



JAWATANKUASA PEGUAM PULAU PINANG  
(PENANG BAR COMMITTEE)

Your ref :

Our ref :

Date :

Circular 8/10

05-05-2010

To all Members of the Penang Bar,

**Decision in Abdul Razak Bin Hashim v Badan Peguam Malaysia (Kuala Lumpur High Court Originating Summons No. R2-17-5-2006)**

Members are to take note that on 26<sup>th</sup> April 2010, the Kuala Lumpur High Court allowed the Plaintiff's application for a declaration that the Solicitors' Remuneration (Enforcement) Rules 2004 made under Section 57(a) of the Legal Profession Act 1976 (LPA) is null and void.

However the Court dismissed the Plaintiff's further applications for a declaration that item 3 of Bar Council Circular No. 62/2004 titled "Bar Council Guidelines on Waiver of Fees in Conveyancing Matters" is contrary to Rule 52(c) of the Legal Profession (Practice and Etiquette) Rules 1978 and is not binding on Members of the Malaysian Bar; and a declaration that Members of the Malaysian Bar are allowed to waive fees in non-contentious matters at their sole discretion subject to Rule 52(c) of the Legal Profession (Practice and Etiquette) Rules 1978 or any other rule made under section 77 of the LPA.

The learned High Court Judge ruled that the Bar Council's powers under section 57(a) of the LPA did not include the power to make enforcement rules but upheld the Solicitors' Remuneration Order 2005.

Members may refer to the Malaysian Bar website for further information and updates on this.

Thank you.

.....  
SELVI NEELAKANDAN  
EXECUTIVE DIRECTOR