitration into process, in terms of the church's disciplinary procedure – before the arbitration process commenced she applied to the high court as stated above – the high court concluded that the application was premature and held that she should first submit to arbitration – this appeal is against those conclusions – contractual and constitutional issues arise.

Newcity Group (Pty) Ltd v Allan David Pellow NO & others (577/2013)

Appealed from GSJ

Date to be heard: 26 August 2014

Maya, Cachalia, Willis, Zondi JJA, Gorven AJA

Companies Act 71 of 2008 – high court dismissing an application for a company to be placed under supervision and for business rescue proceedings to be commenced on basis that none of the objectives of business rescue were present – contended on appeal that a reasonable prospect for rescuing the company was demonstrated.

Renier Heine v Daniel Jacobus Elardus Erasmus (594/2013)

Appealed from GNP

Date to be heard: 27 August 2014

Brand, Cachalia, Tshiqi, Majiedt, Mbha JJA

Delictual claim for damages based on appellant having alienated wife's affection from respondent – high court granting damages to respondent on the basis that it was satisfied that he proved that the appellant with the required intent was responsible for leading astray his former wife – constitutional questions arise including questions concerning gender rights – also whether facts justified finding.

Nondumiso Sindisiwe Sibisi NO v Dr D P Maitin (311/2013)

Appealed from KZD

Date to be heard: 27 August 2014

Lewis, Ponnan, Pillay JJA, Dambuza, Mathopo AJJA

Delict – claim for damages by a mother in a personal capacity and in her capacity as the mother of a child delivered at St. Augustine's Hospital by the respondent, an experienced obstetrician and gynaecologist – delivery complicated by shoulder dystocia. Child suffered permanent brachial plexus injury resulting in Erb's palsy, a paralysis of the shoulder and arm – court dismissed claim on the basis that it had not been established that the injury suffered by child was due to negligence on the part of the respondent – high court also dealt with the question of 'informed consent' – on appeal contended that the respondent was under a duty to disclose the risk of shoulder dystocia, and injuries that may arise therefrom – whether appellant ought to have been advised of the option to deliver by caesarean section – whether respondent was negligent in the care and management of the appellant and the minor child – whether common law should be developed.

Jazz Spirit 12 (Pty) Ltd & others v The Regional Land Claims Commissioner, Western Cape & others (704/2013)

Appealed from LCC

Date to be heard: 27 August 2014

Bosielo, Saldulker, Swain JJA, Mocumie, Gorven AJJA

Land Claim/Costs only – appellants successfully resisted a claim in the Land Claims Court for the restoration of property in terms of s 35(1)(a) of the Restitution of Land Rights Act 22 of 1994 – appellants complain that court failed to make an order as to costs on the scale as between attorney and client – court gave leave to appeal to this court on that limited aspect.

Anne Elizabeth Mary Pratt v Firstrand Bank Ltd (696/2013)

Appealed from GNP

Date to be heard: 28 August 2014

Mpati P, Maya, Shongwe, Zondi JJA, Schoeman AJA

Practice and procedure/res judicata – respondent claimed payment of a debt from the appellant in a counter-claim in the high court – appellant raised certain issues in its plea as defences to the respondent's claim – Firstrand Bank Ltd contended that the issues raised were finally determined by this court when it dealt in a prior appeal with the appellant's claim and raised the doctrine of res judicata – that issue was determined at the outset in terms of Rule 33(4) – the high court found that the issues between the parties had been determined and held in favour of the respondent.

