

9.12 HEARING OF OPPOSED MATTERS

1. Enrolment

- 1.1. All opposed matters are enrolled for hearing on the Tuesday of the chosen motion court week for hearing at 10h00 or so soon thereafter as the matter may be heard.
- 1.2. The opposed motions are heard by courts 1, 2, 3 and 5 as set out in “allocation of courts” or any other court as designated by the senior motion court judge and as directed by the Deputy Judge President.

2. Hearing of opposed matters on the Monday

- 2.1. By agreement between the parties and notwithstanding para. 1 above parties can, subject to allocation by the senior motion court judge, agree to the hearing of an opposed matter irrespective of its nature on the Monday of the chosen motion court week. In such an event -
 - 2.1.1. all counsel in the matter must deposit a practice note and concise heads of argument in the appropriate box by not later than 13h00 on the preceding Thursday;
 - 2.1.2. it must be stated in each practice note that all the parties have agreed to the matter being heard on the Monday;
 - 2.1.3. the court file must be properly paginated and indexed;
 - 2.1.4. the secretary of the senior motion court judge will advise the respective parties' legal representatives during the Friday afternoon whether it has been possible to allocate the matter for hearing on the Monday and in which court the matter will be heard;
 - 2.1.5. if it was not possible to allocate the matter for hearing on the Monday, the matter will be allocated for hearing on the Tuesday or later in the week depending on the nature of the application.

3. Hearing of opposed matters on the Tuesday

- 3.1. The following opposed matters are heard on the Tuesday irrespective of the consent of the parties:
 - 3.1.1. Applications for and return days of winding-up orders.

- 3.1.2. Applications for judicial management
 - 3.1.3. Applications for and return days of sequestration orders.
 - 3.1.4. Exceptions.
 - 3.1.5. Applications relating to custody and access.
- 3.2. If there is no appearance by the legal representatives of the parties or any of them on the Tuesday in respect of the applications referred to in paragraph 3.1 above, the application may, subject to the discretion of the presiding judge, be struck from the roll or be otherwise dealt with in terms of the rules of court. Any counsel who is required to be in any other court should notify the presiding judge accordingly.
- 3.3. All the parties to the applications referred to in paragraph 3.1 above must deposit a practice note and concise heads of argument in the appropriate box by no later than 13h00 on the preceding Friday.
- 3.4. The court file must be properly paginated and indexed.

4. Hearing of opposed matters on the Wednesday, Thursday and Friday

- 4.1. All other opposed matters will be allocated by the senior motion court judge for hearing in the courts referred to in paragraph 1.2 above on Wednesday, Thursday and Friday of the relevant week.
- 4.2. No matter will be so allocated unless
- 4.2.1. the court file has been properly paginated and indexed;
 - 4.2.2. all the parties to the matter have timeously deposited in the appropriate box their practice notes and concise heads of argument by not later than 13h00 on the preceding Monday.
- 4.3. A printed roll prepared by the secretary of the senior motion court judge will be published by the clerk in the foyer of the High Court and sent electronically to the Johannesburg Bar Council and Attorneys' Association by no later than 09h00 on the Tuesday. The printed roll will indicate, in the event of an allocation having been made, the court to which the matter has been allocated for hearing. Where a matter has not been allocated due to for failure to comply with paragraph 4.2 above or for any other reason, such matter will appear on the roll as unallocated and will be called before the senior motion court judge on Wednesday at 10h00.

5. Basis of allocations of opposed motions

- 5.1. Considerations of urgency (as disclosed in the practice note), estimated duration and efficiency form the basis of allocation.
- 5.2. Where the same counsel appears in more than one matter, it is endeavoured, where practical, to allocate all such matters to the same court. To this end counsel should indicate in their practice notes whether they appear in other matters and give details of such other matters, i.e. the number on the roll and the names of the parties.
- 5.3. Date of when the matter was enrolled may be considered when the matter is allocated.

6. Difficulties with allocation

- 6.1. If a problem is encountered with an allocation of an opposed motion such problem must be raised with the senior motion court judge.
- 6.2. Only the senior motion court judge may change the allocation of a matter.