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

[2026] SGHC(A) 16

Appellate Division / Originating Application No 2 of 2026 and Summons No 2 of 2026

Between

Capajet Pte Ltd

… *Applicant*

And

(1) EV Technology Pte Ltd
(2) Kwek Yan Ping
(3) SEV Smart Pte Ltd
(4) SEV Holding Pte Ltd

… *Respondents*

Appellate Division / Originating Application No 5 of 2026

Between

Zhao FeiYan

… *Applicant*

And

(1) EV Technology Pte Ltd
(2) Kwek Yan Ping
(3) SEV Smart Pte Ltd
(4) SEV Holding Pte Ltd

… *Respondents*

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In the matter of Originating Claim No 834 of 2024

Between

Capajet Pte Ltd

… *Claimant*

And

EV Technology Pte Ltd

… *Defendant*

Counterclaim

Between

(1) EV Technology Pte Ltd
(2) Kwek Yan Ping
(3) SEV Smart Pte Ltd
(4) SEV Holding Pte Ltd

… *Claimants in counterclaim*

And

(1) Capajet Pte Ltd
(2) Geoffrey Owen Cassidy
(3) Zhao Xiwen
(4) Zhao FeiYan
(5) TG Holdings HK Ltd
(6) Smart Innovations Global Pte Ltd
(7) Stradbroke Investments Pte Ltd

… *Defendants in counterclaim*

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JUDGMENT

[Civil Procedure — Appeals — Whether permission to appeal required]
[Civil Procedure — Summary judgment]
[Civil Procedure — Striking out]

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Capajet Pte Ltd
v
EV Technology Pte Ltd and others and other matters

[2026] SGHC(A) 16

Appellate Division of the High Court — Originating Application Nos 2 and 5 of 2026 and Summons No 2 of 2026
Debbie Ong Siew Ling JAD and See Kee Oon JAD
5 February 2026

14 May 2026

Debbie Ong Siew Ling JAD (delivering the judgment of the court):

Introduction

1 This judgment concerns applications for permission to appeal against decisions on summary judgment and striking out. The underlying dispute is HC/OC 834/2024 ("OC 834"), which is an action brought by Capajet Pte Ltd ("Capajet") against EV Technology Pte Ltd ("EV Tech") for sums due under a loan agreement.

2 The applicant in AD/OA 2/2026 ("OA 2") and AD/SUM 2/2026 ("SUM 2") is Capajet, who seeks permission to appeal against the decision of a judge in the General Division of the High Court ("Judge") in HC/SUM 1423/2025 ("SUM 1423"). The applicant in AD/OA 5/2026 ("OA 5") is Ms Zhao FeiYan ("Ms Zhao"), who seeks permission to appeal against the decision of the Judge in HC/SUM 1424/2025 ("SUM 1424"). The respondents

in all three applications before this court are EV Tech, Ms Kwek Yan Ping ("Ms Kwek"), SEV Smart Pte Ltd ("SEV Smart") and SEV Holding Pte Ltd ("SEV Holding") (collectively, "respondents").

Background

The loan between Capajet and EV Tech

3 Stradbroke Investments Pte Ltd ("Stradbroke") is an investment company whose chief asset is a building located at 152 Ubi Avenue 4 ("Ubi Property"). Stradbroke holds the Ubi Property through its wholly-owned subsidiary, Smart Innovations Global Pte Ltd ("SIG"). According to Capajet, EV Tech wanted to purchase 29% of the shares in Stradbroke and required funds to do so. TG Holdings HK Ltd ("TG Holdings"), which is associated with Capajet and which owns the other 71% of shares in Stradbroke, facilitated EV Tech's purchase by arranging for Capajet to extend a loan of S$3,360,000 to EV Tech. After the purchase, 71% of the shares in Stradbroke are held by TG Holdings, and the remaining 29% of the shares are held by SEV Smart, which is associated with EV Tech.

4 The present dispute arises from a loan agreement dated 18 April 2023 ("Loan Agreement") which is said to capture the terms of the loan between Capajet and EV Tech ("Capajet Loan"). The face of the Loan Agreement states that:

(a) simple interest is to accrue at "bank rate plus 150 points p.a. Or such other rate as may be agreed by the Parties"; and

(b) outstandings under the loan were to be "repayable by [EV Tech] on demand".

