PART 29 Evidence

PART 29

I EVIDENCE IN GENERAL 29.1 - 29.8

29.1

This Part sets out how evidence is to be given and facts are to be proved.

29.2

Evidence at a hearing other than the trial should normally be given by witness statement. A witness statement is a written statement signed by a person which contains the evidence that person would have otherwise submitted orally.

29.3

A witness may give evidence by affidavit if he wishes to do so.

29.4

Statements of case and application notices may also be used as evidence provided that their contents have been verified by a statement of truth.

29.5

Affidavits must be used as evidence in the following instances:

(1) where sworn evidence is required by an enactment, Rule, order or Practice Direction;

(2) in any application for a search order, a freezing order, or an order requiring an occupier to permit another to enter his land; and

(3) in any application for an order against anyone for alleged contempt of court.

29.6

If a party believes that sworn evidence is required by a court in another jurisdiction for any purpose connected with the proceedings, he may apply to the Court for a direction that evidence shall be given only by affidavit in any pre-trial applications.

29.7

The Court may give a direction that evidence shall be given by affidavit instead of, or in addition to, a witness statement or statement of case :

(1) on its own initiative; or

(2) after any party has applied to the Court for such a direction.

29.8

An affidavit , where referred to in these Rules or a Practice Direction, also means an affirmation unless the context requires otherwise.

Power of Court to control evidence 29.9 - 29.11

29.9

The Court may control the evidence by giving directions as to:

(1) the issues on which it requires evidence;

(2) the nature of the evidence which it requires to decide those issues; and

(3) the way in which the evidence is to be placed before the Court .

29.10

The Court may use its power under Rule 29.9 to exclude evidence that would otherwise be admissible.

29.11

The Court may limit cross-examination .

Evidence of witnesses — General rule 29.12 - 29.13

29.12

The general rule is that any fact which needs to be proved by the evidence of witnesses is to be proved:

(1) at trial, by their oral evidence given in public; and

(2) at any other hearing, by their evidence in writing.

29.13

This is subject:

(1) to any provision to the contrary contained in these Rules or elsewhere; or

(2) to any order of the Court .

Evidence by video link or other means 29.14

29.14

The Court may allow a witness to give evidence through a video link or by other means.

Defects in affidavits, witness statements and exhibits 29.15 - 29.16

29.15

Where:

(1) an affidavit ;

(2) a witness statement; or

(3) an exhibit to either an affidavit or a witness statement;

does not comply with this Part in relation to its form, the Court may refuse to admit it as evidence and may refuse to allow the costs arising from its preparation.

29.16

Permission to file a defective affidavit or witness statement or to use a defective exhibit must be obtained from a Judge.

Preparation and form of witness statements 29.17 - 29.19

29.17

A witness statement must comply with the requirements set out in this section of this Part.

29.18

The following points are emphasised:

(1) the function of a witness statement is to set out in writing the evidence in chief of the witness; as far as possible, therefore, the statement should be in the witness's own words;

(2) it should be as concise as the circumstances of the case allow without omitting any significant matters;

(3) it should not contain lengthy quotations from documents;

(4) it should not engage in argument;

(5) it must indicate which of the statements made in it are made from the witness's own knowledge and which are made on information or belief, giving the source for any statement made on information or belief; and

(6) it must contain a statement by the witness that he believes the matters stated in it are true; proceedings for contempt of court may be brought against a person if he makes, or causes to be made, a false statement in a witness statement without an honest belief in its truth.

29.19

It is improper to put pressure of any kind on a witness to give anything other than his own account of the matters with which his statement deals. It is also improper to serve a witness statement which is known to be false or which it is known the maker does not in all respects actually believe to be true.

Fluency of witnesses 29.20 - 29.21

29.20

If a witness is not sufficiently fluent in English to give his evidence in English, the witness statement should be in the witness's own language and a translation provided.

29.21

If a witness is not fluent in English but can make himself understood in broken English and can understand written English, the statement need not be in his own words provided that these matters are indicated in the statement itself. It must however be written so as to express as accurately as possible the substance of his evidence.

Heading 29.22 - 29.23

29.22

The witness statement should be headed with the title of the proceedings where the proceedings are between several parties with the same status it is sufficient to identify the parties as follows:

Number:

A.B. (and others) Claimants/Applicants

C.D. (and others) Defendants/Respondents

(as appropriate)

29.23

At the top right hand corner of the first page (and on the backsheet) there should be clearly written:

(1) the party on whose behalf it is made;

(2) the initials and surname of the witness;

(3) the number of the statement in relation to that witness;

(4) the identifying initials and number of each exhibit referred to; and

(5) the date the statement was made.

Body of witness statement 29.24 - 29.29

29.24

The witness statement must, if practicable, be in the intended witness's own words, the statement should be expressed in the first person and should also state:

(1) the full name of the witness;

(2) his place of residence or, if he is making the statement in his professional; business or other occupational capacity, the address at which he works, the position he holds and the name of his firm or employer;

(3) his occupation, or if he has none, his description; and

(4) the fact that he is a party to the proceedings or is the employee of such a party if it be the case.

29.25

A witness statement must indicate:

(1) which of the statements in it are made from the witness's own knowledge and which are matters of information or belief; and

(2) the source for any matters of information or belief.

29.26

An exhibit used in conjunction with a witness statement should be verified and identified by the witness and remain separate from the witness statement.

29.27

Where a witness refers to an exhibit or exhibits, he should state "I refer to the (description of exhibit) marked '…'".

29.28

The provisions of Rules 29.85 to 29.98 (exhibits) apply similarly to witness statements as they do to affidavits .

29.29

Where a witness makes more than one witness statement to which there are exhibits, in the same proceedings, the numbering of the exhibits should run consecutively throughout and not start again with each witness statement.

Format of witness statement 29.30 - 29.31

29.30

A witness statement should:

(1) be fully legible and should normally be typed on one side of the paper only;

(2) where possible, be bound securely in a manner which would not hamper filing , or otherwise each page should be endorsed with the case number and should bear the initials of the witness;

(3) have the pages numbered consecutively as a separate statement (or as one of several statements contained in a file);

(4) be divided into numbered paragraphs;

(5) have all numbers, including dates, expressed in figures; and

(6) give the reference to any document or documents mentioned either in the margin or in bold text in the body of the statement.

29.31

It is usually convenient for a witness statement to follow the chronological sequence of the events or matters dealt with, each paragraph of a witness statement should as far as possible be confined to a distinct portion of the subject.

Statement of truth 29.32 - 29.34

29.32

A witness statement is the equivalent of the oral evidence which that witness would, if called, give in evidence; it must include a statement by the intended witness that he believes the facts in it are true.

29.33

To verify a witness statement the statement of truth is as follows:

“I believe that the facts stated in this witness statement are true”.

29.34

Attention is drawn to Section VI of this Part which sets out the consequences of verifying a witness statement containing a false statement without an honest belief in its truth.

Alterations to witness statements 29.35 - 29.36

29.35

Any alteration to a witness statement must be initialled by the person making the statement or by the authorised person where appropriate.

29.36

A witness statement which contains an alteration that has not been initialled may be used in evidence only with the permission of the Court .

Filing of witness statements 29.37 - 29.38

29.37

If the Court directs that a witness statement is to be filed, it must be filed in the Registry .

29.38

Where the Court has directed that a witness statement in a language other than English is to be filed:

(1) the party wishing to rely on it must:

(a) have it translated; and

(b) file the witness statement in its original language with the Court ; and

(2) the translator must make and file with the Court an affidavit verifying the translation and exhibiting both the translation and a copy of the witness statement in its original language.

Requirement to serve witness statements for use at trial 29.39 - 29.40

29.39

The Court will order a party to serve on the other parties any witness statement of the oral evidence which the party serving the statement intends to rely on in relation to any issues of fact to be decided at the trial.

29.40

The Court may give directions as to:

(1) the order in which witness statements are to be served; and

(2) whether or not the witness statements are to be filed.

Use at trial of witness statements which have been served 29.41 - 29.48

29.41

If:

(1) a party has served a witness statement; and

(2) he wishes to rely at trial on the evidence of the witness who made the statement;

he must call the witness to give oral evidence unless the Court orders otherwise or he puts the statement in as hearsay evidence.

29.42

Where a witness is called to give oral evidence under Rule 29.41, his witness statement shall stand as his evidence in chief unless the Court orders otherwise.

29.43

In an appropriate case the trial Judge may direct that the whole or any part of a witness's evidence in chief is to be given orally. Any application for such an order should be made at the beginning of the trial.

29.44

A witness giving oral evidence at trial may with the permission of the Court:

(1) amplify his witness statement; and

(2) give evidence in relation to new matters which have arisen since the witness statement was served on the other parties.

29.45

The Court will give permission under Rule 29.44 only if it considers that there is good reason not to confine the evidence of the witness to the contents of his witness statement.

29.46

A supplemental witness statement should normally be served where the witness proposes materially to add to, alter, correct or retract from what is in his original statement. Permission will be required for the service of a supplemental statement.

29.47

A party who has decided not to call to give oral evidence at trial a witness whose statement has been served must give prompt notice of this decision to all other parties. He must at the same time state whether he proposes to put the statement in as hearsay evidence.

29.48

If a party who has served a witness statement does not:

(1) call the witness to give evidence at trial; or

(2) put the witness statement in as hearsay evidence;

any other party may put the witness statement in as hearsay evidence.

Cross-examination on a witness statement 29.49

29.49

Where a witness is called to give evidence at trial, he may be cross-examined on his witness statement, whether or not the statement or any part of it was referred to during the witness's evidence in chief .

Witness summaries 29.50 - 29.54

29.50

A party who:

(1) is required to serve a witness statement for use at trial; but

(2) is unable to obtain one, may apply, without notice, for permission to serve a witness summary instead.

29.51

A witness summary is a summary of:

(1) the evidence, if known, which would otherwise be included in a witness statement; or

(2) if the evidence is not known, the matters about which the party serving the witness summary proposes to question the witness.

29.52

Unless the Court orders otherwise, a witness summary must include the name and address of the intended witness.

29.53

Unless the Court orders otherwise, a witness summary must be served within the period in which a witness statement would have had to be served.

29.54

Where a party serves a witness summary, so far as practicable the provisions of this section of this Part with regard to the form of witness statement and Rules 29.39 and 29.40 (requirement to serve

witness statements for use at trial) and 29.44 (amplifying witness statements) shall apply to the summary.

Consequence of failure to serve witness statement or summary 29.55

29.55

If a witness statement or a witness summary for use at trial is not served in respect of an intended witness within the time specified by the Court , then the witness may not be called to give oral evidence unless the Court gives permission.

Evidence in proceedings other than at trial 29.56 - 29.57

29.56

Subject to Rule 29.57, the general rule is that evidence at hearings other than the trial is to be by witness statement unless the Court , a Practice Direction or any other enactment requires otherwise.

29.57

At hearings other than the trial, a party may, rely on the matters set out in:

(1) his statement of case ; or

(2) his application notice ;

if the statement of case or application notice is verified by a statement of truth.

Order for cross-examination 29.58 - 29.59

29.58

Where, at a hearing other than the trial, evidence is given in writing, any party may apply to the Court for permission to cross-examine the person giving the evidence.

29.59

If the Court gives permission under Rule 29.58 but the person in question does not attend as required by the order, his evidence may not be used unless the Court gives permission.

Use of witness statements for other purposes 29.60

29.60

A witness statement may be used only for the purpose of the proceedings in which it is served unless:

(1) the witness gives consent in writing to some other use of it;

(2) the Court gives permission for some other use; or

(3) the witness statement has been put in evidence at a hearing held in public.

Availability of witness statements for inspection 29.61 - 29.64

29.61

A witness statement which stands as evidence in chief is open to inspection during the course of the trial unless the Court otherwise directs.

29.62

Any person may ask for a direction that a witness statement is not open to inspection.

29.63

The Court will not make a direction under Rule 29.62 unless it is satisfied that a witness statement should not be open to inspection because of:

(1) the interests of justice;

(2) the public interest;

(3) the nature of any expert evidence in the statement; or

(4) the nature of any confidential information in the statement.

29.64

The Court may exclude from inspection words or passages in the statement.

Certificate of Court Officer 29.65

29.65

Where the Court has ordered that a witness statement is not to be open to inspection by the public or that words or passages in the statement are not to be open to inspection, a Court Officer will so

certify on the statement and make any deletions directed by the Court under Rule 29.64.

III AFFIDAVIT EVIDENCE 29.66 - 29.67

29.66

Evidence must be given by affidavit instead of or in addition to a witness statement if this is required by the Court , a provision contained in any other Rule, a Practice Direction or any other enactment.

29.67

Nothing in these Rules prevents a witness giving evidence by affidavit at a hearing other than the trial if he chooses to do so in a case where Rule 29.66 does not apply, but the party putting forward the affidavit may not recover the additional cost of making it from any other party unless the Court orders otherwise.

Deponent 29.68

29.68

A deponent is a person who gives evidence by affidavit or affirmation.

Heading 29.69 - 29.70

29.69

The affidavit should be headed with the title of the proceedings; where the proceedings are between several parties with the same status it is sufficient to identify the parties as follows:

Number:

A.B. (and others) Claimants/Applicants

C.D. (and others) Defendants/Respondents

(as appropriate)

29.70

At the top right hand corner of the first page (and on the backsheet) there should be clearly written:

(1) the party on whose behalf it is made;

(2) the initials and surname of the deponent;

(3) the number of the affidavit in relation to that deponent;

(4) the identifying initials and number of each exhibit referred to; and

(5) the date sworn.

Body of affidavit 29.71 - 29.73

29.71

The affidavit must, if practicable, be in the deponent's own words, the affidavit should be expressed in the first person and the deponent should:

(1) Commence 'I (full name) of (address) state on oath ……';

(2) if giving evidence in his professional, business or other occupational capacity, give the address at which he works in (1) above, the position he holds and the name of his firm or employer;

(3) give his occupation or, if he has none, his description; and

(4) state if he is a party to the proceedings or employed by a party to the proceedings, if it be the case.

29.72

An affidavit must indicate:

(1) which of the statements in it are made from the deponent's own knowledge and which are matters of information or belief; and

(2) the source for any matters of information or belief.

29.73

Where a deponent:

(1) refers to an exhibit or exhibits, he should state 'there is now shown to me marked '…' the (description of exhibit)', and

(2) makes more than one affidavit (to which there are exhibits) in the same proceedings, the numbering of the exhibits should run consecutively throughout and not start again with each affidavit .

Jurat 29.74 - 29.75

29.74

The jurat of an affidavit is a statement set out at the end of the document which authenticates the affidavit . The general form of jurat is set out in the Schedule to this Part.

29.75

It must:

(1) be signed by all deponents;

(2) be completed and signed by the person before whom the affidavit was sworn whose name and qualification must be printed beneath his signature;

(3) contain the full address of the person before whom the affidavit was sworn; and

(4) follow immediately on from the text and not be put on a separate page.

Format of Affidavits 29.76 - 29.77

29.76

An affidavit should:

(1) be produced on A4 paper;

(2) be fully legible and should normally be typed on one side of the paper only;

(3) where possible, be bound securely in a manner which would not hamper filing , or otherwise each page should be endorsed with the case number and should bear the initials of the deponent and of the person before whom it was sworn;

(4) have the pages numbered consecutively as a separate document (or as one of several documents contained in a file);

(5) be divided into numbered paragraphs;

(6) have all numbers, including dates, expressed in figures; and

(7) give the reference to any document or documents mentioned either in the margin or in bold text in the body of the affidavit .

29.77

It is usually convenient for an affidavit to follow the chronological sequence of events or matters dealt with; each paragraph of an affidavit should as far as possible be confined to a distinct portion of the subject.

Inability of deponent to read or sign affidavit 29.78 - 29.79

29.78

Where an affidavit is sworn by a person who is unable to read or sign it, the person before whom the affidavit is sworn must certify in the jurat that:

(1) he read the affidavit to the deponent;

(2) the deponent appeared to understand it; and

(3) the deponent signed or made his mark in his presence.

29.79

If that certificate is not included in the jurat , the affidavit may not be used in evidence unless the Court is satisfied that it was read to the deponent and that he appeared to understand it. Two versions of the form of jurat with the certificate are set out in the Schedule to this Part.

Alterations to affidavits 29.80 - 29.81

29.80

Any alteration to an affidavit must be initialled by both the deponent and the person before whom the affidavit was sworn.

29.81

An affidavit which contains an alteration that has not been initialled may be filed or used in evidence only with the permission of the Court .

Who may administer oaths and take affidavits 29.82

29.82

Only the following may administer oaths and take affidavits :

(1) a Judge or the Registrar;

(2) a person registered in the DIFC Courts's Register of Legal Practitioners;

(3) any person authorised to administer oaths in the UAE ; or

(4) any other person authorised to administer an oath in the jurisdiction in which the affidavit is sworn.

Filing of affidavits 29.83 - 29.84

29.83

If the Court directs that an affidavit is to be filed, it must be filed in the Registry .

29.84

Where an affidavit is in a language other than English:

(1) the party wishing to rely on it:

(a) must have it translated; and

(b) must file the affidavit in its original language with the Court ; and

(2) the translator must make and file with the Court an affidavit verifying the translation and exhibiting both the translation and a copy of the affidavit in its original language.

Exhibits 29.85 - 29.98

Manner of Exhibiting Documents

29.85

A document used in conjunction with an affidavit should be:

(1) produced to and verified by the deponent, and remain separate from the affidavit ; and

(2) identified by a declaration of the person before whom the affidavit was sworn.

29.86

The declaration should be headed with the name of the proceedings in the same way as the affidavit .

29.87

The first page of each exhibit should be marked:

(1) as in Rule 29.70 above; and

(2) with the exhibit mark referred to in the affidavit .

Letters

29.88

Copies of individual letters should be collected together and exhibited in a bundle or bundles. They should be arranged in chronological order with the earliest at the top, and firmly secured.

29.89

When a bundle of correspondence is exhibited, the exhibit should have a front page attached stating that the bundle consists of original letters and copies. They should be arranged and secured as above and numbered consecutively.

Other documents

29.90

Photocopies instead of original documents may be exhibited provided the originals are made available for inspection by the other parties before the hearing and by the Judge at the hearing.

29.91

Court documents must not be exhibited (official copies of such documents prove themselves).

29.92

Where an exhibit contains more than one document, a front page should be attached setting out a list of the documents contained in the exhibit; the list should contain the dates of the documents.

Exhibits Other Than Documents

29.93

Items other than documents should be clearly marked with an exhibit number or letter in such a manner that the mark cannot become detached from the exhibit.

29.94

Small items may be placed in a container and the container appropriately marked.

General Provisions

29.95

Where an exhibit contains more than one document:

(1) the bundle should not be stapled but should be securely fastened in a way that does not hinder the reading of the documents; and

(2) the pages should be numbered consecutively at bottom centre.

29.96

Every page of an exhibit should be clearly legible; typed copies of illegible documents should be included, paginated with 'a' numbers.

29.97

Where affidavits and exhibits have become numerous, they should be put into separate bundles and the pages numbered consecutively throughout.

29.98

Where on account of their bulk the service of exhibits or copies of exhibits on the other parties would be difficult or impracticable, the directions of the Court should be sought as to arrangements for bringing the exhibits to the attention of the other parties and as to their custody pending trial.

Affirmations 29.99

29.99

All provisions in these Rules relating to affidavits apply to affirmations with the following exceptions:

(1) the deponent should commence 'I (name) of (address) do solemnly and sincerely affirm ……', and

(2) in the jurat the word 'sworn' is replaced by the word 'affirmed'.

Affidavit made outside the DIFC 29.100

29.100

A person may make an affidavit outside the DIFC in accordance with:

(1) this Part; or

(2) the law of the place where he makes the affidavit .

Introductory 29.101

29.101

In this Part:

(1) 'hearsay' means a statement made, otherwise than by a person while giving oral evidence in proceedings, which is tendered as evidence of the matters stated; and

(2) references to hearsay include hearsay of whatever degree.

Notice of intention to rely on hearsay evidence 29.102 - 29.105

29.102

Where a party intends to rely on hearsay evidence at trial and either:

(1) that evidence is to be given by a witness giving oral evidence; or

(2) that evidence is contained in a witness statement of a person who is not being called to give oral evidence;

that party will be deemed to give notice of such an intention by serving a witness statement on the other parties in accordance with the Court's order.

29.103

Where Rule 29.102(2) applies, the party intending to rely on the hearsay evidence must, when he serves the witness statement:

(1) inform the other parties that the witness is not being called to give oral evidence; and

(2) give the reason why the witness will not be called.

29.104

In all other cases where a party intends to rely on hearsay evidence at trial, that party must serve a notice on the other parties which:

(1) identifies the hearsay evidence;

(2) states that the party serving the notice proposes to rely on the hearsay evidence at trial; and

(3) gives the reason why the witness will not be called.

29.105

The party proposing to rely on the hearsay evidence must:

(1) serve the notice no later than the latest date for serving witness statements; and

(2) if the hearsay evidence is to be in a document, supply a copy to any party who requests him to do so.

Circumstances in which notice of intention to rely on hearsay evidence is not required 29.106

29.106

The duty to give notice of intention to rely on hearsay evidence does not apply:

(1) to evidence at hearings other than trials;

(2) to an affidavit or witness statement which is to be used at trial but which does not contain hearsay evidence; or

(3) where the requirement is excluded by these Rules .

Power to call witness for cross-examination on hearsay evidence 29.107 - 29.108

29.107

Where a party:

(1) proposes to rely on hearsay evidence; and

(2) does not propose to call the person who made the original statement to give oral evidence;

the Court may, on the application of any other party, permit that party to call the maker of the statement to be cross-examined on the contents of the statement.

29.108

An application for permission to cross-examine under this rule must be made not more than 14 days after the day on which a notice of intention to rely on the hearsay evidence was served on the applicant.

Credibility 29.109 - 29.110

29.109

Where a party:

(1) proposes to rely on hearsay evidence; but

(2) does not propose to call the person who made the original statement to give oral evidence; and

(3) another party wishes to call evidence to attack the credibility of the person who made the statement;

the party who so wishes must give notice of his intention to the party who proposes to give the hearsay statement in evidence.

29.110

A party must give notice under Rule 29.109 not more than 14 days after the day on which a hearsay notice relating to the hearsay evidence was served on him.

Notice to admit facts 29.111 - 29.114

29.111

A party may serve notice on another party requiring him to admit the facts, or the part of the case of the serving party, specified in the notice.

29.112

A notice to admit facts must be served no later than 21 days before the trial.

29.113

Where the other party makes any admission in response to the notice, the admission may be used against him only:

(1) in the proceedings in which the notice to admit is served; and

(2) by the party who served the notice.

29.114

The Court may allow a party to amend or withdraw any admission made by him on such terms as it thinks just.

Notice to admit or produce documents 29.115 - 29.116

29.115

A party shall be deemed to admit the authenticity of a document produced to him under Part 28 (production of documents) unless he serves notice that he wishes the document to be proved at trial.

29.116

A notice to prove a document must be served:

(1) by the latest date for serving witness statements; or

(2) within 7 days of production of the document, whichever is later.

Notarial acts and instruments 29.117

29.117

A notarial act or instrument may be received in evidence without further proof as duly authenticated in accordance with the requirements of law unless the contrary is proved.

Statements of case 29.118 - 29.120

29.118

A statement of case may be used as evidence in an interim application provided it is verified by a statement of truth.

29.119

To verify a statement of case the statement of truth should be set out as follows:

“[I believe][the (party on whose behalf the statement of case is being signed) believes] that the facts stated in the statement of case are true”.

29.120

Attention is drawn to Section VI of this Part which sets out the consequences of verifying a witness statement containing a false statement without an honest belief in its truth.

Agreed bundles for hearings 29.121 - 29.122

29.121

The Court may give directions requiring the parties to use their best endeavours to agree a bundle or bundles of documents for use at any hearing.

29.122

All documents contained in bundles which have been agreed for use at a hearing shall be admissible at that hearing as evidence of their contents, unless:

(1) the Court orders otherwise; or

(2) a party gives written notice of objection to the admissibility of particular documents.

Use of plans, photographs and models as evidence 29.123 - 29.130

29.123

Rules 29.124 to 29.130 apply to evidence (such as a plan, photograph or model) which is not:

(1) contained in a witness statement, affidavit or expert's report;

(2) to be given orally at trial; or

(3) evidence of which prior notice must be given under Rules 29.102 to 29.105.

29.124

The evidence referred to in Rule 29.123 includes documents which may be received in evidence without further proof being documents shown to form part of the records of a business or public authority.

29.125

Unless the Court orders otherwise the evidence shall not be receivable at a trial unless the party intending to put it in evidence has given notice to the other parties in accordance with Rules 29.126 to 29.130.

29.126

Where the party intends to use the evidence as evidence of any fact then, except where Rule 29.128 applies, he must give notice not later than the latest date for serving witness statements.

29.127

He must give notice at least 21 days before the hearing at which he proposes to put in the evidence, if:

(1) there are not to be witness statements; or

(2) he intends to put in the evidence solely in order to disprove an allegation made in a witness statement.

29.128

Where the evidence forms part of expert evidence, he must give notice when the expert's report is served on the other party.

29.129

Where the evidence is being produced to the Court for any reason other than as part of factual or expert evidence, he must give notice at least 21 days before the hearing at which he proposes to put in the evidence.

29.130

Where a party has given notice that he intends to put in the evidence, he must give every other party an opportunity to inspect it and to agree to its admission without further proof.

Evidence of finding on question of non-DIFC Law 29.131 - 29.135

29.131

Rules 29.133 to 29.135 set out the procedure which must be followed by a party who intends to put in evidence a finding on a question of non-DIFC law.

29.132

"Non-DIFC law" means any law other than—

(1) DIFC law or any other law in force in the DIFC ;

(2) the law of any jurisdiction other than that of the DIFC expressly chosen by any DIFC Law;

(3) the laws of a jurisdiction as agreed between all the relevant persons concerned in the matter;

(4) the laws of any jurisdiction which appear to the Court to be the one most closely related to the facts of and the persons concerned in the matter; and

(5) the laws of England and Wales.

29.133

He must give any other party notice of his intention.

29.134

He must give the notice:

(1) if there are to be witness statements, not later than the latest date for serving them; or

(2) otherwise, not less than 21 days before the hearing at which he proposes to put the finding in evidence.

29.135

The notice must:

(1) specify the question on which the finding was made; and

(2) enclose a copy of a document where it is reported or recorded.

Evidence of consent of trustee to Act 29.136

29.136

A document purporting to contain the written consent of a person to act as trustee and to bear his signature verified by some other person is evidence of such consent.

VI FALSE STATEMENTS 29.137 - 29.138

29.137

Proceedings for contempt of court may be brought against a person if he makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

29.138

Proceedings under Rule 29.137 may be brought only with the permission of the Court .

Penalty 29.139 - 29.141

29.139

Where a party alleges that a statement of truth or a Disclosure Statement is false the party shall refer that allegation to the Court dealing with the claim in which the statement of truth or disclosure statement has been made.

29.140

The Court may:

(1) exercise any of its powers under these Rules ;

(2) initiate steps to consider if there is a contempt of court and, where there is, to punish it; and/or

(3) refer the matter to the Attorney General of Dubai.

29.141

Where a party makes an application to the Court for permission for that party to commence proceedings for contempt of court, it must be supported by written evidence which:

(1) identifies the statement said to be false;

(2) explains:

(a) how it is false; and

(b) the basis on which it is contended the maker knew it to be false at the time he made it; and

(c) explains why contempt proceedings would be appropriate in the light of the overriding objective in Part 1 of these Rules .

Schedule to Part 29