

**IN THE STATE COURTS OF THE REPUBLIC OF SINGAPORE**

**REGISTRAR'S CIRCULAR NO. 4 OF 2017**

**PILOT PROGRAMME FOR THE CONDUCT OF "DOCUMENTS-ONLY" CIVIL TRIALS AND ASSESSMENTS OF DAMAGES**

1. The Civil Justice Division of the State Courts will be commencing a pilot programme to provide parties with the option of applying for a "Documents-Only" Civil Trial or Assessment of Damages ("Assessment"). This pilot programme will run from 11 December 2017 to 11 June 2018 (both dates included).
2. Essentially, "Documents-Only" Trials and Assessments are hearings in which the final determination of the case will be conducted entirely on the basis of —
  - (a) evidence tendered by way of Affidavits of Evidence-in-Chief ("AEICs");
  - (b) documents; and/or
  - (c) written submissions.
3. However, where requested by the parties, a hearing date will be fixed for them to make oral submissions in support of their respective cases. In the case of Trials, such submissions will be made in Open Court before the Trial Judge and in the case of Assessments, such submissions will be made in Chambers before the judicial officer hearing the Assessment.
4. The types of cases that are designated for the "Documents-Only" Civil Trials or Assessments and the additional steps and procedures that will apply for such cases are set out below.

**Designated Cases**

5. The following Magistrate's Court and District Court cases are designated for participation in the pilot programme:
  - (a) cases where the issues in dispute centre on the interpretation of documents;
  - (b) cases where the cross-examination of witnesses is not necessary either because there are no disputes of fact, and/or the parties agree to admit Affidavits of Evidence-in-Chief without the attendance of the witnesses (e.g. due to the simplicity of issues in dispute, the small value of the claim, or any other valid reason);
  - (c) cases where the Court may determine the dispute based on the existing contemporaneous documents without the testimony of witnesses;
  - (d) cases where the cross-examination of witnesses is not an option for the dispute in question (i.e. where the relevant witnesses are not willing and/or available to give evidence, for example, where an ex-employee is no longer with the relevant company, a third party witness refuses to provide evidence or attend court, or a witness can no longer be located or is ill or has died); and/or
  - (e) cases where the issues between parties can be determined entirely by legal submissions/arguments.

**Consideration of the suitability of a "Documents-Only" civil trial or assessment of damages**

6. Counsel should consider the suitability of their case for a "Documents-Only" Civil Trial or Assessment and obtain their respective clients' instructions prior to attending the following session:

- (a) in the case of Magistrates' Courts cases to which Order 108 of the Rules of Court (Cap. 322, R 5) applies, the first Case Management Conference ("CMC");
- (b) in the case of all other civil matters, the first Pre-Trial Conference ("PTC") convened under Order 34A of the Rules of Court after setting down; and
- (c) in the case of civil matters in the assessment of damages phase of proceedings, the first Assessment of Damages Court Dispute Resolution Conference ("ADCDR"), Pre-Assessment of Damages Conference ("PADC"), Pre-Trial Conference for Assessment of Damages ("AD-PTC") and/or Case Management Conference for Assessment of Damages ("AD-CMC") convened after the filing of the Notice of Appointment for Assessment of Damages.

7. The CMC/PTC/ADCDR/PADC/AD-PTC/AD-CMC judicial officer will discuss with parties the suitability of the case for a "Documents-Only" Trial or Assessment.

8. Where parties agree to a "Documents-Only" Trial or Assessment, they must personally execute and file the Request Form set out below in **Annex A** (Request for the Conduct of Documents-Only Trial or Assessment). Any Request Form that is executed by the solicitors on behalf of their clients will not be accepted.

9. In every case, a "Documents-Only" Trial or Assessment will only be ordered if —
- (a) all parties consent to the adoption of this mode of conduct of the Trial or Assessment;
  - (b) all parties personally execute and file the Request Forms recording their consent; and
  - (c) the CMC/PTC/ADCDR/PADC/AD-PTC/AD-CMC judicial officer deems the case to be suitable for a "Documents-Only" Trial or Assessment.

#### **Additional Directions for a "Documents-Only" Trial or Assessment**

10. Where parties agree to a "Documents-Only" Trial or Assessment, there are no changes to the pre-trial or pre-assessment processes until:

- (a) the PTC convened after setting down; and/or
- (b) the ADCDR, PADC, AD-PTC and AD-CMC convened after parties have filed their Notice of Appointment for the Assessment for Damages.

11. At the PTC convened after setting down, in addition to the usual directions given to parties for the filing of bundles, directions will be given for parties to file the following:

- (a) a Case Overview in **Annex B** below, setting out the factual and legal issues that they wish to be considered by the Trial Judge; and
- (b) their respective written submissions and Bundles of Authorities.

12. Where requested by the parties, a half-day hearing slot will also be given for them to make any oral submissions they wish to before the Trial Judge in Open Court.

13. At the ADCDR, PADC, AD-CMC and/or AD-PTC, in addition to the usual directions given to parties for the filing of bundles, directions will be given for parties to file the following:

- (a) a Case Overview in **Annex B** below, setting out the factual and legal issues that they wish to be considered by the judicial officer hearing the Assessment; and
- (b) their respective written submissions and Bundles of Authorities.

14. Where requested by the parties, a half-day hearing slot will also be given for parties to make any oral submissions they wish to before the judicial officer hearing the Assessment in Chambers.

