

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

[2026] SGHCR 39

Originating Application No 884 of 2025

In the matter of Sections 3 and 4 of the Evidence (Civil Proceedings in Other
Jurisdictions) Act 1979 (2020 Rev Ed)

And

In the matter of Order 55 Rules 2 and 4 of the Rules of Court 2021

And

In the matter of a Letter of Request dated 8 May 2025 from the 457th District
Court of Montgomery Country, Texas, for International Judicial Assistance
pursuant to the Hague Convention of 18 March 1970 on the Taking of
Evidence Abroad in Civil or Commercial Matters

(1) James P. Dossey, Individually
and as the Executor of the
Estate of Dale Dossey,
deceased

(2) Dossey & Jones, PLLC

... Applicants

(1) Philippe Emanuel Mulacek
(2) Asian Gas Partners, Ltd
(3) Christian Marcel Joseph
Vinson

...Non-Parties

GROUNDS OF DECISION

[Civil Procedure — Witnesses — Party in foreign proceedings applying for examination of witness before private examiner – Evidence (Civil Proceedings in Other Jurisdictions) Act 1979 (2020 Rev Ed)]

[Evidence — Witnesses — Attendance — Compelling attendance of witness to take evidence for foreign proceedings]

[International Law — Conventions — Obligations under the Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters]

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***Re* Dossey, James P (individually and as the executor of the estate of Dossey, Dale, deceased) and another (Mulacek, Philippe Emanuel and others, non-parties)**

[2026] SGHCR 39

General Division of the High Court — Originating Application No 884 of 2025

Assistant Registrar Leo Zhi Wei

25 September 2025, 1 October 2025

23 September 2026

Assistant Registrar Leo Zhi Wei:

1 HC/OA 884/2025 (“OA 884”) is the Applicants’ application to the General Division of the High Court (“GDHC”) for a Singapore-based witness to give oral evidence in Singapore on matters relevant to ongoing civil proceedings in Texas. The application raised several issues for the Court’s consideration: whether a private examiner should be appointed to preside over the oral examination instead of the Registrar; whether the private examination may be video recorded; whether it should be governed by the Texas Rules of Civil Procedure; and whether foreign counsel should be permitted to examine and cross-examine the witness.

2 After hearing parties on 1 October 2025, I issued judgment. I now provide the full grounds of my decision.

Procedural history

3 In OA 884, the Applicants applied to obtain the oral deposition of one Mr Christian M. Vinson (“Mr Vinson”) in Singapore, in respect of civil proceedings in Cause No. 21-08-11783, *Philippe E. Mulacek, et al. v. James P. Dossey et al.* before the 457th Judicial District Court of Montgomery County, Texas (the “Texas proceedings”). The Plaintiff and Counter-Defendants to the Texas Proceedings are Mr Philippe E. Mulacek (“Mr Mulacek”) and Asian Gas Partners, Ltd (“AGPL”), while the Applicants are the Defendants and Counter-Plaintiffs. The Third-Party Defendant to the Texas proceedings is Mr Gerard R. Jacquin.

4 OA 884 was brought under ss 3 and 4 of the Evidence (Civil Proceedings in Other Jurisdictions) Act 1979 (2020 Rev Ed) (“ECPOJA”) and O 55 rr 2 and 4 of the Rules of Court 2021 (“ROC”). The application sought to give effect to a Letter of Request dated 8 May 2025 issued by the Honourable Judge Lamar McCorkle of the 457th Judicial District Court of Montgomery County, Texas (“Texas Court”) (“Letter of Request”) pursuant to the Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters (18 March 1970) (“Convention”). In the Letter of Request, the Texas Court sought the Singapore Court’s assistance to obtain Mr Vinson’s oral deposition on the basis of its belief that Mr Vinson was in a position to provide relevant testimony for the Texas proceedings.

