

ACSA LITIGATION CONSOLIDATED REPORT -AS AT 20 June 2018

	PARTY	YEAR MATTER LAUNCHED	NATURE OF MATTER	RELEVANT DETAILS OF MATTER	STATUS
ACTION INSTITUTED AGAINST ACSA					
1	Big Five	2009	Review of tender award	<p>✓On 09 October 2017, ACSA filed its Notice of application for leave to appeal to the Constitutional Court. Big Five has 10 days from that date to file their opposition. On 19 October 2017, Tourvest who appear as the Third Respondent in the application for leave to appeal filed an affidavit supporting the application.</p> <p>✓On 23 October 2017, Big Five filed an answering affidavit. VACSA must file the record on 6 April 2018 and its Heads of Argument on 20 April 2018 and Big Five on 4 May 2018.</p> <p>✓On 04 May 2018, Big Five filed their Heads of Argument.</p>	Awaiting Judgement
2	Rapivest 12 (Pty) Ltd	2017	Eviction Application	ACSA has brought an eviction application against Rapivest 12 (Pty) Ltd trading as Shimansky. Shimansky has refused to vacate the premises at Cape Town International Airport. The tender for DFS 13 was awarded to Browns Airside in 2015. Tourvest Holdings (Pty) Ltd then brought a Review Application which it withdrew on 24 August 2017. Shimansky has been in occupation of the premises throughout the period of the Review Application and due to the withdrawal of the Review Application by Tourvest they were given 30 days notice to vacate the premises in order for Browns to take occupation. Shimansky has refused to vacate the premises.	Ongoing, Browns has appealed matter to Constitutional Court
3	Rapivest 12 (Pty) Ltd	2017	Review Application	Rapivest 12 (Pty) Ltd trading as Shimansky has brought a review application against the award of the tender for a lease for DFS 13 to Browns Airside cc. A Review Application was initially brought by Tourvest Holdings (Pty) Ltd ("Tourvest") and Rapivest did not participate in that Review Application, only when Tourvest withdrew their Review Application did Rapivest institute Review proceedings.	Ongoing, Browns has appealed matter to Constitutional Court
4	Exclusive Books	2015	Review of tender award	On 08 April 2015, CTIA awarded a tender to Malset (Pty) Ltd which tender was for six speciality retail stores. Malset (Pty) Ltd is another entity formed by the directors of Amger Retailing. Malset (Pty) Ltd was established in 2014.	Ongoing litigation

5	Exclusive Books	2015	Review of tender award	On 18 June 2014, Exclusive Books informed by ACSA that it has lost a tender bid at ORTIA. Exclusive Books had lost the tender bid as a result of non-compliance with the mandatory requirements that required it to provide a tax clearance certificate, and was also non-compliant with regards to the rental-price specifications. On 07 September 2016 all Supplementary Affidavits served and filed, now Exclusive Books to consolidate matters for a single court date.	Ongoing litigation
6	Bayasivuma Trading CC	2015	Contractual Claim	On 16 February 2015, ACSA was served with summons by the Plaintiff for damages resulting from ACSA allegedly having breached the contract awarded to the Bayasivuma. During 2011, Bayasivuma was awarded a contract and it subsequently turned out that by the time the award was made, there was no need for this service anymore. As a result, no order was placed with the service provider, who is now suing for damages suffered. We have attempted, between December 2013 and March 2014 to amicably resolve this matter by offering Bayasivuma the profit they could have made had the orders been placed, unfortunately all attempts were unsuccessful as the Bayasivuma demanded to be paid R12 million for a contract that was worth R1 million.	Ongoing litigation
7	African Harvest Strategic Investment & Up-Front Investment	2015	Share-Buyback	African Harvest has brought an application to make the valuation report of their shares an order of court.	Ongoing litigation
8	Executive Carports	2015	Review of tender process	Executive Carports brought an urgent interdict with the aim of interdicting the awarding of the tender to the winning bidder. Executive Carports state that they were maliciously prevented from participating in the tender process by ACSA and that ACSA had a contractual obligation to include Executive Carports in the process. They argue that ACSA was supposed to notify executive carports should there be any future tenders.	Awaiting Judgement