Mark Richard Shuttleworth v Minister of Finance & another (864/2013)

Appealed from GNP

Date to be heard: 28 August 2014

Navsa ADP, Ponnann, Majiedt JJA, Fourie, Mocumie AJJA

Exchange control – appeal and cross-appeal against orders of the high court in terms of which provisions of the Currency and Exchanges Act 9 of 1933 and Exchange Control Regulations were struck down as being unconstitutional – appellant, an information technology entrepreneur, emigrated and the South African Reserve Bank imposed a ten per cent levy on his South African Assets under the Exchange Control Regulations as a condition for permission to transfer his assets out of the country – levy paid under protest - he approached the high court and sought to review and set aside the Reserve Bank's decision to impose the levy – also sought orders of constitutional invalidity in respect of various instruments underpinning the Exchange Control system – the high court granted him some of the relief sought but dismissed other prayers – leave to appeal against his dismissed claims granted and Minister of Finance and Reserve Bank were granted leave to appeal order granted in his favour – whether levy was unconstitutional and beyond the power of the fiscus.

Pharma Dynamics (Pty) Ltd v Bayer Pharma AG (formerly Bayer Schering Pharma AG) & another (468/2013)

Appealed from Patents Court

Date to be heard: 28 August 2014

Brand, Cachalia, Wallis, Mbha JJA, Mathopo AJA

Patents – action in the court of the Commissioner of Patents by respondents concerning infringement of patent of which respondents were proprietor and licensee – counter-claim by appellant for an order revoking the patent on the basis of lack of novelty and a lack of an inventive step – appellants were successful and were granted an interdict and an enquiry into damages were order – the appellant's counter-claim was dismissed – whether patent is invalid on the basis that patent does not involve an inventive step – whether the claim includes the appellant's product – product in question is a form of contraception for women.

MEC for the Department of Health, Free State Province v Dr Elizabeth Johanna de Necker (924/2013)

Appealed from FB

Date to be heard: 29 August 2014

Navsa ADP, Brand, Pillay, Mbha JJA, Schoeman AJA

Delict/Claim for damages by the respondent, a female medical doctor employed at the Pelenomi Hospital under control of the appellant flowing from a rape perpetrated on her at the hospital whilst she was on duty – adjudication of special plea, the basis of which was that, at the relevant time, the Compensation for Occupational Injuries and Diseases Act 130 of 1993 (COIDA) was of full force and effect and that it precluded the respondent's claim for damages – high court called upon to adjudicate the special claim – held that the rape incident was not an accident as contemplated by the statute referred to above – special plea was dismissed – the MEC appeals against the high court's conclusions – appellant contends that the rape amounts to an accident within the meaning of s 1 of COIDA and that it occurred in the course of the respondent's employment – whether those submissions are sustainable.

The Head: Health, Department of Health, Provincial Administration: Western Cape v Charles Oppelt (238/2013)

Appealed from WCC

Date to be heard: 29 August 2014

Lewis, Bosielo, Tshiqi, Willis and Swain JJA

Delict – claim in high court by respondent for damages sustained as a result of permanent injury sustained due to the negligence of, amongst others, the appellant, the Department of Health: Western Cape - claim against the Department of Health for failure to timeously transfer the respondent who had suffered a spinal cord injury in a rugby match to a specialised spinal cord injury unit at one of its hospitals – respondent's case encompassed the tardiness with which he was treated and the accumulation of delays until he was finally transferred to the Conradie Hospital Spinal Unit in Pinelands – high court held that the Health Department was negligent and found in favour of the respondent – whether Health Department negligent.

Alec Peter Wright v William Robert Wright & another (494/2013)

Appealed from GSJ

Date to be heard: 29 August 2014

Maya, Shongwe, Majiedt, Saldulker JJA, Gorven AJA

Practice and procedure – appeal against a refusal by the high court of an application for the referral of an application to trial or back to a referee for reconsideration – whether referee's findings ought to have been adopted – bases for challenging a referee's report.

The Minister of Justice & Constitutional Development v X (196/2013)

Appealed from WCC

Date to be heard: 1 September 2014

Lewis, Tshiqi, Wallis, Zondi JJA, Fourie AJA

Delict/Claim for damages – rape of minor – whether Minister liable for alleged negligence on the part of State Prosecutor – perpetrator released on bail – whether mother's claim for damages sustainable on the evidence – high court holding the Minister of Safety and Security and the appellant liable for such damages as may be proved to have been sustained by the respondent and minor child.

