



A application for leave and there's no application for  
B extension of time.

C Be that as it may, we note that the petition is being  
D opposed and we obviously will need time to file affidavit  
E evidence and so on, so the matter will have to be adjourned  
F to the companies judge. And I note next week will be a  
G public holiday, so it will be the following week.

H The other matter is that there is a striking-out summons  
I before the court today which was issued by the company on...

J COURT: Actually, this was going to be a question I was minded to  
K raise because, yesterday, when I was reading the file...

L MS TONG: Yes.

M COURT: ...I couldn't find the summons. I only spotted it was  
N mentioned in the affidavit, that is also the affidavit in  
O support of the striking-out application...

P MS TONG: Yes.

Q COURT: ...but I couldn't find the summons at all. When was it  
R filed?

S MS TONG: It was filed on 10 November 2016.

T COURT: I see, it was much earlier than that.

U MS TONG: And it has been listed to be heard today before Master.  
V But be that as it may, my learned friend has confirmed that  
W the company would no longer pursue that summons, and so we  
X will ask the court to dismiss the summons with costs.

Y COURT: How come the affirmation filed yesterday was still saying  
Z that it was filed in support of the striking-out  
application?

A MS TONG: You will have to ask my learned friend, but I believe  
B that the striking-out mentioned in the affirmation may be  
C different from the striking-out summons which was issued on  
D 10 November. Master, the 10 November summons was to strike  
E out the petition on the basis that Rule 26 of the Companies  
F Winding Up Rules was not complied with, which is clearly  
G wrong. But be that as it may, the striking-out referred to  
H in Mr Hopkin Chan's affidavit appears to be on the basis of  
I the merits of the petition and it being an abuse of process.  
J So I believe that there are two separate matters. Master,  
K I've got a copy of the summons here if it would assist.

L COURT: Yes, please.

A MS TONG: So on that summons, I would respectfully ask the court  
B to make an order to dismiss the summons with costs to the  
petitioner.

C COURT: Yes. Mr Cheng.

D MR CHENG: May it please you, Master, I appear for the  
E respondent. Insofar as the striking-out summons is  
concerned, I confirm that we will seek leave to withdraw the  
summons and we agree that costs has to be paid to the  
petitioner.

F COURT: So how do you want to deal with the costs? Should it be  
taxed or should it be summarily assessed?

G MS TONG: Perhaps the order can be made for taxed costs because  
we don't have a summary bill at the moment.

H COURT: Forthwith?

I MR CHENG: Sure, forthwith.

J MS TONG: Yes and we do ask for dismissal, Master, because  
there's obviously no merit in it and rather than for  
withdrawal.

K COURT: Well, I haven't heard and I haven't got the time to go  
through everything.

L MS TONG: Very well, I'll leave it in Master's hands if that's  
the case.

M COURT: If you really want...

N MS TONG: It's actually very simple. They asked for striking-out  
O on the basis that we did not file a verifying affidavit, but  
we did. That's the only point and...

P COURT: Well, if you really want to have the writ dismissed on  
the grounds of merits, I'll have to stand this matter down  
and then I'll read through papers and see whether it's...

Q MS TONG: Well, then to save time and costs, then we'll stick  
with the withdrawal then.

R COURT: I suppose, in effect, there's no difference.

S MS TONG: It's the same. Yes.

T COURT: Leave for the respondent to withdraw the summons filed on  
U 10 November 2016, with costs to the petitioner to be taxed  
forthwith if not agreed.

A So Mr Cheng, what about Mr Hopkin Chan's affirmation which  
B was only filed yesterday, in which -- in paragraph 2 of  
which it was mentioned that this is in support of the  
respondent's application for the petition to be struck out.

C MR CHENG: Yes.

D COURT: Is there going to be another striking-out application  
taken out?

E MR CHENG: I do not think that's the case. I believe it's simply  
F a clerical mistake to include that phrase, maybe mistakenly  
referring to the striking-out summons we seek to withdraw  
today.

G COURT: All right, so I'll just remind you, if you are minded to  
do so, you have to take immediate steps to do so.

H MR CHENG: Certainly.

I COURT: The matter has to be adjourned to be heard by the  
companies judge anyway.

J So I adjourn the petition to 13 February 2017 - because I  
K have been told that there is no hearing before the companies  
judge on 6 February, so 13th is the first available date -  
at 9.30 am.

L Cost reserved?

M MS TONG: Yes.

N MR CHENG: Yes.

O COURT: Thank you very much.

Court adjourns - 9.49 am  
25 January 2017

Q I/we certify that to the best of our ability and  
R skill, the foregoing is a true transcript of the  
audio recording of the above proceedings

S 

T .....  
U Tolaigus Wan  
Date: 7 April 2017