

IN THE STATE COURTS OF THE REPUBLIC OF SINGAPORE
PRACTICE DIRECTIONS
AMENDMENT NO. 7 OF 2015

It is hereby notified for general information that, with effect from 1st August 2015, the State Courts Practice Directions will be amended as follows:

- (a) the following new Practice Direction will be inserted immediately after the existing Practice Direction 60:

New Practice Direction 60A

- (b) the following new Form will be inserted immediately after the existing Form 12 in Appendix A:

New Form 12A of Appendix A

2. The new Practice Direction 60A sets out the requirements for the use of the concurrent expert evidence procedure (the “CEE Procedure”) under Order 40A, Rule 6 of the Rules of Court (Cap. 322, R5) in civil trials and assessment of damages (“AD”) hearings in which expert evidence needs to be given.

3. The CEE procedure, which applies by consent of the parties, serves to help them save time and costs by providing for a pre-trial discussion between the experts so as to narrow the expert issues in dispute, and by allowing the experts to testify concurrently in the presence of one another. In this way, the procedure also facilitates a fair and candid exchange of opinions by the experts which can be rigorously tested in real time.

4. By virtue of the new Practice Direction 60A —

- (a) the application of the CEE procedure will extend to —
- (i) all District Court cases;
 - (ii) all Magistrate Court cases commenced before 1st November 2014, and to which Order 108 of the Rules of Court does not apply; and
 - (iii) all Magistrate Court cases commenced on or after 1st November 2014 in which appointment of separate expert witnesses by the parties are permitted under Order 108 of the Rules of Court; and

- (b) the CEE procedure will be streamlined and simplified so as to —
- (i) require only one additional document – viz the Joint Expert Report, to be filed by the parties’ expert witnesses;
 - (ii) facilitate more efficient use of the experts’ time and attendance in court and provide for sufficient flexibility for their discussions towards the preparation of the Joint Expert Report; and
 - (iii) allow the Court to more sensitively customise its directions according to the circumstances and needs of each case.

Dated this 27th day of July 2015.



JENNIFER MARIE
REGISTRAR
STATE COURTS

60A. Utilisation of the Concurrent Expert Evidence Procedure

- (1) Parties to the following civil trials and assessment of damages (“AD”) hearings in which separate expert witnesses will be appointed by the parties, should consider using the Concurrent Expert Evidence Procedure (the “CEE procedure”) under Order 40A, Rule 6 of the Rules of Court (Cap. 322, R5) in accordance with the provisions of this Practice Direction. The aforementioned civil trials and AD hearings are:
 - (a) all District Court cases;
 - (b) all Magistrate Court cases commenced before 1st November 2014, and to which Order 108 of the Rules of Court does not apply; and
 - (c) all Magistrate Court cases commenced on or after 1st November 2014 in which appointment of separate expert witnesses by the parties are permitted under Order 108 of the Rules of Court.
- (2) Adoption of the CEE procedure is by consent of the parties.

Factors to consider when assessing the suitability of the CEE procedure

- (3) When considering whether or not to utilise the CEE procedure, parties should consider the following factors:
 - (a) the number, nature and complexity of the issues which are or will be the subject of expert evidence (“expert issues”);
 - (b) the importance of the expert issues to the case as a whole;
 - (c) the number of experts, their areas of expertise and their respective levels of expertise; and
 - (d) the extent to which the use of the CEE procedure is likely to —
 - (i) assist in clarifying or understanding the expert issues; and/or
 - (ii) save time and/or costs at the hearing.

Stage of proceedings when CEE should be considered

- (4) Counsel should consider the suitability of the CEE procedure once a decision has been made to appoint separate experts for the trial or AD hearing.

- (5) Counsel should, in any case, have obtained their client's instructions on whether the CEE procedure would be adopted prior to attending —
 - (a) in the case of civil trials, the first pre-trial conference after set down; or
 - (b) in the case of AD hearings, the Assessment of Damages Court Dispute Resolution Conference (“ADCDR”) or the Pre-Assessment of Damages Conference (“PADC”) or Assessment of Damages pre-trial conference (“AD-PTC”), as applicable, after the Notice of Appointment for Assessment of Damages is filed.

(Note: the above conferences will be referred to as “PTCs”, and the respective presiding judges as “PTC Judges”.)
- (6) In cases where an ADCDR is held, the customary quantum indication to facilitate settlement discussions will continue to be given. Upon it being clear that parties are unable to settle and that an AD hearing will have to be scheduled, the PTC Judge and the parties will then discuss the suitability of the CEE procedure.
- (7) In every case, the CEE procedure will only be ordered by the PTC Judge if —
 - (a) all parties consent to the adoption of the CEE procedure; and
 - (b) the PTC Judge considers the case to be suitable for adopting the CEE procedure.

