

## PRETRIAL SESSIONS

### REMARKS BY JUSTICE MARFUL-SAU

#### Opening Statement

#### Purposes

1. Welcome the Parties and introduce them to the purpose of the pre trial process
  - The need to assure the parties that the pre trial process is part of the adjudication process in the court.
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2. Establish a comfortable environment.
3. Develop rapport - trust and confidence in the Pre trial process and the Pre trial Judge.
  - Assure parties of neutrality of Judge; also the merits of the process.
4. Clarify roles – Eg. Pre trial Judge directs or facilitate the process and the parties control the outcome.
5. Assure the parties of the confidentiality of the process.
6. Discuss the role of Lawyers – as much as possible Lawyers should be in the background.
7. Explain the circumstance that will lead to private sessions or caucus.
8. Explain the informal nature of the process – No rigid application of the rules on evidence etc.
9. Establish communication guidelines or ground rules for the process.
10. Thank the parties for their anticipated cooperation in the pretrial process.

## ROLES OF PRE TRIAL JUDGE AS MEDIATOR

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1. Must study the pleadings to understand the dispute.
2. As the facilitator must keep the process moving.
3. Must fashion out areas of possible agreements as disclosed by the pleadings.
4. Help the parties to realistically assess their respective cases.
5. Generate realistic options for the consideration of the parties.
  - Direct the parties to focus on their interest and not positions.
6. May refer the parties to outside sources such as a Valuer, Planner, Auditor, Accountants etc.
7. Must show neutrality throughout the process.
8. Work to promote a consensual resolution of the dispute.
9. Must allow the parties to make their own decision.
10. Reduce settlement into agreement and enter consent judgment of settled terms.