

JSC INTERVIEW ROUND: OCTOBER 2022

CANDIDATE: JUDGE NORMAN MICHAEL MANOIM

**COURT FOR WHICH CANDIDATE APPLIES: JUDGE PRESIDENT
OF THE COMPETITION APPEAL COURT**

1. The candidate's tertiary qualifications, professional admissions, honours, and permanent judicial appointments:

1.1. The candidate holds the following qualifications:

1.1.1. Bachelor of Arts (23 April 1980) University of Witwatersrand;

1.1.2. Bachelor of Law (3 May 1983) University of Witwatersrand;

1.2. The candidate is appropriately qualified.

1.3. The candidate also completed the following:

1.3.1. Candidate Attorney during the period generally 1982 until mid-1984;

1.3.2. Member of the Law Society of Transvaal (as it was then) from 1982 until 1998;

1.3.3. Executive Member of the Lawyers for Human Rights from 1982 to 1984;

1.3.4. Member of the National Association of Democratic Lawyers (NADEL) from 1984 to 1998;

- 1.3.5. Executive Member of the Independent Board of inquiry into Informal Repression from 1992 to 1997;
- 1.3.6. Executive Member of the Freedom of Expression Institute from 1994 to 1997;
- 1.3.7. Partner at Cheadle, Thompson and Haysom Attorneys;
- 1.3.8. Full-time member of the Competition Tribunal from August 1999 to July 2009;
- 1.3.9. Chairperson of the Competition Tribunal from August 2009 to July 2019;
- 1.3.10. Acting Director of the Mandela Institute (University of Witwatersrand) from August 2019 to January 2020;
- 1.3.11. Part-time appointment as Professor of Practice in the School of Economics at the University of Johannesburg;
- 1.3.12. Appointed as Acting Judge from November 2019 to May 2021;
- 1.3.13. Presided as Acting Judge at the Income Tax Court from March 2019 to March 2020;
- 1.3.14. Appointed as a Judge of the High Court, Gauteng Local Division on 1 June 2021; and
- 1.3.15. Appointed as a Judge to the Competition Appeal Court on 1 January 2022.

2. The candidate's integrity and ethics:

- 2.1. No circumstances are known that would suggest that the candidate is not a person of integrity with a reputation for ethical behaviour or is not a fit and proper person for appointment.

3. Whether the candidate's appointment would help to achieve an appropriate racial and gender composition on the bench:

- 3.1. There are currently nine full time judges on the Competition Appeal Court bench, comprising (as far as could be ascertained):

3.1.1. three black women (two African, one Indian);

3.1.2. two black men (one African, one Indian);

3.1.3. two white women; and

3.1.4. two white men.

- 3.2. The candidate is a white man.

4. The maximum time period the candidate could serve if appointed:

- 4.1. Section 176(2) of the Constitution provides that all judges other than Constitutional Court judges "*hold office until they are discharged from active service in terms of an Act of Parliament.*" The Act in question is the Judges Remuneration and Conditions of Employment Act 47 of 2001.

- 4.2. Section 3(2)(a) of the Act provides that, subject to section 4(4), a judge will ordinarily be discharged from active service upon reaching the age of 70 if, by that date, they have completed a period of active service of not less than ten years. If not, they will be

discharged from active service after having completed ten years of active service.

- 4.3. Section 4(4) allows for a judge who reaches the age of 70 to continue serving until the age of 75 if, at the time of turning 70, they have not yet served 15 years' active service.
- 4.4. The candidate is 64 years of age and has completed a period of one year of active service as a judge.
- 4.5. If appointed, the candidate could serve up to eleven years actively in office.

5. The candidate's personal commitment to the values of the constitution:

- 5.1. The candidate's professional background demonstrates his commitment to the values of the Constitution.
- 5.2. The candidate was a member of several organisations that are involved in the upholding of human rights and academic teaching; in this regard the candidate was:
 - 5.2.1. Executive Member of the Lawyers for Human Rights from 1982 to 1984;
 - 5.2.2. a member of the National Association of Democratic Lawyers (NADEL) from 1984 to 1998;
 - 5.2.3. Executive Member of the Independent Board of Inquiry into Informal Repression from 1992 to 1997;
 - 5.2.4. Executive Member of the Freedom of Expression Institute from 1994 to 1997;

- 5.2.5. a partner at Cheadle, Thompson and Haysom Attorneys focusing on labour law and human rights law. The candidate specified that his focus was on human rights, also representing political detainees as well as persons in certain Commissions of Inquiry;
- 5.2.6. the Acting Director of the Mandela Institute (University of Witwatersrand) from August 2019 to January 2020;
- 5.2.7. a part-time appointment as Professor of Practice in the School of Economics at the University of Johannesburg; and
- 5.2.8. the candidate's academic writing further demonstrates a commitment to the Constitution and its values.
- 5.3. It is manifest from the above that the candidate is committed to the values of the Constitution.

