

BARCLAYS BANK PLC v UNICREDIT BANK AG AND ANOTHER

Banking – Loan securitisations – Whether claimant bank exercised discretion in “commercially reasonable manner” in refusing to consent to early termination – Whether “entire agreement” clause precluded reliance on shared or acquiesced in understanding or estoppel – Whether claimant unreasonable in seeking to hold defendants to performance of contractual obligations.

[2013] 2 Lloyd's Rep. 1

 CADOGAN PETROLEUM HOLDINGS LTD v GLOBAL PROCESS SYSTEMS LLC

Sale of goods – Property passed to buyer – Sums paid and owing to seller – Whether seller entitled to recover sums payable and to retain sums paid and the subject matter following termination of sale contract – Construction of contract – Relief from forfeiture – Rule against penalties – Total failure of consideration.

[2013] 2 Lloyd's Rep. 26

 DRY BULK HANDY HOLDING INC AND ANOTHER v FAYETTE INTERNATIONAL HOLDINGS LTD AND ANOTHER (THE “BULK CHILE”)

Charterparty (Time) – Charterers failing to pay hire – Whether owners entitled to intercept freight payable by shipper – Whether notices effective to require bill of lading freight to be paid to owners – Owners withdrawing vessel from charterers' service – Whether sub-time-charterers requested owners to complete voyage – Whether sub-time-charterers obliged to pay reasonable remuneration – New York Produce Exchange 1946 form.

[2013] 2 Lloyd's Rep. 38

 GRIFFON SHIPPING LLC v FIRODI SHIPPING LTD (THE “GRIFFON”)

Sale of ship – Deposit – Sale agreement providing for payment of 10 per cent deposit by buyers – Buyers failing to pay deposit – Sellers terminating contract for accepted repudiation and/or pursuant to contractual cancellation clause – Whether sellers entitled to recover unpaid deposit or restricted to recovering compensation in lesser amount – Norwegian Saleform 1993, clause 13.

[2013] 2 Lloyd's Rep. 50

 TRAFIGURA BEHEER BV v RAVENNAVI SPA (THE “PORT RUSSEL”)

Charterparty (Voyage) – Demurrage – Notice of readiness – Whether notices of readiness could be served by email – BPVOY3 form.

[2013] 2 Lloyd's Rep. 57

 BEIJING JIANLONG HEAVY INDUSTRY GROUP v GOLDEN OCEAN GROUP LTD AND OTHERS

Arbitration – Validity of arbitration clause – Guarantees allegedly illegal under Chinese law – Disputes to be arbitrated in England – Public policy – Arbitration Act 1996, sections 7 and 67.

[2013] 2 Lloyd's Rep. 61

 KUWAIT ROCKS CO v AMN BULKCARRIERS INC (THE “ASTRA”)

Charterparty (Time) – Hire – Owners withdrawing vessel for non-payment of hire – Whether obligation to make punctual payments of hire a condition – Whether charterers in repudiatory breach – Whether owners entitled to recover damages for loss of bargain – Whether compensation clause in charterparty addenda a penalty clause – New York Produce Exchange 1946 form, clause 5.

[2013] 2 Lloyd's Rep. 69

- **LAWLOR v SANDVIK MINING AND CONSTRUCTION MOBILE CRUSHERS AND SCREENS LTD**
Agency – Termination – Right to compensation under Commercial Agents Directive, Council Directive 86/653/EEC – Whether assessment of compensation to be made under English or Spanish law – Convention on the Law Applicable to Contractual Obligations 1980 (Rome Convention), articles 3 and 4.

[2013] 2 Lloyd's Rep. 98

- **NAVIG8 PTE LTD v AL-RIYADH CO FOR VEGETABLE OIL INDUSTRY (THE “LUCKY LADY”)**
Conflict of laws – Service out of jurisdiction – Forum non conveniens – Whether claim for anti-suit injunction “in respect of” contract governed by English law – Whether defendant's conduct unconscionable – Whether England appropriate forum for negative declaration claims – Whether England appropriate forum for negative declaration claims

[2013] 2 Lloyd's Rep. 104

- **SKNL (UK) LTD v TOLL GLOBAL FORWARDING**

Freight forwarders – BIFA terms – Whether BIFA terms incorporated into contract – Anti-set off clause – Whether running account between parties – Whether customer entitled to set off overpayments in respect of prior transactions – Whether anti-set off clause satisfied requirements of reasonableness – Whether freight forwarder entitled to summary judgment on counterclaim – Unfair Contract Terms Act 1977.

