

IN THE SUBORDINATE COURTS OF THE REPUBLIC OF SINGAPORE

REGISTRAR'S CIRCULAR NO. 6 OF 2013

**PILOT PROGRAMME FOR THE UTILISATION OF
THE CONCURRENT EXPERT EVIDENCE PROCEDURE
IN CIVIL TRIALS AND ASSESSMENT OF DAMAGES HEARINGS**

1. In view of the new Order 40A Rule 6 of the Rules of Court (Cap. 322, R5), the Civil Justice Division of the Subordinate Courts will be commencing a pilot programme to assess the extent to which the concurrent expert evidence (“**CEE**”) procedure could be successfully adopted in civil trials and assessment of damages (“**AD**”) hearings to admit expert evidence. The pilot programme will run from 2 January 2014 to 30 June 2014.

2. This Circular serves —

- (a) to designate the types of cases that are specifically targeted for the CEE procedure during the pilot programme;
- (b) to invite parties to such cases to utilise the CEE procedure; and
- (c) to set out —
 - (i) the factors to be considered by the parties when determining the suitability of the CEE procedure for their case; and
 - (ii) the additional procedures that will apply where the CEE procedure is adopted.

Targeted Cases

3. The following District Court cases (in which separate expert witnesses have been or will be appointed by the parties) are targeted for participation in the pilot programme (the “**Targeted Cases**”):

- (a) cases where the outcome would turn primarily on the expert issue(s);
- (b) cases where the expert testimonies are expected to take 2 or more days;
- (c) cases involving renovation and construction disputes;

- (d) cases where medical experts would be called (including personal injury and medical negligence cases), but excluding cases where the medical experts are from government hospitals;
- (e) cases involving financial or accounting experts; and
- (f) cases involving high value non-injury motor accident claims.

Consideration of the suitability of the CEE procedure by Parties

4. Counsel having conduct of Targeted Cases should consider the suitability of the CEE procedure —

- (a) in the case of civil trials, after attending summons for directions taken out pursuant to Order 25 of the Rules of Court; or
- (b) in the case of AD hearings, upon filing the Notice of Assessment of Damages (“**NOAD**”).

5. In any event, counsel in Targeted Cases should obtain their client’s instructions on whether the CEE procedure should be adopted prior to attending —

- (a) in the case of civil trials, the first pre-trial conference; or
- (b) in the case of AD hearings, the first Assessment of Damages Court Dispute Resolution Conference (“**ADC DR**”) or the Pre-Assessment of Damages Conference (“**PADC**”), as applicable,

(each, a “**PTC**”, and the presiding judge thereof, the “**PTC Judge**”).

6. In respect of Targeted Cases, the PTC Judge may, at any time, whether or not the case has been set down for trial or the NOAD has been filed (as the case may be), convene a PTC to discuss the suitability of the CEE procedure with the parties.

7. When considering whether or not to utilise CEE procedure, the following factors should, in particular, be considered:

- (a) the number, nature and complexity of the issues which are or will be the subject of expert evidence (“**expert issues**”);
- (b) the importance of the expert issues to the case as a whole;
- (c) the number of experts, their areas of expertise and their respective levels of expertise; and

- (d) the extent to which use of the CEE procedure is likely to —
 - (i) assist in clarifying or understanding the expert issues; and/or
 - (ii) save time and/or costs at the hearing.

8. Counsel in Targeted Cases must jointly prepare a Schedule of Expert Issues substantially in the form set out in Annex A before attending the PTC. The Schedule of Expert Issues should set out in brief —

- (a) a list of issues for which expert evidence will be adduced;
- (b) the number and identities of expert witnesses to be called by each party;
- (c) the parties' views on whether the CEE procedure will be suitable; and
- (d) the estimated duration required to complete the experts' testimonies, if the CEE procedure were not adopted.

9. Subject to paragraph 10, the PTC judge will, at the PTC, discuss the suitability of the CEE procedure with parties with reference to the Schedule of Expert Issues.

10. In cases where an ADCDR is held, the customary quantum indication to facilitate settlement discussions will continue to be given. Upon it being clear that parties are unable to settle and that an AD hearing will have to be scheduled, the PTC Judge and the parties will then discuss the suitability of the CEE procedure with reference to the Schedule of Expert Issues.

11. Parties to non-Targeted Cases may also, at a PTC, request to adopt the CEE procedure. In suitable cases, the PTC Judge may of his own motion invite parties' consider the appropriateness of the CEE procedure for such cases.

12. In every case, the CEE procedure will only be ordered by the PTC Judge if —

- (a) all parties consent to the adoption of the CEE procedure; and
- (b) the PTC Judge deems the case to be suitable for adopting the CEE procedure.

