

**OFFICE OF THE ACTING JUDGE PRESIDENT A P LEDWABA
HIGH COURT OF SOUTH AFRICA, GAUTENG PROVINCIAL DIVISION**

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6 October 2025

TO:

1. Judges of the Gauteng Division, Johannesburg
2. Chief Registrar, Gauteng Division, Johannesburg
3. Secretariat – Judicial Case Flow Management, Office of the Chief Justice
4. Registrars – Gauteng Division of the High Court, Johannesburg
5. Legal Practice Council – Gauteng
6. Law Society 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. National Association of Democratic Lawyers
14. Black Lawyers Association
15. South African Women Lawyers Association
16. South African Medical Malpractice Lawyers Association
17. Personal Injury Plaintiff Lawyers Association
18. South African Medico-Legal Association
19. Office of the Director of Public Prosecutions, Pretoria and Johannesburg
20. Office of the State Attorneys, Pretoria and Johannesburg
21. Solicitor General
22. Office of the Family Advocate, Pretoria and Johannesburg
23. Legal Aid South Africa
24. Johannesburg Society of Advocates
25. Pretoria Society of Advocates
26. Gauteng Society of Advocates
27. Tshwane Society of Advocates
28. Pan African Bar Association of South Africa
29. General Council of the Bar of South Africa
30. National Bar Council of South Africa
31. South African Bar Association
32. National Forum of Advocates
33. North Gauteng Association of Advocates



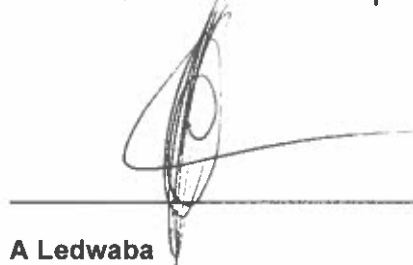
34. Church Square Association of Advocates
35. Advocates for Transformation
36. Legal Division of the Department of Health: Gauteng
37. Legal Division of the Department of Sport, Arts, Culture and Recreation
38. Gauteng Department of Agriculture and Rural Development
39. Legal Services - Gauteng Provincial Department of Education
40. South African Board of Sheriffs
41. South African Sheriff Society
42. Road Accident Fund

TREATMENT OF DISPUTES ABOUT ARBITRATIONS IN THE GAUTENG COMMERCIAL COURT

1. In terms of the Commercial Court rules of the Gauteng Division, a case is eligible for designation as a commercial case, among others, if it concerns an arbitration (schedule, item (h)). This encompasses any dispute which relates to an agreement to arbitrate, whether it be about specific performance of the agreement, a review of an award, or a controversy about jurisdiction of the arbitrator, or indeed any other reason for a dispute to arise which is capable of adjudication by the courts.
2. Para 7.2 of the Commercial Court rules provides four criteria for designation: Complexity or novelty of law or of fact or a value of R25 million or the public interest. Only one of these criteria is necessary to satisfy the requirements for designation. Because the Arbitration process is, by its very nature, premised on the achievement of expeditious outcomes, it is deemed to be in the public interest that courts support the fulfilment of that aspiration.
3. The procedure to initiate a request for designation, as detailed in the Commercial Court rules, is to address an email to the Office of the Deputy Judge President setting out the relevant information. Upon receipt a judge is appointed to manage the case to a hearing as expeditiously as circumstances require.



4. As the Commercial Court rules more fully set out, the judicial case manager shall resolve interlocutory skirmishes swiftly (Para 5.1), after court hours when necessitated, the assembly of documents is a targeted process to overcome lengthy discovery procedures (Para 26), and where evidence is required, it is adduced on evidence statements reducing the duration required for a hearing and thereby facilitating enhanced prospects of an earlier allocation of a hearing date.
5. Formal hearings are arranged as expeditiously as circumstances permit subject only to the logistical constraints inherent in the enrolment of cases.
6. Judicial Case Managers are cognisant of the imperatives of expedition in the process which, in turn, serves to sustain the credibility of, and confidence in, both South African Arbitral practice and the South African Judicial system.

A handwritten signature in black ink, consisting of a large, stylized 'L' followed by a horizontal line extending to the right.

A Ledwaba
Acting Judge President of the Gauteng Division
of the High Court of South Africa

ATTACHMENT

The Gauteng Commercial Court Practice Directive of 1 June 2022.





