**IN THE GENERAL DIVISION OF**
**THE HIGH COURT OF THE REPUBLIC OF SINGAPORE**

**[2025] SGHC 159**

Originating Application No 107 of 2025

Between

Rai Vijay Kumar

… *Claimant*

And

The Law Society of Singapore

… *Defendant*

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# JUDGMENT

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[Legal Profession — Disciplinary proceedings — Section 97 of the Legal Profession Act 1966 (2020 Rev Ed)]
[Legal Profession — Professional conduct — Communications with witnesses represented by other counsel — Rules 7(3) and 8(3) of the Legal Profession (Professional Conduct) Rules 2015]

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# Rai Vijay Kumar
# v
# Law Society of Singapore

**[2025] SGHC 159**

General Division of the High Court — Originating Application No 107 of 2025
Philip Jeyaretnam J
29 May, 12 June 2025

12 August 2025 Judgment reserved.

**Philip Jeyaretnam J:**

1 The claimant, Rai Vijay Kumar, seeks to review and set aside various findings of the Disciplinary Tribunal ("DT") in DT/2/2024 dated 9 January 2025, such that a determination be made that the two charges on which he was convicted are not made out, and the penalty imposed on him be set aside. I will refer to him as "Mr Rai". The defendant is the Law Society of Singapore (the "Law Society").

2 The first charge concerned direct communication by letters dated 12 May 2022 with potential witnesses who were represented by other lawyers. I will refer to these communications as the "Letters". The second charge concerned taking advantage of those potential witnesses by making misleading statements concerning their rights and obligations.

3 Before proceeding with the analysis for this matter, it is helpful to understand a lawyer's duties in a broader professional context. Lawyers have the duty to advance their client's interests through all legal means, a duty reflected in r 5(2)(*j*) of the Legal Profession (Professional Conduct) Rules 2015 ("PCR"). The PCR uses the term "legal practitioner" but in this judgment I will generally use the word "lawyer". The lawyer's duty to their client is subject to their paramount duty to the court (r 4(*a*) of the PCR). That duty "must be fulfilled in a manner that upholds the standing and integrity of the Singapore legal system and the legal profession in Singapore" (r 4(*b*) of the PCR). A claimant's lawyer may well consider that to prove their client's case they need to obtain the oral evidence of persons other than their client. In some types of claims, there may be an asymmetry of information and expertise between the parties. This could well be the case in a claim alleging medical negligence made by or on behalf of a patient against a hospital or doctor. The patient's lawyer may wish to interview doctors and other medical professionals who had some interaction with their client in order to decide whether to call them as a witness as part of their client's case. Assessing their evidence carefully and preferably having that evidence in the form of an affidavit is important to the patient's lawyer because a party is generally bound by the testimony of any witness called by it, subject only to limited exceptions such as where the witness's credit has been impeached.

4 Potential witnesses may in turn consider that they should receive legal advice and representation. A lawyer appointed by such a potential witness is bound to advance the interests of their client, subject to their paramount duty to the court. Loyalty to their client would mean being careful to distinguish the witness's interest from those of either party to the litigation as well as not subordinating that interest to the interest of either party to the litigation. Fulfilling the lawyer's duty to the court means not obstructing or impairing the

process whereby the party's lawyer decides whether to call that person as a witness. The lawyer advising such a potential witness should advise the witness that, while he or she is not obliged to meet with the party's lawyer for the purpose of recording a statement and in due course an affidavit of evidence in chief, such a course of action would generally be appropriate because it might reduce the time that the witness would need to spend in court. The witness would be entitled to have his or her lawyer present while the party's lawyer conducts the interview. Indeed, the witness's lawyer may take the view that an interview is not in the witness's interest or that an interview that is underway should be terminated and may advise the witness accordingly. After all, an unrepresented potential witness would equally be entitled to refuse or terminate an interview, even after being subpoenaed. A subpoena only requires the witness to attend court.

