

## Impending Disposition of Property

### Frequently Asked Questions

**Q1. What is a disposition of property? What does an impending notable disposition of property in the MEO's interim report mean?**

A disposition of property involves transferring ownership or control over a property to another person. It may involve a sale, gift, expenditure, or any other transfer of property rights.

The MEO's interim report has identified that the Respondent may be intending to dispose a property that he or she currently owns or control.

**Q2. What can you do to prevent the Respondent's impending disposition of property?**

You can apply to the Family Justice Courts ("FJC") for a court order to prohibit the Respondent from disposing his or her property until the maintenance enforcement application has been decided. This is called an injunction.

The injunction application is made under section 139M(1)(b) of the Women's Charter.

**Internal note to Jian Yi/Stephen:** The common law requirements for a grant of a (local) Mareva injunction are as follows:

- (a) There is a valid and justiciable cause of action over which the court has jurisdiction
- (b) The applicant has a good arguable case on the merits
- (c) The respondent has non-third party assets within the jurisdiction
- (d) There is a real risk of dissipation (and not a mere possibility or unsupported fear).

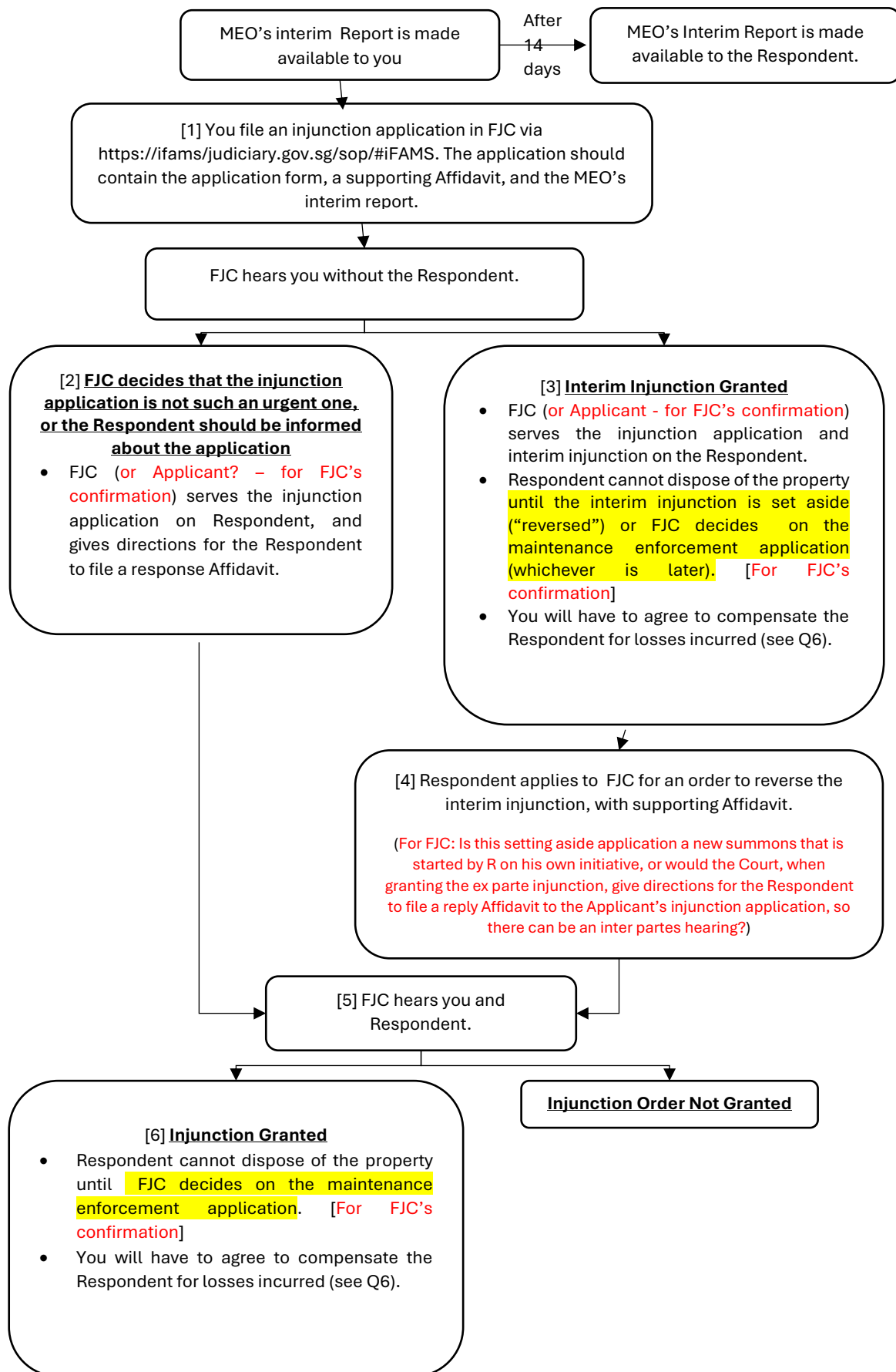
But I didn't include the above the in the standard write-up because I think the criteria are already naturally fulfilled in a maintenance enforcement case.

