IN THE APELLATE DIVISION OF
THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2022] SGHC(A) 12

Civil Appeal No 102 of 2021

Between

Png Hock Leng

… *Appellant*

And

AXA Insurance Pte Ltd

… *Respondent*

JUDGMENT

[Courts and Jurisdiction — District Court — Transfer of cases]

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21 March 2022

Belinda Ang Saw Ean JAD (delivering the judgment of the court):

Introduction

1 AD/CA 102/2021 ("AD/CA 102") concerns an application to transfer proceedings from the Magistrate's Court to the General Division of the High Court. In AD/CA 102, the appellant, Png Hock Leng ("Png"), appeals against the decision of the High Court judge ("the Judge") in HC/RA 162/2021, which affirmed an assistant registrar's ("the AR") decision in HC/OS 171/2021 ("OS 171"), to dismiss his application to transfer the whole of MC/MC 146/2020 ("MC 146"), consisting of a claim and counterclaim, to the High Court.

2 Png primarily contends that he has the right to transfer MC 146 to the High Court under s 54E of the State Courts Act (Cap 321, Rev Ed 2007) ("SCA") because his counterclaim in MC 146 exceeds the monetary cap on the District Court's jurisdiction of $250,000. Alternatively, MC 146 ought to be transferred under s 54B of the SCA because there is "sufficient reason", an

important question of law or MC 146 is a test case and there would be no irreparable prejudice to the respondent, AXA Insurance Pte Ltd ("AXA"). AXA opposes the transfer application.

3 In our judgment, Png's appeal has no merits. MC 146 should not be transferred to the High Court under ss 54B and 54E of the SCA. We accordingly dismiss AD/CA 102.

The facts

4 Png was an insurance agent with AXA. On joining AXA in November 2013, Png entered into a front-loaded incentive agreement called the "AXA Experienced Hire Programme 2013 Agreement" dated 28 October 2013 ("EHP Agreement") and an advisor's agreement dated 11 November 2013 ("Adviser's Agreement") with AXA which, read together, conditionally paid Png certain sums of monies upfront upon his appointment as an agent of AXA.[1]

5 On 6 January 2020, AXA commenced MC 146 against Png in the Magistrate's Court. In its Statement of Claim, AXA pleads that it paid Png the total sums of $71,108 ("Payout Sums") including a sign-on fee of $40,000 ("SOF") in January 2014 and monthly transition bonuses between June 2014 and March 2017 pursuant to the EHP Agreement and the Adviser's Agreement.[2] Png failed to meet his production and persistency requirements in breach of the EHP Agreement and AXA sought to recover the SOF.[3] Png resigned on 25 April 2017 and his resignation terminated the EHP Agreement.[4] As a result of the

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1 Record of Appeal ("ROA") Vol II at p 15 (paras 2 and 3 of the Statement of claim).

2 ROA Vol II at pp 15 to 16 (para 3 of the Statement of claim).

3 ROA Vol II at p 18 (paras 8 to 9 of the Statement of claim).

4 ROA Vol II at p 19 (para 10 of the Statement of claim).

contractual breaches and the termination, AXA claims an outstanding sum of $54,904.38 (*ie*, clawbacks of proportions of the Payout Sums and SOF).[5]

6 In his Defence and Counterclaim (Amendment No 1), Png denies that he breached the EHP Agreement and that he is contractually obliged to repay any amount to AXA.[6] In his defence, he claims that the contractual provisions relied upon by AXA are penalty clauses and that AXA committed a repudiatory breach of the Adviser's Agreement and EHP Agreement by illegally varying the terms of the agreements and unlawfully suspending him from selling single-premium insurance products.[7] Further, AXA unlawfully interfered with Png's trade and profession as an insurance agent by giving him an "N" grade for his balanced scorecard and failing to provide him with a letter of release.[8] As a result, Png claims that he was unable to work in the finance industry due to alleged damage to his reputation caused by AXA and he now works in the construction industry.[9] Thus, he counterclaims for $1,000,000 being the loss of income from May 2017 to April 2021 (the date of Defence and Counterclaim (Amendment No 1)) and/or damages to be assessed in respect of other heads of claim.[10]

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5 ROA Vol II at pp 19 to 20 (paras 11 to 13 of the Statement of claim).

6 ROA Vol II at pp 24 to 25 (paras 8 to 14 of the Defence (Amendment No 1) and Counterclaim).

7 ROA Vol II at pp 24 to 25 (paras 8 and 16 of the Defence (Amendment No 1) and Counterclaim).

8 ROA Vol II at p 33 (paras 37 to 39 of the Defence (Amendment No 1) and Counterclaim).

9 Respondent's supplemental core bundle ("RSCB") at p 26 (para 7 of Png Hock Leng's affidavit dated 22 February 2021).

10 ROA Vol II at p 34 (para 41 of the Defence (Amendment No 1) and Counterclaim).

7 On 23 February 2021, Png commenced OS 171 to transfer the whole of MC 146 from the Magistrate's Court to the High Court pursuant to ss 54B or 54E of the SCA. Pursuant to the Magistrate's Court directions, AXA need not file its defence to Png's counterclaim pending the conclusion of OS 171, including the present appeal. On 10 June 2021, the AR heard and dismissed OS 171 with costs of $3,000 (all inclusive) awarded to AXA. His reasons are contained in the notes of evidence dated 10 June 2021 ("NE").

8 On 23 June 2021, Png appealed against the AR's decision. On 18 August 2021, the Judge heard and dismissed RA 162 with costs of $5,000 (all inclusive) awarded to AXA. The Judge also rejected Png's request on 27 August 2021 for further arguments and an oral hearing. Png then filed AD/CA 102 on 29 September 2021.

9 On 11 March 2022, we heard AD/CA 102 and reserved judgment. The day before, counsel for the appellant, Ms Carolyn Tan ("Ms Tan"), filed a notice to refer to two originating summonses, affidavits and orders of court filed in HC/OS 106/2020 and OS 15/2011. During the hearing, Ms Tan sought leave to refer to these documents as precedent that transfer applications have been allowed simply based on the pleaded quantification of the claims or counterclaims. Counsel for the respondent, Mr Ang Tze Phern ("Mr Tan"), objected on the basis that the notice to refer was a procedural misstep as it was being used as a backdoor attempt to introduce evidence on appeal. As we do not find these documents relevant to AD/CA 102, there is no need to deal with Mr Ang's contentions.

