

CANDIDATE: JUDGE BS SPILG

POSITION FOR WHICH CANDIDATE APPLIES: SUPREME COURT OF APPEAL

1. The candidate's appropriate qualifications

1.1. The candidate has obtained the following degrees:

1.1.1. BCom (Wits); and

1.1.2. LLB (Wits).

1.2. The candidate has obtained the following non-degree qualifications:

1.2.1. HDip (Tax) (Wits);

1.2.2. HDip (Company Law) (Wits); and

1.2.3. Advanced Company Law 1 and 2 (Wits).

1.3. The candidate is appropriately qualified.

2. Whether the candidate is a fit and proper person

2.1. There is nothing in the application or judgments that would suggest that the candidate is not a fit and proper person.

3. Whether the candidate's appointment would help to reflect on the bench the racial and gender composition of South Africa

3.1. The candidate is a white man.

3.2. Currently, the Supreme Court of Appeal comprises twenty members, consisting of five black women, nine black men,

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two white women and four white men. Fifteen members are men (four are white and eleven black) and seven are women (two white and five black).

3.3. All the shortlisted candidates for the Supreme Court of Appeal for the present JSC sitting are men. This may well be a reflection of the fact that women are relatively poorly represented on the benches of the various High Courts.

3.4. Whilst the appointment of a male candidate – which is unavoidable in the present round of appointments – will not advance the cause of gender representation, the reviewers do not, in the light of the current racial composition of the Supreme Court of Appeal, consider the candidate's race to be material.

4. **The candidate's knowledge of the law, including constitutional law**

4.1. As appears from what is set out below, we are of the view that the candidate has a broad knowledge and experience of the law, including of constitutional law.

4.2. The candidate practised as an advocate for thirty-three years, approximately twelve of which were as Senior Counsel.

4.3. We have considered the reported judgments in which the candidate appeared as counsel. Those judgments indicate appearances in both civil and criminal trials as well as motions. The candidate has listed in a schedule to his application his extensive and broad range of experience as

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counsel.

- 4.4. On the basis of the reported judgments in which the candidate appeared as counsel, the candidate appears to have particular experience in tax law, company law and contractual disputes.
- 4.5. The candidate was, for five years, a panellist and committee member of the Securities Regulation Panel. He contributed to the drafting of the Insider Trading Act 135 of 1998.
- 4.6. The candidate has appeared in public law matters, including matters before the Constitutional Court, concerning *inter alia* the restitution of land, access to information and family law. Those include: *The Minister of Land Affairs and Agriculture and Others v D & F Wevell Trust and Others* 2008 (2) SA 184 (SCA); *The Department of Land Affairs and Others v Goedgelegen Tropical Fruits (Pty) Ltd* 2007 (6) SA 199 (CC); *Ingedew v Financial Services Board* 2003 (4) SA 584 (CC); and *Fraser v Children's Court Pretoria North and Others* 1997 (2) SA 218 (CC).
- 4.7. The candidate also appeared as counsel in Botswana in matters concerning the death penalty and freedom of expression.
- 4.8. The candidate has written articles relating to *inter alia* judicial independence and land rights.
- 4.9. The candidate was, for eight years, the convener of the Human Rights Committee of the General Council of the Bar; for three years, a member of the Panel of Experts of the

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Centre for Constitutional Rights; and was an appointee of the Johannesburg Society of Advocates to make submissions to the South African Law Reform Commission on customary marriage.

- 4.10. The candidate has been a judge since 2009. We have considered the judgments listed by the candidate in his application as well as other reported and unreported judgments handed down by the candidate. Those judgments run the gamut of private law and public law areas, and include criminal law.
- 4.11. The candidate has twelve reported judgments.
- 4.12. The candidate's reported private law judgments cover areas including intellectual property, tax, delict, contract, enrichment, documentary credits, defamation and company law.
- 4.13. The candidate has handed down a number of judgments on constitutional matters including:
- 4.13.1. *Khyber Rock Estate East Home Owners Association v 09 of Erf 823 Woodmead Ext 13 CC* [2007] ZAGPHC 137: In this matter, the candidate was required to consider the appropriate standard of review applicable to a decision of a voluntary organization (a home-owner's association);
- 4.13.2. *Blue Moonlight Properties 39 (Pty) Ltd v Occupiers of Saratoga Avenue and Another* [2010] ZAGPJHC 3: In this matter, in applying the constitutional right to

housing, the candidate sought to strike a balance between a private landowner's right to the use and enjoyment of property, which necessarily included the right to evict illegal occupiers of the land, and the right to housing. The candidate held that the private landowner's rights had been infringed by the local government as a result of local government's failure to include evicted persons in its housing programmes. The local government was ordered to pay a fair and reasonable rental to the landowner for the occupation of its property (this part of the order was overturned on appeal);

