

CHAPTER 2 CIVIL PROCEDURE

- Section 1 [Introduction](#)
- Section 2 [Courts](#)
- Section 3 [Sources of Civil Procedure Law](#)
- Section 4 [Modes of Commencing an Action](#)
- Section 5 [Matters to be Considered before Commencing an Action](#)
- Section 6 [Commencing a Writ Action – Proceedings up to Close of Pleadings](#)
- Section 7 [Disposal of Action Without Trial](#)
- Section 8 [Provisional Remedies and Other Interlocutory Matters](#)
- Section 9 [Exchanging Evidence and Setting Down For Trial](#)
- Section 10 [Trial](#)
- Section 11 [Assessment of Damages](#)
- Section 12 [Enforcement](#)
- Section 13 [Costs](#)
- Section 14 [Appeal Process](#)
- Section 15 [Other Civil Proceedings and Processes](#)

The writers wish to acknowledge with thanks that the Registrar of the Supreme Court kindly permitted the writers to draw on the article on Civil Procedure posted on the Supreme Court website. The writers also acknowledge the assistance of Ms Yarni Loi in the preparation of the article.

SECTION 1 INTRODUCTION

2.1.1 Litigation involves various stages. Legal proceedings are initiated by an originating process which is followed by the defendant's response (he normally enters an appearance if he wishes to dispute the claim), pleadings, discovery of documents, directions by the court, interlocutory applications for interim or final relief and, if the case has not been resolved by settlement (normally through negotiation or mediation) or terminated by summary or other form of interlocutory judgment, the action will be set down for trial. Litigation may continue after trial as when there is an appeal or when there is enforcement of the judgment.

[Return to the top](#)

SECTION 2 COURTS

2.2.1 The Supreme Court consists of the Court of Appeal and High Court. The Subordinate Courts consist of the District Court and the Magistrate's Court. The High Court is a court of first instance, generally for claims beyond the jurisdiction of the Subordinate Courts (although the High Court is a court of unlimited jurisdiction and may hear any claim irrespective of the amount or value involved). The District Court's general pecuniary jurisdiction is limited to claims up to \$250,000. The Magistrates' Court's general pecuniary jurisdiction is limited to claims up to \$60,000. There is also the informal process of the Small Claims Tribunal (which is governed by its own specific rules, not by the procedural rules which govern the main courts just mentioned) which has jurisdiction over claims up to \$10,000 (which may be increased to \$20,000 subject to the written agreement of the parties).

[Return to the top](#)

SECTION 3 SOURCES OF CIVIL PROCEDURE LAW

2.3.1 The main sources of law include the Supreme Court of Judicature Act, the Subordinate Courts Act and other statutes which have procedural application or contain procedural provisions, the Rules of Court, practice directions, case law and the inherent powers of the court.

[Return to the top](#)

SECTION 4 MODES OF COMMENCING AN ACTION

2.4.1 Civil proceedings may be commenced by writ of summons, originating summons, originating motion or petition.

Writ of Summons

2.4.2 Most civil actions in contract and tort are commenced by way of a writ of summons. Proceedings which must be commenced by writ include actions involving claims for relief or remedy in/for any tort, other than trespass to land; claims based on allegations of fraud; claims for damages for breach of duty where the damages claimed include damages in respect of death, personal injury or damage to property; and claims in respect of the infringement of a patent.

Originating Summons

2.4.3 The Originating Summons procedure is suitable where there is no substantial dispute of fact. In comparison with a writ, the Originating Summons procedure is cheaper, faster and simpler as it does not involve pleadings and many interlocutory proceedings. Actions are commenced by way of Originating Summons

where the dispute is concerned with matters of law, or the interpretation of a written instrument or statutory provision; or if otherwise required under any written law or the Rules of Court. An action commenced by Originating Summons may be converted into a writ action should it later emerge that there is substantial dispute of fact.

