Trust & Confidence

Just and timely resolution of cases is a hallmark of effective and efficient court operations, instilling trust and confidence in the Judiciary.

STATISTICS

Supreme Court's Waiting Periods

The Supreme Court sets targets for **waiting periods** in various court processes as part of its commitment to provide quality public service, and endeavours to achieve at least 90% compliance with all targets set. In 2021, all the following set targets were achieved.

In 2021, all the set targets for waiting periods were achieved.

ORIGINAL CIVIL JURISDICTION

Trials in Suits

8 weeks from the date of setting down

Originating Summons (OS)

(i) **Inter partes**

6 weeks from the date of filing of the OS

(ii) **Ex parte**

3 weeks from the date of filing of the OS

Bankruptcy OS

6 weeks from the date of filing of the OS

Company Winding-Up OS

4 weeks from the date of filing of the OS

Summons (SUM)

(i) **Applications for summary judgment pursuant to Order 14 of the Rules of Court**

5 weeks from the date of filing of the SUM (statutory minimum period)

(ii) **All other applications**

3 weeks from the date of filing of the SUM

Bankruptcy SUM (Applications for discharge)

4 weeks from the date of filing of the SUM

APPELLATE CIVIL JURISDICTION

Registrar's Appeals to the General Division of the High Court Judge in Chambers

- **4 weeks** from the date of filing for appeals involving assessment of damages
- **3 weeks** from the date of filing for other appeals

Appeals to the General Division of the High Court from the State Courts

4 weeks from the date of receipt of the Record of Proceedings (ROP) from the State Courts

ORIGINAL CRIMINAL JURISDICTION

Trials of Criminal Cases

6 weeks from the date of the final Criminal Case Disclosure Conference or Pre-trial Conference (whichever is later)

APPELLATE CRIMINAL JURISDICTION

Appeals to the General Division of the High Court from the State Courts

12 weeks from the date of receipt of the ROP from the State Courts

STATISTICS

Supreme Court's Workload Statistics

Cases Filed
14,026

Cases Disposed
14,710

Clearance Rate
105%

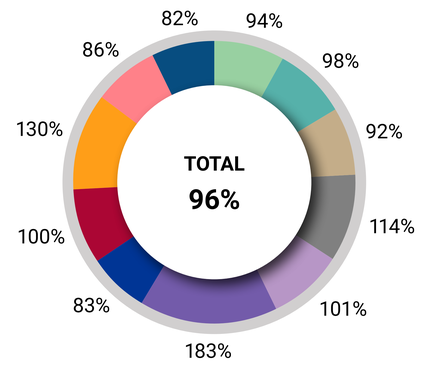
Among other indicators, the SG Courts' performance is measured by clearance rate, which is the number of cases disposed of expressed as a percentage of the number of cases filed in the same year. The clearance rate can exceed 100% as those disposed of are not necessarily a subset of the filings in that year.

In 2021, the Supreme Court received 14,026 new civil and criminal matters and disposed of 14,710 matters. The clearance rate for all civil and criminal matters was 105%, up by 9% from 2020.

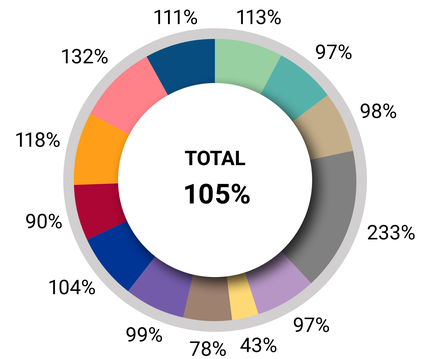
The following shows a comparison of the filing and disposal numbers and clearance rates for civil and criminal proceedings between 2020 and 2021.

	No. of cases filed		No. of cases disposed of	
	2020	2021	2020	2021
Civil Jurisdiction				
Civil Originating Processes	6,839	6,716	6,420	7,587
Civil Interlocutory Applications	5,743	5,956	5,633	5,791
Appeals before the General Division of the High Court	410	421	377	412
Appeals before the Court of Appeal	213	72	243	168
Applications before the Court of Appeal	183	132	185	128
Appeals before the Appellate Division of the High Court	-	138	-	59
Applications before the Appellate Division of the High Court	-	103	-	80
Criminal Jurisdiction				
Criminal Cases	40	69	73	68
Criminal Motions before the General Division of the High Court	83	116	69	121
Magistrate's Appeals	236	226	235	203
Criminal Revisions	10	11	13	13
Criminal Appeals	44	31	38	41
Criminal Motions before the Court of Appeal	38	35	31	39
Total	**13,839**	**14,026**	**13,317**	**14,710**

Clearance Rate, 2020



Clearance Rate, 2021



Civil Jurisdiction
- Civil Originating Processes
- Civil Interlocutory Applications
- Appeals before the General Division of the High Court
- Appeals before the Court of Appeal
- Applications before the Court of Appeal
- Appeals before the Appellate Division of the High Court
- Applications before the Appellate Division of the High Court

Criminal Jurisdiction
- Criminal Cases
- Criminal Motions before the General Division of the High Court
- Magistrate's Appeals
- Criminal Revisions
- Criminal Appeals
- Criminal Motions before the Court of Appeal

STATISTICS

State Courts' Workload Statistics

Cases Filed
190,966

Cases Disposed
210,733

Clearance Rate
110%

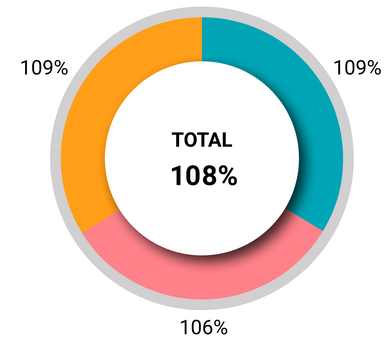
In 2021, the State Courts received 190,966 new civil and criminal matters and disposed of 210,733 matters. The clearance rate for all civil and criminal matters was 110%, up by 2% from 2020.

