

**LAUNCH OF THE PRIMARY JUSTICE PROJECT**

**9 MAY 2014**

**ADDRESS BY JUDICIAL COMMISSIONER SEE KEE OON**

**PRESIDING JUDGE OF THE STATE COURTS**

1. Good afternoon, distinguished guests, ladies and gentlemen. On behalf of the State Courts, welcome to the launch of the Primary Justice Project. I am delighted that you are able to join us today and I am honoured to be able to address all of you.

***The PJP and Enhancing Access to Justice***

2. Ensuring and enhancing access to justice has been the ethos of the State Courts. At the Litigation Conference last year, the Honourable the Chief Justice Sundaresh Menon highlighted two hurdles that often stand in the way of justice, namely, the high cost of litigation and the insufficient availability of information.<sup>1</sup> The Primary Justice Project (PJP) tackles both obstacles by setting up a panel of qualified lawyers who provide basic legal services for a fixed fee. The State Courts, Law Society and Community Justice Centre have jointly developed the details of this scheme in consultation with the Bar.

3. The PJP scheme sets out plainly the scope of services that will be provided by the Primary Justice lawyer to assist the parties in reaching an early

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<sup>1</sup> See Opening Address by CJ Sundaresh Menon at the Litigation Conference 2013 (31 January 2013)

resolution of their disputes without necessarily resorting to litigation. The Primary Justice lawyer may refer the dispute to Alternative Dispute Resolution processes such as mediation in the course of helping his or her client reach a resolution. This results in considerable cost savings for potential disputants at many levels. The transparency and affordability offered by the PJP will hopefully go a long way to enhance access to justice in our community.

4. The “Primary Justice Lawyer” is analogous to the affordable General Practitioner or Primary Healthcare Provider who serves as a viable option between self-medication and hospitalisation. The Primary Justice lawyer provides affordable basic legal services that offer an alternative to self-representation and costly litigation. Some litigants have, in recent years, resorted to self-representation because litigation costs may be prohibitive. Yet, for lay persons (and even highly educated ones), the struggle to understand technical legal rules and legal jargon is often an impediment to due process. They can be overwhelmed by the procedures and the demands of being in the unfamiliar environment of the courtroom, making it exceedingly challenging for them to adequately present their case. The PJP thus introduces into the justice ecosystem a new alternative, for parties who wish to avoid both potentially high legal fees as well as perplexing self-representation.

5. The PJP seeks to develop a panel of well-trained Primary Justice Lawyers who will provide paid, basic legal services geared towards pre-filing settlement

through negotiation or mediation. Unlike the common practice of exploring mediation only after the commencement of legal process, this scheme offers the opportunity for settlement via negotiation or mediation at the pre-filing stage. These lawyers, who are trained in ADR, will conduct the cases in a manner quite unlike the usual adversarial practice. Resources – such as a Directory of ADR Service Providers – are also readily available to the panel and the parties, to engage professional mediation bodies who can play the role of the neutral middleman in facilitating conflict resolution for the parties.

***Target group for civil claims and divorce-related ancillary matters***

6. The PJP will foreshadow the upcoming changes in the family and civil justice systems highlighted by the Chief Justice in his speech at the Opening of this Legal Year.<sup>2</sup> We hope to see the new Family Justice System moving towards being less adversarial and acrimonious for parties in distressed family situations. A more amicable approach towards resolving the differences and financial issues arising from a divorce is what the Primary Justice lawyer seeks to help parties achieve. The scheme provides an early opportunity for parties to work out their arrangements with as little judicial intervention as possible. It is thus beneficial for divorcing couples who desire to avoid an unpleasant litigious divorce and would like to preserve whatever goodwill remains in the relationship despite the breakdown of the marriage.

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<sup>2</sup> See Response by CJ Sundaresh Menon at the Opening of the Legal Year 2014 (3 January 2014)

7. The Chief Justice also expressed the need for ensuring proportionality in the cost of litigating lower-value civil claims. Changes will be made to the civil justice system to simplify the process for such claims. The PJP endeavours to further reduce legal costs for parties in such lower-value claims by encouraging pre-writ mediation for these cases. While the changes to the simplified civil trial process for such claims will lead to greater efficiency and hence reduced expenses for the parties, the PJP goes a step further to offer the parties an opportunity to stop short of entering the court system altogether. We hope that this will lead to even greater savings in time and costs.

### ***Impact of ADR and PJP***

8. At the Inaugural ADR Conference in 2012, former Chief Justice Chan Sek Keong shared the vision of nurturing “a culture of holistic resolution of disputes... within the community” that is “incorporated into individuals’ daily lives”. I am heartened to see that we are moving in the right direction in this regard. There has been a marked increase in the use of alternative approaches to dispute resolution outside the context of the courts. In December last year, the Singapore Mediation Centre reported a fourfold increase in mediation figures since 2005, from 50 to about 200 cases a year.<sup>3</sup> More consensual outcomes are being reached by parties without having to resort to litigation.

