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

[2026] SGHC 27

Originating Claim No 28 of 2025 (Summons No 3300 of 2025)

Between

(1) Jason Aleksander Kardachi (as private trustee in bankruptcy of Rajesh Bothra)
(2) Hamish Alexander Christie (as private trustee in bankruptcy of Rajesh Bothra)

… *Claimants*

And

(1) Deepak Mishra
(2) Nimisha Pandey
(3) Intentio Management Company Limited
(4) Metro Capital Limited

… *Defendants*

JUDGMENT

[Insolvency Law — Bankruptcy — Bankruptcy effects]
[Insolvency Law — Avoidance of transactions — Dispositions of property after commencement of insolvency proceedings]
[Civil Procedure — Amendments — Orders — Election of remedies]

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v
Deepak Mishra and others

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General Division of the High Court — Originating Claim No 28 of 2025
(Summons No 3300 of 2025)
Aidan Xu J
16 January 2026

4 February 2026 Judgment reserved.

Aidan Xu J:

1 HC/SUM 3300/2025 ("SUM 3300") of HC/OC 28/2025 ("OC 28") is an application by the private trustees in bankruptcy ("Claimants") of Mr Rajesh Bothra ("Bankrupt") for additional orders to be made in respect of the summary judgment order in HC/ORC 3801/2025 ("Summary Judgment Order") made in HC/SUM 806/2025 ("SUM 806"). Having considered the parties' arguments, I make no orders in respect of SUM 3300.

Background

2 The background to these proceedings was covered in *Kardachi, Jason Aleksander v Deepak Mishra* [2025] SGHC 218. I summarise the material facts briefly.

3 The Bankrupt was adjudged bankrupt on 25 February 2021, following a bankruptcy application filed on 10 December 2020.[1]

4 On 11 January 2025, the Claimants commenced OC 28 in respect of 14 disposals of assets and/or cash to the Defendants, alleging that these disposals were void pursuant to the avoidance rules under the Insolvency, Restructuring and Dissolution Act 2018 (2020 Rev Ed) ("IRDA").

5 On 30 March 2025, the Claimants applied for summary judgment in SUM 806 in respect of three of these transfers, on the basis that these transfers were carried out after the date of the bankruptcy application, and were therefore void under ss 327 and/or 328 of the IRDA. The details for these three transfers are as follows:[2]

(a) On or around 28 January 2021, the Bankrupt transferred his 50% shareholding in Hotel du Parc Baden AG ("HDP Shares") to the Second Defendant.

(b) On or around 28 January 2021, the Bankrupt transferred his 50% shareholding in Benu Holding AG ("Benu Shares") to the Second Defendant.

(c) On or around 26 February 2021, the Bankrupt transferred his 100% shareholding in London Real Estate and Consultancy Limited ("LREC Shares") to the Second Defendant. Notably, this transfer took place after the date of the bankruptcy order.

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1 1st Affidavit of Jason Aleksander Kardachi in HC/SUM 806/2025 dated 20 March 2025 ("JAK-1 SUM 806") at para 11.

2 JAK-1 SUM 806 at para 13.

6 On 30 June 2025, I granted the Summary Judgment Order in respect of these three share transfers. The relevant portions of the order are as follows:

> 1. Judgment be entered pursuant to Order 9, Rule 17 of the Rules of Court 2021 against the 2nd Defendant for a declaration or order that Mr Rajesh Bothra's transfer of the following assets to the 2nd Defendant (Nimisha Pandey):
>
> > i. a 100% shareholding in London Real Estate and Consultancy Limited;
> >
> > ii. a 50% shareholding in Hotel du Parc Baden AG; and
> >
> > iii. a 50% shareholding in Benu Holding AG,
> >
> > are each:
> >
> > > (a) void as unauthorised dispositions of the property of Mr Rajesh Bothra's bankruptcy estate within the meaning of sections 327 and/or 328 of the Insolvency, Restructuring and Dissolution Act 2018;
> > >
> > > (b) otherwise void and/or of no effect and/or unenforceable.
>
> 2. Further and/or alternatively, Judgment be entered pursuant to Order 9, Rule 17 of the Rules of Court 2021 against the 2nd Defendant for a declaration or order that:
>
> > i. the 2nd Defendant delivers, transfers and/or pays to the Claimants the assets described in paragraphs 1(i) to 1(iii) above, or the assets, property, rights or benefits representing the assets described in paragraphs 1(i) to 1(iii) above, or delivers, transfers and/or pays to the Claimants a sum representing the value of the assets described in paragraphs 1(i) to 1(iii) above, or the value or proceeds thereof as at the date of their respective transfers by Mr Rajesh Bothra to the 2nd Defendant or otherwise, or such sum as the Court shall deem just;
> >
> > ii. further and/or alternatively to paragraph (2)(i), the 2nd Defendant delivers, transfers and/or pays all dividends, sums and other benefits that have accrued and/or are payable in connection with those interests to the Claimants. …

