

COMMERCIAL DISPUTES WEEKLY – ISSUE 45

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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.

"If a contract contains a term to which the parties intend to give an unusual or technical or non-legal meaning, that must be spelt out."

Primus International Holding Company & Ors v Triumph Controls – UK Limited & Anr)

Appeals

Emphasising that applications for permission to appeal should usually be made to the lower court first, the TCC has refused to hand down judgment on a jurisdiction challenge until the Court of Appeal has determined an application for permission to appeal a decision made in the course of the hearing – the parties were entitled to know the basis upon which final judgment would be given, and not be subject to a risk that the material the judgment was based on would be retrospectively vitiated by the Court of Appeal.

Município de Mariana & Ors v BHP Group Plc & Anr

Construction

In the first reported decision to apply the Supreme Court's decision in *Bresco*, the TCC has noted that the difficulties regarding the relationship between insolvency and adjudication can still be considered at the enforcement stage, and in this case enforcement of an adjudication award in favour of an insolvent party should be refused on the basis that there was a real risk the respondent would be deprived of security for its cross-claim.

John Doyle Construction Limited (in liquidation) v Erith Contractors Limited

Construction

Highlighting the importance of clear, contemporaneous record keeping, the TCC has found in favour of a labour, plant and materials contractor in relation to claims concerning the construction of an EfW plant.

Premier Engineering (Lincoln) Limited v MW High Tech Projects UK Limited

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Contract

Confirming that the court will generally construe words on the basis of their ordinary legal meaning rather than an unusual, technical or non-legal meaning, the Court of Appeal has upheld a decision that a reference to “goodwill” in an exclusion clause in an SPA meant the loss of the good name and public reputation of the business concerned, and was not a reference to the accounting definition of the term.

Primus International Holding Company & Ors v Triumph Controls – UK Limited & Anr

Maritime

The Admiralty Registrar has highlighted a number of issues and anomalies in the procedural rules concerning Admiralty claims, particularly relating to the operation of applications for default and summary judgment.

Premier Marinas Limited v The Owner(s) of M/Y “Double Venus” aka “Llamedos” & Anr

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
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