Report by Chairperson on activities of JAA for First, Second and Third Quarter of First Year Term (October 2018 – August 2019)

GENERAL

The JAA is currently running a significant number of projects. Some are run by sub-committees, and some by various members of the Executive Committee without the assistance of a sub-committee.

Before I explain what we have achieved as the JAA since the last AGM, I need to personally thank the EXCO members for their dedication, expertise, and above all, the time commitment that they make to the JAA. It is hugely disruptive of our personal and professional lives yet whenever assistance is needed, particularly urgently, there are always volunteers to take on even the most onerous and sometimes unpleasant tasks. I would especially like to thank Janine Schmal (who resigned from our EXCO during the past year) for everything that she has contributed to the JAA over the years, and her dedication to the profession in this regard. I would also like to welcome Mienkie van Dyk, who was co-opted to assist the EXCO on many levels.

We are very appreciative of any further assistance that other practitioners could provide and welcome engagement with members in this regard.

I also need to personally thank the JAA's staff members, Ivy, Hilda, Portia, Regret, Vivian (our new office manager) and Angela (our outgoing office manager). Without your dedication and assistance we would not be able to run our (now four!) court offices.

1. RAF and RABS

The JAA has been liaising with APRAV in relation to the goings on in Parliament relating to the passing of the RABS bill. RABS is likely to come up again in the next few months for debate. At this stage APRAV have advised that they are lobbying politically to stop it. If that fails, they will resort to legal challenges. The JAA has offered help (its best litigators free of charge) and funding. APRAV has asked for funding for legal fees and the EXCO has approved that request and is awaiting

payment details form APRAV. APRAV continues to be the best “first line of defence” that the attorneys’ profession has, in stopping the bill in Parliament.

There is approximately R 1,3m in trust in the JAA’s account which has been ringfenced to fight RABS. It was originally thought by our EXCO that there was only circa R 300k, but after a past EXCO member (Michael de Broglio) alerted us to the fact that there should have been more funds available a full audit of all JAA bank accounts was done, going back 20 years. Additional funds for RABS were located and moved into the ringfenced account. The AFS have been updated and will be presented to the AGM for approval on this score. The funds were sitting unutilized in an interest bearing account so no harm has befallen the funds or the JAA as a result of the misallocation of such funds which happened in the 2006 and 2008 years. We thank Mr de Broglio for bringing this to our attention such that it could be investigated and corrected. The allocation of the ring fenced funds are dealt with more fully by the Treasurer in her report.

The RAF committee of the JAA has briefed senior (Garth Hulley) and junior (Mark Oppenheimer) counsel to consider potential constitutional challenges to RABS, such that if it passes (or rather, when it passes) these can be raised in court. We hope to continue to work with APRAV on this score if (or rather when) the constitutional issues become pertinent. They can only truly be dealt with when the bill has been passed and its final form is apparent. We are preparing counsel, however, with as much information and evidence as we can in advance, in case the issue needs to be addressed urgently.

Another request for intervention was received in relation to a constitutional challenge to the provisions of RAF that hamstring attorneys in effectively obtaining relief for their clients as a result of an inability to obtain findings on the seriousness of HPCOSA rulings. This was considered by the EXCO. None of the EXCO members had had any personal experience in this other than Yusuf Wadee and as a result a request was put out to all of our members via our email newsletters for comments/information relating to the issue. Nothing was received from our members. As such, Yusuf provided the information that he had in relation to the matter to the organisers of the challenge. We have not seen an update since that time but we remain in communication with senior members of the profession who are facing a number of challenges in relation to RAF.

The JAA's sub-committee continues to meet as regularly as it can (albeit that attendance is not great and meetings are not as regular as they once were, due to the increasing number of challenges faced by the members in practice and the concomitant time commitment that meeting these challenges require) and raising the issues with various stakeholders in an effort to mitigate the effects of same as much as possible on our members. In this regard the JAA liaises with the ANC working group on the RABS, the PAA, the GAA, APRAV and other bodies. They are in constant communication via a WhatsApp group in which information is spread very rapidly amongst the members for attention.

