All I want for XMAS is … An E-court! (how sad) | 1

VOISIN LAW

It has been a very busy autumn for the Master of the Royal Court of Jersey. While cases before our esteemed procedural Judge can often be a little soporific in terms of the nature of the application, there are always important points that us practitioners can garner from such decisions.

One particular Judgment that caught my eye concerned a civil trial which is due to start on 16 January 2017. 12 weeks have been set aside. A big piece of litigation.

The judgment related to an application by the Plaintiffs to instruct a company known as Opus II to provide electronic bundles, live transcription services and simultaneous translation services for the purpose of the trial. As the Master noted in his Judgment, the benefit to all parties to have access to the 18000 or so documents that had been disclosed in the case electronically on one common document management system was clear. Such a system makes the conduct of trial far easier in terms of document management, cross examination, closings and, obviously, for the Court in the preparation of its Judgment.

Leaving aside the arguments that were deployed during the hearing, I was struck by the mere fact that this was an application that was required to be determined in the first place. It is interesting that in the UK there have been savage cuts implemented by the UK Government to its legal system. Legal Aid cuts have led to demonstrating in the streets.

Notwithstanding such cuts, the UK appears to have invested significantly in technology in order to drag the administration of justice into the 21st Century. When it comes to technology, I am a Luddite and still love the bundle system, the quill and a book. I have however experienced technology in a Court room and there is no doubt that it assists all notwithstanding my predisposition to the 18th Century work model.

The Jersey Court of Appeal is online. Why are the rest of our Court systems so far behind? Digital Jersey was established some years ago as the “principle driver” of Government effort to showcase Jersey internationally in the digital age.

There is no doubt that our Judgments/Judiciary is a world leader in the offshore industry. I constantly “bang on” about the quality of the Jersey Legal Information Board website. It is a fantastic addition to our jurisprudence.

Given such accomplishments, it does seem a little odd that we seem so backward in terms of “E-Court” technology particularly given the grandiose proclamations from the States. The fact the Master has had to deal with this subject matter simply reflects that.

Perhaps in 2017, the Chief Minister’s department’s New Year resolution should be to update our Court’s technological capability. Less talking, more doing Mr Ozouf?

In keeping with the theme of efficient Courts, the Master was also required to determine a late application for an adjournment of a final hearing relating, inter alia, to a regulatory matter about which there have been several judgments.

The Court granted the adjournment albeit reluctantly.

The Judgment made reference to an individual's human rights and is another reminder of how Human Rights have impacted upon Jersey's judicial decisions over the past few years. The Master said this:

"In particular, I refer to paragraph 4.6.28 of the Human Rights Law and Practice whose general editors include Lord Lester QC and Lord Pannick QC who are extremely experienced and well known practitioners in the field of Human Rights. I therefore concluded that I had to proceed on the assumption that if I required the trial to proceed in the absence of the Appellant who is too ill based on the medical evidence to take part effectively, there was a significant risk of a breach of Article 6 occurring. It was for this reason and this reason alone that I granted the adjournment application".

The Master's comments demonstrate how Jersey law has been impacted by the universal standard. Human rights infect everything that comes before the Court. Quite an advancement when you consider Judgments in the 80s and, indeed, the 90s.

Surely, the implementation of technology in the Court room can only serve to enhance Article 6 … the right to a fair trial.