

CURRICULUM VITAE

of

ALEWYN PETRUS JOUBERT SC

[A] Childhood and Family

- Father was a highly respected and hardworking country doctor who practised at Ceres for 40 years. Mother a teacher renowned for her books on teaching the very young to read. Published her latest book at the age of 98. Eldest of four siblings.
- Formerly married (1975 to 2002). Two sons, Erhardt (M.Sc. Aquatic Health Management) and Louis (M.Sc. Electrical Engineering).
- Head boy and Dux student of Laerskool Gericke. Head boy and Dux student at Hoërskool Charlie Hofmeyr.
- At High School, started the School Newspaper and first student editor of the School Year Book.
- Captain of the Boland Schools cricket team and captain of the Boland Schools tennis team.
- Played 1st team rugby and elected to play in Craven-week trials. Member of the school's athletic team.
- Bisley champion of his high school, twice.

[B] University

- Primarius Wilgenhof, Stellenbosch.
- Chairman of the Primarii-Primariae Committee.
- Chairman US Debating Society. Winner of the Debating Competition for all South African Afrikaans Universities.
- Editor of Die Akkerjool, the rag magazine of US.
- Editor-in-Chief of "Die Matie", the student newspaper of Stellenbosch University.
- Played first team tennis and chess for Stellenbosch University.
- Obtained the degrees BA LL.B (Stell); MBA (UCT); LL.M in Import and Export Law (cum laude) (PU); LL.M in Transnational Commercial Practice (Łazarski, Warsaw), (A+, i.e. 95-100% for every course.)
- An honorary "Doctor Legum" was conferred upon him by the North-West University on 24 May 2017, *"in recognition of his excellence as an academic and legal practitioner, international status and recognition, contribution to the law and education, community involvement and special connection with the faculty of law at the North-West University."*

[C] Career as an Advocate

- Practising at the Johannesburg Bar since 1980. Letters patent granted on 22 September 1993.
- Acted as counsel in 80 cases reported in the official law reports; 30 of them in the Supreme Court of Appeal; see Annexure "A".
- Appeared as advocate, or consulted as advocate on brief, in several countries, viz. Swaziland, Botswana, Namibia, Lesotho, Mozambique, Zambia, Hong Kong, Australia, Singapore, Taiwan, Britain, Republic of Ireland, France, Germany, The Netherlands, Belgium, United States of America, Crown Colony of Jersey and the People's Republic of China.
- Acting judge of the High Court, from time to time and over a period of 23 years; the first in 1996, the most recent in 2019. A list of his reported judgments is attached, see Annexure "A" (the last part).
- Chairman Johannesburg Bar Council 2001 – 2002; previously served as Vice-Chairman (2000) and the three years preceding as Treasurer of the Bar Council.
- Represented the South African Bar at festivities of the joint Bars of the Netherlands in The Hague (2001).
- Represented Johannesburg Bar at the First International Conference of Barristers and Advocates in Edinburgh (2002).
- Spoke on "Privilege and Confidentiality in South African Law" at the International Bar Association Conference held at Durban (2002).
- Lead counsel for claimant in an arbitration held under the Rules of the International Commercial Court, Paris (2013). The arbitration ran its full course.
- Director of AFSA (Arbitration Foundation of South Africa), 1996 -2002.
- Lecturer to pupils at the Johannesburg Bar on civil trials and cross-examination (1993 – 2017).
- Chairman of Management Committee of Maisels Group (2006 – 2019).
- Group Leader of Maisels Group, consisting of some 140 advocates, since 2019.

