

CAYMAN ISLANDS GRAND COURT

Standard Chartered Bank -v- Ahmad Hamad Algozaibi, Grand Court of the Cayman Islands (Financial Services Division) Cause No. FSD 3 of 2013, per Henderson J (10 June 2014)

RECOGNITION AND ENFORCEMENT OF FOREIGN
JUDGMENTS - DEFAULT JUDGMENT

The Plaintiff Bank obtained a Bahrain decision of the Bahrain Chamber for Dispute Resolution, acknowledging the Defendants' indebtedness to the Bank in the amount of US\$25 million. The Bank then sought to have that decision recognised and enforced in the Cayman Islands.

The Defendant was served outside the jurisdiction with a Writ of Summons and Statement of Claim and ultimately (after first indicating that they intended to contest the claim) filed an acknowledgement of service stating that they were not intending on contesting the claim. The Defendants did not file a defence.

The Bank was concerned that if they sought a Judgment in Default of Defence pursuant to Order 19 Rule 2 of the Grand Court Rules, they may have issues with enforcement in other jurisdictions; as such, a judgment may not be viewed as a final judgment. They instead asked the Judge to give direction and set the matter for trial, even though it was clear that the trial would be uncontested.

Henderson J considered *Berliner Bank AG -v- Karageorgis et al* [1996] 1 Lloyds Law Reports 426, and found that Order 19 Rule 2 is permissive in nature and that if a defendant fails to serve a defence the plaintiff "may" enter final (i.e. default) judgment. By refraining from entering default judgment when a defendant fails to plead, a plaintiff becomes entitled to a directions hearing and a trial date.

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