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Dear Honoured Guests and Colleagues

CHAIRPERSON'S REPORT PRESENTED AT THE JOHANNESBURG ATTORNEYS ASSOCIATION ANNUAL GENERAL MEETING HELD ON THE 12TH SEPTEMBER 2018

1. It is a pleasure to welcome you all to the 76th Annual General Meeting of the Johannesburg Attorneys Association.

2. I would like to thank the JAA Executive Committee and the respective sub-committee members for all their hard work and dedication. These members are a true credit to the profession.

3. I specifically would like to thank Jacques Tarica, Anton Theron, Chantelle Gladwin-Wood, Katherine Gascoigne and Nakka De Klerk for always being available to attend to member's queries, and ensuring that all issues are followed up at various forums.

4. The executive committee members for the year under discussion are Jacques Tarica (Co-Vice Chair), Wendel Bloem(Co-Vice Chair), Chantelle Gladwin Wood(Secretary), Katherine Gascoigne (Treasurer), Nakka De Klerk (GLC Councillor), Hoosen Sader (GLC Councillor), Nicci Sauli-Koren (LSNP Councillor), Janine Schmahl (Executive Member), Sisa Nhlabathi(Executive Member), Cornelia van Graan(Executive Member), Anton Theron (LSSA and GLC Councillor), and myself, as Chairperson.

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5. The JAA's main office is situated at the Gauteng Local Division and its satellite offices are at the Johannesburg and Randburg Magistrates Courts. These offices are the pivots of the JAA activities.

6. The JAA have applied for additional offices for the newly developed Booysens Court, as well as the Protea Magistrates Court. The latter office will be run in association with the Soweto Legal Fraternity.

7. As such, the writer and the JAA are heavily reliant on Angela, Ivy, Hilda, Portia and Thulani. We convey our sincerest thanks to them on behalf of all our members.

VARIOUS FORUM MEETINGS ATTENDED BY THE JAA

8. The committee has been actively involved in the following areas:-

8.1 **MAGISTRATES COURT:-**

The Magistrates Court committees have had regular meetings in the following courts:-

8.1.1 Johannesburg;
8.1.2 Randburg; and
8.1.3 Protea Magistrate Court.

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8.2 **ACCESS TO JUSTICE:-**

The department of public works are responsible for the buildings and elevators in the courts It is disconcerting to consider that these courts are frequented by the elderly, mothers with infant children, injured litigants and the disabled.
It is concerning when the public are denied access to justice as a result of the Department's lack of interest in attending to the necessary.

We note that access to the Central Divorce Court (Family courts), the Johannesburg Magistrate Court, and the Gauteng Local Division becomes inaccessible when the elevators are not functioning.

The elevators are constantly not working and are in need of repair. The litigants, expert witnesses and their legal representatives are unable to access the courts. They are required to climb between 6-12 flights of stairs with their bags containing various lever arch files, and text books. The JAA has escalated this problem, and if no resolution is obtained, the committee will have to resort to litigation.

8.3 **PROTEA MAGISTRATE COURT:-**

The Court has been provided with containers which were converted into offices/additional courts. The introduction of a civil court has made this court one of the busiest magistrates courts.

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We, together with the Soweto Legal Fraternity have applied for an office to assist practitioners with copying, faxing, typing, and e-mail facilities.

Due to space constraints, this office has not been set up to date.

8.4 **RANDBURG COURT:-**

The committee attends regular case flow management meetings in this court.

8.5 **HIGH COURT COMMITTEE:-**

Practitioners are delighted that the allocation of trial dates in the Gauteng Local Division, are within 11 months of application. The High Court committee is extremely active at its case flow management meetings, under the guidance of the Deputy Judge President, Judge Mojapelo.

Mr Jacque Tarica is the secretariat of these meetings, and his dedication and diligence requires a special mention. The stake holders have been extremely active, to ensure the functioning of the courts.

