



[About](#) ▾ [Services](#) ▾ [Rules & Decisions](#) ▾ [Media Centre](#) ▾ [Login](#) ▾

Home (<https://www.difccourts.ae/>) / Rules & Decisions (<https://www.difccourts.ae/rules-decisions/rules>)
 / Judgments & Orders (<https://www.difccourts.ae/rules-decisions/judgments-orders>)
 / Court of First Instance (<https://www.difccourts.ae/rules-decisions/judgments-orders/court-first-instance>)
 / CFI 114/2020 International Electro- Mechanical Services CO (LLC) v Emirates Speciality Hospital FZ-LLC

CFI 114/2020 International Electro- Mechanical Services CO (LLC) v Emirates Speciality Hospital FZ-LLC

OCTOBER 20, 2021 COURT OF FIRST INSTANCE - ORDERS

Claim No: CFI 114/2020

THE DUBAI INTERNATIONAL FINANCIAL CENTRE COURTS

IN THE COURT OF FIRST INSTANCE

BETWEEN

INTERNATIONAL ELECTRO-MECHANICAL SERVICES CO (LLC)

Claimant

and

EMIRATES SPECIALTY HOSPITAL FZ-LLC

Defendant

ORDER WITH REASONS OF JUSTICE WAYNE MARTIN

UPON reviewing the Defendant's Application No. CFI-114-2020/2 dated 20 September 2021 seeking an order that the Court stay the proceedings by virtue of the Order of the Abu Dhabi Court dated 27 July 2021 (the "Bankruptcy Order"), and in the alternative, an extension of time of 28 days for filing the defence (the "Application")

AND UPON reviewing the Claimant's evidence in answer dated 4 October 2021 and the annexed CFI-063-2020 Order of Justice Sir Jeremy Cooke

IT IS HEREBY ORDERED THAT:

1. The Application is denied.
2. By consent, the time within which to file a defence is extended for 28 days from the date of this Order.
3. Costs in the case.

Issued by:
Nour Hineidi
 Registrar
 Date of Issue: 20 October 2021
 At: 3.30pm

SCHEDULE OF REASONS

Summary

1. The Defendant has applied for an order staying these proceedings on the basis of a decision of the Abu Dhabi Court of First Instance directing a stay of all legal proceedings against the Defendant. However, as the Defendant has not applied for recognition or enforcement of the judgment of the Abu Dhabi Court, the Application must be refused for the reasons which follow.

These proceedings

2. These proceedings were commenced on 9 December 2020. The Claimant, International Mechanical Services Co. (LLC) asserts that it is entitled to payment of the total amount of AED 53,188,301.66 pursuant to a contract with the Defendant, Emirates Specialty Hospital FZ-LLC relating to the performance of mechanical, electrical, and plumbing works. Default judgment was entered against the Defendant on 29 December 2020. However, that judgment was set aside by an order made on 8 July 2021, and Particulars of Claim were served by the Claimant on 29 August 2021.

The Abu Dhabi proceedings

3. Mr Khaleefa Butti Omair Yousif Al Muhairi commenced bankruptcy proceedings in the Abu Dhabi Court of First Instance (case 7/2021). Mr Al Muhairi is the Applicant Debtor in those proceedings, to which he has joined 29 additional parties as “Joined Litigants”. The Defendant in these proceedings, Emirates Specialty Hospital FZ-LLC, is one of the Joined Litigants. There is no information before the Court as to the basis upon which the Abu Dhabi Court of First Instance exercised jurisdiction with respect to the Defendant in these proceedings. In particular, there is no information as to the place of incorporation or registration of the Defendant, or as to the jurisdiction which could be said to be “the centre of its main interests”.¹

4. On 27 July 2021, the Abu Dhabi Court of First Instance issued a ruling (the “Abu Bankruptcy Decision”) in which it ordered, among other things, that:

- (a) a Trustee in bankruptcy would be appointed;
- (b) the Trustee is to make an inventory of the assets of the Applicant Debtor and the Joined Litigants;
- (c) the Trustee is to provide a report to the Court with respect to both the Applicant Debtor and the Joined Litigants;
- (d) the Trustee was to call for submissions from creditors of the Applicant Debtor and the Joined Litigants; and
- (e) the Trustee was to prepare and develop a restructuring plan for the Applicant Debtor and the Joined Litigants.

5. Of direct relevance to the present question the Abu Dhabi Court also ordered that:

Judicial proceedings against the Debtor and the Joined Litigants and the execution proceedings against their assets thereof are stayed. Permission is given to address letters to the competent authorities and to issue a “To Whom It May Concern” certificate to advise of the content of this decision.

6. On 9 August 2021, the Abu Dhabi Court of First Instance issued a document described as a “To Whom It May Concern” certificate referring to the ruling of the Court to which I have just referred. The certificate included the following:

Based on the above we would like to inform whoever it concerns that the Court decided as follows:

1. ...

5. Stay court proceedings against the Applicant Debtor and the Joined Litigants and the execution proceedings on their assets.

