

FINANCIAL SERVICES

Penalties. The Court of Appeal allowed an appeal against a decision that the default rate of interest under a facility letter was an unlawful penalty. The Judge had not considered the correct questions. The issue was remitted. Questions of whether the standard rate of interest would apply if the default rate was a penalty (it was held it would not), costs and indemnity costs were considered. The costs issue arose at the trial in particular because of dishonest evidence in relation to staged photographs of domestic property to give the impression it was unoccupied (*Houssein v London Credit* [2024] EWCA Civ 721).

Appointed Representatives. An authorised business appointed another business as an Appointed Representative which, outside of the scope of the Appointed Representative agreement, entered into a collective investment scheme into which the claimant paid £1.7m. The High Court gave Summary Judgment against the authorised business and this was upheld by the Court of Appeal (*KVB Consultants Ltd v Jacob Hopkins McKenzie* [2024] EWCA Civ 765). An appeal is outstanding.

Unjust Enrichment. The High Court refused to strike out a claim in respect of an authorised push payment fraud against a payment service provider when the claim was based on unjust enrichment (*Terna Energy Trading doo v Revolut Ltd* [2024] EWHC 1419 (Comm)). Permission to appeal was granted ([2024] EWHC 1524).

Compromise. A fraudulent misrepresentation claim was made against a bank. The bank had loaned money to support house building. The account was transferred to the Global Restructuring Group. The aim was to be debt restructuring. It was claimed that representations by the bank were untrue. A settlement agreement was entered into. A claim was struck out which sought to go behind the settlement which included “unknown claims”. Question of limitation arose (*Riley v National Westminster Bank* [2024] EWCA Civ 833).

Credit Scoring. The CJEU has held that credit reference agencies are within the scope of the GDPR prohibition on automated decision making (*SCHUFA AG – Case C-634/21*).

Unauthorised Mortgage Broking. The High Court determined compensation, etc. An earlier ruling had dealt with issues as to whether the activities were regulated ([2022] EWHC 2862 (Ch)). The main tactic was to obtain untrue declarations as to the property being for business use (*FCA v London Property Investments* [2024] EWHC 1276 (Ch))

MAGISTRATES' COURTS

Summons. The High Court dismissed an appeal by way of case stated from the decision of a District Judge to refuse to issue a criminal summons. A housebuilder sought to bring a case against Gas Safe in respect of an alleged statutory nuisance in relation to a gas boiler flue in a neighbouring property (*Clerk v Gas Safe Register* [2024] EWHC 2099 (Admin)).

INTEREST

Late Payment. The TCC held in a case involving a building dispute that the Late Payment of Commercial Debts (Interest) Act 1998 applied only to undisputed sums (*Tata Consultancy Services v Disclosure and Barring Service* [2024] EWHC 2025 (TCC)). An appeal is outstanding.

UNFAIR TERMS

Barristers. The Court of Appeal has upheld a High Court decision that a direct access agreement relating to a family financial remedy matter was unfair and unenforceable under the Consumer Rights Act 2015. The appellant barristers were not entitled to be paid on a quantum meruit basis (*Glaser v Atay* [2024] EWCA Civ 1111).

HOUSING

HMO's. A rent repayment order in favour of sub-tenants was quashed by the Upper Tribunal (*Kumar v Kolev* [2024] UKUT 255 (LC)).

HEALTH AND SAFETY

Fine. The Court of Appeal (Criminal Division) considered a fine of £2.3m in relation to danger posed by a company in respect of a fuel pipeline. This was reduced to £1.5m (*Exolum Pipeline Systems Ltd v HSE* [2024] EWCA Crim 947).

FARRIERS

Appeal. The High Court dismissed an appeal by a farrier who had been removed from the register maintained under the Farriers (Registration) Act 1975. Issues arose as to how the case was put before the Disciplinary Committee and findings of fact (*Bagnall v The Farriers Registration Council* [2024] EWHC 1997 (Admin)).