The current difficulties arising from this court due to "IT" infrastructure are as follows:

8.5.1 The typing of court orders; and
8.5.2 access to archived court files;

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The Current system of waiting for the department of public works to authorise necessary maintenance and providing services is extremely frustrating.

It is the committee's opinion, that OCJ and DOJ should be allocated its own budget. This will assist the unnecessary delay in payments of essential services, contracts and maintenance of buildings, fully functioning elevators and bathrooms.

8.6 **JAA OFFICE COMMITTEE:-**

The JAA Office Committee are in the process of finalising a system for practitioners and members of the public to view court orders. The system proposed will enable members to verify at the JAA Offices, whether in fact court orders have been typed.

We have been advised that the court typists have been restricted by computers that freeze during operation, and by slow internet access. An IT solution has been identified and implemented at present, and this should assist all practitioners.

We thank the court typists for working overtime to deal with the consequent backlog.

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8.7 **CANDIDATE ATTORNEYS:-**

The JAA had a successful candidate attorney's function in May 2018, and is planning another in October/November 2018. The JAA has been approached by a number of industry stakeholders looking to assist the JAA with rolling out mentorship programs to candidates. We are optimistic that a joint effort can be made with the PAA and GAA to involve more candidates in Gauteng in these new initiatives.

The Johannesburg Attorneys Association provides for free membership to candidate attorneys, who may register at the Gauteng Local Division office. They will be entitled to access to the website, court rolls and workshop information.

The JAA are appalled by the examinations leaks. It is unfortunate that the majority of candidates are affected by the rogue actions of a few. The profession requires candidates that are fit and proper to practice, that hold ethics and morals in high regard. We urge all affected candidate attorneys to be resolute in their studies and not be deterred by this incident.

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8.8 **PROPERTY LAW COMMITTEE:-**

Things have been relatively quiet for the Property Committee this year. Apart from the normal liaison meetings with the Johannesburg and Pretoria Deeds Offices to address issues as they arise, the Property Committee also had several meetings with top management at City of Johannesburg ("COJ") regarding the usual issues, one of which is that the COJ regards it as the job of the conveyancer to 'make' the seller pay the full rates clearance figures, and to 'collect and pay over' to the COJ any amounts owing after an abridged clearance has been obtained.

The members of the JAA present at this meeting strenuously objected to this construction of the law as this was conclusively decided in the New Ventures case in the Constitutional Court last year. A second meeting on the issue was summarily convened by the COJ but due to the short notice (of less than one day) the JAA members could not attend. We are now waiting for a new meeting date.

The issue of the demarcation of the Pretoria Deeds Office also came up during the past financial year, but seeing that it appears to be in the best interests of the members of the JAA that the Pretoria Deeds Office 'move' more matters to the Johannesburg Deeds Office, this matter was not objected to by the JAA.

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Another issue that has very recently sprung is that of the Chief Registrar Circulars 2 and 4 of 2018, which provide that the Deeds Offices must regard rates clearance certificates as only being valid for 60 days (as per section 118(1)(A) of the Local Government: Municipal Systems Act 32 of 2000) rather than being valid for the full period of validity (which is 90 days in Tshwane, and 120 days in Johannesburg) as stipulated on the certificates themselves by the municipalities who issued them.

The Property Committee is seeking legal advice from an expert in relation to the interpretation applied by the Chief Registrar and when same is obtained, if the Deeds Offices' interpretation is incorrect, then this will be taken up with the relevant parties. This has been raised by the JAA at GISEC (the Gauteng Interdepartmental Stakeholders Committee) for consideration by the Deeds Offices and the various attorneys' associations. Members will be updated on this as and when developments occur.

It was also reported that there were difficulties obtaining transfer duty receipts and exemption certificates, which the PAA (acting in conjunction with the JAA and GAA) took up with SARS, with the result that a special expediting process was created for affected members. This was communicated to the JAA members via mail drop.

This committee has made submissions on **Section 25** of the Constitution. The submissions have been made to the portfolio committee. A copy of Counsel's opinion is available on the website.