6. The candidate's knowledge of the law, including constitutional law:

- 6.1. The candidate has substantial experience in political matters having a constitutional element in the pre-democratic South Africa, commencing his career as a human rights lawyer and having published on these issues.
- 6.2. The candidate's knowledge of constitutional law and its impact on civil procedure was demonstrated in the unreported matter of *Focus Products (Pty) Ltd v Jones Nyambi and another* (case number 5747/2020) adopted in provisional sentence proceedings and the *ratio decidendi* given by Brand AJ in the Constitutional Court's decision in *Twee Jonge Gezellen (Pty) Ltd v Land and Agricultural Bank of South Africa t/a Land Bank 2011 (3) SA 1 (CC)*.

- 6.3. In this matter, the candidate applied the aforementioned authority, summarized and interpreted the law and clarified the law relating to provisional sentence procedure. The candidate suitably considered the constitutional basis underlying the test to be applied in defending provisional sentence proceedings.
- 6.4. The candidate also considered the interaction of the rights of accused persons under Section 35 of the Constitution with section 59 of the Competition Act (which pertains to *inter alia* the imposition of administrative penalties) in *Competition Commission of South Africa v Federal Mogul Aftermarket Southern Africa (Pty) Ltd and Another* [2003] CPLR 464 (CT) (referred to hereinafter).
- 6.5. The candidate's knowledge of administrative law is demonstrated in the decision of *Computicket (Pty) Ltd v Competition Commission* (CR008Apr10/DSM022May11) when the candidate (as presiding member of the Competition Tribunal) dealt with the application to review and set aside a decision by the Competition Commission to refer a complaint against it.
- 6.6. The candidate was required to determine the applicable legal standard for review within the statutory review mechanism provided for in the Competition Act 89 of 1998 ("the Competition Act"). The judgment is detailed, well-reasoned and provides evidence that the candidate possesses a grasp of both Administrative Law and Competition Law.
- 6.7. In the matter of *Nhlanhla Radebe v S* (case number A1183/2019) the candidate handed down judgment in a criminal appeal concerning the conviction of an accused on the basis of his identification by a

single witness and circumstantial evidence. The appeal also concerned the Magistrate's sentencing.

- 6.8. The candidate displayed appropriate judicial temperament by highlighting the fact that both the appellant and the respondent had misread the record with reference to the reliance that the Magistrate had placed on a previous robbery conviction in sentencing. The candidate made a finding based on a reading of the record as opposed to relying solely on submissions by counsel. In this judgment the candidate also demonstrated comprehensive knowledge of the law of evidence.
- 6.9. In *Cawood N.O. v Murran N.O. and others* (A127/19 GDP) the candidate presided in a full bench appeal in deciding whether a court can make an order of forfeiture of a business rescue practitioner's fees in appropriate circumstances, which issue had not previously been decided. The court found that it does not have inherent powers over a business rescue practitioner in that they are only temporarily officers of the court, not subject to further obligations but their fiduciary duties and obligations and they also do not have the responsibilities and duties of a director. Consequently the court did not have statutory powers to order business rescue practitioners to repay their fees when applying for a conversion from business rescue to liquidation, nor does the court have inherent power to order a business rescue practitioner to repay fees for misconduct.
- 6.10. In *Franklin v The Minister of Police* (Case Number A3055/19) the candidate demonstrated his knowledge of the law of delictual damages as well as applicable heads of damages in a delictual claim.