Originating Motion and Originating Petition

2.4.4 An action may be commenced by way of Originating Motion or Originating Petition only if prescribed by the Rules of Court or any written law. The Originating Motion is typically used for certain applications and appeals under the Arbitration Act, and in applications for judicial review. An appeal to the High Court from any Court (except the Subordinate Courts), tribunal or person must also be brought by way of Originating Motion. An Originating Petition is most commonly used in non-contentions probate proceedings, divorce and adoption matters, and winding up proceedings.

[Return to the top](#)

SECTION 5 MATTERS TO BE CONSIDERED BEFORE COMMENCING ACTION

Time Limits

2.5.1 An action must be commenced within the limitation periods prescribed by law. Generally, actions in contract and tort have a limitation period of 6 years, personal injury actions have a limitation period of 3 years, and actions to recover land and execute on a judgment have a limitation period of 12 years.

Forum

2.5.2 Before commencing an action, a potential litigant should also consider if Singapore is the appropriate forum to commence proceedings or risk having the action stayed i.e., stopped, on the ground that there is clearly a more appropriate forum elsewhere. A party who wishes to stay an action on such a ground will have to show that it is in the interest of the parties and of justice to try the case in another forum. The court will have to be persuaded that the other forum has the most real and substantial connection to the dispute, taking into account factors such as the governing law of the transaction and the location of witnesses. However, this is not determinative of the matter. The court will also consider whether there are circumstances which militate against a stay, including whether substantial injustice will be caused in sending the plaintiff to a foreign court.

Court Fees and Hearing Fees

2.5.3 Court fees are prescribed in a number of statutory regulations and are payable at various stages in civil proceedings. Fees are payable when documents are filed with the court. Fees are also separately payable in respect of services such as sealing documents, providing copies of documents and the use of the court for hearings. Presently, court hearing fees are as follows:

	Value of claim up to S\$1 million	Value of claim more than S\$1 million
1st to 3rd day	Free	Free
4th day or part thereof	S\$6,000 per day or part thereof	S\$9,000 per day
5th day or part thereof	S\$2,000 per day or part thereof	S\$3,000 per day
6th to 10th day	S\$3,000 per day	S\$5,000 per day
11th day onward	S\$5,000 per day	S\$7,000 per day

[Return to the top](#)

SECTION 6 COMMENCING A WRIT ACTION – PROCEEDINGS UP TO CLOSE OF PLEADINGS

Issue and Validity of a Writ

2.6.1 To commence a writ action, the plaintiff will have to file the writ in the Supreme Court Registry, to be signed and sealed by the Registrar. Once the writ is signed and sealed, it is deemed issued. A writ is generally valid for 6 months. Where it has to be served out of jurisdiction, it is valid for 12 months; and where it is issued in Admiralty Proceedings, the writ is valid for 2 months. The plaintiff may apply to the court to extend the validity of the writ for a further period of 6 months at a time.

Service of the Writ

2.6.2 A writ must be served personally on each defendant. Personal service is effected by leaving a copy of the document on the defendant if he is an individual and at the registered address of the defendant if it is a company. There are exceptions, for example, where the defendant's solicitor has authority to accept service on behalf of the defendant or where an order for substituted service is made.

Service of the Writ out of Singapore

2.6.3 The court may grant leave to a plaintiff to serve a writ on a defendant outside Singapore. Before a court grants leave, it must be satisfied that the plaintiff has a good arguable case falling under one of the limbs of Order 11 rule 1 of the Rules of Court which, amongst other cases, include instances where relief is sought against a person who is domiciled, ordinarily resident or carrying on business or who has property in Singapore and/or an injunction is sought ordering the defendant to do or refrain from doing anything in Singapore and/or the claim is brought in respect of a breach committed in Singapore of a contract made in Singapore. Further, the court has to be satisfied that there are serious issues to be tried. If leave is granted,

service outside Singapore has to be in accordance with the laws of the country in which service is effected.

Entering Appearance

2.6.4 If a defendant is served with the writ, he has 8 days after service of the writ (or 21 days if the writ was served out of jurisdiction) to enter an appearance by filing a Memorandum of Appearance with the court to indicate his intention to defend the suit.