[2013] 2 Lloyd's Rep. 115

- **MAURITIUS COMMERCIAL BANK LTD v HESTIA HOLDINGS LTD AND ANOTHER**

Conflict of laws – Jurisdiction – Applicable law – Variation of law applicable to agreement after agreement made – Validity of unilateral exclusive jurisdiction clause – Rome I Regulation, European Parliament and Council Regulation 593/2008/EC – CPR 6.11(1).

[2013] 2 Lloyd's Rep. 121

- **VERSLOOT DREDGING BV v HDI-GERLING INDUSTRIE VERSICHERUNG AG (THE “DC MERWESTONE”)**

Insurance (marine) – Time policy – Institute Time Clauses Hulls 1983 – Institute Additional Perils Clauses – Perils of the seas – Inchmaree clause – Negligence of crew and repairers – Due diligence – Whether vessel unseaworthy – Measure of indemnity – Fraudulent claim – Fraudulent means and devices – Marine Insurance Act 1906, sections 39(5), 55 and 69.

[2013] 2 Lloyd's Rep. 131

- **CARLYLE CAPITAL CORPORATION LTD (IN LIQUIDATION) AND OTHERS v CONWAY AND OTHERS**

Practice – Anti-anti-suit injunction – Liquidators of Guernsey company bringing common law and statutory claims against former directors and managers – One defendant having benefit of exclusive Delaware jurisdiction clause – Whether non-statutory claims should be litigated in Delaware – Whether liquidators entitled to anti-anti-suit injunction restraining Delaware proceedings.

[2013] 2 Lloyd's Rep. 179

- ECOM AGROINDUSTRIAL CORPORATION LTD v MOSHARAF COMPOSITE TEXTILE MILL LTD**
Arbitration – Anti-suit injunction – Judicial proceedings commenced in Bangladesh – Whether there was breach of an arbitration clause – Whether there was good reason not to grant anti-suit injunction – Declaratory relief – Senior Courts Act 1981, section 37 – Arbitration Act 1996, section 7.
[2013] 2 Lloyd's Rep. 196
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- LISNAVE ESTALEIROS NAVAIS SA v CHEMIKALIEN SEETRANSPORT GMBH**
Arbitration – Jurisdiction – Implied term – Course of dealing – Ship management company and Portuguese shipyard concluding Ship Repair Fleet Agreement applying to future dry-docking and repairs to ships under management – No express provision in Agreement for arbitration – Whether Agreement contained implied term for arbitration on basis that previous individual ship repair contracts had contained provision for arbitration – Arbitration Act 1996, section 67.
[2013] 2 Lloyd's Rep. 203
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- U&M MINING ZAMBIA LTD v KONKOLA COPPER MINES PLC**
Practice – Anti-suit injunction – English court granting ex parte injunction restraining defendant from pursuing proceedings in Zambia for interim relief in support of arbitration to be brought by claimant in England – Whether seat of arbitration England or Zambia – Whether courts of seat of arbitration exclusive forum from which to grant interim relief – Whether injunction should be discharged.
[2013] 2 Lloyd's Rep. 218
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- X v Y**
Arbitration – Appeal against an award – Application by respondent for security for costs – Application by respondent for payment of amount of award into court – Arbitration Act 1996, sections 67, 68, 70(6) and 70(7).
[2013] 2 Lloyd's Rep. 230
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- BUCKLEY v MONARCH AIRLINES LTD**
International carriage by air – Passenger sustaining personal injury during flight when cup containing hot liquid spilt into her lap – Whether injury caused by “accident” – Montreal Convention, article 17.
[2013] 2 Lloyd's Rep. 235
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- JOINT STOCK COMPANY “AEROFLOT RUSSIAN AIRLINES” v BEREZOVSKY**
Conflict of laws – Jurisdiction – Claims against companies allegedly controlled by defendants – Whether English court possessed jurisdiction to hear claims – Jurisdiction agreement – Stay of proceedings for arbitration – Lugano Convention 2007, articles 6 and 23 – Arbitration Act 1996, section 9 – Civil Procedure Rules, Practice Direction 6B, para 3.1(3).
[2013] 2 Lloyd's Rep. 242
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- KUDOS CATERING (UK) LTD v MANCHESTER CENTRAL CONVENTION COMPLEX LTD**
Contract - Exclusion clause - Claimant agreeing to provide catering services at defendant's conference centres for five-year period - Defendant terminating agreement after three years - Claimant bringing proceedings for repudiatory breach and claiming loss of profits - Defendant relying on exclusion clause providing that defendant should have no liability whatsoever for loss of business profits - Whether exclusion clause excluded all liability for loss of profits.
[2013] 2 Lloyd's Rep. 270

