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ENGLISH LAW UPDATE

AUGUST 2020

Introduction

We hope that despite these unsettled times, many of you were able to enjoy some respite by way of vacation during the summer.

This update illustrates how the English High Court adapted rapidly to the Covid-19 situation and resorted to online hearings. That of itself created some problems which the Courts have addressed.

Our own experience demonstrated that very large scale and complex cross border litigation as well as arbitration could be dealt with by wholly online or hybrid hearings. However, should that necessarily lead to a permanent change in terms of process as well as working practices? No doubt these questions will occupy many of us in the coming months.

We hope you will find this bulletin useful, and whether online or face to face, we look forward to seeing many of you again in the near future.

Khawar Qureshi QC
Head of Chambers

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The following updates are covered in this newsletter:

factors to both England and to Qatar, and it could not be said that Qatar was clearly the forum with which the dispute had its closest and most real connection.

- ***Solicitors criticised over Zoom conduct in Covid-19 libel trial.*** *In breach of a court order, the claimants' solicitor allowed the claimants to disseminate the video link to a court hearing where witnesses were to give evidence. The link was sent to 7 individuals outside the UK and was then forwarded to multiple third parties.*

- ***Court of Appeal considers interim injunctions and abuse of process.*** *The Court of Appeal dismissed an appeal against an injunction prohibiting a company from providing funding to a party engaged in third party funding, finding that the application was not abusive and there were no grounds for interfering with the judge's discretion.*

- ***English High Court rules on who is recognised by the British Government as president of Venezuela.*** *The British Government had recognised Juan Guaidó as the president of Venezuela since 4 February 2019. The "one voice" doctrine meant that the English court had to give effect to that recognition in proceedings concerning who had authority to deal with Venezuelan gold reserves held by the Bank of England.*

- ***Supreme Court's approach where there are reasonable grounds to suspect torture in confessions.*** *There was no rule in English law that, if torture had not been proved to the balance of probabilities, a the English court had to ignore a serious possibility of torture in estimating the weight to be given to a confession statement.*

- ***Service of claim where company in "judicial management" in Zimbabwe.*** *CPR 6.40(4) and Zimbabwean law did not prevent the English court from authorising service of English court proceedings on a company's "judicial manager" (i.e. administrator) in Zimbabwe.*

ENGLISH COURTS IN TIMES OF COVID-19

Approach of the English courts

On 15 March 2020, four days after the Coronavirus outbreak was declared a pandemic, the UK Government said that everyone should avoid non-essential travel and contact with others, avoid crowds, and work from home if possible. Those with symptoms or considered vulnerable were asked to self-isolate. On 20 March 2020, all schools, restaurants, pubs, indoor entertainment venues and leisure centres were shut (with some limited exceptions). On 23 March, the UK government imposed a lockdown on the whole population (enforceable by the police), banning all "*non-essential*" travel and contact with people outside one's home (including family and partners), and shutting almost all businesses, venues, facilities, amenities and places of worship. The Coronavirus Act 2020 granted the government emergency powers.

As a result, nearly half of the courts in England & Wales were closed and jury trials were paused. Guidance was published by the UK Judiciary as to the operation of the judicial system during Covid-19, including a Practice Direction on Video or Audio Hearings in Civil Proceedings during the Coronavirus Pandemic and Civil Court guidance on how to conduct remote hearings.

While some courts have experienced significant difficulties in light of Covid-19, the Commercial Court, which handles many of the international cases that come before the English courts, appears to have adapted quickly and successfully. The minutes of the Commercial Court User Group meeting on 15 June 2020 (available here) stated that due to the "*remarkable change of practice in coping with Covid-19*", the Commercial Court had accrued virtually no backlog of cases. Indeed, on only four occasions (as at that date) had a trial proved impractical (due to illness or lockdown in a remote location without reliable internet access). In fact, Mr Justice Teare noted at the same meeting that there was now an even greater need to keep to time estimates for hearings, as it was obviously not possible for the parties in the next hearing to wait patiently outside court for the earlier hearing to finish.

On the other hand, the Commercial Court users also noted the persistence of practical issues, including the potential for distractions caused by 'non-speaking' participants communicating more freely amongst themselves than they would normally do in a physical court hearing.

The majority of courts have now reopened. However, in order to tackle the backlog which has built up during the pandemic, a number of "*Nightingale*" courts covering most areas of England & Wales have been opened, which will hear civil, family and tribunals work, along with non-custodial crime cases.

