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DISTRICT JUDGE TAY JINGXI

20 APRIL 2026

IN THE STATE COURTS OF THE REPUBLIC OF SINGAPORE

[2026] SGMC 51

Magistrate Court Originating Claim No 11195 of 2024

Between

Care Beyond Pte. Ltd.

... Claimant(s)

And

Dexterity Medical & Transport
Services Pte. Ltd.

... Defendant(s)

JUDGMENT

[Contract] – [Breach]

[Contract] – [Contractual terms] – [Interpretation of terms]

TABLE OF CONTENTS

A	INTRODUCTION	1
B	PARTIES' CASES	2
C	ISSUES	4
D	ISSUE 1: DOES THE DEFENDANT OWE THE CLAIMANT A SUM OF \$25,772.72 PURSUANT TO THE AGREEMENT?.....	4
E	ISSUE 2: DID THE CLAIMANT BREACH THE TERMS OF THE AGREEMENT SO AS TO ENTITLE THE DEFENDANT TO DAMAGES?.....	12
	(A) THE CLAIMANT'S FIRST ALLEGATION IS NOT MADE OUT.	13
	(B) THE SECOND TO FOURTH ALLEGATIONS ARE NOT MADE OUT.	22
	<i>(i) The Defendant has failed to establish the contractual basis for the second to fourth Allegations.</i>	<i>22</i>
	<i>(ii) Even if the Defendant was able to establish the contractual basis for the second to fourth allegations, these allegations are not proven on a balance of probabilities.</i>	<i>24</i>
	(1) The second allegation is not proved.....	25
	(2) The third allegation is not proved.	34
	(3) The fourth allegation is not proved.	40
	<i>(iii) Even if the second to fourth Allegations were sufficiently proved, the Defendant has failed to establish causation between the alleged breaches and its loss.</i>	<i>50</i>
	(C) THE CLAIMANT'S FIFTH ALLEGATION IS NOT MADE OUT.	56

F	ISSUE 3: IF THE ANSWER TO ISSUE 2 IS YES, DID THE DEFENDANT MITIGATE ITS LOSSES?	59
G	CONCLUSION.....	59

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Care Beyond Pte. Ltd.
v
Dexterity Medical & Transport Services Pte. Ltd.

[2026] SGMC 51

Magistrate Court Originating Claim No 11195 of 2024
District Judge Tay Jingxi

13 Oct 2025, 28 Nov 2025, 6 Feb 2026, 6 Apr 2026

20 April 2026

Judgment reserved.

District Judge Tay Jingxi:

A Introduction

1 On 3 October 2022, the Claimant and the Defendant entered into a Service Agreement (the “**Agreement**”) for the Claimant to provide medical escort and transport services to the Defendant. It is an agreed fact that the persons to whom these transport services were actually carried out for were elderly, wheelchair-bound individuals (the “**Seniors**”) to and from their places of residence and Ren Ci Novena (“**Ren Ci**”), which is a hospital located at Irrawaddy Road.¹ It is not disputed that the Defendant was itself obligated by its

¹ Agreed Bundle of Documents (“**AB**”) at 44. Statement of Claim (“**SOC**”) at [2] and Amended Defence and Counterclaim (“**AD&CC**”) at [2].

own contract for the provision of transport services with Ren Ci to provide Ren Ci with these transportation services.² Hence, what the Defendant had effectively done in entering into the Agreement with the Claimant was to outsource part of its contractual obligations to the Claimant.

2 I move on to the parties' cases.

B Parties' cases

3 The Claimant's case is an action in debt.³ According to the Claimant, it provided transportation services to the Defendant from May to September 2024 (the "**Period**"), a period of five months, for which services the Defendant was supposed to pay \$5,400 per month pursuant to Clause 3.1 of the Agreement.⁴ The Defendant failed to make payment. The Claimant now sues for **\$25,772.72**, being the pro-rated sum the Defendant owes for the services rendered by the Claimant based on the actual number of working days per month.⁵

4 The Defendant accepts that it did not make any payment to the Claimant for services rendered by the latter over the Period, but alleges that the Claimant's constant breaches of its contractual obligations under the Agreement entitled it to withhold payment.⁶ The Defendant also counterclaims for what it terms its "loss of profits" arising from these alleged breaches by the Claimant.⁷ The Defendant characterizes these "loss of profits" as follows:

² Ms Haria Huang Jing Wen's ("**Ms Huang**") 1st AEIC at [13].

³ SOC at [7]. See too Claimant's Closing Submissions ("**CCS**") at [5].

⁴ SOC at [3] and [7].

⁵ SOC at [7] and [8].

⁶ AD&CC at [5].

⁷ AD&CC at [13(j)].

(a) **\$38,699.22**, being the sum the Defendant had to pay to an alternative transport provider to fetch two additional Seniors as requested by Ren Ci (the “**First Head of Damage**”).⁸

(b) **\$30,736.80**, being the loss of profit the Defendant incurred in having to provide transportation services to some Seniors using its own resources and arising from the ceasing of the Defendant’s business with Ren Ci on 30 June 2025 (the “**Second Head of Damage**”).⁹

(c) Damages to be assessed for the Defendant’s loss of future business opportunities with Ren Ci (the “**Third Head of Damage**”).¹⁰

(d) Damages to be assessed for the loss caused to the Defendant’s reputation by the Claimant’s alleged breaches (the “**Fourth Head of Damage**”).¹¹

5 In its closing submissions, the Defendant explicitly abandoned its claim for “alleged reputational harm”, which I read to refer to the Fourth Head of Damage, and its claim for “general loss of goodwill”, which I read to refer to the Third Head of Damage.¹² Accordingly, my analysis of and decision on the counterclaim is confined to the First and Second Heads of Damage.

6 Although the total value of the counterclaim, even after the Defendant’s abandonment of the Third and Fourth Heads of Damages, exceeds \$60,000 – the limit of the Magistrate’s Court’s monetary jurisdiction – Section 54F(4) of

⁸ AD&CC at [11] to [12].

⁹ AD&CC at [13(h)] and [13(i)].

¹⁰ AD&CC at [13(g)] and [13(i)].

¹¹ AD&CC at [13(j)].

¹² Defendant’s Closing Submissions (“**DCS**”) at [137].

the State Courts Act 1970 (“SCA”) confers on the Magistrate’s Court the jurisdiction to hear and try the proceedings if no application is made under s. 54F(1) of the SCA to transfer a counterclaim for a sum beyond the Magistrate’s Court limit to the District Court. As no such application to transfer the proceedings was made in the present case, this Court is seized of jurisdiction to hear and try both the claim and the counterclaim.

C Issues

7 The issues I must determine in this case are as follows:

- (a) **Issue 1:** Does the Defendant owe the Claimant a sum of \$25,772.72 pursuant to the Agreement?
- (b) **Issue 2:** Did the Claimant breach the terms of the Agreement so as to entitle the Defendant to damages?
- (c) **Issue 3:** If the answer to Issue 2 is yes, did the Defendant mitigate its losses?

8 I will deal with these issues *seriatim*.

D Issue 1: Does the Defendant owe the Claimant a sum of \$25,772.72 pursuant to the Agreement?

9 A debt is a sum of money fixed by contract for the completed performance of a given obligation while the contract is alive (*MP-Bilt Pte Ltd v Oey Widarto* [1999] 1 SLR(R) 908 (SGHC) (“*MP-Bilt*”) at [20]).

10 If a claimant successfully makes out a cause of action in debt, the compensation he is entitled to for the defendant’s non-payment of the debt is

payment of the sum owed in full (see *MP-Bilt* at [30]). There is no question of mitigation of damages where the claim is in debt (see *MP-Bilt* at [32]).

11 Hence, to succeed in its claim, the Claimant must prove:

(a) The existence of the Agreement and the obligation it was supposed to complete in order to trigger the Defendant’s obligation to pay (the “**First Element**”); and

(b) That performance of this obligation has been completed (the “**Second Element**”).

12 I have no difficulty in finding that the First Element is made out. The existence of the Agreement is an agreed fact,¹³ and neither party challenged the accuracy of the express terms in the said Agreement. Hence, the obligations the Claimant had to fulfil under the Agreement to be entitled to payment of \$5,400 per month were as follows:

(a) First, to provide hydraulic ramp wheelchair transport services, with a driver, to the Defendant in accordance with Clause 2.1(a) of the Agreement, in return for payment of \$4,400 per month (see Clause 3.1 of the Agreement); and

(b) Second, to provide a transport assistant, in return for payment of \$1,000 per month (see Clause 3.1 of the Agreement).¹⁴

13 Although the Agreement also states, at Clause 3.2, that the Defendant “shall” make payment within 30 calendar days following receipt of a monthly

¹³ AB at 6 to 10. SOC at [2] and AD&CC at [2].

¹⁴ AB at 7.

statement from the Claimant, it is not the Defendant’s case that the Claimant’s failure to issue these monthly statements prevented its own payment obligations from arising. Hence, I say no more about Clause 3.2.

14 I move on to the Second Element. In my view, this, too, is made out on a balance of probabilities.

15 I begin by determining the basis of the Claimant’s contractual obligations over the Period. By Clause 1.1 of the Agreement, the Agreement was valid for a period of one year commencing 3 October 2022, with an option to extend its validity for a further 12 months. It seems that this option had been exercised by parties; I derive this from the fact that the Claimant’s Mr Zabiak had emailed the Defendant’s Mr Chua Jun Jie (“**Mr Chua**”) on 8 July 2024 giving 30 days’ notice of the termination of its transport services (the “**8 July Email**”).¹⁵ This 8 July Email would only make sense if the Agreement remained in force as at 8 July 2024. Neither party disputes that this was the case. Accordingly, I find that the Agreement subsisted up to and including 8 July 2024.

16 On 9 July 2024, Mr Chua responded to the 8 July Email asking for the Claimant’s last day of service to be “extended to 30th September 2024” (the “**Defendant’s 9 July Email**”).¹⁶ On the same day, Mr Zabiak replied with the Claimant’s qualified agreement (the “**Claimant’s 9 July Email**”); Mr Zabiak agreed for the Claimant to continue providing transport services to the Defendant up to 30 September 2024, *provided that*:

¹⁵ AB at 129.

¹⁶ AB at 128 (bottom half of page).

- (a) the Defendant “[took] back Mr Bahari’s case at Owen Road” and manage it “on [the Defendant’s] own end”;¹⁷ and
- (b) the Claimant was unable to accept other additional requests.

17 There is no documented response from the Defendant to Mr Zabiak’s email dated 9 July 2024 enclosed in the AB or any AEIC. That being said, Mr Chua accepted under cross-examination that the Claimant had imposed two additional conditions together with its agreement to extend the Agreement to 30 September 2024, and further accepted that he had agreed to these two conditions.¹⁸

18 Based on parties’ email exchange from 8 to 9 July 2024, along with Mr Chua’s answers in Court, the Claimant has proved that the parties agreed to extend the validity of the Agreement with effect from 9 July 2024 *subject to additional terms*. These additional terms comprise a validity period of around two-and-a-half months, up to 30 September 2024, along with the two terms referred to at [16] above. Viewed objectively, I interpret these two terms mean:

- (a) First, that the Claimant was no longer contractually obligated to transport Mr Bahari, a Senior who used the Claimant’s services, with effect from 9 July 2024.
- (b) Second, the Claimant was no longer contractually obligated to accept any additional requests to transport Seniors made by the Defendant with effect from 9 July 2024.

