

VACANCY: JUDGE OF THE SUPREME COURT OF APPEAL

Candidate: Judge Ingrid Opperman

1. The candidate's tertiary qualifications, professional admissions, honours, and permanent judicial appointments
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- 1.1. The candidate holds the following tertiary qualifications:
- BCom, University of Johannesburg (1985);
 - LLB, University of Johannesburg (1988).
- 1.2. The candidate holds the following professional admissions and honours:
- admitted as an advocate in July 1990;
 - conferred senior counsel status in September 2017.
- 1.3. The candidate was permanently appointed to the following judicial roles:
- Judge of the High Court (Gauteng Local Division) from January 2017;
 - Judge of the Equality Court in January 2020;
 - Chairperson of the Court of Military Appeals from July 2021.
- 1.4. The candidate has acted in the following roles:
- Judge of the Supreme Court of Appeal (approximately 12 weeks);
 - Judge of the Constitutional Court (approximately 32 weeks).

2. The candidate's integrity and ethics
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- 2.1. The candidate's nomination letters specifically refer to her integrity and strong values. All information available confirms that the candidate is a fit and proper person for appointment.

3. The racial and gender composition of the bench
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- 3.1. As far as could be ascertained, there are currently 23 permanent justices of the Supreme Court of Appeal:

- 9 black women (6 African, 2 Coloured, 1 Indian)
- 7 black men (3 African, 3 Coloured, 1 Indian)
- 3 white women
- 4 white men

3.2. According to the questionnaire, the candidate is a white woman.

4. The maximum period the candidate could serve if appointed

4.1. At the time of the interviews, the candidate will be approximately 63 years old and will have completed a period of approximately 9 years and 8 months of service as a judge. If appointed, the candidate would be eligible to serve as Justice of the Supreme Court of Appeal for a period of up to 6 years and 11 months.

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

- 5.1. The candidate has shown commitment to constitutional values throughout her career.
- 5.2. The candidate records that her early work as counsel involved criminal defence work representing Northern Cape community members charged with offences arising from their resistance to apartheid structures. The candidate also appeared in inquests on behalf of families who lost children in police custody.
- 5.3. In her professional capacity, the candidate has demonstrated that she is committed to furthering transformation within the legal profession in that she has:
- Assisted with training and mentoring permanent, acting and aspirant judges through the South African Chapter of the International Association of Women Judges (“SAC-IAWJ”) and South African Judicial Education Institute (“SAJEI”);
 - Assisted with advocacy training for members of the Johannesburg Society of Advocates (“JSA”), Pan African Bar Association of South Africa (“PABASA”) and Advocates for Transformation (“AFT”); and
 - Assisted with workshops on constitutional literacy for High School youth during her time as an acting judge at the Constitutional Court.
- 5.4. The candidate's reference letters contained in her application commend her for her generosity and mentorship of junior colleagues – particularly at the bench – and her sensitivity to the impact of her judgments on the community and vulnerable people.

6. The candidate's knowledge of the law, including constitutional law
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- 6.1. The candidate had 25 years of experience as counsel prior to her elevation to the bench.
- 6.2. Since her appointment in 2017, the candidate has delivered a significant number of judgments covering a wide range of subjects. Her judgments reflect a broad and sound understanding and knowledge of many areas of the law.
- 6.3. The candidate highlights her contribution to commercial jurisprudence. Indeed, the candidate's judgments reflect a special depth of knowledge in civil and commercial law and tax law.
- 6.4. The candidate has been a regular appointee in Tax Court and Commercial Court matters allocated to the Johannesburg Division of the High Court. These matters involve complex factual and legal disputes and require active case management by the appointed judge to ensure they are conducted and resolved effectively and efficiently.
- 6.5. One example of the candidate's ability and commitment to protecting vulnerable groups while, at the same time, applying the rule of law in commercial matters is her approach to the setting of reserve prices in bank foreclosure applications, which are dealt with regularly in the unopposed motion court. A practical concern arose that homes sold in execution were being sold at prejudicially low prices, so that vulnerable defaulting homeowners were losing significant value. The candidate reassessed the method used to set the reserve price on these sales to better protect the homeowner. Practitioners now refer to the method as the "*Opperman formula*", which is generally applied in such matters.
- 6.6. A further point to highlight from the candidate's judgments is the number of them that involve the intersection of commercial and public law concepts and principles. Notable judgments include:
 - *Saziwa and Others v Mhlontlo Local Municipality and Others* 2026 (6) BCLR 547 (CC) (Unanimous)
 - The applicants – residents in the Mhlontlo Local Municipality – were victims of a severe weather event that destroyed and damaged their homes. They instituted proceedings against the Municipality to secure temporary emergency shelter. The High Court dismissed the application, and the SCA refused leave to appeal.

