IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2026] SGFC 58

Family Court — Originating Application (OAG) No 154 of 2025 (Summons No 2950 of 2025)

Between

YCD

… *Applicant*

And

YCE

… *Respondent*

GROUNDS OF DECISION

[Civil Procedure — Striking out — Striking out originating application]
[Family Law — Ancillary powers of court — Power of court to order a party to undergo paternity testing]
[Family Law — Maintenance — Child — Multiple maintenance orders in respect of one child]
[Res Judicata — Extended doctrine of res judicata — Applicability of extended doctrine of res judicata to the issuance of multiple maintenance orders]

TABLE OF CONTENTS

YCD
v
YCE

[2026] SGFC 58

Family Court — Originating Application (OAG) No 154 of 2025 (Summons No 2950 of 2025)
Assistant Registrar Jasmine Loo
9, 26 March 2026

23 April 2026

Assistant Registrar Jasmine Loo:

1 In this case, a seemingly simple set of facts belied novel legal questions. After a mother divorced her husband and was granted maintenance for her child, she later sought maintenance from another man whom she claimed was the biological father of the child. This application, taken out by the alleged biological father to strike out the mother's application, raised questions regarding the court's power to order a paternity test, whether the extended doctrine of *res judicata* prevented the mother from raising the issue of the alleged biological father's obligation to pay maintenance, and whether the principle of double recovery applied.

Introduction and background

2 On 8 October 2025, the Applicant filed FC/OAG 154/2025 ("**OAG 154**") under the Guardianship of Infants Act 1934 (2020 Rev Ed) ("**GIA**"). Her application sought the following orders: (a) the Respondent pay $8,926 in monthly maintenance or a lump sum of $1,071,120 for a child (the "**Child**"); (b) the Respondent submit to a paternity test with the Applicant and Child to determine the paternity of the Child; (c) if the paternity test established paternity, that the Court declare the Respondent to be the biological father of the Child; and (d) the Respondent bear the costs of the paternity testing.

3 In FC/SUM 2950/2025 ("**SUM 2950**"), the Respondent sought to strike out the entirety of OAG 154. For the reasons in this Grounds of Decision, I dismissed the application.

4 The Applicant was the mother of the Child, and she alleged that the Respondent was the Child's biological father. The Applicant's account was that the parties first met through an introduction agency and began having sexual relations at the Respondent's home. When the Applicant became pregnant and informed the Respondent in or around August, he denied responsibility and cut off all contact with her. During her pregnancy, the Applicant received support from her then-ex-boyfriend (the "**Ex-Husband**"), whom she married thereafter. She gave birth to the Child the next year. As the Respondent refused to acknowledge that he was the biological father, the Applicant, in emotional distress and having formed a rapport with the Ex-Husband, decided to put The Ex-Husband as the father in the Child's birth certificate. The Ex-Husband agreed to being named as the father even though he was not the Child's biological father. However, the Applicant and the Ex-Husband subsequently

divorced and were granted an interim judgment of divorce (the "**interim judgment**").[1]

5 The Child's birth certificate named the Ex-Husband as the father of the Child.[2] Pursuant to the Applicant's and the Ex-Husband's interim judgment, the parties had joint custody of the Child and another child of the marriage, whose paternity was not disputed. The interim judgment provided that the Ex-Husband would solely maintain both children.[3]

The parties' cases for striking out

The Respondent's case for striking out OAG 154

6 In SUM 2950, the Respondent sought to strike out the entirety of the application in OAG 154 on the basis that it (a) it disclosed no cause of action; (b) it was in the interest of justice to strike out the OAG; and (c) it was an abuse of process of the court.

7 First, the Respondent submitted that the Applicant's case in OAG 154 disclosed no reasonable cause of action because the Applicant had no evidence to establish that the Respondent was the biological father of the Child. The Child's birth certificate named the Ex-Husband as her father. The onus did not fall on the Respondent to disprove his paternity. The Respondent averred that inconsistencies in the Applicant's narrative and timeline cast doubts on her credibility. He also submitted that there was also no provision in any rule empowering the court to order the Respondent to undergo a paternity test, and that the court should not assume legislative function. Further, the court's

---

1 Affidavit of the Applicant dated 7 October 2025 ("A1") at paras 15 and p 18.

2 A1 at p 14.

3 A1 at pp 18–19.

inherent powers should not be invoked absent "serious hardship or difficulty or danger" warranting it.[4]