5 I now set out in full the charges on which the claimant was convicted:

> **FIRST ALTERNATIVE TO FIRST CHARGE**
>
> You, **RAI VIJAY KUMAR** (NRIC No. XXXX887G), an advocate and solicitor of the Supreme Court of Singapore, are charged that you, without authority or just cause, in respect of High Court Suit No. HC/S 702/2020, a matter in respect of which you represented a client, communicated directly, by way of letters dated 12 May 2022, with Dr Chua Ka-Hee, Dr Timothy Lim, Dr Namuduri Ramapadmavathi, Dr Serena Koh, Dr Soong Yoke Lim, Dr Tan Teck Wei, and Dr Chong Yew Lam, some or all of whom you knew were represented by other legal practitioners (from Lee & Lee or Donaldson & Burkinshaw LLP), and such conduct amounts to a breach of Rule 7(3) of the Legal Profession (Professional Conduct) Rules 2015, and you are thereby guilty of improper conduct or practice as an advocate and solicitor of the Supreme Court of Singapore under Section 83(2)(b) of the Legal Profession Act 1966.
>
> **FIRST ALTERNATIVE TO SECOND CHARGE**
>
> You, **RAI VIJAY KUMAR** (NRIC No. XXXX887G), an advocate and solicitor of the Supreme Court of Singapore, are charged that you, took unfair advantage of various potential witnesses

> in High Court Suit No. HC/S 702/2020 and/or acted deceitfully towards them or otherwise contrary to a legal practitioner's position as a member of a honourable profession, by issuing and sending letters dated 12 May 2022, 13 May 2022, 25 May 2022 and 22 June 2022 to these potential witnesses, which said letters created a misleading impression of and/or misrepresented the legal requirements in connection with the requirements for giving evidence in High Court Suit No. HC/S 702/2020 and the consequences of non-compliance with those alleged requirements, and such conduct amounts to a breach of Rule 8(3)(a) and/or Rule 8(3)(b) of the Legal Profession (Professional Conduct) Rules 2015, and you are thereby guilty of improper conduct or practice as an advocate and solicitor of the Supreme Court of Singapore under Section 83(2)(b) of the Legal Profession Act 1966.

6 For simplicity, I will refer to the First Alternative to the First Charge as the "First Charge" and to the First Alternative to the Second Charge as the "Second Charge".

7 The First Charge refers to r 7(3) of the PCR which prohibits direct communication with an individual represented by a lawyer except in limited circumstances. The Second Charge refers to r 8(3) of the PCR which by limb (a) requires a lawyer not to take unfair advantage of any person and by limb (b) requires a lawyer not to act deceitfully toward another person, among other things.

**Preliminary issue**

8 This application was brought pursuant to s 97 of the Legal Profession Act 1966 (2020 Rev Ed) ("LPA"). The Law Society objected in principle to the relief sought on the ground that the court has no power to determine guilt and is limited to making an order that the DT (or a fresh DT) rehear the matter. The Law Society submits that in an application for review of the DT's decision under s 97 of the LPA, the Judge can set aside the orders made by the DT and order that the same DT rehear the matter or order the Law Society to apply to the

Chief Justice to appoint a new DT to hear and investigate the matter.[1] However, the court does not have the power to declare that the claimant is not guilty, or to reduce the fine or replace it with a reprimand.[2]

9 The material provisions of s 97 of the LPA are as follows:

> **97.**—(1) Where a Disciplinary Tribunal has made a determination under section 93(1)(*a*) or (*b*), the person who made the complaint, the regulated legal practitioner or the Council may, within 14 days of being notified of that determination or any order under section 93(2) or (2A), apply to a Judge for a review of that determination or order.
>
> …
>
> (4) The Judge hearing the application —
>
> (*a*) has full power to determine any question necessary to be determined for the purpose of doing justice in the case, including any question as to the correctness, legality or propriety of the determination or order of the Disciplinary Tribunal, or as to the regularity of any proceedings of the Disciplinary Tribunal; and
>
> (*b*) may make such orders as the Judge thinks fit, including —
>
> (i) an order directing the person who made the complaint or the Council to make an application under section 98;
>
> (ii) an order setting aside the determination of the Disciplinary Tribunal and directing —
>
> (A) the Disciplinary Tribunal to rehear and reinvestigate the complaint or matter; or
>
> (B) the Society to apply to the Chief Justice for the appointment of another Disciplinary Tribunal to hear and investigate the complaint or matter; or
>
> (iii) such order for the payment of costs as may be just.

