OFFICE OF THE DEPUTY JUDGE PRESIDENT

(HIGH COURT OF SOUTH AFRICA, GAUTENG DIVISION, JOHANNESBURG)
OFFICE 1210

Telephone number: 010 494 8491
e-mail address: Secretarydjp@judiciary.org.za / LTulleken@judiciary.org.za

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NOTICE

TO:

1. **Judges of the Gauteng Division, Johannesburg**
2. **Chief Registrar, Gauteng Division, Johannesburg**
3. **Secretariat – Judicial Case Flow Management, Office of the Chief Justice**
4. **Registrars – Gauteng Division of the High Court, Johannesburg**
5. **Legal Practice Council – Gauteng**
6. **Law Society of South Africa**
7. **Gauteng Family Law Forum**
8. **Gauteng Attorneys Association**
9. **Pretoria Attorneys Association**
10. **Johannesburg Attorneys Association**
11. **West Rand Attorneys Association**
12. **South African Black Women in Law**
13. **National Association of Democratic Lawyers**
14. **Black Lawyers Association**
15. **South African Women Lawyers Association**
16. **South African Medical Malpractice Lawyers Association**
17. **Personal Injury Plaintiff Lawyers Association**
18. **South African Medico-Legal Association**
19. **Office of the Director of Public Prosecutions, Pretoria and Johannesburg**
20. **Office of the State Attorneys, Pretoria and Johannesburg**
21. **Solicitor General**
22. **Office of the Family Advocate, Pretoria and Johannesburg**

23. **Legal Aid South Africa**
24. **Johannesburg Society of Advocates**
25. **Pretoria Society of Advocates**
26. **Gauteng Society of Advocates**
27. **Tshwane Society of Advocates**
28. **Pan African Bar Association of South Africa**
29. **General Council of the Bar of South Africa**
30. **National Bar Council of South Africa**
31. **South African Bar Association**
32. **National Forum of Advocates**
33. **North Gauteng Association of Advocates**
34. **Church Square Association of Advocates**
35. **Advocates for Transformation**
36. **Legal Division of the Department of Health: Gauteng**
37. **Legal Division of the Department of Sport, Arts, Culture and Recreation**
38. **Gauteng Department of Agriculture and Rural Development**
39. **Legal Services - Gauteng Provincial Department of Education**
40. **South African Board of Sheriffs**
41. **South African Sheriff Society**
42. **Road Accident Fund**

DATE : 16 November 2026

OUR REF : DJP/291/2018/lt

RE : **RECIRCULATION OF THE DIRECTIVE OF 06 OCTOBER 2025 – TREATMENT OF DISPUTES ABOUT ARBITRATIONS IN THE GAUTENG COMMERCIAL COURT**

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1. On 06 October 2025, the then Acting Judge President of this Division, Ledwaba AJP, issued a Directive titled *"Treatment of Disputes about Arbitrations in the Gauteng Commercial Court"* ("the Directive"). A copy of the Directive is attached, together with the Gauteng Commercial Court Practice Directives (revised with effect from 1 June 2022), to which it refers.

2. It has been brought to my attention by a senior practitioner who heads a group of advocates that, notwithstanding its earlier circulation, many attorneys and advocates remain unaware of the Directive. As a result, litigants in arbitration-related disputes are not obtaining the benefit of the expedited process the

Directive makes available. The Directive is accordingly recirculated, as is, and without amendment. It remains in full force and effect.

3. Practitioners are reminded of the following:

   3.1. In terms of item (h) of the schedule to the Commercial Court Practice Directives, a case is eligible for designation as a commercial case if it concerns an arbitration. This includes any dispute relating to an agreement to arbitrate, including specific performance of the agreement, the review of an award, a dispute about the arbitrator's jurisdiction, or any other dispute capable of adjudication by the courts.

   3.2. Paragraph 7.2 of the Practice Directives sets out four criteria for designation: complexity or novelty of law or of fact, a value of R25 million, or the public interest. Only one criterion needs to be satisfied. Because the arbitral process is premised on achieving expeditious outcomes, it is deemed to be in the public interest that the courts support that aspiration.

