THE DUBAI INTERNATIONAL FINANCIAL CENTRE COURTS

IN THE COURT OF APPEAL

BETWEEN

TAYSEER ALI

Claimant/Respondent

and

SADAPAY TECHNOLOGIES LTD

Defendant/Appellant

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

UPON the Order of H.E. Justice Roger Stewart dated 18 September 2025 (the "Order")

AND UPON the Order of H.E. Justice Roger Stewart dated 20 November 2025 dismissing the Defendant's application for permission to appeal the Order

AND UPON the Defendant's renewed application dated 12 December 2025 seeking permission to appeal the Order (the "Renewed Application")

IT IS HEREBY ORDERED THAT:

1. The Renewed Application is dismissed.

2. The Defendant shall pay the Claimant's costs of the Renewed Application to be assessed in accordance with the following orders.

3. Within **twenty-one (21) days** of the date of these orders the Claimant shall file a Statement of Costs together with any short submissions in support of its claim for costs

4. Within **fourteen (14) days** of service of the Statement of Costs the Defendant shall file any submissions in opposition to the quantum of the costs claimed by the Claimant.

5. Within **seven (7) days** of the service of the Defendant's submissions pursuant to the preceding order, the Claimant shall file any submissions in reply.

6. The quantum of the Claimant's costs will thereafter be assessed by H.E. Chief Justice Wayne Martin by way of immediate assessment on the papers.

Issued by:
Hayley Norton
Assistant Registrar
Date of issue: 29 January 2026
At: 10am

SCHEDULE OF REASONS

Summary

1. The Defendant, Sadapay Technologies Ltd ("Sadapay") has applied to the Court of Appeal for permission to appeal from the decision of the Judge at first instance (the "Judge") dismissing Sadapay's objection to the jurisdiction of the Court (the "Renewed Application"), the Initial Application for Permission to Appeal (the "Initial Application") having been refused by the Judge. For the reasons which follow, Sadapay has failed to establish that any of its proposed grounds of appeal have a real prospect of success or that there is some other compelling reason why permission to appeal should be granted. Accordingly, the Renewed Application must be dismissed with costs.

The material facts giving rise to the dispute

2. There are some similarities and some differences between the material facts giving rise to the dispute and the claim by Mr Ali and the claim the subject of *Sheppard v Sadapay Technologies Ltd*[1]. The most significant similarity is that the Claim in this arises from an alleged breach by Sadapay of a Grant Agreement between Mr Ali and Sadapay which is in identical terms to that executed by Mr Sheppard and Sadapay and which incorporates the SIP in identical terms. The most significant differences are:

(a) The Employment Agreement between Mr Ali and Sadapay contains a provision conferring exclusive jurisdiction upon the Courts of Pakistan; and

(b) Mr Ali was primarily based in Pakistan rather than the UAE, although he made visits to Dubai from time to time in the course of his employment; and

(c) The Judge found that if the DIFC Employment Law did apply, the proceedings were commenced in time.

3. More specifically, the Employment Agreement applicable at the time of termination of Mr Ali's employment by Sadapay was dated 1 March 2022, although it was specified to take effect from 1 July 2021. Under the terms of that Agreement, Mr Ali was employed as Chief Financial Officer. Clause 4 of the Employment Agreement was in substantially similar terms to the corresponding clause in the Employment Agreement signed by Mr Sheppard.

4. Given that Mr Ali and Sadapay executed a Grant Agreement dated 10 March 2021, it seems likely that the Employment Agreement superseded or formalised an earlier employment arrangement between Mr Ali and Sadapay or an associated company.

5. At all events, clause 10 of the Employment Agreement provided that both the Agreement and any disputes "arising out of, related to, or in any way connected with, this letter agreement, your employment with Sadapay or any other relationship between you and Sadapay (the "disputes") will be governed by the relevant laws of Pakistan, excluding laws relating to conflicts of choice of law. In such parlance, you and Sadapay hereby agree to submit to the exclusive personal jurisdiction of the Courts in the Islamabad Capital Territory (ICT) in connection with any Dispute or any claim related to any Dispute."

6. Further, clause 11 provides that upon the Effective Date (1 July 2021) any and all prior employment agreements between Mr Ali and Sadapay shall be of no further force or effect and the Employment Agreement supersedes all such previous agreements including a previous agreement between Mr Ali and Sadatech Pakistan (Private) Limited in its entirety.

