



## OFFICE OF THE JUDGE PRESIDENT

### GAUTENG DIVISION OF THE HIGH COURT OF SOUTH AFRICA

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E-mail: [NWalkinshaw@judiciary.org.za](mailto:NWalkinshaw@judiciary.org.za)

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8 May 2020

1. Legal Practice Council – Gauteng
2. Law Society of South Africa
3. Johannesburg Society of Advocates
4. Gauteng Society of Advocates
5. Pan African Bar Association of South Africa
6. Gauteng Family Law Forum
7. Gauteng Attorneys Association
8. Pretoria Attorneys Association
9. Johannesburg Attorneys Association
10. West Rand Attorneys Association
11. Far West Attorneys Association
12. General Council of the Bar of South Africa
13. National Bar Council of South Africa
14. National Forum of Advocates
15. Pretoria Society of Advocates
16. North Gauteng Association of Advocates
17. Church Square Association of Advocates
18. Centurion Society of Advocates
19. Advocates for Transformation
20. Black Lawyers Association
21. National Association of Democratic Lawyers
22. Office of the Director of Public Prosecutions, Pretoria and Johannesburg

23. Office of the Solicitor General on behalf of the State Attorney, Pretoria and Johannesburg
  24. Office of the State Attorneys, Pretoria and Johannesburg
  25. Legal Aid South Africa
  26. The Tax Court, Gauteng
  27. South African Sheriff Society
  28. South African National Association of Progressive Sheriffs
  29. The South African Women Lawyers Association
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## **MEMORANDUM**

**In re: Application of the Covid-19 Directives issued in the High Courts of the Gauteng Division**

In order to improve functionality and efficiency in the application of the Directives issued for the Gauteng Divisions of the High Court and after consultation with the Professions and other Stakeholders, the following clarifications are made and where appropriate, the Directives of 25 March 2020 and of 24 April 2020, as revised, shall be duly amended.

### **REQUESTS FOR AN ORAL HEARING**

1. The general principle is that a litigant that wishes to make oral submissions is entitled to do so and the Judge seized of the matter shall exercise a discretion as to how that can be facilitated. This implies that if it is not possible to facilitate an effective oral hearing, the matter may be removed.
2. Paragraph 37.2 of the Directive of 24 April 2020 should be read to conform to this principle.

## APPLICATIONS LODGED AFTER 1 MAY 2020 TO SET DOWN NEW MATTERS

3. Litigants shall be entitled to set down matters in accordance with the usual practice of the Courts, save that process must be addressed to the designated email addresses and not delivered physically to the court houses.

### 3.1 In Pretoria:

[PTAUdateapplications@judiciary.org.za](mailto:PTAUdateapplications@judiciary.org.za) for all unopposed motion date applications excluding default judgments as per ADJP Potterill's instruction;

[PTAUEnrolment@judiciary.org.za](mailto:PTAUEnrolment@judiciary.org.za) for confirmation of the date for final set down;

[PTAOEnrolment@judiciary.org.za](mailto:PTAOEnrolment@judiciary.org.za) for Opposed motions;

[TLegodi@judiciary.org.za](mailto:TLegodi@judiciary.org.za) for Admissions;

[JCMform5PTA@judiciary.org.za](mailto:JCMform5PTA@judiciary.org.za) for Judicial Case Management - Form 5;

[JCMform6PTA@judiciary.org.za](mailto:JCMform6PTA@judiciary.org.za) for Judicial Case Management - Form 6;

[TLedwaba@judiciary.org.za](mailto:TLedwaba@judiciary.org.za) for Civil Trials (RAF Matters);

[CivilTrialApplicationsPTA@judiciary.org.za](mailto:CivilTrialApplicationsPTA@judiciary.org.za) for application for trial dates;

[JHefer@judiciary.org.za](mailto:JHefer@judiciary.org.za) for all settled trial matters (non RAF matters);

[MMohlala@judiciary.org.za](mailto:MMohlala@judiciary.org.za) for all settled RAF trial matters;

