

## NEWSLETTER N° 3/21

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## SINGAPORE: CIVIL AND COMMERCIAL LITIGATION



The term “litigation” refers to have a trial in a court of law. There are three levels of courts in Singapore:

7 State Courts (which include the Magistrate’s Court and the District Courts).

7 High Court (where the monetary value of the matter being disputed is above SGD 250,000). The High Court exercise also appellate jurisdiction, in that it hears appeals from lower level courts and tribunals (such as Magistrate’s Court, District Courts, Small Claims

Tribunal and Employment Claim Tribunal). In High Court, typically a single judge presides.

7 Court of Appeal (it hears appeals from the High Court). In Court of Appeal, usually preside three judges.

Hereby, a brief summary of the procedure to follow in case of commencing a civil litigation proceedings in Singapore.

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**DIFFERENT TYPES OF LEGAL PROCEEDINGS**

Legal proceedings before the Courts stands in contrast to mediation, neutral evaluation<sup>1</sup>, and arbitration, which are often cheaper, alternative methods of dispute resolution.

Legal proceedings can generally be classified as follows.

- 7** Civil litigation: a party called the plaintiff (or claimant) initiates legal proceedings against a defendant, in order to pursue a claim. Both are generally private parties, and the State is not a party to the proceedings. Claims may include anything from tenancy disputes to corporate disputes.
- 7** Criminal litigation: the State, in the form of the Public Prosecutor, present the government's case against the defendant/criminal offenders.

**COURT DISPUTE RESOLUTION (CDR)**

Trials are not the only way to resolve your dispute. The State Courts usually encourage to explore alternative processes which may be more suitable to resolve a dispute. During the hearing for the summons for directions, CDR may be ordered by the judge. CDR includes alternative methods of dispute resolution, such as mediation, arbitration or neutral evaluation.

**CIVIL LITIGATION**

**1. Courts' Jurisdiction**

Court	Value of the claim	Exceptions
<i>Small Claims Tribunals (SCT)</i>	up to SGD 20,000	up to SGD 30,000 if both parties agree to raise the claim limit
<i>Magistrate's Court</i>	up to SGD 60,000	
<i>District Court</i>	up to SGD 250,000	up to SGD 500,000 in the case of road traffic accident claims or claims for personal injuries arising out of industrial accidents
<i>High Court General Division</i>	Above the jurisdiction of State Courts	

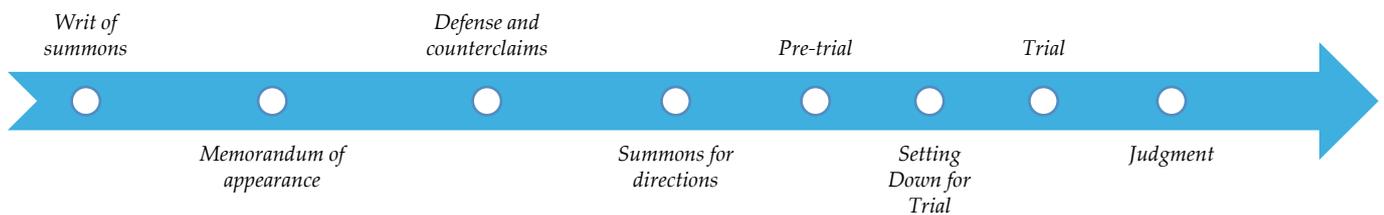
**2. Letter of demand**

Prior to the commencement of legal proceedings, the lawyer of the claimant may first send a letter of demand requiring the other party to comply with the claimant's demands or risk a lawsuit. A letter of demand is not a formal court document, and it does not start any formal legal proceedings; however issuing a letter of demand sends a clear and strong signal to the debtor that the matter has been referred to third party professionals, and that this is their last opportunity to resolve the matter amicably without having to resort to formal legal proceedings which will result in higher costs for all parties involved. In certain cases, letters of demands may be used in court proceedings to display previous attempts to recover monies owed.

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<sup>1</sup> In this case, both parties appoint an evaluator, who will be impartial like a mediator or judge. The evaluator will look at both sides of a case and tell you what the outcome would be if you took it to court. You can then progress your settlement negotiations with this in mind. The obvious benefit of ENE is that you get the certainty and clarity of a court ruling, whilst avoiding or reducing the cost of litigation.

**COMMENCEMENT OF A CIVIL ACTION**



**Writ of summons**

A writ of summons is a court document that commences legal proceedings and informs the defendant that the plaintiff has started civil proceedings against him in a court of law. It requires the defendant to enter an appearance if he wishes to dispute the claim. In most cases, a statement of claim will be appended to the writ. This statement sets out the material facts of the matter which gives rise to the plaintiff’s cause of action. The statement of claim must also include the relief sought by the plaintiff.

As above mentioned, a writ of summons is often preceded by a letter of demand setting out the claims against the recipient.

Writs may be served on a defendant outside of Singapore with the permission of the Court – this means that it is possible to sue a party located outside of Singapore.

**Memorandum of Appearance**

A defendant who has been served with a Writ of Summons must, if he wishes to contest the plaintiff's claim, inform both the Court and the plaintiff of his intention to do so by entering an appearance. He must file a memorandum of appearance in Court within 8 days after he has been served with the Writ of Summons.

**Defense/Counterclaim**

Within 22 days from the date the defendant was served with the Writ of Summons, the defendant must file his defense in Court and also serve a copy of his defense to the plaintiff. If a defendant alleges that he has any claim or is entitled to any relief or remedy against the plaintiff, he may make a counterclaim in the same action brought by the plaintiff. In such a case, the pleading is known as the defense and counterclaim.

