

ALTERNATIVE DISPUTE RESOLUTION
IN SINGAPORE

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The Development of Alternative Dispute Resolution

Alternative Dispute Resolution or ADR encompasses various dispute processing techniques such as arbitration, mediation, mini-trial and other less formal processes.

Among the various ADR techniques, mediation has shown the most promise. It is often described as the 'sleeping giant' of ADR. The interest in mediation started as a result of the ADR movement which gained popularity in the United States in the 1970s. It has since attracted considerable interest, wide application and academic research in Australia, United Kingdom, and now in Singapore. Among other things, increasing concerns over costs, delays, loss of management time and long-term damage to commercial goodwill and relationship are some of the reasons that have encouraged the use and development of this new option for dispute resolution.

Mediation as a method of dispute settlement is not a new phenomenon. In most oriental cultures such as Japan and China, mediation has long been used as a means for resolving conflicts because of its emphasis on moral persuasion and maintaining harmony in human relationship. In Singapore, community elders and business leaders have often been approached to mediate in personal as well as business conflicts.

In the old days, the people living in villages or kampongs were usually a very closely knit group, but, as time passed and with the influence of the outside world, the kinship relationships gradually gave way to more contractual and 'less friendly' relationships.

In order to employ mediation to resolve conflicts and disputes among parties who are now less closely related, a more formalized approach would need to be adopted. A structured procedure to get the disputing parties to meet and to talk to a trained mediator is required.

COURT ADR IN SINGAPORE

The Honourable Chief Justice Yong Pung How in introducing Mediation to the Courts commented:

“ Perhaps, it is time for us to take a fresh look at the way by which disputes and conflicts are presently resolved. We should provide an alternative path to civil justice such as mediation in addition to the traditional adjudication path. Once a variety of dispute resolution mechanisms is put into place, we can begin to match the forum to the case instead of matching the case to the forum. This can be done by conducting an early assessment of the case at the filing stage during which the nature of the dispute, the relationship of the disputants and the nature of the relief sought are considered, before assigning the most appropriate forum by which the dispute can be resolved.

The distinguishing feature of mediation is that the parties themselves decide the outcome of their dispute. This is on terms acceptable to both of them, as opposed to the zero-sum outcome of the adjudication process, which is premised on the adversarial model of dispute resolution where the “winner takes all”. In the context of most Asian societies, this is particularly important as it ensures that no one

should come away with the feeling that he has lost face. The third party intervener does not impose a decision but uses the structured process to assist the parties. Because mediation emphasizes co-operative or what is termed as “win-win” solutions, it is useful in civil disputes. It is especially so in matrimonial disputes involving the division of matrimonial assets and the custody of children, as it avoids costly trials and possibly even more costly appeals thereafter. Mediation exists of course in many forms. But our own experience has shown that, once litigation has begun in the first heat of dispute, the possibility of early settlement is often precluded. This is because neither party is willing to offer to talk, lest this be thought by the other party to be a sign of weakness. An initiative by the court gets over this primary difficulty. This also allows settlement conferences to be held at the earliest possible stage of the proceedings so as to minimize costs.

Upon the direction of the Honourable Chief Justice Yong Pung How, the Subordinate Courts embarked upon Court Dispute Resolution (CDR) for civil cases which is an adaptation of the mediation process. CDR can be described as a process whereby the parties in a civil suit will attend a Settlement Conference to be presided by a Settlement Judge with a view to settle the case in dispute without having to go for a full trial. The Settlement Conference is presided by a

Settlement Judge who will discuss with the counsel for both parties on the issues in dispute and explore the various ways in which the matter could be resolved without a trial.

Where the parties are deadlocked after the initial discussion, the Settlement Judge will have a second discussion with each party separately. In this second discussion, the aspirations and expectations of each party are ascertained with an assurance by the Settlement Judge that the disclosures made will be kept in confidence from each party. Thereafter, the Settlement Judge will have a final discussion with both parties and suggest possible solutions to the conflict. The parties will then indicate whether they are prepared to resolve the matter and if so, the terms of settlement will be recorded by the Settlement Judge. The case is then taken off the hearing list. If the parties cannot resolve the matter, they will be informed that the case will proceed to trial as scheduled and will be heard before another judge.

