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ideas are always in credit

Supreme Court commercial law cases for Hilary term 2018

Article by David Bowden

Commercial law cases for Hilary term 2018 in the Supreme Court of the UK
A judge's name highlighted in bold means (s)he also granted permission to appeal

Executive speed read summary

During Hilary term in the Supreme Court there are 11 cases it will hear which will be of interest to commercial law practitioners. All eyes will be on the headline Gig economy appeal *involving Pimlico Plumbers* which it will hear over 2 days on 20/21 February 2018. The Court of Appeal and the Employment Tribunals have all held the plumbers to be 'workers'. It is highly likely that the appeal of Uber London from the November 2017 decision of the Employment Appeal Tribunal in which it too held that Uber drivers were 'workers' will be leapfrogged and be heard at the same time.

Tax cases

The Supreme Court has come to its senses and this term (unlike last term when no tax cases were listed at all), it will hear these 3 big tax appeals:

- *Iceland Foods v. Berry* (25 January 2018) as to whether integrated fridges installed at one of Iceland's distribution depots are non-rateable or not,
- *Prudential Assurance v. HMRC* (20/21 February 2018) on how foreign sourced dividends are to be treated for corporation tax and ACT purposes, and
- *Project Blue v. HMRC* (27/28 February 2018) as to whether SDLT be avoided by a back-to-back sale to a Qatari bank of a substantial redevelopment of Chelsea Barracks?

Whilst on a property theme, it will have to decide if an oral variation of a lease is valid or not (*Rock Advertising v. MWB Business Exchange Centres* – 1 February 2018).

Intellectual property

Intellectual property law practitioners will be interested in these 2 appeals:

- *Cartier International v. British Telecommunications* (30 January 2018) as to whether internet service providers can be made to block content that counterfeiters seek to put up, and
- *Warner-Lambert Company LLC v. Generics (UK) Limited t/a Mylan* (12 to 15 February 2018) as to whether patents for generic drugs widely prescribed by the NHS are invalid or not.

Drug smuggling, insurance and conspiracy

The Supreme Court may get a little hot under their collar as they have a conspiracy case as well as a big cocaine smuggling one to grapple with this term:

- *JSC BTA Bank v. Khrapunov* (24/25 January 2018). JSC Bank alleges that Mr Khrapunov conspired with another to injure it and prevent it from enforcing a judgment it had obtained, and
- *Navigators Insurance Company v. Atlasnavios-Navegacao* (20/21 March 2018). It will all get a little racy at the end of March when it will have to consider a large smuggled haul of cocaine in a ship that berthed in Venezuela. The insurers contend that this illegal cargo invalidated the ship's war risks insurance. The case has zig-zagged around in the courts below.

Solicitor's costs

There is 1 costs case this term (*Gavin Edmondson v. Haven Insurance Company Limited*) which concerns whether a solicitor's firm which acted for personal injury clients in bulk under CFAs can obtain profit costs from an insurer where the claims settled early (and without reference to those solicitors) under a court pre-action protocol. This will be heard on 5/6 February 2018.

Competition and Markets Authority

Finally in *Gallagher Group v. CMA* it will have to rule on where there has been mistaken reliance on an assurance given by a regulator, that regulator can nevertheless still be held to the terms of its earlier promise. This will be heard on 13/14 March 2018.

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David Bowden is a solicitor-advocate and runs [David Bowden Law](http://DavidBowdenLaw.com) which is authorised and regulated by the Bar Standards Board to provide legal services and conduct litigation. He is the cases editor for the Encyclopedia of Consumer Credit Law. If you need advice or assistance in relation to consumer credit, financial services or litigation he can be contacted at info@DavidBowdenLaw.com or by telephone on (01462) 431444.