Pretoria Attorneys Association Annual General Meeting 2018

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Executive Committee

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CHAIRPERSON’S REPORT FOR THE PRETORIA ATTORNEYS ASSOCIATION 2018

1. At our AGM one year ago, I had advised the attendees that change is coming. Change has arrived. Our profession is entering into new and challenging times. We are challenged on various fronts. This is the time to stand firm and speak with a unified voice. We, as the executive, have re-affirmed our goal to make this association the strongest regional voluntary Association in the Republic, and to keep delivering the highest level of service our members have always received and expect from us.

2. It is my pleasure, as the Chairperson of the Pretoria Attorneys’ Association to report on the Pretoria Attorneys’ Association’s and its subcommittees’ activities for 2017/2018.

3. Our Executive Committee comprises the following sub-committees and their respective chairpersons:
4. These attorneys sacrifice fee-earning hours and personal time for the betterment of our profession. I would like to thank them for their hard work and effort. The various sub-committee reports can be found on our revised and updated website. I have narrowed down my report to only deal with certain important aspects which our sub-committee is handled during the past year. Please note that I am repeating certain highlights and this is a summary. Please read the sub-committees reports to properly gauge the work that we do.

5. The greatest single challenge that our Association has faced on a regional level so far, was the Minister of Rural Development’s intention to make changes to the demarcation of the jurisdiction of the Deeds Office of Pretoria. The change envisioned by the Minister would entail that 80% of the single and small conveyancing practitioners in the greater Tshwane area would have lost their means of income. This would have also significantly influenced the employees
of the Deeds Office of Pretoria as a large number of their personnel would have had to relocate to Johannesburg. A further ripple effect would have meant that the economy of Tshwane would have been negatively influenced.

6. The Minister had failed to properly consult and communicate with our Association despite several reasonable requests. As a consequence we were forced to bring an application, which was heard on the 17th of April 2018.

7. A court order was granted by the Honourable Prinsloo J wherein the Minister of Rural Development and the Registrar of Deeds were immediately interdicted from implementing the decision to be taken by the Minister regarding the demarcation process. The interdict will remain in force pending the final determination of an application to review the Minister’s final decision.

8. This is a significant victory for our Association, who had acted in the interest of the numerous small to medium conveyancing firms that would have ceased to exist if the proposed move went ahead. Details can be found in the Property Law Committee report. I would like to thank them for their hard work and long hours invested in this Application. I would also like to thank Mr Andrew Molver from Adams & Adams Inc, who had represented the PAA. Adams & Adams had also graciously reduced their fees, to accommodate the PAA, as their attorneys are longstanding members of our Association. Our property committee is headed by Gareth Shepperson and he is assisted by the following attorneys:

Anton Theron  Tonkin Clacey / Markram Inc
Jodie van Broekhuizen  MacRobert Inc
Miriam Jansen van Vuuren  Friedland Hart Solomon & Nicolson Inc
Kenny Matseke  Matseke Attorneys
Nicole Pagel  Stegmanns Inc
Patricia Morgan  Klagsbrun Edelstein Bosman De Vries Inc.
Mpho Piet Mkumbeni  MP Mkumbeni Inc
9. This Application, of course, had come at a financial cost to the Association, but we were prepared. The following members have made a financial contribution, for which we are extremely grateful:

   Gerhard Botha & Partners Inc  
   Froneman Roux & Streicher Inc  
   Mark Kapelus Attorneys  
   Haasbroek & Boezaart Inc  
   Wolvaardt Inc  
   Savage Jooste & Adams Inc  
   Weavind & Weavind Inc  
   VZLR Inc  
   VDT Inc  
   Daleen Smith Attorneys  
   LGR Inc  
   CFG Meyer Inc  
   Tim du Toit Inc  
   Delport van den Berg Inc  
   Tonkin Clacey Pretoria  
   Markram Inc  
   Friedland Hart Solomon & Nicolson

10. The conveyancing field was also under threat by the Proxismart application. This was an extremely important matter for the future of the conveyancing profession. It is obviously in our own interest to preserve conveyancing for attorneys but it is also essential to the preservation of the integrity of the Deeds System in South Africa. For all of the above reasons, the legal profession deemed it necessary to litigate against Proxismart and several Law Societies joined forces to oppose this threat. The PAA was not cited as an applicant but was involved in support of, and advising, the Law Societies in their opposition. The Law Societies were successful in the High Court but the Applicants have filed for leave to appeal.
11. Another challenge facing the profession is the Road Accident Benefit Scheme (RABS) bill. One of our guest speakers, Pieter du Bruyn from the Association for the Protection of Road Accident Victims (APRAV) would have thoroughly appraised our attendees of the risks facing the profession, inclusive of both plaintiff and defendant attorneys, the medico-legal industry, as well as the public. As the PAA is a voluntary association with the main purpose to protect and advance the interests of its members primarily, and the profession in general, the threat of RABS is significant, and will have a negative impact on many Pretoria based firms and practitioners, whether a member of PAA or not.

12. Should RABS be implemented, it will have a knock-on effect on those firms who specialise in other fields as well, as government has a figurative foot in the door, to implement further legislation to the detriment of the profession. The legal market will also be flooded with litigants who will now need to source new expert fields of income. In light of this, the PAA has taken the decision to mobilize practitioners in Pretoria, and to lobby support at this critical stage.

13. As the PAA’s current Constitution does not permit the imposition of any special levy on its members, the PAA has no alternative, but to request voluntary donations and contributions. Support required at this stage is of a financial nature, as funding is essential to put the best case forward, and to obviously employ the best legal minds possible to fight this daunting legal battle. A number of individuals and organizations have previously contributed and continue to contribute financially, and we thank you sincerely.

14. In light of the above, the PAA urgently requests that more practitioners assist with financial contributions, in order to finance what could be a series of court applications. The Johannesburg Attorneys Association (JAA) has indicated its intention to donate a significant amount. The PAA has in turn also made the decision to contribute, and the war chest is accordingly steadily growing. Success can, however, not be achieved without individual contributions, from members and other affected stakeholders, including Advocates, experts and correspondent attorneys.
I would like to thank Ruan Steenkamp who chairs the Road Accident Fund portfolio for his comprehensive report.

The PAA currently represents 1780 attorneys. At the end of September 2017 we had 1675 active members. We are the biggest regional voluntary association in Gauteng, as well the Republic. There are, however, 4400 attorneys in the Tshwane Metropolitan City. We need to obtain more members for the PAA to remain relevant and to have a strong unified voice. Our members are urged to make sure that all of your professional staff are registered members of the PAA. I further urge all of you to, where possible, encourage fellow practitioners who are not yet members, to join our organisation. I would like to extend a special word of thank you to MacRoberts Inc. All of the attorneys practising in this Firm have individually registered as members. Members are reminded that only individual attorneys can register. Although every attorney who practises in our region obtains the benefit from our Associations’ activities, we require the financial contribution of registered members, by means of our annual registration fee. Every cent helps. The more registered members we represent the stronger our influence.

The challenges and changes which our profession has been experiencing has meant that we have had to re-visit our Constitution to keep us relevant and which will allow this Association to do the work which is expected of us. It will assist us to grow as we envisage. A lot of thought and debate has gone into the draft which is being considered tonight. There is no better structured organisation than our own PAA to look after the interests of the Tshwane based professionals. With the disbanding LSNP, there will be no regionally based organisation that can offer a union-based service to attorneys, other than our own association. Mr Jan Stemmet of the National Forum will address us tonight on what awaits the profession with the implementation of the Legal Practice Act.

The Gauteng Province has the greatest concentration of attorneys in the Republic of South Africa. Situated within the Gauteng Province, are the two largest voluntarily attorneys’ associations, the Pretoria Attorneys’ Association
and the Johannesburg Attorneys' Association, who often liaise with one another. Out of this liaison the Gauteng Attorneys' Association (GAA) was formed, and the inaugural meeting was held in Midrand on the 29th of August 2018. Anton Theron who serves on both the executive of the PAA and JAA was a driving force in the formation of the GAA. The GAA comprises of federation of these founding members. Our respective associations were joined by the West Rand Attorneys’ Association, Soweto Legal Fraternity and the East Rand Attorney’s Association. The GAA intends to include the Vaal Triangle’s attorneys as well. Each respective association will keep its individual identity and members, but will form part of this larger umbrella association. All registered members of the PAA are members of the GAA. The PAA has 7 of its executive members serving on the GAA’s executive committee and I am honoured to have been elected as the co-chairperson.

19. The PAA is represented on the Gauteng Provincial Efficiency Enhancement Committee (PEEC), which is chaired by Judge President Dunstan Mlambo. The PEEC comprises all stakeholders in the judiciary and law enforcement sectors including but not limited to, the Justice Department, Correctional Services Department, SAPS, Judiciary, National Prosecutions Authority and our own organised profession. All relevant issues challenging the justice system in the province is discussed at this forum at a high level. Dawie Bekker and Bhavna Singh of our High Court sub-committee, as well as myself, attend these quarterly meetings.

20. As reported in the past, we have two well-functioning and fully utilised offices at both the North Gauteng High Court and Pretoria Magistrate’s Court. These offices were established and run by the PAA and partly financed by the Gauteng Law Council. The Gauteng Law Council will, together with the LSNP in all probability, cease to exist on the 31st of October 2018. We, as a voluntary non-profit association, will have to find new means to finance these offices.

