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**Assessing Expert Evidence in the SICC and the CSDS Case**

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Judge of the High Court

Supreme Court of Singapore

President, Singapore International Commercial Court

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**I. Introduction**

1. Expert witnesses play a very important role in the administration of justice, and I am glad to have this opportunity to offer insight into the judicial assessment of expert evidence.
2. Today's topic is the assessment of expert evidence at the Singapore International Commercial Court ("SICC"). The best way for me to do this is by reference to last year's Court of Appeal judgment in *CSDS Aircraft Sales & Leasing Inc v Singapore Airlines Ltd* [2023] 2 SLR 91 ("*CSDS v SIA*"). That judgment helpfully explained the approach our courts take in evaluating expert evidence.
3. I divide my speech into the following parts:

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\* I am grateful to my law clerk, Gavin Ezra Goh, for his assistance in the research for and preparation of this paper.

- (a) First, I begin by discussing the general approach that judges adopt in appraising expert evidence, as explained in *CSDS v SIA*.
- (b) Second, I shall discuss how expert witnesses assist judges to do justice.
- (c) Finally, I shall offer some thoughts on the need for restraint on the part of cross-examining counsel, who should only attack the expert's impartiality and professionalism where there is a proper basis to do so.

## **II. The general judicial approach towards evaluating expert evidence**

- 4. I begin with the Court of Appeal's decision in *CSDS v SIA*, which dismissed an appeal against an assessment of damages before the SICC. That case concerned an international commercial dispute between Singapore Airlines Limited ("SIA"), and an American aircraft trading company, CSDS Aircraft Sales & Leasing Inc ("CSDS"). SIA and CSDS had contracted for SIA to sell a Boeing 777-212 aircraft to CSDS for US\$6.5m. The aircraft was to be sold without engines. CSDS was found to have been in repudiatory breach. Consequently, SIA was left with the unsold aircraft. Pursuant to s 50(3) of the Sale of Goods Act 1979, damages for that breach of non-acceptance of the goods by the buyer would, where there is an available market for the goods "be ascertained by the difference between the contract price and the market or current price of the goods at the time or times

when they ought to have been accepted or (if no time was fixed for acceptance) at the time of the refusal to accept.”<sup>1</sup>

5. Thus, the key question was what the market price at the relevant time was. To establish this, SIA relied on the expert evidence of a senior certified aircraft appraiser. In the end, CSDS did not call an expert, so there was only one expert in the case.
6. One difficulty was that the International Bureau of Aviation Group Limited (“IBA Group”) – a global aviation company which provides services including aircraft valuations – had *not* published market valuations of this particular model, namely the Boeing 777-212. The closest comparator was the Boeing 777-200. So, SIA’s expert took the market value of the 777-200 model, adjusted the value upwards to account for the higher maximum take-off weight of the 777-212 model and then deducted the value of two Trent 884 engines which are used with the 777-212 model, since the contract provided for the sale of SIA’s aircraft *without* engines. He arrived at an estimated valuation of US\$1.66m.<sup>2</sup>
7. However, during cross-examination by CSDS, SIA’s expert conceded that he had been wrong to deduct the value of Trent 884 engines, which are used by 777-212 aircraft, like the one at issue. He testified that he should have deducted the value of Trent 875 engines that are typically used by the 777-200 aircrafts he used as a comparator.<sup>3</sup>

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<sup>1</sup> *CSDS Aircraft Sales & Leasing Inc v Singapore Airlines Ltd* [2023] 2 SLR 91 at [2]–[3] and [6].

<sup>2</sup> *CSDS Aircraft Sales & Leasing Inc v Singapore Airlines Ltd* [2023] 2 SLR 91 at [18]–[22].

<sup>3</sup> *CSDS Aircraft Sales & Leasing Inc v Singapore Airlines Ltd* [2023] 2 SLR 91 at [23].