15. In certain cases, where necessary, the Trial Judge or the judicial officer hearing the Assessment may issue further directions for the fair and effective conduct of the Trial or Assessment, including directions for the following matters:

- (a) that a further PTC be convened for counsel to address the Court on certain issues;
- (b) that further submissions and/or authorities be submitted by counsel/parties in writing or in person;
- (c) that the Trial or Assessment not be conducted on a Documents-Only basis as it appears on a review of the documents submitted that certain factual or expert witnesses will need to be called; and/or
- (d) any other matter that the Trial Judge or the judicial officer hearing the Assessment thinks necessary to be dealt with.

16. When the Trial Judge or the judicial officer hearing the Assessment Thereafter is ready to deliver judgment, a Registrar's Notice will be issued informing parties to appear in Court to receive the judgment. For Trials, judgments will be delivered in Open Court and for Assessments, judgments will be delivered in Chambers.

17. In order to obtain relevant feedback and data for the evaluation of the pilot project, the Civil Justice Division seeks the cooperation of Counsel in completing a brief questionnaire at the completion of every "Documents-Only" Civil Trial or Assessment.

18. Another Registrar's Circular will be issued in due course on whether the pilot programme will continue to run after the initial 6-month period.

Dated this 13th day of November 2017.



JENNIFER MARIE  
REGISTRAR  
STATE COURTS

# ANNEX A

## Form A

### FORM REQUESTING FOR TRIAL OR ASSESSMENT OF DAMAGES TO BE CONDUCTED ON A DOCUMENTS-ONLY BASIS

<b>Case details</b>	MC/DC* _____ / ____ (year)	SUM _____ / _____ (year)
<b>Parties</b>	Plaintiff	Defendant
<b>Nature of claim</b>	Tort	Defamation / Medical Negligence*
	Contract	Construction / Renovation / Supply of Goods & Services*
	Others (Specify)	
<b>Issues of Fact:</b>		
<b>Issues of Law:</b>		
<b>Particulars supporting request for Documents-Only Trial/Assessment of Damages</b>	<p><i>(Tick where applicable)</i></p> <p><input type="checkbox"/> Issues in dispute centre on the interpretation of documents</p> <p><input type="checkbox"/> Cross-examination is not necessary as:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> There are no disputes of fact</li> <li><input type="checkbox"/> Parties have agreed to admit AEICs without the attendance of witnesses due to <i>inter alia</i> the simplicity of the issues in dispute and/or the small value of the claim in dispute;</li> <li><input type="checkbox"/> The determination of existing disputes of fact can be made based on contemporaneous documentation alone; and/or</li> <li><input type="checkbox"/> Any other reasons:</li> </ul> <p>_____</p> <p>_____</p> <p>_____</p> <p><input type="checkbox"/> Cross-Examination is not an option for the present dispute because:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Relevant witnesses are not willing to give evidence;</li> </ul>	

		<ul style="list-style-type: none"> <li>▫ Relevant witnesses are not able to give evidence as they cannot be located/have passed away/are ill; and/or</li> <li>▫ Any other reasons:  <hr/>  <hr/>  <hr/></li> </ul> <p><input type="checkbox"/> The issues between parties can be resolved by legal submissions/arguments; and/or</p> <p><input type="checkbox"/> Any            other            good            reasons:  <hr/>  <hr/>  <hr/>  <hr/></p>
<p><b>Oral Submissions at Documents-Only Trial or Assessment</b></p>		<p><i>(Tick where applicable)</i></p> <p><u>Parties:</u></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Confirm that they do not require oral submissions to be made before the judicial officer hearing the Trial/Assessment for the present claim and will be proceeding on the basis of written submissions at Trial/Assessment; OR</li> <li><input type="checkbox"/> Request that a date be fixed for oral submissions to be made before the judicial officer hearing the Trial/Assessment for the present claim in addition to written submissions at Trial/Assessment.</li> </ul>

This document is filed:

- (a) To certify that we wish to conduct the Trial/Assessment of Damages in this present Suit on a Documents-Only basis as provided for in the Registrar's Circular No. 4 of 2017; and
- (b) To submit a request to the Court for the present dispute to be resolved solely by documents.

Having considered the nature and specific features of this dispute, it appears desirable and possible that our arguments be expressed only in writing and the facts which support them be proven only by the production of documents and/or Affidavits of Evidence in Chief.

We confirm that we are choosing not to exercise (our right to be personally heard, our right to have witnesses heard and/or our right to oral submissions)\* before this Court at the Trial or Assessment of Damages in the present Suit.

However, we do reserve the right at the appropriate juncture to make the necessary application to Court (if necessary) for the withdrawal of this Request and the waivers made in this Request should any of the factors listed above and/or the relevant facts or circumstances in the present dispute materially change as the present matter proceeds.

(\*Delete where not applicable)

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Signature of Plaintiff(s)/Defendant(s)\*

Name(s):

Date:

*\*Delete where inapplicable*

## ANNEX B

### CASE OVERVIEW

1. **Simple chronology of relevant facts** (as far as possible, parties should agree on the facts)

<u>S/no.</u>	<u>Timeline</u>	<u>Event (if there is a dispute, please give both accounts)</u>

2. **Outline of Cause of Action and Defences**

<u>S/no.</u>	<u>Timeline</u>	<u>Event (if there is a dispute, please give both accounts)</u>

- Adapt accordingly for counter-claim

3. **Agreed Issues** (as far as possible, parties should agree on the issues)

<u>S/No.</u>	<u>Issue</u>

4. **Issues which are not agreed**

<u>S/No.</u>	<u>Issue</u>

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**SOLICITORS FOR PLAINTIFF**

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**SOLICITORS FOR DEFENDANT**