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E-Mediation in E-Litigation Stages in Court

Parulian Lumbantoruan*
Doctoral Program Students, Law Studies Program, Sam Ratulangi University, Manado, North Sulawesi, Indonesia

Ronald Mawuntu
Professor of Law Studies Program, Sam ratulangi University, Manado, North Sulawesi, Indonesia

Caecilia J. J. Waha
Law Studies Program, Sam ratulangi University, Manado, North Sulawesi, Indonesia

Cornelius Tangkere
Law Studies Program, Sam ratulangi University, Manado, North Sulawesi, Indonesia

Abstract
Peace is one of the means to reach an agreement between two disputing parties without being influenced by the other party. In Indonesia's procedural law, the regulations governing peace are regulated in the provisions of article 130 HIR / article 154 RBg. The Supreme Court of the Republic of Indonesia empowers and optimizes peace in court by integrating mediation into court procedures (court connected mediation). On September 11, 2003 the Supreme Court issued a regulation named Supreme Court Regulation No.2 of 2003, revised by Supreme Court Regulation No.1 of 2008 and finally by Supreme Court Regulation No. 1 of 2016 concerning Mediation Procedures in Courts. As the implementation of the vision of the Supreme Court, namely towards a supreme and modern court, the issuance of Supreme Court Regulation No.3 of 2018 concerning Administration Cases in Electronically Held Court and Supreme Court Regulation No.1 of 2019 Concerning Case Administration and Trials in Electronically Held Court. The problem is that there was no change in the mediation procedures as in Supreme Court Regulation No.1 of 2016; the implementation was still carried out in the Court building with the presence of the parties in front of the mediator. This study describes the optimization of peace by means of electronic mediation, thus the parties or advocates do not need to be present at the Court building but submit bids and agreements through electronic means.
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I. INTRODUCTION

The State of Indonesia is a constitutional state as stipulated in article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia (*UUD NRI 1945*), further Article 28 D paragraph (1) of the 1945 *NRI* Constitution states that everyone has the right to recognition, guarantee, protection and legal certainty that is fair as well as equal treatment before the law, also Article 28 H paragraph (4) states that everyone has the right to have private property rights and these rights cannot be taken over arbitrarily by anyone. The provisions in this constitution aim to provide legal certainty and fair legal treatment to everyone in defending the private property rights of other people or parties.

The Republic of Indonesia as a constitutional state based on *Pancasila* and the 1945 Constitution of the Republic of Indonesia, aims to realize a nation that is prosperous, safe, serene and orderly. The Considerations for Act Number 2 of 1986 concerning the Courts assert that in order to realize the order of life and guarantee the equal position of citizens under the law, efforts are needed to uphold order, justice, truth and legal certainty that are able to provide protection to society[1].

In accordance with the constitutional mandate, the Government, in this case the Supreme Court of the Republic of Indonesia and Judicial Bodies existing under the Supreme Court, provide legal services to people who seek justice by preparing material and formal legal rules, human resources and infrastructure that are able to serve and reach all people in the country.

Article 130 HIR / 154 RBg regulates that if on the day determined for this, both parties attend, the District Court with the help of the Chairman (Judge) tries to reconcile them.[2] In the practice of civil justice, at the first trial that has been determined by the Panel of Judges, when the parties are fully present, the Panel of Judges concerned will first take efforts to reconcile the parties. If peace can be achieved for the parties, the Panel of

[1] Compilation of Legislation, 2010, *Law Number 2 of 1986 As Enriched with Law Number 49 of 2009, Concerning General Courts*, Fokusmedia R. Soesilo.1995. *RIB / HIR With the explanation,* Politeia, Bogor, p. Vi
[2] R. Soesilo.1995. *RIB / HIR With the explanation,* Politeia, Bogor, p. Vi

Judges will make a Peace Deed (*van dading*) and have it read in court, having the same power as the final decision. Others may ask the Court to compel enforcement in order to fulfill the content of conciliation with the institution of execution. Another alternative to the agreement that has been reached by the parties is that the Plaintiff can withdraw the lawsuit.

The peace effort in this preliminary trial is not something imperative and is often seen by the Judge as a mere procedure, thus is not taken as seriously and therefore maximum results are not obtained. The case examination continues to prove the material of the case until the final verdict from the judge, continues with ordinary legal remedies and extraordinary legal remedies. With this condition, it can be ascertained that the time frame for a case will take a long time (many years) and it is not uncommon for the implementation of the verdict to become halting, where the defeated party is looking for ways to delay the implementation of the verdict. The Supreme Court as the highest and last peak of the judiciary becomes a holding for an abundance of cases from all over the archipelago which results in an accumulation of cases.