- 6.11. Based on the candidate's previous experience and knowledge, it is manifest that the candidate has extensive knowledge in competition law, being invited to serve on the drafting team of what became the Competition Act; then serving on the Competition Board and its replacement, the Competition Tribunal; also acting as its Chairperson from August 2009 to July 2019, the candidate being the longest-serving member thereof; and also being a visiting professor at the Wits Law School where he taught competition law. The candidate further represented the Competition Tribunal at international conferences, presenting papers at these conferences, and has been invited to participate on panels by foreign competition and bar authorities. Reference is also made to the content in paragraph 8 hereinafter.
- 6.12. The candidate's knowledge of competition law and its development of the jurisprudence is demonstrated in various decisions handed down by him during his tenure with the Competition Commission, those decisions being published in Butterworths Competition Law Reports:
- 6.12.1. In *Competition Commission v Computicket (Pty) Ltd* (Case Number: CR008Apr10) the candidate had to determine whether abuse of dominance had been established.
- 6.12.2. In *American Natural Soda Ash Corp v Botswana Ash (Pty) Ltd* [2001-2002] CPLR 430 (CT) the candidate gave judgment concerning the jurisdiction of the Competition Tribunal which required that the Competition Commission must have completed its investigations and determined that a prohibitive practice existed before. These facts, according to the

candidate, were jurisdictional prerequisites that must have been met before the Competition Tribunal could exercise jurisdiction.

6.12.3. In *Competition Commission of South Africa v Federal Mogul Aftermarket Southern Africa (Pty) Ltd and Another* [2003] 2 CPLR 464 (CT) the candidate handed down judgment in a matter concerning the constitutionality of Section 59 of the Competition Act. As the section fails to afford sufficient rights to a respondent facing an administrative penalty, the Competition Tribunal was alleged to not constitute an impartial and independent forum and the section was said to be irrational in so far as the section utilized turnover as a basis to determine the maximum penalty to be imposed. An argument was also raised that the section fell short of the safeguards provided in section 35 of the Constitution to accused persons. The candidate, in his judgment, dismissed these arguments, considering American law in relation to our notion of “*double jeopardy*”, and held that (at para 35): “*Our Constitution on the other hand, by virtue of section 34, ensures that fairness is not jettisoned from dispute resolution simply because a procedure is not characterized as criminal. In our law “non-criminal” disputes must still comply with section 34. The right to a public trial, the issue in the Engel case, is, in terms of our Constitution, guaranteed not only in criminal proceedings (section 35 (3) (c) but also by section 34.*”.

6.12.4. In *Competition Commission of South Africa v American Natural Soda Ash Corp CHE Global (Pty) Ltd and Others v*

Botswana Ash (Pty) Ltd and Another [2005] 1 CPLR 121 (CT) the candidate gave judgment in a matter concerning an order for interim relief and considered international law. The candidate had due regard to, and applied, customary international law in accordance with Section 232 of the Constitution. He also considered the comparative American anti-trust jurisprudence in his judgment.

6.12.5. In *Astral Foods Ltd v Competition Commission and Others* [2003] 2 CPLR 452 (CT) the candidate handed down a judgment concerning the variation or clarifications to the conditions related to an approved merger and, in doing so, reiterated and detailed the general principles concerning the variation of orders in the High Court and found that the same principles were applicable in the exercise of powers under Section 66 of the Competition Act.

6.12.6. In *Competition Commission v Aveng (Africa) Ltd t/a Steeldale and Others* (84/CR/DEC09) [2012] ZACT 32 (7 May 2012) the candidate handed down judgment in a matter wherein the scope of the Commission's powers and the extent of liability for cartels in terms of the Competition Act was dealt with. The candidate's judgment was taken on appeal and his judgment was upheld.

6.12.7. In *Life Wise (Pty) Ltd t/a Eldan Auto Body v Competition Commission of South Africa* (197/CAC/Nov21) [2022] ZACAC 3 (8 April 2022) the candidate handed down judgment in the Competition Appeal Court dismissing an appeal against a decision by the Tribunal to refuse to amend

the provisions of a consent order which the appellant had entered into with the Competition Commission. It was confirmed that the Tribunal does have the powers, like the High Court to amend its orders if a respondent is suffering hardship due to a change in circumstances or where there are exceptional circumstances.

