

REVIEW



Manx Court Emphasises the New Litigation Culture



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Introduction

Welcome to our electronic news review published by M&P Legal. We hope that the publication is of interest to recipients. Please contact any of the individuals listed on the contact us page with comments for future articles.



Advocate John T Aycock reviews ...

... how the Manx Court has recently reiterated the importance of parties to a dispute first trying to resolve the issues before resorting to court proceedings.

Director
John T Aycock
jta@mplegal.im

Manx Court Emphasises the New Litigation Culture

The Isle of Man judiciary has recently underlined the importance of parties to a dispute first trying to resolve the issues before resorting to court proceedings.

These comments came in June 2012 judgment by the Isle of Man's First Deemster His Honour David Doyle in re Lsis Investments Ltd (in liquidation). The Deemster was deciding on interlocutory applications involving an order disallowing amendments to a claim form and/or striking out the original claim form and consolidation of proceedings. In dealing with the applications, he took the opportunity to comment on "the new litigation culture" which was introduced after the Isle of Man adopted a new High Court procedural code in 2009.

In his judgment, the Deemster reminded the parties of the overriding objective to enable the High Court to deal with cases justly. Moreover, he pointed out that Rule 1.2(4) of the High Court Rules 2009 imposes a duty on the parties to help the court to further this overriding objective, and stated that "it is readily assumed that this encompasses their legal advisers including advocates".

The Deemster made it clear that the court expects parties and their legal representatives to be careful: first, as to whether to litigate, and second, as to honing the issues if litigation ensues. He stated:

"In the new litigation culture it is imperative that the parties and their legal representatives focus on the main areas of dispute between them which require judicial determination. Parties and their legal representatives must cooperate in narrowing the focus of the main areas of dispute. Those in dispute should first of all use their best endeavours to resolve their dispute without recourse to expensive and protracted legal proceedings. If legal proceedings are necessary then they should be dealt with expeditiously, fairly and efficiently within a short period of time and at a reasonable cost."

In engaging the overriding objective, the Deemster consolidated the proceedings with an order that a party file and serve a consolidated claim form and particulars of claim. He also transferred the proceedings from the chancery procedure to the ordinary procedure, as being the more appropriate procedure for the dispute.

This latest judgment reinforces the Manx judiciary's desire to update the culture of litigation and promote the principles set out in the overriding objective. It is almost three years since the new procedural code was introduced, so advocates and parties are now familiar with the new rules and the way they are interpreted.

This is not the first time that the Deemster has expressed his enthusiasm to embrace the new culture. As early as October 2009

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the Deemster emphasised the significance of the new procedural code in *Howell v DHSS* (October 6 2009) when he stated that:

“The 1st day of September 2009 [the operative date of the 2009 rules] was an important day in the history of the Manx legal system... Parties to legal proceedings and their advisers will have to wake up to the new reality of civil litigation in 21st century... The determination of civil disputes in the 21st century must be quicker, cheaper and more efficient than in previous centuries. It still, of course, must be fair and just.”

The Isle of Man is a compact legal jurisdiction, but it is clear that its judiciary will strive to ensure it is at the forefront of modern legal thinking when it comes to resolving disputes.

Advocate John T Aycock is joint Managing Director of M&P Legal Advocates, Solicitors & Attorneys

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Profiles

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Christopher J Murphy
Director
cjm@mplegal.im



John T Aycock
Director
jta@mplegal.im



Christopher M Brooks
Associate
cmb@mplegal.im



Damian Molyneux
Associate
dpm@mplegal.im



Consuelo Suay
Associate
csc@mplegal.im



Victoria L Unsworth
Associate
vlu@mplegal.im



Nadine V Roberts
Associate
nvr@mplegal.im



Carol A Young
Conveyancing Manager
cay@mplegal.im



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M&P Legal (registered business name of Mann & Partners Limited)
New Court Chambers
23-25 Bucks Road
Douglas
Isle of Man
IM99 2EN

Telephone: +44 (0) 1624 695800
Facsimile: +44 (0) 1624 695801
Email: law@mplegal.im
Web: www.mplegal.im
Mann & Partners Limited
Reg. No. 89667C

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an incorporated legal practice