¹⁷ AB at 128 (top half of page). See too Mr Zabiak’s AEIC at [15].

¹⁸ NE on 13 October 2025 at page 106, lines 15 to 24.

19 Henceforth, I will refer to the bargain the parties struck on 9 July 2024 as the “**Amended Agreement**”. Thus, it was the terms of the Agreement which applied to govern parties’ dealings from 3 October 2022 to 8 July 2024, and the terms of the Amended Agreement which applied to govern parties’ dealings from 9 July 2024 to 30 September 2024.

20 Next, in light of the Defendant’s admission that it failed to pay the Claimant for services rendered over the period May to September 2024,¹⁹ the only issue for determination is whether the Claimant performed its contractual obligations under the Agreements during that period. The question that arises is whether the Claimant must establish perfect performance or only substantial performance to sustain its claim. In my judgment, it is the latter. The Defendant, who denies the Claimant’s entitlement to payment on account of the latter’s alleged breaches, has failed to show that entire performance was a condition precedent to payment on a proper construction of the Agreements. Here, I respectfully adopt the words of Lord Justice Denning in *Hoening v Isaacs* [1952] 2 All ER 176 (“*Hoening*”) at 180 (cited with approval in *Tan Boon Hai v Tan Kia Kok and anor* [2016] SGHC 244 (“*Tan Boon Hai*”) at [71]):

“... the first question is **whether, on the true construction of the contract, entire performance was a condition precedent to payment**. It was a lump sum contract, but that does not mean that entire performance was a condition precedent to payment.

When a contract provides for a specific sum to be paid on completion of specified work, the Courts lean against a construction of the contract which would deprive the contractor of any payment at all simply because there are some defects or omissions. The promise to complete the work is therefore construed as a term of the contract, but not as a condition. **It is not every breach of that term which absolves the employer from his promise to pay the price, but only a breach which goes to the root of the contract, such as an**

¹⁹ AD&CC at [5].

abandonment of the work when it is only half done. Unless the breach does go to the root of the matter, the employer cannot resist payment of the price. He must pay it and bring a cross-claim for the defects and omissions, or alternatively set them up in diminution of the price. The measure is the amount which the work is worth less by reason of the defects and omissions, and is usually calculated by the cost of making them good[.]”

[emphasis added]

21 Whether a party has engaged in substantial performance of its contractual obligations will depend on the nature of the contract and all its circumstances (see *Tan Boon Hai* at [71]).

22 In the present case, Clause 2.1(a) read with Clause 3.1 of the Agreement obligated the Defendant to make a total monthly payment of \$5,400 upon the Claimant providing the services stated at Clause 2.1(a). Clause 2.1(a) reads as follows:

- 2.1 The scope of the Senior Care Services (“the Services”) shall be as follows:
- (a) Providing Hydraulic Ramp Wheelchair Transport Services with Driver to the “Company”.
With fetching time 3 hours blocks 7.30 A.M till 10.30 A.M.
Return time 3 hours blocks 3.30 P.M till 6.30 P.M.
(or earlier if assignment is completed)

23 According to Mr Shaharudin bin Ahmad (“**Mr Shaharudin**”), the driver employed by the Claimant to transport the Seniors, there were about nine Seniors who had to be ferried from Ren Ci to their places of residence every afternoon (i.e., from 3:30pm to 6:30pm).²⁰ This portion of his evidence was not challenged at trial. There is, as far as I am aware, no evidence as to how many seniors the Claimant had to transport to Ren Ci in the morning slot (i.e., 7:30am to 10:30am) over the Period, but I am prepared to accept that it would be around

²⁰ Mr Shaharudin’s AEIC at [4].

the same number as the afternoon slot, as these Seniors would have to have a means of transport to ferry them to Ren Ci to begin with.

24 Pursuant to the Amended Agreement, the Claimant, through Mr Zabiak, asserts that it properly provided the transport services it was obliged to until 30 September 2024.²¹ In other words, the Claimant’s case is that it had fetched the nine-odd Seniors between Ren Ci and their residences as required by Clause 2.1(a). The Defendant did not seriously challenge this assertion; in fact, by the Defendant’s own pleadings, the issues the Defendant takes with the Claimant’s performance of the Agreement is not so much that the Claimant had failed to fetch these nine Seniors as required by the Agreement, but rather that the Claimant and/or its employees had:

- (a) Refused to fetch two additional Seniors, Mr Bahari and Mdm Lee Soo Ha (the “**Two Additional Seniors**”),²² from 10 May 2024 onwards;²³
- (b) Provided only one motor vehicle to transport the Seniors instead of two;²⁴ and
- (c) Failed to assist some Seniors,²⁵ picked up certain Seniors earlier than expected from Ren Ci,²⁶ and acted rudely towards some Seniors.²⁷

²¹ Mr Zabiak’s AEIC at [7].

²² AD&CC at [11]. I obtained the full names of these two additional Seniors from [22] of Mr Chua’s AEIC.

²³ AD&CC at [11].

²⁴ AD&CC at [2].

²⁵ AD&CC at [13a].

²⁶ AD&CC at [13b].

²⁷ AD&CC at [13c].

25 Even if, for the sake of argument, the Defendant’s allegations are taken at their highest, the Defendant must still establish that the above-stated acts constituted breaches of such gravity as to go to the root of the Agreement, thereby entitling it to withhold payment in full. Unfortunately, the Defendant did not advance any legal proposition or case authority in support of this position. All the Defendant says on this point is that the Claimant’s entitlement to payment “is contingent upon proper performance of its contractual obligations”,²⁸ which sounds superficially palatable but for which no authority was cited in support.

26 In any event, it is not apparent how the alleged breaches could be characterised as material when the Claimant did in fact transport the nine Seniors to and from their intended locations in accordance with the Agreement, and where there was no express term as to the number of motor vehicles the Claimant was supposed to provide. The Claimant’s performance in respect of the nine Seniors – both in scale and substance – far outweighs its alleged refusal to transport the Two Additional Seniors. In these circumstances, the Defendant received the substantial benefit of the Agreement. The absence of any cogent argument from the Defendant on this point, compounded by the lack of challenge to the Claimant’s evidence regarding it transporting the nine Seniors as it had been contracted to do, I find that the Claimant has proven substantial performance of Clause 2.1(a) of the Agreement. Thus, there is no basis for the Defendant to withhold payment.

27 Before concluding, I pause to observe that the Defendant’s closing submissions were largely – if not completely – dedicated to arguing its counterclaim. That, in my view, is what the Defendant ought to be doing instead

²⁸ DCS at [164].

of pursuing its right to withhold payment entirely. As Lord Denning put it in *Hoening*, where the breach does not go to the root of the matter, the Defendant's remedy is in bringing a counterclaim for damages and not in refusing to make payment of the contractually-agreed price (see [20] above).

28 As the Defendant does not dispute the Claimant's calculation of the pro-rated sum it is owed for the transport services it rendered over the Period,²⁹ I accept the Claimant's figure of **\$25,772.72** as accurate.

29 Accordingly, I allow the claim in full, in the sum of **\$25,772.72**. I also award pre-judgment interest on this sum at the rate of 5.33% per annum from the date of the filing of the OC to the date of this judgment, and post-judgment interest on this sum at the rate of 5.33% per annum from the date of this judgment to the date payment is made.

E Issue 2: Did the Claimant breach the terms of the Agreement so as to entitle the Defendant to damages?

30 I turn now to the counterclaim. The counterclaim centres on a number of breaches the Claimant allegedly committed during the term of the Agreement and the Amended Agreement. The pleaded breaches are as follows:

- (a) First, the Claimant had, on 10 May 2024, breached Clause 2.1(a) of the Agreement by refusing to transport the Two Additional Seniors.³⁰
- (b) Second, in breach of an unidentified clause of the Agreement and/or the Amended Agreement, the Claimant's representative had

²⁹ SOC at [7]. See too DCS at [2].

³⁰ AD&CC at [11].

failed to assist Seniors and had left some Seniors “unattended... at Ren Ci’s premises”.³¹

(c) Third, in breach of an unidentified clause of the Agreement and/or the Amended Agreement, the Claimant’s representative had picked up some Seniors from Ren Ci at an earlier timing.³²

(d) Fourth, in breach of an unidentified clause of the Agreement and/or the Amended Agreement, the Claimant’s representative had acted in a rude and impolite manner to some Seniors and some Ren Ci staff.³³

(e) Fifth, it also appears that the Defendant is relying on the Claimant’s purported failure to provide two motor vehicles as an additional ground of breach.³⁴

31 I will deal with each allegation in the order above. In doing so, I will refer to them as the “first allegation”, the “second allegation”, and so on.

(a) The Claimant’s first allegation is not made out.

32 The first allegation appeared to me to be the most substantial of the lot. The Defendant’s case is that the Claimant had wrongfully refused to transport the Two Additional Seniors despite being obligated to do so under Clause 2.1(a) of the Agreement. Clause 2.1(a) does not set any limit on the number of Seniors the Claimant was obliged to transport or the number of trips the Claimant had

³¹ AD&CC at [13a].

³² AD&CC at [13b].

³³ AD&CC at [13c].

³⁴ AD&CC at [5].

to undertake.³⁵ Hence, so long as the pickup and arrival times fell within the stipulated three-hour blocks in the morning and afternoon, the Defendant says that the Claimant was contractually bound to fetch these Two Additional Seniors.³⁶ On this basis, the Defendant argues that, when it reminded the Claimant to fetch the Two Additional Seniors on 10 May 2024 via WhatsApp message (the “**10 May Message**”), the Claimant had no basis to refuse this request.³⁷

33 The evidence of the 10 May Message before me is not the actual message sent by the Defendant. It takes the form of a screenshot sent by the Defendant to the Claimant at 8:46am on 10 May 2024. Despite that screenshot being truncated, Mr Zabiak accepts that the Message reads as follows³⁸:

“Driver Zabiak to pick up two clients, Owen Road and St George’s Road.”

34 Mr Zabiak also accepts that he received this 10 May Message,³⁹ and that the “two clients” mentioned in it referred to the Two Additional Seniors.⁴⁰ According to him, someone from Ren Ci had informed his driver, “at the last minute” on 9 May 2024, to fetch the Two Additional Seniors back home on 10 May 2024 (the “**Request**”).⁴¹ Mr Zabiak says that he thought that he was only

³⁵ DCS at [32].

³⁶ *Ibid.*

³⁷ AB at 104. See too NE on 13 October 2025 at page 18, lines 2 to 13.

³⁸ NE on 13 October 2025 at page 18, lines 2 to 10.

³⁹ *Ibid.*

⁴⁰ Mr Zabiak’s AEIC at [13].