The following shows a comparison of the filing and disposal numbers and clearance rates for civil and criminal proceedings between 2020 and 2021.

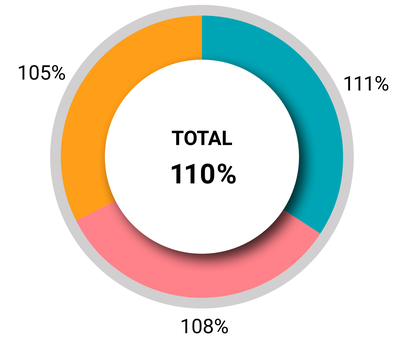
	No. of cases filed		No. of cases disposed of	
	2020	2021	2020	2021
Criminal Cases	**143,728**	**149,515**	**156,129**	**166,162**
Criminal Charge[1]	38,324	38,986	-	-
Departmental or Statutory Board Charge and Summons	53,188	68,326	-	-
Traffic Charge and Summons	47,982	37,455	-	-
Coroner's Court Case	4,219	4,745	-	-
Magistrate's Complaint[2]	15	3	-	-
Civil Cases	**31,189**	**29,115**	**33,193**	**31,571**
Originating Process	**18,831**	**16,205**	-	-
Writ of Summons	18,282	15,408	-	-
Originating Summons	549	797	-	-
Interlocutory Application	**10,720**	**11,120**	-	-
Summons[3]	7,028	7,128	-	-
Summons for Directions (Order 25 or 37)	3,552	3,887	-	-
Summary Judgment (Order 14)	140	105	-	-
Others	**-**	**-**	-	-
Taxation	102	97	-	-
Assessment of Damages	1,536	1,693	-	-
Community Justice and Tribunals Cases	**12,099**	**12,336**	**13,135**	**13,000**
Community Disputes Resolution Tribunals (CDRT) Claim	211	237	-	-
Employment Claims Tribunals (ECT) Claim	1,453	997	-	-
Magistrate's Complaint	1,380	1,388	-	-
Protection from Harassment Court (PHC) Case	153	434	-	-
Small Claims Tribunals (SCT) Claim	8,902	9,280	-	-
Total	**187,016**	**190,966**	**202,457**	**210,733**

OTHER CASELOAD PROFILE				
Court Dispute Resolution[4]	**5,434**	**4,994**	-	-
(Civil) Writ of Summons, Originating Summons	5,085	4,476	-	-
(Community) PHC Case, CDRT Claim, Magistrate's Complaint	349	518	-	-

Clearance Rate, 2020



Clearance Rate, 2021



- **Criminal Cases**
- **Civil Cases**
- **Community Justice and Tribunals Cases**

Notes:
1. Includes District arrest charges, Magistrates' arrest charges and other types of charges.
2. Non-relational Magistrate's Complaints are counted as criminal cases. Relational Magistrate's Complaints are counted as Community Justice and Tribunals cases.
3. Excludes Summons for Directions (Order 25 or 37).
4. Refers to fresh cases handled by the Court Dispute Resolution cluster in the respective years.

STATISTICS

Family Justice Courts' Workload Statistics

Cases Filed
26,560

Cases Disposed
26,900

Clearance Rate
101%

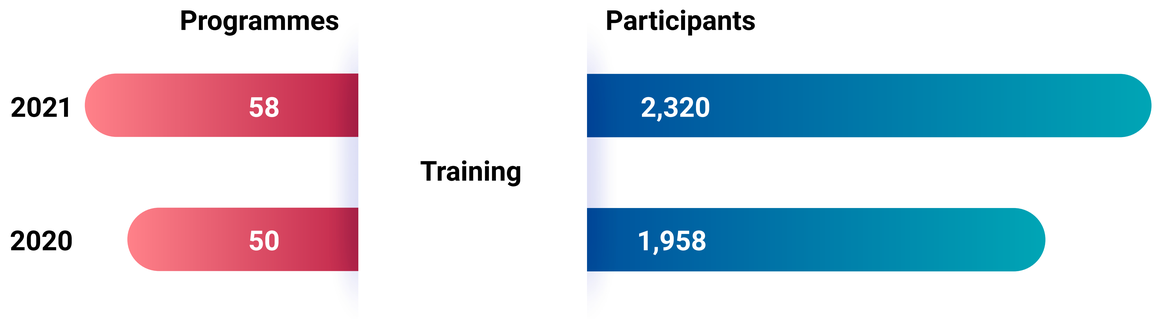
In 2021, the Family Justice Courts handled 26,560 cases, up by 4.3% from 2020. Divorce, Maintenance and Probate cases made up more than half of the total caseload.