21. Our High Court office is in the process of implementing new billing and payment system to limit cash transactions. Dawie Bekker and his committee are currently investigating irregularities in respect of cash receipts books. This investigation
is still pending. As a result of this investigation, two temporary employees to ensure uninterrupted service to our members were appointed. The temporary staff members are Rochell Roux and Sanchia Smith. I would also like to take this opportunity to thank our dedicated staff, Lana, Keisha, Shadi, Steven and Virginia, who always strives to assist our members.

22. Our division is statistically the busiest High Court Division in the country. Approximately 150 matters are enrolled on a daily basis on the trial court roll. The High Court sub-committee chaired by Dawie Bekker and Bhavna Singh, engage regularly with the judiciary to address the various difficulties experienced and conveyed by our members. All relevant notices received from the office of the Registrar or the offices of the Deputy Judge President were circulated for information purposes to our members.

23. Mr Ruan Botha is our current Treasurer and is doing a sterling job in ensuring that we are not in the red. This is the fourth year that Ruan has been Treasurer of our Association. The Association has once again received yet another undisputed audit report. I would like to thank Ruan and VDT Attorneys who has made their boardroom available for our monthly meetings. Ruan is assisted by our long-serving auditor, Mr Twannie de Witt from Meintjies & Vermooten. Mrs Athe Swarts, who had kept the PAA’s bookkeeping for 17 years, has retired. We would like to thank her for her long-standing service.

24. I would like to thank Ms Mari Wilsenach, our Secretary, who has meticulously kept our monthly minutes.

25. Karen Van Niekerk has reported that her committee remains concerned about the Master of the High Court Pretoria and service delivery, but she is doing everything in her power to explain and communicate our members’ frustration to the Master of the High Court. The Committee meets with the Master of the High Court Pretoria on a quarterly basis to discuss practical issues and concerns. She believes that in the long run their input will have a positive effect on service delivery by the Master. Members of the Association are invited to address any concerns to her and she will attempt to resolve same. She
undertakes to constantly communicate with the Master`s office to ensure improvement in their service delivery.

26. Dawie De Villiers chairs the Magistrates` and Regional Court portfolio. As this portfolio consists of various components such as Sect 65 matters, debt reviews, maintenance court, small claims court, Regional Divorce Court, several district courts, and many other aspects, he has requested that members make themselves available to assist the Pretoria Magistrates Court sub-committee in all its various divisions.

27. We have an active website on which, *inter alia*, notices, reports and High Court rolls are publicised. We have also added a new feature where candidate attorneys and legal secretaries can upload their cv's. Please support this initiative. Our members are also requested to read the notices forwarded by the PAA to ensure that they are aware of what is happening in the profession. Thank you to Jessie Naicker and Riana Heunis who head our Social and Communication & Marketing subcommittees respectively.

28. I would like to thank Dawie Beyers and his personnel for arranging the diaries for our members, as well as arranging the certificates and trophies for our longstanding members and members receiving recognition. The following persons have been honoured for their service to the PAA and the profession:

- Org Basson
- Alastair Smith
- Miko Louw
- Dr Llewelyn Curlewis

29. On a more social note, we had held our annual business breakfast on the 11th of May 2018 at the Harlequin, Pretoria. Our speaker was Mr Jacques Pauw, the author of the highest selling novel in the history of South African publishing, *The President’s Keeper*. 
30. Our first annual fun run/fun walk was held on the 16th of June 2018 at the Wingate Golf Course. The proceeds of this fun run event was donated to an Organisation known as Unchain our Children which works tirelessly against domestic violence and human trafficking. We had obtained sponsorship from various legal service providers such as AJS as well as the Professional Provident Society. Investec also made a generous contribution. More details regarding the Charity can be found on our website. I would like to thank Millie Lurie who spearheaded this initiative. Millie is also the chairperson of the CIPC committee and her comprehensive report is attached hereto. I would also like to thank Millie as my Vice-chairperson who has lightened my work load with her support.

31. A successful candidate attorneys’ function was held in the beginning of the year where our guest speaker was Mrs Theresa Conradie of Maphalla Mokate Conradie Incorporated. Mrs Conradie is a respected senior practitioner and is well-known locally and nationally. A second function will be held for senior candidate attorneys and newly admitted attorneys on the 1st of November 2018. The Candidate Attorneys’ committee will in future be expanded to include training for candidate attorneys (“See A”) as well as attorneys, tours to courts, and seminars.

32. Mr Dawie Beyers, with Ms Khumo Mokhate, are also looking after our CA’s on the Bursary Scheme portfolio. Bursaries were awarded according to each applicant’s needs and personal circumstances. Their previous results, academic achievements and relevant criteria were taken into account. Dawie has provided a report with a full list of all the candidates and their progress.

33. For more than 20 years, the PAA has hosted an annual Golf Day for our members in September/October of each year. This is always a well-attended event, which is usually fully booked well before the date. Our annual golf day was held on the 7th of September 2018. It was, however, postponed to 31 October 2018, due to bad weather. Lightning had struck down a tree on the course that day! Thank you to Wingate Golf Course who had accommodated us. We have obtained sponsors from various service providers such as Legal
Serve, Basline IT, Vulpes and Ghost Practice. This Golf Day is, as usual, arranged by one of our senior colleagues, Mr Gerhard Painter, with great success.

34. Our year-end function has been arranged for Saturday, the 17th of November 2018 at Utopia Place. This is the social highlight of our year. We will host a black-tie masquerade with magicians and jugglers as our entertainment. The Association will, once again sponsor this event with substantially and we will only be requesting a nominal amount per head for each person attending the event. Only a limited number of guests can be accommodated, so please make your booking as soon as possible.

35. I would also like to thank Jessie Naicker and Riana Heunis for making the arrangements for our 2018 AGM. Thank you to our sponsors. Lastly, thank you to our members for attending this AGM and your continued support.

Yours faithfully,

Tiaan Joubert
(Chairperson)
REPORT ON THE COMPANIES AND INTELLECTUAL PROPERTY
COMMISSION (“CIPC”) FOR 2018

Dear Mr Chair,

It is difficult to believe that yet another year has passed and that almost eight years have gone by since the implementation of the Companies Act 2008, as amended (“the Act”) in May of 2011.

CIPC is still not properly set up and has still not aligned its systems to fully be in a position to satisfy requirements of the Act and the accompanying Companies Regulations, 2011 (“the Companies Regulations”). This year again has been a particularly challenging one for our members and for various stakeholders and sweeping changes have been made by the CIPC with the introduction of new electronic systems, which have been implemented in an attempt to create a paperless environment and an entirely electronic platform to transact with their office.

This year, the former head of IT, Mr Andre Kritzinger has on a number of occasions assisted the Commissioner, Advocate Rory Voller, as Acting Commissioner.

I may just mention that although Andre Kritzinger has a substantial knowledge of information technology, he has not been schooled in either the Companies Act 1973, or the Act and has been appointed in a position to assist the Commissioner purely from a technological perspective, rather than from a legal perspective.

Of great concern is that the Minister of Trade and Industry has still not as yet appointed the Deputy Commissioner of the CIPC, as required by section 189(1)(b) of the Act and the aforesaid section of the Act is mandatory.

The Commissioner is very often abroad and requires a person with adequate knowledge and expertise to perform his functions when he is absent and unable for any reason to perform the functions of that office.

We are still addressing this issue with the Companies Liaison Committee (“CLC”) and I will keep you posted as to developments.

CIPC is also constantly trying to align itself with company law practices in other jurisdictions, which is not necessarily suitable to the South African environment. The recently introduced XBRL system is an example of such a system adopted from a foreign jurisdiction and is highlighted briefly below.
The CLC has been the only forum, where we have been able to communicate our members’ concerns and the CLC is responsible for bringing all matters of concern to the attention of the Commissioner and his staff, so that they can be successfully addressed. The Disclosure unit of the CIPC still remains a problem and particularly now that the CIPC has done away with its former CIPRO website, where previously facilities were made available to our members and stakeholders under additional services to do document searches, which enabled all CIPC customers to check what documents had been filed, processed or queried by the CIPC. This was an extremely vital function for checking whether applications were correctly processed by the CIPC. The Disclosure unit is not accurate when it comes to applications and the situation has been aggravated since the document search function has been taken away.

As you are aware the former CIPRO website has been blacklisted due to phishing fears and hacking revelations into former services provided by the CIPRO website. I have been in constant communication with Andre Kritzinger as far as this very vital document search function is concerned and he has assured me that he would endeavour to implement a similar function under the e-services section of the CIPC website.

I will also keep you posted as to developments in this regard and send a communication to our members, once a suitable and workable function has been implemented by their office.

The Law Society of the Northern Provinces has also in a News Flash communicated to its members in July of this year, that CIPC will eventually make all documentation filed and processed by their office available electronically on their website without human intervention, but this obviously only relates to documentation which has been scanned onto their system.

Apparently, a process is underway by the CIPC to scan all documentation placed on the hard copy files onto their website and it remains to be seen when this process will be finalised.

I would once again like to thank my very competent sub-committee representative, Ms Hayley Levey, for her invaluable contribution and assistance in attending the CLC meetings on my behalf during the course of the year.