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The Proxi Smart Application has been dismissed with costs; however a notice of intention to appeal has been lodged. This committee needs to be commended for their substantial input during this application.

8.9 **SECTION 118 ISSUES:-**

The JAA has been advised that the City of Johannesburg still (notwithstanding the New Ventures judgment in the Constitutional Court) understands that conveyancers are responsible for 'collecting' amounts owed to the municipality by sellers who chose not to pay full figures in order to obtain rates clearance certificates.

They regard the section 118(3) hypothec as 'taking effect' immediately upon the incurring of municipal debt, meaning that the municipality will always rank ahead of banks as secured creditors for mortgage bonds, even if the municipality has not perfected the hypothec by taking judgment against the seller for the amounts owed and attaching the property, and thereafter registering an interdict against the property at the Deeds Office.

The JAA is taking legal advice and will decide on a course of action based on same, should this be necessary. The issue is relatively quiet for now but the JAA is watching the space carefully to ensure that it is ready to act when necessary.

8.10 **RABS:-**

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The Road Accident Benefit Scheme has been green lighted despite the objections at the public participation process. Treasury objected initially to funding RABS, but this impasse appears to be resolved.

The Bill in its current form translates into a direct human rights issue. It is unfortunate that a government will reduce the rights of its citizens, without considering the impact it will have on the population, including minor children.

The LSSA and the provincial law societies have noted their opposition to the RABS bill on behalf of the profession.

APRAV (The Association for the Protection of Road Accident Victims) have been leading the opposition of this Bill together with the LSSA and our own LSNP. In order for APRAV to continue the fight we urge the profession and the Industry to assist APRAV with funding.

The introduction of RABS will have a diminution of constitutional rights for any victim of a Road Accident. The fuel levy will need to be doubled in order to fund RABS. It appears that the tax payers will be funding RABS, however their opinion and input are being ignored.

We will be working closely with the LSSA, LSNP, NADEL, GLC, APRAV, and a few other organisations, as it is apparent that Litigation will be necessary.

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8.11 **HIGH COURT PRECINCT- GAUTENG LOCAL DIVISION:-**

Regular liaison meetings were held with the major stakeholders until a few months ago, when it was determined that (due to the City of Johannesburg not meeting its requirements in terms of cleaning and the provision of policing staff in the area) if private business had to step in it would cost in the region of R80,000 to R100,000 per month to fund the necessary.

Quotations were obtained from the three biggest city improvement district managers in an attempt to ascertain whether it was feasible to create a voluntary "CID" but this has not been taken forward due to a lack of funders from private business, and a lack of co-operation from the Department of Public Works.

Efforts have been renewed and the Judge President Mlambo is meeting with the Mayor of Johannesburg in the coming weeks to try and take the matter forward. Our efforts in this regard will continue.

Security:

The short term solution was to make more JMPD officers available to show a stronger police presence in the area. It is our submission that this step will unfortunately not have a lasting effect.

We suggest that the streets around the court will have to be closed off, and vendors should only be allowed to trade, if they have permits, within the precinct.

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It must be an imperative that the state ensures that legal practitioners, litigants, and members of the public are safe in an around the court area.

Removal of the skip:-

The placement of the skip outside a restaurant and alongside the court is unacceptable, a public danger and health risk. An employee from Pikitup recently sustained serious injuries, when her legs got caught underneath the skip.

We have raised these issues with the Deputy Minister of Justice as recent victims of crimes are Judges, expert witnesses, practitioners and members of the public.

8.12 **GAUTENG LOCAL DIVISION EFFICIENCY ENHANCEMENT COMMITTEE:-**

This meeting ensures effective administration of the Courts coupled with smooth case flow management.

Most practitioners from other courts are impressed by the efficient way, the Gauteng Local Division provides access to justice for its litigants. The obtaining of trial dates within a year of application provides legal certainty for litigants.