5 The initial orders sought by the Applicants in OA 884 included the following:

- (a) Mr Vinson to attend before a private examiner, Mr Colin Seow (“Mr Seow”), at the office of Epiq Singapore Pte. Ltd. to be orally examined under oath by the Applicants’ legal

representatives in the United States (“US counsel”) and Singapore (“Singapore counsel”) on the topics described in the Letter of Request;

- (b) Mr Vinson’s oral testimony be video recorded;
- (c) Mr Vinson’s oral testimony be subject to the Texas Rules of Civil Procedure; and
- (d) The legal representatives of the Plaintiffs, Counter-Defendants and Third-Party Defendant in the Texas proceedings, including their respective Singapore and US counsel, be permitted to attend and examine Mr Vinson.

6 While OA 884 was filed as an *ex parte* application under O 55 of the ROC, the Applicants disclosed in their supporting affidavit that Mr Mulacek and AGPL’s Singapore counsel, Prolegis LLC (“Prolegis”), had informed their Singapore counsel, Drew & Napier LLC, that Mr Mulacek and AGPL objected to the Applicants’ proposed appointment of Mr Seow as the private examiner. In view of the issues raised in OA 884 and parties’ dispute over the appointment of a private examiner, I directed the Applicants to serve OA 884 on Prolegis as I considered that it would be expedient and in the interests of justice to do so. Subsequently, the Applicants informed the Court that they had also served OA 884 on Mr Vinson’s Singapore counsel, Eugene Thuraisingam LLP, and I granted permission for Mr Vinson’s counsel to attend the hearing of OA 884.

Issues for determination

7 Parties did not dispute that the GDHC had the power to order Mr Vinson to give oral testimony on the matters described in the Letter of Request. Mr Mulacek and AGPL did not object to the Applicants’ application to obtain Mr

Vinson’s oral deposition, and Mr Vinson himself agreed to do so. I was also satisfied that the Court had the power under ss 3 and 4 of ECPOJA read with O 55 of the ROC to issue such an order.

8 What remained in dispute, however, was the mode in which Mr Vinson’s oral deposition should be taken. Mr Mulacek, AGPL and Mr Vinson submitted that the Registrar of the Supreme Court (the “Registrar”) should preside over the oral examination instead of a private examiner.

9 Based on parties’ areas of disagreement and the prayers sought in OA 884, I directed parties to address me on the following issues:

- (a) Whether the examination should take place before the Registrar or a private examiner, and the factors that the Court should consider in exercising its discretion to decide this issue;
- (b) Whether Mr Vinson’s oral deposition should be video recorded;
- (c) Whether Mr Vinson’s oral deposition should be subject to the Texas Rules of Civil Procedure;
- (d) Whether US Counsel should be permitted to orally examine and cross-examine Mr Vinson during the oral examination.

10 I will address parties’ respective submissions in the course of my decision.

The law on the taking of evidence in aid of foreign judicial proceedings

11 Before delving into the substantive issues, I provide a short preface on the background to the Convention and the applicable legal framework in Singapore.

The Hague Convention for the Taking of Evidence in Civil or Commercial Matters

12 The Convention was concluded on 18 March 1970 with the aim of improving mutual judicial co-operation in civil or commercial matters and facilitating the transmission of requests between contracting states to obtain evidence for use in judicial proceedings or perform other judicial acts: see Preamble to Convention. It has been described as “one of the most successful of international conventions in the field of civil procedure”: Explanatory Documentation to the Hague Convention prepared for Commonwealth Jurisdictions, Professor David McClean and Campbell McLachlan in association with the Commonwealth Secretariat (Revised, September 1985) (“Explanatory Documentation”). While the procedures in many Commonwealth jurisdictions were hitherto cumbersome and expensive to litigant and administration alike, the Convention provided a “simple, effective and (most [importantly]) inexpensive procedure for obtaining evidence abroad for use in civil litigation”: Explanatory Documentation, at pg 1. Under the Convention, the judicial authority of a contracting state may simply request the competent authority of another contracting state to obtain evidence or perform some other judicial act by issuing a formal “Letter of Request” in accordance with the relevant requirements.