Arkhipova v JSC Mezhdunarodniy Promyshlenniy Bank & anor [2020] 7 WLUK 377

In *Arkhipova*, a Russian litigant in person sought to appeal against a decision that she had not complied with an unless order with the consequence that she would be debarred from pursuing her claim.

A remote hearing was scheduled. The litigant in person applied to adjourn the hearing until November 2020 on the basis that, inter alia, she no longer had English legal representation and would have to travel internationally to organize this which was not possible given Russian border closures; it was impossible for her to prepare for the hearing as she was in quarantine in Russia and did not have access to a good telephone/internet connection, and was unable to travel to obtain a better connection as her age made her more vulnerable to Covid-19.

The application for adjournment was refused. While many cases due to be heard during the pandemic had been delayed where hearings were difficult or impossible, this was not one of those cases. The court's view was rather that the applicant was seeking to use the pandemic as an (impermissible) excuse to delay.

Concluding Remarks

While video conferencing was used in the English courts prior to Covid-19 to a limited extent, it seems likely that greater use will be made of such systems going forward particularly in international cases where parties, witnesses and counsel are spread out around the globe.

The English courts have shown that they will take a robust approach to attempts by parties to delay proceedings (or steps of proceedings, such as disclosure and production of witness statements) on the grounds of Covid-19 alone absent further reason for any such delay.

QATAR AIRWAYS LOSES FORUM CHALLENGE IN MUSIC CASE

Performing Right Society Ltd v Qatar Airways Group QCSC [2020] EWHC 1872 (Ch) (17 July 2020)

Background

On 23 December 2019, the Performing Right Society Ltd issued a claim in the English courts seeking a declaration that Qatar Airways had infringed public performing rights of specified musical works, an injunction to prevent further infringement and and an inquiry for corresponding damages. The infringement claim was made in connection with music available through the Qatar Airways inflight entertainment system.

Qatar Airways sought to stay the proceedings, on grounds of *forum non conveniens* or otherwise on case management grounds. While Qatar Airways accepted that it had been validly served at its UK branch, it took the position that the appropriate forum for the proceedings was Qatar and offered an undertaking that it would not challenge the jurisdiction of the Qatari courts to hear the case. Accordingly, Qatar Airways made an application under CPR 11(1) that the court should not exercise any jurisdiction which it may have.

Decision

The Court (Mr Justice Birss) dismissed the application.

On *forum non conveniens*, there was no dispute that the leading case in this area was *Spiliada Maritime Corp v Cansulex Ltd (The Spiliada)* [1987] AC 460 in which Lord Goff set out the relevant principles at 476-478. The principles in *Spiliada* were summarised by the defendant (in a formulation accepted by the Court as it was closer to the wording in *Spiliada*) as:

- Is there another available forum which is clearly and distinctly the natural forum, that is to say, the "*forum with which the action has the most real and substantial connection*"?
- If there is, is England nevertheless the appropriate forum, in particular because the court is not satisfied that substantial justice will be done in the alternative available forum?

On the facts of the case, the Court rejected Qatar Airways' case on *forum non conveniens* on the basis that it was not apparent that Qatar was clearly the natural forum for the dispute. Taking into account the following factors:

i. The personal connections the parties have to the countries in question: each party had a close and genuine link to its own home state, although it was fair to say that Qatar Airways had stronger links to the UK than PRS had to Qatar (although the difference was small).
ii. Factual connections which the events relevant to the claim have with the countries – the aircraft spent more time in Qatar than they do in the UK; nevertheless to an appreciable degree relevant acts did take place in the UK. Moreover a great deal of the activity in issue takes place in other countries, neither Qatar nor the UK.
iii. Applicable law – The dispute clearly did have a more real connection with the UK and Qatar than it does with any other state (although it also had a connection to every state to and from which Qatar Airways flies). As between the UK and Qatar, the fact that a higher share of any damages may be due for acts to which Qatari law is applicable than those for which UK law is applicable did not make Qatar clearly and distinctly the forum with which the dispute has the most real and substantial connection. Any court which heard the case would be required to consider laws other than its own.
iv. Factors affecting convenience or expense such as the location of witnesses or documents - the best that can be said is again that there are connections to both places. Whichever court heard the matter, there would be a need to translate into or out of Arabic.

