

# GENESIS SUCCESS AGAINST SPICEJET IN THE ENGLISH COURTS

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"The decision in this case represents a substantial success for the lessor community."

WFW represented Genesis in its successful claims against SpiceJet in the English courts, with a recent judgment in respect of redelivery conditions<sup>1</sup> likely to be of benefit to the lessor community as a whole. The trial, in May 2023, was of Genesis' redelivery condition claims following a contentious, albeit eventually voluntary, repossession of a Boeing 737-800 in India in the summer of 2021 at the height of Covid lockdowns. The court found for Genesis on every point and awarded it the full amount claimed.

From the outset, SpiceJet was represented by a City law firm and leading and junior counsel. In February 2022, GASL obtained summary judgment against SpiceJet for unpaid Rent and Supplemental Rent.<sup>2</sup> SpiceJet was ordered to pay US\$5,334,121.25 and, unusually, indemnity costs were ordered against SpiceJet as a result of its conduct of the litigation.

The action then proceeded with the redelivery condition claims. As trial approached, SpiceJet's lawyers came off the record due to SpiceJet's failure to pay their legal fees. Following this, SpiceJet represented themselves in interlocutory hearings including an application to adjourn the trial. Foxton J gave that application short shrift, stating it was "*the latest in a long-running series of attempts by SpiceJet to play for time*". When it came to trial, SpiceJet decided not to attend.

"Breach of that requirement entitled Genesis to the full costs of a performance restoration shop visit."

The decision in this case represents a substantial success for the lessor community. Foxton J was persuaded that (i) since the lease contained appropriate indemnity language and a lessor determination clause, Genesis was entitled to certify the costs of the breaches of the redelivery conditions, (ii) there was no manifest error in the certification and (iii) Genesis was thus entitled to judgment in the amount certified. This finding appears to be of significant assistance to the swift resolution of redelivery condition disputes.

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Additionally, the court held that there had been a breach by SpiceJet of the redelivery condition to return engines with sufficient flight hours and cycles remaining to the next engine performance restoration as calculated by reference to the lessee's MTBR for comparable engines. Foxton J found that breach of that requirement entitled Genesis to the full costs of a performance restoration shop visit for the relevant engine. This finding may provide lessors with a strong position in redelivery negotiations should engines fall short of the required redelivery conditions.

This judgment is to be welcomed as a further example of English courts supporting aviation leasing by understanding the risk allocation in a lease, giving effect to the contractual wording agreed by the parties and holding defendants to account where they seek to delay and evade their obligations.

## FOOTNOTES

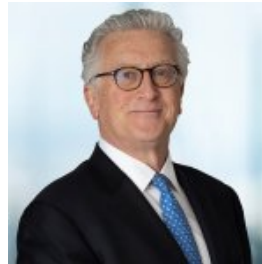
[1] GASL Ireland Leasing A-1 Limited v SpiceJet Limited [2023] EWHC 1107 (Comm)

[2] GASL Ireland Leasing A-1 Limited v SpiceJet Limited [2022] EWHC 382 (Comm)

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