13 Contracting states to the Convention, including Singapore, would therefore have a duty to further the Convention’s aims and give effect to letters

of request issued by other contracting states. However, contracting states are only obliged to assist to the extent permitted by their own internal laws. In this regard, Article 9 of the Convention requires a judicial authority executing a letter of request to apply its own laws as to the methods and procedures to be followed. However, the said authority should adopt any special method or procedure requested by the requesting authority, unless this is incompatible with its internal law, impossible to perform or practically difficult to do so.

Governing law in Singapore for obtaining evidence in respect of civil proceedings in foreign jurisdictions

14 Following Singapore's accession to the Convention on 26 October 1978, the ECPOJA was enacted to empower the Singapore Court to assist in obtaining evidence required for the purposes of foreign civil proceedings. The powers of the Singapore Court to order persons within its jurisdiction to provide evidence in aid of foreign judicial proceedings are therefore derived exclusively from the ECPOJA.

15 Section 3 of ECPOJA provides that the GDHC has the power to make an order if it is satisfied that the application is made further to a foreign court's request to obtain evidence for the purpose of contemplated or ongoing civil proceedings before that court:

...(a) that the application is made in pursuance of a request issued by or on behalf of a court or tribunal (referred to in this Act as the requesting court) exercising jurisdiction in a country or territory outside Singapore; and

(b) that the evidence to which the application relates is to be obtained for the purposes of civil proceedings which either have been instituted before the requesting court or whose institution before that court is contemplated...

16 This power, however, is not without limits. While s 4(1) of ECPOJA empowers the GDHC to order that the necessary steps be taken to give effect to a foreign court's request, s 4(3) of ECPOJA circumscribes that power by restricting such steps to only those that can be required to be taken in obtaining evidence for civil proceedings in the GDHC:

An order under this section must not require any particular steps to be taken unless they are steps which can be required to be taken by way of obtaining evidence for the purposes of civil proceedings in the General Division of the High Court (whether or not they are proceedings of the same description as those to which the application for the order relates); but this subsection does not preclude the making of an order requiring a person to give testimony (either orally or in writing) otherwise than on oath where this is asked for by the requesting court.

(emphasis in italics added)

17 The effect of s 4(3) of ECPOJA, when read with Article 9 of the Convention, is that the Singapore Court must not require a party to take steps that would not be permitted under the applicable laws of Singapore governing the procurement of evidence for the purpose of domestic civil proceedings. However, as the Court elaborated in *Re Civelli, Carlo Giuseppe and another* [2024] 5 SLR 446 ("*Re Civelli*"), this does not mean that such steps must mirror those that would be taken in obtaining evidence for civil proceedings in the GDHC – it suffices that they are steps that can be required to be taken in that context.

18 Similar legislation has been enacted in the United Kingdom and Hong Kong, both of whom are likewise contracting parties to the Convention, to empower their respective courts to give effect to letters of request from foreign jurisdictions. In *AB v X & Ors* [2022] HKCFI 132, the Hong Kong Court of First Instance observed that section 75 of the Evidence Ordinance (Cap 8) – which empowers the Hong Kong courts to assist in obtaining evidence for

foreign civil proceedings – was enacted to give effect to the Convention, and should if possible be interpreted consistently with it, with the text of the Convention as an interpretative aid (at [12] and [15]). Further, in *Rio Tinto Zinc Corporation and others v Westinghouse Electric Corporation* [1978] AC 547 (“*Rio Tinto*”), the House of Lords held that the court considering the letter of request has the duty to “do its best, consistently with the provisions of the statute, to assist the processes of justice in the court from which the request comes, and to do so in such a way as will cause the minimum of delay”: at p 653B. The above principles would, in my view, be equally applicable under Singapore law.

19 While ss 3 and 4 of the ECPOJA provide the substantive basis for the Singapore Court’s powers, the procedural framework for applications to give effect to letters of request from foreign courts is governed by O 55 of the ROC, which sets out the specific requirements for such applications. In particular, O 55 r 4 provides that the examination must be taken in the manner prescribed by O 9 r 24 unless special directions are issued. The court nonetheless retains a broad discretion to dispense with these requirements under O 3 r 2 of the ROC if this would be in the interests of justice, provided all orders or directions issued under O 55 conform with the ECPOJA.

