IN THE DUBAI INTERNATIONAL FINANCIAL CENTRE COURTS

IN THE COURT OF FIRST INSTANCE

BETWEEN

OKEKE

Claimant/Applicant

and

OBIKE

Defendant/Respondent

ORDER WITH REASONS OF H.E. JUSTICE SHAMLAN AL SAWALEHI

UPON the Applicant's Arbitration Claim dated 6 October 2025 (the "Set Aside Application" or the "Application") seeking an order pursuant to Article 41 of the DIFC Arbitration Law to set aside the Partial Award dated 30 June 2025 (the "Partial Award" or the "Award")

AND UPON hearing counsel for the Applicant and counsel for the Respondent at the hearing held before H.E. Justice Shamlan Al Sawalehi on 18 February 2026 (the "Hearing")

AND UPON considering the parties' written and oral submissions

AND PURSUANT TO the Rules of the DIFC Courts ("RDC")

IT IS HEREBY ORDERED THAT:

1. The Set Aside Application is dismissed.

2. The Applicant shall pay the Respondent's costs of the Application, summarily assessed in the sum of AED 245,396.14 (the "Costs Award"), representing 80% of the Respondent's costs as claimed.

3. Pursuant to RDC 38.40, the Costs Award shall be paid within 14 days of the date of this Order.

4. In the event that the Applicant fails to pay the Costs Award within 14 days of the date of this Order, interest shall accrue at the rate of 9% per annum from the date of this Order until payment in full, in accordance with Practice Direction No. 4 of 2017.

Issued by:
Delvin Sumo
Assistant Registrar
Date of Issue: 5 March 2026
At: 1pm

SCHEDULE OF REASONS

Introduction

1. This is a Set Aside Application made pursuant to Article 41 of the DIFC Arbitration Law. The Applicant is seeking to set aside the Partial Award dated 30 June 2025 rendered in a DIAC arbitration seated in the DIFC. The Applicant challenges the Award on jurisdictional, procedural, and public policy grounds.

2. The Application, in summary, arises out of an insurance coverage dispute in which the arbitral tribunal dismissed the Applicant's claims on the basis of contractual defences, including avoidance and other related provisions.

3. For the reasons set out below, the Application is dismissed.

Background

4. The background section set out below, together with the parties' submissions as summarised herein, is intended solely to identify the matters material to the determination of this Application. It does not purport to recite all evidence, arguments, or procedural history placed before the Court. Any fact, submission, or reference not included should not be taken as an indication that it was not considered; all materials properly before the Court have been reviewed and taken into account.

5. The arbitration arose out of a policy which contained an arbitration agreement referring disputes "arising out of or in connection with" the policy to arbitration under the applicable rules.

6. The tribunal issued a Partial Award dated 30 June 2025 (the "Partial Award"). The Partial Award addressed substantive defences which were

determinative of liability and resulted in dismissal of the underlying claim. A Final Award was later issued on 1 September 2025, which dealt principally with costs, following the dispositive conclusions already reached in the Partial Award.

7. The Applicant commenced this Set Aside Application on Monday, 6 October 2025.

8. The hearing took place before me on 18 February 2026 (the "Hearing"). Following oral submissions, I permitted short post-hearing submissions confined to the time-bar objection.

The Applicant's submissions

9. The Applicant sought to set aside the Partial Award under Article 41 of the DIFC Arbitration Law. The Applicant's principal grounds, as developed orally and in skeleton submissions, were threefold.

10. First, the Applicant argued that the tribunal exceeded its jurisdiction (or decided matters beyond the scope of the submission to arbitration), focusing on the tribunal's treatment of policy wording that referred to "fraudulent misrepresentation - established by the final adjudication of an arbitral tribunal".

11. In substance, the Applicant contended that the tribunal accepted a construction that required a prior adjudication by a different tribunal (or court/tribunal external to the tribunal seized of the policy dispute), yet proceeded to reason as if that requirement were satisfied by findings which, in the Applicant's submission were instead made de novo by the tribunal itself.

12. Secondly, the Applicant relied on "presenting the case" / due process complaints, arguing that the tribunal acted contrary to natural justice by:

(a) making findings of dishonesty without properly putting allegations to the Applicant's witness;

(b) drawing adverse conclusions about a supposed conversation involving Mr Ochs notwithstanding the absence of direct evidence from Mr Ochs; and

(c) adopting speculative reasoning in relation to the "transaction/control" issue (including shareholdings and voting control) said to be unsupported by evidence.

13. Thirdly, the Applicant advanced public policy points, including concerns about the tribunal's approach to findings characterised by the Applicant as quasi-criminal and/or findings said to undermine confidence in official corporate/shareholding records.

