KWAZULU-NATAL LAW SOCIETY

MINUTES OF
ANNUAL GENERAL MEETING
HELD ON
18 OCTOBER 2013
ANNUAL GENERAL MEETING 2013

MINUTES

OF THE MEETING HELD AT
COASTLANDS ON THE RIDGE MUSGRAVE,
315 PETER MOKABA RIDGE, MUSGRAVE, DURBAN
ON FRIDAY, 18 OCTOBER 2013

MEMBERS OF THE COUNCIL PRESENT:
R.N. SCOTT, PRESIDENT (PIETERMARITZBURG)
M.A.A.S. ESSA, VICE-PRESIDENT (PIETERMARITZBURG)
U. JIVAN, VICE-PRESIDENT (DURBAN)
N.S. KHANYILE-KHESWA, VICE-PRESIDENT (DURBAN)
R.R. BADAL (VERULAM)
E.R. BARRY (PORT SHEPSTONE)
J.O. CHRISTIE (PIETERMARITZBURG)
P. GOVINDASAMY (PIETERMARITZBURG)
S.A. JAZBHAY (DURBAN)
G.J. McLACHLAN (PIETERMARITZBURG)
E.A. MOOLLA (CHATSWORTH)
M. NELUHENI (NEWCASTLE)
X. NTSHULANA (PORT SHEPSTONE)
M.S.O. NXASANA (DURBAN)
V.R.D. O’CONNELL (DURBAN)
C. PILLAY (PIETERMARITZBURG)
P. SHAM (STANGER)
P.F.D. TAKALO (PIETERMARITZBURG)
E.B. ZACA (PIETERMARITZBURG)

DIRECTOR
G.M. JOHN

MANAGER: FINANCE
T. ZONDI

MANAGER: REGULATORY AFFAIRS
P. MFUSI

ASSISTANT MANAGER: REGULATORY AFFAIRS
N. HARRIPERSAD

MANAGER: BUSINESS DEVELOPMENT
R. SINGH

MANAGER: CORPORATE SERVICES
R. GUNPATH
OPENING SESSION

The President, Richard Scott, chaired the Meeting.

WELCOME

The President welcomed everyone present and particularly the following invited guests:

INVITED GUESTS

The Deputy Minister of Justice and Constitutional Development, Minister John Jeffery (MP)  
Mr D Bekker, Co-Chairperson of the Law Society of South Africa  
Ms K Matolo-Dlepu, Co-Chair of the Law Society of South Africa  
Mr C P Fourie, Chairperson of the Attorneys Fidelity Fund  
Mr M Molefe, Executive Director of the Attorneys Fidelity Fund  
Mr R W Mokoena, Director of the Cape Law Society  
Mr M Mukansi, Manager of the Attorneys Development Fund  
Mr Jan de Beer, Forensic Director of the Attorneys Fidelity Fund  
Ms Thoba Poyo-Dlwati, Chairperson of the Attorneys Development Fund  
Mr S Mbelle, Managing Director of the AIIF  
Ms Lizette Burger, Manager: Professional Affairs for the LSSA  
Mr S Madiba of the Law Society of the Northern Provinces  
Mr Busanii Mabunda, the President of the Law Society of the Northern Provinces and the Black Lawyers’ Association  
Mr Krish Govender, the State Attorney  
Mr Vela Mdaka, Provincial Head of Legal Aid South Africa  
Mr Paul Mtshali & Ms Michelle Vere, Regional Office of the Department of Justice & Constitutional Development

STANDS AT THE AGM

The President welcomed those who had established stands at the AGM, and encouraged those in attendance to visit the stands after the meeting:

LexisNexis (sponsors of the awards)  
PPS  
Law Property  
Juta  
Sabinet  
Korbitec  
ABSA

The President advised members of the lucky draws competitions being run by Lexis Nexis, Juta, Korbitec and PPS; with the draws to be done at the end of the meeting.
INTRODUCTION OF GUEST SPEAKER: DEPUTY MINISTER OF JUSTICE & CONSTITUTIONAL DEVELOPMENT, DEPUTY MINISTER JOHN JEFFERY (MP)

Dihedile Takalo introduced the guest speaker, Deputy Minister of Justice & Constitutional Development, Deputy Minister John Jeffery (MP), by providing a brief background on the academic achievements of the Deputy Minister.

ADDRESS BY DEPUTY MINISTER JOHN JEFFERY (MP)

The Deputy Minister (DM) addressed the meeting on the issue of "Government - the Legal Practice Bill".

The following is a summary of the address:

The Deputy Minister (DM) stated that he was eager to engage with the legal profession as much as possible and apologised that, on this occasion, he would be addressing the meeting without having the opportunity to hear what the members’ views are, but hoped to do so some time in the future.

Annual General Meetings are always a good time to assess where your organisation and the legal profession is in order to look to the future and plan for the coming year the DM said. The legal profession as a whole is on the threshold of major changes with the imminent finalisation of the Legal Practice Bill. The Bill has been extremely long in the making with work on the Bill commencing over 15 years ago on the initiative of the late Dullar Omar, the first Minister of Justice in a democratic South Africa.

He stated that there are some who say that the Bill is unnecessary, that there is nothing wrong with the legal profession that needs to be fixed. A few go even further to claim that the Bill will destroy the independence of the legal profession, or that the changes will destroy the professionalism of attorneys and advocates. However the legal profession in this country is based on a British common law system and therefore comparisons need to be made with the legal professions in other British Commonwealth countries.

Reform of the legal profession is taking place in almost all other larger countries in the Commonwealth; Britain itself in its component parts of England, Ireland, Scotland and Wales has been reforming the profession on an ongoing basis. In Nigeria, Kenya, Zimbabwe and Namibia the distinction between the Bar and the Side Bar was abolished on independence, the same applies in New Zealand and parts of Australia.

In response to the question as to the difficulties in getting any kind of reform implemented in South Africa, the DM stated that, in his view, there are other factors that need to be looked at in the South African context.
• The role of the profession in making justice more accessible to all South Africans. The majority of South Africans, not only the poor, but also the middle class, simply cannot afford private legal services, or the services of an attorney, thus making it difficult for them to access justice.

