



YEAR PROGRAM 2023

THINGS YOU SHOULD KNOW BEFORE YOU APPLY FOR CHILD MAINTENANCE

1 FEBRUARY @ 12:45 PM - 1:45 PM

In this lunch hour we cover topics which include:

- The legislation that deals with child maintenance (short overview)
- The common law of duty of support and who needs to support
- The different forms of maintenance (child maintenance of minor children, major children and spousal maintenance)
- The requirements for the existence of duty of support of children
- Who can be described as a “child”?
- Claiming maintenance from parents, grandparents, brothers & sisters, uncles & aunties, step-parents)
- The need for maintenance and the means to pay maintenance
- Short overview of the maintenance application procedure (this will be discussed in depth in future webinars)
- General information that you need to know before you claim maintenance

HOW TO GET ALL YOUR DOCUMENTS READY TO APPLY FOR MAINTENANCE

8 FEBRUARY @ 12:45 PM - 1:45 PM

During this lunch hour we will be discussing the following topics:

- What documents are needed to submit an application for maintenance
- What happens if I do not have all the documents requested?
- Where do I get the J101 application form?
- What is meant by proof of my expenses and income?
- Which court do I need to go to to lodge my application for maintenance?
- What happens if I do not have the details (work or home address) of the other parent?
- How can I trace the other parent if I do not know where he lives or work?
- What if I am not 100% sure if the person I am claiming maintenance from is the real father of the child?
- What if I have children from different fathers?

HOW TO COMPLETE THE J101 MAINTENANCE APPLICATION FORM

15 FEBRUARY @ 12:45 PM - 1:45 PM

In this lunch hour we will discuss step-by-step on how to complete the J101 Maintenance Application Form:

- Where to I get the form that I need to complete?
 - Will someone at the Maintenance Court be able to explain the form to me or assist me in completing the form?
 - What if I do not know the details of the other parent?
 - How do I complete the section that alleges that the other person is legally liable to maintain the child?
 - What if the children live with a caregiver (such as a grandparent) and I want to claim maintenance?
 - I do not have a court order and the father seldom contributes to the children – what is the legal position.
 - I am asked how much I want for maintenance – how do I calculate the amounts?
 - Can I claim winter / summer / Christmas clothes as part of the maintenance order?
 - How to complete the section that deals with your assets.
 - Detailed explanation of what to fill in as your income.
 - How the expenses should be worked out and calculated.
 - How do I split the expenses between myself and the children? (Short discussion as this will be dealt with in a future webinar)
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HOW TO CALCULATE THE CHILDS EXPENSE

22 FEBRUARY @ 12:45 PM - 1:45 PM

In this lunchtime webinar we will explain:

- The statutory duty in terms of section 15(3)
 - Recommendations of the SA Law Reform Commission on how the child's expenses should be dealt with
 - The concept of a "fair" amount when it comes to expenses for children
 - Discussion of case law that deals with the calculation of the child's expenses
 - How to divide the monthly expenses between yourself and the child(ren) – different models
 - Discussion on grocery expenditures, common household expenditure, educational expenditure, medical expenses and other necessary expenses
 - Tips on expenses that are often forgotten when working out the children's expenses
 - Practical tips
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HOW TO CALCULATE EACH PARENTS CONTRIBUTION TO MAINTENANCE

1 MARCH @ 12:45 PM - 1:45 PM

In this lunch and learn webinar we will explain:

- Discussion of the legal provision of section 15(3)(a)(ii) and 15(b)
 - Discussing the term "respective means" and what does it mean
 - Explaining the case law that deals with the parent's portion
 - Recommendations by the SA Law Reform Commission on what is considered the "means" of a party
 - Explaining the joint income formula
 - Discussing hidden assets and assets / income not declared by a party
 - What happens if the father is a taxi driver or works for himself and does not declare his income?
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HOW TO SUBMIT YOUR COMPLETED MAINTENANCE APPLICATION FOR TO THE MAINTENANCE COURT

8 MARCH @ 12:45 PM - 1:45 PM

Discussion topics for today's lunch and learn:

