



DIFC COURTS' USERS' COMMITTEE

MEETING MINUTES

9 December 2018

DRA Offices, Level 3

Committee Attendees:

Adrian Chadwick, Hadeef & Partners

Dr. Hassan Arab, Al Tamimi & Company

Jacques Visser, DIFCA

James Lake, DFSA

Muna Dandan, DFSA

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.

Ben Bruton, Winston & Strawn LLP

Obaid Al Muhairi, DIFCA

Graham Lovett, Gibson Dunn

Stuart Paterson, Herbert Smith Freehills LLP

Guests:

Chief Justice Zaki Azmi

Nathanael Didillon, Intern at the DIFC Courts.

1. Welcome by Chairperson:

Amna Al Owais Chief Executive and Registrar of the DIFC Courts chaired the fourth Courts' Users' Committee meeting of the year and welcomed all attendees. She also welcomed the newly appointed Chief Justice Zaki Azmi to the meeting. Justice Zaki Azmi addressed all members present and had an interactive session with all attendees, taking feedback from members on how best we can improve our services.

2. Approval of the last minutes of meeting

The minutes of the Courts' Users' Committee meeting held on 19 September 2018 were approved.

3 Amna Al Owais Chief Executive and Registrar of the DIFC Courts provided members with General updates some of which were:

- a) **The launch and implementation of the DIFC Courts' tech Lab project:** This initiative aims to reinforce the DIFC Courts' vision to be at the forefront of judicial excellence. The Lab will bring together a group of start-ups, students or entrepreneurs and provide them with the space and resources, in an 'incubator' setup, to think of ways of advancing the DIFC Courts' goals, aspirations and visions from an innovation and technological point of view. The DIFC Courts will then call for submissions to be submitted, from which three ideas will be shortlisted and approved for mentoring by the DIFC Courts' Management team, this will happen in around April 2019. The DIFC Courts will not fund any project, but simply help guide and mentor each of the projects into fruition.
- b) **Special Complaints Referral Centre (SCRC):** A Memorandum of Understanding was signed with the Dubai Health Care Authority (DHCA) earlier this year, using this as a reference we then entered into discussions with the DHCA on how the DIFC Courts might be able to assist with mediation services in the DHCA's employment dispute resolution process. While the DHCA could not, legally, refer employment disputes to us (because it lacked the power to do so, and we lack the relevant jurisdiction under federal law), it instead interested the DHCA to refer the first step mediation phase to us on the basis that our mediators were well trained.

Because the nature of DHCA mediation disputes is different to the SCT mediation process which currently exists within our Court system, we created an SCRC to serve as a specialist and mediation only referral centre. We expect the SCRC to service other organizations (i.e. and not only the DHCA) and for it to run as a 'opt-in' mediation centre only (whereby the decision of the Centre would naturally be non-binding). Once parties reach settlement in the mediation, they might choose

to execute a short and simple agreement to set out the essence of what was agreed, which will in most instances be that 'A pay B X amount within Y date'. Through this agreement, the parties may then insert a DIFC 'opt-in' clause to suggest that in case the payor breaches the agreement by not paying the payee in time (or at all), the payee has recourse, for example, in the DIFC Court for breach of contract. It will be through this means, that the DIFC Courts can then gain the requisite jurisdictional gateway.

- c) **Paperless Strategy:** Keeping in mind Dubai's paperless strategy going paper free by 2021, the DIFC Courts are internally looking at building a perfectly integrated paperless framework which we have begun working on.
- d) **Memoranda:** The DIFC Courts will continue to develop our relationships with other civil and common law Courts in 2019, such as High Court of Ireland and Japan.

4 Nour Hineidi, Deputy Registrar of the DIFC Courts provided members with the below updates:

- (a) Statistics from January to November 2018: The number of Court of First Instance (CFI) cases filed from January to November 2018 increased by 49 percent, compared to the number of cases filed in the same period last year. The total value of claims and counterclaims increased from USD91m in 2017 to USD2782m in 2018, this is excluding counting the two massive cases that were filed in 2018.

The Enforcement cases rose to 77 cases filed in January to November 2018, an increase of 2100 percent compared to 2 enforcement cases filed in the same period in 2017.

The volume of cases at the Small Claims Tribunal (SCT) stood at 369 in 2018, compared to 335 cases filed in the same period in 2017. The tribunal saw an increase in the total value of claims and counterclaims, which rose 42 percent.

Members were informed that the DIFC Courts had 49 cases filed which had opt-in jurisdiction in CFI, and 139 cases filed in SCT which has opt-in jurisdiction.

- (b) Jurisdictional gateways: Nour Hineidi informed members that the Claim form will now have a mandatory box for jurisdictional gateway.
- (c) Members were informed that the DIFC Courts plan on imposing a cap on the filing fee for a Bill of Cost assessment, to which members agreed.
- (d) DIFC Courts will make it mandatory for parties to provide an Index of documents provided at the time of filing, which makes it easier for a judge to refer to documents within the bundles.

- (e) Service under the Riyadh Convention: Nour Hineidi informed members that for the first-time documents were served through Court to Court process under the Riyadh Convention, from the DIFC Courts to the Al Dammam Commercial Courts in Saudi Arabia.
- (f) Nour Hineidi updated members that the DIFC Courts are working on some Practice Directions (PDs) for 2019. One of the PDs being referring cases to mediation (internally), and the other Practice Direction which would offer service by way of email as a matter of right. Drafts of these PDs will be circulated to members for their review before being finalised.

5. Nour Hineidi informed members of the projects that the DIFC Courts will be involved in 2019:

E-bundling: The DIFC Courts launched its e-bundling platform in March 2018, to get the Courts prepared for the Dubai government’s vision that all government departments be paperless by 2020. We introduced the e-bundling but announced that e-bundling would not become compulsory until June or July 2019.

We had our first case heard with two parties where they used the e-bundling service for their case Management Conference hearing in November 2018, before Judicial Officer Nassir Al Nasser. Another matter was heard before Justice Sir Jeremy Cooke where both parties referred to an e-bundle. Feedback from parties was positive.

Blockchain project: The former Chief Justice Michael Hwang, Justice Sir Richard Field, H.E. Judge Ali AlMadhani and Nour Hineidi attended the Standing International Forum of Commercial Courts (‘SIFoCC’) in New York this September 2018.

Nour Hineidi presented a proposal on authentication of judgments on the blockchain (for the purposes of aiding foreign recognition and enforcement) at the SIFoCC and called for registrations of interest for a working group to help us bring life to the proposal in 2019. We currently have about 30 names on the working group list, comprising of registrars and judges from a number of jurisdictions including Victoria (Australia), New York (Kazakhstan), Astana, Sierra Leone, Kuala Lumpur (Malaysia), Uganda, the KSA, Ireland and the Cayman Islands.

The working group will start to formally enter into discussions in 2019, but we expect this project to be one of our most successful ones yet.

Meeting closed at 13.15

Next Meeting date February 2019