⁴¹ *Ibid.*

supposed to start sending them home on 13 May 2024, four days later.⁴² Hence, he claims that he was “not aware that [he] had to fetch [them] in the morning on 10 May 2024”.⁴³ Because of this, when Mr Chua reminded him by way of the 10 May Message to fetch these Two Additional Seniors, Mr Zabiak was unable to do so due to already being in a rush to complete his other non-Ren Ci related transport services that morning.⁴⁴

35 It is not disputed that the Defendant removed the Two Additional Seniors from the list of Seniors that the Claimant had to fetch after this incident on 10 May 2024,⁴⁵ although the trigger for this removal remains a matter of dispute. Thus, it appears that the Claimant did not end up fetching the Two Additional Seniors at all. It is also not disputed that, prior to Ren Ci making the request on 9 May 2024, there had been an agreement of sorts between the parties for the Claimant to start fetching the Two Additional Seniors from 13 May 2024 onwards.⁴⁶

36 Having set out the material facts, there are two questions I need to address in dealing with this issue:

- (a) Was the Claimant contractually obliged to fetch additional passengers under the terms of the Agreement?

⁴² See footnote 40, *supra*.

⁴³ See footnote 40, *supra*.

⁴⁴ See footnote 40, *supra*.

⁴⁵ NE on 13 October 2025 at page 108, lines 26 to 30 (cross-examination of Mr Chua). Mr Zabiak’s AEIC at [13].

⁴⁶ Mr Zabiak’s AEIC at [13]. Mr Chua’s AEIC at [22].

(b) If so, did the Claimant breach the terms of the Agreement when it failed to fetch the Two Additional Seniors from 10 May 2024 onwards?

37 In my judgment, the answer to the first question is yes. Clause 2.1(a) of the Agreement clearly does not limit the number of Seniors the Claimant was obligated to fetch. The only limit that Clause sets is to the number of hours in each slot the Claimant had to make itself available for (i.e., three hours per slot, with two slots per day). That being said, I think that the Claimant's obligations under Clause 2.1(a) must be subject to limitations of reasonableness and practicability. A Court will not construe a contract in a way that produces an unworkable or absurd result, unless it is required by clear words and where there is no other tenable construction (*Zurich Insurance (Singapore) Pte Ltd v B-Gold Interior Design & Construction Pte Ltd* [2008] 3 SLR(R) 1029 ("**Zurich**") at [131]). I should think that if the Defendant had demanded that the Claimant fetch 50 Seniors to Ren Ci within a three-hour slot, or had asked the Claimant to fetch a Senior to their destination very close to the end of each slot (i.e., very close to 10:30am or to 6:30pm), then the Claimant would not be contractually bound to comply because these requests would either be impossible or exceedingly difficult to fulfil within the stipulated time slots. This gives rise to the absurd results I was referring to earlier.

38 In the present case, there was no suggestion before me that adding the Two Additional Seniors to the Claimant's roster would be impracticable or impossible for it to complete within the relevant slot. The Claimant having its own non-Ren Ci related transport commitments is not relevant to the analysis at this juncture; the question is whether taking on Two Additional Seniors would be reasonable and practicable within the realms of logic and the context of the Agreement, and not within the external context of the Claimant's other

commercial responsibilities. I therefore find that the Claimant was contractually bound to accede to the Defendant’s requests to ferry additional passengers – in this case, two of them – so long as it was reasonable and practicable to do so.

39 This brings me to question two. Having found that the Claimant was contractually obliged to fetch the Two Additional Seniors, did the Claimant breach Clause 2.1(a) when it failed to do so from 10 May 2024 onwards?

40 In my view, the Claimant did not breach the Agreement when it refused to fetch the Two Additional Seniors prior to 13 May 2024. This is because the genesis of the pre-13 May 2024 position was the Request made by Ren Ci for the Claimant to start fetching the Two Additional Seniors three days before the start date which the parties to the Agreement had agreed upon (see [35] above). At the risk of stating the obvious, Ren Ci was not a party to either Agreement. I am not aware of the legal basis on which a non-party to an agreement can compel a change in a contracting party’s obligations under that agreement, and I was not addressed on this point by counsel for the Defendant. Furthermore, when the Defendant’s Mr Chua contacted Mr Zabiak on 10 May 2024, it was only to *remind* Mr Zabiak of Ren Ci’s Request and *not* to strike a new bargain with the Claimant. I conclude this from Mr Chua’s own AEIC, wherein he says that he sent Mr Zabiak a “**reminder**... by way of What’s App Message (*sic*) to pick up the two additional passengers” (**emphasis added**).⁴⁷ The fact that Mr Chua used the word “reminder” means that his 10 May Message only served to reiterate an earlier communication to the Claimant – being Ren Ci’s Request – and not to convey a fresh and independent request from the Defendant itself. Naturally, if there was no legal basis for the Claimant to accede to the Request,

⁴⁷ Mr Chua’s AEIC at [22].

there would similarly be no legal basis for the Claimant to accede to a reminder of that Request.

41 Even if I am wrong on the above, the evidence shows that there was no fresh agreement struck between the parties on bringing forward the commencement date on which the Claimant was supposed to start fetching the Two Additional Seniors. Mr Chua himself testified that Mr Zabiak had called him two minutes after the former had sent the 10 May Message to say that the Claimant was unable to fulfil the Request; in other words, the Claimant did not agree to bring forward the start date.⁴⁸

42 The above disposes of the issue of breach prior to 13 May 2024. What about from 13 May 2024 onwards? To answer this question, I must first figure out how the removal of the Two Additional Seniors from the Claimants' roster came to be.

(a) According to Mr Zabiak, the Defendant *on its own accord* removed the Two Additional Seniors from the Claimant's roster on 10 May 2024, without any specific request emanating from the Claimant for him to do so.⁴⁹

(b) According to Mr Chua, Mr Zabiak had *specifically asked him* to remove the Two Additional Seniors from the Claimant's roster over a phone call at 8:48am on 10 May 2024. The Defendant then did so on the Claimant's request.⁵⁰

⁴⁸ Mr Chua's AEIC at [23].

⁴⁹ Defence to Counterclaim ("DTCC") at [11]. See too Mr Zabiak's AEIC at [13].

⁵⁰ AD&CC at [11]. See too Mr Chua's AEIC at [23].

43 I find Mr Zabiak's version of events more believable than Mr Chua's version of events as described in his AEIC. I arrive at this conclusion based on the material inconsistency in Mr Chua's oral testimony versus what he deposed to in his AEIC. In his AEIC, Mr Chua took the firm position that Mr Zabiak had *specifically asked him* to remove the Two Additional Seniors from the Claimant's roster. However, in his oral testimony, Mr Chua walked back from the position he took in his AEIC, and testified that he had removed the Two Additional Seniors *on his own accord*; in other words, he had done so voluntarily and without having to be asked. I append the relevant extract from Mr Chua's cross-examination on this point below⁵¹:

26	Q	So, Mdm Lee and Mr Bahari. Subsequently, you, on your own
27		accord, removed these two seniors from Mr Zabiak's list,
28		correct?
29	A	Yes. After that, he---he talked to me in person that he cannot take
30		in any client after 9.00 already.

44 In re-examination, Mr Chua doubled down on the position he took in cross-examination, and admitted that he had *anticipated* a potential problem with the Claimant's working schedule and removed the Two Additional Seniors from the Claimant's roster *first*⁵²:

⁵¹ NE on 13 October 2025 at page 108, lines 26 to 30.

⁵² NE on 28 November 2025 at page 6, lines 5 to 32.

- 5 Q The question reads---you were then asked by Mr Andrew Hanam
6 during cross-examination, “So, Mdm Lee and Mr Bahari,
7 subsequently, you, on your own accord, removed these two
8 seniors from Mr Zabiak’s list.” And you answered, “Yes. After
9 that, he talked to me in person that he cannot take any”---“in any
10 client after 9 o’clock already.” So, you were then asked, “So,
11 after this discussion, you removed these two seniors from his
12 schedule, correct?” And then you said yes. Witness, I have to
13 clarify something here from you, that when Mr Andrew Hanam
14 used the phrase “on your own accord”, can you explain to the
15 Court what you understand the phrase to mean when you
16 answered yes?
- 17 A Sorry, let me---let me recall.
- 18 Q Yes.
- 19 A During---during the time, right, Zabiak actually told me in
20 person that he cannot pick up these two clients, Bahari and
21 Mdm Lee Soon Hua. Pertaining to his work schedule, he even
22 specifically told me that after 9.00, he got his own business to
23 pick up. He got a client to pick up. So---so, he was unable to---to
24 commit to the two clients at all, or even others in---in future. So
25 that I---I got no choice. The---to---to---on myself, I have to
26 anticipate things, that I need to pick up the two---two clients on
27 my side. Because all this schedule, right, is all pre---pre-planned
28 schedule. In fact, that in the affidavit attached, the schedule is
29 actually printed in weekly---weekly---weekly form. So, actually,
30 it’s actually a pre-planned---pre-planned schedule. So, I have to
31 anticipate it and I have to take out the---the---the two---the two
32 clients from my---from my side, from his schedule first. So, and

45 What Mr Chua’s answer in re-examination tells me is that he had, on
behalf of the Defendant, *proactively removed* the Two Additional Seniors from
the Claimant’s roster in order to avoid what he saw as potential problems. His
answers at trial are clearly aligned with Mr Zabiak’s evidence in the latter’s

AEIC, which is that Mr Zabiak had informed Mr Chua of the Claimant's difficulty in fetching more Seniors, and that Mr Chua had subsequently removed the Two Additional Seniors from the roster *without Mr Zabiak asking him to do so*.⁵³

46 Hence, I am inclined to believe that Mr Zabiak's evidence in his AEIC at [13] and Mr Chua's evidence at trial is probably the truth; i.e., that the Defendant had made the decision on its own, without the Claimant asking, to remove the Two Additional Seniors from the Claimant's transport roster on 10 May 2024. By doing so, the Defendant had removed the Two Additional Seniors from the scope of the Agreement with effect from 10 May 2024. Because of this, the Claimant cannot be said to have breached the Agreement by refusing to fetch the Two Additional Seniors after 10 May 2024. The answer to the second question (see [36(b)] above) is therefore "no".

47 For the avoidance of doubt, the fact that Mr Zabiak had informed Mr Chua of the Claimant's inability to fetch the Two Additional Seniors prior to Mr Chua's unilateral removal of them from the roster does not alter the analysis. Mr Chua could have elected to enforce the Defendant's contractual rights or engaged with Mr Zabiak to negotiate alternative arrangements for the transportation of the Two Additional Seniors. There is no evidence that he pursued either course. Instead, Mr Chua chose to exclude the Two Additional Seniors from the scope of the Agreement. Having made that decision, the Defendant cannot now allege a breach on the Claimant's part.

48 In summary, I reject the Defendant's first allegation.

⁵³ Mr Zabiak's AEIC at [13].

(b) The Second to Fourth Allegations are not made out.

(i) The Defendant has failed to establish the contractual basis for the second to fourth Allegations.

49 The legal bases of the Defendant’s second, third, and fourth allegations are nowhere to be found in the express terms of the Agreement. None of its terms relate to the sorts of service standards inherent in the Defendant’s second and fourth allegations. Nor do any of its terms pertain to specified pick-up timings for any of the Seniors enjoying the Claimant’s services (i.e., the third allegation). Perhaps in awareness of this, the Defendant sought to persuade me to interpret Clause 2.1(a) of the Agreement as encompassing requirements of, *inter alia*, punctuality and appropriate conduct on the Claimant’s part in the discharge of its contractual obligations.⁵⁴

50 On the other hand, the Claimant did not address me on the legal bases (or lack thereof) for the Defendant’s second to fourth allegations. The Claimant appeared to assume that there *was* such a legal basis, and chose to engage with the facts of the three allegations instead.⁵⁵

51 I first address a document in the AB which was not referred to by either party. This document, which can be found at pages 11 to 17 of the AB and is referred to in the Index of the AB as “Annex B for the Service Agreement” (“**Annex B**”), contains a few terms which may arguably form a basis for some of the Defendant’s allegations. By its title, it appears that this document was an annex appended to the Agreement. But that is not borne out by the evidence. None of the witnesses’ AEICs – whether that of Mr Zabiak, Mr Chua, or Ms

⁵⁴ DCS at [99].

