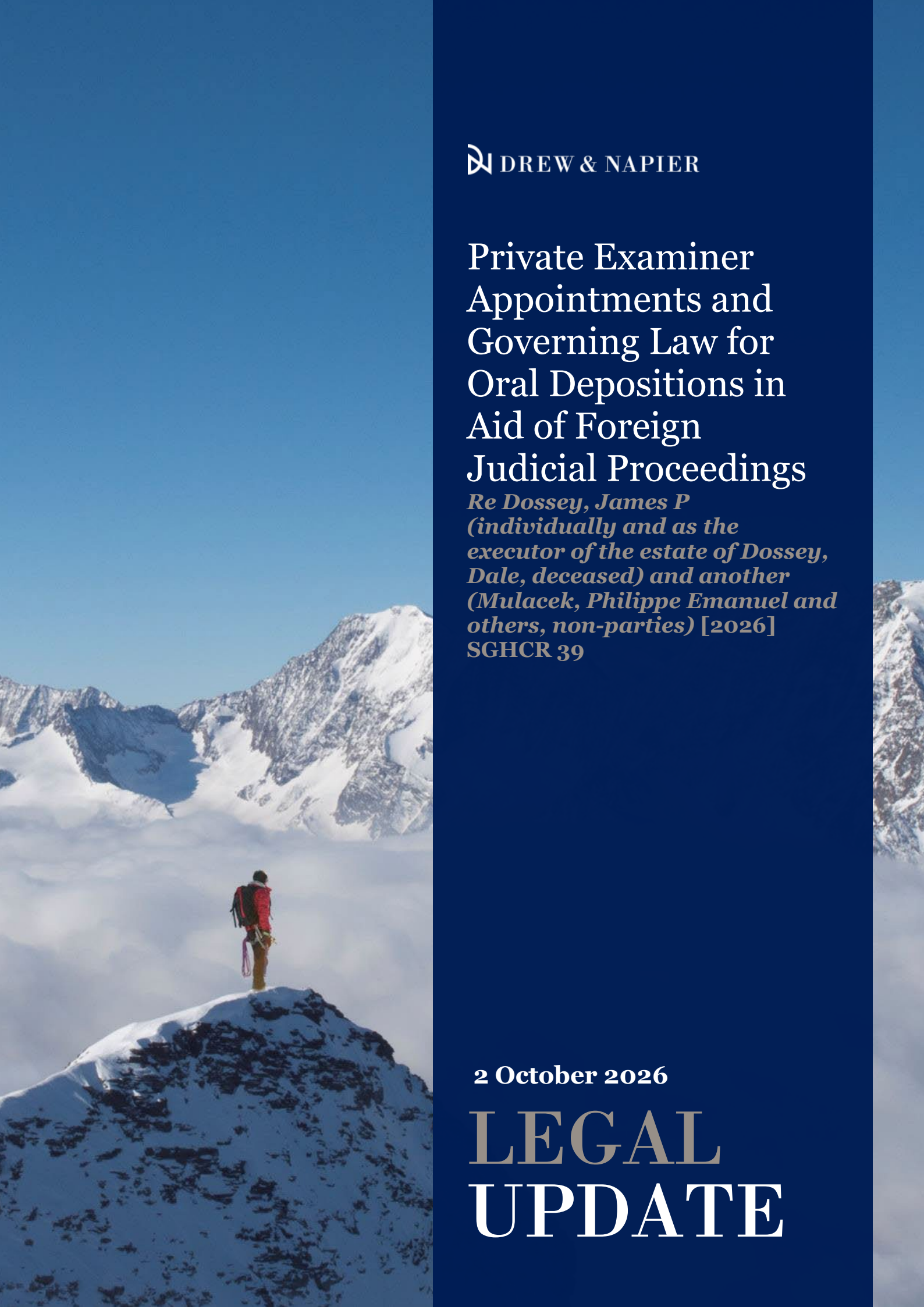




 DREW & NAPIER

Private Examiner Appointments and Governing Law for Oral Depositions in Aid of Foreign Judicial Proceedings

*Re Dossey, James P
(individually and as the
executor of the estate of Dossey,
Dale, deceased) and another
(Mulacek, Philippe Emanuel and
others, non-parties) [2026]
SGHCR 39*

2 October 2026

LEGAL UPDATE

In this Update

In *Re Dossey, James P (individually and as the executor of the estate of Dossey, Dale, deceased) and another (Mulacek, Philippe Emanuel and others, non-parties)* [2026] SGHCR 39, the General Division of the High Court determined the procedural arrangements for the oral deposition of a Singapore-based witness pursuant to a Letter of Request from a Texas court under the Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters.