Jacobs & Smilowski CC v The City of Tshwane Metropolitan Municipality(754/2014)

Appealed from GNP

Date to be heard: 1 September 2014

Ponnan, Theron, Pillay JJA, Dambuza, Mocumie AJJA

Municipal Powers – application by the appellant, a Close Corporation, for an order for restoring its water and electricity supply – dispute between the parties about the rates

payable by the CC – in midst of dispute as to amount due municipality disrupted its water and electricity supply – high court considering applicable legislation and the decision of this court in *Rademan v Moqhaka Municipality and others 2012 (2) SA 387 (SCA)* – held that since the appellant was in arrears with its rates, the municipality was entitled to disrupt the water and electricity supply without having to obtain a court order – whether high court findings justified.

First National Bank Ltd v CC Goodman NO (390/2013)

Appealed from KZD

Date to be heard: 1 September 2014

Cachalia, Willis, Saldulker JJA, Mathopo, Gorven AJJA

Misappropriation of moneys in client's bank account by employee of bank – vicarious liability – wife appointed curator bonis to her disabled husband sued the appellant bank in the high court for misappropriation – high court holding bank liable to pay the respondent in her representative capacity R2,5 million – bank on appeal contesting that it is liable for the acts of its employee as his authority was circumscribed and that there wasn't a sufficiently close link between his act and its business – contending that the respondent was aware of its employee's lack of authority – whether bank vicariously liable.

Thabo Phillip Molefe v South African Broadcasting Corporation & another (444/2013)

Appealed from GNP

Date to be heard: 2 September 2014

Navsa ADP, Theron, Wallis, Mbha JJA, Mathopo AJA

Labour relations/Constitutional Law/Jurisdiction – application in the high court to interdict disciplinary enquiry from proceeding and other relief – high court holding that even it had concurrent jurisdiction with the labour court, appellant had not established a basis for the relief sought – that appellant had not established the unlawfulness in the institution of the disciplinary enquiry nor that there had been a breach of his contract of employment – related pending application before high court for an order of contempt on the part of the first respondent – appellant contending that constitutional issues arise – whether suspension from the workplace is concomitant with the right to human dignity – appellant contending further that the first respondent's obligation to broadcast in the public interest is implicated.

Mohamed Iqbal Parker & others v Cape Empowerment Trust Limited (703/2013)

Appealed from WCC

Date to be heard: 2 September 2014

Ponnan, Bosielo, Shongwe, Pillay JJA, Mocumie AJA

Companies Act/Alleged delinquency on part of directors of fifth appellant – application for declarator to that effect – high court declaring first, second and third appellants delinquent – sixth, seventh and eight appellants placed under probation in relationship to the directorship of each – whether order justified.

Illovo Opportunities Partnership #61 v Illovo Junction Properties (Pty) Ltd & another (490/2013)

Appealed from GSJ

Date to be heard: 2 September 2014

Maya, Cachalia, Zondi JJA, Schoeman, Dambuza AJJA

Contract of Sale of Property/Liability to Municipality to pay engineering services contribution – sale subject to approval by the municipality for rezoning – purchaser liable to pay rates, taxes and other levies against the property from the date of registration of transfer – dispute concerning payment of an engineering services contribution – appellant contends that seller, the first respondent, is liable to pay because the municipality imposed contribution whilst it was still the owner of the property – application to high court by the purchaser for declaratory relief that the first respondent should pay the contributions dismissed with costs

– high court doubting that applicant had a sufficient interest to entitle it to a declaratory order and held that in any event the declaratory order would not be binding on the parties.

Christoffel Wessel Jacobus van Deventer v Ivory Sun Trading 77 (Edms) Bpk (595/2013)

Appealed from GNP

Date to be heard: 3 September 2014

Mpati P, Majiedt, Pillay JJA, Schoeman and Fourie AJJA

Testamentary provision/agreement of sale of immovable property - in terms of a joint will of parents, farm was bequeathed to one of two surviving sons – interpretation of provision of will and determination of consequences.