Act No. 14/1985 as added and amended by Act No. 5 of 2004 jo Act no. 3 of 2009 concerning the Supreme Court regulates, in article 28, the duties and authorities of the Supreme Court to examine and decide upon cassation applications, disputes regarding the authority to judge and requests for review of court decisions that have obtained permanent legal force from all areas of the judiciary.[1] With a very broad authority as previously stated, the Supreme Court accepts thousands of cases each month as a result of which there is an accumulation of cases and their resolutions are delayed or take a long time.

The series of proceedings in court goes through several stages with long processes and can take up to 1 - 10 years. The examination process in the District and High Courts as *judex facti* by the Supreme Court Circular / *SEMA* No. 6 of 1992 as updated by *SEMA* No. 2 of 2014 concerning the Settlement of Cases in the First Level Courts and the Appeal Level in 4 (four) Judicial Environments,[2] it is limited to a maximum of 5 (five) months in the first level and 3 (three) months in the appeal level including minutations, however, the duration of the case processes in the Supreme Court as a *juris jurist* has no restrictions.

Such an indefinite period of time is clearly inconsistent with the principles of simple, fast and low cost justice. Realizing this matter, the Supreme Court as an institution that carries out the highest supervision of the administration of justice in all areas of the judiciary, in exercising judicial power issued Supreme Court Regulation No. 2 of 2003 as updated by Supreme Court Regulation No. 1 of 2008 with the latest Supreme Court Regulation No.1 of 2016 concerning Mediation Procedures in Courts. One of the Supreme Court Justices, *Takdir Rahmadi*, said that based on monitoring and evaluation of mediation in the District and Religious Courts, based on *Perma* Number 1 of 2008 shows a low success rate of around 4 (four) percent per year from the number of cases that are obliged to be mediated[3]. This Supreme Court Regulation was issued with the intention of making the implementation of peace by the Judge more effective and efficient at the beginning of a civil case hearing at the District Court as stipulated in article 130 HIR / 154 RBg, which in its implementation in judicial practice so far has been less than optimal and not serious.

Mediation is one of the faster and cheaper dispute resolution processes, and can provide greater access to justice for parties in finding satisfactory dispute resolution and satisfies a sense of justice, integrating mediation into court proceedings can be an effective instrument to resolve the problem of accumulating cases in court and strengthening and maximizing the function of non-judicial institutions for dispute resolution in addition to court processes that are *adjudicative*.

Laurence Boulle in his book Mediation Principles Process Practice provides a definition: mediation is a decision-making process in which the parties are assisted by a third party, the mediator, the mediator attempts to improve the process of decision-making and to assist the parties reach an outcome to which each of them can assent[4]. Mediation is a practical way to resolve disputes or conflicts for two disputing parties guided by or with the assistance of the third party as a mediator. The mediator helps the parties to find solutions that are mutually beneficial for both parties.

In August 2019, coinciding with the Supreme Court's anniversary, an application for a trial in a court known as e-litigation was launched, where e-litigation is part of the e-court that was launched previously on August 13, 2018. E-court is an innovation developed by the Supreme Court following the issuance of Supreme Court Regulation No.3 of 2018 concerning Case Administration in Electronically Held Courts for quick, simple and cost-effective settlement of cases as stipulated in article 2 paragraph 4 of Act Number 48 of 2009.

In e-court provisions, currently there are 4 (four) stages that have been implemented, namely Online Case Registration (e-filling), Obtaining Estimated Fee and Online Pyament (e-payment), Summons of litigants (e-summon) and trial (e-litigation). E-court users are registered users and other users. Registered Users are verified

[1] Sets of Laws and regulation, Law Number 3 of 2009 Concerning the Supreme Court, Op cit, p.6
[2] Circular of the Supreme Court of the Republic of Indonesia Number 2 of 2014 *concerning Case Settlement at the First Level Court and Appeals in 4 (four) Judicial Environments,* p.1
[3] Takdir Rahmadi, 2010 *Mediation for Dispute Resolution Through a Consensus Approach*, Raja Grafindo Persada, Jakarta, p. 149
[4] Boulle Laurence, *Mediation Principles Process Practice* (Australia, Butterworths 1996), p. 3

Advocates while Other Users are Individuals, Government, Legal Entities and Incidental Proxy).