The prescribed tariffs have recently been increased, the increase gazetted on the 11th October to be effective from the 15th of November. In terms of the new Rule 70, a consultation with a client to institute or defend an action for advice on evidence, or advice on commission, or for obtaining an opinion will now cost R235 per quarter of an hour. For letters it is R94 per page. This means in effect, based on the minimum wage of domestic workers, that it will cost a domestic worker three days’ wages just to pay for a 15-minute consultation.

• There is a growing level of disillusionment and distrust amongst members of the public with regard to the legal profession.

The DM expressed his view that, in stark contrast to other countries such as the United Kingdom, South African law societies will not disclose the identities of disciplined attorneys unless the person is suspended or has been struck from the roll, which in any event is part of the High Court record and is freely available. He made reference to the local journalist William Saunderson-Meyer’s criticism as to why the disciplinary proceedings are not open, unlike, for example, the disciplinary proceedings against medical practitioners; or why the public cannot check an attorney’s record for serious and repeated professional failings; or why the public should not be represented on disciplinary panels.

He added that others make the point that it is this lack of transparency within the legal profession which now makes Government intervention inevitable in the form of the Legal Practice Bill.

The DM was critical of the law societies’ apparent protection of its own which he stated goes against the spirit of the Constitution by those who are supposed to be custodians of the Constitution and all it embodies, a Constitution which seeks to promote an open and democratic society. He alluded to the request by Saunderson-Mayer for information and the lack of member details relating thereto; the fact that the Law Societies deal with the conduct of the attorney and cannot assist the public with issues of attorney competence nor do they deal with matters in which complainants seek compensation.

• Racial and Gender transformation of the profession is another matter which the DM raised questioning the lack large firms with the majority of black African ownership/partnership; the low percentage of black CEOs or managing directors/partners. He stated that these are some of the issues that the Legal Practice Bill needs to address.
In making reference to the Legal Practice Bill the DM addressed the issue of community service, one of the provisions of the Bill, in his opinion one of the more contentious ones, as it is a provision of mandatory community service.

The DM referred to the KZNLS probono system calling for greater information to be placed on the Society’s website with regard to the ‘means test’ and how to access it; a roster of the firms prepared to assist; how law firms can volunteer their time and services. He requested that more must be done to make these services accessible.

The DM thanked those members and member firms that perform pro bono work and those that participated in the National Wills Weeks, which he described as one of the laudable initiatives where attorneys can assist the public.

He stated that the Bill aims to continue to restructure and transform the legal profession. The objectives of the Bill are to transform the legal profession by, amongst others, the equalisation of opportunities for access to the profession on the one hand, and the need to enhance access to affordable legal services on the other. Ultimately, it is about the safety and protection of the public.

The Bill sets up a mechanism for considering the issue of fees, for determining fees and tariffs payable to legal practitioners; the composition of the mechanism and the processes it should allow in determining fees or tariffs; the affording to users of legal services the option of voluntarily agreeing to pay fees for legal services less or in excess of any amount that may be set; and so on.

He added that the Bill seeks to make disciplinary proceedings far more transparent and includes the creation of an independent legal services ombud to deal with complaints. This is something that many countries have, an impartial ombud to oversee the profession and protect the public, potentially a retired Judge.

The DM addressed the area of Small Claims Courts stating that these Courts have contributed greatly in allowing access to justice for the indigent. Whilst the Minister commended those attorneys who serve as Commissioners and expressed appreciation for their efforts he alluded to the fact that the profession could do more by a greater number of members making themselves available to serve as Commissioners particularly in the smaller towns. He supported his plea for greater participation reporting that, of the 53 magisterial districts in KwaZulu-Natal, 17 do not have Small Claims Courts.

Another area which the DM addressed is that of Acting Magistrates. In terms of the Magistrates Act, which will be revised now that the Superior Courts Act has been finalised, the Acting Magistrates are appointed for a maximum of a three-month period by the Minister, after consultation with the Head of Court concerned. The practice seems to be that Magistrates, or Heads of Court request the Minister to appoint particular persons and there seems to be a group of people who appear to be permanent acting magistrates, a situation which must be addressed.
He stated that he has raised the matter with the Chief Magistrates and that it is likely that shortly the Department of Justice, or the Ministry, will write to the Law Societies asking them to inform their members to apply for these positions and detail the process for such application.

In conclusion the DM wished the KwaZulu-Natal Law Society all the best for a very successful AGM stating that his address was intended to be provocative so as to stimulate debate. He added that lawyers have a real opportunity to make access to justice a reality for the people of South Africa, in particular the poor and the marginalised, those who have been deprived of justice and inequality due to our country’s history. These persons will not be able to realise their constitutional rights if there are no lawyers to assist them in doing so. Lawyers have the power and the responsibility of restoring society’s faith in the legal system, the rule of law and in democracy.

The DM concluded with what Michael Greco, former president of the American Bar Association, calls the renaissance of idealism and he defines it as:

“A recommitment to the noblest principles that define our profession: providing legal assistance to assist the poor, disadvantaged and under-privileged and performing public service that enhances the common good.”

**EXPRESSION OF THANKS TO THE GUEST SPEAKER**

Nonduduzo Khanyile Kheswa moved a vote of thanks and appreciation to the Deputy Minister for taking the time to address the Meeting despite his busy schedule and presented the guest speaker with a gift as a token of the Society’s appreciation.

**ATTORNEYS DEVELOPMENT FUND (ADF):**

The Chairperson recognised the attendance of the Chairperson of the Attorneys Development Fund, Thoba Poyo-Dlwati and invited the recently appointed Manager of the Fund, MacKenzie Mukansi to address the Meeting.

**ADDRESS BY MR MUKANSI ON THE ATTORNEYS DEVELOPMENT FUND (ADF)**

*The following is a summary of the address:*

Mukansi reported that, since his appointment in July 2013, ten newly established firms have been assisted per the mandate of the Fund and will be audited.

The Fund has embarked on an awareness campaign part of which has been attendance at the AGMs of the law societies.
The Manager of the Fund encouraged the membership to engage with the Fund to establish how the Fund can be more relevant.

