Please delete where applicable –

1. This Grounds of Decision DOES NOT need redaction.
2. Redaction HAS NOT been done.

DISTRICT JUDGE
LIM MEI YEE ELAINE
14 APRIL 2025

IN THE STATE COURTS OF THE REPUBLIC OF SINGAPORE

[2025] SGMC 22

Magistrate Court Suit No 7549 of 2020
Summons No 2752 of 2022

Between

Nguyen Thi Bich Van

… *Claimant*

And

(1) TheMinh Pte. Ltd.
(2) Nguyen Thi Thu Thuy

… *Defendants*

GROUNDS OF DECISION

[Contempt of Court — Civil contempt — Whether respondents had the requisite mens rea for contempt]
[Contempt of Court — Civil contempt — Whether defence in section 21 of the Administration of Justice Act applies]

Version No 1: 26 May 2026 (17:42 hrs)

[Contempt of Court — Civil contempt — Whether custodial sentence warranted]

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This judgment/GD is subject to final editorial corrections approved by the court and/or redaction pursuant to the publisher's duty in compliance with the law, for publication in LawNet and/or the Singapore Law Reports.

Nguyen Thi Bich Van
v
TheMinh Pte. Ltd. and another

[2025] SGMC 22

Magistrate Court Suit No 7549 of 2020
Summons No 2752 of 2022
District Judge Lim Mei Yee Elaine
13 October 2022, 5 April 2023, 19, 22 and 23 April, 8–9 July 2024, 1 April 2025

14 April 2025

District Judge Lim Mei Yee Elaine:

1 In the present application, the plaintiff sought an order of committal against the respondents, Mr Lee Liang Leng Daniel ("**Mr Lee**") and Ms Nguyen Thi Thu Thuy ("**Ms Minh**"), under section 4(1)(a) of the Administration of Justice (Protection) Act 2016 (2020 Rev Ed) ("**AJPA**"), for breaching two orders I had made during the trial of the main action in Magistrate's Court Suit No. 7549 of 2020 (the "**Main Action**") on 21 and 22 February 2022 (collectively, the "**Court Orders**").

2 The order made on 21 February 2022 (the "**21 Feb Order**") required the defendants in the Main Action – TheMinh Pte Ltd ("**TheMinh**"), of whom Mr Lee and Ms Minh are directors, and Ms Minh – to produce for inspection, the

originals of several documents exhibited in Ms Minh's Affidavit of Evidence-in-Chief dated 25 October 2021 ("**Ms Minh's AEIC**"), by 2 March 2022.[1]

3 The order made on 22 February 2022 (the "**22 Feb Order**") arose from Ms Minh's testimony during the trial of the Main Action that day, and required her to do the following by 15 March 2022:[2]

> (a) to file a list of documents stating whether or not she has possession, custody or control of certain documents relating to page 66 of her AEIC (collectively, the "**Page 66 Related Documents**"), and if she has had, but no longer has, possession, custody and control of such documents, when did she last have possession, custody and control of those documents, what has become of those documents, and in whose possession they are currently; and
>
> (b) to file an affidavit verifying the said List of Documents.

4 After hearing the parties and considering the submissions, I find the respondents guilty of contempt of court and impose fines of $3,000 and $4,500 on Mr Lee and Ms Minh respectively. These are the full grounds for my decision.

Background

5 I begin with an overview of the Main Action, which is vital to a proper understanding of the circumstances leading to the present application.

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1 The extracted 21 Feb Order is found at PCB 539.

2 The extracted 22 Feb Order is found at PCB 545. However, it is undisputed that the phrase "*showing that she has in her possession, custody or power*" in the extracted order is erroneous, and should instead read "*stating whether or not she has in her possession, custody or power*": see Notes of Evidence ("NE"), 8 July 2024, 2/1-4-26

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Parties' cases in the Main Action

6 The plaintiff is a shareholder of Van Nguyen Pte. Ltd. ("**Van Nguyen**"), which is in the business of the sale of women's clothing. The plaintiff owns the Facebook account 'Van Nguyen', which she uses to advertise products sold by Van Nguyen.

7 TheMinh is a competitor of Van Nguyen in the business of the sale of women's clothing. Ms Minh owns two Facebook accounts: TheMinh's Facebook account 'The Minh', which she uses to advertise products sold by TheMinh, and her own Facebook account 'Minh Minh'.

8 On 20 May 2020 and 13 June 2020, Ms Minh published two posts and a live video respectively on the Minh Minh Facebook page (each a "**Defamatory Post**" and collectively, the "**Defamatory Posts**").[3] For present purposes, the relevant sting of the Defamatory Posts is that the plaintiff was a thief and an unethical and unprofessional businesswoman, as she had posted the following videos on the Van Nguyen Facebook page without TheMinh's consent and in violation of TheMinh's copyright in the videos:

(a) in a Facebook post published on 8 May 2020 (the "**8 May Facebook Post**"), a compilation of videos featuring a Vietnamese model, Ms Ngo Mai Phuong ("**Ms Phuong**"), modelling various clothing (collectively, "**TheMinh Videos**"), which videos had previously been posted on The Minh Facebook page a few days earlier as part of its efforts to advertise its 'Resort 2020' collection; and

[3] The Defamatory Posts can be found in Appendix A (pp. 59 – 64) of my certified Notes of Evidence of the hearing in the Main Action on 1 December 2022, at which I delivered my oral judgment on the merits of the parties' claims and counterclaims.

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(b) subsequently, on 20 May 2020, replacing TheMinh Videos in the 8 May Facebook Post with another compilation of videos featuring Ms Phuong modelling clothing similar to those seen in TheMinh Videos (collectively, the "**TikTok Videos**"), which videos the plaintiff had downloaded from Ms Phuong's TikTok account (the "**Allegedly Edited 8 May Facebook Post**").

I will refer to the compilation of videos published in the 8 May Facebook Post as the "**8 May Video**" and the compilation of videos published in the Allegedly Edited 8 May Facebook Post as the "**Allegedly Edited 8 May Video**".

9 The plaintiff commenced the Main Action against the defendants for defaming her in the Defamatory Posts. The defendants raised the defence of justification. TheMinh also brought a counterclaim against the plaintiff for copyright infringement in relation to TheMinh Videos and the TikTok Videos, on the basis that they had commissioned the creation of these videos and owned the copyright in these videos.

10 A key issue in the Main Action was whether the defendants own and/or are affiliated to The Shilla, an online clothing merchant in Vietnam who had posted videos similar to TheMinh Videos and the TikTok Videos, on its Facebook page 'The Shilla'. The plaintiff relied on the fact that The Shilla had posted videos similar to TheMinh Videos and the TikTok Videos, to rebut the defendants' case that they own the copyright to TheMinh Videos and the TikTok Videos.[4] The defendants sought to explain The Shilla's posting of such videos on the basis that they own and/or are affiliated to The Shilla.[5]

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4 Plaintiff's Affidavit of Evidence-in-Chief dated 25 October 2021 at [37]

5 See PSB 242 and 245, specifically [4] and [24] of Ms Minh's AEIC.

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11 The defendants were self-represented for most part of the Main Action, except the initial six-and-a-half months from late July 2020 to 10 February 2021 and a brief seven-day period from 10 to 17 February 2022, during which they engaged counsel. At all times when the defendants were self-represented, Mr Lee, who is Ms Minh's husband, was the authorised representative of TheMinh in the Main Action.

Circumstances leading to the issuance of the Court Orders

12 The trial in the Main Action took place over three tranches on 14 December 2021, 21 and 22 February 2022, and 6 July 2022.

13 On the first day of the trial, *ie,* 14 December 2021, lead counsel for the plaintiff, Mr Clarence Lun ("**Mr Lun**") of Fervent Chambers LLC ("**FCL**"), indicated that the plaintiff was challenging the authenticity of several documents in Ms Minh's AEIC which had not been formally disclosed in the defendants' List of Documents or Supplementary List of Documents. These were the documents in pages 12 to 21 and 64 to 66, as well as the two video files titled 'Video proof' and 'Do Diep Minh' in the thumb drive exhibited in pages 42 and 99, of Ms Minh's AEIC. In relation to the 'Video proof' video file, Mr Lun made the point that it was a compilation of several videos, but the underlying / source videos had not been disclosed and the plaintiff's position was that some of the underlying / source videos appeared to have been tampered with in terms of a TikTok watermark, among others.[6] Mr Lun invited the defendants to prove the authenticity of the challenged documents by producing the originals of the documents the next day before he commenced his cross-examination of Ms Minh.[7]

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6 Notes of Evidence ("NE"), 14 December 2021, 32/5-34/13

7 NE, 14 December 2021, 145/12-146/5

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14 The trial, however, did not proceed on 15 December 2021. It was adjourned as Mr Lee and Ms Minh were absent and had emailed FCL an admission slip stating that they had been admitted to Raffles Hospital the night before.

15 In the meantime, the plaintiff corresponded with the defendants regarding her challenge to the authenticity of various documents in Ms Minh's AEIC. By a letter dated 19 December 2021 (the "**19 Dec Letter**"),[8] FCL listed, in paragraph 2, an expanded scope of documents for which the plaintiff was challenging authenticity – namely pages 12 to 25, 32, 36, 37, 40, 42, 46 to 48, 51 to 58, 64 to 67, 74, 76 to 78, 80, 92 to 106 of Ms Minh's AEIC (collectively, the "**Disputed Documents**") – and demanded the defendants to produce the originals of the Disputed Documents for inspection by 23 December 2021. As for the nature of the originals being sought, FCL specified in paragraph 5 of the letter that:[9]

> Insofar as the originals of such documents are in electronic form (e.g. screenshot images), our client requires that you provide the originals in soft copies, containing the original Metadata, so that authenticity can be verified. … For each of these soft copy originals provided, please also state the medium from which the screenshot was taken, the date it was taken and by whom it was taken.
>
> Insofar as the originals are in hard copies, please let us know within 4 days of this letter whether you are prepared to produce the same for inspection, and the location where we can attend to inspect the hard copy originals.

16 Regrettably, the defendants did not produce the originals of the Disputed Documents during the two-month period between the issuance of the 19 Dec Letter and the second tranche of the trial. Instead, on 17 and 18 February 2022,

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8 PCB 610 – 612

9 PCB 610 – 611

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(*ie,* just a few days before the commencement of the second tranche), the defendants filed a 2nd and a 3rd Supplementary List of Documents ("**D2SLOD**" and "**D3SLOD**" respectively),[10] which listed a total of 40 documents, most of which they had not previously disclosed in the Main Action. Moreover, it was only at the outset of the second tranche on 21 February 2022 that the defendants tendered to the plaintiff and the Court hard copies of the documents listed in D2SLOD and D3SLOD, as well as a 4th Supplementary List of Documents ("**D4SLOD**") which annexed what were purportedly the originals of the Disputed Documents.

17 On the afternoon of 21 February 2022, Mr Lun informed me that having perused the documents in D4SLOD, the plaintiff's position was that those documents clearly were not the originals of the Disputed Documents. He explained that his 19 Dec Letter had specified that where the originals of the Disputed Documents were in electronic form (such as screenshot images), the plaintiff was seeking production of the soft copy originals which contained metadata. However, the documents in D4SLOD were obviously hard copy printouts,[11] as opposed to soft copy originals containing metadata. On that basis, he sought an order that the defendants produce the originals of the Disputed Documents.[12]

18 After obtaining Mr Lee's confirmation that the defendants understood what Mr Lun was asking for and that the defendants have the originals of the

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10 D2SLOD is found in PSB 32 – 39, while D3SLOD is found in PSB 41 – 80.

11 NE, 21 February 2022, 72/14-76/17

12 NE, 21 February 2022, 76/9-11

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Disputed Documents,[13] I issued the 21 Feb Order, directing the defendants to produce the originals of the Disputed Documents by 2 March 2022.[14]

19 The second tranche of the trial continued on 22 February 2022, during which the cross-examination of Ms Minh commenced. Among other things, Ms Minh was cross-examined on page 66 of her AEIC which, on its face, is a screenshot of The Shilla Facebook page showing two addresses: an address in Ho Chi Minh and TheMinh's Singapore address (the "**Page 66 Screenshot**"). When questioned by Mr Lun on why different fonts were used for each of the addresses, Ms Minh explained that:[15]

(a) It was impossible to key two addresses into The Shilla Facebook page.

(b) The Page 66 Screenshot was created by taking a screenshot of The Shilla Facebook page which contained only the Ho Chi Minh address, and then inserting the Singapore address into the screenshot. This was done by her, or her staff at her instructions, because shortly after the incident between the parties occurred in May 2020, many English-speaking customers contacted The Shilla's staff in Vietnam, requesting to buy the videos on The Shilla's Facebook page (*ie,* the videos which were similar to TheMinh Videos and the TikTok Videos). However, The Shilla's staff in Vietnam did not know English and did not know how to reply to those queries.

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13 NE, 21 February 2022, 76/22-77/14, 80/15-81/16

14 NE, 21 February 2022, 85/18-26

15 NE, 22 February 2022, 140/15-31, 142/4-148/11

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(c) Thus, the Page 66 Screenshot was sent to The Shilla for circulation to English-speaking customers who made such queries. However, she could not recall which staff in Vietnam the Page 66 Screenshot had been sent to, as that had occurred two years ago.

20 The plaintiff was not satisfied with Ms Minh's explanation. Mr Lun, on behalf of the plaintiff, took the position that the defendants had fabricated the Page 66 Screenshot to fraudulently misrepresent to the Court that they were affiliated to The Shilla for the purposes of establishing their defence of justification.[16] He also suggested that the defendants had misrepresented through their description of the Page 66 Screenshot in D4SLOD – that it was a "*screenshot taken at The Shilla facebook Page showing 2 TheMinh address SG and Vietnam The Shilla*" – that such a Facebook page existed.[17]

21 In the circumstances, Mr Lun sought an order that Ms Minh produce documentary evidence that she had provided the Page 66 Screenshot to the staff for dissemination to the customers, so that the plaintiff and the Court could ascertain whether the Page 66 Screenshot had been fabricated for use in the Main Action or was already in existence in or around May 2020, *ie,* prior to the commencement of the Main Action.[18]

22 As Ms Minh was unsure whether she had such documentary evidence and stated that she would try to find and produce the same, I issued the 22 Feb Order, directing that by 15 March 2022, Ms Minh was to:

(a) file a List of Documents stating:

---

16 NE, 22 February 2022, 148/29-149/25, 152/4-19, 156/4-157/20

17 NE, 22 February 2022, 146/9-24, 153/21-25, 158/29-32

18 NE, 22 February 2022, 159/15-31

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(i) whether or not she has in her possession, custody or control, the following Page 66 Related Documents:

(A) documents evidencing that TheMinh or The Shilla's staff had created the Page 66 Screenshot in or around May 2020 (the "**Category A Documents**");

(B) documents evidencing that TheMinh or The Shilla had disseminated or circulated substantially similar documents as the Page 66 Screenshot with different fonts and/or font sizes to their customers (the "**Category B Documents**");

(ii) if she has had, but does not now have, possession, custody and control of these documents: then when did she last have possession, custody and control of these documents, what has become of the documents, and in whose possession they are currently; and

(b) file an affidavit verifying the List of Documents.[19]

23 In view of the volume of the documents listed in D2SLOD, D3SLOD and D4SLOD, during the trial on 22 February 2022, I also directed that:

(a) if the defendants wished to rely on those documents, they were to file a formal application by 18 March 2022 for permission to file a supplementary affidavit of evidence-in-chief which explains the relevance and necessity of those documents (the "**Application for Permission to file SAEIC**");[20] and

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19 NE, 22 February 2022, 160/11-162/28, 163/27-166/1

20 NE, 22 February 2022, 91/3-94/22, 102/21-32

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(b) the hearing of any such Application for Permission to file SAEIC would be fixed on the morning of 4 May 2020, together with a pre-trial conference ("**PTC**") for the Main Action so that I could give the appropriate directions for the progress of the Main Action after the application had been determined.

The defendants' attempts to comply with the Court Orders

24 On 28 February 2022, Mr Lee and Ms Minh each filed an affidavit verifying D4SLOD.[21] The contents of the affidavits were substantially identical. The D4SLOD found in each of those affidavits referred to 'VD2' as the 'meta data in soft copy',[22] and listed various videos under 'VD1'.[23] On the same day, Mr Lee and Ms Minh also tendered two CDs, one titled 'VD1' and the other titled 'VD2', containing what they allegedly believed were the originals of the Disputed Documents.[24] I will refer to the CD titled 'VD2' as the "**28 Feb CD**".

25 On 1 March 2022, Ms Minh filed an Other Hearing Related Request, requesting that I set out the directions given at the trial on 22 February 2022 as she did not record the directions and the timelines (the "**1 March Request**"). I replied on 4 March 2022, setting out, among other things, the terms of both Court Orders.[25]

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21 Ms Minh's D4SLOD is found in PSB 82 – 152.

22 See PSB 86, specifically the first row under the bold and underlined header "Screen Recording (CD-ROM)".

23 See PSB 86 to 87, specifically all the rows (except the last row) under the bold and underlined header "Screen Recording (CD-ROM)".

24 NE, 5 April 2023, 38/11-42/28 (see, in particular, 40/17-25 and 42/14-28)

25 PCB 758

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26 On 8 March 2022, FCL personally served the extracted Court Orders on the defendants.[26]

27 By an email on 9 March 2022, FCL issued a letter to the defendants (FCL's "**9 Mar Letter**"),[27] stating that the 28 Feb CD did not contain most of the originals of the Disputed Documents. FCL pointed out in the 9 Mar Letter that the defendants "*have produced a number of screen recordings of documents, and clearly, such screen recordings are not originals*", and that the defendants had also failed to produce the originals of the physical documents at pages 12 to 21 of Ms Minh's AEIC for inspection. Accordingly, FCL gave final notice to the defendants to produce the originals of the following Disputed Documents – pages 12 to 23, 32, 36, 37, 40, 42, 46 to 48, 64, 66, 67, 74, 76 to 78, 80, 93, 94, 99, 103 to 106 of Ms Minh's AEIC – by 15 March 2022, failing which they had instructions to commence committal proceedings against the defendants.

28 That night, Mr Lee replied to the 9 Mar Letter (Mr Lee's "**9 Mar Email**"). He took the position that "*since we have a PTC fixed on 4 May 2022 at 9.30am, you / your client may inspect the available original copy in our possession before the court / or you may refer to CD / 4th Supplementary Bundle which were commission of oath*". He also stated that "*for the original of Page 12 and 13 [ie, the Certificate of Business Household of The Shilla] I have the original do arrange the time and date at your office to inspect as I have the right keep the original copy after inspection*".[28]

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26 PCB 702 – 703

27 PCB 704 – 705

28 PCB 765 – 766

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29 FCL replied on the same night that they did not intend to wait until 4 May 2022 to file contempt of court proceedings, and had instructions to proceed to file such proceedings following the expiry of the timeline ordered for disclosure.[29]

30 The next day, Mr Lee replied to FCL (Mr Lee's "**10 Mar Email**"),[30] stating that since they could not wait until the PTC on 4 May 2022, they were invited to his and Ms Minh's Yishun residence to inspect "*page 12 of AEIC original*" (which was the Certificate of Business Household of The Shilla), and "*the rest of the pages [except pages 16 and 20] [which] are clearly screenshots similar to 4th supplementary [ie, the D4SLOD]*". Mr Lee requested FCL to text him at his mobile number to make an appointment for the inspection. However, FCL did not respond to this invitation.