- Before the Constitutional Court, the appellants argued that section 54 of the Disaster Management Act 57 of 2002 read with the Constitution mandated the state respondents to deal with the disaster even if no disaster had been declared under the act. The Mhlontlo Local Municipality denied that there was a disaster and contended that, in the absence of a declaration of disaster, it had no obligation to assist the applicants. It further argued that the matter fell within the responsibility of the provincial or national government. The provincial government argued that it was the municipality's responsibility to initiate a request for emergency housing, and that without such a request, it could not be expected to respond.
- The candidate analysed the case pleaded by the applicants and the High Court's characterisation and treatment of the matter as a judicial review. She found that the High Court erred by failing to consider the pleaded case before it, which made no reference to review or Uniform Rule 53.
- The candidate considered the evidence before the court and found that no genuine disputes of fact arose regarding the occurrence of the weather event or the communication with the ward councillors.
- The candidate concluded that section 54 of the Disaster Management Act obliges the Municipality to have regard to existing legislation if a local state of disaster is not yet declared in terms of section 55. This existing legislation includes the Housing Act 107 of 1997 and the National Housing Code, which provide for a municipality to apply for assistance to procure emergency housing in exceptional circumstances (including severe weather events). The judgment clarifies that it does not find that the municipality should have made such an application, but rather that its failing was that it did not even consider doing so. The primary responsibility for managing a local disaster rests with the District Municipality, but this does not absolve the Provincial Government or Local Municipality of any responsibility.
- The candidate found that the municipality failed to investigate whether there was a disaster and failed to have regard to the provisions of section 54 of the Disaster Management Act and the related legislation (at para 96).

These failures constituted a breach of the respondents' constitutional obligations under section 26 of the Constitution, and a transgression of the rule of law (at para 121).

- The candidate issued a strong rebuke to the local and district municipalities, criticising their constitutional failures, lack of respect towards the victims, and their adversarial posture (at paras 116, 118). She also noted the “*disturbing feature*” of the case being the “*shifting of responsibility from one respondent to another*” (at para 109).
- In light of various disputes of fact that subsequently arose as to the identity of the victims (or their dependants) and their need for emergency shelter, the candidate determined that the matter be remitted to the High Court, Mthatha, for a determination of these disputes.
- *Bernard NO and Another v National Consumer Tribunal and Another* [2026] ZACC 23 (3 June 2026) (Minority Judgement: Dambuza J and Goosen AJ concurring)
 - The applicants were the joint liquidators of CMR Group (Pty) Ltd. The National Consumer Tribunal had found that CMR had engaged in prohibited conduct under the National Credit Act. Before its liquidation, CMR filed an affidavit, but the liquidators were not physically present at the oral hearing. Despite this, the tribunal considered CRM’s evidence and proceeded to make an order. Section 148(2)(b) of the National Credit Act 34 of 2005 (“NCA”) provides that only participants in a hearing before the Tribunal may appeal to the High Court. The question was whether the liquidators were “*participants in the hearing*” despite their absence and accordingly whether an appeal at their instance was competent. The SCA had struck the matter from the roll for lack of jurisdiction. The SCA had reasoned that a ‘participant’ denoted physical presence, and a party who did not participate in this sense could still pursue a rescission or variation of the orders.
 - Before the Constitutional Court, the liquidators argued that the SCA’s interpretation of section 148(2)(b) of the NCA violated sections 34 and 166 of the Constitution as it violates a party’s right to appeal.

- The candidate’s judgment found that to interpret section 148(2)(b) of the NCA as referring only to physical presence or absence would negate the nature and purpose of the tribunal, curtail its powers, and undermine the objects, background and purpose of the NCA (at para 59). Requiring physical appearance at the hearing is inconsistent with the tribunal’s informal nature and object of expedition.
- The candidate criticised the SCA for its narrow interpretative approach which looked primarily at the dictionary meaning of the word, and did not undertake a contextual analysis, engage in a purposive reading or consider constitutional values (at para 66). She also dealt with the ‘anomalies’ that arise if the SCA’s interpretation were confirmed (at para 130) and the case authority on which the SCA sought to rely for its conclusions (at para 146).
- She found that participation in a hearing must be understood substantively with reference to engagement with the adjudicative process as a whole, rather than formalistically, by reference to attendance at a particular procedural moment (at para 162). Attendance at the hearing is not a jurisdictional pre-requisite or condition for the High Court or SCA to hear an appeal.
- The candidate’s judgment engaged critically, but respectfully, with the findings and conclusions of the majority judgment. She rejected the “*court-centric*” interpretation of the provision requiring physical presence and *viva voce* appearance.
- The majority judgment penned by Justice Kollapen noted that the candidate’s judgment “*provides a useful and accurate overview of the facts and litigation history*” (at para 169). The majority found that the appeal should be dismissed. The majority judgment departed from the minority in its interpretation of the provision, finding that the candidate’s interpretation “*unduly strained the text*” (at para 217). It rejected the proposition that a party who files an affidavit may be said to be a participant in a hearing. It found that a hearing is a distinct and separate part of the proceedings, and the Legislature’s use of the specific word (rather than ‘proceedings’) is deliberate and consistent with the general scheme of the NCA. For this

reason, only an entity that has exercised its right to appear before the panel and make a *viva voce* appearance at the hearing (in person or through a representative) is to be regarded as a “*participant in a hearing*” and have the right of appeal under section 142 of the NCA. The majority judgment found further that on the facts of the case, CMR and its liquidators did not participate in the hearing.