- Everything you need to take to court to fast-track your maintenance application
 - Submission of an additional founding affidavit in support your maintenance application form
 - In what order should all documents be submitted?
 - Practical tips and common problems when submitting your maintenance application form to court
 - What will happen next if I submit my application form and documents to Maintenance Court?
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HOW TO PREPARE FOR A SECTION 6 MAINTENANCE ENQUIRY

15 MARCH @ 12:45 PM - 1:45 PM

Our discussion for today will deal with preparation for the section 6 enquiry:

- Explanation of what a section 6 enquiry is and what to expect on the day of the enquiry
 - Practical tips on how to prepare for the section 6 enquiry
 - What is the role of the maintenance officer and maintenance clerk?
 - What assistance will the maintenance investigator give to to a maintenance applicant?
 - Overview of a section 6 enquiry and what types of questions you could be asked
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HOW TO CONDUCT A SECTION 6 MAINTENANCE ENQUIRY

22 MARCH @ 12:45 PM - 1:45 PM

In this webinar we discuss more on how to conduct a proper section 6 enquiry:

- We define the role of the maintenance officer
 - What must a maintenance officer first establish when a maintenance complaint is received?
 - Clarification and explanation of case law pertaining to section 6 enquiries, jurisdiction, defining "care" and "care-giver"
 - An outline of how a section 6 enquiry is conducted
 - Confirmation of paternity (and DNA tests) explained
 - What are my rights when it comes to maintenance?
 - Interim maintenance orders discussed and when to apply for an interim maintenance order
 - Discussion of consent orders (J214)
 - What happens if the respondent (father) does not show up at Maintenance Court on the day of the enquiry?
 - What happens if the respondent (father) did not bring the required information on the day of the enquiry?
 - Brief discussion of maintenance mediation (this will be dealt with extensively in a future webinar)
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HOW AND WHEN TO REFER A MAINTENANCE ENQUIRY TO COURT FOR A FORMAL SECTION 10 ENQUIRY

29 MARCH @ 12:45 PM - 1:45 PM

In this Lunch and Learn we will discuss:

- What is a section 10 enquiry?
- What is the procedure and when a maintenance enquiry is referred to Maintenance Court?

- Discussion of the discretion and wording of the Act when it comes to referrals to Court
 - The process of a formal section 10 enquiry done in Court
 - Duties of the maintenance officer when referring the matter to court
 - Recommendation of the maintenance officer
 - Creating a court bundle of documented evidence for submission to Court
 - Discussion of the section 9 summons to formally appear in court and what happens if the respondent does not appear
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HOW TO INTERPRET DOCUMENTS PRESENTED DURING A SECTION 6 OR 10 ENQUIRY

5 APRIL @ 12:45 PM - 1:45 PM

Discussions for today's Lunch and Learn webinar includes:

- In depth explanation on how to interpret documents submitted by the respondent such as: salary slips, bank statements, financial statements, assets or other sources of income
 - Detailed explanation how to interpret and investigate the expenses alleged by the respondent during enquiries
 - Tips of which types of questions should be asked
 - Completion of a FDF (Financial Disclosure Form) and what does it entail
 - Tips of common ways that respondents hide income and assets
 - Recourses available when you know that the respondent is lying about his income or assets
 - Practical tips
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HOW DOES FUTURE MAINTENANCE WORK

12 APRIL @ 12:45 PM - 1:45 PM

Discussion for today's Lunch and Learn:

- What is future maintenance?
 - When can future maintenance be claimed?
 - Case law on where maintenance defaulters has the intention to defeating a maintenance order by spending money that is due to them in terms of a pension payout
 - Discussion of the Soller v Magistrate Wynberg 2006 case in detail
 - Explanation of the process to claim future maintenance (Notice of Motion with supporting affidavits)
 - Drafting all court documents to claim future maintenance discussed
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HOW DOES SPOUSAL MAINTENANCE WORK?

19 APRIL @ 12:45 PM - 1:45 PM

In this lunch hour we will be discussing topics relating to spousal maintenance:

- Post divorce support of spouses and partners of civil unions
- Factors that the court take into consideration in ordering spousal maintenance
- Discussion of the earning capacities of the parties
- Defining the "clean break" principle applied by the Courts
- What and why is token maintenance awarded
- "Dum casta" clause found in many agreements
- Does subsequent marriages have an influence on spousal maintenance?
- Explaining when and how to apply for spousal maintenance

HOW IS A MAINTENANCE ORDER ENFORCED WHEN THE RESPONDENT IS IN ARREARS?

