

KwaZulu-Natal Bar

Contributed by Zandile Qono

AFT KZN SEPTEMBER JURISPRUDENCE CORNER

The wonders and dangers of artificial intelligence in legal research

by Philile Shandu

The timing could not have been more fitting. AFT KZN's September Jurisprudence Corner fell in the same month that *Advocate* magazine announced its upcoming theme on artificial intelligence (AI). If ever there was a subject that deserved timely scrutiny, this was it.

As legal professionals, we have all felt that second-hand embarrassment when reading judgments where courts reprimand practitioners for the reckless use of AI. In *Mavundla v MEC: COGTA*,¹ for example, junior advocates cited cases that simply did not exist in any law reports, prompting the court to refer the matter to the Legal Practice Council. Such incidents remind us that while AI has arrived in the legal profession, it has not arrived without consequence.

The conversation about AI has also become a live one among our own colleagues. On the (robust) KZN AFT WhatsApp group, a post about Lexis Nexis' new AI software which is marketed to legal practitioners, sparked vigorous debate. In the same week, I personally received a targeted advert about a subscription-based AI solution "for South African lawyers". In the online engagement, some colleagues welcomed these tools as inevitable progress, while others expressed concern that we risk endorsing technology that has already been the subject of judicial reprimand.

The truth is, we encounter AI daily whether we like it or not. Log into your email and you are offered an auto-reply; schedule a virtual consultation and you are greeted by an automated note-taker;



Guest speaker Celinhlanhla Magubane addresses attendees on the dangers of AI in legal research.

upload a PDF to Adobe and it offers to summarise it instantly. Word processors now suggest full sentences; Grammarly politely offers to "rephrase in professional English". There is simply no escaping the constant pop-up invitations to allow some computerised "assistant" to do in seconds what once required deliberate thought.

It was this unavoidable reality that led AFT KZN to dedicate our latest Jurisprudence Corner, which took place on 25 September, to the subject of AI in legal research. We were honoured to host two young, peer-recognised and highly engaging academics: Mr. Celinhlanhla Magubane and Mr. Mhlonishwa Mbatha, both admitted legal practitioners, lecturers and PhD candidates from the University of KwaZulu-Natal.

Their presentation, aptly titled "The Wonders and Dangers of Artificial



Second guest speaker Mhlonishwa Mbatha, giving his (counter) presentation on the benefits of AI in legal research.

Intelligence in Legal Research", was delivered in a lively point-counterpoint structure, with each speaker presenting evidence-based arguments for their respective positions.

Mbatha spoke first, setting out the case for AI's benefits. He highlighted its potential to improve efficiency in legal research and drafting, citing practical examples where AI tools such as ChatGPT and Legal Genius had already been used in court proceedings, sometimes with success. He cited *Makunga v Barlequins Beleggings*,² a case where an unrepresented litigant's heads of argument were found to rival those of trained lawyers, hinting at how technology might eventually level the playing field.

Delivered with a tongue-in-cheek flourish, Mbatha even suggested that AI could one day render human legal

practitioners obsolete, a provocation that, unsurprisingly, stirred the room.

Magubane then took the floor to present the counterpoint: “The Dangers of AI in Legal Practice”. He spoke persuasively about the risks posed to client confidentiality, the potential for “AI hallucinations” (the generation of fabricated case law), and the real-world consequences already being felt in South Africa and abroad.

He drew our attention to *Parker v Forsyth NNO*,³ where the court was forced to call in a candidate attorney to account for fictitious case citations in heads of argument. For Magubane, such examples underscored the duty of practitioners to remain vigilant and to verify every authority cited in court papers, no matter how “credible” an AI-generated draft might appear.

United States’ Senator Daniel Patrick Moynihan famously remarked: “You are entitled to your opinion, but you are not entitled to your own facts.” These cases of AI hallucinations demonstrate that AI seems to feel very entitled to its own facts. And therein lies the danger.

The discussion provoked lively engagement from attendees. One senior counsel noted his own experiment with a WhatsApp-based AI tool that promptly returned flawed information. Many agreed that while these tools are convenient, they also risk making us intellectually lazy. Will we still read judgments word-for-word, or will we rely on an app to “extract the legal principles”? Will we persist in honing our craft as writers, or will we surrender every draft to Grammarly for “professional rephrasing”?

Yet, in keeping with the debate format of the lecture, one could also argue that calculators once provoked similar fears, and today we rely on them without hesitation. Perhaps the same future awaits AI in law.

