

# Jose Jorge

Director



Jose Jorge is a Director in our Employment Law practice. He specialises in employment litigation, individual employment law, collective labour law and general employment law. Jose has specialised in this field for more than 20 years.

## About Jose

Jose joined Perrott van Niekerk Woodhouse & Matyolo Inc in 1998 as an Associate and left in 2013 where he held the position of Equity Director. He joined Norton Rose Fullbright SA in 2013 as an Equity Director until 2017. He joined Cliffe Dekker Hofmeyr as an Equity Director in 2017.

## Credentials

### Education

- BA, University of Cape Town
- LLB, University of Cape Town
- Year of admission as an attorney: 1998
- Registered with the Legal Practice Council

### Memberships

- The South African Society for Labour Law (SASLAW)

## Experience

- **Strikes**

Jose has extensive experience in assisting clients with strikes. He has in the past assisted a large number of corporates, including Shoprite, Freshmark, Engen and LSG Sky Chefs with strike management. He has successfully brought applications interdicting unprotected strikes, and unlawful and violent conduct during strikes.

- **Aspects of employment and labour law.**

He assists local and international companies conducting business in South Africa and advises clients on all aspects of employment and labour law.

- **Corporate clients in various sectors**

He services a number of corporate clients in various sectors including the petroleum, energy, healthcare, manufacturing, consumer goods, services and retail sectors.

## Contact Jose

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[Jose on LinkedIn](#)

## Expertise

[Employment Law](#)

[Consumer Goods, Services & Retail](#)

## Location

Cape Town

## Language

English

- Jose's experience includes:

Litigation in the CCMA, Labour Court, Labour Appeal Court and High Court, strike management, review applications, drafting employment related contracts, policies and codes of conduct, advice and making submissions in respect of proposed changes to legislation, business restructuring and transfers, disciplinary enquiries, advice on minimum standards compliance, drafting variation and exemption applications, legal and strategic advice, providing advice on employment equity and unfair discrimination and providing training in respect of arbitrations and disciplinary enquiries.

## News

### [Erroneous payments to employees: Is a deduction from salary a contractual breach?](#)

On 17 January 2024, the Supreme Court of Appeal (SCA) handed down an interesting judgment in *Mhlontlo Local Municipality and Others v Ngcangula and Another* (1154/2022) 2024 ZASCA 5 (17 January 2024) that, amongst other things, dealt with the concurrent jurisdiction of the Labour Court and the High Court to determine a matter related to a contract of employment, and clarified whether an erroneous payment made by an employer over a period becomes a term and condition of employment.

### [The review test restated](#)

In the recent judgment of *Makuleni v Standard Bank of SA (Pty) Ltd and Others* 44 ILJ 1005 (LAC), the Labour Appeal Court (LAC) reaffirmed the test for the review of a Commission for Conciliation, Mediation and Arbitration (CCMA) arbitration award. Interestingly, the LAC was critical of the arbitrator for not allowing legal representation in arbitration proceedings that became protracted and seemingly chaotic.

### [Failure to promote an employee to a restructured position in a retrenchment process: Can this constitute an unfair labour practice?](#)

In *Telkom SA Ltd v Commission for Conciliation, Mediation and Arbitration and Others* 40 ILJ 1093 (LC), the primary issue that the court was required to decide was whether the failure to appoint an employee to a more senior position, after their existing position was made redundant, as part of an alternative to retrenchment during a section 189 process constitutes an alleged unfair labour practice dispute related to promotion.

### [Hybrid Event Recording | Economic recession, State of Disaster and business: Navigating the tide](#)

A second national state of disaster has been declared in the space of three years this time due to constrained electricity supply at a time of imminent economic recession and a significant increase in liquidations.

### [Paradigm shift: Automatically unfair or a genuine operational requirement](#)

On 10 November 2022, the Labour Court handed down its judgment in *Inqubela Phambili Trade Union and Others v Pioneer Foods (Pty) Ltd, Wadeville Beverages* (JS740/2019) ZALCJHB 314 (10 November 2022). This case revisits the fine line between whether a dismissal is automatically unfair because of a refusal by employees to accept a demand in respect of any matter of mutual interest between them and their employer, or for a genuine operational requirement.

## Videos

### [Racism in the workplace](#)

Employment Director Jose Jorge appeared on SABC's Morning Live to discuss racism in the workplace.

### [Social media racism and racism in the workplace](#)

On 19 July, Employment Directors Samiksha Singh and Jose Jorge appeared on The Afternoon Express on SABC to talk about social media racism and racism in the workplace.

## Podcasts

### [Warning! Zimbabwean Exemption Permits expire on 30 June 2023](#)

In just under 4 weeks, all Zimbabwean Exemption Permits ("ZEP") will expire. In just under 4 weeks, all Zimbabwean Exemption Permits ("ZEP") will expire. The expiry of these ZEPs will undoubtedly affect the lives of millions of Zimbabwean nationals who have contributed, and who continue to contribute so much to the South African economy.

### [A discussion on when an employee whistle blower in the workplace can make use of the LRA section 188A](#)

The Podcast considers the case of Lindokuhle Tsibani v Estate Agency Affairs Board and Others - Case no: J 642/2021.

### [COIDA for domestic workers](#)

Employment Law Director Jose Jorge joined Lunch with Pippa Hudson on Cape Talk for a discussion around registering your domestic worker for COIDA. In it, he looks at how to ensure you properly register your domestic worker or gardener for the compensation fund, and explains the obligations around the recent ruling.

### [Employer liability in terms of section 60 of the EEA](#)

Employers have duty to eliminate unfair discrimination in their employment policies and procedures. The case of PSA obo AG v The Department of Agriculture highlights the risks to employers who fail to take the necessary steps to eliminate sexual harassment in the workplace. Listen to Jose Jorge in discussion with Adv Craig Bosch about this topic.

### [COVID-19 TERS](#)

Employment Director Jose Jorge joins The Honest Truth with Benito Vergotine to unpack COVID-19 Temporary Employee / Employer Relief Scheme (TERS) and what it means for companies and employees.

[All news by Jose Jorge →](#)

## Recognition

- Legal 500 EMEA

The Legal 500 EMEA 2020 - 2023 recommended Jose for employment.