

Nicola Jackson – CV – July 2023

Nicola is a Legal Director in Clyde & Co's Dispute Resolution Group and is based in Dubai. Nicola is an English qualified solicitor and has been in the Middle East since 2009.

Nicola is the co-lead of Clyde & Co's Insolvency & Restructuring-Related Disputes and Contentious Advisory Practice in the Middle East and advises creditors, debtors and insolvency practitioners on a wide range of insolvency-related matters. Nicola acted for the Central Bank of Bahrain in her previous firm's capacity as External Administrator of The International Banking Corporation BSC(c) (**TIBC**) and advised on a wide range of litigation across various jurisdictions, including claims for fraud and breach of contract.

Nicola also specialises in commercial and financial disputes before the DIFC Courts and in particular, matters relating to jurisdiction challenges before the DIFC Courts. Nicola has acted on a number of high profile and/or seminal cases in this regard, including *Credit Suisse v Goel*, the first ever "Courts of Dubai" 'opt-in' case under Article 5(A)(2) of the Judicial Authority Law, and *AIG v QIC* and *UIC v IPMR* which continue to develop the line of jurisprudence relating to jurisdiction challenges in the DIFC Courts.

Nicola has extensive experience acting for both local and international clients on commercial disputes before courts and tribunals in the UAE, Bahrain, Oman and Saudi Arabia, including under various institutional rules (ICC, LCIA, GCCAC) and ad hoc (Oman Arbitration Act). Nicola also advises on DFSA investigations and regulatory disputes.

Commercial & Financial Disputes – DIFC & ADGM Courts

DIFC Courts Cases

- **Credit Suisse (Switzerland) Ltd v Goel** (CFI-066-2020, CA-008-2020, CFI-083-2020, CA-002-2021): Successfully obtaining a worldwide freezing order for Credit Suisse against four personal guarantors in relation to a claim for a debt of over US\$90 million owed by Gulf Petrochem FZC and its global subsidiaries and subsequently, a judgment for over US\$93 million. This involved successfully defending a jurisdiction challenge and was first opt-in case under Article 5(A)(2) of the Judicial Authority Law.
- **Credit Europe Bank (Dubai) Ltd v NMC Healthcare LLC, New Medical Centre Trading LLC and BR Shetty** (CFI-031-2020, CFI-036-2020): Successfully obtaining a worldwide freezing order for Credit Europe against BR Shetty in relation to a claim for a debt of over US\$9 million owed by NMC Healthcare LLC and its subsidiary and subsequently, a judgment for over US\$9 million. This case was one of the first against BR Shetty and was dubbed 'the one to watch'.
- **KPMG LLP v The Dubai Financial Services Authority** (CFI-008-2022) and **Milind Ajit Navalkar v The Dubai Financial Services Authority** (CFI-007-2022): Acted for KPMG on the appeal of a privacy and non-publication decision of the FMT in relation to a Decision Notice issued in relation to Abraaj. To my knowledge, this is the first appeal on privacy and non-publication to be heard by the DIFC Courts.
- **American International Group UK Limited, Markel Syndicate Management Limited, Talbot Underwriting Limited and Berkshire Hathaway International Insurance Ltd v Qatar Insurance Company Limited** (CFI-003-2022): Successfully defending a jurisdiction challenge under Article 5(A)(1) of the Judicial Authority Law and acting on an ongoing claim for declaratory relief in the context of US sanctions pertaining to Iran.
- **Union Insurance Company PJSC vs International Precious Metals Refiners LLC** (CFI-064-2022): Acting on a jurisdiction challenge relevant to Article 5(A)(2) of the Judicial Authority Law and on an ongoing claim for declaratory relief.

- **Ilyas Gaffar Saboowala v Soman Kuniyath Kunjunni Nair and Others** (CFI-037-2017): Successfully negotiating a settlement prior to the hearing in relation to a complex matter involving issues regarding specific performance and triple damages under DIFC law.
- **NS Investments Limited v Ajay Sethi** (CFI-055-2020): Acting on a matter that involved issues of procedural importance relating to default judgments and service under the DIFC Courts Rules.

ADGM Courts Cases

- **Credit Europe Bank (Dubai) Ltd v Bavaguthu Raghuram Shetty** (CFI-2021-078): Successfully obtaining an Order for the recognition and enforcement of a DIFC Courts Judgment for over US\$9 million, including obtaining charging orders over shares in a number of companies domiciled in the ADGM.

Insolvency-Related Disputes & Advisory

- **MAD Atelier International B.V. v Axel Manes and Catherine Zhilla (DIFC)** (CFI-030-2022): Advising a DIFC Court-appointed receiver on various contentious matters encountered during his appointment, including claims for payments, commercial settlements and making an application to the DIFC Courts for directions.
- **Confidential matter (DIFC)**: Successfully obtaining a document production order for an English liquidator against a third party in the DIFC Courts pursuant to Norwich Pharmacal / Bankers Trust principles and subsequently enforcing the order against the opponent in onshore Dubai.
- **ConSol* MENA Ltd - (In Liquidation) (DIFC)**: Advising a liquidator on matters relating to an insolvent liquidation, including dealing with related proceedings.
- **Confidential matter (DIFC/Dubai)**: Advising a liquidator on matters relating to the DIFC Insolvency Law and the UNCITRAL Model Law on Cross-Border Insolvency in the context of extant liquidation proceedings commenced under the UAE Companies Law.
- **Confidential matter (Dubai/DMCC)**: Advising a liquidator of a DMCC company on process and tactics, and on the commencement of onshore bankruptcy proceedings.
- **Confidential matter (Dubai)**: Advising an English client on the process of bankruptcy proceedings in Dubai and considerations in respect of the 'Centre of Main Interests' in the context of potential secondary insolvency proceedings.
- **Confidential matter (Dubai/Middle East)**: Advising the shareholders of a group of companies across the Middle East on matters related to an impending bankruptcy process.
- **Confidential matter (Dubai)**: Advising a shareholder creditor on matters related to an impending bankruptcy process, including issues related to potential past fraudulent conduct.
- **TIBC (Bahrain/Saudi/France/Cayman)**: Acted for the Central Bank of Bahrain on the appointment of Trowers & Hamblins LLP as External Administrator of TIBC in Bahrain. This matter involved a wide range of litigation across various jurisdictions, including:

- US\$1.575 billion claim brought by TIBC against Ahmad Hamad Algozaibi & Brothers (**AHAB**) in the Bahrain Chamber for Dispute Resolution (**BCDR**) for the recovery of loan monies advanced by TIBC to Saudi Arabian borrowers through AHAB's Money Exchange Branch;
- enforcement of the US\$1.575 billion BCDR judgment before The Joint Directorate of Enforcement at the General Court in Al Khobar (**JDEK**);
- US\$223.5 million claim brought by TIBC against AHAB in the BCDR involving the utilisation of a special purpose vehicle incorporated in The Cayman Islands;
- US\$730 million claim brought by TIBC against AHAB in the SAMA Committee in Saudi Arabia for the recovery of funds due as a result of failed FX trades;
- US\$428 million claim against AHAB in relation to shares held in companies listed on the Saudi Arabian stock exchange;
- US\$1.1 billion claim brought by AHAB in the General Court in Al Khobar;
- a claim brought by Banque BIA in the Commercial Court and Court of Appeal in Paris; and
- an application for disclosure filed with the Court of Grand Cayman in the AHAB / Saad litigation.

International Arbitration & Regulatory Disputes

- **FMT Proceedings:** Acted for EY on Arqaam (2011/2012).
- **FMT Proceedings:** Acted for KPMG on Abraaj (2021/2022).
- **LCIA Arbitrations:** Acted on a US\$23 million shareholder dispute between the UAE-based private equity arm of an international bank and a Bahraini company (London seat).
- **ICC Arbitrations:** Acted for a private equity institution and placement agent in dispute with its former client involving allegations of breach of the terms of a letter of engagement governed by UAE law (UAE seat); acted for a UAE LLC in dispute with a former client involving challenges to jurisdiction, powers of attorney and signature validity and a defence of collusion (UAE seat).
- **Oman Arbitration Act (Oman):** Acted on a US\$80 million dispute between a Middle East-based telecoms regulator and one of its operators.
- **GCC Commercial Arbitration Centre (Bahrain):** Acted on a US\$5 million dispute over a technical licence agreement between the client and a Saudi Arabian licensee (Bahrain/Saudi seat).

General Advisory

- Advising (along with foreign counsel where necessary) on the enforcement of DIFC Courts' judgments in jurisdictions including onshore UAE (Dubai, Abu Dhabi, Ras Al Khaimah, Ajman, Sharjah), the ADGM, England & Wales, BVI, New York and India.
- Advising (along with foreign counsel where necessary) on the enforcement of DIFC Courts' Worldwide Freezing and Provision of Information Orders in Dubai and beyond, including in onshore UAE, the ADGM, England & Wales, BVI and India.
- Advising on applying for an anti-suit injunction in the DIFC Courts in the context of parallel proceedings brought in the onshore Dubai Courts.
- Advising on the enforceability of DIFC Courts' orders for contempt of court within Dubai and the UAE.

- Advising on the enforceability of DIFC Courts' judgments in the UAE generally and in respect to matters relating to trademarks.
- Acting for a respondent domiciled in Sharjah on a matter before the Supreme Court of New York relating to the alleged payment of bribes to employees of the claimant and providing a legal opinion.
- Acting on attachment proceedings over goods detained at Jebel Ali Port for an international bank.
- Advising on regulatory matters in the DIFC and representing clients further to information requests / investigations by the DFSA.
- Advising on mis-selling type claims against financial services companies domiciled in the UAE.
- Advising on agency disputes in the UAE.

Extra Curricular

- Nicola is a regular speaker (panelist and moderator) at insolvency & restructuring-related market events, including:
 - o Thought Leaders 4 FIRE (2021, 2022);
 - o Nexia Turnaround and Restructuring Conference (2022);
 - o Restructuring Insolvency and Legal Practitioners Association (RIPLA) (2022, 2023);
 - o Global Legal ConfEx: Global Disputes – Managing Fraud, Corruption and White Collar Crime in the Middle East (2021, 2022);
 - o HLB HAMT Emerging Markets Conference: Turnaround, Restructuring & Insolvency in the Middle East (2022);
 - o The Bar Council of England & Wales, Financial Services: Litigation and Regulation (2021); and
 - o Clyde & Co internal and client events.
- Contributor to INSOL International's Restructuring Alert (June 2023).
- Contributor to Debtwire article "*Advisors hope UNCITRAL rules will form part of UAE bankruptcy amendments*" (April 2023).
- Short-listed for the LexisNexis Women in Law Awards 2023: Litigator of the Year.
- Involved in the Dubai branch of the International Women's Insolvency & Restructuring Confederation (IWIRC).
- Training provider for DIFC Academy: DIFC Damages and Remedies Law (2022).
- Contributed to Wolters Kluwer Practical Insights for Arbitration Practitioners: UAE Document Disclosure.
- Judge of the Amity University International Client Counselling Competition 2021.
- Official Clyde & Co Dispute Resolution Group Mentor to the junior associates.
- Part of the interview panel for paralegals / junior associates.
- Involved in pro bono matters.