The aforesaid CLC meetings, as highlighted above, have not only addressed operational issues, but have also been a platform used by the CIPC to update all of its stakeholders as to progress made in their office with respect to complaints bought to
their attention, with respect to changes effected to their infrastructure and their website and all new developments in their office.

For ease of reference, I set out below the significant changes which have been effected since my last Report of 2017 with respect to the CIPC:

1. The introduction of the XBRL platform, which went live on the 1st of July 2018 and in terms of which those entities either required to be voluntarily audited in terms of their Memoranda of Incorporation, or mandatorily audited in terms of the Act or the Companies Regulations, would have to file their annual financial statements in XBRL format with the CIPC upon filing their annual returns. For further concerns and queries in relation to XBRL and the amendment of the filing process for annual returns, notices have been issued to confirm that our members can liaise with Mr Hennie Viljoen on HViljoen@cipc.co.za and Mr Joey Mathekga on JMathekga@cipc.co.za;

2. The draft Companies Amendment Bill where still no clear timeline has been determined as to when same will be enacted;

3. The need to claim confidentiality with respect to audited annual financial statements filed via the CIPC platform with respect to Annual Return submissions, which seems to be strange, particularly in relation to private companies, where we have drawn the CIPC’s attention to the fact that annual financial statements for private companies should not be made available to members of the public at all and that no confidentiality should have to be claimed in light of the provisions of section 26 of the Act. I am still awaiting a non-binding opinion from the Commissioner in relation to the misinterpretation of section 26 of the Act by his staff;

4. The simplification of the procedure relating to amendments to MOI’s and in particular the automated share capital change platform, which is available under e-services, but which system is still in testing phase and yet to be formally implemented by the CIPC.
Our Association will continue to work together with the Law Society of the Northern Provinces whilst it is in existence and in due course, hopefully, the Legal Practice Council and the CIPC to find a common road to accommodate not only ourselves as Attorneys, but all stakeholders.

I will continue to impress our concerns upon both the Acting Commissioner and the Commissioner with respect to all difficulties currently being experienced by our members with respect to the implementation of those systems which do not achieve satisfactory results for either our members or the CIPC.

I have no doubt that with constant pressure from our side, our legal expertise and our ideas with respect to the better and improved functioning of their systems, we will make a difference!

**MILLIE SHANTALL-LURIE**

CIPC

**VICE-CHAIRPERSON PAA**

**OCTOBER 2018**
1. **FINANCIAL**

1.1 The draft financial statements prepared by Messrs. Meintjies Vermooten & Partners, Chartered Accountants and Auditors (SA) (“the auditors”), for the year ending 30 June 2018 are attached hereto and marked Annexure “AS1” and must be read in conjunction with this report.

1.2 The auditors, as in previous years, proceeded to not only audit the Association’s books but also to act as the day to day accountants of the Association. The administrative tasks that are undertaken by the staff in the employ of the auditors on a daily basis are of the utmost importance for the smooth functioning of the Association’s affairs.

1.3 I would like to take the opportunity to bring to your attention the following most pertinent aspects in the attached financial statements:-

1.3.1 During the past financial year the Association made a profit of R347 667.00 in contrast with the profit of R418 259.00 during the previous financial year. It should, however, be noted that the Association is in fact a non-profit organization and any profit made by the Association will be utilised for the benefit of its members.

The nett profit decreased with approximately 16% in comparison with the previous year. Various factors influenced the decline in the profit margin, for instance the continual additional expenses associated with the bigger offices at the High Court and the legal fees that we had to pay in the demarcation matter.

It is also important to note that we saw a big increase in members during the past year, which saw the income generated by membership fees rise with 64%.

1.3.2 The Association’s cash position at the end of June 2018, was as follows:-

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<tr>
<td>Current cheque account</td>
<td>R 969 817.00</td>
</tr>
<tr>
<td>32 day investment account</td>
<td>R 3 041 040.00</td>
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The Association’s cash position is thus very good and the cash reserves increased with 12% during the 2018 financial year. The previous year saw a 10% increase in our cash reserves.

1.4 At date hereof the Gauteng Law Council’s annual contribution of R225 856.00 was received and is reflected in the financial statements. The Association’s income for the year ending June 2018 showed an increase of 18%. During the 2017 financial year the income grew with 1%.

The income of the Association has shown steady growth over the past few years, and the 18% growth during the current financial year is the highest percentage of growth seen in the last 5 years.

1.5 The growth in the income of the Association can be furthermore attributed to the increased capacity of the offices at the High Court following the move to a larger office the previous year.

1.6 When comparing with the Association’s income, the expenses showed an increase of 7%. The increase/decrease in the following expenses are mentionable:-

1.6.1 The Offices at the High Court – The upgrading of the offices afforded us the opportunity to increase the number of copiers, computers, printers and machinery. The move to the bigger office did not only necessitate the incurring of additional expenses, but also increased the Association’s assets. The maintenance and continual upgrading of the office and office machinery contributed largely to the increase in expenses and will continue to do so in future.

1.6.2 Administrative fees - these are the expenses that are paid to the auditors for the administrative and accounting functions that they perform for the Association on a day to day basis. The administrative fees increased with 20% during the past financial year.
1.6.3 **Banking fees** – Banking fees increased with 15%.

1.6.4 **Bursary Fund** - there was a slight decrease in the payments towards the Bursary Fund by the Association. Due to the success of this programme it was decided to continue with this project and to continue giving bursaries to potential law students.

1.6.5 **Depreciation** – provided for on the assets of the Association, the depreciation in the assets increased in line with the increase of the association’s assets

1.6.6 **General expenses** – it is not possible to list each and every smaller expense separately so this was allocated under a general heading.

1.6.7 **Rental of office machinery** – these expenses are essential for the photocopying, printing and fax equipment provided in the respective offices. These items are continuously upgraded to ensure the smooth operation of the offices at the High Court and Magistrates Court. The expenses in this regard decreased with 28%.

The decrease in the rental paid is attributed to additional assets acquired by the Association and the discontinuing of certain machinery.

1.6.8 **Office expenses** - There was a slight decrease in the office expenses which go hand in hand with the bigger offices. This is due to the optimal way in which the offices at the Courts are functioning. Our office expenses decreased with 7%.

1.6.9 **Computer and website development expenses** – During the past financial year the Association upgraded certain of its computer hardware at the respective offices. The Association also re-designed and upgraded the website. The increase in the computer and Website development expenses will be continual as the Association would like the Website to add value to all its members.

1.6.10 **Stationery and printing** – The Stationery and Printing expense increased with 36%;
1.6.11 **Functions and Marketing;** - The functions and marketing expense increased exponentially during the 2018 financial year. The Association focused on social functions and marketing especially in the light of the introduction of the LPA and the increased roll that voluntary associations will play in future. From the increase in membership numbers it seems that this strategy is working very well.

1.6.12 **Legal Fees** - The legal fees paid in respect of the demarcation matter amounted to **R 764 197.61**.

The Association always remains focused on reducing and controlling its expenses. In this regard it needs to be mentioned that, although we have seen an increase in the expenditure of the Association, it remains imperative that the service that the Association renders to its members, is maintained at a high standard. The Association utilises the funds received from members in the form of membership fees and income generated from the operations at the Magistrates Court and the High Court in the best interests of its members and will continue to do so in the following financial year.

It is also important to note that the Executive Committee meets on a monthly basis to manage the affairs of the Association effectively and to ensure that members receive the benefit of the financial growth. The management accounts are scrutinised at the meetings to ensure strict cost recovery measures at both the High Court and Magistrate Court. It is of the utmost importance that we provide a value added service which is both effective and affordable.

The Association is financially in a very healthy position.

2. **GENERAL**

2.1 I would like to express my appreciation to the following persons and institutions:-

2.1.1 All the members of the Association for their continued support of the functions as well as the facilities provided to its members at the respective offices;
2.1.2 The employees of the Association. Without their hard work and loyalty, the Association would not be able to function as smoothly as it does on a day to day basis;

2.1.3 The auditor's representatives: Mr Twannie de Witt (CA) SA, who is always available to assist the committee with any queries relating to the finances. And a very special thanks to Mrs Athe Swarts who helped with the day to day administrative tasks of the Association. All the clerks in the employ of the auditors who prepare the monthly management accounts which are discussed at the monthly meetings of the Executive Committee.

2.2 I also make use of this opportunity to thank my co-members of the Executive Committee for their input and assistance, without which I would not be able to properly perform my functions.

I accordingly request that the draft Financial Statements attached to this bundle be approved.

RUAN BOTHA
TREASURER
1. Our division is statistically the busiest High Court Division in the country. Approximately 150 matters are enrolled on a daily basis on the trial court roll. Members conveyed various complaints in respect of the availability of Judges, inconsistencies experienced at the judicial pre-trial conferences, awaiting periods in respect of the unopposed motion roll as well as the waiting period for trial matters to be enrolled. Another contentious issue is the appointment of curator ad litem, curator bonis, the creation of trust instead of the appointment of a curator bonis, rule 57 as well as the unreported judgement by Haupt, AJ dated 10 April 2018. In general all notices received from the office of the Registrar or the offices of the DJP, Ledwaba, were circulated for information purposes to our members.

