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

[2025] SGHCR 20

Originating Claim No 155 of 2025 (Summons No 1069 of 2025)

Between

Goh Hui En Rebecca

… *Claimant*

And

IG Asia Pte Ltd

… *Defendant*

JUDGMENT

[Abuse of Process — *Henderson v Henderson* doctrine]
[Civil Procedure — Striking out]
[Courts and Jurisdiction — Jurisdiction]
[*Res Judicata* — Extended doctrine of *res judicata*]
[*Res Judicata* — Issue estoppel]

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v
IG Asia Pte Ltd

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20 May 2025

1 July 2025 Judgment reserved.

AR Wee Yen Jean:

Introduction

1 What should a court of unlimited jurisdiction do when a claimant who has brought a claim in a court of limited jurisdiction – and who has obtained a judgment in her favour on that claim – now seeks to bring further claims in the former court, relying on the findings made by the latter court? This question captures, albeit only in very broad strokes, the rather unusual flavour of the matter before me.

2 The claimant, Ms Goh Hui En Rebecca ("Ms Goh"), is a former employee of the defendant, IG Asia Pte Ltd ("IGA"). Ms Goh has commenced proceedings against IGA in the General Division of the High Court ("High Court") *vide* HC/OC 155/2025 ("OC 155") for breach of contract, defamation and negligence. Prior to the commencement of these proceedings, however,

Ms Goh had filed a claim in the Employment Claims Tribunals ("ECTs") for salary in lieu of notice. This claim was allowed by a Tribunal Magistrate ("the ECT TM"). Ms Goh and IGA now seek to rely on that decision in different ways: Ms Goh relies on the ECT TM's findings in support of her claims in OC 155, while IGA argues that Ms Goh's earlier decision to pursue her claim for salary in lieu of notice in the ECTs – instead of bringing all of her claims against IGA in the High Court from the outset – renders OC 155 an abuse of the court's process. It is on this ground, amongst others, that IGA has filed the application now before me – HC/SUM 1069/2025 ("SUM 1069") – in which it seeks to strike out the entirety of Ms Goh's claims in OC 155.

Background

3 I first summarise the relevant background to SUM 1069.

Ms Goh's employment with IGA

4 IGA is a Singapore-incorporated brokerage. Ms Goh was employed by IGA as a Premium Client Manager from 4 November 2019 to 29 September 2022. She was also a Monetary Authority of Singapore ("MAS")-licensed representative. Among other things, her work involved sourcing for new clients for IGA's brokerage business and servicing IGA's existing clients.[1]

5 Several of the terms of Ms Goh's employment are relevant for present purposes:

(a) In addition to her basic salary, Ms Goh was eligible to be paid commissions (referred to as "Sales Credits") under IGA's "PCM

[1] Statement of Claim dated 28 February 2025 ("SOC") at paras 1.1.1–1.1.2; Defence dated 21 March 2025 ("Defence") at paras 6–7.

Incentive Scheme".[2] This was described as a "bonus scheme" based on a "pay for performance philosophy",[3] in that the amount of Sales Credits paid to Ms Goh would generally increase with the amount of revenue that she brought to IGA. The terms of the PCM Incentive Scheme were set out in two standard form documents that IGA would revise from time to time:[4] the "Premium Client Manager and Premium Account Executive Sales Incentive Plan" ("Incentive Plan"), and the "Schedule for Premium Client Managers and Premium Account Executives (excluding Australia, Switzerland and IG Europe)" ("Plan Schedule").

(b) Sales Credits accrued on a quarterly basis in accordance with IGA's financial year, but would only be paid out six months after the end of the relevant quarter (cl 6.4 of the Incentive Plan).[5]

(c) In the event of the termination of Ms Goh's employment with IGA "for any reason", "all right in any Sales Credits accrued but not paid up to the termination date [would] lapse and no Sales Credits accrued but not paid [would] be due or payable to [her]".[6] This was set out in cl 10.3 of the Incentive Plan, which I highlight specifically at this juncture because it featured significantly in the parties' arguments.

(d) Ms Goh's employment could be terminated by either party giving to the other not less than three months' notice in writing, or three

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2 Affidavit of Sebastian Peter Redwood Goulter Jones in SUM 1069 dated 17 April 2025 ("IGA's Supporting Affidavit") at p 24.

3 IGA's Supporting Affidavit at p 35.

4 Affidavit of Goh Hui En Rebecca in SUM 1069 dated 2 May 2025 ("Ms Goh's Response Affidavit") at para 2.1.2.

5 IGA's Supporting Affidavit at p 38.

6 IGA's Supporting Affidavit at p 40.

months' salary in lieu of notice (cl 10.1 of IGA's letter of offer of employment to Ms Goh ("Letter of Offer")).[7]

(e) Ms Goh's employment could be terminated immediately by IGA, without prior notice or payment in lieu of notice, if – among other things – she was found guilty of any grave misconduct in the discharge of her duties (cl 10.2 of the Letter of Offer).[8]

6 According to IGA, in or around August 2022, IGA discovered potential misconduct by Ms Goh. The allegations of misconduct related to: (a) her breach of internal guidelines on onboarding clients; (b) her misuse of IGA's referral scheme; and (c) her improper handling of accounts. IGA conducted internal investigations into these allegations in September 2022.[9] While these internal investigations were ongoing, on 21 September 2022, IGA submitted a "Report on Misconduct of Representative" to the MAS, pursuant to MAS Notice No SFA04-N11 and Guideline No FSG-G01.[10]

7 On 29 September 2022, IGA terminated Ms Goh's employment, with immediate effect, for "serious misconduct". IGA stated that it had found the allegations of Ms Goh's misconduct to be substantiated.[11] On the same day, IGA submitted an updated Report on Misconduct of Representative to the MAS, informing the MAS of Ms Goh's termination ("MAS Report").

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7 IGA's Supporting Affidavit at p 25.

8 IGA's Supporting Affidavit at p 25.

9 IGA's Supporting Affidavit at paras 11–17.

10 IGA's Supporting Affidavit at pp 56–57.

11 IGA's Supporting Affidavit at pp 125–130.

The proceedings in the ECTs

8 In March 2023, Ms Goh decided to commence proceedings in the ECTs. As required, she first lodged a mediation request with the Tripartite Alliance for Dispute Management ("TADM"). In her initial mediation request, Ms Goh stated that she wished to claim S$60,000 of salary in lieu of notice, and S$300,000 of Sales Credits.[12] Subsequently, Ms Goh revised her intended ECT claims to pursue only a claim for S$30,000 of salary in lieu of notice. IGA was notified by TADM of this claim on 17 April 2023.[13]

9 After the parties were unable to reach a settlement through mediation at TADM, a Claim Referral Certificate was issued on 18 May 2023 in respect of the unresolved dispute, which was stated to be one for payment under s 11(1) of the Employment Act 1968 (2020 Rev Ed) ("EA"). On 12 June 2023, Ms Goh filed her claim for salary in lieu of notice in the ECTs under s 11(1) of the EA, *vide* ECT/10544/2023.[14]

10 On 2 January 2024, IGA applied *vide* ECT/APPL/20024/2024 ("APPL 20024") for an order to dismiss Ms Goh's claim for lack of jurisdiction under s 22(7) of the Employment Claims Act 2016 (2020 Rev Ed) ("ECA") on the basis that Ms Goh had proceeded as though her claim was one for wrongful dismissal, which the ECT TM had no jurisdiction to adjudicate as Ms Goh had only filed a salary-related claim, and Ms Goh was out of time to file a wrongful dismissal claim in the ECTs.[15] APPL 20024 was dismissed on 5 January 2024.[16]

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12 Ms Goh's Response Affidavit at p 151.

13 IGA's Supporting Affidavit at p 169.

14 IGA's Supporting Affidavit at p 177.

15 IGA's Supporting Affidavit at pp 267–269.

16 IGA's Supporting Affidavit at p 272.

11 On 20 March 2024, Ms Goh's claim for salary in lieu of notice was allowed by the ECT TM – albeit only for a sum of S$20,000, as Ms Goh had abandoned the excess of her earlier claim for S$30,000 to bring the matter within the tribunal's jurisdiction. In allowing Ms Goh's claim, the ECT TM found that IGA had not proved its allegations of misconduct and that it should not have terminated Ms Goh's employment without notice ("the ECT TM's Decision").[17]

12 IGA applied for permission to appeal against the ECT TM's Decision, on the ground that it was made in excess of jurisdiction.[18] However, IGA's application was dismissed with costs by the District Court on 14 May 2024.[19]

The present proceedings

13 On 28 February 2025, Ms Goh commenced OC 155 in the High Court. In OC 155, Ms Goh seeks to pursue three causes of action against IGA:

(a) a contractual claim in respect of IGA's breach of the Incentive Plan by failing to pay her the Sales Credits that accrued to her from March to May 2022 and from June to August 2022 ("Outstanding Sales Credits");[20]

(b) a tortious claim for defamation, arising from the publication of the MAS Report;[21] and

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17 IGA's Supporting Affidavit at pp 274–286.

18 IGA's Supporting Affidavit at pp 291–296.

19 IGA's Supporting Affidavit at para 43.

20 SOC at paras 4.1–4.2.1.

21 SOC at paras 5.1–5.2.2.

(c) a tortious claim for negligence in IGA's filing of the MAS Report, and IGA's failure to apply to withdraw the MAS Report even after the ECT TM's Decision (as well as the District Court's dismissal of IGA's application for permission to appeal against the ECT TM's Decision).[22]

The parties' arguments

14 In SUM 1069, IGA seeks to strike out Ms Goh's claims in their entirety under O 9 rr 16(1)(*b*) and 16(1)(*c*) of the Rules of Court 2021 ("ROC 2021"), which respectively permit the court to strike out a pleading on the ground that it is an abuse of process of the court, or that it is in the interests of justice to do so. Order 9 r 16(1)(*c*) gives effect to the court's inherent jurisdiction to prevent injustice, such as where the claim is plainly or obviously unsustainable: see *Iskandar bin Rahmat and others v Attorney-General and another* [2022] 2 SLR 1018 at [19] and *The "Bunga Melati 5"* [2012] 4 SLR 546 at [33].

