

2015

Courts of the Qatar Financial Centre—Pretrial, Trial & Appeal (PPT 2015)

Gerald Lebovits

The Courts of the Qatar Financial Centre (QFC) — Pretrial, Trial, and Appellate Law and Procedure

Qatar International Court
Doha, Qatar



QATAR INTERNATIONAL COURT
AND DISPUTE RESOLUTION CENTRE
محاكمة قطر الدولية ومركز تسوية المنازعات

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Qatar International
Court and Dispute
Resolution Center
(QICDR)

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graph TD; A([Qatar International Court and Dispute Resolution Center (QICDR)]) --> B[The Qatar Financial Center Regulatory Tribunal]; A --> C[The Civil and Commercial Court of the Qatar Financial Center];
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The Qatar Financial
Center Regulatory
Tribunal

The Civil and
Commercial Court
of the Qatar
Financial Center



Fast Facts about the QFC

- The QFC was founded in 2005 as a financial and business center for international financial services.
- It is an independent statutory regulatory body that authorizes and regulates financial service business in or from Qatar.
- It consists of the QFC Authority, the QFC Regulatory Authority, the Regulatory Tribunal, and the Qatar International Court.

Fast Facts about the Qatar International Court

- It was established by His Highness The Emir Sheikh Hamad bin Khalifa Al Thani
 - To attract international business and financial services to Qatar
 - To provide a modern specialist court with international expertise
- It consists of 12 full-time judges and 10 supplementary judges



محكمة قطر الدولية
ومركز تسوية المنازعات

**QATAR INTERNATIONAL COURT
AND DISPUTE RESOLUTION CENTRE**

Fast Facts about the Qatar International Court, Cont.

- Established as a court of the State of Qatar by Article 8 (3) of the QFC Law (Law No. 7 of 2005), as amended by Law No. 2 of 2009.
- The Court's headquarters are in the QFC.
- Procedures adopted by the Court are similar to those found in common-law systems and especially London's Commercial Court.



Fast Facts about the Qatar International Court, Cont.

- Comprised of two circuits:
 - First Instance
 - Appellate Division
- 3 judges sit for each case in each circuit.



Fast Facts about the Civil and Commercial Court of the QFC, Cont.

- Judges come from all over the world: Germany, New Zealand, Qatar, Singapore, and the U.K.
- Judges are lawyers with considerable experience in their home countries.





President: The Rt. Hon. The Lord Phillips of Worth Matravers



Lord Phillips with Chief Executive Officer Faisal Rashid Al-Sahouti



Former President of the Qatar International Court: Baron Harry Woolf,
former Lord Chief Justice of England and Wales