- (a) FJC def has jurisdiction over the case
- (b) There is already a maintenance order to which the Applicant is owed arrears. There's no dispute that the applicant has a good arguable case.
- (c) MEO's report would show that the respondent has assets within jurisdiction that he is trying to dissipate
- (d) MEO's report, in identifying the potential impending disposition of property, will already go towards proving that there is a real risk of dissipation (though it is not guaranteed)

Note: These are the additional requirements for a worldwide Mareva injunction, but I don't think our MEO's will be able to detect dissipation of international assets because their fact-finding powers don't extend to international assets:

- (e) The applicant must show that there are either no or insufficient assets within jurisdiction to satisfy the claim
- (f) The applicant must show that there are assets outside jurisdiction
- (g) Principles of international comity should not be offended (as a worldwide Mareva injunction is essentially an assertion of extraterritorial jurisdiction)

**Q3. What is the process for applying for an injunction under section 139M(1)(b) of the Women's Charter?**



- (1) **Filing an injunction application without notifying the Respondent** - You can file for an injunction application without needing to inform the Respondent about the

application. This is so that the Respondent will not attempt to dispose of the property before the injunction can be made. The Court will hear your application without the Respondent present.

You can file the without notice injunction application through FJC's Integrated Family Application Management System ("iFAMS") at <https://ifams/judiciary.gov.sg/sop/#iFAMS> using your Singpass, under "Maintenance Order Application > Application for variation or enforcement of existing maintenance order > Injunction".

You must:

- (a) Fill up the application form on iFAMS.
- (b) Upload an Affidavit, which should include:
  - (i) The MEO's interim report;
  - (ii) An explanation on the urgency of the injunction application and why the Respondent should not be informed about the injunction application; and
  - (iii) The merits of the injunction application.<sup>1</sup>

You have a duty to disclose all material facts you know or reasonably ought to know, including anything that may negatively impact your case.<sup>2</sup>

It costs \$x to file an injunction application.

- (2) **If the Court decides the injunction application is not such an urgent one or the Respondent should be informed of the application<sup>3</sup>** - Despite you filing for a without notice injunction application, the Court may decide that your application is not so urgent or the Respondent should be informed. FJC will notify the Respondent of your injunction application, and give directions for the Respondent to file a reply Affidavit. The Respondent can file his or her reply Affidavit through FJC's iFAMS.
- (3) **If the Court decides the injunction application is urgent, and grants an interim injunction** – On the other hand, if the Court decides that the injunction application is urgent, it may hear the application in the Respondent's absence, and grant an interim (i.e. temporary) injunction. This will prohibit the Respondent from disposing his or her property until the interim injunction is set aside ("reversed") or FJC decides on the maintenance enforcement application, whichever is later. You will have to agree to compensate the Respondent for losses incurred (see Q6 below).