14. On the procedural objection, the Applicant contended that the Set Aside Application was in time because:

(a) the three-month period began on Friday, 4 July 2025 by operation of Schedule 1 (commencement on the day following receipt);

(b) the period expired on Saturday, 4 October 2025 when calculated by applying a "corresponding date" approach anchored to 4 July;

(c) because 4 October 2025 was a Saturday (a non-business day), the deadline extended to Monday, 6 October 2025, rendering the filing timely; and

(d) the UK Supreme Court decision in *Matthew v Sedman* was said to support the Applicant's approach by emphasising rules excluding fractional days and recognising that statutory computation codes can displace common law approaches.

15. The Applicant further submitted that, even if the Respondent described the defects as "merits complaints", the Applicant's case was that the tribunal crossed the line into procedural unfairness by making findings without evidential foundation and without a fair opportunity to meet them.

The Respondent's submissions

16. The Respondent opposed the Application on both admissibility and merits.

17. On admissibility, the Respondent relied on Article 41(3) and Schedule 1 of the DIFC Arbitration Law and submitted that:

(a) the Award was received on 3 July 2025;

(b) time began to run on 4 July 2025 (the day following receipt);

(c) three calendar months elapsed at the end of Friday, 3 October 2025;

(d) 3 October 2025 was a business day, so no extension applied; and

(e) the filing on 6 October 2025 was therefore out of time and the Application must be dismissed.

18. The Respondent relied on principles associated with the "corresponding date" approach and submitted that the Applicant's method effectively excluded an additional day beyond what the statutory framework provides.

19. The Respondent also objected to the late reliance on *Matthew v Sedman*, noting it was introduced in reply at the Hearing, though the Respondent accepted the matter could be addressed by short written submissions (as I permitted).

20. On the merits, the Respondent submitted that the Application was an impermissible attempt to re-argue the case.

21. On jurisdiction, the Respondent submitted that the arbitration agreement was broad, that the dispute concerned application of policy provisions

(including clause 7.1), and that the tribunal was plainly deciding issues "arising out of or in connection with" the policy.

22. The Respondent argued that the Applicant's case mischaracterised the Award as containing a "jurisdictional carve-out". The Respondent submitted there was no such carve-out and no basis to treat the tribunal's reasoning as stepping outside the submission to arbitration.

23. On "presenting case", the Respondent submitted the Applicant had a full opportunity to present its case, was represented by counsel, filed extensive written submissions, and gave evidence. The Respondent characterised the Applicant's complaints as disagreements with evidential evaluation.

24. The Respondent further relied on the hearing transcript to submit that, during the arbitration, the Applicant's counsel accepted that the necessary allegations of dishonesty/fraudulent non-disclosure had been put to the relevant witness, and that the point was not available to be taken as a later procedural ambush.

25. On public policy, the Respondent submitted that DIFC case law sets a very high threshold, that public policy arguments typically require UAE law expert evidence where contested, and that the Applicant's contentions fell far short of the standard.

Analysis

A. The statutory time limit under Article 41(3)

26. Article 41(3) of the DIFC Arbitration Law imposes a strict limit: an application to set aside "may not be made" after three months have elapsed from the date on which the applicant received the award.

27. Schedule 1 of the DIFC Arbitration Law contains rules for the computation of time. It provides, in substance, that time periods specified in the Law start to run on the day following the day when a notice or communication is received.

28. It is common ground that the Partial Award was received on Thursday, 3 July 2025. In applying Schedule 1, time therefore started to run on Friday, 4 July 2025.

29. The question then is, when do "three months" elapse when time starts running on 4 July 2025?

30. In the absence of any contrary DIFC statutory definition advanced before me, I treat "month" as a calendar month and "elapsed" in its ordinary sense, namely that the period has passed.

31. When a period of calendar months starts running on 4 July 2025, three calendar months elapse at the end of the day immediately preceding the corresponding calendar date three months later. Put another way, the first month elapses at the end of 3 August, the second at the end of 3 September, and the third at the end of 3 October 2025.

32. This approach gives full effect to Schedule 1. The Applicant is not prejudiced by "fractional day" counting because the day of receipt (3 July) is not counted: the statute expressly provides commencement on the day following receipt.

33. The Applicant's argument, as I understand it, is that once the Law states that time "starts to run" on 4 July, then 4 July must itself be excluded as well (by an analogy to "clear days"), shifting expiry to 4 October. I am not persuaded by that submission.

34. First, Schedule 1 already performs the exclusion which the common law historically used to avoid fractional-day prejudice: it shifts the start to the day after receipt. The Applicant's approach would create an additional exclusion not expressed in Article 41(3) or Schedule 1.