[D] Academic Career

- Extraordinary Professor of Public Law, University of Stellenbosch, 1 July 2001 to 30 June 2004.
- Extraordinary Professor of Law, University of Potchefstroom (now North-West) since 2001, i.e. for more than 22 years. Some 120 students have graduated with an LL.M-degree, studying under him. Presents the course on customs and excise law and the law on international trade administration under the WTO, as part of the LL.M. in International Trade Law.
- Guest lecturer from time to time at the Rand Afrikaans University (now University of Johannesburg), University of the Witwatersrand and Pretoria University.
- Visiting lecturer at Tilburg University (Netherlands) during February 2005.
- Visiting Professor of Law, National University of Mongolia, Ulaanbaatar (2007).
- Visiting Professor in the Humanities at the State University of Ryazan (Russia) and visiting Professor in International Trade Law at the Odessa National Law Academy (Ukraine) during 2009. (His experiences are related in “n Maand in die Vreemde”, published in serialised form in the “Advocate” of April 2010, December 2010 and April 2011).
- Visiting Professor of Law at the State University of Saint Petersburg, Russia (2013).
- Visiting Professor of Law at the Jagiellonian University, Kraków, Poland (2017).
- Visiting Professor of Law at the University of National and World Economy, Sofia, Bulgaria. Presented the course on Transnational Commercial Practice (2018).
- Spoke on “Recognition and Enforcement of Foreign Judgements in South African Law” at the conference hosted by the Center for International Legal Studies at Santiago, Chile (2003).
- Spoke on “Courts and Arbitration Tribunals in South Africa” at the conference hosted by the Centre for International Legal Studies at Whistler B.C., Canada (2005).
- Spoke on “Unlawful Competition in South African Law” at a conference hosted by the Centre for International Studies at Alyeska, Alaska (2006).
- Spoke on “Implementation of the Rotterdam Rules” at the International Trade Law Seminar in Teheran (2015) and at a symposium at University of the North-West (2015).

[E] Education of Youth

- Chairman of the Board of Governors of Jan Cilliers Primary School since 2005. The school has an enviable reputation and is generally regarded as one of the foremost pre-primary and primary schools in South Africa.

[F] Farmer and Breeder of Thoroughbreds

- Breeding thoroughbreds since 1987. Established stud farm, “Riethuiskraal”.
- Breeder of “**Lambarina**”, the 1993 Highveld Champion 3 year old filly and winner of the classic South African Oaks.
- Breeder of “**Crimson Palace**”, winner of Beverly D Stakes Gr 1 in USA (2004). The victory in the Beverly D was the first Gr1 race won by a South African bred filly on the American continent. She was also the first South African bred horse to win a Graded Stakes race in England, the Middleton Stakes Gr 3. First winner of the prestigious Equus Award for South Africa International Breeder of the Year (2005) for achievements of Crimson Palace.
- Breeder of “**National Colour**”, winner of 3 x Gr1 races and Joint Winner of the Equus Award for South African Horse of the Year (2006). Highest rated sprinting filly in the Southern Hemisphere in 2005. Champion Older Female Sprinter in Britain (2007/2008). Broodmare of the Year in NSW, Australia (2017).
- Breeder of the filly “**Flirtation**”, winner of the Summer Cup Gr1 (2010), one of South Africa’s three “major” races. Only 11 fillies have won this race, first run in 1887.
- Breeder of “**Flying Carpet**”, winner of the Summer Cup Gr1 (2021), “**Golden Pheasant**” running third in the same race. Both horses bred by Riethuiskraal Stud.
- Established **olive farms** “Birdsong”, “Muffets”, “Milkwood” and “Drie Heuwels” (since 2001). The olive farms are jointly called “Kransfontein”. The farm’s “intense” Coratina olive oil won the SA Olive Award for producing one of the five best olive oils produced in South Africa in both 2015 and 2016. The “Top 5 Awards” were changed to a “Top 10 Awards” in 2017. Kransfontein won it again. Kransfontein’s Frantoio oil won the coveted Marco Zichella Award for the best olive oil produced in South Africa in 2016 in the “medium” category.