   3.3. A request for designation is made by email to the Office of the Deputy Judge President, setting out the relevant information. Upon receipt, a judge is appointed to case manage the matter to a hearing as expeditiously as circumstances require.

   3.4. The judicial case manager will resolve interlocutory disputes swiftly, after court hours where necessary; the assembly of documents is a targeted process designed to avoid lengthy discovery; and, where evidence is required, it is adduced by way of evidence statements, shortening hearings and enhancing the prospects of an earlier hearing date.

4. Practitioners acting in arbitration-related disputes, and in particular in the review of arbitral awards, are encouraged to make full use of the Directive. Requests for designation should be addressed to SecretaryDJP@judiciary.org.za.

5. The professional bodies and stakeholders to whom this letter is addressed are respectfully requested to bring the Directive to the attention of their members as widely as possible.

6. Your cooperation is appreciated.

Yours faithfully

Dictated by the Acting Deputy Judge President
Electronically transmitted, therefore no signature

T P MUDAU
ACTING DEPUTY JUDGE PRESIDENT

Annexures:

1. Directive of Ledwaba AJP dated 06 October 2025: Treatment of Disputes about Arbitrations in the Gauteng Commercial Court
2. Gauteng Commercial Court Practice Directive (revised with effect from 02 June 2022)

OFFICE OF THE ACTING JUDGE PRESIDENT A P LEDWABA
HIGH COURT OF SOUTH AFRICA, GAUTENG PROVINCIAL DIVISION

Gauteng High Court Building, Cnr Madiba & Paul Kruger Streets, Room 7.15, Seventh floor
Tel 012 315 7576 Email: HuMulaudzi@judiciary.org.za

6 October 2025

TO.

1. Judges of the Gauteng Division, Johannesburg
2. Chief Registrar, Gauteng Division, Johannesburg
3. Secretariat – Judicial Case Flow Management, Office of the Chief Justice
4. Registrars – Gauteng Division of the High Court, Johannesburg
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42. **Road Accident Fund**

TREATMENT OF DISPUTES ABOUT ARBITRATIONS IN THE GAUTENG COMMERCIAL COURT

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1. In terms of the Commercial Court rules of the Gauteng Division, a case is eligible for designation as a commercial case, among others, if it concerns an arbitration (schedule, item (h)). This encompasses any dispute which relates to an agreement to arbitrate, whether it be about specific performance of the agreement, a review of an award, or a controversy about jurisdiction of the arbitrator, or indeed any other reason for a dispute to arise which is capable of adjudication by the courts.

2. Para 7.2 of the Commercial Court rules provides four criteria for designation: Complexity or novelty of law or of fact or a value of R25 million or the public interest. Only one of these criteria is necessary to satisfy the requirements for designation. Because the Arbitration process is, by its very nature, premised on the achievement of expeditious outcomes, it is deemed to be in the public interest that courts support the fulfilment of that aspiration.

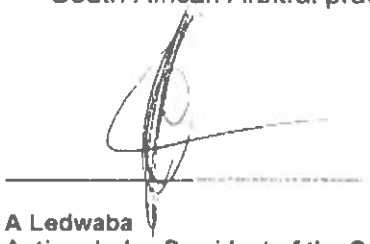
3. The procedure to initiate a request for designation, as detailed in the Commercial Court rules, is to address an email to the Office of the Deputy Judge President setting out the relevant information. Upon receipt a judge is appointed to manage the case to a hearing as expeditiously as circumstances require.



4. As the Commercial Court rules more fully set out, the judicial case manager shall resolve interlocutory skirmishes swiftly (Para 5.1), after court hours when necessitated, the assembly of documents is a targeted process to overcome lengthy discovery procedures (Para 26), and where evidence is required, it is adduced on evidence statements reducing the duration required for a hearing and thereby facilitating enhanced prospects of an earlier allocation of a hearing date.

5. Formal hearings are arranged as expeditiously as circumstances permit subject only to the logistical constraints inherent in the enrolment of cases.

