

Access to Justice and Innovative Court Solutions for Litigants-in-Person

The Singapore Experience

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Abstract

This article highlights the Singapore judiciary's experience in introducing an online filing and case management system with Online Dispute Resolution (ODR) for small value disputes to improve access to justice. This system, called the Community Justice & Tribunals System (CJTS), is a fully integrated justice solution, allowing parties to settle their disputes and obtain a court order online. The article sets out the issues and challenges encountered in developing CJTS, the innovative solutions implemented and CJTS' positive impact on litigants-in-person.

Keywords: access to justice, innovative court solutions, ODR, e-Negotiation, tribunal.

1 Introduction

The Community Justice and Tribunals Division (CJTD) was set up in 2015. It handles both civil and criminal matters and brings community disputes under a common venue so that specialized judges and trained court administrators can deal with such disputes more expediently and appropriately. Amongst other work, it oversees three tribunals, the Small Claims Tribunals (SCT), Community Disputes Resolution Tribunals (CDRT) and Employment Claims Tribunals (ECT). These tribunals are part of the State Courts, and they provide members of the public an avenue to seek access to justice through a simple, inexpensive and informal process.

The SCT provides a speedy and low-cost forum to resolve disputes between consumers and suppliers, while the CDRT hears disputes between neighbours and the ECT handles employment disputes. The upper limit of the monetary jurisdiction of the tribunals range from \$10,000 to \$30,000. The tribunals may order monetary payments or specific performance. The proceedings in the tribunals are

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informal and judge-led, with no lawyers involved. Lawyers may represent the parties only at the appeal stage if there are disputes involving points of law or jurisdiction. The SCT was set up in 1985, while the CDRT and ECT are relatively new tribunals, which were set up in October 2015 and April 2017, respectively.

Court filings at the CJTD are gradually being changed through the Community Justice and Tribunals System (CJTS), an online e-filing case management system with Online Dispute Resolution (ODR), targeted towards litigants-in-person (LIPs). The CJTS represents a new and innovative, fully integrated justice solution. It was launched on 10 July 2017 for the SCT and extended to CDRT on 5 February 2018. The CJTD is planning to launch CJTS for the ECT in the near future.

2. Overview of CJTS

2.1 *Secure Access*

To begin, LIPs can file and manage their case online in a secure environment using their SingPass or CorpPass (SPCP). SingPass is a digital identity for individuals, while CorpPass is used by corporate entities. SPCP is a national authentication platform, using a 2-factor authentication detail to authenticate users who wish to access Singapore Government Services online. Litigants who are not eligible for SPCP may access CJTS after applying for a CJTSPass, issued by CJTD.

2.2 *Internet Access by LIPs*

LIPs may use any Internet-enabled device to conduct transactions anywhere with CJTS, 24 hours a day, 7 days a week, without the need for a service bureau or law firm to assist them. There are Internet user guides and hardcopy brochures for LIPs' reference. LIPs who require technical assistance may go to the State Courts to use the onsite computer to access CJTS. CJTD staff can show LIPs how to transact using their tablet computer, but LIPs will have to log on using their own personal SPCP or CJTSPass to complete the transaction. LIPs can pay online for the transaction, or they can pay with their credit card, bank card, cash or cheque at the State courts.

2.3 *Pre-filing Assessment*

The CJTD tribunals are intended to be a forum of last resort. LIPs are encouraged to seek alternative dispute resolution at specialized mediation centres or approach the relevant government agency or neighbourhood resident committee to resolve their disputes without initiating the tribunal process. At the pre-filing stage, CJTS assist LIPs by highlighting pertinent common issues depending on the type of tribunal and nature of claim selected. This will help LIPs to choose the right forum to resolve their dispute, seek assistance or legal advice to clarify the issues and to prepare to file their claim with all the necessary evidence for a fair hearing. Hyperlinks are provided to direct LIPs to other websites to conduct due diligence, such as property or corporate registration searches before filing the

claim. CJTS also provides guidance so that the claim will likely be within the monetary and subject-matter jurisdiction of the tribunals.

