

ORIGINAL

**IN THE HIGH COURT OF SOUTH AFRICA
NORTH GAUTENG DIVISION, PRETORIA**

CASE NUMBER: 6888 9/19

In the matter between:

GERT NEL INC

1st APPLICANT

TT RIGISANI

2nd APPLICANT

MN MAMBA

3rd APPLICANT

M VAN BLERK

4th APPLICANT

DG BOSHOFF

5th APPLICANT

N PRINSLOO

6th APPLICANT



and

**THE MINISTER OF JUSTICE AND
CONSTITUTIONAL DEVELOPMENT**

1st RESPONDENT

**THE REGISTRAR OF THE NORTH GAUTENG
DIVISION, PRETORIA**

2nd RESPONDENT

THE ROAD ACCIDENT FUND

3rd RESPONDENT

PRASA

4th RESPONDENT

MEC, HEALTH GAUTENG

5th RESPONDENT

NOTICE IN TERMS OF RULE 16A



TAKE NOTICE that the above Applicants have raised the following constitutional issues in the application filed under the above case number:

1. Whether the contents of Practice Directive 2 of the North Gauteng Division, dated 2 July 2019, is contrary to the principle of legality as it does not display a rational connection between the procedures prescribed therein and the ends which such procedures are intended to achieve, being to alleviate the causes of litigation delay and/or increased costs; and

2. Whether the contents of Practice Directive 2 of the North Gauteng Division, dated 2 July 2019, unjustifiably breaches the Applicants' right of Access to Courts as protected by Section 34 of the Constitution, 1996 in the following respects:

- 2.2.1 it unfairly limits a litigant's existing right in terms of the rule of party presentation as it is acknowledged within the adversarial system of civil litigation;
- 2.2.2 it does not strike a balance between the rights of litigants in terms of the rule of party presentation and the goals of case management;
- 2.2.3 it unfairly creates delays in the finalisation of damages claims against the State and further unfairly provides the State with grounds upon which to create further delays;
- 2.2.4 it unfairly impairs the long-standing and untrammelled right of a litigant to obtain a trial date upon the close of pleadings and unfairly creates further obstacles and procedures before a trial date may be obtained;
- 2.2.5 it introduces a system of case management that provides no remedy to a litigant who believes that he/she has been unfairly refused a trial date.



TAKE NOTICE FURTHER that any party interested in the aforementioned constitutional issue may, with the written consent of all the parties to the proceedings, given by no later than twenty (20) days after the posting of this notice, be admitted to these proceedings as *amicus curiae*, upon such terms and conditions as may be agreed upon in writing by the parties.

KINDLY place this notice on the notice board designated for this purpose and ensure that the notice remains on that notice board for a period of twenty (20) days, whereafter you shall endorse the notice to state on which day the notice was placed on the notice board and, on the expiry of the twenty (20) day period, place such endorsed notice in the Court file.

Dated at Pretoria on this 16th day of **SEPTEMBER 2019**.



GERT NEL INC
ATTORNEYS FOR APPLICANT
1235 COBHAM AVENUE
QUEENSWOOD
PRETORIA
REF.: GN14700/GEPN

**TO: THE REGISTRAR OF THE ABOVE HONOURABLE
COURT, PRETORIA**

**AND TO: THE MINISTER OF JUSTICE AND CONSTITUTIONAL
DEVELOPMENT
FIRST RESPONDENT
C/O THE STATE ATTORNEY
SALU BUILDING
316 THABO SEHUME STREET
PRETORIA, GAUTENG**

- BY SHERIFF -

**AND TO: THE REGISTRAR OF THE ABOVE HONOURABLE
COURT, PRETORIA
SECOND RESPONDENT**

- BY SHERIFF -

**AND TO: THE ROAD ACCIDENT FUND
THIRD RESPONDENT
2 ECO GLADES OFFICE PARK
420 WITCH HAZEL AVENUE
CENTURION, GAUTENG**

- BY SHERIFF -

**AND TO: PRASA
FOURTH RESPONDENT
PRASA HOUSE
1040 BURNETT STREET
HATFIELD
PRETORIA, GAUTENG**

- BY SHERIFF -



AND TO: MEC, HEALTH GAUTENG
FIFTH RESPONDENT
GAUTENG DEPARTMENT OF HEALTH
45 COMMISSIONER STREET
JOHANNESBURG, GAUTENG
and also
c/o THE STATE ATTORNEY
SALU BUILDING
316 THABO SEHUME STREET
PRETORIA, GAUTENG

- BY SHERIFF -