[G] Administrator in Thoroughbred Industry

- **Chairman of South Africa's Thoroughbred Breeders' Association** (2005-2011). Elected Honorary Life Member of the TBA (2012). Lead South African delegation at the International Breeders' Meeting in Tokyo (2006) and delivered one of the key note addresses at the conference. Also lead the South African delegation at the International Breeders' Meetings in Melbourne (2008), Paris (2009) and Calgary (2010) and at the Asian Racing Conferences held in Dubai (2007) and Sydney (2010).
- **Chairman of Racing South Africa** (2006 – 2008). This umbrella organisation represented all breeders, owners and operators in South Africa and was responsible, amongst others, for creating the infrastructure to facilitate exports from South Africa and to market the South African thoroughbred internationally.
- **Chairman of National Horseracing Authority of South Africa** (2013-2015). The NHA (formally called the Jockey Club of SA) is the controlling body of racing in South Africa. Lead the South African NHA delegation at the Asian Racing Conference in Hong Kong (2014) and at the International Conference of Horse Racing Authorities in Paris (2014).

[H] Restaurateur

- Consecutive co-owner of the following restaurants: L'Escargot, Melville; rated one of South-Africa's top 10 restaurants. Established "Questionmark", Melville (1991); established "Full Stop Café", Melville (1995); established "Full Stop Café", Parkhurst (2000). Each of the last three restaurants, on several occasions, won "The Star" award for the best Al Fresco restaurant in Johannesburg. The restaurants were owned consecutively; the last one was sold in 2005.

[I] Ventures in the World of Medicine

- Established, as co-owner, three complete oncology units viz. at Karl Bremer, Bellville; at Vergelegen, Somerset West; and at MediClinic Hospital, Nelspruit (1999 - 2004). Also co-owner of engineering company which serviced and installed oncology units locally and elsewhere. These oncology units and the engineering company were sold during January 2004.
- Joint creator (with his brother Hendrik) and joint owner of the Heart of Cape Town Museum. The museum opened in 2007 and is dedicated, in the main, to the first heart transplant operation performed in 1967. It is situated in Groote Schuur Hospital, Cape Town. This was done, mostly, in honour of his father, once a partner of Prof Chris Barnard. The Heart of Cape Town Museum was honoured with an Experts' Choice Award for 2016 from TripExpert (New York City), which rates hotels, restaurants and attractions around the world based on reviews from journalists and professional travel writers. Endorsements include Frommer's, Lonely Planet and Time Out, making it one of the highest rated attractions in Cape Town on TripExpert.com.

[J] International Trade in Antique Furniture

- Co-Owner of Old Johannesburg Warehouse (Pty) Ltd, a company that buys antique furniture overseas and sells them in South Africa. The business was created during October 2004. During the partnership some 30 x 40' containers of antique furniture were imported from mainly England, Western and Eastern Europe and South America. Sold his half-share in the business to his partner during October 2007.

[K] Other Interests in the Twists and Turns of Life and Interests

- Called up and served in the SADF during the Angolan War. Elected leader of some 230 candidate officers during basic training. Served (for part of this two year period) on the Namibia/Angola border as officer with the rank of lieutenant.
- Represented Boland and South African Armed Forces in tennis at senior level.
- Climbed and summited Kilimanjaro (2000).
- Represented South Africa in the Lawyers' Cricket World Cup held at Cambridge, England (2009).
- Produced the opera La Traviata in the Birdsong Amphitheatre in 2017 and 2019.
- Keen collector of art.
- Built up a substantial library of books, dealing with many subjects.