2. As was indicated in 2017 annual report the Association as stakeholder on behalf of members, engages with the judiciary as far as possible stream line various difficulties experienced by our practitioners. We always welcome any proposals from our members. We shall briefly discuss the most important subjects.

3. CASE FLOW MANAGEMENT - During 2017 a judicial case flow management committee invited the legal fraternity to comment on proposed amendments to the uniform rules and new rules to be implemented in respect of judicial case flow management. We confirm that the Association drafted submissions which were then submitted to the LSNP. We still await feedback from the judiciary.

4. APPOINTMENT OF CURATORS - The honourable DJP, Ledwaba, initiated a meeting with various stakeholders and tasked them to prepare a working document in respect of the appointment of curator ad litem, curator bonis, inter vivos trusts and related matters having regard to the ambit of rule 57. Sub committees will steer various projects and once a draft working document is available same will be distributed to our members for comment. Until such time that a proper working document is available we urge members to familiarise themselves with the unreported Xaba judgment.

5. PRE-TRIAL SYSTEM - The current judicial pre-trial system requires parties to apply at the office of the DJP, Ledwaba, for a judicial pre-trial date. Notifications thereof are then sent to both parties’ representatives via facsimile. At the judicial
pre-trial submissions are made, whereafter the preceding judge, will decided whether the matter may be certified trial ready. Members complained that the judiciary does not consistently certified matters for a number of different reason. In the event that a matter is certified the approximate waiting period the is between 12 to 18 months. This system in our division differs from the Johannesburg South Gauteng system. Many matters that are certified is still not trial ready to proceed, immediately, on the date of hearing. This causes various matters to stand down for settlement or to be removed.

A possible solution to this problem will be that a judicial pre-trial conference should be conducted six weeks before the date of hearing. and after the parties filed a proper second pre-trial minute. After such certification, the matter is confirmed on the trial roll and no further notices may be filed and/or amendments made to pleadings. If the matter is therefore not ready to proceed on trial the matter may be enrolled on the settlement roll. Therefore fewer matters will be enrolled on the trial roll amo re Judges will be available. It will to a certain extent force parties to ensure that matter are timeously ripe for hearing. We confirm that the Court Practice Committee of the LSNP made proposals to the honourable DJP, Ledwaba. Another proposal is that more Judges, if possible, should be allocated to hear trials and further that Judges be so allocated for a specific week, should continue into the following week, in order to *inter alia* provide for trial matters set down for example on a Thursday, of which the estimated duration of trial is three of four days.

6. **UNOPPOSED MOTIONS** - The unopposed motion roll is now only catering for matters from Mondays to Thursdays. Members complain that firms are now limited to five unopposed motions per day irrespective of the size of the firm. Our Ms. B Singh addressed this issue with the honourable DJP, Ledwaba. The Association will continue with its efforts in this regard.

7. **TAXATIONS** - During February of 2018 the taxing master, Ms. Ajob, implemented by way of a notice dated 8 February 2018, an appointment registry roll, for taxation matters where bills of cost have been settled. We immediately received complaints from various members. The subcommittee raised this issue at a PEEC meeting which was chaired by the honourable DJP, Malambo. The Chief Registrar at the time, Mr. Mniki, also attended this meeting. We relayed all the complaints to the Chief Registrar and a follow-up meeting was
also conducted with Mr. Mniki. This resulted that the appointment registry roll system was abandoned, much to the delight of members. The subcommittee had a meeting with Ms. Ajob who indicated that they are short staffed and must also attend to other work, such as default judgments on a daily basis. They must also capture all taxation data as it is required by the Department of Justice. She indicated that five possible candidates were interviewed for vacant positions.

The Chief Registrar, Mr. Mniki, resigned at the end of June. Mr. Masoku is now the Acting Chief Registrar. The subcommittee also conveyed complaints by our members to him regarding waiting periods to obtain stamped allocators for taxation matters which became settled between the parties. Again, this is an ongoing concern and the Association will continue to monitor the situation.

8. GENERAL - We also note the general day to day operations of the office of the Registrar whereby we have received numerous complaints from members where court files are missing, and duplicate files needs to be opened on a regular basis. The office of the Registrar also do not file copies of documentation which in return causes difficulties parties to index and paginate court files. It should be mentioned that during the September Peec meeting, the honourable JP, Mlambo, indicated that the judiciary will start to look at a form of digital filing. Lastly, we urge all of our members to engage with the Association to enable us to identify problems and address same.

DAWIE BEKKER AND BHAVNA SINGH
ADMINISTRATION OF THE OFFICES OF THE PRETORIA ATTORNEYS ASSOCIATION

The Pretoria Attorneys Association has offices at the Pretoria Central Magistrate Court and High Court with a staff complement of six, two personnel manning the Magistrate Court and the remainder of four personnel attending to the High Court office. These offices play an important role to ensure a continual flow of income to the Association to enable us to provide the highest possible standard of service to our members. The High Court office is extremely busy during term and members requested us to buy more computers. We have now purchased three more computers which will be operational in the next term. We take pride of being the face of the Association.

Our High Court office is in the process of implementing new billing and payments system to limit cash transactions. The committee is currently busy conducting an investigation regarding irregularities in respect of cash receipts books. This investigation is still pending. As a result of this investigation two of our staff members were suspended and we appointed two temporarily personnel to ensure uninterrupted service to our members. The temporarily personnel are Rochell Roux and Sanchia Smith. I would also like to take this opportunity to thank our dedicated staffs who always strives to assist our members and look after the interest of the Association. We have not received a single complaint against any of our staff members.

Any notices received from the office of the Registrar or the office of the Deputy Judge President, Justice Ledwaba, were circulated to our members and are also displayed at our office on the 5th floor of the High Court. We further endeavour to timeously post court roles on our website. This is not always possible as we do not receive same in time. We can also report that the prices of copies and printing did not increase during 2018.

We have not received any written complaints. We always urge members to engage with us to enable us to better our service delivery.

DAWIE BEKKER
Dear Mr Chairman and fellow Committee Members,

PRETORIA DEEDS OFFICE

As mentioned in the last Report an official PAA Letter was signed by our Chairman (Mr. Tiaan Joubert) and sent to the Acting Registrar of Deeds. It seems that our Letter was perceived as a personal “attack”, which was not our intention at all. The response was therefore quite confrontational.

This led to quite a contentious meeting with the Registrar and Deputies. Despite the vexatious atmosphere and the tension in the room, I believe that it was nevertheless one of the more honest meetings held with the Deeds Office. It was resolved to communicate better with one another as this is the major source of frustration.

CITY OF TSHWANE

The City of Tshwane remains extremely unresponsive to our communication. The emails sent by our member dealing with this aspect (Ms. Nicole Pagel) have largely been ignored.

PROXISMART & DEMARCATION

We await further developments.

SARS
We are pleased to report that turnaround times have improved significantly since our meeting with SARS.

That is all there is to report at this stage.

Gareth Shepperson
We are pleased that the traffic to our website has increased significantly. Our facebook page likes have also doubled over the past year. Members are encouraged to visit our website and follow us on facebook in order to be kept informed of our activities.

As a further service to our members, we have implemented a CV upload functionality on our website. Employment seekers in the legal field can now upload their CV’s on our website and members can access same to search for candidates to fill vacancies in their practices.

The marketing & communication sub-committee strives to improve on effective communication with our members. We are concerned that we only get approximately 20% opens of every email that we send and it is usually the same members who open the email. To try to reach more members with an important email, we will resend the email on a weekly basis to those members who haven’t opened the previous email(s). We would like to request that members open our email communication. If emails that are sent from paanews@ppv.co.za are never opened by a member, the member’s ISP might flag us as spam and it negatively affects the deliverability of all emails.

We would like to thank all our members for their participation in our activities.
Dear Mr Chairman, the Social Committee is pleased to report on our activities for the 2018 term.

**Candidate Attorneys Function - One**
Our first Candidate Attorneys Function took place on 22 February 2018 at Rustica, Kimiad Golf Course. The event serves to welcome our new candidate attorneys into the profession. The function went off very well. Our guest speaker, Theresa Conradie, gave an excellent speech which no doubt motivated our guests.

**Candidate Attorneys Function - Two**
The second Candidate Attorneys function will be held on 1 November 2018 at Rustica, Kimiad Golf Course. The function serves as a congratulatory celebration for senior 2018 candidate attorneys and newly admitted attorneys.

**Business Breakfast**
We are happy to report that this annual event was a success. We exceeded last year’s attendance. Our guest speaker, Jacques Pauw, was very well received.

**Fun Run/Day**
The Pretoria Attorneys’ Association organised and successfully hosted our very first fun run event on the 16th of June 2018 at Wingate Golf Club. We were privileged to have such a scenic venue for our 4 km route. Our participants enjoyed a post run meal, a lucky draw and the children a jumping castle. We would specifically like to thank the following attorneys who made the event a success:

Makula Attorneys, Thapelo Kharametsane Attorneys, Ramaboa Attorneys, Ben Mc Donald, Motla Conradie Inc (Karabo) and Noko Ramaboya Mason Attorneys.
Their support together with a generous donation from Investec enabled us to make a contribution to a worthy cause and it is the intention of the Pretoria Attorneys’ Association to host this event annually.
We trust that more of our members will enjoy this event next year.

**AGM**
Our AGM is scheduled to take place in usual form on 18 October 2018. Our guest speaker is Mr Jan Stemmet and we are pleased to have him address us.