	No. of cases filed		No. of cases disposed of	
	2020	2021	2020	2021
Maintenance & Family Violence	**5,654**	**4,971**	**5,478**	**5,434**
Divorce, Originating Summons, Probate & Summons	**18,682**	**20,390**	**18,495**	**20,360**
Youth Court	**1,140**	**1,199**	**958**	**1,106**
Total	**25,476**	**26,560**	**24,931**	**26,900**

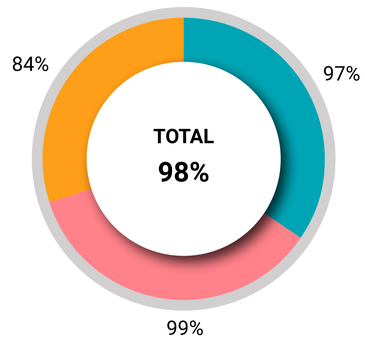
Singapore Judicial College's Programmes and Participants

To ensure the SG Courts feature best-in-class judges, the Singapore Judicial College (SJC) continued to fortify the Bench with more and better-quality training in 2021. It developed a Judiciary Competency Framework to drive training and development in competencies that are necessary at different stages of a judge's career. Following a swift and successful pivot to online training, the SJC also improved its delivery of interactive and immersive online programmes including virtual drafting classes and asynchronous role-play exercises, which were traditionally thought possible only in a physical classroom.

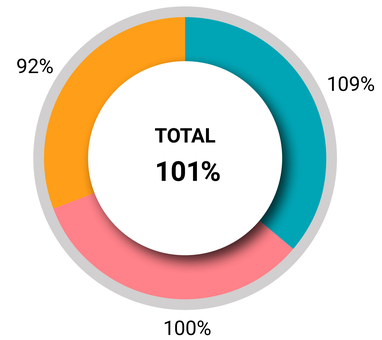
In 2021, the SJC conducted a total of 58 training programmes for 2,320 judiciary participants. This was more than the 50 programmes for 1,958 participants in 2020.



Clearance Rate, 2020



Clearance Rate, 2021



- Maintenance & Family Violence
- Divorce, Originating Summons, Probate & Summons
- Youth Court

The Singapore Judicial College continued to fortify the Bench with more and better-quality training in 2021.

INTERNATIONAL RANKINGS

Based on global rule-of-law rankings by reputable think tanks and international organisations, the Singapore Judiciary and legal system remained among the best in the world in 2021. Singapore maintained high scores across multiple annual surveys and research studies, ranking within or close to the top 10 for most indicators. This exemplary performance is a recognition of the high quality of justice dispensed by the Singapore Judiciary.

International Institute for Management Development – World Competitiveness Yearbook 2021

	RANK
Justice: Fairness in Administration of Justice	8 out of 64
Legal and Regulatory Framework	1 out of 64

World Justice Project – Rule of Law Index 2021

	RANK
Overall	17 out of 139
Civil Justice	8 out of 139
Criminal Justice	7 out of 139

Fraser Institute – Economic Freedom of the World: 2021 Annual Report

	RANK
Legal System and Property Rights	10 out of 165

World Bank – Worldwide Governance Indicators 2021

	RANK
Rule of Law	4 out of 209

The word cloud (above) shows the different types of internal audit projects delivered in 2021.

CORPORATE GOVERNANCE

Good corporate governance is essential for effective and efficient running of court operations. Within the Supreme Court and Family Justice Courts (FJC), the Audit Committee (AC) met regularly throughout 2021 to oversee and guide sound implementation of internal controls, leading to greater trust and confidence in the justice system.

The AC provided a layer of management oversight to ensure compliance with relevant Government Instruction Manuals and regulatory requirements. Despite the pandemic, regular AC meetings were held to steer proper use of government resources (including funds), information and systems.

Continuous compliance with regulatory requirements at both the virtual and physical workplace was also assured through the AC's oversight controls. Various internal audit projects were carried out to address the risk of ineffective controls for policies and procedures developed prior to COVID-19. These projects aligned and improved the relevancy of processes and procedures, information system security controls, as well as enterprise risk management and business continuity management practices governing virtual and hybrid work arrangements.

The Chief Risk Officer, who reports to the AC, is tasked to work with all the directorates on enterprise risk management for the Supreme Court and FJC. The Executive Committee identifies, assesses and maps the various enterprise risks faced by the courts into an Enterprise Risk Register, which is then reviewed and approved by the AC. As new directorates are established and external factors (especially the COVID-19 pandemic) impact the courts, both risk severity and enterprise risks will change with each review. Following the introduction of enterprise risk management within the State Courts in September 2021, the State Courts will also align their efforts towards an integrated framework with the Supreme Court and FJC.

SIGNIFICANT CASES FROM THE SUPREME COURT

Clarification on the Application of Issue Estoppel Arising from Foreign Judgments

Merck Sharp & Dohme Corp (formerly known as Merck & Co, Inc) v Merck KGaA (formerly known as E Merck)

The predecessors of the appellant and respondent entered into an agreement to govern their use of the name "Merck" in various jurisdictions. They subsequently became embroiled in litigation around the world, including England. The English courts handed down three decisions which were in the respondent's favour.

The respondent then commenced proceedings in Singapore for trademark infringement, passing off and breach of contract. In respect of its contractual claim, the respondent applied for summary judgment. It also applied for preliminary determinations to be made under O 14 r 12 of the Rules of Court (2014 Rev Ed) in respect of legal issues decided by the English courts. The High Court dismissed the summary judgment application but allowed the two O 14 r 12 applications, and the Court of Appeal affirmed this decision.