Furthermore, the application on case management grounds was dismissed summarily – claims for foreign copyright infringement were justiciable in the UK, and there was no reason that the English courts could not deal with this case in a proportionate manner.

The decision is available here.

SOLICITORS CRITICISED OVER ZOOM CONDUCT IN COVID-19 LIBEL TRIAL

Gubarev & anor v Orbis Business Intelligence Ltd & anor [2020] EWHC 2167 (QB)

Background

The underlying case was a libel matter, described as one "*likely to excite a certain amount of press interest*". Due to Covid-19, the trial (to take place from 20 July 2020) was ordered to take place on a socially distanced basis with the only persons permitted to enter being essentially the judge and court staff; the parties, witnesses and legal representatives; and the stenographer/document production services. Four witnesses were due to give their evidence via a video link. A second courtroom had been set up for the press and public to observe proceedings via a video feed.

On 14 July 2020, the trial judge, Mr Justice Warby, made an order in which he specifically stated that the transmission of the live audio-visual feed (or live transcript) to participants that were outside the UK would not be permitted. Indeed, the online live feed to be permitted was the one to the second courtroom. This order was not forwarded by the claimants' solicitors to either the claimants or to Opus2 who were providing live transcription services.

The trial began on 20 July 2020, although it was interrupted by transmission problems throughout the trial. On 22 July 2020, during the cross examination of a witness, the judge noticed that a different witness was on one of the video screens and could obviously hear what was going on. The judge said that he was surprised to see the witness, he did not know he was watching, he had not authorised it (or been asked to authorise it), and he was quite discomfited by what was going on. He expressed "*profound dissatisfaction*" with the disruption and the disorganised way in which these proceedings have been partly transmitted to places that they should have been transmitted and apparently transmitted to places which were not yet authorised.

In an email to the judge's clerk on the evening of 22 July 2020, the claimants' solicitor said that it had mistakenly told the claimants that they would be able to disseminate the video link (having previously told them not to do so). The link had been sent to 7 individuals outside the UK (and it subsequently appears had also been forwarded to third parties).

As a result of the breaches, on 28 July 2020, a hearing was held to consider the consequences of breaches of his Order. By this date, the claimants' solicitors had reported itself and two of its lawyers to the Solicitors Regulation Authority. At the hearing, the judge decided to refer the matter to the Divisional Court – while he was satisfied that this was not a case of open defiance of his Order, the evidence revealed significant failures to investigate, understand and conform to the legal parameters and clear breaches of an Order of the Court that was crystal clear.

Decision

In its decision, the Divisional Court (President of the Queen's Bench Division, Mrs Justice Andrews DBE) emphasised that however a court hearing is conducted, it is a matter of fundamental importance that the formalities of court hearings must be observed and the orders made by the court must be obeyed.

Although as a result of the pandemic, temporary changes had taken place to the way hearings were conducted, such hearings must be conducted in a way that was as close as possible to the pre-pandemic norm. Once livestreaming/live transmission of proceedings takes place, the Court's ability to maintain control is diminished and the opportunity for misuse (such as through social media) is enhanced, potentially leading to the undermining of public trust and confidence in the judicial and the justice system.

In the present case, the explanations given by the solictors were "*difficult to comprehend and lack[ed] coherence*". Even if the explanations were taken at face value, they demonstrated "*a casual attitude towards orders of the Court which [fell] well below the standards to be expected of senior and experienced legal professionals, and a lack of appropriate guidance and supervision of more junior staff, in a matter of importance*".

As the claimants' solicitors had referred the matter to the Solicitors Regulation Authority, it was unecessary for the Court to do so. However, a copy of the judgment was to be sent to the SRA so the Court's views of the seriousness of the breaches was made known to it.

The full decision is available here.

COURT OF APPEAL CONSIDERS INTERIM INJUNCTIONS AND ABUSE OF PROCESS

Koza Ltd v Koza Altin Isletmeleri AS [2020] EWCA Civ 1018 (31 July 2020)

Background

This was an appeal from the grant of an injunction restraining the appellants, Koza Ltd and Mr Ipek, from using £3 million of assets belonging to Koza Ltd to fund an arbitration claim brought under the auspices of the International Centre for the Settlement of Investment Disputes. The claim was brought against Turkey by Ipek Investments Limited, said by the appellants to be the holding company for the corporate group to which Koza Ltd belongs.