31 On 15 March 2022, Ms Minh filed two affidavits in purported compliance with the 22 Feb Order:

(a) a 56-page affidavit verifying the 2nd defendant's List of Documents, which listed and annexed a total of 10 documents (the "**15 March Long LOD**"), including a video titled '2DF14MAR22' in s/no. 1 of that List[31]; and

(b) a 15-page affidavit verifying the 2nd defendant's 2nd List of Documents,[32] which listed and annexed a total of 3 documents (the "**15 March Short LOD**").

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29 PCB 766

30 PCB 767 – 768

31 That video was tendered via a Google Drive link which Mr Lee provided in his email to the Court and FCL on 15 March 2022 at 6.05pm.

32 PSB 154 – 168

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32 On 28 March 2022, the plaintiff filed a Notice of Non-Admission of Documents to dispute the authenticity of the documents disclosed in the 15 March Long LOD and the 15 March Short LOD.

The plaintiff's application for leave to commence committal proceedings

33 Dissatisfied with the defendants' attempts to comply with the Court Orders, the plaintiff filed MC/SUM 1600/2022 ("**SUM 1600**"), seeking leave to commence committal proceedings against Mr Lee and Ms Minh for breaching the 21 Feb Order, and against Ms Minh for breaching the 22 Feb Order as well.

34 On 29 June 2022, I granted leave to the plaintiff to commence committal proceedings for:

> (a) Mr Lee's and Ms Minh's breaches of the 21 Feb Order by reason of their failure to produce the originals of the following Disputed Documents: pages 16 to 21, 23, 32, 36 to 37, 46 to 48, 64, 66, 67, 74, 103 to 104, 105 and 106, as well as the two video files titled 'Video proof' and 'Do Diep Minh' in the thumb drive exhibited in pages 42 and 99, of Ms Minh's AEIC (collectively, the "**Key Disputed Documents**").[33] In this regard, I found that a *prima facie* case for intentional breaches of the 21 Feb Order had been made out for the following reasons:[34]

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[33] For completeness, in SUM 1600, I had also granted leave to the plaintiff to commence committal proceedings against Mr Lee and Ms Minh for breaching the 21 Feb Order by reason of their failure to produce the original of the screenshot on the right-hand side of page 80. However, that alleged breach is no longer a live issue in these committal proceedings: see the Correspondence from Courts dated 20 January 2025 and the plaintiff's reply to that correspondence via her Other Hearing Related Request dated 25 February 2025.

[34] See PCB 722 – 726, specifically [9] of my certified Notes of Evidence of the hearing of SUM 1600 on 29 June 2022.

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Page in Ms Minh's AEIC	**Description of document**	**Reasons for granting leave to commence committal proceedings**
16 to 21	Two Business Cooperation Agreements in the Vietnamese language, allegedly signed by Ms Minh and one Phan Long Hai ("**Hai**"), and dated 20 and 21 February 2020 respectively (the "**BCAs**").[35]	Ms Minh had testified at the trial on 22 February 2022 that the originals of the BCAs are in hard copy form. However, the defendants did not produce the original hard copy BCAs.
23	A screenshot of reviews of TheMinhSg on theminhsg.asia (the "**Page 23 Screenshot**")	The defendants did not produce the original soft copy screenshot stored on the device with which the screenshot was taken. They only produced a video recording of the screenshot in the MP4 file titled 'pg 23' in the 28 Feb CD.
32	A screenshot of Ms Minh's mobile phone showing various videos (the "**Page 32 Screenshot**")	The defendants did not produce the original soft copy screenshot stored on the device with which the screenshot was taken. They only produced a video recording of the screenshot in the MP4 file titled 'Pg 32' in the 28 Feb CD.

[35] These were exhibited in Ms Minh's AEIC together with certified English translations of the agreements.

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Page in Ms Minh's AEIC	**Description of document**	**Reasons for granting leave to commence committal proceedings**
36 to 37	Screenshots of two posts on TheMinh Facebook page (the "**Page 36 Screenshot**" and "**Page 37 Screenshot**" respectively)	The defendants did not produce the original soft copy screenshots stored on the device with which the screenshots were taken. They only produced video recordings of the screenshots in the MP4 files titled 'pg 36' and 'pg 37' in the 28 Feb CD.
42	A thumb drive containing a video file titled 'Video proof'. That file is a compilation of video recordings, made on 9, 11 and 20 May 2020, of various underlying videos posted on the Van Nguyen Facebook page on various dates.	The defendants did not produce the underlying videos. They only produced the video recordings of the underlying videos in the MP4 files titled 'pg 42.1a', 'pg 42.1b', 'pg 42.1c' and 'pg 42.1d' in the 28 Feb CD.
46 to 48	Screenshots of various comments on a post on the Van Nguyen Facebook page on 8 May 2020 12.31pm (the "**Page 46 Screenshot**", "**Page 47 Screenshot**" and "**Page 48 Screenshot**" respectively)	The defendants did not produce the original soft copy screenshots stored on the device with which the screenshots were taken. They only produced video recordings of the screenshots in the MP4 files titled 'pg 46', 'pg 47' and 'pg 48' in the 28 Feb CD.

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Page in Ms Minh's AEIC	**Description of document**	**Reasons for granting leave to commence committal proceedings**
64	A screenshot of a post on The Minh Facebook page (the "**Page 64 Screenshot**")	The defendants did not produce the original soft copy screenshot stored on the device with which the screenshot was taken. They only produced a video recording of the screenshot in the MP4 file titled 'pg 64' in the 28 Feb CD.
66	The Page 66 Screenshot, *ie,* a screenshot of The Shilla Facebook page showing two addresses: an address in Ho Chi Minh and TheMinh's Singapore address	The defendants did not produce the original soft copy screenshot stored on the device with which the screenshot was taken. They only produced a video recording of the screenshot in the MP4 file titled 'Pg 66' in the 28 Feb CD.
67	A screenshot of a post published on the Facebook page 'The Shilla by LONG' (the "**Page 64 Screenshot**")	The defendants did not produce the original soft copy screenshot stored on the device with which the screenshot was taken. They only produced a video recording of the screenshot in the MP4 file titled 'pg 67' in VD2 of D4SLOD.

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Page in Ms Minh's AEIC	**Description of document**	**Reasons for granting leave to commence committal proceedings**
74	Two screenshots, each of various Facebook posts, compiled into a single page (the "**Page 74 Screenshots**")	The defendants did not produce the original soft copy screenshot stored on the device with which the screenshot was taken. They only produced a video recording of the screenshot in the MP4 file titled 'pg 74' in the 28 Feb CD.
99	A thumb drive containing a video file titled 'Do Minh Diep'. That file is a screen recording of an underlying video, which is a live stream telecast published on the Facebook account 'Do Diep'.	The defendants did not produce the underlying video. They only produced a similar screen recording (but this time, showing the purported date and time stamp of the recording) in the MP4 file titled 'pg 99 TAB 19' in the 28 Feb CD.
103 to 104	A police report of an unknown informant made on 21 February 2021 (the "**Police Report**")	The defendants did not produce the original hard copy police report. They only produced photographs of the report in the JPEG files titled 'pg 103' and 'pg 104' in the 28 Feb CD.

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Page in Ms Minh's AEIC	**Description of document**	**Reasons for granting leave to commence committal proceedings**
105	A letter of appointment issued by Axcel Marine Pte Ltd to one Do Thi Minh Diep dated 9 January 2020 (the "**LOA**")	The defendants did not produce the original hard copy letter. They only produced a photograph of the letter in the JPEG file titled 'pg 105' in the 28 Feb CD.
106	A letter issued by the Ministry of Manpower to one Do Thi Minh Diep dated 9 January 2020 (the "**MOM Letter**")	The defendants did not produce the original hard copy letter. They only produced a photograph of the letter in the JPEG file titled 'pg 106' in the 28 Feb CD.

(b) Ms Minh's *prima facie* breaches of the 22 Feb Order by reason of her failure to: (a) produce any Page 66 Related Documents, and (b) state on affidavit whether she used to have possession, custody or power of the Page 66 Related Documents and if she did, what has become of those documents and in whose possession they are currently now in.[36]

The present application for a committal order

35 On 8 July 2022, the plaintiff filed the present application for a committal order. By that time, the following events had already taken place:

[36] See PCB 729, specifically [13] – [14] of my certified Notes of Evidence of the hearing of SUM 1600 on 29 June 2022.

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(a) On 25 May 2022, I had decided MC/SUM 1183/2022 ("**SUM 1183**"), which was the defendants' Application for Permission to File SAEIC to adduce most of the documents listed in D2SLOD, D3SLOD, D4SLOD as well as a 5th Supplementary List of Documents ("**D5SLOD**") which they filed on 18 March 2022. In gist, I largely dismissed SUM 1183 because apart from one of the videos disclosed in D4SLOD,[37] the defendants had not proven either the relevance and/or authenticity of the documents they were seeking to adduce.[38] No appeal was filed against my decision in SUM 1183.

(b) On 6 July 2022, I had decided a subsequent application by Ms Minh in MC/SUM 2489/2022 ("**SUM 2489**") for permission to file a supplementary affidavit of evidence-in-chief to adduce further evidence in the Main Suit. In this regard, after dismissing SUM 2489 in most part, I proceeded with the final tranche of the trial in the Main Action, which was fixed on the same day as the hearing of SUM 2489.

(c) The trial in the Main Action had concluded on the evening of 6 July 2022, with the parties agreeing that they had closed their respective cases in the Main Action subject only to the outcome of any appeal filed against my decision in SUM 2489 (which ultimately was not appealed against).

Timelines of key events in the committal proceedings

36 The committal proceedings were unfortunately protracted, spanning over two years and heard over four tranches between October 2022 and July

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37 That is, the video titled 'TIKTOK MP 1' in VD1 of D4SLOD.

38 See PSB 195 – 239, which are my certified Notes of Evidence of the hearing of SUM 1183 on 25 May 2022.

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2024. Both parties were self-represented at different stages of the proceedings. The respondents, Mr Lee and Ms Minh, were self-represented for the first five months until they engaged solicitors – Mr Muhammad Hasif ("**Mr Hasif**") of A.W Law LLC – on or around 7 December 2022. The plaintiff was represented by FCL throughout the committal proceeding except for the period between 27 October 2023 and 7 June 2024, during which she was self-represented.

37 In view of the protracted nature of the committal proceedings, I have summarised below the key events in the committal proceedings and in the Main Action (insofar as they are relevant to my decision on the present application).

Date	Event
8 July 2022	The plaintiff filed the present application for a committal order.
8 September 2022	The respondents each filed a reply affidavit ("**Mr Lee's 8 Sept Affidavit**" and "**Ms Minh's 8 Sept Affidavit**" respectively, and collectively, the "**8 Sept Affidavits**").[39]
22 September 2022	The plaintiff filed the reply affidavit of Mr Low Hong Quan ("**Mr Low**") – who was then one of the solicitors in FCL acting for her – to respond to the 8 Sept Affidavits (the "**22 Sept Affidavit**").[40]
13 October 2022	First tranche of the committal hearing (the "**13 Oct 2022 Hearing**").[41]

[39] PCB 745 – 768 and 770 – 772

[40] DCB Tab 7

[41] My certified Notes of Evidence of the 13 Oct 2022 Hearing are found at DCB Tab 11.

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Date	Event
	At that hearing, I posed numerous questions to the respondents regarding their stance, in their 8 Sept Affidavits, on the 21 Feb Order and the 22 Feb Order. I directed that: (a) the respondents file supplementary affidavits (and a List of Documents, if relevant) by 24 November 2022 to address my questions; and (b) the plaintiff to file her reply affidavit (if any) to respond to the respondents' supplementary affidavits. For completeness, Mr Lun had several questions for the respondents which were not covered by my questions, and which he wished them to address in their supplementary affidavits. After hearing what Mr Lun's questions were, I reframed those which I deemed relevant, and directed Mr Lee and Ms Minh to address the same in their supplementary affidavits as well.
24 November 2022	The respondents each filed a supplementary affidavit to address my queries regarding their stance on the 21 Feb Order as well as Mr Lun's queries ("**Mr Lee's 24 Nov Affidavit**" and "**Ms Minh's 17-Page 24 Nov Affidavit**" respectively).[42] These affidavits were substantially identical, save that the bulk of Mr Lun's queries were addressed in Ms Minh's 17-Page 24 Nov Affidavit.

[42] P2SB at 3 – 17 and 18 – 26

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Date	Event
	In these affidavits, the respondents provided a Google Drive link containing what were allegedly the originals of the Page 23, 36, 37, 46, 47, 48, 64, 66 and 67 Screenshots and the underlying videos (*ie,* original videos) seen in the 'Video Proof' and 'Do Diep Minh' video files (the "**Google Drive Link**"). The respondents also tendered CDs containing these screenshots and videos. For convenience, I will refer to these CDs as the "**24 Nov CDs**" although they were not necessarily tendered on 24 November 2022.[43] In addition to her 17-Page 24 Nov Affidavit, Ms Minh filed a shorter affidavit to address my questions regarding her stance on the 22 Feb Order ("**Ms Minh's 9-Page 24 Nov Affidavit**"). I will refer to the abovementioned three supplementary affidavits collectively as the Respondents' "**24 Nov Affidavits**".
1 December 2022	I delivered my decision on the merits of the parties' claims and counterclaims in the Main Action.[44] Specifically, I allowed the plaintiff's claims for defamation and awarded her damages for the injury caused to her reputation, and dismissed the defendants' counterclaim for copyright infringement. In deciding the merits of the Main Action, I did not take into consideration the Key Disputed Documents. One of my reasons for refusing to consider those documents was that as at the conclusion of the trial in the Main Action, the defendants had not produced the originals of those documents to prove the contents and authenticity of those documents.

[43] It is undisputed that the respondents had provided the CD to the plaintiff's solicitors at the hearing in the Main Action on 1 December 2022: see NE, 5 April 2023, 58/15-59/4.

[44] That decision is found in my certified Notes of Evidence of the hearing in the Main Action on 1 December 2022.

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Date	Event
5 April 2023	Second tranche of the committal hearing (the "**5 Apr 2023 Hearing**"), at which Mr Lee gave oral evidence on his own behalf and was cross-examined. In the course of that hearing, counsel for both parties agreed that the respondents would produce to the plaintiff, for inspection, their devices containing the originals of such Key Disputed Documents which were still in their possession.[45]
11 August 2023	The inspection eventually took place at FCL's offices (the "**Inspection**"). The parties and their solicitors attended the Inspection. At the Inspection, the respondents produced what were allegedly the originals of the Page 23, 36, 37, 46, 47, 48, 64, 66 and 67 Screenshots and the underlying videos (*ie,* original videos) seen in the 'Video proof' and 'Do Diep Minh' video files. However, they did not offer for inspection the originals of the Page 32 and 74 Screenshots, on the basis that those originals were no longer available.[46]
31 August 2023	FCL wrote to the Court, stating that while the parties were able to agree on the date and time metadata of the documents inspected at the Inspection,[47] the plaintiff disputed the authenticity of the inspected version of the Page 23, 36 and 37 Screenshots on the ground that their date metadata did not match the dates indicated in D4SLOD for the screenshots.

45 NE, 5 April 2023, 90/11-92/20, 107/24-108/11

46 P2SB 50 to 52

47 For completeness, during the Zoom PTC on 4 September 2023, counsel for both parties agreed that as the parties had come to an agreement on the date and time metadata of the documents inspected at the Inspection, it was unnecessary for such documents to

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Date	Event
	In that letter, the plaintiff also reserved her position on, among other things, the respondents' inability to provide the originals of the other Key Disputed Documents for inspection, and the respondents' "*editing [off] the screenshot at page 66 of [Ms Minh's AEIC] and giving the Court the impression that it was an original screenshot*".[48]
October and November 2023	Third tranche of the committal hearing was originally fixed on 30 and 31 October 2023 and 27 November 2023, but did not proceed. Instead, on 26 October 2023, the plaintiff filed MC/SUM 3459/2023, seeking to adjourn the third tranche on the ground that she had recently discharged FCL and required time to engage new counsel. I granted the application and adjourned the third tranche to 18, 19 and 22 January 2024.
January 2024	Unfortunately, the plaintiff did not engage new counsel by January 2024. On 16 January 2024, she filed MC/SUM 190/2025, seeking to adjourn the third tranche again, this time to the week of 13 May 2024, on the ground that she had difficulty finding new counsel to act for her, that she wished for her initial counsel, Mr Lun, to represent her, and that Mr Lun would only return to legal practice in May 2024. While I was not entirely satisfied that the plaintiff had shown strong compelling reasons to refix the third tranche for a second time, I granted her an indulgence and adjourned the third tranche, for the final time, to 19, 22 and 23 April 2024. I made it clear that the third tranche would proceed on those dates, regardless of whether the plaintiff had engaged counsel by then, as she had been given ample time to engage new counsel.

be tendered to the Court. Accordingly, I did not direct the respondents to tender to me the documents inspected at the Inspection.

[48] P2SB 46 to 48

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Date	Event
19, 22 and 23 April 2024	Third tranche of the committal hearing, at which the cross-examination of Mr Lee was completed and the plaintiff was also cross-examined on her grounds for the present application.[49] The plaintiff's position on the documents inspected at the Inspection was clarified at this tranche. In gist: (a) Apart from disputing the authenticity of the inspected version of the Page 23, 36 and 37 Screenshots, the plaintiff also disputed the authenticity of the inspected version of the Page 46, 47 and 48 Screenshots on the ground that their date metadata did not match the dates indicated in D4SLOD for the screenshots.[50] (b) The plaintiff agreed that the rest of the inspected documents (except the inspected version of the Page 66 Screenshot) were authentic. In other words, she conceded that the originals of the Page 64 and 67 Screenshots and of the underlying videos (*ie,* original videos) seen in the 'Video proof' and 'Do Diep Minh' video files had been produced during the Inspection.[51] (c) In relation to the inspected version of the Page 66 Screenshot, the plaintiff agreed that the inspected screenshot looked similar to the Page 66 Screenshot, and that the date metadata of the inspected screenshot matched the date of the Page 66 Screenshot indicated in D4SLOD. However, she took issue with the inspected screenshot on the ground that the description of that screenshot in Mr Hasif's email to Mr Low on 28 August 2024

[49] At the 5 Apr 2023 Hearing, I had granted the respondents' application to cross-examine the plaintiff on her grounds for the present application.

[50] NE, 19 April 2024, 62/5-63/16

[51] NE, 19 April 2024, 64/1-17, 71/9-72/5, 72/32-73/11; NE, 22 April 2024, 15/30-16/27, 23/7-13, 24/21-29, 27/19-28/28, 50/6-51/1

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Date	Event
	differed from the defendants' description of the Page 66 Screenshot in D4SLOD.[52]
8 and 9 July 2024	Final tranche of the committal hearing, at which Ms Minh gave oral evidence on her own behalf and was cross-examined.

