

COMMERCIAL DISPUTES WEEKLY – ISSUE 91

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BITE SIZE KNOW HOW FROM THE ENGLISH COURTS

"Uncontroverted evidence may be compelling, but it may not be: it may be inherently weak or unhelpful or of little weight for other reasons."

Griffiths v TUI (UK) Limited

Arbitration

Emphasising the consensual nature of mediation, the Commercial Court has held that where an agreement required parties to mediate disputes before commencing arbitration, a failure to comply with that obligation involved an issue of admissibility before the tribunal rather than one of jurisdiction, and therefore did not fall within the scope of section 67 of the Arbitration Act 1996.

NWA & Anr v NVF & Ors

Construction

In *obiter* comments the Court of Appeal has expressed the view that where a company in liquidation has an adjudication decision on its final account claim in its favour, but is also facing a continuing set off and counterclaim, it is only once the net balance has been ascertained that summary judgment should be entered.

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

Disclosure

The Commercial Court has ordered a defendant to disclose documents held by a third party agent, explaining that while the third party did not have power to enter into a contract on the defendant's behalf, it was entitled to negotiate on the defendant's behalf, and thus the defendant had a legal right to access the documents created in the course of the agency relationship.

Quartz Assets LLC & Anr v Kestrel Coal Midco Pty Ltd

Expert evidence

Confirming that there is no rule that an uncontroverted expert's report which complies with procedural rules must be accepted, the Court of Appeal has reinstated a decision to dismiss a personal injury claim on the basis that the medical evidence in support of the claim was inadequate.

Griffiths v TUI (UK) Limited

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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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