4.13.3. *Landev (Pty) Ltd v Black Eagle Project Roodekrans In re: Black Eagle Project Roodekrans v MEC Department Agriculture Conservation and Environment Gauteng Provincial Government and Others* [2010] ZAGPJHC 18: Here, the candidate refused an application for security for costs in terms of section 13 of the Companies Act, 61 of 1973, in order to give effect to the right of access to courts in the context of constitutional litigation where litigants sought to protect constitutional rights;

4.13.4. *Eagle Valley Properties 250 CC v Unidentified Occupants of Erf 952, Johannesburg Situated at 124 Kerk Street, Johannesburg In Re: Unidentified Occupiers of Erf 952, Johannesburg Situated at 124 Kerk Street, Johannesburg v City of Johannesburg* [2011] ZAGPJHC 3: In this matter, the candidate was called upon to decide which spheres of government should appropriately be

joined to an eviction application and which spheres bore which functional areas of responsibility for the right to housing in the light of the joinder decision in *Blue Moonlight* referred to above; and

- 4.13.5. *Chief Family Advocate and Another v G* 2003 (2) SA 599 (W): This is a seminal judgment on child abduction and the application of the Hague Convention. It is well reasoned and displays a conscientious approach to deal with the matter as expeditiously as possible. It contributes to the constitutional jurisprudence on freedom and security of the person.

5. **The candidate's commitment to the values of the Constitution**

- 5.1. The candidate's appearances as counsel in human rights cases, both in South Africa and in Botswana, as well as the candidate's role as convener of the Human Rights Committee of the GCB and as advisor to the Centre for Constitutional Rights are stated above.
- 5.2. The candidate has assisted Ditshwanelo, Lawyers for Human Rights (Botswana) with advice on human rights issues; he has addressed seminars on its behalf and has appeared as counsel on its behalf as *amicus curiae* in human rights cases in Botswana.
- 5.3. The candidate has been a member of Lawyers for Human Rights, Advocates for Transformation and NADEL from its inception.

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- 5.4. The candidate has written a number of articles concerning land reform.
- 5.5. The candidate opposed the Constitution 14th Amendment Bill and the Superior Courts Bill introduced in 2005 on the grounds that they posed threats to the independence of the judiciary. Moreover, the candidate wrote articles strongly critical of the Bills and convened a symposium to debate the Bills.
- 5.6. The candidate frequently adverts to and considers the application of the Constitution in his judgments, including in matters where the applicability or relevance of the Constitution is not immediately apparent. For example:
- 5.6.1. In *Interpark (South Africa) Ltd v Joubert and Another* [2010] ZAGPJHC 39, the candidate considered the impact of the Constitution on restraint of trade agreements;
- 5.6.2. In *City of Johannesburg v Berger and Another* [2011] ZAGPJHC 235, the candidate considered whether constitutional values had any consequences for the need to euthanize animals, which question might have arisen from an order he was called upon to make; and
- 5.6.3. In *Fikre v Minister of Home Affairs and Others* 2012 (4) SA 348 (GSJ), the candidate considered the impact of the constitutional values of dignity and freedom on the discretion exercised by a court to refer factual disputes in motion proceedings to oral evidence, and the approach

adopted by courts to factual disputes in motion proceedings where the application concerned the detention of the applicant and had been brought on motion due to urgency.

- 5.7. The candidate has, however, on occasion failed to take account of applicable constitutional precedent when deciding matters before him. We refer in this regard to what is said in paragraphs 6.1.1 and 6.2 below.
- 5.8. The factors listed in this section strongly suggest a noteworthy commitment on the part of the candidate to the values of the Constitution.