9. In some sense, this harks back to our Asian roots. In the early 19<sup>th</sup> century, local communities resolved conflicts through mediation, often by seeking out a

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<sup>3</sup> Chang Ai-Lien, “More choosing mediation over court”, Straits Times (24 December 2013)

well-regarded leader or elder of the community. Disputes among Chinese merchants were mediated by the clan associations. Litigation was not the first thought. Rather, it was the “alternative” mode of dispute resolution and the less favoured one. In the past, the need to preserve cordial relationships in more closely-knit communities coupled with a less rights-based philosophy meant that less confrontational approaches were preferred for conflict resolution.<sup>4</sup>

10. Today, Alternative Dispute Resolution, or Amicable Dispute Resolution is a central component in the delivery of justice within the State Courts. It has been articulated as the “first stop” for cases entering the court system. At the launch of the State Courts just two months ago, the Chief Justice announced plans to set up the State Courts Centre for Dispute Resolution (CDR). The State Courts CDR will provide greater integration and consolidation of the various efforts to promote and improve the quality of ADR services for the whole range of disputes that are dealt with by the Courts.<sup>5</sup> The PJP is thus moving in tandem with the State Courts’ direction of locating justice not only within but outside the courts, in order to build up a complete justice eco-system capable of meeting the varied needs of our society.

11. There is increasingly a shared belief that resolving disputes through mediation will bring about a less fractious and more harmonious society. We are heartened to note that in a recent public perception survey commissioned by the

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<sup>4</sup> Joel Lee and Teh Hwee Hwee, *An Asian Perspective on Mediation*

<sup>5</sup> See Keynote Address by CJ Sundaresh Menon at the State Courts Workplan 2014 (7 March 2014)

courts in late 2013, about nine in ten respondents surveyed either strongly agreed or agreed that the courts should focus on providing mediation and counselling. This reflects the strong and broad support for ADR in our society. Mediation has progressed from being a marginal activity of limited significance to becoming a major player on the dispute resolution landscape. Today, we have a wide range of mediation centres and service providers for practically all significant areas of commercial and social disputes. The quantity and quality of trained mediators in our local context continues to rise steadily, expanding well beyond the legal sector. Driven by a conviction for promoting amicable resolution of disputes, these mediators (many of whom are present today) often provide mediation services without charging market rates, motivated primarily by their desire to serve society. It can be said that mediation is in the process of being hardwired into our social consciousness.

12. The nation-wide move to promote amicable dispute resolution brings us closer towards the vision of a gracious society, maintaining harmony and cohesiveness. The PJP continues to nurture such a culture as it allows a prospective litigant to take the initiative through his lawyer in extending the olive branch. Potential claimants who come through the scheme do not start off in a combative mode with an antagonistic “letter of demand” but with an invitation to seek resolution before the conflict has the chance to escalate. It will be counter-cultural in that the “lawyer’s letter” that the potential defendant receives will not threaten the commencement of a law suit but rather extend an invitation for

peaceful negotiation. I believe that these are worthwhile seeds sown towards cultivating a more conciliatory society.

***Community Justice Centre's role in the PJP***

13. The State Courts have increasingly emphasised strengthening partnerships with our justice stakeholders in order to produce better and more holistic outcomes. The PJP typifies such a partnership. It has brought together the State Courts, the Law Society and the Community Justice Centre in designing a scheme where the legal and social sectors work together in collaboration to achieve holistic outcomes for the community.

14. Since the Community Justice Centre (CJC) was officially launched in March 2013, it has served more than 4,000 litigants-in-person. The CJC is well-placed to drive the scheme given the host of holistic solutions it has on hand to meet the diverse needs of litigants who come through their door. I am encouraged by the CJC's willingness to shoulder this project despite its limited resources. Administering the scheme will be challenging and potentially complex, especially given the amount of coordination work required. Yet, the staff and volunteers are gearing up to go the extra mile to take on this role. I am confident that the CJC will endeavour to ensure the success of the project.

### ***Law Society's role in the PJP***

15. The strong support and contribution of the Law Society to the project is also commendable. There has been an observable paradigm shift amongst legal practitioners in favour of amicable dispute resolution. The positive response and overwhelming sign-ups to the PJP from the Bar attest to this. This reflects a change in the mindset of lawyers relating to what they understand to be in their clients' best interests. Through the PJP, mediation is incorporated as part of the standard menu when advising clients, although for most of the lawyers on the panel, encouraging clients to consider mediation has already been a regular practice that is second nature. This is laudable especially when some lawyers may continue to view early settlement of disputes as a reduction of fee potential.

16. Those of you seated here today are the trailblazers leading the shifts in our society – lawyers who believe in the immense value of mediation and appreciate and understand your role in serving society. You recognise that this is a valuable opportunity to help render services to those in need of the legal knowledge and skills that you possess. All too often, many lawyers lament the fact that they meet people in pro bono legal clinics with genuine legal problems but their assistance is hampered by rules that prohibit them from doing anything further. The PJP opens another door for the lawyer to continue the journey to assist these people.



17. The criteria for admission as a Primary Justice lawyer necessitates that the lawyers on the panel are well-qualified not only in their legal practice but also in mediation or mediation advocacy. It takes more than a good lawyer to be able to carry out the work of the PJP. It also requires someone who has heart and head, with the right temperament and skills to encourage a collaborative spirit both among the parties and with opposing counsel. In a way, I see the PJP helping to foster a spirit of cooperation and collaboration among members of the Bar.

***Conclusion***

18. You may have already recognised that the Primary Justice Project is ambitious in seeking to shape and change our legal culture on more levels than one. But I have every confidence that with the level of commitment and enthusiasm displayed by all of you present here today, you will play your part effectively in becoming both advocates for change and agents of change.

19. Now, on behalf of the State Courts, CJC and the Law Society, I have the pleasure of officially launching the Primary Justice Project.