AMENDMENT TO PARAGRAPH 3.5 AND 3.6 OF THE PRACTICE MANUAL

3.5 THE SYSTEM THAT WAS USED FOR CERTIFICATION OF RAF AND PRASA MATTERS IN TERMS OF THE PRACTICE DIRECTIVE ISSUED ON 10 NOVEMBER 2014 IS DISCONTINUED AND CHANGED. THE APPLICABLE SYSTEM IS AS SET OUT HEREUNDER.

3.5.1 In the RAF & PRASA matters where an application for a trial date has been filed and a Certificate of Trial Readiness has not been issued, the parties are directed to hold a further pre-trial conference and the minute of the conference should have the relevant information which would assist a Judge in chambers in determining whether a Certificate of Trial Readiness should be issued or not. The minute should be filed with the Registrar (parties would be notified about the office number).

3.5.2 Please note that in matters where an application for a trial date was filed and the notices were sent to the Office of The Deputy Judge President to arrange for a Judicial Management Meeting the minute of the pre-trial conference would be used to determine whether a matter should be certified trial ready or not and provisions of paragraph 3.6 hereunder would be applicable.

3.6 As stated in the Circular to Practitioners dated 01 October 2018, copy hereto attached marked "BB " it should be noted that:

3.6.1 In all civil actions against RAF and PRASA a trial date will not be allocated by the Registrar, unless a Judge has certified in writing that the matter is trial ready.

3.6.2 A Certificate of Trial Readiness shall be signed by a Judge when he or she is satisfied that a proper minute of a pre-trial conference that complies with the amended Practice Manual and Rule 37 has been filed and the matter is trial ready.

3.6.3 Attached is a draft minute, marked "CC" of a pre-trial conference regarding what a pre-trial minute should contain. A query form utilised by Judges when the pre-trial minutes are checked for certification in respect of merits is further attached marked "DD".

3.6.4 A Judge who considers whether a certificate should be issued or not, may send a query to the parties indicating in what respects the minute of the pre-trial conference is not compliant and the Judge may also direct the parties to attend a Judicial Management Meeting. The parties should ensure that they deal with the query raised. If a Judge is satisfied that the matter is trial ready a certificate may be signed. A Judge in issuing a certificate may also record that certain issues be separated when the trial proceeds. .

3.6.5 Simultaneously with the allocation of a trial date by the Registrar, a date for a Judicial Management Meeting would be allocated, which date would be approximately 20 days before the allocated trial date. A notice of set down filed should also reflect a date on which a Judicial Management Meeting would be held. An example of the Notice of Set Down hereto attached marked "FF".

3.6.6 Prior to the date allocated for the Judicial Management Meeting, parties are directed to hold a further pre-trial conference. **The minute of the said pre-trial conference, together with the agenda**, for the said Judicial Management Meeting should be filed at least 5 days before the allocated Judicial Management Meeting. Failure to hold a further pre-trial meeting may result in a Judicial Management Meeting being cancelled or a Judge may make any ruling that the Judge deems appropriate. Non-cooperation of one party should not cause prejudice to the other party in respect of the allocated date.

3.6.7 The court-file duly indexed and paginated should be delivered to the Registrar (parties would be notified about the office number) at least 5 days before the allocated Judicial Management Meeting.

3.6.8 If at the Judicial Management Meeting the matter appears not to be trial ready the matter may be removed from the roll or be struck from the roll and appropriate costs order may be made. If the matter is still capable of settlement and or there appear to be no real triable issues the matter may be allocated to a separate special settlement roll on the allocated trial date..

3.6.9 A Notice of Removal of the matter from the Judicial Management Meeting roll and on the trial roll should be filed with the Registrar (parties would be notified about the office number) when the matter is settled before the Judicial Management Meeting.

3.6.10 (i) Plaintiff should file the minutes of the Judicial Management Meeting and the Practice Note at least five (5) days before the allocated trial date with the Registrar (parties would be notified about the office number).

(ii) In matters on the trial roll which are settled on the trial date, the parties are required to file short heads of argument to justify why they are entitled to fees for preparation for trial and trial fees.

Regard,

T J Raulinga
Acting Deputy Judge President
Gauteng High Court, Pretoria

BB

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

Gauteng High Court Building, Cnr. Madiba & Paul Kruger Strs, Room 7.19, Seventh Floor
Tel. (012) 315 7625 – Fax. (012) 315 7600 – E-mail: SMoloi@judiciary.org.za

TO ALL PRACTITIONERS **1 October 2018**

Sir/Madam

RE: ALLOCATION OF TRIAL DATES IN RESPECT OF RAF / PRASA MERITS MATTERS ONLY.