GAUTENG DIVISION OF THE HIGH COURT, JOHANNESBURG
COMMERCIAL COURT PRACTICE DIRECTIVES
(Revised with effect from 1 June 2022)

CHAPTER 1: GENERAL

1. The Commercial Court aims to promote efficient conduct of litigation in the High Court and resolve disputes quickly, cheaply, fairly and with legal acuity.
2. The Commercial Court is a Court administered as part of the High Court.
3. The Commercial Court may be used by litigants who have initiated or intend to initiate a trial action or an application in a commercial matter.
4. A commercial court case may be:
 - 4.1 an action
 - 4.2 an application
 - 4.3 an urgent application
5. The Judge allocated to case manage a commercial matter SHALL:
 - 5.1 determine any interlocutory issues at such times as the judges' schedule of commitments allows
 - 5.2 shall preferably hear the trial or application, unless an unavoidable delay in rostering the matter to be heard by that judge occurs, or other practical circumstances inhibit a retention of the matter by that judge.
6. The criteria for what types of cases constitute a commercial court case are indicated in schedule 1 to these directives. schedule 1 serves as a guideline to the type of case only and is not a closed list.
7. An application for a matter to be allocated as a Commercial Court case is made by delivering a letter to the deputy judge president. The letter must set out-

- 7.1 A broad and uncontroversial description of the case;
- 7.2 Why the case is a commercial case or should be considered as such, warranting treatment under the Commercial Court Directives. In particular, the following criteria for selection of a case must be addressed. The satisfaction of one criterion is sufficient to render a case eligible for selection:
- 7.2.1 complexity or novelty of law.
 - 7.2.2 complexity of fact
 - 7.2.3 value at stake is a minimum of r25 million rand.
 - 7.2.4 public interest.
- 8 If the letter is not directed by all the parties to the suit, the letter must be copied to the other parties in the matter providing an email address for correspondence.
- 9 A party in receipt of a letter referred to above, and who wishes to make representations, may do so by sending a letter to the Judge President or Deputy Judge President within five (5) court days of receiving the letter requesting the case be allocated a Commercial Court case. A copy of the letter must be sent to the other parties, providing an email address for all correspondence.
- 10 The Judge President or Deputy Judge President will determine whether the case should be allocated as a Commercial Court case after an assessment has been made about whether, in the circumstances of the case, the intervention by a judge to case manage the matter to conclusion shall add any material value to the litigation process. In this regard, the earlier in the process a judge intervenes, the more likely that there shall be value added to the process.
- 11 The Judge President or Deputy Judge President shall inform the parties in writing of the outcome of the application.
- 12 All proceedings in the Commercial Court will be subject to management by the Court. In the event of one or more parties conducting themselves in a dilatory manner and thus contrary to the spirit of the commercial court system, the judge assigned to manage the matter may exercise a discretion to cancel the certification of the matter as a commercial case.

CHAPTER 2: BRINGING A TRIAL ACTION TO THE COMMERCIAL COURT

13. At any time after a summons has been issued out of the High Court, any party to the suit may apply to have the case allocated as a Commercial Court case.
14. If the case is allocated as a Commercial Court case, the Deputy Judge President will allocate a Judge to case manage the matter.

CHAPTER 3: THE FIRST CASE MANAGEMENT CONFERENCE

15. As soon as reasonably possible after the Commercial Court case is allocated to a Judge, the first Case Management Conference must be held at a time and date determined by the Judge allocated to the matter, on application by the plaintiff within 15 (fifteen) days of allocation. If the plaintiff fails to make an application as required any other party may apply for Case Management Conference.
16. At the First Case Management Conference, the following general matters must be canvassed:
 - 16.1 A general sense of what the matter is about;
 - 16.2 What needs to be done to bring the matter to trial;
 - 16.3 A timetable for getting the matter expeditiously to trial;
 - 16.4 A potential trial date;
 - 16.5 The number of witnesses likely to be called, including expert witnesses; and
 - 16.6 The probable length of the trial;
 - 16.7 Creating an appropriate electronic means for communications and exchange and filing of documents
17. The Judge will then, absent agreement, determine the timetable to bring the matter to trial.

CHAPTER 4: GETTING THE MATTER READY FOR TRIAL

18. Matters heard in the Commercial Court will be dealt with in line with the broad principles of fairness, efficiency and cost-effectiveness.
19. The following steps will usually be of application, subject to the requirements of the particular case.
20. The plaintiff, within the period specified by the Judge at the first Case Management Conference, must file a statement of the case containing the following:
 - 20.1 The plaintiff's cause(s) of action and relief claimed;
 - 20.2 The essential documents the plaintiff intends to rely on, and
 - 20.3 A summary of the evidence the plaintiff intends to rely on.
21. The defendant, and third parties, if any, within the period specified by the Judge at the first Case Management Conference must file a responsive statement of the case containing the following:
 - 21.1 The defendant's or third party's defence(s) and any counterclaim relied upon;
 - 21.2 The essential documents the defendant or third-party intend(s) to rely on;

21.3 A summary of the evidence the defendant or third-party intend(s) to rely on.

22. No request for further particulars may be sought in the Commercial Court.

CHAPTER 5: THE SECOND CASE MANAGEMENT CONFERENCE AND CONSEQUENTIAL STEPS

23. A Second Case Management Conference must be held at which the parties will present either an agreed list of triable issues or, absent agreement, each party's identification of the triable issues. All interlocutory issues shall be dealt with at this conference or at any postponed date, including determination of the triable issues.

