

Deon Gericke

From: Zonika Jansen <zonika.ptahighcourt@gmail.com>
Sent: Friday, 20 November 2020 14:16
To: info@jaa.org.za; info@gaa.org.za; info@nationalbarcouncil.co.za; issa@lssa.org.za; jhbadmin@law.co.za; jhbbar@law.co.za; ppv@ppv.co.za; ptabar@law.co.za; Pretoria-FA@justice.gov.za; reception@loftusadv.co.za; StateAttorneyPretoria@justice.gov.za; admin@pabasa.co.za; admin@biaonline.org.za; gcb@mweb.co.za; nfa.advocates@gmail.com; gautengsocadv@gmail.com; tracy.nothnagel@gcbsa.co.za; admin@csadvocates.co.za; nccadmin@law.co.za; sue@lawcircle.co.za; manager@advchambers.co.za; manager@clubadvocates.co.za; manager@gkchambers.co.za; hes1@law.co.za; info@churchsquarebar.co.za; northgautengadv@gmail.com; Deon Gericke; Yvonne Badenhorst; donn@debattorneys.co.za; naledi@tlouattorneys.co.za; nadia@deswardt.co.za; leehandra@glossators.co.za; carin@rainc.co.za; boipelo@bilinc.co.za; ismalberger@gminc.co.za; tshego@mbmlaw.co.za; simone@dmrlaw.co.za; mpho@mkumbeniinc.co.za; mari@dmrlaw.co.za; mtetons@gmail.com; tessa@renqe.co.za; law@renqe.co.za; cobus@cbekker.co.za; niel@weavind.co.za; thato@yeattorneys.co.za; buks@croucampattorneys.co.za; caselines@jjrinc.co.za; bernette@clubadvocates.co.za; david@bothapartners.co.za; nolwazi@jjrinc.co.za; adri@jjrinc.co.za; Adv Adrianus Coertze; berny@chrisjaneke.co.za; nortjehj@netactive.co.za; biancadavies97@gmail.com; ichowe@justice.gov.za; yolandi@lawsb.co.za; admin@schabortpotgieter.co.za; gamede.bongani@yahoo.com; nomvulameyiwa1@gmail.com; kobus@processdesign.co.za; tammy@shinc.co.za; brookstevens@gmail.com; sibongilechili83@gmail.com; info@fnb.co.za; geach@geach.co.za; heidi@grieselb.co.za; hjacobs@werksmans.com; ferdinandhh@gmail.com; kmalaoinc@gmail.com; advchristianmosala@rsabar.com; legal29@spruyt.co.za; terblnche@prok.co.za; elmariebanez@live.com; lufuno@tshikosiattorneys.co.za; wikus@ianlevitt.co.za; ghay@macrobert.co.za; info@tebogoramaokainc.co.za; advocate.zolakhumalo@gmail.com; monyanekagisho@yahoo.com; solly@mosomaneinc.co.za; vcellclinxfranchise@gmail.com; charldvllrs@yahoo.com; marius@minnieattorneys.co.za; krishnee@delberg.co.za; m.pienaar@delberg.co.za

Cc: Michele Campbell; Mbali Mahlangu; Salome Nyakale; Tumi Motswasele; Jonah Hefer; Avela Mbelani; Robert Maasdorp; Thandi Malele; tledwaba@judiciary.org.za; mmorema@judiciary.org.za; aharris@judiciary.org.za; adelevntablet@gmail.com; rita@legaledge.co.za; mvanderhoven@sdblav.co.za; apellis@lawcircle.co.za; mojelaattorneys@gmail.com; marifabricius@gmail.com; louwattorney@telkomsa.net; edrich@salegal.co.za; mariette-smith@live.co.za; advisas@polka.co.za; danielle@salegal.co.za; thomas@schabortpotgieter.co.za; estrauss@justice.gov.za; charl@vanbruggenattorneys.co.za; melissa@jvlaw.co.za; jc@vanedenattorneys.co.za; mabarnard@justice.gov.za; khomotjo@tirisan.co.za; potoattorneys@gmail.com; baldwinb2001@yahoo.co; lilly@rababaleaat.com; yvonne.hall@bowmanslaw.com; smathiba@law.co.za; francois.trichardt@bowmanslaw.com; jimmy@clubadvocates.co.za; nompumelelo@deswardt.co.za; stanford@stanfordattorneys.co.za; geraldine@lawcircle.co.za; advjanaschoeman@gmail.com