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5 In this judgment, "Capajet Loan" is used to refer to the loan itself extended by Capajet to EV Tech, while "Loan Agreement" refers to the loan document dated 18 April 2023, which purports to reflect the terms of the Capajet Loan.

6 It is not disputed that the parties orally agreed in or around July 2023 that EV Tech was to be the borrower under the Capajet Loan. Since then, EV Tech has made partial repayments of the Capajet Loan but has made no payments since September 2024.

Capajet's associated companies

7 According to the respondents, TG Holdings is also the majority shareholder of Capajet Limited, a Hong Kong company which in turn holds 60% of the shareholding in Capajet. These three companies are collectively referred to as the "Capajet Companies".

8 The Capajet Companies appear to be owned or controlled by Mr Zhao Xiwen ("Mr Zhao"). Mr Zhao's sister, Ms Zhao FeiYan, is allegedly the sole shareholder of ZFY Pte Ltd, which apparently owns the other 40% of shares in Capajet. The respondents allege that Ms Zhao's husband, Mr Geoffrey Owen Cassidy ("Mr Cassidy") is the true controller of the Capajet Companies, which he manages through Mr Zhao and Ms Zhao, who act as his nominees.

EV Tech's associated companies

9 As stated above (at [2]), the respondents are EV Tech, Ms Kwek, SEV Smart and SEV Holding. SEV Smart is a wholly owned subsidiary of SEV Holding. 10% of SEV Holding is owned by EV Tech. SEV Smart, SEV

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Holding, and EV Tech are owned and managed by Ms Kwek who owns 37% of SEV Holding and 60.2% of EV Tech.

Legal proceedings

10 On 22 October 2024, Capajet filed OC 834 against EV Tech for sums due under the Loan Agreement. Capajet estimates that $2,801,376.80 remains due and owing as of 8 October 2024.

11 EV Tech challenges the Loan Agreement on various fronts. Principally, it argues that the Loan Agreement does not accurately reflect the true terms of the Capajet Loan. While EV Tech does not dispute liability under the Capajet Loan, it says that the parties had agreed for the loan to be paid off in instalments (as opposed to on-demand). Additionally, it avers that the Loan Agreement is a back-dated document "not intended to have any legal effect or be legally enforceable". The Loan Agreement had been executed in August 2023 and had been created "merely for the purpose of presenting it to Capajet's auditors and bankers".

12 Capajet admits that the Loan Agreement was only formally executed around August 2023. However, it denies that the Loan Agreement was not intended to be legally binding. Capajet explains that it was "necessary for governance and accounting reasons for the [Capajet Loan] to be reduced into writing". Additionally, Capajet contends that the Capajet Loan was payable on demand. Partial payments were only accepted "[a]s a matter of discretion, and not as a matter of obligation".

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13 In OC 834, the respondents counterclaim against Capajet, Ms Zhao and various others for, amongst others, unlawful means conspiracy. Capajet and Ms Zhao are only involved in the counterclaim for unlawful means conspiracy.

14 In gist, the counterclaim alleges that the defendants-in-counterclaim have wrongfully conspired to cause loss to one or more, or all, of the respondents through their management of Stradbroke, SIG, and the Ubi Property.

15 The parties subsequently filed summary judgment and striking out applications:

(a) In HC/SUM 1422/2025 ("SUM 1422"), Capajet applied for summary judgment against EV Tech in respect of its claim in OC 834. SUM 1422 was dismissed by an assistant registrar ("AR") on the basis that Capajet had not made out a *prima facie* case. Capajet then filed HC/RA 131/2025, an appeal against, amongst others, the AR's decision to dismiss SUM 1422 ("SJ Appeal").

(b) SUM 1423 and SUM 1424 were applications by Capajet and Ms Zhao respectively to strike out the counterclaim in its entirety as against them (collectively, "Striking Out Applications"). Of the defendants-in-counterclaim, only Capajet and Ms Zhao have applied to strike out the counterclaim (as against them).

16 The SJ Appeal and the Striking Out Applications were heard together with other matters on 28 July 2025 by the Judge. The Judge dismissed the SJ Appeal ("Summary Judgment Decision"). The Judge also dismissed the Striking Out Applications ("Striking Out Decision").

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17 Arising from these decisions, three applications have arisen for our determination.

(a) In SUM 2, Capajet seeks a declaration that permission to appeal is required to appeal against the Summary Judgment Decision.

(b) OA 2 is Capajet's application for permission to appeal against the Summary Judgment Decision and the Striking Out Decision as it relates to Capajet.

