IN THE HIGH COURT
OF THE
REPUBLIC OF THE MARSHALL ISLANDS

AKHMEDOVA, Petitioner, vs. AKHMEDOV, et al., Respondents.	CIVIL ACTION NO. 2018-169 **ORDER REGRADING MOTIONS TO DISMISS**

TO: James Power, counsel for Petitioner Akhmedova
James McCaffrey and Derek Adler, counsel for Respondents Straight Establishment, Qubo 1 Establishment, and Qubo 2 Establishment
Arsima Muller, counsel for Respondent Akhmedov

I. INTRODUCTION

On July 10, 2018, petitioner Tatiana Akhmedova ("Petitioner" or "Ms. Akhmedova") filed a Petition for Recognition of a Foreign Judgment ("Petition"). In her Petition, Ms. Akhmedova seeks an order under the RMI's Uniform Foreign Money-Judgment Recognition Act, 30 MIRC Chp. 4 ("UFMJRA") to recognize and enforce the two English money judgments ("English Money Judgments") she obtained from the Family Division of the High Court of Justice in London (the "English Court") against the following: (1) Mr. Akhmedov (the Petitioner's former husband), Cotor, Qubo 1, Qubo 2, Straight Establishment and Avenger Assets, jointly and severally, in the amount of GBP £125,569,492 plus interest and certain running adjustments (the "Initial Money Judgment"), and (2) against Straight Establishment in the amount of USD $478,278,000 plus interest and certain running adjustments (the "Straight

Money Judgment"). Petition at ¶ 10.

In the August 2018, the Respondents moved to dismiss or stay this matter against four of the six defendants[1] on three grounds: (1) pursuant to Marshall Islands Rules of Civil Procedure ("MIRCP") 12(b)(2) because the Court lacks personal jurisdiction over the Respondents, (2) pursuant to MIRCP 12(b)(6) because this Court should not recognize the English judgments, or, alternatively, (3) pursuant to the doctrine of *forum non conveniens*. Corporate Respondents Straight Establishment, Qubo 1 Establishment, and Qubo 2 filed their "Memorandum of Law in Support of Respondents Straight Establishment, Qubo 1 Establishment, and Qubo 2 Establishment's Motion to Dismiss Petition for Recognition of a Foreign Judgment" ("Corp. Respondents' MTD") on August 8, 2018. Respondent Farkhad Akhmedov filed "Respondent Farkhad Akhmedov's Motion to Dismiss Petition for Recognition of a Foreign Judgment" and his "Memorandum of Law in Support of Motion to Dismiss" (together "Respondent Akhmedov's MTD") on August 10, 2018. The Corp. Respondents' MTD and Respondent Akhmedov's MTD are sometimes together referred at the "Motions to Dismiss."

Having considered the Court's file, including the parties' submissions, the Court concludes that Petitioner Tatiana Akhmedova has not sufficiently alleged facts and inferences to support this Court's personal jurisdiction over Respondents Qubo 1 and Akhmedov. However, Petitioner Tatiana Akhmedova has in her Petition sufficiently alleged facts and inferences to support this Court's personal jurisdiction over the Respondents Straight Establishment and Qubo 2. She has alleged that these Respondents, along with Avenger Assets, have taken acts within the

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[1]Respondents Cotor and Avenger Assets did not join in the Motions to Dismiss, so the Court did not include them in its decision regarding the Motions to Dismiss.

Republic that support personal jurisdiction over them under 52 MIRC § 125(2)(d), *i.e.*, registering as RMI foreign maritime entities, registering the Luna under the RMI Flag, and operating the vessel under the RMI flag as part of a scheme to avoid payment of the English Money Judgments.

Second, the Petitioner has adequately alleged grounds for recognition of the foreign money judgments in her favor, including (1) that the English Money Judgments are final, conclusive and enforceable under English law and (2) that the Respondents have failed to show a mandatory or discretionary ground for non-recognition exists. The English courts are fair and just tribunals that operate according to principles consistent with due process. The English Court's findings that the Respondents were alter egos, were properly served, and were subject to personal jurisdiction can and should be upheld in this Court. And, the Initial Money Judgement and the same amount of the Straight Money Judgement are not unenforceable as judgments for matrimonial support or fines or penalties.

Third, the Respondents' *forum non conveniens* defense fails. The Respondents have not shown that Dubai will provide the Petitioner with an adequate alternative forum or that the private or public interests weigh in favor of the Dubai proceedings or RMI proceedings. The doctrine of *forum non conveniens* does not mandate the dismissal or stay of this action.

II. BACKGROUND

Having reviewed the Court's file, the Court makes the following findings of fact for purposes of the Motions to Dismiss. As more facts are developed, the Court's findings of fact may change.

A. The Parties

At all times relevant hereto, Ms. Akhmedova is and was a resident of England and a British citizen. Petition at ¶ 2. Ms. Akhmedova resides at Somerton House, St George's Hill, Weybridge, Surrey KT13 ONR. *Id.*

Respondent, and judgment debtor, Farkhad Teimur Ogly Akhmedov ("Mr. Akhmedov") has resided in Dubai since 2015. Declaration of Lesley A. Timms (hereinafter "Timms Decl." ¶ 5. Prior to 2015, Mr. Akhmedov worked as an oil and gas trader. Petition at ¶ 3. He had significant financial success in the Russian gas industry, and he sold his interest in ZAO Northgas ("Northgas"), a Russian oil company, for $1.375 billion in 2012. Ms. Akhmedova and Respondent were married in 1993 in Moscow. *Id.* They moved to England shortly thereafter and raised their two children in England. *Id.* They were married for 22 years until October 24, 2013. *Id.*

On October 24, 2013, Ms. Akhmedova issued a divorce petition before in London on October 24, 2013. Timms Decl. at ¶ 36. She applied for financial remedies on October 25, 2013. Petition at ¶ 11. Ms. Akhmedova brought proceedings in the High Court of England and Wales for financial orders consequent on the divorce between herself and Mr. Akhmedov (the "English Proceedings"). *Id.*

Mr. Akhmedov initially opposed the proceedings on the basis that the parties had already been divorced in 2000 in Russia. Timms Decl. at ¶ 36. He then amended his position, stating that the Russian divorce had been annulled in 2004, but argued that the English Court still did not have jurisdiction because divorce proceedings in Russia (which he had issued earlier that month) were ongoing. *Id.* Mr. Akhmedov changed his position once more (opposing the petition

on *forum non conveniens* grounds, in favor of having the divorce proceedings heard in Moscow) before voluntarily submitting to the jurisdiction of the English Court on June 18, 2015, through a letter from his solicitors. *Id.* at ¶ 38-39. Ms. Akhmedova was granted a decree *nisi*, stating that the English Court saw no reason why the couple could not divorce, on December 2, 2015. *Id.* at ¶ 14. The decree *nisi* was made absolute on December 15, 2016. *Id.*

