

COMMERCIAL DISPUTES WEEKLY – ISSUE 27

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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.

Arbitration

Demonstrating its pro-arbitration stance in the face of the defendant's "Janus-faced" approach, the Commercial Court has granted a conditional anti-suit injunction restraining a bank from bringing proceedings in Singapore notwithstanding the fact that there was a question as to whether the parties were bound by a London arbitration clause.

Times Trading Corporation v National Bank of Fujairah (Dubai Branch)

"It would be invidious to permit someone who is invoking a contract as the basis for its claim to do so otherwise than in accordance with the jurisdictional regime of that contract."

Times Trading Corporation v National Bank of Fujairah (Dubai Branch)

Costs

The High Court has emphasised the need for there to be a good reason not to order a paying party to make a payment on account of costs, and that where the paying party claims to have insufficient resources, they must adduce evidence of their means. However, certain unsatisfactory features of a receiving party's application could instead be reflected in the amount ordered to be paid.

Argus Media Limited v Halim

Freezing injunctions

Refusing to continue a freezing injunction in support of a foreign arbitration, the Commercial Court has found that the fact the defendant was a British national did not amount to a sufficient connection to England and Wales, given that he was neither domiciled nor resident here.

Petrochemical Logistics Ltd & Anr v PSB Alpha AG & Anr

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Mediation

The English court has once again emphasised the dangers of refusing to mediate, holding that up to 50% of a successful defendant's costs should be disallowed after it repeatedly refused to participate in mediation from the outset of the case.

Wales (t/a Selective Investment Services) v CBRE Managed Services Ltd & Anr

Without prejudice privilege

In an unusual case on the limits of the protection offered by without prejudice privilege, the English court has found that passages from a party's mediation position paper were admissible as evidence in a subsequent dispute in order to rebut allegations of fraud.

Berkeley Square Holdings & Ors v Lancer Property Asset Management Limited & Ors

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:

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