(c) OA 5 is Ms Zhao's application for permission to appeal against the Striking Out Decision as it relates to her.

SUM 2

18 Both Capajet and EV Tech take the view that permission is required to bring an appeal against the Summary Judgment Decision. We agree.

19 The relevant provision is s 29A(1)(*c*) of the Supreme Court of Judicature Act 1969 (2020 Rev Ed) ("SCJA"), which sets out the circumstances under which permission is required before an appeal may be brought against a decision of the General Division of the High Court. Permission is required for, amongst others, cases specified in para 3 of the Fifth Schedule to the SCJA ("Fifth Schedule") (save for specified exceptions). The relevant provisions of para 3 are reproduced here:

> 3. Subject to paragraph 4(2), the permission of the appellate court is required to appeal against a decision of the General Division in any of the following cases:
>
> (*a*) where a Judge makes an order giving unconditional permission to defend any proceedings;

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> (*b*) where a Judge makes an order giving permission to defend any proceedings on condition that the party defending those proceedings pays into court or gives security for the sum claimed, except if the appellant is that party;
>
> …
>
> (*l*) where a Judge makes an order at the hearing of any interlocutory application other than an application for any of the following matters:
>
> (i) for summary judgment;
>
> …

20 It seems that SUM 2 has been brought because of an apparent ambiguity in para 3 of the Fifth Schedule. Capajet submits that while permission to appeal is clearly required against an order granting permission to defend (whether conditional or unconditional), the ambiguity arises where the order made is a *dismissal of an application for summary judgment*.

21 Capajet submits that permission is required because an order dismissing an application for summary judgment is substantively similar to an order granting permission to defend – which unambiguously requires permission pursuant to paras 3(*a*) and (*b*) of the Fifth Schedule. It refers to the decision of *Sinwa SS (HK) Co Ltd v Nordic International Ltd* [2015] 2 SLR 54 ("*Sinwa*") in support of this proposition.

22 *Sinwa* concerned the issue of whether an order of "no order" in a summary judgment application was appealable to the Court of Appeal. The court observed that "it must have been intended that no appeal should be allowed from an order of 'no order'" as it was "in substance similar to an order giving leave to defend"; it would be incongruous to treat these orders differently when the "effect [was] essentially the same" (at [38]–[39]).

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23 A decision to dismiss an application for summary judgment has the same practical consequence as an order granting permission to defend in so far as both will proceed to a trial. Therefore, permission is also required for an appeal against a dismissal of a summary judgment application. This interpretation is consistent with the general scheme of the SCJA, which imposes restrictions on the right to appeal depending on whether an order finally disposes of the substantive rights of parties – interlocutory applications, by their nature, generally do not dispose of the parties' substantive rights and hence require permission to appeal. The Court of Appeal in *OpenNet Pte Ltd v Info-Communications Development Authority of Singapore* [2013] 2 SLR 880 has explained (at [18]–[19]):

> … the purpose underlying the SCJA regarding the right to appeal is that an appeal to the Court of Appeal will generally be as of right for orders made at interlocutory applications which have the effect of finally disposing of the substantive rights of the parties; while an appeal to the Court of Appeal will ordinarily be denied for orders made at interlocutory applications which do not finally dispose of the substantive rights of the parties, and which are deemed to involve established principles of law. …
>
> … where summary judgment has been ordered, which has the effect of finally disposing [of] the substantive rights of the parties, leave to appeal to the Court of Appeal is not required. On the other hand, where leave to defend is granted in an application for summary judgment, and as such the order does not finally dispose of the substantive rights of the parties, no appeal may be made against that order. The effect of such an order is that the rights of neither party are affected as the matter will just go for trial, where both parties will have ample opportunity to canvas[s] their respective positions. No appeal is allowed because it would serve no useful purpose in prolonging such interim litigation.

24 Dismissing an application for summary judgment does not finally dispose of the parties' substantive rights as the matter will proceed to trial. We hold that permission to appeal is required for Capajet to appeal against the Summary Judgment Decision. We allow SUM 2.

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OA 2 and OA 5

25 It is well established that permission to appeal may be granted if: "(a) there is a *prima facie* error of law; (b) the matter concerns a question of general principle decided for the first time; or (c) the matter concerns a question of importance upon which further argument and a decision of a higher tribunal would be to the public advantage": *Koh Kien Chon v Ding Asset Ltd* [2023] SGCA 24 ("*Koh Kien Chon*") at [25]. A *prima facie* case of error must be an error of law, or in exceptional circumstances an error of fact which is obvious from the record: *Rodeo Power Pte Ltd v Tong Seak Kan* [2022] SGHC(A) 16 at [10].

