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Partner

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James Carter specialises in complex commercial arbitration and litigation. He acts for clients across a broad spectrum of sectors including energy, construction and infrastructure, banking and financial services, telecommunications and technology. James is the Head of the UK Energy and Natural Resources practice.

All of James' work has an international flavour, and he regularly conducts disputes which have a multi-jurisdictional aspect. He has recent experience of disputes involving Nigeria, Kazakhstan, Russia, Zambia, Italy, India, Belgium, the Netherlands, France, Lithuania, Ghana, Rwanda, Norway, Kazakhstan, Cameroon Singapore, S.Korea, Turkey and the BVI.

- Acting for investors in a major African energy company in a USD450 million joint venture dispute. LCIA arbitration proceedings have been commenced, and an injunction obtained in the BVI in support of those proceedings. (As part of this dispute James successfully challenged an arbitral award before the English High Court).
- Acting for a major Korean Contractor in a series of 6 LCIA arbitrations and related Nigerian litigation relating to access to a construction yard and other issues following the construction of an FPSO. The claim is worth in the region of USD150 million.
- Acting on behalf of a major Italian energy company in a gas pricing dispute, valued at in the region of USD250 million. The arbitration (ICC rules, seated in Paris) addressed the relative merits of two competing price reviews and in particular the correct application of a price review clause and the impact of changes in the European gas market on gas prices.
- Acting for an African government in an UNCITRAL arbitration against a US contractor relating to the procurement and performance of a USD500 million contract involving disputes as to the extent to which reasonable endeavours were exercised.
- Acting for a major African energy business in a USD50 million dispute arising from the termination of back to back contracts alleged to have involved the trade of sanctioned oil.

- Litigation, Arbitration and Investigations
- Banking and Finance Litigation
- Cross-Border Litigation
- Construction, Engineering and Infrastructure Disputes
- Global Governance and Compliance
- IT and Telecoms Disputes
- International Arbitration
- Investigations
- Projects, Energy and Infrastructure
- Renewables
- Oil and Gas

- Financial Services
- Energy and Natural Resources
- Technology

- Acting for a major British bank, against significant European banks financial institutions and a European State in claims arising from a takeover. The claims are valued at EUR135 million. Proceedings have been commenced in the Belgian Courts (where Dutch, Belgian and English law claims will be advanced), and by way of a Paris seated, English law, ICC arbitration.
- Acting for a UHNW individual in a GBP350 million+ Singapore seated LCIA arbitration and related litigation in the Isle of Man involving allegations of fraudulent misrepresentation.

CREDENTIALS

Professional Qualifications

- Barrister in England and Wales

Recognitions

Clients appreciate, amongst other things, that "his advice is always very polished and commercial in its outlook" (*Chambers and Partners*, 2018), that he "has a good sense of what will work" (*Legal 500*, 2018) and that he is "bright and fun to work with and a great team-building person" (*Legal 500*, 2017). He is also noted for delivering "the "perfect combination of strategic advice and attention to detail." (*Chambers and Partners*, 2020), for being "hard working", "highly capable and impressive", and for having "a huge commitment and energy combined with judgement as well as the gravitas and ability to focus a team and lead it" (*Legal 500*, 2019).

Education

- Cambridge University, BA, Law
- Nottingham Law School, Bar Vocational Course, Very Competent

Teaching

In 2013 James was invited to teach International Arbitration advocacy to the International Dispute LLM at the University of Geneva.

James has also delivered numerous training sessions covering a wide range of disputes issues including on written advocacy and the drafting of dispute resolution clauses.

INSIGHTS

Publications

Issue 6

8 November 2021

Energy and Natural Resources Case Law Update

This bumper edition of our Case Law Update summarises a number of significant English Court decisions relevant to businesses in the Energy and Natural Resources sector that were handed down in the period July 2020 to July 2021, and the key takeaways arising from them.

How to approach inconsistency between standard and bespoke terms

29 October 2021

This is one of ten questions answered in the 6th Edition of our Energy and Natural Resources Case Law Update, which discusses significant English Court decisions relevant to businesses in the ENR sector handed down in the period July 2020 to July 2021. The full Update will be published on Monday, 8 November 2021.

What is the interplay between contract and restitution claims where there has been a total failure of consideration?

29 October 2021

This is one of ten questions answered in the 6th Edition of our Energy and Natural Resources Case Law Update, which discusses significant English Court decisions relevant to businesses in the ENR sector handed down in the period July 2020 to July 2021. The full Update will be published on Monday, 8 November 2021.

When do 'constituent territories' and their employees benefit from state immunity?

29 October 2021

This is one of ten questions answered in the 6th Edition of our Energy and Natural Resources Case Law Update, which discusses significant English Court decisions relevant to businesses in the ENR sector handed down in the period July 2020 to July 2021. The full Update will be published on Monday, 8 November 2021.