In arriving at its decision, the apex court clarified the application of issue estoppel to foreign judgments. It made three noteworthy points. First, foreign judgments are capable of giving rise to issue estoppel. Where there are multiple competing foreign judgments, the foreign judgment that is the first in time should be recognised for the purposes of creating an estoppel. However, where there is an inconsistent prior or subsequent local judgment between the same parties, the foreign judgment should not be recognised. Second, for a foreign judgment to give rise to issue estoppel, not only the foreign judgment as a whole but also the decision on the specific issue that is said to be the subject matter of the estoppel must be final and conclusive under the law of the foreign judgment's originating jurisdiction. Finally, issue estoppel does not apply to a foreign (or even local) judgment on a "pure" question of law that does not directly affect the parties' rights, liabilities or legal relationship.

Challenges to Correction Directions Issued Under the Protection from Online Falsehoods and Manipulation Act

The Online Citizen Pte Ltd v Attorney-General and another appeal and other matters

The Online Citizen Pte Ltd (TOC) and the Singapore Democratic Party (SDP) were issued correction directions under the Protection from Online Falsehoods and Manipulation Act 2019 (Act 18 of 2019) (POFMA), requiring them to insert correction notices in certain articles and Facebook posts that they had published online. TOC and SDP then applied to set aside these correction directions.

The Court of Appeal first considered the constitutionality of POFMA and correction directions thereunder. A statement in respect of which a correction direction is issued continues to enjoy constitutional protection under Article 14(1)*(a)* of the Constitution of the Republic of Singapore (1985 Rev Ed, 1999 Reprint) until it is judicially determined to be a false statement of fact. However, the issuance of a correction direction does not curtail the communicator's Article 14(1)*(a)* right to freedom of speech; and even if it does, any such restriction is justifiable under Article 14(2)*(a)*.

In determining whether such a direction can be set aside under ss 17(5)*(a)* and/or 17(5)*(b)* of POFMA, a five-step analytical framework applies. The court must:

(i) ascertain the meaning the Minister intended to place on the statement identified in the direction;
(ii) determine whether the subject material made or contained that statement;
(iii) determine objectively whether the statement was a "statement of fact" as defined in s 2(2)*(a)* of POFMA;
(iv) determine objectively whether the statement was "false" in the sense explained in s 2(2)*(b)* of POFMA; and
(v) consider whether the statement was communicated in Singapore, as required under s 10(1)*(a)* of POFMA.

The burden of proof in setting-aside applications lies on the recipient of the direction, who must show a *prima facie* case of reasonable suspicion that one or more of the grounds for setting-aside under ss 17(5)*(a)* and/or 17(5)*(b)* is satisfied.

Applying these principles, the Court of Appeal allowed SDP's appeal in part but dismissed TOC's appeal. There was no basis to set aside the correction directions issued to either party, save in relation to one statement made by SDP which had not been communicated in Singapore.

Limitation Periods for Unjust Enrichment Founded Upon Contract

United Petroleum Trading Ltd v Trafigura Pte Ltd

The appellant alleged that three sums of money were paid to the respondent as initial margin pursuant to an agreement under which the respondent had agreed to trade futures contracts for gasoline on the appellant's behalf. The appellant sought recovery of the first two sums paid on 25 and 30 September 2013 on the basis of, among others, total failure of consideration. The appellant commenced the suit on 16 October 2019, more than six years after the payments had been received by the respondent. The respondent sought to strike out the claims for those two sums on the basis that they were time-barred. It was common ground between the parties that the claims were founded upon a contract and were thus subject to a six-year limitation period.

SIGNIFICANT CASES FROM THE SUPREME COURT

The Appellate Division of the High Court held that the cause of action only accrues when all three requirements for such claim are satisfied, namely (a) enrichment of the defendant; (b) at the expense of the plaintiff; and (c) the presence of an unjust factor. Where the claim rests on the grounds of a total failure of consideration, the cause of action cannot be said to have accrued until the failure of consideration has occurred. Although a failure of consideration may coincide with the date that moneys were received in some cases, that was not so in the present case.

The Court found that the pleadings failed to show that the accrual of the cause of action had occurred within the limitation period. The Court thus struck out the appellant's claim for the two sums paid.

Equal Protection in the Scheduling of Executions

Syed Suhail bin Syed Zin v Attorney-General

The applicant was convicted and sentenced to the mandatory death penalty for trafficking in not less than 38.84g of diamorphine. His appeal against conviction and sentence was dismissed, and his petition for clemency was denied. He was then scheduled to be executed on 18 September 2020. Shortly before this, he applied for leave to commence judicial review proceedings against the decision to schedule his execution on 18 September 2020 on the basis that this was ahead of other prisoners who had been sentenced to death earlier than he had been. This, the applicant argued, was in violation of Article 12 of the Constitution of the Republic of Singapore (1985 Rev Ed, 1999 Reprint). The application for leave was granted by the Court of Appeal in *Syed Suhail bin Syed Zin v Attorney-General* [2021] 1 SLR 809, and the applicant was allowed to commence judicial review.