Subject: Urgent Applications - 20 - 27 November 2020 - before De Vos et Basson JJ
Attachments: Allocated Roll - Urgent Applications - 20 - 27 November 2020.docx; Directive - Urgent Applications 20 - 27 November.pdf; Roll before De Vos J - Urgent Applications - 20 - 27 November.docx

Dear Sir/Madam

Kindly find attached hereto for your attention the following documents pertaining to the urgent court for the week 20 - 27 November 2020:

1. An allocated roll for urgent applications to be heard by De Vos et Basson JJ respectively;
2. The roll for applications to be heard by De Vos J; and
2. A directive in respect of applications enrolled for hearing by De Vos J.

****Please note that all urgent applications before De Vos J will be heard in open court.**

Regards

--

Ms Zonika Jansen

Secretary to the Honourable Judge H J de Vos

High Court of South Africa

Gauteng Division

Pretoria

zjansen@judiciary.org.za / zonika.ptahighcourt@gmail.com



HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

URGENT APPLICATIONS FOR THE WEEK 20 – 27 NOVEMBER 2020

BEFORE THE HONOURABLE JUDGE DE VOS
and BEFORE THE HONOURABLE JUDGE BASSON

No	Parties	CASE NO.	JUDGE
1	ALFA COMMODITIES LTD v INDIGNUS TRADING & PROJECTS	51372/2020	DE VOS J
2	LAURENT DE HAUWERE v PRISCILLA HUET	54980/2020	BASSON J
3	LARNIE MILLS v PETRUS JOHANNES KROGH	55510/2020	DE VOS J
4	MASUKU BANDILE v SPECIAL INVESTMENTS & 2 OTHERS	55372/2020	BASSON J
5	MADIBENG LOCAL MUNICIPALITY v UNKNOWN TRESPASSERS & 5 OTHERS	57075/2020	DE VOS J
6	DEBORAH RAPHUTI v PATRICE KEKANA	57096/2020	BASSON J
7	LEGAL PRACTICE COUNCIL v JACOBUS PRETORIUS BEKKER	56199/2020	DE VOS J

8	LEGAL PRACTICE COUNCIL v MPHO PIET MKUMBENI & ANOTHER	57815/2020	DE VOS J
9	PETRUS JOHANNES NEETHLING v JESSICA NEETHLING	58789/2020	BASSON J
10	REGISTRAR OF MEDICAL SCHEMES	51743/2020	BASSON J
11	LEGAL PRACTICE COUNCIL v KHOROMBI MABULI	58995/2020	DE VOS J
12	WIKUS PIETERSE v BMW FINANCIAL SA	32048/2020	DE VOS J
13	JOY ALEXANDER GILLEPSIE & 2 OTHERS v JACOBUS JOHANNES JACOBS & ANOTHER	59197/2020	DE VOS J
14	NO APPLICATION		
15	KYLE LUBBE v BIANCA DAVIES	59207/2020	DE VOS J
16	NICOLA KATHLEEN GIULIA N.O. v MASTER OF THE HIGH COURT & 4 OTHERS	59209/2020	BASSON J
17	TIKORANGA BED & BREAKFAST v MALESELA PIET MAREMA	59254/2020	DE VOS J
18	WIKUS ANTON STRYDOM v BERNICE STRYDOM	28405/2018	BASSON J

19	ASIMINA TRADING (PTY) LTD v DEON MARIUS BOTHA N.O.	59258/2020	DE VOS J
20	BONGANI CYPREAN GUMEDE v PROCESS DESIGN	59836/2020	BASSON J
21	ESTELLE BOOYSEN & ANOTHER v J C VAN EEDEN & 2 OTHERS	59810/2020	DE VOS J
22	ROBERT MUVHINI N.O. v ROAD ACCIDENT FUND	59387/2020	DE VOS J
23	KGABANE MOLOTO & ANOTHER v ADV MODIBE MOGOTSI N.O. & OTHERS	59843/2020	DE VOS J
24	SITHEMBA COAL (PTY) LTD v BASOTHO HOLDINGS & 2 OTHERS	59949/2020	BASSON J
25	BALDWIN BALOYI v LEGAL PRACTICE COUNCIL	59593/2020	BASSON J
26	VONGANI CHRISTOPHER HUNGWANI v THABISO CHRISTOPHER MATHIBEDI & 3 OTHERS	60172/2020	DE VOS J
27	EX PARTE	59483/2020	BASSON J
28	EX PARTE	59481/2020	BASSON J
29	DEPARTMENT OF EDUCATION & ANOTHER v VIRGINIA MOSHIDI MOAGI & 3 OTHERS	60177/2020	DE VOS J

