

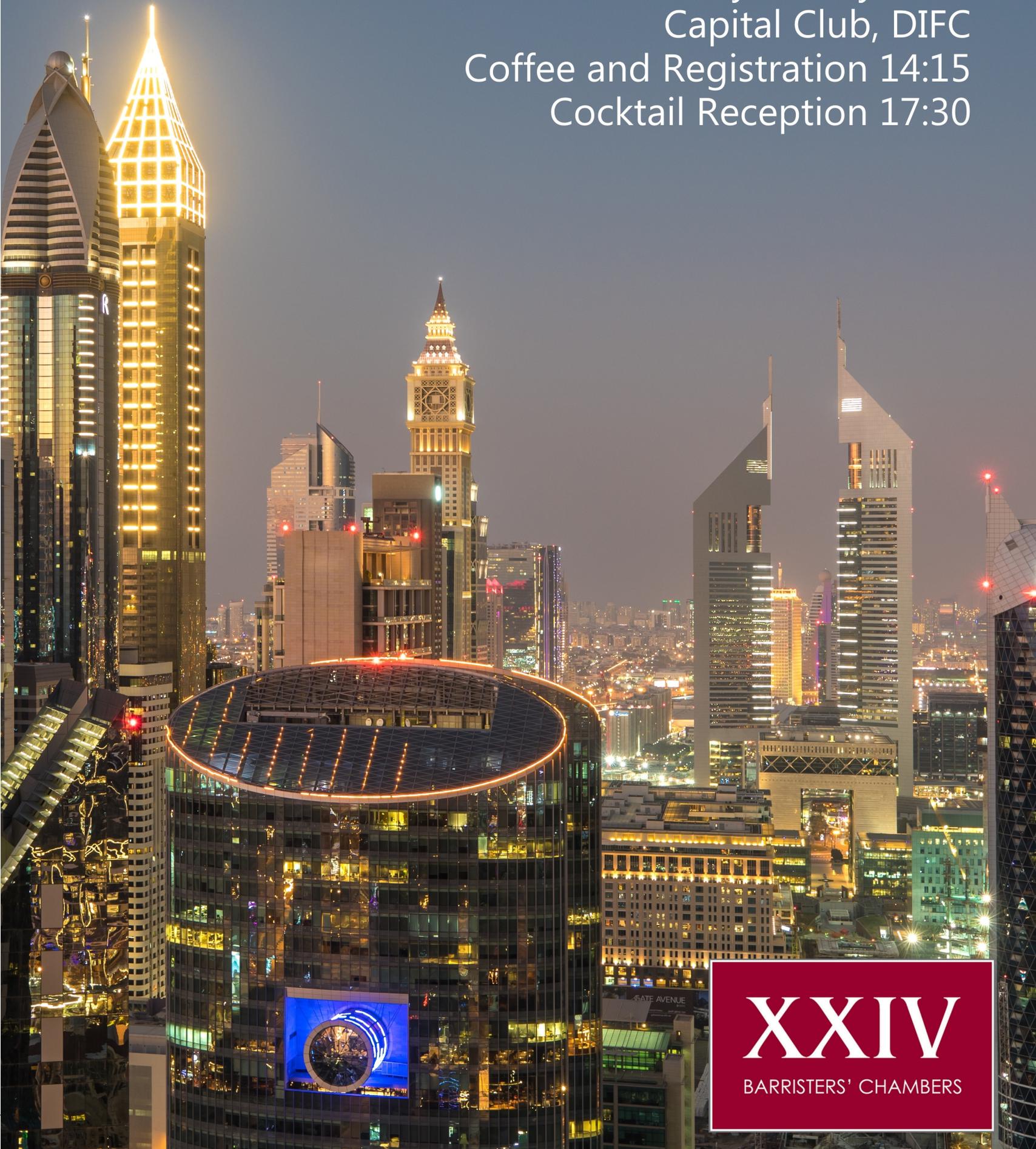
8th Annual Dubai Conference

Wednesday 9th May 2018

Capital Club, DIFC

Coffee and Registration 14:15

Cocktail Reception 17:30



XXIV

BARRISTERS' CHAMBERS

XXIV Old Buildings, 8th Annual Dubai Conference 9th May 2018

We are delighted that you can join us for our 8th Annual Dubai Conference. The last year has been busier than ever proving wrong all those prophets of doom. We have seen the largest case to date in the DIFC worth in excess of USD 2 billion involving difficult questions of sovereign immunity and the application of the Riyadh Convention, enforcement of the UK's largest ever divorce settlement leading to unprecedented cooperation with the Dubai courts in attaching one of the world's biggest superyachts and the DIFC's first piece of major trust litigation.

