

IN OPEN COURT

**SAINT LUCIA
19th – 20th October 2016**

APPLICATIONS AND APPEALS

Case Name: **Emmerson International Corporation**
v
[1] Renova Industries Ltd
[2] Lamesa Holding SA
[3] Viktor Vekselberg
[4] Integrated Energy Systems Limited
[5] Odvin Financial Inc
[6] Flopsy Overseas Limited

[BVIHCMAP2016/0029]
(Territory of the Virgin Islands)

Coram: **The Hon. Mde. Louise Esther Blenman, Justice of Appeal**
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal

Appearances:

Appellant:	Mr. Pushpinder Saini, QC, with him, Mr. Robert Weekes and Mr. Grant Carroll
Respondents:	Mr. Ali Malek, QC, with him, Mr. Simon Birt, QC, and Ms. Arabella di Iorio

Issues: **Commercial appeal – Summary judgment – Whether respondent has realistic prospect of success – Whether learned judge erred in dismissing appellant’s summary judgment application – Whether decision of learned judge case management decision and exercise of discretion or whether decision on point of law – Enforceability of contract – Construction of paragraphs in “Principal Terms” document dated 21st October 2011 – Whether Principal Terms binding as a matter of law or whether it merely set out matters subject to further**

agreement (an agreement to agree) – Whether Principal Terms formed interim agreement enforceable in law – Certainty of terms – Intention to create legal relations – Application by appellant to strike out skeleton arguments of respondents – Whether respondents’ skeleton arguments of excessive length – Whether breach of practice direction – Sanction to be imposed for breach – Whether ultimate sanction of striking out appropriate in the circumstances – Costs

Type of Oral
Result/Order
Delivered:

Oral Judgment or Decision

Result / Order:

1. The appeal is dismissed.
2. Written reasons to follow.

Reason:

Respondents’ Application to Strike Out Appellant’s Skeleton Arguments

Having considered the length of the respondents’ skeleton arguments (over 50 pages long), the Court was of the preliminary view that the respondent had undoubtedly breached the practice direction. The Court agreed with counsel for the appellant and noted that the ultimate sanction of striking out should not be imposed. Rather, a costs order would suffice. However the Court was of the opinion that the appropriate costs order would be determined at the end of the hearing of the appeal.

Substantive Appeal

(As indicated above, written reasons for decision to be delivered subsequently).