FJC will serve your injunction application and the interim injunction on the Respondent. It will also give directions to the Respondent to file a [reply Affidavit / application to set aside the injunction] (if necessary).

- (4) **Respondent files [reply Affidavit / application to set aside the injunction]** – If the Respondent wishes to challenge the injunction, the Respondent can file a [reply

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<sup>1</sup> P. 14, r. 1(3)(b) of the Family Justice (General) Rules

<sup>2</sup> P. 14, r. 7 of the Family Justice (General) Rules

<sup>3</sup> P. 14, r. (4) of the Family Justice (General) Rules

affidavit / application to set aside the injunction order (without supporting Affidavit)] on FJC's iFAMS. FJC will serve the reply Affidavit / setting aside application on **you**.

- (5) **Injunction hearing with both parties** – After (2) and (4), the Court will fix **a date** to hear both parties, and decide whether to grant an injunction, **make the interim injunction order final** or set aside the interim injunction (if one was already made under step (3)).
- (6) **Injunction granted** – If an injunction is granted, the Respondent will be prohibited from disposing of his or her property until **FJC decides on the maintenance enforcement application**. **You** will have to agree to compensate the Respondent for losses incurred (see **Q6** below).

**To FJC:**

1. **Step (1) Injunction Application Form** - As previously agreed, there will be a standard application form for a s 139M application, to guide the Applicant to (i) set out her arguments and evidence in a way that satisfies the legal thresholds, and (ii) require the Applicant to provide, in a detailed and systematic fashion, full and frank disclosure of all relevant facts and circumstances.



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The draft standard application form is in the cover email, for FJC's review and for discussion.

2. **Step (1) iFAMS portal** - As previously discussed, when there is an ongoing maintenance enforcement application, the injunction application will be an interlocutory application in the enforcement application. We seek FJC's confirmation that the standard application form will be placed on iFAMS. We suggest that it be placed under Maintenance Order Application > Application for variation or enforcement of existing maintenance order > **Injunction** in the iFAMS website.
3. **Step (1) Application of P. 14 r. 1** - For confirmation that P. 14, r. 1 of the FJGR applies for urgent s 139M(1)(b) injunction applications.
4. **Step (1) Merits of the application** – P. 14, r. 1(3)(b) requires a without notice injunction application to contain an Affidavit stating the “urgency and explaining why the respondent should not be informed about the application and the merits of the application”. Do we read it as the Supporting Affidavit has to contain:
- “Why the respondent should not be informed...about the merits of the application”
  - Or the “merits of the application” is one of the three things that the supporting Affidavit has to contain (the other two things being (i) urgency and (ii) why the respondent should not be informed about the application)

We took the 2<sup>nd</sup> interpretation.

5. **Step (1) Merits of the application** - P. 14, r. 1(3)(b) requires a without notice injunction application to contain an Affidavit stating the “merits of the application”.

Does the “application” in r. 1(3)(b) refer to the injunction application or the main application (in our case, the enforcement application).

- To the best of our understanding, a Mareva injunction requires an Applicant to show that he has a good arguable case on the merits. This refers to the main application rather than the injunction application.
- However, the way r. 1(3)(b) is worded (especially the chapeau in r. 1(3)) suggests that r. 1(3)(b) requires the Applicant to explain the merits of the injunction application.

6. **Step (1) Cost** - Could FJC let us know how much it would cost to file an injunction application?

7. **Steps (2), (3) and (4) Service of injunction application and interim injunction and R’s reply Affidavit / setting aside application** - Can we confirm that if the injunction application is filed on iFAMS, FJC will be the one serving the injunction application and the injunction order on the Respondent (and not the Applicant serving it on the Respondent). We are assuming the same workflow for an injunction applies as when the Applicant files a maintenance enforcement application (i.e. FJC serves on the Respondent).