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1 The Law Society's Written Submissions dated 14 May 2025 ("DWS") at para 12.

2 DWS at paras 13–14.

10 The principles concerning review of a DT's decision under s 97 of the LPA were recently summarised by the Court of Appeal in *Attorney-General v Shanmugam Manohar and another* [2025] 1 SLR 189 ("*Shanmugam*") at [46]–[47]:

> 46 … Section 97 of the LPA involves the Judge's review of the correctness of a decision made by a body constituted under the LPA (*Loh Der Ming Andrew v Koh Tien Hua* [2021] 1 SLR 926 ("*Loh Der Ming Andrew No 1*") at [23]–[24]). In reviewing a matter, the Judge exercises both supervisory and appellate jurisdiction (*Law Society of Singapore v Yeo Khirn Hai Alvin and another matter* [2020] 4 SLR 858 ("*Alvin Yeo*") at [25]–[26]). In exercising the supervisory jurisdiction, the Judge may consider the "correctness, legality or propriety" of the determination, which is "directly referable to the traditional grounds of illegality, irrationality and procedural impropriety in judicial review" (*Iskandar bin Rahmat v Law Society of Singapore* [2021] 1 SLR 874 ("*Iskandar*") at [32]). In exercising its appellate jurisdiction, the Judge may also "assess the substantive merits of the findings and determinations of the [Disciplinary Tribunal]" (*Loh Der Ming Andrew v Koh Tien Hua* [2021] 2 SLR 1013 at [34] and [36]).
>
> 47 However, while the Judge has "full power to determine any question necessary to be determined for the purpose of doing justice in the case" (s 97(4)(*a*) of the LPA), the Judge is limited in the orders that may be made. In particular, a Judge acting under s 97(1) of the LPA does not have the power to decide on any penalty or even to make recommendations as to any penalty (*Iskandar* at [33]). Instead, upon a review, the Judge may only: (a) direct that an application be made to advance the matter to the C3J; (b) set aside the determination and remit the matter to the same Disciplinary Tribunal; or (c) direct that a new Disciplinary Tribunal hear and investigate the complaint or matter. Similarly, "[i]n an appeal against the Judge's decision, the Court of Appeal is only concerned with the correctness of that decision and cannot exercise the powers reserved to the C3J" (*Loh Der Ming Andrew No 1* at [24]).

11 Despite the clear language of the section and the authoritative exegesis of the Court of Appeal, Mr Rai submits that ss 97(4)(*a*) and 97(4)(*b*) of the LPA confer on a Judge of the High Court a *sui generis* jurisdiction to make such orders as the Judge thinks fit, similar to that which ss 98(8)(*a*) and 98(8)(*b*) of

the LPA confer on the Court of Three Judges ("C3J").[3] Section 98 provides for, among other things, applications for an advocate and solicitor to be struck off the roll or suspended.

12 I reject this submission. It completely ignores the statutory scheme of the LPA and misses the obvious differences between ss 97 and 98 of the LPA. Applications under s 97 are heard by a Judge sitting in chambers in the General Division of the High Court (s 97(1) read with s 2 of the LPA). By contrast, applications under s 98 are heard by the C3J (s 98(7) of the LPA). In *Iskandar bin Rahmat v Law Society of Singapore* [2021] 1 SLR 874 *("Iskandar")*, a 5-member *coram* of the Court of Appeal considered whether the disciplinary jurisdiction under ss 95, 96 and 97 of the LPA is *sui generis*, as opposed to being part of the High Court's civil jurisdiction. Chief Justice Sundaresh Menon, writing for the 4-member majority, held that it was not the former but was instead the latter (*Iskandar* at [81] and [87]). Menon CJ reasoned at [85] that:

> (a) "[T]he powers exercised by the C3J are unique in that it may strike a solicitor off the rolls or suspend them, which are not powers ordinarily available to the High Court".
>
> (b) The C3J may exercise a *sui generis* jurisdiction pursuant to s 98(1) of the LPA, "because the C3J is not constituted under the SCJA", but is instead a "specially constituted court". However, "that does not mean that all proceedings under Pt VII of the LPA are similarly of a *sui generis* nature". Part VII of the LPA encompasses ss 95, 96 and 97, amongst other provisions.