26 Capajet seeks permission to appeal against the Summary Judgment Decision and the Striking Out Decision in respect of the counterclaim against it in unlawful means conspiracy. Ms Zhao seeks permission to appeal against the Striking Out Decision in respect of the counterclaim against her, also for unlawful means conspiracy.

Permission to appeal against the Summary Judgment Decision

27 The Judge held in respect of the SJ Appeal:

> … the Claimant [*ie,* Capajet] has established a *prima facie* case. On the face of the loan agreement dated 18 April 2023 ("the Loan Agreement"), liability arises on the part of the Defendant [*ie,* EV Tech], and the Defendant does not deny that it owes monies to the Claimant. …
>
> However, I am of the view that the Defendant has established that there is a fair or reasonable probability that it has a real or *bona fide* defence. Indeed, I am satisfied that the Defendant has raised various triable issues. …

28 The Judge thus dismissed the SJ Appeal. Whereas the AR had dismissed SUM 1422 on the basis that Capajet had not made out a *prima facie* case, the

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Judge found that Capajet *had* established a *prima facie* case. However, as the Judge also found that EV Tech had established that there is a fair or reasonable probability that it has a real or *bona fide* defence, the appeal against the AR's decision was dismissed.

Capajet's case

29 Capajet relies on two grounds in support of its request for permission to appeal against the Summary Judgment Decision – that there is a question of importance and that the Judge made *prima facie* errors.

30 The question of importance raised by Capajet arises from what it perceives to be different approaches in the case law toward summary judgment and striking out. In *Mirae Asset Daewoo Co, Ltd v Sng Zhiwei Joel* [2021] SGHC 166 ("*Mirae Asset*"), the court made the following observation at [82]:

> Courts should take a robust approach when considering summary judgment applications (*per* GP Selvam J in *Hua Khian Ceramics Tiles Supplies Pte Ltd v Torie Construction Pte Ltd* [1992] 1 SLR 884 ("*Hua Khian")* at [21]–[22]). This court agrees and adopts the approach here. Instead of being distracted by the defendant's irrelevant facts and arguments, this court separated the wheat from the chaff to determine the plaintiff's claim based on relevant and undisputed facts. …

31 Capajet submits that this "robust approach" in *Mirae Asset* can be contrasted with the "lenient approach" purportedly adopted in *Qroi Ltd v Pascoe, Ian* [2019] SGHC 36 ("*Qroi*") (at [4]):

> … In any event, even if the law is presently on his side so far as the proper parties' issue is concerned, the plaintiff is entitled to challenge that law or the application of it. So long as the court may still disagree with current judicial thinking, the plaintiff is entitled to have his action proceeded. The principle here is

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> simple — if Newcastle United can beat Manchester City in the English Premier League, anything can happen.

32 Arising from this "range of judicial opinions in the approach to take with respect to summary judgment and striking out", Capajet submits that there is a question of importance as to "whether a robust approach should be taken in considering applications for summary judgments and striking out".

33 As for the submission on *prima facie* case(s) of error, Capajet contends that the Judge made two errors of law:

(a) First, permission to defend should not have been granted in respect of "defences" which the Judge had observed might not even render the Loan Agreement unenforceable.

(b) Second, the Judge had failed to consider the "abject lack of evidence" provided by EV Tech. The defences raised by EV Tech were mere allegations on affidavit. EV Tech failed to plead or establish any exceptions to the parol evidence rule. Further, Capajet argues that once a *prima facie* case has been established, even if the Judge subsequently found triable issues, he ought to have granted permission to defend, not affirm the AR's dismissal of the summary judgment application.

Our decision

34 We are of the view that there is no question of importance and no *prima facie* case of error justifying the grant of permission to appeal.

35 There is no inconsistency in the approaches in *Mirae Asset* and *Qroi*. The legal tests for summary judgment and striking out are well established, and both cases applied established principles to the respective facts.