6. **Whether any judgments have been overturned on appeal**

- 6.1. The candidate states that four judgments have been overturned on appeal. Those are:
- 6.1.1. *SA Bank of Athens Ltd v Van Zyl* [2006] 1 All SA 118 (SCA) (appeal upheld). The candidate's decision in *SA Bank of Athens* was premised on the correctness of *Findevco (Pty) Ltd v Faceformat SA (Pty) Ltd* 2001 (1) SA 251 (E), in which it had been held that *parate executie* was constitutionally invalid. Before the candidate, as judge *a quo*, the case was argued on the basis that *Findevco* accurately represented the law. *Findevco* had, however, been overturned in *Bock v Duburoro Investments (Pty) Ltd* 2004 (2) SA 242 (SCA), and as a result of this misdirection by the parties as well as the candidate, in relying on *Findevco*, the appeal was

upheld.

6.1.2. *City of Johannesburg Metropolitan Municipality v Blue Moonlight Properties 39 (Pty) Ltd and Another* 2011 (4) SA 337 (SCA) (appeal upheld). Part of the candidate's order was overturned on appeal. All of the candidate's findings appealed against were upheld, although in respect of the candidate's finding that the appellant's housing policy was unconstitutional, the SCA upheld the finding of unconstitutionality on different grounds. It held that in his application of the equality test to the appellant's housing policy, the candidate incorrectly categorized the differentiation in treatment, erring in categorizing the differentiation as unfair discrimination. The SCA overturned the candidate's structural interdict on the basis that it was not persuaded of its necessity. The SCA overturned the candidate's compensation orders and, in respect of the compensation awarded to the occupiers, it characterised this relief as "*extraordinary*" and lacking any discernable basis in law. In *City of Johannesburg Metropolitan Municipality v Blue Moonlight Properties 39 (Pty) Ltd and Another* 2012 (2) SA 104 (CC), the Constitutional Court also held the housing policy to be unconstitutional. Although it did not base its finding of unconstitutionality on equality, it implicitly upheld the candidate's categorisation of differentiation.

6.1.3. *City of Johannesburg Metropolitan Council v Ngobeni*

[2012] ZASCA 55 (appeal upheld). The SCA criticised the candidate for his findings which were inconsistent with the objective evidence and for failing correctly to apply the onus in his factual determinations. As the candidate states in his application, he was censured by the SCA for his conduct *a quo*. The censure was noteworthy for its prominence. The SCA's criticisms of the candidate included the following:

- 6.1.3.1. the candidate's active participation in the proceedings occupied a third of the record which the SCA held to be "*highly inappropriate*";
- 6.1.3.2. the candidate embarked on a "*personal fact-finding mission*", "*descended into the arena*", called witnesses and *mero motu* conducted an inspection *in loco*;
- 6.1.3.3. the procedure employed by the candidate in conducting the inspection *in loco* was "*totally flawed*";
- 6.1.3.4. the candidate interrupted the cross-examination of a witness, thus creating a procedural disadvantage for the defendant;
- 6.1.3.5. the candidate failed to have regard to the submissions of the parties;
- 6.1.3.6. the candidate *mero motu* called a witness to testify to matters extraneous to a report which had been

- admitted by the parties;
- 6.1.3.7. the candidate intervened in oral examination and engaged witnesses in “*unfairly lengthy questioning*”;
- 6.1.3.8. some of the candidate’s questioning of those witnesses was repetitive and aggressive;
- 6.1.3.9. the candidate’s conduct in the trial created a perception of bias in favour of the plaintiff;
- 6.1.3.10. the candidate sought to intrude upon the prosecutorial independence of the National Prosecuting Authority in contravention of the Constitution and the National Prosecuting Authority Act;
- 6.1.3.11. the candidate made unwarranted comments regarding his own background and experience; and
- 6.1.3.12. the candidate had prejudged the issue.
- 6.1.4. While the candidate does not describe this criticism of his conduct as fully in his application as is set out above, he acknowledged it and apologised for the impression his conduct created. The candidate does not, however, record whether he recognises that the conduct noted by the SCA was inappropriate for a judicial officer, although the candidate’s judgment in *Ndlovu v Road Accident Fund* suggests that the candidate recognises the boundaries of permissible intervention by a judicial

officer.

