

**MENDEL SASS**

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Overview

Mendel Sass is a partner in our Cape Town office Dispute Resolution Department.

He has a BA from the University of the Western Cape, and an LLB and a Certificate in Sports Law from the University of Cape Town. He is also a member of the South African Society of Labour Lawyers (SASLAW). Mendel focuses on and specialises in the following areas of practice - Employment Law; Investigations and Corporate/Business Risk Management (Governance, Compliance and Investigations), and Sports Law.

Employment Law

Mendel specialises in all aspects of employment law (both collective and individual) for clients in both the private and public sector, including:

- Drafting local and cross-border contracts of employment, employment policies and procedures, consulting/independent contractor agreements, restraints of trade, confidentiality agreements, mutual separation agreements, and voluntary/agreed severance agreements.
- Advising on employment law issues that arise from mergers and acquisitions, corporate restructuring and other commercial transactions.
- Advising multi-national and local clients on all types of dismissals and terminations (executive/board level, senior management), boardroom disputes, retrenchments, restructurings, redundancies, business transfers (including insourcing and outsourcing), collective bargaining and wage negotiations, industrial action including strikes and lockouts, unfair discrimination, unfair labour practices; sexual harassment and bullying, employment equity compliance.
- Representing clients during trials, urgent and other motions, arbitrations etc. in the Labour Appeal Court, the Labour Court, the High Court, statutory employment tribunals including the CCMA and Bargaining Councils for various industries and sectors, internal disciplinary and other hearings. Mendel appears personally for clients in all of these forums in relations to a wide range of disputes including - unfair dismissal disputes; unlawful termination disputes; unfair labour practice disputes; enforcing restraints of trade or opposing their enforcement; interdicting unlawful, unprotected and/or violent strikes; opposing regulatory fines which the Department of Labour seeks to impose; obtaining or opposing urgent interdictory relief; interpretation and interpretation of collective agreement disputes; contractual damages and monies owing to employers; unfair discrimination disputes including sexual harassment and bullying; opposing the seizure of clients' property; changes to terms and conditions of employment.

Investigations and Corporate/Business Risk Management (Governance, Compliance etc.)

Mendel conducts forensic investigations relating to fraud, theft, corruption and tender irregularities. This then culminates in disciplinary, criminal and/ or civil proceedings being instituted against offenders where Mendel is able to represent clients in the disciplinary and civil (debt recovery) proceedings, and perform a watching brief in criminal proceedings by providing assistance and guidance to investigators and prosecutors (preparation of dockets, evidence gathering, drafting affidavits/sworn statements, preservation of evidence, how to prepare and run the case etc.). Mendel has also obtained anti-dissipation/preservation orders from the High Court to protect misappropriated funds. Mendel also provides regulatory advice to clients with regard to anti-bribery and anti-

corruption legislation in South Africa and other African jurisdictions, as well as with regard to the Foreign Corrupt Practices Act and the UK Bribery Act (particularly with regard to extra-territorial application). He also provides clients with general and bespoke advice in relation to governance and compliance issues to suit their specific business and regulatory needs.

Sports Law

Mendel has advised and represented various sports governing bodies, clubs, agents, sportsmen and women and other parties in contractual, regulatory, commercial, investigative, anti-doping, disciplinary and litigious matters. He has assisted, amongst others, FIFA, The South African Golf Association, Athletics South Africa, the Western Province Rugby Union, the Australian Cricketers' Association, Mamelodi Sundowns FC, Various Sports Agents (Esportif International, World Artists etc.), and various then current and former Proteas at the King Commission of Inquiry into Cricket Match-Fixing in 2000.