⁵⁵ CCS at [30] to [53].

Huang – enclose this Annex B or even refer to it as forming part of the Agreement. The Agreement *itself* likewise makes no mention of any annexes, let alone Annex B. Defendant’s counsel also did not cross-examine any of the Claimant’s witnesses on Annex B. In the circumstances, I place no weight on Annex B in arriving at my decision.

52 I proceed to examine the Defendant’s argument in relation to Clause 2.1(a) of the Agreement. The Defendant’s sole reason for saying that the Claimant breached Clause 2.1(a) in carrying out the acts it is accused of under the second to fourth allegations is that Clause 2.1(a) “necessarily encompasses” obligations of “punctuality, compliance with assigned schedules, adherence to operational instructions and appropriate conduct when transporting elderly wheelchair-bound passengers” (the “**Asserted Obligations**”).⁵⁶ This argument is bereft of any conceptual foundation. It is unclear to me whether the Defendant’s argument is premised on an *interpretation* of Clause 2.1(a) or an *implication of terms* into the Agreement.

(a) Interpretation refers to the process of ascertaining the meaning of express terms in a contract (*Sembcorp Marine Ltd v PPL Holdings Pte Ltd and another and another appeal* [2013] 4 SLR 193 (“**Sembcorp**”) at [27]). The purpose of interpretation is “to assign to the language of the text the most appropriate meaning which the words can legitimately bear” (see *Sembcorp* at [28], citing *Equitable Life Assurance Society v Hyman* [2002] 1 AC 408 at 458). Here, the Defendant has failed to offer any manner of ascertaining the meaning of the words comprising Clause 2.1(a) such that it would foist on the Claimant the Asserted Obligations.

⁵⁶ DCS at [99].

(b) In contrast to contractual interpretation, the implication of terms in fact is the process by which the court fills a gap in the contract to give effect to the parties’ presumed intentions (see *Sembcorp* at [29]). For the implication of terms to be necessary to begin with, there must be no express terms governing the situation at hand contained in the contract. Here, the Defendant has similarly failed to address me on the relevant legal principles governing the implication of terms into a contract (see *Sembcorp* at [94] to [97]). In fact, from the manner in which the Defendant has framed its argument at [99] of the DCS – i.e., its explicit statement that Clause 2.1(a) “encompasses” the Asserted Obligations – the Defendant cannot be relying on an implied term. The implication of terms first requires a “true gap” to exist in the Agreement before a Court will decide whether that gap can and should be filled. If it is the Defendant’s case that Clause 2.1(a) – an express term of the Agreement – somehow incorporates the Asserted Obligations, then there is no *gap* in the Agreement to begin with, and therefore no implication of terms can be made.

53 On the Defendant’s failure to properly enunciate the legal basis for its second to fourth allegations alone, I accordingly find that there can be no breach on the Claimant’s part in relation to these three allegations, and therefore dismiss the counterclaim to this extent.

(ii) Even if the Defendant was able to establish the contractual basis for the second to fourth allegations, these allegations are not proven on a balance of probabilities.

54 To recapitulate, the second to fourth allegations charge the Claimant with:

- (a) Failing to assist some Seniors and leaving some Seniors unattended at Ren Ci's premises;
- (b) Picking some Seniors up from Ren Ci at an earlier timing; and
- (c) Acting, through its employees, in a rude manner to some Seniors and some Ren Ci staff (see [30] above).

55 As earlier observed, because the Claimant did not launch any serious argument in relation to the conceptual basis (or lack thereof) of the Defendant's second to fourth allegations, I proceed to consider the evidence led in respect of these allegations. At the end of my analysis, and even if the Defendant had managed to establish a legal basis for the second to fourth allegations, I would have found that the Defendant had failed to discharge its burden of proving the truth of all three allegations.

(1) The second allegation is not proved.

56 I start with the second allegation. I find the evidence led by the Defendant on this allegation to largely constitute inadmissible hearsay evidence⁵⁷ and to also be severely lacking in detail. The combination of these two issues compels me to find the Defendant's evidence in respect of the second allegation to be unreliable and worthy of little to no evidential weight. I explain.

57 All five of the Defendant's witnesses allude to the second allegation in their AEICs. Of these five, only two witnesses – Mdm Ng Lian Eng (“**Mdm Ng**”) and Mr Mohamed Anep bin Said (“**Mr Anep**”) – purport to have observed the Claimant's employee fail to assist and attend to Seniors first-hand.⁵⁸ The

⁵⁷ CCS at [64].

⁵⁸ Mdm Ng's AEIC at [6]. Mr Anep's AEIC at [7].

other three witnesses, being Ms Huang, Mr Chua, and Ms Choo Su Yen Samantha Louise (“**Ms Choo**”), admit to only having *secondhand knowledge* of the facts supposedly supporting the second allegation. In other words, these three witnesses were merely narrating what other people had told them about the second allegation. To elaborate:

(a) Ms Huang could only say that she had reviewed Mr Chua’s AEIC and that Mr Chua had relayed to her the alleged breaches committed by Mr Zabiak and of the various complaints the Defendant had received from Ren Ci.⁵⁹ She did not at any point testify to personally observing the Claimant’s employees fail to assist or attend to the Seniors.

(b) Mr Chua deposes to having received one complaint via email from Ren Ci on 8 April 2024 (the “**8 April Email**”) relevant to the second allegation.⁶⁰ By this 8 April Email, I presume that Mr Chua is referring to the email on page 116 of the AB, because Mr Chua did not append a copy of that 8 April Email to his AEIC. In any case, Mr Zabiak refers to this same 8 April Email in defending the Claimant’s actions in respect of the second allegation.⁶¹ Hence, I take Mr Chua to be referring to page 116 of the AB in his AEIC at [33(c)]. Very briefly, that 8 April Email was sent by Ms Phoebe Anne Wong (“**Ms Phoebe**”), a Ren Ci employee,⁶² and it relates the observation of an “SCC TA” that a Senior, Mdm Tan Moy, had walked unassisted towards the gantry entrance. The phrase “SCC TA” was not specifically explained by any witness at trial,

⁵⁹ Ms Huang’s AEIC at [24].

⁶⁰ Mr Chua’s AEIC at [33(c)].

⁶¹ Mr Zabiak’s AEIC at [16].

⁶² Ms Choo’s AEIC at [4].

but – putting two and two together – I deduce that it refers to “Senior Care Centre Therapy Assistant”⁶³, with “Senior Care Centre” referring to the location where Seniors were picked up from and dropped off at by the Claimant’s employees.⁶⁴

(c) Finally, Ms Choo alludes to the second allegation at [7] of her AEIC, wherein she deposes to having received complaints about actions carried out by the Claimant which “potentially compromised the safety and welfare of the elderly patients”. At no point in her AEIC does Ms Choo level the specific accusation that the Claimant had failed to assist or attend to Seniors against the Claimant.

58 The Claimant denies the second allegation in its entirety.⁶⁵

59 The nature of the testimony given by Ms Huang, Mr Chua, and Ms Choo *vis-à-vis* the second allegation are patently hearsay evidence. Hearsay evidence is defined as out-of-court statements which are sought to be admitted for the truth of their contents (*Gimpex Limited v Unity Holdings Business Ltd and others and another appeal* [2015] SGCA 8 (“*Gimpex*”) at [77]).

60 What the Defendant wishes this Court to believe is that the complaints made by persons *not called as witnesses* about the Claimant, which were conveyed to this Court by these three witnesses in their AEICs (see [57] above), are true; i.e., that the Claimant was in fact guilty of failing to assist the Seniors as complained of. In fact, to be more precise, the testimonies given by Ms

⁶³ Mr Chua’s AEIC at [33b]. Mr Zabiak’s AEIC at [21]. See too NE on 13 October 2025 on page 28, line 13.

⁶⁴ Mr Anep’s AEIC at [10].

⁶⁵ CCS at [49].

Huang, Mr Chua, and Ms Choo are actually *hearsay within hearsay*. This is because these three witnesses have testified to out-of-court statements within other out-of-court statements, both of which are relied on for the truth of their contents.

(a) In respect of Mr Chua’s testimony, the first layer of hearsay is the SCC TA’s statement to Ms Phoebe regarding his/her observation on 8 April 2024. The second layer of hearsay is Ms Phoebe’s 8 April Email to Mr Chua containing the SCC TA’s alleged statement of her observation. Both statements are out-of-court statements because their makers – the SCC TA and Ms Phoebe herself – were not called as witnesses to testify at trial. Both statements are being relied on for the truth of their contents because the Defendant is asserting that the SCC TA did in fact observe Mdm Tan Moy walking unaided (the first layer of hearsay), and that Ms Phoebe did in fact receive such a complaint from the SCC TA (the second layer of hearsay).

(b) In respect of Ms Huang’s testimony, the analysis is similar to that pertaining to Mr Chua’s testimony.

(c) In respect of Ms Choo’s testimony, there is potentially more than one layer of hearsay evidence. The obvious one would be the unknown complainants’ statements (I do not even know how many complaints were lodged in this regard) to Ms Choo of the Claimant’s actions which supposedly compromised the Seniors’ safety, which the Defendant obviously wishes me to accept as true. But there is no proof to show that these complainants were the one who *personally observed* these actions. Nor were any of these complainants called as witnesses to prove the truth of their complaints or to explain whether they even had personal

knowledge of the acts they complained of. Hence, the complainants themselves could *also* have been conveying information which they had no personal knowledge of, and which were in reality told to them by other people, to Ms Choo.

61 What is the issue with the Defendant’s reliance on hearsay within hearsay? The issue is that hearsay evidence – and, by extension, hearsay within hearsay – is that such evidence cannot be admitted for the truth of its contents unless the maker of that statement is produced in Court to be cross-examined (see *Gimpex* at [77]). The rationale for the hearsay rule is succinctly captured in [27] of the Court of Appeal’s decision in *Soon Peck Wah v Woon Che Chye* [1997] 3 SLR(R) 430:

The rationale for the hearsay principle is that the witness cannot verify the truth of the facts of which he has no personal knowledge. As the person who does have personal knowledge of the facts is not in court, **the accuracy of his perception and his veracity cannot be assessed and tested in cross-examination. Such evidence is unreliable and should hence be excluded from consideration...**

[emphasis in bold added]

62 In the instant case, the Defendant did not call the SCC TA, Ms Phoebe, or any of the unknown and unnamed complainants referred to in Ms Choo’s AEIC, to be cross-examined at trial.

