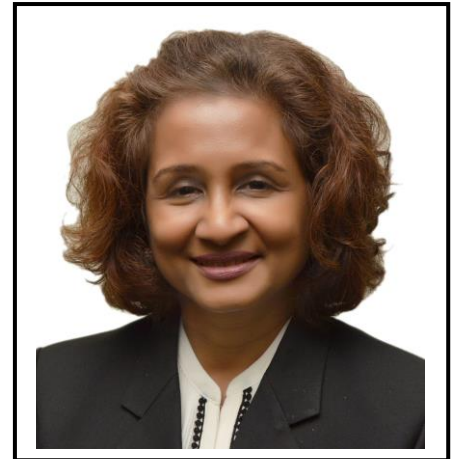


# COURTS LIAISON AND PUBLIC RELATIONS SUB-COMMITTEE REPORT

**Shahareen Begum Binti Abdul Subhan**  
Chairman



## COURT ISSUES

Unlike previous terms, as a direct consequence of the various Movement Control Orders, court issues were primarily received by the Court Liaison Sub-Committee [CLSC] via WhatsApp messages, emails and telephone calls. Issues raised from state of affairs continuing over time to isolated incidents. Issues were quickly resolved once brought to CLSC attention.

Since physical meetings with the Judiciary were and continue to be severely restricted, issues were discussed via messages, telephone calls, virtual meetings and emails with:-

- (1) Johor Bahru Courts  
Tuan Mohamad Haldar bin Abdul Aziz, Director of Courts Johor [“Tuan Haldar”];  
Puan Azureen Sahira Binti Sauffee Afandi, Deputy Registrar High Court Johor Bahru [“Puan Azureen”];  
and Tuan Mohd Zulhilmi Bin Ibrahim, Johor Bahru Subordinate Courts Senior Assistant Registrar [“Tuan Zulhilmi”].
- (2) Muar High Court  
Puan Mageshwary a/p Muniandy, Deputy Registrar High Court Muar [from 18/03/2020 – 02/07/2020]  
  
Puan Noor Shahidah Binti Saharom, Deputy Registrar High Court Muar [from 03/07/2020 and current] [“Puan Shahidah”]

Prior to the composition of the CLSC for the 2020/2021 term, issues which were raised by members at the 50th AGM held on 21/02/2020 were taken to the Judiciary by

Deputy  
Chandrika a/p Jaganathan

Members  
K. Meneka a/p E. Kanasmoothy  
Nas Idalina binti Nasruddin  
Vimala a/p Arunasalam  
Helen Fong Soh Lan  
K. Vijay Kumar  
Bustaman Menon  
Tee Yee Koon

the Johore Bar Committee [JBC] on 27/02/2020 and that meeting is reported in the Chairman's Report.

## **CLSC COURT FORUM & MEETINGS WITH THE JUDICIARY**

Prior to the imposition of MCO starting 18/03/2020 and subsequently when CMCO/RMCO was in place, CLSC met with the Judiciary on several occasions:-

10/05/2020

A meeting was called by the Judiciary to discuss the implementation of Covid-19 Standard Operating Procedures as well the conduct of court matters. The meeting was chaired by Justice Datuk See Mee Chun and attended by High Court Judges, Johor Bahru as well as Tuan Haldar together with other Judicial officers.

06/07/2020

CLSC met with Tuan Haldar, Puan Azureen and Tuan Zulhilmi to discuss issues concerning certain courts proceeding with fresh trials notwithstanding clear directions that no fresh trials were to start except at parties' request. If they were unable to proceed with trial, parties were put to entering Consent Judgment or withdrawing the suit. If the trial proceeded, it had to be completed on the same day. This issue with one of the courts was resolved.

13/08/2020

A forum on court matters was held in Johor Bahru on 13th August 2020. It was attended by 6 persons. Their issues were recorded, to be raised at the next meeting with Tuan Haldar scheduled for 15/09/2020.

01/10/2020

The 15/09/2020 was rescheduled several times, finally taking place on 01/10/2020. CLSC met with the Tuan Haldar, Puan Azureen and Tuan Zulhilmi. Following members' feedback, the following issues were raised:-

### **(1) In one Court:-**

- a) Runner matters had to be completed in 1 day. No adjournments no matter the reason including the unavailability of witnesses like specialist. If a witness or a party is abroad and unable to attend Court or parties were unable to conclude trial in that 1 day, the action must be withdrawn.
- b) Once a trial commenced, counsels appearing in cases fixed for Mention/Case Management [CM] had no alternative but to wait despite being punctual.
- c) Witnesses could testify only in Bahasa Malaysia.
- d) Although written submissions had been e-filed and hard copies handed to the Court, no decision would be delivered unless & until written submissions in the Word format had been emailed to the Court concerned.
- e) Hearing dates were fixed at the 1st CM where the hearing date would 4 months from 1st CM. No CM dates would be provided in the interim. Should interlocutory applications be filed, they were disposed on the trial date. The trial would proceed as

scheduled. If parties were unable to proceed with the trial, parties were compelled to be withdraw the matter.