2.4 Online Forms

The online forms are easy to use and simple to complete. The Claimant provides a brief summary of the claim and can attach evidence (in PDF) to support the claim. Validation checks help ensure that the claim is within the jurisdiction of the selected tribunal. The CJTS does not block a claim from being filed but serves as a timeout, for a review by LIP, before the claim is filed.

2.5 Self-help ODR

After the claim is filed and served, the Respondent can log on to CJTS and will be prompted to use CJTS (e-Negotiation) so that parties can resolve the dispute on their own. E-Negotiation sends, receives and stores the offers and counter-offers and keeps a summary of the negotiations. The e-Negotiation process is asynchronous, and LIPs will be alerted by CJTS to log on when there is a counter-offer. If LIPs are able to reach a settlement, they may withdraw the claim or apply online for a 'By Consent Order of Tribunal,' without going to court.

2.6 ODR by Mediator

If LIPs require the assistance of a third party, they may request an online mediation. CJTS (e-Mediation) will take place online at a specific date and time convenient for all parties. The mediator is a State courts-appointed volunteer mediator. CJTS allows the mediator to control the synchronous online proceedings, such as setting the online conversation to private or joint caucus, and to maintain their own mediator's standard clauses and settlement templates in CJTS. Similarly, if the matter is settled through e-Mediation, LIPs do not need to attend the next scheduled court date and a 'By Consent Order of Tribunal' can be generated for LIPs, which they can view and extract from CJTS.

2.7 Adjudication

If the claim is not settled, it will proceed to adjudication by the tribunal. Documents can be served online, and LIPs can access their case easily for the hearing. The ODR discussions in CJTS, like the mediation process, remain confidential to LIPs and cannot be accessed by the trial judge. At the end of the hearing, the Order of the Tribunal will be made available online for LIPs to extract and enforce the order.

2.8 Case Search

CJTS has a case search feature that allows the public to check online if there is a pending tribunal claim or order against them. The public can also check if there are cases filed against any supplier of goods and services providers or residential tenancy claims, to help them review their claims and merits of their case, or enable them to make informed choices when contracting with a particular party.

An overview of the CJTS process and the benefits of CJTS are set out in Annex A.

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3 Issues and Considerations When Developing CJTS

3.1 Funding

It is a given that computer systems cost money to develop and maintain. In 2015, CJTD submitted and received approval for the funding to develop a new computer system to replace the existing computer system for SCT. The CJTS tender was published in December 2015 and was awarded in May 2016. The existing system was an internal case processing system where case information was uploaded manually. Implemented in 2006, the existing system had become outdated and was not cost effective to enhance. The need to replace the existing system presented an opportunity for CJTD to design a new filing system for both LIPs and law firms, for the present and future tribunals under CJTD purview.

3.2 User-centred Design

The CJTS is designed to be simple and easy to use so that LIPs can file, pay and manage their own case online without using a service bureau. This is a first for the Singapore judiciary. LIPs can also choose their preferred court date within a specific range of dates and request upfront for an interpreter. There was some anxiety on whether LIPs could file online successfully on their own. To address this issue, CJTS was designed with automated processes to feed in information where possible, automate validation checks and have pre-filing assessment upfront to assist LIPs in filing. It was also important to have online applications to allow amendments for clerical errors. Onsite computer and payment options would be available at the State courts so that LIPs, without a smart mobile device or Internet computer or without means to pay online, would not be denied access to justice.

In comparison, there is a civil litigation online filing and case management (e-Litigation), but only law firms can subscribe to use it. LIPs would have to travel to the service bureau office to use e-Litigation. Lawyers may use CJTS to represent LIPs at the leave to appeal stage (for SCT and CDRT cases) or where parties agree and the tribunal allows legal representation (CDRT cases only). After applying for and receiving approval to represent their client, the law firm can log on with their CorpPass and the administrator of the CorpPass may give access to the lawyer or paralegal to handle all or a specific case. LIPs may also apply to the tribunal to have another individual represent them in limited situations, and the approved representative will be given rights to file and access the case in CJTS.

