

## **Dublin Seminar - The new Rules of the Superior Courts**

The Irish branch of the British Irish Commercial Bar Association Law Forum held a seminar on the new Rules of the Superior Courts on 20 October 2016 in the offices of Arthur Cox Solicitors in Earlsfort Terrace, Dublin 2.

The seminar was well attended by Barristers and Solicitors from Ireland. Robert Browne, the Co-Chairman of BICBA, welcomed guests and introduced the speakers for the evening. Judge Paul Gilligan of the High Court chaired the panel comprising Isabel Foley, partner with Arthur Cox solicitors, and Paul Gardiner SC.

Isabel Foley delivered an in-depth review of the new Rules of the Superior Courts. Ms. Foley is a senior partner in the litigation department, and a stalwart of Arthur Cox. She took the attendees through the details of The Rules of the Superior Courts (Conduct of Trials) 2016 Rules (S.I. No. 254 of 2016) which came into effect on 1 October 2016. This presentation informed the guests of the individual elements of the new provisions highlighting aspects that require immediate action and those that have yet to be developed. In addition, she highlighted the rather novel concept of *hot-tubbing* and aired the ambiguities of certain provisions along with suggestions as to how they may be applied in practice. Ms. Foley concluded her presentation with a review of Rules of the Superior Courts (Chancery and Non-Jury Actions and Other Designated Proceedings: Pre-Trial Procedures) 2016 (S.I. No. 255 of 2016), the commencement of which is suspended until further notice.

Paul Gardiner SC, is a senior counsel specialising in commercial litigation at the Bar of Ireland. His reputation for having strong views on the new Rules preceded him and he presented a paper titled *"The Demise of Adversarial Litigation and the Right to Cross-Examine"*. Mr. Gardiner SC addressed a number of key issues arising from the commencement of the new rules in particular development of judge-led litigation. It was recognised that the rules were developed for the purpose of facilitating lengthy, complex trials. Comparisons were drawn from Sir Rupert Jackson's Final Report ("the Jackson Report") published on December 2009, where proposals were made for a financial limit on pre-trial costs. Particular reference was made to the use of pre-trial procedures in the Irish Chancery and Non-Jury lists, where in excess of 2,000 cases started in 2015, as such procedures may stymy progress and increase costs.

Judge Gilligan addressed a number of the points raised by the speakers including the increased role of the judge in Chancery and Non-Jury actions. Judge Gilligan opened the floor to guests who raised a number of questions, in particular queries regarding the requirement to set out in the Statement of Claim, details of what expert witnesses will be relied upon in the Trial and the state of pleadings and use of expert reports in pleadings in pre-commenced proceedings under S.I. No. 254 of 2016.

The event concluded with a brief address from Robert Browne, Co-Chairman of BICBA, followed by a drinks reception.

**Sinead Drinan BL**

*Hon Secretary BICBA*