Read on for a summary of *Dynasty Co for Oil and Gas Trading Ltd v Kurdistan Regional Government of Iraq*¹ and the key takeaways for businesses operating in the ENR sector arising out of the judgment.

¹ [2021] EWHC 952 (Comm).

Questions answered in the 6th Edition of our Energy and Natural Resources Case Law Update

28 October 2021

Read on for a summary of the questions answered in the 6th Edition. If these are of interest, look out for the full Update, which will be published on Monday, 8 November 2021 and will provide the context for each of the questions answered in brief below, as well as the key takeaways to be aware of arising from each case.

Cocoa beans arbitration leaves a bitter taste following a successful serious irregularity challenge

19 October 2021

The High Court has upheld the principle that each party has to be given an opportunity to address all issues in the case, or the Award issued by the Tribunal may be susceptible to challenge under section 68 of the Arbitration Act 1996. We acted for the successful applicant of this case.

Vale v. Steinmetz: The Court of Appeal re-emphasizes the consensual nature of arbitration and says “no” to third-party application of arbitral awards

4 October 2021

On 16 July 2021 the Court of Appeal handed down its judgment in *Vale SA & Ors v. Steinmetz & Ors*, dismissing an appeal to have litigation proceedings against the appellants summarily struck out on the basis of a determination in an arbitral award to which they were not parties.

Between a Rock and a hard place: Singapore Courts decline to follow English precedent on ‘No Oral Modification’ clauses

5 July 2021

The Singapore Court of Appeal has decided against strict enforcement of no oral modification clauses, taking a different approach to the English Supreme Court. We summarise the contrasting cases and what this means for businesses operating in either of these jurisdictions.

GAR guide to challenging and enforcing arbitration awards – Second edition

15 June 2021

The Global Arbitration Review's Guide to Challenging and Enforcing Arbitration Awards addresses the applicable standards for challenging and enforcing awards globally. We have authored a chapter outlining the challenges that may arise when trying to secure the awards.

Brexit: Choice of Law, Jurisdiction, Enforcement, and Service

27 November 2020

This article looks at the impact of reaching the end of the Brexit transition period (at 11pm on 31 December 2020) on governing law, jurisdiction, enforcement, and service in contracts between UK entities and EU member state entities.

Issue 5

23 November 2020

Energy and Natural Resources Case Law Update

As the world adjusts to a new normal, businesses across all sectors will be anticipating significant changes to their operations and priorities. Continued disruption across the Energy and Natural Resources (E&NR) sector may, for example, see participants seek to re-visit long-term contracts, with subsequent disputes being played out in court.

The Law Commission's review of the law on digital assets and smart contracts:

9 November 2020

On 21 September 2020, the Law Commission announced that it had begun work on two projects aimed at ensuring that "English law can accommodate two emerging technologies that could revolutionise commerce: smart contracts and digital assets."

ESG and the Energy and Natural Resources Sector

13 October 2020

"Just because you intend to do good, it doesn't mean that you cannot cause harm", was the advice from Chris Goodwin-Hudson, founder of Watchman, a specialist risk management business trading under the strapline "Where security meets social responsibility, during a September 2020 DLA Piper hosted webinar. On major energy and infrastructure projects around the world, Chris and his colleagues reduce the threat to their clients through what they term "holistic security" with a view to fostering community acceptance that sustains a project through its lifespan and beyond.

Scotland gets go ahead for multi-billion pound wind farm investment

29 June 2020

As an antidote to all the COVID-19-related gloom, 10 June brought good news in Scotland for all stakeholders in the offshore wind

sector.

A jurisdiction too far: The English Commercial Court declines to continue freezing injunctions in support of foreign and English seated arbitrations

26 June 2020

In *Petrochemical Logistics Ltd & Axel Krueger v PSB Alpha AG & Konstantinos Ghertsos*, the English Commercial Court declined to continue two freezing injunctions against the Defendants in support of both a London-seated LCIA arbitration and a Swiss-seated arbitration.

The rise and rise of shareholders' Class Actions in the UK

18 June 2020

In the UK there has been a steady rise in shareholders' Class Actions including several Class Actions launched by unhappy shareholders against the companies they invest in.

COVID-19, force majeure and frustration: An in-depth analysis

9 June 2020

The outbreak of COVID-19 has caused major disruption to businesses around the world, with many finding it difficult, or impossible, to fulfil their contractual obligations because of the pandemic and the response to it.

Just deserts: English court grants conditional anti-suit injunction on "quasi-contractual" basis

5 June 2020

Times Trading Corporation v National Bank of Fujairah (Dubai Branch), the English Commercial Court granted an anti-suit injunction (ASI) restraining the National Bank of Fujairah (Dubai Branch) (NBF) from pursuing Singaporean court proceedings. The judgment contains a helpful summary of general principles applicable to "contractual" ASIs.