In concluding Mukansi stated that the Fund would be identifying strategic partners in the organised profession to foster that which the Fund seeks to achieve. An example of which is the engagement with LEAD on LEAD’s mentorship programme.

The Manager of the Fund thanked the Society for the opportunity to address the Meeting.

REPORT ON THE ATTORNEYS INSURANCE INDEMNITY FUND

The President advised that Alan Peters, the Chairperson of the AIIF, was unable to attend the AGM but that the Managing Director of the Attorneys Insurance Indemnity Fund, Sipho Mbelle, would address the meeting on the activities of the Fund.

ADDRESS BY MR MBELLE ON THE ATTORNEYS INSURANCE INDEMNITY FUND (AIIF)

The following is a summary of the address:

The Managing Director thanked the Society for the opportunity to address the Meeting on the activities of the Fund, the current performance experienced over the last few years, the trends in the Professional Indemnity insurance environment and to speak to some of the initiatives that the AIIF is embarking on to ensure that it is able to sustainably provide a service to members.

Mbelle provided a brief background stating that the AIIF is a non-profit-making organisation funded 100% by the Attorneys Fidelity Fund and that AON had been given a managing contract until 2015.

In as much as AON manages the portfolio, there are some independent staff members appointed by the AIIF (including the Managing Director), the advantage of which is the independence in ensuring that the mandate is effectively executed and that the service delivery will best meet the requirements of the profession and the public.

The Managing Director addressed the meeting on the issue of Court Bonds which has been provided as a free service since 1998. The total exposure is about R9-billion and that exposure continues to grow. The problem that the AIIF faces in providing this necessary but costly service is that members do not advise the AIIF to cancel the bonds once the matters have been finalised. He urged members to communicate with the AIIF on this issue in order to reduce the AIIF’s exposure in terms of the court bonds.
In terms of PI claims Mbelle reported that claims have continued to increase and in the last five years at a compound annual growth rate of 16.6%, which is higher than most professions second only to the medical fraternity.

The areas of legal services in which claims are high continue to be in conveyancing and the RAF areas however an increasing area of risk is that of general prescription.

The increased claims affect the financial resources available for the operations of the AIIF and it has had to utilise investment income to some extent.

The Managing Director reported that there is an escalation in the cost of the professional indemnity costs and the current model of operation is not sustainable. In response the AIIF has begun developing a conceptual re-engineering of where the Fund wants to be and how it can provide a sustainable, cost-effective and efficient model that will continue to provide PI cover.

To this end the AIIF is to consider a new model of operation and to consider what proactive risk mitigation measures can be employed.

REPORT ON THE ATTORNEYS FIDELITY FUND (AFF)

The Chairperson invited the Chairperson of the Attorneys Fidelity Fund, C.P. Fourie, to report on the activities of the Fund.

ADDRESS BY MR FOURIE ON THE ATTORNEYS FIDELITY FUND

The following is a summary of the address:

The Chairperson of the AFF thanked the Society for the opportunity to address the membership.

Fourie spoke to the issue of sustainability of the Fund reporting that the Fund’s actuarial report indicated that, in terms of the current trends of income and expenditure, the Fund will potentially become unsustainable within five to 10 years. Currently the Fund had budgeted for an operating deficit of R250-million in 2014 and would therefore have to withdraw R250-million from its investment portfolios in 2014 to meet operating requirements.

The Chairperson added that, while it is acceptable to use accumulated reserves to cover short-term operating deficits, it is not acceptable to use reserves to cover ongoing deficits which threaten long-term sustainability. The longer term initiatives to improve the AFF business model are, amongst others, the following: a new income stream for income earned on section 78(2)A client investments; capping of AFF theft claims; capping of 46(b) funding for the Law Society of South Africa for the next three years.
Another initiative the Chairperson stated was an increased staff resource for the forensic team to limit the incidence of future theft claims; a model to inspect and assist newly established practices to place them on a firm footing and to limit the incidence of future theft claims, or endeavour to limit.

As far as the claims are concerned Fourie reported that 508 claims were received by the Fund totalling an amount of R124 998 034. Conveyancing claims remains one of the biggest risk areas, with Estates second and Bridging Finance third. The number of claims notified shows a decrease of 41% and the total value of claims notified shows a decrease of 52% for the same period in 2012, a positive sign.

The Chairperson addressed the issue of RASS stating that the Fund has become actively involved in operations and assumed direct operational control on the 01st January 2013 integrating it into the Fund’s Forensic Inspectorate Division. The programme once again contributed significantly to the reduction in the reinsurance premium and to the Fund’s risk management programme.

He added that the current RASS programme was replaced with a new Compliance Support programme, which will be compulsory for newly admitted attorneys practising for own account, irrespective of the size of the firm. The basis of the proposed programme is a routine inspection process with support as a fundamental requirement ensuring a significant compliance environment before exiting into the mainstream external audit process.

In conclusion the Chairperson of the AFF stated that the Fund looks forward to a positive and healthier financial and operational future and seeks and tenders its co-operation with all the regulators in the country, including the KwaZulu-Natal Law Society.

**REPORT ON THE LAW SOCIETY OF SOUTH AFRICA (LSSA)**

The Chairperson Invited Mr David Bekker, the LSSA Co-Chairperson to address the meeting on the activities of the LSSA.

**ADDRESS BY MR D. BEKKER ON THE LAW SOCIETY OF SOUTH AFRICA (LSSA)**

*The following is a summary of the address:*

The Co-Chairperson thanked the Society for the opportunity to address the membership and stated that he was speaking on behalf of his Co-Chairperson, Ms K. Matolo-Dlepu who was also in attendance.

Bekker reported on the status of the Legal Practice Bill stating that the LSSA had made representations to the Portfolio Committee and had met with the General Council of the Bar, as well as with the independent advocates known as the National Bar Council of South
Africa and although an attempt was made to reach consensus some matters could not be agreed upon therefore separate submissions had been made by the Bar and by the attorneys.

There are a number of issues that are still to be finalised by the Portfolio Committee whereafter it will progress to the National Council of the Provinces which will hold public debates in various corners of the country and the LSSA will put forward a submission at one of these meetings. Members are urged to consider the LSSA draft and to make further input.