9	Tswelokgotso Trading Enterprise	2016	Spoilation Application	TTE was placed on breach by ACSA for failing to make payments for occupying the ORTIA gym. TTE failed to remedy the breach and ACSA terminated contract, prevented them from entering the gym and in essence evicted them. Estimated outstanding payment is R5.8m. Currently gym locked, TTE's gym equipment in the locked gym. In short, (1) TTE not occupying gym- the gym is closed.	Ongoing litigation
10	Tswelokgotso Trading Enterprise	2016	Contractual Claim	In January 2016, ACSA informed TTE that its contract for surface maintenance accordingly terminates on 28 February 2016. TTE disputed termination date, instead arguing that contract terminates on 17 June 2016. In short, (1) TTE not providing maintenance services and not on site for surface maintenance contract. Note-TTE on site for the grass cutting contract, (2) new service provider who won tender currently providing surface maintenance services, (3) ACSA opposing papers connected to March court decision and 29 June contempt of court filed by ACSA and awaiting TTE's response, (4) Jail committal removed from court roll on 26 July 2016 as a result of ACSA's opposing papers to previous court judgments, (5) ORTIA processing payments for TTE for work done before contract termination on or about 17 June 2016.	Ongoing litigation
11	DV8 Consulting	2015	Monetary Claim	Service provider advised ACSA on 26th August 2015 that it intends to refer the contractual dispute between the parties to arbitration. The dispute relates to the an alleged contractual agreement the parties had for website design and internet support entered into in 2012. The service provider alleges that ACSA owes it money for services rendered and ACSA disputes this claim.	Ongoing litigation
12	Kanash Trading CC T/A Nas Waste Management	2014	Monetary Claim	Kanash Trading CC instituted legal proceedings against Skytanking Calulo and the Airport Company South Africa by way of simple summons to claim payment of an amount of R752 400-00 in respect of work done and services rendered for desludging septic tanks at the fuel farm situated at King Shaka Airport, a property leased by Skytanking Calulo.	Ongoing litigation

13	Cochrane Projects (Pty)Ltd	2017	Review of tender award	Cochrane Projects submitted a tender for an opportunity to manufacture, supply and install a perimeter fence at the East London airport. The tender closed in September 2016 and was specifically for an original equipment manufacturer(OEM). Cochrane Projects submitted a tender with documents from multiple companies under their umbrella and did not form joint ventures as per the tender requirement. The subsidiary that applied for the tender did not qualify as an OEM therefore the tender was awarded to another bidder. On 5 June 2017, Cochrane Projects served ACSA with an urgent application to halt the successful bidder from implementation of tender while they dispute the award. The urgent application was set down for 6 June 2017.	Ongoing litigation
14	THG	2017	Contract Claim	30 May 2017, received an application from THG to make an Arbitration Award dated 21 September 2016, an order of Court in terms of section 31 of the Arbitration Act. This Award stems from a settlement between ACSA and THG regarding repairs to the leased premises as well as outstanding rental. It was agreed that ACSA would be done with repairs on 01 March 2017 and during the repairs THG would pay all outstanding rental into their attorneys trust account, which amount will be paid in full once the repairs are completed and have been certified by a qualified Engineer. Until date ACSA has not attended to the repairs due to fact that the information the settlement was based on was outdated and it is not possible for ACSA to have completed the repairs before the deadline.	In process of settlement
15	EZ Trade 536 cc t/a Corporate Cleaning and Hospitality	2017	Review of Tender Cancellation	EZ Trade 536 cc t/a Corporate Cleaning and Hospitality ("Corporate Cleaning") has brought an application for the review and setting aside of the cancellation of the OR Tambo cleaning tender under tender number ORT 528/2015; ORT 524/2015 and ORT 525/2015.	Ongoing litigation
16	Isak Adrian Vlok and 20 Others	2017	None- Urgent Application	Isak adrian Vlok and 20 other meter taxi drivers have brought an urgent application to interdict and restrain ACSA from cancelling an agreement which was concluded with them to operate meter taxi's at Cape Town International Airport. In May 2016, ACSA addressed a letter to the meter taxi operators giving them 12 months notice that the agreement concluded with them would be terminated. ACSA wishes to put the taxi meter services out to tender.	Ongoing litigation

