

State Attorney office towards better litigation service

By Mapula Thebe

On 30 September the office of the State Attorney held a service delivery symposium in Johannesburg. The symposium, which was organised under the theme 'Beyond Challenges: Towards a Better Litigation Service', was an opportunity for government to interact with stakeholders and identify mechanisms to reduce litigation against the state. In addition, the purpose of the symposium was to improve service delivery, and improve the work of state attorneys.

Keynote address

Minister of Justice, Michael Masutha, delivered the keynote address. He opened his address by saying that the state was the largest consumer of legal services. He highlighted that policy governing such acquisition was critical. 'One of the issues that government has to deal with as a constitutional imperative, is transformation of the society and address historical imbalances of those who were left out and continue to be left out. Government has come with practical strategies on how to address this,' he said.

Mr Masutha said that he prefers that all litigation that he is involved in as Minister should be handled by black, preferably African, senior counsel regardless of what the result is. Mr Masutha does not believe that transformation should be equated with mediocracy and indolence. He added that transformation does not translate into receiving inferior service. He cautioned lawyers against having an attitude that says that 'the state will pay even if we fail, it does not matter'.

Mr Masutha noted that the state needs to be firm when procuring services as he has seen instances when black lawyers have been removed from a case because the briefing party believed that the matter was important and they needed to win. 'The judiciary, on numerous occasions, has chastised the state on not doing enough to ensure transformation. Judges in their courts see white legal teams before them; this is not an isolated situation. The onus is on yourselves to ensure that transformation happens. I am not a practitioner I do not have the answers, you know the answers,' he said.

Attorneys and ethics

Co-chairperson of the Law Society of South Africa, Richard Scott, addressed delegates on the topic of attorneys and ethics. He said that attorneys have an ethical obligation to improve the situation of their clients while maintaining high standards. 'Justice must be accessible without compromising on quality,' he said.

Mr Scott said that the Legal Practice Act 28 of 2014 seeks to address issues of transformation since one of its objectives is to 'provide a legislative framework for the transformation and restructuring of the legal profession in line with constitutional imperatives so as to facilitate and enhance an independent legal profession that broadly reflects the diversity and demographics of the Republic.'

Mr Scott reminded delegates that there is no substitute for proper preparation. 'Lawyers cannot prepare for a matter if the client is not part of the litigation process. Information must be provided when the matter is handed over to the practitioner. If this is not done, a practitioner may lose a matter while the matter could have been won,' he said.

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