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Issue 02 of 2026

Weekly Lexinfo NANO Attorney Alert

NANO ATTORNEY ALERT



 **Lexinfo**
Library & Legal Information Consultants

Compiled by the Lexinfo Team

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This newsletter is based on the following subjects:

- Administrative and Constitutional Law
- Civil Procedure
- Contract
- Corporate Law
- Delict
- Estates
- Land and Property Law
- Persons and Family Law

UPCOMING EVENTS:

23 Feb 2026

How to Handle Guide: Section 73A Disputes (Claims for Failure to Pay Amounts Owed) | | Instructor Carl Ranger | CEO Academy | Online | View [Here](#).

23 – 25 Feb, 2 – 4 Mar 2026

Business and Human Rights | Presented by Dr Orly Stern | UCT Law@work | Online | View [Here](#).

2 – 6 Mar 2026

Twin Peaks Regulation and the Conduct of Financial Institutions Bill: An Overview | UCT Law@work | Online Course | View [Here](#).

9 – 11 Mar 2026

Trusts: An Introduction to the Legal and Practical Aspects | UCT Law@work | Online | View [Here](#).

24 – 25 Mar 2026

Pension Lawyers Association – Annual Conference | Johannesburg | View [Here](#).

View our Legal Events Calendar [here](#).



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ADMINISTRATIVE AND CONSTITUTIONAL LAW

Cases

Bester and Others v Minister of Agriculture Rural Development and Land Reform and Others (LCC20/2022B) [2026] ZALCC 2 (19 January 2026) See LAND AND PROPERTY LAW

Compensation Solutions (Pty) Ltd v Compensation Fund and Others (2024/110241) [2025] ZAGPPHC 1370 (5 December 2025)

Occupational injuries and diseases – Review application under Promotion of Administrative Justice Act 3 of 2000 – Whether applicant entitled to compel production of Uniform Rules of Court, Rule 53 record in challenge to medical tariffs and general conditions under Compensation for Occupational Injuries and Diseases Act 130 of 1993 – Dispute over *locus standi* of applicant conducting factoring business for medical practitioners – Principle that standing is threshold issue requiring direct and substantial interest but interpreted generously under Constitution to vindicate rule of law – Court held applicant has sufficient legal interest as holder of medical claims and agent for service providers – Obligation on Minister of Labour to produce record and reasons confirmed – Opposition by Compensation Fund irregular and obstructive – Transparency and accountability in administrative decision making emphasised – Order granted compelling filing of record and reasons – Costs awarded against first and fourth respondents jointly and severally on scale B.

<https://www.saflii.org/za/cases/ZAGPPHC/2025/1370.html>

Minister of Basic Education (National Department of Education) and Another v Information Regulator of South Africa and Others (148459/24) [2025] ZAGPPHC 1390 (12 December 2025)

Appeal against enforcement notice issued by Information Regulator under Protection of Personal Information Act 4 of 2013 (POPIA) – Condonation for late filing – Whether court has inherent discretion to condone statutory non-compliance – Statutory appeal under POPIA, s 97 with related enforcement and review proceedings – Interpretation of personal information definition – Competence of enforcement notice regarding future conduct – Effect of prior court order – Whether publication of matric results by examination number constitutes processing of identifiable information – Courts may grant condonation where interests of justice demand – Publication of anonymised results does not constitute processing of personally identifiable information – Appeal upheld – Enforcement and infringement notices set aside – Enforcement and review proceedings fall away – Costs awarded against Information Regulator including costs of senior and junior counsel.

<https://www.saflii.org/za/cases/ZAGPPHC/2025/1390.html>

See also:

- **Majozi, Amanda. Minister of Basic Education v Information Regulator: Appealing an enforcement notice.** – 2026 Jan 23 Michalsons

<https://www.michalsons.com/blog/minister-of-basic-education-v-information-regulator-appealing-an-enforcement-notice/80482>

Photi GQ Investments t/a Total Energies Nobody v 65 Twin City Property 2 (Pty) Ltd and Others (4684/2025) [2026] ZALMPPHC 5 (19 January 2026)

Application for interdict to restrain construction and retailing of petroleum station pending appeal under Petroleum Products Act 120 of 1977, s 12A – Challenge to authority of deponent dismissed as unprocedurally raised – Interpretation of s 12A – Suspension of decision of Controller of Petroleum Products considered with reliance on Gensing and Neave CC & Others v Minister of Mineral Resources and Energy [2024] ZASCA 49; 2025 (4) SA 84 (SCA) (15 April 2024) – *Prima facie* right established through pending appeal and potential business harm – Requirements for interim interdict assessed including irreparable harm, balance of convenience and absence of alternative remedies – Lodging of appeal suspends Controller decision and entitles affected party to interim relief – Application succeeds with interdict granted against first and second respondents restraining further construction and retailing pending final determination of appeal – Costs awarded against first, second, fifth, and sixth respondents jointly and severally.