Respondent Cotor Investment, S.A. ("Cotor") is a Panamanian company formed in September 2011. Petition at ¶ 4. After Mr. Akhmedov sold his interest in Northgas in 2012, he transferred the sale proceeds to Cotor. *Id.* Cotor was joined to the English proceedings on October 25, 2016. *Id.*

Respondents Qubo 1 Establishment ("Qubo 1") and Qubo 2 Establishment ("Qubo 2") are both Liechtenstein Anstalts, and were both registered on October 21, 2016. Petition at ¶ 5. The registered agent for Qubo 1 and Qubo 2 is Walpart Trust, Zollstrasse 2, 9490 Vaduz, Liechtenstein. *Id.* Qubo 2 is a foreign maritime entity registered with the Trust Company of the Marshall Islands on November 29, 2016. Qubo 1 and Qubo 2 were joined to the English proceedings on December 20, 2016. *Id.*

Respondent Straight Establishment ("Straight Establishment") is a Liechtenstein Anstalt and was established on February 17, 2017, under the register number FL-0002.541.523-0. Petition at ¶ 6. Straight Establishment is a foreign maritime entity registered with the Trust Company of the Marshall Islands on April 26, 2017. *Id.* Straight Establishment was joined to the English proceedings on March 21, 2018. *Id.*

Respondent Avenger Assets Corporation ("Avenger Assets") is a company registered in Panama on February 25, 2014. Petition at ¶ 7. Avenger Assets was registered as a foreign

maritime entity registered with the Trust Company of the Marshall Islands on August 10, 2015. Avenger Assets was joined to the English proceedings on March 21, 2018. *Id.*

None of the Respondents is a resident or domiciliary of the Republic. Corp. Respondents' MTD, 4, and Ind Respondent's MTD at 2.

B. The English Money Judgments

An eight-day financial remedy hearing was heard in the English Court in November and December of 2016 (the "Financial Remedy Hearing"). Petition at ¶ 13. The purpose of the Financial Remedy Hearing was to establish the value of the couple's assets and to decide how to divide that value in a final distribution. Timms Decl. at ¶ 15.

Prior to the Financial Remedy Hearing, Mr. Akhmedov fully participated in the proceedings, including pre-trial review in October 2016. Petition at ¶ 13. However, two weeks before the Financial Remedy Hearing, on November 11, 2016, his attorneys abruptly came off the record, and none showed up to the hearing to replace them. *Id.* Mr. Akhmedov was not present at the hearing; however, he had already submitted to the jurisdiction of the English Court and had received notice of the hearing. Timms Decl. at ¶ 16.

Cotor received actual notice of the proceedings. Qubo 1 and Qubo 2 received constructive notice of the proceedings by virtue of the fact that they were Mr. Akhmedov's alter egos. *Id.* at ¶ 48. Despite this notice of the proceedings, no lawyers appeared at the proceeding for any of the entities. *Id.* at ¶ 16.

On December 20, 2016, the English Court issued a financial remedy order (the "Financial Remedy Order"). Timms Decl. Ex. A. at ¶ 17. Pursuant to the Financial Remedy Order, Mr. Akhmedov was ordered to transfer the total of GBP £453,226,152.00 worth of assets

to the Plaintiff, consisting in pertinent part of a GBP £350,000,000.00 (approximately US $466.6 million) cash payment ordered to be made by January 6, 2017 (the "Cash Award"). *Id.* Ex. A at ¶ 13. Of this Cash Award, the English Court characterized £224,430,508.00 as "maintenance." Timms Decl. at ¶ 18; Ex. A at ¶ 11(d). The balance of the Cash Award, the Initial Money Judgment for £125,569,492.00, is part of the distribution judgment, for which Ms. Akhmedova now seeks recognition and alleges the respondents are jointly and severally. Timms Decl. at ¶ 17.

Mr. Akhmedov was ordered by the English Court to pay the Cash Award by January 6, 2017. Petition at ¶ 18. As described further below, the English Court issued a freezing order (the "Freezing Order") preventing Mr. Akhmedov and the other judgment debtors from dealing with his assets (whether in or outside England and Wales), and ordering him to make financial disclosure of his assets. *Id.* Mr. Akhmedov has not satisfied any portion of the Cash Award, including the Initial Money Judgment, and is currently in contempt of Court for breaching the terms of the Freezing Order. *Id.*

Along with Mr. Akhmedov, additional parties including Cotor, Qubo 1, Qubo 2, Straight Establishment, and Avenger Assets were held jointly and severally liable to pay the Initial Money Judgement. Timms Decl. at ¶ 20; Timms Ex. A at ¶ 13, Ex. B at ¶ 13. The English Court found that Cotor, Qubo 1, and Qubo 2 were all Mr. Akhmedov's mere nominees, and that the assets held (and previously held) in their names actually belonged to Mr. Akhmedov. Ex. A at ¶ 11, Ex. B at ¶¶ 2, 5. The English Court also set aside certain transfers of Mr. Akhmedov's companies, making specific findings related to their conduct. Timms Decl. at ¶ 20.

The English Court found that Cotor, a Panamanian company, served as nominee for Mr.

Akhmedov and held all of its assets for him on a "bare trust." Timms Decl. at ¶ 53; Ex. C.

After Mr. Akhmedov sold his interest in Northgas in 2012, he transferred the sale proceeds into Cotor. Timms Decl. at ¶ 23. The English Court found that this transfer was made without consideration by Cotor, and that Mr. Akhmedov subsequently purchased a number of luxury assets through the funds he received from Cotor. *Id.* For this, Cotor — which the English Court described "merely" as an "open cheque" book for [Mr. Akhmedov] and his "piggy bank" — was found jointly and severally liable alongside Mr. Akhmedov. *Id*; Ex. C at ¶¶ 78, 81.

The English Court also found that Qubo 1 and Qubo 2, the Liechtenstein entities, held valuable assets as mere alter egos of Mr. Akhmedov. Timms Decl. at ¶ 24. Qubo 1 and Qubo 2 had been established on October 21, 2016 — one month before the commencement of the Financial Remedies Hearing — and certain assets had been transferred from Switzerland to Liechtenstein in November 2016, immediately before the hearing began. The English Court ordered these transfers set aside. *Id.*; Timms Decl. Ex. D at ¶ 7.

