



Attention:

The Honourable Judge Mr Wilson

c/o Mr T Chauke
tichauke1@judiciary.org.za

Our Ref: Ms R Webster

Email: iwirc@iwirc-sa.com

CC: Webber Wentzel

Attorneys for **NDALAMO COAL (PTY) LTD**
Christopher.holfeld@webberwentzel.com

CC: Mkhabela Huntley Attorneys

Attorneys for **WESCOAL MINING (PTY) LTD & SALUNGANO GROUP LIMITED**
enabor@mhalaw.co.za and
qayle@mhalaw.co.za

CC: Cox Yeats Attorneys

Attorneys for **PL MKHOMBO N.O. & ARNOT OPCO (PTY) LTD**
gcremen@coxyeats.co.za and
bletsholo@coxyeats.co.za

CC: Liebenberg Malan Mofolo Inc.

Attorneys for **MASHWAYI PROJECTS (PTY) LTD**
Iitigation3@liebenberqmalan.co.za and
candidate@liebenberqmalan.co.za

Date: 24 October 2023

Dear Honourable Justice Wilson

IN RE: WESCOAL MINING (PTY) LTD ANOTHER v MKHOMBO NO AND OTHER (2023-079991)

IWIRC Southern Africa Network NPC (K2022/622714/08)

Tax Number: 913485262

Directors:

Nastascha Harduth (Chairperson), Thabang Sophie Kekane (Vice-Chairperson), Zeenath Kajee (Treasurer), Roxanne Eliza Evelyne Webster (Secretary), Rene Bekker, Bridget Letsholo,

Registered Address:

20 Kaptein Jan Street, Rietondale, Pretoria, Gauteng, 0084



1. We have received an email sent by your secretary, Mr Chauke, to the respective parties to the matter in which you invited interested parties to show cause, *inter alia*, why leave to appeal should not be granted to the Supreme Court of Appeal. We write to you pursuant to this email.
2. By way of introduction, IWIRC Southern Africa Network NPC (K2022/622714/08) ("**IWIRC-SA**") is a South African non-profit company. It acts as the Southern Africa Network of the International Women's Insolvency and Restructuring Confederation ("**IWIRC**"). IWIRC is a global organization, which is represented locally through its local networks (such as IWIRC-SA).
3. IWIRC is the first international professional association dedicated to enhancing the professional status of women in all disciplines of insolvency and restructuring. It pursues this goal through the promotion of communication and common interest among insolvency practitioners. IWIRC has over 2,100 members globally in insolvency, restructuring and related fields.
4. IWIRC-SA has reviewed the papers filed in the matter, including the judgment handed down on 2 October 2023 ("**the judgment**"), together with the application for leave to appeal. IWIRC-SA has been told that you will hear, *inter alia*, the application for leave to appeal on 30 October 2023.
5. The judgment raises important issues around the interpretation of "creditors" and "voting interest" The issues are novel and may have far reaching implications on the insolvency and restructuring profession. We are of the humble view that the importance of these issues requires clarification by the Supreme Court of Appeal, more particularly to ensure the balance of the rights of all stakeholders and the preservation of the noble purpose of business rescue as set out in section 7(b), (d) to (g) and (k) of the Companies Act, 2008.
6. IWIRC-SA believes that this matter goes beyond the individual interests of the cited parties. Accordingly, IWIRC-SA will in due course seek to be joined in the appeal if granted, as *amicus curiae* in terms of SCA Rule 16.

Yours Faithfully

Roxanne Webster

Roxanne Webster (Secretary)