



OFFICE OF THE DEPUTY JUDGE PRESIDENT

(HIGH COURT OF SOUTH AFRICA, GAUTENG DIVISION, JOHANNESBURG)
OFFICE 1210

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CLARIFICATION NOTICE

TO:

1. Judges of the Gauteng Division, Johannesburg
2. Chief Registrar, Gauteng Division, Johannesburg
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
37. Gauteng Society of Advocates
38. Tshwane Society of Advocates

DATE : 12 May 2023

OUR REF : DJP/347/2022/lt

RE : **CLARIFICATION NOTICE: OPERATIONS OF THE SPECIAL INTERLOCUTORY COURT**

1. Chapter 8 of the JPs Directive 1 of 2021, as amended, regulates the operations of the Special Interlocutory Court. The objective of this court is to address non-compliance by an allegedly delinquent party, not always defendant/respondent, but usually so, of an obligation due under the Rules of Court, Practice Manual or practice Directives. This court is open to all types of cases, trials applications and appeals. Its rationale is to prevent delay and gamesmanship. It is for that reason that access to the court is simple and quick and that an order can quickly be given to prevent delays.
2. Para 38 states that:

‘cases shall be set down on 7 clear court days’ notice before the hearing date, be succinct and where appropriate, brief heads of argument shall be submitted at the hearing.’
3. There is no express prescription about what is to happen if an allegedly delinquent party seeks to oppose the application in the SIC.

4. Implicit in the function that this court has to fulfil is that the hearing cannot be delayed. The purpose of the court cannot be fulfilled if an allegedly delinquent party serves a notice of opposition which has the effect of a delay in the hearing into the non-compliance. Accordingly, whether opposed or unopposed the hearing must take place on the set down date.
5. An allegedly delinquent party may file papers or simply present oral argument. Whether a postponement is appropriate, which likely to be rare, given the nature of the areas of possible genuine dispute about non-compliance, is for the judge to decide. It should rarely be likely that a postponement is justified.
6. A pattern of an abuse of the process in this court has become apparent where a notice of opposition is filed to undermine the process, often cynically. That will not be tolerated and punitive costs may be visited on a party that seeks to delay the enquiry into why the orderly progress of a case is already being delayed.
7. Accordingly, this court shall hear unopposed and opposed matters on the set-down date without exception. The scope of a controversy that legitimately arises over the failure to comply with a procedural step which is due cannot implicate the merits of the 'main' matter.
8. The attention of Legal Practitioners is drawn to article 60 of the Code of Conduct for Legal Practitioners:

60.1; A legal practitioner shall not abuse or permit abuse of the process of or tribunal and shall act in a manner that shall promote and advance efficacy of the legal process.

60.2: A legal practitioner shall not deliberately protract the duration of a case before a court or tribunal.

Yours faithfully

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

**ROLAND SUTHERLAND
DEPUTY JUDGE PRESIDENT**