Claim No: CFI 067/2025

THE DUBAI INTERNATIONAL FINANCIAL CENTRE COURTS

IN THE COURT OF APPEAL

BETWEEN

COINMENA B.S.C (C)

Claimant

and

FOLOOSI TECHNOLOGIES LTD

Defendant

ORDER WITH REASONS OF H.E. CHIEF JUSTICE WAYNE MARTIN

UPON the Order with Reasons of H.E. Justice Shamlan Al Sawalehi dated 26 January 2026 (the "26 January Order")

AND UPON the Order with Reasons of H.E. Justice Shamlan Al Sawalehi dated 20 April 2026 (the "20 April Order")

AND UPON the Defendant's Renewed Application for Permission to Appeal dated 1 May 2026 seeking to appeal the 26 January Order (the "Renewed Application")

AND UPON the Defendant's Application No. CFI-067-2025/5 dated 4 May 2026 seeking a renewed stay of enforcement of the payment deadline in the 20 April Order 2026 (the "Stay Application")

AND UPON the Claimant's submissions in opposition dated 22 May 2026

IT IS HEREBY ORDERED THAT:

1. The Renewed Application is dismissed.

2. The Stay Application is dismissed.

3. The Defendant shall pay the Claimant's costs of the Renewed Application and the Stay Application to be assessed on the standard basis by a process of immediate assessment in accordance with the directions which follow.

4. Within **twenty-one (21)** days of the date of this Order, the Claimant is to file a Statement of Costs together with any submissions in support of the costs claimed.

5. Within **twenty-one (21)** days of the date of service of the Statement of Costs, the Defendant is to file any submissions in opposition to the quantum of the costs claimed.

6. Within **fourteen (14) days** of the date of service of the Defendant's submissions pursuant to the preceding order, the Claimant shall file any submissions in reply.

7. The quantum of the Claimant's costs to paid by the Defendant will thereafter be assessed on the papers by H.E. Chief Justice Wayne Martin.

Issued by:
Delvin Sumo
Assistant Registrar
Date of issue: 7 July 2026
Time: 1pm

SCHEDULE OF REASONS

Summary

1. The Defendant, Foloosi Technologies Ltd (**"Foloosi"**) has applied to the Court of Appeal for permission to appeal from the decision of the Judge at first instance (the "Judge") in which he dismissed Foloosi's application for immediate judgment dismissing the claim of the Claimant, CoinMena B.S.C. (**"CoinMena"**), or in the alternative striking out the Particulars of Claim filed in support CoinMena's claim. The Renewed Application for Permission to Appeal (the **"Renewed Application"**) has been made to the Court of Appeal because the Judge dismissed an application for permission to appeal made to him.

2. For the reasons which follow, Foloosi has failed to establish that any of its proposed grounds of appeal has a real prospect of success or that there is any other reason why the appeal should be heard. It follows that both the Renewed Application and the Stay Application must be dismissed with costs.

The Claim

3. CoinMena commenced these proceedings by filing a Claim Form on 2 July 2025. The Claim Form contains what is described as a "high level summary" of the claim in which it is asserted that by an agreement entered into in or around 6 June 2022 (the **"Agreement"**) Foloosi agreed to provide payment gateway and processing services for CoinMena's electronic commerce transactions. The high level summary sets out the material terms of the alleged agreement, including a term to the effect that Foloosi would settle payments due to CoinMena within seven days of each transaction report provided by Foloosi. CoinMena alleged that in breach of that term, Foloosi stopped settling transactions from around 26 May 2023 and has either failed to settle amounts due to CoinMena or to provide information on transactions which appear to have been withheld as charge backs in a total amount of AED 7,969,524. CoinMena claims that amount by way of debt, or in the alternative, an order for specific performance requiring payment of the amount, or alternatively damages for breach or an account of all monies received by Foloosi for and on behalf of CoinMena, together with interest and costs.