The parties' cases

The 21 Feb Order

38 It is undisputed that the 21 Feb Order required the defendants in the Main Action to produce for inspection the originals of the Key Disputed Documents by 2 March 2022, such originals being:

(a) the original hard copy BCAs signed by Ms Minh and Hai;

(b) in relation to each of the Page 23, 32, 36, 37, 46, 47, 48, 64, 66, 67 and 74 Screenshots, the original soft copy screenshot stored on the device with which the screenshot was taken;

(c) in relation to the 'Video proof' video file, the underlying videos posted on the Van Nguyen Facebook page, which were recorded in that file;

(d) in relation to the 'Do Minh Diep' video file, the live stream telecast on the Facebook account 'Do Diep', which was recorded in that file;

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[52] NE, 19 April 2024, 64/18-65/7, 65/20-66/17

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(e) the original hard copy Police Report;

(f) the original hard copy LOA; and

(g) the original hard copy MOM Letter.

39 While the respondents initially denied that the 21 Feb Order had been breached,[53] they have since conceded that the originals of the Key Disputed Documents were not produced by 2 March 2022 as required under that order.[54]

40 The plaintiff's case is that the maximal custodial sentence of 12 months should be imposed on the respondents, as their breaches of the 21 Feb Order were intentional and contumelious and had undermined the administration of justice. In her Closing Submissions filed on 12 September 2024, the plaintiff cites the following factors in support of her sentencing position:[55]

(a) In the 8 Sept Affidavits, the respondents clearly acknowledged that in respect of the Page 66, 67 and 74 Screenshots, they had produced only "screen recordings" of the screenshots prior to the filing of those affidavits. They were therefore clearly aware that what they had provided to the plaintiff in relation to those screenshots were not originals.

(b) The respondents had, in knowing breach of the 21 Feb Order, lied to the Court during the trial on 21 February 2022 that they were in

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53 See PCB 752 – 754, specifically [30] of Mr Lee's 8 Sept Affidavit. By reason of [5] of Ms Minh's 8 Sept Affidavit (see PCB 771), she adopted the averments in Mr Lee's 8 Sept Affidavit.

54 Defendants' Closing Submissions dated 11 October 2024 ("**DCS**") at [15]

55 Plaintiff's Closing Submissions dated 12 September 2024 ("**PCS**") at [6] – [7], [11] – [29] and [42(a)-(d)]

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possession of the originals of the BCAs, the Police Report, the LOA and the MOM Letter, when in fact they never had possession, custody or control of the same. The explanations given in Mr Lee's 24 Nov Affidavit and Ms Minh's 17-Page 24 Nov Affidavit – that Mr Lee had misunderstood a question I asked during that day of the trial – are absurd and inexplicable.

(c) The respondents' account that the Page 32 and 74 Screenshots were mistakenly deleted and/or lost from their device is highly suspect and should be disbelieved. They could not provide a consistent narrative as to whose phone the Page 32 and 74 Screenshots were initially stored. Moreover, their allegedly random deletion or loss of the Page 32 and 74 Screenshots did not sit well with the fact that they were still in possession of the originals of various other screenshots captured in May 2020 which were produced during the Inspection.

(d) Notwithstanding the Inspection, the respondents have not purged their contempt of court entirely. Apart from their inability to produce the BCAs, the Police Report, the LOA, the MOM Letter and the Page 32 and 74 Screenshots, the inspected version of the Page 37 Screenshot they produced is not the original screenshot. Here, I pause to observe that this position taken by the plaintiff shows that she no longer disputes the authenticity of the documents inspected during the Inspection, except the inspected version of the Page 37 Screenshot.

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41 The respondents, on the other hand, submit that:[56]

(a) Prior to 4 March 2022, the respondents did not have the requisite *mens rea* to breach the 21 Feb Order. They were not aware of the terms of that order, as shown by the 1 March Request and the Court's reply to that request, and the plaintiff did not serve the order on them until 8 March 2022.

(b) The defence in section 21 of the AJPA applies.

42 The respondents further contend that there is no necessity to impose a custodial sentence on them, for the following reasons:[57]

(a) The respondents had made genuine attempts to comply with the 21 Feb Order both prior to and after the filing of the committal application. Their breaches of the 21 Feb Order were due to the fact that they were unrepresented at the material time and did not understand the law on evidence.

(i) Prior to the filing of the committal application, the respondents had tendered the 28 Feb CDs, and issued the 10 Mar Email to invite FCL to inspect the available originals of the Disputed Documents that were in their possession. However, the plaintiff chose not to respond to that invitation.

(ii) After the filing of the committal application, the respondents had tried their best to rectify their breaches of the 21 Feb Order. In particular, after I informed them at the 5 Apr 2023

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56 DCS at [6(a)] and [12] – [14]

57 DCS at [17] – [25]; Defendants' Written Reply Submissions dated 2 December 2024 ("**DRCS**") at [10(a)-(b)]

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Hearing that their further attempts at disclosure were still lacking, they agreed to offer their device(s) containing the originals of the Key Disputed Documents for inspection, and the Inspection eventually did take place on 11 August 2023.

(b) By virtue of the Inspection and the parties' admissions during the committal hearings in 2024, the respondents have since rectified their breaches of the 21 Feb Order. Insofar as their attempts to comply with the 21 Feb Order and/or rectify their breaches of the 21 Feb Order prior to the commencement of the committal hearings were inadequate, that must be viewed through the lenses that they were self-represented at the material time.

(c) In relation to the originals of those Key Disputed Documents which the respondents were unable to produce for inspection, while the respondents may have provided inconsistent answers as to how the documents were no longer in their possession, custody or power, it must be emphasised that their answers were based on memory of a three-year long litigation.

(d) Even if the Court finds that there are ongoing contumelious breaches of the 21 Feb Order, the purpose of the 21 Feb Order is to compel the respondents to produce the originals of various documents for the purposes of adjudication in the Main Action. Since the Main Action has already concluded with the plaintiff succeeding in her claims for defamation, and there can be no further challenge to the Court's findings in the Main Action, there is no necessity to enforce compliance with the 21 Feb Order.

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43 In the circumstances, the respondents seek the dismissal of the committal application in respect of the 21 Feb Order. In the alternative, they submit that the issuance of a stern warning to comply with the 21 Feb Order suffices or, if the Court deems a stern warning insufficient, that a fine not exceeding $3,000 be imposed.[58]

The 22 Feb Order

44 It is undisputed that the 22 Feb Order required Ms Minh to do the following by 15 March 2022:

> (a) file a List of Documents stating: (i) whether or not she has in her possession, custody or control, the Page 66 Related Documents (*ie,* the Category A Documents and Category B Documents), and (ii) if she has had, but does not now have, possession, custody and control of these documents, then when did she last have possession, custody and control of these documents, what has become of the documents, and in whose possession they are currently; and
>
> (b) file an affidavit verifying the said List of Documents.

45 The plaintiff's case is that Ms Minh had breached the 22 Feb Order in the following manner:[59]

> (a) In relation to the Category A Documents, Ms Minh did not disclose any such documents, and failed to file a List of Documents and an affidavit verifying that List to state: (i) whether she has possession, custody or control of such documents, and (ii) if she has had, but no

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58 DRCS at [27] – [32]

59 PCS at [30] – [38]

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longer has, possession, custody and control of these documents, then when did she last have possession, custody and control of these documents, what has become of the documents, and in whose possession they are currently.

(b) In relation to the Category B Documents, Ms Minh's position in her 9-Page 24 Nov Affidavit is that she never had possession, custody or control of such documents. However, Ms Minh failed to file a List of Documents and an affidavit verifying that List to state that position, by the stipulated deadline of 15 March 2022.

46 The plaintiff submits that the maximal custodial sentence of 12 months should be imposed on Ms Minh for breaching the 22 Feb Order, as her failure to provide any Page 66 Related Documents leads to an irresistible inference that the Page 66 Screenshot was fabricated to hoodwink the Court at the trial of the Main Action.

47 Ms Minh's position on the 22 Feb Order may be summarised as follows:

(a) The scope of these committal proceedings is confined to the plaintiff's allegations that the Court Orders had been intentionally breached through the defendants' failure to disclose the originals of the Key Disputed Documents, and Ms Minh's failure to file a List of Documents and an affidavit verifying that list to disclose whether she had possession, custody or control of the Page 66 Related Documents, by the stipulated deadlines in the Court Orders. Whether or not the defendants had fabricated the Page 66 Screenshot is not an issue in these committal proceedings.[60]

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60 DCS at [10] – [11]

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(b) Prior to 4 March 2022, Ms Minh did not have the requisite *mens rea* to breach the 22 Feb Order. She was not aware of the terms of that order, as shown by the 1 March Request and the Court's reply to that request, and the plaintiff did not serve the order on her until 8 March 2022.[61]

(c) The defence in section 21 of the AJPA applies.[62]

(d) In any event, Ms Minh had complied with her obligations under the 22 Feb Order in relation to the Category A Documents. She had disclosed such documents in her affidavits verifying the 15 March Long LOD and the 15 March Short LOD.[63]

(e) Ms Minh had breached her obligations under the 22 Feb Order in relation to the Category B Documents, as it was only after 15 March 2022 that she clarified that she never had possession, custody or control of such documents. However, she had purged any breaches of the 22 Feb Order through the explanations she gave at the trial of the Main Action and the committal hearings as to how the Page 66 Screenshot came into existence. There is also no necessity to enforce the 22 Feb Order. The purpose of the 22 Feb Order was to compel Ms Minh to produce various documents for the purposes of adjudication in the Main Action. However, the Main Action has already concluded.[64]

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61 DCS at [13] – [14]

62 DCS at [6(a)]

63 See PCB 755 (specifically [35] of Mr Lee's 8 Sept Affidavit), read with PCB 771 (specifically [5] of Ms Minh's 8 Sept Affidavit). See also the Respondents' Other Hearing Related Request filed on 3 March 2025 at [2(b)], read with the Correspondence from Court issued on 20 January 2025.

64 DCS at [25] – [27]; DCRS at [14]

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48 In the circumstances, Ms Minh seeks the dismissal of the committal application in respect of the 22 Feb Order. In the alternative, she submits that the issuance of a stern warning to comply with the 22 Feb Order suffices or, if the Court deems a stern warning insufficient, that a fine not exceeding $3,000 be imposed on her for any contempt of the Court Orders.[65]

Issues to be determined

49 Based on the parties' respective cases, these are the key issues to be determined:

(a) Are the respondents in contempt of court for breaching the 21 Feb Order? Since it is not disputed that the 21 Feb Order had been breached, this issue simply requires the resolution of the following questions:

(i) Did the respondents have the requisite *mens rea* for contempt?

(ii) Have the respondents established the defence in section 21 of the AJPA in respect of any of the Key Disputed Documents?

(b) If the respondents are in contempt of court for breaching the 21 Feb Order, what is the appropriate sanction for their contempt?

(c) Is Ms Minh in contempt of court for breaching the 22 Feb Order? Since it is not disputed that Ms Minh had breached her obligations under the 22 Feb Order in relation to the Category B Documents, this issue simply requires the resolution of the following questions:

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65 DRCS at [27] – [32]

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(i) Did Ms Minh also breach her obligations under the 22 Feb Order in relation to the Category A Documents?

(ii) Did Ms Minh have the requisite *mens rea* for contempt?

(iii) Has Ms Minh established the defence in section 21 of the AJPA?

(d) If Ms Minh is in contempt of court for breaching the 22 Feb Order, what is the appropriate sanction for her contempt?

The 21 Feb Order

The respondents are in contempt of court for breaching the 21 Feb Order

The respondents had the requisite mens rea for contempt

50 Section 4(1)(a) of the AJPA provides that any person who intentionally disobeys or breaches any judgment, decree, direction, order, writ or any process of a court, commits a contempt of court. The threshold to establish the requisite *mens rea* for contempt under section 4(1)(a) is low. It is only necessary for the plaintiff to show that the relevant conduct of the alleged contemnor was intentional, and that the alleged contemnor knew of all the facts which made such conduct a breach of the court order, including knowledge of the existence of the order and its material terms. It is not necessary that the alleged contemnor appreciated that he or she was breaching the order. The alleged contemnor's motive or intention and the reasons for his or her disobedience is irrelevant to the issue of liability: see *Mok Kah Hong v Zheng Zhuan Yao* [2016] 3 S.L.R 1 ("***Mok Kah Hong***") at [86].[66]

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66 Plaintiff's Bundle of Authorities dated 7 October 2022, at Tab 4

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51 Where a corporation is concerned, sections 6(2) read with 6(7) of the AJPA states that where a corporation commits contempt of court, its director will be guilty of the same contempt if he or she: (a) had consented or connived to effect the commission of the contemptuous act; (b) was knowingly concerned in or was party to the commission of the contemptuous act; and/or (c) knew or ought to reasonably have known that the contemptuous act would be or was being committed, and failed to take all reasonable steps to prevent or stop the commission of the contemptuous act.

52 In my judgment, the respondents had the requisite *mens rea* when they failed to comply with the 21 Feb Order.

53 The respondents were present throughout the trial on 21 February 2022, at which the 21 Feb Order was made. Before making the 21 Feb Order, I had orally sought and obtained their input on whether they had the originals of the Disputed Documents and how much time they required to produce the originals. In particular:

(a) After Mr Lun sought an order that the defendants in the Main Action produce the originals of the Disputed Documents, I asked the respondents whether they had the originals. Mr Lee confirmed that they did.[67]

(b) Thereafter, I told the respondents that I would give them a reasonable time to produce the originals, and asked them how much time they required. Mr Lee requested for seven days starting from 23 February 2022, given that they were engaged in the trial of the Main Action on 21 and 22 February 2022. I acceded to his request and

[67] NE, 21 February 2022, 81/4-16

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informed parties that the deadline for the production of the originals would be 2 March 2022.[68]

54 Hence, the respondents were clearly aware of the existence and the terms of the 21 Feb Order from the time it was issued. Their reliance on the 1 March Request to prove otherwise is misplaced. As noted at [25] above, the 1 March Request was a request from Ms Minh that I set out the directions I had given at the trial on 22 February 2022 on the ground that she did not record the directions and timelines. That request did not pertain at all to the 21 Feb Order. Moreover, while the 21 Feb Order was personally served by the plaintiff on the respondents only on 8 March 2022, that does not detract from the fact that the respondents already knew of the existence and the terms of the order from 21 February 2022.

55 Despite knowing of the existence and the terms of the 21 Feb Order:

(a) Mr Lee, who was the authorised representative of TheMinh in the Main Action, failed to take all reasonable steps to ensure that TheMinh produced the originals of the Key Disputed Documents for inspection by 2 March 2022, in circumstances where he ought to reasonably have known that such failure would amount to a breach of the 21 Feb Order. By reason of such failure, he was a party to the commission of the breach; and

(b) Ms Minh failed to produce the originals of any Key Disputed Documents for inspection by 2 March 2022.

56 I find, in the circumstances, that such disobedience was intentional.

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[68] NE, 21 February 2022, 83/8-85/20

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The respondents have not established the defence in section 21 of the AJPA

57 Beyond quoting section 21 of the AJPA[69] and making general statements such as that "*they were unrepresented and clearly did not understand the law on evidence*",[70] the respondents did not elaborate in their written submissions on how the defence in section 21 applied in the present case. However, as it was evident from their written submissions that they intend to rely on that defence, I consider whether it applies based on their evidence in their affidavits and at the committal hearings.

58 Section 21 of the AJPA provides that:

> **Honest and reasonable mistake**
>
> 21. A person is not guilty of contempt of court under section 4(1), (2) or (3) if the person satisfies the court that the failure or refusal to comply with a judgment, order, decree, direction, writ or other process of court or any undertaking given to a court was wholly or substantially attributable to an honest and reasonable failure by that person, at the relevant time, to understand an obligation imposed on the person bound by the judgment, order, decree, direction, writ, process or undertaking and that that person ought fairly to be excused.

59 As held in *Madison Pacific Trust Ltd and others v PT Dewata Wibawa and others* [2024] SGHC 184 at [66], [71] and [72], to succeed under section 21 of the AJPA, the alleged contemnor must prove all of the following on the balance of probabilities:

(a) The alleged contemnor failed to understand the obligation imposed on him by the court order. This refers to a failure to understand the nature of the obligation rather than the validity of the obligation.

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69 DCS at [6(a)]

70 DRCS at [10(a)]

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(b) The failure to understand the obligation under the court order was honest and reasonable.

(c) The alleged contemnor's failure to comply with the court order was wholly or substantially attributable to his failure to understand his obligation under the court order.

(d) The alleged contemnor ought fairly to be excused.

60 In my judgment, the respondents have not established the defence under section 21 of the AJPA in respect of any of the Key Disputed Documents. My reasons for this conclusion are as follows.

(1) The Page 23, 32, 36, 37, 46, 47, 48, 64, 66, 67 and 74 Screenshots

61 Where the Page 23, 32, 36, 37, 46, 47, 48, 64, 66, 67 and 74 Screenshots are concerned, the 21 Feb Order required the respondents to produce the original soft copies of these screenshots that were stored on the device(s) with which the screenshots were taken.

62 The respondents testified that at the material time, they did not understand that this was what the 21 Feb Order required, and were under the impression that what they had submitted in the 28 Feb CD sufficed.[71] To recapitulate, in the 28 Feb CD, the respondents had submitted video recordings of the Page 23, 32, 36, 37, 46, 47, 48, 64, 66, 67 and 74 Screenshots which purported to show the metadata of the screenshots, rather than the original soft copies of these screenshots. The respondents' position therefore appears to be that they had erroneously understood the 21 Feb Order as simply requiring them

[71] NE, 23 April 2024, 111/11-113/27; NE, 9 July 2024, 9/20-11/1

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to show the metadata of the Page 23, 32, 36, 37, 46, 47, 48, 64, 66, 67 and 74 Screenshots.

(A) THE RESPONDENTS HONESTLY MISUNDERSTOOD THE NATURE OF THEIR OBLIGATIONS UNDER THE 21 FEB ORDER

63 I am satisfied that the respondents had honestly misunderstood their obligations under the 21 Feb Order as simply requiring them to show the metadata of the Page 23, 32, 36, 37, 46, 47, 48, 64, 66, 67 and 74 Screenshots.

64 In the course of the trial in the Main Action, the respondents were made aware that the authenticity of the Disputed Documents was challenged, and that they had to prove the authenticity of the documents (for example, by producing the originals), failing which the documents would not be admitted into evidence and they could not rely on the documents to advance their case in the Main Action.[72] Since the Disputed Documents were, from the respondents' perspective, crucial pieces of evidence which supported their defence of justification and their counterclaim for copyright infringement in the Main Action, they had every incentive to produce the originals by the deadline of 2 March 2022, insofar as they had possession of the originals.

65 In this regard, I find that as of 2 March 2022, the respondents had possession of the originals of the Page 23, 32, 36, 37, 46, 47, 48, 64, 66, 67 and 74 Screenshots:

(a) Of all the documents inspected during the Inspection, the plaintiff presently disputes the authenticity of only the inspected version

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[72] See, for example, NE, 14 December 2021, 33/18-34/7, 94/28-95/22, 111/6-112/7, 146/3-6, 147/7-24; NE, 21 February 2022, 14/22-15/6.