20 Drawing together the underlying principles of the Hague Convention, the ECPOJA and the ROC as they apply to an application for the oral deposition of a Singapore-based witness under O 55, three propositions may be distilled. First, the Singapore Court has the discretion to decide whether to grant an order in any case. Second, the court should, as far as possible, give effect to the request of the foreign court, including any special methods and procedures for the taking of the deposition, unless doing so would be contrary to Singapore law. Third, by virtue of s 4(3) of the ECPOJA read with O 55 of the ROC, the procedural

laws of Singapore apply to the taking of any oral deposition ordered by the Singapore Court, unless the court orders otherwise.

Whether a private examiner should be appointed

21 Paragraph 13 of the Letter of Request sets out the following special procedures requested by the Texas Court with respect to Mr Vinson's oral deposition:

13. Special methods or procedures to be followed:

The Requesting Authority respectfully requests the following with respect to the oral testimony of Mr. Vinson:

(1) that it be taken before the Registrar of the Supreme Court of Singapore, or any person so nominated by the Registrar, who shall be completely neutral and independent from the parties in this litigation and any related case; if possible, that person should be agreeable to the parties involved;

(2) that the parties' representatives or their designees, a court reporter, and a videographer be permitted to be present during the examination either in-person or via remote or virtual means, through a reliable videoconference platform like Zoom or similar; that the representatives or designees be permitted to examine and cross-examine the witness directly; and that a court reporter and a videographer be permitted to make a verbatim record of the proceedings, with real-time secure online access to the transcript, including audio-recording of the examination; and

(3) that, in connection with the taking of testimony of the witness, the parties and their representatives have permission to refer the witness to documents previously produced or available in the Action.

(emphasis in italics added)

22 The Applicants submitted that a private examiner should be appointed on the basis that: (a) such an appointment would be permitted under Singapore law and paragraph 13(1) of the Letter of Request; (b) the Texas Court's request that Mr Vinson's testimony be video recorded (at paragraph 13(2) of the Letter of Request) would militate in favour of a private examination as proceedings

before a Registrar cannot be video recorded; and (c) their proposed private examiner, Mr Colin Seow, would be a suitable nominee given his judicial experience as a former Assistant Registrar of the Supreme Court, his familiarity with US-style depositions, and his independence from the parties.

23 On the other hand, Mr Mulacek and AGPL opposed the appointment of a private examiner and submitted that the deposition should instead be taken before the Registrar. They argued that: (a) paragraph 13(1) of the Letter of Request should be construed as permitting only the appointment of the Registrar and other judicial officers nominated by the Registrar, but not private examiners; and (b) Mr Seow's appointment would not accord with paragraph 13(1) of the Letter of Request which states that the person nominated by the Registrar be "agreeable to parties involved" if possible, as parties in the US proceedings did not agree to his appointment. While Mr Mulacek and AGPL initially submitted that there was insufficient evidence regarding Mr Seow's independence, they withdrew this objection after the Applicants furnished a signed declaration by Mr Seow confirming his neutrality and independence in respect of the US proceedings. They further highlighted that video recording of the proceedings would not be permitted under Singapore law if the examination was to be conducted by the Registrar.

24 Mr Vinson likewise submitted that the deposition should be taken before the Registrar.

25 As neither proposal would have fully given effect to the special procedures requested by the Texas Court, I was left to determine the course of action that would best fulfil the Texas Court's requirements without contravening Singapore law.

The Court has a broad discretion in deciding whether to appoint a private examiner

26 *Re Civelli* establishes that the GDHC has a broad discretion in deciding whether to appoint a private examiner for the purpose of obtaining evidence in aid of foreign civil proceedings. The Court held that appointing a private examiner was a step that could be required to be taken for civil proceedings in the High Court under s 4(3) of the ECPOJA, as O 9 r 24(8) of the ROC allows pre-trial examinations outside Singapore to be conducted by court-appointed private examiners: at [21]. Further, whilst O 9 r 24(6) requires pre-trial examinations in Singapore to be conducted before a Judge or Registrar, the Court may issue special directions under O 55 r 4(2) or order otherwise under O 3 r 2(1) if this is in the interests of justice: at [21(c)] and [25]. Even if the deposition is taken before a private examiner, the Court still retains judicial oversight and the Registrar must certify the deposition and provide a certificate with the seal of the Supreme Court before it is transmitted to the requesting court under O 55 r 5: at [25].

