



OFFICE OF THE JUDGE PRESIDENT
MR JUSTICE E.M MAKGOBA

HIGH COURT OF SOUTH AFRICA, LIMPOPO DIVISION, POLOKWANE

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17 January 2022

JUDGE PRESIDENT'S PRACTICE DIRECTIVE NO 01/2022

TO: 1. ALL LEGAL PRACTITIONERS

In amplification of the Uniform Rules of Court and our Practice Manual, I hereby give the following practice directives:

1. SUMMARY JUDGMENT APPLICATIONS

- 1.1. Where the Defendant/Respondent delivered a plea and thereafter in terms of Rule 32(3)(b) of the Uniform Rules of Court delivered an affidavit 5 (five) days before the day on which the application is to be heard, the Defendant/Respondent shall also –
- (a) File concise heads of argument, and
 - (b) A comprehensive Practice Note together with the plea and/or opposing affidavit.



- 1.2. The purpose hereof is to enable the Judge hearing the opposed Summary Judgment to be apprised of the real *bona fide* defence brought to bear in the opposing papers.

2. APPEAL MATTERS

- 2.1. Heads of argument and Practice Note in all civil appeals must be filed no later than 15 Court days before the appeal is heard.
- 2.2. The Practice Note must specify or identify which areas of dispute appealed against must the Judge pay particular attention.
- 2.3. Only relevant pages or areas of dispute must be identified and in respect of which relevant Court bundle must be read; e.g. Out of 8 bundles, possibly only 2 bundles are material to the appeal.
- 2.4. Lengthy and convoluted grounds of appeal or heads of argument must not be countenanced in both civil and criminal appeals.
See *Songono v Minister of Law and Order* 1996 (4) SA 384 (ECD) at 385.
- 2.5. Heads of argument must only canvass the grounds upon which the appeal is founded.



- 2.6. The content of heads of argument has the object of enabling the Judge President to estimate the time/duration of the appeal and how much reading matter to allocate to a particular Judge(s) and to assist Judges in preparing for the appeal without wasting time in reading irrelevant matter.
- 2.7. Recital of facts and quotations from authorities not amounting to "argument".

See ***Caterham Car Sales & Couchworks Ltd v Birkin Cars (Pty) Ltd* 1998 (3) SA 938 (SCA) at 955, para [37].**

3. GENERAL

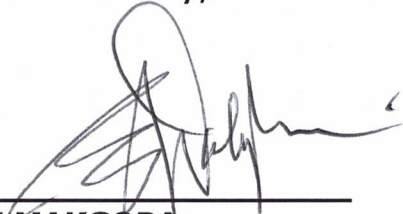
- 3.1. If in the Opposed Motion court matter or Appeal matter the Respondent has failed to serve and file Heads of Argument, the matter must not, for that reason alone, be postponed.
- 3.2. The rationale is simply that the Applicant/Appellant who filed the heads of argument, is the dominant litigant and must therefore be heard.
- 3.3. It is noted that in many civil appeals emanating from the Magistrate Court the Appellants failed to pay security for costs as required by the Magistrate Court Rule 51(4). Please note and be advised that such matters will be struck from the Roll by the appeal Judges.



3.4. It is advisable that in all applications and appeal matters the Applicant's/Appellant's attorney must at least 10 (ten) days before the hearing check the Court file to ensure that same has been properly indexed and paginated and that the Heads of argument have been filed of record.

I wish you a healthy, fruitful and successful year of practice.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'E M Makgoba', written over a horizontal line.

E M MAKGOBA
JUDGE PRESIDENT OF THE HIGH
COURT, LIMPOPO DIVISION