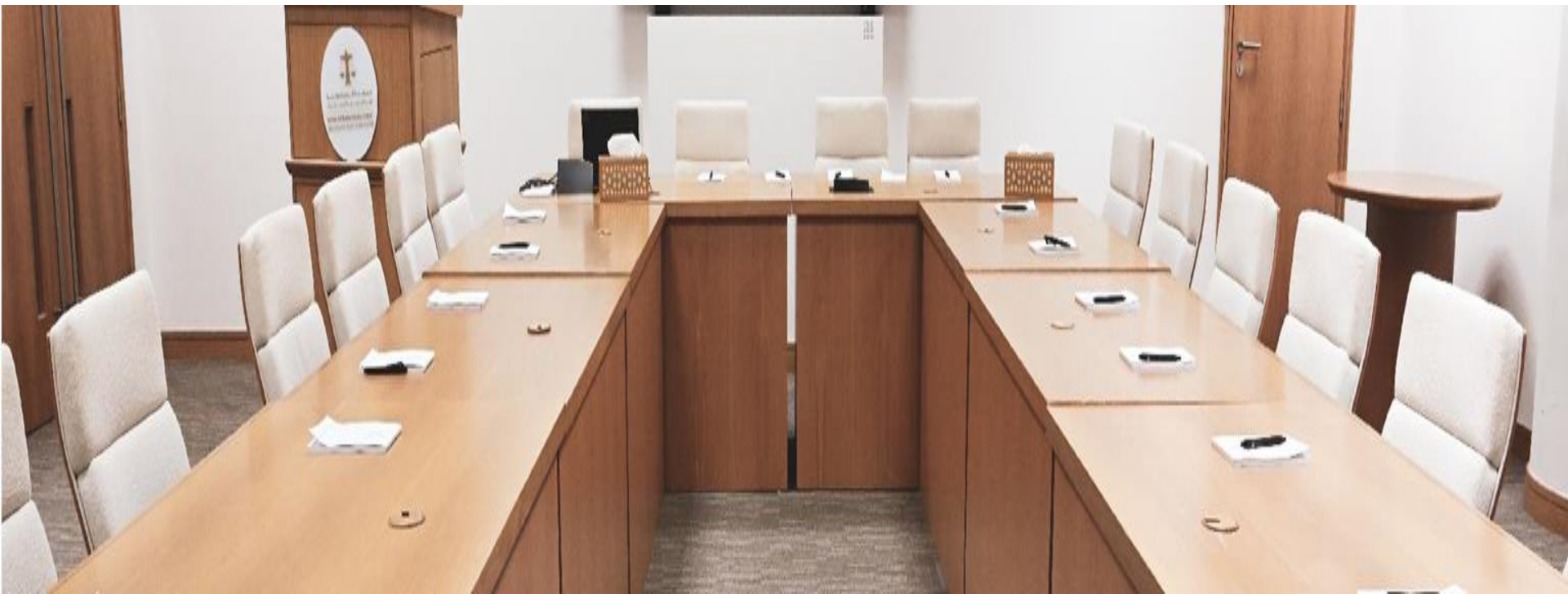
What Are the Parties Called?

- First Instance Circuit:
 - Claimant
 - Defendant
- Appellate Division:
 - Applicant
 - Respondent



Where Do the Parties Sit in Court?

The Claimant and Applicant sit to the right of the Judges.
The Defendant and Respondent sit to the left of the Judges.



Who May Represent the Parties?

(Art. 29 Regulations and Procedural Rules)

- In person, without a lawyer.
- The Court's presiding judge has the discretion to decide who has rights of audience.
- When the presiding judge does not give any direction, any qualified lawyer from any recognized state jurisdiction has rights of audience.
- Subject to the Registrar's and/or Court's being satisfied of their:
 - Qualifications
 - Competence
 - Good standing

Jurisdiction of the First Instance Circuit (Art. 8.3 (c) Law No. 7 of 2005, as amended)

Civil and commercial disputes arising between:

- QFC-registered companies
- A QFC-registered company and the QFC or any of its institutions
- A QFC-registered company and its employees
- A QFC-registered company and a non-QFC body it has contracted with (unless the parties agree otherwise)

Jurisdiction of the First Instance Circuit (Art. 8.3 (c) Law No. 7 of 2005, as amended)

- A QFC-registered company and a citizen of the State of Qatar.
 - 180 companies are currently registered with the QFC.
- Parties that have consented that the Court will have jurisdiction. Consent can be expressed in a document, given orally, or inferred from the parties' conduct.

Jurisdiction of the Appellate Division

(Art. 8.3 (d) Law No. 7 of 2005, as amended)

- Appeals against decisions of the First Instance Circuit.
- Appeals against decisions of the Regulatory Tribunal.

Contesting the Jurisdiction of the Civil and Commercial Court of the QFC (Art. 19 Regulations and Procedural Rules)

- Must notify the Registry and the claimant within 14 days of service of the Claim Form.
- Must file an application notice with the Registry and serve it on the other party within 14 days of the notification to the Registry.