What emerged from the September Jurisprudence Corner was not a call to reject AI, but a challenge to embrace it responsibly. AI will not replace lawyers



entirely, but lawyers who learn to use it wisely will inevitably outpace those who resist it.

On a personal note, the takeaway was clear; as much as we are duty-bound to keep current on developments in substantive and procedural law, we are equally obliged to educate ourselves about the technological shifts reshaping our practice. This is, in fact, a transformation issue. However, unlike ideological transformation, this change is not a matter of (human) choice or political resolve. It is happening whether we like it or not. Our duty is to adapt, while guarding against complacency, and ensuring that diligence, creativity, and human reasoning remain at the heart of our profession.

Notes

- 1 *Mavundla v MEC: COGTA* [2025] ZAKZPHC.
- 2 *Makunga v Barlequins Beleggings (Pty) Ltd t/a Indigo Spur* [2023] ZAWCHC 332.
- 3 *Parker v Forsyth NNO and Others* [2023] ZAGPRD 1.

“AI WILL NOT REPLACE LAWYERS ENTIRELY, BUT LAWYERS WHO LEARN TO USE IT WISELY WILL INEVITABLY OUTPACE THOSE WHO RESIST IT.”

See the special section on AI starting on page 39 of this edition of *Advocate*.

CONQUERING THE NUMBERS

A course on finance and accounting, for lawyers

by Celesté Jadine Moodley

In October 2025, the KZN Society of Advocates hosted Simon de Quidt, retired partner of Deloitte UK and long-standing friend to the General Council of the Bar, for an engaging two-day course on "Introduction to Finance and Accounting". The course was co-facilitated and directed by our very own Annandale SC.

The programme initially formed part of the advanced accounting and experts training course held in Stellenbosch during 2023 and 2024 and was specifically introduced by the GCB for the first time as a stand-alone course, following rave reviews by participants in Stellenbosch.

Over two intensive days, 15 members of the Bar dove into an analysis of fundamental commercial concepts like the "value chain", understanding what investors want and reflecting on commercial realities. The second day was spent understanding International Financial Reporting Standards and its interplay with accounting practice, balance



sheets, income and cash flow statements, valuations, and fixed and depreciating assets. By the end of the course, participants were able to analyse a set of financial statements and quickly detect anomalies.

The intensive course was brought to life through Simon de Quidt's witty and whimsical use of an imaginary apricot jam manufacturing business. Participants navigated through the economic challenges of the business through the application of commercial and accounting concepts.

The course was a fantastic opportunity for members to upskill themselves and open doors to the world of commercial litigation. We thank Simon de Quidt for his time and dedication



to our members since 2010 and for expertly delivering complex financial and accounting concepts to our members in an easy, fun and practical way. At the end of the course, participants received an official certificate of completion from the GCB – proof that we can, indeed, conquer the numbers too.

Congratulations to our members who successfully completed the course: Menzi Mtshali, David Eades, Saleeha Moola, Sarah Powell, Celesté Moodley, Lisa Mills, Kashmita Gayadin, Gugu Gumede, Mlamli Magigaba, Minikazi Mtati, Stuart Humphrey, Nicole Nickel, Sthembiso Cele, Kyle Pillay and Jessica Miranda.

A big thanks to our tutors David Saks, Camilla Du Toit and Jabu Thobela-Mkhulisi.

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Guidelines for writers

- Advocate* is the mouthpiece of the South African Bar. It is a professional journal which provides information and guidance on developments in the profession and the administration of justice. Contributions on subjects which are of practical importance to members of the Bar are welcomed, and will receive priority.
- All manuscripts must be in MS Word format, double-spaced throughout, including references and footnotes. An article should not exceed 3 000 words. Letters, notes and reports should generally not exceed 1 000 words. Shorter pieces, and clear, communicative writing, are preferred. Legal jargon derived from pleadings (e.g. 'thereby', 'thereof' etc) should be avoided. A contribution must preferably be sent by e-mail as an attachment to a message.
- All manuscripts should contain the author's name in the body of the work and include a proposed title.
- Contributions and letters should be addressed to:
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 - the editorial committee and the editor have reserved the right to edit it as to style, length and language;
 - the writer has carefully checked quotations and references for accuracy;
 - it is written in clear, jargon-free language, and has linguistically been reviewed and checked for errors.
- The writer's academic and professional qualifications, and also his or her occupation or professional status must be stated.
- Footnotes should, if possible, be avoided. Case references should preferably be incorporated into the text. When referring to a book the publisher and date of publication should be mentioned. In the case of articles the name of the writer, the title of the article and the date of publication should be indicated. Where footnotes are unavoidable, they should be numbered consecutively in superscript in the text, and reproduced at the end of the article. If there are only a few footnotes, asterisks may be used.