6.12.8. In *Competition Commission v South African Airways (Pty) Ltd* (Case number: 18/CR/Mar01) the candidate dealt with the legality of two incentive schemes which South African Airways had with its travel agents. Nationwide Airlines lodged a complaint with the Commission alleging that the incentives constituted an abuse of dominance designed to exclude or impede rivals in the domestic airline market and sought an order declaring the scheme to constitute a prohibitive practice with the imposition of a fine of R 100 million. After a comprehensive analysis of the schemes and the various elements of the case, the Commission needed to establish and analyse the relevant markets with reference to dominance and abuse. The Commission ruled that the scheme constituted an exclusionary act in terms of section 8 (d)(i) of the Act with an anti-competitive effect in terms of Section 8(c) of the Act and imposed a penalty of R45 million.

6.13. The candidate is more than suitably versed in the field of competition law and has an in-depth knowledge with more than adequate experience in this area of South African law. He has been responsible for developing the jurisprudence in this area of law and is well respected and highly regarded in this field. Reference is also made to the content in paragraph 8 hereinafter.

6.14. From the judgments considered by the review team it is clear that the candidate is an experienced judicial officer with sound knowledge of various fields of law. His judgments are succinct, well written and well reasoned, follow a clear and easy-to-understand structure and demonstrate the candidate's ability to apply the relevant law to the facts of each matter.

6.15. The candidate possesses more than sufficient knowledge and experience for appointment to the position of President of the Competition Appeal Court.

7. Judgments of the candidate that have been overturned, upheld or commented on, on appeal:

7.1. Reference is made to Items 3 and 4 in the Annexure. The following judgments of the candidate were overturned on appeal:

7.1.1. In *Competition Commission v Bank of America Merrill Lynch International Limited and Others* (175/CAC/Jul19) [2020] ZACAC 1; 2020 (4) SA 105 (CAC) (28 February 2020) the appeal concerned the question of the jurisdiction of the Competition Commission to be considered with reference to global economic challenges and their consequences for competition law enforcement in South Africa. Taking into consideration that the respondent banks were alleged to be *peregrini* in South Africa, the court considered the distinction between "pure" *peregrini* and "local" *peregrini*. The appeal was partially successful against the declaratory orders of the Tribunal, requiring it to obtain further evidence on the issue of jurisdiction over "pure" *peregrini*, which would allow a proper determination thereon. No adverse comments were

made in respect of the decision of the Tribunal, over which the candidate had presided.

7.1.2. In *Premier Foods v Manoim NO and others* (20147/2014) [2015] ZASCA 159; 2016 (1) SA 445 (SCA); [2016] 1 All SA 40 (SCA) (4 November 2015) the appellant participated as a self-confessed member of a cartel in complaint proceedings before the Competition Tribunal. The Tribunal then declared the appellant's conduct to be a prohibited practice in respect of its involvement in cartel activity which led to the appeal. On appeal it was held that the Tribunal was a creature of statute, having only those powers given to it by the Competition Act requiring the Tribunal to determine complaints referred to it being empowered to make a declaration only on matters falling within terms of a referral. The appellant's conduct did not fall within the ambit of the referrals with the Tribunal and thus did not have power or jurisdiction to make the declaration against the appellant, exceeding its powers. No adverse comments were made in respect of the decision of the Tribunal, over which the candidate had presided.

7.1.3. In *Competition Commission of South Africa v Arcelormittal South Africa Ltd and Others* [2013] 3 All SA 234 (SCA) the Competition Commission lodged a complaint against the respondents before the Competition Tribunal. The respondents unsuccessfully required the Commission to produce certain documents which it refused to hand over on the ground that it was privileged and contained "restricted information" under the Commission's rules. The Supreme

Court of Appeal considered the issue of litigation privilege concluding that the documents fell within litigation privilege but found that factually the Commission had waived its privilege ruling that the documents were to be disclosed. No adverse comments were made in respect of the decision of the Tribunal, over which the candidate had presided.

7.1.4. In *Netstar (Pty) Ltd and Others v Competition Commission South Africa and Another* (99/CAC/MAY10, 98/CAC/MAY10, 97/CAC/MAY10) [2011] ZACAC 1; 2011 (3) SA 171 (CAC) (15 February 2011) the appellants appealed against a decision of the Competition Tribunal which held that they had contravened s 4(1)(a) of the Competition Act, having entered into an agreement to block access to the industry with the issue of a declaratory order by the tribunal to that effect. In the context of the matter it was important to distinguish between a restrictive 'agreement' and 'concerted practice', a concerted practice arising from conduct not amounting to an agreement. The Tribunal's factual finding of a restrictive agreement was not upheld. No adverse comments were made in respect of the decision of the Tribunal, over which the candidate had presided.