8. The SICC International Judge valued the aircraft at US\$1.5m.<sup>4</sup> He departed from the evidence of SIA's expert in three respects. First, he held that the expert's concession in cross-examination – that he ought to have deducted the value of Trent 875 engines instead – had been erroneous. Rather, the expert's report had been correct in deducting the value of Trent 884 engines.<sup>5</sup>
9. Second, he held that SIA's expert had erred in omitting to adjust for the higher engine thrust of the 777-212 model at issue as opposed to the 777-200 model being used as a comparator.<sup>6</sup>
10. Finally, he considered the external evidence. He observed that SIA had received an offer in response to its March 2019 Request for Proposals. A prospective purchaser had put in a bid to buy the individual components of SIA's Boeing 777-212 aircraft for US\$1.315m, without the airframe.<sup>7</sup>
11. Thus, the judge accorded an uplift to the offer price of US\$1.315m to estimate the sale price for the *whole* of the aircraft – including the airframe – up to US\$1.5m. He used the valuation of SIA's expert to counter check the accuracy of that estimated uplift, noting that the expert had put the approximate range of the aircraft's value as falling between an average price of US\$2.14m in February 2019 and US\$1.17m in August 2019. In that context, he found that a combination of

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<sup>4</sup> *CSDS Aircraft Sales & Leasing Inc v Singapore Airlines Ltd* [2023] 2 SLR 91 at [3] and [27].

<sup>5</sup> *CSDS Aircraft Sales & Leasing Inc v Singapore Airlines Ltd* [2023] 2 SLR 91 at [25].

<sup>6</sup> *CSDS Aircraft Sales & Leasing Inc v Singapore Airlines Ltd* [2023] 2 SLR 91 at [26].

<sup>7</sup> *CSDS Aircraft Sales & Leasing Inc v Singapore Airlines Ltd* [2023] 2 SLR 91 at [11].

the factual *and* expert evidence supported his valuation of the aircraft at US\$1.5m.<sup>8</sup>

12. On appeal, CSDS argued that the SICC judge erred in departing from the expert's valuation and in rejecting the expert's concession which they had extracted in their cross-examination of him. That concession was a significant one, as the difference in market value of the Trent 875 and Trent 884 engines exceeded US\$4m in total. The result would have been that SIA's aircraft would have been valued *higher* than the contract price of US\$6.5m – meaning that SIA would have been entitled to *no* damages for that breach.<sup>9</sup>
13. The Court of Appeal rejected these arguments and affirmed the judge's approach to the expert evidence.<sup>10</sup> In so doing, it explained the general approach which the SICC takes in assessing expert evidence before it.
14. I make two observations. My first observation is rather obvious, but sometimes one must state the obvious. While *CSDS v SIA* concerned expert evidence in the context of an SICC case, the general principles which the Court of Appeal applied are the same as the principles that our courts have applied to expert witnesses in other contexts, including both civil trials and criminal prosecutions. This is to be expected. The forensic examination of a witness's credibility is a logical process.

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<sup>8</sup> *CSDS Aircraft Sales & Leasing Inc v Singapore Airlines Ltd* [2023] 2 SLR 91 at [36].

<sup>9</sup> *CSDS Aircraft Sales & Leasing Inc v Singapore Airlines Ltd* [2023] 2 SLR 91 at [4], [28] and [52].

<sup>10</sup> *CSDS Aircraft Sales & Leasing Inc v Singapore Airlines Ltd* [2023] 2 SLR 91 at [36]–[37], [42]–[44] and [53].

Notions of rationality do not change depending on whether we are dealing with international commercial litigation, a civil suit or a criminal proceeding.

