

JUDGMENT SUMMARY

Neutral Citation	[2018] ADGMCFI 1
Case Number	ADGMCFI-2017-004
Name of Case	Karin Berardo v Stumpf Energy Limited
Judge	Justice Sir Michael Burton
Date Issued	1 May 2018
Catchwords	Stay of proceedings. Parallel criminal proceedings in onshore courts. Costs.
Cases Cited	–
Legislation and Authorities Cited	–
Executive Summary	This judgment considered the Defendant's application for a stay of proceedings and the associated costs of the Defendant's application. The Court ultimately adjourned the Defendant's application because the question of a stay was considered academic at that time, given the uncertainty of parallel criminal proceedings. As the application was deemed premature, the Court ordered the Defendant to pay half of the Claimant's costs in relation to the Defendant's application.
Overall Summary	Background This Abu Dhabi Global Market (“ADGM”) Court of First Instance (Employment Division) judgment considered the Defendant's application for a stay of the proceedings. Analysis and Conclusion The Court decided to adjourn the Defendant's application for a stay, stipulating that it may not be reinstated until after 28 May 2018. The Court noted that this decision was made on the basis that the application had become academic for two reasons. Firstly, the Defendant was not seeking to adjourn the case at that point in time. Therefore, making a decision on whether they <i>could</i> have pursued it was considered to be academic. Furthermore, the Court considered the decision to be academic because it was unknown at that point in time whether parallel civil and criminal cases would proceed. There was a possibility, as accepted by the Defendant's counsel, that the Claimant might not attend on 28 May 2018,

	potentially leading to a default judgment in the criminal case and thus avoiding parallel proceedings. The Court noted the importance of avoiding conflicting decisions between different courts, particularly where the ADGM Court has exclusive jurisdiction and proper law by agreement. However, the Court was not prepared to decide the important question of the relationship between the offshore Court’s civil jurisdiction and onshore Court’s criminal jurisdiction when the stay application was based on a hypothetical situation. The hypothetical nature of the potential conflict meant it was too early to say whether a stay would be appropriate. The situation might become clearer after 28 May 2018. Regarding costs, the Court found that the application having been brought and then adjourned until after 28 May 2018 had costs implications. The Court noted that it was the Defendant’s initiative to bring the application, which was not ultimately pursued on the day. The Court considered the application premature because there was no existing conflict between the two cases, and the potential conflict might never arise until after 28 May 2018, which would have been a more appropriate time to bring the application. However, the Court had not decided the underlying issue against the Defendant, so it was not appropriate to place the entire costs burden on them. The Court decided that half the costs associated with the Defendant’s application should be paid by the Defendant. The other half would be considered costs in the case, meaning they would depend on the final outcome of the overall action. Assuming the Claimant’s reasonable costs of the application were around US\$ 40,000, the Court summarily assessed the amount payable by the Defendant at US\$ 20,000. The Defendant was ordered to pay this sum to the Claimant within 14 days.
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