AR's decision in OS 171

10 We briefly summarise the decisions below. The AR considered both ss 54B and 54E of the SCA. Png relied on three main grounds for the transfer: (a) that the quantification of his counterclaim exceeded the District Court limit; (b) that the case involved important questions of law and public interest concerning the roles and responsibilities of a financial advisor, the Financial Advisors Act (Cap 110, 2007 Rev Ed) ("FAA") and Monetary Association of Singapore ("MAS") regulations; and (c) that for largely the same reasons as in (b), this is a test case more appropriately dealt with in the High Court: NE at [1].

11 Dealing with s 54B of the SCA, the AR held that the proceedings did not raise any important question of law or warrant characterisation as a test case. While it may have involved financial dealings, the FAA and the MAS, the shape of pleadings and arguments did not present any issue of law that required resolution by a higher court or where resolution by a higher court is needed for the fundamental operation of the industry or some other fundamental public interest. There was no specific issue of law that would necessarily have to be addressed at trial: NE at [2]–[3].

12 The "other sufficient reason" limb was not satisfied. As regards the prospects of mediation if the matter was transferred to the High Court, Png contended that AXA had indicated it was only open to mediation if the matter was transferred to the High Court. However, AXA clarified that it was also amenable to mediation in the State Courts. Thus, it was not necessary or helpful to order a transfer just so the parties would be amenable to mediation: NE at [4]–[5].

13 The AR did not find the other reasons raised by Png persuasive: NE at [6]. First, the fact that a counterclaim exceeded the District Court's jurisdiction did not in itself constitute a "sufficient reason". The AR relied on *Autoexport & EPZ Pte Ltd (formerly known as AJ Towing (S) Pte Ltd v TOW77 Pte Ltd* [2021] 4 SLR 1201 ("*Autoexport (HC)*") for the proposition that something more than that fact is required. On the test – *prima facie* credible evidence supporting the counterclaim in a transfer application – the AR's view is that given the preliminary stage of the proceedings in that AXA had not filed its Reply and Defence to the Counterclaim, a determination of the *prima facie* merits and credibility of the evidence would effectively be a preliminary trial. The better position is that if the pleadings made clear that the counterclaim was brought solely or vexatiously to abuse the transfer process, that would be sufficient to dismiss the transfer application. The AR did not consider this case an abuse of process: NE at [7]. Second, the AR rejected Png's argument that it would be better for perception if the proceedings were heard by the High Court since this was a "David" versus "Goliath" situation: NE at [8]. Third, there was nothing particularly complex that would more appropriately be heard in the High Court. The causes of action seemed fairly straightforward and would be within the realm of issues dealt with regularly in the State Courts: NE at [9].

14 Dealing with s 54E of the SCA, the AR relied on the same three reasons stated in the preceding paragraph. Further, since MC 146 was on a simplified track which was designed to expedite matters and facilitate their resolution at lower costs, it would be beneficial for the parties and especially Png who was, in his counsel's words, the "David" going up against the "Goliath". The AR considered that making the transfer order would deprive parties of that set of procedures and subject them to the extended rules of the High Court: NE at [10]. Finally, the AR also noted that it was inappropriate to transfer the counterclaim

alone since the claim and counterclaim are between the same parties and arise largely from the same set of facts: NE at [11].

Judge's decision in RA 162

15 In RA 162, the Judge noted that Png had relied on substantially the same grounds as he did in OS 171. In *Png Hock Leng v AXA Insurance Pte Ltd* [2021] SGHC 231 at [2]–[3], the Judge agreed with the AR's decision *in toto* and dismissed RA 162.

The parties' arguments

16 Preliminarily, we note that it is common ground that neither party sought for Png's counterclaim to be transferred to the High Court alone and for AXA's claim to proceed in the Magistrate's Court.[11] Png sought a transfer of the whole of MC 146 to the High Court while AXA submitted that MC 146 should remain in the Magistrate's Court.

The appellant's case

17 Png's case is that MC 146 ought to be wholly transferred to the High Court under s 54E of the SCA because his counterclaim involves a matter beyond the District Court limit and AXA would not be prejudiced by a transfer.[12] Section 54E is couched as an "enabling provision without any bar to transfer so long as the jurisdictional limit is activated".[13] Parliament intended that s 54E enables transfers of counterclaims from the Magistrate's Court to the High

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11 Appellant's Case dated 19 November 2021 ("AC") at para 90; Respondent's Case dated 20 December 2021 ("RC") at para 82.

12 AC at para 6.

13 AC at para 9.

Court based solely on the fact that the quantum of the counterclaim exceeds the District Court's jurisdiction as of right.[14] To impose the requirements of s 54B on s 54E would fail to give full effect to s 54E.[15] The bar for transfer is a low one and Png does not need to prove on a *prima facie* basis that there is a possibility that his counterclaim will exceed the District Court limit.[16]

18 Since Png's counterclaim in MC 146 is for loss of income of $1,000,000, the requirement in s 54E(1) of the SCA is satisfied. Consequently, Png *prima facie* should be allowed to transfer the proceedings to the High Court.[17] As regards the exercise of the court's discretion under s 54E of the SCA, a transfer is preferred even if there is prejudice to the resisting party so long as the prejudice is retrievable.[18] There is no prejudice to AXA in this case.[19] However, not transferring the proceedings is prejudicial to Png because he had relied on AXA's consent to Png's amendment of his pleadings in defence of MC 146.[20] Further, Png faced great difficulty in obtaining discovery from AXA without being able to resort to the interlocutory procedures of the High Court and may require multiple expert witnesses for his claim.[21] Finally, Png's counterclaim involves important or complex issues of law and fact relating to the insurance industry which affects thousands of agents and consumers.[22] Considering the

14 AC at para 17.

15 AC at para 23.

16 AC at para 25.

17 AC at para 24.

18 AC at para 42.

19 AC at para 69.

20 AC at paras 28 and 70.

21 AC at para 71.

22 AC at paras 72 to 78.

complexity and public interest in the matter, MC 146 should be transferred to the High Court.[23]

19 Alternatively, MC 146 ought to be transferred to the High Court under s 54B of the SCA because there is sufficient reason to do so, it involves some important question of law or is a test case, and AXA would not be prejudiced by a transfer.[24] There is sufficient reason simply because the counterclaim exceeds the jurisdictional limit of the District Court.[25] The outcome of MC 146 could have an impact on the many former financial advisers of AXA and the insurance industry and therefore this is an important question of law or a test case.[26]

The respondent's case

20 AXA's case is that the AR and Judge were correct in rejecting the transfer application and the appeal is plainly unmeritorious for the following reasons.[27]

21 First, there is no unfettered right to transfer MC 146 to the High Court simply because Png's counterclaim exceeds the District Court's jurisdiction.[28] The counterclaiming defendant must show *prima facie* credible evidence to support his case that his counterclaim will likely exceed the District Court's

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23 AC at paras 79 to 84.