17	Imperial Group Limited	2018	Review of tender document	Imperial Group Limited has brought an application with a Part A and Part B. Part A is an application for an order compelling ACSA to provide the details of the tenders who submitted bids for the car hire tender. Part B is to review and set aside the RFB.	Awaiting Judgement
18	Delevex 679 cc	2018	Contractual Claim	Delevex 679 cc who provided cleaning services at ORTIA for the period between 01 April 2010 to 31 March 2012 are claiming they are owed industry related CPI which ACSA undertook to pay in addition to the agreed monthly cost of R150,000.	Ongoing litigation
19	Meneli Medicals	2018	Eviction Application	Meneli Medicals brought an application for Spoilation against ACSA. Meneli Medicals was operating under Transmed who were providing emergency medical services at ORTIA. The term for the provision of services by Transmed came to an end and a new company has been appointed and Meneli Medicals has refused to vacate the premises. ACSA pursuing eviction of Meneli Medicals.	Ongoing litigation
20	Raubex (Pty) Ltd	2018	Review of tender award	Raubex has brought an urgent application to interdict the implementation of tender DIA60/2017 for the construction of the Apron Stand and the Bravo Taxiway pending the outcome of a review application.	Interdict dismissed on 29 May 2018
21	SBOPLWS	2018	Review of Tender award	SBOPLWS has brought an application to review and set aside the awarding of the baggage wrapping tender to Urban Innovative Management	Ongoing litigation

22	Bonginkosi Mfusi	2018	Urgent Interdict	Bonginkosi Mfusi has brought an application to interdict the Minister of Transport from reappointing or extending the contract of ACSA's Chief Executive Officer pending the finalisation of the application under case number 80185/2017. ACSA is cited as the Fourth Respondent in the application.	Ongoing litigation
24	Tourvest Holdings	2015	Review of tender award	Tourvest instituted a review application against a tender award that was not in their favour. Tourvest argues against the application of the objective criteria related to the two shop rule and of giving preference to black women, people living with disabilities. Tourvest argues that the objective criteria is against section 217 of the constitution and the PPPFA.	Settled in July 2017
25	Umlamli Health	2015	Review of tender award	On 26 June 2015 were served with a spoliation application not to close access to Umlamli. On 7 July 2015 parties agreed to the spoliation and access not closed to Umlamli. Subsequently were served with a Review Application challenging the award of a tender to another bidder. Umlamli operates a pharmacy at ORTIA. In Review Application, Umlamli request that Junxion Bonvoyage, who won the tender, be interdicted from competing unlawfully through the use of their confidential information and trade secrets that was made available to them by a former employee who is a director of Junxion. Junxion has not taken occupation of new space, and Umlamli still occupying space of another new tenant.	Settled in November 2017
26	Skywise Airlines	2015	Monetary Claim	Skywise Airlines claims ACSA grounded it and therefore it lost confidence of public and potential investors, and that ACSA grounded Skywise Airlines for failing to make payments in terms of the parties' agreement whereas ACSA should have used for payment the deposit paid and with it. Skywise Airlines still suspended until payments received by ACSA	ACSA obtained judgement in matter and are in process of obtaining warrant of execution.

