



THE
LAW SOCIETY
OF HONG KONG
香港律師會

International Conference of Legal Regulators 2025

New Ways to Regulate in a Changing World?





Breakout Session 2: Trust – The Litigation Integrity Risk The Position in Singapore

21 October 2025 (Tuesday)

1.15pm – 2.30pm

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Context: Abuse of Judicial Process in Singapore

Understanding SLAPPs and Lawfare

The terms SLAPPs (Strategic Litigation Against Public Participation) and 'lawfare' are not commonly used in Singapore's legal discourse.

Lawfare refers to using legal processes to achieve ulterior or oppressive purposes.

Acknowledgment of Lawfare in Singapore

The phenomenon of lawfare is acknowledged in Singapore's context.

We look at one reported Singapore case in 2022 which contributed to the change in regime.

Legislative Amendments

This session examines the key legislative amendments in detail.

Lawfare in Singapore: *Mohammad Farid bin Batra v AG* [2022] SGHC 132



Meritless Applications in 2022 Singapore Case

An accused made meritless applications to delay criminal sanctions.

These applications were recognized as abusive by the court.



Court's Limited Power to Impose Sanctions

The court noted it lacked power to impose sanctions beyond a finding.

This limitation highlighted gaps in addressing abusive litigation tactics.



Call for Executive and Legislative Action

The court suggested that the Executive and Legislature consider future action.

This recommendation extended to “abusive applications by litigants and those advising, assisting, or egging them on”

Overview of the Administration of Justice (Protection) Act 2016 ("AJPA")



Enactment Date and Purpose

Enacted on 15 August 2016, this Act codified Singapore's law of contempt of court without changing its boundaries.



Clarification of Conduct

It clarified what conduct is permissible or impermissible in relation to court proceedings.



2024 Amendments (came into force on 28 Jan 2025)

The 2024 amendments are clarificatory without lowering the current threshold for contempt of court.

Broad existing provision in 2024 on contempt of court

Section 3(1)(e) AJPA

Any person who ... **intentionally does any other act that interferes with, obstructs or poses a real risk of interference with or obstruction of the administration of justice in any other manner**, if the person knows or ought to have known that the act would interfere with, obstruct or pose a real risk of interference with or obstruction of the administration of justice ...
commits a contempt of court.

- Already deals with egregious cases of abuse of court process

Key Amendment 1: New Limb (da) in Section 3(1)

Section 3(1)(da) AJPA

“Any person who ... conducts or commences a court proceeding (whether as a party or an advocate in the court proceeding), and knows or ought to know that his or her conduct or commencement of the court proceeding –

- (i) involves a deception on the court, or is fictitious or constitutes a mere sham; or
- (ii) is manifestly groundless or without foundation, and involves the process of the court being employed for some ulterior or improper purpose ...

commits a contempt of court.”



Commencement of Proceedings

Commencement of proceedings means filing originating processes or applications, excluding pre-action correspondence.



Mental Element: Knowledge

The mental element 'knows or ought to know' includes actual and constructive knowledge.



Sub-Limb (i): Falsehood Claims

Sub-limb (i) requires a claim based on falsehood, not fair litigation strategy.



Sub-Limb (ii): Groundless Claims and Improper Purpose

Sub-limb (ii) requires **both a manifestly groundless claim and an improper purpose.**

Interpretation of Section 3(1)(da)



Illustration 3 to section 3(1) AJPA



A commences a court proceeding against B seeking damages. The court finds that A knew or ought to have known that the commencement of the claim is manifestly groundless and that A had initiated the proceeding for the ulterior purpose of vexing or oppressing B. A's commencement of the proceeding against B constitutes a contempt of court.

Key Amendment 2: New Limb (db) in Section 3(1)

Section 3(1)(db) AJPA

“Any person who ... **conducts or commences multiple or successive court proceedings** (whether as a party or an advocate in those court proceedings), and **knows or ought to know** that his or her conduct or commencement of those court proceedings is **manifestly groundless or without foundation** ... commits a contempt of court.”

Government Rationale for Section 3(1)(db)

1

- to provide clarity on how the general standard in section 3(1)(e) applied to specific contexts
- scoped differently from the categories of abuse of process at common law

2

- section 3(1)(db) was concerned with the harm caused to the court system as a whole
- such harm was not limited to the vexation or oppression of the other party

3

- other culpable motivations for a person to file multiple or successive proceedings e.g. to delay proceedings
- strong deterrent element

Balancing Abuse Prevention and Legitimate Claims



Bar's feedback

The Government considered the Bar's feedback that amendments might discourage lawyers from taking difficult or borderline cases.



Policy Intent

Litigants and lawyers **acting in good faith and with reasonable care** should not be penalized.



Exception

If the lawyer failed to take reasonable steps, he may be caught by the amendments

Good Faith Example



Accused Presents New Evidence

An accused presents new evidence of uncertain genuineness shortly before sentencing.



Lawyer Files Urgent Application

The lawyer files an urgent application to delay sentencing while investigating.



Evidence Found False

The evidence is later found false and the application withdrawn.



No Penalty for Good Faith Actions

If the lawyer acted in good faith and took reasonable steps, no penalty applies under the amendments. **But not if he ignored obvious red flags, or had carried on conducting the application even after discovering that the new evidence was fabricated.**

Illustration 4 to section 3(1) AJPA



A is convicted of rape and is sentenced to imprisonment and caning. The sentences are upheld by the appellate court. Before the sentence of caning is executed, A, acting on the advice of A's advocate, commences an application to review the earlier decision of the appellate court. The court finds that both A and A's advocate knew or ought to have known that the commencement of the review application is manifestly groundless and that the review application had been commenced for the improper purpose of delaying the execution of caning until after A turns 50 years of age, when A can no longer be punished with caning. The commencement of the review application by A and A's advocate constitutes a contempt of court.

3 interesting issues

Standard for “ought to have known”

- Question for the court to assess i.e. whether the person could have reasonably known of the abusive nature of the application

If the client insists on proceeding with an abusive claim against the lawyer's advice

- Singapore case law is clear that the advocate should inform his client of the conflicting duty on account of the instructions and, if necessary, to discharge himself from acting for the client."

Contempt vs disciplinary proceedings

- Contempt of court serves a broader purpose than other levers (such as disciplinary proceedings), as it is aimed at protecting the justice system as a whole.

Key Questions for Regulators



Addressing Breaches in Disciplinary Proceedings

How should disciplinary proceedings address breaches of sections 3(1)(da) and (db)?



Impact on Public Trust

Should regulators weigh harm to public trust in justice system?



Constructive Knowledge in Disciplinary Offences

Can disciplinary offences arise where constructive knowledge is absent?



Avoiding Double or Triple Jeopardy

How to frame charges to avoid double or triple jeopardy when contempt overlaps?