The dispute was one over control of Koza Ltd, an English company capitalised by the respondent, Koza Altin, with £60m to carry out mining operations outside Turkey including ventures with other established international mining companies. Mr Ipek is the sole director of Koza Ltd (which is wholly owned by Koza Altin), while Koza Altin is part owned directly and indirectly but not controlled by Mr Ipek or his family. Mr Ipek claims the Turkish Government had illegally expropriated the Koza Group's assets for political reasons and had pursued a concerted campaign of harassment and oppression against the group and its shareholders and employees, including pursuing criminal proceedings against Mr Ipek and his family on the basis of allegations which Mr Ipek says are spurious. The Republic of Turkey sought the extradition of Mr Ipek from England to Turkey, but such extradition was refused on the grounds that the criminal proceedings against him in Turkey were politically motivated.

Following proceedings in 2016 as to control of Koza Ltd, the appellants gave undertakings to the Court that Koza Ltd would not dispose of or deal with or diminish the value of any funds belonging to Koza Ltd or held to its order "*other than in the ordinary and proper course of its business*" and other than spending a reasonable sum on legal advice and representation for the benefit of Koza Ltd ("the Undertaking"). Shortly after commencing the arbitration in 2017, IIL made a formal request to Koza Ltd to assist with funding the ICSID arbitration, which was granted. Koza Ltd made an application to the High Court for a declaration that such funding was in the ordinary and proper course of business – this was refused at first instance, but overturned by the Court of Appeal who declined to make such a declaration and said that it was a matter for the first claimant to decide whether it wanted to fund the arbitration and take the risk that it would be subsequently shown to be in breach of the undertaking.

As a result, Koza Altin issued the present application seeking an injunction restraining Koza Ltd from incurring, or committing itself to, expenditure upon the funding of the Arbitration, and restraining Mr Ipek from causing Koza to take such steps. At first instance, Mr Jeremy Cousins QC granted the injunction. Koza Ltd and Mr Ipek appealed against this decision.

Decision

The majority of the Court of Appeal dismissed the appeal.

Popplewell LJ (with whom Asplin LJ agreed) delivered the majority judgment. He dismissed the claimants' argument that the application for an injunction was abusive on the grounds that it sought to go behind and effectively undermine the Court of Appeal's decision. Rather, the application sought relief consequent on the Court of Appeal's inability to decide the breach question – the original declaration sought could not prevent the giving of the funding; only an injunction could do that. On the facts of the case, there was no basis for interfering with the exercise of the judge's discretion and accordingly the appeal would be dismissed.

Moylan LJ, dissenting, concluded that it would not be just and convenient to grant the injunction sought by Koza Altin to restrain the proposed funding by Koza Ltd on the basis that (a) it would not be consistent with the overriding objective, in that permitting Koza Altin to pursue their application for and to grant an injunction would not be dealing with the case justly and/or at proportionate cost; (b) it would not be an appropriate use of the court's powers under section 37 of the Senior Courts Act 1981; (c) Koza Altin could and should have made their application for an injunction to prohibit the funding at the same time as the applications which were determined in the Funding Application and no good grounds have been established for permitting them to do so by a subsequent application. The decision is available here.

ENGLISH HIGH COURT RULES ON WHO IS RECOGNISED BY THE BRITISH GOVERNMENT AS THE PRESIDENT OF VENEZUELA

Deutsche Bank AG London Branch v Receivers Appointed by the Court & ors [2020] EWHC 1721 (Comm) (2 July 2020) and [2020] EWHC 2051 (Comm) (24 July 2020)

Background

The present judgment arose out of the much publicised dispute as to who was the President of Venezuela – Mr. Maduro or Mr. Guiado. Mr. Maduro claims to be the President of Venezuela on the grounds that he won the 2018 presidential election. Mr. Guaidó claims to be the Interim President of Venezuela on the grounds that the 2018 presidential election was flawed, that on that account there was no President and that, under the Venezuelan Constitution, the President of the National Assembly, Mr. Guaidó, was the Interim President of Venezuela, pending fresh presidential elections.

Resolution of the dispute was said to be urgent because access was required to US$1 billion of gold reserves held by the Bank of England for the Central Bank of Venezuela. Deutsche Bank AG was involved as it was required to pay the proceeds of a gold swap contract to the Central Bank of Venezuela in the sum of about US$120 million, currently held by court appointed receivers.