6.1.5. *Road Accident Fund v Mouton and Others* 2003 (5) SA 212 (W). Although the candidate described this as a successful appeal against his judgment, it was in fact an application for the rescission of his judgment. The candidate had awarded attorney and client costs against the Road Accident Fund and had held the Fund to be in contempt of court for failure to comply with a court order. There was no basis for such an order since the settlement agreement relied on by the parties had not been made an order of court, although the parties in the application before the candidate had mistakenly proceeded on the basis that the agreement was an order of court. The Court further held that the candidate had based his judgment on findings of fact unrelated to the mutual mistake, which findings were clearly wrong.

6.2. In *Mngani Property 4 (Pty) Ltd v Irwing 514 CC* [2010] ZAGPJHC 81 the candidate had correctly referred a counterclaim to trial and postponed judgment of the main claim pending the outcome of the counterclaim as provided for by Rule 22(4). He had then gone further and held that the amount awarded in the main claim be paid into a trust account pending the outcome of the counterclaim. Rule 22(4) does not provide for this. The Supreme Court of Appeal set aside this order on the grounds that there was no evidence to justify the grant of the order and the parties had not sought such an order. (*Irwing 514 CC v Mngani Property 4 (Pty) Ltd* [2013])

ZASCA 48.)

6.3. Whilst not a judgment overturned on appeal, the candidate's judgment in *Mokoena v Commissioner, South African Revenue Service* 2011 (2) SA 556 (GSJ) was departed from and criticized in both *Capstone 556 (Pty) Ltd v Commissioner, SARS and Another* [2011] ZAWCHC 297 and *Modibane v South African Revenue Service* [2011] ZAGPJHC 152, both judgments holding that the candidate's interpretation of the Income Tax Act was inconsistent with the scheme of the legislation and precedent, including precedents of the SCA and Constitutional Court.

7. The extent and breadth of the candidate's professional experience

7.1. The candidate was an attorney for one year. The nature of the candidate's practice as an attorney is not known.

7.2. The candidate practised as an advocate for thirty-three years, approximately twelve of which were as Senior Counsel. In his time at the Bar, he appeared in civil and criminal trials and in motions. As set out above, the candidate's experience covers *inter alia* company law, contract, tax and land reform.

7.3. The candidate gained experience in arbitration and alternative dispute resolution through serving, for two years, as a committee member of the Hillbrow Dispute Resolution Centre; for four years on the National Council of the Alternative Dispute Resolution Association; and, for approximately three years, as a panel member of the

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Arbitration Foundation of South Africa's commercial arbitration panel.

- 7.4. The candidate served for five years as a panellist and committee member of the Securities Regulation Panel.
- 7.5. The candidate has been a judge since June 2009 during which time he handed down at least eight reported judgments.
- 7.6. The candidate states in his application that he has "*adjudicated, either in tribunals or courts, uninterruptedly since 1985.*" It appears from his application that he became a panellist for the Arbitration Foundation of South Africa in about 1996. The adjudicative roles held by the candidate between 1985 and 1996 are not apparent from the application.
- 7.7. The candidate has been responsible for the accreditation of Magistrates in National Credit Act training on behalf of the South African Judicial Education Institute.

8. The candidate's linguistic and communication skills

- 8.1. From a consideration of his judgments, the candidate demonstrates a high level of linguistic ability and ample skill at communicating.

9. The candidate's ability to produce judgments promptly

- 9.1. The candidate advised that he would provide a list of outstanding judgments. We have not seen that list; accordingly, we cannot comment on it.
- 9.2. We have received reports of at least three cases in which,

having advised parties of the date on which the reasons for his order would be handed down, the candidate delayed, sometimes on more than one occasion, in handing down reasons for his order. In one case, the parties have been waiting for reasons for an order for over two years, despite numerous requests to the candidate for those reasons.

- 9.3. Of those judgments we have reviewed that included hearing dates, we noted substantial delays in the handing down of judgments in the following matters: *Ketler Investments CC t/a Ketler Presentations v Internet Service Providers Association* (a delay of one year); *Manavhela and Another v Illing* (a delay of more than eight months); *Blue Moonlight Properties 39 (Pty) Ltd v Occupiers of Saratoga Avenue and Another* (a delay of over six months); *Casey and Another v First National Bank* (a delay of approximately six months); *City of Johannesburg v Clear Channel Independent (Pty) Ltd* (a delay of approximately nine months); *Interpark (South Africa) Ltd v Joubert and Another* (a delay of approximately four months); *Duarte v Minister of Police* (a delay of approximately four months); *Khyber Rock Estate East Home Owners Association v 09 of Erf 823 Woodmead Ext 13 CC* (a delay of approximately three months in providing reasons for the order granted); *Landev (Pty) Ltd v Black Eagle Project Roodekrans In re: Black Eagle Project Roodekrans v MEC Department Agriculture Conservation and Environment Gauteng Provincial Government and Others* (a delay of approximately four months in handing down an order, with reasons for the order handed down 28 calendar days after the order);

