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JAWATANKUASA PEGUAM PULAU PINANG PENANG BAR COMMITTEE

Court Liaison 1/12

25-01-2012

To Members of the Penang Bar,

Penang Court Issues

Members of the Penang Bar Committee recently met with the Chief Judge of the High Court in Malaya, YAA Tan Sri Dato' Zulkefli Bin Ahmad Makinudin ("CJM"), Federal Court Judge, YA Tan Sri James Foong Cheng Yuen, Court of Appeal Judge, YA Dato' Seri Haji Mohamed Apandi Bin Hj Ali and Kuala Lumpur High Court Registrar, Y Bhg Dato' Che Muhd Ruzima Bin Ghazali as well as several Judges and Officers of the Penang High Court.

The summary of issues raised and discussed at the meeting is as follows:

1. **E-Filing**

The Committee raised its concern with regard to the exorbitant charges imposed for use of the Court Service Bureau for E-Filing (*please refer to Court Liaison Circular 27/11 for details of the charges*). We maintained that the charges would largely affect smaller firms and those which do not have many litigation cases.

The CJM and Tan Sri James informed us that with the introduction of E-Filing, law firms throughout the country have been given the ease of being able to file documents from their own offices and that the Service Bureau is designed to only serve the minority. However they are also aware that to date very few firms in Penang have signed up for the online E-Filing facilities provided by Formis and MS Trustgate Corporation through the Judiciary's website (efiling.kehakiman.gov.my).

The Committee responded that many firms in Penang have been reluctant to sign up for the online filing facilities because there were many teething problems from the time it was introduced.

YA Tan Sri James noted that he has been monitoring E-Filing in Penang and the number of complaints brought to this attention is relatively low. He added that the Service Bureau only exists now because online filing is not being utilised as it should.

The Committee also informed the Judges that members have previously raised issues concerning E-Filing, be it through the Service Bureau or online, and that these issues have been addressed by the Penang High Court Registrars.

2. Subordinate Courts Amendment Act

The Committee raised our concerns with regard to the implementation of the Subordinate Courts Amendment Act which is rumoured to be sometime this year. The Act will increase the jurisdiction of the Sessions and Magistrates Courts by virtue of an increase to the claim amount as well as types of cases which will be heard by them.

For instance, currently the Civil Sessions Courts hear Code 52 and 53 cases. With the new Act, they will also be hearing equitable relief cases and this will increase their workload and some may be inclined to rush through the cases without due and proper consideration of legal issues. The issue of whether they are equipped with the necessary knowledge and experience in complex cases is also a concern for the Bar.

The CJM said although he is unable to confirm the exact implementation date of the Act, he informed us that the Chief Justice has given his assurance that Sessions Judges will have sufficient experience of approximately 20 years and be of appropriate rank to hear equitable relief cases. Similarly, Magistrates will need to have at least 5 years of experience in various capacities including service with the Attorney-General's Chambers or as a Registrar.

He added that the Judicial Appointments Commission is also looking into setting up a Judicial Academy, similar to the Judicial College in the United Kingdom, to conduct Continuing Legal Education programmes for the Judges and Judicial Officers so they are kept updated on the law.

The Committee said although we welcomed such training programmes, we have also been made to understand that the trainings will only be for Senior Sessions Judges and yet the other Judges will also be listening to the same types of cases.

3. Criminal High Courts

The Committee stated our concerns that Criminal cases at the High Court may be delayed as there are currently two (2) Courts sitting but one of the Judges has been asked to sit at the Kuala Lumpur High Court in the coming months.

The CJM informed us that the issue of the Judge sitting at the KL Court is just a temporary arrangement and the Managing Judge will continue to monitor and assess the situation accordingly. If there is a need to increase the Criminal High Courts, they will look into it.

4. Appointment of new Managing Judge for Penang Courts

The CJM informed the Committee that YA Dato' Seri Haji Mohamed Apandi Bin Hj Ali will be taking over as Managing Judge from YA Tan Sri James effective immediately. YA Dato' Seri Apandi has informed us that he will be available to discuss and address any issues or complaints raised by the members on a regular basis.

We take this opportunity to request that members inform us of any issues concerning the Courts so we may raise it during our regular meetings with the Judges.

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E. GNASEGARAN
CHAIRMAN