<https://www.saflii.org/za/cases/ZALMPPHC/2026/5.html>

Prime African Security (Pty) Ltd and Another v Eskom Holdings SOC Ltd and Others (2025/146673) [2026] ZAWCHC 15 (23 January 2026)

Administrative law – Urgent application for review and declaratory relief under Promotion of Administrative Justice Act 3 of 2000 – First respondent's failure to take decision approving award of contract to applicants for provision of physical security guarding and patrol services at Eskom Holdings – Issues of urgency, *lis pendens*, *res judicata*, alleged failure to decide on internal recommendation, validity of subsequent urgent procurement appointments, request for appointment under Constitution, s 172(1)(b) – Challenge to termination of applicants' contracts and appointment of opposing respondents pursuant to 2024 order – Whether internal recommendation constituted administrative action, whether urgent procurement after prescribed period unlawful, whether applicants could rely on s 172(1)(b) to revive contracts set aside for misrepresentation – Internal recommendation without external legal effect not administrative action – Duplication of proceedings abuse of process – Court orders setting aside tenders render contracts *void ab initio* – Matter not urgent – Relief sought impermissible duplication – Applicants attempted to prolong unlawful benefit – Application dismissed with punitive costs on attorney-and-client scale including costs of two counsel.

<https://www.saflii.org/za/cases/ZAWCHC/2026/15.html>

See also:

- **Mawson, Nicola. Court slams security firm's attempt to hijack Eskom contract. – 2026 Jan 30 IOL Business**
<https://iol.co.za/business/2026-01-30-court-slams-security-firms-attempt-to-hijack-eskom-contract/>

Government Gazette

Boervolk of the Orange Freestate

Declaration asserting the reclamation of territory and land from Britain and its successors in title. The notice states that these territories, including land north of the Orange River and south of the Vaal River, are to form part of the Republic of the Orange Free State (previously referred to as the Republic of Natalia). The declaration emphasises respect for legitimate private property rights as determined by international courts.

Comments and objections are invited within 30 days of publication of this notice.

[GN7053 GG 54036 p33 30Jan2026](#)

Journal Article

Adam, Aisha. Dignity as a transformative tool in the workplace.

2025 46(4) Obiter p986

"This article explores dignity's multidimensional role in the South African workplace, highlighting its capacity to mediate competing rights, resolve disputes, and promote substantive equality. An analysis of landmark cases reveals that the judiciary has demonstrated dignity's transformative potential in informing labour practices, challenging power imbalances, and fostering a culture of fairness and respect. Furthermore, this article emphasises the indispensable role of dignity in shaping a fair and inclusive workplace, not only as a legal principle but also as a dynamic force capable of bridging historical divides and advancing the democratic ideals enshrined in the Constitution."

<https://obiter.mandela.ac.za/article/view/25379/25236>

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CIVIL PROCEDURE

Cases

[Compensation Solutions \(Pty\) Ltd v Compensation Fund and Others \(2024/110241\) \[2025\] ZAGPPHC 1370 \(5 December 2025\)](#) See [ADMINISTRATIVE AND CONSTITUTIONAL LAW](#)

Feed Chain Industries and Others v Technical Systems (Pty) Ltd (2025/140896) [2026] ZAWCHC 14 (23 January 2026)

Civil procedure – Urgent application to suspend execution of prior order pending appeal – Interlocutory application – Uniform Rules of Court, Rules 6(11), 6(12) and 45A – Repeated urgent applications on identical facts without new circumstances do not establish urgency – Undertaking relied upon did not create urgency – Dissatisfaction with earlier ruling not basis for re-enrolment – Serial re-litigation amounts to abuse of process – Court's inherent jurisdiction permits dismissal where urgency requirements not met – Contempt application cannot serve as gatekeeping mechanism to bar enrolment of Rule 45A application – Urgent suspension application dismissed as abuse of process with costs on attorney-and-client scale including costs of two counsel – Respondent's provisional contempt counter-application struck from roll with costs.



<https://www.saflii.org/za/cases/ZAWCHC/2026/14.html>

Lefakane v Vuyo and Others (M653/2020) [2026] ZANWHC 7 (21 January 2026) See [ESTATES](#)

S v Ndyabo (CA&R119/2025) [2026] ZAECMHC 1 (13 January 2026)

Special review of magistrate's court proceedings – Gross irregularity where magistrate delivered two conflicting decisions under Criminal Procedure Act 51 of 1977, s 174 – First decision convicting accused without hearing defence violated *audi alteram partem* – Second decision acquitting accused capriciously lacked legal basis and contravened *functus officio* doctrine – Superior Courts Act 10 of 2013, s 22 invoked to review irregular proceedings – Both conviction and acquittal orders set aside – Matter remitted to magistrates court to start *de novo* before different magistrate – Principle established that once final decision is pronounced magistrate has no jurisdiction to alter it and proceedings must accord with justice and procedural fairness.