Mkhwanazi v Quarterback Investment (Pty) Ltd and Another (a delay of approximately three months in handing down reasons for the order); *Technical Information Systems (Pty) Ltd v Marconi Communication (South Africa) (Pty) Ltd and Another* (a delay of six months in handing down an order and a further delay of eight months in handing down reasons for the order); and *Vanderbijlpark Estate Company and Another v Langa NO and Others* (a delay of approximately two and a half years in providing reasons for the order).

- 9.4. In *Ketler* the application which served before the candidate was set down on the opposed roll by the respondent, after the applicant failed to take steps to advance the matter. It was heard on an unopposed basis as the applicant failed to appear. The candidate held that the respondent was entitled to a considered judgment, the application not having been withdrawn, but that “*judgment could not be prioritised and that it would be necessary to undertake separate research.*” This appears to have been stated in the judgment by the candidate as justification for the delay in handing down judgment.

10. **The candidate’s fairness and impartiality**

- 10.1. Save for the perceptions of bias created by the candidate’s conduct referred to by the Supreme Court of Appeal in *City of Johannesburg Metropolitan Council v Ngobeni* discussed above, no adverse comments were received.

11. The candidate's independent-mindedness

- 11.1. The candidate appears to be independently minded.
- 11.2. A review of the reported judgments indicates that he does his own research before handing down judgment.
- 11.3. In *S v Mangena and Another*, the candidate held that High Court decisions referred to by counsel, including a decision from the candidate's own division, were clearly wrong.
- 11.4. In his articles on the Constitution 14th Amendment Bill and the Superior Courts Bill, and in his reports as convenor of the Human Rights Committee, the candidate did not shy away from criticizing government officials and both the governments of South Africa and other states, where he observed them to be threatening or infringing human rights.
- 11.5. In *Nhlapo v S*, the candidate wrote a separate concurrence in order to criticize the manner in which prosecutors in the candidate's division were failing to prove previous convictions.

12. The candidate's ability to conduct court proceedings

- 12.1. We have already referred above to the comments of the SCA in *City of Johannesburg Metropolitan Council v Ngobeni* regarding the manner in which those proceedings were conducted. These comments are disconcerting.
- 12.2. The candidate does on occasion seek evidence beyond that placed before him by litigants. For example:

- 12.2.1. In *Technical Information Systems (Pty) Ltd v Marconi Communication (South Africa) (Pty) Ltd and Another*, which concerned *inter alia* the interpretation of an order and judgment of Gildenhuis J, the candidate advised the parties that he had fortuitously seen Gildenhuis J at court, had asked him what he had meant by the disputed portion of his judgment and duly conveyed to the parties what Gildenhuis J had reported to him. This interchange is not noted in the judgment.
- 12.2.2. In *City of Johannesburg v Berger and Another*, the candidate postponed an unopposed application and required the applicant to secure the attendance of the respondent at court in order for the candidate to be satisfied that any order he granted would not result in the euthanizing of animals.
- 12.2.3. In *Eagle Valley Properties 250 CC v Unidentified Occupants of Erf 952, Johannesburg Situated at 124 Kerk Street, Johannesburg In Re: Unidentified Occupants of Erf 952, Johannesburg Situated at 124 Kerk Street, Johannesburg v City of Johannesburg* the candidate conducted his own Hansard research in order to take into consideration the response of local governments and a national minister to the candidate's judgment in *Blue Moonlight Properties 39 (Pty) Ltd v Occupiers of Saratoga Avenue and Another*.
- 12.2.4. According to a report in an edition of *Business Day* dated 29 August 2011, the candidate relied on his own

experience in telecommunications to reject a contention by Vodacom that certain documents did not exist and expressed an intention to call Vodacom's former chief executive to give evidence in this regard.