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36 In *Mirae Asset*, the court rejected the defendant's argument that there were factual disputes warranting the suit going to trial because the alleged factual disputes were between the defendant *and a third party*, and not between the defendant *and the plaintiff* (at [81]). The alleged "triable issues" were therefore irrelevant to the issue of summary judgment because they did not involve the plaintiff. It was in this context that the court called for a "robust approach" to be taken toward assessing whether triable issues were indeed present. The court applied established principles to the facts; there was nothing novel about its approach.

37 In *Qroi*, the court pointed out that a position different from that in current judicial thinking (perhaps in some developing areas of law) might not in itself render a claimant's case "clearly unsustainable": *Qroi* at [4] and [6]. This was a remark applying existing principles and does not raise any novel issues.

38 As for the alleged *prima facie* errors, we find that the Judge's assessment of the evidence and the conclusion he reached was reasonable, bearing in mind the high threshold which must be met for summary judgment. The Judge found that the following triable issues existed:

> … Indeed, I am satisfied that the Defendant has raised various triable issues. This includes the issues of whether the Loan Agreement was intended to have legal effect; what the true terms of the loan were at the time it was disbursed (in the event that the Loan Agreement did not embody those terms); when the Loan Agreement was in fact executed; who the borrower of the loan was supposed to be at the time that the loan was disbursed (if it had not been determined then); and whether the Loan Agreement was prepared substantially for the purpose of presenting a document in an appropriate form to the bankers in order to obtain further loans. *While these matters may not, in themselves, result in the Loan Agreement not being one which*

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> *the Claimant can validly rely upon*, they do give rise to issues that the Defendant is entitled to fully ventilate at trial.
>
> [emphasis added]

39 The first error alleged by Capajet relates to the Judge's finding that triable issues exist notwithstanding his observation that some of the "defences" raised might not render the Loan Agreement unenforceable. We find no error in this holding. No conclusive finding was made relating to the enforceability of the Loan Agreement. That the enforceability of the Loan Agreement remains uncertain supports allowing the parties to proceed to trial. Further, even if it eventually transpires that the "defences" do not affect the validity of the Loan Agreement, there are still triable issues as EV Tech is challenging the position that the repayment of the loan is "on demand".

40 As for Capajet's second alleged error (mentioned at [33(b)] above), we observe that while Capajet has characterised the alleged error as an error of law, its arguments effectively seek to challenge the Judge's assessment of the facts and evidence. The alleged error is thus an error of fact. A general "assertion that the judge reached the wrong conclusion on the evidence, or the mere erroneous application of the law to a given factual scenario" is insufficient to warrant permission to appeal: *Koh Kien Chon* at [27].

41 There is, however, a point raised by Capajet that we agree with. This is the submission that when the Judge found Capajet had established a *prima facie* case, he should have granted "permission to defend" instead of affirming the AR's decision to *dismiss* the summary judgment application. However, this on its own is insufficient to warrant granting permission to appeal. It would not be appropriate to grant permission to appeal on an issue which will not alter the outcome of the case: *Three Arrows Capital Ltd v Cheong Jun Yoong*

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[2024] 1 SLR 419 at [32]. The practical result in the present case will be the same – in both situations (one where the application is dismissed and the other where permission to defend is granted), the matter will still proceed to trial.

42 Given the similar consequences, at first glance, an order dismissing an application for summary judgment appears to be the same as an order granting permission to defend. However, we clarify that the two orders are conceptually distinct.

43 This distinction is alluded to in O 9 r 17(7) of the Rules of Court (2021 Rev Ed) ("ROC 2021"), which identifies four separate orders which the court may make upon an application for summary judgment:

> (7) The Court may —
>
> (*a*) dismiss the application;
>
> (*b*) grant permission to defend to the defendant without any conditions;
>
> (*c*) grant judgment to the claimant; or
>
> (*d*) grant permission to defend to the defendant with conditions if the defence or any issue raised therein is of a dubious nature.

44 An order dismissing the application for summary judgment is appropriate where a claimant has failed to establish a *prima facie* case. In *Ho Chee Kian v Ho Kwek Sin* [2024] 3 SLR 888 ("*Ho Chee Kian*"), the court observed (at [13]):

> As such, to obtain summary judgment, *a claimant must first show that he has a prima facie case for his claims. If he fails to do that, his application ought to be dismissed.* However, once the claimant shows that he has a *prima facie* case, the tactical burden then shifts to the defendant who, in order to obtain permission to defend, must establish that there is a fair or

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> reasonable probability that he has a real or bona fide defence
> …
> [emphasis added]

45 A dismissal is also warranted if there is some procedural defect which affects the fundamental validity of the application: see *Singapore Court Practice* (Jeffrey Pinsler gen ed) (LexisNexis, online version, Rules of Court 2021, Order 9, updated as at 28 February 2026) ("*Singapore Court Practice* (ROC 2021, O 9)") at paras [9.17.5]–[9.17.6], [9.17.9].