24. At this conference the dates for filing of full witness statements by the parties will be fixed, it being understood that the witness statements will constitute, save with the leave of the Judge or Judges, the evidence in chief of the particular witness.

25. No general discovery is required in commercial court cases.

26. At a second Case Management Conference, the Judge may allow for the targeted disclosure of documents. If permitted, a request for disclosure must be made concerning specific documents or classes of documents that are relevant to the dispute as defined in the statement of case or responsive statement of the case. Any enforcement applications relating to disclosure will be determined by the Judge or Judges in good time to permit of orderly preparation for trial.

27. Expert evidence that is sought to be led at trial is to be dealt with as follows:

27.1 If the matter involves expert evidence, within the time determined by the Judge or Judges, the experts must:

27.2 Convene a meeting of the experts;

27.3 File their expert reports;

27.4 Produce a joint minute setting out the issues of agreement and disagreement as between the experts and the reasons for the disagreement.

27.5 The Judge may convene a meeting with the experts to narrow the issues to be determined at trial.

27.6 Should further conferences be required, parties may approach the allocated Judge or Judges to convene a conference upon good cause; the allocated Judge or Judges will determine whether to convene such a conference and dispose of any further matters arising.

CHAPTER 6: THE TRIAL

28. The case proceeds to trial in accordance with the timetable.
29. A written application must be made in advance of the trial to the allocated Judge if a party wishes to lead additional evidence at trial outside of their witness statements.
30. Such evidence will be limited to identified issues as directed at the case management conference or after that on application to the Judge.
31. Before the trial date, a bundle of essential documents to be used at trial must be compiled and agreed upon by the parties.
32. Unless otherwise specifically decided by the judge, documents will be admitted without the necessity for formal proof.

CHAPTER 7: BRINGING AN APPLICATION TO THE COMMERCIAL COURT

33. A party may seek the designation of an application as a Commercial Court case in three broad circumstances:
 - 33.1 If a party has already brought an application to the High Court, another party to the suit may seek to have the case allocated as a Commercial Court case.
 - 33.2 If a party intends on bringing an application to the High Court, that party may seek to have the case allocated as a Commercial Court case.
 - 33.3 If all of the papers comprising the application have been filed, any party to the suit may apply for an expedited hearing of the matter as a commercial case for reasons of commercial urgency or on other grounds.

CHAPTER 8: THE CASE MANAGEMENT CONFERENCE FOR APPLICATIONS

34. As soon as reasonably possible after the Commercial Court APPLICATION is allocated to a Judge, a Case Management Conference must be held at a time and date determined by the Judge allocated to case manage the matter, on the application of the application within 15 days of the allocation.
35. If a party has already initiated an application to the High Court, or if the party intends on bringing an application to the High Court, and that application is allocated as a Commercial Court case, at the Case Management Conference the following must be determined:
 - 35.1 A timetable for the filing of affidavits or further affidavits;
 - 35.2 A date for filing of Heads of Argument;
 - 35.3 A date for the hearing; and
 - 35.4 The length of the hearing (if at all possible)

36. If all of the papers to the application have been filed, and that application is allocated as a Commercial Court case, at the first Case Management Conference, the following must be determined:

36.1 A date for filing Heads of Argument;

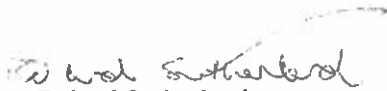
36.2 A date for the hearing; and

36.3 The length of the hearing (if at all possible).

CHAPTER 9: APPLICATIONS BROUGHT ON AN URGENT BASIS

37. Where a party seeks to bring an urgent application, depending on the degree of urgency alleged by the applicant, the applicant ought to make a written or telephonic request that the matter is allocated as an urgent Commercial Matter and that a Judge is allocated to hear the matter.

38. Depending on the degree of urgency, the Judge allocated to hear the matter will issue directives in respect of the filling of papers on a truncated basis, appropriate to the degree of urgency contended for by the applicant.



Roland Sutherland
Deputy Judge President
2 June 2022