

a fortiori *adv.*

1

/ˌeɪ fɔːʃiˈɔːri/ /ˌeɪ fɔːtiˈɔːri/

Latin From the more forceful

【中譯】 香港法庭判詞 ELDoS: 1 更何況；2 遑論；3 尤其（是）；4 更加；5 更甚的（是）；香港法例 BLIS: 一；其他 Others: 1 更不用說；2 更不容置疑地；3 更有充分理由；4 何況

Interpretations 釋義

Even more so; with stronger reason

比原來的事情程度更進一層；具備更充分的理由

Examples 例句

1. 更何況

a. Airview Park Property Management Limited vs. Sun Wai Chun

Case Number: CACV000271_1998

This in effect was that the DMC simply prohibited the actual erection of walls, not their toleration or retention by an owner **a fortiori** by a successor-in-title who did not carry out the works herself.

這理由實際上指該公契僅禁止實際豎立牆壁，沒有禁止業主容忍或保留牆壁存在，**更何況**所有權繼承人自己沒有做修築工程。

b. Airview Park Property Management Limited vs. Sun Wai Chun

Case Number: CACV000271_1998

Issues, **a fortiori** fundamental issues, cannot be allowed to be slipped in in such an oblique, obscure fashion.

我不能容許一項爭論點，**更何況**是根本爭論點，以這種轉彎抹角而隱晦方式溜入。

使用百分比

ELDoS: 28.57%

BLIS: 0.00%

2. 遑論

Sky Heart Limited vs. Lee Hysan Estate Company Limited

Case Number: FACV000009_1998

... a proposed appeal which exclusively involves or turns upon an error of fact ... will not attract special leave. **A fortiori**, where there are concurrent findings of fact by the primary judge and the intermediate appellate court.

……如擬提出的上訴完全關於或視乎對事實的裁斷是否錯誤……則不能獲得特別許可，**遑論**是原審和中級上訴法庭的一致事實裁斷。

使用百分比

ELDoS: 28.57%

BLIS: 0.00%

3. 尤其（是）

Bewise Motors Co. Ltd vs. Hoi Kong Container Services Ltd.

Case Number: FACV000004_1997

Likewise “nor” signals the end of part (2), **a fortiori** in conjunction with the immediately preceding comma.

同樣地，「也不」標誌着第（2）部分的完結，**尤其是在**其前面有一個逗號，兩者連用更突顯了這個作用。

使用百分比

ELDoS: 14.29%

BLIS: 0.00%

4. 更加

Bewise Motors Co. Ltd vs. Hoi Kong Container Services Ltd.

Case Number: FACV000004_1997

I am unable to read this philosophical observation as authority for what may be perceived by the courts to be the reasonable expectations of honest men, to be utilised at large to modify or reject the plain meaning of the words in a contract, particularly a commercial contract, nor **a fortiori** to be utilised as the starting presumption here.

關於法庭如何理解何為誠實人的合理期望，本席認為上述的富哲學味道的論述不可以作為權威意見；也不可以隨意用這種期望來修改或拒納合約（尤其是商業合約裏的字眼本身明顯的意思；**更加**不可以在此用作最先的推定。

使用百分比	ELDoS: 14.29%
	BLIS: 0.00%

5. 更甚的（是）

Airview Park Property Management Limited vs. Sun Wai Chun

Case Number: CACV000271_1998

The judge, in my view, was right in refusing to allow Mr Woo to raise the matter, **a fortiori** in the face of the objections made by the plaintiff's counsel, Mr Lam.

本席認為原審法官拒絕容許胡先生提出這事項做法正確，**更甚的是**法庭受到原告人代表大律師林先生提出反對。

使用百分比	ELDoS: 14.29%
	BLIS: 0.00%

ab initio *adj./adv.*

/ˌæb ɪˈnɪʃiəʊ/

Latin From the beginning

【中譯】 香港法庭判詞 ELDoS: 1 從一開始；香港法例 BLIS: 1 從一開始；2 一開始；其他 Others: 1 自始；2 由最初開始；3 從開始；4 自從；5 自行為的發端；6 發端；7 從頭開始

Interpretations 釋義

From the very beginning

從最初開始

Examples 例句

1. 從一開始

a. Section 54(4), Family Status Discrimination Ordinance (Cap. 527)

Without limiting the generality of the power conferred by subsection (3), the District Court may – ... (g) make an order declaring void in whole or part and either **ab initio** or from such date as may be specified in the order, any contract or agreement made in contravention of this Ordinance.