On December 20, 2016, the English Court issued a freezing order against Mr. Akhmedov, Woodblade Limited (a related non-party), Cotor, Qubo 1 and Qubo 2 (the "Freezing Order," Timms Decl. Ex. E). Timms Decl. at ¶ 26. The Freezing Order prohibited each of them from removing, disposing of, dealing with, charging or diminishing the value of certain assets. *Id.* The Freezing Order also required Mr. Akhmedov to make disclosures about his assets. *Id.* Mr. Akhmedov has not complied with the Freezing Order. *Id.*

On March 21, 2018, the English Court issued an order against Straight Establishment and Avenger Assets (the "March 21 Order," see Timms Decl. Ex. B). The English Court found that Straight Establishment was an alter ego of Mr. Akhmedov and served as his nominee. Timms

Decl. at ¶ 27. It also found that Avenger Assets was an alter ego of Mr. Akhmedov and served as his nominee. *Id.* As Mr. Akhmedov had submitted to the English Court's jurisdiction, and Straight Establishment and Avenger Assets were alter egos of Mr. Akhmedov, the English Court had jurisdiction over both Straight Establishment and Avenger Assets. *Id.*

The English Court found that assets held and previously held in Straight Establishment's name, as well as assets held and previously held in Avenger Asset's name, beneficially belonged to Mr. Akhmedov. Timms Decl. at ¶ 28. In particular, the English Court found that this applied to a luxury yacht held by Straight Establishment for Mr. Akhmedov known as the "LUNA," registered in the Marshall Islands in Straight Establishment's name with Certificate of Registry No. 5817-PY (the "Luna"). *Id.*; Timms Decl. Ex. B ¶3.

The English Court found Straight Establishment and Avenger Assets jointly and severally liable for the Cash Award awarded on December 20, 2016, including the Initial Money Judgment at issue in this proceeding. Timms Decl. Ex. B at ¶ 13. The English Court extended the Freezing Injunction to apply to Straight Establishment and Avenger Assets, and specifically prohibited the "removal, disposal, charging and/or diminution in value" of the Luna. *Id.* at ¶ 14.

In a February 28, 2018 order, the English Court declared that Ms. Akhmedova was the legal and beneficial owner of the Luna, and ordered Mr. Akhmedov and Straight Establishment to transfer title to Ms. Akhmedova within seven days. Timms Decl. at ¶ 31; Ex. B at ¶¶ 9-10. The English Court ordered that if the title transfer was not effected within seven days, Straight Establishment would be liable to Ms. Akhmedova for a liquidated cash sum of $487,278,000, the Straight Money Judgment. *Id.*

The English Court held that payments toward the Straight Money Judgment would reduce

pro tanto the amount outstanding of the Cash Award (of which the Initial Money Judgment is a part), and that a reduction of the Cash Award below the amount of the Straight Money Judgment would reduce *pro tanto* the amount of the Cash Award. Timms Decl. at ¶ 31; Ex. B. at ¶ 13. The English Court extended the Freezing Order to apply to Straight Establishment and Avenger Assets, and specifically applied to prohibit the "removal, disposal, charging and/or diminution in value." *Id.* at ¶ 14.

Ms. Akhmedova alleges that each and every Respondent judgment debtor had knowledge of the English Proceedings and were all properly served under English law. *See* Timms Decl. at ¶¶ 47-56, setting forth proper service and/or constructive notice to Respondents under English law. Specifically, Mr. Akhmedov was served through his solicitors in England. Timms Decl. at ¶ 47. Cotor was served under Family Procedure Rules ("FPR") rule 6.43(3) by post at its registered address in Panama, and by alternative methods through Mr. Akhmedov's solicitors in London under FPR 6.19. Timms Decl. at ¶¶ 48-49. Qubo 1, Qubo 2, Straight Establishment, and Avenger Assets were served by alternative methods insofar as they had constructive notice of the proceedings by virtue of the fact that they were Mr. Akhmedov's alter egos. *Id.* at ¶¶ 48, 53, 55-56.

The deadline for Respondents to appeal the Financial Remedy Order has passed and no further appeal is possible under English law. Petition at ¶ 32. The Financial Remedy Order is final, conclusive and enforceable. *Id.* Despite due demand, Respondents have failed to pay Ms. Akhmedova the full amount of the Financial Remedy Order. Petition at ¶ 33. Ms. Akhmedova has suffered damages in the approximate amount of GBP £125,569,492.00, the Cash Award, as well as the liquidated sum of $487,278,000, the Straight Money Judgment, arising from

Respondents' failure to transfer title of the Luna as ordered by the English Court. Petition at ¶ 34.

News articles following the entry of the English Money Judgments have reported on Mr. Akhmedov's defiance of the orders entered against him. Mr. Akhmedov has reportedly stated on the record that the Order is "worth no more than toilet paper" and merely represents an "abuse of the English legal system" by Ms. Akhmedova. Power Decl. Ex. 4. One article reports Mr. Akhmedov's comments that "the prospects for this judicial decision are the same as a donut hole" since he has no assets left in the jurisdiction. Power Decl. Ex. 5. In a recent article in the New York Times, Mr. Akhmedov's spokesperson stated that Mr. Akhmedov "would rather see the [Luna] rot in the Dubai heat than see it handed over to [Ms. Akhmedova]." Power Decl. Ex. 6.

C. Dubai Proceedings

Following the issuance of the English Money Judgments as well as the Freezing Order directed at Mr. Akhmedov with respect to the Luna, on February 7, 2018, Ms. Akhmedova filed an application in the Dubai International Financial Centre Courts (hereinafter the "DIFC Court") against Mr. Akhmedov and Straight Establishment (the owning entity of the Luna), for recognition of the English Money Judgments, and for an interim freezing order to prevent Straight Establishment from disposing of or transferring ownership of the Luna. Memorandum of Law in Support of Temporary Restraining Order and Preliminary Injunction Pursuant to MIRCP 65 and Appointment of an Interim and Temporary Receiver Pursuant to MIRCP 66 ("Memo in Support of Motion") at 6. At the time of the DIFC application, the Luna was in drydock in Port Rashid, Dubai. *Id.* On February 8, 2018, the Dubai Court issued an interim

freezing injunction on an *ex parte* basis, and ordered that the injunction order be served on Mr. Akhmedov by registered mail and email, and on Straight Establishment by registered mail and email via their registered agent in Liechtenstein. On the basis of the DIFC Freezing Injunction, the Dubai onshore court (the "Dubai Court") later granted an interim arrest of the Luna pending determination as to the parties' claims in that Court. *Id.*