The Court appointed a private examiner to preside over the deposition and permitted the proceedings to be video recorded, finding no prohibition under Singapore law for private examinations conducted outside the Supreme Court premises.

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INTRODUCTION

In *Re Dossey, James P (individually and as the executor of the estate of Dossey, Dale, deceased) and another (Mulacek, Philippe Emanuel and others, non-parties)* [2026] SGHCR 39, the General Division of the High Court determined the procedural arrangements for the oral deposition of a Singapore-based witness pursuant to a Letter of Request from a Texas court under the Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters.

The Court appointed a private examiner to preside over the deposition and permitted the proceedings to be video recorded, finding no prohibition under Singapore law for private examinations conducted outside the Supreme Court premises. The Court held that Singapore law — not the Texas Rules of Civil Procedure — must govern the examination, though it allowed certain supplementary Texas procedural rules that were not inconsistent with Singapore law. The Court also ruled that only Singapore-qualified counsel could conduct the examination, with US counsel permitted to attend and observe only, as the examination of witnesses in Singapore Court-ordered proceedings constitutes an act reserved to advocates and solicitors under the Legal Profession Act.

A team led by **Directors Woo Shu Yan** and **Gerald Tay** acted for James P. Dossey (individually and as Executor of the Estate of Dale Dossey) and Dossey & Jones, PLLC (collectively, “**Applicants**”) in this matter.

BACKGROUND

The Applicants sought an order for a Singapore-based witness, Christian M. Vinson, to give oral evidence in Singapore in connection with ongoing civil proceedings in Texas. In the Texas proceedings, Philippe E. Mulacek and Asian Gas Partners, Ltd are the Plaintiffs and Counter-Defendants, while the Applicants are the Defendants and Counter-Plaintiffs.

The application was made under ss 3 and 4 of the Evidence (Civil Proceedings in Other Jurisdictions) Act 1979 (“**ECPOJA**”) and O 55 rr 2 and 4 of the Rules of Court 2021 (“**ROC**”), giving effect to a Letter of Request issued by the Texas Court pursuant to the Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters (18 March 1970) (“**Hague Convention**”).

The parties did not dispute that the General Division of the High Court had the power to order Mr Vinson to give oral testimony, and Mr Vinson himself agreed to do so. The key issues in dispute were:

- (a) Whether the examination should take place before the Registrar or a private examiner;
- (b) Whether the oral deposition should be video recorded;

- (c) Whether the Texas Rules of Civil Procedure should govern the examination; and
- (d) Whether US counsel should be permitted to examine and cross-examine Mr Vinson.

THE HIGH COURT'S JUDGMENT

Applicable legal framework

The Court outlined three governing propositions distilled from the Hague Convention, the ECPOJA, and the ROC:

- (a) The Singapore Court has the discretion to decide whether to grant an order in any case.
- (b) The Court should, as far as possible, give effect to the request of the foreign court, including any special methods and procedures, unless doing so would be contrary to Singapore law.
- (c) By virtue of s 4(3) of the ECPOJA read with O 55 of the ROC, the procedural laws of Singapore apply to any oral deposition ordered by the Singapore Court, unless the Court orders otherwise.

Appointment of a Private Examiner

KEYPOINT

Relying on Re Civelli, Carlo Giuseppe and another [2024] 5 SLR 446, the Court held that it has a broad discretion to appoint a private examiner

After weighing competing factors — including the suitability of the Applicants' proposed private examiner, Mr Colin Seow (given his experience as a former Assistant Registrar and his confirmed independence), and the practical advantages of enabling a videotaped deposition — the Court concluded that the deposition should be conducted before Mr Seow.