13. Where parties agree to adopt the CEE procedure, their consent will be recorded by the PTC Judge.

Additional Pre-trial Procedures and Directions where the CEE procedure would be utilised

14. Save as otherwise directed by the PTC Judge, the following directions will generally be given by the PTC Judge in cases where the CEE procedure will be utilised:

- (a) the PTC Judge will fix a date (half a day, generally) for a Special Confirmatory PTC before the assigned trial judge (the “**Trial Judge**”);
- (b) the PTC Judge will direct that the experts meet, in advance of the Special Confirmatory PTC, to prepare a Joint Expert Report, which must —
 - (i) substantially be in the form set out in Annex B; and
 - (ii) list out the expert issues that have been agreed, those that have not been agreed, and the reasons for the areas of disagreement.
- (c) the PTC Judge will also direct that Counsel jointly prepare a draft agreed agenda (“the **Agreed Agenda**”) for taking concurrent expert evidence (based upon the disputed expert issues set out in the Joint Expert Report) for the Trial Judge’s approval, and this **Agreed Agenda** must —
 - (i) substantially be in the form set out in Annex C; and
 - (ii) contain the following:
 - (A) a list of the disputed expert issues; and
 - (B) the sequence for addressing each disputed expert issue at the CEE session.
- (d) to ensure the efficient conduct of the Special Confirmatory PTC, Counsel shall provide the following documents to the Trial Judge within the time lines specified below:
 - (i) no later than 2 weeks before the date of the Special Confirmatory PTC –
 - (A) all affidavits and/or medical reports, including affidavits and/or medical reports of the experts (if not already provided);
 - (B) a brief overview of the case jointly prepared by both counsel, which overview must substantially be in the form set out in

Annex D and include a list of all factual, legal and expert issues raised (indicating which issues are agreed or disputed);

- (ii) no later than 2 working days before the date of the Special Confirmatory PTC–
 - (A) the Joint Expert Report; and
 - (B) the draft Agreed Agenda.
- (e) The Special Confirmatory PTC shall be a joint caucus between the Trial Judge, counsel, and the experts to, *inter alia*, agree on the list of disputed expert issues that will be dealt with at the CEE session (including the order in which they will be dealt with).
- (f) Upon agreeing on the final list of disputed expert issues, the draft Agreed Agenda shall be updated accordingly, and approved by the Trial Judge.
- (g) The Trial Judge will assign the trial dates once all preparatory work for the adoption of the CEE procedure have been completed.

15. The provisions of this Circular (including the accompanying forms) shall apply, with the necessary modifications, to suitable third party and other similar proceedings.

Study and Feedback

16. In order to obtain relevant feedback and data for the evaluation of the pilot project, the Civil Justice Division seeks the cooperation of Counsel and expert witnesses in completing a brief questionnaire at the completion of every trial in which the CEE procedure is adopted.

17. Another Registrar's Circular will be issued in due course on whether the pilot programme will continue to run after the initial 6-month period.

Dated this 4th day of December 2013.



JENNIFER MARIE
REGISTRAR
SUBORDINATE COURTS

APPENDIX A
(TO THE JOINT EXPERT REPORT)
LIST OF AGREED EXPERT ISSUES

<u>NO.</u>	<u>ISSUE</u>	<u>REASON(S)</u> <i>[Include cross-referencing to relevant section of relevant report, if appropriate]</i>	<u>SUPPORTING DOCUMENT</u> <i>[Include cross-referencing to relevant section of document, if relevant]</i>

APPENDIX B
(TO THE JOINT EXPERT REPORT)
LIST OF DISPUTED EXPERT ISSUES

	<u>ISSUE</u>	<u>PLAINTIFF</u>			<u>DEFENDANT</u>			<u>REASON FOR DIFFERENCE IN OPINION</u> <i>[E.g. Whether difference is due to different factual assumptions, or different conclusions reached]</i>
		<u>EXPERT'S POSITION</u>	<u>REASON(S)</u> <i>[Include cross-referencing to relevant section of Plaintiff's expert report, if relevant]</i>	<u>SUPPORTING DOCUMENTS</u> <i>[Include cross-referencing to relevant section of document, if relevant]</i>	<u>EXPERT'S POSITION</u>	<u>REASON(S)</u> <i>[Include cross-referencing to relevant section of Defendant's expert's report, if relevant]</i>	<u>SUPPORTING DOCUMENTS</u> <i>[Include cross-referencing to relevant section of document, if relevant]</i>	
1.								
2.								
3.								

ANNEX D

CASE OVERVIEW

(For the Special Confirmatory PTC in connection with the Concurrent Expert Evidence Pilot Programme)

Case No: _____ Special Confirmatory PTC Date: _____

Plaintiff's Counsel: _____ Defendant's Counsel: _____

1. Simple chronology of relevant facts [As far as possible, parties should agree on the facts]

S/no.	Timeline*	Event (if there is a dispute, please give both accounts)

* Date and/or time whichever is applicable

2. Outline of Cause of Action & Defences

S/no.	Plaintiff's cause of action*	Defendant's defence

* Adapt accordingly for counter-claim.

3. Agreed issues [As far as possible, parties should agree on the issues]

<u>Factual Issues</u> 1. 2.
<u>Legal Issues</u> 1. 2.
<u>Expert Issues</u> 1. 2.

4. Issues which are not agreed

	Plaintiff's issues raised	Defendant's issues raised
Factual Issues	1. 2.	1. 2.
Legal Issues	1. 2.	1. 2.
Expert Issues	1. 2.	1. 2.

SOLICITORS FOR PLAINTIFF

SOLICITORS FOR DEFENDANT