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of the Page 37 Screenshot.[73] In other words, it is now common ground that the respondents did eventually produce the originals of the Page 23, 36, 46, 47, 48, 64, 66 and 67 Screenshots during the Inspection on 11 August 2023.

(b) Contrary to the plaintiff's submissions, there is no reason to doubt the authenticity of the inspected version of the Page 37 Screenshot.

(i) The plaintiff provided the following reasons for disputing the authenticity of inspected version of the Page 37 Screenshot:[74]

(A) According to the respondents, the Facebook post seen in the Page 36 Screenshot was published on 2 May 2020, while the Facebook post seen in the Page 37 Screenshots was published on 4 May 2020. However, only the date and month, but not the year, of publication are reflected in the Facebook posts seen in the Page 36 and 37 Screenshots.

(B) The date metadata of the inspected version of the Page 36 Screenshot is 11 August 2020, *ie,* the same year as the alleged year of publication of the Facebook post seen in that screenshot. Thus, if one accepts the respondents' evidence that the Facebook post seen in the Page 36 Screenshot was published on 2 May 2020, it can be reasonably inferred that in a scenario where a

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73 PCS at [24]

74 PCS at [24] – [28]

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screenshot of a Facebook post is captured in the same year as the subject post, the Facebook post will only reflect the publication date and month without the year of publication.

(C) The date metadata of the inspected version of the Page 37 Screenshot is 7 October 2021, *ie,* a different year from the alleged year of publication (*ie,* 2020) of the Facebook post seen in that screenshot. Yet, the Facebook post seen in the Page 37 Screenshot did not state the year of publication. It is illogical that for two Facebook posts published on the same day of the same month but in different years, there is no distinguishable identifier as to the year of publication of each Facebook post.

(D) Therefore, the inspected version of the Page 37 Screenshot cannot be the original Page 37 Screenshot. Either the respondents have attempted to mislead the Court and the plaintiff that the Facebook post in that screenshot was published on 4 May 2020 when it was in fact published on 4 May 2021, or the Page 37 Screenshot in Ms Minh's AEIC was not originally captured in 2021.

(ii) However, these reasons are not supported by the evidence. The plaintiff did not refer me to any objective evidence which shows that in a scenario where two Facebook posts are published on the same day of the same month but in different years, there will be a distinguishable identifier in the Facebook post as to the year of publication. Moreover, the Facebook post seen in the Page 37 Screenshot contains two videos which are

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accompanied by the caption "*New Arrival! Available in-store <3 #Model by #TheMinh Copyrights TheMinh Resort 2020*". In other words, the Facebook post was an announcement by TheMinh that the clothing modelled in the two videos were new arrivals that were part of a resort collection released in 2020. This undermines the plaintiff's submission that the Facebook post may have been published on 4 May 2021, and not 4 May 2020 (as alleged by the respondents).

(iii) In the premises, I find no reason to doubt the authenticity of the inspected version of the Page 37 Screenshot.

(c) In relation to the Page 32 and 74 Screenshots, I accept the respondents' position that at the time they submitted the 28 Feb CD, and at the time they issued the 10 Mar Email, they still had the originals of those screenshots:[75]

(i) The purported date metadata of the Page 32 and 74 Screenshots, as shown in the video recordings in the 28 Feb CD,[76] are consistent with the statements made in Ms Minh's AEIC regarding the screenshots:

(A) In paragraph 9 of Ms Minh's AEIC, she referred to Tab 4 of Exhibit NTTT-1 (which contains only the Page 32 Screenshot) in support of her statement that in *late April 2020*, TheMinh made its first collection 'Resort 2020' with original photos and videos, and that

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75 P2SB 7, 8 and 32 (specifically, [10] – [12] of the 24 Nov Affidavits); NE, 22 April 2024, 101/23-105/2

76 See the videos titled 'Pg 32' and 'pg 74' respectively, in the folder 'VD2' of the 28 Feb CD.

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the backstage crew (*ie,* photographer/videographer) appeared in those photos.[77] This gels with the purported date metadata of the Page 32 Screenshot shown in the video recording is *30 April 2020*. (emphasis added)

(B) In paragraph 26 of Ms Minh's AEIC, she referred to Tab 13 of Exhibit NTTT-1 (which contains the Page 74 Screenshot) in support of her statements that on 21 June 2021, the plaintiff "*further pursued with a Writ of Summons filed from the court*", posted the Writ on both her Facebook page and the S Gorgeous Facebook Page to prove that she was defamed by the defendants, and then reposted and shared those Facebook posts in various Facebook groups.[78] While paragraph 26 of Ms Minh's AEIC referred to the date 21 June 2021, it is likely that she had made a typographical error in the month and year and had meant *21 July 2020*, as the plaintiff had only filed the Writ to commence the Main Action on 20 July 2020. In this regard, the purported metadata of the Page 74 Screenshot shown in the video recording is *21 July 2020*. (emphasis added)

(ii) In my view, the purported date metadata of the Page 32 and 74 Screenshots shown in the video recordings in the 28 Feb CD, are likely the original metadata of those screenshots. In relation to the other screenshots which are the subject matter of these committal proceedings (*ie,* the Page 23, 36, 37, 46, 47, 48,

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77 PSB 242

78 PSB 245

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64, 66 and 67 Screenshots), the purported date metadata shown in the video recordings of the screenshots in the 28 Feb CD[79] matched the metadata of the original screenshots which were produced during the Inspection. In other words, the video recordings of the Page 23, 36, 37, 46, 47, 48, 64, 66 and 67 Screenshots in the 28 Feb CD showed the original metadata of those screenshots. This gives me sufficient grounds to believe that the video recordings of the Page 32 and 74 Screenshots in the 28 Feb CD similarly showed the original metadata of the Page 32 and 74 Screenshots.

(iii) That the date metadata shown in the video recordings of the Page 32 and 74 Screenshots are consistent with the statements made in Ms Minh's AEIC regarding the screenshots, reinforces my view that the Page 32 and 74 Screenshots featured in the video recordings are the originals of those screenshots.

(iv) Moreover, in the 10 Mar Email issued shortly after their submission of the 28 Feb CD, the respondents invited FCL to attend at their residence to inspect, among other things, such of the Disputed Documents which are screenshots, stating that "*the rest are clearly screenshots similar to 4th supplementary [ie, D4SLOD]*".[80] This was essentially an invitation to inspect the screenshots on the device(s) with which the screenshots were taken, *ie,* the originals of the screenshots. It is unlikely that the

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79 See the MP4 files titled 'pg 23', 'pg 36', 'pg 37', 'pg 46', 'pg 47', 'pg 48', 'pg 64', 'Pg 66' and 'pg 67' in the 28 Feb CD.

80 PCB 767

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respondents would issue such an invitation if they did not have the originals of the Page 32 and 74 Screenshots at that time.

(d) I also accept the respondents' evidence that unfortunately, by the time they filed their 24 Nov Affidavits, they had lost possession of the originals of the Page 32 and 74 Screenshots and could not recall when and how they came to lose possession of the same:[81]

(i) If the respondents still had the originals of the Page 32 and 74 Screenshots at the time they filed their 24 Nov Affidavits, they would likely have stated on affidavit that they had the originals, and sought to produce screenshots of the Page 32 and 74 Screenshots which purported to show the metadata of those screenshots. After all, this was what they had done in relation to the Page 23, 36, 37, 46, 47, 48, 64, 66 and 67 Screenshots.[82] In a similar vein, if the respondents still had the originals of the Page 32 and 74 Screenshots as of the date of Inspection, they would likely have offered the originals for inspection, which was what they had done in relation to the Page 23, 36, 37, 46, 47, 48, 64, 66 and 67 Screenshots. This is especially since they would have known, by that stage, that the purging of their contempt is one of the factors the Court will take into account in determining the appropriate sanction for their contempt.

(ii) Since it was beneficial to the respondents to have retained the originals, I find that it was likely due to a genuine

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81 P2SB 7, 8 and 32 (specifically, [10] – [12] of the 24 Nov Affidavits); NE, 23 April 2024, 92/10-95/28; NE, 8 July 2024, 23/20-32, 25/22-28, 42/15-21, 43/4-25; NE, 9 July 2024, 5/22-31, 6/2-20

82 See the row "24 November 2022" in the table at [37] above.

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> inadvertent error or mistake on their part, that they came to lose possession of the originals, which also explains their inability to recall when and how they came to lose possession of the originals.

66 Given that the respondents had possession of the originals of the Page 23, 32, 36, 37, 46, 47, 48, 64, 66, 67 and 74 Screenshots as of 2 March 2022, this begs the question of why they did not produce the originals by that date, particularly when they had every incentive to do so (see [64] above). I find that this is because they had erroneously conflated what the 21 Feb Order actually required of them (*ie,* to produce the originals), with the purpose of the 21 Feb Order (which, in the case of the abovementioned screenshots, was to enable the plaintiff to inspect the metadata of the purported originals to determine whether they were authentic). By reason of such conflation, they misunderstood their obligation under the 21 Feb Order as simply requiring them to show the metadata of those screenshots.

67 The conflation had most probably arisen in the respondents' minds due to Mr Lun's repeated emphasis, in the course of seeking an order for production of the originals of the Disputed Documents, that the plaintiff wanted to see the metadata of those Disputed Documents for which the originals are in electronic form.[83] Several instances of such emphasis by Mr Lun are set out below:

> NE, 21 February 2022, 77/9-12
>
> Lun: … Your Honour, we essentially seek for a meta---metadata of a party to prove to their origi---the original that---that the---that po---documents have listed to the Court original.

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83 NE, 21 February 2022, 77/9-12, 82/27-83/5, 85/17-21

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> NE, 21 February 2022, 82/27-28
>
> Lun: Your Honour, the---we want to see the metadata which is a soft copy form.
>
> NE, 21 February 2022, 85/17-21
>
> Court: Alright. … I'm giving you---I'm giving the Defendants until the 2nd of March 2022, alright, to produce the originals of the disputed documents. Because---
>
> Lun: The metadata if he could be precise.

68 The respondents unfortunately misunderstood Mr Lun's emphasis on seeing the metadata of those Disputed Documents for which the originals are in electronic form, as requiring them to show the metadata of such originals.[84] Thus, during the trial on 22 February 2022 (*ie,* one day after the issuance of the 21 Feb Order), when I asked them how much time they needed to file the Application for Permission to File SAEIC, Mr Lee's reply (as reproduced below) was that they needed at least three to four weeks to do so, considering, among other things, that the plaintiff was requesting for the metadata of the Disputed Documents to be provided within seven days:[85]

> And also, the consideration of **Fervent Chambers was requesting for metadata to reply by 7 days**. And then plus this, I think, we need at least 3 weeks to 3½ weeks to do so. Or probably, 3 to 4 weeks because I'm---yes. [emphasis added]

69 Consistent with such a misunderstanding, the 28 Feb CD submitted by the respondents, in their attempt to comply with the 21 Feb Order,[86] contained video recordings of the Page 23, 32, 36, 37, 46, 47, 48, 64, 66, 67 and 74 Screenshots which purported to show the metadata of the screenshots, rather

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84 See, in particular, NE, 5 April 2023, 104/7-105/3, where Mr Lee gave evidence of such a misunderstanding.

85 NE, 22 February 2022, 99/23-26

86 NE, 5 April 2023, 40/7-25

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than the original soft copies of these screenshots which they had in their possession at that time.[87]

70 Furthermore, in Mr Lee's 9 Mar Email issued in response to FCL's final notice to produce the originals of various Disputed Documents (which included the Page 23, 32, 36, 37, 46, 47, 48, 64, 66, 67 and 74 Screenshots) by 15 March 2022, he proposed that FCL either inspect the available originals of the Disputed Documents which were in the defendants' possession at the PTC on 4 May 2022, or refer to the 28 Feb CD (see [28] above). Mr Lee's alternative reference to the 28 Feb CD, in the face of a demand for the originals, underscores the respondents' erroneous conflation of what the 21 Feb Order actually required of them, with the purpose of the 21 Feb Order.

71 My view that the respondents had laboured under such a misunderstanding is also bolstered by their conduct in these committal proceedings as described below.

(a) The respondents' initial position, as stated in their 8 Sept Affidavits, was essentially that insofar as the Page 23, 32, 36, 37, 46, 47, 48, 64, 66, 67 and 74 Screenshots are concerned, they had not breached the 21 Feb Order because they had provided in the 28 Feb CD, the originals of the Page 23, 32, 36, 37, 46, 47, 48 and 64 Screenshots, and screen recordings of the Page 66, 67 and 74 Screenshots which show the metadata of these screenshots.[88] I describe their initial position as such, because in their 8 Sept Affidavits, they had explicitly stated that the

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87 See the table at [34(a)], and [65] above.

88 PSB 752 – 754 (specifically, [30] of Mr Lee's 8 Sept Affidavit). By reason of [5] of Ms Minh's 8 Sept Affidavit (see PCB 771), she adopted the averments in Mr Lee's 8 Sept Affidavit.

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originals of certain other Disputed Documents (namely, the BCAs, the Police Report, the LOA and the MOM Letter) were not disclosed as those originals were in the possession of a third party and/or could not be obtained, but the same was not said of the Page 23, 32, 36, 37, 46, 47, 48, 64, 66, 67 and 74 Screenshots.

(b) In this regard, the 28 Feb CD contained video recordings of the Page 23, 32, 36, 37, 46, 47, 48, 64, 66 and 74 Screenshots which purported to show the metadata of the screenshots, instead of the original soft copies of these screenshots which they had in their possession at that time.[89] This suggests that at the time they filed their 8 Sept Affidavits, the respondents' understanding was that video recordings of the screenshots which show the purported metadata of the screenshots, satisfied their obligation under the 21 Feb Order.

(c) After I explained during the 13 Oct 2022 Hearing that the 28 Feb CD did not contain the originals of the Page 23, 32, 36, 37, 46, 47, 48, 64, 66, 67 and 74 Screenshots, and that the originals were the soft copy screenshots that were created and stored on the device(s) used to take the screenshots, on or around 24 November 2022,[90] the respondents sought to disclose the originals of these screenshots – except the Page 32 and 74 Screenshots, for which they no longer had the originals – through the Google Drive Link and the 24 Nov CDs.

(d) Unfortunately, what they had then disclosed were not the originals of the Page 23, 36, 37, 46, 47, 48, 64, 66 and 67 Screenshots (which they had in their possession), but simply screenshots of these

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89 See the table at [34(a)] above.

90 NE, 13 October 2022, pp. 6E to 9A

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screenshots which purported to show the metadata of these screenshots. It subsequently emerged that they did so because they perceived such disclosure to be how best they could comply with the 21 Feb Order, in view of FCL's refusal in May 2022 to inspect the originals of certain documents listed in D4SLOD which were on Ms Minh's device:

(i) At the 5 Apr 2023 Hearing, during his cross-examination of Mr Lee, Mr Low (who was then the plaintiff's solicitor) made the point that the alleged originals of the Page 23, 36, 37, 46, 47, 48, 64, 66 and 67 Screenshots on the Google Drive Link were not the originals of these screenshots, but simply screenshots of these screenshots. Mr Low sought to illustrate that point using the JPG file titled 'Pg 23' on the Google Drive Link.[91] However, neither the respondents nor their solicitor, Mr Hasif, appeared to appreciate why the 'Pg 23' JPG file was not the original of the Page 23 Screenshot, but simply a screenshot taken of the Page 23 Screenshot.[92] I therefore explained the difference between the two.[93] I also informed parties that insofar as the respondents had taken video recordings and screenshots of the Page 23, 36, 37, 46, 47, 48, 64, 66 and 67 Screenshots which displayed the purported metadata of those documents, this suggested that at the material time, they still had the originals of these screenshots in their device(s). In the interest of facilitating the resolution of the committal proceedings, I proposed that to the extent that the originals were still in the respondents' device(s), the originals

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91 NE, 5 April 2023, 60/14-63/12, 79/24-83/24

92 NE, 5 April 2023, 62/28-63/12, 81/21-31, 82/4-83/8, 83/16-84/33

93 NE, 5 April 2023, 85/14-86/30

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should be produced to the plaintiff for inspection, which could be done by way of producing the device(s) containing the originals for inspection.[94]

(ii) Mr Lee then voiced reservations about my proposal on the spot. In particular, he alleged that at a previous hearing, the respondents had offered their device(s) to Mr Ang Minghao (who was then one of the solicitors acting for the plaintiff) for inspection. However, Mr Ang had declined the offer on the grounds that the device could contain an app which allowed the respondents to edit the metadata of files in the device. The respondents were accordingly "*left stranded*". Mr Lee expressed that he did not wish for there to be a repeat of that situation in the event that the respondents were to produce their device(s) containing the originals of the Key Disputed Documents for inspection.[95]

(iii) For context, the previous hearing Mr Lee referred to was the hearing of SUM 1183 on 4 May 2022. At that hearing:

(A) Mr Ang informed me that while he had received Mr Lee's 10 Mar Email, he thought it strange that the respondents were proposing that the inspection of the originals of the Disputed Documents be conducted at their residence, and therefore had not taken up their offer to conduct the inspection at their residence.

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94 NE, 5 April 2023, 86/32-87/4, 87/25-88/2

95 NE, 5 April 2023, 89/8-17, 92/25-33

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(B) When Ms Minh proposed that the fastest and most efficient way to resolve the plaintiff's allegations of lack of authenticity of certain videos listed in D4SLOD was for her to show the originals of the videos, which were on her mobile phone, to Mr Ang, Mr Ang declined her offer on two grounds. First, there were certain applications which allowed the editing of videos on a mobile phone. Thus, if he were to simply look at the video file being played on Ms Minh's mobile phone, he would not be able to tell whether or not it had been edited. Second, the requirement was for the defendants to produce the originals of the videos for inspection, rather than for him to inspect by playing the videos on Ms Minh's mobile phone.

(iv) In my view, Mr Ang's refusal to accept Ms Minh's offer to show him the originals of the videos which were on her mobile phone, reasonably explains why:

(A) In the initial aftermath of the 13 Oct 2022 Hearing, the respondents did not consider it feasible to produce their device(s) containing the originals of the Page 23, 36, 37, 46, 47, 48, 64, 66 and 67 Screenshots to the plaintiff for inspection, and had instead produced screenshots of those screenshots which showed the purported metadata of those screenshots via the Google Drive Link and the 24 Nov CDs.

(B) During the 5 Apr 2023 Hearing, Mr Lee initially had reservations about my proposal that the respondents

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produce to the plaintiff for inspection, the device(s) containing such originals of the Key Disputed Documents which were still available.

(e) In the course of the 5 Apr 2023 Hearing, the parties were eventually able to reach a sensible agreement that inspection could take place by way of the respondents surrendering to the plaintiff their devices containing such originals of the Key Disputed Documents which were still available.[96] Thereafter, the respondents produced the originals of the Page 23, 36, 37, 46, 47, 48, 64, 66 and 67 Screenshots during the Inspection on 11 August 2023.

