PRE-TRIALS

JOHANNESBURG MAGISTRATES COURT

The Process

1. A party applies for a trial date.
2. The file is taken to a magistrate for certification. The magistrate decides whether the matter is:
   2.1. Trial ready; or
   2.2. Not trial ready; or
   2.3. Suitable for pre-trial minutes; or
   2.4. To be enrolled for a pre-trial.
3. If the magistrate decides that the matter is suitable for pre-trial minutes, the party who applied for the trial date is then required to contact the opponent to arrange that the parties draw up a joint pre-trial minute.
4. Once the parties have drawn up a pre-trial minute either of the parties may submit the pre-trial minute to court.
   4.1. The file, together with the pre-trial minutes, will then be placed before a magistrate who will decide:
      4.1.1. Whether or not the pre-trial minute is adequate; or
      4.1.2. Whether there are further details that the parties need to address;
         4.1.2.1.1. In that event the magistrate, in writing, will set out the issues that require clarification.
      4.1.3. Whether a formal pre-trial hearing must be held; or
      4.1.4. Whether the matter may be enrolled for trial without the need for a formal pre-trial hearing.
5. Should one or more of the parties fail to co-operate with the drawing up of the joint pre-trial minutes, an application may still be brought for a pre-trial hearing. The application must be accompanied by an affidavit setting out the steps taken to arrange a joint pre-trial minute between the parties.
6. A party failing to co-operate with the drawing up of a joint pre-trial minute may be faced with a punitive cost order at the trial stage.

M Lamprecht

Senior Magistrate: Head of the Civil Section