24 AC at para 7.

25 AC at paras 85 to 86.

26 AC at paras 87 to 89.

27 RC at para 2.

28 RC at paras 32 to 38.

jurisdiction.[29] AXA argues that based on the evidence, the quantum of Png's counterclaim does not exceed the District Court's jurisdiction.[30]

22 Second, the court's holistic evaluation of all the material circumstances is not limited to examining whether irreparable prejudice would be suffered by the party resisting the transfer.[31]

23 Third, there are no good reasons to transfer MC 146 to the High Court under ss 54B and/or 54E of the SCA.[32] MC 146 does not involve any question of law affecting more than the immediate interests of the parties or of some public importance or point of law that would affect other cases. Png has failed to identify and particularise which provisions of the FAA and/or regulations issued by the MAS would form the basis of the "important question of law".[33] The asserted questions of law or public policy issues do not even arise on Png's pleadings. The questions that fall to be determined in MC 146 are simple questions of fact and law and the State Courts are well equipped to handle such cases.[34] Png's assertion that this is a test case is unsupported by affidavit evidence and it has not been shown that MC 146 is selected from several suits that are based on the same facts and evidence, raise the same question of law and have a common plaintiff or a common defendant.[35]

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29 RC at paras 45 to 49.

30 RC at paras 63 to 79.

31 RC at paras 39 to 44.

32 RC at para 50.

33 RC at paras 50 to 51.

34 RC at paras 53 to 54.

35 RC at paras 56 to 60.

24 Fifth, relying on *Autoexport (HC)*, the fact that the counterclaim in MC 146 may exceed the District Court's jurisdiction is not sufficient reason for a transfer. Png must satisfy the court that there are other good reasons why the transfer should be granted.[36]

25 Finally, transferring MC 146 will deprive the parties of the simplified process in the Magistrate's Court.[37] Png cannot point to any prejudice that he would suffer if MC 146 were to remain in the Magistrate's Court.[38] Png's argument that he would be prejudiced because he allegedly relied on AXA's consent to his amendment of his pleadings is absurd and illogical.[39]

Issues

26 The only issue in this appeal is whether MC 146 should be transferred to the High Court under ss 54B and 54E of the SCA.

Sections 54B and 54E of the SCA

27 We first set out the applicable provisions of the SCA. Section 54B states the general power of the High Court to transfer proceedings from the State Courts to the High Court as follows:

> **General power to transfer from State Courts to General Division of High Court**
>
> **54B.**—(1) Where it appears to the General Division of the High Court, on the application of a party to any civil proceedings pending in a State Court, that the proceedings, by reason of its involving some important question of law, or being a test case, or for any other sufficient reason, should be tried in the General

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36 RC at paras 25 to 29, 38 and 61 to 62.

37 RC at para 81.

38 RC at para 83.

39 RC at para 84.

> Division of the High Court, it may order the proceedings to be transferred to the General Division of the High Court.
>
> (2) An order under subsection (1) may be made on such terms as the court sees fit.

28 Section 54E, which deals with transfer applications where there is a counterclaim which exceeds the District Court limit, states as follows:

> **Transfer of counterclaim from State Courts to General Division of High Court**
>
> **54E.**—(1) Where, in any civil proceedings pending in a State Court, any counterclaim or set-off and counterclaim of any defendant involves a matter beyond the District Court limit, any party to the proceedings may apply to the General Division of the High Court, within such time as may be prescribed by Rules of Court, for an order that the whole proceedings, or the proceedings on the counterclaim or set-off and counterclaim, be transferred to the General Division of the High Court.
>
> (2) On any such application or on its own motion, the General Division of the High Court may, as it thinks fit, and on such terms as it sees fit, order —
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> (a) that the whole proceedings be transferred to the General Division of the High Court;
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> (b) that the whole proceedings be tried in the State Courts; or
>
> (c) that the proceedings on the counterclaim or set-off and counterclaim be transferred to the General Division of the High Court and that the proceedings on the plaintiff's claim and the defence thereto other than the set-off (if any) be tried in the State Courts.
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> (3) Where an order is made under subsection (2)(*c*), and judgment on the claim is given for the plaintiff, execution thereon shall, unless the General Division of the High Court at any time otherwise orders, be stayed until the proceedings transferred to the General Division of the High Court have been concluded.
>
> (4) Where no application is made under subsection (1) or where it is ordered that the whole proceedings be tried in the State Courts, such State Court shall have jurisdiction to try the proceedings, notwithstanding any other provision of this Act.

29 In transfer applications of counterclaims exceeding the District Court limit, the court should first consider s 54E before s 54B. As this is also in accordance with Png's submissions, we now turn to s 54E.

Whether MC146 should be transferred to the High Court under s 54E

30 Under s 54E, the burden of proof lies on the party to the proceedings making the transfer application to establish that:

(a) the counterclaim exceeds the District Court limit; and

(b) the court ought to order the transfer sought considering all the circumstances.

31 Section 54E(1) sets out the threshold requirement that the counterclaim exceeds the District Court limit. However, it does not state the standard of proof required of an applicant seeking to show that the counterclaim exceeds the District Court limit. As we explain below at [34]–[39], this must be established on a *prima facie* basis. It is only when this threshold requirement is satisfied that the court will consider the reasons proffered by the applicant (whether factual or legal) urging the court to exercise its discretion under s 54E(2) to make the transfer order sought.

32 In our judgment, Png fails to meet his burden of proof to show that MC 146 ought to be transferred to the High Court under s 54E.

The standard of proof required to show that the counterclaim exceeds the District Court limit

33 We first address the standard of proof for the threshold requirement in s 54E(1). Png submits in his written submissions that the bar for transfer is a

low one and he does not need to prove on a *prima facie* basis that there is a possibility that his counterclaim will exceed the District Court limit.[40] While Ms Tan initially maintained this in the hearing before us, she later conceded that the quantification cannot be merely a fanciful one and the inquiry is not limited to the figure stated in the pleadings. AXA submits that the counterclaiming defendant must show *prima facie* credible evidence to support his case that his counterclaim will likely exceed the District Court limit.[41]

34 We reject the notion that the inquiry as to whether the counterclaim exceeds the District Court limit is simply a numerical exercise looking at the counterclaim amount stated in the pleadings. It cannot be the case that a counterclaimant can simply manipulate the transfer process by making a bare assertion that the quantification of his counterclaim exceeds the District Court limit *without any substantiation*. The minimum requirement is that the applicant must produce some evidential material which can be taken at face value to support the quantification of his counterclaim. Without satisfying this minimum requirement, a bare assertion of a large quantification for the purposes of a transfer application may raise questions as to the counterclaimant's motive for filing the counterclaim.

