

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 SEPTEMBER 2008

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 from a judgment of Mr Justice S Desai, sitting in the High Court, Cape Town, in which he dismissed a special plea brought by Dieter Schmidt, a resident of the United States of America, against the jurisdiction of the Cape Town court to hear a damages claim brought against him by Birgitta Weaving, who is resident in the Western Cape.

Mr Justice Desai had dismissed the special plea because, so he held, the court's jurisdiction had been confirmed by the attachment in Cape Town of Schmidt's member's interest in three South African close corporations. Mr Justice IG Farlam, who delivered the judgment of the Supreme Court of Appeal, which was concurred in by Mr Justice D G Scott, Mr Justice C Jafta, Mr Justice D Mlambo and Ms Justice M Maya, said that on appeal Weaving's counsel had said that they only relied on the attachment of Schmidt's member's interest in one close corporation, Le Cap International CC. Mr Justice Farlam held that this attachment was invalid because notice of it had not been given to the close corporation. In the result the appeal was allowed with costs and Schmidt's special plea to the jurisdiction of the Cape Town High Court was upheld.