CDR therefore provides an alternative remedy for the disposal of civil cases, thus saving time, substantial costs and court hearing days.

Singapore Court Mediation Model

In 1996, the Honourable Chief Justice Yong Pung How in calling for the development of a Singapore Mediation Model, commented on the salient features of CDR and the local culture of according respect to a Judge mediator:

“ Apart from introducing measures to ensure a responsive justice system, we have also in recent years been doing what we can to change community expectations about litigations as a solvent of problems. We have done this by encouraging mediation as an alternative to judicial adjudication, mainly in civil proceedings and matrimonial matters. There has been commendable success. We must now build upon this success. In the initial phase, we borrowed and adapted some of the mediation techniques of other jurisdictions where mediation was already well developed. For example, we experimented with the facilitative model which is widely used in Australia and the United States, and the evaluative model which Hong Kong and England use. As things stand, there is no universally accepted model of mediation. Neither is there a single model which can be transplanted here as cultures and values vary between different countries. We will have to develop for ourselves a model which suits our people and local circumstances, given our diverse ethnic and cultural backgrounds. We are already beginning to see our Court Dispute Resolution (CDR) mechanism evolve into a unique model where mediation is court-based and not court-annexed or where it is offered as an

alternative to dispute resolution outside the courts of law. The most obvious advantage of CDR is that it is a service which the courts provide at no extra charge. In court-annexed or private mediation, the users usually have to pay the mediator a time-based fee. In complex matters, this fee can be quite substantial. CDR is serving us well as a feedback from the litigants shows an overwhelming preference for a judge-mediator. He commands public confidence and respect which in turn makes him a more effective mediator. Over time, we should be able to develop and institutionalize within our justice system a Singapore model of mediation which can serve as a model for other court jurisdictions with similar ethnic and cultural diversities.

Following this call, a Singapore Court Mediation Model was set up with the following features:

1. It is Directive in Nature

Generally, mediation is facilitative or evaluative but in the case of Court Dispute Resolution (CDR), it is directive in nature. The mediator takes a more pro-active role by suggesting and guiding the parties with possible options but not to the extent of giving a definite opinion on the matter. The decision to resolve the dispute lies with the parties.

2. Court Based

The mediation is court-based ie only cases where the disputants have filed a Writ of Summons with the courts. At the close of the Pleadings stage, the cases will be referred to the Settlement Judge for mediation. Alternatively, the parties in dispute could write to the Primary Dispute Resolution Centre for a Settlement Conference.

3. Judge Mediator

The local culture place a high regard for persons of authority such as judges in the courts. They command public confidence and respect which in turn makes them more effective mediators. All civil and commercial cases are mediated by a Settlement Judge.

4. Language and Culture

The mediation sessions or settlement conferences are conducted in English. As the local population consists of different ethnic groups such as Chinese, Malay, Indians and others, interpreters are provided by the court to assist the parties so that no parties will be

at a disadvantage. Moreover, the court interpreters are trained in mediation too.

5. Accessibility and Speed

The essence of Court Dispute Resolution (CDR) is accessibility and speed. The mediation service is free and parties could request for a Settlement Conference to be convened within 24 hours in urgent cases. In all other cases, the period is 3 weeks.

6. Voluntary/Consensual in Nature/Flexibility

Court Dispute Resolution (CDR) is conducted on a voluntary basis. Any party can decide to opt out of the Settlement Conference.

The mediation process is consensual in nature. The mediator does not impose his will on the parties. Any terms of settlement reached must be with the consent of both parties, ie they must be satisfied with the arrangements made and agreed upon. Moreover, the parties can decide on the best terms of settlement.

7. Confidentiality

Matters discussed are kept in strict confidence as far as the law allows and disclosures made must be with the consent of the parties concerned.

8. Single or Co-Mediation

In the civil and commercial cases, mediation is conducted by a single mediator whereas in family court cases, mediation can either be mediated by a single or co-mediators such as a counsellor/mediator and a Judge.

9. Code of Ethics

Mediators have to comply with a Code of Ethics which covers areas relating to impartiality, neutrality, confidentiality, informed consent, conflict of interest and promptness.