7.1.5. In *Netcare Hospital Group (Proprietary) Limited and Another v Manojim NO and Others* (CAC 75/CAC/Apr08) [2008] ZACAC 1 (27 October 2008) the Tribunal had issued a written decision refusing to make a consent order between the appellants and the Commission an order of the Tribunal. Although reviewable irregularities occurred causing the setting aside of the Tribunal's decision, no adverse comments

were made in respect of the decision of the Tribunal, over which the candidate had presided.

7.1.6. In *Harmony Gold Mining Company Limited v Gold Fields Limited and Others* (43/CAC/Nov04) [2005] ZACAC 4; [2005] 1 CPLR 97 (CAC) (10 May 2005) the appellant instituted an application in the Competition Tribunal in which it sought an order to prevent the first respondent from implementing a merger application, The Tribunal dismissed this application. On appeal it was found that the offer and the implementation of a merger would be in breach of section 13A(3), the acquired shareholding empowering the first respondent to materially influence the strategic position of the appellant to scuttle a significant transaction. The appeal was successful with no adverse finding made against the Tribunal.

7.1.7. In *National Association of Pharmaceutical Wholesalers and Others v Glaxo Wellcome (Pty) Ltd and Others* (29/CAC/Jul03) [2005] ZACAC 2; [2005] 1 CPLR 102 (CAC) (18 February 2005) both an appeal and cross-appeal were lodged against a decision of the Competition Tribunal by parties being pharmaceutical wholesalers, distributors, and manufacturers in a vertical relationship. The Competition Appeal Court found that the Tribunal acted correctly in finding that it could hear an application for striking out before the respondents filed their answering affidavit. However, the Tribunal erred in not striking out other related issues, the appeal being partially upheld. No adverse findings were made against the Tribunal.

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

- 8.1. The candidate has been practicing law since 1982. During this period the candidate has been an attorney and partner at the law firm of Cheadle, Thomson and Haysom Attorneys.
- 8.2. The candidate was appointed as a member of the Competition Board during 1998.
- 8.3. The candidate was a member of the team which drafted the new Competition Act and Rules for the Conduct of Proceedings in the Competition Tribunal from 1998 to 2002.
- 8.4. The candidate attended a course by Professor Phillip Areeda on Antitrust Law at Harvard University's Program of Instruction for Lawyers in 1993.
- 8.5. The candidate was a member of the study group at the Centre for Applied Legal Studies looking at Competition Policy in 1994.
- 8.6. The candidate was a member of a study sponsored by the Friedrich Ebert Stiftung to the Federal Republic of Germany to study German Competition Law in 1995.
- 8.7. The candidate attended the World Bank seminar on Competition Law in Washington DC in 1998.
- 8.8. The candidate was a member of the International Competition Network sub-committee responsible for preparing best practices for competition agencies in respect of merger procedures from 2002 to 2004.

- 8.9. The candidate has attended several International Conferences on competition law and policy in the past 18 years, representing the Tribunal and having presented papers or participated in panel discussions.
- 8.10. The candidate was also invited by the International Bar Association, the American Bar Association, the Hong Kong Competition Commission, and the International Competition Network to participate in panels at conferences on judging competition law cases.
- 8.11. The candidate was a full-time member of the Competition Tribunal from August 1999 to July 2009 and was chairperson of the Competition Tribunal from August 2009 to July 2019.
- 8.12. The candidate is the longest-serving member of the Competition Tribunal and has substantial quasi-judicial experience.
- 8.13. The candidate was an Acting Director of the Mandela Institute (University of the Witwatersrand) from August 2019 to January 2020 and a Professor of Practice in the School of Economics at the University of Johannesburg. The candidate has lectured students at LLB and diploma level in competition law at the University of the Witwatersrand and was appointed as a sessional lecturer, also acting as external examiner of dissertations, including a PhD thesis.
- 8.14. The candidate has lectured competition law part-time to LLM students at the University of Pretoria and the University of Fort Hare, also lecturing at the LINK Centre at the University of the Witwatersrand's Business School.

- 8.15. The candidate also obtained practical judicial experience as both an acting and permanent judge of the Gauteng Local Division of the High Court.
- 8.16. The candidate has listed nine publications in the application documents. Of these articles, three have specific reference to competition law, “*Merger Procedures in South Africa*”, “*Why design matters to the success of Competition agencies*” and “*Evaluating the public interest in Competition law cases*”.
- 8.17. The candidate possesses substantial professional experience, particularly in the field of competition law. Various members of the profession were canvassed informally on his knowledge and ability in the field of competition law and he is considered a leader therein.