3.3 Integrated ODR

Another first for the Singapore judiciary is to have ODR by the parties themselves, as part of a fully integrated case management system. In CJTS, the ODR function was designed to be a simple platform so that it is a small part of the whole system. This meant that the cost component for setting up and maintaining the ODR function would be a small part of the total costs. To mitigate against any usability issues, CJTS ODR was rolled out in two phases, with e-Negotiation launched first, followed by e-Mediation 7 months later.

3.4 ODR Checklist

The CJTS project team considered that e-Negotiation should

- be secure and confidential;
- be automated through the ODR platform without administrative assistance;
- be intuitive to use and initiate;
- show relevant claim details for easy reference;
- look and feel like a common mobile text messaging system to encourage usage;
- be asynchronous, with system notifications to check new proposals;
- have limited rounds of negotiations to discourage minimal proposals;
- have a time limit so that there is no delay to the fixing of a hearing;
- allow separate negotiations for different disputed items, to encourage partial settlements where full settlement is not possible;
- allow negotiation for common disputes on money quantum, remedial action, or date for payment;
- prompt win-win solutions;
- have a structured negotiation function to guide negotiations;
- have an unstructured negotiation function for LIPs to elaborate their reasons and proposals, including instalment payment plans;
- allow the negotiated position to be converted automatically into a settlement agreement;
- save a copy of the negotiation summary for parties' reference; and
- allow follow-through application for Order of Tribunal online.

An e-Negotiation summary example (with names and identifying details changed) is shown in Annex B, to illustrate how a dispute was settled successfully by LIPs. Subsequently, the Respondent uploaded proof of electronic payment to the Claimant in CJTS and the case was concluded without an application for the Order of Tribunal.

On the other hand, the CJTS project team considered that e-Mediation should

- prompt LIPs to contact the Registry to fix online mediation if e-Negotiation is unsuccessful;
- be a confidential, synchronous process, similar to a face-to-face mediation;
- allow the mediator to control the online conversations for private as well as joint mediation sessions;
- allow the second party to 'buzz' the mediator to get the mediator's attention when the mediator is engaged in a private session with the first party;
- allow volunteer mediators to log on as a front-end user (from their home/office);
- allow mediators to delete a message sent to a wrong conversation party;
- allow mediators to copy and paste their commonly used phrases and draft templates into the mediation conversation;
- allow mediators to pin up issues for each disputed item for easy reference;
- allow LIPs and mediators to attach additional documents for review;
- show when LIPs are online or offline;

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- auto-save the mediation conversation history so that the mediation can continue online or offline if the Internet connection is lost; and
- allow mediation settlements to be registered online as an Order of Tribunal.

3.5 *Legislative Amendments*

The subsidiary legislation of the tribunals was amended to implement CJTS. The amending provisions provided for, amongst other things, electronic forms, authentication of parties, computation of transaction timings for filings and service of documents, ODR, communications and amendment of documents through CJTS.

4 **Impact of CJTS**

4.1 *Positive User Experience*

A court survey was carried out from February to April 2018 on 1,897 respondents representing court users (directly involved in a court case), other court users (not directly involved in a court case) and legal professionals. Among the sub-group of court users directly involved in an SCT or CDRT court case and had used CJTS, 8 in 10 were satisfied with the CJTS. They agreed that CJTS was user-friendly and provided instructions that were clear and understandable.

4.2 *Greater Access through CJTS*

As on 30 September 2018, 20,370 pre-filing assessments (PFA) were performed in CJTS. Putting the PFA in CJTS allowed CJTD to perform more assessments regardless of staff and physical space constraints, and there was no need for LIPs to make a prior appointment or take a queue number to see a pre-filing consultant.