Applicable Law in the
QFC Civil and Commercial Court
(§ 8 Schedule 6 to Law No. 7 of 2005, as amended;
Art. 11 Regulations and Procedural Rules)

- The Court applies:
 - QFC Law No. (7) of 2005
 - QFC Regulations and Procedural Rules, including:
 - Contract Regulations (No. 4)
 - Employment Regulations (No. 10)

Applicable Law in the
QFC Civil and Commercial Court
(§ 8 Schedule 6 to Law No. 7 of 2005, as amended;
Art. 11 Regulations and Procedural Rules), Cont.

- Qatari law
- Any law the parties have explicitly agreed to apply, provided that the law of the other jurisdiction is not inconsistent with the Public Order of Qatar.

Applicable Law in the
QFC Civil and Commercial Court
(§ 8 Schedule 6 to Law No. 7 of 2005, as amended;
Art. 11 Regulations and Procedural Rules), Cont.

The Court will at all times apply all consumer protection provisions of the QFC Law and the QFC Regulations.

QFC Law and Regulations database:

<http://www.complinet.com/qfcra/display/index.html>.

Choice of Language

(Art. 3 Regulations and Procedural Rules)

- Usually English
- Arabic if the parties wish so
- Simultaneous oral translations
- The Court provides interpreters



Sequence of Events (1)

- The claimant (plaintiff) gives notice to the Registrar (Applicant Notice) and serves notice to the respondent (defendant).
- The respondent (defendant) files a notice to the Registrar (Respondent's Notice).
- The Registrar issues a Claim Form completed by the claimant.
- The claimant serves the Claim Form on the Respondent (Defendant).
- The respondent (defendant) serves the Defense and/or Counterclaim Form on the claimant.
- The claimant serves a reply to the defense and/or counterclaim (optional).

Sequence of Events (2)

- Case management by the Registrar and the Court.
- Disclosure.
- Trial (evidence, opening statement, direct and cross examination, closing argument).
- Decision of the Court.
- Enforcement.
- Appeal, if a party wishes and if the Court grants permission.

Application Notice

- Claimant must give notice to the Registrar before completing a Claim Form.
- Send by email in letter format in PDF.



QATAR INTERNATIONAL COURT
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Qatar International Court
and Dispute Resolution Centre

Application Notice

| For Court use only | |
|--------------------|--|
| Case No: | |
| Date Filed: | |



QATAR INTERNATIONAL COURT
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القضاء الدولي وقطر لمركز تسوية المنازعات
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Respondent's Notice

- Must indicate whether the respondent (defendant) is contesting jurisdiction.
- Must indicate whether the respondent (defendant) wants the Court to grant the applicant's application.

The Claim Form

(Art. 17 Regulations and Procedural Rules)

- Claimant must complete a Claim Form indicating:
 - The names and addresses of the parties and their legal representatives
 - The facts relied on
 - The legal basis for the claim
 - The remedy sought
 - The applicable law and language
 - Whether any step has been taken to resolve the dispute by ADR

The Claim Form

(Art. 17 Regulations and Procedural Rules), Cont.

- All claims arising out of the same matter must be put forward at the same time.
- Claimant must attach to the Claim Form the documents supporting the claim.
- After the Registry issues the completed Claim Form, proceedings commence.

A Claim Form is valid for service for 4 months from the date of issuance.

Defence and/or Counterclaim

(Art. 20 Regulations and Procedural Rules)

- Defendants must complete a Defence Form within 28 days from the date of service of the claim.
- Defendants can:
 - Admit the claim (in full or in part) and make proposals for how the claim is to be satisfied,
 - State a defence to the claim, or
 - Make a counterclaim

Reply to Defence and/or Counterclaim (Art. 21 Regulations and Procedural Rules)

- Optional brief statement of reply to the matters raised in the defence.
- If the defendant counterclaims, the claimant must tell the Court whether:
 - The claim (or any part of it) is admitted, or
 - The claim is disputed

Statement of Truth

(Art. 16 Regulations and Procedural Rules)

Statement of Truth

*(I believe)(The Claimant believes) that the facts stated in this Claim Form are true and
*(I)(the Claimant) acknowledge(s) and understand(s) the points listed above.

