

LITIGATION

14 Australia

The importance of being earnest: enforceability of mediation agreements

A recent New South Wales Court of Appeal decision has highlighted the need for parties to consider carefully the drafting of agreements that they reach in the course of mediation. The decision serves as a useful warning to parties entering into heads of agreement at mediation or other settlement conferences - they must be precise with the language that is used in any agreement.

Author: Anne Freeman

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15 Malaysia

Court of Appeal stresses value of recording proceedings in expediting cases

Malaysian courts are becoming increasingly proactive in suggesting methods by which disputes can be dealt with more efficiently and expeditiously. The Court of Appeal recently upheld a decision in which a trial judge had proceeded to hear submissions and deliver a judgment at a trial without taking evidence. The case demonstrated the great value derived from the recording of court proceedings.

Author: Nahendran Navaratnam

(Read article <http://www.internationallawoffice.com/?i=55592&l=7HCA1SP>)

16 United Kingdom

Untangling the illegality defence: proportionality test applied in contract claim

In *ParkingEye v Somerfield Stores Limited* the Court of Appeal considered the doctrine of illegality in contract law. The court dismissed an appeal by the defendant that it be granted a complete defence on that basis, finding that it would be disproportionate to deny the claimant a remedy. This case is the first in which the concept of proportionality has been expressly applied when considering the defence.

	<p>Author: Nigel Brook (Read article http://www.internationallawoffice.com/?i=55592&l=7HCA1TD)</p>
17	<p>Cyprus</p> <p>Minimising risks of contempt of interim orders by financial institutions</p> <p>Courts in Cyprus have the discretionary power to issue interim orders, provided that certain conditions have been satisfied. In addition, it is possible to apply for interim measures without notice to the respondent through an <i>ex parte</i> application. The court will consider the application only if there is an element of extreme urgency. Furthermore, the applicant must make full and frank disclosure of all material facts.</p> <p>Author: Costas Stamatiou (Read article http://www.internationallawoffice.com/?i=55592&l=7HDE98N)</p>
18	<p>Ukraine</p> <p>Recent developments in court practice</p> <p>Ukraine's higher courts – the Constitutional Court, the Supreme Court, the Higher Commercial Court and the Higher Specialized Court for Civil and Criminal Matters - have recently issued a number of documents summarizing established court practice. Such documents provide guidelines for lower instance courts.</p> <p>Authors: Andriy Pozhidayev, Anna Tkachova (Read article http://www.internationallawoffice.com/?i=55592&l=7HDE99C)</p>
19	<p>United Kingdom</p> <p>Interim injunctions: the vital and continuing duty of disclosure</p> <p>A recent High Court decision provides a lesson to any successful applicant for injunctive relief: it should not leave the court believing that it has closed the door on its duty of full and frank disclosure. On the contrary, that duty merely begins on the application to court for the injunction, and the applicant that does not recognize its continuing hold is liable to lose its relief.</p> <p>Author: Adam Forster (Read article http://www.internationallawoffice.com/?i=55592&l=7HDE9AE)</p>
20	<p>Australia</p> <p>High Court rules on penalties for breach of contract</p> <p>A recent case before the High Court, involving 38,000 customers of the Australia and New Zealand Banking Group Limited who disputed the bank fees charged to them, will have a profound impact on any contracting party, in any industry, that has penalty or liquidated damages clauses in their contracts. Companies with such clauses in their contracts or persons being charged penalties under contracts</p>

	<p>should seek legal advice.</p> <p>Author: Quintin Rares</p> <p>(Read article http://www.internationallawoffice.com/?i=55592&l=7HEK0NS)</p>
21	<p>Cyprus</p> <p>Supreme Court declares law on sales incompatible with European legislation</p> <p>In a unanimous decision, the Supreme Court of Cyprus recently ruled that certain provisions of the Law Regarding the Sale of Goods at Discounted Prices that regulate clearance sales by retailers are incompatible with the EU directive on unfair business-to-consumer commercial practices. The Supreme Court held that the proper objective of a law regulating sales is to protect consumers, rather than to protect business enterprises.</p> <p>Authors: Constantinos Kourides, Paraskevas Pavlides</p> <p>(Read article http://www.internationallawoffice.com/?i=55592&l=7HEK0PA)</p>
22	<p>Ireland</p> <p>Court confirms restrictive approach to mandatory interlocutory injunctions</p> <p>Various types of injunction can be obtained under Irish law, depending on the relevant circumstances. A recent case involving an interlocutory application for three particular orders, two reflecting injunctions of a mandatory nature, has confirmed the general approach of the courts to the granting of mandatory injunctions on an interlocutory basis.</p> <p>Author: Gearóid Carey</p> <p>(Read article http://www.internationallawoffice.com/?i=55592&l=7HEK0Q6)</p>
23	<p>Mexico</p> <p>Supreme Court finds compensation for damages may not be capped by law</p> <p>A recent Supreme Court decision has established that compensation for damages suffered by a person or company must be determined by the judge on a case-by-case basis. Consequently, indemnity capped by law is unconstitutional. The decision provides persuasive guidance on the court's views with respect to the importance of fully compensating for damages suffered.</p> <p>Authors: Luis Enrique Graham, Angélica Huacuja</p> <p>(Read article http://www.internationallawoffice.com/?i=55592&l=7HEK0QC)</p>
24	<p>United Kingdom</p> <p>A cautionary tale for parties seeking documents through interim relief</p> <p>In a recent High Court case, the claimants applied for various interim orders against the defendants on the basis that use of certain information might grant the defendants an unlawful advantage. The court's</p>

decision suggests that parties should carefully consider the appropriateness of interim relief with regard to documents and the manner in which it is sought.

Author: Gareth Hoodless

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