THE DUBAI INTERNATIONAL FINANCIAL CENTRE COURTS

IN THE COURT OF FIRST INSTANCE

BETWEEN

(1) MARIN
(2) MARITA
(3) MISTAN

Claimants

and

MARKKU

Defendant

ORDER WITH REASONS OF JUSTICE SIR RICHARD FIELD FURTHER TO THE ORDER ISSUED HEREIN ON 17 MAY 2021

UPON considering the Defendant's application dated 22 March 2021 for a stay of the assessment proceedings begun on 16 March 2021 in respect of the costs awarded to the Claimant under the Costs Order dated 5 January 2021 (the **"Costs Order"**)

AND UPON considering the temporary stay of the said assessment proceedings granted by Registrar Nour Hineidi on 6 April 2021 pending the Court's decision on the Defendant's application for a de novo review of the order of Deputy Registrar Ayesha Bin Kalban dated 17 March 2021 and the Defendant's said application for a stay dated 22 March 2021

AND UPON considering the terms of the Costs Order

AND UPON considering the submissions made in paragraphs of 36 - 43 of the Defendant's Statement of Case and paragraph 47 of the Reply Submissions served by the first two Claimants (the **"Claimants"**)

AND UPON considering RDC 40.1

IT IS HEREBY ORDERED THAT:

1. The said assessment proceedings are stayed until the conclusion of these proceedings (Claim No. CFI-042-2019) or further order of the Court.

2. The Claimants must pay the Defendant's costs of this stay application to be assessed by the Registrar on the standard basis unless the said costs are agreed; and in the meantime, after it has produced a verified Bill of Costs, the Defendant shall have liberty to apply pursuant to RDC 38.13 and paragraph 5 of Practice Direction No. 5 of 2014 for an order that the Claimants should pay by way of an interim payment 50% of the costs awarded to the Defendant.

Issued by:
Nour Hineidi
Registrar
Date of issue: 20 May 2021
Time: 12.30pm

SCHEDULE OF REASONS

1. RDC 40.1 provides: "The general rule is that the costs of any proceedings or any part of the proceedings are not to be assessed by the detailed procedure until the conclusion of the proceedings. However, the Court may order them to be assessed immediately."

2. The Defendant helpfully draws the Court's attention to CPR r. 47.1 which is the equivalent to RDC 40.1 and the following note thereon in the White Book that is to the effect that there is no presumption that there shall be an immediate assessment of interlocutory costs.

3. I agree with that note. There is no presumption in DIFC Court proceedings that there shall be an immediate assessment of interlocutory costs. It follows that, since the Costs Order did not provide for immediate assessment of the costs therein ordered, the assessment of those costs must await the conclusion of these proceedings, subject to any further order made in the meantime. Accordingly, I reject the submission of the Claimants that the effect of the Costs Order is that there can be an immediate assessment of the costs and it was up to the Defendant to appeal the order if it wished to contend that assessment of the costs should await the conclusion of the proceedings.

4. It follows that the Defendant has an unanswerable case for the stay it applies for and I shall make the order sought.