MAGISTRATES' COURTS JUDICIARY

JOHANNESBURG

PRACTICE GUIDELINES: TRIAL ROLL

Johannesburg Magistrates' Court Civil Section

Revised: 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' Courts 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 "Trial Form A" – 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 for attorneys comprises:

(a) A black attorney's gown;

(b) Appropriate clothing (no t-shirts, tekkies, 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 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).

MAGISTRATES' COURTS JUDICIARY

JOHANNESBURG

PRACTICE GUIDELINES: PRE – TRIAL CONFERENCE - SECTION 54(1) READ WITH RULE 25 OF THE MAGISTRATES' COURTS ACT 32 OF 1944, AS AMENDED

Johannesburg Magistrates' Court, Civil Section

In terms of rule 25(1) Judicial case management shall apply to any matter determined appropriate by the Court, of own accord or upon the request of any party, at any stage after a notice of intention to defend is filed.

1. The Clerk of the Court as directed by a Judicial Officer will give a pre-trial conference directive/notice to the parties calling upon these parties to attend a pre-trial conference to be held before the Magistrate in Court 25 on a stated date at 14:00 to consider-
   (a) the simplification of the issues;
   (b) the necessity or desirability of amendments to the pleadings;
   (c) the possibility of obtaining admissions of fact and of documents with a view to avoiding unnecessary proof;
   (d) the limitation of the number of expert witnesses;
   (e) such other matters as may aid in the disposal of the action in the most expeditious and least costly manner (Rule 25(7)(a),(b)).

2. **The directive/notice shall advise the parties that** on the date of the pre-trial conference, they are required to have held a meeting to prepare for the pre-trial

conference at which the issues identified in Rule 25(10) in relation to the conduct of the trial of the action must have been considered; and

3. **The plaintiff will be required**, not less than two days before the time appointed for the pre-trial conference to –
    (i) ensure that the court file has been suitably ordered, secured, paginated and indexed; and
    (ii) deliver an agreed minute of the proceedings at the meeting held between the parties, alternatively, in the event that the parties have not reached agreement on the content of the minute, a minute signed by the party filing the document together with an explanation why the agreement on its content has not been obtained (Rule 25(7)(c),(d)).

4. The **agreed minute shall particularise** the parties' agreement or respective positions on each of the issues identified in Rule 25(10) and, to the extent that further steps remain to be taken to render the matter ready for trial, explicitly identify them and set out a timetable according to which the parties propose, upon a mutually binding basis, that such further steps will be taken (Rule 25(8)).

5. In addition to the minute, the **parties will be required to deliver a detailed statement** of issues, which shall indicate-

    (i) the issues in the case that are not in dispute; and
    (ii) the issues in the case that are in dispute, describing the nature of the dispute and setting forth the parties' respective contentions in respect of each issue (Rule 25(9)(a)).

6. **A Magistrate,** upon considering the statement by the parties**, shall at least a day before the pre-trial conference give directive** whether the appearance by the parties at the pre-trial conference may be dispensed with (Rule 25(9)(b)), so the parties will be required to **provide contact telephone numbers and email addresses** on the statement and minute.
7. The pre-trial directive will substantially conform to 'Pre-Trial Form A' attached.
8. At any stage of the proceedings, the Clerk of the Court may direct compliance letters electronically to any party which fails to comply with the time limits for the filing of

pleadings or any notice in terms of the rules (rule 25(4)(a)). The letter directing compliance will substantially conform to 'Pre-trial Form B' attached.

Date Compiled: 8 July 2022

IN THE MAGISTRATE'S COURT FOR THE DISTRICT OF JOHANNESBURG CENTRAL HELD AT JOHANNESBURG

CASE NO: _____

In the matter between:

_____ **PLAINTIFF/APPLICANT**

And

_____ **DEFENDANT/ RESPONDENT**

DIRECTION IN TERMS OF SECTION 54(1) READ WITH RULE 25 OF THE MAGISTRATES' COURT ACT, 1944

TO: THE PLAINTIFF'S ATTORNEY/ THE DEFENDANT'S ATTORNEY

1. **You are hereby directed** to attend a pre-conference to be held before the Magistrate in Court 25 on the _____ day of _____ 20_____, at 14:00 to consider-
    (a) The simplification of the issues;
    (b) The necessity or desirability of amendments to the pleadings;
    (c) The possibility of obtaining admissions of fact and of documents with a view to avoiding unnecessary proof;
    (d) The limitation of the number of expert witnesses;
    (e) Such other matters as may aid in the disposal of the action in the most expeditious and least costly manner (Rule 25(7)(a),(b)).

2. **Please be advised that** on the date of the pre-trial conference, you are required to have held a meeting to prepare for the pre-trial conference at which the issues identified

in Rule 25(10) in relation to the conduct of the trial of the action must have been considered; and

3. **The plaintiff is required**, not less than two days before the time appointed for the pre-trial conference to –
    (i) Ensure that the court file has been suitably ordered, secured, paginated and indexed; and
    (ii) Deliver an agreed minute of the proceedings at the meeting held between the parties, alternatively, in the event that the parties have not reached agreement on the content of the minute, a minute signed by the party filing the document together with an explanation why the agreement on its content has not been obtained (Rule 25(7)(c),(d)).