Experience

In Employment Law

- Mendel has advised and represented various local and international clients in the following sectors and industries - Financial Services, Retail, Banking, Professional Services, Private Equity, Property, Mining, Logistics, Tertiary Education and Fast Moving Consumer Goods.
- Some of his clients include Old Mutual, Philip Morris International and Philip Morris South Africa, WNS, The Clicks Group, The Foschini Group, Woolworths, Pick 'n Pay, Transhex, Beam Suntory, The University of Cape Town, The University of Stellenbosch, The Airports Company of South Africa, State Street Bank, Lufthansa, The Parliament of the Republic of South Africa, Bidvest, Betafence, the Mandela Rhodes Foundation, Transnet, The South African Council of the Architectural Profession and Grindrod Logistics.
- In particular, he has:
 - advised and represented the 2nd largest producer of tobacco products in the world and its South African subsidiary in respect of industrial action and strike interdicts, restructuring and retrenchments, unfair discrimination disputes, Department of Labour investigations and Employment Equity Act related compliance;
 - successfully defended Old Mutual in various reviews and unfair discrimination claims in the Labour Court, and unfair dismissal disputes at the CCMA;
 - successfully enforced Restraints of Trade and opposed the enforcement of Restraints of Trade for clients in the various sectors, particularly the Financial Services sector and FMCG sector;
 - acted for the University of Cape Town in student disciplinary tribunals and High Court proceedings in relation to #RhodesMustFall and #FeesMustFall;
 - assisted a number of offshore investment funds with the preparation of dual employer cross-border contracts of employment, consulting/independent contractor agreements, restraints of trade and confidentiality agreements; and
 - advised a leading global business process solutions / IT companies on setting up of operations in South Africa and drafting the relevant contractual arrangements, policies and procedures governing the secondment of staff to and from South Africa.
- Employed by Grindrod Logistics as General Manager: Legal, Risk and Industrial Relations. Duties included - Drafting various commercial agreements; Negotiating various commercial agreements with clients and suppliers; Ensuring compliance with applicable legislation; Providing strategic advice and legal opinions to CEO and Exco members; Providing advice to Line Managers on day to day operational issues; Managing all litigation in the High and Magistrate's Court; Liaising with brokers and underwriters regarding insurance arrangements, claims and possible exposure; Managing risk profile; Managing claims department; managing all litigation; representing Grindrod and Employers' Organisation in all dealings and negotiations with the trade unions and collective bargaining at shop floor and bargaining council level.

In Investigations and Corporate/Business Risk Management

- Traced misappropriated monies for a multi-national company. Obtained *ex parte* anti-dissipation orders which were confirmed on the return day (attaching various assets and freezing bank accounts). Instituted disciplinary proceedings and successfully prosecuted the responsible employees. Assisted the client with the laying of criminal charges against the employees and assisted the State in prosecuting such employees.

- Investigated and uncovered large scale fraud and theft a client in the granite and stone industry. Instituted disciplinary proceedings and successfully prosecuted employees resulting in dismissal. Successfully opposed all unfair dismissal claims. Pursued civil claims against all employees for monies misappropriated.
- Advised a tertiary institution on its obligations *vis-à-vis* local anti-corruption legislation pertaining to a fraud and corruption investigation and report.
- Worked as a lawyer for the Asset Forfeiture Taskforce of the United Kingdom's Crown Prosecution Services. The Asset Forfeiture Taskforce enforced confiscation orders made against persons convicted of acquisitive crimes. This entailed tracing and realising both restrained and unrestrained assets in the United Kingdom and foreign jurisdictions. Duties included - drafting various High Court (Royal Courts of Justice) applications, witness statements, affidavits and draft orders; liaising with the House of Lords, Court of Appeal, High Court, Crown Court, Magistrates' Court, defendants, defendant's solicitors, financial investigation officers and receivers in respect of the enforcement of confiscation orders; instructing junior and senior counsel in various applications and appeals; instructing police to carry out financial investigations and asset tracing; analysing financial statements prepared by financial investigators; and legal research and various other duties ancillary to the above.
- Worked as an investigator for the Standards Board for England which investigated complaints of misconduct made against members of Local Authorities (Borough Councils, Town Councils, Parish Councils etc.) by members of the public or other members of Local Authorities. Duties included - investigating complex, interviewing witnesses, complainants and perpetrators; contentious and politically sensitive matters; dealing with complex textual, financial and numerical information; preparing reports and findings in cases investigated; carrying out research; negotiating and mediating at a variety of levels; and managing a many large, varied and complex investigations.

In Sports law

- Advised FIFA on the setting up of a local subsidiary.
- Advised the South African Golf Association on various contractual negotiations and disputes.
- Represented Athletics South Africa in the Labour Court.
- Advised Mamelodi Sundowns FC various disputes.
- Conducting an investigation as an independent investigator for the Western Province Rugby Union in relation to claims made by a senior employee.
- Instituted proceedings on behalf of World Artists against various international and national sportsmen.
- Advising Esportif International in relation to terminating the services of various agents and general advice.
- Represented approximately 32 current and former Proteas at the King Commission of Inquiry into Cricket Match-Fixing in 2000.