- *Commissioner of SARS v Bullion Star (Pty) Ltd* [2026] ZASCA 76 (22 May 2026) (Minority Judgment with Nuku AJA concurring)

- Bullion Star is a licensed gold refinery that buys second-hand gold and smelts it into coins and bars. The South African Revenue Service (“SARS”) suspected it was, in fact, trading in Krugerrands, which are zero-rated, so an input tax claim of some R13.94 million was not due. On 28 March 2022, on an *ex parte* application, Maumela J issued a warrant under section 60 of the Tax Administration Act 28 of 2011 (“the TAA”). It was executed at the company's premises and at the homes of its sole director, Ms Niyazi, and an employee, Ms Bhagoo — residences the warrant did not authorise.
- Bullion Star launched an urgent application, which produced a consent order made by Collis J on 7 April 2022. Order 4 barred SARS from using the seized material pending the reconsideration, “*subject to paragraphs 6 & 7*”; order 6 permitted SARS to look at documents to decide on return; order 7 authorised SARS to use the seized material in the VAT audit for 11/2020 – 02/2022.
- On reconsideration under rule 6(12)(c) of the Uniform Rules, SARS conceded in argument that the warrant was overbroad and handed up a draft order severing it. The High Court had instead set the warrant aside in its entirety, ordered return and destruction of material, and interdicted SARS from using anything obtained under it. The majority of the SCA dismissed SARS's appeal with costs.
- The candidate, writing for the minority, found that the High Court erred by treating overbreadth as the end of the enquiry rather than the start. Once the warrant was set aside, the court had to ask whether it could narrow its

scope under law, particularly s 66 of the TAA, which provides a “*safety net*” allowing retention of material even if the warrant falls. She also flagged whether severance is possible after execution, and pointed out two procedural missteps: the court wrongly shifted the onus by treating Bullion Star’s affidavit as founding rather than answering, and it refused to consider all the factual material, including evidence of execution, contrary to precedent.

- Relying on the *Natal Joint Municipal Pension Fund v/s Endumeni Municipality* [2012] ZASCA 13 case, the candidate reasoned that orders 6 and 7 must be final because order 4’s interim regime is expressly subject to them, and practically, SARS cannot “*unsee*” documents already used in an audit.
- She distinguished *Pretoria Portland Cement Co Ltd and Another v Competition Commission and Others* 2003 (2) SA 385 (SCA) as involving a different statute and no agreement on defined use. Overall, her judgment is rigorous on statutory and interpretive grounds, especially regarding s 66(4) of the TAA.
- *Nelson Mandela Bay Metropolitan Municipality v Siyalanda Property Development (Pty) Ltd* [2026] ZASCA 18 (20 February 2026)
 - A property developer, Siyalanda, the owner of a piece of land in Summerstrand, Gqeberha, wished to build 420 residential flats on it. The land comprised two old plots it had bought from the municipality — one in 2002, one in 2008 — which it then joined into a single property.
 - When it submitted its first building plan in 2018, it offered to set aside 11 937 square metres as open space. The municipality considered that the open space was insufficient and demanded 16 884 square metres. It relied on an old town planning rule (regulation 9.3.1.2) that provides that, when a plot is “*created for residential purposes... by subdivision or rezoning*”, the owner must hand over open space free of charge. The municipality also relied on internal office guidelines, which it later admitted had no legal force.

- Siyalanda disagreed but did not wish to jeopardise the project. A second plan was prepared and submitted that met the municipality's demand, accompanied by written correspondence stating that the resubmission was made under protest and that Siyalanda reserved its right to litigate the point in court. The second plan was approved, and construction proceeded. The municipality never decided the internal appeal.
- Siyalanda then went to court, and the judge agreed with the municipality. On appeal, the full court agreed with Siyalanda and said the rule did not apply. The Municipality approached the SCA for special leave to appeal.
- In her judgment, the candidate determined the matter as efficiently as possible, without deciding more than necessary. She stopped at the gateway test for special leave, showing why the municipality's arguments on public importance were bound to fail, and only touched on the merits to check whether refusing leave would cause manifest injustice. The candidate separated prospects from special circumstances, applied the proper onus, and avoided making factual findings in motion proceedings. By keeping her conclusions conditional and limited - deciding only enough to dispose of the matter without overreaching into issues - she left the matter for a full but expedient hearing.
- *Msunduzi Municipality v Capital City Housing NPC and Others* [2026] ZASCA 83 (4 June 2026)
 - Capital City Housing NPC is an accredited social housing institution and a registered PBO. It owns three blocks in the Msunduzi area — Acacia Park (311 units), Aloe Ridge (952) and Signal Hill (393), 1 656 units in total — each registered as a single cadastral unit, valued at R66.6m, R178.5m and R92.8m respectively. It lets to households earning R2 000.00 – R15 000.00 a month and has been in business rescue since 2024.
 - Because the properties are zoned as residential under s 8(2)(a), the only relief is the R15 000.00 statutory exclusion per cadastral unit — R45 000.00 in aggregate. Capital City applied under clause 19.3 of the rates policy in July 2019 to have the properties determined as PBO property under s 8(2)(h). The municipality refused in August 2019: "*specified*