4. Particulars of Claim (**"Particulars"**) were filed with the Claim Form. In those particulars, it is asserted that CoinMena is a crypto asset provider incorporated in Bahrain and which is licensed by the Central Bank of Bahrain as a crypto asset service provider. Foloosi is said to be a company incorporated in the DIFC providing merchants such as CoinMena with payment processing services for electronic commerce transactions. Foloosi is not a member of either the Mastercard or Visa networks, but contracts with third party "acquirers" who are members of those networks.

5. In the Particulars, CoinMena alleges that on or about 6 June 2022 it signed up for an account with Foloosi and thereby agreed to Foloosi's standard form Digital Services Partnership Agreement (the **"Agreement"**). CoinMena alleges that a recital to the Agreement records that Foloosi would provide CoinMena with the ability to sell goods and services on its online web portal by way of payments made through the Mastercard and Visa networks. CoinMena contends that the terms of the Agreement included a term to the effect that Foloosi would settle the proceeds of the payment transactions by crediting the proceeds received by Foloosi into a bank account nominated by CoinMena. CoinMena contends that the Agreement also entitles Foloosi to deduct any applicable fees and charges and any "charge backs" or refund transactions - that is, payments which have been cancelled or reversed.

6. CoinMena asserts that between June 2022 and 5 June 2023, Foloosi produced regular transaction reports listing the transactions processed by Foloosi on preceding days, indicating whether the transaction had been successfully completed and the fees to be deducted, with the resultant net total to be paid to CoinMena. The reports listed also any sums held for charge backs, which were deducted from the sum to be transferred to CoinMena pending the resolution of charge back disputes.

7. In [11] of the Particulars, CoinMena asserts that there was an agreement that Foloosi would settle transactions within seven days of the relevant report evidenced by:

(a) A document dated 26 January 2022 which referred to weekly settlements on Saturday for all transactions completed by the previous Tuesday; and

(b) A proposal document provided by Foloosi on or around 2 February 2022 referring to twice weekly settlements by reference to cut off days five days prior to the settlement days; and

(c) The parties course of dealing in which Foloosi settled transactions within seven days of the relevant report; and

(d) Subsequent communications between the parties premised on the assumption that settlement was to take place seven days after the relevant report was provided to CoinMena.

8. In this context, CoinMena alleges that there was an oral agreement to the effect that transactions would be settled within seven days of each relevant report, although it is unable to provide particulars of that agreement. The failure to provide such particulars is one of Foloosi's complaints in relation to the Particulars.

9. CoinMena alleges that Foloosi breached the requirement to settle transactions within seven days and provides particulars of communications in which CoinMena complained of such breaches.

10. CoinMena asserts in the alternative that if there was no express agreement to pay within seven days of a report, there was an implied term to that effect. In the further alternative, CoinMena asserts that there was an implied term requiring Foloosi to settle transactions within a reasonable time and that seven days is and was accepted by Foloosi to be a reasonable time within which to settle.

11. CoinMena further asserts in the Particulars that the burden of proving that Foloosi was entitled to deduct charge backs from payments made to CoinMena rests with Foloosi and further asserts that a practice had developed whereby Foloosi would cooperate with CoinMena in challenging any charge backs, where appropriate by arbitration through the system of the relevant Card Association.

12. CoinMena alleges that Foloosi failed to settle transactions within seven days of reports and eventually stopped settling transactions at all and has withheld sums due to CoinMena on the basis of charge backs which Foloosi has failed to establish. Particulars of the amounts said to be outstanding are given in the Particulars.

Foloosi's Defence

13. On 28 July 2025, Foloosi filed a Defence in which the only assertion made in opposition to the Claim was that CoinMena was not the contracting party and that all transactions and settlements were directed solely to MENAC Commercial Brokers LLC.

