



OFFICE OF THE DEPUTY JUDGE PRESIDENT

(HIGH COURT OF SOUTH AFRICA, GAUTENG DIVISION, JOHANNESBURG)
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NOTICE

TO

1. Chief Registrar
2. Registrar: Civil Trials
3. Legal Practice Council – Gauteng
4. Law Society of South Africa
5. Gauteng Family Law Forum
6. Gauteng Attorneys Association
7. Pretoria Attorneys Association
8. Johannesburg Attorneys Association
9. West Rand Attorneys Association
10. South African Black Women in Law
11. National Association of Democratic Lawyers
12. Black Lawyers Association
13. South African Women Lawyers Association
14. South African Medical Malpractice Lawyers Association
15. Personal Injury Plaintiff Lawyers Association
16. South African Medico-Legal Association
17. Office of the Director of Public Prosecutions, Pretoria and Johannesburg
18. Office of the State Attorneys, Pretoria and Johannesburg
19. Solicitor General
20. Office of the Family Advocate, Pretoria and Johannesburg
21. Legal Aid South Africa
22. Johannesburg Society of Advocates
23. Pretoria Society of Advocates
24. Gauteng Society of Advocates
25. Pan African Bar Association of South Africa
26. General Council of the Bar of South Africa

27. National Bar Council of South Africa
28. South African Bar Association
29. National Forum of Advocates
30. North Gauteng Association of Advocates
31. Church Square Association of Advocates
32. Advocates for Transformation
33. Legal Division of the Department of Health: Gauteng
34. Legal Division of the Department of Sport, Arts, Culture and Recreation
35. Gauteng Department of Agriculture and Rural Development
36. Legal Services - Gauteng Provincial Department of Education :

DATE : 03 February 2022

RE : **NOTICE TO ALL LITIGATION ATTORNEYS IN GAUTENG
in re CLARIFICATION OF CIVIL TRIAL ROLL PROCESS:
JOHANNESBURG**

1. The civil trial roll call procedure is regulated by the Judge President's Directive of 11 June 2021, a copy of which is accessible on CaseLines.

2. The relevant portion reads thus:

"THE CIVIL TRIAL ROLL CALL

[37]. There shall be no physical roll call. The current practice of civil trial allocation shall continue for the duration of the national state of disaster, provided that where it is deemed appropriate by the roll call Judge, a virtual roll call may be convened with specific directives.

Practice Note required

[38]. The Parties shall upload, in the correct section, a JOINT PRACTICE NOTE after a special pre-trial conference, at which the logistics of conducting the trial are addressed, was convened. If a Plaintiff cannot obtain cooperation from a Defendant, the Plaintiff must upload its own practice note and explain why a joint practice note was impossible to be composed. A Defendant may in this instance elect to upload its own practice note and explain why a joint practice note was impossible to be composed. Lack of co-operation by either Party shall attract punitive orders by the Court.

[39]. The practice note must be uploaded by not later than 5 court days before the set-down date. If no practice note is timeously uploaded, the matter shall automatically be removed and the date forfeited. If the practice note is non-compliant with the practice manual or this directive, the matter shall be automatically removed and similarly the date forfeited. This directive shall be strictly applied.

....

[40]. The practice note must, in addition to the information required in terms of the practice manual, address these issues: The names, email addresses and cell numbers of all Counsel. Counsel must hold themselves ready to receive a communication from a Judge or Judge's Secretary, during the four days until set down date."

3. The underlined passages are the relevant portions addressed in this memo.
4. Implicit in the process envisioned is that *shortly before the set down date* the parties should meet in a "special pre-trial conference" to address how the trial is to be run. Para 38 does not, however, expressly stipulate exactly when this meeting should take place.
5. Para 39 states that a practice note should be uploaded "by not later than 5 court days before the set down date". The text does not say how long before that 5th day the practice note should be filed.
6. Regrettably, there is indeed ambiguity and this has resulted in different understandings. Holistically read, what is envisaged by this process is a practice note filed *shortly before the trial* after a last check on whether a trial is necessary at all, and if so, how expeditiously can it be conducted. Axiomatically this assessment can only be made shortly before trial.
7. In several instances, a practice note is filed months before the trial date. This is of no value in declaring the status quo on the eve of trial. When matters are struck off because no recent practice note was filed, parties are understandably disappointed. The recent practice note is critical to the optimal utilisation of court time, and it must therefore be so that it must indeed be recent.

8. To resolve the ambiguity, para 39 shall henceforth read:

“The practice note must be uploaded not earlier than seven court days before the set down date and not later than five court days before the set down date.”

9. Practitioners should also use the special pre-trial conference as a last opportunity to try to settle the matter, in which case, the matter would be removed from the trial roll and enrolled on the settlement court roll. The draft trial roll is already published by the 7th day before the set down date and, among other reasons, facilitates the Road Accident Fund to be alerted to matters coming up for trial. The Road Accident Fund has undertaken to seize this last chance to settle, if appropriate. Calling for the special pre-trial conference with the Road Accident Fund in these circumstances may prove advantageous to plaintiffs. Even in those matters where the RAF has had its defence struck out, the opportunity to settle at that moment should not be neglected. A call to the Road Accident Fund to engage ought to be considered, rather than routinely proceed, unless the Road Accident Fund itself initiates contact.

Yours Faithfully

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

**ROLAND SUTHERLAND
DEPUTY JUDGE PRESIDENT**