public benefit activity" in s 1 of the Municipal Property Rates Act 6 of 2004 ("Rates Act") (mirrored in clause 1.32) lists only items 1, 2 and 4 of Part I of the Ninth Schedule; item 3 (land and housing) is excluded, so it had no power to grant the categorisation.

- Capital City then sought a declaration that s 1 of the Rates Act and clause 1.32 are unconstitutional, plus a reading-in of item 3 and consequential re-assessment. Mngadi J refused that relief but, *mero motu*, ordered the Municipality to create an additional category of "*social housing properties*" under s 8(3) and to recalculate rates. The municipality appealed; Capital City cross-appealed. The majority upheld the appeal, dismissed the cross-appeal, and dismissed the application.
- Coppin JA (dissenting) and writing jointly with the candidate, stated that the courts must follow the proper steps when changing or setting aside laws. They explained that relief that overrides a law can succeed only if the law is first declared invalid, and that invalidity must be stated clearly, confirmed by the right authority, and handled with interim measures. By showing how the High Court skipped each of these steps, the dissenting judgment exposed the flaws in the order. It also pointed out the city's contradictory arguments: claiming rebates would cause financial ruin whilst at the same time proposing a system that would cut its own collections even further. That contradiction, the dissent found, was proof of arbitrariness.
- Beyond the case itself, the dissenting judgment made two lasting contributions. First, it clarifies the rule of subsidiarity: Capital City did challenge the correct legislation. Second, it separates procedural limits from the substance of rights, showing that once a right is raised, its meaning is automatically of application.
- *FJL v TGO* [2026] ZAGPJHC 875 (31 July 2026)
 - In this full bench appeal, the candidate wrote a concurring judgment dealing with discrepancies in a judgment *a quo* that appear to have arisen from the improper use of artificial intelligence. The candidate expressed strong views on the risks inherent in the use of AI in the legal context, and

particularly within the judiciary. The judgment found that the discrepancies constitute a *prima facie* case of professional misconduct.

- The candidate considered that the appropriate body for referral of such *prima facie* misconduct is the Legal Practice Council.
- *South African Property Owners Association v City of Johannesburg* [2024] 1 All SA 432 (GJ)
 - This case concerned administrative law relating to the powers of a municipality in terms of the Spatial Planning and Land Use Management Act 16 of 2023 (“SPLUMA”) and the Constitution.
 - The City intended to apply a development contributions policy proposed under SPLUMA to pending and future land development applications. The South African Property Owners Association (“SAPOA”) applied to interdict the implementation of the policy on the basis that: (i) the new policy was unlawful because SPLUMA does not authorise the charges that the City intended to apply in terms of the new policy; and (ii) the new policy was not reasonable.
 - The candidate’s judgment provided a focused analysis that demonstrated a good understanding of the legal, commercial and practical issues being debated. The judgment found that: (i) section 40(7)(b) of SPLUMA authorised “*development charges*” that would include the charges set out in the new policy; (ii) the new policy was based on the user pay principle that was reasonable and rational; (iii) the new policy was not a radical departure from how the city previously applied development contributions.
 - Section 229 of the Constitution, which prescribes the municipality's fiscal powers and functions, was applied.
- *Reiscor Two (Pty) Ltd t/a Bootleggers v Anheuser-Busch Inbev Africa (Pty) Ltd* [2024] 2 All SA 902 (GJ)
 - The court had to consider the implications of a majority rejection of a business rescue plan. The judgment demonstrates the candidate’s methodical approach to her analysis, astutely applying the relevant

principles after carefully assessing the facts and the commercial purpose of the arrangements.

