

LITIGATION

Ireland

High Court clarifies limitations on Montreal Convention claims

A recent High Court decision has confirmed that, under Irish law, for claims against a carrier in respect of international carriage, the Montreal Convention represents the exclusive basis on which any action lies. Moreover, any actions thereunder must relate to personal injury.

However, the broad scope applied to the term 'carriage' has potentially serious implications for other types of non-personal injury claim against carriers.

Author: Gearóid Carey

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

Switzerland

Supreme Court rules on retrocessions in the financial industry

In Switzerland, the term 'retrocession' generally refers to certain forms of fee-sharing arrangement between financial intermediaries. Promoters of financial products frequently enter into agreements with other financial intermediaries whereby the fund promoter pays a retrocession to the fund distributor. The Supreme Court has now addressed the question of whether retrocession is subject to a restitution duty.

Author: Philipp Fischer

(Read article <http://www.internationallawoffice.com/?i=55592&l=7FW43C7>)

United Kingdom

Media victory in Rio Ferdinand privacy case

Footballer Rio Ferdinand has lost his privacy battle against the *Sunday Mirror* over an article published about him in 2010. The bottom line in the decision was that the public interest in publishing the article outweighed his reasonable expectation of privacy. The threat of appeal has enabled Ferdinand to request that parts of the public judgment be removed. However, for now, the media can revel in a rare 'kiss and tell' privacy win.

Author: Louise Jacobs

(Read article <http://www.internationallawoffice.com/?i=55592&l=7FW43CN>)

Australia

Claims for client legal privilege: lessons from Black Saturday

A recent Supreme Court of Victoria decision provides warnings on the evidence required to maintain a claim for privilege where the dominant purpose of the communication or document is in question. Parties that attempt to resist the production of documents on the grounds of privilege may need to consider preparing multiple affidavits in support of their claim, including from those at the top of the organisation.

Author: Anne Freeman

(Read article <http://www.internationallawoffice.com/?i=55592&l=7FWRGK5>)

India

Supreme Court examines scope of Arbitration Act

In a recent decision the Supreme Court ruled that in an international seated arbitration governed by an international arbitral institution, Section 42 of the Indian Arbitration and Conciliation Act 1996 was applicable only at the pre-arbitral stage, when an arbitrator had not been appointed. This decision makes international arbitration friendlier for parties who have in the past been subjected to prolonged court litigations in India.

Authors: Ciccu Mukhopadhaya, Syed Omar Bilal Ahmad

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

United Kingdom

CPR: convening oral hearings and re-litigating discontinued claims

Two cases shed new light on the courts' application of the Civil Procedure Rules (CPR). One provides what is possibly the first authority on the application of CPR 38.7, on re-litigating discontinued claims; in the other, the court made an order under CPR 3.3 convening a hearing in two parallel cases, rather than dealing with an application in one of the cases on paper. Litigators should also be aware of recent CPR changes.

Author: Helen Fairhead

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

Isle of Man

***Top Gear* presenter's property dispute timed out by court**

The High Court has delivered judgment on the latest aspect of a property dispute involving *Top Gear* presenter Jeremy Clarkson, ruling that Clarkson's case has expired and cannot be pursued. This is the latest stage of continuing litigation regarding a public right of way dispute over a coastal area in the south of the island where Clarkson owns a property.

Author: John T Aycock

(Read article <http://www.internationallawoffice.com/?i=55592&l=7FXF7LX>)

Russia

Supreme *Arbitrazh* Court rules on use of promissory notes as security

The Supreme *Arbitrazh* Court has drawn a line under a dispute about promissory notes that had dragged on since 2009. It corrected the approach of the lower courts, which had held that the only lawful basis for issuing a promissory note was, in essence, a loan relationship, and had stated that a promissory note may not be paid if it is issued to secure a third party's obligation.

Author: Varvara Knutova

(Read article <http://www.internationallawoffice.com/?i=55592&l=7FXF7MT>)

United Kingdom

Court of Appeal clarifies test for proportionality in cost assessments

The Court of Appeal recently handed down its decision in the biggest costs case in English legal history, *Motto v Trafigura Ltd*, wherein it clarified the test for proportionality that applies when costs are assessed on the standard basis. It also highlights the court's desire to concentrate lawyers' minds on the proportionality and necessity of the costs incurred in litigation.

Author: Sarah Trimmings

(Read article <http://www.internationallawoffice.com/?i=55592&l=7FXF7NE>)