Dominc Ettore Barbieri v Michelle Gayle Barbieri (700/2013)

Appealed from KZD

Date to be heard: 3 September 2014

Lewis, Tshiqi, Theron JJA, Mocumie, Gorven AJJA

Divorce/Calculation of Accrual – nature of onus in an accrual claim – whether assets excluded by virtue of the terms of an ante-nuptial contract – nature and quality of evidence led – consequences of failure to testify.

Coenrad Johan Lamprecht v Klipeland (Pty) Ltd (753/2013)

Appealed from GNP

Date to be heard: 3 September 2014

Cachalia, Bosielo, Shongwe, Swain J JA, Dambuza AJA

Winding up/Discharge of provisional order – high court discharging provisional winding up order – whether finding that appellant lacked locus standi was correct in face of a concession to that effect and in terms of which a provisional winding up order was granted – whether liquidity of claim was proper basis on which provisional order discharged.

The President of the Republic of South Africa & others v M & G Media Ltd (998/2013)

Appealed from GNP

Date to be heard: 4 September 2014

Navsa ADP, Brand, Ponnann, Mbha JJA, Mathopo AJA

Constitution/Promotion of Access to Information Act 2 of 2000 (PAIA) – appeal against order of the high court after a referral back by the Constitutional Court – application for access to the report prepared by two judges on legal and constitutional issues related to the 2002 Zimbabwe presidential election – high court set aside the refusal by the three appellants for access to the report and ordered them to make it available to the respondent – present appeal is against that decision – assessment of the merits of the refusal – consideration of provisions of PAIA against constitutional values and norms.

The Industrial Development Corporation of South Africa Limited v Trencon Construction (Pty) Ltd & another (642/2013)

Appealed from GNP

Date to be heard: 4 September 2014

Lewis, Maya, Tshiqi JJA, Schoeman, Fourie AJJA

Review of award of tender – high court reviewing and setting aside decision of the appellant to declare the tender submission of the first respondent non-responsive and to award the tender to the second respondent – high court substituting that decision with an award of the tender to the first respondent – whether high court correct in conclusion that second respondent's tender should have been disqualified for being late – whether substituting first respondent as successful tenderer correct.

Ramatshimbila Tshiaeneo Sybil v Dr Nkhelebeni Phaswana (199/2013)

Appealed from LT

Date to be heard: 4 September 2014

Cachalia, Willis, Saldulker, Zondi JJA, Gorven AJA

Practice and procedure – appeal against the upholding of an exception with leave granted to the plaintiff to amend, if she so wished – whether appealable – consideration of exception.

Zhongji Development Construction Engineering Company Limited v Kamoto Copper Company SARL (421/2013)

Appealed from GSJ

Date to be heard: 5 September 2014

Mpati P, Willis, Mbha JJA, Mathopo, Gorven AJJA

Jurisdiction/Perigrini – litigation in court below between two companies who are peregrini – appellant applying for declaratory orders in high court aimed at facilitating the prosecution by it of claims alleged to have arisen out of contract by means of arbitration proceedings – both parties peregrini – respondent raising lack of jurisdiction – high court ruling in its favour stating that the disputes fall to be addressed by an arbitrator and are not matters, absent an attachment, in respect of which the court had any jurisdiction – held further that no basis on which it could be said that any of the disputes were arbitrable at the time – application dismissed by high court – whether court has jurisdiction – whether arbitration agreement can be invoked.

Citizen 1978 (Pty) Ltd & another v Lazarus Mawela (780/2013)

Appealed from GNP

Date to be heard: 5 September 2014

Navsa ADP, Majiedt, Swain, Zondi JJA, Dambuza AJA

Practice and procedure – whether circumstances justify a court dismissing an action for want of prosecution of a claim for damages flowing from defamatory publication – application by newspaper for an order dismissing respondent’s action instituted almost a decade before – publication in newspaper almost thirteen years before application was heard – high court held that applicants not blameless either and dismissed the application – whether rightly dismissed.

