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The Grand Court of the Cayman Islands: reflecting on the year 2022

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As the Grand Court of the Cayman Islands reopens for 2023, it is a good time to reflect on what transpired in 2022. A review of the filings made in the Grand Court throughout 2022 shows a very significant number of cases concerning large-scale cross-border insolvency and restructuring proceedings, as well as various complex commercial disputes.

Statistics from the Grand Court

The Grand Court, which has jurisdiction for civil and criminal matters, has five divisions namely: (1) Financial Services; (2) Family; (3) Criminal; (4) Admiralty; and (5) Civil. As the Cayman Islands continues to be one of the leading jurisdictions in the world for financial services, it is not surprising that the Financial Services Division is the most active, with approximately 332 new proceedings filed in 2022 relating to capital reductions, schemes of arrangement, company restorations, and winding up petitions, to name a few. Additionally, approximately 156 civil cases and 277 Petitions for Divorce and ancillary relief were filed in the Grand Court. The Grand Court had delivered 170 reasoned judgments as at 31 December 2022.

When compared to the previous year's statistics, there was an overall decline in the number of new proceedings filed in the Grand Court in 2022. For example, in 2021, based on available information, there were an additional 54 cases filed in the Financial Services Division, an additional 52 cases filed in the Family Division, and an additional 462 cases filed in the Civil Division. The decline in the number of proceedings initiated in the Grand Court might be due, at least in part, to an increase in the use of alternative dispute resolution options, particularly as this decline coincides with the opening of the Cayman International Mediation and Arbitration Centre ("CI-MAC") and a new Practice Direction concerning Judicial Mediation.

Significant cases handled by Conyers

This year, Conyers attorneys were involved in many of the most complex and novel matters in the jurisdiction at first instance and appellate level, including in relation to:

- **High-value shareholder disputes** (see, for example, *In the Matter of Virginia Solution SPC Ltd* and *In the Matter of Seahawk China Dynamic Fund*);
- **Large-scale cross-border insolvency matters** (see, for example, *In the Matter of Silver Base Group Holdings Limited* and *In the Matter of GTI Holdings Limited*);
- **Complex private client and trusts litigation:** (see, for example, *MaplesFS Limited v (1) B&B Protector Services Limited (2) PJSC National Bank Trust (3) PJSC Bank OTkritie Financial Corporation* and *Lea Lilly Perry & Tamar Perry v. Lopag Trust Reg. and others*);
- **Novel applications for the appointment of inspectors** (see, for example, *In the Matter of BBShares Capital Management Ltd.* and *In the Matter of Avivo Group*);
- **Recognition and enforcement of foreign arbitral awards** (see, for example, *In the matter of LAM global Management Ltd II* and *Qingdao Conson Financial Holdings Co. Ltd et/al. v. Fortune Anchor Limited et.al*);
- **Cross-border debt restructuring assignments** (see, for example, *In the matter of Atlas Financial Holdings Inc* and *In the matter of Golden Wheel Tiandi Holdings Company Limited*);
- **Contested supervision applications** (see, for example, *In the matter of Touradji Private Equity Offshore Fund Ltd et al*);

- **Merger and appraisal actions** (see, for example, *In the matter of Changyou.com Limited*);
- **High-profile Judicial Review proceedings** (see, for example, *Kattina M Anglin v The Governor of the Cayman Islands & Colours Caribbean*);
- **Novel confidentiality proceedings** (see, for example, *In the Matter of Kuwait Ports Authority*); and

Conyers also filed the most applications for capital reductions and restructurings by scheme of arrangement of any Cayman Islands law firm.

Significant events in 2022

From a Cayman Islands litigation, insolvency and restructuring perspective, there were various notable events in 2022:

1. Effective from 26 October 2022, Margaret Ramsay-Hale became the first female Chief Justice of the Cayman Islands and is scheduled to hold office until at least April 2031. Chief Justice Ramsay-Hale replaced Sir Anthony Smellie, who had held the position of Chief Justice since June 1998;
2. The Judicial Committee of the Privy Council (“JCPC”) sat in the Cayman Islands from 15 to 18 November 2022 to hear three separate appeals. This was the first time that the JCPC, normally based in London, sat in an Overseas Territory of the United Kingdom. The judges who sat in the Cayman Islands in November 2022 were all Justices of the UK Supreme Court. As observed by Erik Bodden, Conyers partner and current President of the Cayman Islands Legal Practitioners Association (“CILPA”), “The visit [was] an opportunity for the Cayman Islands legal fraternity to see first-hand our final appellate court at work”;
3. The Legal Services Act (“LSA”), which replaces the Legal Practitioners Act, came into effect on 14 October 2022 paving the way for the establishment of a Legal Advisory Council to regulate legal practice in the Cayman Islands, which is charged with responsibility for legal training and the regulation of the Truman Bodden Law School. The enactment of the LSA will assist in protecting and promoting the reputation of the Cayman Islands as a leading international financial centre.
4. Former Chief Justice Sir Anthony Smellie announced the launch of the Cayman Islands Judicial and Legal Education Institute (“CIJLEI”) in October 2022. The objective of the CIJLEI is the continued promotion of excellence and efficiency in the administration and delivery of justice. The pro bono legal work for establishing the CIJLEI was undertaken by Conyers Partner Robert Lindley.
5. The Cayman Islands Legal Assistance Clinic (“the Clinic”) was formed and represents a cooperative initiative between the Department of Legal Aid (“Legal Aid”), the Cayman Islands Legal Practitioners Association (“CILPA”) and the Truman Bodden Law School. The mandate of the Clinic is to provide greater access to justice for eligible members of the community through the provision of pro bono legal advice and assistance as a complement to the provision of legal services by the local bar and the formal legal aid system;
6. The Cayman Islands legislature amended the Companies Act to introduce a new restructuring officer regime, which provides financially distressed companies with an alternative to commencing winding-up proceedings. The first restructuring officer appointment was ordered by Kawaley J in November 2022 in *The Matter of Oriente Group Limited*;
7. The ‘headcount test’ for members’ schemes of arrangement was abolished. Previously, a members’ scheme of arrangement required a majority in number of at least 75 percent in value of the members (or class of members) present and voting either in person or by proxy at the meeting. The numerosity element of the threshold has been removed by additional amendments to the Companies Act. However, the ‘headcount test’ remains for creditor’s schemes of arrangement;
8. As mentioned above, with the passing of Practice Direction 3 of 2022 Judicial Mediation Guidelines, the Grand Court has indicated that it intends to refer new matters to judicial mediation in the first instance, where appropriate; and

9. In a similar vein, as noted above, CI-MAC opened in 2022 to offer efficient and flexible dispute resolution services, and support for arbitration and mediation.

Conclusion

As we reflect on the year 2022, we are now looking forward to the year ahead, as we continue to serve both new and existing clients. There were a number of exciting and important legal developments in the jurisdiction in 2022, and we anticipate that the Cayman Islands will go from strength to strength in 2023.

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