



OFFICE OF THE DEPUTY JUDGE PRESIDENT

(HIGH COURT OF SOUTH AFRICA, GAUTENG DIVISION, JOHANNESBURG)
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NOTICE

TO:

1. Judges of the Gauteng Division, Johannesburg
2. Chief Registrar, Gauteng Division, Johannesburg
3. Legal Practice Council – Gauteng
4. Law Society of South Africa
5. Gauteng Family Law Forum
6. Gauteng Attorneys Association
7. Pretoria Attorneys Association
8. Johannesburg Attorneys Association
9. West Rand Attorneys Association
10. South African Black Women in Law
11. National Association of Democratic Lawyers
12. Black Lawyers Association
13. South African Women Lawyers Association
14. South African Medical Malpractice Lawyers Association
15. Personal Injury Plaintiff Lawyers Association
16. South African Medico-Legal Association
17. Office of the Director of Public Prosecutions, Pretoria and Johannesburg
18. Office of the State Attorneys, Pretoria and Johannesburg
19. Solicitor General
20. Office of the Family Advocate, Pretoria and Johannesburg
21. Legal Aid South Africa

22. Johannesburg Society of Advocates
23. Pretoria Society of Advocates
24. Gauteng Society of Advocates
25. Pan African Bar Association of South Africa
26. General Council of the Bar of South Africa
27. National Bar Council of South Africa
28. South African Bar Association
29. National Forum of Advocates
30. North Gauteng Association of Advocates
31. Church Square Association of Advocates
32. Advocates for Transformation
33. Legal Division of the Department of Health: Gauteng
34. Legal Division of the Department of Sport, Arts, Culture and Recreation
35. Gauteng Department of Agriculture and Rural Development
36. Legal Services - Gauteng Provincial Department of Education
37. Gauteng Society of Advocates

DATE : 14 June 2022

RE : **NOTICE TO THE LEGAL PROFESSION – THE RIGHT OF AUDIENCE OF A LEGAL PRACTITIONER BEFORE THE TAXING MASTER**

EXPLANATION

For some time, there has been a debate about who is entitled to appear before the Taxing Master. Several overtures have been made to me to decide the controversy by an administrative decision. The direction I have given to the Taxing Master is that set out hereunder.

I invited the attorneys who are of the opinion that this approach is wrong in law to take the necessary steps to have the point decided by a court. An application for a declaratory order has been launched. When the matter is ripe it shall be referred to Full Court.

Until such time as a court decides otherwise, the directive hereunder shall remain in place. Taxing masters have no discretion to vary this Directive.

DIRECTIVE

1- Section 25 of the Legal Practice Act, 28 of 2014, states as follows:

25 Right of appearance of legal practitioners and candidate legal practitioners

- (1) Any person who has been admitted and enrolled to practise as a legal practitioner in terms of this Act, is entitled to practise throughout the Republic, unless his or her name has been ordered to be struck off the Roll or he or she is subject to an order suspending him or her from practising.
- (2) A legal practitioner, whether practising as an advocate or an attorney, has the right to appear on behalf of any person in any court in the Republic or before any board, tribunal or similar institution, subject to subsections (3) and (4) or any other law.
- (3) An attorney who wishes to appear in the High Court, the Supreme Court of Appeal or the Constitutional Court must apply to the registrar of the Division of the High Court in which he or she was admitted and enrolled as an attorney for a prescribed certificate to the effect that the applicant has the right to appear in the High Court, the Supreme Court of Appeal or the Constitutional Court and which the registrar must issue if he or she is satisfied that the attorney- ...
- (5) (a) A candidate attorney is, subject to paragraph (b), entitled to appear-
 - (i) in any court, other than the High Court, the Supreme Court of Appeal or the Constitutional Court; and

(ii) before any board, tribunal or similar institution on behalf of any person, instead of and on behalf of the person under whose supervision he or she is undergoing his or her practical vocational training.”

2- Any attorney, permitted to practice, may appear before the Taxing Master. Right of appearance is not required.

3- Candidate attorneys may not appear before the taxing master.

4- Costs consultants, who are not attorneys permitted to practice, may appear before the taxing master in order to assist with the presentation of bills of costs in the presence of an attorney permitted to practice or an advocate. The costs consultant may address the taxing master, whilst the attorney or advocate will take the responsibility for the presentation of the bill of costs.

5- Should the attorney or advocate appearing at the taxation not be from the firm of attorneys of record or the advocate briefed in the hearing, the taxing master shall refuse to tax the bill in the absence of a signed certificate by an attorney from the firm whose bill is being presented.

Yours faithfully

Dictated by the Deputy Judge President

Electronically transmitted, therefore no signature

ROLAND SUTHERLAND

DEPUTY JUDGE PRESIDENT, JOHANNESBURG