15 IGA made four main arguments in support of striking out:

(a) First, OC 155 is an abuse of process because of Ms Goh's conduct in splitting her claims against IGA and bringing them in stages – first in the ECTs and now in the High Court. IGA did not dispute that some of Ms Goh's claims in OC 155 *could not* have been brought in the ECTs, but argued that if Ms Goh wanted to pursue those claims, she should have brought *all* her claims – including her claim for salary in lieu of notice – in the High Court from the outset, instead of using the ECT proceedings as a "staging platform" for OC 155. Having chosen to

22 SOC at paras 6.1–6.2.2.

proceed in this manner, Ms Goh should be barred by the extended doctrine of *res judicata* from pursuing her claims in OC 155 in the High Court.

(b) Second, the ECT TM's Decision does not establish an issue estoppel in Ms Goh's favour because it was made in excess of jurisdiction and is, as such, a nullity. All of Ms Goh's claims, as pleaded, are entirely predicated on the ECT TM's Decision creating an issue estoppel that precludes IGA from denying that her termination was wrongful. Since the ECT TM's Decision cannot create such an issue estoppel, Ms Goh's claims must fail at the threshold.

(c) Third, Ms Goh's claim for the Outstanding Sales Credits is untenable because of cl 10.3 of the Incentive Plan.

(d) Fourth, Ms Goh's claim in defamation is untenable because IGA's submission of the MAS Report is protected by qualified privilege.

16 In response to these, Ms Goh made four main arguments:

(a) First, the extended doctrine of *res judicata* should not operate against her as she had legitimate reasons for not bringing the claims that she now pursues in OC 155 before the ECTs. In particular, the ECTs had no jurisdiction to hear these claims, and she was advised by her assigned TADM mediator ("the TADM Mediator") that pursuing her claim for salary in lieu of notice in the ECTs would not prevent her from subsequently claiming the Outstanding Sales Credits in the civil courts. In any event, the application of the extended doctrine of *res judicata* is highly fact-sensitive and should be decided by the court only after the benefit of trial.

(b) Second, even if issue estoppel does not apply in her favour, she should not be precluded from asserting and proving that IGA's allegations regarding her misconduct are in fact unfounded.

(c) Third, in respect of her claim for the Outstanding Sales Credits, cl 10.3 of the Incentive Plan should be interpreted so as not to apply where IGA terminated her employment without cause.

(d) Fourth, in respect of her claim in defamation, the applicability of the defence of qualified privilege is highly fact-dependent and should be determined after the benefit of trial. At the hearing of SUM 1069, counsel for Ms Goh also informed me that she intends to include pleadings on IGA's malice (which would, if established, defeat IGA's defence of qualified privilege) in her Reply.

Issues to be determined

17 The background to SUM 1069 and the parties' arguments raise three main issues, which I deal with in the following sequence:

(a) First, should OC 155 be struck out as an abuse of process, applying the extended doctrine of *res judicata*?

(b) Second, are Ms Goh's claims in OC 155 unsustainable because she cannot rely on the ECT TM's Decision to establish an issue estoppel in her favour?

(c) Third, are Ms Goh's claims in OC 155 unsustainable for any other reason – in particular, because of the operation of cl 10.3 of the Incentive Plan and the defence of qualified privilege?

18 Before turning to the first main issue, I outline the legislative framework governing the relationship between the ECTs and the civil courts, in so far as this is material to SUM 1069.

The relationship between the ECTs and the civil courts

19 The ECTs were established by the ECA in response to the "growing demand for access to an affordable and expeditious way to resolve [employment] disputes" (Singapore Parl Debates; Vol 94, Sitting No 23; [16 August 2016] (Lim Swee Say, Minister for Manpower)). In line with this, the ECTs' processes are designed to be accessible to laypersons. For instance, subject to circumscribed exceptions, parties to proceedings before the ECTs must act in person and cannot be represented by lawyers (s 19 of the ECA), and proceedings before the ECTs are to be conducted in an informal and judge-led manner (s 20 of the ECA). The ECTs were intended to complement the civil courts, recourse to which would continue to be important "especially for complex claims which may require legal representation and take longer to resolve" (Singapore Parl Debates; Vol 94, Sitting No 23; [16 August 2016] (Lim Swee Say, Minister for Manpower)).

20 Three specific aspects of the relationship between the ECTs and the civil courts bear highlighting:

(a) First, the ECTs only have jurisdiction to hear and determine claims within the prescribed claim limits, which are presently either S$20,000 or S$30,000 (reg 17 of the Employment Claims Regulations 2017 ("ECR"), read with s 12(7) of the ECA). Where a claimant has abandoned the part of her claim that exceeds the applicable claim limit, she "cannot recover that amount in a tribunal or any other court" (s 15(3) of the ECA).

(b) Where a claim relating to a "specified employment dispute" (meaning a specified contractual, statutory or wrongful dismissal dispute, as defined in the First to Third Schedules to the ECA, respectively) is lodged with an ECT tribunal, "no proceedings relating to that claim can be commenced in any other court … by either party against the other, unless the claim is withdrawn, discontinued or dismissed for lack of jurisdiction" (s 16(2) of the ECA).

(c) Any party to proceedings before the ECTs may appeal to the High Court against an order made by the ECTs on any ground involving a question of law, or on the ground that the claim was outside the tribunal's jurisdiction. However, an appeal lies to the High Court only if the District Court gives permission to appeal (ss 23(1) and 23(2) of the ECA).

21 Relying on the portions of the Parliamentary debates that I have quoted above as well as ss 15(3) and 16(2) of the ECA, IGA submitted that proceedings before the ECTs were not designed to be the "first instalment", and that it was not envisaged that proceedings arising from the same complaint would subsequently be brought in a different forum such as the High Court.[23] Counsel for IGA stopped short of arguing that s 16(2) of the ECA should be read so broadly as to bar *any other claims* that might arise out of the same factual matrix as the specified employment dispute that is brought in the ECTs, though he submitted that such claims would be barred by the extended doctrine of *res judicata* and abuse of process in any event.[24]

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[23] Defendant's Written Submissions dated 16 May 2025 ("DWS") at para 21.

[24] Certified Transcript of the hearing on 20 May 2025 ("Transcript") at p 30 line 25 to p 31 line 17.

22 Counsel for IGA's acceptance that s 16(2) of the ECA might not operate so broadly was fair and, in my view, correct. I agree with counsel for Ms Goh that the better reading of s 16(2) is that it prevents further proceedings relating to the *same claim* ("that claim") that has been placed before the ECTs for adjudication from being pursued in another court, and does not automatically prevent *other claims* arising from the same factual matrix – or even from the same underlying event – from being pursued elsewhere. Along similar lines, the natural reading of s 15 of the ECA is that s 15(3) operates only to prevent a claimant from recovering the excess amount of *the claim that she has pursued in the ECTs* in another forum.

23 Using the facts of this case as an illustration, Ms Goh – having chosen to pursue her claim for salary in lieu of notice in the ECTs, and having chosen to abandon the excess of her initial claim over S$20,000 (*ie*, S$10,000) in order to bring this claim within the ECT TM's jurisdiction – would be prevented by s 15(3) of the ECA from recovering the excess S$10,000 elsewhere, and would also be prevented by s 16(2) from commencing further proceedings to claim salary in lieu of notice in any other court. This is fair because a claimant who wishes to avail herself of the affordable and expeditious dispute resolution mechanism offered by the ECTs is required to accept certain trade-offs in order to enjoy these benefits, chief among which are the limits on the size of the claims that the ECTs have jurisdiction to hear. Having chosen to invoke the ECTs' processes to obtain a decision on a claim, the claimant should not then be permitted to place the same claim before another court for determination, whether for the purpose of seeking further relief for that claim or for the purpose of relitigating the ECTs' findings.

24 But I do not think it can be said, absent clear Parliamentary intention to this effect, that these provisions operate to automatically bar a claimant from

bringing *different* employment-related claims elsewhere – even if those claims arise from the same factual matrix or even the same underlying event. It is not uncommon for a range of distinct claims to arise from the termination of an employee's relationship with her employer. These claims might be based on a variety of causes of action, including but by no means limited to contract and tort, and the ECTs may only have jurisdiction to hear a narrow slice of these claims. An employee who has such a variety of claims against her employer should not be compelled to choose between, on the one hand, obtaining relief from the ECTs for her smaller and simpler claims that the ECT process is designed to resolve in an affordable and expeditious manner; and, on the other hand, being able to pursue her other, larger and potentially much more complex claims in the civil courts.

25 In support of the submission that ECT proceedings should not be allowed to be a precursor to further litigation, counsel for IGA laid emphasis on the policy objectives behind the establishment of the ECTs, and Parliament's intention that the ECTs should provide an expeditious and cost-effective mechanism for resolving employment disputes. But this begs the question of *why* it is necessary to have an affordable and expeditious forum for resolving employment disputes in particular. It seems to me that there is at least one important social consideration underlying such a policy, which is that employees who have not been paid what they believe they are entitled to, or who have been dismissed by their employers, will often need an inexpensive means of obtaining timely relief in order to avoid suffering some degree of financial hardship; they cannot be expected to wait months or years for the conclusion of a civil trial.