在不限制第(3)款所賦予的權力的一般性的原則下，區域法院可——……(g)作出命令宣告任何違反本條例的合約或協議從一開始或從該命令指明的其他日期開始全部或部分無效。

b. Lee Sai Kwong and another vs. Wong Wing Fai and another
Case Number: HCA003710_1997

The issue, then, was the recovery of damages, and amongst other things, the House of Lords was concerned to distinguish between rescission **ab initio** and termination of a contract under which accrued rights and obligations continued to subsist.

由此可見，爭論的焦點是追討損害賠償之事。在這方面，上議院在考慮其他問題之餘，也考慮到：從一開始即行撤銷合約有別於終止合約而已產生的權利和義務繼續存在，且對兩者之間的分別頗為關注。

c. Section 3, Disability Discrimination (Proceedings by Equal Opportunities Commission) Regulation (Cap.487C)

...the Commission may apply for any remedy available to a claimant under section 72(3) of the Ordinance including...an order declaring void in whole or in part either **ab initio** or from such date as may be specified in the order, any contract or agreement made in contravention of the Ordinance.

……委員會可申請申索人根據本條例第72(3)條可獲得的補救，包括……作出命令，宣告任何違反本條例的合約或協議從一開始或從該命令指明的其他日期開始全部或部分無效。

使用百分比	ELDoS: 100.00%
	BLIS: 75.00%

2. 一開始

Section 33(d), Magistrates Ordinance (Cap. 227)

... a warrant of distress shall not be deemed void by reason only of any defect therein, if it is therein alleged that a conviction or order has been made, and there is a good and valid conviction or order to sustain the same, and a person acting under a warrant of distress shall not be deemed a trespasser **ab initio** by reason only of any defect in the warrant or of any irregularity in the execution of the warrant; but this enactment shall not prejudice the right of any person to satisfaction for any special damage caused by any defect in or irregularity in execution of a warrant of distress....

……如財物扣押令上指稱裁判官已作出定罪或命令，並有一項妥當而且有效的定罪或命令為依據，則財物扣押令不得只因其上有任何欠妥之處而當作無效，而任何根據財物扣押令行事的人不會只因手令上的欠妥之處或執行手令時不符合規定而一**開始**便被當作是侵犯者；但任何人如因財物扣押令上的欠妥之處或執行時不符合規定而有特別損害，其要求賠償權利不受本成文法則影響……。

使用百分比	ELDoS: 0.00%
	BLIS: 25.00%

actus reus *n. pl. actus reus*

/ˈæktəs ˈreɪəs/ /ˈæktəs ˈrɪəs/

Latin guilty act

3

【中譯】 香港法庭判詞 ELDoS: 1 犯罪行為；2 行為；香港法例 BLIS: 一；其他 Others: 1 犯罪行為；2 構成行為；3 具有犯罪意圖的行為

Interpretations 釋義

One of the elements of a crime (the other being mens rea, the state of mind of the accused person) that the prosecution must prove before a court can convict a criminal defendant. An actus reus is the “physical part” of a crime and refers to the wrongful act of the accused person. It may also take the form of an omission or a state of affairs.

構成罪行的其中一個元素（另一個元素是「犯罪意圖」，即被告人犯罪時的心理狀態）。控方需要證明被告人有「犯罪行為」，法庭才可以把他定罪。「犯罪行為」是構成罪行的「實體部分」，指被告人的不合法行為，也可以是一項不作為或一個事態狀況。

Examples 例句

1. 犯罪行為

a. *Lau Cheong and Lau Wong vs. SAR*

Case Number: FACC000006_2001

Criminal liability at common law usually requires proof of relevant prohibited conduct causing certain prohibited consequences (the **actus reus**), accompanied by a defined state of mind on the part of the accused in relation to that conduct and its consequences (the mens rea).

