



DIFC COURTS' USERS' COMMITTEE

MEETING MINUTES

30 May 2018

DRA Offices, Level 3

Committee Attendees:

Adrian Chadwick, Hadeef & Partners

Ben Bruton, Winston & Strawn LLP

Dr. Hassan Arab, Al Tamimi & Company

James Lake, DFSA

Obaid Al Muhairi, DIFCA

Stuart Paterson, Herbert Smit Freehills LLP

Amna Al Owais, Registrar, DIFC Courts (non-voting member)

Nour Kirk, Deputy Registrar, DIFC Courts (non-voting member)

Cheryl Fernandes, Committee Secretary, DIFC Courts

Apologies:

Ali Al Zarooni, Horizon & Co.

Jacques Visser, DIFCA

Graham Lovett, Gibson Dunn

Muna Dandan, DFSA

Mark Beer, Chief Executive, Dispute Resolution Authority (non-voting member)

Guests:

Charlie Griggs, Intern, DIFC Courts

Viva Dadwal, Intern, DIFC Courts

1. Welcome by Chairperson:

Amna Al Owais Chief Executive and Registrar of the DIFC Courts chaired the second Courts' Users' Committee meeting of the year and welcomed all attendees. She also welcomed new members Dr. Hassan Arab from Al Tamimi & Company (UAE Law firm) and Ben Bruton from Winston & Strawn LLP (International Law firm).

2. Approval of the last minutes of meeting

The minutes of the Courts' Users' Committee meeting held on 20 February 2018 were approved.

3 Courts' Users' Committee (CUC) Charter - amendment: At the last meeting held in February 2018, it was decided by all members to make some amendments to the CUC Charter. The two changes made were to remove the Governor's office representative from the Charter as the role is now redundant, and add a "Domestic" firm category, for a firm based in Dubai. This amended Charter will now be sent Chief Justice Hwang for his approval. All members agreed that once the Charter is approved by Chief Justice Hwang it will come into force from January 2019, in time for the new CUC meeting cycle.

4 Amna Al Owais provided members with General updates some of which were:

(a) DIFC Courts Statistics from January to May 2018: The number of Court of First Instance (CFI) cases filed from January to May 2018 increased by 15 percent, compared to the number of cases filed in the same period last year. The total value of claims and counterclaims increased from USD34m in 2017 to USD596m in 2018.

The Enforcement cases rose from 77 cases filed in January to May 2018, an increase of 157 percent compared to 30 enforcement cases filed in the same period in 2017. It was clarified to the members that the statistics in Enforcement does not include double counting as the claim value would have been computed in the CFI claim values. The statistics for Enforcement are mainly related to enforcement of external judgments.

The volume of cases at the Small Claims Tribunal (SCT) stood at 219 in 2018, compared to 126 cases filed in the same period in 2017. The tribunal saw a marked increase in the total value of claims and counterclaims, which

rose 163 percent year to date to Dh7.7m, compared to Dh2.9m in 2017, during the same period.

(b) Service outside the jurisdiction: Article 6 of the Riyadh Convention requires judicial documents which are to be served or notified to persons residing in one of the contracting parties to be sent directly from the authority or competent legal office to the court of the district in which the person to be notified resides. There is a distinction between penal cases where the Ministry of Justice of each country must be involved and civil, commercial and administrative cases where it is the “the authority or competent legal office” (‘judicial body or officer’) who is involved. This could mean the DIFC Courts. The DIFC Courts will work on a Registrar’s Directions relating to mechanisms for sending of such request.

(c) Courts of the Future (CotF) Forum: Members were informed that Dispute Resolution Authority offices are working on a “Court of the Future” initiative to study how future legal cases may be handled, for example by using blockchain ledger technology. The Forum will consist of members, each of which will represent a specific knowledge vertical and have the expertise in advising on or considering issues pertaining to CotF.

(d) DIFC Courts’ Participation at events: Justice Sir Richard Field, Mark Beer and Nour Kirk will attend the “Forum on International Enforcement of Judgments & Awards” in June 2018. The forum will include various sessions covering topics such as Enforcing Default Judgments in various Jurisdiction, use of technology to speed up fact finding to trace assets, and Insolvency Rules the World; discussing how insolvency practitioners have played an increasing role in the international enforcement of judgements and awards.

Nour Kirk will also attend the “Standing International Forum of Commercial Courts” (SIFoCC) in September 2018 along with Chief Justice Hwang, Justice Sir Richard Field and H.E. Justice Ali Al Madhani. The first meeting of the SIFoCC was held on 4th and 5th May 2017 in London, United Kingdom under the leadership of the Lord Chief Justice of England and Wales, the Rt. Hon. Lord Thomas. In attendance at the forum will be Chief Justices and other members of the judiciary of commercial courts from regions across the globe, including, Africa, Asia, Australasia, Europe, the Middle East, North America and the Caribbean. The focus of this forum is on collaboration and cooperation between commercial courts, to build an understanding of each other among the world’s commercial courts and to explore areas in which collaboration could result in greater efficiencies and benefits for commercial courts the world over.

Nour Kirk to provide feedback on both forums to members at the next meeting scheduled towards the end of September 2018.

(e) Blockchain Court: DIFC Courts is working closely with Smart Dubai offices with the aim of delivering world-class smart services. We are looking at ways

in which Blockchain will be used for Courts. It will be interesting to see how this develops and members will be updated.

- (f) **DIFC Courts Special Complaints Referral Centre:** DIFC Courts are working on a Practice Direction, where a party has lodged a complaint with an entity outside the DIFC the complaint may be referred to the DIFC Courts Special Complaints Referral Centre (Centre). The Centre will then write to the parties to arrange a consultation (mediation) within 7 working days. A consultation will be scheduled with one of the DIFC Courts' accredited mediators. In the event that the parties are successful in reaching settlement, the DIFC Courts will make a recommendation to the entity that settlement has been reached and what the agreed terms of settlement are. The parties may choose to execute a legally binding settlement. If the parties cannot reach a settlement, the DIFC Courts will make a recommendation to the entity that settlement has not been reached. The entity will then refer the matter to the competent Courts.
5. **Joint Judicial Committee:** Nour informed members that we have put together a suite of documents to be submitted to the Supreme Legislative Committee (SLC), which when finalized will be sent to SLC by mid-June.
6. **E- Bundling Service:** All parties filing trial bundles with the DIFC Courts are encouraged to submit the documents through the DIFC Courts online e-bundles portal. This service is provided by CaseLines, a third-party service provider. The DIFC Courts (Caselines) e-bundles portal will be available to parties on a trial basis, until 1 January 2019, when it is envisaged that e-bundles will become compulsory after a period of public consultation. DIFC Courts will conduct an E Registry training, via Skype for business in June 2018. It was suggested to the members to undertake the free training session by CaseLines, and also think that having a video recording of the training sessions available on the website would be beneficial.
7. **Outreach:** Nour Kirk will reach out to law firms in the coming months, in order to engage more, understand their requirements, and get feedback.

Meeting closed at 12.15pm.

Next Meeting date 19 September 2018.