1. To facilitate settlement of the merits and in cases where the parties were to proceed on merits only, the Practice Manual introduced a system where parties, who agreed to separate merits (liability) and quantum and where the matter was to proceed on merits only received an earlier or preferential date.

2. That system is now dysfunctional. The Registrar has informed me that the number of matters wherein parties agreed on separation has increased tremendously and the Office of The Registrar is now allocating trial dates in such matters in October 2020. The waiting period for a trial date is too long

3. When I investigated this predicament I noted that:

   I. About Fifty (50) matters each day are on the trial roll against RAF and PRASA for adjudication of merits only and about 95-98% of those matters are settled or removed from the roll on the trial date. In very few matters are there real disputes that require adjudication by the court.

   II. The minutes of the Pre-Trial Conference filed when a Notice of Application for Trial Date, do not comply with Rule 37 and the Practice Manual.

   III. The minutes of the pre-trials that are filed show that practitioners are not holding meaningful discussions at the Pre-Trial Conferences to

disclose important facts and defences that can limit the issues or to enable the parties to reach a settlement.

4. **PLEASE NOTE THE FOLLOWING:**

4.1. I have instructed the Registrar of the Court not to allocate trial dates in the matters against RAF and PRASA unless a Certificate of Trial Readiness (certificate) has been signed by a Judge who is satisfied that proper minute of a pre-trial conference that complies with Rule 37 and the Practice Manual, as amended, has been filed.

4.2 A Judge who determines whether a certificate should be signed or not may direct queries to the parties indicating in what respects the minute of the pre-trial conference is not compliant and the parties should ensure that they comply. If a Judge is satisfied with the contents of the supplemented minute a certificate may be signed

4.3 Simultaneously with the allocation of a trial date by the Registrar, a date for a Judicial Management Meeting would be allocated, which date would be about 20 days before the allocated trial date. A notice of set down filed should also reflect a date on which a Judicial Management Meeting would be held.

4.4 Importantly prior to the date allocated for the Judicial Management Meeting, a further pre-trial conference should be held between the parties and a minute of the said pre-trial conference should be filed 10 days before the allocated Judicial Management Meeting.

4.5 A Judge at the Judicial Management Meeting will then finally confirm whether a matter is indeed trial ready to proceed on trial on the allocated date. Such certification will be made if a further pre-trial conference minute has been filed and the court-file had been properly indexed and paginated. After such certification the matter would be trial ready and the party raising new issues or intends to apply for a postponement is at risk of costs order being made against him or her.

4.6 If at the Judicial Management Meeting the matter appear not to be trial ready the matter may be removed from the roll or be struck off from the roll with an appropriate costs order, or if the matter is still capable of settlement and or there appear to be no real triable issues the matter may be allocated to a separate special roll on the allocated trial date.

4.7. On the trial date matters where a Certificate has been issued will be given preference when allocation of Judges is made. In matters wherein a Certificate has not been granted, an allocation may not be made. .

5. After discussions with the Judges and the Registrar, I think abovementioned process of certification of the matters will reduce the waiting period of a trial date to less than twelve months after the matter shall have been certified trial ready.

6. In matters where trial dates that have been allocated from 05 November 2018 onwards, a judicial management meeting will be held at least three weeks before the allocated trial date to determine if a matter is indeed trial ready. If the said matters are trial ready a certificate will be issued. Depending on the success of the new procedure, the procedure may be applicable to the RAF & PRASA matters in respect of quantum and the current procedure of certification may be changed in future.

7. In matters which have been set down for hearing from 05 November 2018 onwards, if further minutes of a pre-trial conference compliant with a detailed minute of pre-trial conference as required can be filed, the parties may not be summoned to attend Judicial Management Meeting to determine if a certificate should be issued

8. You may send your comments or questions to the Office of The Deputy Judge President concerning the aforesaid.

Regard,

A P Ledwaba
Deputy Judge President
Gauteng High Court, Pretoria

CL

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

Case No:

In the mater between:

Plaintiff

And

Defendant

DRAFT MINUTE

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:

DD

TO: _____ ATTORNEYS

Dear Sir/Madam

RE: APPLICATION FOR TRIAL DATE

_____ VS RAF

CASE NO _____

Your Notice of Application for Date of Trial dated _____ refers

A certificate of Trial Readiness will not be signed and a date of trial will not be allocated unless minutes have been properly signed, a properly typed version of the said minutes is filed and/or the provisions of Rule 37 have been compiled with, in particular, I have also noted that the aspects indicated with an asterisk hereunder need to be fixed.