The practice directives put in place by the Johannesburg High Court have affected the way in which trial dates are allocated, and many practitioners are concerned about the effect that this is having on their client's ability to get an allocation. A few days ago a letter was issued to the judiciary by Gert Nel Attorneys threatening to bring a high court application to set them aside. After liaising with Gert Nel, it has been established that they are in talks with the judiciary and hopefully a court application will not be required. We have offered our assistance if needed. More is said on the practice directives below.

2. S 118 of the Local Government: Municipal Systems Act

This relates to the threats made by the COJ's debt collectors/lawyers to conveyancers that they are lawfully responsible to assist COJ in its debt collection responsibilities by ensuring that sellers who obtain 'abridged' clearances, make payment of all amounts owing (in terms of section 118(3)) before transfer. The JAA previously dealt with this matter, when the New Ventures judgment in the Constitutional Court was being heard, and engaged counsel and applied to be joined as amicus in relation only to the legal issue of whether conveyancers bore any such duty and if they did, to whom they bore it and what the extent to of that duty way. The way in which the court decided the issue rendered the JAA's issue moot and the court did not decide on it.

Be the above as it may, the COJ appears intent on pressing forward with its allegations that conveyancers are obliged to assist COJ in collecting their debt by 'making' their sellers pay the full amount owed. Moreover, our EXCO members have been told of cases in which the COJ arguing that, even if it doesn't take any steps to collect its own debt before it is made aware of transfer, it has an automatic 'right' (or

preference) to be paid from the proceeds of the sale. At present time it appears that this argument has only been advanced in court in relation to sales in execution. In this regard the JAA has been following this issue closely. Judgment was handed down in the "sheriff's matter" in which the COJ alleged that s 118 gave the COJ an automatic preference above all other creditors, including the bondholder, to the "first bite" at the proceeds in a sale in execution. This was argued fully with the assistance of two of the EXCO members handling this portfolio. The judge dismissed the application and it was appealed, however the appeal has yet to be heard. We continue to watch the development of this issue and if necessary will step in to protect the interests of our members.

Metropol Consulting, Moodie and Robertson and several other attorneys have recently started sending "s 118" letters again demanding that conveyancers ensure that the COJ's debts are collected. Our Property Committee is liaising with COJ and dealing with these issues and will be communicating with practitioners regarding the way to handle the situation in due course. If necessary, the JAA will litigate to protect the rights/interests of its members.

3. Expropriation without Compensation

The JAA submitted comments to Parliament in respect of the amendment of s 25 and after being invited to make oral presentation to Parliament, attended and did so. Parliament asked us to make further representations on certain points (particularly in relation to international aspects of compensation for expropriation and how South Africa's law would compare to international law), which we did. Counsel Mark Oppenheimer assisted.

The JAA further submitted comments to the Expropriation Bill. We await further news in this regard.

Our chairperson is going down for a seminar on the law relating to expropriation without compensation to be held on the 25th of September 2019 in Stellenbosch at SUN and will report back after this.

4. "Advocates' admission" matter and candidate attorneys

EXCO members were receiving several panicked calls a day from candidate attorneys who were unsure of how to draft their admission papers, as well as those who had not been allowed to set their applications down for admission or whose admission hearing dates had been postponed in light of the "advocates' admission" case.

Seeing the prejudice that our candidates were suffering, the JAA, together with the PAA and GAA, filed papers as *amici* in the matter, explaining how attorneys and candidates were affected by the provisions of the LPA in question, as well as arguing that (notwithstanding that none of the applicants before the court were candidates, as they were all pupils) the court had the power to hand down a judgment that declared the law in relation to candidates as well as pupils. An application for admission as amici, and heads, were filed. Thereafter submissions in relation to the main merits, and heads, were filed. Adv Dorothy Mokale represented the parties *probono* at the hearing of the matter at the Joburg High Court on 13 February 2019.

Judge Sutherland handed down a judgment which has already been widely circulated. In essence, it cured almost all of the problems faced by candidates. As such, we are no longer receiving any calls from candidates. The JAA thanks Adv Dorothy Mokale for her invaluable contributions to our efforts in this regard.

5. First Annual Candidate Attorney Tour

On 28 March 2019 the JAA, WAA and Nadel held a tour of the Joburg High Court for attorneys, with the blessing and assistance of the High Court. It was well attended by well over 40 candidates. We hope to do a tour at least once a year, and to continue to foster relations with our colleagues in other voluntary attorneys' associations.

