Claim No. SCT 177/2020 THE DUBAI INTERNATIONAL FINANCIAL CENTRE COURTS In the name of His Highness Sheikh Mohammed Bin Rashid Al Maktoum, Ruler of Dubai IN THE SMALL CLAIMS TRIBUNAL OF DIFC COURTS BEFORE SCT JUDGE NASSIR AL NASSER BETWEEN LANDIN Claimant and (1) LAKHAN (2) LAKSHMI Defendants Hearing : 19 July 2020 Judgment

**Claim No. SCT 177/2020**

**THE DUBAI INTERNATIONAL FINANCIAL CENTRE COURTS**

**In the name of His Highness Sheikh Mohammed Bin Rashid Al Maktoum, Ruler of Dubai**

**IN THE SMALL CLAIMS TRIBUNAL OF DIFC COURTS**
**BEFORE SCT JUDGE NASSIR AL NASSER**

BETWEEN

**LANDIN**

Claimant

and

**(1) LAKHAN**
**(2) LAKSHMI**

Defendants

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Hearing **: 19 July 2020**
Judgment **: 29 July 2020**

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**JUDGMENT OF SCT JUDGE NASSIR AL NASSER**

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**UPON** hearing the Claimant's representative and the Defendants at the hearing;

**AND UPON** reading the submissions and evidence filed and recorded on the Court file;

**IT IS HEREBY ORDERED THAT:**

1. The Defendants shall pay the Claimant the sum of AED 147,542.44 plus interest at the rate of 9% per annum from the date of this Judgment until the date of payment.

2. The First Defendant's counterclaim shall be dismissed.

3. The Defendants shall pay the Claimant the Court fee in the sum of AED 7377.12.

Issued by:
**Nassir Al Nasser**
SCT Judge and Registrar
Date of issue: 29 July 2020
At: 2pm

**THE REASONS**

**The Parties**

1. The Claimant is Landin (hereafter "the Claimant"), a Law firm registered in Dubai located at DMCC, Dubai, UAE.

2. The First Defendant is Lakhan (hereafter "the First Defendant"), an individual residing in Dubai, UAE.

3. The Second Defendant is Lakshmi (hereafter "the Second Defendant"), an individual residing in Dubai, UAE.

**Background and the Preceding History**

4. The underlying dispute arises over an alleged unpaid invoice of legal services and the scope of work set out in the Engagement Letter dated 14 January 2020 (the "Agreement") signed between the Claimant and the Defendants.

5. On 31 May 2020, the Claimant filed a claim in the DIFC Courts' Small Claims Tribunal (the "SCT") claiming the sum of AED 147,542.44 to be paid to the Claimant by the Defendants for services rendered to them.

6. On 8 June 2020, the Defendants filed an acknowledgment of service with the intention to contest the jurisdiction of the DIFC Courts.

7. On 21 June 2020, a jurisdiction hearing was held by SCT Judge Maha Al Mehairi, pursuant to which she determined that the DIFC Courts have jurisdiction to hear and determine the Claim.

8. The parties met for a Consultation with SCT Judge and Deputy Registrar Ayesha Bin Kalban on 5 July 2020 but were unable to reach a settlement.

9. On 5 July 2020, the Defendants filed their Defence with Counterclaim, after the Consultation.

10. On 19 July 2020, a hearing was listed before me, at which the Claimant's representative and the Defendants were in attendance.

**The Claim**

11. The Claimant asserts that the Defendants have breached their contractual obligation to pay for the Claimant's legal services as per the Agreement, in the sum of AED 147,542.44.

12. The Claimant adds that the services were provided over a span of two months, however, the Defendants failed to provide evidence of their refusal to pay for the Claimant's services.

13. Therefore, the Claimant seeks payment of the outstanding amount, interest, damages and the court fees for the filing of the Claim.

**Defence & Counterclaim**

14. The Defendants allege that the Claimant has been involved in no less than 12 breaches of code of conduct and/or unethical behavior that has resulted in life changing negative consequences to the First Defendant, including the loss of his employment, due to the negligent advice provided by the Claimant.

