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THE JOHANNESBURG ATTORNEYS ASSOCIATION

JOHANNESBURG ATTORNEYS ASSOCIATION
NEWSLETTER 3

ARTICLES FOR PUBLICATION

Members are invited to forward articles for publication in our newsletters, and indicate which issues they require the various committees to focus on.

JOHANNESBURG & RANDBURG MAGISTRATES COURTS AND REGIONAL COURT

1. The committee of the JAA met with the Minister of Justice, Mr Michael Masutha, together with the Deputy Minister of Justice, Mr John Jeffery on the 23 September 2014.

   The main issues that were brought to the attention of the Ministry were problems faced by our members in the 3 courts within which we operate, namely, Johannesburg High Court, Johannesburg Magistrate Court and the Randburg Magistrate's Court.

   The Ministry indicated that it would entertain a line of communication being established with the JAA and its members and that suggestions and ideas on the manner of dealing with problems would be welcomed.

   As part of this initiative, the Deputy Minister called for a meeting at the Randburg Magistrates Court on the 13th October 2014 at which he, the regional office of the department, the magistracy (including Chief Magistrate Mashile under whose cluster Randburg falls), the NPA and the area manager were present. The inefficiency of the admin and the Court Manager (which the Magistracy confirmed) as well as the refusal by the Magistracy to hold any further liaison meetings (last one was in March 2014) was

discussed at length.

2. Pursuant to this meeting, the Regional Court President, Mr. Djaje, invited the committee members of the JAA to the Court Management meeting at the Johannesburg Magistrates Court on the 12th November 2014 at which meeting the issues that were raised at the meeting with the Ministry in September 2014 were discussed.

   The JAA was queried as to why the issues had been elevated to Ministerial level. It was pointed out to them that these problems had been raised for years at the quarterly liaison meetings at which the admin were or ought to have been present (as they didn't always attend) and nothing was being done to resolve the problems.

   Mr. Makhani, the Court Manager (to whom the JAA was introduced and met for the first time at this meeting) was handed a copy of the list of issues that were raised at the meeting with the Ministry in September 2014. He was advised that, unlike Randburg Magistrates Court, the liaison meetings with the Magistracy, Sheriffs and admin at the Johannesburg Magistrates Court take place every third month and recommended that he or someone from his office attend these meetings to resolve issues.

3. Also pursuant to the aforesaid meeting with the Deputy Minister the liaison meetings at the Randburg Magistrates Court resumed on the 20th November 2014. A plan of action has been put into motion to get rid of the backlogs and also to get an accountable Court Manager. It was suggested that Judith Mothloa (who was originally in Randburg and transferred to Alex) be returned to Randburg as Court Manager.

4. We are advised that the admin of the Magistrates Courts will, during the course of next year, fall under the office of the Chief Justice.

5. Some of the issues raised at the aforesaid meeting with the Minister's office in September 2014 were inter alia the following;
   5.1 The administration in the Johannesburg Magistrates Court is rapidly breaking down.
   5.2 The Maintenance Court in Randburg is a disgrace and there is no justice for the people. Although Randburg now have two maintenance officers, they don't seem

to cope with the backlog.

5.3 No proper admin systems in place. Some officials do not seem to have the ability to understand/appreciate the underlying problems and to put systems in place to correct it.

5.4 There is no accountability when it comes to Court management at Randburg. The Court Manager was away ill for a long time (6 weeks and again 3 weeks) without being replaced.

5.5 The offices of most of the court officials at the Johannesburg Magistrates Court are more often than not closed and locked. Some officials have apparently been seen shopping during working hours.

5.6 Matters started to deteriorate at the Magistrates Court with the separation of the judicial and administrative functions.

5.7 A substantial amount of court covers are unavailable on matters set down in the motion court (Jhb)

5.8 Filing clerks s are saying that it is not their job to do filing. (Jhb)

5.9 About 5 (five) of the filing clerks are illiterate.(Jhb)

5.10 Some of the officials have been found guilty in disciplinary proceedings and transferred to other courts thereby just transferring the problem.