Following service of the Dubai action, Straight Establishment filed an application to challenge the order on the basis of lack of personal jurisdiction. The application was considered, and dismissed by the DIFC on March 11, 2018. *Id.* The dismissal was appealed by Straight Establishment. *Id.* The appeal was permitted by the DIFC Court of Appeal on May 9, 2018, on the basis that Straight Establishment was not a party to the Initial Money Judgment when the Freezing Injunction was granted by the DIFC Court in February 2018 such that the DIFC Court did not have jurisdiction over it at that time. *Id.* at 7. However, it noted that since the original DIFC Freezing Injunction had been obtained, Ms. Akhmedova had (as she said she would) obtained a money order from the UK Court against Straight Establishment and made an application to amend her DIFC Court claim against Straight Establishment accordingly. *Id.* It also noted that, during the appeal hearing, Counsel for Straight Establishment openly stated that if the DIFC Freezing Order was discharged, Straight Establishment would "regard itself as free to sail The Luna away from Dubai." *Id.* The DIFC Court of Appeal therefore granted *quia timet* relief by continuing the DIFC Freezing Order pending determination of Ms. Akhmedova's amendment application for permission to amend her case against Straight Establishment. *Id.*

In the meantime, on May 6, 2018 Mr. Akhmedov submitted an application to the Dubai Court and the Judicial Tribunal for the Dubai Courts and DIFC Courts (the "Judicial Tribunal"),

claiming that the jurisdiction of the DFIC is limited to "civil and commercial" matters, whereas matters of family and matrimonial law fall within the jurisdiction of the Dubai Court of First Instance, as opposed to the DIFC. *Id.* Additionally, Respondent claims that the DIFC did not have jurisdiction to enter the freezing order of the Luna. *Id.* Mr. Akhmedov's challenge to the jurisdiction of the DIFC was scheduled to be reviewed by the Judicial Tribunal sitting in private on July 10, 2018. Declaration of James H. Power at ¶ 27.

On July 11, 2018, the Judicial Tribunal held that the Dubai Court of First Instance ("Dubai Court") is the competent court to hear the dispute including the Freezing Injunction and attachment of the Luna, and that the DIFC Court must cease from entertaining the whole of the dispute filed before it. In light of the Joint Judicial Committee's judgment, the DIFC Court proceedings are now at an end and the Freezing Injunction is of no effect. Decl. of Hassan Arab in Opposition to Petitioner's Motion for Preliminary Injunction and Appointment of Temporary Receiver ("Arab Decl.") at ¶ 13.

However, on that same day, July 11, 2018, Ms. Akhmedova filed an application for an *ex parte* arrest order against the Luna in the Dubai Court, based on the English Money Judgments in her favor. *Id.* at ¶ 14. On July 12, 2018, the Dubai Court entered a new arrest order against the Luna (the "Arrest Order"). *Id.* at ¶ 15. The Luna was put on notice of the Arrest Order on that same day, and the Arrest Order was served on the Luna by the Dubai Court Bailiff at its present location in the Dubai drydocks. *Id.* at ¶ 16.

The nature of the arrest upon the Luna is both physical and commercial. *Id.* at ¶ 17. The physical effect of the arrest means that the Luna cannot obtain clearance from the UAE Port Authority, Harbour Master, or Coastguard to sail out of the territorial waters of the UAE. *Id.*

The Luna could be intercepted and physically prevented from leaving the jurisdiction by the UAE Coastguard if an attempt to leave was made. *Id.* The commercial effect of the arrest is that all of the ship's particulars are confiscated by the UAE Coastguard, and the crews' passports are also taken as a measure of security. *Id.* Without the ship's particulars, the Luna will not be able to leave or enter ports. *Id.*

Ms. Akhmedova's application for the Arrest Order was based on the English Money Judgments that are the subject of the DIFC Court proceedings and the Dubai Court proceedings. *Id.* at ¶ 19. In her application, Ms. Akhmedova relies on an English order and judgment dated March 21, 2018, and April 19, 2018, to allege that there is a dispute as to the ownership of the Luna to legally ground the application for arrest under the UAE Maritime Law. *Id.*

Dubai counsel for Straight Establishment on July 30, 2018 filed an objection to the Arrest Order. Third Declaration of Alessandro Tricoli in Opposition to Respondents' Motion to Dismiss the Petitioner("Opposition"), ¶ 4. On August 26, 2018, the Dubai Court rejected the grievance. *Id.* at ¶ 5 and Exhibit A. To date, the Court has not received word that the Respondents appealed the Dubai Court's rejection.

Ms. Akhmedova's substantive claim is expected to take between nine to twelve months to be finally determined at the Court of First Instance, not including any subsequent appeals. "Arab Decl.") at ¶ 20. The Luna will remain under arrest until released by a Dubai Court order lifting the arrest. *Id.*

III. DISCUSSION

A. Recognition of a Foreign Money Judgment Requires Either Personal Jurisdiction over the Judgment Debtor or Jurisdiction over the Debtor's Property in the Forum State.

As the RMI Supreme Court recently held in *Samsung Hvy. Ind. Co., Ltd. v Focus Inv, Ltd*, SCT Civil No. 2018-002 at 17-18 (Sept 5, 2018), "in order to recognize and enforce a foreign judgment, a court must generally have (1) personal jurisdiction over the judgment debtor or (2) jurisdiction over the judgment debtor's property in the forum state." (Citations omitted.)

1. Personal Jurisdiction over the Respondents

As noted above, the Respondents are non-resident defendants. Moreover, they have not consented to the Court's jurisdiction over them. In the absence of consent, the RMI Supreme Court has held that "there are two elements which must be satisfied to give the court personal jurisdiction [over non-resident parties]: (1) the law which governs the court must give it authority to assert jurisdiction over the parties in the case and (2) the jurisdiction, even where allowed by the law governing the court, must not violate the due process clause of the Constitution. The determination of whether or not a court has personal jurisdiction over a non-resident defendant involves a two-step analysis. First, the court must decide whether the facts satisfy the forum state's longarm statute. If the statute has been satisfied, then the court must address whether the facts show that the nonresident has 'minimum contacts' with the forum state such that the court's exercise of jurisdiction would be fair and in accordance with due process." *See Samsung Heavy Equipment Industries Co., Ltd v. Focus Investment Ltd and Karamehmet*, SCT Civil Case No. 2018-02 at *5 (May 28, 2018) (internal citations omitted).

