

**NOVEMBER 23, 2020**

For more information,  
contact:

Benjamin J. Williams  
+971 4 377 9900  
[bwilliams@kslaw.com](mailto:bwilliams@kslaw.com)

Adrian Cole  
+971 2 596 7000  
[acole@kslaw.com](mailto:acole@kslaw.com)

Sarah Y. Walker  
+44 20 7551 7500  
[swalker@kslaw.com](mailto:swalker@kslaw.com)

Thomas K. Sprange, QC  
+44 20 7551 7500  
[tsprange@kslaw.com](mailto:tsprange@kslaw.com)

---

### King & Spalding

Dubai  
Al Fattan Currency House  
Tower 2, Level 24  
Dubai International Financial  
Centre  
P.O. Box 506547  
Dubai, UAE  
Tel: +971 4 377 9900

London  
125 Old Broad Street  
London EC2N 1AR  
Tel: +44 20 7551 7500

## DIFC Courts Grant First Ever Anti-Suit Injunction

---

A clear message to parties that arbitration agreements providing for a DIFC seat must be respected

In a landmark decision handed down by His Excellency Justice Shamlan Al Sawalehi in Multiplex Constructions LLC v Elemec Electromechanical Contracting LLC the DIFC courts have upheld a DIFC-LCIA arbitration agreement and restrained a party from pursuing proceedings in the onshore courts of Dubai. The injunction, which if breached could result in fines being issued and even imprisonment, is the first ever occasion that such an order has been issued by the DIFC courts. Parties should take note that going forward the DIFC courts are unlikely to stand idly by when the commonly used tactic in the region of commencing onshore court proceedings is invoked in an attempt to usurp an agreement to arbitration in the DIFC.

### BACKGROUND

Multiplex and Elemec entered into a contract containing an arbitration agreement which provided for the application of the DIFC-LCIA arbitration rules and arbitration seated in the DIFC. Multiplex is a multinational construction company founded in Perth, Western Australia. It has completed approximately two-dozen projects in the Middle East, including Emirates Towers in Dubai and the W Hotel in Doha. Elemec is a Dubai based contractor, providing electromechanical works for construction and infrastructure projects.

A dispute arose between the parties, but contrary to the arbitration agreement, Elemec commenced proceedings in the onshore Dubai courts. Multiplex commenced a DIFC-LCIA arbitration and applied to the DIFC courts for an anti-suit injunction restraining Elemec from taking any further steps in the onshore Dubai courts and discontinuing the proceedings already started there.



## THE ANTI-SUIT INJUNCTION

Over the course of three hearings, Justice Al Sawalehi carefully considered the construction of the arbitration agreement, the capacity of its signatories and whether Multiplex had waived its rights to challenge the validity of the onshore court proceedings, including because it had already participated in those proceedings, albeit with a reservation of rights. The Judge drew upon the previous case of Brookfield Multiplex Construction LLC v DIFC Investments, in which Justice Sir Jeremy Cooke expressed the view that the DIFC courts should be astute to protect the sanctity of arbitrations seated in the DIFC. Justice Al Sawalehi's ruling goes further, because not only does it confirm the validity of the arbitration agreement, it pronounces on the invalidity of the onshore court proceedings in breach of that agreement.

## THE IMPACT OF THE RULING

The ruling demonstrates the willingness of the DIFC courts to exercise to the fullest extent its supervisory authority over arbitrations seated within its jurisdiction. Parties who select arbitration in the DIFC to resolve their disputes should feel more confident that the DIFC courts are prepared to grant measures to seek to ensure that agreements to arbitrate will not be hijacked by an attempt to litigate instead in the onshore Dubai courts. Whilst cooperation between the DIFC and onshore Dubai courts has expanded in recent years, including by way of recognition of the other's judgments and orders, it remains to be seen what the 'onshore' reaction will be to this ruling. For example, a reference might be made to the Joint Judicial Committee, comprising judges from both the DIFC and onshore Dubai courts, which in the past has issued decisions overruling DIFC jurisdiction. In addition, the ruling applies only in Dubai. It will therefore be interesting to see whether the ADGM courts, the free-zone equivalent in Abu Dhabi, follow suit.

---

## ABOUT KING & SPALDING

Celebrating more than 130 years of service, King & Spalding is an international law firm that represents a broad array of clients, including half of the Fortune Global 100, with 1,200 lawyers in 22 offices in the United States, Europe, the Middle East and Asia. The firm has handled matters in over 160 countries on six continents and is consistently recognized for the results it obtains, uncompromising commitment to quality, and dedication to understanding the business and culture of its clients.

This alert provides a general summary of recent legal developments. It is not intended to be and should not be relied upon as legal advice. In some jurisdictions, this may be considered "Attorney Advertising." View our [Privacy Notice](#).

ABU DHABI	CHARLOTTE	GENEVA	MOSCOW	RIYADH	TOKYO
ATLANTA	CHICAGO	HOUSTON	NEW YORK	SAN FRANCISCO	WASHINGTON, D.C.
AUSTIN	DUBAI	LONDON	NORTHERN VIRGINIA	SILICON VALLEY	
BRUSSELS	FRANKFURT	LOS ANGELES	PARIS	SINGAPORE	