7. As already noted, Mr Ali and Sadapay executed a Grant Agreement dated 10 March 2021 in identical terms to that executed by Mr Sheppard and Sadapay. As such, it contains clause 9.15, which provides that the Grant Agreement is governed by the law England and Wales and which also provides that:

"The parties irrevocably agree that the Courts of the Dubai International Financial Centre have exclusive jurisdiction to settle any dispute arising out of or in connection with this agreement."

8. Clause 9.2 of the Grant Agreement is in the following terms:

"No variation or waiver of any term of this Agreement shall be effective unless in writing and signed by or on behalf of each Party."

9. However, a general provision in these terms would not be construed as overriding the more specific provision relating to the exclusive jurisdiction of the DIFC Courts, conferral of which is expressly stated to be "irrevocable".

10. The Notice of Grant which was Schedule 1 to the Grant Agreement contains a vesting schedule specifying monthly tranches in which options to acquire shares would vest in Mr Ali between March 2021 and February 2024. The tranches totalled 300,000 options. The Schedule specified the exercise price for each option as USD 0.001.

11. The Grant Agreement incorporates the SIP, which as noted in *Sheppard*, contains a provision to the effect that the SIP and all Grant Agreements are governed by the Laws of the DIFC. There is no jurisdiction clause in the SIP.

12. There is a conflict between the terms of the Grant Agreement, which provide that it is to be governed by the laws of England and Wales, and the terms of the SIP which provide that all Grant Agreements made pursuant to its terms are to be governed by the Laws of the DIFC. However, as will appear, it is unnecessary to determine whether the proper law of the Grant Agreement is the law of England and Wales or the law of the DIFC.

13. On 4 July 2024 Mr Ali gave notice of resignation by email to Sadapay which was expressed to take effect from 31 August 2024, although the email exchanges between the parties acknowledge that Mr Ali would be on "garden leave" between the service of his notice and the termination of his employment on 31 August 2024.

14. The documentary evidence establishes, and the Judge found, that Sadapay paid Mr Ali all salary and entitlements accruing up to and including 31 August 2024. On that basis, the Judge concluded that his employment terminated on that date.

15. On 9 July 2024 Mr Ali exercised his option to acquire 280,591 shares in Sadapay, and he claims to have exercised a further right to acquire 28,075 "Boxcar" shares.

16. On 19 August 2024 Sadapay gave notice of its exercise of the Company Call Option in respect of the shares then held by Mr Ali on the basis of a determination of Fair Market Value at USD 0.001. Mr Ali claims that the purported determination of Fair Market Value for the purposes of the exercise of the Company Call Option constituted a breach of each of the Grant Agreement and the SIP.

The proceedings

17. On 28 February 2025 these proceedings were commenced. As they were commenced within six months of the termination of Mr Ali's employment, they were commenced within the time permitted for such proceedings under the DIFC Employment Law. However, as in *Sheppard* and *Mydlarz*[2] the Particulars of Claim in this case have been amended to eschew any reliance upon the provisions of the DIFC Employment Law. Rather, the claim is brought on the basis of alleged breaches of the Grant Agreement and SIP.

18. Sadapay's position in relation to the application of the DIFC Employment Law is somewhat ambivalent. It seems that its primary position is to the effect that the DIFC Employment Law does not apply, because Mr Ali was not based in Dubai, but in Pakistan. However, it appears to

contend, in the alternative, that if the DIFC Employment Law does apply, the proceedings were commenced out of time. The basis for that contention is not at all clear because neither the grounds of appeal nor the skeleton argument advanced in support of the Renewed Application make any attempt to challenge the Judge's finding that Mr Ali's employment terminated on 31 August 2024, within six months of the commencement of these proceedings.

19. Although Sadapay's reliance upon the limitation provisions of the DIFC Employment Law is maintained in the alternative, albeit faintly, the primary ground upon which it challenged, and upon which it maintains its challenge to the jurisdiction of this Court, is the exclusive jurisdiction provision in the Employment Agreement. As will be seen, that challenge raises issues with respect to the proper characterisation of the claim in these proceedings which correspond to the issues raised in connection with the limitation issue in each of *Sheppard* and *Mydlarz*.

The decision at first instance

20. The Judge's reasons for dismissing Sadapay's objection to jurisdiction were given *ex tempore* at the conclusion of the hearing and subsequently reduced to writing.

21. As already noted, the Judge found, for reasons which he gave, that the relevant employment terminated on 31 August 2024 with the consequence that the proceedings were commenced within time if the DIFC Employment Law was applicable.