Pleadings

2.6.5 Before a writ is issued, it must be endorsed with a statement of claim or, if the statement of claim is not endorsed on the writ, with a general endorsement consisting of a concise statement of the nature of the claim made and the relief or remedy prayed for. When the writ only has a general endorsement, the statement of claim must be served before the expiration of 14 days after the defendant enters an appearance. When the defendant has entered appearance, he is required to file and serve his defence on the plaintiff 14 days after the time limited for entering an appearance, or after service of the statement of claim, whichever is later. A defendant may make a counterclaim in the same action brought by the plaintiff in the defence and counterclaim. A plaintiff must serve on the defendant his reply and defence to a counterclaim, if any, within 14 days after the defence (and counterclaim) has been served on him.

Close of Pleadings

2.6.6 Pleadings are deemed closed 14 days after service of the reply or service of defence to the counterclaim. If neither a reply nor a defence to the counterclaim is served, pleadings are deemed to be closed at the end of 14 days after the defence is served.

Third Party Proceedings

2.6.7 If the defendant is of the view that another party is liable to indemnify it and/or otherwise contribute towards the plaintiff's claim, the defendant may apply to add that party as a "third party", leading to third party proceedings.

[Return to the top](#)

SECTION 7 DISPOSAL OF ACTION WITHOUT TRIAL

2.7.1 Proceedings may be resolved and/or otherwise summarily terminated and/or determined and disposed of at an early stage before the trial of the action, for a variety of reasons.

Default Judgment

2.7.2 If a defendant fails to enter an appearance or having entered appearance, fails to file a defence, within the time specified in the writ, the plaintiff may enter default judgment against him. This may be a final judgment or an interlocutory judgment, depending on the nature of the claim.

Summary Judgment

2.7.3 If the defendant has entered appearance and filed a defence, but it is clear that the defendant has no real defence to the claim, the plaintiff may apply to court for summary judgment against the defendant. To avoid summary judgment being entered, the defendant has to show that the dispute concerns a triable issue or that there is some other reason for trial. An application for summary judgment must be filed at the latest within 28 days after pleadings are deemed to be closed.

Striking Out

2.7.4 Pleadings may also be struck out summarily. An application to strike out any pleading or part thereof, may be made if it discloses no reasonable cause of action or defence and/or is scandalous, frivolous or vexatious and/or tends to prejudice, embarrass or delay the fair trial of the action and/or is otherwise an abuse of the process of the court.

Discontinuance and withdrawal

2.7.5 Finally, a party may withdraw or discontinue his action or defence or counterclaim, as the case may be. This may be done with or without the court's leave (permission), depending on the stage of the proceedings.

[Return to the top](#)

SECTION 8 PROVISIONAL REMEDIES AND OTHER INTERLOCUTORY MATTERS

Interlocutory Injunction

2.8.1 At any stage of the proceedings, but frequently immediately following the issue of the writ, it may be necessary and/or appropriate for a litigant to apply to court for an interlocutory injunction directing the other party to do or refrain from doing something until the trial of the action. The purpose of such an injunction is to protect the litigant against injury which it would not otherwise be adequately compensated for in damages if the dispute was resolved in its favour at trial. In cases of urgency, the plaintiff may make an application even before the issue of the proceedings but must give notice of the application to the other concerned parties, unless grounds can be shown that giving notice would defeat the purpose of the application.

2.8.2 To obtain the injunction, the applicant must show that there is a serious question to be tried with a real prospect of success, and that the balance of convenience lies in favour of granting the injunction. The granting of an injunction is

normally made subject to the plaintiff's undertaking to pay damages to the defendant in the event the defendant is vindicated, or the court later decides the injunction should not have been granted.

Mareva injunction

2.8.3 The Mareva injunction is designed to prevent parties from taking steps to deliberately frustrate the orders of the Court by dissipating assets (either locally or worldwide) in order to avoid the risk of having to satisfy any judgment which may be entered against them in the proceedings. Notice of the application has to be given to the other parties concerned, unless there is evidence that such notice will defeat the purpose of the application.