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[3] Claimant's Submissions on Powers under s 97 and 98 of the LPA dated 5 June 2025 ("CWS (5 June)") at para 4.

13 Andrew Phang JCA, in a concurring opinion, similarly held that it was the C3J that had a "special disciplinary jurisdiction" not amenable to the civil jurisdiction of the courts, not least because it was specially constituted under the LPA and vested with jurisdiction by the same. That conclusion did not extend to all other matters under Pt VII of the LPA (*Iskandar* at [99]).

14 Equally untenable is Mr Rai's submission that the wording of s 97 of the LPA suggests that a Judge hearing a s 97 application has more powers than those enumerated in ss 97(4)(*b*)(i) to 97(4)(*b*)(iii) of the LPA.[4] Section 97(4)(*b*) of the LPA stipulates that the Judge "may make such orders as the Judge thinks fit, including" the enumerated orders. The wording of that phrase alone might suggest that the Judge's powers are not restricted to the grant of the orders so enumerated. However, the Court of Appeal has repeatedly held that although those words appear to confer a broad discretion on a Judge to make such orders as the Judge thinks fit, the better view, having regard to the express terms of s 97(4)(*b*) and the entire scheme of Pt VII, is that the Judge is restricted to ordering that the matter be advanced to the C3J or that the DT rehear and reinvestigate the matter or that a different DT be established for this purpose (*Iskandar* at [22(d)(i)(D)], [23(b)] and [32]; *Loh Der Ming Andrew v Koh Tien Hua* [2021] 2 SLR 1013 ("*Andrew Loh*") at [33]; *Shanmugam* at [47]). A Judge hearing a s 97 review does not have the power to order any penalty or even to make recommendations as to any penalty (*Iskandar* at [33]; *Andrew Loh* at [33]; *Shanmugam* at [47]). I would add that, by logical implication, the Judge would not have the power to order a reduced penalty as well, which is an item of relief sought in this case.

15 Mr Rai relies on the following comments in *Iskandar* at [91]:

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[4] CWS (5 June) at para 4.

> Part VII of the LPA is not a model of clarity and consistency, and its provisions on the exercise of discipline over solicitors have vexed the courts for some time. *Legislative reform would be very welcome* to clarify the jurisdiction of the courts and the routes of review and appeal available to the complainant, the solicitor and the Law Society. *Until then, a court interpreting or applying the provisions should first and foremost focus on the language of the specific provision.* [emphasis added]

16 But it is unclear how these observations assist Mr Rai. Firstly, the Court of Appeal was referring to the "enigmatic" disciplinary framework and avenues of review in Pt VII of the LPA (*Iskandar* at [34]). This included complexities such as "overlapping avenues" for solicitors and the Council of the Law Society to seek to reverse or vary the determination of the DT (*Iskandar* at [33]). It did not concern the ambit of the court's powers under s 97(4)(*b*) of the LPA. More importantly, the Court of Appeal's observations clearly indicate that any deficiencies in the statutory provisions would have to be remedied by legislative reform, not judicial intervention. This court's role is merely to interpret and apply the provisions, focusing on the language of the specific provision.

17 Therefore, I find that I do not have the power to grant the determination sought that, among other things, the two charges were not made out and the financial penalty be set aside or reduced.

18 Nevertheless, I go on to consider whether the DT's decision should be set aside, on the basis that if I did so, I would have to remit the matter to the DT for a rehearing or direct the Law Society to apply for the appointment of a fresh DT to hear the matter.

**Issues**

19 From Mr Rai's submissions, the following issues arise for my determination:

(a) Is the DT's determination invalid because the complaints were void *ab initio* or because they were motivated by malice?

(b) In respect of the First Charge:

(i) Was the charge defective as it lacked specificity?

(ii) Did Mr Rai issue the Letters?

(iii) Did Mr Rai know the doctors were legally represented?

(iv) Were the Letters issued with due authority or just cause?