Further queries may be made to the editor at the above address.



“THE REAL TEST FOR URGENCY (AND WHY WE KEEP GETTING IT WRONG)”

At the August session of the KZN AFT’s Jurisprudence Corner, Senzo Luthuli had the room buzzing with a presentation on one of those deceptively simple but surprisingly tricky areas of practice: urgency under Rule 6(12).

Many of us, even seasoned counsel, have seen urgent applications stumble not because the merits were weak, but because urgency was pleaded as though it were an interim interdict. As Luthuli reminded us, urgency is not a cause of action. It’s the fast-track mechanism that allows litigants to jump the queue when ordinary timeframes would leave them without meaningful relief. The relief sought, whether an interdict, or a contempt order, comes later. First, you must pass the urgency gate.

GETTING THE TEST RIGHT

Rule 6(12)(a) gives the court a wide discretion to dispense with ordinary forms and service. But it is Rule 6(12)(b) that sets the standard. Every affidavit must:

1. Set out explicitly the facts that make the matter urgent; and
2. Explain why substantial redress cannot be obtained in due course.

That second requirement is the one that trips most practitioners up. The test is not about a dramatic or juicy story, or “blood on the streets”. The court only wants to know one thing: if the matter waits for the ordinary roll, will any later order be hollow, academic, or practically useless?

Think of a liquor licence suspended over the December trading season, a tender about to be awarded and implemented, or a child about to be flown out of the jurisdiction. Those may be urgent. By contrast, ordinary financial loss that can be quantified in damages later? Usually not.

DELAY VS. SELF-CREATED URGENCY

A big point Luthuli drove home was the difference between delay and self-created urgency. Courts often conflate the two, but they are not the same.

- Delay may simply reflect attempts to resolve the issue. First-letters written, meetings requested, negotiations attempted. If explained, this can strengthen your case.
- Self-created urgency, on the other hand, involves tactics. Such as waiting strategically to launch proceedings at the last possible moment, ambushing the other side or manufacturing a crisis.

PRACTICAL INSIGHTS FROM THE PRESENTATION

- Distinguish the tests. Urgency (Rule 6(12)) opens the procedural door; the merits test for an interim interdict, or a contempt order is a separate enquiry.
- Be fact-driven. Judges are unmoved by elegant storytelling if the founding affidavit does not explicitly set out the circumstances and the prejudice.

- Fairness matters. Compressed timelines are allowed, but they must still give the respondent a reasonable chance to be heard. Abridgement must be commensurate with the urgency asserted.
- Semi-urgent cases exist. Where prejudice is real but not immediate, you can structure timetables that are tighter than the ordinary roll but more generous than same-day urgency. These should still be placed on the urgent roll.
- Don’t forget *Plascon-Evans*. If you are seeking final relief urgently and a genuine dispute of fact arises, the respondent’s version will carry the day. Where possible, split your prayers into Part A (interim relief) and Part B (final relief).

BUSTING MYTHS

One of the most refreshing aspects of Luthuli’s talk was how he dismantled persistent myths. The “blood on the streets” test? Not the law. The idea that delay automatically disqualifies urgency is also not the law. Context matters, and the assumption that urgency is only about interdicts is false. You can come urgently for a contempt order, or even purely procedural relief, provided you meet Rule 6(12).

WHY IT MATTERS

Misunderstanding urgency doesn’t just irritate judges, it can sink otherwise meritorious cases and leave clients exposed. As Luthuli quipped, lawyers are not in the business of “telling stories”. We are in the business of pleading cases properly. And Rule 6(12) sets the script.

FINAL WORD

If you’ve been missing Jurisprudence Corner, you are missing out on exactly this sort of lively, practical, and intellectually sharp discussion. Our colleagues bring a world of knowledge to the table, sharing insights that sharpen not only our pleadings but our advocacy in court. Luthuli’s session was a reminder that urgency is both art and science and that getting it right can make all the difference.