The court was required to determine two issues – the Recognition Issue and the Justiciability Issue.

- Recognition Issue: Does Her Majesty's Government (formally) recognise Juan Guaidó or Nicolás Maduro and, if so, in what capacity, on what basis and from when?
- Justiciability Issue: Can this Court consider the validity and/or constitutionality under Venezuelan law of (a) the Transition Statute; (b) Decrees No. 8 and 10 issued by Mr Guaidó; (c) the appointment of Mr Hernández as Special Attorney General; (d) the appointment of the Ad Hoc Administrative Board of BCV; and/or (e) the National Assembly's Resolution dated 19 May 2020, or must it regard those acts as being valid and effective without inquiry?

On the first point, Mr Guaidó relied on a statement of 4 February 2019 in which the Foreign Secretary, Jeremy Hunt MP, said "*The United Kingdom now recognises Juan Guaidó as the constitutional interim President of Venezuela, until credible presidential elections can be held… The oppression of the illegitimate, kleptocratic Maduro regime must end*". While Mr Guaidó described this as a "*clear and unequivocal statement*", Mr Maduro described it as no more than a "*Delphic utterance*" which "*did not come close, they submitted, to an unequivocal recognition of another government, nor to a de-recognition of the Maduro government*".

Decision

The Court concluded as follows:

On the Recognition Issue, HMG does recognise Mr. Guaidó in the capacity of the constitutional interim President and, it must follow, does not recognise Mr. Maduro as the constitutional interim President. It has done so on the basis that such recognition is in accordance with the constitution of the Republic of Venezuela and has done so since 4 February 2019. Such recognition was conclusive pursuant to the "*one voice*" doctrine for the purpose of determining the issues in these proceedings, that doctrine requiring the courts of this country to accept a statement of recognition as conclusive because it is the prerogative of the Crown, acting though HMG, to make statements of recognition ; requiring the courts and executive to speak with "*one voice*"; and precluding the court from setting aside such a statement by HMG or expressing a contrary view.

On the Justiciability Issue, the Court must regard as valid and effective without enquiry the measures identified in connection with the Justiciability Issue. Such matters were foreign acts of state and non-justiciable, and the Court lack jurisdiction because of subject matter immunity.

In a further ruling handed down on 24 July 2020 on the declarations to be made following the Court's judgment of 2 July 2020, the Court, *inter alia*, granted limited permission to appeal the Justiciability Issue namely whether non-justiciability does not extend to Acts of State which were said to be unlawful in the country in which they took place, but refused permission to appeal on the Recognition Issue. The decisions are available here and here.

SUPREME COURT'S APPROACH WHERE THERE ARE REASONABLE GROUNDS TO SUSPECT TORTURE IN CONFESSIONS

Shagang Shipping Co Ltd (in liquidation) v HNA Group Co Ltd [2020] UKSC 34 (5 August 2020)

Background

The appellant shipowner entered into a charterparty with a charterer whose performance was guaranteed by the respondent. All the parties were based in China, but the guarantee had English law as its governing law. When the charterer defaulted on hire payments, the appellant sued the respondent under the guarantee. The respondent alleged the charterparty was procured by bribery of senior employees of the charterer, relying on "*confessions*" made during an investigation by the Chinese authorities. On the appellant's case, those confessions were procured by torture and, consequently, inadmissible. At first instance, Mr Justice Robin Knowles noted that there was only limited evidence, but found (on the balance of probabilities) in a short judgment there was no bribery and that torture could not be ruled out as a reason for the confessions. Judgment was entered in favour of the appellant. However, the Court of Appeal considered that, having decided that torture had not been proved to the civil standard of proof, the judge should have entirely disregarded the possibility of torture, rather than taking "*lingering doubts*" into accout when evaluating the weight to be attached to admissions.

Decision

The Supreme Court allowed the appellant's appeal against the Court of Appeal's judgment.

The approach the judge had taken in deciding the torture issue before the bribery issue was a permissible approach.

The Supreme Court considered that the trial judge should have dealt with the content of the confessions, their context and other factors bearing on their reliability in greater detail than he had done in his judgment. But he had not failed altogether to address the issue of the weight to be given to confession evidence and his conclusions on the same were not unreasonable or unsustainable. Similarly, the appellant had argued that the judge should have treated each confession individually rather than compendiously; although the Supreme Court thought it would have been better for the confessions to have been covered in greater detail, it was clear the judge had considered each individual confession and there was no error of law.