The Philosophical Aspects of Mediation in the Singapore Judiciary

In his Keynote Address at the International Mediation Conference held in August 1997, the Honourable Chief Justice touched on the philosophy, practice and development of mediation. Courts must be able to provide an alternative to the traditional path of adjudication in resolving disputes. Mediation has emerged as the most powerful alternative dispute resolution process and it is in a constant

state of change, growing at a rapid pace and eventually, becoming institutionalized instead of organic development.

His Honour also raised issues on the quality and training of mediators as well as the control on the conduct of mediators. These are important issues which would determine the satisfaction of the users of mediation services. Other issues raised were accessibility and whether mediation should be voluntary or mandatory.

Singapore's approach is a court-based mediation process called Court Dispute Resolution (CDR). All actions and matters are screened first to determine the appropriate dispute resolution process, including CDR. However, even when they are referred to CDR, parties are allowed to opt out of it merely by notifying the court. In this sense, it is voluntary. This feature avoids some of the above concerns without taking away the benefits of having all civil actions mediated first before trial. CDR is provided at no charge as part of the justice process. Further, it is done by mediators who are either employed by, or volunteers with the court system.

The approach of the Singapore Supreme Court and Subordinate Courts is to encourage parties to mediate early, preferably in advance of litigation by

providing them with the financial incentives to do so. Instead of mandating mediation, parties are encouraged to use the Singapore Mediation Centre. In order to motivate parties, whose actions or matters have not commenced in the civil courts to mediate, both the Supreme Court and Subordinate Courts are prepared to waive or refund court hearing fees. This applies even when mediation has been tried and is unsuccessful. All that is required is a certificate from the Academy to the effect that parties have attempted mediation in good faith and have made reasonable efforts to resolve the matter by such means.

The Singapore judiciary has taken the lead and set the pace for the use of mediation as a dispute resolution process. Unlike some other court jurisdictions where it had its genesis as a diversionary measure to deal with backlogs and delays, our motivation was different as these problems were absent. Rather, we saw an opportunity to re-introduce into our culture a process to which it was no stranger. In fact Singapore's own mediation roots can be traced back to the early 19th century.

The courts, as the principal channel of justice could grow and nurture this process of dispute or conflict resolution. Over time, as its benefits become more apparent, it can spawn other efforts both within and beyond the legal community. This has in fact been the case. Court Dispute Resolution has grown from civil to

family, juvenile and some minor quasi-criminal matters involving relational disputes. CDR in turn has encouraged similar efforts in other directions such as peer mediation in schools and more recently, community mediation.

Mediation is both a dynamic process and a phenomenon which will continue its progress into the next century.

Structure

In terms of structure, we have the Court Mediation Centre in January 1995 to pull all the mediation processes in the Subordinate Courts together. It handles the mediation of civil, family, small claims and criminal matters (ie Relational Disputes and Juvenile matters).

The Court Mediation Centre provides training for the Court Mediators and organizes Seminars as well. The Centre manages the Court Support Groups which include volunteer mediators and counsellors at the Family/Juvenile Courts and the Small Claims Tribunals.

PRIMARY DISPUTE RESOLUTION CENTRE

In May 1998, the Court Mediation Centre was re-named the Primary Dispute Resolution Centre (PDRC). This is in line with the Honourable Chief Justice's Workplan Speech in April this year when he commented on the adoption of a Dispute Management Scheme. His Honour said:

“ One of the reforms I have noted is the emerging trend in some developed court jurisdictions to adopt a more comprehensive and all-embracing dispute management scheme in preference to the present alternative dispute resolution (ADR) mechanisms. ADR is essentially a delay or backlog reduction measure. But backlogs are happily no longer the situation in the Subordinate Courts. Costly and conflict-based adversarial litigation should only be a last resort. After all, the expense of litigation itself can often be a real bar to access to justice. By and large the members of the Bar here, to their credit, see the value of their civil disputes being settled early without adjudication.”

Our civil justice system will focus on dispute avoidance and dispute resolution mechanisms.

MULTI-DOOR COURTHOUSE

It was against this background that His Honour directed the establishment of a multi-door courthouse infrastructure that will pair a dispute within the jurisdiction of the Subordinate Courts with an appropriate solution forum. The implementation will be a pilot project initially and this took place in May 1998.