7 To date, the Defendants have not complied with the Summary Judgment Order, whether by way of transferring the shares or paying a sum representing the value of the shares.

8 On 30 June 2025, the Claimants' solicitors wrote to the Defendants' solicitors, demanding compliance with the Summary Judgment Order. The Claimants received no response.[3]

9 On 28 July 2025, the Claimants' solicitors wrote to the Defendants' solicitors again, demanding the delivery and transfer of the shares.[4] The Defendants' solicitors responded on 29 July 2025, stating that:[5]

> … the Private Trustees' demand for the immediate delivery and transfer of the HDP Shares and Benu Shares is misconceived and without basis … on the plain language of the Summary Judgment Order, there are various alternatives available to our client to satisfy the said order, including but not limited to transferring a sum representing the value of the subject assets at the time of their transfer to our client.

10 In essence, the Defendants' position was that they could elect to satisfy the Summary Judgment Order through any of the alternatives listed in paragraph 2(i) of the Summary Judgment Order. The Second Defendant has averred that she is prepared to pay a sum representing the value of the shares, to be assessed by an independent valuer.[6]

11 On 31 July 2025, the Claimants' solicitors wrote to the Defendants' solicitors to indicate their position that the Claimants had the right to elect which

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3 1st Affidavit of Jason Aleksander Kardachi dated 27 November 2025 ("JAK-1") at para 14; 4th Affidavit of Deepak Mishra dated 26 November 2025 ("DM-4") at para 11.

4 JAK-1 at para 15; DM-4 at para 12.

5 JAK-1 at para 16; DM-4 at para 13.

6 DM-4 at paras 17(a) and 22.

remedy to pursue, and that they had elected in favour of the transfer of the shares under paragraph 2(i) of the Summary Judgment Order.[7]

12 On 11 November 2025, the Claimants commenced SUM 3300, seeking the following orders:

(a) in respect of paragraph 2(i) of the Summary Judgment Order, an order that the Second Defendant transfer the HDP Shares, Benu Shares, and LREC Shares to the Claimants ("Transfer Prayer");

(b) save as provided for in SUM 3300, an order that the rest of the Summary Judgment Order shall continue to remain in full force and effect ("Full Force and Effect Prayer"); and

(c) in relation to paragraph 2(ii) of the Summary Judgment Order, an order that the Second Defendant provide (i) an account of, and (ii) all documents and information relevant to the dividends, sums and other benefits that have accrued and/or are payable in connection with the HDP Shares, Benu Shares, and LREC Shares ("Information Prayer").

The jurisdictional basis for the application

13 Preliminarily, an issue arose as to the jurisdictional basis for the court to grant the orders sought in SUM 3300. At the hearing, counsel for the Claimants clarified that they were seeking to invoke the court's inherent jurisdiction and/or powers. In the course of oral submissions, my attention was also drawn to O 15 r 12(4) of the Rules of Court 2021 ("ROC"), which empowers the court to "give such further orders or directions incidental or consequential to any judgment or

[7] JAK-1 at para 17; DM-4 at para 15.

order that the Court considers appropriate". Given that these proceedings were commenced under the IRDA, the Claimants took the position that the provisions of the ROC did not apply by virtue of O 1 r 11, notwithstanding the fact that the present application concerned a summary judgment order. Even if this were the case, I note that s 10 of the IRDA allows the provisions of the ROC to be applied by analogy. In any event, nothing turns on this point, and it is not necessary for me to come to a definitive conclusion on the precise jurisdictional basis for this application, be it the court's inherent powers or O 15 r 12(4) of the ROC. Either way, I am satisfied, and the parties did not contend otherwise, that the applicable principles would have been the same.