Bekker reported on a number of LSSA initiatives viz. Uniform Rules; investigation into electronic signatures; engagement with FIC on memoranda of understanding for Law Societies; the hosting of a LLB summit as a result of the poor quality of the graduates; entering into a memorandum of understanding with the Public Protector to ensure cooperation.

The Co-Chairperson further reported that there is now a National Efficiency Enhancement Committee that is being driven by the Chief Justice in the interest of enhancing the efficiency and effectiveness of the judicial system, and in which various stakeholders are involved including the South African Police, the Department of Justice and Constitutional Development, Social Services, the prosecuting authorities, Department of Health and others including attorneys and advocates.

The LSSA is also represented at Heads of Court meetings, where the different JPs of the different provinces meet with the Chief Justice.

In conclusion Bekker reported that LEAD has a recording studio to produce audiovisual educational material for practitioners.

The President thanked all those who presented reports and expressed his gratitude on behalf of the Society for the sacrifice of time to attend and address the AGM.

**ADDRESS BY MR GOVINDASAMY ON PRO BONO**

The Chairperson Invited Poobie Govindasamy, the Chairperson of the Society's Pro Bono Committee to address the meeting on pro bono issues.

*The following is a summary of the address:*

Govindasamy stated that it took the Society a long time to get the Rule adopted in 2010 for voluntary participation then, and two years later, to have the Rule adopted as mandatory.
The Rule requires practising members who have practised for less than 40 years, and who are less than 60 years of age, to perform no less than 24 hours pro bono services per calendar year; it also caters for those larger firms which have pro bono departments and a dedicated partner together with support staff attend to pro bono matters.

He alluded to a mentorship programme in the pipeline, the First Interview scheme, and efforts to address the shortage of Small Claims Court Commissioners. Contrary to the Deputy Minister’s view that members who provide such services are few and far between he said that there are many members who continue to provide the service of Small Claims Court Commissioner from the inception of Small Claims Courts to date.

Govindasamy stated that the lack of publicity of the pro bono work that the profession is doing may have created the misconception that very little is being done.

He reported to the membership that, in terms of the regulatory requirements against the mandatory probono Rule, the Law Society will be requiring members to give their report on oath of what qualifying probono work he or she has done for the year. The Rule will not be strictly applied in 2014 in order to ease members into the reporting obligation but in 2015 compliance will be enforced. Insofar as members who do not do pro bono work at all, the Law Society will allocate work on a roster basis, depending on areas of competency and the nature of the member’s practice.

PLENARY SESSION

CONSTITUTION OF THE MEETING

The President confirmed the attendance of more than 50 members, constituting a quorum, and therefore declared the meeting properly constituted.

NOTICE CONVENING THE MEETING

The President requested that the Notice convening the Meeting, having been circulated to all members on the 30th August 2013, be regarded as read.

The Meeting ACCEPTED that the Notice had been duly given.

ATTENDANCE REGISTER

The President requested members to print when recording their names on the Attendance Registers which were circulating and to record the apologies of colleagues on the two separate registers for that purpose, which were also circulating.
APOLOGIES FROM INVITED GUESTS

The Director read out the apologies received from the following invited guests:

The Guest Speaker, who was initially the Minister of Justice & Constitutional Development, Minister Radebe
Mr Nic Swart, Acting CEO of the LSSA & Director of LEAD
Mr Thomas Harban, General Manager of the AIIF
Mr A.F.W. Peters, Chairperson of the Attorneys Insurance Indemnity Fund
Mr J. Fouché, President of the Free State Law Society
Mr Max Boqwana, President of NADEL
Ms N. Manyathi, News Editor of De Rebus
Ms Barbara Whittle, Communication Manager of the LSSA
Mr M.J.S. Grobler, Director of the LSNP
Mr Koos Alberts, President of the Cape Law Society
Ms A. Obbes, the Acting Executive Director of the Free State Law Society
Mr Ogilvy Ramoshaba, the Senior Manager of LEAD
Jerome Losper, the Claims Director of the AFF
Shadrack Maile, Board Secretary of the AFF
Tony Pillay, the Finance Director of the LSSA
Andrew Stansfield, the Finance Director of the Fidelity Fund

IN MEMORIAM

At the request of the President, the meeting observed a moment of silence in memory of the following practising attorneys who had passed away since the 2012 AGM:

2012/09/09 Suriakumari Ramasar
2012/09/28 Ivan John Manickum
2012/10/08 Bernard Sathasivam Hirasen
2012/11/25 John Edward Hartley
2013/01/21 Jolyon Drue Letty
2013/01/31 Thamsanqa Peter Khumalo
2013/03/03 Petrus Johannes Schoerie
2013/05/05 Thanduxdo Enoch Maduna
2013/05/21 Antony Hugo Hofmeyer
2013/05/25 Mohamed Faruk Ali
2013/06/11 Cornelius Alwyn Botha
2013/07/05 Premilla Shereen Sewlal
2013/09/09 Harvey Theodore Ntabazwe Gumede
Tribute to the late Chief Justice, Pius Langa by Mr Lax

The Chairperson invited Ilan Lax to pay tribute to the late Chief Justice P.S. Langa.

Lax gave a brief background of the Honourable Chief Justice.

Born on the 21st of March 1939 in Bushbuckridge, an impoverished area, he was the second of seven children. He worked in a shirt factory to finance his high school education from 1957 to 1960, when he matriculated. He then worked as a messenger and a Court interpreter. In 1966 he married Thandekile Mncwabe and they had six children.

Through sheer hard work he studied through UNISA, acquiring a B Juris and an LLB degree and rose through the Court ranks to become a prosecutor and later a magistrate. He resigned from the Department of Justice to be admitted as an advocate in June 1977. It is well known that his career as an advocate was primarily focused on criminal work and political work in particular, although he did also do civil work.

He was a stalwart in the legal terrain in dealing with political cases and defending people involved in the anti-apartheid struggle. He worked closely with Griffiths and Victoria Mxenge and many other well known progressive lawyers.

