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

[2026] SGHCR 9

Bill of Costs No 11 of 2026 (Summons No 503 of 2026)

Between

Zyfas Medical Co (sued as a firm)

… *Applicant*

And

(1) Millennium Pharmaceuticals, Inc.
(2) Johnson & Johnson Pte. Ltd.

… *Respondents*

GROUNDS OF DECISION

[Civil Procedure — Costs — Taxation — Whether taxation should await separate damages inquiry concerning interim injunction]

Zyfas Medical Co (sued as a firm)
v
Millennium Pharmaceuticals, Inc and another

[2026] SGHCR 9

General Division of the High Court — Bill of Costs No 11 of 2026 (Summons No 503 of 2026)
AR Vikram Rajaram
12 March 2026

7 April 2026

AR Vikram Rajaram:

1 This application raised an interesting but narrow issue: whether an assessment of the costs in respect of a bifurcated trial that dealt with issues of liability should be deferred pending the completion of assessment of damages proceedings that do not concern damages arising from any liability established in the bifurcated trial, but rather an inquiry into losses allegedly caused by an interim injunction that was subsequently set aside. The respondents took the view that guidance in Court of Appeal cases required that the assessment of costs proceedings should be deferred so that the Court conducting the assessment of costs is able to consider whether the costs claimed are proportionate to the "stake in the controversy". As explained below, I rejected this argument because the Court of Appeal's guidance did not apply to the present case. The assessment of damages proceedings in the present case related

to a separate and distinct inquiry concerning the impact of an interim injunction, and not the substantive claims that were at stake at the liability trial.

2 Brief reasons were provided when I dismissed the application. An appeal has since been filed against my decision, and I now set out my full written grounds of decision.

Facts

3 The applicant, Zyfas Medical Co ("Zyfas"), filed HC/BC 11/2026 ("BC 11") to assess the costs that it should be paid following its successful defence of patent infringement claims brought by Millennium Pharmaceuticals, Inc. and Johnson & Johnson Pte. Ltd. (collectively, the "Respondents") in HC/S 817/2019 ("Suit 817"). The Respondents brought patent infringement claims against Zyfas following Zyfas's registration of a product with the Health Sciences Authority.

4 The trial for Suit 817 was heard before Dedar Singh Gill J. Judgment was delivered in Suit 817 on 29 December 2023, dismissing the Respondents' claims against Zyfas for patent infringement and awarding costs to Zyfas: see *Millennium Pharmaceuticals, Inc and another v Zyfas Medical Co (sued as a firm)* [2024] 5 SLR 1435 at [289] ("*Millennium Pharmaceuticals*"). The Court essentially found that one of the patents was invalid and the other had not been infringed.

5 Zyfas filed BC 11 on 29 January 2026 to seek an assessment of the costs and disbursements it was awarded in *Millennium Pharmaceuticals*. Zyfas seeks a total amount of S$1,027,867.46.[1]

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[1] See the "Total Claimed" entry at page 53 of the attachment to BC 11.

6 On 11 February 2026, the Respondents filed HC/SUM 503/2026 ("SUM 503") for an order that the hearing of BC 11 be fixed only after the conclusion of the assessment of damages proceedings in Suit 817 (and any appeals arising). In the Respondents' affidavit in support of SUM 503, the Respondents stated that the application was being brought under O 4 r 1 of the Rules of Court (2014 Rev Ed) ("ROC 2014").[2] The Respondents referred to the ROC 2014 because the underlying action (Suit 817) is governed by the ROC 2014.

7 The assessment of damages proceedings that the Respondents were referring to is an inquiry into the damages, if any, that the Respondents are to pay Zyfas to compensate Zyfas for the alleged loss that it suffered from an interim injunction that was ordered in Suit 817 on 2 April 2020. That injunction restrained Zyfas from "performing any of the act(s) for which registration of [Zyfas's product] [had] been obtained" until the conclusion of Suit 817: see *Millennium Pharmaceuticals* at [19]. The interim injunction was eventually discharged at the close of the trial on 27 October 2021 after the parties consented to the discharge: see *Millennium Pharmaceuticals* at [21].

