

DAVIS MTHAKATI NJOBVU

Senior Associate

Savjani & Co.

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Davis Njobvu has handled and/or played an advisory role in all major litigation matters (including arbitration and mediation) in which the firm has been involved as well as giving advice to clients on various aspects of the law. He acts for the firm's major clients, both local and international, in matters ranging from employment law, personal injuries, aircraft accidents, cross-border trade, trademarks, winding up of companies, taxation disputes, fraud and other commercial matters, public /administrative law and criminal law matters. He has attended Advocacy and Trial Techniques seminars and training courses within and outside Malawi.

Under his guidance, numerous clients have managed to avoid potential liability and/or have successfully prosecuted civil and criminal cases. He holds the enviable reputation of not having lost any trial in over a decade. Davis is also an accomplished musician.

MEMBERSHIP OF PROFESSIONAL ASSOCIATIONS

- Malawi Law Society; and
- Musicians Association of Malawi.

AREAS OF EXPERTISE

- All litigation related work including commercial and criminal law.

COUNTRIES OF WORK EXPERIENCE

- Malawi.

TOP MATTERS

- Represented Press Corporation Limited and Ethco in employment matters taken out by the latter's former General Manager and Financial Controller). It was an important matter involving senior employees and raised novel areas of employment law and huge potential liability for the client.
- We represent Prudential Holdings Limited, a minority shareholder in a publicly listed company, Illovo Sugar (Malawi) Limited in a claim for oppression and/or unfair prejudice by the company and/or the majority shareholders and/or the directors of the publicly listed company. The matter involves issues of disclosure, compliance, fiduciary duties, treating company as a wholly owned subsidiary, arm's length transactions and pricing.

- We are representing a client in an action commenced by former employees of our client following a decision not to proceed with work on a project in Malawi. Our instructions in this matter are from lawyers based in USA.
- Malawi Bureau of Standards (**MBS**) vs. X and others. We successfully represented our client, a manufacturer of distilled spirits in an application by MBS for an injunction to restrain the client and other manufacturers from packaging spirits in plastic sachets and plastic bottles. We have also launched judicial review proceedings against MBS in relation to the same issue.
- The State v MRA ex parte X – we are represent a client in a matter where the tax authorities are demanding MK1 billion (currently equivalent to approximately US\$4,081,632,65) in reassessments. We managed to obtain an order in court staying MRA’s demands.
- Universal Web Pty Limited vs. MANEB. We successfully represented Universal Web, a South African printer in a matter where they were claiming for printing charges of about ZAR 4 million (South African Rands) from MANEB, a Malawian examinations body. MANEB’s in turn were counter-claiming for alleged leakage of the examination etc. The Commercial Court ordered MANEB to pay two-thirds of the printing charges to our clients. MANEB appealed and currently we are awaiting the judgment of the Supreme Court.
- Confidentiality Agreement. Represented South African Rating Company in a claim by an insurance company alleging breach of confidentiality agreement.
- BP Southern Africa (Pty) Limited. Advised BP Southern Africa (Pty) Limited in relation to an exorbitant claim for legal fees by a lawyer and the basis of charging costs, and thereafter defending BP Southern Africa (Pty) Limited in the Commercial Court proceedings claiming costs and applying to the court for the taxation
- We are representing a client in an action to recover a substantial sum of money suspected to have been misappropriated by former employees. Our instructions in this matter are from foreign based lawyers.
- Represented Aon Malawi Limited an insurer broker in Court proceedings in the High Court (Commercial Division) to defend a claim for alleged professional negligence for alleged failure to obtain adequate insurance cover for the Plaintiff.
- Claims against Air Malawi, South African Airlines, Ethiopian Airlines and other airlines. We represented Air Malawi and other airlines in various claims for the loss of baggage, inconvenience for cancelled flights, etc.
- Advising the Malawi subsidiary of a foreign company in relation to the MRA findings of tax avoidance and also advising as to the possibility of commencing judicial review proceedings to restrain the Authority from issuing assessments. Thereafter commenced judicial review proceedings on the basis that the Authority had not acted in good faith and had not followed fair administrative practices and obtained a stay of assessments. The outcome of this case may determine the viability of the taxpayer concerned.
- Defamation. Advised very senior officials of the Malawi Government in relation to defamation allegations arising out of disposal of assets by a statutory body.
- Jose Coelho vs. Lusitania Limited and Others. We successfully represented Lusitania Limited, construction firm in a case brought by its former Managing Director who was claiming, amongst other things, a 20% stake in the company. Lusitania Limited further succeeded on

of costs. The matter is continuing.

- Malawi Telecommunications Limited and Airtel Malawi Limited. We represented Malawi Telecommunications Limited in a claim for interconnection charges. The matter was subsequently settled out of court.
- We represented a client in settlement of damages to 37 ex-employees after they were awarded judgments in both the High Court and Supreme Court. The employees were initially demanding MK145,376,671 (about US\$800,000). However settlement was for MK37,129,488 (about US\$200,000).
- Representing a top Malawian insurance broker to defend a claim for about US\$1.6 damages for professional negligence involving international carriage of goods by sea.
- Advised the company for Habitat and Housing in Africa (Shelter Afrique) and IFC in relation to provision of finance for construction of a shopping mall in Lilongwe, Malawi.
- Representing a Respondent company before the Commercial Court in a matter where a petition was filed to wind up a company on the just and equitable basis. The court held that the petitioner should sell his share to the respondent. The petitioner has since appealed.
- Bisno Properties Limited vs. BP (Malawi) Limited. We represented BP (Malawi) Limited during assessment of damages in a matter where the Plaintiff won a case against BP and he was demanding over K200 million (US\$1.3 million). The Court awarded MK20 million (about US\$130,000) The Plaintiff appealed to the Supreme Court.
- Represented General Alliance Insurance in arbitration matters in Malawi.

their counterclaims against the plaintiff for mismanagement and/or abuse of company funds.