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EMPLOYMENT ALERT

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HOT OFF THE BENCH: CONSTITUTIONAL COURT CONFIRMS IT IS NOT NECESSARY TO HOLD A PRE-SUSPENSION HEARING

On Tuesday, 19 February 2019, the Constitutional Court confirmed in the decision of *Long v South African Breweries (Pty) Ltd and Others* [2018] ZACC 7, that where a suspension is precautionary (pending an investigation - and which suspension is not punitive), that there is no requirement that an employee be given an opportunity to make representations prior to the suspension being implemented.

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HOT OFF THE BENCH: CONSTITUTIONAL COURT CONFIRMS IT IS NOT NECESSARY TO HOLD A PRE-SUSPENSION HEARING

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The court went on to hold that although there is the additional consideration of prejudice, this is ameliorated by the suspension being on full pay for the period of the suspension.

Accordingly, the Constitutional Court has confirmed that there is no requirement to afford the employee an opportunity to make representations prior to the implementation of his/her precautionary suspension by an employer.

This is a victorious outcome for Employers who have to date adopted the practice of holding pre-suspension hearings and then only after receiving submissions, deciding whether to implement the precautionary suspension or not. Clarity has finally been provided by our top court.

Nicholas Preston and Michaela Grieve

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CHAMBERS GLOBAL 2014 - 2019 ranked our Employment practice in Band 2: Employment.

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Hugo Pienaar ranked by CHAMBERS GLOBAL 2014 - 2019 in Band 2: Employment.

Fiona Leppan ranked by CHAMBERS GLOBAL 2018 - 2019 in Band 2: Employment.

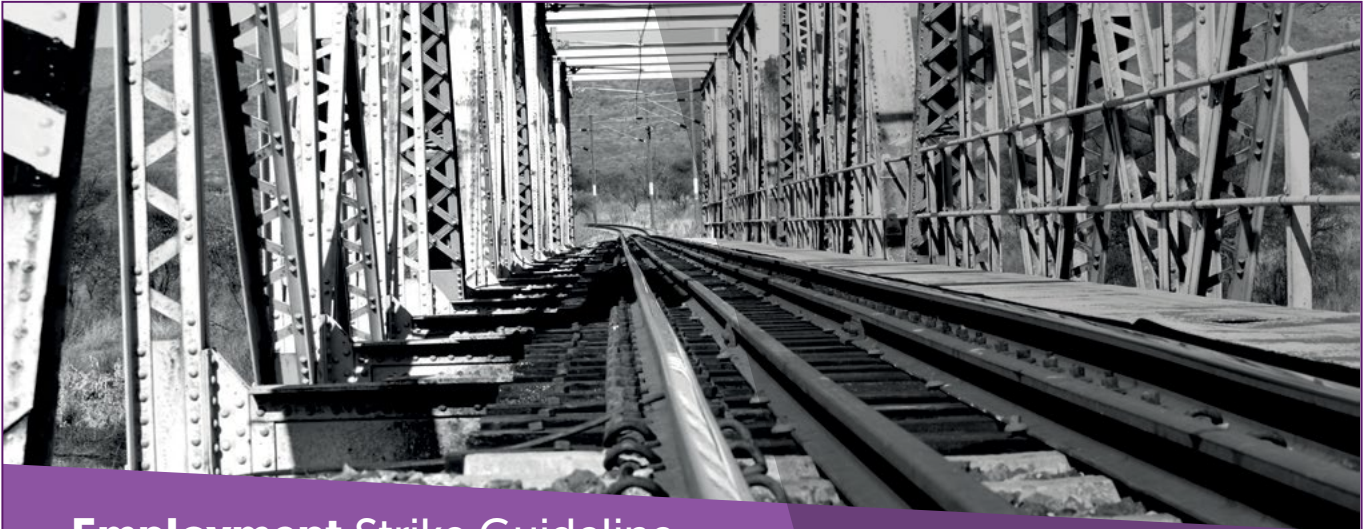
Gillian Lumb ranked by CHAMBERS GLOBAL 2017 - 2019 in Band 4: Employment.

Gavin Stansfield ranked by CHAMBERS GLOBAL 2018 - 2019 in Band 4: Employment.



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BBBEE STATUS: LEVEL TWO CONTRIBUTOR

Cliffe Dekker Hofmeyr is very pleased to have achieved a Level 2 BBBEE verification under the new BBBEE Codes of Good Practice. Our BBBEE verification is one of several components of our transformation strategy and we continue to seek ways of improving it in a meaningful manner.

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