63 Hence, the only way in which the hearsay evidence referred to at [57] above can be admitted is if the Defendant can prove one or more of the exceptions contained within Section 32 of the Evidence Act 1893 (“EA”) (see *Gimpex* at [77]). These exceptions include, *inter alia*, dying declarations (s. 32(1)(a) EA), statements made in the course of business (s. 32(1)(b) EA), and statements against the interest of the maker (s. 32(1)(c) EA). In my view, none

of the exceptions in s. 32 EA are made out. Not only did the Defendant conspicuously omit any reference to s. 32 EA in its submissions, it also misapprehends the legal principles contained in the two cases it relies on to circumvent the obstacles to the admissibility of the hearsay evidence its witnesses seek to adduce.⁶⁶ The two cases I refer to are *Super Group Ltd v Mysore Nagaraja Kartik* [2018] SGHC 192⁶⁷ (“**Super Group**”) and *HT SRL v Wee Shuo Woon* [2016] 2 SLR 442 (“**HT SRL**”).⁶⁸

64 Neither *Super Group* nor *HT SRL* discuss the principles governing the admissibility of hearsay evidence. In *Super Group*, the High Court discussed the *authenticity* of 14 emails which the plaintiff relied on as evidence in that action (at [43]). In doing so, Justice Vinodh Coomaraswamy highlighted three *conceptually distinct* issues that a Court must bear in mind in discussing any evidence other than direct evidence (at [52]). The first is the authenticity of the evidence. The second is the admissibility of the evidence as going to the truth of the statements which the evidence contains. The third is the weight to be attached to the evidence.

65 *Authenticity* relates to the genuineness of the evidence in question; i.e., that the evidence is what it purports to be and is not a fabrication (see *Super Group* at [54]). *Admissibility* relates to whether evidence can be received as proof of certain facts by virtue of one or more of the provisions of the EA (see *Super Group* at [89]). What the Defendant appears to have conflated at [110] of the DCS are these two distinct concepts; it cites *Super Group* in an attempt to

⁶⁶ Claimant’s Reply Submissions (“**CRS**”) at [10] to [11].

⁶⁷ This is the complete unreported version of the judgment. The SLR version, with several paragraphs omitted, can be found at [2019] 4 SLR 692.

⁶⁸ DCS at [110] to [111].

argue that the *authenticity* of its email evidence must be accepted. This completely misses the point. The Claimant's challenge to the evidence given by the three witnesses (see [57] above) in relation to the second and other allegations is not that they are *inauthentic*. The argument, which I accept in the context of the second allegation, is that the part of their evidence which is hearsay is *inadmissible*.⁶⁹ Even if this hearsay evidence takes the form of an authentic, unaltered email (such as the 8 April Email), it remains hearsay evidence. Such hearsay evidence is not admissible unless and until the Defendant can prove its relevance – and therefore its admissibility – under s. 32 read with s. 5 of the EA. This the Defendant failed to do.

66 As regards *HT SRL*, I find it difficult to understand why the Defendant relies on that case in support of its contention that the hearsay evidence it invokes – namely emails and WhatsApp messages – ought to be admitted.⁷⁰ The High Court in *HT SRL* was concerned with the distinction between the two separate concepts of *admissibility* and *privilege* in the context of determining whether privileged information that had come into the hands of the defendant could nevertheless be received into evidence (at [3] to [4]). The Court answered that question in the affirmative, holding that once privileged material has entered the evidential record, any attempt to exclude it must be grounded in the common law rules of evidence rather than in the doctrine of privilege (at [40]). It is immediately apparent that the principles articulated in *HT SRL* have nothing to do with the Claimant's objections to the admissibility of the hearsay evidence the Defendant is seeking to rely on. The Claimant is not relying on any doctrine of privilege to exclude the said evidence. The question as to whether such hearsay evidence may properly be admitted is one that turns solely on the

⁶⁹ CCS at [64].

⁷⁰ DCS at [111].

applicable rules of admissibility (leaving aside any dispute as to authenticity). In the circumstances, I agree with the Claimant that the Defendant’s reliance on *HT SRL* is wholly misplaced.⁷¹

67 To sum up, given the Defendant’s failure to prove the relevancy of the hearsay evidence contained in the AEICs of Ms Huang, Mr Chua, and Ms Choo (see [57] above) under the EA, I find that these portions of their evidence are not admissible. Accordingly, they cannot be relied on to establish any breach on the Claimant’s part.

68 Consequently, the only evidence the Defendant can rely on to establish the necessary facts to prove the truth of the second allegation is the direct evidence given by Mdm Ng and Mr Anep. In this regard, both witnesses describe what they purportedly observed in almost identical terms; *viz.*⁷²:

“... he [referring to Lim Puay Wee] failed to exercise due care for their personal safety and did not ensure that [the Seniors] were properly supported, thereby placing them at risk of falling or injury.”

69 This is the portion of the Defendant’s evidence which is, in my view, strikingly lacking in details or description of any sort. Both witnesses did not provide any information as to when, how, or why Mr Lim Puay Wee (“**Mr Lim**”), one of the Claimant’s employees, allegedly failed to support or look out for the Seniors under his charge. More worryingly, both Mdm Ng and Mr Anep effectively disavowed their respective testimonies relating to the second allegation at trial:

⁷¹ CRS at [11].

⁷² Mdm Ng’s AEIC at [6]. Mr Anep’s AEIC at [7].

(a) When cross-examined as to what inappropriate behaviour she personally observed Mr Lim to have exhibited, Mdm Ng did not refer to the second allegation at all. All she said was that Mr Lim was rude because he spoke loudly,⁷³ was impatient in the sense of wanting to rush off from work at the end of the workday,⁷⁴ and on occasion made everyone wait while he used the washroom.⁷⁵ That was, according to her, *the complete extent* of bad behaviour she personally observed on Mr Lim's part.⁷⁶

(b) When Claimant's counsel put to Mr Anep that his allegation that Mr Lim had failed to exercise care for the Seniors' safety was untrue, Mr Anep not only *agreed with that put*⁷⁷ but also *expressly declined to clarify that answer in re-examination*.⁷⁸

70 Given that both witnesses have distanced themselves from their affidavit testimony, coupled with the complete lack of detail in that testimony to begin with, I find it dangerous to place any weight on their affidavit testimony in relation to the second allegation (see [68] above).

71 As a result of my findings above, the Defendant has no evidence whatsoever to prove the truth of the second allegation. The second allegation therefore fails.

⁷³ NE on 13 October 2025 on page 78, lines 17 to 21.

⁷⁴ NE on 13 October 2025 on page 78, lines 22 to 27.

⁷⁵ NE on 13 October 2025 on page 79, lines 25 to 30.

⁷⁶ NE on 13 October 2025 on page 79, line 31, to page 80, line 1.

⁷⁷ NE on 6 February 2026 on page 13, lines 5 to 7.

⁷⁸ NE on 6 February 2026 on page 15, lines 16 to 20.

(2) The third allegation is not proved.

72 The crux of the Defendant’s evidence in respect of the third allegation is found in Mr Chua’s AEIC at [33d]. According to him, the Claimant was “reportedly picking up disabled and immobile elderly persons from Ren Ci’s premises earlier than the scheduled or agreed times, causing inconvenience and confusion for both the clients and Ren Ci staff”. However, Mr Chua only refers to one piece of documentary evidence – an email from Ren Ci dated 11 April 2024 (the “**11 April Email**”) – to corroborate his allegation. That 11 April Email is written by the same Ms Phoebe of the 8 April Email, and specifically accuses Mr Zabiak of trying to pick three Seniors up at 3:50pm when their scheduled pickup time was supposedly 5pm.⁷⁹ Mr Chua sent a screenshot of part of that 11 April Email to Mr Zabiak on 12 April 2024, to which Mr Zabiak responded with an explanation and a denial that there was ever any 5pm scheduled pickup timing.⁸⁰ Mr Chua then replied with “no worries bro”. No further messages appear to have been exchanged in relation to the third allegation.

73 Like with the second allegation, Ms Huang’s⁸¹ and Ms Choo’s⁸² AEICs also allude to the Claimant’s purported failure to adhere to an agreed pick-up timing. Again, their evidence suffers from the same admissibility-related issues as those which plagued their evidence in relation to the second allegation (see [57(a)] and [57(c)] above) – Ms Huang essentially parrots the contents of Mr Chua’s AEIC without stating that she has personal knowledge of the incident

⁷⁹ AB at 119.

⁸⁰ AB at 120.

⁸¹ Ms Huang’s AEIC at [24].

⁸² Ms Choo’s AEIC at [13].

referred to in the 11 April Email,⁸³ and Ms Choo admitted under cross-examination that she neither personally observed⁸⁴ the Claimant’s alleged “erratic and unreliable timings”⁸⁵ nor checked the onsite CCTV cameras to verify the secondhand complaints she supposedly received about the Claimant’s timeliness.⁸⁶ Hence, for the same reasons as those I relied on in rejecting the Defendant’s hearsay evidence in relation to the second allegation (see [59] to [67] above), I similarly reject Ms Huang’s and Ms Choo’s evidence in relation to the third allegation. Thus, for all intents and purposes, the only evidence the Defendant has in respect of the third allegation is Mr Chua’s testimony and the 11 April Email.

74 I would have been prepared to reject Mr Chua’s testimony in relation to this third allegation as being hearsay evidence as well, but for Mr Zabiak *accepting* that he had in fact fetched the three Seniors in question at 4:30pm on 11 April 2024.⁸⁷ What Mr Zabiak disputes is that there was a scheduled 5pm pickup time to begin with, as well as the circumstances leading to the alleged earlier pickup.

75 The Defendant must therefore prove that there had been a scheduled 5pm pickup time for these three particular Seniors (being Mohd Jalil, Ng Cheow Tee, and Tan Moy⁸⁸) in order to establish a breach on the Claimant’s part. This is where the Defendant’s case falls apart. The Defendant adduced no evidence

⁸³ Ms Huang’s AEIC at [24].

⁸⁴ NE on 13 October 2025 on page 87, lines 6 to 12.

⁸⁵ Ms Choo’s AEIC at [13].

⁸⁶ NE on 13 October 2025 on page 87, lines 29 to 30.

⁸⁷ Mr Zabiak’s AEIC at [14].

⁸⁸ AB at 119.

whatsoever to prove that the existence of a scheduled pickup time of 5pm for these three Seniors agreed upon by, at the very least, the Claimant and the Defendant. No documentary evidence was produced to support such an arrangement, and Mr Chua makes no reference in his AEIC to any specific timing when asserting that the Claimant was liable in respect of the third allegation. It seems to me that the Defendant was happy to rely solely on Ren Ci's out-of-court assertion, in their 11 April Email, there *was* such a 5pm scheduled pickup time, without considering how to prove that such an arrangement in fact existed.

76 In contrast, Mr Zabiak, who was the driver on the material day, explains that there were two pickup slots in the afternoons for the Ren Ci Seniors – the first would always be at 3:45pm,⁸⁹ and the second would depend on the traffic conditions as the Claimant's vehicle returned to Ren Ci after dropping off all the first-trip passengers. By Mr Zabiak's estimate, the second afternoon pickup time from Ren Ci would typically be around 4:30pm, not 5pm.⁹⁰ Although Defendant's counsel cross-examined Mr Zabiak on [14] of his AEIC, Defendant's counsel did not contradict Mr Zabiak on the details he gave regarding the fact that the Claimant would fetch the Seniors from Ren Ci across two afternoon trips, or that the pickup time for the first trip was 3:45pm.⁹¹ Hence, I accept this portion of Mr Zabiak's evidence insofar as it has not been contradicted.

