

**APPLICANT: SELEMENG NTHABISENG IRIS MOKOSE****COURT FOR WHICH APPLICANT APPLIES: GAUTENG DIVISION OF THE HIGH COURT****1. The candidate's appropriate qualifications**

1.1 The candidate has the following academic qualifications:

1.1.1 BA LAW - 1984;

1.1.2 LLB - 1987;

1.1.3 Certificate in Refugee Law (UCT) – 2008; and

1.1.4 Property Development Programme (UCT Graduate Business School) – 2013.

1.2 The candidate has additionally completed the following courses:

1.2.1 Judicial Skill Training (LSNP) – July 2015;

1.2.2 Basic Aspirant Judges Course (SAJEI) – August 2016; and

1.2.3 Advanced Aspirant Judges Course (SAJEI) – January 2017.

1.3 The candidate is appropriately qualified.

1.4 The candidate has been a practising attorney for a period of almost 30 years.

1.5 The candidate is also a conveyancer and notary public.

**2. Whether the candidate is a fit and proper person**

- 2.1 The candidate is a member in good standing of the Law Society of the Northern Provinces and there are presently no disciplinary or other proceedings pending or anticipated against her.
- 2.2 The candidate has disclosed the existence of a fine issued against her, which fine was suspended for a period of 5 years, in respect of her failure to furnish an auditor's certificate to the Law Society of the Northern Provinces for the years 2004 – 2006.
- 2.3 The nature of the complaint and the finding against her does not impact upon her fitness to act as a judicial officer.
- 2.4 The candidate is a fit and proper person.

**3. Whether the candidate's appointment would help to reflect the racial and gender composition of South Africa**

- 3.1 The candidate is a black woman.
- 3.2 The Gauteng Division of the High Court comprises approximately 79 judges of which only 28 are woman (35%). The appointment of the candidate would therefore advance the cause of gender representivity.
- 3.3 The candidate's appointment would also help reflect the racial composition of South Africa.

**4. The candidate's knowledge of the law, including constitutional law**

- 4.1 The candidate has practised as an attorney since 1991 and as a conveyancer

and notary public since 1991 and 1996 respectively.

4.2 The candidate was the first black female conveyancer admitted in the Republic of South Africa.

4.3 The candidate's knowledge of and exposure to the law primarily relates to property law.

4.4 The candidate has been exposed to constitutional and administrative law in:

4.4.1 Advising the Department of Housing, Gauteng, on how to regularise low income properties in the Gauteng area, as well as the rights of local authorities to collect rates and taxes;

4.4.2 Her service on the Gauteng Tribunal, involving her assistance in adjudicating cases in terms of the Development Facilitation Act, to fast track the establishments of townships;

4.4.3 Assisting the attorneys' profession in issues involving SAPOA, SALGA, EAAB, the Department of Rural Development and Land Reform, the Banking Association of South Africa and SARS; and

4.4.4 Assisting the Refugee Law Clinic in review matters against the Refugees Appeal Board.

4.5 The candidate has also been exposed to criminal and labour law, to a very limited extent.

4.6 In this regard, we note that:

4.6.1 In the candidate's judgment in the matter of *Ederie Claasen and Another v Tec Novation Solution (Pty) Limited and Another* 2017/40521 (16 February 2018), the candidate appears to have mastered the facts and law in the highly technical field of copyright law. The candidate set out a proper exposition of the law followed by an insightful application of the facts to the law. The candidate therefore appears to be able to deliver a competent judgment in a highly technical area of the law.

4.6.2 In the candidate's judgment in the matter of *Diederik Korsten De Beer v Nedbank Limited* (16 May 2018). This is an appeal from the Magistrate's Court. The candidate wrote the judgment of the appeal Court. She appears to have a good grasp of the NCA and commenced the judgment by cogently setting out the legal principles applicable. Thereafter, the candidate analyzed the relevant facts in an efficient manner, coming to a well – reasoned conclusion.

## **5. The candidate's commitment to the values of the Constitution**

5.1 The candidate demonstrates a commitment to the values of the Constitution through her work with the Refugee Law Clinic, which is run by ProBono.org.

## **6. Whether any judgments have been overturned on appeal**

6.1 The candidate has cited two judgments which have been taken on appeal:

6.1.1 *Segal N.O. v Curtis – Setchell* – Case No: 2016/16903 – in which the candidate's judgment was upheld; and

6.1.2 *Brompton Court v Khumalo* – Case No: 2017/398 – in which the candidate’s judgment was overturned.