The Court of Appeal seemed to have wrongly assumed that the judge had found there was no torture, simply because he had not had to determine the question of torture in light of his finding of lack of bribery. But, even if the judge had expressly found that torture was not proved on the balance of probabilities, there would have been no inconsistency with his finding that torture was a real possibility that affected the reliance of the confessions. Whilst it was settled in English law that a confession proved to the civil standard to have been made under torture was inadmissible, there was no rule that, if torture had not been proved, a serious possibility of torture had to be ignored by a court in estimating the weight to be given to that confession.

The decision is available here.

SERVICE OF CLAIM WHERE COMPANY IN "JUDICIAL MANAGEMENT" IN ZIMBABWE

von Pezold v Border Timbers Ltd (in judicial management in Zimbabwe) [2020] EWHC 2172 (QB) (6 August 2020)

Background

The claimant commenced proceedings against the defendant Zimbabwean company seeking injunctive relief restraining a potential breach of an agreement between them that contained an exclusive jurisdiction clause in favour of the English courts. The claimant was given permission to serve the claim form and other documents on the defendant: (1) by courier at its place of business in Zimbabwe; (2) by email to its "*judicial manager*"; and (3) by first class post and email to its London solicitors.

The defendant sought to set aside that permission and contended that such service contravened CPR 6.40(4) because it contravened Section 126 of Zimbabwe's Insolvency Act, which prohibited the commencement or continuation of legal proceedings against a company in "*corporate rescue*" without the written consent of the corporate rescue practitioner or with the court's permission. The issue for the English court to consider was whether Section 126 of Zimbabwe's Insolvency Act applied to the defendant, which had, since 2015, been in "*judicial management*" – a form of administration in Zimbabwean law that pre-dated "*corporate rescue*" and co-existed with it until 2020 when the legislation that governed "*judicial management*" was repealed. The repealing legislation did not address what was to happen to existing judicial management orders after the repeal.

The issues were: (1) whether CPR 6.40(4) was concerned only with the legality of the method of service, and not whether it was legal to serve the claim at all; (2) the burden and standard of proof; (3) whether the defendant automatically became subject to the corporate rescue regime, and to Section 126 of Zimbabwe's Insolvency Act, when the old Companies Act was repealed; (4) if Section 126 of Zimbabwe's Insolvency Act applied, whether it prohibited the commencement or service of English proceedings; (5) whether CPR 6.40(4) applied to service on the defendant's London solicitors.

Decision

The Queen's Bench Division (Julia Dias QC (sitting as a Deputy High Court Judge)) refused the application to set aside the order for alternative service.

Even in a situation where service was prohibited under a foreign law, CPR 6.40(4) (on its terms) would still apply if service could be done through a method that was not inherently unlawful.

CPR 6.40(4) prevented the English court from either authorising or requiring someone to do anything that was contrary to the domestic law of the country where service was to happen. The English court had to determine (on balance of probabilities) what Zimbabwean law said. The claimant bore the burden of proof that alternative methods of service sought to be authorised would not contravene Zimbabwean law.

The Judge held that Section 126 of Zimbabwe's Insolvency Act did not (on balance of probabilities) apply to the defendant. It was not possible to find that the legislature in Zimbabwe had intended that the Insolvency Act would apply automatically to companies already in "*judicial management*" where the old legislation was repeated without any transitional provisions. The deficiency in the repealing legislation was unfortunate, but it could only be cured by future legislation in Zimbabwe.

The expert witnesses on Zimbabwean law agreed that Section 126 of Zimbabwe's Insolvency Act only had domestic effect – it only protected Zimbabwean companies against proceedings in Zimbabwe. Even if it had applied, Section 126 of Zimbabwe's Insolvency Act could not prevent the commencement or the service of English proceedings.

The Judge also held that, even if she had found that the two methods authorised for service in Zimbabwe should be set aside, there would have been no grounds to set aside the order for service on the London solicitors. The claimant had an arguable claim for breach of a contract containing an English exclusive jurisdiction clause and governed by English law. No permission was needed to commence proceedings in England, there was no other available forum, and no reason why the claimant should not be permitted to vindicate his rights by serving in London. Even if that gave rise to an illegality under Zimbabwean law, it was not so overwhelming as to require an English court to refuse permission for service at all. The full decision is available here.