In these proceedings, the applicant's most noteworthy argument was advanced with reference to two persons who had been convicted and sentenced to death before him, Datchinamurthy a/l Kataiah and Rahimi bin Mehrzad, but whose executions had still not been scheduled. Using them as comparators, the applicant argued that his right to equal treatment under Article 12(1) had been violated. If the applicant was "equally situated" with these two individuals, there could have been a violation of Article 12(1). However, the High Court examined the positions of Datchinamurthy and Rahimi and found that there were legitimate reasons for their executions being held in abeyance. The Attorney-General's Chambers explained that their cases were being reviewed in light of the Court of Appeal's decision in *Gobi a/l Avedian v AG* [2020] 2 SLR 883, and, as such, there was a possibility that their cases might be reopened on their merits. By contrast, no such possibility existed in respect of the applicant's case. They were, therefore, not equally situated and Article 12(1) had not been violated.

Commencement of Administrative Proceedings Not a Repudiatory Breach of Arbitration Agreement

CLQ v CLR

The plaintiff was the Government of a country, which the Singapore International Commercial Court referred to in its judgment as "Ruritania". The defendant was a developer. The defendant brought arbitration proceedings against the plaintiff for damages arising out of a joint venture agreement (JVA). The plaintiff challenged the jurisdiction of the arbitral tribunal on the basis that the defendant had repudiated the arbitration agreement within the JVA by bringing court proceedings. Several months after the JVA had been signed, and before the preliminary steps in the performance of the JVA had been completed, the defendant brought proceedings in the Ruritanian courts against three of the plaintiff's ministries (the Ruritanian Proceedings). The proceedings were to compel the ministries to register a joint venture company and sign a lease, both of which were preliminary steps in the JVA.

The Court found that, objectively, the defendant's actions did not evince clear intention to repudiate the arbitration agreement. The Ruritanian Proceedings were limited to obtaining administrative relief that would support the preliminary steps required for the performance of the JVA. This was clear from the backdrop to the Ruritanian Proceedings, the papers filed therein, the relief sought and the statements made by parties during proceedings.

The Court also found that the arbitration agreement was a valuable protective mechanism for both parties, and thus it was unlikely that either party would choose to abandon it during the formative stages of the JVA's performance. Furthermore, the Court found that it would be contradictory to treat the defendant as disavowing the arbitration agreement when the purpose of its commencement of the Ruritanian Proceedings was to jumpstart the JVA.

Finally, the Court also observed that the English and Singapore approaches to determining whether there had been a repudiation of an arbitration agreement, although different, would lead to the same result.

SIGNIFICANT CASES FROM THE STATE COURTS

CRIMINAL

PP v Glynn Benjamin

This is the first case in which an accused person claimed trial to charges under the COVID-19 (Temporary Measures) Act 2020 for failing to wear a mask while not in his ordinary place of residence.

Benjamin Glynn was charged with two counts under Regulation 3A(1)(a) of the COVID-19 (Temporary Measures) (Control Order) Regulations 2020, punishable under section 34(7)(a) of the COVID-19 (Temporary Measures) Act 2020, for failing to wear a mask on an MRT train and outside the vicinity of the State Courts respectively. He was also charged under section 209(b) of the Penal Code for causing annoyance to the public, and under section 6(1)(a) of the Protection from Harassment Act for using threatening words towards two police officers.

During the trial, Glynn argued that he was a "living man" and above Singapore's laws and that he had not entered into any commercial contract to subject himself to the regulations requiring him to wear a mask. The Court rejected Glynn's defence and found that he was completely misguided in his beliefs. The Court explained that the COVID-19 (Temporary Measures) Act 2020 is part of Singapore's law and would apply to anyone who sets foot here. The Court further observed that Glynn knew very well that the regulations were in force and held that it was not open to him to say that he is above the law. With regard to the charges under the Penal Code and the Protection from Harassment Act, the Court held that the prosecution had proven them beyond a reasonable doubt based on the evidence adduced at the trial. The Court convicted Glynn on all four charges.

In sentencing Glynn, the Court stated that in view of the public interest and public health and safety, and the continued defiance demonstrated by Glynn, a deterrent sentence was warranted. Glynn was sentenced to six weeks' imprisonment.

PP v Zareena Begum d/o P A M Basheer Ahamed

This is the first case involving injury to the groin area of a male victim in which the sentencing approach for offences under section 326 of the Penal Code as laid down by the General Division of the High Court was applied.

Zareena claimed trial to a charge of voluntarily causing grievous hurt under section 326 of the Penal Code by pouring hot water over her boyfriend's groin area, resulting in the victim suffering second- and third-degree burns over 12% of his body. The victim was hospitalised for 26 days and given 39 days of medical leave. During this period, he was unable to engage in his normal pursuits. His injuries also led to permanent scarring.

Zareena and the victim's relationship was tumultuous during which the victim had promised to divorce his wife and marry Zareena, a divorcee, but it did not materialise. The victim testified that he was asleep on the sofa at Zareena's place when he was awoken by pain on his groin and lap after Zareena poured boiling water on him. It appeared that Zareena was upset over certain messages the victim had received on his handphone from a female with whom she suspected the victim was having an affair. Zareena claimed, however, that the incident happened in the kitchen where hot water in a mug she was holding accidentally spilled onto the victim's groin area when he pulled her arm.

