

COMMERCIAL DISPUTES WEEKLY – ISSUE 41

1 SEPTEMBER 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.

"Once a report is truly uncontroverted ... All the court needs to do is decide whether the report fulfils certain minimum standards which any expert report must satisfy if it is to be accepted at all."

Griffiths v TUI UK Ltd

Arbitration

In a further example of the limited circumstances in which a challenge can be made to an award on the grounds of substantial injustice under section 68 Arbitration Act 1996, the Commercial Court has rejected arguments that in making certain findings relating to the class notation of a vessel, an arbitrator had decided the issue before her on the basis of points the claimant had not had a fair opportunity to deal with. The issue of class had in fact been raised by the claimant and was "in play" in the proceedings.

ASA v TL & Anr

Expert evidence

The High Court has given useful guidance on the correct approach to "uncontroverted" expert evidence, making clear that if an expert report is truly

uncontroverted then, provided it is more than a bare assertion, the court just needs to decide whether it fulfils the minimum standards required of any expert report, as set out in the CPR.

Griffiths v TUI UK Ltd

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Joinder of parties

In an interesting judgment on the interaction between commercial disputes and criminal matters, the High Court has refused an application to join the National Crime Agency (NCA) to proceedings concerning the payment out of monies from an escrow account which it was contended could put the operator of the account at risk of committing an offence under the Proceeds of Crime Act 2002. By the time of the hearing it was clear that the NCA accepted the payments could be made, and while joining the NCA at the instigation of one of the parties may be conceptually justifiable, the court should be wary of involving it in commercial disputes between private parties against its will.

PDVSA Servicios SA v Clyde & Co LLP & 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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