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

[2023] SGHCR 19

Originating Claim No 327 of 2022 (Summonses Nos 2617 and 2618 of 2023)

Between

(1) Access Medical Pte Ltd
(2) Access Medical Circuit Road Pte Ltd
(3) Access Medical Whampoa Pte Ltd
(4) Access Medical Marine Terrace Pte Ltd
(5) Access Medical Toa Payoh Pte Ltd
(6) Access Medical Kim Keat Pte Ltd
(7) Access Medical Jurong West Pte Ltd
(8) Access Medical Bukit Batok Pte Ltd
(9) Access Medical Redhill Close Pte Ltd

… *Claimants*

And

MHC Medical Network Pte Ltd

… *Defendant*

GROUNDS OF DECISION

Version No 1: 23 Nov 2023 (15:44 hrs)

[Civil Procedure — Pleadings — Further and better particulars]

Version No 1: 23 Nov 2023 (15:44 hrs)

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Access Medical Pte Ltd and others
v
MHC Medical Network Pte Ltd

[2023] SGHCR 19

General Division of the High Court — Originating Claim No 327 of 2022
(Summonses Nos 2617 and 2618 of 2023)
AR Vikram Rajaram
1, 15 November 2023

23 November 2023

AR Vikram Rajaram:

Introduction

1 These grounds of decision concern applications for further and better particulars. The Defendant and the 10th Defendant in Counterclaim included such applications within their single applications pending trial. After hearing the parties and taking some time to consider the arguments, I dismissed the Defendant's application. My view was that the particulars that the Defendant sought were not necessary. However, I allowed the 10th Defendant in Counterclaim's application in part. The particulars that I ordered to be provided were, in my view, necessary for the 10th Defendant in Counterclaim to understand the basic case that it had to meet in relation to one of the counterclaims. My full reasons are as follows.

Facts

The parties

2 The nine Claimants in this action provide general practice clinic services.[1] The Defendant is in the business of providing administrative and marketing support to clinics.[2]

3 The Claimants entered into separate Memorandums of Agreement (the "MOAs") with the Defendant. The Defendant agreed in the MOAs to provide administrative services for healthcare services, such as enrolment, billing, fee collections and accounting and management.[3] The Defendant's position is that the 10th Defendant in Counterclaim, one Dr Lim Yong Chin ("Dr Lim"), was also a party to the MOAs.[4] Dr Lim is also the sole director of each of the Claimants.[5]

Background to the dispute

4 In this action, the Claimants claim that in breach of the Defendant's obligations under the MOAs, the Defendant has not paid an amount of $456,182.04 that is allegedly due to the Claimants under monthly tax invoices issued from July 2018 to October 2018 (the "Tax Invoices").[6] The Claimants allege that the non-payment amounts to a repudiatory breach of the MOAs. The

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1 See the Statement of Claim at para 1.

2 See the Statement of Claim at para 2. The Defendant admits this paragraph: see the Defence and Counterclaim (Amendment No 1) at para 2.

3 See the Statement of Claim at para 3.

4 See the Defence and Counterclaim (Amendment No 1) at para 3.

5 See Dr Lim's 10th Affidavit filed on 18 September 2023 at para 1.

6 See the Statement of Claim at paras 8 to 10.

Version No 1: 23 Nov 2023 (15:44 hrs)

Claimants allege that they accepted the repudiatory breach, and they now claim from the Defendant in this action the sum of $456,182.04.[7]

5 The Defendant denies the Claimants' claim. According to the Defendant, the MOAs worked in this manner:[8]

(a) The Defendant was to solicit engaging companies (the "Engaging Companies") to use certain defined healthcare services (the "Healthcare Services") that were to be provided by Dr Lim and the relevant Claimant. Dr Lim and the relevant Claimant were referred to collectively in each MOA as the "HCP", which is an abbreviation for "Healthcare Provider".

(b) The Claimants and Dr Lim would then render the Healthcare Services to eligible patients who are referred to in the MOAs as "Members".

(c) The Claimants and Dr Lim would submit claims to the Defendant through an online web-based platform (the "MHC System").

(d) The Defendant would then collect payments from the relevant Engaging Companies. The Defendant would pay those amounts to the Claimants and Dr Lim after deducting specified administrative charges.

(e) Further, the MOAs only entitled the Claimants and Dr Lim to receive payments for "valid" and "accurate" claims for Healthcare Services rendered which were "medically warranted" and

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7 See the Statement of Claim at para 11 and relief (a) claimed at page 6 of the Statement of Claim.

