

Grand Court applies Hong Kong White Book guidance following issuance of Practice Direction

Guidance on application of Cayman Grand Court Rules

When it comes to the resolution of civil disputes, the Cayman Islands benefits from applying the comprehensive civil procedure rules developed over many years by the courts of English & Wales. In particular, the Cayman Islands Grand Court Rules (“GCR”) are modelled on the English Rules of the Supreme Court (“RSC”) (as they existed in 1995), and the notes contained in the English Supreme Court Practice 1999 (the “English White Book”) have over the years been an essential guide to the interpretation of the GCR.

Like the Cayman Islands, Hong Kong also developed out of the English common law, and cases decided by the Hong Kong High Court have long provided a useful source of jurisprudence (both procedural and substantive) for Cayman judges to consider. Like the Cayman Islands, the Hong Kong civil procedure rules are derived from the RSC, but unlike Cayman, Hong Kong produces its own detailed civil procedure textbook entitled Hong Kong Civil Procedure 2024 (the “Hong Kong White Book”).

In 1999, the English courts moved away from the RSC and began applying the revamped English Civil Procedure Rules (CPR). Accordingly, there are no longer any English cases decided under the old RSC. Therefore, in order to expand the resources available to the Cayman courts, the Chief Justice of the Cayman Islands recently issued a practice direction (PD 2 of 2024) expressly endorsing the application of the Hong Kong White Book as a guide to the interpretation and application of the GCR where those rules are the same or similar to the rules of the HK High Court.

Recent application by Grand Court

Following the issuance of PD 2 of 2024, Justice Doyle applied the HK White Book in determining the issues before the Cayman Grand Court on two procedural cross summonses in a recent decision in Fusechain XDB I Ltd v XDB Foundation (unreported, Grand Court, Doyle J, 9 May 2024). A copy of the judgment can be found [here](#).

The Court granted the Defendant (XDB Foundation) permission to file its defence out of time and dismissed the Plaintiff’s summons for default judgment. In giving his *ex tempore* judgment, Doyle J expressly referred to PD 2 of 2024 and applied the HK White Book in relation to circumstances in which a defence is served after an application for default judgment has been made. The Judge applied the reasoning in paragraph 19/7/4 of the Hong Kong White Book and allowed the Defendant to file its defence out of time, but ordered the Defendant to pay the Plaintiff’s costs occasioned by the delay. The Judge found that justice could be achieved by allowing the Defendant to continue to the proceedings, but punishing its non-compliance with the GCR by making costs orders against it on both summonses.

The additional guidance provided by the Hong Kong White Book will no doubt continue to be of benefit to those involved in proceedings before the Cayman Grand Court.

Bryan Little, Senior Associate at TTA, represented the Plaintiff in these proceedings.

This client memorandum is intended to provide only general information for the clients and professional contacts of Travers Thorp Alberga. It does not purport to be comprehensive or to render legal advice. Please do not hesitate to contact Travers Thorp Alberga (bwlittle@traversthorpalberga.com) at any time if you have any specific questions or would like more detail on any of the points made in this memorandum.