Video Recording of the Deposition

KEYPOINT

Singapore law does not prohibit the video recording of private examinations conducted outside the premises of the Supreme Court

While paragraph 97 of the Supreme Court Practice Directions 2021 strictly prohibits video and image recording of proceedings before a Judge or Registrar, this prohibition does not extend to private examinations conducted elsewhere. The Court noted the significant benefits of video recording, particularly in allowing the Texas Court to assess witness credibility and demeanour. Permission was accordingly granted for video recording, subject to the court's permission under s 5(1)(aa) of the Administration of Justice (Protection) Act 2016, given that private examinations are proceedings ordered by the Singapore Court under O 55 r 4 of the ROC.

Governing Law for the Examination

KEYPOINT

The Court rejected the parties' initial agreement that the Texas Rules of Civil Procedure should apply in their entirety and held that Singapore law govern the examination

The Court's reasoning was threefold:

- (a) The Texas Court itself did not request the application of Texas procedural rules; the Letter of Request referred only to Singapore law. This indicates that the Texas Court was cognisant that the Singapore Court – being the judicial authority executing the request – would apply its own law as to the methods and procedures to be followed, consistent with Article 9 of the Hague Convention.
- (b) Consistent with Article 9 of the Hague Convention, Singapore law is the appropriate governing law as the executing judicial authority. The examination would be ordered by the Singapore Court under O 55 of the ROC and conducted in Singapore. Further as stated in *Re Civelli*, the Singapore Court retains judicial oversight over the examination and the Registrar is required to certify the deposition before it is transmitted to the requesting court.
- (c) A wholesale application of the Texas Rules of Civil Procedure could contravene s 4(3) of the ECPOJA, as certain Texas rules appeared inconsistent with Singapore procedural rules.

However, the Court permitted certain additional Texas rules to supplement Singapore law — specifically, rules prescribing a six-hour time limit for examining the witness, the form and procedure for objections, the procedure for finalising and certifying the deposition transcript, delivery and service of the transcript, and the identification and inspection of exhibits.

Whether US Counsel Could Conduct the Examination

KEYPOINT

The Court held that only parties' Singapore counsel could conduct the examination, while US counsel could attend and observe

Under s 32 of the Legal Profession Act 1966, only an advocate and solicitor on the roll with a practising certificate may perform acts as an advocate and solicitor. The Court reasoned that examining witnesses in proceedings ordered by the Singapore Court and governed by Singapore law constitutes such an act. Since the Applicants' US counsel did not satisfy s 32 requirements, they could not be permitted to conduct the examination.

The High Court's Decision

The Court ordered that:

- (a) Mr Colin Seow be appointed as the private examiner, and Mr Vinson attend before him for the examination;
- (b) Permission be granted for Mr Vinson's oral testimony to be video recorded;
- (c) Parties' Singapore counsel be permitted to examine and cross-examine Mr Vinson, while US counsel may attend and observe; and
- (d) The examination be subject to Singapore law, together with the specified additional rules from the Texas Rules of Civil Procedure. Since the Applicants' US counsel did not satisfy s 32 requirements, they could not be permitted to conduct the examination.

COMMENTARY

This decision demonstrates the Singapore Court's flexible approach towards oral depositions in aid of foreign proceedings under the Hague Convention and provides important guidance on the procedural framework for such depositions, an area of law with limited jurisprudence in Singapore. The principles articulated in the judgment will no doubt be a useful reference for practitioners advising clients on the drafting of future Letters of Request under the Hague Convention, particularly in relation to the procedural arrangements that may be sought.

The present decision represents the first reported instance in which the Singapore Court has appointed a private examiner to preside over an oral deposition pursuant to a Letter of Request under the Hague Convention. While the Court, in *Re Civelli* recognised that the procedural framework

under the ECPOJA and ROC can accommodate such appointments, the Court ultimately declined to appoint a private examiner because the specific wording of the Letter of Request in that case did not permit it. This development offers parties greater flexibility in conducting depositions, particularly where video recording of the deposition is desired. Applicants should ensure that the wording of their Letters of Request is sufficiently broad to permit the appointment of a private examiner, should the requesting court consider this appropriate.

Finally, the Court's clarification that Singapore law must govern the examination despite the parties' agreement is significant. That said, the Court's approach was not inflexible; it permitted the incorporation of foreign rules that were not inconsistent with Singapore law, such as time limits for the examination and the procedures for objections and transcript certification. The Singapore Courts may thus be willing to accommodate reasonable requests for supplementary foreign procedures where they do not conflict with local law.

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