Air Traffic and Navigation Services Company Ltd v Christiaan David Esterhuizen (668/2013)

Appealed from GNP

Date to be heard: 5 September 2014

Lewis, Tshiqi, Theron, Wallis JJA, Fourie AJA

Contract of employment/Interpretation of – whether high court correct in dismissing a claim for moneys it alleged were due by an employee to an employer for resigning early – employment contract designed to incentivise continued employment – premium paid for air traffic controller services.

State v Bongani Sehoole (730/2013)

Appealed from GSJ

Date to be heard: 8 September 2014

Navsa ADP, Pillay, Mbha JJA, Schoeman, Dambuza AJJA

Firearms Control Act 60 of 2000 – accused convicted of possession of an unlicensed firearm under 3(1) of Act – serial number removed from firearm – whether accused should instead have been charged under s 4(1)(f)(i) of the Act – whether State proved possession of ammunition.

Benjamin Charles Joseph Vesagie NO & others v Paul Erwee NO & another (734/2013)

Appealed from GNP

Date to be heard: 8 September 2014

Brand, Bosielo, Shongwe, Majiedt JJA, Gorven AJA

Interpretation of Contract/Sale of shares – whether deed of sale qualifies as a credit agreement – held by high court that agreement does not fall within the parameters of s 8(4)(f) of the National Credit Act 34 of 2005 – appellants ordered to pay respondents

R14 250 000,00 plus interest – whether high court correct that deed of sale does not qualify as a credit agreement.

Legal Aid South Africa v Mzoxolo Magidiwana & others (1055/13)

Appealed from GNP

Date to be heard: 8 September 2014

Ponnan, Maya, Swain, Zondi JJA, Fourie AJA

Legal Aid – right to publicly funded legal representation before commission of enquiry – obligations of Legal Aid SA under Legal Aid Act 22 of 1969 and Public Finance Management Act 1 of 1999 – right to administrative justice under s 34(1) of Constitution – right to equality under ss 9(1) and (3) of Constitution.

The Minister of Safety and Security & others v Jeremia Janse van der Walt & another (1037/2013)

Appealed from GSJ

Date to be heard: 9 September 2014

Mpati P, Tshiqi, Theron, Swain JJA, Mocumie AJA

Delict/Claim for damages for malicious prosecution and unlawful arrest and detention – claim encompassed period of detention subsequent to appearance before a magistrate – high court taking into account judicial immunity – finding that it was forfeited when conduct was malicious or in bad faith – held that magistrate interfered ‘maliciously’ and ‘intentionally’ in erroneous formulation of a charge of armed robbery – held that appellants liable for respondent’s unlawful detention – whether second appellant liable for order of magistrate – consideration of quantum.

Aifheli Enock Kwindi v State (076/2014)

Appealed from LT

Date to be heard: 9 September 2014

Brand, Mbha JJA, Mathopo AJA

Criminal Law and sentence – rape two counts – victims the accused’s daughters – whether evidence sufficient to support conviction – whether capacity of one witness to give evidence established – sentence – life imprisonment – accused not warned of provisions of Act 105 of 1997 - effect

Joshua Nmutandani v State (944/2013)

Appealed from LT

Date to be heard: 9 September 2014

Brand, Mbha JA, Mathopo AJA

Sentence – murder and robbery with aggravating circumstances – 20 years and 18 years to run consecutively – whether excessive and inducing a sense of shock.

Gilbert Ramaite Gidimisani v State (958/2013)

Appealed from LT

Date to be heard: 9 September 2014

Cachalia, Willis JJA, Schoeman AJA

Criminal law – rape – 11 year old relative of accused – accused electing to conduct defence himself – fairness of hearing without legal representation – sentence – life imprisonment – whether any misdirection or inducing sense of shock.