26 These practical realities were recognised during the Parliamentary debates on the Employment Claims Bill, where a Member of Parliament –

Mr Gan Thiam Poh – highlighted the "immediate financial needs" of prospective ECT claimants, such that "[t]he expeditious recovery of salaries due [was] to minimise hardships to the claimants and their dependants" (Singapore Parl Debates; Vol 94, Sitting No 23; [16 August 2016] (Gan Thiam Poh, Ang Mo Kio)). It should be noted that this point was raised in connection with Mr Gan's concerns regarding what eventually became s 15(3) of the ECA, and his view that claimants should be given the option to pursue the abandoned excess of their claims in subsequent proceedings. The Minister addressed that concern by explaining that this restriction was necessary "to avoid multiple proceedings in different courts and tribunals over the same dispute … in line with the State Courts' existing practice" (Singapore Parl Debates; Vol 94, Sitting No 23; [16 August 2016] (Lim Swee Say, Minister for Manpower)). Nevertheless, Mr Gan's general observations regarding the financial needs and realities faced by employees remain valid.

27 When this is borne in mind, IGA's submission that the ECTs were meant to be a "one-stop measure" for the resolution of employment disputes[25] loses much of its force. To put the point another way, the fact that the ECTs were established to provide an affordable and expeditious mechanism for resolving employment disputes does not mean it was intended that the ECTs should be the exclusive or final port of call for *all* employment-related claims that a claimant might wish to pursue. Nor does it mean it was intended that a claimant with multiple employment-related claims should be compelled to choose at the outset between, on the one hand, giving up those claims that fall outside the ECTs' limited jurisdiction in order to avail herself of the dispute resolution mechanism offered by the ECTs in respect of the remainder of her claims; and,

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[25] DWS at para 39.

on the other hand, forgoing the ECTs' processes entirely and embarking on a potentially long and costly journey in the civil courts in order to obtain any relief for those claims. That would sit uneasily with the practical realities and broader social context within which the ECTs were established.

28 I add that my reading of s 16(2) of the ECA is consistent with the decision of the Magistrate's Court in *May Yip Mei Qi v Studio XMSL Pte Ltd* [2022] SGMC 19 ("*May Yip*"), which was the only case on the relevant provisions of the ECA that counsel referred me to. There, the Magistrate's Court considered the effect of s 16(2) and explained that it "provides a safeguard against the multiplicity of proceedings by stipulating that parties that have had their disputes *substantively* adjudicated before the ECT will not be able to raise ***the same claim*** 'in any other court'" [emphasis in original in italics; emphasis added in bold italics]; and that it is only in the specified circumstances where the matter is *not* substantively adjudicated that "a claim *lodged with the ECT* can be subsequently raised in another court" [emphasis added] (*May Yip* at [11]). While the Magistrate's Court in *May Yip* did not have to consider whether s 16(2) would prevent claims that are *related to* a claim that the ECT has already substantively adjudicated from being raised subsequently in another court, its explanation of the rationale and operation of s 16(2) is consistent with the interpretation that the claimant will only be barred from raising *the same claim* that has been filed in – and substantively adjudicated by – the ECTs in a subsequent forum.

29 For these reasons, I do not think that ss 15(3) or 16(2) of the ECA preclude Ms Goh from now bringing her claims in OC 155 in the High Court, even though those claims may arise from the same factual matrix as the claim for salary in lieu of notice that she brought in the ECTs.

Whether Ms Goh's claims are an abuse of process

30 I turn now to consider whether Ms Goh's claims in OC 155 should be struck out as an abuse of process under O 9 r 16(1)(*b*) of the ROC 2021.

The applicable law

31 It is well established that the extended doctrine of *res judicata* – which is sometimes referred to as the defence of abuse of process, although it is not the only category of abuse of process – applies where a point was not raised in earlier proceedings even though it *could* and *should* have been raised in those proceedings: see *The Royal Bank of Scotland NV (formerly known as ABN Amro Bank NV) and others v TT International Ltd (nTan Corporate Advisory Pte Ltd and others, other parties) and another appeal* [2015] 5 SLR 1104 ("*Royal Bank of Scotland*") at [102]. It has its roots in the English decision of *Henderson v Henderson* (1843) 3 Hare 100; 67 ER 313 ("*Henderson*"), where Sir James Wigram V-C explained (3 Hare 100 at 114–115; 67 ER 313 at 319) that:

> … [W]here a given matter becomes the subject of litigation in, and of adjudication by, a Court of competent jurisdiction, the Court requires the parties to that litigation to bring forward their whole case, and *will not (except under special circumstances) permit the same parties to open the same subject of litigation in respect of matter which might have been brought forward as part of the subject in contest, but which was not brought forward, only because they have, from negligence, inadvertence, or even accident, omitted part of their case.* The plea of *res judicata* applies, except in special cases, not only to points upon which the Court was actually required by the parties to form an opinion and pronounce a judgment, but to *every point which properly belonged to the subject of litigation, and which the parties, exercising reasonable diligence, might have brought forward at the time.* …
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> [emphasis added]

32 Underlying the extended doctrine of *res judicata*, as well as the related but stricter doctrines of cause of action estoppel and issue estoppel, is the policy

that litigants should not be twice vexed in the same matter, and that the public interest requires finality in litigation: see *Royal Bank of Scotland* at [98].

33 Importantly, the extended doctrine of *res judicata* must be applied by the court with a degree of flexibility and a sensitivity to all the facts and circumstances of each case. In determining whether a party is abusing the process of the court, the court will need to undertake a "a broad, merits-based judgment which takes account of the public and private interests involved and also takes account of all the facts of the case" (*Johnson v Gore Wood & Co (a firm)* [2002] 2 AC 1 at 31D), and which strikes a suitable balance "between the demands of ensuring that a litigant who has a genuine claim is allowed to press his case in court and recognising that there is a point beyond which repeated litigation would be unduly oppressive to the defendant" (*Goh Nellie v Goh Lian Teck and others* [2007] 1 SLR(R) 453 ("*Goh Nellie*") at [53]).

34 In applying the doctrine, relevant factors include: whether the later proceedings in substance are nothing more than a collateral attack upon the previous decision; whether there is fresh evidence that might warrant re-litigation; whether there are *bona fide* reasons why an issue that ought to have been raised in the earlier action was not; and whether there are some other special circumstances that might justify allowing the case to proceed – but the presence or absence of these factors will not be decisive. Ultimately, "the inquiry is directed not at the theoretical possibility that the issue raised in the later proceedings could conceivably have been taken in the earlier but rather at whether, *having regard to the substance and reality of the earlier action*, it *reasonably ought* to have been" [emphasis added] (*Goh Nellie* at [53]).

35 In the context of this striking out application, the decision of the High Court in *Antariksa Logistics Pte Ltd and others v Nurdian Cuaca and others*

[2018] 3 SLR 117 ("*Antariksa*") is, in my view, also instructive. There, George Wei J held that a reasonable and *bona fide* case management decision by a plaintiff to bring his claims incrementally will generally not amount to an abuse of process of the court, because the plaintiff ought not to be deprived of his chance to litigate a *bona fide* claim or of his autonomy in deciding when, how and against whom he wishes to bring his claim (*Antariksa* at [100]–[101]). This autonomy is, however, subject to at least two limitations (*Antariksa* at [102]–[105]):

> (a) First, the plaintiff's decision to bring the claims incrementally must be both reasonable and *bona fide*, and not the result of negligence or inadvertence. As a general rule, that decision should be deliberate, reasoned and sensible (both from a commercial and practical perspective), and the reasons should be sufficient to override the competing public interest consideration of economy of litigation (under which it would generally be preferable and more efficient for a litigant to bring all his claims at the same time). Wei J noted that some plausible reasons might include, among others, the urgency of the situation which militates against commencing a complicated set of proceedings, or the lack of funds to proceed with the other claims in the first instance – but stressed that whether a particular reason is sufficient in the circumstances is a factual inquiry for the court to undertake.
>
> (b) Second, the incremental litigation pursued must not bring the justice system into disrepute. This would be the case if the two sets of proceedings require the duplicative determination of the same underlying issues of fact, as this would give rise to the possibility of two final but inconsistent decisions of different courts of competent jurisdiction examining the same matter.

36 Wei J went on to express his hesitancy to adopt any general position that a plaintiff who fails to put the other party on notice of his further claims while prosecuting the first would be at high risk of being held to have abused the court's process. The overall circumstances would need to be considered in determining whether the further proceedings are abusive, and this would at most be one factor. For example, whether a decision to litigate incrementally should be disallowed on the ground of an abuse of process may well depend on whether the plaintiff was in a position, at the relevant time, to make a reasonably informed decision on whether it had other causes of action available to it (*Antariksa* at [107]–[112]).

37 In *Antariksa*, the plaintiffs' incremental litigation took the form of two suits filed in the *same* court – the High Court – several years apart. In the present case, the two sets of proceedings brought by Ms Goh were commenced in *different* courts with quite different jurisdictional limits. IGA rightly does not contend that all of Ms Goh's claims in OC 155 ought to have been brought before the ECTs. After all, the ECTs would plainly have had no jurisdiction to hear Ms Goh's tortious claims for defamation and negligence. Instead – and in a departure from the typical shape of a case in which the extended doctrine of *res judicata* is invoked – the nub of IGA's case is that Ms Goh should have brought all of her claims in the *High Court* at first instance, rather than first pursuing her claim for salary in lieu of notice in the ECTs.

My decision

38 At the outset, I reject Ms Goh's submission that the application of the extended doctrine of *res judicata* is a matter that ought to be decided by the court *only after trial*, on the ground that the application of the doctrine is a highly fact-sensitive inquiry and the court will need the opportunity to assess

the entirety of the evidence before undertaking the broad merits-based assessment that the doctrine requires.[26] I do not think the fact-sensitive nature of the doctrine supports any such general principle. That would denude the doctrine of much of its utility in filtering out abusive claims *before* all parties involved have expended the time and costs required for a full trial of the matter. Moreover, while the court must be sensitive to all the facts and circumstances of the case that are relevant to whether a party is abusing the process of the court, those relevant facts and circumstances need not include *everything* that the trial process will bring to the fore. The interlocutory process more than equips the parties to draw the court's attention to the facts and circumstances that are *specifically* relevant to whether or not a party's pleading should be struck out on the ground that it is an abuse of process.

