

CURRICULUM VITAE of ALEWYN PETRUS JOUBERT SC

[A] University

- Primarius Wilgenhof, Stellenbosch
- Chairman of the Primarii-Primariae Committee
- Chairman US Debating Society. Winner of the Debating Competition for all South African Afrikaans Universities.
- Editor-in-Chief of “Die Matie”, the student newspaper of Stellenbosch University.
- Editor of Die Akkerjool, the rag magazine of US.
- Obtained the degrees BA LL.B (Stell); MBA (UCT) and LL.M cum laude (PU).

[B] Career as an Advocate

- Practising at the Johannesburg Bar since 1980. Letters patent granted on 22 September 1993.
- Acted as counsel in 71 reported cases, 23 of them in the Supreme Court of Appeal; see the attached list, Annexure “A”.
- Appeared as advocate, or consulted as advocate on brief, in several countries, viz. Swaziland, Botswana, Namibia, Lesotho, Mozambique, Zambia, Hong Kong, Australia, Singapore, Taiwan, Britain, Republic of Ireland, France, Germany, The Netherlands, Belgium, United States of America, Crown Colony of Jersey and the People’s Republic of China.
- Lead counsel for claimant in an arbitration held under the rules of the International Commercial Court, Paris. The arbitration ran its full course (2013).
- Acting judge of the High Court, from time to time, since 1996. A list of his judgments is attached, see “A”.
- Chairman Johannesburg Bar Council 2001 – 2002; previously served as Vice-Chairman (2000) and the three years proceeding as Treasurer of the Bar Council.
- Represented the South African Bar at festivities of Netherlands’s Bars in The Hague (2001).
- Represented Johannesburg Bar at the First International Conference of Barristers and Advocates in Edinburgh (2002).
- Spoke on “Privilege and Confidentiality in South African Law” at the International Bar Association Conference held at Durban (2002).
- Director of AFSA (Arbitration Foundation of South Africa), 1996 -2002.
- Lecturer to pupils at the Johannesburg Bar on civil trials and cross-examination since 1993.
- Chairman of Management Committee of Maisels Group (consisting of some 90 advocates) since 2006.

[C] Academic Career

- Extraordinary Professor of Public Law, University of Stellenbosch, 1 July 2001 to 30 June 2004. Still lecture there from time to time.
- Extraordinary Professor of Law, University of Potchefstroom (now North-West) since 2001. (Presents the course on customs and excise law as part of the LLM in International Trade Law.)
- Visiting Professor of Law, National University of Mongolia, Ulaanbataar (2007).
- Visiting Professor in the Humanities at the State University of Ryazan (Russia) and visiting Professor in International Trade Law at the Odessa National Law Academy (Ukraine) during 2009. (His experiences are related in “n Maand in die Vreemde”, published in the “Advocate” of April 2010, December 2010 and April 2011).
- Visiting Professor of Law at the State University of Saint Petersburg (2013).
- Guest lecturer from time to time at the Rand Afrikaans University (now University of Johannesburg), University of the Witwatersrand and Pretoria University.
- Visiting lecturer at Tilburg University (Netherlands) during February 2005.
- Spoke on “Recognition and Enforcement of Foreign Judgements in South African Law” at the conference hosted by the Center for International Legal Studies at Santiago, Chile (2003).
- Spoke on “Courts and Arbitration Tribunals in South Africa” at the conference hosted by the Centre for International Legal Studies at Whistler B.C., Canada (2005).
- Spoke on “Unlawful Competition in South African Law” at a conference hosted by Centre for International Studies at Alyeska, Alaska (2006).

[D] Education of Youth

- Chairman of the Board of Governors of Jan Cilliers Primary School since 2005. The school is generally regarded as one of the foremost Afrikaans private primary schools in South Africa. Has been serving on the Board since 2002.

[E] Farmer and Breeder of Thoroughbreds

- Breeding thoroughbreds since 1987. Established stud farm, “Riethuiskraal” and olive farms “Birdsong”, “Muffets”, “Milkwood” and “Drie Heuwels” (since 2001). The olive farms are jointly called “Kransfontein”.
- Breeder of “**Lambarina**”, the 1993 Highveld Champion 3 year old filly and winner of the classic South African Oaks.
- Breeder of “**Crimson Palace**”, winner of Beverly D Stakes Gr 1 in USA (2004). The victory in the Beverly D was

the first Gr1 race won by a South African bred filly on the American continent. She was also the first South African bred horse to win a Graded Stakes race in England, the Middleton Stakes Gr 3. First winner of the prestigious Equus Award for South Africa International Breeder of the Year (2005) for achievements of Crimson Palace.