### 3.2 In Johannesburg:

[JHBUprovisional@judiciary.org.za](mailto:JHBUprovisional@judiciary.org.za) for application for a date (provisional set down) of Unopposed Motion, Summary Judgment, Rule 43, Divorces and Interlocutory applications where no trial date is set;

[JHBUEnrolment@judiciary.org.za](mailto:JHBUEnrolment@judiciary.org.za) for confirmation of the date for final set down

[JHBOEnrolment@judiciary.org.za](mailto:JHBOEnrolment@judiciary.org.za) for Opposed motions

[JHBadmissions@judiciary.org.za](mailto:JHBadmissions@judiciary.org.za) for Admissions and Trial Interlocutory applications

[JHBpretrial@judiciary.org.za](mailto:JHBpretrial@judiciary.org.za) for Case Management Conferences

[JHBciviltrials@judiciary.org.za](mailto:JHBciviltrials@judiciary.org.za) for Civil Trials

### 3.3 The following protocol shall apply:

3.3.1 An email must be sent to only the relevant email address

3.3.2 An email must be sent only once

3.3.3 Emails must be sent only between 09:00 and 13:00 on court days

3.3.4 Directive 2/2020 remains in place, where no more than 15 processes per law firm should be sent on a daily basis

## **VIDEO LINKS LOGISTICS:**

**Unopposed motion court, Divorce Court, Judicial Case Management, Case Management Conferences, Interlocutory Court, Rule 43 Court and Admissions as legal practitioners**

4. Each of these courts have rolls comprising several matters. How video links are set up is within the discretion of the Judge presiding in these courts.
5. Among the options, is for a single link to be set up at the Judge's initiative for the whole roll which is published to the Professional Bodies and relayed to interested attorneys and counsel. The counsel appearing shall then join the video hearing and take turns at having their matters heard.

## **RULE 43 APPLICATIONS**

6. These applications shall be dealt with on the same basis as unopposed applications. With regard to opposed Rule 43 applications, these shall be dealt with as provided in the respective practice manual of the court concerned.

## **OPPOSED MOTIONS WITH MULTIPLE PARTIES**

7. In any opposed motion in which more than two parties are before the court and the matter is either complex or involves several issues of either a procedural or substantive nature, counsel for the several parties must hold a pre-hearing conference and prepare a coherent agenda to present to the Judge seized of the matter addressing the efficient conduct of the hearing.
8. The Agenda should be transmitted in advance of the date for hearing, preferably at least 5 days, in a Joint practice note to facilitate, where necessary a pre-hearing conference with the Judge.

9. The Judge shall not be bound by such agenda and may exercise a discretion to vary it.

## **CIVIL TRIAL ROLL AND SETTLEMENTS ROLL: PRETORIA**

10. Paragraph 8.3.3 of the Directive of 24 April 2020 requires settled RAF matters to be referred to the Settlements Roll. The reference to no costs orders being made means that no costs shall be allowed for the enrolment and appearances at the roll call as dealt with for the duration of the disaster management restrictions.

## **ORDERS GRANTED BY JUDGES IN CHAMBERS**

11. All applications which traditionally are dealt with by a Judge in chambers shall only be dealt with if uploaded to CaseLines.
12. Matters which have already been issued in physical format shall not be dealt with and the responsible Registrar shall notify such litigants to upload the papers on CaseLines whereupon they will be distributed to Judges to address. The Registrar will upload the order on CaseLines.
13. Rule 46(11) applications for the cancellation of a sale in execution are a special case: where the property which is the subject of the sale in execution is a residential property which is or was a primary residence, the application shall be dealt with in the Unopposed Court. Where the property was not a primary residence it may be dealt with in chambers.

## **AFFIDAVITS TO AUTHENTICATE GRADUATION CERTIFICATES IN APPLICATIONS FOR ADMISSION AS LEGAL PRACTITIONERS**

14. Paragraph 94.5 which requires counsel to furnish an affidavit shall be amended to reflect that the affidavit shall be given by the attorney of record.

#### **AFFIDAVITS TO AUTHENTICATE MARRIAGE CERTIFICATES IN UNOPPOSED DIVORCES**

15. Paragraphs 67.4 and 73.5 which require counsel to furnish an affidavit shall be amended to reflect that the affidavit shall be given by the attorney of record.