8 See the Defence and Counterclaim (Amendment No 1) at paras 7 to 8.

Version No 1: 23 Nov 2023 (15:44 hrs)

"commensurate with best medical practices as regarded by the medical fraternity" (the "Best Practices Standard").

6 The Defendant's defence to the claim is essentially as follows:

(a) The Tax Invoices were issued based on claims submitted by the Claimants and Dr Lim through the MHC System for services that were *allegedly* provided by the Claimants and Dr Lim to qualifying patients.[9]

(b) However, the Defendant asserts that the relevant claims were not "valid" and "accurate" claims that met the Best Practices Standard (see [5(e)] above).[10]

(c) Accordingly, the amount claimed in the Tax Invoices is not due and payable.[11]

7 The Defendant is also pursuing a counterclaim against the Claimants, as well as Dr Lim. The Defendant claims that the Claimants and Dr Lim submitted claims to the Defendant from 2014 to 2018 for Healthcare Services that were not medically warranted and/or failed to meet the Best Practices Standard (the "Inappropriate Claims").[12] The existence of the Inappropriate Claims was apparently discovered in or about late 2018 when the Defendant conducted a "routine audit" on the submitted claims.[13]

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9 See the Defence and Counterclaim (Amendment No 1) at para 8(b).

10 See the Defence and Counterclaim (Amendment No 1) at para 8(b).

11 See the Defence and Counterclaim (Amendment No 1) at para 10.

12 See the Defence and Counterclaim (Amendment No 1) at para 17.

13 See the Defence and Counterclaim (Amendment No 1) at para 17(a).

Version No 1: 23 Nov 2023 (15:44 hrs)

8 In terms of causes of action, the Defendant alleges that the Claimants' and Dr Lim's submission of the Inappropriate Claims was a breach of the terms of the MOAs.[14] The Defendant also claims that if the Inappropriate Claims contained inaccurate and/or false statements, the Claimants and Dr Lim made the Inappropriate Claims fraudulently and/or deceitfully.[15]

9 As for reliefs, the Defendant seeks, amongst others, an order compelling the Claimants and Dr Lim to repay all monies they received from the Defendant because of the Inappropriate Claims.[16]

10 The Claimants' defences to the counterclaim include the following:

(a) The Defendant's counterclaim has been made in bad faith and/or for collateral purposes. The Claimants allege that the counterclaim is being pursued to allow the Defendant to achieve a more advantageous acquisition of the Claimants' business interests and/or to pressure the Claimants into accepting a less favourable settlement of the amount they are claiming (the "Collateral Purposes Allegation").[17]

(b) The Healthcare Services rendered were medically warranted and complied with the Best Practices Standard.[18]

(c) The Claimants also deny that the Defendant suffered loss. They also assert that the Defendant is not the correct and/or proper party that

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14 See the Defence and Counterclaim (Amendment No 1) at para 17.

15 See the Defence and Counterclaim (Amendment No 1) at para 21.

16 See the Defence and Counterclaim (Amendment No 1) at page 27, Relief (1).

17 See the 1st to 9th Claimants' Reply and Defence to Counterclaim at para 11.1.

18 See the 1st to 9th Claimants' Reply and Defence to Counterclaim at para 12.2.

Version No 1: 23 Nov 2023 (15:44 hrs)

is entitled in law to make the claims the Defendant is pursuing through its counterclaim.[19]

11 Dr Lim's defences to the counterclaim include the following:

(a) Dr Lim was not a contractual party to the MOAs. Dr Lim executed each of the MOAs on behalf of the relevant Claimants and not in his personal capacity.[20]

(b) Dr Lim was one of approximately 160 doctors who provided healthcare services to patients visiting the Claimants' clinics from 1 August 2014 to 2018.[21] Login accounts to the MHC System were provided at the entity level for each of the Claimants, and not to individuals such as Dr Lim.[22] Dr Lim was one of the persons who submitted claims into the MHC System "based on information and/or documents prepared and/or supplied by the Claimants' employees including other doctors, nurses and/or administrative employees who Dr Lim believed to be reliable and competent in relation to the healthcare services that the Claimants provide".[23]

(c) Further, other than Dr Lim, "other doctors, nurses, administrative employees and/or independent contractors" also submitted claims on the MHC System on behalf of the relevant

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19 See the 1st to 9th Claimants' Reply and Defence to Counterclaim at para 14.3.

