



JAWATANKUASA PEGUAM PULAU PINANG (PENANG BAR COMMITTEE)

Your ref :

Our ref :

Date :

CL 15/10

02-06-2010

To all Members of the Penang Bar,

PENANG COURT ISSUES

Members of the Penang Bar Committee recently paid a Courtesy Call on the Penang High Court Judges and Judicial Commissioners where several key issues were raised and discussed.

At present there are 8 High Courts with the following Judges and Judicial Commissioners:

CIVIL DIVISION

YA Dato' Zakaria Bin Sam
YA Dato' John Louis O'Hara
YA Dato' Mohd Zaki Bin Md Yasin
YA Tuan Yaacob Bin Hj Md Sam (JC)

CRIMINAL DIVISION

YA Dato' Haji Abdul Halim Bin Aman
YA Puan Nurmala Binti Salim (JC)
YA Tuan Mohd Amin Firdaus Bin Abdullah (JC)
YA Tuan Chew Soo Ho (JC)

1. Additional High Courts

We were informed that 2 more High Courts will be set up in the next few months and further details on this will be made available in due course.

2. Courts to start sitting at 8.30am from 01.07.2010

The Court confirmed that there is a directive from the Federal Court for all High Courts and Subordinate Courts to commence at 8.30am instead of 9.00am from 1st July 2010 onwards.

The Committee voiced our concerns which include difficulties for lawyers who travel from outstation as well as those who have to send their children to school in the morning.

But as this is a directive that affects Courts nationwide, it will be taken up by the Bar Council with the Chief Justice.

HIGH COURT - CIVIL

3. Delay in return of cause papers by Court

The Committee raised several complaints by members with regard to documents being returned late by the Court and in some instances, some documents were never received by the lawyers.

The Court said they are currently facing a shortage of personnel, from Registrars to clerical staff. However they agreed to look into these complaints and informed us that for some departments, such as for Probate and LA, interpreters have been seconded to assist in clearing the backlog and they will continue to monitor the situation for further action.

4. Role of Mediation in disposal of cases

The Court informed the Committee that Mediation could play a bigger role in the disposal of cases but only if all parties to the action are agreeable to it.

In some Courts, the Judges have already requested the parties to refer their cases for Mediation and some have been successfully concluded in a short period of time.

Another matter for concern is that at the moment there is no proper legal framework for Mediation but this can hopefully be overcome once the Combined Rules of Court is finally introduced.

5. Hearing of Appeals

From June 2010, the hearing of appeals at the High Court will be split into 2 batches among the 8 Courts i.e. the first batch of cases will be heard in 4 Courts on one day while a second batch will be fixed on another day which will be heard by the other 4 Courts.

6. Queue Management System (QMS)

The Committee informed the Court that there have been several complaints from members with regard to the Queue Management System (QMS) and the keying in of parties' names to note their attendance in Court.

There have been situations where some lawyers have gone in to see the Registrars without their opponents being there. In some cases, lawyers who are present and ready to proceed with their cases are told to wait and follow the sequence as per the cause list displayed even though parties for other cases listed before them are not present or absent without any prior notice to stand down their cases.

7. Tracking System

The Court has requested for members to note down the next Mention, Hearing or Case Management date at the top corner of all documents filed so they can ensure that the documents are in the Court file before the relevant date, especially for urgent matters.

The Court also assured us that they will look into problems and delays regarding file searches and dealings with the counters.

HIGH COURT - CRIMINAL

8. Counsel discharging themselves at last minute

The Court has requested the Committee to inform the criminal law practitioners to refrain from discharging themselves on the hearing date itself and to give prior notice so that the Court can fix a date to manage the case while a new counsel is appointed and fix other cases on the day instead.

9. Assigned Counsel

With the recent revamp in the Assigned Counsel system, the Court hopes more lawyers will be able to volunteer their services provided they meet the requirements to clear the backlog of capital offence cases.

General

Several other issues concerning the Subordinate Courts were also raised such as some Courts giving Hearing dates that are not suitable to parties as well as poor counter service by Court staff.

The Committee will soon be meeting with the Subordinate Court Judges, Magistrates and Officers to raise these and other issues pertaining to the respective Courts.

We once again urge members to provide us with your feedback to assist us in bringing up such issues and problems during our continuous dialogues and discussions with the Bench.

Thank you.

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MURELI NAVARATNAM
CHAIRMAN