



## UCT-SAMLA PRACTICAL WORKSHOPS IN MEDICO-LEGAL PRACTICE

### Workshop 6: Pre-trial procedure – Case management

#### Programme

Day 1 – 22 February 2020

07:45 – 08:30	Registration, refreshments and connectivity	
08:30 – 08:45	Opening and introduction of the guest speaker	Judge Neels Claassen
08:45 – 09:30	The impact of case management on the judicial system in South Africa ( <i>lecture ± 45 min</i> )	Judge Kathy Satchwell
09:30 – 10:15	Identifying and understanding the roles of those involved in the case flow management process, including the judiciary, lawyers, expert witnesses and court staff ( <i>lecture ± 35 min; discussion ± 10 min</i> )	Dr Henry Lerm
10:15 – 10:45	Refreshment break	
10:45 – 11:25	Preliminary case assessment phase, including client expectation; whether the firm can meet the expectations; an initial investigation into the merits of the case, i.e. the question of prescription and exclusionary clauses; introducing the roadmap to the different phases in the case flow management process; introducing the investigative phase, i.e. calling for the clinical and hospital records ( <i>lecture ± 30 min; discussion ± 10 min</i> )	Dr Henry Lerm
11:25 – 12:10	The investigative phase; pursuing the investigation into the merits of the case, including negligence and causation; the role of a medico-legal nurse consultant in the investigative phase ( <i>lecture ± 35 min; discussion ± 10 min</i> )	Ms Carina van de Wall
12:10 – 12:45	Gathering supportive facts to determine the merits and quantum ( <i>lecture ± 30 min; discussion ± 5 min</i> )	Dr Henry Lerm
12:45 – 13:15	Explaining the test of medical certainty and the legal test based on the balance of probability; what medical experts should understand when drafting medico-legal reports ( <i>lecture ± 25 min; discussion ± 5 min</i> )	Dr Herman Edeling
13:15 – 14:10	Lunch	

14:10 – 14:15 Check in and connectivity

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14:15 – 15:00 The selection phase: This section of the lecture will identify the need for settlement, promoting mediation as means to resolve the dispute, alternatively, going the litigation route (*lecture ± 30 min; discussion ± 15 min*) Adv. Ayesha Tiry

15:00 – 15:15 Comfort break

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15:15 – 16:00 Continuation of the selection phase: This part of the lecture directs attention to the litigation phase and more specifically, the drafting of pleadings, including the factors influencing the drafting of the particulars of claim (*lecture ± 30 min; discussion ± 15 min*) Leigh de Souza-Spagnoletti

## Day 2 – 14 March 2020

07:45 – 08:30	Registration, refreshments and connectivity	
08:30 – 09:00	Report back from syndicates; introducing the guest speaker	Judge Neels Claassen and syndicate leaders
09:00 – 09:45	Introducing case management of civil trial cases: An overview of how strong a tool case management can be in bringing about improvements in the justice system; a need for a paradigm shift ( <i>lecture ± 30 min; discussion ± 15 min</i> )	Adv. Ismail Hussain SC
09:45 – 11:00	Options open to defendant after being sued, including consultations, calling for a peer review, briefing experts, identifying possible defences, calling for settlement, alternatively, filing a plea and counterclaim ( <i>lecture ± 60 min; discussion ± 15 min</i> )	Wayne Forrester
11:00 – 11:15	Refreshment break	
11:15 – 11:35	How expert witnesses can contribute towards an effective and efficient case management programme ( <i>lecture ± 15 min; discussion ± 5 min</i> )	Dr Sharon Munyaka
11:35 – 12:35	Pre-trial preparations, including filing expert notices and summaries of expert opinion, discovery of documents; making use of advice on evidence; pre-trial consultations with plaintiff, lay witnesses and your experts ( <i>lecture ± 45 min; discussion ± 15 min</i> )	Adv. John Mullins SC
12:35 – 13:00	Continuation of pre-trial preparations, including engaging in the pre-trial conference; drafting the Rule 37 Minute; complying timeously with all undertakings given; paginating and indexing of pleadings and notices; preparing court bundles ( <i>lecture ± 25 min</i> )  <i>To continue after lunch.</i>	Adv. Ayesha Tiry
13:00 – 14:00	Lunch	
14:00 – 14:15	Check in and connectivity	
14:15 – 14:45	Continuation of Adv. Ayesha's lecture ( <i>lecture ± 15 min; discussion ± 15 min</i> )	Adv. Ayesha Tiry
14:45 – 15:00	Comfort break	
15:00 – 15:45	Engaging in final settlement talks as part of the case management process, including draft orders ( <i>lecture ± 30 min; discussion ± 15 min</i> )	Adv. Ayesha Tiry
15:45 – 16:30	Factors influencing the settlement talks, including the establishment of a trust for the benefit of the claimant; the appointment of a curator for the claimant; the appointment of a case manager to assist the claimant ( <i>lecture ± 30 min; discussion ± 15 min</i> )	Dr Brad Beira

## Day 3 – 18 April 2020

07:45 – 08:30	Registration, refreshments and connectivity	
08:30 – 09:30	Report back from syndicates ( <i>discussion ± 60 min</i> )	Judge Neels Claassen and syndicate leaders
09:30 – 10:30	How expert witnesses may promote the case management process by arranging the joint meeting of the experts; drafting joint minute of the meeting ( <i>lecture ± 45 min; discussion ± 15 min</i> )	Dr Herman Edeling
11:00 – 11:15	Refreshment break	
11:15 – 13:00	Unpacking the role of the important players, including expert witnesses, in complying with the practice directives to promote case management ( <i>lecture ± 90 min; discussion ± 15 min</i> )	Adv. Jenine Khan
13:00 – 14:00	Lunch	
14:00 – 14:15	Check in and connectivity	
14:15 – 15:00	Developing a case flow management plan; open discussion ( <i>discussion 45 min</i> )	
15:00 – 15:15	Comfort break	
15:15 – 16:30	Report back from the syndicates ( <i>discussion ± 75 min</i> )	Dr Henry Lerm and syndicate leaders