#### **APPEARANCES BY VOLUNTARY LEGAL PROFESSIONAL BODIES AT HEARINGS FOR ADMISSION AS LEGAL PRACTITIONERS**

16. Paragraph 94.2 which provides that the Legal Practice Council shall be invited to CaseLines shall be amended to include also, the Voluntary Legal Professional Bodies in Gauteng. In respect of the Johannesburg Society of Advocates: Adv. P Seleka SC, email address - [selekapg@duma.nokwe.co.za](mailto:selekapg@duma.nokwe.co.za) and in respect of the Pretoria Society of Advocates: Adv. N Maritz SC, email address - [maritzng@law.co.za](mailto:maritzng@law.co.za)

#### **MATTERS THAT ARE NOT UPLOADED TO CASELINES SHALL NOT BE AUTOMATICALLY REMOVED**

17. It is the responsibility of litigants to comply with the practices of the Division and that include the duty to upload papers on CaseLines.

18. Where that has not been done and a satisfactory explanation can be proffered to the Judge the failure to upload may be condoned.

19. However, the basic principle is that the particular hearing must be an effective one and the Judge seized of the matter shall exercise a discretion as to whether or not that aim can be achieved where the papers are not uploaded.

#### **PROCESS TO BE SERVED BY THE SHERIFF**

20. Litigants are advised that they may invite the office of the relevant Sheriff to CaseLines to afford remote access to the papers.

#### **URGENT COURT: CERTIFICATES NOT AFFIDAVITS BY COUNSEL IN URGENT MATTERS**

21. The reference in paragraph 79.2 of the Directives of 24 April 2020 to an Affidavit to be submitted by Counsel; shall be amended to reflect that a certificate in the terms set out therein be given.

#### **URGENT COURT: ISSUE OF CASE NUMBERS**

22. Paragraph 3.3 of the Directive of 25 March states that all urgent matters would henceforth be dealt with on the after-hours basis and a case number had to be obtained from the Senior Judge's Secretary. This was suitable for a short-term lockdown but not for an indefinite regime of restrictions.

23. The profession shall be notified to revert to the orthodox system and Secretaries shall, from 8 May 2020, no longer issue a case number except for that immediate week's roll during office hours.

23.1. In Pretoria: [GeneralofficePTA@judiciary.org.za](mailto:GeneralofficePTA@judiciary.org.za)

23.2. In Johannesburg: [JHBissuing@judiciary.org.za](mailto:JHBissuing@judiciary.org.za)



## COMMUNICATIONS BY EMAIL WITH THE OFFICE OF THE REGISTRAR

24. The primary channel of communication for any aspect of any matter is to the relevant Registrar's email address.

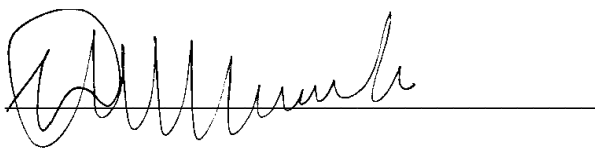
25. It is important to furnish in any email to the Registrar the relevant email address that is to be used for any CaseLines link and for video link invitation. Failure to provide the correct information inhibits effective communication and frustration to all involved.

26. The protocols in paragraph 3.3 above shall apply.

27. Difficulties, if any, in uploading papers to CaseLines or assistance with case creation, must not be addressed to the Chief Registrar or Office of the Judge President, but should be sent to the dedicated CaseLines support email address:

27.1. In Pretoria: [PTACaselines@judiciary.org.za](mailto:PTACaselines@judiciary.org.za)

27.2. In Johannesburg: [JHBCaselines@judiciary.org.za](mailto:JHBCaselines@judiciary.org.za)

A handwritten signature in black ink, appearing to read 'D Mlambo', is written over a horizontal line.

**D MLAMBO**

**JUDGE PRESIDENT OF THE GAUTENG DIVISION OF THE  
HIGH COURT OF SOUTH AFRICA**