



# Student Representatives

Court Rules

# Contents

- Introduction
- Filing of papers
- Documents



# Commencement of matter

- Once a matter arises, a student representative will be assigned to the party to represent them in the student court.
- Gather all the essential facts of the matter.
- Start the process by filing the necessary documents to the court in the prescribed time.
- If the you are representing the respondent, the process will start once all the documents are received from the applicant's representative.

# Filing of papers

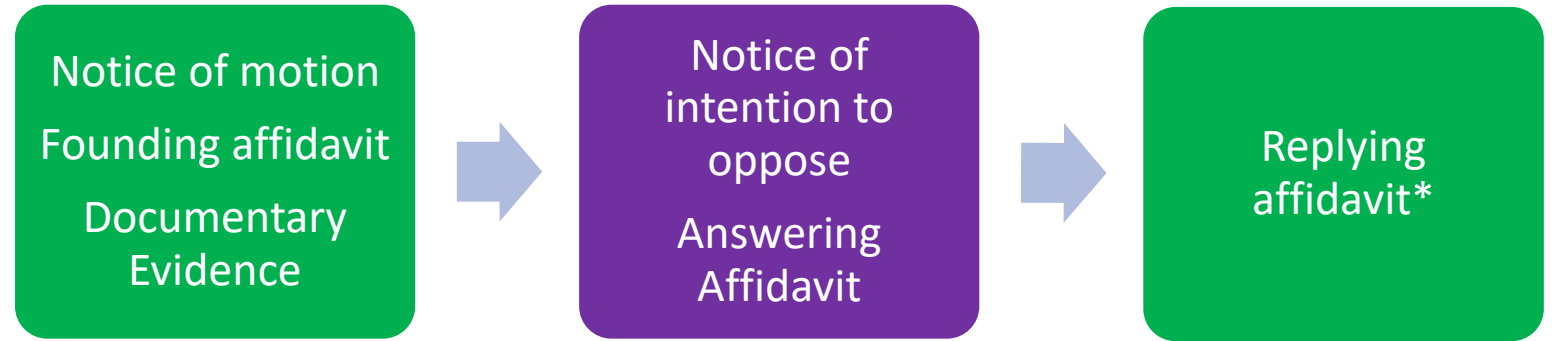
- All documents must be emailed to the registrar of the court [*insert email of registrar*] and CC all relevant parties.
- Emails sent after 17:00 are considered to be received the next court day.
- A document is filed if there has been Notice.
  - “**Notice**” means it has come to the attention of the recipient. Proof of successful delivery of an email also constitutes Notice within the meaning contemplated in this definition.

# Filing of papers

- When sending documents you must notify the court if there is a party other than the applicant/respondent that should be included in the matter e.g. the Dean of the Engineering faculty.
- All pleadings must be signed by the party or the representative.
- Documents must be filed in English.

# Documents

## Order of documents



## Timeline

- Notice of intention to oppose: 3 court days after receiving notice of motion.
- Answering affidavit: 8 court days after receiving notice of motion.
- Replying affidavit: 3 court days after receiving answering affidavit.
- *\*A replying affidavit only needs to be filed if new facts are introduced in the answering affidavit*

# Notice of motion

- *Example of Notice of motion*
- Must include the following:
  - Order sought from the court
  - Full names of persons whose affidavits support the matter
  - Time periods when the respondent must file notice of intention to oppose and answering affidavit
  - Applicant's preferred email address
  - List of documentary evidence

# Founding affidavit

- *Example of founding affidavit*
- Must include the following:
  - Applicant's full name; student number; capacity in which they approach court
  - Capacity respondents are cited
  - Description of parties' standing before the court ito s 86 of Student constitution
  - Whether court has jurisdiction ito s 84 of the Student Constitution
  - Statement of facts (each in separate par)
  - References to documentary evidence to support the allegations
  - Concise legal argument to show why relief should be granted
  - Relief sought with reference to s 85 of the Student Constitution



# Notice of intention to oppose

- *Example of Notice of intention to oppose*
- Must include the following:
  - The respondent's intention to oppose the matter
  - Preferred email address for service of documents



# Answering affidavit

- *Example of answering affidavit*
- Must include the following:
  - Respondent's full name; student number; capacity in which they approach court
  - Which facts in the applicant's Founding Affidavit are disputed by the respondent, which facts are common cause, and any other material facts that are pertinent to the matter
  - List of documentary evidence
  - Concise statement of the legal argument

# Defective documents and other errors

- If the document does not comply with all the rules in the Rules, the court will find it defective.
- If a party cited by the applicant should not have been cited because they lack standing; didn't give consent or no prima face case is made, the court will remove the cited party.
- Failing to respond means the party is deemed to admit to the facts in the documents received.

# Urgent matters

- If dealing with an urgent matter, the notice of motion must set out the circumstances for the urgency and how the applicant will be prejudiced if the rules are not deviated from.



# Multiple respondents

- If there are multiple respondents they may choose to file a notice of intention to oppose jointly and/or file an answering affidavit jointly or alternatively file a confirmatory affidavit supporting the initial answering affidavit.