14 In this regard, it is well-established that the court possesses the inherent power to clarify the terms of its orders and/or to give consequential directions: *Retrospect Investment (S) Pte Ltd v Lateral Solutions Pte Ltd* [2020] 1 SLR 763 at [12]. This does not, however, extend to effecting substantive amendments or variations to the orders previously made: *Godfrey Gerald QC v UBS AG* [2004] 4 SLR(R) 411 at [19]. This limitation exists to ensure finality in litigation. Once a final order has been made, which includes the making of a summary judgment order, the court is *functus officio* and only non-substantive amendments may be made thereafter: *Thu Aung Zaw v Ku Swee Boon* [2018] 4 SLR 1260 at [19] and [23].

15 Accordingly, the main issue before me is whether the prayers sought in SUM 3300 are merely clarificatory or in the nature of consequential directions, or whether they effectively amount to a substantive amendment of the Summary Judgment Order. I address each prayer in turn.

The Transfer Prayer

The parties' cases

16 The parties proceeded on the basis that the remedies under the Summary Judgment Order are alternative and inconsistent. The Claimants argued that the right of election belonged to them. Although the Summary Judgment Order had already been granted, it was still open to the Claimants to elect now.[8] Therefore, the Transfer Prayer was necessary to clarify that the Claimants were electing for the transfer of the shares under paragraph 2(i) of the Summary Judgment Order.

17 The Second Defendant submitted that the Claimants were, in substance, seeking to substantively vary paragraph 2(i) of the Summary Judgment Order.[9] Based on the clear wording of the order, the Second Defendant was not obliged to transfer the shares, and could elect to satisfy the Summary Judgment Order through the alternatives in paragraph 2(i), namely, by paying a sum representing the value of the shares. On the Claimants' purported right of election, this should have been exercised when the Summary Judgment Order was made. It could not be exercised now, months after the order was granted.[10]

My decision

18 In my view, it is clear from the authorities that the right to elect between alternative and inconsistent remedies lies with the Claimants. It is therefore not open to the Second Defendant to assert that she has the right to elect to satisfy paragraph 2(i) of the Summary Judgment Order by paying a sum representing

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8 Claimants' Written Submissions ("CWS") at para 31.

9 Second Defendant's Written Submissions ("DWS") at para 28.

10 DWS at paras 49–50.

the value of the shares instead. This was explained in *Tang Man Sit v Capacious Investments Ltd* [1996] 1 AC 514 ("*Tang Man Sit*") at 521 as follows:

> *Faced with alternative and inconsistent remedies a plaintiff must choose, or elect, between them. He cannot have both.* The basic principle governing when a plaintiff must make his choice is simple and clear. He is required to choose when, but not before, judgment is given in his favour and the judge is asked to make orders against the defendant. A plaintiff is not required to make his choice when he launches his proceedings. He may claim one remedy initially, and then by amendment of his writ and his pleadings abandon that claim in favour of the other. He may claim both remedies, as alternatives. But he must make up his mind when judgment is being entered against the defendant. … [emphasis added]

19 The Second Defendant does not argue otherwise. Instead, she contends that the Claimants were required to make their election at the time the Summary Judgment Order was granted, and could no longer elect at this stage. While the Claimants would generally be required to elect at the time judgment is given in their favour, this is not an inflexible rule, especially in the context of summary judgments. This was explained in *Tang Man Sit* at 521–522 as follows:

> In the ordinary course, by the time the trial is concluded a plaintiff will know which remedy is more advantageous to him. By then, if not before, he will know enough of the facts to assess where his best interests lie. There will be nothing unfair in requiring him to elect at that stage. *Occasionally this may not be so. This is more likely to happen when the judgment is a default judgment or a summary judgment than at the conclusion of a trial. A plaintiff may not know how much money the defendant has made from the wrongful use of his property. It may be unreasonable to require the plaintiff to make his choice without further information.* To meet this difficulty, the court may make discovery and other orders designed to give the plaintiff the information he needs, and which in fairness he ought to have, before deciding upon his remedy. …
>
> In the ordinary course the decision made when judgment is entered is made once and for all. That is the normal rule. The order is a final order, and the interests of the parties and the public interest alike dictate that there should be finality. *The principle, however, is not rigid and unbending. Like all procedural principles, the established principles regarding*

> *election between alternative remedies are not fixed and unyielding rules.* These principles are the means to an end, not the end in themselves. They are no more than practical applications of a general and overriding principle governing the conduct of legal proceedings, namely, that proceedings should be conducted in a manner which strikes a fair and reasonable balance between the interests of the parties, having proper regard also to the wider public interest in the conduct of court proceedings. …
>
> [emphasis added]

20 I accept the Claimants' submission that they were not in a position to elect at the time of the Summary Judgment Order. This was primarily because they lacked information on the value of the shares, which was caused by the Second Defendant's own actions. For instance, the Second Defendant reserved her right to provide details on the value of the HDP Shares and Benu Shares pending the final determination of HC/SUM 1849/2025 ("SUM 1849") in her solicitors' letter dated 29 July 2025.[11] SUM 1849 was commenced on 3 July 2025, shortly after the Summary Judgment Order was granted, and was only disposed of on 4 November 2025 (see *Kardachi, Jason Aleksander v Deepak Mishra* [2025] SGHC 218). During this period, the Claimants were unable to obtain information on the value of the shares, and were thus unable to properly assess which remedy under paragraph 2(i) of the Summary Judgment Order was most advantageous to them. Based on *Tang Man Sit*, the Claimants were entitled to do so before they were required to elect. Accordingly, I find that it would be fair to still allow the Claimants to elect at this stage.

21 Further, I find that the Transfer Prayer may be viewed as a clarification of the Summary Judgment Order that the Claimants are electing for the transfer of the shares. This does not require any substantive amendment to the terms of the Summary Judgment Order. As noted in *Tang Man Sit* above, the principles

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[11] CWS at para 37; DM-4 at paras 13–14 and Tab 5, pp 43–44.

governing the election of remedies are procedural in nature. Hence, they do not affect the parties' substantive rights. I reject the Second Defendant's submission that the Claimants are in effect seeking to "strike out" the rest of the alternatives under paragraph 2(i) of the Summary Judgment Order.[12] This would be the case if the court were being asked to compel the Claimants to elect for the transfer of the shares, or if the Claimants were being prohibited from pursuing the other remedies under the Summary Judgment Order. In the present case, however, the Claimants are simply exercising their right to elect for the transfer of the shares, and the court is not exercising any control over which remedy the Claimants can elect for. It would therefore be wrong to characterise this as a striking out of the other remedies under paragraph 2(i) of the Summary Judgment Order.

22 However, a natural implication of the Claimants' election for the transfer of the shares is that they are forgoing their right to pursue a transfer of the value representing the shares under the Summary Judgment Order. This follows from the Claimants' position that the remedies are alternative and inconsistent, which precludes them from pursuing both a transfer of the shares and a transfer of the value representing the shares concurrently: *Tang Man Sit* at 521.

23 I note that, at this juncture, the Claimants have not conducted a valuation of the shares that they are seeking. While the Claimants are entitled to elect for the shares without doing so, the Second Defendant has alleged that transferring the shares to the Claimants may result in a diminution in the value of the shares. According to the Second Defendant, the shares are heavily encumbered, and the transfer of the shares could trigger various change-of-control clauses in the loan facilities granted to the underlying companies.[13] In turn, this would diminish the

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12 DWS at paras 33 and 42.

13 DM-4 at paras 26, 32, 40, 44 and 51.

value of the shares significantly, rendering the Claimants' recovery nugatory.[14] I note that the Claimants have raised certain doubts about the veracity of these allegations. Whatever the case may be, there is a risk that the shares turn out to be diminished in value after they have been transferred to the Claimants. If the Claimants are indeed electing for the transfer of the shares, they would, in the event that the shares turn out to be diminished in value, be precluded from pursuing the alternative remedy of a transfer of the value representing the shares, once the election has been made.

