



## AMY ARMSTRONG

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### PROFILE

Amy practises in public, commercial and common law.

Prior to coming to the Victorian Bar, Amy was a barrister in Johannesburg, South Africa. Amy appeared in courts across South Africa from the Magistrates' Court to the Constitutional Court (High Court equivalent), as well as specialist courts and administrative tribunals. Her practice areas included constitutional and human rights law, administrative law, regulatory work, general commercial matters, competition and consumer law, and torts including defamation.

After moving to Victoria, Amy was an Associate to the Honourable Justice John Dixon of the Supreme Court of Victoria, then principal judge of the Common Law Division and responsible for the Major Torts and Group Proceedings Lists.

Amy was also an Associate (Clerk) to Justices Leona Theron and Johann van der Westhuizen at the Constitutional Court of South Africa, and a solicitor in the Insolvency, Business Rescue and Debt Recovery Department at Edward Nathan Sonnenbergs Inc in Cape Town.

Amy holds a Master of Laws from New York University (George Colin and John Bruce Moore Awards), a Bachelor of Laws (magna cum laude) and Bachelor of Social Sciences in Law and Economics (with distinction) from the University of Cape Town.

Amy is reading with Kylie Evans and her senior mentor is Alistair Pound SC.

### QUALIFICATIONS

#### LLM - 2016

##### New York University

Fulbright Scholar

Hauser Global Scholar

George Colin Award for distinction in Traditional LLM

John Bruce Moore Award for excellence in law and philosophy

International Law and Human Rights Fellowship

#### LLB - 2011

##### University of Cape Town

Magna cum laude

Constitutional Law Prize

Commercial Transactions Prize



Administrative Law Prize  
Interpretation of Statutes Prize  
Prize for highest overall results preliminary year LLB  
All Africa & Jessup Moot Teams

## **BSocSci Economics and Law - 2009**

### **University of Cape Town**

Law Faculty Entrance Scholarship  
Humanities Entrance Scholarship  
Introduction to Philosophy Prize  
Economics Tutor  
Director, Township Debating League  
Director, Lawco Health  
Logistics, Lawco Education  
Deputy Head Student Clarinus Residence

## **AREAS OF PRACTICE**

- Public Law: administrative law; constitutional law; human rights law; commissions of inquiry; regulatory matters
- Commercial Law: shareholder disputes (including oppression); contract disputes; general commercial and regulatory matters
- Competition & Consumer Law
- Common Law: major torts and defamation
- Group Proceedings

## **EXPERIENCE**

- Supreme Court of Victoria: Associate to his Honour Justice John Dixon, Principal Judge of the Common Law Division and Judge responsible for Major Torts and Group Proceedings Lists (August 2021-August 2023);
- Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State, Johannesburg South Africa: Evidence Leader (July 2020-March 2021);
- Johannesburg Bar: Pupil and Member, practising in administrative, commercial and competition matters, appearing in the highest appellate court, intermediate appellate courts and supreme court equivalents, as well as Magistrates' Courts and administrative tribunals (January 2017-September 2021);
- European Center for Constitutional and Human Rights, Berlin, Germany: Guest Researcher, Business and Human Rights Programme (September 2016-November 2016);
- New York University: Research Assistant, comparative constitutional, human rights and arbitration law (February to August 2016);
- Constitutional Court of South Africa (High Court equivalent): Clerk (Associate) to Justices Leona Theron and Johann van der Westhuizen (July 2014-June 2015);
- Edward Nathan Sonnenbergs Inc: Candidate Attorney and Associate in the Insolvency, Business Rescue



and Debt Recovery Department (January 2012-January 2014).

## OVERVIEW OF MATTERS – JOHANNESBURG BAR

### Commissions

- Evidence leader in national Commission of Inquiry into corruption in state institutions – Commission chaired by (then) Deputy Chief Justice of South Africa, livestreamed daily;
- Advice on constitutional and other damages arising in tort law, for family members of patients with intellectual disabilities who were harmed while in state care, for purposes of a commission of inquiry into the incidents.

