

Eugene Bester

Director



Eugene Bester is a Director in our Dispute Resolution practice with experience in general commercial litigation. Eugene specialises in banking litigation and has extensive experience in High Court litigation, mediation and arbitration with an emphasis on banking, property finance related disputes, tender reviews and general contractual claims.

About Eugene

Credentials

Education

- BCom LLB, University of Johannesburg
- Year of admission as an attorney: 1995

Experience

- Has represented the Banking Industry in a precedent setting judgement dealing with the constitutionality of s118 of the Municipal Systems Act
- Advises a listed REIT in relation to numerous property related disputes
- Advises a leading credit provider on numerous disputes dealing with the National Credit Act and the Financial Intelligence Centre Act
- Advises a large established and reputable manufacturer and supplier of auto spare parts and accessories for rail and commercial vehicles.
- Has represented various clients at the Zondo and Nugent Commissions of Enquiry.

News

Contact Eugene

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[Eugene on LinkedIn](#)

Expertise

[Dispute Resolution](#)

Location

Johannesburg

Language

English

Transacting at arm's length

The Supreme Court of Appeal (SCA), in the recent case of Allied Steelrode (Pty) Ltd v Dreyer and Another ZASCA 181, set aside an order of the Gauteng Division of the High Court, Johannesburg, after it had concluded that a loan agreement entered into between parties who shared a close bond and where no interest was levied against the borrower, was subject to the National Credit Act 34 of 2005 (NCA) and that a subsequent acknowledgement of debt (AOD) constituted a credit agreement under the NCA.

How special is special when determining special leave to appeal?

In Mosselbaai Boeredienste (Pty) Ltd v OKB Motors CC ZASCA 91, taken on appeal from the Free State Division of the High Court, Bloemfontein, the Supreme Court of Appeal (SCA) considered the legal principles regarding special leave to appeal.

The answer lies in the rules of interpretation

In the recent case of Zoviflo (Pty) Ltd v Prokas and Others (010253/2023) ZAGPJHC 918 (15 August 2023), the essential issue for determination by the Gauteng Division of the High Court, Johannesburg, was whether the existence of a nominee agreement was impacted by the failure to successfully conclude and implement a joint venture agreement. Are the agreements interlinked or can they be viewed as independent, standalone contracts between the parties?

What constitutes "special circumstances" in an application to the Supreme Court of Appeal, for special leave to appeal

Section 17(3) read with section 16(1)(b) of the Superior Courts Act 10 of 2013 provides for an application for special leave to appeal to the Supreme Court of Appeal (SCA). According to the SCA, special circumstances may arise if the appeal deals with a substantial point of law, or the matter is of great importance to the parties or the public, or where the prospects of success on appeal are so strong that the refusal to grant leave to appeal would result in a denial of justice for the party seeking leave to appeal.

Fish cannot sometimes be fowl: The Constitutional Court has the final say

On 13 July 2021 and 9 November 2021 CDH reported on the judgment of the Supreme Court of Appeal (the SCA), which dealt with two similar judgments, of the Pretoria and Grahamstown High Courts respectively, dealing with the question of whether the High Court must entertain matters within its territorial jurisdiction that fall within the monetary jurisdiction of the Magistrates' courts. There were some fifteen matters where the banks had instituted actions in the high court's seeking to repossess motor vehicles, or have immovable property declared executable.

Podcasts

"Is it possible that in 2018 your debts may be written off?"

"Is it possible that in 2018 your debts may be written off?" Dispute Resolution practice Director, Eugene Bester joined Michael J Avery on Classic Business to discuss this further.

[All news by Eugene Bester →](#)

Recognition

- The Legal 500 EMEA 2015-2021 recommended Eugene Bester for dispute resolution.