

DRAFT PRACTICE DIRECTIVE

CASE MANAGEMENT, ALLOCATION OF CASES AND CASE MANAGEMENT CONFERENCES

1. On the commencement of this practice directive, the Registrar shall manage the flow of all cases upon the filing of an action or an application in the Registrar's office until the close of pleadings as provided in this practice directive.
2. The Registrar and his designated staff shall ensure strict compliance with the time limits laid down in the Uniform Rules of the High Court (the Rules) in respect of all notices, pleadings and the like as set out in the Schedule annexed hereto.
3. The Registrar shall notify in writing a party who fails to comply with the time limits provided for in the Rules and as set out in the accompanying schedule hereto of such non-compliance. Upon such notice by the Registrar a party shall be afforded an opportunity to remedy the default within a period of 5 days of receipt thereof failing which the Registrar shall refer the matter to the Judge-President or a Judge designated by the Judge-President.
4. The Judge-President or the designated Judge may take such steps as may be deemed necessary to enforce compliance with the Rules.
5. After the close of pleadings the Judge-President or The Deputy Judge-President or the senior Judge designated for this purpose by the Judge-President, as the case may be, shall, notwithstanding the provisions of Rule 37(1)(a), allocate the case to a Judge designated to manage the flow of the case.
- 6(1) The parties must hold an initial case management conference within one month of the close of pleadings to:
 - (a) deal with the issues outlined in paragraph 6(4) below;
 - (b) attempt to agree on a case management order in accordance with Form 1;
 - (c) in the event of the parties reaching agreement on the case management order, they shall submit to the allocated Judge, within 7 days of the holding of the conference, both the signed minute of the conference and a draft case management order in accordance with Form 1..
- (2) In the event that the parties are unable to agree on the terms of the case management order, they must forthwith inform the allocated Judge thereof and submit to the allocated Judge, within 7 days of the date of the parties' case management conference, a signed minute of that conference. The allocated Judge shall on notice to the parties schedule a case management conference at a time set by the Judge and shall allow for sufficient time for compliance with subparagraph (3) below.
- (3) At least 21 days before the case management conference before the allocated Judge, the parties shall confer about the nature and basis of their claims and defences, the possibilities for a prompt settlement or resolution of the case, and each of the issues to be addressed at the initial case

management conference as set forth in subparagraph (4) below. The parties shall prepare a joint case management report concerning their discussion and shall submit the report to the Judge at least 14 days before the initial case management conference. The plaintiff or applicant, as the case may be, shall initiate contact with the defendant or respondent and shall prepare a first draft of the report. The case management report shall set forth the parties' proposals with respect to the matters identified in subparagraph(4) below. If the parties agree on proposals with respect to some or all of the issues, they shall prepare a joint proposal with respect to those issues. If the parties do not agree on proposals with respect to some or all of the issues, they shall prepare separate proposals with respect to those issues.

(4) The following issues shall be addressed at the initial case management conference-

(a) the need for joinder of other parties and the dates for such joinder;

(b) the need for amendments to pleadings or the filing of further particulars, and the dates for the filing of such amendments or further particulars;

(c) the need for interlocutory motions and the dates for such motions;

(d) the admission of facts and other evidence by consent of the parties;

(e) the control and scheduling of discovery, including but not limited to inspection and production of documents under Rule 35; admissions; inspection, examination and expert testimony under Rule 36 ;and examination of witnesses;

(f) curtailing the issues in dispute between expert witnesses by their participation in pre-trial conferences or in any other manner;

(g) the hearing and determinations of objections on points of law;

(h) any matter that might be raised as a special case for adjudication on a point of law under Rule 33(1);

(i) the giving of orders or directions for the hearing of any separate issue of law or fact under Rule 33(4);

(j) the dates for further case management conferences, if necessary, and for the final pre-trial conference;

(k) the possibilities of settlement negotiations or possible mediation of the dispute;

(l) such other matters as may facilitate the just and speedy disposal of the case, which may include the setting of trial dates.

7. The case management conference before the allocated Judge shall, save in exceptional circumstances, be completed in a single conference and shall not be adjourned.

8. Immediately after completion of the case management conference, but not longer than 14 days after completion thereof, the Judge shall issue a case management order in accordance with Form 1 annexed hereto. The case management order shall address the issues set forth in Paragraph 6(4) above that are relevant to the case and shall establish a schedule for all relevant events. The case management order shall govern the subsequent conduct of the proceedings and shall be modified by the Judge only upon good cause shown.

9. The Judge may from time to time schedule, or the parties may from time to time request, additional case management conferences. Such additional conferences shall be held to facilitate the continuing judicial control of the case and may address any of the issues set forth in Paragraph 6(4) above or any other issues relevant to the management or resolution of the case.

10. Prior to the trial in any case, the Judge shall hold a final pre-trial conference. The conference shall be held at a time determined by the Judge and shall be attended by the parties and their legal representatives involved in the case. The final pre-trial conference shall address the issues set forth in Paragraph 6(4) above, the parties' proposed final pre-trial order and any other issues relating to a fair and efficient trial.