20 See Dr Lim's Defence to Counterclaim at para 6.

21 See Dr Lim's Defence to Counterclaim at para 10(a).

22 See Dr Lim's Defence to Counterclaim at para 10(b).

23 See Dr Lim's Defence to Counterclaim at para 10(c).

Version No 1: 23 Nov 2023 (15:44 hrs)

Claimants.[24] Dr Lim did not instruct and/or supervise such submissions.[25]

(d) Dr Lim denies providing any medical treatment that was not medically warranted and/or failed to meet the Best Practices Standard.[26]

Procedural history

12 The Claimants, the Defendant and Dr Lim have each filed single applications pending trial ("SAPTs"). The component applications within each SAPT are as follows:

(a) The Claimant's SAPT (HC/SUM 2619/2023) contains an application for the Defendant to produce documents.

(b) The Defendant's SAPT (HC/SUM 2617/2023 ("SUM 2617")) contains the following component applications:

(i) an application for further and better particulars of the Claimant's Reply and Defence to Counterclaim;

(ii) an application for further and better particulars of Dr Lim's Defence to Counterclaim;

(iii) an application for the Claimants to produce documents;

(iv) an application for Dr Lim to produce documents; and

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24 See Dr Lim's Defence to Counterclaim at para 10(d).

25 See Dr Lim's Defence to Counterclaim at para 10(e).

26 See Dr Lim's Defence to Counterclaim at para 18.

Version No 1: 23 Nov 2023 (15:44 hrs)

(v) an application for permission to use expert evidence from an expert in family medicine and an expert in forensic accounting.

(c) Dr Lim's SAPT (HC/SUM 2618/2023 ("SUM 2618")) contains the following component applications:

(i) an application for further and better particulars of the Defence and Counterclaim (Amendment No 1);

(ii) an application for the Defendant to produce documents; and

(iii) an application to strike out parts of the Defendant's List of Documents dated 9 June 2023.

13 After I consulted the parties, the following sequence of the hearing of the applications within the SAPTs was approved by Chua Lee Ming J:

(a) Hearing 1 (before an Assistant Registrar at first instance):

(i) all applications for further and better particulars;

(b) Hearing 2 (before an Assistant Registrar at first instance):

(i) all applications for production of documents;

(ii) Dr Lim's application to strike out parts of the Defendant's List of Documents dated 9 June 2023;

(c) Hearing 3 (before a Judge):

(i) all Registrar's Appeals against the decisions made in Hearing 1 and Hearing 2; and

Version No 1: 23 Nov 2023 (15:44 hrs)

(ii) the Defendant's application for permission to use expert evidence.

14 The present grounds of decision concern all the applications for further and better particulars (*ie*, Hearing 1).

The applicable principles for applications for further and better particulars

15 The starting point is that under O 9 r 13 of the Rules of Court 2021 (the "ROC 2021"), the Court may order a party to provide particulars of any matter mentioned in that party's pleading if the Court's opinion is that the particulars to be provided are "necessary on the facts of the case":

> **Further and better particulars (O. 9, r. 13)**
>
> 13. The Court may order a party to serve on any other party particulars of any matter stated in the first mentioned party's pleading if the Court is of the opinion that the particulars are necessary on the facts of the case.

16 For comparison, the relevant provision in the revoked Rules of Court (2014 Rev Ed) (the "ROC 2014") on the ordering of particulars of pleading was O 18 r 12(3):

> (3) The Court may order a party to serve on any other party particulars of any claim, defence or other matter stated in his pleading, or in any affidavit of his ordered to stand as a pleading, or a statement of the nature of the case on which he relies, and the order may be made on such terms as the Court thinks just.

17 Order 18 r 12(3) of the ROC 2014 is broadly similar to O 9 r 13 of the ROC 2021 save that the ROC 2014 provision did not expressly state that the Court would only order particulars if it was of the view that such particulars were "necessary" on the facts of the case. That said, the standard of necessity

Version No 1: 23 Nov 2023 (15:44 hrs)

appears elsewhere in O 18 r 12 of the ROC 2014. Order 18 r 12(1) of the ROC 2014 states that a pleading "must contain the ***necessary*** particulars of any claim, defence or other matter pleaded". In this connection, it is relevant to note that the authors of *Singapore Rules of Court: A Practice Guide* (Chua Lee Ming J editor-in-chief) (Academy Publishing, 2023) (the "Practice Guide") imply at para 09.039 that the ROC 2014 and the ROC 2021 are identical and that the addition of the criterion of necessity was clarificatory:

> Rule 13 is ***identical*** to Order 18 rule 12(3) of the 2014 Rules and ***clarifies*** that the criterion for the court to order particulars is that such particulars are necessary on the facts of the case.
>
> [emphasis added in bold italics]

18 In my view, the case law on further and better particulars under the ROC 2014 should broadly continue to be relevant in respect of O 9 r 13 of the ROC 2021. The following points should however be borne in mind when considering the case law under the ROC 2014:

(a) The ROC 2021 expressly sets the standard for ordering particulars at whether the particulars sought are "necessary on the facts of the case".