27 Having established that private examiners may be appointed under Singapore law, I next considered whether such appointment would be permitted under paragraph 13(1) of the Letter of Request. The Texas Court provided that apart from “the Registrar of the Supreme Court of Singapore”, the deposition may be taken before “any person so nominated by the Registrar, who shall be completely neutral and independent from the parties in this litigation and any related case” and “if possible...agreeable to the parties involved”. This entailed the following considerations: first, the appointee must be completely impartial vis-à-vis all parties in the Texas proceedings and related cases; and second, while such appointee should preferably be agreed by all parties, this was not mandatory.

28 Having considered the wording of the Letter of Request, I disagreed with Mr Mulacek and AGPL's submission that the appointee should be confined to judicial officers, such as Assistant Registrars or Deputy Registrars. The language of the Letter of Request is broad enough to encompass the appointment of a private examiner – it provides that the Registrar may nominate *any* person, without qualifying that such nomination be limited to a court or judicial officer. Moreover, the specification that such appointee be completely neutral and independent and preferably agreed by parties strongly suggests that the Texas Court did not intend to limit such appointment to judicial officers. Judicial officers would already be bound by law to act impartially, and parties' consent would not typically be required for their appointment.

29 While the Letter of Request thus permitted the appointment of a private examiner, this Court retained the discretion to decide whether to appoint the Registrar or a private examiner to preside over the deposition. As parties did not cite any authorities providing judicial guidance on how such discretion should be exercised, I considered the following factors with reference to the provisions of the ECPOJA, O 55 of the ROC, as well as the considerations raised in the Letter of Request.

30 First, I considered the suitability of the Applicants' proposed appointee, Mr Seow, with reference the requirements in the Letter of Request. Mr Seow's appointment would fulfil the requirement of independence, given that he had signed a declaration confirming that he was completely neutral and independent from the parties, and no other evidence cast doubt on this. Pursuant to my directions, Mr Seow had also agreed to swear or affirm the declaration by way of affidavit. However, his appointment would not accord with the second non-mandatory consideration, as Mr Mulacek, AGPL and Mr Vinson did not agree to it.

31 Second, I considered whether Mr Seow would be a fit and proper person to preside over the deposition under O 55 r 4 of the ROC. This rule provides that the deposition may be taken before “any fit and proper person nominated by the person applying for the order” – in this case, the Applicants – although the Court may order otherwise in the interests of justice under O 3 r 2 of the ROC. In my view, Mr Seow satisfied this requirement given his experience as an Assistant Registrar of the Supreme Court of Singapore and his independence from the parties.

32 Third, I considered whether there was any other reason to appoint a private examiner instead of the Registrar. The Applicants submitted that appointing a private examiner would enable the deposition to be video recorded, thereby fulfilling the Texas Court’s request at paragraph 13(2) of the Letter of Request. However, this would not be possible if the deposition were conducted before the Registrar.

33 Apart from this being a specific request of the Texas Court, I recognised that there were significant benefits to video recording the deposition. It is well established that in assessing the value of witness testimony, a court will typically take into account factors such as the witness’s credibility, which may entail consideration of the witness’s demeanour: *ADF v Public Prosecutor and another appeal* [2010] 1 SLR 874 at [16]. Such matters are naturally better assessed by way of a video recorded deposition than through an audio recording or written transcript alone, as it affords the court a visual reference of the witness throughout the deposition. This would be particularly valuable in the present case, in view of the Applicants’ submission that the witness may not appear in person before the Texas Court proceedings.

34 Next, I address whether the video recording of private examinations is permitted under Singapore law, before returning to weigh the competing factors.