- 12.3. The candidate has evidenced a desire to raise the quality of litigation in the High Courts, commenting in *Ndlovu v Road Accident Fund* on the lack of preparedness for trial on the part of the Fund and the necessity for the Fund to improve its efforts in this regard. In the same judgment the candidate took issue with the declining quality of expert reports in medico-legal cases and set out principles to be followed in improving the quality of such reports.

13. **The candidate's administrative ability**

- 13.1. The candidate appears to have very good administrative experience.
- 13.2. The candidate has served on the Johannesburg Bar Council.
- 13.3. He convened the General Council of the Bar's Human Rights Committee for eight years and, in that period, convened a symposium on judicial independence.
- 13.4. The candidate served on the councils or committees of Lawyers for Human Rights, the CDR Trust and ADRASA. He also served as treasurer for Advocates for Transformation.
- 13.5. Since September 2012, the candidate has served as a member of the National Judiciary and Administration ICT Strategy Steering Committee.

13.6. He was formerly a steering committee member of the National Initiative to Combat Overcrowded Correctional Institutions.

13.7. For the past thirteen years, the candidate has been a trustee and committee member of a home-owners' association.

14. The candidate's reputation for integrity and ethical behaviour

14.1. The candidate enjoys a reputation for integrity and ethical behaviour.

14.2. There is, however, one incident of which we are aware which may warrant inquiry. The candidate appeared as counsel in the matter of *XYZ Radio (Pty) Ltd v Commissioner for the South African Revenue Services* [2009] ZATC 1. At para 37 of his judgment, Van Reenen J characterised a factual submission made by the candidate during the course of argument as "*egregiously at variance with the evidence*".

15. The candidate's judicial temperament

15.1. The candidate engages practitioners who appear before him in robust debate and although mostly courteous and patient in these engagements, is reported to act explosively and impatiently on frequent occasions.

15.2. There is a perception, as reflected by what is set out above, that the candidate has a tendency to be too inquisitorial in his approach, intervening in the conduct of cases before him in, at times, an eccentric or inappropriate manner.

16. The candidate's commitment to human rights, and experience with regard to the values and needs of the community

- 16.1. The candidate's judgments in *Blue Moonlight* and *Mkhwanazi* display an acute awareness of the plight of the poor and marginalised in society.
- 16.2. The candidate seeks, through his judgments, to develop the common law in line with constitutional values and to fashion innovative and equitable remedies.
- 16.3. The candidate's appearances for and support of Ditshwanelo, and his appearances in and writings on land reform matters suggest a genuine desire to secure constitutional protection for the poor and to bring about socio-economic change through the provision of housing and security of tenure.
- 16.4. The candidate's writings on judicial independence suggest a sincere desire to guard and preserve judicial independence in South Africa.
- 16.5. The candidate's general involvement with human rights at various levels over a long period of time (set out above) is at a noteworthy level when it comes to manifesting a commitment to human rights.

17. The candidate's potential

- 17.1. The candidate shows potential to develop as a judge. The censure to which he has been subjected appears relatively easily addressed with respect to adopting a less intrusive and inquisitorial approach to the matters tried before him. Were he

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to be a judge on the Court, there would in any event be very limited scope for such an approach.

18. The message that the candidate's appointment would send to the community at large

18.1. The candidate is a white man.

18.2. The candidate's commitment to the values of the Constitution is thought to be recognised beyond the narrow legal fraternity.

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ANNEXURE: LIST OF JUDGMENTS CONSIDERED

Reported decisions

Blue Chip Consultants (Pty) Ltd v Shamrock 2002 (3) SA 231 (W)

Chief Family Advocate and Another v G 2003 (2) SA 599 (W)

Delpech v Holloway and Others 2011 (2) SA 194 (GSJ)

Fikre v Minister of Home Affairs and Others 2012 (4) SA 348 (GSJ)

Hyprop Investments Ltd and Another v NCS Carriers and Forwarding CC and Another 2013 (4) SA 607 (GSJ)

Iqbal v Minister of Home Affairs and Others 2013 (5) SA 408 (GSJ)

Ketler Investments CC t/a Ketler Presentations v Internet Service Providers Association [2014] 1 All SA 566 (GSJ)

Mokoena v Commissioner for South African Revenue Service 2011 (2) SA 556 (GSJ)

Ndlovu v Road Accident Fund 2014 (1) SA 415 (GSJ)

