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The President
Southern Divorce Court
Private Bag X 7481
KING WILLIAM'S TOWN
5600

Ref.: 2/1/5 - JJ Claassen

17 March 2008

The Chairperson
The Portfolio Committee on
Justice and Constitutional Development
Parliament
P.O. Box 15
CAPE TOWN
8000

Dear Sir,

RENUMERATION: PRESIDENT OF THE SOUTHERN DIVORCE COURT

Attached please find a letter addressed to the chairperson of the Magistrates Commission dated 17 March 2008 which gives a brief synopsis of my long struggle to convince the Department of Justice and Constitutional Development to grade me on the appropriate grade for President of the Divorce Court [grade JD1] and to remunerate me accordingly.

A recent informal conversation with a senior official of the Department of Justice and Constitutional Development lead me to believe that the Department still feels that it has the final word on this issue.

For me to engage the Department again, given the latest finding of the Independent Commission for the Remunerations of Public Office Bearers, would compromise the independence of the Magistracy and could be construed as giving the Department authority in a matter where they have none.

The Magistrates Commission in exercising its duties as set out in Sec 4 of the Magistrates Act, 1993 [act 90 of 1993] has as long ago as July 2001 recommended that I should be remunerated on the scale of President of a Regional Court.

The Independent Commission for the Remuneration of Public Office Bearers has made it clear that I should be graded on grade JD1 [same grade as president of the Regional Court]

The fact that the Department of Justice and Constitutional Development holds a view contrary to the above is of no consequence.

remunerated on the scale as found to be appropriate by the Magistrates Commission and the Independent Commission for the Remuneration of Public Office Bearers.

You, in your capacity as an oversight committee over the Department of Justice and Constitutional Development, are hereby respectfully requested to bring the necessary pressure to bear on the Department to implement the findings of the abovementioned committees.

Your kind assistance will be appreciated.

Yours faithfully

A handwritten signature in black ink, consisting of a large, stylized 'J' and 'C' followed by a horizontal stroke.

JJ CLAASSEN
PRESIDENT
SOUTHERN DIVORCE COURT

The President
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Ref: 2/1/5 – JJ Claassen

17 March 2008

The Secretary
The Magistrate's Commission
P.O. Box 9096
PRETORIA
0001

Dear Sir,

Practical implication of the implementation of the Jurisdiction of Regional Courts Amendment Bill, 2007.

1. As from the introduction of the Divorce courts Amendment Act, 65 of 1997, I made a number of submissions to the relevant authorities regarding the proper scale on which presidents of these courts should be graded.
2. The status of the Presidents of the Divorce courts was considered by die State Law Advisors and on 2 December 1999 under reference 579/99 the following opinion was delivered:

“ The Department request our opinion on the question, as we understood it, what the status of a “president” of the Divorce Court should be..... ”

“ that a president of the Divorce Court should have the same status as a president of a Regional court..... ”
3. The Magistrates' Commission considered the issue and the following was recommended to the Department of Justice and Constitutional Development in a letter dated 11 July 2001 with reference 6/5/11/8 :
 - “ 1] *That Mr Claassen be remunerated [basic salary] at the level of a Regional President with effect from 1 August 1997.*
 - 2] *That Mr Claassen be afforded the motor car financing benefit pertaining to a Regional Court President with effect from 1 August 1997.”*

4. Notwithstanding the above the Department of Justice and Constitutional Development through its Minister on 13 March 2002 disapproved of the Magistrates' Commission's recommendations.
5. As all aspects relating to the remuneration of the magistracy was then removed from the Department of Justice and Constitutional Development and placed under the authority of the Independent Commission for the remuneration of Public Office Bearers, the ministers' ruling was not challenged.
6. On approaching the last mentioned commission I was requested to await the outcome of a reassessment of the lower courts structure as a whole.
7. After considering certain submissions the Independent commission for the Remuneration of Public Office Bearers on 12 October 2007, under signature of its chairman, the Honourable Justice Moseneke, recommended that the presidents of the Divorce Courts should be graded on Grade JD1 [which is the grading of presidents of the Regional Courts].
8. It should thus be abundantly clear that all institutions that matter, acknowledge the status of president of the Divorce Court to be equal to that of a president of a Regional Court.
9. The Jurisdiction of Regional Courts Amendment Bill, 2007 proposes that the Divorce Courts established under the Administration Amendments Act 9 of 1929 be abolished and its functions taken over by the, to be introduced, civil Regional courts.
10. Section 7[2][b] of the Bill state that presiding officers of the Divorce courts will retain "..... any condition regarding his or her term of service applicable to his or appointment to that office....."
My interpretation of this section is that a permanent appointed president of a Divorce Court will retain both the permanency of his or her appointment as well as the status equal to that of a president of a Regional Court.
11. Section 9[1][aA] if the Magistrates' Courts Act, 1944 does not appear to allow for more than one president in a regional division.
12. The Magistrates Commissions is respectfully requested to advise as to my position should the Jurisdiction of Regional Courts Amendment Bill, 2007 be passed into Law.
13. Given the urgency at which the passing of the said Bill is been conducted, I would appreciate an early response.

Yours faithfully



JJ CLAASSEN
PRESIDENT - SOUTHERN DIVORCE COURT