30	BABATUNDE OLAMIDE FOLORUNSO v GENERAL OF HOME AFFAIRS & ANOTHER	60349/2020	DE VOS J
31	FRANSISCO RIBEIRO DE SOUSA v MARIA PETRONELLA DE SOUSA	58940/2020	DE VOS J
32	ATTORNEY M D MOLUSI v FIRST NATIONAL BANK & OTHERS	58854/2020	DE VOS J
33	K MALAO INCORPORATED v INVESTEC BANK LTD & 3 OTHERS	60617/2020	BASSON J
34	JEANRU KONSTRUKSIE v JACO S BOTES	3825/2020	DE VOS J
35	ALL G2G LTD & 2 OTHERS v KAREN ELIZABETH JANSE VAN RENSBURG	59644/2020	BASSON J
36	LOAGO RADITEDU v IDATA MACSAMEUL	60781/2020	BASSON J
37	JOHAN FRANCOIS ENGELBRECHT N.O. v ISOWALL SOUTHERN AFRICA & ANOTHER	5174/2020	DE VOS J
38	BOIPELO NOMBEMBE & 2 OTHERS v OLIVER P TSEBANE & 2 OTHERS	58712/2020	BASSON J
39	EUNICE NOMSA MATLHASEDI v J N CHAUKE & 4 OTHERS	54558/2020	BASSON J
40	MOHAMED SHAID MOHAMED IQBAL SHAIKH v V-CELL CLINIX LTD	60152/2020	DE VOS J

41	ELIZABETH MOLLY DU PLESSIS v JOHANNES DANIEL DU PLESSIS	58270/2020	DE VOS J
42			
43			
44			
45			
46			
47			
48			
49			
50			



CHAMBERS OF THE HONOURABLE JUDGE DE VOS

P.O. BOX 442
PRETORIA
0001

TEL: 012 314 9052 / 012 492 6897

FAX: 086 293 9133

EMAIL: ZJansen@judiciary.org.za / Zonika.ptahighcourt@gmail.com

THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION
PALACE OF JUSTICE
CHURCH SQUARE
PRETORIA
ROOM 226

19 November 2020

To: All Relevant Legal Practitioners

Dear Sir/Madam

DIRECTIVE: URGENT APPLICATIONS BEFORE DE VOS J FOR THE WEEK 20 – 27 NOVEMBER 2020

Judge De Vos and Judge Basson will hear Urgent Court Applications from Friday 20 November 2020 at 16h00 until Friday 27 November 2020 at 16h00. You are kindly requested to note the following directive issued by Judge De Vos in respect of all urgent applications enrolled for hearing during this period:

- [1] This directive is accompanied by an allocated roll for the urgent applications to be heard during the week 20 to 27 November 2020, which indicates the Judge to which each matter has been allocated for hearing.
- [2] Ms Adele van Niekerk is the secretary to Judge Basson. Ms Van Niekerk can be contacted at 012 492 6877 / 084 986 4751 or adelevntablet@gmail.com / AHarris@judiciary.org.za; or approached at room 125 on the 1st floor in the Palace of Justice. Ms Zonika Jansen is the secretary to Judge De Vos and can be contacted at 012 492 6897 / 012 314 9052 or ZJansen@judiciary.org.za / zonika.ptahighcourt@gmail.com; or approached at room 226 on the 2nd floor in the Palace of Justice.
- [3] With the exception of applications brought outside of normal court hours, all applications should be properly issued by the Registrar on the 1st floor of the High Court building before approaching the senior Judge's secretary for enrollment of the application.
- [4] The contact number for urgent applications to be heard *out of ordinary court hours* is 065 859 4819. This number is not to be used for general enquiries or for any other issue than urgent

applications to be heard *out of ordinary court hours*. Ms Jansen will attend to after-hours urgent applications from Friday 20 November until Monday 23 November 2020; thereafter this function will be taken over by Ms Van Niekerk.