15. Thus, the Court of Appeal explained in *CSDS v SIA* at [32] that “[t]he court’s determination as to whether it should accept parts of an expert’s evidence is guided by considerations of consistency, logic and coherence – and this requires a scrutiny of the expert’s methodology and the objective facts which he relied on to arrive at his opinion”.<sup>11</sup>
16. This is common-sensical. How much weight to accord to the evidence of an expert will have to depend on a fact-sensitive assessment of how reliable different aspects of their evidence are. It is not a binary ‘all-or-nothing’ choice. This is no different from the approach of the Court of Appeal in *Armstrong, Carol Ann (executrix of the estate of Peter Traynor, deceased, and on behalf of the dependents of Peter Traynor, deceased) v Quest Laboratories Pte Ltd and another and other appeals* [2020] 1 SLR 133 at [92], which held in the context of a medical negligence suit that the trial judge is not bound by expert opinion and must assess the relative weight to be accorded to an expert witness’s evidence in the round.<sup>12</sup> Accordingly, “[t]he ultimate consideration in deciding whether to reject or accept expert evidence, and whether to do so in part or in whole, is driven by, among other things, considerations of consistency, logic and coherence, and with a

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<sup>11</sup> *CSDS Aircraft Sales & Leasing Inc v Singapore Airlines Ltd* [2023] 2 SLR 91 at [32].

<sup>12</sup> *Armstrong, Carol Ann (executrix of the estate of Peter Traynor, deceased, and on behalf of the dependents of Peter Traynor, deceased) v Quest Laboratories Pte Ltd and another and other appeals* [2020] 1 SLR 133 at [4] and [89]–[92].

powerful focus on the objective evidence before the court”.<sup>13</sup> This case was cited with approval in *CSDS v SIA* at [32].<sup>14</sup>

17. Applying this principle, the SICC judge had been correct to depart from the SIA expert’s evidence where there was a logical reason to do so. He valued the aircraft with reference to *both* expert opinion *and* external facts, such as the US\$1.315m bid for the aircraft’s parts made by a third-party in response to SIA’s March 2019 Request for Proposals. He used the bid offer as a benchmark to estimate the likely market value of the aircraft, then checked the accuracy of his valuation against SIA’s expert’s range of estimated market values of that aircraft model.<sup>15</sup> Indeed, like all other witnesses, expert evidence is never assessed in isolation. Regard must always be had to the extrinsic facts and circumstances, and the extent to which they increase or reduce the weight to be accorded to different aspects of an expert witness’s testimony.
18. This brings me to my second observation on *CSDS v SIA* – the general principles the court applies to assess the weight and credibility of expert evidence are not all that different from the approach taken for witnesses more generally. Of course, this is not to suggest that there are no practical differences between expert witnesses and other kinds of witnesses. Experts opine on matters falling within their field of expertise, which often falls outside the expertise of the court. Even

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<sup>13</sup> *Armstrong, Carol Ann (executrix of the estate of Peter Traynor, deceased, and on behalf of the dependents of Peter Traynor, deceased) v Quest Laboratories Pte Ltd and another and other appeals* [2020] 1 SLR 133 at [92].

<sup>14</sup> *CSDS Aircraft Sales & Leasing Inc v Singapore Airlines Ltd* [2023] 2 SLR 91 at [32].

<sup>15</sup> *CSDS Aircraft Sales & Leasing Inc v Singapore Airlines Ltd* [2023] 2 SLR 91 at [38]–[44].

so, witnesses of fact provide evidence of facts which they witnessed first-hand, events which often fall outside of the judge's first-hand experience. Yet trial judges can depart from the evidence provided by witnesses of fact, which may sometimes be accorded little weight or adjudged to be unreliable, based on much the same forensic examination process applied to *all* witnesses generally, *including* expert witnesses.

19. A similar observation was made in the High Court case of *Sakthivel Punithavathi v Public Prosecutor* [2007] 2 SLR(R) 983 at [76]. The court noted that a judge should not “unquestioningly accept unchallenged evidence. Evidence must invariably be sifted, weighed and evaluated in the context of the factual matrix and in particular, the objective facts. ... In reality, substantially the same rules apply to the evaluation of expert testimony as they would to other categories of witness testimony. Content credibility, evidence of partiality, coherence and a need to analyse the evidence in the context of established facts remain vital considerations”.<sup>16</sup> That case concerned the evaluation of medical expert evidence in the context of a criminal prosecution for an offence against the person,<sup>17</sup> and it was relied on and applied by the Court of Appeal in *CSDS v SIA* at [49].<sup>18</sup>
20. Consequently, factors such as the testimony's internal and external consistency, the logical coherence or cogency of the explanations given, the inherent probabilities of an assertion being true or false, these are all relevant to assessing

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<sup>16</sup> *Sakthivel Punithavathi v Public Prosecutor* [2007] 2 SLR(R) 983 at [76].

