



OFFICE OF THE DEPUTY JUDGE PRESIDENT

(HIGH COURT OF SOUTH AFRICA, GAUTENG DIVISION, JOHANNESBURG)
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INTERNAL MEMORANDUM

TO

:

1. Legal Practice Council – Gauteng
2. Law Society of South Africa
3. Gauteng Family Law Forum
4. Gauteng Attorneys Association
5. Pretoria Attorneys Association
6. Johannesburg Attorneys Association
7. West Rand Attorneys Association
8. South African Black Women in Law
9. National Association of Democratic Lawyers
10. Black Lawyers Association
11. South African Women Lawyers Association
12. South African Medical Malpractice Lawyers Association
13. Personal Injury Plaintiff Lawyers Association
14. South African Medico-Legal Association
15. Office of the Director of Public Prosecutions, Pretoria and Johannesburg
16. Office of the State Attorneys, Pretoria and Johannesburg
17. Solicitor General
18. Office of the Family Advocate, Pretoria and Johannesburg
19. Legal Aid South Africa
20. Johannesburg Society of Advocates
21. Pretoria Society of Advocates
22. Gauteng Society of Advocates
23. Pan African Bar Association of South Africa
24. General Council of the Bar of South Africa
25. National Bar Council of South Africa
26. South African Bar Association
27. National Forum of Advocates
28. North Gauteng Association of Advocates
29. Church Square Association of Advocates
30. Advocates for Transformation
31. Legal Division of the Department of Health: Gauteng
32. Legal Division of the Department of Sport, Arts, Culture and Recreation

33. Gauteng Department of Agriculture and Rural Development
34. Legal Services - Gauteng Provincial Department of Education
35. Gauteng Society of Advocates

DATE : 29 April 2022

OUR REF : DJP/21/2012/lt

RE : **ROAD ACCIDENT FUND LITIGATION IN THE JOHANNESBURG HIGH COURT**

1. As a result of arrangements reached between Adv B. Phillips, the Litigation Manager of the Johannesburg branch of the Road Accident Fund (RAF) and me, the draft civil trial roll, when published, usually about two weeks before the set down dates, has been sent to the Johannesburg RAF office to enable a last opportunity to engage with the plaintiffs' attorneys to achieve a settlement.
2. The overwhelming majority of RAF matters set down on the civil trial roll are RAF default judgment matters. The statistics of RAF litigation for 2022 show that only 46% of such matters are actually allocated to a judge, the rest are removed or settled. This is in large measure due to the intervention by the RAF in the interval between publishing the civil trial roll and the date of set down.
3. However, the fact that 46% of the matters set down do not require the attention of a judge also means that space on the roll is being wasted. The lead time for trials to be set down is being protracted because the slots are occupied by the matters that settle at the last minute. They clog the system. Our ideal lead time for civil trials to be set down is 12-16 weeks from date of request, excluding the recess periods. That cannot, at the present time, be maintained. This week the registrar began setting matters down in 2023. Accordingly measures to ameliorate this protracted lead time must be taken.
4. The RAF has indicated that its non-response to actions instituted has been arrested and that such instances should, as at the time of this notice, be entirely historical. This means that it should be assumed that, e.g., from 11 April 2022, the first day of the second term, no action instituted against the RAF would have been ignored. It would be appreciated if plaintiffs' attorneys could advise me

about their experience in order to verify that the non-response phenomenon has ended.

5. The statistics for the interlocutory court tell an unhappy tale. Almost all the applications before that court are RAF default judgment referral matters. In about October 2021 the number of the matters in that court topped 200 per week. Save for the recess that has remained the usual weekly number. If every such RAF matter seeks a trial date the lead time of three months shall be utterly unattainable. There is space each week for 64 RAF matters to be set down. The mismatch is plain.
6. The practical solution is to reduce the number of matters that seek a trial set down date. The effect of such reduction would be to the benefit of plaintiffs because the lead time, instead of racing away, can be reduced. An intervention is needed immediately after the Interlocutory Court has issued an order referring the RAF default judgment matter for a set down date to be allocated by the registrar.
7. To this end, as a result of discussion between the RAF and me, a list of the orders granted by interlocutory court each week shall be given to the RAF so that an approach to settle the matter can be made BEFORE SEEKING A SET-DOWN DATE.
8. Self-evidently, there is an opportunity for plaintiffs' attorneys to initiate contact with the RAF too. All plaintiffs' attorneys are encouraged to do so. Moreover, those attorneys' firms who handle several matters could seek an opportunity to meet with the RAF and settle them as a batch.
9. As I have previously had occasion to say, the attainment of a litigation model in the Gauteng Division which works optimally for everyone is heavily dependent on a skillful use by all of us of the opportunities to collaborate.

Yours faithfully

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

**ROLAND SUTHERLAND
DEPUTY JUDGE PRESIDENT**