

Serle Court Dubai Seminars – April 2018

When

Tuesday 24 April 2018
6.00 – 7.00 pm – Seminars
7.00 – 8.00 pm – Drinks reception

Where

Four Seasons Hotel DIFC
Dubai

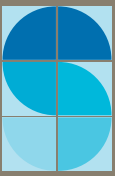
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serle court

chancery
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Why the DIFC Court needs a ‘necessary and proper party’ jurisdiction

There has been much discussion of the Court's decisions in *Nest Investments* in which the Court has declined to find that it has a ‘necessary and proper party’ jurisdiction. However, the lack of such a jurisdiction may lead to absurd results and the unnecessary fragmentation of proceedings. Rupert will be considering whether such a jurisdiction is essential for any international commercial court, and what basis it may rest on. The issues for discussion will include:

- symmetry with the Court's discretions to *decline* jurisdiction;
- preventing the use and abuse of ‘anchor’ defendants;
- *Nest Investments* – whether RDC 20.7(2) is the answer; and
- reliance on a broader statement of principle in *Orion Holdings*.

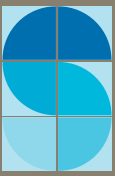
Rupert Reed QC

Freezing Injunctions in the DIFC: Key Developments

The legal framework for freezing injunctions in the DIFC was definitively set out by DCJ Chadwick in *Bocimar International N.V. v Emirates Trading Agency LLC* [2015] DIFC CFI 008 in January 2016. Since then, there have been a number of important developments both in the DIFC and in England which have reshaped the nature and scope of freezing injunctions in the DIFC. The issues considered will include:

- jurisdictional context: impact of the Judicial Tribunal on freezing orders in the DIFC; and
- committal proceedings in the DIFC: do freezing orders have teeth?
- key substantive developments since *Bocimar International N.V. v Emirates Trading Agency LLC* [2015] DIFC CFI 008:
 - how does a claimant prove the existence of assets?;
 - are company assets caught where the defendant is a director?; and
 - how “ordinary” is the ordinary course of business?
- consequences of non-disclosure: when is it fatal?; and
- notification Injunctions in the DIFC: a new tool?

James Weale



The DIFC Trust Law: an untapped opportunity?

The DIFC Trust Law 2005 already offers a comprehensive framework for the setting up of a variety of trusts in the DIFC. It is proposed that it be replaced with an improved trust statute in the form of the (presently in draft) Trust Law 2017. Trusts are flexible structures that have a multitude of uses. In this session, Adil will provide an overview of the use of trust structures, including in a commercial context. He will also discuss the ways in which the DIFC provides, through its existing and proposed statutory framework, a market-leading trust regime that can be used to attract a variety of clients. Issues Adil will consider include:

- the opportunities offered by non-charitable purpose trusts; and
- what the DIFC (including the DIFC Courts) can offer to the global market for trust structures.

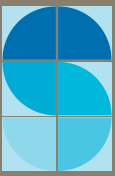
Adil Mohamedbai

State immunity

In *Pearl Petroleum Company Limited v the Kurdistan Regional Government of Iraq* [2017] DIFC ARB 003, the DIFC court found that the defendant had expressly waived any claim to sovereign immunity and could not set aside orders for enforcement of arbitral awards on this ground. It therefore declined to consider arguments as to whether the doctrine of state/sovereign immunity is applicable in DIFC or UAE law. This talk will consider:

- state/sovereign immunity in the DIFC: the current position and possibilities for the future;
- the role of the executive and the judiciary in state immunity issues;
- how to construct an effective waiver clause; and
- implications for enforcement of arbitral awards: a more robust approach?

Amy Proferes



Speakers



Rupert Reed QC

Rupert's work focuses on disputes in property, commercial, banking, trusts and fraud matters. He has acted in many leading DIFC cases, including *Corinth v Barclays*, *Bocimar v E'TA*, *Vannin v Khorafi*, *DAMAC v Ward*, *WCT v Meydan*, *Sunteck Lifestyles v Grand Valley* and *Orion Holdings v Al Haj*. Formerly Chancery Junior of the Year, he has a strong reputation as an advocate in both London and Dubai, with a working knowledge of Arabic and significant experience of UAE and Saudi law. He is currently acting for and against various members of the Saudi royal family in London. He edits a popular commentary on the DIFC Court Rules and writes on DIFC law and Shari'a finance. Chambers UK Bar 2017 directory describes Rupert as 'a popular choice for Middle Eastern clients' noting that 'he is super bright' and 'has a calm and easy manner as an advocate that is very effective'. Chambers Global 2018 identifies him as 'a respected silk who is described by sources as pleasant, polished and smooth'. Chambers Global further quotes its sources: 'Destined for great things, and clever enough to make the work look easy'; 'He's someone who makes sure he gets the law and the facts right in advance, so that he's totally in control in court'.



James Weale

James has a broad international Commercial and Chancery litigation practice. He was identified by Chambers UK Bar as a 'Star of the Bar' and is recognised in that directory as a leading Commercial Chancery junior and an 'excellent strategist'. He acted in one of largest cases in the Commercial Court (London) in recent years (*Cherney v Deripaska*). More recently, James acted (with Rupert Reed QC) for the claimants in *Orion Holdings v Al Haj* who successfully defeated a jurisdiction challenged brought by a Swiss bank. His recent cases also include acting for the successful claimants in an LCIA arbitration in relation to a \$billion dollar development in Moscow and acting for a leading Middle Eastern bank in proceedings for just and equitable winding-up in the Cayman Islands arising out of a complex Shari'a-compliant investment structure.



Adil Mohamedbai

Adil has a broad commercial chancery practice with a particular focus on international work. Since joining Chambers in October 2012, Adil has developed substantial experience in civil fraud, commercial, company, partnership and offshore trust disputes. Adil has been selected by The Legal 500 as one of the top 10 commercial barristers under eight years' call in both 2016 and 2017. He is one of a handful of juniors (and the most junior by year of call) to be recognised as a leading barrister by Who's Who Legal: UK Bar 2018 - Fraud (Civil). The Legal 500 describes Adil as 'one of the smartest people one can meet, a total star'. Prior to coming to the Bar, Adil qualified as a solicitor at Freshfields. In 2009, Adil was appointed as one of the first judicial assistants to the Justices of the UK Supreme Court.



Amy Proferes

Amy has a broad commercial Chancery practice with particular interests in property and civil fraud. She is currently acting in *Capreon UK v Winnersh Holdings LP* for a leading London property developer in seeking damages for the loss of profits exceeding £10 million following the alleged breach of an exclusivity agreement in the heads of terms for the acquisition of the Winnersh Triangle business park. She previously acted 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. Amy came to the Bar following postgraduate studies in History & Middle Eastern Studies at Harvard University, and has a particular interest in the interaction of Islamic finance and English law.

Serle Court is a leading London Chancery & Commercial chambers. Some 23 members of Chambers have received 45 recommendations in different areas of practice in Chambers Global 2018.

Recent quotations include:

“Serle Court has an excellent and well-deserved reputation for commercial chancery work and is regarded as a go-to set....”

“Members are described as “top-class barristers who are ahead of the game...”...admired for their “ability to balance technical, commercial and client care considerations.””

(Chambers Global 2018)

Commentators say that the set is “a cut above the rest for commercial litigation, fraud and general chancery work”.... and “offers a variety of skill sets that others can’t provide and houses some of the biggest name at the Bar.”

(Chambers UK Bar 2018)

Serle Court has been consistently rated by Chambers Global and Chambers UK Bar in Band 1 of Commercial Chancery, Band 1 for Civil Fraud and Band 1 for Partnership. It is rated by The Legal 500 in Tier 1 for Civil Fraud and for Partnership. It also has significant expertise and international standing in the property, banking and trusts fields.

Serle Court has enjoyed another strong year in its Middle East work. Members of Chambers have been involved in a number of leading DIFC cases including *Al Mojil v Proviti* (now coming to trial), *Suntek Lifestyle v Grand Valley* and *Orion Holdings v Al Haj*, and counsel from Serle Court have been instructed and appointed by firms in Dubai in a number of DIAC and LCIA arbitrations, with substantial hearings in Dubai, London and Paris.

The seminar is FREE to attend

To request a place, please contact **Dan Wheeler**
by email (dwwheeler@serlecourt.co.uk)
or phone (**DDI: 00 44 207 400 7172**)