6. Judicial Training Centre at Joburg High Court

The JAA EXCO were invited to attend, and donate to, the opening of the judicial training centre on the 7th floor. The JAA attended and has approved a donation of R 20,000 to the High Court Trust that will be responsible for running the centre. The JAA is also in talks with the court to see how the centre can be utilized to the benefit of all most efficiently. The JAA has also called for donations from its members to assist the High Court Trust.

7. Bosberaad

The JAA EXCO held its 2019 Bosberaad at Melrose Arch, Schindlers Attorneys, during early February 2019. It was able to keep the costs to a minimum (catering only at cost) by using offices volunteered and it was a very productive 8 hour meeting.

8. Calender of Events

The JAA has, for the first time, created and approved an annual calendar of events. Although our EXCO does not have a dedicated events portfolio or subcommittee, it is hoped that (with the assistance of more members, particularly – we hope – younger members) we can start holding social events in the manner of those held annually by the PAA, in order to promote networking, collegiality and solidarity amongst members of the profession. We also hope that publishing our calendar in advance will give our sponsors, and members, better advance notice of our upcoming events.

9. Resignation of EXCO Committee Member

Janine Schmal resigned during February 2019. Her expertise, professionalism and sense of humour will be sorely missed. The JAA EXCO is extremely grateful to her for her dedication and assistance over the years.

10. Co-option of EXCO Committee Member

Due to the large amount of work on the shoulders of the EXCO, another member was co-opted. We welcome Mienkie van Dyk and thank her for volunteering to assist.

11. Female Judges Mentorship Program

The JAA and GAA are working with several female judges in the Pretoria/Joburg High Courts to enlist candidates for a mentorship program. The first information session was held at the High Court in Joburg during March, and following on from that around 30 mentees were placed by Judge Khumalo of the Pretoria High Court. The JAA serves as the point of contact for mentees and we continue to offer whatever assistance we can to the running of the program, which is presently, for the

most part, handled by Judge Khumalo. We would like to thank the South African Chapter of Women Judges for running this program and extending it to our junior members and for the impact that their program is having on the lives of our younger attorneys and candidates.

12. Candidate Attorneys' Function

The JAA held its second CA function for 2018 in October 2018. It was well attended by over 60 candidates, with four judges of the High Court in attendance to mentor and encourage our candidates. It also held its first CA function of 2019 in June 2019 with four judges of the High Court (including the Judge President) in attendance. The JAA would like to extent a special thanks to the judges involved, as they are always, unfailingly, willing to give of their precious personal time in order to encourage and teach our candidates.

The JAA is set to host another CA function in October/November 2018/2019.

13. Mediation Training Seminars

The Judge President of the Joburg and Pretoria High Courts invited our members to attend two mediation seminars during February/March, by special invitation. These were well attended and very useful to the practitioners. They were over-subscribed and we received excellent feedback from practitioners.

14. Membership drive

Since December 2018 we have embarked on a "membership drive" in order that our organization is as broadly representative of all members in Johannesburg as possible. The greater the number of members, the greater the JAA's ability to assist all of its members when engaging with stakeholders. Since December 2018 we have signed up over 300 new. We discovered that many candidates are signing up for free where their principles are not signed up, so that the principles (who would otherwise have to pay) get free access to JAA services, so we amended our registration criteria to provide that a maximum of three candidates per signed up attorney member can be registered with the JAA for free. We continue our efforts in this regard, which are driven by social media interaction.

15. Audit of JAA's bank accounts for past 20 years

As above in relation to the RAF report, a full audit was conducted and the AFS updated. This took considerable time and effort, as physical documentation for almost 15 years past needed to be obtained and scrutinized. We thank Katherine Gascoigne for her tireless efforts in this regard.

After re-allocating the misallocated RAF funds, we discovered that our operational reserves were substantially lower than anticipated, and as such, we initiated a number of income earning activities to boost our coffers (see more below).

16. Tax affairs

Simultaneous to the above, an audit of our tax affairs was undertaken. We are happy to report that everything is in order in this regard.

17. Income earning activities

To earn extra income we have started selling water/cooldrinks/coffee, chocolate/chips, pens/notepads, and renting our robes and our boardroom at the JAA High Court office. Although the income earned from these activities are not substantial, every penny counts, and we have had very positive feedback from practitioners regarding the difference that this is making to their time in court. We are responding to their needs, and will soon start expanding sales to include other important items such as air time, data and (sadly) maybe even toilet paper/packaged tissues.