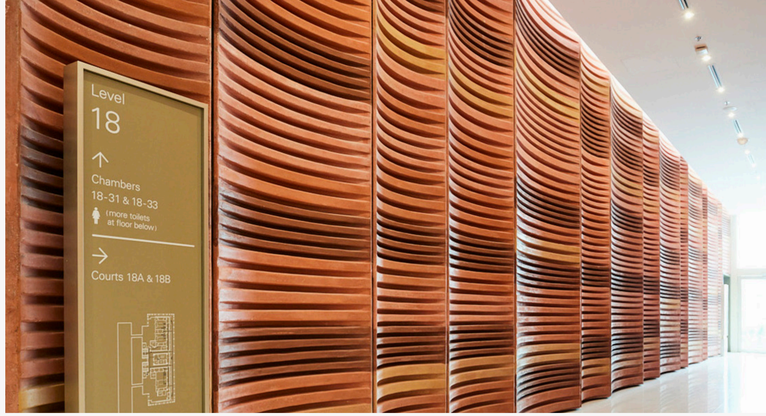
The District Judge accepted the victim's evidence, which was corroborated by objective medical evidence, and found that Zareena was not a credible witness. Zareena was convicted accordingly and sentenced to four years' imprisonment.

On appeal to the General Division of the High Court, both the conviction and sentence were affirmed by Justice Vincent Hoong. He observed that the objective evidence clearly stated that the victim was injured in the manner he had testified.

CORONER'S INQUIRY

Coroner's Inquiry into the Demise of an Infant

A 21-day-old infant was pronounced dead on 19 November 2020 at 5.18am at KK Women's and Children's Hospital after he was discovered



unresponsive in his bedroom at about 4am. The infant had been sleeping in the nanny's arms, who was asleep too.

An autopsy could not ascertain the cause of death, although Sudden Infant Death Syndrome and Asphyxia could not be ruled out. On 19 November 2020 at about 1am, the nanny was carrying the infant after having fed him as he was showing discomfort. She alternated between various positions to get him to fall asleep. At some point, she sat on her bed leaning against the wall behind with the infant in her arms. He was held against her chest with his face resting on her shoulder. She eventually dozed off and was only woken up when the infant's mother entered the room at about 4am. The nanny then placed the infant in the baby cot. The infant's mother proceeded to check on the infant and found him unresponsive. He was immediately rushed to hospital.

As the circumstances surrounding the infant's demise were inconclusive, the Coroner entered an open verdict. She noted that this was another case of poor sleep practices which may have led to the infant's death and remarked that cases have shown that an infant who falls asleep in a prone position is more likely to fall victim to accidental suffocation. She further opined that parents and caregivers must bear in mind that fatigue can set in as they care for an infant through the night, and it is best not to cradle the infant in their arms for long periods of time and risk having the baby falling asleep in an unsafe position when the caregiver dozes off even briefly.

CIVIL

Chua Eng Kok (Cai Rongguo) v Douglas Chew Kai Pi [2021] SGDC 159

This case concerns an application made by a defendant to give evidence over Zoom from China as opposed to making a physical

SIGNIFICANT CASES FROM THE STATE COURTS

appearance in court. It is one of the first published decisions on the application of State Courts Practice Direction No. 52A (PD 52A), which provides a process for parties to seek permission for a witness outside Singapore to give evidence by live video link. Such applications are to be made by way of an inter partes summons with a supporting affidavit. The party making the application is to satisfy the court that the relevant legislation in the foreign country or territory from which the witness is giving evidence has been complied with.

The court dismissed the application having regard to section 62A(2) of the Evidence Act. The court considered that the defendant failed to provide cogent reasons as to why he was unable to give evidence in Singapore. The defendant deposed that he would have to be quarantined upon his return to China, but the court found that this went towards inconvenience and not inability to attend court. Furthermore, parties were notified of the hearing schedule three months in advance. There would be ample time for the defendant to purchase air tickets and organise his affairs upon his return to China. While Zoom would allow the court to observe the witness' demeanour, the court accepted that Zoom was limited to facial expressions and it was important that the defendant be fully observable which would only be possible with physical attendance at the hearing. The defendant also failed to comply with PD 52A in failing to adduce advice given by a foreign lawyer "qualified to advise on the laws of the relevant foreign country or territory".

Liew Wei Yen Ashley v Soh Rui Yong [2021] SGDC 206

This is a defamation suit instituted by the plaintiff, Ashley Liew, against the defendant, Soh Rui Yong, for damages arising out of defamatory statements made in five posts on the latter's blog as well as Facebook and Instagram accounts. Soh is the first Singaporean male marathoner to win back-to-back SEA Games titles. Liew is the first Singaporean to receive the prestigious Pierre de Coubertin World Fair Play trophy awarded by the International Fair Play Committee. Soh's statements alleged that Liew had not slowed down at the 2015 SEA Games marathon, challenging the very act that led to Liew receiving the said trophy and the Special Award for Sportsmanship by the Singapore National Olympic Council.

The case attracted extensive publicity not just because it involved two famous personalities in Singapore, but also because Soh had continued to post on social media during the trial in what he called the "battle for the truth". His act of publicising the dispute while court proceedings were still ongoing was found by the trial Court to justify the award of substantial damages, including aggravated damages, to Liew. The Court found Soh's portrayal of Liew through his continued online posts to have exacerbated the harm caused to Liew. As a result, Liew was awarded $180,000 in damages, the highest known award in a defamation suit commenced in the State Courts.

On appeal by Soh, the High Court upheld the trial Court's decision that Soh had not proved his defence of justification as well as the award given by the trial Court.

COMMUNITY COURTS AND TRIBUNALS

Tan Siow Yun (Chen Xiaoyun) v Bioskin Holdings Pte Ltd

This case is noteworthy for the Employment Claims Tribunal's (ECT) assessment on the impact of the claimant's no-pay leave (NPL) on the length of her probation and notice periods.