<https://www.saflii.org/za/cases/ZAECMHC/2026/1.html>

Standard Bank of South Africa Ltd t/a *inter alia* Standard Bank v McMurray and Others (2024/136123) [2026] ZAGPJHC 29 (20 January 2026)

Interlocutory application for leave to file supplementary founding affidavit – Whether applicant should be permitted to supplement founding papers – Matter arising from determination of Pension Fund Adjudicator under Pension Fund Act 24 of 1956, s 30P – Discretion of court to admit supplementary affidavits in interests of justice – Procedural flexibility under s 30P – Principle established that general rule requiring case to be made in founding affidavit is not inflexible – Court may permit supplementation where no prejudice arises and interests of justice require – Court exercised judicial restraint by confining determination to interlocutory issue without deciding merits of main application – Order granted permitting filing of supplementary founding affidavit with corresponding rights for answering and replying affidavits – Costs ordered to be costs in main application.

<https://www.saflii.org/za/cases/ZAGPJHC/2026/29.html>

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CORPORATE LAW

Case

New Heights 592 (Pty) Ltd v Stellenbosch Bridge Investment Holdings (Pty) Ltd and Others (2025/239237) [2026] ZAWCHC 16 (28 January 2026)

Urgent application for declaratory relief regarding record date for shareholders' meeting – Whether shareholders or auditors could determine record date for voting rights at annual general meeting – Matter involved dispute over composition of board and validity of rights offer – Interpretation of Companies Act 71 of 2008, s 59 – Competence of auditors to fix record date – Effect of board determination despite contested composition – Only board may determine record date, auditors lack authority – Record date cannot precede determination or exceed statutory limits – Court held record date validly determined by board as 17 December 2025 and not 28 November 2025 – Application dismissed with costs including costs of two counsel.

<https://www.saflii.org/za/cases/ZAWCHC/2026/16.html>

Companies Tribunal Decisions

African Rainbow Minerals Ltd v African Rainbow Healthcare (Pty) Ltd and Another (CT02027/ADJ/2024) (20 January 2026)

Company name dispute – Non-compliance with Companies Act 71 of 2008, s 11(2) – Respondent's name confusingly similar to applicant's trade mark – Respondent ordered to change name.

<https://www.companiestribunal.org.za/wp-content/uploads/2026/01/CT02027ADJ2024.pdf>

African Rainbow Minerals Ltd v African Rainbow Laboratories (Pty) Ltd and Another (CT02026/ADJ/2024) (21 January 2026)

Company name dispute – Non-compliance with Companies Act 71 of 2008, s 11(2) – Respondent's name confusingly similar to applicant's trade mark – Respondent ordered to change name.

<https://www.companiestribunal.org.za/wp-content/uploads/2026/01/CT02026ADJ2024.pdf>

African Rainbow Minerals Ltd v ARM Global (Pty) Ltd and Another (CT02386/ADJ/2025) (30 October 2025)

Company name dispute – Non-compliance with Companies Act 71 of 2008, s 11(2) – Respondent's name confusingly similar to applicant's trade mark – Respondent ordered to change name.

<https://www.companiestribunal.org.za/wp-content/uploads/2026/01/CT02386ADJ2025.pdf>



Johannesburg Skydiving Club NPC v Johannesburg Skydiving Club NPC and Another (CT02230/ADJ/2025) (31 October 2025)

Company name dispute – Non-compliance with Companies Act 71 of 2008, s 11(2) – No response filed within prescribed period – Respondent ordered to change name.

<https://www.companiestribunal.org.za/wp-content/uploads/2025/11/CT02230ADJ2025.pdf>

KAP Ltd, Ex Parte (CT02438/ADJ/2025) (29 October 2025)

Company name dispute – Request for order of substituted service by way of sheriff's service on residential address, alternatively, by transmission of founding application to cell phone number or email address listed in incorporation documents – Respondent's registered address non-existent – Applicant permitted to make substituted service as requested.

<https://www.companiestribunal.org.za/wp-content/uploads/2025/11/CT02438ADJ2025-.pdf>

Lesetla v Ndlovu (CT02407/ADJ/2025) (3 November 2025)

Application for removal of respondent as director – Respondent failing to communicate with applicant concerning affairs of company and not partaking in functioning of company and board decisions – Respondent failed to exercise his duties as director in good faith and in best interests of company – Respondent removed as director.