27	G4S Aviation Security (SA) (Pty) Ltd	2016	Review of tender process	On 14 July 2016 ACSA issued a bid for a panel to provide licensed security services at all ACSA's airports. In terms of the RFB the evaluation process was meant to be a three staged process. Stage one comprising of the mandatory requirements. Stage 2 involved evaluating functionality or technical aspects of the bid. the third stage involved price and B-BBEE. G4S bid could not meet the mandatory requirements as they provided 700 security officers instead of the 1000 security officers as per the mandatory requirements. They further failed to their Work Place Skills Plan and Annual Report submission and proof of approval thereof. On the 27 of September 2016 ACSA informed G4S that their bid was unsuccessful. On or about 11 November 2016 ACSA was served with an urgent application that required a review of the tender process and that G4S be issued with the Licence to provide security services at ACSA operational airports	Closed in May 2017
28	Adpoint Trading	2016	Monetary Claim	Adpoint provides shuttle services at PE Airport. Adpoint signed the specimen agreement in the tender document but there were no annexures to reflect all the material and explicit terms of the agreement. ACSA inserted annexures and amounts as per tender submission but Adpoint disputed the inserted annexures. Adpoint sued ACSA for work done of value of R734 080.43 and ACSA subsequently paid but Adpoint proceeded with summons on the basis that they had cancelled the contract for breach of contract by ACSA as ACSA had initially failed to pay. The breach of contract is for the remaining period of the contract and for a value of R2 690 815.27.	Closed
29	Bidvest Protea Coin (Pty) Ltd	2017	Review of tender award	Bidvest Protea Coin served ACSA with a Notice of Motion on 1 March 2017. In the application, the interim order Part A: Bidvest prayed for ACSA to be compelled to provide them a licence to provide security services at airports operated by ACSA pending the finalisation of part B. To further appoint them as the ninth member of the appointed panel. In Part B of the application, Bidvest are requesting that the court review, correct or set aside the decision to appoint two of the appointed members of the panel, to review why Bidvest was not appointed to the panel and to subsequently appoint them to the panel.	Settled and Closed in July 2017

ACTION INSTITUTED BY ACSA

30	ACSA v BP, Chevron, Engen, Excel, Shell, Total (BP & 5 Others) (Contract Fuel Penalty)	2013	Monetary Claim	ACSA instituted action against BP & Participants for failure to maintain the required fuel levels at ORTIA for a period of three days. In terms of the contract, a fuel level below the minimum level shall result in a penalty of R5m per day of such minimum level. On or about July 2016 lawyers for BP & Participants indicated that they are not interested in settling this matter and are bringing their expert to support their view that the contamination was due to force majeure.	Settled and Closed in November 2017
31	ACSA// Tswelokgotso Trading Enterprise - Wellness Centre	2017	Monetary Claim	Claim for outstanding rent for the Wellness Centre at OR Tambo International Airport.	Ongoing
32	Unlawful Occupiers Swartklip v ACSA	2017	None	During week of 15 May 2017, unlawful squatters invaded ACSA's premises (purchased from Denel) in Swartklip in Cape Town. ACSA's Public Safety and Security Department in Cape Town attempted to resolve the matter with the SAPS as well as other Municipal law enforcements via discussions as well as relying on the judgment received by Denel against unlawful squatters, when Denel was still the registered owner. This proved unsuccessful and accordingly the matter was referred to ACSA Legal on 24 May 2017.	Ongoing
33	ACSA v Tswelokgotso Trading Enterprise (Review Application: Procurement Process (grass cutting tender))	2015	Review of tender award	ACSA instituted review proceedings in respect of the award of a grass cutting tender. Review, primarily based on 2 grounds: (1) the irregular disqualification of bidders who failed to sign the Record of Addendum; (2) the irregular qualification and award of the tender to TTE when it failed the mandatory stage - it had 3 non-conformance letters against it.	Awaiting Judgement
34	ACSA v Jabu Mabaso	2017	None	Jabu Mabaso is has been trespassing on ACSA's NEMA protected land at Mount Moreland which is 9km away from KSIA. Jabu Mabaso has demolished some of the indigenous plants and insists on coming on to the land in order to perform rituals and to build on the land. ACSA has instituted proceedings to interdict her from coming on to the property.	Ongoing
35	ACSA v Tswelokgotso Trading Enterprise (Fuel)	2018	Monetary Claim	ACSA has brought a claim against TTE for the amount owed for fuel consumed ORTIA between 23 September 2014 to 30 November 2017 in the amount of 961365,25 .	Ongoing

COMPETITION LAW				
36	ACSA vs Tourvest (Uncompetitive bidding)	2013	Competition Law referral	ACSA reported Tourvest to the Competition Commission for uncompetitive bidding in the arts and curio tender process, after the tender was awarded in November 2013. The Competition Commission is investigating and is in the process of finalising its investigation.