<sup>17</sup> *Sakthivel Punithavathi v Public Prosecutor* [2007] 2 SLR(R) 983 at [1] and [33]–[54].

<sup>18</sup> *CSDS Aircraft Sales & Leasing Inc v Singapore Airlines Ltd* [2023] 2 SLR 91 at [49].



the weight to be accorded to the evidence of an expert and non-expert both, in international commercial litigation before the SICC *and* for other kinds of cases litigated before other courts more generally.

21. The concession made by SIA's expert during cross-examination – which the SICC judge had rejected as a mistake – provides a useful illustration of this point. The aircraft that was to be sold by SIA to CSDS was supposed to be sold *without* its engines. Hence, in arriving at his valuation in his report, the expert had subtracted the estimated market value of two Trent 884 engines used with Boeing 777-212 models such as the aircraft in the contract. In cross-examination, CSDS's counsel had put to the expert that this was an error, that he ought to have subtracted the value of two Trent 875 engines instead, since those were the engines that were used with the Boeing 777-200 model, which was the model the expert used as a comparator to take the IBA Group's valuation as the starting point for his calculations. The expert agreed and he maintained that concession even in response to the questions of the SICC judge, who suggested to him that his concession may have been mistaken.<sup>19</sup>
22. The issue was whether the SICC judge erred in departing from the evidence of an expert, testifying on a matter falling within his expertise, making a concession to the other party. In CSDS's view, the SICC judge ought to have accepted the

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<sup>19</sup> *CSDS Aircraft Sales & Leasing Inc v Singapore Airlines Ltd* [2023] 2 SLR 91 at [19]–[23] and [45]–[47].

expert's concession on the stand.<sup>20</sup> Ordinarily, a party is bound by evidence given by a witness on its behalf.

23. However, when drawing factual inferences from *any* witness's evidence, judges take a step back and apply broader logic and common-sense. Sometimes, it is clear from the facts and surrounding circumstances that a witness has made a mistaken statement in his or her evidence. That is true for both lay witnesses and expert witnesses alike.
24. The Court of Appeal in *CSDS v SIA* concluded that that was indeed the case in that matter. The initial approach taken by the expert in his report had been a rational one. He used the IBA Group's valuation of the 777-200 model as a comparator. He adjusted that valuation upwards to account for the fact that the 777-212 model in the contract had a higher maximum take-off weight. Having made that upwards adjustment to estimate the value of a 777-212 plane, the expert then deducted the value of the engines that would be used on a 777-212 plane (Trent 884). He did not deduct the value of the engines that would be used on a 777-200 plane (Trent 875) since that plane's valuation had only been used as a *starting point* to estimate the value of a 777-212 plane.<sup>21</sup>
25. In these circumstances, the expert's concession had itself been mistaken. It was not sensible to deduct the value of the engine used on a 777-200 plane from the expert's estimated valuation of a 777-212 plane. The more likely explanation for

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<sup>20</sup> *CSDS Aircraft Sales & Leasing Inc v Singapore Airlines Ltd* [2023] 2 SLR 91 at [4] and [28].

<sup>21</sup> *CSDS Aircraft Sales & Leasing Inc v Singapore Airlines Ltd* [2023] 2 SLR 91 at [51].

the concession is that the expert may perhaps have been confused by the question posed to him by CSDS's counsel, which put to him that "if you choose to start with the [Boeing 777-200] non-extended range then it is proper for you to use the Trent 875 engines instead". The expert responded with a tepid reply of "I think -- yeah, I think that's fair".<sup>22</sup> Again, this is a scenario that is not unique to expert witnesses. Witnesses of fact also sometimes make mistaken concessions in response to cross-examination questions which are phrased in a leading way and framed in the light most favourable to that party's case. A witness may give an answer based on a confused or mistaken understanding of the question's premises.