7. On 17 August 2021, the Abu Dhabi Court of First Instance sent a letter to the President of the Dubai Court of First Instance referring to the decision in the bankruptcy proceedings referred to above, and stating:

It is decided to delegate to Your Excellency to address the Dubai International Financial Centre to stay the proceedings in the cases tried before it against the Debtor and the Joined Litigants and to stay the execution procedures on their assets ...

8. On 9 September 2021, the Dubai Civil Court of First Instance sent a letter to the Chief Justice of the DIFC Courts which included the following:

It is ordered by the Dubai Court of First Instance on 8 September 2021 in the said delegation above to address this Honourable Court to execute the content of the order of the Abu Dhabi Court of First Instance in Case no. 7/2021 bankruptcy, Abu Dhabi, as per its request

9. On 13 September 2021, the Abu Dhabi Court of First Instance wrote to this Court, referring to the bankruptcy proceedings in Abu Dhabi and asserting:

Pursuant to the order rendered by the Bankruptcy Circuit in the Abu Dhabi Commercial Court, it has been decided to address you (the Dubai International Financial Centre Courts) to stay the proceedings in the cases listed before you, against the Debtor and the Joined Litigants and to stay execution proceedings on their assets further to the decision rendered by the Bankruptcy Circuit in Case no. 7 of 2021 Abu Dhabi Bankruptcy on 27/07/21.

The Defendant's application

10. As already noted, the Defendant has applied for an order staying these proceedings relying upon the Abu Dhabi Bankruptcy Decision. No application has been made for recognition or enforcement of that decision under the DIFC Insolvency Law, either by the Defendant or any "foreign representative" of the Defendant.

The Defendant's contentions

11. The Defendant has not filed any submissions in support of its application. A witness statement by one of the lawyers representing the Defendant has been filed. That statement refers to the course of these proceedings, the course of the Abu Dhabi proceedings and the documents issued by the Abu Dhabi Court in terms which correspond largely to the events related earlier in these reasons. The witness statement then refers to RDC 4.2(6), which affirms the existence of the inherent jurisdiction of this Court to stay its proceedings. It is then asserted that the power should be exercised to stay these proceedings because of the Abu Dhabi Bankruptcy Decision. Surprisingly, no reference is made to, nor any reliance placed upon, the DIFC Insolvency Law in the application or in any of the documents filed in support of the application.

The Claimant's submissions

12. The Claimant's submissions rely (understandably) on the recent decision in *Mashreqbank PFC v Infinite Partners Investment LLC (& Ors)*.² That decision concerned precisely the same proceedings in the Abu Dhabi Court of First Instance as this case. Justice Sir Jeremy Cooke rejected an application for recognition and/or enforcement of the Abu Dhabi Bankruptcy Decision and the letters issued by the Abu Dhabi Court, and further held that this Court should not act upon the letter of request sent to this Court by the Abu Dhabi Court.

13. The Claimant's submissions note that in this case the Defendant has made no application for recognition and/or enforcement of the Abu Dhabi Bankruptcy Decision, nor has any reliance been placed upon any of the provisions of the DIFC Insolvency Law potentially applicable to the letters of request from the Abu Dhabi Court. The Claimant submits that even if such applications had been made in this case, they must be refused for the reasons given by Justice Cooke.

14. For present purposes it is sufficient to note that in this case the Defendant has made no applications of the kind that were made in *Mashreqbank*. It is therefore neither necessary nor appropriate to speculate with respect to the outcome of such applications if they were made in this case.

15. The Claimant submits:

In the present Stay Application the Defendant does not seek recognition/enforcement of the Bankruptcy Order and as such the Stay Application is fundamentally flawed.³

16. I accept that submission for the reasons recently enunciated in *Al Ahli Bank of Kuwait K.S.C.P. & Ors v Emirates Hospitals Group LLC & Ors*.⁴ That case was also concerned with the consequences of the same proceedings in the Abu Dhabi Court of First Instance in relation to proceedings pending in this Court. I concluded that it would not be appropriate to exercise the discretion which the Court has to order a stay of its proceedings in a manner which would undermine the operation and effect of Schedule 4 of the DIFC Insolvency Law. Those reasons apply with equal force to the circumstances of this case and should be taken to be incorporated herein. It is unnecessary to repeat them in these reasons.

17. It follows that the Defendant's application for a stay of these proceedings must be refused.

The time for filing a defence

18. In the alternative to its application before a stay, the Defendant seeks an extension of time within which to file its defence for a period of 28 days. The Claimant does not oppose that application, which should therefore be granted by consent.

Costs

19. Somewhat magnanimously the Claimant proposes that the costs of this application should be in the case, and an order to that effect should be made.

Useful Links : DFSA (<https://dfsa.ae>) , DIFC (<https://www.difc.ae/>) ,
DIFC Laws and Regulations Legal Database (<https://www.difc.ae/business/laws-and-regulations/legal-database>) ,
Dubai Courts (<https://www.dc.gov.ae/PublicServices/Home.aspx?lang=en>)

Copyright © 2026 DIFC Courts All rights reserved

[Privacy Policy \(/data-protection-policy\)](#) | [Terms of Use \(/terms-of-use\)](#) | [Quality Policy \(/quality-policy\)](#) | [Disclaimer \(/disclaimer\)](#)