“ANNEXURE A” - CASES REPORTED IN THE OFFICIAL LAW REPORTS

[A] AS ADVOCATE

- [1] **S v Sam** 1980 (4) SA 289 (T)
- [2] **S v Ramaligela en 'n Ander** 1983 (2) SA 424 (V)
- [3] **Rauties Transport (Edms) Bpk v Voorsitter, Plaaslike Padvervoerraad, Johannesburg, en 'n Ander** 1983 (4) SA 146 (W)
- [4] **Anderson Transport (Pty) Ltd v Chairman, National Transport Commission and Others** 1985 (2) SA 97 (C)
- [5] **Eljomo Vervoer (Edms) Bpk v Voorsitter, Nasionale Vervoerkommissie en Ander** 1985 (2) SA 199 (T)
- [6] **Heavy Transport and Plant Hire (Pty) Ltd and Others v Minister of Transport Affairs and Others; South North Haulage (Pty) Ltd and Another v South African Transport Services** 1985 (2) SA 597 (W)
- [7] **Suid-Afrikaanse Vervoerdienste v Voorsitter, Nasionale Vervoerkommissie en 'n Ander** 1985 (3) SA 531 (NC)
- [8] **Olgar v Chairman, National Transport Commission, and Another** 1985 (3) SA SA 1030 (D)
- [9] **South African Transport Services v Olgar and Another** 1986 (2) SA 684 (A)
- [10] **Voorsitter, Nasionale Vervoerkommissie, en 'n Ander v Sonnex (Edms) Bpk** 1986 (3) SA 70 (A)
- [11] **Mokoena v Minister of Law and Order** 1986 (4) SA 42 (W)
- [12] **S A Freight Consolidators (Pty) Ltd v Chairman, National Transport Commission, and Another** 1987 (4) SA 155 (W)
- [13] **South African Transport Service v Chairman, Local Road Transportation Board, Cape Town, and Others; Unicorn Lines (Pty) Ltd v Chairman, Local Transportation Board, Cape Town, and Others** 1988 (1) SA 665 (C)
- [14] **S A Freight Consolidators (Pty) Ltd v Chairman, National Transport Commission, and Another** 1988 (3) SA 485 (W)
- [15] **LTA Construction BPK v Administrateur, Transvaal** 1992 (1) SA 473 (A)
- [16] **Tieber v Commissioner for Customs and Excise** 1992 (4) SA 844 (A)
- [17] **Commissioner for Customs and Excise v C I Caravans (Pty) Ltd** 1993 (1) SA 138 (N)
- [18] **Purnell v Purnell** 1993 (2) SA 662 (A)
- [19] **Commissioner of Customs and Excise v Bank of Lisbon International Ltd and Another** 1994 (1) SA 205 (N)
- [20] **Administrateur, Transvaal v Van der Merwe** 1994 (4) SA 347 (A)
- [21] **Transnet Bpk h/a Coach Express en 'n Ander v Voorsitter, Nasionale Vervoerkommissie, en Andere** 1995 (3) SA 844 (T)
- [22] **Crown Chickens (Pty) Ltd v Minister of Finance and Others** 1996 (4) SA 389 (E)
- [23] **Minister of Finance v Ideal Fastners Corporation CC** [1996] 58 SATC 145; also in [1996] 1 All SA 373 (C)
- [24] **Joseph and Another v Air Tanzania Corporation** 1997 (3) SA 34 (W)
- [25] **Unitrans Passanger Bpk v Voorsitter NVK; Transnet Bpk v Voorsitter NVK** 1997 (4) SA 663 (T)
- [26] **Interkaap Ferreira Busdiens (Pty) Ltd v Chairman NTC** 1997 (4) SA 687 (T)
- [27] **Beier Industries (Pty) Ltd (formerly OTH Beier Company (Pty) Ltd) v Commissioner for Customs and Excise** 1998 (4) SA 345 (N); also reported in [1998] 60 SATC 39
- [28] **The Minister of Finance and Others v EBN Trading (Pty) Ltd** 1998 (2) SA 319 (N); also in [1997] 3 All SA 481 (N).
- [29] **Society of Advocates of South Africa (Witwatersrand Division) v Edeling** 1998 (2) SA 852 (W)
- [30] **Ward and Another v Smit and Others: In Re Gurr v Zambia Airways Corporation Ltd** 1998 (3) SA 175 (SCA)

