



LAW LETTER

Supplement

March 2008

vennnemeth&hart
ATTORNEYS

services directory

Chairman

Matthew Francis

Chief Executive Officer

Deon Schaup

Agency Conveyancing

Leanne Holder
Redvers Lee

Banking Law & Foreclosures

Maatla Hlapolosa
Pat Dewes
Robert Stuart-Hill

Constitutional

Matthew Francis
Pat Dewes
Tim Brown

Conveyancing & Sectional Title

Lindy le Roux
Nosipo Mgojo
Redvers Lee

Corporate & Commercial

John Wallace
Matthew Francis
Simon Francis
Tim Brown

Criminal

Deon Schaup
Yuri Maharaj

Debt Recoveries

Anthony Grant
Garnet Venn
Hellen Dolphin
Jeanne Smith
Leith Cawcutt
Louise David
Maureen Krog
Naas le Roux

Estates Administration

Hannah Szudrawski
Joanne Payne
John Wallace
Theresa Killick

Environmental

Matthew Francis

Family

Deon Schaup
Gerry Meyer
Gill Curr
Pat Dewes

Farm Sales & Agricultural

Simon Francis

Immigration

Maatla Hlapolosa
Matthew Francis

Information Technology

John Wallace
Tim Brown

Insolvency

Anthony Grant
Leith Cawcutt
Pat Dewes
Rob Stuart-Hill

Insurance

Deon Schaup
Gill Curr
Nagesh Maharaj
Pat Dewes
Yuri Maharaj

Labour Law and Industrial Relations

Matthew Francis
Tim Brown

Liquor Law

Tim Brown

Litigation & Alternative Dispute Resolution

Anthony Grant
Deon Schaup
Gerry Meyer
Gill Curr
Nagesh Maharaj
Pat Dewes
Robert Stuart-Hill
Yuri Maharaj

Mass Housing

Nosipo Mgojo

Medical

Deon Schaup
Pat Dewes

Mortgage Loans & Investments

John Wallace
Simon Francis

Personal Injuries

Deon Schaup
Nagesh Maharaj

Property Development & Town Planning

Guy Smith
Matthew Francis
Tim Brown

Public & Local Government

Matthew Francis
Robbyn Richards
Tim Brown

Tax Planning

Hannah Szudrawski
John Wallace
Simon Francis

Trusts & Wills

Hannah Szudrawski
John Wallace
Simon Francis

(don't)

read all about it

When Mrs Difford heard that the Sunday Times intended publishing news of a scandal that had come to light during her divorce proceedings, she sought an urgent interim interdict against the newspaper.

It was a scene that the scriptwriters of *Desperate Housewives* are already considering adapting for the popular TV show: it seemed that when Mrs Difford had assured her ex-husband that he was the biological father of their son this had not been entirely truthful. As a result, the unsuspecting ex-husband dutifully provided for his supposed offspring from 1976 to 2001 before discovering that he had been misled.

Mrs Difford asked the court to stop the Sunday Times from publishing the story on the basis of section 12 of the Divorce Act, which prohibits the publication of information other than the names of the parties to a divorce. Mrs Difford got her interim order, but the Sunday Times opposed the confirmation of the order and asked the court to declare section 12 of the Divorce Act to be unconstitutional and invalid.

The court found that section 12 was in fact



by Gillian Curr
Litigation Division

an unconstitutional limitation on the right to freedom of expression. The section placed an absolute ban on the publication of matters arising from divorce proceedings, when the courts are in fact open to the public. The effect was that matters potentially of public interest were prevented from being published.

The judge noted that the removal of the absolute protection provided by section 12 would not result in injustice to the parties to divorce proceedings. The court still had the discretion to prevent the publication of material that may infringe the private life of the parties. In doing so, the court would weigh up the competing interests of the right to freedom of expression and that of privacy in arriving at a just and fair decision. In this case, the court found that the right to privacy was outweighed by the newsworthiness of the country's first paternity fraud suit.



A little inaccuracy sometimes saves tons of explanation.

