

CANDIDATE: MARCUS LEKGALOA SENYATSI

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**COURT FOR WHICH APPLICANT APPLIES: GAUTENG DIVISION OF
THE HIGH COURT**

1 The candidate's appropriate qualifications:

1.1 The candidate holds the B.Proc and LLB degree, conferred by the University of Limpopo in 1984 and 1989 respectively. The candidate is appropriately qualified.

2 Whether the candidate is a fit and proper person:

2.1 The candidate is an admitted attorney. He is however not currently practising as such as he is currently employed as a legal adviser at the Industrial Development Corporation.

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 man.

3.2 While his appointment will contribute to racial representivity, it will not contribute to the gender transformation of the judiciary.

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

4.1 The candidate has been involved in the legal industry since 1984 in various roles varying from practising attorney and corporate legal adviser. He was employed as corporate legal adviser for the Lebowa Development Corporation, Nampak, Industrial Development Corporation as well as an Executive Manager for the South African Airways. In his capacity as a corporate legal adviser he was exposed to development finance, debt restructuring, collections, intellectual property and contract negotiations.

4.2 He lectured part time at the University of Limpopo in Mercantile Law for six years.

4.3 After being admitted as an attorney in 1992 he practised in various firms as a professional assistant, sole proprietor and partner.

4.4 His experience in the legal field is extensive and covers commercial litigation and advice, civil litigation and advice as well as criminal and administrative tribunals.

4.5 The candidate does not demonstrate extensive experience in Constitutional matters. He indicates that his exposure to Constitutional Law covered 8% of his experience.

4.6 According to his application the bulk of his court appearances were in the Magistrate Courts. He does not provide any information in respect of appearances in the Supreme Court of Appeal or the Constitutional

Court; neither does he provide any information regarding appearances on appeal or review. None such appearances could be found.

4.7 The candidate has no reported cases in which he was the instructing attorney.

4.8 The candidate has acted as a Judge for a total of 55 weeks since 2016 in the Gauteng and Mpumalanga Division of the High Court.

5 The candidate's commitment to the values of the Constitution:

5.1 No negative comments in this regard have been provided. The candidate has not written any judgments on constitutional issues or principles.

6 Whether any judgments have been overturned on appeal:

6.1 The judgments that have been taken on appeal have not yet been finalised.

7 The extent and breadth of the candidate's professional experience:

7.1 The candidate has vast professional experience in various capacities in the legal industry *inter alia* as a corporate legal adviser, executive manager and practising attorney. He has also acted as a judge in the High Court for a period of 55 weeks. He is versed in corporate affairs and has acted as director and Chairman of various boards. He has resigned all of his directorships.

8 The candidate's linguistic and communication skills:

8.1 A review of the candidate's judgments discloses an appropriate command of the official court language. His style is succinct, clear and to the point.

9 The candidate's ability to produce judgments promptly:

9.1 At the time of the application the candidate had 7 Judgments outstanding. The longest outstanding judgment is since 16 April 2019. Of the outstanding judgments 5 are outstanding for 4 months and 2 are outstanding for 3 months.

10 The candidate's fairness and impartiality:

10.1 No adverse information was received which calls into question the candidate's fairness and impartiality.

11 The candidate's independent mindedness:

11.1 No negative comments have been provided in this regard. The candidate has resigned his directorships of all companies that he was a director of.

11.2 The candidate has been employed at a state owned entity, the Industrial Development Corporation, South African Airways and the Lebowa Development Corporation.

12 The candidate's ability to conduct court proceedings:

12.1 The comments that have been received in this regard indicates that the candidate is punctual, fair and meticulous in his management of court processes.

13 The candidate's administrative ability:

13.1 No negative comments have been provided in this regard. However judgments have been outstanding for 3-4 months. In one instance a judgment on summary judgment was outstanding for 3 months and was produced only after enquiries by the instructing attorney.

14 The candidate's reputation for integrity and ethical behaviour:

14.1 No adverse comments have been received in this regard. The candidate was once reprimanded by the Law Society in 2008 for the late return of financial statements of this trust account.

15 The candidate's judicial temperament:

15.1 No adverse information was received.

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

16.1 A review of the candidate's judgments discloses a paucity of references to the Constitution and Constitutional principles. The candidate was not involved in community projects in his professional capacity.

17 The candidate's potential:

17.1 No adverse information was received.

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

18.1 The candidate is a black man and his appointment will send a positive message to the community at large.

18.2 The appointment of the candidate will also signal that the judiciary is not limited to practising lawyers and that lawyers with substantive experience in other types of legal work may be regarded as appropriate candidates for judicial appointment.

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ANNEXURE: LIST OF JUDGMENTS CONSIDERED

See Annexure A