

COMMERCIAL DISPUTES WEEKLY – ISSUE 31

9 JUNE 2020 • ARTICLE



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.

Appeals

The English court has emphasised the importance of parties giving prompt consideration to the prospect of an appeal, holding that it had no jurisdiction to determine an application to extend time for applying for permission to appeal once judgment had been handed down.

De Sena & Anr v Notaro & Ors

"A judgment which results from an unfair trial is written in water."

Serafin v Malkiewicz & Ors

Arbitration

Confirming the primacy of the freedom of contract principle, the High Court has refused to remove an arbitrator who was specifically named in an arbitration agreement. Although there was a possibility of the arbitrator, as a former employee of the parties' family business, being a witness in the dispute, that did not automatically mean he should be prohibited from acting on the grounds of apparent bias.

B & Anr v J & Ors

Disclosure

The TCC has provided helpful guidance on what is required in relation to the disclosure of "known adverse documents" under the Disclosure Pilot for the Business and Property Courts, commenting that a party should take reasonable and proportionate steps to check whether they have such documents, and if so, reasonable and proportionate steps to locate them.

Castle Water Ltd v Thames Water Utilities Ltd

WATSON FARLEY & WILLIAMS

Pre-Action Disclosure

In a case which demonstrates that successful applications for pre-action disclosure in commercial cases remain rare and emphasises the importance of keeping such applications highly focussed and confined to what is strictly necessary, the Commercial Court has refused to order pre-action disclosure in relation to allegations of professional negligence.

Carillion Plc v KPMG LLP & Anr

Trial

In an extremely unusual case the Supreme Court has upheld a decision that a judge's conduct of a libel trial had been unfair to the claimant, holding that the hostility shown by the judge to the claimant and his case indicated that the judge had not allowed the claim to be properly presented and so there had to be a complete retrial of the matter. The decision also provides some welcome clarity on the availability of the public interest defence to publication of defamatory statements.

Serafin v Malkiewicz & 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:

- Andrew Ward
- Rebecca Williams
- Charles Buss
- Dev Desai
- Andrew Hutcheon
- Robert Fidoe
- Thomas Ross

KEY CONTACTS

ANDREW WARD

PARTNER • LONDON
T: +44 20 7863 8950
award@wfw.com



REBECCA WILLIAMS

PARTNER • LONDON

T: +44 203 036 9805

rwilliams@wfw.com

DISCLAIMER

WATSON FARLEY & WILLIAMS

Watson Farley & Williams is a sector specialist international law firm with a focus on the energy, infrastructure and transport sectors. With offices in Athens, Bangkok, Dubai, Dusseldorf, Frankfurt, Hamburg, Hanoi, Hong Kong, London, Madrid, Milan, Munich, New York, Paris, Rome, Seoul, Singapore, Sydney and Tokyo our 700+ lawyers work as integrated teams to provide practical, commercially focussed advice to our clients around the world.

All references to ‘Watson Farley & Williams’, ‘WFW’ and ‘the firm’ in this document mean Watson Farley & Williams LLP and/or its affiliated entities. Any reference to a ‘partner’ means a member of Watson Farley & Williams LLP, or a member, partner, employee or consultant with equivalent standing and qualification in WFW Affiliated Entities. A list of members of Watson Farley & Williams LLP and their professional qualifications is open to inspection on request.

Watson Farley & Williams LLP is a limited liability partnership registered in England and Wales with registered number OC312252. It is authorised and regulated by the Solicitors Regulation Authority and its members are solicitors or registered foreign lawyers.

The information provided in this publication (the “Information”) is for general and illustrative purposes only and it is not intended to provide advice whether that advice is financial, legal, accounting, tax or any other type of advice, and should not be relied upon in that regard. While every reasonable effort is made to ensure that the Information provided is accurate at the time of publication, no representation or warranty, express or implied, is made as to the accuracy, timeliness, completeness, validity or currency of the Information and WFW assume no responsibility to you or any third party for the consequences of any errors or omissions. To the maximum extent permitted by law, WFW shall not be liable for indirect or consequential loss or damage, including without limitation any loss or damage whatsoever arising from any use of this publication or the Information.

This publication constitutes attorney advertising.