Otherwise, if it’s the Applicant who serves the injunction application or injunction order on the Respondent, how will the Applicant notify the Court via iFAMS that they have indeed served the injunction application or order? Or can the Applicant serve via iFAMS (similar to how one can serve via eLit?)

Similar considerations apply to service of R’s reply affidavit / setting aside application in Step (4).

8. **Step (4) Respondent challenging an interim injunction** - When FJC grants an interim injunction, would it at the same time give directions for the Respondent to file a reply Affidavit to the Applicant’s injunction application? Or is the Applicant’s injunction application concluded, and the Respondent will have to, on his own accord, file to set aside the injunction order?

9. **Step (4) / (5) Inter partes hearing** – Can we also check that these are the timelines / Affidavits that can be filed, leading up to the inter partes hearing?

Situation 1: If R is filing a reply Affidavit in the Applicant’s injunction application

1. FJC will give directions for R to file reply Affidavit within 14 days of the service of the injunction application and interim injunction (P. 5, r. 15(6))
2. Applicant will have no further right of reply, unless with approval of Court (P. 5, r. 15(7)).
3. Court will fix the matter for hearing. How many weeks will Court fix the matter for hearing for after R files his reply Affidavit?

Situation (2): If R is filing a setting aside application

1. R will have to initiate the setting aside application. He will file this via Summons (P. 5, r. 15(1)).
2. Applicant to file a Reply Affidavit within 14 days after being served the summons (P. 5, r. 15(6)).
3. Respondent has no further right of reply, unless with approval of Court (P. 5, r. 15(7)).
4. Court will fix the matter for hearing. How many weeks will Court fix the matter for hearing after A files the reply Affidavit?

10. **Step (3) and (6) Time limits for the granting of an injunction** - To confirm that
- For a Step (3) interim injunction, the injunction lasts until it is set aside (or made final?) or until a decision is made on the maintenance enforcement application, whichever is later
  - For a Step (6) injunction, the injunction lasts until a decision is made on the maintenance enforcement application.

**Q4. Is there a deadline for you to file the injunction application?**

There is no deadline to file an injunction application. However, the MEO's interim report will be made available to the Respondent 14 days after it is made available to you.

**Q5. Is there a deadline for you to apply for legal aid from the Legal Aid Bureau to assist with the filing of the injunction application?**

There is no deadline to apply for legal aid from the Legal Aid Bureau. However, if you wish to obtain legal aid to file the injunction application *before* the interim report is released to the Respondent, you are highly encouraged to approach the Legal Aid Bureau at least 5 working days before the end of the 14-day timeline (for the release of the report to the Respondent).

**Q6. What is an agreement to compensate the Respondent for losses incurred ?**

If an injunction or an interim injunction is to be granted, you will be required by the Court to agree to compensate the Respondent for losses that he or she may incur, if it is subsequently decided [at the maintenance enforcement hearing] that the injunction or interim injunction ought not to have been granted. This is also known as an undertaking as to damages.

You will be required to agree that:

“If the Court later finds that this [injunction] order has caused loss to the Respondent, and decides that the Respondent should be compensated for that loss, the Applicant will comply with any order the Court may make.”

**Q7. When may the Court find that you should compensate the Respondent for loss?**

The Court may find that you should compensate the Respondent for loss suffered as a result of the injunction, where it is subsequently decided that the injunction should not have been granted. This may happen where, for example:

- You are unable to prove that the Respondent was in breach of the maintenance order.
- You did not make full and frank disclosure of material facts, which led to the injunction being granted.
- You abused the injunction process for an improper purpose.

**Q8. What happens if you are not successful in the application for an injunction, e.g. you fail to obtain an injunction, or the court decides to reverse the interim injunction?**

You may be ordered to pay the Respondent compensation for losses such as: financial losses, loss of business opportunities, or other losses which the Respondent can prove, as well as the Respondent's legal costs, if he or she is represented.



