JUDGES' CHAMBERS
OFFICE OF THE HONOURABLE JUDGE PRESIDENT LEDWABA
IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION)

AMENDMENTS TO THE MANDATORY MEDIATION DIRECTIVE AND PROTOCOL IN THE GAUTENG DIVISION IN ORDER TO ADDRESS ISSUES OF CONGESTION IN THE SIC AND DEFAULT JUDGMENT COURTS

THE CONGESTION ISSUE

1. The full implementation of the mandatory mediation regime, committed to by Heads of Court at the Judiciary Conference of July 2022 and the Mandatory Mediation Directive for the Gauteng Division of April 2025 is facing some challenges, primarily due to non-responsiveness to Rule 41A notices and Rule 41A amplified notices.
2. The non-responsiveness and the need by aggrieved parties to seek compelling orders, have resulted in a congestion in the SIC court. At any given time, some 16 000 matters seek allocation and hearings in that court. This causes congestion, delays and backlogs. It also requires the deployment of extra judges to deal with this issue.
3. In about 80% of the matters in the SIC court, simple compelling orders are sought, which, upon non-compliance, lead to qualifying matters to be heard

on the default judgment roll. Primarily, these are RAF matters. These applications require little or no judicial adjudication.

4. It is only in respect of the other 20% of the matters where the exercise of judicial discretion or evaluation is necessary. This may be for example, when the reason for a stated unwillingness to mediate has to be evaluated for its cogency and compliance with par 4.7 of the Protocol, where decisions have to be made as to the extent of participation in existing mediations and where other interlocutory matters in the ordinary course of litigation have to be adjudicated on.

5. Having considered the written comments received from stakeholders, together with the oral submissions presented at the consultative stakeholder meeting held on 30 October 2026, it was determined that the appropriate solution is to excise from the SIC Court the 80% "tick-box exercise" matters in which the sole issue is the failure to respond to a Rule 41A notice, whether amplified or otherwise.

6. Those matters are henceforth simply to be dealt with by way of Rule 30A notices and that the aggrieved parties be entitled, upon non-compliance to apply directly to the registrar for enrollment on the default judgment roll.

7. It is recognized that the immediate reduction in the SIC congestion brought about hereby would increase the demand for default judgment dates and hearings, but this may only be temporary until the RAF has implemented its own proposed streamlining of procedures and increased capacitation. In the meantime, and for the foreseeable future, the SIC court will be staffed by fewer judges and the number of judges allocated to hear default judgments will be increased.

8. In addition, practitioners should note that the provisions for the allocation of dates on prioritized or "special" default judgment rolls made in para C of the

Mediation Directive of April 2025, were only transitional measures for 2025 and 2026. These provisions have been exhausted by the effluxion of time. Accordingly, there shall, from the first term of 2027, no longer be such allocations and, consequently no "special" default judgment rolls, save for those already allocated.

AMENDMENTS

9. For the sake of clarity and to avoid orders being granted for the striking of actions or defences without judicial oversight, para 27.11 of Practice Directive 1/2024 dated 12 June 2024 and the draft order provided in Annexure 8 of that Directive, providing for *ipso facto* striking, are hereby withdrawn and henceforth deemed to be deleted.

10. Para 27.12 of the aforementioned Directive is consequently renumbered to para 27.11 and the introductory sentence thereof is amended to now read: "*In pursuance of an application for the striking of a claim or defence of a party...*" so as to align that Practice Directive with the Mediation Protocol which provides that a striking application may be entertained together with consequential claims for substantive relief.

11. The words "*...fails to reply to an initial Rule 41A Notice or an Amplified Rule 41A Notice, as the case may be, timeously or at all or..*" are hereby excised from para 4.9.1 of the Protocol and a new paragraph is inserted in para 4.9 as follows: "*4.9A If a party fails to reply to an initial Rule 41A Notice or an Amplified Rule 41A Notice, the party who had issued such notice may deliver a notice as contemplated in Rule 30A, calling for such a reply within 10 days after delivery of such notice. The aggrieved party may, after 15 days from the*

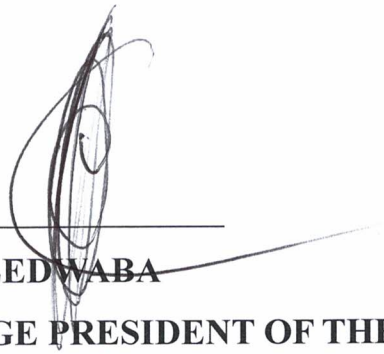
expiry of the period called for in the Rule 30A notice and if no reply has been delivered as called for in such notice, apply to the relevant Registrar for the allocation on the default judgment roll, in the form as contemplated in Annexure E to the Protocol".

12. For purposes of the above, a new Annexure E (annexed hereto) is hereby introduced to the Protocol.

13. For further clarity's sake, para 4.7.2 of the Protocol is hereby amended to simply read:

"An aggrieved party who received such an irregular notice shall be entitled to proceed in accordance with paras 4.9.1 to 4.9.3.3 below".

14. All applications falling in the category described in paragraph 3 above in which compelling orders are sought compelling replies to Rule 41A notices and which have already been allocated dates or have been set down for hearing in the SIC court, are immediately to be withdrawn and removed from those rolls by the applicants for such orders, failing which by the Registrar or a judge hearing such a roll. In all these matters and in those in respect of which dates have been requested but not yet allocated, it shall be deemed that the costs thereof are reserved for determination when those matters are heard on a trial or default judgment roll, as the case may be. No such matters may be enrolled after date of this directive and the procedures contemplated in paras 10 and 11 above must be followed.



A P LEDWABA

JUDGE PRESIDENT OF THE GAUTENG DIVISION

OF THE HIGH COURT OF SOUTH AFRICA

25 **November 2026**

ANNEXURE E: APPLICATION FOR ALLOCATION OF DEFAULT HEARING DATE IN TERMS OF PAR 4.9A OF THE MEDIATION PROTOCOL

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, [PRETORIA / JOHANNESBURG]

Case number: _____

In the matter between:

_____ Plaintiff

and

_____ Defendant

APPLICATION FOR ALLOCATION OF DEFAULT HEARING DATE IN TERMS OF PAR 4.9A OF THE MEDIATION PROTOCOL

1	The plaintiff/defendant has delivered an initial Rule 41A/amplified Rule 41A (annexed hereto) on _____.
2	The plaintiff/defendant has failed to reply to the aforesaid notice by the expiry of the 15 day time period stated therein being _____.
3	A Notice in terms of Rule 30A has thereafter been delivered to the plaintiff/defendant on_____ (annexed hereto), calling upon the plaintiff/defendant to remedy its failure to reply to the Rule 41A/amplified Rule 41A notice within 10 days, being by _____.
4	A period of 15 days has elapsed since the date mentioned in para 3 above and the plaintiff/defendant has not remedied its failure.
5	Now therefore the plaintiff/defendant applies for the allocation for a date on the default judgment upon which date the plaintiff/defendant shall apply for the striking of the cause of action/defence, as contemplated in Rule 30A and for judgment on the merits and/or quantum, as the case may be.
6	Confirmation of the facts listed in paras 1 to 4 above is contained in an affidavit by the attorney responsible for the conduct of this matter

	_____ (attorney full names and surname) annexed hereto.

DATED AT _____ ON THIS _____ DAY OF _____.

(SGD)_____
INSERT NAME OF ATTORNEY
INSERT NAME OF FIRM
ATTORNEYS FOR THE PLAINTIFF
INSERT FULL ADDRESS
Tel: _____
Email: _____
REF: _____