With the implementation of an online case handling system, each litigant party that agrees to process a case by e-court has an obligation to follow all the processes thereof. The cost of each of these processes previously calculated in the payment of case fees as stated in the Components of Down Payment, include:

1. Registration
2. Seal Cost,
3. Editors
4. Oath of Witnesses (2 times)
5. Summons of Defendant Mediation (2 times)
6. Summons of Plaintiff Mediation (2 times)
7. Summons of Defendant (3 times)
8. Summons of Plaintiff (2 times)
9. *PNBP Relaas* First Summons
10. Process costs

It appears that there are costs for the summons for mediation where in fact the mediation is still carried out manually, which of course must consider several things, the distance between the parties from the place where the case is registered can become an obstacle in mediation. During the Covid-19 pandemic this can be a significant problem considering the implementation of health protocols such as social distancing and physical distancing which further limits face-to-face meetings, including in court. In addition, the mediation often fails because most parties have a tendency to refuse mediation (there is a desire to win a case) or even at the end of the mediation the word peace is not reached thus the case must be proceeded to trial, while dispute resolution through court channels tends to lead to negative impact on the tenuous relationship between the disputing parties (*inharmoni*). The success of mediation to date is still in the range below 8% of the number of cases that have gone through the normal mediation process in court.

With regard to Supreme Court Regulation No.3 of 2018 concerning Administration Cases in Electronically Held Court, the stages of case settlement for the implementation of mediation are carried out face-to-face, attended by the parties and / or their attorneys who are guided by a judge mediator or certified professional mediator, as regulated in article 11 paragraph (1,2) of *Perma* No.1 of 2016 Concerning Mediation Procedures in Courts[1]. This provision is not in line with the vision of the Supreme Court towards a great and modern judiciary, which should have all stages of case settlement carried out as efficiently, quickly, simply and low-cost as possible but achieve results.

The implementation of electronic mediation is carried out without the presence of the parties and / or their attorneys at the Court building, it should be done from anywhere without disturbing other activities of the parties, without a budget from the Court to summon the parties, the parties do not incur operational costs and the main thing is to avoid Face-to-face meetings with other parties and mediators as the implementation of physical distancing health protocols to avoid transmission of the corona virus disease covid-19.

Overview of the current E-COURT system

As previously explained, Mediation is one of the components that is taken into account in the down payment of a court case.

Summons of Mediation (E-summons) shall be made via e-mail of Registered Users or other Users during the registration stage.

[1] The Supreme Court of the Republic of Indonesia Regulation Number 1 of 2016 *concerning Mediation Procedures in Courts*

E-summons algorithm:

When you click Send Summons / Notification, the system will automatically generate a *Relaas* for the litigant. For those who have e-mail, it can be sent electronically, but for e-Summons to the defendant whose address is unknown, it is still notified through newspapers or mass media, called 2 (two) times within a grace period of 120 (one hundred and twenty) working days after case registration.

This research was conducted with the intention of designing an alternative electronic mediation which can then be developed to improve e-court whose main objective is the modernization of the judiciary in the process of settling cases. In addition, electronic mediation is expected to increase the success rate of mediation so that it not only speeds up the dispute resolution process, but also eliminates the psychological effects that arise after the trial.

Based on the background mentioned above, the research question is formulated as follows:

How does e-mediation affect the optimization of mediation in the settlement of civil cases in court?

Benefits and Objectives of the Study

1. To overcome the problem of distance
2. To increase the level of successful mediation
3. To optimize e-court
4. To achieve the principle of justice, that is, fast and low cost.
5. To increase the number of successful mediations in court by building an e-mediation system that effectively and efficiently cuts all bureaucratic channels, time and costs that may be incurred in the mediation process so that mediation success can reach at least 50%.

II. DISCUSSION

A. Theoretical Framework

1. The Teachings of Law Ideals

Since the beginning of the development of legal theory and philosophy, especially since the development of the ideals of law (*idee des recht*) developed by legal expert Gustav Radbruch as quoted by *Sudikno Mertokusumo* [1] states that there are 3 (three) elements of legal ideals that must exist proportionally, namely legal certainty (*rechssicherkeit*), justice (*gerechtikeit*) and benefits (*zweckmasigkeit*). In every draft or regulation made it is obligatory to accommodate the three legal ideals above. Likewise, e-mediation is carried out to achieve prime justice, certainty and benefits for the realization of a peace agreement for the parties in litigation.