It is the plaintiff, or in this case the Petitioner, who bears the burden of proof. The Petitioner "bears the burden of proving the existence of personal jurisdiction and, in attempting to carry that burden, is entitled to favorable inferences from the pleadings, affidavits, and other documents submitted on the issue." *Myjac Foundation, Panama v. Arce and Alfaro*, SCT Civil

Case No. 2017-006 at * 6 (July 30, 2018) (citing *Combs v. Bakker*, 886 F.2d 673, 676 (4th Cir. 1989)).

a. Personal jurisdiction over Straight Establishment and Qubo 2

The Republic's "longarm" statute, 27 MIRC Sec. 251, enumerates those circumstances under which a non-resident "person, corporation or legal entity" can be subject to civil jurisdiction. 27 MIRC Sec. 254, limits civil jurisdiction to those circumstances or "causes of action" referred to in Section 251 ("Only causes of action referred to in Section 251 of this Chapter may be asserted against a person in proceedings in which jurisdiction against him is based on this Division.")

In her Petition and other filings, Ms. Akhmedova alleges facts that support personal jurisdiction over Straight Establishment and Qubo 2 under Section 251(1)(p). Section 251(1)(p) includes among the legal entities that can be subject to civil jurisdiction "a foreign maritime entity, subject to the limitations of [S]ection 125 of 52 MIRC Part I, Business Corporation [Act]." Section 125(2) in relevant part provides as follows:

> an action . . . against a foreign maritime entity may be maintained in the Republic . . . by a non-resident in the following cases only:
>
> . . .
>
> (d) where the action . . . is based on a **liability for acts done within the Republic** by a foreign maritime entity. (Emphasis added.)

For purposes of Section 125(2)(d), the Court concludes that as to Straight Establishment and Qubo 2 this action for recognition and enforcement of money judgments can be based upon their registration in the RMI as a foreign maritime entity, registering the Luna in the RMI, and operating the Luna under the RMI's Flag, as alter egos of Respondent Akhmedov. One can

reasonably infer that Straight Establishment and Qubo 2 registered as RMI foreign maritime entities, registered Luna in the RMI, and operated the Luna under the RMI's Flag as part of a Respondent Akhmedova's scheme to hinder, delay, and avoid satisfying the English Money Judgments. However, it is not enough to demonstrate that the defendants' actions fall under the "long-arm" statute. Petitioner Akhmedova must also establish that the exercise of jurisdiction over the defendant comports with due process.

To establish that the exercise of jurisdiction over Straight Establishment and Qubo 2 comports with due process, Petitioner Akhmedova must allege facts sufficient to establish that Straight Establishment and Qubo 2 have "performed some act or consummated some transaction within the forum or otherwise purposefully availed [it]self of the privileges of conducting activities in the forum." *Pebble Beach Co.*, 453 F.3d at 1154-1155. This Ms. Akhmedova has done. As noted above, Ms. Akhmedova alleges that as part of a scheme to hinder, delay, and avoid satisfying the English Money Judgments Straight Establishment and Qubo 2 have registered in the RMI as foreign maritime entities, have registered the Luna in the RMI, and have operated Luna under the RMI's Flag.

Straight Establishment operates, and Qubo 2 operated, the Luna under the RMI Flag pursuant to 47 MIRC Sec. 239. Section 239 (1) grants the Luna, under such registration, the right to fly the Flag of the Republic and (2) subjects the Luna to the jurisdiction of the Republic as the flag state. Section 239 reads as follows:

> From the time of issuance of a Certificate of Registry under this Chapter and until its expiration, termination, revocation or cancellation, whichever first occurs, **the vessel shall be granted and shall enjoy the right to fly the Flag of the Republic exclusively**, unless its Certificate of Registry is specifically endorsed so as to withdraw that right. At all times during the period that a vessel has the right

> to fly the Flag of the Republic, **the vessel shall be subject to the exclusive jurisdiction and control of the Republic as the Flag State**, in accordance with the applicable international conventions and agreements and with the provisions of this Act and any Regulations or Rules made thereunder. (Emphasis added.)

Flying the flag of the RMI is significant, as a vessel is deemed to be part of the territory of sovereign whose flag it flies. *Lauritzen v. Larsen*, 73 S.Ct. 921, 929, 345 U.S. 571, 585 (U.S. 1953) ("This Court has said that the law of the flag supersedes the territorial principle, . . ., because [the vessel] is deemed to be a part of the territory of that sovereignty (whose flag it flies), and not to lose that character when in navigable waters within the territorial limits of another sovereignty.") (Internal quotations omitted.); *see also MDG Intern., Inc. v. Australian Gold, Inc.*, 606 F. Supp. 2d 926, 938 (S.D. Ind. 2009) (recognizing that while the concept that a vessel is an extension of the flag state in a physical sense is only figurative, the jurisdiction of the flag state over the vessel's affairs directly stems from the concept that the flagged vessel is an extension of the sovereignty).

Although such registration is not sufficient to subject the Straight Establishment and Qubo 2 to general jurisdiction, it is sufficient to subject them to specific jurisdiction. The Petitioner has sufficiently alleged and inferred that as part of a scheme to hinder, delay, and avoid satisfying the English Money Judgments, Straight Establishment and Qubo 2 have registered in the RMI as foreign maritime entities, have registered the Luna in the RMI, and have operated Luna under the RMI's Flag.

b. No Personal jurisdiction over the Other Respondents

The long-arm statute that applied to Straight Establishment and Qubo 2 does NOT apply to Respondents Akhmedov and Qubo 1 because they are not, and were not, RMI foreign maritime

entities. This Court does not have personal jurisdiction over Respondents Akhmedov and Qubo 1. Accordingly, for recognition and enforcement of the English Money Judgment as to Akhmedov and Qubo 1, the Court must find that they own property "present" in the RMI.

2. The Presence of Property in the RMI

The Petitioner argues that the Luna, as an RMI flagged vessel, is deemed to be "present" in the RMI for purposes of adjudicative jurisdiction under the UFMJRA. However, the Luna is not physically present in the RMI. It is in Dubai under arrest.