The collapse in oil prices: force majeure and other strategies

27 May 2020

On 20 April 2020, the WTI benchmark price for crude oil in the US temporarily fell to negative \$37.63, the first time in history it has fallen below zero. One question many clients are posing is whether a collapse in oil prices might excuse performance of a contract on force majeure grounds.

The Energy Transition: The impact of Covid-19 and moving to a net-zero economy

26 May 2020

On 19 March 2020, Adrian Del Maestro, global research director with PwC Strategy&, presented to DLA Piper's International Energy and Natural Resources sector lawyers on the immediate impact of COVID-19 and challenges of moving to a net zero economy.

Certainty for commercial parties

7 May 2020

The Court of Appeal (CoA) granted the Claimant, a Turkish construction company, an anti-suit injunction restraining an entity within the Chubb insurance group from continuing Russian court proceedings which the CoA ruled it had brought in breach of an arbitration agreement specifying London as the seat.

Force Majeure Certificates in a global context: What are they and what is their effect?

30 April 2020

On 30 January 2020 the China Council for the Promotion of International Trade announced that it would offer Force Majeure Certificates to local businesses. The intention was to assist them in prospective disputes with foreign counterparties.

Coronavirus (COVID-19) – top tips for your commercial contracts including force majeure

16 April 2020

The outbreak of coronavirus COVID-19 is having a profound effect on the global economy, and a widespread impact on the ability of parties to perform their contractual obligations.

Issue 4

9 April 2020

Energy and Natural Resources Case Law Update

In this fourth edition of the E&NR Case Law update we focus on cases from the last six months of 2019 which - even where they did not directly concern the energy sector - are of general application to the drafting and management of contracts by E&NR businesses.

Acquisition interrupted? The potential impact of nascent class actions on mergers and acquisitions

1 April 2020

A recent case has illustrated the potential impact which group litigation / class actions based on so called parent company liability (i.e. the liability of parent companies for the acts of their foreign subsidiaries) can have on international businesses.

WIN Wise - Tech dispute checklist

11 March 2020

Tech disputes can be complex. It can be difficult to remember everything while trying to get to grips with the factual/legal issues and putting in place a litigation strategy. Certain key issues must be considered to minimise risk and to ensure the efficient management of the dispute.

P v D arbitration claims under section 68 and 33 of the Arbitration Act 1996

29 January 2020

The decision from the English Commercial Court highlights the consequences for parties if they fail to interrogate fully opponent witnesses on key points of evidence, and for Tribunals of issuing awards inconsistent with unchallenged evidence or predicated upon a

case that has not been advanced.

- Caster Semenya ruling and the pros and cons of the Court of Arbitration for Sport, 6 September 2019
- The Guide to Challenging and Enforcing Arbitration Awards (Chapter 3 on Challenges) published by GAR, June 2019
- Energy & Natural Resources Case Law Update, 25 Apr 2019
- Civil procedure in a post-Brexit landscape, 8 Mar 2019
- Shareholder activism in the sports sector, 10 Jan 2019
- Inconsistent dispute resolution clauses - when should the "one-stop shop" give way to gravity?, 27 Dec 2018
- Shareholder activism in the sports sector, 20 Dec 2018
- Third party funding - an international outlook, 13 Dec 2018
- Privilege - a checklist for in-house lawyers, 13 Dec 2018
- Energy & Natural resources case law update, 5 Dec 2018
- Real News - Autumn 2018, 22 Oct 2018
- May the force be with you: Force majeure clauses in the energy sector, 18 Sep 2018
- A reliable decision: foreign act of state doctrine applies in English arbitration, 16 Jul 2018
- Entire agreement clauses – and implied terms..., 2 Jul 2018
- *Nori Holdings Ltd v PJSC BOFC*: The status of West Tankers now and in a Post Brexit world, 26 Jun 2018
- Lucky Seven: Clarification on the doctrine of common mistake, 6 Jun 2018
- Endeavours and expectations in the energy sector, 6 Jun 2018
- Dutch courage: The Netherlands propose investment treaty shake-up, 5 Jun 2018
- The Legal Effect of NOM clauses, 21 May 2018
- No Oral Modification clauses - solid as a rock, 18 May 2018
- Penalty clauses: how to stay sweet following Candy, 9 May 2018

Events

Previous

The Brexit Deal - what does it mean for climate change and energy?

26 January 2021
Webinar

NEWS

Planned hydrogen projects outnumber current projects across Europe as demand for clean energy increases

9 February 2021

The number of planned or announced hydrogen projects across Europe is almost double that of current operational projects as demand for clean energy solutions heightens globally, according to research by global law firm DLA Piper and inspiratia.

Law firms collaborate on industry first to accelerate tech adoption in international arbitration

2 July 2020

DLA Piper is amongst six international law firms which have developed a Protocol to help deliver a globally consistent approach to the use of online case management platforms in international arbitration.
