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PRACTICE DIRECTIVES OF THE FREE
STATE HIGH COURT

SA COURT RULES

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24 August 2012 – Opposed Motions and Filing of Heads of Arguments

PRACTICE DIRECTIVE NO 1 OF 2012

OPPOSED MOTIONS:

SET-DOWN AND HEADS OF ARGUMENT

After consultation with the Bar and attorneys, the Judges of this Division resolved to implement the proposed rule of practice regarding opposed motions set out in part A below in the manner detailed in part B. At the end of the trial period, taking into account the feasibility of the rule, it will be resolved whether to amend the local rules accordingly.

S.P.B. HANCKE

ACTING JUDGE PRESIDENT

PROPOSED RULE OF PRACTICE: OPPOSED MOTIONS

Opposed motions must be enrolled before 12h00 on the second Friday of the week preceding the date of hearing.

The applicant's heads of argument shall be filed before 12h00 on the Wednesday of the week immediately preceding the date of hearing.

The respondent's heads of argument shall be filed before 11h00 on the Friday immediately preceding the date of hearing.

The heads of argument of all parties shall be accompanied by a practice note in which the issues in the application are succinctly identified and an estimated duration of the argument is stated.

IMPLEMENTATION OF PROPOSED RULE

The above rule will be implemented for a probation period of one term, namely the fourth term of 2012.

The rule will enter into force on the first Thursday of the fourth term. The effect is the following:

- 2.1 Opposed motions for 11 October 2012 must be enrolled on Friday, 28 September 2012, before 12h00.
- 2.2 The applicant's heads of argument must be filed on Wednesday, 3 October 2012, before 12h00.
- 2.3 The respondent's heads of argument must be filed on Friday, 5 October 2012, before 11h00.
- 2.4 Both sets of heads of argument must be accompanied by the practice note referred to above.

30 May 2014 – Trial and Pre-trial conferences

PRACTICE DIRECTION 1/2014

Setting down of Defended cases for trial and pre-trial conferences before a judge in terms of the Uniform Rule 37(8).

- 1.1 After the close of pleadings any of the parties to an action may proceed to convene and finalize a Rule 37 conference without delay and with a view to applying for a trial date.

1.2 The party applying for the trial date must file the minute of the pre-trial conference or a certificate that due to lack of co-operation of the other party it has not been possible to hold such conference.

1.3 The minute must comply with Rule 37(6) and in addition contain the following:

- (i) Whether the parties have made discovery, and if not, when that will be done.
- (ii) Whether further particulars have been or will be requested.
- (iii) Whether expert notices and summaries have been delivered and if not, when that is to be done.
- (iv) Whether the experts have met.
- (v) What is the main point in issue at the trial?
- (vi) Estimated duration of the trial.

Formal pre-trial conferences envisaged in the Uniform Rule 37(8) will be held every Monday from 9h00 in court G before a Judge identified in the weekly rolls at which all matters wherein trial dates were applied for in the preceding week will be dealt with.

After conclusion of the pre-trial conference, the judge will determine whether a trial date should be allocated.

If the judge is not satisfied that a trial date can be allocated, the judge shall postpone the pre-trial conference to a fixed date and place the parties on terms to attend to outstanding issues.

No trial date will be allocated unless a judge has certified that it can be done.

Precedence on the roll of civil trials will be determined chronologically in accordance with the date of certification of the judge.

After the judge has certified that a trial date can be allocated, the registrar shall allocate a date and the party that applied for the trial date shall formally set the matter down for hearing by delivering a notice of set down and in the event of that party failing to do so, any other party may within three days deliver such notice of set down. In the event of no party delivering a notice of set-down within the aforementioned period, the case shall be removed from the term roll and the registrar shall be free to reallocate such date or dates to any other case

This Practice Direction shall apply for a trial period for the month of June 2014.

The provisions of Rule 3 of the Local Rules of this division are suspended during the operation of this Practice Direction.

MH RAMPAL, AJP

30 May 2014

13 November 2018 – RULE 31(5) APPLICATIONS

RULE 31(5) APPLICATIONS

It is noted that applications for default judgments are being filed without the necessary supporting documentation. This is causing delays. Herewith I provide a checklist in respect to NCR related matters. This will ensure a better and speedier process.

SUPPORTING DOCUMENTATION FOR NCR RELATED CASES:

1. Original agreement and mortgage bond, alternatively an affidavit with reasons why the original cannot be filed.
2. Original return of service and original summons.
3. Certificate of compliance with Sec 129 of the NCA.
4. Attach the Sec 129 notice.
5. Attached the registered post slip.
6. Attach the post office track and trace report showing that the Sec 129 letter has been delivered to the defendants nearest post office.
7. Attach proof of NCR registration of the year in which the transaction was concluded.
8. Attach proof of payment of annual NCR fees for the current year.
9. If the summons was served more than 6 months before default judgment is requested, the summons must be re-served on the defendant and an updated certificate of balance must be filed.
10. File a certificate of balance original (unless computer generated, then file an affidavit of compliance with The Electronic Communications and Transactions Act 25 of 2002). It must be dated no older than 6 months and must indicate the amount outstanding as at date of signature thereof. Should this amount be less than prayed for then the draft order must be amended to indicate such.

