MAGISTRATES' COURTS JUDICIARY

JOHANNESBURG

PRACTICE GUIDELINES: TRIAL ROLL

Johannesburg Magistrates' Court Civil Section

Updated: 8 July 2022

1. THE APPLICATION OF THE PRACTICE GUIDELINES

These Practice Guidelines set out the practice of Civil Section of the Magistrates' Court, Johannesburg, South Africa.

(a) The purpose of these practice guidelines is to promote and expedite access to the courts. The practice guidelines are to be applied so as to facilitate the expeditious handling of disputes and the minimization of costs involved. As such it seeks to inform how the courts in this Magistrates' Court function. It also seeks to obtain uniformity amongst Magistrates in respect of practice rulings. It must be emphasised that no Magistrate is bound by practice guidelines. Accordingly, the practice guidelines are not intended to bind judicial discretion. Nonetheless, it should be noted, that the Magistrates' Court strive for uniformity in the functioning of the courts and their practice rulings.

(b) These practice guidelines will not only enable the courts to commence as soon as possible, but will also ensure that all matters are attended to as soon as possible.

(c) Amendments to these practice guidelines can only be made by the Senior Magistrate of the Johannesburg Magistrates' Court Civil Section.

(d) References in these practice guidelines to the rules are to the rules of the Magistrates' Court Act 32 of 1944 as amended.

(e) References in these practice guidelines to "attorneys" includes "counsel".

(f) References to "Court" is to Court 25.

(g) Reference to the "clerk of the court" is – unless indicated otherwise – the clerk dealing with the trial roll.

2. APPLICATION FOR A TRIAL DATE

In terms of the requirements of the Chief Justice's Norms and Standards published on 28 February 2014 (Government Gazette 37390 GN 147) no matter may be enrolled for hearing unless it is certified trial ready by a Judicial Officer. In order to achieve that objective the following guidelines are provided:

(a) When a party wishes to request the allocation of a trial date, such party shall approach the clerk of the court (Trial Dates) with a completed FORM "F" – Request for Trial Date.

(b) Thereafter the court file will be referred to a magistrate in chambers in order to determine whether the matter is trial ready.

(c) The magistrate will only certify that the matter is ready for trial if satisfied that-

i. The case is ready for trial and in particular that all issues that are amenable to being resolved without a trial have been dealt with;

ii. The remaining issues that are to go to trial have been adequately defined;

iii. The requirements of rules 23 and 24(9) have been complied with if they are applicable; and

iv. Any potential causes of delay in the commencement or conduct of the trial have been pre-empted to the extent practically possible.

(d) The magistrate may order directions on discovery or filing of reports, or direct that a pre-trial conference in terms of section 54 should be convened, if it is deemed necessary to expedite the case becoming trial ready.

(e) In all matters where the magistrate directs that a pre-trial conference in terms of section 54 should be convened, the practice guidelines in respect of pre-trial conference (section 54(1) read with rule 25 as amended) must be adhered to.

3. ATTORNEYS' DRESS CODE

Attorneys are required to be properly dressed at roll call.

Proper dress code for attorneys comprises:

(a) A black attorney's gown;

(b) Appropriate clothing (no t-shirts, takkies, or any other inappropriate dress).

It is not proper for attorneys to enter courtroom not fully robed as set out above. It follows that attorneys should not robe inside the courtroom while court is in session.

4. COURT SITTINGS

(a) Trial matters are to be set down for Court 25.

(b) Roll call of civil matters commences at 8h30.

(c) All other courts in the Civil Section will commence sitting at 9h00. The courts adjourn at 11h00 and resume at 11h15. The courts adjourn at 13h00 and resume at 14h00. The courts adjourn for the day at 15h30.

(d) Attorneys must be punctual in their attendance in court at the aforesaid times.

(e) The presiding magistrate may – except for the roll call – at his/her discretion deviate from the times set out above.

5. ALLOCATIONS OF CIVIL TRIALS

(a) A trial will be allocated by the Senior Magistrate or by an additional Magistrate who calls the roll.

(b) Matters that have not started by 10h00 may lose their preference to any matter that is still awaiting the allocation of a Magistrate.

6. CLOSURE OF THE TRIAL ROLL

(a) The trial roll for a particular week closes at 12h00 on the Thursday preceding the week. If the Thursday is a public holiday the roll closes one day earlier.

(b) After the closure of the roll, the parties to a matter are not entitled to have access to the court file and may not insert or remove documents from it.

7. PREPARATION OF PAPER

(a) The original summons, the original return of service, and other original documents in respect of the action must be placed in the file.

8. MATTERS NOT ON ROLL

(a) Any matters not on the roll must be brought to the attention of the presiding magistrate at roll call.

(b) Once attorneys have determined that a matter is not on the trial roll and the relevant court file has been located, the court file should be handed to the presiding magistrate or stenographer in Court 25.

(c) If the matter is not on the roll due to fault on the part of the Clerk of the Court's office, the file should be so endorsed to that effect by the clerk of the Court with trial matters.

(d) If the matter is not on roll due to fault or omission on the part of the attorneys who was responsible for the enrolment of the matter, the matter will not be enrolled.

9. POSTPONEMENTS

(a) A trial matter, whether opposed or unopposed, needing to be postponed should generally be postponed to a specific date. It may also be either postponed *sine die* or removed from the roll.

(b) A postponed date must be arranged with the clerk of the court (Trial Dates) by all parties who are present at court.

10. PART-HEARD TRIALS

(a) As a general rule, part-heard trials should be avoided.

11. ROLL CALL

(a) Roll call of all trials and eviction applications in terms of the PIE Act will be held at 8h30 on each day during the court term in Court 25.

(b) Unless advised prior to the commencement of the roll call that a trial has been allocated to a specific Magistrate, the parties' legal representatives must attend roll call and continue so attending until the trial has been allocated or otherwise disposed of.

12. INTERPRETERS

(a) For each of the official languages (Sepedi, Sesotho, Setswana, siSwati, Tshivenda, Xitsonga, Afrikaans, English, isiNdebele, isiXhosa and isiZulu) the State will provide an official interpreter on the date of the trial.

(b) The party who wishes to utilise the services of a foreign language interpreter is to apply directly to the presiding judicial officer during the pre-trial conference. Failure to apply for a foreign language interpreter might result in the case being postponed.

(c) No party will be permitted to utilise for trial purposes its own interpreter (official language or foreign language).