Many remember him as a father figure, a guide and a mentor in the face of an apartheid system that used legislation and the Courts to achieve its objectives, insidiously attempting to justify its oppressive and murderous actions through a subjugated and collaborating justice system.

With humility and patience, strength and determination he brought progressive lawyers and other people together. Apart from his work in the ANC he served in the leadership of the UDF and the Democratic Lawyers Association. He was a founding member of NADEL, serving as its President from 1988 until his resignation to become a Judge in 1994.

He was also involved regionally (in KwaZulu-Natal) and nationally in the Release Mandela Campaign, in the National Reception Committees and in a range of other work around the peace accords, CODESA and really did contribute to the ushering in of South Africa’s new democracy.

The strain of keeping all of these commitments and ideals alive under the apartheid regime never diminished his ability to respect his fellow human being. This is one of the distinguishing features of his life. While working hard for liberation he loved his family and respected his neighbours.

His love of education saw him serving as an honorary and visiting professor, both in South Africa and abroad, and as chancellor of the local university in KwaZulu-Natal.
In 1994 he was appointed a Judge of the Constitutional Court and became Deputy President of that Court. In June 2005 he was appointed Chief Justice and Head of the Constitutional Court until his retirement in 2009.

In addition to sitting on the Constitutional Court, he chaired the Judicial Services Commission and steered it through some incredibly difficult challenges. He also led the Press Freedom Commission and presided over several other bodies essential to the deepening of South Africa’s democracy.

On the international arena he chaired the SADC commission into problems in Lesotho; was appointed as the Commonwealth special envoy to the Fiji Islands; was involved in constitutional review commissions in Rwanda, Zimbabwe, Tanzania and Sri Lanka. He became a member of an important group known as the Judicial Integrity Group and through this group, which sets international norms and standards for judicial conduct, was instrumental and oversaw the drafting of the very important Bangalore Principles on Judicial Ethics.

The late Chief Justice will be particularly remembered by the profession for the example he set to guide and encourage endeavours to ensure that the promise of South Africa’s Constitution becomes a reality for all South Africans. This is a struggle for what he called transformative constitutionalism, something he acknowledged in developing South Africa’s constitutional jurisprudence in some of the very iconic judgments that he delivered.

He believed and taught that law is an instrument for change, geared at bettering the lot of the less fortunate and the most vulnerable. It can make a difference between having a home or sleeping in the streets; between being exploited by an employer or guaranteed basic conditions of employment; between being muzzled and silenced or free to speak one’s mind; being forced into conformity or having the freedom to be oneself.

He accomplished all of these things with a wry sense of humour.

In conclusion Lax expressed the profession’s deepest condolences to the Langa family and called those in attendance to rise to observe a moment of silence.

**MINUTES OF PREVIOUS MEETING**

The Minutes of the previous meeting held on 12 October 2012 at the Delano Room, Suncoast Conference Centre, Suncoast Boulevard, North Beach, Durban, which were posted to members on 30 August 2013, were unanimously **ADOPTED** on proposal by **John Christie**, seconded by **Raj Badal**.
PRESENTATION OF AWARDS:

LIFE MEMBERSHIP AWARDS

Following a brief address by Eric Barry on the professional careers of the following members that had been in practice for 50 years, they were congratulated, and life membership were awarded to them:

Mr Charles David Paul who was admitted on 5 February 1960.  
(Mr Paul did not attend the AGM)

Mr Noel Robert Pistorius who was enrolled on 12 September 1963.

Mr Pistorius thanked the Society for the honour of receiving such an award.

By way of advice he expressed the wish that members would inculcate into their own psyches the two words that personify the profession and that is honesty and integrity.

He recalled that upon his arrival in Durban in 1963 he was astonished to learn that in Natal, the last outpost of the British Empire, one could still conclude valid oral agreements for the sale of land and real estate rights by way of a handshake.

The profession, he stated, has advanced since then and continues to grow with greater participation by female professionals, alluding to his own firm’s professional staff more than half of whom were females.

KWAZULU-NATAL LAW SOCIETY PRIZES FOR BEST FINAL YEAR LAW STUDENTS

The President thanked LexisNexis Butterworths for their financial contribution towards the awards presented to the best Final Year law students for 2012 at the following Universities:

Umesh Jivan presented scrolls and book vouchers to the following candidate:

Kiren Bagwandeen, from the University of KwaZulu-Natal, Pietermaritzburg who was the University's best final year law student. Mr Bagwandeen completed his LLB degree Summa Cum Laude with an average mark of 86%.

Umesh Jivan advised that the following two recipients were unavailable to attend the AGM:

Kimberly Ann Sharp, from the University of KwaZulu-Natal, Durban who was the University's best final year law student. Ms Sharp completed her LLB degree Summa Cum Laude with an overall mark of 79.6%. She could not attend the AGM as she won a Commonwealth bursary to do her Masters in Law at the London School of Economics (LSE).
Nonkazimulo Innocentia Mfusi, from the Zululand University who was the University's best final year law student. Ms Mfusi completed her LLB Degree with an average mark of 74.3%.

AWARDS TO FIRMS FOR EXCEPTIONAL TRUST INTEREST CONTRIBUTION

The President thanked LexisNexis Butterworths for their contribution towards these awards.

Mr Motlatsi Molefe, the Executive Director of the Attorneys Fidelity Fund, presented awards for exceptional interest contributions by the Attorneys Fidelity Fund to the following firms in the categories set out below:

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<th>Categories</th>
<th>Name of the Firm</th>
<th>Received By</th>
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<tbody>
<tr>
<td>Sole proprietor</td>
<td>Friedman &amp; Associates</td>
<td>Mr Michael Friedman</td>
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<td></td>
<td>Justice Reichin Ramsamy</td>
<td>Mr Azaad Saib</td>
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<td>Bala Govender, Pat Naidoo &amp; Co.</td>
<td>Mr Bala Govender</td>
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<tr>
<td>2-3 Partners/Directors</td>
<td>Halstead Paola</td>
<td>Ms T. Halstead</td>
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<td>Sham &amp; Co. Inc.</td>
<td>Mr Neeraj Ramnarain</td>
</tr>
<tr>
<td></td>
<td>Thorrington-Smith &amp; Silver</td>
<td>Mr Wade Bradley Silver</td>
</tr>
<tr>
<td>4-6 Partners/Directors</td>
<td>Meumann &amp; White</td>
<td>No representative</td>
</tr>
<tr>
<td></td>
<td>Randles Inc.</td>
<td>Mrs Joanna Mayne</td>
</tr>
<tr>
<td></td>
<td>Berkowitz Cohen Wartski</td>
<td>Mr Errol Sibiya</td>
</tr>
<tr>
<td>7-10 Partners/Directors</td>
<td>J. Leslie Smith &amp; Co. Inc.</td>
<td>Mr Sandile Ngwenya</td>
</tr>
<tr>
<td></td>
<td>Mooney Ford Attorneys</td>
<td>No representative</td>
</tr>
<tr>
<td></td>
<td>Barkers</td>
<td>Ms Romy Croxford</td>
</tr>
<tr>
<td>11+ Partners/Directors</td>
<td>Strauss Daly Inc.</td>
<td>Mr Musa Ntsibande</td>
</tr>
<tr>
<td></td>
<td>Garlicke and Bousfield Inc.</td>
<td>Mr Rob Mun-Gavin</td>
</tr>
<tr>
<td></td>
<td>Shepstone and Wylie</td>
<td>Mr Nigel Woodroffe</td>
</tr>
</tbody>
</table>

PRESIDENT'S REPORT

The President handed over the chair to Vice-President Umesh Jivan while dealing with his report or any discussion on the report.

The President presented his report for the year under review, which was set out from pages 19 to 33 of the Council's report for the year 1 July 2012 to 30 June 2013, and which was circulated to members on 27 September 2013.
The President reported that members were invited to raise, prior to the AGM, any matters arising from the President’s report which required clarification/explanation and that no such requests were received.

The Chairperson (Vice President Umesh Jivan) declared the report open for discussion.

There being no discussion the President’s report was ADOPTED on the proposal of Gavin McLachlan, seconded by Xolile Ntshulana.

Umesh Jivan handed the chair back to the President as this stage.

ANNUAL FINANCIAL STATEMENTS

Asif Essa, Chairperson of the Finance Committee, reported on the financial performance of the Society for the period July 2012 to June 2013 and in so doing presented the Annual Financial Statements for the year ended June 2013.

He reported that the Society received an unqualified report and that the provision for doubtful debt on Enquiry Debtors in the amount of R1 834 950 is in line with the financial reporting requirement that at the end of every financial year the Society is required to assess the recoverability of its debts and, based on that assessment, make provision for doubtful debts. The quantum is significant because the Society has never raised a provision on Enquiry Debtors before and there are a number of long outstanding debts in the list of Enquiry Debtors; the Society will pursue the recovery of debt.

In terms of financial performance, Essa reported that the Society realised a Surplus, primarily as a result of curtailed expenditure, assisted by improved Income from Investments, but significantly as a result of the AFF contribution towards the operation of the library, which is now a national resource.

The Balance Sheet of the Society reflects that the Society’s current liabilities are adequately covered by its current assets, having particular regard to the Cash and Investment holding against the Trade and other payables. Trade Receivables and Enquiry Debtors will of course continue to be a focus area on the basis referred to above.

Agency Fee suffered a further decline in 2013 with a 22% decrease from the previous year. As a result of the latest decrease in the interest rate, Agency Fee is anticipated to decline even further.

Income from Investments shows an increase as a result of the broadening of the Society’s investment mandate to include investment in equity in addition to cash investment with banking institutions. The Society has taken a reasonably conservative approach by ensuring that the majority of the managed portfolio is invested in cash.
Subscriptions is the second major source of income and despite ongoing attempts to recover subscriptions and the offer to members to have these paid in instalments, the recovery of subscriptions remains an area of concern, so much so that Council resolved to hand the debt over for collection and errant members will be notified shortly after the AGM.

Essa stated that the Society cannot afford not to increase subscriptions annually. The Council therefore proposed that subscriptions be increased by an amount of R150 per member for the current year, having regard to the increasing costs, the levies paid in the recent past on behalf of members in respect of the RAF matter and the relatively low rate levied against our members as compared to other professions.

The policy adopted on expenditure remains the same as in previous years. The operating budget is based on a consideration of the previous year’s expenses, with an allowance made for increased costs. Management continue to apply strict controls on expenditure. The operational and administrative expenses were well within the budget for the previous year under review and almost in line with the 2012 expenditure, despite increasing costs.

The library continues to be one of the major items of expenditure and it is a matter considered by the Council annually. The Attorneys Fidelity Fund subvents R2-million of the library costs annually for which the Society and membership are grateful. This contribution is in light of the library becoming a national resource for all members of the attorneys' profession. Members are encouraged to make use of the facilities in the library, which enjoy the full suite of electronic publications published by LexisNexis, Juta and Sabinet.

The Conference Centre is primarily for the benefit of our members and again its use is encouraged. It is situated close to the High Court and Labour Court and is accessible for arbitrations.

**Budget 2013/2014:**

Council approved the 2013/2014 budget as proposed by the Finance Committee, which Budget anticipates a Deficit of about R2.6-million.

Income has been conservatively budgeted for given the economic conditions and the recent reduction in the interest rate, which will affect Agency Fees as alluded to earlier.

The Budget includes the proposed increase of R150 in subscriptions; the effect of which is: Pietermaritzburg and Durban increases from R1 860 to R2 010; Country from R1 750 to R1 900; and Declared members from R1 240 to R1 390; these amounts exclusive of VAT.

Insofar as Expenditure is concerned, as with the income a conservative approach has been applied to expenditure. Significant steps will continue to be undertaken to curtail costs and controls have been instituted to ensure that expenditure is in accordance with the budget and is necessary.
Adoption of Annual Financial Statements

Asif Essa thanked members of the Finance Committee of the Law Society, Thandanani Zondi, the Manager: Finance and Gavin John, the Director, for their input, expertise and assistance throughout the year.

The Chairperson of the Finance Committee proposed the ADOPTION of the Annual Financial Statements for the year ended 30 June 2013, which was seconded by Eric Zaca.

