

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)).

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 reparations 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).

Collective Investment Schemes. Claimants alleged that investments in holiday and student accommodation was in reliance on alleged dishonest misrepresentations in investment

prospectuses. Companies and directors were liable in deceit and the schemes were unlawful collective investment schemes so that Section 26(2) of FSMA applied (*4VV Ltd v Spence* [2024] EWHC 2434 (Comm)).

Upper Tribunal Reference. It has been held by the Court of Appeal that the Upper Tribunal had jurisdiction with regard to amendments by the FCA to its statement of case in a reference relating to a hedge fund (*FCA v BlueCrest Capital Management (UK) LLP* [2024] EWCA Civ 1125).

Interest. The High Court interpreted a Deed of Priorities and Variation as regards the definition of “Lenders’ Debt” by reference to a Loan Agreement. A claim relating to a sale at undervalue was dismissed but an account was ordered as to costs (*Burns v Bridge* [2024] EWHC 2620 (Ch)).

Leasing. In respect of the lease of an aircraft the High Court held that the clear interpretation of the contract as to the entitlement to rent was subject to rectification because of mutual mistake (*SATA v Hi Fly Ltd* [2024] EWHC 2762 (Comm)).

Credit Hire. The Court of Appeal held that the absence of an MOT certificate at the time of the accident did not disentitle the claimant to cover hire fees (*Ali v HSF Logistics* [2024] EWCA Civ 1479).

Oversight. The Court of Appeal reversed an Upper Tribunal decision allowing a reference by a mortgage broker controller as regards proper oversight of the business (*FCA v Markou* [2024] EWCA Civ 1575).

Breathing Space. A bridging loan lender successfully appealed to the Chancery Division against a decision that the County Court did not have jurisdiction to determine what was a “qualifying debt” under the Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020 (*Seculink Ltd v Forbes* [2024] EWHC 3339 (Ch)).

AGRICULTURE

Animal Welfare. The Court of Appeal dismissed an appeal by an animal welfare charity concerning fast-growing chickens and the Welfare etc (England) Regulations 2007 (*R (The Humane League (UK)) v DEFRA* [2024] EWCA Civ 1560).

GREEN DEAL

Framework Regulations. The Upper Tribunal ruled on the Framework Regulations 2012 as regards notification as to estimated figures (*GDFC Assets Ltd v Heaney* [2024] UKUT 345 (AAC)).

CONSUMER PROTECTION

Emission Litigation. The High Court dealt with preliminary issues relating to decisions of the German Motor Transport Authority and German Court decisions (*Various Claimants v Mercedes-Benz* [2024] EWHC 2904 (KB)).

Informative Regulations. In a Judgment ([2024] EWHC 2434 (Comm)) Foxton, J dealt with a claim in respect of investments made in holiday properties and student accommodation and held the Defendants liable to the investors. Subsequently it was submitted by some of the Defendants that they were not liable to pay costs because the Claimants were not entitled to their costs so those Defendants could not be so liable. Reliance was placed on Regulation 13 of the 2013 Regulations. It was held that the assumed breach of Regulations did not make the contract non-binding but simply defined the time for performance of the trader's obligation. There was also an issue as to the liability of corporate claimants (*4VV Ltd v Spence* [2024] EWHC 3035 (Comm)).

HOUSING

HMO's. The Upper Tribunal considered relief from sanctions regarding an appeal from a penalty by the Local Authority. The appeal related to an alleged unlicensed HMO. The CPR test for relief from sanctions was not the same for the *FTT Deane v Newham LBC* [2024] UKUT300 (LC)).

Undisclosed Principal. The Court of Appeal upheld a decision of the UT that a rent repayment order was validly made against a person who owned the Property but had a management agreement with a company which her husband owned (*Cabo v Dezotti* [2024] EWCA Civ 1358).

Nuisance. The High Court allowed an appeal by case stated that there was no case to answer in respect of a prosecution relating to the condition of premises. Issues concerning condensations and mould arose (*Furko v Ealing Magistrates Court* [2024] EWHC 2592 (Admin)).

Time Limits. In a rent repayment order case the Upper Tribunal considered the time limit of 12 months (*Tze Moh v Rimal Properties* [2024] UKUT 324 (LC)).

Tribunal Fees. In a rent repayment case the Upper Tribunal held that the failure to pay the relevant fee with the application was not fatal to the application (*Jevan v Athansiadi* [2024] UKUT 358 (LC)).

Asylum Seekers. The Administrative Court upheld on different grounds a District Judge's decision on HMOs (in the context of a contract with the Home Office) not to dismiss charges (*R (Clearsprings Ready Homes Ltd) v Swindon Magistrates Court* [2024] EWHC 2023 (Admin)).

PRICES

Amendment. The Price Marking Order 2004 has been amended by the Price Marking (Amendment) Order 2024. In particular it deals with a situation where more than one price can apply to a product, for example, if a loyalty card is used.

AGRICULTURE

Sentence. The Court of Appeal (Criminal Division) dismissed appeals against financial penalties imposed for breach of the Cattle Identification (Wales) Regulations 2007 (*Hartt v Pembrokeshire CC* [2024] EWCA Crim 1425).

DATA PROTECTION

Personal Data. The Upper Tribunal considered the meaning of "personal data" in the DPA 1998. It was held that payment card data from the memory of the point of sale terminals in store in the form of long numbers and expiry dates was not personal data as it did not identify a living individual (*DSG Retail Ltd v Information Commissioner* [2024] UKUT 287 (AAC)).