5.11 It has been established that some attorneys buy trial dates and, in some instances, they have persuaded Court clerks to backdate documents. This is happening in the High Court as well as in the Johannesburg and Randburg Magistrates Court.

5.12 There should be uniformity by the Magistrates in the interpretation of the Court Rules that have been there for many years, as attorneys go ''forum shopping".

5.13 Regular meetings between the Attorneys Profession and the Magistrates/Court officials/prosecutors were held in the past. These came to a standstill in the Randburg Court.

5.14 Not all the report back was negative as it appeared that there had been some improvement at the Germiston Court.

5.15 The quarterly meetings with the Regional office of the Department of Justice had come to a standstill – these have, since the Ministerial meeting, been resumed and, will in future, be joint with the Pretoria Attorneys Association.

5.16 We indicated that, where communication with the officials comes to nothing, we

would like to contact the Minister/Deputy Minister directly. The JAA is regularly inundated with complaints. The Ministry is encouraged to communicate directly with the Pretoria and Johannesburg Attorneys Associations as we are at the coalface of the courts in which we work every day and we have first -hand experience of the problems at these courts.

5.17 Magistrates Courts in Gauteng have been affected by the re-demarcation process. The new demarcated areas will come into operation on 1 December 2014. We expressed our concern about the challenges at some of these courts regarding appropriate facilities and the capacity in terms of personnel. One of our concerns relates to secure parking for attorneys.

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6. The Deputy Minister's follow up visits to the Randburg and Johannesburg Magistrates Courts are scheduled to take place towards the end of January 2015. We appeal to members to communicate with us on issues that they would like raised. These can be emailed to either Nakka De Klerk on Nakka@couzyns.co.za or to Katherine Gascoigne on katherine@gascoigne.co.za or to Jacques Tarica at jtarica@global.co.za.

7. As from the 1st December 2014, the names of Magistrates Court buildings have changed including the stationary which is used. The Regional Court's names will not be affected by the name changes but the changes in the boundaries may affect some of the courts. The boundaries are still causing much confusion and can result in a judgment being void if served by the wrong sheriff. The maps were finalized demarcating the various areas, and can be viewed on the LSNP's website. The various magisterial districts are as published in Government Gazette No 37258 on the 24th January 2014, which is available from us on request. The citation of the local district courts have changed as follows:
   - Johannesburg will read "In the Magistrates Court for the District of Johannesburg Central Held at Johannesburg."
   - Randburg will be read "In the Magistrates Court for the District of Johannesburg North Held at Randburg."
   - Roodepoort will read "In the Magistrates Court for the District of Johannesburg West Held at Roodepoort."
   - Pretoria will read "In the Magistrates Court for the District of Tshwane Central Held

at Pretoria."

- Pretoria North will read "In the Magistrates Court for the District of Tshwane North Held at Pretoria North"

GAUTENG LOCAL DIVISION - JOHANNESBURG

1. The admin at the High Court now falls under the office of the Chief Justice. This is being headed up by Joyce Mokoena who was the director of Court Operations at the Regional Office of the DoJ and prior to that the High Court Manager in Johannesburg when it had just converted to the SGHC.

2. The High Court is being progressive on issues like electronic filing and hopefully it will be implemented during next year. It is hoped that this initiative will spill over to Magistrates Courts as well.

3. If a matter has been adjourned in terms of the motion court procedure, practitioners need to draw the file and re-enrol that matter for the date that it was adjourned to.

4. Following representations made to DJP Mojapelo by the JAA and the Johannesburg Bar, a directive has been issued for the first term of 2015 regarding the allocation of trial dates, certification of matters involving expert evidence as trial ready and swift remedies for delays in litigation. A directive for the first term of 2015 in this regard has been placed on our website.

5. In Criminal Appeals as from the 6th October 2014, the Appellant's Heads of Argument have to be served and filed 2 months before the appeal date, and the Respondent's Heads of Argument have to be served and filed 21 court days before the date of the appeal.

ANNUAL GENERAL MEETING

Kindly take note that our AGM will be held on the 9th September 2015. Members are requested

to diarize the date in the meanwhile.