26 APRIL @ 12:45 PM - 1:45 PM

Our topic for today's Lunch and Learn webinar is enforcement of maintenance orders:

- Overview of remedies and what you could ask for if the respondent is in arrears
- Brief discussion on warrants of execution (this will be dealt with extensively in a future webinar)
- Brief explanation of attachment orders (this will be dealt with extensively in a future webinar)
- Brief discussion on emoluments attachment ("garnishee") orders (this will be dealt with extensively in a future webinar)
- Discussion of sequestrations
- Short explanation of how criminal proceedings work (this will be dealt with extensively in a future webinar)
- When is a person considered to be in default / arrears?
- Discussion on the process to report arrear maintenance
- Valid defense for arrear maintenance

HOW TO APPLY FOR AN EMOLUMENTS ATTACHMENT ORDER? ("GARNISH")

3 MAY @ 12:45 PM - 1:45 PM

Topics for discussion – emoluments attachments orders:

- Discussion of section 28
- Explanation of what an emoluments attachment order is and how it works
- When can you apply for an emoluments attachment order and what documents need to be completed?
- How is an emoluments attachment order enforced?
- Can the employer refuse to deduct money from the respondent's salary / wage?
- Remedies in case of failure of the employer to deduct
- Discussion of prescribed form and the application procedure

HOW TO APPLY FOR AN ATTACHMENT ORDER?

10 MAY @ 12:45 PM - 1:45 PM

Today's Lunch and Learn deals with attachment orders:

- What is an attachment order?
- What can be attached?
- Detailed discussion of section 30 and the procedure how to apply for an attachment order
- Reference to case law pertaining to attachments
- Explanation of the procedure to be followed to obtain an attachment order
- Discussion of suspension, amendment and rescindment of attachment orders

HOW TO APPLY FOR A WARRANT OF EXECUTION?

17 MAY @ 12:45 PM - 1:45 PM

Today we will be discussing warrants of execution:

- How and when can a warrant of execution be granted
 - Discussion of the legislation and case law
 - What items may be judicially attached to secure payment of arrear maintenance and what items are excluded?
 - What happens if the respondent owns nothing?
 - Explanation of the procedure of issuing a warrant of execution and what it means
 - Assistance by the State in paying the costs of a warrant of execution
 - General tips and advice on warrants of execution to fast-track your maintenance matter
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HOW DO I APPLY FOR A VARIATION OF THE MAINTENANCE ORDER (INCREASE OR DECREASE)

24 MAY @ 12:45 PM - 1:45 PM

Topic for discussion: The increase or decrease of an existing maintenance order:

- Discussion (with reference to case law) on when you may request the Court for an increase
 - Explanation of the term, “good cause”, as a requirement for variation of an order
 - Documents needed for a variation
 - Completion of the J107 application form for variation (either increase or decrease)
 - Detailing the process that needs to be followed for a variation
 - Discussion of the effect if an order is substituted by a new order (section 22)
 - Can a Maintenance Court override a High Court order when it comes to maintenance?
 - Brief discussion about the increase or decrease of a spousal maintenance order made by a Divorce Court
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HOW TO DEAL WITH PATERNITY DISPUTES (DNA)?

7 JUNE @ 12:45 PM - 1:45

This afternoon we are discussing how to deal with paternity disputes:

- Discussion of the position of paternity (DNA) tests
 - Case law and provisions of the Children’s Act that deals with paternity
 - Understanding how blood tests (DNA tests) work
 - Costs involved in paternity tests
 - Discussion of respondents using DNA tests as a means to delay maintenance payments
 - Can Maintenance Courts force the respondent to go for paternity tests?
 - What if the respondent refuses to go for DNA testing?
 - Can DNA tests be manipulated or changed by drinking muthi?
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WHAT TYPES OF ORDERS CAN THE COURT MAKE AND HOW AND WHAT ORDERS CAN BE APPEALED?