- [31] **S v Valashiya** 1998 (1) SACR 713 (NKA)
- [32] **Tina Cosmetics (Pty) Ltd v Commissioner for Customs and Excise** [1998] 60 SATC 220 (W)
- [33] **Commissioner of Customs and Excise v Strauss and Others** 1998 (4) SA 593 (T); also in [1998] 3 All SA 104 (T)
- [34] **Klopper en Andere NNO v Engelbrecht en Andere NNO** 1998 (4) SA 788 (W)
- [35] **Commissioner for Customs and Excise v Capital Meats CC** 1999 (1) SA 570 (SCA); also [1999] 61 SATC 1 (SCA)
- [36] **Commissioner for Customs and Excise v Container Logistics (Pty) Ltd; Commissioner for Customs and Excise v Rennies Group Ltd t/a Renfreight** 1999 (3) SA 771 (SCA); also 1999 (8) BCLR 833 (SCA); also [2000] 62 SATC 138 (SCA)
- [37] **Unitrans Passenger (Pty) Ltd t/a Greyhound Coach Lines v Chairman, National Transport Commission and Others; Transnet Ltd (Autonet Division) v Chairman, National Transport Commission and Others** [1999] 3 All SA 365 (SCA); also reported as 1999 (4) SA 1 (SCA)
- [38] **EBN Trading (Pty) Ltd v Commissioner of Customs and Excise and Another** 1999 (3) JTLR 45 (N)
- [39] **EBN Trading (Pty) Ltd v Commissioner of Customs and Excise and Another** 2001 (2) SA 1210 (SCA); also (2001) 63 SATC 363 (SCA)
- [40] **Union Finance Holdings Ltd v I.S. Mirk Office Machines II (Pty) Ltd and Another** 2001 (4) SA 842 (W)
- [41] **Henbase 3392 (Pty) Ltd v Commissioner, South African Revenue Service and Another** 2002 (2) SA 180 (T); also [2002] 64 SATC 2003 (T)
- [42] **Woodlands Dairy (Pty) Ltd v Parmalat SA (Pty) Ltd** 2002 (2) SA 268 (ECD)
- [43] **Henbase 3392 (Pty) Ltd v Commissioner, SARS and Another** 2002 (3) SA 26 (SCA); also [2003] SATC 133 (SCA)
- [44] **Biotech Laboratories (Pty) Ltd v Beecham Group PLC and Another** 2002 (4) SA 249 (SCA)
- [45] **Commissioner for South African Revenue Service v Nutec Southern Africa (Pty) Ltd** [2002] 64 SATC 260 (SCA)
- [46] **Telkom SA v Nedtel Cellular (Pty) Ltd and Others** 2004 (2) SA 324 (T)
- [47] **Kevin and Lasia Property Investment CC and Another v Roos NO and Others** 2004 (4) SA 103 (SCA)
- [48] **Soil Fumigation Services Lowveld CC v Chemfit Technical Products (Pty) Ltd** 2004 (6) SA 29 (SCA)
- [49] **Orange River Export (Pty) Ltd v TDC International Fruit Frais du Monde Inc** 2005 (1) All SA 764 (NC)
- [50] **Valunet Solutions Inc t/a Dinkum USA and Another v eTel Communications Solutions (Pty) Ltd** 2005 (3) SA 494 (W)
- [51] **Geyser v Nedbank Ltd and Others: In Re Nedbank Ltd v Geyser** 2006 (4) SA 544 (W)
- [52] **Geyser v Nedbank Ltd and Others: In Re Nedbank Ltd v Geyser** 2006 (5) SA 355 (W)
- [53] **Distell Limited and Another v Commissioner for South African Revenue Service and Another** [2007] 69 SATC 15 (T)
- [54] **Colgate Palmolive (Pty) Ltd v Commissioner, South African Revenue Services** 2007 (1) SA 35 (N); also [2007] 69 SATC 43 (N)
- [55] **Lodhi 2 Properties Investments CC and Another v Bondev Developments (Pty) Ltd** 2007 (6) SA 87 (SCA)
- [56] **Western Flyer Manufacturing (Pty) Ltd v Dewrance and Others NNO : In Re Dewrance and Others NNO v Northwest Transport Investments (Pty) Ltd (Under Judicial Management) and Others** 2007 (6) SA 459 (B)
- [57] **Oosthuizen's Transport (Pty) Ltd and Others v MEC, Road Traffic Matters, Mpumalanga, and Others** 2008 (2) SA 570 (T)
- [58] **Minister of Finance and Another v Paper Manufacturers Association of South Africa** 2008 (6) SA 540 (SCA); also [2008] 70 SATC 267 (SCA)
- [59] **Commissioner for SARS v Duro Pressings (Pty) Ltd** 71 SATC 88, 2008 (T)
- [60] **National Lotteries Board v Bruss NO and Others** 2009 (4) SA 362 (SCA)
- [61] **Nedbank Ltd v Master of the High Court, WLD and Others** 2009 (3) SA 403 (W)