For their convenience, LIPs' personal profile and PFA claim information are auto-populated into the electronic claim form. Sixty-five percent of LIPs proceeded to file the claim after completing the PFA. As on 30 September 2018, 13,087 SCT cases have been registered. From the CJTS-SCT launch in 10 July 2017 to 9 July 2018, 10,517 SCT cases were filed after completing the PFA. In comparison, 10,908 SCT cases were filed in 2015 and 10,266 SCT cases were filed in 2016.

Seventy-two CDRT cases were registered for CDRT for the 8 months between February 2018 and September 2018, whilst 80 CDRT cases were filed in 2016 and 57 CDRT cases were filed in 2017. The total number of filings have not been adversely affected by the mandatory change to online filing.

4.3 *Bulk Filing in CJTS*

For the pre-approved SCT LIPs who bulk-file their claims, CJTS continues to allow them to have the convenience to bulk-file and fix dedicated hearing dates to hear their claims conveniently on the same day. An internal scheduling roster allows court administrators to fix and adjust hearings for individual LIPs and bulk filers easily.

4.4 ODR Response Rates

Upon receipt of the initial claim notice, the Respondent can log on using their SPCP with a One-Time Reference (in the claim notice) to tie themselves to the case in CJTS. As on 30 September 2018, 31% of SCT Respondents have registered online. The registration number is higher for neighbour disputes that involve personal disagreements, with 51% of CDRT Respondents accepting their case online. It is not mandatory for the Respondent to register online before the case can be concluded. In practice, the Respondent may choose not to reply to the claim because there is no defence and a default order may be obtained against the Respondent. The Respondent may also not have registered online because they has paid up after the claim was filed, and the Claimant proceeds to withdraw the case. As on 30 September 2018, 68% of the SCT claims concluded in CJTS have resulted in default orders or withdrawals.

The use of ODR before the first court date (pre-trial conference) has been encouraging. As on 30 September 2018, 4,063 SCT Respondents have registered online, 1,196 SCT e-Negotiations were initiated and 401 (34%) resulted in settlement. Nine CDRT e-Negotiations were initiated, and 2 resulted in settlement. Eight SCT e-Mediations were commenced and 4 resulted in settlement.

There were plans to integrate a video conference option with the e-Mediation, but that option did not proceed because of high recurring hosting costs. The project team also considered but did not proceed with asynchronized e-Mediation. This is because the e-Mediation process is not intended to replace the physical mediation at the State courts, but to augment it by giving digitally savvy LIPs the option of an online mediation/hearing. In general, LIPs who attend the pre-trial conference will be directed to attend a short mediation on the same day. If the mediation is successful, the claim is settled. If not, the case proceeds to hearing on the same day or within a short period of time. A second mediation session is seldom fixed.

4.5 Cost Savings for LIPs

CJTS allows LIPs to save time and transport costs and keep their vacation leave for other urgent or important matters besides attending court for administrative matters. As on 30 September 2018, 53% of the assessments were performed outside office hours, and 43% of all online transactions were performed outside office hours. CJTS allows LIPs to pay online. While CJTS allows a document to be saved as draft, pending a later online or offline payment for the submission, only 3.5% of the payment transactions were made offline. CJTS also allows LIPs to track the disbursements for each case easily.

4.6 Cost Savings for Tribunals

For the State courts, CJTS enables more LIPs to be served with limited resources. The ODR function has been designed to enable LIPs to settle their dispute before the first session or pre-trial hearing in court. The filing fee for the tribunal is subsidized, so every additional step taken in proceedings, pre-trial hearing and trial only increases the administrative costs spent on the case. The early disposal of the claim by ODR means tangible cost savings for the courts. In addition, CJTS

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allows more efficient back-end processing of the case. The automation of processes also allows court administrators to be re-deployed to other work.

5 Information Technologies in the Singapore Courts

5.1 Past Experiences

The Singapore judiciary has been an early adopter of technology in the courts. The SCT legislation was amended in 1998 to allow pre-trial hearings and the trial to be conducted by telephone, videophone, or any other electronic means, so as to operate a virtual court. Back then, a party could attend the court sessions at any one of the tribunals' 3 locations and through a video link-up with the other party at a different tribunal location. The parties would be able to see documents and exhibits via document cameras through the video link. Today, SCT operates from one location and smart mobile devices have replaced the past technology.