8 Second, the Respondent submitted that it was in the interest of justice to strike out OAG 154 as the claim was legally unsustainable. The Applicant and her ex-husband had entered into an interim judgment by consent, which provided that Ex-Husband was to bear 100% of the Child's expenses. Therefore, even if the alleged facts were proven, the Applicant was not entitled to the remedy sought and the Applicant suffered no prejudice. The application also fell afoul of the rule in *Henderson v Henderson* (1843) 3 Hare 100 ("***Henderson***") (the "***Henderson* rule**") as the extended doctrine of *res judicata* precluded the Applicant from raising this point, which should have been raised during the divorce proceedings. In addition, if the Applicant sought maintenance for the Child while the interim judgment subsisted, this would permit a double recovery of the Child's expenses, which had presumably been borne by Ex-Husband. The Applicant's proper recourse was to enforce Ex-Husband's maintenance obligations.[5]

9 Third, even if the court had the power to order a paternity test, OAG 154 constituted an abuse of process as it would allow the Applicant to doubly claim maintenance for the Child from two individuals, raising questions about the finality of the court's decisions. The Applicant should have applied for pre-action discovery to ascertain paternity prior to commencing OAG 154, and this would have required her to fully indemnify the Respondent. The Applicant should also be estopped from pursuing child maintenance from the Respondent

---

4 Respondent's Written Submissions for FC/OAG 154/2025 dated 12 February 2026 ("RWS") at paras 23–47.

5 RWS at paras 48–60.

when she had entered into the interim judgment, which awarded maintenance payable by the Ex-Husband.[6]

The Applicant's case resisting the striking out

10 The Applicant resisted the striking out application in SUM 2950 on three grounds.

11 First, the Applicant contended that OAG 154 disclosed a tenable cause of action, *ie,* a claim for maintenance and the determination of the Child's paternity. The Applicant argued that the Child's birth certificate and the presumption that a person was a "legitimate child" of a man (where that person was born during the continuance of a valid marriage between his mother and that man) in s 114 of the Evidence Act 1893 (2020 Rev Ed) did not preclude maintenance being ordered against a biological father (*WX v WW* [2009] SGHC 70 ("***WX v WW***") at [11]–[17]). In any case, as ss 68 and 69 of the Women's Charter 1961 (2020 Rev Ed) ("**Women's Charter**") imposed a duty on parents to maintain their legitimate or illegitimate children, Parliament could not have intended that a biological father's duty to maintain his children would be relieved by the presumption of paternity (*WX v WW* at [17]). The case was also not hopeless because the Respondent admitted to having sexual intercourse with the Applicant.[7]

12 In addition, the absence of an express provision empowering the court to order a paternity test did not preclude the existence of such a power, and the issue of the evidence could be dealt with as a matter of evidential procedure.

---

6 RWS at paras 62–69.

7 Applicant's Written Submissions for FC/OAG 154/2025 dated 12 February 2026 ("AWS") at paras 9–12 and 16–21.

Scientific DNA evidence remained relevant alongside the presumption of paternity (*AD v AE (minors: custody, care, control and access)* [2005] SGHC 30).[8]

13 Second, the Applicant argued that OAG 154 should not be struck out as it was not in the interests of justice to do so. Even if there were concerns about the double recovery of maintenance, this was an issue going towards the quantum, apportionment, backdating and reimbursement of maintenance, rather than striking out these maintenance proceedings. The interim judgment between the Applicant and her ex-husband should not extinguish the Child's right to seek maintenance.[9]

14 Third, OAG 154 was not an abuse of process as any delays, issues about credibility and disputes about the Applicant's motives could be dealt with as a matter of case management and evidential procedure, rather than through striking out the case.[10]

The applicable law in striking out applications

15 Under P 8 r 12(1) of the Family Justice (General) Rules 2024 ("**FJ(G)R 2024**"), the court may order an originating application to be struck out or amended on the grounds that (a) it discloses no reasonable cause of action or defence, as the case may be; (b) it is an abuse of process of the court; or (c) it is in the interests of justice to do so.

---

8 AWS at paras 13–15.

9 AWS at paras 22–26.

10 AWS at paras 27–30.

16 Part 8 r 12 of the FJ(G)R 2024 is derived from O 9 r 16 of the Rules of Court 2021 ("**ROC 2021**"). It is therefore uncontroversial that the case law pertaining to the interpretation of O 9 r 16 of the ROC 2021 is relevant in determining the interpretation of P 8 r 12 of the FJ(G)R 2024. It replaces r 405 of the Family Justice Rules 2014 ("**FJR 2014**"), which provides that the court may strike out any pleading on the grounds that it (a) it discloses no reasonable cause of action or defence, as the case may be; (b) it is scandalous, frivolous or vexatious; (c) it may prejudice, embarrass or delay the fair trial of the action; or (d) it is otherwise an abuse of the process of the court. Rule 405 of the FJR 2014 is in turn derived from O 18 r 19 of the Rules of Court 2014 (Cap 332 R5) ("**ROC 2014**"). Therefore, the case law applicable to r 405 of the FJR 2014 and O 18 r 19 of the ROC 2014 is also applicable here (see also *Leong Quee Ching Karen v Lim Soon Huat and others* [2023] 4 SLR 1133 ("***Karen Leong***")).