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- UST-KAMENOGORSK HYDROPOWER PLANT JSC v AES UST-KAMENOGORSK HYDROPOWER PLANT LLP**
Arbitration – Anti-suit injunction – Claim to prevent action being pursued in Kazakh courts in breach of arbitration clause – Judgment of court holding that there was no arbitration clause – Jurisdiction of English court to grant relief – Jurisdiction of English court to give permission for service out – Arbitration Act 1996, sections 1(c) and 44 – Senior Courts Act 1981, section 37 – Civil Procedure Rules, rule 62(5) and Practice Direction 6, para 3.1 – Civil Jurisdiction and Judgments Act 1982, section 32.
[2013] 2 Lloyd's Rep. 281
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- ANTONIO GRAMSCI SHIPPING CORPORATION AND OTHERS v LEMBERGS**
Jurisdiction – Allegation that defendant was party to jurisdiction clause – Lifting the veil – European Council Regulation (EC)No 44/2001 (Brussels Regulation), article 23.
[2013] 2 Lloyd's Rep. 295
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- ARBUTHNOT LATHAM & CO LTD v M3 MARINE LTD AND ANOTHER**
Conflict of laws – Jurisdiction – Proceedings brought by defendants in France and by claimant in England – Whether French or English court was the court first seised – Date on which French originating document “received by the authority responsible for service” – Whether document had to be received by both fax and post – Regulation (EC) No 44/2001, articles 27, 28 and 30 – Regulation (EC) No 1393/2007.
[2013] 2 Lloyd's Rep. 307
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- BMW FINANCIAL SERVICES (GB) LTD v HART**
Hire-purchase – Hirer defaulted – Action for outstanding amount of loan – Limitation of actions – Whether action accrued on default or on demand for payment – Limitation Act 1980.
[2013] 2 Lloyd's Rep. 313
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- HYUNDAI MERCHANT MARINE CO LTD v AMERICAS BULK TRANSPORT LTD (THE “PACIFIC CHAMP”)**
Charterparty (Time) – Consensus ad idem – Whether parties concluded fixture – Arbitration – Whether arbitrators had jurisdiction to determine dispute.
[2013] 2 Lloyd's Rep. 320
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- STANDARD CHARTERED BANK v DORCHESTER LNG (2) LTD (THE “ERIN SCHULTE”)**
Carriage of goods by sea – Title to sue – Bank bringing claim for damages against shipowner for misdelivery and conversion of cargo delivered without production of bills of lading – Whether bank became lawful holder of bills of lading – Whether bank accepted delivery of indorsed bills – Meaning of “delivery” – Whether shipowner in breach of contract of carriage – Whether bank sustained loss – Carriage of Goods by Sea Act 1992, sections 5(2)(b) and 2(2)(a).
[2013] 2 Lloyd's Rep. 338
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- BRAGANZA v BP SHIPPING LTD AND ANOTHER (THE “BRITISH UNITY”)**
Contract – Death benefits – Crew member disappearing at sea in North Atlantic – Employment contract providing for payment of death benefits except where employer formed opinion that death

was result of wilful act – Deceased's widow claiming death benefits – Employer forming opinion that death was suicide and that death benefits were not payable – Whether employer misdirected itself in law – Whether employer's opinion as to cause of death reasonable.

[2013] 2 Lloyd's Rep. 351

■ **GREATSHIP (INDIA) LTD v OCEANOGRAFIA SA DE CV (THE “GREATSHIP DHRITI”)**

Charterparty (Time) – Owners having right to suspend performance of services pending non-payment of hire – Whether owners required to give five days' notice of intention to exercise right to suspend performance – Supplytime 1989 form, clause 10(e).

