

Common Law Dispute Resolution

Our Capabilities in the Middle East



Introduction

Our award-winning Commercial Dispute Resolution practice in the Middle East offers clients a market-leading combination of internationally and regionally qualified lawyers with expertise in both civil and common law.

Our Common Law Disputes team represents clients in litigation before the region's common law courts, including the Dubai International Financial Centre, the Abu Dhabi Global Market, the Qatar International Financial Centre and the Astana International Financial Centre Courts.

We act for governments, regulatory bodies, multi-national corporations, regional companies, and high net worth families and individuals resolving complex, high value commercial disputes across a wide range of sectors and specialisms.

The majority of our disputes work is cross-border often involving offshore jurisdictions and other private wealth centres. We are well positioned to handle these disputes through our offices in the UK, Europe, South East Asia and the Middle East.

Our GCC & MENA team can offer clients a combined expertise in both civil and common law. We can also provide an end to end service, given our ability to also conduct litigation in the local onshore courts. With internationally qualified lawyers, barristers and an in-house Arabic team who have been based in the region for 20+ years, we are able to offer this combined capability in a manner that saves you valuable time and money.

We have successfully represented clients in common law litigation matters across a wide range of core specialisms. We are particularly known for our expertise in highly regulated sectors, including for example banking and financial services, telecommunications, aviation, technology and media, sports and healthcare. In all cases we partner with our clients to understand their business issues and invest in getting to know the industries they work in.



“They’re head and shoulders
above the competition.”

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Our DIFC and ADGM Courts Experience

The Dubai International Financial Centre ("DIFC") and Abu Dhabi Global Market ("ADGM") are special economic zones or offshore centres in the UAE that serve as financial hubs for international business. Both the DIFC and the ADGM offer various dispute resolution services, including common law based courts which operate independently of the civil law courts of the UAE and have jurisdiction in civil and commercial disputes.

In addition to serving DIFC and ADGM registered entities, the jurisdiction of both the DIFC and ADGM Courts also operates on an 'opt in' basis, such that parties, no matter where in the world they are based, are free to elect to have their disputes resolved in either the DIFC or ADGM Courts either under DIFC/ADGM laws or any other law of their choosing.

These common law courts offer parties the ability to resolve their disputes ranging from smaller value claims before the Small Claims Tribunal, to employment disputes, to complex commercial claims valued at tens if not hundreds of millions of dollars.

Charles Russell Speechlys Middle East lawyers are highly experienced in DIFC and ADGM Courts litigation. Members of our team sit on the DIFC Courts Rules Committee which works closely with the court in drafting updates to procedural rules and practice directions.

We frequently advise clients in respect of financial services disputes, shareholder, joint venture and partnership disputes, contractual disputes, professional negligence, fraud and insolvency, and enforcement matters.

Areas in which we can help

- Litigation of large scale commercial disputes before the Courts of First Instance and Courts of Appeal.
- Advising clients who are considering whether to "opt in" to DIFC and ADGM Courts' jurisdiction by choosing DIFC or ADGM law and jurisdiction in their commercial agreements (as opposed to local UAE Courts and UAE law).
- Enforcement of foreign court judgments and arbitration awards against assets located in the DIFC or ADGM or against assets located in mainland UAE or the wider GCC region using the DIFC and ADGM Courts' "conduit" jurisdiction.
- Obtaining and defending interim measures including worldwide and local freezing orders, disclosure orders (including Norwich Pharmacal Orders), injunctions, asset preservation and search orders.
- Referrals to the Dubai Joint Judicial Committee which has jurisdiction to determine whether the Dubai or DIFC Court has jurisdiction over particular disputes.
- Claims before the DIFC Court's specialist Technology and Construction Division, which was established in 2017 for the determination of matters falling within the DIFC Court's jurisdiction which involve technically complex issues or questions.
- Providing support to clients pursuing or defending claims before the Small Claims Tribunal which has jurisdiction over matters where the amount in dispute does not exceed AED 500,000 or, in some cases, AED1 million.

"Well-established international
firm with a leading dispute
resolution team."

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Our DIFC & ADGM Courts Litigation Experience

Financial Services & Investment

- Acting for a DMCC freezone based global crypto-currency trading platform company in respect of a claim in the DIFC Court against a DFSA-regulated investment company for the loss of USD3 million worth of Bitcoin. The matter is the first of its kind in the DIFC Courts, including the first use of the Court's Technology and Construction Division in a crypto currency case.
- Acting for a series of UAE family owned investment companies in a claim in the DIFC Court against the DIFC branch of a Swiss investment bank arising from alleged mis-selling of investment products resulting in losses of in excess of AED 100 million, which also included several jurisdictional challenges including on grounds of forum non conveniens.
- Advising a UAE commercial bank in respect of intended litigation in either the DIFC Court or the ADGM Court against a borrower in respect of a AED 1.1 billion default under loan facility agreements.
- Acting for a UAE Islamic bank in a US \$3.5 million+ claim in the DIFC Court for alleged professional negligence against its former DIFC-based legal advisors arising from the law firm's alleged failure to advise adequately on securitisation issues under UAE law during the commercial restructuring of a AED 250 million debt.
- Advising a DIFC registered and DFSA (Dubai Financial Services Authority) regulated investment bank in respect of the implications of then ongoing DIFC Court proceedings brought against the bank's DIFC registered financial services advisory arm and a related Swiss private bank. The claims involved alleged breaches by the DIFC entity of DFSA regulations, and negligence in providing investment advice, carrying on unauthorised business in the DIFC, breach of contract and vicarious liability.

Shareholder & Joint Venture Disputes

- Acting for a Dubai-based real estate developer in various proceedings before the DIFC Court arising out of a dispute with its joint venture partner in a UAE joint venture company established for the purpose of developing a luxury hotel in Dubai.

