

SPECIAL TRIBUNAL OF SOUTH AFRICA
Judgment summary

<i>Special Investigating Unit and Another v Zibani and Others</i>	
URL	https://lawlibrary.org.za/za/judgment/special-tribunal-south-africa/2022/30
Citations	(GP 15 of 2020) [2022] ZAST 30
Date of judgment	4 May 2022
Keyword(s): ¹	Damages, fraudulent schemes
Case type ²	Civil trial
Result	The plaintiffs succeeded in establishing on a balance of probabilities that the defendants' actions supported the fraudulent schemes.
Flynote ³	Special Investigation Units and Special Tribunals - maladministration of State institutions – fraudulent schemes – law of evidence – balance of probabilities
Legislation and International Instruments ⁴	<ul style="list-style-type: none"> ● Special Investigating Units and Special Tribunals Act 74 of 1996 (sections 3(2) and 8(2)) ● Law of Evidence Act 45 of 1998 (section 3)
Cases cited as authority ⁵	<ul style="list-style-type: none"> ● <i>Take & Save Trading CC and Others v The Standard Bank of SA Ltd</i> 2004 (4) SA 1 (SCA) ● <i>Ferreira v Levin NO and Another</i> 1996 [2] SA 621 (CC) ● <i>Public Protector South Africa v South African Reserve Bank</i> 2019 (6) SA 423 (CC) ● <i>Vassen v Law Society of the Cape</i> 1992 [4] 534 (SCA)
Facts ⁶	The plaintiffs sought to claim damages from the defendants relating to two fraudulent schemes designed by the first defendant. The fraudulent schemes resulted in the payment of monies by the office of the State Attorney to the defendants based on fraudulent invoices for services which were not rendered. The trial proceeded in the defendants' absence due to the defendants' failure to comply with the tribunal rules and to appear for the trial.
Summary ⁷	The Tribunal was required to determine whether, on a balance of

¹ Clarify the type of issues that come up in the case.

² Whether Trial, Application or Appeal.

³ **Area of law** - topic – subtopic.

⁴ Legislation/ International instrument title and section numbers.

⁵ List of cases considered to be important precedent (case name and citation).

⁶ Brief facts about the case (max 150 words).

⁷ Summary of the determination of legal questions and/or grounds of appeal (between 150-250 words).

	probabilities, the plaintiffs were able to establish that the first defendant had masterminded the two schemes to defraud the office of the State Attorney. The Tribunal was also required to determine whether the second, third and fourth defendants were complicit in the commission of the fraudulent schemes.
Decision/ Judgment ⁸	The Tribunal found that, on a balance of probabilities, the plaintiffs succeeded in establishing that the first defendant had masterminded the two fraudulent schemes and that the second, third and fourth defendants were complicit in the commission of the fraudulent schemes. In addition to the respective damages payable by each of the defendants, the Tribunal awarded costs against all the defendants on a punitive scale due to the circumstances under which the fraud was committed, namely, by an officer of the court and that the conduct of all the defendants was found to be exceptionally vexatious and dishonest.
Basis of the decision ⁹	The plaintiffs successfully established on a balance of probabilities that the defendants had committed the fraudulent acts as alleged, by presenting the required evidence of witnesses, analysis and findings. The trial proceeded on a default basis as a result of the defendant's failure to comply with tribunal processes and appear before the tribunal as required.
Reported by Date	African Legal Information Institute (AfricanLII) 8 May 2022

⁸ A brief summary of the ruling/judgment of the court (max 100 words).

⁹ A 1-2 sentence summary of the basis of the decision (i.e. which legal rules were relied on).