- Breeder of “**National Colour**”, winner of 3 x Gr1 races and Joint Winner of the Equus Award for South African Horse of the Year (2006). Highest rated sprinting filly in the Southern Hemisphere in 2005.
- Breeder of the filly “**Flirtation**”, winner of the Summer Cup Gr1 (2010), one of South Africa’s three “major” races. Only 11 fillies have won this race, first run in 1887.

[F] **Administrator in Thoroughbred Industry**

- Chairman of South Africa’s Thoroughbred Breeders’ Association (2005-2011). Elected Honorary Life Member of the TBA (2012).
- Chairman of Racing South Africa (2006 – 2008). This is the umbrella organisation representing all breeders, owners and operators in South Africa and is responsible for creating the infrastructure to facilitate exports from South Africa and to market the South African thoroughbred internationally.
- Chairman of National Horseracing Authority of South Africa since 2013; director since 2006. The NHA (formally called the Jockey Club of SA) is the controlling body of racing in South Africa. Chairman of the Graded Races Committee on the NHA (2006-2013).
- Lead South African delegation at the International Breeders’ Meeting in Tokyo (2006) and delivered one of the key note addresses at the conference. Also lead the South African delegation at the International Breeders’ Meetings in Melbourne (2008), Paris (2009) and Calgary (2010). Lead the TBA delegation at the Asian Racing Conferences held in Dubai (2007) and Sydney (2010).

[G] **Restaurateur**

- Consecutive co-owner of the following restaurants:
 - L’Escargot, Melville; rated one of South-Africa’s top 10 restaurants.
 - Established “Questionmark”, Melville (1991).
 - Established “Full Stop Cafè”, Melville (1995).
 - Established “Full Stop Cafè”, Parkhurst (2000).
- Each of the above-mentioned last three restaurants, on occasion, won “The Star” award for the best Al Fresco restaurant in Johannesburg. The restaurants were owned consecutively; the last one was sold during 2005.

[H] **Ventures in the World of Medicine**

- Established as co-owner three complete oncology units viz. Karl Bremer, Bellville; Vergelegen, Somerset West; and MediClinic Hospital, Nelspruit (1999 - 2004). (Approximately 50 cancer-patients received daily radiotherapy treatment in the units). Also co-owner of engineering company which serviced and installed oncology units locally and elsewhere. These oncology units and the engineering company were sold during January 2004.
- Joint creator (with his brother) and joint owner of the Heart of Cape Town Museum. The museum opened in 2007 and is, in the main, dedicated to the first heart transplant operation performed in 1967. It is situated in Groote Schuur Hospital, Cape Town. This was done, mostly, in honour of his farther, once a partner of Dr Chris Barnard.

[I] **International Trade in Antique Furniture**

- Co-Owner of Old Johannesburg Warehouse (Pty) Ltd, a company that buys antique furniture overseas and sells them in South Africa. The business was created during October 2004. During the partnership some 30 x 40’ containers of antique furniture were imported from mainly England, Western and Eastern Europe and South America. Sold his half-share in the business to his partner during October 2007.

[J] **Sport**

- Captained both the Boland Schools cricket and tennis teams.
- Bisley champion of his high school.
- Played first team tennis and chess for Stellenbosch University.
- Represented Boland and South African Armed Forces in tennis at senior level.
- Climbed Kilimanjaro (2000).
- Represented South Africa in the Lawyers’ Cricket World Cup held in Cambridge, England (2009).

[K] Miscellanea

- Keen collector and lover of art, books (esp. history), antique furniture and classical music (esp. opera).
- Have travelled extensively.

“A”