<https://www.companiestribunal.org.za/wp-content/uploads/2025/11/CT02407ADJ2025.pdf>

Tshepanang Resources Pty Ltd and Others v Kingki Electrical Contractors CC and Others (CT02426/ADJ/2025) (30 September 2025)

Application by shareholders for removal of second respondent as director – Failure to fulfil obligations as director to raise funds – Second respondent failed to exercise his duties as director in good faith and in best interests of company – Second respondent removed as director.

<https://www.companiestribunal.org.za/wp-content/uploads/2025/12/CT02426ADJ2025.pdf>

Journal Articles

Cassim, Rehana. Reverse piercing of the corporate veil: *Butcher Shop and Grill CC v Trustees for the time being of the Bymyam Trust 2023 (5) SA 68 (SCA)*.

2025 46(4) Obiter p1077

"[T]he Supreme Court of Appeal was faced with the question whether the doctrine of piercing the corporate veil was broad enough to permit a reverse piercing of the corporate veil. The case dealt with an application brought by a lessee to reverse pierce the corporate veil to enable it to claim remission of rent payable to the lessor in circumstances where *vis major* had interfered with the beneficial use and enjoyment of the leased property by a sublessee. ...This note critically analyses the judgment and evaluates whether the court came to the correct decision not to reverse pierce the corporate veil. It also examines the distinction between traditional veil piercing, insider and outsider reverse piercing, and lifting of the veil, and considers whether reverse piercing of the veil ought to be recognised in South African law."

<https://obiter.mandela.ac.za/article/view/20247/25208>

Mongalo, Tshepo H. and Mosala, Mojalefa R. Professional skepticism and corporate transactions.

2025 (28) Potchefstroom Electronic Law Journal

"The approval of corporate law transactions under the South African Companies Act 71 of 2008, as amended, is anchored in directors' standards of conduct (that is, the fiduciary duties and the duty of care, skill and diligence) as the primary requirement. It is argued that the standards of conduct of directors as a requirement for the approval of selected fundamental transactions (which require uncompromising objectivity and independence) are inadequate. Professional skepticism – a concept embedded in the work of professional auditors – is proposed as an additional standard for approval of those selected fundamental corporate law transactions."

<https://perjournal.co.za/article/view/21349/25115>

Webinar Recording

Bain, Roxanne et al. Navigating the transition from King IV to King V.

2026 Jan 27 Cliffe Dekker Hofmeyr

"This practical, client-focused session unpacks the transition from King IV to King V, highlighting what has changed, what remains consistent in principle, and what boards and executive teams need to do next. The webinar traces the evolution of the King Codes and translates King V into clear, actionable guidance for governance leaders. Topics covered include: Key changes from King IV to King V – Core principles and practices under King V – Practical takeaways for implementation."



<https://www.cliffedekkerhofmeyr.com/en/news/media/2026/Dispute-Resolution/Webinar-Recording-Navigating-the-Transition-from-King-IV-to-King-V>

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DELICT

Cases

Pick 'n Pay Retailers (Pty) Ltd v Williams and Another (238/2024) [2026] ZASCA 7 (26 January 2026)

Delict – Application for reconsideration under Superior Courts Act 10 of 2013, s 17(2)(f) – Whether refusal of leave to appeal would result in grave failure of justice or bring administration of justice into disrepute – Delictual claim for damages arising from customer slip and fall on shop floor – Liability of shop owner for negligent omission to ensure premises reasonably safe – Engagement of independent contractor for cleaning duties not absolving owner of non-delegable duty of care – Interpretation and application of negligence test in *Kruger v Coetzee* 1966 (2) SA 428 (A) and relevance of *Chartaprops* defence – Outsourcing functions does not discharge overarching obligation to supervise and safeguard public safety – No exceptional or unusual circumstances warranting intervention – Application for reconsideration dismissed with costs.

<https://www.saflii.org/za/cases/ZASCA/2026/7.html>

See also:

- **Cokayne, Roy. Pick n Pay again fails to avoid liability for shopper's injuries.** – 2026 Jan 27 Moneyweb
<https://www.moneyweb.co.za/news/companies-and-deals/pick-n-pay-again-fails-again-to-avoid-liability-for-shoppers-injuries/>
- **Masilela, Sinenhlanhla. Pick n Pay liable: SCA rules against retail giant after Chester Williams's widow fell in store.** – 2026 Jan 27 IOL News
<https://iol.co.za/news/crime-and-courts/2026-01-27-pick-n-pay-liable-sca-rules-against-retail-giant-after-chester-williamss-widow-fell-in-store/>

Totseka v Minister of Police (402/2020) [2026] ZAECMHC 2 (20 January 2026)

Action for damages based on assault – Grade 10 learner shot during school protest allegedly by SAPS member – Whether defendant liable for assault committed by police officer acting within course and scope of employment – Matter confined to merits after separation of issues – Whether plaintiff proved assault on balance of probabilities – Whether defendant discharged burden of justification – In delictual claims for assault defendant bears onus to prove excuse or justification once commission of assault established – Court found plaintiff credible single witness corroborated by teacher testimony and medical evidence – Circumstantial evidence including cartridges marked with SAPS symbols supported inference that police officer fired shot – Defendant's denial rejected as improbable – Defendant held 100% liable for plaintiff's proven damages – Costs awarded against defendant on scale A.