39 Having said that, in all the circumstances of this case and having regard to the considerations identified in *Goh Nellie* and *Antariksa*, I am of the view that it was *not* an abuse of process for Ms Goh to have proceeded in the way that she did.

40 First, Ms Goh's claims in OC 155 do not seek to mount a collateral attack on the ECT TM's Decision. On the contrary, Ms Goh seeks to *rely* on aspects of the ECT TM's findings in support of her case in OC 155. In particular, Ms Goh's Statement of Claim ("SOC") relies on the fact that the ECT TM determined that IGA's allegations of misconduct against Ms Goh were unfounded and that IGA therefore should not have terminated Ms Goh's employment without notice and for cause, such that she was entitled to salary in lieu of notice. It is on this basis that Ms Goh argues that IGA cannot rely on her purported termination for cause to refuse to pay her the Outstanding Sales

[26] Claimant's Written Submissions dated 16 May 2025 ("CWS") at para 4.4.6.

Credits, and that the contents of the MAS Report were false.[27] Ms Goh is by no means seeking to use OC 155 as an avenue to challenge and relitigate the decision and findings made by the ECT TM.

41 Second, and more importantly, I am satisfied that Ms Goh acted both reasonably and *bona fide* in bringing her claims in OC 155 separately from her claim for salary in lieu of notice.

42 I deal first with Ms Goh's *bona fides*. IGA submitted that Ms Goh had planned for the ECT proceedings to be a "staging platform" for OC 155 to be brought if she succeeded in the ECTs,[28] and that she chose to bring her claims incrementally because she was "testing the waters" before launching further proceedings.[29] This characterisation of Ms Goh's motivations is simply not borne out by the contemporaneous evidence, which shows that she intended from the outset to bring her claim for the Outstanding Sales Credits – which she estimated then to be S$300,000 – in the civil courts, separately from her claim for salary in lieu of notice which would be subject to the prescribed claim limits on the ECTs' jurisdiction.

43 Such an intention was clear from Ms Goh's e-mail correspondence with the TADM Mediator in the months before she filed her claim for salary in lieu of notice in the ECTs. I set out the relevant portions of this correspondence below:

(a) On 30 March 2023, Ms Goh said: "[j]ust to confirm again, if I were to only claim for salary in lieu with TADM, am I still able to claim

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27 SOC at paras 3.3.2, 4.1.2 and 5.1.2; see also DWS at paras 4.3.8–4.3.9.

28 Transcript at p 25 lines 10–14 and p 37 lines 14–18.

29 Transcript at p 21 lines 26–30.

other salary-related items in Civil court, such as for non-compete, commission, bonus, or will all these be considered as 'abandoned' in excess of $20 k?"[30]

(b) On 4 April 2023, Ms Goh asked: "Could I confirm that if I remove the non/short payment of commission claim of $300,000 from my claims with [ECT], I will be able to claim my commissions in civil court?"[31]

(c) On 5 April 2023, after revising her intended ECT claims to pursue only a claim for salary in lieu of notice of S$30,000, Ms Goh said: "I intend to address my commission claims and salary for enforcing non compete in civil court".[32]

(d) On 15 May 2023, Ms Goh asked: "to confirm again that I will still be able to pursue my commission claims in civil court if I go to the [ECT] or enter into a settlement agreement with IGA for my salary in lieu claim?"[33]

(e) On 12 June 2023, Ms Goh said:[34]

> I was applying for [ECT] hearing at [CJTS, or the Community Justice and Tribunals System] and the following came up (as attached)
>
> -if you have other claims due and payable that you are excluding from the present claim, please note that you may not be allowed from claiming them

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30 Letter from Shook Lin & Bok LLP to the Supreme Court Registry dated 16 May 2025 ("SLB's Letter"), Annex B at p 8.

31 Ms Goh's Response Affidavit at pp 156–157.

32 Ms Goh's Response Affidavit at pp 154–155.

33 SLB's Letter, Annex B at p 11.

34 Ms Goh's Response Affidavit at p 165.

> I know I have asked you this before, but since this prompt came up, to clarify on it. Does it mean I am not allowed to bring my other claims such as comms and unlawful dismissal to the [ECT] hearing? Or does it mean I may not be able to claim other salary related items in the ECT or any other court?
>
> As for abandoning excess amount to bring the claim to within the ECT limit, to clarify *I am not abandoning my commission and other salary related claims but simply claiming salary in lieu of notice* - that will be how the [ECT] considers it?
>
> [emphasis added]

44 In her responses to Ms Goh's queries on this point, the TADM Mediator informed her on at least two occasions that she could "claim other salary related items in the Civil Court if they have not been registered as eligible claims under the Employment Claims Act and heard by the ECT".[35]

45 This brings me to the question of whether Ms Goh's decision to proceed in the way she did was reasoned and reasonable. IGA made two arguments in this regard, neither of which I find persuasive.

46 First, counsel for IGA suggested that Ms Goh should have known that she could not rely on the TADM Mediator's advice because the TADM Mediator was not qualified to give her legal advice, and the advice that the TADM Mediator gave her was wrong.[36] But it is not clear to me that the assurances given by the TADM Mediator to Ms Goh (as set out at [44] above) were indeed wrong, given my reading of ss 15(3) and 16(2) of the ECA (see [19]–[29] above). More importantly, even if the TADM Mediator could or should not have given Ms Goh these assurances, what is more pertinent for

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35 Ms Goh's Response Affidavit at pp 155 and 158.

36 Transcript at p 10 lines 1–10, p 11 lines 22–27, and p 12 lines 7–15.

present purposes is that they shed light on Ms Goh's *reasons* for proceeding as she did in the ECTs. Ms Goh's exchanges with the TADM Mediator show that her decision to pursue only her claim for salary in lieu of notice in the ECTs was a considered and reasoned one.

47 Second, IGA relied on the information that Ms Goh received in the course of commencing proceedings in the ECTs. The first is a confirmation that Ms Goh provided when she lodged her claim for salary in lieu of notice in April 2023, which stated that she had "no other employment-related issues and statutory claims other than those stated in this form".[37] The second is an advisory that Ms Goh appears to have been shown in June 2023 when she filed her claim form on the CJTS portal, which stated: "If you have other claims which are due and payable that you are excluding from the present claim, please note that you may be disallowed from claiming them".[38] I do not think these points take IGA very far. Ms Goh has explained that she understood the confirmation to mean only that she did not have any further claims or issues to raise *through the ECT process*, and she was prompted by the advisory to seek further confirmation from the TADM Mediator that bringing her salary in lieu of notice claim in the ECTs would not preclude her from bringing her other salary-related claims elsewhere (see [43(e)] above).[39] In my view, this understanding was not unreasonable in the circumstances; and when the confirmation and the advisory are viewed together with all the other indications of Ms Goh's intentions at the relevant time, these do not detract from my view that Ms Goh acted reasonably – and *bona fide* – in proceeding as she did.

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37 IGA's Supporting Affidavit at p 169.

38 Ms Goh's Response Affidavit at pp 168–169, read with p 165.

39 Ms Goh's Response Affidavit at paras 4.2.4 and 4.3.3.

48 I now deal with two further submissions made by IGA in support of its position on abuse of process.

49 At the hearing before me, counsel for IGA emphasised that Ms Goh had received the benefits of the ECT TM's Decision, both in terms of the monetary sum awarded to her and in terms of the vindication afforded to her by the ECT TM's findings.[40] But this point does not assist IGA either. Ms Goh was fully entitled to obtain relief through the proceedings that she commenced in the ECTs if the ECT TM found – as she did – that Ms Goh's claim was made out. That is not a reason for preventing Ms Goh from now seeking the benefits of a decision of the High Court on her claims in OC 155, which seek quite different relief.

50 IGA also relied on the English Court of Appeal's decision in *Sheriff v Klyne Tugs (Lowestoft) Ltd* [1999] ICR 1170 ("*Sheriff*"). In *Sheriff*, an employee was dismissed by his employers after he had complained of racial harassment, abuse, intimidation and bullying by the master of the vessel on which he was employed. The employee filed a complaint of unlawful racial discrimination against his employers in an employment tribunal. However, this was settled without admission of liability by the employers, and the employee accepted payment "in full and final settlement of all claims which he has or may have against the employers arising out of his employment or the termination thereof being claims in respect of which an [employment] tribunal has jurisdiction". Consequently, the employee withdrew his claim before the tribunal. A few years later, the employee commenced proceedings in a county court claiming damages for personal injury in the form of post-traumatic stress disorder, arguing that his employers had been negligent in permitting the master

[40] Transcript at p 21 lines 24–30 and p 26 lines 4–7.

of the vessel to subject him to "abusive and detrimental treatment". The particulars of that treatment were almost identical to the allegations that had given rise to the employee's earlier claim for racial discrimination before the tribunal.

51 The English Court of Appeal upheld the decision to strike out the employee's claim as an abuse of process, on the basis that the same claim had been litigated before the tribunal and compromised. The court first held that the employee's county court claim was one over which the tribunal had jurisdiction under the applicable statutory framework, and that it was therefore a claim that fell within the scope of the parties' compromise agreement (*Sheriff* at [21]–[22]). The court also held that the principle in *Henderson* applied because the employee could have brought forward his whole claim for compensation in the tribunal, but did not do so, and there were no special circumstances that afforded an adequate explanation of why the claim the employee was pursuing in the county court was not made in the earlier proceedings before the tribunal (*Sheriff* at [23]–[27]).

