

## COMMERCIAL DISPUTES WEEKLY – ISSUE 25

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### BITE SIZE KNOW HOW FROM THE ENGLISH COURTS

We appreciate that our clients, partners and friends are currently facing unprecedented challenges as a result of the spread of the COVID-19 virus. Click [here](#) for a message from our Managing Partners, and [here](#) for all of our latest updates and articles on the subject. If you have any questions or require support, please do not hesitate to speak to your usual contact at WFW.

#### Costs

Although an unsuccessful party will normally be ordered to pay the successful party's costs of a dispute, the High Court has emphasised that, where the successful party failed in relation to a discrete issue, it may be appropriate to make an issues-based costs order limiting the costs that can be recovered.

[Bonsor v Bio Collectors Limited](#)

**"An order striking out a defence and debarring a defendant from defending ... is the ultimate sanction that the court can impose for a breach of its order that does not amount to a contempt of court."**

[Byers & Ors v Samba Financial Group](#)

#### Disclosure

Demonstrating the critical role that disclosure plays in English litigation, the High Court has refused to relieve a defendant of its obligation to disclose documents where disclosure risked prosecution in another jurisdiction, with the result that the defendant was debarred from defending certain parts of a significant claim for equitable compensation.

[Byers & Ors v Samba Financial Group](#)

#### Jurisdiction

The Commercial Court has rejected arguments that the *lis pendens* rules under the 2007 Lugano Convention should be "harmonised" with the rules under the Recast Brussels Regulation, noting that the Lugano Convention has its own procedure for making amendments and no such amendments have been made.

[Mastermelt Limited v Siegfried Evionnaz SA](#)

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## Privilege

It is important to exercise particular caution when referring to privileged documents in statements of case or witness statements to avoid waiving privilege, but the High Court has emphasised that relying on the effect of such a document, particularly for a limited purpose at the interlocutory stage, may not amount to a waiver.

[TMO Renewables Ltd v Reeves & Anr](#)

## Service

Stressing the importance of complying with the rules on service, particularly where documents are to be served out of the jurisdiction, the High Court has refused to dispense with the obligation for personal service of an order for examination of a judgment debtor living in the US.

[Slade v Abbhi](#)

## FOR MORE INFORMATION

Should you wish to discuss any of these cases in further detail, please speak with a member of our London dispute resolution team below, or your regular contact at Watson Farley & Williams:

- [Andrew Ward](#)
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