11. At least 14 days prior to the final pre-trial conference, the parties shall submit to the Judge a joint proposed final pre-trial order. The plaintiff or applicant, as the case may be, shall initiate contact with the defendant or respondent and shall prepare a first draft of the proposed final pre-trial order which shall identify the following-

(a) all issues of fact to be resolved at the trial;

(b) all issues of law to be resolved at the trial ;

(c) all relevant common cause facts;

(d) all exhibits to be introduced into evidence during the trial, identified by the party that intends to introduce the exhibit;

(e) all objections to exhibits;

(f) the anticipated length of the trial;

(g) the trial date;

(h) any proposals for expediting the trial;

(i) prospects for settlement of the case and whether the parties have participated in mediation or other settlement efforts

12. Immediately after completion of the final pre-trial conference, but not longer than 14 days after completion of the conference, the Judge shall issue a final pre-trial order in accordance with Form 2

annexed hereto, which the Registrar shall deliver to the parties forthwith. The final pre-trial order shall be based on the parties' proposed final pre-trial order, as modified by the Judge, shall specify the issues set forth in Paragraph 10 above and shall set a firm date for the trial.

13. Issues and objections not specified in the final pre-trial order shall not be available to parties at the trial. Once issued by the Judge, the final pre-trial order shall be amended only to prevent manifest injustice.

14. The final pre-trial conference shall, save in exceptional circumstances, be completed in a single conference and shall not be adjourned.

15. If a party or his or her legal representative fails without lawful cause to attend an initial case management conference, additional case management conference or final pre-trial conference, fails to participate in the preparation of a case management report or proposed final pre-trial order, fails to adhere to the terms of a case management order or final pre-trial order, or fails to participate in the case management or final pre-trial processes in good faith, the Judge may issue such orders as are just, including but not limited to the following-

(a) an order refusing to allow the defaulting party to advance or oppose designated claims or defences, or prohibiting that party from introducing designated issues in evidence;

(b) an order striking out pleadings or parts thereof;

(c) an order dismissing a claim or entering final judgment;

(d) an order requiring the defaulting party or his or her legal representative to pay the other party's costs caused by the default.

16. In the case of opposed applications, where the issues are simple and no evidence is to be led, the Judge may dispense with any case management conference and may set a trial date, giving such other directions for the conduct of the hearing as he or she may deem fit.

17. This practice directive shall, as far as possible, be implemented in consonance with the provisions of Rule 37. Where necessary, directions shall be obtained from the Judge to whom a matter is allocated in order to resolve difficulties in this respect.

18. This practice directive shall come into operation on **01 October 2012**.

STANDARD DRAFT CASE MANAGEMENT ORDER

IN TERMS OF PARAGRAPH 8 OF

THE CASE MANAGEMENT PRACTICE DIRECTIVE

IN THE HIGH COURT OF SOUTH AFRICA

(NORTH GAUTENG HIGH COURT, PRETORIA)

CASE NO: _____

In the matter between:

Plaintiff

And

Defendant

DRAFT CASE MANAGEMENT ORDER

IN TERMS OF PARAGRAPH 8 OF

THE CASE MANAGEMENT PRACTICE DIRECTIVE

In accordance with paragraph 8 of the Case Management Directive, the following case management order is hereby issued:

1. The issues of liability and quantum are to be separated in terms of Rule 33(4), the matter proceeding to trial only on liability as encompassed by the issues outlined in paragraphs ___ to and including ___ of the Particulars of Claim, read together with the corresponding paragraphs of the Defendant's Plea.

2.
 - 2.1 The parties are to make discovery by filing Discovery Affidavits in accordance with Rule 35 by no later than _____.
 - 2.2 The process of copying and inspection of documents contained in the opposing parties discovery is to be completed within 1 (one) month from the date of the making of discovery.
 - 2.3 Within 2 (two) months of the date of discovery, the Plaintiff's Attorney is to make up an indexed and paginated bundle of trial documents ("the trial bundle"), and to submit same to the Defendant's Attorney.
 - 2.4 The Defendant's Attorney will have 2 (two) weeks from date of receipt of the trial bundle within which to supplement same by addition of other documents, and return the so-supplemented trial bundle to the Plaintiff's Attorney.
 - 2.5 The following will apply to the trial bundle, as finalised in accordance with paragraphs 2.3 and 2.4 above:
 - 2.5.1 The documents contained in the trial bundle are to be in chronological order or logical sequence, insofar as that is reasonably possible.
 - 2.5.2 The status of the documents contained in the trial bundle is agreed as follows:

- (a) What follows will apply to all documents contained in the trial bundle, save those in respect of which the Attorney for either party has given the opposing Attorney written notice within 2 (two) weeks of the date of finalisation of the trial bundle contesting the status of a particular document or documents.
- (b) All documents contained in the trial bundle are what they purport to be, without either party necessarily thereby admitting the correctness of the content thereof, but no document may be relied on as proof of a fact or facts unless the document was pertinently referred to either in an opening address or in the course of evidence.
- (c) Letters, e-mails and telefaxes among the documents were sent on the dates appearing thereon and received by the addressee:
 - (i) In the case of letters, shortly thereafter;
 - (ii) In the case of telefaxes and e-mails, at the times reflected thereon.
- (d) Copies may be used, and the parties agree that the copies are all true copies of the originals.

2.6 Dates for delivery of Rule 36(9)(a) Notices and Rule 36(9)(b) summaries are as follows:

- 2.6.1 Rule 36(9)(a) Notices, 8 (eight) days before date of trial.
- 2.6.2 Rule 36(9)(b) summaries, 6 (six) days before date of trial.
- 2.7 The Attorneys are to do everything necessary to facilitate meetings of opposing experts to be held within no more than 2 (two) weeks of the date of delivery of the opposing experts' Rule 36(9)(b) summaries, and to ensure that the opposing experts furnish joint minutes of their meetings, signed by them.
- 2.8 Unless a party notifies the other in writing within 2 (two) days of date of receipt of joint minutes as aforesaid of non-acceptance of agreements reached between experts as contained in the joint minutes, the parties are bound by such agreements.

BY ORDER

REGISTRAR