

6.12 PRE-TRIAL CONFERENCE

1. A pre-trial conference as contemplated in Rule 37 must be held in every matter which is to proceed to trial.
2. In order to ensure that it is effective, a pre-trial conference must ideally be held after discovery and after the parties have exchanged documents as contemplated in Rule 35. In the event of discovery being made after the holding of a pre-trial conference, a further pre-trial conference must be held after such discovery and exchange of discovered documents.
- 3.1 If it appears at the roll call -
 - 3.1.1 that the parties have seriously endeavoured to narrow the issues and explore settlement;
 - 3.1.2 that there are no outstanding requests for admissions or particularity and no outstanding requests for documents;
 - 3.1.3 that, where applicable, the experts have met and produced a joint minute;
 - 3.1.4 that the trial is ready to commence immediately and run continuously to a conclusion, then the matter will be ripe for allocation, provided a judge is available.
- 3.2 Parties have a continuous obligation to seek to narrow issues and to comply with the substantive requirements of Rule 37, notwithstanding the fact that strict compliance with the Rule may no longer be possible because a pre-trial conference has not been held six (6) weeks before trial.
- 3.3 If it appears at the roll call that one party has prevented substantial compliance with Rule 37 despite genuine and timeous efforts by the other party to achieve substantial compliance therewith, the court may allocate the matter if it appears the matter can run continuously to a conclusion within five (5) days despite the said non-compliance.
- 3.4 If it appears the matter cannot run continuously to a conclusion within five (5) days due to the prevention of substantial compliance with Rule 37, the matter may be placed under case management in the hands of a designated Judge as contemplated in Rule 6.3 and may on application be granted a preferential trial date when a new trial date is sought.
- 3.5 The court may deal with the issues of costs arising out of any postponement at the roll call rather than reserving the costs.
4. If, after allocation of a trial for hearing, it appears to the judge presiding that there has not been proper compliance with Rule 37, the presiding judge to whom the trial has been allocated, may, instead of commencing or continuing with the hearing of the trial, order proper compliance with Rule 37. The presiding judge will then determine the further hearing of the trial.

5. Where a party wishes to request that a judge presides over the pre-trial conference in terms of Rule 37(8), that party shall do so by delivering a letter to the registrar for the attention of the Deputy Judge President. A copy of this letter must be delivered to all other parties to the trial and proof thereof must appear from the letter directed to the Deputy Judge President. Any party who is in receipt of such a letter and who wishes to make representations in respect thereof, may do so by forthwith delivering a letter to the registrar for the attention of the Deputy Judge President. A copy of this letter must be delivered to all other parties to the trial, and proof thereof must appear from the letter directed to the Deputy Judge President.
6. Where a party wishes to request that the registrar should intervene by fixing the time, date and place for the conference in terms of Rule 37(3)(b) that party shall do so by delivering a letter to the registrar. A copy of this letter must be directed to all other parties to the trial and the procedure contemplated in paragraph 5 above shall apply *mutatis mutandis*.
7. The request for intervention by the registrar as contemplated in Rule 37 (3) (b), or the Deputy Judge President, as contemplated in Rule 37 (8), must be made timeously and preferably before the time prescribed for the holding of the conference has expired.
8. At roll call priority may be given to cases in which minutes of acceptable quality (proper pre-trial minutes) were timeously filed with the registrar.
9. Where there are competing minutes of acceptable quality, priority may be given to the matter or matters in the order in which (a) the minutes were filed, (b) the pre-trial conferences were held, and (c) the matters appear on the trial roll.
10. Joint Minute of Experts:
 - a. Where there are overlapping experts, the experts shall meet and produce joint minutes indicating their endeavour to settle, and failing settlement, narrowly defining their differences;
 - b. In such a case the legal representatives shall, before commencement of trial, hold a pre-trial conference to achieve the objectives of Rule 37 with regard to the issue or issues arising between the overlapping experts.