Claim No: TCD 001/2025

N/A

THE DUBAI INTERNATIONAL FINANCIAL CENTRE COURTS

IN THE COURT OF FIRST INSTANCE

BETWEEN

BIM AND GRAFX ENGINEERING ARCHITECTURAL SERVICES

Claimant

and

KRISTINA ZANIC CONSULTANTS LLC FZ

Defendant

ORDER WITH REASONS OF H.E. JUSTICE ROGER STEWART

UPON the Claim Form dated 14 November 2025

AND UPON the Case Management Order dated 15 April 2026

AND UPON the Claimant's Application No. TCD-001-2025/1 dated 16 June 2026 seeking a document production order (the "Application")

AND UPON the Defendant's evidence in answer dated 3 August 2026 and submissions dated 11 August 2026

AND UPON the Claimant confirming that it does not wish to file any additional submissions on 2 September 2026

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

IT IS HEREBY ORDERED THAT:

1. The Application is dismissed.

2. The costs of the Application be the Defendant's in any event with any issues regarding assessment being reserved.

Issued by:
Delvin Sumo
Assistant Registrar
Date of issue: 9 October 2026
At: 11am

SCHEDULE OF REASONS

1. This is an application for document production by the Claimant seeking three categories of documents (with the first category being split into three subsets).

2. The relevant issues to which the requests are said to relate are (2) (5) (6) (9) of the Agreed list of issues. These issues all relate to whether there were deficiencies in the Claimant's performance and, if so, whether they were attributable to the fault of the Defendant.

3. The issues thus require a consideration of the relationship between the parties and what was or was not done. The documents sought all relate to internal arrangements at the Defendant. These documents do not bear directly on the matters in issue. Furthermore, to the extent that it is the Defendant alleging deficiencies in the Claimant's services, a failure to produce documents is likely to hinder the Defendant's case and provides no justification for imposing the document production orders.

4. Additional reasons for refusing the requests are set out in the Schedule hereto.

No.	Documents Sought		Reasons for Requests	Document not in the Requesting party's control and reasons	Document in the Responding party's control and reasons	Reasons for Objection	Court's Decision
		Relevant time period (inclusive)	Materiality and Significance				

No.	Documents Sought	Reasons for Requests		Document not in the Requesting party's control and reasons	Document in the Responding party's control and reasons	Reasons for Objection	Court's Decision
&#65533;	**&#65533;**	**Relevant time period (inclusive)**	**Materiality and Significance**	**&#65533;**	**&#65533;**	**&#65533;**	**&#65533;**
1. b	Emails, letters and other documents pertaining to the appointment of the new BIM Manager of the Defendant and date on which the appointment of the New BIM Manager was communicated to the Claimant and the Claimant's resources.	1 January 2025 to 30 June 2025	The search period of 1 January 2025 to 30 June 2025 is to take any notice period for the resignation and for appointment of a new BIM Manager into account.	&#65533;	appointment of a new BIM Manager by the Defendant.	rather than documents bearing directly upon the contractual rights and obligations in dispute between the parties. The Claimant has failed to establish a sufficient nexus between the requested documents and any pleaded issue. Even if such documents exist, their probative value would be minimal and substantially outweighed by the burden and confidentiality concerns arising from their disclosure. Accordingly, the request should be refused. 1.b The Defendant objects to this request on the basis that it is irrelevant, disproportionate and speculative. 1.b The Defendant objects to this request on the basis that it is irrelevant, disproportionate and speculative.	1b. Request refused. As per 1a. Any relevant issue is as to the relations between the Claimant and the Defendant not the Defendant's internal organization.

No.	Documents Sought	Reasons for Requests		Document not in the Requesting party's control and reasons	Document in the Responding party's control and reasons	Reasons for Objection	Court's Decision
		Relevant time period (inclusive)	Materiality and Significance				
1. c	Emails, letters and other documents that reveal the Defendant's designated employee who was responsible for handling the responsibilities of the BIM Manager and proof of notification of the same to the Claimant or the Claimant's resources.	1 March 2025 to 30 June 2025	The production of these documents would aid the Court in determining whether the removal and replacement of the Defendant's BIM Manager created a leadership vacuum which led to the alleged delays or defects in performance being attributed to the Claimant's resources by the Defendant.			The request seeks broad categories of internal employment and management documents without identifying any specific document likely to advance a pleaded issue. The Claimant's assertion that the appointment process may have affected project management is unsupported by evidence and cannot justify disclosure. The request therefore lacks the requisite materiality and specificity required for an order for production and should be rejected. 1.c The Defendant objects to this request because it seeks documents that are neither necessary nor material to the determination of the issues before the Court. The identity of internal personal assigned responsibilities within the Defendant's organization is an internal management matter. The Claimant has not explained how such documents would establish or disprove any pleaded allegation. The request is based upon a speculative assumption that internal staffing arrangements may have contributed to project issues. Such speculation cannot justify compulsory disclosure. The request is therefore irrelevant, disproportionate and constitutes an impermissible fishing exercise.	I.c Request refused as per 1a and 1 above.