8.13 **WORKSHOPS:-**

The Johannesburg Attorneys Association will be hosting the following workshops:-

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8.13.1 Candidate Attorneys Workshop;

8.13.2 Legal Practice Act;

8.13.3 Regional Pre Trial Certification Workshop; and

8.13.4 Road Accident Benefit Scheme Bill and State Liability Bill;

Members are directed to the JAA website and its facebook page, and other social media platforms for more information in respect of these workshops.

8.14 **WESTRAND ATTORNEYS ASSOCIATION:-**

The West Rand Attorneys Association have joined the JAA, and will be working closely together. Our committee looks forward to the collaboration.

8.15 **PRO BONO HELP DESK AT JOHANNESBURG DEEDS OFFICE:-**

The Johannesburg Attorneys Association together with Probono.org launched a help desk at the Johannesburg Deeds Office. To date the project has been running reasonably well, with many law firms and practitioners offering their precious time and expertise.
We call upon more of our members to volunteer their time to this help desk.

8.16 **WEBSITE:-**

The e-mail drops and postings on our website, are sent out regularly by our internal editorial committee competently headed by Chantelle Gladwin and expertly assisted by Laura Gladwin.

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The committee once again urges all our members to constantly refer to our website as this is regularly updated to communicate important issues, especially those issues which may need quick action or reaction. Members are invited to forward articles for publication and the editorial committee will add these to our e-mail drop and website.

A reminder to members that the JAA has a facebook page, which carries a number of interesting news updates. Kindly like and follow the JAA on this page.

8.17 **PROVINCIAL EFFICIENCY ENHANCEMENT COMMITTEE (PEEC):-**

This body meets on a quarterly basis under the chairmanship of Judge President Mlambo. The PEEC meetings are attended by senior members of the various stakeholders utilising the Courts in Gauteng. The attorneys are currently represented by the Johannesburg, West Rand and Pretoria Attorneys Associations.

All issues of a broader nature, particularly those that could not be resolved at other forums, are raised at the PEEC meetings. This includes service delivery at all courts which continue to be of concern to practitioners.

8.18 **CASE FLOW MANAGEMENT MEETINGS AT THE GAUTENG LOCAL DIVISION, JOHANNESBURG:-**

Meetings are scheduled on a quarterly basis under the chairmanship of Deputy Judge President Mojapelo. These meetings, of which the JAA is the secretariat, are attended by various stakeholders utilising the High Court in Johannesburg.

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The matters raised in these forums are regularly covered in our e-mail drops and inserts on our website.

8.19 **LIAISON MEETINGS WITH THE OFFICE OF THE CHIEF JUSTICE:-**

These meetings, which were initiated by the JAA in 2010, are attended, *inter alia*, by the office of the Chief Justice, the Chief Registrar and the Court Manager of the High Court. The meetings are designed to be a pre-cursor to the PEEC and High Court Case Flow meetings in an attempt to streamline issues. At the liaison meetings, we address all administrative problems arising from the High Court.

8.20 **GAUTENG LOCAL DIVISION IT COMMITTEE:-**

The JAA continues to have regular meetings with the IT committee at the High Court (chaired by Judge Brian Spilg). The next one is scheduled for later in September. Although it may seem that nothing much is coming from the meetings in terms of getting the relevant government departments to come together to solve the immediate infrastructural problems at the High Court, there is light at the end of the tunnel in the form of a pilot program for electronic file management of documents at the High Court that is set to start in the next month or two. The JAA has always made it clear to the High Court (Office of the Chief Justice) that it will lend whatever support is needed in the form of providing a server, space, or hardware, for such a project. As soon as formal communications are made available on the issue, members will be informed.

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The High Court continues to have problems accessing archived files and the files that were taken by Mele and stored offsite. Subsequently to raising this with the Deputy Minister of Justice, however, the JAA was advised that the dispute that gave rise to Mele restricting access to the files would be resolved in the coming months – hopefully by the end of October. The JAA will continue to follow up in this regard.