- The candidate further demonstrated a strong grasp of the principles of business rescue and insolvency matters and the practical way in which disputes of this nature need to be approached in many instances.
- The candidate notes that this judgment received positive academic commentary.
- *Fuel Retailers' Association v Minister of Energy* [2023] 4 All SA 739 (GJ)
 - The applicant instituted an application to review and set aside the regulatory accounting system (“RAS”) to the extent that it provides for a retail margin for selling petrol without setting out a trading margin to compensate retailers for the services they provide. The Minister of Energy implements RAS, which sets out the margin in cents per litre that accrues to each identified activity along the retail petroleum value chain. This means the government determines the ‘profit margin’ retailers earn on each litre of petrol.
 - The applicant argued that RAS does not make provision for a trading margin for a franchisee, for example, who does not own the assets of the retail fuelling station it operates.
 - The candidate reviewed and set aside the decision of the Minister of Energy to implement RAS, finding that: (i) the RAS model excludes the retail margin that leaves franchisees at the mercy of the major retailers of petrol, in circumstances where there is no equality of arms between these parties; (ii) the RAS model would undermine the stated aim of the Petroleum Products Act 120 of 1977 being to promote small business; (iii) the implementation of RAS threatened the profitability and sustainability of a retailer (being a small business); (iv) the decision to implement RAS without the trading margin by Minister of Energy was irrational and unreasonable because it ignored numerous reports warning of about the risks of such exclusion.

- The candidate also assessed the application of a just and equitable remedy in terms of section 8 of the Promotion of Administrative Justice Act 3 of 2000 and section 172 of the Constitution.
- *Carte Blanche Marketing CC and Others v Commissioner for the South African Revenue Service* 2020 (6) SA 463 (GJ)
 - The applicants instituted a review application on the basis that SARS' decision to review and audit their records in terms of the TAA was arbitrary, irrational, motivated by an ulterior purpose, and made in bad faith.
 - The applicants alleged they were audited for something other than the proper administration of a tax statute as envisaged by section 40 of the TAA, namely the noncompliance with customs and excise legislation of associated companies.
 - The candidate found that a decision by the respondent to commence an audit was reviewable, particularly if the audit was done for an ulterior motive. She further found, however, that on the evidence before the court, the applicants had not made out a case that the audit was commenced for an ulterior motive.
 - The candidate demonstrated a clear understanding of the principle in administrative justice reviews that requires an applicant to show a decision with an external effect before interfering. In this case, the decision was merely to investigate and did not have a final impact on the applicant's rights or interests. The court noted that the applicant would not lose the opportunity to respond to audit findings, if it wanted to, before the finalisation of assessments.
- *Atlantis Property Holdings CC v Atlantis Exel Service Station CC* 2019 (5) SA 443 (GJ)
 - The candidate wrote the majority judgment in an appeal on the application of constitutional principles to a termination clause in a lease agreement.
 - The judgment addresses the scope and impact of public policy and good faith on private contracts and the type of conduct that may (or may not)

offend any constitutional value or principle or otherwise be contrary to public policy. The judgment also provides a good example of the candidate's observation of procedural rules – ensuring that issues have been properly raised in the pleadings – and her thoroughness in dealing with the merits of the disputes, even where she has found procedural defects.

- *Mathe v Minister of Police* [2017] 4 All SA 130 (GJ)
 - The judgment was concerned with quantum and costs arising from a claim for damages against the Minister of Police for the unlawful arrest and detention of three young women. The candidate criticised the “*high-handed*” conduct of the South African Police Service, finding that the plaintiff and her friends had been arrested simply because they were women sitting at a petrol station in the early hours of the morning.
 - The candidate emphasised the vulnerability of women in society, and when assessing the quantum of damages, considered the personal humiliation experienced by the plaintiff as a result of the arrest and unfounded charge of prostitution. The candidate awarded costs against the state on the High Court scale (even though the quantum fell within the jurisdiction of the Magistrates’ Court), emphasising that the matter concerned a violation of important constitutional rights and bore a strong public interest element.

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

- 7.1. The candidate has disclosed that seven judgments have been taken on appeal. On appeal, four judgments have been upheld, and three judgments have been overturned.
- 7.2. The judgments of the candidate upheld on appeal are:
 - *Forsyth v Heydenrych* [2019] ZAGPJHC 100 upheld in *Heydenrych v Forsyth* (A5015/2019) [2022] ZAGPJHC 391 (31 May 2022)
 - *Engen Petroleum Ltd v Mfoza Service Station (Pty) Ltd* 2020 JDR 2090 (GJ) upheld in *Mfoza Service Station (Pty) Ltd v Engen Petroleum Ltd and Another* 2023 (4) BCLR 397 (CC); 2023 (6) SA 29 (CC)

- *Dunn-Blatch and Another v Parry* 2022 JDR 0927 (GJ) upheld in *Parry v Dunn-Blatch and Others* (394/2022) [2024] ZASCA 19 (28 February 2024)
- *Rock Foundation Properties CC v Dosvelt Properties (Pty) Ltd* 2023 JDR 0022 (GJ) the appeal struck from the roll in *Rock Foundation Properties and Another v Chaitowitz* (1038/2023) [2025] ZASCA 82 (9 June 2025)

