

香港大律師公會的信頭
Letterhead of HONG KONG BAR ASSOCIATION

By fax and by post
(fax no: 2509-9055)

Your Ref: CB2/BC/2/99

10th March, 2000

Mrs. Percy Ma
Clerk to Bills Committee
Legislative Council
HKSAR
Legislative Council Building
6 Jackson Road
Central
Hong Kong

Dear Mrs. Ma,

Bills Committee on District Court (Amendment) Bill 1999

Thank you for your letters of 2nd and 25th February 2000. The Consultation Papers on Bills Committee on District Court (Amendment) Bill 1999 has been considered by some of our members whose views have been endorsed by the Bar Council. Please find hereunder the same for your consideration.

1. The primary concern is with the proposal to allow parties to transfer a case out of the High Court and into the District Court without regard to the value of the claim. We perceive this creating serious problems which we identify as follows:
 - (1) There is no District Court Registry capable of handling the interlocutory steps in a claim;
 - (2) The complexity of cases which now fall within the generic description of Personal Injuries includes Medical (Clinical) Negligence claims and Product Liability claims. It is our experience that claims within all categories of Personal Injuries are becoming more complex rather than less so and make demands

upon the expertise of those charged with hearing them, whether they be Judges or Masters (Registrars);

- (3) It has taken some years to create a Personal Injuries List in the High Court which now has the benefit of two permanent Personal Injuries Judges and a Personal Injuries specialist Master. That notwithstanding, procedural as well as substantive legal problems are an everyday occurrence. We cannot see that the District Court, lacking even the most basic infrastructure for hearing cases within the category, is fitted to determine many of these cases which currently fall within its financial remit, let alone those which by definition do not;
 - (4) The net result is likely to create confusion and a backlog. We cannot see how this can be regarded as facilitating access to justice or meeting the increasing demands for speedy and efficient judicial determination.
2. In the light of these concerns which reflect the experience of specialist practitioners, the Personal Injuries Committee urges those who would effect this radical potential increase in jurisdiction by way of section 39 to proceed with extreme caution.
 3. In these circumstances, while we fully support the proposed increase of jurisdiction in the District Court, we strongly suggest that we should postpone immediate implementation of the proposed changes until such time as the Judiciary is in a position to confirm that the necessary infrastructure outlined above is in place.

Yours sincerely,

Ronny Tong, SC
Chairman

NS/rc