Procedures at Civil Trials where parties agree to use the CEE procedure

- (8) The PTC Judge will fix a date (half a day, generally) for counsel to attend a Special Confirmatory PTC before an assigned trial judge (the “Trial Judge”).
- (9) Counsel shall submit to the Trial Judge, in hard copy, a bundle containing the affidavits of all factual and expert witnesses that will be called at the trial (including medical reports, where relevant) no later than one week before the date of the initial Special Confirmatory PTC.
- (10) At the initial Special Confirmatory PTC, the Trial Judge will discuss the following matters with counsel:
 - (a) the list of expert issues as contained in the expert witnesses' affidavits and/or reports on which the experts disagree (the “List of Disputed Expert Issues”);
 - (b) the extent to which the List of Disputed Expert Issues may be narrowed;

- (c) any further issues which the experts ought to address; and
 - (d) the form which the Joint Expert Report should take, so as to ensure the efficient conduct of the CEE session.
- (11) At the end of the initial Special Confirmatory PTC, the Trial Judge may make one or more of the following directions:
- (a) that the experts are to discuss the List of Disputed Expert Issues so as to attempt to narrow the issues in dispute (and for this purpose, the experts' discussion may take place via face-to-face meetings, video or teleconference, or by such other means as may be expedient);
 - (b) that the experts are to file in court a joint expert report which should substantially be in Form 12A in Appendix A of these Practice Directions, or in such other form as may be allowed by the Trial Judge in the interest of expediency (the "Joint Expert Report"), after the experts' discussion, and in any case the Joint Expert Report should list out the expert issues that have been agreed, those that have not been agreed, and the reasons for the areas of disagreement;
 - (c) that the Joint Expert Report is to be filed in court no later than 4 weeks after the date of the initial Special Confirmatory PTC; and
 - (d) that a second Special Confirmatory PTC is to be scheduled on or around 4 weeks after the date of the initial Special Confirmatory PTC.
- (12) At the second Special Confirmatory PTC, Counsel shall report to the Trial Judge on the status of the preparation of the Joint Expert Report. The Trial Judge will then make one of the following orders:
- (a) if the Joint Expert Report is ready, the Trial Judge will —
 - (i) discuss with the parties the sequence in which disputed expert issues will be dealt with at the CEE session; and
 - (ii) assign trial dates; and
 - (b) if the Joint Expert Report is not ready, the Trial Judge may adjourn the case for a further Special Confirmatory PTC.

Procedures in AD Hearings where parties agree to the CEE procedure

- (13) For AD hearings, at the ADCDR, AD-PTC or PADC, the Court will, on a case by case basis, make one or more of the following directions, as appropriate:
- (a) that counsel, the parties or the experts are to compile and file Annex 1 (List of Agreed Expert Issues) and/or Annex 2 (List of Disputed Expert Issues) of the Joint Expert Report based on the parties' respective expert's report(s) prior to the date of the AD hearing;
 - (b) that the experts are to discuss the List of Disputed Expert Issues so as to attempt to narrow the issues in dispute (for which purpose the experts' discussion may take place via face-to-face meetings, video or teleconference, or by such other means as may be expedient);
 - (c) that the experts are to file a Joint Expert Report after a joint experts' discussion prior to the date of the AD hearing, which Joint Expert Report should list out the expert issues that have been agreed, those that have not been agreed, and the reasons for the areas of disagreement; or
 - (d) any other directions as will ensure a cost effective and expedient conduct of the AD hearing.
- (14) The Deputy Registrar hearing the AD may, on a case by case basis, where appropriate, schedule a Special Confirmatory PTC with parties prior to the date of the AD hearing.

Court's Discretion to modify the CEE procedures

- (15) Where the circumstances of any individual case warrant, the PTC Judge and/or the Trial Judge may, upon discussion with the parties, modify, simplify and/or dispense with any of the above procedures, so as to ensure that the costs of utilising the CEE procedure would not be disproportionate to the claim(s) in dispute.

CEE procedure at Trial or AD hearing

- (16) The CEE procedure, including the sequence of witnesses, may be determined by the Judge hearing the Trial or AD hearing on a case by case basis. Generally, the factual witnesses will complete their evidence before the experts are asked to give their evidence concurrently.
- (17) During the CEE session, the experts will be sworn in together. The disputed expert issues will be dealt with one issue at a time. Each expert will be asked to state his opinion in turn on a disputed expert issue. Each expert will then be asked to comment

on the other expert's opinion. Counsel will then be given a chance to cross-examine the other party's expert on his opinion on the disputed expert issue, followed by a re-examination by the expert's client's counsel. The Judge may also ask questions of either expert at any time. At the end of each segment, each expert is to make concluding remarks on the disputed expert issue. The process will then be repeated for the next disputed expert issue until all disputed expert issues have been covered.

- (18) The provisions of this Practice Direction and Form 12A shall apply, with the necessary modifications, to suitable third party and other similar proceedings.

Form 12A

JOINT EXPERT REPORT

IN THE STATE COURTS OF THE REPUBLIC OF SINGAPORE

DC Suit No. of 20 /

Between

() ... Plaintiff

And

() ... Defendant

List of expert witnesses:

	<u>NAME</u>	<u>DESIGNATION</u>
<u>PLAINTIFF</u>		
<u>DEFENDANT</u>		

JOINT EXPERT REPORT

(For the Concurrent Expert Evidence ("CEE") Programme)

1. A summary of the expert issues agreed between the Plaintiff and Defendant's experts is annexed to this Joint Expert Report as "Appendix A".
2. A summary of the disputed expert issues between the Plaintiff and Defendant's experts, and their respective positions thereon, is annexed to this Joint Expert Report as "Appendix B".

Dated this ()

SOLICITORS FOR THE PLAINTIFF

SOLICITORS FOR THE DEFENDANT