- [5] Applications before Judge De Vos will be heard in open court, by way of physical hearings during normal court hours (10h00 – 16h00). Please consult the day roll as to which court room will be used for this purpose. Applications before Judge Basson will be heard virtually and the arrangements in that regard will be communicated by Ms Van Niekerk in due course. Each Judge will individually decide as to the form of hearing for applications to be heard outside of normal court hours.
- [6] With the exception of return date applications and matters of extreme urgency, a general roll call for matters enrolled before Judge De Vos will be held at 10h00 on Tuesday 24 November, which roll call must be attended by counsel. During the roll call removals, settlements and ex-parte matters will be disposed of first. Thereafter counsel may call their matters in order of seniority for unopposed urgent applications to be heard and/or the allocation of opposed applications for hearing during the remainder of the week.
- [7] In the event that alternative arrangements regarding the date or time allocated for the hearing of a matter are requested, such request must be made in writing and sent by way of email to the respective Judge's secretary.
- [8] In addition to the requirements contained in the directive issued by the Judge President that all matters must be registered on CaseLines and all documents to be properly uploaded, Judge De Vos kindly requests for the delivery of hard copies of the relevant court documents in all applications enrolled before him. To afford the Judge with sufficient time for preparation, hard copies of the documents are to be delivered to the Palace of Justice before Monday 23 November at 11h00.
- [9] Said hard copies must be accompanied by two copies of a draft order, short heads of argument by counsel moving the matter, and a practice note indicating the following information:
- [9.1] the particulars of counsel moving the matter (name, cell phone number and email address);
 - [9.2] a brief summary of the issues to be determined;
 - [9.3] a brief summary of the reasons for urgency;
 - [9.4] the estimated duration of the arguments to be heard;
 - [9.5] if necessary, reasons for failing to bring the application in terms of the rules pertaining to urgent applications, and an explanation of why the matter warrants hearing despite such non-compliance.

- [10] Due to the time constraints imposed by the nature of the urgent court, no consideration will be given to documents received after the stipulated time, save for exceptional reasons which must be satisfactorily explained in the practice note.
- [11] Where a draft order is made an order of Court by Judge De Vos, and two hard copies of same draft order was provided to the Court, a copy of same order will be available from Ms Jansen immediately after granting of the order. Same orders shall be uploaded to CaseLines in due course and after having been signed and stamped by the Registrar.
- [12] It is recommended that an applicant or respondent who appears in person should report to Ms Thandi Malele at the General Office on the 1st floor of the High Court, where he/she will be advised as to the Judge's secretary who needs to be approached and/or the court room to be attended. Counsel on behalf of the applicant must, at once when it becomes known that there is opposition by a respondent appearing in person, communicate that fact to the relevant Judge.
- [13] Practitioners are reminded of the normal rules or practice pertaining to the bringing of urgent applications and are urged to take note of the 'Memorandum to Practitioners in re: Procedure in the Pretoria Urgent Motion Court', attached hereto as "Annexure A" for your convenience.
- [14] The normal time for the bringing of an urgent application is at 10:00 on Tuesday of the week. If the application cannot be brought at 10:00 on the Tuesday, it may be brought at any time during the court day. However, the applicant, in the founding affidavit, must set out facts which justify the bringing of the application at a time other than 10:00 on the Tuesday. This requirement is in addition to the applicant's obligation to set out explicitly the circumstances which render the matter urgent. In this regard it is emphasised that while an application may be urgent, it may not be sufficiently urgent to be heard at the time selected by the applicant.
- [15] Deviation from the time periods prescribed by the Rules of Court must be strictly commensurate with the urgency of the matter as set out in the founding papers. If the facts and circumstances set out in the applicant's affidavits do not:
- [15.1] constitute sufficient urgency for the application to be brought as an urgent application and/or
 - [15.2] justify the abrogation or curtailment of the time periods referred to in rule 6(5) and/or
 - [15.3] justify the failure to serve the application as required in rule 4, the court will decline to grant an order for the enrolment of the application as an urgent application and/or for the dispensing of the forms and services provided for in the rule. Save for a possible adverse cost order against the applicant the court will make no order on the application.
- [16] The enrolment of an allegedly urgent matter found not to warrant a hearing on this roll may, at the discretion of the Judge seized with the matter, result in punitive costs being awarded.

