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OTHER(NON STATDARD CASE RELATED DOCUMENTS)

Claim No : SCT-400-2024

Issued Date : 15-Oct-2024

Case Information

Case Title : Iuliia Valiullina vs Hair Creators Salon Ltd
Party Type : Defendant
Claimant Name : Hair Creators Salon Ltd
Litigant : Yes

Details

Document : Other (non-standard case related documents)

Brief details

The Defendant submits this submission in further support and in addition to its previous submission with respect to its Jurisdiction Defence raised against the Claimant's Notice of Claim for the case of SCT-400-2024.

The Defendant has already addressed in its submission of Acknowledgement of Service, dated 16 September 2024 that the Defendant's application for its jurisdictional defence is in accordance with Part 53.2 and Part 53.4 of the DIFC Rules, where it has submitted that the amount in dispute exceeds beyond AED 500,000 that which the Small Claims Tribunal can hear. The Defendant and the new shareholder have filed a claim in the Court of First Instance against the Claimant in accordance with Part 7 of CPR in the monetary sum of circa 3,000,000 with the case reference of CFI-066-2024 which would be a counterclaim in these proceedings as it directly relates to the failure of the Claimant to act properly and in accordance with the obligations placed on her as an employee: set out in the DIFC Employment Law and would therefore allow the case to be transferred to the Court of First Instance. As this case is still under investigation by the DIFC Court of First Instance and is above the threshold and complexity to be heard in this Court.

There is no dispute that Claimant was employed by Defendant when it was owned and directed by Mr. Salah Adel Masri "Mr. Masri" from 21st September 2021 until 13 June 2024 "Annexure A"[1]: The Claimant was an on-and-off shareholder in the Defendant until 16 November 2022 and a shareholder until 16 February 2022 "Annexure B." [2]: The Defendant holds no records under its possession to understand the involvement and full role of the Claimant in the Defendant as the Company records were never left at the Defendant's premises and cannot also be located, the new shareholder has no records to them as well.

In the early March 2024, the Defendant's shares which were fully owned by the Claimant's previous business partner Mr. Masri were sold to Ms. Klesta Eshja "Ms. Eshja" who only took control of the license and business under the capacity of a Director and Shareholder on **26 June 2024 "Annexure C"** by the application to DIFC in default of the previous shareholder signing over the license. Until then, it was the previous owner Mr. Masri, who controlled the license, company accounts, client records, and activities related to the Defendant.

As explained above, the Defendant notes that the Claimant on and off role as a shareholder in the Defendant as well as her being an employee from mid-2021 demonstrates that her relationship with Mr. Masri was beyond that of a normal employee; also, the Claimant had access to the contacts, financial records, access to bank accounts and DEWS system, and details of the clients of the Defendant which have not been handed over to the new shareholder nor they are under the possession of the Defendant. As a result, and has been since prior to the transfer of the license, the DEWS system of Defendant is blocked, and the Defendant is unable to cancel employment visas.

The Claimant during the course of her employment breached her duties as an Employee in accordance with DIFC Employment Law^[3]; Article 58 and her fiduciary duties with the Defendant, and Clause 7 of the Employment Contract, who in collaboration with Mr Masri acquired the shares of an existing salon known as "Hair Crafters Company LTD that was in direct competition with the Defendant as recorded in DIFC Public Registry "Annexure D". The Claimant continues to promote her services through Hair Crafters Company and her own social media by using the Defendant's contact number.

Also, the Claimant had served her resignation on the June 13, 2024, when the Defendant was not under the conduct and control of Ms. Klesta^[4]; Thus, assuming that it was Mr. Masri who had approved her resignation. In that case, there is no evidence or basis to such a claim as to whether she has a valid claim or not as indicated above that she had the access to the financial records of the Defendant which was not handed over to the new shareholder nor they are under the possession of the Defendant to understand the Claimant's claim. The Claimant's claim of the monetary sum of AED 30,000 for **"rights and pending salary"** has no supporting evidence.

The Defendant notes that the Claimant has failed to file a response to the jurisdictional challenge as per the date ordered by the Courts i.e 30 September 2024.

Therefore, in light of the facts above, The Defendant respectfully pleads that this jurisdiction challenge must be upheld and the Claimant's claims must be dismissed on the grounds given above.

[1]

Employment Agreement

[2]

DIFC Public Records Registry for Hair Creators Salon LTD

[3]

DIFC Employment Law No.2/2019 and DIFC Employment Amendment Law No. 4/2021 "DIFC Employment Law"

[4]

Ms. Klesta got the conduct and control over the business only by 26 June 2024 as shown in the updated Trade License of Hair Creators Salon LTD

I would like to file the above : With Notice
document(s)

Statement of Truth

Full Name : Klesta Eshja

Signature

: *Klesta Eshja*

Once your claim form has been submitted successfully you will receive a confirmation and an invoice to be settled before your claim can be accepted and progressed. If your submission is unsuccessful you will receive a message explaining the error and how to rectify it.

If you have any problems filling out the form or need further assistance please contact us on + 97144273333 or by email on .

The DIFC Courts are open between 8.00am and 4.00pm, Monday to Friday. Please address all correspondence with the court to the Registry () and quote the case number if you don't have a case number yet.