We have also partnered with the GAA, WAA, SLF and others to do seminars through the GAA, which are income earning. In this way the GAA earns funds which it can use to self-fund, which will reduce the contribution by the JAA, saving funds, as presently the JAA and PAA each fund half of the GAA's operating expenses.

We have also recently moved into new offices in the Booysen's Magistrates Court and the income earned from this office will boost our coffers. Our new office manager also has plans to rejuvenate the court offices, cut costs and increase revenue. All of our efforts in this regard continue from year to year with a view to bringing in the most income we possibly.

Lastly, we have acquired new computers for the High Court office and are planning to acquire one imminently for the Booysen's office. These are needed to provide increased access to our electronic services by our members in these offices.

18. Elections of Provincial Councils

Several EXCO members of the JAA were nominated for the provincial council in Gauteng, but none were voted on. The decision was taken not to "canvass" for votes as it was seen by some as a conflict of interest, and it was seen by others as too risky to get involved in at this early stage before we know what we might be dealing with. None of our EXCO members were elected to the provincial council.

19. Staff Salary and Job Description Review, and New High Court Office Manager

The office committee undertook a review of all staff salaries and job descriptions, and certain salaries were adjusted where required. Meetings have been held with key staff members to ensure that they are aware of, and are keeping up with, their job descriptions. We have also changed some of the job descriptions where appropriate.

We have also hired a new office manager (Vivian) who will be travelling around to all of our offices rather than being based only at the High Court, with a view to revamping all of our offices and providing better service to our members in all of our offices. Vivian recently took over from our outgoing office manager, Angela, who had been with the JAA for many years. The JAA would like to thank Angela for her selfless years of dedication to the JAA, and although we no longer have Angela in our fold, we will continue our relationship with her as continues to work with the EXCO members on a different level through her new employer. We will miss you. We also welcome Vivian, who seems to be tireless in tackling the countless number of challenges that arise, and we thank you for the energy and initiative that you have shown the short time that you have been with us. We look forward to working with you in the future.

20. Electronic court orders system

After many months of liaising with the judiciary in relation to an electronic court order system, it was piloted during early 2019 and is now fully in operation in the Joburg

High Court. We are very pleased with the feedback that has been received form practitioners. There have been a few hiccups and where we have been made aware of same we have done what we could to assist. We remain available to assist practitioners who are unable to get what they need from this system.

21. Electronic document filing system

The JAA is in talks with the High Court to pilot this system, through a practice directive which is currently being finalized. Our efforts in this regard are ongoing and the judiciary has indicated its intention to start the project as soon as it can although no date has been set for this as of yet. We have been made aware that the pilot is presently underway with a few practitioners and we will keep our members informed of any substantial progress in this regard.

Update as at 11 September 2019:

A meeting was held with the IT Committee of the Johannesburg High Court today, at which the JAA was informed that the "Caselines" electronic file management system will go "live" in the High Court at the beginning of next term. JP Mlambo is set to address the JAA AGM on this issue tomorrow night and the JAA will ensure that as much is done as possible in the short time frames available to equip and train and enable members to use this system.

22. Scanning/filing service

The JAA is planning to start offering members an ad hoc (fee based) scanning service, in terms of which orders for files or documents in files can be placed electronically, uplifted by the JAA and scanned to members. This will 'go live' when the latter two electronic systems also go live. We are planning to implement this as soon as we have resolved our issues with internet at the High Court (which is very intermittent at the moment).

Update as at 11 September 2019: owing to the "going live" of Caselines electronic file management system, it is anticipated that this will have to be implemented by the first week of the final court term 2019.

23. Opening of Booysens Magistrate's Court

The JAA chairperson and vice-chair were invited to, and attended, the opening of the court on 28 March 2019. The JAA has been offered and has taken up space there for an office, and the office is due to be opened in the coming weeks.

The JAA thanks Jacques Tarica, Anton Theron, Mienkie van Dyk and Wendel Bloem for their work in this regard. The JAA looks forward to being able to assist its members further in this court.