17 The High Court observed that the bar of succeeding in a striking out application is a high one, whereby the power to strike out is only applied in very exceptional cases and would not be justified merely because the story told in the pleadings is highly improbable, and one which it was difficult to believe could be proved. The applicant must show that the claim is obviously unsustainable, the pleadings unarguably bad, and it would be impossible, not just improbable, for the claim to succeed before the court will strike it out (*Karen Leong* at [25]–[26]).

18 The Respondent relied on *The "Bunga Melati 5"* [2012] 4 SLR 546 ("***The Bunga Melati***") and *Chia Kok Kee v Tan Wah and others* [2012] 2 SLR 352 to state that the court will strike out an application where the claim is factually or legally flawed, or legally unsustainable.[11] As highlighted in

[11] RWS at para 18.

The Bunga Melati at [31], each of the four limbs of O 18 r 19 of the ROC 2014 have been found to, conceptually speaking, serve a specific purpose apropos the court's power to summarily dismiss a party's claim, notwithstanding the fact that there are similarities and overlaps between each limb.

19 Similarly, each of the three limbs for striking out an application under P 8 r 12(1) of the FJ(G)R 2024 serves a specific purpose, as explained below:

(a) **No reasonable cause of action:** First, an originating application may be struck out where it discloses no reasonable cause of action (P 8 r 12(1)(*a*) of the FJ(G)R 2024). The guiding principle is whether the pleadings demonstrate some chance of success or raise a question fit to be decided at trial considering only the allegations in the pleadings, presuming the pleaded facts to be true in favour of the claimant. Therefore, a cause of action will not be struck out just because the case is weak and is not likely to succeed (*per* Goh Yihan J, *Envy Asset Management Pte Ltd (in liquidation) and others v Lau Lee Sheng and others* [2024] 4 SLR 1210 ("***Envy Asset Management***") at [18]). This is supported by the fact that no evidence is admissible on an application under P 8 r 12(1)(*a*) of the FJ(G)R 2024.

(b) **Abuse of process of the court.** Second, an originating application may be struck out where it is an abuse of process of the court (P 8 r 12(1)(*b*) of the FJ(G)R 2024). The process of the court must be used *bona fide* and must not be abused, the assessment of which involves considerations of public policy and the interests of justice. The court will prevent the improper use of its machinery as a means of vexation and oppression in the process of litigation (see *Iskandar bin Rahmat and others v Attorney-General and another* [2022] 2 SLR 1018 ("***Iskandar***")

at [18]; *Singapore Civil Procedure 2026 Volume 1* at para 9/16/1, citing *Castro v Murray* (1875) 10 Ex 213). It would amount to an abuse of process where a party knowingly brought proceedings which were "doomed to fail" (*Envy Asset Management* at [19]).

(c) **Interests of justice.** Third, an originating application may be struck out where it is in the interests of justice to do so (P 8 r 12(1)(*c*) of the FJ(G)R 2024). This limb and the "abuse of process" limb subsume the previous O 18 rr 19(1)(*b*) and 19(1)(*c*) of the ROC 2014, allowing pleadings which are scandalous, frivolous or vexatious or which may prejudice, embarrass or delay the fair trial of an action to be struck out (*Asian Eco Technology Pte Ltd v Deng Yiming* [2023] SGHC 260 ("***Asian Eco Technology***") at [15]). This provision gives effect to the court's inherent jurisdiction to prevent injustice, such as where the claim is plainly or obviously unsustainable (*Iskandar* at [19], citing *The Bunga Melati* at [33]). A legally unsustainable claim is one where it is clear at the outset, as a matter of law, that even if a party were to succeed in proving all the facts that he offers to prove, he will not be entitled to the remedy that he seeks. A factually unsustainable claim is one where it is possible to confidently say before trial that the factual basis for the claim is fanciful because it is entirely without substance, such as for example where it is clear beyond question that the alleged facts are contradicted by all the material on which it is based (*The Bunga Melati* at [39]).