(b) The power to order particulars should be exercised having regard to the ideals set out in O 3 r 1(2) of the ROC 2021 (the "Ideals").

19 With these qualifications in mind, the relevant general principles for the ordering of particulars, as laid out in the case law under the ROC 2014, may be summarised as follows:

(a) Particulars are designed to inform the opposing party of the nature of the case that is to be met at trial so that the opposing party is

Version No 1: 23 Nov 2023 (15:44 hrs)

not taken by surprise at the trial: see, for example, *AstraZeneca AB (SE) v Sanofi-Aventis Singapore Pte Ltd* [2013] SGHCR 7 at [12] and the Practice Guide at para 09.038.

(b) Pleadings are to only state the material facts, and not evidence. They are only meant to set out the "basic case" that the opposing party is to meet: see *Sharikat Logistics Pte Ltd v Ong Boon Chuan and others* [2011] SGHC 196 at [8].

The Defendant's application for further and better particulars of the Claimant's Reply and Defence to Counterclaim

20 I dealt first with the Defendant's application for further and better particulars of the Claimants' Reply and Defence to Counterclaim as contained in Annex A to SUM 2617 (see [12(b)(i)] above). The Defendant sought an order for the Claimants to provide particulars in connection with an allegation made at para 11.1(b) of the Reply and Defence to Counterclaim of certain "repeated demands" that the Claimants made to the Defendant for payment of the Tax Invoices. The Defendant sought particulars of how these "demands" were made. The Defendant's request is reproduced below:

> 1. Of the allegation that:-
>
> > 'Sometime around July 2018 to October 2018, the Defendant failed and/or refused to make payment for Tax Invoices issued from the period of July 2018 to October 2018. The Claimants made repeated demands to the Defendant to make such payment to no avail.'
>
> Please state whether the alleged '*demands*' were made orally or in writing, and:
>
> (a) insofar as they were oral, please state the exact date, time and place they were made, and the persons to whom they were addressed; and

Version No 1: 23 Nov 2023 (15:44 hrs)

> (b) insofar as they were in writing, please state the document(s) in which they were made.
>
> [emphasis in original]

21 The Defendant submitted that the particulars are required to understand and meet the Claimants' case that the Defendant was in repudiatory breach of the MOAs because of the Defendant's alleged failure to meet the demands for payment of the Tax Invoices.[27]

22 The Claimants opposed the request on the basis that the Defendant already knows the case that it must meet. The Claimants submitted that their case was premised on the unpaid Tax Invoices (see [4] above) and the Defendant should know of the demands that have been made for the payment of the Tax Invoices.[28] In oral submissions, the Claimants' counsel, Ms Josephine Costan, also added that Dr Lim had already identified the documents containing the demands, namely, a letter from the Claimants' former solicitors and an e-mail, in his voluntary replies to requests for further and better particulars of Dr Lim's Defence to Counterclaim.[29]

23 Having considered the parties' submissions, I decided not to allow this request. The particulars sought did not meet the required standard of necessity. The lack of necessity was apparent from a close reading of the relevant paragraph of the Reply and Defence to Counterclaim.

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27 See the Defendant's Skeletal Submissions at paras 7 to 8.

28 See the Claimants' Submissions at paras 12 to 13.

29 See the Particulars of the 10th Defendant in Counterclaim's Defence to Counterclaim served pursuant to Letter of Request dated 24 July 2023 at page 6.

Version No 1: 23 Nov 2023 (15:44 hrs)

24 As mentioned, the request concerned para 11.1(b) of the Reply and Defence to Counterclaim where there was a reference to the Claimants having made "repeated demands" for payment to the Defendant (see [20] above). According to the Defendant, particulars of these demands were necessary for the Defendant to understand the Claimants' case on repudiatory breach.

25 However, para 11.1(b) of the Reply and Defence to Counterclaim did not contain a pleading that the Defendant was in repudiatory breach of the MOAs. There was no such allegation made in that paragraph at all. Instead, the pleading that there were unmet demands for payment was made in support of a *different* point, namely, the Collateral Purposes Allegation that I have described above (see [10(a)] above). As explained, one of the Claimants' defences to the counterclaim was that the counterclaim was being made in bad faith and/or for collateral purposes (*ie*, the Collateral Purposes Allegation). One of the particulars pleaded in support of that allegation was the pleading at para 11.1(b) of the Reply and Defence to Counterclaim, namely, that the Claimants had made repeated demands to the Defendant for payment of the Tax Invoices to no avail.