35 We note that the AR expressed doubt that it was appropriate to require *prima facie* credible evidence supporting the counterclaim in a transfer application given the preliminary stage of proceedings as a determination of the *prima facie* merits and credibility of the evidence would transcend into a "mini trial". He was thus inclined to take the position that the threshold should be an abuse of process instead (see above at [13]). We disagree that a *prima facie*

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40 AC at para 25.

41 RC at paras 45 to 49.

threshold necessarily requires the court to enter into a mini trial. As stated by Lai Siu Chiu SJ in *Wong Siew Mee v Jee Lee and another (Tan Poh Weng Andy (formerly known as Tan Poh Kim), third party)* [2020] 5 SLR 1391 at [66], while a transfer application is not the forum to determine the merits of the plaintiff's claim or its quantum, the burden is still on the plaintiff to show some *prima facie* evidence that the general damages being claimed is likely to exceed $250,000.

36 In our view, the case law speaks with one voice that the quantification of the counterclaim must be proven on a *prima facie* standard. In *Tan Kok Ing v Tan Swee Meng and others* [2003] 1 SLR(R) 657 ("*Tan Swee Meng*") at [25]–[26], Woo Bih Li JC (as he then was) stated:

> 25 In the case before me, [the plaintiff] wanted to … transfer his case from a lower court, (*ie* the Magistrate's Court), to a higher court (*ie* the District Court). …
>
> 26 … I was of the view that there is no question of making a mini-inquiry first. If a plaintiff subsequently takes the view that the quantum of his damages may exceed the jurisdiction of the court in which he has commenced his action, then he must apply to transfer his action to a higher court as soon as possible. *So long as there is some reasonable basis for his view*, it is not for the court hearing the application, to embark on an inquiry to assess the quantum before deciding whether to transfer the action or not.
>
> [emphasis added]

37 Ms Tan conveniently relies on *Tan Swee Meng* as authority that the court should not embark on an inquiry to assess the quantification of Png's counterclaim but fails to appreciate that Woo JC's statement was caveated by his own statement that this applies "[s]o long as there is *some reasonable basis* for [the plaintiff's] view" [emphasis added]. This must mean that the court would naturally expect an applicant to adduce the evidential basis and calculations which show that the quantification is *reasonable*.

38 More recently, Hoo Sheau Peng J in *Ng Djoni v Miranda Joseph Jude* [2018] 5 SLR 670 ("*Djoni*") undertook a review of the case law as to the appropriate standard required of an applicant to show that the damages of his claim would exceed the jurisdictional limit of the inferior court (at [21]–[26] and [29]) as follows:

> 21 …[T]he plaintiff contended that the threshold for a 'sufficient reason' was a lower one. He submitted that there would be 'sufficient reason' for the transfer if he could demonstrate merely the possibility, and not the likelihood or a *prima facie* case, that his damages would exceed the jurisdictional limit of the inferior court. …
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> 22 In [*Keppel Singmarine Dockyard Pte Ltd v Ng Chan Teng* [2008] 2 SLR(R) 839], the Court of Appeal … opined, as an aside, that the *possibility* of damages exceeding the jurisdictional limit would ordinarily be regarded as a 'sufficient reason' for a transfer of proceedings (at [38]) …
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> 23 This iteration of the legal test was applied by the High Court in *Ng Chan Teng v Keppel Singmarine Dockyard Pte Ltd* [2009] 2 SLR(R) 647 ('*Keppel Singmarine 2009 HC*') when the same plaintiff's subsequent application for a transfer of proceedings came before the High Court. From the medical reports on the plaintiff's severe injuries, Tay Yong Kwang J was satisfied that there was a *'real possibility'* that the plaintiff's damages would exceed $250,000 (*Keppel Singmarine 2009 HC* at [24]). When this decision went on appeal, the Court of Appeal delivered its judgment in *Keppel Singmarine 2010*, … as authority for the applicable law. The Court of Appeal described the applicable standard for a 'sufficient reason' in these terms (*Keppel Singmarine 2010* at [16]):
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> > We were *in agreement with the [High Court] Judge* that the *likelihood* that a plaintiff's damages would exceed the jurisdictional limit of the District Court would, ordinarily, be regarded as 'sufficient reason' for the transfer of proceedings to the High Court under s 54B of the [Subordinate Courts Act]. As the respondent's claim here was *likely* to exceed the $250,000 mark …, we found that the respondent had given sufficient reason to *prima facie* satisfy the transfer threshold.
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> 24 The Court of Appeal agreed with the standard applied by Tay J in *Keppel Singmarine 2009 HC* notwithstanding that Tay J had expressed the requisite standard in different terms. In *Keppel Singmarine 2009 HC*, Tay J had required the plaintiff

to demonstrate a 'possibility' of damages exceeding $250,000, whereas the Court of Appeal required a 'likelihood' to be shown. On the facts, the Court of Appeal was satisfied that the plaintiff's claim was likely to exceed the $250,000 mark given the severity of the injuries suffered by him (see *Keppel Singmarine 2010* at [16] and *Keppel Singmarine 2009 HC* at [24]). Thus, the plaintiff had given sufficient reason to *prima facie* satisfy the threshold for a transfer, subject to him showing that a transfer would not cause irreparable prejudice to the defendant.

25 In the later case of *Tan Kee Huat v Lim Kui Lin* [2013] 1 SLR 765 ('*Tan Kee Huat*'), Judith Prakash J applied *Keppel Singmarine 2010* and was satisfied that there was '*prima facie*, credible evidence' to support the assertions underlying the substantial loss of earnings, so as to justify crossing the jurisdictional limit of the State Courts.

26 From this brief review, it seems that what is ostensibly the same criterion has been described by the courts using different terms that suggest varying degrees of proof, *ie*, 'possibility', 'likelihood' and a '*prima facie*' case. Nonetheless, it would appear that the courts have used these terms synonymously, without observing any tension between them. On this basis, I am of the view that the correct test was applied by the AR, who followed the approach in *Keppel Singmarine 2010* and *Tan Kee Huat*. *Keppel Singmarine 2010* is, moreover, the most recent Court of Appeal authority determining the applicable law as part of its holding, not merely as an aside.