15. The Defendants allege that the negligence advice came in circumstances where:

(a) The Firm was negligent in the legal advice it conducted;

(b) The Firm used non-lawyers who are unskilled, recent college graduates (with little experience or training) to conduct a large portion of the negligent work;

(c) The Firm sought to over-charge the Defendants;

(d) The Firm sought to charge the client for work it conducted on behalf of another client (the Defendant in SCT Case No: SCT-170-2020);

(e) The Firm refuses to provide the Defendants with a copy of case file; and

(f) The Firm caused the loss of the First Defendant's job.

16. The First Defendant makes a counterclaim of AED 199,434 in respect of monies already paid to the Claimant.

**Discussion**

17. The Claimant filed a claim in the SCT claiming the sum of AED 147,542.44 pursuant to the Agreement signed between the parties, as well as interest in accordance with the DIFC Laws and the Agreement. It also seeks payment of the court fee charged to the Claimant when filing this Claim.

18. The First Defendant also filed a counterclaim of the sum of AED 199,434 in respect of monies already paid to the Claimant, seeking for it to be refunded to the Defendant.

**The Claim**

19. On 14 January 2020, the parties entered into an agreement for the provision of legal services (the "Agreement").

20. Clause 2 of the Agreement sets out that the firm's "standard and default structure is based on an hourly rate". Clause 2(a) of the Agreement provides that "the hourly rates correspond to the relevant billing practitioner". The Claimant's billing practitioners and their corresponding hourly rate are listed in a table included in the Agreement.

21. In addition to the hourly rate billing, the Claimant also offered "the option of performing certain services on a fixed fee basis, as per clause 2(b) of the Agreement. According to the same clause the "availability of the fixed fee project depends on, among other things, the value, scope and certainty of a project." The value of the "fixed fee is determined on a case by case basis, according to the scope of services to be provided." Clause 2(b)(i) highlights that "any services provided outside of the scope of the fixed fee project will be billed at an hourly rate".

22. Clause 5 of the Agreement describes the Claimant's invoice practices. The Claimant's invoices "refer to either monthly invoices, fixed fee invoices or any other applicable invoices."

23. With regards to the monthly invoices, the Claimant's billing cycle commences on the first calendar day and ends on the last days of each month as per clause 5 of the Agreement.

24. Furthermore, in accordance with clause 5 of the Agreement, the Claimant's invoices are due upon receipt. Pursuant to the same clause, any issues regarding entries in the invoices, be it in part or in whole, must be raised with the Claimant's accounting department within seven (7) calendar days of receipt of the relevant invoices. In the meantime, the remaining entries on the invoices (meaning, those not raised as issues) are deemed to

be confirmed and payable upon receipt.

25. As per clause 5(a) of the Agreement, the legal fees for the services provided on an hourly rate are reflected in the Claimant's monthly invoices. The monthly invoices outline the number of hours spent by the relevant billing practitioner and a brief description of the services performed. Monthly invoices are submitted electronically after the end of the billing cycle.

26. Clause 5(b) of the Agreement sets out the basis for the firm's invoicing for fixed fee projects. In particular, it reads that fixed fee shall be paid in full, prior to commencement of the relevant services.

27. Clause 10 of the Agreement stipulates that as the law and practice of law are inherently uncertain, the Claimant does not, and cannot, guarantee results. For this reason, all legal fees and costs incurred by the Claimant's client are non-refundable. This applies to hourly rate fees and fixed fees.

28. Furthermore, clause 11 of the Agreement sets out that the Claimant's services are provided on an ongoing basis and not on the result or success of those services.. Legal fees must be paid in full irrespective of the outcome of the case."

29. The Claimant argues that at the beginning of the Agreement, the Claimant performed few projects on a fixed fee basis and the Defendant paid the fixed fee in advance in accordance with clause 5(b) of the Agreement.

30. In February 2020, the Claimant began billing the Defendants on an hourly rate basis, as per the Agreement. This was agreed in an email correspondence dated 12 February 2020 between the Claimant's representative and the Defendants.

31. On February 2020, the Claimant provided the Defendants with invoices reflecting work done in the amount of AED 176,431.52. the Defendants confirmed the invoice and committed to pay it by a payment plan proposed which was agreed by the Claimant. The Defendants paid the first instalment of AED 150,000, in accordance with the agreed plan.

32. In mid-March 2020, the Claimant provided the Defendants with summary of hours billed from 1 March 2020 to 15 March 2020. After receiving the mid-March hours' update, the Defendants continued to request the Claimant's services.