Ntshivhodza Ndivhuwo Calvin v State (962/2013)

Appealed from LT

Date to be heard: 9 September 2014

Cachalia, Willis JJA, Schoeman AJA

Sentence – rape – victim 8 years old – life imprisonment – youthfulness – whether substantial and compelling circumstance justify lesser sentence.

Mmabangiseni Victor Makumbane & others v State (046/2013)

Appealed from LT

Date to be heard: 10 September 2014

Navsa ADP, Wallis, Willis JJA

Criminal appeal – Application for leave to appeal against convictions of murder, assault GBH and kidnapping (only second and third applicants) and sentences of life imprisonment referred to oral argument in terms of section 21 (3)(c)(ii) of the Supreme Court Act.

Chumlong Lemthongthai v State (849/2013)

Appealed from LT

Date to be heard: 10 September 2014

Navsa ADP, Wallis, Willis JJA

Sentence – guilty plea on 26 counts of contravening s 80(1)(i) of the Customs & Excise Act 10 of 2004 and 26 counts of contravening s 57(1) of the National Environment Management: Biodiversity Act 10 of 2004 – all offences arising out of internationally prohibited trade in rhino horns – cumulative effect a sentence of 30 years imprisonment – whether any misdirection on sentence – whether sentence inducing a sense of shock.

Brendan Solly Ndlovu v State

204/2014

Appealed from GNP

Date to be heard: 10 September 2014

Maya, Bosielo, Theron JJA

Criminal appeal – Appeal against sentence – Appellant convicted by Regional Court of rape and sentenced to life imprisonment. Appeal against conviction and sentence to the High Court dismissed. Further appeal to this court only in respect of sentence – whether Appellant properly informed of the minimum sentence regime.

Siyabonga Jantjies v State (871/2013)

Appealed from ECG

Date to be heard: 10 September 2014

Shongwe, Majiedt, Mbha JJA

Criminal law – murder – whether State proved that accused stabbed his girlfriend to death – whether rejection of version that stab wounds self-inflicted justified.

Madala Goodwill Shubane & another v State (073/2014)

Appealed from Southern Transvaal Regional Division

Date to be heard: 10 September 2014

Shongwe, Majiedt, Mbha JJA

Sentence – conviction of robbery with aggravating circumstances – sentence on robbery 17 years imprisonment – whether any misdirection – whether sentence excessive and inducing a sense of shock.

Gary Patrick Porritt & another v The NDPP & others (978/2013)

Appealed from GSJ

Date to be heard: 11 September 2014

Mpati P, Brand, Tshiqi, Saldulker JJA, Fourie AJA

Criminal Law and Procedure – appellants pleaded under s 106(1)(h) of the Criminal Procedure Act 51 of 1977 (CPA) that prosecutors in their case had no title to prosecute – plea upheld – court ordering that trial may proceed with different prosecutors should the Prosecuting Authority decide to continue prosecution – contended that appellants entitled to an acquittal – cross-appeal by State in terms of s 319 of CPA – application in court below for reservation of certain questions of law:

1. What is the test to be applied either in terms of s 106(1)(h) of the CPA or the common law;

2. Was the test correctly applied by the trial court.

David Kekana v State (629/2013)

Appealed from Witwatersrand Regional Division

Date to be heard: 11 September 2014

Lewis JA, Mathopo, Gorven AJJA

Sentence – whether facts in plea statement justified inference that murder planned or premeditated in terms of Part I of Schedule 2 to the Criminal Law Amendment Act 105 of 1977 – whether sentence of life imprisonment applicable – appropriate sentence.

Ebrahiem Tofie v State (104/2014)

Appealed from WCC

Date to be heard: 11 September 2014

Lewis JA, Fourie, Mathopo AJJA

Criminal law – rape – whether State proved that intercourse was not consensual – whether a single act of penetration or two acts, one vaginal and one anal – if two acts should conviction be of rape or two counts of rapes – sentence – appeal court increasing sentence to life imprisonment – whether permissible for it to do so – whether substantial and compelling circumstances present.