(f) While the Inspection was held only about four months after the 5 Apr 2023 Hearing, it is evident from the parties' correspondence that the respondents were desirous for the Inspection to be conducted as soon as possible, and that the delay in holding the Inspection was due to a combination of factors, namely the time required by the respondents to obtain the devices containing the originals for the purposes of inspection[97], the plaintiff's wish to personally attend the inspection, and her unavailability to attend the inspection in June and July 2023.[98]

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96 NE, 5 April 2023, 92/16-20

97 According to Mr Hasif, the devices were in Vietnam at the material time: see NE, 23 April 2024, 3/1-5.

98 See A.W Law LLC's letter to Court dated 24 July 2023 (which annexed various email correspondence between the parties' solicitors from May to July 2023), as well as Exhibit P1 (which was tendered by the plaintiff during the hearing of these committal proceedings on 23 April 2024).

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(B) THE RESPONDENTS' MISUNDERSTANDING WAS NOT REASONABLE

72 While the respondents had honestly misunderstood what the 21 Feb Order required of them in relation to the Page 23, 32, 36, 37, 46, 47, 48, 64, 66, 67 and 74 Screenshots, I find that their misunderstanding was not reasonable.

73 The 21 Feb Order was made pursuant to Mr Lun's request, during the trial on 21 February 2022, for an order for production of the originals of the documents set out in paragraph 2 of FCL's 19 Dec Letter, *ie,* the Disputed Documents (see [15] above). In that letter, FCL had specified that "***Insofar as the originals*** *of such documents* ***are in electronic form (e.g. screenshot images)****, our client requires that you* ***provide the originals in soft copies, containing the original metadata****, so that the authenticity can be verified*"[99] (emphasis added). Thus, the respondents ought to have understood the 21 Feb Order as mandating that if the original in question was an electronic document, they were to produce the original document in soft copy, containing the original metadata.

74 Furthermore, during the trial on 21 February 2022, after Mr Lun sought an order for production of the originals of the Disputed Documents, I had explained to the respondents that if the original is a soft copy, the plaintiff wants them to produce the soft copy itself and not simply a printout of the soft copy, because she wants to inspect the metadata of the soft copy, for example, by opening the File Properties of the soft copy to see the metadata.[100] This explanation made it clear that insofar as the originals in question were electronic documents, the respondents were to produce the original documents in soft copy, containing the original metadata.

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99 PCB 610 – 612

100 NE, 21 February 2022, 76/12-28, 83/2-5

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75 Since the respondents' misunderstanding that the 21 Feb Order simply required them to show the metadata of the Page 23, 32, 36, 37, 46, 47, 48, 64, 66, 67 and 74 Screenshots is not reasonable, their defence under section 21 of the AJPA accordingly fails.

(2) The 'Video proof' and 'Do Minh Diep' video files

76 In Ms Minh's AEIC, she referred to:

(a) the following video recordings in the 'Video proof' video file:

(i) a video recording made on 9 May 2020 of the 8 May Video (the "**9 May Video Recording**");[101]

(ii) a video recording made on 11 May 2020 of the 8 May Video (the "**11 May Video Recording**");[102]

(iii) a video recording made on 20 May 2020 of the Allegedly Edited 8 May Video (the "**20 May Video Recording**");[103] and

(b) the 'Do Minh Diep' video file,[104] which is a video recording of a live stream telecast published on the Facebook account Do Diep (the "**Do Diep Live Stream**").

77 It is undisputed that the originals of the 'Video proof' and 'Do Minh Diep' video files, which are required to be produced under the 21 Feb Order, are the 8 May Video, the Allegedly Edited 8 May Video and the Do Diep Live Stream (see [38(c)-(d)] above).

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101 PSB 243, specifically [12] of Ms Minh's AEIC

102 PSB 244, specifically [16] of Ms Minh's AEIC

103 PSB 244, specifically [21] of Ms Minh's AEIC

104 PSB 248, specifically [36] of Ms Minh's AEIC

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78 The respondents' case is that when they submitted the 28 Feb CD, their understanding was that: (a) the original of the 'Video proof' video file referred to the original 9 May Video Recording, 11 May Video Recording and 20 May Video Recording, and (b) the original of the 'Do Minh Diep' video file referred to the original video recording they had made of the Do Diep Live Stream. It was only subsequently in the course of the committal proceedings that they came to realise that the original of the 'Video proof' video file referred to the 8 May Video and the Allegedly Edited 8 May Video, and the original of the 'Do Minh Diep' video file referred to the Do Diep Live Stream.[105]

(A) THE RESPONDENTS HONESTLY MISUNDERSTOOD THE NATURE OF THEIR OBLIGATIONS UNDER THE 21 FEB ORDER

79 I am satisfied that the respondents had honestly misunderstood the 21 Feb Order as requiring them to produce the original 9 May Video Recording, 11 May Video Recording, 20 May Video Recording, and video recording they had made of the Do Diep Live Stream, in a manner which showed the metadata of these video recordings.

80 As of 2 March 2022 (*ie,* the stipulated deadline in the 21 Feb Order), the respondents clearly had the 8 May Video, the Allegedly Edited 8 May Video and the Do Diep Live Stream since they subsequently produced these videos, at the latest, during the Inspection. This begs the question of why they did not produce these videos by 2 March 2022, when they had every incentive to do so in order that they might rely on these videos to advance their case in the Main Action (see [64] above).

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105 NE, 23 April 2024, 28/23-29/10, 89/8-19

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81 In my view, the respondents, being laypersons who were self-represented at the time the 21 Feb Order was issued, had likely misunderstood that order as requiring them to produce the original video recordings they had made of the 8 May Video, the Allegedly Edited 8 May Video and the Do Diep Live Stream in a manner which showed the metadata of these video recordings. Such a misunderstanding likely arose due to Mr Lun's emphasis during the trial on 21 February 2022 that the plaintiff wanted to see the metadata of those Disputed Documents for which the originals are in electronic form (see [67] above).

82 The existence of such a misunderstanding is corroborated by the following matters:

(a) The respondents had attempted, via the 28 Feb CD, to comply with the 21 Feb Order by submitting:

(i) in relation to the 'Video proof' video file: a video recording of the 9 May Video Recording which showed the purported date and time metadata of that video recording,[106] a video recording of the 11 May Video Recording which showed the purported date and time metadata of that video recording,[107] and two video recordings of the 20 May Video Recording which showed the purported date and time metadata of that recording[108]; and

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106 See the MP4 file titled 'pg 42.1a' in the folder 'VD2' of the 28 Feb CD.

107 See the MP4 file titled 'pg 42.1b' in the folder 'VD2' of the 28 Feb CD.

108 See the MP4 file titled 'pg 42.1c' and 'pg 42.1d' in the folder 'VD2' of the 28 Feb CD.

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(ii) in relation to the 'Do Minh Diep' video file: a video recording of the Do Diep Live Stream, which shows the purported date and time metadata of that video recording.[109]

(b) The respondents' initial position, as stated in their 8 Sept Affidavits, was that they had provided the originals of the 'Video proof' and 'Do Minh Diep' video files in the 28 Feb CD.[110]

(c) After I explained during the 13 Oct 2022 Hearing that the originals of the 'Video proof' and 'Do Minh Diep' video files referred to the 8 May Video, the Allegedly Edited 8 May Video and the Do Diep Live Stream,[111] some six weeks later, the respondents sought to disclose the originals through Mr Lee's 24 Nov Affidavit, Ms Minh's 17-Page 24 Nov Affidavit and the 24 Nov CDs. Specifically, they produced a MP4 file titled 'Download from 8May2020 PL post No watermark' (which was by all appearances, the same as the 8 May Video), and a MP4 file titled 'DoDiep Live Stream' (which was by all appearances, the same as the Do Diep Live Stream). No challenge was raised by the plaintiff that these were not the 8 May Video and the Do Diep Live Stream. In any case, in the PNG files titled 'Screenshot on 9May2020 from 8MayPLPost' and 'Screenshot DoDiep LIVE Stream video download' in the 24 Nov CDs, the respondents sought to show that they had downloaded onto their device(s), the 8 May Video on 9 May 2020 at 5.15am and the Do Diep Live Stream on 9 April 2021 at 1.34pm. I

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109 See the MP4 file titled 'pg 99 TAB 19' in the folder 'VD2' of the 28 Feb CD.

110 PCB 752 and 754, specifically rows 'Page 42' and 'Page 98 to 100' of the table at [30] of Mr Lee's 8 Sept Affidavit

111 DCB Tab 12, specifically pp. 10C to 12C of my certified Notes of Evidence of the 13 Oct 2022 Hearing

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note that the purported date and time metadata shown in these PNG files match the metadata of the 8 May Video and the Do Diep Live Stream which were subsequently produced during the Inspection.

(d) While the Allegedly Edited 8 May Video was not disclosed by the respondents in the 24 Nov CDs, the respondents eventually produced the Allegedly Edited 8 May Video during the Inspection. Their failure to produce the Allegedly Edited 8 May Video in the 24 Nov CDs appears to be a careless omission on their part.

(B) THE RESPONDENTS' HONEST MISUNDERSTANDING WAS NOT REASONABLE

83 However, the respondents' honest misunderstanding of what the 21 Feb Order required of them, in relation to the 'Video proof' and 'Do Diep Minh' video files, was not reasonable.

84 As explained in [13] above, the authenticity of the 'Video proof' and 'Do Diep Minh' video files were challenged at the outset of the trial of the Main Action on 14 December 2021. In particular, Mr Lun had challenged the authenticity of the 'Video proof' file because the underlying / source videos in that compilation of videos had not been disclosed and some of those videos appeared to be tampered with in terms of a TikTok watermark, among others.

85 For context, the TikTok watermark mentioned by Mr Lun relates to the plaintiff's pleaded case in the Main Action that in the 8 May Facebook Post, she had published the TikTok Videos (and not TheMinh Videos), and that the TikTok Videos contained, at the bottom righthand corner, a watermark of Ms Phuong's personal TikTok account username.[112] In other words, Mr Lun was

[112] Reply and Defence to Counterclaim (Amendment No. 2) dated 26 October 2020 at [19]

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essentially alleging, during the trial on 14 December 2021, that the 8 May Video seen in the 'Video proof' file appeared to have been tampered with. Shortly thereafter, FCL issued the 19 Dec Letter to the respondents seeking originals of the Disputed Documents, which included the 'Video proof' and 'Do Diep Minh' video files.[113]

86 Hence, the respondents ought to have known that the originals of the 'Video proof' and 'Do Diep Minh' video files sought by the plaintiff and consequently, the originals required under the 21 Feb Order, were the underlying videos seen in these video files, namely the 8 May Video, the Allegedly Edited 8 May Video and the Do Diep Live Stream.

87 Their misunderstanding of their obligations under the 21 Feb Order in relation to these video files was therefore unreasonable. As a result, their defence under section 21 of the AJPA has no merit.

(3) The BCAs

88 The 21 Feb Order required the respondents to produce the original hard copies of the BCAs which were executed by Ms Minh and Hai.

89 The respondents' case is that:[114]

(a) when I asked them during the trial on 21 February 2022 whether they had the originals of the Disputed Documents, they had misunderstood my question and thought that I was referring only to the Certificate of Business Household; and

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113 PCB 610 – 612

114 P2SB 5 and 29 (specifically [5(ii)(b)] of Mr Lee's 24 Nov Affidavit and Ms Minh's 17-Page 24 Nov Affidavit); NE, 5 April 2023, 68/1-33

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(b) they only had the originals of the Certificate of Business Household of The Shilla exhibited in pages 12 to 15 of Ms Minh's AEIC, and not the originals of the BCAs.

(A) THE RESPONDENTS DID NOT LABOUR UNDER THE ALLEGED MISUNDERSTANDING OF THEIR OBLIGATIONS UNDER THE 21 FEB ORDER

90 Insofar as the respondents' stance is that they had misunderstood their obligations under the 21 Feb Order to produce the original hard copies of the BCAs as requiring them to produce the original hard copy of the Certificate of Business Household of The Shilla, I am unable to accept that stance.

91 What the respondents claim to have misunderstood was my question, during the trial on 21 February 2022, on whether they had the originals of the documents listed in paragraph 2 of FCL's 19 Dec Letter, *ie,* the Disputed Documents (the "**Question**").[115] In this regard, the documents listed in paragraph 2 of FCL's 19 Dec Letter are pages 12 to 25, 32, 36, 37, 40, 42, 46 to 48, 51 to 58, 64 to 67, 74, 76 to 78, 80, 92 to 106 of Ms Minh's AEIC: they encompass not only the BCAs exhibited in pages 16 to 21 of Ms Minh's AEIC, but also numerous other documents, including but not limited to the Certificate of Business Household of The Shilla exhibited in pages 12 to 15 of Ms Minh's AEIC. It is therefore implausible for the respondents to have misunderstood my Question as referring only to the Certificate of Business Household.

92 Since the 21 Feb Order was worded as requiring the production of the originals of the documents listed in paragraph 2 of FCL's 19 Dec Letter, for the same reasons set out at [91] above, I do not accept that the respondents had misunderstood their obligations under that order to produce the original hard

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115 NE, 5 April 2023, 68/16-33 read with NE, 21 February 2022, 80/18-81/16

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copies of the BCAs as requiring them to produce the original hard copy of the Certificate of Business Household. Such a misunderstanding would, in any event, be unreasonable.

93 Hence, where the BCAs are concerned, I find that the respondents have not established the defence under section 21 of the AJPA.

(4) The Police Report, the LOA and the MOM Letter

94 The 21 Feb Order required the respondents to produce the original hard copies of the Police Report, the LOA and the MOM Letter.

95 The respondents' case is that when I posed the Question to them during the trial on 21 February 2022, they had misunderstood the Question insofar as the Police Report, the LOA and the MOM Letter were concerned, and thought that I was referring to the original screenshots of the Police Report, the LOA and the MOM Letter.[116] In other words, they take the position that they had misunderstood the 21 Feb Order as requiring them to produce the original screenshots of the Police Report, the LOA and the MOM Letter, as opposed to the original hard copies of these documents.

(A) THE RESPONDENTS HONESTLY MISUNDERSTOOD THE NATURE OF THEIR OBLIGATIONS UNDER THE 21 FEB ORDER

96 I am satisfied that the respondents had honestly misunderstood the 21 Feb Order as requiring them to produce the original screenshots of the Police Report, the LOA and the MOM Letter.

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116 P2SB 9 and 33, specifically [16] of Mr Lee's 24 Nov Affidavit and Ms Minh's 17-Page 24 Nov Affidavit

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97 At the time the 21 Feb Order was issued, what the respondents had were screenshots of the Police Report, the LOA and the MOM Letter, which had been posted on Do Diep Minh's Facebook page and which they had downloaded from that Facebook page, as opposed to the original hard copies of the Police Report, the LOA and the MOM Letter. I take this view because:

(a) In paragraphs 37 to 38 of Ms Minh's AEIC, she referred to these documents as "*attachments posted by Do Diep Chilli*" which "*were* ***available online*** *when she [ie, Do Diep Chilli] posted them*" on her Facebook account.[117]

(b) Moreover, these documents were described, in the hard copy D4SLOD tendered during the trial on 21 February 2022, as follows:

49	21 Feb 2021	**Screenshot taken** from Facebook post by Chilli Do Diep case. Police report was made regarding to her case pg 103 – 104
50	9 Jan 202 [sic]	**Screenshot taken** on facebookpost by Chilli Do, her employment contact with Axcel.pg105
51	20 Jan 2020	**Screenshot taken** on facebook post by Chilli Do Diep she had a employment pass with AXCEL company pg 106

(emphasis added)

[117] PCB 248

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98 Hence, when I posted the Question to the respondents on whether they had the originals of the Disputed Documents, they would, in all likelihood, have thought that insofar as the Police Report, the LOA and the MOM Letter were concerned, I was referring to the original screenshots of these documents in their possession. Consequently, they would also have misunderstood the 21 Feb Order as requiring them to produce the original screenshots of these documents.

99 The existence of such a misunderstanding is amply supported by the respondents' conduct shortly after the issuance of the 21 Feb Order.

(a) They attempted, via the 28 Feb CD, to comply with the 21 Feb Order by submitting screenshots of the Police Report, the LOA and the MOM Letter.[118]

(b) In Mr Lee's 10 Mar Email, wherein he invited FCL to the respondents' Yishun residence for an inspection, he expressly stated that the hard copy original of page 12 of Ms Minh's AEIC (*ie,* the Certificate of Business Household of The Shilla) was ready for inspection, the hard copy original of pages 16 and 20 of Ms Minh's AEIC (*ie,* the BCAs) had been mailed back to their partner as mentioned by Ms Minh during the trial on 22 February 2022, and that "*the rest of the pages are clearly screenshots similar to [D4SLOD]*".[119] The Police Report, the LOA and the MOM Letter fell under what Mr Lee referred to as the "rest of the pages", thereby underscoring the respondents' misunderstanding that the 21 Feb Order required them to produce the original screenshots of

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118 See the JPEG files titled 'pg 103', 'pg 104', 'pg 105' and 'pg 106' in the folder 'VD2' in the 28 Feb CD.

119 PCB 767

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the Police Report, the LOA and the MOM Letter as opposed to the original hard copies of those documents.

(B) THE RESPONDENTS' MISUNDERSTANDING WAS NOT REASONABLE

100 Nonetheless, the respondents' misunderstanding of what the 21 Feb Order required them to do in relation to the Police Report, the LOA and the MOM Letter, was not reasonable.

101 It is obvious from the screenshots of the Police Report, the LOA and the MOM Letter exhibited in Ms Minh's AEIC that the originals of these documents existed as physical hard copies. Hence, when I posed the Question to the respondents on whether they had the originals of the Disputed Documents, they ought to have known that insofar as the Police Report, the LOA and the MOM Letter were concerned, I was referring to the original hard copies of these documents. Indeed, when the respondents subsequently applied their mind as to what the originals of the Police Report, the LOA and the MOM Letter meant, they realised that it referred to the original hard copies of these documents, and took the position from the outset of these committal proceedings that they could not obtain the originals which were in the possession of Do Diep Minh in Vietnam.[120]

102 In the premises, the respondents also have not proven the defence under section 21 of the AJPA where the Police Report, the LOA and the MOM Letter are concerned.

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120 PCB 754, specifically rows 'Page 103 to 104', 'Page 105' and 'Page 106' of the table at [30] of Mr Lee's 8 Sept Affidavit

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The appropriate sanction to be imposed on the respondents

Applicable legal principles

103 As the respondents are unable to avail themselves of the defence under section 21 of the AJPA, the enquiry now shifts to the appropriate sanction to be imposed for their contempt in respect of the 21 Feb Order.

104 In the Magistrate's Courts, contempt of court is liable to be punished with a fine not exceeding $20,000 or imprisonment for a term not exceeding 12 months or both: see section 12(1)(c) of the AJPA. However, the Court may discharge a contemnor, or remit the whole or any part of the punishment imposed on the contemnor, on his or her purging of the contempt, submission to the order or direction of the court or on apology being made to the satisfaction of the Court: see section 12(5) of the AJPA.

