

On 4 December 2016, the Assistant Registrar of the DIFC Courts issued a decision, in which she dismissed entirely a complaint which had been lodged against two registered practitioners with the DIFC DRA Academy of Law. The Complainant had alleged a breach of Section 7 of the DIFC Courts Mandatory Code of Conduct which provides as follows:

“Practitioners shall fearlessly advance, defend and protect the interests of their client before the Court without regard to any consequences to themselves or any other person.”

Further reference had been made to paragraph E-17 (viii) of the Supplementary Code of Conduct Practice Direction, which reads as follows:

“A practitioner shall not engage in conduct involving dishonesty, fraud, deceit, or deliberate misrepresentation.”

The complaint concerned the practitioners’ alleged failure to adequately “advance, defend and protect” the Complainant’s interests when engaged by him in the pursuit of his claim against his former employer and against their insurer in relation to a medical insurance claim.

The Assistant Registrar took the view that the fact that the Complainant had been disappointed with the settlement achieved was not enough to warrant a finding of a breach of the practitioners’ duties under section 7 of Part C of the Mandatory Code of Conduct for Legal Practitioners in the DIFC Courts. Nor did the evidence indicate any violation of paragraph E-17 (viii) of the Supplementary Code of Conduct Practice Direction, which prohibits practitioners registered with the DRA Academy of Law from engaging in “conduct involving dishonesty, fraud, deceit, or deliberate misrepresentation.”

Moreover, the remedy which the Complainant purported to seek, namely, that the practitioners be ordered to reopen his case or refund all his legal fees was not available under the list of potential sanctions for breaches of the Mandatory Code of Conduct, set out at Part F, which provides as follows:

“31. (1) The Court, acting through a Registrar, the Chief Justice, the Director of the Academy of Law or any nominee of the Chief Justice, may impose the following sanctions upon any Practitioner found on a balance of probabilities to have committed a breach of the Code:

Private Admonition;

Public Admonition;

Fine not exceeding US\$5,000 in the case of an individual Practitioner and US\$15,000 in the case of a firm;

Suspension from the Register of Practitioners for a period of time not exceeding 3 years;

Removal from the Register of Practitioners.”

In sum, as no breach of the practitioners’ duties under the DIFC Courts Mandatory Code of Conduct had convincingly been made out, the complaint was dismissed in its entirety.