2.8.4 To obtain a domestic injunction, the plaintiff must show that he has a good arguable case against the defendant, the defendant has assets within jurisdiction, and there is a real risk of dissipation of assets from the jurisdiction which would render judgment obtained in the proceedings nugatory. The same principles apply in the case of a worldwide Mareva injunction, except that insofar as the defendant's assets within jurisdiction are concerned, the plaintiff will have to show that there are no and/or insufficient assets within jurisdiction to satisfy the claim and that there are assets outside the jurisdiction.

Anton Piller Order

2.8.5 Another provisional remedy is the Anton Piller order which seeks to prevent a defendant from destroying incriminating evidence by permitting certain persons to enter his premises to search for, seize and retain documents or other items. Such an application is made without notice. To obtain such an order, the plaintiff must satisfy the court that it has an extremely strong prima facie case, the potential damage to the plaintiff which the grant of an order could avert is very serious, there is clear evidence that the defendant has in its possession incriminating documents or items and there is a real possibility that the defendant may destroy such material before an application with notice to the other parties can be made.

Other Interlocutory Matters/Applications

2.8.6 Apart from these provisional remedies, there are other more standard interlocutory matters/applications which may be and/or are typically taken out before a matter is ready to be set down for trial.

Discovery and Inspection of Documents

2.8.7 For example, an important aspect of litigation is the discovery process through which parties have to give discovery of the documents which are relevant to the issues in the case and which are in their possession, custody or power. However, if one party believes that the other party has given inadequate discovery, it may apply to Court for specific discovery of documents.

Security for Costs

2.8.8 Another common application is that for security for costs. The court may order a person in the position of plaintiff to give security for its opponents' costs. The defendant has to show that the plaintiff is ordinarily resident out of the jurisdiction and/or the plaintiff is a nominal plaintiff who is suing for the benefit of some other person and there is reason to believe that he will be unable to pay the costs of the defendant if ordered to do so and/or the plaintiff's address is not stated in the writ or other originating process or is incorrectly stated and/or the plaintiff has changed its address during the course of proceedings to evade the consequences of litigation. If the case falls within one of the aforesaid cases, the court will, having regard to all the circumstances of the case, including whether an order will stifle a genuine claim, decide if it will be just to order security.

[Return to the top](#)

SECTION 9 EXCHANGING EVIDENCE AND SETTING DOWN FOR TRIAL

Pre-Trial Conference

2.9.1 To facilitate proceedings, the Registrar holds regular pre-trial conferences ("PTC"). At the PTC, the Registrar will take stock of the status of the action and give directions to parties on the next steps to be taken in the proceedings. The PTC is supplemented by the Summons For Directions which is filed by the plaintiff to obtain formal directions, amongst other things, for the exchange of affidavits of evidence in chief and to fix trial dates.

Exchange of Affidavits of Evidence in Chief

2.9.2 Each party has to prepare, file, and exchange affidavits of evidence in chief of each of its witnesses. These are written sworn statements by the witnesses which will stand as their testimony at the trial and on which they will be cross-examined. The affidavits of evidence in chief are filed and exchanged before the trial.

Expert Evidence

2.9.3 Parties may also exchange expert evidence, by way of an expert report exhibited to the affidavit. Experts may be appointed by the court or by parties. It is the duty of an expert to assist the court on the matters within his expertise, and this duty overrides any obligation to the person from whom he has received instructions or by whom he is paid.

Subpoenas

2.9.4 Subpoenas may be issued to ensure the attendance of witnesses at trial, failing which the affidavits they have submitted as evidence in chief will be rejected by the court. Three types of subpoenas may be issued. The first requires the witness to attend court to give oral evidence, the second requires the person named to produce documents without the obligation to attend personally, and the third is a combined subpoena that requires the witness to give evidence in court and produce documents.

Setting Down

2.9.5 When all interlocutory processes have been concluded and the matter is ready for hearing, parties have to file the Request for Setting Down Action for Trial together with the necessary bundles of documents.