His Honour added that when the multi-door courthouse is established, “it will be first such multi-door courthouse in the Commonwealth and the Asia-Pacific region, and among only a handful in the world. The multi-door courthouse seeks to achieve the following:

- a) Increase public awareness of dispute resolution processes;
- b) Assist the public in locating suitable dispute resolution processes within the variegated justice system;
- c) Increase co-ordination among dispute resolution programmes in the Family and Juvenile Courts, the Court Mediation Centre, the Small Claims Tribunals, the Court Counselling Unit, the Family Protection Unit, the Registry Criminal Mediation and the Community Mediation Centres and the Family Services Centres;
- d) Offer a menu of high quality dispute resolution programmes to the public and members of the Bar;

- e) Assist the parties in selecting the most suitable dispute resolution mechanisms.”

A basic tenet of the Multi-Door Courthouse model is diagnostic screening and the subsequent channelling of cases entering or already filed in the court system. Screening may be categorical, individualised, or a combination of the two. Case typing will form the basis for establishing screening mechanisms. Categorical screening may be by case type, dispute resolution type, age of case, amount of claim, or other common factors. In individualised screening, each case is individually diagnosed for needs and appropriate dispute resolution referral. A combination of categorical and individual screening may be best in particular cases. For example, family cases may be screened for potential or actual violence to determine the appropriateness of a combination of dispute resolution processes. This will enhance the Subordinate Courts’ present justice delivery system by both broadening effective access to civil justice and through adopting a service-oriented triaging system for a finer granularity.

The Mutli-Door Courthouse (MDC) is progressing well and have handled a total of 2,044 cases.

The type of cases range from Civil Matters at 65%, Family Matters at 10%, Criminal Matters at 12%, Small Claims Tribunal cases at 12%, Juvenile Matters at 0.2% and general matters at 0.9%.

The Multi-Door Courthouse also conduct Meidation upon requests. It has completed 30 cases with 24 cases resolved.

The Multi-Door Courthouse embarked upon a Vulnerable Witness Support Progamme on 1 August 98. The programme's main objective is to provide emotional non-evidentiary and practical support to vulnerable persons who are victims or witnesses under the age of 16 years, or individuals with an intellectual capacity under the age of 16 years. With this support programme, the vulnerable witnesses will have confidence to testify in criminal cases. The participating agencies in the programme would be the Subordinate Courts, the Singapore Police Force and the Singapore Children's Society.

Another project which was introduced by the Multi-Door Courthouse was the Strengthening of Community Links by forming Strategic Partnerships with the police and other major social organizations to co-ordinate a comprehensive package of information to guide the public on how, where and when they can have their grievances attended to in the Judicial System. The

Multi-Door Courthouse has published a manual to achieve this objective ie Justice Users Referral and Information System (JURIS).

The public can also gain access to the services provided by the Multi-Door Courthouse through the Internet, ie web-page. Recently, a satellite MDC office was set up in the district of Marine Parade.

Flow of Cases

In 1992, the Subordinate Courts successfully experimented with a new concept of individual and group management of civil cases. Specific numbers of cases were assigned to individual judicial officers to be disposed of. These officers became directly responsible for the monitoring, control and disposal of their own cases. The scheduling of cases for hearing was left entirely within their discretion. The individual judicial officers would attempt to settle the cases if possible without the need for adjudication. When CDR was introduced in 1994, only cases with trial dates were fixed for Settlement Conferences. Eventually, it was moved earlier to cover cases after the Summons for Directions stage.

In 1996, the Differentiated Case Management Scheme (DCM) was implemented. The Honourable Chief Justice Yong Pung How commented that “Under DCM, cases will be assigned to different management tracks based on the

time line concept of caseflow management. For example, actions which are straightforward and which do not require much pre-trial activity will be placed on an express track. Normal civil cases and matters will be placed on the standard management track to be disposed of within 9 months from entry of appearance and within 6 months for those on the express track. Complex matters are placed on the Complex track which will be disposed within 12 months. In order to monitor the progress of a case along the assigned management track, macro events such as Status Conference and Case Evaluation Conference which are strategic monitoring events or milestones will be conducted. This differentiated case management will entail close and vigorous monitoring work by the registrars of the pace and progress of each action. With this refined case management system in place, it will allow us to identify those actions where the Settlement Conferences under the Court Dispute Resolution (CDR) scheme can be conducted at a much earlier stage. For example, CDR can be held soon after the close of pleadings when the issues in dispute have crystallized, instead of the Summons for Directions stage, as was previously the case. The earlier the settlement takes place, the greater would be the costs savings.