**Golf Day**
Gerhard Painter arranged another amazing Golf Day at Wingate Park Country Club on 7 September 2018. We had more players than 2017 and our sponsors out did themselves.
Regrettably the weather resulted in a postponement to 31 October 2018.
Although, a fun filled day was had by all.

**Year End Function**
The Association will host a black-tie event this year at Utopia Place on 17 November 2018. What can best be described as a magical night is planned and we hope to see all our members there.

**By:**  Riana Heunis and Jessie Deshnie Naicker
Karen represents the Pretoria Attorneys Association on the Deceased and Insolvency Committee. In addition, she is the chairperson of the Deceased and Insolvency Committee of the Law Society of the Northern Provinces (LSNP) and also serves on the Deceased and Insolvency Committee of the Law Society of South Africa (LSSA). The Committee meets with the Master of the High Court Pretoria on a quarterly basis to discuss practical issues and concerns. She believes that in the long run their input will have a positive effect on service delivery by the Master. Members of the Association are invited to address any concerns or refer any problems to her and she will attempt to resolve same.

We confirm that Mrs. Sewlal resigned from the Masters office end of June 2018. Tessie Bezuidenhout is handling serious queries and matters. According to our knowledge no new Master of Pretoria has officially been appointed.

We received a few complaints from members in June/July. We are hoping that matters will return to normal after the June/July holidays as a lot of the staff were on leave. Apparently accumulated leave were taken by some of the staff members.

We confirm that Anton Theron and myself attended the meeting at the Master office Pretoria on the 31st August 2018. We are satisfied that the meeting went well and we did everything in our power to inform the Master of all the problems and frustrations that attorneys experience. The minutes of the meeting will be circulated as soon as it is available. We also intend to send a news flash to our members in this regard.

We are negotiating with the Master to assist our members as well as other attorneys with delays at the Master`s office. The following document was send to Tessie Bezuidenhout for her approval. She agreed with the content. The email will be send to our members shortly.

In a recent meeting between members of the Deceased and Insolvent Estate Law Committee with the Acting Chief Master and Acting Master, Pretoria, the following issues were discussed:
1. **Complaints Process:**
   
   If no response was received after the escalation process was followed to the Assistant Master and Deputy Master, the matter must be referred to the office of the Chief Master who will investigate the complaint.
   
   *(E-mail address: tbezuidenhout@justice.gov.za)*

2. **Applying for Certified Copies:**

   Members can complete a request form and either hand deliver the request or e-mail the completed form to mamabolo@justice.gov.za and/ or smaponya@justice.gov.za and should include their contact details and e-mail address.

   The Acting Chief Master agreed that in instances where attorneys required urgent certified copies of documents by the Master and the estate file was missing, members can apply to the Deputy Master of the section in the form of an affidavit if the attorney can confirm that the certified copies they are requesting is the same as the originals lodged at the Master.

3. **Delays in the Issuing of Letters of Executorship / No Correspondence from the Master since the reporting of the estate:**

   The Chief Master invites members to provide the Chief Masters office with examples, which should include the name of the estate, estate number and date when reporting documents were lodged, where Letters of Executorship were issued after an unreasonable time period. Members may also provide the Chief Master’s Office with details where it took an unreasonable time for the Master to issue a J84 query sheet after the reporting of an estate.

4. **Court Applications:**

   The Chief Master urged members to escalate problems and/ or complaints to the Chief Master’s Office before applications were brought to the Court to compel the Master.

5. **Filing Slips / Formal Discharge:**

   The Chief Master indicated that in future the standard form normally issued by the Master will be amended to make provision for reductions of the bond of security to nil.

6. **Attorneys’ Trust Bank Accounts:**
Members should take note that in terms of the current Chief Master’s Directive, attorneys may use their trust accounts for deposits when administering a deceased estate, but that those members must apply to the Master in writing for consent to use their trust accounts to deposit estate funds.

We are concerned about the Master Pretoria’s service delivery and do everything in our power to explain and communicate our frustration to the Master. We undertake to constantly communicate with the Master’s office to insure improvement in their service delivery.

KAREN VAN NIEKERK
DECEASED AND INSOLVENT ESTATES COMMITTEE
SEPTEMBER 2018
REPORT BY STRATEGIC PLANNING COMMITTEE
AGM OF PAA TO BE HELD ON 18 OCTOBER 2018

The committee was involved in discussions to establish working relationships with various bodies and institutions. These included the various Law Councils (Circles) of the Provinces and the LSSA.

The need for a closer relationship and co-operation between the Pretoria Attorneys Association and the Johannesburg Attorneys Association was identified at the Bosberaad held in January, especially in light of the provisions of the Legal Practice Act. The two Associations managed to create the Gauteng Attorneys Association at its inauguration on the 28th of August 2018 in Midrand. The Constitution of the said Association is available on the website of the PAA. The collaboration between the two associations is aimed at the provision of better and wider services to the members thereof.

The committee co-ordinated and is still engaged in a matter involving PROXI SMART SERVICES (Pty) Ltd. The Company intended to commence business operations in providing services to consumers that require “administrative services” performed when transferring the immovable property. The impact of this on many firms is apparent from the papers filed in the application. The application was fortunately dismissed with costs by a full bench of the Northern Province High Court. Many hours of preparation, consultations and gathering of information were done by committee members. The documents filed in the application on behalf of all parties are available on the website of the LSSA and should be read by all members. The full judgement is also available on the LSSA website. Proxi Smart has filed a notice of intention to appeal on a date to be advised.

The committee was also involved and instrumental in the creation of a help desks at the Johannesburg and Pretoria Deeds Offices in co-operation with Pro bono.org. The help desks are manned by members of the Johannesburg and Pretoria Attorneys Association. This has eased the burden of the Deeds Office staff and created the opportunity for conveyancers to obtain credits for their compulsory community service through Pro bono.org.
The committee co-ordinated the efforts for an urgent application against The Minister of Rural Development and Land Reform against the intended demarcation/realignment of boundaries of jurisdiction between the Johannesburg and Pretoria Deeds Offices. Several meetings were held with conveyancers, and other interested parties, to ensure proper dissemination of information and ultimate the successful launch of the urgent application. The application was successful and the order attached as Annexure “XY2” was granted. The status quo thus remains for the moment.

Future strategic planning involves the furtherance of the working relationships established during the last year. The functions and role played by the Gauteng Law Council will be replaced by associations like the newly formed Gauteng Attorneys Association and the Pretoria Attorneys Association will play a major role within that organisation.

ANTON THERON
OCTOBER 2018
The following members and/or erstwhile members namely:

1. **Advocate Org Basson;**

2. **Mr. Alastair Smith;**

3. **Dr. Llewelyn Curlewis;**

4. **Ms. Miko Louw;**

will be awarded a small token of appreciation at our upcoming AGM in October 2018 in recognition of their dedicated and outstanding service to the Association spanning many years. I would like to introduce the recipients to you.

1. **Adv. Org Basson**

- Org practices as an advocate with chambers at Parc Nouveau, Brooklyn, Pretoria;
- Org is married and has three children;
- Org did his articles at Ross & Jacobsz Attorneys and was admitted as an attorney in January 1983. He resigned from Ross & Jacobsz in November 2007 to join the Pretoria Bar;
- As an attorney Org distinguished himself as follows:

1. He served on the council of the LSNP from 2002 until end of March 2008 (he was vice president for 2007 and 2008);

2. **He served on the Executive Committee of the PAA from 1995 to 2007 (as vice Chairman from 2000 to 2002 and as chairman from 2003 and 2004);**

3. In his capacity as Chairperson of the High Court sub-committee of the PAA he
liaised with the Registrar of the High Court and the respective Judges President to discuss and address problems in order to ensure a smooth flow of administrative matters relating to Attorneys;

4. He served on the Gauteng Law Council from 1998 to March 2008 (as Vice Chairman in 2001 and 2002 and Chairman in 2003);

5. He was involved in the investigation, the drafting of proposals and the submission of information (on behalf of the PAA) to the Hoexter Commission for the implementation of a new judicial dispensation for the High Courts of South Africa;

6. He was a member of the Court Practice, Disciplinary and Admissions and the Disciplinary Monitoring Committees of the LSNP;

7. He was a moderator of the attorneys admissions examination; assisted in the marking and moderation of examination papers as well as the oral examination of candidate attorneys;

8. From 1994 to 2006 Org lectured at the Practical Legal Training School of the Law Society of South Africa (“PLT”) in High Court Practice, Matrimonial litigation and Insolvency Law;

9. Org served as the additional member on the Executive Council of the LSSA as well as the Insolvency Law Committee.

- Org’s hobbies include/included inter alia long-distance running, wood working, hunting, mountain hiking, scuba diving, fly fishing, rock-, surf and deep sea fishing and reading.

2. **Llewelyn Curlewis**

- Llewelyn was admitted as Advocate of the High Court of South Africa in 1995 and as an attorney with right of appearance of the High Court in 1997.
- He holds the decrees B.L.C., LL.B., Doctor Legum (1999), Master of Law, LLM Commercial Law (2005), LLM Labour Law (2012), and was admitted as Notary Public in 2008.