All forms must contain a signed Statement of Truth to promise the Court that the contents of the claim are true. The Statement of Truth must be signed by the party or by its legal representative.

Service of Forms

(Art. 18 Regulations and Procedural Rules)

- The claimant or the defendant must serve the forms on all parties to the claim.
- Forms must be filed at the Court's Registry by email, post, or in person.

Service of Forms

(Art. 18 Regulations and Procedural Rules), Cont.

- Service within Qatar may be done by personal service, delivery to a party's home address, post, fax, or any method agreed to by the parties or directed by the Court.
- Service outside Qatar must comply with the service rules applicable to the country concerned.

Summary Judgment

- The Court may grant summary judgment when the issue can be decided on the facts, without a trial.
- The Court may grant summary judgment on a claim, a defense, or any issue.
- A party who wants the Court to render summary judgment makes a pretrial application, called an interim application.

Case Management

(Art. 15 Regulations and Procedural Rules)

- By the Registrar and/or a single Judge of the Court
- Timetable
- The Court may give directions, taking into account:
 - The parties' interests, and
 - The best international practice



Case Management

(Art. 15 & 22 Regulations and Procedural Rules),

Cont.

- Goal:
 - Encourage the parties to act reasonably
 - Ensure efficiency
- Directions hearing may take place if the Court so directs
- During a directions hearing, the Court gives directions about the future management of the case
- Minimum 7 days' notice to the parties for a directions hearing

Case Management

(Art. 15 Regulations and Procedural Rules), Cont.

- The Court may order case-management directions on the application of any party or on its own initiative.
- The Court may make whatever directions it considers appropriate.

**Case
Management**



Disclosure

(Art. 10.2.5 & 26 Regulations and Procedural Rules)

- No obligation to disclose
- But the Court has the power to:
 - Direct parties to disclose documents relevant to the case
 - Determine what documents, if any, are privileged

Pretrial

The Registrar notifies parties at least 14 days before the date and place of the hearing (trial).

The Court may give directions about the venue, language, length, timing, extent of written or oral submissions, or adjournment.

Trial

(Art. 28 Regulations and Procedural Rules)

- 
- Parties are present in the courtroom in Doha or virtually through video or, if permitted, by telephone.
 - Usually held in public.
 - Conducted in English or Arabic.
 - The Court works with English translations of Arabic texts, giving special attention to legislative intent.

Trial

(Art. 28 Regulations and Procedural Rules)

- The method of litigation at the Court is adversarial.
- Proceedings are audio recorded.
- Videotaped proceedings and overnight typed transcriptions are available.
- The Court hears the evidence and arguments of both parties.

Trial–Documents for Trial

- **Skeleton arguments:** Each party must provide a summary of their arguments in the case with references to documents, evidence, witness, and legal provisions. **No longer than 50 pages.**
- **List of issues:** Must be drawn up to the parties and agreed during the pretrial review with the Court.

Trial–Evidence

(Art. 15, 22 & 25 Regulations and Procedural Rules)

- If the claim is defended or there is a counterclaim, the parties must prove their case in Court.
- Active role of the Court in determining what evidence it needs to see by:
 - Issuing directions to the party on the documents that may be filed
 - Strictly controlling oral evidence

Trial–Oral Evidence

(Art. 10.2 & 27 Regulations and Procedural Rules)

- The Court assesses the credibility, reliability, and weight of the evidence.
- The Court generally admits relevant evidence subject to determining its weight.
- Witness may choose between taking an oath or making an affirmation.
- The Court does not call its own witnesses.

Trial–Oral Evidence

(Art. 10.2 & 27 Regulations and Procedural Rules), Cont.

- The Court may give directions about how any matter at issue must be established.
- The Court may give directions about the form and content of any experts' reports and the number of experts who may be called.

Trial–Oral Evidence

(Art. 10.2 & 27 Regulations and Procedural Rules), Cont.

- The Court may appoint an expert.
- An expert who gives evidence before the Court has a duty to assist the Court on matters within the expert's own expertise.
- The expert's duty overrides any obligation to the person from whom he or she receives instructions or by whom he or she is paid.