26 The allegation that the Defendant was in repudiatory breach of the MOAs was made in a *different pleading*, namely, the Statement of Claim. The Statement of Claim pleads at para 9 that "demands" for payment of the sums in the Tax Invoices were made by or on behalf of the Claimants and those demands were unmet. The Statement of Claim then goes on to plead at para 11 that the Defendant is in repudiatory breach of the MOAs. The relevant paragraphs of the Statement of Claim are reproduced below:

> 9. ***Notwithstanding several demands made by and on behalf of the Claimants***, the Defendant has repeatedly failed, neglected and/or refused to make payment of the sums due and owing to the Claimants, as reflected in the Tax Invoices.

Version No 1: 23 Nov 2023 (15:44 hrs)

> 10. To-date, the total sum of $456,182.04 remains due and payable to the Claimants, in respect of Tax Invoices issued for the period from July 2018 to October 2018 inclusive.
>
> 11. ***By reason of the aforesaid, the Defendant is in repudiatory breach of the MOAs***. The Claimant has accepted the Defendant's repudiatory breach of the MOAs and has terminated the MOAs.
>
> [emphasis added in bold italics]

27 The Defendant did not apply for particulars of the alleged "demands" as described at para 9 of the Statement of Claim. Instead, the Defendant applied for particulars of the "demands" as described at para 11.1(b) of the Reply and Defence to Counterclaim. Even if those requested particulars were provided, they would not have provided the Defendant with the desired clarity that it sought, which was apparently to understand the case it needed to meet on repudiatory breach. The Claimants' provision of particulars on the "demands" in a *different* pleading in connection with a *different* argument (ie, the Collateral Purposes Allegation) would not assist the Defendant.

28 Accordingly, the requested particulars were not necessary on the facts of the case. The particulars, even if ordered and answered, would not serve the purpose for which the particulars were requested.

29 In any case, the Defendant had some clarity on how the demands for payment of the Tax Invoices were made. As Ms Costan pointed out, Dr Lim had already identified a letter from the Claimants' former solicitors and an email as the relevant documents containing the demands for payment. That said, the more fundamental issue with the request was that allowing it would not serve the purpose that the Defendant intended.

Version No 1: 23 Nov 2023 (15:44 hrs)

The Defendant's application for further and better particulars of Dr Lim's Defence to Counterclaim

30 I then dealt with the Defendant's application for further and better particulars of Dr Lim's Defence to Counterclaim as contained in Annex B to SUM 2617 (see [12(b)(ii)] above). There were two related categories of requests:

(a) The first category related to Dr Lim's pleading at para 10(c) of his Defence to Counterclaim that he was one of the persons who submitted claims to the Defendant through the MHC System "based on information and/or documents prepared and/or supplied by the Claimants' employees, including other doctors, nurses and/or administrative employees who Dr Lim believed to be reliable and competent in relation to the healthcare service that the Claimants provide" (the "Information and Document Providers"). The Defendant sought full particulars of the Information and Document Providers. The particulars sought included:

(i) the full names and designations of the Information and Document Providers, as well as their Singapore Medical Council Registration numbers (where applicable);

(ii) which of the nine Claimants' clinics each Information and Document Provider allegedly worked at and/or provided healthcare services to patients at; and

(iii) the period(s) during which each Information and Document Provider allegedly worked at and/or provided healthcare services to patients at, the Claimants' clinics.

Version No 1: 23 Nov 2023 (15:44 hrs)

(b) The second category related to Dr Lim's pleading at para 10(d) of his Defence to Counterclaim that "other doctors, nurses, administrative employees and/or independent contractors" (the "Other Staff") also "submitted claims through [the MHC System] on behalf of the respective Claimants". The Defendant sought full particulars of these Other Staff. The specific particulars sought in this regard were identical to the specific particulars sought of the Information and Document Providers.

31 The Defendant submitted that it required the particulars of the Information and Document Providers and the Other Staff to understand Dr Lim's defence to the counterclaim, know how to prepare for trial and to avoid surprise at trial.[30] In response to a question I raised during oral submissions on what the Defendant will be doing with the particulars of the Information and Document Providers and the Other Staff, the Defendant's counsel submitted that the particulars would assist the potential experts in family medicine and forensic accounting in understanding which of the Claimants' claims (as submitted through the MHC System) were suspicious and unreliable.

32 Dr Lim opposed the request on the basis that the Defendant already knew the case it had to meet at trial. Dr Lim submitted that his pleaded position was clear. Dr Lim's case is that he was one of 160 doctors who provided Healthcare Services and also one of the staff who submitted claims through the MHC System, relying on information and documents provided by others. Dr Lim also submitted that substantial costs will be incurred if he were made to provide the particulars requested. Dr Lim explained that he would have to trace

[30] See the Defendant's Skeletal Submissions at paras 13 to 14.

