H.H. SHEIKH MOHAMMED BIN RASHID AL MAKTOUM
Vice President and Prime Minister of the UAE and Ruler of Dubai
H.H. SHEIKH MAKTOUN BIN MOHAMMED BIN RASHID AL MAKTOUM
Deputy Ruler of Dubai
President of the Dubai International Financial Centre (DIFC)
H.E. AHMAD HUMAID AL TAYER
Governor of the Dubai International Financial Centre (DIFC)
AVERAGE CASE PROCESSING TIME 2009
(IN MONTHS)

<table>
<thead>
<tr>
<th>Court</th>
<th>Time (in months)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Court of First Instance</td>
<td>6-7</td>
</tr>
<tr>
<td>Court of Appeal</td>
<td>3</td>
</tr>
<tr>
<td>Small Claims Tribunal</td>
<td>1</td>
</tr>
</tbody>
</table>
The DIFC Courts... independent, run by international standards, but simultaneously part of the Dubai set-up and operating with the blessing of the Dubai authorities, could be expected – by [both] parties – to deliver fair and impartial decisions, with substantially fewer enforcement difficulties ...

– Frank Kane, ‘DIFC Courts can now be part of the solution’, The National

100% of all 2009 users would recommend the DIFC Courts*

* According to an independent user satisfaction survey conducted in 2009
VISION, MISSION AND VALUES

Vision
To provide a world-class system of justice that is reliable, accessible, efficient and fair, with an unconditional commitment to the rule of law and the fulfilment of its statutory function.

Mission
To unfailingly uphold the principles of fairness and impartiality and to consistently dispense equal justice according to the law and international best practice.

Values
Judicial Independence
Equality and Integrity
Collaboration
Welcome to the second annual review of the DIFC Courts, covering 2009, which has been perhaps the most significant so far in our five-year history. That is essentially because the Courts have now begun to achieve their full potential as the provider of an efficient and accessible common law justice system within the DIFC.

In 2008, the Courts became fully operational with the appointment of Mark Beer as permanent, full-time and locally resident Registrar. There was already the magnificent courtroom which was formally opened in April 2007, a small and dedicated staff led by Amna Al Owais, who happily is now Deputy Registrar of the Courts and Registrar of the Small Claims Tribunal, and two able and respected Resident Justices, H.E. Justice Omar Al Muhairi and H.E. Justice Ali Al Madhani, to whom so much is owed for their faithful service since the Courts’ inception in 2005. Both were formerly Judges of the Dubai Courts, and the close links which they have maintained there, with their former colleagues, have contributed hugely to the close and productive relationship between Dubai’s two national courts which has been a major feature of the year just passed.

Meanwhile, the RDC (The Rules of the Dubai International Financial Centre Court 2007) modelled on the procedures of the Commercial Court in London were formally adopted in February 2008 and the Courts’ complement of non-resident Justices had been increased to six by the appointments of Justice Sir Anthony Colman and Justice Sir John Chadwick from the United Kingdom, Justice Tan Sri Siti Norma from Malaysia and Justice David Williams QC from New Zealand.

When 2009 began, the Courts had a moderate workload – for 2008 the figures were nine CFI (Court of First Instance) cases, plus one appeal hearing, and 54 cases in the Small Claims Tribunal. But the combined effects of a hard working staff under the inspirational leadership of Mark Beer and a team of Justices who are respected, I believe, both locally and internationally, soon led to a dramatic increase in these numbers. By the end of 2009, 36 further claims were lodged with the CFI and 66 with the SCT, and that rate seems likely to be exceeded in the coming year. No doubt some of the increase has been the result of the global financial crisis, which has had effects in Dubai as elsewhere, but it is impossible to say how much, and it remains true that, during 2009, the Courts have begun to achieve their full potential.

Measuring the success of a Court, particularly a commercial court, by the number of cases it hears is something of a paradox. No one should encourage litigation, nor any other form of commercial dispute resolution, when incomparably
the best solution in every case is a settlement agreement made voluntarily by the parties themselves, with the aid of skilled legal advice whenever that is necessary. Only when that outcome for whatever reason cannot be achieved, should the parties contemplate litigation or bringing in a third party as arbitrator or mediator. So it might be said that any measure of a Court's success, in providing a judicial service to the commercial community, should also take account of another factor: by establishing a reputation for efficiency and transparent procedures, and for fair, just and predictable decisions, the Courts' existence and availability may reduce the number of disputes which come before it.

I hope and believe that the DIFC Courts in 2009 have begun to achieve their full potential, not just in terms of the increasing caseload, but also in developing and deserving this reputation for the quality of service they can provide and the justice they administer.

The year saw the beginning of growth in the DIFC/LCIA Arbitration Centre. The DIFC Courts supervise these arbitrations under DIFC Arbitration Law No. 18 enacted in 2008, and thus potentially they exercise worldwide jurisdiction.

There have been many highlights throughout the year. First and foremost, were the good relations we enjoyed with the Dubai Courts, for which our thanks are due to H.E. Dr. Ahmed bin Hazeem, their Director General, as well as to their Judges who have helped to develop the Memorandum of Understanding and the Protocols on Enforcement and on Jurisdiction we signed with them.

Secondly, the support the DIFC Courts continued to receive from the busy practitioners who make up the Courts' Users' Committee, representing parties as well as lawyers. Their hard work and the interest they have shown have been invaluable.

Thirdly, on 13 December 2009, H.H. Sheikh Mohammed bin Rashid Al Maktoum, the Ruler of Dubai, and Vice President and Prime Minister of the UAE, issued Decree No. 57 of 2009 regarding the financial regulation of Dubai World and its subsidiary companies. The Decree provided that the affairs of Dubai World, a Dubai company, will be governed by the Insolvency Law annexed to it, based in part on DIFC Insolvency Law, and that they will be administered by a Special Tribunal, of whom three members named in the Decree are Justices of the DIFC Courts (myself, Michael Hwang SC (Deputy Chief Justice) and Sir John Chadwick). The Special Tribunal will operate from its own offices within the DIFC Courts, and its procedures will be governed by Rules based on the RDC, but I should emphasise that the Special Tribunal is a separate entity from the DIFC Courts.

By the Decree, H.H. Sheikh Mohammed recognises that Dubai is able to provide from its existing resources a panel of judges with international experience who would administer insolvency law rules based on the common law, which are internationally acceptable for that reason. The Courts were honoured by this recognition, and we pay tribute in return to the energy and vision which led to the Courts being established by the Dubai Laws of 2004.

To provide for the probably unlikely event that issues related to the affairs of Dubai World will be raised before the DIFC Courts, I have directed that all such cases shall be allocated to Justice Sir Anthony Colman so that such cases will be heard by him or another Justice, independent of the Tribunal.

The DIFC Courts were established in order to provide for the DIFC the advantages of a commercial court applying the common law rules which the Commercial Court in London developed so successfully after 1895, when it was founded. Those same rules have been developed also in countries around the world where commercial communities have flourished, in Singapore, Hong Kong and Malaysia, as well as in Australia, New Zealand and Canada, not to mention the USA and India.

The DIFC Courts can now provide that service to the same high standard as in those different jurisdictions and our aim is to do so, for the benefit of the DIFC, of Dubai and the UAE, and throughout the Gulf region generally.

To have travelled so far along this road since 2005 would not have been possible without the support of the President and Governor of the DIFC, nor without the loyalty and hard work of the Courts' staff and of the resident and non-resident Justices, to all of whom I would like to extend my thanks and appreciation, together with my warmest good wishes for continued success in 2010 and beyond.

Sir Anthony Evans
Chief Justice
It is with a great sense of achievement that the DIFC Courts can review 2009. The year was one in which the Courts enabled greater access to justice for all; raised and guaranteed a consistent level of professionalism; and drove forward new judicial frontiers in the UAE and the Middle East alike.

Though relatively new in their existence, the DIFC Courts have forged a reputation for judicial innovation in the way that they have shaped and advanced the delivery of justice. In 2009 alone, the Courts have introduced a number of regional firsts of which they are particularly proud.

Most notably, and in line with their mission, the DIFC Courts have ensured that justice is even more widely accessible and balanced with the introduction of a Pro Bono scheme, one of a kind in the region. Likewise, they are the first in the Middle East to introduce a Professional Code of Conduct, to which all practitioners registered with the Courts must abide, a move which will ensure the highest standards of legal representation for all DIFC Courts’ users.

Towards the end of the year, Justices and Judicial Officers from the DIFC Courts were chosen to administer the Special Tribunal Related to Dubai World in accordance with Decree No.57 of 2009. This appointment, made by H.H. Sheikh Mohammed Bin Rashid Al Maktoum, Vice President and Prime Minister of the UAE and Ruler of Dubai, was a great honour for the DIFC Courts. It was also a testament to the domestic and international reputation and respect the DIFC Courts have gained since their inception in 2005.

The strong technical foundations necessary for a world-class court system were also strengthened in 2009. The automated recording and transcription service and the online, automated case management system have further streamlined and expedited case progression at the DIFC Courts.

Due to these developments, and thanks to efforts to increase awareness of the Courts in the legal community – such as through the practitioners’ lecture series – acceptance of the Courts and, in turn, the case load, has developed considerably over the past year.

To continuously ensure that efficiency was not affected by the increasing caseload, the Courts regularly monitor key performance indicators and, more importantly, listen carefully to feedback from Courts’ users and the DIFC community that they serve. This active dialogue, alongside the support of the Courts’ Users’ Committee – a body made up of Dubai’s most prominent commercial and civil law thought leaders – has affirmed that all key decisions were made with the Courts’ users’ needs and the development of the DIFC’s legal system in mind.

A thorough User Satisfaction Survey conducted by an independent agency towards the end of the year confirmed various areas in which the Courts are doing well: efficiency, professionalism, and transparency. The report also highlighted some areas where there is room for improvement, and plans are already underway to do so, for example, by increasing communication with Courts’ users.

The successes of 2009 were achieved with the support of H.H. The Ruler of Dubai, the Government of Dubai, the Dubai Courts under the leadership of H.E. Dr Ahmad bin Hazeem, the DIFC Governor, H.E. Ahmad Humaid Al Tayer, the UAE Ministry of Justice and, of course, the enthusiasm and tireless work of the DIFC Courts’ team; my sincere thanks to them all.

Mark Beer
Registrar
[Dubai International Financial Centre](#)

**Organisational Structure**

**Dubai International Financial Centre**

**Dubai Financial Service Authority (DFSA)**

**Dubai International Financial Centre Authority (DIFCA)**

---

**Small Claims Tribunal (SCT)**

Was set up to enable access to justice in a swift and efficient manner for disputes of less than Dhs100,000. The SCT Rules were created following extensive consultation and review of international best practices and provide a clear framework for all stages of the SCT process.

- Cases in the SCT are resolved in an expeditious, cost-efficient manner without the need for lawyers. This allows the SCT to resolve more than 90% of disputes in less than two weeks.
- The process requires the claimant to fill in a simple claim form and lodge it with the SCT Registry.
- Concerned parties then attend a Consultation before a SCT Judge, who will attempt to mediate the dispute.
- The SCT aims to settle each dispute within the two weeks of submission of the claim.
- If the dispute is not resolved at the consultation stage, the matter is fixed for a hearing within one week of the consultation at which point the SCT judge will issue directions.

---

**Court of First Instance (CFI)**

Hears cases where the amount in dispute exceeds Dhs100,000. A single Judge hears the proceedings.

The CFI has exclusive jurisdiction over:

- Civil or commercial cases and disputes involving the DIFC, any of the DIFC’s bodies or any of the DIFC’s establishments.
- Civil or commercial cases and disputes arising from or related to a contract that has been fulfilled or a transaction that has been carried out, in whole or in part in the DIFC.
- Objections filed against a decision made by the DIFC’s bodies, which are subject to objection in accordance with the DIFC’s laws and regulations.
- Any application over which the Courts have jurisdiction in accordance with the DIFC’s law and regulations.

---

**Court of Appeal (CA)**

Deals with a variety of civil and commercial disputes. It comprises at least three judges, with the Chief Justice.

The CA has exclusive jurisdiction over:

- Appeals filed against judgments and awards made by the CFI.
- Interpretation of any article of the DIFC’s laws based upon the request of any of the DIFC’s establishments, provided that the establishment obtains leave of the Chief Justice in this regard. Such interpretation shall have the power of law.
- The Court of Appeal is the highest court in the DIFC Courts and no appeal shall arise from a decision of this court.

---

[Image link to further information](#)
Sir Anthony Evans

Chief Justice

Sir Anthony Evans was appointed Chief Justice of the DIFC Courts in April 2005. He was a High Court Judge in England and Wales from 1984 until 1992 and a Lord Justice of Appeal (a member of the Court of Appeal) from 1992 until his retirement in 2000. Before being appointed as a Judge, Chief Justice Sir Anthony Evans practised as a Barrister, specialising in commercial cases. He became Queen’s Counsel in 1971 and a Recorder of the Crown Court in 1972. As a High Court Judge, he sat regularly in the Commercial Court, and from 1990 until 1992 he was Judge in Charge of the Commercial list.

After 2000, he continued to sit from time to time in the Court of Appeal and as a member of the Judicial Committee of the Privy Council. He is also a member of the Court of Appeal in Bermuda.

Chief Justice Sir Anthony Evans has extensive and recent experience as an arbitrator, with particular emphasis on international commercial arbitration.

In 2009 Chief Justice Sir Anthony Evans was also appointed chair of the Special Tribunal Related to Dubai World, established pursuant to Decree No.57 of 2009.

Michael Hwang, SC

Deputy Chief Justice

Justice Michael Hwang, SC, was appointed as the Deputy Chief Justice of the DIFC Courts in April 2005. From 1972 to 1991 and again from 1993 to 2002, he was a partner in Allen & Gledhill, the largest law firm in Singapore and served as the Head of its Litigation and Arbitration Department for 10 years. In 1991, he was appointed a Judicial Commissioner of the Supreme Court of Singapore (a full time post equivalent to the office of an acting High Court Judge) for a fixed term contract that expired at the end of 1992. During his term, he dealt with a full caseload of civil litigation and 15 of his reasoned Judgments are reported in the Singapore Law Reports. He returned to private practice at the beginning of 1993 and since 2003 has practised as an independent Barrister and Arbitrator.

In 1997, he was appointed as one of the first 12 Senior Counsels (SC) of the Supreme Court of Singapore (a status equivalent to that of Queen’s Counsel in England). In 1999, he was elected a Member of the American Law Institute and also served as a Visiting Professor to the National University of Singapore teaching advocacy and commercial arbitration. Between 2000 and 2003, he served as a Commissioner of the United Nations Compensation Commission (UNCC) based in Geneva, a body set up under the Security Council to assess claims against Iraq arising from the Gulf War.

He is Vice President of the International Council for Commercial Arbitration, a member of the London Court of International Arbitration and a member of the International Council of Arbitration for Sport and former Vice Chairman of the International Court of Arbitration of the International Chamber of Commerce (ICC). Since 2008, Justice Hwang
has been President of the Law Society of Singapore. He is also a Trustee of the Dubai International Arbitration Centre.

In 2009 Justice Michael Hwang was also appointed a member of the Special Tribunal Related to Dubai World, which was established pursuant to Decree No.57 of 2009.

**Justice Sir Anthony David Colman**

Justice Sir Anthony Colman was appointed as a Justice of the DIFC Courts in January 2008. He served as a Judge of the Commercial Court in the High Court, London, from 1992 to 2007, specialising in commercial litigation, particularly international oil and gas industry disputes; international sole agency, sole distributorship and joint-venture disputes; primary insurance and reinsurance disputes, including marine and aircraft insurance; international banking and credit disputes; commercial fraud; and cases involving issues of American Law.

Previously, from 1996 to 1997 Justice Sir Anthony Colman was the Judge in Charge of the UK Commercial Court. In 2000 he became the Chairman of Inquiry of the re-opened investigation into the Loss of MV Derbyshire and at the same time he held the position of Special Adviser to the Ministry of Justice of the Czech Republic on Civil Procedure. In 2002 he became a Consultant to the European Commission on Czech Republic’s accession to the EU and in the following year on Slovakia’s accession to the union. In 2006 he received an award from the Czech Republic (Gratias Agit Award) for services to Czech judicial reform and judicial education. Justice Sir Anthony Colman was a co-founder and member of the Management Committee of the European Commercial Judges Forum from 2002 until 2007. Since 2002 he has presided as Honourary President of the Italian Society for Mediation and Principal of the Faculty of Mediation and Vice President of the Academy of Experts, in London. He was educated at Harrogate Grammar School and Trinity Hall, Cambridge, where he achieved a Double First in Law Tripos.

Justice Sir Anthony Colman practised as a Barrister of Gray’s Inn at the Commercial Bar from 1962 to 1992, specialising in primary insurance and reinsurance including marine insurance, maritime disputes, banking and international trade and distributorship agreements, ICC and ICSID arbitrations, including acting as ICC, LCIA and ICSID arbitrator and a Fellow of the Chartered Institute of Arbitrators. He was appointed Queen’s Counsel in 1977 and Master of the Bench of Gray’s Inn in 1986. Justice Sir Anthony Colman was also Chairman of the Commercial Bar Association (COMBAR), a role he held from 1990 until 1992.

**Justice Sir John Murray Chadwick**

Justice Sir John Chadwick was appointed a Justice of the DIFC Courts in January 2008, having served for 10 years until 2007 as a Judge of the Court of Appeal of England and Wales. He had previously held senior judicial appointments as a Judge of the High Court of England and Wales (Chancery Division), and a Judge of the Courts of Appeal of Jersey and Guernsey. He is also president of the Court of Appeal of the Cayman Islands.

Justice Sir John Chadwick was called to the Bar of England and Wales in 1966. He was standing counsel to the UK Department of Trade and Industry from 1974 until 1980, when he was appointed Queen’s Counsel. In private practice, he undertook both litigation and advisory work; principally in property, company, insolvency, banking and insurance matters. His experience includes litigation in Malaysia, Hong Kong and Bermuda.

In 2009 Justice Sir John Chadwick was also appointed a Member of the Special Tribunal Related to Dubai World, established pursuant to Decree No.57 of 2009.

**Justice Tan Sri Siti Norma Yaakob**

Justice Tan Sri Siti Norma Yaakob was appointed a Justice of the DIFC Courts in January 2008. She retired as Chief Judge of Malaya in January 2007 having held office since February 2005. After qualifying as a Barrister in London in 1962, she was appointed as a Senior Assistant Registrar in the Kuala Lumpur High Court the following year. Before becoming Chief Judge she held a series of senior judicial and legal positions in Malaysia including that of President of the Sessions Court, Kuala Lumpur; Chief Registrar of the Federal Court, Malaysia; High Court Judge, Malaya; Judge of the Court of Appeal, Malaya; and Judge of the Federal Court, Malaysia.

Justice Tan Sri Siti Norma Yaakob was President of the Association of Women Lawyers 1976 to 1977 and President of the Judicial and Legal Service Officers Association between 1979 to 1981. She has served as a Council Member, a Regional Vice-President and President of the Commonwealth Magistrates’ Association, and as Secretary, Governing Council Member, Executive Council Member of the ASEAN Law Association, as well as being a Member of the Judicial and Legal Service Commission.
Justice Tan Sri Siti Norma Yaakob has represented Malaysia at many international conferences and seminars including Commonwealth Magistrates’ Conferences, Commonwealth Law Ministers’ Meeting, the International Conference of Appellate Magistrates and the United Nations’ 29th Commission on the Status of Women.

She is also an Eisenhower Fellow and presently holds the position of Vice-President of the Eisenhower Fellows Association of Malaysia. She also serves as a Pro-Chancellor, University of Malaya, sits on the Board of four companies and is very active in the running of two charitable foundations. In late November 2007, the Master Benchers of her alma mater, Gray’s Inn, London elected her as an Honorary Bencher of that Inn.

**Justice David A R Williams QC**

Justice David A. R. Williams was appointed as a Justice of the DIFC Courts in January 2008. He graduated LL.B from the University of Auckland Law School in 1965 and LL.M from Harvard University the following year. He was admitted to the New Zealand Bar in 1965, the Australian Bar in 1987 and to the English Bar in 2003. For many years he practised as a commercial barrister in New Zealand and overseas.

Justice David Williams’ wide-ranging judicial experience includes appointments as a Justice of the High Court of New Zealand (from 1991 to 1994), a Justice of the High Court and Court of Appeal of the Cook Islands (from 2000 to 2005), and Chief Justice of the Cook Islands from 2005.

In addition to his current judicial duties, Justice David Williams is a leading international Arbitrator and has extensive experience in international dispute resolution. He has served as a member of the ICC Court of International Arbitration (Paris) and the London Court of International Arbitration and he is presently a Council Member of the International Council for Commercial Arbitration. He is also an Honorary Professor at the University of Auckland Law School in Auckland, New Zealand.

**H.E. Justice Omar Juma Mohamed Saif Al Fajeer Al Muhairi**

H.E. Justice Omar Al Muhairi was appointed as a Justice of the DIFC Courts in 2008. He was also appointed a Small Claims Tribunal Judge in 2007 and he played a key role in the development of the Tribunal function.

H.E. Justice Omar Al Muhairi initially joined the DIFC Courts as a Senior Judicial Officer in 2005. During his tenure with the DFSA, where he consulted on the laws of the UAE and the adoption of DIFC laws, he was also a member of the 2004 Committee that established the DIFC Courts.

In March 2008 H.E. Justice Omar Al Muhairi was appointed as a member of the Committee set up to review and implement changes to the Judicial Institute of Dubai. He is also a member of the Education Council of the Judicial Committee of Dubai.

**Mark Beer, Registrar, DIFC Courts**

Mark Beer has been Registrar at the DIFC Courts since 2008. In his role, Mark is charged with administering the DIFC Courts’ office and staff, undertaking various judicial functions and other duties as prescribed in Article 17 of the DIFC Courts Law No. 10 of 2004.

During Mark’s tenure, and with the guidance and support of the Chief Justice, he has led various initiatives to promote access to justice and to create a world-class, efficient, transparent and fair judicial system.

Prior to his career at the DIFC Courts, H.E. Justice Ali Al Madhani worked with the Dubai Financial Services Authority, where he consulted on the application of UAE and Dubai legislation throughout 2004. From 1994 until 1998, he was a Public Prosecutor for Dubai Public Prosecution. In 1998, he was appointed by the Ruler of Dubai to serve as a Judge in the Dubai Courts.

This has included overseeing the implementation of a ‘best in class’
electronic case management system to enhance the efficiency of the
Courts’ operations. Mark has been instrumental in the DIFC Courts’
adoption of a Code of Professional Conduct, and he has supported
the development of the DIFC Courts’ Pro-Bono programme, both of
which are firsts of their kind in the Middle East.

To increase understanding of the DIFC Courts within the UAE’s legal
community, Mark, with the assistance of the resident justices and the
Court’s team, has worked to establish a DIFC Courts’ Legal Practitioners’
Series that presents quarterly seminars and lectures on matters that
concern the DIFC Courts’ working practices and related issues.

Mark has played a key role in developing formal working relationships
between the DIFC Courts and the other Courts in the UAE and
internationally. In Dubai, he has been involved with formalising
agreements covering enforcement and joint initiatives to promote
training with the Dubai Courts. The DIFC Courts are an important
component of the DIFC’s international business offering, and
accordingly, Mark has represented the Courts to increase awareness
and understanding of the judicial system on a global scale. He
encourages and regularly welcomes international dignitaries and
diplomats on behalf of the Courts, raising awareness of the DIFC’s
world-class judicial framework. For his work, Mark received the DIFC
Governor’s 2009 award for Distinguished New Employee.

In 2009, Mark was also appointed Registrar of the Special Tribunal
Related to Dubai World, established pursuant to Decree No.57 of
2009.

Amna Sultan Al Owais
Deputy Registrar & SCT Registrar

Amna Sultan Al Owais joined the DIFC Courts in October 2006. Amna’s role is to support the judicial bench and Registrar in the
administration and day-to-day administration of the DIFC Courts. Amna undertakes various judicial functions and other duties as
prescribed in Article 17 of the DIFC Courts Law No. 10 of 2004. In addition to her contribution to the Courts operations, planning and
communications, she has a critical technical mandate, which includes case management and legal research responsibilities.

Amna oversaw the implementation of the DIFC Courts’ bespoke
case management system. Under Amna’s management, the system
became operational in less than two months. It electronically records
all case documentation, allowing for remote access for Registry staff
and Justices.

As Registrar of the Small Claims Tribunal, one of the busiest of
the DIFC Courts, Amna coordinates all of the claims lodged and
undertakes case consultations with the parties. She spearheaded the
establishment of the DIFC Courts’ Pro-Bono Programme launched in
2009, which is the first scheme of its kind in the Middle East.

Amna has played a key role in the establishment and development of
the DIFC Courts. Prior to her employment at the DIFC Courts, she
practised as a lawyer with Hadef Al Dhahiri and Associates in
Dubai. Prior to that, she trained for one year at the UAE Ministry
of Justice and has been admitted to practise in both the local and
federal courts. Amna obtained her Masters with Commendation in
International Commercial Law from Kingston University, London.

In 2009, Amna was appointed Deputy Registrar of the Special
Tribunal Related to Dubai World established pursuant to Decree
No.57 of 2009.

Rita Hicks
Courts’ Co-ordinator

Rita Hicks joined the DIFC Courts in November 2008 after having
spent a year supporting the Dispute Resolution team at a major
international law firm.

Prior to moving to Dubai, Rita was an Associate to a High Court
Judge at the Auckland High Court. Rita has also worked as a
Judges’ Assistant at District Court level and has had an extensive
legal background with two legal firms in New Zealand.

Rita is responsible for managing the daily functions of the Courts
and providing administrative support to the Justices and the
Registry. This includes the handling of Court of First Instance cases
and maintaining the DIFC Courts’ Register of Legal Practitioners.
She is also Secretary of the Courts’ Users’ Committee.

Courts’ Users’ Committee Members 2009

| Chairman |
| DIFC Courts | Mark Beer | Registrar |

| Committee Members |
| :-- | :-- | :-- |
| DFSA Enforcement | Stephen Glynn | Head of Enforcement |
| DIFCA | Dean Ferris | General Counsel |
| DIFX | (Vacant) | |
| Clifford Chance | Graham Lovett | Partner |
| Clyde & Co | Alec Emmerson | Partner |
| Al Tamimi & Company | Philip Punwar | Barrister/Senior Legal Consultant |
| Hadef & Partners | Richard Briggs | Partner |
| Global Advocates | Ali Al Hashimi | Partner |
| DLA Piper | James Delkousis | Barrister & Solicitor |

| Committee Secretary |
| :-- | :-- | :-- |
| DIFC Courts | Rita Hicks | Courts’ Coordinator |
The DIFC Courts have implemented a number of significant initiatives in 2009, including some judicial firsts for the Middle East. These enhancements were focused on further strengthening the DIFC Courts’ offering of swift, fair, consistent and accessible justice and they were received well by the DIFC, the Courts’ users and the region’s legal community. Some improvements were made in response to users’ needs while others were made in line with global best practice. All in all, the overriding aim was the advancement of justice in the UAE.

Urgent Case Handling

In February, the DIFC Courts announced the creation of an urgent case handling facility. This resource provides the DIFC community with access to justice at any time. A 24-hour phone line has made urgent hearings a possibility at any time, from anywhere, thus ensuring that the international business community, which operates from the DIFC seven days a week, is able to obtain justice around the clock as well.

The urgent case handling facility was first tested in September 2009 when assets of an investment fund registered in the DIFC were frozen, and the directors, officers, employees, agents and associate employees were ordered to cease from drawing or distributing unused portions of assets or face the penalty of being in contempt of court.
Furthering Regional Justice

The success of the DIFC system can be replicated by following its example. Boosting the number of judges with expertise in the highly specialised fields of commerce and finance, streamlining the processing of cases, and augmenting those efforts with a more effective arbitration system are only some of the aspects of judicial reform.

– Marten Youssef, Court Reporter, The National
Code of Conduct

In support of a movement to regulate professional legal standards in the UAE and more importantly, to ensure a consistently high level of professionalism, fairness and integrity for its users, the DIFC Courts implemented a Professional Code of Conduct in 2009. The Code is the first of its kind in the region, and it stipulates a standard of conduct with which all legal practitioners registered with DIFC Courts must comply. Specifically, practitioners must act with the utmost integrity and independence, in support of the Courts and the communities they serve, or face sanctions according to the guidelines.

This was an important step made by the DIFC Courts towards guaranteeing that all parties to a dispute have access to lawyers committed to the highest professional standards of conduct and advocacy. Compliance with the Code ensures that cases heard in the Courts are handled in a timely and proficient manner, and that all parties can be sure of receiving fair and consistent representation. The rules focus on six areas:

- The Courts’ Governing Principles
- Duties owed to the Courts
- Duties owed to Clients
- Duties owed to Other Practitioners
- General Duties and
- Sanctions for Breach of the Code

“Through the Code, legal practitioners in the DIFC, and the DIFC Court itself, have boldly stated their vision for the administration of justice in the Centre and the onerous standards by which they wish to be judged.”

– Philip Punwar, Al Tamimi & Company, Dubai, UAE
Pro Bono Programme

In the summer of 2009, the DIFC Courts were applauded by the region’s legal community for implementing the first Pro Bono Programme in the Middle East. This initiative, indicative of the DIFC Courts’ mission to offer accessible justice to all, allows individuals who cannot afford a lawyer the ability to seek free advice from volunteer lawyers registered with the DIFC Courts.

The scheme, for which Amna Al Owais is the Programme Leader, was created to address a need in the community for equal access to justice in cases in which an individual cannot afford a lawyer. All of the services offered as part of the Pro Bono Programme, ranging from basic advice to full case management and representation in proceedings, are delivered to eligible individuals approved by the DIFC Courts. Subject to meeting the eligibility criteria, individuals are then assigned legal representation, selected from a register of volunteer lawyers, and can be offered legal assistance for the duration of their case, free of charge. By the end of 2009, 10 law firms were registered with the Programme and one case was in process.

The DIFC Courts would like to thank the International Bar Association and the Singaporean Courts for their assistance in the development of the Pro Bono scheme.

Education and Awareness Initiatives

The DIFC Courts began a lecture series for registered DIFC Courts’ practitioners and a wider audience of United Arab Emirates and Gulf Co-operation Council-based lawyers in 2009. At the seminars, international thought leaders provided insight into relevant legal and judicial matters. The seminars explored themes such as: enforcement, professional conduct and court costs.

In addition to the practitioners’ series, in 2009 the DIFC Courts responded to calls from the region’s media that they required more court reporting guidance and arranged for a leading, international court reporter, Michael Peel from the Financial Times, to lead a workshop on the subject. The session was offered in English and Arabic and the video from the session is available on the Courts’ website in the press centre.

The DIFC Courts’ website was enhanced in 2009 to offer instant news update email alerts and to offer a more thorough press centre. The development of the website is ongoing and plans to make it a more user-friendly resource were drawn up towards the end of the year.

Special Tribunal Related to Dubai World

At the end of 2009 H.H. Sheikh Mohammed bin Rashid Al Maktoum, the Vice President and Prime Minister of the UAE and Ruler of Dubai, issued a decree establishing a tribunal that would hear cases related to the Dubai World restructuring. The Tribunal will apply legislation based on the DIFC insolvency laws and regulations, amended to introduce US-style insolvency provisions. The Tribunal comprises three DIFC Courts’ Justices. DIFC Courts’ Chief Justice Sir Anthony Evans was appointed Chair of the Tribunal, and other members include the DIFC Courts’ Deputy Chief Justice Michael Hwang and Justice Sir John Chadwick.

“...It was a pleasure to participate in the DIFC Courts’ lecture on enforcement’s guest panel and to share my relevant experience. It’s clear that lawyers in the UAE are finding that the seminars offer clear guidance on dealing with cases before the DIFC Courts and I congratulate the Courts for their continued effort to add value to their surrounding legal community.”

– Tom Montagu-Smith, Barrister at 24 Old Buildings, London, UK
Judicial collaboration is a very important value of the DIFC Courts, and this is demonstrated by working with other court systems to learn and share best practices. A number of working relationships were formalised and strengthened in 2009.

The DIFC Courts is a judicial system built upon the most efficient aspects of a number of international commercial court systems. Since their inception, the DIFC Courts have worked closely with their peers in the Dubai Courts, the Abu Dhabi Judicial Department, the UK Commercial Courts, and the Courts of Singapore, among others. These arrangements are supported by the network of international and UAE Justices that comprise the DIFC Courts.

In turn, the DIFC Courts were represented at key legal and judicial conferences in 2009. Representatives of the DIFC Courts attended and spoke at the Qatar Law Forum in Doha, Qatar, the IBA 2009 Conference in Madrid, Spain, the MEED Conflict Dispute Resolution Conference in Dubai and the DIFC Roadshow in London, amongst others. The DIFC Courts were honoured to be the sole court represented at the Global Agenda Council on International Legal Systems at the World Economic Forum meeting, held in Dubai in November 2009.

UAE Judicial Collaboration
The DIFC Courts’ relationship with other courts in the UAE is of paramount importance. It is through working together that the UAE’s courts can develop justice in the most effective manner. Accordingly, formalising co-operative initiatives was a focus in 2009.

Memorandum of Understanding with Dubai Courts
A Dubai and DIFC Courts’ Joint Committee was established at the beginning of the year and this team worked together on various landmark initiatives, in particular the signing of a Memorandum of Understanding which reinforced the close ties between the two judicial systems and their ongoing commitment to collaboration and knowledge sharing, in order to deliver world-class justice in Dubai. The historic Memorandum provides for regular and open discussion between the two Courts. It also supports the sharing of best practices, as well as joint development efforts focused on subjects such as:
- Improving efficiencies through the use of information technology
- Jurisdiction
- Joint awareness and education initiatives
- The nurturing of judicial talent

In 2009, the DIFC Courts welcomed a number of formal delegations, including:
- Mohammed Bin Rashid Programme for Leadership Development, which held a workshop at the Courts and simulating a hearing;
- Peter Maynard, former Bahamian Judge, who spoke about his Pro Bono experience;
- International Bar Association (IBA), which provided insights to legal practitioners in the UAE;
- Future Leaders Programme, which arranged for two Emirati law students to gain a deeper insight to the DIFC Courts’ operations;
- UK Bar Council Delegation, which sat with the DIFC Courts’ registry team and judges for an informative open forum session;
- Stetson Business School, United States, whose students visited as part of a tour to gain a better understanding of business workings in the UAE;
- The Emirates Investment Authority and UAE Central Bank which received a presentation about the aims and workings of the DIFC Courts;
- Prince Andrew, the Duke of York, who congratulated the DIFC Courts on their success in 2009; and
- A delegation from the Chancery Bar Association, which visited DIFC Courts for more insight into the workings of the Courts.
The Memorandum also crystallised the DIFC Courts’ and Dubai Courts’ shared strategic objectives, which include: the desire to increase the community’s understanding of and trust in Dubai’s judicial system; clarifying and developing judicial processes within their respective jurisdictions; providing first-class service to litigants and Court users; and strengthening judicial co-operation at local, federal, regional and international levels.

Jurisdiction Protocol
At the end of 2009, the DIFC Courts and the Dubai Courts signed a Jurisdiction Protocol to further clarify the jurisdiction over legal matters governed by each court. This was an important first step in defining clearly which of Dubai’s courts should hear and determine the outcome in a particular case, which in turn enables parties to know the correct court in which their case should be lodged.

According to the Protocol, the Dubai Courts and DIFC Courts agree that the DIFC Courts shall have exclusive jurisdiction over civil and commercial cases and disputes involving the DIFC or any company licensed to operate from the DIFC. The DIFC Courts also have jurisdiction over any civil or commercial case and dispute arising from, or related to, a contract or financial transaction that has been performed in whole or in part within the DIFC. Under the Protocol, any cases that fall outside of these criteria, including all criminal cases, are to be handled by the Dubai Courts.

Enforcement Protocol
Also in 2009, the DIFC Courts and Dubai Courts signed an Enforcement Protocol to establish machinery that enables the Execution Judge at Dubai Courts to enforce DIFC Courts’ judgments, orders and arbitral awards and vice versa.

The procedures, as set out in the Protocol, assist court users that require a final judgment or order be enforced outside the jurisdiction of the issuing court. The formalising of these procedures offers increased transparency for court users and provides efficient processing of multi-jurisdictional enforcement. The Protocol is another measure towards affirming the effectiveness and strength of all the courts that comprise Dubai’s judicial system.

The terms of the new Protocol required that the DIFC Courts and the Dubai Courts assign one of their own Executive Judges to enforce the applicable judgments and arbitral awards issued by the other Court.

Notary Public Office Memorandum of Understanding
In recognition of the desire for an English-language Notary Public Office, the DIFC Courts signed an agreement in 2009 with the Dubai Courts committing both parties to work towards establishing such a service. The Memorandum of Understanding formalises plans by the two courts systems to collaborate in providing a service to attest official documents, swear oaths, witness signatures and certify true copies, in English, at the DIFC.

“...We are always working to strengthen our relationship with the DIFC Courts. This harmonisation between the Dubai and DIFC Courts is undoubtedly of benefit to Dubai and the UAE as a whole, drawing on our shared experience. We look forward to further co-operation in 2010 as the historic MoU was not the first and will not be the last agreement between us.”

– Dr. Ahmed Saeed Bin Hazeem, Director General of the Dubai Courts

“This signing was a significant occasion and a proud moment for the DIFC Courts. The MoU which we signed in 2009 demonstrates that the two courts, the Dubai Courts and ourselves, share the same vision and enjoy a close relationship with each other. The vision is that we should offer world-class systems of justice, meaning that they are reliable, accessible, efficient and fair with an unwavering commitment to the rule of law.”

– Sir Anthony Evans, Chief Justice of the DIFC Courts
OPERATIONAL OVERVIEW
Technology

The technology systems operating within the DIFC Courts play a vital role in the efficiency, accessibility and transparency of the justice offered. In 2009, all systems were reviewed and many were enhanced.

Case Management System

A notable systems upgrade was the addition of the DIFC Courts’ new online case management system. The InterCOMM programme was implemented in full at the start of the year to support the Courts’ back-office administration activities, streamlining scheduling, electronic records and document management. The InterCOMM programme is widely considered the leading method of paperless court management and by adopting this technology the DIFC Courts brought itself in line with, and even ahead of, other world-class court systems.

Recording Equipment

Additional technological enhancement in the form of recording and transcribing equipment was installed in 2009. The new system now in use benefits the Courts’ users by providing the opportunity for live and instant manuscripts. It also allows the Courts’ team to access a live recording remotely. This provides further efficiency, enabling the production of orders and directions, whilst cases are being heard.

Library

The DIFC Courts reviewed its legal library resources in 2009, upgrading it to one of a few fully-fledged common law legal libraries in the region. A specialist supplier was appointed to manage the library and will keep the Courts collection complete and up to date, providing all relevant amendments and advancements as they are published. This development has ensured that DIFC Courts’ Justices and Courts’ users have access to the most recent international case law references.

Users’ Guides

Another step towards promoting accessibility and efficiency in 2009 was the introduction of Courts’ Users’ Guides. The guides, which are available on the Courts’ website and in the Courts’ reception, impart directions on how to interact with the Courts and its Justices. Target audiences include the media, witnesses and claimants. The guides offer DIFC Courts’ users a degree of familiarity with the Courts’ process, no matter their prior level of court interaction.

Courts’ Users’ Committee

The DIFC Courts’ Users’ Committee provides a liaison between the DIFC Courts and end users of the Court. The purpose of the Committee is to assist the Courts in providing an efficient, economical and professional service to all of its users. This Committee meets quarterly to review the Courts’ systems and practices, as well as strategic direction and focus. In 2009, the committee led and supported many of the DIFC Courts’ key initiatives, including but not limited to the Pro Bono Programme and the Professional Code of Conduct.

“I would like to pay tribute to the foresight, organisation and expertise which have so successfully combined to produce an independent court and judicial system in Dubai, available to serve the interests of the global institutions operating within the DIFC, and providing a forum of the finest quality in which to resolve their civil and commercial disputes. Such a system is rightly seen as playing an integral part in developing the confidence of investors and traders of a major centre for financial services.”

– Mark Potter, President of the Family Division of the High Court, former Court of Appeal and Commercial Court Judge, England and Wales
In addition to managing the increasing workload in 2009, time was dedicated to developing the skills of the DIFC Courts’ team. Various training initiatives enhanced the team’s skill sets over the year in review. DIFC Courts’ staff attended in-house and external courses, and utilised e-learning to increase language, finance and compliance skills, among others.

During the summer of 2009, the DIFC Courts’ resident Justices visited the United Kingdom’s Commercial Courts, where they shared ideas and best practices with peers, obtained invaluable insights and imparted UAE-specific experience and knowledge.

The Courts’ new operational systems were introduced, alongside detailed training that included sessions on administering the Case Management System and managing urgent applications. In addition to training, the DIFC Courts’ staff were encouraged to attend job-relevant courses and seminars throughout the year.

**Employees’ Excellence Honour**

In September 2009, the DIFC Courts’ Registrar, Mark Beer won the DIFC Governor’s New Employee of the Year award. Mark’s performance was judged to be outstanding in five categories: performance and achievements, innovation and creativity, commitment and teamwork, responsibility and good citizenship, and ability and willingness to learn. The awards were created in partnership with the Dubai Quality Group using the industry standard EFQM model and are designed to honour DIFC employees, projects and departments who demonstrate exceptional commitment to excellence. Mark accepted the award on behalf of the entire Courts’ team.
PERFORMANCE INDICATORS

COURT OF FIRST INSTANCE (CFI)
CASE LOAD COMPARISON: 2009/2008

SMALL CLAIMS TRIBUNAL (SCT)
CASE LOAD COMPARISON: 2009/2008

<table>
<thead>
<tr>
<th></th>
<th>2009</th>
<th>2008</th>
</tr>
</thead>
<tbody>
<tr>
<td>SCT Cases</td>
<td>66</td>
<td>64</td>
</tr>
<tr>
<td>Completed Cases</td>
<td>54</td>
<td>52</td>
</tr>
<tr>
<td>Average Case Processing Time (in months)</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Cases Carried Over</td>
<td>2</td>
<td>2</td>
</tr>
</tbody>
</table>
COURT OF APPEAL (CA)
CASE LOAD COMPARISON: 2009/2008

- Court of Appeal (Ca)
- Completed Cases: 2009 - 2, 2008 - 1
- Average Case Processing Time (in months): 2009 - 3, 2008 - 3

2009  ▪  2008
**Significant Cases**

**Kteily Ghassan Elias v. Julius Baer (Middle East) Ltd.**

The Claimant, a former employee of Defendant bank, brought a claim for bonuses and damages arising from the termination of his employment and asserting unfair dismissal because it purported to deprive him of contractual bonuses. Alternatively, the Claimant argued that following English case law, the Defendant’s conduct (including the termination) was in breach of the implied term of mutual trust and confidence between employer and employee. The Defendant sought to strike out certain portions of the particulars of claim, arguing that, although the DIFC Employment Law gives power to the Director of Employment Standards to propose regulations for unfair dismissal, no regulations had been created. The Defendant further countered that this was a backdoor approach designed to circumvent the absence of unfair dismissal regulations, and that English law did not permit such an implied term to be applied to a dismissal which was otherwise lawful because it would impinge on the statutory law of unfair dismissal. The Court denied striking out the basis of a claim for breach of the implied term of mutual trust and confidence, stating that the applicability of the implied term of mutual trust and confidence in the DIFC should not be summarily decided in a striking out application since there were hitherto no regulations governing unfair dismissal in the DIFC and the English law on the subject might not be applicable in the DIFC. Accordingly, leave was given to the Claimant to amend the particulars of claim, and the Defendant was granted leave to appeal against the Court’s decision, however, the Claimant subsequently discontinued the claim.
In the Matter of Orion Holding Oversees Ltd.
The Claimant, Orion Holdings Overseas Ltd., filed an application in November 2009 requesting that the company be wound up in accordance with the just and equitable grounds in the DIFC Insolvency Law No. 3 of 2009. A stay order granted in December 2009 placed a hold on all other related proceedings related to the Claimant’s case and pending before the DIFC Courts. The hearing of the winding up application together with any related applications (including two applications for the removal and replacement of the provisional liquidator) have been carried forward to 2010.

Waterfront Property Investment Ltd.
Two property dispute cases were lodged in April 2009 as urgent applications without notice requesting freezing orders and ancillary disclosure orders against the Respondents. The Respondents were the owners/trustees of various plots of land in the Dubai Waterfront development and had marketed/sold plots to the Applicants as sea view or partial sea view properties. The Applicants alleged that the Respondents had obtained permission to increase the height of the plots directly in front of the plots purchased by the Applicants, therefore blocking their sea views. The estimated amount of losses in the two matters was in excess of Dhs360 million. Freezing orders were made in both cases, prompting the Respondents to submit an application notice in June 2009 disputing jurisdiction in the two cases. The freezing orders were subsequently overturned, and the Applicants pursued an appeal. The appeal hearing held in October 2009 was adjourned due to settlement discussions, and the matter was ultimately settled by way of consent orders in December 2009.
As part of its dedication to continued excellence, the DIFC Courts conducted a User Satisfaction Survey in 2009. The research was conducted by an independent agency to gauge frank and honest opinion about the Courts’ offerings and services.

The study was aimed at helping the Courts to identify any areas for improvement and to provide a benchmark for ongoing appraisal – the DIFC Courts’ Customer Satisfaction Index. Another objective was to evaluate in which areas the Courts are doing well, its perceived strengths, and potential areas for improvement. The areas assessed included:

- General Satisfaction
- Employees
- Registration Process
- Operation and Workflow
- Methods of Communication
- Events and Lectures

The conclusions of the report were very positive and reported that the Courts:

- Would be recommended by 100% of all users\(^1\).
- Employees are the most satisfactory parameter, scoring more than 80% (extremely satisfied) on average in the poll.
- Accuracy and speed of progressing case parties through case stages was applauded, with 70% of those surveyed reporting they were more than satisfied.
- Operation and workflow achieved lower scores have been highlighted as areas for further development. In response, new strategies for improvement in 2010 are being developed to achieve greater operation excellence.
- Communication was also highlighted as an area where further improvement is needed. However, the Courts’ efforts to make information available, the relevance of materials provided, and the reliability of information on the Courts’ website were all commended.

\(^1\)Based upon the responses of 100% of respondents to this question
In line with the UAE outlook, the DIFC Courts are confident in their expectations for growth and development in 2010. Following on from the significant advancements made in 2009, the coming year will be one of consolidating and refining the Courts’ processes, and it is expected that the number of cases will continue to increase.

Efficiency will remain a key driver behind all developments in 2010. Ambitious targets are in place to further reduce the already relatively short case adjudication periods and administrative response times. The Courts’ users can be assured of continuing quality in that another satisfaction survey in 2010 will be taken to measure the success of improvements made since the previous year and to benchmark standards.

Efforts to increase accessibility to the DIFC Courts will include continuing and building upon existing education and awareness initiatives. Methods for more proactive and regular communications with the UAE legal community will be reviewed in the year ahead.

Operational updates will include the formalisation of HR policies and the implementation of recording of all trial-related and general administrative phone calls. In line with the DIFC Courts’ dedication to excellence, the Courts’ supporting systems will be continuously reviewed in 2010, starting with an audit of the DIFC Courts’ website and the Courts’ forms.

The DIFC Courts are well placed to leverage the momentum created in 2009 in order to further improve upon the achievements in the coming year. The Courts remain committed to delivering the highest levels of justice with an independent, accessible, transparent and efficient judicial system.

Judicial collaboration will remain an important value for the DIFC Courts. Various initiatives are in the planning stage to work closely to forge the DIFC’s place within the broader judicial landscape of the UAE. Collaboration initiatives on the judicial level in UAE are being planned for the near future, including:

- A UAE law student award in collaboration with the Dubai Courts and the Dubai Judicial Institute
- A Memorandum of Understanding to define the close working relationship between the DIFC Courts and the UAE Ministry of Justice
- An English-language, Notary Public Office in collaboration with the Dubai Courts
- A Memorandum of Understanding with the Dubai Judicial Institute