[2013] 2 Lloyd's Rep. 359

■ **KULEMESIN AND ANOTHER v HKSAR**

Criminal law – Offence of endangering safety of others – Vessels colliding in buoyed channel leading to loss of life – Prosecution brought against master of one vessel and senior pilot of other vessel – Whether offence of absolute liability – Appeals against conviction – Whether lower courts erred in law – Whether “proviso” should be applied – Whether buoyed channel a “narrow channel” – Shipping and Port Control Ordinance, section 72 and Criminal Procedure Ordinance, section 83 – Collision Regulations, rule 9

[2013] 2 Lloyd's Rep. 367

■ **CHIMBUSCO PAN NATION PETRO-CHEMICAL CO LTD v THE OWNERS AND/OR DEMISE CHARTERERS OF THE SHIP OR VESSEL “DECURION”**

Admiralty jurisdiction - Arrest - Plaintiffs arresting ship to recover price of bunkers supplied to 10 other vessels - Whether claim fell within court's admiralty jurisdiction - Whether defendants were “in control” of the 10 other vessels when cause of action arose - High Court Ordinance, section 12B(4).

[2013] 2 Lloyd's Rep. 407

■ **GOLDEN OCEAN GROUP LTD v HUMPUS INTERMODA TRANSPORTASI TBK LTD AND ANOTHER (THE “BARITO”)**

Practice – Claim form – Service out of the jurisdiction – Dispute as to identity of chartering owner – Dispute as to whether charterparty provided for arbitration in London or in Singapore – Charterers obtaining London arbitration award – Charterers bringing proceedings for declarations, enforcement of award, and injunction to restrain arbitration proceedings commenced in Singapore – Privity – Whether permission should be granted to serve claim form out of jurisdiction – Arbitration Act 1996, sections 9(1) and 9(4).

[2013] 2 Lloyd's Rep. 421

■ **LUPOFRESH LTD v SAPPORO BREWERIES LTD**

Sale of goods – Variation of contract – Law applicable to contract as varied – Rome Convention 1980, articles 3, 4 and 8 – Contracts (Applicable Law) Act 1990 – Validity of variation under Japanese law.

[2013] 2 Lloyd's Rep. 444

■ **BUNGE SA v KYLA SHIPPING CO LTD (THE “KYLA”)**

Practice – Appeal – Commercial Court allowing charterers' appeal from arbitration award on question of law – Commercial Court refusing to grant owners leave to appeal to Court of Appeal – Whether

Court of Appeal has jurisdiction to grant permission to appeal – Arbitration Act 1996, section 69(8).
[2013] 2 Lloyd's Rep. 463

HUA TYAN DEVELOPMENT LTD v ZURICH INSURANCE CO LTD AND ANOTHER (THE "HO FENG 7")

Insurance (marine) - Warranty as to deadweight tonnage of vessel - Vessel not fulfilling terms of warranty - Whether insurer entitled to rely upon warranty - Duty of utmost good faith - Liability of insurance broker - Marine Insurance Ordinance, sections 18 and 33.

[2013] 2 Lloyd's Rep. 468

SEA-CARGO SKIPS AS v STATE BANK OF INDIA

Banking – Refund guarantee – Shipbuilding contract – Delay – Buyer cancelling contract – Builder failing to repay pre-delivery instalments of price – Buyer making demand on bank under refund guarantee – Bank refusing to pay – Whether demand complied with terms of refund guarantee – Whether enforcement precluded by buyer's assignment of refund guarantee.

[2013] 2 Lloyd's Rep. 477

YUZHNY ZAVOD METALL PROFIL LLC v EEMS BEHEERDER BV (THE MV "EEMS SOLAR")

Carriage of goods by sea – Cargo claim against contractual carrier – Cause of damage – Whether charterparty terms incorporated into contract of carriage – Whether carrier in breach of contract or duty – Whether damage caused by carrier's want of due diligence to make vessel seaworthy – Whether transfer of liability clause rendered void – Whether carrier responsible for proper stowage – Hague Rules, article III, rule 8.

[2013] 2 Lloyd's Rep. 487

AMLIN CORPORATE MEMBER LTD AND OTHERS v ORIENTAL ASSURANCE CORPORATION (THE "PRINCESS OF THE STARS")

Reinsurance – Marine policy – Warranty in reinsurance against leaving port or adopting intended route where a typhoon or storm warning was in force – Construction of warranty – Whether warranty broken.

[2013] 2 Lloyd's Rep. 523

KAIROS SHIPPING LTD AND ANOTHER v ENKA & CO LLC AND OTHERS (THE "ATLANTIC CONFIDENCE")

Admiralty practice - Limitation of liability - Whether limitation fund can be constituted by provision of P&I Club guarantee - Convention on Limitation of Liability for Maritime Claims 1976, articles 11 and 14 - Merchant Shipping Act 1995, section 185(1) - CPR 61.11 - Whether freezing injunctions should be discharged.