<https://www.saflii.org/za/cases/ZAECMHC/2026/2.html>

See also:

- **Venter, Zelda. Police shooting during school protest results in damages claim.** – 2026 Jan 26 IOL News
<https://iol.co.za/news/crime-and-courts/2026-01-26-police-shooting-during-school-protest-results-in-damages-claim/>

Tourvest Holdings (Pty) Ltd v Murti (806/2024) [2026] ZASCA 8 (27 January 2026)

Delict – Appeal against high court order on delictual damages – Personal injury claim arising from fall from moving safari truck – Appellant relying on disclaimers in brochure and indemnity form – Whether disclaimers complied with Consumer Protection Act 68 of 2008 – Whether partner authorised to bind respondent – Consideration of ticket cases and doctrine of *quasi-mutual assent* – Exemption clauses must be clear, specific and prominently disclosed – Finding that disclaimers vague, insufficiently specific and not properly brought to respondent's attention – Interpretation of exemption clauses to be restrictive and construed against *proferens* – No actual or ostensible authority established – Disclaimers not excluding liability for negligent acts alleged – Appeal dismissed with costs.

<https://www.saflii.org/za/cases/ZASCA/2026/8.html>

See also:

- **Venter, Zelda. Supreme Court rejects safari operator's indemnity defence after tourist fall.** – 2026 Jan 29 Cape Times
<https://iol.co.za/capetimes/news/2026-01-29-supreme-court-rejects-safari-operators-indemnity-defence-after-tourist-fall/>

Journal Article

Mukheibir, André. The law of delict and gender-based violence in South Africa.



2025 46(4) Obiter p950

“South Africa’s law of delict has undergone much development, most of which has taken place by virtue of the Constitution... This has been particularly important in the context of gender-based violence (GBV) and police liability for omissions and commissions. In a number of groundbreaking cases, the courts developed the common law by casting the net of the law of delictual liability wider to ensure that there is accountability for serious instances of GBV. The question of whether this development has been successful in abating the scourge of GBV is complicated. While the police have been held liable over a period of two decades for failures to protect the vulnerable, specifically women and children, statistics paint a sad picture of violence continuing unabated. Moreover, the amounts of damages that are being paid out to individual plaintiffs could be utilised to prop up an ailing police force.”

<https://obiter.mandela.ac.za/article/view/20097/25235>

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ESTATES

Case

Lefakane v Vuyo and Others (M653/2020) [2026] ZANWHC 7 (21 January 2026)

Application under Uniform Rules of Court, Rule 6(5)(g) – Whether dispute on validity of will of deceased should be referred to oral evidence – Challenge to will based on alleged forgery, lack of testamentary capacity and undue influence – Whether disputes of fact were real, material, and *bona fide*, whether affidavits sufficient to resolve allegations and whether applicant ought to have proceeded by action – In motion proceedings genuine disputes of fact on testamentary capacity, undue influence and authenticity require referral to *viva voce* testimony – Interests of justice outweigh procedural shortcomings – Application granted – Matter referred to oral evidence on specified issues – Costs in cause.

<https://www.saflii.org/za/cases/ZANWHC/2026/7.html>

See also media comment:

- **Venter, Zelda. Legal battle unfolds as siblings contest mother's will.** – 2026 Jan 28 Sunday Tribune
<https://iol.co.za/sunday-tribune/news/2026-01-28-legal-battle-unfolds-as-siblings-contest-mothers-will/>

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LAND AND PROPERTY LAW

Cases

Bester and Others v Minister of Agriculture, Rural Development and Land Reform and Others (LCC20/2022B) [2026] ZALCC 2 (19 January 2026)

Land restitution – Whether document ‘NOM1’ dated 31 December 1998 constituted a valid claim form – Claim invalid for lack of description of land and non-compliance with statutory requirements – Subsequent claim form dated 12 October 1999 lodged after statutory deadline and without resolution in terms of Restitution of Land Rights Act 22 of 1994, s 10(3) – Defects incurable by further investigation – Review of administrative action under Promotion of Administrative Justice Act 3 of 2000 (PAJA) – Court explicitly granted condonation under PAJA for late filing – Procedural irregularity in inclusion of applicants’ farms under GenN584 in GG 43834 of 23 October 2020 per Notice 584 of 2020 – Publication unlawful as non-compliant claim cannot trigger lawful processing under Act – Declaratory relief granted declaring Gazette inclusion a nullity – Decision of respondents reviewed and set aside – Counter-application dismissed – Costs awarded against First, Second and Third Respondents jointly and severally, including costs of two counsel on scale C.