### Public/Administrative law

- Judicial review for a range of private clients challenging state decisions, including against Home Affairs, the national electricity regulator, telecommunications regulator, Competition Commission, the mineral and petroleum authority, medicines regulatory authority, and environmental protection authority;
- Administrative appeal to the financial services regulator regarding registration of financial instrument exchanges;
- Acting for a large international mining group in an administrative appeal and then review of a decision by the mineral and petroleum authority to approve the transfer of a controlling interest in a mining right;
- Injunction proceedings against the economic development and trade authority regarding their obligations under an international trade agreement;
- Acting for the transport authority in an action about the validity of administrative penalties issued by the authority;
- Acting for a gambling association in disciplinary proceedings against a licensee for breach of licence conditions;
- Acting for the airports authority in an appeal to the apex appellate court from a judicial review of its decision;
- Acting for private clients against the city in respect of its valuation of properties for rates purposes;
- Providing advice to and acting for the medicines regulatory authority in a variety of matters;
- Acting for an asylum seeker doctor in proceedings against the professional regulator and the state, challenging their refusal to place him in a salaried internship position on the basis of his immigration status;
- Acting for residents in lodging an objection to the local planning authority regarding the approval of a building proposal;
- Acting for a chain of health practices in making submissions to the professional regulatory authority regarding members' compliance with advertising and practice requirements;
- Acting for private clients in the gambling industry in judicial review proceedings in respect of licensing decisions;



- Providing ongoing advice to the board of the public broadcasting authority on corporate and public legislative compliance and related matters;
- Acting for the department of transport in two appeals to the apex appellate court regarding the execution of a prior court order in an administrative review, regarding the judicial review of a public contract, and the effect of a declaration of invalidity in respect of that contract.

## **General Commercial**

- Variety of commercial lease disputes acting for landlords and tenants;
- Acting for a large bank in debt recovery proceedings under a complex cash deposit contract;
- Contractual dispute in respect of a sale of shares agreement, between parties in a joint venture;
- Injunction proceedings against the city in respect of the supply of electricity to commercial tenants;
- A variety of litigation regarding a contractual dispute about a sale of shares agreement, director loan agreements and share valuations, in the medical equipment manufacturing industry;
- Private arbitration regarding a shareholder agreement and share valuation in the systems management software industry;
- Private arbitration in a contractual dispute regarding a management agreement in the hospitality industry;
- Acting for private commercial clients in a variety of contractual disputes including the sale, storage and transportation of goods, commission owed to estate agents, a commercial mandate agreement, and processing agreements in the mining industry;
- Advice to private commercial client on scope and enforceability of equitable jurisdiction afforded to a private arbitrator in an arbitration clause;
- Advice to medical assurance provider regarding whether its product required registration as an insurance or financial services product, and other consumer compliance matters;
- Acting for a supplier of insulation material in a large and complex damages claim arising from an industrial fire, involving claims of contributory negligence against multiple suppliers;
- Acting for the owners of a large number of stores in a trading association, trading under the name of an international retail chain, in a dispute with the retail chain regarding the enforceability and termination of the membership agreement;
- Acting for the majority shareholders in a complex minority shareholder oppression proceeding in the gambling industry;
- Providing advice to private client on the prospects of tracing and recovering the proceeds of crime in various international jurisdictions, including the United States, United Kingdom and South Africa;
- Advice for corporate clients on various corporation law questions including directors' duties; shareholders' agreement interpretation and effect; issuing and transfer of share capital and various corporations legislation compliance issues;



- Various advice work to private clients regarding commercial suretyships, apportionment of damages in the banking and investment context, contributory negligence and causation in a product liability claim, and unauthorised use of intellectual property;
- Acting for original shareholder in proceeding to set aside a sale of company shares in execution of judgment debt;
- Acting for a construction company in an appeal to intermediate appellate court regarding the rescission of a judgment in respect of a taxed bill of costs;
- Advice to large bank regarding enforceability and legal implications of a complex security arrangement;
- Acting for a construction company in a proceeding, including the appeal, regarding the enforcement of a performance guarantee in a construction contract;
- Acting for a former director in making submissions to the financial services regulator regarding compliance with financial regulatory and reporting requirements;
- Acting for a large bank in an application for leave to appeal to the apex appellate court in proceeding regarding the application of limitation legislation to mortgage debts.