14 JUNE @ 12:45 PM - 1:45 PM

Up for discussion today are the types of orders that the magistrate may make and how to appeal against such orders:

- Discussion of section 16 of the different types of orders that a presiding officer may make
- Contemplating the question if a court make make an order pertaining to an amount in arrears except as provided for in sections 26 and 31?
- May a Maintenance Court make an order that the arrear amount must be written off?
- Can a court make an order that maintenance be deducted from a pension fund or from the benefits in a provident fund?

- Brief discussion of orders by default and orders by consent
 - How and when may an aggravated party appeal against an order made by the Maintenance Court?
 - Discussion of the orders that can be appealed against and orders that are excluded from appeal
 - Explanation of the process of appeal and the documents and time frames within which an appeal must be done
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HOW DOES CRIMINAL PROSECUTIONS WORK?

21 JUNE @ 12:45 PM - 1:45 PM

During lunch hour we will be discussing criminal prosecutions:

- A criminal offence if a person fails to comply with a maintenance order? Discussion of section 31
 - Case law on sentencing of maintenance defaulters
 - Is there any defense against a criminal charge for non-compliance with a court order?
 - Explanation of the elements of an offence that the State needs to prove
 - How will the State establish the element of a guilty mind of an accused by not paying maintenance?
 - How do you lay a criminal charge if the respondent fails to pay maintenance / are in arrears with maintenance
 - Discussion of section 305 of the Children's Act
 - Conversions of a criminal trial into a maintenance enquiry – when does this happen and why?
 - General discussion on the criminalization of maintenance defaulters
 - J165 and J50 warrants of arrest – detailed explanation
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HOW TO CONDUCT A MEDIATION IN MAINTENANCE ENQUIRIES?

28 JUNE @ 12:45 PM - 1:45 PM

Our Lunch and Learn topic for today is mediation in maintenance matters:

- Discussion of current legislation and the recommendations of the SA Law Reform Commission regarding mediation
 - What gets mediated in a maintenance matter?
 - Discussion of a typical mediation process and that to expect
 - Explanation of possible desired outcomes of mediation
 - Negotiation process used in maintenance mediation
 - General family law mediation discussion with an emphasis on new maintenance applications, defaulting or arrear respondents mediation and the intersection with domestic violence
 - Discussion on the qualification of private mediators and maintenance officers
 - Benefits of mediating maintenance matters vs litigation
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HOW TO DEAL WITH PARENTAL ALIENATION

5 JULY @ 12:45 PM - 1:45 PM

Our topic for today is parental alienation:

- Exploring the possible definitions of parental alienation
- Understanding the types, stages and intensity of parental alienation
- Discussion of case law on parental alienation
- Misconceptions about parental alienation

- Understanding behaviours of the alienated child, alienating parent and the rejected parent on context
 - Navigating parental alienation in maintenance matters
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SUBSISTENCE & TRAVEL ALLOWANCE, JURISDICTION AND INTER-PROVINCE APPLICATIONS

12 JULY @ 12:45 PM - 1:45 PM

Today we are discussing subsistence & travel allowances by Courts, jurisdictions of Courts and inter-province applications:

- Subsistence & travel allowance for applicants travelling to Court and having to take of work (discussion of section 11(1))
 - Will the Court pay the travel fees of the respondent or myself to come to court?
 - Discussion on how to establish jurisdiction of which court should be used for a maintenance application, increase- or a decrease application
 - Explanation, with practical examples, on how to conduct a maintenance enquiry where the respondent is living or working in another province
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HOW TO DEAL WITH EMPLOYERS REFUSING “GARNISHEE” ORDER & ENQUIRIES RELATING TO POPI

19 JULY @ 12:45 PM - 1:45 PM

Today we are discussing the remedies when employers refuse “garnishee” orders and issues relating to POPI:

- Explanation of how the emoluments attachment order (“garnishee”) process works
 - Service of the emoluments attachment order on employee and the effect thereof
 - Usual time periods for deductions (payment runs)
 - Non-compliance with an emoluments attachment order – how to report non-compliance and what will happen next
 - Duty and responsibilities of maintenance officers relating to non-compliance employees
 - Documents that needs to be completed and explanation of the process
 - Examples of court documents explained
 - **Issues relating to POPI – what does the law say?**
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HOW TO APPLY FOR AN INTERIM MAINTENANCE ORDER