[Return to the top](#)

SECTION 10 TRIAL

2.10.1 The plaintiff's solicitors will open the plaintiff's case (unless the burden of proof is on the defendant) by addressing the court and the plaintiff's witnesses will take the stand first and be cross-examined. Each witness may be re-examined after his/her cross-examination has ended. After all the plaintiff's witnesses have given evidence, the plaintiff's case is closed. It is then the turn of the defendant's witnesses to testify and be cross-examined and re-examined on their evidence. After the defendant's witnesses have completed giving their testimony, parties will make closing submissions which may, depending on the Judge and complexity of the matter, be either oral or written. After a decision has been made and judgment delivered, the Registrar or the proper officer of the Court will enter in the minute book the judgment given by the Judge and any order made by the Judge as to costs.

[Return to the top](#)

SECTION 11 ASSESSMENT OF DAMAGES

2.11.1 In certain cases, including personal injury claims, a judge may grant judgment on the issue of liability but not make a ruling on the precise quantum of damages that has to be paid to the successful litigant by the other party. In this situation, the quantum of damages to be awarded is assessed by a Registrar in a hearing in chambers. The Registrar will hear evidence from appropriate parties, such as the injured plaintiff and/or medical experts, to determine the appropriate quantum of damages to be awarded. The hearing for assessment of damages follows a similar order of proceedings used in trials before judges.

[Return to the top](#)

SECTION 12 ENFORCEMENT

Writs of Execution

2.12.1 A judgment may be enforced by one of a variety of writs of execution including a Writ of Seizure and Sale of movable and immovable property, a Writ of Delivery and Writ of Distress. These writs authorize court officials to take appropriate measures to give effect to the judgment.

Garnishee Proceedings

2.12.2 The garnishee process may be appropriate where the judgment debtor owes a debt to a third party (the garnishee). When the judgment creditor garnishes the debt, the garnishee must pay the money to him instead of to the judgment debtor. To collect the money representing the debt, the judgment creditor must first apply for a garnishee order nisi, which may be filed without involvement of other parties. This leads to "show cause" proceedings. If the garnishee confirms that there are monies due and owing to the judgment debtor at the show cause stage, the Registrar may proceed to make the garnishee nisi absolute and the garnishee must pay the money to the judgment creditor instead of the judgment debtor.

Registration of Judgment

2.12.3 Where the judgment creditor is not able to enforce his judgment in Singapore because the judgment debtor has no assets here, he may be able to enforce it in a country where the latter does have assets. He might do so by commencing fresh proceedings or, if possible, by registering his Singapore judgment in the foreign country (on the basis of reciprocity of enforcement between the two countries).

Others

2.12.4 There are other processes by which a judgment may be enforced including bankruptcy and company winding up proceedings.

[Return to the top](#)

SECTION 13 COSTS

Entitlement to Costs

2.13.1 The principle is that "costs follow the event". This means that the costs of an action are usually awarded to the successful litigant. This may include fees, charges, disbursements, expenses and remuneration. An order of costs granted by the court is entirely discretionary whether in principle or in quantum. The court may order either fixed costs or taxed costs. Generally, costs can be taxed when costs are ordered but are not fixed (ie, pre-determined by fixed scales of costs).

Bases of Taxation

2.13.2 There are two basis of taxation, the standard basis and the indemnity basis. Under the standard basis, the court shall allow a reasonable amount for all costs reasonably incurred, and any doubts as to whether costs were reasonably incurred or reasonable in quantum shall be resolved in favour of the paying party. Under the indemnity basis, the court shall allow a reasonable amount for all costs reasonably incurred, and any doubts as to whether costs were reasonably incurred or reasonable in quantum shall be resolved in favour of the receiving party.

Taxation Procedure

2.13.3 At the conclusion of the legal action, the lawyer of the winning party submits a bill of costs ordered by the court to be paid by one party to another ('Party and Party Costs'). If the bill of costs is disputed, the bill can be considered by a taxing Registrar and each item disputed in the bill will be determined by the taxing Registrar after hearing objections and arguments by each party. A party entitled to require any costs to be taxed must begin proceedings for the taxation of those costs by lodging two copies of the bill of costs at the Registry. On the date fixed for the taxation, the parties who wish to be heard on the bill will attend before the taxing Registrar. A solicitor may also have occasion to submit a bill of costs against his or her client ('Solicitor and Client Costs') eg, when they have a dispute as to the amount of costs payable.

