JUDGES' CHAMBERS
OFFICE OF HONOURABLE ACTING JUDGE PRESIDENT LEDWABA
IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)

AMENDMENTS TO THE REVISED DIRECTIVE INTRODUCING MANDATORY MEDIATION IN THE GAUTENG DIVISION AND TO THE MEDIATION PROTOCOL

27 October 2025

TO:

1. **Registrars - Gauteng Division of the High Court, Johannesburg and Pretoria**
2. **Legal Practice Council – Gauteng**
3. **Law Society of South Africa**
4. **Pretoria Society of Advocates**
5. **Johannesburg Society of Advocates**
6. **Pan African Bar Association of South Africa**
7. **Gauteng Family Law Forum**
8. **Gauteng Attorneys Association**
9. **Pretoria Attorneys Association**
10. **Johannesburg Attorneys Association**
11. **West Rand Attorneys Association**
12. **South African Black Women in Law**

13. **South African Women Lawyers Association**
14. **General Council of the Bar of South Africa**
15. **National Bar Council of South Africa**
16. **South African Bar Association**
17. **National Forum for Advocates**
18. **North Gauteng Association of Advocates**
19. **Church Square Association of Advocates**
20. **Advocates for Transformation**
21. **Black Lawyers Association**
22. **South African Medical Malpractice Lawyers Association**
23. **Personal Injury Plaintiff Lawyers Association**
24. **National Association of Democratic Lawyers**
25. **Office of the State Attorneys, Pretoria and Johannesburg**
26. **CEO – Legal Aid South Africa**
27. **CEO – Road Accident Fund**
28. **South African Medico-Legal Association**
29. **Solicitor General**

The following amendments are hereby put in place in respect of the Revised Directive introducing Mandatory Mediation(the Mediation Directive) in the Gauteng Division and in respect of the Mediation Protocol:

A. Amendments to the Mediation Directive

1. The following is added to the end of paras 13, 17 and 19.1 of the Mediation Directive: "**or in matters not being capable of being mediated by virtue of the nature of the dispute, upon production of a joint minute or a direction from an Umpire, as contemplated in par 7.1A of the Protocol".**

2. Par 16.2.3 of the Mediation Directive: is amended to the effect that the dates for hearing of such default judgment applications shall be no later than 6 months after the previously issued trial dates.

3. The following paragraph is inserted into the Mediation Directive: **"17A In respect of such withdrawn trial dates, should the proceedings contemplated in paras 4.9.2 and 4.9.3 of the Protocol have been followed and completed, the consequential default judgment applications shall be entitled to be enrolled on a Default Judgment roll and allocated dates no later than six months later than the withdrawn trial dates".**

B. Amendments to the Mediation Protocol

1. The last sentence of par 4.8.2 of the Mediation Protocol is amended to read: "**The time period to respond, stipulated in an Amplified Rule 41A notice, may not be less than 15 days**".

2. Par 4.8.6 of the Mediation Protocol is amended by the addition of the following at the end thereof: "**Any party may, upon good grounds shown, request an extension of the time period, which request may not unreasonably be refused by the other party**".

3. The following is added to the Mediation Protocol as par **5.2.3.3**:

"An Umpire may in addition to the above powers, as part of the exercise of case management measures contemplated in section 173 of the

Constitution, determine any dispute relating to the extension of time contemplated in par 4.8.6, the reasonableness of a refusal to mediate (insofar as such dispute is not already part of a dispute before a SIC court) and any issue or alleged justification contemplated in par 7.1A, including the entitlement to the application for a trial date. In exercising this discretion, an Umpire may also in appropriate circumstances direct that the parties first approach a SIC court."

4. By amending par 4.9.3.2 to read as follows (the amendments are underlined):
"be entitled to enroll the matter for hearing on a Default Judgment roll by way of an application on notice, served on the other party, but which application may, by reference or incorporation, rely on documents and reports already delivered and may at the hearing of such application seek an order declaring the delinquent party in contempt of the compelling order and further seek a striking out of the claim or defence, as the case may be, and immediately thereupon and in the same proceedings, seek substantive relief in respect of both the merits and the quantum of its claim or defence."

5. The following paragraph is inserted into the Mediation Protocol:

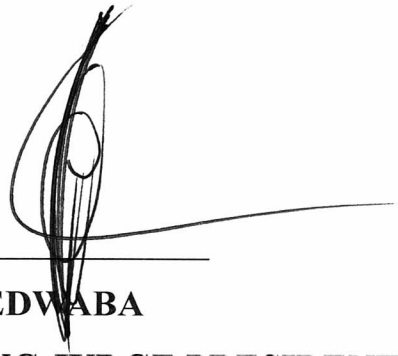
7.1A Matters which are alleged cannot be mediated due to the nature of the dispute:

7.1A.1 In the event that a compliant response has been delivered to either an initial or amplified Rule 41A notice, indicating with sufficient particularity a justifiable reason why a dispute in the matter is not

capable of being mediated, the parties may formulate a joint minute to record this. Such a minute must, in respect of a dispute on a point of law, contain a stated case on common cause facts or, in respect of a factual dispute, contain an exact formulation of the dispute about which a judgment is necessary.

7.1A.2 Matters in which stated cases have been formulated, may be set down on the opposed motion court roll, after the prescribed exchange of practice notes and heads of argument.

7.1A.3 In the event of a dispute between the parties as to whether a matter exhibits a justifiable reason for not being capable of being mediated, an Umpire as contemplated in par 5.2.3.3 of the Protocol, may be approached in writing whose determination on the issue, shall be final".



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