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Supreme Court commercial law cases for Michaelmas term 2017

Article by David Bowden

Commercial law cases for Michaelmas term 2017 in the Supreme Court of the UK
Term runs from 2 October to 21 December 2017

Executive speed read summary

During Michaelmas Trinity term in the Supreme Court there are 15 cases it will hear which will be of interest to commercial law practitioners. In a break with tradition, it will not hear any tax cases at all. It will hear the *Dover District Council v. Council for Preservation of Rural England* case (16 October) brought by Richard Buxton Environmental Law concerning a large and controversial application for planning permission in an area of outstanding natural beauty. It will have to rule on the adequacy of reasons provided by the planning authority. The objectors lost in the High Court but won in the Court of Appeal. If that ruling is upheld then the planners will have to start again on this.

Professional Negligence

There will be a big focus this term on professional negligence with these 2 cases being heard:

- *Jane Bell and Bell & Scott LLP v. Northern Rock Asset Management* (7 November) – as to whether a hurried email sent by a solicitor after close of business to a lender which omitted some information was enough to give rise to liability to that solicitor when the lender cancelled some charges in error, and
- *Tiuta International Limited v. De Villiers Surveyors Limited* (6 November) – the scope of the 'but for' test and whether a surveyor who supplied a 2nd report to a lender before it made a further advance is liable for the lenders losses or not.

Limitation periods

Surprisingly the court will have to grapple with 3 limitation cases:

- *Barton v. Wright Hassall LLP* (22 November) – where a claim was served just out of time and was time barred under the Limitation Act 1980 nevertheless breached the claimant's rights under Articles 6 and 13 of the European Convention on Human Rights,
- *Burnden Holdings (UK) Limited v. Fielding* (7 December) – what does 'unlikely to be discovered for some time' in section 32 of the Limitation Act 1980 mean, and
- *Newcastle Upon Tyne NHS Foundation Trust v. Haywood* (20 November) – what is the date of service of a critical notice of dismissal for redundancy – is it the date a letter is sent, the date it is signed for or the date it is actually read?



Trade marks

Of most interest to IP practitioners will be the *20th Century Fox Film Corporation v. Comic Enterprises* appeal (2 November) and whether a finding of trade mark infringement breaches Article 10 of the European Convention on Human Rights or not. Although *O'Connor v. Bar Standards Board* (4 October) is a race discrimination case, in the Court of Appeal questions were asked about how data was recorded and who had access to it which may be of interest to those responsible for advising on databases or data privacy.



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Company Law

In company law there are these 2 cases:

- *Love v. ELB Securities* (10 October) – whether a lease which is disclaimed because a company was struck off the register can be revived or not, and
- *Morris-Garner v. One Step (Support) Limited* (11/12 October) – where there is a restrictive covenant in a shareholder's agreement what is the appropriate level of damages when it is breached when departing shareholders set up a rival business in breach,

Employment

In the employment field these cases are of interest:

- *Dryden, York & Cipullo v. Johnson Matthey PLC* (27/28 November) – whether an employer owes a duty to keep workers harmless from pure economic loss in a workplace contamination case,
- *A v. B* (12 December) – the scope of disclosure by a teacher in an employment contract where the teacher had failed to disclose a friendship with someone convicted of making indecent images of children and had consequently been dismissed for gross misconduct,
- *HM Inspector of Health and Safety v. Chevron North Sea Limited* (14 December) – whether a court can look at evidence produced after a health and safety's inspector's visit in reaching a decision as to whether to set aside a Prohibition Notice or not.

Miscellaneous

And finally these final cases:

- *Containerships Denizcilik Nakliyat Ve Ticaret AS v. Shipowner's Mutual Protection* (17/18 October) - it will have to decide whether to grant an anti-suit injunction against a court action in Turkey, and
- *Kevin Maguire v. Bar Council of Northern Ireland* (19 October) – whether a legally aided client with a 2 counsel certificate can choose not to have a QC but to have 2 juniors acting for him instead.

Although the case details are not in this note, smoking in prisons [*Regina (Black) v. Secretary of State for Justice*] will be considered on 31 October 2017 which may have implications for other businesses. On 24 October it will also consider the position of women in Northern Ireland who come to Great Britain for abortions [*Reference under schedule 10, paragraph 33 of the Northern Ireland Act 1998*] and how this should be funded.

5 October 2017

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