## **7. The extent and breadth of the candidate’s professional experience**

7.1 The candidate has a wealth of almost 30 years of professional experience:

7.1.1 The candidate served her articles of clerkship at Dangors Attorneys from February 1988 to May 1989 and thereafter at Edward Nathan & Friedland Inc from June 1989 to December 1990;

7.1.2 The candidate practised as an associate at Edward Nathan & Friedland from January 1991 to October 1994;

7.1.3 The candidate practised as an associate director at Van Der Venter Meiring from November 1994 to December 1995;

7.1.4 The candidate practised as a director at Selemeng Mokose Inc from June 1996 to November 2008;

7.1.5 The candidate practised as an attorney at Bowman Gilfillan Inc from December 2008 to September 2016; and

7.1.6 The candidate presently practises as a consultant at Mohammed Randera & Associates.

7.2 The candidate has contributed to the profession as follows:

7.2.1 She has both been a member and the chairperson of the Law Society of the Northern Provinces Law Committee;

- 7.2.2 She has acted as an alternate councilor of the Law Society of the Northern Provinces Law Committee and has additionally served on its gender committee;
- 7.2.3 She has acted as the chairperson of the LSSA Property Law Committee;
- 7.2.4 She has contributed to the LSSA Legal Education by acting as a drafter, moderator and examiner in respect of conveyancing examinations;
- 7.2.5 She has represented the Black Lawyer's Association in all LSNP, LSSA and GLC committees;
- 7.2.6 She has acted as an appointed member of the Compensation Court for the Northern Metropolitan Substructure of the Greater Johannesburg Transitional Metropolitan Council;
- 7.2.7 She has acted as a member of the Valuers Board for the Southern Metropolitan Substructure of the Greater Johannesburg Transitional Metropolitan Council;
- 7.2.8 She has acted as a member of the Property Law Sub – Committees of the Johannesburg Attorneys' Association;
- 7.2.9 She has acted as a member of the Deeds Regulations Board; and
- 7.2.10 She has acted as a board member of Sci Bono Discovery Centre.

**8. The candidate's linguistic and communication skills**

- 8.1 The candidate's judgments reflect average linguistic and communication skills.
- 8.2 The candidate states that she also speaks Sesotho, Setswana, Sepedi, isiZulu, isiXhosa, Siswati, Afrikaans and French.
- 8.3 Her proficiency in so many African languages, including French, which is spoken in many African countries, will be to her advantage and that of litigants.

**9. The candidate's ability to produce judgments promptly**

- 9.1 From the judgments that we have reviewed:
- 9.1.1 The candidate has acted as an acting Judge on an ad hoc basis during 2016, 2017 and 2018.
- 9.1.2 During this period, the candidate has expeditiously delivered reserved judgments, save for her judgment in the Sapor Rentals matter, which appears to have taken 7 months to deliver.
- 9.1.3 The candidate has 4 outstanding judgments, all of which have been outstanding for approximately 2 ½ months.
- 9.2 We are of the view that the candidate has the ability to produce judgments promptly.

**10. The candidate's fairness and impartiality**

10.1 We have not found anything to suggest that the candidate would not conduct herself in a manner which is fair and impartial.

**11. The candidate's independent mindedness**

11.1 The candidate's judgments reflect that she is independently minded.

**12. The candidate's ability to conduct court proceedings**

12.1 Reports from practitioners who have appeared before the candidate indicate that the candidate lacks the ability to properly manage court proceeding, suggesting a lack of adequate familiarity with court procedure and process.

12.2 A report from a senior practitioner indicated that the candidate had not adequately prepared for the matter prior to it being heard.

**13. The candidate's administrative ability**

13.1 The candidate's experience as a conveyancer and attorney for almost 30 years, demonstrates that she has the necessary administrative ability.

13.2 The omission to submit the auditor's report to the Law Society, referenced hereinabove, may be related to the candidate's administrative ability.

**14. The candidate's reputation for integrity and ethical behaviour**

14.1 The candidate enjoys an excellent reputation for integrity and ethical behaviour amongst members of the attorneys' profession.



**15. The candidate's judicial temperament**

- 15.1 We note that for the considerable period for which the candidate has acted, there have been no complaints made against her in the discharge of her judicial office.
- 15.2 There is no reason to doubt that the candidate has the required judicial temperament.

**16. The candidate's commitment to human rights, and experience with regard to the values and needs of the community**

- 16.1 The candidate shows a commitment to human rights.
- 16.2 The candidate has experience with regard to the values and needs of the community, in respect of:
- 16.2.1 Her work advising the Department of Housing, Gauteng, regarding how to regularise low income properties in the Gauteng area; and
- 16.2.2 Her service on the Gauteng Tribunal in assisting in adjudicating the terms of the Development Facilitation Act, to fast track the establishment of townships.

**17. The candidate's potential**

- 17.1 The candidate is 55 years of age.
- 17.2 Given the retirement age for Judges, and without even considering the prospects of elevation to a superior Court, the candidate could potentially serve for a considerable period of time.

17.3 With the candidate's self-evident experience and intellect and her diligence and work ethic, we are of the view that she has great potential for a long and successful career as a judicial officer and will be of great service to the Bench.

**18. The message that the candidate's appointment would send to the community at large**

18.1 The candidate's appointment would send a positive message to the community at large.

18.2 The candidate has had a successful career at the side bar, notwithstanding practising in a field overwhelmingly dominated by men.

**ANNEXURE: LIST OF JUDGMENTS CONSIDERED**

*Ederie Claasen and Another v Tec Novation Solution (Pty) Limited and Another*  
2017/40521 (16 February 2018)

*Diederik Korsten De Beer v Nedbank Limited* (16 May 2018)

**Judgments upheld on appeal**

*Segal N.O. v Curtis – Setchell* – Case No: 2016/16903

**Judgments overturned on appeal**

*Brompton Court v Khumalo* – Case No: 2017/398