Trial–Opening Statement

- Discretionary
- Preview of the evidence



Trial—Direct and Cross Examination of Witnesses

- Direct examination
- Cross examination
- Re-direct examination
- Re-cross examination
- Rebuttal (if permitted)



Trial–Closing Argument

The closing argument occurs after the presentation of evidence.
It reiterates the important arguments admitted in Court.



"I believe in trial and error. I believe my client
being brought to trial is an error."

Decisions of the Court

(Art. 32 Regulations and Procedural Rules)



The Court takes into consideration
the documents, evidence, and oral arguments.

Decisions of the Court

(Art. 32 & 33 Regulations and Procedural Rules),

Cont.

- When the Court's decision is that of the majority, any Judge in the minority may write a dissenting opinion.
- The Court's decisions are treated as persuasive precedents and are not binding.
- The Court's decisions are published in English and Arabic.
- The Court may make costs awards against parties, but the general rule is that the unsuccessful party will bear the other party's costs.

Decisions of the Court

(Art. 32 Regulations and Procedural Rules), Cont.

- **Judgment orders:** A judgment may include an order for a party to do or not do something.
- **Money judgment:** A judgment for the payment of money must be complied with within 14 days of the judgment unless the Court sets a specific date.

Decisions of the Court

(Art. 32 Regulations and Procedural Rules), Cont.

- Communication of the decision to the parties:
 - At the end of the hearing, the Court informs of the decision and the reasons; or
 - At the end of the hearing, the Court informs of the decision but reserves the written reasons for a later date; or
 - The decision and the reasons are published at a later date

Settlements

Civil claims are often settled between the parties before a judgment is reached or before trial is commenced.

The parties must record their settlement so that the Court can enforce it.



Enforcement of Decisions (Art. 6.3 & 34 Regulations and Procedural Rules)

- Enforced like any other decision rendered by the Court of the State of Qatar.
- The enforcement judge is primarily responsible for enforcing the Court's decisions.
- A party is in contravention of judgment if the party, without excuse, fails to comply with an order or decision of the Court.

Appeals

(Art. 9.5 & 35 Regulations and Procedural Rules)

Appeals are heard by the Appellate Division
of the Qatar International Court.



Appeals

(Art. 9.5 & 35 Regulations and Procedural Rules), Cont.

Which decision can be appealed?

- Decisions made by the Registrar may be appealed to a panel of Judges of the First Instance Court.
- Decisions of the First Instance Court may be appealed to the Appellate Division, with permission of either court.
- If either court denies permission, there may be no appeal.

Appeals

(Art. 9.5 & 35 Regulations and Procedural Rules), Cont.

A form must be completed to seek permission to appeal.



PERMISSION TO APPEAL /APPEAL NOTICE

| For Court use only | |
|--------------------|--|
| Appeal Court Ref: | |
| Date Filed: | |



Appeals

(Art. 9.5 & 35 Regulations and Procedural Rules), Cont.

Reasons for the permission to appeal to be granted:

- Substantial grounds for considering that a decision is erroneous, and
- Significant risk that it will result in serious injustice

Appeals

(Art. 9.5 & 35 Regulations and Procedural Rules), Cont.

- If permission is granted:
 - The appeal is a review, not a rehearing
 - The parties may present only those arguments stated in their application for permission to appeal
- The decision denying permission to appeal is final

Appeals

“Rolled-up” technique: The Appellate Division may rule on the merits of the appeal at the same time it reviews the application for permission to appeal.

The “rolled-up” technique applies only when the party seeks permission from the Appellate Division to appeal.

Timing to File an Appeal

(Art. 35.3 Regulations and Procedural Rules)

The notice of appeal must be filed before the Appellate Circuit within 60 days of the date of the decision sought to be appealed.

APPEAL

May I Appeal an Appellate Circuit Decision?

No. Decisions of the Appellate Circuit are final.