Whether proceedings before a private examiner may be video recorded

35 Sections 5(1) and (2) of the Administration of Justice (Protection) Act 2016 (“AJPA”) provide that it is a contempt of court to make an audio or visual recording (or both) of court proceedings without the court’s permission. However, the Court has the discretion to grant permission for such recordings to be made subject to conditions:

Contempt by unauthorised audio or visual recordings

5.—(1) Subject to subsection (4), it is a contempt of court —

(a) to use in court any audio recorder, electronic device or other instrument for audio or visual recording or both, or to bring into court any such instrument for the purpose of audio or visual recording or both, without the permission of the court;

(aa) to make an audio or a visual recording or both of court proceedings, or any recording derived directly or indirectly from it, without the permission of the court...

(2) Permission under subsection (1)(a) or (aa) may be granted or refused at the discretion of the court, and if granted may be granted subject to any conditions that the court thinks proper with respect to the use of any recording made pursuant to the permission; and where permission has been granted, the court may at its discretion withdraw or amend it either generally or in relation to any particular part of the proceedings...

(4) This section does not apply to the making or use of audio or visual recordings or both for purposes of official transcripts of proceedings or any other purpose authorised by the court.

36 Paragraph 97 of the Supreme Court Practice Directions 2021 (“SCPD”) provides that for Supreme Court proceedings, video and/or image recording of hearings in open court or in chambers before a Judge or Registrar are strictly prohibited, with no exceptions unless the Chief Justice directs otherwise. Audio

recordings may only be made with prior approval from the Judge or Registrar hearing the matter:

97. Use of electronic and other devices

(1) In order to maintain the dignity of Court proceedings, the Chief Justice has directed that in all hearings in open court or in chambers before a Judge or Registrar, video and/or image recording is strictly prohibited.

(2) Additionally, audio recording during a hearing is strictly prohibited without prior approval of the Judge or Registrar hearing the matter.

37 Paragraph 97 of the SCPD does not, however, extend this prohibition to private examinations conducted outside the premises of the Supreme Court.

38 The Applicants submitted that there was accordingly no bar to video recording private examinations under Singapore law. They relied on Jeffrey Pinsler SC, *Singapore Court Practice* (Jeffrey Pinsler gen ed) (LexisNexis Singapore, 2025) (“Singapore Court Practice”) at para 55.4.6 for two propositions: first, that the Singapore Court should accede to a foreign court’s request for the utilisation of a procedure which, even if not part of our Rules of Court or practice directions, is not contrary to Singapore’s norms of justice and fairness; second, that “a request that the examination be the subject of a video recording would not offend the procedural law [in Singapore] which recognises such a medium. See s 62A of the Evidence Act 1897 (2020 Rev Ed)”.

39 The Applicants further relied on *J Barber & Sons (a firm) v Lloyd’s Underwriter and others* [1986] 3 WLR 515, in which the English Court allowed the deposition before a private examiner to be videotaped, further to the request of the Californian court. The English Court distinguished between the video recording of evidence taken *before* the English courts (which was not permitted under the applicable procedural rules) and evidence taken *outside* the court for

use by the court itself, and held that the latter would not be inconsistent with English procedural laws as video recordings constituted evidence that was capable of admission in proceedings before the English courts. The English Court further acknowledged the value and convenience of videotaping the proceedings and how such recordings would undoubtedly assist the foreign court on matters such as witness demeanour: at pp 517B – 518A.

40 I agreed with the Applicants that Singapore law does not prohibit the video recording of private examinations and that video recordings are, at least in principle, admissible as evidence in Singapore Court proceedings. However, before such video recordings may be made, the court's permission must first be obtained under s 5(1)(aa) of the AJPA, given that private examinations are proceedings ordered by the Singapore Court under O 55 r 4 of the ROC.