By parties' agreement, the claimant was placed on NPL while she was still under probation, partly due to COVID-19 restrictions. The claimant received a dismissal letter from the respondent with one month's notice while on NPL. Her ECT claims included, firstly, one month's salary in lieu of notice of termination (SILON) and secondly, salary for the period she was on NPL during the notice period.

The claimant's claim for SILON hinged on whether her NPL would count towards her probation period. If so, the applicable notice period for her dismissal would have been two months (as a non-probationer) instead of one, and she would be entitled to her first claim. While the claimant's employment contract was silent on the issue, the ECT reasoned that the purpose of probationary periods is to give parties sufficient opportunity to interact with each other to assess suitability for a longer-term relationship. Since this could not meaningfully happen while the claimant was on NPL, the parties would not have intended, contractually, for NPL to count towards the claimant's probation period. The ECT thus dismissed the first claim.

As for her second claim, the claimant argued that her NPL was cancelled upon her receipt of the dismissal letter. The ECT, however, found no basis for this, both in law and under the employment contract, and similarly dismissed the claim. The ECT also observed that, unlike probation periods, the purpose of notice periods is to allow one party to exit an otherwise indefinite contract, with advance warning given to the other party. Since the parties had agreed to the claimant being on NPL, such purpose was not affected.

Zheng Ximeng v Ker Choo Choo Marilyn

This is the first case in which damages were awarded by the Protection from Harassment Court (PHC).

The claimant's complaints of harassment had arisen from the parties' tenancy dispute and consequent proceedings in the Small Claims Tribunal (SCT). In its decision, the PHC found that the respondent had contravened sections 3, 4 and 7 of the Protection from Harassment Act 2014 and granted the claimant's application for a Protection Order under the Act. The PHC noted, in particular, that the respondent had:

(a) threatened to write to the claimant's employer if he did not pay the rent allegedly owed to the respondent;
(b) called the claimant various names such as "robber", "big liar crook" and "bandit" during the SCT proceedings; and
(c) sent the claimant numerous messages refusing to acknowledge the SCT's decision (allowing the claimant's claim in part), insinuating that the claimant had bribed the SCT Magistrate and wishing retribution upon the claimant.

In his claim for damages, the claimant submitted a psychiatric report stating that the respondent's actions had caused him heightened anxiety and affected his sleep, and that he was diagnosed as having Major Depressive Disorder (single episode, mild with anxious distress). In its assessment, the PHC found on a balance of probabilities that the cumulative effects of the respondent's actions had caused the claimant worry, anxiety and harassment, ultimately leading to his episode of depression. As regards quantum, the PHC categorised the claimant's psychiatric condition as "minor" and referred to the *Guidelines for the Assessment of General Damages in Personal Injury Cases* (Academy Publishing, 2010) for the suggested range for damages. After making the appropriate adjustments, the PHC awarded the claimant $1,200 as damages for his psychiatric injury. The claimant's claim for his psychiatrist's bill and disbursements for the psychiatric report was also allowed.

SIGNIFICANT CASES FROM THE FAMILY JUSTICE COURTS

THERAPEUTIC JUSTICE

Parental responsibility is a personal responsibility. Court proceedings must be the last resort for resolving parenting matters. For the welfare of their children, parents must compromise and strive to be bigger, wiser and kinder in their mutual dealings (***VDX v VDY and another appeal*** **[2021] SGHCF 2**).

In ***VDX v VDY***, following the parties' divorce, the Mother was granted care and control of the child while the Father was granted access. The parties co-parented successfully for several years. After the child turned 13 years of age and joined a different school, disputes arose over when the Father should return the child after the end-of-year holidays and how the child should spend dinnertime on the eve of Chinese New Year.

The Family Court observed that dinner on the eve of Chinese New Year was of cultural significance to the family. It ordered that the child have an early dinner with the Mother and then a late dinner with the Father. It also ordered the Father to return the child to the Mother by 10am on 1 January after the end-of-year holidays.

The High Court affirmed these orders. It observed that the parties had co-parented amicably for years in a shared spirit of give-and-take. By contrast, the matters in dispute here were minor and involved at most a few hours or days in a year. The child's welfare would not be significantly affected however these matters were resolved. But the child's welfare would be significantly affected by the conflict between the parents. If each parent carried out the arrangements with the intent to ruin the time that the other parent had with the child, the child's welfare would be undermined. If each parent carried out the arrangements in a supportive and cooperative spirit, the child's welfare would be promoted.

The High Court reminded family law practitioners to be aware of the ways that they could influence parenting disputes, including the language used in correspondence and the mindset they brought to the proceedings. Through collaborative problem-solving of their clients' parenting matters, counsel can facilitate the delivery of therapeutic justice.

DIVISION OF MATRIMONIAL ASSETS

A court may draw an adverse inference against a party for failing to provide full and frank disclosure of the matrimonial assets. This is done by including the value of that concealed asset in the matrimonial pool (i.e., the valuation approach), or by ordering a higher proportion of the known assets to be given to the other party (i.e., the uplift approach). Apart from such adverse inferences, an asset that a party contends is not part of the matrimonial pool may nevertheless be found to be a matrimonial asset (***TOF v TOE*** **[2021] 2 SLR 976**). Regardless, an adverse inference is drawn not to punish but only to further a fair and equitable distribution of assets by disgorging the benefits from improper concealment of assets (***CHT v CHU*** **[2021] SGCA 38**).