根據普通法，刑事法律責任的構成，通常需要證明有關的禁制行為造成某些禁制的後果（**犯罪行為**），連同被告人對有關的行為及其後果所存有的心態（**犯罪意圖**）。

b. Lau Cheong and Lau Wong vs. SAR

Case Number: FACC000006_2001

It is sufficient if he intends to cause grievous bodily harm and death in fact results. It is this apparent lack of symmetry between what constitutes the mens rea of the offence and the consequence of death as part of the **actus reus** that is the subject of criticism.

只要他有意圖引致身體受嚴重傷害，而且事實上導致死亡，這樣已很足夠。現時的批評所針對的是，指控罪的犯罪意圖的構成成分跟作為**犯罪行為**構成部分的死亡結果，兩者之間明顯缺乏對稱。

c. Wong Yeung Ng vs. The Secretary for Justice

Case Number: CACV000161A_1998

It was essential for the Crown to prove that the statement made by the appellant was calculated to bring the administration of justice into disrepute. That is the **actus reus** of this offence. The mere fact the words are capable of bringing the administration of justice into disrepute does not suffice. What must be shown is that, by reason of the statement made by the appellant, there was a serious risk that the administration of justice would be interfered with. The risk or prejudice must be serious, real or substantial.

控方必須證明上訴人的論述旨在誣衊司法，那是構成這項罪名的**犯罪行為**；然而，僅僅因為那些說話可構成誣衊司法還未足夠，控方還必須證明，上訴人的言論使司法有被干擾的重大危險，有關的危險必須是重大的、真實的或實質的。

d. HKSAR vs. Wong Ping Shui Adam, Leung Chung Michael

Case Number: FAMC000001_2001

Section 24 therefore defines the **actus reus** of the offence as the handling of goods which are “stolen” goods. It goes on to define the mens rea as the dishonest knowledge or belief that the goods are stolen. The quality or status of the goods being stolen is therefore an element in both the **actus reus** and the mens rea.

因此，第24條界定了該罪行的**犯罪行為**是所處理的貨品屬於「被竊」的貨品。這條例進而界定罪行的犯罪意圖是不誠實地知悉或相信該些貨品是被竊貨品。所以，該些貨品作為被竊貨品的特質或狀況，對**犯罪行為**和犯罪意圖來說，都是一項要素。

使用百分比	ELDoS: 92.86%
	BLIS: 0.00%

2. 行為

Stephen Daryl Barnes vs. Hong Kong Special Administrative Region

Case Number: FAMC000015_2000

If the answer to Question 1 is in the affirmative, whether in relation to SPS2286 & SPS2287 the appellant’s conduct could in law have amounted to recklessness having regard to the fact that the **actus reus** of the offences under section 46(1) of the Legal Practitioners Ordinance were committed by a person other than the appellant.

倘若第一個問題的答案是肯定的話，那麼，當顧及在事實上干犯《法律執業者條例》第46(1)條的罪行的**行為**並非是由上訴人，而是由其他人所作的，關乎傳票SPS 2286及SPS 2287中上訴人的行為在法律上是否可以構成罔顧後果的行為。

使用百分比	ELDoS: 7.14%
	BLIS: 0.00%

ad litem *adj.*

/æd 'laɪtəm/

Latin for the suit

4

【中譯】 香港法庭判詞 ELDoS: 一；香港法例 BLIS: 1 訴訟；2 辯護；
其他 Others: 1 為了訴訟的

Interpretations 釋義

For the purposes of the lawsuit.

For example, a guardian ad litem is a person appointed by the court to represent the interests of an infant in a lawsuit. An administrator ad litem may be appointed to represent the interests of the estate of a deceased person in an action when there are no proper representatives acting for it.

因訴訟而衍生的。

例如：「訴訟監護人」就是在法律訴訟中，由法庭委任代表未成年者權益的人。而在訴訟中，若沒有合適的人選代表死者遺產權益時，法庭則會委任「訴訟遺產管理人」履行此職務。

Examples 例句

1. 訴訟

a. Rule 9(2), Adoption Rules (Cap. 290A)

The court may at any time, where it considers it to be in the interests of the infant, appoint the Official Solicitor to be the guardian **ad litem** of the infant in lieu of the Director.

凡法院認為符合幼年人的利益時，可隨時委任法定代表律師以代替署長出任幼年人的**訴訟**監護人。