105 In determining the appropriate sanction to be imposed for contempt of court, the Court will consider the facts of each case and the nature of contempt committed. As held in *Sembcorp Marine Ltd v Aurol Anthony Sabastian* [2013] 1 SLR 245 at [57] to [68] ("*Sembcorp Marine*") and *Mok Kah Kong* at [103] to [104][121], the factors to be taken into account in sentencing include:

(a) the contemnor's motive for disobedience / attitude behind the contemptuous conduct, which includes consideration of whether the breach of the order was deliberate or unintentional and whether the contemnor appreciated the seriousness of any deliberate breach;

(b) the contemnor's degree of culpability, which includes consideration of whether he has been placed in breach of the order by

[121] Plaintiff's Bundle of Authorities dated 7 October 2022, at Tab 4

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reason of the conduct of others, and the extent to which he has acted under pressure;

(c) the purpose of the order breached and the impact of the breach on that purpose;

(d) whether the harm caused by the breach of the order can be remedied by a fine and costs, or if there is substantial prejudice which cannot be remedied; and

(e) the contemnor's conduct after the breach, in particular whether he co-operated and purged his contempt, or remained uncooperative, deliberate and contumacious in breaching the order.

106 Committal to prison is normally a measure of last resort: see *Sembcorp Marine* at [47]. On this note, the cases reveal that a stronger case for imprisonment is made out if there is:

(a) a continuing, deliberate and persistent course of conduct;

(b) a failure to resolve the situation and continued lack of cooperation;

(c) egregious behaviour and motive; and/or

(d) a series of repeated breaches of the court order evincing flagrant disregard for the court's authority:

see *Sembcorp Marine* at [57], [59], [62] and [64]; *SpaceSATS Pte Ltd v Chan Chia Sern and others* [2023] SGHC 40 at [103].

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A fine, as opposed to a term of imprisonment, is appropriate

107 Bearing this legal framework in mind, I find that the respondents' contempt in respect of the 21 Feb Order warrants a fine, and not a term of imprisonment, for the following reasons:

(a) The respondents' breaches of the 21 Feb Order were committed due to honest misunderstandings of their obligation under that order, and did not arise from any improper motive.

(b) The respondents' degree of culpability in breaching the 21 Feb Order was not high.

(c) The prejudice suffered by the plaintiff as a result of the respondents' breaches of the 21 Feb Order was not severe.

(d) After they correctly understood what the 21 Feb Order required of them, the respondents cooperated to the best of their ability and produced the originals of such Key Disputed Documents which were still within their possession.

108 I elaborate below on each of these reasons.

(1) The respondents' motive and attitude behind their contemptuous conduct

109 **First,** the respondents' breaches of the 21 Feb Order were committed due to honest misunderstandings of their obligation under that order, and did not arise from any improper motive.

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(A) THE RESPONDENTS' BREACHES OF THE 21 FEB ORDER WERE DUE TO HONEST MISUNDERSTANDINGS OF THEIR OBLIGATION UNDER THAT ORDER

110 Where the Page 23, 32, 36, 37, 46, 47, 48, 64, 66, 67 and 74 Screenshots and the 'Video proof' and 'Do Minh Diep' video files are concerned, I have explained in [63] – [71] and [79] – [82] above that the respondents' breaches of the 21 Feb Order were due to an honest misunderstanding of the nature of their obligations under that court order. Upon being informed of what the 21 Feb Order required them to do, the respondents then produced the originals of these documents to the extent that the originals were still in their possession.

111 The respondents' failure to produce the originals of the Police Report, the LOA and the MOM Letter, in breach of the 21 Feb Order, was similarly due to an honest misunderstanding of the nature of their obligations under that court order (see [96] – [99] above).

112 While the respondents have not produced the original hard copies of Police Report, the LOA and the MOM Letter, I find that they are unable, as opposed to unwilling, to produce the originals.[122]

(a) As held at [97] above, at the time of issuance of the 21 Feb Order, the respondents simply had screenshots of the Police Report, the LOA and the MOM Letter, which had been posted on Do Diep Minh's Facebook page and which they had downloaded from that Facebook page.

(b) There is no reason to believe that subsequently, the respondents were able to obtain the original hard copies of the Police Report, the

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122 PCB 754 (specifically rows 'Pages 103 to 104', 'Page 105' and 'Page 106' of the table at [30] of Mr Lee's 8 Sept Affidavit); P2SB 9 and 33 (specifically, [15] – [17] of Mr Lee's 24 Nov Affidavit and Ms Minh's 17-Page 24 Nov Affidavit)

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LOA and the MOM Letter. On the face of these documents, the Police Report was lodged by Do Minh Diep's boyfriend to report alleged threats that were made verbally by one David Ang and on a Facebook live stream video published on the Van Nguyen Facebook page, while the LOA and the MOM Letter were letters issued by third parties to Do Minh Diep.[123] Thus, the respondents clearly had no ownership or possessory rights in the originals of these documents, and would not have any legal right to demand Do Minh Diep to hand over the originals.

(c) Consequently, I reject the plaintiff's submission that the respondents had knowingly breached the 21 Feb Order by lying to the Court that they had the originals of Police Report, the LOA and the MOM Letter.[124]

113 Turning to the BCAs, I had earlier rejected the respondents' argument that they misunderstood their obligation under the 21 Feb Order to produce the original hard copies of the BCAs as requiring them to produce the original hard copy of the Certificate of Business Household of The Shilla (see [90] – [93] above). The plaintiff submits that it must necessarily follow that Mr Lee had knowingly lied during the trial on 21 February 2022 when he confirmed that the respondents were in possession of the originals of the Disputed Documents, and that the respondents had therefore knowingly breached the 21 Feb Order.[125]

114 I am unable to accept the plaintiff's submission. On a careful scrutiny of the evidence, there is another plausible explanation for Mr Lee's confirmation

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123 PSB 343 – 46

124 PCS at [18]

125 PCS at [18]

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during the trial on 21 February 2022 that the respondents were in possession of the originals of the Disputed Documents, even the BCAs.

(a) It is the respondents' position that they are unable to produce the originals of the BCAs as they had returned the originals to The Shilla's business household representative, Hai, who subsequently lost them. I accept their position as it is supported by the email exchange between Ms Minh and Hai on 16 November 2022 (the "**16 Nov Email Exchange**"):

(i) In that email exchange,[126] Ms Minh had informed Hai that the Court had given her an order, and requested Hai to send her the original of the BCAs which the parties signed on 20 and 21 February 2020 as she had sent the originals back to him and had only kept scanned copies of the BCA. Hai's response was that Ms Minh had sent the originals of the BCA back to him during COVID time and someone in his family had received them, but they were subsequently lost and he was unable to find them now.

(ii) There is no basis for Mr Lun's allegation, during his cross-examination of Ms Minh at the committal hearing on 8 July 2024, that the 16 Nov Email Exchange is fabricated. Prior to the close of the plaintiff's case in these committal proceedings, she did not take the position that the email exchange was fabricated. It was therefore too late for Mr Lun to allege, some one-and-a-half years after the disclosure of the email exchange, during the final tranche of the committal hearings, that the email

126 P2SB 39

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exchange was fabricated. Ms Minh was prejudiced by the lateness of such an allegation of fabrication as she did not have sufficient notice to respond to that allegation.

(b) Given that the respondents had returned the originals of the BCAs to Hai during COVID times (*ie,* in the year 2020) and had kept only scanned soft copies of the BCAs, I find that when Mr Lee replied affirmatively to the Question, he probably had in mind, where the BCAs were concerned, the scanned soft copies of the BCAs. My view is bolstered by the following matters:

(i) During the 5 Apr 2023 Hearing, when Mr Low (who was then counsel for the plaintiff) asked Mr Lee whether he had the originals of each of the Disputed Documents on 21 February 2022, Mr Lee replied that he could not answer yes or no, because the metadata was submitted in the 28 Feb CDs showed that the 'birthdate' of the BCAs was in 2020 and to him, that is the original. However, he did not know whether to the plaintiff, that was the original.[127] In other words, Mr Lee was alluding to the fact that at the material time, he had considered the scanned soft copies of the BCAs in the respondents' possession to be the originals of the BCAs.

(ii) In the 28 Feb CDs, the purported 'originals' of the BCAs produced by the respondents were scanned soft copies of the BCAs in the two PDF files titled 'p 16, 17' and 'p 20'.

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127 NE, 5 April 2023, 72/18-32

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115 Furthermore, the plaintiff did not provide any compelling reasons as to why Mr Lee would deliberately lie to the Court that he had the originals of the BCAs. On the contrary, the respondents' conduct shortly after the issuance of the 21 Feb Order demonstrated transparency about the fact that they had returned the executed hard copies of the BCAs to Hai:

(a) At the trial on 22 February 2022 (*ie,* the day after the 21 Feb Order was made), when Ms Minh was cross-examined on how the BCAs came about, she explained that Hai had sent the BCAs to her together with a container of goods to her Yishun Ring Road address, and she had then signed them and returned the executed BCAs to Hai.[128]

(b) In paragraph 3 of FCL's 9 Mar Letter, they alleged that "*in relation to the documents found at pages 12 to 21 of [D2's AEIC], as those documents appear to be copies made from physical documents, you are required to produce the original physical documents for inspection, which you did not*", and gave final notice to the respondents to produce the originals of, among other things, those physical documents.[129] In his 10 Mar Email reply (which was issued merely two weeks after the making of the 21 Feb Order), Mr Lee informed FCL that "*The page 16 and Pg 20 [ie, the BCAs] as the 2nd defendant had said on 22nd Feb 2022 in the witness stand it was mail back to our partner*".[130]

116 In the circumstances, I find that the respondents' failure to produce the original hard copies of the BCAs in breach of the 21 Feb Order was likely due to: (a) an honest misunderstanding that the court order simply required them to

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128 NE, 22 February 2022, 122/30-126/10

129 PCB 704 – 705

130 PCB 767

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produce scanned soft copies of the BCAs in their possession, as well as (b) the fact that they no longer had possession of the original hard copies of the BCAs once Ms Minh sent them back to Hai in 2020.

(B) THE RESPONDENTS' BREACHES OF THE 21 FEB ORDER DID NOT ARISE FROM ANY IMPROPER MOTIVE

117 The respondents' breaches of the 21 Feb Order were not only committed in good faith. There is also no evidence that they had breached the 21 Feb Order for specific pecuniary or non-pecuniary motives, or out of spite for either the Court or the plaintiff.

118 The plaintiff alleges that the breaches were likely intended to conceal the respondents' improper conduct of relying on fabricated documents in the Main Action. With respect, this allegation is wholly unfounded.[131]

(a) It is undisputed that the inspected versions of the Page 23, 36, 46, 47, 48, 66 and 67 Screenshots are authentic, and I have found that the inspected version of the Page 37 Screenshot is also authentic (see [65(b)] above).

(b) Regarding the originals of the Key Disputed Documents which the respondents did not produce, their failure to produce such originals was not due to any attempt to conceal their fabrication of documents in the Main Action. On the contrary:

(i) the respondents used to have the originals of the Page 32 and 74 Screenshots, but had inadvertently lost possession of the

131 Plaintiff's Written Submissions dated 7 October 2022 at [39], which was endorsed in [42] of PCS

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originals by the time they filed their 24 Nov Affidavits (see [65(c)-(d)] above);

(ii) the respondents did not have possession of the originals of the BCAs since the time Ms Minh sent them back to Hai in 2020, and Hai did not send the originals back to the respondents on account of him having lost the originals (see [114(a)] above); and

(iii) the respondents never had possession, custody or control of the originals of the Police Report, the LOA and the MOM Letter in the first place (see [112] above).

(2) The respondents' degree of culpability was not high

119 **Second**, the respondents' degree of culpability in breaching the 21 Feb Orders was not high.

120 The respondents were laypersons who were self-represented for most part of the Main Action (see [11] above), and not officers of the court. They were therefore not held to a higher standard of care so as not to bring the legal profession in dispute. Moreover, as explained at [110] – [118] above, the respondents' breaches of the 21 Feb Order were committed due to honest misunderstandings of their obligation under that order, and did not arise from any improper motive.

121 Furthermore, about a week after they had breached the 21 Feb Order, the respondents had, in Mr Lee's 10 Mar Email, invited FCL to inspect what were essentially the originals of the Page 23, 32, 36, 37, 46, 47, 48, 66, 67 and 74 Screenshots (see [30] above). If that invitation had been accepted, much of these committal proceedings would have been unnecessary as the originals of

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those screenshots would have been inspected back in March 2022. Unfortunately, the plaintiff did not respond to that invitation, and was unable to provide any persuasive reasons for her failure to respond:

(a) In Mr Low's 22 Sept Affidavit, he explained that FCL had taken the view that the onus was on the respondents to attend at FCL's offices for inspection, to rectify their non-compliance, and not to expect FCL to incur time and costs to carry out inspection at the respondents' residence.[132] In my view, that is not a valid excuse. The 21 Feb Order did not stipulate the venue at which the inspection of the originals of the Disputed Documents is to take place. Moreover, if FCL had preferred inspection to be carried out at their offices, they could and should have responded to Mr Lee's 10 Mar Email to propose that alternative. If they had done so, the respondents may well have agreed to the inspection being carried out at FCL's offices, given that they had previously proposed in Mr Lee's 9 Mar Email to arrange a date and time at FCL's offices for the inspection of the original hard copy of the Certificate of Business Household of The Shilla (see [28] above).

(b) In her reply closing submissions, the plaintiff argued that it would have been unsafe and risky to conduct the inspection at the respondents' residence, given the animosity between the parties. To support her argument, she stated that during the Inspection that eventually took place on 11 August 2023, Ms Minh had turned hostile and engaged in arguments with the plaintiff and FCL, even in the presence of the respondents' own solicitor and other members of the

132 DCB Tab 7, at [5]

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public in the public area of FCL's offices.[133] However, the hostility allegedly shown by Ms Minh during the Inspection is not in evidence before the Court, a point which the plaintiff herself concedes.[134] The plaintiff has not pointed to any other incident between the parties that would give her legitimate reason to be concerned that it would be unsafe or risky to accept the invitation in Mr Lee's 10 Mar Email.

122 Thus, I find that the plaintiff bears some responsibility for the scope of the committal proceedings in relation to the 21 Feb Order, which would have been greatly reduced if she had acted on the invitation in Mr Lee's 10 Mar Email.

123 For the avoidance of doubt, I am not saying that the respondents, having issued the invitation in Mr Lee's 10 Mar Email for an inspection to be conducted at their residence, are absolved of any responsibility from following up with FCL when their invitation was not met with a response. Given that the plaintiff had, in FCL's 9 Mar Letter, threatened committal proceedings, it was in the respondents' interest to follow up, and they should have followed up, with FCL regarding their invitation, when they did not receive a response within a reasonable time. Unfortunately, the respondents did not do so. This was a factor which contributed to the escalation of the issue into the present committal proceedings. Nonetheless, the respondents' culpability in breaching the 21 Feb Orders is reduced to some extent by the fact that they had issued the invitation in Mr Lee's 10 Mar Email, which the plaintiff did not respond to.

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133 PRCS at [12] – [14]

134 PRCS at [13], specifically the opening phrase of the second sentence of that paragraph which reads "*In fact, although not previously on the record*".

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124 It will also be seen, from the discussion in [125] – [128] below, that the prejudice caused to the plaintiff by the breaches of the 21 Feb Order was reversible and, in the grand scheme of this case, was not severe. This reinforces my view that the respondents' degree of culpability in breaching the 21 Feb Orders was not high.

(3) The prejudice suffered by the plaintiff was not severe

125 **Third,** the prejudice suffered by the plaintiff as a result of the respondents' breaches of the 21 Feb Order was not severe.

126 The purpose of the 21 Feb Order was to enable the plaintiff to verify whether the Disputed Documents were authentic, for the resolution of the Main Action. The respondents' failure to produce the originals of the Disputed Documents in a timely manner, as required under the 21 Feb Order, meant that the plaintiff was unable to verify the authenticity of the Disputed Documents in the Main Action. However, that did not prejudice the plaintiff's ability to present her case in the Main Action. On the contrary:

(a) The plaintiff succeeded in obtaining a favourable ruling in SUM 1183 that the respondents were not allowed to rely on most of the Disputed Documents in the Main Action. One of the reasons for that ruling was that the respondents had not produced the originals of those documents to prove the authenticity of the documents (see [35(a)] above).

(b) Ultimately, I granted the plaintiff's claim, and dismissed the defendants' counterclaim, in the Main Action (see p. 24 above).

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127 The only prejudice the plaintiff has suffered by reason of the respondents' breaches of the 21 Feb Order is the time and costs she has expended to pursue such breaches. However, to the extent that she had reasonably expended time and costs to pursue such breaches, such prejudice can be easily remedied by an appropriate costs order. I therefore cannot accept the plaintiff's submission that the respondents' breaches had caused her irreparable prejudice.

128 I am also unable to accept the plaintiff's assertion, in her written submissions dated 7 October 2022, that the respondents' breaches of the 21 Feb Order had delayed the trial of the Main Action. That is a bare assertion made without any details or substantiation. If the plaintiff is referring to the gap of four and a half months between the second tranche of the trial on 21 and 22 February 2022 and the final tranche of the trial on 6 July 2022, that gap was due mainly to the need to resolve the defendants' applications in SUM 1183 and SUM 2489 before the final tranche of the trial was fixed (see [35(a)-(b)] above). In other words, even assuming that the respondents had complied with the 21 Feb Order, the trial in the Main Action still could not have been concluded unless and until both SUM 1183 and SUM 2489 had been resolved.

(4) The respondents were co-operative and sought to purge their contempt

129 **Fourth,** as seen from [63] – [71] and [79] – [82] above, the respondents, who initially laboured under a misunderstanding of their obligations under the 21 Feb Order, had cooperated to the best of their ability and produced the originals of such Key Disputed Documents which were still in their possession, after they correctly understood what the 21 Feb Order required of them. They do not fall within the category of contemnors who remain uncooperative, deliberate and contumacious in their breaches of court orders (*cf* [106] above).

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130 For the forgoing four reasons, the appropriate sanction is a fine instead of a custodial sentence.

131 At this juncture, before I examine the quantum of the fine to be imposed, I address the respondents' submission that even if I find them guilty of contempt in respect of the 21 Feb Order, I can simply issue a stern warning to comply. With respect, this submission is misconceived. The breaches of the 21 Feb Order which the respondents have yet to purge are breaches which they are not capable of purging because the originals of the Page 32 and 74 Screenshots, the BCAs, the Police Report, the LOA, the MOM Letter are not in their possession, custody or control. In the circumstances, it makes no sense for me to issue a stern warning to comply, in relation to those breaches.

The quantum of the fine

132 Turning to the quantum of the fine, I impose a fine of $3,000 on each respondent for their breaches of the 21 Feb Order. In arriving at this sum, I find the case of *Neo Chin Heng v Good Year Contractor Pte Ltd* [2024] 4 SLR 1280 ("***Neo Chin Heng***")[135] to be instructive.