24 Such a result may be justified as the Claimants cannot have it both ways. If they elect for the transfer of the shares, they must be taken to have accepted both the benefits and risks of doing so. If the shares turn out to have appreciated in value, the Claimants would no doubt be satisfied with their choice. If, on the other hand, the shares turn out to have diminished in value, the Claimants would not be in a position to complain, having elected as such. This accords with the rationale for requiring a claimant to elect between alternative and inconsistent remedies. As observed in *Main-Line Corporate Holdings Ltd v United Overseas Bank Ltd* [2010] 1 SLR 189 at [24]:

> The rationale for the principles of election between alternative remedies is to prevent double recovery since a plaintiff should not be permitted to recover more than he has lost. The other reason (associated with equitable election) is that *the plaintiff is not permitted to approbate and reprobate. What this means is that the plaintiff cannot take the benefits without the burdens.* [emphasis added]

25 There is, however, contrary authority to suggest that the Claimants may be allowed to pursue both the transfer of the shares and the monetary claim for the value representing the shares in *Ahmed v Ingram* [2018] EWCA Civ 519. In this case, a number of share transfers were declared void pursuant to s 284 of

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[14] DWS at paras 67 and 77–81.

the Insolvency Act 1986 (c 45) (UK), which is similar to s 328 of the IRDA. The trustees in bankruptcy argued that they had, in addition to a right to the return of the shares, a monetary claim for the diminution in the value of the shares. The recipients initially opposed the relief in respect of the return of the shares. As it turned out, however, the shares were returned to the trustees in bankruptcy shortly before trial. This meant that the only remaining issue at trial concerned the valuation of the trustees in bankruptcy's monetary claim. That said, while there was no objection on this point, the English Court of Appeal accepted that, in principle, the trustees in bankruptcy were entitled to have both the shares returned and a monetary sum representing the diminution in the value of the shares (at [33]–[34]).

26 In reaching this conclusion, it appears that the English Court of Appeal viewed the two remedies as cumulative in nature, which meant that the trustees in bankruptcy were entitled to pursue both remedies concurrently. As explained in *Tang Man Sit* at 522:

> … *Faced with cumulative remedies a plaintiff is not required to choose. He may have both remedies. He may pursue one remedy or the other remedy or both remedies, just as he wishes. It is a matter for him.* … However, once a plaintiff has fully recouped his loss, of necessity he cannot thereafter pursue any other remedy he might have and which he might have pursued earlier. Having recouped the whole of his loss, any further proceedings would lack a subject matter. This principle of full satisfaction prevents double recovery. [emphasis added]

27 In the present case, the parties proceeded on the basis that the remedies are alternative and inconsistent, such that the Claimants were required to make an election between the transfer of the shares and of the value representing the shares. As noted above, the implication of such an election is that the Claimants would not be able to pursue the transfer of the value representing the shares, if the shares turn out to be diminished in value. The issue of whether the remedies

are cumulative was not before me. In this regard, I note that proceeding on the basis that the remedies are cumulative would obviate the need for an election, and would preserve the Claimants' right to pursue the monetary claim. This is, of course, subject to the limitation against double recovery. Both remedies serve to represent the value of the Bankrupt's estate which has been lost as a result of the void dispositions and serve the common purpose of restoring the Bankrupt's estate to the position it would have been in, had the dispositions not been made. To prevent double recovery, this would mean that, in so far as the Claimants are able to obtain a transfer of the shares from the Second Defendant, the monetary sum that may be claimed would be reduced to a corresponding extent.

28 In light of these observations, I do not find it appropriate for the Transfer Prayer to be granted in its present form. The Claimants are, in effect, seeking to invoke only one of the remedies under paragraph 2(i) of the Summary Judgment Order. As explained, the Claimants are entitled to do so, as the right of election belongs to them. That said, such an election also entails the acceptance of certain consequences, which would affect the Second Defendant moving forward. The onus is therefore on the Claimants to clearly indicate in their summons that they are exercising their right of election, and to frame their prayers accordingly. As it stands, the Transfer Prayer does not make that sufficiently clear.