## **Constitutional/Human Rights**

- Acting for an amicus in a trial about the publication of an article in breach of anti-discrimination legislation (and prohibition on hate speech);
- Acting for an amicus in a proceeding for constitutional and compensatory damages for emotional distress and grief against the state for parents whose child died on public school property;
- Acting for the family of a businessman who died intestate, in proceedings, including the appeal, regarding the constitutional validity of the intestate succession regime in eSwatini;
- Acting for a private landowner in proceedings to challenge compulsory acquisition of land for public purposes;
- Acting for an amicus in proceedings before the apex appellate court, regarding the causation test for damages in negligence claims against state medical institutions for repeated injuries sustained by infants during labour;
- Advice regarding discrimination and hate speech in religious sermons.

## **Competition**

- Acting for a specialist brick manufacturer in an abuse of dominance proceeding before the competition tribunal;
- Acting for a large ticket sales corporation in an abuse of dominance claim before a specialist intermediate appellate court.

## **Banking/Consumer**

- Acting for a large bank in a direct access application to the apex appellate court in a tort action against the bank for selling properties in foreclosure proceedings for less than their market value;



- Acting for a large bank in several matters regarding the interpretation and application of consumer credit legislation;
- Acting for a large bank in an appeal before an intermediate appellate court regarding the jurisdiction of the courts in consumer credit matters;
- Acting for a consumer against a large bank in a matter regarding the validity and enforceability of consumer contract clauses excluding liability in certain circumstances;
- Providing advice to a large bank on exposure to liability in certain instances of fraud.

## **Common law**

- Acting for a newspaper in defamation proceedings;
- Advice to the state on vicarious liability for a tort committed on public school grounds;
- Advice on property law matters for private and commercial clients;
- Acting for an executor of a deceased estate in proceedings for their removal and about the administration and distribution of the estate;
- Litigation on the enforceability of a settlement agreement regarding the withholding of income tax;
- Acting for an industrial manufacturing client in a tort arising out of factory emissions, in litigation about the calculation of damages for a continuing wrong;
- Acting for beneficiaries in proceedings to remove a trustee for breach of duties and breach of trust;

Acting for a private client in a personal injury claim against the state rail authority, in an application for leave to appeal to the apex appellate court.

## **SAMPLE OF PUBLISHED JUDGMENTS – JOHANNESBURG BAR**

### **Administrative Law / Appellate work**

[\*Department of Transport v Tasima \(Pty\) Ltd; Tasima \(Pty\) Ltd v Road Traffic Management Corporation \[2018\] ZACC 21;\*](#)

[\*Airports Company South Africa v Big Five Duty Free \(Pty\) Ltd \[2018\] ZACC 33;\*](#)

### **Administrative Law / Human Rights**

[\*Gamedze v The Master of the High Court of Eswatini \[2020\] SZHC 157;\*](#)

### **General Commercial**

[\*NW Civil Contractors CC v Anton Romaano Inc \[2019\] ZASCA 143;\*](#)

[\*Begere v Tecmed Africa \(Pty\) Ltd \[2021\] ZAGPPHC 15;\*](#)

### **Tort / Human Rights**

[\*Komape v Minister of Basic Education 2020 \(2\) SA 347 \(SCA\);\*](#)

### **Competition**

[\*Computicket \(Pty\) Ltd v Competition Commission of South Africa \[2019\] ZACAC 4;\*](#)

[\*Eston Brick & Tile \(Pty\) Ltd v Commissioner of Competition Commission \[2019\] ZACT 73;\*](#)



## **Banking and consumer law**

[Standard Bank of South Africa v Hendricks \[2019\] ZAWCHC 175;](#)

[Nedbank Ltd v Gqirana \[2019\] ZAECGHC 71;](#)

[Standard Bank of South Africa Ltd v Thobejane \[2021\] ZASCA 92.](#)

## **PUBLICATIONS**

- A Armstrong and C Terwindt, 'Oversight and Accountability in the Social Auditing Industry – the Role of Social Compliance Initiatives', *International Labour Review*, Vol 158, Issue 2, June 2019 (245-272).