- [62] **LG Electronics SA (Pty) Ltd v Commissioner for South African Revenue Service** 71 SATC 275, 2009 (T)
- [63] **Espag and Another v Hattingh** 2010 (3) SA 22 (SCA) (Drew Heads of Argument, not available for presentation of argument)
- [64] **Pahad Shipping CC v Commissioner for South African Revenue Service** [2010] 2 All SA 246 (SCA); also [2010] 72 SATC 35 (SCA)
- [65] **Distell Ltd v Commissioner for South African Revenue Service** [2011] 73 SATC 265 (NGP)
- [66] **Distell Ltd v Commissioner for South African Revenue Service** [2011] 1 All SA 225 (SCA); also [2011] 73 SATC 148 (SCA)
- [67] **Commissioner for South African Revenue Service v Multichoice Africa (Pty) Ltd and Another** [2011] 73 SATC 209 (SCA)
- [68] **Commissioner for South African Revenue Service v LG Electronics SA (Pty) Ltd** 2012 (5) SA 439 (SCA); also [2011] 73 SATC 326 (SCA)
- [69] **Commissioner for South African Revenue Service v Colgate-Palmolive (Pty) Ltd** [2012] 74 SATC 157 (SCA)
- [70] **Distell Ltd v Commissioner, South African Revenue Service** 2012 (5) SA 450 (SCA); also [2012] 74 SATC 272 (SCA)
- [71] **Commissioner for South African Revenue Service v Smith Mining Equipment (Pty) Ltd** [2012] 74 SATC 312 (NGP)
- [72] **Smith Mining Equipment (Pty) Ltd v Commissioner for South African Revenue Services** [2013] 75 SATC 49 (SCA)
- [73] **South Africa Sugar Association v Minister of Trade and Industry and others** [2017] 4 All SA 555 (GP)
- [74] **Overstrand Municipality v Water and Sanitation Services South Africa (Pty) Ltd** [2018] 2 All SA 644 (SCA)
- [75] **Liberty Group Ltd v K & D Telemarketing CC and Others** 2019 (1) SA 540 (GP)
- [76] **Commissioner for South African Revenue Service v South African Breweries (Pty) Ltd** [2019] 81 SATC 44 (SCA)
- [77] **Canyon Resources (Pty) Ltd v Commissioner for South African Revenue Services** [2020] 82 SATC 316 (GP)
- [78] **Dragon Freight (Pty) Ltd and Others v Commissioner for SARS and Others** [2021] 1 All SA 883 (GP)
- [79] **Taylor v Road Accident Fund and Others** 2021 (2) SA 618 (GJ). Acted with adv. NJ Horn as amicus curiae for the Plaintiff Personal Injury Lawyers Association. The reference omitted, per incuriam, in the South African Law Reports.
- [80] **DM v CM** 2022 (6) SA 255 (GJ)

B. AS JUDGE

- [1] **S v Opperman** 1997 (1) SACR 285 (W)
- [2] **S v Badenhorst** 1997 (1) SACR 311 (W)
- [3] **S v Oosthuizen** 1997 (1) SACR 315 (W)
- [4] **Faiga v Body Corporate of Dumbarton Oaks and Another** 1997 (2) SA 651 (W); also in [1997] 1 All SA 367 (W)
- [5] **Tudoric-Ghemco v Tudoric-Ghemco** 1997 (2) SA 246 (W)
- [6] **Thorpe and Others v Trittenwein and Another**; confirmed by SCA in judgment reported at 2007 (2) SA 172 (SCA); see 174C