Mandatory electronic filing for civil litigation was introduced in the Electronic Filing System (EFS) in 2000 and replaced by the present e-Litigation system in 2013. In the same year, the Integrated Criminal Case Filing and Management System (ICMS), connecting the courts with multiple parties, the Attorney-General's chambers, law firms, the police, enforcement agencies and the accused persons was launched. It was fully implemented in 2015.

5.2 Future Developments

At the opening of the legal year in January 2017, the Honourable Chief Justice of Singapore Sundaresh Menon announced that a new 5-year blueprint will be rolled out to encourage law firms to adopt the latest tools and software to improve operations. He said that the appearance of ODR platforms that integrated negotiation, mediation and arbitration with the use of artificial intelligence (AI) will allow users to settle disputes without going to court. In February 2017, a Singapore university, Nanyang Technological University, announced that it had formed a relationship with a US organization, The Mitre Corporation, to explore the use of AI, machine learning, court analytics and decision support systems to improve court processes.

More recently, in June 2018, the Singapore judiciary has published a call for tender for the development of an ODR system. This will include an outcome simulator for civil and matrimonial claims, e-Settlement and e-ADR. When the new ODR system is launched, it will represent a new ODR milestone for the Singapore judiciary.

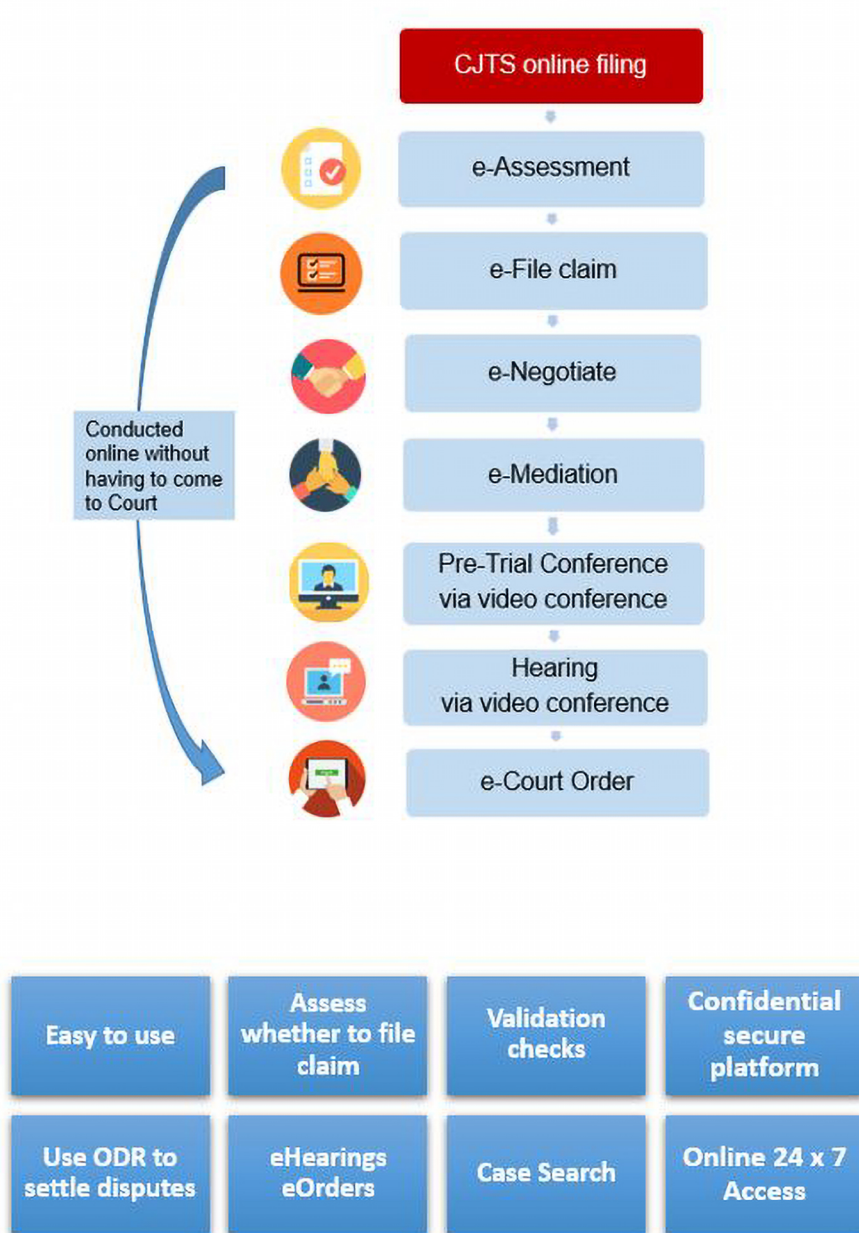
6 Conclusion

CJTS is an innovative, fully integrated justice solution. With CJTS, LIPs can assess the validity of their claim, file one online form, engage in ODR on their own or through a third-party mediator, and settle the dispute or apply for an Order of Tribunal without physically stepping onto the court premises. The successful introduction of ODR as part of the justice solution shows that LIPs are

ready for ODR court systems and has opened the door for more experimentation. By putting ODR as part of the workflow in each tribunal, first the SCT, then CDRT and, in the near future, ECT, CJTD is positively reinforcing ODR as a viable alternative solution for LIPs. In the near future, the Singapore judiciary will roll out new and improved ODR systems, including AI systems, for the benefit of LIPs, the legal profession and other stakeholders.

