

# Kananelo Sikhakhane

Associate



Kananelo Sikhakhane is an Associate in our Dispute Resolution practice.

## About Kananelo

### News

#### [Unconscionability as a defence to on-demand guarantees](#)

On-demand performance guarantees are a staple in construction and engineering projects due to their commercial function of 'as good as cash' security, providing employers with prompt and reliable security if contractors fail to meet their obligations. Demand guarantees are designed to be autonomous instruments. The guarantor's obligation to pay arises upon presentation of a demand that complies with the guarantee's terms, regardless of disputes under the underlying contract (the independence principle). The independence principle is the main charm of demand guarantees, as the South African courts have consistently upheld the independence of these guarantees, with fraud by the beneficiary being the only recognised exception to payment.

#### [Courts are unlikely to grant relief where hardship results from a party's own inaction](#)

In this alert, we look at the Supreme Court of Appeal's (SCA) decision in Kidrogen RF (Pty) Ltd v Erasmus and Others, which reminds us that the courts are unlikely to grant relief where hardship results from a party's own inaction or failure to comply with agreed timelines.

#### [The issue of procedural rights and settlement agreements in the adjudication of the defence of fraud against the enforcement of a performance guarantee](#)

The parties to a construction contract often agree to the conclusion of separate financial arrangements with third parties for the purposes of ensuring financial security and project success. Where such an agreement is in place, the contractor procures an undertaking furnished by a guarantor, who is an authorised financial services provider, to pay a specified amount to the employer where the contractor (or subcontractor) fails to perform in terms of the contract. This undertaking is known as a performance guarantee.

## Contact Kananelo

+27 (0)11 562 1404

[kananelo.sikhakhane@cdhlegal.com](mailto:kananelo.sikhakhane@cdhlegal.com)

[Kananelo on LinkedIn](#)

## Expertise

[Dispute Resolution](#)

[Construction & Engineering](#)

[Insurance Law](#)

## Location

[Johannesburg](#)

## Language

[English](#)

#### [All or nothing: A note on the inadequacy of gambling as legal strategy](#)

In the betting community some bettors attempt to limit their exposure or reduce the risk of a wager by hedging their bets. Hedging occurs when a bettor places a second wager against their own bet as insurance if the original wager loses. This is a strategy that people apply in various facets of their lives. However, as confirmed by the Supreme Court of Appeal in *Park 2000 Development 11 (Pty) Ltd v Mouton and Others* (684/21) ZASCA 140 (06 October 2021), this strategy may be inappropriate in the litigation arena.

#### [Let the message be sent: "This is the protection which our Constitution affords" – the Constitutional Court's ruling on compensation in sexual harassment cases](#)

On 17 June 2021, the Constitutional Court (CC) handed down judgment in *McGregor v Public Health and Social Development Sectoral Bargaining Council and Others* (CCT 270/20) ZACC 14 (17 June 2021). The appeal relates to a compensation order handed down in relation to the misconduct of Dr McGregor, a senior employee, on four charges of sexual harassment. The victim of such behaviour was a recently admitted medical practitioner.

[All news by Kananelo Sikhakhane →](#)

## Recognition

- The Legal 500 EMEA 2025 recommended Kananelo for construction.