

2ND MEETING OF THE JDRN - SESSION 3
DELIVERING EFFECTIVE AND TIMELY JUSTICE TO THE PEOPLE
THROUGH THE JDR PROCESS
TUESDAY, 23 MAY 2023

DELIVERED BY PRINCIPAL DISTRICT JUDGE THIAN YEE SZE

Chief Justice Sundaresh Menon

Chief Judge Laura Swain

Fellow Delegates

This morning, I am going to share with you about the crucial role the JDR process has played in the State Courts of Singapore.

Rationale for institutionalising the JDR process as a core case management strategy

In Singapore, we have over the years, expended substantial energy, manpower and resources to develop our JDR structures and processes. The JDR process is an essential pillar of effective and timely justice; it is a necessary tool to ensure that the users of our court system obtain fair resolution of whatever disputes they are embroiled in, close to the starting point of the life cycle of the case as far as possible without being burdened by high transaction costs. In Singapore, JDR is at the forefront. We implement JDR right at the start at the inception of the case, so that there is proper channelling of disputes, ensuring that the most pertinent processes can be brought to bear early on before positions or attitudes are hardened and entrenched among parties. JDR is thus, for us, an essential

aspect of facilitating access to actual, real justice, rather than an ideal rarely seen in practice.

JDR is especially relevant in the State Courts, which deal with more than 80% of the case load in Singapore. A substantial portion of that consists of personal injury claims. This is thus an area of focus of our case management strategy. Another substantial area of work concerns civil disputes arising out of economic transactions, employer-employee relations and personal relationships which may have gone wrong for one reason or another. More than 12,000 cases are filed with our specialist courts and tribunals cluster each year. And in these disputes, more than 90% of the litigants are not represented by lawyers. They are often unfamiliar with the law and in navigating the justice process on their own.

To manage these types of cases effectively, the State Courts have institutionalised different aspects of the JDR process. I shall first deal with the management of personal injury cases, then touch on how we manage cases involving self-represented persons, and finally outline how we have leveraged on technology to support the JDR process.

For personal injury cases, pre-trial conferences or what we refer to as Court Dispute Resolution (or CDR) case conferences are automatically called by the court once it is indicated that the defendant will contest the claim. The case is then managed through the CDR process to the conclusion of the case through settlement, or if a case cannot be settled, until the matter is set down for trial. A very important feature of the CDR

process is the conduct of early neutral evaluation (ENE) by the case management judge to help the parties negotiate a settlement.

For the ENE process to be effective, the evaluation is conducted after the evidence to be relied on by parties, whether it is video footage, medical reports or witness statements, is made available. The evaluation can then be used as a realistic basis for settlement negotiations between the parties.

More than 80% of the cases which undergo the CDR process are effectively settled without trial.

As per the case in the Philippines, we are increasingly finding it more difficult to settle the cases as a result of the very extensive pre-action protocol and a lot of upstream interventions that the parties required such as mediation or dispute or settlement in one form or another.

While ENE is useful for personal injury cases, there are other types of cases for which mediation as opposed to ENE is more suitable. These include contractual disputes in which there is an ongoing, long-term relationship, as well as relational disputes such as harassment and neighbour conflicts. The judge overseeing that kind of case management can then refer parties to mediation, which is conducted either by a specialist group of judge-mediators in the State Courts or by our Court Volunteer Mediators (CVM).

JDR and managing self-represented persons

For self-represented persons, the focus of the case management strategy is to deliver justice through practical and proportionate means. To this end, we adopt a judge-led case management process to strive for a settlement of disputes without trial. And if a dispute cannot be settled, the judge will (i) identify the issues; (ii) identify the evidence required and (iii) narrow the areas of dispute between parties. This will ensure that the trial process involving these self-represented persons will be efficient and focused. Otherwise, they will meander into the less relevant areas.

A crucial enabler in the delivery of justice to the self-represented person is our online platform, the Community Justice and Tribunals System, or CJTS for short. Launched in 2017, the CJTS is an end-to-end electronic filing and case management system, with Online Dispute Resolution capabilities. The CJTS provides the public the convenience of filing a claim, making payments and managing cases online, and conducting hearings online, by video-conference, without the need for personal attendance in court.

As a matter of fact, the CJTS assists self-represented litigants even before he or she files the claim in court through the Pre-Filing e-Assessment process, which is really a self-help triage system that prompts the litigants to carefully consider various aspects of their case, including jurisdictional issues, whether they are suing the proper party and what evidence they may require to bring out their case.

A key feature of the CJTS is the e-Negotiation platform for parties to attempt a settlement of their dispute, on their own, by exchanging offers

and proposals asynchronously in a secure online environment. If an amicable resolution is reached, an order of court can be generated online, avoiding the attendance of parties. Similarly, we have the CJTS e-Mediation platform which allows the parties to engage the services of a mediator on our panel without charge, and they can then engage for online mediation.

Innovative use of technology to enhance the Court Dispute Resolution process

Aside from the CTJS for self-represented persons, we have also harnessed technology to enhance the way the CDR process is conducted.

(a) Asynchronous CDR hearings by email (aCDR)

In 2020, as a direct response to the Covid-19 pandemic, we introduced Asynchronous CDR hearings, or aCDR hearings for short.

Now, most of our CDR hearings are conducted online, asynchronously, by email. The lawyers will update on the progress of the case and make applications via email. The court will also respond via email, giving the appropriate directions. Most of the ENE is also conducted via email.

When we first introduced the idea of asynchronous hearings by email, we did face resistance from the lawyers. All these years, they are comfortable with pen and paper and very comfortable to have their day in court face to face before a judge. But because of the situation COVID 19, bringing

about the lockdown, it is a matter of necessity that we had to conduct our hearings online. And slowly but surely, we engaged the lawyers very actively and over a few months, we managed to get their support. One learning point arising from this is the importance to get stakeholder support. Otherwise, the system will not work.

Online Dispute Resolution (ODR) system for motor accident cases - MACO

Aside from introducing the asynchronous aCDR hearings, for motor accident claims, we have, in conjunction with the Singapore Academy of Law, developed the Motor Accident Claims Online (“MACO”), an outcome simulator to enable a litigant to obtain a computer-generated assessment on the apportionment of responsibility for the accident, and the likely award of monetary compensation for the injuries suffered. This provides a basis for the litigants to commence negotiations without the need to file a claim in court.

I would like to end my presentation by considering perhaps what we should think about in developing JDR further. A significant area to explore will be to examine the greater use of technology to ensure access to justice. As noted by Chief Justice Sundaresh Menon at the recent 3rd France-Singapore Symposium on Law and Business earlier this month, there is great promise in the use of Artificial Intelligence to support adjudication in simple civil cases, thereby speeding up the court process, lowering the cost of dispute resolution, and freeing up judicial resources. The appropriate use of AI will, I think, certainly pave the way to greater

access to justice. At the same time, it will be essential for the courts to take steps to ensure proper use of such AI, guarding against bias, hallucination by the AI machine or other errors. In fact quite recently, we had a self-represented litigant who came up with written submissions through ChatGPT, saying that all the case authorities were a little bit fictitious. Judges must also be trained to properly use such technology. While there will be undoubtedly be challenges, it is important for all of us to take these measures.

With that, I end my presentation. Thank you very much for your time.