- He holds academic Honorary Colours from the University of Pretoria for 1996 and 1999 as well as certificates of merits and Honorary Colours for sport at the same University for 2009, 2011, 2012, 2014 and 2015;

- Llewelyn was an associate at Roodt and Wessels Inc. From 1997 until January 2002. Thereafter he was the managing director of Pieterse and Curlewis Inc. until November 2015.

- At present he is a senior consultant at the said firm and a full time senior lecturer at the University of Pretoria.

- With reference to the Attorney’s profession, I should mention at least the following:

1. He was Co-Drafter of the Attorneys Admissions Exams;

2. Author of numerous articles in various Law Publications, Newspapers and Magazines;

3. He attended many high profile Court cases, coverage of which was published in numerous local and international media;

4. He was Alternate Councilor of the LSNP from 2004 until 2007 and Full Councilor from 2008 to 2015;

5. Llewelyn was vice chairman of the Gauteng Law Council in 2011 and 2012 and Chairman in 2013;

6. He was a member of SADC Lawyers Association as well as of the Commonwealth Lawyers Association;

7. Llewelyn was former deputy chairperson (for 4 years) and later
Chairperson of the PAA for five years and a member of the Executive Committee from 1997 to 2013.

8. He is a member of various Standing Committees of the LSSA and LSNP and was a Councilor for the LSSA for the period 2013 – 2015;

9. He acted as Judge of the North- and South Gauteng High Court;

10. He was member of the Board of Control of the Attorneys Fidelity Fund;

11. He is a distinguished sportsman who obtain Provincial Colours in four sport disciplines and South African National Colours in Biathle.

**Alastair Smith**

- Mr Smith attended his first AGM at the end of 2002 with his then colleague Leander Opperman when he was nominated to serve on the Executive Committee from 2003 going forward;
- He then served as Treasurer of the Association from 2003 until 2014, being 12 consecutive years;
- However, during the 2013 nominations he was also nominated as Vice-Chairperson and subsequently filled the portfolios of Treasurer and Vice-Chairperson for the 2014 calendar year;
- At the end of 2014 Alastair was elected as Chairperson of the Association and served as the Chairperson for 2015 and 2016, thus for 2 consecutive years;
- His involvement on the Executive Committee was for a period of 14 consecutive years;
- This AGM will be the 17th consecutive AGM he attends.
- Alastair is currently a director at Maritz Smith Inc.

**Miko Louw**

- Miko has 23 years’ experience as a practicing attorney and 10 years as conveyancer.
- She started out as candidate attorney at Friedland Hart and Partners on 1
September 1994 where she was admitted as an attorney in October 1996. She was appointed as director on 1 September 2001 and stayed on as such until 30 April 2009.

- Miko started as associate at H van Dyke Attorneys on 1 May 2009 and is currently still with the said firm.
- She served as member of the Executive Committee of the Pretoria Attorneys Association from 2001 to 2014 as secretary.
- Miko is currently serving as member of the fees assessment committee of the Law Society of the Northern Provinces.
- Miko holds the following degrees: BLC (cum laude) 1992, BA Hons (Criminology) (cum laude) 1993, LLB 1994 and Diploma in Corporate Law (cum laude).

The Association is also recognizing members who have served 35 years by awarding them with a certificate.

DAWIE BEYERS
KHUMO MOKATE
OCTOBER 2018
BACKGROUND: ROAD ACCIDENT FUND
The Road Accident Fund is a juristic person established by an Act of Parliament
It commenced operations on 1 May 1997, assuming at the time, all the rights,
obligations, assets and liabilities of the Multi-lateral Motor Vehicle Accident's Fund.

The RAF is responsible for providing appropriate cover to all road users within the
borders of South Africa, rehabilitating and compensating persons injured as a result
of motor vehicle accidents in a timely and caring manner, and actively promoting the
safe use of vehicles on all South African roads.

Section 3 of the Road Accident Fund Act stipulates that “the object of the Fund shall
be the payment of compensation in accordance with this Act for loss or damage
wrongfully caused by the driving of a motor vehicle”. The client base of the RAF
therefore not only comprises of the South African public, but all foreigners within the
borders of the country. The RAF provides two types of cover, namely personal
insurance cover to accident victims and their families, and indemnity cover to
wrongdoers.

BACKGROUND: ROAD ACCIDENT BENEFIT SCHEME (“RABS”)
Over the past years, it has been widely announced and much publicised that the
current RAF model is no longer sustainable as it is not succeeding in the execution of
its mandate nor fulfilling the functions which it was created for, in terms of the current
legislation.

A variety of reasons and excuses have been put forward for this failure in service
delivery, ranging from an inherent flawed model, being a “fault based system”, to
financial constraints, as well as a lack of proper administration and management.
In an effort to eradicate the current problems, the Bill, namely the “Road Accident Benefit Scheme” (RABS), provides for a new no-fault benefit scheme and a new administrator called the Road Accident Fund Benefit Administrator, which will replace the current RAF and compensation administered by it.

In terms of the fundamental overhaul, the legislation proposes that the RAF be replaced by RABSA and that the current system be replaced with a scheme which is based on the principles of social security and social solidarity.

The key change proposed by the draft legislation is a move away from the insurance based system of compensation, to a system of defined and structured benefits. This proposed shift to a new model, is ridden with numerous problems and concerns, specifically with regards to the limitation and exclusion of benefits and compensation which a victim would naturally be entitled to in terms of the common law. Other problems include a strong reliance on the public health sector especially the proposed National Health Insurance Act, as well as numerous extensive and cumbersome procedures and requirements, which would make it extremely difficult for many victims to comply with, specifically considering that they may not rely on the assistance of legal or other assistance to lodge and finalize a claim.

**ROAD ACCIDENT FUND AT PRESENT:**

Despite a newly appointed acting CEO, new CFO, and a number of changes at management level at the RAF end 2017/2018, the problems at RAF unfortunately continued throughout 2018.

Towards the end of 2017 an article was published in News24, reiterating that the current RAF dispensation is expensive, unaffordable, and unsustainable according to the then new RAF acting CEO, Lindelwa Jabavu. She indicated that change is an urgent necessity. She further indicated that she believes that the proposed RABS will overhaul the ineffective fault based system. Considering the comments she has made it would therefore appear as if the current acting CEO, is a strong supporter of the proposed RABS.
This is no real surprise as the RAF’s difficulties with effectively executing their legislative mandate continued throughout 2018.

As was the case in previous years, the RAF struggles financially. This can be attributed to a lack of strong leadership and management at the organization.

At claim handler level this can also been seen, as poor decisions are made daily, which costs the RAF millions, with no apparent consequences for those individuals.

Due to lack of proper management, the organization therefore underperforms dismally.

Morale at the organization is low, and at the beginning of 2018 NUMSA threatened with a nationwide strike of RAF personnel, because of what they deem “atrocious” working conditions.

Early in the year the RAF published and presented its annual financial report.

From the report the following is worth mentioning:

- Claims liabilities have increased by 22% to R188 bn, from R154 bn in the previous financial year;
- The number of open claims was reduced to 173 740 from 184 899 in the previous year. The fact that more claims are processed and finalized, will logically explain the fact that the RAF had severe financial cash flow constraints during this financial year;
- Revenue received was R33.34 bn (almost the same as the previous financial year);
- Number of direct claims increased by 14,53%.

During the Annual Budget speech, we saw an increase in the RAF levy of 30c/L which was effective as from 4 April 2018. This is a significant increase compared to a 9c/L increase allowed in the 2017 financial year and no increase in the 2016 financial year.

The fuel levy increase did not seem to alleviate the RAF’s financial troubles, probably due to the aforementioned mismanagement and poor administrative and financial practices.
There has also throughout the year been some reports on certain irregularities within the organization.

A newspaper article was published on the 9th March 2018, in the Mail and Guardian namely “RAF, Medscheme marriage under the spotlight”. This article focusses on irregularities with a tender which was awarded by RAF to Medscheme during 2013, whereby the RAF outsourced an integral part of their core business, being claims handling to Medscheme. It an odd move by the RAF to outsource their administrative function, costing millions, when the RAF should have had the capacity to perform this function themselves. Furthermore it has now surfaced that there might have been a problem with the manner which the contract has been awarded to Medscheme, with specific focus on the relationship between Charlene Louw, (who was at the time, the RAF’s Head of Legal and compliance, who also sat on the tender adjudication board), and Tim Rametse (MD of Afrocentric which owns Medscheme). It is alleged that Charlene was married to Tim, and that this fact was never declared. It is further clear that Medscheme did not perform adequately in the execution of their mandate and pocketed R130 mil for completing less than 50% of the cases given to them.

In another newspaper article, the RAF also made headlines for all the wrong reasons.

In this article it was reported that the Road Accident Fund (RAF) is renting office chairs at R1,666 per chair, per month.

This is according to a report in the Sunday Times, which stated that the RAF has a contract to rent 300 chairs at just under R500,000.00 per month for its Menlyn office.

The RAF reportedly acknowledged that renting furniture was expensive and “not the best option”, but could not settle claims immediately, and therefore chose this route.”

There is furthermore an ongoing Hawks investigation into unlawful practices within the Road Accident Fund. An investigation was initiated into serious misconduct on the part of management with regards to the handling of direct claims, resulting in criminal charges now being investigated.
It is therefore clear that we should all accept that the RAF will likely not improve, and is in its current form not sustainable. This is mostly due to years of mismanagement, but also partly due to an increase of claims, value of compensation paid to crash victims, and generally the fact that the current RAF dispensation model, is probably no longer the ideal, most effective model in modern South Africa, and in need of an overhaul.