14. Although Foloosi asserts various other grounds of defence in support of its application for immediate judgment, no attempt has been made to amend Foloosi's Statement of Defence. It is ironic that the thrust of Foloosi's application for immediate judgment and/or an order striking out the Particulars is based upon alleged deficiencies in CoinMena's pleading, when its own house is completely out of order in that respect. In this regard,

it is significant that Foloosi does not assert that its only pleaded ground of defence provides a basis for the judgment sought and accepts that the question of whether CoinMena was the contracting party is an issue apt for determination by trial.

The dismissal application

15. On 4 August 2025, Foloosi applied for immediate judgment or alternatively an order striking out the Particulars. The application was brought on wider grounds than those advanced in support of the proposed appeal. For present purposes, it will be sufficient to deal only with the contentions advanced in support of the application for permission to appeal.

16. CoinMena served a witness statement of Mr Talal Tabbaa in opposition to the application. Mr Tabbaa is the founder and CEO of CoinMena. In his witness statement, Mr Tabbaa referred to the business conducted by CoinMena, which includes trading in crypto assets as agent or principal and portfolio management pertaining to crypto assets.

17. In relation to the issue pertaining to the identity of the contracting party (which is not pressed in support of the appeal), Mr Tabbaa referred to the transaction reports provided by Foloosi which referred to CoinMena as the relevant customer.

18. According to Mr Tabbaa, in order to process credit card transactions, it was necessary for CoinMena to register either as a merchant with a bank or use a payment facilitator such as Foloosi, which had a relationship with a bank or banks. According to Mr Tabbaa, he negotiated the Agreement with Foloosi in his capacity as CEO of CoinMena and after negotiations were completed, CoinMena signed up for its account on Foloosi's website as CoinMena.

19. According to Mr Tabbaa, MENAC Commercial Brokers LLC is a company incorporated on 23 May 2021 in Dubai owned 49% by Mr Tabbaa and 51% by a local sponsor.

20. On 26 July 2022, CoinMena provided details for its bank account in Bahrain in order that Foloosi would settle payments into that account. However, there were difficulties in transferring funds into that account as a result of which Mr Tabbaa provided bank account details for MENAC in order that MENAC could receive funds on behalf of CoinMena. According to Mr Tabbaa, Foloosi settled payments into that account, and in due course into other bank accounts nominated on behalf of CoinMena.

21. According to Mr Tabbaa, the way the payment chain worked in practice was that CoinMena's customer would place an order on CoinMena's website, Foloosi would then process the transaction as a payment facilitator in coordination with the relevant banks, payments would then be settled by fund transfer to MENAC, which would in turn transfer the amounts to CoinMena outside the UAE, as Foloosi was unable to transfer funds directly to CoinMena in Bahrain.

22. Mr Tabbaa assets that MENAC had no direct contractual relationship with Foloosi and has had no direct communication with Foloosi and had no involvement in the day to day operations or commercial engagement with Foloosi and that its sole function was as a recipient of funds that were ultimately for the benefit of CoinMena.

23. In his witness statement, Mr Tabbaa referred to various other documents produced by Foloosi which depict CoinMena as its customer.

24. In his second witness statement, Mr Tabbaa asserted that the transactions by which CoinMena's customers provided funds to CoinMena were not transactions involving the direct purchase of crypto assets. Rather, the transactions "topped up" the digital wallets of customers to on CoinMena's platform by making payments which Foloosi processed. Customers could then purchase crypto assets using the balance in their digital wallet.

25. According to Mr Tabbaa, CoinMena credited the digital wallets of its customers in respect of all the sums claimed in these proceedings, before Foloosi settled the transactions. The decision at first instance

26. The Judge referred to the general nature of the dispute, the application for immediate judgment or in the alternative for an order striking out the Statement of Case and summarised the respective submissions of the parties. After referring to the applicable legal principles, he expressed the view that the application fell well short of the threshold required for either immediate judgment or an order striking out the Claim. He expressed the view that the arguments with respect to contractual privity, the identity of the merchant and settlement arrangements all raised substantial factual disputes which were manifestly unsuitable for determination on a summary basis.