…

29 In the present case, the plaintiff placed great emphasis on the court's view in *Tan Kee Huat* that the hearing of the transfer application was not the correct forum to determine whose evidence of the plaintiff's physical condition and abilities was more credible. He argued that, likewise, the AR erred in scrutinising the evidence of his injuries, abilities and loss of income, because such scrutiny was to be reserved for the trial itself. However, this argument failed to grasp that the court in *Tan Kee Huat* required minimally the existence of '*prima facie*, credible evidence' to substantiate the assertions underlying the quantification of the claims. A '*prima facie*' standard assumes that the conclusion reached is subject to further evidence and cross-examination. Nonetheless, to show a *prima facie* case***, the evidence must at first appearance be capable of supporting the desired conclusion***. *A priori*, ***if the plaintiff's own evidence is incapable of supporting the desired quantification of the claims, the plaintiff would have failed to demonstrate a possibility or likelihood*** that the

> claims would exceed the jurisdictional threshold of the State Courts.
>
> [emphasis in original omitted; emphasis added in italics and bold italics]

39 We see no reason that Hoo J's analysis in respect of s 54B ought not apply to s 54E. After all, Hoo J was assessing the same inquiry of whether the asserted quantification of the claim exceeded the District Court limit. That said, we hesitate to use the term "credible evidence" since it may imply that the court ought to go further to examine the merits of the evidence or question the veracity of it. We agree with Hoo J in *Djoni* (at [29]) that the *prima facie* threshold simply means that the evidence at *first appearance* (similar to accepting the evidence at face value) must be capable of supporting the asserted quantification of the counterclaim. If the applicant's own evidence is incapable of even supporting the quantification of the counterclaim, the applicant would have failed to meet the threshold requirement of s 54E(1) of the SCA on a *prima facie* standard. In other words, the applicant would not have demonstrated a possibility or likelihood that the counterclaim exceeds the District Court limit.

Whether Png satisfies the threshold requirement under s 54E(1)

40 Png counterclaims for loss of income of $1,000,000 from May 2017 to April 2021 (the date of Defence (Amendment No. 1) and Counterclaim) and/or damages to be assessed.[42] In his written submissions, he submits that damages are to be assessed for AXA's repudiatory breach of contract, unlawful interference with Png's trade and profession as an insurance agent including damages for loss of a chance to earn future income.[43]

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42 ROA Vol II at p 34 (para 41 of the Defence (Amendment No 1) and Counterclaim).

43 AC at paras 4 and 24.

41 As regards his claim for damages to be assessed in relation to the tort of unlawful interference with trade and loss of chance of future income, this purported cause of action cannot be taken into account. As rightly pointed out by AXA,[44] Png failed to even plead the elements required to establish the tort of unlawful interference with trade. His pleadings do not identify a third party or any unlawful act by AXA against the third party with an intention to injure Png. As regards the loss of a chance of future income, this is also not pleaded. Png himself states in his reply affidavit that he wishes to amend his Defence and Counterclaim in due course to reflect his claim for a loss of a chance of future income more clearly.[45] As matters stand, there is no pleaded claim for loss of chance before this court. Hence, we see no basis to consider an unpleaded claim in assessing the quantification of the counterclaim even at the *prima facie* standard.

42 This leaves us with Png's claim for loss of income for $1,000,000 from May 2017 to April 2021. We note that this figure is only supported by bare assertions in Png's affidavits, and there is no particularisation of the calculations resulting in this figure. It is wholly unclear to us how this figure was derived. We find his pleadings quite unsatisfactory. In any case, we proceed to determine whether the evidence adduced by Png *prima facie* shows that his counterclaim exceeds the District Court limit of $250,000.

43 In his affidavit in support of OS 171, he asserts that his claim for loss of income is quantified on his employment records.[46] He exhibited two letters from AXA dated 5 March 2015 and 10 March 2016. In the letter dated 5 March 2015,

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44 RC at para 71.

45 RSCB at p 56 (para 14 of Png Hock Leng's reply affidavit dated 19 May 2021).

46 RSCB at p 26 (para 7 of Png Hock Leng's affidavit dated 22 February 2021).

AXA stated that Png's total remuneration for the period January 2014 to December 2014 was $109,054,57 (including basic commissions, bonus and an adviser trailer fee). In the letter dated 10 March 2016, AXA stated that Png's total remuneration for the period January 2015 to December 2015 was $25,704.77 (including basic commissions, bonus and an adviser trailer fee).[47]

44 However, AXA submits, in affidavit evidence, that even if Png's counterclaim succeeds, Png would at most be entitled to $146,268.80 in respect of his counterclaim. This sum is calculated based on a projected income of $4,180.60 (*ie*, his monthly remuneration with AXA during the period from January 2014 to March 2015) multiplied by 48 months (from May 2017 to April 2021) after deduction of his actual income earned at the waterproofing company estimated at $1,300 (based on his disclosed Central Provident Fund statement in July 2020[48]) multiplied by 48 months.[49]

45 In his reply affidavit, Png submits that using his remuneration of $109,054.57 in 2014, multiplying the same for three years would provide a sum of $327,163.171 which exceeds the District Court limit.[50] Additionally, AXA's calculations did not take into account the fact that over time, his performance and sales would have increased and therefore his amount of income lost would be greater.[51] In any event, loss of earnings must be computed using a multiplier and multiplicand.[52]

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47 ROA Vol III(A) at pp 75 to 76.

48 ROA Vol III(A) at p 73.

49 RSCB at pp 46 to 50 (paras 49 to 57 of Oh Yeow Hwa's affidavit dated 23 April 2021).

50 RSCB at pp 53 to 54 (paras 8.1 and 8.5 of Png Hock Leng's reply affidavit dated 19 May 2021).

51 RSCB at p 54 (para 9 of Png Hock Leng's reply affidavit dated 19 May 2021).

52 RSCB at p 55 (para 13 of Png Hock Leng's reply affidavit dated 19 May 2021).

46 On a *prima facie* basis, we accept that Png satisfies the threshold requirement. We note AXA's own calculation for his average monthly remuneration adopts only the time period from January 2014 to March 2015 because Png alleges that AXA's breaches commenced in April 2015 which resulted in him not being able to fulfil his targets.[53] We consider this a fair concession on AXA's part given that this relates to the very issue in dispute in MC 146. For simplicity, we adopt the loss of income based on only Png's remuneration in 2014 as stated in AXA's letter dated 5 March 2015 and disregard the figure of $25,704.77 stated in the letter dated 10 March 2016 for the period January 2015 to December 2015.