7.3. The judgments of the candidate overturned on appeal are:

- *Padayachee v Adhu Investments CC and Others* [2016] 2 All SA 555 (GJ) in *Adhu Investments CC and Others v Padayachee* [2019] ZASCA 63 (24 May 2019).
 - This was a matter that dealt with a complicated business transaction in which the plaintiff claimed from three defendants on different grounds. The candidate held that the plaintiff had proved its case against all three defendants. All three defendants appealed. The candidate's findings against the first and second defendants were upheld. Her finding against the third defendant was overturned.
 - The point on which the SCA overturned the finding against the third respondent was a narrow one – that the “*stipulatio alteri*” term on which the claim was based had not been proven to exist. It appears from the candidate's judgment (para 9) that this was not a defence on which the third defendant concentrated at trial. The point was the focus of submissions by different counsel for the third respondent before the SCA.
- *Atlas Copco South Africa (Pty) Ltd v Commissioner for South African Revenue Services* in *CSAR v Atlas Copco* 2020 (4) SA 61 (SCA)
 - The dispute before the candidate in the Tax Court related to how a company should value unsold stock that it held after a significant period. The company had applied International Accounting Standard 2 (IAS2) to determine a new “*net realisable value (NRV)*”, which it claimed should be used as the “*market value*” in s 22(1)(a) of the Income Tax Act 58 of 1962. SARS assessed the stock at a higher value and issued assessments that required higher tax amounts to be paid.
 - The Tax Court agreed that the company's approach was correct and set aside SARS' additional assessments.

- The SCA overturned this decision and found that the IAS2 method should not have been used. It held that the IAS2 did not present the most reliable evidence available to determine diminution in value.
- The SCA accepted SARS' argument that additional evidence of actual diminution in value was required and rejected the use of the IAS2 standard as an unmotivated guesstimate. It held that SARS had not failed to exercise the discretion conferred by s22(1)(a) reasonably and properly.
- *Koster v Industrial Zone Ltd 2021 JDR 0857 (GJ) in Koster v Industrial Zone Ltd and Others (A5066/2021) [2022] ZAGPJHC 981 (13 December 2022)*
 - In the course of a trial, the candidate refused the appellant's application for leave to amend his particulars of claim.
 - The full bench found that two out of the three points raised by the appellant in support of the belated amendment were wholly without merit and were rightly dismissed by the candidate. However, the court found that the proposed amendment alleging the vagueness of one of the contractual terms was material to the ventilation of the issues between the parties. Although dealing with it briefly, the candidate had not addressed "*the merits of the vagueness point head-on*". The court concluded that the candidate had erred insofar as she had refused the amendment in respect of the vagueness point and upheld the appeal in that limited respect.
 - The court agreed with the candidate's treatment of the "*bulk*" of the application and noted that "*It is perhaps only with the benefit of the hindsight the appeal process affords us that it becomes possible to isolate the kernel of merit in the application for leave to amend advanced before the trial court.*"

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

- 8.1. The candidate has over three decades of professional legal experience, as a public prosecutor, counsel at the Johannesburg Bar, and as a judge in the Gauteng Division of the High Court
- 8.2. She has gained valuable appellate exposure and experience through her appointment as an acting judge of the SCA in the fourth term of 2025, and as an acting judge of the

Constitutional Court for three terms (1 December 2024 to 31 May 2025; and 1 February to 31 March 2026). She has penned three judgments as an acting judge of the SCA and two judgments as an acting judge of the Constitutional Court.

- 8.3. During her time on the bench, she has delivered over 300 judgments and presided over matters involving all areas of law. She has sat as part of a full court and on a full bench for appeals.
- 8.4. In this capacity, she has demonstrated an ability to secure consensus to prepare judgments delivered on behalf of the court, to write for the majority, and to write dissenting judgments were considered necessary.

9. The candidate's linguistic and communication skills

- 9.1. The candidate's judgments are written in English.
- 9.2. The candidate's judgments are generally clear, well structured, well reasoned and accessible. The candidate writes in a clear, lucid style that is accessible to litigants who appear before her and the public.

10. The candidate's ability to produce judgments promptly
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- 10.1. The candidate indicated that two judgments were outstanding at the time of completing the questionnaire.
- 10.2. As far as could be ascertained at the time of completing this review, only one of these judgments is still outstanding. It has been outstanding for a few days beyond three months.
- 10.3. The candidate generally delivers her judgments within three months. Those judgments that took longer than three months appear to be lengthy and to involve complex matters of law and fact.

11. The candidate's ability to conduct court proceedings fairly, efficiently, and effectively
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- 11.1. The reviewers received no adverse comments from colleagues relating to the candidate's ability to conduct court proceedings fairly, efficiently, and effectively.