2. The principle of quick simple justice and low cost

Article 2 paragraph (4) of Act 48 of 2009 on Judicial Power that regulates Justice is done simply, quickly, and at low cost. This principle is known as the principle of justice which must be upheld by the judiciary and therefore must be implemented in exercising judicial power. The implementation and optimization of the mediation institution is an embodiment of the simple, quick and low cost principle, namely to cut the chain of litigation procedures. Likewise, the implementation of e-mediation is expected to obtain maximum results to reach a peace agreement for the parties of a case. With the application of e-mediation, the mediation procedure feels simple for the parties, in addition to the low cost.

3. Modernization of the judiciary with Information Technology

The Supreme Court has *launched a chain-court* as an effort to automate case administration in court. E-court is an Online service for Case Registration (e-filling), Fee Estimates and online Payments (e-payment), Summons (e-summon) and trials (e-litigation) conducted via electronic channels, all of which are regulated in Supreme Court Regulation Number 1 of 2019 concerning the Administration of Cases and Trials in Electronically Held Courts. When the parties have completed the registration of data and documents, the parties will get an estimated down-payment of the court fee in the form of Electronic *SKUM* (e-*SKUM*) with the down-payment and Radius Components determined by the Chairman of the Court, which includes two summonses for the defendant's mediation and two summonses for

[1] Sudikno Mertokusumo & A.Pitlo, 2013, *Chapters on Legal Discovery*, PT Citra Aditya Bakti, Bandung.

the plaintiffs' mediation, where the mediation was carried out manually by presenting the litigants. Mediation is a form of out-of-court settlement of cases (non-litigation).

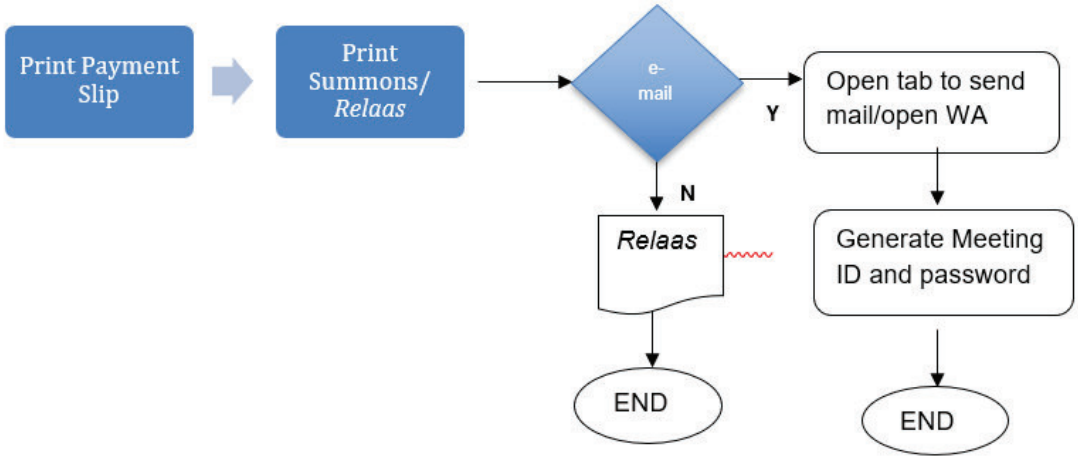
In this series of processes, the mediation stage is still carried out manually. Until now, the enforcement of mediation in court is still at the procedural level where the parties are directed to mediate solely to carry out the prevailing laws and regulations, namely Supreme Court Regulation Number 1 of 2016 Article 1 of Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures In the Court, the definition of Mediation is a method of dispute resolution through the negotiation process to obtain an agreement between the Parties with the assistance of a Mediator. The Mediator, namely a Judge or other party who has a Mediator Certificate, is a neutral party who assists the Parties in the negotiation process to find various possible resolutions of disputes without using any means of deciding or forcing a solution. Article 4 explains which cases can go through mediation, "all civil disputes submitted to the Court, including cases of resistance (*verzet*) over the *verstek* decision and the resistance of the litigant (*partij verzet*) and third parties (*derden verzet*) against the implementation of the verdict that has permanent legal force, must first seek settlement through Mediation ".