No.	Documents Sought	Reasons for Requests		Document not in the Requesting party's control and reasons	Document in the Responding party's control and reasons	Reasons for Objection	Court's Decision
		Relevant time period (inclusive)	Materiality and Significance				
2.	Emails, letters and other documents prepared by the Defendant that describes the Defendant's reasons for its decision not to settle the payment of the Claimant for the period from March 2025 to June 2025.	1 March 2025 to 30 June 2025	The Defendant has taken a position in its defence that it decided not to settle the payments due to the Claimant on account of the defective works performed by the Claimant's resources. The Claimant has consistently denied this and insisted that the Defendant has raised this defence as an afterthought after the Claimant pushed for payment of its outstanding invoices. No formal communication was made to the Claimant of the Defendant's reason not to settle the payments due to the Claimant until the Claimant followed up for payments for previous months. It is not clear if the decision to delay payment to the Claimant was a conscious and deliberate decision as alleged by the Defendant or if it was made as an afterthought after the Claimant insisted on payment. A review of the contemporaneous emails, letters and other documents of the Defendant that sets out its justification to arrive at this decision would make it clear if the Defendant was genuinely aggrieved by the performance of the Claimant's resources or if the concerns were an afterthought.	These are internal documents of the Defendant that would explain the reasons for its decision not to settle the payments due to the Claimant. The Claimant does not have access to these documents.	The standard disclosure of documents by the Claimant and Defendant reveals that there was a pattern followed for payment of monthly invoices and this pattern was interrupted from February 2025. The Defendant's internal records would reveal the reason for this disruption.	2. The Defendant objects to this request because it seeks internal deliberations, assessments, analyses and communications concerning the Defendant's decision-making process. The issue before the Court is not the Defendant's subjective internal reasoning but whether, objectively, the Defendant had contractual and factual grounds for withholding payment. The Defendant's internal discussions do not determine the existence or otherwise of those grounds. Moreover, the request is excessively broad and would encompass confidential internal communications, management discussions and potentially legally privileged material. The Claimant seeks "all documents describing the Defendant's reasons for withholding payment without identifying any particular document or category likely to be material. The request is therefore disproportionate, overboard and lacks sufficient relevance to justify production.	Request refused. The relevant issue is as to whether the Defendant had any legally justifiable basis upon which to refuse payment of some or all of the sums due. Its internal consideration of these matters is irrelevant.

No.	Documents Sought	Reasons for Requests		Document not in the Requesting party's control and reasons	Document in the Responding party's control and reasons	Reasons for Objection	Court's Decision
		Relevant time period (inclusive)	Materiality and Significance				
3.	Emails, letters and other documents of the Defendant including Microsoft teams chat specifically listing out the defects in performance by the Claimant's resources including any response received from the Claimant's resources as well as any email, letter or other document of the Defendant notifying the Claimant of any defects in performance by its resources.	1 March 2025 to 30 June 2025	The Defendant, as part of its standard production of documents has disclosed an internal email of the Defendant dated 17 June 2025 (from David Ewing to Sarah Zohaib at 11.02 AM) that requests the following information: "Kit is putting together a justification outlining the poor performance for BimGrafx (is this yours or Jen's?) Do you think you can pull up any past communication outlining anything we can use as justification?" Whilst the Claimant is not privy to any such past communication, this email indicates that there were communications from the Defendant setting out the defects in performance by the Claimant's resources. The Defendant's entire defence hinges on defective performance by the Claimant's resources and therefore these documents ought to form part of the disclosed documents.	The Claimant has not received any communication from the Defendant setting out any defects in performance. If there are any such documents in the Defendant's possession that sets out proof of any defective performance by the Claimant, the Claimant is entitled to review them.	The email of 17 June 2025 indicates that there are such documents in the Defendant's possession and therefore the Defendant must produce it.	3. The Defendant objects to this request in so far as it is drafted as it is drafted in terms that are excessively, broad, vague and disproportionate. The request seeks all emails, letters, Microsoft Teams communications and other documents relating to alleged performance concerns over a four-month period. Such a request is not narrowly tailored and would require an extensive and burdensome review of large volume of documents. Further, the request appears to be based on a mischaracterisation of a single internal email dated 17 June 2025. The existence of an email referring to potential justification does not establish the existence of further responsive documents within the scope alleged by the Claimant. To the extent that the Defendant relies upon specific communications evidencing performance deficiencies, such documents have already been disclosed or will be disclosed in accordance with the Defendant's disclosure obligations. However, the Defendant objects to any wider request seeking all internal communications, discussions, deliberations and commentary concerning performance issues, as such a request is disproportionate and extends well beyond what is necessary for the fair resolution of the dispute. Accordingly, the request should either be refused or substantially narrowed.	Request refused. Insofar as the Defendant seeks to rely on alleged defects in the Claimant's performance, it will be obliged to produce the same on standard disclosure. If they have not been produced, the likely inference is that they do not exist.