1	A proper pre trial conference in terms of paragraph 3.5.1 of the Practice Manual and Rule 37 has not been held
2	The filed minute of the pre trial conference does not comply with the requirements of the Practice Manual and the Practice requirements in the Pretoria for the effective case flow management in one or more of the following:
2.1	It should be stated whether the practitioners who attended the pre trial conference are advocates or attorneys with right of appearance in the High Court

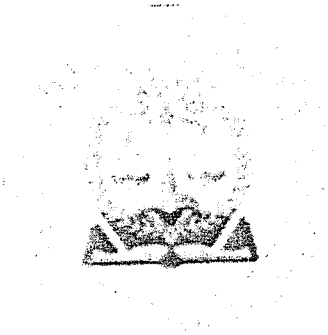
2.2	The plaintiff has not recorded the summary of the facts upon which his / her action is based, the date and place of accident should be recorded.
2.3	The details and description of how the accident occurred are not clear. A rough sketch or photos, not per scale may be attached
2.4	The defendant has not recorded a summary of the facts upon which he /her / its defence is based [it is not sufficient for the defendant that its defence or version is as per the plea filed or Officer Accident Report. The defendant should clearly set out his /her/its defence.
2.5	The facts which are common between the parties should be recorded in the minute
2.6	The real issues that need to be adjudicated in Court between the parties should be recorded in the minute
3	The plaintiff should state the number of witnesses including expert witnesses he / she intends calling at the trial. It is recommended that a summary of each witness evidence should be recorded in the minute of the pre trial conference
4	The defendant should state the number of witnesses including expert witnesses it intends calling. It is recommended that a summary of each witness evidence should be recorded.

5	The plaintiff and defendant should indicate if there is any special plea and/or exception, and/or interlocutory application filed or about to be filed. The details thereof should be recorded. The reason (s) for opposing the said applications should be briefly recorded. Should there be opposition the defence to such an application should be clearly recorded
6	The most probable estimated duration of the trial should be recorded.
7	If the defendant is awaiting the assessors report it should clearly state when will the assessors report be available
8	If the defendant intends making a settlement offer it should be stated exactly when such an offer is to be made
9	If the plaintiff was a passenger in the alleged accident, the defendant should clearly state why such merits/liability cannot be settled.
10	In claims for loss of support, the plaintiff should state his/her relation with the decease and or on whose behalf is he/she further claiming. Copy of a marriage certificate and an unabridged birth certificate of children should be attached
11	If the plaintiff's claim is for loss of support and the plaintiff required to prove only norminal one percentage negligence, the defendant should clearly state its defence
12	The parties should clearly confirm that they have filed discovery affidavits otherwise a Certificate of Trial Readiness will not be issued.

13	The parties should state if they have knowledge of any claims lodged against the RAF arising from the accident upon which the plaintiff based his/her claim.
14	Parties should clearly state if they agree which issues should be separated in terms of Rule 33 (4)

I am aware that some opponent may not properly, sufficiently respond and comply with Practice Manual, or Rule 37 or the Practice requirements of this Court to frustrate the issuing of the Certificate of Trial Readiness. The Provisions of Rule 37 (8) (d) should be utilized. A Judge and/or Special Court would be arranged to deal with parties who are obstructive or cause unnecessary delay for a trial date to be allocated and an appropriate costs order would be made at court when the matter is heard.

F1



IN THE HIGH COURT OF SOUTH AFRICA

(GAUTENG DIVISION, PRETORIA)

CASE N0.

In the matter between:

Plaintiff

And

Defendant

NOTICE OF SETDOWN

in respect of **trial date** and **Judicial management meeting**

TAKE NOTICE THAT the above mentioned matter has been certified trial ready on _____ and is **set down for trial** in the above Honourable Court on _____at 9h30 or soon thereafter as the matter as may be heard.

TAKE FURTHER NOTICE THAT the parties legal representatives are directed to attend a **Judicial management meeting** on_____ at 8h45 in a court –

room shown on the list to be published on the notice board in respect of judicial management matters set down on the said day.

TAKE FURTHER NOTICE THAT the parties legal representatives should ensure that a further proper pre-trial conference has been held before the date of the Judicial management meeting and the plaintiff's legal representatives should file the minutes of the pre-trial conference at least ten (10) days before, but not more than twenty (20) days, of the judicial management meeting.

TAKE FURTHER NOTICE THAT the plaintiff's attorneys should further index, paginate, serve and file a practice note within the period stated above before the file is delivered to the Judge who will judicially manage the matter.

DATED AT PRETORIA ON THIS THE **OF**

_____

PLAINTIFF'S ATTORNEY'S

ADRESS:

TO:

REGISTRAR OF THE ABOVE

HONOURABLE COURT

AND TO:

DEFENDANT'S ATTORNEYS

ADDRESS: