

# APPENDIX B

## GUIDELINES FOR COURT DISPUTE RESOLUTION FOR NON-INJURY MOTOR ACCIDENT CLAIMS AND PERSONAL INJURY CLAIMS

### 1. Introduction

- 1.1 The State Courts Centre for Dispute Resolution provides Court Dispute Resolution (CDR) services for all civil matters. Two main processes – mediation and neutral evaluation – are used.
- 1.2 According to Practice Directions 37 and 38, all non-injury motor accident claims and personal injury claims are to proceed for CDR within 8 weeks after the Memorandum of Appearance has been filed.
- 1.3 Neutral evaluation will be used in the CDR sessions for these cases. This Appendix sets out the guidelines to be followed by solicitors.

### 2. Application

- 2.1 The guidelines in this Appendix shall apply to all writs for non-injury motor accident and personal injury claims that are filed in Court on or after 1st April 2016 and to all motor accident cases (whether or not involving any claim for personal injuries) and actions for personal injuries arising out of an industrial accident that are commenced in the High Court on or after 1<sup>st</sup> December 2016 and transferred to the District Court.

### 3. Date of CDR

- 3.1 As stated in Practice Directions 37(2) and 38(2), solicitors in these cases will receive a notice from the Court fixing the first CDR session.
- 3.2 A request for an adjournment of a CDR session shall be made *only* by filing a “Request for Refixing/Vacation of Hearing Dates” via the Electronic Filing Service.
- 3.3 The applicant must obtain the consent of the other parties to the adjournment, and list the dates that are unsuitable for all the parties.
- 3.4 The request must be made *not less than 2 working days before the date of the CDR*.

- 3.5 An adjournment of a CDR session will be granted only for good reason e.g. the solicitor is engaged in a trial or other hearing in the High Court or the State Courts, is away on in-camp training, is overseas, or on medical leave; or the party or his witness, if asked to attend, is out of the country or otherwise unavailable for good reason.
- 3.6 A CDR session from which one or all parties are absent without good reason will be counted as one CDR session.

#### **4. Attendance at CDR**

- 4.1 Only solicitors are required to attend CDR sessions. Their clients need not be present unless the Judge directs their attendance.
- 4.2 In certain cases, the Judge may direct the parties to attend subsequent CDR sessions. For instance, the drivers of the vehicles involved in a motor accident and eyewitnesses may be asked to be present at a later CDR session for the purpose of a more accurate neutral evaluation or to facilitate in negotiating a settlement.

#### **5. Preparation for CDR**

- 5.1 In all non-injury motor accident and personal injury claims, solicitors should exchange before the first CDR session, a list of all the relevant documents relating to both liability and quantum.
- 5.2 In addition, solicitors should exchange the following documents before the first CDR session:
- 5.2.1 For CDRs for **motor accident claims** -
- (a) Full and complete Singapore Accident Statements and police reports including the names, identity card numbers and addresses of all persons involved in the accident, together with type-written transcripts of their factual accounts of the accident;
  - (b) Police sketch plan and if unavailable, the parties' sketches of the accident;
  - (c) Results of police investigations or outcome of prosecution for traffic offence(s);
  - (d) Police vehicle damage reports;

- (e) Original, coloured copies or scanned photographs of damage to all vehicles;
- (f) Original, coloured copies or scanned photographs of the accident scene;
- (g) Video recording of the accident (if any);
- (h) Accident reconstruction report (if any);
- (i) Names and addresses of witnesses (if any);
- (j) Repairer's bill and evidence of payment;
- (k) Surveyor's report;
- (l) Excess bill or receipt;
- (m) Vehicle registration card;
- (n) COE/PARF certificates;
- (o) Rental agreement, invoice and receipt for rental of replacement vehicle (if any);
- (p) Correspondences with the defendant's insurer relating to pre-repair survey and/or post-repair inspection of the plaintiff's vehicle;
- (q) Any other supporting documents.

5.2.2 For CDRs for **personal injury claims** or where **personal injury forms part of the motor accident claim** -

- (a) Medical reports from the treating doctor, reviewing doctor and medical specialist;
- (b) Certificates for hospitalisation and medical leave;
- (c) Bills for medical treatment and evidence of payment;
- (d) Income tax notices of assessment and/or other evidence of income and loss thereof;

- (e) Supporting documents for all other expenses claimed (if any).

5.2.3 For CDRs for **industrial accidents** -

- (a) The parties' sketches of the accident;
- (b) Notice of accident lodged with the Ministry of Manpower;
- (c) Ministry of Manpower's investigation reports (if any);
- (d) Notice of Assessment from the Occupational Safety and Health Division, Ministry of Manpower (if any);
- (e) Outcome of prosecution (if any);
- (f) Original, coloured copies or scanned photographs of the accident scene;
- (g) Video recording of the accident (if any);
- (h) Names and addresses of witnesses (if any);
- (i) Any other supporting documents.

5.2.4 For CDRs for **any personal injury claim not involving motor accidents or industrial accidents** -

- (a) The parties' sketches of the accident;
- (b) Original, coloured copies or scanned photographs of the accident scene;
- (c) Video recording of the accident (if any);
- (d) Names and addresses of witnesses (if any);
- (e) Any other supporting documents.

5.3 ***Documents and instructions***

- 5.3.1 Solicitors shall endeavour to obtain from their clients all documents in good time for exchange between the parties before the first CDR session. They should also check that all documents needed for consideration of the claim are ready. If any *additional* documents apart from those

referred to in paragraph 5.2 are required, this shall be made known to the other party well before the CDR date. If a re-inspection of the other party's vehicle is required, it shall be conducted and the report exchanged before the first CDR session.

5.3.2 It is very important that solicitors take *full and complete* instructions from their respective clients before attending the CDR session. Before the CDR session, solicitors should evaluate with their clients the documents and reports and advise their clients on all the relevant aspects of their case.

5.3.3 Where a party is relying on the factual account of any witness in support of his case, a signed statement or Affidavit of Evidence-in-Chief should be procured from that witness and submitted to the Court at the first CDR session to enable the Court to be fully apprised of all the relevant evidence.

5.3.4 Insurers should notify their solicitors if, to their knowledge, other claims arising from the same accident have been filed in Court. Solicitors should assist the Court in identifying these related claims so that all the claims may be dealt with together at CDR sessions for a consistent outcome on liability. If an indication on liability has been given or interlocutory judgment has been entered in any related claim(s), solicitors should notify the Court accordingly and endeavour to resolve the remaining claims(s) on the same basis.

5.3.5 Third party proceedings, if any, should be commenced before the first CDR session.

5.4 To make the full use of CDR sessions, it is essential that solicitors be well prepared and familiar with their cases. This also applies to duty solicitors assigned by their firms to deal with the firm's cases on a particular day. Duty solicitors must receive their files in good time and with clear instructions from the solicitor in charge so that they can familiarise themselves with the cases, understand the basis of instructions (i.e. why a certain position is taken) and to act on them (e.g. to convey the clients' offer on quantum or liability to the opposing solicitor). Duty solicitors must, after the CDR session, ensure that they convey to the solicitor in charge, the rationale for the Judge's indication, the discussion at CDR sessions, and the follow-up action to be taken before the date of the next CDR session.

## 6. CDR Session

### *Claims subject to the simplified process under Order 108 of the Rules of Court*

- 6.1 All cases commenced by writ on or after 1st November 2014 in a Magistrate's Court and any case commenced by writ on or after 1st November 2014 in a District Court (where parties have filed their consent in Form 233 of Appendix A of the Rules of Court for Order 108 to apply) will be subject to the simplified process under Order 108 of the Rules of Court (Cap. 322, R 5).
- 6.2 The requirement for upfront discovery under Order 108 Rule 2(4) of the Rules of Court (Cap. 322, R 5) and Practice Direction 19 (Upfront discovery) apply to such cases.
- 6.3 These claims will continue to be called for CDR within 8 weeks after the filing of the memorandum of appearance. There will be no case management conference convened. The rest of the guidelines in Appendix B also apply to CDRs for these claims.
- 6.4 Where parties are unable to resolve the case through CDR, the Court will manage the case, having regard to the provisions in Order 108 Rule 5 of the Rules of Court, by, inter alia, —
  - (a) giving such directions as the Court thinks fit in order to ensure that the case progresses expeditiously (including directions for the list of witnesses to be called for trial, the appointment of a single joint expert where appropriate, the exchange and filing of Affidavits of Evidence-in-Chief and setting the matter down for trial);
  - (b) fixing timelines to manage and control the progress of the case; and
  - (c) taking such other action or making such other direction as the Court thinks appropriate in the circumstances including costs sanctions or unless orders.
- 6.5 Where any question requiring the evidence of an expert witness arises and parties are unable to agree on the expert to be appointed, the Court may, having regard to the provisions in Order 108, Rule 5(3) of the Rules of Court, appoint the expert for the parties at a CDR session. Each party is expected to furnish the following for the determination of the single joint expert:
  - (a) names and *curriculum vitae* of two experts the party considers suitable to appoint (for which purpose a party may nominate the expert who has

conducted an inspection, survey or review for him or provided him with medical treatment);

- (b) the fees charged by each nominated expert for preparing the report and attendance in Court;
- (c) the estimated time needed to prepare the report; and
- (d) whether the parties have complied with the pre-action protocol.

The Court will appoint the single joint expert after hearing submissions on the suitability or unsuitability of the nominated experts to be appointed.

### ***Indications on liability and quantum***

- 6.6 For NIMA and PIMA cases, the Court will provide an indication on liability if —
- (a) the factual matrix of the particular motor accident does not correspond substantially with any of the scenarios set out in the *Motor Accident Guide* (1<sup>st</sup> Edn., 2014 State Courts, Singapore) (“*Motor Accident Guide*”); or
  - (b) despite the parties’ reasonable efforts in resolving the question of liability through negotiation with reference to the *Motor Accident Guide* before the CDR session, no settlement has been reached.
- 6.7 Solicitors for all the parties seeking an indication on liability in NIMA and PIMA cases must submit a duly completed “Liability Indication Form (NIMA and PIMA Claims)” (see Form 9A) to the Court at the first CDR session. Except in cases where no corresponding scenario is provided for in the *Motor Accident Guide*, solicitors must specify in the Liability Indication Form the scenario(s) in the *Motor Accident Guide* that is/are relevant to the parties’ factual accounts of the accident and state their respective proposals on liability.
- 6.8 Solicitors for all parties seeking an indication on liability in industrial accident cases must submit a duly completed “Liability Indication Form (Industrial Accident Claims)” (see Form 9A(A)) to the Court at the first CDR session.
- 6.9 In CDR sessions for all personal injury claims, *except PIMA claims*, the Court will provide an indication on *both liability and quantum* of the claim. Solicitors for all the parties shall submit a duly completed “Quantum Indication Form” (see Form 9B) to the Court at the first CDR session.

- 6.10 In respect of PIMA cases, whether or not an indication on liability is given, the Court may, at its own discretion in appropriate cases or at solicitors' request, provide an indication on quantum. Solicitors requesting for an indication on quantum must obtain each other's consent before the CDR session, and submit the duly completed Quantum Indication Form (i.e. Form 9B) to the Court.

## **7. Help and Co-operation of Insurers in facilitating CDR**

- 7.1 Insurers play a key role in the success of CDR. CDR sessions are intended for substantive discussion of the issues. A CDR is unproductive if:

7.1.1 parties have not —

- (a) exchanged the relevant documents listed in paragraph 5; or
- (b) identified the scenario(s) in the *Motor Accident Guide* that is/are relevant to their respective factual accounts of the accident well before the CDR session to facilitate assessment and discussion of options;

7.1.2 one or more of the solicitors for the parties have not received or are still taking client's instructions; or

7.1.3 parties are still negotiating or are awaiting instructions upon a counter-offer.

## **8. Follow up action after CDR**

- 8.1 Solicitors must inform their clients of the outcome of a CDR session and render their advice quickly on the liability and/or quantum indications given by the Court. To facilitate settlement, solicitors should obtain their clients' instructions and make the necessary proposals or offers of settlement early to enable the other party to consider their position or proposal and respond before the next CDR date. Reasons shall be given for the position taken on liability and/or quantum so that the solicitors can inform the Court of the basis for their clients' mandate at the next CDR session.

- 8.2 Rather than refraining from taking a position on liability or insisting that agreement on liability is *contingent* on quantum being settled at a particular sum (as is sometimes the case), parties who are able to agree on the issue of liability but not quantum shall consider allowing an *Interlocutory Judgment* to be recorded for liability and proceed for assessment of damages. A hearing to assess damages is far less costly than a full trial.



## Form 9A(A)

### LIABILITY INDICATION FORM (INDUSTRIAL ACCIDENT CLAIMS)

Instructions: Where liability indication is required, this form is to be completed before the CDR session by all solicitors having conduct of the case.

Case Number: \_\_\_\_\_ Plaintiff's Counsel/Signature: \_\_\_\_\_

CDR Date: \_\_\_\_\_ Defendant's Counsel/Signature: \_\_\_\_\_

[Other Party's Counsel/Signature]: \_\_\_\_\_

<p>(1) Have all parties been brought in?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If no, which party is missing? _____</p>	<p>(2) Capacity of Defendant(s) – e.g. Work permit employer / occupier of worksite / sub-contractor etc :</p> <p>1st Defendant: _____ 2nd Defendant: _____ 3rd Defendant/3rd Party/4th &amp; Subsequent Party: _____</p>	<p>(3) Has prosecution been instituted?</p> <p><input type="checkbox"/> No <input type="checkbox"/> Yes</p> <p>Against which party? _____</p> <p>Outcome: _____</p>								
<p>(4) Was Notice of Accident lodged with MOM?</p> <p><input type="checkbox"/> No <input type="checkbox"/> Yes</p> <p>By which party? _____</p>	<p>(5) Are there scene / location photographs / video recording?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>(6) Is there a witness(es)?</p> <p><input type="checkbox"/> Yes Witness for: _____ Statement/SD/AEIC available: _____ <input type="checkbox"/> No</p>								
<p>Other relevant details</p>										
<p>(7) Nature of Accident:</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"><input type="checkbox"/> Fall from height, e.g. ladder, scaffoldings, building etc.</td> <td style="width: 50%; border: none;"><input type="checkbox"/> Act / omission of co-worker(s) / supervisors</td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> Lifting / hoisting / crane operations</td> <td style="border: none;"><input type="checkbox"/> Injuries caused by falling object(s)</td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> Injuries caused by tools / machinery / equipment</td> <td style="border: none;"><input type="checkbox"/> Injuries caused by burns / inflammable substances</td> </tr> <tr> <td style="border: none;"></td> <td style="border: none;"><input type="checkbox"/> Others - Please specify: _____</td> </tr> </table>			<input type="checkbox"/> Fall from height, e.g. ladder, scaffoldings, building etc.	<input type="checkbox"/> Act / omission of co-worker(s) / supervisors	<input type="checkbox"/> Lifting / hoisting / crane operations	<input type="checkbox"/> Injuries caused by falling object(s)	<input type="checkbox"/> Injuries caused by tools / machinery / equipment	<input type="checkbox"/> Injuries caused by burns / inflammable substances		<input type="checkbox"/> Others - Please specify: _____
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<input type="checkbox"/> Injuries caused by tools / machinery / equipment	<input type="checkbox"/> Injuries caused by burns / inflammable substances									
	<input type="checkbox"/> Others - Please specify: _____									
<p>(8) Applicable statutory provision(s): _____</p>										
<p>Plaintiff's Case</p>	<p>Defendant's/Other Party's Case</p>									
<p><i>Date and brief description of the Accident</i></p>										