**Q9. Does the identification of the potential impending notable disposition of property in the MEO's interim report guarantee that the Court will grant an injunction?**

No. The MEO's interim report shows that the Respondent may be about to dispose of property. It is for the Court to decide if there is a real risk of the property being disposed of. The Respondent may also prove that he or she does not intend to dispose of the property to reduce his or her means to pay maintenance.


**Q10. What would the injunction order look like?**

An injunction order can prohibit the disposal of property either in Singapore, or worldwide. These can be found at **Forms X and X** in the Family Justice Practice Directions.

**To FJC:** These are the forms mentioned in P. 14, r. 1(8) and r. 1(9) of the FJGR. We assume that these will look like Form 24 and 25 of the ROC 2021/Supreme Court PD, attached below.

Form 24	 SUPCT_new PDs (Appendix A - Form :
Form 25	 SUPCT_new PDs (Appendix A - Form :

Can we confirm that the injunction order that a Court will make under s 139M(1)(b) will be made under P. 14, r. 1, and the injunction order will look like that stated in P. 14, r. 1? Or will there be another rule for the s 139M(1)(b) injunction order? – We think this will depend on AGC's advice to DI S/N 18 which FJC sent to AGC on 19 July 2024.

DI S/N 18	 DI SN 18.docx
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One thing to bear in mind about the appropriateness of P. 14, r. 1 is that an injunction order under P. 14, r. 1 prohibits the disposal of all assets in Singapore / worldwide up to the amount stated, and not a particular asset.

**Q11. What can you do if the Respondent disposed of the property before you applied for the injunction?**

If the Respondent disposes of the property before you apply for an injunction, you can apply to set aside the disposition ("**setting aside application**"). This application is made under section 139M(1)(a) of the Women's Charter, and if granted, will "undo" the disposition.



You can file a setting aside application through FJC's iFAMS at <https://ifams/judiciary.gov.sg/sop/#iFAMS> using your Singpass, under "Maintenance Order Application > Application for variation or enforcement of existing maintenance order > Injunction".

You must:

- (a) Fill up the **application form** on iFAMS.
- (b) Upload an Affidavit, which should include the MEO's interim report.

It costs \$x to file a setting aside application.

**To FJC:**

1. We seek FJC's confirmation that the standard application form will be placed on iFAMS. We suggest that it be placed under Maintenance Order Application > Application for variation or enforcement of existing maintenance order > **Setting Aside a Disposition of Property** in the iFAMS website.
2. Please also let us know the cost of filing the setting aside application.

**Q12. What happens to the maintenance enforcement application after you receive the MEO's interim report?**

After the MEO's interim report is made available to you, the maintenance enforcement proceedings will be paused until the report is made available to the Respondent 14 days later. If you do not apply for an injunction application or a setting aside application by the end of the 14 days, the maintenance enforcement proceedings will resume.

If you apply for an injunction application or a setting aside application, the maintenance enforcement proceedings will resume only after the injunction or setting aside proceedings have concluded.

**Q10. Who can you approach for legal assistance?**

If you intend to seek legal assistance, you are advised to do so as soon as possible so that the necessary applications can be filed before the property is disposed.

You may refer to MinLaw's website at <https://eservices.mlaw.gov.sg/lra/search-lawyer-or-law-firm/>, which contains a directory of law firms and lawyers.

You may also consider applying for legal aid or assistance with the Legal Aid Bureau. The Legal Aid Bureau ("LAB") provides legal advice in civil matters to under-privileged Singaporeans and Permanent Residents who live in Singapore and qualify for their means test. Full details of LAB's Means Tests as well as other helpful information on LAB are available via the iLAB Chatbot on <https://lab.mlaw.gov.sg>. You can make an application online for legal advice/aid via LAB's Applicant Portal at

<https://eservices.mlaw.gov.sg/labesvc/> using your Singpass. Please note that LAB will take up to 10 working days to file an application for an injunction.

*[Internal note: Placeholder to include information on ProBono SG once we have reached out to them.]*

The above avenues of legal assistance are also available to Respondents.