22. On the subject of the exclusive jurisdiction clause, the Judge held:

> "I further hold that the jurisdiction clause in the Employment Contract, which provides for the exclusive jurisdiction of the Courts of Islamabad, conflicts with the jurisdiction clause in the Grant Agreement and the Share Incentive Plan, both of which confer jurisdiction on the DIFC Courts. In light of these inconsistent provisions, it cannot be said that the parties have agreed to exclude the jurisdiction of the DIFC Courts. I therefore conclude that the DIFC Courts have jurisdiction to determine the claim."[3]

23. I digress to observe that the assertion that the SIP confers jurisdiction on the DIFC Courts is not correct. The SIP does not contain any provision with respect to jurisdiction, although, as noted, it expressly provides that both it and the Grant Agreement shall be governed by the Laws of the DIFC.

Permission to appeal - legal principles

24. 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."

25. 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.

26. 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."

27. 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.

28. 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.[4]

29. A real prospect of success does not mean a probability of success, but more than mere arguability.[5]

30. "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.[6]

31. 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.[7]

32. It is also established that a real prospect of success does not mean a probability of success, but more than mere arguability.[8]

33. 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.[9]

34. Particular principles apply to applications for permission to appeal against case management decisions and multi factorial assessments undertaken by a Judge at first instance, given the hurdles which must be overcome to obtain appellant intervention in such cases.[10] However, as this case does not involve either an application to appeal against a procedural or case management decision, or against a multi factorial assessment by the trial Judge, it is unnecessary to essay the relevant principles in these reasons.

The grounds of appeal

35. As already noted, the grounds of appeal and the skeleton argument in which they are expressed are ambivalent on the limitation issue which would arise if the DIFC Employment Law is applicable. At one point in the skeleton Sadapay expressly concedes that the claim was within time if it was made under the DIFC Employment Law but at other points maintains its assertion that if the DIFC Employment Law applies, the claim was out of time. As it is clear that the claim is not made under the DIFC Employment Law and in any event would be within time if made under that Law, it is unnecessary to attempt to resolve these apparent inconsistencies in Sadapay's position.

36. In Sadapay's skeleton the grounds of appeal are prefaced by similar irrelevant considerations to those considered in *Sheppard*, including the issue with respect to consideration for the Grant Agreement. As noted in *Sheppard*, that issue was not raised before the Judge and is therefore outside the scope of an appeal by way of review of his decision and in any event, it is not an issue which goes to jurisdiction but rather is a matter which could be raised by way of defence.

Ground 1

37. Sadapay's primary ground of appeal asserts that the Judge erred in concluding that the DIFC Courts have jurisdiction over the claim when he should have held that the claim fell within the exclusive jurisdiction provisions in the Employment Agreement. Sadapay asserts that although there is an inconsistency between that clause and the jurisdiction clause in the Grant Agreement, the proper approach to the resolution of such inconsistencies is that set out in *Trust Risk Group SpA v AmTrust Europe Ltd*[11] where Lord Justice Beatson observed:

> "In short, what is required is a careful and commercially minded construction of the agreements provided for the resolution of disputes. This may include enquiring under which of a number of interrelated contractual agreements a dispute actually arises, and seeking to do so by locating its centre of gravity and thus which jurisdiction clause is "closer to the claim"."[12]

38. Sadapay submits that the centre of gravity is the employment relationship, rather than the Grant Agreement, which is said to be ancillary to that relationship. Sadapay also relies upon the observation that the Grant Agreement is a standard form, whereas the Employment Agreement was specifically negotiated as between the parties.

39. It is apparent from the observations in *Trust Risk Group* upon which Sadapay relies, that enquiring "under which of a number of interrelated contractual agreements a dispute actually arises" raises issues of characterisation of the dispute giving rise to the claim which are of the same character as the issues considered in *Sheppard*, albeit in the context of identifying whether the claim in that case was a claim under the DIFC Employment Law.

40. Although not enunciated in these terms by Sadapay, in the circumstances of this case there is an antecedent question as to whether the Employment Agreement should be construed as an agreement to amend the Grant Agreement in relation to jurisdiction. That question arises because in this case, unlike in *Sheppard* and *Mydlarz*, the Employment Agreement was executed after the Grant Agreement. In *Sheppard*, I expressed the view that because the Grant Agreement was later in time and inconsistent with the earlier Employment Agreement, it should be taken as an agreement to vary the provisions of the Employment Agreement relating to the issue of shares to Mr Sheppard.

