



PRETORIA ATTORNEYS ASSOCIATION
PRETORIASE PROKUREURSVERENIGING
MOKGATLHO WA BAEMEDI BA PRETORIA

**PO Box / Posbus 3864
PRETORIA
0001**
Room 5.18 / Kamer 5.18
High Court Building / Hooggeregshofgebou
c/o Paul Kruger & Madiba Street
PRETORIA
0001
Tel: (012) 323 6201
ppv@ppv.co.za

Executive Committee: Tiaan Joubert (Chairperson); Dawie Bekker (Deputy Chairperson); Vijayta Rana (Secretary); Millie Shantall-Lurie (Treasurer); Manisha Maganbhai-Mooloo (Candidate Attorneys & Bursaries); Thekiso Maodi (Transformation & New Membership); Dawie de Villiers (Lower Courts); Conrad van der Vyver (Road Accident Fund); Francois Bouwer (Estates & Trusts); Inge Treurnich (Events); André du Plessis (CIPC & Intellectual Property); Nicolette de Witt (High Court); Gareth Shepperson (Liaison & Marketing); Donald Mokgehele (Property Law)

**MOTIVATION FOR THE APPOINTMENT OF AD HOC / ACTING TAXING
MASTERS TO ADDRESS THE HUGE BACKLOG OF TAXATIONS IN THE
GAUTENG DIVISION, PRETORIA**

24 July 2023

**TO : THE DEPUTY JUDGE PRESIDENT
GAUTENG DIVISION, PRETORIA
THE HONOURABLE JUSTICE A LEDWABA
BY EMAIL**

**AND TO THE CHIEF REGISTRAR
GAUTENG DIVISION, PRETORIA
MS T LEDWABA
BY EMAIL**

**FROM: THE HIGH COURT COMMITTEE
PRETORIA ATTORNEYS' ASSOCIATION (PAA)
MS N DE WITT (CHAIR HIGH COURT COMMITTEE) &
MS P FERNIE (LEGAL COSTS PORTFOLIO HIGH COURT
COMMITTEE)**

Dear Judge Ledwaba and Ms Ledwaba,

INTRODUCTION

1. As reported in the PAA's last report to the EEC, prepared for the EEC meeting held on 7 June 2023, the Pretoria High Court is currently experiencing a significant backlog of taxation cases.
2. With taxataion dates currently being allocated for July 2024 there is a waiting period of approximately 12 months (a year) between the allocation of a taxation date and the actual taxation.
3. In the report of the South African Law Reform Commission: Investigation into Legal Fees chaired by Justice NK Kollapen dated 28 March 1922 at page 309 the following is noted:

Recommendation 6.3:

"It is recommended that taxation should remain the responsibility of the taxing master (in the High Court, and registrars and clerks in the Magistrates' Courts). More taxing masters need to be appointed and trained to avoid long waiting periods for dates to tax."

PROBLEM STATEMENT

4. The delay in finalizing taxations presently causes a delay of almost a year for the amount due in respect of party and party costs on litigated matters to be determined.
5. This in turn has dire financial consequences not only to commercial litigants in a strained economy, but also on indigent plaintiffs who were the victims of road accidents and medical negligence.
6. Over and above the inordinate period it takes for their matters to be finalised, these victims of road accidents and medical negligence (who have in many instances lost their jobs as a result of their injuries) have to wait for a further year after their matter was finalised in court or by way of settlement, and the account drafted and presented to the defendant to oppose, for the amount due in respect of party and party costs to be determined by way of taxation, recovered and upon payment of same for final accounting to take place between the attorney of record and the plaintiff.

7. The present backlog was created partly due to the volumes of taxations particularly in RAF matters having increased exponentially since the RAF terminated their panel of attorneys in 2020 and partly due to a shortage of experienced taxing masters.

PROPOSED SOLUTION

8. The PAA commends the office of the Judge President and Deputy Judge Presidents in the Gauteng division of the High Court for the initiative taken by appointing *pro bono* acting judges to alleviate the burden on the trial rolls caused by the tsunami of RAF matters that have been left to the courts to adjudicate.
9. We wish to propose a similar approach in this instance, by appointing acting pro bono taxing masters from the fraternity of independent admitted attorneys specializing in legal costs to act as pro-bono taxing masters.
10. Ad hoc / acting taxing masters will be experts in their field and able to provide well considered rulings in light of the merits of each case without the court having to provide additional training and ensuring that they gain the necessary experience before being able to attend to taxations. Their expertise will ensure that the costs allowed are accurate and reasonable, providing a fair and just outcome for all parties involved.
11. Their functions and responsibilities will be limited to those of a taxing master, ie. to hear argument from the parties involved, review the evidence presented and to make rulings on the amount to be allowed. They would also be responsible for any stated case in a review launched based on a ruling made by themselves.
12. It is further proposed that these *pro-bono* taxing masters, once appointed, should each be allocated a certain number of matters to tax per week, in which regard arrangements can be made between the office of the pro – bono taxing master and the cost consultant presenting the bill for taxation. These taxations can be facilitated online, as is presently done with Johannesburg taxations in order that no burden is placed on the court's resources in attending to same. For record purposes such taxations can be recorded on MS teams.

13. According to our calculations, should 10 ad hoc / acting taxing masters be appointed and assuming that they can each deal with 5 taxations per day (25 matters per week), the current backlog will take approximately 120 working days (6 months) to be resolved to the extent that the waiting time from allocating a taxation date to date of taxation can be reduced to 3 months.

IN CLOSURE

14. It is our sincere belief that the appointment of *pro-bono* ad hoc / acting taxing will alleviate the backlog of taxation cases at the Pretoria High Court.
15. We hope that this proposal will be favourably considered and look forward to the Chief Registrar's feedback on same at the earliest possible time.

Kind regards

Nicolette de Witt

Pretoria Attorneys' Association

Chair: High Court Committee

Email: nicolette@dwm-attorneys.co.za

Contact nr: 082 372 8357

Peta Fernie

Pretoria Attorneys' Association

High Court Committee member tasked
with Costs portfolio

Email: peta@scherzo.co.za

Contact nr: (012) 998 2286 /
083 675 7010