

# Baliestories

Graag loods ons 'n nuwe rubriek wat om die beurt onder die opskrifte "Baliestories" en "Bar Stories" sal verskyn. Dit is bekend dat vele sodanige stories in omloop is. Al wat nodig

is, is dat advokate, lede van die regbank en ander lesers dit op skrif moet stel en aan ons stuur. Ons kyk uit daarna!

## Intussen het ons twee vertellings ontvang – wat hieronder verskyn.

Die eerste bydrae kom van kollega Floris Vermeulen van die Pretoria-Balie:

### Rypheid van die jeug

Aan die einde van die sestigerjare het ek as jong en uiters onervare, maar tog voortvarende advokaat in die Landdroshof teen C, in daardie stadium ook jonk en onervare, tans 'n geëerde lid van die Regbank verskyn.

C het vir die Eiser en ek vir die Verweerder opgetree. Die enigste grond ter versagting wat aangevoer kan word is dat ons onderskeie opdraggewende prokureurs die pleitstukke opgestel het en dat ons eers die oggend van die verhoor met ons onderskeie kliënte kon konsulteer.

Ter verswaring is die feit dat ons beide vooraf oor Verweerder se blootgelegde dokumente beskik het.

Eiser se eis was vir betaling van 'n bedrag wat om die een of ander rede deur Verweerder aan Eiser verskuldig was. In die Verweerskrif voer Verweerder aan dat hy Eiser ten volle betaal het, wat die bewyslas op my geplaas het. My konsultasie met kliënt verloop soos volg, met myself as "F" en kliënt as "V":

F: "U moet beseft dat ons eerste sal moet getuig aangesien die bewyslas op ons is dat ons Eiser betaal het"

V: "Dit is nie 'n probleem nie"

F: "Hoekom so?"

V: (met verwysing na sy blootgelegde dokumente): "Op \_\_\_\_ 19\_\_ het ek 'n brief aan Eiser geskryf waarin ek ontken dat ek "X" bedrag aan hom verskuldig is en ek aanvoer dat ek slegs "Y"

bedrag aan hom verskuldig is. Verder bied ek hom "Y" bedrag aan ter volle en finale vereffening van my skuld teenoor hom en sluit ek 'n tjek ten bedrae van "Y" bedrag in. Op die tjek (ook blootgelê) het ek ook geëndosseer "aanbod ter volle en finale vereffening"

F: "Dit sal u nie help nie want hier is 'n brief deur Eiser blootgelê waarin Eiser antwoord op u brief en sê dat hy u tjek bank as gedeeltelike vereffening van "X" bedrag en dat u nog die balans aan hom verskuldig is. Hy het derhalwe nie u aanbod aanvaar nie"

V: "Ja, maar ek het in die *Landbouweekblad* gelees dat waar ek aanvoer dat ek slegs "Y" bedrag verskuldig is en ek maak so 'n aanbod ter volle en finale vereffening en gee 'n tjek vir



“Y” bedrag aan die ander persoon en laasgenoemde bank sodanige tjek, dan is my skuld afgelos al sê sodanige persoon ook hy aanvaar dit net as ’n gedeeltelike afbetaling.” Kliënt haal die betrokke *Landbouweekblad* uit en wys my die advies wat in ’n rubriek in die tydskrif verskyn en gaan voort: “Dit is juis as gevolg van daardie advies dat ek my brief so bewoord het en dit veiligheidshalwe op die tjek ook geëndosseer het”

F: “Ek dink die advies is verkeerd, maar sal dit gou ondersoek”

Hierna bespreek ek die saak met C wat my onkunde oor hierdie aspek deel. Ons doen gesamentlik ’n soek in die Landdros se biblioteek en ontdek tot ons verleentheid:

*Tractor & Excavators Spares (Pty) Ltd v Lucas J Botha Ltd 1966 (2) SA 740 T*  
Met redelike rooi gesigte keer ons terug na ons kliënte waarna C sy saak terugtrek en koste aanbied. Nodeloos om te bespiegel oor die indruk wat ons onderskeie kliënte daarna van ons vermoëns as regspraktisyns gehad het en om te dink dat ons nog so vermetel was om fooie vir die dag te merk.

Daarna was die versoeking telkens groot wanneer die vraag van bo van die Bank af kom: “Meneer, beskik u oor enige gesag wat daardie submissie ondersteun,” om te antwoord: “U Edele, in die *Landbouweekblad* van \_\_\_\_\_ 19\_\_ op bladsy \_\_\_\_\_, word die volgende gesê . . .”

□ □ □

The second contribution was submitted by Judge WP Schutz of the Transvaal Provincial Division. It concerns Advocate Iggy Isaacs QC who practised at the Johannesburg Bar until his death on 6 November 1986 at the age of 92:

Whilst being an exponent of the double negative (“It’s not I whose not going to Potchefstroom”) Iggy was a master of judicial expression. These expressions are not widely known – all of them found form in neighbouring countries, when Iggy had already passed 80. I myself have seen a few of his judgments – a very few, for a reason that shall emerge. I saw them chiefly as a member of the Lesotho Court of Appeal. They were not too long – not too short – just right.

One instance arose out of an application for condonation of the late noting of an appeal. In his affidavit the applicant said that when he became aware that Isaacs, AJ had given a judgment adverse to him, he went to see his Maseru attorney with a view to an appeal. The attorney’s response was, “But nobody appeals against a judgment of Judge Isaacs!” The client was not a man to act on good advice. He went to Bloemfontein to get better advice. He got it. All the delay had meant that the appeal was noted out of time. The application for condonation failed, mainly on the ground that there was no prospect of success on the merits. The Maseru attorney’s unconscious compliment (as reflected in his client’s affidavit) was a remarkable one.

Iggy lived and died a bachelor. But that did not mean that he was unobservant. Some years ago, when he was already in his nineties, he remarked, upon some Johannesburg Bar occasion, that when he looked upon the recent influx of female advocates, he sometimes wished that he was 70 again. But bachelor though he was, his name has not passed unremembered. The then registrar, Mr. Lehohla (now Mr. Justice Lehohla of the Lesotho High Court)

sought his permission to call his young son Isaacs Lehohla, and so it was.

Iggy left the law late, but he had also joined it late – when he was already in his forties.

When speaking at another Bar occasion, he harked back to his earlier craft, that of pharmacy. He told of the pharmacist who, having to leave the shop, left his apprentice in charge. Upon his return he asked whether there had been any customers. The apprentice said yes, there had been a man complaining of a bad cough. When asked what he had done about it, the apprentice said that he had given him a number 9 (for the younger generation – a military laxative efficacious in every case). The pharmacist expressed his dismay, at which the apprentice pointed to a man outside clinging to a lamp-post and writhing in agony, and said, “Well, he’s not coughing any more, is he?”

When I first heard of Iggy, a more senior student who had already progressed to Civil Procedure at Wits (in the early fifties) described him as looking like a tattered old eagle. As he aged he looked ever more as if a puff of wind would blow him away. One day it did.

