

6.5 EXPERT WITNESSES

1. The time periods provided in Rule 36 (9) of the Uniform Rules of Court are often inadequate. This can result in trials not being ripe for hearing on their allocated trial date.
2. To preclude this from happening, it is suggested, that in appropriate matters, the parties to a trial, by agreement, lengthen the aforementioned time periods as well as the time period referred to in paragraph 5 infra. Such an agreement should provide that notice of intention to call an expert witness be given not less than thirty (30) court days before the allocated trial date and the summary of the expert's opinion be delivered not less than twenty (20) court days before the allocated trial date.
3. Where one or more parties to a trial wish to enter into such an agreement, but is or are unable to conclude such an agreement, an application may be brought in terms of Rule 27 (1) of the Uniform Rules of Court for the extension of the relevant time periods.
4. It should be noted that such an agreement, and consequently such an application, is generally conducive to the efficient conduct of a trial. Failure to conclude such an agreement without good cause, and opposition to such an application without good cause, may attract a punitive cost order either on the application by the party or the parties seeking the relief, or mero motu by the judge hearing the application.
5. In all trials in which the parties have opposing expert witnesses, such opposing expert witnesses must meet and reduce their agreements and disagreements to writing in joint expert minutes, signed by them. This minute must be filed in the court file not less than five days prior to the date allocated for the hearing of the trial.
6. If it appears at roll call in a trial where the parties have opposing expert witnesses that there is no joint expert minute, the trial will not be allocated until there has been proper compliance with this practice. This may result in the removal of the trial from the roll and the parties having to apply for a new trial date.
7. If, after allocation of a trial for hearing, it appears to the trial judge that there is no joint expert minute, the presiding judge to whom the trial has been allocated, may in his/her discretion not commence or continue with the hearing of the trial and may either require proper compliance with the practice or postpone the trial. The presiding judge will determine the further hearing of the trial, if not postponed.