Version No 1: 23 Nov 2023 (15:44 hrs)

information dating back to more than nine years ago.[31] In reply to the Defendant's counsel's oral submission that the particulars would assist the experts in family medicine and forensic accounting, Dr Lim's counsel submitted that there was no evidence from the potential experts that the particulars sought would assist them.

33 Having considered the parties' submissions, I decided that the requested particulars were unnecessary, and I therefore decided to disallow both requests. The requests were unnecessary for the following reasons.

34 First, paras 10(c) and 10(d) of Dr Lim's Defence to Counterclaim adequately set out the basic case that the Defendant had to meet at trial. The relevant paragraphs of Dr Lim's Defence to Counterclaim stated that Dr Lim's position was that he relied on information from the Information and Document Providers when Dr Lim submitted claims on the MHC System. Further, the Other Staff also submitted claims on the MHC System. This basic case was clearly set out and there was no ambiguity.

35 Secondly, the requests impermissibly sought evidence. The Defendant would reasonably expect to obtain the identities of the Information and Document Providers at later stages of the proceedings when the parties prepared their evidence for the trial. Dr Lim would have to adduce evidence from the Information and Document Providers and the Other Staff to make good his pleaded position that he had relied on others when submitting claims and also that the Other Staff also submitted claims themselves. To the extent that Dr Lim

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[31] See Dr Lim's Written Submissions at paras 15 to 20.

Version No 1: 23 Nov 2023 (15:44 hrs)

is unable to adduce evidence from these persons, Dr Lim's pleaded position would simply not be made out.

36 Thirdly, it would not be consistent with the Ideals for the particulars sought to be ordered. It would not be cost-effective in the circumstances of this case to require Dr Lim to provide particulars of the Information and Document Providers and the Other Staff. As Dr Lim submitted, to answer the requests, a review of materials dating back to nine years would be required. This would not be a cost-effective exercise. Requiring Dr Lim to undertake the exercise of obtaining the information to answer the requests would also be contrary to the Ideal that proceedings are to be conducted expeditiously.

37 Fourthly, as regards the oral submission that the particulars would be useful for the experts in family medicine and forensic accounting, there was no evidence before me from those experts that the particulars would be helpful to them. In any case, the Defendant had yet to obtain permission to use expert evidence in this matter (see [12(b)(v)] above). It was therefore premature for the Defendant to request for particulars on the basis that the potential experts would find the particulars helpful.

Dr Lim's application for further and better particulars of the Defendant's Defence and Counterclaim (Amendment No 1)

38 Turning next to Dr Lim's application (see [12(c)(i)] above), he had four categories of requests (which I refer to respectively as "Request 1", "Request 2", "Request 3" and "Request 4"). Request 1 and Request 2 were related and they were analysed together. I refer to them collectively in these grounds as the "Group 1 Requests". Request 3 and Request 4 were also related. They will be referred to collectively in these grounds as the "Group 2 Requests".

Version No 1: 23 Nov 2023 (15:44 hrs)

The Group 1 Requests

39 The Group 1 Requests related to the Defendant's counterclaim that if the Inappropriate Claims contained inaccurate and/or false statements, then the Claimants and Dr Lim would have made them fraudulently and/or deceitfully (see [7]–[8] above). In its particulars in support of this counterclaim in fraud and deceit, the Defendant pleaded, *inter alia*, the following at paras 21(a) and 21(c) of the Defence and Counterclaim (Amendment No 1):

> (a) The Claimants and Dr Lim "made statements" that Healthcare Services were rendered to patients as stated in each of the Inappropriate Claims, when they had not. Request 1 sought particulars of the "statements" that were allegedly made by the Claimants and Dr Lim.
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> (b) The Claimants and Dr Lim "either knew that the Inappropriate Claims were false and untrue, or recklessly did not care whether they were true or false". Request 2 sought particulars of the facts, documents and/or overt acts that the Defendant relied on in support of its allegation that the Claimants and Dr Lim knew that the particulars sought were false and untrue.

40 Dr Lim submitted that the particulars he sought were necessary to understand the case he needed to meet. Dr Lim did not know the "statements" made which form the basis for the counterclaim that the Defendant was induced to make payment on the Inappropriate Claims.[32] As for Request 2, Dr Lim submitted that there must be reasonable basis for the Defendant's position that Dr Lim had knowledge. The Defendant should be made to state the particulars

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[32] See Dr Lim's Written Submissions at para 31.