Although the US Supreme Court in *Lauritzen v. Larsen*, 345 U.S. 571, 573 (1953) states "law of the flag supersedes the territorial principle . . . because [the vessel] 'is deemed to be a part of the territory of that sovereignty (whose flag it flies),'" that passage should not be read literally. The accepted view is that the passage should be limited to choice of law questions. *Evangelinos v. Andreavapor Cia. Nav., S.A.*, 188 F.Supp. 794, 796 (D.C.N.Y. 1960) (choice of law); *Thompson Towing & Wrecking Ass'n v. McGregor*, 207 F. 209, 216-17 (1913) (choice of law); *Wilson v. McNamee*, 102 U.S. 572, 574 (1880) (applicability of a New York law to foreign-flagged vessels); *U.S. v. Flores*, 289 U.S. 137 (1933) (applicability of U.S. criminal statute to crimes committed on U.S. flagged vessels outside U.S. territory); *Wildenhus's Case*, 120 U.S. 1, 12 (1887) (choice of law). That is, under the *Lauritzen* territorial principle, the Luna is not deemed to be "present" in the RMI for purposes of the UFMJRA, when it is physically elsewhere.

Similarly, although under 47 MIRC Sec. 239, the Luna is subject to the "exclusive jurisdiction" of the RMI as the flag state, the Court does not read this language to bring ownership disputes under the adjudicative jurisdiction of the RMI courts. The accepted view is

that flag state jurisdiction, under language similar to Section 239, applies only to the sovereign's power to prescribe and enforce laws that govern its vessels and the personnel aboard them. *See, e.g.*, R.R. Churchill and A.V. Lowe, *The Law of the Sea* 168 (3d ed., Manchester University Press, Manchester, 1988) ("In general, the flag State, that is, the State which has granted to a ship the right to sail under its flag . . . has the *exclusive right to exercise legislative and enforcement jurisdiction over its ships on the high seas. . ..*") (emphasis added).[2] Petitioner Akhmedova has not provided authority to the effect that flag-state jurisdiction extends to adjudicative jurisdiction, and the Court has not found any. For these reasons, the Court concludes that the Luna is not "present" in the RMI for purposes of the UFMJRA.

B. Recognition and Enforcement of English Money Judgments under the UFMJRA

The Respondents argue that the Petition must be dismissed pursuant to MIRCP 12(b)(6) because the English Money Judgments are not entitled to recognition as (1) the English Court lacked jurisdiction over Respondents; (2) the Judgments are a "fine or penalty" under the wording of the UFMJRA, or (3) the Judgments are "financial relief ancillary to divorce proceedings," or for matrimonial support. Corp. Respondents' MTD at 17-20; Respondent

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[2]*See, also, e.g.*, Churchill & Lowe, *The Law of the Sea* 168 ("Thus compliance with international duties concerning safety at sea and the rendering of assistance to ships in distress is sought by imposing on flag States *the duty to adopt and enforce legislation* dealing with such matters.") (emphasis added); American Law Institute, Restatement (Third) of Foreign Relations Law of the United States, § 502, cmt. d (jurisdiction of the flag state is limited to "prescrib[ing] law with respect to the conduct of a ship" and "any activity aboard the ship"); *id.* § 502, Reporters' Note 3 ("The flag state may thus apply its laws to such events as birth of a child, marriage, a will or contract made, or a crime committed, aboard ship."); Nathaniel Kunkle, *The Internal Affairs Rule and the Applicability of U.S. Law to Visiting Foreign Ships*, 32 Brook. J. Int'l L. 635, 638–39 (2007) ("By providing vessels with *a comprehensive body of laws to govern their shipboard activities*, nationality and the law of the flag play an essential role in maritime law.") (emphasis added).

Akhmedov's MTD at 9-11(Respondent Akhmedov did not argue the English Court lacked personal jurisdiction over him).

UFMJRA, 30 MIRC Ch. 4 § 401 et seq., lists the limited grounds for mandatory non-recognition. The grounds for non-recognition include the following: (a) that the foreign tribunal was not impartial or does not practice procedures consistent with the due process of law, (b) lack of personal jurisdiction of defendant in the foreign tribunal, or (c) lack of subject matter jurisdiction of the tribunal. 30 MIRC Chap. 4 § 405(1). Additionally, discretionary grounds for non-recognition are listed in Section 405(2).

Where a plaintiff alleges that a foreign judgment is final, conclusive and enforceable, the burden of proving the existence of a basis for non-recognition is borne by the party resisting enforcement. *See Southwest Livestock and Trucking Co. v. Ramon*, 169 F.3d 317, 320 (5th Cir. 1999); *Osorio v. Dole Food Co.*, 665 F. Supp. 2d 1307, 1324 (S.D. Fla. 2009); *Kramer v. von Mitschke-Collande*, 5 So.3d 689, 690 (Fla. App. 3d Dist. 2008); *Kam-Tech Systs. Ltd. v. Yardeni*, 774 A.2d 644, 649-650 (N.J. App. Div. 2001); *Dart v. Balaam*, 953 S.W.2d 478, 480 (Tex. App. 1997). This is true at the motion to dismiss phase. See Flame S.A. v. Industrial Carriers, Inc., 777 F. Supp. 2d 717 (S.D.N.Y. 2011). Respondents have failed to meet this burden. The English Money Judgments, which were issued in a fair and just tribunal in a manner consistent with due process as commonly recognized by courts around the world.

1. The English Court Had Jurisdiction Over Respondents

The Petition alleged that "none of the discretionary or mandatory grounds for non-recognition set forth in § 405 exist here." Petition at ¶ 32. Specifically, Petitioner alleged that "[e]ach and every Respondent judgment debtor had knowledge of the English Proceedings and

were all properly served under English law (Petition ¶ 30) and that service was properly made on all the Respondents (*id.* at ¶ 31). The Timms Declaration further sets forth the basis for proper service and constructive notice which was provided to the alter ego defendants under English law. Timms Decl. at ¶¶ 47-56.

Respondents argue that Straight Establishment, Qubo 1, and Qubo 2 were not properly served because they were found to only have "constructive notice" of the actions as alter egos of Respondent Farkhad. Corp. Respondents' MTD at 18. However, the English Court noted that service was properly made on Qubo 1 and Qubo 2's registered agent WalPart Trust by means authorized by the court (registered mail and email). Timms Ex. B at ¶ 15(b). With respect to Straight Establishment, the English Court held that based on evidence, it was "is the alter ego of [Farkhad], alternatively his privy, and through [Farkhad] has submitted to this court's jurisdiction." *Id.* at ¶ 1.

