



Serle Court Seminar Series

“Litigating Disputes from the Gulf States”

Seminar One – Current issues in Islamic Finance Litigation - Thursday 1st March 2018

This seminar has three sections:

1) Reflections on *Dana Gas* – Rupert Reed QC, Barrister at Serle Court

As the dust settles in the *Dana Gas* case both in the Courts of England and the UAE, Rupert Reed QC will be considering:

- the structuring of the payment undertaking in the *mudarabah sukuk*
- the issues of jurisdiction arising
- the strategy pursued by certain shareholders of *Dana Gas*
- the differing approaches of HHJ Waksman QC and Leggatt J on the injunction application
- the practical implications in terms of structuring Islamic Finance transactions

2) *Golden Belt Sukuk and the Duty of Care to Sukuk Investors* - Dr Scott Morrison

Golden Belt 1 Sukuk Company v BNP and Ors [2017] EWHC 3182 raises issues of significance both in relation to *sukuk* and to the duty of care owed by arrangers of new issues of securities -- whether or not purporting compliance with *shari'a*. Dr Morrison will discuss:

- the tests applied by the court in establishing a duty of care
- issues of *shari'a* compliance complicating execution of transaction documents
- the import of local or national legal formalities
- practical implications for structuring, arranging and executing *sukuk*
- the extent to which the duty of care in relation to *sukuk* might extend to non-*shari'a* compliant securities' issuances

3) The Application of Islamic Finance Principles under English law – Amy Proferes, Barrister at Serle Court

Amy will discuss how English law has dealt with *shari'a* law in the context of Islamic finance, focusing on the following:

- the circumstances in which the English courts will indirectly apply *shari'a* principles;
- the application of foreign law incorporating *shari'a* principles;
- the use of *shari'a* law as an aid to construction; and
- the justiciability of *shari'a* law in the English courts.



Speaker Biographies

Rupert Reed QC

Rupert Reed QC is a Commercial Chancery barrister at Serle Court Chambers. His practice has a particular focus on property investment, development and finance, as well as wider banking and fraud work. He has acted in a number of leading DIFC and DWT cases, including *Corinth v. Barclays*, *Bocimar v. ETA*, *Vannin v. Khorafi*, *DAMAC v. Ward*, and *WCT v. Meydan*.

After his success in the leading case of *The Investment Dar v. Blom Development Bank* [2009] EWHC 3545 (Ch), much of his property and banking work has included a Shari'a finance element. His writing on Shari'a finance includes the influential article on the application of Shari'a finance principles in English and DIFC law in (2014) 29 JIBFL 573. Rupert has a strong reputation as an advocate in disputes in both London and the Middle East, with a working knowledge of Arabic and significant experience of UAE, Egyptian and Saudi law. Chambers UK Bar 2017 identifies him as 'a popular choice for Middle Eastern clients', noting his work in multi-jurisdictional disputes, often involving property and finance.

Dr Scott Morrison

Scott Morrison is currently Reader in Commercial Law at Oxford Brookes University School of Law. He completed a doctorate in politics and Middle East/Islamic studies at Columbia University in New York where he was a lecturer (1999-2003), Andrew W. Mellon Fellow (2004-2006) and Visiting Professor of Islamic Studies (2006-2007). He was also the Muhammad bin Ladin Fellow at the Oxford University Centre for Islamic Studies (2010-2011). He is fluent in Turkish and has a good knowledge of Arabic having studied and conducted research in Yemen, Morocco and travelled throughout the MENA. He became interested in Islamic finance during research stints as a Fulbright scholar in Turkey (2003-2004) and the Maldives (2007-2008); working in Abu Dhabi and Dubai (2009-2010) further acquainted him with the Gulf and UAE law. Scott was called to the English Bar in 2012. In addition to in excess of twenty refereed publications as well as practitioners' works he is the author most recently of *Law of Sukuk: Shari'a Compliant Securities* which Sweet and Maxwell (London) published in 2017. He is currently writing a book under contract with Palgrave titled *The Future of British Banking* which analyses the impact of Brexit on UK financial services.

Amy Proferes

Amy Proferes has a broad commercial Chancery practice, with particular interests in property and civil fraud. She acted as junior counsel for the claimants in *Republic of Djibouti v Boreh* and was instructed on *Glenn v Watson*, both multi-million pound international fraud claims heard in the Commercial Court in London. Before coming to the Bar, Amy worked at a mergers and acquisitions advisory firm specialising in aerospace and industrials, following postgraduate studies in History & Middle Eastern Studies at Harvard University.