24. Email addresses and internet at High Court office

We have registered new and additional email addresses for the public to use for printing/emailing at the Joburg High Court office and have acquired two new PC's. We are in the process of upgrading to fibre to quicken our internet access because it is sometimes intermittent. We are experiencing challenges, however, as the High Court building cannot be altered in any way without permission from the court/public works (including the installation of cables, etc) and the ones that have already been laid seemingly cannot accommodate us. We are still working with various companies to try and find a longer term better solution to the problem.

25. Membership of advocates

Several advocates have enquired as to whether they can join up as members of the JAA. At present this is not permissible due to the provisions of our Constitution. An electronic survey done on social media indicated that many advocates wanted to sign up. Talks with the LSSA, BLA and NADEL have also indicated that it would be good for the JAA to welcome advocates (as all of these other organisations already do) as it would foster better collaboration between all of these organisations to the benefit of all of our respective members and the profession as a whole.

This needs to be canvassed with the GAA (of which the JAA is a founding members) and also with the members of the JAA at a special general meeting, because only if the members vote to allow advocates to join, can we amend our Constitution to do so. This has been earmarked as one of our special projects for the forthcoming financial year.

26. Automated membership applications process through website

The quote for automating this was received and Laura has been mandated to action it. This will reduce the frustration, time and cost involved going forward. It will also provide our prospective members with a quick and hassle free sign up method.

27. ProxiSmart

Anton Theron from our EXCO worked with the LSSA to defend the leave to appeal sought in the SCA and CC. Thankfully they were both dismissed. However, we suspect that another challenge is on the horizon based on the provisions of the LPA rather than the Attorneys' Act, and if this happens we will continue to provide our full support and co-operation to the LSSA in order to continue to oppose this for the protection of our members' interests. The JAA thanks the LSSA in this regard for its dedication to the cause and seeing it through all the way to the CC and to Anton Theron for his tireless efforts in this regard.

28. Pre-Trial Certification Workshops

The JAA worked with the judiciary to organize two workshops, open to attorneys and advocates, free of charge, on the new practice directives. They were facilitated by Judge Sutherland and the first hosted by WWB and the second by Bowmans. Jacques Tarica deserves special mention for arranging these workshops. The JAA has received incredible feedback from practitioners about how helpful they were, but has also received communications expressing concerns that these practice directives are going to work in the long term. We continue to be involved with practitioners to address these issues with the judiciary. The JAA would like to thank Judge Sutherland, Judge Mlambo, and WWB and Bowmans especially for the invaluable contributions that they made to these two workshops.

29. Branding/logo

The JAA has commissioned a new logo and when ready, and approved by the EXCO members, it will be released to the public.

30. Information sharing and social media

The service providers utilized by the JAA to keep its social media and website current are working well to spread the relevant information over social media and through news letters. The JAA has seen an incredible increase in the amount of engagement that we received from practitioners and members of the public (as well as advocates) through social media. We have also seen an incredible increase in the manner in which the information posted is 'shared' throughout the profession at such rapid speed, owing to the frequency with which our posts are read by those following us. This is largely the work of our social media manager, Laura Gladwin, whom the JAA thanks for her tireless devotion to the cause. We hope to continue to be responsive to the needs of our members and to use the benefits of technology as much as we can to promote our members' interests and share relevant information.

31. Debt Collector's Bill

We are keeping an eye out for any new developments on this, as it is a threat to the income of attorneys. After we submitted comments (in conjunction with the LSSA) and met with the Deputy Minister two years ago, we have heard nothing further. We will continue to watch this and will respond if necessary to protect our member's interests.

32. Limitation of Fees by LPC/Minister in terms of LPA

We continue to watch the development of this issue. A working paper was issued on this and we have invited an LPC council member, Mr Jan Stemmet, to talk to us about this issue specifically at the AGM. We thank Mr Stemmet and the LPC for their willingness to educate our members and engage with us in this regard. If necessary, we will take the reins to protect our member's interest.

33. COJ Electronic Clearance Systems and Electronic Rates Clearance Certificates

The COJ announced that it is "going live" with the issuing of electronic rates clearance certificates from around 1 October 2019, and the JAA is working with the COJ and its members to assist the COJ in disseminating the necessary training manuals and information, and to assist its members in using the electronic E-clearance system. Formal communications with members to commence on this beginning the week 16 September 2019.