6. Judicial Case Managers are cognisant of the imperatives of expedition in the process which, in turn, serves to sustain the credibility of, and confidence in, both South African Arbitral practice and the South African Judicial system.



A Ledwaba
Acting Judge President of the Gauteng Division
of the High Court of South Africa

ATTACHMENT
The Gauteng Commercial Court Practice Directive of 1 June 2022.

GAUTENG DIVISION OF THE HIGH COURT, JOHANNESBURG

COMMERCIAL COURT PRACTICE DIRECTIVES

(Revised with effect from 1 June 2022)

CHAPTER 1: GENERAL

1. The Commercial Court aims to promote efficient conduct of litigation in the High Court and resolve disputes quickly, cheaply, fairly and with legal acuity.

2. The Commercial Court is a Court administered as part of the High Court.

3. The Commercial Court may be used by litigants who have initiated or intend to initiate a trial action or an application in a commercial matter.

4. A commercial court case may be:
   4.1 an action
   4.2 an application
   4.3 an urgent application

5 The Judge allocated to case manage a commercial matter SHALL:

   5.1 determine any interlocutory issues at such times as the judges' schedule of commitments allows
   5.2 shall preferably hear the trial or application, unless an unavoidable delay in rostering the matter to be heard by that judge occurs, or other practical circumstances inhibit a retention of the matter by that judge.

6 The criteria for what types of cases constitute a commercial court case are indicated in schedule 1 to these directives. schedule 1 serves as a guideline to the type of case only and is not a closed list.

7 An application for a matter to be allocated as a Commercial Court case is made by delivering a letter to the deputy judge president. The letter must set out-

7.1 A broad and uncontroversial description of the case;

7.2 Why the case is a commercial case or should be considered as such, warranting treatment under the Commercial Court Directives. in particular, the following criteria for selection of a case must be addressed. the satisfaction of one criterion is sufficient to render a case eligible for selection:

7.2.1 complexity or novelty of law.
7.2.2 complexity of fact
7.2.3 value at stake is a minimum of r25 million rand.
7.2.4 public interest.

8 If the letter is not directed by all the parties to the suit, the letter must be copied to the other parties in the matter providing an email address for correspondence.

9 A party in receipt of a letter referred to above, and who wishes to make representations, may do so by sending a letter to the Judge President or Deputy Judge President within five (5) court days of receiving the letter requesting the case be allocated a Commercial Court case. A copy of the letter must be sent to the other parties, providing an email address for all correspondence.

10 The Judge President or Deputy Judge President will determine whether the case should be allocated as a Commercial Court case after an assessment has been made about whether, in the circumstances of the case, the intervention by a judge to case manage the matter to conclusion shall add any material value to the litigation process. In this regard, the earlier in the process a judge intervenes, the more likely that there shall be value added to the process.

11 The Judge President or Deputy Judge President shall inform the parties in writing of the outcome of the application.

12 All proceedings in the Commercial Court will be subject to management by the Court. in the event of one or more parties conducting themselves in a dilatory manner and thus contrary to the spirit of the commercial court system, the judge assigned to manage the matter may exercise a discretion to cancel the certification of the matter as a commercial case.

CHAPTER 2: BRINGING A TRIAL ACTION TO THE COMMERCIAL COURT

13. At any time after a summons has been issued out of the High Court, any party to the suit may apply to have the case allocated as a Commercial Court case.

14. If the case is allocated as a Commercial Court case, the Deputy Judge President will allocate a Judge to case manage the matter.

CHAPTER 3: THE FIRST CASE MANAGEMENT CONFERENCE

15. As soon as reasonably possible after the Commercial Court case is allocated to a Judge, the first Case Management Conference must be held at a time and date determined by the Judge allocated to the matter, on application by the plaintiff within 15 (fifteen) days of allocation. If the plaintiff fails to make an application as required any other party may apply for Case Management Conference.