Pursuant to Practice Direction No. 4 of 1997, all cases which are filed in the Subordinate Courts on or after 1 August 1997 involving claims of between \$100,000 and \$250,000 and pending cases transferred from the High Court to the

Subordinate Courts, a special Pre-Trial Conference will be convened for such cases and parties would have to indicate whether they would like to proceed to the Singapore Mediation Centre for mediation and, if not, whether they are prepared to go for CDR in the Subordinate Courts.

Currently, CDR is voluntary except for claims which do not exceed \$30,000 and accident cases which are mandatory.

Approaches in CDR at the Primary Dispute Resolution Centre

At the moment, we have the following approaches :-

- 1) Early Neutral Evaluation;
- 2) Standard Mediation Approach ie identifying the interests and exploring possible options;
- 3) Binding and Non-Binding Evaluation;
- 4) Mediation-Arbitration;
- 5) CDR Conference (Mini-Trial); and
- 6) Co-Mediation with Experts in Specialised Areas.

COUNSELLING AND MEDIATION IN THE FAMILY COURT

A major objective of the Family Court in Singapore is to encourage couples with marital problems to resolve them amicably. This is done by Mediation and Counselling which form part of the overall caseload management of cases.

Counselling services are provided in cases with strong emotional content such as attempts made at reconciliation in a Divorce Petition, Custody and Access issues and Domestic Violence cases. Mediation sessions will be arranged in matters like Division of Matrimonial Asset, Maintenance and in Domestic Violence cases, a combination of Counselling and Mediation will be the preferred approach.

The Family Court places great importance in protecting Family Obligations ie Interest of the child, Maintenance and prevention of violence in the family. In this regard, a Legal Protection Unit was established to handle cases of Domestic Violence. The victims in such cases are referred to the Legal Protection Unit where Counsellors are on hand to ascertain from them whether there is a history of repeated violence or is it an isolated incident. If there is a history of repeated violence and another assault is imminent, the Counsellor will assist the

victim to apply for a Court Protection Order to restrain the offending spouse from further assaults. The Protection Order is a very effective instrument as the Court has the power to remand the offending spouse in prison. The Counsellor can also call for the attendance of the offending spouse for Counselling and Mediation in suitable cases where the violence is less severe and under control.

If the victim is injured and requires medical treatment, referrals can be made to the Medical Clinic within the Family Court's premises. The Legal Clinic is manned by volunteer doctors. If a victim requires shelter, the Family Court can refer them to Family Service Centres for assistance.

In situations where the aggrieved spouse is unable to afford a Counsel, the Family Court has a Legal Clinic which will provide them with legal advice. The Legal Clinic is run by volunteer lawyers.

Co-Mediation

In matters involving legal and emotional issues, Co-Mediation sessions are arranged with a Judge and Counsellor mediating together to provide an effective discussion on the best option to resolve the marital disputes.

Night Mediation

To assist those who are unable to attend Counselling/Mediation sessions in the day as they are working, the Family Court provides a Night Mediation/Counselling service to facilitate the attendance of working parties. The Night Mediation/Counselling services are provided by Judges, In-House and Volunteer Counsellors/Mediators.

MEDIATION IN CRIMINAL CASES

Mediation in Criminal cases are confined to relational disputes which are not severe in nature. Examples of such disputes would be simple assault, causing mischief by damaging property, creating a public nuisance and others.

In cases involving neighbours or the community, the Magistrate has a discretion to refer the disputes to the Community Mediation Centres for mediation.