Version No 1: 23 Nov 2023 (15:44 hrs)

of the basis for its allegation. This would then allow Dr Lim to know the case he had to meet at trial.[33]

41 The Defendant opposed both requests in the Group 1 Requests. For Request 1, the Defendant submitted that it had already pleaded that all claims, including the Inappropriate Claims, were submitted through the MHC System. By submitting the Inappropriate Claims, the Claimants and Dr Lim made statements that the Healthcare Services were rendered to the relevant patients.[34] As for Request 2, the Defendant submitted that all relevant material facts have already been pleaded.[35]

42 I decided to allow the Group 1 Requests. My view was that the particulars requested were necessary for the following reasons.

43 First, both requests sought particulars of the *basic* components of the Defendant's counterclaim in fraud and deceit. Request 1 sought particulars of the very statements that formed the basis of the counterclaim. Request 2 sought particulars of the allegation that the Claimants and Dr Lim had knowledge of the falsity of the statements. As the Court of Appeal held in *Panatron Pte Ltd and another v Lee Cheow Lee and another* [2001] 2 SLR(R) 435 (at [14]), the essential elements of the tort of deceit include: (i) the making of a representation of fact by words or conduct; and (ii) the making of that representation with knowledge of its falsity. The particulars sought by Dr Lim, which relate to the basic components of the Defendant's cause of action in the counterclaim, are

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33 See Dr Lim's Written Submissions at paras 37 to 38.

34 See the Defendant's Skeletal Submissions at para 18.

35 See the Defendant's Skeletal Submissions at paras 21 to 22.

Version No 1: 23 Nov 2023 (15:44 hrs)

necessary for Dr Lim to know the basic case that he had to meet in relation to the counterclaim in fraud and deceit.

44 Secondly, my view was that it was consistent with the Ideals to order the particulars sought. The particulars of the "statements" made could be provided in a cost-effective manner. All that the Defendant had to do was to state, as it had in its Skeletal Submissions, that the statements were made each time the Inappropriate Claims were submitted through the MHC System. The Defendant could also easily refer to the extensive particulars of the Inappropriate Claims that have already been provided at Annexes A and B to the Defence and Counterclaim (Amendment No 1).

45 As for the particulars of the alleged knowledge of the falsity of the statements, the Defendant must have had reasonable basis to allege that the Claimants and Dr Lim had such knowledge. All that the Defendant had to do is to state, to the best of its ability, its basis for believing that the Claimants and Dr Lim had such knowledge.

The Group 2 Requests

46 The Group 2 Requests related broadly to the reliefs that the Defendant has claimed:

(a) Request 3 concerned the Defendant's claim that it had suffered loss and damage (see para 23 of the Defence and Counterclaim (Amendment No 1)). Dr Lim sought full particulars of the basis on which the Defendant claimed to have suffered loss and damage, as well as the quantum of the loss and damage, together with the basis for the calculations.

Version No 1: 23 Nov 2023 (15:44 hrs)

(b) Request 4 concerned the Defendant's claim for an order compelling the Claimants and Dr Lim to repay the Defendant all monies received from the Defendant because of the Inappropriate Claims (see relief (3) of the Defence and Counterclaim (Amendment No 1)). Dr Lim sought a statement of the sum of monies allegedly received and the basis of the Defendant's calculation of the sum.

47 Dr Lim submitted that the particulars sought must be provided because the Defendant was, in his view, seeking special damages. Dr Lim also claimed that the Defendant must be able to calculate the precise amount of loss. Dr Lim asserted that he required particulars of the loss suffered to avoid surprise at the trial.[36]

48 The Defendant opposed both requests on the basis that they sought evidence, and not material facts. Further, the Defendant claimed that assistance from experts will be required to determine which of the claims submitted through the MHC System were submitted in breach of the MOAs and/or fraudulently.[37]

49 I decided to disallow the Group 2 Requests for the following reasons.

50 First, it was not clear to me that the loss and damage that the Defendant claimed it had suffered were special damages. Special damages refer to "damage of a kind which is not the necessary and immediate consequence of the wrongful act". Such damages should be pleaded to provide fair warning to the counterparty that the amount being claimed extends to these specific losses

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[36] See Dr Lim's Written Submissions at paras 49 to 57.

[37] See the Defendant's Skeletal Submissions at paras 24 to 25.