14:15 - 12:45 **Coffee and registration**

14:45 - 15:00 **Welcome** - Tom Montagu-Smith QC and Sue Medder



15:00 - 15:20 **Trusts in Financial Structures: Take 2** - David Brownbill QC takes a second look at trusts in commercial and financial structures, this time in the insolvency context, and addresses several key issues:



- Trustee, an agent or a debtor?
- Trustee/Beneficiary or debtor/creditor - does it matter?
- Disruptive trusts: set off and other complications.

15:20 - 15:45 **States and state-owned entities in the DIFC Courts** - Arshad Ghaffar and Tom Stewart Coats will consider the position of states and state-owned entities in the DIFC Courts with particular reference to *Pearl Petroleum v KRG* [2017] DIFC ARB 003 and lessons from the treatment of states or state-linked assets in other jurisdictions.



15:45 - 16:05 **No Loss, No Gain, No Claim? The principles and practice relating to "gain-based" damages** - Elizabeth Weaver analyses the recent case law on recovering damages for breach of contract where a claimant cannot prove loss; how far do the principles extend?



16:05 - 16:30 **Interim remedies in fraud claims** - Fraud claims offer the litigant wide-ranging interim remedies. Bajul Shah and Kira King will consider how allegations of fraud can assist a litigant seeking freezing injunctions, proprietary injunctions, injunctions against NCADs (non-cause of action defendants), and orders for the provision of information (including Norwich Pharmacal and Bankers Trust orders).



16:30 - 16:55 **Exporting Injunctions: the basics and boundaries of interim injunctions in the DIFC** -



- Tom Montagu Smith QC and Ben Waistell will look at:
- Obtaining interim injunctions in the DIFC Courts.
 - The difference between mandatory and prohibitory injunctions.
 - The impact of the Joint Judicial Committee.
 - Enforcement in Dubai and beyond.

16:55 - 17:20 **No Harbour To Hide** - Andrew Holden and Alina Gerasimenko will consider the scope of the DIFC court's jurisdiction to grant freezing injunctions and enforce foreign judgments against corporate entities in light of the ongoing case of *Akhmedova v Akhmedov and Straight Establishment* [2018] DIFC CFI 011.



17:20 - 17:30 **Closing address** - Michael Black QC



17:30 **Drinks and canapés**

Speakers' Biographies

Sue Medder Sue is the Chambers Director at XXIV Old Buildings and is responsible for client care. Sue works with members and the clerking team to develop client relationships and ensure a continuing level of excellence in service. Sue also sits on XXIV's management committee and is closely involved in the strategic growth of chambers.

Michael Black QC Michael Black QC has experience in the Region stretching back for more than 30 years. Chambers and Partners calls him a "go-to person on DIFC matters" and "singled out for his extensive knowledge of UAE law". He was a draughtsman of the Rules of the DIFC Courts and the DIFC Arbitration Law. He is a member of the International Chamber of Commerce UK Arbitration and ADR Committee, the Global Commission and the Task Force on Emergency Arbitrators. He regularly acts as Counsel and Arbitrator in DIAC, DIFC-LCIA, ICC, UNCITRAL and Ad-Hoc arbitrations seated in the Gulf.

David Brownbill QC Described by Legal 500 as "intellectually astute", David has a strong practice specialising in contentious and non-contentious trust and company matters in England and offshore. Chambers & Partners recommend him for commercial chancery and offshore work, noting that he "has a sound commercial perspective, is accessible and hard-working, and is an excellent tactician. He has an intimate knowledge of the offshore world". David's practice has a particular emphasis on fraud and asset recovery and international trust, corporate and commercial structuring (including structured investments, hedge funds, pensions and insurance contracts).

Tom Montagu-Smith QC Tom acts in commercial disputes, including construction, arbitration and disputes about joint ventures. He is one of the most active advocates before the DIFC Courts and has appeared in many of its leading cases, including *Pearl Petroleum v Kurdistan*, *Barclays Bank v Essar* and *DNB Bank v Gulf Eyadah*. In the last year, he has sought and obtained freezing injunctions, anti-suit injunctions, interim mandatory injunctions and Norwich Pharmacal relief in the DIFC Courts. He is described in the Guides as "really excellent" and "a pre-eminent practitioner in Dubai arbitrations."

Elizabeth Weaver Elizabeth is recognised in the directories as a "well-regarded barrister for commercial Chancery cases" who is "excellent both on paperwork and on her feet". Elizabeth's practice covers litigation and arbitration of all types of business disputes (including shareholder litigation, claims against directors, joint venture disputes) and private client disputes (contentious trusts and estates). Described as "robust and tenacious", she also has considerable experience in dealing with applications for interim remedies and conflicts of law and jurisdiction issues and is currently instructed in two DIFC cases involving these areas of law.