52 In my view, the circumstances in *Sheriff* were materially different from those in the present case. First, the employee in *Sheriff* was seeking to bring a claim that had been compromised by the parties' settlement agreement. There was no such compromise of Ms Goh's claims against IGA in the present case. Second, the court's application of the *Henderson* principle in *Sheriff* was predicated upon the finding that the tribunal had jurisdiction to award damages for personal injury caused by the tort of racial discrimination (which were the subject of the employee's county court claim), and not only to award damages for the tort of racial discrimination itself (*Sheriff* at [21]). Thus, even though the employee's cause of action in the county court was based upon the tort of negligence, and not the statutory tort of racial discrimination, the tribunal had

had jurisdiction to award the monetary relief sought by the employee for *both* of those claims. It was on this basis that the court held that the employee could have brought forward his whole claim for compensation in the tribunal, and – having failed to do so – could not now pursue his claim for damages in the county court. In contrast, Ms Goh's claims in OC 155 *could not* have been litigated in the ECTs because her claim for the Outstanding Sales Credits exceeded the ECTs' monetary jurisdiction, and the ECTs had no subject-matter jurisdiction over her tortious claims in defamation and negligence. *Sheriff* was not a case where the court found that it was an abuse of process for the employee not to have brought all his claims in the *county court* in the first instance. The decision in *Sheriff* therefore lends little support to IGA's submissions that Ms Goh's claims in OC 155 are an abuse of process.

53 For these reasons, in all the circumstances of this case and having regard to the substance and reality of the proceedings in the ECTs, I do not think it is an abuse of process for Ms Goh to now seek to pursue her claims in OC 155 in the High Court – after having claimed salary in lieu of notice in the ECTs – instead of bringing all of her claims in the High Court at first instance. This view is reinforced by the policy considerations behind the establishment of the ECTs, to which I referred at [25]–[27] above. Indeed, in the present case, I accept that real practical constraints may have operated on Ms Goh at the time that she decided to commence proceedings in the ECTs in March 2023, given that IGA had not paid her any salary in lieu of notice or the Outstanding Sales Credits that had accrued to her, and she had not yet begun working at a new brokerage.[41] In my judgment, the balance between the competing interests and policies to which the extended doctrine of *res judicata* responds clearly weighs in favour

[41] CWS at para 4.4.12.

of allowing Ms Goh to press her case in the High Court, and this overrides the general public interest in the economy of litigation.

My directions in respect of the additional evidence disclosed by Ms Goh

54 Before concluding my analysis of this issue, I deal briefly with a procedural matter that arose in respect of Ms Goh's correspondence with the TADM Mediator. Ms Goh's affidavit for SUM 1069 exhibited an incomplete version of this correspondence that omitted her e-mail to the TADM Mediator on 30 March 2023 ("30 March 2023 E-mail") (which I referred to at [43(a)] above) and redacted portions of her e-mail correspondence with the TADM Mediator on 15 May 2023 that related to her settlement negotiations with IGA.[42] The 30 March 2023 E-mail and the unredacted versions of the relevant e-mail correspondence were subsequently provided by Ms Goh's counsel to IGA's counsel, and thereafter placed before the court under cover of a letter on 16 May 2025, though this was without prejudice to or derogation from Ms Goh's position that the redacted portions of the correspondence were protected by settlement privilege on the basis that these were communications concerning the contents of a settlement offer (or in that nature).[43] IGA took the position that there was no basis for Ms Goh's claim of privilege.[44]

55 I do not think it is necessary for me to decide whether or not settlement privilege applies to the redacted portions of Ms Goh's correspondence with the TADM Mediator, as these parts of the correspondence are not material to my decision on SUM 1069. They relate quite specifically to IGA and Ms Goh's unsuccessful attempts to resolve their dispute through mediation at TADM, and

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42 Ms Goh's Response Affidavit at pp 153–165.

43 SLB's Letter at paras 3–5; Transcript at p 2 lines 14–15 and p 3 lines 19–21.

44 SLB's Letter, Annex C at p 15; Transcript at p 3 line 1 and p 13 lines 11–12.

do not shed light on the *bona fides* or reasonableness of Ms Goh's decision to pursue her claim for salary in lieu of notice in the ECTs while reserving her other claims for the civil courts. However, as I have taken into account the contents of the 30 March 2023 E-mail (over which privilege was *not* asserted) in coming to my decision on SUM 1069, I direct Ms Goh to file a supplementary affidavit exhibiting the 30 March 2023 E-mail to formally enter this into evidence. This supplementary affidavit is to be filed within seven days from the date of this decision.

Whether Ms Goh's claims are unsustainable because she cannot rely on issue estoppel arising from the ECT TM's Decision

56 I next consider whether Ms Goh's claims in OC 155 should be struck out on the ground that they are plainly or obviously unsustainable, for the reason that Ms Goh cannot rely on the ECT TM's Decision to establish an issue estoppel in her favour.

The applicable law

57 Issue estoppel arises when a court of competent jurisdiction has determined some question of fact or law, either in the course of the same litigation or in other litigation that raises the same point between the same parties: see *Royal Bank of Scotland* at [100]. To establish an issue estoppel, the following requirements must be met (*Lee Tat Development Pte Ltd v Management Corporation of Strata Title Plan No 301* [2005] 3 SLR(R) 157 at [14]–[15]):

(a) there must be a final and conclusive judgment on the merits;

(b) that judgment must be by a court of competent jurisdiction;

(c) there must be identity between the parties to the two actions that are being compared; and

(d) there must be an identity of subject matter in the two proceedings. The prior decision must traverse the same ground as the subsequent proceeding, and the facts and circumstances giving rise to the earlier decision must not have changed or should be incapable of change; and the previous determination must have been fundamental and not merely collateral to the previous decision, so that the decision could not stand without that determination (*Goh Nellie* at [34]–[37]).

58 The effect of issue estoppel, if established, was explained by Diplock LJ in the English decision of *Thoday v Thoday* [1964] P 181 at 198 in the following terms (see also *Goh Nellie* at [18]):

> … There are many causes of action which can only be established by proving that two or more different conditions are fulfilled. Such causes of action involve as many separate issues between the parties as there are conditions to be fulfilled by the plaintiff in order to establish his cause of action; and *there may be cases where the fulfilment of an identical condition is a requirement common to two or more different causes of action.* If in litigation upon one such cause of action any of such separate issues as to whether a particular condition has been fulfilled is determined by a court of competent jurisdiction, either upon evidence or upon admission by a party to the litigation, *neither party can, in subsequent litigation between one another upon any cause of action which depends upon the fulfilment of the identical condition, assert that the condition was fulfilled if the court has in the first litigation determined that it was not, or deny that it was fulfilled if the court in the first litigation determined that it was.*
>
> [emphasis added]

59 In the present case, the parties' arguments centred around the question of whether the ECT TM's Decision was a judgment by a court of competent

jurisdiction. IGA submitted that it was not. IGA's arguments in this regard proceeded in the following steps:

(a) Ms Goh's employment was not terminated in the ordinary course; instead, it was terminated summarily and for cause. Consequently, the claim filed by Ms Goh in the ECTs for salary in lieu of notice – which was for salary for the period *after* her termination – was, in truth and in substance, a claim for wrongful dismissal.[45]

(b) The ECT TM had no jurisdiction to adjudicate a claim for wrongful dismissal because Ms Goh was out of time to file such a claim.[46]

(c) Therefore, the ECT TM's Decision is a nullity.[47]

(d) Although IGA's application in APPL 20024 for Ms Goh's ECT claim to be dismissed on the ground of lack of jurisdiction was rejected (see [10] above), the ECTs have no power to determine their own jurisdiction because they are courts of limited jurisdiction.[48]

(e) Since all of Ms Goh's claims in OC 155 are premised on issue estoppel arising from the ECT TM's Decision, and the ECT TM's Decision is a nullity, Ms Goh's claims are unsustainable and should be struck out.

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45 DWS at paras 25–26 and 30.

46 DWS at para 30.

47 DWS at para 31.

48 DWS at para 29.

60 In respect of the fourth of these points, IGA relied on the English decision of *Crown Estate Commissioners v Dorset County Council* [1990] 1 Ch 297 ("*Crown Estate Commissioners*") at 308H–309B, where Millett J said:

> … ***The resolution of a jurisdictional issue by a tribunal of limited jurisdiction … can never be conclusive or found an issue estoppel.*** Where such an issue is raised, the tribunal may find it necessary to decide it; but its decision must be open to challenge. ***No tribunal of limited jurisdiction can be permitted conclusively to determine the limits of its own jurisdiction.*** It can neither confer on itself a jurisdiction which it does not truly possess nor deprive itself of a jurisdiction which it does. The necessity for such a limitation to the doctrine of issue estoppel is self-evident once it is borne in mind that the effect of the doctrine is to compel the parties to accept a judicial determination *even if it is wrong*.
>
> [emphasis in original in italics; emphasis added in bold italics]

61 IGA also relied on the principles set out in Patrick Keane AC KC, *Spencer Bower and Handley:* Res Judicata (LexisNexis, 6th Ed, 2024) at paras 4.08–4.12. I extract the relevant portions below:

> … The estoppels created by decisions of inferior courts are limited to the matters directly in issue, and their opinions on collateral or incidental questions are not *res judicata* in other proceedings. … If a tribunal cannot finally determine a question its opinion is not *res iudicata*. … ***An erroneous decision on jurisdictional facts cannot confer a jurisdiction which the statute never gave; and a superior court may consider the facts on judicial review or in collateral proceedings.*** … If the court or tribunal finds that the relevant jurisdictional facts exist that finding will create an issue estoppel in that court or tribunal ***but not elsewhere*** and the jurisdictional facts must be proved again if its jurisdiction is challenged directly by judicial review or collaterally. …"
>
> [emphasis added in bold italics]

62 On this basis, IGA argued that I could and should re-consider the question of whether the ECT TM's Decision was made in excess of jurisdiction, notwithstanding that IGA's application for permission to appeal against the

ECT TM's Decision on this ground was dismissed by the District Court (see [12] above).