WELCOMING THE NEW MEMBERS OF THE BAR COUNCIL

On 6 September 2025, the KZN Society of Advocates held its annual general meeting at the Durban Country Club. We welcome the newly appointed members of the bar council:

Venesan Naidoo SC (Deputy Chair), Shane Dayal SC, Chris Nqala SC, Martin Mtambo, Damien Bond, Naseeha Patel, Philile Shandu and Nkosinathi Ndlovu.

We thank our outgoing members, CG Van Der Walt SC (Former Deputy Chair), S R Mullins SC, B S Khuzwayo SC, W J Pieterse, M C Tucker, N T Ntuli, F Gouws and S E Miya for their invaluable service on the council.



SPEAKING TO LAW STUDENTS

by Naomi Seiti

On 9 October 2025, I had the privilege of presenting at the Law Society of Varsity College, Durban North Campus. I was invited to speak to exit level law students about the realities of entering the profession. My presentation, titled “On the Journey of Becoming an Admitted Legal Practitioner – No One Owes You Anything,” drew from my experiences as a secretary to an advocate while completing my degree, my experience as a candidate attorney and as a pupil advocate last year.

My principal advice to the students was to begin transitioning from a student mindset to a professional one. As they approach the realities of legal practice, it becomes imperative for students to prepare to enter a highly competitive job market. The candidate attorney positions for which they will be applying are both limited in number and highly sought-after. I emphasised the importance to developing a *curriculum vitae* that will distinguish them from the rest of the applicants. I shared with them that I was able to secure a position as a candidate attorney while awaiting my final-year results, because I was employed as an advocate’s secretary.

Much to the visible dismay of some



students, I further advised that the period of serving as a candidate legal practitioner is unlikely to be financially lucrative, as remuneration during this stage tends to be modest. However, I emphasised that the purpose of this phase is not to make money, rather it is to lay a strong professional foundation. This period is further characterised by pressure, demanding workloads, and – at times – sacrifices such as limited sleep

and the absence of weekends.

Judging by the deep breaths, gasps, and mildly concerned expressions from a few students during my presentation, I believe I succeeded in conveying the core message: no one owes them anything and it is therefore up to them to show up, apply themselves and strive to do their best in pursuit of becoming admitted legal practitioners.

HONOURING A LEGACY, IGNITING A FLAME

SAWLA Gala & AGM 2025

by Minikazi Mtati



Minikazi Mtati-Mwange and Nokhukhanya Cele.



(In no particular order) His Worship – eThekweni Municipality Mayor Cyril Xaba, Singh, one of the 2025 Pupils Merle Naidoo and the attorneys from Stauss Daly.



Moerane SC, Cele, Mtati-Mwange and His Worship – eThekweni Municipality Mayor Cyril Xaba.

On the weekend of 26-27 September 2025, the South African Women Lawyers Association (SAWLA) hosted two landmark events in Durban: the annual Victoria Mxenge Memorial Lecture & Gala Dinner on Friday evening, followed by the annual general meeting (AGM) on Saturday.

I had the privilege of attending both events as a representative of Advocates for Transformation (AFT) National, delivering a message of support and solidarity. What unfolded was a weekend that blended remembrance with resolve, celebration with strategy, and song with serious commitments to the transformation of our profession.

Day 1: Victoria Mxenge Memorial Lecture & gala dinner

The gala, held at Coastlands Musgrave, carried the theme: "Igniting the Flame of the Soroptimist Torch and Run Your Race". It was a fitting tribute to one of

South Africa's most courageous heroines Victoria Mxenge, who alongside her husband Griffiths Mxenge, gave her life in the struggle for freedom.

Honouring a legacy

The keynote lecture, delivered by Moerane SC, traced the lives of Victoria and Griffiths Mxenge who were lawyers, activists, and martyrs of justice. Griffiths Mxenge was remembered for his fearless defence of activists until his brutal assassination in 1981. Victoria Mxenge, who carried forward his torch, became a formidable human rights attorney, representing detainees, victims of raids, and families torn apart by apartheid repression until her assassination in 1985.

The lecture reminded us that their deaths were not only personal tragedies but turning points in the national struggle, galvanising communities to intensify resistance. Their courage continues to serve as a lodestar for women lawyers across South Africa.

A daughter's emotional tribute

The most moving moment came from Victoria Mxenge's daughter, who spoke with deep emotion as the family marked 40 years since her mother's passing. She reflected on her limited childhood memories, gratitude for commemorations that reconnect her with her parents' legacy, and her resolve to ask herself: "Am I living up to their courage?"