2.13.4 Bills of costs are taxed for one of the following reasons: (a) the court has directed taxation; (b) both solicitor and client consent to taxation of the solicitor's bill; (c) the chargeable party or any person liable to pay the bill obtains an order for taxation of the bill by way of a petition within one year of the delivery of the bill. If the petition is filed by the solicitor, charges are payable after the expiry of one calendar month and one year from the delivery of the bill. If the parties are not satisfied with the amount allowed or disallowed by the taxing Registrar, an application may be filed for a review by a Judge of the High Court in chambers within 14 days after the taxation hearing.

[Return to the top](#)

SECTION 14 APPEAL PROCESS

Supreme Court

2.14.1 Appeals take different forms and operate at various levels. In the Supreme Court, an appeal from a decision of a registrar (usually on an interlocutory matter) lies to a judge in chambers. Unless prohibited by statute, a further appeal lies to the Court of Appeal (leave may have to be obtained for this purpose). An appeal also lies to the Court of Appeal from the decision of a High Court judge at trial (if not prohibited and leave is obtained when this is required). For example, a party who is dissatisfied with a decision of the High Court may appeal to the Court of Appeal to set aside or vary the decision if the value of the subject matter at trial exceeds S\$250,000. Where the value of the subject matter is S\$250,000 or less, the approval of the court must be obtained.

2.14.2 With regard to interlocutory orders, if a party wishes to appeal against a decision made by a Judge of the High Court in chambers, he must apply to the court by letter for further arguments before the same Judge within 7 days of the delivery of that decision. If the Judge decides that he wishes to hear further arguments, the Registrar will inform the party who made the application within 14 days of the receipt of his letter that the Judge requires further arguments. If, after further arguments, the party is still dissatisfied with the decision of the Judge he may file an appeal to

the Court of Appeal. If the Registrar does not reply within the 14 days, it is deemed that the Judge has certified that he requires no further arguments. In appeals against interlocutory orders, the Court of Appeal need only consist of two Judges of Appeal. In appeals against final orders or judgments, the Court of Appeal consists of 3 Judges of Appeal.

Subordinate Courts

2.14.3 With regard to trials, an appeal generally lies from a magistrate's court or a district court to the High Court. (The pecuniary jurisdiction of a magistrate's court and district court is considered under paragraph 2: "Courts".) As in the case of the High Court, interlocutory matters are decided by the registrars. An appeal against the decision of a registrar lies to a district judge in chambers and from the district judge to a High Court judge in chambers. An appeal to the High Court must satisfy certain conditions or leave must be obtained. For example, leave must be obtained to file an appeal to the High Court where the claim is \$50,000 or less.

2.14.4 The High Court has supervisory and revisionary jurisdiction over the subordinate courts. It may call for and examine the record of any civil proceedings before any subordinate court for the purpose of 'satisfying itself as to the correctness, legality or propriety of any decision recorded or passed, and as to the regularity of any proceedings of the subordinate court'. The High Court may direct a new trial or give other orders as are necessary to ensure that 'substantial justice is done'.

[Return to the top](#)

SECTION 15 OTHER CIVIL PROCEEDINGS AND PROCESSES

2.15.1 The processes described thus far concern general litigation. There are special rules, governing various categories of disputes. These include (and these are only some examples of many possible proceedings) matters such as: admiralty proceedings; probate proceedings; matrimonial proceedings; government proceedings; and insolvency proceedings.

[Return to the top](#)

Updated as at 12 January 2006

By: Jeffrey Pinsler
Professor
Faculty of Law, National University of Singapore

Cavinder Bull
Director
Drew & Napier LLC

Disclaimer: The articles and briefings on this website are for general information only. Readers are advised to seek specific legal advice before acting on the contents set out therein. If advice is required, please consult a Singapore lawyer or one of the writers of the relevant article or briefing. If you would like to contact the writers, please write to singaporelaw@sal.org.sg, indicating your queries and the name of the writer whom you wish to contact. The writer will be informed of your request and will contact you subsequently.