My decision

63 I decline to strike out Ms Goh's claims in OC 155 on this ground. In my view, it is clear that the ECT TM's Decision is not a nullity. In any event, I do not think it can be said that Ms Goh's claims in OC 155 depend entirely on the ECT TM's Decision establishing an issue estoppel in her favour, in the sense that these claims would stand or fall on whether or not IGA is estopped from challenging the findings made in the ECT TM's Decision. I now explain my reasoning on each of these points.

The ECT TM's Decision is not a nullity

64 First, while I accept the general principle that the ECTs – being courts of limited jurisdiction – cannot conclusively determine the limits of their own jurisdiction, I am unable to accept IGA's submission that the ECT TM's Decision was in fact made in excess of jurisdiction.

65 Crucially, IGA's attempts to challenge the ECT TM's jurisdiction to adjudicate Ms Goh's claim for salary in lieu of notice were rejected not only by the ECTs, but also by the *District Court* when it declined to grant IGA permission to appeal against the ECT TM's Decision. In arriving at this decision, the District Court would have considered the letters filed by both IGA and Ms Goh, in March and April 2024 respectively, which set out in detail their respective positions and arguments regarding the ECT TM's Decision.[49] Given the District Court's refusal to grant permission to appeal, IGA was unable to

[49] IGA's Supporting Affidavit at pp 291–296 and pp 298–303.

appeal to the High Court under s 23 of the ECA on the ground that the claim adjudicated by the ECT TM fell outside her jurisdiction. As IGA acknowledges, the District Court's decision, which was final under s 23(4)(*a*) of the ECA, meant that IGA had no further recourse against the ECT TM's Decision.[50] In these circumstances, I do not think it appropriate for IGA to seek to mount this further challenge to the ECT TM's jurisdiction in the High Court by means of this striking-out application. Indeed, this seems to me to be an attempt by IGA to take a second bite of the cherry.

66 On that basis alone, I would have rejected IGA's submission that the ECT TM's Decision is a nullity. However, because engaging with the specific arguments made by IGA on this issue requires me to take a closer look at how the ECT proceedings unfolded, I now do so. This closer look does not assist IGA.

67 The starting point of the analysis is that the ECT TM had jurisdiction to hear and determine a claim for salary in lieu of notice under s 11(1) of the EA, which was the claim Ms Goh filed in the ECTs. In its response to that claim, IGA took the position that Ms Goh "should not be eligible" for the three-month period of notice because she had been dismissed on the ground of serious misconduct.[51] As a result, the question of whether or not Ms Goh was entitled to be paid three months' salary in lieu of notice under s 11(1) of the EA, or whether she was disentitled to this because of misconduct on her part, became the central issue that the ECT TM was required to determine in order to adjudicate the claim for salary in lieu of notice that Ms Goh had filed.

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50 Defence at para 38.

51 IGA's Supporting Affidavit at p 198.

68 But this did not transform Ms Goh's claim before the ECT TM from one for salary in lieu of notice to one for wrongful dismissal under s 14(2) of the EA. A wrongful dismissal claim under s 14(2) of the EA, to which the time limit in s 3(2)(*d*) of the ECA applies, is one that seeks either of two remedies: reinstatement in the employee's former employment, or compensation for the employee's loss of income and the harm caused by the claimant from the wrongful dismissal (see the Second Schedule to the ECR). Ms Goh was claiming neither of these in the ECTs – her claim was specifically for the payment of three months' salary in lieu of notice.

69 More fundamentally, IGA's submissions seem to proceed from the premise that any argument that an employee was *not validly terminated with cause* is, in substance, a claim for *wrongful dismissal* under s 14(2) of the EA. While this conceptual point was not taken before me by Ms Goh, I express my doubts as to the correctness of this premise. An employer may terminate an employee's employment either upon giving her the contractually required period of notice, or by paying her salary in lieu of such notice (as provided for in s 11(1) of the EA). In Ms Goh's case, cl 10.1 of the Letter of Offer required IGA to either give Ms Goh three months' notice or three months' salary in lieu of notice if it wished to terminate her employment. In order to terminate an employee without notice *and* without salary in lieu of notice, the employer must generally show cause for doing so. Thus, s 11(2) of the EA allows the employer to terminate the employee's contract of service without notice in the event of any wilful breach by the employee of a condition of that contract, and s 14(1) of the EA allows an employer "after due inquiry" to dismiss without notice an employee on the grounds of "misconduct inconsistent with the fulfilment of the express or implied conditions of the employee's service".

70 When this framework is borne in mind, it becomes clear that many claims for salary in lieu of notice will engage the question of whether the employer has shown cause for the summary termination of the employee – typically in the form of misconduct. But those claims remain fundamentally *contractual* in nature, and indeed are identified as "contractual dispute matters" in the First Schedule to the ECA. In contrast, a claim for wrongful dismissal under s 14(2) of the EA goes further. It requires the court to determine whether an employee has been dismissed "without just cause or excuse", and thus to assess whether the reasons offered by the employer for the dismissal satisfy the statutory requirement of "just cause or excuse" – which might not be satisfied *even if* the employer has given the employee the contractually required period of notice or salary in lieu thereof. Further, the amount of compensation to be awarded to a claimant in a wrongful dismissal dispute is not necessarily limited to the salary in lieu of notice that the employee should have been paid if summary dismissal is found to have been unjustified. It extends to compensation for the employee's loss of income and even for the harm caused to the employee by the wrongful dismissal, taking into account any relevant aggravating factors (such as any deliberate act of the employer to adversely affect the employee's prospect of subsequent employment) and mitigating factors (such as any misconduct or poor performance of the employee): see the Second Schedule to the ECR.

71 Thus, even though both types of claims may put in issue whether or not the employer had cause to terminate the employee's employment, the purpose of this inquiry differs due to the distinct legal bases of the two claims. In a claim for salary in lieu of notice, the tribunal assesses whether the employer was contractually obliged to give the employee notice, and consequently to pay her salary in lieu of such notice; whereas in a claim for wrongful dismissal, the

tribunal assesses whether the dismissal was substantively wrongful because it was "without just cause or excuse", such that the employee is entitled to be reinstated or compensated for the losses and harm she has suffered as a consequence of that wrong.

72 Against this background, I deal with the two specific arguments IGA raised in support of its submission that it was incorrect for Ms Goh to have brought her claim in the ECTs as one for salary in lieu of notice.

(a) First, IGA argued that Ms Goh's employment was not terminated in the ordinary course, in which case she would have been contractually entitled to three months' salary in lieu of notice. Instead, because IGA had terminated her employment for "serious misconduct" on her part, it was entitled to do so summarily and without paying her salary in lieu of notice.[52] For the reasons I have explained at [69]–[71] above, this submission fails to recognise that the inquiry into whether or not IGA had cause to terminate Ms Goh's employment is one that can be legitimately undertaken by a tribunal deciding a claim for salary in lieu of notice. Further, in so far as IGA might be understood to suggest that the ECT TM had no jurisdiction to look behind the *fact* of Ms Goh's summary termination for misconduct, and to consider whether the *basis* for such summary termination was established by examining whether IGA's allegations of misconduct were in fact made out, I am unable to accept that argument. If that were so, the ECT TM would have been compelled to dismiss Ms Goh's claim for salary in lieu of notice based only on the grounds on which IGA had *purported* to terminate her employment. IGA's argument begs the question of whether Ms Goh's

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52 DWS at paras 25–26.

employment *should have been* terminated (if at all) in the ordinary course, instead of being terminated summarily on the grounds of misconduct.

(b) A further dimension of IGA's argument on this point appears to be that, because Ms Goh was seeking to claim salary in lieu of notice in spite of her summary termination, she was implicitly claiming that she had been "dismissed without just cause or excuse" under s 14(2) of the EA, such that she could not properly make a claim for salary in lieu of notice without a claim for wrongful dismissal. But I am also unable to accept this argument. As I have explained at [68] and [70]–[71] above, the two types of claims are conceptually distinct and seek different remedies.

73 Thus, in my view, the fact that Ms Goh's claim for salary in lieu of notice engaged some of the issues that might also have been raised in a wrongful dismissal claim – namely, whether the allegations of her misconduct were substantiated – does not mean that claim was, in truth or in substance, a wrongful dismissal claim over which the ECT TM had no jurisdiction. Even taking IGA's arguments at their highest, it is clear to me that IGA's submission that the ECT TM's Decision was made in excess of jurisdiction, and is consequently a nullity, should be rejected.

Ms Goh's claims do not depend entirely on the ECT TM's Decision establishing an issue estoppel

74 Second, and in any event, Ms Goh's pleaded claims in OC 155 do not depend entirely on the ECT TM's Decision establishing an issue estoppel in her favour.

75 Ms Goh's SOC first pleads the underlying facts that form the basis for each of her claims:

(a) In respect of her claim for the Outstanding Sales Credits, Ms Goh's SOC pleads the relevant terms of the Incentive Plan, and her estimate of the amount of Sales Credits that had accrued to her in the period before her termination.[53]

(b) In respect of her claims in defamation and negligence, Ms Goh's SOC sets out the facts relating to IGA's submission of the MAS Report, the relevant contents of the MAS Report that she alleges are defamatory and negligent, and the losses she claims to have suffered as a result.[54]

76 Ms Goh's SOC then sets out the relevant details of the ECT proceedings, the ECT TM's Decision, and the concessions IGA had made that were considered by the ECT TM in arriving at her conclusion that IGA should not have terminated Ms Goh's employment for cause and without notice.[55]

77 Ms Goh's SOC goes on to plead the particulars of her claim that IGA breached the Incentive Plan by failing to pay her the Outstanding Sales Credits;[56] her claim that the MAS Report was defamatory because its import was false;[57] and her claim that IGA's filing of the MAS Report was negligent because (by reason of her employment with IGA) it owed her a duty of care when providing information about her to regulatory authorities, and it breached this duty when

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53 SOC at paras 2.1.3–2.3.3.