In ***TOF v TOE***, the Court of Appeal held that the Husband had been unforthcoming with his assets. He claimed that he did not own any foreign company when there had been transfers between the parties' joint account and that company's corporate account. He submitted that another company he owned in Singapore had a value far more modest than what he had told the Wife in prior related proceedings. Furthermore, he offered no explanation on some $5.2 million that he had withdrawn from the parties' joint account. Adverse inferences in respect of these assets were thus justified. As the values of these assets could be ascertained, the adverse inferences were given effect to by adding the values of these assets to the matrimonial pool.

In ***CHT v CHU***, the Court of Appeal similarly held that the Husband had been unforthcoming with his assets. He had transferred securities to his mother and had failed to disclose insurance policies of substantial value. But the Court drew an adverse inference against the Husband only in respect of the insurance policies and not the securities. It explained that the value of the securities had been duly disclosed, even if they had been transferred to the Husband's mother. They could therefore be divided between the parties without drawing an adverse inference against the Husband in respect of them.

SIGNIFICANT CASES FROM THE FAMILY JUSTICE COURTS

RELOCATION OF CHILD

When a globalised family breaks down, the parties' desired countries of residence may differ. A lack of connection to Singapore is a strong factor in favour of the relocation of the child (***VJM v VJL and another appeal*** **[2021] 5 SLR 1233**).

In ***VJM v VJL***, the parties married in the United States (US). The Father is British while the Mother is American. The Mother moved to Singapore to join the Father in 2013, and their child, who holds both American and British citizenships, was born in 2017. Upon their divorce, the Mother applied to relocate with the child to the US while the Father contended that the child should remain in Singapore, which was "a safe country, and a great place to live and to raise a child".

The Family Court granted the application for relocation, and the High Court affirmed this decision. The High Court observed that neither party held permanent residency in Singapore and that the family had neither roots nor permanent immigration status in Singapore. This lack of connection with Singapore was a strong factor in favour of the relocation. Although the relocation would produce some loss in the Father-child relationship, good access arrangements, both physical and virtual, could mitigate the loss of time and relationship with the left-behind parent.

CARE AND CONTROL, AND ACCESS

Cooperative and shared parenting is generally accepted to be in a child's welfare. Practically, however, determining the living arrangements that would support the maximum involvement of both parents in the child's life may be difficult. Singapore law adopts the legal constructs of "custody", "care and control" and "access" to support families that have broken down. "Custody" refers to the decision-making responsibility in major aspects of the child's life and does not directly depend on having physical time with the child. "Care and control" involves physical interaction, caregiving and residence with the child, as well as decision-making responsibility over day-to-day matters. Although it is common that one parent is granted sole care and control of a child while the other parent has access to the child, in appropriate cases, the court may grant both parents shared care and control if this is feasible and best serves the child's welfare (***VJM v VJL and another appeal*** **[2021] 5 SLR 1233**).

In ***VJM v VJL***, besides allowing the Mother to relocate with the child to the US, the Family Court granted the Mother sole care and control of the child while the Father was granted access. Dissatisfied with this decision, the Father filed an appeal and sought an order of "shared care and control". He claimed that the psychological effects of granting the Mother sole care and control caused her to treat him as "less of a parent".

The High Court declined to order "shared care and control". It held that doing away with the concepts of "care and control" and "access", and calling any arrangement in which a child spends some time with both parents "shared care and control", did not fit into the current law. If the concepts of "sole care and control" and "access" caused the negative psychological effects alleged by the Father, the roots of any such potential effects had to be addressed by legislative reform.

The High Court emphasised that both parents are equal parents with equal parental responsibility, and that such equality is upheld through the legal concept of "joint custody". Joint custody requires each parent to recognise and respect the other's joint and equal role in supporting, guiding and making major decisions for their child. This assures the child that both parents will continue to be equally present and important in his or her life. It is erroneous and unhelpful for the parent with sole care and control to view himself or herself as a more important parent or to undermine the other parent's involvement in their child's life. A truly strong parent is one who actively supports a child in having a close relationship with the other parent and does not allow the child to suffer a "conflict of loyalty" of being caught between two parents jealous of each other's relationship with him or her.

SETTING ASIDE OF FINAL JUDGMENT OF DIVORCE

A final judgment of divorce dissolves a marriage and brings the status of the parties as a married couple to a permanent and unsalvageable end (***VQB v VQC*** **[2021] SGHCF 5**).

In ***VQB v VQC***, the parties had consented to an interim judgment of divorce (IJ) on the simplified track, where the grounds of divorce and all ancillary matters had been agreed upon. Nine months later, the IJ was made final and a final judgment of divorce (FJ) was granted by the Family Court. Subsequently, the Wife applied to set aside the FJ and the entire divorce proceedings. alleging that she had been under duress when she consented to the IJ.

The Family Court declined to set aside the FJ, finding that the Wife had not been under duress when she consented to the IJ. It also suggested that were the IJ set aside, the FJ would automatically be set aside.

The High Court affirmed this decision, observing that the Wife had simply changed her mind about the divorce when her lover spurned her. It added, however, that an FJ dissolves a marriage permanently and cannot be set aside. By contrast, an IJ is a mere interim order that the court can refuse to finalise. The only way for a divorced couple to return to marriage is to remarry, in accordance with the requisite legal formalities of registration and solemnisation. The law prescribes a minimum three-month period between the IJ and FJ, for due diligence to be carried out, to ensure that all is in order before an IJ is finalised.