

**PRESS RELEASE**  
**BY**  
**THE PRESIDENT OF THE COURT OF APPEAL**

**(Issued with the consent and approval of the Chief Justice)**

**Cooperation of the Bar Sought to Reduce Backlog**

The courts including the Court of Appeal are facing the problem of backlog of cases. Efforts are being made to reduce these backlogs. Among those taken at the level of the Court of Appeal is to collect and collate information relating to these files so as to enable the Court of Appeal to set out its priorities on those appeal cases.

Since January 2008, the files and Records of Appeal at the Court of Appeal have been systematically organized and allow for speedy retrieval. To benefit from this organization the Registry needs some information which request had been made to the members of the Bar.

**Criminal Appeals**

Examples of information required include, where appeal is only against sentence it would not take as much time as in the case of an appeal against conviction. As such more cases of appeals against sentence can be fixed in one day than appeals against conviction. Another example is whether the accused person is serving sentence and when his sentence is expiring.

Unfortunately in respect of criminal appeals which website was started on 11 February 2008 (and the format subsequently simplified on 13 March 2008) there were *only THREE response from the lawyers out of 900 (NINE HUNDRED) pending appeals*. The Attorney General's Chambers however did respond on some of the pending appeals.

**Civil Appeals**

In regard to civil appeals it would be useful to the Court of Appeal to know whether the appeal is in respect of an interlocutory matter or after a full trial. Appeals against interlocutory matters can be and should be disposed of more speedily than those after full trial. Furthermore, the practice is that in most cases, grounds of judgment are not necessary.

Towards this end the Court of Appeal had requested the members of the bar to respond to some questions. All that is required is for the lawyer concerned to access the website "<http://coapending.kehakiman.gov.my>" and click some answers.

In respect of civil appeals, it started on the website on 29 April 2008 and *to date there was not a single response*. The President of the Court of Appeal communicated directly with the President of the Bar by email dated 4 March 2008 and in person (with some other members of the Bar Council) at the meeting held on 20 May 2008. Even recently, the President of the Court of Appeal again requested for the cooperation from the members of the Bar. According to the record of the Registry of the Court of Appeal there are about 10,000 appeals pending as of May 2008. Without this information that is requested, the Registry will have to go through every single one of the 10,000 files to decide on the priorities to be given.

### **Practice Direction**

For the future, a Court of Appeal Practice Direction No. 1 of 2008 has been issued by the President of the Court of Appeal to require notices of appeal to indicate the exact decision appealed against e.g. the relevant order of the Rules of the High Court pursuant to which the decision is made. Although the Practice Direction comes into force on 1 August 2008, parties can start complying with the directions immediately, because some lawyers are already practicing this.

Again, the objective of this exercise is to enable the Registry of the Court of Appeal to expedite the fixing of appeals.

### **Updating of Records of Appeal**

There are a number of instances where parties having filed appeals decided not to proceed with it and yet no notice of discontinuance is filed. Also, grounds of judgments which have been written by High Court judges are not filed by the respective solicitor with the Court of Appeal Registry. These result in the Records of Appeal not being complete and updated and therefore cannot be called up for case management.

The information about judgments having been written but not collected by the lawyers were obtained from High Court judges when they were reminded about

unwritten judgments. Many reported that those judgments had been written and some had even been reported in the law reports, but again unless the Registry of the Court of Appeal is notified of this, the Records of Appeal remain uncompleted and the appeal cannot progress.

Apart from this, the recently issued Court of Appeal Practice Direction No. 1 of 2008 has also simplified the form for application to the President of the Court of Appeal e.g. extension of time to file the Record of Appeal, certificate of urgency (i.e. request for early hearing date at the Court of Appeal) and for purposes of case management. These formats would eliminate the need for lawyers to draft individual letters and for the Registry having to read the letters in order to determine their intention.

In fact for the convenience of the members of the Bar, this Practice Direction has an English translation.

It would seem that lawyers are still not aware of the Practice Direction inspite of, as understood, repeated notification by the President of the Bar.

### **Postponements**

The Court of Appeal judges have been directed to be more strict about granting of postponements. The number of cases fixed for each panel of the Court of Appeal is also increased. Since the last few months this strictness on postponements and increased number of cases fixed for hearing seems to have some positive effects on the number of cases disposed of by the Court of Appeal. However, due to the increase of appeals filed, the list of pending appeals cannot be reduced.

*The Court in addressing the issue of backlog of cases **needs the cooperation from ALL, particularly members of the Bar.***