(c) Additionally, in respect of the Second Charge:

(i) In sending the Letters, did Mr Rai take unfair advantage of the recipients or act contrary to his position as a member of an honourable profession?

**Issue 1: Claimant's challenge to the underlying complaints**

20 Mr Rai submits that the complaints were "void *ab initio*".[5] The joint complaints were made by Clinical Associate Professor Ng Kee Chong on behalf of KK Women's and Children's Hospital Pte Ltd ("KKH"), Associate Professor Ruban Poopalalingam on behalf of Singapore General Hospital Pte Ltd and Professor Chin Jing Jih on behalf of Tan Tock Seng Hospital.[6] Mr Rai argues that the Law Society never proved that the individual complainants had the authority to make the complaints on behalf of their respective hospitals.[7]

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5 Claimant's Written Submissions dated 14 May 2025 ("CWS (14 May)") at para 10.

6 Record of Proceedings Volume 2 at p 50 para 2.

7 CWS (14 May) at para 7(a).

21 Mr Rai also submits that the complaints were motivated by malice, in that they were facilitated and furthered by Marsh (Singapore) Pte Ltd, which was the insurer for medical professionals and hospitals.[8]

22 The Law Society submits that the charges have a life of their own and the DT must hear and investigate the charges, and therefore Mr Rai's arguments that the complaints were void *ab initio* or motivated by malice are irrelevant at this stage of the proceedings.[9] It is also submitted that there is no evidence of malice.[10]

23 Mr Rai's argument has no merit. Simply put, the validity of the DT's determination does not depend on who made the complaint or why they did so. Thus, disciplinary proceedings may continue even after the withdrawal of the original complaint. The Court of Appeal held in *Manjit Singh s/o Kirpal Singh and another v Attorney-General* [2013] 4 SLR 483 at [5] that:

> … the disciplinary process cannot be procedurally and substantively contingent on the subsistence of a complaint. Indeed, it is settled law that a DT, once seised of jurisdiction, will be unaffected by the withdrawal of the initial complaint. The basic rationale for this is that the DT has been appointed to investigate the charges formulated by the Law Society and not the complaints which occasioned those charges (see *Law Society of Singapore v Ahmad Khalis bin Abdul Ghani* [2006] 4 SLR(R) 308, *The Law Society of Singapore v Rajagopal Shan* [1994] SGDSC 2 and *Re Shan Rajagopal* [1994] 2 SLR(R) 60). By analogy with criminal prosecutions, the investigation and hearing of disciplinary charges is predicated not on the validity of the complainant's further thoughts in relation to his complaint, but on the propriety of the subject's conduct. We would also underscore that the disciplinary process cannot be held hostage to the whims of complainants, who may, in the nature of things, have a multitude of personal reasons for choosing to submit and then withdraw a complaint. The fact

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8 CWS (14 May) at para 13.

9 DWS at paras 20–21.

10 DWS at para 22.

> that a complaint has been withdrawn does not necessarily mean that there was no truth to the complaint.

24 The Law Society does not need to prove as part of its case that the complaint was made by or on behalf of any specific person nor that the person made the complaint in good faith. Disciplinary proceedings concern the matters alleged in a complaint, not the motivation of the complainant. A complainant's motive may conceivably bear on the truthfulness of that complainant's testimony, if given, but that is a different question altogether.

25 For completeness, the fact that the insurer may have facilitated the making of the complaints does not establish that the complaints were made for a collateral purpose or without belief in their truth.

**Issue 2: Framing of First Charge**

26 Mr Rai argues that the First Charge was defective because it did not specify which doctors he knew were represented, instead stating that he knew "some or all" of the doctors were represented.[11]

27 The Law Society contends that this phrase does not make the charge bad or unclear. I agree. Indeed, there would have been nothing wrong with a charge that omitted this phrase. A charge in respect of letters sent to seven people can found a conviction in respect of all of them or a subset of them, depending on the evidence led. The charge as framed made clear to Mr Rai the case he had to meet. Mr Rai knew that the Law Society intended to prove that he knew that each of the seven doctors named was represented by other lawyers and that the charge could be made out against some or all of those seven, depending on the evidence.

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[11] Notes of evidence dated 29 May 2025 ("29 May NE") at p 2.

