

COMMERCIAL DISPUTES WEEKLY – ISSUE 69

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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.

"The issue for the court is whether the claim or counterclaim was brought bona fide in the independent interests of the company or whether it was advanced as a response to or as part and parcel of the shareholders' dispute."

Koza Ltd & Anr v Koza Altin İşletmeleri AS

Adjournment

The High Court has refused to adjourn a consequential hearing in circumstances where the applicants' counsel team had withdrawn from the case. The withdrawal had left the applicants "horribly exposed", but could not be used as a good reason for adjourning where the reasons had not been clearly articulated.

Axnoller Events Limited v Brake & Anr

Contract

Emphasising that the English courts will only decline to give effect to a no set-off clause in exceptional circumstances, the Commercial Court has made an order for summary judgment in respect of a claim under a guarantee, holding that failing to give effect to the clause in this case would interfere with the freedom of the parties to contract on terms they considered appropriate. However, there was an arguable case that the relevant interest rate was unenforceable on the grounds it was a penalty, and so that issue was not suitable for summary determination.

Bedford Investments Limited v Sellmann & Anr

Litigants in person

Emphasising that litigants in person and represented parties are generally subject to the same procedural rules in litigation, an order has been made requiring a litigant in person who had conducted proceedings in a way which was well out of the norm to pay costs on the indemnity basis.

Sir Henry Royce Memorial Foundation v Hardy

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Maritime

In an interesting decision concerning obligations to nominate, the Commercial Court has held that where a sale contract required a buyer to nominate a vessel by a particular date, an invalid nomination was not in itself a breach of condition. It was only if a valid nomination had not been made in time that the seller would be entitled to treat the contract as being at an end.

A v B

Shareholder disputes

The High Court has restrained a director from causing a company to use its money to fund proceedings, holding that the object of the proceedings was the control of the company, and so payment of the costs by the company would breach the legal costs principle.

Koza Ltd & Anr v Koza Altin İşletmeleri AS

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:

Robert Fidoe	Rebecca Williams
Ryland Ash	Charles Buss
Nikki Chu	Dev Desai
Sarah Ellington	Andrew Hutcheon
Alexis Martinez	Theresa Mohammed
Tim Murray	Mike Phillips

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

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