Further, Respondents argue that the English court did not make "any findings supporting its conclusory determination" (Corp. Respondents' MTD at 18). However, on the face of the papers before this Court, the English Court had a substantial record of Farkhad's use of corporate entities such as Cotor Investments, Qubo 1 and Qubo 2 to hold his various assets. At this stage, Respondents offer no alternative evidence that the Respondent entities are not alter egos, or that they have any degree of corporate separateness, or are not dominated and controlled by the single beneficial owner, Respondent Farkhad. If the Respondents have evidence to refute the English Court's alter ego determination, then they can produce it. However, none of the Respondents objected to the joinder as defendants or appealed the English Money Judgments to the English courts on the basis of improper service or lack of personal jurisdiction.

The facts set forth in the record of the English proceedings are sufficient to allow this Court to accept and enforce the finding of alter ego and proper service/constructive notice. The Respondents provide no evidence that English Courts do not typically comport with similar notions of due process. 30 MIRC Ch. 4 § 405(l)(a). The United States and the Marshall Islands have provisions allowing for alternative service on defendants, particularly defendants located in foreign countries. See MIRCP 4(f)(3); 27 MIRC § 255. Additionally, many courts have agreed that "service on the alter ego of a corporation constitutes effective service on the corporation." *King v. Galluzzo Equip. & Excavating, Inc.*, No. 00-6247, 2001 WL 1402996 at *6 (E.D.N.Y. Nov. 8, 2001) (collecting cases); *Kidder, Peabody & Co. v. Maxus Energy Corp.*, 925 F.2d 556, 562 (2d Cir. 1991) (personal jurisdiction over a party where its corporate alter ego "participated fully in the proceedings"). Therefore, Respondents' arguments against the English Court's exercise of personal jurisdiction over Straight Establishment, Qubo 1 and Qubo 2, based upon their alter ego Respondent Akhmedov's appearance and sever of notice upon their registered agents, fails.

In any event, the procedures and rules of the foreign court need not be exactly the same as those in the enforcing jurisdiction — only the judicial system as a whole must be deemed impartial and compatible with due process. *CIBC Mellon Trust Co. v. Mora Hotel Corp. N.V.*, 792 N.E.2d 155, 160 (NY App. 2003). Courts in the United States (whose common law the Marshall Islands has adopted) and elsewhere consistently recognize that English Court procedures comply with the standard of due process, and recognize judgments originating out of the English legal system.

The origins of our concept of due process are English, . . . [and] United States

> courts which have inherited major portions of their judicial traditions and procedure from the United Kingdom are hardly in a position to call the Queen's Bench a kangaroo court... England [is] a forum that American courts repeatedly have recognized to be fair and impartial. **In short, [a]ny suggestion that th[e] [English] system of courts does not provide impartial tribunals or procedures compatible with the requirements of due process of law borders on the risible.**

Society of Lloyd's v. Turner, 303 F.3d 325, 330 (5th Cir. 2002) (emphasis added) (internal citations omitted). Because "the courts of England are fair and neutral forums" (*Id.*), it is clearly within the public policy of this Court to recognize English Money Judgments under the UFMJRA as well as principles of comity.[3]

2. **The English Money Judgments Are Not "Fines" or "Penalties."**

The Respondents argue that the Straight Money Judgment dated March 21, 2018 should not be recognized by this Court because it constitutes a "fine or other penalty" under UFMJRA. Corp. Respondents' MTD at 19 (citing 30 MIRC Ch. 4 § 402(2), which defines "foreign judgment" as "any judgment of a foreign nation, or political subdivision or territory or individual state thereof, granting or denying recovery of a sum of money, other than a judgment for taxes, a fine or other penalty, or a judgment for support in matrimonial matters"). The Respondents argue that the "liquidated" portion of the Straight Money Judgment ordering the payment of the judgment amount to Petitioner acts as a punishment for Respondent Straight Establishment's failure to comply with a court order which required that Respondents Farkhad and Straight Establishment take steps to turn over the Luna. Respondent Akhmedov's MTD at 11.

As an initial matter, the liquidated sum (in the amount of the value of the Luna) is part of

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[3]In her Petition, Petitioner Akhmedova did not ask this Court to recognize and enforce the Cash Award and Straight Money-Judgment under comity. She refers to the doctrine of comity as a ground for recognizing the judgments in her Memo in Support of Motion at 13-14.

the monetary sum already owed to Petitioner by virtue of the Cash Award (as defined in the Petition) dated December 20, 2016. Therefore, it cannot be considered a penalty in connection with Respondent's failure to comply with the ordered turnover of the Luna. However, case law interpreting the UFMJRA demonstrates that the judgment is also not properly categorized as a fine or penalty because it is a judgment aimed at compensating a private party in a civil dispute, not punishing or deterring criminal behavior against the public. In considering whether a New York judgment could be enforced in Maryland, the Supreme Court in *Huntington v. Atrill*, 146 U.S. 657 (1892) considered whether the judgment arose out of a statute which was penal in nature. The Court included a thorough discussion of the meaning of "penal" and "penalty," and while recognizing that "[a]ll damages for neglect or breach of duty operate to a certain extent as punishment . . . the test whether a law is penal, in the strict and primary sense, is whether the wrong sought to be redressed is a wrong to the public or a wrong to the individual." *Id.* at 667-68.

Other courts have applied this analysis when considering whether to recognize foreign country judgments under their respective recognition acts. *Chase Manhattan Bank, N.A. v. Hoffman*, 665 F.Supp. 73, 75-76 (D. Mass. 1987) (enforcing Belgian damages award and noting that the exclusion of a fine or penalty from recognition originates out of the principal that a state will not enforce foreign penal judgments); *Erbe Elektromedizin GMBH v. Canady*, 545 F. Supp. 2d 491, 496 (W.D. Penn. 2008) (holding that award of attorneys' fees which would not be recoverable under ordinary circumstances not considered a penalty); *Desjardins Ducharme v. Hunnewell*, 585 N.E.2d 321,323 (Mass. 1992) (same, because attorneys' fees award were remedial in nature, affording a private remedy to an injured person as opposed to penal in nature,

punishing an offense against the public); *L' Institute Nat. de L' Audiovisuel v. Kultur Int'l Films, Ltd.*, No. 11-6309, 2012 WL 296997 at *3 (D. N.J. Feb. 1,2012) (French judgment not a "fine or other penalty" under the recognition act because monetary damages were compensatory in nature).

Nor would the use of the word "penalty" in the judgment be sufficient to change the analysis. *Commissions Import Export SA v. Republic of Congo*, 118 F. Supp. 3d 220, 225 (D. D.C. 2015) (portion of English Money Judgment labeled as "penalty interest" was not a penalty under the meaning of the D.C. recognition act because it is remedial in nature and not designed to punish an offense against the public justice); *Moersch v. Zahedi*, 228 F. Supp. 3d 1079, 1085 (C.D. Cal. 2017) (foreign award pursuant to a contract's "penalty clause" not considered a penalty under the CA recognition act).