4. The **agreed minute shall particularise** the parties' agreement or respective positions on each of the issues identified in Rule 25(10) and, to the extent that further steps remain to be taken to render the matter ready for trial, explicitly identify them and set out a timetable according to which the parties propose, upon a mutually binding basis, that such further steps will be taken (Rule 25(8)).

5. In addition to the minute, the **parties are required to deliver a detailed statement** of issues, which shall indicate-

    (i) The issues in the case that are not in dispute; and
    (ii) The issues in the case that are in dispute, describing the nature of the dispute and setting forth the parties' respective contentions in respect of each issue (Rule 25(9)(a)).

6. **A Magistrate,** upon considering the statement by the parties**, shall at least a day before the pre-trial conference give directive** whether the appearance by the parties at the pre-trial conference may be dispensed with (Rule 25(9)(b)), so kindly **provide contact telephone numbers and email addresses** on the statement and minute.

By Order of the Court,

_____

Clerk of the Court

PRE-TRIAL FORM 'B'

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

NOTICE CALLING UPON PARTY TO COMPLY WITH RULES OF COURT (Rule 22A read with Rule 25(4)(a))

Pigeonhole: _____

Docex: _____

CASE NUMBER: _____/20___

APPLICANT(S) / PLAINTIFF(S): _____

(Only first applicant/plaintiff if more than one)

RESPONDENT(S) / DEFENDANT(S): _____

(Only first respondent/defendant if more than one)

BE PLEASED TO TAKE NOTE THAT the applicant(s)/plaintiff(s)/respondent(s)/defendant(s) is/are hereby formally called upon by the Clerk / Registrar of the Court to comply with the step/s indicated hereinbelow, such party having failed / refused to do so after being duly called upon to do so by the applicant(s)/plaintiff(s)/ respondent(s)/defendant(s).

OPTIONS (Kindly insert an **X** next to the applicable option)			
RULE 23 DISCOVERY AFFIDAVIT	☐		☐
RULE 22A(1) *INTER PARTES* MEETING DETAILS	☐		☐
RULE 22A(3) LIST	☐		☐
SIGNED MINUTES OF RULE 22A READ WITH RULE 25(7) MEETING **OR** MINUTE SIGNED BY THE PARTY FILING THE DOCUMENT TOGETHER WITH AN EXPLANATION WHY AGREEMENT ON ITS CONTENT HAS NOT BEEN OBTAINED	☐		☐
RULE 23(6)(b) REPLY	☐		☐
	☐		☐

_____
Signature

OFFICIAL STAMP OF CLERK / REGISTRAR OF THE COURT

PRE-TRIAL FORM 'B'

Name of Firm

Service Address

Telephone Number

Email Address

Reference Number

KINDLY TAKE NOTE THAT your attention is FURTHER drawn to the provisions of Rule 60 **(Non-compliance with rules and court orders, including time limits and errors).**

TO: CLERK/REGISTRAR OF THE COURT
JOHANNESBURG

AND TO:

Name of Firm

Service Address

Telephone Number

Email Address

Reference Number

This form must be completed in duplicate and handed in at Room 1061. One copy will be stamped and returned as an acknowledgement of receipt.

PIGEON HOLE NO: _____ **DX:_____**

REQUEST FOR A TRIAL DATE AT THE JOHANNESBURG MAGISTRATES COURT

(To be used for all trial matters)

CASE NO: .....

In the matter between:-

.....PLAINTIFF

and

..... DEFENDANT

The pleadings closed on: _____

The issue of quantum and merits have/ have not been separated	
The issue of quantum is not applicable	
The court file is indexed and paginated	
The expert reports, to be relied on by the plaintiff are available and are legible, paginated and bound	
Both parties have filed discovery affidavits	
There has been compliance by the party applying for a trial date with all the requests for discovery	
A pre-trial minute complied by both parties is attached	
An affidavit explaining the lack of a pre-trial minute is attached, together with a written statement setting out: • A succinct summary of the common cause facts; • The questions of law and fact that the court must decide; • Why, if not already done, quantum and merits have not been separated; and • Whether the opponent's, if legally represented, has confirmed in writing the facts set out in the attached written statement.	

_____ _____

Signature of the attorney/ party **Surname and initial of attorney/ party**

Email address: _____

Cell phone number: _____

OFFICIAL USE

(To be completed by Magistrate)

Matter is **certified trial ready** and a trial date may be allocated	
The pre-trial **minutes is incomplete**	
Formal pre-trial conference is required	
The matter is **not trial ready**, due to the following:	

_____

MAGISTRATE

DATE ALLOCATED FOR TRIAL/ PRE-TRIAL:_____