- [17] Service of process in all urgent applications shall comply with the Rules of Court. Where an agreement was reached by the representatives of all parties to vary the requirements of the rules to facilitate a wholly electronic exchange of papers this must be specifically stated.
- [18] COVID-19 still holds a threat to our health and to ensure the safety of all parties involved only the necessary legal representatives and applicants/respondents appearing in person will be allowed to attend court proceedings. Therefore, anyone seeking access into the court building must submit to compulsory screening, must wear a face mask, and must adhere to applicable social distancing rules.

Sincerely

Ms Zonika Jansen

Secretary to the Honourable Judge De Vos

High Court of South Africa

Gauteng Division, Pretoria

MEMORANDUM TO PRACTITIONERS

RE: PROCEDURE IN THE PRETORIA URGENT MOTION COURT

- [1] Urgent applications must be brought in accordance with rule 6 and the guidelines set out in cases such as *Republikeinse Publikasies (Edms) Bpk v Afrikaanse Pers Publikasies (Edms) Bpk* 1972 (1) SA 773 (A) at 782A–G, *Luna Meubel Vervaardigers (Edms) Bpk v Makin and Another (t/a Makin's Furniture Manufacturers)* 1977 (4) SA 135 (W) and *Sikwe v SA Mutual Fire & General Insurance* 1977 (3) SA 438 (W) at 440G–441A. The majority of practitioners launch urgent applications without taking account of the rules or the guidelines. Apparently many practitioners feel entitled to select any day of the week and any time of the day (or night) to demand a hearing. The result is that procedures are followed which do not accord remotely with ‘the good order which is necessary for the dignified functioning of the Court’—*Luna Meubel Vervaardigers* at 136G–H.
- [2] The purpose of this memorandum is to inform practitioners how rule 6(12) must be applied and the manner in which the urgent court will be managed to ensure that there is an orderly and dignified adjudication of applications in that court. This means ensuring that the papers are filed timeously and ready for adjudication. In general this means that they must be complete when filed by 12:00 on the Thursday ready for roll call at 10:00 the following Tuesday.
- [3] The attention of practitioners is drawn to the following:
- [3.1] Urgent applications must as far as practicable be in terms of the rules: ie the deviation from the rules must be commensurate with the urgency of the case;
- [3.2] Urgency mainly involves the abridgment of times prescribed by the rules and secondarily the departure from established filing and sitting times;
- [3.3] In *Republikeinse Publikasies (Edms) Bpk v Afrikaanse Pers Publikasies (Edms) Bpk* 1972 (1) SA 773 (A) at 782A–G the court considered the effect of rule 6(12) (what follows is a translation)—
- ‘It is of importance to state what the effect of this rule is. In the case of an urgent application an applicant is permitted to act by way of notice of motion without taking into account the rules which are usually applicable. The applicant is, in a certain sense, taking into account the circumstances of the case, permitted to make his own rules, but ‘as far as practicable’ in accordance with the existing rules. Rule 6(12) therefore makes provision for a process subject to rules different from the usual and when an applicant appears before a judge in such a procedural manner he must ask the judge to disregard the rules applicable to ordinary adjudication. He is not obliged to go to the judge first to ask permission to act by means of extraordinary adjudication because rule 6(12)

expressly provides that the judge may deal with such a matter when and where he deems fit. **If an applicant acts in terms of this rule and informs the respondent that he regards the application as urgent it follows, in my view, that the respondent is obliged, in the sense that he runs the risk of an order against him by default, and is entitled to provisionally accept the rules which the applicant has adopted. When the matter comes before the judge he can object, but in the meantime, he dare not disregard the rules which the applicant has made for himself.** Even if the rules of court with regard to ordinary adjudication are deemed to determine that an action is instituted when the notice of motion is handed to the registrar, in the case of an urgent application the applicant in the absence of the registrar may launch the matter directly to the judge and the judge can disregard the rules of ordinary adjudication in this connection. Rule 6(12)(a) provides that in the case of urgent applications a judge can disregard the 'forms and service' prescribed by the rules. Delivery of a notice of motion to the registrar is no 'service' but because in the case of an opposed motion the applicable form 2(a) in the first Schedule requires express notice to the registrar and respondent, a judge in an urgent case when the registrar is not available can disregard the requirement that form 2(a) be directed to the registrar.'