Discussion:

The being no discussion the Annual Financial Statements were ADOPTED.

Approval of Auditor’s Remuneration

The Chairperson of the Finance Committee proposed the PAYMENT of the Auditor’s remuneration to Mitchell’s Chartered Accountant in an amount of R57 319.20 inc VAT, which was seconded by Eric Zaca.

Discussion:

The being no discussion the Auditor’s remuneration was APPROVED.

Increase in Subscriptions

The Chairperson of the Finance Committee proposed an INCREASE in the subscriptions for the 2013/2014 year by R150 per annum for all members, seconded by Eric Zaca.

<table>
<thead>
<tr>
<th>AREA</th>
<th>CURRENT VAT Exc</th>
<th>CURRENT VAT Inc</th>
<th>Proposal at AGM for Approval VAT Exc</th>
<th>Proposal at AGM for Approval VAT Inc</th>
</tr>
</thead>
<tbody>
<tr>
<td>Durban/PMB</td>
<td>R1 860.00</td>
<td>R 2 120.40</td>
<td>R 2 010.00</td>
<td>R 2 291.40</td>
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<tr>
<td>Country</td>
<td>R1 750.00</td>
<td>R1 995.00</td>
<td>R 1 900.00</td>
<td>R 2 166.00</td>
</tr>
<tr>
<td>Declared</td>
<td>R1 240.00</td>
<td>R 1 413.60</td>
<td>R 1 390.00</td>
<td>R 1 584.60</td>
</tr>
</tbody>
</table>

Discussion:

The being no discussion the proposed increase of R150 per member per annum was APPROVED.
Appointment of Auditors

The Chairperson of the Finance Committee proposed the APPOINTMENT of auditors as follows:

1. Mitchell's Incorporated for the auditing of the business books of account; and
2. Roshan Morar and Associates for auditing the trust interest and curator books of account and to report to the Attorneys Fidelity Fund.

for the 2013/2014 financial year, which proposal was seconded by Eric Zaca.

Discussion:

There being no discussion hereon, the proposal was ADOPTED.

CONSIDERATION OF SPECIAL BUSINESS

MEMBER’S MOTION

There was no special business submitted by members.

COUNCIL’S MOTION

MOTION 1:

RULE 3: ANNUAL GENERAL MEETINGS

Gavin McLachlan introduced and proposed Motion 1 advising that, whilst the motion was presented and approved at the previous AGM, the Judge President, in considering its approval, requested for the sake of completeness that specific reference to Section 23 of the ECT Act, which stipulates that the delivery of an electronic or a data message is deemed to have taken place upon transmission from the senders system, must be made.

The proposal was for the addition of paragraph (h) to Rule3 to read:

“(h) Section 23 of the Electronic Communications and Transactions Act 25 of 2000 as amended is applicable to posting via electronic means.”

Gavin McLachlan moved for the adoption of the Motion seconded by Ilan Lax.

There being no opposition the Motion was ADOPTED.
MOTION 2:

RULE 15: DISCIPLINARY RULES

Raj Badal introduced Motion 2 advising that Rule 15 of the Disciplinary Rules, Rule 15(a)(i) reads as follows:

“The Council may itself exercise the disciplinary powers set out in the Act, or it may assign all or any such powers to a complaints committee or committees or to an ad hoc enquiry committee or committees appointed by it in terms of Rule 10.”

The proposal is for the addition of paragraph (iii) to Rule 15(a) to read as follows:

“Notwithstanding the provisions of Rule 15(a)(i), the Council shall be entitled to review and/or set aside any decision of a complaints committee.”

The motivation is that the Complaints Committees have delegated authority to deal with matters and once the adjudications are finalised the Council is bound by those decisions. The Council proposes the adoption of this amendment to Rule 15(a) which will empower the Council to review and/or set aside a decision of the committee where the Council is of the view that the decision of the committee should be reviewed or set aside on good cause.

Discussion:

Thoba Poyo-Dlwati enquired as to the circumstances under which it may be necessary for Council to review a decision by a complaints committee which would have applied its mind to the matter and made a recommendation/finding. She also enquired as to how members would know whether the grounds for review were based on good cause.

Raj Badal responded advising that there have been instances in the past in which the decisions of a complaints committee have been glaringly incorrect, in some instances there have been situations where the contravention of the rules have not been looked at properly, and in a particular instance where there was dishonesty but the sanction did not befit the offence.

The proposed addition allows the Council to take the appropriate action in circumstances where a complaints committee appears to have taken a blatantly incorrect decision, whatever the reasoning.

Krish Govender stated that he supports the Motion in light of the fact that the committees comprise just three or four persons whereas the Council carries the responsibility to adjudicate properly on matters in the interest of the public and the profession. He added that, in his view, the Motion is long overdue and must be supported.
Raj Badal proposed the adoption of the Motion which was seconded by Matodzi Neluheni.

There being no opposition the Motion was ADOPTED.

**MOTION 3:**

**SUBSCRIPTIONS**

Umesh Jivan introduced Motion 3 advising that this motion relates to the equalisation of the subscriptions, which historically have been less for members practising in the country compared to those in the city areas of Pietermaritzburg and Durban.

The proposal is for the levying of a standard rate of subscription for all members and the abolishment of the differentiation in subscriptions as previously imposed.

The motivation is that, whilst the application of different subscription rates was justified on the basis of easy access to the library and the perceived higher income generation within the city, with technological advancement and the electronic services offered by the library there is no longer a need for geographical distinction.

Furthermore business is no longer confined to city centres and city areas.

There is no longer any basis for the discrimination in subscriptions between those practising in the Pietermaritzburg/Durban areas and those practising outside of them.

**Discussion:**

The Chairperson clarified that, should the Motion be adopted, it will become effective from the date of the 2014 AGM.

Umesh Jivan moved for the adoption of the Motion seconded by Vernon O’Connell.

There being no opposition the Motion was ADOPTED.

**MOTION 4:**

**UNIFORM RULES**

Praveen Sham introduced Motion 4 advising that this motion deals with the adoption of a new set of Uniform Rules to be implemented by all societies and in anticipation of the Legal Practice Bill.