Issues to be determined

20 Based on the parties' cases and the law above, there were three issues to be determined:

(a) Whether OAG 154 disclosed a reasonable cause of action;

(b) Whether it was in the interest of justice to strike out OAG 154; and

(c) Whether OAG 154 was an abuse of process.

Analysis

A reasonable cause of action is disclosed in OAG 154

21 On the first issue, I found that OAG 154 disclosed a reasonable cause of action. The Respondent relied on three arguments in this respect: (a) that the Applicant's narrative was incredible; (b) that the Respondent should not have to prove that he was not the father; and (c) that there was no cause of action as the court had no power to order a paternity test. I found that I was unable to strike out OAG 154 based on any of these arguments, as I explain below.

The pleaded facts disclose some chance of success

22 The Respondent raised concerns about the credibility of the Applicant's narrative, given that she claimed to have had sexual relations with the Respondent in the same month that she married the Ex-Husband. He highlighted the implausibility of the Applicant discovering her pregnancy, becoming estranged from the Respondent, and then reconciling with and eventually marrying the Ex-Husband within one month.

23 However, the threshold for striking out was whether the application demonstrated some chance of success or raised a question fit to be decided at trial, presuming the pleaded facts to be true in favour of the Applicant. This was a high threshold and a case would not be struck out even if it was weak and unlikely to succeed (*Envy Asset Management* at [18]). I found that, assuming the Applicant's pleaded fact that she had sexual relations with the Respondent

in August was true, there was at least a question fit to be tried of whether the Child, who was born between nine to ten months later, was the biological daughter of the Respondent.

The Respondent bears the burden to prove OAG 154 has no chance of success

24 Further, I considered the Respondent's submissions that the onus should not fall on him to prove that he was not the Child's father, given that the Child could be presumed to be the Ex-Husband's child by operation of s 114 of the Evidence Act 1893 (2020 Rev Ed) or by virtue of the Child's birth certificate.

25 I accepted that in the main application in OAG 154, the Applicant bore the legal burden to prove that the Child was the Respondent's daughter. However, in these striking out proceedings, the Respondent bore the burden to show that the application had *no* chance of success. In my view, this high threshold was not met.

26 Section 114 of the Evidence Act 1893 (2020 Rev Ed) merely provided for a *rebuttable* presumption of paternity (as reproduced below):

> **Rebuttable presumption of paternity**
>
> 114.—(1) Where any person was born —
>
> (*a*) during the continuance of a valid marriage between his or her mother and any man; or
>
> (*b*) within 280 days after the dissolution of the marriage, the mother remaining unmarried,
>
> it is presumed that the person is the legitimate child of that man, unless the contrary is proved.
>
> (2) Subsection (1) does not apply to a person whose parenthood is determined under the Status of Children (Assisted Reproduction Technology) Act 2013.

27 In contrast, under the repealed s 114 of the Evidence Act (Cap 97, 1997 Rev Ed), the fact that any person was born during the continuance of a valid marriage between his mother and any man shall be *conclusive* evidence that the child is the legitimate son of that man, unless it can be shown that the parties had no access to each other at any time when he could have been begotten. This was the context in which the decision of *WX v WW*, which specified that the repealed s 114 was a presumption of legitimacy rather than biological parenthood (at [11]), was decided. However, in any case, the debate over whether the repealed s 114 provided conclusive proof of legitimacy or parenthood is not very material, as this provision was repealed and replaced with the current *rebuttable* presumption of paternity by s 16 of the Status of Children (Assisted Reproduction Technology) Act 2013 (Act 16 of 2013) with effect from 1 October 2014.

28 Therefore, under the current s 114 of the Evidence Act 1893 (2020 Rev Ed), as the Child's parenthood had not been determined under the Status of Children (Assisted Reproduction Technology) Act 2014, the Ex-Husband was only *presumed* to be her father until the contrary is proven. Similarly, there was no authority to suggest that a birth certificate conclusively determined the parenthood of a child. Given that the Respondent himself had accepted that he had sexual relations with the Applicant (albeit in the first quarter of the year rather than in August), there was a biological possibility that the Respondent was the Child's father. Therefore, I found it difficult to conclude that the Applicant's application had *no* chance of success.

There is a question fit to be determined on the court's powers to order a paternity test

29 Regarding the Respondent's submission that no provision empowered the court to order paternity testing, both parties agreed during the hearing that

no authority conclusively states that the court lacks such power. The Respondent rightly conceded that there was nothing under the FJ(G)R 2024 that prohibited such an order. The Respondent's argument was that the court's inherent powers should not be invoked simply because there was no "serious hardship or difficulty or danger" warranting it.