JUVENILE COURT

In the Juvenile Court, Family Conferences are scheduled for suitable cases where the young offender has admitted to the crime and is prepared to be accountable for his acts. During the Family Conferencing, the Juvenile Court Judge, a Probation Officer, the Court Prosecutor, the victim, the offender, his

parents and his school teacher or principal (if he is a student) will be present. The victim will give an account of the impact of the crime in the presence of the parties. The objective is to let the young offender know that by committing the offence, he has caused suffering to another and feel a sense of remorse for the crime. The young offender can offer to pay compensation to the victim and he will have to come up with a resolution to change for the better. The Probation Officer, together with the offender's parents and school teacher/Principal will help him to re-integrate into society by engaging in constructive programmes such as community and charitable projects.

Peer Mediation

The Honourable Chief Justice Yong Pung How introduced Peer Mediation in April, 1997 as part of the preventive and restorative measures to meet the new challenges of juvenile crime. His Honour commented "Peer mediation encourages the use of non-adversarial conflict resolution. It is an effective alternative to violence and other forms of anti-social behaviour. It seeks not only to resolve conflict but also to restore the relationship of the contenders. This can evolve into lifetime skills. Besides reducing the need for court intervention, it can lead to a more conducive climate within the school and the community while preparing students to live in a country which emphasizes law and order".

In the Peer Mediation Programme, the students are trained as mediators (neutrals) between two or more of their peers, who are caught up in conflict and want to see it resolved constructively. Peer Mediation is based on the premise that although students may not be able to avoid conflict in their lives, they can choose to deal with it in a constructive and responsible manner.

The Peer Mediation programme enjoyed the support of the Ministry of Education in promoting and implementing Peer Mediation in secondary schools. To-date, a total of 82 secondary schools have been trained in Peer Mediation. The programme is carried out in 18 secondary schools and 6 more schools are expected to launch the programme by the end of 1999. In July 1998, the concept of Peer Mediation was introduced to primary schools. Unlike the secondary schools' Peer Mediation Programme which involves a proper sit-down discussion, the Primary Schools involve a "Conflict Manager Programme" where pairs of Conflict Managers (Teachers) move around the school playground during recess to settle minor conflicts among their peers.

Training for the mediators in the Secondary and Primary levels have been provided by the Subordinate Courts, Primary Dispute Resolution Centre and the Conflict Resolution Unlimited Institute. To-date, twenty primary schools have

already started the programme and 3 more primary schools have firm plans to launch the programme by the end of 1999.

SMALL CLAIMS TRIBUNALS

Mediation is available in the Small Claims Tribunals for claims which do not exceed \$10,000 for contracts in goods and services. The Mediation is conducted by In-House Mediators and Volunteer Mediators in the evenings. Consultations can be via telephone or video-link.

Number of Cases

Mediation has been a success as the statistics showed that for civil cases between 1995 to July 1998, a total of 7,557 cases were mediated with 7,075 cases settled. For Family Court cases between 1996 to July 98, a total of 22,703 cases were mediated with 17,373 cases settled. As for the Small Claims Tribunals, between 1996 to July 98, a total of 86,370 cases were mediated with 76,445 cases settled. For the relational dispute ie Magistrate's Complaints, between 1996 to July 98, a total of 2,671 cases were mediated with 1564 cases settled. Criminal mediation in the Juvenile Court ie Family Conferencing showed that more than 90% of the cases dealt with were successful as the juveniles in these cases have not committed any further offences.

Surveys

Between 16 – 22 Oct 1997, a survey was conducted to obtain the views of lawyers who have participated in the CDR process. The Survey findings showed that lawyers opt for CDR mainly because of faster settlement, saving of clients' money in terms of fees and the flexibility of possible range of solutions. Almost all (94%) were satisfied with the stage at which their cases were referred to CDR as it has allowed them to adequately prepare for settlement

80% of the lawyers indicated that if their case had not been referred for CDR, it would have terminated at a greater cost, on average 76% more. The majority agreed that the mediation process has indeed resulted in the savings of litigation costs, narrowing of issues and also a fair settlement.

A second survey was conducted between 16 Mar 98 to 11 April 1998 on the efficiency of CDR. 87% of the lawyers found that the time allocated were sufficient. The majority of the lawyers felt that they should bring their clients for CDR. More than half of the lawyers surveyed indicated that there should not be more than three Settlement Conferences for each case.

61% of the lawyers felt that there should be mandatory mediation for claims which are not more than \$30,000.