Nhlapo v S 2012 (2) SACR 358 (GSJ)

Pellow NO and Others v Master of the High Court and Others 2012 (2) SA 491 (GSJ)

SA Bank of Athens Ltd v Van Zyl 2005 (5) SA 93 (GSJ)

S v Mangena and Another 2012 (2) SACR 170 (GSJ)

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Unreported decisions

Blue Moonlight Properties 39 (Pty) Ltd v Occupiers of Saratoga Avenue and Another [2010] ZAGPJHC 3

Casey and Another v First National Bank [2011] ZAGPJHC 225

City of Johannesburg v Berger and Another [2011] ZAGPJHC 235

City of Johannesburg v Clear Channel Independent (Pty) Ltd [2010] ZAGPJHC 55

Duarte v Minister of Police [2013] ZAGPJHC 51

Eagle Valley Properties 250 CC v Unidentified Occupants of Erf 952, Johannesburg Situated at 124 Kerk Street, Johannesburg In Re: Unidentified Occupants of Erf 952, Johannesburg Situated at 124 Kerk Street, Johannesburg v City of Johannesburg [2011] ZAGPJHC 3

eBotswana (Pty) Ltd v Sentech (Pty) Ltd and Others [2012] ZAGPJHC 231

Erf 179 Bedfordview (Pty) Ltd v Bedford Square Properties (Pty) Ltd and Another [2011] ZAGPJHC 29

Gama v Transnet Limited and Others [2009] ZAGPJHC 75

Hickman v Oban Infrastructure (Pty) Ltd and Others [2010] ZAGPJHC 9

Interpark (South Africa) Ltd v Joubert and Another [2010] ZAGPJHC 39

Iozzo NO and Others v Rocha De Figueirdo NO and Others [2011] ZAGPJHC 45

Khyber Rock Estate East Home Owners Association v 09 of Erf 823

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Woodmead Ext 13 CC [2007] ZAGPJHC 137

Landev (Pty) Ltd v Black Eagle Project Roodekrans In re: Black Eagle Project Roodekrans v MEC Department Agriculture Conservation and Environment Gauteng Provincial Government and Others [2010] ZAGPJHC 18

Manavhela and Another v Illing [2013] ZAGPJHC 188

Mkhwanazi v Quarterback Investment (Pty) Ltd and Another [2012] ZAGPJHC 243

Mngani Property 4 (Pty) Ltd v Irwing 514 CC [2010] ZAGPJHC 81

Razee Investments CC v Mineworkers Provident Fund [2010] ZAGPJHC 83

S v Mokoena [2010] ZAGPJHC 44

S v Ngobese [2009] ZAGPJHC 48

Takawira v Minister of Police [2013] ZAGPJHC 138

Technical Information Systems (Pty) Ltd v Marconi Communication (South Africa) (Pty) Ltd and Another [2012] ZAGPJHC 244

Vanderbijlpark Estate Company and Another v Langa NO and Others [2007] ZAGPJHC 138

Xantium Trading 42 (Pty) Ltd v South African Diamond and Precious Metals Regulator and Another [2012] ZAGPJHC 263

Yale Lifting Solutions (Pty) Ltd v Serfontein and Another [2013] ZAGPJHC 192

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Judgments upheld on appeal

Bedford Square Properties (Pty) Ltd v Erf 179 Bedfordview (Pty) Ltd
2011 (5) SA 306 (SCA) (appeal dismissed)

Casey and Another v Firststrand Bank Ltd [2013] ZASCA 131 (appeal in
large part dismissed)

EDS South Africa (Pty) Ltd v Nationwide Airline (Pty) Ltd and Others
2011 (5) SA 158 (SCA) (appeal dismissed)

Quartermark Investments (Pty) Ltd v Mkhwanazi and Another [2014] 1
All SA 22 (SCA) (appeal dismissed)

Judgments overturned on appeal

*City of Johannesburg Metropolitan Municipality v Blue Moonlight
Properties 39 (Pty) Ltd and Another* 2011 (4) SA 337 (SCA)

City of Johannesburg Metropolitan Council v Ngobeni [2012] ZASCA 55

Irwing 514 CC v Mngani Property 4 (Pty) Ltd [2013] ZASCA 48

SA Bank of Athens Ltd v Van Zyl [2006] 1 All SA 118 (SCA)