

OFFICE OF THE DEPUTY JUDGE PRESIDENT

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

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<u>N O T I C E</u>

TO:

- 1. Judges of the Gauteng Division, Johannesburg
- 2. Chief Registrar, Gauteng Division, Johannesburg
- 3. Secretariat Judicial Case Flow Management, Office of the Chief Justice
- 4. Registrars Gauteng Division of the High Court, Johannesburg
- 5. Legal Practice Council Gauteng
- 6. Law Society of South Africa
- 7. Gauteng Family Law Forum
- 8. Gauteng Attorneys Association
- 9. Pretoria Attorneys Association
- 10. Johannesburg Attorneys Association
- 11. West Rand Attorneys Association
- 12. South African Black Women in Law
- **13.** National Association of Democratic Lawyers
- 14. Black Lawyers Association
- 15. South African Women Lawyers Association
- 16. South African Medical Malpractice Lawyers Association
- 17. Personal Injury Plaintiff Lawyers Association
- 18. South African Medico-Legal Association
- 19. Office of the Director of Public Prosecutions, Pretoria and Johannesburg
- 20. Office of the State Attorneys, Pretoria and Johannesburg
- 21. Solicitor General
- 22. Office of the Family Advocate, Pretoria and Johannesburg

- 23. Legal Aid South Africa
- 24. Johannesburg Society of Advocates
- 25. Pretoria Society of Advocates
- 26. Gauteng Society of Advocates
- 27. Tshwane Society of Advocates
- 28. Pan African Bar Association of South Africa
- 29. General Council of the Bar of South Africa
- **30.** National Bar Council of South Africa
- 31. South African Bar Association
- 32. National Forum of Advocates
- 33. North Gauteng Association of Advocates
- 34. Church Square Association of Advocates
- 35. Advocates for Transformation
- 36. Legal Division of the Department of Health: Gauteng
- 37. Legal Division of the Department of Sport, Arts, Culture and Recreation
- **38.** Gauteng Department of Agriculture and Rural Development
- **39.** Legal Services Gauteng Provincial Department of Education
- 40. South African Board of Sheriffs
- 41. South African Sheriff Society
- 42. Road Accident Fund
- DATE : 26 March 2024
- OUR REF: DJP/373/2023/lt

RE : <u>NOTICE TO THE LEGAL PROFESSION ABOUT THE</u> <u>FUTURE OF THE ROAD ACCIDENT FUND DEFAULT</u> <u>JUDGMENT ROLL IN JOHANNESBURG HIGH COURT</u>

1. In mid-2023, the Road Accident Fund Default Judgment roll ("RAF DJ") was introduced to alleviate the problem of the excessively long lead time for the hearing of such cases. The model employed was to set down 200 default judgment cases to heard by four pro bono acting judges. The model was wholly dependent on Legal Practitioners to volunteer to undertake what was an onerous week for zero recompense. This was a huge ask and the Profession, especially the Johannesburg Bar, responded with enormous generosity. The call was for a 40 practitioners per term to perform this task. There were some who gave more than a single week, and several who volunteered to act term after term. I cannot express sufficiently the appreciation I have for all who so selflessly participated.

- 2. Axiomatically this was a radical model to arrest a serious problem stemming from the under-capacitation of the courts. The model has, perhaps predictably, proven to be unsustainable over the long term. The appetite to sacrifice a week's earning capacity is self-evidently subject to limitations. This has manifested itself in the lack of response to serve in this capacity during the second term of 2024. This is no rebuke of the practitioners, but simply facing up to reality. The Government cannot indefinitely take the Legal Profession for granted and expect them to donate the resources that they neglect to supply. The indifference from the Ministry of Justice on this long-standing issue is, at best, disappointing.
- Because of the inability to muster four pro bono acting judges in each of 10 weeks, a radical step is forced on us which has highly regrettable consequences for plaintiffs seeking to get a judgment.
- 4. An aspect which in part, though a minor one relative to the paucity of acting judges, is the behavior of the Road Accident Fund in the RAF DJ court. It has reported to me that, increasingly a practice has evolved in which a RAF 'representative' (sic) turns up at the last minute, totally ignorant of the case and incapable of engaging even in settlement discussions, and thereupon files a belated notice of opposition. This provokes a postponement albeit with punitive costs. One acting judge recently informed me that his entire roll had been sabotaged by this ruse. I need not belabour the unethical nature of this conduct. It makes a mockery of the process of court.

- 5. As a result, of the lack of judges, the procedure in the RAF DJ Court shall be as follows:-
 - 5.1. With effect from the third term of 2024 the RAF DJ court shall consist of 50 cases before one judge. This will regrettably push out the lead time.
 - 5.2. For the duration of the 2nd term of 2024:
 - 5.2.1. Where less than 4 judges are rostered, each judge who is rostered shall be allocated in, the order that the cases randomly appear on the published roll, the 50 cases each.
 - 5.2.2. The balance of the cases shall automatically be removed.
 - 5.2.3. Removed cases shall have to be the subject of a fresh request for a set down date in the queue. No preference can be afforded to such cases.
 - 5.2.4. If a case so removed, is settled in that week it may be mentioned for that purpose to one of the judges presiding by not later than 14h00 on a Thursday.
- 6. This revised model shall apply in both term 3 and 4 of 2024.
- 7. Whether or not further adaptations can be made to produce happier outcomes remains an open question.

8. Lastly, I must again unequivocally express on behalf of the Judges of the Division our thanks to all those Practitioners who have contributed to our efforts to deliver the most effective litigation system of which we are capable.

Yours faithfully

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

ROLAND SUTHERLAND DEPUTY JUDGE PRESIDENT