34. Regular Liaison Meetings

The JAA continues its regular liaison meetings with the following persons/departments/ entities/forums. Reports on the critical issues in these meetings are often included in our email newsletters to our members, and so what is below is rather abbreviated. Anyone who requires a fuller report of the year's activities can contact us for more information.

34.1 LSSA

The JAA and GAA have met three times with the LSSA to discuss collaboration between the various organisations for the mutual benefit of our members. It is proposed that the GAA (of which the JAA is a founding member) will collaborate with the LSSA at the provincial level, allowing the JAA (as a founding member with voting rights on the EXCO of the GAA) to exert influence through the GAA. Our efforts continue in this regard and it is hoped that there will be a public announcement before the end of the year as to how this will be taken forward. The JAA thanks the LSSA for its willingness to engage and its continued dedication to the interests of the members of our profession.

34.2 NADEL AND BLA

NADEL (national), NADEL Jhb and the JAA have already held several joint events (including the High Court Candidate Attorneys' Tour). We continue to collaborate wherever possible to promote the mutual interests of our members. In our view, the more collaboration we have with all interested stakeholders in our profession, the better.

Our EXCO have also met with and will endeavor to meet again with the NADEL and BLA leadership in an effort to formalize (or if not formalize, at the very least strengthen) the relationship and collaborate efforts between our two organizations, as well as with the GAA (of which the JAA is a founding member).

34.3 PAA, WAA, SLF, GAA AND EAA

The JAA continues to work in close proximity with these organizations at the GAA for the interests of all attorneys. The GAA is an incredible vehicle that the JAA and all other local attorneys' associations can and do utilize to collaborate and realise the benefits of 'strength in numbers'. The JAA would like to thank the GAA, and all of its constituent members, including the WAA, the PAA, the SLF and soon to be the EAA as well, for their continued collaboration in this regard.

34.4 Cape Town Legal Practitioners Association, and KZN Lawyers

The EXCO hope to arrange a meeting with these associations before the end of the year, to touch base on issues affecting our members and what can be done to promote the common interests of our members.

34.5 SLF

The Soweto Legal Fraternity continues to grow from strength to strength. The JAA has invited it to sit as observers on the EXCO and two of our EXCO members are also SLF members. Yusuf Wadee of our EXCO is also a SLF member, and the collaboration between our two organisations continue. We will continue to offer the SLF any assistance it needs to grow and prosper for the benefit of all of its members.

34.6 SASSLAW

The JAA has reached out to SASSLAW and intend to meet with it shortly after the AGM in order to see how we can work together for the interests of our members, the profession and justice.

34.7 High Court IT Committee

See the summary in the report by Jacques Tarica attached as "A" hereto.

34.8 High Court Precinct

See the summary in the report by Jacques Tarica attached as "A" hereto.

34.9 High Court Security

See the summary in the report by Jacques Tarica attached as “A” hereto. To a large extent the security and precinct projects have now become combined. At present, nothing much is happening and it will likely be taken up as a special project of the JAA in the coming year, to drive it forward.

34.10 High Court Library

We continue to attend meetings of the Library when they are called.

34.11 Magistrates Court Library

We continue to attend meetings of the Library when they are called.

34.12 Court Liaison Meetings

The JAA attends a number of these in different courts, with different organisations.

Please see the reports of Nakka de Klerk (Annexure B hereto) and Jacques Tarica (Annexure A hereto) for a more detailed summary of which meetings are attended and what they are about.

34.13 GISEC

Chantelle continues to attend and participate at the monthly GISEC meetings.

34.14 Probono.Org

The JAA met with the Probono.org leadership during the year and at this meeting it was agreed to collaborate where possible. During the year there was a change of leadership, and we are currently awaiting details of who has been appointed to meet further with us.

34.15 Master’s offices

Katherine Gascoigne and her staff members continue to meet with the Master's offices on a regular basis, raising issues reported by members, and giving feedback to the EXCO.

34.16 LPFF AND LPIIF

The GAA has held two meetings with these bodies during October last year, at which two of our EXCO members attended. We continue to foster relations between our respective organisations.

35. Sub-committees

Several following sub-committees continue to function independently of the EXCO, reporting back to it through the EXCO members. Their minutes should be available from each committee. Feedback is given at each EXCO meeting. A list of our sub-committees showing the members on each is attached as annexure C.