16. At the First Case Management Conference, the following general matters must be canvassed:

    16.1 A general sense of what the matter is about;
    16.2 What needs to be done to bring the matter to trial;
    16.3 A timetable for getting the matter expeditiously to trial;
    16.4 A potential trial date;
    16.5 The number of witnesses likely to be called, including expert witnesses; and
    16.6 The probable length of the trial;
    16.7 Creating an appropriate electronic means for communications and exchange and filing of documents

17. The Judge will then, absent agreement, determine the timetable to bring the matter to trial.

CHAPTER 4: GETTING THE MATTER READY FOR TRIAL

18. Matters heard in the Commercial Court will be dealt with in line with the broad principles of fairness, efficiency and cost-effectiveness.

19. The following steps will usually be of application, subject to the requirements of the particular case.

20. The plaintiff, within the period specified by the Judge at the first Case Management Conference, must file a statement of the case containing the following:

    20.1 The plaintiff's cause(s) of action and relief claimed;
    20.2 The essential documents the plaintiff intends to rely on, and
    20.3 A summary of the evidence the plaintiff intends to rely on.

21. The defendant, and third parties, if any, within the period specified by the Judge at the first Case Management Conference must file a responsive statement of the case containing the following:

    21.1 The defendant's or third party's defence(s) and any counterclaim relied upon;
    21.2 The essential documents the defendant or third-party intend(s) to rely on;

21.3 A summary of the evidence the defendant or third-party intend(s) to rely on.

22. No request for further particulars may be sought in the Commercial Court.

CHAPTER 5: THE SECOND CASE MANAGEMENT CONFERENCE AND CONSEQUENTIAL STEPS

23. A Second Case Management Conference must be held at which the parties will present either an agreed list of triable issues or, absent agreement, each party's identification of the triable issues. All interlocutory issues shall be dealt with at this conference or at any postponed date, including determination of the triable issues.

24. At this conference the dates for filing of full witness statements by the parties will be fixed, it being understood that the witness statements will constitute, save with the leave of the Judge or Judges, the evidence in chief of the particular witness.

25. No general discovery is required in commercial court cases.

26. At a second Case Management Conference, the Judge may allow for the targeted disclosure of documents. If permitted, a request for disclosure must be made concerning specific documents or classes of documents that are relevant to the dispute as defined in the statement of case or responsive statement of the case. Any enforcement applications relating to disclosure will be determined by the Judge or Judges in good time to permit of orderly preparation for trial.

27. Expert evidence that is sought to be led at trial is to be dealt with as follows:

    27.1 If the matter involves expert evidence, within the time determined by the Judge or Judges, the experts must:
    27.2 Convene a meeting of the experts;
    27.3 File their expert reports;
    27.4 Produce a joint minute setting out the issues of agreement and disagreement as between the experts and the reasons for the disagreement.
    27.5 The Judge may convene a meeting with the experts to narrow the issues to be determined at trial.
    27.6 Should further conferences be required, parties may approach the allocated Judge or Judges to convene a conference upon good cause; the allocated Judge or Judges will determine whether to convene such a conference and dispose of any further matters arising.

CHAPTER 6: THE TRIAL

28. The case proceeds to trial in accordance with the timetable.

29. A written application must be made in advance of the trial to the allocated Judge if a party wishes to lead additional evidence at trial outside of their witness statements.

30. Such evidence will be limited to identified issues as directed at the case management conference or after that on application to the Judge.

31. Before the trial date, a bundle of essential documents to be used at trial must be compiled and agreed upon by the parties.

32. Unless otherwise specifically decided by the judge, documents will be admitted without the necessity for formal proof.

CHAPTER 7: BRINGING AN APPLICATION TO THE COMMERCIAL COURT

33. A party may seek the designation of an application as a Commercial Court case in three broad circumstances:

    33.1 If a party has already brought an application to the High Court, another party to the suit may seek to have the case allocated as a Commercial Court case.
    33.2 If a party intends on bringing an application to the High Court, that party may seek to have the case allocated as a Commercial Court case.
    33.3 If all of the papers comprising the application have been filed, any party to the suit may apply for an expedited hearing of the matter as a commercial case for reasons of commercial urgency or on other grounds.

CHAPTER 8: THE CASE MANAGEMENT CONFERENCE FOR APPLICATIONS

34. As soon as reasonably possible after the Commercial Court APPLICATION is allocated to a Judge, a Case Management Conference must be held at a time and date determined by the Judge allocated to case manage the matter, on the application of the application within 15 days of the allocation.