47 We accept Png's remuneration of $109,054.57 at the *prima facie* standard since AXA has not been able to explain why this figure, which is from AXA's letter dated 5 March 2015, should not be taken at face value either in oral submissions before the court or in AXA's affidavit evidence that does not address this letter. AXA's affidavit provides a calculation of Png's remuneration for January 2014 to December 2014 (consisting of total commissions and bonuses) to be $53,718.07.[54] There is no explanation for why this differs so radically from the remuneration of $109,054.57 stated in AXA's own letter dated 5 March 2015 for the *same* period. In our judgment, for the purposes of this threshold requirement, it is not appropriate for the court to entertain speculation to explain this discrepancy or assess the credibility of the disputed figures to decide which is more accurate. For the foregoing reasons, we accept Png's evidence at face value that his total remuneration for 2014 was $109,054.57.

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53 RSCB at p 49 (para 49(a) of Oh Yeow Hwa's affidavit dated 23 April 2021).

54 RSCB at p 47 (para 50 of Oh Yeow Hwa's affidavit dated 23 April 2021).

48 In the premises, Png's loss of income for the period of May 2017 to April 2021 can be calculated at $366,030. Adopting AXA's formula (see above at [44]), this is based on the sum of $109,054.57 divided by 12 months, multiplied by 47 months and deducting his actual income of $1,300 for 47 months in the waterproofing company. This exceeds the District Court limit. Whilst this approach assumes that Png performs at the same level as he did in 2014 in respect of his targets and would likely earn a similar remuneration throughout the period of 2017 to 2021, this is nonetheless his arguable case that he would have consistently achieved it but for AXA's repudiatory breach.

Whether a transfer should be granted as of right *so long as the counterclaim exceeds $250,000*

49 Even though Png arguably satisfies the threshold requirement, he also has to persuade the court that it ought to order the transfer of MC 146 to the High Court considering all the circumstances. At this stage, the level of inquiry engages the discretionary power of the court.

50 Png's argues that s 54E is couched as an "enabling provision without any bar to transfer so long as the jurisdictional limit is activated".[55] Parliament intended that s 54E enables transfers of counterclaims from the Magistrate's Court to the High Court based solely on the fact that the quantum of the counterclaim exceeds the District Court's jurisdiction as of right.[56] Thus, a transfer application should be granted as *of right* so long as the claim figure stated in the counterclaim exceeds $250,000. AXA disagrees. It submits that there is no unfettered right to transfer MC 146 to the High Court simply because

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55 AC at para 9.

56 AC at para 17.

Png's counterclaim exceeds the District Court's limit.[57] Relying on *Autoexport (HC)*, the fact that the counterclaim in MC 146 may exceed the District Court's jurisdiction is not "sufficient reason" for a transfer. Png must satisfy the court that there are other good reasons why the transfer should be granted.[58]

51 In our judgment, Png's argument is clearly misconceived for the following reasons. First, we agree with AXA's observation that Png has taken inherently inconsistent positions in this appeal.[59] While Png claims that a transfer application should be granted as *of right* so long as the claim figure stated in the counterclaim exceeds $250,000, he also surprisingly "recognises that the Court has a discretion, subject to parameters" under s 54E(2) as to whether to allow the transfer application.[60] This itself evinces the illogicality and inconsistency in Png's case.

52 Second, Png's contention would render s 54E(2) otiose. Section 54E(2) provides that on any application made or on its own motion, the High Court may, *as it thinks fit*, transfer the proceedings partially or wholly to the High Court or order the proceedings to be heard in the State Courts. If the fact that a counterclaim exceeds the District Court's limit would allow a transfer as *of right*, this would render the term "as it thinks fit" in s 54E(2) meaningless. There would also be no need for s 54E(2)(*b*) to state that the court *may* order that the whole proceedings be tried in the State Courts. Properly construed, a counterclaim which exceeds the District Court's limit simply satisfies the prerequisite for the High Court's power to transfer the proceedings under

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57 RC at paras 32 to 38.

58 RC at paras 25 to 29, 38 and 61 to 62.

59 RC at para 34.

60 AC at para 31.

s 54E(1) as stated at [31] above. The court nonetheless has a discretion to decide whether or not to transfer the proceedings in s 54E(2).

53 Third, we agree with AXA that Png's reliance on case law that pre-dated the amendment to the SCA and the legislative history of the SCA does not assist him. The case law dealing with the transfer provisions of the Subordinate Courts Act (Cap 321, 1999 Rev Ed) ("1999 SCA") cited by Png[61] are of no assistance:

(a) *Ong Pang Wee and others v Chiltern Park Development Pte Ltd* [2003] 2 SLR(R) 267 dealt with ss 24 and 38 of the 1999 SCA which only applied to transfers from the District Court to the High Court. The Court of Appeal was dealing with the sole issue of whether the High Court had the power to transfer proceedings started in the Magistrate's Court to itself. While it referred (at [26]) to s 22 to 24 of the 1999 SCA which dealt with situations when a claim or counterclaim filed in the District Court exceeded the District Court limit, it did not decide that a party is entitled to a transfer based solely on the fact that the counterclaim exceeds the District Court limit.

(b) *Rightrac Trading v Ong Soon Heng trading as Everbright Engineering & Trading and others* [2003] 4 SLR(R) 505 is distinguishable on the basis that it concerned a transfer application under the 1999 SCA by the plaintiffs to transfer proceedings from the Magistrate's Court to the District Court and it was the plaintiff's case which exceeded the Magistrate's Court limit. As explained in *Autoexport (HC)* (at [14]–[15]), without a transfer to the High Court, a plaintiff's recovery in the District Court would be subject to the District

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61 AC at paras 14 to 16.

Court limit, unless otherwise agreed with the defendant under s 23 of the SCA. However, the position would be very different when it is the defendant's counterclaim which exceeds the District Court's jurisdiction. Under s 54E(4) of the SCA, if no application is made under s 54E(1) or an order is made for the whole proceedings to be tried in the State Courts, the State Court's jurisdiction to try the proceedings would not be subject to the District Court limit.

(c) *Tan Swee Meng* dealt with an application under the 1999 SCA by the plaintiff to transfer a case from the Magistrate's Court to the District Court on the basis that the damages arising might exceed the Magistrate's Court limit. This case is similarly distinguishable on the same basis that it was the plaintiff's case which exceeded the Magistrate's Court limit.