26. The judge is not, however, compelled to accept the concession without question. Even if the concession is maintained in re-examination or – as in this case – in response to questions from the bench, the judge must still apply her mind by looking at the evidence as a whole and the circumstances in which the concession was made, and determine whether or not the concession makes logical sense. In *CSDS v SIA*, it did not. The expert's methodology in his valuation report had made sense, whereas his concession extracted in cross-examination did not. Hence, the SICC judge correctly rejected the expert's concession as a mistake.<sup>23</sup>
27. In short, the approach to the expert's evidence in *CSDS v SIA* accorded with logic, common-sense, and practical justice. It was based on a fact-sensitive and context-specific assessment of the weight and reliability of different aspects of the expert's evidence, based on the surrounding circumstances and the external evidence. The

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<sup>22</sup> *CSDS Aircraft Sales & Leasing Inc v Singapore Airlines Ltd* [2023] 2 SLR 91 at [46].

<sup>23</sup> *CSDS Aircraft Sales & Leasing Inc v Singapore Airlines Ltd* [2023] 2 SLR 91 at [48]–[53].

Court of Appeal confirmed that the same principles that are applied in forensic examination of witness testimony in non-SICC contexts apply also in litigation before the SICC. The inquiry in every case is simply whether the evidence in question is reliable or not, which will invariably depend on what inferences are logical and reasonable to draw, based on the circumstances.

### **III. How expert witnesses assist judges to do justice**

28. Expert witnesses have a duty to assist judges to do justice. This duty overrides their duty to their client. The SICC Rules 2021 provide in O 14 r 1 that an expert witness has an overriding “duty to assist the Court in the matters within the expert’s expertise and on the issues referred to the expert”.<sup>24</sup> I note as well that the Code of Conduct for Experts of the Asia Pacific Institute of Experts (“APIEx”) provides that “APIEx Members should serve the interest of justice and must produce expert evidence in an impartial manner, avoiding bias or prejudice in favour of, or against, any party”.<sup>25</sup>
29. This raises the distinction between expert witness and judge. The role of an expert is to opine on matters within their field of expertise while the judge makes the final determination of fact and law. In common law, this has often been termed the ‘ultimate issue’ principle – *ie*, the principle that expert evidence should not opine “on the very issue the court has to determine”.<sup>26</sup> For example, *CES v*

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<sup>24</sup> Singapore International Commercial Court Rules 2021, O 14 r 1(2)–(3).

<sup>25</sup> Asia Pacific Institute of Experts (APIEx) Code of Conduct for Experts (11 August 2022), cl 6.1.

<sup>26</sup> *Director of Public Prosecutions v A and B C Chewing Gum Ltd* [1968] 1 QB 159 at 163–164.

*International Air Transport Association* [2020] 4 SLR 44 at [101]–[104] clarified that the function of an expert witness on foreign law is to identify relevant judgments and assist the court in understanding the authorities, but refrain from giving “opinions on the conclusions which the court ought to draw”.<sup>27</sup> [I note in parenthesis that in the SICC we generally hear submissions on foreign law rather than evidence of it from experts.]

30. Another important point, one that was emphasised in *CSDS v SIA* is that expert evidence must be considered within the totality of the evidence. There is no hierarchy of evidence, and it is certainly not the case that expert evidence has a privileged status. Nonetheless, expert evidence is often valuable and may even be decisive. The English Court of Appeal in the case of *Re M and R (minors) (sexual abuse: expert evidence)* [1996] 4 All ER 239 at 249–251 famously held that questions such as whether a child was suffering abuse or was making a credible allegation of abuse are *both* questions of fact for the court to decide but *also* matters on which an expert may give their opinion.<sup>28</sup>
31. I would now make a practical point. Expert evidence by definition is given on matters “when the court is likely to derive assistance from an opinion upon a point of scientific, technical or other specialised knowledge”: Evidence Act 1893 s 47(1). This means the court receives expert evidence precisely because it concerns matters beyond ordinary lay experience. But fields of expertise differ in terms of

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<sup>27</sup> *CES v International Air Transport Association* [2020] 4 SLR 44 at [101]–[104].