9. The candidate’s linguistic and communication skills:

- 9.1. In demonstration of his sound linguistic and communication skills, the candidate has published several articles, has presented several papers, and has participated in panel discussions.
- 9.2. The decisions and judgments written by the candidate are clear, detailed, and understandable.
- 9.3. The candidate appears to possess the necessary linguistic and communication skills.

10. The candidate’s ability to produce judgments promptly:

- 10.1. No adverse comments have been received.
- 10.2. According to the norms and standards for the performance of judicial functions (2014), “[s]ave in exceptional circumstances where it is

not possible to do so, every effort shall be made to hand down judgments no more than 3 months after the last hearing". The candidate has disclosed four outstanding judgments:

10.2.1. In the Competition Appeal Court matter of *Goodyear v Competition Commission* which was heard on 6 May 2022, more than a 3 months having lapsed;

10.2.2. In the High Court matters of:

10.2.2.1. *Bank of Mocambique v Morulat* which was heard on 4 May 2022, more than three months having lapsed;

10.2.2.2. *BNS Nominees v Arrowhead Properties* which was heard on 13 May 2022, more than three months having lapsed; and

10.2.2.3. *Lord's View Property Owners v MEC for Economic Development and Others* which was heard on 2 June 2022, more than two months having lapsed.

11. The candidate's ability to conduct court proceedings fairly, efficiently and effectively:

11.1. No adverse comments have been received.

12. The candidate's independent mindedness:

12.1. No adverse comments have been received and there is nothing to suggest the candidate is not independent-minded.

13. The candidate's administrative ability (other than in relation to court proceedings):

13.1. The candidate was the Chairperson of the Competition Tribunal for ten years and has acted in various other capacities, including as a judge of the South Gauteng Division, in which roles he would have gained and exercised extensive administrative skills.

13.2. No adverse comments have been received and there is nothing to suggest that the candidate does not have the necessary ability.

14. The message that the candidate's appointment would send to the public at large:

14.1. The candidate's appointment would send a positive message to the community at large, especially considering his extensive experience in competition law.

ANNEXURE: LIST OF JUDGMENTS CONSIDERED1. Reported judgments:

- 1.1. *Greenhill v Discovery Preservation Pension Fund and Another* 2022 (3) SA 236 (GJ)

2. Unreported judgments:

- 2.1. *Life Wise (Pty) Ltd t/a Eldan Auto Body v Competition Commission of South Africa* (197/CAC/Nov21) [2022] ZACAC 3 (8 April 2022)
- 2.2. *Petersen v Oosthuizen* (2015/44101) [2022] ZAGPJHC 412 (15 June 2022)
- 2.3. *Tshalet v Mosungwa and Another* (118881/2021) [2022] ZAGPJHC 278 (3 May 2022)
- 2.4. *Atlanta Sugar (Pty) Ltd v Zande Africa (Pty) Ltd and Another* 2022 JDR 0533 (GJ)
- 2.5. *Segal v Tuckett and Others* 2022 JDR 0669 (GJ)
- 2.6. *Corwil Investments Holdings (Pty) Ltd and Another v Investec Securities (Pty) Ltd* 2022 JDR 0922 (GJ)
- 2.7. *Maamach (Pty) Ltd v Air Traffic Navigation Service Soc Ltd* 2022 JDR 1180 (GJ)
- 2.8. *Mowad CC v Ener-Gi Fuel Corporation (Pty) Ltd and Another* 2022 JDR 1181 (GJ)
- 2.9. *Nyathela and Another v The National Arts Council of South Africa and Another* 2022 JDR 1182 (GJ)

