**Johann Gautschi SC**

**Curriculum Vitae March 2025 for Maisels Group website**

**Replacement version to be inserted below areas of practice**

**AREAS OF PRACTICE:**

Specialise in construction, engineering, technology, insurance law, arbitration law, unlawful competition, copyright, and commercial disputes.

Replacement version To be inserted below Brief Curriculum Vitae

**EXPERIENCE AND ARBITRATION PANEL MEMBERSHIP:**

Acting judge of the High Court Johannesburg on multiple occasions.

Past Chairman, Johannesburg Bar Council

Past Vice-Chairman, General Council of the Bar of South Africa (GCB)

Johannesburg Society of Advocates Provincial representative on the GCB National Bar Examination Board.

Arbitration Foundation of Southern Africa (AFSA): on General Commercial Panel of Arbitrators.

AFSA International: on Panel of International Arbitrators.

Fellow of the Association of Arbitrators (Southern Africa)

Honorary member of The Commercial Bar Association (England and Wales)

**COMMISSIONS OF ENQUIRY**

Appointed as sole investigator by the Government (Department of Education) to investigate and report on financial irregularities at the Vaal Triangle Technicon.

Chairman of Presidential Commission of Inquiry into management and transformation difficulties experienced at the University in Durban-Westville.

Appointed by the University of KwaZulu Natal as chairman of Commission of Inquiry relating to, inter alia,irregularities in academic promotions, the admission and supervision of students and the conduct and management of academic examinations**,** unauthorized and anonymous publication of University confidential information and documents.

**INTERNATIONAL ARBITRATION**

Member of ICC arbitration panel in international commercial arbitration on claims relating to the design and construction of an electrified and signalled railway line.

Represented contractor against Government of Gabon in International arbitration in the London Court of International Arbitration (LCIA).

**COMMERCIAL MEDIATION**

Represented employer in commercial mediation relating to temporary works for a Sand Trap and Jetty for a Sand bypass system (involving technical and financial issues relating to construction of temporary works in marine structures).

Mediator in commercial mediation between engineering consulting firms relating to apportionment of fees between consortium members.

Mediator in commercial mediation relating to financial claims between parties upon termination of commercial relationship.

**ADJUDICATION**

Current chairman of Dispute Adjudication and Avoidance Board (DAAB) of R1.5 billion extension to mine tailings storage facility (MTF).

**LITIGATION EXPERIENCE**

Broad range of commercial litigation over many years in the High Court, in arbitrations (domestic and international commercial arbitrations – as counsel and as arbitrator), adjudications (as counsel and as adjudicator) and commercial mediations, specialising in the fields of construction and engineering (including NEC, FIDIC, SAICE, JBCC contracts and variants thereof), technology and insurance litigation.

**CONSTRUCTION/ENGINEERING LITIGATION**

**DELAY AND DISRUPTION CLAIMS**

Member of ICC arbitration panel in international commercial arbitration on claims relating to the design and construction of an electrified and signalled railway line.

Chairman of Dispute Adjudication Board (DAB) considering extension of time claims in construction of new power station.

Represented contractor in arbitration claiming against a Provincial Authority for, *inter alia*, delay compensation certified in interim certificates.

Bloemfontein stadium. Represented contractor in arbitration against Local Authority claiming for delay and disruption.

Represented employer in arbitration in opposing delay claims arising from construction of apartments

Represented employer in High Court action claiming damages against architect for negligently certifying delays in construction of a residence in terms of JBCC.

Delay and disruption claims in Botswana mine shaft sinking (decline shaft) and infrastructural development project. Represented contractor in arbitration in Johannesburg (applying Botswana substantive law) and before High Court of Botswana relating to jurisdictional disputes.

Delay and disruption claims in continuous pour concrete (slipform) silo. Represented contractor against sub-contractor in trial in the High Court, Johannesburg.

Cable racking for electrical reticulation on Columbus stainless steel plant. Represented contractor in arbitration in resisting delay claims by sub-contractor.

**ADVERSE SUBSURFACE CONDITIONS INVOLVING ENGINEERING GEOLOGY AND ROCK MECHANICS**

Adverse subsurface conditions. Represented employer in adjudication and thereafter in arbitration in opposing claims relating to abrasiveness of rock in quarry for harbour construction.

Durban harbour entrance widening. NEC3. Represented employer in adjudication proceedings opposing claims arising from adverse subsurface conditions (technical issues relating to dredging in sand and underwater slope stability).

Concrete sewage pipe laying contract. Represented Local Authority employer in adjudication. SAICE.

Hex River Tunnel arbitration. Represented employer in opposing, *inter alia*, delay claims arising from claim for adverse subsurface conditions involving technical issues of geology & rock mechanics. Related preliminary and jurisdictional disputes in the High Court reported as Compagnie Interafricaine De Travaux v South African Transport Services and Others 1991 (4) SA 217 (A); South African Transport Services v Wilson NO and Another 1990 (3) SA 333 (W).

Clifford Harris v South West Africa Administration. Change of rates claim arising from changes in "mix" of quantities of excavation categories arising from encountering increased quantities of hard rock. Represented contractor in trial in the High Court of South West Africa (now Namibia).