A. REPORTED CASES

- 1 **S v Sam** 1980 (4) SA 289 (T)
2 **S v Ramaligela en 'n Ander** 1983 (2) SA 424 (V)
3 **Rauties Transport (Edms) Bpk v Voorsitter, Plaaslike Padvervoerraad, Johannesburg, en 'n Ander** 1983 (4) SA
146 (W)
4 **Anderson Transport (Pty) Ltd v Chairman, National Transport Commission and Others** 1985 (2) SA 97 (C)
5 **Eljomo Vervoer (Edms) Bpk v Voorsitter, Nasionale Vervoerkommissie en Ander** 1985 (2) SA 199 (T)
6 **Heavy Transport and Plant Hire (Pty) Ltd and Others v Minister of Transport Affairs and Others; South North
Haulage (Pty) Ltd and Another v South African Transport Services** 1985 (2) SA 597 (W)
7 **Suid-Afrikaanse Vervoerdienste v Voorsitter, Nasionale Vervoerkommissie en 'n Ander** 1985 (3) SA 531 (NC)
8 **Olgar v Chairman, National Transport Commission, and Another** 1985 (3) SA SA 1030 (D)
9 **South African Transport Services v Olgar and Another** 1986 (2) SA 684 (A)
10 **Voorsitter, Nasionale Vervoerkommissie, en 'n Ander v Sonnex (Edms) Bpk** 1986 (3) SA 70 (A)
11 **Mokoena v Minister of Law and Order** 1986 (4) SA 42 (W)
12 **S A Freight Consolidators (Pty) Ltd v Chairman, National Transport Commission, and Another** 1987 (4) SA 155
(W)
13 **South African Transport Service v Chairman, Local Road Transportation Board, Cape Town, and Others;
Unicorn Lines (Pty) Ltd v Chairman, Local Transportation Board, Cape Town, and Others** 1988 (1) SA 665 (C)
14 **S A Freight Consolidators (Pty) Ltd v Chairman, National Transport Commission, and Another** 1988 (3) SA 485
(W)
15 **LTA Construction BPK v Administrateur, Transvaal** 1992 (1) SA 473 (A)
16 **Tieber v Commissioner for Customs and Excise** 1992 (4) SA 844 (A)
17 **Commissioner for Customs and Excise v C I Caravans (Pty) Ltd** 1993 (1) SA 138 (N)
18 **Purnell v Purnell** 1993 (2) SA 662 (A)
19 **Commissioner of Customs and Excise v Bank of Lisbon International Ltd and Another** 1994 (1) SA 205 (N)
20 **Administrateur, Transvaal v Van der Merwe** 1994 (4) SA 347 (A)
21 **Transnet Bpk h/a Coach Express en 'n Ander v Voorsitter, Nasionale Vervoerkommissie, en Andere** 1995 (3) SA
844 (T)
22 **Crown Chickens (Pty) Ltd v Minister of Finance and Others** 1996 (4) SA 389 (E)
23 **Minister of Finance v Ideal Fastners Corporation CC** 58 (1996) SATC 145; also in [1996] 1 All SA 373 (C)
24 **Joseph and Another v Air Tanzania Corporation** 1997 (3) SA 34 (W)
25 **Unitrans Passanger Bpk v Voorsitter NVK; Transnet Bpk v Voorsitter NVK** 1997 (4) SA 663 (T)
26 **Interkaap Ferreira Busdiens (Pty) Ltd v Chairman NTC** 1997 (4) SA 687 (T)
27 **Beier Industries (Pty) Ltd (formerly OTH Beier Company (Pty) Ltd) v Commissioner for Customs and Excise**
1998 (4) SA 345 (N); also reported in 60 (1998) SATC 39
28 **The Minister of Finance and Others v EBN Trading (Pty) Ltd** 1998 (2) SA 319 (N); also in [1997] 3 All SA 481 (N).
29 **Society of Advocates of South Africa (Witwatersrand Division) v Edeling** 1998 (2) SA 852 (W)
30 **Ward and Another v Smit and Others: In Re Gurr v Zambia Airways Corporation Ltd** 1998 (3) SA 175 (SCA)
31 **S v Valashiya** 1998 (1) SACR 713 (NKA)
32 **Tina Cosmetics (Pty) Ltd v Commissioner for Customs and Excise** 60 (1998) SATC 220 (W)
33 **Commissioner of Customs and Excise v Strauss and Others** 1998 (4) SA 593 (T); also in [1998] 3 All SA 104 (T)
34 **Klopper en Andere NNO v Engelbrecht en Andere NNO** 1998 (4) SA 788 (W)
35 **Commissioner for Customs and Excise v Capital Meats CC** 1999 (1) SA 570 (SCA)
36 **Commissioner for Customs and Excise v Container Logistics (Pty) Ltd; Commissioner for Customs and Excise v
Rennies Group Ltd t/a Renfreight** 1999 (3) SA 771 (SCA); also 1999 (8) BCLR 833 (SCA).
37 **Unitrans Passenger (Pty) Ltd t/a Greyhound Coach Lines v Chairman, National Transport Commission and
Others; Transnet Ltd (Autonet Division) v Chairman, National Transport Commission and Others** [1999] 3 All
SA 365 (SCA); also reported as 1999 (4) 1 (SCA)
38 **EBN Trading (Pty) Ltd v Commissioner of Customs and Excise and Another** 1999 (3) JTLR 45 (N)
39 **EBN Trading (Pty) Ltd v Commissioner of Customs and Excise and Another** 2001 (2) SA 1210 (SCA)
40 **Union Finance Holdings Ltd v I.S. Mirk Office Machines II (Pty) Ltd and Another** 2001 (4) SA 842 (W)
41 **Henbase 3392 (Pty) Ltd v Commissioner, South African Revenue Service,
and Another** 2002 (2) SA 180 (T)
42 **Woodlands Dairy (Pty) Ltd v Parmalat SA (Pty) Ltd** 2002 (2) SA 268 (ECD)
43 **Henbase 3392 (Pty) Ltd v Commissioner, SARS and Another** 2002 (3) SA 26 (SCA)
44 **Biotech Laboratories (Pty) Ltd v Beecham Group PLC and Another** 2002 (4) SA 249 (SCA)
45 **Commissioner for South African Revenue Service v Nutec Southern Africa (Pty) Ltd** 64 SATC 260, 2001 (SCA)
46 **Telkom SA v Nedtel Cellular (Pty) Ltd and Others** 2004 (2) SA 324 (T)
47 **Kevin and Lasia Property Investment CC and Another v Roos NO and Others** 2004 (4) SA 103 (SCA)
48 **Soil Fumigation Services Lowveld CC v Chemfit Technical Products (Pty) Ltd** 2004 (6) SA 29 (SCA)
49 **Orange River Export (Pty) Ltd v TDC International Fruit Frais du Monde Inc** 2005 (1) All SA 764 (NC)