30 In my view, there was a question fit to be determined at hearing on whether the court had the power to order the Respondent to undergo a paternity test.

(a) First, as rightly agreed between the parties, there was no legislative or regulatory provision or case authority which expressly stated that the court lacked the power to order a paternity test. Conversely, as raised by the Applicant, there was case law to suggest that the court could, as a matter of procedure, invoke its inherent powers to call for relevant evidence to aid the court in disposing of a matter efficiently, and thus make an order for a paternity test to be conducted (*WGM v WGN* [2025] SLR(FC) 151 ("***WGM***") at [31(e)(xiii)]–[31(e)(xv)]).

(b) Second, the Respondent agreed that the court may order a paternity test by relying on its inherent powers. However, he argued that this power should not be lightly invoked and this was not a suitable case for these powers to be invoked as there was no hardship or danger warranting it.[12] Therefore, I found that even on the Respondent's case, whether any hardship or danger warranted the use of the court's inherent powers was a question fit to be decided at the hearing. During the proceedings, there was inadequate evidence before the court to make

[12] RWS at paras 42–46.

such a determination of the existence of any hardship or danger. In fact, no evidence was admissible on this application under P 8 r 12(1)(*a*) of the FJ(G)R 2024.

(c) Third, I noted that the Applicant submitted during the hearing that s 5 of the GIA and P 1 r 5 of the FJ(G)R 2024 empowered the court to order a paternity test. I made no determination on the merits of these arguments except to note that there is nothing in law which points conclusively to whether these arguments are made out in law.

31 Overall, these underlying disputes over the existence of the court's power to order a paternity test, the appropriate legal test if such a power existed, and the application of the facts to the test were all questions fit to be decided at the hearing. I therefore declined to strike out OAG 154 for disclosing no reasonable cause of action.

It is not in the interest of justice to strike out OAG 154

32 On the second issue, I found that it was not in the interest of justice to strike out OAG 154. The Respondent grounded his submissions that OAG 154 was legally unsustainable on two distinct arguments: one on the extended doctrine of *res judicata* and the other on the rule against double recovery. However, neither of these arguments met the threshold of rendering OAG 154 "legally unsustainable", such that it was scandalous, frivolous or vexatious (see *Asian Eco Technology* at [15]). A legally unsustainable case was one where it was clear at the outset, as a matter of law, that even if a party were to succeed in proving all the facts that he offered to prove, he would not be entitled to the remedy that he sought (*The "Bunga Melati 5"* [2012] 4 SLR 546 at [39]).

The extended doctrine of res judicata *is not applicable*

33 The Respondent's first argument was that OAG 154 contravenes the *Henderson* rule as the extended doctrine of *res judicata* should preclude the Applicant from raising the issue of Respondent's liability to maintain the Child. The Applicant should have raised this point during the divorce proceedings between her and the Ex-Husband, prior to entering into the interim judgment by consent. The court hearing the divorce would have had sight of the relevant evidence to make the necessary maintenance orders.[13]

34 I was unable to find that the extended doctrine of *res judicata* should allow this court to strike out OAG 154. As explained by Sundaresh Menon JC (as he then was) in *Goh Nellie v Goh Lian Teck and others* [2007] 1 SLR(R) 453 ("***Nellie Goh***") at [17]–[26], the umbrella doctrine of *res judicata* comprised three distinct principles: cause of action estoppel, issue estoppel and the extended doctrine of *res judicata*. The extended doctrine (also known as the defence of abuse of process) originated from the statement of Sir James Wigram VC's statement in *Henderson* at 115:

> … where 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. …

---

13 RWS at paras 53–54; and as argued during the hearing on 9 March 2026.

35 The extended doctrine of *res judicata* prevented people from opening the same subject of litigation in respect of matters which ought to have been raised as a part of an earlier proceeding but was not (see *Ong Han Nam v Borneo Ventures Pte Ltd* [2021] 1 SLR 1248 ("***Ong Han Nam***") at [69]; *Nellie Goh* at [41]; *Henderson* at 114–115). This rule was applicable where *some connection* could be shown between the party seeking to relitigate the issue and the earlier proceeding where that essential issue was litigated, which would make it unjust to allow that party to reopen the issue (*Lim Geok Lin Andy v Yap Jin Meng Bryan and another appeal* [2017] 2 SLR 760 ("***Andy Lim***") at [44]).