133 In *Neo Chin Heng*, the High Court imposed a $20,000 fine on each respondent – namely, a company and its director – for breaching a court order that the company allow the applicant to inspect and make copies and/or take extracts of seven categories of documents belonging to the company (the "**Company Documents**"). The respondents did not make any Company Documents available to the applicant for inspection until about 10 months after the deadline stipulated in the court order, at which time they produced an

135 Plaintiff's Bundle of Authorities (Closing Submissions) dated 12 September 2024, at Tab 3

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incomplete set of just one out of the seven categories of Company Documents just two days before the first committal hearing: see *Neo Chin Heng* at [3], [8] and [32]. The High Court considered that a fine ranging between $70,000 and the maximum of $100,000 could not be justified as the respondents' breaches were considerably less egregious than the breach of an anti-suit injunction, the respondents did not take active steps to prevent the applicant from accessing the Company Documents, and there was no evidence that the respondents had disregarded the court order deliberately or cynically, or were motivated to commit the breaches out of any specific pecuniary or non-pecuniary motives or spite for the court or the applicant. On the other hand, the fine could not be a symbolic $10,000 as the company was not a dormant company and the respondents had made only very limited attempts to procure the Company Documents from the company's accountant, which showed that they did not take the court order as seriously as when contempt proceedings were started against them. In the circumstances, calibrating the respondents' breaches against the breaches of court order in various other cases, the High Court imposed a fine of $20,000 on each respondent: see *Neo Chin Heng* at [39] – [54].

134 Considering that the High Court has the power to impose a fine of up to $100,000 as punishment for contempt of court (see section 12(1)(a) of the AJPA), the $20,000 fine imposed in *Neo Chin Heng* was clearly on the lower end of the court's sentencing jurisdiction.

135 There are several major similarities between *Neo Chin Heng* and the present case. Both cases concerned the failure to disclose documents required under a court order, the breach of which did not cause much prejudice to their counterparties. In both cases, there was no evidence that the contemnors disregarded the court order deliberately or cynically, or were motivated to

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commit the breaches out of by any specific pecuniary or non-pecuniary motives or spite for the court or the applicant.

136 However, there are two key differences between *Neo Chin Heng* and the present case.

(a) **First,** the respondents in the present case had made greater attempts in good faith to comply with the court order (both before the deadline stipulated in the 21 Feb Order, as well as after these committal proceedings were commenced), than the respondents in *Neo Chin Heng* did. Their culpability was therefore lower than the respondents in *Neo Chin Heng*.

(b) **Second,** in *Neo Chin Heng*, the fine imposed would have incorporated both punitive and coercive elements, given the High Court's finding (at [47]) that the breach of the court order could be reversed by the provision of the outstanding Company Documents. By contrast, there is no coercive value in the sentence to be imposed in the present case as the respondents have already remedied their breaches of the 21 Feb Order to the extent possible. Insofar as they remain in breach of the 21 Feb Order, that is in respect of originals which they are unable to produce because they either never had, or no longer have, possession, custody or control of the same.

137 These two differences mean that all other things being equal (*ie,* if the present case were a High Court matter), I would have adjudged that the fine to be imposed in the present case should not be as high as $20,000.

138 Bearing in mind that the maximum fine that may be imposed by a Magistrate Court for contempt of court is a significantly lower sum of $20,000,

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and taking into account the two differences set out at [136] above, I calibrate the fine to be imposed on each respondent in the present case at $3,000. The fine is to be paid within four weeks of today, in default of which there be eight days' imprisonment.

The 22 Feb Order

Ms Minh is in contempt of court for breaching the 22 Feb Order

Ms Minh had breached her obligations in relation to the Category B Documents, but not the Category A Documents

139 Having decided the committal proceedings in relation to the 21 Feb Order, I now address the committal proceedings in relation to the 22 Feb Order, which was made only against Ms Minh.

140 To recapitulate, the 22 Feb Order required Ms Minh to do the following by 15 March 2022:

> (a) file a list of documents stating whether or not she has possession, custody or control of the following Page 66 Related Documents, and if she has had, but no longer has, possession, custody and control of any such document, when did she last have possession, custody and control of those documents, what has become of those documents, and in whose possession they are currently:
>
> > (i) documents evidencing that TheMinh or The Shilla's staff had created the Page 66 Screenshot in or around May 2020 (which were earlier defined as the "Category A Documents");
> >
> > (ii) documents evidencing that TheMinh or The Shilla had disseminated or circulated substantially similar documents as the

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Page 66 Screenshot with different fonts and/or font sizes to their customers (which were earlier defined as the "Category B Documents"); and

(b) file an affidavit verifying the said List of Documents.

141 It is common ground that Ms Minh had breached her obligations in relation to the Category B Documents, as it was only *after* the stipulated deadline of 15 March 2022 that she clarified on affidavit that she never had possession, custody or control of such documents.

142 However, whether Ms Minh had breached her obligations in relation to the Category A Documents is an issue in contention. Ms Minh claims that she had complied with those obligations by disclosing Category A Documents in her affidavits verifying the 15 March Long LOD and the 15 March Short LOD (see [47(d)] above). On the other hand, the plaintiff's position is that Ms Minh had breached those obligations by failing to disclose any Category A Documents and to file a List of Documents and an affidavit verifying that List. In this regard, the plaintiff disputes the authenticity of the documents disclosed in the 15 March Long LOD and the 15 March Short LOD (see [32] and [45(a)] above).

143 Thus, in determining whether Ms Minh had breached her obligations in relation to the Category A Documents, I must address the following questions:

(a) whether the documents disclosed in the 15 March Long LOD and the 15 March Short LOD have been proven to be authentic; and

(b) whether the documents disclosed in the 15 March Long LOD and the 15 March Short LOD are Category A Documents.

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144 I will briefly describe the documents disclosed in the 15 March Long LOD and the 15 March Short LOD, before addressing each of these questions.

145 The 15 March Short LOD disclosed the following documents:[136]

S/no. in the 15 March Short LOD	**Document disclosed**
1	Four screenshots showing various exchange of messages between unknown persons. The messages contained queries on whether *"Sell to Singapore?*" without identifying the subject matter of the proposed sale, "*Give me your wats app number*", "*Where do you stay*", as well as requests to communicate in English. According to the 15 March Short LOD, these messages show "Customers Enquiry in English".
2	A screenshot, taken on a mobile device, which shows the four screenshots seen in s/no. 1, under the words "*13 thang 3, 2021*".
3	A screenshot, taken on a mobile device, of the profile of one Hai.

146 The 15 March Long LOD disclosed the following additional documents:

[136] PSB 154 – 168

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S/no. (and internal pagination) in the 15 March Long LOD	Document disclosed
2 (pp. 11 to 12)	Two screenshots of The Shilla's Facebook page, each showing two addresses: an address in Vietnam, and TheMinh's Singapore address. One of the screenshots appears to be the Page 66 Screenshot.
3 (pp. 14 to 15)	Two screenshots, consisting of the following: (a) The first is a screenshot of a Facebook post in the Vietnamese language published on the Minh Minh Facebook account. The date of the Facebook post is unknown. (b) The second is a Google translation of the first screenshot: it essentially states that customers in Vietnam can buy TheMinh's products at The Shilla's Le Van Thi branch.
4 (p. 17)	The Page 64 Screenshot, which is a screenshot of a Facebook post, published on The Minh's Facebook page, stating that customers in Vietnam may purchase TheMinh's products at their affiliate branch, The Shilla, at an address in Vietnam, and that they have reopened since 25 May 2020.
5 (pp. 19 to 21)	Three screenshots, consisting of the following: (a) The first is a screenshot of a Facebook post of one Flo Sharon May on 23 May 2020, in which she shared a Facebook post published by The Shilla in the Vietnamese language on 5 May 2020.

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S/no. (and internal pagination) in the 15 March Long LOD	Document disclosed
	The said Facebook post of The Shilla contained a video which was similar to one of TheMinh Videos and the TikTok Videos. (b) The second and third are two screenshots showing that Flo Sharon May made the following comment on various Facebook Group pages on 23 July 2020: "*Sharing tik tok video. Any copyright infringement? Lol*".
6 (pp. 23 to 29)	Six screenshots, consisting of the following: (a) The first four are screenshots of various Facebook posts of Flo Sharon Mary on 25 and 27 May 2020 in which she shared, on the 'I Love Online Shopping' Facebook group, several Facebook posts published by The Shilla in the Vietnamese language in May 2020 which contained photos of Ms Phuong modelling clothing similar to those seen in TheMinh Videos and the TikTok Videos. Flo Sharon Mary shared those posts, together with her own comment that it is cheaper and faster to buy directly from The Shilla's website. (b) The fifth is a screenshot of a Facebook post of Flo Sharon Mary on 29 June 2020, in which she shared a live video posted on the Facebook page 'S'Gorgeous'. (c) The sixth is a screenshot of the Facebook pages which were allegedly 'liked' by Flo Sharon Mary, which include FCL.

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S/no. (and internal pagination) in the 15 March Long LOD	Document disclosed
7 (pp. 31 to 39)	Nine screenshots, consisting of the following: (a) The first is a screenshot of a Facebook post by one Alice Lim on 25 May 2020 in which she shared, on the 'Buy and Sell Singapore' Facebook group, a Facebook post published by The Shilla in Vietnamese on 9 May 2020. The said Facebook post of The Shilla contained photos of Ms Phuong modelling clothing that were part of a 'RESORT'20' new collection. (b) The second and third are screenshots showing that Alice Lim had shared the said Facebook post of The Shilla on other Facebook groups (apart from the 'Buy and Sell Singapore' Facebook group) on 25 May 2020. (c) The fourth and fifth are screenshots of various Facebook posts by Alice Lim on 27 May 2020 in which she shared, on the 'singapore sell and buy online' Facebook group, a Facebook post by The Shilla in Vietnamese on 27 May 2020 which contained photos of Ms Phuong modelling clothing. Alice Lim shared that post, together with her own comment that it is cheaper and faster to buy directly from The Shilla's website. (d) The sixth to eighth are screenshots of various Facebook posts of Alice Lim on 25 and 27 May 2020 in which she shared, on the 'Buy and Sell Singapore' Facebook group, certain Facebook posts published by The Shilla in the Vietnamese language on 1

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S/no. (and internal pagination) in the 15 March Long LOD	Document disclosed
	and 5 May 2020. The said Facebook posts of The Shilla contained videos which were similar to TheMinh Videos and the TikTok Videos. (e) The ninth is a screenshot of a Facebook post of Alice Lim on 27 May 2020 in which she shared, on the 'I Love Online Shopping' Facebook group, a video posted on the S'Gorgeous Facebook page that day, together with her own comment "*Special Announcement free delivery for any purchase next live bidding! Many many new design for SUPER SALE*".
8 (pp. 41 to 42)	Two screenshots, consisting of the following: (a) The first is a screenshot of the Facebook profile of one Elaine Ng. (b) The second is a screenshot of a post published by one 'jenna_chew'. The post is of a lady in sports attire holding a bottle of water, with the caption "*Remember to drink more water*".
9 (pp. 44 to 47)	Four screenshots, consisting of the following: (a) The first is a screenshot of a Facebook post of unknown date by Elaine Ng, in which she shared, on the 'I Love Online Shopping' Facebook group, a Facebook post published by The Shilla in the Vietnamese language, together with her own comment that it is cheaper and faster to buy directly from The Shilla's website.

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S/no. (and internal pagination) in the 15 March Long LOD	Document disclosed
	The said Facebook post by The Shilla contained photos of Ms Phuong modelling clothing. (b) The second is a screenshot of a Facebook post by Elaine Ng on 5 May, in which she shared, on the 'BuySellOnlineSG' Facebook group, a Facebook post published by The Shilla that day. The said Facebook post of The Shilla contained a video which was similar to one of TheMinh Videos and the TikTok Videos. Elaine Ng had shared the said Facebook post of The Shilla, together with her own comment "*Sharing tik tok video. Any copyright infringement? Lol*". (c) The third is a screenshot of a Facebook post of unknown date by Elaine Ng, in which she shared a Facebook post published by The Shilla that day on the 'BuySellOnlineSG' Facebook group. The said Facebook post of The Shilla contained photos of Ms Phuong modelling clothing. (d) The fourth is a screenshot of a Facebook post of unknown date by Elaine Ng, in which she shared a Facebook post published by S'Gorgeous that day on the 'Singapore-Vietnam Online' Facebook group.
10 (pp. 49 to 56)	Screenshots of various messages in the Vietnamese language exchanged between Ms Minh and (according to her 15 March AVLOD) The Shilla's Hai on 25 May 2020, and an accompanying English translation of those messages.

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S/no. (and internal pagination) in the 15 March Long LOD	Document disclosed
	The gist of those messages is as follows: (a) Ms Minh told Hai that "*they play me out by sharing my supplier to all the groups in Singapore*" and that Hai was getting free advertisement. (b) Hai replied "*no wonder, since morning a few Singaporeans asked for my price and if there is shipping*", and that his response to them was that they could buy products from TheMinh which is "*our branch in Singapore*". Hai added that those customers had asked him why Ms Minh could use The Shilla's photos and whether they could take those photos, and his reply to them was that they could not do so as "*those photos has copyright*". (c) Ms Minh's reply was that "*we are sueing that girl*" *in relation to those photos*", and that "*They are digging for info*" and "*want to ask around if those are truly your photos*".
1	This is a video file titled '2DF14MAR22',[137] in which Ms Minh essentially sought to explain the relevance of the documents disclosed in the 15 March Long LOD as follows: (a) From the start of the video to the 2 min 24 sec mark: Ms Minh showed, on her mobile device, the purported metadata of

[137] Ms Minh provided this video through a Google Drive link set out in the defendants' email to the Court and FCL on 15 March 2022.

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S/no. (and internal pagination) in the 15 March Long LOD	Document disclosed
	the screenshots in s/no. 10 (*ie,* 25 May 2020), and verbally narrated what was stated in the messages seen in the screenshots. (b) From the 2 min 25 sec mark to the 2 min 37 sec mark of the video, Ms Minh showed, on her mobile device, the purported metadata of the screenshot in s/no. 3 (*ie,* 25 May 2020), and verbally narrated what was stated in the Facebook post seen in that screenshot. (c) From the 2 min 38 sec mark to 2 min 50 sec mark of the video, Ms Minh showed, on her mobile device, the purported metadata of the Page 64 Screenshot (*ie,* 25 May 2020), and verbally narrated what was stated in the Facebook post seen in that screenshot; (d) From the 2 min 51 sec mark to 3 min 6 sec mark of the video, Ms Minh showed, on her mobile device, the purported metadata of the screenshots in s/no. 2 (*ie,* 25 May 2020). (e) From the 3 min 7 sec mark to the end of the video: Ms Minh verbally narrated, by reference to (among other things) the screenshots in s/no. 5 to 7 and 9 on her mobile device, why she had created the screenshots in s/no. 2. Among other things, Ms Minh highlighted that after she had posted her first Defamatory Post regarding the plaintiff on 20 May 2020, fake Facebook accounts Alice Lim, Flo Sharon Mary and Elaine Ng began to share, on 20, 25 and 27 May 2020, various

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S/no. (and internal pagination) in the 15 March Long LOD	Document disclosed
	Facebook posts by The Shilla (as seen in, among other things, s/no. 5 to 7 and 9). These Facebook accounts made the same / similar comments on some of The Shilla's posts, including that it was cheaper and faster to buy clothing directly from The Shilla's website.

147 Where the authenticity of the documents disclosed in the 15 March Long LOD and the 15 March Short LOD is concerned, the law is well settled. Either primary evidence of those documents, *ie,* the originals of those documents, or secondary evidence of those documents (but only in the circumstances specified under section 67 of the Evidence Act 1893 ("**EA**")), must be produced. Thereafter, it must also be shown that each document is what it purports to be, in order to establish that the document is authentic: see *CIMB Bank Berhad v World Fuel Services (Singapore) Pte Ltd* [2021] 1 SLR 1217 at [51], [52] and [54].

148 Regrettably, of all the documents disclosed in the 15 March Long LOD and the 15 March Short LOD, Ms Minh only produced the originals of the Page 64 Screenshot (seen in s/no. 4 of the 15 March Long LOD) and the Page 66 Screenshot (seen in s/no. 2 of the 15 March Long LOD).[138] She did not provide any explanation on why she was entitled, pursuant to section 67 of the EA, to prove the documents disclosed in the 15 March Long LOD and the 15 March Short LOD through secondary evidence. Hence, apart from the Page 64 and 66

[138] That was done during the Inspection on 11 August 2023.

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Screenshots, all other documents disclosed in the 15 March Long LOD and the 15 March Short LOD have not been shown to be authentic.

149 As for the question of whether the documents disclosed in the 15 March Long LOD and the 15 March Short LOD are Category A Documents, it is apparent on the face of those documents that most of them are not, as they do not evince that TheMinh or The Shilla's staff had created the Page 66 Screenshot in or around May 2020. The only exceptions are the Page 64 and 66 Screenshots in s/no. 2 and 4 of the 15 March Long LOD, and the portions of the video titled '2DF14MAR22' in s/no. 1 of the 15 March Long LOD which show the metadata of these screenshots. These documents are obviously Category A Documents for the following reasons:

(a) Based on the video titled '2DF14MAR22', the date metadata of the Page 66 Screenshot on Ms Minh's phone is 25 May 2020.[139] That clearly is evidence that the Page 66 Screenshot was created in or around May 2020 (as alleged by Ms Minh during the trial of the Main Action on 22 February 2022).

(b) The video titled '2DF14MAR22' also shows that the date metadata of the Page 64 Screenshot is 25 May 2020.[140] Such metadata, read together with the plain meaning of the Facebook post captured in that screenshot, evince that as of May 2020, TheMinh was already taking the position publicly that it and The Shilla were affiliated. That TheMinh was taking such a stance in turn corroborates Ms Minh's evidence during the trial on 22 February 2022 that either her or her staff had inserted

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139 That is the same as the date metadata of the original of the Page 66 Screenshot which was subsequently produced during the Inspection.

140 That is the same as the date metadata of the original of the Page 64 Screenshot which was subsequently produced during the Inspection.

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TheMinh's Singapore address into a screenshot of The Shilla's Facebook profile to create the Page 66 Screenshot.

150 In my judgment, the Page 64 and 66 Screenshots, and the portions of the video titled '2DF14MAR22' which show the metadata of these screenshots, are cogent evidence that the Page 66 Screenshot was created by TheMinh in or around May 2020. By disclosing these documents in the 15 March Long LOD, and filing an affidavit to verify that List of Documents, Ms Minh had discharged her obligations in relation to the Category A Documents.

151 In other words, I find that Ms Minh had breached her obligations under the 22 Feb Order in relation to the Category B Documents, but not the Category A Documents.

Ms Minh had the requisite mens rea for contempt

152 Ms Minh clearly had the requisite *mens rea* for contempt when she breached her obligations under the 22 Feb Order.

153 Ms Minh was present throughout the trial on 22 February 2022, during which the 22 Feb Order was made. Immediately after issuing the 22 Feb Order, I asked Ms Minh whether she would like me to repeat the order. She replied that she understood it.[141] Even then, I repeated it once more, at Mr Lee's request, so that he could write it down for Ms Minh's benefit.[142]

154 Subsequently, via the 1 March Request, Ms Minh requested that I set out the directions issued at the trial on 22 February 2022 on the ground that she

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141 NE, 22 February 2022, 165/16-17

142 NE, 22 February 2022, 164/18-165/5, 165/23-25

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did not record the directions and the timelines. At best, that request evinces that Ms Minh may have forgotten the terms of the 22 Feb Order; in my view, it does not negate her knowledge of the existence and the terms of the 22 Feb Order when it was issued. In any case, on 4 March 2022, I had replied to the 1 March Request, setting out the terms of the 22 Feb Order. That reply was issued *before* the deadline of 15 March 2022 by which Ms Minh had to comply with the order.

