



30 May 2016

Via e-mail: NMaseko@justice.gov.za / raidaya@justice.gov.za

Mr Raj Daya
Deputy Chief State Law Advisor
Secretary to the Board
The Rules Board for Courts of Law

Dear Mr Daya

PROPOSED INSERTION OF RULE 52A IN THE RULES

We refer to the above matter.

The Law Society of South Africa (LSSA) welcomes the insertion of a rule into the Magistrates' Court Rules aimed at introducing an equivalent to High Court Rule 16, subject to the following:

Proviso to paragraph 52A(1)(a)

The proposal reads as follows:

"Provided that the notice to the party for whom an attorney acted shall be served in accordance with *the rules relating to service*."

The proviso implies that service needs to be effected by the sheriff.

In the vast majority of cases, attorneys withdraw because the client does not pay his or her account or fails to give instructions. If service were to be effected by the sheriff, the attorney will have to bear the costs, which costs will probably never be recovered.

A notice through registered mail should suffice in the circumstances and we recommend that the High Court Rule, which allows for notice to be given by registered post, be followed.

Paragraph 52A(1)(b)

We recommend that the word "Notwithstanding" in paragraph 52A(1)(b) be replaced with "After" or "Upon".

The Law Society of South Africa brings together the Black Lawyers Association, the Cape Law Society, the KwaZulu-Natal Law Society, the Law Society of the Free State, the Law Society of the Northern Provinces and the National Association of Democratic Lawyers in representing the attorneys' profession in South Africa.

Paragraph 52A(1)(d)

We prefer the short-format paragraph 1(d), as the long-format is unnecessarily prescriptive and detailed.

We thank you for considering the above comments.

Yours faithfully



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