11. If the amount claimed falls within the jurisdiction of the Magistrates' Court jurisdiction, fees are only allowed at R200-00 plus sheriffs fees (Rule 31(5)(f)).
12. Should you request for immovable property to be declared executable, file an affidavit indicating if such property is the primary residence of the defendant or not.

Regards,

R NAUDE

Acting Chief Registrar

16 August 2019 – Judicial Case Management

PRACTICE DIRECTION 2/2019 -THE JUDGE PRESIDENT HEREBY ISSUES THE FOLLOWING PRACTICE DIRECTIVE, EFFECTIVE IMMEDIATELY, IN RESPECT OF JUDICIAL CASE MANAGEMENT:

1. The Practice Directive dated 6 January 2015 is hereby rescinded and substituted with the rules set out herein.
2. The new High Court rule 37A shall not be applied to applications, but in respect of all defended civil actions.
3. Parties involved in defended civil actions shall be expected to strictly comply with the provisions of rule 37A and in particular rules 37A(8) – (10) and exact statements instead of vague generalities will be required.

4. The registrar shall issue a notice in terms of rule 37A(6) after closure of pleadings and the application for a trial date by any of the parties.

5. Once the parties have been notified by the registrar in terms of rule 37A(6), they are expected to comply fully therewith as provided for in rule 37A(7), subject to the following:

5.1 the court file shall be suitably ordered, secured, paginated and indexed in the manner described in the next sub-paragraph not less than seven days before the time appointed for the case management conference;

5.2 the court file shall consist of separate bundles for the full set of pleadings, the discovery affidavits in a single bundle, a single bundle of documents to be used by the parties in a chronological order, a set of expert reports together with, as far as possible, joint minutes of like experts and a bundle containing all other notices and documents not falling in one of the above categories;

5.3 although rule 21 has not been amended, the parties shall be expected to confirm in writing that they do not intend to request further particulars for trial (if they have not requested trial particulars before), or if a request was filed to which there was no response, that the requesting party either abandons the right to insist on a reply, or intends to seek compliance in which last-mentioned instance the matter should not be declared trial-ready;

5.4 the signed minutes of the parties' pre-trial conference in terms of rule 37, complying strictly with rule 37A(10), shall be filed and contained in the pleadings bundle;

5.5 the signed minutes of the parties' pre-trial conference shall also contain a statement that no interlocutory applications are outstanding or anticipated;

5.6 in the event of non-compliance by a party with rule 37A, the other party shall be entitled to inform the registrar in writing of such failure within the time frame set out in paragraph 5.1 above and the steps taken by that party to ensure compliance by the other party in which case the letter shall be filed and bound in the pleadings bundle.

6. The case management judge may in his/her discretion certify a matter trial-ready without the necessity of the parties appearing at a case management conference if he/she is satisfied, upon receipt of the court file indicating full compliance with the relevant provisions of rule 37A, that such a conference is not required and will merely lead to unnecessary costs.

7. Case management conferences shall be:

7.1 conducted on Mondays in G court, starting at 14h15;

7.2 attended by legal practitioners with the right of appearance in the High Court who shall be robed;

7.3 recorded mechanically.

8. The decisions made at the case management conference shall be entered in the minutes of the conference by the case management judge if he/she prefers it, or in all other instances by the plaintiff's legal practitioner to be submitted to the case management judge for approval within five days and such minutes shall also be filed as part of the pleadings bundle.

9. A matter may be certified as trial-ready in exceptional cases where it is evident that one of the parties is trial-ready, but the other party, notwithstanding the utilization of all available pre-trial measures, remains in default.

Dated and signed on this 16th day of August 2019.

C.J. Musi, JP

PRACTICE DIRECTION 1/2021

THE JUDGE PRESIDENT HEREBY ISSUES THE FOLLOWING PRACTICE DIRECTIVE, EFFECTIVE IMMEDIATELY, IN RESPECT OF APPLICATIONS FOR DEFAULT JUDGEMENTS:

1. All Applications for Default Judgements in terms of Rule 31(5) pertaining to the National Credit Act 34 of 2005 will no longer be considered by the Registrar's office and must be directly placed on the motion court roll by way of Notice of Set Down.

Dated and signed on this 30th day of November 2021.

C.J. Musi, JP