

COMMERCIAL DISPUTES WEEKLY – ISSUE 83

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BITE SIZE KNOW HOW FROM THE ENGLISH COURTS

"When considering whether a judgment on an arbitration claim should be published, with or without anonymisation, the court must weigh the factors militating in favour of publicity against the desirability of preserving the confidentiality of the original arbitration and its subject matter."

Manchester City
Football Club Ltd v
Football Association
Premier League Ltd

Arbitration

Demonstrating the importance of the open justice principle, even in the context of arbitration claims, the Court of Appeal has upheld a decision to publish a judgment concerning a challenge to an arbitration award and an application to remove arbitrators. The publication would not lead to disclosure of significant confidential information and there was a public interest in enabling public scrutiny of the way the court exercises its jurisdiction to set aside or remit awards for substantial irregularity. *Manchester City Football Club Ltd v Football Association Premier League Ltd*

Arbitration

Emphasising the consensual nature of arbitration, the Court of Appeal has rejected arguments that a defendant was entitled to rely on findings in an LCIA arbitration award between the claimant and a third party. The Court also rejected arguments that the proceedings were an abuse of process, noting that while it is possible for court proceedings to amount to abuse on the basis of a collateral attack on an earlier arbitration award, such cases are likely to be rare and in this case there was no question of a collateral attack.

Vale SA & Ors v Steinmetz & Ors

Jurisdiction

The High Court has rejected arguments that it lacked jurisdiction to determine a claim for declarations that a lender was entitled to information from the borrower under the terms of a facility agreement which provided for the exclusive jurisdiction of the English courts. Although the defendant was subject to a French insolvency process to which the Recast Insolvency Regulation applied, the legal basis of the claim was the facility agreement, and not the insolvency process.

Emerald Pasture Designated Activity Company & Ors v Cassini SAS

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Unlawful means conspiracy

Rejecting a strike out application, the Court of Appeal has commented that while a conspiracy requires an agreement or understanding between two or more persons acting autonomously, and so it is not clear that there is the requisite combination if all that happens is that a person uses their company to commit an unlawful act, the point is one of some difficulty and there are arguments the other way which meant it was more appropriate to explore the issue at trial.

Raja v McMillan

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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