

# **At what date is the accrual determined in divorce matters?**

1. There were conflicting decisions as to when the accrual in either party's estate should be determined. Without referring to the specific cases, there was one case in KwaZulu-Natal which indicated that the time for determining the accrual was at *litis contestatio* (closing of pleadings) and also a case in the South Gauteng High Court, which expressed similar sentiments.
2. However, in another matter also in the South Gauteng High Court and the Northern Cape High Court, it was determined that the date of determining the accrual was on date of divorce, in other words, when the marriage was dissolved (date of the divorce order).
3. This issue has now been finally settled by a judgment of the Supreme Court of Appeal of South Africa, delivered on 24 March 2016, and which is marked reportable, namely *Andrew Charles Brookstein v Jeanette Brookstein* - Case No. 20808/2014, which determined that the date of determining the accrual in terms of the Matrimonial Property Act, is the date on which the marriage is dissolved, which, as you know, is binding on all the divisions of the High Court of South Africa.