77 I must now weigh the veracity of Mr Zabiak's claim that the scheduled pickup time for the second afternoon trip for the three Seniors was not 5pm

⁸⁹ Mr Zabiak's AEIC at [14].

⁹⁰ *Ibid.*

⁹¹ NE on 13 October 2025 on page 28, line 1, to page 32, line 23.

against the veracity of the Defendant's claim that the said pickup time for the three Seniors was in fact 5pm. Having done so, I prefer Mr Zabiak's testimony over Mr Chua's for the following reasons:

(a) First, Mr Chua did not attest to having any personal knowledge of the alleged 5pm pickup time. That timing appears to be a position taken by Ms Phoebe in her 11 April Email. Ms Phoebe was employed by *Ren Ci*, not the Defendant, and Ms Phoebe was not called as a witness to explain the basis for her understanding that there was a 5pm scheduled pickup time for the three Seniors. In other words, the ultimate source of the Defendant's position remains inadmissible hearsay evidence. Hence, the Defendant has failed in discharging its evidential burden of proof.

(b) Second, Mr Zabiak was internally consistent in his testimony that there was never any 5pm pickup time scheduled for the three Seniors in question. He first stated this position in his WhatsApp message to Mr Chua on 12 April 2024,⁹² and maintained this position in his AEIC deposed on 26 February 2025 and in his Court testimony given under cross-examination on 13 October 2025.⁹³

(c) Third, Mr Zabiak possesses direct and personal knowledge of the events occurring on the material date, and his account was not challenged by counsel for the Defendant in the course of cross-examination. On Mr Zabiak's evidence, he did in fact collect the three Seniors from *Ren Ci* prior to 5pm on 11 April 2024, but did so effectively on the instructions of *Ren Ci* staff. On that day, Mr Zabiak arrived at *Ren Ci*'s premises earlier than anticipated, at approximately

⁹² AB at 120.

⁹³ NE on 13 October 2025 on page 30, line 5 to 23.

3:50pm, and offered to pick the three Seniors up since he was already there. Ren Ci staff did not allow him to do so, and instructed him to “stick with the regular 4:30pm pick up time”.⁹⁴ That was precisely what Mr Zabiak did; in compliance with those instructions, Mr Zabiak waited at Ren Ci’s premises until 4:30pm, at which time he proceeded to collect the three Seniors. I believe Mr Zabiak’s account regarding these instructions given by Ren Ci. One would reasonably expect that the Ren Ci staff present on that day, being responsible for elderly and vulnerable individuals (both mentally and physically), would have taken all necessary steps to prevent the Claimant from leaving with the three Seniors before 5pm had the staff not agreed to such an arrangement. This is particularly so in light of Ren Ci’s own assertion that any earlier departure would have caused the three Seniors anxiety.⁹⁵

In light of these unchallenged facts, I am unable to conclude that the Claimant was in breach of any provision of the Agreement, particularly where Ren Ci – being the ultimate client to whom the Defendant was providing the transport services – had expressly instructed the Claimant to fetch the three Seniors at 4:30pm.

78 Accordingly, based on Mr Zabiak’s testimony, which I accept, the Claimant cannot be said to have breached the Agreement in picking the three Seniors up before 5pm on 11 April 2024. I therefore reject the third allegation.

79 For completeness, I note that the Defendant has raised an *unpleaded allegation* related to pickup timings in Mr Chua’s AEIC. The allegation is that

⁹⁴ Mr Zabiak’s AEIC at [14].

⁹⁵ AB at 119.

the Claimant had rescheduled the return trip timing of one of the Seniors, one Tan Ah Kah, from the first afternoon trip to the second trip.⁹⁶ I decline to make any finding in respect of this allegation for two main reasons:

(a) First, the substance of this allegation is materially different from the gist of the third allegation, and therefore should have been separately pleaded by the Defendant. The third allegation is that the Claimant had tried to fetch Seniors from Ren Ci *earlier than scheduled*. But this allegation is that the Claimant had tried to *push back* the pickup time of a Senior to a *later time than scheduled*. Given how different this allegation is from the third allegation, the Defendant ought to have pleaded it in order to give the Claimant adequate notice that it was something the Defendant would be relying on in its counterclaim. Having failed to do so, the allegation in respect of Tan Ah Kah is irrelevant to the counterclaim.

(b) Second, and in any event, the Defendant appears to have abandoned this complaint involving Tan Ah Kah. The Defendant did not raise this complaint at all in its closing submissions, and only referred to it in passing in its reply submissions⁹⁷ because the Claimant had itself addressed the allegation in its own closing submissions. This goes to show that the Defendant is not seriously pursuing this complaint involving Tan Ah Kah.

⁹⁶ Mr Chua's AEIC at [33(f)].

⁹⁷ DRS at [46] to [49].

(3) The fourth allegation is not proved.

80 For similar reasons as those I relied in rejecting the second allegation, I also find that the Defendant has failed to prove the facts underlying the fourth allegation on a balance of probabilities.

81 The Defendant’s pleaded case in respect of the fourth allegation is that an unnamed “Claimant’s representative” was rude and impolite towards some Seniors and some Ren Ci staff. In support of that pleading, the Defendant referred to some WhatsApp messages exchanged between Mr Chua and Mr Zabiak on 14 May 2023, 4 July 2023, and 5 July 2023.⁹⁸ These WhatsApp messages, which can be found at pages 111 to 114 of the AB, disclose an allegation against an unnamed “assistant” of the Claimant’s as having “shouted and scolded” some staff and “wav[ed] [his] fist” towards a client. It is not disputed that these references to “staff” and “client” are references to Ren Ci staff and to one of the Seniors respectively.⁹⁹ It was only revealed in the Defendant’s AEICs that the unnamed assistant the Defendant was referring to in its pleadings was actually Mr Lim.¹⁰⁰ According to the Defendant, Mr Lim was informally known as “Botak” by his acquaintances;¹⁰¹ hence, I take all references to “Botak” in the Defendant’s documents to be referring to Mr Lim.

82 The Claimant argues that any allegation against Mr Lim behaving rudely to the Seniors and Ren Ci staff should be dismissed on two grounds: first, that the Defendant’s pleadings failed to give the Claimant proper notice as to the subject of this allegation because it did not specifically name Mr Lim, and has

⁹⁸ AD&CC at [13(c)].

⁹⁹ Mr Chua’s AEIC at [33(e)].

¹⁰⁰ Mr Chua’s AEIC at [33(a)].

¹⁰¹ Mr Chua’s AEIC at [33(a)].

therefore caused prejudice to the Claimant in the running of its case;¹⁰² and second, even if the Court is minded to consider the fourth allegation on its merits, the evidence against Mr Lim is largely inadmissible hearsay evidence.¹⁰³

83 I start with the Claimant’s first argument. I am not persuaded by the assertion that the Claimant has been prejudiced by the Defendant’s failure to name Mr Lim in its pleadings.

(a) First, the Claimant had adequate notice that the Defendant’s fourth allegation was directed at one of two persons: Mr Lim or one Ms Deborah. I explain. In respect of the fourth allegation, the AD&CC referred to specific pieces of evidence identifying the person in question as the Claimant’s “assistant”. At the material time, the Claimant only had two transport attendants: Mr Lim and one Ms Deborah.¹⁰⁴ Although Mr Zabiak used the term “attendant” in court, it is evident that he uses that term interchangeably with the word “assistant”. This is borne out by Mr Zabiak’s Court testimony, in which he identified Mr Lim as the “assistant” referred to in the 5 July 2023 WhatsApp message from Mr Chua.¹⁰⁵ Hence, knowing the identity of its assistants, and knowing that the fourth allegation was directed at one of them, the Claimant could have called both Mr Lim and Ms Deborah to testify, and any prejudice arising from the time and effort expended by the calling of an unnecessary witness could have been addressed by an appropriate costs order.

¹⁰² CCS at [31].

¹⁰³ CCS at [32].

¹⁰⁴ NE on 13 October 2025 on page 43, line 11, to page 44, line 4.

¹⁰⁵ NE on 13 October 2025 on page 47, lines 6 to 20.

(b) Second, I fail to see any basis for the Claimant's assumption that Mr Shaharudin was the subject of the fourth allegation. Mr Shaharudin was a *driver*, not a transport assistant/attendant.¹⁰⁶ I do not know why the Claimant would think that an allegation levelled against a transport assistant would involve Mr Shaharudin. Nor did the Claimant explain how it arrived at this assumption.

84 I therefore reject the Claimant's first argument, and proceed to consider the merits of the fourth allegation and the Claimant's second argument in doing so. To start off, the evidence the Defendant relies on to establish the facts underpinning the fourth allegation are as follows:

(a) Ms Huang could only say that she had reviewed Mr Chua's AEIC and that Mr Chua had relayed to her the alleged breaches committed by Mr Zabiak and of the various complaints the Defendant had received from Ren Ci.¹⁰⁷ She did not at any point testify to personally observing the Claimant's employees behaving in a rude manner towards anyone.

(b) Mr Chua deposes to what seemed to be three separate instances of rudeness exhibited by Mr Lim:

(i) Sometime in 2023, an unnamed Ren Ci employee informed Mr Chua that Mr Lim had been observed behaving rudely and impatiently towards the next-of-kin of one of the Seniors on 16 March 2023.¹⁰⁸

¹⁰⁶ Mr Shaharudin's AEIC at [2].

¹⁰⁷ Ms Huang's AEIC at [24].

¹⁰⁸ Mr Chua's AEIC at [33a].

(ii) On 4 July 2023, Mr Chua received a complaint from Ms Choo about Mr Lim acting rudely towards a Senior, Mr Hashim bin Karbin (“**Mr Hashim**”), by waving his fist at Mr Hashim (the “**4 July Incident**”).¹⁰⁹ This incident was captured in the messages forwarded by Mr Chua to Mr Zabiak on 4 July 2023, and referred to in Mr Zabiak’s reply on 5 July 2023.¹¹⁰

(iii) Mr Lim acted rudely towards a Senior on 14 May 2023 (the “**14 May Incident**”). For this specific incident, Mr Chua merely referred to the WhatsApp message sent on that date in the AB¹¹¹ without describing the facts and/or context of that incident.

(c) Ms Choo alludes to a complaint she had received on 16 March 2023 from one Mr Lan Zheng Wei (“**Mr Lan**”), the son of one of the Seniors, alleging that Mr Lim had acted in a rude and uncooperative way when asked about certain transport timings (the “**16 March Incident**”).¹¹² Ms Choo alerted Mr Chua to the contents of this complaint for the situation to be rectified.¹¹³ Ms Choo also referred to some feedback she received from a Ren Ci ground staff on 4 July 2023 regarding Mr Lim behaving rudely towards Ren Ci staff and a Senior, Mr Hashim.¹¹⁴

¹⁰⁹ Mr Chua’s AEIC at [33b].

¹¹⁰ AB at 112 to 113.

¹¹¹ AB at 111.

¹¹² Ms Choo’s AEIC at [8].

¹¹³ *Ibid.*

¹¹⁴ Ms Choo’s AEIC at [9].