[3.4] Judges sit in the urgent motion court on a weekly basis and matters should be set down bearing that in mind. Whether unopposed or opposed the papers must be filed (bound, indexed and paginated) by 12:00 the previous Thursday, unless the matter is so urgent that relief must be granted sooner. In *Luna Meubel Vervaardigers* at 137A–E the ascending order of urgency is set out:

[3.4.1] The question is whether there must be a departure at all from the times prescribed in rule 6(5)(b). Usually this involves a departure from the time of 7 (now 10) days which must elapse from the date of service of the papers until the stated day for hearing. Once that is so, this requirement may be ignored and the application may be set down for hearing on the first available motion day **but regard must still be had to the necessity of filing papers with the registrar by the preceding Thursday so that it can come onto the following week's motion roll which will be prepared by the Judge on duty for that week.**

[3.4.2] Only if the matter is so urgent that the applicant cannot wait for the next motion day, from the point of view of the obligation to file the papers by the preceding

Thursday, can he consider placing it on the roll for the next Tuesday, without having filed papers by the previous Thursday.

- [3.4.3] Only if the urgency be such that the applicant dare not wait even for the next Tuesday, may he set the matter down for hearing on the next court day at the normal time of 10:00 am or for the same day if the court has not yet adjourned.
- [3.4.4] Once the court has dealt with the causes for that day and has adjourned, only if the applicant cannot possibly wait for the hearing until the next court day at the normal time that the court sits, may he set the matter down forthwith for hearing at any reasonably convenient time, in consultation with the registrar, even that be at night, or during the weekend. Practitioners should carefully analyse the facts of each case to determine, for the purposes of setting the case down for hearing, whether a greater or lesser degree of relaxation of the rules under the ordinary practice of the court is required. The degree of relaxation should not be greater than the exigency of the case demands. It must be commensurate therewith. Mere lip service to the requirements of rule 6(12)(b) will not do and an applicant must make out a case in the founding affidavit to justify the particular extent of the departure from the norm, which is involved in the time and day for which the matter is set down.
- [3.4.5] Normally a respondent has not less than five days after service to give notice of his/her intention to oppose the application (rule 6(5)(b)) and if no notice of intention to oppose is given, a period of not less than 10 days must elapse between the date of service and the date of the hearing stipulated in the notice of motion (rule 6(5)(b)). If the respondent gives notice of intention to oppose the respondent has 15 days from the date of service of the notice within which to file the answering affidavit or a notice of his/her intention to raise a question of law (rule 6(5)(d)). Thereafter the applicant has 10 days from the date of service of the answering affidavit to file a replying affidavit (rule 6(5)(e)). After that the applicant may within five days apply for the allocation of a date for the hearing, failing which the respondent may do so (rule 6(5)(f)). It is clear from these times that the respondent is normally given ample time to consider whether to oppose (five days); to file an answering affidavit (15 days); and to consider the replying affidavit before the matter is enrolled (five days).
- [3.4.6] The rule ensures an orderly flow of applications through the court and their expeditious adjudication. Rule 6(12) allows an applicant who requires relief urgently to have his case decided without the delays necessitated by the

ordinary procedure. However, the normal times will be abridged and the deviation from rule 6 will be permitted only when the matter is urgent. The degree of abridgement and deviation must be commensurate with the case and must be justified in the founding affidavit. It is also required that the applicant satisfy the court that the circumstances of the case are such that the applicant will not be afforded substantial redress at a hearing in due course. Rule 6(12)(b) provides that—

'In every affidavit or petition filed in support of any application under subparagraph (a) of this sub-rule, the applicant shall set forth explicitly the circumstances which he avers render the matter urgent and the reasons why he claims that he could not be afforded substantial redress at a hearing in due course.'

[3.4.7] Too many practitioners are over-optimistic or reckless in their assessment of the requirements set out in rule 6(12)(b) and attempt to use rule 6(12) to jump the queue to their client's advantage. Many applications are struck off the roll because the court has found them not to be urgent. It is clear that the rule continues to be the most abused rule in the Division.

