

## SUPREME COURT OF APPEAL OF SOUTH AFRICA

### MEDIA SUMMARY – JUDGMENT DELIVERED IN SUPREME COURT OF APPEAL

FROM: The Registrar, Supreme Court of Appeal

DATE: 29 NOVEMBER 2007

STATUS: Immediate

Please note that the media summary is intended for the benefit of the media and does not form part of the judgment of the Supreme Court of Appeal.

The Supreme Court of Appeal today allowed an appeal brought by Allacclas Investments (Pty) Ltd and Mr Alexander Simonis, a director of the company, against a judgment of Ms Justice Traverso, the deputy judge president of the Cape High Court, who had dismissed their application for an order against the Milnerton Golf Club, interdicting it from permitting the use of the sixth hole on the Milnerton Golf course for the playing of golf until effective measure were introduced to deal with the danger of badly aimed golf balls striking the company's property.

Ms Justice Traverso had held that though 875 badly aimed golf balls had found their way from the tee on the sixth hole on to the company's property from December 2003 to March 2006, the club had not interfered unreasonably with the rights of the appellants.

Mr Justice IG Farlam, Judge of Appeal, who delivered the judgment of the Supreme Court of Appeal, in which Mr Justice FDJ Brand, Mr Justice D Mlambo, Mr Justice PC Combrinck, Judges of Appeal, and Ms Justice N Mhlantla, Acting Judge of Appeal, concurred, did not agree. He said that the evidence, in his view, established a sufficiently high incidence of badly aimed golf balls entering the company's property to entitle the appellants to relief. He referred to the fact that on the undisputed evidence the hole was badly designed and gave rise to safety concerns. He accordingly granted an interdict until the club implemented a system of barriers suggested by its own expert in his affidavit. The operation of the interdict was suspended for a month to afford the club an opportunity to implement the necessary measures.

The full text of the judgment is available on the internet at [www.supremecourtofappeal.gov.za](http://www.supremecourtofappeal.gov.za).