8 The assessment of damages proceedings were scheduled to be heard in a trial commencing in late April 2026.

The parties' submissions

9 The Respondents relied primarily on the Court of Appeal's decisions in *Lin Jian Wei and another v Lim Eng Hock Peter* [2011] 3 SLR 1052 ("*Lin Jian Wei*") and *Koh Sing Chong Freddie v Chan Cheng Wah Bernard and others and another appeal* [2013] 4 SLR 629 ("*Freddie Koh*"). The Respondents argued

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[2] See 1st Affidavit of Suhami bin Lazim filed on 11 February 2026 at para 4.

that the assessment of the trial costs should be deferred until damages were assessed. They contended that the Registrar must be able to gauge the costs against the "stake in the controversy" and that proceeding to tax a S$1 million bill without knowing the value of the underlying claim would lead to a disproportionate assessment.[3]

10 The Respondents further argued that there was a substantial likelihood that damages would be nominal or fall below S$250,000 (this being the District Court limit). The Respondents submitted that if such damages were awarded, that would impact the appropriate scale for the assessment of costs.[4]

11 Zyfas argued that the Respondents' application in SUM 503 was misconceived because the pending assessment of damages was a separate inquiry arising from the Respondents' wrongful injunction and did not affect Zyfas's entitlement to trial costs.[5] Zyfas contended that the assessment of damages was a separate proceeding – a consequential matter arising from the Respondents' unsuccessful interim relief – which did not affect Zyfas's status as the successful party in the liability trial.[6] Zyfas submitted that even nominal damages at the inquiry would not affect Zyfas's entitlement to trial costs.[7]

Analysis and decision

12 I dismissed SUM 503 for the following reasons.

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3 See Respondents' Written Submissions at para 11.

4 See Respondents' Written Submissions at para 14.

5 See Applicant's Written Submissions at para 2.

6 See Applicant's Written Submissions at para 7.

7 See Applicant's Written Submissions at para 8.

13 The assessment of damages proceedings concerned an inquiry into the damage that Zyfas had suffered from the interim injunction ordered in Suit 817 restraining Zyfas from performing any acts for which the registration of its product had been obtained. The assessment of damages did not pertain to the liability of the parties in respect of the *substantive claims* made in Suit 817, which concerned the validity and scope of certain patents, and whether the patents were infringed.

14 The Court of Appeal's observation in *Lin Jian Wei* at [84] did not apply to the present case. I set out the Court of Appeal's observation in *Lin Jian Wei* at [84] here for reference:

> 84 We would also add that as a matter of sound practice, *trial* costs in claims for unliquidated damages should ordinarily not be assessed before damages have been agreed or determined. This is because it is only after the amount of damages has been determined can the taxing officer satisfactorily assess whether the quantum of costs awarded is proportionate to the stake in the controversy.
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> [Emphasis in original]

15 The Court of Appeal's observation was made in the concluding paragraphs of the judgment where the Court observed that the quantum of damages that had been awarded in that case ($210,000) was lower than the amount of costs that the Court of Appeal eventually awarded (this being $250,000). The Court of Appeal noted that the Judge below was not aware that damages would be assessed at $210,000 because the Judge assessed costs *before* the Court of Appeal quantified the damages: see *Lin Jian Wei* at [82].

16 The observations in *Lin Jian Wei* were reiterated in *Freddie Koh* at [90]. The Court of Appeal noted that the plaintiffs in the court below raised bills of costs and sought to have them assessed without waiting for the assessment of

damages. The Court of Appeal in *Freddie Koh* then referred to the views expressed in *Lin Jian Wei.* The Court of Appeal explained that the rationale for the practice of waiting until damages are assessed is that Appendix 1 to O 59 of the ROC 2014 required the court assessing the costs to have regard to the principle of proportionality, and the amount or value of any money or property that is involved. The Court of Appeal then emphasised that these provisions in Appendix 1 to O 59 of the ROC 2014 suggested there was an "incontrovertible link between the costs to be awarded and the judgment amount". I set out *Freddie Koh* at [90] for reference:

> 90 It will be recalled that in the Merits Judgment this court granted costs to the Plaintiffs as regards the appeal and the trial on liability. Following that judgment, the Plaintiffs proceeded to raise their bills of costs and to have them taxed without waiting for the assessment of damages. In *Lin Jian Wei v Lim Eng Hock Peter* [2011] 3 SLR 1052 ("*Lin Jian Wei*") this court clearly expressed the view that trial costs in claims for unliquidated damages should ordinarily not be assessed before damages have been agreed or determined. The rationale for this practice is apparent from Appendix 1 to O 59 of the Rules of Court (Cap 322, R 5, 2006 Rev Ed) which provides that the taxing registrar in determining the proper amount to be allowed as costs "shall have regard to the principle of proportionality" as well as, *inter alia*, "where money or property is involved, its amount or value". This provision clearly suggests that there is an incontrovertible link between the costs to be awarded and the judgment amount. This point was also underscored in *Lin Jian Wei* at [76]:
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> > Further, though this is not an absolute rule, the concept of proportionality requires that there ordinarily be some correlation between the quantum of damages awarded and the costs taxed.

17 The Court of Appeal's observations in the two cases were made in the context of cases where the trial only established issues of liability, with damages to be assessed or agreed separately. In such cases, the Court would not be able to consider the proportionality of the work done and legal costs incurred for the liability phase. This is because the value of what was at stake at the liability

phase would not be apparent until the assessment of damages has been completed.

18 That was not the context in the present case. The substantive claims in Suit 817 had been fully resolved in favour of Zyfas, and there were no damages to be assessed from those substantive claims which were dismissed. Importantly, the assessment of damages proceedings did not arise from any of the substantive claims made in Suit 817. Rather, they concerned damages that ought to be awarded in respect of an unrelated interlocutory process – namely, the granting of an interim injunction that was later discharged. Accordingly, the amount, if any, that might be awarded through that inquiry would not have been a reflection of the amount that was at stake in the liability trial in Suit 817. What was at stake in the liability trial was the validity of certain patents and whether there had been infringement, not the alleged damage that was suffered on account of the interim injunction.

19 Given these circumstances, there was no basis to wait for the assessment of damages proceedings to be completed before BC 11 proceeded. The assessment related to a separate and distinct inquiry that did not affect the proportionality analysis for the costs of defending the substantive patent infringement claims. The Court dealing with BC 11 was fully able to assess the proportionality of the amounts claimed in BC 11. The proportionality analysis would be done by comparing the work done for the trial to what was at stake *at the trial* – namely, the validity of the patents and whether the patents were infringed. This leads me to the following general principle: where the costs being taxed relate to concluded proceedings to establish legal rights whose value is not reflected in or contingent on a pending damages assessment, the Court may proceed with assessing the costs for the concluded proceedings without

awaiting the assessment of damages. This approach is consistent with the general principle articulated in *Lin Jian Wei* and *Freddie Koh*.

Costs

20 I ordered the Respondents in BC 11 to pay Zyfas the costs of SUM 503 fixed at S$4,200, all in for the following reasons:

(a) I did not think that the range in Appendix G to the Supreme Court Practice Directions at Part II.B, para 11 should be applied. The ranges set out in that paragraph were for specific types of stays (namely, stays in favour of arbitration, on account of *forum non conveniens* and pending appeal). SUM 503 was an application to defer the hearing of an assessment of costs proceeding. The principles that I had to apply were not similar to the principles that would be applied in those three types of stay applications.

(b) I therefore had regard to the range in Appendix G, Part II.A, para 2 for contested general applications. Given the lack of complexity of the arguments made and the relatively short duration of the oral hearing, I found it appropriate to have regard to the range for applications on a normal list lasting 45 minutes or longer, and not the special date range. The range for a normal list matter lasting 45 minutes or longer is $4,000 to $11,000 excluding disbursements.

(c) I found that the costs award should be at the lower end of the range in view of the limited nature of the application. The case turned essentially on the interpretation of two Court of Appeal authorities. The facts were not disputed and the submissions were concise. Having regard

to these circumstances and the amount of disbursements incurred, a costs award of $4,200 was appropriate and I so ordered.

Conclusion

21 For the reasons set out above, I dismissed the stay application.

Vikram Rajaram
Assistant Registrar

Wong Siew Hong and Narendra Mudaliar (Eldan Law LLP) for the applicant;
Suhaimi Lazim and Hashim Sirajudeen (Trident Law Corporation) for the respondents