Saki

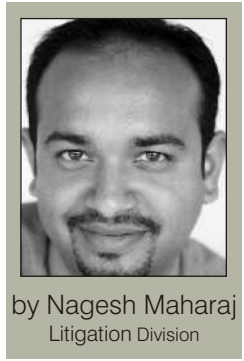


ever at my back I hear...

Dr van der Merwe, an anaesthetist, participated in an operation on a car accident victim. The operation arose from injuries sustained in a car accident that took place four years previously. Dr van der Merwe promptly submitted his claim for anaesthetic services to the Road Accident Fund.

The Fund failed to respond to Dr van der Merwe's claim, despite many queries. While the doctor might have specialized in putting patients to sleep, he did not appreciate the Fund's somnolent attitude and he issued summons against the Fund.

In court the Road Accident Fund argued that Dr van der Merwe's claim had prescribed because it was submitted more than three years after the accident. The Pretoria High Court agreed with the Fund and dismissed Dr van der Merwe's claim. The doctor appealed against the High Court's decision.



The Supreme Court of Appeal gave the Road Accident Fund something of a wake up call. The court found that Dr van der Merwe was entitled to claim directly from the Fund for payment for services rendered and the doctor's claim was accessory to the victim's claim. Dr van der Merwe's claim had not prescribed because the accident victim had submitted his claim to the Road Accident Fund in time and, in fact, the victim qualified for assistance from the Fund.

“ Arriving at Dublin Castle for the handover by British forces on 16 January 1922, and being told that he was seven minutes late: We've been waiting 700 years, you can have the seven minutes. ”
Michael Collins

a new **litigator**

We are delighted to announce that Pat Dewes, a well-known and respected Pietermaritzburg attorney, will be joining Venn Nemeth and Hart as a director from 1 March 2008.

Pat is a seasoned litigator, with significant experience in all fields of civil litigation, including commercial disputes and matrimonial law. Pat acts for a number of financial and other institutions, and has represented clients in the constitutional court.



Pat began his career in the office of the Master of the Supreme Court, which is entrusted with the oversight of deceased estates and trusts. He became a partner of FH Lowe and Company in 1984 and was subsequently partner and chairman of Austen Smith Attorneys.

by Pat Dewes
Litigation Director

class of 2006 and more

Our 2005 intake of candidate attorneys Liza Bagley, Tasveera Ramkaran and Andrew Thornton-Dibb - having learnt volumes about the practice of law, recently graduated as attorneys. The process involves an application to the High Court and a solemn appearance before a panel of judges. Successful applicants are admitted as attorneys and their names entered into the roll of attorneys. Family and friends often

observe the proceedings and the event is a significant culmination of two years' hard work.

We are especially pleased to mention that two candidates, Liza Bagley and Tasveera Ramkaran, qualified for the coveted "triple admission". A triple admission is an admission as an attorney, conveyancer and notary. Each admission requires the

Someone once said, Rumbold, that education is what is left when you have forgotten all you have ever learned. You appear to be trying to circumvent the process by learning as little as possible. Alan Bennett

successful completion of separate examinations.

Conveyancers are qualified to transfer and bond immovable property and to attend to other transactions in the Deeds Office. A notary occupies a particularly responsible position and is authorised, amongst other things, to execute antenuptial contracts.

Tasveera and Liza will be joining our Property Division, while Andrew Thornton-Dibb plans to practice abroad.

Gill Curr, an attorney in our Litigation Division, has also been admitted as a conveyancer. Gill joined Venn Nemeth and Hart in 2005 as a candidate attorney *and* was admitted as an attorney in February 2007.

A knowledge of conveyancing is useful in many areas of law, from the sale of commercial properties to litigation relating to immovable property. Gill will remain in our Litigation Division and her new skills will be useful in contentious property matters.



Tasveera Ramkaran, Andrew Thornton-Dibb, Gillian Curr and Liza Bagley

vennnemeth&hart
ATTORNEYS

281 Pietermaritz Street • PO Box 600, Pietermaritzburg, 3200

Tel: 033 355 3100 • Fax: 033 394 1947