41. There are a number of reasons why the Employment Agreement should not be taken to amend or vary the provisions of the Grant Agreement relating to jurisdiction in the circumstances of this case.

42. The first has already been noted. The Grant Agreement expressly provides that the conferral of jurisdiction on the DIFC Courts is irrevocable and the general provision in the Grant Agreement relating to subsequent variations could not be read as overriding that specific provision.

43. Second, each of the Grant Agreement and SIP are governed by the Laws of the DIFC, or, in the case of the Grant Agreement, perhaps the laws of England and Wales. The choice of law provision in the Employment Agreement does not purport to alter the governing law of either the Grant Agreement or the SIP. Under either DIFC Law or the laws of England and Wales, as a matter of contractual construction, it would not be reasonable to attribute an objective intention to the parties to the effect that a dispute arising under agreements governed by DIFC Law should be referred to the exclusive jurisdiction of the Courts of Islamabad.

44. Third, it is impossible to reconcile the provisions of clause 4 of each of the Employment Agreements with the provisions of the Grant Agreement, as they are inconsistent in a number of respects. By contrast, reconciliation of the differing jurisdiction clauses is straightforward if the jurisdiction clause in the Employment Agreement is construed as not extending to disputes arising under the Grant Agreement and SIP.

45. Fourth, in the circumstance in which there has been a clear and express decision by the parties to adopt either DIFC Law or the Law of England and Wales as the governing law of the Grant Agreement and the SIP, and to confer exclusive jurisdiction upon the DIFC Courts in respect of disputes arising under the Grant Agreement, it would not be reasonable to attribute to the parties an intention to change that position in the absence of clear and express words to that effect, and there are no such words in the Employment Agreement.

46. In relation to these issues there is no material difference if the Grant Agreement is governed by the laws of England Wales or the Laws of the DIFC.

47. Accordingly, although Sadapay does not advance this contention, for the reasons given there is no prospect that the Court of Appeal would conclude that the subsequent execution of the Employment Agreement had the effect of amending the provisions of the Grant Agreement with respect to jurisdiction.

48. That leaves the issue of identifying whether this claim arises under the Employment Agreement or the Grant Agreement/SIP in accordance with the principles enunciated in *Trust Risk Group*. That is essentially the same question which arose in *Sheppard* in relation to the issue of whether the claim was being made under the DIFC Employment Law. In that context, it was held that the claim did not arise under the Employment Agreement but rather, under the Grant Agreement/SIP and I concluded that there was no real prospect of any appeal from that conclusion succeeding, for the

reasons given in *Sheppard*.

49. There is no reason to form a different conclusion in this case albeit that the question arises in a slightly different context.

50. For the reasons given in *Sheppard*, which are incorporated by reference into these reasons, there is no real prospect that the Court of Appeal would conclude that the dispute giving rise to the claim in these proceedings arose under the Employment Agreement and not the Grant Agreement/SIP. Accordingly, the Court of Appeal would conclude that the jurisdiction clause in the Grant Agreement would be closer to the "centre of gravity" of the claim and would uphold the decision of the Judge to the effect that the DIFC Courts has jurisdiction.

51. Ground 1 has no real prospect of success.

Ground 2

52. Ground 2 has not been enunciated in express terms, but the argument in support of the ground in Sadapay's skeleton is materially identical to the argument advanced in *Sheppard* in reliance upon cases which are said to establish the proposition that bonus shares can be regarded as part of an employee's remuneration and as therefore deriving from the employment relationship. As noted in *Sheppard*, that proposition misses the point because Mr Ali's claim in these proceedings is not a claim for the shares which he had an option to purchase, and which he purchased. Rather, the claim is based upon an alleged breach of the Grant Agreement and SIP in relation to the determination of the Fair Market Value of the shares for the purposes of the exercise of the Company Call Option conferred by the SIP and acknowledged in the Grant Agreement. Neither the arguments advanced by Sadapay or the cases to which reference is made are of any relevance to the proper characterisation of the claim in this case.

53. For these reasons, however ground 2 is enunciated, it would have no real prospect of success.

54. The only other ground referred to in the skeleton filed by Sadapay is described as "quasi ground 3" and relates to the applicability of the DIFC Employment Law. For reasons already given, in this case there are a number of reasons why no question of any limitation period applicable under the DIFC Employment Law arises.

Grounds of appeal - summary

55. For the reasons given none of the proposed grounds of appeal has any real prospect of success, nor has any attempt been made to establish any other compelling reason why permission to appeal should be granted. Accordingly, the Renewed Application must be dismissed with costs.