



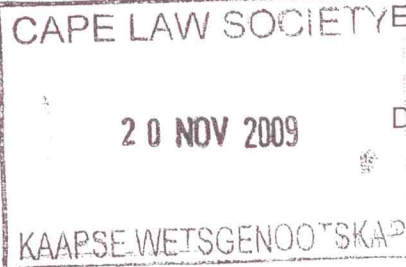
justice

Department:  
Justice and Constitutional Development  
REPUBLIC OF SOUTH AFRICA

Ref: 1/4/2

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16 NOV 2009

Date: 10 November 2009

The Law Society  
P.O. Box 4528  
CAPE TOWN  
8000

**RE: PRE-TRIAL CONFERENCES: DIRECTION IN TERMS OF SECTION 54(1)  
OF THE MAGISTRATE'S COURT ACT ( 32 OF 1944)**

In terms of Section 54(1) of the Magistrate's Court Act (Act 32 of 1994) the court may at any stage in any legal proceedings direct the parties or their representatives to appear before it in chambers for a pre-trial conference. The purpose of the pre-trial conference is to consider matters that may aid the disposal of the action in the most expeditious and least costly manner.

See attached memorandum for the procedure that will be followed in all civil actions with effect from 1 February 2010 in the Bellville Magistrate's Court.

**E DU TOIT  
SNR MAGISTRATE: BELLVILLE**

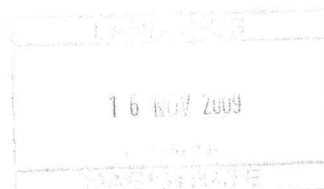
## MEMORANDUM

1. When parties request a set-down date for an action, a date will no longer automatically be allocated;
2. The file, together with the request for set-down will be forwarded to the duty Magistrate, who will peruse the file and (unless he deems it unnecessary), issue a directive in terms of sect 54(1) for a pre-trial conference;
3. The directive for a pre-trial conference will be issued in the format attached hereto, subject to any amendments directed by the Magistrate;
4. Where the parties ( and their legal representatives) have attended a conciliation or mediation process hosted by an accredited service provider, they may file a certificate to this effect together with a copy of any agreements reached between them at such a proceeding. The Magistrate will consider this in determining whether or not it is necessary to direct a pre-trial conference.
5. The attention of the parties are drawn to the decision in **Brownlee v Brownlee** (unreported judgement on 25 August 2009 by Brassey AJ in the South Gauteng High Court). In this matter the Court held that parties have an obligation to consider the appropriateness of mediation, and that they should refer matters to mediation where there is a reasonable prospect that mediation could contribute to settlement. The Court also held that negotiations between the parties could not be equated to mediation.

The Court will therefore in future be obligated to consider whether or not mediation was appropriate, and may issue punitive costs orders (even against successful parties) where mediation was not used.

Thank you

  
E DU TOIT  
SENIOR MAGISTRATE



**IN THE SOUTH GAUTENG HIGH COURT, JOHANNESBURG  
(REPUBLIC OF SOUTH AFRICA)**

CASE NO. 2008/25274

In the matter between :

**BROWNLEE, MICHELE (born DU PLESSIS)**

Plaintiff

And

**BROWNLEE, NOEL GRAHAM**

Defendant

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**JUDGMENT**

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**BRASSEY AJ:**

INTRODUCTION

1. Marriage is, typically, born out of such love and solemnized with such hope that its termination by divorce cannot but be tragic. But the death of this marriage, or at least the manner in which the last rites have been pronounced over it, represents a tragedy of an especially painful sort.