[2013] 2 Lloyd's Rep. 535

METALL MARKET OOO v VITORIO SHIPPING CO LTD (THE "LEHMANN TIMBER")

General average – Lien – Shipowner exercising lien over cargo for general average contribution – Shipowner accepting insurers' guarantee in respect of one portion of cargo – Cargo consignee refusing to provide general average bond – Whether shipowner's acceptance of insurers' guarantee discharged lien – Whether shipowner entitled to recover costs of storing liened cargo.

[2013] 2 Lloyd's Rep. 541

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- CIMC RAFFLES OFFSHORE (SINGAPORE) LTD AND ANOTHER v SCHAHIN HOLDING SA**
Banking – Guarantee – Summary judgment – Defendant guaranteeing sums due under shipbuilding contracts on delivery of drilling rigs – Shipbuilding contracts subsequently varied to provide for substantial increase in sums due on delivery – Whether subsequent variation discharged defendant from liability – Whether subsequent variation within purview of guarantee – Whether shipbuilder entitled to summary judgment.

[2013] 2 Lloyd's Rep. 575

- SEAGRAIN LLC v GLENCORE GRAIN BV**
Sale of goods (c&f) – Contract for sale of feed wheat of Ukrainian or Russian origin campf Haifa or Ashdod – Russian wheat subject to export ban – Whether sellers discharged from liability to perform contract – Meaning of “executive act restricting export” – GAFTA Prohibition Clause.

[2013] 2 Lloyd's Rep. 590

- THE OWNERS OF THE SHIP "THERESA LIBRA" v THE OWNERS OF THE SHIP MSC "PAMELA"**
Admiralty practice - Limitation of action - Collision - Settlement agreement apportioning liability for collision - Claimants bringing proceedings more than two years after collision – Whether action time-barred - Whether claimants entitled to add demise charterers of colliding vessel as defendant - Merchant Shipping Act 1995, section 190 - CPR 19.2 and 19.5.

[2013] 2 Lloyd's Rep. 596

- TIDAL ENERGY LTD v BANK OF SCOTLAND PLC**
Banking - Instruction for payment through CHAPS mentioning correct bank sort code and account number but wrong beneficiary - Funds accepted by receiving bank - Whether instruction satisfied - Whether payment made.

[2013] 2 Lloyd's Rep. 605

- WHITE ROSEBAY SHIPPING SA v HONG KONG CHAIN GLORY SHIPPING LTD (THE “FORTUNE PLUM”)**
Charterparty (Time) – Renunciation – Charterers renouncing charterparty by failing to pay hire – Whether owners affirmed charter – Whether charterers continued to renounce charterparty following owner' affirmation – Whether arbitrators erred in law.

[2013] 2 Lloyd's Rep. 618

- DEUTSCHE BANK AG v UNITECH GLOBAL LTD AND ANOTHER**
Banking – Credit facility – Interest rate swap – Application by defendant to amend defences – Application by claimant for summary judgment – Issue estoppel – Effect of alleged manipulation of LIBOR rate by claimant – Effect of infringement of article 101 of the TFEU and section 2 of the Competition Act 1998 – Bretton Woods Agreement – Duty of disclosure owed to guarantor – Effect of illegality in performance – Duty of care owed by lender – Effect of disclaimer.

[2013] 2 Lloyd's Rep. 629

- FLAME SA v GLORY WEALTH SHIPPING PTE LTD (THE “GLORY WEALTH”)**
Charterparty – Contract of affreightment – Damages – Disponent owners accepting charterers' repudiatory breaches – Whether disponent owners required to prove they could have performed

obligations in order to recover substantial damages – Construction of contract. – Arbitration – Award – Serious irregularity – Arbitration Act 1996, section 68.

[2013] 2 Lloyd's Rep. 653

MINERVA NAVIGATION INC v OCEANA SHIPPING AG (THE "ATHENA")

Charterparty (Time) – Off-hire – Whether vessel off-hire during period of drifting – Whether sufficient for charterers to establish net loss of time as regards service immediately required or whether necessary to establish that time was lost to the chartered service – New York Produce Exchange 1946 form, clause 15.

[2013] 2 Lloyd's Rep. 673