8.21 **LIAISON MEETINGS WITH THE JOHANNESBURG, RANDBURG AND PROTEA REGIONAL COURTS AND DISTRICT MAGISTRATES COURTS:-**

Meetings are held on a regular basis and are attended by the judiciary and administration of both courts as well as the Sheriffs servicing the areas within those Courts' jurisdictions.

Members are encouraged to communicate concerns/ problems to us on a regular basis so that these can be raised with the stakeholders at the meetings.

8.22 **PRO BONO OFFICES- HIGH COURT, JOHANNESBURG**

The LSNP Pro-Bono office has been opened down the passage from our office at the High Court. This was done so as to facilitate the JAA assistance to the Pro-Bono office.

We implore practitioners to volunteer their services at this office in order to fulfil their pro-bono obligations.

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8.23 **INTERACTION WITH OTHER ORGANISATIONS:-**

The JAA will continue to interact with various stakeholders within the legal profession to deal with issues of common concern. We have convened meetings with NADEL, LSSA, SLF, JSA, WAA and the PAA respectively.

9 **LEGAL PRACTICE COUNCIL:-**

We are entering a phase where the administration of the profession as we know it, will be controlled by the Legal Practice Council in terms of the LPA. Attorneys will require the continuation of the trade union function under the new dispensation.

We call upon our members to be actively involved in the Legal Practice Council elections. All nominations should be in by midnight on the 14th September 2018.

10 **GAUTENG ATTORNEYS ASSOCIATION:-**

The Gauteng Attorneys' Association ("GAA") was formed as a joint venture between the JAA and PAA (Pretoria Attorneys' Association). The idea behind the GAA is to unite all members of the profession in Gauteng, to give us all a stronger voice with government in relation to political and legal issues affecting the profession. The Westrand Attorneys' Association ("WAA") and Soweto Legal Fraternity ("SLF") have formally joined the GAA too now. Together the GAA represents over 11,000 attorneys in Gauteng.

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The JAA is well represented on the GAA Exco with five members forming part of the first GAA Exco (Yusuf Wadee, Jacques Tarica, Katherine Gascoigne, Anton Theron and Chantelle Gladwin-Wood). Chantelle Gladwin-Wood (current secretary of the JAA) has been nominated and is standing as the co-chairperson of the GAA together with Tiaan Joubert, the chairman of the PAA Exco, until the first elections next year.

The GAA is well supported by the judiciary and has already, since its inaugural meeting on Wednesday 29 August 2018, been approached by several industry role players for talks on how a more united profession can be formed. The JAA will continue to support and drive the GAA forward, in order to protect the best interests of the JAA members. Periodic updates on the activities of the GAA will be communicated to JAA members.

11 The JAA will continue its productive interaction with the judiciary, and we would once again, like to thank judiciary of Gauteng in particular the Honourable Judge President Mlambo, Deputy Judge President Mojapelo and Deputy Judge President Ledwaba.

12 We also thank the Regional Courts and the Magistrates Courts for the open door policy they have with the JAA and their willingness to resolve issues and problems as speedily as possible.

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13 Before this report is concluded, the JAA acknowledges the loss to the profession by the deaths of various Judges, Magistrates, Advocates and Attorneys who have contributed to the profession and its development. Our condolences to the family and friends of all those that have passed away during this past year.

14 The department of public works needs to be taken to tasks for their failure to deliver services to the profession, justice and the public. Recently the effect of the latest fires that has taken the lives of fireman, which arose out of a building under their control, needs to be further investigated.

15 We have to thank the offices of Bicarri Bollo Mariano Inc; Schindlers and Webber Wentzel Attorneys for making their facilities and boardrooms available to the JAA for meetings and workshops.

16 We as the JAA, together with our umbrella body, will continue to play an active role in ensuring the proper functioning of courts, promoting and championing access to courts for disabled individuals, access to justice, upholding constitutional rights, training for candidate attorneys, workshops for legal practitioners, development of a court precinct, and ensuring that business centre facilities are available at various courts for practitioners convenience.

Kind regards,

Yusuf Wadee
CHAIRPERSON