Claim No. CFI 035/2025

THE DUBAI INTERNATIONAL FINANCIAL CENTRE COURTS

IN THE COURT OF FIRST INSTANCE

BETWEEN

ELI MYDLARZ

Claimant

and

SADAPAY TECHNOLOGIES LTD

Defendant

ORDER WITH REASONS OF H.E. JUSTICE ROGER STEWART

UPON the Order of H.E. Justice Roger Stewart KC dated 19 September 2025 ("the Order");

AND UPON the Defendant's Appeal Notice dated 14 October 2025 seeking permission to appeal against the Order ("the PTA Application")

AND UPON considering the Respondent's submissions in opposition dated 6 November 2025

AND UPON reviewing the Rules of the DIFC Courts ("RDC")

IT IS HEREBY ORDERED THAT:

1. The PTA Application is refused

2. The Defendant shall pay the Claimant's costs of responding to the PTA Application to be assessed as follows:

   (a) The Claimant is to file and serve a Statement of Costs and any short submissions in support of the cost claimed within 21 days of the date of this Order;

   (b) The Defendant shall provide any submissions in response to the costs claimed within 14 days of the service of the Statement of Costs; and

   (c) The Claimant is to provide any submissions in reply to the Defendant's response within 7 days of service of that response.

   (d) The quantum of costs to be paid by the Defendant to the Claimant will thereafter be assessed by way of immediate assessment on the papers.

Issued By:
Delvin Sumo
Assistant Registrar
Date of issue: 20 November 2025
At: 3pm

SCHEDULE OF REASONS

1. The Defendant seeks permission to appeal against the Order whereby I dismissed the Defendant's application seeking to contest the jurisdiction of the DIFC Courts.

2. I remind myself that by:

   (a) RDC 44.19, permission to appeal may only be given where the lower court or the appeal court considers that the appeal would have a real prospect of success or there is some other compelling reason why the appeal should be heard;

   (b) RDC 44.10, an appellant must file an appellant's notice within 21 days from the date of the decision where the lower court makes no other direction;

   (c) RDC 44.13, where the time for appeal has expired an appellant must file the appellant's notice with an application for an extension of time and include therein a statement of the reason for the delay and the steps taken prior to the application being made

   (d) RDC 44.14(1) a respondent is permitted to make written submissions in opposition to an application for permission to appeal; and

   (e) RDC 44.25 the Court will normally allow the respondent his costs of an application for permission to appeal if permission to appeal is refused;

3. The Order was made on 19 September 2025. The PTA Application was only issued on 14 October 2025 and is accordingly out of time by some 4 days. The Claimant takes the point that there is no application for an extension of time or statement of reasons for the delay.

4. Given:

(a) That the Order relates to jurisdiction and limitation; and

(b) The relatively short period of delay;

It is likely that I would have been sympathetic to granting a short extension of time had I considered that the proposed appeal had a real prospect of success or there was some other compelling reason for the appeal to be heard

5. However, for reasons set out below, I do not consider that the PTA Applicationhas a real prospect of success, and I do not consider that there is some other reason why the appeal should be heard. At the hearing before me it was accepted that this case involved consideration of the same principles as in CFI 030/2025. I do not understand that there is any difference in principle in respect of the cases.

6. The Defendant's first ground of appeal is that the Order erred "in categorising the claim as contractual rather than employment-related". This mis-states the relevant question which is whether, for the purposes of Article 10 of the DIFC Employment Law, the claim is "under this Law". If it is "under this Law it shall not be considered unless it is presented during an Employee's employment or not later than 6 months after the Employee's termination date.

7. A claim may plainly be "employment-related" but not one which is "under" the DIFC Employment Law. Thus, the Employment Law gives numerous rights to employees and it can properly be said that claims for such rights are properly described as being "under" the law.

8. By contrast, the claim in the present case is not "under" the Employment Law. Rather it is a claim, as set out in the Order, that in breach of the express contractual provisions under which the Claimant was granted shares, the Administrator wrongly determined the fair market value of the shares.

9. The cases sought to be relied on by the Defendant were not cited in argument at the hearing prior to the Order. The do not, however, consider what is meant by a claim being "under" the Employment law. Further the policy behind the relevant terms is wholly different from that in this case. Thus,

(a) *Samengo-Turner* [2007] EWCA Civ 723, *Petter v EMC Europe Ltd* [2015] EWCA Civ 828, *Gagliardi v Evolution Capital Management LLC* [2023] EWHC 1608(Comm) and *Ponticelli v Gallagher* [2023] IRLR 934 all concerned the proper interpretation of section 5 of Regulation (EU) No 1215/2012 ("Brussels 1 Recast");

(b) This provision gives protection, for policy reasons, to an employee to be sued only in the courts where he is domiciled or where he carried out work "in matters relating to individual contracts of employment";

(c) The cases cited from Australia, New Zealand, India and the USA similarly contain no analysis or consideration of what is meant by a statutory provision equivalent to Article 10; and

(d) The direct effect of the construction sought would be to diminish substantially an employee's rights for no benefit or purpose by restricting the applicable limitation period.

10. The second ground is that the Order erred in categorising the claim as contractual "rather than employment related". This again mis-states the test. The claim plainly is contractual arising from expressly granted contractual rights. The relevant question is, however, whether it was "under" the Employment law not whether it was "employment related".