



**DIFC COURTS' USERS' COMMITTEE**

**MEETING MINUTES**

**27 February 2019**

**DRA Offices, Level 3**

**Committee Attendees:**

Adrian Chadwick, Hadeef & Partners

Peter Wood delegate for Dr. Hassan Arab, Al Tamimi & Company

James Lake, DFSA

Muna Dandan, DFSA

Ben Bruton, Winston & Strawn LLP

Graham Lovett, Gibson Dunn

Benjamin Hopps delegate for Stuart Paterson, Herbert Smith Freehills LLP

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

Cheryl Fernandes, Committee Secretary, DIFC Courts

**Apologies:**

Ali Al Zarooni, Horizon & Co.

Obaid Al Muhairi, DIFCA

Jacques Visser, DIFCA

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

## Guests:

Ayesha Bin Kalban, Assistant Registrar DIFC Courts.

### 1. Welcome by Chairperson:

Amna Al Owais Chief Executive and Registrar of the DIFC Courts chaired the first Courts' Users' Committee meeting of the year and welcomed all attendees. Minutes of the meeting held on 9 December 2018 were approved.

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

- a) **The DIFC Courts statistics for 2018:** Amna Al Owais provided members case statistics for the year 2018. The DIFC Courts heard 670 cases including the Court of First Instance (CFI), Arbitration (ARB), Court of Appeal (CA), Enforcement (ENF), and the Small Claim Tribunal (SCT), with the overall value increased by 422 percent. The volume of cases filed in the DIFC Courts grew substantially, specially the CFI claims increased by 50 percent.

The total value of claims in CFI amounted to AED 10.2 billion, up from AED 400 million in 2017, primarily driven by two high profile transnational disputes.

Members were keen to know what types of disputes are brought to the DIFC Courts. Amna Al Owais informed members that we saw mainly banking and finance, construction, real estate and manufacturing which involve disputes related to breach of contract, outstanding payments, wills and probate, and employment cases.

There was also a noticeable increase in the number of opt-in cases in 2018, with over 60 percent of claims in the CFI originating from parties electing to use the DIFC Courts to resolve their disputes.

The Small Claims Tribunal (SCT) experienced steady growth year-on-year, with its case load increasing by 10 percent to 399 claims in 2018 as compared to 363 cases in 2017. This growth was driven primarily by breach of contract cases which represented 43 percent of all SCT cases in 2018, followed by labour and employment (27 percent). The total value of claims increased by 47 percent in 2018, rising from AED 36.2 million to AED 53.3 million.

- b) **New Judges:** the members were informed that the DIFC Courts are looking at recruiting new judges on the bench and proposals have been put forward to the authorities. Justice Michael Hwang and Justice Sir David Steel have now completed all pending matters that were put before them.
- c) **Schedule of Fee 2019;** Amna Al Owais discussed with members the new Fee schedule for 2019. She informed all that the reimbursement of fees for Part 7

Claims will now stop. In the current version of the schedule of fees if the parties successfully settle the claim filed in the DIFC Courts in full, reimbursements were possible at various stages, for eg before the Case Management Conference, between the Case Management Conference and Pre-Trial Review and as well as for cases that have been referred to the Joint Judicial Committee.

Members were not positive about this change, and that no reimbursement would be possible especially considering how high the fees of the DIFC Courts currently are, and instead suggested that fees should be charged as a percentage at the initial stage when the claim is filed and the rest of it should only be payable if the matter doesn't settle at the Case Management Conference.

A draft of the schedule of fees to be circulated to all members for their review and comments if any.

Members stressed the need to lower court fees, especially for professional clients who are able to compare fees globally and who may find that globally, the DIFC Courts' fees are not competitive.

- d) **Legal Gala Dinner:** Amna Al Owais discussed with members regarding the annual legal gala dinner that is usually hosted by Academy of Law (AoL). She asked members if they think that this is something that the legal community could take on from the AoL and arrange a gala dinner once in two years instead. There was no decision on this made at the meeting.
- e) **Mediation for cases:** Amna Al Owais informed members that we will add mediation service part of the upfront claim issuance fee. However, members did not think that mediation is necessarily a good option as they would have tried before coming to court.
- f) **E Notary:** Members welcomed the idea of E Notary services, something that the DIFC Courts are currently looking into.
- g) **Rules sub-committee:** An update on the Rules sub-committee was provided, this will now be a standalone committee and called the Rules Committee, chaired by a Judge of the DIFC Courts, chosen by the Chief Justice. Four meetings will be held in a year, a charter will be in place and members will be elected. The Rules Committee will maintain its original function to serve as a consulting body, and also aid in a drafting function for new Rules and Practice Directions.
- h) **Registry hours:** Members suggested that the filing date be reflected on the forms when parties submit them via the ERegistry portal and opposed to the date when DIFC Courts accept the forms which is correctly the system. This is something that we will look into with IT and see if can be done in the

3. **Nomination of new members:** the two longest standing law firms who were on the committee since 2016 stepped down, Hadeef & Partners (UAE Law firm) and Gibson, Dunn & Crutcher LLP (International Law firm). A ballot was taken to elect new members to join the committee and according to the revised CUC charter a new category of members i.e. Domestic Firm was introduced. Global Advocacy and Legal Counsel was elected from the UAE law firm category, Squire Patton Boggs from the International law firm category and KBH Kaanuun from the Domestic firm.

Meeting closed at 12.30pm

Next Meeting date June 2019