

COMMERCIAL DISPUTES WEEKLY – ISSUE 84

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BITE SIZE KNOW HOW FROM THE ENGLISH COURTS

"What matters is the wording in which the parties have chosen to express their bargain, interpreted in accordance with the well-established rules of construction."

Shanghai Shipyard Co Ltd v Reignwood International Investment (Group) Co Ltd

Construction

The TCC has provided rare guidance on whether collateral warranties given on construction projects are "construction contracts" for the purposes of the Construction Act, and whether an adjudication can be brought under collateral warranties. Read our full briefing of the case, in which WFW acted for the claimants, [here](#).

Toppan Holdings Ltd & Anr v Simply Construct (UK) LLP

Electronic filing

The High Court has provided helpful guidance on the operation of the electronic court filing system, particularly for parties facing limitation issues, confirming that a failure to include certain details on a claim form will not necessarily mean that it has to be submitted afresh. However, the court nevertheless warned that leaving the issue of the claim to the eleventh hour of limitation is a risky approach, to be

avoided at all costs.

ABC & Ors v The London Borough of Lambeth

Estoppel by convention

Affirming the principles on estoppel by convention set out in *Revenue and Customs Commissioners v Benchdollar* (2009), the Supreme Court has found that an individual was estopped from denying that a valid enquiry into a tax return had been opened by HMRC even though it had been sent to the wrong address.

Tinkler v Commissioners for Her Majesty's Revenue and Customs

Service

In an important reminder of the importance of ensuring compliance with the rules on service, the TCC has refused to make an order for alternative service or to dispense with service where a claim form was served on the defendant’s solicitor in circumstances where the claimant did not have notice that the defendant’s solicitor was authorised to accept service. The TCC also refused relief from sanctions, observing that it was not the appropriate route for the claimant to remedy the situation.

LSREF 3 Tiger Falkirk Ltd I SARL & Anr v Paragon Building Consultancy Ltd

Shipbuilding guarantees

The Court of Appeal has provided useful guidance on the approach to determining whether a particular instrument is a see to it guarantee or an on demand guarantee in the context of a shipbuilding contract, rejecting arguments that the starting point is to identify the nature of the institution providing the instrument, and commenting that if reference is to be had to Paget’s presumption, it should be confined to circumstances where all the stated conditions are fulfilled.

Shanghai Shipyard Co Ltd v Reignwood International Investment (Group) Co Ltd

Unjust enrichment

Noting that the relationship between liability in contract and unjust enrichment continues to be problematic, the Court of Appeal has held that there was no scope for the law of unjust enrichment to intervene in circumstances where it was contended that there had been a total failure of consideration, but the claim directly contradicted express contractual terms between the parties.

Dargamo Holdings Ltd v Avonwick Holdings Ltd

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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