46 In contrast, permission to defend is the appropriate order when the claimant has established a *prima facie* case, but the defendant is able to demonstrate a fair probability of a real or *bona fide* defence: *Ho Chee Kian* at [13]; *Akfel Commodities Turkey Holding Anonim Sirketi v Townsend, Adam* [2019] 2 SLR 412 at [41].

47 The distinction between dismissing the application and granting permission to defend also gives rise to practical consequences in respect of costs. Where permission to defend is granted, costs are ordinarily ordered "in the cause". Where an application is dismissed, costs are generally ordered against the claimant to reflect the fact that the application should not have been made: see *Singapore Court Practice* (ROC 2021, O 9) at para [9.17.9].

48 In the present case, we will not disturb the costs order made below as the parties had agreed on a set of costs to be paid in respect of various applications (including the SJ Appeal) which had been heard together.

49 For these reasons, we dismiss Capajet's application for permission to appeal against the Summary Judgment Decision.

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Permission to appeal against the Striking Out Decisions in OA 2 and OA 5

50 It is well established that the threshold for striking out is high and will only be met where a claim is "obviously unsustainable" such that it is "impossible, not just improbable, for the claim to succeed": *Hin Leong Trading (Pte) Ltd v Rajah & Tann Singapore LLP* [2022] 2 SLR 253 at [14].

51 The parties agree that the elements for a claim in unlawful means conspiracy have been set out in *EFT Holdings, Inc v Marinteknik Shipbuilders (S) Pte Ltd* [2014] 1 SLR 860 ("*EFT Holdings*") at [112]:

> …
>
> (a) there was a combination of two or more persons to do certain acts;
>
> (b) the alleged conspirators had the intention to cause damage or injury to the plaintiff by those acts;
>
> (c) the acts were unlawful;
>
> (d) the acts were performed in furtherance of the agreement; and
>
> (e) the plaintiff suffered loss as a result of the conspiracy …

52 Capajet and Ms Zhao (together, "applicants") contend that a cause of action in unlawful means conspiracy cannot be made out even if the respondents' pleaded case is taken to be true. Their arguments largely overlap.

53 First, the applicants submit that for there to be a "combination", the pleadings must set out a "meaningful, causative participation on the part of each member of the conspiracy": *Kapital Fund SPC v Lee Tze Wee Andrew* [2024] SGHC 289 ("*Kapital Fund*") at [79] and [81]. The applicants submit that no meaningful participation has been pleaded in relation to themselves individually, and the Judge had erred in distinguishing *Kapital Fund*. Ms Zhao

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further submits that the question of whether this requirement of "meaningful participation" is applicable to all conspiracies, or only conspiracies involving breach of contract, gives rise to a question of importance which supports granting permission to appeal.

54 The applicants rely on [79] and [81] of *Kapital Fund*, which reads:

> 79 It is apparent that the notion of a 'combination' requires some form of action or participation from each member of that combination, in pursuit of the aims of the combination. *Fundamentally, because this element of 'combination' serves to extend liability of a person for the breach of a contract which he is not party to*, a *de minimis* or trifling involvement would be insufficient to draw a person into the conspiracy. Instead, as the authorities indicate, there must be some meaningful, causative participation on the part of each member of the conspiracy, which may include persuading or inducing a breach of contract *per Kuwait Oil Tanker*.
>
> …
>
> 81 Reading this alongside the conclusion to the Combination Question, it is necessary for a claimant to plead particulars of how the alleged conspirators combined, which entails pleading the role of each conspirator and his or her participation, *ie*, what he or she did (or omitted to do) as part of the conspiracy. In the present context, Kapital must plead particulars of Andrew's and Stephanie's participation in the alleged conspiracy to cause and/or procure ZOMPL to breach the Loan Agreement. Crucially, Andrew's specific contribution towards the object of the alleged conspiracy must be pleaded.
>
> [emphasis added]

55 We do not think that a question of importance arises in respect of the applicability of *Kapital Fund*. The court in *Kapital Fund* had itself stated that "[t]he legal principles applicable to a striking out application are trite" (at [53]). The court's observations relating to "meaningful, causative participation" were an illustration of how established law relating to the sufficiency of pleadings in

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a striking out context would apply to the specific facts of that case, which involved a conspiracy to procure a breach of contract.