155 Hence, on any view, Ms Minh clearly knew the terms of the 22 Feb Order when she breached the order by failing to file an affidavit on the Category B Documents by 15 March 2022. Her breach of the order was, in the circumstances, intentional.

Ms Minh has not established the defence in section 21 of the AJPA

156 To establish the defence in section 21 of the AJPA, Ms Minh must prove that: (a) she had failed to understand the obligations imposed on her by the 22 Feb Order, (b) the failure to understand was honest and reasonable, (c) her failure to comply with the 22 Feb Order was wholly or substantially attributable to her failure to understand the obligations imposed on her by the court order, and (d) she ought to be fairly excused.

157 None of these four requirements are met in the present case given that Ms Minh herself had acknowledged, shortly after the 22 Feb Order was issued, that she understood the order (see [153] above). At its highest, her case is that she had forgotten the terms of the 22 Feb Order prior to receiving my reply on 4 March 2022 to her 1 March Request. It is not her evidence that after receiving my reply on 4 March 2022 which set out the terms of the 22 Feb Order, she was still unaware of, and did not understand, the obligation imposed on her by the 22 Feb Order.

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158 Accordingly, I find that Ms Minh does not have a viable defence under section 21 of the AJPA.

The appropriate sanction to be imposed on Ms Minh

A fine, as opposed to a term of imprisonment, is appropriate

159 Having established that Ms Minh had intentionally breached her obligations under the 22 Feb Order in relation to the Category B Documents, I now consider the appropriate sanction to be imposed.

160 The relevant sentencing principles have been summarised at [104] – [106] above. Applying those principles, I find that a fine, as opposed to a custodial sentence, should be imposed for Ms Minh's contempt in respect of the 22 Feb Order. The factors guiding me to this conclusion are as follows:

(a) Ms Minh's breach of the 22 Feb Order was likely due to an inadvertent omission on her part, and did not arise from any improper motive.

(b) The prejudice suffered by the plaintiff as a result of Ms Minh's breach of the 22 Feb Order was not high.

(c) After realising at the 13 Oct 2022 Hearing that she was in breach of her obligations under the 22 Feb Order in relation to the Category B Documents, Ms Minh rectified her breach by filing her 9-Page 24 Nov Affidavit to explain that she never had possession, control or custody of the Category B Documents.

161 I elaborate on each of these factors in turn.

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(1) Ms Minh had breached the 22 Feb Order inadvertently, without any improper motive

162 **First**, Ms Minh's breach of the 22 Feb was likely inadvertent, and did not arise from any improper motive.

(A) MS MINH HAD ATTEMPTED IN GOOD FAITH TO COMPLY WITH THE ORDER AND UPON REALISING THAT SHE HAD BREACHED IT, PROMPTLY RECTIFIED THE BREACH

163 Even before the commencement of these committal proceedings, Ms Minh had attempted to comply with the 22 Feb Order on 15 March 2022 by filing an affidavit verifying the 15 March Long LOD, and an affidavit verifying the 15 March Short LOD. The *bona fides* of her attempt to comply is especially evident from the 15-minute-long video titled '2DF14MAR22' in s/no. 1 of the 15 March Long LOD, in which she made a genuine effort to orally explain why the documents in that List support her testimony, at the trial on 22 February 2022, regarding the circumstances leading to the creation of the Page 66 Screenshot.

164 After these committal proceedings were commenced, Ms Minh's initial position, as set out in her 8 Sept Affidavit, was to deny the plaintiff's assertion that she had breached the 22 Feb Order, and to allege that she had produced and filed the supporting evidence to the Court.[143] Since that position was not entirely correct, at the 13 Oct 2022 Hearing, I explained to Ms Minh that none of the documents disclosed in the 15 March Long LOD and the 15 March Short LOD appeared to be Category B Documents, and provided her with some non-exhaustive examples of the type of documents that would amount to Category B Documents. I then informed her:

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143 PCB 755 and 771, specifically [35] of Mr Lee's 8 Sept Affidavit read with [5] of Ms Minh's 8 Sept Affidavit

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(a) to check whether she has possession, custody or power of any Category B Documents;

(b) if she has possession, custody or power of such documents, to file a list of documents to list out and disclose these documents as well as an affidavit to verify that list;

(c) if she no longer has possession, custody or power of such documents, to file a list of documents and an affidavit verifying that list to set out the following matters:

(i) that she no longer has possession, custody or power of these documents;

(ii) what has become of these documents;

(iii) who (if anybody) currently has possession of these documents;

(d) if she never had possession, custody or power of such documents, to explain that in an affidavit; and

(e) to file the further affidavit and/or List of Documents (if any) by 24 November 2022.

165 Thereafter, Ms Minh promptly rectified her breach of the 22 Feb Order in relation to the Category B Documents.

(a) On 24 November 2022, Ms Minh filed her 9-Page 24 Nov Affidavit to clarify that she never had possession, custody or power of the Category B Documents because after sending the Page 66 Screenshot to The Shilla for circulation to the English-speaking customers, she did not receive any feedback from The Shilla on whether

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or not it was circulated. She adduced the 16 Nov Email Exchange to support that clarification.[144]

(b) I accept Ms Minh's explanation as to why she never had possession, custody or power of the Category B Documents. Her explanation is substantiated by the 16 Nov Email Exchange,[145] wherein Hai acknowledged that Ms Minh had sent the Page 66 Screenshot to The Shilla for circulation to customers who wanted to buy the photos and videos of the 2020 Resort Collection, but made no mention that he had previously sent her evidence that the Shilla had circulated the Page 66 Screenshot. Instead, he informed her that none of The Shilla's employees had taken screenshots of their conversations with the customers who wanted to buy the photos and videos of the 2020 Resort Collection, and that he was very busy and did not have the time to assist her with her request for such evidence.

166 In the circumstances, I find that Ms Minh's failure to clarify that she never had possession, custody or power of the Category B Documents by the deadline of 15 March 2022 was likely due to an inadvertent omission on her part, as opposed to deliberate or cynical disregard of the 22 Feb Order. In other words, her breach of the 22 Feb Order was inadvertent.

(B) NO IMPROPER MOTIVE BEHIND THE BREACH OF THE 22 FEB ORDER

167 The plaintiff argues that Ms Minh's failure to provide Page 66 Related Documents leads to an irresistible inference that the respondents had fabricated the Page 66 Screenshot to give a false impression in the Main Action that

144 P2SB 20 – 21, specifically [7] of Ms Minh's 9-Page 24 Nov Affidavit

145 P2SBD 39, 42

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TheMinh was affiliated with The Shilla, and that Ms Minh had subsequently concocted an explanation at the trial on 22 February 2022 regarding the creation of the Page 66 Screenshot in order to conceal the fabrication. The plaintiff relies on the following matters to support her argument:[146]

(a) Despite being put on notice since 14 December 2021 that the plaintiff was challenging the authenticity of the Page 66 Screenshot, Ms Minh chose not to clarify that the Page 66 Screenshot was not an original screenshot of The Shilla's Facebook page, but was instead an edited image. For instance, in D4SLOD, Ms Minh conveyed the misleading impression that the Page 66 Screenshot was a screenshot of The Shilla's Facebook page listing two addresses. It was only after the plaintiff's witness, Mr David Ang, gave evidence at the trial on 22 February 2022 that a Facebook business page cannot contain two addresses and invited the defendants to show how they could input two addresses, that Ms Minh admitted that the Page 66 Screenshot was not an original screenshot, and testified that the screenshot was an edited image created to make it easier for customers to contact TheMinh for purchases.

(b) At the trial on 22 February 2022, Ms Minh vacillated in her evidence on who created the Page 66 Screenshot, and could not even state which employees she had sent the Page 66 Screenshot to. While Ms Minh subsequently alleged that the vacillations were due to errors in translation of her evidence at the trial, she did not adduce any evidence to address, with more specificity, these alleged translation errors.

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146 PCS at [38] – [40], read with the Plaintiff's Written Submissions dated 7 October 2022 ("**PWS**") at [26] – [28]

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168 While it is an issue in these committal proceedings as to whether the Page 66 Screenshot was fabricated to deceive the Court and the plaintiff in the Main Action,[147] I do not think that Ms Minh's failure to provide any Category B Documents warrants an inference that such fabrication had taken place.

169 The undisputed date metadata of the original of the Page 66 Screenshot produced during the Inspection proves that the Page 66 Screenshot was created on 25 May 2020, *ie,* prior to the commencement of the Main Action. Moreover, the 16 Nov Email Exchange is objective proof that Ms Minh had provided the Page 66 Screenshot to The Shilla in 2020 so that The Shilla could circulate it to English speaking customers who had contacted them to enquire about purchasing videos of the 2020 Resort Collection (see [165(b)] above). Hence, there is no basis for the plaintiff's assertion that the Page 66 Screenshot was fabricated to deceive the Court and the plaintiff in the Main Action.

170 As regards Ms Minh's alleged delay in clarifying that the Page 66 Screenshot was an edited image, I find that there was no real delay on her part in providing such clarification.

(a) While the plaintiff first challenged the authenticity of the Page 66 Screenshot on 14 December 2021, it was only during the trial on 21 February 2022 that FCL explained the plaintiff's reasons for that challenge, namely that a company's Facebook page cannot contain multiple addresses.[148] The very next day, Ms Minh clarified, during the

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147 See DCB Tab 1, specifically [20(g)] of the Plaintiff's Statement filed on 8 April 2022. See also PCB 667 – 668, specifically the title of Section C, and [56] – [57], of the plaintiff's supporting affidavit filed on 27 April 2022 in SUM 1600.

148 NE, 21 February 2022, 78/23-26.

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trial on 22 February 2022, that the Page 66 Screenshot was an edited image (see [19] above).

(b) Admittedly, Ms Minh's clarification that the Page 66 Screenshot was an edited image was provided only after Mr David Ang had testified earlier that morning that a Facebook business page could not contain two addresses. But nothing in the evidence suggests that Ms Minh had deliberately held back on providing that clarification until confronted with evidence from Mr David Ang which proved otherwise. In fact, Ms Minh had readily offered that clarification, when cross-examined by Mr Lun on why there were two addresses in different fonts in the Page 66 Screenshot.

(c) The description of the Page 66 Screenshot in D4SLOD – *ie,* a "*Screenshot taken at The Shilla facebook Page showing 2 TheMinh address SG and Vietnam The Shilla*" – did give the erroneous impression that The Shilla's Facebook Page had two addresses and that all the respondents had done was to take a screenshot of that Facebook Page and exhibit it in page 66 of Ms Minh's AEIC. However, I accept the respondents' explanation that due to their level of English, they did not appreciate that the description of the Page 66 Screenshot in D4SLOD was erroneous until it was pointed out to them in the course of these committal proceedings. During the Main Action and these committal proceedings, it was apparent that the respondents were not particularly fluent in English or well versed in how to describe documents in a List of Documents. I provide some examples which illustrate this point:

(i) Ms Minh is a Vietnamese national who required the assistance of a Vietnamese interpreter throughout the Main Action and these committal proceedings, and gave her oral

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evidence primarily in Vietnamese during the trial of the Main Action and the committal hearings. As for Mr Lee, while he was able to speak, and give evidence, in English during the Main Action and these committal proceedings, his oral communications and evidence in English were not entirely grammatical.[149]

(ii) The respondents described the Certificate of Business Household Registration issued by the People's Committee of District 3 Vietnam Economic Department to the Shilla as "*Green Colour Business THE SHILA pg 12, pg 13) + English Translation pg 12 – 15*", in s/no. 2 of the subsection "*AEIC 2nd DEFENDANT [sic] NTT METAT*" in D4SLOD.

171 In relation to the alleged vacillations in Ms Minh's evidence during the trial on 22 February 2022, the transcript of that day of trial did record her vacillating between whether it was herself or her staff who took the screenshot of The Shilla's Facebook page, inserted TheMinh's Singapore address into the screenshot and disseminated the edited screenshot.[150] Nonetheless, the vacillations do not reflect that Ms Minh had concocted her explanation regarding the creation of the Page 66 Screenshot. In my view, the vacillations were likely due to Ms Minh's inability to recall the material events on the spot under cross-examination, her mis-speaking, and/or translation errors made by her Vietnamese interpreter, insofar as the transcript records her to have testified

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149 See, for example, NE, 5 April 2023, 44/15-18, where Mr Lee sought to explain his reaction when FCL did not respond to his 10 Mar Email: "*However, that email I invited them, leaving my contact number, letting them to have easy contactable with me, they just went silent on me. That give me even more panic that I tell my wife, we better follow the next deadline in order not to miss anymore*".

150 NE, 22 February 2022, 140/15-148/4

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that it was her staff who inserted TheMinh's Singapore address into the screenshot and sent the edited screenshot to The Shilla. After all:

(a) When giving evidence on this issue, Ms Minh had stated a few times that she was not very clear / did not remember exactly because the events happened some time ago, and that she needed to check on this / find out.[151]

(b) Moreover, it seems that at times, Ms Minh may have misspoken, or her Vietnamese interpreter may have interpreted what Ms Minh said erroneously, while she was giving evidence on this issue. I say this because among other things, the transcript records Ms Minh to have testified that the Page 66 Screenshot is a screenshot 'during the time of trial',[152] which is inconsistent with the rest of her evidence that day on this issue, and clearly not borne out by the 25 May 2020 metadata of the original of the Page 66 Screenshot.

172 The vacillations therefore do not affect the credibility of the thrust of Ms Minh's account as to why and how the Page 66 Screenshot was created.

173 For completeness, I also reject the plaintiff's submission that Ms Minh had conveyed a misleading impression to the Court that there were documentary records of TheMinh and/or the Shilla having circulated the Page 66 Screenshot to their customers at the material time, when there were in fact no such records.[153] During the trial on 22 February 2022, when I explained to Ms Minh why the plaintiff was seeking an order that Ms Minh produce documentary

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151 NE, 22 February 2022, 144/17-20, 144/30-145/5, 145/21-26

152 NE, 22 February 2022, 147/26

153 PCS at [42(f)]

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evidence that she had provided the Page 66 Screenshot to the staff for dissemination to the customers, Ms Minh had replied that "*I will try to find*".[154] Her response showed that at that juncture, she was unsure whether she still had such documentary evidence. This was why I worded the 22 Feb Order as an order that she file a List of Documents, and an affidavit verifying that list, to state: (a) *whether or not* she has in her possession, custody or control, the Page 66 Related Documents, and (b) if she has had, but does not now have, possession, custody and control of these documents, then when did she last have possession, custody and control of these documents, what has become of the documents, and in whose possession they are currently.

174 In conclusion, the evidence points to Ms Minh breaching her obligations under the 22 Feb Order with regard to the Category B Documents inadvertently, and not for any specific pecuniary or non-pecuniary motives, or out of spite for either the Court or the plaintiff. This is a key factor in favour of the imposition of a fine, as opposed to a custodial sentence.

(2) The prejudice suffered by the plaintiff was not high

175 **Second,** the prejudice suffered by the plaintiff as a result of Ms Minh's breach of the 22 Feb Order was not high.

176 Given the circumstances leading to the issuance of the 22 Feb Order, the purpose of that order was plainly to enable the plaintiff and the Court to ascertain whether the Page 66 Screenshot was already in existence in May 2020, prior to the commencement of the Main Action.[155] Ms Minh's breach of the 22 Feb Order – in failing to explain on affidavit by 15 March 2022 that she never

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154 NE, 22 February 2022, 160/11-161/6

155 NE, 22 February 2022, 159/2-161/5, PCS at [36]

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had possession, control or custody of the Category B Documents – did technically hinder the ability of the plaintiff and the Court to ascertain whether the Page 66 Screenshot was already in existence prior to the commencement of the Main Action. However, that breach did not result in any irremediable prejudice to the plaintiff.

(a) In fact, that breach impeded the defendants' ability to advance their case in the Main Action, as they were not permitted to rely on the Page 66 Screenshot due to their failure to prove the authenticity of that screenshot at the material time. The plaintiff ultimately succeeded in proving her claim for defamation and having the defendants' counterclaim for copyright infringement dismissed.

(b) Insofar as the plaintiff is taking the position that the breach of the 22 Feb Order had delayed the trial of the Main Action, I am unable to accept that argument for the reasons given at [128] above.

177 The reality is that the only prejudice to the plaintiff arising from Ms Minh's breach of the 22 Feb Order is the time and costs she has expended to pursue the breach. Such prejudice is not severe and can be easily remedied by an appropriate costs order.

(3) Ms Minh was co-operative and purged her contempt

178 **Third,** after realising at the 13 Oct 2022 Hearing that she was in breach of her obligations under the 22 Feb Order in relation to the Category B Documents, Ms Minh co-operated and purged her contempt by filing her 9-Page 24 Nov Affidavit to explain that she never had possession, control or custody of the Category B Documents (see [164] – [166] above). This reinforces my view that it is inappropriate to impose a custodial sentence.

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The quantum of the fine

179 Turning to the quantum of the fine to be imposed for the breach of the 22 Feb Order, I find that it should be lower than the fine imposed on each respondent for their breaches of the 21 Feb Order. There are two main reasons for my view.

(a) First, Ms Minh's breach of the 22 Feb Order was much more limited than the respondents' breaches of the 21 Feb Order. The former was narrowly confined to a single failure to explain on affidavit that Ms Minh never had possession, control or custody of the Category B Documents by the stipulated deadline in the 22 Feb Order, whereas the latter pertained to the failure to produce the originals of several documents by the stipulated deadline in the 21 Feb Order.

(b) Second, Ms Minh had rectified her breach of the 22 Feb Order on 24 November 2022 through the filing of her 9-Page 24 Nov Affidavit. That was about eight-and-a-half months earlier than the date on which the respondents rectified the majority of their breaches of the 21 Feb Order, which was 11 August 2023 (*ie,* the date of the Inspection).

180 Accordingly, I impose a fine of $1,500 on Ms Minh for her breach of the 22 Feb Order in relation to the Category B Documents. The fine is to be paid within four weeks of today, in default of which there be four days' imprisonment.

Conclusion

181 For all these reasons, I find each of the respondents guilty of contempt of court under section 4(1)(a) of the AJPA for intentionally breaching the 21 Feb Order. For such contempt, each respondent is fined $3,000, to be paid

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within four weeks from today, in default of which there be eight days' imprisonment.

182 I also find Ms Minh guilty of contempt of court under section 4(1)(a) of the AJPA for intentionally breaching the 22 Feb Order. For such contempt, Ms Minh is fined an additional $1,500, to be paid within four weeks from today, in default of which there be four days' imprisonment.

183 The costs of these committal proceedings are to be agreed by the parties, or failing agreement, to be fixed by me. If the parties are unable to agree on costs, they are to file and serve their costs submissions, limited to 20 pages, within four weeks from the date of this decision.

Lim Mei Yee Elaine
District Judge

Clarence Lun Yaodong (Fervent Chambers LLC) for the plaintiff;
Muhammad Hasif bin Abdul Aziz (A.W. Law LLC) for the respondents

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