**Issue 3: Responsibility for the Letters**

28 Mr Rai submits that he had not "communicated directly" with the doctors, because the Letters were not sent by him but by his associate, Joavan Christopher Pereira ("Mr Pereira").[12] Mr Rai argues that for him to have communicated "directly" with the doctors, he must have *personally* made the communication.[13] This interpretation contrasts with an alternative reading, whereby "directly" means the communication was made directly to the doctors rather than through the doctors' lawyers.

29 I do not accept this argument. First, the words "communicated directly" in the First Charge mirror the words used in r 7(3) of the PCR. Rule 7(3) requires a lawyer to, amongst other things, notify another lawyer or obtain their prior consent before "communicat[ing] directly" with the latter's client. The context of this rule indicates that communicating "directly" means communicating with a represented party *without going through their lawyer*.

30 Second, r 7(3) plainly covers the situation where an associate sends out a letter on the partner's behalf with their knowledge and approval. I agree that it is sufficient that, as the DT found, Mr Rai was aware of and approved the covering emails and the Letters.[14]

31 Mr Rai did not testify before the DT. However, the evidence before the DT established on a *prima facie* basis that he knew and approved of the Letters. Mr Rai chose not to testify and so this *prima facie* case was not rebutted. I do

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12 CWS (14 May) at para 27.

13 29 May NE at p 2.

14 Record of Proceedings Volume 1 ("ROP1") at pp 31–32, Report of the Disciplinary Tribunal ("DT Report") at paras 108–110.

not find that Mr Rai has made any compelling argument on appeal that the DT was wrong to draw an adverse inference on this point.[15] A *prima facie* case was established and thus this is not a situation where there was no case to answer, such that an adverse inference was used to fill gaps in the Law Society's case. On the contrary, the DT was entitled to draw the adverse inferences that it did.[16]

32 The Letters were signed off in Mr Rai's name, which was typewritten, with his e-signature appended.[17] Both Mr Rai and Mr Pereira's emails were listed under "Writer's Contact".[18] Both Mr Rai and Mr Pereira were identified as contact persons to whom the recipients could respond.[19]

33 Mr Rai concedes that if the Letters had contained a physical signature, the Law Society would have made out a *prima facie* case. However, since the Letters contained a cut-and-pasted e-signature, Mr Rai argues that the Law Society should have called Mr Pereira to give evidence.[20]

34 However, this submission overlooks the point that Mr Rai was copied on the emails sent by Mr Pereira, and each email bore at its foot a notation that it came from both Mr Rai and Mr Pereira. There was no evidence that Mr Rai disavowed these communications at the time.

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15 CWS (14 May) at para 14.

16 DT Report at para 109.

17 See, *eg*, Record of Proceedings Volume 4 ("ROP4") at p 90.

18 See, *eg*, ROP4 at p 88.

19 See, *eg*, ROP4 at p 89 para 6.

20 29 May NE at p 2.

35 Finally, while making submissions on his own behalf at the hearing before the DT, Mr Rai appeared to say that he was the author of the Letters.[21]

**Issue 4: Knowledge that the doctors were legally represented**

36 The evidence before the DT on Mr Rai's knowledge that the seven doctors were legally represented included the fact that on 11 May 2022, the day before the Letters were sent, Legal Clinic LLC, which represented KKH, had written to Mr Rai and Mr Pereira stating that five of the seven doctors were represented by named lawyers from Lee & Lee.[22] On this point, the DT drew an adverse inference against Mr Rai as he was the only person who could testify concerning whether he was aware of this letter and he chose not to do so.[23]

37 Dentons Rodyk & Davidson LLP had also sent an email dated 8 December 2021 to the Singapore Mediation Centre with a copy to Mr Rai, stating that the other two doctors were represented by Donaldson & Burkinshaw.[24] In addition, two of the seven doctors testified that they were represented by other lawyers at the time.[25] Again, there was sufficient evidence to establish on a *prima facie* basis that Mr Rai knew the doctors were represented by other law firms. He did not testify in his defence, which again means that the inference was unrebutted. Before me, his arguments that his own knowledge had not been proved lacked cogency because of his choice not to testify before the DT. As with the issue of direct communication (see [31]

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21 ROP1 at pp 40–41, DT Report at para 143.