**EXAMPLES OF OTHER TECHNICAL, CONSTRUCTION AND ENGINEERING RELATED MATTERS**

The Glen Shopping Centre. Design liability for defective post-tensioned concrete slab on shopping centre. Represented employers in High Court in claims against professional engineers, specialist sub-contractor and project manager.

Durban harbour entrance widening. Represented employer in adjudication relating to underwater sand slope collapses.

Represented contractor in arbitration in opposing damages claims relating to construction of farm dams.

Represented employer in arbitration claiming damages for negligent design of smelter furnace in Zambia.

Fume abatement plant. Represented contractor in High Court litigation relating to design responsibility on the fume abatement plant for a Ferro-Silicon furnace.

Railroad, timber sleepers. Represented S A Transport Services in High Court action relating to defects in timber railway sleepers and involving timber technology and railway track design using timber sleepers.

Metallurgy. Insurance dispute relating to welding defects in ammonia sphere.

Hydraulic engineering and metallurgy. Represented contractor in arbitration relating to air cleansing plant in cigarette factory.

**GENERAL COMMERCIAL LITIGATION.**

Represented successful tenderer in the High Court resisting rationality and PAJA judicial review.

Copyright infringement of computer software, unlawful competition and misappropriation of confidential information in relation to computer software. Represented the software developer in arbitration against Medical Aid administrator, in Supreme Court of Appeal opposing recusal of arbitrator and in High Court action relating to copyright infringement of computer software.

Represented Shopping Centre owners in resisting damages claims in High Court action by *en commandite* partnership arising from sale of shopping centres.

Restraints of trade. A wide variety of cases over many years.

Air transport and road transportation licensing applications. Appearances before administrative tribunals in a wide variety of cases as well as in related judicial review applications.

Insolvency, liquidations and business rescue.

**INSURANCE LAW – ENGINEERING RELATED MATTERS.**

SAMANCOR Ltd v Mutual & Federal Insurance Ltd and Others 2005 (4) SA 40 (SCA). Represented contractor’s all risks insurers against asset insurers in High Court action relating to claim brought under rights of subrogation instead of right to contribution arising from liability for failure of turbine following oil starvation of bearings.

**OTHER INSURANCE LAW CASES.**

President Versekeringsmaatskappy Bpk v Trust Bank Van Afrika Bpk En 'N Ander 1989 (1) SA 208 (A) ("moral risk" – duty of disclosure);

Bates & Lloyd Aviation (Pty) Ltd and Another V Aviation Insurance Co; Bates & Lloyd Aviation (Pty) Ltd V Aviation Insurance Co 1985 (3) SA 916 (A) B -- (aviation insurance).

Constantia Insurance Colorado Ltd v COMPUSOURCE (Pty) Ltd 2005 (4) SA 345 (SCA). Relating to after-the-event insurance.

**PUBLIC PRIVATE PARTNERSHIP CONTRACTS**

Gautrain rail system. Represented concessionaire in arbitration proceedings.

Toll road concession (N4 Platinum Highway). Advise successful contractor consortium on interpretation of aspects of proposed construction contract.

Toll road concession (N3 Highway). Advised appointed contractor consortium on claims and on interpretation of construction and concession contracts.

**FURTHER VARIETY OF LITIGATION INVOLVING CONTRACTUAL, PROPERTY AND COMPANY RELATED DISPUTES.**

Commissioner for Inland Revenue v First National Industrial Bank Ltd 1990 (3) SA 641 (A) (stamp duties and unjust enrichment)

Van Aardt v Galway 2012 (2) SA 312 (SCA) (sale of land/option to purchase contractual dispute)

Feldman NO v EMI Music SA (Pty) Ltd; Feldman NO v EMI Music Publishing SA (Pty) Ltd 2010 (1) SA 1 (SCA) (copyright)

Homes for South Africa (Pty) Ltd v Rand Building Contractors (Pty) Ltd 2004 (6) SA 373 (W) (cession)

Fose v Minister of Safety and Security 1997 (3) SA 801 (CC) (constitutional damages)

Knox D’Arcy Ltd and Others V Jamieson and Others 1996 (4) SA 348 (A) (anti-dissipation interdict – Mareva injunction

South African Druggists Ltd v Bayer AG 1989 (4) SA 103 (A). (Patent litigation – Extension of term).

Group 5 Building Ltd v Government of the Republic of South Africa (Minister of Public works and Land Affairs) 1991 (3) SA 787 (T) (leave to appeal)

**ENVIRONMENTAL LAW.**

Represented environmental group in judicial review of administrative decision in High Court arising from proposed opencast coal mine. Judgment in Supreme Court of Appeal reported as Director: Mineral Development, Gauteng Region, and Another v Save the Vaal Environment and Others 1999 (2) SA 709 (SCA).

Represented farmers and riparian owners in formulation of claims, pleadings in High Court expropriation compensation actions and submissions on merits of claims against the Government and mines arising from drying up of surface springs and the Wonderfontein Spruit caused by sub surface dewatering by deep level goldmines.

**LITIGATION UNDER THE DESIGNS ACT.**

Robinson v D Cooper Corporation of SA (Pty) Ltd 1984 (3) SA 699 (A);

Homecraft Steel Industries (Pty) Ltd v S M Hare & Son (Pty) Ltd and Another 1984 (3) SA 681 (A).