Specifically, the Straight Money Judgment at issue, dated March 21, 2018 (Timms Decl. Ex. B), declares that Petitioner is the legal and beneficial owner of the Luna, and orders Farkhad and Straight Establishment to effect transfer of the title to her name within seven days. Timms Decl. Ex. B at 9. The judgment provides that if the transfer of title is not effected within 7 days, that Straight Establishment shall pay the "liquidated sum . . . representing the capital value of the [Luna], namely $487,278,000." *Id.* ¶ 10. It is clear by its terms that the purpose of the liquidated sum is to compensate Petitioner for Straight Establishment's failure to turn over property which belongs to her ("it is DECLARED that with immediate effect the [Petitioner] is the legal and beneficial owner of the [Luna]." *Id.* ¶ 9). Regardless of Respondents' characterizations of the liquidated sum as punishment, it is clear that it does not arise out of any penal action, or to punish Straight Establishment for an offense against the State or the public. Accordingly, the

Judgment is enforceable under the UFMJRA.

Respondents also argue that Petitioner seeks a double recovery in this action. However, it is clear from the English Judgment that any recovery of the Cash Award, including the Initial Money Judgment, reduces the Straight Money Judgment and vise-versa. Timms Decl. at ¶ 31; Ex. B. at ¶ 13.

3. The Judgments Are Not For Support or Maintenance

The Respondents argue that the English Judgments constitute judgments for matrimonial "support" or "maintenance," and as such are unenforceable under the UFMJRA. Corp. Respondents' MTD at 19-20; Respondent Akhmedov's MTD at 9-10. However, only a portion of Petitioner's £350,000,000 Cash Award is for maintenance or support, *i.e.*, £224,430,508. Timms Decl. at ¶ 18; Timms Ex. A at ¶ 11(d). The balance of the Cash Award, £125,569,492, constitutes the Initial Money Judgment. The Initial Money Judgment is not attributable to maintenance or support. Accordingly, the Initial Money Judgment is not unenforceable under the UFMJRA as a judgment for matrimonial support.

Similarly, the English Court ordered that payment of the Straight Money Judgment reduces the amount "*pro tanto*" owed by Respondents under the Cash Award and vice-versa. Timms Deck Ex. B at ¶ 13(i), (ii). That is, as the Initial Money Judgment, a part of the Cash Award, is paid down, the Respondents' obligation under the Straight Money Judgment reduces. Hence, just the Initial Money Judgement is not attributable to maintenance or support, so £125,569,492 of the Straight Money Judgment is not maintenance or support and is not unenforceable under the UFMJRA as a judgment for matrimonial support.

The case cited by Respondents in support of their argument, *In re Marriage of Lyustiger*,

99 Cal. Rptr. 3d 922 (2009), is not applicable. In *Lyustiger*, the court found that attorney fees awarded by an English court as part of "maintenance" constituted "support" for purposes of the California's enforcement of foreign judgments act. This is much different than in the present case, where the English Court expressly designated only part of the Cash Award as maintenance, *i.e.*, support. The balance of the Cash Award, the Initial Money Judgment, was not designated as and is not for maintenance.

Another case cited by Respondents, *Wolff v. Wolff*, 389 A.2d 413 (Md. App. 1978), supports the Petitioner's argument that this Court can enforce judgments for support under the doctrine of comity. *Id.* at 419-422 (holding that while excluded by the Act, the foreign support judgment could be recognized by the court on principals of comity, outside the purview of the Act); *S.B. v. W.A.*, 959 N.Y.S.2d 802, 823 (N.Y. Sup. 2012) (the exclusion of foreign court support judgments in matrimonial or family matters "is not designed to preclude recognition, but to acknowledge their unique status and treatment and leave them to existing law, which is. . . quite generous"); *see also* 30 MIRC Ch. 4 § 409 ("This Act does not prevent the recognition of a foreign judgment in situations not covered by this Act").

C. *Forum Non Conveniens*

The Respondents' argue this action for enforcement of the English Judgments should proceed in Dubai as an alternative forum pursuant to *forum non conveniens*. Corp. Respondents' MTD at 20-24; Respondent Akhmedov's MTD at 11-13. However, the Respondents are in the middle of concerted efforts to have the currently pending Dubai action dismissed based on various legal and procedural arguments. *See* Supplemental Tricoli Declaration dated August 6, 2018.

Forum non conveniens is a discretionary doctrine allowing a court to dismiss a case "when an alternative forum has jurisdiction to hear [the] case, and . . . trial in the chosen forum would establish . . . oppressiveness and vexation to a defendant . . . out of all proportion to plaintiff's convenience, or . . . the chosen forum [is] inappropriate because of considerations affecting the court's own administrative legal problems." *Sinochem Int'l Co. Ltd. v. Malaysia Inti Shipping Corp.*, 549 U.S. 422, 429 (2007) (citing cases).

A court must first determine that an adequate alternative forum — here, Dubai as proposed by Respondents — exists. This requires (a) an opinion from an expert in Dubai law that a remedy exists under Dubai law for wrong complained of;[4] and (b) that Respondents are amenable to service of process in the alternative forum. Thereafter, the doctrine of *forum non conveniens* requires a balancing of private and public interest factors. Only when the "balance is strongly in favor of the defendant" should plaintiff's choice of forum be disturbed. *K-V Pharmaceutical Co. v. J. Uriach & Cia, S.A.*, 648 F.3d 588, 597-98 (8th Cir. 2011). This is true even in cases where Plaintiff is not a citizen of the chosen forum. *E.g.*, *Espinoza v. Evergreen Helicopters*, Inc., 337 P.3d 169, 183 (Or. App. 2014) ("we reject the discussion in Piper that a foreign plaintiff's choice of forum should be given less deference merely based on the plaintiff's status as a foreigner. It is a reasonable assumption that plaintiffs are in the best position to determine what is for them a convenient and appropriate forum in which to litigate their claims and that assumption becomes no less reasonable merely because plaintiffs are not residents of Oregon, nor citizens of the United States"). The court's reasoning in *Espinoza* is applicable to

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[4]*See Submersible Systems, Inc. v. Perforadora Central, S.A. de C. V.*, No. 98-251, 1999 WL 33495525 at *1 (S.D. Miss. May 28, 1999).