54 Nothing in the second reading of the Subordinate Courts (Amendment) Bill (Bill No 16/2005) shed any light on the test to be applied for s 54E. While it was noted in *Singapore Parliamentary Debates, Official Report* (15 August 2005) vol 80 col 1239 (Assoc Prof Ho Peng Kee, Senior Minister of State for Law) that the situation where the defendant's counterclaim exceeded the court's jurisdiction was an example of a difficult case where there may be a need to transfer, the statement did not go so far as to set this as a sole basis for the transfer to be effected.

55 Similarly, the May 2004 Report of the Law Reform Committee on Transfers of Civil Proceedings between Courts does not assist him either. The report observed at p 3 that there should be a general discretion to transfer civil proceedings between courts and "one uniform regime of transfer for civil proceedings". It also noted at p 4 that there should be uniformity in the grounds

for transfers and these grounds should be spelled out in general terms as it is not desirable for legislature to lay down specific rules as to when the court should exercise its discretion. These observations in fact militate against Png's interpretation of s 54E.

56 In *Keppel Singmarine Dockyard Pte Ltd v Ng Chan Teng* [2010] 2 SLR 1015 ("*Keppel Singmarine*") at [16]–[17], the Court of Appeal held that the mere existence of a "sufficient reason" under s 54B(1) of the SCA does not automatically entitle a party to a transfer of proceedings. A holistic evaluation of *all the material circumstances* must be undertaken; in particular the court should assess the prejudice that might be visited upon a party resisting the transfer. The Court of Appeal explained that the words "may order" in s 54B of the SCA (see [27] above) "make it abundantly clear that every transfer under the subject provision is a discretionary one requiring a principled approach that requires a balancing of the respective competing interests of the parties". Consistent with the intention for an "uniform regime of transfer", the same approach is equally applicable to transfer applications under s 54E. Indeed, s 54E(2) is worded similarly to s 54B(1) in that the court "*may*, as it thinks fit, and on such terms as it sees fit, *order*" [emphasis added] (see [28] above) a partial or full transfer of the proceedings to the High Court or that the proceedings remain in the States Court.

57 In *Autoexport (HC)* itself (at [20]), the applicant's transfer application was dismissed under s 54E of the SCA because its *only* ground was that its counterclaim exceeded the District Court limit. There was no important or complex issue of law or fact, and there was no prejudice to the applicant if the proceedings remained in the District Court. We agree with *Autoexport (HC)* at [18] that even if an applicant satisfied the threshold requirement in s 54E(1) on a *prima facie* standard, this alone does not justify the court's exercise of

discretion to allow the transfer application under s 54E(2) (or amount to "sufficient reason" under s 54B(1)). Something more is required. The ruling is consistent with the structure of s 54E of the SCA and correctly interprets the provision. As stated above at [30], the burden of proof lies on the applicant to persuade the court that the court ought to order the transfer sought considering all the circumstances. We thus do not hesitate to reject Png's misconceived argument that if there is an absence of factors against a transfer, the default position is that a transfer should be ordered.[62]

The principles governing the court's discretion under s 54E(2)

58 In *Autoexport (HC)*, the court noted (at [19]) that a balancing exercise should be carried out to determine if the court should exercise its discretion to order the transfer of the proceedings to the High Court under s 54E(2). In so doing, the court should consider the applicant's reasons for asking for a transfer to the High Court (notwithstanding the fact that if the proceedings are ordered to be tried in the State Courts, his counterclaim or set-off and counterclaim will not be subject to the District Court limit), any prejudice that the applicant could suffer if no order is made for a transfer to the High Court (although any such prejudice is likely to be exceptional), and any prejudice that any other party could suffer if the transfer order is made.

59 The assistant registrar in *Autoexport & EPZ Pte Ltd (formerly known as AJ Towing (S) Pte Ltd*) *v TOW77 Pte Ltd* [2021] SGHCR 1 ("*Autoexport (HCR)*") at [56] raised several non-exhaustive factors such as complexity of the claim and counterclaim, risk of conflicting decisions and prejudice to either party including delay in applying for a transfer application.

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62 AC at paras 43, 45 and 49.

60 We agree. As we stated at [31] above, the court will consider the reasons proffered by the applicant (whether factual or legal) urging the court to make the transfer order. In exercising its discretion to decide on the appropriate order to make, the court will undertake a holistic consideration of *all* relevant circumstances as stated in *Keppel Singmarine* (see [55] above). In our view, the factors raised by the assistant registrar in *Autoexport (HCR)* and *Autoexport (HC)* are common-sensical and depending on the circumstances are relevant considerations.

61 We reject Png's argument that *Autoexport (HCR)* wrongly imposed additional requirements of complexity and of prejudice to the applicant from not transferring.[63] This is a misreading of *Autoexport (HCR)* where it was made clear (at [57]–[58]) that the factors stated are non-exhaustive and the weight assigned to each factor depends on the circumstances. Similarly, there is no merit to Png's contention that the requirements of s 54B (an important question of law or a test case) is being imposed on s 54E(2).[64] While these are certainly not requirements to be met under s 54E(2), it cannot be seriously contended that these are irrelevant to the court's holistic examination of *all* the circumstances especially if they are relied upon by one party as was the case here.

Whether the court should transfer MC 146 to the High Court under s 54E(2)

62 In our judgment, the reasons Png proffers to persuade the court to transfer MC 146 to the High Court are wholly lacking in merit for the following reasons.

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63 AC at para 48.

64 AC at para 23.

63 First, Png's argument that AXA had conducted itself in bad faith by consenting to the amendments of Png's pleadings and objecting to the transfer application is entirely illogical.[65] There is clearly no detrimental reliance on the part of Png as regards AXA's consent to the amendment of Png's pleadings and it is a leap of logic to say that AXA's consent to the amendment of pleadings amounts to consent to the transfer application.

64 Second, Png claims that he faced great difficulty in obtaining discovery from AXA without being able to resort to the interlocutory procedures of the High Court.[66] However, he fails to explain why these cannot be obtained in the Magistrate's Court. Under the simplified process for proceedings in the Magistrate's Court governed by O 108 rr 2(7) and 2(9) of the Rules of Court (2014 Rev Ed), the court may at any stage of the proceedings order the production of any document, if the court is of the opinion that such an order is necessary either for the fair disposal of the case or for the saving of costs. If any party fails to comply with any such order, the court may make any order it thinks just including dismissing the action and finding the default party liable to committal. As such, there is no merit to Png's bare assertion that he is unable to obtain discovery in the Magistrate's Court but can somehow do so in the High Court.

65 Third, we agree that the AR's and the Judge's finding that transferring MC 146 would deprive parties of the simplified process for trials in the Magistrate's Court leans in favour of refusing the transfer. AXA points out that since pleadings have been crystallised save for AXA's right to file an amended reply and defence to Png's counterclaim and parties have undergone several

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65 AC at para 28.