41 I should, however, make several observations on the Singapore Court Practice commentary cited by the Applicants, which stated that the video recording of any examination would not offend Singapore's procedural law (see [38] above). With respect, I am unable to agree with this position. As stated above, paragraph 97 of the SCPD expressly prohibits the video recording of proceedings in open court or chambers conducted in the Supreme Court – it therefore cannot be correct to say that video recording of an examination would not be contrary to Singapore law. Besides, s 62A of the Evidence Act, which the learned authors cited in support of this statement, provides for situations where a person may give evidence in court proceedings through *live* video or television link. It makes no reference to the making of video *recordings* of court proceedings and therefore cannot be relied upon for the proposition advanced by the learned authors.

42 Having found that Singapore law does not prohibit the video recording of examinations conducted privately outside the premises of the Supreme Court, I was satisfied that such recording constitutes a step that can be required to be taken for the purpose of obtaining evidence for GDHC proceedings under s 4(3) of the ECPOJA.

My decision

43 After weighing all the competing factors, I concluded that the deposition should be conducted before a private examiner. This would best give effect to the request of the Texas Court due to two key considerations: first, the suitability of the Applicant's proposed examiner, Mr Seow; and second, the Texas Court's specific request for a videotaped deposition and the significant practical advantages that such a recording would afford the Texas Court. Having found that Mr Seow is a fit and proper person under O 55 of the ROC, I was satisfied that Mr Seow should be appointed as the private examiner.

Whether the Texas Rules of Civil Procedure should apply to the examination

44 The Applicants, Mr Mulacek and AGPL had initially agreed that the examination should be conducted entirely in accordance with the Texas Rules of Civil Procedure and submitted that the court should make an order to this effect. They explained that those rules were appropriate as the deposition was intended for use in proceedings before the Texas Court, and that this court had the power to grant such orders as part of its discretion to issue special directions under O 55 r 4(2) read with O 3 r 2(1) of the ROC (see [26] above).

45 At the hearing of this matter, I indicated to counsel that I disagreed with this position. In my view, Singapore law should govern the examination,

although I was prepared to allow additional rules – even if they did not form part of Singapore law – to apply if they would assist the Texas Court in reviewing the deposition, provided they did not contravene Singapore law. After conferring with counsel, I ordered that the examination be governed by Singapore law, together with additional rules from the Texas Rules of Civil Procedure prescribing a six-hour time limit for examining the witness; governing the form and procedure in which objections may be raised during the examination; the procedure for finalising and certifying the deposition transcript after the examination; the delivery and service of the deposition transcript and the identification and inspection of exhibits produced during the examination.¹

46 I was satisfied that these additional rules could apply as they were not inconsistent with Singapore law and thereby would not contravene s 4(3) of the ECPOJA. They also incorporate procedures familiar to the Texas Court and would also aid the said court in its review of the deposition.

47 I elaborate on my reasons below.

48 First, the Texas Court did not itself request that the Texas Rules of Civil Procedure apply. Instead, the Letter of Request referred only to Singapore law, providing that the witness should be instructed of the consequences of giving untruthful and false answers under Singapore law and would be able to rely on the applicable privileges under Singapore law when providing his testimony.² This indicates that the Texas Court was cognisant that the Singapore Court – being the judicial authority executing the request – would apply its own law as

¹ See Annex 2 of the Order of Court issued in this application for the full version of the additional rules.

² See Letter of Request at paragraphs 12 and 16.

to the methods and procedures to be followed, consistent with Article 9 of the Convention.

49 Second, consistent with the principles at [20] above and Article 9 of the Convention, Singapore law is the appropriate governing law notwithstanding the private nature of the examination. The examination would be ordered by the Singapore Court under O 55 of the ROC and conducted in Singapore. Further as stated in *Re Civelli*, the Singapore Court retains judicial oversight over the examination and the Registrar is required to certify the deposition before it is transmitted to the requesting court. In this vein, Mr Colin Seow's qualifications in Singapore law would render him a suitable appointee to preside over an examination governed by Singapore law.