(d) Mr Anep did not accuse Mr Lim of being rude or impolite outright. However, his allegations against Mr Lim may be interpreted as including some form of impoliteness; Mr Anep testifies that he had personally observed Mr Lim “exhibited unprofessional behaviour by engaging in an argument with an elderly client” and using a “noticeably impatient” tone in speaking to that client.¹¹⁵

(e) Mdm Ng says that she observed Mr Lim behaving rudely towards some Seniors by scolding them and rushing them through the boarding and alighting process.¹¹⁶

85 Besides generally arguing that the Defendant’s evidence on Mr Lim’s purported rudeness constitutes inadmissible hearsay evidence,¹¹⁷ the Claimant also takes issue with the lack of consistency and credibility in the evidence given by Mdm Ng¹¹⁸ and Mr Anep¹¹⁹ on this point.

86 I agree with the Claimant that evidence given by Ms Huang, Mr Chua, and Ms Choo *vis-à-vis* the fourth allegation should be disregarded as being inadmissible hearsay evidence.

(a) Ms Choo’s evidence is based on hearsay evidence because she did not at any point personally observe Mr Lim performing his duties.¹²⁰

¹¹⁵ Mr Anep’s AEIC at [8].

¹¹⁶ Mdm Ng’s AEIC at [6].

¹¹⁷ CCS at [30], [34] to [35].

¹¹⁸ CCS at [33].

¹¹⁹ CCS at [38] to [48].

¹²⁰ NE on 13 October 2025 on page 84, lines 1 to 14.

(i) In respect of the 16 March Incident, Ms Choo conceded under cross-examination that she did not know whether Mr Lan's complaint – which she referred to at [8] of her AEIC - is true because she did not physically see Mr Lim carry out his duties.¹²¹ Mr Lan would have been the proper person to testify on the manner in which Mr Lim interacted with him and/or his father, but Mr Lan was not called as a witness.

(ii) In respect of the 4 July Incident, I take Ms Choo to be referring to the same 4 July Incident in her AEIC as Mr Chua owing to the same Senior being involved (Mr Hashim) and the absence of any suggestion from parties that there were two different incidents that occurred on 4 July 2023. The analysis for the 4 July Incident is the same as that for the 16 March Incident; Ms Choo is *herself* relying solely on an out-of-court statement made by a Ren Ci ground staff (who was not called as a witness) in making out Mr Lim's alleged rudeness towards Mr Hashim and Ren Ci staff.

(b) Mr Chua's testimony in relation to all three incidents referred to in his AEIC is also premised on hearsay evidence:

(i) If Mr Chua is referring to the same 16 March Incident as Ms Choo was in her AEIC, then Mr Chua's evidence is based on hearsay within hearsay. If Mr Chua is referring to a *different* incident that also took place on 16 March 2023, then his evidence is *still* based on hearsay because he did not personally observe

¹²¹ NE on 13 October 2025 on page 84, lines 15 to 20.

the interaction; his allegation is based on a complaint he received from an unnamed Ren Ci staff member.

(ii) Mr Chua's evidence regarding the 4 July Incident is based on hearsay evidence because that Incident was brought to his attention by Ms Choo. As mentioned earlier, Ms Choo's knowledge of this Incident was purely secondhand information provided to her by an unnamed Ren Ci staff member. Thus, Mr Chua's evidence for this Incident is *also* hearsay within hearsay.

(iii) As for the 14 May Incident, Mr Chua admitted under cross-examination that he did not personally observe any of the alleged instances of rudeness exhibited by Mr Lim which Mr Chua referred to at [33e] of his AEIC.¹²² Thus, Mr Chua most likely obtained his information about the 14 May Incident from someone else. Given that none of the Defendant's other witnesses testified to observing Mr Lim behave rudely in the course of his duties on 14 May 2023, Mr Chua's testimony on this Incident must have been based on an out-of-court statement made to him by someone else; in other words, hearsay evidence.

(c) Ms Huang's testimony on the fourth allegation has the least value because it is based entirely on Mr Chua's testimony; hence, Ms Huang's evidence is essentially founded on multiple layers of hearsay evidence.

87 For the same reasons as those I relied on in rejecting the Defendant's hearsay evidence *vis-à-vis* the second allegation (see [59] to [67] above), I

¹²² NE on 13 October 2025 on page 84, lines 8 to 12.

similarly find that the evidence given by Ms Choo, Mr Chua, and Ms Huang in relation to the fourth allegation is hearsay evidence and therefore not admissible.

88 What the Defendant is left with, evidentially, are the testimonies of Mr Anep and Mdm Ng. I am not satisfied with the quality of their evidence; in my view, their evidence is deficient in terms of both credibility and consistency.

89 I start with Mr Anep’s testimony. I have serious doubts about Mr Anep’s powers of recall. On the stand, Mr Anep departed from his AEIC by changing his answer regarding the number of times he had witnessed Mr Lim speak rudely towards the Seniors from one time¹²³ to five times.¹²⁴ When asked why he could suddenly recall these five purported incidents, Mr Anep replied that he was “not very sure” why.¹²⁵ Mr Anep also inadvertently minimized the force of his testimony against Mr Lim by stating that it *could have been possible* that the reason for Mr Lim’s loud tone, which Mr Anep perceived as rude, was because the Seniors were mostly hard of hearing. I extract the relevant portion of Mr Anep’s testimony below¹²⁶:

¹²³ Mr Anep’s AEIC at [8].

¹²⁴ NE on 6 February 2026 on page 6, lines 6 to 9.

¹²⁵ NE on 6 February 2026 on page 11, lines 23 to 29.

¹²⁶ NE on 13 October 2025 on page 11, lines 8 to 16.

90 From the above, it is evident that Mr Anep has an inexplicably poor memory. I am not convinced that a person who observed his colleague act rudely towards elderly persons on multiple occasions would recall and depose to only one occasion in an AEIC. He might recall the *details* of only one occasion, but he would at least recall the *number of occasions* with some clarity. Without any explanation as to why he had forgotten about the other four occasions when he signed his AEIC, I have some doubts as to whether Mr Anep's recollection of the details of the one occasion he deposed to is accurate to begin with.

91 Regardless, Mr Anep failed to give any details as to what the sole argument he referred to at [8] of his AEIC was about. He also failed to explain why he found Mr Lim’s tone to be “noticeably impatient”. This is a highly subjective assessment that requires some elaboration before a Court will accept it without more.

92 For these reasons, I find it unsafe to place any weight on Mr Anep's
testimony – be it in his AEIC or his Court testimony – in relation to Mr Lim's
purported rudeness towards the Seniors.

93 Finally, I place very little weight on the allegations in Mdm Ng’s AEIC at [6] – namely, that Mr Lim had supposedly scolded some Seniors and rushed them on and off the Claimant’s vehicle – because Mdm Ng departed from that account in her oral testimony. As the Claimant rightly observed,¹²⁷ when asked to exhaustively state all instances of inappropriate behaviour she personally witnessed Mr Lim displaying in the course of his work, Mdm Ng *did not mention* the scolding and the rushing of Seniors during the boarding and alighting process at all. Instead, the only matters she raised that could conceivably have anything to do with rudeness were that Mr Lim spoke loudly¹²⁸ and occasionally kept his passengers waiting whilst he used the washroom.¹²⁹ These inconsistencies between her AEIC and her Court testimony are glaring and material, and I am not prepared to accord anything more than minimal weight to her AEIC evidence.

94 In any case, even if I were to accept [6] of Mdm Ng’s AEIC as true, it lacks sufficient particularity and context for me to conclude that Mr Lim’s conduct amounted to a breach of the Agreement. There is simply insufficient explanation as to the circumstances in which Mr Lim was said to have “scolded” the Seniors or “rushed” them on and off the Claimant’s vehicle. The words “scolding” and “rushing” are inherently subjective, and carry with them, to some extent, Mdm Ng’s personal perception of Mr Lim’s conduct. What may be regarded as a scolding by one individual may not be so perceived by another; similarly, what is considered rushing by one person may not be by another. Such opinion evidence might be accepted as proof of the facts asserted if

¹²⁷ CCS at [33].

¹²⁸ NE on 13 October 2025 on page 78, lines 17 to 21.

¹²⁹ NE on 13 October 2025 on page 79, lines 25 to 30.

accompanied by sufficient context and explanation. Without them, they are simply vague assertions from which no reasoned conclusion can be drawn.

95 As for her Court testimony, neither allegation – be it the scoldings Mr Lim supposedly dished out to Seniors or Mr Lim making the Seniors wait whilst he used the washroom – are in my view serious enough or sufficiently explained so as to be considered breaches of the Agreement. The latter accusation, in my view, cannot be said to be rude at all. If Mr Lim needed to answer the call of Nature, I fail to understand why that very ordinary behaviour ought to be construed as rudeness amounting to a breach of contract. There is no evidence that the Claimant’s vehicle had facilities for Mr Lim to relieve himself. Hence, the only times he could reasonably do so would be when the vehicle stopped at its various destinations. If one of these destinations happened to be Ren Ci’s premises, and if on some occasions Mr Lim felt the need to relieve himself when the Seniors had already boarded the vehicle (and therefore had to wait for him to return), I think it would be pettiness of the highest order (in the absence of more detailed context) for the Defendant to consider each occasion a breaching act.

(iii) Even if the second to fourth Allegations were sufficiently proved, the Defendant has failed to establish causation between the alleged breaches and its loss.

96 Even assuming, for the sake of argument, that the Defendant managed to prove the conceptual basis *and* the facts required to make out the second to fourth allegations, I would have found that the Defendant has failed to establish the critical element of causation between the Claimant’s breaches and the Defendant’s purported loss.

97 To recapitulate, the Defendant quantifies the losses it incurred as a result of the Claimant’s supposed breaches of contract via the First and Second Heads of Damage – i.e., the amount it paid to hire an alternative transport provider and the loss of profit it incurred (see [4(a)] and [4(b)] above).

98 To start off, the First Head of Damage is irrelevant to the second to fourth allegations. According to the Defendant’s pleaded case, it was compelled to engage an alternative transport provider *as a result* of the Claimant’s refusal to fetch the Two Additional Seniors and to provide a second vehicle to fulfil its contractual obligations.¹³⁰ These are the first and fifth allegations, which I have dealt with and rejected in the relevant parts of this judgment. Hence, only the Second Head of Damage is relevant to the discussion of causation in respect of the second to fourth allegations.

99 The way in which the Defendant characterizes its Second Head of Damage is particularly confusing. In its pleadings, the Defendant refers to paragraphs 13(h) and 13(i) of its AD&CC in setting out this claim for “loss of profits”.¹³¹

(a) Paragraph 13(h) refers to, as far as I can tell, loss in the form of reduction of profits due to increased expenses incurred by the Defendant, with these increased expenses being due to the Defendant having to “rent additional motor vehicles and to hire additional drivers and assistants”. I do not know what these additional vehicles and additional staff relate to, and the Defendant failed to shed any light on this paragraph in its closing submissions. In fact, the Defendant did not

¹³⁰ AD&CC at [2], on page 3. See too DCS at [139].

¹³¹ AD&CC at [13(j)], row 2 of table.

address this reduction of profits in any of its submissions. For these reasons, I decline to make any finding on this point.

(b) Paragraph 13(i) refers to Ren Ci’s refusal to renew its existing transport service agreement with the Defendant after 30 June 2025. This, according to the Defendant, caused it to suffer loss of future profits to the tune of \$30,736.80 (nett of expenses). The Defendant derives this figure via the application of a multiplier-multiplicand formula set out at [13(i)(a)] to [13(i)(e)] of the AD&CC.