- 50 **Valunet Solutions Inc t/a Dinkum USA and Another v eTel Communications Solutions (Pty) Ltd** 2005 (3) SA 494 (W)
- 51 **Geysler v Nedbank Ltd and Others: In Re Nedbank Ltd v Geysler** 2006 (4) SA 544 (W)
- 52 **Geysler v Nedbank Ltd and Others: In Re Nedbank Ltd v Geysler** 2006 (5) SA 355 (W)
- 53 **Distell Limited and Another v Commissioner for South African Revenue Service and Another** 69 SATC 15, 2006 (T)
- 54 **Colgate Palmolive (Pty) Ltd v Commissioner, South African Revenue Services** 2007 (1) SA 35 (N)
- 55 **Lodhi 2 Properties Investments CC and Another v Bondev Developments (Pty) Ltd** 2007 (6) SA 87 (SCA)
- 56 **Western Flyer Manufacturing (Pty) Ltd v Dewrance and Others NNO : In Re Dewrance and Others NNO v Northwest Transport Investments (Pty) Ltd (Under Judicial Management) and Others** 2007 (6) SA 459 (B)
- 57 **Oosthuizen's Transport (Pty) Ltd and Others v MEC, Road Traffic Matters, Mpumalanga, and Others** 2008 (2) SA 570 (T)
- 58 **Minister of Finance and Another v Paper Manufacturers Association of South Africa** 2008 (6) SA 540 (SCA)
- 59 **Commissioner for SARS v Duro Pressings (Pty) Ltd** 71 SATC 88, 2008 (T)
- 60 **National Lotteries Board v Bruss NO and Others** 2009 (4) SA 362 (SCA)
- 61 **Nedbank Ltd v Master of the High Court, WLD and Others** 2009 (3) SA 403 (W)
- 62 **LG Electronics SA (Pty) Ltd v Commissioner for South African Revenue Service** 71 SATC 275, 2009 (T)
- 63 **Espag and Another v Hattingh** 2010 (3) SA 22 (SCA) (Drew Heads of Argument, not available for presentation of argument)
- 64 **Pahad Shipping CC v Commissioner for South African Revenue Service** [2010] 72 SATC 35 (SCA)
- 65 **Distell Ltd v Commissioner for South African Revenue Service** [2011] 73 SATC 265 (NGP)
- 66 **Distell Ltd v Commissioner for South African Revenue Service** [2011] 1 All SA 225 (SCA); also [2011] 73 SATC 148 (SCA)
- 67 **Commissioner for South African Revenue Service v Multichoice Africa (Pty) Ltd and Another** [2011] 73 SATC 209 (SCA)
- 68 **Commissioner for South African Revenue Service v LG Electronics SA (Pty) Ltd** 2012 (5) SA 439 (SCA); also [2011] 73 SATC 326 (SCA)
- 69 **Commissioner for South African Revenue Service v Colgate-Palmolive (Pty) Ltd** [2012] 74 SATC 157 (SCA)
- 70 **Distell Ltd v Commissioner, South African Revenue Service** 2012 (5) SA 450 (SCA); also [2012] 74 SATC 272 (SCA)
- 71 **Commissioner for South African Revenue Service v Smith Mining Equipment (Pty) Ltd** [2012] 74 SATC 312 (NGP)

B. JUDGMENTS

- 1 **S v Opperman** 1997 (1) SACR 285 (W)
- 2 **S v Badenhorst** 1997 (1) SACR 311 (W)
- 3 **S v Oosthuizen** 1997 (1) SACR 315 (W)
- 4 **Faiga v Body Corporate of Dumbarton Oaks and Another** 1997 (2) SA 651 (W); also in [1997] 1 All SA 367 (W)
- 5 **Tudoric-Ghemco v Tudoric-Ghemco** 1997 (2) SA 246 (W)