Changes should however not be as drastic, irrational and against logic, as is proposed in the current RABS bill.

**RABS PROGRESS 2018**

Both the Road Accident Fund Amendment Bill, No. 3 of 2017 (Amendment Bill) and the Road Accident Benefit Scheme Bill, No. 17 of 2017 (RABS Bill) were tabled in Parliament late 2017.

A decision was taken to withdraw the Amendment Bill and to prioritize the RABS Bill.

Shortly thereafter, in November 2017, interested or affected parties were requested to submit comments with regards to the proposed RABS dispensation. The PAA was one of the organizations whom submitted comments on behalf of its members. A copy is attached hereto for your reference.

A number of other well respected individuals and organizations, also submitted their comments. It was impressive to see the effort and work which went into these submissions. The comments put forward, was well thought through, based on logic, data and research and points out all anticipated pitfalls with the proposed new dispensation.

Despite this, the Department of Transport, RAF and the Portfolio Committee continued to try their utmost best to get RABS approved. Their intent was clear as they quickly managed to get the necessary authorization from the State Law Advisor. The Department also claims that NEDLAC “approved” RABS. This allegation is untrue and misleading as NEDLAC recorded citing 47 outstanding issues to be addressed, of which all these issues remain unresolved to date.
RABS remained a Bill and progressed slowly through the parliamentary law-making process (with ongoing and significant APRAV interaction with the Portfolio Committee).

Then President Ramaphosa took office, he requested all Portfolio Committee Chairpersons to expedite key legislative priorities and “show progress” in Committees.

The Portfolio Committee on Transport then made a priority list of legislation and RABS was placed on that list.

During May 2018, a number of organizations were invited by the Portfolio Committee of Transport to make presentations to Parliament.

On commencement of presentations it appeared as if the Portfolio Committee had a better understanding of the anticipated problems and shortcomings with RABS and that a more cost saving can be effected through attending to current problems within the RAF. Furthermore that a lot of outstanding issues/questions with RABS need to be addressed and that alternatives to RABS do exist.

This positive view unfortunately quickly changed on 05 June 2018, when the Department of Transport, had their turn to present.

Two key presentations were made. The first by their appointed actuaries (True South) on their costing analysis of RABS. The second by the Department of Transport.

With regards to the Actuaries’ presentation the most noteworthy was their estimation that RABS may be 20% cheaper than RAF but may also be up to 44% more expensive.

They also concurred that more work needs to be done and that peer review by other actuaries is a good idea.

At this stage the Departments tone, demeanour and comments were aggressive towards the medico-legal industry at large. Very strongly anti-attorney and anti-expert.
They repeatedly expressed views that attorneys are the cause that the RAF owes R6b in legal fees.

They repeated that the “middle men” (attorneys and experts) make the current system cumbersome, expensive and unattainable.

The gist of the Department’s presentation was that there is zero need to amend a single thing in the previously published RABS Bill.

Following this the Portfolio Committee on Transport’ motion adopted a motion on the “desirability of the RABS Bill”, which was a significant step in the work of the Portfolio Committee and the parliamentary law making process.

The legal effect hereof, in practice, is that the Portfolio Committee is satisfied that:

1. Required legal alignment with the Constitution and other relevant Laws exist;
2. Proper research support that RABS is viable, and that no alternatives exist;
3. Study of the possible impact on the fuel levy and the economy in general has been completed;
4. Planning on co-funding RAF for approximately six years as well as the no-fault RABS have been thoroughly done;
5. That the RAF as an organisation is effective and efficient in starting and then running RABS, simultaneous to managing the RAF for a number of years to come;
6. Checking and balancing required in a law change of this national magnitude;
7. Adequate alignment has been affected with national and provincial health departments, as well as with the private sector health industry;
8. Integration within government;
9. Planning to manage the introduction of RABS as well as the dual management of RAF; and
10. All possible alternatives have been adequately considered by the Department of Transport and RAF.

The next procedural step by parliament was then to conduct public hearings. Public consultations were scheduled across all Provinces for July and August 2018.
There was a strong belief that this will again, only be a “block- ticking” exercise with little value.

As expected this turned out again to be the case.

- The sessions were poorly announced to the public and zero prior insight was provided on RABS.
- The public was handed copies of the RABS bill as they arrived.
- The average attendance was between 60-120 persons per session.
- Thus far the Portfolio Committee on Transport was unable to secure the public support they assumed they are going to get!
  - 45% outright rejection of RABS
  - 10% outright support of RABS
  - 16% RAF claim query
  - 18% Amend the RAF rather
  - 4% asking only questions
  - 6% unrelated

To elaborate further on the nature of these 'public consultations'. Limpopo Province has approximately 5.9 million people. 180 minutes was allocated to consult with 'the people of Limpopo', in a rural town named Jane Furse. Turnout was not great, as the community was not properly notified of the consultation. Bills was handed out at the door, which did not allow the public to have an opportunity to properly consider and formulate questions before hand.

The same trend extended to the other provinces and it can therefore not be deemed that there proper public consultations were conducted as legally required.

Following the Public Comments process, the Portfolio Committee accepted a request from the Minister of Finance, to address the Portfolio Committee.

In short, National Treasury rejected the Department of Transport’s costing model for RABS! As well as several other key issues.
In addition they recommended several wide-ranging new considerations to be considered by the Department of Transport and the Portfolio Committee.

They also lambasted the Department of Transport on several fundamental issues, including its' selective application of the Satchwell Commission recommendations.

They also made several recommendations in respect of the sustainable funding needed for RABS, the lack of proper Board Governance, etc.

In essence, National Treasury focussed back on the key principles of reasonability, affordability, sustainability and equitability.

What this meant at that particular stage, was that RABS would have to be amended on several principle issues, including the cost to the taxpayer. This would mean that if any amendments is effected to the Bill, the entire legislative process would have to start afresh, i.e be published for comment, parliamentary submissions, be submitted to NEDLAC, public consultation, etc.

Bizarrely days thereafter a letter was submitted to the Portfolio Committee on Transport, which was signed by both the Minister of Transport and the Minister of Finance. The letter stated that they are “aligned”, however, with no particulars. This “alignment” seemed superficial and without any substance.

Important questions then arose, such as whether this will have the effect of a further increase in the fuel levy and burden on taxpayers?

Following the significant progress in the legislative process the Portfolio Committee on Transport then decided to proceed to a review of the RABS Bill.

The purpose of this process is to do a final vetting of the Bill and then prepare the Bill to be sent to the General Assembly of Parliament) for a vote by the 400 MP's.

It is thus clear that politically speaking Government is powering on strongly, and has every intent to replace RAF with RABS as soon as possible. This despite a clear sense
that comments were not considered, financial and sosio- economic impact studies have not been done, affordability has not been considered, that the public consultation process was yet again flawed etc.

RABS therefore gained momentum throughout 2018, and implementation date seems much closer than expected a year ago.

ASSOCIATION FOR THE PROTECTION OF ROAD ACCIDENT VICTIMS (“APRAV”)
The PAA has since the establishment of APRAV, praised them for the sterling work they have been doing in combatting RABS, as the most dominant organization actively opposing the implementation of RABS.

At the start of 2018, APRAV’s key focus was to:

1. Seek solutions. Thus complete the establishment of the Provincial and Specialised Task Teams, and to focus on immediate and long-term solutions to the RAF/Industry.
2. To involve all key stakeholders quickly in this solution’s process.
3. To expand APRAV’s relationships in Parliament and Government to other key areas, not only Transport, but also focus on Treasury, Justice, Health, Trade & Industry, Social Development, Tourism, etc.
4. To expand APRAV’s focus beyond the RAF, but also focus on the prevention of car crashes, road safety, the availability of health services, closer cooperation between all “social security systems”, etc.
5. To create a 2 -3 year transformation strategy and plan together with all stakeholders – especially the Portfolio Committee on Transport, the Department of Transport, the RAF and all relevant key national bodies.
6. To continue to monitor activities relating to the RABS Bill in parliament, ensuring those “many questions” are answered and answered fully.
7. To engage social media actively, to create another channel of communication.
8. To consult widely in all provinces.
9. To promote public awareness.
10. Lastly, generate a more sustainable funding model.
However early in 2018, significant changes happened within Government, which did not impact on their focus for 2018, but did to some extent influence the manner in which they approached certain issues.

Throughout 2018 APRAV remained a Constitutional and Public interest watch dog in their dealings with Parliament.

Similar to the previous four years, they had knowledge of the Portfolio Committee on Transport’s work schedule for the year, monitored the agendas carefully and attended all Portfolio Committee meetings with RAF or RABS or related matter on the agenda.

APRAV has continued to work hard towards setting up the following Task Team:

a. National Solutions Task Team (STT):
b. Medical Task Team:
c. WC Task Team:
d. GP/MP Task Team:
e. KZN Task Team:
f. Free State Task Team:
g. Financial Task Team:
h. Inter-governmental Task Team:
i. Technology Task Team:

APRAV is accordingly creating a broader national platform and to allow for all those with an interest to participate in finding solutions to the industry challenges and other stakeholders. APRAV is committed to invite all other relevant stakeholders - relevant professional bodies (i.e. Medico-Legal Society, Orthopaedic Association of South Africa, Taxi Council of South Africa, Universities etc.) to get involved in this solutions process.

