



May 2020 e-periodical issue 3



## ARBITRATION IN AN AGE OF CRISIS

Welcome to ***Arbitrarily Speaking!***

This edition of *Arbitrarily Speaking* coincides with an unprecedented global crisis brought on by the outbreak of one of a cluster of coronaviruses – named for their crown-like spikes – called COVID-19. Like previous coronavirus outbreaks (such as SARS and MERS), this novel coronavirus has never appeared in the human population before, and therefore we are particularly vulnerable. But in our vulnerability, it may be argued, lies our strength. The virus has compelled us to stand together, to collaborate across geographical, cultural and social boundaries, and to forge mutually beneficial solutions.

When you look at it, this mirrors in part the process of arbitration – the attempt to resolve conflicting interests through a mutually beneficial outcome. Well-versed in this process, all that remains for our community of arbitrators currently is to stay safe and strong!

Please use this lockdown period to browse through our latest issue. Once you have done so, we'd be delighted to receive your feedback and contributions. Click [here](#) to reach out to us.

### Articles inside:

- From the editor's pen
- Arbitration education station
- Uncle Oswald's Q&A forum
- Tools of the trade
- A case in point
- All about the AOA
- AOA breaking news

## FROM THE EDITOR'S PEN:

The importance of critical thinking in times of crisis...

The publication of this edition of ***Arbitrarily Speaking*** in May 2020 takes place in an unprecedented global setting caused by the outbreak of coronavirus disease 2019 (COVID-19). Who would have predicted at the beginning of 2020, which is a mere five months young, that the entire world would be facing one of its biggest challenges yet?

READ MORE



## ARBITRATION EDUCATION STATION

### Course modules

We offer a wide range of correspondence courses to new and existing members. By registering with the Association, you'll become an associate member and join a like-minded group of professionals who consider arbitration a positive alternative procedure for settling disputes. With each issue, we will recommend a new course module to our readers.

READ MORE

# UNCLE OSWALD'S Q&A FORUM

Our resolute retired arbitrator is making the most of the lockdown period. You'll still find him sitting serenely on his veranda, enjoying tea and homemade rusks, eagerly anticipating your most pressing questions. Back in his not-so-misspent youth, he completed his articles with Hugo de Groot, Voet and Partners, and tackled the very same ADR concerns that preoccupy you now.

Please send your questions to our General Manager, Rochelle Appleton, at [rochelle@arbitrators.co.za](mailto:rochelle@arbitrators.co.za). She will gladly serve Uncle Oswald some tea – or G&T! – and ask him to share his pearls of wisdom with you. Here are some of the questions recently received and answered by Uncle Oswald...

[READ MORE](#)

## A CASE IN POINT: RECENT CASE REPORTS

This regular column features interesting and informative case reports and judgments. We invite you to add to our growing collection of case reports but, for now, we're pleased to share with you the Zamani case analysis. **Zamani case analysis – Judgment of the High Court of South Africa, Gauteng Local Division (Johannesburg).**

*Zamani Marketing and Management Consultants Proprietary Limited and Another v HCI Invest 15 Holdco Proprietary Limited and Others (32026/2019) [2020] ZAGPJH 5.*

### The background

This recent judgment of the High Court of South Africa, Gauteng Local Division (Johannesburg), has its origins in a dispute that arose out of proceedings instituted by the applicants to have an award by three arbitrators set aside.

[READ MORE](#)



## ALL ABOUT THE AOA

We're a team of devoted specialists who believe in the absolute value of arbitration.

[READ MORE](#)

# TOOLS OF THE TRADE

## The elements of logical reasoning

Ms Maritza Breitenbach holds a Bachelor of Science degree (cum laude), a Teaching Diploma and a Certificate in Small Business Management (magna cum laude), all from North-West University (NWU). She also completed a Master's degree (Philosophy in Biomedical Ethics) (cum laude) at the University of Stellenbosch (US). Among her many diverse talents, she is also a published author, a seasoned entrepreneur, and an accomplished sculptor. In her article, she explores the many elements that make up deductive and inductive reasoning processes, with a particular caveat against false syllogisms.

[READ MORE](#)

## May an arbitrator use his or her own knowledge and/or expertise to decide a matter?

Our current chairman, Advocate Pierre Rossouw SC, needs little introduction. He is a member of The Maisels Group in Sandton. His court appearances include various divisions of the High Court, Supreme Court of Appeal, the Constitutional Court of RSA and the High and Supreme Courts of Namibia. The judgments in 32 of his litigious matters have been reported prominently in various law reports. Here he shares an article on the value of specialised knowledge and expertise when appointing an arbitrator.

[READ MORE](#)



[READ MORE](#)

## AOA BREAKING NEWS

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

### A global award for a local arbitral award-writing student

Our vice-chairperson, Adv Tjaart van der Walt, SC, shares with us news about the coveted 2019 CIArb President's Prize. This global award went to our very own Alissa Nayanah, who, at the time of the award, was a Fellowship Admission Course student of the Association.



[www.arbitrators.co.za](http://www.arbitrators.co.za)



+27 11 884 9164



[Click here to find us on Google Maps](#)

**Disclaimer:** This e-periodical is made available by the Association of Arbitrators for educational purposes only, as well as to enable subscription to the AOA. It is not a substitute for specific legal advice or case law developments, nor are the views expressed by our contributors necessarily those of the AOA.