36 However, the English House of Lords opined that it would be wrong to hold that simply because a matter *could have* been raised in earlier proceedings, that it *should have* been, as that would render the raising of such matters *necessarily* abusive. That would be too dogmatic an approach. Instead, there should be a broad, merits-based judgment which accounted for public and private interests and all the facts of the case, focusing on the crucial question of whether a party was misusing or abusing the process of the court by seeking to raise before it an issue which could have been raised before (*per* Lord Bingham of Cornhill, *Johnson v Gore Wood & Co (a firm)* [2002] 2 AC 1 at [31], cited in *Ren Xinwu v Homing Holdings Pte Ltd (in liquidation) and another* [2026] SGHC 42 at [26]).

37 The test for whether there had been an abuse of process under the *Henderson* rule was a fact-specific inquiry that required the consideration of all the circumstances of the case, including the factors as set out in *Nellie Goh* at [53] and *Andy Lim* at [38]. I set out these non-exhaustive factors below:

(a) whether the later proceedings are nothing more than a collateral attack upon the previous decision;

(b) whether there is fresh evidence that warranted re-litigation;

(c) whether there are *bona fide* reasons why an issue which ought to have been raised in the earlier action was not; and

(d) whether there are other special circumstances that justify allowing the case to proceed.

The decisive factor was not whether repeated claims had been made by the same claimants or against the same defendant, but rather the fairness or oppressiveness of the new claim as demonstrated by the facts of the case (*Ong Han Nam* at [71]).

38 Applying the test above, I found that the extended doctrine of *res judicata* did not preclude the Applicant's application for a maintenance order to be made against the Respondent, for the following three reasons.

39 First, I was not of the view that the Respondent's potential liability to maintain the Child ought to have been raised during the divorce proceedings between the Applicant and the Ex-Husband. For the extended doctrine of *res judicata* to apply, the Respondent must show that the connection between the issue of maintenance in the divorce proceedings and the present proceedings rendered it unjust or oppressive for OAG 154 to be brought. This might be, for example, where the same defendant had been sued by two different plaintiffs on identical issues which had already been determined in an earlier action (see *Andy Lim* at [43]; *Ong Han Nam* at [73]), or where the same plaintiff sued different parties where the defendants had a "privity of interests", *ie,* such a close or special relationship or commonality of interest that the plaintiff ought to have brought a claim against all the defendants in one and the same action (see *Andy Lim* at [43], citing *Gleeson v J Wippell & Co Ltd* [1977] 1 WLR 510

at 515). When Sir Robert Megarry VC considered the phrase "privity of interest", he regarded this to mean that there was a sufficient degree of identity between the prior defendant and the new defendant, having due regard to the subject matter of the dispute, that it would be just to hold that the decision to which one was party should be binding in proceedings to which the other is party (*Gleeson v J Wippell & Co Ltd* [1977] 1 WLR 510 at 515).

40 On the present facts, I was not satisfied that there was such a connection between the issue of maintenance in the divorce proceedings and OAG 154. In the divorce proceedings, the interim judgment was granted by consent on an uncontested basis in chambers. The Respondent was not party to those divorce proceedings and suffered no prejudice from a potential maintenance claim not being brought against him at the time of the divorce proceedings. I did not consider the Respondent to have a privity of interest with the Ex-Husband, as their potential liabilities to maintain the Child were premised on different statutory obligations under ss 70 and 68 of the Women's Charter and arguably conflicted with each other. Therefore, the fact that the issue of maintenance for the Child had been decided *vis-à-vis* the Ex-Husband did not make it unjust for the question of maintenance to be brought against the Respondent.

41 Second, it was not even clear *how* the Applicant could have taken steps to require the Respondent to pay maintenance for the Child within the framework of the divorce proceedings. Under ss 93 and 95 of the Women's Charter, the court had jurisdiction to hear proceedings for divorce between the parties to a marriage. An external party, such as the Respondent, was not a party to the divorce proceedings. A decision on the ancillary matters made in divorce proceedings between the Applicant and the Ex-Husband could not bind the Respondent, a non-party. While the Respondent argued that the divorce court could have made the necessary maintenance orders, he did not particularise the

legal mechanism by which the Applicant could have brought proceedings against the Respondent in her divorce proceedings. As I was unable to find that the Applicant could have included the issue of the Respondent's liability to pay maintenance for the Child as part of the issues determined in the divorce proceedings, I found that the extended doctrine of *res judicata* was not applicable, as the issue could not even have been ventilated in the divorce proceedings.

42 In the event that the Respondent's argument was instead that the Applicant should have taken out separate maintenance proceedings against the Respondent at the time of the divorce proceedings, the extended doctrine of *res judicata* would similarly not have been applicable. The doctrine served to preclude the litigation of matters that should have been brought in prior *proceedings*, not to preclude applications which are not brought timeously.