## Applying for an extension

- Parties can apply for an extension of any period mentioned in the rules, by making a written submission to the court, if they feel they will be prejudiced by the current time periods.
- The same rules regarding filing of documents apply (Rule 6).
- When sending the written submission include all parties involved in the matter in the email as well as reasons for the request and the number of days required.
- The registrar will notify all parties of the court's decision.

# Amending court papers

- Amendments may not materially alter the basis for the application.
- All parties involved (including the registrar) must be notified of the amendment through a notice (including the particulars).
- Opposing the amendment:
  - Must be done with a Notice within 5 court days after receiving the notice to amend.
  - The grounds for the objection must be set out.
- The court's decision is final.
- Amendments can be made any time before the commencement of the proceedings.
- If the amendments are allowed the opposing parties may respond to the amended document as per usual or apply to amend their documents accordingly

Joinder of  
parties and  
causes of  
action  
Consolidation  
of actions

- Parties may apply to join actions if they are instituting proceedings on the same causes of action, subject to the discretion of the Court.
- The Court may, mero motu, direct that separate actions be joined if they were instituted on the same causes of action.
- The court may decide to consolidate similar matters



## Recusal of members of the court

- A party may make an application to recuse a member of the court.
- The applicant to the recusal matter must show that the reasonable, informed, person would, on the proper facts, reasonably come to the conclusion that the Member has not, or will not, be impartial in the matter. Impartiality being a state of mind that is open to persuasion by the evidence and submission of counsel in order to come to a decision.


## Commissioning of affidavits

- All affidavits filed at the Court must be signed in full and deposed to under oath or affirmation by the relevant party.






## Advisory opinions

- A request for an Advisory Opinion shall be in the form of a Notice of Motion.
  - It must show the applicable and relevant provisions; and any question of law or potential conflict with other law.
- 

## Rules governing the proceedings

- Matters held in open court unless there is reason for the court to hold behind closed doors.
  - Proceedings shall take place in person unless the court finds it should be held online/ decided on papers.
  - When conducted online the matter must be recorded and made available to the student community.
  - Parties bear the onus of maintaining a stable internet connection.
  - The court has the discretion to request oral evidence at hearings.
- 

## Rules governing the proceedings

- The date, time, and venue for proceedings will be determined by the Court after consultation with all the parties.
- The court shall give notice to all parties of the rules of engagement and the proposed structure of the hearing (this may be deviated from if parties give good reason during hearing).
- Parties may not communicate with Members or vice versa privately about any aspect of a case.
- Any enquiries regarding any aspect of a case must be done via the official communication channels for proceedings of the Court.

## Presence at hearings

- These rules apply to online hearings as well.
- All parties must be present.
- Parties may appear with/without representation.
- Parties must notify the court prior to the proceedings if they are unable to attend.
- Failure to attend or give reason for absence will result in the matter being heard in abtensia.

# Appealing decisions

- A party must notify the court, the dean of the law faculty and all other parties involved in the matter within 5 court days of the court's decision being communicated to the parties.
- The notice of appeal must include:
  - State what part of the judgment is appealed against.
  - Clear reasons for the appeal
  - Clear reasons why a different decision could be reached
  - State the variation of the order sought. (i.e. what the decision should have been)
- Respondents to the appeal may file a Cross-Appeal with the same parties mentioned above, within 5 court days of receiving the notice of appeal.

IN THE STUDENT COURT OF STELLENBOSCH UNIVERSITY  
REPUBLIC OF SOUTH AFRICA

In the matter between:

[REDACTED] First Applicant

[REDACTED]

[REDACTED] Second Applicant

And

[REDACTED]

[REDACTED] First Respondent

[REDACTED]

[REDACTED] Second Respondent

---

**NOTICE OF INTENTION TO OPPOSE**

---


**KINDLY TAKE NOTICE THAT** the First and Second Respondent herewith give notice of their intention to oppose the above application.



**TAKE FURTHER NOTICE THAT** we will accept service of all documents related to this matter at [REDACTED]

**DATED AT STELLENBOSCH ON THIS 15<sup>th</sup> DAY OF FEBRUARY 2023.**

[REDACTED]  
-----  
[REDACTED]  
[REDACTED]  
OF STELLENBOSCH UNIVERSITY

  
ACTING ON BEHALF OF THE  
FIRST AND SECOND RESPONDENT

TO: THE REGISTRAR  
STUDENT COURT OF STELLENBOSCH UNIVERSITY

AND TO: FIRST APPLICANT  
 THE GRS, STELLENBOSCH UNIVERSITY

---

**ANSWERING AFFIDAVIT**

---

I, the undersigned,

[REDACTED]

do hereby make oath and state that:

**INTRODUCTION**

1. I am the Second Respondent in this matter and the facts contained herein are within my personal knowledge and belief, unless the context indicates the contrary, and are true and correct.
2. I am currently a registered student at Stellenbosch University with student number [REDACTED]
3. I am litigating in my representative capacity as the [REDACTED]

[REDACTED]