

as an acting judge pending verification by him of the above. In this regard it is necessary to disclose that the GCB wrote to the Minister on 5 February 2010 with a request that he urgently address this issue but that as at the time of the release of this statement no response had been received.

The GCB believes very strongly that the employment of State

employees as acting judges undermines the independence of the judiciary.

*Patric M Mtshaulana SC, chairman*

*10 February 2010*



# Response to statement of Minister of Justice

The General Council of the Bar of South Africa (GCB) regrets the statement [made on 18 February 2010] by the Minister of Justice and Constitutional Development defending his appointment of serving public servants as acting judges. For the reasons given in the GCB's earlier correspondence to the Minister, the GCB considers that this stance is flawed. The Constitution contemplates a separation of powers, and the appointment of public servants to the judiciary is inimical to this.

The GCB has taken note of the indication in the Minister's statement that Adv Mpshe has requested the President to allow him to vacate his office, and the subsequent indication by the Minister's spokesperson that the President has granted that request. The GCB is, however, concerned, that in the Minister's statement he indicates that his decision to appoint Adv Mpshe as an acting judge would have remained the same regardless of whether or not Adv Mpshe was still an employee of the NPA.

The GCB has previously pledged its support to the Minister

and offered to work with him in addressing the challenge of delivery of legal services to the poor. We reiterate our pledge of support to the Minister. As in the present instance, however, we expect to differ with the Minister from time to time. When this happens, it is to be hoped that it will be recognised that this is because the GCB represents independent-minded lawyers, instead of its position being characterised as politically motivated. The GCB first raised this issue, through appropriate channels, at a Heads of Court meeting in September 2008, and again in correspondence with the Minister recently, to which it received no substantive response.

The GCB hopes to secure an urgent meeting with the Minister in order to discuss with him these important matters.

*Patric M Mtshaulana SC, chairman*

*19 February 2010*



## National Bar Examination Board



The National Bar Examination Board met on 7 November 2009 in Johannesburg.

Front left to right: Judge AN Jappie (moderator); Judge D Mlambo (moderator); Judge P Levinsohn (moderator); A Findlay SC (convenor); SCA President, Judge L Mpati; Judge WG Thring. Back: G Farber SC; AK Kissoon Singh SC; AJ Louw SC; NJ Treurnicht SC; JW Eksteen SC. Absent for photo : Judge MM Joffe, MSM Brassey SC.