- 2.10. *Twenty-Third Century Systems (Pty) Ltd and Another v SAP Africa Region (Pty) Ltd* 2022 JDR 1240 (GJ)
- 2.11. *Sheperd Bushiri Investments (Proprietary) Limited and Others v JM Busha Investment Group (Proprietary)* 2021 JDR 2843 (GJ)
- 2.12. *S v Pule* 2021 JDR 2890 (GJ)
- 2.13. *Bambeni v Democratic Alliance* 2021 JDR 2997 (GJ)
- 2.14. *CNA Operations (Pty) Ltd v Anglowealth Sharia (Pty) Ltd* 2021 JDR 3199 (GJ)
- 2.15. *Xhosa v S* (A126/2020) [2021] ZAGPJHC 692 (12 November 2021)
- 2.16. *Cawood N.O. v Murran N.O. and others* (A127/19 GDP)
- 2.17. *Arcelomittal South Africa Ltd and Others v Competition Commission and Others* [2013] JOL 30105 (CAC)
3. Judgments upheld on appeal:
 - 3.1. *Competition Commission v Pistorius NO and others* [2016] 2 CPLR 955 (CT) Appeal Judgment: *Pistorius NO and others v Competition Commission* [2017] 2 CPLR 575 (CAC)
 - 3.2. *Competition Commission v DPI Plastics (Pty) Ltd and Others* (15/CR/Feb09) [2012] ZACT 47 (4 July 2012). Appeal Judgment: *MacNeil Agencies (Pty) Ltd v Competition Commission* (121/CACJul12) [2013] ZACAC 3 (18 November 2013)
 - 3.3. *MacNeil Agencies (Pty) Ltd v Competition Commission* (121/CACJul12) [2013] ZACAC 3 (18 November 2013)

- 3.4. *Competition Commission v South African Breweries and others* [2014] JOL 32169 (CT) Appeal Judgment: *Competition Commission of South Africa v South African Breweries Ltd and Others* (114/CAC/Nov11) [2012] ZACAC 8 (14 November 2012)
- 3.5. *In Competition Commission v Aveng (Africa) Ltd t/a Steeldale and Others* (84/CR/DEC09) [2012] ZACT 32 (7 May 2012)
- 3.6. *Competition Commission of South Africa v Senwes Limited* (110/CR/Dec06) [2009] ZACT 8 (3 February 2009). Appeal judgment: *Senwes Limited v Competition Commission of South Africa* (118/2010) [2011] ZASCA 99 (1 June 2011)
4. Judgments overturned on appeal:
- 4.1. *Competition Commission of South Africa v Bank of America Merrill Lynch International Limited and Others* (CR121Feb17) [2019] ZACT 50 (12 June 2019). Appeal Judgment: *Competition Commission v Bank of America Merrill Lynch International Limited and Others* (175/CAC/Jul19) [2020] ZACAC 1; 2020 (4) SA 105 (CAC) (28 February 2020).
- 4.2. *Premier Foods v Manoim NO* (20147/2014) [2015] ZASCA 159; 2016 (1) SA 445 (SCA); [2016] 1 All SA 40 (SCA) (4 November 2015)
- 4.3. *Competition Commission of South Africa v Arcelormittel South Africa Ltd and Others* [2013] 3 All SA 234 (SCA)
- 4.4. *Competition Commission and Another v Netstar (Pty) Ltd and Others* (17/CR/Mar05) [2010] ZACT 29 (19 April 2010). Appeal Judgment: *Netstar (Pty) Ltd and Others v Competition Commission*

South Africa and Another (99/CAC/MAY10, 98/CAC/MAY10, 97/CAC/MAY10) [2011] ZACAC 1; 2011 (3) SA 171 (CAC) (15 February 2011)

4.5. *Netcare Hospital Group (Proprietary) Limited and Another v Manaim NO and Others* (CAC 75/CAC/Apr08) [2008] ZACAC 1 (27 October 2008)

4.6. *Gold Fields Ltd and Harmony Gold Mining Company Ltd / Competition Commission* (93/LM/Nov04) [2005] ZACT 18 (4 April 2005). Appeal judgment: *Harmony Gold Mining Company Limited v Gold Fields Limited and Others* (43/CAC/Nov04) [2005] ZACAC 4; [2005] 1 CPLR 97 (CAC) (10 May 2005)

4.7. *Glaxo Wellcome (Pty) Ltd and Others v National Association of Pharmaceutical Wholesalers and Others* (15/CAC/Feb02) [2002] ZACAC 3 (21 October 2002). Appeal Judgment: *National Association of Pharmaceutical Wholesalers and Others v Glaxo Wellcome (Pty) Ltd and Others* (29/CAC/Jul03) [2005] ZACAC 2; [2005] 1 CPLR 102 (CAC) (18 February 2005)