

COMMERCIAL DISPUTES WEEKLY – ISSUE 105

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BITE SIZE KNOW HOW FROM THE ENGLISH COURTS

"A good lookout is essential to safe navigation yet from C-6 EVER SMART had no lookout despite having been warned ...that there was a vessel to port..."

Nautical Challenge Ltd
v Evergreen Marine
(UK) Ltd

Maritime – Apportionment of collision liability

After the Supreme Court held last year that the Collision Regulations 1972 crossing rule and narrow channel rule applied prior to the collision between the ALEXANDRA 1 and the EVER SMART, the Admiralty Court revised its apportionment of liability to 70:30 in favour of ALEXANDRA 1. Both vessels breached one of the Regulations and had committed a further fault, but the causative potency of EVER SMART's faults was greater.

Nautical Challenge Ltd v Evergreen Marine (UK) Ltd [2022] EWHC 206 (Admlty), 8 February 2022

Duress – validity of deed

The High Court has refused to set aside a deed of settlement on the basis that it was entered into under duress. The allegation was that the claimant had contrived a

situation whereby the defendant was threatened with arrest and imprisonment by the police of the Kingdom of Saudi Arabia. The Court held that no illegitimate pressure had been applied and therefore the deed was valid and enforceable.

Al Saif Group v Cable [2022] EWHC 271 (QB), 10 February 2022

Jurisdiction

UBS AG's challenge to the jurisdiction of the English Courts over a claim brought against it has been rejected. The claim was for negligent misstatements and advice in relation to an investment by Mr Kwok and others. The Commercial Court decided that it had jurisdiction because London was where the harmful event occurred and UBS London had sufficiently and significantly participated in several elements of the causes of action forming the claims. UBS could not insist on being sued in its place of domicile, Switzerland.

Kwok Ho Wan and others v UBS AG (London Branch) [2022] EWHC 245 (Comm), 9 February 2022

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Court Discretion

The Commercial Court has agreed to make several declarations following its judgment last year that two interest rate swap transactions between the parties were valid and binding. The Court exercised its discretion to make the declarations because they related to issues in dispute between the parties and would be useful for enforcement of the judgment.

Deutsche Bank AG London v Comune di Busto Arsizio [2022] EWHC 219 (Comm), 4 February 2022

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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