Apart from being the pinnacle of the highest judiciary, the Supreme Court also has the function of regulating the judicial bodies under it, with this authority to achieve the vision of a supreme and modern judiciary of the Supreme Court issued Regulation No. 3 of 2018 concerning Case Administration in Electronically Held Court and *Perma* No.1 of 2019 concerning Administration of Cases and Trials in Electronically Held Court and Decree of the Chief Justice of the Supreme Court Number 129 KMA / SK / VIII / 2019 Regarding Technical Instructions for the Administration of Cases and Trials in Electronically Held Court**.**

This Supreme Court Regulation is intended as a legal basis for the administration of cases and trials in electronically held courts to support the realization of orderly case handling that is professional, transparent, accountable, effective, efficient and modern. (Article 2 of *Perma*).

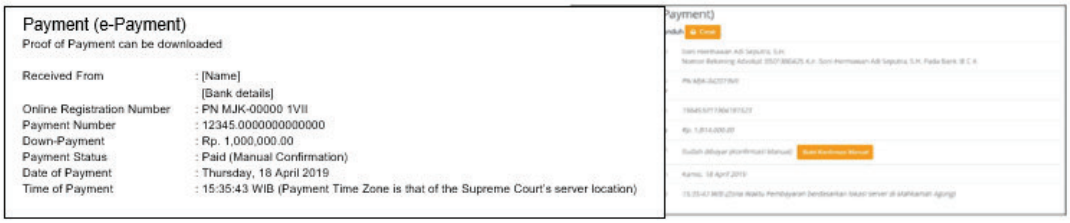
B. e-Mediation Implementation Plan.

The implementation of e-summons mediation can be designed with the following algorithm:



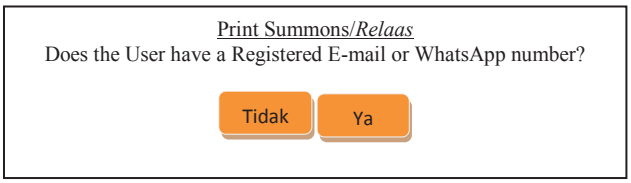
User Interface *Design*:

