

Issue 8 February 2015

Cards on the table

A new Pre Action Protocol for Debt Claims (The Debt Protocol) is likely to be introduced by Spring 2015, following on from Lord Justice Jackson's recommendation that a new specific pre action protocol should be introduced. Brian Kirby, Head of Debt Recovery, explains what these changes mean if your business is claiming payment of a debt from an individual.

To begin with it's important to point out that this protocol does not apply to business to business debts unless both parties are sole traders. It sets out the conduct the Court will normally expect of the parties prior to the start of proceedings with the general aims as follows;

Click [here](#) to read more...



Brian Kirby

briankirby@warnergoodman.co.uk



Sarah Whitmore

sarahwhitmore@warnergoodman.co.uk

We're all going on a summer holiday...with or without commission?

Holiday pay calculations under the Working Time Regulations have been subject to many changes over the years, and it looks like this is set to continue. 2014 saw several tribunal claims challenge the proposition that overtime and commission payments should not be included within weekly pay, and consequently holiday pay. Sarah Whitmore, Employment Partner, reviews the cases and explains how employers can manage their holiday pay calculations during this period of uncertainty until final judgements are delivered.

Click [here](#) to read more...



Jonathan Strassberg

jonathanstrassberg@warnergoodman.co.uk

Click-Wrapped or Browse-Wrapped for Website Terms of Use

Many UK companies first enter the US market by selling online, with a website tailored to US customers. If they're prudent they also tailor the Terms of Use of their website to US law. Jonathan Strassberg, US Attorney at Law, explains here that if those Terms of Use are not adequately conveyed to the website user, legal protections can be lost; a point made clear by the US Federal Court of Appeals recently when it stated that in order to be binding online, Terms of Use must be expressly agreed to by a user of the website.

Click [here](#) to read more...

Terminating a commercial contract by estoppel

The usual contractual methods for terminating a lease, or strictly, the ending of the tenant's obligations under a lease, whether by the fixed term coming to an end, the operation of a break clause, by agreed surrender or assignment are relatively clear and well understood. However, the courts can, under the doctrine of "equity", interfere in cases where the assertion of strict legal rights is found to be unconscionable.

Helen Porter, Property Litigation solicitor, comments on a recent Court of Appeal decision in which she successfully argued on behalf of her landlord client that the tenant's lease from her client had not been ended through estoppel by conduct, or alternatively estoppel by convention.

Click [here](#) to read more...



Helen Porter

helenporter@warnergoodman.co.uk

Comprehensive support for your business:

COMMERCIAL PROPERTY

- Buying, selling or leasing a property
- Construction
- Property Investment

CORPORATE & COMMERCIAL

- Buying or selling a business or company
- Commercial Contracts
- Intellectual Property

EMPLOYMENT

- Redundancy Schemes
- Dismissals & Discrimination
- Performance Management

COMMERCIAL LITIGATION & DISPUTE RESOLUTION

- Financial and Asset Disputes
- Contract, IP and Property Disputes
- Debt Recovery

INTERNATIONAL

- Commercial Contracts
- Minimising Commercial Risk
- Business Expansions and Trading Overseas

Call us on
02380 717717 / 02392 776500



Emma Wyatt

emmawyatt@warnergoodman.co.uk

Another big year ahead for Employment Law

2014 saw ground breaking changes in terms of Employment Law; Equal Pay Audits, ACAS Early Conciliation and Shared Parental Leave were all introduced, and two of the biggest tribunal cases took place involving commission and calculating holiday pay. Emma Wyatt, Assistant Solicitor in our Employment Team, here explains how 2015 is set to be yet another year of developments as these implementations continue to take effect over the next 12 months, and how the result of the upcoming General Election could take us down a very different path.

Click [here](#) to read more...

Landlords Business Rates Liability following Disclaimer of Lease

The recent case of *Schroder Exempt Property Unit Trust and another v Birmingham City Council* provides a significant clarification of the law on liability for business rates on empty commercial property when a lease has been disclaimed. Charlotte Bunch from the Commercial Property Team reviews the case and what this means for commercial property owners.

The High Court considered the following facts before coming to a ruling which although logical may not be popular with landlords of commercial property:-

Click [here](#) to read more...



Charlotte Bunch

charlottebunch@warnergoodman.co.uk



Steven Grant

stevengrant@warnergoodman.co.uk

10 Essential Questions – Standard Terms of Business

Most businesses need standard terms to operate, and it's important these are kept up-to-date. Steven Grant, Partner in the Company Commercial team, here answers 10 of the most common questions asked by clients.

1. Where do I start? Think about *why* you need them, *who* you'll be doing business with, *what* could go wrong and *where* you'll be using them. Learn from previous mistakes or, if your business is brand new, try and imagine what could go wrong.

Click [here](#) to read more...

Call us on 02380 717717, 02392 776500
email enquiries@warnergoodman.co.uk,
or visit www.warnergoodman.co.uk/for-business

DISCLAIMER

While every effort is made to ensure that the contents of the Commercial Brief is up-to-date and accurate, no warranty is given to that effect and Warner Goodmann LLP does not assume responsibility for its accuracy. The Commercial Brief is provided free of charge and for information purposes only. Readers are warned that the Commercial Brief is no substitute for legal advice given after consideration of all material facts and circumstances. Therefore, reliance should not be placed upon the legal points explained in the Commercial Brief or the commentary upon them.

COPYING ON TO OTHERS

While Warner Goodmann LLP retains all rights in the copyright to the Commercial Brief, we are happy for you to copy it or extracts on to others who might be interested in receiving it, provided Warner Goodmann LLP is acknowledged as the publisher of the Commercial Brief and our contact details are included. No charge will be made for doing so. Alternatively, simply send us the e-mail contact details for anyone who wishes to receive the Commercial Brief and we will be happy to add them to the circulation list. Unless expressly agreed by Warner Goodmann LLP in writing, nobody has authority to copy or use the Commercial Brief, or extracts from it, for any promotional or commercial purposes.

In brief...

- Court of Appeal considers the application of Equality Act 2010 outside the EU
- Appstores urged to have mandatory privacy policies
- Guide to data protection is updated by ICO.
- Europcar's "e" logo found to infringe Enterprises's "e" trade mark for car rental
- Increase in bankruptcy threshold

To read more on these topics and to see more "In Brief" items, simply click [here](#).

UNSUBSCRIBE

If you do not wish to receive future editions of the Commercial Brief, please simply reply to this e-mail and include the word 'unsubscribe' in the heading.