



**RULES BOARD FOR COURTS OF LAW
REPUBLIC OF SOUTH AFRICA**

2nd Floor, Centre Walk East Tower, 266 Pretorius Street, PRETORIA • P. O. Box 8409, PRETORIA, 0001 • Tel (012) 326 8014 / 8045, Fax (012) 326 8018

3 April 2023

Our ref: 13/3/2/6 – April 2023

F Njobe/Z Mbombo

Your ref:

Dear Sir/Madam,

**PROPOSED AMENDMENTS TO RULE 24(9) OF THE MAGISTRATES' COURTS RULES
– MEDICAL EXAMINATIONS, INSPECTION OF THINGS, EXPERT TESTIMONY AND
TENDERING IN EVIDENCE ANY PLAN, DIAGRAM, MODEL OR PHOTOGRAPH**

The Rules Board for Courts of Law (Rules Board) is embarking on a process of amending rule 24(9) of the Magistrates' Courts Rules (MCRs). Rule 24 regulates medical examinations, inspection of things, expert testimony and tendering in evidence any plan, diagram, model or photograph.

The Rules Board considered, amongst others, recommendations from the judgment in *AM and Another v MEC for Health, Western Cape 2021 (3) SA 337 (SCA)*. It then resolved to amend MCR 24(9)(b) by, amongst others, the inclusion of sub-paragraph (ii) to provide for an expert witness intended to be called by any party to confirm that the report is in his or her own words, is for the assistance of the court and is a statement of truth.

The proposed amendments are contained in the annexure hereto.

[Annexure A]

As part of its consultative process, the Rules Board hereby invites your comments on the proposed amendments, for submission to the Secretariat by no later than **5 May 2023**.

Submissions can be sent via hand delivery, post, facsimile or email as follows:

PHYSICAL ADDRESS: 2nd Floor, Centre Walk East Tower, 266 Pretorius Street, Pretoria.

POSTAL ADDRESS: P. O. Box 8409, Pretoria, 0001.

FACSIMILE: (012) 326 8018.

EMAIL: Zintle Mbombo (ZMbombo@justice.gov.za).

Office telephone lines via switchboard are temporarily inoperative pending an upgrading process.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'LD Neke', written over a horizontal line.

LD Neke

Acting Secretary: Rules Board for Courts of Law

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"24 Medical examinations, inspection of things, expert testimony and tendering in evidence any plan , diagram, model or photograph

"(9)(a) No person shall, save with the leave of the court or the consent of all parties to the suit, be entitled to call as a witness any person to give evidence as an expert on any matter upon which the evidence of expert witnesses may be received, unless—

[(a)] (i) where the plaintiff intends to call an expert, the plaintiff shall not more than 15 days after the close of pleadings, or where the defendant intends to call the expert, the defendant shall not more than 30 days after the close of pleadings, have delivered notice of intention to call such expert; and

[(b)] (ii) in the case of the plaintiff, not more than 45 days after the close of pleadings, or in the case of the defendant not more than 60 days after the close of pleadings, such plaintiff or defendant shall have delivered a summary of the expert's opinion[s] and the reasons therefor:

Provided that in divorce and related matters, the notice of intention to call an expert and the summary of the expert's opinion and the reasons thereof must also be filed with the Family Advocate at the same time it is delivered to the other party:

Provided further that where applicable, the notice and summary shall be delivered as directed by the judicial officer at any pre-trial conference convened in terms of section 54 of the Act.

(b) The summary of the expert's opinion and reasons therefor referred to in subparagraph (a)(ii) shall be compiled by the expert himself or herself and shall contain a statement by the expert confirming that the report is—

- (i) in such expert's own words;
- (ii) for the assistance of the court; and
- (iii) a statement of truth."