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THE JOHANNESBURG
ATTORNEYS ASSOCIATION

26 AUGUST 2022

Dear Members,

1. Following on the Johannesburg Magistrate's Court liaison meeting on 25 August 2022, we wish to bring the following to our members' attention:-

    a. There are various Practice Guidelines and Forms finalized for the Johannesburg Magistrate's Court, dealing with:-

        i. Trial roll;
        ii. Debt review;
        iii. Eviction;
        iv. Motion Court;
        v. Pre-trial; and
        vi. Section 65.

    b. These Practice Guidelines and Forms are available on the JAA website and also on the Department of Justice website.

2. There are Pigeonholes available should members wish to apply for same.

3. The Sheriffs addressed the amended Rule 41(11), which states:-

    The sheriff shall file with the registrar or clerk of the court any process with a return of what the sheriff has done thereon, and furnish a copy of such return and inventory to the party who caused such process to be issued.

    The Sheriffs indicated that this is not practical as the Clerks of the Court refuse to stamp all these copious amount of documents when attending to file same and expect the Sheriffs to just leave the documents with them.

    Of course, this will create endless problems going forward in the event of an original document going astray.

    The Sheriffs reiterated that the aforesaid is not practical and indicated that they will return original documents and returns to practitioners, like they have always done, until directed otherwise.

4. The Sheriffs also addressed their concern in respect of the amended Rule 42 which now makes provision for the attachment of bank accounts without the necessity of a prior application to court and receiving payment without Rule 38.

    The amended Rule 42 now includes reference to "incorporeal" property and in the commentary provides examples of incorporeal property i.e. "the right to money in a banking account".

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It has been raised that the Act is supposed to take preference over the Rule and questioned as to what now happens to the application of Section 72.

For ease of reference with enclose herewith the amended Rule 42.

5. Lastly, the Sheriffs also advised that fraudulent court orders are rife, especially dealing with evictions. They will now verify each and every court order before attending to an eviction.

   The Sheriffs were also kind enough to share the Eviction Guidelines for Sheriffs. We enclose same for information purposes.

6. We want to encourage our members to kindly engage with our office on problems experienced / issues to be addressed to ensure that all stakeholders work together to improve the system.

Regards,
JOHANNESBURG ATTORNEYS ASSOCIATION