



OFFICE OF THE DEPUTY JUDGE PRESIDENT AP LEDWABA  
HIGH COURT OF SOUTH AFRICA, GAUTENG PROVINCIAL DIVISION, PRETORIA

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21 May 2019

**TO: ALL PRACTITIONERS**

Dear Sir/Madam

**RE: AMENDMENT TO PARAGRAPHS 3.5 AND 3.6 OF THE PRACTICE  
MANUAL**

THE SYSTEM THAT WAS USED FOR CERTIFICATION OF RAF AND PRASA  
MATTERS IN TERMS OF PREVIOUS PRACTICE DIRECTIVES IS  
DISCONTINUED AND AMENDED. THE AMENDED PRACTICE DIRECTIVE IS  
SET OUT BELOW:

3.5 STEPS TO BE TAKEN AFTER CLOSE OF PLEADINGS TO OBTAIN  
AND RETAIN A TRIAL DATE:

**APPLICATIONS FOR TRIAL DATE**

3.5.1 An application for allocation of a trial date in RAF and PRASA  
matters must be accompanied by:

- 3.5.1.1 a certificate signed by the attorney for the party applying for the trial date confirming that a proper pre-trial (as envisaged and in compliance with Uniform Rule 37) was held; and
- 3.5.1.2 a pre-trial minute which complies with Uniform Rule 37, a copy of which has been served on the other party.
- 3.5.2 **Annexure "CC2"** is a draft pre-trial minute and contains the aspects that should be addressed during the pre-trial conference.
- 3.5.3 Should a party fail to attend a pre-trial conference after due notice has been given in terms of Uniform Rule 37(2), the innocent party may apply for a trial date if it can show that due notice has been given and attempts have been made to arrange a pre-trial conference and that the defaulting party either failed to engage the innocent party for the arranging of such a conference or the defaulting party failed to attend such a conference. In such an event the party applying for a trial date has to reflect the non-attendance of the defaulting party in the pre-trial minute.
- 3.5.4 If the Registrar is not satisfied that there had been due compliance with paragraph 3.5.1 above, the application for allocation for a trial date may be either rejected, or, in the case

of doubt, referred to the office of the Deputy Judge President for consideration.

**ALLOCATION OF DATES:**

- 3.5.5 The Registrar shall, if satisfied as to the compliance with paragraph 3.5.1 above or at the direction of the Deputy Judge President, allocate a trial date and, simultaneously therewith, allocate a date for a Judicial Certification Meeting to be held approximately 6 (six) weeks before the allocated trial date and notify the parties thereof in writing.
- 3.5.6 Within 10 (ten) days after the Registrar has allocated the abovementioned dates, the party having applied for the dates or upon his or her failure to do so, the other party shall deliver a Notice of Set-down which must reflect:
- a) The allocated trial date; and
  - b) The date of the Judicial Certification Meeting.
- 3.5.7 Prior to the date allocated for the Judicial Certification Meeting the parties are directed to hold a further pre-trial conference, the minutes of which must be served and filed at least 5 (five) court days prior to the Judicial Certification Meeting by which time the contents of the court file must also be indexed and paginated.
- 3.5.8 Failure to hold this further pre-trial prior to the Judicial Certification Meeting may result in a Judge presiding at the

Judicial Certification Meeting making or granting any ruling or order deemed appropriate, including a costs order.

- 3.5.9 If, at any time prior to the date of the Judicial Certification Meeting and after the parties have complied with paragraphs 3.5.7 above and 3.5.12 hereunder, a matter is of such urgency that any undue delay may prejudice the rights of a minor or any of the parties, they may, in writing request the Deputy Judge President to allocate a preferential trial date.

**EXPERT REPORTS AND JOINT MINUTES:**

- 3.5.10 All experts in respect of whom reports have been filed are obliged to compile joint minutes with the corresponding expert, if a corresponding expert has been appointed by the other party.
- 3.5.11 Attorneys for both parties shall instruct their respective experts to compile such joint minutes. The failure to so instruct experts and/or their failure to compile joint minutes may result in an appropriate costs order being granted at the appropriate time against a defaulting party or an order precluding an attorney from recovering the fees of such an expert or his or her own fees.
- 3.5.12 All necessary expert reports as well as joint minutes must be served and filed at least 4 (four) weeks prior to the date of the Judicial Certification Meeting.

## JUDICIAL CERTIFICATION MEETING:

3.5.13 At the Judicial Certification Meeting, presided over by a judge or judges designated for that purpose by the Deputy Judge President:

3.5.13.1 If one of the parties is not trial ready, the Judge presiding at the Judicial Certification Meeting may in his discretion rule that the innocent party should not be prejudiced thereby and may make or grant any of the following rulings or orders:

- a) Certify the matter trial ready;
- b) Preclude the defaulting party from filing any further expert reports than those already filed;
- c) Allow the defaulting party to file further expert reports subject to such conditions as the Judge may deem appropriate;
- d) Make an appropriate order with regard to costs including an order disallowing an attorney to claim his or her fees or recover experts' fees from his or her client;
- e) Any such ruling or order that the Judge may deem appropriate; including making any settlement an order of court.