2 AUGUST @ 12:45 PM - 1:45 PM

Today in our Lunch and Learn webinar we are discussing interim maintenance orders:

- Discussion of Form E (Regulation 8) interim maintenance order
- What is meant by an “interim maintenance order”?
- Which court may grant interim maintenance orders? Discussion of section 16(2)(a) and section 10(6)(b)
- Unreasonable remands / postponements and the request for interim maintenance orders
- Duty of maintenance officers when it comes to interim maintenance orders
- Discussion of relevant case law
- Explanation of consequences of non-compliance with an interim order
- Interim orders vs Final orders
- Useful tips and advice when it comes to the request for interim maintenance

HOW TO APPLY FOR INTERNATIONAL MAINTENANCE (REMO)

9 AUGUST @ 12:45 PM - 1:45 PM

International maintenance, where the respondent lives / works abroad is the Lunch and Learn topic for today:

- Discussion of the Reciprocal Enforcement of Maintenance Orders Act
 - Navigating step-by-step through the maze and paperwork of enforcing and applying for a maintenance order where the respondent is working or living outside South Africa (detailed explanation)
 - Discussion of the enquiry to make a provisional order against someone in a proclaimed country (section 8 of REMO) and procedures when provisional order is remitted back to the court of origin
 - Dealing with confirmations of provisional orders in proclaimed countries (section 4 of REMO)
 - Registration of final orders (section 3 of REMO and section 4 of Act 6/89)
 - Explanation of the process and all documents needed
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HOW AND WHEN DOES THE COURT CONVERT A CRIMINAL TRIAL TO A MAINTENANCE ENQUIRY?

16 AUGUST @ 12:45 PM

Today we are discussing the referral of a criminal matter back to Maintenance Court:

- Discussion of section 41
 - Explanation on when the Courts convert a criminal maintenance matter for an enquiry in the Maintenance Court
 - Evaluation of case law on conversions
 - What happens to the arrears (criminal case) if the matter is converted to a maintenance enquiry?
 - Discussion of offences and penalties in terms of the Maintenance Act (sections 31 – 39)
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HOW TO TRANSFER A MAINTENANCE FILE FROM ONE COURT TO ANOTHER?

23 AUGUST @ 12:45 PM - 1:45 PM

Lunch and Learn today discusses the transfer of maintenance files between Courts:

- Discussion of sections 23(1) and 19(a) and regulation 14
 - Circumstances under which a file could be transferred from one Court to another
 - Explanation of the internal procedure that the maintenance officer / clerk needs to follow
 - Discussion of the Application for Transfer
 - Reference to the DOJ Codified Instructions 26/2015 (paragraph 35)
 - Tips and advice of requesting the transfer of a maintenance file to avoid delays
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HOW ARE MAINTENANCE DEFAULTERS BLACKLISTED?

6 SEPTEMBER @ 12:45 PM - 1:45 PM

Today's discussion explains how maintenance defaulters are blacklisted:

- Circumstances under which defaulters are blacklisted
- Discussion of the controversy of blacklisting
- Discussion on the National Credit Act legislation that deals with blacklisting of maintenance orders

- Form W that needs to be completed and forwarded to credit bureaus
 - Guidelines and procedure for the furnishing of maintenance defaulter's details to credit bureaus
 - When can the defaulter's name be removed from the credit bureau?
 - What are the implications of blacklisting?
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HOW TO FILE A COMPLAINT IN TERMS OF SECTION 305 OF THE CHILDRENS ACT

13 SEPTEMBER @ 12:45 PM - 1:45 PM

In today's Lunch and Learn we are discussing section 305 of the Children's Act:

- Explanation of section 305 of the Children's Act (abandonment of a child)
 - Explanation of section 110 of the Children's Act (duty to report abuse)
 - Discussion of arguments that non-payment of maintenance amounts to abuse and neglect in terms of the Children's Act
 - Step-by-step guide on how to complete an affidavit to file at SAPS
 - What are the next steps that will be taken when FCS division of SAPS get involved and what might be possible outcomes?
 - Practical advice on how to use your rights in terms of the Children's Act when it comes to child maintenance
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HOW AND WHEN CAN A CONSENT ORDER BE GRANTED?