1. Print Proof of Payment / PAYMENT SLIP

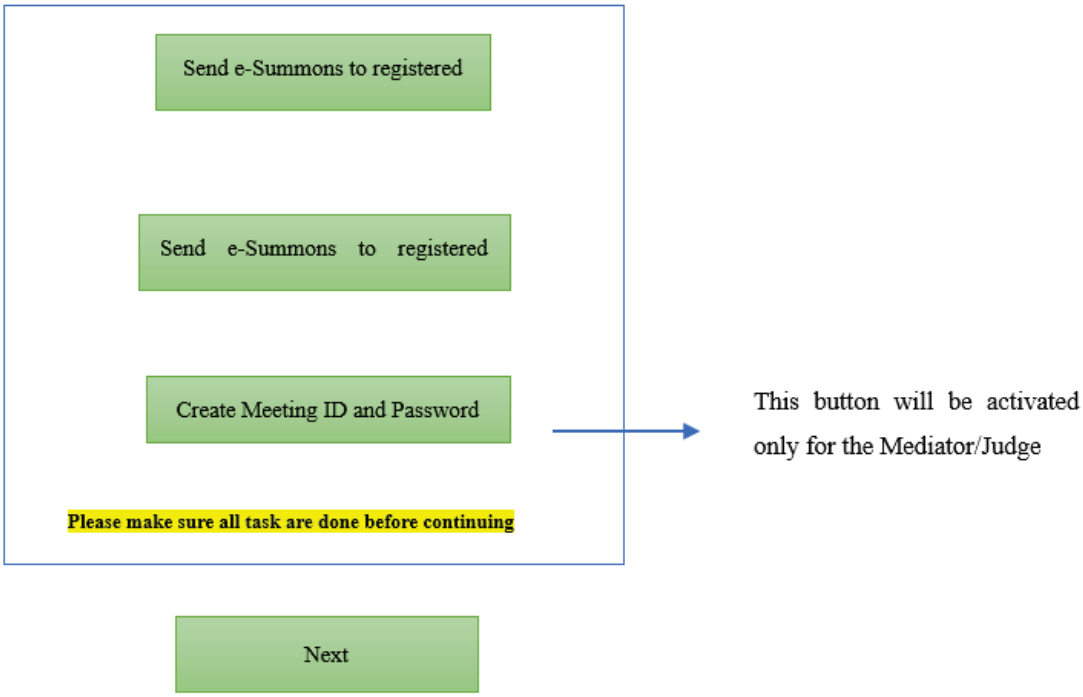

Payment (e-Payment)
Proof of Payment can be downloaded

Received From	: [Name] [Bank details]
Online Registration Number	: PN MJK-00000 1VII
Payment Number	: 12345.0000000000000
Down-Payment	: Rp. 1,000,000.00
Payment Status	: Paid (Manual Confirmation)
Date of Payment	: Thursday, 18 April 2019
Time of Payment	: 15:35:43 WIB (Payment Time Zone is that of the Supreme Court's server location)

2. Print Summons



If the answer is "No": Print *Relaas*
If the answer is "Yes":



On the user's side, when they read it, there must be an obligation to verify the unique code that is generated automatically on the summons. The user must log into the e-court to verify the code, go to the mediation tab and click the "accept relaas" button. On a predetermined schedule, the user can click the zoom button / logo on the e-court application and will automatically be connected to the meeting. The zoom logo will only be clickable on a predefined schedule. Apart from that, the Zoom logo is inactive. Users must be confirmed first by the Zoom admin then they can enter the mediation meeting room.

C. Legal Aspects of the implementation of e-mediation (legality)

The stages of trial in settlement cases, especially with evidence that is so complicated and tiring for the parties, judges and clerks, are no longer needed if the parties agree to take a peaceful path or mediation is successful in resolving disputes. For this reason, steps and strategies for civil procedural law are needed with the aim of making it easier to achieve peaceful results in an efficient, low cost, time-efficient manner and to avoid virus disease pandemic by means of e-mediation.

The Supreme Court as the pinnacle of the highest judiciary also has a strategic function to regulate and provide guidance to the judicial bodies under it as the spearhead that directly faces the justice-seeking community. First, the Supreme Court is obliged to make regulations in the form of Supreme Court Regulations (*Perma*), The Letter of Supreme Court (*SEMA*), Decree and even *Maklumat*. Secondly, the Supreme Court is encouraged to improve *Perma* No.1 of 2016 concerning Mediation Procedures in Courts and *Perma* No.3 of 2018 concerning Electronic Case Administration in Courts, Perma No.1 of 2019 concerning Case Administration and Trials at the Electronically Held Court and Decree of the Chief Justice of the Supreme Court Number 129 KMA / SK / VIII / 2019 Regarding Technical Instructions for the Administration of Cases and Trials in Electronically Held Court. This is intended so that the implementation of the mediation stages that are integrated with the trial are carried out electronically. With the support of rigid procedural law regulations, mediation can be optimally achieved.

Legal considerations for the implementation of e-mediation:

1. The choice of venue determines the outcome.

If the parties and / or their attorneys are not required to appear at the Court building then they can

carry out the mediation stage in between other activities which may also be very important. This era of modernization requires everyone work in mobile open-plan space, even the jurisdictions of the state. At the same time, several activities can be optimally done.

In the mediation technique, the choice of place is crucial to success. Advocates are more free to discuss with their colleagues or partners in their own office. People may think that a well-prepared concept can be presented in court. That is true, but if the discussion then opens in the Court building which is attended by one of the lawyers without colleagues, it is very possible to weaken them from filing legal arguments against the opposing party.

According to legal expert Prof. Yoshiro Kusano in his book *Wakai New Breakthrough for Dispute Resolution*, there are three basic points that must be considered when expressing personal opinion[1]:

1. Determine the feelings of one party as well as the personality and intentions of the lawyer.
2. After that, explain to both parties that the judge's personal opinion to be disclosed is of a professional nature, and
3. Express an opinion about the case in a place where the other party is not present.

The three points above can of course be fulfilled in an atmosphere of peace of mind for the parties separately without coming face to face with each other. Feelings of calm can only be found if you are far from the source of the problem or do not face the opposing party in the case, with an intense discussion between the lawyer and the client in a calm atmosphere and place, it is likely that you will get a good concept and can be accepted by the opposing party. This can be obtained if they are not in the Court building.