<https://www.saflii.org/za/cases/ZALCC/2026/2.html>

K2011148986 (South Africa) Pty Ltd t/a Nashua Bethlehem v Country Meat Market Pty Ltd and Others (5292/2021) [2025] ZAFSHC 353 (10 November 2025)

Property law – Rectification of master rental agreement and deed of suretyship – Misdescription of contracting party constituted common mistake warranting rectification – Rectification may cure drafting error where agreement does not reflect common intention – Plaintiff proved arrears (R312,341) and future rentals (R1,000,455.92) with interest on balance of probabilities – Creditor entitled to claim directly from sureties without first proceeding against liquidator – Defences contrived and inconsistent – Application for postponement dismissed as delaying tactic – Approximately 70% of goods already repossessed – Damages for returned goods to be quantified later – Order granted rectifying agreement, directing second and third defendants to pay arrears and future rentals with interest, transferring ownership of goods contingent on satisfaction of judgment debt, or alternatively ordering return of goods – Costs awarded on attorney and client scale.



<https://www.saflii.org/za/cases/ZAFSHC/2025/353.html>

Mooi Plaats Solar Power (RF) (Pty) Ltd v Bovlei Boerdery Trust and Another (2025/164852) [2026] ZANCHC 9 (30 January 2026)

Application for urgent relief based on *mandament van spolie* – Applicant seeks final order that *status quo* in respect of access to private road and gate be restored to enable applicant and its contractors to have access to property – Whether applicant proved peaceful and undisturbed possession of access through respondent's private gate – Matter confined to spoliation remedy after abandonment of interim interdict – Whether restrictions on gate use constituted unlawful deprivation of possession or enforcement of contractual rights – *Mandament van spolie* protects possession or *quasi* possession and not specific performance of contractual obligations – Court held applicant failed to establish free and unfettered use of gate and did not prove requirements for spoliation – Application dismissed with costs including counsel's costs on scale B.

<https://www.saflii.org/za/cases/ZANCHC/2026/9.html>

Swartland Eiendom (Pty) Ltd v African Spirit Lab (Pty) Ltd (2026/003035) [2026] ZAWCHC 12 (21 January 2026)

Landlord and tenant – Urgent application for interim interdict – Storage of flammable and combustible materials (alcohol) at leased industrial premises – Enforcement of compliance with City of Cape Town Community Fire Safety By-Law and National Building Regulations – Urgency, contravention of By-Law, liability of owner and tenant, risk of criminal sanction, risk of invalidation of insurance cover, adequacy of alternative remedies – Whether interim relief amounts to final relief – Both owner and tenant must comply with statutory fire safety requirements and contravention may attract criminal liability and loss of insurance protection – Court may grant interim relief to prevent ongoing contravention and protect property and occupants – Rule *nisi* issued directing respondent to procure compliant alternative storage facility and remove offending materials – Interim interdict granted with immediate effect pending return date – Costs reserved for determination on return date.

<https://www.saflii.org/za/cases/ZAWCHC/2026/12.html>

TAA Trust v Unknown Occupiers of Portion 5 of the Farm De Wet Stroom, Nr 3309 Newcastle, KwaZulu-Natal (LANC2025/160566) [2026] ZALCC 3 (19 January 2026)

Extension of security of tenure – Application for interdict regarding unlawful construction of dwelling on farm land – Enforcement of property rights under Extension of Security of Tenure Act 62 of 1997 – Whether occupiers may erect new structures without consent of landowner – Whether meaningful engagement occurred – Balancing rights of occupiers to human dignity and security of tenure with rights of landowner to property – Occupiers may effect improvements reasonably necessary to render dwelling habitable but may not erect new structures without prior meaningful engagement and consent – Construction unlawful – Respondents interdicted from occupation or continuation of building – Demolition order refused in interests of justice – No order as to costs.

<https://www.saflii.org/za/cases/ZALCC/2026/3.html>

Government Gazettes

Deeds Registries Act 47 of 1937

Registration of Deeds Regulations (RGN474 in GG 466 of 29 March 1963 as amended): Amendment of by the substitution of Regulations 30 and 84, and Amendment of Regulations 73 and 80. In operation one month from the date of publication.

GN7056 GG 54039 p3 30Jan2026

https://www.gov.za/sites/default/files/gcis_document/202601/54039-gon7056.pdf

Geomatics Profession Act 19 of 2013

South African Geomatics Council: Invitation for written nominations to be considered for appointment to the Council. Nomination forms must be forwarded within 20 days from the date of publication.

