

- **THE PRINCIPLES APPLICABLE TO OUTSOURCING OF ANY BUSINESS FUNCTION, ESPECIALLY IN THE LIGHT OF THE RECENT LAC JUDGMENT IN AUSA & BARNES v SAA;**
- **WHAT IS CONSTRUCTIVE DISMISSAL AND WHEN CAN EMPLOYEES CLAIM CONSTRUCTIVE DISMISSAL; AND**
- **PROTECTION OF EMPLOYEES FOR PROTECTED DISCLOSURES – WHAT DOES IT MEAN AND WHEN DOES IT APPLY**



There have been recent development in the field of labour law about the whole issue of outsourcing and there is a recent judgment of the Labour Appeal Court in AUSA OBO Barnes & Others v SAA & Others in this regard. This judgment will have a material impact on the issue of outsourcing as well as the service industry and freedom of employers to outsource. This will be discussed in this seminar.

The next issue to consider is that employees often threaten and allege constructive dismissal and sue employers for constructive dismissal. It is therefore important to determine what exactly Constructive dismissal is and when can employees claim constructive dismissal.

The final topic for discussion is also a topic that has recent features in several cases and dismissal disputes, being that of employees claiming indemnity against dismissal as a result of alleged "protected disclosures." We shall discuss in this seminar exactly what does "protected disclosure" mean and when can employees rely on this provision.

Speaker
Sean Snyman

Who should attend
CEOs, Directors, Senior Management

Region	Date	Venue	RSVP
Cape Town	26/02/2010	MTN ScienCentre, Century City.	http://www.labournet.com/CapeTown.aspx?city=cpt
Midrand	24/03/2010	Kyalami Country Club.	http://www.labournet.com/Midrand.aspx?city=midrand
East London	17/03/2010	Ster Kinekor Cinemas, Vincent Parjk Centre.	http://www.labournet.com/EastLondon.aspx?city=el
Port Elizabeth	10/03/2010	14-20 Pickering Park, Newton Park.	http://www.labournet.com/PortElizabeth.aspx?city=pe
Rustenburg	09/03/2010	Rustenburg Golf Club.	http://www.labournet.com/Rustenburg.aspx?city=rust
Bloemfontein	TBC	TBC	http://www.labournet.com/Bloemfontein.aspx?city=bfm
Durban	TBC	TBC	http://www.labournet.com/Durban.aspx?city=dbn
Johannesburg East Rand	26/03/2010	Jordan's Café, Al Ridge Shopping Centre, Bartlett.	http://www.labournet.com/EastRand.aspx?city=er
Johannesburg North	TBC	TBC	http://www.labournet.com/JohannesburgNorth.aspx?city=jhbnorth
Johannesburg South	11/03/2010	Glenvista Country Club.	http://www.labournet.com/JohannesburgSouth.aspx?city=jhbsouth
Johannesburg West	TBC	TBC	http://www.labournet.com/JohannesburgWest.aspx?city=jhbwest

In addressing the above, we shall specifically address the following:

1. Employers often want to outsource such as cleaning or security or payroll or even their workforce to external service providers. This is however not as simple as it seems, as the provisions of Section 197 of the LRA come into play, and could expose employers to automatic unfair dismissal claims if this is not properly done;
2. Even more importantly, the recent judgment in AUSA v SAA has further troubled the waters, in that where a company wants to change external service providers after first outsourcing, Section 197 again comes into play;
3. The judgment in AUSA v SAA also has a direct and material impact on service provider employers, such cleaning and security companies as well as labour brokers. This must also be especially explored, so as to determine what such companies must and can do to avoid an automatic unfair dismissal claim;
4. The next issue concerns the more and more regular occurrence of employees that are under pressure at work or being faced with consultation proceedings or disciplinary hearings alleging constructive dismissal, and then leaving and suing their employers for constructive dismissal. Employers thus have to know what constructive dismissal is, and when can it be used as a legitimate claim against an employer;

Finally, we at Labournet have experienced several instances of employees also using the principles of protected disclosure when they are being disciplined by employers. Employees allege that they are being victimised by an employer because of some or other disclosure they had made, and as such, that they cannot be disciplined. It is therefore also important to establish the principles around protected disclosures, as these principles in fact may give an employee indemnity, so to speak, against disciplinary action, and would render any dismissal as a result of the same an automatic unfair dismissal.