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FROM THE EDITOR'S PEN: Adversity has sweet offerings



Welcome to *Arbitrarily Speaking!*

This year is swiftly out of its starting blocks and, at the time of writing, we are already nearing the end of January 2021. Since this is the first issue of the e-periodical for 2021, it is appropriate that we wish all our members and readers much prosperity and success for their endeavours in the year ahead.

In our inaugural issue of *Arbitrarily Speaking!* on 16 January 2020, we reflected on a remark – pertaining to virtues of arbitration – attributed to the scholarly *Rabbi Nachman of Breslov* (1772-1811), a Hasidic master and religious thinker. Another of this great thinker's sayings is that *'All new beginnings require that you unlock a new door.'* By endorsing the new technologies that enabled arbitral proceedings to continue unhindered in the wake of the global COVID-19 pandemic, the Association *'unlocked the door'* that allowed its members and participants in the realm of alternative dispute resolution (**ADR**) to benefit from the new beginnings offered by such technologies and the many positives derived from same.

Members are reminded that this e-periodical is intended to serve your interests. As such, we want to encourage you to share your knowledge, skill and experiences of your specific disciplines, as well as your knowledge of and involvement in alternative dispute resolution. [Click here](#) to share your insight with us.

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A CASE IN POINT: RECENT CASE REPORTS

This regular column features interesting and informative case reports and judgments. This edition features an all-important judgment of the UK's Supreme Court of Appeal in *Halliburton Company v Chubb Bermuda Insurance Ltd* [2020] UKSC 48, which deals in great detail with an international arbitrator's duty of impartiality and obligation of disclosure. We invite you to add to our growing collection of analyses in the new year.

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UNCLE OSWALD'S Q&A FORUM

The consequences of a non-alcoholic December holiday and a poorly drafted arbitration clause

Following a restful December holiday, our retired arbitrator shares his priceless insights on the consequences of defective arbitration clauses, as well as the minimum requirements for a properly drafted one.

Send your questions to our General Manager, Rochelle Appleton, at rochelle@arbitrators.co.za. She will gladly forward your questions to Uncle Oswald and ensure that you receive his sage advice on your arbitration queries.

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ARBITRATION EDUCATION STATION

We announce the names of, and offer our congratulations to, three of our students, who passed the 2020 final Module 4A Award Writing examinations with *summa cum laude* distinctions.

Since its inception, the Association has promoted the greater use of arbitration as a means of resolving disputes. It is able to appoint competent and experienced arbitrators, as well as other specialists in alternative dispute resolution (ADR). To support these core activities, the Association has a proud history of providing excellent training and tutelage by a team of dedicated specialists.

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ALL ABOUT THE AOA

In this edition of *Arbitrarily Speaking!*, we notify our members and readers of the Association's fee discount policy that has been adopted and formulated to provide some financial relief to its members in the current economic climate.

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AOA BREAKING NEWS

This regular feature brings you all the latest news pertaining to all things arbitral.

A summary of the JBCC publication:
JBCC 2020 AND ALL THAT – A practical application by Prof MJ Maritz

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TOOLS OF THE TRADE

What happens if an adjudicator does not adhere to the contractually prescribed time limits in terms of the NEC 3 engineering and construction contract?

Adv Kiki Bailey, SC, answers this question as she examines the far-reaching consequences for adjudicators and all contractual parties concerned.

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Interest in a nutshell (*prime, repo, mora, usury, in duplum*)

In his article, Adv Mark Harcourt, SC, unpacks the nuts and bolts of the different types of interest and their significance in law.

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Retention money, does it belong to the contractor or the employer?

In her article, Dr Tanya Nicole Hendry poses questions around, and encourages debate on, the topic of the ownership of retention money.

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