35. If a party has already initiated an application to the High Court, or if the party intends on bringing an application to the High Court, and that application is allocated as a Commercial Court case, at the Case Management Conference the following must be determined:

    35.1 A timetable for the filing of affidavits or further affidavits;
    35.2 A date for filing of Heads of Argument;
    35.3 A date for the hearing; and
    35.4 The length of the hearing (if at all possible)

36. If all of the papers to the application have been filed, and that application is allocated as a Commercial Court case, at the first Case Management Conference, the following must be determined:

    36.1 A date for filing Heads of Argument;
    36.2 A date for the hearing; and
    36.3 The length of the hearing (if at all possible).

CHAPTER 9: APPLICATIONS BROUGHT ON AN URGENT BASIS

37. Where a party seeks to bring an urgent application, depending on the degree of urgency alleged by the applicant, the applicant ought to make a written or telephonic request that the matter is allocated as an urgent Commercial Matter and that a Judge is allocated to hear the matter.

38. Depending on the degree of urgency, the Judge allocated to hear the matter will issue directives in respect of the filling of papers on a truncated basis, appropriate to the degree of urgency contended for by the applicant.

Roland Sutherland
Deputy Judge President
2 June 2022



GAUTENG DIVISION OF THE HIGH COURT, JOHANNESBURG
COMMERCIAL COURT PRACTICE DIRECTIVES
(Revised with effect from 1 June 2022)

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11 The Judge President or Deputy Judge President shall inform the parties in writing of the outcome of the application.

12 All proceedings in the Commercial Court will be subject to management by the Court. in the event of one or more parties conducting themselves in a dilatory manner and thus contrary to the spirit of the commercial court system, the judge assigned to manage the matter may exercise a discretion to cancel the certification of the matter as a commercial case.

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21. The defendant, and third parties, if any, within the period specified by the Judge at the first Case Management Conference must file a responsive statement of the case containing the following:

    21.1 The defendant's or third party's defence(s) and any counterclaim relied upon;
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26. At a second Case Management Conference, the Judge may allow for the targeted disclosure of documents. If permitted, a request for disclosure must be made concerning specific documents or classes of documents that are relevant to the dispute as defined in the statement of case or responsive statement of the case. Any enforcement applications relating to disclosure will be determined by the Judge or Judges in good time to permit of orderly preparation for trial.

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    27.1 If the matter involves expert evidence, within the time determined by the Judge or Judges, the experts must:
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    27.6 Should further conferences be required, parties may approach the allocated Judge or Judges to convene a conference upon good cause; the allocated Judge or Judges will determine whether to convene such a conference and dispose of any further matters arising.

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38. Depending on the degree of urgency, the Judge allocated to hear the matter will issue directives in respect of the filling of papers on a truncated basis, appropriate to the degree of urgency contended for by the applicant.

Roland Sutherland
Deputy Judge President
2 June 2022

SCHEDULE 1 TO THE COMMERCIAL COURT PRACTICE DIRECTIVES

A 'Commercial Court case' is ordinarily a substantial case that has as its foundation a broadly commercial transaction or commercial relationship.

The following are a list of examples, which might depending on their particular facts or legal aspects, qualify as commercial court cases:

any claim arising out of the transaction of trade and commerce and includes any claim relating to:

(a) the export or import of goods;

(b) the carriage of goods by land, sea, air or pipeline;

(c) the exploitation of oil and gas reserves or other natural resources that do not involve Administrative Law;

(d) insurance and reinsurance;

(e) banking and financial services

(f) the operation of markets and exchanges;

(g) the purchase and sale of commodities;

(h) medical scheme matters;

(i) commercial matters arising out of business rescue and insolvency cases;

(j) all commercial matters affecting companies arising out of the Companies Act 71 of 2008 and its interpretation;

(k) arbitration;

(l) delictual cases that take place in a commercial context for, e.g. unlawful competition cases;

(m) generally, appropriate contractual matters;

(n) intellectual property cases;

03 October 2018