66 AC at para 71.

rounds of discovery by way of letter requests, the relevance and necessity of which have been fully ventilated before the Magistrate's Court, a transfer of the proceedings will deprive parties of the simplified procedure and put parties to significant costs of having to re-litigate and undergo the entire discovery process again.[67] We see no reason why the simplified process which is designed for costs saving would not benefit Png.

66 Fourth, Png has not adduced sufficient evidence to show that MC 146 ought to be characterised as a test case. We note that Png seemed to have abandoned the contention on appeal that MC 146 was a test case. In any case, he has not given any affidavit evidence[68] that this is an action selected from several suits that are based on the same facts and evidence, raises the same question of law and have a common plaintiff or defendant. Png simply invites the court to take judicial notice "of the numerous suits commenced by [AXA] against their former agents including *inter alia* MC/MC 17943/2019 and DC/DC 2107/2019 which [the appellant's counsel] are handling, and MC/MC 6235/2020 which [the appellant's counsel] are not handling".[69] In the absence of any explanation of how the issues in those cases are related to MC 146 or that the outcome in the present case would affect those cases, we give no weight to this bare assertion.

67 Finally, on the face of the pleadings, we agree with the AR and Judge that the causes of action in MC 146 are fairly straightforward and no issues of public importance or important questions of law are raised. It is hard to discern what the important question of law is in the absence of specificity and details of

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67 RC at para 81.

68 ROA Vol III(A) at pp 5 to 10 (Png Hock Leng's affidavit dated 22 February 2021); ROA III(B) at pp 5 to 14 (Png Hock Leng's reply affidavit dated 19 May 2021).

69 AC at para 72.

what specific legal issue requires determination and how it is important. Png submits a laundry list of bare assertions that the case raises important or complex issues of law and fact that affects the insurance industry.[70] In our view, they should be rejected for the following reasons:

(a) While he asserts that "thousands of agents" and "thousands of consumers" are likely to be affected by the outcome,[71] Png produces no evidence to show this.

(b) Png's arguments regarding alleged breaches of the FAA and the MAS regulations by AXA are completely speculative.[72] He has not particularised any particular provisions of the FAA that AXA has allegedly breached and the link with his pleaded case is not explained. Png's argument in relation to MAS Notice 306 as regards not being informed of the procedure to appeal against his ban on selling single-premium policies was not pleaded in MC 146 and appears to be merely an afterthought.[73]

(c) Png's arguments that MC 146 raises "issues at the crossroads of contract law and employment law", "issues of insurance law and practice regarding disciplinary procedures/ suspension of financial advisers", "elements of public policy regarding insurance companies and their processes" similarly does not arise on Png's pleaded case.[74] They are vague in that no specific issues are clearly crystallised. Taking

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70 AC at paras 73 to 84.

71 AC at para 73.

72 AC at paras 73 and 76.

73 AC at para 76; RC at para 52(c).

74 AC at paras 74 to 77.

his argument at such a general level, any clause within AXA's employment contract with a financial adviser would be an important question of law. Lastly, his argument assumes that the relationship between AXA and Png traversed employment law whereas the relationship of the financial adviser and the company is typically that of an independent contractor and outside the realm of employment law.

(d) Even though MC 146 may involve questions of contract law, employment law and the insurance industry, the submissions made by Png did not adequately justify why the High Court is better placed than the Magistrate's Court to determine the issues in MC 146. There was no basis for Png's bare assertions that the issues of (i) whether "Letters of Release" (which Mr Ang distinguishes from a reference check form) were such a common requirement in the insurance industry that denial of the same constituted an unlawful interference with trade and profession; and (ii) the determination of a multiplier and multiplicand to assess his losses of future earnings would be complex and therefore "best left to a High Court judge".[75]

68 Finally, we would add that AXA's claim and Png's counterclaim are inextricably linked. If Png succeeds in proving his counterclaim, he will not be limited to obtaining judgment of only $250,000. This is because Png's counterclaim being heard in the Magistrate's Court would not be subject to the District Court limit under s 54E(4) (see above at [53(b)]).

69 For the reasons above, MC 146 (which includes Png's counterclaim) should not be transferred to the High Court under s 54E of the SCA.

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[75] AC at paras 79 to 83.

Whether MC146 should be transferred to the High Court under s 54B of the SCA

70 As regards s 54B, Png largely relies on the same arguments canvassed under s 54E. It is clear to us that none of the three limbs of s 54B(1) are satisfied. As we explained above at [66]–[67], Png fails to produce sufficient evidence showing that MC 146 is a test case or that MC 146 raises an important question of law. We have also held above at [57] that the fact that the counterclaim *prima facie* exceeds the District Court limit is insufficient to amount to "sufficient reason". None of the other reasons Png relies upon are supported by any evidential basis. In our judgment, they do not amount to "sufficient reason" to transfer the whole of MC 146 to the High Court.

Conclusion

71 Accordingly, we dismiss AD/CA 102 in full.

72 At the conclusion of the hearing, Ms Tan made a last-ditch attempt to pray that this court transfers MC 146 to the District Court if we were minded to dismiss AD/CA 102. She did not point to any provision allowing the court to do so. It suffices for us to observe that this is not an order we may make under s 54E(2). If Png wished to seek a transfer from the Magistrate's Court to the District Court, Png ought to have applied to the District Court under ss 54A and/or 54F of the SCA which deals with the District Court's power to allow a transfer of proceedings from the Magistrate's Court to itself.

73 As for the costs of AD/CA 102, Png submits that costs should be fixed at $20,000 (inclusive of disbursements) if he succeeds on appeal and at $10,000

(inclusive of disbursements) if he is unsuccessful on appeal.[76] AXA submits that the costs of the appeal be fixed at $26,361.20 (inclusive of disbursements).[77] Appendix G provides a range of $15,000 to $25,000 for interlocutory applications before the Appellate Division and a range of $30,000 to $40,000 for appeals against originating summons (up to 10 days). In the circumstances, we consider $18,000 (all-in) to be appropriate and we so order.

Belinda Ang Saw Ean
Judge of the Appellate Division

Chua Lee Ming
Judge of the High Court

Carolyn Tan Beng Hui and Kevin Leong (Tan & Au LLP) for the applicant;
Ang Tze Phern and Shaun Ou Wai Hung (Rajah & Tann Singapore LLP) for the respondent.

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76 Appellant's supplemental skeletal arguments on costs dated 14 February 2022 at para 32.

77 RS at para 33.