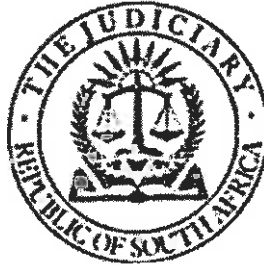
[3.4.8] In accordance with the *Republikeinse Publikasies* judgment an applicant may choose to set the matter down on any Tuesday (or other day, in accordance with the degrees of urgency referred to in *Luna Meubel Vervaardigers*), but if the applicant does not wish to have the matter heard on that day at the time indicated it is wrongly enrolled and the procedure abused. If an applicant anticipates that the application will be opposed it is essential that the respondent and the applicant be allowed reasonable times for the filing of answering and replying affidavits before the roll closes at 12:00 on Thursday. If these affidavits cannot be filed in time and the matter cannot be heard at the time indicated in the notice of motion the procedure is abused. In every case the court will decide whether reasonable time has been allowed in the light of the circumstances revealed in the affidavits. If reasonable times have been allowed the respondent will not be allowed to delay the process.

[3.4.9] Where the urgent motion court judge has found that the application is not urgent and strikes it off the roll the applicant is not prevented from re-enrolling the application duly amplified in a later week.

[4] In the light of the foregoing practitioners can expect the following approach in the urgent motion court—

- [4.1] Strict application of the *Republikeinse Publikasies* and *Luna Meubel Vervaardigers* judgments: all urgent applications must be enrolled by 12:00 on the previous Thursday for hearing at 10:00 on Tuesday unless they are covered by the other three degrees of ascending urgency referred to in *Luna Meubel Vervaardigers*;
- [4.2] Insistence by the urgent court judge that the judge be satisfied that—
- [4.2.1] the abridgement of times and the deviation from the rule is justified by the circumstances of the case; and
- [4.2.2] if the matter is not heard immediately the applicant will not be afforded substantial redress at a hearing in due course;
- These matters must be pertinently dealt with in the affidavits filed in support of the application;
- [4.3] If an application is not filed (bound, indexed and paginated) by 12:00 on the previous Thursday (subject to the remaining degrees of ascending urgency in *Luna Meubel Vervaardigers*), the application will not be heard and will be struck off the roll. The object of timeous filing of the papers is to enable the court to prepare and adjudicate upon the matter expeditiously;
- [4.4] If the judge is not satisfied that the application must be heard in the week in which it is enrolled for hearing it will be struck from the roll;
- [4.5] If the application is enrolled for hearing outside normal court hours (ie 10:00–16:00) without satisfactory explanation, it will be struck from the roll;
- [4.6] If an application, whether unopposed or opposed, is not ready to be adjudicated upon at the time indicated in the notice of motion it will be struck off the roll. If this occurs in an opposed application because the affidavits have not been filed timeously before 12:00 the previous Thursday (subject to the application falling under the remaining three degrees of ascending urgency referred to in *Luna Meubel Vervaardigers*) this will mean that the applicant has not complied with the *Republikeinse Publikasies* guidelines. The judge in the urgent motion court will not permit the application to stand down so that further affidavits can be filed;
- [4.7] If a matter is not ready for hearing in the week in which it is enrolled for hearing, for whatever reason, in the absence of exceptional circumstances, which must appear from an affidavit, it will not be postponed to a later week. It will be struck off the roll;
- [4.8] If the circumstances of a case are exceptional and the judge postpones the matter to a later week the judge will order—
- [4.8.1] that the remaining affidavits be filed (bound, indexed and paginated) by specific times;

- [4.8.2] that the papers be taken immediately to the judge who will sit in the later court;
- [4.8.3] that the applicant immediately deliver to the judge who will sit in the later week a letter summarising the issues in the matter and the nature of the urgency;
- [4.9] The return day of a rule *nisi* will be heard in the ordinary motion court unless the rule *nisi* expressly orders that the return day be heard in the urgent motion court. If parties agree that interim relief be granted and the respondent contends that the final adjudication of the matter is urgent, this must be dealt with in an affidavit so that the judge in the urgent motion court can make the appropriate order;
- [4.10] No matter involving more than 500 pages will be considered by the judge in the urgent court (subject to the remaining three degrees of ascending urgency) unless the papers are delivered to the judge who will hear the matter at least 48 hours before the time of the hearing in the notice of motion;
- [4.11] Any semi-urgent application which involves bulky affidavits in excess of 500 pages and/or argument in excess of three hours will be referred to the Deputy Judge President to allocate a date and judge for the hearing. Where practitioners anticipate that a dispute is of such importance that it must be resolved urgently by the court, for whatever reason, they should approach the Deputy Judge President to allocate a date for the hearing and determine dates for the filing of affidavits and heads of argument and the indexing and pagination of the affidavits.



**HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

URGENT APPLICATIONS FOR THE WEEK 20 – 27 NOVEMBER 2020

BEFORE THE HONOURABLE JUDGE DE VOS

- **On Friday 20 November 2020 at 16h00:**

Roll No.	Parties	Case No.

- **On Saturday 21 November:**

Roll No.	Parties	Case No.

- **On Sunday 22 November 2020**

Roll No.	Parties	Case No.

• On Monday 23 November 2020 at 10h00:

Roll No.	Parties	Case No.

• On Tuesday 24 November at 10h00:

Roll No.	Parties	Case No.
1	ALFA COMMODITIES LTD v INDIGNUS TRADING & PROJECTS	51372/2020
3	LARNIE MILLS v PETRUS JOHANNES KROGH	55510/2020
5	MADIBENG LOCAL MUNICIPALITY v UNKNOWN TRESPASSERS & 5 OTHERS	57075/2020
7	LEGAL PRACTICE COUNCIL v JACOBUS PRETORIUS BEKKER	56199/2020
8	LEGAL PRACTICE COUNCIL v MPHO PIET MKUMBENI & ANOTHER	57815/2020
11	LEGAL PRACTICE COUNCIL v KHOROMBI MABULI	58995/2020

12	WIKUS PIETERSE v BMW FINANCIAL SA	32048/2020
13	JOY ALEXANDER GILLEPSIE & 2 OTHERS v JACOBUS JOHANNES JACOBS & ANOTHER	59197/2020
15	KYLE LUBBE v BIANCA DAVIES	59207/2020
17	TIKORANGA BED & BREAKFAST v MALESELA PIET MAREMA	59254/2020
19	ASIMINA TRADING (PTY) LTD v DEON MARIUS BOTHA N.O.	59258/2020
21	ESTELLE BOOYSEN & ANOTHER v J C VAN EEDEN & 2 OTHERS	59810/2020
22	ROBERT MUVHINI N.O. v ROAD ACCIDENT FUND	59387/2020
23	KGABANE MOLOTO & ANOTHER v ADV MODIBE MOGOTSI N.O. & OTHERS	59843/2020
26	VONGANI CHRISTOPHER HUNGWANI v THABISO CHRISTOPHER MATHIBEDI & 3 OTHERS	60172/2020
29	DEPARTMENT OF EDUCATION & ANOTHER v VIRGINIA MOSHIDI MOAGI & 3 OTHERS	60177/2020
30	BABATUNDE OLAMIDE FOLORUNSO v GENERAL OF HOME AFFAIRS & ANOTHER	60349/2020

31	FRANSISCO RIBEIRO DE SOUSA v MARIA PETRONELLA DE SOUSA	58940/2020
32	ATTORNEY M D MOLUSI v FIRST NATIONAL BANK & OTHERS	58854/2020
34	JEANRU KONSTRUKSIE v JACO S BOTES	3825/2020
37	JOHAN FRANCOIS ENGELBRECHT N.O. v ISOWALL SOUTHERN AFRICA & ANOTHER	5174/2020
40	MOHAMED SHAID MOHAMED IQBAL SHAIKH v V-CELL CLINIX LTD	60152/2020
41	ELIZABETH MOLLY DU PLESSIS v JOHANNES DANIEL DU PLESSIS	58270/2020

• On Wednesday 25 November 2020 at 10h00:

Roll No.	Parties	Case No.

• On Thursday 26 November 2020 at 10h00:

Roll No.	Parties	Case No.
22	ROBERT MUVHINI N.O. v ROAD ACCIDENT FUND	59387/2020

• On Friday 27 November 2020 at 10h00:

Roll No.	Parties	Case No.