54 SOC at paras 3.2.1–3.2.4.

55 SOC at paras 3.3.1–3.3.2.

56 SOC at paras 4.1.1–4.2.1.

57 SOC at paras 5.1.1–5.2.2.

it filed (and subsequently failed to withdraw or apply to withdraw) the MAS Report alleging that she was guilty of serious misconduct when there was no basis for the same.[58] These claims rely on the ECT TM's Decision in different ways:

(a) In respect of her claim for the Outstanding Sales Credits, Ms Goh pleads that IGA cannot rely on cl 10.3 of the Incentive Plan to avoid paying her the Outstanding Sales Credits because her employment was wrongfully terminated or terminated without cause, which in turn was because – as determined in the ECT TM's Decision – IGA's allegations of misconduct against Ms Goh were unfounded. Ms Goh further pleads that, given the ECT TM's Decision and the District Court's dismissal of IGA's application for permission to appeal, IGA is barred by *res judicata* and/or estopped from contesting that its termination of Ms Goh's employment was wrongful or without cause.[59]

(b) In respect of her claim for defamation, Ms Goh pleads that the import of the MAS Report and its contents was false because the ECT TM's Decision "conclusively determined that [IGA's] purported basis for terminating [her] employment was unfounded".[60]

(c) In respect of her claim for negligence, Ms Goh refers to the ECT TM's Decision to particularise her pleading that there was no basis for IGA's allegations, in the MAS Report, that she was guilty of serious misconduct. She further pleads that IGA breached its duty of care to her by failing to withdraw (or apply to withdraw) the MAS Report even after

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58 SOC at paras 6.1.1–6.2.2.

59 SOC at para 4.1.2.

60 SOC at para 5.1.2.

the ECT TM's Decision and the District Court's dismissal of IGA's application for permission to appeal.[61]

(d) In support of her claim for aggravated damages for both defamation and negligence, Ms Goh further pleads that IGA published the MAS Report despite knowing that the allegations contained therein were false or being reckless and indifferent to the truth, relying (among other things) on the concessions made by IGA in the ECT proceedings and the ECT TM's Decision.[62]

78 This overview of Ms Goh's pleaded case in OC 155 demonstrates that, although she draws significant support for each of her claims from the ECT TM's Decision, none of her claims can be said to *depend on* the ECT TM's Decision such that they would be plainly or obviously unsustainable if the ECT TM's Decision were found to be a nullity, or if Ms Goh fails to establish an issue estoppel. The only part of Ms Goh's SOC that specifically relies on estoppel is that referred to at [77(a)] above – and even if the ECT TM's Decision does not found such an estoppel, it would be open to Ms Goh to try to prove in OC 155 that her employment was terminated without cause with reference to the relevant facts and the concessions by IGA that were taken into account in the ECT TM's Decision. I emphasise that IGA needs to show that Ms Goh's claims are *plainly or obviously unsustainable* in order for them to be struck out under O 9 r 16(1)(*c*) of the ROC 2021. In my view, this high threshold is not met by IGA's arguments on nullity or on Ms Goh's inability to rely on issue estoppel.

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61 SOC at paras 6.1.2–6.1.3.

62 SOC at paras 5.2.2 and 6.2.2.

79 To be clear, SUM 1069 does not require me to positively determine whether *IGA is indeed barred* by issue estoppel from arguing that Ms Goh's employment was properly terminated with cause. In the papers filed by the parties for SUM 1069, there was some suggestion that IGA might wish to rely on the exception to issue estoppel established in *Arnold v National Westminster Bank plc* [1991] 2 AC 93,[63] and that IGA was not given an opportunity to adduce full evidence before the ECT TM to support its position that Ms Goh was dismissed for cause,[64] though neither of these lines of argument was pursued in the parties' submissions on SUM 1069. It remains open to IGA to attempt to argue in OC 155 that it is *not estopped* from relitigating the matters decided by the ECT TM, whether for these reasons or because any of the requirements for issue estoppel are not satisfied. What I have decided, for the purposes of deciding SUM 1069, is that IGA has failed to establish that the ECT TM's Decision is a nullity; and that even if Ms Goh is unable to rely on the ECT TM's Decision to establish an issue estoppel in her favour, that would not render her claims in OC 155 plainly or obviously unsustainable.

Whether Ms Goh's claims are unsustainable for any other reason

80 I turn finally to consider whether each of Ms Goh's claims is plainly or obviously unsustainable for any of the other reasons raised by IGA.

Ms Goh's contractual claim for the Outstanding Sales Credits

81 The main thrust of IGA's arguments in this regard was that Ms Goh's claim for the Outstanding Sales Credits is untenable because of cl 10.3 of the Incentive Plan. Clause 10.3 provides as follows:

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63 DWS at para 34 and footnote 42.

64 IGA's Supporting Affidavit at paras 38–40.

> 10.3 In the event of termination of your employment with us *for any reason*, all right in any Sales Credits accrued but not paid up to the termination date will lapse and no Sales Credits accrued but not paid will be due or payable to you.
>
> [emphasis added]

82 As I have mentioned at [77(a)] above, Ms Goh pleads in her SOC that IGA cannot rely on cl 10.3 because her employment was terminated without cause.[65] She pleads that, on its "true and/or proper construction", cl 10.3 does not apply where IGA has terminated her employment without cause; and further and in the alternative, it is an implied term that cl 10.3 does not apply where IGA has terminated her employment without cause.[66] In support of her proposed construction of cl 10.3, Ms Goh submitted that a literal interpretation of cl 10.3 would produce an absurd result as IGA would have *carte blanche* to "unilaterally negate" any accrued Sales Credits, which had already been earned by her, by purporting to terminate her employment at any time during the six months after they accrued but before they were paid out – even if the termination was "entirely wilful, with full knowledge that there was no basis for the same". This would entitle IGA to "impose the onerous financial consequence of lapsing all unpaid Sales Credits by terminating [Ms Goh's] employment without cause", and indeed would allow IGA to do so even if the termination was wrongful.[67]

83 IGA, on the other hand, submitted that Ms Goh's position on cl 10.3 is unsound because its wording makes clear that the parties objectively intended that no accrued Sales Credits would be payable upon the termination of

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65 SOC at para 4.1.2.

66 SOC at para 2.2.8.

67 CWS at paras 5.2.8–5.2.17 and 5.2.20.

Ms Goh's employment for *any* reason, and there is no gap in in the contract to be filled by the implication of a term.[68]

The applicable law

84 The principles governing contractual interpretation and the implication of terms are well-established, and I summarise the relevant principles briefly.

(1) Contractual interpretation

85 The purpose of contractual interpretation is to give effect to the objectively ascertained expressed intentions of the contracting parties, as it emerges from the contextual meaning of the relevant contractual language. Although both the text and the context must be considered, the text of the parties' agreement is of first importance: see *Yap Son On v Ding Pei Zhen* [2017] 1 SLR 219 ("*Yap Son On*") at [30]. But this does not mean that the court will take a literalist approach. As the Court of Appeal emphasised in *Yap Son On*, "courts can and frequently do depart from the plain meaning of words", and one key insight from the modern contextual approach to interpretation is that "the meaning of a word should not be confused with *the meaning that would be conveyed by the use of that word in a document*" [emphasis added]. Thus, the aim of contractual interpretation is to discern "the meaning that the expressions in the document would convey to *a reasonable person with the relevant background knowledge*", with the words used by the parties in the contract occupying primacy of place in ascertaining that meaning [emphasis added] (*Yap Son On* at [37]–[38]).

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[68] DWS at paras 43–45.

86 Where the meaning of the text appears to be plain and unambiguous (inasmuch as it admits of one clear meaning), but this plain and unambiguous meaning would lead to an absurd result, the court should undertake a "very careful analysis" of the text and context to ascertain whether the text is indeed plain and unambiguous. Should the absurd result ensue, that would be a "strong indication" that the text is probably inconsistent with the relevant context. But the aim of avoiding an absurd result cannot be pursued at all costs – it must give way if the *objective* evidence clearly bears out a causative connection between the absurd result on the one hand, and the parties' intention at the time they entered into the contract on the other. The court should ordinarily start from the working position that the parties did not intend that the terms concerned were to produce an absurd result. While there may be exceptional cases where the text is so clearly plain and unambiguous that the court is compelled to give effect to its meaning even though an absurd result would ensue, this would be an extremely rare situation, not least because the law ought generally to lead to a just and fair result: see *Y.E.S. F&B Group Pte Ltd v Soup Restaurant Singapore Pte Ltd (formerly known as Soup Restaurant (Causeway Point) Pte Ltd)* [2015] 5 SLR 1187 ("*Y.E.S. F&B Group*") at [31]–[32].

(2) Implication of terms

87 The process of interpretation – which requires the presence of expressions, primarily in the form of words constituting an express term – necessarily falls short where there is a gap in the contract arising from its silence on a particular issue. Where such a gap has arisen because the parties did not contemplate the gap, it may be filled by the court through the implication of terms to give effect to the parties' *presumed* intentions. However, the threshold for implying a term is a high one, and a term will only be implied if it is necessary. In ascertaining whether this is so and considering the specific term

to be implied, the court applies the "business efficacy" and "officious bystander" tests in conjunction and complementarily: see *Sembcorp Marine Ltd v PPL Holdings Pte Ltd and another and another appeal* [2013] 4 SLR 193 ("*Sembcorp*") at [27]–[29] and [93]–[101].