33. On 9 April 2020, the Defendants received the March 2020 invoice in the sum of AED 128,470.01 reflecting the number of hours spent by the relevant billing practitioner and a brief description of the service performed as per clause 5(a) of the Agreement.

34. The Defendants refused to pay the Claimants invoices stated in an email dated 7 April 2020 which reads as follows:

> "in the last couple of weeks, due to corona crisis majority of our customers didn't pay for renewals for their companies which is our bread and butter. so since customers of our customers not paying, our customers are not paying to us. Which means that Alliance business which was buying food for our family on the personal level, is not bringing any money. Under such economic force major situation [Covid-19], we can no longer afford your work and appreciate if you can stop working on anything for us for the moment. we simply don't have that kind of money and with the current business situation will go bankrupt".

35. On 9 April 2020, the Defendants stated that:

> "the engagement Agreement we signed back in January was based on the economic situation back in January. We no longer can afford your services as our business and income has become literally zero over the last few weeks"

36. As per Clause 5 of the Agreement, the "firm's invoices are due upon receipt". Pursuant to the same clause, "any issues regarding entries in the invoices, be it in part or in whole, must be raised with the firm's accounting department within seven (7) calendar days of receipt of the relevant invoices. In the meantime, the remaining entries on the invoices (meaning, those not raised as issues) are deemed to be confirmed and payable upon receipt.

37. In accordance with the abovementioned clause 10 of the Agreement, the fees and costs incurred by the Defendant are non-refundance.

38. The Defendants agreed and signed the Agreement acknowledging and agreeing to it. The Defendants should have raised issues in relation to the invoices within 7 calendar days of receipt of the invoice. However, the Defendants failed to provide any evidence that they have complied with the Agreement and raised an issue in relation to the invoices.

39. The COVID-19 pandemic does not release a party from its obligations to honour the Agreement. The Defendants received legal services from the Claimant as per their obligation pursuant to the Agreement, it is the Defendants obligation to pay the Claimant for their services.

40. In relation to the code of conduct issues raised by the Defendants, this matter is one to be raised with the authority that registers and regulates the Claimant to operate as a provider of legal services. of code of conduct is under the jurisdiction of the entity that registered the Claimant, the Defendants shall raise such matters in the rightful entity. The matter at hand being the subject matter of this Claim relates to a contractual obligation on behalf of the Defendant to make payments for services provided to it by the Claimant, and the issues of the Claimant's conduct are of no relevance to this dispute.

41. Therefore, I find that the Defendant is obliged to pay the Claimant the sum of AED 147,542.44 in relation to the invoices provided as per the Agreement between the parties.

**The Counterclaim**

42. The First Defendant filed a counterclaim claiming the sum of AED 199,434 in respect of monies already paid to the firm, which he seeks to be refunded to him in light of his claims that the Claimant failed to perform its obligations and provide services.

43. The First Defendant's argument in relation to the counterclaim is similar to its defence. The First Defendant argues that the Claimant's actions indicate that the Claimant has fallen well below the standards that are to be expected by a member of the public, that has engaged a law firm for its services. The First Defendant also argues that the Claimant had breached its ethical obligations under Ministerial Resolution No. 666 of 2015 on the code of ethics and professional conduct of the legal profession in the UAE Minister of Justice.

44. As I demonstrated above, matters related to the code of conduct is the responsibility of the entity registering the Law firm.

45. In relation to the First Defendant's argument that the Claimant is over charging and using non-lawyers to carry out legal advice, I find that the First Defendant had 7 calendar days to raise any issues in relation to the invoices as per clause 5 of the Agreement. The First Defendant failed to provide any evidence that they have raised issues in relation to the invoice within that specified timeframe.

46. Therefore, I find that the First Defendant is not entitled to a refund nor is he entitled to any sum from the Claimant. As such I dismiss the First Defendant's counterclaim.

**Conclusion**

47. In light of the aforementioned, I find that the Defendants shall pay the Claimant the sum of AED 147,542.44 plus interest at the rate of 9% per annum from the date of this Judgment until the date of payment.

48. I dismiss the First Defendant's Counterclaim.

49. The Defendants shall pay the Claimant the Court fee in the sum of AED 7377.12.

Issued by:
**Nassir Al Nasser**
SCT Judge and Registrar
Date of issue: 29 July 2020
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