The document was circulated to all members prior to the AGM.
Sham enquired from members whether there were any queries and questions other than the grammatical errors that would be attended to.

He reported that the draft will be sent to the Judge President for consideration, thereafter the Chief Justice. He added that the Rules provide that they become effective when published, but that different Rules can be brought into effect on different dates, which is important as there would have to be a transitional period, particularly as regards disciplinary Rules. A practical approach will have to be adopted as regards implementation.

Praveen Sham moved for the adoption of the Motion seconded by Ebi Moolia.

There being no opposition the Motion was ADOPTED.

GENERAL

The Chairperson invited members to raise any matters under general having regard to the fact that no matter so raised could be voted upon. Only motions of which proper notice had been given could be voted upon.

Asif Essa thanked the President on behalf of the Council and the members of the KwaZulu-Natal Law Society for his leadership in the past year and for the humility with which he executed his responsibilities.

The Chairperson responded by expressing his appreciation for the kind words taking the opportunity to echo the sentiments which he expressed in the concluding comments in his report being his debt of gratitude owed to fellow councillors and to the staff of the Society.

He advised the membership that the councillors and particularly the staff of the Society labour under tremendous workload on a continual basis and expressed his appreciation for the hard work done and the support given to him from the Director to the Managers and staff at the Law Society offices.

CLOSURE

The President announced the meeting closed and thanked members for their attendance.

MINUTES CONFIRMED ON

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PRESIDENT/CHAIRPERSON
17 October 2014
KZN LAW SOCIETY

ANNUAL GENERAL MEETING : 18 OCTOBER 2013

ATTENDANCES

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Athman, C.J.                              Kheswa, N.S.
Badal, R.R.                                Kissoonlal, Anil
Badri, V.                                  Kisten, Suren
Bagwandeen, K.                             Kotzé, Y.
Bekker, D.B.                                Lax, Alan
Blose, Ian B.                               Liásides, Frederike
Bramdeo, Nadhira                           Lockhat, Suleman
Bulose, Ian Nkululeko                      Luthuli, Thembinkosi
Burger, Lizette                            Mabunda, P.B. (LSNP & BLA)
Cassim, Yusuf                               Madiba, S.S. (LSNP)
Christie, J.O.                              Maharaj, Nalini
Chunderdutt, Asha                          Maharaj, Savera
Croxford, R.                               Maharajh, Avinash Bhanpersad
De Freitas, D.                              Mahlobo, Lethukuthula A.
Dlamini, B.G.                               Mahlobo, Thokozani
Dlepu, H.K.                                 Maistry, Mervin
Du Plessis, Rita                           Manzi, Thembalihle T.
Fakroodeen, Sayed Ahmed E.                Marimuthu, Pregasen
Fourie, C.P. (AFF)                          Masipa, Mokgere
Ganie, Iqbal                               Mayne, Joanna
Goga, H.                                   Mazoue, Jonathan
Gounden, S.P.                               Mbelle, S.S. (AFF)
Govender, Bala                             McArthur, Devon
Govender, Krish                            McLachlan, G.
Govindasamy, Poobie                        Mdaka, Vela
Halstead, Tina                             Mkhize, Hlengwe P.
Harrilall, Lerika                          Mlambo, Thokozani
Hlophe, Bongani                            Mlotshwa, Hycenth
Jivan, U.                                  Mndaba, Sbusiso
Juglal, J.                                  Mohamed, Khaleel
Jula, Mthokozisi V.                         Mokoena, Rampela W. (CLS)
Kaloo Saib, Azaad                           Molefe, M. (AFF)
Kaplan, Fiona                              Moola, C.B.
Kasambara, T.J.                             Moolla, Ebi
KZN LAW SOCIETY

ANNUAL GENERAL MEETING : 18 OCTOBER 2013

APOLOGIES

Bangazesan, Rob
Bigby, Scott
Brereton, Randal James
Chunder, Meera
Coetzee, Johannes
Daly, Vaughn
De Wet, P.M.
Dewes, Pat
Dlomo, Sandile
Drummond, Hugh
Du Plessis, Kingsley Bernard Charl
Du Plessis, M.
Forsythe, M.G.
Fourie, W.W. (Billy)
Gillett, Megan
Gramkow, Ingrid
Grantham, Edward James Anthony
Harris, R.A.
Harrison, Duncan
Haslop, Richard
Hicks, Lauren

Hudson, John Charles Stewart
Irving, Bedver
Jankey, V.
Kooverjee, I.N. (Ms)
Krog, Johann
Kruger, Barry (jr)
Kruger, Barry (sr)
Kurz, B.L.
Landman, Lucas
Le Roux, Michelle
Lewis, Brett Matthew
MacDonald, Russell
Manilall, Anil
Mathenjwa, Phiwokuhle Z.
McCullough, Margaret
Meer, Riaz
Mfunkula, M.
Moodley, Christel
Moore, A.M.
Mthethwa, Sipho
Naidoo, Deshan
Ngcamu, M.E.  
Ngxongo, Menzies  
O’Meara, Lloyd  
Pepper, Kyle  
Phungula, Luke M.  
Pillay, Ranjinee  
Pistorius, N.R.  
Pistorius, F.B.  
Queripal, Robyn  
Ramasar, A.D.  
Ramasar, M.  
Ramarain, Pravisha  
Randles, David  
Romer, Maria  
Romer, Michael  
Rowland, Keagan  
Salligram, V.  
Schulz, Herbert  
Scott, Andrew  
Seethal, Larry  
Shapiro, Harold M.  
Sinclair, Robert Charles  
Singh Shamila  
Singh, Ronisha  
Sithapersad, Wyona  
Smith, Catherine  
Smith, James  
Smith, Jeremy  
Smith, Warren  
Tatham, Nigel  
Trotter, Lawrence  
Van Brakel, Ryna Martha  
Van der Merwe, Jaco  
Vedan, Jerald  
Vercuil, Dirk  
Walsh, Philip  
Walsh, Renata  
Wiesinger, Louis  
Zeiler, E.  
Zondi, Zaksethi  
Zwane, Alpha Cero