Version No 1: 23 Nov 2023 (15:44 hrs)

so that the defendant will know the case that it needs to meet at trial. See for example, *Perestrello e Companhia Limitada v United Paint Co Ltd* [1969] 1 WLR 570 (at 579).[38] The loss and damage that the Defendant claims to have suffered in this matter may be described as losses that necessarily and immediately flowed from the alleged breaches of the MOAs, and the alleged fraud and deceit. Given the structure of the MOAs, it is reasonable to expect the Defendant to suffer the losses it had pleaded to have suffered if the Defendant's causes of action are eventually made out at trial, namely, (i) the amounts that it would have to repay to the Engaging Companies for amounts that the Defendant had allegedly paid to the Claimants and Dr Lim for the Inappropriate Claims,[39] and (ii) the costs of engaging experts to audit all claims that had been submitted through the MHC System.[40]

51 Secondly, and in any case, the Defence and Counterclaim (Amendment No 1) contained adequate particulars to allow Dr Lim to understand the basic case that he needed to meet in connection with the reliefs that the Defendant claims against him. As mentioned, the Defendant explained in the Defence and Counterclaim that the loss and damage that the Defendant had suffered fell into two specific categories (see [50] above). Thus, the basic case that Dr Lim needed to meet was clear from the existing pleadings. What Dr Lim was seeking by the Group 2 Requests was a precise quantification. That crossed into matters of evidence.

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38 See Dr Lim's Bundle of Authorities at Tab 12.

39 See the Defence and Counterclaim (Amendment No 1) at para 23(b).

40 See the Defence and Counterclaim (Amendment No 1) at para 23(c).

Version No 1: 23 Nov 2023 (15:44 hrs)

52 Thirdly, the Defendant had taken the position that expert evidence would be required to assist with the exercise of determining which claims were Inappropriate Claims and the quantum of loss that had been suffered because of the submission of the Inappropriate Claims. While the Defendant had not yet obtained permission to use expert evidence, if expert evidence were eventually allowed to be used, Dr Lim would find out in due course, through the opinions of the experts, the quantum of the Defendant's alleged loss and the basis for the calculations.

53 Fourthly, I did not think it was consistent with the Ideals to allow the Group 2 Requests. It was not cost-effective in the present circumstances to expect the Defendant to state, in its pleadings, the loss and the amount of monies received from the Defendant as a result of the Inappropriate Claims. The extent of the loss and the monies received were matters that are best clarified through evidence, whether from experts or from factual witnesses. It was not cost-effective to expect the Defendant to undertake the work of quantifying the precise amounts that it was claiming at this juncture.

Conclusion

54 In summary, my decision was as follows:

(a) In relation to the Defendant's SAPT (*ie*, SUM 2617), I dismissed the prayers concerning the application for further and better particulars (*ie*, prayers 1 to 4).

(b) In relation to Dr Lim's SAPT (*ie*, SUM 2618), I only allowed paras 1 and 2 of Annex A to SUM 2618 (*ie*, the Group 1 Requests).

Version No 1: 23 Nov 2023 (15:44 hrs)

Paragraphs 3 and 4 of Annex A to SUM 2618 (*ie*, the Group 2 Requests) were disallowed.

55 After hearing the parties, I made the following orders on costs.

(a) **Defendant's SAPT**:

(i) I ordered that the Defendant was to pay the Claimants costs fixed at $2,500, all in. The Defendant only pursued one category against the Claimants (see [20] above). The arguments on that single category did not take significant time. Thus, I thought this was a case where costs should be awarded at the lower end of the range in Appendix G of the Supreme Court Practice Directions 2021 ("Appendix G") for applications for further and better particulars (the reference range is $2,000 to $9,000, excluding disbursements).

(ii) I also ordered that the Defendant was to pay Dr Lim costs fixed at $3,500, all in. The Defendant pursued two categories of requests against Dr Lim (see [30] above). However, the arguments for both categories overlapped. More time was spent addressing these categories as compared to the application against the Claimants. Thus, bearing in mind the range in Appendix G and the amount of disbursements that were claimed to have been incurred, my view was that a quantum of $3,500, all in, was appropriate.

(b) **Dr Lim's SAPT**: Both Dr Lim and the Defendant submitted that the appropriate order was no order as to costs. I agreed with the parties

Version No 1: 23 Nov 2023 (15:44 hrs)

that this was the appropriate order in the circumstances. I allowed two requests and disallowed two requests (see [54(b)] above). The time spent and the complexity of the arguments for the allowed requests were broadly similar to the time spent and the complexity of the arguments for the disallowed requests.

56 I record my appreciation to all counsel for their helpful submissions.

Vikram Rajaram
Assistant Registrar

Josephine Costan (David Nayar and Associates) for the claimants;
Colin Wu and Tammie Khor (Braddell Brothers LLP) for the defendant;
Ning Jie, Cedric Sun and Preshin Manmindar (Damodara Ong LLC) for the 10th defendant by counterclaim.

Version No 1: 23 Nov 2023 (15:44 hrs)