50 Third, a wholesale application of the Texas Rules of Civil Procedure could contravene s 4(3) of the ECPOJA as they contain rules that appear to conflict with Singapore law. As stated at [17] above, s 4(3) of the ECPOJA prohibits the Singapore Court from requiring a party to take steps that would not be permitted under Singapore law in obtaining evidence for the purpose of domestic civil proceedings. During the hearing, I highlighted to counsel that several provisions of the Texas Rules of Civil Procedure appeared inconsistent with Singapore's procedural rules on the taking of evidence, including rules permitting the taking of depositions by telephone; the videotaping of depositions in court; and the conduct of private conferences between the witness and the witness's attorney during agreed recesses and adjournments even before the conclusion of the witness's deposition.³ I therefore considered it

³ This is based on the version of the Texas Rules of Civil Procedure exhibited at 1st Affidavit of James Dossey dated 30 July 2025 at pages 494 – 497, and in particular, Rules 199.1(b) – (c) and 199.5 (d).

inappropriate for the Texas Rules of Civil Procedure to apply in their entirety, save for the specific rules mentioned at [45] above.

Whether US counsel should be permitted to conduct the examination of Mr Vinson

51 Following my conclusion that Singapore law should govern the examination, I was only prepared to allow parties' Singapore counsel to conduct the examination, although their US counsel could attend and observe. The parties had taken different positions on this issue: the Applicants submitted that US counsel should be allowed to conduct the examination on the basis of their initial position that the Texas Rules of Civil Procedure should apply, while Mr Mulacek, AGPL and Mr Vinson submitted that Singapore counsel should conduct the examination given their position that the proceedings should take place before the Registrar.

52 Section 32 of the Legal Profession Act 1966 ("LPA") provides that only an advocate and solicitor whose name is on the roll of advocates and solicitors and possesses a practising certificate may do any act as an advocate and solicitor:

Requirements for practice and unauthorised persons

32.—(1) Subject to this Part and Part 4A, a person must not practise as an advocate and solicitor or do any act as an advocate and solicitor unless —

(a) his or her name is on the roll of advocates and solicitors; and

(b) he or she has in force a practising certificate.

(1A) However, a person may, during the periods mentioned in section 18(1)(c)(i) and (ii), practise provisionally if —

(a) the person's name is on the roll of lawyers (NP); and

(b) the person has in force a provisional practising certificate.

53 In my view, the examination of witnesses in proceedings ordered by the Singapore Court and governed by Singapore law constitutes an act that only an advocate and solicitor may perform within the meaning of s 32 of the LPA. A foreign lawyer may not do so unless he fulfils the requirements under s 32(1A) of the LPA. It would therefore follow that the Singapore Court cannot permit foreign lawyers who do not satisfy the requirements of s 32 of the LPA to examine witnesses for the purpose of obtaining evidence in support of foreign judicial proceedings, since this would be a step that cannot be taken to obtain evidence for the purpose of GDHC proceedings under s 4(3) of the ECPOJA.

54 As the Applicants' US counsel neither satisfied the requirements of s 32 of the LPA nor were registered to practise Singapore law in Singapore under Part 4A of the LPA, they cannot be permitted to conduct the examination in accordance with s 32(1) of the LPA read with s 4(3) of the ECPOJA.

Conclusion

55 For the above reasons, I ordered that:

- (a) Mr Colin Seow be appointed as the private examiner, and that Mr Vinson be required to attend before Mr Colin Seow for the examination;
- (b) Permission be granted for Mr Vinson's oral testimony to be video recorded;
- (c) Parties' Singapore counsel be permitted to examine and cross-examine Mr Vinson, while parties' US counsel may attend and observe the deposition; and

(d) Mr Vinson's oral testimony be subject to Singapore law, together with the additional rules from the Texas Rules of Civil Procedure set out at [45] above.

Leo Zhi Wei
Assistant Registrar

Woo Shu Yan, Tay Hong Zhi Gerald, Chua Ying Ying Erin, Nicole
Therese Lim Su Anne (Drew & Napier LLC) for the applicants;
Tang Yuan Jonathan, Charlene Wee Swee Ting, Sim Yu Hui
Stephanie (Prolegis LLC) for the first and second non-parties;
Johannes Hadi (Eugene Thuraisingam LLP) for the third non-party.