27. In the Judge's view, the Claim clearly disclosed an alleged contract, an alleged breach, and resulting loss. In his view, whether the allegations were ultimately proved is a matter for trial.

28. In the Judge's view, Foloosi's criticism of CoinMena's pleading in relation to loss elevated form over substance as it was clear that by crediting customer wallets in reliance on settlement, CoinMena was financially exposed.

29. The Judge did not consider that the reference to the oral agreement, in the context set out above, justified striking out the Claim and considered that there were compelling reasons, including the volume of documentary evidence and the complexity of the commercial relationship, as to why the dispute should be resolved after full ventilation of the issues at a trial.

Permission to appeal - legal principles

30. RDC 44.117 provides:

> "44.117 The Court of Appeal will allow an appeal from the decision of the Court of First Instance where the decision of the lower Court was:
>
> (1) Wrong; or
>
> (2) Unjust because of a serious procedural or other irregularity in the proceedings in the lower Court."

31. RDC 44.5 requires that an appellant obtain permission to appeal to the Court of Appeal except where the appeal is against a committal order.

32. RDC 44.19 provides:

> "44.19 Permission to appeal may only be given where the lower Court or the Appeal Court considers that:
>
> (1) The appeal would have a real prospect of success; or
>
> (2) There is some other compelling reason why the appeal should be heard."

33. RDC 44.19 provides that permission to appeal may only be given where the appeal would have a real prospect of success or there is some other compelling reason why the appeal should be heard.

34. In the context of an assessment of the prospects of success "real" means realistic rather than fanciful and involves the same test as is applied in applications for immediate judgment.[1]

35. A real prospect of success does not mean a probability of success, but more than mere arguability.[2]

36. "Some other compelling reason why the appeal should be heard" may include the public interest in clarifying the meaning and scope of relevant practice and provisions of DIFC and wider UAE law.[3]

37. It is established that "real" in the context of an assessment of the prospects of success means realistic rather than fanciful, applying the same test as is applied in an application for immediate judgment.[4]

38. It is also established that a real prospect of success does not mean a probability of success, but more than mere arguability.[5]

39. Accordingly, in order to obtain the grant of permission a prospective appellant needs to establish more than the proposition that the proposed appeal is reasonably arguable - rather, it must be established that there is a real prospect of success.[6]

40. When a renewed application made to the Court of Appeal is refused, it is appropriate for the Court to provide reasons which adequately explain the reasons why permission has been refused. The adequacy and extent of those reasons will be informed by the fact that the refusal of permission is final and conclusive and determines the issues the subject of the appeal.

41. On the other hand, when a renewed application for permission to appeal is granted, the reasons for the grant can and should be expressed more briefly, and any views expressed should be expressed and read as provisional, on the basis that a different view might well be formed following the consideration of the fuller argument which will be presented at the hearing of the appeal. Further, the reasons for granting permission in respect of grounds of appeal will be expressed economically, not only because the determination of the issue raised by the ground must await the hearing of the appeal but also to limit the prospect that a party might consider that a member of the Court of Appeal does not retain an open mind in relation to any of the issues in the appeal.

The grounds of appeal

42. The grounds of appeal are replete with pejorative characterisations of the Judge's errors. Leaving those matters to one side, in essence it is said that the Judge erred by failing to either enter immediate judgment or strike out the Statement of Case because of the following deficiencies in the Claim:

> "a. CoinMena allege that there was an oral agreement: the pleading is hopelessly vague and should not be allowed to stand;
>
> b. CoinMena's Particulars of Claim do not plead or explain the basis upon which it is said that CoinMena has suffered a loss. This is a fundamental part of a claim for breach of contract and without it that claim cannot succeed; and
>
> c. The Particulars of Claim allege that the obligation to make payment by Foloosi was to CoinMena and seeks (among other things) specific performance but CoinMena's case as developed in the evidence and argumentation is that the agreement between CoinMena and Foloosi was that payments would be paid to another party not to CoinMena and that Foloosi was unable to make payment to CoinMena. This has **two** important consequences for the claim. **First**, the Particulars of Claim are predicated on there being an obligation by Foloosi to pay CoinMena but, as identified above, this is no longer CoinMena's case: thus, the claim as pleaded cannot succeed. **Second**, CoinMena has not pleaded a basis for alleging that CoinMena has suffered loss and so the breach of contract claim cannot succeed.."[7]