35. Secondly, the RDC "clear days" rule (RDC 2.12) is a rule of court procedure that applies where the relevant period is to be calculated by "clear days" or where the rule itself so provides. I do not accept that it can be used to re-write a limitation period fixed by primary DIFC legislation in circumstances where that legislation already contains its own computation code.

36. Thirdly, the Applicant's reliance on *Matthew v Sedman* does not assist it on the statutory construction question I must decide. Matthew concerned limitation periods under English legislation and the treatment of a "midnight deadline" situation. The Supreme Court's reasoning emphasised that the rationale for excluding a day is the rejection of fractions of a day, and that where there is a complete undivided day available, the day is ordinarily included, to avoid extending limitation by a full extra day.

37. Importantly, *Matthew* also recognised that other jurisdictions may have specific statutory computation codes; but that observation reinforces, rather than undermines, the point that the DIFC's own code must be applied as written. the applicable DIFC time-computation rule fixes the method by which the start day is identified, and on that method the period begins on 4 July.

38. I therefore find that the three-month period expired at the end of Friday, 3 October 2025. Friday, 3 October 2025 was a business day. Accordingly, there is no basis to extend the deadline to the next business day under rules dealing with registry closure on the "last day".

39. The Set Aside Application was filed on Monday, 6 October 2025, after expiry of the three-month period. It was therefore filed out of time.

40. The effect of Article 41(3) is mandatory. Where an application is made after the expiry of the statutory period, it is not admissible. I dismiss the Application on this basis.

B. Alternative findings on the merits

41. Even if the Application was admissible, the grounds advanced do not satisfy the stringent statutory thresholds under Article 41

(1) Alleged excess of jurisdiction / beyond scope (Article 41(2)(a)(iii))

42. The arbitration agreement before the tribunal was a wide clause capturing disputes "arising out of or in connection with" the policy.

43. The issues the tribunal decided, construction and application of policy wording, whether avoidance provisions were engaged, whether non-disclosure/fraud conditions were satisfied, and whether a "transaction/change of control" defence applied, are paradigmatic disputes "in connection with" the policy.

44. The Applicant's argument sought to re-label alleged errors of contractual interpretation, alleged misreading of an onshore judgment, and alleged inconsistencies within the tribunal's reasoning as jurisdictional overreach.

45. I am not persuaded that this crosses the Article 41 line. Even if the tribunal's reasoning were arguable or even wrong (a matter I do not decide), that is not, without more, a decision beyond scope. The tribunal was answering questions it was authorised to answer.

46. I therefore reject the jurisdiction ground.

(2) "Unable to present case" / procedural unfairness (Article 41(2)(a)(ii))

47. Article 41(2)(a)(ii) concerns a party being unable to present its case. DIFC jurisprudence treats this ground as addressing fundamental practical unfairness, not a broad appellate review of how evidence was assessed.

48. On the record before me, the Applicant participated fully in the arbitration, was represented by experienced counsel, filed substantial pleadings and submissions, and gave ample evidence.

49. The Respondent drew my attention to transcript passages in which counsel for the Applicant accepted, during the arbitration, that the allegations relevant to fraudulent non-disclosure had been fairly put to the witness and indicated that no procedural point would be taken on that basis. I accept that this materially undermines the Applicant's attempt to re-run the complaint as an annulment ground.

50. In any event, even put at its highest, the Applicant's procedural complaints are largely reduced to a disagreement with the tribunal's inferences and its evaluation of what was more likely to have occurred.

51. A tribunal's decision to accept one evidential inference over another, or to find a witness unreliable, is not ordinarily a denial of the right to present a case. It is the exercise of the tribunal's adjudicative function.

52. I would therefore reject the "unable to present case" ground.

C. Public policy (Article 41(2)(b))

53. I have repeatedly emphasised that the public policy ground is narrowly confined and engaged only where recognition of the award would fundamentally offend the most basic and explicit principles of justice and fairness, or require abandonment of core legal fundamentals.

54. Where UAE public policy is invoked in a contested way, DIFC authority also indicates that UAE law expert evidence will commonly be required to identify and prove the relevant public policy content.

55. In this case, the Applicant's public policy arguments were contested and not supported by UAE law expert evidence.

56. Further, the Applicant's contentions properly analysed, again amount to disagreement with the tribunal's fact-finding. That does not meet the exceptional threshold for a public policy annulment.

57. I therefore reject the public policy ground.

58. For the reasons above, I dismiss the Set Aside Application.

59. The Applicant shall pay the Respondent's costs of the Application.

60. In assessing those costs, the Court has had regard to RDC 38.7, 38.8 and 38.23 and the requirement that costs allowed on the standard basis be reasonable and proportionate. While the Respondent has been successful in this Application, I consider it appropriate, in the exercise of my discretion, to allow recovery of 80% of the total costs claimed, reflecting the need to ensure proportionality.