29 Accordingly, I make no order in respect of the Transfer Prayer. Any further application, including any desired amendment of SUM 3300, should be made in the normal way, and I will need to hear the parties out fully.

The Full Force and Effect Prayer

30 I turn next to the Full Force and Effect Prayer. Having made no order in respect of the Transfer Prayer, it is likewise unnecessary for the Full Force and Effect Prayer to be granted. In any event, as explained, the court does not have

the power to substantively vary the Summary Judgment Order. Thus, there was never any need for the Claimants to have sought this prayer from the outset.

The Information Prayer

31 Finally, I turn to the Information Prayer.

32 The Claimants have attempted to characterise the Information Prayer as a consequential order for discovery. This would enable the Claimants to obtain information about the sums that have accrued and/or are payable in connection with the shares, which they claim is necessary to give effect to paragraph 2(ii) of the Summary Judgment Order. They rely on the following passage from *Tang Man Sit*, which reads (at 521):

> In the ordinary course, by the time the trial is concluded a plaintiff will know which remedy is more advantageous to him. By then, if not before, he will know enough of the facts to assess where his best interests lie. There will be nothing unfair in requiring him to elect at that stage. Occasionally this may not be so. This is more likely to happen when the judgment is a default judgment or a summary judgment than at the conclusion of a trial. A plaintiff may not know how much money the defendant has made from the wrongful use of his property. It may be unreasonable to require the plaintiff to make his choice without further information. *To meet this difficulty, the court may make discovery and other orders designed to give the plaintiff the information he needs, and which in fairness he ought to have, before deciding upon his remedy.* … [emphasis added]

33 In my view, the above passage envisages a situation where further orders for discovery are required to enable a claimant to elect between alternative and inconsistent remedies. This is not the case in relation to the Information Prayer. On the Claimants' own case, the documents and information sought relate to the remedies under paragraph 2(ii) of the Summary Judgment Order. Thus, they do not constitute information that would be necessary for the Claimants to elect between the remedies under paragraph 2(i) of the Summary Judgment Order.

34 I accept the Second Defendant's submission that the Information Prayer in effect seeks to impose an additional substantive obligation on her to provide documents and information to the Claimants.[15] As explained, once the Summary Judgment Order had been granted, the court no longer has the power to make substantive amendments to it. The Claimants could and should have included the Information Prayer in their summary judgment application. Having failed to do so, it is no longer open to the Claimants to seek to impose such an obligation on the Second Defendant under the guise of seeking consequential directions in respect of the Summary Judgment Order. In this regard, I find it significant that paragraph 2(ii) does not contemplate the possibility of the Claimants seeking further directions from the court. If information on the shares is required, this may be obtained through other avenues instead, *eg*, examination of enforcement respondent proceedings under O 22 r 11 of the ROC.

35 Accordingly, I make no order in respect of the Information Prayer.

Conclusion

36 For the above reasons, I make no orders in respect of SUM 3300. The Transfer Prayer, as it stands, is not sufficiently clear that the Claimants are exercising their right of election. Given the consequences that such an election would entail, I decline to grant the Transfer Prayer in its present form. The other prayers are either unnecessary or in effect attempts to substantively amend the Summary Judgment Order, which this court does not have the power to do. Any further application should be made in the normal way.

37 For completeness, the parties addressed a number of other issues in the course of their submissions concerning the nature of a claim under ss 327 and/or

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15 DWS at paras 60–62.

328 of the IRDA and the applicability of the change of position defence to such claims. To my mind, these issues were not relevant to the application before me as it stands, and I do not find it appropriate to address them here.

38 Cost directions will be given separately.

Aidan Xu J
Judge of the High Court

Yeo Alexander Lawrence Han Tiong, Ee Jia Min, Tan Yen Jee, Yeoh Tze Ning, Richard Xu Hanqi and Izzat Rashad Bin Rosazizi (Allen & Gledhill LLP) for the claimants;
Prakash Pillai, Koh Junxiang, Ng Pi Wei and Tay Zhuo Yan Isaac (Clasis LLC) for the first, second and fourth defendants;
The third defendant absent and unrepresented.