- Advising a DIFC registered and DFSA regulated investment bank in respect of potential causes of action and remedies available to it under DIFC law against its joint venture partner and/or its directors personally under a shareholders agreement and separate agreements governing the operation of the joint venture's business in the DIFC.

High Value & Complex Debt Recovery

- Advising two related Maldivian entities in respect of litigation strategy to recover debts arising under logistics and anti-piracy and maritime security services contracts with the Maldives' Ministry of Defence, including in respect of the post-dispute opt-in jurisdiction of the DIFC and ADGM Courts.
- Acting for UK-based liquidators to recover funds into the insolvent estate of a UK company through the recognition and enforcement in the UAE of a US\$35 million English Court judgment of conspiracy to defraud, via the DIFC Court as a "conduit court", against an individual resident in the UAE. The judgment arose from the individual's participation in a MTIC (Missing Trading Intra Currency) fraudulent scheme perpetrated by various individuals across the UAE, the UK and Curacao.
- Advising one of the largest commercial banks in the UAE in relation to the strategy for the recovery of a debt arising from a loan default including the commencement of insolvency proceedings under the new UAE Bankruptcy Law or litigation (in either the DIFC or the ADGM) including options available for enforcement.

Employment

- Acting for and successfully securing judgment for individuals in claims before the ADGM Court against a FRSA regulated global virtual-asset platform in respect of unpaid employment entitlements.

Ancillary & Injunctive Relief

- Successfully obtaining a without notice injunction in the DIFC Court to restrain a receiver appointed by the BVI Court from taking steps which would undermine the applicant's rights in respect of several properties in the UK, pending resolution of a claim, also before the DIFC Courts, for specific performance of an agreement to create a lease over the relevant properties.
- Acting for a UAE-based property development company in respect of an application before the DIFC Court to set aside an injunction obtained by its joint venture partner to restrain the parties' escrow agent from releasing certain corporate documents held in escrow.
- Acting for a prominent individual in respect of a worldwide freezing order obtained against him in the DIFC Court arising from allegations of fraud and mismanagement of the UAE's largest healthcare provider.
- Advising a major Dubai-based financial institution on the prospects of obtaining a freezing injunction in the DIFC Courts (which at that time would have been the first time such an order had been sought) in connection with the sale and purchase of commercial office space in the DIFC with a dispute value in excess of AED 500 million.

Evidence Gathering

- Acting for an individual in a successful 'Norwich Pharmacal' application before the DIFC Court against the DIFC branch of an international bank, resulting in production of several hundred thousand documents disclosing account information and statements to assist the client in pursuing a claim for unpaid dividends against a third party wrong-doer.
- Acting for a series of UAE family owned investment companies in a Part 8 claim before the DIFC Court for pre-action disclosure to gather documents and information in support of a potential Part 7 claim for substantial losses arising out of mis-sold investments.

- Acting for an onshore UAE commercial bank (without a DIFC branch) in defending an application, on jurisdictional grounds, brought against it in the DIFC Court for third party document production.

Enforcement

- Acting for the liquidators of a UK company in a claim in the DIFC Court to recognise and enforce a UK judgment obtained against an individual (acting by her joint trustees in bankruptcy) in order to recover sums up to AED 10 million which the individual had been awarded in her favour in a separate litigation before the Dubai onshore courts.
- Acting for a major Middle Eastern bank in a claim in the DIFC Court for recognition and enforcement of a US\$ 32 million judgment issued by the English Court and subsequently ratified by the New York Court arising from a multi-billion dollar insolvency in the region.
- Acting for a UK bank, US bank and DIFC-branch of a US bank in respect of a claim before the DIFC Court for recognition and enforcement of a US\$ 171+ million Confession of Judgment entered by the New York Court against a Cayman Islands investment fund, as part of a wider global enforcement effort by the claimants. This included an application for Immediate Judgment and defence of a challenge to the jurisdiction of the DIFC Court.
- Advising an arbitral award creditor in respect of a possible application to the DIFC Court, in its recognised capacity as a "conduit court" to onshore UAE, for the recognition and enforcement of a London LCIA arbitration award for c.US \$20 million arising from a dispute under a settlement agreement entered into between the parties following a charterparty dispute.

International Litigation and Enforcement

- Acting for Gulf Air Company B.S.C, the national carrier for the Kingdom of Bahrain, in relation to a dispute subject to English law with Bombardier Inc. regarding the sale and purchase of 10 aircraft at a cost of approximately USD 630 million.
- Acting as External Administrator of Awal Bank B.S.C. in Bahrain since 2009 upon appointment by our client, the Central Bank of Bahrain. Our ongoing appointment has involved defending and pursuing the interests of circa 50 creditor banks worldwide (managing over 75 litigation cases all over the world). This high profile and demanding appointment involves allegations of a multi- billion dollar fraud across numerous jurisdictions. The team is litigating complex matters of banking practice in a number of jurisdictions in Europe, the Middle East, USA and the Caribbean.
- Acting for a Dubai onshore company and individuals in an English law governed dispute with a UK auction house before the English Courts arising from a record sale of an Islamic Manuscript.
- Acting for Kuwait Finance House Bahrain B.S.C. in pursuing the enforcement of an award obtained through arbitration before the Bahrain Chamber of Dispute Resolution in relation to a default under a Murabaha financing agreement, in New Zealand and the USA, working together with local counsel in those jurisdictions.
- Acting for Da Afghanistan Bank (the Central Bank of Afghanistan) in an Afghan law governed dispute against Kabul Bank in a USD 1 billion fraud case. The situation was critical to the prosperity of Afghanistan as international monetary funding had been suspended whilst action was taken.



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