**Summons for Directions**

After pleadings close (i.e. when the defense and reply have been exchanged), the plaintiff will take out a summons for directions.

This is generally where most of the evidence is exchanged between both parties, such as affidavits, number of witnesses, physical evidence, and also the estimated length of the trial.

**Interlocutory Applications**

After a civil action is commenced, it usually goes through various stages before the trial actually takes place. During the pre-trial stages, both parties have to comply with the requirements set out in the Rules of Court, for example, those relating to giving further details of the facts of one's case, the gathering and exchange of documents to prove one's case and the preparation and exchange of witness statements (by way of affidavits

of evidence-in-chief) which each party is relying on. In the course of preparing the case for trial during the pre-trial stages, each party may file interlocutory applications to the court. Examples of common interlocutory applications are:

- 7' Application for discovery of documents: through this process, the Court can order that parties disclose to each other the documents in their possession, custody or power which are relevant to the matter in dispute between them.
- 7' Application for the amendment of the various documents filed (e.g. the statement of claim, defense or reply) in relation to the matter in dispute.

### *Offer to settle*

A party to any proceedings may serve on any other party an offer to settle any one or more of the claims in the proceedings on the terms specified in the offer to settle. If the proceedings are settled, then the action may be discontinued or withdrawn

### *Affidavit and subpoena*

An **affidavit** is a signed statement made on oath (if the person making the affidavit is Christian) or on affirmation (if the person making the affidavit is not a Christian). It is a document a deponent makes voluntarily, setting out his personal knowledge or belief pertaining to a particular set of facts or events. The statements made in an affidavit by the deponent can be used in court as proof of what he has witnessed. Each party has to prepare, file, and exchange affidavits of evidence-in-chief of each of its witnesses. These are written sworn statements by the witnesses which will stand as their testimony at the trial and on which they will be cross-examined. The affidavits of evidence-in-chief are filed and exchanged before the trial.

A **subpoena** is a legal document requiring you to attend court, at an appointed date and time, to give evidence in a case as a witness. Subpoenas may be issued to ensure the attendance of witnesses at trial, failing which the affidavits they have submitted as evidence-in-chief will be rejected by the court.

### **Pre-Trial Conference (PTC)**

Pre-trial conferences are sessions with a Judge to confirm that all pre-trial matters and applications are dealt with before the matter proceeds for Trial.

### **Setting down for Trial**

After the pleadings (such as the statement of claim, defense, reply) have been filed and the various pre-trial matters have been dealt with (including the disclosure of all documents and other evidence to be relied on at the trial to support each party's case), and parties are ready for trial, the case must be set down for trial.

This is a necessary step which is to be taken by either party (usually the plaintiff) before an action goes to trial.

### **The Trial**

Trials are usually conducted by the lawyers representing the various parties. Alternatively, a party may choose not to be represented. In such a case, he is known as a litigant-in-person.

In most cases, the plaintiff's solicitors will open the plaintiff's case (unless the burden of proof is on the defendant) by addressing the court and the plaintiff's witnesses will take the stand first and be cross-examined. Each witness may be re-examined after his/her cross-examination has ended. After all the plaintiff's witnesses have given evidence, the plaintiff's case is closed.

It is then the turn of the defendant's witnesses to testify and be cross-examined and re-examined on their evidence.

After the defendant's witnesses have completed giving their testimony, parties will make closing submissions which may, depending on the Judge and complexity of the matter, be either oral or written.

**The Judgment**

The judgment is the decision of the Court at the conclusion of the trial. The Court may pronounce judgment immediately after listening to the closing submissions. Alternatively, the Court may adjourn the case to take more time to consider the evidence and arguments. In such an instance, the Court will inform the parties on a later date to attend before the Court for the delivery of judgment.

In certain cases, including personal injury claims, a Judge may grant judgment on the issue of liability but not make a ruling on the precise quantum of damages that has to be paid to the successful litigant by the other party. In such a case, the quantum of damages to be awarded is assessed by a Registrar in a hearing in chambers. The Registrar will hear evidence from appropriate parties, such as the injured plaintiff or medical experts, to determine the appropriate quantum of damages to be awarded.

**THE APPEAL PROCEEDINGS**

**Appeal to *High Court***

A party that is not satisfied with the judgment may file an appeal within 14 days from the pronouncement of the judgment. Before filing an appeal, the party should first ascertain if leave to appeal is required and obtain leave of the Court to appeal. Leave of the Court is required if the amount in dispute or the value of the subject-matter does not exceed \$60,000. (Leave of the Court refers effectively to the permission of the Court).

**Appeal to *District Court in Chambers***

A party who is not satisfied with the judgment, order or decision made by a Registrar, may file an appeal to a District Judge and the Appeal will be heard by a District Judge in chambers. No leave (permission) from the Court is needed to lodge such an appeal. The party lodging the appeal must serve a notice to every other party involved in the proceedings to attend before the District Judge on a specified date.

**Appeal to *High Court in Chambers***

A party who is not satisfied with the judgment, order or decision made by a District Judge in chambers, may file an appeal to a High Court Judge in chambers. Leave of the Court is required if the amount in dispute or the value of the subject-matter does not exceed \$ 50,000 The party lodging the appeal must serve a notice to every other party involved in the proceedings to attend before the High Court Judge on a specified date.

**THE ENFORCEMENT PROCEEDINGS**

Writs of Execution include Writs of Seizure and Sale of movable and immovable property, Writ of Delivery and Writ of Distress. These writs authorize the Bailiffs of the State Courts to enforce the unsatisfied judgment.

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