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## **REPORT TO LSTC**

### **SUBJECT: ALLOCATION OF SENIOR LITIGATOR POSITION**

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#### **1. BACKGROUND**

At its meeting of the 25<sup>th</sup> February 2010, LSTC resolved that interested Regions should compile a written motivation providing reasons why the Senior Litigator position should be allocated to a particular Justice Centre. This position has become available after Kimberly Justice Centre declared it redundant. Two Regions raised an interest for the position being Limpopo/ Mpumalanga and the Eastern Cape. The motivation that follows is that of the Eastern Cape.

#### **2. MOTIVATION**

##### **2.1. History of the Eastern Cape**

The Eastern Cape was pre 1994 subdivided into three, namely, the Transkei, Ciskei and the Eastern Cape which fell within the Republic. Transkei and Ciskei were so called independent States. There were different laws governing the three "countries" until in 1994 when they were amalgamated into one. They are all currently referred to as the Eastern Cape.

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## 2.2. High Courts' Jurisdiction

There are four High Court seats in the Eastern Cape, namely, Port Elizabeth, Grahamstown, Bhisho and Mthatha. It is only Port Elizabeth that is a local Division and can thus not hear appeals. All the other three still operate independent of each other.

All High Court cases of the former Transkei area including those of Butterworth JC are being heard at Mthatha or Circuit Court coming from Mthatha.

We currently have one Senior Litigator who is stationed at Port Elizabeth. It is a huge challenge for this one person to provide support to the whole Region. Hereunder are distances from the nearest Justice Centres where the other three High Courts are based. The distances are calculated on a one way trip and all from Port Elizabeth where our Senior Litigator is based:

Name of Justice Centre	Name of High Court	Distance from PE
Mthatha	Mthatha HC	652
King Williamstown	Bhisho HC	264
Grahamstown	EC Provincial Division	130

## 2.3. Benefits at allocating position at Mthatha

Mthatha JC will support the whole Transkei area including Butterworth, Sterkspruit and parts of Queenstown.

It should be mentioned that Transkei still has the Transkei Penal code (equivalent but different to Criminal Procedure Act) together with Transkei Attorneys Act of 1934. These Acts operate parallel to other Acts in the Republic and need to be challenged.

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Transkei is very rural in nature and there is still a lot of abuse for citizens under the pretext of African Law. The case of King Dalindyabo wanting to secede the Thembu land from the Republic is a point of reference.

### **3. Recommendation**

It is recommended that the vacant position of Senior Litigator be allocated to Mthatha Justice Centre and that it supports the Justice Centres and areas mentioned on paragraph 2.3 above.

**Prepared by:**

**Eastern Cape**

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