Dr. Susanti Adi Nugroho, SH.MH[2] in her book *Benefits of Mediation as an Alternative to Dispute Resolution,* many of the advantages of mediation as a dispute resolution process are derived from the ability of the mediator to hold separate meetings with the parties. Separate meetings have various benefits, as a specific procedure for reaching an agreement, separate meetings can be used to:

a. Get information and reasons for one party not wanting to participate in joint meetings.
b. Understand the differences in priorities and preferences of the parties.
c. Test the flexibility of certain parties.
d. Reduce unrealistic expectations and avoid stiffness in position.
e. Submit a temporary offer.
f. Analyze options and proposals without the need for commitment and loss of face.
g. Get an understanding of why a certain option is unacceptable.
h. Examine several proposals and options
i. Assist the parties in considering alternative consequences and failure to reach agreement.

The implementation of electronic mediation is identical with the way of accommodating the choice of place to negotiate between the parties because the parties do not meet each other face to face, but the proposals are submitted electronically through a mediator judge, thus identical to caucus mediation, one party only deals with a mediator, even then electronically. The benefits obtained as described by Susanti Adinugroho will undoubtedly be achieved well.

2. Minimizing litigation costs.

From a financial point of view, the absence of parties at the Court building certainly saves money, there is no need to pay fees and other accommodations, without paying the costs of subpoena relations against the parties or their attorneys. The increase in the budget usually greatly affects the enthusiasm of other people, including the parties in the litigation, to reach a peace agreement, the economic principle applies in this case, namely at the smallest cost to obtain maximum results.

From research conducted on litigants in the court who participated in the mediation carried out by distributing questionnaires, the following results, majority of respondents, the litigant parties, 93.9% chose the mediator Judge over the certified professional mediator, meaning that the parties are more likely to be mediated by a judge. A very small percent, that is, only 6.1% of respondents chose a certified professional mediator for the reasons as outlined below.

The reasons for the parties choosing the judge as the mediator, the majority is 57.6% on the grounds that by choosing a judge it means that in the implementation of the mediation there is no payment or is free and also apart from the ability of the judge. The survey results show that the litigants who participate in the mediation tend to take internal costs into account settlement of the case in court. Thus, it is the right choice if the parties are not required to come to the Court building to participate in the mediation process.

[1] Kusano, Yoshiro. Wakai New Breakthrough for Dispute Resolution: Grafindo Khazanah Ilmu, 2008
[2] Susanti Adinugroho, 2017, *Arbitration Dispute Resolution and Legal Application,* . JakartaKencana, Jakarta

The parties can spend sufficient and intense time with other people, especially those closest to them, to discuss the concept of the offer and accept the other party's offer, that is, if it is discussed in their home. The more opinions and input from the family means that they can overcome the problems faced. With the consideration or input from the closest people it can melt one's heart and the bargaining position is hard and difficult to fulfill, all of which can be obtained in a comfortable and calm place. The author's observation as a judge, it is not uncommon for the parties in the mediation room to show an awkward attitude because they are influenced by meeting with opposing parties at the Court building, it is also awkward when dealing with Judges, this affects an awkward attitude and stance as well and seems static and rigid in making offers and responses to the opposing party's offer by displaying vigorous negotiation of their own accord. It is quite different if he is at home making his own offer and responding to the opposing party's offer after discussing it with his family.

The reasons for the parties did not want to be present at the Court building that the majority of respondents 62.1%, namely the litigants who attended the mediation did not want to be present at the Court building on the grounds that they did not want to reconcile with the opposing party. This opinion poll is in line with the author's observation of the awkward attitude of the parties when mediating in court, despite the reluctance to meet the opposing party, there is also a stiff attitude and harsh negotiations, holding on to his opinion, not wanting or agreeing to hear and accept the opinion or offer of the opposing party. This is influenced by the factor where the mediation takes place in the Court building which of course makes the parties uncomfortable or not confident when in the court building, especially if it is the first time that the party has set foot in court, it is different if the mediation is carried out from their place of residence, besides a comfortable place some family friends can discuss and provide support.

Research conducted on lawyers who have frequently participated in in-court mediation the following results , 94 respondents who participated in in-court mediation 33% answered that their clients indicated that they were willing to participate in mediation. Passive can be interpreted as not eager to achieve peace or apathetic to hand over the procedure to the attorney. This means that mediation, conventionally being present at the Court building, does not entice them to participate.