Court Support Group

Mediation in the Subordinate Courts is undertaken by Judges, Registrars, Magistrates, Trained Court Mediators, Counsellors and volunteer mediators. These mediators are trained mediators or counsellors and they are screened before they are appointed as volunteer mediators or counsellors. They would only deal with Family Court and Small Claims Tribunal cases.

Virtual Mediation

A system of 'virtual consultation' have been introduced at the Small Claims Tribunals. Telephone and video link-ups will enable the parties to participate in consultations more conveniently from a regional centre of their choice.

For the Mediation-Arbitration hearings at the Subordinate Courts, video-conferencing is used where it involves witnesses or parties in other countries. We have completed a case of this nature via Video Conferencing with the defendant in Norway and his counsel together with the rest of the other parties remaining in Singapore.

COURT DISPUTE RESOLUTION INTERNATIONAL (CDRI)

In April 1999, the Subordinate Courts introduced Court Dispute Resolution International (CDRI) which is Co-Mediation by Judges from Singapore and Foreign Jurisdictions by real-time video conference over a pre-arranged schedule and time duration.

This leverage the use of technology. The cases will be post-writ which are filed in Singapore and will be specially selected by the Primary Dispute Resolution Centre. The claims involved would be substantial and complex in nature covering Commercial and Intellectual Property matters. The mediation session will range between 1 – 2 hours. The documents for the case concerned will be despatched from Singapore to the foreign Settlement Judge way before hand for his perusal. Singapore will bear the costs of the video-conference and the equipments involved. The regularity of the Co-Mediation can be once or twice a month, depending on the time availability of the Judges.

The Co-Mediation will be confined to factual issues and the approach will be by Early Neutral Evaluation. If legal issues arise, the Singapore Settlement Judge will decide. The lawyers and their clients will be present during the Settlement Conference and the Settlement Judges from Singapore and the foreign jurisdiction will discuss and exchange views to work out a common approach

either in the presence of the parties or privately in a Judge to Judge caucus or a combination of both before and during mediation. For these reasons, we use Judge Mediators as Settlement Judges.

The Co-Mediation will be voluntary in nature and any settlement arrived at must be with the consent of the parties who will decide on the best terms of settlement.

It is intended that the mediation be conducted without any financial charges by the litigating parties or court fees. No fees will be charged for the services of the Settlement Judges.

Objectives of CDRI

The Co-Mediation by Judges from Singapore and Foreign Jurisdictions would promote better interaction in the sharing of experience and expertise. With this value added experience, the quality of mediation will be enhanced as it progresses to a level of excellence.

Currently, we have established CDRI Agreements with the Australian, American and Norwegian Courts.

Since the implementation of the CDRI Regime, five cases have been Co-Mediated by a Singapore Judge and a Judge from Western Australia. All the five cases were successfully settled. This is the first time in the world that cases are mediated cross-border via video link. A sixth case was likewise successfully settled in a Co-Mediation by a Judge from Singapore and a Judge from Oslo, Norway.

In the first case, *SKK (s) Pte Ltd v Perfect Building Construction Pte Ltd*, the Plaintiffs' claim against the Defendants for the sum of \$152,382.77 for painting works done to a 6-storey hotel in Singapore. The price for the work done was based on measurements of the total painting works done.

The Defendants disputed the Plaintiffs' claim on the ground that the price charged was excessive and unreasonable ie there was an overclaim for work done. In addition, the Defendants alleged that the work done contained defects which were not rectified and they had incurred a sum exceeding \$60,000 to engage other contractors to make good the defects which the Plaintiffs failed to rectify.

Both Judges considered the facts of the case and recommended that the parties should consider the Surveyors' report on the completed works based on measurements taken by the Surveyor. In addition, the parties were persuaded to

give consideration to the defects in the work done. The case was settled eventually after a combination of joint and separate meetings (caucus) with the parties. The Defendants agreed to pay \$68,000 to the Plaintiffs

In the second case, *Lim Hock Heng v Guthrie GTS Ltd and others*, the Plaintiffs purchased an Apartment in a resort development in Batam (Indonesia) upon the Defendant Developer's presentation that it would be a world class luxurious "island lifestyle resort". The resort was supposed to feature high rise apartment blocks each with its own swimming pool. However, no high rise apartment block or swimming pool was built at all. Likewise, it was supposed to have a 200 berth marina with first class facilities but no marina was built at all. Moreover, there was to be a modern resort hotel with 200 guest rooms and suites but no hotel was built at all.