100 It is to this latter part of the Second Head of Damage that I now turn. A claim for a loss of profit on a nett basis is ordinarily a claim for expectation loss (*Liu Shu Ming and anor v Koh Chew Chee and anor matter* [2023] SGHC(A) 15 at [128] to [129]). However, the Defendant is not claiming for a simple loss of nett profit under the Agreement or the Amendment Agreement. What the Defendant is really saying by this part of its Second Head of Damage is this: because the Claimant breached the Agreement(s) by committing the acts inherent in the second to fourth allegations, that breach caused Ren Ci to decide *not* to renew the transport service agreement between the Defendant and Ren Ci after 30 June 2025, and *that* non-renewal caused the Defendant to suffer a loss of \$30,736.80 in the nett profit it *would have earned* had that transport service agreement been renewed. The transport service agreement the Defendant is referring to here is the “Agreement for Provision of Transport Services for Ren Ci Clients” between Ren Ci and the Defendant,¹³² which was later extended twice by way of two Letters of Extension issued by Ren Ci to the Defendant

¹³² AB at 56 to 83.

dated 30 August 2024¹³³ and 13 December 2024¹³⁴ (the “**First LOE**” and “**Second LOE**” respectively).¹³⁵

101 Causation involves the question of whether the loss suffered by the innocent party *is in fact* a result of the contractual breach (*Crescendas Bionics Pte Ltd v Jurong Primewide Pte Ltd and other appeals* [2023] 1 SLR 536 (“*Crescendas*”) at [38]). To establish factual causation, our Courts have applied the “but for” test, which requires the innocent party to prove on a balance of probabilities that, but for the breach, it would not have suffered loss (see *Crescendas* at [38], citing *Sunny Metal & Engineering Pte Ltd v Ng Khim Ming Eric* [2007] 3 SLR(R) 782 (“*Sunny Metal*”) at [63] and [71]). On the facts of this case, what the Defendant has to show is that Ren Ci more likely than not would have renewed the transport service agreement with the Defendant if the Claimant had not breached the Agreement in the manner evinced by the second to fourth allegations.

102 In my view, the Defendant once again falls short of its burden of proof. The only entity able to give direct evidence on Ren Ci’s internal decision-making processes and the reasons why it chose not to renew the transport service agreement with the Defendant is Ren Ci itself, *not* the Defendant. Any testimony from the Defendant regarding whatever Ren Ci’s representatives may have said regarding its reasons for the said non-renewal is hearsay evidence which is not admissible for the truth of their contents if the relevant Ren Ci representative who made that statement is not called to testify. This hearsay evidence includes the WhatsApp message sent by Ms Phoebe to Mr Chua on 19

¹³³ AB at 84 to 85.

¹³⁴ AB at 86 to 87.

¹³⁵ Mr Chua’s AEIC at [33(h)] to [35].

December 2024 regarding how the Claimant supposedly “spoilt [the Defendant’s] reputation” with Ren Ci.¹³⁶ Ms Phoebe was not called to testify at trial. Despite that, the Defendant seeks to rely on that message to prove the *fact* that Ren Ci did not renew the existing agreement with the Defendant because the former had a bad impression of the Claimant’s services. This is precisely what the hearsay principle guards against. That WhatsApp message is not admissible, and I therefore place no weight on it.

103 In fact, the Defendant does not go so far as to say that Ren Ci had *informed* it that it was not going to renew the transport service agreement because of the Claimant’s purported breaches. What the Defendant actually testifies to, through Mr Chua’s AEIC,¹³⁷ is that there was a tender process held by Ren Ci, which the Defendant took part in and in the course of doing so asked Ren Ci to consider awarding the next contract to it. Ren Ci subsequently informed the Defendant that it was only going to extend the existing transport service agreement for six months via the First LOE. Ren Ci later extended the existing transport service agreement by another three months via the Second LOE. Eventually, the new transport contract was not awarded to the Defendant.

104 There are far too many significant and unexplained gaps in the Defendant’s case for me to conclude, in the absence of any evidence given by the appropriate Ren Ci representative, that Ren Ci did not renew the existing transport service agreement due to the Claimant’s breaches.

- (a) First, there is no evidence that, but for the Claimant’s breach, Ren Ci would have renewed the existing transport service agreement

¹³⁶ AB at 137.

¹³⁷ Mr Chua’s AEIC at [34] to [35].

with the Defendant for another 15 months as pleaded, at the same rates set out in the existing agreement, or at all. Any evidence given by the Defendant on this point is entirely speculative, and Mr Chua eventually conceded that he was not able to comment on whether Ren Ci's decision in this regard had anything to do with the Claimant's breaches.¹³⁸

(b) Second, there is no evidence pertaining to Ren Ci's reasons for extending the existing transport service agreement with the Defendant for a total of *nine months* despite supposedly knowing of the Claimant's breaches.

(c) Third, there is no evidence regarding whether there were other reasons for Ren Ci's decision not to renew the existing transport service agreement with the Defendant. After all, the whole point of a tender is to enable Ren Ci to select the best service provider for its needs based on, *inter alia*, service requirements, scale, the tenderer's reputation, and cost. The tender process does not guarantee that an old contractor will necessarily work with Ren Ci again. If, for example, another tenderer had put in a bid that satisfied all of Ren Ci's requirements and was a better fit for Ren Ci than the Defendant, Ren Ci might have selected that tenderer even if the Claimant had executed its contractual obligations perfectly. In that case, the but-for link is not established.

105 To sum up, the Defendant has insufficient evidence to prove the but-for link between the Claimant's purported breaches of the Agreement and Ren Ci's decision not to renew the existing transport service agreement with the Defendant. Causation has therefore not been established. For this additional

¹³⁸ NE on 13 October 2025 on page 113, lines 11 to 15.

reason, I find that the Defendant has failed to make out its counterclaim insofar as the second to fourth allegations are concerned.

(c) The Claimant’s fifth allegation is not made out.

106 It is unclear to me what the conceptual basis of this allegation is. The pleadings shed no light on this alleged obligation on the Claimant’s part to provide two motor vehicles to ferry around the Seniors instead of one. In fact, that allegation only appears – almost by-the-by – in one paragraph in the amended Defence,¹³⁹ and nowhere in the amended Counterclaim. In closing submissions, the Defendant characterizes the basis of the Claimant’s obligation to provide two motor vehicles as being a “verbal operational understanding”.¹⁴⁰

107 I do not know what the Defendant means by “verbal operational understanding” in legal terms. If the Defendant is saying that the basis was a verbal contract, then that argument must fail for want of pleading. As the Claimant correctly points out, the material facts pertaining to this verbal agreement, or even the fact that there even *was* such a verbal agreement, were not pleaded at all.¹⁴¹ It is trite that the material facts of an alleged oral agreement must be pleaded. At minimum, the date range on which the oral agreement was supposedly concluded (*Chan Tam Hoi (alias Paul Chan) v Wang Jian and others* [2022] SGHC 182 at [47]), the names of all parties to it, the relevant terms relied on, and the consideration given must be pleaded (*Tan Kian Chye v Ang Siew Yan and others* [2024] SGHCR 5 at [66], citing *Singapore Civil Procedure 2021, Vol I (Sweet & Maxwell)* at [18/12/5]). This was not done here.

¹³⁹ AD&CC at [2].

¹⁴⁰ DCS at [42].

¹⁴¹ CCS at [8] to [13].

108 On the other hand, if the Defendant is saying that the basis was something other than the formal contracts (i.e., the two Agreements), then I do not see how the Claimant can be said to have been in breach of the Agreements when the basis for this obligation exists *outside of those contracts*. Furthermore, the Defendant, as the party putting forth this argument, must explain what the said basis is, the legal principles underpinning it, and why the application of these said principles warrant a finding that the Claimant had been in breach or acted improperly. No such argument or authority was presented in this respect.

109 I therefore reject the Defendant’s argument on this point because of its failure to properly plead it.

110 Even leaving the issue of pleadings aside, the Defendant’s argument fails for a second reason. The evidence shows that the Claimant’s provision of a second motor vehicle (the “**Second Vehicle**”) for transporting the Seniors was for a limited duration and not for an indefinite period as suggested by the Defendant.¹⁴² In this regard, Mr Zabiak testifies that the Claimant had agreed to help the Defendant out by providing one extra vehicle for a week, and that he had been “paid for this 1 week of service”.¹⁴³ The Defendant did not materially dispute this portion of Mr Zabiak’s testimony. Indeed, the Defendant relies on it in advancing its case that the Claimant was in breach for failing to continue providing two vehicles.¹⁴⁴ Further, the Defendant failed to put to Mr Zabiak that there had been some agreement – be it in the written Agreement itself or by way of a separate oral agreement – that the Claimant was obliged to provide the second vehicle for an unlimited duration. In the premises, Mr Zabiak’s evidence

¹⁴² DCS at [41].

¹⁴³ NE on 13 October 2025 at page 16, lines 12 to 26.

¹⁴⁴ DCS at [41].

that any such arrangement (if it existed at all) was limited to one week – which the Claimant duly performed – remains unchallenged. The Defendant cannot now take the position that this alleged verbal agreement required the Claimant to provide a second vehicle in perpetuity.

111 For the avoidance of doubt, I am not persuaded by the Claimant’s argument that the Agreement “was for one vehicle” as stated in Clause 2.1(a).¹⁴⁵ Clause 2.1(a) does not mandate the number of vehicles the Claimant had to provide, be it one, two, or any greater number. All that clause says is that the Claimant was to provide wheelchair transport services. That could mean any number of things. But because the Defendant has failed to plead and prove the existence of this “verbal operational understanding” on which it bases the Claimant’s supposed obligation to provide the second vehicle, I say no more about the Claimant’s interpretation of Clause 2.1(a).

112 In any case, the Defendant’s issue with the Claimant’s provision of only one motor vehicle for most of the terms of the Agreement and the Amended Agreement appears to be grounded in the Claimant’s refusal to fetch the Two Additional Seniors.¹⁴⁶ I have already found that the Claimant did not breach the Agreement when it refused to transport the Two Additional Seniors (see [39] to [48] above), and there is no other evidence that the Claimant was unable to fulfil its contractual obligations to ferry the Seniors between their destinations. Hence, even if I were to accept the Defendant’s argument at [4] of its DRS that Clause 2.1(a) should be interpreted as requiring the Claimant to provide as many vehicles as necessary to ferry all Seniors under its charge within the stipulated timeslots, there is no cause for me to find any breach on the Claimant’s part.

¹⁴⁵ CCS at [8].

¹⁴⁶ AD&CC at [2]. See too Defendant’s Reply Submissions (“**DRS**”) at [4] to [5].

F Issue 3: If the answer to Issue 2 is yes, did the Defendant mitigate its losses?

113 As I have dismissed the counterclaim in its entirety, Issue 3 does not arise.

G Conclusion

114 In conclusion, the claim is allowed in full. The counterclaim is dismissed.

115 Parties are to agree on costs, failing which parties are to file costs submissions, limited to 5 pages, within two weeks from the date of this judgment. This page limit is to be strictly complied with.

Tay Jingxi
District Judge

Mr Andrew John Hanam [Andrew LLC] for the Claimant;
Mr Harpal Singh Bajaj [Louis Lim & Partners] for the Defendant.