




IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

DELETE WHICHEVER IS NOT APPLICABLE	
(1) REPORTABLE: YES/NO.	YES /NO.
(2) OF INTEREST TO OTHER JUDGES: YES/NO.	YES /NO.
(3) REVISED.	
23/11/2014	
DATE	SIGNATURE

In the matter between

Case No: 12758/2014

Date heard: 25 November 2014

Date of judgment: 25 November 2014

MOTOR INDUSTRY STAFF ASSOCIATION

Applicant

and

IAN ANTHONY MACUN N.O.

1st Respondent

MINISTER OF LABOUR N.O.

2nd Respondent

MOTOR INDUSTRY BARGAINING COUNCIL

3rd Respondent

**NATIONAL UNION OF METALWORKERS OF SOUTH
AFRICA**

4th Respondent

RETAIL MOTOR INDUSTRY ORGANISATION

5th Respondent

**FUEL RETAILERS' ASSOCIATION OF SOUTHERN
AFRICA**

6th Respondent

LEAVE TO APPEAL JUDGMENT

A.M.L. PHATUDI J:

[1] This is a leave to appeal against the judgment and order I granted on 06 November 2014.¹

[2] The concurrent jurisdiction created by the provisions of section 157(1) and (2) of the Labour Relations Act (LRA) had a grappling history which now appears to be in perpetuity.

[3] Section 17 (1) (a) (ii) of Superior Court Act 10 of 2013 (the Act) provides that '[l]eave to appeal may only be given where the judge or judges concerned are of the opinion that

(a)(i) ...

(ii) there is some other compelling reason why the appeal should be heard, including conflicting judgments on the matter under consideration;'

[4] Section 20 provides '[w]henever a decision on a question of law is given by a court of a Division which is in conflict with a decision on the same question of law given by a court of any other Division, the Minister may submit such conflicting decisions to the Chief Justice, who must cause the matter to be argued before the

¹ Due to typographical errors I noticed at paragraphs [5] and [6] and footnote 15, I annexe the amended version for ease of reference

Constitutional Court or the Supreme Court of Appeal, as the case may be, in order to determine the said question of law for guidance.'

[5] The conflicting judgments from different courts referred to in the main judgment warrant the granting of leave to appeal to the Supreme Court of Appeal or; the Minister may submit the said conflicting decisions to the Chief Justice, who must cause the matter to be argued before the Constitutional Court to settle this concurrent jurisdiction issue created by the Labour Relations Act.

The following order is thus made.

Order:

1. Leave to appeal is hereby granted to the Supreme Court of Appeal.
2. Costs of this application be costs in the appeal.

A handwritten signature in black ink, appearing to read 'A.M.L. Phatudi', written over a large, loopy circular flourish.

A.M.L. Phatudi

Judge of the High Court

On behalf of the Applicant:

Gerrie Ebersohn
C/O Kritzingers Attorneys
1181 Church Street
Hatfield
Pretoria

Dr G Ebersohn

On behalf of the 1st and 2nd

Respondent:

State Attorney
SALU Building
316 Thabo Sehume Street
Pretoria

No appearance

On behalf of 3rd Respondent:

Cliffe Dekker Hofmeyer Inc

C/O Gildenhuis Malatji Inc

GMI House

Harlequins Office Park

164 Totius Street

Groenkloof

Pretoria

No appearance

On behalf of the 4th Respondent:

Haffegge Roskam Savage

C/O Macrobbert Inc

Cnr Justice Mohamed &

Jan Shoba Streets

Brooklyn

Pretoria

No appearance