[RGN7057 GG 54041 p3 30Jan2026](#)

Internet Article

Preller, Bertus. Accrual rights, ownership and eviction: Clear limits on spousal claims before divorce. [*JMM and Another v Masureik and Others* (807/2024) [2026] ZASCA 1 (8 January 2026)] See [PERSONS AND FAMILY LAW](#)

Journal Articles

Mhlanga, Lindani. Enduring legacy: The impact of ESTA's burial rights on the property rights of the landowner. 2025 46(4) *Obiter* p1005



"This note examines the enduring nature of burial rights under the Extension of Security of Tenure Act (ESTA) for individuals who do not own the land where these rights are exercised. According to ESTA, an occupier has the right to bury a deceased relative on the farm if three conditions are met: the person requesting permission must be an occupier; the deceased must have lived on the farm with the occupier before death; and there must be a customary practice of farm dwellers being allowed to bury family members on the farm. The note explores whether the establishment of such a customary practice can lead to burial rights existing independently of the occupier's right of occupation. Specifically, it investigates if these rights can persist long after the initial occupation rights have ceased, benefiting non-occupants who can demonstrably claim lineage to those buried on the land by right."

<https://obiter.mandela.ac.za/article/view/19282/25209>

Ngwenyama, Lerato Rudolph. Does section 15 of ESTA apply to urgent relocations and not only to evictions? An assessment of [A Re Shomeng Holdings (Pty) Ltd and Another v Sibeko and Others (LCC02/2024) [2024] ZALCC 7 (19 February 2024)].

2025 46(4) Obiter p1018

"A Re Shomeng Holdings Proprietary Limited v Sibeko raises the important question of whether section 15 of [the Extension of Security of Tenure Act 62 of 1997 (ESTA) applies to urgent relocations rather than evictions alone. ...The LCC's judgment... affirmed that final urgent relocation relief is not available where permanent accommodation has not yet been made available by the owner on the relocated site. Although this affirmation is welcome, the judgment impairs legal certainty by giving the impression that section 15 of ESTA applies to urgent relocations, while it should only apply to urgent evictions. In not considering it necessary to address this issue, the LCC decided that an urgent relocation interim interdict, irrespective of how it is sought, could be granted without due reference to the legal principles underpinning relocations or evictions."

<https://obiter.mandela.ac.za/article/view/25251/25204>

Podcast

Expert insights: Navigating property defects.

2026 Jan 25 STBB | Legally Speaking

"In our first episode of 2026, Director and experienced conveyancer, Zane du Randt, adeptly discusses the legal and practical implications of discovering property defects post-signature. Why does the distinction between patent and latent defects matter? Will an estate agent be penalised for failing to obtain an immovable property condition report? Does the voetstoots clause safeguard sellers for not disclosing hidden defects? For the answers to these important queries and more, tune in now!"

<https://iono.fm/e/1638591>

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PERSONS AND FAMILY LAW

Case

TSY v LEY (2022/3952) [2026] ZAGPJHC 34 (26 January 2026)

Divorce action under community of property regime – Whether dissolution of marriage could be separated from division of joint estate – Application for separation of issues to obtain decree of divorce while postponing proprietary consequences – Conceptual inseparability of dissolution and division of joint estate, convenience of separation under Uniform Rules of Court, Rule 33(4), impact on maintenance remedies and risk of duplicative and prejudicial litigation – Dissolution of marriage in community of property is inseparable from division of joint estate and separation yields no real efficiency or fairness – Separation neither conceptually possible nor practically advantageous – Application dismissed with costs including costs of counsel.

<https://www.saflii.org/za/cases/ZAGPJHC/2026/34.html>

See also:

- **Masilela, Sinenhlanhla. Court dismisses husband seeking quick divorce to marry new partner and escape wife's maintenance.** – 2026 Jan 27 IOL News
<https://iol.co.za/news/crime-and-courts/2026-01-27-court-dismisses-husband-seeking-quick-divorce-to-marry-new-partner-and-escape-wifes-r150000-maintenance/>

Internet Articles

Preller, Bertus. Accrual rights, ownership and eviction: Clear limits on spousal claims before divorce. [JMM and Another v Masureik and Others (807/2024) [2026] ZASCA 1 (8 January 2026)]

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"The judgment carries important consequences for the conduct of family law litigation where proprietary interests intersect with third-party transactions. It underscores, in unambiguous terms, that spouses who rely on future financial claims arising from the accrual system cannot assume a form of interim security over specific assets in the absence of timely and procedurally appropriate relief. Practitioners are reminded that the accrual regime does not, of itself, arrest the ordinary incidents of ownership during the marriage."

<https://familylaws.co.za/accrual-rights-eviction-before-divorce-zasca-2026/>

Preller, Bertus. Section 26B Citizenship Act does not apply to minors: [\[ATA v LAA \(2025/246332\) \[2025\] ZAWCHC 597 \(19 December 2025\)\]](#) clarifies international travel authorisation.