43 Third, even if the Applicant could and should have raised the issue of the Respondent's liability to pay maintenance for the Child in the divorce proceedings, I would not have struck out OAG 154 on the basis that the application was legally unsustainable. The legal test for determining whether there had been an abuse of process was a broad, merits-based and fact-specific evaluation of all the circumstances. On this, the parties raised various arguments during the hearing. The Respondent highlighted that the Applicant had adduced no reasons why her application was being brought now and relied on no new information, as she had always known that the Respondent was the biological father of the Child. In turn, the Applicant submitted that the Applicant had not been aware of her legal rights to maintenance until she was advised, and that she only commenced these proceedings after the Respondent denied paternity

in June 2025 and she received legal advice in late 2024 to early 2025.[14] In my view, at an interlocutory stage where I had limited evidence before me, I was unable to determine whether there were *bona fide* reasons why the issue of maintenance against the Respondent was not raised. This was thus a matter that, should it be raised, would be better addressed at the hearing of OAG 154.

44 Therefore, for the above three reasons, I found that the extended doctrine of *res judicata* did not apply to preclude the maintenance application from being brought.

The rule against double recovery is of arguable applicability

45 The Respondent's second argument was that if the Applicant sought maintenance for the Child while the interim judgment subsisted, this would permit double recovery of the Child's expenses, which had presumably been borne by the Ex-Husband. The Applicant's proper recourse was to enforce the Ex-Husband's maintenance obligations. In turn, the Applicant submitted that the Respondent's concerns could be addressed when apportioning, backdating, or crediting the maintenance payable.

46 I declined to strike out OAG 154 on the basis of the rule against double recovery as it was not evident that this rule would preclude the Applicant from obtaining the remedy she sought. Several legal and procedural questions arose as to the scope and applicability of the rule against double recovery to maintenance applications, which I considered in turn.

(a) During the hearing, both counsel confirmed that there was no legislative provision or authority which limited the number of

[14] Affidavit of the Applicant dated 23 December 2025 at para 20.

maintenance orders that could be in force in respect of one child. In my view, this was correct and multiple maintenance orders could indeed be in force in relation to the same child. This could be derived from the High Court authority of *AJE v AJF* [2011] SGHC 115, which suggested that a biological father and a stepfather might simultaneously have distinct obligations to maintain a child where the child's maintenance was not adequately met by a biological parent (*per* Kan Ting Chiu J, *AJE v AJF* [2011] SGHC 115 at [12]):

> Section 70(1) [of the Women's Charter] provides that a person who accepts a child as a member of his family has a duty to maintain the child so far as the parents fail to maintain the child. The words "so far as" must be understood properly. They have the same meaning as "to the extent that". In other words, the duty only starts upon the parents' failure to maintain the child adequately. If the child is already adequately maintained by his or her parents, there is no duty on the non-parent to provide further maintenance for the child. However, if the child receives some maintenance from the parents, which is insufficient for his requirements, then the non-parent who has accepted the child as a member of his family has the duty to provide the child with such additional maintenance within his means as is reasonable for the child.

For example, one might envision a situation where a father disappears or is incarcerated, and the mother divorces him and remarries in his absence. The child of the prior marriage is then accepted as a member of the family by the stepfather, such that the stepfather would have an obligation to maintain the child under s 70 of the Women's Charter, for which a maintenance order may be granted. However, should the child's father later return and seek a relationship with the child, I saw no reason to restrict the court's ability to order that a second maintenance order be made in respect of the same child against the child's biological father.

(b) I also enquired as to how the rule against double recovery, which applied in relation to limiting compensation to a plaintiff to the actual loss suffered (see *Lo Kok Jong v Eng Beng* [2024] 1 SLR 964 at [14]), should apply to maintenance. The Respondent submitted orally that the Applicant should have varied the original maintenance order first, since it was stated to provide fully for all of the Child's needs. However, the Respondent's submission did not distinguish between the natures of damages in a civil context and child maintenance in the family law context. In my view, the damages arising out of a breach of contract or tort were *static* as the quantum depended on the actual loss suffered. In contrast, the quantum of maintenance payable was *variable* depending on the financial means of the parent (see s 68 of the Women's Charter). While I accepted that a child's reasonable needs provided an upper limit to the total quantum of maintenance that could be ordered, the law provided that the child's reasonable needs were assessed based on their parents' ability to afford the expense: *UHA v UHB and another appeal* [2020] 3 SLR 666 at [46]. In other words, the reasonable sum of the child's maintenance could increase if a second parent of greater means was found. In such a scenario, the rule against double recovery might not be as apt as its main goal was to prevent double compensation. However, it may not be wrong for a parent to pay higher maintenance to provide a child a better standard of living. I was thus not satisfied that the rule against double recovery was entirely applicable to child maintenance proceedings.