- f) Additional questions during evidence in chief were not allowed, that is to say that the evidence in chief is per witness statement.
- g) No additional documents permitted to be tendered at trial.

(2) **In another Court:-**

The Court was inconsistent with adjournments for cases involving witnesses faced with travel restrictions/prohibitions or specialist testimony. In some cases, the matter is adjourned, in others parties were forced to withdraw the matter on the 1st hearing date.

(3) **Consent Judgment**

A direct consequence of the movement control orders is that certain matters are dealt with remotely – via email, e-Review, Zoom or Skype. While consent judgments could be entered without difficulty on the scheduled court date pre-MCO, this was no longer possible during MCO. Parties wishing to record consent judgments on a CM date were given a 3 week date to enter the same for the reason that parties must go through e-Review and Forms 1 & 2 must be submitted. This despite the Court being notified of the Consent Judgment to be recorded.

CLSC's suggestion to have the file called up on the e-Review date to record Consent Judgment was accepted. This was to apply to all civil lower courts.

(4) **Bankruptcy Matters**

There was no standard practice on the calculation of the time for the commission of an act of bankruptcy. The method used by the Senior Assistant Registrars currently sitting took into account public holidays and weekends in said calculation. Previously, only working days were considered in the calculation. The request was for a standardised procedure.

*Update from the Judiciary:-*

*The judicial officer who practised this had been transferred. The practice now is that the Court will not interfere with the calculation; it will be left up to parties. However, if the Court is required by the parties to calculate, then public holidays will be excluded.*

Any act of bankruptcy occurring during MCO was fixed at 05/05/2020, that is the date Government offices resumed operations. Lawyers are then required to make amendments to the date of act of bankruptcy in the creditors petition.

*Update from the Judiciary:-*

*Fixing the act of bankruptcy at 05/05/2020 was the directive from Putrajaya.*

According to the previous practice, e-filing the letter of service of cause papers on the Official Assignee was sufficient prove of service. Now an Affidavit of Service is required to be filed. This means additional expense for the judgment debtor.

*Update from the Judiciary:-*

*An Affidavit of Service is a requirement observed in other jurisdictions, for example Kuala Lumpur courts.*

Where a Creditors Petition is served by way of substituted service by advertisement in the newspapers, despite the hearing date being advertised in newspapers and it being first date, a letter informing the judgment debtor of the hearing date had to be sent by post. This resulted in the postponement of the matter to enable parties to comply with this direction.

This issue is pending clarification from the Judiciary.

Whether an auctioneer can claim for fees now that lawyers have to do the work of an auctioneer in foreclosure matters eg advertise and file the affidavit of service of the Proclamation of Sale before the e-lelong auction.

*Update from the Judiciary:-*

*Auctions are now conducted via e-Lelong system. Auctioneers are not appointed, so they cannot claim on their bill.*

## (5) **Criminal Courts**

### a) Remand hearings

Several police stations as well as other agencies bring the persons summoned to the Court at the same time. Consequently, the remand Court is crowded, at times with more than 50 persons present at a time in court. Covid-19 Standard Operating Procedure clearly not complied with.

#### CLSC's proposal:-

The police stations and other agencies be allocated time slots for remand proceedings. Remand proceedings can therefore be conducted at staggered timings.

### b) Service of documents on Accused persons

Often times, this resulted in documents being misplaced.

#### CLSC's proposal:-

To avoid misplacement of documents, the better practice would be service on the lawyer.

### c) Unexpected service of documents at trial

#### CLSC's proposal:-

To prevent tender of documents not previously served/ furnished to counsel, before setting matter down for trial, courts should get DPP's confirmation that service of any document is not pending and that there are no further documents to be served.

### d) Non-observance of "first come first served" policy; matters were called according to the cause list.

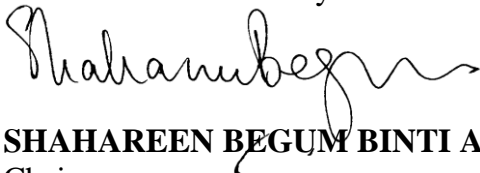
## ACKNOWLEDGEMENT AND APPRECIATION

CLSC had put in a lot of effort to deal with the issues that were brought to its attention during the year, most of which were resolved satisfactorily while some are pending and in respect of which efforts to resolve are ongoing. I sincerely hope that members are satisfied with the overall results.

I take this opportunity to express my heartfelt appreciation to all members of CLSC for sacrificing their invaluable time and energy and for supporting me in discharging my function as CLSC Chairman.

I also wish to acknowledge and record my gratitude to the Judiciary for the support and co-operation given to the Bar during the year. It was this very co-operation and the fact that the Bench and Bar have always maintained good rapport, which helped us cope with the fallout of the Covid-19 pandemic.

Dated this 21st February 2021



**SHAHAREEN BEGUM BINTI ABDUL SUBHAN**

Chairman

Courts Liaison and Public Relations

Sub-Committee 2020/21