A mediation law expert from Japan who is also a former Judge Prof. Yoshiro Kusano[1] in his book *Wakai* New Breakthroughs in Dispute Resolution describes the synergy relationship between Advocates and litigants, *the parties themselves and lawyers are all different and unique, discussing this issue in an abstract sense is* not *very important. I think you should speak to parties who show a commitment to communicating with the Court. If there are not many differences between the parties and their lawyers, then you should talk primarily with the parties themselves. It is true that a lawyer is an expert in legal cases. The court was a little difficult function/proceed, and the chest had some aspects that no amateur could possibly handle. In this sense I believe it is inevitable that the discussion phase of the court should focus on the lawyer. However, the party itself is a source of energy needed to bring someone to court as well as to continue it.* Prof. Yoshiro Kusano acknowledged the greatness of lawyers as legal experts, but the strength of clients or parties is a force to resolve cases. When the mediation is carried out electronically, it means that there is plenty of discussion time between the lawyer and the client and his family, because after all the client knows what he wants best.

If the mediation is carried out electronically, the parties may consider the option of choosing someone who is not a legal expert to act as a lawyer accompanying the person concerned to formulate a draft offer to the opposing party. In the procedural law system only advocates who have been certified and have sworn in before the Head of the High Court may accompany or represent the parties at the Court hearing.

3. Avoiding the transmission of corona virus diseases

Avoiding crowds and physical contact with other people during the pandemic of the corona virus disease as it is today is in accordance with the recommended health protocols of the government and WHO institutions to break the chain of person-to-person transmission. It has been heard that many courthouses become covid-19 transmission clusters; this is possible because there are meetings with people from various elements of society. Electronic mediation can prevent parties from contracting the Covid-19 virus pandemic.

4. Savings in judicial costs

If the mediation trial is done electronically, the Court does not need to provide facilities in the form of a special room for mediation and also a closed room for one party (caucus). This policy certainly saves the budget provided by the government in solving cases. It indirectly also supports government programs to overcome congestion of traffic and parking lots.

From a survey conducted of several lawyers, most of them stated that the mediation facilities at the court were good and adequate, of the 94 advocate respondents who often participate in mediation at the

[1] Kusano, Yoshiro. Wakai Terobosan Baru Penyelesaian Sengketa, Jakarta: Grafindo Khazanah Ilmu, 2008

Court, 87.2% answered that the mediation facilities prepared by the Court are good and very adequate, the facilities in question are the mediation room and caucus room and of course the supporting facilities including air conditioning machines, sound systems, lighting, toilets, etc. To prepare these facilities, of course, with the support of a very adequate government budget at the judiciary, if the mediation is carried out electronically, budget support for mediation facilities in court will no longer be needed.

D. Constraints in the Field

Conducting the trial electronically, including e-mediation, of course requires a good internet device in order for electronic communication to run well. Communication that is not smooth and choked up is very influential in achieving the desired results because communication that is not smooth can of course lead to misunderstandings.

The current era of information technology, including in Indonesia, is very adequate and evenly distributed from urban to rural areas, in rural areas it is often found that people already have a mobile phone, even a smartphone, which means that from the community's point of view, they are ready to carry out long-distance (mobile) communication. However, in certain areas it is not uncommon for inadequate internet support to be found, either due to the influence of distance from transmitters or geographies which are hilly, in valleys or in remote areas thus cannot be reached by internet.

The constraint of internet unavailability is actually the responsibility of both the central and local governments. This can be seen from the progress of transmitter construction to facilitate internet access in remote areas, at least a certain point or area, perhaps the people's meeting hall or village hall in rural areas have received priority installation of the internet which can help local communities to communicate electronically.

III. CLOSING

In order to obtain optimal results of integrated mediation in the judicial process (litigation), steps or strategies are required that are guided by the principles of fast, simple and low cost trial. The litigation process that is carried out electronically should include electronic mediation (e-mediation), the parties do not need to be present at the Court building directly to face the mediator. The mediator appointed by the parties through the examining Judge, both certified professional mediators and mediator judges, will remain in the Court building while the parties can participate in the mediation from anywhere they wish to participate in the mediation, since receiving the opponent's offer, submitting a draft offer (proposal), expert consultant opinion, supporting evidence.

When there is a peace agreement, the parties can choose the first option, the Plaintiff withdraws the lawsuit so that the Judge makes a decision regarding the revocation where the fees are imposed depending on the agreement of the parties or they both ask the Judge to make a peace decision (*van dading*) whose power is binding on the parties (final and binding), should there be a party that is not willing to implement the agreement, it gives the other party the right to request the implementation of the decision to the District Court by way of execution.

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