Takalani David Maliga v State (543/2013)

Appealed from LT

Date to be heard: 11 September 2014

Bosielo, Pillay JJA, Schoeman AJA

Criminal appeal – Appeal against conviction of murder and sentence of 48 years imprisonment.

Mothibedi Paul Dire v State (650/2013)

Appealed from GNP

Date to be heard: 11 September 2014

Bosielo, Pillay JJA, Schoeman AJA

Criminal appeal – Appeal against refusal to grant leave to appeal in respect of conviction.

Alberto Abram de Sousa v State (769/2013)

Appealed from FS

Date to be heard: 12 September 2014

Mpati P, Bosielo, Willis JJA

Criminal appeal – indecent assault – child witness aged 12 – whether trial court exercised sufficient caution in approach to child's evidence – whether evidence sufficient to sustain convictions.

Zwelakhe Abednigo Luthuli v State (1049/2013)

Appealed from KZP

Date to be heard: 12 September 2014

Mpati P, Bosielo, Willis JJA

Criminal appeal – The appellant was convicted of rape and sentenced to 10 years' imprisonment. The KZN High Court dismissed his appeal but granted leave to appeal and to apply to this court for an order that the matter be remitted to the trial court for the hearing of further evidence.

Petrus Rammuda v State (156/2014)

Appealed from LT

Date to be heard: 12 September 2014

Ponnan, Saldulker JA, Dambuza AJA

Criminal appeal – Appeal against both conviction of rape and sentence of life imprisonment.

Martin Grobler v State (433/2013)

Appealed from WCC

Date to be heard: 12 September 2014

Ponnan, Saldulker JA, Dambuza AJA

Criminal appeal – Appeal against sentence – Appellant was convicted in the Regional Court of 11 counts of fraud and sentenced to 3 years correctional supervision. On appeal to the High Court against conviction and sentence the Appellant's sentence was increased to 5 years' direct imprisonment. The further appeal is in respect of that sentence.

Ethresia Margaretha Piater v State (743/2013)

Appealed from GNP

Date to be heard: 12 September 2014

Shongwe, Theron, Zondi JJA

Criminal appeal – sentence – Appellant convicted on a plea of guilty of 22 counts of fraud, 1 count of theft and 7 counts of forgery and uttering and sentenced by the Regional Court to 7 years' imprisonment. On appeal the High Court reduced the Appellant's sentence to 4 years' imprisonment. The further appeal to this Court is only against sentence.

Khangale Marshall Nndanduleni & another v State (84/2014)

Appealed from LT

Date to be heard: 12 September 2014

Shongwe, Theron, Zondi JJA

Criminal appeal – appeal against convictions and sentences on charges of murder, attempted murder (2 counts) and robbery with aggravating circumstances (2 counts).

Monica Gezina Cowin N.O. & others v Kyalami Estate Homeowners Association & others (499/2013)

Appealed from GSJ

Date to be heard: 15 September 2014

Maya, Theron, Saldulker JJA, Mocumie, Gorven AJJA

Property/Title condition – restrictive title condition in favour of Home Owners Association – whether a title condition is applicable only inter partes or whether liquidators of an estate bound thereby – whether constitutional property clause implicated.

Willow Waters Homeowners Association (Pty) Ltd & others v Jerry Sekete Koka & others (768/2013)

Appealed from GNP

Date to be heard: 15 September 2014

Maya, Theron, Saldulker JJA, Mocumie, Gorven AJJA

Ownership - Whether condition in a title deed constitutes a personal right rather than a real right –whether embargo against transfer binds the Master and Trustees of the owners in sequestration.

Investgold CC v Dirk Uys & another (686/2013)

Appealed from GSJ

Date to be heard: 16 September 2014

Bosielo, Tshiqi, Saldulker JJA, Mocumie, Gorven AJJA

Transfer of ownership - Action for delivery of gold coins purchased by the respondent from the appellant – whether coins physically delivered – whether ownership was passed – risk of loss.