22 ROP1 at p 36, DT Report at para 127.

23 ROP1 at p 37, DT Report at para 130.

24 ROP1 at p 33, DT Report at para 116.

25 ROP1 at p 33, DT Report at para 114.

above), Mr Rai has not provided any compelling argument[26] that the DT should not have drawn the adverse inference on this point.[27]

**Issue 5: "Authority or just cause"?**

38 Mr Rai submits that the communications were made with "authority or just cause", namely: (a) the order of court requiring the claimant in the underlying action to limit the testimony of the doctors to one affidavit per witness, (b) the Rules of Court 2021, and (c) the subpoena sent to the doctors.[28] Mr Rai sought to come within r 7(3)(*d*) of the PCR which permits direct communication where authorised by law or by the court or a tribunal. This argument is completely misconceived. It is true that a subpoena must be served personally but that is not what the Letters were doing. I agree with the DT's finding on this point.[29]

**Issue 6: Misleading statements**

39 Mr Rai contends that the Letters did not create any misleading impression or misrepresent the legal requirements in connection with the requirements for giving evidence in HC/S 702/2020 and the consequences of non-compliance with the alleged requirements.[30]

40 Paragraph 4 of the Letters stated that because their client required the recipient to testify in court, Mr Rai's firm was "required by the High Court to record [the recipient's] statement for the purposes of preparing an Affidavit of

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26 CWS (14 May) at para 19.

27 DT Report at para 130.

28 29 May NE at p 1. See also CWS (14 May) at para 62.

29 ROP1 at p 38, DT Report at para 134.

30 CWS (14 May) at paras 64–71.

Evidence in Chief to be attested by [the recipient] in due course". This simply was not true. A law firm which obtains a subpoena is not required by law or by the court to obtain a statement from the witness. It is always possible for a witness under subpoena to testify orally without providing an affidavit of evidence-in-chief. This misstatement was compounded by the further misstatement at paragraph 8 of the Letters that not giving a statement for the purpose of an affidavit would "possibly lead to further inconvenience to [the recipient] as well as possible cost consequences". There is no precedent for an adverse costs order against a witness under subpoena who chooses to give evidence orally.

41 A separate misstatement in the Letters was the warning that the recipient "not discuss [his or her] evidence with anyone, including [his or her] insurers or legal advisers, if any". There was a further warning that "[f]ailure to observe the above could result in severe penal consequences to [the recipient]." There is no rule of law or evidence that a potential witness may not discuss their evidence with their insurers or their lawyers (or indeed anyone else). This is a complete mischaracterisation of the rule that once a witness enters the witness box they should not discuss their evidence with anyone else until they are released by the court.

42 These misstatements appeared calculated to put pressure on the recipients to have their statements recorded by Mr Rai and his firm. As such, Mr Rai breached r 8(3)(*a*) of the PCR in that he took unfair advantage of the recipients by misleading them about their own legal position. Mr Rai also breached r 8(3)(*b*) of the PCR as his actions were contrary to his position as a member of the legal profession. I agree with the DT's findings on this point.[31]

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[31] ROP1 at p 48, DT report at para 175.

43 The administration of justice depends on the parties' lawyers and witnesses' lawyers understanding their paramount duty to the court, as well as their obligations to one another as fellow lawyers. The observance of this duty and these obligations would facilitate and protect the process whereby relevant testimony is given to the court.

**Conclusion**

44 There is no basis for the court to set aside the determination of the DT and make an order that the DT (or a fresh disciplinary tribunal) rehear the matter. The Law Society had discharged its burden of proving the elements of the charges beyond a reasonable doubt. I dismiss the application and award costs to the Law Society. If the amount of costs cannot be agreed within 14 days, the Law Society may write in to court for me to assess and fix the amount.

Philip Jeyaretnam
Judge of the High Court

Rai Vijay Kumar, Andrew Ohara and Jasleen Kaur (Arbiters Inc Law Corporation) for the claimant;
Pradeep Pillai G, Rashpal Singh Sidhu and Chong Wei Jie (PRP Law LLC) for the defendant.