3.5.13.2 If both of the parties are not trial ready the Judge may make or grant any of the following rulings or orders:

- a) Remove the matter from the trial roll;
- b) Certify that the matter may remain on the trial roll together with any of the undermentioned rulings or orders:
  - i) Allow the parties to file further expert reports subject to such conditions as the Judge may deem appropriate;
  - ii) If the matter is still capable of settlement, direct that the matter be enrolled on the settlement roll;
  - iii) Issue such directives necessary to ensure that the matter becomes trial ready before the allocated trial date;
- c) Make an appropriate order with regard to costs;
- d) Any such ruling or order that the Judge may deem appropriate; including making any settlement an order of court.

3.5.14 After the Judicial Certification Meeting the Plaintiff shall, not less than 5 (Five) court days prior to the allocated trial date:

3.5.14.1 Serve and file the minutes of the Judicial Certification Meeting on the court file and provide the presiding Judge of the Judicial Certification Meeting with a copy thereof; and

3.5.14.2 Serve and file a trial practice note, indicating the status of the matter, including all orders, rulings or directives made and steps taken in compliance thereof together with a summary of the triable issues.

3.6 **COSTS:**

On the day of trial which shall include the settlement roll, if any, and, insofar as it has not already been done, the court may consider whether or not it is appropriate to make any further or special orders as to costs against a party or its attorney or order the disallowance of attorneys', counsels', or the recovery of experts' fees, as a result of one or more or all of the following, and thereupon, in its discretion, grant such costs orders:

3.6.1 The failure of a party or an attorney to a material degree to promote the effective disposal of the litigation, including timeous settlement of the matter, if the matter had been capable of settlement.

3.6.2 The failure of an attorney to obtain proper or timeous instructions; or the failure of a party to provide such instructions.

3.6.3 Any failure to comply with any undertaking given at a pre-trial conference or any order, ruling or directive or provision contained in any part of the practice manual

Regards,

A handwritten signature in black ink, appearing to read 'T. J. Raulinga', written over a horizontal line.

**T. J RAULINGA**  
**ACTING DEPUTY JUDGE PRESIDENT**  
**GAUTENG HIGH COURT, PRETORIA**

"CC 2"

**IN THE HIGH COURT OF SOUTH AFRICA  
(GAUTENG DIVISION, PRETORIA)**

Case No:

In the matter between:

Plaintiff

And

Defendant

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**DRAFT MINUTE**

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**REQUIRED INFORMATION IN THE MINUTE:**

1. State whether the matter is ready to proceed on merits (liability) only or merits and quantum or quantum only or if there would be separation.
2. Not settled summary of the facts, upon which plaintiff's claim is based and Defendant's defence is based should be recorded.
3. Are there other claims lodged with the RAF or PRASA arising from the same accident: (If yes, the status of the said claims should be briefly explained).
4. Does the Defendant concede to merits? If not, the Plaintiff and Defendant should clearly state why matter cannot settle.
5.
  - (i) If quantum is still an issue, Plaintiff and Defendant should make a list of Expert Reports filed and the date of filing.
  - (ii) List of outstanding Expert Reports and the estimated date of filing:
6. Plaintiff and Defendant should state which Joint Reports have been filed and the estimated date of filing of outstanding joint report.
7. Do the parties admit the expertise and findings of the Experts in the Expert Reports filed? (If not, reasons should be stated)
8. Does the Defendant admit the *injurie & sequelae* thereof as set out in the various medico-legal reports? (If not, reasons should be stated)

9. Do the parties admit the factual allegations and opinions contained in the various Expert Reports? If not, the parties should state:

9.1 Which factual allegations they do not admit and the reasons therefore?

9.2 What the parties' contentions are in respect of the aforesaid factual allegation?

9.3 Which of the opinions expressed do the parties not admit and the reasons thereof?

9.4 What are the parties' contentions in respect of the aforesaid opinion?

10. Each party to state reasons why the matter cannot be settled.

11. Do the parties intend to amend the pleadings?

12. Do the parties intend to request trial particulars?

13. Did the parties file proper discovery affidavits and expert notices been filed? (Date of filing to be stated)

14. Is the examination of any person or item required in terms of Rule 36?

15. Does the Plaintiff and Defendant ready to proceed with the trial. If not, reasons to be stated.

16. What is the probable estimated duration of the trial?

17. Will the plaintiff make sure that the court file has been properly indexed, paginated and the Practice Note are filed on time before the trial date?

18. The litigants should ensure that the proper minutes of the pre-trial(s) and Judicial Management Meeting minutes would be filed on time before the allocated trial date?

19. The parties should prepare bundles of discovered documents for trial and indicate which documents the parties would use and the status of the said documents.

**20. PARTIES CONFIRM THAT THEY HAVE NOTED AND WILL COMPLY WITH THE FOLLOWING:**

20.1 If the matter is settled before the allocated trial date there should be no delay in preparing a draft order and matters settled before the trial date should be enrolled on the draft orders roll immediately.

- 20.2 If a matter would not proceed on the trial date, Notice of Removal should be filed on time. On the trial date, matters will not be simply removed from the roll unless there is a good reason.
- 20.3 On the trial date matter will not merely stand down for parties to get instructions. Parties should be ready to proceed with the trial on the allocated trial date.
- 20.4 Parties should endeavour to obtain proper instructions before the trial date.
- 20.5 The directives or conditions set out in the Certificate of Trial Readiness should be strictly complied with.

SIGNED at PRETORIA on this \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
Attorney for Plaintiff:

\_\_\_\_\_  
Attorney for Defendant: