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The Honorable Michael Hwang, Chief Justice of the DIFC Courts



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On 3 November 2011, we were given the opportunity to interview The Honourable Chief Justice of the DIFC Courts, Michael Hwang, for the *IPBA Journal*. Chief Justice Hwang is also a Senior Counsel and Chartered International Arbitrator based in Singapore.

Interviewed by Caroline Berube*
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Q: You were initially appointed as Deputy Chief Justice of the Dubai International Financial Centre (DIFC) Courts in April 2005. What was your motivation for joining the DIFC Courts?

A: Dubai has always interested me on both a personal and professional level. I first came to Dubai to take up office as one of the trustees of the re-launched Dubai International Arbitration Centre (DIAC), so my first experience with Dubai had to do with arbitration. I had always been hugely impressed by the ambition of the country and see parallels with my home country, Singapore. In the same way that Singapore based its legal

model, to some extent, on Switzerland, Dubai has always looked to Singapore when developing its model, and therefore the Emiratis respect that a Singaporean will have something to offer to Dubai. As the only commercial court in the region, I was attracted to the challenge of being part of the establishment of a unique, world class institution and taking it forward in one of the most exciting markets and regions in the world. The fact that I can now sit here six years later and look at the strides both Dubai and the DIFC Courts have taken, and know how I have helped play a role in that, is a great source of pride.

Q: In September 2011, it was announced that the limit on employment matters that can be heard by the Small Claims Tribunal (SCT) was increased to AED200,000 from AED100,000. What was the motivation behind this increase and what impact are you expecting it to have?

* Caroline Berube is currently serving as the Vice-Chair of the Inter-Pacific Bar Association's Publications Committee.

A: Although the DIFC was conceived as a commercial centre and therefore the DIFC Courts main function is to serve businesses, there are a lot of people who work for these businesses and inevitably there are employment problems. These claims are generally not very large in value and mostly deal with termination disputes. Many of these people cannot afford professional legal fees, and this is why we created the SCT, in order to make the DIFC Courts more accessible for these people.

We constantly strive for dialogue with court users to improve their experience at the DIFC Courts and following feedback from the business and legal community, the limit for the SCT was increased to AED 200,000. Essentially, the expansion of the limits on the SCT's jurisdiction gives more options to people with employment disputes and the change follows the increase, in 2010, of the limit for non-employment cases to AED500,000 (provided both parties agree to using the SCT) and has come as one of the recent amendments to the Rules of the DIFC Courts, to further enhance the efficiency of proceedings before the DIFC Courts.

The SCT is one of the most successful elements of what we offer at the DIFC Courts and we expect interest in the service to continue. Our track record is impressive, with cases largely heard without the involvement of lawyers, and more than 90% have historically been resolved within three weeks of lodging the claim.

Q: In March 2011, the DIFC announced that it was implementing a groundbreaking, fully paperless infrastructure, in its attempts to continuously improve efficiency and as part of its commitment to operating in a sustainable manner. How challenging was it to implement this infrastructure

and is it running as efficiently as you had hoped? Do you think it is possible for other judicial systems with larger caseloads to implement a similar system?

A: It certainly was challenging! Thankfully, the new paperless infrastructure is running well and as you say, the paperless, digital storing initiative is part of our continued efforts to increase efficiencies, ensure maximum security and reduce our carbon footprint. In excess of 136,000 papers



Chief Justice Michael Hwang**

from the inception of the Courts in 2005 have been transferred to the new system and are now stored electronically. Only original pleadings and documents sealed by the Courts are maintained and stored offsite, after the case has closed. The rationale behind this project was two-fold. First, it was a move to be in line with the vision of the future, and second, there was a practical need as the DIFC Courts physically do not have the storage space to store approximately 10,000 new files every year.

The paperless project coincided with our web-based case management system initiative and

e-filing services that reduce the necessity for the Courts' users to file documents in person. As most of the judges are non-residents of Dubai, this case management system allows us to access and download the documents in preparation for an upcoming trial, without the need for a hard copy. We will also introduce an e-payment gateway which will benefit from these services as it will reduce printing costs and time spent filing documents as the DIFC Courts and the caseload continues to grow; it is estimated that electronic filing will save over 40,000 pages being printed per year.

Personally, I feel that such a system could be adopted by other judicial systems and I would certainly recommend such a move.

** The photo was taken by Laura Blake who is a freelance writer, photographer and editor with Far-Flung Travels. She was also the winner of the 2011 Photographer of the Year award at the Society of American Travel Writers Central States Writing and Photography Contest.

Q: I understand that a number of protocols and memorandums of understanding (MoUs) have been concluded between the DIFC Courts and the Dubai Courts. Can you expand on the challenges faced by the relationship between these two judicial systems?

A: There are relatively few. Collaboration has been important from the beginning. We remain committed to cooperating with other courts in the region and beyond. In 2011 alone, the DIFC Courts signed a number of MoUs with other bodies to work together towards furthering judicial excellence and innovation. There are regular meetings with judicial bodies from across the region, including Qatar and Bahrain, in an effort to work more closely together. We are thankful to Dr Ahmed bin Hazeem and his team at the Dubai Civil Courts for their support, which has been critical in our development and integration in the UAE's judicial system.

Q: Would you like to tell us more about the expansion on the DIFC Courts' jurisdiction which was publicly announced on 31 October 2011?

A: First, I would like to say that the announcement by His Highness Sheikh Mohammed is the culmination of years of hard work by everyone at the DIFC Courts and really highlights how far we have come in a relatively short space of time. The announcement is a credit to Dubai's status as both regional and international businesses hub.

Dubai's judiciary has always been at the forefront of justice in the region and beyond; and allowing businesses in Dubai (as well as) internationally to have the choice of Dubai's Arabic language or English language courts to resolve disputes reflects Dubai's commitment to choice, and to providing a world class and diverse environment to resolve commercial disputes.

The Ruler's decree opens the DIFC Courts' jurisdiction, something that the regional business community has been calling for. The courtroom doors are now open for businesses from all across the Gulf Co-operation Council region and beyond, and provide the international business community with access to the most advanced commercial court in the world.

Q: The DIFC is seen as a global financial hub. Has the current economic crisis had any effect on the DIFC Courts?

A: Arguably there has not been an area of the world completely unaffected by the global financial crisis. For a period, Dubai was the centre of a lot of speculation but remains the leading hub

in the region and it has been very much business as usual from our perspective.

There was a slight increase in the amount of cases over the last two years, but this has levelled off. The DIFC's development slowed down slightly; however, although the DIFC suffered an economic downturn, within the DIFC, it has been fairly steady in terms of growth with the companies that are already here enhancing their range of services. New companies are still joining the DIFC, with the proportional increase of Asian and Middle Eastern companies showing the most growth.

Q: The DIFC Courts are regarded as the spearhead of judicial development and reform in the region. Your predecessor, Sir Anthony Evans' tenure was characterised by a number of milestones such as the establishment of the pro bono scheme, the SCT, the urgent case handling facility, the e-case management system and the introduction of the Professional Code of Conduct. What innovative developments do you hope to achieve during your tenure as Chief Justice?

A: We have introduced numerous 'firsts' in the region such as our pro bono initiative (offering free legal advice to those in financial hardship) and I hope that during my tenure we will continue to innovate and be at the forefront of technology, transparency and efficiency. We take pride in our community-focused approach to providing reliable, accessible, efficient and fair justice, and offering exemplary service throughout the Court of First Instance, the SCT and the Court of Appeal, which has delivered world-class justice that has been recognised at the highest levels.

Q: You are responsible for one of the fastest growing legal centres in the region. What has been the most challenging and the most rewarding aspect of your role as Chief Justice so far?

A: Since the establishment of the DIFC Courts, we have strived for the highest international standards, and had many successful initiatives. One of the biggest challenges has been following on from the great work that my predecessor, Sir Anthony Evans, had done – by taking the Courts from their inception to arguably one of the leading dispute resolution centres in the world. A hugely rewarding aspect is that we have been able to maintain and grow the reputation of our Courts, ultimately leading to the recent announcement by the Ruler of Dubai. The fact that we can now be mentioned in the same breath as centres such as London and Singapore is testament to our work over the past few years; the challenge is not resting on our laurels and to continue moving forward and upward.