12. The candidate's independent-mindedness

- 12.1. There is no reason to believe that the candidate, if appointed, would not bring an independent mind to bear on issues presented for judicial determination, nor that the candidate would be unduly influenced in any way, including by the executive or legislative branches of government.
- 12.2. The candidate is not reluctant to adopt her own reasoning that departs from the majority position or from the views of more senior judges, where she deems this necessary. For example:
- *CSARS v Bullion Star (Pty) Ltd* (894/2024) [2026] ZASCA 76 (22 May 2026), writing for the minority and with Nuku AJA concurring, the candidate found that the High Court erred by treating overbreadth as the end of the enquiry rather than the start. She also flagged unresolved issues like whether severance is possible after execution, and pointed out two procedural missteps: the court wrongly shifted the onus by treating Bullion Star's affidavit as founding rather than answering, and it refused to consider all the factual material, including evidence of execution, contrary to precedent.
 - In *Bernard NO and Another v National Consumer Tribunal and Another* [2026] ZACC 23 (3 June 2026), the candidate wrote a comprehensive minority judgment differing from the majority judgment on the key question of the correct interpretation of section 148(2)(b) of the National Credit Act. The candidate motivated for a contextual and purposive interpretation of the provision, distancing herself from the textual approach of the SCA.
 - In *Discovery Health (Pty) Ltd v Road Accident Fund and Another* 2025 (3) SA 225 (GP), Discovery applied for a declarator that the Road Accident Fund ("RAF") was in breach of an earlier order of the court that concerned the RAF's liability for the payment of past medical expenses of road accident victims who are members of medical schemes. The RAF had issued directives on how it would deal with such disputed medical expenses.
 - The candidate sat as part of the full court and dissented from the majority decision. The majority found the RAF had not breached the earlier court order and that Discovery had not made out a case to interdict the RAF from implementing the new directives.

- While the majority found that the subject matter dealt with in the RAF directives did not fall within the reach of the earlier order, the candidate found that it did. As a consequence, the majority found that such issues were not *res judicata* while the candidate found that they were. The candidate found that it was not permissible for the RAF to relitigate the issue decided by Mbongwe J in the earlier order, notwithstanding its purported reliance on new justifications. The candidate found that, if she had commanded the majority, she would have granted an order declaring that the RAF and its CEO were in breach of the Mbongwe J order and of their constitutional obligations to adhere to and take all necessary steps to give effect to the judgment.
- In *Atlantis Property Holdings CC v Atlantis Exel Service Station CC* 2019 (5) SA 443 (GP), the candidate disagreed with the views of a more senior judge on the application of constitutional principles to contractual disputes. The third judge agreed with the candidate, and consequently, her view was that of the majority. The candidate explained why she could not agree to adjudicate the contractual dispute on the basis of good faith and public policy, without due regard to the principle of *pacta sunt servanda*. The candidate held that, even if those principles could apply in the manner suggested by the minority judgment, the minority judgment's findings were not supported by the facts or pleadings before it, nor were they made with the benefit of legal argument by either party.

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

- 13.1. The candidate was involved in establishing the Commercial Court in Johannesburg, and notes that she worked with colleagues to ensure its efficient functioning.
- 13.2. Her administration of Commercial Court cases during the case management phases, and her expeditious handling of interlocutory matters as they arise, is also to be commended. See, for example, *Transnet SOC Ltd v TotalEnergies Marketing South Africa (Pty) Ltd and Others* [2023] ZAGPJHC 941; and *Transnet SOC Ltd v TotalEnergies Marketing South Africa (Pty) Ltd* [2024] ZAGPJHC 359 where the candidate considered targeted discovery in term of Rule 26 of the Commercial Court Rules. In doing so the candidate pragmatically looked at the substance of the case pleaded and not form to expediently distil the issues, holding that flexibility and objects

of the Rules permit the court to approach matters in line with broad principles of fairness, efficiency and cost effectiveness.

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

- 14.1. The candidate has over 35 years of experience in the legal profession and has wide knowledge of, and exposure to, all aspects of the law.
- 14.2. Her appointment would appropriately reflect the judiciary's commitment to excellence and its recognition of the thoroughness and industry of the candidate's work in the Gauteng Division, thereby sending a positive message to the public at large.
- 14.3. An overview of the candidate's judicial application to matters is pragmatic and fair, which is a welcomed trait in the context of fairness and expediency in the interests of justice and the public at large. The candidate's continued contribution in this manner would be an asset to the public and the rule of law.

