

SUMMARY  
HASSIM v BEKKER & OTHERS

Interpretation of directive 9.8.2.12 of the Practice Directive of the Gauteng Local Division of the High Court issued February 2018 – order to compel the applicant to deliver heads of argument and practice note – whether directive 9.8.2.12 automatically strikes out the defaulting party's claim or defence in its entirety in the event that the defaulting party fails to comply with the court order granted in terms of the directive.

Directive 9.8.2.12 is capable of two interpretations, one that results in the automatic striking out of the defaulting party's claim or defense and one that does not.

The drafters of the practice directive could not have intended an automatic strike out because the directive is mirrored on Rule 30A which requires that a strike out application be brought if the defaulting party remains in default. Further contempt of court does not flow automatically when a party does not comply with a court order. A finding of contempt is made by the court on application by the party wishing to hold the defaulter in contempt.

If the complying party wishes to have the claim or defense of defaulting party struck out, he or she must bring another application. This application may be set down for hearing on the same date as the main opposed motion application.