

## COMMERCIAL DISPUTES WEEKLY – ISSUE 62

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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.

"I find it difficult to conceive how it can ever be in the public interest to grant permission on a committal application in private litigation where a sufficient prima facie case has not been shown."

Ocado Group PLC &  
Anr v McKeeve

#### Arbitration

The Commercial Court has refused to stay professional negligence proceedings arising out of advice concerning a shipbuilding dispute in circumstances where the advice pre-dated the relevant arbitration clause and the clause was found not to have retrospective effect.

Premier Cruises Limited v DLA Piper RUS Limited & Anr

#### Costs

In a warning on the risks of making late applications, the Commercial Court has found that an unsuccessful defendant who had applied to amend its defence and rely on additional witness statements on the first day of trial should pay the costs of the applications and of the trial on the indemnity basis, noting that the effect of the applications was to "create chaos" for the claimant.

Ferand Business Corporation & Ors v Maritime Investments Holdings Limited & Anr

#### Court fees

Providing clarity in circumstances where different parts of HMCTS had offered different views on the issue, the High Court has confirmed that the fee payable on bringing an additional claim against a third party is the same fee as if the remedy sought were the subject of separate proceedings.

Walayat & Ors v Berkeley Solicitors Limited

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## Joinder

The High Court has granted permission to join a defendant to a claim in the midst of trial, noting that the new defendant had been involved in the litigation from the outset, and indeed had directed the conduct of the defence, and joinder would increase the prospects that the proceedings would result in a more effective outcome.

Benkel v East-West German Real Estate Holding & Anr

## Search orders

In a very unusual case, the Court of Appeal has found that a solicitor who gave instructions to destroy documents in the face of a search order should face committal proceedings for contempt of court, noting that no court should countenance the deliberate and irretrievable destruction of documents where litigation is under way.

Ocado Group PLC & Anr v McKeeve

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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