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"The Western Cape High Court recently delivered an important judgment clarifying the application of passport and citizenship requirements to minor children travelling internationally. ... Da Silva Salie J addressed fundamental misconceptions about section 26B of the South African Citizenship Act 88 of 1995 and the court's role as upper guardian in authorising international travel involving children of divorced parents."

<https://familylaws.co.za/section-26b-citizenship-act-minors-international-travel-ata-v-laa-2025/>

Preller, Bertus. Unmarried parents' custodial rights and cross-border habitual residence: [Central Authority for the Republic of South Africa v MV and Another \(1396/2024\) \[2025\] ZASCA 197 \(18 December 2025\)](#).

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"The factual matrix in this matter presents a textbook illustration of how international child retention disputes arise from the breakdown of cross-border relationships. ... The concept of habitual residence lies at the heart of any application under the Hague Convention. It determines which state's courts have jurisdiction to adjudicate custody matters and whether a removal or retention is wrongful. The Supreme Court of Appeal was required to determine L's habitual residence immediately prior to his retention in South Africa, a determination that would resolve whether the application fell within the scope of the Convention."

<https://familylaws.co.za/hague-convention-habitual-residence-unmarried-parents-custodial-rights-zasca-197-2025/>

Journal Articles

Clark, Brigitte and Van Heerden, Belinda. Does the genetic link requirement in surrogacy contracts serve a rational purpose? [\[KB and Another v Minister of Social Development \(966/2022\) \[2023\] ZAMPMBHC 12 \(20 February 2023\)\]](#) and [\[KB and Another v Minister of Social Development \(462/23\) \[2024\] ZASCA 54; 2024 \(5\) SA 30 \(SCA\) \(19 April 2024\)\]](#) 2025 46(4) Obiter p1048

"Section 294 of the... Children's Act 38 of 2005 states that a surrogate motherhood agreement is invalid unless the conception of the child to be born is brought about by using the gametes of either both commissioning parents or, if that is impossible because of biological, medical or other valid reasons, the gamete of at least one of the commissioning parents or, where the commissioning parent is a single person, the gamete of that person. ... [T]he case of KB illustrates that section 294 of the Children's Act is unfairly discriminatory against infertile persons, serves no legitimate purpose, and leads to situations such as the one in KB where counsel resorted to tacking clumsy wording onto section 294 to avoid its effects."

<https://obiter.mandela.ac.za/article/view/25253/25206>

Denson, Razaana and Van der Walt, Glynis. Child abduction: The Hague Convention on the Civil Aspects of International Child Abduction and national law – [Ad Hoc Central Authority for the Republic of SA v Koch NO 2024 \(3\) SA 249 \(CC\)](#).

2025 46(4) Obiter p1032

"In *Ad Hoc Central Authority for the Republic of South Africa v Koch NO*... the Constitutional Court considered an appeal from the judgment of the Supreme Court of Appeal ... It is a landmark case in international family law and child abduction. The case not only considers the broader context of international law but also illustrates the multifaceted challenges created by international child abduction. The main issue that the Constitutional Court was required to consider was the interpretation of article 13 of the Hague Convention on the Civil Aspects of International Child Abduction, 1980. Article 13 provides that a court is not under an obligation to order the return of a child if it is established that the person, institution or other body that opposes the return (a) had consented to or subsequently acquiesced in the removal or retention of the child; or (b) the return would "expose the child to physical or psychological harm or otherwise place the child in an intolerable situation".

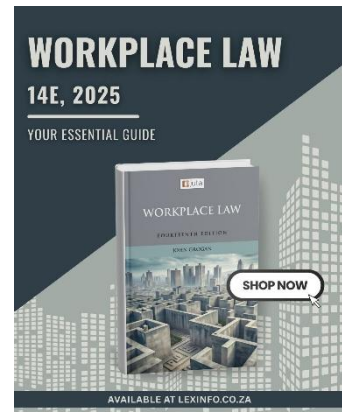
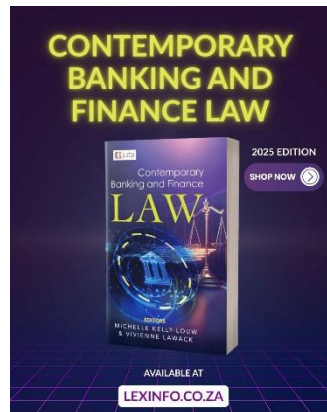
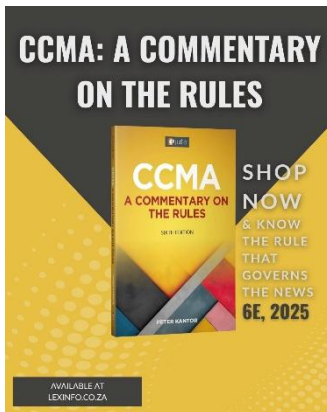
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