20 SEPTEMBER @ 12:45 PM - 1:45 PM

Topic for Lunch and Learn today is consent orders:

- Explanation of what a consent order is
 - Different forms to be used for different consent orders explained (J214 or J168)
 - Signing of the consent order by a respondent that lives in another province – how is it managed?
 - Duties of the maintenance officer defined when it comes to consent orders
 - Discussion of the relevant legislation (sections 17 and 16(1)(a)(1))
 - Example of a supplementary affidavit by the respondent that wishes to sign a consent order without the need to appear in court to have the maintenance order granted
 - Practical advice and tips for reaching an agreement by consent
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HOW TO COMPLAIN ABOUT AND ESCALATE YOUR MAINTENANCE MATTER?

4 OCTOBER @ 12:45 PM - 1:45 PM

Topic for today's Lunch and Learn webinar is complaints:

- Grounds for a complaint if your maintenance matter is taking too long with reference to section 10(6)
 - What is meant by "postponements are limited in number and duration"?
 - Discussion of the duties of the maintenance officer in terms of the DOJ Codified Instructions 26/2015
 - Explanation of Mthimunye v Minister of Justice and Constitutional Development 2014 JDR 1066 (GP) and the implications for maintenance officers
 - Guide on the process that a complainant needs to follow in order to expedite a maintenance matter
 - Practical examples and precedents of complaints lodged
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PARENTAL RIGHTS AND RESPONSIBILITIES OF MARRIED AND UNMARRIED FATHERS?

11 OCTOBER @ 12:45 PM - 1:45 PM

Topic for Lunch and Learn today is parental rights of married and unmarried fathers:

- General principles of parental rights as defined in the Children's Act
 - What is meant by "parental responsibilities and rights"?
 - How are parental responsibilities and rights obtained?
 - Discussion of the rights of a married father
 - Discussion of the rights of an unmarried father
 - Acquisition of parental responsibilities and rights defined and explained
 - Discussion of maintenance disputes of unmarried fathers and how it is dealt with
 - Brief reference to major decisions by one parent and visitation rights (this will be dealt with in a separate webinar)
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VARIOUS ASPECTS OF MAINTENANCE EXPLAINED

18 OCTOBER @ 12:45 PM - 1:45 PM

In today's Lunch and Learn we address numerous matters of importance:

- What is the prescribed procedure to ensure that parties and witness attend court to give evidence?
 - In terms of which section do you hold an enquiry in the Maintenance Court and why is there a difference between a section 6 and section 10 enquiry?
 - May the Family Advocate be involved at any stage?
 - Will parties have the right to legal representation?
 - Law of Evidence used in Maintenance Courts
 - What can happen if a witness has been summoned and he fails to put in an appearance on the due date at court?
 - Claim for a subsistence and traveling allowance
 - Must all evidence given at an enquiry be viva voce (orally)?
 - If the maintenance officer wants to use the written statement as evidence, what must he/she do?
 - Notification to admit statements by witnesses
 - How maintenance officers should assist an applicant where the respondent passed away
 - How to draft and what to include in founding and supplementary affidavits
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HOW TO OPPOSE AN APPLICATION FOR DECREASE WHERE THE RESPONDENT IS IN ARREARS

1 NOVEMBER @ 12:45 PM - 1:45 PM

Discussion for Lunch and Learn: the opposing of an application for decrease where the respondent is in arrears:

- When can an application for a decrease in maintenance be brought by the respondent?
- What are the grounds that the court would consider for a reduction in the maintenance amount?
- Detailed explanation of an affidavit to oppose the application of the respondent, considering the means of the respondent, the arrears and "good cause"
- What is meant by "good cause"?
- Discussion of important case law dealing with respondents in arrears and then bringing an application for reduction
- Discussion of CN v TN 2017 JDT 0951 (WCC)
- Discussion of SS v VV-S 2018 ZACC 5

- Example of a template affidavit will be discussed and supplied
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