

CANDIDATE: ADV FREDERICK SIEGFRIED GUSTAV SIEVERS

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**COURT FOR WHICH APPLICANT APPLIES: WESTERN CAPE
DIVISION**

1. The candidate's appropriate qualifications:

- 1.1. BA (University of Cape Town) 1981.
- 1.2. LLB (University of Cape Town) 1984.
- 1.3. The candidate is appropriately qualified.

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

- 2.1. The candidate has served in the legal profession as a candidate attorney from 1986 to 1987, as a legal adviser to Metropolitan Life from 1988 to 1990 and as a practising advocate from 1990 until the present.
- 2.2. The candidate was recommended in 2018 by the Cape Bar Council and the Judge President of the Western Cape High Court for silk and has been an acting judge of the Western Cape Division from 16 April 2018 to date.
- 2.3. We are not aware of any professional complaints being made against the candidate.
- 2.4. The candidate is known to members of the profession as a person of the utmost integrity.

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2.5. There is accordingly no reason to find that the candidate is not fit and proper.

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

3.1. The candidate is a white man.

3.2. The appointment of a white male candidate will not advance the cause of gender or racial representation.

4. The candidate's commitment to the values of the Constitution:

4.1. There is no reason to doubt the candidate's commitment to the values of the Constitution.

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

5.1. The candidate is known to members of the profession as a lawyer of great ability, with an excellent knowledge of the law, including constitutional law.

5.2. The candidate has experience in numerous areas of the law, particularly banking, insolvency, trust law and contract law. The candidate's knowledge of the National Credit Act is exceptional. Positive comment has been received from members of the Bar about the candidate's solid trial experience.

5.3. The candidate has appeared in 25 reported cases.

6. Whether any judgments have been overturned on appeal:

6.1. As an acting judge for some fifteen months, the candidate has only had one of his judgments been taken on appeal. The appeal has not yet been disposed of.

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

7.1. The candidate practised as a candidate attorney from 1986 to 1987. He was then a legal adviser to Metropolitan Life and has been a member of the Cape Bar since 1990. He was recommended for senior counsel status in October 2018.

7.2. His extensive practice in the advocate's profession has exposed him to many areas of the law, with a particular focus on the National Credit Act, and he is also well-known as a specialist in all areas of insolvency. His experience in and knowledge of motion court proceedings is unmatched at the Cape Bar.

8. The candidate's linguistic and communication skills:

8.1. The candidate is known in the profession to have excellent linguistic and communication skills in English.

8.2. He understands and communicates well in Afrikaans.

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

9.1. Whilst an acting judge, the candidate has produced his judgments promptly.

9.2. He has also gained a reputation for being well-prepared for argument.

10. The candidate's fairness and impartiality:

10.1. We are not aware of any complaints that have been made pertaining to the candidate's fairness and impartiality, and have no reason to question these aspects.

10.2. Members' experience of dealing with the candidate during his stint as an acting judge is consistent with the above.

11. The candidate's independent-mindedness:

11.1. We are not aware of any complaints that have been made pertaining to the candidate's independent mindedness.

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

12.1. In his time as an acting judge, members experienced the candidate as a highly competent judicial officer. He has conducted Court proceedings diligently, efficiently, impartially and courteously. A particular feature, evident in his motion court work, is his reticence to burden fellow judges with the same matter through unnecessary postponements or delays.

12.2. The candidate has a reputation for having read the papers before coming to Court, and for adopting a pragmatic and sensible approach towards the adducing of evidence and the resolution of disputes. Time in his Court is not wasted.

13. The candidate's administrative ability:

13.1. The profession cannot comment on the candidate's administrative ability in his capacity as an acting judge.

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

14.1. Members consider the candidate to have an impeccable reputation for integrity and ethical behaviour.

14.2. No complaints or queries about his ethical standards or integrity have been received.

15. The candidate's judicial temperament:

15.1. Members who have appeared before the candidate note that he has an even and constructive judicial temperament. He always seeks the most efficient manner to conduct proceedings and he is considered to have a sound 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 has never shirked from pro bono work and in one matter offered himself as pro bono counsel, in motion court, to a group of

persons whose eviction from their homes was being sought. The candidate represented them in the ensuing legal proceedings and successfully resisted their eviction on their behalf.

17. The candidate's potential:

17.1. The candidate's performance as an acting judge of the High Court demonstrates that he has the potential to be an excellent judge.

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

18.1. The candidate's appointment would not contribute to the project to transform the judiciary.

18.2. To members of the profession, however, the candidate's appointment would send a message that white men who contribute to transformation and have a thorough knowledge of the law are not ignored.

18.3. The candidate's appointment would send a message to the legal and wider community that candidates of undoubted integrity and competence can add great value to the development of our constitutional democracy.

18.4. The following comment has been received from members: *"The sooner he is appointed the better for our legal justice system."*

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ANNEXURE: LIST OF JUDGMENTS CONSIDERED

Reported decisions

Beale v S 2019 (2) SACR 19 (WCC)

Unreported decisions

Fine and another v Chaplin, WCHC case number 5376/2018, 12 September 2018

Ku v Minister of Police, WCHC case number 5316/2015, 17 October 2018

Basson v Associated Portfolio Solutions (Pty) Ltd and others, WCHC case number 16224/2017, 14 December 2018

Esau NO v Minister: Western Cape Department of Social Development, 25 January 2019

Coetzee and others v Kotze and others, WCHC case number 15578/2018, 25 January 2019

Pio v Essel NO and others, WCHC case number 15353/2018, 3 May 2019

Judgments upheld on appeal

N/A

Judgments overturned on appeal

N/A