<sup>28</sup> *Re M and R (minors) (sexual abuse: expert evidence)* [1996] 4 All ER 239 at 249–251.

how specialised they are and how far removed from the ordinary experience of judges.

32. Sometimes, expert evidence involves complex and technical subject-matter such as specialised medical knowledge or the operation of novel technology. Here, the court should be circumspect in applying general principles of logic without testing them carefully with the relevant experts. Lawyers may encounter many cases involving for example engineering but should never make the mistake of thinking that because of that they could build a building. A good example of highly specialised expert opinion in the SICCC comes from the case of *B2C2 Ltd v Quoine Pte Ltd* [2019] 4 SLR 17 at [26]–[27], which concerned the validity of cryptocurrency trades effected over an online currency exchange platform between algorithmic trading software programs. Expert evidence was admitted concerning how the plaintiff’s algorithmic trading software functioned and its practical effects on the trades effected.<sup>29</sup> A judge may naturally be more reticent about disagreeing with an expert’s findings or doubting the logic or rationality of their reasoning process where highly technical matters outside of their comfort zone are engaged. Nonetheless, even on such arcane matters, the judge must still apply her mind and examine the correctness of the expert’s premises and the reasoning process employed.<sup>30</sup>

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<sup>29</sup> *B2C2 Ltd v Quoine Pte Ltd* [2019] 4 SLR 17 at [26]–[27], [33]–[42] and [81]–[105].

<sup>30</sup> *Poh Soon Kiat v Desert Palace Inc (trading as Caesars Palace)* [2010] 1 SLR 1129 at [23]; *Armstrong, Carol Ann (executrix of the estate of Peter Traynor, deceased, and on behalf of the dependents of Peter Traynor, deceased) v Quest Laboratories Pte Ltd and another and other appeals* [2020] 1 SLR 133 at [90]; *Sakthivel Punithavathi v Public Prosecutor* [2007] 2 SLR(R) 983 at [75]–[76].

33. However, not all fields of expertise are so specialist in nature or so removed from the typical experience of judges. Indeed, recent decades have seen greater use of expert evidence on matters that in the past might well have been determined by judges without the assistance of experts. Let me explain this by some examples. Deciding how much to pay for things is very much a part of modern life. Traders and businessmen make decisions about value all the time. In addition, lawyers, and especially commercial lawyers, encounter questions of valuation all the time. The same point might well be made of accounting questions. Judges sometimes make assessments of value or read financial statements without needing expert assistance. Both valuation and accounting may be said to be fields adjacent to the practice of law. Hence, courts may readily assess expert evidence in these fields based on logic and experience. It is probably fair to say that many lawyers have acquired some understanding of how an undertaking may be valued, including application of the ‘discounted cash flow’ (DCF) method of valuing an asset based on its expected future income. In such cases, judges may perhaps be more inclined to comment on the valuation expert’s reasoning process and how they reached the conclusion that the DCF method should or should not be applied to an asset, as compared to alternative valuation methods such as looking at previous transactions or purchase offers in relation to that asset or comparable assets.<sup>31</sup>
34. Other examples come from expert evidence given in relation to assessment of damages. These frequently touch on factual causation of loss or the acceptance or

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<sup>31</sup> *Abhilash s/o Kunchian Krishnan v Yeo Hock Huat and another* [2019] 1 SLR 873 at [56]–[76]; *Christie, Hamish Alexander (as private trustee in bankruptcy of Tan Boon Kian) v Tan Boon Kian and others* [2021] 4 SLR 809 at [36]–[41].