The APRAV Solution task team, for Gauteng and MP, has been formed and had its first meeting took place on 20 March 2018, in the form of a work session. Members of the task team, include a few individuals from the legal as well as medical fraternity.
The focus is on finding alternatives to RABS, as implementation thereof is not in anyone’s best interest. Specific focus is placed on:

- Current problems with RAF, and how changes to their administration, management, training and approach to litigation can alleviate their financial difficulties;
- Investigation and research into the proposed RABS, and setting out detailed reasons based on thorough research and consideration, why this model will not be cheaper, nor will it be more beneficial to crash victims and the families. As rehabilitation and reintegration of victims back into society and the economy is major ideal of RABS, research will show that considering our current health sector, that this will not be attainable nor will it be cheaper, as the private health sector will financially benefit from providing care and rehabilitation to victims, as our current public health system is by no means prepared to cope with the demand.
- Finding a “Hybrid” system between the current RAF model as well as the suggested RABS model, which will eradicate the current problems being experienced and including certain of the ideas proposed by RABS, for example “no fault” on minors, passengers; loss of support and funeral claims, as well as the possibility of moving towards a system where a panel of experts evaluate a claimant, and the findings of the panel is final. This will save immense costs of medical experts. Furthermore investigating the possibility of alternative dispute resolutions, which will relieve litigation costs. Lastly looking into re-instating a victim’s common law right to pursue a claim for damages against the wrongdoer. A basis for such alternative suggestion to a workable model will be, the Satchwell report, where Justice Cathy Satchwell many years made certain very valuable observations and suggestions in respect of a RAF system which was already failing back in early 2000’s.

**RABS CONCLUSION AND THE WAY FORWARD:**
That there seems to be a ‘blind’ prevailing intent to replace the current RAF system with RABS, at all cost and no matter what.
It seems that the Portfolio Committee is willing to take massive, undefined, unchecked, and national financial and public well-being risks, to blindly support the RABS Bill.

And that the Department of Transport will do so against the face of any science and logic.

The PAA recently engaged with APRAV, JAA (Johannesburg Attorney’s Association, GAA (Gauteng Attorneys Association), in an effort to join forces, as it has become very clear that the time has now come for the profession and industry in general, to step in.

It is clear from discussion with APRAV that most of the ground work has been done, the past 4 years, and a lot of legal research have gone in, by specialists such as Prof Kloppers, advocates, medical professionals and actuaries.

The time to launch Court proceedings in an effort to stop RABS, is probably in the not too distant future!

APRAV indicated that the Department of Transport could be voting on RABS during a parliamentary sitting as early as mid-October 2018! If it is voted in, then it’s the end of the road, and the legislation will have to be attacked similarly to OUTA attacking the e-toll system, which is extremely difficult as one will then have to play “catch-up”.

As this is a fight which are to a larger extent being fought on a political level, there will also be a number of stakeholders who will work hard behind the scenes on lobbying support and raising funding for the applications.

Calls have come for a number of years to get involved and support wherever possible. The PAA thanks those who have heeded the calls, and who have volunteered to assist, financially or otherwise.

As the PAA is a voluntary association with the main purpose to protect and advance the interests of its members primarily, and the profession in general, the threat of RABS is significant, and will have a negative impact on many Pretoria based firms and Practitioners, whether a member of PAA or not.
RABS will not only affect firms specializing in Road Accident Fund work, but could have a far reaching effect on other firms as well. A large number of Pretoria based firms receive instructions from attorney practices countrywide, to act as local correspondents for these firms whom also specialize in third party matters.

In light of the above, the PAA has taken the decision to mobilize practitioners in Pretoria, and to lobby support at this critical stage.

As the PAA’s current Constitution does not permit the imposition of any special levy on its members, the PAA has no alternative, but to request voluntary donations/contributions.

Support required at this stage is of a financial nature, as funding is essential to put the best case forward, and to obviously employ the best legal minds possible to fight this daunting legal battle.

A number of individuals and organizations have previously contributed and continue to contribute financially to APRAV and we thank you sincerely.

In light of the above, the PAA now urgently requests that more practitioners assist with financial contributions, in order to finance what could be a series of Court applications. On this point the PAA would like to draw your attention to the fact that donations can be made anonymously if a firm/practitioner so chooses.

The Johannesburg Attorneys Association (“JAA”) has indicated its intention to donate a significant amount. The PAA has in turn also made the decision to contribute a substantial amount, and the war chest is accordingly steadily growing.

Success can, however, not be achieved without any individual contributions, from members and other affected stakeholders, including Advocates, experts and correspondent attorneys.

Our banking details are as follows:

PRETORIA ATTORNEYS ASSOCIATION
We trust that this plea will be heard and that the community of RAF practitioners will now stand together in an extraordinary effort to stop RABS from being implemented.

**INTERESTING/ IMPORTANT CASE LAW**
Copies of the following interesting and noteworthy Judgments are attached to this report:

1. L Brink De Bruyn/ RAF
2. S M Moropane/ RAF
3. Abrahams/ RAF

Members are invited to address and concerns/ queries/ problems or interesting developments to me directly on ruan.steenkamp@ppv.co.za.

PREPARED BY: RUAN STEENKAMP

DATE: 25 SEPTEMBER 2018
ANNUAL REPORT 2018

Members are returning to our AGM to once again conclude the formal agenda following another year.

PRETORIA MAGISTRATES COURT

A. CRIMINAL COURTS

Touting at the Pretoria Magistrates Court still remains a problem and members are advised to forward any problems in this regard, to Dawie De Villiers Attorney by using e-mail: attorney@hotmail.co.za.

The P.A.A. lists a roster of prosecutors on standby on its website, which may be contacted pertaining to afterhours bail applications. Such prosecutor can then be approached and the necessary arrangements can then be made for the after hour bail application at a Police Station in the Pretoria area.

B. CIVIL COURTS

The P.A.A. have received numerous complaints from members and these complains was taken up with Magistrate Du Preez, who is situated on the ground floor, office no 106. Members are advised to forward their complaints by making use of Magistrate Du Preez's direct e-mail: idupreez@justice.gov.za. Magistrate Du Preez undertook to forward such correspondence to the relevant department / Magistrate, and furthermore such complaint will then be discussed at meetings and workshops, and if changes need to be done then they will do so. Any attorney who is unhappy with a judgment of a Magistrate must follow the normal channels.

With regard to garnishee applications it was suggested that members make use of the Sec 65 Court, so that a Magistrate may conduct a financial investigation in Court.
It is furthermore suggested that members dress appropriately and that our male colleagues dressed in a grey or dark suite with a white or blue shirt, as this has become an issue in Court lately.

The situation at the Magistrates Court remains problematic with almost 4000 files circulating a month with limited staff, Magistrates and Courts being available, as the old building shows little progress in repairing.

Miss Cornelia Van Graan from the firm, Van Graan Inc, has given her undertaking to assist me next year and it is suggested that more of our current Executive Members be appointed to assist with this portfolio.

My suggestion is that a current Executive member assists with the Sec 65 Court, Motion Court and Civil Trial Courts. Mr Chair, I am quite willing to assist with the Criminal and Divorce Court, as well the Domestic and Harassment Court, and that another current Executive member is appointed to deal with the Children Court Maintenance Court and Small Claims Court. All of these members for this portfolio must then try and attend PEEC subcommittee meetings and Stake holders meetings.

C. IN CONCLUSION:

1. I will enlist more members to assist with the Pretoria Magistrates Court in all its various divisions.

2. I will attend all available meetings, and also initiate more meetings, to bear the interest of its members. If the LSNP has a judges function, why can’t the PAA not have a Magistrates function for its members?

3. It was once gain a privilege to serve on the committee, and I declare myself available for next year to the Courts as indicated above, as well as to the PAA Fun Day and the Golf Day.
1. Morné Gouws was appointed as the Chairperson of this subcommittee. Mr Gouws has, however, in the meantime emigrated to Ireland. We wish him and his family the best of luck and thank him for his work in the short period that he headed this sub-committee.

2. A successful candidate attorneys function was held in the beginning of the year where Mrs Theresa Conradie of Mothla Conradie Incorporated (which in the meantime has changed its name to Maphalla Mokate Conradie Incorporated) was our guest speaker. Mrs Conradie is a respected senior practitioner and is well-known locally and nationally.

3. A second function will be held for senior candidate attorneys and newly admitted attorneys on the 1st of November 2018. More details can be found in the social committee report.

4. This portfolio will be expanded to facilitate training and tours to, inter alia, the local courts. This sub-committee will also, in future, be responsible for the arrangement of seminars.

5. The executive of the PAA is disconcerted regarding the CA examination leaks. Attorneys who are principles of candidate attorneys must install a strong sense of ethics in our CA’s. We need to ensure that the profession will have candidates that are fit and proper to practice. Candidates should be encouraged to take the moral high road from an early stage. We wish all our candidates attorneys the best of luck with the forthcoming exams.

6. We shall keep our members updated.

Regards,

Tiaan Joubert

05 October 2018
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