

**IN THE HIGH COURT OF SOUTH AFRICA****(WESTERN CAPE HIGH COURT, CAPE TOWN)****CASE NUMBER:**

13911/2010

**DATE:**

11 NOVEMBER 2010

5 In the matter between:

**MARIA MARGARETHA KIRSTEN NO.****(J F Kirsten Trust IT139/82)**1<sup>st</sup> Applicant**SPRINGFEVER INVESTMENTS 21 (PTY) LTED**2<sup>nd</sup> Applicant10 **JOHAN FREDERICK KIRSTEN**3<sup>rd</sup> Applicant

and

**ABSA BANK LIMITED**

Respondent

**J U D G M E N T**

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**(Application for leave to appeal)****GAMBLE, J:**

20 This is an application for leave appeal against the summary judgment which was granted in favour of the Plaintiff Bank at the end of September this year. The application is for leave to appeal to the full bench of this division.


25 The arguments which were advanced before me this morning are in essence similar to the arguments which were advanced

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at the hearing. I am not convinced that there are reasonable prospects of success for the defendants on appeal. I believe that the judgment adequately addresses the issues raised by Mr Van Riet. In the circumstances, the APPLICATION FOR  
5 LEAVE TO APPEAL IS REFUSED WITH COSTS. Because the suretyship makes provision for a cost order to be on the scale as between attorney and own client, the cost in the application for leave to appeal will be on the scale as between attorney and own client.

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GAMBLE, J