(c) Even assuming that the rule against double recovery was applicable, a consequential question was whether the effect of this rule was that a court was *precluded* from making a second maintenance order where a first maintenance order was in force, or whether a court could

> make a second maintenance order but would then be empowered to vary or set aside the original maintenance order, or whether some other procedural route should apply. The latter position cohered with the Applicant's submission that any concerns about double recovery would go towards quantum, apportionment, backdating and reimbursement, and would suggest that it was still appropriate for OAG 154 to be heard. The former position, however, would suggest that the remedy sought in OAG 154 could not be ordered while the maintenance order in the interim judgment remained in force. When this was raised to parties, the Respondent took the position that a second maintenance order could only be made if there was ambiguity in the original order or an expense of the Child which was not being covered at present. The Applicant reiterated that she only came to know of her rights to seek maintenance from the Respondent later. In either event, I found that this is an open question that was fit to be determined at hearing (if so raised), and the rule against double recovery did not clearly render OAG 154 legally unsustainable.

47 Given the above questions, it was not clear to me from the outset that the Applicant would not be entitled to any maintenance order being made if she was to succeed in proving that the Respondent was the biological father of the Child. Thus, I found that the Respondent had not met the high threshold of showing that OAG 154 was legally unsustainable, and declined to strike out OAG 154 on this ground.

OAG 154 is not an abuse of process

48 The third issue of whether OAG 154 should be struck out for being an abuse of process was answered in the negative. To substantiate that OAG 154

was an abuse of process, the Respondent submitted that: (a) the Applicant made the wrong application and should have applied for pre-action discovery; (b) the Applicant's failure to disclose mandatory information demonstrated her lack of regard for court process; and (c) the double claiming of maintenance offended the principle of finality. Having considered these arguments, I was unable to find that OAG 154 was an improper use of the court's machinery or a means of vexation and oppression, for reasons I now explain.

The pre-action discovery mechanism is not applicable

49 The Respondent argued that the Applicant should have applied for pre-action discovery for the paternity test to be conducted, which would have required her to fully indemnify the Respondent. He submitted that the Applicant has chosen to sidestep the pre-action discovery process and failed to produce her own financial documents in OAG 154, demonstrating that she had no regard for the court's processes.

50 I was unable to accept this submission. In my view, no provision required the Applicant to conclusively determine that the Respondent was the biological father of the Child *prior to* commencing maintenance proceedings. Ultimately, the Applicant still bore the burden to establish this fact before any maintenance order would be made. In any case, the pre-action discovery mechanism was not of clear applicability here. Part 9 r 10 of the FJ(G)R 2024 provided for the disclosure of documents or information before the commencement of proceedings to *identify possible parties* to any proceedings, trace property or for any other lawful purpose. In the present case, the Applicant had no need to identify possible parties as she had already identified the Respondent as a possible (and presumably only) party to OAG 154. I therefore

found that OAG 154 was not an abuse of process simply because the pre-action disclosure mechanism was not utilised.

Gaps in evidence are not a ground for striking out

51 The Respondent also highlighted various other alleged gaps and the lack of mandatory disclosure in the application, pointing to this as a sign that the Applicant had no regard for the court's processes.[15] In my view, the consequences of any failure to produce evidence or substantiate one's claim should arise in the determination of the application on the merits. It was not a ground for striking out the application at this early stage.

The principles of double recovery and estoppel are not clearly applicable

52 The Respondent also reiterated his concerns about the Applicant's potential double recovery of the maintenance for the Child and estoppel (a narrower variant of *res judicata*) arising from the interim judgment, which I considered above. For completeness, I did not think OAG 154 was brought as a means of vexation and oppression as it appeared at least possible that there was a genuine case relating to the Respondent's liability for his potential child. This was a question which had not been litigated in any court and for which there was no clear authority to preclude the case being brought. I therefore found that OAG 154 was not an abuse of process.

Conclusion

53 Therefore, I found that there was no basis for me to strike out the application in OAG 154, and I **dismissed** the application in SUM 2950

[15] RWS at paras 65–66.

accordingly. I heard parties on costs at a case conference on 27 March 2026 and awarded the Applicant costs of $2,000, with disbursements of $150.

Jasmine Loo
Assistant Registrar

Yap Ying Jie Clement and Urmi Nag (Harry Elias Partnership LLP)
for the applicant (YCD);
Diana Foo (Legal Eagles) for the respondent (YCE).