She highlighted Durban's recognition in renaming King Edward VIII Hospital in her mother's honour, a deeply symbolic tribute.

Adding to this, the mayor of Durban, His Worship Cyril Xaba addressed the gathering, affirming the eThekweni Municipality's support of the Mxenge family and celebrating the renaming of the hospital as a landmark of remembrance. The mayor underscored that this act was not only symbolic but also a public acknowledgment of Victoria's service and sacrifice, ensuring her legacy remains woven into the city's identity.

Earlier in the day, the family had joined SAWLA in handing over school shoes to Grade 1 learners, echoing Victoria's passion for children and education.

A celebration of purpose

The programme interwove powerful speeches with song, the National Anthem, the Women's Anthem and moments of unity. Tokens of appreciation were presented to the Mxenge family and guest speakers, closing an evening described as one of remembrance, renewal, and inspiration.

The message was clear: the flame of justice must be kept alive, and the race for equality and transformation must be run with courage.

Day 2: SAWLA annual general meeting

If Friday night honoured the past, Saturday morning turned squarely toward the future. The AGM gathered women from across the country to deliberate on strategy, transformation, and the practical challenges facing the profession.

Setting the tone

The meeting opened with a call for unity: "We start together, we move together". Delegates joined in song, reinforcing that SAWLA's strength lies in solidarity. Messages of support poured in from partner organisations including the Black Lawyers Association, the National Association of Democratic Lawyers, the Law Society of South Africa, and AFT.

I had the honour of conveying AFT's message of support, reaffirming our shared mission of advancing transformation, ensuring women lawyers' voices are heard, and building a profession that truly reflects the values of justice and equality. The message was warmly received.

The big conversations: Legal Sector Code

A major highlight of the AGM was a deep dive into the newly gazetted Legal Sector Code (LSC). Ms Kathleen Matolo-Dlepu unpacked its significance:

- Briefing patterns must shift. Attorneys must channel more briefing work to black advocates, 40% by year one, rising to 60%



His Worship – eThekweni Municipality Mayor Cyril Xaba, SAWLA President Nomaswazi Shabangu-Mndawe and Moerane SC.

by year five, with dedicated percentages for black women.

- Small firms must be supported. A Transformation Fund will underwrite specialist training, technology, and practice infrastructure.
- Candidate attorneys must be valued. Delegates highlighted poor mentorship and under-training, calling for a Candidate Attorneys Desk to protect and guide the next generation.

As one speaker put it: "Candidate attorneys are not couriers. They are the next Bar and bench. Train them."

The keynote challenge

The Deputy Minister for Women, Youth and Persons with Disabilities, Ms. Mmapaseka Steve Letsike, delivered a powerful keynote, celebrating progress but warning against complacency. Women now comprise 41% of the judiciary compared to just 5% in 1994, but apex courts and senior counsel ranks remain under-transformed.

Her message was uncompromising; true transformation demands not token presence but structural change. She urged the profession to align briefing, budgets, and training with the fight against gender-based violence, and to embrace intersectional justice. "How can our courts command legitimacy if they do not look like, live like, or carry the burdens of our people?"

In addition, a special message was delivered by the Minister of Justice and Constitutional Development, Honourable Mmamoloko Kubayi, who, though unable to attend in person, joined via video conference to express her support. The Minister commended SAWLA for

igniting the flame of transformation and reaffirmed the department's commitment to strengthening collaboration with women lawyers in building a more inclusive legal profession.

Commitments going forward

The AGM closed with practical resolutions:

- Adopt-a-student: Each member was urged to mentor at least one student or candidate attorney.
- Track briefing patterns and challenge exclusionary tender specs.
- Leverage the Transformation Fund to build specialist capacity in high-value areas.
- Plan for the future; begin preparations for SAWLA's 20th anniversary in 2026.

Closing reflections

The two days were a powerful reminder that memory and mission must go hand in hand. The gala honoured Victoria Mxenge's legacy of courage; the AGM charted a path for women lawyers to carry that torch forward in practical, measurable ways.

For me, as a representative of AFT, it was a privilege to deliver our message of support. The warm reception underscored that SAWLA and AFT stand side by side in this journey.

In closing, I can say without hesitation, this was more than a weekend of events. It was a moment of renewal for the profession. We look forward to collaborating closely with SAWLA in the years ahead, ensuring that the flame we have inherited continues to burn brightly for justice, equality, and transformation. **A**