

# Richard Marcus

Director



Richard Marcus is a Director in our Dispute Resolution practice as well as in the Business Rescue, Restructuring and Insolvency sector. Richard has extensive experience in various aspects of corporate and commercial litigation, including urgent applications and arbitrations, including company and contract law disputes, insolvency and business rescue, and intellectual property.

## About Richard

Richard began his career in 1988 as a Candidate Attorney. In 1992 he joined Findlay and Tait as an Associate and in 1995 moved to Syfret Godlonton-Fuller Moore, first as an Associate and thereafter as a Director. Richard became a Director of Cliffe Dekker (now Cliffe Dekker Hofmeyr) in 1998.

## Credentials

### Education

- BA LLB, University of Cape Town
- LLM, Trinity Hall, Cambridge University (England)
- Year of admission as an attorney: 1989

### Memberships

- SARIPA – South African Restructuring and Insolvency Practitioners
- Accredited Mediator - Africa Centre For Dispute Settlement

## Experience

- Representing liquidators and creditors in major insolvencies, including listed companies.
- Resolution of shareholder, joint venture, company law and contractual disputes, with particular knowledge of the Companies Act.
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- Active in the sphere of Business Rescue and Restructuring.

## Contact Richard

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## Expertise

Dispute Resolution

Agriculture, Aquaculture & Fishing

Business Rescue, Restructuring & Insolvency

Corporate & White Collar Investigations

## Location

Cape Town

## Language

English

- Representing international and local corporations in unlawful competition matters, including intellectual property disputes, and unlawful competition restraints.
- Qualified Arbitrator and Mediator – Success in resolution of Disputes through Mediation

## News

### Non-compliance with court orders: When is late too late?

In *Economic Freedom Fighters and Others v The Chairperson of The Powers and Privileges Committee N.O and Others* (23230/2023) Zawchc 16 (30 January 2024) the court had to determine whether to condone non-compliance with a court order that would lead to a delay in finalising a matter of national importance.

### The shield of legal professional privilege

Lawyers are often, and necessarily so, the repositories of their clients' secrets, and there is good reason for this. The right to have one's confidential communications with a lawyer protected is an indispensable part of legal systems throughout the world, including South Africa. Clients confide in lawyers in order to take appropriate advice on the basis of full disclosure of the facts. If such confidences were subject to forced disclosure the administration of justice would be undermined.

### Residuary powers of directors of companies in provisional liquidation

It is a principle of our law, as established in *Attorney-General v Blumenthal* 1961 (4) SA 313 (T) ( *Blumenthal* ), that directors are divested of their powers when a company is placed in liquidation. Control of that company is then transferred to the liquidator. The assumption is that the liquidators step into the shoes of the former directors, who must now seek gainful employment and occupation elsewhere.

### Crash landing: The rise and fall of Dudu Myeni

In a judgment delivered by the North Gauteng High Court last week, former non-executive chairperson of SAA, Dudu Myeni, was declared to be a delinquent director.

### Compromise – dead duck or forgotten hero?

Many years ago, compromises were a " hot " way of restructuring companies in financial difficulties. This was particularly because of the tax benefits this procedure offered. Alas, these benefits are long gone. But compromise is still around as a formal procedure and in fact has been updated under the new Companies Act. It languishes in a single section (s155) at the end of the chapter dealing with business rescue, so most people seem to have forgotten that it exists.

## Videos

### Webinar Recording | Your land or mine?

A review of the law and trends in relation to unlawful occupation, both rural and urban.

### Navigating Business Rescue, Restructuring & Insolvency during COVID-19 | Part 2

Topics discussed included the impact of COVID-19 on South African economy, Directors' liability when trading in financially distressed or insolvent circumstances, current legislative amendments and regulations that have been put in place in South Africa (including the impact on general court proceedings) and case law update.

[All news by Richard Marcus →](#)

## Recognition

- Legal 500 EMEA
  - The Legal 500 EMEA 2014 recommended Richard for dispute resolution.
- International Client Choice Awards
  - International Client Choice Awards 2018 – Client Choice Restructuring – South Africa