rejection of different types of consequential losses, issues which judges adjudicate on regularly and often, and indeed may involve questions of law as well. An example of this may be seen in *Kiri Industries Ltd v Senda International Capital Ltd and another* [2023] 3 SLR 140. There, the SICC placed less weight on the report of an expert concerning the proper estimation of the notional licensing fee that would be due to a joint-venture company by a third-party infringer for the purposes of valuing that company's shares.<sup>32</sup> The SICC held that the methodology employed in the expert report made unsupportable assumptions – like assuming that the joint-venture company's sales were a reliable yardstick to estimate the scale of the infringer's production of the same – or had been based on data in financial documents which a party had not disclosed and thus could not be independently verified.<sup>33</sup> These are the kinds of arguments which commercial judges and litigators regularly make in the course of ascertaining the consequential losses sustained by a plaintiff and flowing from a defendant's breach, being a question of mixed fact and law.

35. This provides some useful context in understanding the SICC's treatment of the expert evidence in *CSDS v SIA*. Indeed, the question of market value of SIA's aircraft involved both factual evidence and expert opinion. It touched on issues such as prevailing market conditions in the aviation industry and the common factors which buyers look at to determine the price they are willing to pay for an

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<sup>32</sup> *Kiri Industries Ltd v Senda International Capital Ltd and another* [2023] 3 SLR 140 at [1]–[6], [16] and [20]–[21].

<sup>33</sup> *Kiri Industries Ltd v Senda International Capital Ltd and another* [2023] 3 SLR 140 at [17] and [20].



aircraft. These will fall squarely within the expertise of an aviation industry professional. It also engages questions of fact which SICC judges regularly decide, including the weight to be accorded to different indicia of a property's value. The judge had to balance a prior bid for the component parts of SIA's aircraft by a third-party against the expert's reliance on the market valuation of comparator aircraft.<sup>34</sup> Balancing different factors to reach a final determination on a question of fact is the quotidian work of a judge.

#### **IV. Impugning the impartiality of expert witnesses**

36. I end with a brief observation. Expert witnesses provide an invaluable contribution to the administration of justice. They provide insight into areas that judges may have little familiarity with and allow courts like the SICC to reach a better-informed decision. In assisting the court, experts must always keep front-and-centre their overriding duty to the court. Experts stake their reputations on the opinions they proffer to the court. They offer themselves up for cross-examination in an adversarial process. Opposing counsel may grill an expert not only on the substance of his opinion but also on his qualifications and even his impartiality. Experts are often accused of advocating for their clients, an accusation which entails lack of professionalism on the part of the expert.

37. One side of the coin is the expert's duty to the court. The other side of the coin is that counsel must only allege partiality, bias or other professional impropriety

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<sup>34</sup> *CSDS Aircraft Sales & Leasing Inc v Singapore Airlines Ltd* [2023] 2 SLR 91 at [36]–[38] and [41]–[42].

when they have a proper basis to do so. It is in a sense a tempting accusation to make, because if it is accepted it undercuts the entirety of the evidence, and there is no need for counsel to engage with the substance of the expert opinion. Part of the judge's role in umpiring the adversarial contest and ensuring procedural fairness is intervening to rule out attacks made without proper basis.

38. In *Kiri Industries Ltd v Senda International Capital Ltd and another and other appeals and other matters* [2022] SGCA(I) 5 at [42], our Court of Appeal made short shrift of personal attacks levelled against expert witnesses who had given evidence in the SICC hearing below. Where counsel described the experts' opinions with such words and phrases as "charade", "blatant untruth", "sleight of hand", or "conveniently and brazenly" made, Robert French J took a dim view, describing them as "distracting polemic" and "conclusionary epithets impugning the integrity of an expert witness" that were of "little assistance to this court on the appeal".<sup>35</sup>

## V. Conclusion

39. Expert opinion evidence plays an important role in the administration of justice. I commend this institute for its efforts to raise and maintain standards through education and the sharing of experience. I thank you all for your kind attention and I look forward to hearing your perspectives on the assessment of expert evidence before the SICC.

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<sup>35</sup> *Kiri Industries Ltd v Senda International Capital Ltd and another and other appeals and other matters* [2022] SGCA(I) 5 at [42].