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Annex A



Annex B

e-Negotiation Summary

e-Negotiation No: EN/100/2018 **Case No:** SCT/100/2018

Claim
Details

Claimant: Landlord

Respondent: Tenant

Brief Summary: Tenant left without proper handover. Keys dropped off in letter box. Left without paying rental due and before end of lease. Property left in filthy condition with damage to bathroom, kitchen appliances. Curtain unwashed and air-conditioning units not serviced as per lease agreement.

Negotiation Details:

No. 1	Details	
	Landlord Pay S\$10,000.00	23 Feb 2018 9 PM
	Tenant I would like to pay \$4,000.00 by 5 Mar 2018	27 Feb 2018 10 AM
	Landlord Pay \$7,000.00 by 5 Mar 2018	27 Feb 2018 11 AM
	Tenant I would like to pay \$4,500.00 by 5 Mar 2018	2 Mar 2018 11 AM
	Landlord Pay \$5,750.00 by 5 Mar 2018	2 Mar 2018 10 PM
	Tenant I agree to pay \$5,750.00 by 5 Mar 2018	3 Mar 2018 10 AM

Messages:

Tenant Last Sep, we had informed agency that we will be moving out in 3 months' time. We had handed over keys to the agent and also cleaned up the house according to contract. You still have deposit of \$3,050. 27 Feb 2018 10 AM

Landlord There was no official handover despite repeated attempts to contact your spouse and emails to the agent. The keys were dropped off in the letter box. The outstanding rental for 2 months is \$6,100 and repair costs \$1,500. Total owing is \$7,600. Deposit will be forfeited for breach. 27 Feb 2018 11 AM

Landlord Final agreement to pay by 5 Mar 2018, otherwise go for hearing. 2 Mar 2018 10 PM

Tenant Will pay by 5 Mar 2018 3 Mar 2018 10 AM

Terms of Agreement

By CONSENT, parties have agreed to the following terms in full and final settlement of the claim.

I. Respondent to pay Claimant SGD 5,750.00 by 5 Mar 2018.

This agreement may be enforced by recording it as an Order of Tribunal. After recording it as an Order of Tribunal, parties may enforce the Order of Tribunal as a Magistrate Court Order.

If parties choose not to record the agreement as an Order of Tribunal, parties may withdraw the claim. In the event of non-compliance, parties may enforce the agreement by starting proceedings in the Civil Courts.