The Defendant developers did not deny that the marina and hotel were not built but the resort was nevertheless, still a luxurious and enjoyable vacation home. They denied having made representations to the Plaintiffs on all the facilities in the resort home and that even if they were made, they were made honestly and not negligently.

With the assistance of the two Judges from Singapore and Western Australia, the matter was eventually resolved with the Defendants paying the Plaintiffs a certain percentage of the purchase price as damages.

For confidential reasons, the percentage of settlement cannot be disclosed.

In the third case between *Low Sui Song and another v Guthrie GTS Ltd and others*, the factual situation is identical to the second case as it involves the same Defendant Developers of the holiday resort in Batam (Indonesia). The Plaintiffs were claiming damages for misrepresentations made on the facilities at the resort which were not provided. Again, in this case, the parties settled the dispute amicably at a certain percentage of the purchase price of the apartment.

In the fourth case *HBF Showroom Pte Ltd v Wan Soh Har* and the fifth case *Decca Overseas (S) Ltd v Wan Soh Har*, the Plaintiffs were associate companies and were furniture manufacturers as well as designers of interior and exterior decoration of buildings. The Defendant in both cases was a shareholder and director in the plaintiff companies. The Defendant was paid \$5,000 per month to act as Managing Director of both the plaintiffs HF Showroom Pte Ltd and its associate company, Decca Overseas (S) Pte Ltd. The terms of the appointment were that the Defendant was to act in good faith and that he should

not divert any business meant for the plaintiff companies to other companies. Likewise, the Defendant is prohibited from rendering services in the course of business during his appointment with the plaintiffs to any parties other than the plaintiffs. In breach of the terms of his appointment, the Defendant was engaged in helping other companies to draft proposals for projects which could be handled by the plaintiffs. In the process of helping other companies, the Defendant had divulged confidential information and trade secrets which he had acquired from the plaintiffs to other companies. The cases were settled with the defendant's agreement to be removed as the Managing Director of the plaintiff companies and an undertaking to recover losses incurred and whatever confidential documents which were taken out from the plaintiff companies.

In the sixth case between *C.H.K. Pte Ltd* v. *Kheng Leong Textiles Co.*, it involves a claim by the plaintiff for the sale of textiles for a sum of \$199,436.47 cents. The Defendants contend that some of the textiles were defective. The parties eventually settled their dispute at \$114,000.

THE SINGAPORE MEDIATION CENTRE

The Singapore Mediation Centre is a non-profit entity which is supported by the Supreme and Subordinate Courts of Singapore. It is dedicated to

promoting the amicable and fair resolution of disputes. It is engaged in Providing Mediation and other related services, Training on negotiation, mediation and other Alternative Dispute Resolution (ADR) mechanisms, Accrediting and maintaining a Panel of Mediators to ensure quality, Engaging in consultancy services for dispute avoidance, dispute management and ADR mechanisms, and educating the next generation on methods of conflict avoidance and resolution.

COMMUNITY MEDIATION CENTRE

Community Mediation Centres have been established in Singapore to resolve social and community disputes. Two Centres have begun operation with a Panel of Volunteer Mediators who are drawn from the Community and professionals. More Centres will be set up in the near future.

SINGAPORE INTERNATIONAL ARBITRATION CENTRE

The Singapore International Arbitration Centre was incorporated in March 1990 and it started operations in July 1991. By and large, it deals with trade and commercial disputes. Arbitration is conducted by a Panel of Accredited Arbitrators upon payment of arbitration fees.

OTHER MEDIATION BODIES

There are many Mediation Bodies offering mediation services in their respective areas in Singapore. They are the Consumer Association of Singapore, Tribunal for the Maintenance of Parents, Institute of Estate Agents, The National Association of Travel Agents Singapore, Industrial Arbitration Court, Syariah Court, Renovation and Decoration Advisory Centre and the Singapore Institute of Architects.

CONCLUSION

ADR is well-established in Singapore and it is gaining momentum at a rapid pace. More people are being trained in ADR and this augurs well for the future.

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