43. There is no basis for any of these complaints, for the reasons which follow.

44. First, the complaint with respect to the failure to particularise the alleged oral agreement is pedantic. The context in which the plea is made has been set out above. The function of any pleading is to enunciate the case which a party wishes to advance. As Foloosi acknowledges in its argument, the plea of an oral agreement is not a significant component of CoinMena's case. It is contained in a paragraph which refers only to the contractual obligation of Foloosi to settle the transactions within seven days after the transactions were reported to CoinMena. The case is advanced on several alternative bases, including inferences to be drawn from documents, including an inference to the effect that there was an oral agreement that settlement would occur within seven days of the reports being provided to CoinMena. The documents from which the inference is said to be drawn are particularized in the pleading, which provides Foloosi and the Court with sufficient information to appreciate the case which has to be met. Obviously, it is impossible for CoinMena to give particulars of an oral agreement which is said to arise from inferences to be drawn from contemporaneous documents. There is no substance in this complaint.

45. The assertion that CoinMena has failed to identify a loss is, with respect, misconceived. CoinMena's case, clearly articulated in each of the Claim Form, the Particulars of Claim and the evidence is to the effect that Foloosi was obliged to account for the monies received in the course of

processing transactions on CoinMena's behalf. It is trite to observe that the measure of damage for a breach of contract is the sum required to put the innocent party in the position in which they would have been if the contract had been performed. Accordingly, the loss which CoinMena has is suffered equal to the amount of the funds which, on its case, Foloosi was obliged to remit. Nothing further is required to be pleaded or proven.

46. Foloosi's contention that, for some unexplained reason, CoinMena had to establish that Foloosi's failure to fulfil its contractual obligations caused some other form of loss is in any event answered by the fact that CoinMena gave valuable consideration for the transactions which were processed by Foloosi, in the form of a credit to the digital wallets of its customers, which the customers could then use to acquire crypto assets.

47. The third deficiency alleged by Foloosi is equally misconceived. There is no suggestion whatever in CoinMena's pleaded Claim, or in the evidence which has been adduced in opposition to Foloosi's application, which would suggest that any entity other than CoinMena, and in particular MENAC had any beneficial entitlement to the monies due to CoinMena under the Agreement alleged with Foloosi. To the contrary, CoinMena's case has always been advanced on the basis that the beneficial entitlement to the monies received by Foloosi as a result of processing transactions with CoinMena lies with CoinMena. It is of course commonplace for a party to direct that payment of a contractual entitlement be made to an intermediary on its behalf - most usually a bank. Indeed, the vast majority of contemporary commercial transactions occur on the basis that payment will be made to a third party (such as a bank), instead of delivering currency to the party entitled to the payment. It is also commonplace for a party contractually entitled to a payment to direct that the payment be made to a nominee on its behalf.

48. CoinMena's case in this regard is clear and unambiguous. It has always contended that it is beneficially entitled to the funds received by Foloosi on its behalf. However, it has directed the payment of those funds into bank accounts, including (but apparently not limited to) an account in the name of MENAC, on the basis that it retains the beneficial interest in the funds thus dispersed.

49. As there is no substance in any of the complaints of deficiency in the advancement of CoinMena's case, none of Foloosi's grounds of appeal have any prospect of success and there is no other compelling reason why the appeal should be heard. It follows that the appeal must be dismissed with costs. It also follows that the Stay Application which is dependent upon the grant of permission to appeal must also be dismissed with costs.