

IN THE SUBORDINATE COURTS OF THE REPUBLIC OF SINGAPORE

REGISTRAR'S CIRCULAR NO. 3 OF 2011

PILOT PROGRAMME FOR NEUTRAL EVALUATION AS AN ALTERNATIVE DISPUTE RESOLUTION ("ADR") OPTION

1 The Primary Dispute Resolution Centre (PDRC) at the Subordinate Courts has been convening ADR sessions pursuant to Order 34A of the Rules of Court for selected civil cases commenced in the Subordinate Courts. With effect from 17 October 2011, the PDRC will commence a pilot programme to introduce Neutral Evaluation ("NE", as described below) as a further ADR option (the "Pilot Programme"). In the conduct of the NE proceedings, the taking of expert evidence through either (a) a single joint expert approach; or (b) the expert witness conferencing approach, will also be explored.

2 NE will be extended to all civil cases except: (a) Non-Injury Motor Accident claims ("NIMA claims"); and (b) Personal Injury claims (not involving allegations of medical negligence) ("PI claims"), which will continue to be governed by paragraphs 151 and 151C of the Subordinate Courts Practice Directions (2006 Ed.) ("Subordinate Courts Practice Directions"). Indications on quantum and/or liability will continue to be given by the Primary Dispute Resolution Centre ("PDRC") in relation to NIMA claims and PI claims.

3 The Pilot Programme will run from 17 October 2011 to 16 April 2012.

4 A Deputy Registrar hearing a summons for direction may make a recommendation for suitable cases to be referred for NE. For the avoidance of doubt, parties may decline to proceed with the NE and elect to pursue other modes of ADR offered by the PDRC or proceed to trial.

Nature of Neutral Evaluation

5 NE involves the parties and their lawyers making succinct presentations of their case at a hearing (the "NE Hearing") to be presided over by a Judge (the "Evaluator"). As the NE process is explicitly evaluative in nature, the parties and their lawyers are expected to apprise the Evaluator of all key evidence available to them at that juncture. The Evaluator may at any time during the NE Hearing ask questions to clarify or probe any argument or evidence presented by the parties at the hearing. Where a case has been referred for NE with the parties' consent, the parties and their lawyers shall attend the NE Hearing.

6 Based on the arguments and evidence presented at the NE hearing, the Evaluator will deliver an evaluation of the relative merits of the parties' claims and/or defences at the conclusion of the hearing.

7 To ensure the smooth, expeditious and economical conduct of the NE proceedings, the following procedures will apply.

Preliminary Conference

8 Where a case has been referred for NE, PDRC will within 21 days from the date of referral schedule a Preliminary Conference (the “Preliminary Conference”) between the parties, their solicitors and a Judge of the PDRC to discuss all relevant issues regarding the conduct of the NE Hearing, including:

- (a) whether parties intend the outcome of the NE to be binding;
- (b) the key factual witnesses on each side who would be attending the NE Hearing (if any);
- (c) whether the affidavits of examination-in-chief of witnesses would be exchanged prior to the NE Hearing;
- (d) the manner by which expert evidence (if any) would be given;
- (e) the expected duration of the NE Hearing; and
- (f) the convenient dates for the NE Hearing.

Opening Statements

9 Solicitors for the parties shall deliver to the PDRC and all other parties their Opening Statements in the same format as that provided under Part VII of the Subordinate Courts Practice Directions at least 2 working days prior to the NE Hearing. The Opening Statements should be concisely written and should generally not exceed 10 pages.

10 Material documents relied upon by a party which would facilitate the NE Hearing should be exhibited to its Opening Statement.

Expert Evidence at NE Hearing

Single Joint Expert

11 Where expert evidence is required, parties should, as far as possible, agree to the appointment of a single joint expert in the relevant field to attend the NE Hearing.

12 Parties should, as far as possible, agree on the identity of the single joint expert in advance of the Preliminary Conference. Where required, the identity of the expert to be jointly appointed by the parties may be discussed at the Preliminary Conference.

Expert Witness Conferencing

13 Where parties do not agree to the appointment of a single joint expert, the parties may appoint their own experts. The experts shall in such an event confer in advance of the NE Hearing to narrow the list of issues that are not agreed among the experts. Expert evidence on the issues that are not agreed would be given by the parties’ respective experts in person or by live video conferencing at the NE Hearing using the expert witness conferencing approach.

15 Save as noted above, paragraph 25 of the Subordinate Courts Practice Directions shall apply with the necessary modifications to the conduct of the NE proceedings.

16 More information on NE and how expert witness conferencing will be conducted can be found at <http://www.subcourts.gov.sg> under “Quick links – Court Dispute Resolution”.

17 Another circular will be issued - as to whether the NE pilot will continue to run after the initial 6-month period.

Dated this 29th day of September 2011



JENNIFER MARIE
REGISTRAR
SUBORDINATE COURTS