Arshad Ghaffar Arshad's focus is primarily international. His main areas of expertise are international commercial litigation, arbitration and mediation; European Union; shipping and aviation, and corporate. He has strong personal and professional links with law firms and practices in South Asia and the Middle East. He is registered on Part II of the register of practitioners for the DIFC courts and has appeared before the DIFC Court, as well as in arbitrations seated in Dubai, on a number of occasions. Arshad is one of two English counsel used exclusively by a leading Omani law firm for international and English law related matters and has also appeared as counsel in numerous arbitrations seated in Oman. Arshad has also sat as a co-arbitrator in a variety of Dubai seated arbitrations. He is recommended by the legal directories for his international arbitration work and his aviation practice.

Bajul Shah Bajul's practice comprises aviation, commercial and international litigation and arbitration, company and insolvency, fraud, hedge funds, and trusts and estates litigation. He is a member of the Bar of the Eastern Caribbean Supreme Court and has experience of litigation in Anguilla, the BVI, Cayman, Gibraltar, Guernsey and Jersey. He is recommended in the legal directories for commercial litigation, aviation, travel, civil fraud, private client and offshore work and is described as "a good commercial litigator". His recent work includes advising on shareholder and share-capital issues involving a DIFC registered company, acting in an ultra-high net worth multi-jurisdictional divorce dispute, advising on cross-border enforcement strategies in a fraud claim, and acting in dispute over aircraft liens.

Andrew Holden Andrew enjoys a busy commercial chancery practice. He has extensive experience acting in complex international commercial disputes, both in the UK and in other courts and tribunals, and which includes fraud, asset tracing, and enforcement work. He also maintains a thriving trusts practice. Chambers UK Bar 2018 describes Andrew as "incredibly bright and reassuring for clients", and as "imaginative, tenacious and clever with "a lovely crystalline mind...A wonderful junior who is very good on his feet". Recent cases of note include *Ras Al Khaimah Investment Authority v Bestfort* [2017] EWCA Civ 1014, in which Andrew assisted one of the United Arab Emirates to obtain freezing injunctions in support of ongoing complex fraud litigation in the Republic of Georgia, and the ongoing case of *Akhmedova v Akhmedov* [2018] DIFC CFI 11 involving the enforcement of a >\$500 million English judgment in the DIFC.

Kira King Kira has a broad commercial chancery practice with an emphasis on civil fraud, insolvency, contentious trusts, company and commercial litigation. Kira is an experienced advocate who frequently appears in the High Court and has experience of both trial and appellate advocacy. Kira is particularly experienced in applications for pre-emptive and interim relief and as a sole advocate has successfully obtained and responded to high value freezing orders both within the jurisdiction and offshore. Kira has substantial offshore experience having been called to Bar of the Eastern Caribbean Supreme Court (BVI) and the Gibraltar Bar (on an ad-hoc basis) and has been instructed on cases in the Cayman Islands, Jersey, Guernsey, the BVI and Gibraltar. Kira is currently instructed on a high value dispute in the Commercial Division as to the scope of insurance cover for employee theft, a company dispute in the BVI and a substantial insolvency dispute in the Chancery Division about the valuation of a debt by the liquidators in a liquidation.

Speakers' Biographies continued

Tom Stewart Coats Tom has a broad commercial practice and his experience includes general commercial disputes (often involving conflicts of law and jurisdiction), aviation, company and shareholder disputes, and banking and financial services litigation. He has assisted on various DIFC cases (in particular as a pupil and junior to Tom Montagu-Smith QC). Issues of particular relevance to the DIFC, such as applications in support of arbitration or foreign proceedings, are a central focus of Tom's practice. Tom previously practised at a firm specialising in investment treaty and commercial arbitration and retains an interest in commercial arbitration involving state entities, investor-state arbitration, and public international law. Current and recent cases include acting: for a North African state in an investment treaty arbitration arising out of two infrastructure projects; for a US financial institution in a US\$1billion claim against a UK bank; for a South American state in ICSID award enforcement proceedings in England; for a company seeking to enforce a foreign judgment against an African state.

Alina Gerasimenko Alina joined Chambers in 2017 and is developing a broad commercial chancery practice. Alongside regular instructions in the English courts, she has both domestic and international experience of commercial litigation, insolvency matters and trust disputes. Alina has recently assisted in the Akhmedova case, which raised a number of interesting issues including the extent of DIFC court's statutory jurisdiction to enforce foreign judgments. As a native Russian speaker, Alina has had experience of and welcomes instructions with a Russian or CIS element.

Ben Waistell Ben joined Chambers in 2017 and is developing a broad commercial and chancery practice encompassing commercial litigation, civil fraud, insolvency matters, and trust disputes. He regularly appears both led and unled in the English Courts and has experience of the major arbitral rules and institutions. During pupillage, the majority of Ben's work had an international element and he has particular interests in issues of private international law and investment disputes. Ben has been involved in seeking extra-territorial injunctive relief from the DIFC in support of a New York judgment and is currently instructed on a DIFC-seated arbitration relating to the international sale of goods.