My decision

88 It bears emphasis that the question presently before me is not whether Ms Goh's proposed construction of cl 10.3 should ultimately be accepted, nor whether her claim relying upon that construction should succeed. Rather, it is whether Ms Goh's claim for the Outstanding Sales Credits should be struck out at this interlocutory stage on account of cl 10.3. I answer this question in the negative. In my view, Ms Goh's position on cl 10.3 is not plainly or obviously unsustainable, and her claim for the Outstanding Sales Credits should be allowed to go to trial.

89 I deal first with Ms Goh's alternative submission that there is an implied term to the effect that cl 10.3 does not apply where IGA has terminated her employment without cause. I do not accept this submission because there does not seem to me to be any gap in cl 10.3 that would warrant the implication of such a term. The literal wording of cl 10.3 applies to the termination of Ms Goh's employment *for any reason*. The real question is whether the words used in cl 10.3 should be *interpreted* such that it does not apply where IGA has terminated her employment without cause – or, in other words, when the purported "reason" for the termination is itself unfounded.

90 Focusing then on the principles of contractual interpretation, I accept that it is arguable that a literal reading of cl 10.3 could produce an absurd result in a situation where the employee has been summarily terminated without cause.

The broad reading of "any reason" advanced by IGA would then allow an unscrupulous employer to terminate an employee's employment without cause and without giving her the contractually required period of notice, during the six-month period between the employee's Sales Credits accruing and IGA paying these out, and then rely on the timing of that termination to withhold those accrued but unpaid Sales Credits from the employee.

91 I draw some support for this view from the High Court's decision in *Singapore Airlines Ltd v Ahlmark* [1999] 3 SLR(R) 637 ("*Ahlmark*"), which Ms Goh relied on. There, one of the contractual terms governing the plaintiff's employment with the defendant (in cl 3(g) of his training agreement) stated that if he was dismissed or had his services terminated "for any reason whatsoever" during a prescribed period, he would be liable to pay liquidated damages to the defendant. Warren L H Khoo J expressed the view that "[i]t would be utterly absurd if the company could terminate without cause and then claim to be entitled to liquidated damages from the trainee", and that such a broad interpretation of the clause was "plainly against common sense and reason" (*Ahlmark* at [19]). Khoo J ultimately held that the defendant could not rely on cl 3(g) to claim damages from the plaintiff, especially where it had terminated the plaintiff's employment without cause, on the ground that it was so uncertain as to be incapable of being given any contractual effect (*Ahlmark* [21]). But even though the *ratio* for Khoo J's decision was the lack of certainty of cl 3(g), it is clear that Khoo J thought that a literal reading of the words "for any reason whatsoever" would have resulted in an absurd outcome. While I accept that the facts of *Ahlmark* are not on all fours with those in the present case, and I recognise that the decision in *Ahlmark* pre-dates the more recent jurisprudence of the Court of Appeal on the principles governing contractual interpretation, *Ahlmark* nevertheless lends support to the view that a reading of the phrase "for

any reason" that is so broad as to include summary termination without cause by the employer could lead to absurd results.

92 This is, of course, not the end of the inquiry. As the summary of the relevant principles at [85]–[86] above makes clear, the absurd outcome that would result from the apparently plain and unambiguous text of cl 10.3 must still be given effect *if* the objective evidence clearly bears out a causative connection between the absurd result on the one hand, and the parties' intention at the time they entered into the contract on the other. This requires a closer examination of any such objective evidence that the parties are able to adduce to support their respective positions at trial, which will also go towards ascertaining the relevant background knowledge that would inform a reasonable person's understanding of the meaning conveyed by the phrase "for any reason" in cl 10.3. The text of cl 10.3 and the other terms of the Incentive Plan is a key part of that objective evidence, and is likely to be given very significant weight. But, in my judgment, Ms Goh should not be denied the opportunity to adduce any evidence she may have at trial that may shed light on the parties' intention and understanding as regards cl 10.3 at the relevant time, and which may support her position.

93 This is especially so because the Incentive Plan – like the Plan Schedule – was a document issued by IGA and updated by IGA each financial year.[69] It is worth bearing in mind *why* the text is said to occupy primacy of place in ascertaining the meaning objectively intended by the parties. As the UK Supreme Court explained in *Arnold v Britton and others* [2015] 2 WLR 1593 at [17] (cited in *Yap Son On* at [38]), this is because "the parties have control over the language they use in a contract", and "save perhaps in a very unusual case,

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69 SOC at para 2.1.5.

the parties must have been specifically focussing on the issue covered by the provision when agreeing the wording of that provision". This rationale applies less forcefully to a set of standard terms that are incorporated by reference into the parties' contract, where – as a matter of practical reality – only one party has control over the language used, and it is doubtful whether the other party can be said to have been specifically focusing on the meaning of the relevant term when agreeing to the set of terms as a whole. In my view, this makes it all the more important for the text of cl 10.3 to be read in its full context.

94 I conclude my analysis of this issue by emphasising that the fact that a clause operates significantly to the employer's advantage and to the employee's disadvantage, and is "unfair" in that colloquial sense, does not in and of itself provide a sound legal basis for the court to rewrite the parties' contractual bargain or give its terms an interpretation they cannot bear. It may well be that any evidence Ms Goh seeks to rely on ultimately fails to establish that the parties' objectively ascertained intentions at the relevant time were anything other than what a plain reading of cl 10.3 would suggest. But the overarching question before me in SUM 1069 is whether the threshold for striking out is satisfied. In the circumstances of this case, I am not persuaded that it would be in the interests of justice to strike out Ms Goh's claim for the Outstanding Sales Credits on the ground that cl 10.3 makes this claim plainly or obviously unsustainable, and I decline to do so.

Ms Goh's tortious claims for defamation and negligence

95 IGA did not vigorously contend that Ms Goh's tortious claims should be struck out on grounds other than her inability to rely on issue estoppel, which I

dealt with earlier.[70] Nevertheless, for completeness, I address the other reasons IGA has raised in support of its position that those claims are untenable.

96 In respect of Ms Goh's claim for defamation, IGA submitted that its submission of the MAS Report was protected by qualified privilege because it was made pursuant to a common interest between IGA and the MAS (as the governing body for Ms Goh's employment as an MAS-licensed representative), and IGA and the MAS had reciprocal duties to make and receive the MAS Report.[71] Qualified privilege was pleaded by IGA as a defence to Ms Goh's defamation claim in its Defence.[72] Counsel for Ms Goh informed me that she intends to plead particulars of her allegation that IGA acted with malice – in the sense that IGA did not act fairly or diligently, or in good faith – in her Reply,[73] which has yet to be filed as the parties were informed by the Assistant Registrar at a case conference on 21 April 2025 that the Reply would be dealt with after SUM 1069 was determined. I also note that Ms Goh's Statement of Claim pleads, in support of her claim for aggravated damages for defamation, that IGA published the MAS Report despite knowing that the allegations contained therein were false, or with recklessness and indifference to the truth.[74]

97 In my view, IGA has not shown that Ms Goh's defamation claim is plainly or obviously unsustainable so as to warrant striking out at this juncture. In the event that Ms Goh is able to establish that IGA acted with malice, this would defeat IGA's defence of qualified privilege. It would therefore be

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70 Transcript at p 26 lines 15–21.

71 DWS at paras 48–52.

72 Defence at para 49.3.

73 Transcript at p 34 lines 13–18.

74 SOC at para 5.2.2.

premature for Ms Goh's defamation claim to be struck out based only on IGA's raising of the defence of qualified privilege.

98 I deal finally with Ms Goh's claim for negligence. Although Ms Goh's pleadings on this point in her SOC are somewhat sparse, I am not persuaded that this claim is plainly or obviously unsustainable such that it should be struck out at this juncture, and in any event IGA did not pursue the argument that it should be. As I have noted at [77] above, Ms Goh's SOC pleads that – by reason of her employment with IGA – IGA owed her a duty of care when providing information about her to regulatory authorities, and that it breached that duty when it filed (and subsequently failed to withdraw or apply to withdraw) the MAS Report alleging that she was guilty of serious misconduct when there was no basis for the same. In its own pleadings, IGA has accepted that it owed a duty of care limited to providing true, accurate and fair information to the MAS as its regulator; its pleaded defence to Ms Goh's negligence claim is that the MAS Report was based on facts that were *true and substantiated* through IGA's internal investigations.[75] In the circumstances, I do not think Ms Goh's negligence claim can be said to be plainly or obviously unsustainable.

Conclusion

99 In summary, I dismiss SUM 1069 and decline to strike out Ms Goh's claims in OC 155 under O 9 rr 16(1)(*b*) or 16(1)(*c*) of the ROC 2021 because:

(a) Ms Goh's claims are not barred by the extended doctrine of *res judicata* and are not an abuse of process;

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[75] Defence at paras 57–58; DWS at para 53.

(b) the ECT TM's Decision is not a nullity, and in any event Ms Goh's claims do not depend entirely on the ECT TM's Decision establishing an issue estoppel in her favour; and

(c) Ms Goh's claims are not plainly or obviously unsustainable.

100 For good order, I have also directed Ms Goh to file a supplementary affidavit within seven days from the date of this decision, exhibiting the 30 March 2023 E-mail (see [55] above).

101 I will hear the parties on costs. For now, it remains for me to thank both parties' counsel for their assistance.

Wee Yen Jean
Assistant Registrar

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Harish Kumar s/o Champaklal, Marissa Zhao Yunan and Kiran Jessica Makwana (Rajah & Tann Singapore LLP) for the defendant.