56 For similar reasons, the Judge was not wrong to distinguish the present case from *Kapital Fund*. The court in *Kapital Fund* had considered the issue of combination within this question: "[w]here the act done pursuant to the conspiracy is the breach of a contract, in what circumstances can a non-party or 'stranger' to that contract be said to be involved in the conspiracy?" (at [68(a)]). The court used the concept of meaningful participation to apply established principles to the specific facts of the case. Against this context, it was reasonable for the Judge to confine *Kapital Fund* to its facts.

57 Second, the applicants submit that the losses pleaded by the respondents are not actionable losses in the tort of conspiracy. The Judge had expressed his "reservations over whether the loss pleaded at para 44(b) [relating to the respondents' potential exposure to liability] can indeed be construed as a loss", but he ultimately took the view that this was a matter to be determined at trial.

58 In our view, even if the pleaded claims for losses might appear weak or questionable at this stage, this was not a case where the pleaded losses were clearly unrecognised at law such that the claim is clearly unsustainable even if the other elements of the tort are proven. It might even be that in certain areas where the law is developing, a claimant should be permitted the opportunity to challenge the current judicial thinking (see *Qroi* at [4]). We note for completeness that the applicants have also made some arguments contesting the losses purportedly arising from payments made to third parties and the treatment of repayments under the Capajet Loan – these arguments are factual or evidential matters which cannot justify permission to appeal.

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59 Third, the applicants submit that the counterclaim does not disclose the requisite intention to injure on the part of Capajet and Ms Zhao. Capajet submits that the wrongful acts were undertaken voluntarily by the respondents and so there is no linkage between the acts of the defendant(s)-in-counterclaim and the respondents' alleged losses. Ms Zhao argues that the pleadings suggest the defendants-in-counterclaim had intended to enrich themselves, not cause loss to the respondents. The applicants also allege that the respondents are an "open and indeterminate class" of victims, which the court in *EFT Holdings* has cautioned against.

60 The Judge was of the view that intention to cause damage or injury is to be inferred from the pleaded facts and the circumstances surrounding the alleged conspiracy as "there is unlikely to be direct evidence of the alleged conspirators' intention to injure"; there is no need for the defendants-in-counterclaim to have intended to cause a specific loss or injury. We do not see this to be plainly wrong.

61 Ms Zhao's assertion that the pleadings suggest the defendants-in-counterclaim had intended to enrich themselves and not injure the respondents is inaccurate – the counterclaim clearly pleads that the conspirators committed the acts "with intent to damage or injure the [v]ictims".

62 In relation to the submission that the alleged conspiracy impermissibly targets an open and indeterminate class of victims, this is not apparent to us from the face of the counterclaim. *EFT Holdings* acknowledges that victims of a conspiracy may consist of a class of persons if the class is ascertainable at the time of the conspiracy (at [111]). The respondents have pleaded that the targeted class of victims only consists of themselves, and this class of victims remains

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constant throughout the period identified in the counterclaim. Whether the respondents will eventually be able to prove this is a separate matter for the trial.

63 For these reasons, we dismiss the applications for permission to appeal against the Striking Out Decisions.

Conclusion

64 To conclude, we allow SUM 2 and dismiss OA 2 and OA 5.

65 There shall be no order as to costs for SUM 2. Costs of OA 2 are payable by Capajet to the respondents in the sum of $8,000 (all-in). Costs of OA 5 are payable by Ms Zhao to the respondents in the sum of $4,000 (all-in).

66 The usual consequential orders apply.

Debbie Ong Siew Ling
Judge of the Appellate Division

See Kee Oon
Judge of the Appellate Division

Narayanan Sreenivasan SC and Sathya Justin Narayanan
(Sreenivasan Chambers LLC) for the applicant in
AD/OA 2/2026 and AD/SUM 2/2026;
Jerrie Tan Qiu Lin and Ng Clare Sophia (Eugene Thuraisingam
Asia LLC) for the applicant in AD/OA 5/2026;
Sankar s/o Kailasa Thevar Saminathan and Tessa Low Wen Xin
(Sterling Law Corporation) for the first to fourth respondents in
AD/OA 2/2026, AD/SUM 2/2026, and AD/OA 5/2026.

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