ANNEXURE: LIST OF JUDGMENTS CONSIDERED

Reported judgments

1. *Discovery Health (Pty) Ltd v Road Accident Fund* 2025 (3) SA 225 (GP)
2. *South African Property Owners Association v City of Johannesburg* [2024] 1 All SA 432 (GJ)
3. *Zero Azania (Pty) Ltd v Caterpillar Financial Services SA (Pty) Ltd* [2024] 1 All SA 883 (GJ)
4. *Reiscor Two (Pty) Ltd t/a Bootleggers v Anheuser-Rusch InBev Africa (Pty) Ltd* [2024] 2 All SA 902 (GJ)
5. *RC v HSC* 2023 (4) SA 231 (GJ)
6. *Fuel Retailers' Association v Minister of Energy* [2023] 4 All SA 739 (GJ)
7. *Kruinkloof Bushveld Estate NPC v Chairperson, Panel of Appeal Arbitrators* 2022 (6) SA 236 (GJ)
8. *Moyo v Old Mutual Ltd* [2022] 3 All SA 795 (GJ) (Judgment of the court)
9. *Cotty v Registrar of the Council for Medical Schemes* [2021] 2 ALL SA 793 (GP)
10. *Carte Blanche Marketing CC v Commissioner for the South African Revenue Service* 2020 (6) SA 463 (GJ)
11. *Randgold & Exploration Co Ltd v Gold Fields Operations Ltd* 2020 (3) SA 251 (GJ)
12. *Road Accident Fund v Mabunda* [2021] 1 All SA 255 (GP) (18 August 2020)
13. *Molaza v S* [2020] 4 All SA 167 (GJ)
14. *Meechan v VGA Chartered Accountants Partnership t/a PKF (VGA) Chartered Accountants* [2020] 2 All SA 510 (GJ)
15. *S v LM* (Centre for Child Law as amicus curiae) [2020] 4 All SA 249 (GJ)
16. *Sharma v Hirschowitz* 2020 (3) SA 285 (GJ)
17. *Atlantis Property Holdings CC v Atlantis Exel Service Station CC* 2019 (5) SA 443 (GP)
18. *S v Moyo* 2018 (1) SACR 658 (GJ)
19. *Mathe v Minister of Police* [2017] 4 All SA 130 (GJ)

20. *FirstRand Bank Ltd v Hazan; FirstRand Bank Ltd v Hazan Wholesalers and Distributors CC* [2016] 2 All SA 112 (GJ)
21. *Padayachee v Adhu Investments CC* [2016] 2 All SA 555 (GJ)
22. *Transnet SOC Ltd v TotalEnergies Marketing South Africa (Pty) Ltd and Others* [2023] ZAGPJHC 941; and [2024] ZAGPJHC 359

Unreported judgments

23. *Rock Foundation Properties CC v Dosvelt Properties (Pty) Ltd* 2023 JDR 0022 (GJ)
24. *Dunn-Blatch and Another v Parry* 2022 JDR 0927 (GJ)
25. *Maponya Motor City Properties (Pty) Ltd and Others v Hamilton NO and Others* (20/39151) [2021] ZAGPJHC 536 (12 October 2021)
26. *Koster v Industrial Zone Ltd* 2021 JDR 0857 (GJ)
27. *Engen Petroleum Ltd v Mfoza Service Station (Pty) Ltd* 2020 JDR 2090 (GJ),
28. *Forsyth v Heydenrych* [2019] ZAGPJHC 100
29. *Phenix Construction Technologies (Pty) Ltd and Another v Hollard Insurance Company Ltd* (10995/2015) [2017] ZAGPJHC 174 (4 May 2017)
30. *Maponya Motor City Properties (Pty) Ltd and Others v Hamilton NO and Others* (20/39151) [2021] ZAGPJHC 536 (12 October 2021)

Judgments upheld on appeal

31. *Forsyth v Heydenrych* [2019] ZAGPJHC 100, upheld in *Heydenrych v Forsyth* (A5015/2019) [2022] ZAGPJHC 391 (31 May 2022)
32. *Engen Petroleum Ltd v Mfoza Service Station (Pty) Ltd* 2020 JDR 2009 (GJ) upheld in *Mfoza Service Station (Pty) Ltd v Engen Petroleum Ltd and Another* 2023 (4) BCLR 397 (CC); 2023 (6) SA 29 (CC)
33. *Dunn-Blatch and Another v Parry* 2022 JDR 0927 (GJ) upheld in *Parry v Dunn-Blatch and Others* (394/2022) [2024] ZASCA 19 (28 February 2024)
34. *Rock Foundation Properties CC and Another v Dosvelt Properties (Pty) Ltd and Another* (20/28515) [2022] ZAGPJHC 1018 (21 December 2022) (the appeal struck from the roll in *Rock Foundation Properties and Another v Chaitowitz* (1038/2023) [2025] ZASCA 82)

Judgments overturned on appeal

35. *Padayachee v Adhu Investments CC and Others* [2016] 2 All SA 555 (GJ) overturned in *Adhu Investments CC and Others v Padayachee* [2019] ZASCA 63 (24 May 2019)
36. *Atlas Copco South Africa (Pty) Ltd v Commissioner for South African Revenue Service* (unreported) overturned in *Commissioner for the South African Revenue Service v Atlas Copco South Africa (Pty) Ltd* [2019] 4 All SA 635 (SCA); 2020 (4) SA 61 (SCA); 82 SATC 116
37. *Koster v Industrial Zone Ltd* 2021 JDR 0857 (GJ) overturned in *Koster v Industrial Zone Ltd and Others* [2022] ZAGPJHC 981 (13 December 2022)