

Covid-19: participants in SIAC case share success of virtual hearing

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23 April 2020



Maxwell Chambers in Singapore

After **Doug Jones** called for the arbitration community to exchange feedback on cases conducted remotely using technology during the coronavirus pandemic, participants in an international commercial case under SIAC rules have shared their experience of conducting a case using technology provided by Maxwell Chambers in Singapore.

The case, which took place late last month, was administered by SIAC and heard by a sole arbitrator, **Timothy Cooke** of Stephenson Harwood, from a hearing room at Maxwell Chambers – which was possible as Singapore has been combatting the coronavirus without the restrictive lockdown measures adopted in many parts of the world.

Representatives of both parties and the claimant's counsel were present in the hearing room – at a distance from one another – but the respondent's counsel, **Simon Milnes** of Twenty Essex in London, participated via video conferencing. So too did all the witnesses (six in total, giving evidence from London, Sydney and Taipei).

They used Polycom RealPresence Group 700 video conferencing facilities provided by Maxwell Chambers, which can connect up to 50 remote parties, and BlueJeans video conferencing software.

The e-hearing partner was Opus2, a tenant at Maxwell Chambers, which provided both the e-hearing platform and real-time transcription services.

Cooke tells GAR: “Our experience of holding a virtual hearing from Maxwell Chambers was a very positive one. The hearing required simultaneous attendance from people across three continents and the presentation of witnesses in different languages. The video conferencing facilities operated without difficulty and with very minimal time lag. This was impressive given that at one point we had counsel in England cross examining a witness in Australia with the tribunal and other participants in the hearing room in Singapore.”

“There were very few technical hitches. We lost the video feed only once during the week - this was managed by taking an early lunch to allow the issue to be fixed. I understand the problem took less than 10 minutes to address.

Cooke continues: “The fact we were conducting a virtual hearing was almost forgotten as the matter got underway. Hearing oral argument was no different really from physical hearings. Much is said about how conducting cross examination of a witness over video-link is more difficult or less effective than in person. That might be true in the past with slow video feeds or where there is a poor quality connection but in our modern age, and based on listening to 6 witnesses over video-link in this case, and counsel for one party conducting the proceedings entirely by video-link, I think that concern needs reassessing. I would have no hesitation conducting more hearings in this format.”

“It makes an appreciable difference to the experience where the law firms involved are co-operative rather than combative,” Cooke says. “They need to work together or ensure those appearing by video-link have all the right bundles; there needs to be some flexibility (on the part of the parties, witnesses and the tribunal) in terms of the sequence of witnesses to accommodate different time zones; where possible a person appearing by video-link should wear headphones and a microphone; and the parties should use experienced stenographers for live transcription facilities (which should be available in real time in all locations).”

Milnes, who appeared as counsel in the case from his home in London (the UK has been in lockdown since 23 March), says the experience of conducting a case via video technology was “so close to an in-person hearing that I will be unhesitatingly recommending this technology to clients even after the covid-19 crisis is over. It did not feel like a second-best option, but rather a state-of-the-art facility that let the arbitration run without hindrances.”

“The sound and image quality was high, and we were able to re-position the cameras for witness examination so as to get a better close-up interaction between witnesses and counsel. We had witnesses participating from Taipei and Sydney and London, as well as myself on-line continuously as counsel from London, and those three-way sessions did not see any drop in the connectivity. I feel absolutely sure that my clients’ ability to present our case was in no way lessened by participating remotely.”

Milnes recalls “very few technical difficulties”, only “one moment when the link was lost or froze but we were re-started again within a few minutes.”

“Crucial to this was having the Maxwell Chambers technical personnel available to help promptly,” he says.

Milnes continues that he would definitely reuse the virtual hearing technology in the coming months and years, even after covid-19 has passed. “A great advantage in all of our comfort level came from knowing that Maxwell had trialled this technology and had staff on hand who were truly conversant with it, and who were available to assist should any technical glitches arise, though they barely did.”

Singapore was praised for quickly containing the coronavirus when it first spread from China without the draconian measures implemented elsewhere in the world – through testing, quarantining and tracing the contacts of those infected. Those who test positive for the virus are hospitalised and are not released back into the community, even for home quarantine, until they have tested negative again.

Recently, however, there has been a worrying spike in infections attributed to undetected cases in the city state’s migrant community.

Maxwell Chambers issued a first response to the covid-19 outbreak in 20 January stating that as a precautionary measure it might conduct temperature screening for visitors to the hearing centre and urging them to exercise caution and good hygiene practices and monitor their health.

In an update to this on 10 February, the centre said visitors would be required to complete a travel and health declaration form on arrival and to undergo temperature screening, with entry denied to those with a temperature of 37.6 degree Celsius or above.

The latest update lists various additional precautionary measures the centre has taken, including requiring employees to take their temperature at least twice a day and to regularly wash their hands; disinfecting common areas at least four times a day; disinfecting all areas and surfaces in hearing rooms, executive suites, the business centre and arbitrators’ lounges, including tables and chairs, sofas and couches, telephones, shelves, doors and handles; dividing its workforce between two sites and scheduling staff to work from home in rotation to minimise contact between them.

As well as by Opus 2, Maxwell Chambers offers an e-hearing platform and real-time transcription services.